

MEMORANDUM OF LAW

DATE: March 28, 1988

TO: Mike Behan, Park & Recreation Department

FROM: City Attorney

SUBJECT: Closure of Road at Hospitality Point

This memo is a correction of and supercedes my Memorandum of Law dated February 25, 1988.

In the February 25, 1988 Memorandum of Law, I cited California Vehicle Code section 21101(e) which states that local authorities, for those highways under their jurisdiction, may adopt rules and regulations by ordinance or resolution to close certain streets. I originally interpreted this to mean that any street closure would require a resolution or ordinance. In our view this statute could also be interpreted to provide authority for local authorities to adopt procedural rules or regulations by ordinance or resolution to close roads.

To a limited extent, the City Council has already taken such action. San Diego Municipal Code section 82.23 provides for temporary road closure when a civic event is to take place and a permit is issued pursuant to San Diego Municipal Code section 22.0207, Special Events.

It would be a policy decision for the department as to whether you would want to proceed with requesting the City Manager through the Park & Recreation Department to issue the permit and allowing the road closure or to bring the question before the Council for approval.

There may be some question as to whether or not a road on park premises is subject to Vehicle Code restrictions. I find that the definitions included in the first memo about street or highway would still pertain to any publicly maintained road, whether on parkland or not. The court in *People v. Stone*, 190 Cal.App.3d Supp. 1, 15 (1987) found that regulation of traffic on streets in parks is properly regulated by the Vehicle Code: "We

believe the prevention of crime, safety on the highways and the smooth flow of traffic are matters of statewide concern, whether the street in question is in a park, a residential or commercial district or whether it is an interstate highway."

In this case it is our opinion that the language of California Vehicle Code section 21101 in conjunction with San Diego Municipal Code section 82.23 would provide justification for temporary closure if the proper permit is obtained.

I apologize for any problems that may have been created. Please feel free to contact me if you wish further clarification.

JOHN W. WITT, City Attorney

By

Mary Kay Jackson

Deputy City Attorney

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cc George Loveland

Dave Twomey

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