REGULAR MEETING OF THE COUNCIL OF THE CITY OF
SAN DIEGO, CALIFORNIA - TUESDAY, APRIL 12, 1977
IN THE CHAMBERS OF THE COUNCIL - ADMINISTRATION BUILDING
CHARLES C. DAIL CONCOURSE
2:00 P.M.

Present-Councilmen Johnson, O'Connor, Hubbard, Morrow, Gade, Strobl, Haro and Mayor Wilson.
Absent--Councilman Williams.
Clerk---Edward Nielsen.

Mayor Wilson called the Regular Meeting to order at 2:11 p.m.

(Item 1)
Roll call was taken.

(Item 2)
Mayor Wilson introduced Reverend Richard Smith, Pastor of United Church of Otay Mesa, who gave the Invocation.

(Item 3)
Councilman Haro led the Pledge of Allegiance.

(Item 4)
A communication from A. F. Casey, representing Citizens Coordinate for Century 3, requesting permission to address the Council regarding recommendations for a public planning process for Los Penasquitos Park: a. Direct the Planning Department to present an Implementation Plan for preserving the maximum possible acreage in and adjacent to the canyon as an immediate preservation measure. b. Establish within the Planning Department a Los Penasquitos Park Project to develop, within one year, a park plan. c. Direct the Parks and Recreation Department to support the planning process with intensive study of all possible means of acquiring land for Los Penasquitos Park, was presented.
A. F. Casey appeared to speak.

Councilman Williams entered the Chambers.

A. F. Casey continued to speak.

(Item 4 - Continued)

On motion of Councilman Morrow, the communication was referred to the City Manager, Planning Department and the Park and Recreation Board for a report.

There were no requests for continuances at this time.

(Item 20)

The hour of 2:00 p.m. having arrived, the Mayor announced this was the time and place set for the hearing continued from the Meetings of March 15 and 29, 1977 at the City Manager's request, on the Palm Avenue Assessment District - the proposed improvement consists, in general, of grading, paving, construction of curbs, sidewalks, gutters, driveways, berms, fences, guard rails, storm drains, inlets, landscaping, monumentation, traffic signals, safety lighting, sewers, manholes, temporary and permanent relocations, and the construction and installation of all appurtenances to render said works and improvements complete and workable, in, on and upon Palm Avenue as the same shall be widened and realigned, generally between I-5 and Hawaii Avenue, under the provisions of the Municipal Improvement Act of 1913 - on Resolution of Intention 217521.

It was reported that there was a petition signed by 31 persons received.

Mayor Wilson further announced that any and all persons having any protest or objection to the proposed improvements, the extent of the proposed assessment district, the amounts of the proposed assessments may appear before the Council and show why the same should not be carried out and ordered.

City Clerk Nielsen stated that the Report of the Superintendent of Streets is available in the Council Chambers, and that the affidavit of publication of notice of improvement and certificates of posting notice of improvement and mailing notice of adoption of the resolution of intention were on file in his office.

Ernie Mittemeyer, Engineering and Development, gave a brief explanation of the project and the proposed assessment.

Mayor Wilson introduced Mr. Burt, Special Bond Counsel for this proceeding, who gave a brief explanation of the history and background, nature, purpose, and procedure for the hearings, and the manner and method of payment of the assessments.

William Schempers, Transportation Department, answered questions directed by Council.

Councilman Williams left the Chambers.

There was discussion among Council.

Mr. Nielsen stated copies of all written protests filed with the City Clerk before 10:00 a.m. on April 12, 1977 were furnished to each member of the Council. Where protests were in the form of petitions or of communications with identical texts, at least one copy of each such form, together with an indication of the number of signers thereon, was furnished to each member of the Council. Mr. Nielsen read a summary of the petition signers which basically indicated that these people are protesting on the grounds that

(Item 20 - Continued)
the proposed assessment of properties adjacent to Palm Avenue for widening, improvement and construction of Palm Avenue is unreasonable, abritrary and would constitute an abuse of discretion in that the improvement of Palm Avenue is for the direct benefit of the entire community of Southern San Diego City.

Councilman Williams entered the Chambers.

Mayor Wilson asked if any person desired to make an oral protest.
Ruth Schneider appeared to speak in favor of the proposed assessment.
Jim Lathers, Pauline Lathers and Vincent Kozlowski appeared to speak in opposition to the proposed assessment.

Councilman Williams left the Chambers.

Chichie Hardy and Mrs. Arellano appeared to speak in opposition to the proposed assessment.

Councilman Williams entered the Chambers.

Claude Johnson, Mary McGruger, Robbie Gibbs and other public appeared to speak in opposition to the proposed assessment.
Discussion followed.
A motion by Councilman Haro to close the hearing, adopt 20a, b, c, d and e with the provision that City pay the entire cost for the replanting of the trees including the original twenty-one trees that were to be part of this project and use Council Policy 800-9, "Assessment Deferral Program" and have the replanting of the trees deducted from the assessment, received no second at this time.
Mr. Burt answered questions directed by Council.
Jim Lathers appeared to speak.
Councilman Williams offered a second to the previous motion of Councilman Haro to close the hearing, adopt 20a b, c, d and e with the provision that City pay the entire cost for the replanting of the trees including the original twenty-one trees that were to be part of this project and use Council Policy 800-9, "Assessment Deferral Program" and have the replanting of the trees deducted from the assessment, received no vote at this time. Councilman Williams asked that this apply in all those instances where hardship cases exist.
Deputy City Attorney Valderhaug answered questions directed by Council.
Discussion followed.

(Item 20 - Continued)

Mr. Burt further answered questions directed by Council.

Mr. Valderhaug further answered questions directed by Council.

A vote was then taken on the previous motion of Councilman Haro to close the hearing, adopt 20a, b, c, d and e with the provision that City pay the entire cost for the replanting of the trees including the original twenty-one trees that were to be part of this project and use Council Policy 800-9 "Assessment Deferral Program" and have the replanting of the trees deducted from the assessment, which passed by the following vote: Yeas-Councilmen Johnson, O'Connor, Hubbard, Williams, Morrow, Strobl, Haro and Mayor Wilson. Nays-Councilman Gade. Absent-None.

This item was reconsidered at the Meeting of April 13, 1977 a.m. and discussed in the p.m., so resolutions were not numbered. The item was continued to the Meeting of April 19, 1977, p.m.

(Item 21)

Two proposed Resolutions, continued from the Meetings of March 30 and April 5, 1977 for review by the Public Facilities and Recreation Committee on Monday, April 11, 1977, relative to San Diego National League Baseball Club, Inc.: a - Authorizing a First Amendment to Agreement for the promotion of The City of San Diego and the San Diego Stadium. b - Authorizing a Single Use Permit for the 1978 All Star Game to be played in the San Diego Stadium, were presented.

On motion of Councilman Haro Item 21a - Authorizing a First Amendment to Agreement for the promotion of The City of San Diego and the San Diego Stadium was continued to the Meeting of April 13, 1977, 10:00 a.m. time certain at the Mayor's request.

RESOLUTION 218124, authorizing a Single Use Permit for the 1978 All Star Game to be played in the San Diego Stadium, was adopted on motion of Councilman Gade.

(Item 22 - Supplemental Docket)

A proposed Ordinance, continued from the Meeting of April 6, 1977 due to lack of time, amending Section 1 of Ordinance No. 11469 (New Series), adopted January 9, 1975, incorporating a portion of Lots 82-86, San Ysidro and a portion of street closing, into CA-S Zone, located on the east side of East Olive Avenue between San Ysidro Boulevard and Hall Avenue - extension of time to February 8, 1978, was presented.

Lee Okeson, Planning Department, answered questions directed by Council.

Councilman Morrow entered the Chambers.

A proposed Ordinance, amending Section 1 of Ordinance No. 11469 (New Series), adopted January 9, 1975, incorporating a portion of Lots 82-86, San Ysidro, and a portion of street closing, into CA-S Zone, as defined by Section 101.0428 of the San Diego Municipal Code, was introduced on motion of Councilman Haro, by the following vote: Yeas-Councilmen Johnson, Hubbard, Morrow, Gade, Strobl and Haro. Nays-None. Absent-Councilmen O'Connor, Williams and Mayor Wilson.

(Item 23 - Supplemental Docket)

A proposed Ordinance, continued from the Meeting of April 6, 1977 due to lack of time, amending Chapter III, Article 3, Division 3, of the San Diego Municipal Code by amending Sections 33.0304 and 33.0306, relating to City License Applications, was presented.

Eugene Gordon, City Attorney's Office, answered questions directed by Council.

A proposed Ordinance, amending Chapter III, Article 3, Division 3, of the San Diego Municipal Code by amending Sections 33.0304 and 33.0306, relating to City License Applications, was introduced on motion of

#20

0.77-199

ORDINANCE NO. 12055
(New Series)

APR 27 1977

AN ORDINANCE AMENDING SECTION 1 of ORDINANCE NO. 11469 (NEW SERIES), ADOPTED JANUARY 9, 1975, INCORPORATING A PORTION OF LOTS 82-86, SAN YSIDRO, AND A PORTION OF STREET CLOSING, IN THE CITY OF SAN DIEGO, CALIFORNIA, INTO CA-S ZONE, AS DEFINED BY SECTION 101.0428 OF THE SAN DIEGO MUNICIPAL CODE.

WHEREAS, a request has been received to extend the time on Ordinance No. 11469 (New Series), adopted January 9, 1975; and

WHEREAS, Section 1 of Ordinance No. 11469 (New Series) provided that the CA-S Zone would attach if a final subdivision map or maps were recorded before February 8, 1977; and

WHEREAS, the requested extension of time will permit the successful conclusion and implementation of the rezoning pattern heretofore approved by the Planning Commission; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Section 1 of Ordinance No. 11469 (New Series), adopted January 9, 1975, be, and it is hereby amended to read as follows:

> Section 1. That in the event that a portion of Lots 82-86, San Ysidro, and a portion of street closing, in the City of San Diego, California, within the boundary of the district designated "CA-S" on that certain Zone Map Drawing No. B-2813.1, is subdivided and a final subdivision map or maps thereof duly submitted to the

City on or before February 8, 1978, and thereafter recorded, and within such subdivision or subdivisions provision is made for the installation of public utility services and the dedication of streets, alleys and easements for public use, the provisions of Section 101.0428 of the San Diego Municipal Code shall attach and become applicable to the said subdivided land and the said subdivided land shall be incorporated into CA-S Zone, as described by Section 101.0428 of the San Diego Municipal Code, the boundary of such zone to be as indicated on Zone Map Drawing No. B-2813.1, filed in the office of the City Clerk as Document No. 749313. Said zoning shall attach only to those areas included in the subdivision map or maps recorded as provided in this section.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By Frederick C. Conrad
Frederick C. Conrad
Chief Deputy City Attorney

CC:clh
/22/77
8/74/7/EOT
r.Dept.:Planning

C0160

12055

#28

O. 77-196

ORDINANCE NO. 12056
(New Series)

APR 27 1977

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3, DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 33.0304 AND 33.0306, RELATING TO CITY LICENSE APPLICATIONS.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter III, Article 3, Division 3, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 33.0304 and 33.0306, to read as follows:

SEC. 33.0304 ISSUANCE OR DENIAL OF LICENSE

Except as otherwise provided in this code, upon completion of the investigation, the Chief of Police or his designated representative shall issue the license, unless:

(1) The applicant has knowingly made a false or misleading statement of a material fact or omission of a material fact in the application; or

(2) The operation of the business as proposed, if permitted, would not comply with all applicable building, fire, health and zoning laws; or

(3) The applicant is under eighteen (18) years of age; or

(4) The applicant has had a similar type of license previously revoked for good cause within one (1) year immediately preceding the date of the filing of the

application, and can show no material changes in circumstances since such revocation; or

(5) The maintenance and operation of the business by the applicant will not comport with the peace, health, safety, convenience or general welfare of the public. This subsection shall not be applicable if the application is for a business involving free speech, free press or freedom of assembly.

SEC. 33.0306 TIME ALLOWED FOR INVESTIGATION

If the Chief of Police or other official, except the City Council, shall fail to act on any license application, and shall fail to notify the City Treasurer within thirty (30) days from the date of its delivery to him by the City Treasurer, said application shall be deemed to have been approved and the City Treasurer shall issue said license therefor, provided, however, that the Chief of Police or other official, upon written notification to the City Treasurer shall be allowed such additional time, not to exceed fourteen (14) days, as may reasonably be necessary to complete the investigation.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By Eugene P. Gordon
Eugene P. Gordon
Deputy City Attorney

EPG:rc523
3/24/77
Or.Dept.: City Attorney

(Item 23 - Supplemental Docket - Continued)
Councilman Johnson, by the following vote: Yeas-Councilmen Johnson, Hubbard, Morrow, Gade, Strobl and Haro. Nays-None. Absent-Councilmen O'Connor, Williams and Mayor Wilson.

(Item 24 - Supplemental Docket)
A proposed Resolution, continued from the Meeting of April 6, 1977 due to lack of time, amending Council Policy 700-10 by adding the following language to page 10 of said policy: 11. BROKER'S FEE 1. City can be expected to pay a six percent leasing commission according to the schedule established by Resolution 212958 on April 4, 1975 or a sales commission of six percent (6%) for any parcel listed in the Marketing Catalog for which an offer is received that meets the City's minimum criteria. 2. If the City intends to pay no commission or to pay less than the normal commission for the lease or sale of selected parcels, that information will be noted in the Marketing Catalog or in any prospectus soliciting proposals. 3. City will not pay a commission for any lease or sale which is not consummated. 4. City is not obligated to pay a commission to any Broker who is an officer or has a financial interest or decision-making authority with the proposed lessee or grantee in any lease or sale. 5. City will not pay a commission for sale of property not listed in the Catalog. 6. City will pay a Broker's commission for a new lease with an existing Lessee only when that Lessee has submitted the best proposal in response to the City's solicitation for competitive offers. 7. For sales in excess of $500,000, the commission will be reduced by 1/2% for each $500,000 or as negotiated. For example:

Gross Price	Commission to Broker	Average Commission	Total Gross Sales
1st $500,000	6% = $ 30,000	6%	on $500,000 or under
2nd $500,000	5% = $ 55,000	5.5%	on $1,000,000 or under
3rd $500,000	4% = $ 75,000	5%	on $1,500,000 or under
4th $500,000	3% = $ 90,000	4.5%	on $2,000,000 or under
5th $500,000 and over	2% = $100,000	4%	on $2,500,000 or under;

Amending Paragraph 4 on page 1 to read as follows: 4. Real Estate Broker's Fee: The City may pay a commission to a licensed real estate broker representing a principal with whom the City has entered into a bona fide lease contract. The amount of commission shall be in accordance with the commission schedule adopted by resolution of the Council pursuant to Municipal Code Section 22.0905. (See Guideline No. 11 on page 10 of this Policy.), was presented.

(Item 24 - Supplemental Docket - Continued)

Councilwoman O'Connor entered the Chambers.

Stan Stress appeared to speak.
City Manager McKinley answered questions directed by Council.
Deputy City Attorney Valderhaug answered questions directed by Council.
There was discussion among Council.
A motion by Councilman Gade to adopt the item, received no vote at this time.
Mr. Valderhaug further answered questions directed by Council.
Stan Stress appeared to speak.
RESOLUTION 218125, amending Council Policy 700-10 by adding the following language to page 10: 11. BROKER'S FEE 1. City can be expected to pay a six percent leasing commission according to the schedule established by Resolution 212958 on April 4, 1975 or a sales commission of six percent (6%) for any parcel listed in the Marketing Catalog for which an offer is received that meets the City's minimum criteria. 2. If the City intends to pay no commission or to pay less than the normal commission for the lease or sale of selected parcels, that information will be noted in the Marketing Catalog or in any prospectus soliciting proposals. 3. City will not pay a commission for any lease or sale which is not consummated. 4. City is not obligated to pay a commission to any Broker who is an officer or has a financial interest or decision-making authority with the proposed lessee or grantee in any lease or sale. 5. City will not pay a commission for sale of property not listed in the Catalog. 6. City will pay a Broker's commission for a new lease with an existing Lessee only when that Lessee has submitted the best proposal in response to the City's solicitation for competitive offers. 7. For sales in excess of $500,000, the commission will be reduced by 1/2% for each $500,000 or as negotiated. For example:

Gross Price	Commission to Broker	Average Commission	Total Gross Sales
1st $500,000	6% = $ 30,000	6%	on $500,000 or under
2nd $500,000	5% = $ 55,000	5.5%	on $1,000,000 or under
3rd $500,000	4% = $ 75,000	5%	on $1,500,000 or under
4th $500,000	3% = $ 90,000	4.5%	on $2,000,000 or under
5th $500,000 and over	2% = $100,000	4%	on $2,500,000 or under

Amending Paragraph 4 on page 1 to read as follows: 4. Real Estate Broker's Fee: The City may pay a commission to a licensed real estate broker representing

(Item 24 - Supplemental Docket - Continued)
a principal with whom the City has entered into a bona fide lease contract. The amount of commission shall be in accordance with the commission schedule adopted by resolution of the Council pursuant to Municipal Code Section 22.0905. (See Guideline No. 11 on page 10 of this Policy.), was adopted on motion of Councilman Gade, by the following vote: Yeas-Councilmen Johnson, Hubbard, Gade, Strobl and Haro. Nays-Councilmen O'Connor and Morrow. Absent-Councilman Williams and Mayor Wilson.

(Item 25 - Supplemental Docket)
A proposed Resolution, continued from the Meeting of April 6, 1977 due to lack of time, declaring Sacramento Savings and Loan Association and Pardee Construction Company, subdividers of Mira Mesa Crest Subdivision to be in default under terms and conditions entered into for completion of improvements in said subdivision; authorizing the City Attorney to cause notice of this declaration of default to be given to said subdividers and to Bank of America National Trust and Savings Association; authorizing the City Manager to complete or cause to be completed, said improvements, was presented.

A motion by Councilman Gade to continue the item to the Meeting of May 11, 1977, a.m. at the developer's request, received no vote at this time.

City Clerk Nielsen answered questions directed by Council.

Councilman Johnson left the Chambers.

A vote was then taken on the previous motion of Councilman Gade to continue the item to the Meeting of May 11, 1977, a.m. at the developer's request, which passed unanimously.

(Item 26 - Supplemental Docket)
A proposed Resolution, continued from the Meetings of March 30 and April 6, 1977 due to lack of time, amending Council Policy 700-17 regarding dedication of park lands, was presented.

Councilman Johnson entered the Chambers.

Park and Recreation Director Roberts answered questions directed by Council.

City Manager McKinley answered questions directed by Council.

(Item 26 - Supplemental Docket - Continued)

A motion by Councilman Morrow to amend by adding to Section II: "; or at such time as the community residents contribute a substantial amount to the development of the park.", received no vote at this time.

Mr. Roberts further answered questions directed by Council.

Mr. McKinley further answered questions directed by Council.

A motion by Councilman Gade to refer the item back to the Public Facilities and Recreation Committee, died for lack of a second.

Marian Bear appeared to speak.

Mr. McKinley further answered questions directed by Council.

Ruth Schneider appeared to speak.

A vote was then taken on the previous motion of Councilman Morrow to amend by adding to Section II: "; or at such time as the community residents contribute a substantial amount to the development of the park.", failed due to lack of five affirmative votes, by the following vote: Yeas-Councilmen O'Connor, Morrow and Haro. Nays-Councilmen Johnson, Hubbard, Gade and Strobl. Absent-Councilman Williams and Mayor Wilson.

A motion by Councilman Morrow to amend Section VII by adding to it "Lands which are neither dedicated nor designated shall not be counted as satisfying any requirement or standards for park land", passed by the following vote: Yeas-Councilmen Johnson, O' Connor, Hubbard, Morrow, Strobl and Haro. Nays-Councilman Gade. Absent-Councilman Williams and Mayor Wilson.

RESOLUTION 218126, amending Council Policy 700-17 regarding dedication of park lands, was adopted on motion of Councilman Gade.

There being no further business to come before the Council at this time, the Regular Meeting was adjourned at 5:25 p.m. on motion of Councilwoman O'Connor.

Jim D. Haro
Mayor of The City of San Diego, California

ATTEST:

City Clerk of The City of San Diego, California