

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

November 19, 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 Pro Tem, 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: 11

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: Anthem Sales Management, LLC et al. v. City of San Clemente et

al.

Case Number: 30-2019-01063861-CU-WM-CJC

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

Clemente, et al.

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

Case Name: City of San Clemente v. Foothill/Eastern Transportation Corridor

Agency and County of Orange

Case Number: 30-2017-00934703-CU-PT-CXC

Case Name: Lovrien v. City of San Clemente

Workers Compensation Appeals Board Case Number: ANA0303676

Closed Session items continued on next page

Case Name: City of San Clemente v. Goode, et al. Case Number: OCSC 30-2018-01033695 CU-OR-CJC

Case Name: City of San Clemente v. Toyota, et al. Case Number: OCSC 30-2018-01037112-CU-MC-NJC

Case Name: City of San Clemente v. Michael Scott Shay

Case Number: OCSC 19HM08321 HJC

Case Name: City of San Clemente v. Derek Ramirez Owen

Case Number: OCSC 19HM10265 HJC

Case Name: City of San Clemente v. Derek Ramirez Owen

Case Number: OCSC 19HM10246 HJC

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 Ruosso

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

C. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

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

D. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

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

Number of potential cases: 3

BUSINESS MEETING (6:00 P.M.)

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

A. Results of the Special Municipal Election Held on November 5, 2019 Pages A-1 through A-11

Staff Recommendation

Adopt Resolution No. 19-43 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECITING THE FACT OF THE SPECIAL MUNICIPAL ELECTION HELD IN THE CITY ON NOVEMBER 5, 2019, DECLARING THE RESULTS, AND SUCH OTHER MATTERS AS PROVIDED BY LAW.

Note: The ceremonial induction of Councilmember-Elect Gene James into office will take place at the Council meeting of December 3, 2019. In addition, the election of the Mayor and Mayor Pro Tem for the coming year will take place at the December 3, 2019 City Council meeting.

- 1. Special Presentations.
 - A. Toll Road Update
 - B. <u>Update on Homeless Issue</u>
 - C. Overview of Request for Proposal (RFP) for the Re-Opening and Operation of San Clemente Hospital Pages 1C-1 through 1C-5

Presentation by Erik Sund, Assistant City Manager, concerning an overview of the RFP for the re-opening and operation of San Clemente Hospital.

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 Pro Tem, 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 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.
- 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) Approve the Joint City Council/Commission/Committee Meeting Minutes of October 29, 2019.
- B. Receive and file:
 - (1) Zoning Administrator Regular Meeting Minutes of November 7, 2019.
 - (2) <u>Planning Commission Regular Study Session Minutes of November</u> 6, 2019.
 - (3) <u>Planning Commission Regular Meeting Minutes of November 6,</u> 2019.

C. Warrant Register

TOTAL WARRANT REGISTER......\$6,561,351.57

Payroll Register

Approve Warrant No. 759
and Automatic Deposit Advises
60090 through 60377, for the period
10-21-19 through 11-3-19, paid on
11-8-19, in the amount of......\$ 494,584.30

TOTAL PAYROLL REGISTER.....\$ 494,584.30

D. Resolution to Oppose Oil and Gas Drilling, Fracking and Related Techniques Pages 6D-1 through 6D-9

Staff Recommendation

Adopt Resolution No. 19-44 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO PROTECT THE COAST OF CALIFORNIA FROM OFFSHORE OIL AND GAS DRILLING, FRACKING AND RELATED TECHNIQUES.

E. <u>Notice of Completion – Sewer Line Point Repair Project</u> Pages 6E-1 through 6E-182

- 1. Authorize the transfer of \$5,670 from the Water Fund Depreciation Reserve to Account 054-476-43420-000-29205.
- 2. Accept Sewer Line Point Repair Project No. 29205 from the contractor, O'Connell Engineering and Construction, Inc., LLC.
- 3. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Sewer Line Point Repair.
- 4. 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 O'Connell Engineering and Construction, Inc.
- 5. 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 – FY 18/19 Traffic Signal Equipment Upgrades
Pages 6F-1 through 6F-168

Staff Recommendation

- Accept the FY 18/19 Traffic Signal Equipment Upgrades, Project Nos. 17335, 18807, 18808, and 19320, from the contractor, International Line Builders, Inc.
- 2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the FY 18/19 Traffic Signal Equipment Upgrades.
- 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 International Line Builders, 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.
- G. Final Tract Map 18065 Santiago Mixed Use Residential and Commercial Condominiums at 1010 South El Camino Real Pages 6G-1 through 6G-3

- 1. Accept on behalf of the City of San Clemente the water rights as dedicated.
- 2. Approve Final Tract Map 18065 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Tract Map.
- 3. Authorize the Public Works Director/City Engineer to execute the Final Tract Map.
- 4. Authorize the City Clerk to execute and submit Final Tract Map 18065 to the County of Orange Recorder's Office for recordation.

H. Final Parcel Map 2016-159, Palizada Condominiums at 315 Avenida Palizada Pages 6H-1 through 6H-3

Staff Recommendation

- 1. Accept on behalf of the City of San Clemente the water rights as dedicated.
- 2. Accept on behalf of the City of San Clemente the easement for sidewalk and public access purposes as dedicated.
- 3. Approve Final Parcel Map 2016-159 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 upon verification that the CC&Rs have been approved.
- 5. Authorize the City Clerk to execute and submit Final Parcel Map 2016-159 to the County of Orange Recorder's Office for recordation.
- I. Community Facilities District No. 2006-1 (Marblehead Coastal) Local Agency Special Tax and Bond Accountability Act Report (SB 165) for Fiscal Year Ended June 30, 2019 Pages 6I-1 through 6I-11

Staff Recommendation

Accept and file the Community Facilities District No. 2006-1 (Marblehead Coastal) Local Agency Special Tax and Bond Accountability Act Report (SB 165) for the fiscal year ended June 30, 2019.

J. <u>Contract Amendment – Water Reclamation Plant (WRP) Electrical</u>
<u>Systems Replacement</u> Pages 6J-1 through 6J-44

- Approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C17-01, by and between the City of San Clemente and Linkture Consulting Engineers, relating to the Water Reclamation Plant Electrical Systems Replacement. This amendment increases the contract amount from \$84,044 to \$184,287, an increase of \$100,243, and extends the contract term to December 30, 2021.
- Approve a budget transfer in the amount of \$2,500 from Account 052-466-43420-000-24401 (Water Fund Depreciation Reserve) to Account 054-476-45300-000-16205 (Sewer Fund Depreciation Reserve) for the Calle Agua Pump Station Electrical Panel Study included in the Second Amendment.

K. Contract Awards – Support Services for the City of San Clemente's Clean Ocean Fee Renewal Process Pages 6K-1 through 6K-52

Staff Recommendation

- 1. Approve, and authorize the City Manager to execute, Contract C19-76, by and between the City of San Clemente and NCE, providing for the Clean Ocean Fee Rate Study and Fee Analysis, in an amount not to exceed \$39,800.
- 2. Approve, and authorize the City Manager to execute, Contract C19-77, by and between the City of San Clemente and Koppel & Gruber Public Finance, providing for Clean Ocean Fee Public Hearing and Proposition 218 Balloting Services, in an amount not to exceed \$56,930.
- L. Payment Authorization for Purchase, Installation and Licensing of Tightrope Cablecast Server to Replace Failed 360 Server Pages 6L-1 through 6L-4

Staff Recommendation

Authorize payment to Triton Technology Solutions in the amount of \$35,474.28 in Fiscal Year 2019-20 for the purchase, installation, and licensing of a Tightrope Cablecast Server.

M. Contract Award – Water Reclamation Plant (WRP) Electrical Systems

Replacement Phase I Plant Main Distribution Panel (PMD) Pages 6M
1 through 6M-318

- Approve the plans and specifications for the Water Reclamation Plant Electrical Systems Replacement Phase I Plant Main Distribution Panel, Project No. 16205.
- Reject the bid protest submitted by Pacific International Electric Company, Inc. as meritless, waive the immaterial bid error in the bid submitted by Global Power Group, Inc., the lowest responsible bidder submitting a responsive bid.
- 3. Approve a supplemental appropriation in the amount of \$500,160 from the Sewer Fund Depreciation Reserve to Account 054-476-45300-000-16205.
- 4. Approve, and authorize the City Manager to execute, Contract C19-78, by and between the City of San Clemente and Global Power Group Inc., providing for the Water Reclamation Plant Electrical Systems Replacement Phase I Plant Main Distribution Panel, Project No. 16205, in the amount of \$1,405,160.64.

N. <u>Transfer to Capistrano Shores of the 4 by 325-Foot (1,300 Square Foot)</u>

<u>Portion of Senda de la Playa to the Capistrano Shores Mobilehome</u>

<u>Park Pages 6N-1 through 6N-14</u>

Staff Recommendation

- Adopt Resolution No. 19-45 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REGARDING THE TRANSFER OF A 4 BY 325-FOOT (1,300-SQUARE FOOT) PORTION OF SENDA DE LA PLAYA TO THE CAPISTRANO SHORES MOBILEHOME PARK.
- 2. Find that the transfer is categorically exempt from environmental review under Class 5 (Minor Alterations in Land Use Limitations) per State CEQA Guidelines, section 15303.
- 3. Find that the transfer conforms to the City's General Plan per Government Code Section 65402.
- 4. Find that the transfer is of the common benefit per Government Code Section 37350.
- 5. Direct Staff to file a Notice of Exemption for the transfer within five days after approval.
- 6. Direct Staff to execute the grant deed effectuating the transfer within five days after the approval.
- O. Contract Award Purchase of Electricity Pages 6O-1 through 6O-5

Staff Recommendation

Approve, and authorize the City Manager to execute, Contract C19-79, a two-year contract by and between the City of San Clemente and Calpine Energy Solutions, providing for the purchase of electricity for an amount not to exceed \$37.88 per Kilo-watt hour.

P. <u>Code Enforcement Legal Services</u> Pages 6P-1 through 6P-33

Staff Recommendation

- 1. Approve, and authorize the Mayor Pro Tem to execute, Contract C19-80, by and between the City of San Clemente and the law firm of Silver & Wright LLP, providing for code enforcement legal services, for a not-to-exceed amount of \$186,000 for FY 2019-20, and annual renewal each fiscal year, subject to approval through the annual budget adoption.
- 2. Approve, and authorize the Mayor Pro Tem to execute, Contract C19-81, by and between the City of San Clemente and the law firm of Silver & Wright LLP, providing for municipal citation legal services, for a not-to-exceed amount of \$99,600 for FY 2019-20, and annual renewal each fiscal year, subject to approval through the annual budget adoption.
- 3. Approve a supplemental appropriation from the General Fund's Unassigned Fund Balance in the amount of \$91,000 to Code Compliance Other Legal Services, Account 001-451-43640-000-00000.
- 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. <u>Zoning Amendment 19-290 Regulations for Secondhand Dealers</u>
 (Thrift Store Ordinance) Page 7A-1

Continued Public Hearing to consider a City-initiated amendment to San Clemente Municipal Code Title 17, the Zoning Ordinance, regarding the regulation of secondhand dealers (thrift stores).

Staff Recommendation

Continue the Public Hearing concerning the "Thrift Store Ordinance" to the Regular City Council meeting of December 3, 2019.

B. Zoning Amendment 19-343 – Modifying Nonconforming Provisions for Mobilehomes and Mobilehome Parks Pages 7B-1 through 7B-34

Public Hearing to consider a City-initiated proposal to amend San Clemente Municipal Code Title 17, the Zoning Ordinance, regarding nonconforming mobilehomes and mobilehome parks.

Staff Recommendation

- 1. Find and determine that the proposed amendments are not a project as defined by the State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5).
- Introduce Ordinance No. 1685 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SUBSECTION 17.28.190.A, SECTION 17.72.020, SUBSECTION 17.72.030.C.3, AND SUBSECTION 17.72.060.E OF TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE TO CLARIFY STANDARDS REGULATING NONCONFORMING MOBILEHOME AND MOBILEHOME PARK USES.
- C. 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 Pages 7C-1 through 7C-5

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

Table Conditional Use Permit (CUP) 18-534, pursuant to Tolling Agreement No. 3.

D. 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 Pages 7D-1 through 7D-5

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

Table Conditional Use Permit (CUP) 18-535, pursuant to Tolling Agreement No. 3.

8. Unfinished Business.

None.

9. New Business.

A. Ordinance Introduction - Adding Chapter 12.40, Train Stations, to the San Clemente Municipal Code Relating to Ticket-Required Areas of the City's Transit Facilities Pages 9A-1 through 9A-27

Report from the City Attorney concerning the possibility of introducing an Ordinance to add Chapter 12.40, Train Stations, to the San Clemente Municipal Code Relating to Ticket-Required Areas of the City's Transit Facilities.

Staff Recommendation

- Introduce Ordinance No. 1686 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE ADDING CHAPTER 12.40, TRAIN STATIONS, TO THE SAN CLEMENTE MUNICIPAL CODE RELATING TO TICKET-REQUIRED AREAS OF THE CITY'S TRANSIT FACILITIES.
- 2. Instruct Staff to prepare and post adequate demarcation and signage at the City's train stations.
- B. Ordinance Introduction Adding Section 12.28.030 to the San Clemente Municipal Code Relating to Tents in City Parks Pages 9B-1 through 9B-5

Report from the City Attorney concerning the possibility of introducing an Ordinance to add Section 12.28.030 to the San Clemente Municipal Code relating to tents in City parks.

Staff Recommendation

Introduce Ordinance No. 1687 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE ADDING SECTION 12.28.030 TO THE SAN CLEMENTE MUNICIPAL CODE RELATING TO TENTS IN CITY PARKS.

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 Pro Tem, 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
- 12. Resolutions/Ordinances.

None.

13. Adjournment.

The next Regular Council Meeting will be held on December 3, 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.

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 854. 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.