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Torrance City Council - October 23, 1984

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Peggy Laverty
Minute Secretary

City Council
October 23, 1984

Prepared by the Office of City Clerk
DONNA M. BABB, CITY CLERK

October 23, 1984

MINUTES OF A SPECIAL MEETING
OF THE TORRANCE CITY COUNCIL

The Torrance City Council convened in a Special Meeting on Tuesday, October 23, 1984, at 6:00 p.m., in the Council Chambers at Torrance City Hall.

Present: Councilmembers Applegate, Geissert, Mock, Nakano, Walker, Wirth and Mayor Armstrong.

Absent: None.

This meeting was convened at the hour of 6:00 p.m. for the purpose of the following hearing:

14. PERSONNEL MATTERS:

14a. A Hearing on Appeal of Civil Service Commission Decision Upholding the Dismissal of Kenneth Otto and the Demotion of James Wilson, Painters in the Building and Safety Department.

Mayor Armstrong announced that this was the time and place for the subject public hearing and provided the background history of these matters. Procedures to be followed at this hearing and alternatives available to the Council as to each employee were also related by the Mayor. All Councilmembers confirmed that they had read all pertinent material in this case.

Mayor Armstrong invited presentations by the representative attorneys.

Representing the appellants, Kenneth Otto and James Wilson, Attorney Merle Rabine requested that the Council disregard the ninth Finding of Fact regarding the drinking of alcoholic beverages and the Conclusion of Law drawn from that Finding of Fact, there having been no charge in this regard brought before the Civil Service Commission.

Mr. Rabine further stated that there was no evidence to support the third Conclusion of Law regarding inefficiency, incompetency and failure to perform duties on the part of Messrs. Otto and Wilson -- the overwhelming evidence was that management of the

Building Department was inefficient and incompetent, and that management were not performing their duties, per Mr. Rabine. It was further stated by this counsel that what was characterized as an abuse of productive work time and conduct of personal business on City time, was "standard operating procedure" in the Building Department.

Following review of the investigative proceedings as carried out regarding Messrs. Otto and Wilson (a matter of record), Mr. Rabine concluded his remarks by stating that it would be more appropriate to impose a significant suspension without pay and return Mr. Otto and Mr. Wilson to their jobs as painters with competent supervision.

* * *

Mr. J. Mulkeen, Attorney for the City of Torrance in this matter, reviewed the history of the investigation in this case (a matter of official record) and pointed out that results of the surveillance of Messrs. Otto and Wilson showed widespread abuses in the Building and Maintenance Division, which ultimately resulted in three voluntary terminations of employment and disciplinary action by the City.

Mr. Mulkeen continued by stating that the surveillance reports, which were undisputed by Messrs. Otto and Wilson, showed that they worked approximately 3-4 hours per day, this being subsequently acknowledged as a typical work day. Further, Mr. Mulkeen pointed out that these individuals also went shopping on City time and admitted at the hearing that they did private painting jobs on City time while getting paid City money.

As to the ninth Conclusion of Law regarding drinking, Mr. Mulkeen indicated his opinion that there is no reason to strike that from the record as it was candidly admitted, along with the private painting jobs, during the hearing.

In conclusion, Mr. Mulkeen deemed the 3-4 hour work days an "intolerable waste of taxpayers' money" and the representation of 8-hour days worked as "tantamount to theft." Mr. Mulkeen recommended that there be no further mitigation with regard to the Civil Service decision regarding Mr. Otto and Mr. Wilson.

* * *

In rebuttal, Mr. Rabine noted that Messrs. Otto and Wilson did not admit to having worked 3-4 hour days during the period under consideration -- that testimony was from Mr. Peron. Mr. Rabine maintained that if the management of the City wanted these two individuals to do other than they were doing, there should have

been a management technique established to that end. The Civil Service Commission proposes to punish these people for the incompetence of their management, per Mr. Rabine, who deemed such action unfair.

* * *

Mr. Mulkeen returned to comment that these individuals have a responsibility to do their work. The question is not whether they did their work competently when they worked, per Mr. Mulkeen -- the issue is that they did very little work, and any attempt to spread the blame on other people is represented by Mr. Mulkeen as highly inappropriate.

* * * * * * * * * *

The Council convened in Executive Session at 6:34 p.m. for deliberation in this matter, returning at 7:10 p.m., to take the following action:

MOTION: Councilman Applegate moved, in the matter of Kenneth Otto and James Wilson, to affirm the decision of the Civil Service Commission. His motion was seconded by Councilman Nakano, and carried by way of the following roll call vote:

AYES: COUNCILMEMBERS: Applegate, Geissert, Nakano, Walker and Mayor Armstrong.

NOES: COUNCILMEMBERS: Mock and Wirth.

By way of explanation regarding his above negative vote, Councilman Wirth stated that in his opinion these City employees were guilty; however, his negative vote is because, in his opinion, City staff in this case made a very major error in their conduct.

Mayor Armstrong requested an Executive Session following this Council meeting (see Page 13).

At 7:12 p.m., the Council recessed without leaving their seats, reconvening at 7:14 p.m. to conduct the regular order of business as follows.

* * *

October 23, 1984

MINUTES OF A REGULAR MEETING
OF THE TORRANCE CITY COUNCIL

OPENING CEREMONIES:

1. CALL TO ORDER:

The regular portion of the City Council meeting of October 23, 1984, convened at 7:14 p.m. (the Council having been in session for a special meeting since the hour of 6:00 p.m.) in the Council Chambers at Torrance City Hall.

2. ROLL CALL:

Present: Councilmembers Applegate, Geissert, Mock, Nakano, Walker, Wirth and Mayor Armstrong.

Absent: None.

Also present: City Manager Jackson and staff representatives.

3. FLAG SALUTE:

Mrs. Tom Rupert led in the salute to the flag.

4. INVOCATION:

Reverend Tom Rothhaar, Walteria United Methodist Church, provided the invocation for the meeting.

STANDARD MOTIONS:

5. APPROVAL OF MINUTES:

Councilman Applegate moved for adoption of the minutes of October 2, 1984, as recorded. His motion, seconded by Councilwoman Geissert, was unanimously approved by roll call vote.

6. MOTION TO WAIVE FURTHER READING:

Councilman Applegate moved that after the City Clerk has assigned a number and read title to any resolution or ordinance on tonight's agenda, the further reading thereof be waived, reserving and guaranteeing to each Councilmember the right to demand the reading of any such resolution or ordinance in regular order. The motion was seconded by Councilman Walker, and roll call vote was unanimously favorable.

7. COUNCIL COMMITTEE MEETINGS:

Ad Hoc Legislative Committee
Monday, October 22, 1984, 4:00 p.m.
Subject: Ballot Propositions

See Agenda Item 21a, below.

*

Ad Hoc Committee
Tuesday, October 23, 1984, 5:00 p.m.
Subject: Service Contract with Chamber of Commerce.

Councilman Walker noted that the Committee will have a unanimous recommendation for the contract as it stands, with proposed modification for future years.

*

Community Planning and Design Committee
Thursday, November 1, 1984, 4:30 p.m.
3rd Floor Assembly Room
Subject: Hillside Ordinance

*

Considered out of order --.

21. ADDENDUM MATTERS:

21a. Legislative Liaison Committee Report.

RECOMMENDATION OF LEGISLATIVE LIAISON COMMITTEE:

That the full City Council support Propositions 25, 27, 28, 30, 31; oppose Proposition 36; and take "no position" on all other propositions.

MOTION: Councilman Applegate moved to concur with the above stated Committee recommendation. His motion, seconded by Councilwoman Geissert, carried unanimously by roll call vote.

10. TRANSPORTATION/PUBLIC WORKS MATTERS:

10a. Resolution re Revision of Local Agency-State Agreement for a Federal Aid Urban System Project.

RESOLUTION NO. 84-290

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE AUTHORIZING THE EXECUTION OF A SUPPLEMENTAL AGREEMENT FOR A FEDERAL AID URBAN SYSTEM PROJECT TO UPGRADE 20 TRAFFIC SIGNAL CONTROLLERS

MOTION: Councilwoman Geissert moved for the adoption of Resolution No. 84-290. Her motion, seconded by Councilman Nakano, carried unanimously by roll call vote.

10b. Resolution re Funding Exchange with the City of Artesia.

RESOLUTION NO. 84-291

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE AUTHORIZING EXECUTION OF AN AGREEMENT FOR AN EXCHANGE OF FUNDS WITH THE CITY OF ARTESIA

MOTION: Councilman Nakano moved for the adoption of Resolution No. 84-291. His motion was seconded by Councilman Walker, and roll call vote proved unanimously favorable.

10c. Release of Subdivision Guarantee, Tract No. 33829 (John Kinsey) 2154 238th Street.

RECOMMENDATION OF CITY ENGINEER:

That the subject Letter of Credit be released.

MOTION: Councilman Applegate moved to concur with the City Engineer's recommendation. His motion, seconded by Councilman Walker, carried unanimously by roll call vote.

* * *

13. ENVIRONMENTAL/BUILDING AND SAFETY MATTERS:

13a. Award of Contract - Soil Testing and Inspection.

RECOMMENDATION OF DIRECTOR OF BUILDING AND SAFETY:

It is recommended that the City Council authorize a purchase order contract with Western Laboratories for Soil Testing and Inspection Services of the Torrance Transit and City Services Facilities in an amount not to exceed $15,000.

MOTION: Councilwoman Geissert moved to concur with the above recommendation of the Building and Safety Director. Her motion was seconded by Councilman Walker, and carried unanimously by roll call vote.

14. PERSONNEL MATTERS:

14a. Appeal of Civil Service Commission Decision re Kenneth Otto and James Wilson.

Considered at 6:00 p.m. - see Pages 1-3.

15. HEARINGS:

15a. CUP 84-47, El Pollo Loco (Larry Larson).

Mayor Armstrong announced that this was the time and place for consideration of an appeal of a Planning Commission approval to allow the construction of a restaurant with a drive-thru and a retail shopping center in the C-4 zone at the southeast corner of Hawthorne Boulevard and 182nd Street, CUP 84-47, EL POLLO LOCO (LARRY LARSON).

Proof of publication was presented by Deputy City Clerk Hong, and it was ordered filed, there being no objection.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommends approval of CUP 84-47 with all revised conditions and denial of the subject appeal.

PLANNING DEPARTMENT RECOMMENDATION:

The subject location has been vacant for a long period of time and, as a consequence, has deteriorated. The applicants have designed the project so as to maintain a large distance between the drive-thru and the residential properties to the east. With all the recommended conditions of approval, the project will enhance the corner and the appearance of

that portion of Hawthorne Boulevard frontage. Staff recommends approval of CUP 84-47 and denial of the subject appeal.

Mayor Armstrong invited the proponent to address the Council.

Mr. Larry Young, Manager of Real Estate Administration for Denny's, Inc., parent company for El Pollo Loco, 16700 Valley View, La Mirada, introduced his associate, Mr. Larry Larson. The question of noise was addressed, it being noted that the distance from their speaker to the nearest residence is 80 feet, with sound level at the property line projected at 30 dB(A). Concurrence with all conditions was indicated by Mr. Young.

The resident of the closest townhouse unit to the subject lot, Dr. Mark Lum, 4325 West 182nd Street, Unit #27, submitted a letter from nine residents of that complex voicing concerns regarding establishment of a Seven-Eleven type store with inherent problems relating to noise, privacy, delivery and trash trucks, early morning clean-up crews, etc. Proposed business hours to midnight were also noted as a concern.

There being no one else who wished to speak on this item, Councilman Applegate moved to close the hearing. His motion was seconded by Councilman Walker, and roll call vote proved unanimously favorable.

The intent of Condition #18 was questioned by Councilman Wirth -- "That the hours of operation for the restaurant shall be limited to 10:00 a.m. to Midnight, daily (Sunday through Saturday) for a trial period of six (6) months." Planning Associate Bihn clarified that it was intended that this matter be returned automatically to the Planning Commission for review at the end of six months, with modification of hours at that time if a problem were apparent. City Attorney Remelmeyer requested that Condition #18 be modified to so indicate, specifically stating that at the end of six months the Planning Commission would have the authority to impose further restrictions with reference to hours of operation.

MOTION: Councilman Walker moved to concur with the Planning Department and Planning Commission recommendations for approval of the project, with Condition #18 to be modified as above indicated by the City Attorney. His motion was seconded by Councilman Applegate (Councilman Applegate later withdrew his second).

Council discussion continued. Councilwoman Geissert expressed concern regarding delivery hours, and suggested that a condition be added specifying no deliveries prior to 7:00 a.m. on weekdays and 8:00 a.m. on weekends.

Councilman Walker agreed to modify his above motion to add a restriction on delivery hours; however, indicating his preference that there be no deliveries prior to 7:00 a.m. any day of the week. Councilwoman Geissert concurred.

At this point Councilman Applegate WITHDREW HIS SECOND, voicing his opposition to a condition prohibiting delivery hours prior to 7:00 a.m., noting his opinion that such a condition might not be feasible and should not be imposed without knowing the facts in this regard.

Indicating her desire to question the applicant regarding acceptable delivery hours, Councilwoman Geissert MOVED to reopen the hearing. Her motion was seconded by Councilman Wirth and, there being no objection, it was so ordered.

Mr. Young returned to the podium to clarify that a tenant for the proposed retail building has not as yet been established -- a Seven-Eleven or "like" tenant is proposed. City Attorney Remelmeyer advised that, if so desired by the Council, the decision as to delivery hours may be deferred until the tenant is certain. Mr. Young agreed with such a condition.

Returning to the question of hours of operation for the restaurant, Mr. Young advised that he would concur with a limitation on hours of operation from 10:00 a.m. - 10:00 p.m. Sunday through Thursday, and 10:00 a.m. - Midnight on Friday and Saturday.

Dr. Lum returned at this time to stress his concerns regarding delivery hours, noting that they had previously had a problem with Bob's Big Boy -- subsequently, the management had agreed to restrict deliveries to before Midnight.

Councilman Applegate MOVED to close the hearing. His motion was seconded by Councilwoman Geissert, and roll call vote proved unanimously favorable.

A MODIFICATION TO HIS MOTION was offered by Councilman Walker, to change Condition #18 to indicate that delivery hours are to be restricted to 7:00 a.m. to 10:00 p.m; operating hours from 10:00 a.m. to 10:00 p.m. Sunday through Thursday, and 10:00 a.m. to Midnight Friday and Saturday (with NO 6-month trial period).

The motion, as modified, was seconded by Councilwoman Geissert, and carried by way of the following roll call vote:

AYES:	COUNCILMEMBERS:	Geissert, Mock, Nakano, Walker, Wirth and Mayor Armstrong.
NOES:	COUNCILMEMBERS:	Applegate.

Councilman Applegate stated that his negative vote is because of the delivery hour restrictions -- strictly interpreted, the morning newspapers could not be delivered to the racks in front of the establishment, per Mr. Applegate.

RESOLUTION NO. 84-292

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A RESTAURANT AND A RETAIL SHOPPPING CENTER IN THE C-4 ZONE ON PROPERTY LOCATED ON THE SOUTHEAST CORNER OF HAWTHORNE BOULEVARD AND 182ND STREET
CUP 84-47: EL POLLO LOCO

MOTION: Councilman Walker moved for the adoption of Resolution No. 84-292, as amended to concur with the above Council action. His motion was seconded by Councilwomán Geissert, and carried by way of the following roll call vote:

AYES: COUNCILMEMBERS: Geissert, Mock, Nakano, Walker, Wirth and Mayor Armstrong.

NOES: COUNCILMEMBERS: Applegate.

18. SECOND READING ORDINANCES:

18a. Ordinance No. 3121.

ORDINANCE NO. 3121

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE, AMENDING SECTION 32.1.24 OF THE TORRANCE MUNICIPAL CODE DEALING WITH LICENSE FEES FOR MASSAGE OR ACCUPRESSURE ESTABLISHMENTS, AND ADDING AN ARTICLE 11 TO CHAPTER 5 OF DIVISION 3, OF THE TORRANCE MUNICIPAL CODE PERTAINING TO THE REGULATION AND LICENSING OF MASSAGE OR ACCUPRESSURE ESTABLISHMENTS

MOTION: Councilman Applegate moved to adopt Ordinance No. 3121, at its second and final reading. His motion was seconded by Councilwoman Geissert.

Prior to roll call vote, Mayor Armstrong inquired as to the notification afforded current licensees, per the request of Councilman Wirth at the City Council meeting of October 16 (first reading of the subject ordinance). Police Lieutenant Dane advised that such notification has been accomplished.

From the audience, Mr. Robert Kunzelman, owner of the Panache Appearance Studios in Torrance, stated that they have been in business for five years with massage being a very small part of the total services offered to their clients. Mr. Kunzelman strongly

objected to the subject ordinance in that, in his opinion, there is an implied sense of dishonesty and illegality -- an illadvised manner in which to proceed, per Mr. Kunzelman. In response to an inquiry from Councilman Wirth, this speaker noted that he particularly objects to the requirement in Section 35.11.3, as follows:

d) Two copies of a photograph, two inch by two inch in size, taken within two years of the application, for submission to the Police Department; and

e) The fingerprints of the applicant on a suitable form taken by the Police Department.

Mayor Armstrong responded to Mr. Kunzelman's expressed concerns, as did Police Lt. Dane, advising that the intent of the ordinance is, through regulation, to ensure that those licensed facilities will bring back the legitimate aspect of the massage and accupressure activities.

Next to speak from the audience was Mrs. Hazel Anders, co-owner of Betty and Hazel Massage Salon, 3305 Sepulveda Boulevard, Suite #5. Mrs. Anders advised that they have been in business for 18 years and requested clarification as to the renewal procedure requirements, which are set forth in Section 35.12.9 of Ordinance 3122 (Agenda Item 18b).

Lt. Dane affirmed that, under Section 35.12.9, a health certificate is required from a medical doctor for purposes of renewal of massage or accupressure technician licenses.

Mrs. Anders deemed this requirement "an insult," citing the many years of trouble-free activity from their business. Mr. Kunzelman returned to voice his agreement with these comments and to stress his objection to a "health test," as well as his previously stated opposition to the photograph and fingerprints.

Following further discussion, Councilman Walker expressed his opinion that photographs and fingerprinting would appear to be reasonable deterrents; however, he would judge annual physicals and "a report card type situation" as going one step too far. Mr. Walker would not support the requirement for a medical exam as called out in Section 35.12.9 of Ordinance 3122, and would recommend that requirement be deleted.

Roll call vote for the adoption of Ordinance 3121, at its second and final reading, proved unanimously favorable.

18b. ORDINANCE NO. 3122.

ORDINANCE NO. 3122

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE ADDING A NEW ARTICLE 12, TO CHAPTER 5, DIVISION 3, OF THE TORRANCE MUNICIPAL CODE, REGULATING THE LICENSING AND CONDUCT OF MASSAGE OR ACCUPRESSURE TECHNICIANS

MOTION: Councilman Walker moved for adoption of Ordinance No. 3122, at its second and final reading, ELIMINATING the provision of Section 35.12.9 which would require a certificate from a medical doctor. The motion was seconded by Councilman Wirth.

(NOTE: See Page 11, Agenda Item 18a. for discussion in this regard).

A SUBSTITUTE MOTION was offered by Councilwoman Geissert for adoption of Ordinance No. 3122 (as written) at its second and final reading. This motion, seconded by Councilman Applegate, carried by way of the following roll call vote:

AYES: COUNCILMEMBERS: Applegate, Geissert, Mock, Nakano and Mayor Armstrong.

NOES: COUNCILMEMBERS: Walker and Wirth.

20. CONSENT CALENDAR:

20a. Parcel Map No. 13084 (D80-23)
Subdivider: Telo Leasing Co.
Location: S.W. Corner Telo Ave. & Fujita St.
No. of Lots: 2

RECOMMENDATION OF CITY ENGINEER:

That the City Council approve Parcel Map No. 13084 and accept the sanitary sewer dedication thereon.

20b. Award of Contract:
Repaint City Fire Engine Unit #115
Expenditure: $6869.58

RECOMMENDATION OF FIRE CHIEF:

It is recommended that inasmuch as the work quality provided by Wesskote Inc. is considered acceptable, that Council award a contract for the requested body work and repainting to them in the total amount of $6869.58 including tax.

MOTION: Councilman Applegate moved to concur with staff recommendations on Agenda Items 20a, and 20b. His motion was seconded by Councilwoman Geissert, and roll call vote proved unanimously favorable.

* * *

At 8:25 p.m., the Council recessed and reconvened as the Redevelopment Agency of the City of Torrance, returning to the Council agenda at 8:26 p.m.

* * *

21. ADDENDUM MATTERS:

21a. Legislative Liaison Committee Report.

Considered earlier - see Page 5.

22. ORAL COMMUNICATIONS:

22a. Councilman Mock noted receipt of correspondence from the City of Gardena regarding Redlining of insurance, and requested that staff investigate and report back to the Council as to the existence of this practice in the City of Torrance.

22b. Mayor Armstrong requested an update from staff of the Flagler Lane proposal. Staff will provide same.

22c. Mrs. Hazel Anders, co-owner of Betty and Hazel Massage Salon, 3305 Sepulveda Boulevard (see Agenda Items 18a and 18b, Pages 10-12 of these minutes) explained that some 18 years ago her sister was licensed by the City of Torrance without certification and questioned the impact of the newly adopted ordinances on her sister's standing. Mayor Armstrong reassured Mrs. Anders in this regard and requested that Lt. Dane meet with her for the purpose of providing clarification as desired.

The Council returned to --
14a. At 8:30 p.m., the Council recessed to Executive Session to discuss personnel matters (see Page 3), returning for formal adjournment with no formal action taken.

# # # # # #

Mayor of the City of Torrance

City Clerk of the City of Torrance