

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting – December 21, 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 James on December 21, 2021 at 5:00 p.m. in the San Clemente Community Center Auditorium, located at 100 N. Calle Seville, San Clemente.

PRESENT DUNCAN, FERGUSON, KNOBLOCK, WARD, MAYOR JAMES

ABSENT None

STAFF PRESENT Erik Sund, City Manager; Brian Byun, Acting City Attorney; Joanne Baade, City Clerk; Laura Campagnolo, Deputy City Clerk

CLOSED SESSION

Brad Malamud voiced concern that the City posted the letter he wrote to the City Attorney concerning Closed Session Item B on the City's website; stated that the issue relates to an investigation of a Councilmember for which the City Manager and City Attorney may not be involved; asserted that posting the subject letter constitutes a Brown Act violation, noting that the letter seeks a remedy and does not threaten litigation.

Amanda Quintanilla voiced concern with taxpayer dollars being used to fund an investigator to probe harassment claims against a Councilmember; called for the removal of the City Manager and City Attorney.

Martina (last name not provided) suggested that Closed Session Item B does not threaten litigation and represents systematic abuse of a Councilmember; voiced concern that Mayor James contacted media outlets with regard to allegations against Councilmember Ferguson and asserted that he has engaged in Brown Act violations.

City Clerk Baade announced that Staff is recommending that Closed Session Item B be deferred to a future Council meeting.

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 3-2 (COUNCILMEMBER FERGUSON AND COUNCILMEMBER KNOBLOCK VOTING NOE), to defer Closed Session Item B to a future meeting.

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DUNCAN, CARRIED 5-0, to recess to Closed Session at 5:05 p.m. to discuss the following:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code section 54956.8

Number of items: 2

Property: 721 Avenida Salvador, San Clemente, APNs: 690-502-16 &12
Negotiating Parties: City of San Clemente, PlanCom, Inc., DISH Wireless, LLC and/or their authorized agent(s)
Under Negotiation: Price and terms for potential lease

Property: 1304 Calle Valle (Bonito Park), San Clemente, APNs: 057-160-02
Negotiating Parties: City of San Clemente, PlanCom, Inc. DISH Wireless, LLC and/or their authorized agent(s)
Under Negotiation: Price and terms for potential lease

REGULAR BUSINESS MEETING CONVENED

The Regular Business Meeting convened at 6:00 p.m., with all Councilmembers present.

INVOCATION

Navy Chaplain Daniel Swartz, 2nd Battalion 1st Marines, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Duncan led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Update on Homeless Issue (November 2021 Report)

Martina (last name not provided) presented a PowerPoint concerning a luncheon meeting between representatives of the Cities of San Clemente, San Juan Capistrano and Dana Point to discuss the homeless situation; objected to the \$900 luncheon cost paid by the City of San Clemente and voiced concern that the City of Dana Point has no record of the meeting having occurred. A hard copy of the presentation is on file with the City Clerk.

Donna Vidrine, San Clemente, spoke in support of permanent supportive housing; reported that the point-in-time study will take place in January and will require hundreds of volunteers, for which training will be provided.

Deputy Community Development Director Atamian provided an overview of the November 2021 City Outreach and Engagement Report and responded to Council inquiries. A hard copy of the subject report is on file with the City Clerk.

B. **Toll Road Update**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to remove the Toll Road Update from future Council agendas.

Amanda Quintanilla spoke in opposition to the funding of consultants or attorneys for toll road purposes.

Councilmember Ferguson, with the support of Mayor James and Councilmember Knoblock, agendized for the January 18, 2022 Council meeting, a review, and consideration of eliminating consultants related to the Toll Road. A staff report is to be prepared that identifies the scope of work assigned to the Toll Road Consultants.

C. **Fiscal State of the City – Fiscal Year Ending June 30, 2021 and 4th Quarter Financial Report**

Financial Services Officer Rahn provided an overview of the Fiscal State of the City and the 4th Quarter Financial Report; responded to Council inquiries.

During the course of discussion, it was agreed that Staff will include creative revenue opportunities in the Long Term Financial Plan for Council consideration.

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

Amazon Warehouse in San Clemente

Amanda Quintanilla reported that 6,175 people have signed a petition in opposition to the development of an Amazon warehouse in San Clemente; voiced concern with Amazon's core business practices.

Pickleball

Marty Weinberg, USAA Pickleball Ambassador for San Clemente, responded to commentary provided at the Council meeting of December 7, 2021 with regard to pickleball play at San Gorgonio Community Park; pointed out that only one pickleball tournament was conducted at the Park and the guitar player did not use sound-amplifying equipment.

Coastal Resiliency Plan

Susan Ambrose, San Clemente, thanked Council for approving the Coastal Resiliency Plan and grant application at its meeting of December 7, 2021; noted the Coastal Resiliency Plan is a policy document and not a regulatory document.

San Clemente Hospital

Donna Vidrine, San Clemente, noted that zoning and infrastructure are in place for a hospital at the current hospital site on Camino de los Mares and suggested that development of a new hospital could be expedited if the City were to acquire the property by eminent domain.

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

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 4-0 (MAYOR PRO TEM DUNCAN ABSENT), to waive reading in full of all Resolutions and Ordinances.

4. CONSIDERATION OF AGENDIZING ITEMS REQUIRING IMMEDIATE ACTION**Transportation Services for Individuals Experiencing Homelessness (NEW AGENDA ITEM)**

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE), to add to this meeting's agenda the possibility of authorizing transportation service to shuttle San Clemente homeless persons to a pick-up location for the Santa Ana shelter during the winter season, based on the following findings: 1) the need for action came to the City's attention after the agenda was posted; and 2) action cannot wait until the next Council meeting.

Please refer to Page 20 of these minutes for a continuation of this item.

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

Acting City Attorney Byun reported that during this evening’s Closed Session, Council directed Staff to agendize the two real property negotiation items included in Closed Session Item A for a future meeting as open session items.

Councilmember Ferguson reported that she left the Closed Session at 5:15 p.m. because she did not believe Closed Session Item A was eligible for Closed Session discussion.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items 6A(2) and 6N.

A. **City Council Minutes**

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

- (1) Approve the minutes of the Joint Council/Commissions/Committees meeting of November 30, 2021.

B. **Commission/Committee Minutes**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to receive and file the following:

- (1) Human Affairs Committee Special Meeting minutes of October 20, 2021.

C. **Warrant Register**

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

Approve Wire Transfers Nos. 2554 through 2559 and Warrant Nos. 577677 through 577837, paid on 12-3-21, in the amount of.....\$ 5,889,813.45

Approve Wire Transfers Nos. 2560 through 2562 and Warrant Nos. 577838 through 577965, paid on 12-10-21, in the amount of.....\$ 3,184,989.39

TOTAL WARRANT REGISTER.....\$ 9,074,802.84

Payroll Register

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

Approve Warrant No. 851, Automatic Deposit
 Advises 75345 through 75597, for the
 period 11-15-21 through 11-28-21, paid
 on 12-3-21, in the amount of.....\$ 775,685.98

TOTAL PAYROLL REGISTER.....\$ 775,685.98

D. **Rejection of All Bids and Authorization for Staff to Rebid Project - City Tree and Palm Planting on Calle del Cerro and Avenida Vista Montana**

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

1. Reject all bids for City Tree and Palm Planting on Calle Del Cerro and Avenida Vista Montana.
2. Authorize staff to rebid the project.

E. **Amendment No. 1 to Cooperative Agreements with Orange County Transportation Authority for the San Clemente Trolley Project**

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

1. Approve, and authorize the City Manager to execute, Amendment No. 1 to Cooperative Agreement C-6-1479 (Contract C16-50) relating to the San Clemente Trolley Program.
2. Approve, and authorize the City Manager to execute, Amendment No. 1 to Cooperative Agreement C-8-1989 (Contract C19-04), relating to the San Clemente Expanded Trolley Program.

F. **San Clemente Senior Mobility Program – OCTA Cooperative Agreement Update**

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

1. Approve, and authorize the City Manager to execute, Cooperative Agreement C-1-3250 (Contract C21-59), providing for the San Clemente Senior Mobility Program.
2. Authorize Staff to proceed with a Request for Proposals to provide contract transportation services for the San Clemente Senior Mobility Program.

G. **Contract Award – Calle Real Waterline Improvements**

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

1. Approve the Plans and Specifications for the Calle Real Waterline Improvements, CIP Project No. 19516.
2. Approve, and authorize the Public Works Director to execute, Contract C21-60, by and between the City of San Clemente and Diamond Construction and Design, providing for the Calle Real Waterline Improvements, in the amount of \$846,974.

H. **CalRecycle Beverage Container Recycling City/County Payment Program – New Requirements for FY 2022-2023**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to adopt Resolution No. 21-55 entitled A RESOLUTION OF THE CITY COUNCIL OF SAN CLEMENTE AUTHORIZING SUBMITTAL OF APPLICATION FOR CALRECYCLE PAYMENT PROGRAMS AND RELATED AUTHORIZATIONS.

I. **Contract Amendment – Contract Planning Services in Connection with the Local Coastal Program**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to approve, and authorize the City Manager to execute, Amendment No. 5 to Contract C16-74, providing for contract planning services for the Local Coastal Program. This amendment eliminates the term ending date and increases the contract amount from \$207,000 to an amount not to exceed \$267,000, a maximum increase of \$60,000.

J. **Affirmation of Commitment to Implement Projects in the Federal Transportation Improvement Program (FTIP)**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to adopt Resolution No. 21-56 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CERTIFYING THAT THE CITY OF SAN CLEMENTE HAS THE RESOURCES TO FUND CITY PROJECTS IN THE FEDERAL FISCAL YEAR 2022/2023 – 2027/2028 TRANSPORTATION IMPROVEMENT PROGRAM AND AFFIRMS ITS COMMITMENT TO IMPLEMENT ALL PROJECTS IN THE PROGRAM.

K. **Golf Course Committee Annual Work Plan – FY 2021-22**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to approve the Fiscal Year 2021-22 Annual Work Plan as presented by the Golf Course Committee.

L. **Human Affairs Committee Annual Work Plan – FY 2021-22**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to approve the Fiscal Year 2021-22 Annual Work Plan as presented by the Human Affairs Committee.

M. **Notice of Completion – City Hall Second Floor Orange County Sheriff's Department Substation Tenant Improvement**

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

1. Accept the construction of the City Hall Second Floor Orange County Sheriff's Department Substation Tenant Improvement, Project No. 10546, from the contractor, PCN3, Inc.
2. Authorize the Public Works Director/City Engineer to execute and record the Notice of Completion for the City Hall Second Floor Orange County Sheriff's Department Substation Tenant Improvement.
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 PCN3, 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.

O. **Contract Amendment - CivicRec Recreation Management Software System**

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

1. Approve, and authorize the City Manager to execute, Amendment No. 2 to Contract C17-06, by and between the City of San Clemente and CivicPlus, Inc., providing for the CivicRec Recreation Management System. This Amendment increases the contract amount from \$142,000 to \$238,000 (an increase of \$96,000), and extends the contract term by three years.
2. Approve, and authorize the City Manager to execute, Quote No. Q-20992-1 with Civic Plus, Inc., providing for the implementation of the CivicPlus CP Pay payment system.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

6A(2) **Regular City Council Meeting Minutes of December 7, 2021**

Amanda Quintanilla voiced concern that the City Council minutes of December 7, 2021 do not reflect that she opposed the appointment of then-Councilmember Chris Duncan to the office of Mayor Pro Tem because he does not uphold the First Amendment, blocks constituents from his official Councilmember Facebook page, and supports Mayor James' actions, including his assault and battery against Councilmember Knoblock and interaction with Officer Medina during a traffic stop; pointed out that another resident played an audio recording of Chris Duncan urging Gene James to step down due to the legion of merit issue; stated that the minutes also fail to mention that during Oral Communications she identified multiple parties, including past and present Councilmembers, Capistrano Unified School District representatives, residents and herself, for their collaborative efforts to correct the problem of long-term recreational vehicle parking at Max Berg Plaza Park; requested that the December 7, 2021 Council minutes be expanded to include that she opposed Councilmember Duncan and his support for Gene James.

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, to approve the Regular City Council meeting minutes of December 7, 2021 as presented.

SUBSTITUTE MOTION BY COUNCILMEMBER FERGUSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 3-1-1 (COUNCILMEMBER WARD VOTING NOE AND MAYOR JAMES ABSTAINING), to approve the City Council minutes of December 7, 2021 with the inclusion of Ms. Quintanilla's requests, particularly with regard to her opposition to then-Councilmember Duncan's support for Gene James.

N. **Policy and Procedure 202-1 – Investment Policy**

Hoiyin Ip urged Council to consider divesting from fossil fuel and tobacco product companies.

City Treasurer Taylor responded to Council inquiries.

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DUNCAN, to not remove Section 4.7.1.14 from Policy and Procedure 202-1 (Investment Policy) as proposed, thereby allowing supranational securities to remain as authorized and suitable investments.

SUBSTITUTE MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 3-2 (COUNCILMEMBER DUNCAN AND COUNCILMEMBER WARD VOTING NOE), to approve, and authorize the Mayor to execute, Policy and Procedure 202-1, Investment Policy, as presented. By virtue of the passage of this motion, Section 4.7.1.14 was removed from Policy and Procedure 202-1 (Investment Policy), thereby eliminating supranational securities as authorized and suitable investments. In addition to the foregoing, Council directed that consideration be given to other investments in which the City should not participate.

7. **PUBLIC HEARINGS**

A. **215 Avenida Miramar – Historic Property Preservation Agreement 21-209 (Casa de Sofia Mills Act Contract)**

Public Hearing to consider a request to establish an Historic Property Preservation Agreement (Mills Act) for an historic property located at 215 Avenida Miramar (HPPA 21-209).

Mayor James opened the Public Hearing.

Larry Culbertson, San Clemente Historical Society, spoke in support of the proposed Historic Property Preservation Agreement to facilitate property maintenance and rehabilitation; suggested that the five-year inspection should be at the owner's expense.

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

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to adopt Resolution No. 21-57 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING HISTORIC PROPERTY PRESERVATION AGREEMENT 21-209 FOR THE PROPERTY LOCATED AT 215 AVENIDA MIRAMAR, with the added condition that all inspections are to be funded by the property owner.

B. **235 Avenida Miramar – Amendment to Historic Property Preservation Agreement 18-442 (HPPA 32-342) (Virgil Westbrook Residence Mills Act Contract)**

Public Hearing to consider a request to amend the Historic Property Preservation Agreement (Mills Act) for an historic property located at 235 Avenida Miramar.

Mayor James opened the Public Hearing.

Tiffany Mason-Lopez, San Clemente, noted that the subject application is to amend a previously approved Historic Property Preservation Agreement that was never executed or recorded; requested that Item #2 of the work list (contained in Exhibit D to Resolution No. 21-58) be modified to require the removal of vines, with the exception of the wisteria; requested that Item #8, which requires the removal of internal framing and shelving in the garage to allow for parking, be modified to eliminate the “for parking” clause because they have applied for an accessory dwelling unit.

Larry Culbertson, San Clemente Historical Society, explained the subject property’s historical significance; urged Council to adopt the Historic Property Preservation Agreement, with the modification that Item #14 of the work list be amended to require the Applicant to provide a clear termite inspection report by 2022 instead of 2028.

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

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to adopt Resolution No. 21-58 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING HISTORIC PROPERTY PRESERVATION AGREEMENT 21-342, AMENDMENT TO HISTORIC PROPERTY PRESERVATION AGREEMENT 18-442, FOR THE PROPERTY LOCATED AT 235 AVENIDA MIRAMAR, with the modification that Item #14 of Exhibit D (work list) be modified to require the Applicant to

provide a clear termite inspection report by 2022. In addition, Council directed that the property owner work with Staff to seek resolution of Item #2 relating to the trimming or removal of vines (including the wisteria) and Item #8 (relating to removal of internal framing and shelving in the garage).

8. **UNFINISHED BUSINESS**

A. **Use of Electric Bikes and Bicycles**

Report from the Beaches, Parks and Recreation Director concerning use of electric bicycles and bicycles.

Beaches, Parks and Recreation Director Wylie reviewed the contents of the Administrative Report and responded to Council inquiries.

Al Cullen, San Clemente, urged Council to direct the Sheriff's Department and Public Safety Committee to consider e-bike safety and enforcement measures; suggested that e-bikes should be required to have license plates.

Susan Ambrose, San Clemente, urged Council to ban e-bikes on the beach trail, noting that she has witnessed accidents on the trail; urged that e-bikes be required to have license plates.

Rick Loeffler, San Clemente, stated that the Sheriff's Department has limited enforcement authority with regard to e-bikes because the California Vehicle Code regards them as bicycles; cited recent incidents involving e-bikes and noted that the Public Safety Committee's work plan includes e-bike and traffic issues.

During the course of discussion, Council requested that Staff report back on the possibility of requiring that electric bikes be licensed as well as the possibility of enhancing wayfinding signage to indicate appropriate routes for e-bikes, such as the Pacific Coast Trail.

Following discussion, Council took the following actions:

1. MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to direct Staff to draft an amendment to the City Code to prohibit electric bikes on the beach, Beach Trail, and all other City trails.

Actions continued on next page

2. MOTION BY MAYOR JAMES, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0 to direct Staff to bring back an amendment to SCMC 12.32.130(a) to reflect a prohibition of bicycle and e-bike walking/pushing and parking on the pier.
3. MOTION BY MAYOR JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to direct Staff to optimize and increase bicycle racks at the base of the pier.
4. MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, CARRIED 3-2 (COUNCILMEMBER FERGUSON AND COUNCILMEMBER KNOBLOCK VOTING NOE), to direct Staff to draft an amendment to the City Code to prohibit the use of bicycles and electric bicycles on sidewalks within San Clemente.
5. MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY MAYOR JAMES, CARRIED 5-0, to direct Staff to include funding for the bike rodeo in the 2022-2023 budget and engage with the Orange County Sheriff's Department to ensure that the bike rodeo program includes education on the rules of the road with special emphasis on electric bikes.

MEETING RECESSED

Council recessed at 8:12 p.m. and reconvened at 8:23 p.m., with all members present.

AGENDA REORGANIZATION

MOTION BY MAYOR JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to consider Agenda Item 9B (Mitigation of Errant Golf Balls at the Municipal Golf Course) at this point in the meeting and to consider Item 9F (Site Specific Master Plan Review and Update for San Gorgonio Park) immediately following Item 9B.

Please refer to Page 14 of these minutes for a summary of the action taken concerning Agenda Item 9B (Mitigation of Errant Golf Balls at the Municipal Golf Course) and Page 17 of these minutes for a summary of the action taken concerning Agenda Item 9F (Site Specific Master Plan Review and Update for San Gorgonio Park).

9. **NEW BUSINESS**

A. **Code Amendment - Shopping Carts and Publicly Stored Personal Property**

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.

MOTION BY MAYOR JAMES, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to defer this item to January 18, 2022.

B. **Mitigation of Errant Balls at Municipal Golf Course** Agendized at the December 7, 2021 City Council meeting by Mayor James, with the support of Councilmember Ferguson.

Beaches, Parks and Recreation Director Wylie reviewed measures taken to date to mitigate errant balls associated with the 16th hole at the Municipal Golf Course. Photographs displayed by Director Wylie are on file with the City Clerk.

Jon Martin, San Clemente, questioned why opposition exists to installing netting at the 16th hole, noting that precedent for netting has already been set; opined that insufficient action has been taken to protect residents on Avenida Crespi and urged Council to install a fence or netting.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 4-1 (COUNCILMEMBER WARD VOTING NOE), to proceed with the recommendations of Staff and the Greens Subcommittee of the Golf Course Committee to ensure that all golfers play the 16th hole as intended (i.e. to tee off to the right to avoid cutting the canyon which may result in errant balls entering properties on Avenida Crespi). The subject remedial efforts include reconstruction of the blue tee box and landscaping improvements (including tree trimming and brush clearance). Staff is to return to Council at its January 18, 2022 meeting with regard to specifics relative to the pros and cons of moving the tee box, possibility of planting an additional tree, and CIP cost estimates to install netting. Moreover, Council directed that the blue tee box be closed until the errant ball issue is resolved.

- C. **Ballot Measures Concerning the Possibility of Transitioning the Offices of City Treasurer and City Clerk to Appointive Positions** Agendized at the December 7, 2021 City Council meeting by Mayor James, with the support of Councilmember Knoblock and Mayor Pro Tem Duncan.

MOTION BY MAYOR PRO TEM JAMES, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to defer this item to the Council meeting of January 18, 2022.

AGENDA REORGANIZATION

MOTION BY MAYOR JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to consider Agenda Item 9E (Pier Bowl Outdoor Dining) prior to Item 9D.

Please refer to Page 16 of these minutes for a summary of the action taken concerning Agenda Item 9E (Pier Bowl Outdoor Dining).

- D. **Contract Award – City Hall Council Chambers, Office Furniture and Elevator Renovation**

Report from the Public Works Director concerning a contract award for City Hall Council Chambers, Office Furniture and Elevator Renovation.

Public Works Director Koger reviewed the contents of the Administrative Report and responded to Council inquiries.

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

1. Approve the Plans and Specifications for the City Hall Council Chambers Tenant Improvement, Project No. 12563.
2. Approve a supplemental appropriation in the amount of \$484,000 from the Local Cable Infrastructure Fund to Account 018-245-45500-0000 (Machinery and Equipment).
3. Approve, and authorize the Public Works Director/City Engineer to execute, Contract No. C21-61, by and between the City of San Clemente and Thomco Construction, Inc., providing for construction of the City Hall Council Chambers Tenant Improvement, in the amount of \$1,851,707.

Actions continued on next page

4. 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 \$144,400, for office furniture for the new City Hall Council Chambers Tenant Improvement.
5. Approve, and authorize the Public Works Director/City Engineer to execute, a purchase order with TK Elevator Corporation for interior rehabilitation in accordance with the Source Well Cooperative Agreement in the amount of \$65,500 for the new City Hall Council Chambers Tenant Improvement.

- E. **Pier Bowl Outdoor Dining** Agendized at the December 7, 2021 City Council meeting by Mayor James, with the support of Councilmember Ward and Mayor Pro Tem Duncan.

Report from the Economic Development Officer concerning outdoor dining in the Pier Bowl.

Economic Development Officer Lightfoot reviewed the contents of the Administrative Report and responded to Council inquiries.

Josie Rietkerk, San Clemente, cited the benefits of outdoor dining, noting that people enjoy the opportunity to dine outdoors; encouraged Council to allow for continued outdoor dining at the Pier Bowl.

Mark McGuire, on behalf of John McKinley, owner of La Gallette, stated that outdoor dining has been a success and urged Council to allow continued outdoor dining operations in the Pier Bowl; stated that he has not heard any negative comments concerning outdoor dining.

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adopt Resolution No. 21-59, entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, IMPLEMENTING TEMPORARY OUTDOOR DINING FOR RESTAURANTS WITHIN THE PIER BOWL TO BE REGULATED BY LICENSE AGREEMENTS EXECUTED BY THE CITY MANAGER OR HIS DESIGNEE.

- F. **Site Specific Master Plan Review and Update for San Gorgonio Park**
Agendized at the December 7, 2021 City Council meeting by Mayor James, with the support of Councilmember Ferguson and Mayor Pro Tem Duncan.

Report from the Beaches, Parks and Recreation Director concerning Site Specific Master Plan review and update for San Gorgonio Park.

Beaches, Parks and Recreation Director Wylie reviewed the contents of the Administrative Report and, along with Deputy Community Development Director Atamian, responded to Council inquiries.

Amanda Quintanilla urged that pickleball courts in residential zones be decommissioned and questioned whether the City has conducted outreach to learn the impacts of pickleball play at San Gorgonio Community Park on Shorecliffs residents.

Janet Goode, San Clemente, thanked Staff for listening to residents' concerns regarding pickleball at San Gorgonio Community Park and suggested that Steed Park would be a suitable location for pickleball courts.

Sue DiStefano, speaking on behalf of Travis and Frances Hyde, San Clemente, stated that pickleball play continues to negatively affect their lives. Speaking on behalf of herself, Ms. DiStefano asserted that the City has not considered the health and safety of San Clemente residents and has failed to honor the City's noise ordinance.

Kristy Pittman, speaking on behalf of Sheila G. (last name not provided), San Clemente, urged Council to remove pickleball courts from residential areas; urged that Council provide noise relief for Shorecliffs residents as it did for residents surrounding San Luis Rey Park.

Susan Chick, San Clemente, reported that she is in possession of a petition containing 182 signatures from Shorecliffs residents that oppose the disturbances that pickleball has on the Shorecliffs neighborhood; opined that current conditions violate California Civil Code 3480 relating to public nuisances.

Joice Alapag reported on the popularity of pickleball and expressed that there is significant demand for pickleball courts in San Clemente.

Olga Reznik, San Clemente, noted the importance of sports, but indicated that such activity should not take place at the expense of residents; opined that plastic barriers are not effective at mitigating sound.

Ruth Martin, San Clemente, displayed a PowerPoint presentation, which is on file with the City Clerk; summarized the City of Newport Beach's experience with pickleball courts, noting that the situation ultimately resulted in the City being sued under California Civil Code 3480 and its taxpayers incurring significant cost.

Sharon Gekko, San Clemente, reported on the positive effects of pickleball for the community; stated that the pickleball association raised \$10,000 for permanent courts.

Al Cullen, San Clemente, questioned why the City is able to install additional pickleball courts at San Gorgonio Community Park at this time but is not able to install courts at Steed Park; opined that courts should be installed in areas where residents are not impacted.

Linda Williams, San Clemente, urged Council to install four courts at San Gorgonio Community Park near the freeway, in addition to installing courts at Steed Park.

Tim Brown, San Clemente, spoke in support of pickleball and sound-reducing barriers; stated that parks should be used and suggested that hours of pickleball play at San Gorgonio Community Park should begin at 7:00 a.m. and end at dusk.

Mel Seagle opined that complaints about pickleball at San Gorgonio Community Park materialized after meetings were conducted with regard to the Parks Master Plan; spoke on the increasing demand for pickleball courts; disagreed that California Civil Code 3480 is being violated.

Marty Weinberg, USAA Pickleball Ambassador for San Clemente, opined that pickleball has made San Gorgonio Community Park successful; urged that four courts be constructed at San Gorgonio Community Park and that four courts be constructed at Steed Park.

Tobias Halbmaier, San Clemente, urged Council to retain some portions of San Gorgonio Community Park for passive open space and not overdevelop the park with sports facilities.

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, to:

1. Direct Staff to obtain decibel readings at the property line across the street from the pickleball courts at San Gorgonio Community Park before and after installation of noise-reducing windscreens.

Actions continued on next page

2. Approve a supplemental appropriation of \$35,000 from the Unassigned Fund Balance to Parks Maintenance of Other Facilities Account 001-635-43470 for the purchase of noise-reducing windscreens.
3. Reduce hours of pickleball play to 7:00 a.m. to dusk Monday through Friday and 8:00 a.m. to dusk Saturday and Sunday.
4. Direct staff to incorporate the site-specific master plan updates to San Gorgonio Community Park and Richard T. Steed Memorial Park related to pickleball improvements into the FY 2022-23 CIP Budget.
5. Direct Staff to prioritize the construction of at least four pickleball courts at Steed Park before other park construction projects.
6. Direct that Staff provide an analysis of the potential noise impact that would result from the construction of four pickleball courts at San Gorgonio Community Park near the I-5 before Council is asked to approve a construction contract.

In addition, during the course of deliberations, Council directed that no Special Event Permits be issued for pickleball purposes at San Gorgonio Community Park.

SUBSTITUTE MOTION BY COUNCILMEMBER FEGUSON to immediately remove pickleball courts from San Gorgonio Community Park and immediately begin to construct pickleball courts at Steed Park. **The motion died for lack of a second.**

THE ORIGINAL MOTION WAS VOTED ON AND CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE). For ease of reference, the actions taken by Council are as follows:

1. Directed Staff to obtain decibel readings at the property line across the street from the pickleball courts at San Gorgonio Community Park before and after installation of noise-reducing windscreens.
2. Approved a supplemental appropriation of \$35,000 from the Unassigned Fund Balance to Parks Maintenance of Other Facilities Account 001-635-43470 for the purchase of noise-reducing windscreens.
3. Reduced hours of pickleball play to 7:00 a.m. to dusk Monday through Friday and 8:00 a.m. to dusk Saturday and Sunday.
4. Directed staff to incorporate the site-specific master plan updates to San Gorgonio Community Park and Richard T. Steed Memorial

Park related to pickleball improvements into the FY 2022-23 CIP Budget.

5. Directed Staff to prioritize the construction of at least four pickleball courts at Steed Park before other park construction projects.
6. Directed that Staff provide an analysis of the potential noise impact that would result from the construction of four pickleball courts at San Gorgonio Community Park near the I-5 before Council is asked to approve a construction contract.

In addition, during the course of deliberations, Council directed that no Special Event Permits be issued for pickleball purposes at San Gorgonio Community Park.

- G. **Consideration of Establishing a Subcommittee of Council to Address the Issue of Massage Establishments in San Clemente** Agendized at the December 7, 2021 City Council meeting by Mayor James, with the support of Mayor Pro Tem Duncan.

MOTION BY MAYOR JAMES, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to defer this item to the Council meeting of January 18, 2022.

Transportation Services for Individuals Experiencing Homelessness (NEW AGENDA ITEM)

Following discussion, Mayor Pro Tem Duncan, with the support of Mayor James and Councilmember Ward, directed that this item be agendized for Council consideration at its meeting of January 18, 2022 and that a staff report be prepared.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

Announcement of Contract Approved and Executed by City Manager (O'Connell Engineering and Construction)

City Manager Sund reported that he executed a contract with O'Connell Engineering and Construction, providing for Primary Clarifier No. 5 Coating Removal in the Utilities Division, in the amount of \$18,525.

C. **City Attorney**

None.

D. **Council Members**

Legal Bills Presented by Brad Malamud

Mayor James, with the support of Councilmember Knoblock and Councilmember Ward, agendaized for the Council meeting of January 18, 2022, a staff report concerning legal bills submitted to the City by Councilmember Ferguson's attorney, Brad Malamud, that total approximately \$150,000. The staff report is to also address the cost for BBK to respond as well as the cost that the City incurred responding to Mr. Malamud's Public Records Act requests.

State of California Mask Guidelines

In response to an inquiry from Mayor James, City Manager Sund explained that City employees are currently being asked to follow the State of California's mask guidelines and wear masks regardless of their vaccination status; explained that calls from the public concerning restaurants that aren't complying with the mask guidelines are being directed to the Orange County Health Care Agency.

Vacant Arco Gas Station Lot at Avenida Palizada and Avenida de la Estrella

Councilmember Knoblock, with the support of Mayor James, agendaized consideration of the vacant Arco gas station lot at the corner of Palizada and Estrella.

South County Water District Desalination Plant

Councilmember Knoblock proposed that Council discuss the South County Water District Desalination Plant at a future meeting.

Council Meeting to Establish Strategies and Prioritize Projects

Mayor Pro Tem Duncan, with the support of Councilmember Knoblock, agendaized the possibility of scheduling a meeting to enable Council to establish strategies and prioritize projects for the coming year.

Efficiency of City Council Meetings

Mayor Pro Tem Duncan, with the support of Councilmember Knoblock, agendaized the possibility of directing that a meeting take place between the Mayor, City Manager and City Clerk to contemplate ideas for improving Council meeting efficiencies.

Signage for Parking Meter Hours in Coastal Parking Lots

In response to Councilmember Ferguson's inquiry, City Manager Sund reported that signage has been updated to reflect uniform parking meter hours in the City's coastal parking lots as approved by the California Coastal Commission.

Council Meeting to Discuss Results of Hospital Survey

Council agreed to conduct an Adjourned Regular Meeting on January 18, 2022 at 3:00 p.m. to receive the results of the hospital survey. Staff is to provide Council with the questions that were included in the survey prior to the meeting.

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

MOTION BY MAYOR JAMES, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to defer this item to the Council meeting of January 18, 2022.

CONTINUATION OF CITY COUNCIL MEETING PAST 11:00 P.M.

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

12. **RESOLUTIONS/ORDINANCES**A. **Ordinance No. 1720 (Second Reading) – Zoning Amendment 21-118 (Updating Erroneous Permitted Use Table Placement and Definitions for Consistency with the General Plan and State and Federal Law)**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR JAMES, CARRIED 5-0, to adopt 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. **Ordinance No. 1721 (Second Reading) – Water Discharge Pretreatment and Source Control Program**

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR JAMES, CARRIED 5-0, to adopt 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.

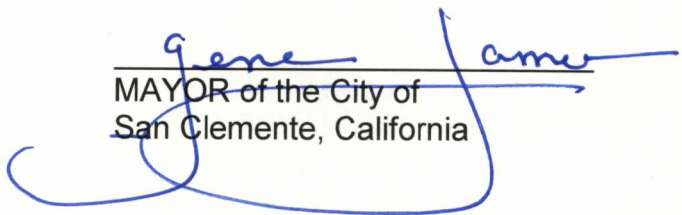
C. **Ordinance No. 1724 (Second Reading) – City Manager's Authority to Approve City Contracts**

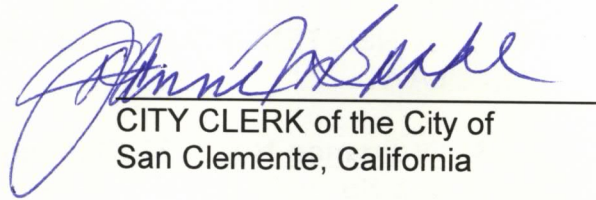
MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE), to adopt Ordinance No. 1724 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING THE CODE OF THE CITY OF SAN CLEMENTE AS IT RELATES TO THE CITY MANAGER'S AUTHORITY TO APPROVE AND EXECUTE CITY CONTRACTS.

13. **ADJOURNMENT**

MOTION BY MAYOR JAMES, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to adjourn at 11:05 p.m. to an Adjourned Regular Meeting to be held on January 18, 2022 at 3:00 p.m., in the Community Center Auditorium, located at 100 N. Calle Seville, for the purpose of discussing the results of the Hospital Survey. Closed Session Items will be considered at 5:00 p.m. and the Regular Business Meeting will begin at 6:00 p.m.

Note: The previous City Council meeting of January 4, 2022 was previously cancelled.


MAYOR of the City of
San Clemente, California


CITY CLERK of the City of
San Clemente, California