

CITY COUNCIL MINUTES

REGULAR MEETING - MARCH 19, 1986

The regular meeting of the City Council of the City of San Clemente conducted in the Council Chambers, Civic Center Building, 100 Avenida Presidio, was called to order by Mayor Robert D. Limberg.

INVOCATION AND THE PLEDGE OF ALLEGIANCE were conducted by Mayor Limberg.

PRESENT: Council Members - DIEHL, MECHAM, AND LIMBERG

ABSENT: Council Members - CARR, AND KOESTER

Staff Present: James B. Hendrickson, City Manager; Myrna Erway, City Clerk; Jeff Oderman, City Attorney; Harry Weinroth, Community Development Director; Edward T. Putz, City Engineer; and certain other Staff members present in the audience.

SPECIAL PRESENTATION

Mayor pro tem Mecham introduced and congratulated Michelle Lofaro and Christine White who won first place in the Oxford-Team Policy Debate during the California Community College Forensics Association State Championships held at Modesto Community College. Certificates of Commendation will be prepared and presented.

The Community Development Director introduced Walter Johnson, recently hired as the Chief Building Inspector; advised Mr. Johnson has a background in architecture and has been a building official for 10 years; some in-house plan checking and major changes in the Building Division are planned.

MOTION WAIVING READING - MOTION BY COUNCILMAN DIEHL, SECOND BY COUNCILMAN MECHAM; CARRIED 3-0 to waive reading in full of all Resolutions and Ordinances.

PUBLIC HEARINGS

File No.: 20

Subject: Resolution No. 86-25 Declaring 717 Avenida Columbo a Public Nuisance.

Public Hearing to consider all relevant evidence from owners, witnesses, interested persons and City personnel relative to the alleged public nuisances at 717 Avenida Columbo and adjacent properties.

The City Clerk advised two letters were received regarding this matter. The City Attorney reviewed a letter received from Smith & Peltzer, Attorneys at Law; advised four properties were included due to some debris on the properties, but a lien will be placed only on 717 Avenida Columbo to cover the cost of the abatement; noted the position as stated in the letter is not inconsistent with the City's position.

Mayor Limberg opened the public hearing. Jim Leishman referred to the nuisance and stated that he does not want his home to be put in the same jeopardy; requested removal of the structure. John O'Connor stated he has unsuccessfully tried to sell his house since the slide once prospective buyers see the slide damage; felt the City could be liable if an injury occurs.

Phil Peter, with Dave Peter concurring, stated that he holds a note to purchase the property and has proposed rehabilitation and building a retaining wall; Staff has advised further geological investigations must be performed before he can do the work; not interested in doing anything if the structure is removed.

Tommy Tomeny indicated more concern for the eyesore created by the open face of the embankment than cleaning up the debris; tried to sell his home. Doug Kessler noted this property has been an ongoing problem for years which increases the potential for liability; recommended restoring the hillside by packing and landscaping. Holly Veale noted that children play in the canyon despite admonitions by parents and is concerned for their physical safety; encouraged cleanup of a dangerous situation. Leslie Netzen reviewed previous slides in the immediate area; has been looking at this eyesore since 1971 and something should be done. Jim Haverwald stated he was told there was a problem with the drainage; this nuisance has existed many years and nothing has been done.

Ray Toal advised property owner Richard Toal is offering to cooperate by allowing entry onto his property to clean up the debris.

Mayor Limberg closed the public hearing. The City Engineer advised Staff has been working with Mr. Peter for a year trying to solve the problem; the soils report has failed to meet City standards and the grading code.

In response to query, the City Attorney advised that Mr. Putz has not asked Mr. Peter to submit anything more than any other developer would be required to do under the circumstances; that many developers bring licensed engineers to City Hall to speak on behalf of the project but that does not preclude the City from requiring independent analyses.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to adopt Resolution No. 86-25 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA DECLARING 717 AVENIDA COLUMBO AND SURROUNDING PROPERTIES TO BE A PUBLIC NUISANCE AND ORDERING ABATEMENT OF SUCH.

CONSENT CALENDAR

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to approve the following Consent Calendar items:

City Council Minutes

Minutes of 1-29-86 (adjourned), 2-19-86 (regular), and 3-4-86 (adjourned).

Planning Commission Minutes

Minutes of 3-4-86.

Community Design Commission Minutes

Minutes of 2-25-86.

Parks & Recreation Commission Minutes

Minutes of 2-25-86.

Golf Course Committee Minutes

Minutes of 2-10-86.

Departmental Activities Report

Departmental Activities Report for month of February, 1986.

File No.: 105

Subject: Tentative Tract Map 11891 - Victoria Shores.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to set a public hearing on 4-2-86 to consider a request to construct seven time-share condominium units at 604 Avenida Victoria, east of Avenida Victoria across from the City Municipal Pier. The legal description is Lot 9, Block 12, Tract 785.

File No.: 77

Subject: Resolution No. 86-26 Approving the Application for Grant Funds Under Roberti-Z'Berg Program.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to adopt Resolution No. 86-26 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE APPLICATION FOR GRANT FUNDS UNDER THE ROBERTI-Z'BERG URBAN OPEN-SPACE AND RECREATION PROGRAM.

File No.: 64

Subject: Resolution No. 86-27 Junior Lifeguard Fee Increase.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to adopt Resolution No. 86-27 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ESTABLISHING FEE RATES FOR THE CITY'S JUNIOR LIFEGUARD AND INSTRUCTIONAL SURFING PROGRAMS AND RESCINDING RESOLUTIONS NO. 37-82 AND 48-83.

File No.: 96

Subject: Change Order No. 2 - Rosa/San Gabriel Pump Station Reconstruction.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to (1) approve the issuance of Change Order No. 2 in the amount of \$10,280.76 to the City's Contract No. 481 with J.W. Electric for Project No. 1-85, Rosa/San Gabriel Pump Station Reconstruction, in accordance with the agreement and with the applicable portions of the "Standard Specifications for Public Works Construction". (2) Approve a supplementary appropriation of \$10,280.76 from the unappropriated retained earnings of the Sewer Fund to the Rosa and San Gabriel Pump Stations Reconstruction Account No. 054-476-45300, Project Nos. 05613 and 05614.

File No.: 100

Subject: Change Order No. 2 - Del Mar Street Reconstruction Project.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to approve Change Order No. 2 to Contract No. 492 in the amount of \$9,074.29 for the Del Mar Street Reconstruction Project.

File No.: 100

Subject: Proposed Change Order No. 2 - So. El Camino Real Street Reconstruction.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to approve Change Order No. 2 to Contract No. 487 in the amount of \$17,660.45 for the South El Camino Real Street Reconstruction Project.

File No.: 42

Subject: Claim for Damages Filed by Imperial Bank.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 that based on insurance adjuster's recommendation, deny the claim for damages filed by Imperial Bank in the amount of \$733.76.

File No.: 42

Subject: Claim for Damages Filed by Gambino's Restaurant.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 that based on the insurance adjuster's recommendation, finding no responsibility on the part of the City, deny the claim for damages filed by Gambino's Restaurant in the amount of \$300 and direct Staff to continue to work with the contractor and claimant to resolve the issue.

File No.: 42

Subject: Claim for Damages Filed by Heirs of Roger Tranckino.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 that based on insurance adjuster's recommendation, deny the claim for damages in an unknown amount filed by heirs of Roger Tranckino.

File No.: 42

Subject: Application for Leave to Present a Late Claim.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 that based on the insurance adjuster's recommendation, reject the application for leave to present a late claim filed by Reginald Holland in the amount of \$12,185.

WARRANT REGISTER

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to approve the Warrant Register consisting of Warrant Nos. 48235-48443 for a total amount of \$208,162.88.

UNFINISHED BUSINESS

File No.: 77.1

Subject: BEACH Joint Powers Agreement and Bylaws.

Report from Public Services Director requesting reconsideration of the proposed Beach Erosion Action Committee (BEACH) Joint Powers Agreement and Bylaws, and determination of the extent of the City's involvement with the organization.

The Marine Safety Captain advised he has attended BEACH meetings in recent months as an informal observer and has concluded that the problems the agency seeks to solve differ from San Clemente problems; the City's beaches suffer erosion every winter from sand migration but not to the extent as that from Oceanside Harbor on south. The Orange County Board of Supervisors has expressed support for BEACH in principle and indicated a willingness to share information and cooperate, but not as active members.

In response to query from Mayor Limberg, Mayor Larry Bagley, City of Oceanside stated that the new agency under its bylaws does not require funding from member cities unless it is offered voluntarily--the only commitment is staff time; that by joining the City will be assisting other beach communities to the south; noted Oceanside and San Clemente have many common interests, and BEACH could become an effective lobbying force to protect the beaches from offshore oil drilling.

Councilman Diehl stated he did not see enough benefit to the City to justify a commitment. Mayor Limberg indicated concern that this agency could become a bureaucracy even though it is for a good cause. Councilman Mecham stated he would like to cooperate and share information about regional coastal erosion but would first want assurances that any single member of BEACH would have a single-vote vetoing power over anything that might commit local taxpayers.

MOTION BY COUNCILMAN MECHAM, SECOND BY MAYOR LIMBERG, CARRIED 3-0 to continue this matter to the April 2 meeting to allow Staff time to research issues raised at this meeting.

NEW BUSINESS

File No.: 55

Subject: Eastern/Foothill Transportation Corridor Agency
Administrative Costs.

Report from Community Development Director advising that the Eastern/Foothill Transportation Corridor Agency has determined that there would be ongoing administrative costs and that an executive director would be required to administer the work of the Agency.

Councilman Diehl noted that at the first JPA meeting it was determined that there would be ongoing administrative costs and that an Executive Director would be required to administer the work of the agency; corridor fees cannot be used for administrative costs; suggested the \$25,000 be offered as a loan to be repaid with interest by the Joint Powers Agency upon passage of legislation authorizing the use of developers fees for JPA administrative costs.

MOTION BY COUNCILMAN DIEHL, SECOND BY COUNCILMAN MECHAM to appropriate \$25,000 to the Eastern/Foothill Transportation Corridor JPA for administrative costs; \$5,000 is to be appropriated from FY 85-86 funds, and \$20,000 from FY 86-87 funds on a loan basis, to be repaid with interest.

Mayor Limberg questioned why the assessment is not prorated according to population instead of a flat \$25,000 per member. Councilman Diehl responded that such a pro-rata system is not currently allowable under the JPA bylaws and would be cumbersome to amend at this time.

James Higgins recommended delaying action on this matter until the freeway route has been determined.

SUBSTITUTE MOTION BY MAYOR LIMBERG to continue the matter to the meeting of 4-2-86 died for lack of a second.

The City Attorney advised further action will be required to approve the \$20,000 expenditure for FY 1986-87. The original motion carried 2-1, with Mayor Limberg voting NOE.

ITEMS FROM CITY MANAGER

File No.: 58

Subject: Public-Private Partnership for Development of Second Municipal Golf Course.

Report from City Manager requesting authorization to undertake negotiations with Western Savings and Loan Association for a partnership venture to develop and operate a second municipal golf course.

The City Manager advised Rancho San Clemente has been working on a proposal to build a 27-hole golf course on its property but has concluded it is not profitable to proceed independently; is amenable to a joint venture for the construction of 18 holes on approximately 175-200 acres of land south of the Pico/LaPata intersection. The proposal is as follows:

WSLA would donate the land to the City; the City would construct and operate it as a municipal golf course; WSLA would construct and operate the clubhouse facilities (including a restaurant, meeting rooms, pro shop, and starters' facilities; and the City would work out a mutually satisfactory arrangement with WSLA for the reservation of limited "block times" for a future hotel on adjoining property.

MOTION BY COUNCILMAN DIEHL, SECOND BY MAYOR LIMBERG, CARRIED 3-0 to continue this item to the meeting of April 2 so that a full Council can be present to vote on the City Manager's proposal to open negotiations with WSLA regarding Public-Private Partnership for Development of a Second Municipal Golf Course.

File No.: 96

Subject: State Regional Water Quality Control Board Meeting.

Mayor Limberg advised that the City's Water Treatment Plant will be discussed at the State Regional Water Quality Control Board Meeting to be held in San Diego Monday, March 24, 1986; stated the importance of having an officially designated representative to speak for the City Council at that meeting.

MOTION BY MAYOR LIMBERG, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to authorize Harry Weinroth, Community Development Director to speak on behalf of the City Council in regard to the Water Treatment Plant and to serve as the City's official representative at the State Regional Quality Control Board Meeting in San Diego on Monday, March 24, 1986.

ITEMS FROM CITY ATTORNEY

The City Attorney summarized a memorandum he prepared dated 3-18-86 addressing some of the more significant legal questions that have arisen regarding the interpretation of Ordinance No. 922; advised no action is required at this time.

The City Attorney requested a Closed Session to discuss pending litigation pursuant to Government Code Section 54956.9(a).

RESOLUTIONS

For Resolution No. 86-25 see under "Public Hearings" on page 1.
 For Resolution No. 86-26 see under "Consent Calendar" on page 4.
 For Resolution No. 86-27 see under "Consent Calendar" on page 4.

ORDINANCES

File No.: 117

Subject: Ordinance No. 924 Prohibiting Concurrent Sale of Alcohol and Gasoline.

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to adopt Ordinance No. 924 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING THE PROVISIONS OF THE CITY'S ZONING ORDINANCE TO PROHIBIT THE CONCURRENT SALE OF ALCOHOLIC BEVERAGES AND GASOLINE.

ADJOURNMENT TO CLOSED SESSION

MOTION BY COUNCILMAN MECHAM, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to adjourn to Closed Session at 9:00 P.M. to confer with City Attorney pursuant to Government Code Section 54956.9(a) with the City Manager in attendance.


MEETING RECONVENED

MOTION BY COUNCILMAN DIEHL, SECOND BY COUNCILMAN MECHAM, CARRIED 3-0 to authorize the City Manager to execute an agreement with Admiral Insurance Company authorizing Admiral to file an action in the City's name, at no expense or liability to the City, against Mead Reinsurance Co. and any other insurers of the City from 1974-1980, for contribution and damages arising out of the settlement of Towne Sales Co. v. City of San Clemente.

MOTION BY COUNCILMAN DIEHL, SECOND BY COUNCILMAN MECHAM, CARRIED 3-0 to authorize filing an unlawful detainer action against Patrick Burke, lessee of the restaurant at the Municipal Golf Course, for failure to comply with many of the provisions of the lease.

ADJOURNMENT

MOTION BY MAYOR LIMBERG, SECOND BY COUNCILMAN DIEHL, CARRIED 3-0 to adjourn the City Council meeting at 9:20 P.M. in memory of former Councilman Paul Presely to an adjourned regular meeting to be held at 5:30 P.M. on March 25, 1986 in the Ole Hanson Room of the Community Center.


 CITY CLERK and ex-officio
 Clerk of the City Council


 MAYOR and President
 of the City Council

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

AFFIDAVIT OF POSTING
ORDER OF ADJOURNMENT
OF MEETING

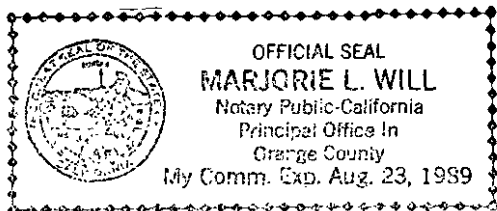
I, MYRNA ERWAY, being first duly sworn deposes and says:
that I am the duly chosen, qualified and ex-officio Clerk
of the City Council of the City of San Clemente; that at the
regular meeting of the City Council of the City of San Clemente,
held March 19, 1986 , said meeting was ordered adjourned to the
time and place specified in the Order of Adjournment ATTACHED
HERETO: that on March 20, 1986 , at the hour of 10:00 AM ,
I posted a copy of said Order of Adjournment at the conspicuous
place on or near the door of the place at which said meeting of
March 19, 1986 , was held.

Myrna Erway

CITY CLERK and ex-officio
Clerk of the City Council
City of San Clemente

Subscribed and sworn to before
me this 20th day of March, 1986

Marjorie L. Will



ORDER OF ADJOURNMENT

Regular meeting of the City Council of the City of San Clemente, California, Council Chambers, Civic Center Building, 100 Avenida Presidio, Wednesday, March 19, 1986, Mayor Robert D. Limberg presiding.

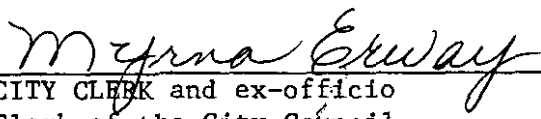
ROLL CALL

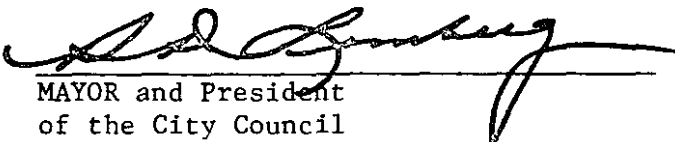
PRESENT: Council Members - DIEHL, MECHAM, AND LIMBERG
ABSENT: Council Members - CARR AND KOESTER

Also Present: James B. Hendrickson, City Manager; Myrna Erway, City Clerk; and Jeff Oderman, City Attorney

ADJOURNMENT

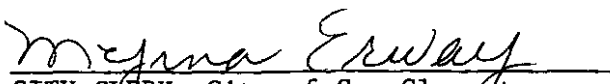
IT WAS MOVED BY MAYOR LIMBERG, SECOND BY COUNCILMAN DIEHL, AND UNANIMOUSLY CARRIED that the Council Meeting be adjourned at 9:20 P.M. to March 25, 1986 at 5:30 P.M. in the Ole Hanson Room of the Community Center.


CITY CLERK and ex-officio
Clerk of the City Council


MAYOR and President
of the City Council

Certified to be a true and correct
copy of excerpts from the March 19,
1986 Council Minutes

Dated this 20th day of March, 1986


CITY CLERK, City of San Clemente