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January 27, 1959

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Torrance, California
January 27, 1959

MINUTES OF A PRE-COUNCIL MEETING
OF THE TORRANCE CITY COUNCIL

The City Council of the City of Torrance convened in a scheduled Pre-Council Meeting at 7:00 P. M. Tuesday, January 27, 1959, in the Council Chamber, City Hall, Torrance, California.

Those Councilmen present were: COUNCILMEN: Beasley, Benstead, Bount, Drale, Jahn, Isen. ABSENT: COUNCILMEN: Bradford. City Manager Stevens and City Attorney Remelmeyer were also present.

Mayor Isen announced that this meeting had been scheduled for the purpose of discussing informally with the residents of that area the problem of the drainage on Portobello Drive, and reminded the audience of the fact that such a meeting was called for discussion only. No legal action could be taken. The matter has been before the Council many times, and the Council is aware that it is a serious problem.

The City Clerk presented an Affidavit of Publication of Notice of this meeting, and as there were no objections, this was accepted and ordered filed.

The Mayor reported that the Councilmen had received opinions on the matter from the City Attorney and an associate opinion and a statement from the City Manager; he thought most of the people involved had received copies of these.

The Mayor and Councilmen Benstead and Jahn offered their copies of these to those people interested.

Mayor Isen asked if anyone wished to be heard.

Mrs. Agatha Berwanger, 2743 Portobello Drive, came forward. Mrs. Berwanger felt the City should look to the future, and she forecast that the streets, sewer lines, water lines, and much taxable property would eventually slide down into the canyon if the drainage situation there is not repaired. She said this problem has and will affect property values. She said it would not be good planning to ignore the problems of the homeowners in the area. She referred to the legal opinions the Mayor had mentioned, and said that Mr. Hall, in his letter had said in his opinion the City was not liable 'to date', and she believed the inference should not be ignored. She felt that the question of 'liability' and 'responsibility' should be explored. She said this drainage problem affects many people. When a drain fails, she believed the City had to do something about it. She felt it was a question of money, and pointed out that there are many taxpayers in the area. She said the bond issue would not help them, but would help others. They are not enthused, she said, about paying for that to benefit others; she asked how the City could consider annexing other areas when this problem exists. She offered to answer questions.

Councilman Beasley asked if Mrs. Berwanger had tried to sell her home, and Mrs. Berwanger said she had been told by a person who does a great deal of selling that the person would not take any of the houses in that line to sell.

Councilman Bradford joined the meeting at 7:10 P. M.

Mrs. Berwanger said she knew the City had spent money draining and putting sumps in other areas, and she said the argument that to spend public funds here would be to help only a few was not valid. She said this money would not be spent for improvement of private property, but for maintaining an area so people can live in the houses and can sell them. She said the people are interested in what the houses are worth.

Mayor Isen asked if anyone else wished to be heard.

Mr. C. Hendricks, 4755 Portobello, which he identified as Lot 48 on the map before the Council, spoke to the Councilmen. He said they live

next door to the Johnson's, and have watched with sympathy as the Johnson house cracked and the land slipped away. Since the Councilmen were out looking at the area, they have found 3 cracks in their own back yard which are about 1" wide, and have a crack between their living room and the dining room which is now almost 3/4" wide at one corner of the room. He said they had not been original buyers in the tract, but had paid about \$21,000 for their home, which he believed had originally sold for about \$15,000. He said they have a beautiful view, and he had been proud to be a citizen of Torrance. Now the question has come up on the slippage being discussed here. He said he had tried to sell his house between Thanksgiving and Christmas, but no one would take the listing. He said something has to be done about the slippage on the hill. He was willing to pay the extra \$6,000 he had paid to live on the hill, however, the wall of his house has begun splitting. The planter walls in the back of the house have also split. He did not think this should be his problem. He pointed out that their taxes have gone up from \$7 to \$14 a month, and he cannot see why the people who live there should have to fix this, and pay for having the drainage repaired. He had presumed when he bought the house that the City had been watching the interests of the people so that they could buy property in the City and rely on its not falling off that hill. He said it is pointed out here that the City had no 'legal' responsibility, but he said they had a moral responsibility. If his taxes will go into a fund which will be distributed to pay for the upkeep of the City as a whole, he felt entitled to be taken care of as any citizen of the City should be. He said he is in favor of saving trees and plants, but he felt if the City could pay \$100 to move a palm tree, they could also pay a little more to save a house.

Mayor Isen explained to him that the City gets only about 1/6 of each of the tax dollars paid by people in our City.

Mr. Hendricks said that no matter what taxes he pays, he felt he was entitled to the same respect and concern that anyone gets, and Mayor Isen assured him that this was so and that the Council was here to give these people consideration.

Mayor Isen asked if anyone else wished to be heard, but no one came forward.

Councilman Bradford asked Mr. Johnson a question, saying he understood that Steve Barnes had made a survey of the property for an insurance carrier, and he asked if this was right.

A man in the audience replied that it was correct.

Councilman Bradford asked if Mr. Barnes had said the ice plant had contributed to the slippage.

The man in the audience said he did not know. He said the insurance carrier had cancelled his insurance completely just a week ago today.

Councilman Bradford asked if anyone here had talked to Mr. Barnes.

Acting City Engineer Bishop said he understood that Mr. Barnes had made that statement about the ice plant.

Councilman Bradford asked what the weight of this ice plant is, and Director of Public Works Russell replied that it weighs between 35 and 40 pounds per square foot.

Councilman Drale asked who had planted it there, and Mr. Bishop said the subdivider had. Mr. Bishop went on to say that in general it was assumed to be one of the best covers for non-irrigated slopes.

Councilman Beasley asked if it is true that the State has discontinued the use of ice-plant for use on freeway cuts, and Mr. Bishop said he was not aware of this.

Councilman Jahn asked if we had repaired one place on that hill one time and replanted it with ice plant.

The City Manager said we had done some work out there at one time but he was not sure that we had replanted the ice plant.

Mr. Bishop said we had replanted a small area there about 2 years ago and had planted rye grass followed by another grass, either bent or fescue, and it is not heavy.

A man in the audience said the slope was planted with rye grass and

then was planted with iceplant. He said the growth there was bermuda grass, the roots of which were in the soil brought in.

Mr. Bishop said it is a luxuriant growth.

Mayor Isen asked if the Council had not had engineering estimates of the minimum and maximum costs on repairing the area.

Acting City Engineer Bishop said it had been estimated that it would cost \$12,000 for the pipe and drainage repair alone. The recompaction and restoring of the slope had been estimated at about \$10,000 more. He believed this \$22,000 was a very conservative estimate.

Director of Public Works Russell said the drain repair which had been estimated was a trench filled with rock with a drain in it and the drain was to be jacked through the easement.

Mayor Isen asked if this would take care of the problem.

Mr. Russell said he thought it would, and that we have the advice of a noted specialist on this. He said Mr. Barnes's office had read the report we got from Twining, and had said it was a very good one.

In reply to a question as to Mr. Barnes's identity, Mr. Russell said Mr. Barnes is one of the most highly regarded structural engineers on the West Coast.

Councilman Jahn spoke to the City Manager, saying that when the Council had gone out there they had looked over the area; he asked when any study had been made as to whether the drain being discussed would catch the existing drain.

The City Manager said it would be very doubtful. He said we would have to drive this new drain through the ground. He said it would be better to carry the drain on down.

Councilman Jahn asked if the \$12,000 would be for an entirely new drain, and the City Manager said it would.

Councilman Jahn said if we just forget about getting heavy machinery in there on the slope, and go in and remove the ice plant by hand, and make sure the ground has a good grass cover and fill the cracks in the back yards, he thought the problem might be whipped with the addition of the drain, without spending the money mentioned for the correction of the slopes. He asked if Mr. Russell thought he was right about this.

Mr. Russell said he would be willing to go up there and try it, saying there is a chance that would work.

Councilman Benstead asked if we would put a drain all the way down the canyon, and Mr. Russell said there would be water draining from the drain along Portobello.

Mr. Russell said for this drain, we would go along the north side of Portobello and put in a 6 or 8 inch pipe and jack it through the hill in short lengths.

Councilman Benstead asked how we would get the water into the drain-pipe and whether it would be perforated.

Mr. Russell said it would be, and that the pipe would be in a trench filled with rock.

Councilman Beasley asked Messrs. Russell and Bishop what would happen if we did nothing about this and one of the houses slid down the canyon, and whether others might not follow, and perhaps in a few years we would have lost the whole row of houses. He said it has been his observation that when a 'wash' starts, unless it is controlled it will keep eroding.

Mr. Russell said that was a hard question for anyone to answer. He pointed out that the lots mentioned here are not all filled ground, according to the maps in the engineering department.

Councilman Blount asked the City Manager for his opinion as an engineer as to whether all this would save the house in question.

The City Manager said if he meant with the drain put in and the slope rebuilt, then he would say that the house would not fall down the hill.

Councilman Blount asked the City Manager if it was his belief that by putting in the drain as described it will take out the sub-surface water, and the City Manager said that based on the test holes the engineers had drilled, it would be his opinion that a drain correctly

built would eliminate almost all of that underground seepage water. He said such a drain would intercept most of the underground water, as it would be an open drain packed in rock, and it would carry the water down to a closed drain about 14' deep. We would drive the pipe through the bank and come out at a proper grade and carry the water down the hill. He thought this seemed reasonable based on the findings of the engineer.

Councilman Blount asked if the City Attorney felt that, if the City goes in there and puts in such a drain and recompacts the banks, etc., we would have taken on the risk and responsibility for what might happen in the future.

The City Attorney said that he would say the answer to that was "Yes".

Councilman Beasley asked whether such responsibility could be removed by having waivers signed by the people involved, and the City Attorney replied that he could not say.

The City Attorney explained this by saying that the courts may or may not honor such waivers, but if the Council decided to make any such improvements he would highly recommend such waivers be obtained before any such work is done.

Mayor Isen asked what would happen with future buyers in that area, saying such waivers would not bind them. He said such waivers could not be made to run with the land.

Councilman Jahn said he would favor constructing the drain, but he did not favor our trying to rebuild the bank. In the first place, he felt the prices quoted here had been reversed, and that the grading and bank correction would cost \$12,000. To complete the job, after putting in the drains, he thought he would favor sending in hand labor and removing the ice plant, which he thinks is the cause of the bank slipping.

Councilman Benstead said we would still have the water.

Councilman Jahn said the drain would help that, but he did not think we should have the heavy machinery on the slope.

Councilman Benstead thought we should have a 'friendly suit' before anything is done.

Councilman Jahn said the City Attorney had given the Council his opinion and findings; he did not feel we should go against them.

Mayor Isen did not think that was the problem. He thought this was a question of whether this is a proper expenditure of public funds. If it is not, the City Councilmen and the Mayor would be individually responsible for all of the money spent. He thought everyone would agree that they should exercise over-all caution.

Mrs. Berwanger said she would like to know if the individual homeowners would be responsible if they put in the drains.

Mayor Isen explained to the audience the liability to the individual Councilman and/or the City.

Councilman Beasley told Mrs. Berwanger that individual property owners could not put the drain on City property.

A man in the audience asked if the contractor had been absolved from all responsibility, and the Mayor said he thought that was a matter for the individual homeowners to try for. He said he thought it was good for the people to come to the City, but there are matters between private parties which the City could not solve.

The man said there are so many things wrong that they think there should be some answer.

Councilman Jahn thought the problem lay with their attorney contacting the State and reporting the original contractor; he pointed out that he had suggested this before. He believed this was the responsibility of the homeowners and that the City should not enter into it.

Mr. Gordon Schifflen of Highcliff Drive, said no one doubts there is a problem there of the homes now and possibly of the streets later. He did not see how the individual citizens could do this even if they had the resources, if the answer lies in putting drains on City property. If that is the solution, he thought the responsibility should be that of the City.

Councilman Bradford said outside of the drains, he thought a possible

solution would be to put in dry wells, meaning to put in a number of holes along Portobello which would be cased, then the casings would be perforated and the holes packed with gravel. He thought this would solve the problem. He said the other drain would carry the water through the bank.

Mayor Isen asked what such a well would cost.

Councilman Bradford said he did not know, and could not tell until we know the depth to the right porous sand. He said he would go along with the design estimated to cost \$10,000, but he thought the estimated cost of recompacting the bank was between \$22,000 and \$30,000 because of the machinery and the mechanics necessary. He said he would go along with Councilman Jahn's recommendation that the ice plant be removed by hand. He thought sage brush would be better on that slope. As to the liability, he thought if we could pump out some areas and supply sand-bags in others in what would be known as a time of emergency, that money could also be spent to solve this problem. He said he did not know the legal aspects of this, nor did he know the circumstances when the tract went in. He said he was not aware of what the contractor did, but he said he knows well that something must be done. He did not want to place himself or the city in jeopardy without legal counsel. He did not think he had yet had an answer from the Attorney, but said he would like to know from the City Attorney why this money could not be set up without a test case. He thought that if we could pump out Walteria Lake to save some homes in the low lands from floods, we could surely do something for these people.

The City Attorney said he would not judge the case of Walteria Lake, because he did not remember the figures involved nor the circumstances. In this case, the law is that you may spend public funds for public purposes only. He felt it almost impossible to draw the line between them, as in this case where there are not too many people involved the case might be different.

Mayor Isen referred to Portuguese Bend, and asked the City Attorney how the Board of Supervisors had justified the expenditures there.

The City Attorney did not know, but assumed it was justified because of the number of people involved. He was not sure that enough people had been affected in this particular case. If the Council goes ahead with this, a Judge might find the expense invalid and the Councilmen would be individually liable. He could not say what the Judge would do, and said it was close enough so he would not advise the Council to spend the money without a test case.

The Mayor said he had not been on the Council when this tract was approved, having been sworn in just the night of the final approval, and he had abstained from voting on it. He had checked the Minutes on it, however. If we had the \$12,000 to spend on it, however, he would think it better to have a court ruling before spending the money. He felt this would be a measure of protection for the individual Councilmen, and he asked if the City could not join the parties in the area as defendants and require them to file waivers of liability in the future, or bring about a suit.

The City Attorney said we might 1) appropriate money for this and, when the Director of Finance refused to pay it, we could have a controversy on that point; 2) he did not think a court would render declaratory judgement when the people could determine it by tort action, and he did not think a court would give declaratory judgement in that type of suit.

Councilman Benstead asked how long it would take to test this in court, and the City Attorney thought it would take from 4 to 8 months.

The Mayor differed, saying Redondo Beach had validated their lease-back in a couple of weeks. He thought this could be done in 6 weeks.

The City Attorney said he had only stated his opinion based on his experience in the Superior Courts.

At 7:55 P. M., Mayor Isen declared a recess, with the Council reconvening at 8:00 P. M. in a regular meeting.