

CITY OF SAN CLEMENTE REGULAR CITY COUNCIL MEETING AGENDA

Meeting Date: November 17, 2020

Meeting Time: 5:00 p.m. – Closed Session

6:00 p.m. - Business Meeting

THIS CITY COUNCIL MEETING WILL BE CONDUCTED VIA TELECONFERENCE.

Information concerning City Council Meeting protocols and procedures is contained at the end of this agenda.

Public Participation in City Council Meeting During Coronavirus Pandemic

To help prevent the spread of the coronavirus, this meeting will be held via teleconference, pursuant to the Governor's Executive Orders N-25-20 and N-29-20. All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

HOW TO VIEW THE MEETING:

Citizens are invited to view the meeting via live stream from the City's YouTube channel at www.san-clemente.org/live or live on Cox Communications Local Access Channel 854.

HOW TO PARTICIPATE BEFORE AND DURING THE MEETING:

The public is invited to provide comments to the City Council concerning items appearing on Council meeting agendas, as well as issues not appearing on the agenda during either Oral Communications Part 1 or Part 2. Members of the public are requested to submit their comments by completing the Public Comment Submittal form available from the City's website at www.san-clemente.org/ccpubliccomment. Users of the on-line portal must indicate whether they wish their comments to be read aloud at a Council meeting, or forwarded to Councilmembers via email. All comments become part of the public record. Comments to be read at Council meetings are limited to a maximum of three minutes per speaker per item and will only be read if they are received prior to the commencement of Council's deliberations on the item to which the comment pertains. Comments received after Council deliberations begin will not be read at the meeting, but will be emailed to Councilmembers after the meeting. Transmittal by 4:00 p.m. on Council meeting days is recommended.

MISSION STATEMENT

The City of San Clemente, in partnership with the community we serve, will foster a tradition dedicated to:

Maintaining a safe, healthy atmosphere in which to live, work and play;

Guiding development to ensure responsible growth while preserving and enhancing our village character, unique environment and natural amenities;

Providing for the City's long-term stability through promotion of economic vitality and diversity...

Resulting in a balanced community committed to protecting what is valued today while meeting tomorrow's needs.

CLOSED SESSION (5:00 P.M.)

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Α.

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

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: Interim City Manager, City Attorney, Councilmember Hamm,

Councilmember James

Negotiating Parties: City of San Clemente and Candor Health Care and/or their authorized agent(s); MemorialCare Health System, its counsel, and/or their

authorized; Palomar Hospital District and/or their authorized agent(s)

Under Negotiation: Consideration of potential proposal for interim or long term

acquisition or lease

(Settlement Agreement with current owner is linked to agenda.)

Property: Access easement at 255, 259, and 261 West Marquita

Agency Negotiators: Interim City Manager, City Attorney, Utilities Director

Negotiating Parties: Sea Bluff Homeowner Association

Under Negotiation: Operating Memorandum for the Marquita Slope Interim

Reconstruction Work

(See Agenda Report 6I of the Business Agenda)

Closed Session items continued on following page

Property: 105 West Avenida Pico

Agency Negotiators: Interim City Manager, Economic Development Officer

Negotiating Parties: 24 Carrots, Sanaz Jahangard

Under Negotiation: Lease Amendment

C. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

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

Number of potential cases: 2

D. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

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

Number of potential cases: 3

(Makshanoff letter regarding one potential claim is linked to agenda.)

BUSINESS MEETING (6:00 P.M.)

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

- 1. Special Presentations.
 - A. Toll Road Update
 - B. City Net Update/Homeless Issue

C. <u>Presentation of Proclamation – Small Business Saturday</u>

Presentation of a Proclamation declaring November 28, 2020 as Small Business Saturday.

- 2. **Oral Communications (Part 1).** Members of the public who wish to provide comments to be read at Council meetings on matters that are within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, may complete the Public Comment Submittal form available on the City's website at www.san-clemente.org/ccpubliccomment. All comments become part of the public record. Transmittal by 4:00 p.m. on Council meeting days is recommended. Comments will be read publicly at the meeting up to the allotted time limit of 3 minutes per person. Individuals may provide comments to be read during either Oral Communications Part 1 or Part 2.
- 3. Motion waiving reading in full of all Resolutions and Ordinances.
- 4. **Consideration of agendizing items requiring immediate action.** Any items agendized will be considered under New Business, unless otherwise determined by a majority vote of the City Council.
- 5. Closed Session Report City Attorney.
- Consent Calendar. All items listed on the Consent Calendar are considered to be routine and will be enacted by one motion without discussion unless Council, Staff, or the public requests removal of an item for separate discussion and action.

A. City Council Minutes

Staff Recommendation

1. Approve the City Council Regular Meeting Minutes of October 20, 2020.

B. <u>Commission/Committee Minutes</u>

Staff Recommendation

Receive and file the following:

- 1. <u>Design Review Subcommittee Regular Meeting Minutes of August 12, 2020.</u>
- 2. Golf Course Committee Adjourned Regular Meeting Minutes of August 24, 2020.
- 3. <u>Beaches, Parks and Recreation Commission Adjourned Regular Meeting Minutes of September 8, 2020.</u>
- 4. Human Affairs Committee Special Meeting Minutes of July 21, 2020.

- 5. <u>Human Affairs Committee Regular Meeting Minutes of August 11,</u> 2020.
- 6. Zoning Administrator Regular Meeting Minutes of October 22, 2020.
- 7. <u>Planning Commission Regular Study Session Minutes of November</u> 4, 2020.
- C. Notice of Completion FY 2020 Street Improvement Projects and FY 2020 Slurry Seal Program Pages 6C-1 through 6C-7

Staff Recommendation

- Accept the FY 2020 Street Improvement Projects (Project No. 10319) and FY 2020 Slurry Seal Program (Project No. 20307), from the contractor, Palp, Inc. DBA Excel Paving.
- 2. Authorize the Public Works Director to execute, and the City Clerk to record, the Notice of Completion for the FY 2020 Street Improvement Projects and FY 2020 Slurry Seal 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 Palp, Inc. DBA Excel Paving.
- 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.
- D. Notice of Completion FY 2019 Parking Lot Maintenance and Street

 Maintenance for Campo Raso Pages 6D-1 through 6D-6

Staff Recommendation

- Accept the FY 2019 Parking Lot Maintenance (Project No. 29304), and Street Maintenance for Campo Raso (Project No. 27306), from the contractor, Horizons Construction Company International, Inc.
- 2. Authorize the Public Works Director to execute, and the City Clerk to record, the Notice of Completion for FY 2019 Parking Lot Maintenance and Street Maintenance for Campo Raso.
- 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 Horizons Construction Company International, Inc.

Staff Recommendation continued on following page

- 4. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction cost.
- E. <u>Municipal Facility License Agreement Verizon Wireless</u> Pages 6E-1 through 6E-32

Staff Recommendation

- 1. Approve, and authorize the Mayor Pro Tem or designee, to execute, Contract C20-60, a Municipal Facility License Agreement by and between the City of San Clemente and Los Angeles SMSA Limited Partnership (Verizon), for the installation of small wireless telecommunications facilities within the public right-of-way.
- 2. Authorize the City Manager to execute future extensions and supplements to the Municipal Facility License Agreement, as specified in the lease, provided that the lease rate is not reduced.
- F. Notice of Completion Arterial Street Pavement Maintenance (FY 2020) for El Camino Real (Ave. Estacion to Ave. Gaviota) and Ave. Pico (El Camino Real to Calle los Molinos), and Pavement Repairs for the Water Division and Pavement Repairs in Various Locations Pages 6F-1 through 6F-11

- Accept the Arterial Street Pavement Maintenance (FY 2020) for El Camino Real (Ave. Estacion to Ave. Gaviota) and Ave. Pico (El Camino Real to Calle Los Molinos) (Project No. 10320); and Pavement Repairs for the Water Division (Project No. 24400); and Pavement Repairs in various locations (Project No. 27306), from the contractor, Palp, Inc. DBA Excel Paving.
- Authorize the Public Works Director to execute, and the City Clerk to record, the Notice of Completion for the Arterial Street Pavement Maintenance (FY 2020) for El Camino Real (Ave. Estacion to Ave. Gaviota) and Ave. Pico (El Camino Real to Calle Los Molinos), and Pavement Repairs for the Water Division, and Pavement Repairs in various locations.
- 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 Palp, Inc. DBA Excel Paving.
- 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.

G. Notice of Completion – Marine Safety Building and Bulkhead Repairs and Accessibility Improvements and Pier Timber Piles Repair Pages 6G-1 through 6G-31

Staff Recommendation

- 1. Accept the Marine Safety Building and Bulkhead Repairs, and Accessibility Improvements (Project No. 16530); and Pier Timber Piles Repair (Project No. 16811), from the contractor, Jilk Heavy Construction, Inc.
- 2. Authorize the Public Works Director/City Engineer to execute, and record, the Notice of Completion for the Marine Safety Building and Bulkhead Repairs, and Accessibility Improvements and Pier Timber Piles Repair.
- 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 Jilk Heavy Construction, 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. Approve and authorize the Public Works Director/City Engineer to execute, Amendment No. 4 to Contract AC-706, by and between the City of San Clemente and TranSystems. This amendment increases the contract amount from \$133,900 to \$136,800 (an increase of \$2,900) and extends the contract term to February 22, 2021.
- H. <u>Joint Homeless Subcommittee Fiscal Year 2020-21 Annual Work Plan</u> Pages 6H-1 through 6H-8

Staff Recommendation

Approve the Joint Homeless Subcommittee's Fiscal Year 2020-21 Annual Work Plan.

I. Operating Memorandum – Marquita Slope Interim Reconstruction Work for Slope Rehabilitation Adjacent to Linda Lane Pump Station Pages 6I-1 through 6I-69

Staff Recommendation

- Authorize the Interim City Manager to execute the Operating Memorandum for the Marquita Slope Interim Reconstruction Work, Project No. 21208.
- 2. Approve a supplemental appropriation in the amount of \$130,000 to Account 054-476-45300-000-21208 from the Sewer Fund Depreciation Reserve.
- 3. Approve, and authorize the Interim City Manager to execute, Contract C20-61, by and between the City of San Clemente and Peter and Associates, providing for geotechnical design (Project No. 21208), in an amount not to exceed \$108,904.
- 4. Direct Staff to negotiate cost share if project costs exceed \$1.5 million and finalize an agreement for construction between the City and properties at 255, 259 and 261 West Marquita.
- J. <u>Classification and Compensation Adjustments for Marine Safety and</u>
 <u>Golf Positions</u> Pages 6J-1 through 6J-23

Staff Recommendation

Adopt Resolution No. 20-61 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING REVISED SALARY SCHEDULES AND UPDATED JOB DESCRIPTIONS AND AMENDING RESOLUTION NO. 17-15 AND ANY OTHER RESOLUTIONS IN CONFLICT THEREWITH.

K. Casa Romantica Parking Lot Improvements Pages 6K-1 through 6K-17

- 1. Approve, and authorize the Mayor Pro Tem to execute, Amendment No. 3 to Contract C01-36, a lease operating agreement by and between the City of San Clemente and the Casa Romantica, modifying the funding plan for the parking lot improvements to cover the bid cost of \$645,000.
- 2. Appropriate \$85,500 from the General Fund unassigned fund balance, Account 001-000-23430 into Account 057-543-45300-000-19809, Improvements Other Than Buildings.

- L. <u>Strategic Planning Services for Transportation and Mobility Efforts</u>
 Pages 6L-1 through 6L-2
 - 1. Approve, and authorize the Interim City Manager to execute, Contract C20-62, by and between the City of San Clemente and Tower Marketing & Investments, providing for toll road expansion strategic planning services for a not-to-exceed annual amount of \$60,000 for the period of December 1, 2020 through November 30, 2021, with an option to renew for one year.
 - 2. Approve, and authorize the Interim City Manager to execute, Contract C20-63, by and between the City of San Clemente and Mike Roos & Company, providing for Legislative Analysis Services for a not-to-exceed annual amount of \$48,000 for the period January 1, 2021 through December 31, 2021, with an option to renew for one year.
 - 3. Approve, and authorize the Interim City Manager to execute, Contract C20-64, by and between the City of San Clemente and Englander, Knabe & Allen, providing for Strategic Planning and Communications Services for a not-to-exceed annual amount of \$180,000 for the period of December 1, 2020 through November 30, 2021, with an option to renew for one year.
 - 4. Approve, and authorize the Interim City Manager to execute, Contract C20-65, by and between the City of San Clemente and The Oftelie Company, providing for Traffic Advisory Services for a not-to-exceed annual amount of \$60,000 for the period of January 1, 2021 through December 31, 2021, with an option to renew for one year.
- 7. **Public Hearings.** The Public Hearing process includes a staff presentation, a presentation by the applicant not to exceed ten (10) minutes, and public testimony (not to exceed three minutes per speaker). Following closure of the Public Hearing, the City Council will respond to questions raised during the hearing, discuss the issues, and act upon the matter by motion.
 - A. <u>Pico Plaza In-N-Out (115 Via Pico Plaza) Appeal of Conditional Use</u> <u>Permit/Site Plan Permit/Architectural Permit/Discretionary Sign Permit</u> Pages 7A-1 through 7A-174

Public Hearing to consider an appeal of the Planning Commission's approval of Conditional Use Permit 19-346, Site Plan Permit 19-347, Architectural Permit 19-348 and Discretionary Sign Permit 19-349, which approved the construction and operation of a one-story, drive-thru fast food restaurant with outdoor dining area for In-N-Out at 115 Via Pico Plaza.

Staff Recommendation

Adopt Resolution No. 20-57 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE APPLICANT APPEAL BY REMOVAL OF CONDITION OF APPROVAL 4.17 AND APPROVING CONDITIONAL USE PERMIT 19-346/ SITE PLAN PERMIT 19-347/ARCHITECTURAL PERMIT 19-348/DISCRETIONARY SIGN PERMIT 19-349, PICO PLAZA IN-N-OUT, A REQUEST TO CONSTRUCT AND OPERATE A ONE-STORY 3,882 SQUARE-FOOT FAST FOOD RESTAURANT WITH A DRIVE-THRU WITH SPEAKER SYSTEM, OUTDOOR DINING AREA, AND MASTER SIGN PROGRAM WITH MENU BOARDS ON A 76,509 SQUARE-FOOT SITE AT 115 VIA PICO PLAZA.

B. Fee Adoption for Orange County Sheriff's Department Review of Massage Establishment Applications and Consideration of an Amendment to the Police Services Contract Pages 7B-1 through 7B-10

Public Hearing to consider authorizing participation in the Orange County Sheriff's Department massage establishment application review and fee program, and approving an amendment to the Police Services contract to provide for review of massage establishment applications.

- 1. Approve, and authorize the Mayor Pro Tem to execute, Amendment No. 1 to Contract C18-33, by and between the City of San Clemente and the County of Orange (Police Services Contract), providing for review of massage establishment applications.
- Adopt Resolution No. 20-59 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING PARTICIPATION IN THE ORANGE COUNTY SHERIFF'S DEPARTMENT MASSAGE ESTABLISHMENT APPLICATION REVIEW AND FEE PROGRAM.

8. Unfinished Business.

A. <u>Code Amendment – Special Events and Amplified Sound Permits</u>
Pages 8A-1 through 8A-104

Report from the Interim City Manager concerning possible Code amendments relating to Special Events and Amplified Sound Permits.

Staff Recommendation

- 1. Provide direction to Staff on (1) special event permit exemption status for expressive activity and (2) any other aspect of the updated revised Special Event Permit and other Code changes.
- 2. Introduce Ordinance No. 1706 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA (I) MOVING SAN CLEMENTE MUNICIPAL CODE CHAPTER 8.72 RELATING TO SPECIAL EVENT PERMITS FROM TITLE 8 (HEALTH AND SAFETY) TO TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES) AND AMENDING THE SAME; (II) MOVING SAN CLEMENTE MUNICIPAL CODE SECTION 8.48.080 RELATING TO AMPLIFIED SOUND PERMITS FROM TITLE 8 (HEALTH AND SAFETY) TO TITLE 17 (ZONING) AND AMENDING THE SAME; (III) AMENDING SUBSECTION 8.48.090(C); (IV) REPEALING SECTION 17.16.190; AND (V) AND FINDING THE ORDINANCE **EXEMPT** FROM THE **CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

9. New Business.

A. Warrant Register

Approve Wire Transfers Nos. 2325 through
2330, and Warrant Nos. 569958 through
570069, paid on 10/23/20, in the amount of\$ 1,056,757.25
Approve Wire Transfers Nos. 2331 through
2333, and Warrant Nos. 570070 through
570224, paid on 10/30/20, in the amount of
Approve Wire Transfers Nos. 2334 through
2340, and Warrant Nos. 570225 through
570347, paid on 11/6/20, in the amount of\$ 3,348,841.85

TOTAL WARRANT REGISTER..........\$ 6,319,495.78

Payroll Register

B. Resolution Reaffirming the City Council's Opposition to any Toll Road

Extension that Cuts Into the City of San Clemente

9B-6

Report from the Interim City Manager concerning possible adoption of a Resolution to reaffirm the City Council's opposition to any toll road extension that cuts into the City of San Clemente.

Staff Recommendation

Adopt Resolution No. 20-62 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, OPPOSING ANY TOLL ROAD EXTENSION THAT CUTS THROUGH THE CITY OF SAN CLEMENTE.

C. Process and Grounds for Possible Censure of Councilmember(s)
Pages 9C-1 through 9C-2

Report from the City Attorney concerning process and grounds for possible censure of Councilmember(s).

Staff Recommendation

Consider process and grounds for possible censure of Councilmember(s) and provide any direction Council deems appropriate.

D. Policy and Procedure 1201-12 - City Council Access to Confidential

Documents Pages 9D-1 through 9D-4

Report from the City Attorney and Interim City Manager concerning possible adoption of a Policy and Procedure relating to City Council access to confidential documents.

Staff Recommendation

Consider adopting Policy and Procedure 1201-12 pertaining to City Council Access to Confidential Documents, effective November 17, 2020.

E. Contract Award – Audit of Legal Bills Pages 9E-1 through 9E-22

Report from the Interim City Manager concerning the possibility of entering into a contract for the audit of legal bills.

- 1. Approve, and authorize the Mayor Pro Tem to execute, Contract C20-66, by and between the City of San Clemente and Management Partners, providing for legal audit services, in the amount of \$34,500.
- 2. Appropriate \$34,500 in Other Professional Services for the audit of legal bills to Account 001-203-43690-000-00000.
- 10. Oral Communications (Part 2). Members of the public who wish to provide comments to be read at Council meetings on matters that are within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, may complete the Public Comment Submittal form available on the City's website at www.san-clemente.org/ccpubliccomment. All comments become part of the public record. Transmittal by 4:00 p.m. on Council meeting recommended. Comments will be read publicly at the meeting up to the allotted time limit of 3 minutes per person. Individuals may provide comments to be read during either Oral Communications Part 1 or Part 2.

- 11. Reports.
 - A. Commissions and Committees
 - B. City Manager
 - 1. **e-Bike Update**
 - C. City Attorney
 - D. **Council Members**
 - 1. Recognition of Chris Hamm, Out-Going Councilmember
- 12. Resolutions/Ordinances.

None.

13. Adjournment.

The next Regular Council Meeting is scheduled to take place on **December 1**, **2020**. Closed Session items will be considered at 5:00 p.m. and the Regular Business Meeting will commence at 6:00 p.m.

CITY COUNCIL MEETING PROCEDURES

PRESENTATION OF WRITTEN MATERIALS TO COUNCIL The public is invited to provide comments to the City Council concerning items appearing on Council meeting agendas, as well as issues not appearing on the agenda during either Oral Communications Part 1 or Part 2. Members of the public are requested to submit their comments by completing the Public Comment Submittal form available from the City's website at www.san-clemente.org/ccpubliccomment. Users of the on-line portal must indicate whether they wish their comments to be read aloud at a Council meeting, or forwarded to Councilmembers via email. All comments become part of the public record. Comments to be read at Council meetings are limited to a maximum of three minutes per speaker per item and will only be read if they are received prior to the commencement of Council's deliberations on the item to which the comment pertains. Comments received after Council deliberations begin will not be read at the meeting, but will be emailed to Councilmembers after the meeting. Transmittal by 4:00 p.m. on Council meeting days is recommended.

MEETINGS RECORDED AND TELEVISED

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LENGTH OF MEETINGS

At 11:00 p.m. at each meeting, the City Council, by majority vote, will determine whether to continue the meeting or adjourn.

AMERICANS WITH DISABILITIES ACT

Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification or accommodation from the City Clerk at (949) 361-8200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

MEETING SCHEDULE

Regular Council Meetings are held on the first and third Tuesdays of each month via teleconference, with Closed Session beginning at 5:00 p.m. and the Business Meeting beginning at 6:00 p.m. Additional meetings of the City Council may be called as needed.

AGENDAS, ADMINISTRATIVE REPORTS AND SUPPLEMENTAL WRITTEN MATERIALS

Agendas and Administrative Reports can be viewed by accessing the City's website at www.san-clemente.org or by calling the City Clerk's Office at (949) 361-8200. All written material distributed to a majority of the Council after the original agenda packet was distributed is available for public inspection by contacting the City Clerk's Department at (949) 361-8200, during normal business hours.

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