

Regular meeting of the City Council of the City of San Clemente, California Council Chambers, Civic Center Building, 100 Avenida Presidio, Wednesday, June 18, 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 - 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: 30 - Proposed Budget for Fiscal Year 1980-81.

IN RE: Continued Public Hearing to consider and determine the proposed budget for fiscal year 1980-81, including the proposed use and expenditure of Federal Revenue Sharing Funds.

The City Manager commented that there are some uncertainties as to Federal Revenue Sharing Funds until Congress is through deliberating on that issue; that the proposed operating budget is \$6.7 million; that Council has met throughout the last few weeks reviewing the individual Department budgets; and it is anticipated that the budget can be adopted at the next regular meeting on July 2.

The Mayor opened the public hearing and Boyd W. Ames, Jr. inquired whether it might be possible to use a portion of any Revenue Sharing Funds that might be received toward the Beach Club renovation.

Mary Erickson suggested the use of Federal Revenue Sharing Funds for additional personnel in the Planning Department, and also noted that if the General Plan Review Committee recommends that the City adopt an Affordable Housing Element such would require a Housing Administrator be hired, plus the necessary secretarial help.

There being no one else wishing to be heard, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to refer the matter to the budget study sessions, and continue the hearing to 7-2-80.

Subject: 77 - Consideration of Park Dedication Fee to be Established Based on Median Value of Parks.

IN RE: Continued Public Hearing to consider the amount of a park dedication fee to be established based on the median value of parks in San Clemente pursuant to Section 7 of Ordinance 718 which provides that "Where a fee is required to be paid in lieu of land dedication, such fee shall be equal to an amount for each acre which would otherwise have been required to be dedicated pursuant to Section 4 hereof, which amount is the median fair market value per acre of land in all neighborhood public parks within the City, if such land were not used for park and recreational purposes." Said park dedication fee is recommended to be set at \$114,532 an acre as of 8-1-79 with proposed quarterly adjustments based on the Consumer Price Index, resulting in a proposed current park fee in the amount of \$122,687 per acre.

The Mayor opened the public hearing and Attorney Judy Perdue, representing Cyprus West Company, advised that earlier today she submitted to the City Attorney a memorandum on the validity of San Clemente Ordinances requiring dedication of land or payment of fees; that extensive legal research has gone into the matter and is urging that the City Council and City Attorney examine the memorandum and the validity of the Ordinances, and that a study session be set up with the respective parties to study the matter.

Ms. Perdue noted that Ordinance 718 provides that where a park or recreational facility has been designated in the recreational element of the General Plan and is to be located in whole or in part within the proposed subdivision, the subdivider shall dedicate land for a local park; that there is a conflict between the State law and City law, and that the State law must prevail.

The City Attorney advised that he received the lengthy memorandum at 4:15 P.M.; that copies are being made for distribution to Council; that he did read the complete report and does not agree with all the conclusions.

Ms. Perdue then reviewed pertinent parts of her memorandum; summarized the legal issues; and in conclusion stated that through examination of the law Cyprus West can only be required to dedicate land; and that fees that have been paid in lieu of land should be restored to Cyprus West.

A.L. Wulfeck also addressed the Council on the matter and suggested it would be beneficial to continue the public hearing and to first discuss the issues in detail with the City Attorney in a study session.

Dee Hedborg, Parks & Recreation Commissioner, noted that Mr. Mueller, MAI appraiser was very competent in his work; that they do feel, however, that the North Beach parking has nothing to do with the North Beach Clubhouse, and that the base rate should be \$135,538 as of last August.

Council comments are briefly summarized as follows: Councilman Mecham reiterated he was disturbed about material coming in at the last minute and felt the matter should be acted upon; Councilman O'Keefe noted that there are two separate issues--one the determination of park fees, and the other being whether the Cyprus West project should be allowed to dedicate land in lieu of paying park fees.

During further discussion, the City Attorney reviewed the circumstances whereby the Council in compliance with the requirement that a median fair market value be determined, initially engaged the services of Joseph A. Mueller to appraise 11 parcels used for park and recreational purposes, and the subsequent Council action directing appraisal of 6 additional parcels, all of which were appraised on the basis of "most probable zoning" if not used as a park.

Charles Fox, appraiser representing Cyprus West, referred back to the original Benjamin appraisal; expressed various comments; and suggested that it appeared Mr. Mueller was engaged to appraise the six additional parcels purely and solely to raise the median value.

Mr. Mueller responded to questions, and noted that Mr. Benjamin, the previous appraiser, was an imposter who claimed to be an MAI appraiser but was not. Mr. Mueller also emphasized that no one instructs him how to make an appraisal.

The Mayor then closed the public hearing, AND IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED that the park dedication fee be set at \$114,532 an acre as of 8-1-79 adjusted quarterly for changes in the CPI which would make the current fee as of 4-1-80 at \$122,687; that the Finance Department have the authority to adjust the fee either up or down quarterly based on the CPI of Los Angeles, Long Beach-Anaheim areas through the summer of 1982 at which time a reappraisal of the park areas be done by a member of the American Institute of Real Estate Appraisers; and that the Council hereby makes the determination that the Mueller appraisals are adequate, and that the most probable zoning used in the appraisals is appropriate; that the downcoast pier parcel and upcoast pier parcel should be combined and considered as one parcel; that the seaward pier parcel and inland pier parking should be combined and considered as one parcel; that the beach club park and north beach club parking should be combined and considered as one parcel; that the median fair market value of all neighborhood public parks within the City of San Clemente was \$114,532.00 on August 1, 1979; and that the median fair market value established as of August 1, 1979 should be adjusted quarterly to reflect changes in the consumer price index, and that a new appraisal should be performed after each three year period.

With reference to the dispute concerning payment of fees it was suggested Mr. Wulfeck take this matter up with Staff, and the City Attorney indicated that after discussion he would prepare a written memorandum on the question.

CONSENT CALENDAR

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

City Council Minutes

Minutes of 5-21-80. -- Approved as presented and reading in full thereof waived.

Traffic and Parking Commission Minutes

Minutes of 6-5-80. -- Received and filed.

Parks and Recreation Commission Minutes

Minutes of 5-27-80. -- Received and filed.

Design Review Committee Minutes

Minutes of 6-3-80. -- Received and filed.

Zoning Administrator Minutes

Minutes of 6-10-80. -- Received and filed.

Departmental Activities Report

Departmental Activities Report for month of May, 1980. -- Received and filed.

Subject: 42 - Claim for Damages Filed by James Anderson.

IN RE: Claim for damages filed by James Anderson in the amount of \$25,504.85+ when claimant lacerated wrist on sharp metal burr on soccer cage. -- Based on insurance adjuster's recommendation, the claim was denied.

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

IN RE: Claim for damages filed by Pacific Telephone & Telegraph in the amount of \$2,500 when City's subcontractor G.R. Frost while placing a water main in City street damaged telephone conduit. -- The claim was denied and submitted to the subcontractor, G.R. Frost Inc., for payment.

Subject: 92 - Request for Use of Sound Amplifying Equipment.

IN RE: Request from San Clemente Lions Club for use of sound amplifying equipment to be used during the 9th Annual Fourth of July Lions Barbecue from 12 Noon to 6:00 P.M. at the Community Center. -- Approved the request.

Subject: 92 - Request for Use of Sound Amplifying Equipment.

IN RE: Request from San Clemente Arts & Crafts Club for use of sound amplifying equipment to be used at their annual Arts & Crafts Fair & Exhibition at the Community Center on August 16-17, 1980. -- Approved the request.

Subject: 55 - Appointment to South Road Access Committee.

IN RE: Communication from Planning Commission advising that they have appointed Commissioner Berger to the South Road Access Committee. -- Received and filed.

Subject: 53 - Fireworks Stands.

IN RE: Report from Fire Protection Director and City Manager requesting authorization for the Fire Department to issue fire permits to 11 organizations to sell safe and sane fireworks within the City limits between 9:00 A.M. July 1, and 10:00 P.M. July 4. -- Approved issuance of permits subject to each organization showing proof of payment of \$100 per stand to the Veterans Fireworks Committee for advertising and promotion of the annual Independence Day Pyrotechnic Shows.

Subject: 105 - Agreement with O.C.F.C.D. and Marblehead re Segunda Deshecha Canada Channel.

IN RE: Report from Public Works Director-City Engineer and City Manager advising that a three-party agreement between the Orange County Flood Control District, Marblehead, and the City is needed for construction and maintenance of the Segunda Deshecha Canada flood control channel within Tract No. 8818. -- Approved agreement and authorized execution by Mayor and City Clerk.

Subject: 99 - Proposed Revision to Sign Ordinance.

IN RE: Communication from Planning Commission recommending adoption of the Sign Ordinance revision subject to various changes. -- Set the matter for public hearing on 7-16-80.

Subject: 42 - Claim for Damages Filed by Hal Butts/Bob Huston.

IN RE: Claim for damages filed by Hal Butts/Bob Huston in the amount of \$50,000-\$240,000 when storm drain ruptured causing movement of a building and slope failure. -- Based on insurance adjuster's recommendation, the claim was denied.

Subject: 42 - Claim for Damages Filed by Towne Sales Co., Inc.

IN RE: Claim for damages filed by Towne Sales Co., Inc. in the amount of \$130,000 when storm drain ruptured causing damage to patio, fence, landscaping, and land. -- Based on insurance adjuster's recommendation, the claim was denied.

CONSENT CALENDAR (Items removed for separate action)

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

IN RE: Councilman Limberg's referral to the Planning Commission Minutes of 6-3-80 and the item concerning Specific Plan No. 80-3 (Estrella Properties).

IT WAS THEN MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that Specific Plan No. 80-3 be called up for review by the Council at the meeting of 7-2-80.

Boyd Ames, Jr. inquired as to the concerns and was requested to address the issue later in the meeting.

The Planning Commission minutes were then received and filed.

Subject: 48 - Status Report of Slides on City Streets.

IN RE: Report from Public Works Director-City Engineer and City Manager, pursuant to Council request, regarding status report on slide debris on City streets.

The Public Works Director responded to various questions from Councilman Limberg and reviewed the status of the various slides in the City streets as set forth in his memorandum dated 6-10-80.

Councilman Limberg requested that Staff make it a point to follow up on advising the Council as to the results of investigation of the slide problems and the intended action to clear these matters up.

IT WAS THEN MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that the report be accepted as submitted.

Subject: 113 - Award of Contract for Water Main & Street Reconstruction.

IN RE: Report from Public Works Director-City Engineer and City Manager reporting on five bids received for water main and street reconstruction, Ola Vista from Palizada to Granada, Project No. 6-80.

Staff advised that the water main project is from Palizada to Cabrillo, while the street reconstruction for Ola Vista is from Palizada to Avenida Del Mar.

Councilman Limberg commended Staff for showing in the budget impact item the balance remaining in the respective project accounts with Mayor Koester concurring.

IT WAS THEN MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to award the contract to the low bidder, Hardy & Harper, Inc. at the bid price of \$81,484.15 base bid plus additives of \$9,413.00 for a total contract of \$90,897.15.

PAYING OF THE BILLS

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that Warrants No. 59225 through No. 59240 and No. 1749 through No. 2034 as audited by the Council be paid.

Total demands approved for payment for period ending June 17, 1980	\$ 416,340.54
Ratification of Payroll Warrant No. 59233 for period May 26, 1980 through June 8, 1980	<u>\$ 109,579.11</u>
TOTAL WARRANT REGISTER	<u>\$ 525,919.65</u>

VERBAL COMMUNICATIONS

Subject: 92 - Request for Block Party on West Escalones.

IN RE: Request of Victor Amato for a block party on West Escalones.

Victor Amato submitted a petition from certain residents of West Escalones requesting the use of the street of West Escalones for a block party on the 4th of July from the hours of 2:00 PM to 10:00 PM.

Following brief discussion, IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to refer the matter to the City Manager and Staff, and if they find no objections, the request be approved.

Subject: 106 - Pacific Coast Highway Crosswalk.

IN RE: Request from John Ezell, Shorecliffs Beach Club Association, that the crosswalk be reinstalled on Pacific Coast Highway at Camino Capistrano.

Mr. Ezell requested reinstallation of the crosswalk in this area noting that the underpass is temporarily closed; that with summer upon us people who are trying to reach the beach must cross the highway at the busy Camino Capistrano intersection amid highway excavation work that is causing confusion to pedestrians and motorists alike; that the hard to see crosswalk markings and traffic signals are only partly in service, and many of the pedestrians are children and that they fear for their safety. The City Clerk also noted that the Traffic & Parking Commission is scheduled to consider the neighborhood request for reestablishment of the crossing fronting the Palm Beach trailer park on July 3.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED that the matter be referred to Staff for them to address the problem as quickly as possible.

R. H. Jackson, Calle Patricia resident, stated that during the 1972 fire he was denied access to his home; however, this past week-end over 100 visiting cars per day were allowed to drive to the landslide area. The Police Chief advised that at first the City was restricting access only to residents of the area; however, it was later determined to allow access to the public streets. Councilman O'Keefe noted that during the fire the streets were closed due to the need for access by emergency vehicles only, and streets are only closed when there is a public need and necessity.

Janet Lewis, Calle Patricia resident, commended the Police and Fire Departments for the efficient way they handled the incident; however, she noted that the residents are being bothered by motorists and sight-seers coming onto private property; and felt that when the caterpillar was on the hill the public should have been barred from the area.

Betty Williams, Calle Patricia resident, complained that there was no two-way traffic on Calle Patricia due to the dirt being piled in one lane, noting that this was a hazard and inquired how long it would remain in the road. She also suggested posting "Residents Only" signs on the street and Staff advised that the Public Works and Police Departments would confer and arrange for such signs.

Mark Klassen, 255 Madrid, commented on certain land slippage in Trafalgar Canyon which is creating not only a safety factor but a health hazard as well. Staff advised that due to Proposition #13 the County flood control channel project has been deleted; that a previous petition for a proposed assessment district was not successful as all residents did not wish to participate; that there is now an intent by the residents to scale down the size of the district in order to expedite the matter. Councilman O'Keefe commented that there is a tendency by engineers to over-engineer drainage channels and put in pipes which effects beach sand replenishment; that the canyon has been there for many, many years and that when houses are built next to a natural water channel the property owners should take precautions to protect their own property. It was suggested Mr. Klassen discuss the assessment district procedure with the City Engineer.

UNFINISHED BUSINESS

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.

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY MAYOR KOESTER to concur with the Planning Commission's recommendations, noting that a Negative Declaration was granted on 5-16-80 in compliance with CEQA.

Councilman O'Keefe suggested the matter should be continued and A.L. Wulfeck noted that in earlier discussion they are challenging the validity of Ordinance No. 718, and based on filing dates they feel that the fees on Tract No. 10225 should not be paid in lieu of dedication of 8½ acres for a park.

Following discussion Councilman Limberg withdrew his motion, and IT WAS THEN MOVED BY COUNCILMAN O'KEEFE, SECONDED BY MAYOR KOESTER to continue consideration of this tract to 7-16-80 until the City Attorney and Staff can review the memorandum that was given to Council tonight and make recommendations concerning what should be done; and during that time meet and negotiate with the applicant and determine whether we really have an issue on park fees.

During further discussion, the City Attorney questioned the continuance and Mr. Wulfeck reviewed their position concerning Tract Nos. 10225, 10995, and 11011 and agreed to the continuance of Tentative Tract No. 11011.

The Mayor then called for the QUESTION WHICH CARRIED UNANIMOUSLY.

Subject: 105 - Grading Plans for Camino de los Mares (Estrella Properties).

IN RE: Consideration of grading plans for Camino de los Mares. (Estrella Properties) called up for review by the Council.

Councilman Limberg opened the discussion by reviewing the history of the grading project known as Los Mares extended which initial grading had occurred by virtue of a grading permit issued by City Staff but which should have been reviewed by the Planning Commission; that subsequent thereto a second application for phase 2 grading was submitted which will extend the original grading project even further into the back country; that this is an area for which there has been no specific plan reviewed or approved; no advanced geologic investigation reports submitted; no opportunity for the City's consulting geologist to review any geologic reports that would be available; nor has it been adequately reviewed in regard to the hillside grading ordinance; that this is piece-meal planning; and although the Planning Commission has approved the phase 2 grading permit by a 3-2 vote he felt it was the antithesis of good planning to approve such a mass grading project for which there has been no specific plan reviewed or approved.

Councilman Mecham concurred that the grading plan for this particular extension should only come before the Planning Commission or Council when it is necessitated by a specific plan approval or something of that nature.

There ensued lengthy and complex discussion and a question and answer session with Boyd Ames, Jr., representing the developer. Mr. Ames displayed certain graphics depicting the phase 1 grading and the phase 2 proposed grading; and reviewed the reasons that were the justification behind the request for the further extension of Los Mares. Mr. Ames also reviewed the status of the various tracts within the proposed development noting that there had been either written or implied findings of fact that the tracts complied with the hillside grading ordinance; that there were inconsistencies in the City's procedural requirements; that they have done everything that they have been told to do by the City; explained other justifications why the extension should be granted; noted that Specific Plan 80-3 for Tract No. 10417 has been in process just under 5 months and Specific Plans for tentative Tracts No. 10533 and 10596 have been in various stages of City Staff review just under 4 months. Mr. Ames and Councilman Mecham exchanged views as to whether there has been compliance with the hillside grading ordinance with Councilman Mecham expressing opinion that it did not appear to him that there is, in essence or in fact, a compliance with the intent of the hillside grading ordinance.

Further debate continued with discussion as to the need for the developer to consider and submit flood control measures in conjunction with the grading question. Mr. Ames rebutted by reading from the Council minutes of 4-18-78 in which action was taken to add to condition six of the Use Permit that the City engineering Staff would examine the need for enlargement or improvement of any existing drainage channels, and that structures deemed necessary in the Prima Deshecha channel downstream from Forster Ranch would be paid for from the drainage fees received by the City from the developer of the Forster Ranch.

Gerald Nicoll, soil engineer and geologist, made an extensive presentation during which he noted the thorough preliminary soil and geologic investigation which they have performed and which is adequate for application for a grading permit; concurred with the need to preserve ridge lines and landforms, where possible, but pointed out that if developers were limited to absolutely no grading they would not be able to correct inherent geologic weaknesses; and suggested that in regard to geologic problems the City's biggest failing has been that it did not have qualified reviewers of the work.

Councilman Mecham asked various questions relating to the borrow site and whether there has been significant removal of landforms. The Public Works Director-City Engineer also responded to various questions concerning the grading plan, particularly in regard to the question of whether there is a "substantial" removal of landforms. Mr. Putz indicated that the grading itself does comply with the technical aspects of the ordinance and the Planning Commission by a 3-2 vote found it in conformance with the hillside grading ordinance.

F.K. Friedemann of the law firm of Friedemann and Menke, representing Estrella Properties, also spoke in support of the grading plan, noting delays encountered by the developer and the need to move forward with the Tracts, need for the road to the pageant site, etc. Councilman Limberg pointed out that timing is not the major factor from the City's point of view, it is the merits of the application.

Councilman O'Keefe asked various questions to clarify the principal issues which he felt were if approval of this grading plan of this alignment of the road would in any way bind or commit the city with respect to vested rights in the rest of the grading of the various tracts, and whether in the City Engineer's opinion, the amount of grading necessary for the road alignment in advance of the hydrology studies could create a future flood or run-off problem such as occurred through the Shorecliffs golf course and other areas in the last couple of years.

Following further deliberation and the rewording of one motion, IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that approval of this grading plan be withheld and referred back to the Planning Commission in that approval of this item at this time is not appropriate; that it should be considered in connection with the other discretionary approvals so that the road system will serve the project; that review of this grading plan should occur in conjunction with the flood control plan, the geologic review, and consideration as to whether the proposed project conforms to the requirements of the hillside grading ordinance.

With reference to Specific Plan 80-3 Councilman Limberg advised that the reason he asked for it to be called up for review is to review the plan as far as conformance with the hillside grading ordinance.

Subject: 77 - Beach Club and Pool Renovation Bids.

IN RE: Report from Building and Planning Director and City Manager reporting on the six bids received for the Beach Club renovation, the four bids received for the swimming pool renovation; and the two bids received for the swimming pool renovation bid alternatives.

IN RE: Report from Interim Marine Safety Director and City Manager reporting on an alternative pool renovation bid (competitive pool).

Staff responded to questions concerning the bids, and the additional cost for the construction of a pool conforming to the competitive standards as set by the National Federation of Swimming and Diving.

Following discussion, it was determined to install the competitive pool taking the additional cost of \$25,589 from the requested contingency of \$30,600, thereby leaving a contingency of \$5,011, and IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to award the Beach Club bid to Rosetti Construction, the low bidder at the bid price of \$358,372, and Pacifica Engineering Corp. for construction of pool with competitive pool alternate in the amount of \$114,129 for a total of \$472,501 and appropriate \$48,874 from the Parks Acquisition Fund.

Wil Clark commented that solar heating should be considered for the pool and suggested that the fittings be incorporated into the construction work to allow for possible installation of a solar heating system at some future date, and that he would volunteer to perform the labor at no cost.

Harry Saunders concurred that it was wise to provide the valves and fittings now so that solar heating could be added when funds are available, and that with Mr. Clark's labor the City would receive a very economical system. Mr. Saunders also offered to donate any technical advice, such to be submitted to Mr. Boucher. The Building and Planning Director agreed to set up a meeting with the contractor to discuss the solar heating possibility.

Subject: 58 - Request by George Fox for Reconsideration of Resolution No. 91-79.

IN RE: Further consideration of the request of George Fox for reversal of the golf course rate increase to seniors.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to continue the matter to the meeting of 7-2-80 to allow Staff additional time to analyze the fiscal impact if said rates were changed back to the previous rate.

Subject: 77 - Approval of Contract Between Genge Consultants and the City for Landscape Plan Checks of All Subdivision Development.

IN RE: Report from Leisure Services Coordinator and City Manager recommending approval of a contract between Genge Consultants and the City of San Clemente for landscaping plan checks of all subdivision development.

Staff responded to certain questions regarding whether or not the City had any existing standards as to the type of material for slope planting to promote slope stability, AND IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to approve the contract and authorize execution by the Mayor and City Clerk; and approve procedural steps for landscape plan checks and review.

Subject: 116 (88) - Complaint re Noise from City Yard Restaurant.

IN RE: Report from Building and Planning Director and City Manager relating to the complaint of Donald Bramlette concerning excessive noise emanating from the City Yard Bar.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN MECHAM that the applicant (City Yard) request a code amendment to allow dancing, entertainment and liquor in conjunction with a restaurant in a C-1 (Central Commercial) District, subject to approval under the Conditional Use Permit procedure; and if application is made within a reasonable time limit, allow the use to continue until the issue is resolved.

During discussion and comments, Mr. Bramlette reiterated that he gets about four hours sleep on any given night; that he is not objecting to the restaurant or bar as long as the music stays within the confines of the building.

Oliver C. Foster, representing the owners Mr. & Mrs. Clayton, advised of measures they are taking to eliminate the problem including installation of certain paneling for sound proofing, installation of cork on the windows, and the closing of a service door which has allowed sound to escape and bounce back toward Mr. Bramlette's residence.

The Mayor then called for the QUESTION WHICH CARRIED UNANIMOUSLY.

WRITTEN COMMUNICATIONS

Subject: 43 - Commendation to Sheridan Byerly.

IN RE: Communication from United States Lifesaving Association requesting an opportunity to present a commendation to Captain Sheridan Byerly of the San Clemente Marine Safety Department for his outstanding contribution and personal efforts to the advancement of lifesaving in the United States.

Richard Miller, President, addressed the Council and then presented a plaque to Sheridan Byerly commending him for his outstanding contribution and personal efforts to the advancement of lifesaving in the United States.

Mayor Koester added her commendation to Sheridan Byerly, AND IT WAS THEN MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to receive and file the communication, and to add the congratulations of the Council on the commendation received.

Subject: 73 - First Performance of 1980 - La Cristianita Pagaent.

IN RE: Communication from La Cristianita Pagaent Association expressing appreciation to the City for their efforts in providing park areas; Estrella Properties for dedicating the 64-acre pagaent site; and noting that the first performance of 1980 on July 26th will be dedicated to the hundreds of volunteers who have made the dreams of a few come true.

Wil Clark stated that the Association would like to have a "City Night" for City employees wherein a catered dinner followed by a performance of "The Cross and the Arrow" would be available for \$9.50 per person; and that a minimum of 40 persons would be required.

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

COMMUNICATIONS FROM COMMISSIONS AND COMMITTEES

Subject: 105 - Tentative Parcel Map No. 80-836 (Aubrey Holmes).

IN RE: Communication from Planning Commission recommending approval of Tentative Parcel Map No. 80-836, being the request of Aubrey Holmes for a two-lot subdivision for the purpose of converting two duplexes presently under construction to a 4-unit condominium at 142 and 144 West Avenida Canada, legal description Lots 25 and 26, Block 12, Tract No. 793, said approval subject to the seven recommended conditions of the Subdivision Committee.

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED to concur with the Planning Commission's recommendation, noting that a Categorical Exemption was granted on 5-2-80 in compliance with CEQA.

Subject: 30 - Capital Improvement Program.

IN RE: Communication from Planning Commission advising that the 1980-81 Capital Improvement Program and 5-year Program are in conformance with Government Code Section 65402 and recommending adoption of same.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to receive and refer to the budget session of June 23.

Subject: 29 - Commendation to Citizens Advisory Committee Secretary Larry Wohlfarth.

IN RE: Communication from Citizens Advisory Committee commending Secretary Larry Wohlfarth for his professionalism and noting that he is a great asset to the Committee and community as well.

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

ITEMS FROM CITY MANAGER

Subject: 48 - Status Report on Calle Patricia/La Esperanza Landslide.

IN RE: City Manager's report on the recent slide problem on Calle Patricia/La Esperanza.

The City Manager reported that late yesterday William McCoy stated that he was representing the homeowners and that he felt that the work should stop as they did not quite agree with the borings and did not want to participate in the cost; that there was not time to confirm whether he was representing all five homeowners; that he suggested Mr. McCoy call the engineering firm advising them of their decision; and that after consulting with the City Engineer it was decided not to proceed with the boring that was scheduled for this morning; but since we have not heard from all the homeowners we are proceeding with the agreement.

Mr. Carvalho also advised that he contacted the State Office of Emergency Services and they indicated that SBA will consider taking late applications if reputable soils engineer or geologists clearly identify that the slide was caused by the winter storm.

Following discussion, IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY MAYOR KOESTER, AND UNANIMOUSLY CARRIED to proceed with the City Manager's recommendation that the City comply with its obligation under the contract.

The City Manager inquired if any Council members wished to attend the League of California Cities Orange County Division meeting on Thursday, June 19, 1980. Mayor Koester noted that Council should take advantage of the opportunity to attend some of these meetings as they are very worthwhile and information.

The City Manager requested an Executive Session to discuss labor relations.

Subject: 109 - Declaration of State of Local Emergency.

IN RE: Report from City Manager relating to declaration of a "State of Local Emergency."

The City Manager advised that on Friday, June 13, 1980, the City was notified that a major landslide had occurred in the vicinity of Calle Patricia and South La Esperanza; that the firm of Leighton & Associates was engaged to conduct a preliminary analysis and subsequently recommended that immediate action be taken; that a "State of Local Emergency" was declared by the City Manager at 2:50 P.M.; and an emergency City Council meeting was called for 5:00 P.M.

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to confirm the action relating to a "State of Local Emergency" in the City of San Clemente.

ITEMS FROM CITY ATTORNEY

Subject: 105 - Request for Subdivision Agreement Extension - Tract No. 8575.

IN RE: Report from City Attorney regarding request from San Clemente Estates, dba Linda Mar Estates, for an extension of the existing Subdivision Agreement for Tract No. 8575 to 8-3-82.

The City Attorney reviewed his memorandum and noted that John Anderson indicated to him that as of today Olson and Anderson are certified by the Bankruptcy court as purchasers of Tract No. 8575; that the court will take between 90-120 days to clear title; and in the meantime Mr. Anderson will be able to do the items that are set forth in his memorandum.

Ensuing discussion is briefly summarized as follows: Mayor Koester inquired whether it is proper and legal for the applicant to do this, and Keith McWilliams, representing San Clemente Estates, advised that consummation of the sale will take 24 to 48 hours; that the primary reason the offer was accepted is that there are a large number of lot owners who had presale contracts to date; that Mr. Crosby can go forward and prepare necessary plans for flood mitigation for submittal to the City by August 1 with work commencing in October and completed by November 15; and further that between 55-60 lot owners have entered into contracts with Anderson-Olson.

During Council discussion it was generally agreed that the Council should take a look at the entire project again; with possibility that the fees be refunded and the property reverted back to acreage and to start all over again; that there are geologic faults on the property and other problems that need to be thoroughly addressed; and question as to conformance with the hillside grading ordinance.

Following discussion and deliberation, and Staff response to questions, IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY MAYOR KOESTER to set the matter for public hearing on 8-6-80 to consider the question of reverting the tract to acreage.

In regard to notification, the City Attorney advised that the City will notify the present owners formally; the Anderson-Olson group formally; attempt to notify the persons who have entered into agreement to purchase lots; and adjacent owners of property; and the general public notification by posting and publication of legal notice.

The Mayor then called for the QUESTION WHICH CARRIED UNANIMOUSLY.

Floyd Lowe. addressed the Council and advised that he is one of the owners who purchased a lot about 2 years ago; that most of the lots that have been purchased are by single lot owners; that nearly a million dollars has been put on deposit by these prospective buyers half of which could be lost if the tract is not developed; and urged Council to extend the Subdivision Agreement and let the Anderson-Olson group develop the property.

ITEMS FROM COUNCIL MEMBERS

Subject: 39 - Appointment to Fill Council Vacancy Created by Resignation of Roy L. Hurlbut; and Selection of Mayor Pro Tempore.

IN RE: Consideration of filling Council vacancy.

IN RE: Communication from Charles M. Mitchell recommending Herbert Lipp for appointment as interim City Councilman.

Councilman Limberg reiterated the need for experienced individuals to help guide the Council; that he knows of an individual who has no interest in running for office in November but has indicated a willingness to help out, AND IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED that B. Patrick Lane be appointed to the Council vacancy for an interim period until the Special Election to be held in conjunction with the General Election in November.

Councilman Mecham then nominated Councilman Limberg for Mayor Pro Tempore. There being no further nominations, the nominations were closed and Councilman Limberg was unanimously declared elected as Mayor Pro Tempore.

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Mayor Koester commended City personnel for their services during the recent landslide emergency, adding that they did a fantastic job.

Mayor Koester referred to a "stop work" order that has halted construction of homes in the Richard Rule Tract No. 9712 on the hillside above East Junipero, pending complete geological testing.

Staff advised that the pads were not all properly certified before construction began; that borings plus some compaction testing will have to be done which will take about a month to resolve the issue. It was noted that the Building and Planning Director will not issue any more building permits in the tract until the problem is resolved; and the City Manager advised that if the City finds a failure to comply with conditions, the developer will face substantial costs.

Subject: 51 - Change of Contract for Computer Services.

IN RE: Change of contract for computer services.

Mayor Koester advised that the City is terminating the current contract for computer services with Municipal Data Systems located in Anaheim; that the City along with the other contracting cities is in the process of entering into a contract with the firm of Science Dynamics Corp. located in Torrance; and that if the City is to participate the contract must be approved by the end of the month.

At the request of Council, the City Attorney advised he would review the lengthy contract; and inasmuch as Council has a budget study session scheduled for Monday, June 23, it was decided to have an adjourned meeting at 7:00 P.M. in order to consider approval of the contract.

Subject: 96 - City's Designated Representative to SERRA Board.

IN RE: Mayor Koester's comments as to the questions of continuing with a Staff representative to the SERRA Board or to appoint a Council member.

Following discussion, IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to continue with Edward Putz as the City representative, with the City Manager as the alternate representative.

IT WAS THEN MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN MECHAM, AND UNANIMOUSLY CARRIED that the representatives bring back any policy matters to the Council for consideration.

NEW BUSINESS

Subject: 31 - Resolution No. 43-80 Adopting a New Appendix "B" Covering Categorically Exempt Activities Re CEQA.

IN RE: Report from Building and Planning Director and City Manager advising that in accordance with the California Environmental Quality Act (CEQA) revisions to the State guidelines for implementation of CEQA have been mandated by State Law and recommending adoption of a revised appendix covering categorically exempt activities.

Upon motion of Mayor Koester, seconded by Councilman Limberg, and unanimously carried, RESOLUTION NO. 43-80, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING RESOLUTION NO. 62-79 BY ADOPTING A NEW APPENDIX "B" COVERING CATEGORICALLY EXEMPT ACTIVITIES IN RELATION TO PROCEDURES FOR THE IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, was regularly introduced, passed, and adopted.

RESOLUTIONS

For Resolution No. 43-80 see under "NEW BUSINESS" on page 13.

ORDINANCES

Subject: 62 - Ordinance No. 783 Adopting an Agency Conflict of Interest Code as Required by California Government Code.

IN RE: Ordinance No. 783 adopting an agency conflict of interest code as required by California Government Code.

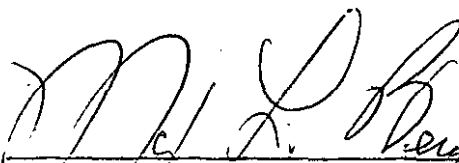
Upon motion of Councilman Limberg, seconded by Councilman Mecham, and unanimously carried, ORDINANCE NO. 783, BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE ADOPTING AN AGENCY CONFLICT OF INTEREST CODE AS REQUIRED BY SECTION 81000 ET SEQ. OF THE CALIFORNIA GOVERNMENT CODE, KNOWN FAMILIARLY AS THE POLITICAL REFORM ACT OF 1974, having been regularly introduced at the meeting of 6-4-80, was again introduced by title only, the reading in full thereof unanimously waived, and duly passed and adopted.

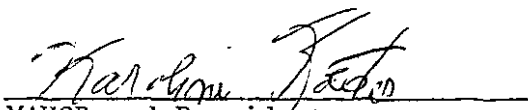
ADJOURNMENT TO EXECUTIVE SESSION

IT WAS MOVED BY COUNCILMAN MECHAM, SECONDED BY COUNCILMAN LIMBERG, AND UNANIMOUSLY CARRIED to adjourn at 12:50 A.M., Thursday, June 19 to an Executive Session.

MEETING RECONVENED AND ADJOURNMENT

The Mayor reconvened the meeting at 1:30 A.M. AND IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED that the Council meeting be adjourned at 1:30 A.M., June 19 to 7:00 P.M., June 23, 1980.

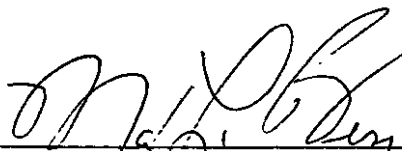

CITY CLERK and ex-officio
Clerk of the City Council


MAYOR and President
of the City Council

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

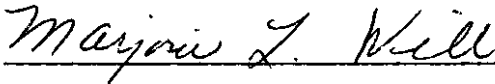
AFFIDAVIT OF POSTING
OF MEETING

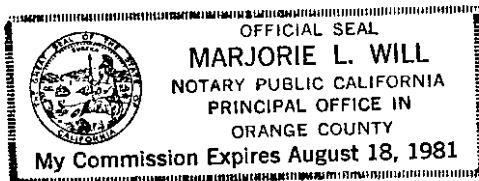
I, MAX L. BERG, being first duly sworn deposes and says:
that I am the duly chosen, qualified, and acting ex-officio Clerk of the
City Council of the City of San Clemente; that at the regular meeting of
the City Council of the City of San Clemente, held June 18, 1980 ,
said meeting was ordered adjourned to the time and place specified in the
Order of Adjournment ATTACHED HERETO; that on June 19, 1980 , at the
hour of 9:00 A.M., I posted a copy of said Order of Adjournment at the
conspicuous place on or near the door of the place at which said meeting of
June 18, 1980 , was held.



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

Subscribed and sworn to before
me this 19th day of June, 1980





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,
June 18 1980, at 7:00 P. M., Mayor Karoline Koester presiding.

ROLL CALL

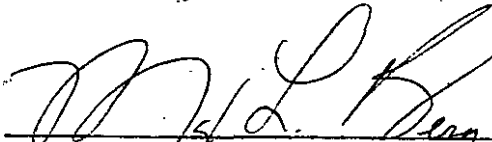
PRESENT: Council Members - LIMBERG, MECHAM, O'KEEFE, AND KOESTER

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 & Planning Director

ADJOURNMENT

IT WAS MOVED BY COUNCILMAN LIMBERG, SECONDED BY COUNCILMAN O'KEEFE,
AND UNANIMOUSLY CARRIED that the Council Meeting be adjourned at
1:30 A.M., June 19 to 7:00 P.M., June 23, 1980.



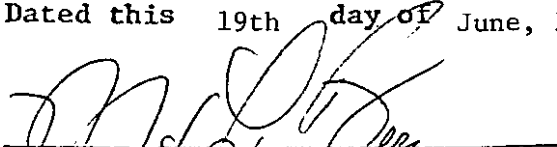
CITY CLERK and ex-officio
Clerk of the City Council



MAYOR and President
of the City Council

Certified to be a true and correct
copy of excerpts from the June 18
19 80 Council Minutes

Dated this 19th day of June, 1980



CITY CLERK, City of San Clemente