

Regular meeting of the City Council of the City of San Clemente, California, Council Chambers, Civic Center Building, 100 Avenida Presidio, Wednesday, July 16, 1980, at 7:00 P.M., Mayor Karoline Koester presiding.

PLEDGE OF ALLEGIANCE AND INVOCATION

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Koester. Invocation was given by Councilman O'Keefe.

ROLL CALL

PRESENT: Council Members - LANE, LIMBERG, MECHAM, O'KEEFE, AND KOESTER
ABSENT: Council Members - NONE

Also Present: George A. Carvalho, City Manager; Max L. Berg, City Clerk; Michael J. Bartlett, City Attorney; Edward Putz, Public Works Director-City Engineer; and Lawrence J. Lawson, Building and Planning Director

PUBLIC HEARINGS

Subject: 99 - Proposed Revision to the Sign Ordinance.

IN RE: Public Hearing to consider proposed revision to the Sign Ordinance, being amendments to Chapter 28, Signs and Advertising, of the San Clemente Municipal Code, and adding abatement, compliance and enforcement procedures and penalty provisions for violations.

IN RE: Communication from Elsa Sauter in opposition to the ordinance, and communications from Mr. & Mrs. Edwin Meserve and Mr. & Mrs. W. T. McMurray in favor of the ordinance.

Staff reviewed the history and background of the Sign Ordinance and lengthy discussion and comments are summarized as follows: Dorothy Ludvigson, Chamber of Commerce President, requested the Council to postpone passage of the Ordinance and introduced Attorney Robert Bower, of Rutan and Tucker, who had been engaged to represent the merchants and the Chamber.

Mr. Bower reviewed the content of his letter dated 7-16-80 on the subject, noting that the business community realizes remedial action is necessary but feels that the sign ordinance revision as proposed will create more problems than it solves. Attorney Bower presented extensive comments and arguments against certain provisions of the Ordinance; suggested delay until additional input is received; noted that Senate Bill 462 which is awaiting the Governor's signature completely eliminates a local government's authority to require removal of non-conforming bill boards and signs under an amortization schedule, which will render a major portion of the proposed ordinance invalid. Other major points made by Attorney Bower were that in checking with Staff no environmental documentation has been prepared with regard to the proposed ordinance and that either an EIR or Negative Declaration should be prepared; and concluded by urging that the City delay action on the proposed sign ordinance revision until more input is received.

Councilman O'Keefe reviewed previous efforts to get a Sign Ordinance revision and similar requests for delay in the past. Councilman Mecham also questioned why protestants did not turn out at the Planning Commission hearings and other meetings on the question.

Boyd Ames, Jr., former ARB member, noted that when this sign ordinance was considered and formulated by that body no one from the community ever attended any of the meetings to provide their input in over an 18-month period; that it was felt there was a limited necessity for signs in excess of the present 25' height limitation; that many businesses voluntarily lowered or changed their signs; and that the question of amortization raised considerable problems. Mr. Ames then proceeded to outline a plan for a 10-year existing non-conformance compliance period, and gave examples of how such a program would work. Jay Durkin, businessman and former Traffic & Parking Commissioner, pointed out that many of the businessmen are unable to attend meetings due to operating their business; questioned what signs are objectionable, and noted the many businesses whose livelihood depends on signs which bring business into the City. Rich Richardson, local sign shop owner, noted that if the 10' height limit is passed all signs except one will be illegal; that overkill will not solve the problem; that he designs a sign to fit a business and often has recommended a smaller sign than what the owner has requested; and that the City should enforce the existing ordinance. Frank Nauretz noted that the City is unique, different, and cannot be compared with other cities; that the temporary closing of Pacific Coast Highway and freeway widening construction has already resulted in a crimp on local businesses; that with the installation of the freeway walls creating a tunnel thru the City pole signs are needed; that the present ordinance should be enforced and that too many variances have been allowed; and that much of the sales in the City come from tourists. Edward Beyer remarked that revision of the sign ordinance in his opinion is silly at this time since we have other problems such as bad streets which should be repaired; and that the present signs should be properly maintained and those that are not should be fined. Bob Keenan, Sign Users Council of California, suggested postponement of the hearing until a "blue ribbon" committee consisting of Planning, Chamber of Commerce, businessmen, and citizens could have an opportunity to study and review the proposed ordinance; noted that 40 to 60% of the retail sales are directly related to signs; that he would like to see an "economic impact" report indicating what it would cost the business community to replace signs; and noted that his company would be happy to serve as advisors in helping bring the sign ordinance into conformance with other cities but geared toward San Clemente. Britt Ford, businessman, stated he would not mind lowering his sign to 10' if he could get the City to pay for it and insure it, noting that his present 30' sign is constantly being damaged by thrown objects and fears what would happen to a 10' sign. Ron Scurloff, representing Denny's, noted that the reason signs on the freeway cannot be uniform in height is due to the road not being uniform; that their place of business would fall off 40-75% without their freeway sign.

Following Council comments, IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM to return the sign ordinance to the Planning Commission for further consideration; that they consider the comments made tonight and any further testimony offered in their public sessions; that the Ordinance be returned to the Council meeting of 9-3-80 for further consideration; that the City Attorney should be instructed to determine whether or not the ordinance would be severable without having specific language added to it stating that it is severable; that the standards for exception should meet the City Attorney's approval as to limiting any of the other items raised in the letter from Rutan and Tucker; that consideration should be given to extending the amortization schedule if the depreciated value of the sign exceeds a percent, such as 5% of the annual gross of the income of the business or 5% of the gross asset value of the business, whichever is the lesser; and further, there should be an exception from the amortization schedule for an existing sign that does not exceed the dimensional standards of the ordinance by more than 25%.

Councilman Limberg expressed some concern with an amortization schedule based upon economic value because of the bookkeeping effort as far as City Staff is concerned. Councilman O'Keefe then suggested that the amortization schedule could be set forth as it is, but an additional section could provide that if the business operator or owner approves, to the satisfaction of the City, that these exemption standards apply, it would then not be a burden to the City to do it, but the businessman could present his balance sheet, depreciated values, etc., and obtain his entitlement to the extra 1 year, 2 years or 3 years as the case may be.

The Mayor then called for the QUESTION WHICH CARRIED UNANIMOUSLY.

CONSENT CALENDAR

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

City Council Minutes

Minutes of 6-14-80 (emergency special) and 6-16-80 (special). -- Approved as presented and reading in full thereof waived.

Planning Commission Minutes

Minutes of 6-17-80 and 7-2-80. -- Received and filed.

Parks and Recreation Commission Minutes

Minutes of 6-24-80. -- Received and filed.

Zoning Administrator Minutes

Minutes of 7-8-80. -- Received and filed.

General Plan Review Committee Minutes

Minutes of 6-2-80, 6-9-80, and 6-23-80. -- Received and filed.

Subject: 42 - Claim for Damages Filed by Pacific Telephone & Telegraph Co.

IN RE: Claim for damages filed by Pacific Telephone & Telegraph Co. in the amount of \$173.39 when buried cable was severed by a grader during work operations by City personnel. -- Approved payment of claim in the amount of \$173.39.

Subject: 48 - Geological Hazard Abatement District.

IN RE: Report from Fire Protection Director and City Manager providing an updated informational report on the formation of a Geological Hazard Abatement District. -- Received and filed.

Design Review Committee Minutes

Minutes of 7-8-80. -- Received and filed.

Subject: 45 - Geological Services Agreement - Geofirm, Inc.

IN RE: Report from Public Works Director-City Engineer and City Manager recommending approval of an agreement with Geofirm, Inc. (Harry Lawrence, Engineering Geologist) for providing geological services to the City on a consulting basis. -- Approved agreement and authorized execution by Mayor and City Clerk.

Subject: 57 - General Plan Amendment No. 37 - Housing Element.

IN RE: Communication from Planning Commission recommending adoption of a new, revised Housing Element to the General Plan of the City of San Clemente as prepared by Urban Futures, Incorporated, revised by William C. Lawrence Company, and the City's General Plan Review Committee and Planning Commission. -- Set for public hearing on 8-20-80.

Subject: 113 - Transmission Main, Reservoir II-B.

IN RE: Report from Public Works Director-City Engineer and City Manager advising that in construction of the Transmission Main for Reservoir II-B extra work was required for the tie-in at the intersection of Calle Donatella and Guadalajara requiring additional quantity of excavation, labor and materials, and requesting approval of Change Order No. 2. -- Approved Change Order No. 2 for the extra work by the contractor, G.R. McKervey, Inc., in the amount of \$6,663.57.

Subject: 92 - Request for Sound Amplification Permit.

IN RE: Petition and application for Sound Amplification Permit from Gerri Ritchie and Marcia Willis, et al, for a block party on West Avenida Ramona Saturday, August 2 with the street blocked off, from 2:30 PM to 8:00 PM. -- Approved the request, subject to revocation in the event complaints are received from the neighborhood.

Subject: 79 - Additional Funding Request for the Retirement Program Consultant.

IN RE: Report from Assistant to the City Manager and City Manager advising that additional services are needed from Prien & Associates who are performing the actuarial study of the City's retirement plan and requesting approval of additional funds. -- Approved request and authorized transfer of \$1,500 from the City's Contingency Fund, Account #10-121-3500 to the Management Consultant Services Account #10-121-4610.

Subject: 52 - Lease Payment to San Diego Gas & Electric for Fire Station #2 Land Rental.

IN RE: Report from Fire Protection Director and City Manager recommending payment to San Diego Gas & Electric for the land rental of Fire Station #2 in the amount of \$817.74. -- Authorized payment to San Diego Gas & Electric in the amount of \$817.74, and authorized an additional appropriation of \$117.74 from Account #10-121-3500.

CONSENT CALENDAR (Items removed for separate action)

Subject: 63 - Claim of Dr. Bruce Ewing for Further Relocation Expenses in Connection with the Library Site Condemnation.

IN RE: Report from Finance Director and City Manager recommending payment to Dr. Bruce Ewing for a bill in the amount of \$448 for replacement of natural lighting and ventilation in connection with relocation expenses incurred due to City condemnation of certain property for a library site.

Staff responded to questions, following which, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR KOESTER, AND CARRIED to approve the additional payment of \$448 but that no payment be made to Dr. Ewing until he acknowledges in writing that this is the final payment and that he waives any further claim for relocation expenses. Councilman Limberg voted "NO".

Subject: 90 - Fire Department Computer Capability.

IN RE: Report from Fire Protection Director and City Manager requesting waiver of formal bid procedure for the purchase of Fire Department computer accessories in the amount of \$12,393.70 (budgeted at \$12,000) as an add-on feature to the Police Department's computer, saving costs in the purchase of the base memory assembly and the computer printer.

Staff responded to questions by Council, following which, IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to waive formal bid procedure pursuant to Municipal Code Section 5-6(h) and authorize purchase from Provincial Systems, Inc. in the amount of \$12,393.70, and transfer \$393.70 from Account #10-121-3500.

Subject: 90 - Replacement of Five Sedans as Authorized in the 1980-81 Budget.

IN RE: Report from Public Works Director-City Engineer and City Manager advising that as part of the adopted budget Council approved replacement of five sedans in various City Departments and requesting waiver of the formal bid process allowing an opportunity to take advantage of existing 1980 models and avoid the anticipated increases in price on the new model year cars.

Mayor Koester expressed concern about waiver of the formal bid procedure and Staff advised that considerable research was done and if the City went out to competitive bid we would have to pay substantially more for the cars and would eliminate the possibility of obtaining the 1980 models.

IT WAS THEN MOVED BY MAYOR KOESTER, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to waive formal bid procedure pursuant to Municipal Code Section 5-6(h) and accept the low quote from Hal Greene's Chevrolet for 5 Chevrolet Citations at \$7115.60 each, for a total of \$35,578.00.

Councilman Mecham noted that this purchase was from a local business firm and encouraged that this be done whenever possible.

Subject: 106 - Request for Crosswalk on Pacific Coast Highway at Palm Beach Trailer Park.

IN RE: Councilman O'Keefe's referral to the item in the Traffic and Parking Commission Minutes of 7-3-80 concerning denial of the request for a crosswalk on Pacific Coast Highway at Palm Beach Trailer Park.

Councilman O'Keefe noted that people are crossing at various locations, AND IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN MECHAM that a temporary crosswalk be installed at the Palm Beach Trailer Park while the work is being done at the Camino Capistrano intersection.

The City Manager advised that Staff has met with the residents of the Palm Beach Park to explore various options and alternatives, and reiterated the concerns of the Police Department in opposition to the reinstallation of the crosswalk as it was originally removed due to recurring pedestrain accidents/fatalities.

Following further discussion, the Mayor called for THE QUESTION WHICH FAILED TO CARRY with Councilmen Lane and Limberg, and Mayor Koester voting "NO".

The Traffic & Parking Commission minutes of 7-3-80 were received and filed.

PAYING OF THE BILLS

Subject: 51 - Approval of Warrants by Council.

IN RE: Finance Director's comment that the City's computer service had a breakdown and that the warrants were not ready for the Council; and that only a preliminary warrant register was available.

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND CARRIED that the Mayor be given authority to review, approve and sign the warrant registers when they have been completed and prepared for the period ending July 15, 1980. Councilman Lane was briefly absent from the rostrum when this matter was considered and voted upon.

IT WAS MOVED BY COUNCILMAN LANE, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED that Warrants No. 59260 and 59263 through No. 59282, and No. 2246 through No. 2550 be paid.

Total demands approved for payment for period ending July 15, 1960	\$ 593,909.60
Ratification of Payroll Warrant No. 59269 for period June 23, 1980 through July 6, 1980.	\$ 123,040.79
TOTAL WARRANT REGISTER	<u>\$ 716,950.39</u>

VERBAL COMMUNICATIONS

Subject: 105 - Meeting Concerning Development of Estrella Properties; and Questions of Specific Plan Requirements.

IN RE: Study session meeting with Estrella Properties representatives relating to development of tentative tracts.

Boyd Ames, Jr. requested that based on the study session held earlier today, the City Council instruct the City Attorney as to the City's desires so that the City Attorney, applicant, and applicant's representatives may meet and confer as to possible formulation of some areas of discussion that could be brought back at the meeting of 8-6-80 for Council consideration regarding matters of Tracts No. 10417, 10533, 10595 and 10596, and hopefully result in a proposal for a development agreement or something of that nature.

Major points of discussion were as follows: Mayor Koester noted that three Council members had met in the Study Session with Estrella Properties and Staff to discuss some valid concerns regarding the proposed development. Councilman Mecham noted that lack of conformance with the Hillside Grading Ordinance was one of the items discussed; that the developer was interested in their development moving forward and if granted some movement forward they would be willing to discuss with Council possible changes in their plans. Mr. Ames also commented that another issue discussed was whether, in fact, the City has the discretionary vs. ministerial capability to review tentative tract maps that have already been approved. Councilman Lane indicated that he didn't feel the Hillside Grading Ordinance had been adhered to as far as the spirit and intent of the Ordinance but there were legal ramifications, such as prior statements by Staff and other entities of the City that they complied with the Ordinance, and now to say that they don't comply raises the legal questions to be answered.

Councilman Limberg also pointed out that the final design of the storm drain system for the development has not been approved and reviewed other aspects of the meeting. Mr. Ames suggested that an approach to a meet and confer session would be to discuss the merits of the argument relative to discretionary vs. ministerial; the possibility of where certain agreements might be developed between the City and applicant; and if such agreements could be drawn, in what fashion would they come before the Council and the applicant for approval; and failing any of these particular efforts during the course of the meet and confer that Specific Plan No. 80-3 regarding Tentative Tract No. 10417 would still be on the 8-6-80 agenda.

Following further deliberation and comments by the Building and Planning Director regarding Specific Plan procedures relating to O-S zone and PRD standards, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED that Staff be directed to meet with the Estrella Properties representatives to discuss the issues as they were delineated in the meeting this morning as to whether or not agreement can be reached for moving ahead some developments; whether or not agreement can be reached for reconsideration for the balance of the property; and whether or not we can reach agreement or investigate the legality of the powers of the City Council at this point in terms of Specific Plans.

Councilman Mecham suggested that at least one Council member, at the discretion of the City Manager, be present at any meeting with the developers.

Upon question as to the Council's discretionary authority, the City Attorney noted that he planned to discuss this in Executive Session since there is a potential lawsuit involved.

Subject: 105 - Proposed Ridge Line Development on Reeves Ranch.

IN RE: Blythe Welton's expressed concerns regarding the ridge line development proposed on the Reeves Ranch.

Lengthy discussion ensued between Staff and Council with various questions posed by Mrs. Welton. Major discussion centered on the question of vested rights of the developer and the City's legal position related thereto.

It was requested that the City Attorney prepare a report on the question of vested rights with research and information on the ranch developments to be provided by Staff.

Subject: 24 - Petition Requesting Help in Ridding the Neighborhood of Ground Squirrels.

IN RE: Petition submitted by Mr. & Mrs. Gary Paulin containing 37 signatures requesting help of the City in ridding their neighborhood of ground squirrels, which are undermining bluffs and slopes and endangering homes.

Mrs. Paulin noted that it must be a concerted effort with the whole neighborhood being done at once because if individual traps or poison are used the squirrels will just move over to the neighbor's property; and stated that many of the residents are spending thousands of dollars to repair slope and erosion damage feeling that the rodents' tunnels have contributed to the instability of the slopes.

Following discussion IT WAS MOVED BY COUNCILMAN LANE, SECONDED BY MAYOR KOESTER that the City undertake whatever steps necessary to control the problem in a reasonable manner on City-owned property.

Following further discussion A SUBSTITUTE MOTION WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN MECHAM, AND CARRIED to authorize the City Attorney, if he finds it appropriate, to instruct interested community groups on how a Geological Hazard Abatement District might be formed for the purpose of controlling ground squirrels. Councilman Lane voted "NO".

Subject: 88 - Complaint re Sound and Tape Recording System.

IN RE: Complaint concerning sound and tape recording system.

A.L. Wulfeck registered a complaint concerning the sound quality of the tapes of Council meetings and stated he would be glad to purchase new equipment except that it would be a conflict of interest.

IT WAS THEN MOVED BY COUNCILMAN O'KEEFE, SECONDED BY MAYOR KOESTER, AND CARRIED to waive the conflict of interest and accept the offer.

A. L. Wulfeck objected to the fact that persons were allowed to speak under Verbal Communications on matters which were not of an urgent nature which is unfair to persons which have gone through all the procedures and have items scheduled on the agenda.

Michael Clayton, owner of the City Yard Restaurant, requested an opportunity to explain his position and set the record straight as to the complaint the City has received from Donald Bramlette concerning noise. It was suggested that he submit his comments in writing. It was noted that Staff is processing the application for a zoning amendment to allow "bars, cocktail lounges, or restaurants, including dancing and entertainment" in the C-1 (Central Commercial) District subject to a use permit.

M. J. "Mike" Nielsen reviewed his work history and how he has been able to save money in the various cities where he has worked and outlined certain proposals that he assured would save the taxpayers money in the City of San Clemente and also improve the City.

Boyd Ames requested consideration of the \$2,000 set aside for the Ocean Festival, and the City Manager advised he should proceed as in the past and handle the request at Staff level.

UNFINISHED BUSINESS

Subject: 112 - Use Permit No. 80-19 - H & H Land Development Corp.

IN RE: Consideration of Use Permit 80-19 being the request of H & H Land Development Corporation to permit the use of 1.920 acres of R-2 (Duplex Residential) District property to be developed into 18 condominium units with the landscaping and private road located at 120 Del Gado Road, called up for review by the Council.

Main points of discussion are as follows: Councilman O'Keefe questioned whether this project was the maximum density allowable within the area; noted that Del Gado Road was being heavily overdeveloped with maximum density; and expressed concern about the additional traffic on the smaller City streets. The Zoning Administrator reviewed the history of the project and a previous use permit approval which has expired, and confirmed that the project was proposed at the maximum density allowable.

Brian Berkhausen representing the applicant, suggested Councilman O'Keefe should be abstaining on the issue due to the fact that his personal residence lies in close proximity to the project. The City Attorney reviewed in general, conflict of interest guidelines and FPPC requirements but indicated if a written opinion were required he would research the matter and report back at the next meeting.

IT WAS THEN MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to continue the matter to the meeting of 8-6-80 so that the City Attorney can submit a written opinion on the question of conflict of interest.

Subject: 112 - Review of Use Permit No. 80-21.

IN RE: Consideration of Use Permit 80-21 being the request of Ricky Matsumoto and Irene Sugaro to permit the joint use of parking facilities with the San Clemente Presbyterian Church at 119 Ave. de la Estrella in conjunction with a restaurant operation at 425 N. El Camino Real, called up for review by Council.

Councilman Lane noted that the parking spaces are proposed to be on Lot 20 which belongs to the church and if the church parking facility is expanded the seven parking spaces should be relocated to the area closest to the premises of the restaurant and not be limited to Lot 20, Tract No. 898.

IT WAS THEN MOVED BY COUNCILMAN LANE, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to approve Use Permit 80-21 with the condition that the lease be modified to reflect that the seven parking spaces are not restricted to Lot 20, and if church property should be developed closer to the restaurant, that the parking be designated there.

Subject: 117 - Design Review Committee Application 80-38 (Medical Office/ Professional Building) at 675 Camino de los Mares.

IN RE: Report from Building and Planning Director and City Manager relating to design of Medical Office/Professional Building at 675 Camino de los Mares as questioned by Council member at 7-2-80 meeting.

IT WAS MOVED BY COUNCILMAN LANE, SECONDED BY COUNCILMAN O'KEEFE to concur with Design Review Committee approval, subject to use of the color and material samples submitted.

Councilman Mecham stated he questioned whether the architectural style was appropriate for the area; and whether the City should adhere to authentic, Spanish-style architecture in keeping with earlier structures in the City.

Following discussion the MAYOR CALLED FOR THE QUESTION WHICH CARRIED with Councilman Mecham voting "NO".

Subject: 105 - Tentative Tract No. 11011 (Cyprus West).

IN RE: Further consideration of communication from Planning Commission recommending approval of Tentative Tract No. 11011, being the request of Cyprus West to create 49 R-1-B-1 lots at the southwest corner of Avenida del Presidente and Avenida de las Palmeras, said approval subject to condition Nos. 1, 3, 4, 6, and 7 of the Subdivision Committee and that condition #3 be modified.

IN RE: Further communication from Planning Commission relating to Tentative Tract No. 11011 and recommending a sixth condition concerning the application of park fees to the tract.

By motion of the Council, the City Attorney's memorandum dated July 15 concerning Elmore Ranch park fees which was listed later on the agenda under City Attorney items was brought forward for discussion at the same time. A.L. Wulfeck objected, noting that there were two separate owners; that approval of Tentative Tract No. 11011 was a separate issue from the Elmore Ranch park fee issue; that he had requested and received indication from Staff that the park fee question would be continued until their attorney could be present; that this tract meets all standards and City codes, and there is no basis for denial of this tentative tract map.

The City Attorney questioned whether Mr. Wulfeck agreed to the conditions on the tentative tract and he stated he agreed to the original conditions set by the Planning Commission; that they will pay the park fees now but if Ordinance No. 718 is found to be unlawful they will expect reimbursement.

Following lengthy discussion as to what conditions Mr. Wulfeck could or would agree to, IT WAS MOVED BY MAYOR KOESTER to amend condition #6 to reflect that the park fees as approved on 6-18-80 shall apply, and ask Mr. Wulfeck if he is in agreement to all other conditions. THE MOTION DIED FOR LACK OF SECOND.

Following further discussion, the City Manager suggested that the Council amend the condition to reflect the recently approved park fee; and then ask the applicant if all conditions including the amended condition are acceptable, and if not acceptable it would seem the Council has no alternative but to deny approval of the Tract.

Councilman O'Keefe expressed concern about Mr. Wulfeck not having the availability of legal counsel; that we have urged Mr. Wulfeck to get legal counsel, and if he wants the City Council to go ahead and take action on the tentative tract without his counsel present, he ought to presume that the action could very well jeopardize his rights to protest the park fee ordinance with respect to Tract No. 11011 and might very well affect his rights to protest the park fee Ordinance with respect to other tracts that he has been involved with; and to go ahead without an extension to allow him to have counsel he may be waiving rights with respect to all tracts.

Mayor Koester requested Staff to read the conditions that were attached to the tract map following which Mr. Wulfeck agreed to a 3-week extension under protest, and noted that Staff has had documents pertaining to the tentative tract since February 2.

IT WAS THEN MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND CARRIED to continue the matter to the meeting of 8-6-80. Councilman Lane "ABSTAINED".

WRITTEN COMMUNICATIONS

Subject: 105 - Rolled Curbs - Tract No. 10225 (Cyprus West).

IN RE: Communication from A.L. Wulfeck requesting they be allowed to install rolled curbs in lieu of full height curbs in Tract No. 10225.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG to deny the request.

A.L. Wulfeck noted that the rolled curbs make sense in this program noting that the individual lot will be sold for custom homes and that they will not know the location of the driveways at this time; that the streets are private and the development is low in density with the area flat and the sidewalk is adjacent to the curb. Staff advised that one of the conditions of approval of the tract was that all streets will conform to City standards.

A SUBSTITUTE MOTION WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN LIMBERG, AND CARRIED to approve the request for rolled curbs in Tract No. 10225. Mayor Koester voted "NO".

COMMUNICATIONS FROM COMMISSIONS, BOARDS, AND COMMITTEES

Subject: 105 - Tentative Tract No. 10478 (H & H Land Development Corp.).

IN RE: Communication from Planning Commission recommending approval of Tentative Tract No. 10478, being the request of H & H Land Development Corp. to create three R-2 (duplex-residential) lots at 12 Del Gado Road; legal description being a portion of Lots 70, 71, 72 and 73 of Tract No. 1127, said approval subject to 12 conditions of the Subdivision Committee.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN LANE, AND UNANIMOUSLY CARRIED to continue the matter to the meeting of 8-6-80.

Subject: 77 - Waiver of Rental Fees by the South Coast Medical Center.

IN RE: Communication from Parks and Recreation Commission recommending approval to grant free use of a room at the Community Center for presentation of a free alcohol and drug abuse program to the public on a bi-weekly basis for six weeks by the South Coast Medical Center Care Unit.

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM to concur with the Parks and Recreation Commission's recommendation.

Councilman Lane stated he had calls from people objecting to this type of program feeling this should be done on hospital grounds and Staff advised that the program was "informational" only.

The Mayor then called FOR THE QUESTION WHICH CARRIED UNANIMOUSLY.

Subject: 77 - Appointment of Commissioner Hedborg to Attend State Parks Commission Meetings.

IN RE: Communication from Parks and Recreation Commission advising of the appointment of Commissioner Hedborg to serve as a representative to attend State Parks Commission meetings.

IT WAS MOVED BY COUNCILMAN LANE, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to concur with the Parks and Recreation Commission's recommendation.

ITEMS FROM CITY MANAGER

The City Manager requested an Executive Session to discuss a personnel matter.

Subject: 96 - Need for Additional Funds for Unexpected Alteration to Outfall Line to SERRA.

IN RE: Alteration to outfall line to SERRA due to unexpected utility lines.

The City Manager reported that in building the outfall line to SERRA the contractor has run into unexpected utility lines that did not show up on engineering maps. Staff and Gail Lynch of Carollo Engineers noted that the gas and utility companies reviewed the plans for the pipeline before construction got underway; however, the utility lines to the Dana Point area date back many years; that it will be necessary to reroute the outfall line and that the contractor wants to charge \$180,000 for the change order while the City and its engineer estimate the alteration work to be about \$45,000. He also noted that the costs would be eligible for grant funding.

Following discussion, IT WAS MOVED BY COUNCILMAN LANE, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that the necessary alterations be done by force account on a time and materials basis itemizing the costs.

Subject: 44 - Hold Harmless Agreement Relating to Use of State Land as a Firing Area Adjacent to Skeet and Trap Range.

IN RE: City Manager's report as to the need for a Hold Harmless Agreement to indemnify the State for any and all liabilities or damage incurred as a result of the use of State land for firing range purposes adjacent to the Skeet and Trap Range.

Following discussion, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to send a letter confirming that the City will comply with all requests in order to use the State land as a firing area for the Skeet and Trap Range and authorize Mayor and City Clerk to execute a hold harmless agreement.

Councilman O'Keefe commented that when you enter into such an indemnity agreement you undertake a contractual liability and suggested we might need a rider on our insurance policy.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY MAYOR KOESTER, AND UNANIMOUSLY CARRIED to instruct Staff to confirm the need with our carrier both as to this matter and possibly general contractual liability coverage to make sure we are covered.

Councilman Lane suggested the State be named as an additional insured on the policy and Councilman O'Keefe agreed such could be an alternative. Staff noted that the City is self-insured for the first \$100,000.

Subject: 77 - San Gorgonio Ball Fields.

IN RE: Report from Director of Golf and Parks and City Manager reporting on the current plans and specifications for the ball fields at San Gorgonio Park and recommending certain safety changes be made.

Following a detailed description of the suggested changes by Recreation Coordinator Kelly Doyle, IT WAS MOVED BY COUNCILMAN LANE, SECONDED BY COUNCILMAN MECHAM, AND CARRIED to approve changing baseball diamond infield to red brick dust rather than grass; moving softball diamond back 25' rather than original 50'; softball diamond to have 8 foot high outfield fence erected in front of field lighting approximately 255' from home plate; and installation of back stop on softball diamond, similar to the Patterson-Williams Model #1216, 20' high, 20' deep, and a 62' front opening; all at a total cost of \$18,525; and that the funds be taken from the unappropriated reserve of the Parks Acquisition and Development Fund. Councilman O'Keefe voted "NO".

Subject: 62 - Report on SB 462 and SB 467.

IN RE: City Manager's report on SB 462 relating to billboards and SB 467 relating to local public employer-employee relations.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LANE, AND UNANIMOUSLY CARRIED to authorize the Mayor to send a communication to the Governor urging his veto of SB 462 which will be exceedingly expensive to local government.

It was noted that SB 467 does not resolve the issue of clearly defining supervisory employees and excluding them from the bargaining unit; and that to exclude peace officers from the bill will make more cumbersome a process that needs to be streamlined.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN LIMBERG, AND CARRIED to authorize the Mayor to send a letter to the Committee Members of the Assembly Ways and Means Committee expressing opposition to SB 467. Councilman Mecham voted "NO".

The City Manager advised that Wil Clark has requested that he remind City officials and employees of the dinner scheduled for July 26th prior to the performance of "The Cross and The Arrow".

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED that the Council set a study session for July 30 at 7:00 P.M. in the Ole Hanson Room of the Community Center.

212

ITEMS FROM CITY ATTORNEY

Subject: 105 - Request for Services of a Bankruptcy Attorney re Tract No. 8575.

IN RE: City Attorney's report on the services of a bankruptcy attorney.

The City Attorney advised that in connection with the Linda Mar Estates bankruptcy suit, he had contacted Robert Fisher, who is a bankruptcy attorney and who has agreed to represent the City in this matter, and that his fee is \$125.00 per hour.

Following discussion as to procedure IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND CARRIED to proceed with the scheduled public hearing for Linda Mar Estates, Tract No. 8575, on August 6. Councilman Lane "ABSTAINED".

Subject: 105 - Elmore Ranch Park Fees.

IN RE: Report from City Attorney regarding park fees for Elmore Ranch developments.

This matter having been discussed during consideration of Tentative Tract No. 11011, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND CARRIED to continue the matter to 8-6-80. Councilman Lane "ABSTAINED".

Subject: 35 - Proposed Business Improvement Area.

IN RE: Rescheduling of public hearing on proposed Business Promotion District.

The Clerk advised of a request by Chamber of Commerce officials for rescheduling the public hearing due to certain key persons not being present, and IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR KOESTER, AND CARRIED that the public hearing set for 8-6-80 to consider the formation of a business improvement area to be known as "Business Improvement Area A of the City of San Clemente" be rescheduled to 8-20-80. Councilman Lane voted "NO".

NEW BUSINESS

Subject: 96 - Main Wastewater Pump Station - Design & Siting Study Costs.

IN RE: Report from Public Works Director-City Engineer and City Manager advising that extra work was required above the contract for design and siting study for the Main Wastewater Pump Station, and requesting approval of additional costs in the amount of \$7,517.00.

Mayor Koester noted that she found no account number as mentioned in the memorandum; that the figures are different than what she found on the expense sheets for the last fiscal year; and that the work has already been performed and the Council is now expected to approve it after the fact.

Following Staff response to questions by Council, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LANE, AND UNANIMOUSLY CARRIED to approve additional design costs in the amount of \$7,517.00 to Alderman, Swift & Lewis, consulting engineer, said cost to be paid from existing project funds, Account #72-476-7720-590.

Subject: 77 - San Gorgonio Park Electrical Needs.

IN RE: Report from Director of Parks and Golf and City Manager advising of the need for installation of a three phase electrical system at a cost of \$3,500 to meet San Gorgonio's electrical needs, i.e., pathway lighting, irrigation system, baseball and soccer lighting, and recommending approval of agreement with San Diego Gas & Electric.

IT WAS MOVED BY COUNCILMAN LANE, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to approve the agreement and authorize execution by the Mayor and City Clerk, and authorize allocation of \$3,500 from Parks Acquisition and Development Funds to Account #66-782-7300.

Subject: 51 - Fleet Management Information and Control.

IN RE: Report from Finance Director and City Manager advising that due to lack of Staff and data processing capability, the City's record keeping system for the fleet does not provide for scheduled preventative maintenance nor does it allow to calculate accurately when it is more economical to replace a vehicle than to keep repairing it; and recommending a contract with Mainstem to provide fleet management information and control.

Following questions concerning funding and accounts IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to approve the contract and authorize execution by the Mayor and City Clerk; and allocate \$10,500 to the project from the Contingency Reserve.

Subject: 74 - Ordinance No. 785 Amending Municipal Code Relating to Parking Permits.

IN RE: Report from Marine Safety & Recreation Director and City Manager recommending amendment of Municipal Code changing the existing parking permit fee from \$10.00 for residents and non-residents to \$20.00 for residents and \$30.00 for non-residents; and providing that holders of said permits may park on any City-owned parking lots.

IN RE: Communication from Traffic and Parking Commission concurring with the proposed update of the annual parking permit fees and recommending that this matter be restudied in May 1981 for possible amendments/updating at that time.

Upon motion of Councilman Mecham, seconded by Councilman Lane, and unanimously carried, ORDINANCE NO. 785 BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SUBSECTION (Q) OF SECTION 15-2 OF THE CODE OF THE CITY OF SAN CLEMENTE RELATING TO PARKING PERMITS, was regularly introduced, the reading in full thereof unanimously waived, and duly passed, and adopted as an urgency ordinance.

ORDINANCES

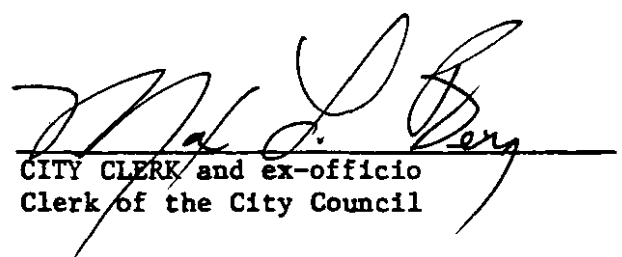
For Ordinance No. 785 see above.

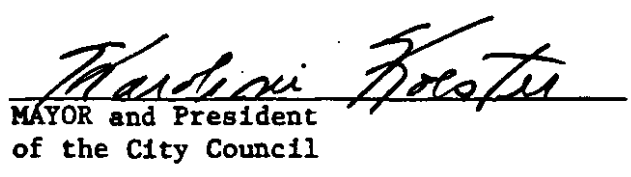
ADJOURNMENT TO EXECUSIVE SESSION

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to adjourn at 12:45 A.M., Thursday, July 17 to an Executive Session.

MEETING RECONVENED AND ADJOURNMENT

The Mayor reconvened the meeting at 1:10 A.M. AND IT WAS MOVED BY MAYOR KOESTER, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that the Council meeting be adjourned at 1:10 A.M.


CITY CLERK and ex-officio
Clerk of the City Council


MAYOR and President
of the City Council