Regular meeting of the City Council of the City of San Clemente, California, Council Chambers, Civic Center Building, 100 Avenida Presidio, Wednesday, November 7, 1984, at 7:00 P.M., Mayor Kenneth E. Carr presiding.

PLEDGE OF ALLEGIANCE AND INVOCATION

Pledge of Allegiance to the Flag of the United States of America was led by Mayor Carr. Invocation was given by Mayor Carr.

ROLL CALL

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

ABSENT: Council Members - NONE

Also Present: Gary E. Brown, Interim City Manager; Max L. Berg, City Clerk;

Jeff Oderman, City Attorney; Harry Weinroth, Community Development Director; Edward Putz, City Engineer; Marjorie L. Will, Deputy City Clerk; and certain other Staff members

present in the audience.

PUBLIC HEARINGS

Subject. 100 - Avenida Del Mar Reconstruction Project.

IN RE: Informal public hearing to receive comments relating to a presentation by Rapp & French of the proposed reconstruction and beautification of Avenida Del Mar.

Jeff Fenner, representing Rapp & French, presented explanatory comments and a slide presentation depicting an overview of the design concept for the Avenida Del Mar streetscape project calling for decorative sidewalks, accent trees, monument and entry signage, primary nodes at the intersections, gathering points, and closed alleyways creating a more pedestrian-oriented atmosphere in the Avenida Del Mar business area. During his presentation he also noted that the 182 parking spaces on Del Mar will be retained.

Although not a formalized public hearing the Mayor opened the matter for public comments which are briefly noted as follows: Rich Handy, president of the Downtown Business Association, stated that the main concern of the merchants was any loss of parking and the possibility that Del Mar would be a one-way street; that the plan was very well received; and that this plan can revitalize the downtown area. Lincoln Rosay agreed that the merchants will receive benefits from the plan and that the majority feel the sidewalks are more critical than street reconstruction. Stephen Scibelli, owner of property on Avenida Del Mar, envisioned sharing of the cost by the property owners and perhaps business owners and felt that it is an investment not an expenditure. Ronald Trosper stated his building was probably the least attractive on the street and that he was waiting for some conclusion on the project before remodeling his building and that he approves of the concept and would like to see the project started.

In response to query from the architects as to the type of paving elements to be used, IT WAS MOVED BY COUNCILMAN DIEHL, SECONDED BY COUNCILMAN LIMBERG, AND CARRIED to approve the selection of the cast concrete paver.

Councilwoman Koester voted "NO" commenting that she felt the project is proceeding too fast before all the projected costs are known.

A question and answer period ensued with response by Mr. Fenner and Mr. French. Among the comments made during the discussion period, Councilman Limberg noted his concerns about parking and that every effort should be made to preserve or increase parking on Del Mar and provide signage to direct traffic to parking lots on side streets. He also noted the concern of certain merchants re blocking of alleyways; that the consultant should talk with the owners of Ace Hardware and Schultz Pharmacy who would be greatly affected; and that the needs and desires of the merchants should be considered and complete concurrence of the concept obtained.

Following further Council comments, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN DIEHL, AND CARRIED to direct Rapp & French to proceed with the concepts presented tonight and to prepare the working drawings of the complete project with direction as to the pavers to be used, and for the architects to discuss the concerns of the alleyways with those people who would be affected and make their best recommendation to the Council.

Councilwoman Koester voted "NO" and stated she was against using any Redevelopment Agency money for the project and requested the City Manager and Finance Director to try to come up with other financing means.

Subject. 112 - Use Permit 83-16 and Variance 83-06, Soto Kafetzopoulos, 1601 North El Camino Real.

IN RE: Public hearing to consider the request of Soto Kafetzopoulos for a one-year time extension of previously approved Use Permit 83-16 and Variance 83-06, under Section 4.9 of the Zoning Ordinance to allow a 50-room hotel in the General Commercial (C-2) Zoning District at 1601 North El Camino Real; legal description being Lots 31, 43, 44 and a portion of Lot 30, Block 1, Tract 795; and Variance 83-06 under Sec. 4.9 of the Zoning Ordinance to allow said proposed hotel to exceed 45 feet in height; said matter called up for review by the City Council.

Staff reported that the applicant has advised the buildings will be removed by early next week at the latest, and further that the applicant is unable to be present tonight.

The Mayor opened the public hearing and there being no one wishing to be heard it was closed and Councilman Limberg questioned the parking requirements in relation to the original use permit and Staff advised that the new plan calls for a 43-room hotel and that the applicant is in conformance with the City's parking requirements by providing 44 parking spaces.

During discussion as to adequacy of the conditions, IT WAS THEN MOVED BY COUNCILMAN DIEHL, SECONDED BY COUNCILWOMAN KOESTER to continue the matter to the meeting of 11-21-84 to discuss with the applicant.

Staff further advised that the architect has no opposition to making the changes and reduce the number of rooms from 50 to 43 to be in compliance with the Coastal Commission; and that one additional floor from the building is also being removed. Councilman Mecham expressed his opposition to the extension and suggested that the existing structures and buildings on the subject property should be demolished in 30 days instead of 90 days, following which Councilwoman Koester WITHDREW HER SECOND TO THE MOTION.

IT WAS THEN MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND CARRIED to concur with the Planning Commission's action of 10-2-84 and approve a one-year time extension for Use Permit 83-16 and Variance 83-06 subject to 13 original conditions and three additional conditions; that condition #1 be changed from 90 days to 30 days; that approval be for a 43-room hotel with 44 parking spaces; and amend condition 4 c. to read that the applicant shall widen El Camino Real depending on final decision of the City Council on the issue. Councilman Diehl voted "NO."

Subject 100 - Policy Clarification re El Camino Real Widening.

IN RE: Report from Community Development Director and Interim City Manager requesting a policy clarification on the widening of El Camino Real from Camino Capistrano southerly to East Avenida San Juan.

Council comments are briefly summarized as follows: Mayor Carr noted this has been a confusing issue and that 4-1/2 years ago an overwhelming determination was made by the voters that El Camino Real should not be widened. Councilwoman Koester concurred with Mayor Carr's comments on the matter. Councilman Diehl noted that there are certain parcels on El Camino Real that would not be amenable to widening but that there are certain busy intersections and heavily impacted areas that could be improved. Councilman Mecham felt Staff could determine which sections along El Camino Real must be changed for the future growth and costs should be determined so that when a building is constructed or renovated the property owner will be aware of the cost; and that he does not feel the entire length of the street should be widened.

Councilwoman Koester noted the matter had been discussed in the past and that Staff could review the old files on the project for future reference.

IT WAS THEN MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILWOMAN KOESTER, AND UNANIMOUSLY CARRIED to direct Staff to examine El Camino Real for those areas that they feel most important for widening for purposes of safety or traffic enhancement and report back to Council at the meeting of 12-5-84; and that Staff search the files and locate previous information that has already been developed on the subject.

Subject: 112 - Approval of Use Permit 84-18, Wendy's Restaurant - 918 South El Camino Real.

IN RE: Public hearing to consider Use Permit 84-18, being the request of Wendy's Restaurant for a use permit in accordance with Section 4.9 of the Zoning Ordinance to allow a Wendy's drive-thru restaurant in the C-2 zone at 918 South El Camino Real, legal description being the southerly one-half of Lot 3, all of Lots 4, 5, and 6, Block 10, Tract 822, and to consider the approval of a negative declaration with respect to the project; said matter called up for review by the City Council.

The Mayor opened the public hearing and Charles Mitchell stated he was in favor of Wendy's coming into the neighborhood; that this particular parcel has been an eyesore for a long time and the area will be improved with the project; and that in regard to widening of El Camino Real the issue should go back to the electorate if the City contemplates making a change.

There being no one else desiring to be heard, the public hearing was closed, and IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILWOMAN KOESTER, AND UNANIMOUSLY CARRIED to approve Use Permit 84-18 as approved by the Planning Commission which did not require widening of El Camino Real.

Subject: 112 - Resolution No. 102-84 Approving Use Permit 84-28, P. Bart Abrate, 121 Ave. Del Mar.

IN RE: Public hearing to consider Use Permit 84-28, being the request of P. Bart Abrate under Section 24-2(1) of the Code of the City to permit the moving and relocation of a residential structure from 104 Alameda Lane to 121 Ave. Del Mar; legal description being Lots 1, 2, 3, and 4 of Block 11 of Tract 785 and Lot 11 of Block 6 of Tract 779; and to consider the approval of a negative declaration with respect to the project; said matter called up for review by the City Council.

Mayor Carr stated he had a conflict of interest on this matter and would disqualify himself from any deliberations and turned the gavel over to Mayor pro tem Mecham.

Councilwoman Koester noted concerns as to structural integrity of the building to be moved, current building code requirements, potential traffic conflicts created by the actual move, and the pedestrian access from Del Mar to Granada once the building has been relocated.

Staff responded to questions from Councilman Limberg relating to repair of any damage to all public improvements; approval of Community Design Commission prior to project being moved and issuance of building permits.

The Mayor pro tem opened the public hearing and Bart Abrate, the applicant, noted he was turning a house into a commercial building and moving it up the street; the difference between residence and commercial building is zoning of the land that it is located on and configuration of the building to the street. He then displayed a drawing of the existing house and garage noting that he would take the garage door off and put sash windows on it which would be on the front of the lot; that he plans to take the top floor off the house and place it on the rear of the lot opening up the sides into a side yard area; that the house is of spanish design built in 1945 with the old-looking spanish tile and when remodeled will have arches and windows with awnings on the front.

There being no one else wishing to be heard the public hearing was closed and Staff responded to further questions from Councilwoman Koester and Councilman Limberg.

Following further discussion Council concurred to the following changes in conditions 4, 6, and 8. Condition 4 to read: "The developer shall provide the City with bonds in the amount of \$2,500.00 to ensure repair of any public improvements that may be damaged during relocation and construction." Condition 6 to read: "Prior to removal, the subject shall be reviewed by the Community Design Commission for architectural compatibility with the surrounding commercial buildings." Condition 8 to read: "Prior to the issuance of occupancy permits the applicant shall construct and offer for dedication a pedestrian walkway from Ave. Del Mar to the property located on Ave. Granada along the eastern side of the project site consistent with the City's reconstruction plans for Del Mar."

Upon motion of Councilman Limberg, seconded by Councilwoman Koester, and carried, RESOLUTION NO. 102-84, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING USE PERMIT 84-28, AS AMENDED, AND APPROVING A NEGATIVE DECLARATION, was regularly introduced, passed, and adopted. Mayor Carr did not vote.

Subject. 105 - Ordinance No. 901 Approving Specific Plan No. 84-01.

IN RE: Public hearing to consider Specific Plan No. 84-01, being a request of Marblehead Inland Area 3 under Section 4.27 of the Zoning Ordinance (Planned Residential District) for a specific plan of land use located within the Open Space - Planned Residential Development (O-S-PRD) zoning district and within the boundaries of the Marblehead Inland Master Plan; legal description being a portion of Final Tracts No. 10881 and No. 10882; and to consider the approval of a negative declaration with respect to the project.

The Mayor opened the public hearing and there being no one wishing to be heard it was closed, AND IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN DIEHL, AND CARRIED to adopt the negative declaration. Councilwoman Koester voted "NO."

IT WAS THEN MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN DIEHL, AND UNANIMOUSLY CARRIED to waive the reading in full of Ordinance No. 901.

Upon motion of Councilman Limberg, seconded by Councilman Diehl, and carried, ORDINANCE NO. 901, BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING SPECIFIC PLAN NO. 84-01, was regularly introduced by title only, the reading in full thereof having been unanimously waived. Councilwoman Koester voted "NO" on the basis that she did not have complete information on the specific plan.

Subject: 105 - Resolution No. 103-84 Approving Tentative Tract Map No. 12167 - Marblehead Inland Area 3.

IN RE: Public hearing to consider Tentative Tract Map No. 12167 being the request of Marblehead Inland Area 3 to subdivide approximately 65.5 acres into 16 lots to accommodate 258 residential dwelling units located within the Open Space - Planned Residential Development (O-S-PRD) zoning district and within the boundaries of Marblehead Inland Master Plan; legal description being a portion of Final Tracts 10881 and 10882. The proposed density is approximately 3.9 dwelling units per acre; and to consider the approval of a negative declaration with respect to the project.

The Mayor opened the public hearing and Robert Flynn inquired if there have been any provisions made to have an area set aside, properly fenced and landscaped, for the parking of recreational vehicles, motor homes, etc. Staff advised that there is no provision for that type of facility in the tract. There being no one else desiring to be heard, the public hearing was closed.

In response to query from Councilman Mecham, Don Steffensen, representing the applicant, stated that the Marblehead Inland Master Plan does not provide for recreational vehicle parking within the project; that it is made clear by the sales representatives and brochures that you cannot park a recreational vehicle within the development unless in a garage and that before purchasing a recreational vehicle a storage location should be found.

Councilwoman Koester noted she had concerns about 3.9 D/U per acre since the City's open space ordinance calls for 1.5 D/U per acre and the fact that she had not seen a map of the tentative tract.

Upon motion of Councilman Diehl, seconded by Councilman Mecham, and carried RESOLUTION NO. 103-84, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE TRACT MAP NO. 12167, AND ADOPTING NEGATIVE DECLARATION, was regularly introduced, passed, and adopted. Councilwoman Koester voted "NO."

CONSENT CALENDAR

UPON MOTION OF COUNCILMAN DIEHL, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED, the following Consent Calendar items were approved, each as indicated below.

City Council Minutes

Minutes of 10-3-84 and 10-17-84. — Approved as presented, and reading in full thereof waived.

Planning Commission Minutes

Minutes of 10-16-84. -- Received and filed.

Community Design Commission Minutes

Minutes of 10-9-84. -- Received and filed.

Parks & Recreation Commission Minutes

Minutes of 9-25-84 (adjourned) and 10-8-84. -- Received and filed.

Subject: 105 - Supplement to Agreement D83-133-1.

IN RE: Report from Community Development Director and Interim City Manager recommending approval of supplement to Agreement No. D83-133 which relates to drainage improvements of Segunda Deshecha Canada Channel (MO2) in Tentative Tract 10578 (Rancho San Clemente). -- Approved supplement to agreement and authorized execution by Mayor and City Clerk.

Subject: 114 - Tri-Cities F.M. Schlegel Reservoir.

IN RE: Report from Community Development Director and Interim City Manager advising that Tri-Cities Municipal Water District will be improving their water distribution system serving south San Clemente and San Onofre area by constructing a 12 million gallon underground reservoir. — Accepted and authorized recordation of an easement granted by Tri-Cities Municipal Water District for storm drain purposes; and granted to Tri-Cities Municipal Water District an easement for slope and drainage purposes and authorized execution of easement deed by Mayor and City Clerk.

subject: 100 - Alley Reconstruction, Project No. 6-84.

IN RE: Report from Community Development Director and Interim City Manager advising that the work for the reconstruction of the alleys has been satisfactorily completed by the contractor, Fecit Strata Construction. -- Accepted the work and authorized filing of a Notice of Completion on alley reconstruction, Project No. 6-84.

Subject: 87 - Appraisal of the Caltrans Property.

IN RE: Report from Acting Police Chief and Interim City Manager requesting authorization for the Interim City Manager to expend up to \$5,000 from the Public Safety Construction Fund to hire an appraiser to determine the market value of the Caltrans property across from City Hall. — Approved the request.

Subject: 96 - El Portal 8" Sewer Line, Project No. 11-84.

IN RE: Report from Community Development Director and Interim City Manager reporting on two bids received for the El Portal Sewer Line Repair, Project No. 11-84. -- Awarded contract for the El Portal Sewer Line Repair, Project No. 11-84, to the low bidder, Husby Construction, of San Juan Capistrano at the bid price of \$36,510.

Subject: 77 - Request to Resurface Verde Park Tennis Courts.

IN RE: Communication from Parks & Recreation Commission recommending appropriation of \$1,500 from the Parks Acquistion & Development Fund to resurface the Verde Park tennis courts because of a safety hazard. — Concurred with the Parks & Recreation Commission's recommendation and appropriated \$1,500 to Parks Acquisition & Development Fund Account #31-4531-530.

Subject 77 - Change of Closure Time for Leslie Park.

IN RE: Communication from Parks & Recreation Commission recommending that the City Attorney prepare an ordinance changing the closing hours of Leslie Park from 12 midnight to 10:00 P.M. -- Concurred with the Parks & Recreation Commission's recommendation and referred to City Attorney for preparation of required ordinance.

Subject: 105 - Tentative Parcel Map 84-830, Kenneth McMurray.

IN RE: Communication from Planning Commission recommending approval of Tentative Parcel Map 84-830, being the request of Kenneth McMurray to subdivide .147 acres to construct a three-unit residential condominium located at 210 West Escalones; legal description being Lot 24, Block 1, Tract 794. -- Set for public hearing on 11-21-84.

Subject: 105 - Tentative Parcel Map 84-831 - San Diego Gas & Electric.

IN RE: Communication from Planning Commission recommending approval of Tentative Parcel Map 84-831, being the request of San Diego Gas & Electric to subdivide approximately 6.29 acres into three parcels for commercial use located at 674 Camino de Los Mares; legal description being Record of Survey 4-15. -- Set for public hearing on 11-21-84.

CONSENT CALENDAR (Items removed for separate action)

subject: 115 - Weed Abatement Contract.

IN RE: Report from Fire Protection Director and Interim City Manager recommending approval of the final payment of \$6,043.30 to Apple's Tractor Service for completion of the 1984 weed abatement program.

Councilwoman Koester inquired as to a particular parcel in the pier bowl area that has not been cleaned up, and Staff responded noting this action was only to approve final payment for the 1984 weed abatement program.

IT WAS THEN MOVED BY COUNCILWOMAN KOESTER, SECONDED BY COUNCILMAN DIEHL, AND UNANIMOUSLY CARRIED to approve the final payment of \$6,043.30 to Apple's Tractor Service for completion of the 1984 weed abatement program.

subject: 90 - Purchase of One Mid-Size Pickup.

IN RE: Report from Public Services Director and Interim City Manager reporting on three bids received for the purchase of one 1985 mid-size pickup.

Staff responded to questions from Councilwoman Koester following which IT WAS MOVED BY COUNCILWOMAN KOESTER, SECONDED BY COUNCILMAN DIEHL, AND UNANIMOUSLY CARRIED to accept bid in the amount of \$7,931.98 submitted by GMC Truck and Coach Corporation for the purchase of one 1985 mid-size pick-up.

Subject: 105 - Supplement to Agreement D83-017.

IN RE: Report from Community Development Director and Interim City Manager recommending approval of Supplement D83-017-1 to Agreement No. D83-017 which relates to drainage improvements of Prima Deshecha Canada Channel (M01) in Tentative Tract 10417 and 10596 (Forster Ranch).

Staff responded to questions from Councilwoman Koester following which, IT WAS MOVED BY COUNCILWOMAN KOESTER, SECONDED BY COUNCILMAN DIEHL, AND UNANIMOUSLY CARRIED to approve the supplement to agreement and authorize execution by the Mayor and City Clerk.

Subject: 27 - Resolution No. 104-84 Ordering Certain Changes and Modifications of Improvement District No. 11-83.

IN RE: Report from Community Development Director and Interim City Manager recommending adoption of resolution ordering certain changes and modifications of Improvement District No. 11-83 based on actual construction cost of the project.

Staff responded to questions from Councilwoman Koester, following which upon motion of Councilwoman Koester, seconded by Councilman Diehl, and unanimously carried RESOLUTION NO. 104-84, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ORDERING CHANGES AND MODIFICATIONS IN PROCEEDINGS AND ASSESSMENTS IN A SPECIAL ASSESSMENT DISTRICT PURSUANT TO THE "MUNICIPAL IMPROVEMENT ACT OF 1913," was regularly introduced, passed, and adopted.

PAYING OF THE BILLS

IT WAS MOVED BY COUNCILMAN DIEHL, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that Warrants No. 23703 through No. 23733, and No. 14993 through No. 15342 be paid.

TOTAL WARRANT REGISTER \$ 796,947.44

UNFINISHED BUSINESS

Subject 68 - Casa de Seniors.

IN RE: Report from Community Development Director and Interim City Manager advising that the San Clemente Senior Housing, Inc., a non-profit organization working with the San Clemente Seniors, has submitted two letters requesting the release of \$270,494 to cover site preparation costs and other preliminary development costs; and a request for waiver of \$241,719.60 City fees.

Mayor Carr stated he had previously declared a conflict on this item and turned the gavel over to Mayor pro tem Mecham. The Interim City Manager advised of a change in Staff recommendation relating to material for the structure. In response to query from Councilman Limberg whether the waiver of a substantial amount of City fees under any circumstances could be construed as a gift of public funds, the City Attorney replied that the government code allows fees to be waived or reduced as an assistance in providing this type of housing.

Marilyn Ditty, representing the San Clemente Seniors, noted they have reviewed the Staff recommendation and have no problem and that there already is a Federal restriction of 40 years on this particular property, therefore, there will be no problem with the City's incorporation of a deed restriction which limits use of the site to affordable senior citizen housing. She further noted that they have done everything possible to secure donated soil, grading, and went public to 15 different groups in pursuit of relief from the soils cost; that the grading is extra-ordinary for this particular project; that they cannot go ahead without these two items approved and if they had any other alternative they would not be here tonight.

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN DIEHL to approve a loan of \$185,000 to the San Clemente Senior Housing, Inc. using Block Grant funds, to be used for grading costs and building amenities; and waiving of \$78,150 in various City fees subject to incorporation of a deed restriction which limits use of the site to affordable senior citizen housing.

Councilwoman Koester questioned waiving of water and sewer connection fees, and it was pointed out that sewer connection fees of \$77,169.60 cannot be waived according to the City Attorney due to a restriction contained in the Ranchland Developers Agreement for the Treatment Plant.

THE MAYOR PRO TEM THEN CALLED FOR THE QUESTION WHICH CARRIED 4-0 WITH MAYOR CARR NOT VOTING ON THE MATTER.

Subject: 77 - Market and Financial Analysis of Proposed Five-Field Softball Complex.

IN RE: Report from Public Services Director and Interim City Manager relating to the proposed five-field softball complex.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to accept the Market and Financial Analysis of the Proposed Five-Field Softball Complex as an indication of the economic and financial feasibility of the proposed project and refer the analysis to the Parks & Recreation Commission for their review and input.

Councilman Mecham added that he hoped this project could be expedited.

Subject: 77 - Mr. & Mrs. James Gatacre's letter Relative to Problems at Plaza Park.

IN RE: Further consideration of communication from Parks & Recreation Commission, in response to Council referral, advising that after consideration of Mr. & Mrs. Gatacre's letter relative to problems at Plaza Park it was the consensus of the Commission that the park was appropriately used and there were no extraordinary problems, and the communication was received and filed.

IT WAS MOVED BY COUNCILWOMAN KOESTER, SECONDED BY COUNCILMAN MECHAM to concur with the Parks & Recreation Commission's recommendation and receive and file the communication.

Further comments from Mr. Gatacre are briefly summarized as follows: That the situation has continued to evolve; that the picture which was submitted depicting the smashed automobile window was witnessed by the owner of the vehicle; that drinking continues to exist and has spread to Bonito Canyon Park; there is evidence that people are spending considerable time vandalizing the toys and bathrooms; that gang members are carving deep messages in the trees; that at a recent Saturday night incident the park had to be closed down due to the arrest of two illegal aliens; that there continues to be grafitti on the walls and over the last three months there has been a tremendous cost to the City in time and material to repaint the walls; that the police have asked for methods of controlling in terms of a curfew or park closure at dusk and he recommends approving the police recommendation for a curfew and that the bathrooms be removed immediately; that the park has a bad influence on young people as they watch the older gangs that frequent the park; that he fears a disaster will occur in the park as the problems of drinking gets worse; that consideration should be given to issuing a permit for large groups that use the park; that traffic has always been a problem and there are no warning signs that children are playing in the area, and that speed bumps might be a solution.

In response to query from Mayor Carr, Staff advised that there was considerable opposition to closing the park at dusk and a compromise was agreed upon; that of the 31 calls for service in the past 60 days, 23 originated from Mr. Gatacre's residence, and that 19 of the 31 calls were either unfounded or the officer was unable to locate the cause of the complaint; that four misdemeanor citations were issued and two arrests made for various violations.

Mayor Carr further noted that the administration should be instructed to immediately eradicate the grafitti upon its first known appearance; that with respect to the closure of the park if the Police Department ever feels this should be changed due to certain circumstances that may have developed they should not hesitate to return to Council with a recommendation. He further noted to Mr. Gatacre that with the master planning of the park by the Parks & Recreation Commission and input from the planners and residents in the neighborhood improvement should take place in the future.

The Mayor then called for the QUESTION WHICH CARRIED UNANIMOUSLY.

subject 44 - Amendment No. 4 to Fisherman's Restaurant Lease.

IN RE: Report from Public Services Director and Interim City Manager recommending approval of Amendment No. 4 to the Fisherman's Restaurant lease.

In response to query from Councilwoman Koester, Staff advised that the Redevelopment Agency would be funding the expansion outlined in the amendment; and the City Engineer responded to questions from Councilman Limberg as to the pilings and related pier support construction work. Mayor Carr questioned approving the amendment before going out to bid and awarding of a contract and the Public Services Director responded that the City can cancel the amendment within 30 days if the necessary approvals from the Coastal Commission are not received.

Norman J. Ream requested clarification as to whether or not the RDA will make the payment or will the citizens of San Clemente be expected to pay; noted that the RDA is a State agency and proposed that there be a provision in the contract that if the RDA is extinguished during the five-year period that the monies fall back to the City, and the manner in which the monies are to be distributed should be clearly clarified in any agreement.

The City Attorney advised that the money is paid to the City who is the lessor; that the City would reimburse the RDA and if the RDA were to be extinguished the City would retain the funds; and that any funds the RDA would have after such time if it was extinguished would be transferred to the City.

IT WAS THEN MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN DIEHL, to approve Amendment No. 4 and authorize execution by the Mayor and City Clerk.

Councilwoman Koester voiced various objections to the amendment. The Mayor then called for the QUESTION WHICH CARRIED with Councilwoman Koester and Mayor Carr voting "NO."

Subject 45 - Staff Approval of Service Contracts.

IN RE: Further consideration of report from Community Development Director and Interim City Manager requesting that the Community Development Director be authorized to enter into contracts concerning developmental matters without City Council approval with consultants for services related to the departmental functions which do not require City Funds.

Upon question, Staff confirmed that this request applies to EIR's only.

IT WAS THEN MOVED BY COUNCILMAN DIEHL, SECONDED BY COUNCILMAN LIMBERG to approve the request.

Norman J. Ream commented that at the present time the City Manager has authorization to approve contracts up to \$5,000 without approval of the City Council and that he recommends the same apply to Mr. Weinroth and that he be limited to approving EIR contracts up to \$5,000 and to be countersigned by the City Manager; and anything above that amount must be approved by the City Council. He further noted that if the funds paid by the developers flow into the City Treasury they are in control of the City Treasurer and therefore treated by State law as any other monies of the City.

A SUBSTITUTE MOTION WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN DIEHL to approve the request on an interim basis of six months and that each time a contract is granted during that six-month period that the Council receive some type of profilering as to who the contract went to and the nature of the contract.

Councilwoman Koester stated in reviewing the warrants there is payment by the City of an EIR; and that there might be lack of control in transferring funds back and forth.

The Mayor then called for the QUESTION WHICH CARRIED with Councilwoman Koester voting "NO."

COMMUNICATIONS FROM COMMISSIONS AND COMMITTEES

Subject: 77 - Capistrano Ballet Centre Rental Fee Refund Request for Community Center Use.

IN RE: Communication from Parks & Recreation Commission advising that the Capistrano Ballet Centre has requested a rental refund in the amount of \$365.00 inasmuch as the Community Center Auditorium facility had not met the standards of the Capistrano Ballet as expected, and recommending that only one-half of the rental fee be refunded.

Following Staff response as to the reasons for the difference in the Staff's recommendation as opposed to the Parks & Recreation Commission's recommendation, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILWOMAN KOESTER to authorize rental refund to the Capistrano Ballet Centre in the full amount of \$365.00.

Following comments by Council members, A SUBSTITUTE MOTION WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN DIEHL, AND CARRIED to concur with the Parks & Recreation Commission's recommendation and that half of the rental fee be refunded to the Capistrano Ballet Centre because of problems which were encountered at their event. Council members Koester and Mecham voted "NO."

Subject: 77 - Catalog Project.

IN RE: Communication from Parks & Recreation Commission requesting Council guidance as to publication of a gift catalog of park and recreation oriented items which could be purchased and donated by interested donors.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN DIEHL AND UNANI-MOUSLY CARRIED to approve in concept except that the catolog contain not just park and recreation oriented items but any items on a City wide basis; and to refer the matter to the Public Services Director for development of project implementation.

Subject. 106 - Speed Survey Updates.

IN RE: Communication from Planning Commission recommending that the Uniform Traffic Ordinance be amended adopting speed limits on certain San Clemente streets as shown on Exhibit "A".

Considerable discussion took place with some of the Council Members expressing certain concerns, particularly in regard to recommended speed limits on Avenida Vaquero and Avenida Del Presidente.

Following Staff response and further comments, IT WAS MOVED BY MAYOR CARR, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to continue the matter to the meeting of 11-21-84.

URGENT MATTERS

Subject: 96 - Sewer Treatment Facilities

36 - City Manager Contract

IN RE: Comments by Norman J. Ream regarding sewer treatment facilities and related matters; and City Manager contract.

Norman J. Ream noted he had four items he wanted to bring to Council's attention which are as follows: (1) A meeting will be held tomorrow morning with the Interim City Manager and the developers concerning what action they are going to take on the sewer plant; that as a result of yesterday's election he feels any meetings concerning the sewer plant from this point forward should be open meetings and open to the public so they may be knowledgeable of any such discussions that might take place.

(2) That in studying the State law the letters of credit should not be in the hands of anyone but the City Treasurer who is a legally elected official of the City; that he is in control of all deposits of the City and also in control of all expenditures and therefore requesting that these be made available to him. (3) That the contract that was signed by the City with

the back country developers is no longer applicable; that the developers are now entering into a situation where they can force the City to take certain action that might be contrary to the best interest of the City; that there are many provisions in the contract that are illegal; that the court action entered into is still to be heard; that if the City does not take action that it be brought to the court and ordered that the contract be cancelled because it is a contract favorable only to the developers and not the City and involves the waiving of \$72 million in hookup fees along with many other things. (4) During a closed hearing tonight the Council will be discussing the possibility of loaning to the prospective City Manager an amount equal to at least \$100,000 for a period of 30 years at 11 percent interest so that he might buy a home; that in accordance with legal counsel if this action is taken by the City Council it must be made public knowledge as it is a matter of handling of public funds and recommended that it not be done; that if he needs money he should obtain such from a bank like everyone else because if you once allow this every City employee probably has the right to come in and demand that of the City.

Councilwoman Koester commented she felt that the negotiations for the agreement with the developers were held in secret and that Council was able to see a draft version only after a local citizen took it to court, and IT WAS MOVED BY COUNCILWOMAN KOESTER that all matters involving the disposition of the treatment plant issue between the developers, City and Council be made public. THE MOTION DIED FOR LACK OF A SECOND.

In response to query from Councilman Mecham as to the contract and obligations to the City, the City Attorney advised that he was not aware of any provisions in the contract which were illegal; that he reviewed the contract before it was prepared and was confident that if it was to be challenged in court that it would be upheld; that the waiver of fees was specifically addressed in the contract and it was his legal opinion that if the City charges fees in addition to what was in the contract that would be illegal—that you cannot charge twice for the same service; and that the assessment district procedure provided in the contract is an alternative for payment of the fees.

Mayor Carr noted that as to the question of the contract with the developers not being applicable the City Attorney has advised at this point in time it is a legally binding and fully enforceable contract between the City and the four ranchland developers.

In response to the question of where the letters of credit are to be filed, the City Attorney advised that they are security for deposit and the same type of procedure is being followed as other documents which are on file in the office of the City Clerk.

In closing, Mr. Ream stated that no one is being accused at this point and time of being illegal, and that he is only requesting that the laws of the State of California be followed.

ITEMS FROM CITY MANAGER

Subject: 64 - Lifeguard Service "Request For Proposal."

IN RE: Report from Public Services Director and Interim City Manager requesting approval of Staff's response to a request for proposals solicited by the County of Orange for lifeguard services.

IT WAS MOVED BY MAYOR CARR, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to approve Staff's response to a request for proposals solicited by the County of Orange for lifeguard services.

The Interim City Manager requested a Closed Session to discuss personnel matters.

ITEMS FROM CITY ATTORNEY

The City Attorney requested a Closed Session to discuss a matter of pending litigation.

ITEMS FROM COUNCIL MEMBERS

Support of Proposed Resolution of Orange County Division of the League of California Cities re Hazardous Waste Management.

IN RE: Proposed resolution of the Orange County Division of the League of California Cities encouraging formation of an eight-county hazardous waste management implementing authority in Southern California.

IT WAS MOVED BY COUNCILMAN DIEHL, SECONDED BY COUNCILMAN MECHAM, AND UNANI-MOUSLY CARRIED to support the proposed Resolution (P-85-1) of the Orange County Division of the League of California Cities.

Subject. 74 - Enforcement of Parking Time Limits on Avenida Del Mar.

IN RE: Issue of enforcement of 2-hour parking limitation on Avenida Del Mar.

IT WAS MOVED BY COUNCILMAN DIEHL, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED that a report be developed as to what is being done and how we might address some of the concerns, to be brought back at the meeting of 12-5-84.

Subject: 22 - Proposed Resolution Recommending General Improvements at John Wayne Airport as Outlined in the 1984 Master Plan.

IN RE: Communication from Community Airport Council requesting adoption of resolution supporting the upcoming master plan for John Wayne Airport.

Councilman Limberg noted this subject had been a controversial issue in Orange County for some time; that many studies have been made; that Supervisor Riley has been very involved in the matter; and that there is no direct benefit to the City of San Clemente since it is a user benefit and not a City benefit. Mayor Carr noted that although the City is not directly affected a number of residents are users of the John Wayne Airport.

IT WAS THEN MOVED BY COUNCILWOMAN KOESTER, SECONDED BY COUNCILMAN DIEHL, AND UNANIMOUSLY CARRIED to table the matter.

Subject: 25 - Cross-County Annexation by Cities.

IN RE: Cross-county annexation by cities.

Mayor Carr referred to a recent communication from the State Senate Committee on Local Government concerning renewed interest in the issue of developing legislation to permit cross-county annexations.

IT WAS MOVED BY MAYOR CARR, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that the subject of cross-county annexation by Cities be agendized for the 11-21-84 Council meeting.

Councilman Mecham referred to a situation at the Alpha Beta store wherein the dumpsters are never put away; and that they take them to the loading docks where they remain exposed the entire time. The Fire Marshal advised that he had talked to the Regional Manager about a month ago and since nothing has changed, he will again contact the Regional Manager.

Councilman Limberg requested that when Staff reviews specific plans or development plans, consideration should be given to incorporate a requirement to provide for recreational vehicle parking, such as Rancho San Clemente has provided.

Councilman Limberg inquired as to the status of improving the lighting and sound equipment at the Community Center Auditorium, and the Public Services Director advised that they are in the process of finding an engineer with technical expertise in this field to handle the matter.

_ _ _ _ _ _ _ _ _ _ _ _ _

In response to query from Councilwoman Koester, the Interim City Manager advised that the meeting with the developers which is to be held tomorrow was scheduled about two weeks ago with the intent that regardless of the outcome of the election implementation of the agreement in terms of what are the next steps in formation of an assessment district needs to be determined; and terms of the agreement will be discussed and that he would report to Councilwoman Koester after the meeting as to the recommendations.

Councilwoman Koester referred to certain lots around the City that have not been abated of weeds, one being on Capistrano Lane; that it is not so much the height of the material but the lateral growth encroaching on the steps of an adjoining property. The Fire Marshal advised that the owner stated he would abate the property but since he has not done it according to the City's standards City crews will be dispatched to perform the necessary work and the property owner will be billed.

NEW BUSINESS

Subject: 68 - Recommended Projects for the 11th Year Block Grant Application; and Resolution No. 105-84 Certifying That It Has the Legal Authority to Make a Grant Submission and to Execute a Community Development and Housing Program.

IN RE: Report from Community Development Director and Interim City Manager listing projects for inclusion in the county-wide Community Development Block Grant application to the Federal Government; and recommending adoption of resolution certifying that the City Council has the legal authority to make a grant submission and execute a Community Development and Housing Program.

Mayor Carr inquired if there is anyone in the audience who wishes to comment on the proposal and offer any suggestions as to how the funds should be expended. There being no one wishing to be heard IT WAS MOVED BY COUNCILMAN DIEHL, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to approve the recommended projects for the 11th year Block Grant application and direct Staff to prepare necessary applications to be signed by the Mayor and Community Development Director.

Upon motion of Councilman Diehl, seconded by Councilman Mecham, and unanimously carried, RESOLUTION NO. 105-34, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CERTIFYING THAT IT HAS THE LEGAL AUTHORITY TO MAKE A GRANT SUBMISSION AND TO EXECUTE A COMMUNITY DEVELOPMENT AND HOUSING PROGRAM, was regularly introduced, passed, and adopted.

Subject: 49 - Election Results.

IN RE: Report from City Clerk as to the unofficial results concerning the three measures voted upon at the 11-6-84 General Election.

The City Clerk distributed a recap for Council information, and to give an indication as to the late hour the results were received so any persons who may run for office in November of 1986 can figure on not having the final results until near morning.

The Clerk noted that by 5:00 A.M. the results were unofficially declared as follows: Proposition "N", 6161 Yes votes, 7264 No votes; Proposition "O" 7702 Yes votes, 5649 No votes; and Proposition "P" 6041 Yes votes, 7254 No votes.

Subject: 106 - Proposition "O" Relating to Existing Standards Which Prohibit Parking of Boats, Trailers and Recreational Vehicles on Private Property Within the Applicable Setback Area of the Lot.

IN RE: Proposition "O" which was an advisory ballot measure as to whether the City of San Clemente should maintain its present standards by prohibiting the parking of boats, trailers, and recreational vehicles (as defined in San Clemente's Uniform Traffic Ordinance) on private property within the applicable setback areas of the lot.

IT WAS MOVED BY MAYOR CARR, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that the subject matters which formed the basis for Proposition "O" be agendized for the 11-21-84 meeting.

96 - Proposition "P" Relating to Question of Relocation of the Municipal Sewer Treatment Facilities.

IN RE: Proposition "P" ballot measure relating to the question of relocation of the municipal sewer treatment facilities.

IT WAS MOVED BY MAYOR CARR, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that the subject matters which formed the basis for Proposition "P" be agendized for the 11-21-84 meeting.

55
Subject: 68 - The Orange County Major Thoroughfare and Bridge Fee Program.

IN RE: Report from Community Development Director and Interim City Manager advising that the Board of Supervisors and Orange County Transportation Commission have adopted three basic policy statements regarding the major thoroughfare and bridge fee program and have requested that these policy statements be similarly adopted by the Councils of the corridor cities.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN DIEHL, AND UNANIMOUSLY CARRIED to adopt policy statement as set forth in Administrative Report dated 10-31-84, and authorize Staff to work with the County to finalize concepts of boundary adjustments and inclusion of Vista Hermosa Interchange into the fee program.

Following discussion that a meeting is scheduled for Friday at 7:30 a.m. with County officials at the Saddleback Inn relating to the subject, A SUBSTITUTE MOTION WAS MOVED BY MAYOR CARR, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to continue the matter to the meeting of 11-21-84.

Subject 89 - Request for Additional Inspectors and Equipment for the Community Development Department.

IN RE: Report from Community Development Director and Interim City Manager requesting additional Inspectors and equipment for the Community Development Department.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN DIEHL, AND CARRIED to authorize (1) one additional Building Inspector and one Public Works Inspector; (2) the expenditure of \$7,500 for additional telephone equipment; (3) that Staff execute a lease for an office trailer to house Building and Engineering Inspectors; and (4) a supplemental appropriation of \$53,000 to the proper line item accounts in the Building and Engineering Divisions to cover salaries, employee benefits and equipment for one Building Inspector and one Public Works Inspector for the remainder of the fiscal year. Councilwoman Koester voted "NO."

RESOLUTIONS

For Resolution No. 102-84 see under "PUBLIC HEARINGS" on page 3.

For Resolution No. 103-84 see under "PUBLIC HEARINGS" on page 4.

For Resolution No. 104-84 see under "CONSENT CALENDAR" (items removed for separate action) on page 7.

For Resolution No. 105-84 see under "NEW BUSINESS" on page 13.

ORDINANCES

Subject: 35 - Ordinance No. 898 Establishing "Business Improvement Area No. 1 of the City of San Clemente."

IN RE: Ordinance No. 898 establishing "Business Improvement Area No. 1 of the City of San Clemente."

Upon motion of Mayor Carr, seconded by Councilman Mecham, and unanimously carried, ORDINANCE NO. 898, BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE ESTABLISHING "BUSINESS IMPROVEMENT AREA NO. 1 OF THE CITY OF SAN CLEMENTE," having been regularly introduced at the meeting of 10-17-84, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted.

For Ordinance No. 901 see under "PUBLIC HEARINGS" on page 4.

MEETING RECESSED

The Mayor recessed the City Council meeting to convene a meeting of the Redevelopment Agency.

ADJOURNMENT TO CLOSED SESSION

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILWOMAN KOESTER, AND UNANIMOUSLY CARRIED to adjourn to a Closed Session to discuss matters of personnel and litigation.

MEETING RECONVENED AND ITEMS FROM COUNCIL MEMBERS (continued)

Subject: 36 - City Manager Recruitment.

IN RE: City Manager recruitment.

Following a Closed Session, Mayor Carr announced that the purpose of the closed session discussion by the City Council was to consider further the appointment of a new City Manager for the City of San Clemente; and that the City Attorney who heard the discussion would be in a position to suggest the language that would be appropriate for the Council to consider in the form of a motion.

The City Attorney then advised that the City Council has concluded negotiations with Mr. James B. Hendrickson for his appointment as City Manager of the City of San Clemente and confirmed with Mr. Hendrickson tonight his agreement as to the terms of an employment agreement which has been drafted.

IT WAS THEN MOVED BY COUNCILMAN DIEHL, SECONDED BY COUNCILMAN MECHAM, AND CARRIED to approve the appointment of James B. Hendrickson as City Manager of the City of San Clemente upon the terms set forth in the employment agreement that has been drafted; that Mr. Hendrickson has indicated he will be in the City this Sunday or Monday and will execute the contract at that time; and the Mayor be authorized to execute the employment agreement on behalf of the City at such time as Mr. Hendrickson executes the agreement.

Councilwoman Koester noted she approved of Mr. Hendrickson having interviewed him several times, however, she cannot approve the contract based on two items-- (1) housing and (2) salary.

The Mayor then called for the QUESTION WHICH CARRIED with Councilwoman Koester voting "NO".

ADJOURNMENT

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN DIEHL, AND UNANIMOUSLY CARRIED that the Council meeting be adjourned at 12:15 a.m. to 7:00 P.M., November 13, 1984 for the purpose of canvassing the returns of the Special Municipal Election provided such are available from the Registrar of Voters by that date.

CITY CLERK and ex-officio/ Clerk of the City Councy

MAYOR and President of the City Council

STATE OF CALIFORNIA COUNTY OF ORANGE)	AFFIDAVIT OF POSTING ORDER OF ADJOURNMENT OF MEETING
	į ss	
CITY OF SAN CLEMENTE)	

I, MAX L. BERG, being first duly sworn deposes and says: that I am the duly chosen, qualified, and acting 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 November 7 , 1984 , said meeting was ordered adjourned to the time and place specified in the

Order of Adjournment ATTACHED HERETO; that on November 8, 1984

hour of $9:00~{\rm A.M.}$, 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

N ovember 7, 1984 , was held.

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

Subscribed and sworn to before me this 8th day of November, 1984

Marjone 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, November 7, 1984, at 7:00 P.M., Mayor Kenneth E. Carr presiding.

ROLL CALL

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

ABSENT: Council Members - NONE

Also Present: Gary E. Brown, Interim City Manager; Max L. Berg, City Clerk;

and Jeff Oderman, City Attorney

ADJOURNMENT

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN DIEHL, AND UNANIMOUSLY CARRIED that the Council Meeting be adjourned at 12:15 a.m. to 7:00 P.M., November 13, 1984 for the purpose of canvassing the returns of the Special Municipal Election provided such are available from the Registrar of Voters by that date.

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 Nov. 7 1984 Council Minutes

Dated this 8th

day of

November, 1984

CITY CLEXX, City of San Clemente