

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

August 18, 2009

The City Council meeting of the City of Costa Mesa, California met in regular session August 18, 2009, at 6:05 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor.

PLEDGE OF ALLEGIANCE - Robert Dugan, U.S. Marine Corps Staff Sergeant (Retired), Korean War Veteran

MOMENT OF SOLEMN EXPRESSION - The Mayor called for a moment of silence.

ROLL CALL

Council Members Present: Mayor Allan R. Mansoor
Mayor Pro Tem Wendy Leece
Council Member Eric R. Bever
Council Member Katrina Foley
Council Member Gary Monahan

Council Members Absent: None

Officials Present: City Manager Allan Roeder
Assistant City Manager Thomas Hatch
City Attorney Kimberly Hall Barlow
Acting Development Services Director Kimberly Brandt
Public Services Director Peter Naghavi
Chief of Police Christopher Shawkey
Police Lieutenant Clay Epperson
Administrative Services Director Stephen Mandoki
Human Resources Administrator Debra Yasui
Budget & Research Officer Bobby Young
Maintenance Services Manager Bruce Hartley
City Clerk Julie Folcik

PRESENTATIONS

Mayor Mansoor announced a presentation by the U.S. Army Reserve to the City of Costa Mesa in appreciation of the City's support. Lieutenant Colonel Vargas presented the City Council with a Certificate of Appreciation and spoke about their experience of acts of kindness within the city. The Mayor presented Lt. Col. Vargas with a Proclamation extending a warm welcome and good wishes to the Group 1, 5th Brigade

of the 75th Division of the United States Army Reserve.

The Mayor announced the presentation of the Costa Mesa National and Costa Mesa American Little League All Star Mayor's Cup Teams and congratulated the Costa Mesa National Little League for winning the Mayor's Cup in game 2 with a score of 6-5. He presented both teams with award certificates in recognition of the hard work, leadership and sportsmanship demonstrated by everyone involved.

Mayor Mansoor presented a proclamation to Bill Burke, long-time Costa Mesa resident, honoring him for his extraordinary achievements which included successfully scaling the eight highest peaks of each continent around the world and his 29,035 foot ascent of Mount Everest on May 23, 2009. A video was presented of Mr. Burke's achievements.

IV. PUBLIC COMMENTS

1. Eloise Ott, Costa Mesa, opined that there should be a speed limit for bicyclist on sidewalks; suggested that those applying for business licenses do so in-person and show proof of drivers license, insurance, and vehicle registration; and expressed support of display "In God We Trust."
2. Tim Lewis, Costa Mesa, gave a status of businesses on Harbor Boulevard; commended the City for the improvements on Newport Boulevard; informed of a graffiti incident noting that no complaint was taken by the police; and inquired if the Council had addressed the homeless issue.
3. Reyna Reynoso, introduced herself as the new Public Affairs Manager for The Gas Company for the City.
4. Larry Lykins, Orange County Employee Association Representative for Costa Mesa City Employees Association (CMCEA), addressed issues relating to meet and confer on a new contract and the City's need for a five percent savings from all bargaining units; and commented on the negotiations with the Costa Mesa Firefighters Association (CMFA) which was felt to be unfair to the other bargaining units.
5. Terry Shaw, Costa Mesa, member of the Costa Mesa Historical Society, announced the Annual Open House event to be held on September 19, 2009, on the *Impression of Early California*.
6. John Feeney, Costa Mesa, thanked City Staff for advertising relating to the Graffiti Award; informed of an ordinance adopted by the City of Santa Ana relating to placing responsibility on the perpetrator or parents of kids committing graffiti and suggested the City look into the matter.
7. Chris McEvoy, Costa Mesa, suggested that the City work with the City of Newport Beach to address widening of Newport Boulevard and to alleviate cut-through traffic to and from Pacific Coast Highway; referred to the State withholding local funds in the amount of \$55 million and

suggested that that "money" could be used for the purchase of the Orange County Fair and Event Center.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

As requested by Council Member Katrina Foley requested staff commented on the efforts of the homeless task force and working with the Police Department on a similar homeless issues, and of the receipt of funding relating to the Homeless Prevention Rapid Rehousing Program. Council Member Foley noted that there is interaction between the Police Department and school teachers in identifying graffiti taggers; requested an update on the Santa Ana Ordinance relating to graffiti and would like to request that the matter be brought back at a future study session; announced the Pop Warner Opening Day to be held on August 22, 2009, at the Jim Scott Stadium; announced the Open House for the new athletic center at Estancia High School to be held on August 20, 2009; and in addressing the concerns of CMCEA noted that she opposed the five percent reduction of the City's ten-point budget plan.

Council Member Eric Bever referred to the Santa Ana Ordinance relating to graffiti and believed that the current ordinance did place responsibility on parents of children who were tagging; noted that businesses were not keeping spray paint products under lock and key and requested staff to follow-up due to the seasonal increase in graffiti.

Mayor Pro Tem Wendy Leece agreed with a public speaker relating to business licenses and the requirement of a valid drivers license, vehicle insurance and registration; thanked the Costa Mesa Conference and Visitors Bureau and the Costa Mesa Hilton for hosting the Classic Jazz Festival; announced a free native landscape workshop at the Costa Mesa Green Home to be held on August 29, 2009; commented on the Orange County Human Trafficking Task Force noting their website www.ochumantrafficking.org and announced a three day conference beginning on September 11, 2009, at the Irvine Hilton; and in referring to Council's consideration of the display *In God We Trust*, noted that funding would come from private donations.

Mayor Allan Mansoor announced that he had made a request for review of determination of the CMFA Memo of Understanding (MOU) which would be heard at the City Council meeting of September 1, 2009.

VI. CONSENT CALENDAR ITEM NOS. 1 THROUGH 4.

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 4.

Moved by Mayor Allan R. Mansoor, seconded by Mayor Pro Tem Wendy Leece.

The motion carried by the following roll call vote:

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

Gary Monahan

Noes: None.

Absent: None.

1. Reading Folder.

ACTION: The following Claims were received and processed by the City Clerk: Mercury Insurance Company on behalf of Robert Cuellar; Weich & Avila Prussak on behalf of James J. Dorando; Ashley N. Harrison; Danielle Aucoin on behalf of Richard Nauman; Sarah Perez.

The following request for Alcoholic Beverage Control License was received and processed: San Jorge Inc., for Il Dolce located at 1902 Harbor Boulevard, Suite A2, for an original type 41 (on-sale beer and wine for a bona fide eating place).

2. Regular Adjourned Meeting/Study Session Minutes of July 14, 2009; Special Meeting Minutes of July 28, 2009; and Regular Meeting Minutes of July 21, 2009 and August 4, 2009.

ACTION: Approved Special Meeting Minutes of July 28, 2009; and Regular Meeting Minutes of July 21, 2009 and August 4, 2009; continued Regular Adjourned Meeting/Study Session Minutes of July 14, 2009.

3. Warrant Resolution 2278, funding City operating expenses for \$268,656.53.

ACTION: Resolution adopted.

4. Warrant Resolution 2279, funding Payroll No. 916 for \$2,551,076.21 and Payroll No. 915A for \$720.98 and City operating expenses for \$359,868.26 including payroll deductions.

ACTION: Resolution adopted.

VII. PUBLIC HEARINGS

1. PUBLIC HEARING: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, EXTENDING UP TO A MAXIMUM OF 10 MONTHS, 15 DAYS, INTERIM ORDINANCE NUMBER 09-7 IMPOSING A CITY-WIDE MORATORIUM ON THE APPROVAL OF ANY BUSINESS LICENSE, USE PERMIT, OR ANY APPLICABLE APPLICATION RELATED TO MASSAGE ESTABLISHMENTS AND/OR MASSAGE PRACTITIONERS.

Chief of Police Christopher Shawkey gave a brief staff report noting the necessity to extend the moratorium for further study. He, along with Police Lieutenant Clay Epperson responded to questions from the Council relating to the impact on replacement of practitioners and the requirement

of a Conditional Use Permit (CUP).

Barry Hammond, representative of Mind Over Muscles, spoke of the stringent requirements in obtaining a practitioner's license in the city; opined that chiropractor's therapists should also be governed by State license, suggested a grandfather provision for legitimate massage businesses and flexibility in relocation of a massage establishment.

Kathy Flippin, Owner of Dynamic Touch and Massage Therapy Clinic, stated she was surprised at the cost to obtain a permit; noted that the moratorium would hinder her new business and encouraged the Council to allow new permits for technician so that she could continue her business.

Carol Warren, Owner of Massage Envy, indicated that the unintended consequence of the moratorium would harm legitimate businesses.

Terrance Shannon, Westminster, applauded the City for ensuring legitimate massage therapists/establishments but expressed concern of those individuals who would renew their permits or transfer to another location during the moratorium.

Pat Platner, Owner of Needed Touch, spoke of the benefits of massage as well as pointing out that it was a specialized profession and felt that the moratorium would "punish" the legitimate business.

Kelly (last name inaudible), Owner of Body Center, spoke about the problems with filling full-time and part-time massage therapist positions and the high cost of obtaining a massage license.

EJ (last name inaudible), Owner of Massage U Love and Happy Feet, expressed her willingness to assist in finding solutions to address the issues relating to illegitimate businesses.

Gary Ruben, licensed practitioner in the city; inquired of his ability to relocate his business under the moratorium and of his ability to renew his license.

The Chief of Police and City Attorney responded to questions from Council Member Foley relating to renewals of existing permits, impact of state law and the need to re-evaluate the permitting process, zoning consideration, relocation provisions, and public outreach on the matter.

In reference to a question from the Mayor concerning illegitimate massage establishments, the Police Lieutenant gave an update on enforcement and monitoring efforts including revocation of licenses of massage establishments and practitioners. Mayor Pro Tem Leece expressed concern for legitimate businesses and the unintended

consequence regarding the businesses' ability to prosper.

MOTION: Introduce and adopt Urgency Ordinance No. 09-11, read by title only, and waive further reading.

Moved by Council Member Gary Monahan, seconded by Council Member Katrina Foley.

The motion carried by the following roll call vote:

Ayes: Mayor Allan R. Mansoor, Mayor Pro Tem Wendy Leece, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Gary Monahan

Noes: None.

Absent: None.

VIII. OLD BUSINESS

1. From the meeting of July 21, 2009: Contest of the amount and/or validity of Special Assessment for delinquent Civil Fines for Civil Citation issued to Terri Kurzen for Municipal Code violations.

Budget & Research Officer Bobby Young gave a brief summary of the staff report and responded to questions from the City Council.

Terri Kurzen, Costa Mesa, contested the citations noting that adequate notice was not received and pointed out that the correction notice received did not allow for the appropriate time as noted in the Code to correct the violation and noted that she had mistakenly received a neighbors violation notice.

Martin Millard, Costa Mesa, felt that the problem should be solved without a lien and that Ms. Kurzen has not been properly noticed.

In reference to questions from Council Member Foley, Ms. Kurzen explained the reason for not responding to the citations noting that she had never been approached by Code Enforcement to assist in correcting the violations. Ms. Kurzen stated that she was willing to pay the citation.

Further discussion ensued among the Council and City staff on the processes available for remittance of the fine by Ms. Kurzen.

MOTION: Validate Special Assessment for delinquent civil fines for Civil Citation issued to Terri Kurzen, 1970 Federal Avenue; authorize staff to work with Ms. Kurzen to create a payment plan, and if not paid within six (6) months, to be brought forward for next year's property tax rolls.

Moved by Council Member Katrina Foley, seconded by Mayor Pro Tem Leece.

The Mayor asked the maker of the motion to include "... or to be sent to the collection agency, as seen appropriate by City staff". Council Member

Foley agreed. The motion restated:

MOTION: Validate Special Assessment for delinquent civil fines for Civil Citation issued to Terri Kurzen, 1970 Federal Avenue; authorize staff to work with Ms. Kurzen to create a payment plan, and if not paid within six (6) months, to be brought forward for next year's property tax rolls or to be sent to the collection agency, as seen appropriate by City staff.

Moved by Council Member Katrina Foley, seconded by Mayor Pro Tem Wendy Leece.

The motion carried by the following roll call vote:

Ayes: Mayor Allan R. Mansoor, Mayor Pro Tem Wendy Leece, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Gary Monahan

Noes: None.

Absent: None.

2. From the meeting of July 21, 2009, second reading and adoption of Ordinance 09-9: AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA, AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF COSTA MESA AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS).

(a). AN URGENCY ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA, AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF COSTA MESA AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS).

Administrative Services Director Steve Mandoki and Human Resources Administrator Debra Yasui presented the staff report and responded to questions from the City Council.

MOTION: Introduce and adopt Urgency Ordinance No. 09-12, read by title only, and waive further reading.

Moved by Council Member Katrina Foley, seconded by Council Member Gary Monahan.

The motion carried by the following roll call vote:

Ayes: Mayor Allan R. Mansoor, Mayor Pro Tem Wendy Leece, Council Member Katrina Foley, Council Member Gary Monahan

Noes: Council Member Eric R. Bever

Absent: None.

MOTION: Adopt Ordinance No. 09-9, read by title only, and waive further reading.

Moved by Council Member Katrina Foley, seconded by Council

Member Gary Monahan.

The motion carried by the following roll call vote:

Ayes: Mayor Allan R. Mansoor, Mayor Pro Tem Wendy Leece, Council Member Katrina Foley, Council Member Gary Monahan

Noes: Council Member Eric R. Bever

Absent: None.

IX. NEW BUSINESS

1. Request from the Parks and Recreation Commission for the creation of a "City of Costa Mesa Public Service Memorial."

Maintenance Services Manager Bruce Hartley presented the staff report.

The Mayor expressed reservation on the matter noting the economic timing and costs relating to personnel and funding, the Mayor Pro Tem agreed. Council Member Foley clarified that the Circle of Service program was eliminated in the budget.

The Maintenance Services Manager responded to questions from the Council relating to funding noting that the program would be presented at next year's budget for Council's consideration.

Martin Millard, Costa Mesa, opposed a memorial for public service.

Beth Refakes, Costa Mesa, stated that a public service memorial was a good idea, however, expressed concern as to the funding source, and felt that this was "not a good time" for implementation of the program.

MOTION: Approve recommended action and that funding be provided by private donation.

Moved by Council Member Katrina Foley, seconded by Council Member Gary Monahan.

Following the motion, the Maintenance Services Manager noted that there were two concept plans and accurate pricing would be included in next year's budget for Council's consideration. Mayor Pro Tem Leece stated that she would like to see the program funded prior to authorizing staff time toward the project.

SUBSTITUTE MOTION: Receive and file report.

Moved by Mayor Allan R. Mansoor, seconded by Council Member Eric R. Bever.

The substitute motion carried by the following roll call vote:

Ayes: Mayor Allan R. Mansoor, Mayor Pro Tem Wendy Leece, Council Member Eric R. Bever

Noes: Council Member Katrina Foley, Council Member Gary Monahan

Absent: None.

X. REPORTS

There were no reports from the City Attorney and Assistant City Manager.

XI. ADJOURNMENT - The Mayor declared the meeting adjourned at 8:26 p.m. The next Regular City Council Meeting will be held on September 1, 2009.

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa