

San Clemente, California  
May 15, 1968

Regular meeting of the City Council of the City of San Clemente, California, Council Chambers, Civic Center Building, Wednesday, May 15, 1968, 7:30 P.M., Mayor Wade Lower presiding.

PLEDGE OF ALLEGIANCE AND INVOCATION

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

ROLL CALL

PRESENT: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
ABSENT: Councilmen - NONE

Also Present: Kenneth E. Carr, City Manager; Max L. Berg, City Clerk;  
and Carl S. Kegley, City Attorney.

APPROVAL OF THE MINUTES

Minutes of the regular meeting of May 1, 1968, having been previously presented to the members of the Council, IT WAS MOVED BY COUNCILMAN NORTHRUP, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED that said minutes be approved as presented, and the reading in full thereof waived.

PUBLIC HEARINGS

111 - Resolution No. 29-68 Abandoning Sewer Line Easement.

The Clerk announced that the hour of 7:30 P.M. having arrived, this was the time and place fixed by the City Council for Public Hearing to consider protests or objections to the proposed abandonment of a 10-foot sewer line easement crossing Lots 40, 41, 42, 43, 47, and 48 of Tract No. 960, as petitioned by Humble Oil Company.

The Clerk announced that notice of Hearing had been posted and published as required by law and affidavits showing such compliance are on file in the Clerk's office.

The Clerk read the Planning Commission memorandum of 3-27-68 recommending approval of the abandonment and there being no further written or oral communications, the Mayor declared the Hearing closed, and upon motion of Councilman O'Keefe, seconded by Councilman Chilton, RESOLUTION NO. 29-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ORDERING VACATION AND ABANDONMENT OF A SEWER LINE EASEMENT TEN FEET (10) IN WIDTH ACROSS CERTAIN LOTS IN THE CITY OF SAN CLEMENTE, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES:	Councilmen - CHILTON, NORTHRUP, O'KEEFE, AND LOWER
NOES:	Councilmen - NONE
ABSENT:	Councilmen - NONE
ABSTAINED:	Councilmen - EVANS (Voted originally in the Planning Commission)

WRITTEN COMMUNICATIONS

96 - Commending City on Intercommunity Cooperation  
re Control and Disposal of Sewage.

Letter from DENNIS A. O'LEARY, SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD, commending the City and other neighboring agencies for their intercommunity cooperation for water pollution control purposes and efforts in solving waste disposal problems, offering assistance in current activities in connection with providing long-term basin-wide facilities; and advising of a tentatively planned Regional Board meeting in the Orange County area in late July.

IT WAS MOVED BY COUNCILMAN CHILTON, SECONDED BY COUNCILMAN NORTHRUP, AND UNANIMOUSLY CARRIED that the communication be received and filed.

77 - Objection to Use of Bonito Canyon Baseball Park by Fast Pitch League.

Letter from SOUTH COAST BABE RUTH LEAGUE requesting reconsideration of previous decision to allow the Fast Pitch League to use the baseball diamond at Bonito Canyon Park, citing the damage to the field caused by the differences in the layout of the diamond not intended for play by a Fast Pitch League; and suggesting the establishment of a diamond in left field, and rearrangement of lights and spectator stands for the Fast Pitch League.

Following question by the Council as to whether the light standards had already been installed, Larry Vasquez, representing the Fast Pitch League advised that the pole bases were poured that day; further, that use of a similar diamond by both Leagues has worked well in Laguna Beach.

It was suggested that the most practical solution would be for both groups to get together and reconcile their differences. IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED that the letter be received and filed.

48 - Earth Slippage from Drainage Run-Off in Trafalgar Canyon Area.

Letter from JAMES Mc CONE presenting background information regarding earth slippage in the Trafalgar Canyon area from drainage run-off from new developments east of the Freeway and requesting funds be allotted in the Budget to rectify the situation.

Concurring in the recommendation of the City Manager, IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED to refer the matter to the Budget sessions for consideration.

93 - Storage Site for Street Sweepings.

Letter from MRS. DOUGLAS E. DICKSON objecting to the delay in eliminating upper Bonito Canyon as a dumping site for street sweepings.

Mayor Lower commented that the matter has been explained to Mrs. Dickson and she now understands the situation. IT WAS THEN MOVED BY MAYOR LOWER, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED that the communication be received and filed.

74 - Request for Reconsideration of Parking Meters Along Beach Bluff.

Letter from MR. & MRS. LAWRENCE WILSON objecting to the installation of parking meters along the beach bluff and requesting reconsideration of the decision.

Councilman O'Keefe commented that perhaps Mrs. Wilson is unaware of the recently adopted Parking Permit Ordinance No. 514 and should be so advised as it may eliminate the problem.

IT WAS MOVED BY COUNCILMAN CHILTON, SECONDED BY COUNCILMAN NORTHRUP, AND UNANIMOUSLY CARRIED to receive and file the letter and advise Mrs. Wilson of Parking Permit Ordinance No. 514.

98 - Request for waiver of sidewalk requirements.

Letter from NORMAN CLOW requesting waiver of sidewalk requirements (Municipal Code Section 31-9) for property located at 406 Avenida Salvador.

The City Manager recommended that the request be denied; explaining that some years ago when the Hillcrest Tract was approved, the City required sidewalks only on one side of the street, but since this is the first house to be built on the ocean side of the 400 block of Avenida Salvador, initial sidewalk construction could lead to sidewalks along the entire block.

Following Council deliberation, IT WAS MOVED BY COUNCILMAN CHILTON, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED that the request for sidewalk waiver be denied.

117 - Zoning Ordinance Amendment No. 02-68.

Memorandum from the PLANNING COMMISSION recommending approval of Zoning Ordinance Amendment No. 02-68, amending Section 4.4 to allow single family and duplex residential in Garden Apartment District (R-3-G), and to change

minimum lot size from 6000 square feet to 7500 square feet; and amending Section 5.16 (B) to change fence heights around swimming pools from six feet to five feet.

IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN NORTHRUP, AND UNANIMOUSLY CARRIED that Public Hearing on Zoning Amendment No. 02-68 be set for June 5, 1968.

35 - Request Expenditure of Funds to Decorate Community Clubhouse and City Hall with Fiesta La Cristianita Banners and Bunting.

Letter from the SAN CLEMENTE JUNIOR WOMAN'S CLUB apprising the Council that they are again selling Fiesta banners and bunting for the annual Fiesta La Cristianita and requesting Council expenditure of approximately \$100.00 to decorate the Community Clubhouse and City Hall.

Upon recommendation of the City Manager, IT WAS MOVED BY COUNCILMAN NORTHRUP, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED that the matter be referred to the Committee comprised of the Mayor and President of the Chamber of Commerce for consideration of such an expenditure from the joint City and Chamber of Commerce "Special Fund."

ORAL COMMUNICATIONS

105 - Request for Relief from Storm Drain Installation (Walter R. Steyer).

Walter R. Steyer presented a letter, read by the City Clerk, requesting relief from storm drain installation which was a condition for the division of Lot 5, and portion of Lot 4, Block 10, Tract No. 822, as granted to Dan Russie on 8-3-60.

The Council concurred that the matter should be referred to the City Manager for a complete investigation and report back to the Council. IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED that the matter be referred to the City Manager for report back at the next meeting.

UNFINISHED BUSINESS

62 - Senate Bill 425 Concerning Preemption.

Referring to the recent letter from the City of Newport Beach, and as spokesman for the Legislative Committee of the Council, Councilman O'Keefe advised that study has shown Senate Bill 425 concerning preemption as appropriate in its wording and the answer to the problems which resulted from the Carol Lane case, and recommended that the Council go on record endorsing said Bill.

Upon motion of Councilman O'Keefe, seconded by Councilman Chilton, RESOLUTION NO. 30-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, EXPRESSING ITS SUPPORT FOR SENATE BILL 425 CONCERNING PREEMPTION, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
NOES: Councilmen - NONE  
ABSENT: Councilmen - NONE

42 - Claim for False Arrest and False Imprisonment Damages (Simon Hoyos).

Further consideration was given to the claim presented at the meeting of 5-1-68 for false arrest and false imprisonment damages as filed by Simon Hoyos in the amount of \$25,000.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN NORTHRUP, AND UNANIMOUSLY CARRIED that the claim filed by Simon Hoyos be denied and referred to the City's insurance carrier.

42 - Claim for False Arrest and False Imprisonment Damages (Dick Bloomfield).

Further consideration was given to the claim presented at the meeting of 5-1-68 for false arrest and false imprisonment damages as filed by Dick Bloomfield in the amount of \$25,000.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN NORTHRUP, AND UNANIMOUSLY CARRIED that the claim filed by Dick Bloomfield be denied and referred to the City's insurance carrier.

42 - Claim for False Arrest and False Imprisonment Damages (Elmer L. Boggs).

Further consideration was given to the claim presented at the meeting of 5-1-68 for false arrest and false imprisonment damages as filed by Elmer L. Boggs in the amount of \$25,000.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN NORTHRUP, AND UNANIMOUSLY CARRIED that the claim filed by Elmer L. Boggs be denied and referred to the City's insurance carrier.

32 - Proposed Amendment to Business License Tax Ordinance re Vending Machines.

Further consideration was given to the draft of an Ordinance amending Chapter 13 of the Municipal Code concerning license tax for vending machines as presented at the meeting of 5-1-68. The Clerk advised that copies of the proposed Ordinance Amendment were mailed to all vending machine operators who pay an annual license fee of \$50.00 or more.

During general discussion Councilman Evans suggested a lesser fee for 1¢ machines as related to an operation by the Kiwanis Club where the returns received by the Club and the owner of the vending machines are so minimal. IT WAS THEN MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED that this matter be referred to a future Study Session.

27 - Initiation of Proceedings for Improvement District 4-68-U (Avenidas Montalvo and Lobeiro).

Formal proceedings were initiated for proposed street improvement and undergrounding of utilities in Lobeiro-Montalvo area, Improvement District 4-68-U. Upon motion of Councilman O'Keefe, seconded by Councilman Chilton, RESOLUTION NO. 31-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DESIGNATING SUPERINTENDENT OF STREETS AND DESIGNATING ATTORNEY IN CONNECTION WITH IMPROVEMENT DISTRICT NO. 4-68-U (AVENIDA MONTALVO AND LOBEIRO), was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
NOES: Councilmen - NONE  
ABSENT: Councilmen - NONE

Jim Paige, Engineering Department, presented and posted the plat of assessment district and map showing proposed boundaries. Upon motion of Councilman Chilton, seconded by Councilman O'Keefe, RESOLUTION NO. 32-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A PLAT SHOWING THE GENERAL NATURE, LOCATION AND EXTENT FOR THE CONSTRUCTION OF CERTAIN IMPROVEMENTS AND SHOWING THE BOUNDARIES OF THE DISTRICT TO BE ASSESSED FOR SAID IMPROVEMENTS IN IMPROVEMENT DISTRICT NO. 4-68-U (AVENIDA MONTALVO AND AVENIDA LOBEIRO) IN SAID CITY, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
NOES: Councilmen - NONE  
ABSENT: Councilmen - NONE

Upon motion of Councilman Chilton, seconded by Councilman O'Keefe, RESOLUTION NO. 33-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, COVERING PRELIMINARY DETERMINATION OF THE LEGISLATIVE BODY UNDER "SPECIAL ASSESSMENT INVESTIGATION, LIMITATION AND MAJORITY PROTEST ACT OF 1931," DETERMINING THE GENERAL NATURE, LOCATION AND EXTENT OF THE PROPOSED WORK, AND ORDERING THE PREPARATION OF A REPORT ON SAID IMPROVEMENTS, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
NOES: Councilmen - NONE  
ABSENT: Councilmen - NONE

The Debt Report was then presented and summarized by Jim Paige, and various questions posed by the Council were answered. Main discussion centered around

the proposal to stub utilities to two lots owned by the State, said stubbing to be at City expense of approximately \$300 since the State cannot be legally assessed. It was suggested that through negotiation the State might voluntarily pay for the two stubs, and IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED to refer the matter to the City Engineer for negotiation.

Upon motion of Councilman O'Keefe, seconded by Councilman Chilton, RESOLUTION NO. 34-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING REPORT UNDER "SPECIAL ASSESSMENT INVESTIGATION, LIMITATION AND MAJORITY PROTEST ACT OF 1931," AND FIXING A DATE OF HEARING THEREON IN THE MATTER OF THE CONSTRUCTION OF CERTAIN IMPROVEMENTS IN IMPROVEMENT DISTRICT NO. 4-68-U (AVENIDA MONTALVO AND AVENIDA LOBEIRO), was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

Upon motion of Councilman O'Keefe, seconded by Councilman Chilton, RESOLUTION NO. 35-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE CONSTRUCTION OF CERTAIN IMPROVEMENTS TOGETHER WITH APPURTENANT WORK IN IMPROVEMENT DISTRICT NO. 4-68-U (AVENIDA MONTALVO AND AVENIDA LOBEIRO) IN THE CITY OF SAN CLEMENTE; DECLARING THE WORK TO BE OF MORE THAN LOCAL OR ORDINARY BENEFIT AND DESCRIBING THE DISTRICT TO BE BENEFITED BY SAID WORK AND TO BE ASSESSED TO PAY THE COST AND EXPENSE THEREOF AND DETERMINING LIQUIDATED DAMAGES, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

The report pursuant to the "Municipal Improvement Act of 1913" was then presented, including the plans, specifications, cost estimate, assessment roll and diagram.

Mr. Carr commended those representatives of the San Diego Gas & Electric Company who were in the audience for their excellent cooperation and assistance in the establishment of this District which is a milestone in the County.

Upon motion of Councilman Northrup, seconded by Councilman Evans, RESOLUTION NO. 36-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, PASSING ON THE REPORT OF THE SUPERINTENDENT OF STREETS, SETTING A TIME AND PLACE FOR HEARING IN THE MATTER OF THE CONSTRUCTION OF CERTAIN IMPROVEMENTS TOGETHER WITH APPURTENANCES IN CONNECTION THEREWITH IN IMPROVEMENT DISTRICT NO. 4-68-U (AVENIDA MONTALVO AND AVENIDA LOBEIRO) IN THE CITY OF SAN CLEMENTE, CALIFORNIA, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

Upon motion of Councilman Northrup, seconded by Councilman Evans, RESOLUTION NO. 37-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REFERENCING PREVAILING WAGE SCALE AND DIRECTING CITY CLERK TO CALL FOR BIDS, IMPROVEMENT DISTRICT NO. 4-68-U (AVENIDA MONTALVO AND AVENIDA LOBEIRO), was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

Upon motion of Councilman Chilton, seconded by Councilman O'Keefe, RESOLUTION NO. 38-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE ISSUANCE AND SALE OF BONDS FOR THE CONSTRUCTION OF CERTAIN IMPROVEMENTS IN THE CITY OF SAN CLEMENTE, CALIFORNIA, IMPROVEMENT DISTRICT NO. 4-68-U, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

Upon motion of Councilman O'Keefe, seconded by Councilman Northrup, RESOLUTION NO. 39-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CALLING A PUBLIC HEARING TO DETERMINE WHETHER PUBLIC NECESSITY, HEALTH, SAFETY, OR WELFARE REQUIRES THE FORMATION OF AN UNDERGROUND UTILITY DISTRICT IN IMPROVEMENT DISTRICT NO. 4-68-U (AVENIDA MONTALVO AND AVENIDA LOBEIRO) IN SAID CITY, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

24 - Animal Control Regulations and Licensing  
Pursuant to Agreement with County of Orange.

Further consideration was given to the proposed Ordinance adopting the County Ordinance on uniform animal control, welfare, and license requirements with certain amendments; and a Resolution accepting and approving County animal control rules, regulations, and fee schedules.

The City Manager presented a summary of the study over the past two years and discussion followed on the three available alternatives: (1) Return the animal control services to the San Clemente Police Department, (2) Continue the contract with the County of Orange, or (3) Contract with the S.P.C.A. who have local impounding facilities in Laguna Beach. Mr. Carr further remarked that it was the opinion of Police Chief Murray that this is a service that can be rendered in a more economical, efficient, and satisfactory manner by an agency other than the Police Department.

Discussion ensued as to whether or not the County would continue the contract with the City if the County Ordinance was adopted with the four proposed amendments. Comments were made by Dr. Robert Haight and Lt. Robert Wohrman, Veterinary Public Health Division of Orange County, reiterating their previous position that in the interest of public health the County Ordinance was a good program, and that while there was no objection to the amendments covering localized problems, the proposed amendment pertaining to dogs on private property should not be adopted since this is contrary to the County's requirement that their Ordinance be adopted in its entirety.

Following further debate, it was determined that the Ordinance be adopted with the amendments as proposed by the City and then submitted to the County for their acceptance or rejection. IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to refer the matter to "ORDINANCES."

REPORTS AND MISCELLANEOUS ITEMS

36 - Duties of the City Manager.

Councilman Northrup broached the subject of the duties of the City Manager as described in the Municipal Code "Section 3-12 (b) Appointment, etc., of officers and employees." which provides that with the approval of the City Council, the City Manager shall have the power to appoint, promote, demote, and remove the Police Chief and all heads of departments, except the City Clerk, City Attorney, and City Treasurer; and suggested that the limitation established some years ago be modified so that the jurisdiction of such personnel be in the hands of the City Manager.

During discussion, Councilman Chilton commented on the need for more study to insure no abdication of power to the City Manager, whoever he may be. Councilman O'Keefe apprised the Council of a needed change brought to his attention by the City Manager, wherein Resolution No. 1084 contains a provision that the Personnel Appeal Board be selected by the City Manager.

IT WAS MOVED BY COUNCILMAN NORTHRUP, SECONDED BY COUNCILMAN O'KEEFE, AND CARRIED that an amendment to the Ordinance be brought back to the City Council for consideration at the next meeting. Councilman Chilton voted "NO."

Referring to the need to amend Resolution No. 1084, IT WAS MOVED BY COUNCILMAN NORTHRUP, SECONDED BY COUNCILMAN EVANS, AND UNANIMOUSLY CARRIED that at the next Council Study Session consideration be given to an amendment to the Personnel Resolution section regarding the selection of the Personnel Appeal Board

Councilman Evans suggested that such items as appeared on the present Agenda pertaining to the ball park and waiver of sidewalk requirements could be handled just as efficiently at a staff level.

73 - SCAG

Mayor Lower apprised the Council of an application by SCAG for \$150,000 from H.U.D. (Housing and Urban Development) for a two-year regional airport study estimated to cost \$169,000, thereby leaving a balance of \$19,000 to be paid by SCAG; and in this connection SCAG urged the support of AB 1166.

81 - Impending Appointment of Two Planning Commissioners.

Mayor Lower reminded the Council of the impending appointment of two Planning Commissioners by June 30, 1968, and in order to avoid last minute action suggested that by the next meeting all applicants be properly informed of their duties and a vote will be taken in Executive Session.

32 - Legal Opinion Concerning License Tax Case.

Regarding a report re the license tax case - City vs. Boggs, Bloomfield, and Hoyos, the City Attorney requested an Executive Session following the adjournment of the meeting.

44 - Proposed Lease Agreement for Shore Colony Building (Richard B. Cropley).

The City Attorney presented a proposed Lease Agreement for the Shore Colony building with Richard B. Cropley. During discussion the following changes were included: (1) Deletion of Section 16 to be replaced with a new Section 16 reading that "on any articles or rentals transferred from Surfer #1 and new items similar to those sold or rented in Surfer #1, the Lessee shall pay 10% of the gross receipts instead of 5% as set forth"; (2) the addition of the word "real" in Sections 2 & 3 with the phrase to read "to pay all real or personal property taxes"; and (3) Section 13 to read in part "Public Liability Insurance and Product Liability Insurance in an amount not less than \$100,000 - \$300,000, and Property Damage Insurance in an amount not less than \$50,000 or \$300,000 Single Limits Liability."

Due consideration being given, IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN O'KEEFE to approve the amended Lease Agreement for the Shore Colony building with Richard B. Cropley and authorize the Mayor and City Clerk to execute same on behalf of the City. The MOTION WAS UNANIMOUSLY CARRIED upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

April Departmental Report

The City Manager drew attention to the monthly departmental activities report for April, 1968, attached to all Agendas. Councilman O'Keefe questioned the number of golf course play rounds as not being compatible with the amount of the receipts.

96 - Bids for Project No. PR6-68 Shorecliffs Interceptor Sewer.

The City Manager announced that the following bids were publicly received and opened Monday, May 13, 1968, at 11:15 A.M. for necessary labor and material to complete a connection to the sewer trunk line of the Capistrano Beach Sanitary District in the vicinity of Camino Capistrano and Beach Road:

<u>BIDDER</u>	<u>AMOUNT</u>
J. L. Scott Company	\$ 11,110.00
Carlsbad Pipeline, Inc.	12,399.20
D. C. Muralt Company	16,845.00

Upon recommendation by the City Manager that action be deferred on the awarding of contract for said project until the Capistrano Beach Sanitary District has concluded negotiations with the City of San Juan Capistrano and the Dana Point Sanitary District, IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED that the matter be deferred to the next meeting.

96 - Agreement with Capistrano Beach Sanitary District.

The City Manager presented the revised Agreement between the City of San Clemente and the Capistrano Beach Sanitary District for sewer system connection to said District as discussed at the meeting of 5-1-68 and which has been further modified by the District as follows: (1) Page 1, the addition of a third "WHEREAS" concerning the intention of entering into a Joint Exercise of Powers Agreement with Dana Point Sanitary District and the City of San Juan Capistrano; (2) Section 3, the change from "an average flow of 125,000 g.p.d. not to exceed 250,000 g.p.d." to "a maximum average flow of 250,000 g.p.d. of raw sewage"; (3) Section 7, the language has been substantially revised, but nothing that would be detrimental to the City; and (4) Section 8, setting forth that any extension of the provisions of the Agreement be subject to renegotiation of the Agreement.

Due consideration being given, IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN EVANS to authorize execution of the Agreement by the Mayor and City Clerk subject to the approval by the Capistrano Beach Sanitary District Board of Directors. The MOTION WAS UNANIMOUSLY CARRIED upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

30 - Preliminary Budget for 1968-1969.

The City Manager presented the Preliminary Budget for Fiscal Year 1968-1969 advising that three copies of the Budget would be on file in the office of the City Clerk for study and review by any interested persons. Upon recommendation by the City Manager, IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN EVANS, AND UNANIMOUSLY CARRIED that Public Hearing on the Preliminary Budget for Fiscal Year 1968-1969 be set for June 5, 1968, at 7:30 P.M.

Mayor Lower directed that the Budget Study Sessions be set for 7:00 P.M., Monday, Tuesday, and Wednesday of each week until study is completed beginning, May 20, 1968.

30 - Proposed Five-Year Capital Improvements Program.

Referring to the proposed five-year Capital Improvements Program and the memorandums from the City Manager and Planning Commission transmitted to the Council, the City Manager recommended and IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to acknowledge receipt of the Capital Improvements Program Report for consideration in connection with the 1968-1969 Budget.

The City Council commended the City Manager for initiating the five-year Capital Improvements Program which will be an aid to the City and benefit all citizens.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN EVANS, AND UNANIMOUSLY CARRIED to acknowledge receipt of the Planning Commission's memorandum of findings and recommendations.

56 - A.H.F.P. Agreement with County of Orange (Camino Capistrano).

The City Manager presented and recommended acceptance of the proposed Arterial Highway Financing Program Agreement covering Project #459 with the County of Orange for the improvement of Camino Capistrano, from El Camino Real (Pacific Coast Highway) to Via Breve, in the total amount of \$100,400, with \$50,200 to be financed each by the City and County.

Due consideration being given, IT WAS MOVED BY COUNCILMAN CHILTON, SECONDED BY COUNCILMAN EVANS to enter into an Agreement between the City and County of Orange for Arterial Highway Financing, Project #459, for the improvement of Camino Capistrano; and authorize the Mayor and City Clerk to execute same on behalf of the City. The MOTION WAS UNANIMOUSLY CARRIED upon the following



stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

55 - Revised Freeway Agreement with State of California.

The City Manager apprised the Council of a further revised Freeway Agreement from the State Division of Highways covering the widening of Interstate Highway #5, with the latest revision to include a full and complete interchange at the southerly City limits at no cost to the City. Mr. Carr reviewed previous action of the Council and necessity of rescinding Resolution No. 80-67, adopted 9-20-67.

Upon motion of Councilman O'Keefe, seconded by Councilman Evans, RESOLUTION NO. 40-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING FINAL PROPOSED REVISIONS OF ROUTE 5 FREEWAY BETWEEN THE COUNTY LINE AND NORTHWESTERLY CITY LIMITS; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A REVISED FREEWAY AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND THE CITY OF SAN CLEMENTE; AND REPEALING RESOLUTION NO. 80-67, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

30 - Transfer of Funds from Street Construction to Street Maintenance.

Consideration was given to the request by the City Manager for a budget transfer of \$9,467.00 from Street Construction (5096.01 and 5096.02) originally designate for the Lobeiro-Montalvo Improvement District, not undertaken this current fiscal year and incorporated in the 1968-1969 Budget, to Street Maintenance (5150) to replenish the funds expended by the Vistosa-Bandita project, which was not anticipated, in order to continue the slurry seal program throughout the City.

The Council concurred and IT WAS MOVED BY COUNCILMAN CHILTON, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to transfer \$9,467.00 from Street Construction to Street Maintenance Contractural Services in the Budget for Fiscal Year 1967-1968.

87 - Grant of Easement and Right-of-Way to San Diego Gas & Electric Company for Service Connection to New Lifeguard Headquarters.

The City Manager presented a proposed grant of easement and right-of-way from the City of San Clemente to the San Diego Gas & Electric Company to allow for service to the new Lifeguard Headquarters across a portion of Block 34, Tract No. 779. Upon question, Mr. Carr acknowledged that the installation would be above ground as the cost to underground the service would be approximately \$11,000, but that the two poles would be placed as close to the cliffs as possible so as not to mar the view.

Debate ensued as to the question of undergrounding, with objections to overhead service also voiced by two members of the audience. After due consideration, upon motion of Councilman Chilton, seconded by Mayor Lower, RESOLUTION NO. 41-68 BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, GRANTING A POWER LINE EASEMENT AND RIGHT-OF-WAY OVER CITY PROPERTY TO THE SAN DIEGO GAS AND ELECTRIC COMPANY, AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID EASEMENT, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, O'KEEFE, AND LOWER  
 NOES: Councilmen - EVANS AND NORTHRUP  
 ABSENT: Councilmen - NONE

60 - Revising Public Official Bond Requirements.

The City Manager presented and explained a recommendation for Ordinance amendment to the Municipal Code concerning the filing of faithful performance bonds by the City Treasurer and Finance Director, suggesting that the bond requirement for each officer be set at \$50,000 which amount must be established by Resolution of the City Council.

Upon motion of Councilman Evans, seconded by Councilman O'Keefe, ORDINANCE NO. 516, BEING AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTIONS 3-1 AND 4-3 OF THE CODE OF THE CITY OF SAN CLEMENTE RELATING TO BONDS OF CITY OFFICERS, was regularly introduced, and the reading in full thereof waived, upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

Upon motion of Councilman Evans, seconded by Mayor Lower, RESOLUTION NO. 42-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, FIXING THE AMOUNT OF THE FAITHFUL PERFORMANCE BONDS TO BE FILED BY THE CITY TREASURER AND THE DIRECTOR OF FINANCE, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

Said Resolution was adopted with an effective date to coincide with the effective date of Ordinance No. 516.

62 - Pending State Legislation Affecting Cities (SB 334 & AB 1604).

Referring to a recent San Francisco court decision which might result in the possible assessing of possessory interest taxes on governmental buildings built through non-profit corporation financing as was the case of the San Clemente City Hall under its lease-purchase agreement, the City Manager apprised the Council and recommended the endorsing of SB 334 and companion AB 1604 which provides that non-profit corporations organized and operated solely for the leasing of buildings to cities shall be considered charitable and exempted from possessory interest taxes.

Due consideration being given and upon motion of Councilman O'Keefe, seconded by Councilman Evans, RESOLUTION NO. 43-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, EXPRESSING SUPPORT OF AB 1604 AND SB 334, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

The Mayor then suggested the possibility of paying off the bonded indebtedness to save interest as well as avoiding any possible possessory interest tax assessment. IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY MAYOR LOWER, AND UNANIMOUSLY CARRIED to refer the matter to the City Manager for study and report back on the economical feasibility.

76 - Request for Loading Zone and No Parking Markings Fronting Church Property.

Regarding the request at the meeting of 5-1-68 from the First Church of Christ, Scientist for consideration of a loading and unloading zone on a 25-foot curb area fronting the cement walk to the Church, and legal no parking markings on three driveways to the Church property; the City Manager apprised the Council that the matter has been resolved to the satisfaction of the Church and no action is required.

IT WAS THEN MOVED BY COUNCILMAN CHILTON, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to table the letter from the First Church of Christ, Scientist.

28 - Audit Services Progress Report.

Referring to previous Council direction, the City Manager requested until the next regular meeting to report back as to audit firms and their fees.

77 - Bids for Project No. PR5-68 - Linda Lane Beach Access Road & Parking Area.

The City Manager announced that the following bids were publicly received and opened Monday, May 13, 1968, at 11:00 A.M. for necessary labor and materials to construct Project No. PR5-68, the Linda Lane Beach Access Road and Parking Areas

in the Marquita Canyon:

<u>BIDDER</u>	<u>AMOUNT</u>
D. C. Muralt Company	\$ 90,955.00
Mark Construction Company	94,818.62
Griggs-Norwood, Inc.	99,981.68
Griffith Company	102,028.55
R. W. McClellan & Sons	103,355.30
Sully-Miller	128,377.00

Discussion ensued relative to the additional costs of the project, not reflected in the bids, for the necessary right-of-way to be leased from the AT&SF Railway Company at an annual fee of \$4,000; and the costs for relocation of telephone and signal poles and installation of a six-foot chain link fence along the right-of-way.

In view of the unresolved matter concerning right-of-way agreement with the Railway Company and the need for certain easements not as yet signed, IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED to defer the matter to the next meeting.

NEW BUSINESS

42 - Claim for Personal Injury Damages - Mrs. Alice Linton.

The Clerk presented a claim for personal injury damages in the amount of \$350.00 as filed by Mrs. Alice Linton for an alleged "trip and fall" accident on San Luis Rey.

IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY MAYOR LOWER, AND UNANIMOUSLY CARRIED that the claim be denied and referred to the City's insurance carrier.

PAYING OF THE BILLS

IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN CHILTON that Warrants No. 10344 through No. 10446, as audited by the Council, be paid. The MOTION WAS DECLARED CARRIED upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

Total Demands approved for payment for the period of May 2 through May 15, 1968. . . . . \$ 49,755.70

Ratification of Payroll Warrant No. 10344 for period of April 15 through April 28, 1968 . . . . . \$ 31,909.80

TOTAL WARRANT REGISTER . . . . . \$ 81,665.50

RESOLUTIONS

- For Resolution No. 29-68 see under "PUBLIC HEARINGS" on Page 1.
- For Resolution No. 30-68 see under "UNFINISHED BUSINESS" on Page 3.
- For Resolution No. 31-68 see under "UNFINISHED BUSINESS" on Page 4.
- For Resolution No. 32-68 see under "UNFINISHED BUSINESS" on Page 4.
- For Resolution No. 33-68 see under "UNFINISHED BUSINESS" on Page 4.
- For Resolution No. 34-68 see under "UNFINISHED BUSINESS" on Page 5.
- For Resolution No. 35-68 see under "UNFINISHED BUSINESS" on Page 5.
- For Resolution No. 36-68 see under "UNFINISHED BUSINESS" on Page 5.
- For Resolution No. 37-68 see under "UNFINISHED BUSINESS" on Page 5.
- For Resolution No. 38-68 see under "UNFINISHED BUSINESS" on Page 5.
- For Resolution No. 39-68 see under "UNFINISHED BUSINESS" on Page 6.
- For Resolution No. 40-68 see under "REPORTS & MISCELLANEOUS ITEMS" on Page 9.
- For Resolution No. 41-68 see under "REPORTS & MISCELLANEOUS ITEMS" on Page 9.
- For Resolution No. 42-68 see under "REPORTS & MISCELLANEOUS ITEMS" on Page 10.
- For Resolution No. 43-68 see under "REPORTS & MISCELLANEOUS ITEMS" on Page 10.

27 - Resolution No. 44-68 Abandoning Proceedings for Improvement District No. 1-68 (Los Obreros Lane).

As previously directed, a Resolution abandoning proceedings for Improvement

District No. 1-68 was presented and upon motion of Councilman Northrup, seconded by Councilman Evans, RESOLUTION NO. 44-68, BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ABANDONING PROCEEDINGS PURSUANT TO THE "IMPROVEMENT ACT OF 1911" FOR IMPROVEMENT DISTRICT NO. 1-68 (LOS OBREROS LANE) IN SAID CITY, was regularly introduced, passed, and adopted upon the following stated vote, to wit:

AYES: Councilmen - CHILTON, EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - NONE  
 ABSENT: Councilmen - NONE

#### ORDINANCES

For Ordinance No. 516 see under "REPORTS & MISCELLANEOUS ITEMS" on Page 10.

24 - Introduction of Ordinance No. 517 Adopting by Reference County Ordinance on Uniform Animal Control, Welfare and License Requirements, With Amendments Thereto.

Referring to the proposed Ordinance adopting by reference the County Animal Control Ordinance with certain amendments, the City Attorney confirmed that adoption by reference would require a Public Hearing.

IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN NORTHRUP that Public Hearing on Ordinance No. 517 be set for June 5, 1968, and that ORDINANCE NO. 517, BEING AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING BY REFERENCE ORANGE COUNTY ORDINANCE NO. 2159 AND AMENDMENTS THERETO, WHICH RELATE TO ANIMAL CONTROL, WELFARE, LICENSE AND HEALTH REQUIREMENTS; PROVIDING A FEE SCHEDULE FOR SERVICES AT ORANGE COUNTY ANIMAL SHELTER; PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND AMENDING CHAPTER 17 OF THE CODE OF THE CITY OF SAN CLEMENTE, be introduced by title only and the reading in full thereof waived. The MOTION WAS CARRIED by a 4/5th vote upon the following stated vote, to wit:

AYES: Councilmen - EVANS, NORTHRUP, O'KEEFE, AND LOWER  
 NOES: Councilmen - CHILTON  
 ABSENT: Councilmen - NONE

#### ADJOURNMENT TO EXECUTIVE SESSION

IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY MAYOR LOWER, AND UNANIMOUSLY CARRIED that the Council meeting be adjourned at 11:00 P.M. to an Executive Session as requested by the City Attorney, for the purpose of discussing pending litigation.

#### MEETING RECONVENED

IT WAS MOVED BY COUNCILMAN EVANS, SECONDED BY COUNCILMAN NORTHRUP, AND UNANIMOUSLY CARRIED to convene the City Council back into regular session at 12:06 A.M., Thursday, May 16, 1968, from the called Executive Session.

Mayor Lower directed that the previously set Budget Session for 7:00 P.M., Monday, May 20, 1968, also be combined with a regular Study Session in order to discuss the matter of possible amendment to the Municipal Code concerning City Manager powers and duties, and amendment to the Personnel Resolution regarding selection of a Personnel Board.

#### ADJOURNMENT

There being no further business, IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY MAYOR LOWER, AND UNANIMOUSLY CARRIED that the Council meeting be adjourned at 12:08 A.M., Thursday, May 16, 1968.

*Wade F. Lower*  
 \_\_\_\_\_  
 Mayor and President  
 of the City Council

*W. L. Berry*  
 \_\_\_\_\_  
 City Clerk and ex officio  
 Clerk of the City Council