



# 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)

November 16, 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: 2

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

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

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

**CALL TO ORDER**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

1. **Special Presentations.**

A. **Update on Homeless Issue (October 2021 City Outreach and Engagement Report)**

B. **SB 9 and SB 10 Relating to Housing Development** (Agendized at the October 5, 2021 Council meeting by Mayor Ward, with the support of Councilmember Duncan and Mayor Pro Tem James).

Presentation by Todd Leishman, of Best Best & Krieger, concerning SB 9 and SB 10 (Housing Development) and its effect on San Clemente.

C. **Freedom Foundation Presentation Requesting City Participation in a Legal Challenge of SB 866** (Agendized at the September 7, 2021 City Council meeting by Mayor Pro Tem James, with the support of Councilmember Knoblock.)

Presentation by Shelba Alcabes, Litigation Counsel representing the Freedom Foundation, concerning the possibility of the City participating in a legal challenge of SB 866.

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 agendizing items requiring immediate action.** Any items agendized will be considered under New Business, unless otherwise determined by a majority vote of the City Council.

5. **Closed Session Report - City Attorney.**

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 Regular Meeting Minutes of November 2, 2021 and Responses to Points of Order Cards Received with Regard to that Meeting**

Staff Recommendation

(1a.) Receive and file the City Attorney’s Memorandum of November 10, 2021, that responds to Points of Order cards received in connection with the City Council meeting of November 2, 2021.

(1b.) Approve the minutes of the Regular City Council Meeting of November 2, 2021.

B. **Commission/Committee Minutes**

Staff Recommendation

Receive and file the following:

(1.) Investment Advisory Committee Regular Meeting minutes of July 26, 2021.

C. **Warrant Register**

Approve Wire Transfers Nos. 2539 through 2544 and Warrant Nos. 577165 through 577307, paid on 11-5-21, in the amount of.....\$ 3,755,051.29

Approve Wire Transfers Nos. 2545 through 2547 and Warrant Nos. 577308 through 577409, paid on 11-12-21, in the amount of.....\$ 836,015.80

TOTAL WARRANT REGISTER.....\$ 4,591,067.09

**Payroll Register**

Approve Warrant Nos. 848 through 850, Automatic Deposit Advises 74833 through 75091, for the period 10-18-21 through 10-31-21, paid on 11-5-21, in the amount of.....\$ 466,366.24

TOTAL PAYROLL REGISTER.....\$ 466,366.24

- D. [Community Facilities District No. 2006-1 \(Marblehead Coastal\) Local Agency Special Tax and Bond Accountability Act Report \(SB 165\) for Fiscal Year Ended June 30, 2021](#) Pages 6D-1 through 6D-11

Staff Recommendation

Accept and file the Community Facilities District No. 2006-1 (Marblehead Coastal) Local Agency Special Tax and Bond Accountability Act Report (SB 165) for the fiscal year ended June 30, 2021.

- E. [Beaches, Parks and Recreation Commission FY 2021-22 Annual Work Plan](#) Pages 6E-1 through 6E-5

Staff Recommendation

Approve the FY 2021-22 Annual Work Plan as proposed by the Beaches, Parks and Recreation Commission.

- F. [Municipal Golf Course Operation Update](#) Pages 6F-1 through 6F-128

Staff Recommendation

Receive and file the San Clemente Municipal Golf Course Operation Update, dated November 16, 2021, that is on file with the City Clerk.

- G. [Public Safety Committee FY 2021-22 Annual Work Plan](#) Pages 6G-1 through 6G-9

Staff Recommendation

Approve the FY 2021-22 Annual Work Plan as proposed by the Public Safety Committee.

- H. [Contract Award – Purchase of Electricity from Calpine Energy Solutions](#) Pages 6H-1 through 6H-5

Staff Recommendation

1. Approve, and authorize the City Manager to execute, a four (4) month fixed pricing contract for 50% of the City's electricity portfolio with Calpine Energy Solutions and float the remaining 50% of electricity on the energy index.
2. Authorize the City Manager to execute future Calpine Energy Agreements as recommended by Staff's evaluation of market conditions.

I. [Purchase of Telecommunications Services from Cox Business Services](#) Pages 6I-1 through 6I-23

Staff Recommendation

Approve, and authorize the City Manager to execute, Contracts No. C21-47, C21-48, C21-49, C21-50, C21-51, C21-52 and C21-53), Commercial Services Agreements by and between the City of San Clemente and Cox Business Services, providing for the purchase of Telecommunications Services including Metropolitan Area Network Ethernet and Managed Internet Services in the amount of \$5,670.57 per month.

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. [Zoning Amendment 21-118 – Zoning Clean Up Amendment](#) Pages 7A-1 through 7A-26

Public Hearing to consider amending the Code of the City of San Clemente to update erroneous definitions and permitted use table placement for consistency with the General Plan and state and federal law.

Staff Recommendation

1. Find and determine the proposed amendments are not a project as defined by the State CEQA Guidelines Section 15378(b)(5).
2. Introduce Ordinance No. 1720 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO APPROVE AND ADOPT AMENDMENTS TO THE CITY OF SAN CLEMENTE MUNICIPAL CODE TITLE 17, ZONING, UPDATING ERRONEOUS PERMITTED USE TABLE PLACEMENT AND DEFINITIONS FOR CONSISTENCY WITH THE GENERAL PLAN AND STATE AND FEDERAL LAW.

B. [Application for and Receipt of Senate Bill 2 \(SB 2\) Permanent Local Housing Allocation \(PLHA\) Program Grant and Approval of the Proposed Five-Year Plan](#) Pages 7B-1 through 7B-12

Public Hearing to consider authorizing the application and receipt of the Permanent Local Housing Allocation Program grant and approval of the proposed five-year plan.

Staff Recommendation

1. Adopt Resolution No. 21-45 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE APPLICATION AND ADOPTING THE PLHA PLAN FOR THE PERMANENT LOCAL HOUSING ALLOCATION PROGRAM.
2. Accept grant revenues of \$482,867 from the State Department of Housing and Community Development to Account 027-000-33492.
3. Authorize a related budget appropriation in the amount of \$482,867 to Professional Services Account 027-827-43890.

8. **Unfinished Business.**

A. [Updates on Economic Recovery, Outdoor Dining and Trolley Operations and Consideration of Directing the Director of Emergency Services to Extend Certain Zoning-Related Small Business Assistance Strategies and Implementing License Agreements with Participating Businesses](#) Pages 8A-1 through 8A-11

Report from the Economic Development Officer concerning updates on economic recovery, outdoor dining and trolley operations and consideration of directing the Director of Emergency Services to extend certain zoning-related small business assistance strategies and implementing license agreements with participating businesses.

Staff Recommendation

1. Adopt Resolution No. 21-46 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA EXTENDING THE LOCAL EMERGENCY REGARDING ECONOMIC STABILIZATION AND RECOVERY FROM THE IMPACTS OF THE CORONAVIRUS PANDEMIC PREVIOUSLY AUTHORIZED BY CITY COUNCIL RESOLUTION 21-18.
2. Adopt Resolution No. 21-47 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA DIRECTING THE DIRECTOR OF EMERGENCY SERVICES TO EXTEND CERTAIN ZONING-RELATED SMALL BUSINESS

ASSISTANCE STRATEGIES AND IMPLEMENT LICENSE AGREEMENTS WITH PARTICIPATING BUSINESSES.

3. Authorize the City Manager to execute an administrative amendment to Exhibit C of the Professional Services Agreement with LAZ Parking to extend operations through January 2, 2022.
4. Provide direction to staff on whether to return in the first quarter of 2022 with an Ordinance to establish a City-wide outdoor dining program for 2022-2023 under the enabling legislation of AB 61 and SB 314.

9. **New Business.**

- A. [Code Amendment - Waste Discharge Pretreatment and Source Control Program](#) Pages 9A-1 through 9A-134

Report from the Utilities Director concerning the possibility of amending the Code of the City of San Clemente as it relates to the Waste Discharge Pretreatment and Source Control program.

Staff Recommendation

Introduce Ordinance No. 1721 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 13.28 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO WASTE DISCHARGE PRETREATMENT AND SOURCE CONTROL PROGRAM.

- B. [Feasibility of Annexing Rancho Mission Viejo Planning Area 5](#) (Agendized at the June 15, 2021 City Council meeting by Mayor Pro Tem James, with the support of Mayor Ward and Councilmember Duncan.) Pages 9B-1 through 9B-3

Report from the Assistant to the City Manager concerning the feasibility of annexing Rancho Mission Viejo Planning Area 5.

Staff Recommendation

Receive and file the Administrative Report, dated November 16, 2021, that is on file with the City Clerk.

- C. [City Policy 103-6 \(Closed Circuit/IP Camera System Policy\)](#) (Agendized at the November 2, 2021 City Council meeting by Councilmember Ferguson, with the support of Councilmember Knoblock).



D. **Code Amendment Concerning Shopping Carts and Publicly Stored Personal Property and Finding the Ordinance Not Subject to the California Environmental Quality Act** Pages 9D-1 through 9D-23

Report from the City Attorney and Code Compliance concerning the possibility of adopting an Ordinance to amend the Code of the City of San Clemente relating to shopping carts and publicly stored personal property and finding the Ordinance not subject to the California Environmental Quality Act.

**Staff Recommendation**

1. Find that the Ordinance is not subject to the requirements of CEQA for the following reasons:
  - a. The Ordinance does not qualify as a “project” under CEQA and because the Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment; and
  - b. The Ordinance is exempt under State CEQA Guidelines Section 15061(b)(3), the general rule exemption, because it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment.
2. Introduce Ordinance No. 1722 entitled AN ORDINANCE OF THE CITY COUNCIL OF SAN CLEMENTE, CALIFORNIA AMENDING TITLES 8 AND 12 OF THE SAN CLEMENTE MUNICIPAL CODE REGARDING SHOPPING CARTS, CRITICAL INFRASTRUCTURE AND PUBLIC STORAGE OF PERSONAL PROPERTY AND FINDING THE ORDINANCE NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
3. Repeal City Council Resolution No. 18-01.

E. **Verbal Report by Staff Concerning the City’s Progress in Meeting the 2020 Benchmarks Contained in the Climate Action Plan** (At the Council meeting of July 20, 2021, City Manager Sund agreed to provide Council with a report on this topic at a future meeting.)

- F. [Lobbyist Services - Sand Replenishment](#) (Agendized at the October 19, 2021 City Council meeting by Mayor Pro Tem James, with the support of Councilmember Duncan and Mayor Ward). Pages 9F-1 through 9F-2

Report from the City Manager and Public Works Department Staff concerning the possibility of engaging a lobbyist with sand replenishment expertise.

Staff Recommendation

Provide direction regarding next steps.

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**

- (1) [Establishment of Council Meeting Schedule and Joint Meeting\(s\) for 2022 and Early 2023](#) Pages 11D(1)-1 through 11D(1)-2

Report from the City Clerk concerning establishment of the City Council meeting schedule and joint meeting(s) for 2022 and early 2023.

Staff Recommendation

1. Determine whether to schedule a Joint Council/Commissions/Committees meeting in 2022.
2. Determine whether to cancel Council meeting(s) in July and/or August 2022 to accommodate Council and Staff vacations.
3. Determine whether to cancel or reschedule the Council meeting of January 3, 2023.

(2) [City Representative – Orange County Mosquito and Vector Control District Board of Trustees](#) Pages 11D(2)-1 through 11D(2)-2

Report from the City Clerk concerning the appointment of a City Representative to the Orange County Mosquito and Vector Control District Board of Trustees.

Staff Recommendation

That Council take one of the below actions:

- Appoint a member of the Council to serve as the City's representative on the Orange County Mosquito and Vector Control District Board of Trustees for either a two- or four-year term to commence on January 3, 2022.

**OR**

- Direct the City Clerk to advertise and solicit applications from San Clemente registered voters to fill the vacancy for the City representative on the Orange County Mosquito and Vector Control District Board of Trustees for either a two- or four-year term to commence on January 3, 2022. Further, that Council schedule interviews for the Council meeting of December 21, 2021 at 4:45 p.m.

12. **Resolutions/Ordinances.**

None.

13. **Adjournment.**

Adjourn to an Adjourned Regular Council Meeting to be held on November 30, 2021 at 7:00 p.m. in the Municipal Golf Course banquet room, located at 150 Avenida Magdalena, San Clemente, for the purpose of meeting in joint session with City Commissions and Committees.

The next Regular Council Meeting is scheduled to take place on December 7, 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>.