

# CITY OF SAN CLEMENTE

## City Council Minutes

### Regular City Council Meeting - April 2, 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 Regular Meeting of the San Clemente City Council was called to order on April 2, 2019 at 5:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Swartz.

**PRESENT** BANE, FERGUSON, HAMM\*, WARD, MAYOR SWARTZ

\*Arrived at 5:05 p.m.

**ABSENT** NONE

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

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### **CLOSED SESSION**

Brad Malamud, San Clemente, noted that at the Council meeting of April 1, 2019, City Attorney Smith indicated that the facts associated with a litigation threat must be disclosed in some circumstances, but not others; stated that he has never known of the City to disclose the parties, facts, and documents that give rise to a Closed Session and asserted that the City should do so going forward.

MOTION BY MAYOR SWARTZ, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to recess to Closed Session at 5:05 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: 3

Case Name: Orange County Catholic Worker v. Orange County, et al.  
Case Number: SA CV 18-0155-DOC

*Closed Session items continued on next page*

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: MemorialCare Services, et al. v. City of San Clemente  
Case Number: 8:16-CV-00852 DOC-JCG

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

Pursuant to Government Code Section 54956.9(d)(4)  
Initiation of litigation  
Number of potential cases: 1

**BUSINESS MEETING CONVENED**

The City Council Business Meeting of April 2, 2019 convened at 6:12 p.m., with all members present.

**INVOCATION**

City Attorney Smith gave the invocation.

**PLEDGE OF ALLEGIANCE**

Mayor Swartz led the Pledge of Allegiance.

**1. SPECIAL PRESENTATIONS**

**A. Toll Road Update**

Councilmember Ferguson reported that she submitted agenda material to the TCA Foothill/Eastern Board yesterday relating to an agenda item for the Board's April 11, 2019 meeting to request an independent audit and measures to improve accountability and transparency.

Mayor Pro Tem Bane added that he submitted an agenda item to the TCA San Joaquin Hills Transportation Agency Board that seeks the same action that Councilmember Ferguson submitted to the Foothill/Eastern Board; urged the public to attend the April 11, 2019 TCA Board meeting to support the measures presented by San Clemente's representatives.

**B. Annual Employee Service Awards**

Heather Lowe, Human Resources Manager, narrated a PowerPoint presentation entitled "Employee Service Awards" and recognized Maile Stivers and Johnny Torres for receiving the "Core Values Award" and Brian Fields for being named the "2018 Employee of the Year". A hard copy of Ms. Lowe's PowerPoint, dated April 2, 2019, is on file with the City Clerk.

Mayor Swartz presented Certificates of Recognition to the Employee Award recipients.

**C. Wyland National Mayor's Challenge for Water Conservation**

David Rebensdorf, Utilities Director, and Niki Beach, Water Conservation Analyst, narrated a PowerPoint presentation entitled "Wyland National Mayor's Challenge for Water Conservation". A hard copy of Staff's PowerPoint, dated April 2, 2019, is on file with the City Clerk.

**2. ORAL COMMUNICATIONS (PART 1)****Homeless Issue**

Gene James, San Clemente, voiced concern that Councilmember Ward submitted an email to KFI Radio which asserted that Police Services failed to adequately respond to the homeless issue.

Louise Herbert, San Clemente, reported on her attendance at a United Way seminar; stated that the cost to provide shelter for homeless people is 54% less than the cost that government incurs when homeless persons live on the streets.

Darryl McFann, San Clemente, voiced concern with the homeless situation, noting that public safety is jeopardized and revenue from tourism is being lost.

Jim Cook, San Clemente, offered to assist the City with regard to the homeless issue.

Alan Throckmorton, San Clemente, spoke on the need to address the homeless issue and voiced concern with the fire risk associated with outdoor living.

George Gregory, San Clemente, asserted that homeless persons should be relocated from the beach and Metrolink landing.

**Parking of Recreational Vehicles and Trailers**

Fred Kutzmarki, Capistrano Beach, requested that the City allow personal vehicles, including recreational vehicles and trailers, to be stored behind a business when the vehicles are owned by the building/business owner; distributed a written request which is on file with the City Clerk.

**Public Records Request Response**

Tony Rubolino, San Clemente, voiced concern that he submitted a Public Records Act request to the City as well as the Orange County Sheriff's Department for documents relating to him carrying a machete into a City Council meeting; stated he only received a responsive document from the Sheriff's Department and questioned whether the City illegally withheld documents.

**Watershed Task Force Beach Clean-up Barbeque/Police Response to Homeless Issue**

Jim Dahl, San Clemente, stated the Watershed Task Force will host 200 Marines at a beach clean-up at the Pier tomorrow; voiced concern that the Watershed Task Force was denied a permit for a mobile barbeque and urged that a permit be issued to enable food to be prepared for the Marines; thanked Police Services for its outstanding response to the homeless issue.

Council requested that City Manager Makshanoff facilitate the issuance of a permit to allow mobile barbeque(s) to be utilized by the Watershed Task Force at the April 3, 2019 beach clean-up event.

3. MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 5-0, to waive reading in full of all Resolutions and Ordinances.

**REORDERING OF AGENDA**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 5-0, to consider Item 9-E (Policy and Procedure 204-1 and Policy and Procedure 204-5) immediately following the Consent Calendar.

4. **CONSIDERATION OF AGENDIZING ITEMS REQUIRING IMMEDIATE ACTION**

None.

5. **CLOSED SESSION REPORT - CITY ATTORNEY**

**Orange County Catholic Worker v. Orange County, et al.**

City Attorney Smith reported that Council met in Closed Session to discuss the case entitled Orange County Catholic Worker v. Orange County, et al., which was filed against the City, but not yet served; noted that the case alleges that the City violated the Constitution with regard to homeless individuals in the City; provided an update on Staff's efforts to implement Council's Closed Session directions of March 19, 2019 relating to the provision of at least a temporary homeless shelter and proposal to seek a long-term regional shelter solution; explained that the availability of a homeless shelter will make it possible for the Orange County Sheriff's Department to enforce the City's Municipal Code provisions against sleeping or camping in public; explained that Staff will return to Council with a contract for a non-profit shelter operator and will recommend a shelter site that is located within the City's SB2 overlay zone; advised that the City has entered into a joint arrangement with several South Orange County cities for defense of the Orange County Catholic Worker litigation.

Brad Malamud, San Clemente, opined that discussions relating to a temporary homeless shelter should occur in public, as opposed to Closed Session.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items B(3) and G.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to:

- (1) Approve the City Council Adjourned Regular Meeting minutes of March 11, 2019.
- (2) Approve the City Council Regular Meeting minutes of March 19, 2019.

**B. Commission and Committee Minutes**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to receive and file the following:

- (1) Minutes of the Regular Meeting of the Coastal Advisory Committee of January 10, 2019.
- (2) Minutes of the Regular Meeting of the Zoning Administrator of March 7, 2019.
- (4) Minutes of the Regular Meeting of the Planning Commission of March 20, 2019.

**C. Warrant Register**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve the following:

Wire Transfers Nos. 1999 through  
 2002 and Warrant Nos. 557031 through  
 557261, paid on 3/15/19, in the amount of.....\$1,840,321.18

Handwrite No. 557346 and Warrant  
 Nos. 557262 through 557345, paid on  
 3/22/19, in the amount of.....\$ 828,544.42

TOTAL WARRANT REGISTER.....\$2,668,865.60

**Payroll Register**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve the following:

Warrant Nos. 713 through 714  
 and Automatic Deposit Advises 54797  
 through 55081, for the period of 2/25/19  
 through 3/10/19, paid on 3/15/19, in  
 the amount of.....\$ 467,176.91

TOTAL PAYROLL REGISTER.....\$ 467,176.91

D. **Contract Award – Calle Real Pump Station Rehabilitation**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C19-34, by and between the City of San Clemente and AKM Consulting Engineers, providing for engineering, design and construction support services for the Calle Real Pump Station Rehabilitation, Project No. 19516, in the amount of \$207,848.

E. **Notice of Completion – Fiscal Year 2018 Major Maintenance**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to:

1. Accept the Major Street Maintenance FY 2018, Project No. 28301, from the contractor, R. J. Noble Company.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for Project No. 28301, Major Street Maintenance for FY 2018.
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, R. J. Noble 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.

F. **Notice of Completion – Community Development Parking Lot Rehabilitation and ADA Improvements**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to:

1. Accept the Community Development Parking Lot Rehabilitation, Project No. 14328, and ADA Improvements, Project No. 24801, from Horizons Construction Co. Int'l, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Community Development Parking Lot Rehabilitation, Project No. 14328, and ADA Improvements, Project No. 24801.

*Action continued on next page*

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, Horizons Construction Co. Int'l, 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. **Contract Amendment – Electronic Document Indexing Services**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 8 to Contract C14-56, by and between the City of San Clemente and Maris Imaging Solutions LLC. This Amendment increases the maximum compensation amount from \$80,000 to \$100,000, an increase of \$20,000, and extends the term of the contract to February 18, 2020.

I. **Contract Amendment – Consultant Services to Assist in the Preparation of the Local Coastal Implementation Plan**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to:

1. Approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C14-15, by and between the City of San Clemente and Dudek, providing for consulting services to assist in the preparation of the Local Coastal Program and Implementation Plan. This Amendment increases the contract amount from \$283,250 to \$338,250, an increase of \$55,000.
2. Accept grant revenues of \$55,000 from the State of California to Account 001-000-33490.
3. Approve a related budget appropriation of \$55,000 to Account 001-431-43890.



**ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**

B(3). **Minutes of the Regular Study Session of the Planning Commission of March 20, 2019**

Council commended the Planning Commission and Staff for their efforts in clarifying the Building Height Requirements for Development Projects, that appears on the March 20, 2019 Planning Commission Study Session minutes as Agenda Item A.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to receive and file the minutes of the Regular Planning Commission Study Session of March 20, 2019.

G. **Establishment of Weed Abatement Program for 2019**

Code Compliance Manager Atamian responded to Council inquiries.

MOTION BY MAYOR SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to adopt Resolution No. 19-07 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, PURSUANT TO SECTIONS 39561 AND 39562 OF THE CALIFORNIA GOVERNMENT CODE DECLARING WEEDS, RUBBISH, REFUSE, AND DIRT UPON STREETS, SIDEWALKS, PARKWAYS, AND PRIVATE PROPERTY TO BE PUBLIC NUISANCES AND PROVIDING FOR THE ABATEMENT THEREOF, with the notation that the El Camino Real lots and beach front parcel between Camino Capistrano and the mobile homes will be included in the properties to be abated.

**Agenda Item 9-E**

**Note: Agenda Item 9-E (Policy and Procedure 204-1 and Policy and Procedure 204-5) was considered at this point in the meeting. Please refer to Page 15 of these minutes for a summary of the discussion/action concerning Agenda Item 9-E.**

**MEETING RECESSED**

Council recessed at 8:00 p.m. and reconvened at 8:07 p.m., with all members present.

7. **PUBLIC HEARINGS**

A. **2019-20 Annual Action Plan for Expenditures of Community Development Block Grant (CDBG) Funds**

Public Hearing to consider the proposed submission of the 2019-20 Annual Action Plan for expenditures of Community Development Block Grant (CDBG) Funds.

City Planner Perez reviewed the contents of the Administrative Report and responded to Council inquiries.

Mayor Swartz opened and closed the Public Hearing, there being no one desiring to speak to this issue.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 5-0, to:

1. Approve and adopt the Draft 2019-2020 Annual Action Plan for use of Community Development Block Grants.
2. Authorize the City Manager to execute and submit the Annual Action Plan to HUD, which will execute the HUD contract.

8. **UNFINISHED BUSINESS**

A. **Reconsideration of Contract Amendment for Legislative Advocacy Services**

Report from the City Clerk concerning Council's determination to reconsider the Contract Amendment for Legislative Advocacy Services in order to resolve confusion concerning the vote that was taken by Council at its meeting of February 19, 2019.

City Clerk Baade summarized the contents of the Administrative Report.

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE), to:

1. 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. 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.

2. Direct that any contract renewal will need to be approved by Council, rather than the City Manager.

B. **Minutes of the Regular Meeting of the Planning Commission of March 6, 2019 and Additional Information concerning Item 8-A from those Minutes Relating to the Shorecliffs Senior Rental Housing Complex at 501 Avenida Vaquero**

Report from the Community Development Director concerning the Regular Planning Commission Meeting Minutes of March 6, 2019, and providing additional information concerning Item 8-A from those minutes (relating to the Shorecliffs Senior Rental Housing Complex at 501 Avenida Vaquero) as requested by Council.

City Planner Perez reviewed the contents of the Administrative Report; advised that the City received a letter, dated April 2, 2019, from Greystar, Applicant for the Shorecliffs Senior Rental Housing Complex, that conveys its agreement that Condition of Approval No. 1.4 requires the Shorecliffs Senior Rental Housing project to comply with the requirements of any future City ordinance adopted to provide for extraordinary cost recovery of emergency services in excess of the standard set by the City in such ordinance, and further acknowledges that the project is subject to conditions of approval requiring the preparation of a security plan and a management plan which could require, and are anticipated to require, that project management not use emergency services for any non-emergency calls.

Leslie Davis, San Clemente, voiced concern that the last piece of land in the City, which is designated as Residential High density, is being proposed for market-rate senior housing; spoke on the need for affordable housing and opposed the developer's payment of in-lieu fees, instead of providing 15% affordable units, inasmuch as the in-lieu fee option was intended for use by small to medium-size in-fill projects.

Linda Tang, speaking on behalf of The Kennedy Commission, urged Council to delay action on the Shorecliffs Senior Rental Housing project to allow time to examine the possibility of using the site for affordable housing. A hard copy of Ms. Tang's letter, dated April 2, 2019, is on file with the City Clerk.

Don Brown, Planning Commission, reviewed the history of the subject senior housing project, noting that it is well planned, well designed, and supported by the community.

Mark McGuire, San Clemente, explained that the subject project was commenced in 2010 to facilitate the revitalization of the golf course; stressed that the project is for active seniors; narrated a PowerPoint presentation that defined "active adult", identified population statistics by age, and included photographs of Greystar's other senior developments.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 5-0, to receive and file the Regular Planning Commission minutes of March 6, 2019, as well as the letter by Greystar, dated April 2, 2019.

9. **New Business.**

A. **Contract Award - San Clemente Trolley Operations and Trolley Vehicle Destination Names**

Report from the Public Works Director/City Engineer concerning the possibility of awarding a contract relating to San Clemente Trolley transit services and proposed change to the destination names displayed on the Trolley vehicles.

Public Works Director/City Engineer Bonigut reviewed the contents of the Administrative Report and responded to Council inquiries.

Don Brown, San Clemente, requested that the trolleys operate an additional week after the summer season to service visitors to the SeaFest (that will take place on October 6, 2019).

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to:

1. Approve, and authorize the City Manager to execute, Contract C19-35, by and between the City of San Clemente and LAZ Parking California, LLC, providing for San Clemente Trolley transit services through December 31, 2022, in the amount of \$1,340,308.
2. Approve the proposed change to the destination names displayed on the San Clemente Trolley vehicles.
3. Authorize the trolley artist to relocate the logo on the San Clemente Trolleys so as to avoid the fuel caps.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR SWARTZ, CARRIED 5-0, to direct that the issues of possible advertising on the interior of the trolleys, and possible destination stop advertising on the exterior of the trolleys, be agendized for Council consideration after the conclusion of the 2019 trolley season.

B. **Contract Amendment – LYFT for SCRIDES Program**

Report from the Public Works Director/City Engineer concerning proposed changes to various terms in the existing agreement with Lyft for the SCRIDES program.

Public Works Director/City Engineer Bonigut reviewed the contents of the Administrative Report and responded to Council inquiries.

MOTION BY COUNCILMEMBER FERGUSON, SECOND BY MAYOR SWARTZ, CARRIED 5-0, to:

1. Approve, and authorize the City Manager to execute, Amendment No. 1 to Contract C16-63, by and between the City of San Clemente and LYFT, providing for the SCRIDES Program. This Amendment extends the term of the contract to June 30, 2023, and provides for other contract modifications as described in the Administrative Report, dated April 2, 2019, which is on file with the City Clerk.
2. Approve, and authorize the City Manager to execute, Amendment No. 1 to Contract C16-71 (OCTA Cooperative Agreement No. C-6-1301), to modify certain SCRIDE terms as described in the Administrative Report, dated April 2, 2019, which is on file with the City Clerk.

C. **Amended Policy and Procedure 1203-1 (City-Issued Swim, Parking or Golf Pass for Designated Retirees and Councilmembers)**

Report from the City Attorney concerning the possibility of adopting an Amended Policy and Procedure 1203-1 concerning City-Issued Swim, Parking or Golf Pass for Designated Retirees and Councilmembers.

City Attorney Smith reviewed the contents of the Administrative Report and responded to Council inquiries; stated that neither Council nor staff has a conflict of interest in this matter, noting that the Political Reform Act includes an exception that allows recipients of public benefits to participate in discussions relating to those benefits; explained that he also does not have a conflict of interest in this matter inasmuch as he is not an employee of the City and, as such, is not entitled to the benefit under consideration.

Brad Malamud, San Clemente, voiced concern that Policy and Procedure 1203-1 is proposed to be expanded, rather than rescinded; voiced concern that golf passes are valuable and take away tee time available to others; urged Council to eliminate the Policy or limit the value of the passes to \$50 per year.

Tony Rubolino, San Clemente, noted financial challenges facing the City and spoke on the need for a fiscally responsible budget; urged Council to oppose the Policy.

Following discussion, MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER WARD to adopt Amended Policy and Procedure 1203-1 (City-Issued Swim, Parking or Golf Pass for Designated Retirees and Councilmembers), effective April 2, 2019, with the modification that Section 4.0 be amended to read in its entirety as follows:

"4.0 POLICY: As noted above, the following current San Clemente employees are eligible to receive one of the following City passes, subject to the defined conditions:

- All senior (director and above benefited employees) and City Councilmembers who take office prior to December 1, 2020 and who leave City service in good standing.
- All other City benefited employees (i.e., full-time and benefited part-time employees) who, at the time of retirement, retire from the City as current employees with at least twenty-five (25) years of benefited San Clemente service."

MOTION TO AMEND BY COUNCILMEMBER FERGUSON, SECOND BY MAYOR PRO TEM BANE, **FAILED 2-3** (COUNCILMEMBER HAMM, COUNCILMEMBER WARD AND MAYOR SWARTZ VOTING NOE), to impose a cap of \$100 per year for the gift.

THE ORIGINAL MOTION ON THE FLOOR WAS VOTED ON AND CARRIED 3-2 (COUNCILMEMBER FERGUSON AND MAYOR PRO TEM BANE VOTING NOE).

D. **Consideration of a Resolution Requesting the California State Controller's Office to Audit the Transportation Corridor Agencies (TCA)**

Report from the City Manager concerning the possibility of adopting a resolution in support of a third-party independent investigation of the Transportation Corridor Agency.

City Manager Makshanoff reviewed the contents of the Administrative Report.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 5-0, to adopt Resolution No. 19-08 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, IN SUPPORT OF THE CALL FOR A THIRD PARTY INDEPENDENT INVESTIGATION OF THE TRANSPORTATION CORRIDOR AGENCY, A PUBLIC AGENCY, BY CONGRESSMAN MIKE LEVIN AND THE CITY OF SAN CLEMENTE TO ENSURE THE PROPER USE OF PUBLIC FUNDS.

E. **Policy and Procedure 204-1 (Partnership of Activities, Facility Rentals and Special Events) and Policy and Procedure 204-5 (Guidelines for the Acceptance of Donations, Sponsorships, and Gifts)**

Report from the Assistant City Manager seeking direction concerning further changes or revisions to Policy and Procedure 204-1 and Policy and Procedure 204-5.

Peggy Vance, Executive Director of the San Clemente Ocean Festival, spoke on the mission and benefits of the Ocean Festival; voiced concern that the subject Policies will negatively affect the Ocean Festival's ability to raise money to meet its \$165,000 budget because it would be unable to receive donations from any entity in litigation with the City.

Jim Wynne, speaking on behalf of the San Clemente Chamber of Commerce, requested that the Policies in question be stayed; voiced concern that the Policies will have unintended consequences and questioned the effect if the City enters litigation with an event sponsor shortly before an event.

Jim Dahl, San Clemente, spoke in opposition to the Policies, noting that non-profits should be allowed to accept donations from anyone; suggested that the Policies violate freedom of association.

Brad Malamud, San Clemente, opined that the Policies are vindictive and violate freedom of speech and freedom of association; noted that local charities need funding and questioned how the Policies would be policed.

Larry Rannals, Board Member of the Boys and Girls Club, stated that the Club's membership fees account for less than 20% of the Club's funding requirements, with revenues from fundraisers and donors making up the difference; voiced concern that the Policies will negatively affect the ability of the Boys and Girls Club to meet its financial requirements; urged that the Policies be either rescinded or modified to lessen their impact.

Mikii Rathmann, Board Member on the Downtown Business Association (DBA), explained that the Association relies on sponsorships to fund the Car Show and Puttin' on the Glitz/Santa Village by the Sea events; noted the DBA already considers the optics associated with entities it accepts as event sponsors; voiced concern that the Policies handicap the ability of the DBA to put on events.

Chuck Narey, Chief Financial Officer of the Chamber of Commerce and Fiesta Chair, spoke in opposition to the Policies; expressed concern that the Fiesta is in jeopardy unless the Policy is repealed, refined or postponed.

Wayne Eggleston, San Clemente, opined that the Policies are punitive against non-profit organizations and urged that they be repealed or postponed while stakeholders and the City work together on Policy modifications.

Following discussion, MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER WARD to postpone the effective date for Policies and Procedures 204-1 and 204-5 until December 31, 2019, with the request that stakeholders work with the City in the meantime in an attempt to reach a middle ground.

SUBSTITUTE MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 3-2 (COUNCILMEMBERS HAMM AND WARD VOTING NOE), to hold Policies and Procedures 204-1 and 204-5 in abeyance indefinitely, with the request that stakeholders work with the City in the meantime in an attempt to reach a middle ground.



10. **ORAL COMMUNICATIONS (PART 2)**

**Hope 4 Restoration - Homeless Solutions**

Tim Houchen, Anaheim, stated that his organization, Hope 4 Restoration, is a non-profit that works to develop solutions to end homelessness; applauded Council for its decision to provide a temporary shelter and urged Council to begin work on a plan to manage homelessness.

**Low-Income Housing**

Mark McGuire, San Clemente, stated that he is currently working with an affordable housing developer and conveyed his belief that sites are available in the City with good potential for low-income housing.

**Speaking Opportunities Under "Oral Communications"**

Brad Malamud, San Clemente, opined that the public should be able to address Council during both Oral Communications Parts 1 and 2, and not be limited to speaking on one or the other.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

**National Autism Awareness Week**

Mayor Swartz reported that this is National Autism Awareness Week.

### **San Onofre Nuclear Generating Station (SONGS) Update at Future Council Meeting**

Mayor Pro Tem Bane reported on his attendance at a recent Community Engagement Panel meeting; stated that he is working with the City Manager to arrange for Southern California Edison (SCE), and possibly the Nuclear Regulatory Commission (NRC), to report at a Council meeting concerning SONGS matters.

### **Parking Meter Rates**

Mayor Pro Tem Bane suggested that Council 1) consider the possibility of raising parking meter rates in the City, including the possibility of charging peak rates during high-demand hours; and 2) consider the possibility of extending the hours that parking meters are in effect.

### **Temporary Banner Regulations**

Mayor Pro Tem Bane requested that Council consider the possibility of modifying the City's temporary banner regulations to give the City Planner discretion to allow banners to be installed in alternative locations when warranted (e.g., when a banner on the side of a building is undesirable because the structure has historic significance).

### **Council Consideration of Planning Commission Actions**

Mayor Pro Tem Bane referenced Item 8-B from this evening's agenda and expressed concern with Council receiving public input on issues considered by the Planning Commission absent a formal appeal and associated public advertisements. City Attorney Smith agreed to provide Council with a white paper to identify possible processes to be utilized in the future to address Mayor Pro Tem Bane's concern.

### **Commendation of Lt. Edward Manhart**

Councilmember Ferguson commended Lt. Manhart for sharing his expertise with a Neighborhood Watch group in Talega.

## 12. **RESOLUTIONS/ORDINANCES**

None.

13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 5-0, to adjourn at 9:55 p.m.

The next Regular Council Meeting will be held on Tuesday, April 16, 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.



MAYOR of the City of  
San Clemente, California

  
CITY CLERK of the City of  
San Clemente, California