

15
San Clemente, California
January 18, 1984

Regular meeting of the City Council of the City of San Clemente, California, Council Chambers, Civic Center Building, 100 Avenida Presidio, Wednesday, January 18, 1984, at 7:00 P.M., Mayor G. Scott Diehl presiding.

PLEDGE OF ALLEGIANCE AND INVOCATION

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

ROLL CALL

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

Also Present: George A. Carvalho, 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.

ITEMS FROM CITY MANAGER

Subject: 48 - Verde Canyon Landslide Status Report.

IN RE: Verde Canyon Landslide status report.

The City Manager summarized the Administrative Report submitted to Council noting that over the last two weeks we have had a number of meetings with the homeowners in an attempt to work out some mutual problems; that as a result of those meetings we have addressed some issues that are primarily related to homes that were lost as well as attempting to repair the slide mass for winter rains; that we also discussed with the homeowners as well as various contractors the salvage and removal of the three destroyed homes; that Leighton & Associates have completed six borings--three on the slide mass and three on the streets above; that the final report is due February 1; that it should be noted we are aware of three other geological firms that are working in this area--D. A. Evans & Associates who have been hired by an insurance company; Geo-West which is working for one of the homeowners on Via Catalina; and the third firm, Owen Geotechnical Consultants, which has been hired by Attorney Patrick Catalano, who is representing several of the homeowners; that we have made some damage estimates of the slide; that private residents have submitted property loss figures in excess of \$1 million which we have not verified; and that there is a potential threatened loss of about \$2 million. Mr. Carvalho continued that the City loss is about \$25,000 primarily relating to street, curbs and gutters and we anticipate there is a potential additional cost of another \$25,000; that the City also repaired a storm drain that was damaged on Via Avila at a cost of approximately \$5,000 and we are grateful for the assistance of John D. Lusk & Son in loaning equipment to accomplish this task; that two Staff people have been assigned to work full time on this matter--Kelly Doyle who is coordinating the work dealing with health and safety and maintaining open lines of communication with those homeowners involved; and Lt. Sorg who is working directly with the City Manager in terms of exploring resources, grants, private loans, institutional loans, etc. that may be available to assist the City and private homeowners; that the senior Staff of the City has spent approximately 75% of their time on this--not including night meetings and week-ends. He also noted that several other issues that might be pointed out at this time are that we had notification that two residents--one on Buena Suerte and one on East Avenida San Juan complained about cracking noises and problems with their homes and have voluntarily evacuated; that we have had geotechnical people and City Staff take a look at those homes and preliminary reports indicate that there is no relationship between what has happened to those properties and the slide area. Mr. Carvalho further noted that a number of volunteers have been involved in this disaster and at some point in the future we will have an itemization of all those involved to present to Council; that we have developed a newsletter to communicate with the homeowners in the affected area advising what the City is doing, and offering suggestions and keeping them informed of City activities; that City Staff has also met with Laguna Beach to gain their experience from handling the Bluebird Canyon slide--our primary concern was to ascertain information as to what had transpired after the slide and what they did that we could benefit from their experiences; that contact was made with the Office of Emergency Services on several occasions beginning the date of the slide, and we had representatives from Sacramento and Los Angeles here today who toured the slide area and met with Staff talking about how they could assist the City.

Mr. Carvalho also noted that Staff has had a number of discussions relating to what the City could do proactively to try to deal with this continuing problem--slope instability, and we have made some suggestions to the Council for presentation and legislative action; that the Staff, Mayor, City Attorney and engineers met with Attorney Patrick Catalano to try and deal with some of the problems in that area, unfortunately we were unable to make any progress and Mr. Catalano indicated our proposal for attempting to deal with the abatement and winterization was not acceptable although he indicated he would present the City's proposal to the homeowners but would not recommend approval; and that Mr. Catalano also made it clear that it was his intent to sue the City for the total losses involved.

Mayor Diehl added that Mr. Catalano may be doing the best job for the three property owners whose homes slid into the canyon, but expressed concern for the properties that are still at risk inasmuch as Mr. Catalano's hardline approach in not working with the City to try to abate the problem and winterize the land mass is leading us into a position where those properties will stay at risk.

(NOTE: At this point in the meeting the Council took up the matter of communications from certain property owners requesting a re-hearing on Tentative Parcel Map 83-822, Avenida San Juan Partnership.)

With reference to the existence of a state of local emergency in regard to the Verde Canyon landslide, IT WAS MOVED BY COUNCILMAN CARR, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to continue the declaration of local emergency dated December 30, 1983 to the next Council meeting.

IT WAS FURTHER MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to consider developing a handbook, in conjunction with the geotechnical engineer, to describe how landslides occur and things residents can do to prevent them.

IT WAS FURTHER MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR DIEHL, AND UNANIMOUSLY CARRIED that the City consider examining legislation which will reduce landslide possibilities; i.e., retrofit program for rain gutters, slope drain maintenance, restriction of certain types of plants on slopes, etc.

IT WAS THEN MOVED BY COUNCILMAN LIMBERG, SECONDED BY MAYOR DIEHL, AND UNANIMOUSLY CARRIED that Staff bring the matter of landslide abatement district back to City Council for consideration at the meeting of 2-1-84.

WRITTEN COMMUNICATIONS

Subject 105 - Request for Re-Hearing of Avenida San Juan Partnership's Proposal to Build Four Homes on East Avenida San Juan (Tentative Parcel Map 83-832).

IN RE: Communication from Pauline Jordan, San Clemente Homeowners, requesting a re-hearing of the Avenida San Juan Partnership's proposal to build four homes at 404 East Avenida San Juan (Tentative Parcel Map 83-832), based on new evidence regarding the soils report which they wish to present to the Planning Commission.

IN RE: Communications from Norman Ream, Robert A. Hipkiss, and Paul & Marilyn Miller regarding a re-evaluation of lot split approval on Avenida San Juan (Tentative Parcel Map 83-832) in view of the Verde Canyon landslide.

Main points of discussion are summarized as follows: Norman Ream addressed the Council and stated the City could legally halt the development because of public safety since San Clemente is in a state of local emergency following the Verde Canyon landslide, and urged that the Avenida San Juan project be re-heard in light of the disaster and in light of some discrepancies a geologist has found in the preliminary geological analysis of the hillside site. Mr. Ream further urged that the City Council stop issuing building permits on any and all hillsides deemed potentially subject to landslides as noted in a 1968 survey; that the building freeze be imposed while the City considers enacting new types of legislation to protect future hillside homeowners and place liability burdens on builders not home purchasers.

Following discussion, IT WAS MOVED BY MAYOR DIEHL, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that the City Attorney look into the issue of hold harmless agreement.

The City Attorney noted that he knew of no cities that have such a law; that as for a hillside building freeze, the City could not impose a moratorium unless it were intended to give the City time to amend a particular city code. He further noted that the state of emergency powers only relate to a particular emergency--like the Verde Canyon slide--not for general changes in city policies or codes; however, the City could impose a freeze on building permits if an urgent need to change the code is presented.

In regard to the East Avenida San Juan project, the City Attorney advised that the City could not legally overturn its prior approval of the project on the grounds of a state of emergency, but if geological evidence is presented to indicate grading of the site may cause geological problems, the City could refuse to grant the developers a grading permit and building permits.

The City Engineer advised that the East Avenida San Juan developers will be required to do further geological tests on the site before further permits are issued; and noted that last year the City adopted a revised grading ordinance which conforms with Orange County's Grading Ordinance--recognized as one of the best in the State.

Pauline Jordan representing homeowners requested three actions of the Council (1) developer was granted rehearing after his subdivision was denied by City Council in August, 1981, and they are asking the same consideration; (2) City has acted in negligent manner in approving unsafe plan and the homeowners sent soils report in question to State Registration for Geologists and Geophysicists and are awaiting their findings; and (3) that on January 4, five days after the landslide which is very near property approved for development on East San Juan, the property owners requested a rehearing.

Mark Bryant, representing a geologist hired by a group of East San Juan homeowners, advised Council that 12 homeowners have voiced concerns about the proposed subdivision and his investigation so far has turned up several discrepancies regarding previous tests on the site; that he did not know if the discrepancies were significant or not and he was not trying to discredit work done on the site in the past. He then submitted a list of the data reviewed, summary of pertinent information, and recommendations.

Following discussion and noting that City Staff has not had a chance to review this information, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR DIEHL, that City Staff review the material and meet with the geologist with a report back to Council of their findings on the possibility of the necessity of a rehearing at the meeting of 2-1-84 or if additional time is needed at the meeting of 2-15-84; and that Staff include the City's geological consultants in the meeting.

The City Engineer reiterated that the material submitted to the City so far is a preliminary geotechnical report which was necessary in order to grant a tentative parcel map approval; that before a final map is granted which will allow development a much more detailed geological study is needed before any permits to proceed are issued; and that the law allows two years before they must start building.

Jim Jordan, also made extensive comments on the matter noting that they want to know the status of the East San Juan hillside up-front--not after the fact--through remedial work.

Mario Mainero, attorney for Avenida San Juan Partnership, stated they have cooperated in the past and will do any additional geological borings the City requires prior to issuance of grading or building permits; that their geologists recommend that much more extensive work be done in compliance with the City ordinances and that they pledge full cooperation of their consultants with the homeowners and City staff.

The Mayor then called for the QUESTION WHICH CARRIED UNANIMOUSLY.

Joel Varne, insurance representative, reviewed the different types of insurance available to cover earthquakes, land and earth movement; that most insurance is written on an occurrence and not for pending danger; do not insure land only improvements on it. He suggested anyone interested contact their insurance agent who can supply the necessary information.

PUBLIC HEARINGS

Subject 57 (117) - General Plan Amendment No. 50 and Zone Amendment
83-03 - Zagwolski - 512-514 Ave. de la Estrella.

IN RE: Public hearing to consider General Plan Amendment No. 50 and Zone Amendment 83-03, being the request of John Zagwolski under Section 9.2 of the San Clemente Zoning Ordinance to allow a General Plan Amendment and Zone Change from R-3 Medium High Residential to C-A (Highway Commercial) or C-2 (General Commercial), located at 512-514 Ave. de la Estrella; legal description being Lots 25 & 26, Block 1, Tract 793.

The Mayor opened the public hearing and there being no one wishing to be heard it was closed. IT WAS MOVED BY MAYOR DIEHL, SECONDED BY COUNCILMAN CARR that the existing zone be changed from R-3 to C-A.

During discussion, it was noted the C-A zone has more restrictions and would require a use permit and give the City more control as to the use of the property. Councilman Mecham expressed reasons why he did not like the C-A zone. Councilman Limberg questioned whether a zone change is even necessary. In response to query, Staff advised that no site or development plans for the property have been received. The applicant noted he had applied for C-2 and that Staff had recommended the C-A zone and that he plans to develop some kind of office building.

A SUBSTITUTE MOTION WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN CARR to concur with the Planning Commission's recommendation that the zoning be changed from R-3 to C-2.

Following further discussion and request for a clarification of the differences which exist between the existing R-3 zone and the C-A and C-2 zones, A FURTHER SUBSTITUTE MOTION WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR DIEHL, AND UNANIMOUSLY CARRIED to continue the public hearing to the meeting of 2-1-84.

Subject 105 - Resolution No. 9-84 Conditionally Approving Tentative
Parcel Map 83-839 (San Clemente Medical Plaza Phase 4).

IN RE: Public hearing to consider Tentative Parcel Map No. 83-839, being the request of San Clemente Medical Plaza Phase 4 to subdivide an existing commercial lot in order to create two lots for a 19-suite Medical Center. The lot area is 1.1143 acres in the C-2 General Commercial Zone; legal description being Lot 11, Tract 5951.

The Mayor opened the public hearing, and applicant Frank Thompson displayed a rendering of the project; advised that a building permit was issued on the subject property 6-24-83; that the purpose is not to overbuild the area; and that they are holding off building until the project can be sold for commercial condominiums. He then requested that condition #3 be changed to read: "applicant will cooperate with City and contribute pro rata cost of signal light when constructed."

The public hearing was closed and the City Engineer advised that the amount of deposit mentioned in condition #3 would be \$7,000. Following expression of objections to paying that amount, Mr. Thompson accepted the condition, noting that he didn't have much choice.

Upon motion of Councilman Limberg, seconded by Councilman Mecham, and unanimously carried, RESOLUTION NO. 9-84, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CONDITIONALLY APPROVING TENTATIVE PARCEL MAP 83-839, was regularly introduced, passed, and adopted.

CONSENT CALENDAR

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

City Council Minutes

Minutes of 12-21-83 and 1-4-84. -- Approved as presented, and reading in full thereof waived.

Planning Commission Minutes

Minutes of 1-3-84. -- Received and filed.

Traffic & Parking Commission Minutes

Minutes of 1-5-84. -- Received and filed.

Design Review Committee Minutes

Minutes of 1-3-84. -- Received and filed.

Parks & Recreation Commission Minutes

Minutes of 12-13-83. -- Received and filed.

Golf Course Committee Minutes

Minutes of 12-12-83. -- Received and filed.

Cultural Heritage Board Minutes

Minutes of 1-10-84. -- Received and filed.

Departmental Activities Report

Departmental Activities Report for month of December, 1983. -- Received and filed.

Subject: 105 - Tentative Parcel Map 83-840 - 120 Via Mimosa.

IN RE: Communication from Planning Commission recommending approval of Tentative Parcel Map 83-840, being the request of P. Bart Abrate to subdivide an existing single family lot in order to create three lots for single family dwelling units. The lot is 1.978 acres in area in the open space (O-S) District located at 120 Via Mimosa; legal description being Lot 13, Tract 8191. -- Set for public hearing 2-1-84.

Subject: ⁵⁵(113) - Amendment to Utilities Agreement No. 7UT-5211, Water Line Relocation Work for Freeway Construction.

IN RE: Report from Community Development Director and City Manager requesting approval of Amendment to Utilities Agreement No. 7UT-5211 relating to relocation of certain water lines in connection with widening Interstate 5 through San Clemente. -- Approved amendment and authorized execution by Mayor and City Clerk.

Subject: 100 - 9th Year CDBG Contracts (Alley Reconstruction and Project Development).

IN RE: Report from Community Development Director and City Manager requesting approval of the final portion of the 9th year (1983-84) Community Development Block Grant allocation for alley reconstruction and project development. -- Approved contracts and authorized execution by Mayor and City Clerk. Councilman Carr voted "NO."

Subject: 105 - Resolution No. 10-84 re Acceptance of Work - Tract 8575 - G C Properties, Inc.

IN RE: Report from Community Development Director and City Manager advising that G C Properties, Inc. has offered the public improvements in Tract 8575 for acceptance and requested release of security (letter of credit) as provided by law.

Introduced, passed, and adopted RESOLUTION NO. 10-84, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ACCEPTING FROM G C PROPERTIES, INC., ALL WORKS OF IMPROVEMENT FOR TRACT NO. 8575 AND PROVIDING FOR RELEASE OF IMPROVEMENT SECURITY AS PROVIDED BY LAW.

Subject: 77 - San Gorgonio Park Phase II.

IN RE: Further Consideration of Phase II development of San Gorgonio Park. -- Continued to meeting of 2-1-84 for further consideration by Staff.

PAYING OF THE BILLS

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN CARR, AND UNANIMOUSLY CARRIED that Warrants No. 24145 through No. 24169, and No. 8937 through No. 9133 be paid.

Total demands approved for payment for period ending January 17, 1984	\$620,885.26
Ratification of Payroll Warrant No. 24155 for period December 19, 1983 through January 1, 1984	<u>\$158,859.35</u>
TOTAL WARRANT REGISTER	<u>\$779,744.61</u>

UNFINISHED BUSINESS

Subject: 20 - Abatement Proceedings at 2809 South El Camino Real.

IN RE: Further consideration of implementing abatement of public nuisance at 2809 South El Camino Real as authorized by Resolution No. 112-83 adopted August 3, 1983.

Staff advised that the applicant's plans were reviewed by the Design Review Committee today; that they recommended certain changes to the interior of the building and landscaping; that building permits have been issued and all fees have been paid; and that construction can take place.

IT WAS THEN MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN CARR that the abatement proceedings be dropped on this property.

Following a suggested alternative by the City Attorney, A SUBSTITUTE MOTION WAS MOVED BY COUNCILMAN CARR, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that the abatement proceedings at 2809 South El Camino Real be continued to the meeting of 2-15-84.

Gary Mamian noted that construction could not begin immediately as there was an approximate 90-day waiting period before the construction loan can be granted.

Subject 106 - Recreational Vehicles, Campers, Trailers, and Boat Parking.

IN RE: Further consideration of report from Police Chief and City Manager relating to on-street and off-street parking of recreational vehicles in residential areas.

Discussion is summarized as follows: Councilman Carr stated he felt the five hours was insufficient time for RV owners and that a 12-hour time limit strictly for loading or unloading in front of the RV owner's home would be reasonable.

The City Manager noted that the Police Chief had recommended remaining with the five-hour limit as increasing the time limit would make it more difficult for officers trying to enforce the parking limitations--particularly if the time limit went beyond an officer's eight-hour work shift.

Lorraine Anderson and Rick Cortez expressed comments as to the need for several hours of street parking for loading, unloading, or cleaning a recreational vehicle.

IT WAS MOVED BY COUNCILMAN CARR, SECONDED BY MAYOR DIEHL, AND UNANIMOUSLY CARRIED that the City Attorney draft an amendment to Section 15-2 of the Municipal Code to provide for a 12-hour time limit for loading or unloading.

IT WAS THEN MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG to maintain the current off-street parking requirements as outlined in the zoning ordinance, and set forth a grace period of six months to allow time for the citizens of San Clemente to locate proper parking for their recreational vehicles, boats, and trailers.

Councilman Mecham also requested that a Staff report be submitted on the procedure that the City recommends for carrying out the enforcement of off-street parking of RV's, boats, and trailers.

Brian Pepper suggested that the City has more pressing problems to worry about than people parking an RV in their driveway; that his RV is hidden and harmless in his particular driveway, and to force him to store it elsewhere at expense infringes on his property rights and that he wants to go on record as being opposed to this code enforcement.

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

Subject: 40 - Purchase of Computer and Word Processing System.

IN RE: Further consideration of report from Finance Director and City Manager reporting on the proposals received for furnishing computer hardware, computer applications software, and word processing software.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR DIEHL, AND UNANIMOUSLY CARRIED to approve proposal as submitted in the Administrative Report dated 12-27-83, i.e., (1) accept the proposal of Microdata Corporation to furnish computer hardware and word processing software at a total cost not to exceed \$180,944, subject to City Manager's approval of contract terms and conditions to be negotiated; (2) accept the proposal of Creative Computer Solutions, Inc., to furnish all specified computer applications software at a total cost not to exceed \$80,000, subject to the City Manager's approval of contract terms and conditions to be negotiated; (3) approve supplemental appropriations within the enterprise funds as follows: Water Fund - Account #52-4331-540 - \$43,070; Sewer Fund - Account #54-4341-540 - \$43,070; Golf Fund - Account #56-4556-540 - \$14,480; (4) approve an appropriation transfer from the General Fund Contingency Reserve to a new Account #01-4124-540, Office Furniture and Equipment in the amount of \$40,000; and (5) appropriate \$100,000 from the annexation fee reserve of the General Fund to Account #01-4124-540, Office Furniture and Equipment.

Subject: 52 - Purchase of Aerial Ladder Truck.

IN RE: Report from Fire Protection Director and City Manager requesting authority to purchase an aerial ladder truck to provide elevated stream and rescue capabilities.

Fire Protection Director Coleman responded to questions from Council following which IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR DIEHL, AND UNANIMOUSLY CARRIED to (1) approve purchase of aerial ladder truck and authorize supplemental appropriation of \$153,000 to Account #65-4821-560, Automotive Equipment, in the Fleet Maintenance Fund; and (2) declare units #443 and #444 to be surplus equipment and authorize the Fire Protection Director to sell these units when feasible.

Subject: 103 - Resolution No. 11-84 Authorizing Placement of the Transportation Investment Plan on the June 5, 1984 Ballot.

IN RE: Report from Community Development Director and City Manager requesting approval of proposed resolution which authorizes the placement of the Transportation Investment Plan on the June 5, 1984 ballot, approves the Transportation Investment Plan and agrees with the County that the matter should be placed before the voters of Orange County who will determine if they wish to approve a 1% sales tax to finance the plan.

During discussion, Al Holliden responded to Council questions.

Upon motion of Councilman Mecham, seconded by Mayor Diehl, and unanimously carried, RESOLUTION NO. 11-84, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE PLACEMENT OF THE TRANSPORTATION INVESTMENT PLAN ON THE JUNE 5, 1984 BALLOT, was regularly introduced, passed, and adopted.

WRITTEN COMMUNICATIONS (continued)

Subject: 99 - Request for Waiver of Banner Fee - Orange County Music Center Inc.

IN RE: Communication from Richard Rodgers Chapter, Orange County Performing Arts Center, requesting waiver of \$100 fee for overhead banner sign advertising a piano recital by Albert Lotto to be held on February 26, 1984 at 3:00 P.M. at the Community Center.

IT WAS MOVED BY COUNCILMAN CARR, SECONDED BY MAYOR DIEHL, AND UNANIMOUSLY CARRIED to deny the request.

Subject: 35 - Chamber of Commerce Proposal re "Visitor and Convention Bureau."

IN RE: Presentation by San Clemente Chamber of Commerce regarding forming a partnership with City to organize a "Visitor and Convention Bureau."

Joe Anderson screened for the City Council a slide presentation entitled "San Clemente -- the Meeting Place" outlining the way the Chamber of Commerce would plan to spend a first-year \$20,300 budget for the proposed visitor bureau. Plans include preparation of 10,000 professionally designed brochures to be mailed to corporations identified as being likely to find San Clemente convenient and pleasant as a place to hold corporate meetings; that if 10% respond 1,000 replies would be received, and if 10% decide to hold a meeting here San Clemente could expect to host 100 meetings with an average of 50 people at each meeting. The City could expect about \$5,000 in sales tax revenues and \$40,000 in overnight lodging tax revenues.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR DIEHL to approve the proposal for a trial period of two years contingent on the 2% bed tax increase remaining in effect and not being negated by Jarvis II, with the funds to be budgeted in the 1984-85 budget.

Councilman Limberg commented that it is gratifying to see the Chamber approach it in such a professional manner; Mayor Diehl hailed the visitor bureau as a landmark proposal for cooperation between the City and Chamber for the betterment of the community; Councilman Mecham observed it is a step toward improving the economic base of the City to support public services; and Councilman Carr stated he was glad to see the 2% increase in the bed tax going into the promotion program.

The Mayor then called for the QUESTION WHICH CARRIED UNANIMOUSLY.

URGENT MATTERS

Subject: 49 - Request for Change in Designation of Proposition "A".

IN RE: Request for change of designation for the initiative ballot measure.

Noting they did not want their initiative measure to be confused or associated with the previous Proposition "A", Joseph Barton requested that the proposition on the April 10, 1984, ballot be changed from "A" to some other letter such as "S" for sewers.

Following comments by the City Clerk, IT WAS MOVED BY MAYOR DIEHL, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to leave the ballot measure as designated as Proposition "A".

ITEMS FROM CITY MANAGER (continued)

The City Manager requested a Closed Session to discuss a personnel matter.

ITEMS FROM CITY ATTORNEY

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

ITEMS FROM COUNCIL MEMBERS

Subject: 63 - Nixon Library.

IN RE: Councilman Carr's referral to an article in the L.A. Times which indicates that at the present time it appears the National Archives may not be involved with the Nixon Library.

Inasmuch as there may not be involvement of the National Archives, Councilman Carr questioned if the action of this City so far in the agreement concerning the site could constitute a gift of public funds; and further that if the City Attorney concludes in his judgment such would not constitute a gift of public funds, but subsequently a higher court might determine otherwise, could this City Council be held criminally, civilly, or personally liable.

The City Attorney reviewed the matter at length, noting that the City Council has acted properly and such did not constitute a gift of public funds; that officials of the Nixon Presidential Library Foundation met with city officials two months ago to sign an agreement that neither the foundation nor the former president would be able to exclude the public from the library, limit access to materials, or exercise any editorial power to select only materials favorable to former President Nixon or someone's conception of what might be favorable to him. It was agreed that the library would be constructed as originally planned, that the materials in it would be identical to materials in such a federally maintained presidential library, and that the public would have the same rights and access to the materials; that the City has been assured by the foundation people that if the former president and his associates lose the lawsuit and the materials in dispute do become available, those materials will be available for the library to be built here; that this library will not contain anything less than that which is historically relevant to the Nixon years. The Nixon Foundation also agreed that five years after completion, the library would be turned over to the federal government to manage and maintain if they want it. National Archives officials have agreed with the Nixon staff that they are not going to move the Nixon library proposal through Congress for approval and funding until the lawsuits are resolved in regard to the public release of certain materials; that the city is in the process of setting up an escrow to convey the site donated by developer John Lusk within the next 60 days, and then the Nixon Foundation can get on with raising the money to build the library.

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Councilman Limberg referred to a dangerous driving condition after dark on Avenida Vaquero and requested that the City post the street noting that construction work is in progress and to proceed carefully.

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Mayor Diehl noted that Staff had made a recommendation that was not consistent with the recommendation of the Commission, and requested that in the future the City Staff inform the Commission members that they intend to make a different recommendation so the Commissioners can submit whatever comments they would like to the City Council regarding their recommendation.

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Mayor Diehl and Councilman Mecham commended the Marine Corps for their services of approximately 120 Marines of Bravo Company for public service projects in San Clemente during the second week of January, 1984, and noting that a luncheon was held to honor all the workers.

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Mayor Diehl referred to the fact that the Deputy City Attorney does not always receive the packet information in time for the Planning Commission meeting on Tuesday and requested Staff to expedite this material being forwarded.

Subject 39 - Joint Meeting with Commissions, Boards, and Committees.

IN RE: Joint Council meeting with Commissions, Boards, and Committees.

IT WAS MOVED BY MAYOR DIEHL, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that a joint meeting with Commissions, Boards, and Committees be held February 29, 1984 at 7:00 P.M. at a place to be determined (Ole Hanson Beach Club).

It was noted that one of the topics to be discussed will be the sewer treatment plant issue on the ballot.

RESOLUTIONS

For Resolution No. 9-84 see under "PUBLIC HEARINGS" on page 4,
For Resolution No. 10-84 see under "CONSENT CALENDAR" on page 5.
For Resolution No. 11-84 see under "UNFINISHED BUSINESS" on page 7.

MEETING ADJOURNED TO CLOSED SESSION

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

MEETING RECONVENED AND ITEM FROM CITY MANAGER

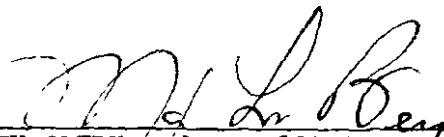
Subject 79 - Extension of Leave Without Pay for Fred Llamas.

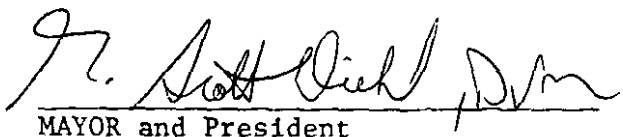
IN RE: Report from Personnel Officer and City Manager recommending a six-month continuation of "leave without pay" status to Golf Course Maintenance Worker Fred Llamas.

The Mayor announced after a closed session that a six-month continuation of "leave without pay" status for Golf Course Maintenance Worker Fred Llamas was granted.

ADJOURNMENT

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR DIEHL, AND UNANIMOUSLY CARRIED that the meeting be adjourned at 10:55 P.M.


CITY CLERK and ex-officio
Clerk of the City Council


MAYOR and President
of the City Council