

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting – October 19, 2021

These minutes reflect the order in which items appeared on the meeting agenda and do not necessarily reflect the order in which items were actually considered.

A Regular Meeting of the San Clemente City Council was called to order by Mayor Ward on October 19, 2021 at 5:00 p.m. in the San Clemente Community Center Auditorium, located at 100 N. Calle Seville, San Clemente.

PRESENT DUNCAN, FERGUSON, JAMES, KNOBLOCK, MAYOR WARD

ABSENT None

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

CLOSED SESSION

Bieber v. James

Martina (last name not provided) conveyed concerns with past City actions with regard to the case entitled Bieber v. James and stressed her opposition to the use of City funds to defend Mayor Pro Tem James.

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to recess to Closed Session at 5:05 p.m. to discuss the following:

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

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

Closed Session items continued on next page

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

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

REGULAR BUSINESS MEETING CONVENED

The Regular Business Meeting convened at 6:32 p.m., with all Councilmembers present.

PLEDGE OF ALLEGIANCE

Councilmember Ferguson led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Update on Homeless Issue

Judy Jones, San Clemente, suggested that homeless updates should include the number of working homeless and the number of homeless that are students; spoke on the importance of learning the underlying causes of homelessness.

Donna Vidrine, San Clemente, questioned what the City is doing to house its homeless residents; suggested that homelessness in Orange County is primarily caused by a lack of adequate income and the high cost of housing.

Rick Loeffler, San Clemente, recounted a recent success story where the City's Homeless Outreach Worker, with the assistance of Mission Hospital and Family Assistance Ministries, successfully transitioned a homeless individual into housing; commended Lt. Benfield for his proactive community-oriented policing efforts.

Deputy Community Development Director Atamian reviewed the contents of the September 2021 City Outreach and Engagement Report. A hard copy of the subject report is on file with the City Clerk.

Council requested that Staff add reporting categories for "Working Homeless" and "Student Homeless" in future monthly reports.

B. Sand Replenishment Update

Susie Ming, U.S. Army Corps of Engineers, and Jonathan Gilbert, Chief of Staff of Congressman Mike Levin's office, narrated a PowerPoint presentation entitled "San Clemente Shoreline, CA" and responded to Council inquiries. A hard copy of the subject PowerPoint is on file with the City Clerk.

Dr. Ben Benumof, Beaches, Parks and Recreation Commissioner, spoke on the need to anchor sand that is placed on the beach; suggested the possibility of the City anchoring the beach nourishment to the riprap that protects the railway and building a cobble delta on the southern portion of the beach; distributed a document entitled "Shore Perpendicular Beach Profile Photographs" that is on file with the City Clerk.

Jorine Campopiano, Beaches, Parks and Recreation Commissioner, conveyed support for sand replenishment; urged that Council 1) commission a feasibility study that addresses sand retention strategies along San Clemente's entire shoreline; 2) restart the beach profile-monitoring program; and 3) join OC Parks' regional stakeholder group.

Tim Brown, representing The Shore Homeowners Association, stated that sand replenishment is a priority need in San Clemente; urged Council to 1) supplement the efforts of the U.S. Army Corps of Engineers and Congressman Levin's office; 2) retain a federal lobbyist to help advance the sand replenishment project; and 3) form a subcommittee to ideate the sand replenishment issue.

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER DUNCAN, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE), to direct Staff to return to Council at its meeting of November 2, 2021 with information concerning potential Washington, D.C. lobbyists that possess expertise in the area of sand replenishment. Staff is to prepare a report on this item that addresses cost, objectives, and anticipated return on investment.

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

Rosenberg's Rules of Order/Assignment of Times for Agenda Items

Anonymous urged that Council follow Rosenberg's Rules of Order or adopt new rules; suggested that future agendas indicate the times when items are anticipated to be considered.

Amazon Distribution Center

Amanda Quintanilla suggested that Amazon uses poor business practices; voiced concern that the development of an Amazon distribution center in the City will hurt local businesses that are trying to recover from the pandemic.

Mel Ph opined that an Amazon facility will increase traffic and harm the environment; objected to the expenditure of tax dollars to review a potential Amazon project; asserted that Planning Commissioner Cosgrove possesses stock in Amazon and is, therefore, disqualified from deliberations relating to an Amazon project.

Aaron Washington urged Council to oppose development of an Amazon Distribution Center in the City due, in part, to his concern with the resulting truck traffic.

Shelley Moore spoke in opposition to Amazon, citing concerns that it negatively affects small towns.

Alleged First Amendment Violations/Bieber v. James

Martina (no last name provided) alleged that First Amendment violations occurred at the Council meeting of October 5, 2021; stressed that the City should not fund Mayor Pro Tem James' legal fees in the case of Bieber v. James.

City Code Provisions Relating to Overnight Parking of Commercial Vehicles in Residential Areas

George Gregory, San Clemente, urged Council to agendize for possible modification the City's Code provisions relating to overnight parking of commercial vehicles in residential areas.

Climate Change

Donna Vidrine, San Clemente, spoke on the importance of transitioning from fossil fuel to more-sustainable energy to help prevent climate change.

Oil Production

Warren Vidrine, San Clemente, displayed a PowerPoint presentation concerning oil production and resulting gas prices. A hard copy of Mr. Vidrine's PowerPoint and written comments are on file with the City Clerk.

MEETING RECESSED

Council recessed at 7:56 p.m. and reconvened at 8:04 p.m., with all members present.

3. **WAIVER TO READING IN FULL OF ALL RESOLUTIONS AND ORDINANCES**

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

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

None.

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

City Attorney Smith reported that no reportable action was taken during this evening's Closed Session.

6. **CONSENT CALENDAR**

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER DUNCAN, CARRIED 5-0, to approve the Consent Calendar, with the removal of Item 6C.

A. **City Council Minutes**

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

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

B. **Commission/Committee Minutes**

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

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

C. Warrant Register

A speaker card was received by "Anonymous" requesting that this item be removed from the Consent Calendar for discussion; however, that individual was not present to speak when invited to do so.

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER DUNCAN, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE), to:

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

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER DUNCAN, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE), to:

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**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)**

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.

Assistant Planner Carrillo narrated a PowerPoint entitled "Gonzalez Residence, CHP 20-374/MEP 21-001/HDP 21-095" and, along with Deputy Community Development Director Atamian and Community Development Director Gallardo-Daly, responded to Council inquiries. A hard copy of Mr. Carrillo's PowerPoint is on file with the City Clerk.

Mayor Ward opened the Public Hearing.

Rob Williams, project architect, offered to answer Council inquiries.

Rick Loeffler expressed concerns with SB 9 and SB 10 as they relate to accessory dwelling units (ADUs); questioned how Mills Act agreements and ADUs will interface and voiced concern that State law does not require ADUs to be affordable.

There being no others desiring to speak to this issue, the Public Hearing was closed.

Following discussion, MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to:

1. Determine the project is Categorically 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).
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**

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.

Assistant to the City Manager Savage reviewed the contents of the Administrative Report and responded to Council inquiries.

MOTION BY COUNCILMEMBER FERGUSON, SECOND BY MAYOR PRO TEM JAMES, CARRIED 5-0, to 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**

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

Assistant to the City Manager Savage reviewed the contents of the Administrative Report.

Mark Fulmer with MRW & Associates, narrated a PowerPoint presentation entitled "Community Choice Energy: What It Is and What it Might Mean for San Clemente". A hard copy of Mr. Fulmer's PowerPoint is on file with the City Clerk.

Terry Otsuki, San Clemente, spoke in support of the economic benefits that Community Choice Aggregation (CCA) can bring to City residents; urged that the City join a local joint powers authority.

Crista Martin, San Clemente, commended Council for investigating the feasibility of Community Choice Energy in San Clemente and urged that the City move forward with additional analysis; explained that she is particularly interested in assessing the possibility of joining the Clean Energy Alliance.

Tyler Boden, San Clemente, reported that he is an advocate for citizen choice with regard to their energy procurement provider; opined that joining the Clean Energy Alliance, which consists of North San Diego County cities, represents the best option, noting that it would provide local control with the added long-term benefits of savings and resiliency.

MOTION BY COUNCILMEMBER DUNCAN, SECOND BY MAYOR PRO TEM JAMES, CARRIED 5-0, to: 1) direct Staff to engage with the Clean Energy Alliance (CEA) and return to Council as soon as possible with the next steps in the process to potentially join the JPA; 2) establish a subcommittee of Council to be involved in the process; 3) authorize Staff to request usage data from SDGE; and 4) authorize meetings, consisting of no more than two Councilmembers at a time, to be conducted to keep Councilmembers apprised of the analysis.

MOTION BY MAYOR PRO TEM JAMES, SECOND BY MAYOR WARD, CARRIED 5-0, to appoint Mayor Pro Tem James and Councilmember Duncan to serve on the Council subcommittee that will be involved in the assessment of the City joining the Clean Energy Alliance.

9. **NEW BUSINESS**

A. **CalPERS Pension Funding Strategy**

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

Financial Services Officer Rahn reviewed the contents of the Administrative Report and responded to Council inquiries.

Council requested that City Attorney Smith provide a report to Council that identifies the legal restrictions that preclude the City from transitioning City employees from a defined benefit plan to a different retirement plan.

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER DUNCAN, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE), to:

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.

Action continued on next page

3. Request that City Treasurer Taylor advise Council with regard to the advisability of creating a Section 115 trust and/or paying \$1 million into the unfunded liability utilizing the Emergency Reserve as the funding source.

B. Ratification of Emergency Purchases and Contract Awards - Cyprus Shore Storm Drain Emergency Relocation and Cyprus Shore Pump Station Emergency Relocation

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.

Utilities Director Rebensdorf reviewed the contents of the Administrative Report.

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

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.

Action continued on next page

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)**

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

Red Ribbon Week

City Manager Sund reported that Red Ribbon Week will take place from October 23 through 31, 2021.

Vacancies in San Clemente Police Services and Community Development

Captain Benfield reported on existing staff vacancies in San Clemente Police Services and City Manager Sund reported on vacancies in the Community Development Department. City Manager Sund advised that the Chief of Police Services and he will report back to Council periodically with crime statistics and staffing updates.

C. **City Attorney**

None.

D. **Council Members**

CR&R Bio Plant Tour

Councilmember Knoblock reported that he recently toured the CR&R bio plant in Perris and was impressed with the facility.

Santa Barbara Desalination Plant Tour

Councilmember Knoblock reported that he is scheduled to tour the Santa Barbara Desalination Plant on November 1, 2021.

Overnight Parking of Commercial Vehicles on Residential Sites

Councilmember Knoblock, with the support of Councilmember Ferguson and Councilmember Duncan, agendized for the November 2, 2021 Council meeting, consideration of the City's Code provisions (i.e., Sections 10.04.010 and 10.28.230) relating to restrictions pertaining to overnight parking of commercial vehicles on residential streets.

City Manager's Spending Authority

Councilmember Ferguson, with the support of Councilmember Knoblock, agendized for the November 2, 2021 Council meeting, consideration of the City Manager's spending authority that is currently established at a maximum of \$25,000.

Speaker Time

Mayor Ward noted that she did not enforce the three-minute speaker time limitation on Ben Benumof's presentation during Item 1B (Sand Replenishment Update) because she mistakenly thought that he was speaking on behalf of the Beaches, Parks and Recreation Commission; spoke on the importance of Councilmembers and the public treating each other with respect.

San Clemente High School Tritons Football Victory

Councilmember Duncan congratulated the San Clemente High School Tritons Football Team on its recent victory.

Points of Order Cards

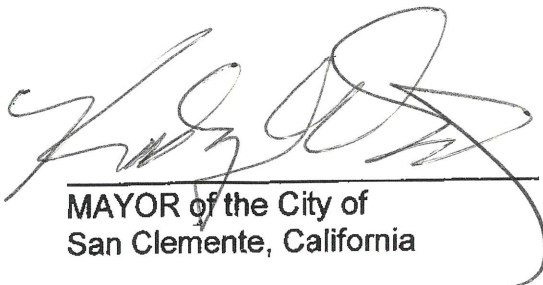
During the course of the meeting, three Points of Order cards were submitted to the City Clerk that, pursuant to Council Policy 1201-11, Section 4.1.2, shall be presented for consideration by the City Council in connection with its approval of the minutes of this meeting.

12. RESOLUTIONS/ORDINANCES**A. Ordinance No. 1717 (Second Reading) - Special Event Permits, Amplified Sound and Excessive Noise in Public Places**

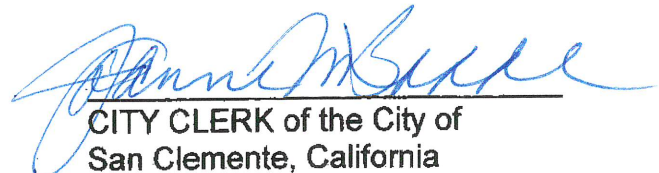
MOTION BY COUNCILMEMBER DUNCAN, SECOND BY MAYOR PRO TEM JAMES, CARRIED 3-2 (COUNCILMEMBER FERGUSON AND COUNCILMEMBER KNOBLOCK VOTING NOE), to adopt Ordinance No. 1717 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SAN CLEMENTE MUNICIPAL CODE CHAPTERS 8.72 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

MOTION BY MAYOR WARD, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adjourn at 10:39 p.m. 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.



MAYOR of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California