

REGULAR MEETING OF THE COUNCIL OF THE CITY OF
SAN DIEGO, CALIFORNIA - WEDNESDAY, FEBRUARY 25, 1976
IN THE CHAMBERS OF THE COUNCIL - ADMINISTRATION BUILDING -
CHARLES C. DAIL CONCOURSE

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

Mayor Wilson called the Regular Meeting to order at 8:39 a.m.

(Item 250)

Roll Call was taken.

(Item 251)

Deputy Mayor O'Connor introduced City Attorney Witt, who gave the
Invocation.

(Item 252)

Councilman Gade led the Pledge of Allegiance.

Councilman Morrow entered the Chambers.

Mayor Wilson entered the Chambers and assumed the Chair.

(Special Order of Business)

Mayor Wilson welcomed visiting students from Lewis Jr. High School,
accompanied by Mr. Jack Dray.

Councilman Ellis addressed the Group.

(Item 253)

Mayor Wilson welcomed a group of new employees who were present in the
Chambers.

Councilman Williams entered the Chambers.

The Council considered Requests for Continuances.

(Item 301)

NOTICED HEARINGS: (Continued from the Meetings of November 6 and 20, and December 18, 1975.)- Appeal of Big Brothers of San Diego County and Time Tele-Marketing, Inc., by John R. Wertz, attorney, from the decision of the Chief of Police in denying their application for a Public Charitable Solicitation Permit, pursuant to the provisions of Section 57.01.7 of the San Diego Municipal Code.

Mayor Wilson read into the record written correspondence from Mr. Wertz requesting a continuance.

No one appeared to be heard.

On motion of Councilman Hubbard, the hearing was continued to March 24, 1976, 2:00 p.m., at the applicant's request.

(Item 300)

NOTICED HEARINGS: (Continued from the Meetings of March 27, April 3, June 26, September 25, and November 20, 1975.) Appeal of the Subdivision Review Board from the decision of the Planning Commission in granting the appeal of Lion Property Company relative to Condition 18 imposed by the Subdivision Review Board (archaeological testing and excavating) in approving the Tentative Subdivision Map of Lion Research Park. This is a 3-unit, 6-lot subdivision of Pueblo Lots 1353 and 1355, and a portion of Acre Lots 5, 6, and 7, Sorrento Lands and Townsite, located northeasterly of Sorrento Valley Road, southwesterly of I-805, in the M-1A Zone.

City Manager McKinley and City Attorney Witt answered questions directed by the Council.

Joe Bennentendi, spokesman for Kuumii Tribal Council, spoke regarding the continuance.

The motion of Councilman Johnson to continue the matter to April 7, 1976, 2:00 p.m., for a report from the Committee on Public Facilities and Recreation, and to explore property exchange, received no vote at this time.

John Freeland, attorney representing Mr. and Mrs. Remback, owners of property in question appeared to speak regarding the continuance.

On motion of Councilman Johnson, the matter was continued to April 7, 1976, 2:00 p.m., for a report from the Committee on Public Facilities and Recreation, and to explore property exchange.

(Item 304)

NOTICED HEARINGS: Vacating Majestic Drive between Del Sol Boulevard and Picador Boulevard - under Resolution of Intention No. 215117.

City Manager McKinley spoke requesting a continuance.

RESOLUTION 215407, continuing the hearing on the proposed vacation of Majestic Drive between Del Sol Boulevard and Picador Boulevard, under Resolution of Intention No. 215117, adopted January 21, 1976, to the hour of 2:00 p.m., Wednesday, March 17, 1976, was adopted on motion of Councilman Haro.

(Item 350)

Committee Consultant Carpi, Committee on Public Services and Safety, answered questions directed by the Council.

Max Treece appeared to speak in opposition to the proposed deletion of the provision regarding smoking in hospital rooms.

Dr. James R. White, UCSD, appeared to speak in opposition to the deletion of the provision regarding smoking in restaurants.

On motion of Councilman Haro, the rules were suspended to allow 10 minutes for additional testimony.

Arlene Van de Wetering, Pamela Ennis, Marion Modrack, Denise Pories, Quincy John Workman, and Walter Ballard appeared to speak in opposition to the proposed amendments to the Smoking Ordinance.

The motion of Councilman Haro to introduce the proposed Ordinance received no vote at this time.

The motion of Councilman Morrow to amend Section 45.0103 b, by the reinstatement of the words "sleeping rooms" after the words "waiting rooms" in the first sentence, adding the words "sleeping or" after the word "separate" in the fourth sentence, and adding the words "or psychiatric facilities." after the words "private rooms" in the last sentence, received no vote at this time.

Citizens Assistance Director Story and Deputy City Attorney Robinson answered questions directed by the Council.

The motion of Councilman Morrow to close the hearing and continue the item to March 3, 1976, p.m., to allow the City Attorney time to prepare an amendment that would permit a patient whose physician permits him to smoke to have that option, provided he does not inflict that upon a patient with whom he is sharing a room who does not wish to smoke and also permit a hospital or physician to place smokers together in a hospital sleeping room, passed unanimously.

The motion of Councilman Morrow to direct the City Attorney to provide an amendment in the Ordinance requiring restaurants to have smoking and no smoking sections, died for lack of a second.

The Council continued discussion of the matter.

The motion of Councilman Williams to continue the item to March 3, 1976, p.m., to allow the City Attorney time to prepare an amendment that would provide for informational signing to indicate whether smoking is permitted, prohibited, or whether or not a restaurant is segregated into portions where some smoking is permitted and in other portions prohibited, passed, by the following vote: Yeas-Councilmen O'Connor, Williams, Morrow, Ellis, Haro, and Mayor Wilson. Nays-Councilmen Johnson, Hubbard, and Gade. Absent-None.

Mayor Wilson recessed the Meeting at 10:30 a.m. Upon reconvening at 10:42 a.m., the Roll Call showed all present.

(Item 303)

The hour of 8:30 a.m. having arrived, the Mayor announced this was the time and place set for the hearing on vacating Bunker Hill Street between Del Rey Street and Interstate 5 - under Resolution of Intention No. 215062.

No one appeared to be heard.

The motion of Councilman Gade to close the hearing and adopt the proposed Resolution of Vacation received no second at this time.

Engineering and Development Department Director Fowler answered questions directed by the Council.

Councilman Morrow offered the second to the motion of Councilman Gade.

RESOLUTION 215408, vacating Bunker Hill Street between Del Rey Street and Interstate 5, was adopted on motion of Councilman Gade.

(Item 105 - Unfinished Business from Docket of February 24, 1976)

A proposed Resolution, requesting Congress to amend, as expeditiously as possible, Public Law 89-640, if necessary, so federal participation funds may be reallocated; and subject to such amendment, the City will make available \$600,000 for right-of-way acquisition for said project, which monies may potentially be obtained or reimbursed from assessments to benefiting properties, and which monies are to be in addition to funds appropriated by the State of California and received by the City and contributed by the City to said project for acquisition of right of way; making assurances that the United States will be held free and harmless by the City from damages as a result of the construction, operation and maintenance of the part of the Tia Juana River Flood Control Project in the United States, except damages due to the fault or negligence of the United States or its contractors in the construction, operation and maintenance of the Project, and that it will not permit encroachments in the project area which would reduce its design capacities, was presented.

Engineering and Development Department Director Fowler and Deputy City Attorney Detisch answered questions directed by the Council.

Lou Cramer, President, Cramer Corporation, and Juan Orendain appeared to speak regarding the proposed Resolution.

Councilman Hubbard requested that the Council recess into Executive Session in order that he may obtain answers regarding a matter of possible litigation.

The motion of Councilman Morrow to adopt the proposed Resolution received no vote at this time.

Mayor Wilson recessed into Executive Session at 11:29 a.m., in the Council Conference Room, 12th Floor, City Administration Building, regarding possible litigation.

Upon reconvening at 11:49 a.m., the Roll Call showed all present.

The Council continued discussion of the item.

(Item 105 - Unfinished Business from Docket of February 24, 1976 - Continued)

RESOLUTION 215409, requesting Congress to amend, as expeditiously as possible, Public Law 89-640, if necessary, so federal participation funds may be reallocated; and subject to such amendment, the City will make available \$600,000 for right-of-way acquisition for said project, which monies may potentially be obtained or reimbursed from assessments to benefiting properties, and which monies are to be in addition to funds appropriated by the State of California and received by the City and contributed by the City to said project for acquisition of right of way; making assurances that the United States will be held free and harmless by the City from damages as a result of the construction, operation and maintenance of the part of the Tia Juana River Flood Control Project in the United States, except damages due to the fault or negligence of the United States or its contractors in the construction, operation and maintenance of the Project, and that it will not permit encroachments in the project area which would reduce its design capacities, was adopted on motion of Councilman Morrow, by the following vote: Yeas-Councilmen Johnson, O'Connor, Williams, Morrow, Haro, and Mayor Wilson. Nays-Councilmen Hubbard, Gade, and Ellis. Absent-None.

(Item 302)

The hour of 8:30 a.m. having arrived, the Mayor announced this was the time and place set for the hearing on the matter of paving and otherwise improving the alleys in Blocks 3 and 4, Las Alturas No. 2; the alley adjacent to Lot 21, Block 13, Normal Heights; and Alley in Block 1, Corella Tract - on Assessment Roll No. 3892.

No written appeals were received and no one appeared to be heard.

The hearing was closed and the following Resolution adopted on motion of Councilman Hubbard:

RESOLUTION 215410, confirming and approving the Street Superintendent's Assessment No. 3892, covering the cost of paving and otherwise improving the Alleys in Blocks 3 and 4, Las Alturas No. 2; the Alley adjacent to Lot 21, Block 13, Normal Heights; and Alley in Block 1, Corella Tract; authorizing said Superintendent to attach his warrant thereto and issue the same in the manner and form provided by law; said warrant, diagram, and assessment to be recorded in the office of said Street Superintendent, and in the office of the County Recorder.

(Item 153 - Unfinished Business from Docket of February 24, 1976)

A proposed Ordinance, establishing a Schedule of Compensation for the Mayor and members of the City Council for the period July 1, 1976, through June 30, 1978, was presented.

King Golden, Business Agent, Local 127, appeared to speak regarding the proposed Ordinance.

The motion of Councilman Haro to introduce the proposed Ordinance received no vote at this time.

City Manager McKinley answered questions directed by the Council.

The Council discussed the matter.

(Item 153 - Unfinished Business from Docket of February 24, 1976 - Continued)

A proposed Ordinance, establishing a Schedule of Compensation for the Mayor and members of the City Council of The City of San Diego for the period July 1, 1976, through June 30, 1978, was introduced on motion of Councilman Haro, by the following vote: Yeas-Councilmen O'Connor, Williams, Morrow, Gade, Haro, and Mayor Wilson. Nays-Councilmen Johnson, Hubbard, and Ellis. Absent-None.

Mayor Wilson recessed the Meeting at 12:15 p.m. to be reconvened at 2:00 p.m.

Upon reconvening at 2:09 p.m., the Roll Call showed Councilmen O'Connor, Williams, and Morrow absent.

(Item 401 - CUP NO. 445-PC)

The hour of 2:00 p.m. having arrived, the Mayor announced this was the time and place set for the hearing on the appeal of Crown Investment Group, by Patrick J. O'Connor, president, from the decision of the Planning Commission in denying the application of Crown Investment Group, owner/permittee, under Conditional Use Permit No. 445-PC, to construct and operate a 31-unit elderly housing project located on the north side of Robinson Avenue between Albatross and Curlew Streets, in the Uptown Community Plan Area. The property is more particularly described as the east half of the South 1/3 of Lot 1, Palm Heights; and Lot 1 and the east 15 feet of Lot 2, Block 1, Idyllwild, in the R-4 (HR OVERLAY) ZONE.

Councilwoman O'Connor entered the Chambers.

Councilwoman O'Connor stated that she would abstain from voting for reasons of possible conflict of interest.

The item was trailed and no action was taken at this time.

(Item 403)

The hour of 2:00 p.m. having arrived, the Mayor announced this was the time and place set for the hearing on the application of Pacific Scene, Inc., by Ronald D. Hogan, agent, for special permission to waive Underground Utility Requirements in connection with the Subdivision Map of Mira Mesa Commercial Park, located south of Mira Mesa Boulevard between Rickert Road and Black Mountain Road, in the A-1-1 (proposed CO) ZONE. It was reported that no written protests had been received.

Councilman Morrow entered the Chambers.

Councilwoman O'Connor left the Chambers.

On motion of Councilman Hubbard, the hearing was continued to March 10, 1976, at the City Manager's request.

(Item 401 - CUP NO. 445-PC - continued)

Councilman Williams entered the Chambers.

Ken Klein, Planning Department, answered questions directed by the Council. Patrick O'Connor appeared to speak regarding the appeal and made a supporting slide presentation.

Arlene Van de Wetering appeared to speak in opposition to the appeal.

J. R. Crosby, Engineering and Development Department, answered questions directed by the Council.

Carol Lemrick, Charles E. Pemor, and Towlie Jacobson appeared to speak in opposition to the appeal.

The Council discussed the matter at length.

The hearing was closed and the following Resolution adopted on motion of Councilman Ellis, by the following vote: Yeas-Councilmen Johnson, Hubbard, Williams, Morrow, Gade, Ellis, and Mayor Wilson. Nays-Councilman Haro. Absent-None. Abstaining-Councilwoman O'Connor for reasons of possible conflict of interest:

RESOLUTION 215411, granting, by a vote of 7-1, the appeal of Crown Investment Group, by Patrick J. O'Connor, president, and granting to the Crown Investment Group, Conditional Use Permit No. 445-PC.

RESOLUTION 215412, certifying that the information contained in Environmental Impact Report No. 73-8-1015P, as amended, has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that said Report as amended has been reviewed and considered by the Council, was adopted on motion of Councilman Gade.

(Item 402)

The hour of 2:00 p.m. having arrived, the Mayor announced this was the time and place set for the hearing on the application of Daley Corporation, by Frank M. Powell, agent, for special permission to waive Underground Utility Requirements in connection with the Subdivision Map of Daley Business Park Unit No. 1, located between Aero Drive and Clairemont Mesa Boulevard at the terminus of Balboa Avenue, in the M-1A Zone. It was reported that no written protests had been received.

James McLaughlin, Engineering and Development Department, answered questions directed by the Council.

Frank Powell appeared to speak in favor of the appeal.

The hearing was closed and the following Resolution adopted on motion of Councilman Morrow:

RESOLUTION 215413, granting the application of Daley Corporation, by Frank M. Powell, agent, for special permission to waive underground utility requirements in Daley Business Park.

Councilwoman O'Connor entered the Chambers.

(Item 404)

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 Meeting of February 18, 1976, for preparation of an Ordinance, on the matter of rezoning property in the Uptown Community Plan Area, as described below, from Zone R-4 to Zones R-3A, R03, R-2A, R-2, R-1-5, R-1-6, R-1-10, R-1-15, R-1-20, R-1-40, or any combination thereof; and from Zone R-1-5 to Zones R-1-6, R-1-10, R-1-15, R-1-20, R-1-40, or any combination thereof:

AREA 6 - SUBAREA 6A

Portion - consisting of Lots J and K, Block 311, Horton's Addition, Lot D, Block 323, Horton's Addition, located in Maple Canyon.

It was reported that no written protests had been received.

No one appeared to be heard.

The hearing was closed on motion of Councilman Haro.

A proposed Ordinance, incorporating that property in the Uptown Community Plan Area described as that portion consisting of Lots J and K, Block 311, Horton's Addition, Lot D, Block 297, Horton's Addition, located in Maple Canyon, into R-3A and R-1-5 Zones as defined by Sections 101.0412 and 101.0407, respectively, of the San Diego Municipal Code, and repealing certain Ordinances of The City of San Diego insofar as the same conflict herewith, was introduced on motion of Councilman Haro by the following vote: Yeas-Councilmen Johnson, O'Connor, Hubbard, Williams, Morrow, Gade, Ellis, Haro, and Mayor Wilson. Nays-None. Absent-None.

(Item 305)

The hour of 8:30 a.m. having arrived, the Mayor announced this was the time and place set for the hearing on establishing an underground utility district to be known and denominated as the Grand and Garnet Avenues (Ingraham Street to Olney Street) Underground Utility District. It was reported that no written protests had been received.

James McLaughlin, Engineering and Development Department, answered questions directed by the Council.

No one appeared to be heard.

The hearing was closed and the following Resolution adopted on motion of Councilman Gade:

RESOLUTION 215414, establishing an underground utility district to be known and denominated as the Grand and Garnet Avenue (Ingraham Street to Olney Street) Underground Utility District.

(Item 150 - Unfinished Business from Docket of February 24, 1976)

ORDINANCE 11774 (New Series), incorporating property in the San Ysidro Plan Area located east of Smythe Avenue, on both sides of Avenida de la Madrid, into R-1-5 Zone, as defined by Section 101.0407 of the San Diego Municipal Code, and repealing Ordinance No. 10048 (New Series), adopted May 22, 1969, of the Ordinances of The City of San Diego insofar as the same conflicts herewith, was adopted on motion of Councilwoman O'Connor, by the following vote: Yeas-Councilmen Johnson, O'Connor, Williams, Morrow, Gade, Ellis, Haro, and Mayor Wilson. Nays-Councilman Hubbard. Absent-None.

(Item 151 - Unfinished Business from Docket of February 24, 1976)

ORDINANCE 11775 (New Series), incorporating that property in the San Ysidro Plan Area generally bounded on the west by Pepper Drive, on the north by the SD&AE Railroad, on the east by I-805, and on the south by Main Street, into R-3 Zone, as defined by Section 101.0411 of the San Diego Municipal Code, and repealing certain Ordinances of The City of San Diego insofar as the same conflict herewith, was adopted on motion of Councilman Haro, by the following vote: Yeas-Councilmen Johnson, O'Connor, Williams, Morrow, Gade, Haro, and Mayor Wilson. Nays-Councilmen Hubbard and Ellis. Absent-None.

(Item 152 - Unfinished Business from Docket of February 24, 1976)

ORDINANCE 11776 (New Series), incorporating property in the San Ysidro Plan Area generally bounded on the west by the westerly boundary of Section 1, Township 19 South, Range 2 West, on the north by a line approximately 270 feet south and parallel to Bolton Hall Road and Sunrise Drive, on the east by Willow Road, and on the south by Ensenda Street, into R-2A Zone, as defined by Section 101.0410 of the San Diego Municipal Code, and repealing Ordinances No. 8028 (New Series) and 10862 (New Series), adopted December 18, 1958, and June 29, 1972, respectively, of the Ordinances of The City of San Diego insofar as the same conflict herewith, was adopted on motion of Councilman Haro, by the following vote: Yeas-Councilmen O'Connor, Williams, Morrow, Haro, and Mayor Wilson. Nays-Councilmen Johnson, Hubbard, Gade, and Ellis. Absent-None.

(Item 154 - Unfinished Business from Docket of February 24, 1976)

A proposed Resolution, authorizing the expenditure of \$475,000 from Capital Outlay Fund Reserve - General, CIP 90-245(6), as an advance for the acquisition of a park reserve land in connection with San Diego Park District No. 12F (Tecolote Main Canyon), was presented.

The motion of Councilwoman O'Connor to adopt the proposed resolution received no vote at this time.

Assistant City Manager Graham answered questions directed by the Council.

RESOLUTION 215415, authorizing the expenditure of \$475,000 from Capital Outlay Fund Reserve - General, CIP 90-245(6), as an advance for the acquisition of a park reserve land in connection with San Diego Park District No. 12F (Tecolote Main Canyon), was adopted on motion of Councilwoman O'Connor.

(Item 106 - Supplemental Docket No. 1 - Unfinished Business from Docket of February 24, 1976)

RESOLUTION 215416, authorizing the expenditure of \$46,200 from CDBG Funds to continue financing the Social Planning Unit of HRD (\$23,600), and the Community Center for Student Development (\$22,600), a continuing Model Cities Program, for a two-month period beginning March 1, 1976, or until final approval by Council of the Second Year CDBG Program Budget, of which these projects are a part, whichever occurs first, was adopted on motion of Councilman Haro.

There being no further business to come before the Council at this time, the Regular Meeting was adjourned on motion of Councilman Gade at 3:22 p.m., and the Mayor announced the Council would go into Executive Session in the Twelfth Floor Council Conference Room on pending litigation.

Mayor of The City of San Diego, California

ATTEST:

Charles J. Waldman

City Clerk of The City of San Diego, California