

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular and Regular Meeting – January 18, 2022

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.

An Adjourned Regular Meeting of the San Clemente City Council was called to order by Mayor James on January 18, 2022 at 3:00 p.m. in the San Clemente Community Center Auditorium, located at 100 N. Calle Seville, San Clemente.

PRESENT DUNCAN, FERGUSON, KNOBLOCK*, WARD*, MAYOR JAMES

*Participated in the meeting via Zoom.

ABSENT None

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

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ADJOURNED REGULAR MEETING (3:00 p.m.)

REMEMBRANCE OF DON HANSEN

Mayor James reflected on the life of Don Hansen, of Dana Wharf Sportfishing and, on behalf of the citizens of San Clemente, extended condolences to his children and grandchildren.

HOSPITAL AND HEALTH CARE: COMMUNITY SURVEY RESULTS

A. Hospital and Health Care: Community Survey Results

Presentation by Adam Sonenshein, Vice President, Fairbank, Maslin, Maullin, Metz & Associates (FM3 Research), concerning the Hospital and Health Care community survey results.

Adam Sonenshein, Vice President of FM3 Research, narrated a PowerPoint presentation entitled "Hospital Issues in the City of San Clemente – Highlights of a Survey of San Clemente Voters" and responded to Council inquiries. A hard copy of the presentation is on file with the City Clerk.

Al Cullen, San Clemente, opined that the City cannot afford a hospital and that the survey was premature inasmuch as an operator and its proposal are unknown.

Stuart Anderson, San Clemente, voiced concern with the initial and on-going maintenance costs to support a hospital; suggested that a small hospital could not support state-of-the-art technology.

Kathy Esfahani, San Clemente, noted the economic difficulties that resulted in the closure of San Clemente Hospital; urged Council to consider alternate uses for the site, such as affordable housing.

Donna Vidrine, San Clemente, suggested methods to attract a hospital to San Clemente; opined that a hospital would provide a lasting benefit for San Clemente's future and will increase property values.

B. Malamud asserted that the survey was manipulated and created by a political firm; suggested that a hospital would lose \$5 to \$20 million per year for which the taxpayers would be financially responsible; stated a San Clemente hospital would not accept trauma patients.

MEETING RECESSED

Council recessed at 4:15 p.m. and reconvened at 4:22 p.m., with all members present.

Bill Kreutinger, San Clemente, stated that most people would pay less than a dollar a day for a hospital; noted that a hospital would give people a choice of the hospital they wish to utilize.

Amanda Quintanilla stated she left San Clemente Hospital after her contract expired because the hospital was understaffed and lacked capabilities; suggested that it would be difficult to recruit quality physicians and surgeons to a San Clemente Hospital, and the City cannot afford the expense.

Susan L. DiStefano, San Clemente, conveyed concern that San Clemente has a population of approximately 70,000 people, but only two paramedic units.

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE), to receive and file the survey results and direct that the Hospital Subcommittee conduct a Town Hall meeting concerning the hospital issue within the next two months, with further direction that the Town Hall include a panel of subject matter experts.

REMEMBRANCE OF FORMER MAYOR AND COUNCILMEMBER JIM DAHL

Mayor James reflected on the life of Jim Dahl and his service to the City of San Clemente and, on behalf of the citizens of San Clemente, extended condolences to his family.

CLOSED SESSION

Brad Malamud, speaking as a member of the public and not as Councilmember Ferguson's attorney, referenced the agendaized Closed Session item entitled Laura Ferguson v. City of San Clemente, et al.; asserted that the City is withholding non-privileged documents with regard to the censure of Councilmember Ferguson; urged that Council release the requested documents to end the litigation and that City Attorney Smith recuse himself from the issue.

Dawn Urbanek, San Clemente, referenced the agendaized Closed Session item entitled Laura Ferguson v. City of San Clemente, et al.; asserted that Council is in violation of Title 18, U.S. Code Section 242 relating to deprivation of rights under color of law. A copy of the document that Ms. Urbanek previously sent to Council on this issue is on file with the City Clerk.

Councilmember Ferguson announced that she would recuse herself from the portion of this evening's Closed Session involving the case entitled Laura Ferguson v. City of San Clemente, et al.

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to recess to Closed Session at 5:06 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: 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: Laura Ferguson v. City of San Clemente, et al.
Case Number: OCSC 30-2021-01221022-CU-WM-CJC

REGULAR BUSINESS MEETING (6:00 p.m.)

The Regular Business Meeting convened at 6:05 p.m., with all Councilmembers participating.

REMEMBRANCE OF JONATHAN FLAGLER, LOS ANGELES COUNTY FIRE DEPARTMENT

Mayor James opened the Regular Business Meeting in remembrance of Firefighter Jonathan Flagler, San Clemente resident and Los Angeles County Firefighter, who died in the line of duty. On behalf of the citizens of San Clemente, Mayor James expressed condolences to Jonathan Flagler's family.

PLEDGE OF ALLEGIANCE

Councilmember Ferguson led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Update on Homeless Issue (December 2021 Report)**

This item was discussed under Agenda Item 9D (Transportation Services for Individuals Experiencing Homelessness). Please refer to Page 13 of these minutes for a summary of the homeless issue.

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

Pier Bowl Lighting

City Clerk Staff read an email, dated January 18, 2022, from Mary Knox that voiced concern that LED lights block the night sky in the Pier Bowl. A copy of Ms. Knox's email is on file with the City Clerk.

Amazon Warehouse

Amanda Quintanilla presented a PowerPoint entitled "No Amazon in San Clemente", a copy of which is on file with the City Clerk; advised that over 6,000 individuals have signed a petition in opposition to the development of an Amazon warehouse in San Clemente.

Errant Golf Balls

Jon Martin, San Clemente, expressed concern that errant golf balls from the Municipal Golf Course land on properties on Avenida Crespi, thereby endangering public safety and risking property damage; displayed photos illustrating that the blue tee box had not been closed as directed by Council at its meeting of December 21, 2021. A hard copy of Mr. Martin's photographs are on file with the City Clerk.

Konni Martin, San Clemente, stated that errant golf balls have fallen close to her several times in the last three months; urged Council to take action to prevent golf balls from entering properties on Avenida Crespi.

Public Records Request

Anonymous voiced concern with the 43-day response time for Public Records Request 1343-2021; suggested the City withheld documents with malice so she would not be prepared to address the Council at its meeting of December 21, 2021.

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

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, 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 stated that no reportable action was taken during this evening's Closed Session; announced that Councilmember Ferguson recused herself from the portion of the Closed Session relating to the case entitled Laura Ferguson v. City of San Clemente, et al.

6. **CONSENT CALENDAR**

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items A(1), C and G.

A. **City Council Minutes**

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

- (2) Approve the minutes of the Regular City Council meeting of December 21, 2021.

B. **Commission/Committee Minutes**

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

- (1) Design Review Subcommittee Regular Meeting minutes of December 21, 2021.

D. **Water Conservation Participation Agreement – Municipal Water District of Orange County (MWDOC) to Fund the Dedicated Irrigation Meters Measurement Program**

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to approve, and authorize the Utilities Director to execute, Amendment No. 2 (Addendum 3D) to Contract AC-733, the Water Conservation Participation Agreement, by and between the City of San Clemente and the Municipal Water District of Orange County.

E. **Notice of Completion – Tree and Stump Removal on Calle del Cerro and Avenida Vista Montana**

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

1. Accept the tree and stump removals on Calle Del Cerro and Avenida Vista Montana, from the contractor, United Pacific Services, Inc., Project No. 12306.
2. Authorize the Public Works Director/City Engineer to execute and record, the Notice of Completion for the Tree and Stump Removals on Calle del Cerro and Avenida Vista Montana.
3. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Maintenance Services Division that no liens have been levied against United Pacific Services, Inc.
4. Authorize the City Clerk to release the Performance Bond.

F. **Grant Funding Application – California Division of Boating and Waterways**

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to adopt Resolution No. 22-01 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE APPLICATION FOR ADDITIONAL GRANT FUNDS UNDER THE CALIFORNIA DIVISION OF BOATING AND WATERWAYS PUBLIC BEACH RESTORATION PROGRAM FOR CONSTRUCTION OF THE U.S. ARMY CORPS OF ENGINEERS BEACH SAND REPLENISHMENT PROJECT.

H. **Fee Waiver Request – Special Event Permit “Family Fest”**

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to approve a one-time fee waiver for the San Clemente Wellness and Prevention Center’s “Family Fest” event to be held at Jim Johnson Memorial Sports Park in an amount not to exceed \$3,079.

I. **Contract Amendment – As-Needed Building Code Inspection and Building Plan Check Services**

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to approve, and authorize the City Manager to execute, Amendment No. 4 to Contract AC-826, by and between the City of San Clemente and West Coast Code Consultants, providing for as-needed building code inspection and plan check services. This amendment increases the contract amount from \$160,000 to \$285,000, an increase of \$125,000,

J. **Payment Authorization – Maintenance and Support Renewal for Tyler Eden Software**

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

1. Authorize payment to Tyler Technologies, Inc., in the amount of \$62,962 in Fiscal Year 2021-22.
2. Authorize payment to Tyler Technologies, Inc., in an amount not to exceed \$66,110 in Fiscal Year 2022-23.
3. Authorize payment to Tyler Technologies, Inc., in an amount not to exceed \$69,415, in Fiscal Year 2023-24.

K. **Microsoft Software Enterprise Licensing Agreement Renewal**

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

1. Approve, and authorize the City Manager to execute, Contract C22-01, a Microsoft Volume Licensing Enterprise Agreement for a term of three years, beginning February 1, 2022.
2. Approve, and authorize payment to SoftwareOne, Inc., in an amount not to exceed \$118,000 per year over the 36-month term of the Microsoft Volume Licensing Agreement.

L. **Requests for Leases/License on City Property for Telecommunications Equipment**

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

1. Direct Staff to temporarily decline property owner authorization for the Plancom applications and any additional requests for telecommunications leases and development on City property (excluding considerations of renewals, options, and other extensions for existing facilities), until June 1, 2022.
2. Direct Staff to return with a comparative analysis of wireless lease/license rates charged by neighboring cities to determine whether the City's rate schedule is comparable to the market.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

6A(1) **Regular City Council Meeting Minutes of December 7, 2021**

City Clerk Staff read an email, dated January 18, 2022, from Martina (last name not provided) requesting that the minutes of December 7, 2021 be expanded to include that she played a recording of Chris Duncan's statements during the Council election campaign with regard to Gene James' Legion of Merit issue. A copy of Martina's email is on file with the City Clerk.

Anonymous noted that Mayor James agendized an investigation of noise from pickleball play at San Gorgonio Community Park, but voiced concern that the item was agendized and addressed as the Master Plan for San Gorgonio Community Park.

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, **FAILED 2-3** (COUNCILMEMBER WARD, MAYOR PRO TEM DUNCAN AND MAYOR JAMES VOTING NOE), to approve the City Council minutes of December 7, 2021 as expanded to include that Ms. Wheeler played a recording of Mayor Pro Tem Duncan requesting an explanation of Mr. James' Legion of Merit claims or that he step down.

THE ORIGINAL MOTION WAS VOTED ON AND CARRIED 3-2 (COUNCILMEMBERS FERGUSON AND KNOBLOCK VOTING NOE). For ease of reference, the action taken was as follows:

Council approved the Regular City Council meeting minutes of December 7, 2021 as presented.

C. **Warrant Register**

Brad Malamud voiced concern with BBK invoices that are identified in the Warrant Register; suggested that the legal expenses are excessive and not being reviewed; urged that the City issue an RFP for City Attorney services.

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 3-2 (COUNCILMEMBERS FERGUSON AND KNOBLOCK VOTING NOE), to:

Approve Handwrite No. 578071
Wire Transfer Nos. 2563
through 2566 and Warrant Nos.
577966 through 578070, paid on
12-17-21, in the amount of.....\$ 1,258,524.79

Approve Wire Transfers Nos. 2567
through 2572 and Warrant Nos.
578072 through 578259, paid on
12-24-21, in the amount of.....\$ 3,192,091.24

Approve Wire Transfers Nos. 2573
through 2578 and Warrant Nos.
578260 through 578344, paid on
1-7-22, in the amount of.....\$ 1,065,695.73

Approve Wire Transfers Nos. 2579
through 2583 and Warrant Nos.
578345 through 578474, paid on
1-14-22, in the amount of.....\$ 3,304,099.73

TOTAL WARRANT REGISTER.....\$ 8,820,411.49

City Attorney Smith agreed to provide Council with additional information concerning the BBK bills prior to the next Council meeting.

Payroll Register

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 3-2 (COUNCILMEMBERS FERGUSON AND KNOBLOCK VOTING NOE), to approve the following:

Warrant Nos. 852 through 854, Automatic Deposit
Advises 75598 through 75842, for the
period 11-29-21 through 12-12-21, paid
on 12-17-21, in the amount of.....\$ 411,139.60

Warrant Nos. 855 through 857, Automatic Deposit
Advises 75843 through 76095, for the
period 12-13-21 through 12-26-21, paid
on 12-31-21, in the amount of.....\$ 402,730.81

Automatic Deposit Advises 76096
through 76325, for the period
12-27-21 through 1-9-22, paid
on 1-14-22, in the amount of.....\$ 460,355.46

TOTAL PAYROLL REGISTER.....\$ 1,274,225.87

G. **Extension to the Short-Term Wastewater Services Agreement with Santa Margarita Water District**

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to approve, and authorize the City Manager to execute, Amendment No. 13 to Contract C17-55, by and between the City of San Clemente and the Santa Margarita Water District. This amendment extends the contract to treat wastewater flows from Talega through June 30, 2022.

7. **PUBLIC HEARINGS**

A. **Annual Report Concerning the Mitigation Fee Act for FY 2020-21**

Public Hearing to consider the City of San Clemente's Annual Report concerning the Mitigation Fee Act for Fiscal Year 2020-21.

Mayor James opened and closed the Public Hearing, there being no one desiring to speak to this issue.

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to receive and file the Annual Report concerning the Mitigation Fee Act for Fiscal Year 2020-21.

8. **UNFINISHED BUSINESS**

None.

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.

City Attorney Smith reviewed the contents of the Administrative Report.

Jenifer Massey, San Clemente, opined that it is the City's responsibility to take care of its homeless people; voiced concern that the removal of personal belongings, such as sleeping bags and blankets, will leave homeless people vulnerable to the weather.

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

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.

- B. **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 WARD, CARRIED 5-0, to create a subcommittee consisting of Mayor James and Mayor Pro Tem Duncan to work with the I-5 Freedom Network with a focus on illicit massage parlors and human trafficking and to add a category at the end of Council agendas for subcommittee updates.

- 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.

Amanda Quintanilla expressed concern with the elimination of voter rights and requested additional information concerning the bifurcation of City Clerk and Legislative Administrative duties; voiced concern with email comments that she received from the City Clerk regarding the comment card she submitted at the Council meeting of December 7, 2021.

City Clerk Baade reviewed the contents of the Administrative Report and responded to Council inquiries.

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER KNOBLOCK, to not add ballot measures to the General Municipal Election ballot of November 8, 2022 or Special Municipal Election ballot on June 7, 2022 to question whether the offices of City Clerk and City Treasurer shall be appointive, and to direct Staff to return to Council with a policy that addresses whether a City employee under the City Manager's jurisdiction can also serve as an elected official of the City.

SUBSTITUTE MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY MAYOR JAMES, **FAILED 2-3** (COUNCILMEMBERS FERGUSON, KNOBLOCK AND WARD VOTING NOE), to add ballot measures to the General Municipal Election ballot of November 8, 2022 to question whether the offices of City Clerk and City Treasurer shall be appointive.

THE ORIGINAL MOTION WAS VOTED ON AND CARRIED 4-1 (MAYOR PRO TEM DUNCAN VOTING NOE). For ease of reference, the action taken by Council is as follows:

Council determined to not add ballot measures to the General Municipal Election ballot of November 8, 2022 or Special Municipal Election ballot of June 7, 2022 to question whether the offices of City Clerk and City Treasurer shall be appointive, and directed Staff to agendize a discussion about a potential policy that addresses whether or not a City employee under the City Manager's jurisdiction can also serve as an elected official.

- D. **Transportation Services for Individuals Experiencing Homelessness**
Agendized at the December 21, 2021 City Council meeting by Mayor Pro Tem Duncan, with the support of Mayor James and Councilmember Ward.

Report from the Community Development Director concerning transportation services for individuals experiencing homelessness.

Deputy Community Development Director Atamian presented the City Outreach and Engagement Report for the month of December 2021 and reviewed the contents of the Administrative Report pertaining to transportation services for individuals experiencing homelessness; responded to Council inquiries.

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to not move forward with permanent transportation for individuals experiencing homelessness, but to give flexibility to the City's Homeless Outreach Worker to offer homeless persons, on a case-by-case basis, direct transportation (via Lyft, Uber or other quick transportation method) to the shuttle that provides transportation to a cold weather shelter. Additionally, homeless persons are to be provided with a bus ticket to return to San Clemente. Transportation costs are to remain within the City Manager's spending authority.

MEETING RECESSED

Council recessed at 7:40 p.m. and reconvened at 7:50 p.m., with all members present.

- E. **Consideration of Councilmember Ferguson's Claims for Legal Fees; Potential Legal Ramifications Thereof; Legal Fees Incurred to Date by the City in Response to the Same** Agendized at the December 21, 2021 City Council meeting by Mayor James, with the support of Councilmember Knoblock and Councilmember Ward.

Report from the City Attorney concerning consideration of (1) Councilmember Ferguson's claims for legal fees, (2) potential legal ramifications thereof, and (3) legal fees incurred to date by the City in response to the same.

Councilmember Ferguson recused herself and left the dais at 7:52 p.m.

City Clerk Staff read an email, dated January 18, 2022, from Martina (last name not provided) which stated Councilmember Ferguson's censure represents an abuse of power and inappropriate use of public funds. A hard copy of Martina's email is on file with the City Clerk.

Amanda Quintanilla stated that Councilmember Ferguson prevailed in the personnel complaint investigation and no wrong-doing was found in the censure hearing, thereby entitling Councilmember Ferguson to legal fees; voiced concern that the personnel investigation was handled by a third-party investigator instead of the Human Resources Manager.

Laura Ferguson, speaking from the public podium, stated that all three issues under discussion were instigated by the City as opposed to being instigated by her; stated her CPRA lawsuit was filed to enable her to obtain public records; explained that she wants the City to meet with her to remedy the situation and end all wasteful costs. A copy of the slide displayed by Ms. Ferguson is on file with the City Clerk.

Debbie Flowers stated the City Manager, City Attorney and Council majority viewed Councilmember Ferguson as a political threat; opined Ms. Ferguson should have access to records without having to submit a Public Records Act request.

City Attorney Smith reviewed the contents of the Administrative Report and responded to Council inquiries.

Following discussion, MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY MAYOR JAMES, CARRIED 4-0-1 (COUNCILMEMBER FERGUSON RECUSED), to receive and file the Administrative Report, dated January 18, 2022, that is on file with the City Clerk.

Councilmember Ferguson returned to the dais at 8:40 p.m.

- F. **Review and Consideration of Eliminating Consultants Relating to the Toll Road** Agendized at the December 21, 2021 City Council meeting by Councilmember Ferguson, with the support of Mayor James and Councilmember Knoblock.

Report from the Assistant to the City Manager concerning review and consideration of eliminating consultants related to the toll road.

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

Amanda Quintanilla questioned why the City paid for TCA consultants after the TCA stopped its toll road plans; suggested that the contracts with Aprea & Micheli, Inc. and The Oftelie Company also be terminated. A copy of Ms. Quintanilla's PowerPoint presentation entitled "TCA Consultants" is on file with the City Clerk.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER WARD, to receive and file the Administrative Report, dated January 18, 2022.

SUBSTITUTE MOTION BY COUNCILMEMBER FERGUSON, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to: 1) receive and file the Administrative Report, dated January 18, 2022; 2) add the Oftelie Company to the list of discontinued Toll Road contracts; and 3) Direct Aprea & Micheli to provide quarterly updates to Council on its activities.

It was agreed that Staff will provide Council with a copy of the Aprea & Micheli contract.

- G. **Exclusive Negotiating Agreement (ENA) for the City-Owned Parcel at the Southwest Corner of Avenida Vista Hermosa and Avenida La Pata**

Report from the Economic Development Officer concerning an Exclusive Negotiating Agreement with Cypress Express Partners regarding the City-owned parcel at the southwest corner of Avenida Vista Hermosa and Avenida La Pata.

City Clerk Staff read an email from Martina (last name not provided), dated January 18, 2022, that urged that Council retain ownership of its property at Avenida Vista Hermosa and Avenida La Pata and develop pickleball courts at the site. A hard copy of Martina's email is on file with the City Clerk.

City Clerk Staff read an email from Sharon Williams, dated January 18, 2022, that suggested that Council consider uses for the subject property that are

in the best interest of the community, rather than what is best for developers. A hard copy of Ms. Williams' email is on file with the City Clerk.

Amanda Quintanilla stated the community has expressed its opposition to a gas station/market project at the subject site; suggested the property remain vacant for community events or pickleball play.

Laurie Gooch, San Clemente, stated that a gas station already exists in close proximity to the proposed project; pointed out that the proposed revenue is projected, but not guaranteed; urged Council to not enter into an Exclusive Negotiating Agreement.

Brett Blanchard, Cypress Express Partners, stated that Cypress Express Partners respects the City's decision to enter into a land lease instead of a property sale; projected that the City will receive \$35-60 million in lease payments and \$15-18 million in tax revenue from the project; advised that Cypress Express Partners has entered into a contract with local architect, Mike Luna.

Jill Watson, San Clemente, stated that a gas station/car wash project at Vista Hermosa/La Pata will be unsightly and out of character with the City; suggested that the proposal was financially motivated.

Jenifer Massey, San Clemente, urged Council to submit the proposed development of the property at La Pata and Vista Hermosa to a vote of the people.

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

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER FERGUSON, to not approve an Exclusive Negotiating Agreement with Cypress Express Partners, LLC, for the City-owned parcel at the southwest corner of Avenida Vista Hermosa and Avenida La Pata.

SUBSTITUTE MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, **FAILED 2-3** (COUNCILMEMBERS FERGUSON AND KNOBLOCK AND MAYOR JAMES VOTING NOE), to table this issue for 30 days.

THE ORIGINAL MOTION WAS VOTED ON AND CARRIED 3-2 (MAYOR PRO TEM DUNCAN AND COUNCILMEMBER WARD VOTING NOE). For ease of reference, the action taken by Council was as follows:

Council determined to not approve an Exclusive Negotiating Agreement with Cypress Express Partners, LLC, for the City-owned

parcel at the southwest corner of Avenida Vista Hermosa and Avenida La Pata.

- H. **Vacant Arco Gas Station at Avenida Palizada and Avenida de la Estrella**
Agendized at the December 21, 2021 City Council meeting by Councilmember Knoblock, with the support of Mayor James.

Amanda Quintanilla suggested a timed traffic signal could improve traffic conditions at Avenida Palizada and Avenida de la Estrella; spoke in opposition to the use of eminent domain to acquire the vacant gas station property.

Council directed Staff to: 1) provide Council with an update on Code Compliance issues at the site at a future Closed Session; 2) report to Council relative to the current property owner's development plans; and 3) work with CalTrans with regard to possible traffic studies and mitigation methods to alleviate traffic issues at the Avenida Palizada off ramp.

- I. **Code Amendment - Prohibition of Electric Bicycles on Municipal Trails and the Beach, Beach Trail, and Pier**

Report from the Beaches, Parks and Recreation Director concerning an Ordinance related to the prohibition of electric bicycles on municipal trails and the beach, beach trail, and pier.

Patrick Brashear, San Clemente, stated that he enjoys riding his e-bike on inland trails and suggested that inland trails be excluded from the proposed Code amendment.

Susan Ambrose, San Clemente, spoke in support of Staff's recommendation, noting that prohibiting electric bicycles on the beach and beach trail will protect the public.

Jill Watson, San Clemente, urged Council to consider a compromise, rather than prohibiting e-bikes on the beach trail; conveyed support for licensing requirements, safety training and enforcement.

Jenifer Massey stated that the beach trail is not wide enough to accommodate e-bikes; recommended that license plates be required.

Beaches, Parks and Recreation Director Wylie reviewed the contents of the Administrative Report; noted that the California Coastal Commission has indicated that it will not require any additional permitting or authorization in order for the City to enact a prohibition on electric bike access; responded to Council inquiries.

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to introduce Ordinance No. 1725 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTION 12.32.130 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE USE OF BICYCLES, ELECTRIC BICYCLES, AND OTHER ACTIVITIES ON THE PIER, BEACH, BEACH ACCESS ROAD, AND BEACH TRAIL, with modifications as follows:

1. Section 1, which would have prohibited electric bicycles on municipal trails, was omitted in its entirety.
2. Section 2, Subsection D (relating to Prohibited Uses of Bicycles on Beach and Beach Trail) shall be amended to read in its entirety as follows:

Prohibited Uses of Bicycles on Beach and Beach Trail. Riding of Bicycles on the Beach is prohibited at all times. Riding of Bicycles on the Beach Trail is not permitted between the Municipal Pier and the southern end of the Trafalgar Canyon Bridge from June 15 through Labor Day. Riding of Bicycles is not permitted on Riviera Beach Trail Bridge, Montalvo Beach Trail Bridge, Mariposa Trail Bridge, ***the portion of the Trail extending north from the base of the pier asphalt to the Corto Lane restrooms***, and the asphalt area extending north and south of the base of the Municipal Pier at any time. Bicycle owners are permitted to walk their Bicycles through such restricted areas and at such restricted times. Reckless riding of Bicycles is prohibited, and at no time shall any persons allow their Bicycle(s) to be left unattended on the Beach or Beach Trail, nor block access thereto.

****Italicized and bolded verbiage reflects added verbiage.***

Council requested that Staff return to Council at the meeting prior to the Bike Rodeo with a report that addresses the possibility of developing a license plate program for e-bikes.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

Announcement of Contracts Approved and Executed by the City Manager (Michael Baker, International and CSG Consultants)

City Manager Sund reported that he executed the following contracts under his signature authority: 1) contract with Michael Baker International for environmental planning services; and 2) contract with CSG Consultants for planning services.

COVID-19 City Hall Staffing Update

City Manager Sund provided a status report on staff shortages due to Covid-19 protocols.

C. **City Attorney**

None.

D. **Council Members**

Staff FollowUp to Public Records Requests

Councilmember Ferguson requested that Staff call Ruth Martin relative to the status of her Public Records Requests.

Personal Email Addresses on City Website

Councilmember Knoblock requested that personal email addresses be redacted from the City's website.

Request for Proposals for Legal Services

Councilmember Knoblock, with the support of Councilmember Ferguson, agendized the possibility of the City issuing a Request for Proposals (RFP) for legal services.

Ordinance Codifying 4th Firefighter on all Fire Trucks/Engines

Mayor Pro Tem Duncan, with the support of Mayor James and Councilmember Ward, requested that the Public Safety Committee and Staff develop a draft Ordinance, for Council consideration at its meeting of March 15, 2022, that would codify that a 4th firefighter will be deployed on all fire trucks/engines. Staff is to provide the Public Safety Committee with the white papers that have been prepared on the subject.

Lease of City-Owned Facility at 1030 Calle Negocio

Mayor James noted that the City's lease with Family Assistance Ministries for the property located at 1030 Calle Negocio is due to expire in April 2023. In view of the upcoming lease termination, Mayor James, with the support of Councilmember Ward and Councilmember Knoblock, agendized consideration of the subject property for a future Closed Session as a real property negotiation item. A staff report is to be prepared that addresses the market rate rent for the building, negotiations with FAM, possible sale of the property, and possible alternative uses for the property.

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

Council updated its appointees to Regional Committees, Commissions and Boards for Calendar Year 2022 as follows:

| Committee/Commission/Board | Representative(s) |
|---|--|
| Capistrano Unified School District Liaison Committee | Ferguson and Duncan |
| Coastal Animal Services Authority (CASA) | James/Ward (Alt.) |
| Community Engagement Panel | Duncan/Ferguson (Alt.) |
| Conservancy (Elected/Appointed Representative to Friends of the Reserve Commission) | Knoblock/Duncan (Alt.) The City's "At Large" position is vacant. The Talega HOA Representative is Laurie Gooch (term expires June 30, 2020). The At-Large and Talega Representative positions will not be filled until CM Knoblock reports to Council with regard to the Friends' inactivity. |
| Chamber of Commerce – Economic Development | James/Duncan (Alt.) <i>Note: The Mayor will continue to attend ribbon-cutting ceremonies.</i> |
| Downtown Business Association – Economic Development | Duncan/James (Alt.) |
| Emergency Operational Area Council (Orange County) | Mayor and Mayor Pro Tem |
| Fire Authority (Orange County) | Ward |
| Historic Preservation Ad Hoc Committee | Ferguson/Ward (Alt.) |
| Hospital Subcommittee | James and Duncan |
| Insurance Authority (California Joint Powers Insurance Authority) | James |
| Investment Advisory Committee | Knoblock |

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|--|--------------------------------------|
| Legislative Delegate Program - Representative to Senate District 36 | Mayor and Mayor Pro Tem |
| Legislative Delegate Program - Representative to 74 th Assembly District | Mayor and Mayor Pro Tem |
| Library Task Force (Orange County) | James |
| Mayors (South Orange County Association of Mayors) | Mayor |
| U.S. Marine Corps Liaison | Duncan |
| MWDOC Interaction of Elected Officials | Knoblock/Ferguson (Alt.) |
| Nine South County Water Agencies (This is the name of a group that consists of nine South Orange County water agencies). | Knoblock/Ferguson (Alt.) |
| OCTA Transportation Planning Workshops | Ward and Public Works Director |
| Sand Replenishment Project | Knoblock |
| SCAG General Assembly | Ferguson |
| Social Service/Community Service Budget Committee | James |
| South Orange County Watershed Management Area Executive Committee | Knoblock/James (Alt.) |
| Toll Road Subcommittee | Ward and James |
| Vector (Orange County Mosquito and Vector Control Board) | Knoblock (term expires January 2024) |
| Wall of Recognition | Ward |

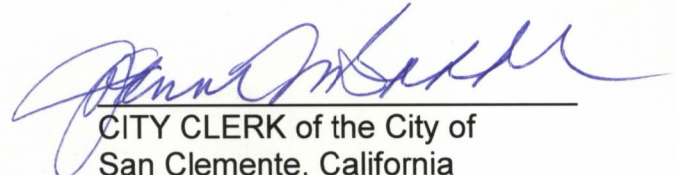
12. **RESOLUTIONS/ORDINANCES**

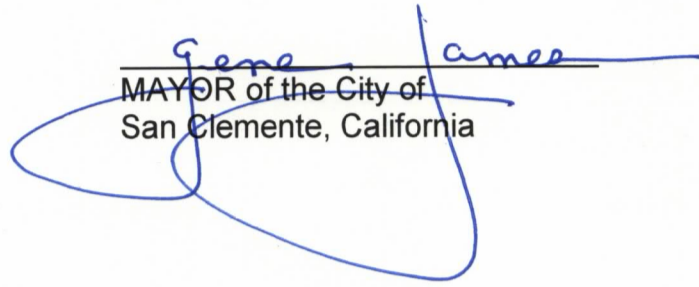
None.

13. **ADJOURNMENT**

A Moment of Silence was observed in memory of former Mayor and Councilmember Jim Dahl; Don Hansen, Dana Wharf Sportfishing; and Jonathan Flagler, Los Angeles County Fire Department.

MOTION BY MAYOR JAMES, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to adjourn at 10:49 p.m. The next Regular Council Meeting is scheduled to take place on February 1, 2022. 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 CLERK of the City of
San Clemente, California


MAYOR of the City of
San Clemente, California