

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting – December 1, 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.

A Regular San Clemente City Council meeting was called to order on December 1, 2020 at 6:00 p.m. by Mayor Pro Tem Ferguson. The meeting was conducted via teleconference.

PRESENT JAMES, WARD, MAYOR PRO TEM FERGUSON

ABSENT HAMM

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

CLOSED SESSION

This evening's Closed Session occurred at the end of the Business Meeting. Please refer to Page 10 of these minutes for a summary of that action.

BUSINESS MEETING CONVENED

The Regular Business Meeting convened at 6:00 p.m., with all members participating via teleconference, except Councilmember Hamm who was absent.

PLEDGE OF ALLEGIANCE

Councilmember James led the Pledge of Allegiance.

A. **ELECTION RESULTS, ADMINISTRATION OF OATH OF ALLEGIANCE, AND ELECTION OF MAYOR AND MAYOR PRO TEMPORE**

(1) **Results of the General and Special Municipal Elections Held on November 3, 2020**

City Clerk staff read the following communication, which is on file with the City Clerk:

Tyler Boden, communication dated December 1, 2020, congratulating the incoming Councilmembers and urging Council to focus on grace, civility and mutual respect.

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

MOTION BY COUNCILMEMBER JAMES, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER HAMM ABSENT), to adopt Resolution No. 20-65 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECITING THE FACT OF THE GENERAL AND SPECIAL MUNICIPAL ELECTIONS HELD IN THE CITY ON NOVEMBER 3, 2020, DECLARING THE RESULTS, AND SUCH OTHER MATTERS AS PROVIDED BY LAW, with the inclusion of the modified Election Certification from the Orange County Registrar of Voters, as provided in the Supplemental Administrative Report that was issued on November 30, 2020.

(2) **Oath of Allegiance - Newly-Elected City Clerk and City Treasurer**

Deputy City Clerk Campagnolo administered the Oath of Allegiance to City Clerk-Elect Joanne Baade. City Clerk Baade then administered the Oath of Allegiance to City Treasurer-Elect Mark A. Taylor.

(3) **Oath of Allegiance - Newly-Elected Councilmembers**

City Clerk Baade administered the Oath of Allegiance to Councilmembers-Elect Chris Duncan, Gene James and Steven Knoblock.

(4) **Election of Mayor and Mayor Pro Tempore**

City Clerk staff read the following communication, which is on file with the City Clerk:

Donna Vidrine, communication dated December 1, 2020, recommending Council collaboration and urging that Kathy Ward be elected Mayor and Gene James be elected Mayor Pro Tem.

City Clerk Baade opened nominations for the office of Mayor.

Mayor Pro Tem Ferguson nominated Councilmember Knoblock for the office of Mayor. Councilmember Knoblock seconded the nomination.

Councilmember James nominated Councilmember Ward for the office of Mayor. Councilmember Ward seconded the nomination.

Councilmember Duncan nominated Councilmember James for the office of Mayor. *This nomination died for lack of a second.*

There being no other nominations, MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to close the nominations.

City Clerk Baade conducted a straw poll to determine the Councilmember with the highest level of support for the Mayoral position. The results of the straw poll were as follows:

DUNCAN:	Ward
FERGUSON:	Knoblock
KNOBLOCK:	Knoblock
JAMES:	Ward
WARD:	Ward

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER JAMES, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NAY), to elect Councilmember Ward to the office of Mayor.

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

Councilmember Ferguson nominated Councilmember Knoblock for the office of Mayor Pro Tem. Councilmember Knoblock seconded the nomination.

Mayor Ward nominated Councilmember James for the office of Mayor Pro Tem. Councilmember James seconded the nomination.

City Clerk Baade conducted a straw poll to determine the Councilmember with the highest level of support for the Mayor Pro Tem position. The results of the straw poll were as follows:

DUNCAN:	James
FERGUSON:	Knoblock
KNOBLOCK:	Knoblock
JAMES:	James
WARD:	James

MOTION BY COUNCILMEMBER JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NAY), to close nominations and elect Councilmember James to the office of Mayor Pro Tem.

Councilmember Duncan expressed gratitude to the residents that supported his election and thanked his family; spoke on the importance of Council collaboration and stated that he will be working for the people.

Councilmember Knoblock expressed appreciation to his supporters for electing him to the Council.

Mayor Pro Tem James thanked his supporters and noted he is looking forward to working with Mayor Ward and the newly seated Council.

1. **SPECIAL PRESENTATIONS**

A. **Toll Road Update**

Mayor Ward reported that the Planning Commission will consider amending the General Plan to add the Los Patrones Parkway extension; noted that a toll road would be damaging to the City, but an arterial could help solve regional circulation needs; stated that the Rancho Mission Viejo development has asked for an amendment to the Master Plan of Arterial Highways to add an extension of Los Patrones Parkway; requested that Staff remove all references to a SR-241 extension from the City's General Plan in conjunction with the General Plan Amendment to include the Los Patrones Parkway extension.

Council requested that Staff examine whether health regulations would allow a hike along La Pata to educate interested persons with regard to the location of the proposed connection of Los Patrones Parkway to La Pata.

B. **City Net Update/Homeless Issue**

This item will be presented at the December 15, 2020 Council meeting.

C. **Monthly Financial Report – October 2020**

This item will be presented at the December 15, 2020 Council meeting.

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

City Clerk staff read the following communications, which are on file with the City Clerk:

Anonymous, communication dated November 17, 2020, concerning regulation of e-Bikes.

Ken Salter, communication dated December 1, 2020, voicing concern with the return of train horn noise.

Heather Goulet, communication dated December 1, 2020, concerning noise from train horns.

Scott Stuart, communication dated December 1, 2020, concerning the lack of handicapped parking due to outdoor dining.

Chris Aitken, communication dated December 1, 2020, concerning efforts of the Downtown Business Association to help businesses during the health crisis.

Wally Roberts, communication dated December 1, 2020, urging reinstatement of the waiver from the requirement that trains sound horns while traveling through San Clemente.

Brad Malamud, communication dated December 1, 2020, concerning the censure of Councilmember Ferguson.

Cord Bauer, communication dated December 1, 2020, urging support for a zero-based City budget.

Camille Wyatt, communication dated December 1, 2020, thanking Laura Ferguson for serving as Mayor Pro Tem and welcoming Councilmembers Duncan and Knoblock.

Ryan Bourque, communication dated December 1, 2020, congratulating the new Councilmembers and Mayor and Mayor Pro Tem and urging Council to work together.

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

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

New Agenda Item – Consideration of Authorizing a Letter to the Southern California Association of Governments (SCAG) to Request that it Convene a Special Closed Meeting of the SCAG Regional Council to Discuss the Recommendations of the SCAG Regional Housing Needs Allocation (RHNA) Litigation Committee

MOTION BY MAYOR WARD, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to add to tonight's agenda under New Business the possibility of

authorizing a letter to the Southern California Association of Governments (SCAG) to request that it convene a Special Closed Meeting of the SCAG Regional Council to discuss the recommendations of the SCAG RHNA Litigation Committee. This item was added to the agenda because the need for action came to the City's attention after the agenda was posted and action is needed prior to the next Council meeting. ***Please refer to Page 7 of these minutes for Council's action on this item.***

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

City Attorney Smith noted that this evening's Closed Session will commence at the end of the Business Meeting; stated that Council will not be taking any reportable action during the Closed Session.

6. **CONSENT CALENDAR**

None.

7. **PUBLIC HEARINGS**

None.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

A. **Warrant Register**

MOTION BY MAYOR PRO TEM JAMES, SECOND BY MAYOR WARD, CARRIED 5-0, to:

Approve Wire Transfers Nos. 2341 through 2342, paid on 11-13-20, and Warrant Nos. 570348 through 570474, paid on 11-13-20 in the amount of.....\$1,738,820.25

Approve Wire Transfers Nos. 2343 through 2346, paid on 11-20-20, and Warrant Nos. 570475 through 570590, paid on 11-20-20 in the amount of.....\$ 705,020.51

TOTAL WARRANT REGISTER.....\$2,443,840.76

Payroll Register

MOTION BY MAYOR PRO TEM JAMES, SECOND BY MAYOR WARD, CARRIED 5-0, to:

Approve Warrant Nos. 809 through 811,
Automatic Deposit Advises 67848 through
68111, for the period 11-2-20 through
11-15-20, paid on 11-20-20, in the amount
of.....\$ 486,405.37

TOTAL PAYROLL REGISTER.....\$ 486,405.37

B. **Consideration of Authorizing a Letter to the Southern California Association of Governments (SCAG) to Request that it Convene a Special Closed Meeting of the SCAG Regional Council to Discuss the Recommendations of the SCAG Regional Housing Needs Allocation (RHNA) Litigation Committee**

This item was added to the agenda under Agenda Item 4. Please refer to Page 5 of these minutes for a summary of that action.

Mayor Ward read the proposed letter to SCAG that requested a Special Closed Meeting of the SCAG Regional Council to discuss the recommendations of the SCAG RHNA Litigation Committee.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM JAMES, CARRIED 5-0, to authorize the Mayor to send a letter to the Southern California Association of Governments (SCAG) requesting that it convene a Special Closed Meeting of the SCAG Regional Council to discuss the recommendations of the SCAG Regional Housing Needs Allocation (RHNA) Litigation Committee.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

Waiver from Requirement for Trains to Sound Horns While Traveling Through San Clemente

Interim City Manager Sund reported that the City's five-year waiver from the requirement for trains to sound horns while traveling through San Clemente has expired; reported that the City applied for a new waiver from the Federal Railroad Association (FRA), but the application for the Pedestrian Audible Warning System (PAWS) was denied because of compliance issues that require correction; reported that the City is working with the FRA, Orange County Transit Authority, and Metrolink to remedy the situation.

C. **City Attorney**

United States Supreme Court Decision Concerning Emergency Health Regulations

City Attorney Smith reported on a recent United States Supreme Court decision that found that pandemic-related restrictions in New York treated religious organizations more harshly than comparable secular facilities; stated that the City of San Clemente's regulations include equal opportunities for businesses and religious organizations in responding to Covid-19; stated that the State of California is currently considering ways to allow for outdoor religious activities and stated that he will provide more information to Council once an update is available from the State.

D. **Council Members**

Cost of the Effort to Censure Councilmember Ferguson

Councilmember Ferguson requested that the Interim City Manager provide members of the public with the total cost for the effort to censure her. Interim City Manager Sund responded that PRA requests received with regard to the cost of the subject issue are being processed through normal PRA channels.

Possible Waiver of Confidentiality Privilege – Direction to Agendize

Councilmember Ferguson requested, and Councilmember Knoblock supported, agendizing the possibility of waiving the City's confidentiality privilege if the emails that Councilmember Ferguson requested relating to her censure are deemed to be privileged.

Letter from Brad Malamud Which Threatened Litigation with Regard to Censure of Councilmember Ferguson – Direction to Agendize

Councilmember Knoblock requested, and Councilmember Ferguson supported, agendizing for Closed Session the letter from Brad Malamud pertaining to censure of Councilmember Ferguson. The purpose of agendizing the letter is to enable Council to consider the threat of litigation and determine whether Council action should be taken.

Homeless Subcommittee Work Plan

Mayor Pro Tem James conveyed that the Chair of the Homeless Subcommittee inquired as to the reasons that Council deferred consideration of the Subcommittee's Fiscal Year 2020-21 Work Plan to February 2021. Mayor Ward agreed to communicate with the Chair of the Homeless Subcommittee to explain her concerns with the Work Plan before the Work Plan is re-agendized for Council consideration.

Recognition of Sheriff Deputies – Direction to Agendize

Councilmember Knoblock requested, and Councilmember Ferguson supported, agendizing the possibility of requesting that Lt. Manhart report to Council on a regular basis when Deputy actions warrant special public recognition.

Probolsky Research Community Survey (Possible Release of Police Services Section) – Direction to Agendize

Mayor Pro Tem James requested, and Councilmember Knoblock supported, agendizing the possibility of offering the Orange County Sheriff's Deputies Association and Command Staff access to the portion of the Probolsky Research community survey that pertained to Police Services.

12. RESOLUTIONS/ORDINANCES

A. Ordinance No. 1706 (Second Reading) – Special Events and Amplified Sound Permits

Following discussion, MOTION BY MAYOR WARD, SECOND BY MAYOR PRO TEM JAMES, CARRIED 5-0, to:

1. Refer Ordinance No. 1706 back to Staff for refinement, including a re-write of Subsection B of Section 12.34.020, under the definition of "special event", which currently reads as follows:

"B. Any use of City property which is inconsistent with the permanent or ordinary use to which the property is dedicated or ordinarily committed, or which is inconsistent with the occupancy levels permitted on property; or"

2. Direct that the associated fee resolution be agendized for Council consideration concurrently with the modified version of Ordinance No. 1706.

CLOSED SESSION

City Attorney Smith noted that Council will adjourn this meeting following Closed Session and advised that no action will be taken during the Closed Session.

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER DUNCAN, CARRIED 5-0, to recess to Closed Session at 8:02 p.m. to discuss the following:

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Existing litigation pursuant to Government Code section 54956.9(d)(1)
Number of Cases: 1

Closed Session items continued on next page

Case Name: City of San Clemente v. Foothill/Eastern Transportation Corridor
Agency and County of Orange
Case Number: 30-2017-00934703-CU-PT-CXC

- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Initiation of litigation pursuant to Government Code section 54956.9(d)(4)
Number of potential cases: 2

13. **ADJOURNMENT**

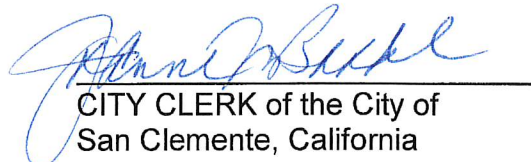
MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER
KNOBLOCK, CARRIED 5-0, to adjourn at 8:47 p.m.

The next Regular Council Meeting is scheduled to take place on December 15,
2020. Closed Session items will be considered at 5:00 p.m. and the Regular
Business Meeting will commence at 6:00 p.m. The meeting will take place via
teleconference.

A subsequent Adjourned Regular City Council Meeting will take place on
December 16, 2020 at 5:30 p.m. for the purpose of meeting in joint session with
the Planning Commission concerning the Inclusionary Housing Program.



MAYOR of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California