



# 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](http://www.san-clemente.org)

October 1, 2019  
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 invited by the Mayor, please step to the podium, and if you wish, state your name and the City in which you reside, and make 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: MemorialCare Services, et al. v. City of San Clemente

Case Number: 8:16-CV-00852 DOC-JCG

Case Name: Housing is a Human Right Orange County, et al v. County of Orange, et al.

Case Number: USDC 8:19-CV-00388 DOC-KES

Case Name: Emergency Shelter Coalition v. City of San Clemente

Case Number: 30-2019-01080355-CU-WM-CXC

Case Name: San Clemente Coastal Access Alliance, et al. v. City of San Clemente, et al.

Case Number: 30-2018-01034124-CU-WM-CJC

**B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code Section 54956.8

Property: 654 Camino de los Mares (San Clemente hospital)

Agency Negotiator: City Manager, Assistant City Manager, City Attorney, and Steven Rousso

Negotiating Parties: City of San Clemente and Memorial Health Services and Saddleback Memorial Medical Center and/or their authorized agent(s)

Under Negotiation: Interim or Long Term Acquisition or Lease

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

**CALL TO ORDER**

**INVOCATION** – Robin Margraf, M.A., M.S., Our Lady of Fatima Church

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

1. **Special Presentations.**

A. **Toll Road Update**

B. **Update on Homeless Issue**

C. **Presentation of Commendation – Samantha Sibley**

Presentation of Commendation to Samantha Sibley in recognition of winning the world-class Super Girl Surf Pro, the largest women's surf competition in the world, with the distinction of being the youngest girl ever to win this competition.

D. **Presentation of Proclamation – Fire Prevention Week**

Presentation of Proclamation to Mike Petro, Battalion Chief, Orange County Fire Authority, declaring October 6-12, 2019 as Fire Prevention Week.

E. **Presentation of Proclamation - Code Enforcement Officer Awareness Week**

Presentation of Proclamation to Adam Atamian, Code Enforcement Manager, setting apart October 6-12, 2019 as Code Enforcement Officer Awareness Week.

F. **Presentation of Proclamation – Red Ribbon Week**

Presentation of Proclamation to San Clemente Junior Women's Club, designating October 23-31, 2019 as Red Ribbon Week.

- G. [2019 Wall of Recognition Honoree – Lori Donchak](#) Pages 1G-1 through 1G-9

Selection and recognition of Lori Donchak as the 2019 inductee to the Wall of Recognition.

Staff Recommendation

1. Approve the selection of Lori Donchak as the 2019 designee to the Wall of Recognition.
  2. Request the Mayor Pro Tem to present Lori Donchak with a Certificate of Recognition.
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. Speakers may address Council once during either Oral Communications Part 1 or 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, and if you wish, 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**

Staff Recommendation

- (1) [Receive and file the City Council Regular Meeting minutes of September 17, 2019.](#)
- (2) [Approve the City Council Adjourned Regular Meeting minutes of September 18, 2019.](#)

B. Receive and file:

- (1) [Coastal Advisory Committee Regular Meeting Minutes of June 13, 2019.](#)
- (2) [Coastal Advisory Committee Regular Meeting Minutes of July 11, 2019.](#)
- (3) [Design Review Subcommittee Regular Meeting Minutes of August 28, 2019.](#)
- (4) [Planning Commission Adjourned Regular Study Session Minutes of September 4, 2019.](#)
- (5) [Planning Commission Regular Meeting Minutes of September 4, 2019.](#)
- (6) [Zoning Administrator Regular Meeting Minutes of September 19, 2019.](#)
- (7) [Human Affairs Committee Regular Meeting Minutes of August 13, 2019.](#)

C. **Warrant Register**

Approve Wire Transfers Nos. 2101 through 2106 and Warrant Nos. 561516 through 561671, paid on 9-13-19, in the amount of.....\$ 891,419.38

Approve Wire Transfers Nos. 2107 through 2108 and Warrant Nos. 561672 through 561834, paid on 9-20-19, in the amount of.....\$ 4,163,429.08

TOTAL WARRANT REGISTER.....\$ 5,054,848.46

**Payroll Register**

Approve Warrant Nos. 749 through 752 and Automatic Deposit Advises 58909 through 59212, for the period 8-26-19 through 9-8-19, paid on 9-13-19, in the amount of.....\$ 489,894.87

TOTAL PAYROLL REGISTER.....\$ 489,894.87

D. **Release of Performance and Labor & Material Bonds Related to the Marblehead Coastal Development Via Socorro Street Improvements, CalTrans Grading, and Joint Regional Water Supply System (JRWSS) Waterline Grading Improvements for Tract 8817** Pages 6D-1 through 6D-5

**Staff Recommendation**

Adopt Resolution No. 19-31 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE RELEASE OF PERFORMANCE AND LABOR & MATERIAL BONDS RELATED TO THE MARBLEHEAD COASTAL DEVELOPMENT VIA SOCORRO STREET IMPROVEMENTS, CAL TRANS GRADING, AND JRWSS WATERLINE GRADING IN TRACT 8817.

- E. [Designation of City-Authorized Representative to Obtain FEMA and Cal OES Grant Programs for Winter Disaster Damage](#) Pages 6E-1 through 6E-4

Staff Recommendation

Adopt Resolution No. 19-32 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DESIGNATING THE CITY MANAGER, PUBLIC WORKS DIRECTOR/CITY ENGINEER AND/OR UTILITIES DIRECTOR AS THE CITY'S AUTHORIZED REPRESENTATIVE(S) TO OBTAIN FEDERAL AND STATE FINANCIAL ASSISTANCE.

- F. [Shared Services Agreement – Municipal Water District of Orange County \(MWDOC\) for America's Water Infrastructure Act \(AWIA\)](#) Pages 6F-1 through 6F-50

Staff Recommendation

1. Approve, and authorize the City Manager to execute, Contract C19-68, an agreement by and between the City of San Clemente and MWDOC, providing for shared consultant costs for the 2019 AWIA Compliance Risk and Resiliency Assessments and Emergency Response Plans for Participating Agencies (Phases II and III), in an amount not to exceed \$145,405.
2. Approve an appropriation of funds in the amount of \$83,662 from the Water Fund Depreciation Reserve to Account 052-461-43695-000-30809 for Phase II, Risk and Resilience Assessment.

- G. [Notice of Completion - Prima Deshecha Canada Channel \(Flood Control Facility No. M01\)/Avenida Vaquero Culvert Rehabilitation](#) Pages 6G-1 through 6G-197

Staff Recommendation

1. Accept the Prima Deshecha Canada Channel (Facility No. M01)/ Avenida Vaquero Culvert Rehabilitation, Project No. 15006, from the contractor, Howard Ridley Co. Inc.
2. Authorize the Mayor Pro Tem to execute, and the City Clerk to record, the Notice of Completion for the Prima Deshecha Canada Channel (Facility No. M01)/Avenida Vaquero Culvert Rehabilitation.

*Staff Recommendation 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 Howard Ridley Co. 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. [Communications Site Lease Agreement – Salvador Communication Site \(Reservoir #5, Calle Nina\)](#) Pages 6H-1 through 6H-15

Staff Recommendation

1. Approve, and authorize the Mayor Pro Tem to execute, Contract C19-69, a Communication Site Lease Agreement by and between the City of San Clemente and U.S. Customs and Border Protection Agency, for the property located at the Salvador Communication Site (Reservoir #5, Calle Nina).
2. Authorize the City Manager to execute future extensions of this agreement, as specified in the lease, provided the lease rate is not reduced.

I. [Preparation of Request for Qualifications and Proposals for Re-Opening and Operation of San Clemente Hospital](#) Pages 6I-1 through 6I-2

Staff Recommendation

Authorize the City's Consultant, Steve Rousso, to prepare a draft Request for Proposal for presentation to the City Council for consideration at its November 5, 2019 meeting.

J. [Records Destruction - Emails](#) Pages 6J-1 through 6J-3

Staff Recommendation

Adopt Resolution No. 19-33 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE DESTRUCTION OF EMAILS PURSUANT TO GOVERNMENT CODE SECTION 34090.



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 Conditional Use Permit 18-534, AT&T Small Cell \(MSVJO 014\) in Public Right-of-Way at 3018 Camino Vera Cruz CS](#) Pages 7A-1 through 7A-88

Continued Public Hearing to consider an appeal of Conditional Use Permit 18-534, AT&T Small Cell (MSVJO 014), in the public right-of-way at 3018 Camino Vera Cruz CS.

Staff Recommendation

1. Determine whether to uphold or overturn the Planning Commission's August 21, 2019 decision to deny without prejudice CUP 18-534, AT&T Small Cell (MSVJO 014) in the Public Right of Way at 3018 Camino Vera Cruz CS.
2. Adopt a Resolution (Resolution No. 19-34) with the appropriate findings for the decision.

B. [Appeal of Conditional Use Permit 18-535, AT&T Small Cell \(MSVJO 016\) in Public Right-of-Way at 1101 Calle Del Cerro CS](#) Pages 7B-1 through 7B-73

Continued Public Hearing to consider an appeal of Conditional Use Permit 18-535, AT&T Small Cell (MSVJO 016), in the public right-of-way at 1101 Calle Del Cerro CS.

Staff Recommendation

1. Determine whether to uphold or overturn the Planning Commission's August 21, 2019 decision to deny without prejudice CUP 18-535, AT&T Small Cell (MSVJO 016) in the Public Right of Way at 1101 Calle Del Cerro CS.
2. Adopt a Resolution (Resolution No. 19-35) with the appropriate findings for the decision.

C. [Zoning Amendment 17-043 – Regulation of Smoke or Tobacco Shops](#)  
Pages 7C-1 through 7C-79

Public Hearing to consider a City-initiated zoning amendment to San Clemente Municipal Code 17, the Zoning Ordinance, regulating smoke or tobacco shops.

Staff Recommendation

1. Find and determine that the ordinance is exempt from the requirements of the CEQA pursuant to CEQA Guidelines Sections 15060(c)(2 and 3).
2. Approve a 300-foot distance requirement for smoke and tobacco shops from sensitive uses and other existing smoke and tobacco shops, rather than 500-foot or 1,000-foot distance requirements.
3. Introduce Ordinance No. 1681 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE APPROVING ZONING AMENDMENT 17-043, AMENDING MUNICIPAL CODE TITLE 17 (ZONING), CHAPTERS 17.28 (SPECIAL USES), 17.36 (COMMERCIAL ZONES AND STANDARDS), 17.40 (MIXED-USE ZONES AND STANDARDS), AND 17.88 (DEFINITIONS), TO REGULATE SMOKE OR TOBACCO SHOPS.

D. [Expenditure of Community Development Block Grant Funds \(CDBG\) – Consolidated Annual Performance Evaluation Report \(CAPER\) for 2018-19](#) Pages 7D-1 through 7D-63

Public Hearing to consider the CDBG Consolidated Annual Performance Evaluation Report (CAPER) for 2018-19.

Staff Recommendation

Approve and adopt the 2018-19 Consolidated Annual Performance Evaluation Report (CAPER) for submittal to the U.S. Department of Housing and Urban Development.

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 invited by the Mayor, please step to the podium, and if you wish, state your name and the City in which you reside, and make your 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) [Consideration of Establishing a Standing Committee on Homelessness](#) Page 11D(1)-1

Staff Recommendation

1. Determine whether to establish a Committee on Homelessness as a standing committee.
2. Determine whether to establish the number of members to serve on the Committee and appoint individuals to serve on the Committee, or delegate such authority to Councilmember Ferguson and Mayor Pro Tem Bane.
3. Determine whether to establish the goals of the Committee, or delegate such authority to Councilmember Ferguson and Mayor Pro Tem Bane.
4. If Council chooses to establish the Committee on Homelessness as a standing committee, direct the City Manager to assign staff support to the Committee.

12. **Resolutions/Ordinances.**

None.

13. **Adjournment.**

The next Regular Council Meeting will be held on October 15, 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 take place at 6:00 p.m.

A Joint Council/Commissions/Committees meeting will be held on October 29, 2019 at 7:00 p.m. in the banquet room at the Municipal Golf Course, located at 150 E. Avenida Magdalena, San Clemente, California.

## **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](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 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](mailto:cityclerk@san-clemente.org) or call 949-361-8200.