

I N D E XCity Council - March 2, 1973

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AND JAMES J. LORENTZ.	
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March 2, 1973

MINUTES OF AN ADJOURNED REGULAR
MEETING OF THE TORRANCE CITY COUNCIL

OPENING CEREMONIES:

1. CALL TO ORDER:

The Torrance City Council convened in an Adjourned Regular Meeting on Friday, March 2, 1973, at 5:00 P.M. in the Council Chambers at Torrance City Hall.

2. ROLL CALL:

Present: Councilmen Armstrong, Brewster, Sciarrotta, Surber, Uerkwitz, Wilson, and Mayor Miller. Absent: None.

Also present: City Manager Ferraro, City Attorney Remelmeyer, Police Chief Nash, and City Clerk Coil.

3. FLAG SALUTE:

Mr. Jack Salling led in the salute to the flag.

4. DISPENSING WITH REGULAR ORDER OF BUSINESS:

MOTION: Councilman Uerkwitz moved to dispense with the regular order of business. His motion was seconded by Councilman Wilson, and roll call vote was unanimously favorable.

5. PURPOSE OF MEETING:

Mayor Miller announced the purpose of the meeting as a CONTINUATION OF THE HEARING REGARDING THE APPEAL OF DISCHARGE OF POLICE OFFICERS GEORGE KUDOKAS, EDWARD G. FINN, and JAMES J. LORENTZ.

Attorney Royal Sorenson, representing the City, requested, and received, permission to offer a proposal to the Council -- specifically, that the five officers involved in the subject hearing (Hertica, Herley, Kudokas, Finn, and Lorentz) take a polygraph examination, such examination to be given by a mutually agreed upon examiner; that the list of questions would be prepared by the examiner, in conjunction with the attorneys in this matter, or an appropriate Council Committee; and at the conclusion of such examination, the polygraph expert would submit his report to the City Council setting forth his conclusions, with the City Council to make its determination based upon such a report.

It was the response of Attorney Laurie Belger, representing Messrs. Kudokas, Finn, and Lorentz, that the above proposal was absolutely unacceptable, and deemed it an "improper procedure".

Without stipulation by both parties to the proposal, Mayor Miller ruled against same, and ordered that the hearing proceed.

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It was confirmed by the Council that the information requested by Councilman Surber at the February 26, 1973 hearing, and of record, had been furnished -- further furnished the Council were the exhibits entered into the Civil Service Commission hearings on this matter. The Council declined to review the photographs of Dr. Sullivant and the polygraph record, in that this evidence is not pertinent to the charges levied by the Civil Service Commission.

Final arguments were requested by Mayor Miller at this time.

Attorney Belger's remarks were directed to the documents of record, the time factors, discrepancies in testimony, investigation inequities, his distress at the 11th hour proposal this date, the absence of substantial facts against his clients, refutation of statements in a Los Angeles Times news story this date regarding this matter, etc. It was Mr. Belger's plea that the Council find that these officers not be terminated, based on the kind of evidence, and the inconsistencies thereof, presented at these hearings, reinstatement of the officers was urged by Mr. Belger.

Discussion was directed to the submission of a 7-page verbatim statement made by Dr. Sullivant; review of such evidence being recommended by Mr. Belger. The Council declined to review same, with the following vote:

AYES: COUNCILMEN: Surber.
 NOES: COUNCILMEN: Armstrong, Sciarrotta, Uerkwitz, Wilson,
 and Mayor Miller.

A specific vote was not cast by Councilman Brewster, it being his comment that he would be willing to receive the statement; however, he is not asking for it.

The presentation by Mr. Sorenson followed -- he first offered an affidavit by Officer Hertica re: the log put into evidence; there were no objections by Attorney Belger, and the propriety of this procedure was confirmed by City Attorney Remelmeier. Mayor Miller thereupon read aloud the affidavit, as follows: "Michael A. Hertica, being duly sworn, deposes and says: 1. That he had reviewed the log prepared by him for the period of October 26, 1972. 2. That to the best of his recollection the log was filled out by him approximately 4:00 A.M. on October 26, 1972, as it is ^{his} usual mode of procedure to fill out the log at about that time to cover all events occurring prior to that time, and, for that reason, the logs are not always totally accurate. 3. That contrary to the statements in the log for October 26, 1972, he has a very clear and independent recollection that on the morning of October 26, 1972, he and Officer Herley were at the beach in the "burn area" just prior to 2:00 A.M. and did not go to Winchell's until after they had been at the beach. 4. I have reviewed the testimony given by me at the time of the hearing on December 20, 1972, and am satisfied that my testimony as to the sequence of events concerning our arrival at the beach and departure for Winchell's is correct."

Continuing, Mr. Sorenson reviewed testimony of record and summaries thereof, the specific charges sustained by the Civil Service Commission, the unrelated statements which have been introduced, the issue of truthfulness in this matter, the established fact that Officers Kudokas, Finn, and Lorentz saw Officers Herley and Hertica at the location testified to, and the exact hour this transpired does not alter the facts in the case; etc. -- Mr. Sorenson urged that the Council uphold the findings of the Civil Service Commission.

Mayor Miller invited the concluding remarks by Mr. Belger. Mr. Belger noted the absence of restrictions relating to any off-limit territories, and redescribed the circumstances of the evening in question; the inconsistent memories of Officers Hertica and Herley; -- there has not been substantial proof to justify the upholding of the firing of Officers Kudokas, Finn, and Lorentz, in the opinion of Mr. Belger.

Mr. Sorenson's concluding remarks encompassed the fact that there had been considerable testimony offered, with very apparent consistency on the part of Officers Hertica and Herley; and the further fact that there were many witnesses before the Civil Service Commission, along with considerable pertinent information and exhibits, and the conflicting testimony of the five officers involved -- the Commission's findings were delineated by Mr. Sorenson who again urged that they be sustained by the Council.

It was confirmed by City Attorney Remelmeyer, at Mayor Miller's request that the Council decision must be achieved by a 4/5 vote -- 6 out of 7 -- per an ordinance enacted in 1969 -- in order to overrule an action of the Civil Service Commission. Following further procedural advice by City Attorney Remelmeyer -- and an indication by City Manager Ferraro that he would not participate in the Personnel Session in that he was a counter-signer of the charges -- Mayor Miller entertained a motion to recess for this purpose.

MOTION: Councilman Uerkwitz moved that the Council recess for the purpose of a Personnel Session. The motion was seconded by Councilman Surber; there were no objections, and it was so ordered. (The hour was 6:35 P.M.)

Prior to departure from the Council Chambers, it was agreed that City Attorney Remelmeyer would make himself available for questions, without sitting in on the Personnel Session -- this arrangement was satisfactory with Attorneys Belger and Sorenson, with the understanding that they be advised regarding each question and answer.

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The Council returned at 8:10 P.M.

The following decision of the Council was announced by Mayor Miller:

"It is the unanimous findings of this Council that we concur with the Civil Service Commission findings and conclusions regarding all of the charges against Officers Finn, Kudokas, and Lorentz.

"However, we do not concur in the penalties recommended by the Civil Service Commission, and would substitute a penalty of thirty days for each of the four charges for each man for a total suspension of 120 days per man."

It was the request of Mayor Miller that Attorney Belger stipulate to the above -- Mr. Belger so stipulated.

Mayor Miller then announced that the above decision was a unanimous decision of the Council, and then requested that the Council be polled in this regard:

AYES: COUNCILMEN: Armstrong, Brewster, Sciarrotta, Surber, Uerkwitz, Wilson, and Mayor Miller.
NOES: COUNCILMEN: None.

6. ADJOURNMENT:

At 8:12 P.M., Councilman Sciarrotta moved to adjourn to Tuesday, March 6, 1973, at 5:30 P.M. The motion was seconded by Councilman Wilson, and roll call vote was unanimously favorable.

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Vernon W. Coil
Vernon W. Coil, Clerk of the City of Torrance, California

APPROVED:

Ken Miller
Mayor of the City of Torrance