

Regular meeting of the City Council of the City of San Clemente, California, Council Chambers, Civic Center Building, 100 Avenida Presidio, Wednesday, September 3, 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 Mayor Koester.

ROLL CALL

PRESENT: Council Members - LIMBERG, MECHAM, AND KOESTER

ABSENT: Council Members - LANE (arrived at 7:05 P.M.) AND O'KEEFE

Also Present: George A. Carvalho, City Manager; Max L. Berg, City Clerk; Michael J. Bartlett, City Attorney, Michael Thiele, Senior Planner, and Edward Putz, Public Works Director-City Engineer

SPECIAL BUSINESS

Mayor Koester presented a commendation for a lifesaving deed to San Clemente Lifeguard Carlos Lavayan from the Orange County Sheriff-Coronor. She also added that he has excelled in another unrelated area wherein Al and his partner, Steve Helfer, an ex-San Clemente Lifeguard, recently competed in a grueling 4-month competitive series with the National Dorymen's Association, and that they placed first in all three distance divisions. Also a noteworthy accomplishment during the recent series was his win of the Catalina race from the Isthmus to Long Beach entrance, a distance of 30 miles completed in 4 hours and 26 minutes.

PUBLIC HEARINGS

Subject: 35 - Proposed Business Improvement Area.

IN RE: Continued Public Hearing to consider the formation of a business improvement area to be known as "Business Improvement Area A" of the City of San Clemente.

The Mayor opened the public hearing and Alex Goodman reported on the number of business persons who were in favor of the district which also included several doctors/medical and optical labs; noted that when the San Clemente Inn changes its designation to a time sharing program the City will lose about \$40,000 per year in bed taxes, and that this promotion district is needed to also help increase sales tax revenue to the City.

Seymour Holtzman, formerly of El Monte and now with the Baldwin Park Chamber of Commerce, submitted letters from various businesses in Baldwin Park commenting on the success of the AB 103 program and its effectiveness in promoting the downtown area.

Additional comments are summarized as follows: Christina Wertin objected to the proposal suggesting that it would create a carnival atmosphere; that San Clemente cannot be compared to other cities and noted that if you keep class and charm you will get business. Gary Fuller advised that the U.S. Chamber of Commerce reported that twice as many small businesses have been forced to close their doors as compared to the same period last year; that there are 12 spaces available on Del Mar for lease; that investors are needed to stimulate new business; and urged favorable action on this proposal. Elaine Church stated she would like to be a member of the advisory committee and that the whole community should be working toward keeping shoppers in San Clemente. Bertha Henry Taylor, advised that since the last meeting she has talked to merchants and professionals on Del Mar; that the professional people are also in favor of the program; that the tourists lack information about Del Mar and that the promotion program will work for the business community. Bill Moore stated we need harmonious environment in the community to get business. Wilma Bloom spoke in opposition to the district; commented that Del Mar has personal problems; that the sidewalks need repair; that beautification is needed; that the business hours should be extended with concentration on giving personal services; that quality

merchants with competitive prices will attract business; recommend that public parking signs be placed at strategic points to show where additional parking is available; and that there was confusion about the purpose of the district. Sergio Puente stated he was on the committee which personally talked to the merchants about a promotion district; that it is essential to implement the district that the return would be tenfold compared to what some of the merchants are spending on advertising at the present time. John Reynolds who also worked on securing signatures on the petition stated there was no mention of a parking district--that they concentrated only on promotion. Tom Werner advised that he spends a large amount on promotion and advertising, and feels the merchants will loose to the malls unless they get organized.

There being no one else desiring to be heard the Mayor closed the public hearing and Councilman Mecham noted that a majority of the businesses are in favor of the district and that the City's role in collecting the fees would be minimal; Councilman Lane stated he had been advised by the City Attorney that he has a legal conflict of interest and would abstain from voting; Councilman Limberg stated he was in favor but would have preferred to see it handled in the private sector; and Mayor Koester felt the matter should be tabled as in talking to the merchants there was confusion about the purpose and intent of the district and that the merchants should handle their own money. It was then reported that the Resolution setting forth the details and purpose of the district had been mailed to every business in the area.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND CARRIED to approve formation of a business improvement area. Mayor Koester voted "NO" and Councilman Lane "ABSTAINED".

The City Attorney advised he would bring back a revised ordinance at the next meeting.

IT WAS THEN MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM that Sergio Puente, Stuart Ryan, Elaine Church, John Reynolds and Tom Werner be appointed to serve on the District's Advisory Committee.

Councilman Mecham felt the matter should be delayed until the next meeting which would allow interested parties to volunteer. Councilman Limberg expressed comment in favor of moving forward on the issue and the Mayor then called for the QUESTION WHICH CARRIED with Councilman Lane and Mayor Koester "ABSTAINING".

Subject: 57 - General Plan Amendment No. 37.

IN RE: Continued public hearing to consider General Plan Amendment No. 37 being a new, revised Housing Element to the General Plan of the City of San Clemente.

IN RE: Communication from Legal Aid Society of Orange County commenting on the housing element.

IN RE: Communication from Building Industry Association commenting on the housing element for the City of San Clemente.

Staff advised that the element has been in process since May of 1979; that it has been reviewed by the General Plan Review Committee in over 30 meetings and reviewed by the Planning Commission several times, and recommended adoption of the element.

The Mayor opened the public hearing and the ensuing 2-hour hearing is briefly summarized as follows: David Quezada, Legal Aid Society of Orange County, reviewed their comments and certain concerns as expressed in their letter of 9-3-80.

William C. Lawrence referred to the extensive report prepared by his firm for the "back country" ranch owners in trying to develop the best possible workable element; noted that the approved tract maps for these three ranches have a 10% affordable housing provision; that 37% of existing housing stock in San Clemente is actually multi-family rental units with 95% of the rental units meeting the affordable housing needs of the community. He also reviewed portions of the housing element pointing out various procedures and priorities to be considered.

257?

Mary Erickson, member of the General Plan Review Committee, reviewed portions of the element; expressed various comments in support and pointed out that the statistics used in the element were the best available at time of preparation and urged adoption of the present draft. Esther Shillman, member of the General Plan Review Committee, commented that this is not a perfect document but a workable one; that there is a provision for it to be reviewed in one year; and urging acceptance of the draft version. Lawrence Taylor Wayman, also a member of the General Plan Review Committee, reviewed the work of the committee, noting that they are confident that no more accurate data about our City in relation to housing needs can be found anywhere; and that the proposed Housing Element provides the City with tools to use, manage, and guide development in San Clemente including adequate housing for all its citizens.

Marilyn Ditty, Director of the San Clemente Seniors, commended the General Plan Review Committee for their work; noted that housing has been a primary issue with the seniors for the last 2 years; reviewed the economic hardships for many of the seniors in this City in regard to housing; and cited the great need for adoption of the housing element and to serve the people already living here.

Adele Pearlstein commended the City for the 10% affordable housing conditions placed on tract maps of the ranch developments but expressed concern as to the lack of attention given to rental housing.

Richard Harlow, of the Orange County Chapter of the Building Industry Association, noted that the BIA has no quarrel with the housing element but expressed various concerns about the inclusionary housing program as part of the element; recommended considering adoption of the revision recently adopted by the County of Orange; urged that the definition of affordability be expanded to allow flexibility; and cited various reasons why the inclusionary housing program should not be a part of the element.

Phillip Bettencourt, also of the Orange County Chapter of the BIA, expressed further concerns with implementation of the standards proposed, particularly in the inclusionary program of the element and recommended that the affordability and inclusionary component regulations be extracted from the housing element and considered separately so that the Council will have the latitude to adopt regulations that will make it workable; and that a comparison with the same program now in use by the County of Orange be developed. Upon question, Mr. Lawrence concurred on the need for flexibility.

Mrs. Erickson and Rev. Wayman then offered certain arguments in rebuttal to removing the inclusionary component.

Linda Congleton, of Nu-West Development, advised of their extensive research into the matter of affordable housing; noted that Nu-West has made a commitment of 273 units, representing 10% of their total units, to be moderate income housing; that another 137 units, being 5% of their total units, are proposed for lower income, providing government subsidies are available for the program; that affordable housing has to be a joint effort and the Council should listen to the builders to find out what is needed in order to provide affordable units and noting the need for flexibility; and also recommended that the inclusionary housing component be a separate resolution.

Don Steffensen, of Lusk and Son, noted that the ranches intend to cooperate and provide housing for all economic segments of the community; that they are working on several affordable programs, examples being a modular type product and a high density product, with high density being one of the keys to providing affordable housing; recommended adopting inclusionary housing as a separate ordinance; and suggested the Council carefully review the controls on resale of units and also eligibility of purchasers.

Eva Fleming, Vice President of the San Clemente Seniors, noted the element was approved by various committees, commission and Staff and suggested "why not listen to the people."

The hearing was then closed and the Council discussed the proposed housing element at length, following which IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR KOESTER to concur with the Planning Commission's recommendation for approval. THE MOTION FAILED TO CARRY with Councilmen Lane and Limberg voting "NO".

IT WAS THEN MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND CARRIED to continue the matter to the meeting of 9-17-80. Mayor Koester voted "NO".

Subject: 112 - Use Permit No. 80-23 (California Golden State Towing).

IN RE: Public Hearing to review the action of the Planning Commission in approving Use Permit No. 80-23 subject to seven conditions, being the request of Norris Haight under Section 7 of Ordinance No. 397 to permit an automotive towing service and office in an existing service station located on a portion of Block 1, Tract No. 851, more commonly known as 795 S. El Camino Real.

The Mayor opened the public hearing and Edward Lesneski, stated he was across the street and north of this business; that he welcomes new business in San Clemente but voiced concern about an operation of this nature; that he has made major improvement in his business over the years; that the south end of El Camino is being upgraded by additional improvements; expressed concern that the towing service would not be compatible with the neighborhood as it now exists; that the existing service station has been a nuisance and feels the addition of a towing service would compound the problem with disabled vehicles creating a possible junk yard. He further noted that Mrs. Genelle Hanson has objected to the use and also read a letter from the Vice President and General Manager of Crocker National Bank opposing the Use Permit.

Norris Haight, applicant, spoke in support of his request and advised he would comply with whatever conditions are placed on the use permit.

The Mayor then closed the public hearing and following suggestions by Councilman Lane as to additional conditions IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM to concur with the Planning Commission's action and approve Use Permit No. 80-23, subject to an additional condition that when the towing vehicles are not in actual use for towing purposes they be stored on the premises in the bays; and addition to condition c that no vehicles be left on the property other than those actually being repaired by the station.

The Mayor then called for the QUESTION WHICH CARRIED UNANIMOUSLY.

Subject: 117 - Ordinance No. 787 Amending Zoning Ordinance Relating to Maintenance, Repairs or Replacements of Non-Conforming Structures.

IN RE: Public Hearing to consider Zoning Amendment No. 80-5 being an amendment to Section 6.5 of Zoning Ordinance No. 397 relating to any building or structure which does not conform to the Zoning Ordinance either in use, design or arrangement, and providing for an increase in the percentage of the assessed valuation, for purposes of maintenance, repair or replacement from twenty-five percent (25%) to one hundred percent (100%) of the building's assessed valuation.

The Mayor opened the public hearing and there being no one wishing to be heard it was closed, and upon motion of Councilman Mecham, seconded by Councilman Limberg, and unanimously carried, ORDINANCE NO. 787, BEING AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTION 6.5 OF ORDINANCE NO. 397, KNOWN AS THE CITY OF SAN CLEMENTE ZONING ORDINANCE RELATING TO MAINTENANCE, REPAIRS OR REPLACEMENTS OF NON-CONFORMING STRUCTURES was regularly introduced by title only and reading in full thereof waived.

CONSENT CALENDAR

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

City Council Minutes

Minutes of 7-2-80 (regular) and 7-9-80 (adjourned). -- Received and filed.

Planning Commission Minutes

Minutes of 8-19-80. -- Received and filed.

Parks and Recreation Commission Minutes

Minutes of 8-12-80. -- Received and filed.

General Plan Review Committee Minutes

Minutes of 8-11-80. -- Received and filed.

Design Review Committee Minutes

Minutes of 8-19-80. -- Received and filed.

Citizens Advisory Committee Minutes

Minutes of 8-12-80. -- Received and filed.

Traffic and Parking Commission Minutes

Minutes of 8-21-80. -- Received and filed.

Zoning Administrator Minutes

Minutes of 8-26-80. -- Received and filed.

Subject: 36 - City Manager Pro Tem.

IN RE: Report from City Manager advising that the City Code provides that the City Manager appoint and City Council ratify appointments to fill the City Manager pro tem responsibilities and recommending certain positions to fill this position. -- Approved recommendation that the position of City Manager pro tem be appointed by title rather than by name, and that the list of positions as submitted in the City Manager's Administrative Report dated 8-19-80 be ratified.

Subject: 39-(43) - Plaques Made from Pier Piling.

IN RE: Report from Public Works Director-City Engineer and City Manager advising that although the plaques made from old pier pilings used in honoring City Council service are attractive they are very difficult and time consuming to make, and recommending purchase of commercially prepared plaques at trophy shops which are just as attractive and much less expensive. -- Discontinued the practice of making award plaques from old pier pilings and approved purchase of future plaques from trophy shops.

Subject: 109 - Evacuation Plan of Emergency Operations Plan.

IN RE: Report from City Manager advising that the City is in the process of developing another element to our emergency operations plan which will be utilized in the event of an accident at the San Onofre Nuclear Generating Station, and the Southern California Edison Company has agreed to assist the City in this effort and will also reimburse the City up to \$10,000 for any personnel costs associated with this work. -- Authorized the City Manager to amend the budget to reflect the charges and revenues associated with the preparation of this evacuation plan.

Subject: 79 - Separation of Public Works Director-City Engineer into Two Positions; and Professional Services Agreement with Ralph Andersen & Associates for Recruitment of a Public Works Director.

IN RE: Report from City Manager recommending that the Assistant City Engineer position be deleted and the position of Public Works Director-City Engineer be split into two separate positions, and requesting approval of Professional Services Agreement with Ralph Andersen & Associates for the recruitment of a Public Works Director. -- Approved Professional Services Agreement with Ralph Andersen and Associates; authorized the City Manager to execute same, and transferred \$7,000 from the contingency reserve Account #10-121-3500 to Account #10-121-4610; and established the positions of Public Works Director (\$2991-3636) and City Engineer (\$2460-2991).

Subject: 87 - Granting of Lease at Communications Site I to Beach Cities Wireless Society.

IN RE: Report from Fire Protection Director and City Manager advising that Beach Cities Wireless Society, a non-profit group, is looking for a suitable site for the installation of Club Repeater equipment and requesting permission to share with the City Communications Building (Site I) at the top of Avenida Salvador. -- Approved the granting of a \$1.00 a year lease to the Beach Cities Wireless Society at Communications Site I.

Subject: 42 - Claim for Damages - O. M. Kelley.

IN RE: Claim for damages filed by Ofelia M. Kelley in the amount of \$424.70 when claimant's car struck a valve key protruding from the middle of the street at S. Ola Vista and San Antonio. -- Approved settlement in the amount of \$424.70.

Subject: 56 - Resolution No. 65-80 Affirming Compliance with AHFP Policy Requirements and Requesting to be Qualified for 1981-82 Fiscal Year Funds.

IN RE: Report from Public Works Director-City Engineer and City Manager advising that each City in Orange County is required to submit an annual requalification resolution to the AHFP Advisory Committee in order to be eligible for AHFP project funding in the next fiscal year. -- Introduced, passed, and adopted, RESOLUTION NO. 65-80, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AFFIRMING COMPLIANCE WITH AHFP POLICY REQUIREMENTS, AND REQUESTING THAT THE CITY BE DECLARED QUALIFIED FOR THE ORANGE COUNTY ARTERIAL HIGHWAY FINANCING PROGRAM FOR THE 1981-82 FISCAL YEAR.

Subject: 87 - Surplus Vehicles and Equipment.

IN RE: Report from Public Works Director-City Engineer and City Manager requesting authorization to auction vehicles and equipment no longer safe to drive or economically feasible to maintain. -- Authorized Ken Porter Auction Company to auction surplus vehicles and equipment for the best price available with the proceeds placed in Account #82-226-7610.

Subject: 77 - Supplemental High Pressure Water Main Installation for San Gorgonio Park.

IN RE: Report from Golf and Parks Director and City Manager advising that the water pressure for San Gorgonio park is not adequate for the irrigation system and that the most feasible solution is for the City Water Department to tap into the high pressure water main on Avenida Vaquero and tie the new water main into the main serving the park site. -- Approved installation of a high pressure water main and transfer of \$8,000 from the Parks Acquisition Fund Account 60 to Account #66-782-7300-270.

Subject: 43 - Commendation.

IN RE: Communication from W. J. Nietschmann with commendatory remarks for Director of Marine Safety and Recreation Lynn Hughes and the Lifeguard Staff. -- Received and filed with appreciation.

CONSENT CALENDAR (Items removed for separate action)

Subject: 117 - Zoning Amendment No. 80-4 (City Yard Restaurant & Lounge).

IN RE: Communication from Planning Commission recommending approval of Zoning Amendment No. 80-4 to consider amending Section 4.7 of Ordinance No. 397 to allow "bars, cocktail lounges, or restaurants, including dancing and entertainment" in the C-1 (Central Commercial) District subject to a use permit.

Donald Bramlette raised questions regarding the proposed Zoning Amendment, and Councilman Limberg advised that the only action the Council can take at this time is to set the matter for a public hearing on 9-17-80 at which time he could present his views and arguments, AND IT WAS THEN MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND CARRIED to set the matter for a public hearing on 9-17-80. Councilman Lane "ABSTAINED".

Subject: 97 - Bridge Repairs, Flood Channel Lining Repair, and Camino de los Mares Catch Basin Widening.

IN RE: Report from Public Works Director-City Engineer and City Manager advising that plans and specifications have been prepared for construction of flood damage repair projects - Pr. 15-80, Pr. 18-80 and Pr. 19-80.

Jack Thompson noted that the golf course erosion and the mobile park hillside area is of great concern to the Los Mares residents and inquired as to the current status and Mr. Putz replied that the City does not believe the golf course damage constitutes a nuisance affecting life or property, therefore, the City has not declared this a public nuisance. Following further discussion, it was agreed that Staff would meet with Mr. Thompson and personally inspect the situation at the site and report back to the City Council.

IT WAS THEN MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to approve plans and specifications for the three projects and authorize advertising for bids.

Subject: 108 - Possible Elimination of Train Stop in City.

IN RE: Report from Public Works Director-City Engineer and City Manager reporting on the possibility of Amtrak eliminating the train stop in San Clemente.

Councilman Lane suggested that if the Amtrak service should be eliminated, the railroad should be relocated away from the beach, inland, out of the City of San Clemente so that the City will not suffer the adverse affects of the railroad if the City cannot receive the direct benefit of an Amtrak service stop, AND IT WAS THEN MOVED BY COUNCILMAN LANE, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to authorize the Mayor to send a letter to Governor Brown and State and Federal representatives requesting their assistance in resisting any efforts to cut back or eliminate Amtrak service to San Clemente, and if such service should be eliminated that the railroad be relocated inland.

Subject: 105 - Park Fees - Final Tract Maps 10225 and 10955.

IN RE: Report from Building and Planning Director and City Manager noting that Cyprus West Company submitted a check in the amount of \$368,856.00 on 4-15-80 to cover the interim park fee requirements on Tract No. 10225; that subsequent to the recordation of Tract 10225 certain changes have been made affecting the park fee requirements resulting in a total park fee requirement of \$573,193 for Tract No. 10225 and for Tentative Tract No. 10955.

Boyd Ames, representing the applicant, noted that they would like to have legal counsel present; that the project manager is out of town and unable to be present; that they were not informed of the Staff recommendation; and that they expect a change of ownership of Tract 10955 and have no control over it. He then requested a two weeks continuance of the matter as they have been given two separate figures on what is owed and would like a clarification as to the exact amount.

In response to Council query, Staff advised that the developer signed an agreement to make payment one week after the new parks appraisal fee was set on June 18; that we have attempted to have the applicant pay the fees; that in violation of this agreement the City could revoke grading permits; and further that any development work that is being done on the project should cease until the fees are paid.

Following further discussion, IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND CARRIED to direct Staff to request payment of \$204,337 from Mr. Wulfeck immediately, and that Staff suspend any processing of Tracts No. 10225 and No. 10955, pending receipt of payment of the park fee. Councilman Lane "ABSTAINED".

Subject: 110 - La Cuesta Underground Utility District.

IN RE: Report from Public Works Director-City Engineer and City Manager advising as to the possibility of reviving the La Cuesta Underground Utility District by using 100% SDG&E 8209 funds for construction which would require the property owners to be responsible only for conversion of their overhead utility services to underground from the property line to their service panels at an estimated cost of \$1,000.

Mrs. Harold Taylor raised questions concerning the proposal and it was noted that the time for public input would be at the public hearing. IT WAS THEN MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to initiate steps for formation of an Underground Utility District in the La Cuesta area and authorize the City Attorney to draft the appropriate notices and resolutions; and set public hearing for 10-15-80.

PAYING OF THE BILLS

IT WAS MOVED BY COUNCILMAN LANE, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that Warrants No. 9813 through No. 9831 and No. 2997 through No. 3187, as audited by the Council be paid.

Total demands approved for payment for period ending September 2, 1980	\$334,993.95
Ratification of Payroll Warrant No. 9816 for period August 4, 1980 through August 17, 1980.	<u>\$128,165.96</u>
TOTAL WARRANT REGISTER	<u>\$463,159.91</u>

UNFINISHED BUSINESS

Subject: 105 - Tentative Parcel Map No. 80-840 (Raymond H. Dibley).

IN RE: Further consideration of communication from Planning Commission recommending denial of Tentative Parcel Map No. 80-840, being the request of Raymond H. Dibley for a one lot subdivision for the purpose of converting an existing triplex into three condominium units at 124 West Avenida Granada, legal description Lot 16, Block 12, Tract No. 793, based on four findings.

Raymond Dibley made a presentation during which he advised that when the property was originally improved in 1974, the building met City standards for parking and density; that the proposed conversion to condominiums will not increase the density of the project; that the 3 units are in the affordable bracket; that there will be an increase in tax value to the City of 3-½ times yet no increases to City services and no additional burden on these services; that no one takes more pride in the City than homeowners; and finally that the three units would be available for sale and could be classified as affordable housing for moderate income families.

Councilman Limberg noted that the City is not utilizing in-lieu parking certificates as they are not proving effective; Councilman Lane noted that he fails to see the rationale that supports the parking requirements of condominium versus apartments; and Councilman Mecham stated that he was opposed to the parking situation and could see no real financial hardship.

IT WAS THEN MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND CARRIED to concur with the Planning Commission's recommendation for denial of Tentative Parcel Map No. 80-840. Councilman Lane voted "NO".

Subject: 48 - Proposal for Geotechnical Services, Removal of Temporary Buttresses from Street Areas, La Esperanza/Calle Patricia Landslide.

IN RE: Further consideration of proposal by Leighton & Associates for Geotechnical Services, removal of temporary buttresses from street areas, La Esperanza/Calle Patricia Landslide.

IN RE: Communication from Leo Baines et al, residents on Calle Patricia, requesting the City for an early expression of what measures will be taken and when to correct the landslide and related problems.

IN RE: Further communication from Leighton & Associates submitting an addendum to "Proposal for Geotechnical Services, Removal of Temporary Buttresses from Street Areas, La Esperanza Landslide, dated 8-18-80."

Discussion is briefly summarized as follows: Councilman Limberg noted that time is running out as far as the winter season is concerned; that City streets are potentially involved and the dirt which is obstructing the right of way needs to be removed; that the City should proceed with investigation and report as to what measures should be taken; and inquired whether the homeowners would indemnify the City for this investigation purpose only.

Upon question, the City Manager advised that an understanding between the homeowners and the City would be difficult as the owners below the slide area are very cooperative and fairly flexible, however, the owners above the slide were not present at the latest meeting and the indication is that they might be less than cooperative in terms of how they perceive the problem. Mr. Carvalho noted that the City is concerned about its involvement in this matter; that perhaps some borings might be helpful in terms of getting better data; and that the recommendation at this point is to get the dirt off the street and attempt to get cooperation from the homeowners.

In response to a question by Councilman Lane as to what the homeowners are doing, Peter Linnenbach stated that the SBA has agreed to accept their application for a long-term low interest loan which would provide as much as \$250,000 towards corrective work, but they have done nothing as to removal of the dirt which might aggravate the situation.

Lengthy discussion continued including comments as to need for indemnification and waiver of liability from the property owners; whether a determination should be made that an immediate hazard exists and schedule a public hearing to consider whether a public nuisance exists; and if so the City could then go ahead and remove the dirt in whatever way the geologist recommends and bill the property owners involved in the original landslide, thus the potential danger of a sea of mud could be resolved immediately.

Following further discussion, the City Manager made a determination under the provisions of Municipal Code Section 16A-9 that an immediate hazard exists and that a public hearing be set for 9-17-80. IT WAS THEN MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LANE, AND UNANIMOUSLY CARRIED to approve the City Manager's action in making a finding that an immediate hazard exists and setting the matter for hearing at the meeting of 9-17-80 to determine whether the dirt in the public street constitutes a public nuisance; and in the interim the Staff continue in their attempt to obtain a hold harmless agreement from the property owners for the contemplated work.

IT WAS FURTHER MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, that the City manager proceed with the geotechnical investigation as proposed by Leighton & Associates in their letter of August 18th in an amount not to exceed \$8800, with the cost thereof to be borne by the City and the appropriate homeowners affected by the slide on the same proportionate basis as the original investigation.

The Mayor called the question and DECLARED THE MOTION UNANIMOUSLY CARRIED. (NOTE: At a subsequent meeting the matter was reconsidered so that Councilman Lane could record a "NO" vote.)

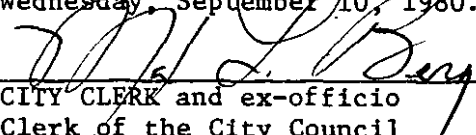
ADJOURNMENT TO EXECUTIVE SESSION

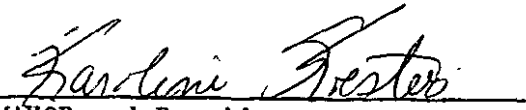
IT WAS MOVED BY COUNCILMAN LANE, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to adjourn at 12:15 A.M. to an Executive Session to discuss a matter of litigation.

Councilman Lane noted that he would not attend the Executive Session inasmuch as the matter involved an item upon which he would have to abstain as to discussion and voting.

MEETING RECONVENED AND ADJOURNMENT

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED that the Council Meeting be adjourned at 12:23 A.M., Thursday, September 4 to 7:00 P.M., Wednesday, September 10, 1980.


CITY CLERK and ex-officio
Clerk of the City Council

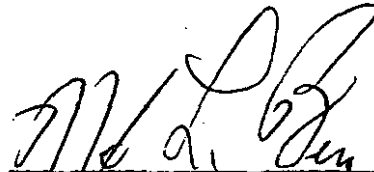

MAYOR and President
of the City Council

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

AFFIDAVIT OF POSTING
OF MEETING

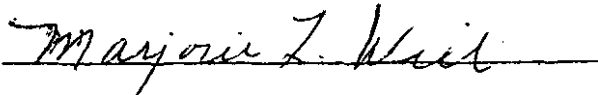
I, MAX L. BERG, being first duly sworn deposes and says:

that I am the duly chosen, qualified, and acting ex-officio Clerk of the City Council of the City of San Clemente; that at the regular meeting of the City Council of the City of San Clemente, held September 3, 1980, said meeting was ordered adjourned to the time and place specified in the Order of Adjournment ATTACHED HERETO; that on Sept. 4, 1980, at the hour of 9:00 AM, I posted a copy of said Order of Adjournment at the conspicuous place on or near the door of the place at which said meeting of Sept. 4, 1980, was held.

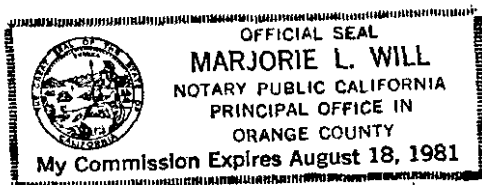


CITY CLERK and ex-officio
Clerk of the City Council
City of San Clemente

Subscribed and sworn to before
me this 4th day of Sept.
1980.



MARJORIE L. WILL



ORDER OF ADJOURNMENT

Regular meeting of the City Council of the City of San Clemente, California, Council Chambers, Civic Center Building, 100 Avenida Presidio, Wednesday, September 4 1980, at 7:00 P. M., Mayor Karoline Koester presiding.

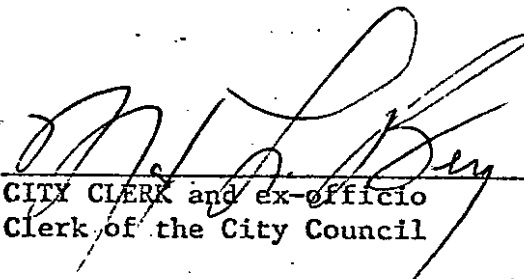
ROLL CALL

PRESENT: Council Members - LIMBERG, MECHAM, AND KOESTER
ABSENT: Council Members - LANE (arrived 7:05 P.M.), O'KEEFE

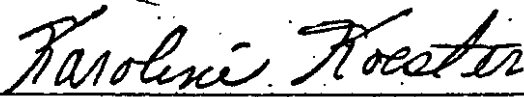
Also Present: George A. Carvalho, City Manager; Max L. Berg, City Clerk; Michael J. Bartlett, City Attorney; Edward Putz, Public Works Director-City Engineer; and Michael Thiele, Senior Planner

ADJOURNMENT

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED that the Council Meeting be adjourned at 12:23 A.M., Thursday, September 4 to 7:00 P.M., Wednesday, September 10, 1980.



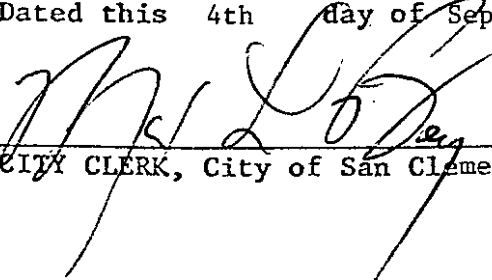
CITY CLERK and ex-officio
Clerk of the City Council



MAYOR and President
of the City Council

Certified to be a true and correct
copy of excerpts from the Sept. 3
1980, Council Minutes

Dated this 4th day of Sept., 1980



CITY CLERK, City of San Clemente