



# AGENDA REPORT

## CITY OF SAN CLEMENTE

### City Council Meeting

910 Calle Negocio  
2nd Floor  
San Clemente, California  
www.san-clemente.org

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**Meeting Date:** 3/7/2023

Agenda Item: 9D

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**Department:** City Manager  
**Prepared By** Scott Smith, City Attorney

**Subject:**  
**CODE CLEANUP ORDINANCE REGARDING CITY MANAGER AUTHORITY TO DISPOSE OF CLAIMS AGAINST THE CITY**

**Fiscal Impact:**  
No fiscal impact is anticipated from this action

**Summary:**  
This code cleanup ordinance addresses some ambiguity in the Municipal Code's delegation of authority to the City Manager to deny or compromise claims against the City with a later-adopted, but inconsistent Council Resolution.

**Background:**  
State law allows the City Council to delegate the authority to dispose of claims against the City. This authority is important in order to respond expeditiously to recommendations from the City's Joint Powers Insurance Authority and to meet the short statutory deadlines for the City to reject claims. San Clemente Municipal Code Section 2.08.090 contains a delegation of this authority to the City Manager up to \$10,000, yet a subsequently adopted City Council resolution caps that authority at \$30,000. The purpose of this code cleanup ordinance is to reconcile that ambiguity by providing for Council's setting of that delegated authority by Council resolution.

**Discussion:**  
Adoption of this ordinance would clarify that the Council intends the \$30,000 cap to apply and would allow the Council to adjust this cap in the future without the more cumbersome and time-consuming process of amending the Municipal Code by Ordinance.

**Recommended Actions:**  
Staff Recommendation

Introduce Ordinance No. 1749 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING SECTION 2.08.090 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE CITY MANAGER'S AUTHORITY TO DISPOSE OF CLAIMS AGAINST THE CITY

**Attachment:**  
1. Draft Ordinance 1749  
2. Resolution 07-78

**Notification:**

None.

ORDINANCE NO. 1749

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING SECTION 2.08.090 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE CITY MANAGER'S AUTHORITY TO DISPOSE OF CLAIMS AGAINST THE CITY**

**WHEREAS**, Section 2.08.090 of the San Clemente Municipal Code sets forth, *inter alia*, the additional powers and duties of the City Manager; and

**WHEREAS**, Subdivision (R) of Section 2.08.090, "Allowance and Settlement of Claims," delegates to the City Manager or designee the authority to deny and/or compromise claims of up to \$10,000; and

**WHEREAS**, the City Council, by Section 1 of Resolution No. 07-78, authorized the City Manager to take any administrative actions necessary to resolve claims against the City up to a cap of \$30,000; and

**WHEREAS**, the City Council desires to reconcile this discrepancy by amending the Municipal Code to allow the Council to set this claims disposition authority by resolution of the City Council; and

**WHEREAS**, this action will reconcile SCMC Section 2.08.090 and Resolution No. 07-78 allow the Council to adjust this cap in the future more efficiently without the more cumbersome and time-consuming process of amending the Municipal Code.

**NOW, THEREFORE**, the City Council of the City of San Clemente does ordain as follows:

**Section 1.** The recitals above are each incorporated by reference and adopted as findings by the City Council.

**Section 2.** Subdivision (R) of Section 2.08.090, "Same—Additional powers and duties," of the San Clemente Municipal Code is hereby amended in its entirety to read as follows:

**"2.08.090 – Same—Additional powers and duties.**

- . . .
- R. Allowance and Settlement of Claims. Allowance and Settlement of Claims. The City Manager or his or her designee shall review all claims filed against the City, its officers, agents or employees pursuant to Government Code Section 900, et seq. The City Manager or his or her designee shall have the authority to deny claims and to compromise any claim by payment of an amount ~~not greater than ten thousand dollars (\$10,000.00)~~ up to the amount approved by resolution of the City Council. The City Manager shall periodically report to the

City Council regarding the status of all claims which have been denied or compromised.”

**Section 3.** The City Clerk shall certify to the adoption of this ordinance and cause it, or a summary of it, to be published once within fifteen (15) days of adoption in a newspaper of general circulation printed and published within the City of San Clemente, and shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code Section 36933.

**Section 4.** The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council’s findings and determinations are based are located at City Hall, 910 Calle Negocio, San Clemente, CA 92673.

**Section 5.** If any provision of this ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.

**Section 6.** This Ordinance shall take effect thirty (30) days after its adoption.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of San  
Clemente, California

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            ) ss.  
CITY OF SAN CLEMENTE        )

I, **LAURA CAMPAGNOLO**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. \_\_\_\_\_ having been regularly introduced at the meeting of \_\_\_\_\_, 2023, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

55452.01100\41059964.1

RESOLUTION NO. 07-78

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA ESTABLISHING A POLICY TO DELEGATE BASIC TORT CLAIM HANDLING OF MINOR CLAIMS TO THE CITY MANAGER AS AUTHORIZED BY GOVERNMENT CODE SECTION 935.4, AND RESCINDING RESOLUTION NO. 88-82.

WHEREAS, to provide greater flexibility, independence, expedience, and efficiency in claims administration it is desirable to increase the amount to which the City Manager is authorized to allow, compromise, or settle claims filed against the City; and

WHEREAS, Section 935.4 of the Government Code of the State of California provides that a local public entity may authorize an employee of the local public entity to resolve a claim against the local public entity.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby resolve as follows:

Section 1. The City Manager is authorized to take administrative actions necessary to resolve claims against the City of San Clemente that do not exceed \$30,000 pursuant to the provisions of Government Code Section 935.4.

Section 2. The City Manager is hereby authorized to allow claim related expenditures for such items as depositions, technical studies and reports by experts, and similar matters when such are requested or recommended by the City's insurance adjuster and or/ legal counsel.

Section 3. Upon the written order of the City Manager the Finance Director shall cause a warrant to be issued upon the treasury of the City in the amount, not to exceed \$30,000, for which a claim has been allowed, compromised or settled by the City Manager.

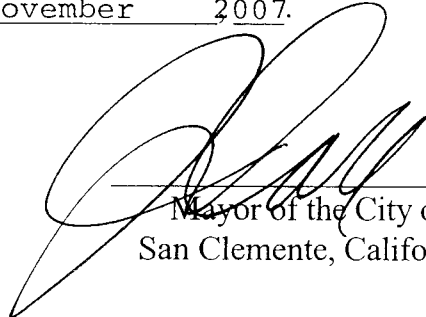
Section 4. The City Manager is authorized to delegate his/her responsibilities hereunder to the Assistant City Manager.

Section 5. Resolution No. 88-82 is hereby rescinded in its entirety.


Section 6. This Resolution shall become effective immediately upon its adoption.

Section 7. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this 6th day of November 2007.

  
\_\_\_\_\_  
Mayor of the City of  
San Clemente, California

ATTEST:

  
\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California


STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) §  
CITY OF SAN CLEMENTE   )

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 07-78 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 6th day of November, 2007, by the following vote:

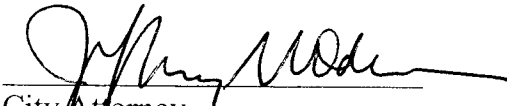
AYES:            ANDERSON, EGGLESTON, KNOBLOCK, MAYOR DAHL

NOES:            NONE

ABSENT:         DONCHAK

  
\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

Approved as to form:

  
\_\_\_\_\_  
City Attorney