

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting – December 3, 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 December 3, 2019 at 5:02 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Pro Tem Bane.

PRESENT FERGUSON*, JAMES, WARD, MAYOR PRO TEM BANE

*Arrived at 5:05 p.m.

ABSENT HAMM

STAFF PRESENT James Makshanoff, City Manager; Scott Smith, City Attorney; Joanne Baade, City Clerk; Laura Campagnolo, Deputy City Clerk

CLOSED SESSION

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER JAMES, CARRIED 3-0 (COUNCILMEMBERS FERGUSON AND HAMM ABSENT), to recess to Closed Session at 5:02 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

Closed Session items continued on next page

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 REAL PROPERTY NEGOTIATORS

Pursuant to Government Code section 54956.8

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

Agency Negotiators: 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

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

BUSINESS MEETING CONVENED

The City Council Business Meeting of December 3, 2019 convened at 6:05 p.m., with all members present, except Councilmember Hamm who was absent.

INVOCATION

Pastor Candie Blankman, San Clemente Presbyterian Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Bane led the Pledge of Allegiance.

Holiday Choral Performance - San Clemente High School Madrigals

The San Clemente High School Madrigals, under the direction of CJ Daniel, provided a holiday choral performance.

A. ADMINISTRATION OF OATH OF ALLEGIANCE AND ELECTION OF MAYOR AND MAYOR PRO TEMPORE

(1) Oath of Allegiance - Newly-Elected Councilmember

City Clerk Baade administered the Oath of Allegiance to newly-elected Councilmember Gene James.

(2) Election of Mayor and Mayor Pro Tempore

City Clerk Baade opened nominations for the office of Mayor.

Councilmember Ward nominated Dan Bane for the office of Mayor. Councilmember Ferguson seconded the nomination.

There being no further nominations, MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to close nominations and elect Dan Bane to the office of Mayor.

Mayor Bane opened nominations for the office of Mayor Pro Tem.

Councilmember Ward nominated Gene James for the office of Mayor Pro Tem. The nomination died for lack of a second.

Mayor Bane nominated Laura Ferguson for the office of Mayor Pro Tem. Councilmember James seconded the nomination.

There being no further nominations, MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to close nominations and elect Laura Ferguson to the office of Mayor Pro Tem.

Councilmember James expressed gratitude to his supporters; recognized the late Mayor Swartz and urged residents to keep Steve Swartz's family in

their thoughts and prayers; commented that residents are fortunate to live in San Clemente and expressed hope that political acrimony in the community will cease and that people will work together for the common good; noted that he will focus on public safety, fiscal accountability, and quality of life issues.

City Clerk Baade read a statement from Councilmember Hamm congratulating Councilmember James and expressing that he looks forward to working together to address issues that are important to residents.

Mayor Bane welcomed Gene James to the Council; thanked Council for electing him to serve as Mayor; noted that Councilmembers decided after the passing of Steve Swartz to leave the office of Mayor vacant in his honor; stated that the four-member Council did a commendable job working together during a difficult period; stated that he looks forward to working with a full Council to address the critical issues facing the City.

Rick Loeffler, San Clemente, congratulated Councilmember James; urged Council to represent their constituents; opined that Council does not receive adequate compensation and conveyed that residents may seek to increase the stipend for Councilmembers.

1. **SPECIAL PRESENTATIONS**

A. **Toll Road Update**

Ryan Bourque, San Clemente, narrated a PowerPoint presentation entitled "TCA Scoping Meeting Update". A hard copy of Mr. Bourque's presentation is on file with the City Clerk.

B. **Update on Homeless Issue**

Mayor Bane reported that effective December 12, 2019, the Pico encampment will close and the 4-5 homeless individuals living at the camp will be placed in housing.

Brad Malamud, San Clemente, thanked Council for its decision to close the Pico camp; opined that Council should not operate a homeless shelter, but indicated that he would not object to the City donating land in the SB2 zone for a homeless shelter that is operated by a non-profit.

Darryl McFann, San Clemente, noted that homeless individuals are currently camping at the train platform in North Beach; urged Council to seek a solution that would negate the need for homeless individuals to sleep outdoors during inclement weather.

Mike Ray, San Clemente, suggested that the City consider forming its own Police Department or a South Orange County Police Department that would include San Juan Capistrano, Dana Point and San Clemente.

Rick Loeffler, San Clemente, questioned whether a contingency plan exists for the placement of homeless individuals; suggested Council study the feasibility of forming its own Police Department.

Michelle Brooks, San Clemente, asserted that the negative ramifications of homelessness cannot become the new norm; suggested that homeless people who are displaced from the Pico campground will relocate to North Beach.

Susan Smith, San Clemente, thanked Council for closing Pico camp; spoke in support of vigilant enforcement and reminded Council that nesting season in Sea Summit begins in February; volunteered to participate on the homeless committee.

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

Best, Best & Krieger (BBK) Legal Billing

Brad Malamud, San Clemente, requested that Council agendize the possibility of allowing the public to review unredacted legal invoices associated with correcting the rebuttal argument submitted for the district election ballot measure; voiced concern with BBK's legal bills and urged Council to agendize the possibility of issuing a Request for Proposal for City Attorney services.

Miramar Theater Sale and Adaptive Re-Use

Wayne Eggleston, San Clemente, reported that the Miramar Theater has been sold and escrow has closed; stated that the new owners will be announced in the near future, together with the proposal for an adaptive re-use of the historic and iconic property. A hard copy of Mr. Eggleston's slide entitled "Miramar Events Center and Restaurants" is on file with the City Clerk.

RFP For Outside Legal Counsel/Assistant City Manager Performance Evaluation/Council Compensation

Ryan Bourque, San Clemente, urged Council to agendaize the following: 1) the possibility of issuing a Request for Proposal for legal counsel, 2) the possibility of Council receiving the Assistant City Manager's performance evaluations, and 3) the possibility of increasing Council's compensation. A hard copy of Mr. Bourque's presentation is on file with the City Clerk.

Age Well Dorothy Visser Senior Center

Beth Apodaca, Director of the Age Well Dorothy Visser Senior Center, thanked the City for installing wrought iron gates in front of the Senior Center; displayed a photo of the gates.

Election Results

Joe Janis, San Clemente, congratulated Councilmember James on his election victory; encouraged residents to work together on issues affecting the City.

City-Paid Meals

Tony Rubolino, San Clemente, recommended that City-paid meals for management staff on Council meeting days, and dinners prior to Council meetings, be discontinued.

3. MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM FERGUSON, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to waive reading in full of all Resolutions and Ordinances.

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

Adjourned Regular Council Meeting to be held on December 10, 2019 to Consider an Urgency Ordinance Relating to Homeless Matters

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT) to add to the adjournment portion of tonight's agenda the following: Adjourn to an Adjourned Regular Meeting to be held on December 10, 2019 at 6:00 p.m. in the Council Chambers for the purpose of considering adoption of an urgency ordinance to repeal Ordinance Nos. 1673, 1674 and 1675 and to amend Chapter 8.86 of the Municipal Code related to public camping.

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

Lawsuit filed by the Emergency Shelter Coalition and Housing is a Human Right Orange County - Determination to Defend

City Attorney Smith reported that Council voted during Closed Session to defend the recently-filed lawsuit by the Emergency Shelter Coalition and Housing is a Human Right Orange County; stated that the City's response will parallel the response it filed in response to the federal case.

6. **CONSENT CALENDAR**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to approve the Consent Calendar, with the removal of Items B(3) and I.

A. **City Council Minutes**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMER HAMM ABSENT), to:

- (1) Approve the Regular City Council Meeting Minutes of November 5, 2019.

B. MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to receive and file:

- (1) Coastal Advisory Committee Regular Meeting Minutes of October 10, 2019.
- (2) Planning Commission Study Session Adjourned Regular Meeting Minutes of November 20, 2019.

C. **Warrant Register**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to approve the following:

Wire Transfers Nos. 2136 through 2144 and Warrant Nos. 563184 through 563277, paid on 11-22-19, in the amount of.....\$ 833,749.33

Warrant Nos. 563278 through 563497, paid on 11-29-19, in the amount of.....\$ 3,099,513.99

TOTAL WARRANT REGISTER.....\$ 3,933,263.32

Payroll Register

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to approve the following:

Warrant Nos. 760 through 763 and Automatic Deposit Advises 60378 through 60671, for the period 11-4-19 through 11-17-19, paid on 11-22-19, in the amount of.....\$ 489,352.03

TOTAL PAYROLL REGISTER.....\$ 489,352.03

D. **Contract Amendment – Short-Term Wastewater Services Agreement**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to:

1. Approve, and authorize the City Manager to execute, Amendment No. 7 to Contract C17-55, by and between the City of San Clemente and the Santa Margarita Water District, to extend the contract to treat wastewater flows from Talega for 120 days.
2. Approve, and authorize the City Manager to approve, future amendments to the Agreement for a maximum of three additional months.

E. **Declaration of Surplus and Disposition of Retired Fleet Equipment**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to declare the Beach Cleaning Equipment, Unit #1166, surplus and approve and authorize its disposal per Policies and Procedures 201-2-4 at the discretion of the Assistant City Manager or his designee.

F. **Resolution Supporting the Keeping California Safe Act of 2020**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adopt Resolution No. 19-46 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, IN SUPPORT OF THE REDUCING CRIME AND KEEPING CALIFORNIA SAFE ACT OF 2020.

G. **Contract Award – Water Quality Management Plan (WQMP) Program Assessment and Implementation Services**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to:

1. Approve, and authorize the City Manager to execute, Contract C19-82, by and between the City of San Clemente and Geosyntec Consultants, providing for Water Quality Management Plan Program Assessment and Implementation Services, in an amount not to exceed \$94,444 for the initial year of the agreement.
2. Authorize the City Manager to approve future amendments to the agreement for WQMP Plan Check Review, not to exceed \$40,000 per fiscal year for a maximum of two additional years.
3. Authorize the transfer of \$63,244 from Salary Savings in Account 057-541-41010 to Account 057-541-43690 Professional Services.

H. **Release of Performance and Labor and Material Bonds Related to the Marblehead Coastal Development Entry Monument Signage Improvements for Tract 8817**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adopt Resolution No. 19-47 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 ENTRY MONUMENT SIGNAGE IMPROVEMENTS IN TRACT 8817.

J. **Resolution to Affirm Commitment to Implement Projects in the Federal Transportation Improvement Program (FTIP)**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adopt Resolution No. 19-49 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CERTIFYING THAT THE CITY OF SAN CLEMENTE HAS THE RESOURCES TO FUND CITY PROJECTS IN THE FEDERAL FISCAL YEAR 2020-21 – 2025-26 TRANSPORTATION IMPROVEMENT PROGRAM AND AFFIRMS ITS COMMITMENT TO IMPLEMENT ALL PROJECTS IN THE PROGRAM.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

6B(3). **Planning Commission Regular Meeting Minutes of November 20, 2019.**

Plaza by the Sea Master Sign Program at 610 Camino de los Mares

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER JAMES, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to call up Discretionary Permit Sign 18-456 (Plaza by the Sea Master Sign Program) at 610 Camino de los Mares.

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to receive and file the balance of the Planning Commission Regular Meeting minutes of November 20, 2019.

I. **Orange County Transportation Authority (OCTA) Grant Submittal – San Clemente Trolley Continuation**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to:

1. Authorize the submittal of Measure M2 (Project V) grant application to OCTA for the San Clemente Trolley and Rideshare Beta Test Rider programs.
2. Adopt Resolution No. 19-48 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE SUBMITTAL OF THE SAN CLEMENTE TROLLEY CONTINUATION APPLICATION TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE

PROJECT V COMMUNITY-BASED TRANSIT/CIRCULATORS PROGRAM.

3. Direct Staff to submit a follow-up report for Council consideration that includes any recommendations relating to trolley program enhancements (such as trolley stop modifications) prior to the Summer 2020 operating season.

7. **PUBLIC HEARINGS**

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

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).

City Planner Perez narrated a PowerPoint presentation, entitled "Zoning Amendment 19-290 Regulation of Secondhand Dealers - Thrift Store Ordinance". A hard copy of Mr. Perez's presentation is on file with the City Clerk.

Mayor Bane opened the Public Hearing.

Gina Borchers, San Clemente, spoke in support of thrift stores and noted their benefits to the community; asserted that thrift stores do not pose a problem for the City and hence additional regulation is unnecessary.

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

Following discussion, MOTION BY COUNCILMEMBER WARD to:

1. Find and determine that the Ordinance is exempt from the requirements of the CEQA pursuant to CEQA Guidelines Sections 15060(c)(2 and 3).
2. Introduce Ordinance No. 1682 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE APPROVING ZONING AMENDMENT 19-290, BY MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS AND 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 SECONDHAND DEALERS.

The motion died for lack of a second.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to not pursue an Ordinance with regard to thrift stores.

B. **Assessment of Costs to Property Owners to Correct Defective Sidewalks Repaired Under the FY 2018 Sidewalk Repair Program**

Public Hearing to consider the assessment of charges to applicable properties in the Sidewalk Repair Program for an amount to equal 50% of the City costs to repair defective sidewalks abutting their properties.

Public Works Director Bonigut reviewed the Administrative Report and responded to Council inquiries.

Mayor Bane opened the Public Hearing.

Michael Turner, President of the San Clemente Elks Lodge, noted the benefits that the Elks provide to the community; explained that the Elks organization is experiencing financial hardship and requested that Council either waive the Elks' sidewalk repair debt, or provide an extension for payment.

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

Discussion ensued relative to the lack of precedent in waiving fees, the possibility of allowing fee waivers for non-profit organizations, and the possibility of the Elks seeking private donations to pay the \$400 debt. At this point in the deliberations, Ryan Bourque, who was in attendance at the meeting, agreed to donate \$400 to pay the Elks' sidewalk repair bill.

MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY COUNCILMEMBER JAMES, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adopt Resolution No. 19-50 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 2018 SIDEWALK REPAIR PROGRAM, PROJECT NO. 28303 AND AUTHORIZING THE FINANCE DIVISION TO INVOICE THOSE COSTS.

C. **Adoption of Ordinance No. 1683 - 2019 California Building and Fire Codes and Local Amendments**

Public Hearing to consider adopting Ordinance No. 1683, 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 and responded to Council inquiries.

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

MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY COUNCILMEMBER JAMES, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adopt 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.

D. **Adoption and Amendment of the 2018 International Property Maintenance Code and Relocation of the Adopted 1997 Uniform Code for the Abatement of Dangerous Buildings to a New Chapter of the San Clemente Municipal Code**

Public Hearing to consider a proposed Ordinance for the adoption and amendment of the 2018 International Property Maintenance Code and relocation of the adopted 1997 Uniform Code for the Abatement of Dangerous Buildings to a New Chapter 8.78, Property Maintenance, of the San Clemente Municipal Code.

Code Compliance Manager Atamian reviewed the contents of the Administrative Report and responded to Council inquiries.

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

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to introduce Ordinance No. 1688 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO ADOPT, WITH AMENDMENTS, THE 2018 INTERNATIONAL PROPERTY MAINTENANCE CODE AND RELOCATE THE ADOPTED 1997 UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS TO A NEW CHAPTER 8.78, PROPERTY MAINTENANCE, OF THE SAN CLEMENTE MUNICIPAL CODE.

E. **230 W. Marquita - Historic Property Preservation Agreement 19-359 – Swigart House Mills Act Contract**

Public Hearing to consider entering into an Historic Property Preservation Agreement (Mills Act) for an historic property within the Residential Medium Zoning District and within the Coastal Zone (RM-CZ), located at 230 W. Marquita.

Assistant Planner Lightfoot narrated a PowerPoint presentation entitled “Historic Property Preservation Agreement 19-359 - 230 W. Marquita (Swigart House)”, and responded to Council inquiries. A hard copy of Mr. Lightfoot’s presentation is on file with the City Clerk.

Mayor Bane opened the Public Hearing.

Larry Culbertson, San Clemente Historical Society, spoke in support of the proposed Historic Property Preservation Agreement; commented that Staff has done an excellent job in requiring property owners to maintain the standards of the Mills Act.

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

MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adopt Resolution No. 19-51 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING HISTORIC PROPERTY PRESERVATION AGREEMENT 19-359 FOR THE PROPERTY LOCATED AT 230 W. MARQUITA.

F. **1814 N. El Camino Real – Historic Property Preservation Agreement 19-215 – Historic Aquarium Café Building Mills Act Contract**

Public Hearing to consider entering into an Historic Property Preservation Agreement (Mills Act) for an historic property within the Mixed Use 1 Zoning District and within the Architectural, Central Business, and Coastal Overlay Zones (MU1-A-CB-CZ), located at 1814 N. El Camino Real.

Assistant Planner Lightfoot narrated a PowerPoint presentation entitled “Historic Property Preservation Agreement 19-215 - 1814 N. El Camino Real (Aquarium Café/OC Fresca), and responded to Council inquiries. A hard copy of Mr. Lightfoot’s presentation is on file with the City Clerk.

Mayor Bane opened the Public Hearing.

Larry Culbertson, San Clemente Historical Society, reviewed the historical significance of the subject property and spoke in support of the proposed Historic Property Preservation Agreement.

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

MOTION BY COUNCILMEMBER JAMES, SECOND BY MAYOR PRO TEM FERGUSON, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adopt Resolution No. 19-52 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING HISTORIC PROPERTY PRESERVATION AGREEMENT 19-215 FOR THE PROPERTY LOCATED AT 1814 N. EL CAMINO REAL.

MEETING RECESSED

Council recessed at 8:20 p.m. and reconvened at 8:30 p.m., with all members present.

G. **Short Term Apartment Rental Permit 19-295 (Bokl STAR) - 119 Avenida San Pablo Units B, C and D**

Public Hearing to consider a City Council initiated appeal of Short Term Apartment Rental Permit 19-295, the Bokl STAR, regarding the approved use of a short term rental at 119 Avenida San Pablo, Units B, C, and D.

Community Development Technician Guy narrated a PowerPoint presentation entitled “STAR 19-295, Appeal of Bokl STAR”, and responded to Council inquiries. A hard copy of Ms. Guy’s presentation is on file with the City Clerk.

Mayor Bane opened the Public Hearing.

Donnalee McCaslin, San Clemente, spoke in support of the proposed STAR permit; noted that several individuals, including herself, would be employed to service the STAR.

Randy Quillman, San Clemente, spoke in support of the STAR permit; expressed that Mr. Bokl proactively monitors his rentals.

Don Craig, San Clemente, opined that the proposed STAR would divert business from hotels and negatively impact quality of life; cited traffic and noise concerns and urged Council to oppose the STAR permit.

Marcie Harris, San Clemente, spoke in support of Mr. Bokl as a professional rental operator; reported that she is currently staying in one of Mr. Bokl’s units and noted that his standards for renters are high.

Tiffany Mohr, San Clemente, urged Council to deny the permit due to concerns that quality of life for families in the neighborhood will be diminished.

Byron Whetzel, San Clemente, spoke in support of Mr. Bokl, noting that he has improved the subject property; stated that Mr. Bokl closely monitors and screens potential renters; urged Council to support the STAR permit.

J. Massey, San Clemente, reported that he owns an organization that educates property owners with regard to short-term rental regulations; conveyed that Mr. Bokl has exceeded all standards required to operate a short-term rental.

Ignat Bokl, Applicant, noted that he verifies the backgrounds of his renters to help maintain a safe and quiet environment for the neighborhood; advised that noise detectors have been installed in each unit to notify him of noise issues in real time; urged Council to approve the STAR permit. In response to Council inquiry, Mr. Bokl indicated that he has been operating the property as a long-term rental since he acquired the property in 2013, but now desires to rent the units on a short-term basis for economic reasons.

Gage Gesirich, San Clemente, urged Council to deny the STAR permit; voiced concerns with traffic and safety.

Jed Stamen, San Clemente, asserted that traffic is an issue in the neighborhood; opined that late night noise is prevalent when individuals are vacationing in rental units; urged Council to deny the STAR permit.

Dulce Sanchez, San Clemente, reported that she is the owner of a cleaning service that the property owner will employ if the STAR is approved; asserted that traffic circulation is not difficult in the area; urged Council to approve the permit.

John Rodriguez, San Clemente, spoke in support of Mr. Bokl, noting that he cares about his neighbors and resides on the property.

Jim Dahl, San Clemente, described parking issues associated with a short-term rental on Montalvo and asserted that the proposed STAR will also create parking problems; urged Council to deny the STAR permit.

Morgan Mednick, San Clemente, stated that she opposes short-term rentals in her neighborhood due to her belief that they jeopardize safety and negatively affect quality of life.

Brian Staudenbaur, San Clemente, stated that the subject property is not located within the designated areas in which STARs are allowed; urged Council to deny the STAR permit.

Sharon Diener, San Clemente, voiced concerns with STAR permits in residential neighborhoods; asserted that short-term renters do not care about neighborhoods; stated that Mr. Bokl purchased property that was being used for long-term rentals and asserted that a change in property usage should not be allowed.

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

Following deliberations, MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER JAMES to **NOT** approve Staff's Recommendation. Note: For ease of reference, Staff's Recommendation was as follows:

1. *Determine the project is Categorically Exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities).*
2. *Adopt Resolution No. 19-52 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING SHORT TERM APARTMENT RENTAL PERMIT NUMBER 19-295, BOKL STAR, A REQUEST TO ALLOW THREE SHORT TERM APARTMENT RENTAL UNITS AT 119 AVENIDA SAN PABLO UNITS B, C, AND D."*

SUBSTITUTE MOTION BY MAYOR PRO TEM FERGUSON to:

1. Determine the project is Categorically Exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities).
2. Adopt Resolution No. 19-52 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING SHORT TERM APARTMENT RENTAL PERMIT NUMBER 19-295, BOKL STAR, A REQUEST TO ALLOW THREE SHORT TERM APARTMENT RENTAL UNITS AT 119 AVENIDA SAN PABLO UNITS B, C, AND D.

The substitute motion failed for lack of a second.

THE ORIGINAL MOTION ON THE FLOOR WAS VOTED ON AND CARRIED 3-1 (MAYOR PRO TEM FERGUSON VOTING NOE AND COUNCILMEMBER HAMM ABSENT). **By virtue of the passage of the original motion, Short Term Apartment Rental Permit 19-295 was denied.**

8. UNFINISHED BUSINESS**A. Code Amendment Relating to the Operations, 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 operations, composition and appointment of members of various City Commissions and Committees; and 2) establishing a Public Safety Committee.

Rick Loeffler, San Clemente, asserted that the function of Commissions and Committees is to provide Council with information and recommendations, and not to establish City Policy.

Bill Kreutinger, San Clemente, opined that it would be ill-advised to reduce the membership of the Human Affairs Committee in light of the current homeless situation.

Tyler Boden, Human Affairs Committee (HAC) member, conveyed that the HAC will encounter challenges in establishing subcommittees if its membership is reduced from 7 to 5.

Jim Dahl, San Clemente, concurred with a reduction in the number of members on the City's Commissions and Committees; supported the selection of Planning Commissioners by Council as a body, as opposed to each Councilmember selecting one Planning Commissioner.

Lew Avera, San Clemente, noted that many Planning Commissioners have subsequently been elected to the City Council; opined that Planning Commissioners should be selected by the Council as a body.

Susan Ambrose, Chair of the Coastal Advisory Committee (CAC), spoke on the activities of the CAC, noting that it serves as a vehicle for community interaction; expressed gratitude to Council for its previous decision to maintain the Coastal Advisory Committee's status as a standing committee, as opposed to converting it to an ad hoc committee.

During the course of discussion, Council directed Staff to revise draft Ordinance No. 1684, for future Council consideration, to include the following Commission/Committee criteria:

Beaches, Parks and Recreation Commission

- The Commission shall develop an annual work plan with specific goals and objectives for the year.
- The finalized work plan with recommendations shall be submitted to the Council for approval.
- Amendments to the work plan shall require Council approval.
- The membership of the Beaches, Parks and Recreation Commission shall reduce from 7 to 5 members.
- Appointments to the Beaches, Parks and Recreation Commission shall be made by the Council as a body and members shall serve two-year staggered terms.
- Regular Meetings shall be held bi-monthly (every two months).
- Meetings shall be limited to three hours unless otherwise approved by a majority vote of the Commission plus the concurrence of the primary staff support to the Commission.

Coastal Advisory Committee

- The Committee shall develop an annual work plan with specific goals and objectives for the year.
- The finalized work plan with recommendations shall be submitted to the Council for approval.
- Amendments to the work plan shall require Council approval.
- The membership of the Coastal Advisory Committee shall reduce from 7 to 5 members.
- Appointments to the Coastal Advisory Committee shall be made by the Council as a body and members shall serve two-year staggered terms.
- Regular Meetings shall be held bi-monthly (every two months).
- Meetings shall be limited to three hours unless otherwise approved by a majority vote of the Committee plus the concurrence of the primary staff support to the Committee.

Golf Course Committee

- The Committee shall develop an annual work plan with specific goals and objectives for the year.
- The finalized work plan with recommendations shall be submitted to the Council for approval.
- Amendments to the work plan shall require Council approval.
- The membership of the Golf Course Committee shall reduce from 7 to 5 members.
- Appointments to the Golf Course Committee shall be made by the Council as a body and members shall serve two-year staggered terms.
- Regular meetings shall be held quarterly.
- Meetings shall be limited to three hours unless otherwise approved by a majority vote of the Committee plus the concurrence of the primary staff support to the Committee.

Human Affairs Committee

- The Committee shall develop an annual work plan with specific goals and objectives for the year.
- The finalized work plan with recommendations shall be submitted to the Council for approval.
- Amendments to the work plan shall require Council approval.
- The membership of the Human Affairs Committee shall reduce from 7 to 5 members.
- Appointments to the Human Affairs Committee shall be made by the Council as a body and members shall serve two-year staggered terms.
- Regular Meetings shall be held bi-monthly (every two months).
- Meetings shall be limited to three hours unless otherwise approved by a majority vote of the Committee plus the concurrence of the primary staff support to the Committee.

Investment Advisory Committee

- The membership of the Investment Advisory Committee shall reduce from 6 to 5 members.
- Three appointments to the Investment Advisory Committee shall be made by the Council as a body and those appointees shall serve two-year staggered terms.
- Other members to serve on the Investment Advisory Committee shall include the City Treasurer who shall serve during his/her term of office, and one Industry Specialist who shall be appointed by the City Treasurer and serve an indefinite term at the pleasure of the City Treasurer.
- Regular Meetings shall be held quarterly.
- Meetings shall be limited to three hours unless otherwise approved by a majority vote of the Committee plus the concurrence of the primary staff support to the Committee.

Planning Commission

- The Commission shall develop an annual work plan with specific goals and objectives for the year.
- The finalized work plan with recommendations shall be submitted to the Council for approval.
- Amendments to the work plan shall require Council approval.
- The membership of the Planning Commission shall remain at 7 members.
- Appointments to the Planning Commission shall be made by the Council as a body and members shall serve two-year staggered terms.
- Regular Meetings shall be held twice per month.

Public Safety Committee (New Ad Hoc Committee)

- The Committee shall develop an annual work plan with specific goals and objectives for the year.
- The finalized work plan with recommendations shall be submitted to the Council for approval.
- Amendments to the work plan shall require Council approval.
- The Public Safety Committee shall serve as an ad-hoc committee.
- The charge of the Committee shall be to review performance measures and make recommendations.
- The Committee shall consist of 6 members. The City Council as a body shall appoint five technical professionals with a public safety background, such as retired chiefs, officers, lifeguards, etc. Additionally, San Clemente's Chief of Police Services shall appoint one representative of the Orange County Sheriff's Department who shall serve as an ex-officio, non-voting member.
- Meetings shall be limited to three hours unless otherwise approved by a majority vote of the Committee plus the concurrence of the primary staff support to the Committee.

9. NEW BUSINESS

None.

10. ORAL COMMUNICATIONS (PART 2)

None.

11. REPORTS

A. Commissions and Committees

None.

B. City Manager

None.

C. City Attorney

None.

D. Council Members

(1) Establishment of Council Meeting Schedule and Possible Joint Meeting(s) for 2020

Report from the City Clerk regarding the possibility of establishing the Council meeting schedule for 2020.

Council made the following modifications to its 2020 meeting schedule:

- A Joint Council/Commissions/Committees Meeting was scheduled for September 29, 2020.
- The Regular City Council Meetings of July 21, 2020 and August 4, 2020 were cancelled to accommodate Council/Staff vacations.
- The first Regular Council Meeting in March 2020 was rescheduled from March 3, 2020 to March 2, 2020 so as to not conflict with the Presidential Primary Election.
- The Regular Council Meeting of November 3, 2020 was cancelled because it conflicts with the General Municipal Election.
- The Regular Council Meeting of January 5, 2021 was cancelled.

(2) Update to Council Appointees to Regional Committees, Commissions and Boards

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to update Council's Regional Appointments for 2020 as follows:

Committee/Commission/Board	Representative(s)
Capistrano Unified School District Liaison Committee	Ferguson and Ward
Coastal Animal Services Authority (CASA)	Ferguson/Hamm (Alt.)
Community Engagement Panel	Ward/James (Alt.)
Conservancy (Elected/Appointed Representative to Friends of the Reserve Commission)	Hamm is the City's Elected/Appointed representative. The City's "At Large" position is vacant (term expired June 30, 2018). On 6-14-18, Council left position vacant (there were no applications) pending more

	information about the situation with the Reserve. The Talega HOA Representative position is Laurie Gooch (term expires June 30, 2020).
Chamber of Commerce – Economic Development	Ferguson/Bane (Alt). <i>Note: The Mayor will continue to attend ribbon-cutting ceremonies.</i>
Downtown Business Association – Economic Development	Hamm/Bane (Alt).
Emergency Operational Area Council (Orange County)	Mayor and Mayor Pro Tem
Fire Authority (Orange County)	Ward
Historic Preservation Ad Hoc Committee	Ward and Ferguson
Insurance Authority (California Joint Powers Insurance Authority)	Ward/Hamm (Alt.) (<i>Note: Council also authorized Staff members to participate as needed.</i>)
Investment Advisory Committee	Ward
Legislative Delegate Program - Representative to Senate District 38	Mayor and Mayor Pro Tem
Legislative Delegate Program - Representative to 73 rd Assembly District	Mayor and Mayor Pro Tem
Library Task Force (Orange County)	Ferguson
Mayors (South Orange County Association of Mayors)	Mayor
U.S. Marine Corps Liaison	Hamm
MWDOC Interaction of Elected Officials	Ward/Ferguson (Alt.)
Nine South County Water Agencies (This is the name of a group that consists of nine South Orange County water agencies).	Ward/Ferguson (Alt.)
OCTA Transportation Planning Workshops	Bane and Tom Bonigut
Public Safety Task Force	James (<i>Note: Task Force is inactive, but may be reactivated at a later date</i>)
Pier Bowl Association	Bane
Sand Replenishment Project	Hamm
SCAG General Assembly	Ward
Social Service/Community Service Budget Committee	Ferguson

South Orange County Watershed Management Area Executive Committee	Dave Rebensdorf and Cynthia Mallett
Transportation Corridor JPA (Foothill Eastern)	Ward/James (Alt.)
Transportation Corridor JPA (San Joaquin Hills)	Bane/Ferguson (Alt.)
Vector (Orange County Mosquito and Vector Control Board)	Michelle Schumacher (term expires January 2020)
Wall of Recognition	Ward

(3) **Consideration of Establishing a Standing Committee on Homelessness**

Report from the City Clerk on establishing a standing committee on homelessness.

Tyler Boden, Human Affairs Committee (HAC), noted that the HAC is committed to engaging the community with regard to homeless issues.

Following deliberations, Council determined that in lieu of establishing a standing committee on homelessness, subcommittees of the Human Affairs Committee and Public Safety Committee will be utilized to address the homeless situation.

(4) **Establishment of Date/Time to Interview and Make an Appointment of the City Representative to the Orange County Mosquito and Vector Control District Board of Trustees**

Council scheduled interviews to take place on December 17, 2019 at 4:30 p.m. in the Council Chambers.

Council Policy on Placing Items on the Agenda

Mayor Pro Tem Ferguson requested that Council agendize Council Policy 1201-11 to enable Council to reconsider the number of Councilmember votes needed to place an item on the Council agenda.

Council Policy currently requires a majority vote of the Council to agendize an issue. Because Mayor Pro Tem Ferguson’s request to agendize Council Policy 1201-11 did not receive majority Council support, the issue will not be agendized.

Possible Event on Public Beach

The Council majority agreed to agendaize a discussion of a possible event that took place on the beach without a Special Events Permit, payment of fees, or provision of insurance. This issue will be agendaized for a future Council Closed Session or Regular Meeting at the discretion of the City Manager.

Legal Services Cost/Possible Issuance of Request for Proposals

Council requested an analysis of legal spending over the past few years as part of the City budget cycle in February 2020. Council will determine at that time whether to issue a Request For Proposals for legal services.

Legal Bills for Correction of Rebuttal Argument Relating to District Election Ballot Measure

Mayor Pro Tem Ferguson requested that the City make public the legal bills accrued as part of the lawsuit to correct a rebuttal argument relating to the district election ballot measure.

San Clemente Library

Mayor Bane noted that the San Clemente Library is a significant financial donor to the Orange County library system; suggested that the City consider separating the San Clemente Library from the County.

City Manager Makshanoff advised that a library committee, consisting of various Orange County City Managers, was recently established; advised that he is a member of the committee and will report back to Council on the library issue.

Request for Proposals (RFP) for New Sheriff Substation Site

City Manager Makshanoff reported that an RFP to evaluate sites for a new Sheriff substation will be agendaized for the Council meeting of January 21, 2020.

12. RESOLUTIONS/ORDINANCES**A. Ordinance No. 1685 (Second Reading) – Clarification of Standards Regulating Nonconforming Mobilehome and Mobilehome Park Uses**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM FERGUSON, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adopt 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.

B. Ordinance No. 1686 (Second Reading) – Ticket-Required Areas of the City's Transit Facilities

Rick Loeffler, San Clemente, suggested that the proposed Ordinance should define "valid ticket" to make it clear that the ticket is for imminent transportation.

City Attorney Smith conveyed his understanding that the valid ticket provision was taken from the Penal Code; recommended that Council adopt Ordinance No. 1686, with the understanding that he will return to Council if he determines that an adjustment to the Ordinance is needed.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adopt 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.

C. Ordinance No. 1687 (Second Reading) – Tents in City Parks

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adopt 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.

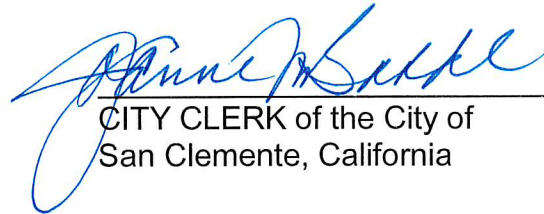
13. **ADJOURNMENT**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adjourn at 10:55 p.m. to an Adjourned Regular Council meeting to be held on December 10, 2019 at 6:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, for the purpose of considering adoption of an urgency ordinance to repeal Ordinance Nos. 1673, 1674 and 1675 and to amend Chapter 8.86 of the Municipal Code related to public camping.

The next Adjourned Regular Council Meeting will be held on December 17, 2019 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California for the purpose of conducting interviews and making an appointment to the City Representative to the Orange County Mosquito and Vector Control District Board of Trustees. The interviews/appointment of the Orange County Mosquito and Vector Control District Board will take place at 4:30 p.m. 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