

**NOTICE AND CALL OF SPECIAL MEETING OF THE
SAN CLEMENTE CITY COUNCIL**

TO MEMBERS OF THE SAN CLEMENTE CITY COUNCIL:

NOTICE IS HEREBY GIVEN that a Special Meeting of the San Clemente City Council is hereby called by Mayor Ward to be held on May 4, 2021 at 4:30 p.m. The purpose of the Special Meeting is to enable the Closed Session to commence at 4:30 p.m., instead of 5:00 p.m. as regularly scheduled. The items to be discussed in Closed Session are identified on the attached meeting agenda. The meeting will be held in the Community Center Auditorium, located at 100 N. Calle Seville, San Clemente.

The Regular Business Meeting will commence at 6:00 p.m. in the Community Center Auditorium.

Kathy Ward, Mayor
City of San Clemente

[Meeting Agenda on next page]



CITY OF SAN CLEMENTE

SPECIAL AND REGULAR CITY COUNCIL MEETING AGENDA

San Clemente Community Center
100 N. Calle Seville
San Clemente, California
www.san-clemente.org

May 4, 2021
4:30 p.m. – Closed Session
6:00 p.m. – Business Meeting

Councilmembers will participate in the meeting in person or via teleconference.

IMPORTANT NOTICE **RETURN TO IN-PERSON MEETINGS**

City Council meetings have been reopened to the public and citizens are once again able to present their comments/documents to the Council in person. Consequently, the public comment portal, which was established as a temporary repository for public comments during the Covid-19 quarantine period, is no longer operational and Staff will no longer read public comments at Council meetings. If a disability impedes your access to the meeting, please see the last page of this agenda under the portion entitled “Americans with Disabilities Act”.

Persons attending meetings are required to wear masks and to observe social distancing protocols.

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

RULES FOR ADDRESSING COUNCIL

- Members of the public may address the City Council on matters within the jurisdiction of the City of San Clemente.
- If you wish to address Council, please complete one of the blue speaker cards located in the lobby of the Community Center and place the completed card in the box on the table in the lobby.
- Persons wishing to address Council concerning an **agendized** item will be invited to address Council during the time that Council is considering that particular agenda item. Persons wishing to address Council concerning a **non-agendized** issue will be invited to address Council during the “Oral Communications” portion of the meeting.
- When invited by the Mayor, please step to the podium, and if you wish, state your name and the City in which you reside, and make your presentation. Please limit your presentation to three minutes.

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 (4:30 P.M.)

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code section 54956.8

Property: 2.2 acre section of and 80 acre parcel on the southwest corner of Avenida La Pata and Vista Hermosa, Assessor's Parcel Number 678-163-01
Agency Negotiators: Interim City Manager, Tim McMahon of CBRE and Justin McMahon of JLL

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

Under Negotiation: Price and terms for potential acquisition or lease

B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code section 54957

Title: City Attorney

C. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

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

(Correspondence regarding one potential claim is linked to agenda.)

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

Closed Session items continued on next page

- E. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
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

- F. **PUBLIC EMPLOYEE APPOINTMENT**
Pursuant to Government Code section 54957
Title: City Manager

- G. **CONFERENCE WITH LABOR NEGOTIATORS**
Pursuant to Government Code section 54957.6
Agency Designated Representatives: Mayor Ward and Mayor Pro Tem James
Unrepresented Employee: City Manager

Agency designated representative: Interim City Manager
Represented employees: All Employees
Employee organization: San Clemente City Employees Association

BUSINESS MEETING (6:00 P.M.)

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

- 1. **Special Presentations.**

- A. **Toll Road Update**
- B. **Update on Homeless Issue**
- C. **Presentation of Proclamation – Older Americans Month**

Presentation of a Proclamation proclaiming May 2021 as Older Americans Month.

- D. **Presentation of Proclamation – Bike Month**

Presentation of Proclamation proclaiming May 2021 as Bike Month.

2. **Oral Communications (Part 1).** Members of the audience who wish to address Council on matters that are within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, may do so during the Oral Communications portion of the meeting. Speakers may address Council once during either Oral Communications Part 1 or Part 2. A total time limitation of 30 minutes is allocated for Oral Communications Part 1, with each speaker being allotted 3 minutes in which to give his or her presentation. Speaker order is determined by the order in which speaker cards are provided to the City Clerk or Deputy City Clerk at the meeting. Speakers that cannot be accommodated during Oral Communications Part 1 will be invited to address Council during Oral Communications Part 2, which appears on this agenda as Item No. 10. When invited by the Mayor, please step to the podium, and if you wish, state your name and the City in which you reside, and make your presentation. Subject to very limited exceptions, Council is not permitted to discuss or take action on items that do not appear on the agenda.
3. **Motion waiving reading in full of all Resolutions and Ordinances.**
4. **Consideration of agenda items requiring immediate action.** Any items agenda items will be considered under New Business, unless otherwise determined by a majority vote of the City Council.
5. **Closed Session Report - City Attorney.**
6. **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 April 20, 2021.](#)
 - (2) [Approve the Adjourned Regular City Council Meeting minutes of April 22, 2021.](#)
 - (3) [Approve the Adjourned Regular City Council Meeting minutes of April 27, 2021.](#)
 - B. **Commission/Committee Minutes**
Receive and file:
 - (1) [Joint Homeless Subcommittee Special Meeting minutes of February 18, 2021.](#)

- (2) [Planning Commission Regular Study Session minutes of April 7, 2021.](#)
- (3) [Planning Commission Regular Meeting minutes of April 7, 2021.](#)
- (4) [Design Review Subcommittee Regular Meeting minutes of January 27, 2021.](#)
- (5) [Design Review Subcommittee Regular Meeting minutes of February 10, 2021.](#)
- (6) [Design Review Subcommittee Regular Meeting minutes of March 24, 2021.](#)
- (7) [Public Safety Committee Special Meeting minutes of February 23, 2021.](#)
- (8) [Zoning Administrator Regular Meeting minutes of April 22, 2021.](#)
- (9) [Joint Homeless Subcommittee Special Meeting minutes of March 11, 2021.](#)

C. [**Notice of Completion – Wells 5, 6, 8 and Calafia Rehabilitation**](#) Pages 6C-1 through 6C-8

Staff Recommendation

- 1. Approve a supplemental appropriation in the amount of \$33,900 from the Water Fund Depreciation Reserve Account 052-466-45300-000-14408.
- 2. Accept the Wells 5, 6, 8 and Calafia Rehabilitation, Project No. 14408, from the contractor, Best Drilling and Pump, Inc.
- 3. Authorize the Utilities Director to execute and the City Clerk to record the Notice of Completion for the Wells 5, 6, 8 and Calafia Rehabilitation, Project No. 14408.
- 4. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Utilities Department that no liens have been levied against Best Drilling and Pump, Inc.
- 5. 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 – Emergency Repairs to Via Santa Maria Waterline](#) Pages 6D-1 through 6D-68

Staff Recommendation

1. Accept the emergency repairs to the waterline on Via Santa Maria, from the contractor, Ferreira Construction Company, Inc., Project No. 11448.
2. Authorize the Utilities Director to execute and the City Clerk to record, the Notice of Completion for emergency repairs to the waterline on Via Santa Maria.
3. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Utilities Department that no liens have been levied against Ferreira Construction Company.
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. [Notice of Completion – Reservoir 9 Storm Damage Repair Project](#) Pages 6E-1 through 6E-6

Staff Recommendation

1. Accept the Reservoir 9 Storm Damage Repair project from the contractor, Engineering & Environmental Construction, Inc.
2. Authorize the Public Works Director/City Engineer to execute and record the Notice of Completion for the Reservoir 9 Storm Damage 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 Engineering and Environmental, 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.

- F. [Amendment to Partnership Agreement – PierPride](#) Pages 6F-1 through 6F-4

Staff Recommendation

Approve, and authorize the City Manager to execute, Amendment No. 1 to the PierPride Foundation Partnership Agreement. (Contract # C18-28)

- G. [Contract Award – Purchase and Installation of Storm Drain Trash Capture Devices in the Eastern Pico Corridor Project Area](#) Pages 6G-1 through 6G-59

Staff Recommendation

1. Approve a supplemental appropriation in the amount of \$220,000 from an OCTA Grant to Account 057-543-43690-000-20804.
2. Approve, and authorize the Utilities Director to execute, Contract C21-17, by and between the City of San Clemente and G2 Construction, Inc., providing for installation of trash capture devices in the Eastern Pico corridor runoff treatment area, in the amount of \$275,000.

- H. [Interim Public Works Director Services](#) Pages 6H-1 through 6H-5

Staff Recommendation

Approve, and authorize the City Manager to execute, the First Amendment to Contract C21-18, by and between the City of San Clemente and Interwest Consulting Group. This Amendment increases the contract amount from an amount not to exceed \$24,975, to an amount not to exceed \$94,975 (an increase of \$70,000).

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. [Weed Abatement Program 2021](#) Pages 7A-1 through 7A-27

Public Hearing to consider all objections or protests, if any, to the proposed abatement of weeds, rubbish, refuse and dirt upon streets, sidewalks, parkways and private property within the City of San Clemente.

Staff Recommendation

Adopt Resolution No. 21-10 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ORDERING THE DIRECTOR OF COMMUNITY DEVELOPMENT TO ABATE THE NUISANCES BY HAVING WEEDS, RUBBISH, REFUSE AND DIRT REMOVED FROM VACANT PROPERTIES AND UNOCCUPIED, DEVELOPED PROPERTIES WITHIN THE CITY AND NOTIFYING THE STATE, COUNTY, OR ANY OTHER PUBLIC AGENCY.

B. [2021-22 Annual Action Plan – Expenditure of Community Development Block Grant Funds](#) Pages 7B-1 through 7B-44

Public Hearing relating to the 2021-22 Annual Action Plan for the expenditure of Community Development Block Grant funds.

Staff Recommendation

1. Approve and adopt the Draft 2021-2022 Annual Action Plan for use of Community Development Block Grant funds.
2. Authorize the City Manager to submit the Annual Action Plan to HUD to execute the HUD Contract.
3. Accept grant revenues of \$324,749 from HUD to Account 017-000-33712.
4. Authorize a related budget appropriation in the amount of \$324,749 to the CDBG fund for the amounts in the 2021-2022 Action Plan.

C. [Fees for Vehicle Impounds Provided by the Orange County Sheriff-Coroner](#) Pages 7C-1 through 7C-21

Public Hearing to consider adoption of the Orange County Sheriff's Department Vehicle Impound Fees.

Staff Recommendation

Adopt Resolution No. 21-11 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE ORANGE COUNTY SHERIFF'S DEPARTMENT TO COLLECT ITS UPDATED FEE FOR THE TRAFFIC VIOLATOR APPREHENSION PROGRAM IN THE CITY OF SAN CLEMENTE.

8. **Unfinished Business.**

A. [Request for Defense and Binding Arbitration in *Bieber v James*, Case No. 30-2020-01145593-CU-DF-CJC \(Orange County Superior Court\)](#)
Pages 8A-1 through 8A-37

Report from the City Attorney regarding a request for defense and binding arbitration in *Bieber v James*, Case No. 30-2020-01145593-CU-DF-CJC (Orange County Superior Court).

Staff Recommendation

1. Provide direction to staff on whether to waive the attorney-client privilege for the limited purpose of receiving advice on issues 2 and 3 below.
2. Receive oral presentation from special counsel.
3. Provide direction to staff on whether and what further action to seek reconsideration and/or binding arbitration of the JPIA's decision.
4. Provide direction to staff on whether to accept Councilmember James' request for defense in the lawsuit pursuant to Government Code section 995 independent of the JPIA's determination, with or without reservation of rights.

9. **New Business.**

A. **Warrant Register**

Approve Wire Transfers No. 2426 through 2428 and Warrant Nos. 572996 through 573116, paid on 4-16-21, in the amount of.....\$ 881,540.84

Approve Wire Transfers No. 2429 through 2432 and Warrant Nos. 573117 through 573232, paid on 4-23-21, in the amount of.....\$1,410,662.29

Approve Wire Transfers No. 2433 through 2434 and Warrant Nos. 573233 through 573355, paid on 4-30-21, in the amount of.....\$ 734,704.52

TOTAL WARRANT REGISTER.....\$3,026,907.65

Payroll Register

Approve Warrant Nos. 827 through 828 and Automatic Deposit Advises 70776 through 71066 for the period 4-5-21 through 4-18-21, paid on 4-23-21, in the amount of.....\$ 458,925.34

TOTAL PAYROLL REGISTER.....\$ 458,925.34

B. **Initiation of General Plan Amendment for the Removal of the Los Patrones Parkway from the Roadway Map System** Page 9B-1
(Continued from the City Council meeting of April 6, 2020)

Report from the Community Development Director concerning the initiation of a General Plan Amendment for the removal of the Los Patrones Parkway from the Roadway Map System.

Staff Recommendation

Direct Staff on whether to initiate a General Plan Amendment for the removal of the Los Patrones Parkway from the Roadway Map System.

- C. **Consideration of Adopting a Non-Binding Resolution of Support for the Right to Bear Arms** (Agendized by Mayor Pro Tem James with the support of Councilmember Knoblock at the Council Meeting of March 16, 2021)

- D. **Policy and Procedure 1201-12 (City Council Access to Confidential Documents) - Consideration of Expanding the Policy to Require Staff Members that Access Confidential Material to Acknowledge Receipt of Advisement Language** Pages 9D-1 and 9D-2 (Agendized by Councilmember Ferguson with the support of Councilmember Knoblock at the Council Meeting of April 20, 2021)

- E. **Declaration of Surplus Land – 100 Avenida Presidio, San Clemente**
Pages 9E-1 and 9E-2

Report from the Interim City Manager concerning the declaration of surplus property at 100 Avenida Presidio, San Clemente.

Staff Recommendation

Declare the property at 100 Avenida Presidio as surplus and direct Staff to proceed with the notice and negotiation procedures prescribed in the HCD's guidelines.

- F. **Letter of Support for SB 314 (Wiener) – Alcoholic Beverages/Outdoor Dining** Pages 9F-1 through 9F-12

Report from the Interim City Manager concerning the possibility of authorizing submittal of a letter of support for SB 314 (Wiener) concerning alcoholic beverages and outdoor dining.

Staff Recommendation

Approve, and authorize the Mayor to execute, a letter of support for SB 314 (Wiener) concerning alcoholic beverages/outdoor dining.

- G. [Citywide Concession Operations – Strategic Plan](#) Pages 9G-1 through 9G-16

Report from the Beaches, Parks and Recreation Manager concerning the Strategic Plan for Citywide Concession Operations.

Staff Recommendation

1. Approve an in-house concession operating plan for Richard T. Steed Park and direct staff to explore staffing options and budget impacts for incorporation into the upcoming budget process.
2. Direct staff to release an RFP for new food and beverage concessionaires to operate pop-up restaurants/concessions at T-Street and North Beach, focused on local established eateries, wherever feasible, utilizing this model for a one-year pilot program.
3. Direct staff to return to Council at the completion of the pilot program to evaluate the pop-up restaurant setup and seek further direction.
4. Direct staff to release an RFP for the operation of the Pier Bait & Tackle location with the final contract to be approved by the City Council.
5. Direct Staff to request proposals for the operation of the building located at 1900 N. El Camino Real.

- H. [Appointment of Erik Sund as City Manager](#) Pages 9H-1 through 9H-9

Recommendation

Approve, and authorize the Mayor to execute, Contract C21-19, a City Manager Employment Agreement, by and between the City of San Clemente and Erik Sund.

10. **Oral Communications (Part 2).** Members of the audience who wish to address Council on matters that are within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, may do so during the Oral Communications portion of the meeting. When invited by the Mayor, please step to the podium, and if you wish, state your name and the City in which you reside, and make your presentation, not to exceed three minutes. Subject to very limited exceptions, Council is not permitted to discuss or take action on items that do not appear on the agenda.

11. **Reports.**

- A. **Commissions and Committees**
- B. **City Manager**
- C. **City Attorney**
- D. **Council Members**

12. **Resolutions/Ordinances.**

- A. [Ordinance No. 1712 \(Second Reading\) – Updates to the City’s Inclusionary Housing Program and Amendments to the City’s Zoning Ordinance Section 17.24.120 Inclusionary Housing](#) Pages 12A-1 through 12A-7

Staff Recommendation

Adopt Ordinance No. 1712 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING UPDATES TO THE CITY’S INCLUSIONARY HOUSING PROGRAM AND AMENDMENTS TO THE CITY’S ZONING ORDINANCE SECTION 17.24.120 INCLUSIONARY HOUSING.

- B. [Ordinance No. 1713 \(Second Reading\) – Repeal of Ordinances Relating to Structure and Composition of City Commissions and Committees](#) Pages 12B-1 through 12B-3

Staff Recommendation

Adopt Ordinance No. 1713 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REPEALING ORDINANCE NOS. 1684, 1697 AND 1710 RELATING TO THE BEACHES, PARKS AND RECREATION COMMISSION, PLANNING COMMISSION, GOLF COURSE COMMITTEE, HUMAN AFFAIRS COMMITTEE, COASTAL ADVISORY COMMITTEE, AND/OR THE INVESTMENT ADVISORY COMMITTEE.

13. **Adjournment.**

The next Regular Council Meeting is scheduled to take place on May 18, 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 meeting will take place in the Community Center Auditorium, located at 100 N. Seville, San Clemente.

CITY COUNCIL MEETING PROCEDURES

PRESENTATION OF WRITTEN MATERIALS TO COUNCIL

In order to ensure that Councilmembers have adequate time to consider written materials concerning agenda items, it is strongly recommended that such materials be submitted to the City Clerk by noon the date preceding the Council meeting.

MEETINGS RECORDED AND BROADCAST

Regular City Council meetings are broadcast live and are replayed periodically on Cox Communications Local Access Channel 854. Meetings are also live-streamed and available for replay from the City's YouTube channel at www.san-clemente.org/live. Additionally, meetings are recorded via DVD or audio CD and retained as a City record in accordance with the City's records retention schedule.

USE OF ELECTRONIC VISUAL AIDS BY PUBLIC AT MEETINGS

To allow staff adequate time to confirm software compatibility, individuals wishing to utilize electronic visual aids to supplement their oral presentations at the meeting, must submit the electronic files to the City Clerk by no later than 12:00 p.m. on the day of the meeting. Only compatible electronic formats will be permitted to be used on City audio/visual computer equipment. Staff makes no guarantee that such material will be compatible, but will use its best efforts to accommodate the request.

LENGTH OF MEETINGS

At 11:00 p.m., the City Council will determine which of the remaining agenda items can be considered and acted upon at this meeting and will continue all other agenda items to a future meeting.

AMERICANS WITH DISABILITIES ACT

Pursuant to the Americans with Disabilities Act, persons with a disability, including Covid-19 impediments, who require a disability-related modification or accommodation in order to participate in a meeting, 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, such as providing auxiliary aids or services, to assure accessibility to the meeting.

COMMUNICATION DEVICES

To minimize meeting distractions and sound system interference, please be sure all personal communication devices are turned off or on silent mode.

MEETING SCHEDULE

Regular Council Meetings are held on the first and third Tuesdays of each month in the Community Center, located at 100 N. Calle Seville, San Clemente. Closed Session items are normally considered at 5:00 p.m. with 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. An "Inspection Copy" of agenda materials is also located in the Community Center lobby during meetings for public review. 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 Office, located at 910 Calle Negocio, San Clemente, during normal business hours.

The City Clerk's Department also offers an agenda packet subscription service free of charge. If you wish to receive email copies of City Council agendas, which include hyperlinks to staff reports and other back-up material, please send an email to cityclerk@san-clemente.org or call 949-361-8200.