

# CITY OF SAN CLEMENTE

## City Council Minutes

### Regular Meeting – April 19, 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.*

A Regular Meeting of the San Clemente City Council was called to order by Mayor James on April 19, 2022 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; Scott Smith, City Attorney; Joanne Baade, City Clerk; Laura Campagnolo, Legislative Administrator; Megan Jimenez, Deputy City Clerk

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### **BUSINESS MEETING PART 1**

#### **INVOCATION AND PLEDGE OF ALLEGIANCE**

Lead Pastor Jared Powell, Paradigm Church, gave the invocation and led the Pledge of Allegiance.

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

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

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

None.

3. **ORAL COMMUNICATIONS**

**Public Records Act**

Amanda Quintanilla narrated a PowerPoint entitled "Public Records Request". A hard copy of the presentation is on file with the City Clerk.

Anon commented on the Public Records Act and her request with the City.

4. **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 4A1, 4A2, 4D2 and 4G.

B. **Commission/Committee Minutes**

None.

C. **Warrant Register**

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

Approve Wire Transfer Nos.  
2625 through 2630 and Warrant Nos.  
580019 through 580148, paid on  
4-8-22, in the amount of.....\$ 3,380,884.13

Approve Wire Transfer Nos.  
2631 through 2632 and Warrant Nos.  
580149 through 580290, paid on  
4-15-22, in the amount of.....\$ 909,802.18

TOTAL WARRANT REGISTER.....\$ 4,290,686.31

**Payroll Register**

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

Approve Automatic Deposit Advises 77567 through 77826, for the period 3-21-22 through 4-3-22, paid on 4-8-22, in the amount of..... \$ 423,664.46

TOTAL PAYROLL REGISTER.....\$ 423,664.46

D. **Second Reading and Adoption of Ordinances**

(1) **Ordinance No. 1728 (Second Reading) – Solid Waste Management**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to adopt Ordinance No. 1728 entitled AN ORDINANCE OF THE CITY COUNCIL OF CITY OF SAN CLEMENTE, CALIFORNIA AMENDING CHAPTER 8.28 OF TITLE 8 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO SOLID WASTE MANAGEMENT AND REPEALING CHAPTER 8.68 OF TITLE 8 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO SOLID WASTE REDUCTION AND RECYCLING.

E. **Resolutions**

None.

F. **Contracts and Agreements**

(1) **Lease Agreements for Concession Operations at the North Beach Depot Building**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to approve, and authorize the Mayor to execute, a Lease Agreement (Contract No. C22-22) by and between the City of San Clemente and Bicycles San Clemente to operate a business out of the North Beach Depot building, for a 5-year term ending April 30, 2027.

**ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**

4A. **City Council Minutes**

(1) **Adjourned Regular City Council Meeting Minutes of April 5, 2022**

Following discussion, MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve the minutes of the Adjourned Regular City Council meeting of April 5, 2022 as written.

(2) **Adjourned Regular City Council Meeting Minutes of April 12, 2022**

Amanda Quintanilla requested that her public comments be revised in the minutes to more specifically capture her comments made at the Adjourned Regular City Council meeting of April 12, 2022.

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN to approve the minutes of the Adjourned Regular City Council meeting of April 12, 2022.

SUBSTITUTE MOTION BY COUNCILMEMBER FERGUSON to amend the minutes as stated by the commenter (Amanda Quintanilla). **The motion died for lack of a second.**

THE ORIGINAL MOTION ON THE FLOOR WAS VOTED ON AND CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE). For ease of reference, the action taken was to approve the minutes of the Adjourned Regular City Council meeting of April 12, 2022 as written.

4D(2). **Ordinance No. 1729 (Second Reading) – Minimum Staffing for Fire Emergency Response Vehicles**

Brad (No last name provided) opined that the ordinance limits the flexibility of the Council to adjust to budgetary issues.

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE), to adopt Ordinance No. 1729 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADDING CHAPTER 8.14 TO THE SAN CLEMENTE MUNICIPAL CODE REGARDING MINIMUM STAFFING FOR FIRE EMERGENCY RESPONSE VEHICLES AND FINDING THE ORDINANCE NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

**4G(1). Designation of Legal Fees**

At the suggestion of City Attorney Smith, Councilmember Ferguson recused herself from participation on this item because of potential financial interests; left the dais at 5:29 p.m. and joined the audience.

Brad Malamud opined the City Attorney should recuse himself from this issue due to a financial interest; urged Council to waive privilege and release all withheld records to end litigation.

Amanda (No last name provided) expressed her concerns over this item being discussed during the regular business meeting rather than in Closed Session.

Laura Ferguson, Councilmember, speaking from the public podium, commented that Council would not need to designate additional legal fees if it waived privilege and released the withheld records.

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

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

1. Approve the estimated legal costs for the matter Laura Ferguson v. City of San Clemente (Writ of Mandate).
2. Approve a supplemental appropriation from the General Fund's Unassigned Fund Balance in the amount of \$128,000 to Other Legal Services, Account No. 001-203-43635-000-00000.

SUBSTITUTE MOTION BY COUNCILMEMBER KNOBLOCK to obtain a third-party municipal law expert to review the withheld records with Council in Closed Session, defer the approval of additional legal fees until Council has reviewed the records, and place any additional defense by Best Best & Krieger on hold. The City Attorney is to inform Council if any deadlines will be negatively affected by a hold on the attorney's defense. **The motion died for lack of a second.**

THE ORIGINAL MOTION ON THE FLOOR WAS VOTED ON AND CARRIED 3-1-1 (COUNCILMEMBER KNOBLOCK VOTING NOE AND COUNCILMEMBER FERGUSON RECUSING). For ease of reference, the action taken was to:

1. Approve the estimated legal costs for the matter Laura Ferguson v. City of San Clemente (Writ of Mandate).

*Motion continued on following page*

2. Approve a supplemental appropriation from the General Fund's Unassigned Fund Balance in the amount of \$128,000 to Other Legal Services, Account No. 001-203-43635-000-00000.

MOTION BY MAYOR JAMES, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 4-0-1 (COUNCILMEMBER FERGUSON RECUSING), to retain a third-party attorney who is knowledgeable in municipal law to review the withheld records with Council, and opine on the suitability of withholding the subject records.

Councilmember Ferguson returned to the dais at 6:05 p.m.

### **CLOSED SESSION**

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER KNOBLOCK, to defer the Reports section of the agenda to part two of the business meeting and recess to Closed Session, 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: Housing is a Human Right v. the County of Orange and City of San Clemente  
Case Number: 30-2019-01098573-CU-WM-CJC

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

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

City Attorney Smith read a disclosure statement that explained why Closed Session Item 2 qualifies to be considered in Closed Session.

Anon 1787 narrated a PowerPoint on communications with the District Attorney and redactions on the City's website. A hard copy of the presentation is on file with the City Clerk.

Brad Malamud disagreed with the City Attorney's statement, asserted that litigation was not threatened with regard to personal information on the City's website, and opined that discussing Closed Session Item 2 in Closed Session would constitute a Brown Act violation.

SUBSTITUTE MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER FERGUSON, **FAILED 2-3** (COUNCILMEMBER WARD, MAYOR PRO TEM DUNCAN, AND MAYOR JAMES VOTING NOE), to not discuss Closed Session item 2 Anticipated Litigation in Closed Session and only have the discussion in part two of the business meeting under item 10A.

THE ORIGINAL MOTION ON THE FLOOR WAS VOTED ON AND CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE). For ease of reference, the action taken was to defer the Reports section of the agenda to part two of the business meeting and recess to Closed Session at 6:16 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: Housing is a Human Right v. the County of Orange and City of San Clemente  
Case Number: 30-2019-01098573-CU-WM-CJC

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

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

**BUSINESS MEETING PART 2**

The Regular Business Meeting convened at 7:00 p.m., with all Councilmembers present.

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

City Attorney Smith announced that Council took no reportable action during this evening's Closed Session.

7. **Special Presentations**

A. **HOV Lane Improvements on the I-5 Freeway**

Amanda (No last name provided) voiced concern with the similarities between this project and the Transportation Corridor Agency's alternative 14.

Dawn Urbanek commented on her concerns related to the project and its future impacts.

Mike (No last name provided), San Clemente, spoke in general support of the project and relayed his experience with traffic in the project area.

Josue Vaglienty and Fernando Chavarria of the Orange County Transportation Authority (OCTA) narrated a PowerPoint presentation entitled "Update on Interstate 5 Improvement Project from San Diego County Line to Avenida Pico" and responded to Councilmember inquiries concerning the proposed Interstate 5 improvements between the San Diego County line and Avenida Pico. A hard copy of the presentation is on file with the City Clerk.

B. **Doheny Ocean Desalination Project Overview** (Agendized at the March 1, 2022 City Council Meeting by Councilmember Knoblock, with support of Mayor Pro Tem Duncan and Mayor James)

Rick Shintaku, South Coast Water District, narrated a PowerPoint presentation entitled "Doheny Ocean Desalination Project Overview" and responded to Councilmember inquiries concerning the proposed Doheny Ocean Desalination Project. A hard copy of the presentation is on file with the City Clerk.

Utilities Director Rebensdorf responded to Council inquiries regarding the City's water supply and current usage.

Aaron Washington commented on his experience with desalination in the Navy, need for the project and his concerns with the cost.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR JAMES, CARRIED 5-0, to initiate a letter of interest on behalf of the City to initiate an analysis of potential costs and impacts.



C. **Update on Homeless Issue (March Update)**

City Manager Sund provided an update on the removal of homeless encampments at the State Park on April 20, 2022.

Deputy Community Development Director Atamian presented the City's Outreach and Engagement Report for the month of March 2022 and responded to Council inquiries. A hard copy of Mr. Atamian's report is on file with the City Clerk.

D. **Employee Service Awards**

City Manager Sund recognized Jason Anderson as the 2021 Employee of the Year and Jonathan Lightfoot as the 2021 Core Values Award Recipient.

8. **Public Hearings.**

None.

9. **Unfinished Business.**

A. **Consideration of a Tile Mural installation in Courtney's SandCastle Playground**

Grace LeRoy-Loge, Chair of Courtney's SandCastle Charitable Foundation board, commented on the value of the tile mural honoring past and present board members.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR JAMES, CARRIED 5-0, to approve the installation of a tile mural in Courtney's SandCastle Playground Sensory Garden and that the tile mural display conform to the same guidelines consistent with the Public Art in Public Places/C.A.R.E Program.

10. **New Business.**

A. **Redactions of Public Comments on the City Website** (Agendized unanimously at the April 5, 2022 City Council Meeting.)

Anon 17766 B narrated a PowerPoint presentation regarding personal information on the City's website. A hard copy of the presentation is on file with the City Clerk.

Amanda Quintanilla narrated a PowerPoint presentation entitled "The Doxing of San Clemente Residents". A hard copy of the presentation is on file with the City Clerk.

Mike (No last name provided) commented on his experience of being doxed, and opined that the "chilling effect" should not be present in government.

Brad Malamud opined that the posting of certain comments on the City's website was politically motivated.

Following discussion, MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM DUNCAN, CARRIED 5-0, to direct staff to close the two website portals, one containing public comments and the other containing documents provided by Councilmember Ward. The public comments that will be removed will be attached to the meeting minutes of the November 23, 2020 City Council meeting. The documents provided by Councilmember Ward will be attached to the agenda of the November 23, 2020 City Council meeting.

Additionally, Council directed staff to contact the authors of the public comments to notify them the City will redact their private email addresses from the City website unless the author requests to have their information remain. City Staff is to notify Council when the portals have been removed.

## 11. Reports (Continued from Business Meeting Part 1).

### A. Commissions and Committees

#### (1) Scheduling of Meetings to Interview and Appoint Individuals to Serve on Various City Commissions and Committees

Legislative Administrator Campagnolo reviewed the contents of the Administrative Report and, along with City Clerk Baade, responded to Council Inquiries.

Council set June 1, 2022 and June 15, 2022 at 6:00 p.m. as the interview dates for Commission and Committee vacancies. Council requested to simplify the application process for those individuals who have most recently been appointed to a Commission or Committee. Council permitted the previously submitted applications to be used again for those individuals interested in re-applying, at the preference of the applicant. Council also provided direction to:

1. Authorize the Legislative Administrator to advertise to fill 19 vacancies on the Planning Commission, Golf Course Committee, Beaches, Parks and Recreation Commission, Human Affairs Committee, Public Safety Committee and Investment Advisory Committee. All positions are for two-year terms to expire June 30, 2024.
2. Authorize the Legislative Administrator to advertise to fill 1 vacancy on the Planning Commission for a one-year term to expire June 30, 2023, to fill the position of Hannah Tyler who recently resigned.
3. Establish June 1, 2022 and June 15, 2022 at 6:00 p.m. as the dates and time to interview and appoint individuals to fill the upcoming vacancies.

**B. City Manager**

**Springtacular Event**

City Manager Sund recognized Beaches, Parks and Recreation staff on the success of the Springtacular event.

**Vista Hermosa Aquatics Center Pool Maintenance**

City Manager Sund provided an update on the repairs to the lap pool at the Vista Hermosa Aquatics Center, noting that additional facilities are available to the public during this closure.

**Announcement of Contracts Approved and Executed by the City Manager**

City Manager Sund reported that he executed the following professional services contracts under his signature authority: 1) Public Safety Consulting – 1<sup>st</sup> Amendment to Independent Administrative Investigation in the amount of \$27,000 (an increase of \$2,000); 2) Heat Transfer Solutions – Barometric Damper Design in the amount of \$9,500; 3) Molly Perry – Project Management and Advisory Consulting Services in the amount of \$50,000; 4) Duncan Engineering – Marine Structural Assessment for the T-Street Overpass in the amount of \$11,750; 5) New City America – Investigation and Formation of a New Downtown San Clemente Property Assessment District in the amount of \$40,000.

### **Healthcare Community Roundtable**

Assistant to the City Manager Savage provided information on the upcoming Community Healthcare Roundtable scheduled for April 23, 2022, at the Community Center Auditorium at 10:00 a.m.

C. **City Attorney**

None.

D. **Council Members**

### **San Clemente Annex Library**

Mayor James reported that City Manager Sund and he met with the County Librarian and Director of Community Resources with regard to their willingness to operate a library annex in the Talega area; stated the City Manager will research the availability of restricted funds to construct a pre-fab building to accommodate the annex library and a possible meeting room.

### **Tree Planting at the 16<sup>th</sup> Hole at the Municipal Golf Course**

Mayor James reported that the tree at the 16<sup>th</sup> hole at the Municipal Golf Course has been planted and a dedication ceremony will take place on Arbor Day, April 29, 2022.

### **Performing Arts Amphitheater**

Councilmember Ferguson, with the support of Councilmember Knoblock and Mayor James, agendized the possibility of establishing a citizens committee for an amphitheater for the Council meeting of July 19, 2022. A staff report that identifies potential sites for an amphitheater is to be prepared.

### **Code Enforcement**

Councilmember Knoblock, with the support of Mayor James, agendized for Closed Session, the expired deadline for Code Enforcement corrections at the ARCO gas station at 422 Avenida de la Estrella.

### **Recognition of Orange County Sheriff's Department (OCSD)**

Mayor Pro Tem Duncan acknowledged the successful efforts of the San Clemente Police Services/OCSD in solving a string of credit card thefts.

**Transportation Corridor Agency**

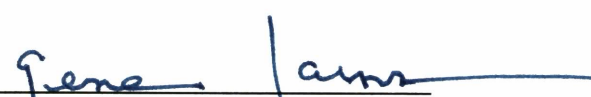
Mayor James explained that the Transportation Corridor Agency (TCA) board did not eliminate the potential extension of the 241 Toll Road through San Clemente. City Attorney Smith reported on SB 1224 and the benefits the bill will have on habitat restoration in the City and eliminating the option of the TCA to build a toll road through the City.

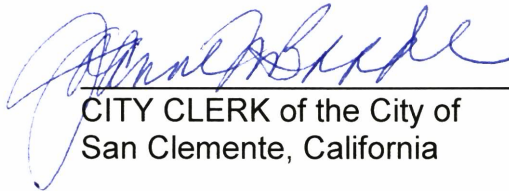
**E. Council Subcommittee Updates**

None.

**12. Adjournment.**

MOTION BY MAYOR PRO TEM DUNCAN, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, to adjourn at 9:29 p.m. The next Regular Council Meeting is scheduled to take place on May 3, 2022. Part 1 of the Regular Business Meeting will commence at 5:00 p.m. and Closed Session will begin at 6:00 p.m. Part 2 of the Business Meeting will commence at 7:00 p.m. The meeting will take place in the Community Center Auditorium, located at 100 N. Calle Seville, San Clemente.

  
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MAYOR of the City of  
San Clemente, California

  
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CITY CLERK of the City of  
San Clemente, California

