

**REGULAR MEETING OF THE CITY COUNCIL
CITY OF COSTA MESA**

March 18, 2008

The City Council meeting of the City of Costa Mesa, California met in regular session March 18, 2008, at 5:06 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor Pro Tem.

I. ROLL CALL

Council Members Present: Mayor Pro Tem Allan R. Mansoor
Council Member Linda W. Dixon
Council Member Wendy Leece

Council Members Absent: Mayor Eric R. Bever
Council Member Katrina Foley

Officials Present: City Manager Allan Roeder
City Attorney Kimberly Hall Barlow
City Clerk Julie Folcik

II. PUBLIC COMMENTS

There were no public comments.

III. CLOSED SESSION:

1. CONFERENCE WITH LABOR NEGOTIATORS pursuant to California Government Code Section 54957.6: Agency designated representatives: Allan Roeder, City Manager, Steve Mandoki, Administrative Services Director, and Terri Cassidy, Human Resources Manager regarding employee organizations: Unrepresented Executives including City Manager, Managers, Confidential and Part-Time Employees.
2. CONFERENCE WITH LEGAL COUNSEL - Existing Litigation: Acosta v. City of Costa Mesa, pursuant to Government Code Section 54956.9(a).
3. CONFERENCE WITH LEGAL COUNSEL - Anticipated Litigation: Initiation of litigation, one case, pursuant to Government Code Section 54956.9(c).

PLEDGE OF ALLEGIANCE - Mayor Pro Tem Allan Mansoor

Mayor Pro Tem Mansoor recessed the meeting at 5:08 p.m. to the closed session in Conference Room 1B.

The Mayor Pro Tem reconvened the meeting at 6:21 p.m.

MOMENT OF SOLEMN EXPRESSION

The Mayor requested the audience to remain silent for a moment of solemn expression and to remember the men and women serving our Country overseas.

ROLL CALL

Council Members Present: Mayor Eric R. Bever
Mayor Pro Tem Allan R. Mansoor
Council Member Linda W. Dixon
Council Member Katrina Foley
Council Member Wendy Leece

Council Members Absent: None

Officials Present: City Manager Allan Roeder
Assistant City Manager Thomas Hatch
City Attorney Kimberly Hall Barlow
Development Services Director Donald Lamm
Public Services Director Peter Naghavi
Recreation Manager Jana Ransom
Administrative Services Director Steve Mandoki
Senior Planner Mel Lee
City Clerk Julie Folcik

CLOSED SESSION REPORT

City Attorney Kimberly Hall Barlow announced that closed session item number three was withdrawn and reported that no action was taken on the remainder of the closed session items.

PRESENTATIONS

Becky Bailey-Findley, CEO of the Orange County Fair & Event Center, and Doug Loftstrom, Vice President of Events and Facilities, presented the Orange County Fair Cattle Drive Presentation; thanked the Council, staff, and the community for their support and participation in the 2007 Orange County Fair Cattle Drive and presented a framed, commemorative photo collage of the event to the City Council. Ms. Baily-Findley announced that the 2008 Orange County Fair Cattle Drive will be held on July 26, 2008.

IV. PUBLIC COMMENTS

1. Peter Smith, Chairman of the Arbor Day Committee of the Rotary Club of Newport-Balboa, along with Robert Silver, 2007-2008 Rotary Club President, presented to each Council Member a seedling Mayten Tree in

observance of Arbor Day which is celebrated on March 7 through 14, 2008 in California. He spoke about their 40 year program of contributing seedling trees to all third grade students in the Newport Mesa School District and invited the Council to a 40th Anniversary Tree Presentation to Paularino School on March 19, 2008, at 8:00 a.m.

2. Brooks Hoar, Costa Mesa, reported on the lack of visibility of traffic signals at the corner of Newport Boulevard and Fairview Road.
3. Denise Moon, Costa Mesa, requested that the SR-55 Access Study be placed on hold for further analysis and clarification; and inquired on a 1986 agreement that supports the study.
4. Kerry Weisbruck, Costa Mesa, expressed interest in the public outreach for the SR-55 Access Study and requested information on meeting locations, dates, and times. Public Services Director Peter Naghavi announced that the first meeting would be held on March 31, 2008, 6:30 p.m. to 8:30 p.m.
5. Michael Moon, Costa Mesa, referenced City projects on the widening of Newport Boulevard between 17th Street and 19th Street and construction on a fourth southbound lane on Newport Boulevard from 19th Street to Broadway; commented on the residents' input on the approval of the project; expressed concern on the traffic impact on Broadway.
6. Anne Hogan Shereshevsky, Costa Mesa, suggested that the Orange County Cattle Drive be held on July 4, 2008; announced the Senior Center fundraiser to be held at Ruby's on March 20, 2008, at 5:00 p.m. to 9:00 p.m.; inquired on a new location for a Veterans Hall; commented on the need to update Costa Mesa population signs and more bus benches.
7. Tony Peca, Costa Mesa, referred to the SR-55 Access Study and corrected a referenceto a supporting 1986 Freeway Agreement; and informed of a February 2, 1987 Freeway Agreement and commented on its pertinence to the study.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Wendy Leece attended the California Park and Recreation Society 2007-08 Awards and Installation Banquet and reported that the City was recognized for *The Story of Costa Mesa*; advised that she along with Council Member Foley have been meeting with service providers for the homeless for a coordinated effort to provide better resources and information to the homeless.

Mayor Pro Tem Allan Mansoor referred to an Orange County Register editorial on the League of California Cities position on Proposition 98 and Proposition 99 concerning eminent domain; questioned the financial support of the League's position and requested staff to follow-up with the Orange County Division of the League on the matter.

Council Member Katrina Foley reminded the community of the Green Build Incentive Program and advised that permit fees for remodeling would be waived through June 2008.

VI. CONSENT CALENDAR

CONSENT CALENDAR ITEM NOS. 1 THROUGH 8.

MOTION: Approve recommended actions for Consent Calendar Items Nos. 1 through 8, except for Consent Calendar Items Nos. 2, 5, 6, 7, and 8. Moved by Mayor Pro Tem Allan R. Mansoor, seconded by Council Member Linda W. Dixon.

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None.

1. Reading Folder.

ACTION: The following Claims were received and processed by the City Clerk: Mary Alexander & Associates, P.C., on behalf of Dolores Foley and the Estate of Richard Donald Kurtz; Jennifer Jenkins; and Chris Jones on behalf of Ranco Corporation.

The following Requests for Alcoholic Beverage Control Licenses were received and processed:

Marisol Bautista Hernandez, for Great Mex, located at 2360 Newport Boulevard, Suite A, for a type 41 (on-sale beer and wine for a bona fide eating place).

R Delish LLC, for Hotties Pizza, located at 440 Fair Drive, for a type 41 (on-sale beer and wine for a bona fide eating place).

3. Warrant Resolution 2204, funding City operating expenses for \$966,696.58.

ACTION: Resolution adopted.

4. Warrant Resolution 2205, funding Payroll No. 805 for \$2,499,216.97 and

City operating expenses for \$677,883.35 including payroll deductions.

ACTION: Resolution adopted.

ITEMS REMOVED FROM THE CONSENT CALENDAR

2. Special Joint Study Session with the Planning Commission Minutes of February 12, 2008; Regular Meeting Minutes of March 4, 2008.

MOTION: Approve; continued Special Joint Study Session with the Planning Commission Minutes of February 12, 2008.

Moved by Mayor Pro Tem Allan R. Mansoor, seconded by Mayor Eric R. Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None.

5. Professional Services Agreement with Schmidt Design Group, Inc., 2655 Fourth Avenue, San Diego, for the master planning of certain Newport-Mesa Unified School District sites, in an amount not to exceed \$247,101.85.

Council Member Leece recognized the recommended consultants and thanked the City Manager Allan Roeder for moving forward on the item. The City Manager gave an overview of the staff report.

Council Member Foley recognized the collaborative efforts of the City Manager, staff, and the Newport-Mesa Unified School District.

MOTION: Approve.

Moved by Council Member Linda W. Dixon, seconded by Council Member Wendy Leece.

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None.

6. Award Formal Bid Item No. 1119, for the purchase of a new 2007 Chevrolet C5500 Regular 2WD Cab/Chassis with a custom built enclosed utility body from Tom's Truck Center, 909 North Grand Avenue, Santa Ana, in the amount of \$81,561.28.

(a). Budget Adjustment No. 08-047 for \$81,561.28.

Mayor Bever questioned a \$10,000 green specification included in the cost. Assistant City Manager Tom Hatch, Public Services Director Peter Naghavi, and Recreation Manager Jana Ransom responded to questions from the Council relating to propane and emissions, costs, and use.

MOTION: Approve award; approved Budget Adjustment No. 08-047 and authorized the Mayor to sign.

Moved by Council Member Linda W. Dixon, seconded by Council Member Wendy Leece.

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece

Noes: Mayor Pro Tem Allan R. Mansoor

Absent: None.

7. Development Agreement DA-08-01, for David Wilson, authorized agent for C.J. Segerstrom and Sons, for the annual review of the Home Ranch Development Agreement (DA-00-01), located at 1201 South Coast Drive. Environmental determination: exempt.

Council Member Leece requested for clarification concerning the 1.5 acre parcel of land adjacent to the Historic site. The City Manager responded regarding the dedication of the status of the intended transfer of the site and explained the issues yet to be decided upon that had postponed a transfer.

MOTION: Determine and find that C.J. Segerstrom & Sons has demonstrated good faith compliance with the terms and conditions of Development Agreement DA-00-01 and that the deadline for the dedication, endowment, and preservation plan for the historic site be extended to March 2009.

Moved by Council Member Linda W. Dixon, seconded by Council Member Katrina Foley.

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None.

8. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING THE SUBMITTAL OF SEVEN (7) IMPROVEMENT PROJECTS TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE

COMBINED TRANSPORTATION FUNDING PROGRAM.

Council Member Leece commended staff for moving forward on obtaining grant funding for transportation improvements projects. The Public Services Director responded to questions from the Council and the public.

Tony Peca, Costa Mesa, expressed concern on the allocated funding for proposed projects, questioned traffic improvements on the Westside, and suggested to include traffic improvements for all areas of Costa Mesa.

**MOTION: Adopt Resolution No. 08-18.
Moved by Council Member Linda W. Dixon, seconded by Council Member Katrina Foley.**

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None.

VII. PUBLIC HEARING

1. PUBLIC HEARING: Review of the Planning Commission’s determination for Planning Application PA-07-48, for Richard and Wendy Schones, authorized agents for Gary F. Schones, for variances from rear setback requirements (10 feet required; 3 feet existing), rear yard coverage requirements (25% maximum permitted, 76% existing) and open space requirements (40% required; 36% proposed); and an administrative adjustment for reduced side setbacks (5 feet required; 3 feet proposed), to legalize a garage and granny unit at the rear of the property in conjunction with a minor design review for an existing single-family residence to exceed the recommended 80% second-to-first floor ratio (90% proposed) and a minor modification to allow first and second story encroachments into the front setback (20-feet required; 16-feet proposed), located at 378 Costa Mesa Street, in an R1 zone. Environmental determination: exempt.

Council Member Leece presented reasons for the review of the determination indicating that the applicants were not given an opportunity to address at the Planning Commission meeting an issue of an intended alley behind the subject property, as the hearing had been closed at that point in the discussion. She asked this item be brought forward to provide the opportunity to the property owners to address the issue.

Senior Planner Mel Lee presented a brief report and responded to

questions from the Council. He reported that the applicant would be referencing a subdivision map pertaining to the property block that was recorded in the early 1920's.

Wendy Schones, Costa Mesa, applicant, requested reversal of the Planning Commission's decision and to approve the granny-unit and the detached two-car garage. She indicated that an alley was intended for the tract by the County, and that the alley was later abandoned by the City; and noted that the existing granny-unit and garage would be legal non-conforming if the alley had been placed.

Gary Schones, Costa Mesa, applicant, said that he moved into the house in 1948 and indicated to his recollection that there was intention for an alley behind the house. He advised of the fences that were built 125 feet from the property allowing for access and that properties on Walnut Street were later developed up to the established fences. He referenced County maps dated 1923 and a tax accessor map dated 1970.

Richard Schones, Costa Masa, applicant, also presented County tract maps dated 1922 and 1979, and spoke about subdivision of lots, establishment of property lines and alleys. He commented that the granny-unit and garage had been in place for 37 years without any code violations; pointed out the sentimental loss and a financial burden if the the granny-unit and garage are to be removed.

The Senior Planner clarified that the subdivision map dated 1920's and aerial photographs from different eras does not show an alley at the rear of the property and further explained the setback requirements of the property.

Discussion ensued among the Council and City staff relating to variances, property line, and comparison of setbacks with surrounding properties.

Council Member Dixon questioned the approval of the project by the Planning Commission and expressed concern of setting precedence for other structures with granny-units whether legally constructed or not.

Council Member Leece felt that the granny-unit could be brought into compliance with current building and zoning codes with variances and deviations.

Tony Peca, Costa Mesa, expressed support of the Schone's request; recalled in the 1950's a developer on the Westside who purchased and subdivided land into common sized lots which prevented an alley from being built.

David Goldstein, Costa Mesa, abutting property owner stated that he has never had a problem with the granny-unit and generally supported the maintaining of the structure, and expressed concern regarding potential

water run-off, damages to a common fence, and privacy issues should the the unit and garage be removed.

B.J. Donald, Costa Mesa, commented on the structure not meeting building codes, opposed the variances, and encouraged the Council to uphold the decision of the Planning Commission.

Following discussion on the alley, Council Member Foley clarified that if the alley was established, there would be the additional setback that was required for the granny unit. The Schones pointed out that the granny-unit was measured from the rear fence and questioned the actual location of the rear property line. In response to a question from Council Member Foley, the Senior Planner stated, aside from the setbacks, that the granny-unit could be brought into compliance by obtaining the necessary building permits and brought to compliance with the current California building codes.

Council Member Leece made a motion to reverse the Planning Commission's decision and approve all of the entitlements related to the request, including the variances, and administrative adjustment to legalize the detached two-car garage and granny unit with the additional recommended conditions of approval. The motion was seconded by Council Member Katrina Foley.

The motion restated:

MOTION: Adopt Resolution No. 08-19, reversing Planning Commission's decision based upon findings established in Exhibit "A" and subject to conditions of approval in Exhibit "B", and including approval of variances and administrative adjustments to legalize the detached two-car garage and the granny-unit. Moved by Council Member Wendy Leece, seconded by Council Member Katrina Foley.

Council Member Dixon stated her support of the motion expressing reservation on the argument relative to the intended alley. Council Member Foley concurred pointing out that the "unique situation" justified approval of the variances.

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None.

RECESS: The Mayor declared the meeting recessed 8:29 p.m.

AFTER RECESS: The Mayor reconvened the meeting at 8:41 p.m.

VIII. OLD BUSINESS

1. From the meeting of January 15, 2008, rehearing request by Lori McDonald of the Citywide Alley Improvements - Priority List concerning Alleys No. 107 and 108.

The City Manager informed the Council regarding the communication received from Lori McDonald requesting a continuance.

Mayor Bever opened public comments relative to the rehearing request.

Bob Lunde, Costa Mesa, reported that he and 70 percent of owners along the alley supported the improvement and requested that the item not be continued.

Francis O'brien, Costa Mesa, supported moving forward with a determination on the item without any continued delays.

MOTION: Deny rehearing; directed staff to proceed with alley improvements.

Moved by Council Member Linda W. Dixon, seconded by Council Member Katrina Foley.

Mayor Pro Tem Mansoor agreed with Ms. McDonald's interest in undergrounding utilities, however indicated that he would like to proceed forward on the matter noting that the item had been continued twice.

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None.

2. From the meeting of March 4, 2008, rehearing request by Council Member Foley of the determination regarding the request for "Group One" Field User Status for the Pacific Coast Girls Fast Pitch Softball.

Council Member Foley stated the reason for review and referred to a memo detailing the league's field use and cost in Newport Beach, and the percentage of Costa Mesa participants. Recreation Manager Jana Ransom explained the field use policy of Newport Beach and noted that Newport Beach has allocated 960 hours of field use for the group at a total cost of \$960.00 at one dollar per hour. She stated that the group has requested 380 hours of field use in Costa Mesa and the total fee for field use was \$2708.00.

Robert Graham, Newport Beach, highlighted that girls from Costa Mesa and Newport Beach play at Pacific Coast Girls Fastpitch Softball (PCGFS) and said that it was difficult for a small non-profit group to pay the required fees.

Jon Pulaski, Costa Mesa, spoke in support of the fee waiver request by the league and opined that it would create activity opportunities for girls.

Brian Marshall, Costa Mesa, Coach, commented on the potential loss of Costa Mesa participants due to the lack of field use in Costa Mesa.

Marcus Franco, Costa Mesa, math teacher and varsity softball coach, opined that a facility is a major factor in accomplishing the values of sacrifice of work ethics and opportunities; spoke about the need of a facility and requested for a fee waiver.

Mike Gandi, Costa Mesa, Coach, commented on the facility and hoped to be able to use the field for the league.

Matt Castille, Costa Mesa, commented that his daughter was in the league and would enjoy access to the field located in the city in which they reside.

David Graham, Costa Mesa, Coach, encouraged support of the fee waiver for the league.

Kevin Deltoro, Newport Beach, Coach, asked the Council to grant the league a "group one" status.

Tim Owen, Newport Beach, President of PCGFS, requested the Council to partner with the league to provide girls youth softball in the City and to grant "group one" user status; presented statistics relating to residents participation in Costa Mesa league sports and encouraged the Council to give PCGFS the same opportunity as youth participants of baseball and soccer.

Mayor Pro Tem Mansoor commented on the "grandfathering" of group status and expressed concern on an effective Field Policy changing by default. He opined that the Field Policy should be reconsidered by the Parks and Recreation Commission to make it consistent for all users.

MOTION: Designate Pacific Coast Girls Fast Pitch Softball as "Group One" Field User Status; and waive fees for field rental, preparation and light use.

Moved by Council Member Katrina Foley, seconded by Council Member Linda W. Dixon.

Council Member Dixon commented that she would like to offer a greater solution than Newport Beach and to waive all fees for PCGFS.

SUBSTITUTE MOTION: Uphold the prior Council's decision and to refer the Field Allocation Policy to the Parks and Recreation Commission for further discussion on an equitable and consistent policy for everyone. Moved by Mayor Pro Tem Allan R. Mansoor. Motion died for lack of second.

SUBSTITUTE MOTION: Maintain "Group Three" Field User Status; approve a fee of \$384.00 (one dollar per hour for field use). Moved by Mayor Eric R. Bever, seconded by Council Member Wendy Leece.

Council Member Dixon and Council Member Foley expressed reservation on a field user fee and commented on the amount of Costa Mesa participants in the league and "group one" status. Council Member Leece supported the fee for field use and maintenance. Mayor Bever indicated his reluctance in reconsideration of the Field Allocation Policy and felt that the league could be accommodated with the requested field use.

The substitute motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece

Noes: Mayor Pro Tem Allan R. Mansoor

Absent: None.

IX. NEW BUSINESS

1. Request from the Costa Mesa Bark Park Foundation for expansion of the small dog area, expansion of the general dog area, and related improvements at the Costa Mesa Bark Park.

(a). Temporary expansion of the Costa Mesa Bark Park small dog area into the TeWinkle Park area between the north boundary of the existing small dog area and the south boundary of the Tennis Center.

(b). Refer to the Parks and Recreation Commission for a rehearing of the expansion of the general dog area and an amendment to the TeWinkle Park Master Plan, which is part of the Open Space Master Plan of Parks and Recreation, to reflect the permanent expansion of the small dog area and for the expansion of the general dog area into the TeWinkle Park space located between the Tennis Center and the Air National Guard facility.

The Public Services Director gave a brief report of the request, and along with the City Manager, responded to questions from the Council relating to the tennis center, master plan, proposed expansion areas, and maintenance.

Patricia Allen, Huntington Beach, President of the Bark Park Foundation, expressed appreciation to City staff and commented on the need for an

expansion of the Bark Park.

Motion by Mayor Bever to approve recommended action, seconded by Council Member Dixon.

Mayor Pro Tem Mansoor asked the maker of the motion to include "consideration of the" expansion of the general dog area in order to give the Parks and Recreation Commission the consideration of other options. Mayor Bever and Council Member Dixon agreed.

The motion restated:

MOTION: 1) Approve temporary expansion of the Costa Mesa Bark Park small dog area into the TeWinkle Park area between the north boundary of the existing small dog area and the south boundary of the Tennis Center; 2) Approved and directed staff to refer to the Parks and Recreation Commission for a rehearing of the expansion of the general dog area and an amendment to the TeWinkle Park Master Plan, which is part of the Open Space Master Plan of Parks and Recreation, to reflect the permanent expansion of the small dog area and for "consideration of the" expansion of the general dog area into the TeWinkle Park space located between the Tennis Center and the Air National Guard facility.

Moved by Mayor Eric R. Bever, seconded by Council Member Linda W. Dixon.

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None.

X. REPORTS

There were no reports provided by the City Attorney and the City Manager.

XI. ADJOURNMENT - The Mayor declared the meeting adjourned at 9:42 p.m. The next Regular City Council Meeting will be held on April 1, 2008.

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa