

San Clemente, California
August 12, 1980

Adjourned meeting of the City Council of the City of San Clemente, California, Council Chambers, Civic Center Building, 100 Avenida Presidio, Tuesday, August 12, 1980, at 7:00 P.M., Mayor Karoline Koester presiding.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Koester.

ROLL CALL

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

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

CONSENT CALENDAR (Items removed for separate action)

Subject: 77 - Clarification of North Beach Clubhouse Contingency Fund.

IN RE: Mayor Koester referred to the Council Minutes of 6-18-80 and requested clarification of the discrepancy in the contingency fund balance of \$5,011 for the renovation of the North Beach Clubhouse and Pool.

Staff advised that as a result of including the competitive pool alternate of \$3,800 there remained only \$1,280 in the contingency fund, AND IT WAS THEN MOVED BY MAYOR KOESTER, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to receive and file the minutes of 6-18-80.

Subject: 68 - Cooperation Agreement with the Orange County Housing Authority Pertaining to Future low-rent Housing Projects.

IN RE: Report from Building and Planning Director and City Manager regarding proposed agreement with OCHA pertaining to low-rent housing projects.

Doug Meyer advised that the cooperative agreement with the Orange County Housing Authority would enable the City and the Authority to work together in developing affordable housing for San Clemente; that the Authority is not a State agency but closely tied with HUD which handled all housing funds for obtaining additional grant monies; and being able to approach the Federal Government for low interest loans to construct the affordable housing projects.

The City Manager advised that the implication to the City is that we are currently being sued for not providing low income housing and this cooperative agreement would strengthen our position in this suit; that the City is not technically or legally bound but merely provides a mechanism available to provide affordable housing of which there is a primary need for senior citizen housing and family type housing within the City, and further that no funding or assistance is requested at this time.

Staff responded to questions and IT WAS THEN MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN LANE to have Staff do a further study and report back on 9-3-80 with a recommendation as to whether the agreement would be helpful with a pending project.

Council comments and concerns are summarized as follows: That State and Federal Government grants have certain criteria for construction and administration; that the City should have a project before signing such an agreement; that the City should not relinquish authority to people outside the City by giving local decision making to some other body; that the agreement should be locally administered by Staff with the help of County staff as needed; that the agreement should be considered at such time as a specific project is being proposed to the City; and that it should be investigated as to what City services will be required and the automatic water and sewer fees clearly spelled out so that the present residents will be required to pay for these additional services.

Mary Erickson spoke in favor of the agreement noting that the City voted for Proposition Q; and that this agreement will provide 3 or 4 units spread out in the community instead of one large project.

Following further discussion A SUBSTITUTE MOTION WAS MADE BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED that the agreement be reconsidered at such time as a specific project is being proposed to the City.

The City Manager further advised that as part of the HCD Block grant program the City is entitled to have a certain percentage of that money to administer the program, and inquired that if such funds are available should the City take advantage of these funds and utilize Staff personnel to coordinate that program over the next few years.

IT WAS THEN MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN LANE, AND UNANIMOUSLY CARRIED to proceed along those lines; and report to Council with a specific proposal as to cost and personnel and what our obligations are and how they are to be met.

VERBAL COMMUNICATIONS

The Mayor called for verbal communications and there was none.

UNFINISHED BUSINESS

Subject: 105 - Review of Specific Plan No. 80-3 (Estrella Properties).

IN RE: Consideration of Specific Plan No. 80-3 for Tentative Tract No. 10417 (Estrella Properties) called up for review by Council and held over from the meeting of 7-2-80.

A 2-hour question and answer period is briefly summarized as follows: Boyd Ames, Jr., representing the applicant, stated he met with the City Attorney and Staff to discuss possible solution to the concerns of Council with respect to Estrella Properties; that Tract No. 10596 is in compliance with the hillside grading ordinance and requesting that this tract be allowed to proceed; and further to have a meeting with Staff and City Council members to determine just what mechanisms might be utilized to resolve some of the concerns. The main points and concerns discussed included as to where Estrella Properties stands as far as vested rights are concerned; whether the time clock has started on the approval of the final maps; whether the project conforms to the hillside grading ordinance; that even though a previous action ruled subjectively that the plans comply with the hillside grading ordinance they now show gross violations of City grading standards; that the developer advises he has acted in good faith on approved plans and wants to move ahead; that the applicant wished to submit a proposed agreement requesting permission to develop the first 1,200 homes and in return would halt processing the rest of the tract but would not agree to accept a substantial reduction in the number of homes to be built; that detailed contour maps and cross-section maps were submitted to the City, however, it was noted that this type of map will not show whether it is in accordance with the grading law; whether the previous ruling that the project was in conformance and the ability of a review of this decision by another Council is legal; that the applicant is required to continually refine its plans during the processing of plans and must bring refined versions to Council for approval and if something is amiss the City has the right to correct it; and that Staff prepare an enabling ordinance which would enable the City to enter into an agreement with the developers.

In reply to Mayor Koester's inquiry Staff advised that it recommended denial to the Planning Commission of Specific Plan No. 80-3 because the grading, as depicted on the tentative tract map and cross sections does not comply with the intent of the City's hillside grading ordinance because the extent of the grading proposed will consist of major alterations to natural features in the area and an extensive amount of successive padding and terracing would be necessary.

Dennis Mackie, attorney representing Estrella Properties, concurred that a study session should be held to deal with the project, and requested that they be allowed to proceed with the immediate development of the area that does not involve hillside grading--namely the flat areas; that they will work with Staff as to a possible development agreement including engineering and geological aspects of the project.

Following further discussion, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED that this discussion be put off until such time as Staff and Council have had a chance to meet and discuss the possibility of a development agreement.

It was further noted that not more than two Council members would attend the meeting which was set for Sept. 3; and a request was made that Staff review the tract maps that were submitted last January.

Subject: 105 - Payment of Annexation Fees Relating to Annexation 26.

IN RE: Report from Building and Planning Director and City Manager reviewing the City annexation procedures as they relate to Annexation 26, Forster Ranch (Estrella Properties).

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to advise the owners of the Forster Ranch property that the appropriate annexation fee as determined by the Finance Director is due and payable immediately.

Subject: 106 - Noise and Traffic Problems on East San Pablo and East San Gabriel.

IN RE: Report from Public Works Director-City Engineer and City Manager concerning the communication and petitions from Wil Clark, et al, as to the noise and traffic problems on and near East San Pablo and East San Gabriel; advising that Staff has reviewed all alternatives, including the requested moratorium; and recommending solicitation of proposals from traffic engineers to study and make recommendations on the matter.

IN RE: Petition containing 111 signatures from residents in the area requesting serious consideration be given to a moratorium on further development in this area, including the back country, unless and until another means of ingress and egress is provided.

IN RE: The following communications were noted opposing any building moratorium: Petition containing 75 signatures from property owners in Presidential Heights and Mariners Point; communications from Byron Marshall, Nilo G. Arnaiz, Wanda K. Lee, South Orange County Board of Realtors, Ruben & Mildred Holm, the Regal Group, Inc. and John C. Douglass, Jr.

Staff advised that the problem goes back to 1973 and that growth has compounded the problem; that many alternatives and solutions have been reviewed but that they have all been rejected for one reason or another; and further, that widening of San Gabriel and San Pablo had been considered.

The City Manager advised that he met with the Olson-Anderson group and that they have volunteered to refrain from taking out building permits for a period of 90 days in order to complete the study.

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The main points of discussion were: That building permits phased over a period of time would reduce construction pace and also the traffic problem; that the construction trucks have added to the problem but there are numerous trips by passenger cars; that the noise and fumes are extremely bad; need concrete action on securing another access road; that the extension of Avenida Salvador has relieved the problem somewhat; that the City has a responsibility to the developers as well as to the residents on the impacted streets; look into possibility of road near Camp Pendleton that is on State property which might be opened and used.

Following lengthy discussion and question and answer period, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to solicit proposals from traffic engineers to study and make recommendations concerning the solution of the traffic problems on East San Pablo and East San Gabriel; and further to expedite the results of the study within 60 to 90 days.

WRITTEN COMMUNICATIONS

Subject: 67 - Auction Sales.

IN RE: Communication from Eva Riley requesting that the auction sales ordinance be taken off the table and placed on the next agenda for further consideration.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED that this item be taken off the table and placed on the 10-1-80 Council agenda.

Subject: 48 - Erosion of Properties in Vicinity of Estrella Golf Course.

IN RE: Communication from Jack Thompson, et al, requesting resolution of certain problems concerning erosion of properties bordering the Estrella Golf Course.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG to refer to Public Works Director to contact the appropriate parties, i.e., Estrella Golf Course, Shorecliffs Mobile Country Estates, Estrella Properties, and the owners of Tract No. 8575 to further promote or accelerate corrective actions as necessary on each of their private properties to alleviate any contributing conditions.

Jack Thompson, representing the concerned property owners, reviewed the storms of '78 and '80 and expressed concern that the same thing will happen again, that the repair work needed includes repair of the damaged drainage culvert that runs beneath Calle Nuevo; enlargement of street catch basins along Los Mares; repair of severe erosion along the 12th fairway of Estrella Golf Course; and halting of a mudflow problem that flows onto Los Mares from a canyon located across the street from the affected homes.

The City Manager advised that since the flood this year, the City has spent \$50,000 to try to bring the area to a flood free situation and \$20,000 was used to wash down the streets; that after the flood an attempt was made to start flood prevention work, including engineering work, but much entails the cooperation of various property owners, and that he had recently met with Anderson-Olson, the potential owners of Tract 8575, in regard to the problem.

Jack Levine reiterated the comments of Mr. Thompson, stating that most of the mud comes from the canyons and action is needed soon on dealing with the water coming out of the back country.

Following further discussion, A SUBSTITUTE MOTION WAS MADE BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN LANE, AND UNANIMOUSLY CARRIED to direct Staff to commence the Nuisance Abatement procedures or otherwise initiate corrective measures on Tracts No. 8575 and No. 10596 in such a manner as to ultimately put the economic burden on the property owners.

The City Attorney advised that pursuant to Section 16A-9 of the Municipal Code, the City Manager has made the necessary findings that the slope drainage facilities on Tracts No. 8575 and No. 10596 are broken and inoperable and constitute an immediate hazard, and that a public hearing will be set on the matter for 8-20-80.

Subject: 29 - Request for Removal of Certain Property from list of Historically Significant Properties.

IN RE: Communication from Maxine C. Hoppe requesting that pursuant to Section D of Ordinance No. 773 the property at 410 Cazador Lane be removed from the Cultural Heritage Board's list of historically significant properties.

Maxine Hoppe reviewed the background of this property noting that there were 4 lots in 1927; that the house is on two lots and a portion of the kitchen and patio extends onto the third lot; that the value is in the land and the estate would like to receive the highest price for the property; and that they are requesting the house be removed from the list of the Cultural Heritage Board so that there are no encumbrances on the sale of the property.

Councilman O'Keefe suggested that the matter be referred to staff to consider the possibility of realignment of the lot line to give the estate two new buildable lots with the preservation of the house on the existing lots.

Harry Saunders, member of the Cultural Heritage Board, stated that the Board feels this property is of historical significance and it was placed on the list for that reason; that they have looked at the situation of the house and lot lines and feel there is a method of adjusting the lot lines so there will be two buildable lots for some other purpose and still retain the historical building on the present site which may require removal of a small portion of the house to accomplish this; and suggested that operation for provisions to do this be pursued so that they may be sold as two separate entities.

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN O'KEEFE, AND CARRIED to refer to Staff for investigation of feasibility of altering the lot lines as an alternative and consulting with the property owner, and report back at the next Council meeting with a recommendation. Councilman Lane "ABSTAINED".

Subject: 92 - Suggested Measures to Save Money in City Operations.

IN RE: Communications from M.J. Nielsen suggesting certain measures for saving money in City operations.

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to receive and file the communications.

Subject: 59 - Appointment of Representative to the Orange County Health Planning Council Assembly of Delegates.

IN RE: Communication from Orange County Health Planning Council inquiring if the Council wishes to reconfirm the appointment of Dr. John Chard as the City's representative to the Health Planning Council Assembly of Delegates.

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to reappoint Dr. John Chard as the City's representative.

ITEMS FROM CITY ATTORNEY

Subject: 75 - Resolution No. 60-80 Adjusting the Value of an Off-Street Parking Space.

IN RE: Resolution adjusting the value of an off-street parking space based on changing costs, and authorizing annual increases of fee based on consumer price index.

Upon motion of Councilman Mecham, seconded by Councilman Limberg, and unanimously carried RESOLUTION NO. 60-80 BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADJUSTING THE VALUE OF AN OFF-STREET PARKING SPACE, BASED ON CHANGING COSTS, AND AUTHORIZING ANNUAL INCREASE OF IN-LIEU PARKING FEE BASED ON CONSUMER PRICE INDEX was regularly introduced, passed, and adopted.

Subject: 105 - Elmore Ranch Park Fees.

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

In response to whether this item is academic at this point, the City Attorney advised that he feels Mr. Wulfeck intends to proceed with the lawsuit; and further noted that to date he has not received any additional documentation from Mr. Wulfeck.

Mr. Wulfeck noted for the record that it is no longer A.L. Wulfeck suing the City, but Cyprus West Company, and that hopefully this matter can be settled administratively. The City Attorney further advised that the attorney representing Cyprus West had suggested that perhaps Council might consider some sort of settlement.

Following discussion concerning the additional information, IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND CARRIED to affirm the previous determination of the Parks and Recreation Commission, the Planning Commission, and City Council that parks fees should be paid pursuant to Ordinance No. 718 and that no land should be accepted for dedication. Councilman Lane voted "NO".

It was further noted that if any additional information is received by the City Attorney prior to the next meeting that it be reported to the Council.

Subject: 42 - Litigation Report.

IN RE: Litigation report.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to receive and file the report.

Subject: 105 - Vesting of Development Rights.

IN RE: Memorandum report from the City Attorney regarding the issues of when and to what extent an owner or developer of property acquires a so-called vested right to proceed with the development, even though there may have been subsequently enacted changes to the applicable zoning laws or building standards, or where it is subsequently discovered that the project was not issued all of the required development permits or where one or more of such permits were wrongfully issued.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to receive and file the report.

ITEMS FROM CITY MANAGER

Subject: 77 - Request for Services for Reopening and Modification of PUC Decision 91859.

IN RE: Report by City Manager that Attorney Wyman Knapp has advised that the Public Utilities Commission was reopening the decision of the at-grade crossing.

He further stated that the Santa Fe Railway has filed a petition for modification of Decision No. 91859 and CALTRANS has filed a petition for rehearing of said decision; that time is of the essence and that Mr. Knapp was requesting authorization to proceed with the reopening proceeding designed to obtain a modification of the decision so as to permit a relocation of the at-grade crossing consistent with the City's wishes. He further noted that Mr. Knapp has expended 30 hours and that his current fee is \$90.00 per hour.

IT WAS THEN MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN MECHAM, AND CARRIED to approve the proposal request for modification and relocation of the at-grade crossing and approve the current fee. Councilman Limberg voted "NO".

Subject: 109 - Declaration of State of Local Emergency.

IN RE: Termination of "State of Local Emergency", declared June 13, 1980, relating to the La Esperanza/Calle Patricia landslide.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to terminate the "State of Local Emergency" effective 8-12-80.

Subject: 91 - 1979-80 Fiscal Year-End Report.

IN RE: 1979-80 fiscal year-end report.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN LANE, AND UNANIMOUSLY CARRIED to receive and file the report.

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

ITEMS FROM CITY CLERK

Subject: 49 - Special Municipal Election.

IN RE: Extension of nomination period for Special Municipal Election.

It was noted that the City Clerk had consultations with legal counsel for Secretary of State, County Counsel, Registrar of Voters, and City Attorney, and had taken subsequent administrative action to extend the nomination period deadline to 5:00 P.M. August 21, 1980, to allow for a full 25 day nomination period for Council candidates in the 11-4-80 special election consolidated with the statewide general election.

Subject: 49 - Resolution No. 61-80 Declaring the Results of the June 3, 1980, Special Municipal Election.

IN RE: Report from City Clerk as to the official election results from the County Registrar of Voters for the City measures that were consolidated with the June 3, 1980, Primary Election.

Upon motion of Councilman Lane, seconded by Councilman O'Keefe, and unanimously carried, RESOLUTION NO. 61-80 BEING A RESOLUTION OF THE CITY COUNCIL, CITY OF SAN CLEMENTE, CALIFORNIA, RECITING THE FACT OF THE SPECIAL MUNICIPAL ELECTION HELD IN SAID CITY OF SAN CLEMENTE ON THE 3RD DAY OF JUNE, 1980, CONSOLIDATED WITH THE STATEWIDE PRIMARY ELECTION; DECLARING THE RESULT THEREOF AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW, was regularly introduced, passed, and adopted.

ITEMS FROM COUNCIL MEMBERS

Subject: 57 - General Plan Review Committee.

IN RE: Councilman Lane's request that appointment be made to the General Plan Review Committee to bring it up to full strength.

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED that four Council members submit one name each for the General Plan Review Committee.

Subject: 31 - Proposed Growth Management Plan.

IN RE: Councilman Mecham's request for the City to establish a Growth Management Plan.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR KOESTER, AND UNANIMOUSLY CARRIED that the City Manager prepare an outline for a Growth Management Plan including a budget.

IT WAS THEN MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN LIMBERG, AND CARRIED that this matter be brought back as an agenda item at the next meeting. Councilman Mecham and Mayor Koester voted "NO".

NEW BUSINESS

Subject: 96 - Approval of Proposed Facilities Plan - Regional Solids Handling Facility.

IN RE: Report from Public Works Director-City Engineer and City Manager relating to the various alternatives for handling and disposing of wastewater solids from the SERRA member agencies, including the City of San Clemente.

Staff responded to questions by Mayor Koester following which IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND CARRIED to approve in concept Alternate 2 as addressed in the SERRA Regional Solids Treatment Center facilities plan to utilize two solids treatment centers, one facility to be located at the San Clemente Plant and the other at the combined SERRA/Capistrano Beach site. Mayor Koester voted "NO".

Subject: 106 - Crosswalk - Pacific Coast Highway.

IN RE: Report from Public Works Director-City Engineer concerning the question of crosswalk at Pacific Coast Highway and Camino Capistrano.

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to continue the matter to 8-20-80.

RESOLUTIONS

For Resolution No. 60-80 see under "ITEMS FROM CITY ATTORNEY" on page 5.
For Resolution No. 61-80 see under "ITEMS FROM CITY CLERK" on page 7.

ORDINANCES

Subject: 117 - Ordinance No. 784 Amending Sections 10.2 and 10.5 of Ordinance No. 397 Relating to Notice of Public Hearing.

IN RE: Ordinance No. 784 Amending Sections 10.2 and 10.5 of Ordinance No. 397 relating to notice of public hearing.

Upon Motion of Councilman Limberg, seconded by Councilman Mecham, and unanimously carried, ORDINANCE NO. 784 BEING AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING SECTIONS 10.2 AND 10.5 OF ORDINANCE NO. 397 (ZONING ORDINANCE) RELATING TO NOTICE OF PUBLIC HEARING, having been regularly introduced at the meeting of 7-9-80, was again introduced by title only, the reading in full thereof unanimously waived, and duly passed and adopted.

ADJOURNMENT TO EXECUTIVE SESSION

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to adjourn to an Executive Session at 11:30 P.M.

MAX L. BERG

CITY CLERK and ex-officio
Clerk of the City Council

By

Marjorie Z. Will
Deputy

Barbara Koester
MAYOR and President
of the City Council