



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: September 3, 2019

Agenda Item 9D

Approvals: _____

City Manager JW

Dept. Head _____

Attorney _____

Finance _____

Department: City Clerk
City Attorney
Prepared By: Joanne Baade, City Clerk/Legislative Administrator
Scott C. Smith, City Attorney

Subject: *PROPOSED MODIFICATIONS TO CITY COUNCIL AGENDA TEMPLATE AND POLICY AND PROCEDURE 1201-11 RELATING TO CITY COUNCIL MEETING ORAL COMMUNICATIONS PRACTICES*

Fiscal Impact: None.

Background: Council Policy and Procedure 1201-11 (City Council Meeting and Operating Procedures) provides that the template for City Council agendas shall be established by Council by majority vote. During and following the City Council's first use of its newly modified Policy and Procedure at its April 16, 2019 meeting, the Council and members of the public had questions and objections to the City Council's interpretation of its agenda template. Subsequently, the City faced litigation over the content, interpretation, and application of these policies. Staff has separately agendized the issue of the Council Policy for prior consideration to enable Council to consider possible revisions, clarifications, and modifications. This item relates to the oral communications provisions of the agenda template, specifically, whether the agenda should provide for one or two opportunities for the public to speak on non-agenda items.

Differences of opinion have been expressed as to whether the current agenda language enables persons who speak under Oral Communications Part 1 to again address Council during Oral Communications Part 2, or whether the language requires that persons speak during Oral Communications Part 1 or Part 2, but not both. To resolve this question, and to ensure that the interpretation reflects the will of the Council, Staff is requesting that Council determine at this time whether it wishes to allow speakers to address Council during both Oral Communications Parts 1 and 2, or whether it wishes to require that speakers address Council during either Oral Communications Part 1 or Part 2.

After Council makes its determination with regard to Oral Communications, Staff recommends that Council authorize that the portion of the agenda template relating to the rules for Oral Communications be augmented to make it clear as to whether speakers are limited to speaking under either Oral Communications Part 1 or Part 2, or whether speakers are permitted to speak during both Oral Communications Parts 1 and 2. Two language options are included below in bold and bracketed type to enable Council to select the language that will appear on future Council agendas.

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. **[Language Option 1: Speakers may address Council once during either Oral Communications Part 1 or Part 2.]** or **[Language Option 2: Speakers may address Council during both Oral Communications Part 1 and Part 2.]** 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 invited by the Mayor, please step to the podium, state your name (optional) and the City in which you reside (optional), 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.

Policy and Procedure 1201-11 (City Council Meeting and Operating Procedures) is currently silent on the topic of Oral Communications. After Council determines whether the agenda template is to include the language identified in Language Option 1 or 2 above, Staff recommends that Council add a corresponding section to Policy and Procedure 1201-11. Two language options are included below:

Policy and Procedure Language Option 1 (To limit Speakers to Addressing Council Once During Oral Communications Part 1 or Part 2)

4.5.10 Members of the public may address Council concerning matters within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, during the Oral Communications portion of the agenda. Speakers may address Council once during either Oral Communications Part 1 or Part 2. Speakers shall be allotted 3 minutes in which to give his or her presentation.

Policy and Procedure Language Option 2 (To Enable Speakers to Address Council During Both Oral Communications Part 1 and Part 2)

4.5.10 Members of the public may address Council on matters that are within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, during the Oral Communications portion of the meeting. Speakers may address Council during both Oral Communications Part 1 and Part 2. Speakers are allotted a maximum of three minutes in which to give their presentation during Oral Communications Part 1, and a maximum of three minutes in which to give their presentation during Oral Communications Part 2. Unused speaker time from Oral Communications Part 1 may not be transferred to Oral Communications Part 2.

Summary

Staff recommends that Council provide direction on the proposed changes to the City Council agenda template and Policy and Procedure 1201-11 as identified in this report, and to direct any other changes that it deems desirable.

Recommended

Action: STAFF RECOMMENDS THAT the City Council:

- 1) Determine whether speakers should be limited to addressing Council once during either Oral Communications Part 1 or Part 2, or whether speakers should be permitted to address Council during both Oral Communications Parts 1 and 2.
- 2) Approve the agenda template changes, with direction to Staff as to whether the rules for Oral Communications should include Language Option 1 (to limit speakers to addressing Council once during either Oral Communications Part 1 or Part 2), or Language Option 2 (to allow speakers to address Council during both Oral Communications Part 1 and Part 2).
- 3) Direct that staff incorporate corresponding modification to the existing agenda template and Policy and Procedure 1201-11 (City Council Meeting and Operating Procedures) with a new Section 4.5.10 to identify requirements relating to Oral Communications and the other amendments highlighted therein.
- 4) Direct that Speaker's Cards be updated to reflect the amended Policy and that separate Speaker's Cards be printed for Points of Order raised by the public.

Attachments: 1) Existing Agenda Template

Notification: None



CITY OF SAN CLEMENTE

REGULAR CITY COUNCIL

MEETING AGENDA

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

(Date)
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.) If there are no Closed Session items, the City Clerk will recess the meeting to 6:00 p.m.

A. Insert

B. Insert

BUSINESS MEETING (6:00 P.M.)

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

1. Special Presentations.

A. **Toll Road Update**

B. **Update on Homeless Issue**

- 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**
 - B. Receive and file:
 - (1)
 - C. **Warrant Register**
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. Insert
 - B. Insert
8. **Unfinished Business.**

A. Insert

B. Insert

9. **New Business.**

A. Insert

B. Insert

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.

B.

13. **Adjournment.**

Adjourn to...

The next Regular Council Meeting will be held on

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/or 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 910 Calle Negocio, 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.