

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Hugh R. Riley, Assistant City Manager 

DATE: November 9, 2010 (City Council Meeting of 12/17/10)

SUBJECT: Consider Request from American Legion Post 502 for the Placement of Banners on Southern California Edison (SCE)-Owned Street Light Poles

On October 20, 2010 the City Council was asked by representatives of the American Legion Post 502 (the Legion) to support the placement of banners commemorating Moorpark, Active Duty Military Personnel. The Legion also requested the use of City Staff to install the banners and hardware, permission to display the banners for a two year period and relief of other requirements that were not specified in the verbal request. The Council received a report from the City Manager on October 22 providing background information.

According to the Legion, the proposed banners are intended to be placed on street light poles along Spring Road and Tierra Rejada Road only. Poles on the Spring Road and Tierra Rejada Road Bridges are owned by the City. Other poles are owned by Southern California Edison (SCE). Placing banners on poles owned by SCE would require the City to enter into a License Agreement and such License is not assignable to another party. The License requires the City to indemnify SCE and among other requirements, to insure no corporate logos are included and the use of banners does not generate revenue above costs for the banners and placement thereof.

BACKGROUND

On April 5, 2000, the City Council approved a License Agreement with SCE, subject to final language approval by the City Manager and City Attorney, to allow the Moorpark Chamber of Commerce to place banners to commemorate the Moorpark Community's Centennial Anniversary. The program was not undertaken for several reasons including the restrictions on use of corporate logos, indemnification issues with the Chamber of Commerce, and fundraising revenue restrictions.

On August 1, 2001, the City Council approved a Policy regarding the placement of vertical street banners. This was done at the request of the Moorpark Chamber of Commerce to allow banners for the 2001 Annual Country Days event. Banners were not placed for this event. The Policy is now incorporated as Section L of City Council Resolution No. 2002-1974 adopting revised Engineering Policies and Standards. The April 5, 2000, License Agreement was not executed and on August 21, 2002, the City Council rescinded its prior action approving the License Agreement.

DISCUSSION

The City Council Policy as adopted would require the Legion as the applicant, to:

1. *Obtain \$1,000,000 liability insurance coverage subject to the approval of the City's Risk Manager.*

The Legion would need to add the City as an additional insured to its current policy or modify its policy to conform to this requirement.

2. *Execute a defense, indemnity and hold harmless agreement with the City.*
3. *Be responsible for all labor and equipment installation costs (including installation, maintenance and removal of the banners and any claims arising from their use).*

The Legion requested the use of City Staff to install the banners however the City does not have the necessary equipment. Staff obtained quotes from contractors and based on these quotes the cost to install the initial 25 banners and hardware will be approximately \$400 with a similar cost to remove them.

4. *Obtain applicable encroachment permits from the City.*

The cost for encroachment permits for the 25 banners is approximately \$150. *This fee could also be waived by the City Council but this would be a precedent setting action.*

5. *The current policy limits the display of the banners to 60 days.*

The Legion's request is to display the banners for a period of two years. This would require an exception to the existing policy, also setting a precedent.

In summary, to allow placement of banners on SCE owned street light poles as proposed by the Legion, the City Council would need to approve the SCE License Agreement and amend or make exceptions to the Banner Policy. Though, the SCE License Agreement is with the City, it permits City's "Authorized Agent" to install, maintain, use, repair, renew and remove Attachments.

FISCAL IMPACT

The fiscal impact would include several hours of city staff time, an estimated \$500 in City Attorney expense to review documents, and the potential waiver of the \$150.00 Encroachment Permit fee

STAFF RECOMMENDATION

1. Approve SCE License Agreement and authorize the City Manager to sign subject to final language approval by the City Manager and the City Attorney; and
2. Authorize City Manager to sign an agreement with American Legion Post 502 to install, maintain and remove banners consistent with the City Banner Policy and the SCE License Agreement and at their sole cost and expense subject to final language approval by the City Manager and the City Attorney; and
3. Make exception to Banner Policy allowing display for up to two years; and
4. Waive Encroachment Permit Fee.

ATTACHMENTS:

1. Section L of City Council Resolution 2002-1974
2. SCE License Agreement

RESOLUTION NO. 2002-1974

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, RESCINDING RESOLUTION NO. 2001-1918 AND ADOPTING REVISED ENGINEERING POLICIES AND STANDARDS ADDING PROVISIONS PERTAINING TO TRAFFIC INDEX

WHEREAS, on December 5, 2001, the City Council adopted Resolution No. 2001-1918, adopting revised Engineering Policies and Standards; and

WHEREAS, the City Council now wishes to amend the Engineering Polices and Standards of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

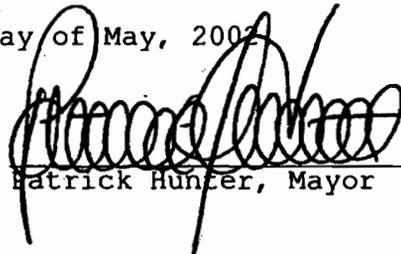
SECTION 1. Resolution No. 2001-1918 is hereby rescinded.

SECTION 2. Any prior Resolution, or part thereof, rescinded and deleted by Resolution No. 2001-1918 shall remain rescinded and deleted.

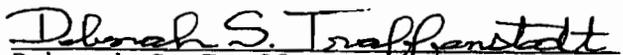
SECTION 3. A new set of Engineering Policies and Standards, including provisions related to Traffic Index Standards, are hereby approved and adopted, said Policies and Standards being set forth in Exhibit 'A' attached hereto and made a part hereof.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original Resolutions.

PASSED AND ADOPTED this 15th day of May, 2002


Patrick Hunter, Mayor

ATTEST:


Deborah S. Traffenstedt, City Clerk



Attachments:

Exhibit 'A': Engineering Policies and Standards

ATTACHMENT I

4. Conditions of Approval: Any Wall Access Permit issued by the City Engineer shall include Conditions of Approval designed to assure that the wall is restored to its "pre-project" condition. Such Conditions may include any of the following:
- a) a block wall restoration plan shall be provided;
 - b) block samples shall be provided to the City prior to the approval of the Permit, to assure that the "match" between the existing block wall and the new block is adequate;
 - c) all approved block shall be procured and delivered to the site prior to the issuance of the final permit and the commencement of construction, in order to assure that the final block material "matches" the approved sample [Note: a conditional permit may be issued setting forth all requirements and advising of the City's intent to issue a Wall Access Permit upon delivery and approval of the block material].
 - d) [if new block does not adequately match the existing wall] the restoration plan shall provide for the removal and reconstruction of the block wall for an entire wall section (pilaster to pilaster).

J. STREET IMPROVEMENT PLANS: U-TURNS: During the review and approval of the Tentative Tract Map and/or the review and plan checking of street improvements plans for the development of proposed new arterial streets, consideration shall be given to the geometric design for proposed new intersections; and, unless conditions preclude such installation, the final design shall adequately provide for "U-Turn" traffic movements at such intersections. In the event the City Engineer finds that conditions exist which preclude the need or necessity to provide for "U-Turn" traffic movements, the City Engineer shall prepare a report to the City Manager setting forth the reasons why such provisions should not be included in the final design, prior to making a final determination.

K. SECOND DRIVEWAYS: Street Encroachment Permits for the construction of a second driveway on a residential lot, shall not be approved unless and until the applicant has obtained a Zone Clearance approved by the Director of Community Development. Such approval shall be consistent with the requirements of the Moorpark Municipal Code [Section 17.32.011].

→ L. PLACEMENT OF BANNERS ON STREET LIGHT POLES: This policy shall govern the placement of vertical banners on light poles owned by Southern California Edison during City-sponsored or City Co-sponsored community events such as Country Days, Independence Day Celebrations or similar events with a maximum of two events per year with no overlap permitted. Requests to place banners will be considered only for 60 -day time periods prior to and during said City Sponsored or Co-sponsored events. Requests will be considered only from Moorpark based, non-profit groups recognized as religious, educational, civic or cultural. Such requests will be considered

pursuant to the following criteria and subject to the City's License Agreement with Southern California Edison.

1. One million dollars insurance coverage must be provided by the applicant organization, with such insurance subject to approval by the City Risk Manager.
2. Applicant organizations are required to execute a defense, indemnity and hold harmless agreement with the City on a form prescribed by the City.
3. Applicant organizations are responsible for all labor (including installation, maintenance, and removal) of the banners and attaching hardware, as well as any claims arising out of their use.
4. Applicant organization must obtain an encroachment permit and sign permit from the City.
5. All requests must be received 60 days in advance of the proposed date for placement of banners.
6. Banners may be in place no longer than 60 days. Only one organization shall have banners in place for any such period.
7. Banners may contain only the following:
 - a. Logo or identification of the event to be promoted.
 - b. One sponsorship on each side of the banner.
 - c. If an individual or family is the sponsor only the family name may appear on the banner.
 - d. Sponsorship of a banner is restricted by the following:
 - Banners may be sponsored only by City of Moorpark businesses/organizations and residents.
 - Banners are not to display product symbols, product names, phone numbers or addresses.
 - Banners are not to include name-brand advertising.
 - Banners are not to include any political statements or sponsorship (i.e., no elected officials or officials appointed to an elected office, official candidates, candidate/ballot measure committees, etc.).
8. Requests for the placement of such banners must be accompanied by a sample or rendering of the proposed banner and indicate the size and shape. A sample of the material and colors of the proposed banners must be submitted at the time of application.
9. All requests will be administered by the City Manager or his/her designee whose decision will be final.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "License Agreement"), is made and entered into this _____ day of _____, 2007, by and between SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, (hereinafter called "Company") and the City of _____, a political subdivision of the State of California, (hereinafter called "City").

WHEREAS, City has jurisdiction of certain streets and highways and has the right to regulate the use of such highways.

WHEREAS, Company has installed Company-owned composite, concrete, and steel street light poles ("Poles") at various locations within said City at the request of City.

WHEREAS, City desires a license to place non-electrified traffic regulating signs, American flags, and Neighborhood Watch signs, banners and related appurtenances on said Poles.

WHEREAS, Company shall permit City to install non-electrified traffic regulating signs, American flags, Neighborhood Watch signs, banners and related appurtenances on said Poles under this License Agreement.

NOW THEREFORE, in consideration of the mutual understandings and obligations of the parties as hereinafter set forth, Company and City hereby agree as follows:

1. Company hereby, subject to the terms and conditions provided in this License Agreement, licenses and permits City or City's authorized agent to install, maintain, use, repair, renew, and remove non-electrified traffic regulating signs, American flags, Neighborhood Watch signs and other city – sponsored event banners and related appurtenances (collectively referred to as "Attachments") on the Poles in accordance with the following:

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- A. Attachment shall be secured by means of stainless steel straps.
- B. No holes shall be punched, drilled, or burned in any Poles
- C. All Attachments shall be mounted so as to provide adequate clearance from traffic, pedestrians, and from all electrical facilities, and secured to Poles to avoid dislodging.
- D. The total surface area of all Attachments on any one Pole shall not exceed 18 square feet at any one time.
- E. Banners for use on poles in high wind areas (90 mph) must be mounted with break-away, or bend-away banner supports.
- F. No Attachment shall be suspended between Poles or between Poles and structures.
- G. No Attachment shall be installed on any wooden Poles.
- H. No Corporate Trademarks, Logos or other corporate identifiers shall be allowed on the City sponsored banners.

2. Except as otherwise herein provided, the use by City of such Pole as herein provided for shall be without charge. City and/or City's agent shall not derive any revenues in connection with the license issued hereby that exceeds the direct expenses incurred in generating such revenues. City and/or City's agent shall maintain complete and accurate records in accordance with generally accepted methods of accounting for all transactions involving payment from a third-party for placement of an Attachment for three (3) years after the corresponding payment. Company shall have access to such records, upon reasonable notice, for the purposes of audit during normal business hours, for so long as such records are required to be maintained.

3. The Attachments shall be installed and maintained by City, or City's authorized agent, in a safe and workman-like manner in compliance with all applicable laws, rules, regulations, ordinances, including but not limited to General Order No. 95 of the Public Utilities Commission of the State of California.

4. Should Company, in its sole and absolute discretion, determine that it is necessary to relocate or replace a Pole on which a City-owned Attachment is in place, City or City's agent shall, upon reasonable notice from Company promptly relocate, replace or transfer said Attachment to a substitute Pole, if any, as required at City's sole cost and expense.

5. City shall indemnify and hold harmless Company against all losses, expenses, claims, actions, causes of action, damages, costs or liabilities, directly or proximately resulting from or caused by the installation, placement, use, presence, operation, maintenance, and/or removal of said Attachments on any Poles, as herein provided. The termination of this License agreement shall not relieve City of any liabilities which occurred prior thereto or which are occurring at that time. This paragraph shall not be construed to impose liability on either the Company or the City, in favor of any third party, unless such liability would have existed in the absence of this paragraph.

6. The failure of Company to enforce any provision of this License Agreement, or the waiver thereof, shall not be construed as a general waiver or relinquishment on its part of any such provisions; however, the same shall nevertheless remain in full force and effect.

7. This License Agreement shall continue in effect for a term of one (1) year from the date hereof and from year to year thereafter, unless terminated sooner. This License Agreement may be terminated by either party hereto by written notice given not less than sixty (60) days prior to the intended termination. In the event of such termination, City shall remove all of said Attachments from the Poles prior to the termination of this License Agreement.

8. This License Agreement shall not be assignable by City.

IN WITNESS WHEREOF, City and Company have executed this License Agreement by and through their respective officers thereunto authorized as of the day and year first herein above written.

CUSTOMER:

**CITY COUNCIL OF THE
CITY OF
ACTING FOR AND ON BEHALF
OF THE CITY OF**

COMPANY:

**SOUTHERN CALIFORNIA EDISON
COMPANY**

BY: _____

TITLE: _____

BY: _____

TITLE: _____

ATTEST: _____

TITLE: _____

ATTEST: _____

TITLE: _____

APPROVED AS TO FORM

DATE: _____