



# CITY OF SAN CLEMENTE

## REGULAR CITY COUNCIL

### MEETING AGENDA

San Clemente Community Center Auditorium  
100 N. Calle Seville  
San Clemente, California  
[www.san-clemente.org](http://www.san-clemente.org)

October 19, 2021  
5:00 p.m. - Closed Session  
6:00 p.m. - Business Meeting

*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 at the entrance to the Community Center Auditorium and deposit it in the speaker box.
- 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 (5:00 P.M.)**

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

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

Case Name: Housing is a Human Right v. the County of Orange and City of San Clemente  
Case Number: 30-2019-01098573-CU-WM-CJC

**B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code section 54956.8

Property: 100 Avenida Presidio, Assessor's Parcel Number 692-012-01  
Agency Negotiators: City Manager and City Attorney  
Negotiating Parties: City of San Clemente and HTL Hospitality Advisors, LLC  
Under Negotiation: Price and terms for potential acquisition or lease

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

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

**D. CONFERENCE WITH LABOR NEGOTIATORS**

Pursuant to Government Code section 54957.6  
Agency designated representative: City Manager  
Represented employees: All Employees  
Employee organization: San Clemente City Employees Association

*Closed Session items continued on next page*

**E. LIABILITY CLAIMS**

Pursuant to Government Code section 54956.95

Number of claims: 4

Claimants: Cyprus Shore HOA, Judy Beauchamp, Martha K. Birmingham, Timothy C. Metcalf, Kristine B. Metcalf, their counsel and/or representatives  
Agency claimed against: City of San Clemente

**BUSINESS MEETING (6:00 P.M.)**

**CALL TO ORDER**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**1. Special Presentations.**

A. **Update on Homeless Issue (Note: The September 2021 report will be agendized for the City Council meeting of November 2, 2021)**

B. **Sand Replenishment Update**

Sand Replenishment Update provided by Susie Ming, U.S. Army Corps of Engineers, and Jonathan Gilbert, Chief of Staff of Congressman Mike Levin's office.

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

Approve the following:

- (1) [City Council Regular Meeting minutes of October 5, 2021.](#)

B. **Commission/Committee Minutes**

Staff Recommendation

Receive and file the following:

- (1) [Public Safety Committee Regular Meeting minutes of June 22, 2021.](#)
- (2) [Public Safety Committee Regular Meeting minutes of July 27, 2021.](#)
- (3) [Zoning Administrator Regular Meeting minutes of September 23, 2021.](#)
- (4) [Planning Commission Regular Study Session minutes of October 6, 2021.](#)
- (5) [Planning Commission Regular Meeting minutes of October 6, 2021.](#)
- (6) [Zoning Administrator Regular Meeting minutes of October 7, 2021.](#)

C. **Warrant Register**

Approve Wire Transfers No. 2522 and 2523 and Warrant Nos. 576445 through 576593, paid on 10-1-21, in the amount of.....\$2,350,784.08

Approve Wire Transfers No. 2524 through 2529 and Warrant Nos. 576594 through 576669, paid on 10-8-21, in the amount of.....\$3,231,695.64

TOTAL WARRANT REGISTER.....\$5,582,479.72

**Payroll Register**

Approve Warrant Nos. 842 through 844, Automatic Deposit Advises 74294 through 74566 for the period 9-20-21 through 10-3-21, paid on 10-8-21, in the amount of.....\$ 441,953.74

TOTAL PAYROLL REGISTER.....\$ 441,953.74

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. **329 Avenida Cabrillo - Gonzalez Residence Addition and Remodel (Cultural Heritage Permit 20-374, Minor Exception Permit 21-001 and Historic Demolition Permit 21-095)** Pages 7A-1 through 7A-133

Public Hearing to consider the following with regard to the property located at 329 Avenida Cabrillo: 1) Mills Act contract exterior improvements, 2) a 536 square-foot rear addition, 3) partial demolition of a one-car detached garage to accommodate rear yard improvements and a future accessory dwelling unit, and 4) the continuation of a legal nonconforming side yard setback.

Planning Commission Recommendation

- 1. Determine the project is Categorical Exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities) and Section 15305 (Class 5: Minor Alterations in Land Use Limitations).

*Staff Recommendation continued on next page*

2. Adopt Resolution No. 21-42 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CULTURAL HERITAGE PERMIT 20-374/MINOR EXCEPTION PERMIT 21-001/DEMOLITION OF HISTORIC PROPERTY PERMIT 21-095, GONZALEZ RESIDENCE ADDITION AND REMODEL, TO CONSIDER: 1) MILLS ACT CONTRACT EXTERIOR IMPROVEMENTS, 2) A 536 SQUARE-FOOT REAR ADDITION, 3) PARTIAL DEMOLITION OF A ONE-CAR GARAGE, AND 4) THE CONTINUATION OF A LEGAL NONCONFORMING SIDE YARD SETBACK, AT A PROPERTY LOCATED AT 329 AVENIDA CABRILLO.

8. **Unfinished Business.**

- A. [Proposed Changes to Metered Parking Hours of Operation](#) Pages 8A-1 through 8A-18

Report from the Assistant to the City Manager concerning the possibility of amending the Code of the City of San Clemente as it relates to metered parking hours of operation.

Staff Recommendation

Introduce Ordinance No. 1719 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING MUNICIPAL CODE CHAPTER 10.40 PARKING METERS.

- B. [Community Choice Energy](#) Pages 8B-1 through 8B-48

Report from the Assistant to the City Manager concerning Community Choice Energy.

Staff Recommendation

1. Determine which Community Choice Energy option to pursue.
2. Authorize Staff to request usage data from SDG&E.
3. Take one of the following actions:
  - a) Approve, and authorize the City Manager to execute, Amendment No. 1 to Contract AC-1001, by and between the City of San Clemente and MRW & Associates, providing for Phase II of the feasibility analysis relating to Community Choice Energy. This Amendment increases the contract amount from \$5,000 to \$15,000, an increase of \$10,000. In addition, appropriate \$10,000 from the General Fund unassigned fund balance, Account 001-000-23430, into Account 001-151-43890.

**OR**

- b) Approve, and authorize the City Manager to execute, Amendment No. 1 to Contract AC-1001, by and between the City of San Clemente and MRW & Associates, providing for Phases II and III of the feasibility analysis relating to Community Choice Energy. This Amendment increases the contract amount from \$5,000 to \$45,000, an increase of \$40,000. In addition, appropriate \$40,000 from the General Fund unassigned fund balance, Account 001-000-23430, into Account 001-151-43890.

9. **New Business.**

A. **[CalPERS Pension Funding Strategy](#)** Pages 9A-1 through 9A-21

Report from the Financial Services Officer concerning a proposed strategy to address funding of the CalPERS pension liability.

Staff Recommendation

1. Direct Staff to pursue the “3-2-1 Plan” and bring back a supplemental appropriation request upon the availability of one-time funds for a \$3 million payment on the Public Safety Inactive Plan.
2. Approve a supplemental appropriation of \$2 million for a one-time Unfunded Accrued Liability Payment funded through a transfer of \$300,000 from the Workers Compensation Fund and an appropriation of \$1.7 million from the General, Water, Sewer and Golf Fund balances.
3. Direct Staff to pursue the creation of a Section 115 trust and utilize the Emergency Reserve as the funding source for a \$1 million Section 115 trust contribution.

B. **[Ratification of Emergency Purchases and Contract Awards - Cyprus Shore Storm Drain Emergency Relocation and Cyprus Shore Pump Station Emergency Relocation](#)** Pages 9B-1 through 9B-109

Report from the Utilities Director concerning ratification of emergency purchases and contract awards for the Cyprus Shore storm drain emergency relocation and Cyprus Shore pump station emergency relocation.

Staff Recommendation

1. Make a finding that an emergency exists due to the potential failure of an existing sewer pump station and storm drain system and that the situation requires immediate action to prevent or mitigate impairment to property and public services, which might otherwise occur if required to incur delays attributed to the typical engineering design and public competitive bidding process.

2. Declare that the public interest and necessity demand the immediate expenditure of public funds to safeguard public health.
  3. Approve an appropriation in the amount of \$205,400 to Account 054-476-45300-000-12209 from the Sewer Fund Depreciation Reserve.
  4. Approve an appropriation in the amount of \$88,580 to Account 054-477-45300 from the Sewer Connection Fee Reserve.
  5. Approve an appropriation in the amount of \$256,000 to Account 059-553-45300-000-12004 from the Storm Drain Fund Depreciation Reserve.
  6. Ratify Contract No. C21-41, by and between the City of San Clemente and O'Connell Engineering and Construction, Inc., providing for operation of the Cyprus Shore Emergency Pump Station Bypass, Project No. 12209, for an amount not to exceed \$83,988, and to authorize the City Manager to extend the contract for an additional 30 days if needed.
  7. Ratify Contract No. C21-42, by and between the City of San Clemente and O'Connell Engineering and Construction, Inc., providing for temporary emergency relocation of the Cyprus Shore Storm Drain, Project No. 12004, in an amount not to exceed \$40,000.
  8. Ratify a purchase with P&F Distributors for storm drain pipe and fitting in connection with the Cyprus Shore Storm Drain Emergency Relocation, Project No. 12004, in the amount of \$122,391.75.
  9. Ratify Contract No. C21-43, by and between the City of San Clemente and AKM Consulting Engineers, providing for design and analysis of the Cyprus Shore Storm Drain Emergency Relocation and Cyprus Shore Emergency Pump Station, Project Nos. 12004 and 12209, in an amount not to exceed \$98,464.
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. 1717 \(Second Reading\) - Special Event Permits, Amplified Sound and Excessive Noise in Public Places](#) Pages 12A-1 through 12A-28

Staff Recommendation

Adopt Ordinance No. 1717 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SAN CLEMENTE MUNICIPAL CODE CHAPTERS 8.72 AND 12.34 RELATING TO SPECIAL EVENT PERMITS, AND SECTIONS 8.48.080 AND 8.48.090(C) RELATING TO AMPLIFIED SOUND AND EXCESSIVE NOISE IN PUBLIC PLACES; RENUMBERING THE MUNICIPAL CODE ACCORDINGLY; AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

13. **Adjournment.**

The next Regular Council Meeting is scheduled to take place on November 2, 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. Calle 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 TELEVISED**

City Council meetings are broadcast live and are replayed periodically on Cox Communications Local Access Channel 854. Meetings are also available for live-stream or post meeting viewing from the City's website. Meetings are also recorded via audio CD and/or DVD 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 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.

### **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 Auditorium, located at 100 North Calle Seville, San Clemente. Closed Session items are considered at 5:00 p.m. and the Business Meeting begins 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 are available for review and/or copying at the City Clerk's Department as soon as agendas are posted (a minimum of 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting). Agendas and Administrative Reports can also be viewed at the San Clemente Library, located at 242 Avenida Del Mar, or by accessing the City's website at [www.san-clemente.org](http://www.san-clemente.org). An "Inspection Copy" of agenda materials is also located at the entrance to the Community Center 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 in the City Clerk's Department, located at 910 Calle Negocio, San Clemente, during normal business hours.

The City Clerk's Department 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, register at <http://san-clemente.org/enotification>.