

# CITY OF SAN CLEMENTE

## City Council Minutes

### Special and Regular Meeting – December 15, 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 Special and Regular San Clemente City Council meeting was called to order on December 15, 2020 at 4:30 p.m. by Mayor Ward. The meeting was conducted via teleconference.

**PRESENT** DUNCAN, FERGUSON, JAMES, KNOBLOCK, MAYOR WARD

**ABSENT** NONE

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

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### **CLOSED SESSION**

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

Brad Malamud, communication dated December 13, 2020 concerning the censure of Councilmember Ferguson.

In response to Councilmember Ferguson's comments, City Attorney Smith noted that Closed Session Item D was properly noticed inasmuch as it reflects the safe harbor language provisions contained in the Brown Act and the identity of the claimant was disclosed in advance of the meeting; stated that Interim City Manager Sund will recuse from participating in Closed Session Item A; advised that he does not have a financial interest in Closed Session Item A and can either participate in the item to advise Council on employment law or can recuse himself from participation, at Council's discretion.

In addition, City Attorney Smith announced that the Emergency Shelter Coalition (ESC) brought a lawsuit against the City which the City was able to end with a preliminary motion; noted, however, that ESC subsequently considered appealing that decision; stated that Council unanimously approved a settlement agreement, in Closed Session on November 17, 2020, which committed to cover ESC's cost for filing the suit (less than \$15,000) in exchange for a waiver of ESC's right to appeal; announced that the agreement is a public record and available for inspection.

Councilmember Ferguson stated that she will recuse from participating in Closed Session Item D.

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to recess to Closed Session at 4:46 p.m. to discuss the following:

**A. PUBLIC EMPLOYEE APPOINTMENT**

Pursuant to Government Code section 54957  
Title: City Manager

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

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

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: Anthem Sales and Management, LLC, et al. v. City of San Clemente  
Case Number: OCSC 30-2019-01063861-CU-WM-CJC

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

Initiation of litigation pursuant to Government Code section 54956.9(d)(4)  
Number of potential cases: 1

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

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)  
Number of potential cases: 1

**BUSINESS MEETING CONVENED**

The Regular Business Meeting convened at 6:19 p.m., with all members participating via teleconference.

**PLEDGE OF ALLEGIANCE**

Mayor Pro Tem James led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Toll Road Update**

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

Amanda Quintanilla, communication dated December 15, 2020.

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

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

Donna Vidrine, communication dated December 15, 2020.

Council requested to be notified when the next point-in-time count occurs.

The November and December City Net reports will be presented at the January 19, 2021 City Council Meeting.

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

Financial Services Officer Rahn provided an overview of the September 2020 Monthly Financial Report and responded to Council inquiries.

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to agendize for a Council meeting in February 2021, a report on the City's \$45 million unfunded pension liability, including a plan for pay down.

D. **Update on Sand Replenishment Project**

Public Works Director/City Engineer Bonigut provided an update on the City's sand replenishment project and responded to Council inquiries.

E. **Recognition of Craig Hunn, Retiring Contract Maintenance Coordinator**

Mayor Ward displayed a City Tile that will be presented to Craig Hunn, Contract Maintenance Coordinator, in recognition of his upcoming retirement and 41 years of distinguished service with the City. A video was played which reflected on Mr. Hunn's City service.

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

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

Rick Loeffler, communication dated December 1, 2020 congratulating the newly elected Councilmembers and urging Council members to be independent thinkers.

Georgia Smith, communication dated December 8, 2020, concerning e-Bikes.

Jim Dahl, communication dated December 15, 2020, concerning train horns and vacation rentals on Montalvo/Lobiero.

Michelle (last name not provided), email dated December 9, 2020, concerning the proposed Los Patrones extension.

Christy MacBride-Hart, communication dated December 13, 2020, concerning e-Bikes.

Brad Malamud, communication dated December 14, 2020, alleging the City Attorney failed to remain neutral on the issue of censure of a Councilmember.

Alan Hostetter, communication dated December 14, 2020, urging Council to open Council meetings to the public.

Anonymous, communication dated December 14, 2020, thanking Council and Staff for the Holly Jolly Trolley.

Joe Janis, communication dated December 15, 2020, concerning Councilmember ethics and censure.

Chris Aitken, Downtown Business Association, communication dated December 15, 2020, urging Council to assist restaurants in their take-out and outdoor dining operations.

Kenneth Salter, communication dated December 15, 2020, concerning the train crossing quiet zones.

Paula Kohl, Human Affairs Committee, communication dated December 15, 2020, inviting non-profit organizations to submit applications for funding for specific programs.

Cheryl Moe, communication dated December 15, 2020, concerning the need for Council to hire a City Manager and urging Council to work together for the betterment of the City.

Anonymous, communication dated December 15, 2020, asserting that Closed Session Item D was not properly noticed and that the Brown Act does not exempt waivers of attorney-client privilege from being considered in an open meeting.

**3. MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NAY), 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**

**Closed Session Item D – Claim Relating to Censure of Councilmember Ferguson (Determination to Not Waive Attorney-Client Privilege)**

City Attorney Smith reported that during this evening's Closed Session, Council voted 3-1-1 (COUNCILMEMBER KNOBLOCK VOTING NAY AND COUNCILMEMBER FERGUSON RECUSING) to not waive attorney-client privilege in the matter relating to the censure of Councilmember Ferguson; noted that further direction was provided with regard to this matter, however, that direction is not reportable at this time.

6. **CONSENT CALENDAR**

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items G, P, Q, R and T.

A. **City Council Minutes**

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

1. Approve the City Council Regular Meeting Minutes of November 17, 2020.
2. Approve the City Council Special Meeting Minutes of November 23, 2020.
3. Approve the City Council Regular Meeting Minutes of December 1, 2020.

**B. Commission/Committee Minutes**

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to receive and file:

1. Zoning Administrator Regular Meeting Minutes of November 19, 2020.
2. Public Safety Committee Special Meeting Minutes of July 16, 2020.
3. Public Safety Committee Special Meeting Minutes of August 13, 2020.
4. Public Safety Committee Special Meeting Minutes of September 9, 2020.
5. Planning Commission Regular Meeting Minutes of December 2, 2020.

**C. Contract Amendment – Citywide Culverts Structural Assessment**

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

1. Approve a supplemental appropriation in the amount of \$9,910 from the Storm Drain Depreciation Reserve Fund to Account 059-553-43420-000-20002.
2. Approve, and authorize the Public Works Director/City Engineer to execute, Amendment No. 1 to Contract C20-53, by and between the City of San Clemente and TranSystems. This amendment increases the contract amount from \$131,870 to \$141,780, an increase of \$9,910.

D. **Contract Award – Playground Equipment Replacement at Mira Costa and Verde Park**

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

1. Approve the conceptual design plans for the Playground Equipment Replacement at Mira Costa and Verde Park, Project No. 10111.
2. Approve the purchase and installation of playground equipment from Landscape Structures, Inc. (LSI) for \$232,550 utilizing the Sourcewell Cooperative Purchase Agreement.
3. Approve, and authorize the Public Works Director to execute, Contract No. C20-68, by and between the City of San Clemente and Landscape Structures, Inc., providing for the replacement of playground equipment at Mira Costa and Verde Park, in the amount of \$232,550.

E. **Fiscal Year 2019-20 Measure M2 Expenditure Report**

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adopt Resolution No. 20-66 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO ADOPT THE FISCAL YEAR 2019-2020 MEASURE M2 EXPENDITURE REPORT FOR THE CITY OF SAN CLEMENTE.

F. **Release and Reduction of Performance and Labor and Material Bonds Related to the Marblehead Coastal Development Commercial Site Rough & Precise Grading to Establish Building Pads, Precise Grade and Storm Drain Improvements, and Sewer and Water Improvements in Tract 8817**

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adopt Resolution No. 20-67 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE RELEASE AND REDUCTION OF PERFORMANCE AND LABOR & MATERIAL BONDS RELATED TO THE MARBLEHEAD COASTAL DEVELOPMENT COMMERCIAL SITE ROUGH & PRECISE GRADING TO ESTABLISH BUILDING PAD, PRECISE GRADE & STORM DRAIN IMPROVEMENTS, AND SEWER & WATER IMPROVEMENTS.

H. **Contract Award – Camino de los Mares and Camino de Estrella Median and Pavement Improvement Project from Calle Hermosa to Avenida Vaquero**

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

1. Approve the plans and specifications for the Camino De Los Mares and Camino De Estrella median and pavement improvement project, from Calle Hermosa to Avenida Vaquero, Project No. 19318.
2. Approve a supplemental appropriation and transfer of \$201,681 to the Camino De Los Mares and Camino De Estrella median and pavement improvement project, from Calle Hermosa to Avenida Vaquero, Project No. 19318 (Account 011-864-45300-000-19318) from the Street Improvement Fund undesignated fund.
3. Approve, and authorize the Public Works Director/City Engineer to execute, Contract No. C20-70, by and between the City of San Clemente and Excel Paving Company, DBA as PALP, Inc., providing for the Camino De Los Mares and Camino De Estrella median and pavement improvement project, from Calle Hermosa to Avenida Vaquero, in the amount of \$3,378,975.

I. **Contract Amendment - Crossing Guard Services**

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

1. Approve, and authorize the Public Works Director/City Engineer to execute, Amendment No. 1 to Contract C19-53, by and between the City of San Clemente and All City Management Services, Inc. to increase the total contract amount from \$144,100 to \$168,600, an increase of \$24,500, and approve a new associated hourly rate of \$21.44.
2. Approve a supplemental appropriation of \$24,500 from the General Fund undesignated fund balance to Account 001-218-43624-000-00000.



J. **Records Destruction**

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adopt Resolution No. 20-68 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.

K. **Contract Award and Office Furniture Purchase Order – City Hall Second Floor Orange County Sheriff's Department (OCSD) Substation Tenant Improvements**

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

1. Approve the Plans and Specifications for the City Hall Second Floor OCSD Substation Tenant Improvements, Project No. 10546.
2. Approve, and authorize the Public Works Director/City Engineer to execute, Contract C20-71, by and between the City of San Clemente and PCN3, Inc., providing for construction of the City Hall Second Floor OCSD Substation Tenant Improvements, in the amount of \$2,214,000.
3. Approve, and authorize the Public Works Director/City Engineer to execute, a Purchase Order with G/M Business Interiors for furniture in accordance with the County of Orange Regional Cooperative Agreement No. RCA-017-18010014 in the amount of \$278,283.44, for for the new OCSD substation under the City Hall Second Floor OCSD Substation Tenant Improvements.

L. **Contract Amendment - Contract Planning Services in Connection with the Local Coastal Program**

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve, and authorize, the Interim City Manager to execute, Amendment No. 4 to Contract C16-74, by and between the City of San Clemente and Summit Environmental Group, providing for contract planning services for the Local Coastal Program. This amendment increases the contract amount from \$172,000 to \$207,000, an increase of \$35,000, and extends the term of the contract to December 31, 2021.

M. **Contract Amendment - Coastal Engineering Services in Connection with the Local Coastal Program**

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve, and authorize the Interim City Manager to execute, Amendment No. 1 to Contract AC-822, by and between the City of San Clemente and Moffat and Nichol, providing for coastal engineering services in connection with the Local Coastal Plan. This amendment extends the term of the contract to December 31, 2021.

N. **Part-Time Staff Compensation Adjustments – Minimum Wage Requirements**

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adopt Resolution No. 20-69 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. 18-22 AND ANY OTHER RESOLUTIONS IN CONFLICT THEREWITH.

O. **Replacement of Fleet Vehicle No. 1087**

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

1. Approve the purchase of one 2021 Chevrolet Silverado from UAG Cerritos I, Inc., from the Fleet Replacement Reserve for replacement of Fleet Vehicle No. 1087.
2. Authorize a supplemental appropriation in the amount of \$27,575 to Fleet Automotive Account 065-824-45600 from the Fleet Replacement Fund balance.

S. **Participating Addendum Under the New NASPO ValuePoint Wireless Communication Services and Equipment Master Agreement No. MA152 with Verizon Wireless**

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

1. Approve, and authorize the Interim City Manager to execute, the Local Government Request for NASPO ValuePoint Agreements (Contract C20-72) and submit the request to the California Department of General Services.
2. Approve, and authorize the City Manager to execute, the Participating Addendum (Contract C20-73) to the NASPO ValuePoint Wireless Communication Services and Equipment Master Agreement No. MA152.
3. Authorize the City Manager to approve NASPO's future negotiated agreement (following the existing expiration of August 11, 2024), or amended existing contract agreement.

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

G. **Contract Award – Avenida Pico Class 1 Bike/Ped Path Phase 1 and Avenida Pico Widening (I-5 to Calle Frontera)**

Public Works Director/City Engineer Bonigut provided an overview of the proposed project and responded to Council inquiries.

MOTION BY COUNCILMEMBER FERGUSON, SECOND BY MAYOR PRO TEM JAMES, CARRIED 5-0, to approve, and authorize the Public Works Director/City Engineer to execute, Contract C20-69, by and between the City of San Clemente and Stantec, providing for design of the Avenida Pico Class 1 Bike/Ped Phase 1 (from Calle Frontera to Camino Vera Cruz), Project No. 17337, and Avenida Pico Widening (I-5 to Calle Frontera), Project No. 18335, in the amount of \$367,403.

P. **Policy and Procedure 202-1 - Investment Policy**

City Treasurer Taylor responded to Council inquiries relative to the possibility of expanding the composition of the Investment Advisory Committee to include a member of the City Council and an additional Industry Specialist, as well as modifying the Policy to preclude foreign investments.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER FERGUSON, to direct Staff to return to Council with an amendment to Ordinance No. 1684 to 1) modify the composition of the Investment Advisory Committee to include one representative of the City Council as a voting member; and 2) modify the composition of the Investment Advisory Committee to require that one of the three citizen members be an Industry Specialist. Further, that Policy and Procedure 202-1 be modified to specify that foreign investments will be phased out over a reasonable period of time and that investments will be kept domestic.

SUBSTITUTE MOTION BY MAYOR WARD to direct Staff to return to Council with an amendment to Ordinance No. 1684 to reinstate one member of the City Council as a voting member on the Investment Advisory Committee, but to not add an Industry Specialist to the Committee's composition or to modify Policy and Procedure 202-1 to prohibit foreign investments. **The Substitute motion died for lack of a second.**

In response to Council inquiry, City Treasurer Taylor stated that he is not opposed to foreign investments that are domiciled in the United States, but indicated that he would like to communicate with Chandler Asset Management to learn its perspective with regard to possibly prohibiting foreign investments.

SUBSTITUTE MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to continue Policy and Procedure 202-1 (Investment Policy) to the Council meeting of January 19, 2021 and direct Staff to draft a change to Ordinance No. 1684 to include a Councilmember on the Investment Advisory Committee.

Q. **Contract Amendment – Golf Pro Shop Concession at the San Clemente Municipal Golf Course**

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

Jim Kemp, communication dated December 14, 2020.

Jim Dahl, communication dated December 14, 2020.

Recreation Manager Wylie responded to Council inquiries.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM JAMES, to approve, and authorize the Mayor to execute, Amendment No. 4 to Contract C87-04, a Concession Agreement by and between the City of San Clemente and Dave Cook, providing for the operation of the Golf Pro Shop at the San Clemente Municipal Golf Course, with the removal of the second five-year extension provision.

SUBSTITUTE MOTION BY COUNCILMEMBER DUNCAN, SECOND BY MAYOR WARD, **FAILED 2-3** (COUNCILMEMBERS FERGUSON AND KNOBLOCK AND MAYOR PRO TEM JAMES VOTING NAY), to approve, and authorize the Mayor to execute, Amendment No. 4 to Contract C87-04, a Concession Agreement by and between the City of San Clemente and Dave Cook, providing for the operation of the Golf Pro Shop at the San Clemente Municipal Golf Course.

THE ORIGINAL MOTION ON THE FLOOR WAS VOTED ON AND CARRIED 3-2 (COUNCILMEMBER DUNCAN AND MAYOR WARD VOTING NAY). For ease of reference, the action taken was as follows:

*Council approved, and authorized the Mayor to execute, Amendment No. 4 to Contract C87-04, a Concession Agreement by and between the City of San Clemente and Dave Cook, providing for the operation of the Golf Pro Shop at the San Clemente Municipal Golf Course, with the removal of the second five-year extension provision.*

R. **Proposed Changes to Golf Course Fees and Operating Standards and Regulations for Play Upon the Municipal Golf Course**

MOTION BY COUNCILMEMBER FERGUSON to defer this item to a future meeting. **The motion died for lack of a second.**

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

Jim Dahl, communication dated December 12, 2020.

Kurt Luebke, San Clemente Men's Club President, communication dated December 14, 2020.

Jim Kemp, communication dated December 14, 2020.

Larry Rannals, communication dated December 14, 2020.

Donald Brown, communication dated December 15, 2020.

Recreation Manager Wylie responded to Council inquiries.

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

1. Adopt Resolution No. 20-70 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ESTABLISHING CERTAIN FEES FOR PLAY UPON THE MUNICIPAL GOLF COURSE, AND REPEALING RESOLUTION NO. 15-41.
2. Defer Resolution No. 20-71 (relating to golf course operating standards and regulations) to a Council meeting in March 2021.

**T. Lease Amendment – 24 Carrots at the Ole Hanson Beach Club**

MOTION BY COUNCILMEMBER KNOBLOCK to take the below two actions, with the condition that 24 Carrots agree to assign to the City an appropriate share of any proceeds it may receive from its business interference insurance claim or Federal Covid Relief Funds:

1. Approve, and authorize the Mayor to execute, Amendment No. 2 to the 24 Carrots lease at the Ole Hanson Beach Club. The Lease Amendment incorporates partial rent abatement due to the Covid-19 pandemic.
2. Approve a five-year extension to the 24 Carrots lease to expire September 30, 2026.

**The motion was subsequently withdrawn.**

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

Steven Marshall, communication dated December 14, 2020.

Alan Hostetter, communication dated December 14, 2020.

Dawn Urbanek, communication dated December 15, 2020.

Jill Watson, communication dated December 15, 2020.

Martina (last name not provided), communication dated December 15, 2020.

Camille Wyatt, communication dated December 15, 2020.

Economic Development Officer Lightfoot responded to Council inquiries; noted a correction to the Administrative Report in that the initial term of the 24 Carrots lease was for five years (to expire in September 2021) with three potential five-year extensions.

**MOTION BY COUNCILMEMBER FERGUSON to have City Staff manage the Ole Hanson Beach Club, utilizing the Casa Romantica model, and that Staff create a list of approved vendors for the Ole Hanson Beach Club. The motion died for lack of a second.**

**MOTION BY MAYOR WARD, SECOND BY COUNCILMEMBER DUNCAN to:**

1. Approve, and authorize the Mayor to execute, Amendment No. 2 to the 24 Carrots lease at the Ole Hanson Beach Club. The Lease Amendment incorporates partial rent abatement due to the Covid-19 pandemic.
2. Approve a five-year extension to the 24 Carrots lease to expire September 30, 2026.

**SUBSTITUTE MOTION BY COUNCILMEMBER KNOBLOCK to 1) grant the lessee the rent concessions it is requesting, 2) not grant the 5-year lease extension at this time, and 3) direct the Economic Development Officer to poll local restaurants to ascertain their interest in providing catering services at the Ole Hanson Beach Club prior to the expiration of the 24 Carrots lease. The substitute motion died for lack of a second.**

Lynn Wagoner, representing 24 Carrots, responded to Council inquiries relative to bookings to date.

**SUBSTITUTE MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, to 1) grant a one-year extension to 24 Carrots lease, 2) direct Staff to conduct an economic study, and 3) direct Staff to poll local business owners to ascertain their interest in becoming an approved vendor at the Ole Hanson Beach Club. The substitute motion was subsequently withdrawn.**

**THE ORIGINAL MOTION ON THE FLOOR WAS VOTED ON AND CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NAY).** For ease of reference, the action taken was as follows:

1. *Council approved, and authorized the Mayor to execute, Amendment No. 2 to the 24 Carrots lease at the Ole Hanson Beach Club. The Lease Amendment incorporates partial rent abatement due to the Covid-19 pandemic.*
2. *Council approved a five-year extension to the 24 Carrots lease to expire September 30, 2026.\**

*\*Note: At its meeting of January 19, 2021, Council determined to reconsider this action.*

**MEETING RECESSED**

Council recessed at 9:40 p.m. and reconvened at 9:45 p.m., with all members present.

**7. PUBLIC HEARINGS**

**A. Zoning Amendment 20-035 – Zoning Ordinance Amendments**

Public Hearing to consider a City-initiated amendment (ZA 20-035) to the City of San Clemente Municipal Code Title 17 to update erroneous text, ambiguous definitions and standards; and modifications for consistency with the General Plan and State and Federal law.

Mayor Ward opened the Public Hearing.

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

Cheryl Moe, communication dated December 15, 2020.

There being no other public comments, the Public Hearing was closed.

Senior Planner Savage narrated a PowerPoint Presentation entitled “Zoning Amendments ZA 20-035” and responded to Council inquiries.

Following discussion, MOTION BY COUNCILMEMBER DUNCAN, SECOND BY MAYOR PRO TEM JAMES to:

1. Find and determine that the proposed amendments are exempt pursuant to CEQA Guidelines Section 15378(b)(5), because the revisions for accessory structures, definitions, historic, and nonconforming provisions, and body art establishments and water conservation, relate to the ongoing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore do not constitute a “project” as defined by the State CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.) and therefore are exempt from CEQA and no further environmental review is required. Even if the revisions are a “project”, no further environmental review is required pursuant to CEQA Guidelines Section 15061(b)(3) which exempts those activities for which it can be seen with certainty that there is no potential for the revisions to result in significant environmental effects. In regards to Accessory Dwelling Units, pursuant to Public Resources Code 21080.17, no further environmental review is required because the



amendments implement Government Code Section 65852.2 (ADU laws). In regards to large family daycares, no further environmental review is required pursuant to Health & Safety Code 1597.45(d). In regards to cottage food industries, pursuant to Section 15301 Class 1, no further environmental review is required because the proposed ordinance establishes cottage food operations as a type of home occupation to be conducted within an existing dwelling unit, which would involve negligible or no expansion of the existing residential use.

2. Introduce Ordinance No. 1707 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE FOR A CITY-INITIATED AMENDMENT (ZA 20-035) TO THE CITY OF SAN CLEMENTE MUNICIPAL CODE TITLE 17, ZONING TO UPDATE ERRONEOUS TEXT, AMBIGUOUS DEFINITIONS AND STANDARDS; AND MODIFICATIONS FOR CONSISTENCY WITH THE GENERAL PLAN AND STATE AND FEDERAL LAW.

SUBSTITUTE MOTION BY COUNCILMEMBER FERGUSON, SECOND BY COUNCILMEMBER KNOBLOCK, **FAILED 2-3** (COUNCILMEMBERS DUNCAN AND JAMES AND MAYOR WARD VOTING NAY), to defer consideration of this Public Hearing to the Regular City Council meeting of January 19, 2021,

THE ORIGINAL MOTION ON THE FLOOR WAS VOTED ON AND CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NAY). For ease of reference, the action taken was as follows:

1. *Council found and determined that the proposed amendments are exempt pursuant to CEQA Guidelines Section 15378(b)(5), because the revisions for accessory structures, definitions, historic, and nonconforming provisions, and body art establishments and water conservation, relate to the ongoing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore do not constitute a "project" as defined by the State CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.) and therefore are exempt from CEQA and no further environmental review is required. Even if the revisions are a "project", no further environmental review is required pursuant to CEQA Guidelines Section 15061(b)(3) which exempts those activities for which it can be seen with certainty that there is no potential for the revisions to result in significant environmental effects. In regards to Accessory Dwelling Units, pursuant to Public Resources Code 21080.17, no further environmental review is required because the amendments implement Government Code Section 65852.2 (ADU laws). In regards to large family daycares, no further environmental review is required pursuant to Health & Safety Code 1597.45(d). In regards to cottage food industries, pursuant to Section 15301 Class 1, no further environmental review is required because the proposed ordinance establishes cottage food operations as a type of home*

*occupation to be conducted within an existing dwelling unit, which would involve negligible or no expansion of the existing residential use.*

2. Council introduced Ordinance No. 1707 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE FOR A CITY-INITIATED AMENDMENT (ZA 20-035) TO THE CITY OF SAN CLEMENTE MUNICIPAL CODE TITLE 17, ZONING TO UPDATE ERRONEOUS TEXT, AMBIGUOUS DEFINITIONS AND STANDARDS; AND MODIFICATIONS FOR CONSISTENCY WITH THE GENERAL PLAN AND STATE AND FEDERAL LAW.

B. **109 South Alameda Lane – Historic Property Preservation Agreement 20-028 (Alameda Jones Residence Mills Act Contract)**

Public Hearing to consider a request to establish an Historic Property Preservation Agreement (Mills Act) for an historic property located at 109 South Alameda Lane (Assessor's Parcel Number 692-023-05) in the Residential High Zoning District and Architectural Overlay Zone (RH-A) within the Pier Bowl Specific Plan.

Assistant Planner Carrillo narrated a PowerPoint presentation entitled "109 South Alameda Lane (Alameda Jones Residence)", which is on file with the City Clerk, and responded to Council inquiries. A hard copy of Mr. Carrillo's presentation is on file with the City Clerk.

Mayor Ward opened and closed the Public Hearing, there being no one desiring to be heard on this issue.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to adopt Resolution No. 20-72 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING HISTORIC PROPERTY PRESERVATION AGREEMENT 20-028 FOR THE PROPERTY LOCATED AT 109 ALAMEDA LANE.

C. **504 Monterey Lane – Historic Property Preservation Agreement 20-331 (Monterey Jones Residence Mills Act Contract)**

Public Hearing to consider a request to establish an Historic Property Preservation Agreement (Mills Act) for an historic property located at 504 Monterey Lane (Assessor's Parcel Number 692-025-03) in the Residential High Zoning District and Architectural Overlay Zone (RH-A) within the Pier Bowl Specific Plan.

Mayor Ward opened and closed the Public Hearing, there being no one desiring to be heard on this issue.

MOTION BY MAYOR WARD, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adopt Resolution No. 20-73 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING HISTORIC PROPERTY PRESERVATION AGREEMENT 20-331 FOR THE PROPERTY LOCATED AT 504 MONTEREY LANE.

D. **Zoning Amendment 20-258 – Adding Standards and Provisions for Lot Consolidation**

Public Hearing to consider a Zoning Amendment to incorporate Section 17.24.230, Lot Consolidation, into the San Clemente Municipal Code. Section 17.24.230 establishes development standards and policies providing developers incentives for the consolidation of standard and substandard lots in compliance with objectives in the City of San Clemente Housing Element Action Plan Program 2 with the goal to promote increased housing options in residential and mixed-use zones.

Mayor Ward opened the Public Hearing.

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

Denise Fleury, communication dated December 14, 2020.  
Rona Henry, communication dated December 15, 2020.  
Elizabeth Hinds, communication dated December 15, 2020.  
Donna Vidrine, communication dated December 15, 2020.  
Kent Doss, communication dated December 15, 2020.  
Maura Mikulec, communication dated December 15, 2020.  
Michelle Murphy, Orange County United Way, communication dated December 15, 2020.  
Ryan Lenney, communication dated December 15, 2020.  
Bill Kreutinger, communication dated December 15, 2020.  
Kathy Esfahani, communication dated December 15, 2020.  
Linda Yeargin, communication dated December 15, 2020.  
Cesar Covarrubias, The Kennedy Commission, communication dated December 15, 2020.

There being no further comments, the Public Hearing was closed.

MOTION BY COUNCILMEMBER FERGUSON, SECOND BY COUNCILMEMBER DUNCAN, CARRIED 5-0, to:

1. Find and determine the proposed amendments are not a project as defined by the State CEQA Guidelines Section 21166.
2. Introduce Ordinance No. 1708 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING TITLE 17 (ZONING AMENDMENT 20-258) OF THE MUNICIPAL CODE TO INCLUDE PROVISIONS THAT INCREASE HOUSING OPPORTUNITIES BY ENCOURAGING DEVELOPMENT AND REGULATING THE CONSOLIDATION OF ADJACENT STANDARD AND SUBSTANDARD LOTS.

**Continuation of City Council Meeting Past 11:00 p.m.**

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to continue the City Council meeting past 11:00 p.m.

E. **Second Substantial Amendment to the FY 2019-2020 Annual Action Plan to add Community Development Block Grant – Corona Virus Round 3 (CDBG-CV3) Funds**

Public Hearing to consider an amendment to the FY 2019-2020 Annual Action Plan to add Community Development Block Grant – Corona Virus Round 3 (CDBG-CV3) Funds.

Mayor Ward opened the Public Hearing.

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

Cesar Covarrubias, The Kennedy Commission, communication dated December 15, 2020.

Camille Wyatt, communication dated December 15, 2020.

Maura Mikulec, communication dated December 15, 2020.

There being no further public comments, the Public Hearing was closed.

Community Development Director Gallardo-Daly reviewed the contents of the Administrative Report and, along with Interim City Manager Sund, responded to Council inquiries.

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

1. Approve and adopt the Second Substantial Amendment to the FY 2019-2020 Annual Action Plan for use of Community Development Block Grant-CV3 funds.
2. Authorize the City Manager to submit the Second Substantial Amendment to the FY 2019-2020 Annual Action Plan to HUD.
3. Designate the City Manager, or the City Manager's designee, as the official representative to sign all certifications and assurances, and sub-agent agreements for the use of the funds approved in the Second Substantial Amendment to the FY 2019-2020 Annual Action Plan.
4. Accept grant revenues of \$445,109 from HUD to Account 017-000-33712.
5. Authorize a related budget appropriation in the amount of \$445,109 to the CDBG fund for the amounts in the Action Plan.
6. Approve the following CDBG allocation distribution adjustments:
  - Under the category of "Homelessness Mobile Street Outreach Services", Council selected Option 1 (i.e. to hire a City Community Outreach Worker).
  - Under the category of "Homelessness Prevention", Council redirected \$75,000 from "Rental, utility, and food assistance programs" to Economic Development.
  - Staff is to attempt to save 50% on fees to administer the program, with the direction that all excess Administrative Fees be redirected to Economic Development.

8. **UNFINISHED BUSINESS**

A. **Ordinance Introduction – Establishment, Operations, Composition and Appointment of Members of the Public Safety Committee**

Report from the Community Development Director concerning establishment, operations, composition and appointment of members of the Public Safety Committee.

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

1. Introduce Ordinance No. 1709 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADDING CHAPTER 2.46 OF THE CODE OF THE CITY OF SAN CLEMENTE, RELATING TO THE PUBLIC SAFETY COMMITTEE.
2. Determine that the terms of the existing Public Safety Committee members will extend until June 30, 2021, at which time Council will interview and appoint members to serve on the Committee for staggered, two-year terms.

9. **NEW BUSINESS**

A. **Warrant Register**

Following clarifications, MOTION BY COUNCILMEMBER DUNCAN, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to:

Approve Warrant Nos. 570591 through 570722, paid on 11/27/20, in the amount of.....\$ 2,479,891.01

Approve Wire Transfers Nos. 2347 through 2354, and Warrant Nos. 570723 through 570797, paid on 12/4/20, in the amount of.....\$ 1,096,512.49

Approve Warrant Nos. 570798 through 570922, paid on 12/11/20, in the amount of.....\$ 6,995,436.23

TOTAL WARRANT REGISTER...\$ 10,571,839.73

**Payroll Register**

MOTION BY COUNCILMEMBER DUNCAN, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to:

Approve Automatic Deposit Advises 68112 through 68362, for the period of 11/16/20 through 11/29/20, paid on 12/4/20, in the amount of.....\$ 586,615.06

TOTAL PAYROLL REGISTER.....\$ 586,615.06

B. **Cooperative Agreement Among the City of San Clemente, County of Orange, and Rancho Mission Viejo Relating to the Los Patrones Parkway Extension**

Report from the City Attorney concerning a Cooperative Agreement among the City of San Clemente, County of Orange and Rancho Mission Viejo relating to the Los Patrones Parkway extension.

City Attorney Smith reviewed the contents of the Administrative Report and, along with Mike Blasamo, Jeff Thompson and Robin Martindale, representatives from Rancho Mission Viejo, responded to Council inquiries.

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

Bill Hart, communication dated December 15, 2020.

Amanda Quintanilla, communication dated December 15, 2020.

MOTION BY MAYOR WARD, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C20-74, a Cooperative Agreement among the City of San Clemente, County of Orange, and Rancho Mission Viejo relating to the Los Patrones Parkway Extension, with the modification that Section 6(f) under "Key Assumptions" be modified to read in its entirety as follows:

"(f) Using Avenida La Pata in San Clemente as a reference, the Project can conform to the Smart Streets and Mobility and Urban Design Elements of the City's General Plan, **including sign standards**, as documented in the LPPE Addendum."

*\*Note: Bolded type indicates added language.*

C. **Initiation of a General Plan Amendment to Amend the Roadway Classifications of Portions of Camino de los Mares, South El Camino Real, and Camino Vera Cruz, and add a New Segment to the Los Patrones Parkway Extension**

Report from the Public Works Director/City Engineer concerning initiation of a General Plan Amendment to amend the roadway classifications of portions of Camino de los Mares, South El Camino Real, and Camino Vera Cruz, and add a new segment to the Los Patrones Parkway Extension.

Public Works Director/City Engineer Bonigut reviewed the contents of the Administrative Report and responded to Council inquiries.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to direct Staff, as authorized by Municipal Code Section 17.16.020(c)(1), to initiate an amendment to the General Plan to:

- a. Reclassify Camino De Los Mares, from Camino Del Rio to the Eastern Terminus, from a Secondary to Divided Collector;
- b. Reclassify South El Camino Real, from Avenida Mendocino to the Southern Terminus, from a Secondary to Divided Collector;
- c. Reclassify Camino Vera Cruz, from Camino De Los Mares to Carretera, from a Secondary to Divided Collector; and
- d. Add the future proposed Los Patrones Parkway Extensions to the City's General Plan Mobility Element roadway network as a Primary Arterial as generally depicted in Attachment 1 of the Administrative Report, dated December 15, 2020, which is on file with the City Clerk.

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

None.



11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

**Train Horn Update**

Interim City Manager Sund reported that all of the documents requested by the Federal Railroad Association (FRA) have been submitted; noted that an initial inspection was conducted and further inspections will follow; stated that the Safety Board will meet in January to hear the item.

Council will consider establishing a Train Horn Ad Hoc Committee as part of Item 11D(1) on this evening's agenda.

C. **City Attorney**

City Attorney Smith reported that the 9<sup>th</sup> Circuit Court rejected Nevada's pandemic restrictions.

D. **Council Members**

**Consideration of Providing Assistance to Businesses Impacted by Covid-19**

The Council majority agreed to agendize, and direct Staff to prepare an Administrative Report, with regard to the possibility of directing the Interim City Manager to use his emergency powers to enact relief for businesses that are in need of assistance because of the Covid-19 pandemic. City Attorney Smith noted that the Interim City Manager, in his capacity as Director of Emergency Services, has the ability to take interim action, which Council can ratify at its January 19, 2021 meeting.

**Consideration of a USA Surfing Mural to Commemorate the Kick Off of Surfing in the Tokyo Olympics**

Councilmember Ferguson proposed, and Councilmember Knoblock supported, agendizing the possibility of partnering with USA Surfing for creation of a mural in a City alley to commemorate the kick off of surfing in the Tokyo Olympics.

(1) **Update to Council Appointees to Regional Committees, Commissions and Boards**

Council updated its appointees to Regional Committees, Commissions and Boards for Calendar Year 2021 as follows:

Committee/Commission/Board	Representative(s)
Capistrano Unified School District Liaison Committee	Ferguson and Duncan
Coastal Animal Services Authority (CASA)	James/Ward (Alt.)
Community Engagement Panel	Duncan/Ferguson (Alt.)
Conservancy (Elected/Appointed Representative to Friends of the Reserve Commission)	The City's "At Large" position is vacant (term expired June 30, 2018). On 6-14-18, Council left position vacant (there were no applications) pending more information about the situation with the Reserve. The Talega HOA Representative is Laurie Gooch (term expires June 30, 2020).
Chamber of Commerce – Economic Development	James/Duncan (Alt). <i>Note: The Mayor will continue to attend ribbon-cutting ceremonies.</i>
Downtown Business Association – Economic Development	Duncan/James (Alt).
Emergency Operational Area Council (Orange County)	Mayor and Mayor Pro Tem
Fire Authority (Orange County)	Ward
Historic Preservation Ad Hoc Committee	Ferguson/Ward (Alt.)
Hospital Subcommittee	James and Duncan
Insurance Authority (California Joint Powers Insurance Authority)	Ferguson/Ward (Alt.) ( <i>Note: Council also authorized Staff members to participate as needed.</i> )
Investment Advisory Committee	Knoblock
Legislative Delegate Program - Representative to Senate District 38	Mayor and Mayor Pro Tem
Legislative Delegate Program - Representative to 73 <sup>rd</sup> Assembly District	Mayor and Mayor Pro Tem
Library Task Force (Orange County)	James
Mayors (South Orange County Association of Mayors)	Mayor
U.S. Marine Corps Liaison	Knoblock
MWDOC Interaction of Elected Officials	Knoblock/Ferguson (Alt.)
Nine South County Water Agencies (This is the name of a group that consists of nine South Orange County water agencies).	Knoblock/Ferguson (Alt.)

OCTA Transportation Planning Workshops	Ward and Tom Bonigut
Sand Replenishment Project	Knoblock
SCAG General Assembly	Ferguson
Social Service/Community Service Budget Committee	Ferguson
South Orange County Watershed Management Area Executive Committee	Knoblock/James (Alt.)
Toll Road Subcommittee	Ward and James
Train Horn Ad Hoc Committee	Duncan and James
Transportation Corridor JPA (Foothill Eastern)	Ward/James (Alt.)
Transportation Corridor JPA (San Joaquin Hills)	James/Ward (Alt.)
Vector (Orange County Mosquito and Vector Control Board)	Jim Dahl (term expires January 2022)
Wall of Recognition	Ward

(2) **Establishment of Council Meeting Schedule and Possible Joint Meeting(s) for 2021**

Report from the City Clerk regarding the possibility of establishing the Council meeting schedule for 2021.

Council made the following modifications to its 2021 meeting schedule:

- A Joint Council/Commissions/Committees Meeting was scheduled for November 30, 2021.
- The Regular City Council Meetings of July 6, 2021 and August 3, 2021 were cancelled to accommodate Council/Staff vacations.
- The Regular City Council meeting of January 4, 2022 was cancelled.

(3) **Consideration of Requesting that Lt. Manhart Report to Council when Deputy Actions Warrant Public Recognition**

Council requested that Lt. Manhart report to Council when Deputy actions warrant public recognition so that the Deputy can be recognized under Special Presentations at a Council meeting.

(4) **Consideration of Allowing the Orange County Deputies Association and Command Staff Access to the Portion of the Community Survey Relating to Police Services**

The Council majority determined that the portion of the community survey relating to Police Services will be provided to the Orange County Deputies Association and Command Staff.

(5) **Consideration of Waiving Attorney-Client Privilege in the Matter of Censure of Councilmember Ferguson**

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

Dennis Nespor, communication dated December 14, 2020.  
Brad Malamud, communication dated December 15, 2020.

Councilmember Ferguson recused herself from deliberations on this item and left the meeting at 1:17 a.m.

Council determined in Closed Session to deny Councilmember Ferguson's request to waive attorney-client privilege in the matter of her censure. The Closed Session action stands because Council determined to not reconsider that action during this portion of the public business meeting.

12. **RESOLUTIONS/ORDINANCES**

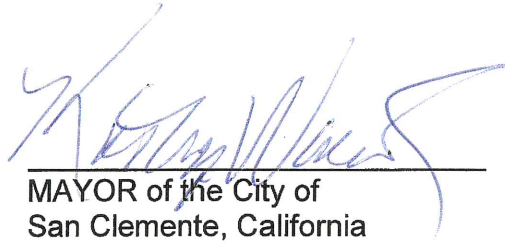
None.

13. **ADJOURNMENT**

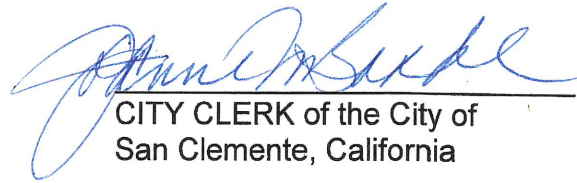
MOTION BY MAYOR WARD, SECOND BY MAYOR PRO TEM JAMES, CARRIED 4-0 (COUNCILMEMBER FERGUSON ABSENT), to adjourn at 1:20 a.m. to an Adjourned Regular Meeting to be held on December 16, 2020 at 5:30 p.m. for the purpose of meeting in Joint Study Session with the Planning Commission relating to the Inclusionary Housing Program. The meeting will take place via teleconference.

The next Regular Council Meeting is scheduled to take place on **January 19, 2021**. Closed Session items will be considered at 5:00 p.m. and the Regular Business Meeting will commence at 6:00 p.m.

The Regular City Council Meeting of January 5, 2021 was previously cancelled.



MAYOR of the City of  
San Clemente, California



CITY CLERK of the City of  
San Clemente, California