

Regular meeting of the City Council of the City of San Clemente, California, Council Chambers, Civic Center Building, Wednesday, January 3, 1968, 7:30 P.M., Mayor Howard Massie 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 Mayor Massie, including one minute of silence in memory of Mrs. Nancy Chaffee.

ROLL CALL

PRESENT: Councilmen - CHILTON, NORTHRUP, O'KEEFE, AND MASSIE
ABSENT: Councilmen - LOWER

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

APPROVAL OF THE MINUTES

The Clerk drew attention to the minutes of December 20, 1967, advising of two typographical error corrections; Page 5, "77 - Swimming Pool Agreement with Capistrano Unified School District" to eliminate the double entry of Councilman Northrup's name from the vote, and Page 8, "117 - Ordinance No. 505" to eliminate the quotation mark at the end of Councilman Northrup's name in the vote.

Minutes of the regular meeting of December 20, 1967, having been previously presented to the members of the Council, IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED that said minutes be approved as corrected, and the reading in full thereof waived.

WRITTEN COMMUNICATIONS

98 - Request Waiver of Sidewalk Requirements.

Letter from LEWIS J. MILLER requesting waiver of sidewalk requirements (Municipal Code Section 31-9) at 229 Avenida Serra.

Upon recommendation of the City Manager, IT WAS MOVED BY COUNCILMAN CHILTON, SECONDED BY COUNCILMAN O'KEEFE, AND UNANIMOUSLY CARRIED that the request be granted.

93 - Request for Adjustment of Compensation re Refuse Agreement.

Letter from SAN CLEMENTE COMMERCIAL COMPANY requesting adjustment of compensation under provisions of the Refuse Agreement with the City.

The City Manager read Article 26 of said Agreement "Determination of Compensation Adjustment" which provides that upon request in writing prior to January 1, a review of charges for services rendered from the effective date of the most recent compensation adjustment can be made, and that the method used for any increase would be determined by a change in the Consumer's Price Index in the Los Angeles area.

Discussion ensued relative to what date should be considered the most recent compensation adjustment and IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED that the request be referred to the City Staff for analysis of both the Agreement and the applicable cost of living index, and report back at the next regular meeting.

32 - Request for Business License to Expand Business Activities.

Letter from JIM & MARY JENKINS, MARIA DEL ARTE, requesting business license to expand their business activities to include enlargement of theatre under current license; new use of theatre for public dances; and new use of theatre for motion pictures for pre-teen audiences.

The City Manager explained that the primary consideration of the Council in this particular request has to do with the matter of public dances and that the applicants will have to apply for a Use Permit with the Planning Commission.

Discussion ensued concerning need for compliance with Building, Fire, and other Codes of the City, which, it was further explained, would be items of consideration by the Planning Commission. While members of the Council expressed opinion that this was a laudible proposal, it was felt official action on the dance license request should not be taken until the Use Permit has been processed through the Planning Commission.

IT WAS THEN MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED that the applicant be referred to the Planning Commission for the proper filing and processing of a Use Permit, with the matter then to come back to the City Council after Planning Commission decision, for Council consideration of the issuance of a dance license.

22 - Notification from City of Newport Beach of Resolution Adopted Urging Rehearing for Airline Service Before P.U.C.

Letter and Resolution from CITY OF NEWPORT BEACH urging the Public Utilities Commission to grant a rehearing on the application of Pacific Southwest Airlines to provide airline service between Orange County Airport and San Francisco; and recommending that the P.U.C. should not consider approval of any additional airline from Orange County Airport until completion of the County's Master Plan Study of Airport facilities.

Following comment by Councilman O'Keefe that he felt this was beyond the Council's purview, IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY MAYOR MASSIE, AND UNANIMOUSLY CARRIED that the letter and Resolution be received and filed.

ORAL COMMUNICATIONS

The Mayor called for Oral Communications and there were none.

UNFINISHED BUSINESS

27 - Proposed Improvement District for Undergrounding Electric and Communication Facilities in the Hillcrest Area.

As previously directed, the City Clerk presented a declaration certificate that the petitions from Edwin Chaffee, et al, for the formation of an assessment district for undergrounding utilities in the area generally described as the Hillcrest area had been checked and were found sufficient as to number of signatures representing over 50% of the land area within the proposed district.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED that the matter be referred to the City Engineer and Special Legal Counsel for preparation of improvement district proceedings.

REPORTS AND MISCELLANEOUS ITEMS

The Mayor reported that Councilman Lower will be back for the next meeting.

103 - Ordinance No. 509 - Amendment to Transient Occupancy Tax Ordinance No. 436.

Pursuant to previous Council instruction, the City Attorney presented an Ordinance amending the present Transient Occupancy Tax Ordinance No. 436, (Municipal Code, Chapter 7) eliminating the exemption for public officials and employees; and upon motion of Councilman Northrup, seconded by Councilman Chilton, ORDINANCE NO. 509, BEING AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTION 7-3 OF THE CODE OF THE CITY OF SAN CLEMENTE RELATING TO EXEMPTION FROM TRANSIENT OCCUPANCY TAX, was regularly introduced by title only, the reading in full thereof unanimously waived upon the following stated vote, to wit:

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

103 - Possible Transient Occupancy Tax Increase.

Considerable discussion ensued relative to the increasing of the transient occupancy tax from 4% to 5% as previously discussed at the meeting of 11-15-67, and again broached by Councilman O'Keefe who stressed it as a method of providing some tax relief for the property owner.

Councilman Chilton voiced various comments and objections to further increase. Upon question, the City Manager apprised the Council that the City realized approximately \$24,000 from "bed tax" this past year. Councilman Northrup commented that there has been considerable interest in the monies received from "bed tax" in the past and suggested that no sudden decision should be made.

Due consideration being given, it was determined that the matter be discussed at a Study Session, 1-31-68, since there is no great urgency as the increase would not take effect until either the next quarter or the beginning of the Fiscal Year 1968-1969. IT WAS THEN MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN NORTHRUP, AND UNANIMOUSLY CARRIED that the matter be again put on the Agenda the first meeting in February, and the Staff directed to have the wording of an amending Ordinance in the event it is decided to take action at that time.

37 - Pending Suit by NIMLO Against Certain Chemical Companies.

The City Attorney reported on a pending suit brought by the National Institute of Municipal Law Officers on behalf of a great number of cities against certain chemical companies for monopolistic policies and price fixing in violation of antitrust laws. Following discussion, Mr. Kegley advised that a \$1,000 fee deposit would be required if the City wished to join the suit and that he would obtain further information and report back to the Council.

105 - Subdivision Agreement Enforcement in Tract No. 5691.

The City Manager reviewed the status of the works of improvement within Tract No. 5691 as required under the Subdivision Agreement citing that certain sidewalks, driveways, slope back fill, retaining walls and the widening of Afamada were still uncompleted. Mr. Carr stated that there has been no evidence on the part of the subdividers Klug, Beamish, and Diggins of any intention to satisfy all the requirements and if the City is to receive any satisfaction, it appears litigation will have to be taken.

Discussion ensued between the Council, City Engineer, and City Attorney relative to past experiences where following notification and discussions with said subdividers, the result was that the work was still not completed.

Bill Harvey, representing California Federal Savings & Loan, lenders for the Tract, spoke from the audience informing the Council that a Notice of Default is being filed and foreclosure will follow approximately 111 days later. Mr. Harvey suggested that the City start action in calling for the bonds and between that action and their agreement with the subdividers for the completion of certain of the works of improvement, there would be a better chance in getting the works completed.

IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN CHILTON that the subdividers be apprised of the demands and given an opportunity to come before the Council at the next meeting before any suit is filed. The MOTION FAILED TO CARRY with Councilmen Chilton and Northrup and Mayor Massie voting "NO."

Following comments by the City Attorney that he always gives written notice before filing any suit, IT WAS THEN MOVED BY COUNCILMAN NORTHRUP, SECONDED BY COUNCILMAN CHILTON to start with the action and give due notice according to recommendation.

Upon question of Councilman O'Keefe, the City Attorney answered that five days would be ample notice. A MOTION BY COUNCILMAN O'KEEFE TO AMEND THE MOTION that the subdividers be advised by the City Attorney that suit is to be filed within twenty days unless they appear before the City Council to show cause why such a suit should not be filed to foreclose on the bonds FAILED FOR LACK OF A SECOND.

The ORIGINAL MOTION WAS CALLED AND WAS CARRIED with Councilman O'Keefe voting "NO" on the grounds that it was his opinion that they should be given an opportunity to be heard before the Council.

105 - Proposed Amendment to Subdivision Ordinance.

The Mayor proposed that now would be a good time to effect a change in the Subdivision Ordinance to require that all works of improvement be completed and the final map filed and accepted before any subdivider can sell or build.

Pros and cons were discussed between the Council, City Attorney, City Engineer, and Bill Harvey of California Federal Savings and Loan, and it was determined that a study be made by the City Staff to report back before the next tract map is filed.

27 - Proposed Improvement District (Los Obreros Lane).

The City Engineer presented a cost estimate for the paving of Los Obreros Lane from Calle Valle to Calle de Los Molinos and outlined the following two alternatives: (1) 4" AC on 6" untreated rock base with concrete gutter in the center, \$7.17 per frontage foot at an average cost of \$358.50 per 50 foot lot; or (2) Capping which might need to be replaced every two to three years, \$5.10 per frontage foot at an average cost of \$255.00 per 50 foot lot.

The City Engineer recommended the first alternative and following due consideration, IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN NORTHRUP, AND UNANIMOUSLY CARRIED to authorize the City Engineer and Special Legal Counsel to prepare necessary proceedings for the initiation of an improvement district on Los Obreros Lane.

99 - Speed Limit on Los Obreros Lane.

Pursuant to the request from A. L. Wulfeck at the meeting of 12-20-67 to establish a speed limit on Los Obreros Lane, the City Manager stated that the California Vehicle Code establishes speed limits of 15 miles per hour in all alleys. Mr. Carr further stated that the alley is not posted as there is no requirement to do so, but if the Council has no objections, signs will be posted at each end of the alley.

47 - Request for Crosswalk (Alley Adjacent to Bus Depot).

Referring to the request from Ray Campbell that a crosswalk be established across the alley between the bus depot and bus parking area, the City Manager reported that in the opinion of the Traffic Engineer, the crosswalk was feasible and proper and unless further action is necessary by the Council in the form of a Resolution, the Staff will proceed with the installation.

45 - Planning Consultant Agreement.

The City Manager presented the Planning Consultant Agreement between the City and Milton Breivogel, noting that a copy had been transmitted to the Council along with the Agenda; and a copy to Mr. Breivogel who had found it acceptable. Mr. Carr commented that the City would be able to handle any secretarial services required by Mr. Breivogel.

Due consideration being given, IT WAS MOVED BY COUNCILMAN NORTHRUP, SECONDED BY COUNCILMAN CHILTON to approve the Agreement with Milton Breivogel as Planning Consultant; and the Mayor and City Clerk be authorized to execute said Agreement on behalf of the City. The MOTION WAS CARRIED upon the following stated vote, to wit:

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

79 - Establishing Value of Quarters Allowance at Community Clubhouse.

The City Manager presented a recommendation, for technical compliance with the Social Security Act, that the Council adopt a minute action declaring \$47.00 as the fair rental value for living quarters at the Community Clubhouse, consisting of a 9' x 15' bedroom, a bathroom, and use of the large community kitchen, including utilities, said amount to be considered part of the Custodian's compensation when deducting for Social Security purposes.

Due consideration being given, IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED to declare \$47.00 per month as the fair rental value for the quarters provided for the Custodian at the Community Clubhouse.

24 - Amending Animal Control and Licensing Requirements within the City.

Consideration was again given to amending animal control requirements to conform with the County of Orange which is now serving the City. Discussion centered

around the question of whether or not regulation and licensing can be applied to felines; County Code Section 41.063 "Disposition of licensed dogs"; Section 41.091 "Keeper of livestock near dwellings"; and level of control with respect to leash law upon complaint rather than as a revenue measure.

It was determined to hold the matter in abeyance until the City Manager can report back with comparison figures prior to and since contract with the County as to number of complaints registered, impound fees, fines, and revenues collected. The City Attorney also advised that he will check into the question of including felines in the Ordinance.

103 - Distribution of Cigarette Taxes to Cities.

Referring to a recent bulletin from the League of California Cities regarding the readjustment of the formula for the distribution of the cigarette tax monies to the cities, the City Manager inquired if the City wished to go on record through their representative on the State Board of the League favoring the revision of the formula which would be on the basis of one-half population and one-half taxable sales and would result in an estimated increase of \$13,000 for the City.

The Council concurred and IT WAS MOVED BY MAYOR MASSIE, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED to go on record favoring the revision of the distribution of the cigarette tax monies.

79 - Personnel Promotion Within the Police Department.

The City Manager apprised the Council that following competitive examination, Detective Clifford Gates will be promoted to Police Sergeant and Police Patrolman Albert Ehlow will become a Detective replacing Sergeant Gates, both changes effective 1-8-68.

48 - Seepage and Erosion Problems of Bluff Area Below Colony Cove.

The Mayor referred to a recent letter addressed to the City Manager from A. K. Miller, Colony Cove, regarding seepage and erosion problems of the bluff area below Colony Cove, said matter first presented at the meeting of 12-6-67.

Certain suggestions contained therein were discussed, with Mayor Massie commenting that the City should take a position and suggesting the property owners obtain geologic and engineering studies, possibly by undergraduates of U.C.I.

Pursuant to comment by the City Manager that administratively he was prepared to respond to the letter, the Council concurred that the City Manager render a guarded response.

PAYING OF THE BILLS

IT WAS MOVED BY COUNCILMAN NORTHRUP, SECONDED BY COUNCILMAN CHILTON that Warrants No. 9312 through No. 9390, as audited by the Council be paid, including ratification of Payroll Warrant No. 9317. The MOTION WAS DECLARED CARRIED upon the following stated vote, to wit:

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

Total Demands approved for payment for the period of December 21, 1967 through January 3, 1968.	\$ 141,650.79
Ratification of Payroll Warrant No. 9317, for period of December 11 through December 24, 1967.	<u>\$ 30,074.61</u>
TOTAL WARRANT REGISTER	<u>\$ 171,725.40</u>

ORDINANCES113 - Ordinance No. 507 - Revising Water Billing Regulations.

Upon motion of Councilman Chilton, seconded by Mayor Massie, ORDINANCE NO. 507, BEING AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CERTAIN SECTIONS OF CHAPTER 32, ENTITLED "WATER" OF THE CODE OF THE CITY OF SAN CLEMENTE; AND AMENDING SECTION 3 OF ORDINANCE NO. 492, having been regularly introduced at the meeting of 12-20-67, was again introduced, the reading in full unanimously waived, duly passed and adopted, upon the following stated vote, to wit:


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

For Ordinance No. 509 see under "REPORTS AND MISCELLANEOUS ITEMS" on Page 2.

ADJOURNMENT

There being no further business, IT WAS MOVED BY COUNCILMAN O'KEEFE, SECONDED BY COUNCILMAN CHILTON, AND UNANIMOUSLY CARRIED that the Council meeting be adjourned in memory of Mrs. Nancy Chaffee, with a copy of this action to be sent to her husband.

The meeting was adjourned at - 10:00 P.M.



 City Clerk and ex officio
 Clerk of the City Council



Mayor and President
 of the City Council