

CITY OF SAN CLEMENTE

City Council Minutes

Special Meeting – April 1, 2019

These minutes reflect the order in which items appeared on the meeting agenda and do not necessarily reflect the order in which items were actually considered.

A Special Meeting of the San Clemente City Council was called to order on April 1, 2019 at 12:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Swartz.

PRESENT BANE, FERGUSON*, WARD, MAYOR SWARTZ

**Participated in the meeting via teleconference.*

ABSENT HAMM

STAFF PRESENT James Makshanoff, City Manager; Scott Smith, City Attorney; Joanne Baade, City Clerk; Laura Campagnolo, Deputy City Clerk.

COUNCILMEMBER FERGUSON PARTICIPATED IN THIS MEETING VIA TELECONFERENCE FROM HER LOCATION AT THE ENCINITAS CITY HALL, ORCHID CONFERENCE ROOM, LOCATED AT 505 S. VULCAN, ENCINITAS, CALIFORNIA.

1. **CLOSED SESSION**

Brad Malamud, San Clemente, opined that the Closed Session verbiage on this meeting's agenda fails to meet Brown Act requirements, inasmuch as the parties, facts, and documents that give rise to the Closed Session were not made public prior to the Closed Session; opined that the City is violating moral, ethical and legal requirements and asserted that the Closed Session should be withdrawn.

City Attorney Smith responded that the facts associated with a litigation threat must be disclosed in some circumstances, but not others; stated that it would be an ethical violation for him to elaborate further on the facts and circumstances that justify a briefing in Closed Session; stressed that the Public Records Act does not require the City to disclose its legal vulnerabilities outside of Closed Session.

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER WARD, ROLL CALL VOTE CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT) to recess to Closed Session at 12:09 p.m. to discuss the following:

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Existing litigation pursuant to Government Code section 54956.9(d)(1)
Number of Cases: 1

Case Name: Housing is a Human Right Orange County, Orange County Catholic Worker v. Orange County, et al.
Case Number: SA CV 18-0155-DOC

- B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)
Number of potential cases: 1

MEETING RECONVENED

Council reconvened in public session at 12:56 p.m. Mayor Swartz, Mayor Pro Tem Bane and Councilmember Ward were physically present and Councilmember Ferguson participated via teleconference. Councilmember Hamm was absent.

2. **PUBLIC SESSION**

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

City Attorney Smith announced that no reportable actions were taken during this afternoon's Closed Session.

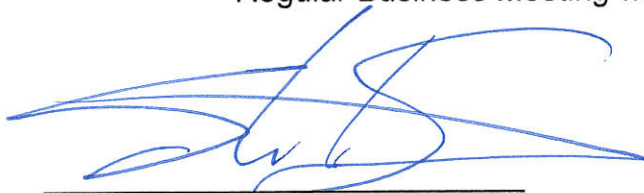
B. **Oral Communications**

None.

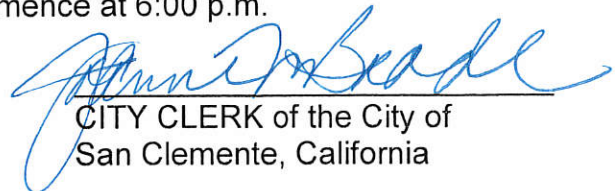
C. **Adjournment**

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER WARD, ROLL CALL VOTE CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adjourn at 12:56 p.m.

The next Regular Council Meeting will be held on Tuesday, April 2, 2019 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be considered at 5:00 p.m. and the Regular Business Meeting will commence at 6:00 p.m.



MAYOR of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California