



# CITY OF SAN CLEMENTE

## REGULAR CITY COUNCIL MEETING

### REVISED\* AGENDA

**\*This revised agenda replaces the original agenda that was posted on October 9, 2018 in that a new Agenda Item 6-N was added to the Consent Calendar. This new agenda item is reflected on Page 9 of this agenda in italicized type.**

City Council Chambers  
San Clemente Civic Center  
100 Avenida Presidio  
San Clemente, California  
[www.san-clemente.org](http://www.san-clemente.org)

October 16, 2018  
5:00 p.m. - Closed Session  
6:00 p.m. - Business Meeting

*Information concerning City Council Meeting protocols and procedures is contained at the end of this agenda.*

#### ***RULES FOR ADDRESSING COUNCIL***

- Members of the public may address the City Council on matters within the jurisdiction of the City of San Clemente.
- If you wish to address Council, please complete one of the blue speaker cards located at the entrance to the Council Chambers and submit it to the City Clerk or Deputy City Clerk.
- Persons wishing to address Council concerning an **agendized** item will be invited to address Council during the time that Council is considering that particular agenda item. Persons wishing to address Council concerning a **non-agendized** issue will be invited to address Council during the "Oral Communications" portion of the meeting.
- When the Mayor calls your name, please step to the podium, state your name and your city of residence, and then give your presentation. Please limit your presentation to three minutes.

**MISSION STATEMENT**

*The City of San Clemente, in partnership with the community we serve, will foster a tradition dedicated to:*

*Maintaining a safe, healthy atmosphere in which to live, work and play;*

*Guiding development to ensure responsible growth while preserving and enhancing our village character, unique environment and natural amenities;*

*Providing for the City's long-term stability through promotion of economic vitality and diversity...*

*Resulting in a balanced community committed to protecting what is valued today while meeting tomorrow's needs.*

**CLOSED SESSION (5:00 P.M.)**

**A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Existing litigation pursuant to Government Code section 54956.9(d)(1)

Number of Cases: 4

Case Name: Orange County Catholic Worker v. Orange County

Case Number: SA CV 18-0155-DOC

Case Name: City of San Clemente v. Foothill/Eastern Transportation Corridor Agency and County of Orange

Case Number: OCSC 30-2017-00934703-CU-PT-CXC

Case Name: City of San Clemente v. Foothill/Eastern Transportation Corridor Agency

Case Number: OCSC 30-2018-01000331-CU-WM-CJC

Case Name: MemorialCare Services, et al. v. City of San Clemente

Case Number: USDC 8:16-cv-00852 DOC-JCG

**B. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)

Number of potential cases: 3

**BUSINESS MEETING (6:00 P.M.)**

**CALL TO ORDER**

**INVOCATION - Marchia Morey, Baha'i Faith Community**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**1. Special Presentations.**

**A. Toll Road Update**

- 2. Oral Communications (Part 1).** Members of the audience who wish to address Council on matters that are within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, may do so during the Oral Communications portion of the meeting. A total time limitation of 30 minutes is allocated for Oral Communications Part 1, with each speaker being allotted 3 minutes in which to give his or her presentation. Speaker order is determined by the order in which speaker cards are provided to the City Clerk or Deputy City Clerk at the meeting. Speakers that cannot be accommodated during Oral Communications Part 1 will be invited to address Council during Oral Communications Part 2, which appears on this agenda as Item No. 10. When the Mayor calls your name, please step to the podium, state your name and the City in which you reside, and make your presentation. Subject to very limited exceptions, Council is not permitted to discuss or take action on items that do not appear on the agenda.

**3. Motion waiving reading in full of all Resolutions and Ordinances.**

- 4. Consideration of agenda items requiring immediate action.** Any items agenda items will be considered under New Business, unless otherwise determined by a majority vote of the City Council.

**5. Closed Session Report - City Attorney.**

6. **Consent Calendar.** All items listed on the Consent Calendar are considered to be routine and will be enacted by one motion without discussion unless Council, Staff, or the public requests removal of an item for separate discussion and action.

A. **City Council Minutes**

Approve the Regular City Council Meeting minutes of October 2, 2018.

B. Receive and file:

(1) Regular Zoning Administrator meeting minutes of September 20, 2018.

(2) Regular Coastal Advisory Committee meeting minutes of June 14, 2018.

(3) Regular Coastal Advisory Committee meeting minutes of August 9, 2018.

(4) Human Affairs Committee Adjourned Regular Meeting minutes of October 2, 2018.

(5) Planning Commission Adjourned Regular Meeting of October 3, 2018.

C. **Warrant Register**

Approve Wire Transfers Nos. 1908 through 1911 and Warrant Nos. 553473 through 553617, paid on 9-28-18, in the amount of.....\$1,365,216.25

Approve Wire Transfers Nos. 1912 through 1915 and Warrant Nos. 553618 through 553780, paid on 10-5-18, in the amount of.....\$1,912,242.02

TOTAL WARRANT REGISTER.....\$3,277,458.27

**Payroll Register**

Approve Warrant Nos. 693 through 694 and Automatic Deposit Advises 51337 through 51647, for the period 9-10-18 through 9-23-18, paid on 9-28-18, in the amount of.....\$ 466,035.35

TOTAL PAYROLL REGISTER.....\$ 466,035.35

- D. [Acceptance of Permanent Easement and Grant Deeds - Roadway Purposes for Avenida Pico Widening Associated with the Interstate 5/Avenida Pico Interchange Reconstruction Project](#) Pages 6D-1 through 6D-4

Staff Recommendation

1. Accept the Permanent Easement and Grant Deeds for Roadway Purposes for Avenida Pico widening associated with the Interstate 5/Avenida Pico interchange reconstruction project from the Orange County Transportation Authority.
2. Authorize the Mayor and City Clerk to sign the Certificates of Acceptance for the Permanent Easement and Grant Deeds.

- E. [Contract Award - Negocio Building First Floor Renovation](#) Pages 6E-1 through 6E-9

Staff Recommendation

1. Approve the plans and specifications for the Negocio Building First Floor Renovation, Project No. 18804.
2. Approve transfer of funds from Account 001-203-45300-000-38501 (City Hall Feasibility Study) in the amount of \$298,940 to Account 001-203-45300-000-18804 (Negocio Building First Floor Renovation).
3. Approve a supplemental appropriation of \$81,292 from General Fund Unassigned Fund balance to Account 001-203-45300-000-18804 (Negocio Building First Floor Renovation).
4. Approve a supplemental appropriation and a transfer of \$81,292 from the Public Facilities Fee Fund - Civic Center Construction Fund to Account 001-203-45300-000-18804 (Negocio Building First Floor Renovation).
5. Approve, and authorize the Mayor and/or City Manager to execute, Amendment No. 1 to Contract C17-33, by and between the City of San Clemente and Gensler, providing for Architectural and Engineering Construction Support Services for the Negocio Building First Floor Renovation. This Amendment increases the contract amount from \$160,000 to \$220,000 (an increase of \$60,000).
6. Approve, and authorize the Mayor and/or City Manager to execute, Contract C18-56, by and between the City of San Clemente and PCN3, Inc., providing for construction of the Negocio Building First Floor Renovation, Project No. 18804, in the amount of \$2,244,618.60.

F. [Contract Award - Corporation Yard Buildings/Structures Painting Project](#) Pages 6F-1 through 6F-5

Staff Recommendation

1. Approve the plans and specifications for the Corporation Yard Buildings/Structures Painting Project, Project Nos. 16529 and 26407.
2. Approve a supplemental appropriation of \$68,000 from the Sewer Depreciation Reserve Fund to Account 054-476-43470-000-26407.
3. Approve, and authorize the City Manager to execute, Contract C18-57, by and between the City of San Clemente and Harbor Coating and Restorations Company, providing for construction of the Corporation Yard Buildings/Structures Painting, Project Nos. 16529 and 26407, in the amount of \$347,881.

G. [Notice of Completion - Concordia Elementary School Pedestrian and Bicycle Improvement Project](#) Pages 6G-1 through 6G-4

Staff Recommendation

1. Accept the Concordia Elementary School Pedestrian and Bicycle Improvement Project No. 17326 from California Landscape and Design, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for Concordia Elementary School Pedestrian and Bicycle Improvement Project No. 17326.
3. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Engineering Division that no liens have been levied against the contractor, California Landscape and Design, Inc.
4. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction cost.

H. [Notice of Completion - Street Rehabilitation for Avenida Palizada \(Project No. 17340\) and Avenida Presidio, Calle Miguel and Avenida Salvador \(Project No. 17341\)](#) Pages 6H-1 through 6H-4

Staff Recommendation

1. Accept the Street Rehabilitation for Avenida Palizada, Project No. 17340, and Avenida Presidio, Calle Miguel and Avenida Salvador, Project No. 17341, from Palp, Inc., dba Excel Paving Company.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the street rehabilitation of Avenida Palizada, Project No. 17340, and Avenida Presidio, Calle Miguel and Avenida Salvador, Project No. 17341.
3. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Engineering Division that no liens have been levied against the contractor, Palp, Inc., dba Excel Paving Company.
4. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction cost.

I. [Contract Award - Water Reclamation Plant Laboratory Rehabilitation](#) Pages 6I-1 through 6I-4

Staff Recommendation

1. Approve the plans and specifications for the Water Reclamation Plant Laboratory Rehabilitation, Project No. 16206.
2. Approve a supplemental appropriation in the amount of \$24,000 from the Sewer Depreciation Reserve Fund to Account 054-476-45300-000-16206.
3. Approve, and authorize the Mayor to execute, Contract C18-58, by and between the City of San Clemente and Ibuild Spectrum, providing for construction services for the rehabilitation of the Water Reclamation Plant Laboratory, Project No. 16206, in the amount of \$93,500 (including optional bid items).

J. [Contract Amendment - Development of a Bacteriological Sample Siting Plan](#) Pages 6J-1 through 6J-2

Staff Recommendation

Approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C14-33, by and between the City of San Clemente and AKM Consulting Engineers. This Amendment increases the contract amount from \$350,868 to an amount not to exceed \$375,178 (an increase of \$24,310).

K. [Notice of Completion - Camino Del Rio Rehabilitation and Intersection Improvements and Camino De Los Mares Rehabilitation and Slurry Seal](#) Pages 6K-1 through 6K-4

Staff Recommendation

1. Accept the Camino Del Rio Rehabilitation and Intersection Improvements (Project Nos. 16347 and 16350) and Camino De Los Mares Rehabilitation and Slurry Seal (Project No. 17331) from All American Asphalt.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Camino Del Rio Rehabilitation and Intersection Improvements (Project Nos. 16347 and 16350) and Camino De Los Mares Rehabilitation and Slurry Seal (Project No. 17331).
3. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Engineering Division that no liens have been levied against the contractor, All American Asphalt.
4. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction cost.



L. [Notice of Completion - Calle Redondel Storm Drain Improvement](#)  
Pages 6L-1 through 6L-4

Staff Recommendation

1. Accept the Calle Redondel Storm Drain Improvement, Project No. 15005, from GCI Construction, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Calle Redondel Storm Drain Improvement, Project No. 15005.
3. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Engineering Division that no liens have been levied against GCI Construction, Inc.
4. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction cost.

M. [Equipment Purchase - Replacement of Fleet Vehicle No. 1149](#) Pages 6M-1 through 6M-2

Staff Recommendation

1. Approve the purchase of one 2018 Ford Transit Connect passenger van from Ken Grody Ford from the Fleet Replacement Reserve for replacement of Fleet Vehicle No. 1149.
2. Authorize a supplemental appropriation in the amount of \$26,023 to the Fleet Automotive Account 065-824-45600 from the Fleet Replacement Fund balance.

N. [Wildfire Detection and Observation Project](#) Page 6N-1

Staff Recommendation

*Authorize the City Manager to execute a Communications Site License Agreement with the Regents of the University of California (City Contract C18-59), relating to the Wildfire Detection and Observation Project.*

7. **Public Hearings.** The Public Hearing process includes a staff presentation, a presentation by the applicant not to exceed ten (10) minutes, and public testimony (not to exceed three minutes per speaker). Following closure of the Public Hearing, the City Council will respond to questions raised during the hearing, discuss the issues, and act upon the matter by motion.

A. [Appeal of Denied Sidewalk Waiver Request by Property Owner of 239 Avenida La Cuesta](#) Pages 7A-1 through 7A-7

Public Hearing to consider the appeal of a denied sidewalk waiver request by the property owner of 239 Avenida La Cuesta.

Staff Recommendation

Concur with Staff's denial of the sidewalk waiver request and find that based upon the evidence presented, it is appropriate to require an easement for public sidewalk and installation of new sidewalk at 239 Avenida La Cuesta.

8. **Unfinished Business.**

None.

9. **New Business.**

None.

10. **Oral Communications (Part 2).** Members of the audience who wish to address Council on matters that are within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, may do so during the Oral Communications portion of the meeting. When the Mayor calls your name, please step to the podium, state your name and the City in which you reside, and make a presentation not to exceed three minutes. Subject to very limited exceptions, Council is not permitted to discuss or take action on items that do not appear on the agenda.

11. **Reports.**

A. **Commissions and Committees**

B. **City Manager**

C. **City Attorney**

D. **Council Members**

12. **Resolutions/Ordinances.**

- A. [Ordinance No. 1659 \(Second Reading\) - Modifying the Definition of "Smoking" to Include Vaping and Electronic Devices](#) Pages 12A-1 through 12A-4

Staff Recommendation

Adopt Ordinance No. 1659 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING THE SAN CLEMENTE MUNICIPAL CODE, CHAPTER 8.64 TO DEFINE SMOKING TO INCLUDE VAPING AND ELECTRONIC SMOKING DEVICES.

13. **Adjournment.**

Adjourn to an Adjourned Regular Meeting to be held on **Wednesday, November 7, 2018** in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be considered at 5:00 p.m. The Regular Business Meeting will commence at 6:00 p.m. **Please note that the November 7, 2018 Adjourned Regular Council Meeting replaces the Regular Council Meeting that would normally have been held on November 6, 2018. The November 6, 2018 meeting was rescheduled to November 7, 2018 to enable the Council Chambers to be used as a polling site for the November 6, 2018 election.**

## **CITY COUNCIL MEETING PROCEDURES**

### **PRESENTATION OF WRITTEN MATERIALS TO COUNCIL**

In order to ensure that Councilmembers have adequate time to consider written materials concerning agenda items, it is strongly recommended that such materials be submitted to the City Clerk by noon the date preceding the Council meeting.

### **MEETINGS RECORDED AND TELEVISED**

City Council meetings are broadcast live and are replayed periodically on Cox Communications Local Access Channel 30 (or Channel 854 for high-definition televisions). Meetings are also recorded via audio CD and DVD and retained as a City record in accordance with the City's records retention schedule.

### **USE OF ELECTRONIC VISUAL AIDS BY PUBLIC AT MEETINGS**

To allow staff adequate time to confirm software compatibility, individuals wishing to utilize electronic visual aids to supplement their oral presentations at the meeting, must submit the electronic files to the City Clerk by no later than 12:00 p.m. on the day of the meeting. Only compatible electronic formats will be permitted to be used on City audio/visual computer equipment. Staff makes no guarantee that such material will be compatible, but will use its best efforts to accommodate the request.

### **LENGTH OF MEETINGS**

At 11:00 p.m., the City Council will determine which of the remaining agenda items can be considered and acted upon at this meeting and will continue all other agenda items to a future meeting.

### **AMERICANS WITH DISABILITIES ACT**

Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification or accommodation from the City Clerk at (949) 361-8200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

### **COMMUNICATION DEVICES**

To minimize meeting distractions and sound system interference, please be sure all personal communication devices are turned off or on silent mode.

### **MEETING SCHEDULE**

Regular Council Meetings are held on the first and third Tuesdays of each month in the Council Chambers, located at 100 Avenida Presidio, San Clemente. Closed Session items are considered at 5:00 p.m. and the Business Meeting begins at 6:00 p.m. Additional meetings of the City Council may be called as needed.

### **AGENDAS, ADMINISTRATIVE REPORTS AND SUPPLEMENTAL WRITTEN MATERIALS**

Agendas and Administrative Reports are available for review and/or copying at the City Clerk's Department as soon as agendas are posted (a minimum of 72 hours prior to the meeting). Agendas and Administrative Reports can also be viewed at the San Clemente Library, located at 242 Avenida Del Mar, or by accessing the City's website at [www.san-clemente.org](http://www.san-clemente.org). An "Inspection Copy" of agenda materials is also located at the entrance to the Council Chambers during meetings for public review. All written material distributed to a majority of the Council after the original agenda packet was distributed is available for public inspection in the City Clerk's Department, located at 100 Avenida Presidio, San Clemente, during normal business hours.

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