

# CITY OF SAN CLEMENTE

## City Council Minutes

### Adjourned Regular Meeting – February 18, 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 February 18, 2020 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 4:58 p.m.

**ABSENT** NONE

**STAFF PRESENT** Robert Dunek, Interim City Manager; Scott Smith, City Attorney; Joanne Baade, City Clerk; Laura Campagnolo, Deputy City Clerk

\*\*\*

#### A. **Legal Services Budget Review**

Report from the City Attorney concerning the City's Legal Services budget.

Assistant City Manager Sund and City Attorney Smith provided an overview of the Legal Services budget and responded to Council inquiries.

Council directed Staff to provide Council with a list of attorneys working on various cases and their hourly pay rates.

City Attorney Smith presented pie charts that displayed topics for which the City is paying for legal services. Council directed Staff to add the pie charts to the City's website and to include the legal expenditures associated with each topic.

Brad Malamud, Laguna Niguel, opined that the Assistant City Manager is not qualified to review legal bills; opined that BBK is conflicted with regard to reviewing its own invoices.

Patricia Wines, San Clemente, urged Council to continue to fight the lawsuit with Coastal Access Alliance concerning short-term lodging units.

Thomas Witten, San Clemente, spoke in support of Council continuing to pursue lawsuits concerning vacation rentals and other quality of life issues.

Al Cullen, San Clemente, urged Council to support quality of life lawsuits, such as those related to short-term vacation rentals.

Joe Janis, San Clemente, spoke on vacation rentals in residential neighborhoods and their influence on quality of life; urged Council to not settle with Coastal Access Alliance.

Nicole Josse, San Clemente, reported that she lives on West Avenida Cordoba near the vacation rental where a stabbing occurred; urged Council to continue to fight lawsuits relating to vacation rentals.

During the ensuing discussion, Council expressed an interest in pursuing strategies to reduce City costs in responding to Public Records Act requests. Additionally, Council expressed support for efficient utilization of legal services to protect quality of life issues when legal action is justified, defensible and worthy of pursuit.

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

1. Receive and file the Administrative Report, dated February 18, 2020, which is on file with the City Clerk.
2. Consider issuing a Request for Proposals for City Attorney services at a later date.

### **CLOSED SESSION**

City Attorney Smith referenced Closed Session Item C relating to anticipated litigation, noting that the issue is known to the potential defendant; stated that a Notice of Breach of Settlement Agreement has been sent to the operator at 181 West Avenida Cornelio and is available for public inspection.

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to recess to Closed Session at 5:49 p.m. to discuss the following:

**A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code section 54957  
Title: City Attorney

**B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Existing litigation pursuant to Government Code section 54956.9(d)(1)  
Number of Cases: 2

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

C. **CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**

Initiation of litigation pursuant to Government Code section 54956.9(d)(4)  
Number of potential cases: 2

**BUSINESS MEETING CONVENED**

The City Council Business Meeting of February 18, 2020 convened at 6:25 p.m., with all members present.

**INVOCATION**

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

**PLEDGE OF ALLEGIANCE**

Mayor Pro Tem Ferguson led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **San Clemente Day**

Samantha Wylie, Recreation Manager, reviewed activities planned for San Clemente Day 2020, which will be held on Saturday, February 29, 2020.

B. **Toll Road Update**

City Attorney Smith provided an update on preliminary motions filed by the City and Reserve Homeowners Association to dispose of certain elements of the case against the TCA, explaining that it is the City's position that the motions were denied preliminarily by the court and that all challenges would be reserved for trial at a later date; stated that the City is seeking clarification on conflicting orders that were approved by the court and may seek appellate review if the City has concerns with the clarification.

C. **Update on Homeless Issue**

None.

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

**Community Choice Energy**

Hoiyin Ip thanked Council for considering Community Choice Energy; urged Council to oppose the resolution by SoCal Gas, which supports balanced energy solutions and opposes single-energy solutions.

**Request that Pico Park Remain Closed Pending Recovery from Damage from Homeless Encampments**

Susan Smith, San Clemente, stated that mating season for animals near Pico Park is starting; opined that the park has not recovered from damages associated with homeless encampments and urged Council to keep the park closed indefinitely.

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

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

None.

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

City Attorney Smith advised that no reportable actions were taken during this evening's Closed Session; noted that Mayor Bane recused himself from the portion of the Closed Session involving the case entitled City of San Clemente v. Foothill/Eastern Transportation Corridor.

6. **CONSENT CALENDAR**

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

A. **City Council Minutes**

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

- (1) Approve the City Council Regular Meeting Minutes of February 4, 2020.

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

- (1) Design Review Subcommittee Special Meeting Minutes of December 11, 2019.
- (2) Golf Course Committee Regular Meeting Minutes of January 2, 2020.
- (3) Beaches, Parks and Recreation Commission Regular Meeting Minutes of January 14, 2020.
- (4) Zoning Administrator Regular Meeting Minutes of January 23, 2020.
- (5) Planning Commission Adjourned Regular Meeting Minutes of February 5, 2020.
- (6) Zoning Administrator Regular Meeting Minutes of February 6, 2020.

C. **Warrant Register**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to approve the following:

Wire Transfers Nos. 2176 through  
 2180, and Warrant Nos. 564552 through  
 564654, paid on 1/31/20, in the amount of.....\$ 1,069,115.38

Wire Transfers Nos. 2181 through  
 2184, and Warrant Nos. 564655 through  
 564822, paid on 2/7/20, in the amount of.....\$ 1,676,489.92

Wire Transfers Nos. 2185 through  
 2188, and Warrant Nos. 564823 through  
 564974, paid on 2/14/20, in the amount of.....\$ 843,912.73

TOTAL WARRANT REGISTER.....\$ 3,589,518.03

**Payroll Register**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to approve the following:

Automatic Deposit Advises 61799 through 62078,  
for the period 1/13/20 through 1/26/20,  
paid on 1/31/20, in the amount of.....\$ 477,045.32

Warrant No. 778 and Automatic Deposit  
Advises 62079 through 62360,  
for the period 1/27/20 through 2/9/20,  
paid on 2/14/20, in the amount of.....\$ 471,515.40

TOTAL PAYROLL REGISTER.....\$ 948,560.72

D. **Contract Awards – As-Needed Geotechnical Plan Check Services**

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

1. Approve, and authorize the City Manager to execute, Contract C20-04 by and between the City of San Clemente and Borella Geology, Inc., providing for as-needed Geotechnical Plan Check Services, in an amount not to exceed \$120,000 annually.
2. Approve, and authorize the City Manager to execute, Contract C20-05, by and between the City of San Clemente and LGC Geotechnical, Inc., providing for as-needed Geotechnical Plan Check Services, in an amount not to exceed \$120,000 annually.
3. Approve, and authorize the City Manager to execute, Contract C20-06, by and between the City of San Clemente and GMU, providing for as-needed Geotechnical Plan Check Services, in an amount not to exceed \$120,000 annually.

E. **Notice of Completion – Aquatics Center Play Activity Pool Replaster Project**

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

1. Accept the construction of the Aquatics Center Play Activity Pool Replaster (Project No. 19513) from the contractor, Gardner Outdoor and Pool Remodeling.
2. Authorize the Public Works Director/City Engineer to execute and record the Notice of Completion for the Aquatics Center Play Activity Pool Replaster.
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 Gardner Outdoor and Pool Remodeling.
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.

F. **Grant Application - Local Road Safety Plan (LRSP)**

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

1. Authorize staff to submit a grant application to Caltrans for the development of a Local Road Safety Plan.
2. Approve the use of existing budgeted funds in the Street Improvement Fund, not to exceed \$8,000, for the City's required local funding match.
3. Authorize the Public Works Director/City Engineer to execute the grant application and other related documents as may be required by Caltrans.

G. **Contract Awards – As-Needed Engineering Plan Check Services**

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

1. Approve, and authorize the City Manager to execute, Contract C20-07, by and between the City of San Clemente and Gong Enterprises, Inc., providing for as-needed Engineering Plan Check Services, in an amount not to exceed \$150,000 annually.
2. Approve, and authorize the City Manager to execute, Contract C20-08, by and between the City of San Clemente and DMc Engineering, providing for as-needed Engineering Plan Check Services, in an amount not to exceed \$150,000 annually.
3. Approve, and authorize the City Manager to execute, Contract C20-09, by and between the City of San Clemente and Transtech Engineers, Inc., providing for as-needed Engineering Plan Check Services, in an amount not to exceed \$150,000 annually.

H. **Contract Award – Pier Bird Deterrent Netting Project (Phase II)**

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

1. Approve the plans and specifications for Phase II of the Bird Deterrent Netting, Project No. 18810.
2. Approve a supplemental appropriation in the amount of \$27,500 from the Clean Ocean Improvement Fund to Account 057-543-45300-000-18810.
3. Approve, and authorize the City Manager to execute, Contract C20-10, by and between the City of San Clemente and Bird Solutions International, providing for construction of Phase II of the Pier Bird Deterrent Netting project, in the amount of \$59,650.



I. **Contract Award – Supply and Delivery of Sodium Hydroxide (Caustic Soda)**

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

1. Approve, and authorize the City Manager to execute, Contract C20-11, a joint contract by and between the South Orange County Wastewater Authority (SOCWA) and various other public entities (including the City of San Clemente), and Northstar Chemical, Inc., providing for supply and delivery of Sodium Hydroxide.
2. Authorize the City Manager to approve up to three, one-year extensions to Contract C20-11 if SOCWA and the City determine to extend the contract after the initial two-year period.

K. **Records Destruction**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to adopt Resolution No. 20-08 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE DESTRUCTION OF CERTAIN CITY RECORDS AS PROVIDED BY SECTION 34090 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

N. **San Clemente High School Triton Swim Meet - Fee Waiver Request**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to approve a fee waiver, in an amount not to exceed \$3,630, for use of the San Clemente Aquatics Center 50M pool for the 2020 San Clemente High School League Championship Swim Meet to be held April 28, 2020 through May 1, 2020.

O. **Drowning Prevention Campaign – Funding Authorization**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to approve a transfer of \$5,000 from Account 001-203-44900, City Council Contingency Reserve, to Account 001-226-43890, Fire Services - Other Contractual Services, to accommodate a contribution to the Orange County Task Force on Drowning Prevention.

P. **Declaration of Surplus Equipment (Office Trailer) and Authorization for Public Auction**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to declare the retired office trailer at the Maintenance Yard/Water Reclamation Plant site to be surplus and authorize Ken Porter Auctions to auction the office trailer for public sale.

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

J. **Contract Award – Architectural Services for the Orange County Sheriff's Department Substation at 910 Calle Negocio**

During the course of discussion, Council discussed whether a large City conference room, and an Emergency Operations Center, should be located on the second floor of 910 Calle Negocio. Council ultimately decided to retain flexibility at this point and directed Staff to request that Gensler estimate the cost savings associated with eliminating the subject amenities from the project plans to aid Council in making a decision as to whether they should or should not be pursued.

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

1. Approve, and authorize the Public Works Director/City Engineer to execute, Contract C20-12, by and between the City of San Clemente and Gensler, providing for architectural design services for the Orange County Sheriff's Department substation and City staff facilities at 910 Calle Negocio, in the amount of \$265,350.
2. Authorize the Public Works Director/City Engineer to amend the contract with Gensler to modify the design phase scope, with an additional cost up to \$26,000, if needed.
3. Approve a supplemental appropriation of \$216,350 from the Public Facilities Construction Fee Fund balance to Account 030-818-45300-000-10546 (Negocio Second Floor Design).

L. **Information for Consideration of Regulating Gas-Powered Leaf Blowers**

Associate Planner Wright reviewed the contents of the Administrative Report and responded to Council inquiries.

Ken Nielsen, San Clemente, urged Council to ban gas-powered leaf blowers; opined that battery-powered leaf blowers are equally effective as gas-powered blowers without the harmful effects of gas-powered blowers.

Hoiyin Ip urged Council to ban gas-powered leaf blowers; spoke in support of electric leaf blowers and renewable energy.

Following discussion, MOTION BY MAYOR BANE, SECOND BY MAYOR PRO TEM FERGUSON, CARRIED 4-1 (COUNCILMEMBER HAMM VOTING NOE) to receive and file the Administrative Report, dated February 18, 2020.

Mayor Pro Tem Ferguson, with the support of Councilmember James, requested that Staff agendaize for Council consideration a pilot program to ban gas-powered leaf blowers in residential areas west of the I-5. The Ordinance that Staff drafts is to 1) include a one-year sunset provision; 2) exempt City operations from the ban on gas-powered leaf blowers; and 3) allow the use of electric-powered and battery-powered leaf blowers.

M. **Initiation of a Docent Program at Courtney's Sandcastle Playground Sensory Garden**

Ed Doll, Courtney's Sandcastle Foundation, offered to answer Council inquiries regarding the docent program at Courtney's Sandcastle Playground Sensory Garden.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to approve, and authorize the Beaches, Parks and Recreation Director to execute, a one-year Memorandum of Understanding for a Sensory Garden Docent Program at Courtney's Sandcastle Playground.

Q. **Appropriation of Legal Fees - Anthem Sales Management (Shikli) v. City of San Clemente**

In response to Council inquiry, Community Development Director Gallardo-Daly advised that the property owner at 2813 La Ventana has not allowed Staff access to the property and, therefore, Staff has been unable to determine whether violations have been remedied and brought into compliance with the Building Code.

**RECESS TO CLOSED SESSION**

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to add a Closed Session item to the agenda and to recess at 7:21 p.m. to discuss the possibility of initiating a litigation cross-complaint for code enforcement in Shikli v. San Clemente (Government Code Section 54956.9(d)(4)). Number of potential cases: 1

Council reconvened at 7:28 p.m. with all members present.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER JAMES, CARRIED 5-0, to continue this item to the Regular Council Meeting of March 2, 2020.

R. **Contract Amendment – Homeless Outreach Services**

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

Michelle Brooks, San Clemente, opined that the City needs more tangible evidence of City Net's success before increasing the amount of its contract; urged Council to determine how to respond to service-resistant homeless individuals who are causing problems at North Beach.

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

1. Approve, and authorize the Mayor or designee to execute, Amendment No. 1 to Contract AC-870, by and between the City of San Clemente and Kingdom Causes, Inc. (dba City Net), providing for homeless outreach services. This amendment increases the total contract amount from \$25,000 to \$62,494 (an increase of \$37,494).
2. Approve a supplemental appropriation from the General Fund's Unassigned Fund Balance in the amount of \$37,494 to Other Contractual Services, Account 001-441-43890-000-00000.

7. **PUBLIC HEARINGS**

A. **Ordinance Introduction – Smoking Prohibition in Public Places**

Public Hearing to consider a City Council-initiated proposal to prohibit smoking in all public places in San Clemente.

Mayor Bane opened the Public Hearing.

Ken Nielsen, San Clemente, described the significant amount of cigarettes that he has picked up during beach cleanups; urged Council to ban smoking within the City.

Hoiyin Ip noted that several South Orange County cities have adopted city-wide smoking bans and the State of California has banned smoking in its parks and beaches; urged Council to ban smoking in San Clemente.

Linda Williams, San Clemente, spoke in support of a smoking ban to facilitate a safe and healthy environment.

MOTION BY MAYOR BANE, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to continue the Public Hearing to the Regular City Council meeting of March 17, 2020 and to direct Staff to include information concerning Orange County's "We All Share The Same Air" program in the Administrative Report.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

A. **Wyland/Municipal Water District of Orange County (MWDOC) Water-Wise Pocket Park Award and Potential Water-Wise Pocket Park Locations**

Report from the Utilities Director concerning the Wyland/MWDOC Water-Wise Pocket Park Award and potential water-wise pocket park locations (including the Beach Trail Dije Court Access and the Ole Hanson Beach Club).

Niki Beach, Water Conservation Analyst, narrated a PowerPoint presentation entitled "Water-Wise Pocket Park Background", and responded to Council inquiries. A hard copy of Ms. Beach's presentation is on file with the City Clerk.

Following discussion, MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BANE, CARRIED 5-0, to approve the Calle Madrid/Ola Vista site as the Wyland water-wise pocket park location and dedicate the pocket park to the late Mayor Steve Swartz.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

1. **Resignation of Jason Talley from the Planning Commission**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR BANE, CARRIED 5-0, to accept the resignation of Jason Talley from the Planning Commission, with regret, and direct Staff to advertise the vacancy in May along with other Commission and Committee vacancies.

B. **City Manager**

**Beach Trail Closure**

Interim City Manager Dunek reported that Staff is working with a bridge manufacturer on preliminary design concepts and cost estimates to repair one of the concrete support columns at the Beach Trail bridge, noting that the information will be submitted to Council at a later date; stated that Staff is also working with geotechnical consultants and a Coastal Commission field geologist to develop a repair plan for the eroded bluff.

**Pico Park Closure**

Interim City Manager Dunek reported that Pico Park will open as soon as the repairs are completed, which is expected to be within the next couple of weeks.

C. **City Attorney**

City Attorney Smith reported that Best, Best & Krieger is working on the following items that will be agendized for Council consideration: 1) Ordinance regarding access to Short Term Lodging Units; 2) expanded Smoking Ordinance to include prohibitions on flavored vapes; and 3) a modified Special Events Ordinance that addresses group feedings.

D. **Council Members**

(1) **Orange County Library Task Force – Appointment of Council Representative**

Council appointed Councilmember James to the Orange County Library Task Force.

**Capistrano Unified School District (CUSD) Honors Concert**

Mayor Pro Tem Ferguson reported that she attended the CUSD Honors Concert at Segerstrom Center for the Arts; commended the talent of middle school and high school students throughout the district.

**Community Choice Energy Meeting**

Mayor Pro Tem Ferguson reported that she, along with representatives from the cities of San Juan Capistrano and Dana Point, will meet with citizens on February 20, 2020 concerning Community Choice Energy.

**Press Release Concerning Grant Funding Approval for Sand Replenishment Project**

Councilmember Hamm reported that the City was approved for a grant in the amount of \$505,000 for its Sand Replenishment Project. Council directed Staff to prepare a press release on the grant award and post it on the City's website.

**Traffic-Calming Measures at the Intersections of El Camino Real/Canada and El Camino Real/Esplanade – Direction to Agendize**

Councilmember Hamm requested, and Council concurred, that the issue of traffic-calming measures at the intersections of El Camino Real and Canada and El Camino Real and Esplanade be agendized for discussion.

**Casa Romantica Exhibit at John Wayne Airport**

Councilmember Ward reported that she attended the opening of the Casa Romantica promotional exhibit at John Wayne Airport.

**Public Safety Committee**

Mayor Bane announced that the City is currently accepting applications for the Public Safety Committee; advised that applications must be received by February 24, 2020 at 5:30 p.m.

12. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1690 (Second Reading) – Small Cell Ordinance (Zoning Amendment 19-189)**

Cory Autry, AT&T, referenced letters submitted to the City by AT&T on February 3, 2020 and February 17, 2020 which voiced concerns with some aspects of the proposed small cell ordinance and standards; voiced concern that a 500' small cell setback requirement from residences could hinder AT&T's ability to provide service and might necessitate an exception process for every proposed small cell tower.

Jeff Perkin, San Clemente, thanked Council for increasing the distance requirement between small cell facilities and homes to 500'; requested that the Ordinance be modified to require a Public Hearing for applications that request an exception.

Ann-Marie Hines, San Clemente, requested that property owners receive written notification of applications for small cell facilities that are proposed to be located within 700'-1,000' feet of their property; urged Council to require a Public Hearing when an applicant requests an exception.

Kortney Morrow, San Clemente, urged Council to expand the noticing radius to include property owners within 700'-1,000' of proposed cell facilities; urged Council to allow appeals to require a Public Hearing for any applications for cell facilities that are not compliant with the City's design and development guidelines; suggested that applicants requesting an exemption should be required to justify the exemption through clear and convincing evidence.



MOTION BY MAYOR BANE, SECOND BY MAYOR PRO TEM FERGUSON, CARRIED 3-2 (COUNCILMEMBERS HAMM AND JAMES VOTING NOE), to adopt Ordinance No. 1690 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING PORTIONS OF CHAPTERS 17.88 (DEFINITIONS), 17.28 (SPECIAL USES), 17.16 (APPLICATIONS), AND 17.12 (DEVELOPMENT REVIEW PROCESS) OF THE ZONING ORDINANCE TO UPDATE PERMITTING REQUIREMENTS FOR SMALL CELL FACILITIES.

Council directed the City Attorney to return to Council with an Ordinance to expand the public noticing requirements to encompass a 500' radius from proposed cell towers.

### **RECESS TO CLOSED SESSION**

MOTION BY COUNCILMEMBER JAMES, SECOND BY MAYOR BANE, CARRIED 5-0, to recess to Closed Session at 8:20 p.m. to discuss the following:

**A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code section 54957

Title: City Attorney

**B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Existing litigation pursuant to Government Code section 54956.9(d)(1)

Number of Cases: 2

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

**C. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**

Initiation of litigation pursuant to Government Code section 54956.9(d)(4)

Number of potential cases: 2

Council returned to the dais at 8:40 p.m. with all members present.

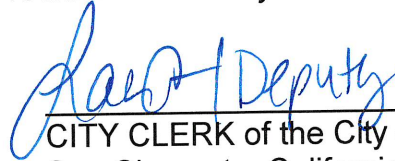
13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER JAMES, CARRIED 5-0, to adjourn at 8:40 p.m. to an Adjourned Regular Council Meeting to be held on **Monday, March 2, 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.

*\*Note: The Regular City Council Meeting of March 3, 2020 was rescheduled to March 2, 2020 so as to not conflict with the Presidential Primary Election.*



\_\_\_\_\_  
MAYOR of the City of  
San Clemente, California



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