



CITY OF SAN CLEMENTE

SPECIAL AND REGULAR CITY COUNCIL MEETING REVISED* AGENDA

*This agenda varies from the original agenda for the City Council meeting of February 19, 2019 that was posted on February 13, 2019 in that Item 6L has been added to the agenda. The agenda change is reflected in italicized type on Page 7 of this agenda.

City Council Chambers
San Clemente Civic Center
100 Avenida Presidio
San Clemente, California
www.san-clemente.org

February 19, 2019
4:30 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 (4:30 P.M.) - SPECIAL MEETING

A. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(4)

Initiation of litigation

Number of potential cases: 2

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

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

Number of Cases: 4

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: 8:16-CV-00852 DOC-JCG

Name: Capistrano Shores, Inc. v. City of San Clemente

Case Numbers: OCSC 30-2014-00709987 and 30-2014-00726889

C. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

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

Number of potential cases: 2

Closed Session items continued on next page

D. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Property: 2.2 acre section of and 80 acre parcel on the southwest corner of Avenida La Pata and Vista Hermosa

APN: 678-163-01

Agency negotiator: Assistant City Manager

Negotiating parties: n/a

Under Negotiation: Terms for future purchase or lease of surplus property

BUSINESS MEETING (6:00 P.M.) - REGULAR MEETING

CALL TO ORDER

INVOCATION – Holland Davis, Senior Pastor, Calvary Chapel San Clemente

PLEDGE OF ALLEGIANCE

ROLL CALL

1. Special Presentations.

A. Toll Road Update

B. Girl Scout Troop 1809 - Silver Award Project to Raise Awareness of Endangered Animals

Presentation from Elizabeth Duong, Stephanie Ho, Alexandra Bertollini, and Pauline Jong from Girl Scout Troop 1809 concerning their Silver Award project to raise awareness of endangered animals.

C. Orange County Text-to-911

Presentation by Dispatch Bureau Commander, Lt. Gene Inouye, Orange County Sheriff's Department, concerning Orange County law enforcement and fire dispatch center's Text-to-911 service.

D. Sexual Harassment Legislation Update

Presentation by Heather Lowe, Human Relations Manager, concerning an update on sexual harassment legislation.

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 agendizing items requiring immediate action.** Any items agendized 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**

Staff Recommendation

[Approve the Special and Regular City Council Meeting minutes of February 5, 2019.](#)

 - B. **Commission and Committee Minutes**

Staff Recommendation

Receive and file the following:
 - (1) [Planning Commission Regular Study Session minutes of February 6, 2019.](#)
 - (2) [Planning Commission Regular Meeting minutes of February 6, 2019.](#)

C. **Warrant Register**

Approve Handwrite No. 556288 and Wire Transfers Nos. 1973 through 1978 and Warrant Nos. 556134 through 556287, paid on 2-1-19, in the amount of.....\$1,190,044.86

Approve Wire Transfers No. 1979 and Warrant Nos. 556289 through 556438, paid on 2-8-19, in the amount of.....\$ 677,091.09

TOTAL WARRANT REGISTER.....\$1,867,135.95

Payroll Register

Approve Warrant No. 707 and Automatic Deposit Advises 53961 through 54234, for the period of 1-14-19 through 1-27-19, paid on 2/1/19, in the amount of.....\$ 462,111.41

TOTAL PAYROLL REGISTER.....\$ 462,111.41

D. **Final Parcel Map 2017-161 – 227 Avenida Granada (Haft Condominiums)** Pages 6D-1 through 6D-3

Staff Recommendation

1. Accept on behalf of the City of San Clemente the water rights within Final Parcel Map 2017-161 as dedicated.
2. Accept on behalf of the City of San Clemente the sidewalk and public access easement as dedicated.
3. Approve Final Parcel Map 2017-161 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Parcel Map.
4. Authorize the Public Works Director/City Engineer to execute the Final Parcel Map.
5. Authorize the City Clerk to execute and submit the Final Parcel Map for recordation with the County of Orange Recorder’s Office.

- E. [Easement Abandonment 18-567 – 249 Via Ballena \(Carmichael\)](#) Pages 6E-1 through 6E-18

Planning Commission Recommendation

Adopt Resolution No. 19-05 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING ABANDONMENT 18-567, CARMICHAEL EASEMENT ABANDONMENT, TO ABANDON A CITY STORM DRAIN EASEMENT ON A SINGLE-FAMILY RESIDENTIAL LOT, LOCATED AT 249 VIA BALLENA.

- F. [Contract Amendment – Orange County Fire Authority Joint Powers Authority Agreement](#) Pages 6F-1 through 6F-6

Staff Recommendation

Approve, and authorize the City Manager to execute, Amendment No. 4 to the Amended Orange County Fire Authority Joint Powers Agreement (Contract C19-26).

- G. [Opioid Epidemic Contingency Fee Agreement](#) Pages 6F-1 through 6F-13

Staff Recommendation

Approve, and authorize the Mayor to execute, Contract C19-27, an Engagement to Represent, by and between the City of San Clemente and the law firms of Robins Kaplan LLP and Andrews & Thornton, providing a contingent fee agreement with respect to litigation the consortium attorneys will pursue.

- H. [Contract Amendment – Legislative Advocacy Services](#) Pages 6H-1 through 6H-24

Staff Recommendation

Approve, and authorize the City Manager to execute, Amendment No. 2 to Contract C16-15, by and between the City of San Clemente and Aprea & Micheli, providing for legislative advocacy services. This Amendment extends the term of the contract from March 15, 2019 to March 15, 2020, and establishes the annual contract amount at \$180,000, with the option for the City Manager to renew the contract for an additional year. Funds are budgeted in Other Legal Services, Account 001-203-43640-000-00000. Funding for future terms will be subject to approval through the annual budget process.

- I. [Fee Waiver Request – Orange County District Attorney Gang Reduction Intervention Partnership \(GRIP\) to Use City Fields](#) Pages 6I-1 through 6I-4

Staff Recommendation

Waive the rental and special event fees associated with the Orange County District Attorney's GRIP Soccer Camp to be held on April 2-4, 2019 at Vista Hermosa Sports Park, in an amount not to exceed \$1,890.

- J. [Contract Award – Comprehensive Cost-of-Service Study of the City's Wastewater Utility](#) Pages 6J-1 through 6J-63

Staff Recommendation

Approve, and authorize the Mayor to execute, Contract C19-28, by and between the City of San Clemente and Raftelis Financial Consultants, Inc., providing for the Wastewater Comprehensive Cost-of-Service Study, in the amount of \$57,388.

- K. [Agreement for Legal Services with O'Melveny & Myers LLP](#) Page 6K-1

Staff Recommendation

Authorize the City Manager to engage the law firm of O'Melveny in an amount not to exceed \$100,000 and authorize an additional designation of legal fees in the FY 2018-19 budget of that amount.

- L. [Appropriation of Funds for North El Camino Real Bluff Failure Response and Cleaning](#) Pages 6L1- through 6L-2

Staff Recommendation

Approve a supplemental appropriation in the amount of \$250,000 from the Developer Improvement Fund undesignated fund balance to Account 037-867-43890-000-00000 for North El Camino Real bluff failure emergency response and cleaning.

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. **[Zoning Amendment 18-243 - City-Initiated Amendment of San Clemente Municipal Code Title 17 for Accessory Dwelling Units](#)** Pages 7A-1 through 7A-139

Public Hearing to consider a City-initiated amendment to San Clemente Municipal Code Title 17, the Zoning Ordinance, regarding the regulation of development of Accessory Dwelling Units (“ADUs”) for consistency with State law.

Staff Recommendation

1. Find and determine that the ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) under Public Resources Code section 21080.17, which exempts from CEQA any ordinance that is adopted to implement Government Code section 65852.1 or 65852.2. This ordinance implements section 65852.2 as amended by Senate Bill (SB) 1069, Assembly Bill (AB) 2299, AB 2406, AB 229, AB 494, and AB 2406.
2. Introduce Ordinance No. 1668 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, FOR A CITY-INITIATED AMENDMENT (ZA 18-243) OF THE CITY OF SAN CLEMENTE MUNICIPAL CODE TITLE 17 FOR ACCESSORY DWELLING UNITS.

8. Unfinished Business.

- A. [Thrift Store Zoning Amendment 17-043 - Regulation of Check Cashers, Pawnbrokers, Secondhand Dealers, and Smoke and Tobacco Shops](#)
Pages 8A-1 through 8A-43

Report from the Community Development Director concerning an update, and request for Council direction, on Thrift Store Zoning Amendment 17-043, Regulation of Check Cashers, Pawnbrokers, Secondhand Dealers, and Smoke and Tobacco Shops.

Staff Recommendation

That Council consider the following alternatives:

1. Direct Staff to maintain the proposed zoning amendment as-is, and move the amendment forward; or
2. Direct Staff to remove or revise references to thrift store regulations in the zoning amendment, and move forward with a modified amendment regulating the remaining uses (check cashers, pawnbrokers, and smoke shops); or
3. Direct Staff to stop work on the Zoning Amendment.

9. New Business.

- A. [Code Amendment - Floodplain Management Regulations](#) Pages 9A-1 through 9A-7

Report from the Public Works Director/City Engineer concerning an amendment to Municipal Code Chapter 15.76 regarding Floodplain Management Regulations.

Staff Recommendation

Introduce Ordinance No. 1669 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING MUNICIPAL CODE CHAPTER 15.76 TO UPDATE THE FLOODPLAIN MANAGEMENT CODE TO MEET THE MINIMUM REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM.

B. [City Commissions and Committees Review](#) Pages 9B-1 and 9B-2

Report from the Assistant City Manager concerning Council consideration of the structure, composition, performance, and staff usage and resources pertaining to City Commissions and Committees.

Staff Recommendation

Provide direction to the City Manager regarding the City's Commissions and Committees.

C. [Policy and Procedure 201-11 – City Council Meetings and Operations](#)
Pages 9C-1 through 9C-43

Report from the City Clerk concerning proposed Policy and Procedure 201-11 relating to City Council Meetings and Operations.

Staff Recommendation

1. Introduce Ordinance No. 1670 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REPEALING SECTION 2.04.050 OF THE CODE OF THE CITY OF SAN CLEMENTE RELATING TO CITY COUNCIL PROCEEDINGS BEING GOVERNED UNDER "ROBERT'S RULES OF ORDER".
2. Repeal the following Policies and Procedures, effective April 4, 2019:
 - Policy 1201-1 (Mayor and Mayor Pro Tempore)
 - Policy 1201-2 (Meetings of the City Council)
 - Policy 1201-3 (Order of Business and Preparation of Minutes)
 - Policy 1201-4 (Council Correspondence and Agenda)
 - Policy 1201-5 (Rules of Debate, Decorum, Voting Requirements and Procedures)
3. Adopt Policy and Procedure 1201-11 entitled "City Council Meetings and Operations", effective April 4, 2019, with direction to Staff as to whether the Policy is to include Section 4.5.5 relating to the ability of an individual Councilmember to add an item to a future agenda.

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**

(1) **Coastal Animal Services Authority (CASA)**

Presentation by Mayor Swartz concerning pets available for adoption at the San Clemente Animal Shelter.

12. **Resolutions/Ordinances.**

None.

13. **Adjournment.**

The next Regular Council Meeting will be held on Tuesday, March 5, 2019 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.

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. 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.

The City Clerk's Department also offers an agenda packet subscription service free of charge. If you wish to receive email copies of City Council agendas, which include hyperlinks to staff reports and other back-up material, please send an email to cityclerk@san-clemente.org or call 949-361-8200.