

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting – November 5, 2019

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

A Regular Meeting of the San Clemente City Council was called to order on November 5, 2019 at 5:00 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*, Erik Sund, Assistant City Manager; Scott Smith, City Attorney; Joanne Baade, City Clerk; Laura Campagnolo, Deputy City Clerk

**Left the meeting at 6:00 p.m.*

CLOSED SESSION

Brad Malamud, San Clemente, opined that the MemorialCare Services item on the Closed Session agenda is illegal because no litigation is pending; suggested that Closed Session Item B (property negotiations concerning the hospital property at 654 Camino de los Mares) is inappropriate because negotiations are not underway and RFP discussions are not permitted in Closed Session; asserted that Closed Session Items C and E, relating to anticipated litigation, were not properly disclosed because associated documents must be made available to the public and the identity of the litigants must be disclosed unless the potential defendant is unaware of the possible litigation.

City Attorney Smith recommended that the MemorialCare Services and Housing is a Human Right Orange County items be removed from the agenda because the cases have been dismissed; stated that he expects that Mayor Pro Tem Bane will recuse himself from participation in the Foothill/Eastern Transportation Corridor Agency discussion due to his financial interest due to his representation of The Reserve Homeowners Association in litigation against the TCA; stated that information cannot be disclosed about Closed Session Item C because the potential defendant is unaware of the possible litigation; announced that Closed Session Item E relates to a letter, dated October 25, 2019, from the Orange County Employees Association, which threatens to seek a cease and desist order from the California Public Employees Relations Board.

In response to Council inquiry, City Attorney Smith noted that Council could discuss in Closed Session the portion of the Housing is a Human Right Orange County case relating to its right, per court order, to file a new cause of action.

Councilmember Ferguson announced that she will not participate in Closed Session Items B and E because she believes that they do not conform to Brown Act requirements; questioned whether a lawsuit filed this week against the City can be announced.

City Attorney Smith responded that the subject lawsuit (*which was subsequently determined to be the case entitled Margaret Hamer v. City of San Clemente*) cannot be discussed in Closed Session because it was not agendized; announced that the lawsuit relates to age discrimination, that the lawsuit is a public record, and that the case is subject to subrogation and defense by the California Joint Powers Insurance Authority; agreed to provide information about the lawsuit during the public portion of this evening's meeting.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 4-0, to recess to Closed Session at 5:08 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: 5

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

Closed Session items continued on next page

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 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

E. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

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

Number of potential cases: 1

BUSINESS MEETING CONVENED

The City Council Business Meeting of November 5, 2019 convened at 6:04 p.m., with all members present.

INVOCATION

Don Kappauf, Chaplain, Orange County Sheriff-Coroner, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Ward led the Pledge of Allegiance.

AGENDA REORGANIZATION

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0, to consolidate Oral Communications Parts 1 and 2, for consideration under Agenda Item 10 (Oral Communications Part 2), and to consider Item 1A (Toll Road Update) and Item 2A (Homeless Update), at the latter portion of the Business Meeting.

1. SPECIAL PRESENTATIONS**A. Toll Road Update**

City Attorney Smith reported that Councilmember Ward and Best Best & Krieger (BBK) participated in a recent Orange County Transportation Authority (OCTA) meeting where OCTA considered the Transportation Corridor Agencies' (TCA) South County Mobility Plan and summarized the outcome of that meeting; explained the tenets of the contingency contract between the City and BBK relating to toll road legal fees; provided an overview of the City's challenge of the TCA's developer impact fees.

B. Update on Homeless Issue

Steve Aman, San Clemente, stated that he wrote a letter to the California Coastal Commission relative to the unpermitted status of the City's homeless camp; voiced safety concerns with homeless individuals occupying Pico Park and the nature preserve; urged Council to relocate the homeless camp within 30 days.

Jenny Dowdall, San Clemente, noted that homeless individuals have moved into Pico Park and the Sea Summit neighborhoods; urged Council to close the Pico encampment within 30 days.

Dave Patty, San Clemente, stated that the residents of Sea Summit were initially told the Pico encampment was a temporary solution; voiced safety concerns associated with the current situation and urged Council to find another solution for the homeless problem.

Sherry Nolan, San Clemente, urged Council to close the homeless encampment within 30 days; cited concerns for public safety and the potential for fire.

Susan Smith, San Clemente, stated that the homeless camp is unpermitted and endangers the community; requested that Council close the camp within 30 days.

Council directed Staff to agendize an Ordinance to ban four-sided tents at parks as well as an Ordinance addressing sleeping and loitering at the train platform at North Beach.

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

Council deferred Oral Communications Part 1 to later in the meeting, to be heard concurrently with Oral Communications Part 2. Please refer to Page 18 of these minutes for a summary of commentary provided during Oral Communications.

3. MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER HAMM, 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**

City Attorney Smith announced that Council took no reportable actions during tonight's Closed Session.

Margaret Hamer v. City of San Clemente

City Attorney Smith reported that before Council recessed to this evening's Closed Session, reference was made to a lawsuit that has been referred to the California Joint Powers Insurance Authority for defense and indemnification; explained that the lawsuit, filed by Margaret Hamer, alleges age discrimination concerning City management.

Mayor Pro Tem Bane reported that he recused himself from the portion of this evening's Closed Session relating to the case entitled City of San Clemente v. Foothill/Eastern Transportation Corridor Agency and County of Orange because his law firm represents The Reserve Homeowners Association with regard to the proposed toll road.

Councilmember Ferguson reported that she recused herself from Closed Session Item B (real property negotiations concerning the property at 654 Camino de los Mares) and Item E (anticipated litigation), due to her concerns that they may violate the Brown Act.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to approve the Consent Calendar, with the removal of Items 6B(4), C, F, H, K, and M.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to approve the City Council Special and Regular Meeting Minutes of October 15, 2019.

B. MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to receive and file:

- (1) Coastal Advisory Committee Regular Meeting Minutes of August 8, 2019.
- (2) Planning Commission Regular Study Session Minutes of October 16, 2019.
- (3) Planning Commission Regular Meeting Minutes of October 16, 2019.

D. **Notice of Completion – Ralphs Skate Court Lighting**

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

1. Accept the purchase and installation of the Skate Court Lighting at Ralphs Skate Park, Project No. 18511, from the contractor, Musco Sports Lighting, Inc. (Contract C19-72)
2. Authorize the Mayor Pro Tem to execute, and the City Clerk to record, the Notice of Completion for Skate Court Lighting at Ralphs Skate Park.
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 Musco Sports Lighting, LLC.
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.

E. Contract Award – Aquatics Center Play Activity Pool Replaster

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

1. Approve the specifications for the Aquatics Center Play Activity Pool Replaster, Project No. 19513.
2. Approve, and authorize the City Manager to execute, Contract C19-73, by and between the City of San Clemente and Gardener Outdoor and Pool Remodeling, providing for the Aquatics Center Play Activity Pool Replaster, in the amount of \$160,000.

G. Contract Amendment – Standard Industrial/Commercial Land Lease of Vacant Parcel No. 690-661-09 (Avenida Fabricante Lot)

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to approve, and authorize the Mayor Pro Tem, or his designee, to execute, Amendment No. 1 to Contract C15-67, a Standard Industrial/Commercial Land Lease Agreement, by and between the City of San Clemente and Glaukos Corporation, for the property located on Avenida Fabricante (APN #690-661-09).

I. Notice of Completion – West Avenida Palizada Sidewalk Improvement Project

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

1. Accept the West Avenida Palizada Sidewalk Improvement, Project No. 16345, from the contractor, PALP, Inc., dba Excel Paving Company. (Contract C19-02)
2. Authorize the Mayor Pro Tem to execute, and the City Clerk to record, the Notice of Completion for the West Avenida Palizada Sidewalk Improvement.
3. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Engineering Division that no liens have been levied against the contractor, PALP, Inc., dba Excel Paving Company.
4. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction cost.

J. Notice of Completion – Reservoir 10 and 6 Water Line

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

1. Accept the Reservoir 10 & 6 Water Line, Project No. 19410, from the contractor, Gwinco Construction & Engineering, Inc. (Contract C19-30)
2. Authorize the Mayor Pro Tem to execute, and the City Clerk to record, the Notice of Completion for the Reservoir 10 & 6 Water Line.
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 Gwinco Construction & Engineering, 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.

L. Utility Box Art Program – Phase 4 Implementation

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

1. Approve Phase 4 of the Utility Box Art Program, *Street Art*.
2. Transfer \$1,000 from Council Contingency Reserve Account 001-203-44900-000-00000 to Community Services Account 001-624-42490-000-00000 for project materials and \$2,000 from Council Contingency Reserve Account 001-203-44900-000-00000 to Traffic Maintenance Account 001-612-42590-000-00000 for cost of sealant materials and ongoing maintenance.

N. Contract Amendment - Special Legal Counsel Services

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to approve, and authorize the Mayor Pro Tem to execute, Amendment No. 1 to Contract AC-821, by and between the City of San Clemente and Talley & Talley, providing for special legal counsel services, in an amount not to exceed \$50,000, and authorize an additional designation of legal fees in the FY 2019-20 budget of \$25,000.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

6B(4). Zoning Administrator Regular Meeting Minutes of October 17, 2019

Council referenced the portion of the Zoning Administrator Regular Meeting minutes of October 17, 2019 relating to the proposed Short Term Apartment Rental (STAR) at 119 Avenida San Pablo for the purpose of determining whether to call up the item for consideration at a future Council meeting.

Randy Quillman, San Clemente, spoke in support of the proposed STAR at 119 Avenida San Pablo; noted that issues that previously existed at the subject address were resolved with the current ownership.

Ignat Bokl, owner of the property at 119 Avenida San Pablo, stated he lives in one of the units and ensures that renters in the other units adhere to strict rules; explained the vetting process used to screen potential renters and the technology being utilized to inform him of noise problems in real time.

John Rodriguez, San Clemente, reported that Mr. Bokl, the property owner at 119 Avenida San Pablo, is a man of integrity and spoke in support of the STAR permit.

Marcie Harris, San Clemente, noted that Mr. Bokl is a professional property operator, noting that he helped her by allowing her to stay in his unit while her primary residence is under repair.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0, to call up the Short Term Apartment Rental (STAR) project at 119 Avenida San Pablo for Council consideration at a future meeting.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to receive and file the balance of the Zoning Administrator meeting minutes of October 17, 2019.

C. **Warrant Register**

Brad Malamud, San Clemente, reviewed the Warrant Register entries that relate to legal bills from Best Best & Krieger (BBK); urged Council to not approve payments that are older than the 20-day bill submission requirement set forth in the City's contract with BBK, and particularly those that date back as far as 2017.

Council requested that the Assistant City Manager report on the reasons for late BBK payments.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER WARD, CARRIED 3-1 (COUNCILMEMBER FERGUSON VOTING NOE), to:

Approve Wire Transfers Nos. 2118 through 2121 and Warrant Nos. 562162 through 562368, paid on 10-11-19, in the amount of.....\$2,755,219.28

Approve Wire Transfers Nos. 2122 through 2123, and Warrant Nos. 562369 through 562555, paid on 10-18-19, in the amount of.....\$1,649,217.73

Approve Wire Transfers Nos. 2124 through 2127, and Warrant Nos. 562556 through 562682, paid on 10-25-19, in the amount of.....\$2,533,391.70

TOTAL WARRANT REGISTER.....\$6,937,828.71

Payroll Register

Approve Warrant No. 754 through 755 and Automatic Deposit Advises 59504 through 59794, for the period 9-23-19 through 10-6-19, paid on 10-11-19, in the amount of.....\$ 478,566.85

Approve Warrant No. 756 through 758 and Automatic Deposit Advises 59795 through 60089, for the period 10-7-19 through 10-20-19, paid on 10-25-19, in the amount of.....\$ 486,521.12

TOTAL PAYROLL REGISTER.....\$ 965,087.97

F. **Release of Performance and Labor & Materials Bonds Related to the Marblehead Coastal Development Urban Runoff Bioswales, Constructed Wetlands, CDS Units and Storage Vaults, Rough Grading, Retaining Walls, Canyon Edge Walls, and SCWD/JRWSS 27-Inch Waterline Avenida Vista Hermosa and Avenida Pico Commercial Site Improvements for Tract 8817**

Susan Smith, San Clemente, stated that the Marblehead Coastal Preserve is a protected habitat and voiced concern that over 50 man-made trails have been made within the preserve; opined that it was inappropriate to locate a homeless encampment next to a preserve.

Council requested that Staff post to the City's website contact information for the conservancy that manages the open space preserve to enable citizens to report concerns.

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to adopt Resolution No. 19-39 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 URBAN RUNOFF BIOSWALES, CONSTRUCTED WETLANDS, CDS UNITS & STORAGE VAULTS, ROUGH GRADING, RETAINING WALLS, CANYON EDGE WALLS, AND SCWD/JRWSS 27-INCH WATERLINE AVH & AVE. PICO COMMERCIAL SITE IMPROVEMENTS IN TRACT 8817.

H. **Consideration of Supporting the Prioritization of California Resident Students for Admission to the University of California**

Dawn Urbanek, San Clemente, urged Council to modify the proposed Resolution to request recompense for all San Clemente residents that have been financially damaged due to admissions practices at the University of California; recommended that the resolution be sent to the Federal Inspector General.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to adopt Resolution No. 19-40 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, IN SUPPORT OF THE PRIORITIZATION OF CALIFORNIA RESIDENT STUDENTS FOR ADMISSION TO THE UNIVERSITY OF CALIFORNIA, with the modification that the following language be added to the Resolution under "Now Therefore it be Resolved":

"That the City of San Clemente asks the State of California and University of California Board of Regents for recompense for all San

Clemente residents that have been financially damaged as a result of these admission practices."

Further, to direct Staff to submit the Resolution to the Federal Inspector General and the State Attorney General.

K. **Contract Award – Bonito Canyon Park and Vista Bahia Park Restroom Replacement**

Susan Smith, San Clemente, stated that the closure of Pico Park was not authorized by Council nor was the public noticed about the closure; questioned why Bonito Canyon Park and Vista Bahia Park are listed on the agenda but not Pico Park.

Don Brown, San Clemente, stated that he is on the Board of Directors of the Boys and Girls Club, which is located next to Bonito Canyon Park; voiced concern that the Vista Bahia Park restroom has been cited by the County Health Department and the restroom at Bonito Canyon Park has been the site of gang-related activities; urged Council to approve Staff's recommendations for health and safety reasons.

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

1. Approve the plans and specifications for the restroom site improvements at Bonito Canyon Park and Vista Bahia Park Rehabilitation, Project Nos. 17511 and 17512.
2. Approve, and authorize the Mayor Pro Tem to execute, Contract C19-74, by and between the City of San Clemente and Zimprich Construction, Inc., providing for construction of the restroom site improvements at Bonito Canyon Park and Vista Bahia Park, in the amount of \$204,079.

M. **Designation of Legal Fees (Case Entitled "Emergency Shelter Coalition v. City of San Clemente")**

Brad Malamud, San Clemente, opined that the Administrative Report does not provide sufficient information concerning the legal services that are proposed to be provided in connection with the case of Emergency Shelter Coalition v. City of San Clemente, and also fails to identify why the funding is necessary, the amount of funding spent to date, and the status of the case.

Susan Smith, San Clemente, requested that the public be provided supporting documents and disclosures concerning the subject litigation;

stated that a homeless encampment should not be allowed next to a preserve that provides habitat for endangered animals and coastal scrub; suggested that extensive funding is being spent to fund poor decisions and suggested the funding would be better spent for a sheriff deputy.

Following a review of legal efforts undertaken on the homeless issue to date, Council requested that Staff add legal costs incurred on the City's website and that Staff report on those costs at the November 19, 2019 City Council meeting under "Homeless Update".

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

1. Approve the revised estimated legal costs for the case entitled Emergency Shelter Coalition v. City of San Clemente.
2. Approve a supplemental appropriation from the General Fund's Unassigned Fund Balance in the amount of \$227,800 to Other Legal Services, Account 001-203-43640-000-00000.

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.

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

Mayor Pro Tem Bane opened and closed the Public Hearing, there being no one desiring to speak to this item.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0, to adopt Resolution No. 19-38 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE PROPERTY OWNER SHARE OF COSTS FOR REPAIRS PERFORMED IN THE FISCAL YEAR 2016 AND FISCAL YEAR 2017 SIDEWALK REPAIR PROGRAM, PROJECT NO. 16355 AND 27307 AND AUTHORIZING THE FINANCE DIVISION TO INVOICE THOSE COSTS.

B. Final Sea Level Rise Vulnerability Assessment

Public Hearing for the presentation of the Final Sea Level Rise Vulnerability Assessment (SLRVA) and consideration of a Resolution authorizing submittal of the SLRVA to the California Coastal Commission.

Leslea Meyerhoff, LCP Project Manager, and Aaron Holloway, Coastal Engineer, Moffat & Nichol, narrated a PowerPoint presentation entitled "City of San Clemente Sea Level Rise Vulnerability Assessment" and responded to Council inquires. A hard copy of the PowerPoint is on file with the City Clerk.

Mayor Pro Tem Bane opened the Public Hearing.

Mandy Sackett, Surfrider Foundation, provided general commentary on sea level rise and the associated impacts that the City's response may have on the coastline; commended the City's Sea Level Rise Vulnerability Assessment, noting that Surfrider provided written comments on the Assessment, which are on file with the City Clerk; reinforced the need for long-term regional planning to address sea level rise.

Denise Erkeneff, Surfrider South Orange County Chapter, urged Council to focus on long-term planning rather than short-term solutions and asserted that the City must engage with the County, CalTrans and other agencies to devise a plan to relocate the railway to a location farther inland.

Brad Thompson, Surfrider South Orange County Chapter, stated that sea walls exacerbate erosion; urged Council to work with a regional sea level rise group to develop a plan to protect South Orange County beaches.

There being no others desiring to speak, the Public Hearing was closed.

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 4-0, to adopt Resolution No. 19-41 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING STAFF TO SUBMIT THE FINAL SEA LEVEL RISE VULNERABILITY ASSESSMENT TO THE CALIFORNIA COASTAL COMMISSION.

C. **Zoning Amendment 19-290 – Regulations for Secondhand Dealers (Thrift Store Ordinance)**

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).

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0, to continue the Public Hearing on Zoning Amendment 19-290 (Regulations for Secondhand Dealers - Thrift Store Ordinance) to the Council meeting of November 19, 2019.

D. **Adoption of the 2019 California Building and Fire Codes and Local Amendments**

Public Hearing to consider a City-initiated amendment to San Clemente Municipal Code Title 8, Health and Safety, and Title 15, Buildings and Construction, regarding the adoption of the 2019 California State Building and Fire Codes and local amendments to those various codes.

Building Official Holden reviewed the contents of the Administrative Report, noting that a second Public Hearing on this item will take place at the City Council meeting of December 3, 2019.

Mayor Pro Tem Bane opened and closed the Public Hearing, there being no one desiring to speak to this item.

Council directed Staff to post the Building Official's PowerPoint presentation, which describes the changes to the 2019 California Building and Fire Codes and Local Amendments, to the City website. A hard copy of Mr. Holden's presentation is on file with the City Clerk.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0, to introduce Ordinance No. 1683 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING TITLE 15 CHAPTERS 15.08, 15.12, 15.16, 15.20, 15.22, 15.23 AND TITLE 8 CHAPTER 8.16 OF THE SAN CLEMENTE MUNICIPAL CODE AND ADDING TO TITLE 15 CHAPTERS 15.05, 15.11, 15.14, 15.17, AND 15.18, ADOPTING BY REFERENCE THE 2019 CALIFORNIA BUILDING STANDARDS CODE (CALIFORNIA CODE OF REGULATIONS, TITLE 24), CONSISTING IN PART OF THE 2019 ADMINISTRATIVE CODE, THE 2019 CALIFORNIA BUILDING CODE, THE 2019 CALIFORNIA RESIDENTIAL CODE, THE 2019 CALIFORNIA ELECTRICAL CODE, THE 2019 CALIFORNIA

MECHANICAL CODE, THE 2019 CALIFORNIA PLUMBING CODE, THE 2019 CALIFORNIA FIRE CODE, THE 2019 CALIFORNIA GREEN BUILDINGS STANDARD CODE, THE 2019 CALIFORNIA ADMINISTRATIVE CODE, THE 2019 CALIFORNIA ENERGY CODE, THE 2019 CALIFORNIA HISTORICAL BUILDING CODE, THE 2019 CALIFORNIA EXISTING BUILDING CODE, AND THE 2019 CALIFORNIA REFERENCED STANDARDS CODE, TOGETHER WITH CERTAIN ADDITIONS, AMENDMENTS AND DELETIONS.

**The above Ordinance will appear on the Council agenda of December 3, 2019 for a second Public Hearing and adoption.*

E. **Consideration of Establishing a Processing Fee for Sidewalk Vending Permits**

Public Hearing to consider establishing a processing fee for sidewalk vending permits.

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

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to adopt Resolution No. 19-42 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ESTABLISHING FEES FOR THE PROCESSING OF SIDEWALK VENDING PERMITS AND RELATED RENEWALS.

8. **UNFINISHED BUSINESS**

A. **Code Amendment Relating to the Composition and Appointment of Members of Various City Commissions and Committees; and Establishment of a Public Safety Committee**

Report from the City Clerk concerning the possibility of 1) amending the Code of the City of San Clemente as it relates to the operation, composition and appointment of members of various City Commissions and Committees; and 2) establishing a Public Safety Committee.

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0, to continue the possibility of amending the Code of the City of San Clemente, as it relates to City Commissions and Committees, to the Council meeting of November 19, 2019.

9. NEW BUSINESS**A. Update on San Clemente Summer Trolley Program**

Report from the Public Works Director concerning an update on the San Clemente Summer Trolley Program.

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

Mark McGuire, San Clemente, spoke in support for the addition of an additional trolley for the downtown area; suggested that the City use in-lieu parking fees to help fund the trolley program when grant funding is no longer available for the program.

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

1. Approve the deletion of Trolley Stop #20 on the northern blue line, which would establish existing Trolley Stop #19 as the transfer connection with the Dana Point Trolley.
2. Approve a minor location adjustment to Trolley Stop #21 to relocate this trolley stop north of the intersection of Camino Capistrano and Camino Mira Costa, at a location to be confirmed with the City of Dana Point.
3. Direct Staff to prepare a report for City Council consideration of establishing new trolley stops on Camino Capistrano in the vicinity of Via Breve.
4. Direct Staff that Council remains interested in pursuing a grant for trolley service to the "ranch" areas of Forster Ranch and Talega, if possible.
5. Direct Staff to return to Council with a report for discussion concerning private trolley rentals.

B. **Residential Preferential Permit Parking Program on West Avenida San Gabriel**

Report from the Public Works Director concerning the possibility of adopting a Residential Preferential Permit Parking Program on West Avenida San Gabriel.

Public Works Director/City Engineer Bonigut reviewed the contents of the Administrative Report, noting that owners of eight of the eleven properties on West Avenida San Gabriel indicated that they are not interested in a Residential Preferential Permit Parking Program.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to table consideration of a Residential Preferential Permit Parking Program on West Avenida San Gabriel.

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

Small Cell Facilities

Jeff Perkin, San Clemente, voiced concern with potential health impacts associated with small cell facilities.

Mayor Pro Tem Bane recused himself from Ms. Fischer's below comments concerning cell towers because The Reserve Homeowners Association is his client; left the Chambers at 7:35 p.m.

Laura Fischer, San Clemente, narrated a PowerPoint presentation entitled "No Cell Towers Near Homes". A hard copy of Ms. Fischer's presentation is on file with the City Clerk.

Mayor Pro Tem Bane returned to the Chambers at 7:38 p.m.

Boys and Girls Club Bike Drive for Kids/Homeless Issues

George Gregory, San Clemente, reported that the Boys and Girls Club will conduct its 9th annual Holiday Bike Drive for Kids; suggested relocating homeless individuals to the County's landfill property; suggested that a limit be established on the length of time people can loiter in one area.

11. REPORTS**A. Commissions and Committees****(1) Industry Specialist Vacancy on the Investment Advisory Committee and Vacancy on the Beaches, Parks and Recreation Commission**

Council determined to leave the Investment Advisory Committee and Beaches, Parks and Recreation Commission vacancies open until July 1, 2020 to coincide with the proposed implementation of changes to the structure and membership of the City's Commissions and Committees.

(2) City Representative – Orange County Mosquito and Vector Control District Board of Trustees

Council directed the City Clerk to recruit for applicants to serve as the City representative to the Orange County Mosquito and Vector Control District Board of Trustees. No interview date was set.

B. City Manager**Toll Road Town Hall**

Assistant City Manager Sund reported that the City is hosting a Toll Road Town Hall meeting on November 13, 2019 at the Community Center.

C. City Attorney

None.

D. Council Members**(1) Appointment of Councilmember to attend the City Selection Committee Meeting on November 14, 2019 (Mayor Pro Tem Bane)**

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0, to authorize Mayor Pro Tem Bane to represent the City at the City Selection Committee meeting on November 14, 2019.

Council directed the City Clerk to send a letter to the Clerk of the Board of Supervisors informing the County of Mayor Pro Tem Bane's appointment.

(2) **Dana Point Harbor 50-Year Time Capsule**

Council determined to provide item(s) to be included in the Dana Point Harbor 50-Year Time Capsule and tasked the Recreation Manager with providing appropriate items.

I-5 Freedom Network

Council requested that Staff work with the I-5 Freedom Network to develop a draft Ordinance for Council consideration that addresses human trafficking.

Expansion of City's "Non-Smoking" Ordinance

Council requested that Staff agendize the possibility of expanding the City's non-smoking ordinance to include Avenida Del Mar.

Consideration of City Manager's Contract

Councilmember Ferguson requested that Council agendize consideration of the City Manager's contract prior to the contract's automatic two-year extension on November 19, 2019. The request, however, was not supported by other Councilmembers; consequently, the City Manager's contract will not be agendized.

12. **RESOLUTIONS/ORDINANCES**

None.

13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 4-0, to adjourn at 8:20 p.m. The next Regular Council Meeting will be held on November 19, 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 of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California