

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

August 05, 2008

The City Council meeting of the City of Costa Mesa, California met in regular session August 05, 2008, at 6:00 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor.

The Mayor convened the meeting in memory of German Torres, a Costa Mesa resident, father and maintenance worker at the Golf Course, who passed the previous week.

PLEDGE OF ALLEGIANCE - Council Member Katrina Foley

MOMENT OF SOLEMN EXPRESSION - The Mayor called for a moment of silence to remember the men and women that are serving 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
Assistant City Attorney Harold W. Potter
Development Services Director Donald Lamm
Public Services Director Peter Naghavi
Senior Planner Minoo Ashabi
Management Analyst Carol Proctor
Finance Director Marc Puckett
Chief of Police Christopher Shawkey
Police Sergeant Bryan Glass
City Clerk Julie Folcik

PRESENTATIONS

The Mayor recognized Olivia Ramirez, Senior Communications Supervisor as August's Employee of the Month, he recognized her dedication to excellence and professionalism in public service for the past 30 years in her direction, sense of teamwork, and wealth of knowledge that ensures that the Communications Center runs smoothly for her co-workers, fellow City employees, and for Costa

Mesa citizens.

IV. PUBLIC COMMENTS

1. Don Mcgee, Costa Mesa, commenting on the skate park was complimentary of the cooperative nature of the participants at the park; expressed support of activities that promoted such sportsmanship, however, was not supportive of the rules and fees.
2. Bob Stephenson, Costa Mesa, informed the Council regarding a towing of a motor home after signs were posted for tree trimming just 24 hours prior, as opposed to the required 48 hours. He noted that the cost of impounding of the mobile home was over \$500.00, and requested Council's consideration of the situation.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Mayor Pro Tem Allan Mansoor informed the public that he had written a commentary regarding the recently proposed tax measures and invited those interested to visit www.ocregister.com and that it was also available on his website at www.AllanMansoor.com.

Council Member Wendy Leece requested an explanation as to the ability of the City to weigh in on the approval of the proposed Poseidon Project that was planned in the City of Huntington Beach. The City Manager gave an update noting that the project has refocused establishing a plant in the City of Carlsbad. He noted that if it was to be approved in Huntington Beach and if there was any cut through the Costa Mesa city streets, the Council would have the ability to consider that part of the project at that time. In response to an update on the July 4th activities, the City Manager indicated that report was being prepared and would soon be presented to the Council.

Mayor Eric Bever mentioned that he received several complaints regarding aircraft noise and recognized that it was from cargo planes from Los Angeles Airport (LAX). He requested the City Manager to draft a letter to LAX requesting that the planes maintain a higher elevation in early morning hours; and announced that the Air Quality Management District (AQMD) was again offering the annual leaf blower trade-in drive.

VI. CONSENT CALENDAR

**MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 8, except for Consent Calendar Item Nos. 6 and 7.
Moved by Mayor Eric R. Bever, 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.

1. CONSENT CALENDAR ITEM NOS. 1 THROUGH 8.

1. Reading Folder.

The following claims were received and processed by the City Clerk:

Cornelius P. Bahan for Reed Mitchell Morrison; Edwin J. Cowan; Filemon Guitrez, Wilbur Ronald Hardy; Will B. King; Ranco Corporation; Rob C.R. Stonecipher; Ron Simpson; Joseph Tinnirello; Lolita K. Wagner.

The following requests for Alcoholic Beverage Control Licenses were received:

AN SCPB LLC, for Xao Xao by Crustacean, located 3333 Bristol Street, for a type 47 (on-sale general for a bona fide eating place).

Newport Car Wash & C Store LLC, located at 1900 Newport Boulevard, for a type 20 (off-sale beer and wine).

Ravakoly Karimzad & Associates LLC, for Round Table Pizza, located at 1175 Baker Street, Suite A1, for a type 41 (on-sale beer and wine).

Eddie Faza, for 7 Days Liquor, located at 891 Baker Street, for a type 21 (off-sale general).

The following notification letters were received and processed:

Southern California Gas Company - Notice of Filing Energy Efficiency Application No. A.08-07-022.

County of Orange / Health Care Agency – Letter of Interest for a Request for Proposal: Mental Health Outpatient Services for Children and Youth.

2. Regular Meetings Minutes of July 1, 2008 and July 15, 2008, and Regular Adjourned Meeting/Study Session Minutes of July 8, 2008.

ACTION: Approved.

3. Warrant Resolution 2223, funding Payroll No. 814 for

\$2,700,997.93, and Payroll No. 813A for negative \$688.16 and City operating expenses for \$1,136,068.48 including payroll deductions.

ACTION: Resolution adopted.

4. Warrant Resolution 2224, funding City operating expenses for \$3,515,871.90.

ACTION: Resolution adopted.

5. Warrant Resolution 2225, funding Payroll No. 815 for \$2,718,254.09, and Payroll No. 814A for negative \$2,623.38 and City operating expenses for \$1,835,696.93 including payroll deductions.

ACTION: Resolution adopted.

8. Request for an Alcoholic Beverage Control License for Napastyle, 3333 Bear Street, Suite 202, for a Type 20 (off-sale beer and wine) ABC license.

ACTION: Made the necessary finding of public convenience or necessity.

ITEMS REMOVED FROM THE CONSENT CALENDAR.

6. Professional Services Agreement with Civil Source Engineering, 500 Wald Street, Irvine, for engineering services for the design of Santa Ana Avenue, Paularino Avenue, Orange Avenue and Shalimar Drive Rehabilitation Project in an amount not to exceed \$254,330.

The Mayor was glad that the street improvement was moving forward.

MOTION: Approve; and authorize the Mayor and City Clerk to sign.

Moved by Mayor Eric R. Bever, 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.

7. Adopt plans, and specifications, and working details for Sidewalk Improvements on Broadway and Shalimar Drive, City Project No.

08-06, and award construction contract to Elite Bobcat Service, Inc., 1320 East 6th Street, #100, Corona, in the amount of \$299,907.50.

At the request of Council Member Foley, Public Services Director Peter Naghavi presented a brief summary of the project.

MOTION: Approve; and authorize the Mayor and City Clerk to sign.

Moved by Council Member Katrina Foley, 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.

VIII. OLD BUSINESS

1. General Plan Screening request for GPS-08-02 for property located at 3370 Harbor Boulevard.

Senior Planner Minoo Ashabi presented the staff report, noting the project specifications that were in conflict of the City's General Plan and as well as the traffic generation numbers. She responded to the questions of the council.

Greg Shila, O'Donnell Company, applicant, responded to questions from Council Member Leece confirming that the project would not be for the relocation of the corporate office or that a smaller footprint of the project would be proposed for the site.

Sandra Genis, Costa Mesa, commented that she was not supportive of a model that was not flexible to meet the City's building standards.

Public Services Director Peter Naghavi addressed the various traffic generation reports provided and noted the high-trip generation that would be produced by the proposed project.

Mr. Shila responded that the numbers provided were given by their company and were generated from "check-in" in February from other clubs but it did not take into account those people that may have driven together to the facility.

Council Member Leece expressed concern relative to the size of the building and traffic generation. The Mayor Pro Tem also expressed

concern regarding the traffic generation.

MOTION: Deny processing of the General Plan Screening request. 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.

IX. NEW BUSINESS

1. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA SUPPORTING THE 1ST BATTALION 5TH MARINE REGIMENT, (CAMP PENDLETON) UNITED STATES MARINE CORP

(a) Assistance in providing support to the 1st Battalion 5th Marine Regiment and their families through the Support Group's own fundraising efforts, and promoting programs and other planned activities by disseminating information, encouraging community support, and coordinating the use of City facilities for events.

Management Analyst Carol Proctor presented the staff report.

Bill McCollough, Lieutenant Colonel, Commanding Officer of the 1st Battalion, 5th Marine Regiment, commented that when the men have a strong connection to their community they have "an added measure of confidence when headed into harms way." He also felt that local community is strengthened when there is a connection with community leaders, residents and those serving. He thanked the Council for considering the proposal and encouraged approval.

Jim Kaylor, Costa Mesa, former Marine of the 1st Battalion, noted his service within the Battalion and noted the distinguished history of the Battalion and encouraged the Council's support of the request.

Unidentified speaker indicated that Battalion is the highest decorated battalion in the history of the Marine Corps.

In response to a question from Council Member Dixon, Mr. Kaylor indicated that the fundraising efforts would be to support the Marines and their families in the Southern Orange County area.

Assistant City Manager Thomas Hatch responded to questions from the Council relative to the involvement of the Costa Mesa Community

Foundation, 501(C) 3 status, fundraising opportunities, the formation of a foundation sub committee, Brown Act compliance, and contribution acknowledgements.

It was expressed by Mr. Kaylor that the Costa Mesa Community Foundation was very supportive of the proposal.

**MOTION: Adopt Resolution No. 08-53; approve and direct staff.
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.

VII. PUBLIC HEARINGS

1. PUBLIC HEARING: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CERTIFYING SPECIAL ASSESSMENTS FOR COLLECTION OF DELINQUENT CIVIL CITATIONS FOR MUNICIPAL CODE VIOLATIONS.

Finance Director Marc Puckett presented the staff report and responded to questions from the City Council regarding fees and the County Tax Assessor and payment plans.

Uri Seffer, spoke on behalf of Sheri Seffer, to address assessed fines for a car that was parked in the driveway at his mother's home. He commented that he has seen other homes in the neighborhood who had vehicles stored in their driveways and asked for the Council's consideration regarding his mother who is elderly and on a fixed income.

Sheri Seffer, Costa Mesa, informed that she had been very ill and apologized for negligence.

**MOTION: Adopt Resolution No. 08-54, as amended to include the updated list within Exhibit "A".
Moved by Mayor Eric R. Bever, seconded by Council Member Linda W. Dixon.**

Mayor Bever noted that if Ms. Seffer rectifies the violation amount before the list is forwarded to the Orange County Tax Assessor that she would then be removed from the list.

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.

IX. NEW BUSINESS

2. Formation of Costa Mesa & Newport-Mesa Unified School District (NMUSD) Joint Field Use Master Plan Task Force.

Public Services Director Peter Naghavi presented the staff report and responded to questions of the City Council.

Sandra Genis, Costa Mesa, inquired if the task force would be subject to the Brown Act.

Kim Pederson, Costa Mesa, applauded the Council on the effort, and stated that the Costa Mesa High School Super Boosters would like to be included in the task force board. He commented that the booster clubs at the high school are trying to work together to build one consensus on items of concern which includes the fields ask.

Tammy Slack, Costa Mesa, indicated that she would like to be involved in the input from the Mesa Verde Villas Home Owners Association and would like to address the issues regarding parking and traffic issues in the area relative to the field uses.

Frank Albers, Costa Mesa, President of the Costa Mesa High School Football Booster Club, requested that the high school be represented, commenting that the current field condition is deplorable, offering that the major offender were the adult soccer teams.

Council Member Leece indicated that she would like to add Mesa North HOA and Halecrest HOA with participation being optional.

Council Member Dixon added that she would like to add the Costa Mesa High School Super Boosters Club.

Council Member Foley requested that as liaisons to the School District as well as the Youth Sports Council that Council Member Leece and herself be the Council representatives to the task force. She further suggested that there be a representative from California School and the TeWinkle School.

The Mayor expressed reluctance to supporting groups that were unrepresented at the meeting and felt the focus of the meeting was to appoint the groups listed and at a subsequent meeting appoint the

members.

MOTION: Continue the item until the next meeting and to invite any group that is interested in being involved to attend the next meeting to express their interest to the Council.

Moved by Mayor Eric R. Bever. Motion died for lack of second.

Council Member Dixon indicated that she could not support the motion as she felt it was important to move the item forward to appoint the groups that expressed interest and if there are additional groups that are interested in being appointed to the task force that it could be done at a later date.

MOTION: Approve formation of the task force; to approve the appointments of the Mesa Del Mar HOA, Mesa Verde Villas HOA, Iowa Street Residents Group and Costa Mesa Youth Sports Council and to include representatives from Halecrest Home Owners Association (HOA) and Mesa North HOA and the Costa Mesa High School Super Boosters; representative Chair Kurt Galitski and Vice Chair Mike Brumbaugh from the Parks and Recreation Commission and to appoint Council Member Wendy Leece and Council Member Foley as Council representatives to the task force.

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

Mayor Bever indicated that he would be making the appointments of the Council representatives to the task force

Mayor Pro Tem Mansoor indicated that he was not ready to make specific appointments, as to Council Members or the Parks and Recreation Commission, to the Task Force at that time.

SUBSTITUTE MOTION: To approve formation of the task force; to approve the appointments of the Mesa Del Mar HOA, Mesa Verde Villas HOA, Iowa Street Residents Group and Costa Mesa Youth Sport Council and to include representatives from Halecrest Home Owners Association (HOA) and Mesa North HOA and the Costa Mesa High School Super Boosters and to continued discussion of additional membership to the August 19, 2008 meeting.

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

Council Member Dixon noted that there were two Council Members willing to serve on the task force and felt that appointment should be approved. The Mayor indicated that while he had no problem in appointing either of the Council Members he would be making that appointment after the formation of the committee.

The substitute motion carried by the following roll call vote:

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

Noes: Council Member Linda W. Dixon

Absent: None.

MOTION: To appoint Council Member Foley and Council Member Leece as liaisons to the Costa Mesa & Newport-Mesa Unified School District (NMUSD) Joint Field Use Master Plan Task Force.

Moved by Council Member Linda W. Dixon

Mayor Bever indicated that he had appointed Council Member Foley and Council Leece to the task force. Council Member Dixon then withdrew her motion.

3. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA AMENDING TITLE 3 OF THE COSTA MESA, CALIFORNIA, MUNICIPAL CODE RELATING TO ANIMAL REGULATIONS.

Assistant City Attorney Harold Potter gave an overview of the staff report explaining the proposed ordinance and he along with City Manager Allan Roeder responded to questions from the Council, relative to the current process of issuing a citation, warning notices, and fines.

Council Member Dixon commented that she did not support the fines that were being proposed; while she support fines she felt those proposed were excessive.

Police Chief Christopher Shawkey introduced Police Sergeant Bryan Glass, Animal Control, noted that 27 cities in Orange County had adopted the proposed ordinance or a modified version, and after implementation found compliance to be very high. He reported that according to a survey done in the last year there was 80 percent rate of compliance for the civil citation structure presented. He responded to questions from the Council regarding a warning notice, fines, and the appeal process.

Council Member Foley supported a written warning notice before the fine was issued and a progressive fee structure, as she felt that the fines were too extreme as the first offense.

Sandra Genis, Costa Mesa, asked questions relative to clarity on the citing of a dog or resident, if there was an exemption for provocation, and about the definition of "audible noise." She felt that the proposed ordinance was discriminatory, overly restrictive and that it should be equally applied without discriminating animal type.

Beth Refakes, Costa Mesa, inquired as to the complaint process relative to the forms was supportive of a written warning notice and suggested

that first fine be \$175 and then it should go up after that. She also expressed concern of owners that might retaliate against the animal due to the citation being issued or the steep fine but agreed that it should be applied to all other animals.

Lori McDonald, Costa Mesa, expressed concern with fireworks and how dogs naturally react. She suggested that instead of fines that the pet owner should be required to do community service.

Mayor Pro Tem Mansoor commented that he would like to see the warning and the 10-day notice to correct listed in the fee schedule.

MOTION: Introduce Ordinance No. 08-6 for first reading, read by title only, waived further reading and directed that the fee schedule include the warning and 10-day notice to correct.

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

Further discussion ensued amongst Council and staff regarding violations and exemptions and alternative fine structures, definition of "audible noise", complaint process, corrections process, types of complaints, the inclusion of other animals in reference to the ordinance, time frame relative to complaints before additional action is taken, and the clarification of definition of "audible noise".

Council Member Leece indicated that she was supportive of proposed ordinance.

Council Member Foley asked if the maker of them motion would include revision to remove Section 3-8 to remove the language "or makes any noise audible". Mayor Pro Tem Mansoor after consulting with the City Attorney felt that language could be brought back to Council for consideration at the time of the second reading. The Mayor commented that because the language included some leverage in definition for other types of noise besides barking that he would like to leave the language as is.

Council Member Dixon stated she would not be supporting the motion as she felt that stated fines were too high.

Council Member Foley requested the maker of the motion to include in the motion for staff to submit alternative structures for fines. It was agreed by both Mayor Pro Tem Mansoor and Mayor Bever to include.

The motion restated:

MOTION: Introduce Ordinance No. 08-6 for first reading, read by title

only, waive further reading; and directed that the fee schedule include the warning and 10-day notice to correct, and for staff to provide options in the setting of the fines that are to be adopted by resolution.

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

The motion carried by the following roll call vote:

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

Noes: Council Member Linda W. Dixon

Absent: None.

4. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 9 (LICENSES AND BUSINESS REGULATIONS) OF THE COSTA MESA MUNICIPAL CODE REGARDING NONCONSENSUAL TOWING OF VEHICLES AND ROTATIONAL TOW OPERATIONS.

The Assistant City Attorney summarized the staff report and advised that this ordinance would close the loophole with regards to predatory towing; and along with the Assistant City Manager addressed police initiated tows.

Lori McDonald, Costa Mesa, thought that all fire hydrants should be tow away zones and suggested to implement a parking permit fee to allow parking in front of your home without being towed.

The Mayor Pro Tem referred to the staff report and pointed out the regulation of issuing tow operating permits.

MOTION: Introduce Ordinance No. 08-7 for first reading, read by title only, and waive further reading.

Moved by Mayor Pro Tem Allan R. Mansoor, seconded by Council Member Katrina Foley.

The Assistant City Manager and Assistant City Attorney responded to questions from Council Member Foley relating to restrict towing within Costa Mesa oppose to a five mile radius for private to private tows.

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

The City Manager commented on the success of the Orange County Fair and commended the efforts of the Police Department; announced that the item relating to the action of the Parks and Recreation Commission concerning passive and active parks will be held on September 2, 2008. At the request of Council Member Foley, the item was moved to the meeting of September 16, 2008.

- XI. ADJOURNMENT - The Mayor declared the meeting adjourned at 8:45 p.m., to August 12, 2008, at 4:30 p.m., for a Study Session. The next Regular City Council Meeting will be held on August 19, 2008.**

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa