

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular Meeting – January 21, 2020

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 January 21, 2020 at 4:35 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Bane.

PRESENT FERGUSON, JAMES, WARD*, MAYOR BANE

*Arrived at 4:37 p.m. and left at 8:05 p.m.

ABSENT HAMM

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

CLOSED SESSION

Sara Peterson, San Clemente, owner of Zebra House, spoke in opposition to the inclusion of a national coffee chain as part of the La Pata/Vista Hermosa development and opined that the property developer should instead partner with a local restaurant or café; noted that Zebra House will open a second location across from the La Pata/Vista Hermosa site in 2021 and voiced concern that a competing coffee operation will negatively affect her business.

Jay McIlwee, San Clemente, founder of Zebra House, described the contributions that Zebra House provides for the community; spoke in support of local businesses.

Courtney Ledgard stated that she works at Zebra House; opined that small businesses are vital to communities; noted that people from Camp Pendleton patronize Zebra House on a regular basis.

Esther Bent, San Clemente, addressed the importance of supporting local businesses; opined that extending the ambience of the downtown area to Talega would benefit developers as well as residents.

Sally Guon, San Clemente, stated she moved from Texas to San Clemente because of its unique charm; spoke in support of Zebra House, noting that the owner allowed a humanitarian who was fighting against human slavery to conduct a fireside chat with community members at her business.

Rachel Pattin, San Clemente, shared her childhood memories of Zebra House; stated that her friends go to Zebra House to study because it is a comfortable place to visit.

Bethany Padilla, San Clemente, stated that she enjoys working for Sara Peterson because she cares about her employees.

Robin McIlwee, San Clemente, stated that her husband and she were the original developers/owners of Zebra House; opined that Talega residents want to be a part of small-town San Clemente and suggested that a local business at the La Pata/Vista Hermosa site would help achieve that objective.

Michael DiGiangi, Property Nine Development, stated that Property Nine does not want to hurt Zebra House and stated that it has reached out to Zebra House to create a partnership; opined that Property Nine's development proposal raises the bar for gas station/convenience store development and will benefit the community in terms of economics and operations; distributed a copy of a document entitled "January 7, 2020 Submittal Vista Hermosa & La Pata Property Nine Development", which is on file with the City Clerk.

Amaris Aguirre stated that she is an employee of Zebra House; spoke in support of small town businesses and voiced concern that corporate chains can harm small businesses.

Randy Elmer, San Clemente, spoke on the need for all San Clemente businesses to survive to provide the City with a sufficient tax base; recommended that businesses that provide similar services not be saturated in specific areas to help reduce the possibility that some businesses will fail.

Bree Hughes, San Clemente, urged Council to remain mindful of local businesses in making a decision about the La Pata/Vista Hermosa development; urged Council to allow family-owned businesses to submit development proposals for the subject site.

City Attorney Smith advised as follows:

Mayor Bane will recuse himself from the portion of the Closed Session relating to the existing litigation case of City of San Clemente v. Foothill/Eastern Transportation Corridor because he represents a client in that litigation.

City Attorney Smith will recuse himself from the portion of the Closed Session relating to the existing litigation case of City of Santa Ana v. County of Orange et al because a client of his law firm is involved in that case. Consequently, Assistant City Manager Sund will convey information to Council from the City's defense team.

Closed Session Item B, relating to anticipated litigation, is a litigation risk assessment submitted by the City Attorney based on a letter dated January 12, 2020 from Brad Malamud.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to recess to Closed Session at 5:09 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: 7

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

Case Name: City of San Clemente v. Foothill/Eastern Transportation Corridor Agency and County of Orange

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

Case Name: City of Santa Ana v. County of Orange et al

Case Number: SA CV 20-0069-DOC

B. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

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

Number of potential cases: 1

C. PUBLIC EMPLOYEE APPOINTMENTS

Pursuant to Government Code Section 54957

Titles: Interim City Manager and City Manager

D. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Mayor

Unrepresented employee: Interim City Manager

Closed Session items continued on next page

E. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Property: 2.2 acre section of and 80 acre parcel on the southwest corner of Avenida La Pata and Vista Hermosa, Assessor's Parcel Number 678-163-01

Agency Negotiators: City Manager and Assistant City Manager

Negotiating Parties: City of San Clemente, proposing parties and/or their authorized agent(s)

Under Negotiation: Consideration of proposals for acquisition or lease of surplus property

Property: Two undeveloped open space parcels totaling approximately 10 acres southeast of Avenida Pico, one-half mile inland of the I-5 Freeway, Assessor's Parcel Numbers 688-011-01 and 688-011-02

Agency Negotiators: City Manager and Assistant City Manager

Negotiating Parties: City of San Clemente, Rancho San Clemente Business Park Community Association and/or their authorized agent(s)

Under Negotiation: Consideration of response to offer for acquisition or lease

F. 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 January 21, 2020 convened at 6:16 p.m., with all members present, except Councilmember Hamm who was absent.

INVOCATION

Mark Ambrose, Lead Pastor, Pacific Coast Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember James led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Presentation of City Tile – William J. Humphreys, Jr., Retired Marine Safety Chief

Jeff Beasley and Peggy Vance, San Clemente Ocean Festival, presented Chief Humphreys with a plaque and thanked him for his efforts with the San Clemente Ocean Festival; expressed gratitude for his leadership and for successfully protecting the public.

Lori Donchak, Pier Pride, thanked Chief Humphreys for his years leading the Marine Safety Division; noted his record of exemplary beach safety.

Ken Nielsen, San Clemente, commented on Chief Humphreys' extensive knowledge of the beach and ocean; thanked him for his years of service to the community.

John Dorey, San Clemente, acknowledged the help that Chief Humphreys provided with regard to the beach trail, Friends Foundation surf contests, and Junior Lifeguard Foundation.

Larry Moore, President of the Lifeguard and Junior Lifeguard Foundation, reviewed the history of San Clemente's Lifeguard operations; noted that no one served Marine Safety longer than Chief Humphreys.

Mayor Bane and Mayor Pro Tem Ferguson presented a City Tile to William J. Humphreys, Jr., Retired Marine Safety Chief, in recognition of 31 years of full-time service to the people of San Clemente.

B. Toll Road Update

None.

C. Update on Homeless Issue

Brad Fieldhouse, Executive Director with City Net, reported on City Net's history in Orange County; summarized City Net's first 30 days of service in San Clemente, focusing on its homeless outreach and engagement efforts as well as data compilation; responded to Council inquiries.

Assistant City Manager Sund reported that City Net's monthly reports will be posted on the City's website.

2. ORAL COMMUNICATIONS (PART 1)

Expression of Gratitude to Council/Importance of Proactive Leadership

Brad Malamud, Laguna Niguel, reported that he recently moved to Laguna Niguel and will no longer attend Council meetings after 25 years; thanked Council for its service to San Clemente; spoke on the importance of proactive City leadership.

Short-Term Vacation Rental at 126 W. Avenida Cordoba

Jessica Johnson, San Clemente, reported that a stabbing occurred at a short-term vacation rental at 126 W. Avenida Cordoba; described problems associated with the property, which included underage drinking, drug use, occupancy violations and noise; asserted that the property is in violation of City Codes and neighborhood policies and that the Orange County Sheriff's Department and Code Enforcement are not providing adequate response; urged Council to revoke the Short-Term Lodging Unit (STLU) permit.

Nicole Josse, San Clemente, asserted that City ordinances were not enforced at the short-term vacation rental on Avenida Cordoba; urged Council to revoke the STLU permit.

Joe Janis, San Clemente, stated that many short-term vacation rental properties are in violation of City Codes; urged Council to revoke the permit at the Avenida Cordoba vacation rental and enhance enforcement of the other vacation rental properties; opined that 95% of residents do not support short-term vacation rentals and urged that Council not allow STLUs to operate in Residential Low zones.

Susan Nelson, San Clemente, urged Council to revoke the STLU permit for the short-term vacation rental at 126 W. Avenida Cordoba and proactively enforce regulations at other vacation rentals.

View Protection Ordinance

Jeff Campbell, San Clemente, stated that he lives in a single-story home in an area that does not have a homeowners association; voiced concern that property owners who build second stories could block his ocean view; urged Council to adopt an ordinance to protect ocean views for residents living in single-level homes.

North Beach 'Character Counts' Mural

Darryl McFann, San Clemente, spoke on the outpouring of support for a recent fundraiser at the pier to help koalas and kangaroos in Australia affected by the fires; urged Council to authorize the repainting of the 'Character Counts' mural at the North Beach restrooms.

Vanessa Ortiz, San Clemente High School student, reported that a committee, consisting of San Clemente High School students and members of the Sunrise Rotary Club, has been formed to paint a 'Character Counts' mural at the North Beach restrooms; stated that two designs will be presented to Council for approval consideration; outlined the anticipated project timeline, noting that the mural is expected to be unveiled on May 23, 2020.

Gas-Powered Leaf Blowers

Ken Koenigshofer, San Clemente, urged Council to implement a ban on gas-powered leaf blowers in residential areas due to his belief that they pose environmental and health risks.

Paul Koenigshofer, San Clemente, spoke in support of a ban on gas-powered leaf blowers; opined that a direct link exists between gas-powered leaf blowers and many serious health problems.

Development of City Property at Avenida La Pata/Vista Hermosa

Jereme Snyder, San Clemente, stated that he and many of his Talega neighbors support a gas station at the corner of Avenida La Pata and Vista Hermosa; asserted that there is a lack of gas stations in close proximity to Talega.

Michael DiGiangi, Property Nine Development, thanked Council for its willingness to hear all sides of the issue concerning possible development at the Avenida La Pata/Vista Hermosa site.

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

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

None.

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

Lovrien v. City of San Clemente

City Attorney Smith announced that on November 19, 2019, Council considered in Closed Session the settlement of the Lovrien workers compensation case; advised that the Workers Compensation Board approved the terms of a \$6,500 settlement; stated that the settlement was unanimously approved by Council and was ratified by the court.

Last Mile Program - Department of Justice (DOJ) Investigation

City Attorney Smith reported that the Department of Justice (DOJ) investigated the issue of access to the City's Last Mile program by disabled persons; reported that the DOJ was satisfied that adequate access was being provided; explained that a settlement agreement, which does not include monetary damages, will be executed by the City Manager.

Coastal Access Alliance Lawsuit

City Attorney Smith reported that Council designated Mayor Pro Tem Ferguson and Councilmember Ward to engage in potential settlement negotiations in connection with the Coastal Access Alliance lawsuit.

6. CONSENT CALENDAR

MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to approve the Consent Calendar, with the removal of Items 6A(1), 6A(3), 6-G, 6-J and 6-L.

A. City Council Minutes

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

(2) Approve the Adjourned Regular City Council Meeting minutes of December 10, 2019.

(4) Approve the Special City Council Meeting minutes of January 8, 2020.

B. MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to receive and file the following:

(1) Golf Course Committee Regular Meeting minutes of November 7, 2019.

(2) Beaches, Parks and Recreation Commission Regular Meeting minutes of November 12, 2019.

(3) Zoning Administrator Regular Meeting minutes of December 5, 2019.

(4) Human Affairs Committee Regular Meeting minutes of December 10, 2019.

Actions continued on next page

- (5) Planning Commission Regular Study Session minutes of December 18, 2019.
- (6) Zoning Administrator Regular Meeting minutes of December 19, 2019.
- (7) Design Review Subcommittee Special Meeting minutes of December 11, 2019.
- (8) Planning Commission Regular Meeting minutes of December 18, 2019.

C. **Warrant Register**

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

Approve Wire Transfers Nos. 2151 through 2153, and Warrant Nos. 563624 through 563750, paid on 12/13/19, in the amount of.....\$4,080,240.39

Approve Wire Transfers Nos. 2154 through 2159, and Warrant Nos. 563751 through 564040, paid on 12/20/19, in the amount of.....\$2,811,783.98

Approve Wire Transfers Nos. 2160 through 2163, and Warrant Nos. 564041 through 564136, paid on 1/3/20, in the amount of.....\$ 782,521.75

Approve Wire Transfers Nos. 2164 through 2169, and Warrant Nos. 564137 through 564238, paid on 1/10/20, in the amount of.....\$ 1,292,450.90

Approve Wire Transfers Nos. 2170 through 2173, and Warrant Nos. 564239 through 564417, paid on 1/17/20, in the amount of.....\$ 2,985,947.20

TOTAL WARRANT REGISTER.....\$11,952,944.22

Payroll Register

Approve Warrant Nos. 767 through 770 and Automatic Deposit Advises 60947 through 61240, for the period 12/2/19 through 12/15/19, paid on 12/20/19, in the amount of.....\$ 485,608.36

Approve Warrant Nos. 771 through 774 and Automatic Deposit Advises 61241 through 61512, for the period 12/16/19 through 12/29/19, paid on 1/3/20, in the amount of.....\$ 456,851.28

Approve Warrant Nos. 775 through 777 and Automatic Deposit Advises 61513 through 61798, for the period 12/30/19 through 1/12/20, paid on 1/17/20, in the amount of.....\$ 491,643.43

TOTAL PAYROLL REGISTER.....\$1,434,103.07

D. **Contingency Increase for Marine Safety Building and Bulkhead Repair Project to Include Repairs to the San Clemente Pier**

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

1. Approve a Change Order in the amount of \$216,675 under Contract C19-57 with Jilk Heavy Construction (formerly John S. Meek Company, Inc.) to replace three Pier timber piles, repair and install timber pile vinyl wrappings, and other miscellaneous repairs.
2. Approve an increase of \$216,675 to the construction contract contingency for Contract C19-57 with Jilk Heavy Construction for the Marine Safety Building and Bulkhead Repair Project No. 16530.
3. Approve a transfer of \$216,675 from the Pier Timber Pile Replacement Project No. 16811 to the Marine Safety Building and Bulkhead Repair Project No. 16530.

E. **La Ventura Event Center (2316 South El Camino Real) - Six-Month Review of Amended Conditional Use Permit (AM CUP) 18-659 to Increase the Permitted Hours and Occupancy of the Event Facility**

MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to receive and file the Administrative Report, dated January 21, 2020, which is on file with the City Clerk.

F. **Initiation of Zoning Amendments (Changes to Erroneous Text, Ambiguous Definitions and Standards, General Plan Consistency, and State and Federal Law)**

MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to initiate Zoning Amendments to the San Clemente Municipal Code as outlined in the Administrative Report, dated January 21, 2020, which is on file with the City Clerk.

H. **Contract Amendment - Reservoir No. 9 Storm Damage Repair Project**

MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to approve, and authorize the City Manager to execute, Amendment No. 1 to Contract C18-18, by and between the City of San Clemente and LGC Geotechnical Services. This Amendment increases the contract amount from \$60,964 to \$178,664 (an increase of \$117,700) and extends the contract term to October 1, 2021 for the needed construction support services.

I. **Notice of Completion - Traffic Signal System Upgrade for Camino Vera Cruz**

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

1. Accept the Traffic Signal System Upgrade for Camino Vera Cruz (Project No. 18329) from the contractor, California Professional Engineering, Inc.
2. Authorize the Public Works Director/City Engineer to execute and record the Notice of Completion for the Traffic Signal System Upgrade for Camino Vera Cruz.

Action continued on next page

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 California Professional Engineering, Inc.
4. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction cost.

K. **Release of Performance and Labor & Material Bonds Related to the Marblehead Coastal Development Calle De Los Molinos Improvements for Tract 8817**

MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to adopt Resolution No. 20-02 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 CALLE DE LOS MOLINOS IMPROVEMENTS IN TRACT 8817.

M. **Contract Amendment - Federal Lobbyist Services**

MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to approve, and authorize the City Manager to execute, Amendment No. 2 to Contract AC-854, by and between the City of San Clemente and Warwick Group Consultants, relating to federal lobbying services. This Amendment extends the term of the agreement through April 30, 2020 and increases the total contract amount from \$25,000 to \$44,000 (an increase of \$19,000).

N. **Notice of Completion - Slurry Sealing and Restriping of Camino de Estrella, Camino Mira Costa, Camino Capistrano, Avenida Vista Hermosa, Avenida Talega, and Camino Vera Cruz**

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

1. Accept the Slurry Sealing and Restriping of Camino de Estrella, Camino Mira Costa, Camino Capistrano, Avenida Vista Hermosa, Avenida Talega, and Camino Vera Cruz (Project Nos. 17332, 17333, 17334, 17339 and 19319), from the contractor, All American Asphalt.
2. Authorize the Public Works Director/City Engineer to execute and record the Notice of Completion for Slurry Sealing and Restriping of Camino de Estrella, Camino Mira Costa, Camino Capistrano, Avenida Vista Hermosa, Avenida Talega and Camino Vera Cruz.

Action continued on next page

3. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Engineering Division that no liens have been levied against the contractor, All American Asphalt.
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.

O. Contract Award – Construction of Camino Del Rio Wall

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

1. Approve the plans and specifications for construction of the Camino Del Rio Wall, Project No. 18316.
2. Approve, and authorize the City Manager to execute, Contract C20-02, by and between the City of San Clemente and O'Connell Engineering and Construction, providing for the construction of the Camino Del Rio Wall, in the amount of \$248,875.
3. Approve a supplemental appropriation of \$250,000 from the undesignated fund balance of the RCFPP Fund for the Camino Del Rio Wall project.
4. Approve a budget transfer of \$250,000 from the RCFPP undesignated fund balance to Account 012-861-45300-000-18316.

P. Infield Replacement at San Gorgonio Park (Portion of Project No. 10106) - Purchase Order and Invoice

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

1. Approve the proposal from Professional Sports Field Maintenance, Inc. (PSFM), to replace the San Gorgonio Park baseball infield, at a total cost of \$29,920.38.
2. Approve a purchase order and payment of Invoice No. 91125 in the amount of \$29,920.38 for replacement of the San Gorgonio Park baseball infield.

Q. **Office Furniture for Phase II and Phase III of First Floor Remodel at 910 Calle Negocio Facility**

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

1. Approve, and authorize the City Manager to execute, a purchase order for furniture in accordance to National Joint Powers Alliance (NJPA) Contract #031715-STI, in an amount not to exceed \$174,162.68, for the purchase of furniture for the second phase of the 910 Calle Negocio first floor remodel.
2. Approve, and authorize the City Manager to execute, a purchase order for furniture in accordance to National Joint Powers Alliance (NJPA) Contract #031715-STI, in an amount not to exceed \$35,837.32, for the purchase of furniture for the third phase of the 910 Calle Negocio first floor remodel, once that phase is complete.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

A(1). **Regular City Council Meeting Minutes of December 3, 2019**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR BANE, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to approve the Regular City Council Meeting minutes of December 3, 2019, with the modification that the first paragraph on Page 26 be modified to read in its entirety as follows:

Possible Event on Public Beach

The Council majority agreed to agendize 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 agendized for a future Council Closed Session or Regular Meeting at the discretion of the City Manager.

A(3). **Adjourned Regular City Council Meeting Minutes of December 17, 2019**

Councilmember Ward referenced Item 7-A of the City Council minutes of December 17, 2019 relating to the Pier Bowl Specific Plan Update; requested that the Specific Plan provisions relating to the Robison and Beachcomber properties be reagendized for Council clarification as they relate to historic preservation.

City Planner Perez explained the lengthy process which would be involved if either property were proposed for demolition, including the necessity for an Environmental Impact Report.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES to call for the question.

SUBSTITUTE MOTION BY MAYOR BANE, SECOND BY MAYOR PRO TEM FERGUSON, CARRIED 3-1 (COUNCILMEMBER WARD VOTING NOE AND COUNCILMEMBER HAMM ABSENT), to approve the Adjourned Regular City Council Meeting minutes of December 17, 2019, with the modification that the last paragraph on Page 7 be modified to read in its entirety as follows:

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.

G. Contract Award – Consultant Services Related to Nomination of the North Beach Historic District to the National Register of Historic Places

Larry Culbertson, San Clemente Historical Society, spoke in support of a North Beach Historic District and thanked Staff for its efforts in securing grant funding for this effort.

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

1. Approve, and authorize the City Manager to execute, Contract C20-01, by and between the City of San Clemente and GPA Consulting, providing for historic preservation consultant services related to the preparation of a National Register District Form for the North Beach Historic District, in the amount of \$20,000.
2. Accept grant revenues of \$20,000 from the State Department of Parks and Recreation to Account 001-000-33490.
3. Authorize a budget appropriation in the amount of \$20,000 to Professional Services Account 001-433-43890.

J. Proposed Parking Restriction in Alley East of South El Camino Real, between E. Avenida San Gabriel and E. Avenida Magdalena

Eric Martin, Business Owner, suggested that the proposed parking restriction on South El Camino Real would not solve problems with regard to trash, loitering, sleeping in vehicles, etc.; presented an Ordinance from the City of Anaheim relating to camping and storage of personal items in public areas and urged that Council adopt a similar ordinance to prohibit persons from sleeping in their vehicles

and living in the alley; suggested that the proposed parking restriction could lead to bar patrons driving their vehicles home rather than finding an alternative way home.

Dhiraj Lal, Owner of the San Clemente Travel Lodge, read a letter from five hotel/motel owners in the area which opposed the proposed parking restriction; stated that hotel guests park on El Camino Real when hotel parking lots are at capacity. A copy of Mr. Lal's letter is on file with the City Clerk.

Public Works Director/City Engineer Bonigut explained that the proposed parking restriction was intended to address a concern by the owner of OC Tavern that long-term parking in the alley takes up spaces for which he pays the City, as part of a parking agreement, for non-exclusive parking by his patrons; stated that none of the five hotel owners who oppose the parking restriction have parking agreements with the City for use of the parking spaces, but noted the spaces are also for public parking, which hotel patrons may use.

Council directed Staff to work with the affected business owners to develop creative parking solutions.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to table consideration of restricting parking on South El Camino Real between East Avenida San Gabriel and East Avenida Magdalena.

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

Ignat Bokl, STAR Owner, urged Council to reconsider its previous decision to deny his short-term apartment rental permit application; stated that he has systems and practices in place at his vacation rentals to safeguard against problems; noted that he resides on site and is able to immediately respond to issues.

Randy Quillman, San Clemente, spoke in support of the Bokl STAR; stated Mr. Bokl does a great job of monitoring his renters to ensure compliance; urged Council to support the vacation rental.

John Wagner, San Clemente, stated that he is a direct neighbor to Mr. Bokl; noted that Mr. Bokl is an excellent neighbor and spoke in support of his short-term apartment rental.

Raquel Wagner, San Clemente, stated that tourism is the lifeblood of San Clemente; opined that the subject property will not encounter problems with renters because of Mr. Bokl's proactive oversight of the property.

Brent Wagner, San Clemente, spoke in support of Mr. Bokl and the operation of his short-term apartment rentals because of his proactive monitoring.

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER JAMES, CARRIED 3-1 (MAYOR PRO TEM FERGUSON VOTING NOE AND COUNCILMEMBER HAMM ABSENT), to adopt Resolution No. 20-03 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DENYING 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.

Councilmember Ward left the meeting at 8:05 p.m.

MEETING RECESSED

Council recessed at 8:05 p.m. and reconvened at 8:11 p.m., with all members present, except Councilmember Hamm and Ward, who were absent.

7. PUBLIC HEARINGS

A. La Ventura Event Center at 2316 South El Camino Real – Conditional Use Permit Amendment 19-278

Public Hearing to consider a request to amend Conditional Use Permit (CUP) 13-249 to allow full alcohol service for the existing La Ventura Event Center, located at 2316 South El Camino Real.

Associate Planner Crockett 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 3-0 (COUNCILMEMBERS HAMM AND WARD ABSENT), to:

1. Find and determine that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1 – Existing Facilities) because the project involves the permitting and minor alteration of an existing approved use with no expansion of the use and no addition or alteration to the building.

Action continued on next page

2. Adopt Resolution No. 20-04 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT AMENDMENT 19-278, LA VENTURA EVENT CENTER AMENDMENT NO. 2, A REQUEST TO AMEND CUP 13-249 TO ALLOW FULL ALCOHOL SERVICE FOR THE EVENT FACILITY LOCATED AT 2316 SOUTH EL CAMINO REAL.

**B. Plaza by the Sea Master Sign Program (610-628 Camino de los Mares)
- Appeal of Discretionary Sign Permit (DSP) 18-546**

Public Hearing to consider a City Council-initiated appeal of Discretionary Sign Permit 18-546, regarding the establishment of a Master Sign Program for a retail shopping center known as “Plaza by the Sea”, located at 610-628 Camino de los Mares.

Assistant Planner Lightfoot narrated a PowerPoint presentation entitled “Plaza by the Sea Master Sign Program 610-628 Camino de los Mares” and responded to Council inquiries. A hard copy of Mr. Lightfoot’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 3-0 (COUNCILMEMBERS HAMM AND WARD ABSENT), to:

1. Determine that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities) and 15311 (a) (Class 11: Accessory Structures).
2. Confirm Conditions of Approval adopted by the Planning Commission on November 20, 2019.
3. Adopt Resolution No. 20-05 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING DISCRETIONARY SIGN PERMIT 18-546 TO ESTABLISH A MASTER SIGN PROGRAM FOR PLAZA BY THE SEA, LOCATED AT 610-628 CAMINO DE LOS MARES.

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.

City Clerk Baade reviewed the contents of the Administrative Report and responded to Council inquiries.

Susan Ambrose, Chair of the Coastal Advisory Committee, thanked Mayor Bane for meeting with her and another member of the Coastal Advisory Committee concerning possible changes to the Committee; expressed appreciation to Council for its service and commitment.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 3-0 (COUNCILMEMBERS HAMM AND WARD ABSENT), to:

1. Introduce Ordinance No. 1684 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTERS 2.28, 2.32, 2.36, 2.40, 2.42 AND 2.43 OF THE CODE OF THE CITY OF SAN CLEMENTE, RELATING TO THE BEACHES, PARKS AND RECREATION COMMISSION, PLANNING COMMISSION, GOLF COURSE COMMITTEE, HUMAN AFFAIRS COMMITTEE, COASTAL ADVISORY COMMITTEE AND INVESTMENT ADVISORY COMMITTEE, RESPECTIVELY.
2. Determine that the terms of all existing standing Commission and Committee members shall expire on June 30, 2020 and direct the City Clerk to return to Council by no later than May 1, 2020 to seek authorization to advertise the upcoming vacancies and to schedule the dates for Council to interview candidates and make appointments.
3. Approve the proposed membership, duties and operating procedures for the Public Safety Committee and direct the City Clerk to recruit for applicants. Interviews and appointments will take place prior to a Council meeting in March 2020 (exact date to be determined by Staff based on the length of the agenda).

9. **NEW BUSINESS**

A. **Appointment of Robert C. Dunek as Interim City Manager**

Report from the City Manager concerning the appointment of Robert C. Dunek as Interim City Manager.

City Attorney Smith reviewed the contents of the Administrative Report and outlined the terms of compensation.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 3-0 (COUNCILMEMBERS HAMM AND WARD ABSENT), to adopt Resolution No. 20-06 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE APPOINTMENT OF ROBERT C. DUNEK AS INTERIM CITY MANAGER AND APPROVING AN EMPLOYMENT AGREEMENT IN CONNECTION THEREWITH.

Dr. Dunek expressed that he is pleased and proud to be able to help the City during its transition to a new City Manager; stated he looks forward to working with Council, staff and the public.

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

Policy and Procedure 1201-11 – Threshold of Council Support Needed to Agendize Items

Tony Rubolino, San Clemente, urged Council to give a fair voice to the Council minority by allowing them to agendize items for public discourse.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

(1) **Consideration of Possible Amendments to Council Policy and Procedure 1201-11 (City Council Meeting and Operating Procedures)**

Ken Nielsen, San Clemente, suggested that Councilmembers should be able to agendize items without majority support.

Bill Hart, San Clemente, spoke in support of allowing one or two Councilmembers to agendize an item for discussion at a Council meeting; opined that there is an appearance of impropriety associated with requiring three votes to agendize an issue because it allows a majority of Council to veto a discussion.

Joe Janis, San Clemente, stated that significant staff time is involved in preparing agenda reports and suggested that staff effort should only be expended with majority direction of Council; urged Council to leave the Policy as it stands now, which requires majority consensus to agendize an issue.

Following discussion, MOTION BY MAYOR PRO TEM FERGUSON, SECOND BY MAYOR BANE, CARRIED 3-0 (COUNCILMEMBERS HAMM AND WARD ABSENT), to modify Sections 4.5.1 and 4.5.4 of Policy and Procedure 1201-11 to read as follows:

- 4.5.1 With the exception of items added to a City Council agenda pursuant to Section 4.5.4 of this Policy, the City Manager and Mayor in conference shall be responsible for determining items to appear on City Council meeting agendas.
- 4.5.4 Two members of the City Council may propose at a Council meeting that an item be agendized for future Council discussion, consideration, and/or action. Subject to notice and hearing requirements, the item shall be agendized for a future meeting and noticed as required by law.

Gas-Powered Leaf Blowers

Mayor Pro Tem Ferguson, with the support of Councilmember James, directed that the issue of regulating gas-powered leaf blowers be agendized for the next meeting or meeting after that.

Community Choice Energy

Mayor Bane, with the support of Mayor Pro Tem Ferguson, directed Staff to respond to the letter sent to the City by Mayor Christina Shea of Irvine to accept her invitation for the City of San Clemente to join the City of Irvine in exploratory discussions concerning Community Choice Energy.

Regulation of Mass Feedings

Councilmember James requested that Staff research ways to regulate mass feeding to help ensure the safety of the City's transient population (e.g., food handler permits and kitchen inspections). City Attorney Smith agreed to provide Council with a white paper that was previously prepared to help Council determine if it wishes to pursue a City ordinance to regulate group feedings.

City Employee Retirement Plans

Councilmember James requested that Staff research the possibility of transitioning existing employees who are not yet vested in the CalPERS retirement system, as well as new employees, to a 401(k) retirement plan; requested that Staff's analysis address the possible financial impact on the City as well as the impact on the City's recruitment efforts if such a change in the City's retirement benefits were to occur. It was agreed that this issue will be assessed in the pension paper that will be discussed as part of the Long-Term Financial Plan (LTFP).

Sheriff Substation – Second Floor at 910 Calle Negocio

Councilmember James reported that Assistant City Manager Sund and he met with the President and Executive Director of the Association of Orange County Sheriff Deputies concerning the possibility of establishing a Sheriff substation on the second floor at 910 Calle Negocio; provided an overview of the proposal, noting that financial figures will be provided to Council in the near future.

Possible Revocation of the Short-Term Lodging Unit (STLU) Permit at 126 W. Avenida Cordoba

Mayor Bane expressed a desire to consider with due haste the revocation of the STLU Permit for 126 W. Avenida Cordoba. City Attorney Smith reported that his office is already working with Staff to determine changes needed to enable the Orange County Sheriff's Department and Code Enforcement staff to lawfully and immediately respond to problems.

12. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1689 (Second Reading) – Public Camping**

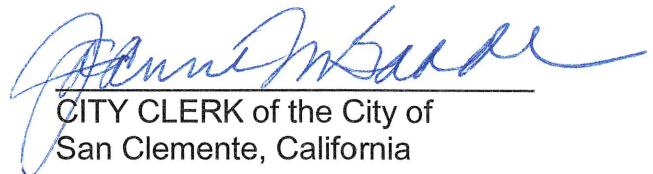
MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 3-0 (COUNCILMEMBERS HAMM AND WARD ABSENT), to adopt Ordinance No. 1689 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING CHAPTER 8.86 OF THE SAN CLEMENTE MUNICIPAL CODE (RELATING TO PUBLIC CAMPING) IN ITS ENTIRETY, REPEALING ORDINANCES NOS. 1673, 1674, AND 1675, AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER JAMES, SECOND BY MAYOR BANE, CARRIED 3-0 (COUNCILMEMBERS HAMM AND WARD ABSENT), to adjourn at 9:10 p.m. The next Regular Council Meeting will be held on February 4, 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.



MAYOR of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California