

# CITY OF SAN CLEMENTE

## City Council Minutes

### Adjourned Regular Meeting – December 17, 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.*

An Adjourned Regular Meeting of the San Clemente City Council was called to order on December 17, 2019 at 4:30 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Bane.

**PRESENT** FERGUSON, HAMM\*, JAMES, WARD, MAYOR BANE

\*Arrived at 5:01 p.m.

**ABSENT** NONE

**STAFF PRESENT** Erik Sund, Assistant City Manager; Scott Smith, City Attorney; Joanne Baade, City Clerk; Laura Campagnolo, Deputy City Clerk

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A. **Interviews/Appointment of City Representative to the Orange County Mosquito and Vector Control District Board of Trustees**

City Clerk Baade announced that Michelle Schumacher indicated that she is unable to attend this meeting to be interviewed, but would like to be considered for reappointment.

Council interviewed the following applicants for the position of City Representative to the Orange County Mosquito and Vector Control District Board of Trustees:

Jim Dahl  
Mike Mang

*\*Glenn Edward Roy was not present to be interviewed.*

Councilmembers cast written ballots as follows:

BANE:	Dahl
FERGUSON:	Dahl
JAMES:	Dahl
WARD:	Schumacher

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 3-1 (COUNCILMEMBER WARD VOTING NOE AND COUNCILMEMBER HAMM ABSENT), to appoint Jim Dahl as the City Representative to the Orange County Mosquito and Vector Control District Board of Trustees for a two-year term to expire January 2022.

**MEETING RECESSED**

Council recessed at 4:50 p.m. and reconvened at 5:00 p.m., with all members present, except Councilmembers Hamm and James, who joined the Closed Session at 5:01 p.m.

**CLOSED SESSION**

Mayor Bane announced that he would recuse himself from the portions of this evening's Closed Session relating to 1) the existing litigation case of City of San Clemente v. Foothill/Eastern Transportation Corridor Agency (TCA); and 2) real property negotiations regarding the San Clemente Hospital site. Mayor Bane's recusal on the TCA item was due to the fact that he represents The Reserve in its toll road litigation and his recusal concerning property negotiations with regard to the San Clemente Hospital site was due to the fact that attorneys with Sheppard Mullin Law, the law firm at which he is employed, represent Memorial Care in an unrelated manner

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER HAMM AND COUNCILMEMBER JAMES ABSENT), to recess to Closed Session at 5:00 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: Housing is a Human Right Orange County, et al v. County of Orange, et al.

Case Number: USDC 8:19-CV-00388 PA-JDEx

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

Case Number: 30-2019-01098573-CU-WM-CJC

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

*Closed Session items continued on next page*

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 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: 8,000 square foot undeveloped area of 987 Avenida Vista Hermosa, Assessor's Parcel Number 678-163-01

Agency Negotiators: City Manager and Assistant City Manager

Negotiating Parties: City of San Clemente, and Robbie McKnight, The Wave Pool Company, LLC

Under Negotiation: Price and Terms for potential lease

**C. 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

**D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code Section 54957

Title: City Manager

**BUSINESS MEETING CONVENED**

The City Council Business Meeting of December 17, 2019 convened at 6:08 p.m., with all members present.

**INVOCATION**

Pastor Chris Atwood, San Clemente Presbyterian Church, gave the invocation.

**PLEDGE OF ALLEGIANCE**

Councilmember James led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Holiday Choral Performance**

Students of Vista Del Mar, Truman Benedict and Concordia Elementary Schools provided a choral performance under the direction of Mrs. Sharon Evans.

B. **Presentation of Commendation – Vance W. Ewell, Eagle Scout**

Public Works Director/City Engineer Bonigut introduced Vance W. Ewell and displayed photographs of his Eagle Scout project (i.e., water fountain/bottle filler and entrance landscaping project at the Ralphs Skate Court). A hard copy of Mr. Bonigut's photographs are on file with the City Clerk.

Mayor Bane presented a Commendation to Vance W. Ewell in recognition of achieving the prestigious rank of Eagle Scout.

C. **National Oceanic and Atmospheric Administration (NOAA) Presentation of a Certificate of Appreciation to Marine Safety for Outstanding Service**

Matthew Moreland, Casey Oswant, and Noel Isla, of NOAA, presented a Certificate of Appreciation for Outstanding Service to Marine Safety Chief Humphreys and Lieutenant Mellott.

D. **United States Lifesaving Association Open Water Safety Achievement Award**

Mayor Bane presented the United States Lifesaving Association Open Water Safety Achievement Award to Marine Safety Chief Humphreys.

E. **City Fiscal Reports**

Financial Services Officer Rahn and Assistant City Manager Sund narrated a PowerPoint presentation entitled "Fiscal State of the City" concerning the Fiscal State of the City for the period ending June 30, 2019, Fiscal Year (FY) 2019 4th Quarter Financial Report, and FY 2020 1st Quarter Financial Report; responded to Council inquiries. A hard copy of the PowerPoint is on file with the City Clerk.

Council requested information as to whether a second ambulance would still be needed if an emergency room is opened in the City.

**F. Toll Road Update**

Mark McGuire, San Clemente, voiced concern that the TCA's threshold for the toll road extension project is a savings of only 1,500 vehicle hours on the I-5 between the County line and Oso Parkway; opined that the subject time savings threshold is miniscule in comparison to improving the I-405 from the 73 toll road to the County line, which is projected to save 350,000 vehicle hours per day.

Mayor Bane reported that Councilmember Ward and he attended a TCA board meeting on December 12, 2019; related that the TCA will meet in June 2020 to narrow the field of extension alternatives before proceeding with the full Environmental Impact Report, noting that it is possible that Route 14 will be removed from consideration; stated that the results of the audit of Venture Strategic's contracts were also presented at the meeting, explaining that the assessment only addressed the TCA's compliance with the contracts and not Venture Strategic's compliance; noted that the City will continue to ask that Venture Strategic's contract compliance be assessed.

Assistant City Manager Sund reported that template letters in support of AB 1273 (Brough), relating to the TCA, will soon be posted to the City's website; noted that AB 1273 will be heard by the Assembly Committee in January 2020 and urged citizens to submit letters of support.

**G. Update on Homeless Issue**

Assistant City Manager Sund reported that the Pico camp has been closed pursuant to Council direction; advised that the City is working with Family Assistance Ministries, Mercy House and City Net to find housing for the five campers who were residing at the Pico camp.

Elizabeth Andrade, Mercy House, provided an update on Mercy House's homeless outreach and engagement services; noted that Mercy House is currently retained by the County of Orange to service areas of need; explained that the City will receive quarterly status reports on the homeless situation and that Mercy House will coordinate its efforts with City Net; responded to Council inquiries.

**2. ORAL COMMUNICATIONS (PART 1)****Homelessness/Potential Water Leak on El Camino Real**

Dee Coleman, San Clemente, suggested the City establish a Homeless Task Force to address the homeless issue and urged that the City network with other agencies in pursuit of a South Orange County shelter; suggested that a water leak may exist on property on El Camino Real between Pico and Camino Capistrano in the vicinity of the landslide, which is causing the road to deteriorate.

Council noted that the City is waiting for approval from the California Coastal Commission to remediate the landslide damage on El Camino Real.

**Development Proposals for City-Owned Parcel at La Pata and Vista Hermosa**

Mike Ray, San Clemente, opined that a gas station, carwash, convenience store or coffee shop should not be developed at the vacant La Pata/Vista Hermosa lot; suggested that a gas station at the subject site will divert revenue from other gas stations in the City and, as such, will not generate new revenue for the City; urged Council to seek more-desirable developments for the property that will increase City revenue.

Edward Paroore, San Clemente, voiced concern with the potential development of a gas station at the La Pata/Vista Hermosa property; opined that the intersections of La Pata/Vista Hermosa and La Pata/Avenida Pico are the two most dangerous intersections in the City due to vehicle speeds.

**City Code Regulations Concerning Balloons**

Mikii Rathmann, San Clemente, stated that Code Enforcement informed her that the 11" balloons in front of her business on Del Mar violated City Code requirements; urged Council to amend the Code to allow 11" to 16" balloons to help promote local businesses. A hard copy of Ms. Rathmann's PowerPoint is on file with the City Clerk.

**Expression of Willingness to Serve on City or County Board, Particularly Relating to Homelessness**

Glenn Edward Roy, San Clemente, stated that he would like to serve on a City or County board or task force, especially a group relating to the homeless situation; conveyed his desire to help people transcend homelessness.

3. MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to waive reading in full of all Resolutions and Ordinances.

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

**City Manager Resignation**

Mayor Bane read a letter from James Makshanoff, City Manager, tendering his resignation from the City, effective January 17, 2020; spoke in support of adding an item to this meeting's agenda to enable Council to consider the process for recruiting an interim/permanent City Manager.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 5-0, to add the following to this evening's Closed Session and open Business Session agendas, based on the need for immediate action and the fact that the need for action came to the City's attention subsequent to the agenda being posted:

PUBLIC EMPLOYEE APPOINTMENT  
Government Code Section 54957  
Title: City Manager/Interim City Manager

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

**Demand by the Owner/Developer of 1410 Calle Mirador Concerning Sewer Connection Fees (Announcement of Settlement)**

City Attorney Smith reported that during Closed Session on December 3, 2019, Council discussed a claim and demand made under the City's Mitigation Fee Ordinance relating to sewer connection fees; explained that the demand was made by the owner and developer of a bed and breakfast project to be constructed at 1410 Calle Mirador; reported that Council opted to settle the demand by significantly reducing the fee; stated the settlement agreement is a public document and available for inspection; noted that Item 6-Q on this evening's agenda includes a global resolution of the concern raised in the demand until the City can examine its sewer treatment capital projects and how they relate to the fees that are charged.

**Invitation for the City of San Clemente to Serve as a Participating Agency in the South County Traffic Relief Effort**

City Attorney Smith reported that the Department of Transportation has invited the City to be a participating agency in the South County Traffic Relief effort; conveyed that absent Council objection, an appropriate City representative will represent the City in the subject capacity.

**6. CONSENT CALENDAR**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items 6-C, 6-L and 6-Q.

**A. City Council Minutes**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to approve the minutes of the Regular City Council meeting of November 19, 2019.

**B. MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to receive and file the following:**

- (1) Planning Commission Regular Meeting minutes of December 4, 2019.
- (2) Planning Commission Regular Study Session minutes of December 4, 2019.

**D. Notice of Completion – Fiscal Year (FY) 2017-18 Sidewalk Repair Program**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to:

1. Accept the FY 2017-2018 Sidewalk Repair Program (Project No. 28303), from the contractor, CT&T Concrete Paving, Inc. (Contract C19-25)
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the FY 2017-2018 Sidewalk Repair Program.
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 CT&T Concrete Paving, 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.
5. Accept revenue of \$23,161.31 from the property owner's share of sidewalk repair costs to Account 001-000-36851-000-00000, Sidewalk Repair Reimbursements.



E. **Release of Performance and Labor and Material Bonds Related to the Marblehead Coastal Development Lot V (Formerly Lot RR) Private Park Improvements for Tract 8817**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to adopt Resolution No. 19-53 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 LOT V (FORMERLY LOT RR) PRIVATE PARK IMPROVEMENTS IN TRACT 8817.

F. **Contract Award – Aquatics Center Dry Storage Roof Project**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to:

1. Approve the plans and specifications for the Aquatics Center Dry Storage Roof, Project No. 19514.
2. Approve, and authorize the City Manager to execute, Contract C19-84, by and between the City of San Clemente and The Stone Collector, providing for the Aquatics Center Dry Storage Roof project, in the amount of \$96,681.

G. **Contract Award – Aquatics Center Patch and Paint Project**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to:

1. Approve the specifications for the Aquatics Center Patch and Paint, Project No. 19511.
2. Approve, and authorize the City Manager to execute, Contract C19-85, by and between the City of San Clemente and Pacific Rim Painting Company, providing for the Aquatics Center patch and paint project, in the amount of \$28,450.

H. **San Clemente Fiscal Year 2018-2019 Measure M2 Expenditure Report and Amendment to the City's Seven-Year Capital Improvement Program (CIP) for Fiscal Years 2019-2020 through 2025/2026**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to:

1. Adopt Resolution No. 19-54 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO ADOPT THE FISCAL YEAR 2018-2019 MEASURE M2 EXPENDITURE REPORT FOR THE CITY OF SAN CLEMENTE.
2. Approve amending the Measure M2 Seven-Year Capital Improvement Program for Fiscal Years 2019-2020 through 2025-2026 to include the FY 2020 Street Improvement Project.

I. **Initiation of General Plan Amendment – Public Safety Uses in the Rancho San Clemente Specific Plan**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to initiate a General Plan Amendment, as authorized by Municipal Code Section 17.16.020(C), to amend the General Plan land use designation and maps associated with the Rancho San Clemente Specific Plan.

J. **Supplemental Appropriation – 910 Calle Negocio Building Remodel**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to:

1. Approve a transfer of \$180,000 from the General Fund undesignated fund balance to Account 001-203-45300-000-18804 (910 Calle Negocio Building Remodel, Project No. 18804).
2. Approve a transfer of \$180,000 from the Public Facilities Fee Fund - Civic Center Construction Fund undesignated fund balance to Account 001-203-45300-000-18804 (910 Calle Negocio Building Remodel, Project No. 18804).
3. Approve an increase of \$150,000 to the existing contingency for Construction Contract C18-56.

K. **Recreation Sports Partnership Agreements – San Clemente Girls Softball and South Coast Youth Football**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to:

1. Approve, and authorize the City Manager to execute, Contract C19-86, a platinum sports partnership agreement by and between the City of San Clemente and San Clemente Girls Softball, for a three-year period.
2. Approve, and authorize the City Manager to execute, Contract C19-87, a platinum sports partnership agreement by and between the City of San Clemente and South Coast Youth Football, for a three-year period.

M. **City Investment Policy 202-1**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to adopt Investment Policy No. 202-1, effective December 18, 2019.

N. **Legislative Management System - Purchase, Implementation, Training and Ongoing Maintenance and Support**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to:

1. Approve, and authorize the Mayor to execute Contract C19-88, a Master Services Agreement, by and between the City of San Clemente and Granicus, LLC, dba, Granicus, providing for the purchase, implementation, training, and ongoing maintenance of the Legistar Legislative Management System, in an amount not to exceed \$144,400, which includes \$74,375 in year one for purchase, implementation, training, and service fees, plus \$70,025 for two subsequent years of annual subscription, maintenance and support fees.
2. Approve, and authorize the Mayor to execute, Contract C19-89, by and between the City of San Clemente and David Faerberboeck Consulting, providing for data export and conversion services related to the implementation of the Legislative Management System, in the amount of \$9,000.

O. **Installation of Three Ballot Drop Boxes in the City**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to:

1. Approve the placement of ballot drop boxes at the Municipal Golf Course, Jim Johnson Memorial Park, and City Hall (910 Calle Negocio) for a one-year period in the locations identified in Attachments 3, 4 and 5 of the Administrative Report, dated December 17, 2019, which is on file with the City Clerk.
2. Approve, and authorize the Mayor to execute, a License Agreement (Contract C19-90), by and between the City of San Clemente and the County of Orange, authorizing the County to install a ballot drop box at the San Clemente Municipal Golf Course for a one-year period.
3. Approve, and authorize the Mayor to execute, a License Agreement (Contract C19-91), by and between the City of San Clemente and the County of Orange, authorizing the County to install a ballot drop box at the Jim Johnson Memorial Park for a one-year period.
4. Approve, and authorize the Mayor to execute, a License Agreement (Contract C19-92), by and between the City of San Clemente and the County of Orange, authorizing the County to install a ballot drop box at City Hall (910 Calle Negocio) for a one-year period.

P. **Contract Amendment - Exclusive Listing Agreement with CBRE, Inc. (To Include the City-Owned Property at 100 Avenida Presidio)**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to:

1. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C19-49, an exclusive sales/lease listing agreement with CBRE, Inc., relating to the City-owned property at the southwest corner of Avenida Vista Hermosa and Avenida La Pata, to add the City-owned property at 100 Avenida Presidio to the listing agreement, and to extend the term of the agreement.
2. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C19-83, by and between the City of San Clemente and CBRE, relating to the sale/lease of City-owned property at the southwest corner of Avenida Vista Hermosa and Avenida La Pata, to add the City-owned property located at 100 Avenida Presidio to the property to be sold/leased, and extend the term of the agreement.

**ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**

**C. Warrant Register**

Council requested that Staff provide additional detail for two of BBK's invoices, totaling \$88,000, which relate to the Housing is a Human Right CEQA lawsuit.

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR BANE, CARRIED 4-1 (MAYOR PRO TEM FERGUSON VOTING NOE), to:

Approve Wire Transfers Nos. 2145 through 2150, and Warrant Nos. 563498 through 563623, paid on 12/6/19, in the amount of.....\$1,797,676.22

TOTAL WARRANT REGISTER.....\$1,797,676.22

**Payroll Register**

Approve Bank Adjustment Replacement Check 766, Warrant Nos. 764 and 765 and Automatic Deposit Advises 60672 through 60946, for the period 11/18/19 through 12/1/19, paid on 12/6/19, in the amount of.....\$ 593,649.94

TOTAL PAYROLL REGISTER.....\$ 593,649.94

**L. Contract Amendment - San Clemente Ocean Festival Partnership Agreement**

In response to Council inquiry, Beaches, Parks and Recreation Manager Wylie confirmed that traffic flow and parking for the Ocean Festival will be reviewed by City staff as part of the special event permit review process. Among the issues that will be discussed are 1) possibility of requiring vendors to park off-site after their merchandise is delivered, 2) promotion of the shuttle bus and trolley, and 3) possible partnership with Lyft.

Jeff Beasley, President of the San Clemente Ocean Festival, explained that the Festival is requesting use of an expanded area of the lower Pier Bowl parking lot to accommodate sponsor booths, noting that the space previously used for booths/exhibits has been reduced due to beach erosion and the installation of ADA crosswalks.

MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C17-23, a special event partnership agreement, by and between the City of San Clemente and the San Clemente Ocean Festival, allowing for the expanded use of a portion of the lower Pier Bowl parking lot.

Q. **Moratorium on Sewer Connection Charge for New Connections to the Sanitary Sewer System**

Council requested that Staff examine the possibility of conditioning projects coming forward during the moratorium period on the payment of sewer connection fees after the amount of the fees are established, with the understanding that applicants would be able to appeal the fee amount if desired.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to adopt Resolution No. 19-55 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ESTABLISHING A MORATORIUM ON SEWER CONNECTION CHARGES, with the direction that Staff examine how to address sewer connection fees on an interim basis until the Sanitary Sewer Cost of Service study is complete.

7. **PUBLIC HEARINGS**

A. **Pier Bowl Specific Plan Update - General Plan Amendment 19-291/Specific Plan Amendment 19-292**

Public Hearing to consider a City-initiated update of the Pier Bowl Specific Plan and a clean-up General Plan Amendment.

Associate Planner Wright narrated a PowerPoint presentation entitled "Pier Bowl Specific Plan Update" and responded to Council inquiries. A hard copy of Mr. Wright's PowerPoint is on file with the City Clerk.

Mayor Bane opened the Public Hearing.

Dorothy Prohaska, San Clemente, urged Council to maintain the ocean view corridor from Cazador and ensure that development will benefit, and not detract from, the value of the space; acknowledged the challenges of balancing private property rights and public benefits, but opined that a successful balance can be obtained; stated she was pleased to see the same property designation in the Pier Bowl Specific Plan for the Beachcomber Hotel and Robison properties.

Jill Ammirato, San Clemente, stated that she recently remodeled an Ole Hanson home (historic Gloria Swanson house) above the Robison property; voiced concern with the proposed Specific Plan and zoning changes for the Robison property; voiced concern that an investor is interested in developing the Robison property as a boutique hotel with wedding facilities, new bungalows and restaurant, which would negatively impact her neighborhood.

Mark McGuire, representing John McKinley, owner of property in the core area, expressed hope that the vacant lot at 604 Avenida Victoria can be incorporated as an accessory use with the Sea Horse on an interim basis, but noted if that is not possible, Mr. McKinley would like to continue to utilize the lot for his personal use; suggested that the City study the possibility of adopting an in-lieu parking fee program, starting with the eight properties on Avenida Victoria, to fund trolley operations.

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

During the course of discussion, Council expressed an interest in exploring an in-lieu parking fee program for the eight properties fronting Avenida Victoria, noting that language already exists in the Pier Bowl Specific Plan to allow for the development of an in-lieu fee program. Staff explained that it intends to prepare a white paper in March 2020 for Council consideration.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to adopt Resolution No. 19-56 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CERTIFYING ADDENDUM NO. 3 TO THE GENERAL PLAN ENVIRONMENTAL IMPACT REPORT AND APPROVING GENERAL PLAN AMENDMENT 19-291 AND SPECIFIC PLAN AMENDMENT 19-292; TO ACHIEVE CONSISTENCY BETWEEN THE GENERAL PLAN, LOCAL COASTAL PROGRAM, AND PIER BOWL SPECIFIC PLAN, with the following modifications:

1. *Remove all new references to timeshares in the Pier Bowl Specific Plan from lists of allowed uses and development standards, other than references to existing timeshares. This includes, but is not limited to, removing references to timeshares in the Coastal Recreation Commercial 1 and 2 areas, and changing "timeshare" references to "existing timeshares" in the Mixed Use 4 area.*
2. *Retain "Parks and Open Space, Public or Private" as an allowed primary use in the Mixed Use 4 area.*
3. *Remove Appendix B and any reference to Appendix B.*

*Action continued on next page*

Moreover, Council directed that Staff initiate amendments to the planning documents to expand the Architectural Overlay to include parcels with frontage on primary circulation routes to and from the downtown to the Pier Bowl, such as Encino and Linda Lane, Seville, Victoria, Elena and Cazador. The amendments are to be processed in conjunction with the ongoing work program for the Local Coastal Plan.

### **MEETING RECESSED**

Council recessed at 8:44 p.m. and reconvened at 8:50 p.m., with all members present.

B. **233 Avenida Rosa - Historic Property Preservation Agreement 19-216 (McChurch Residence Mills Act Contract)**

Public Hearing to consider entering into an Historic Property Preservation Agreement (Mills Act) for an historic property located at 233 Avenida Rosa in the Residential Medium Zoning District and Coastal Zone Overlay District (RM-CZ).

Assistant Planner Carrillo narrated a PowerPoint presentation entitled "233 Avenida Rosa (McChurch Residence)", and responded to Council inquiries. A hard copy of Mr. Carrillo's presentation is on file with the City Clerk.

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

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER JAMES, CARRIED 5-0, to adopt Resolution No. 19-57 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING HISTORIC PROPERTY PRESERVATION AGREEMENT 19-216 FOR THE PROPERTY LOCATED AT 233 AVENIDA ROSA.



C. **102 West Avenida Cadiz - Historic Property Preservation Agreement 19-190 (Cocores Residence Mills Act Contract)**

Public Hearing to consider entering into an Historic Property Preservation Agreement (Mills Act) for an historic property located at 102 West Avenida Cadiz in the Residential Low Zoning District (RL).

Assistant Planner Carrillo narrated a PowerPoint presentation entitled “102 West Avenida Cadiz (Cocores Residence)”, and responded to Council inquiries. A hard copy of Mr. Carrillo’s presentation is on file with the City Clerk.

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

MOTION BY COUNCILMEMBER JAMES, SECOND BY MAYOR BANE, CARRIED 5-0, to adopt Resolution No. 19-58 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING HISTORIC PROPERTY PRESERVATION AGREEMENT 19-190 FOR THE PROPERTY LOCATED AT 102 WEST AVENIDA CADIZ.

D. **Billing for 2019 Weed Abatement Program**

Public Hearing to consider objections or protests, if any, to the costs of the abatement of weeds, rubbish, refuse and dirt upon streets, sidewalks, parkways and private property within the City of San Clemente and to the assignment of these costs to the properties on which the abatement was completed.

Code Compliance Manager Atamian reviewed the contents of the Administrative Report.

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

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to:

1. Waive the City’s notification costs for the compliant property owners.
2. Approve the Weed Abatement Report.
3. Authorize the Weed Abatement Contract Administrator to bill the appropriate property owners the amounts indicated in the Administrative Report, dated December 17, 2019 and on file with the City Clerk.

E. **Annual Report Concerning the Mitigation Fee Act for FY 2018-19 and the Five-Year Mitigation Fee Act Report for FY 2014-2015 Through 2018-2019**

Public Hearing to consider the City of San Clemente Annual Mitigation Fee Act Report for Fiscal Year 2018-19 and the Five-Year Mitigation Fee Act Report for FY 2014-2015 through 2018-2019.

Management Analyst Johnston reviewed the contents of the Administrative Report.

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 5-0, to receive and file the Annual Report concerning the Mitigation Fee Act for Fiscal Year 2018-19 and the Five-Year Mitigation Fee Report for Fiscal Years 2014-2015 through 2018-2019.

8. **UNFINISHED BUSINESS**

A. **Request for Proposal (RFP) - Hospital Facility Partnership**

Report from the Assistant City Manager concerning a Request for Proposal for Hospital Facility Partnership.

Mayor Bane recused himself from this item because attorneys at Sheppard Mullin Law, the law firm at which he is employed, represent Memorial Care in an unrelated manner; left the Chambers at 9:00 p.m.

Assistant City Manager Sund reviewed the contents of the Administrative Report.

Tony Taddey, with Wipfli, provided an overview of his company's experience and credentials with regard to development of hospital RFPs and summarized the RFP process.

Marcia Folli, San Clemente, spoke in opposition to the proposed RFP due to her belief that a hospital would be destined for failure and would involve an exorbitant cost; questioned why the original draft RFP was removed from the City's website; asserted that people will opt to utilize regional hospitals, such as Mission and Saddleback, because they offer more comprehensive

services; urged the City to confer with the property owner to seek progressive health care options for the community.

Karen Sharp stated that she is a member of the Emergency Medical Care Committee representing the Hospital Association of Southern California and also the Director of Emergency Services of Advanced Wound Healing at Saddleback Hospital; voiced concern with the current RFP due to her belief that it is unfair and lacks objectivity and critical information; urged Council to oppose the RFP until further input is provided by the public and medical professionals.

Jake Vollebregt, South Orange County Economic Coalition, urged that Council extend the deadline for receipt of proposals; requested that the list of providers who are being invited to participate in the RFP process be made public.

Donna Vidrine, San Clemente, thanked Council for supporting a hospital in San Clemente, citing the importance of local in-patient hospital care; urged Council to listen to health care professionals when making a decision on the hospital issue.

Warren Vidrine, San Clemente, opined that the RFP is impressive and suggested that the business model for the hospital will be successful with proper management; urged Council to extend the two-week deadline for receipt of proposals.

Dr. Steve Cullen, San Clemente, thanked Council for its efforts to open a hospital and spoke on the importance of having a hospital in San Clemente.

Tony Struthers, San Clemente, voiced concern that the modified RFP that was published on December 13, 2019 contains opinions, as opposed to facts, and fails to address the challenges associated with reopening a hospital in San Clemente; questioned why the original RFP, which was fair and balanced, was replaced; noted the City does not own the hospital land and, consequently, the cost to acquire the property, and ultimately open a hospital, is unknown; urged Council to delay approval of the RFP until the RFP can be revised with facts.

Bill Hart, San Clemente, noted that an emergency room must be tied to a hospital and, as such, a hospital is needed in San Clemente; asserted that an operator who will provide full hospital services is needed and urged Council to approve the RFP and submit it to the free market.

Dr. Gus Gialamus, San Clemente, urged Council to support the RFP to bring a hospital, and emergency room, to the city.

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

1. Authorize the City Manager to release the Request for Proposal for Hospital Facility Partnership.
2. Approve, and authorize the City Manager to execute, Amendment No. 1 to Contract C19-60, by and between the City of San Clemente and Wipfli, relating to Hospital Consulting Services. This Amendment increases the maximum contract amount from \$10,000 to \$55,000, an increase of \$45,000.
3. Approve a supplemental appropriation from the General Fund's Unassigned Fund Balance in the amount of \$45,000 to General Government Other Legal Services, Account 001-203-43640-000-00000.
4. Extend the deadline for the City to receive proposals to February 3, 2020.

Mayor Bane returned to the dais at 9:55 p.m.

**B. Ordinance Relating to Closure of the Pico Transitional Camp, Restoration of the City-Wide Camping Ban, and Provision of Alternate Interim Shelter**

Report from the City Manager and City Attorney concerning possible adoption of an Ordinance amending Chapter 8.86 of the San Clemente Municipal Code (relating to public camping) in its entirety, repealing Ordinances Nos. 1673, 1674, and 1675, and finding the Ordinance exempt from CEQA (in connection with closure of the Pico Transitional Camp and the restoration of the City-wide camping ban where alternative shelter, hotel vouchers, or ordinary campground opportunities are made available.

City Attorney Smith reviewed the contents of the Administrative Report; summarized points raised in a letter received this evening from Elder Law and Disability Rights Center, which among other things, questioned whether the City should also repeal Ordinance No. 1676. City Attorney Smith advised that Ordinance No. 1676 automatically sunsets on June 30, 2020 and hence becomes moot without repeal.

MOTION BY MAYOR BANE, SECOND BY MAYOR PRO TEM FERGUSON, CARRIED 5-0, to introduce Ordinance No. 1689 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING CHAPTER 8.86 OF THE SAN CLEMENTE MUNICIPAL CODE (RELATING TO PUBLIC CAMPING) IN ITS ENTIRETY, REPEALING ORDINANCES NOS. 1673, 1674, AND 1675, AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, with the modification that the 3<sup>rd</sup> “Whereas” on Page 5 of the Ordinance be amended to read in its entirety as follows:

“WHEREAS, homelessness continues to remain a dynamic and evolving issue within the City and surrounding region requiring coordinated efforts by the City, the County of Orange, the State of California, the Federal Government, and non-profit/private sector partners; and”

9. **NEW BUSINESS**

None.

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

**Recruitment for New City Manager**

Tony Rubolino, San Clemente, urged that the Assistant City Manager not be considered for the City Manager position and not be involved in the recruitment for the new City Manager.

**Human Affairs Committee (HAC) Update**

Tyler Boden, Human Affairs Committee, reported that the HAC has approved its work plan for the coming year, which includes scheduling a community forum on mental health; reported that the Committee will invite non-profit leaders to give presentations at upcoming HAC meetings and will use that information to schedule additional community forums.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

**Policy and Procedure 1201-11 (City Council Meeting and Operating Procedures)**

Mayor Pro Tem Ferguson requested, and received majority Council support, to amend Policy and Procedure 1201-11 (City Council Meeting and Operating Procedures) for possible revisions, including the possibility of allowing the Mayor to establish Council meeting agendas, with or without the City Manager, and allowing two Councilmembers to add items to the agenda.

**City Lot at Avenida La Pata and Avenida Vista Hermosa – Solicitation of Public Input Concerning Desired Development Possibilities**

Mayor Pro Tem Ferguson requested, and received majority Council support, to direct Staff to amend the possibility of obtaining community input concerning the desired use of the vacant City lot at Avenida La Pata and Avenida Vista Hermosa.

**Community Choice Energy**

Mayor Bane reported that he will meet with representatives from the Cities of San Juan Capistrano and Dana Point concerning the possibility of pursuing Community Choice Energy.

**Federal Legislation to Support Sand Nourishment Projects**

Mayor Bane reported on his recent conference call with Congressman Levin, noting that Congressman Levin is moving forward with legislation to support sand nourishment projects.

**Location of Sheriff Substation**

Councilmember James requested, and received Council support, to agendaize for the Council meeting of January 21, 2020 the possibility of utilizing the 2nd floor of the 910 Calle Negocio building as a Sheriff substation.

**Public Safety Committee**

Councilmember James requested that the implementation of the Public Safety Committee be fast-tracked. Staff noted that the Public Safety Committee will be agendaized for the Council meeting of January 21, 2020 as part of the item relating to possible changes to City Commissions and Committees.

**12. RESOLUTIONS/ORDINANCES**

- A. **Ordinance No. 1688 (Second Reading) – 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**

MOTION BY MAYOR BANE, SECOND BY MAYOR PRO TEM FERGUSON, CARRIED 5-0, to adopt 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.

**RECESS TO CLOSED SESSION**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to recess to Closed Session at 10:25 p.m. to discuss the following:

**PUBLIC EMPLOYEE APPOINTMENT**

Government Code Section 54957

Title: City Manager/Interim City Manager

**MEETING RECONVENED**

Council reconvened at 11:15 p.m., with all members present.

**CLOSED SESSION REPORT – CITY ATTORNEY**

City Attorney Smith reported that during Closed Session, Council authorized the Mayor to seek proposals from recruitment firms and to enter into a recruitment contract on the City's behalf for the City Manager position.

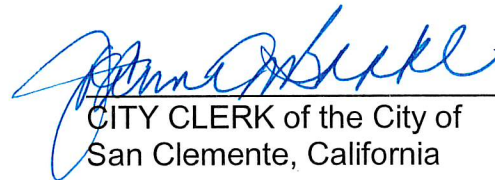
13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to adjourn at 11:16 p.m. The next Regular Council Meeting will be held on January 21, 2020 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.

*\*Please note the Regular City Council Meeting of January 7, 2020 was previously cancelled.*



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MAYOR of the City of  
San Clemente, California

  
\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California