

1 HARMEET K. DHILLON (SBN: 207873)  
2 harmeet@dhillonlaw.com  
3 KRISTA L. BAUGHMAN (SBN: 264600)  
4 kbaughman@dhillonlaw.com  
5 GREGORY R. MICHAEL (SBN: 306814)  
6 gmichael@dhillonlaw.com  
7 DHILLON LAW GROUP INC.  
8 177 Post Street, Suite 700  
9 San Francisco, California 94108  
10 Telephone: (415) 433-1700  
11 Facsimile: (415) 520-6593

12 Attorneys for Plaintiffs Brad Malamud,  
13 Chanel Fetty, and Anthony Rubolino

14  
15 **UNITED STATES DISTRICT COURT**  
16 **CENTRAL DISTRICT OF CALIFORNIA**  
17 **SOUTHERN DIVISION**  
18

19 **BRAD MALAMUD**, an individual;  
20 **CHANEL FETTY**, an individual; and  
21 **ANTHONY RUBOLINO**, an  
22 individual,

23 Plaintiffs,

24 v.

25 **CITY OF SAN CLEMENTE**, a  
26 municipal corporation; and **STEVEN**  
27 **SWARTZ**, in his individual and official  
28 capacities as Mayor of the City of San  
Clemente,

Defendants.

Case Number: 8:19-cv-00855

**VERIFIED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

**JURY TRIAL DEMANDED**

1 Plaintiffs Brad Malamud (“Malamud”), Chanel Fetty (“Fetty”), and Anthony  
 2 Rubolino (“Rubolino”) (collectively, “Plaintiffs”), bring this action against the City of  
 3 San Clemente (“City”) and its mayor, Steven Swartz (“Swartz”), in his individual and  
 4 official capacities (City and Swartz collectively, “Defendants”), for declaratory  
 5 judgment and injunctive relief following Defendants’ repeated violations of the First  
 6 and Fourteenth Amendment to the United States Constitution, the California Ralph  
 7 M. Brown Act, and the California Public Records Act, as set forth below.

## 8 INTRODUCTION

9 1. The public’s Constitutional right to criticize its government officials, free  
 10 from reprisal, oppression, or expulsion from public venues, is uncompromising. The  
 11 government cannot condition the exercise of this fundamental right on the speaker’s  
 12 swearing of fealty to the government, its elected representatives, or the rules and laws it  
 13 promulgates. As Supreme Court Justice Robert H. Jackson famously penned, “[i]f there  
 14 is any fixed star in our constitutional constellation, it is that no official, high or petty, can  
 15 prescribe what shall be orthodox in politics, nationalism, religion, or other matters of  
 16 opinion or force citizens to confess by word or act their faith therein.” *W. Virginia State*  
 17 *Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) (striking down a provision requiring  
 18 public school students to stand, salute the flag, and recite the Pledge of Allegiance or  
 19 face expulsion, a fine, or the jailing of their parents).

20 2. In direct violation of these core rights and principles, the City and its mayor  
 21 stifle and/or outright prevent, Plaintiffs and other members of the public from speaking  
 22 out against the City or their elected representatives at public City Council meetings,  
 23 through the ad hoc adoption or modification of unreasonable speech restrictions, and by  
 24 discriminatorily enforcing the same against those who dare to express viewpoints  
 25 disfavored by Defendants.

26 3. On April 16, 2019, in an effort to prevent Plaintiff Brad Malamud from  
 27 speaking at the City Council meeting, Mayor Swartz adopted, pretextually, a new speech  
 28 restriction whereby all members of the public would be limited to a single, three-minute

1 speaking opportunity during one of two oral communication periods, despite  
2 Defendants' long-standing practice of allowing speakers opportunities to speak a total of  
3 two times, once at both oral communication periods. At the meeting, City  
4 Councilwoman Laura Ferguson objected to Swartz's transparent effort to suppress  
5 Malamud's speech, and ultimately walked out of the meeting in protest. Rather than  
6 heed Ferguson's objections, Defendants doubled-down by expelling *all* then-present  
7 members of the public from the City Council meeting, and permitting reentry only to  
8 those pledging to adhere to Swartz's new, unilaterally created, speech restriction. After  
9 Malamud refused to abide by Defendants' selectively enforced restriction, Defendants  
10 ejected Malamud from the meeting, silencing him from making any further criticism of  
11 Swartz and the City Council.

12 4. Unfortunately, Defendants' apathy toward the Constitutional and California  
13 statutory rights of the public goes even further. Defendants have engaged in additional  
14 unlawful conduct that includes: interrupting speakers at City Council meetings to  
15 demand that they not criticize any particular City Councilmember, as opposed to the  
16 Council as a whole, while allowing praise to be directed at individual Councilmembers;  
17 unlawfully withholding or destroying documents subject to public disclosure and  
18 retention requirements under California law; addressing non-agendized issues at City  
19 Council meetings; and violating California's open-meeting laws by using the City  
20 Manager to secretly communicate about City affairs prior to public City Council  
21 meetings.

22 5. Accordingly, Plaintiffs seek preliminary and permanent injunctive relief  
23 to prevent Defendants from continuing to muzzle Plaintiffs' constitutionally-  
24 protected speech, and to enjoin Defendants' transparent attempts to stifle political  
25 discourse, criticism, and observation of their actions. Plaintiffs also seek declaratory  
26 judgment, and an award of costs and attorneys' fees from Defendants.

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## JURISDICTION AND VENUE

6. This action arises under 42 U.S.C. § 1983 in relation to Defendants' deprivation of Plaintiffs' free speech and due process rights under the First and Fourteenth Amendments to the U.S. Constitution. Accordingly, this Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and 1343, and supplemental jurisdiction over all related state law claims pursuant to 28 U.S.C. § 1367. This Court has authority to award the requested declaratory relief under 28 U.S.C. § 2201; the requested injunctive relief and damages under 28 U.S.C. § 1343(a); and attorneys' fees and costs under 42 U.S.C. § 1988.

7. Venue is proper in this judicial district under 28 U.S.C. § 1391, because a substantial part of the acts or omissions giving rise to the claims for relief occurred in or were directed toward this District, and each of the Defendants is subject to the personal jurisdiction of this Court.

8. This Court has personal jurisdiction over each of the Defendants, because each of the Defendants is domiciled in the State of California, has sufficient minimum contacts with California, and/or otherwise has intentionally availed himself or herself of significant benefits provided by the State of California, rendering the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

## INTRADISTRICT ASSIGNMENT

9. This Action is properly assigned to the Southern Division of the Court, because the Plaintiffs and Defendants reside in Orange County, and the conduct giving rise to this dispute occurred in Orange County, California.

## PARTIES

10. Plaintiff Brad Malamud is, and at all times relevant was, a resident of the City. Malamud has been politically active in local politics for well over 10 years, and regularly attends and speaks at City Council meetings, and has criticized actions taken by Defendants. Malamud intends to attend and speak at City Council meetings in the

1 immediate and foreseeable future.

2 11. Plaintiff Chanel Fetty is, and at all times relevant was, a resident of the  
3 City. Fetty has been politically active in local politics for approximately 25 years, and  
4 though Fetty has attended several City Council meetings in the past, she has chosen not  
5 to speak at any of those meetings, because of Defendants' hostile and unlawful conduct  
6 set forth herein. In the absence of such conduct, Ms. Fetty would choose to speak at  
7 upcoming City Council meetings. Fetty intends to attend City Council meetings in the  
8 immediate and foreseeable future.

9 12. Plaintiff Anthony Rubolino is, and at all times relevant was, a resident of  
10 the City. Rubolino has been politically active in local politics for approximately 2 years,  
11 and regularly attends and speaks at City Council meetings, and has criticized the actions  
12 taken by Defendants. Rubolino intends to attend and speak at City Council meetings in  
13 the immediate and foreseeable future.

14 13. Defendant City of San Clemente is a municipal corporation, duly organized  
15 and existing under the laws of the State of California, and located within the County of  
16 Orange, California. The City Council is comprised of the following persons: Mayor  
17 Steven Swartz; Mayor Pro Tem Dan Bane; and Council Members Laura Ferguson, Chris  
18 Hamm, and Kathleen Ward (collectively, "City Council"). The City Manager for the  
19 City is James Makshanoff. All actions of the City, its agents, and employees complained  
20 of herein were taken under color of state law, pursuant to official City policy; pursuant  
21 to custom or practice that is not written or formally adopted; and/or were taken or  
22 ratified by a final policymaker for the City.

23 14. Defendant Steven Swartz is, and at all times relevant to this Complaint was,  
24 a resident of the City. All actions of Swartz complained of herein were taken under color  
25 of state law, through his position as Mayor. Swartz is sued in his official and individual  
26 capacities for injunctive and declaratory relief.

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**RELEVANT FACTS**

**The City's Policies and Procedures for Public Comments at City Council Meetings**

15. On February 7, 2008, the City adopted a written policy titled "Management/Streamlining of City Council Meeting" ("2008 Policy"). The stated purpose of this policy was to "promote effective decision-making by streamlining the conduct of City Council Meetings."<sup>1</sup>

16. Rule 4.9 of the 2008 Policy codified the City's practice that members of the public are allowed to speak during public comment periods at City Council meetings. Specifically, it provided that "[p]ublic speakers shall be allowed three minutes for their presentations. Responses to questions posed shall not be counted toward the three-minute time limitation."

17. Under this rule, the City continued to adhere to its long-standing practice of permitting members of the public to speak during either, or both, of the two public comment sessions held at every public City Council meeting.

18. Plaintiffs Malamud and Rubolino, and other members of the public, repeatedly spoke at either or both such sessions at numerous City Council meetings, over the course of several years. Video recordings of many of these meetings are readily available online, through the City's website and on Youtube.

19. Though Plaintiff Fetty attended several City Council meetings over the years, she has never spoken at any meeting, due to Defendants' hostile conduct toward Malamud, Rubolino, and others, which include City Council members interrupting the speaker, rolling their eyes toward the speaker, and admonishing the speaker to direct their comments at the City Council as a whole, as opposed to any particular City Council member. Fetty would welcome the opportunity to speak at City Council meetings in the immediate or near future, but feels unwelcome to do so, given Defendants' speech-chilling conduct.

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<sup>1</sup> The 2008 policy can be accessed online at the following url: <http://www.san-clemente.org/Home/ShowDocument?id=21070>.

1           20. On February 19, 2019, City Council approved a revised policy titled “City  
2 Council Meeting and Operating Procedures” (“2019 Policy”) which went into effect on  
3 April 4, 2019. A copy of the Policy is attached here as **Exhibit 1**.

4           21. Under this revised policy, the City continued to permit individuals to speak  
5 during either, or both, of the public comment periods at public City Council meetings.

6           **Defendants Refuse to Let Malamud Speak, and Fail to Retain Related Documents**

7           22. On April 16, 2019, Plaintiffs attended a public City Council meeting at City  
8 Hall.<sup>2</sup>

9           23. After arriving at City Hall, Malamud requested to speak at both public  
10 comment sessions at the City Council meeting, for a combined total of six minutes.

11           24. Upon making this request, Defendants informed Malamud that Malamud  
12 could only speak during one of the two public comment sessions, despite Malamud and  
13 others having spoken during two public comment sessions on many prior occasions,  
14 including during Swartz’s tenure as mayor. No written notice of this rule change was  
15 provided by Defendants in advance of the April 16, 2019 meeting, nor was there any  
16 open discussion of the rule change by City Council.

17           25. As permitted, Malamud spoke during the first public comment period,  
18 offering suggestions and raising legitimate concerns, including concerns that the City  
19 was in violation of the Brown Act and that Swartz’s new speech restriction was  
20 unlawful.

21           26. Met with Malamud’s open criticism, Defendants did what they had never  
22 done before—they refused to allow Malamud to speak for a second time, citing their  
23 oral communication guidelines.

24           27. Concerned by the unlawful restriction on the public’s right to speak to City  
25 Council, Councilwoman Ferguson objected to Swartz’s discriminatory refusal to let

26 \_\_\_\_\_  
27 <sup>2</sup> A video recording of the April 16, 2019 City Council meeting can be accessed online  
28 at the following url:

[https://www.youtube.com/watch?v=NPel8\\_jOv2U&list=PL4oL7wx4Y4s5dElAry81t1SMT4rOFs6Pe&index=2&t=0s](https://www.youtube.com/watch?v=NPel8_jOv2U&list=PL4oL7wx4Y4s5dElAry81t1SMT4rOFs6Pe&index=2&t=0s).



1 Malamud speak for a second time. As Ferguson later wrote in her May 2, 2019 *San*  
 2 *Clemente Times* article concerning the events of the April 16<sup>th</sup> meeting, “Mayor Steve  
 3 Swartz decided at this council meeting that he no longer wanted to hear from a particular  
 4 citizen activist twice. So, at the meeting, he announced a new rule that residents could  
 5 now speak only at one of the oral communications sessions.” A copy of Ms. Ferguson’s  
 6 full account of the meeting is attached here as **Exhibit 2**.

7 28. Swartz dismissed Ferguson’s objections, and Ferguson left the meeting, in  
 8 protest of Defendants’ unlawful restraint on Malamud’s rights to free speech and to  
 9 petition the government.

10 29. Thereafter, Swartz read aloud from the City’s revised Meeting Agenda for  
 11 the April 16, 2019 City Council meeting, a copy of which is attached here as **Exhibit 3**,  
 12 which provides the following, on page 3 (“Oral Communications (Part 1)”):

13  
 14 Members of the audience who wish to address Council on  
 15 matters that are within the jurisdiction of the City of San  
 16 Clemente, but not separately listed on the agenda, may do so  
 17 during the Oral Communications portion of the meeting. A total  
 18 time limitation of 30 minutes is allocated for Oral  
 19 Communications Part 1, with each speaker being allotted 3  
 20 minutes in which to give his or her presentation. Speaker order  
 21 is determined by the order in which speaker cards are provided  
 22 to the City Clerk or Deputy City Clerk at the meeting. Speakers  
 23 that cannot be accommodated during Oral Communications Part  
 24 1 will be invited to address Council during Oral  
 Communications Part 2, which appears on this agenda as Item  
 No. 10. When the Mayor calls your name, please step to the  
 podium, state your name and the City in which you reside, and  
 make your presentation. Subject to very limited exceptions,  
 Council is not permitted to discuss or take action on items that  
 do not appear on the agenda.

25 30. After Swartz read the above instructions, Swartz was then handed a piece  
 26 of yellow-lined paper (“Yellow Paper”) by the City Attorney, Scott Smith, and Swartz  
 27 proceeded to read aloud from the Yellow Paper, in conjunction with expelling Plaintiffs  
 28 and all other members of public from the City Council meeting. This is captured in the



1 video recording of the April 16<sup>th</sup> meeting.

2 31. After Swartz asked Plaintiffs to leave, Malamud audibly asked Swartz to  
3 explain the basis on which he was removing the public from the meeting. Defendants  
4 failed to provide any justification for their actions, nor were their actions discussed by  
5 the City Council prior to Swartz expelling the public.

6 32. Swartz did state, however, that those expelled could reenter “as long as  
7 they say they agree that they are gonna abide the rules of this committee” – including  
8 Defendants’ new rule stating that members of the public are limited to speaking at only  
9 one public comment period.

10 33. None of the written rules of oral communication read by Swartz prohibit  
11 Malamud, or any other member of the public, from speaking at both public comment  
12 sessions.

13 34. Neither Plaintiffs, nor any other member of the public, was engaging in any  
14 disruptive or otherwise unlawful behavior prior to their expulsion from the public City  
15 Council meeting, or the imposition of the new speech restriction by Defendants, on  
16 April 16<sup>th</sup>.

17 35. After being allowed to reenter the meeting, Malamud sought to speak  
18 during the second public comment session. Swartz then instructed the Orange County  
19 Sheriff deputy serving as the chief sergeant at arms at the meeting, to physically remove  
20 Malamud from the premises, for failing to comply with Defendants’ new, unwritten rule  
21 that members of the public cannot speak at both public comment sessions.

22 36. Under threat of physical force, Malamud exited the meeting without further  
23 incident.

24 37. Swartz acted as a final policy-maker of the City, by adopting and enforcing  
25 the single, three-minute public-speaker rule, and by expelling Plaintiffs and the public  
26 from the City Council meeting and requiring that they pledge to adhere to the new rule  
27 before re-entering the meeting, in violation of Plaintiffs’ Constitutional rights under the  
28 First and Fourteenth Amendments.

1           38. On April 17, 2019, pursuant to the California Public Records Act  
2 (“CRPA”), Malamud requested that the City provide him with a copy of the Yellow  
3 Paper.

4           39. On April 18, 2019, Councilwoman Ferguson also requested production of a  
5 copy of the Yellow Paper, from the City Manager, James Makshanoff.

6           40. On April 22, 2019, in response to Malamud’s CPRA request, HongDao  
7 Nguyen, an attorney from the law firm Best Best & Krieger LLP, responded on the  
8 City’s behalf, refusing to produce the document on the grounds that the Yellow Paper is  
9 “exempt from disclosure under the attorney-client privilege.” Mr. Nguyen’s response did  
10 not provide any other basis for the City’s failure to comply with the request.

11           41. Thereafter, Malamud was informed that on April 19, 2019, the City  
12 Manager responded to Councilwoman Ferguson’s request for the Yellow Paper by  
13 stating that the Yellow Paper “wasn’t retained.”

14           42. Alarmed by the inconsistency of these responses, Malamud wrote to Mr.  
15 Nguyen to ask how he was able to determine that the document was privileged if the  
16 document was not retained and therefore not available for inspection. Mr. Nguyen failed  
17 to address this question, instead stating, on April 23, 2019, that “the City no longer has  
18 this record.”

19           43. On April 22, 2019, Swartz stated by email that he “did not keep nor have  
20 that note [the Yellow Paper].”

21           44. The Yellow Paper is not, never was, and could not be, protected by  
22 attorney-client privilege, including because Swartz read aloud from the Yellow Paper at  
23 a public City Council meeting.

24           45. By failing to retain the Yellow Paper, the City has failed to abide by its  
25 record-keeping obligations under the Brown Act and the CPRA.

26           46. Plaintiffs, and each of them, routinely speak and/or desire to speak at City  
27 Council meetings, and they desire and intend to speak at both public comment sessions  
28 at upcoming City Council meetings in the immediate and near future.

1           47. In light of the above-described events of the April 16<sup>th</sup> City Council  
 2 meeting, as well as the City's failure to retain public records thereof, Plaintiffs are  
 3 informed and believe that Defendants will prevent them from speaking at the second  
 4 public comment session at future City Council meetings and/or expel them from City  
 5 Council meetings for failure to comply or pledge to comply with this rule, in violation of  
 6 Plaintiffs' Constitutional rights under the First and Fourteenth Amendments.

7           **The City Violates California's Open-Meeting Laws and Unlawfully Withholds or**  
 8           **Destroys Documents Subject to Public Disclosure Requirements**

9           48. The Brown Act, Cal. Govt. Code § 54950, *et seq.*, and the California Public  
 10 Records Act, Cal. Govt. Code § 6250, *et seq.*, require City Council meetings be opened  
 11 to the public (except in unique, enumerated circumstances), and require that records  
 12 pertaining to the meetings and other City business be maintained and made available for  
 13 inspection by members of the public, upon request.

14           49. The City has flagrantly flouted these requirements, including by engaging  
 15 in the following conduct:

- 16           a. Withholding, destroying, and/or failing to retain the Yellow Paper  
 17           passed by City Attorney Scott Smith to Swartz during the April 16,  
 18           2019 City Council meeting, as set forth above;
- 19           b. Evading open meeting requirements by using the City Manager to  
 20           act as a private communication hub between City Council members,  
 21           thereby enabling private communication by and between a majority  
 22           of the Council members on duly agendized items, without having  
 23           such discussions publicly, as required by the Brown Act;
- 24           c. Improperly prohibiting or attempting to prohibit, or allowing City  
 25           Council members to improperly prohibit or attempt to prohibit,  
 26           Plaintiffs and others from addressing their public comments toward a  
 27           single Council member, as opposed to the Council as a whole;
- 28           d. Failing to disclose, for agenda items regarding potential litigation

1 matters to be discussed in a closed City Council session, the  
 2 identities of potential litigants and documents related to the City's  
 3 assessment, as required by the Brown Act—which has been the  
 4 City's practice for all potential litigation matters for several years.<sup>3</sup>

5 50. The City has failed to comply with its open-meetings, public disclosure,  
 6 and document retention requirements, in violation of California law.

### 7 **FIRST CLAIM FOR RELIEF**

#### 8 **Violation of the First Amendment Right to Freedom of Speech**

#### 9 **42 U.S.C. § 1983; *Monell***

#### 10 **(By Plaintiffs against the City and Swartz, in his official capacity)**

11 51. Plaintiffs incorporate by reference the allegations in the preceding  
 12 paragraphs, as if fully set forth herein.

13 52. Defendants have violated Plaintiffs' right to freedom of speech and to  
 14 petition their elected officials for redress of grievances by enacting and discriminatorily  
 15 enforcing restrictions that place an impermissible prior restraint on speech.

16 53. Upon opening the April 16, 2019 City Council meeting to the public, as is  
 17 required by California law, Defendants established a limited public forum. Speech  
 18 restrictions are therefore constitutional in such meetings only where the restrictions  
 19 satisfy all of the following criteria: "(1) comport with the definition of the forum (for  
 20 example, the government cannot exclude election speech from a forum that it has  
 21 opened specifically for election speech); (2) reasonable in light of the purpose of the  
 22 forum; and (3) do not discriminate by viewpoint." *OSU Student All. v. Ray*, 699 F.3d  
 23 1053, 1062 (9th Cir. 2012).

24 54. Defendants, acting under color of state law, failed to meet these  
 25 constitutional standards by their adoption and enforcement of the following  
 26 unreasonable speech restrictions in a viewpoint-discriminatory manner: (1) that

27 <sup>3</sup> Most recently, in April 2019, the City refused Malamud's request that it disclose the  
 28 identities and documents relating to a potential litigation matter disclosed in the City  
 Council's March 19, 2019 meeting agenda.

1 Plaintiffs, and all other members of the public, may speak for only one of the two, three-  
2 minute public comment periods at City Council meetings, the adoption of which was to  
3 prevent Malamud from speaking at the meeting; and (2) that Plaintiffs must pledge to  
4 abide by this newly-concocted, arbitrary, and discriminatory speech restriction before  
5 being allowed to be present or speak at public City Council meetings.

6 55. Defendants are liable under *Monell v. Dept. of Soc. Servs.*, 436 U.S. 658  
7 (1978), because Swartz acted as a final policymaker for the City by adopting and  
8 enforcing the above-described speech restrictions. Alternatively, if those restrictions are  
9 found to duly arise from Defendants' existing policy framework on oral  
10 communications, as Defendants contended at the April 16, 2019 meeting, Defendants  
11 remain liable under *Monell* due to their viewpoint-discriminatory enforcement of the  
12 same.

13 56. As a direct and proximate consequence of Defendants' violations of  
14 Plaintiffs' federal civil rights under 42 U.S.C. § 1983 and the First Amendment,  
15 Plaintiffs have suffered and will suffer irreparable injury that cannot fully be  
16 compensated by an award of monetary damages.

17 57. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to  
18 declaratory judgment and temporary, preliminary, and permanent injunctive relief  
19 invalidating and restraining enforcement of the following speech restrictions: (1) that  
20 Plaintiffs may speak for only one of the two three-minute public comment periods; and  
21 (2) that Plaintiffs must pledge to abide by Defendants' newly concocted, arbitrary, and  
22 discriminatory speech restrictions in order to be present or to speak at public City  
23 Council meetings.

24 58. Plaintiffs found it necessary to engage the services of private counsel to  
25 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
26 attorneys' fees pursuant to 42 U.S.C. § 1988.

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**SECOND CLAIM FOR RELIEF**

**Violation of the First Amendment Right to Freedom of Speech**

**42 U.S.C. § 1983**

**(By Plaintiffs against Swartz, in his individual capacity)**

59. Plaintiffs incorporate by reference the allegations in the preceding paragraphs, as if fully set forth herein.

60. Upon opening the April 16, 2019 City Council meeting to the public, as is required by California law, Defendants established a limited public forum. Speech restrictions are therefore constitutional in such meetings only where the restrictions satisfy all of the following criteria: “(1) comport with the definition of the forum (for example, the government cannot exclude election speech from a forum that it has opened specifically for election speech); (2) reasonable in light of the purpose of the forum; and (3) do not discriminate by viewpoint.” *OSU Student All. v. Ray*, 699 F.3d 1053, 1062 (9th Cir. 2012).

61. Swartz, acting under color of state law, failed to meet these constitutional standards by his adoption and enforcement of the following unreasonable speech restrictions in a viewpoint-discriminatory manner: (1) that Plaintiffs, and all other members of the public, may speak for only one of the two, three-minute public comment periods at City Council meetings, the adoption of which was to prevent Malamud from speaking at the meeting; and (2) that Plaintiffs must pledge to abide by this newly-concocted, arbitrary, and discriminatory speech restriction in order to be present or speak at public City Council meetings.

62. As a direct and proximate consequence of Swartz’s violations of Plaintiffs’ federal civil rights under 42 U.S.C. § 1983 and the First Amendment, Plaintiffs have suffered and will suffer irreparable injury that cannot fully be compensated by an award of monetary damages.

63. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to declaratory judgment and temporary, preliminary, and permanent injunctive relief



1 invalidating and restraining enforcement of the following speech restrictions: (1) that  
 2 Plaintiffs may speak for only one of the two three-minute public comment periods; and  
 3 (2) that Plaintiffs must pledge to abide by Defendants' newly concocted, arbitrary, and  
 4 discriminatory speech restrictions in order to be present or speak at public City Council  
 5 meetings.

6 64. Plaintiffs found it necessary to engage the services of private counsel to  
 7 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
 8 attorneys' fees pursuant to 42 U.S.C. § 1988.

### 9 **THIRD CLAIM FOR RELIEF**

#### 10 **Violation of the Fourteenth Amendment Right to Due Process**

#### 11 **42 U.S.C. § 1983; *Monell***

#### 12 **(By Plaintiffs against the City and Swartz, in his official capacity)**

13 65. Plaintiffs incorporate by reference the allegations in the preceding  
 14 paragraphs as if fully set forth herein.

15 66. Defendants, acting under color of state law, adopted and enforced the 2019  
 16 Policy and the oral communication instructions provided in the City's Agenda Minutes  
 17 (Exs. 1, 2), which Defendants rely upon, in whole or in part, to prohibit Plaintiffs from  
 18 speaking for a second, three-minute period during City Council meetings, despite the  
 19 Defendants' longstanding practice of permitting members of the public a second  
 20 opportunity to speak at City Council meetings under this same rule.

21 67. As made clear by Defendants' varied interpretations of these policies, the  
 22 policies violate the Due Process rights guaranteed by the Fourteenth Amendment to the  
 23 United States Constitution because they are (1) vague and (2) afford Defendants  
 24 unfettered discretion when determining whether the rule restricts any particular speaker  
 25 to one speaking opportunity, instead of two, as had previously been permitted under the  
 26 same rules.

27 68. As a direct and proximate consequence of Defendants' violations of  
 28 Plaintiffs' federal civil rights under 42 U.S.C. § 1983 and the Fourteenth Amendment,

1 Plaintiffs have suffered and will suffer irreparable injury that cannot fully be  
2 compensated by an award of monetary damages.

3 69. As Plaintiffs desire and intend to attend and speak during both public  
4 comment periods at upcoming City Council meetings, without pledging to following  
5 Defendants' unconstitutional speech restrictions, Defendants will continue to violate  
6 Plaintiffs' rights, unless they are enjoined from doing so.

7 70. Declaratory relief is proper here because Plaintiffs are informed and believe  
8 that Defendants will deny that they have violated, and will continue to violate, Plaintiffs'  
9 Due Process rights.

10 71. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to  
11 declaratory relief and temporary, preliminary, and permanent injunctive relief  
12 invalidating and restraining enforcement of the City's policies, to the extent they  
13 prohibit Plaintiffs from speaking for a second, three-minute period at public City  
14 Council meetings.

15 72. Plaintiffs found it necessary to engage the services of private counsel to  
16 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
17 attorneys' fees pursuant to 42 U.S.C. § 1988.

#### 18 **FOURTH CLAIM FOR RELIEF**

##### 19 **Violation of the Fourteenth Amendment Right to Due Process**

##### 20 **42 U.S.C. § 1983**

##### 21 **(By Plaintiffs against Swartz, in his individual capacity)**

22 73. Plaintiffs incorporate by reference the allegations in the preceding  
23 paragraphs as if fully set forth herein.

24 74. Swartz, acting under color of state law, enforced and will enforce the 2019  
25 Policy and the oral communication instructions provided in the City's Agenda Minutes  
26 (Exs. 1, 2), which Defendants rely upon, in whole or in part, to prohibit Plaintiffs from  
27 speaking for a second, three-minute period during City Council meetings, despite the  
28 Defendants' longstanding practice of permitting members of the public a second

1 opportunity to speak at City Council meetings under this same rule.

2 75. As made clear by Swartz's varied interpretations of these policies, the  
3 policies violate the Due Process rights guaranteed by the Fourteenth Amendment to the  
4 United States Constitution because they are (1) vague and (2) afford Defendants,  
5 including Swartz, unfettered discretion when determining whether the rule restricts any  
6 particular speaker to one speaking opportunity, instead of two, as had previously been  
7 permitted under the rule.

8 76. As a direct and proximate consequence of Swartz's enforcement of these  
9 speech restrictions, in violation of Plaintiffs' federal civil rights under 42 U.S.C. § 1983  
10 and the Fourteenth Amendment, Plaintiffs have suffered and will suffer irreparable  
11 injury that cannot fully be compensated by an award of monetary damages.

12 77. As Plaintiffs desire and intend to attend and speak during both public  
13 comment periods at upcoming City Council meetings, without pledging to following  
14 Defendants' unconstitutional speech restrictions, Swartz will continue to violate  
15 Plaintiffs' rights, unless he is enjoined from doing so.

16 78. Declaratory relief is proper here because Plaintiffs are informed and believe  
17 that Swartz will deny that he has violated and continues to violate Plaintiffs' Due  
18 Process rights.

19 79. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to  
20 declaratory relief and temporary, preliminary, and permanent injunctive relief  
21 invalidating and restraining enforcement of the City's policies, to the extent they  
22 prohibit Plaintiffs from speaking for a second, three-minute period at public City  
23 Council meetings.

24 80. Plaintiffs found it necessary to engage the services of private counsel to  
25 vindicate their rights under the law. Plaintiffs are therefore entitled to an award of  
26 attorneys' fees pursuant to 42 U.S.C. § 1988.

27  
28 //

**FIFTH CLAIM FOR RELIEF**

**Violation of the Brown Act**

**Cal. Gov. Code § 54950, *et seq.***

**(By Plaintiffs against the City)**

81. Plaintiffs incorporate by reference the allegations in the preceding paragraphs as if fully set forth herein.

82. Defendants have violated, and will continue to violate, the right of Plaintiffs and the public to participate in City Council meetings under the Ralph M. Brown Act by: (1) enacting rules that restrict the ability of the public to address their elected officials; (2) restricting the time allocated to public comment in an unreasonable, arbitrary, and capricious manner; (3) limiting the number of times that a member of the public may speak during a City Council meeting; ejecting Plaintiffs and the public from the April 16, 2019 meeting; (4) enforcing the City's policies in ways that discriminate on the basis of viewpoint; and (5) failing to disclose information and documents related to anticipated litigation matters by, pretextually, citing concerns over the public disclosure of such information, which the City has done for every such anticipated litigation matter for the past several years.

83. Unless enjoined, Defendants will continue to violate these rights, and Plaintiffs and the general public will suffer irreparable harm.

84. Declaratory relief is proper here because Plaintiffs are informed and believe that the City will deny that it has violated, and will continue to violate, the Ralph M. Brown Act.

**SIXTH CLAIM FOR RELIEF**

**Violation of the California Public Records Act**

**Cal. Gov. Code § 6250, *et seq.***

**(By Plaintiff Malamud against the City)**

85. Plaintiffs incorporate by reference the allegations in the preceding paragraphs as if fully set forth herein.

1           86. The City violated the California Public Records Act (“CPRA”) by  
2 improperly withholding or destroying the Yellow Paper passed to Swartz at the April 16,  
3 2019 City Council meeting, thereby infringing on the right of Malamud and the public to  
4 inspect this document and usurping the role of the courts in determining whether  
5 documents and other records, including statements read aloud at public City Council  
6 meetings, are exempt from disclosure under the CPRA.

7           87. Unless enjoined, the City will continue to violate the CPRA, and Plaintiff  
8 Malamud and the general public will suffer irreparable harm.

9           88. Declaratory relief is proper here because Malamud is informed and believes  
10 that the City will deny that it has violated, and will continue to violate, the CPRA.

11                           **SEVENTH CLAIM FOR RELIEF**

12                                   **Writ of Mandamus**

13                                   **Cal. Gov. Code §§ 6258 (CPRA), 549560, 549560.1 (Brown Act)**

14                                   **(By Plaintiff Malamud against the City)**

15           89. Plaintiffs incorporate by reference the allegations in the preceding  
16 paragraphs as if fully set forth herein.

17           90. The City has, and will continue, to violate clear and mandatory duties under  
18 CPRA and Brown Act by: (1) allowing the immediate destruction of documents,  
19 including the Yellow Paper, that are subject to retention requirements under Cal. Gov.  
20 Code § 34090 or related provisions, which requirements were not satisfied by the City  
21 prior to the destruction of the documents; and (2) by adopting a practice of withholding  
22 information and documents from the public on matters involving anticipated litigation,  
23 regardless of the applicability of any available exception to disclosure obligations, which  
24 practice has been in place for years.

25           91. On information and belief, the City continues to violate the above-listed  
26 statutes by destroying documents subject to retention requirements without following the  
27 procedures required to authorize such destruction.

28           92. Unless enjoined, the City will continue to violate these rights, and Plaintiffs

1 and the general public will suffer irreparable harm.

2 93. Declaratory relief is proper here because Malamud is informed and believes  
3 that the City will deny that it has violated, and will continue to violate, the CPRA and  
4 Brown Act.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs respectfully pray that the Court:

- 7 i. Issue a declaratory judgment that Defendants' actions complained of  
8 herein:
- 9 a. Violate the First Amendment to the United States Constitution;
  - 10 b. Violate the Fourteenth Amendment to the United States Constitution;
  - 11 c. Violate the Ralph M. Brown Act, Cal. Gov. Code Section 54950, *et*  
12 *seq.*;
  - 13 d. Violate the California Public Records Act, Cal. Gov. Code Section  
14 6250, *et seq.*;
- 15 ii. For temporary, preliminary, and permanent injunctive relief, enjoining  
16 Defendants, and each of them, their agents, and employees from:
- 17 a. restricting the rights of Plaintiffs and the public to speak at City  
18 Council meetings, as guaranteed by the First Amendment to the United  
19 States Constitution and Ralph M. Brown Act;
  - 20 b. requiring Plaintiffs to pledge to follow Defendants' unlawful and  
21 arbitrary speech restrictions before being allowed to attend or speak at  
22 City Council meetings;
  - 23 c. ejecting Plaintiffs from City Council meetings for failure to abide by  
24 Defendants' unlawful speech restrictions;
  - 25 d. interrupting Plaintiffs during their public comment sessions;
  - 26 e. directing Plaintiffs not to address individual City Council members;
  - 27 f. enforcing the 2019 Policy, and all other written or unwritten policies  
28 that have the effect of preventing Plaintiffs from speaking during both



1 public comment sessions at public City Council meetings;

2 g. destroying, failing to maintain, or withholding public records in  
3 violation of the Brown Act and CPRA;

4 iii. For a preemptory writ of mandate ordering Defendants to comply with  
5 their obligations under the Ralph M. Brown Act and CPRA;

6 iv. For an award of attorneys' fees incurred in bringing this Action against  
7 Defendants, pursuant to 42 U.S.C. § 1988, Cal. Code Civ. Proc. § 1021.5, Cal. Govt.  
8 Code § 54960.5, and any other applicable provisions of law;

9 v. For costs of suit incurred herein; and

10 vi. For such other and further relief as the Court deems just and proper.

11 Respectfully submitted,

12 Date: May 7, 2019

DHILLON LAW GROUP INC.

13 By: /s/ Harmeet K. Dhillon

14 HARMEET K. DHILLON (SBN: 207873)

15 harmeet@dhillonlaw.com

16 KRISTA L. BAUGHMAN (SBN: 264600)

17 kbaughman@dhillonlaw.com

18 GREGORY R. MICHAEL (SBN: 306814)

gmichael@dhillonlaw.com

DHILLON LAW GROUP INC.

19 177 Post Street, Suite 700

20 San Francisco, California 94108

21 Telephone: (415) 433-1700

22 Attorneys for Plaintiffs

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand trial by jury on all claims and issues in this action so triable.

Date: May 7, 2019

DHILLON LAW GROUP INC.

By: /s/ Harmeet K. Dhillon

HARMEET K. DHILLON (SBN: 207873)

harmmeet@dhillonlaw.com

KRISTA L. BAUGHMAN (SBN: 264600)

kbaughman@dhillonlaw.com

GREGORY R. MICHAEL (SBN: 306814)

gmichael@dhillonlaw.com

DHILLON LAW GROUP INC.

177 Post Street, Suite 700

San Francisco, California 94108

Telephone: (415) 433-1700

Attorneys for Plaintiffs

**VERIFICATION OF COMPLAINT**

I, Brad Malamud, declare as follows:

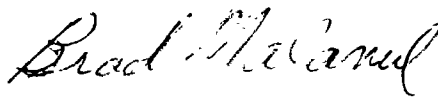
1. I am a Plaintiff in this Action.

2. I have read the foregoing Complaint and know the contents thereof. I have personal knowledge of myself, my activities, and my intentions, including those set out in the foregoing Complaint, and if called on to testify I would competently testify as to the matters stated herein.

3. On all other matters stated in the Complaint, I am informed and believe them to be true.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 7, 2019.



Brad Malamud

**VERIFICATION OF COMPLAINT**

I, Chanel Fetty, declare as follows:

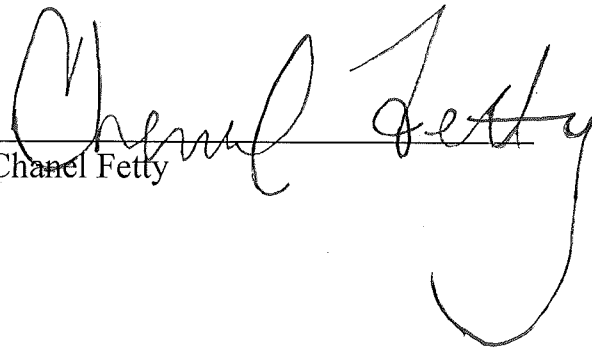
4. I am a Plaintiff in this Action.

5. I have read the foregoing Complaint and know the contents thereof. I have personal knowledge of myself, my activities, and my intentions, including those set out in the foregoing Complaint, and if called on to testify I would competently testify as to the matters stated herein.

6. On all other matters stated in the Complaint, I am informed and believe them to be true.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 7, 2019.

  
Chanel Fetty



## VERIFICATION OF COMPLAINT

I, Anthony Rubolino, declare as follows:


7. I am a Plaintiff in this Action.

8. I have read the foregoing Complaint and know the contents thereof. I have personal knowledge of myself, my activities, and my intentions, including those set out in the foregoing Complaint, and if called on to testify I would competently testify as to the matters stated herein.

9. On all other matters stated in the Complaint, I am informed and believe them to be true.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 7, 2019.

  
Anthony Rubolino



# EXHIBIT 1





## POLICY AND PROCEDURE

<b>Subject:</b> City Council Meeting and Operating Procedures (Parliamentary Procedures, Due Process, Mayor/Mayor Pro Tempore, Council Correspondence, Meetings, Agendas, and Minutes)	<b>Index:</b> City Council  <b>Number:</b> 1201-11
<b>Effective Date:</b> April 4, 2019	<b>Prepared By:</b> City Clerk
<b>Supersedes:</b> Policy and Procedures 1201-1 (Mayor and Mayor Pro Tempore); 1201-2 (Meetings of the City Council); 1201-3 (Order of Business and Preparation of Minutes); 1201-4 (Council Correspondence and Agenda); 1201-5 (Rules of Debate, Decorum, Voting Requirements & Procedures); and 1202-2 (Management/Streamlining of City Council Meetings)	<b>Approved By:</b> City Council on February 19, 2019

### 1.0 PURPOSE:

To establish policies for City Council meetings and operations, including parliamentary procedures, due process, election/roles of Mayor and Mayor Pro Tem, agendas, and the preparation of minutes.

### 2.0 ORGANIZATIONS AFFECTED:

City Council  
City Commissions and Committees\*

*\*Note: Except as otherwise noted throughout this Policy, this Policy shall also apply to the City's Commissions and Committees. In applying this Policy to City Commissions and Committees, the term "Council" shall be interpreted to mean the name of the City Commission or Committee, the term "Mayor" shall be interpreted to mean "Chairperson", the term "Mayor Pro Tempore" shall be interpreted to mean "Vice Chair", the term "Manager" shall be interpreted to mean "Director", and the term "City Clerk" shall be interpreted to mean the staff member responsible for providing support to the Commission/Committee.*

### **3.0 REFERENCES:**

California Brown Act, GC Section 54950, et seq.

### **4.0 POLICY:**

#### **4.1 Parliamentary Procedures and Due Process**

- 4.1.1 The proceedings of the City Council shall be guided under the latest revised edition of "Rosenberg's Rules of Order," on all matters pertaining to parliamentary procedure, but no ordinance, resolution, proceeding or other action of the City Council shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow such rules. In the event of a discrepancy between Rosenberg's Rules of Order and this Policy and Procedure, this Policy and Procedure shall prevail.
- 4.1.2 The Mayor, with assistance from the City Attorney, is designated as the parliamentarian for City Council meetings. The City Clerk shall assist in the City Attorney's absence.
- 4.1.3 It shall be understood that a member of the City Council or prospective member of the City Council may, in the course of seeking elective office, be asked to state positions on general issues that may eventually come before the Council at a later date. This policy shall in no way impair that Councilmember's right to consider the issue and vote as he/she determines is appropriate.
- 4.1.4 Ex parte communications are communications received outside of Council meetings or hearings. When the Council acts in a legislative role (for example, to adopt general plan or zoning amendments or to adopt ordinances), Councilmembers are permitted to draw upon nearly all observations and considerations they receive inside and outside the Council meeting. On the other hand, when acting in a quasi-adjudicatory role (hearing permits, revocations, and similar non-legislative decisions), the Council, as fact-finder, should limit its consideration of facts to those presented at the hearing, where all sides have the opportunity to hear and rebut testimony given by all participants. To this end, Councilmembers should avoid receiving or gathering information that might otherwise influence its consideration of the written record and any other testimony it hears through the formal hearing process, or at least disclose their receipt of that information.

4.2 **Election of Mayor and Mayor Pro Tempore and Roles of Those Offices**

- 4.2.1 At the first Regular City Council meeting in December of each year, the Council shall elect from its members a Mayor and Mayor Pro Tempore. The new Mayor and Mayor Pro Tempore shall assume office immediately upon election. *(Note: Commissions and Committees shall elect from its members a Chairperson and Vice Chair at its first regular meeting occurring after Council completes its annual appointment process for Commission and Committee members and those members assume office.)*
- 4.2.2 The Mayor and Mayor Pro Tempore shall serve a one-year term at the pleasure of the Council majority.
- 4.2.3 The Mayor shall act as the primary spokesperson and official representative of the City Council, unless such responsibility is delegated by the Mayor, or otherwise assigned by a majority of the City Council.
- 4.2.4 The Mayor shall preside at all regular, adjourned regular, special and emergency meetings of the City Council, including joint meetings with commissions and committees and closed sessions.
- 4.2.5 The Mayor shall execute all official City documents, warrants and correspondence approved by the City Council.
- 4.2.6 The Mayor is authorized to issue proclamations, commendations and certificates of recognition, which may be presented at Council meetings under Special Presentations. The total time allotted to Special Presentations should, if possible, be limited to 15 minutes per meeting. *(This section does not apply to Commissions or Committees.)*
- 4.2.7 Nothing in this section is intended to suggest that the office of Mayor possesses formal powers or authority in excess of other members of the City Council; rather, the person serving as Mayor is to be recognized as the chairperson of the Council.
- 4.2.8 The Mayor Pro Tempore shall serve and perform the functions of the Mayor in the absence of the Mayor. If both the Mayor and Mayor Pro Tempore are absent from a City Council meeting, the Council members present shall select a Councilmember from those members present to perform the functions of Mayor at that particular meeting.

#### **4.3 City Council Correspondence**

- 4.3.1 The City Manager, or his/her designee, is authorized to open and examine all mail or other written communications addressed to the City Council as a body, but shall not open correspondence addressed to an individual Councilmember without their express authorization.
- 4.3.2 The City Manager may take action, or direct that action be taken, on issues or requests that do not require Council action. The City Manager shall inform Council when actions are taken on matters of significance or that are likely to be of interest to the City Council.

#### **4.4 City Council Meetings**

- 4.4.1 The date, time and location of Regular Meetings of the City Council shall be established by resolution.
- 4.4.2 At all meetings of the City Council, a majority of the Council members shall constitute a quorum for the transaction of business. In the event less than a quorum of the City Council is present, the City Clerk shall adjourn the meeting (which may include adjourning to an Adjourned Regular Meeting), post a Notice of Adjournment, and prepare minutes that reflect that the meeting was adjourned due to lack of a quorum.
- 4.4.3 The City Clerk, or Mayor, shall announce an agenda item before discussion on that item commences.
- 4.4.4 Each person desiring to address the Council is requested to submit to the City Clerk a speaker form. After being called upon by the Mayor, the speaker may proceed to the podium. The speaker may state for the record his/her name and city of residence, but shall not be required to do so. Unless additional time is granted by the Mayor (unless overruled by a majority vote of Councilmembers present), the speaker shall limit his/her remarks to three (3) minutes. Project applicants and appellants (including members of an applicant's or appellant's project presentation team, when applicable) shall limit their remarks to a combined total of ten (10) minutes, unless additional time is granted by the Mayor (unless overruled by a majority vote of Councilmembers present). The time that a speaker devotes to responding to Council inquiries shall not be deducted from their allotted speaker time.
- 4.4.5 Members of the public may not assign their speaker time to another person.

- 4.4.6 In order to avoid repetitious presentations, whenever any group of persons wishes to address the Council with the same message, it shall be proper for the Mayor to request that a spokesperson be chosen by the group to represent the group's position. Speakers shall not, however, be required to abide by such a request.
- 4.4.7 To expedite Council meetings, Councilmembers are encouraged to contact Staff prior to Council meetings to obtain answers to questions and to obtain clarifications as needed.
- 4.4.8 Staff shall compose Administrative Reports in a clear and concise manner. Staff shall strive to write reports in a manner that can be easily understood by persons that do not have training in the report's subject matter.
- 4.4.9 Staff presentations at Council meetings are to be condensed to the briefest extent possible, while still providing a basic overview of the issue under consideration. Staff is encouraged to refrain from reiterating issues previously addressed in the Administrative Report.
- 4.4.10 Persons addressing the City Council shall do so in an orderly manner and shall not engage in conduct that disrupts, disturbs, or otherwise impedes the orderly conduct of the City Council meeting. Any person who so disrupts the meeting shall, at the discretion of the Mayor, unless overruled by a majority of the Councilmembers, be subject to removal from the meeting.
- 4.4.11 The purpose of addressing the City Council is to communicate formally with the City Council regarding matters that relate to City Council business or citizen concerns within the subject matter jurisdiction of the City Council. Persons addressing the City Council on an agenda item shall confine their remarks to the matter under consideration by the City Council. Speakers may be asked to clarify how their comments relate to the matter at hand.
- 4.4.12 Motions must be seconded in order to proceed to a vote.

#### 4.5 **City Council Agendas**

- 4.5.1 With the exception of items added to a City Council agenda pursuant to Section 4.5.4 of this Policy, the City Manager shall be responsible for determining items to appear on City Council meeting agendas.

- 4.5.2 The standard template for City Council agendas shall be established by Council by majority vote. The City Manager shall have the authority to reorganize the template on a case-by-case basis if he/she believes that a variation in the normal order of business is appropriate.
- 4.5.3 Councilmembers may agendize items to enable them to "report out" on matters relating to their own activities, including activities pertinent to their Council-appointed positions on regional commissions, committees and boards, provided the report is informational only. If Council action is being sought, the process defined in Section 4.5.4 of this Policy shall be followed.
- 4.5.4 A member of the City Council may propose at a Council meeting that an item be agendized for future Council discussion, consideration, and/or action. If the proposal is supported by a majority vote of Councilmembers present, subject to notice and hearing requirements, it shall be agendized for a future meeting and noticed as required by law.
- 4.5.5 Notwithstanding Sections 4.5.1 and 4.5.4 of this Policy, the process to review, appeal, or otherwise "call up" decisions by the Planning Commission or other subordinate City bodies shall be subject to the requirements of the San Clemente Municipal Code.
- 4.5.6 Notwithstanding Section 4.5.4, a proposal to reconsider any action taken by the City Council may be raised only at the same meeting or the next regularly scheduled meeting of the City Council after the action is taken and may be raised only by one of the Councilmembers who voted with the prevailing side. Additionally, the motion to reconsider may only be made by one of the Councilmembers who voted with the prevailing side.
- 4.5.7 The City Clerk shall be responsible for the preparation of Council meeting agendas and shall cause copies to be posted on the City Hall bulletin board(s) and City website. Whenever feasible, regular and adjourned regular meeting agendas shall be posted at least six days prior to meetings, but in no event less than the posting time requirements as set forth in State law. In the case of special meetings, agendas shall be posted as soon as practical, but in no event less than the posting time requirements as set forth in State law.



4.5.8 Consent Calendar items shall be comprised of items that are expected to be noncontroversial. Unless an item is removed from the Consent Calendar by a member of the Council, staff, or the public for separate discussion and action, the Consent Calendar may be acted upon by one motion.

4.5.9 The City Council may waive the reading in full of all Resolutions and Ordinances. The reading of Resolution titles shall be optional. The reading of Ordinance titles shall not be waived.

4.6 **City Council Minutes**

4.6.1 The City Clerk shall have exclusive responsibility for the preparation of the minutes.

4.6.2 The minutes of City Council meetings shall be submitted to Council for approval/modification at a City Council meeting. Any direction for modifications to the City Council minutes shall only be made upon a majority vote of the City Council.

4.6.3 Minutes shall be prepared in brief concise form, in what are commonly referred to as "action minutes". Action minutes memorialize what was *done* at a meeting, as opposed to what was *said* at a meeting. An exception to this guideline is that a brief summarization of comments provided to Council by the public are to be included in the minutes. Additionally, the identity of Councilmembers who make motions, second motions, and cast votes on motions are to be included in the minutes.

4.6.4 Unless the reading of the minutes of a City Council meeting is ordered by a majority of the Council, such minutes may be approved without reading if the City Clerk has previously furnished each Councilmember with a copy thereof.

4.6.5 The approved minutes shall be executed by the Mayor and City Clerk upon approval by the City Council and shall constitute the official record of the City Council meeting.

4.6.6 The City Clerk shall enter the original executed minutes into the official records of the City as a permanent document.

4.7 **Closed Sessions**

- 4.7.1 The City Council may hold closed sessions during duly-noticed Council meetings on issues authorized by State law.
- 4.7.2 A City Commission or Committee may hold closed sessions during duly-noticed meetings of its body on issues authorized by State law, the City Council, and the City Attorney.
- 4.7.3 No member of the City Council, employee of the City, or any person present during a closed session shall disclose to any other person the content or substance of discussion or action which took place during the session, unless a majority vote of the Council authorizes such disclosure.
- 4.7.4 Closed sessions shall be limited to members of the City Council, City Manager, City Attorney and/or City legal counsel, as well as staff members and experts designated by the City Manager or City Attorney to attend portions of Closed Sessions relating to specific issues, as permitted by law.
- 4.7.5 To the extent possible, the public will be notified prior to the time that the City Council recesses to closed session as to whether or not a public announcement of action is anticipated following the Closed Session.

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# EXHIBIT 2


[MENU](#)
<http://www.thecoachhouse.com>
[OPINION COLUMNS...](#)
[SOAPBOX \(HTTPS://...](https://www.sanclementetimes.com/city-council-corner-opportunities-public-discourse-must-remain-address-issues/)

# City Council Corner: Opportunities for Public Discourse Must Remain to Address Issues (<https://www.sanclementetimes.com/city-council-corner-opportunities-public-discourse-must-remain-address-issues/>)

 By Staff (<https://www.sanclementetimes.com/author/pfmeditorial/>) On May 2, 2019

[o \(HTTPS://WWW.SANCLEMENTETIMES.COM/CITY-COUNCIL-CORNER-OPPORTUNITIES-PUBLIC-DISCUSS...](https://www.sanclementetimes.com/city-council-corner-opportunities-public-discourse-must-remain-address-issues/)


Laura Ferguson

*By Laura Ferguson, city councilmember*

San Clemente is a great community, because the people have the best interests of everyone at heart. We are better together, which is why I promote engagement. I welcome residents to attend council meetings. Unfortunately, the most recent city council meeting on April 16 was a dark day in our democracy that struck against free speech. I have been asked by residents to explain what happened.

Free expression, including criticism, is at the heart of our democracy. It's been an established rule that during a council meeting the public has two opportunities for public comments sessions, at the beginning and near the end. For as long as anyone can remember, individuals have been able to express their comments limited to three minutes. Mayor Steve Swartz decided at this council meeting that he no longer wanted to hear from a particular citizen activist twice. So, at the meeting, he announced a new rule that residents could now speak only at *one* of the oral communications sessions.

When I voiced my concern that this action could not be taken unilaterally, I began to cite an example in which another elected board had taken the legal steps to change their speech. My point was talked over and not allowed to finish my point of how to obey the law to change the rules. The mayor did not show concern for my defense of a citizen who I believed was having his rights violated. The mayor dismissed me: "You can do what you want. That's it!" I then announced that I was leaving the meeting because "we are quashing public speech."

The mayor proceeded to read the rules for public speaking—rules that are outdated and have never been enforced. He then ordered the mass removal of everyone in the chamber. He said, "clear the room." When a resident called out, "We can't be removed; we've done nothing wrong," the city attorney began to provide comments before the mayor interrupted him and ordered the public to leave. The mayor ordered the sheriff's deputies to refuse entry to the public, who would have to stand outside in the cold, unless they stated that they would "abide" by the mayor's rules.

While laws appear to have been violated by the mayor's actions, he also showed a total disregard of our public's basic political freedoms protected under the Bill of Rights. The right not to be removed from a public meeting without cause and not be forced to make some pledge to regain entrance.

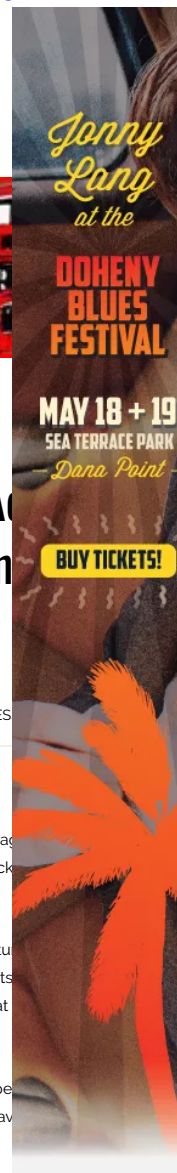
When the meeting resumed, a citizen addressed council and was interrupted three times, as the mayor said he could not address an individual councilmember and would have to address the entire council. The council learned in February, when another citizen felt his rights to address an individual councilmember were being violated, that the law allows this. The council's policy was revised and was in effect on April 16.

I call for our city to get back to the business of addressing community issues. It has been a month and a half since the council directed the city manager to execute a plan for sheltered beds for the homeless. Although it has been reported out of "closed session" that this is underway, law enforcement still cannot enforce the city's anti-camping laws. When there is no option for sleeping indoors, the government cannot criminalize people for sleeping outdoors on public property without exception.

The longer we go without a solution, the longer we have the potential to pose a public health and safety risk for the homeless and the public. It is time our council allows this to be a public discussion, because under the Brown Act, the public has the right to participate. And we just might solve this problem—together.

*Laura Ferguson is a San Clemente City Councilmember who was elected in 2018.*

Share this:



## Related

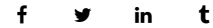
City Council Corner: San Clemente Current Topics  
(<https://www.sanclementetimes.com/city-council-corner-san-clemente-current-topics/>)  
March 7, 2019  
In "Opinion Columns"

City Council Election, South County Unofficial Results  
(<https://www.sanclementetimes.com/city-council-election-south-county-unofficial-results/>)  
November 1, 2018  
In "Election 2018"

City Council Backtracks Manager's Severance Following Public Outcry  
(<https://www.sanclementetimes.com/city-backtracks-managers-severance-increase-public-outcry/>)  
November 29, 2018  
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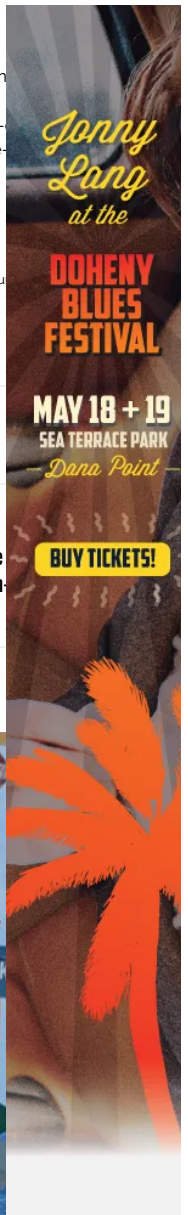
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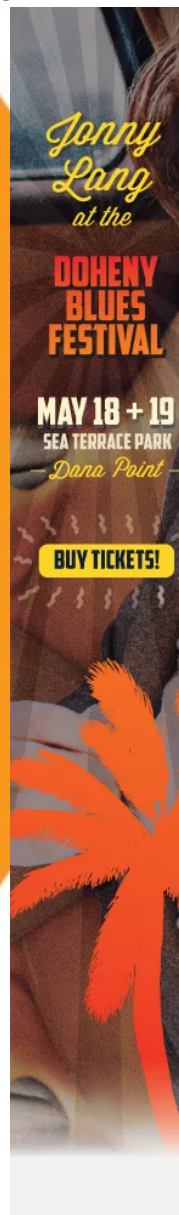




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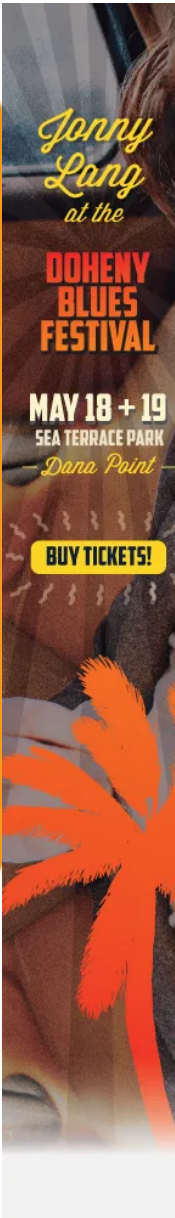
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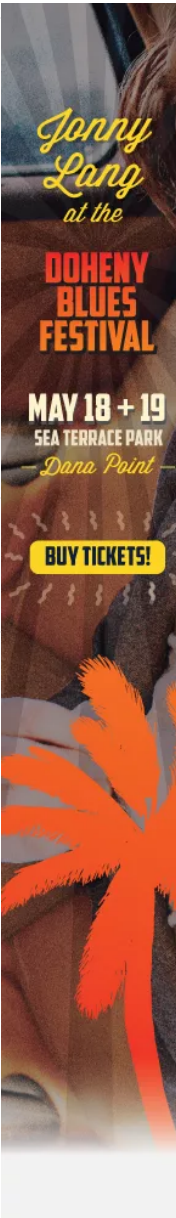
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This week, Fred Swegles traveled down to the Caribbean in search of "San Clemente" beaches. #sanclemente <https://t.co/ZwJuNGqM7M> (<https://t.co/ZwJuNGqM7M>) 5 hours ago (<https://twitter.com/sctimesnews/status/1125075224377090049>)

Expansion of the Wheeler North Reef, which will more than double its size, will commence July 7 and pause Sept. 29... <https://t.co/DydleXgl8a> 13 hours ago (<https://twitter.com/sctimesnews/status/1124811023234535427>)

San Clemente High School and Shorecliffs Middle School won their respective state titles at the Scholastic Surf Ser... <https://t.co/SJnmnxqbhL> 18 hours ago (<https://twitter.com/sctimesnews/status/1124727931614453760>)

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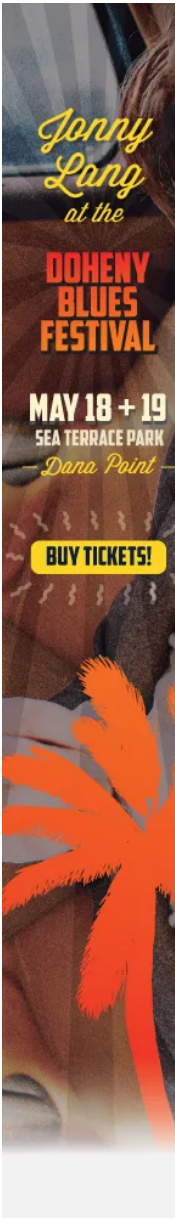
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# EXHIBIT 3



# CITY OF SAN CLEMENTE

## REGULAR CITY COUNCIL

### REVISED\* MEETING AGENDA

*\*This Revised Agenda for the City Council meeting of April 16, 2019 varies from the original Agenda that was posted on April 9, 2019 in that a new Item D has been added under Special Presentations and a new Item D has been added under New Business. These additions are included in italic type on Pages 3 and 10, respectively, on this revised agenda.*

City Council Chambers  
San Clemente Civic Center  
100 Avenida Presidio  
San Clemente, California  
[www.san-clemente.org](http://www.san-clemente.org)

April 16, 2019  
5:00 p.m. - Closed Session  
6:00 p.m. - Business Meeting

*Information concerning City Council Meeting protocols and procedures is contained at the end of this agenda.*

#### ***RULES FOR ADDRESSING COUNCIL***

- Members of the public may address the City Council on matters within the jurisdiction of the City of San Clemente.
- If you wish to address Council, please complete one of the blue speaker cards located at the entrance to the Council Chambers and submit it to the City Clerk or Deputy City Clerk.
- Persons wishing to address Council concerning an **agendized** item will be invited to address Council during the time that Council is considering that particular agenda item. Persons wishing to address Council concerning a **non-agendized** issue will be invited to address Council during the "Oral Communications" portion of the meeting.
- When the Mayor calls your name, please step to the podium, state your name and your city of residence, and then give your presentation. Please limit your presentation to three minutes.

### **MISSION STATEMENT**

*The City of San Clemente, in partnership with the community we serve, will foster a tradition dedicated to:*

*Maintaining a safe, healthy atmosphere in which to live, work and play;*

*Guiding development to ensure responsible growth while preserving and enhancing our village character, unique environment and natural amenities;*

*Providing for the City's long-term stability through promotion of economic vitality and diversity...*

*Resulting in a balanced community committed to protecting what is valued today while meeting tomorrow's needs.*

### **CLOSED SESSION (5:00 P.M.)**

#### **A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code section 54957

Title: City Attorney

#### **B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Existing litigation pursuant to Government Code section 54956.9(d)(1)

Number of Cases: 3

Case Name: MemorialCare Services, et al. v. City of San Clemente

Case Number: 8:16-CV-00852 DOC-JCG

Case Name: Orange County Catholic Worker v. Orange County, et al.

Case Number: SA CV 18-0155-DOC

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

### **BUSINESS MEETING (6:00 P.M.)**

**CALL TO ORDER**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**



**1. Special Presentations.****A. Toll Road Update****B. Donate Life Month Proclamation**

Presentation of proclamation to Dick Veale proclaiming April 2019 as Donate Life Month.

**C. Orange County Human Relations Report**

Presentation by Francisco Marmolejo and Susan Reese, of Orange County Human Relations, concerning Orange County Human Relations activities.

**D. USA Surfing Events**

*Presentation by Greg Cruse, CEO of USA Surfing, concerning upcoming surfing events.*

- 2. Oral Communications (Part 1).** Members of the audience who wish to address Council on matters that are within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, may do so during the Oral Communications portion of the meeting. A total time limitation of 30 minutes is allocated for Oral Communications Part 1, with each speaker being allotted 3 minutes in which to give his or her presentation. Speaker order is determined by the order in which speaker cards are provided to the City Clerk or Deputy City Clerk at the meeting. Speakers that cannot be accommodated during Oral Communications Part 1 will be invited to address Council during Oral Communications Part 2, which appears on this agenda as Item No. 10. When the Mayor calls your name, please step to the podium, state your name and the City in which you reside, and make your presentation. Subject to very limited exceptions, Council is not permitted to discuss or take action on items that do not appear on the agenda.

**3. Motion waiving reading in full of all Resolutions and Ordinances.**

- 4. Consideration of agendizing items requiring immediate action.** Any items agendized will be considered under New Business, unless otherwise determined by a majority vote of the City Council.

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

6. **Consent Calendar.** All items listed on the Consent Calendar are considered to be routine and will be enacted by one motion without discussion unless Council, Staff, or the public requests removal of an item for separate discussion and action.

A. **City Council Minutes**

Approve the City Council Special Meeting minutes of [April 1, 2019](#) and Regular Meeting of [April 2, 2019](#).

B. Receive and file:

- (1) [Design Review Subcommittee Regular Meeting minutes of February 13, 2019.](#)
- (2) [Planning Commission Adjourned Regular Meeting minutes of April 3, 2019.](#)

C. **Warrant Register**

[Approve Wire Transfers Nos. 2003 through 2010 and Warrant Nos. 557347 through 557492, paid on 3-29-19, in the amount of.....\\$2,956,346.14](#)

[Approve Handwrite No. 557680, Wire Transfers Nos. 2011 through 2012, and Warrant Nos. 557493 through 557679, paid on 4-5-19, in the amount of.....\\$1,042,828.53](#)

TOTAL WARRANT REGISTER.....\$3,999,174.67

**Payroll Register**

Approve Warrant Nos. 715 through 717 and Automatic Deposit Advises 55082 through 55371, for the period 3-11-19 through 3-24-19, paid on 3-29-19, in the amount of.....\$ 464,102.64

TOTAL PAYROLL REGISTER...\$ 464,102.64

D. [\*\*Contract Amendment - Well Water Treatment Plant Chemical Storage Building\*\*](#) Pages 6D-1 through 6D-2

Staff Recommendation

Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C18-67, by and between the City of San Clemente and AKM Consulting Engineers, providing for engineering services for the Well Water Treatment Plant Chemical Storage Building, Project No. 16408. This Amendment increases the contract amount from \$97,965 to an amount not to exceed \$126,853 (a maximum increase of \$28,888).

E. [\*\*Change Order Ratification and Approval of Additional Funding - Emergency Protection of Linda Lane Pump Station\*\*](#) Pages 6E-1 through 6E-3

Staff Recommendation

1. Make a finding that an emergency exists due to the potential failure of an existing sewer pump station and that the situation requires immediate action to prevent or mitigate impairment to property and public services, that might otherwise occur if required to incur delays attributed to the typical engineering design and public competitive bidding process.
2. Declare that the public interest and necessity demand the immediate expenditure of public funds to safeguard public health.
3. Approve a supplemental appropriation in the amount of \$200,000 to Account 054-476-45300-000-16209 from the Sewer Fund Depreciation Reserve.
4. Ratify the Emergency Construction Contract Change Order with Wright Construction Engineering Corporation for \$135,000 for the Emergency Protection for Linda Lane Pump Station, Project No. 16209.

F. [\*\*Stakeholder Advisory Committee for Pier Bacteria Source Characterization Study\*\*](#) Pages 6F-1 through 6F-3

Staff Recommendation

1. Approve the formation of a Stakeholder Advisory Committee (SAC) for the Pier Bacteria Source Characterization Study.
2. Approve the list of agencies to be contacted to invite a representative to serve on the SAC.

G. [\*\*Declaration of Surplus and Disposition of Retired Fleet Equipment and Vehicles\*\*](#) Pages 6G-1 through 6G-2

Staff Recommendation

Declare the equipment and vehicles identified on Attachment #1 of the Administrative Report, dated April 16, 2019 (on file with the City Clerk), as surplus, and approve and authorize Ken Porter Auctions for the public auctioning of the subject City of San Clemente surplus equipment and vehicles.

H. [\*\*Possible Term Extensions for Commission/Committee Members Pending Conclusion of Council's Assessment as to Whether Changes are to be Made to the Structure and Composition of the City's Commissions and Committees\*\*](#) Pages 6H-1 through 6H-3

Staff Recommendation

1. Extend the terms of the twenty Commission and Committee members whose terms are due to expire on June 30, 2019 until such time as Council determines whether changes are to be made to the City's Commissions and Committees and the appointees to the newly-defined Commissions and Committees have assumed office.
2. In the event incumbents of positions that are due to expire on June 30, 2019 decline to serve an extended term, direct that the position(s) remain vacant unless the number of vacant positions on any Commission or Committee results in fewer members as are necessary for a quorum. In the event less than a quorum of a Commission/Committee is able to serve beyond June 30, 2019, direct Staff to return to Council for direction as to whether one or more positions on that particular Commission or Committee should be filled prior to conclusion of Council's assessment of the City's Commissions and Committees.

I. [\*\*Notice of Completion - Corporation Yard Buildings/Structures Painting Project\*\*](#) Pages 6I-1 through 6I-4

Staff Recommendation

1. Accept the Corporation Yard Buildings/Structures Painting, Project Nos. 16529 and 26407, from Harbor Coating and Restoration.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Corporation Yard Buildings/Structures Painting, Project Nos. 16529 and 26407.
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 the contractor, Harbor Coating and Restoration.

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.

J. [Supplemental Appropriation - West Avenida Palizada Sidewalk Improvement Project](#) Pages 6J-1 through 6J-2

Staff Recommendation

1. Approve a transfer of \$40,000 to the General Fund from the undesignated fund balance of the Water Fund.
2. Approve a supplemental appropriation of \$40,000 in the General Fund to Account 001-416-45300-000-16345.
3. Approve a transfer of \$40,000 from Account 042-848-43420-000-24400 to Account 001-416-45300-000-16345.

K. [Proposed Parking Prohibition on Camino de Estrella](#) Pages 6K-1 through 6K-5

Staff Recommendation

1. Prohibit parking on the northwest side of Camino de Estrella from Avenida Las Palmas to Interstate 5.
2. Adopt Resolution No. 19-09 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING MASTER TRAFFIC RESOLUTION NO. 1846, ESTABLISHING 'NO PARKING AREAS' ON CAMINO DE ESTRELLA.

L. [Designation of FY 2019-2020 Street Rehabilitation Projects Pursuant to the State Road Repair and Accountability Act of 2017 \(Senate Bill 1\)](#) Pages 6L-1 through 6L-5

Staff Recommendation

Adopt Resolution No. 19-10 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING THE LIST OF PROJECTS FOR FISCAL YEAR 2019-2020 FUNDED BY THE STATE OF CALIFORNIA SENATE BILL 1 (SB 1) ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017.

- M. [Initiation of a General Plan Amendment to Amend the Roadway Classification of Camino Mira Costa and Camino Capistrano](#) Pages 6M-1 through 6M-2

Staff Recommendation

Approve the initiation of an amendment to the General Plan, as authorized by Municipal Code Section 17.16.020(c)(1), upon receipt of conditional approval from the Orange County Transportation Authority, to:

1. Reclassify Camino Mira Costa, between Camino de Estrella and Camino Capistrano, from a secondary arterial street to a divided collector street.
2. Reclassify Camino Capistrano, between North El Camino Real and Del Gado Road, from a secondary arterial street to a collector arterial street.

- N. [Fee Waiver Request - Courtney's Sandcastle Charitable Foundation for Special Needs Resource Fair](#) Pages 6N-1 through 6N-3

Staff Recommendation

Waive the rental fees associated with the Courtney's Sandcastle Charitable Foundation Special Needs Resource Fair, to be held at the Vista Hermosa Sports Park on May 4, 2019, in an amount not to exceed \$720.

- O. [Letter Requesting Federal Funding Support for Beach Sand Replenishment](#) Pages 6O-1 through 6O-4

Staff Recommendation

Approve, and authorize the Mayor to execute, letters to the City's congressional representatives to request Federal funding support for the Corps of Engineers' San Clemente beach sand replenishment project.

7. **Public Hearings.** The Public Hearing process includes a staff presentation, a presentation by the applicant not to exceed ten (10) minutes, and public testimony (not to exceed three minutes per speaker). Following closure of the Public Hearing, the City Council will respond to questions raised during the hearing, discuss the issues, and act upon the matter by motion.

None.



**8. Unfinished Business.**

None.

**9. New Business.****A. [2018 Downtown Parking Study](#) Pages 9A-1 through 9A-93**

Report from the Community Development Director concerning the results of the 2018 Downtown Parking Study and seeking Council direction on recommendations to improve downtown parking supply and management.

**Staff Recommendation**

1. Accept the 2018 Downtown Parking Study.
2. Provide direction to Staff concerning the study recommendations identified in Attachment 2 of the Administrative Report, dated April 16, 2019, which is on file with the City Clerk.

**B. [2018 North Beach Parking Study](#) Pages 9B-1 through 9B-39**

Report from the Community Development Director concerning the results of the 2018 North Beach Parking Study and seeking Council direction on recommendations to improve downtown parking supply and management.

**Staff Recommendation**

1. Accept the 2018 North Beach Parking Study.
2. Provide direction to Staff concerning the study recommendations identified in Attachment 2 of the Administrative Report, dated April 16, 2019, which is on file with the City Clerk.

**C. [Update on the Evaluation of Orange County Sheriff's Department Contract Law Enforcement Services Study](#) Pages 9C-1 through 9C-45**

Report from the Assistant City Manager concerning the results of the study of Orange County Sheriff's Department Contract Law Enforcement Services.

**Staff Recommendation**

Receive and file the Analysis of Contract Law Enforcement Services Costs and Methodology for Contract Cities study prepared by Matrix Consulting Group.

D. **Consideration of Assembly Bill 1273 (Brough) - Joint Exercise of Powers Agreements: Toll Roads** Pages 9D-1 through 9D-24

*Report from the City Manager concerning the possibility of supporting AB 1273 (Brough) and authorizing the Mayor to execute, and Staff to submit, a letter of support.*

**Staff Recommendation**

1. *Support Assembly Bill 1273 (Brough) - Joint Powers Agreements: Toll Roads.*
2. *Authorize the Mayor to execute, and Staff to submit, a letter of support.*

10. **Oral Communications (Part 2).** Members of the audience who wish to address Council on matters that are within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, may do so during the Oral Communications portion of the meeting. When the Mayor calls your name, please step to the podium, state your name and the City in which you reside, and make a presentation not to exceed three minutes. Subject to very limited exceptions, Council is not permitted to discuss or take action on items that do not appear on the agenda.

11. **Reports.**

- A. **Commissions and Committees**
- B. **City Manager**
- C. **City Attorney**
- D. **Council Members**

(1) **Animal Report - Coastal Animal Services Authority (CASA)**

Presentation by Mayor Swartz concerning pets available for adoption at the San Clemente Animal Shelter.

12. **Resolutions/Ordinances.**

None.

13. **Adjournment.**

The next Regular Council Meeting will be held on May 7, 2019 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be considered at 5:00 p.m. The Regular Business Meeting will commence at 6:00 p.m.

## **CITY COUNCIL MEETING PROCEDURES**

### **PRESENTATION OF WRITTEN MATERIALS TO COUNCIL**

In order to ensure that Councilmembers have adequate time to consider written materials concerning agenda items, it is strongly recommended that such materials be submitted to the City Clerk by noon the date preceding the Council meeting.

### **MEETINGS RECORDED AND TELEVISED**

City Council meetings are broadcast live and are replayed periodically on Cox Communications Local Access Channel 30 (or Channel 854 for high-definition televisions). Meetings are also recorded via audio CD and DVD and retained as a City record in accordance with the City's records retention schedule.

### **USE OF ELECTRONIC VISUAL AIDS BY PUBLIC AT MEETINGS**

To allow staff adequate time to confirm software compatibility, individuals wishing to utilize electronic visual aids to supplement their oral presentations at the meeting, must submit the electronic files to the City Clerk by no later than 12:00 p.m. on the day of the meeting. Only compatible electronic formats will be permitted to be used on City audio/visual computer equipment. Staff makes no guarantee that such material will be compatible, but will use its best efforts to accommodate the request.

### **LENGTH OF MEETINGS**

At 11:00 p.m., the City Council will determine which of the remaining agenda items can be considered and acted upon at this meeting and will continue all other agenda items to a future meeting.

### **AMERICANS WITH DISABILITIES ACT**

Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification or accommodation from the City Clerk at (949) 361-8200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

### **COMMUNICATION DEVICES**

To minimize meeting distractions and sound system interference, please be sure all personal communication devices are turned off or on silent mode.

### **MEETING SCHEDULE**

Regular Council Meetings are held on the first and third Tuesdays of each month in the Council Chambers, located at 100 Avenida Presidio, San Clemente. Closed Session items are considered at 5:00 p.m. and the Business Meeting begins at 6:00 p.m. Additional meetings of the City Council may be called as needed.

### **AGENDAS, ADMINISTRATIVE REPORTS AND SUPPLEMENTAL WRITTEN MATERIALS**

Agendas and Administrative Reports are available for review and/or copying at the City Clerk's Department as soon as agendas are posted (a minimum of 72 hours prior to the meeting). Agendas and Administrative Reports can also be viewed at the San Clemente Library, located at 242 Avenida Del Mar, or by accessing the City's website at [www.san-clemente.org](http://www.san-clemente.org). An "Inspection Copy" of agenda materials is also located at the entrance to the Council Chambers during meetings for public review. All written material distributed to a majority of the Council after the original agenda packet was distributed is available for public inspection in the City Clerk's Department, located at 100 Avenida Presidio, San Clemente, during normal business hours.

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