

CITY OF SAN CLEMENTE

City Council Minutes

Special and Regular Meeting – October 15, 2019

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

A Special Meeting of the San Clemente City Council was called to order on October 15, 2019 at 4:35 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Pro Tem Bane.

PRESENT FERGUSON, HAMM, WARD, MAYOR PRO TEM BANE

ABSENT NONE

STAFF PRESENT James Makshanoff, City Manager; Scott Smith, City Attorney; Joanne Baade, City Clerk; Megan Jimenez, Records Management Coordinator.

CLOSED SESSION

Brad Malamud, San Clemente, asserted that the settlement of the case entitled Malamud, et al. v. City of San Clemente, et al. was inadequately announced prior to Closed Session on October 1, 2019; expressed concern with the proposed sale/lease of public property as identified in Closed Session Item C; alleged that Closed Session Item D fails to contain adequate disclosures.

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0, to recess to Closed Session at 4:41 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: 6

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

Closed Session items continued on next page

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

B. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)
Significant Exposure to Litigation
Number of potential cases: 1

C. 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

Property: 2.2 acre section of and 80 acre parcel on the southwest corner of Avenida La Pata and Vista Hermosa, Assessor's Parcel Number 678-163-01
Agency Negotiators: City Manager and Assistant City Manager
Negotiating Parties: City of San Clemente, proposing parties and/or their authorized agent(s)
Under Negotiation: Consideration of proposals for acquisition or lease of surplus property

Property: 100 Avenida Presidio, Assessor's Parcel Number 692-012-01
Agency Negotiator: City Manager and Assistant City Manager
Negotiating Parties: City of San Clemente and HTL Hospitality Advisors, LLC
Under Negotiation: Price and terms for potential acquisition or lease

Closed Session items continued on next page

Property: 1 Acre Vacant Land Parcel north of the northeast corner of Avenida Fabricante and Calle Extremo, APN #690-661-09
Agency Negotiator: City Manager and Assistant City Manager
Negotiating Parties: City of San Clemente and Glaukos Corporation
Under Negotiation: Terms of Lease Extension

D. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

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

E. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6
Agency designated representative: Assistant City Manager
Unrepresented employees: All Employees
Employee organization: San Clemente City Employees Association

BUSINESS MEETING CONVENED

The City Council Business Meeting of October 15, 2019 convened at 6:10 p.m., with all members present.

INVOCATION

Holland Davis, Senior Pastor, Calvary Chapel San Clemente, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Ferguson led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Toll Road Update

Mayor Pro Tem Bane reported that both TCA Boards will conduct a performance audit of the Venture Strategic contracts, adding that the results of the audit are expected to be completed and announced in December 2019; stated that the other contracts mentioned in the City's motions will not be audited.

City Attorney Smith reported that the lawsuit that the City filed against the TCA takes the position that the TCA has the right to build the Foothill/Eastern and San Joaquin Hills Corridors, but does not have the

authority to build other freeway improvements throughout the County; advised that the TCA is expected to present a proposal at the Orange County Transportation Authority (OCTA) meeting of October 28, 2019 to construct numerous freeways/improvements in South Orange County; indicated that the City will communicate to the OCTA its position that the TCA does not have the authority to construct additional freeways/improvements.

Ryan Bourque, San Clemente, summarized his review of the TCA's financials and audit documents; opined that the TCA is spending a large amount of money on pursuits contrary to the City's interests.

B. Update on Homeless Issue

City Manager Makshanoff reported on the recent cleanup at the Pico campground; advised that 14 individuals currently reside at the camp, which represents a reduction from the highest camp occupancy of 71 individuals; explained that Staff is working with non-profits, the Orange County Sheriffs Department, and County Health relative to homeless individuals who are utilizing Pico Park; explained outreach efforts that are underway to assist persons experiencing homelessness.

Gene James, San Clemente, spoke on the importance of preventing a regional homeless shelter from being established in San Clemente; opined that the City needs to purchase the lot in the Rancho San Clemente Business Park that is being pursued by Ed Connor as a site for a regional shelter.

Ryan Bourque, San Clemente, presented a PowerPoint entitled "Commentary on Homeless Issue", which is on file with the City Clerk; urged that the Pico encampment be closed and that Pico Park be restored to a condition appropriate for family use.

George Gregory, San Clemente, urged that the City make free parking available in North Beach this weekend to accommodate attendance at a rally at Pico Park concerning the homeless situation.

Darryl McFann, San Clemente, voiced concern that homeless persons who were denied admission to the Pico encampment because they refused to accept the camp rules have moved to Pico Park.

Ricardo Nicol, San Clemente, opined that excessive resources are being devoted to serve only 12 homeless persons at the Pico campground; asserted that the camp site should be opened to 50 homeless individuals to take them off the streets; opined that the camp site needs water and shade.

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

Malamud v. City of San Clemente Settlement

Brad Malamud, San Clemente, reviewed the history, cause of action, and terms of settlement of the lawsuit entitled Malamud v. City of San Clemente; opined that the City failed to properly announce the settlement and requested that the City Attorney do so under the City Attorney portion of this meeting.

Council requested that the settlement agreement be made available on the City's website.

San Clemente City Politics

Martina (last name not provided), San Clemente, narrated a PowerPoint presentation entitled "San Clemente City Politics", which is on file with the City Clerk.

San Clemente Business Tax

Ryan Bourque, San Clemente, narrated a PowerPoint presentation entitled "San Clemente Business Tax", which is on file with the City Clerk; urged that the City convert to a flat business license fee.

Peripheral Cameras

Sherry Nolan, San Clemente, stated that her Sea Summit home backs up to Avenida Pico; stated that peripheral cameras have been installed around her backyard; questioned who authorized the camera installation and who is monitoring the camera feed; voiced concern that the cameras invade her privacy.

Council Collaboration/Negative Political Campaigns

Joe Janis, San Clemente, commented on the importance of civil and collaborative Council discourse; spoke in opposition to negative political campaigns.

Small Cells

Laura Fischer, San Clemente, stated that an alliance entitled "Safe Cell Sites for SC" has been formed to 1) oppose the placement of small cell facilities near homes, schools and parks, 2) assist in the development of an ordinance, and 3) help locate safe cell locations; urged that a third-party study be conducted to determine the accuracy of AT&T's technical data; distributed a document entitled "S.2012 - Restoring Local Control Over Public Infrastructure Act of 2019", which is on file with the City Clerk.

Charles Mann's Efforts Concerning Open Space and Parking

Bob Baker, San Clemente, asserted that Charles Mann benefited San Clemente by leading efforts that resulted in the passage of Measure V, which protects open space, and by opposing the Lab development, which resulted in the retention of beach parking in North Beach.

3. MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 4-0, to waive reading in full of all Resolutions and Ordinances.

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

None.

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

Closed Session to Continue Later in Meeting

City Attorney Smith announced that Council did not conclude its Closed Session earlier this evening and will return to Closed Session at the conclusion of the business portion of this meeting.

Malamud, et al. v. City of San Clemente, et al.

City Attorney Smith re-announced that Council settled the case entitled Malamud, et al. v. City of San Clemente, et al. during Closed Session on September 18, 2019 by a vote of 2-1, with Councilmember Hamm opposed and Councilmember Ferguson absent; summarized the allegations of the lawsuit and terms of settlement; noted that the settlement was announced at the Council meeting of October 1, 2019.

Councilmember Hamm left the Chambers at 7:08 p.m.

6. **CONSENT CALENDAR**

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 3-0 (COUNCILMEMBER HAMM ABSENT), to approve the Consent Calendar, with the removal of Items C, D, E, G and H.

A. **City Council Minutes**

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 3-0 (COUNCILMEMBER HAMM ABSENT), to approve the City Council Regular Meeting Minutes of October 1, 2019.

B. MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 3-0 (COUNCILMEMBER HAMM ABSENT), to receive and file:

- (1) Planning Commission Adjourned Regular Meeting Minutes of October 2, 2019.
- (2) Human Affairs Committee Regular Meeting Minutes of October 8, 2019.

F. **San Clemente Sanitary Sewer Management Plan, Sanitary Sewer Overflow Prevention Plan and Sanitary Sewer Emergency Response Plan Updates**

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 3-0 (COUNCILMEMBER HAMM ABSENT), to:

1. Approve the Sanitary Sewer Management Plan, Sanitary Sewer Overflow Prevention Plan and Emergency Response Plan updates.
2. Authorize the City Manager and Utilities Manager to approve the Sanitary Sewer Management Plan, Sanitary Sewer Overflow Prevention Plan and Sanitary Sewer Overflow Emergency Response Plan.

I. **Grant Application - Senate Bill 2 (SB2) Planning Grants Program Funds to Accelerate the Production of Affordable Housing**

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 3-0 (COUNCILMEMBER HAMM ABSENT), to adopt Resolution No. 19-36 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING APPLICATION FOR, AND RECEIPT OF, SB 2 PLANNING GRANTS PROGRAM FUNDS.

J. **Assignment and Assumption Agreement and Consent to Assignment of the Lease Agreement Between Scott Shipley and the City of San Clemente**

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 3-0 (COUNCILMEMBER HAMM ABSENT), to:

1. Approve the Assignment and Assumption Agreement by and between Scott Shipley (Assignor) and Rebecca Genszler (Assignee) and authorize the Mayor to execute the Consent to Assignment of Lease Agreement on behalf of the City of San Clemente.
2. Authorize the City Manager to execute Amendment No. 1 to Contract C17-18, the lease agreement for the Bait and Tackle Concession on the Municipal Pier between Scott Shipley and the City of San Clemente.

K. **Contract Award - Community Outreach Program for Clean Ocean Program Fee Renewal**

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 3-0 (COUNCILMEMBER HAMM ABSENT), to approve, and authorize the Mayor to execute, Contract C19-71, by and between the City of San Clemente and NV5, providing for Clean Ocean Fee Community Outreach Services, in an amount not to exceed \$29,945.

L. **Grant Application - Proposition 68 Per Capita Grant**

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 3-0 (COUNCILMEMBER HAMM ABSENT), to adopt Resolution No. 19-37 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING APPLICATIONS OF PER CAPITA GRANT FUNDS.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

Councilmember Hamm returned to the dais at 7:10 p.m.

C. Warrant Register

Brad Malamud, San Clemente, voiced concern that the Warrant Register does not contain any bills from BBK, even though BBK's retainer agreement with the City requires that invoices be submitted to the City by the 20th of each month and that the City pay the invoices within 15 days thereafter.

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0, to approve the following:

Wire Transfers Nos. 2109 through 2112 and Warrant Nos. 561835 through 561974, paid on 9-27-19, in the amount of.....\$2,961,536.16

Wire Transfers Nos. 2113 through 2117, paid on 10-4-19, and Warrant Nos. 561975 through 562161, paid on 10-4-19.....\$1,275,505.66

TOTAL WARRANT REGISTER.....\$4,237,041.82

Payroll Register

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0, to approve the following:

Warrant No. 753 and Automatic Deposit Advises 59213 through 59503, for the period 9-9-19 through 9-22-19, paid on 9-27-19, in the amount of.....\$ 488,257.10

TOTAL PAYROLL REGISTER.....\$ 488,257.10

D. **Contract Award – Baseball Field Shade Structures at Vista Hermosa Sports Park**

Council commended the San Clemente Little League for its generous contribution toward the baseball field shade structures and field turf.

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0, to:

1. Approve the conceptual layout and cut sheet renderings for the Vista Hermosa Sports Park Baseball Field Shade Structures, Project No. 10109.
2. Approve the purchase and installation of shade structures from USA Shade and Fabric Structures in the amount of \$73,682, utilizing the Sourcewell Cooperative Purchase Agreement.
3. Approve, and authorize the City Manager to execute, Contract C19-69, by and between the City of San Clemente and USA Shade and Fabric Structures, providing for the Vista Hermosa Sports Park Baseball Field Shade Structures, in the amount of \$73,682.

E. **Speed Cushions – 100 and 200 Blocks of West Paseo De Cristobal**

Senior Civil Engineer Mangohig reviewed the contents of the Administrative Report and responded to Council inquiries.

Charles Larwood, San Clemente, supported Staff's recommendation for the installation of speed cushions in the 100 and 200 blocks of West Paseo de Cristobal; explained that he filed a petition with the City in 2013 to request speed cushions to solve the speeding problem on the street.

Juan Perez, San Clemente, stressed that traffic-calming measures need to be implemented on Cristobal and spoke in support of speed cushions as an effective speed deterrent; displayed slides of a recent accident on Cristobal, stating that the accident endangered the lives of his children. Mr. Perez's photographs are on file with the City Clerk.

Ken Nielsen, San Clemente, stated that traffic on Cristobal needs to be slowed.

Elaine Lister, San Clemente, stated she resides in the 200 block of West Paseo de Cristobal and opposes the installation of speed cushions on her block; asserted that her neighbors were not provided with complete and adequate information; voiced concern that speed cushions cause noise and blight and are not bicycle friendly; presented documents relating to speed cushions, which are on file with the City Clerk.

Jim Davies, San Clemente, spoke in support of speed cushions due to his belief that they will protect children and pets.

Don Brown, San Clemente, spoke on the need for speed cushions to increase safety; pointed out that 70% of residents on both the 100 and 200 blocks of Cristobal support the proposed speed cushions.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 4-0, to approve the use of speed cushion traffic-calming treatments on the 100 block of West Paseo De Cristobal, and to direct Staff to work with property owners concerning the appropriate locations for the speed cushions in the 200 block of West Paseo De Cristobal.

G. **Software License and Service Agreement - Parking Mobile Payments Application**

Management Analyst Johnston reviewed the contents of the Administrative Report and responded to Council inquiries.

Ryan Bourque, San Clemente, stated that the proposed mobile payments application will involve significant infrastructure and signage and will cause the City to lose revenue to a third-party provider; suggested that the contract should have been subject to an RFP.

Brad Malamud, San Clemente, spoke in opposition to the proposal; stated that the City would lose 20% of its parking revenue and questioned why the City would want to sacrifice revenue when parking lots are full.

During the ensuing discussion, Staff confirmed that users would pay the contractor to utilize the mobile payment application and that the City would retain all revenue.

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0, to approve, and authorize the City Manager to execute, a Software License and Service Agreement (Contract C19-70), by and between the City of San Clemente and Passport Labs, Inc., providing for mobile payment technology and citation management software for a term of three years, with an option for the City Manager to renew for one additional year.

H. Contract Amendment - Homeless Outreach Services

Management Analyst Johnston summarized the Administrative Report and responded to Council inquiries.

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 4-0, to:

1. Authorize the City Manager to execute Amendment No. 1 to Contract C19-27, by and between the City of San Clemente and Mercy House, providing for homeless outreach services for the period July 1, 2019 through April 30, 2021, with the stipulation that Mercy House provide monthly reports with meaningful metrics.
2. Approve a budget transfer in FY 2019-20 for a total of \$35,000 to General Fund Account 001-218-43625 (Police Contract Services) from Account 001-441-43890 (Other Contractual Services).

7. PUBLIC HEARINGS

A. Consideration of Invoicing Property Owners for their Cost Share of Defective Sidewalks Repaired Under the Fiscal Year 2016 and 2017 Sidewalk Repair Program

Public Hearing to consider invoicing property owners for their cost share of defective sidewalks repaired under the Fiscal Year 2016 and 2017 Sidewalk Repair Program.

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0, to defer the Public Hearing to the Council meeting of November 5, 2019 to accommodate appropriate noticing.

8. UNFINISHED BUSINESS

A. 2019 Downtown and North Beach Parking Management Update

Report from the Community Development Director concerning the 2019 Downtown and North Beach Parking Management update.

City Attorney Smith reported that Mayor Pro Tem Bane owns property in the Downtown and will consequently recuse himself from deliberations during the Downtown portion of this agenda item. In order to allow Mayor Pro Tem Bane to participate in the other portions of this agenda item, City Attorney Smith advised that Council will consider parking issues of a generic nature

as well as parking in the North Beach area before considering parking in the Downtown.

Associate Planner II Wright reviewed the contents of the Administrative Report and responded to Council inquiries. A hard copy of Mr. Wright's PowerPoint presentation is on file with the City Clerk.

Jackson Hinkle, San Clemente, recommended as follows: 1) that employee parking be established at the top of Avenida Cabrillo, 2) that parking enforcement be enhanced, 3) that the City endeavor to lease private lots for public use, 4) that the City seek opportunities to increase pedestrian accessibility from outlying streets to Del Mar, and 5) that trolley service be extended to the Casa Romantica.

Mark McGuire, San Clemente, spoke in support of an in-lieu parking program for shops and restaurants in the T-Zone, North Beach and the Pier Bowl core area; urged that the trolley route be expanded to include a T-Zone loop, which includes the Casa Romantica.

Don Brown, San Clemente, urged that Council authorize Staff to contact merchants in an effort to lease private parking lots during off hours; recommended that Council consider adding metered parking in the Downtown.

Note: The following motion (included in italic type) was reconsidered immediately after the motion passed. MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 3-1 (COUNCILMEMBER FERGUSON VOTING NOE), to:

1. *Direct Staff to immediately implement a Residential Parking Pass Program in North Beach.*
2. *Renew Council's support for an El Camino Real road diet and additional diagonal parking.*
3. *Direct Staff to implement a Smart Meter program in the North Beach area.*
4. *Direct Staff to prepare a white paper addressing the possibility of an in-lieu parking program for North Beach to be included in the Long Term Financial Plan.*

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0, to reconsider the immediately preceding action.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 4-0, to:

1. Direct Staff to immediately implement a Residential Parking Pass Program in North Beach.
2. Renew Council's support for an El Camino Real road diet and additional diagonal parking.
3. Direct Staff to implement a Smart Meter program in the North Beach area.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, **FAILED 2-2** (COUNCILMEMBERS FERGUSON AND HAMM VOTING NOE), to direct Staff to prepare a white paper addressing the possibility of establishing an in-lieu parking program for North Beach to be included in the Long Term Financial Plan.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 3-1 (COUNCILMEMBER FERGUSON VOTING NOE), to direct Staff to prepare a white paper, and return to Council, with regard to a possible in-lieu parking program in the Pier Bowl.

Council requested that Staff prepare a press release concerning the November 6, 2019 Planning Commission meeting at which the Pier Bowl Specific Plan update will be considered and to place it on line with a link to the draft Pier Bowl Specific Plan document.

MEETING RECESSED

Council recessed at 8:46 p.m. and reconvened at 8:58 p.m., with all members present except Mayor Pro Tem Bane, who recused himself from participation in the Downtown parking portion of Agenda Item 8A because he owns property in the affected area.

Wayne Eggleston, San Clemente, urged that employee parking be designated at the Cabrillo parking lot as well as the Community Center after hours; recommended that parking enforcement be enhanced in the T-Zone area utilizing SPEC (Smart Parking Enforcement Cameras); asserted that the City should not increase the time limit to park along Avenida Del Mar and should not install parking meters along Avenida Del Mar.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 3-0-1 (MAYOR PRO TEM BANE RECUSED), to take action as follows:

- Continue to assess property owner interest in establishing new parking lot leases for lots in the parking study and changes to existing leases that provide more flexible times for public parking use.
- Expand funding in the next budget for the parking lease program depending on property owner interest.
- Initiate the Zoning Ordinance amendments regarding off-site parking distance standards, alternative transportation (e.g., bicycle parking), and parking design standards.
- Consider a decision package for the next budget to improve parking wayfinding signage.
- Improve enforcement by pursuing smart technologies in public parking areas of the Downtown, such as the Passport parking App and SPEC (Smart Parking Enforcement Cameras).
- Direct Staff to prepare a white paper concerning the possibility of utilizing the Cabrillo parking lot for employee parking.
- Future parking lot leases are to include City cleaning services as an option.
- Authorize Staff to seek after-hour parking lot leases.
- Authorize Staff to pursue walkway leases along Avenida Del Mar.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER WARD, CARRIED 2-1-1 (COUNCILMEMBER FERGUSON VOTING NOE AND MAYOR PRO TEM BANE RECUSED), to consider a decision package at a future Council meeting for a parking study, economic analysis, and Code changes necessary to establish an in-lieu parking fee program for existing footprint structures (i.e., existing square footage) in the T-Zone. The program study is to be limited specifically to shops and restaurants in the T-Zone. Residential, hotel, mixed use, and Short Term Lodging Unit (STLU) uses are to be excluded.

Mayor Pro Tem Bane returned to the dais at 9:45 p.m.

9. **NEW BUSINESS**

None.

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

Jackson Hinkle - Council Candidate

Tony Rubolino, San Clemente, narrated a PowerPoint presentation entitled "Jackson Hinkle Connecting the Dots", a hard copy of which is on file with the City Clerk.

Jackson Hinkle, San Clemente, explained his passion for local issues and resolved to work toward solving problems facing the community.

In-Lieu Parking Program in the Downtown

Mark McGuire, San Clemente, spoke in support of an in-lieu parking program in the Downtown, noting that parking waivers help to attract quality businesses; commented that a parking management problem exists in the Downtown and asserted that in-lieu parking programs offer opportunities.

Impact of Pico Encampment on Sensitive Habitat

Ken Orr, San Clemente, voiced concern that the Pico encampment is located near sensitive habitat; urged that the Pico camp be closed and that mitigation be undertaken to correct the damage to habitat that has occurred.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

- (1) **Appointment of Council Member to Serve as San Clemente's Alternate on the Foothill/Eastern Transportation Corridor Agency Board due to the Resignation of Mayor Pro Tem Bane from this Position**

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0, to appoint Councilmember Ward as San Clemente's Alternate on the Foothill/Eastern Transportation Corridor Agency Board.

Public Workshop on Small Cell and 5G Facilities

Council requested a public workshop concerning small cell and 5G facilities.

University of California System Admission and Fiscal Policies

Council agreed to consider adopting a resolution pertaining to the University of California system's admission and fiscal policies.

Resolution Opposing Offshore Oil Drilling

Council expressed an interest in adopting a resolution opposing oil drilling off the coast of San Clemente.

12. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1681 (Second Reading) - Regulation of Smoke or Tobacco Shops**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 3-1 (COUNCILMEMBER FERGUSON VOTING NOE), to adopt 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.

RECESS TO CLOSED SESSION

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to recess to Closed Session at 10:05 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: 6

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: 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

B. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)

Significant Exposure to Litigation

Number of potential cases: 1

Closed Session items continued on next page

C. 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

Property: 2.2 acre section of and 80 acre parcel on the southwest corner of Avenida La Pata and Vista Hermosa, Assessor's Parcel Number 678-163-01
Agency Negotiators: City Manager and Assistant City Manager
Negotiating Parties: City of San Clemente, proposing parties and/or their authorized agent(s)
Under Negotiation: Consideration of proposals for acquisition or lease of surplus property

Property: 100 Avenida Presidio, Assessor's Parcel Number 692-012-01
Agency Negotiator: City Manager and Assistant City Manager
Negotiating Parties: City of San Clemente and HTL Hospitality Advisors, LLC
Under Negotiation: Price and terms for potential acquisition or lease

Property: 1 Acre Vacant Land Parcel north of the northeast corner of Avenida Fabricante and Calle Extremo, APN #690-661-09
Agency Negotiator: City Manager and Assistant City Manager
Negotiating Parties: City of San Clemente and Glaukos Corporation
Under Negotiation: Terms of Lease Extension

D. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

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

E. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6
Agency designated representative: Assistant City Manager
Unrepresented employees: All Employees
Employee organization: San Clemente City Employees Association

MEETING RECONVENED

Council reconvened at 10:46 p.m., with all members present.

CITY ATTORNEY REPORT

City Attorney Smith announced that no reportable actions took place during this evening's Closed Session; advised that Mayor Pro Tem Bane recused himself from the portion of the Closed Session relating to the case entitled City of San Clemente v. Foothill/Eastern Transportation Corridor Agency and County of Orange.

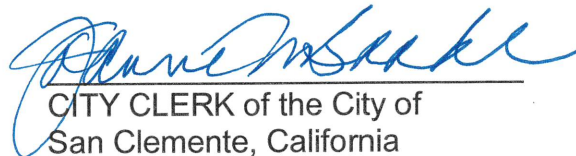
13. ADJOURNMENT

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to adjourn at 10:48 p.m. to a Joint Council/Commissions/Committees meeting to 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.

The next Regular Council Meeting will be held on November 5, 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.



MAYOR PRO TEM of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California