

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

July 17, 2007

The City Council meeting of the City of Costa Mesa, California met in regular session July 17, 2007, at 5:04 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 Eric Bever
Council Member Linda Dixon
Council Member Wendy Leece

Council Members Absent: Mayor Allan Mansoor
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 Allan Roeder, City Manager, and Labor Negotiator, Agency Negotiator: Steve Mandoki, Administrative Services Director, and Terri Cassidy, Human Resources Manager regarding Employee Organizations: Costa Mesa City Employee Association (CMCEA) and Costa Mesa Firefighters Association (CMFA) pursuant to Government Code Section 54957.6.
2. Conference with Legal Counsel - Anticipated Litigation: Initiation of litigation, one case, pursuant to Government Code Section 54956.9(c)

Mayor Pro Tem Bever recessed the meeting to closed session in Conference Room 1B at 5:06 p.m.

The Mayor Pro Tem reconvened the regular meeting at 6:02 p.m.

PLEDGE OF ALLEGIANCE - Council Member Wendy Leece

MOMENT OF SOLEMN EXPRESSION - Pastor Nathan Abbate, Calvary Chapel

ROLL CALL

Council Members Present: Mayor Pro Tem Eric Bever
Council Member Linda Dixon
Council Member Wendy Leece

Council Members Absent: Mayor Allan Mansoor
Council Member Katrina Foley

Officials Present: City Manager Allan Roeder
Assistant City Manager Thomas Hatch
City Attorney Kimberly Hall Barlow
Development Services Director Donald Lamm
Public Services Director William Morris
Recreation Manager Jana Ransom
Police Captain Les Gogerty
Police Sergeant Philip Myers
City Clerk Julie Folcik

CLOSED SESSION REPORT

City Attorney Kimberly Barlow reported that Council gave direction and no action was taken on any closed session items.

PRESENTATIONS

Cindy Brenneman, Chair of the Costa Mesa Community Foundation, gave a presentation on the upcoming dedication and ribbon cutting ceremony of Costa Mesa Veterans Memorial to be held on August 5, 2007. She presented a trophy to Police Sergeant Victor Bakkila in recognition for his efforts in completing the Costa Mesa Veterans Memorial. Mayor Pro Tem Bever presented a proclamation to Sergeant Victor Bakkila recognizing his support of the Memorial and his commitment in remembrance of our nation's veterans.

IV. PUBLIC COMMENTS

1. Debby Koken, Costa Mesa, requested the Council to reconsider the selling of the property located at the corner of Hamilton Street and the closing of the community garden. She otherwise supported the replacement of the community garden with a similar open space on the West side.
2. Mike Viljak, Costa Mesa, suggested an area on Harbor Boulevard to replace the community garden.

3. Carol Minear, Costa Mesa, requested to keep the community garden at its current location but also supported other possible locations on the West side.
4. Teresa Umetsu, Costa Mesa, spoke about the policing of Tanager Park on the 4th of July, 2007. She thanked Police Sergeant Richard Allum and fellow police officers for their diligent job of patrolling and responding to calls but commented that more needs to be done relative to fireworks enforcement.
5. Chris Bunyan, Costa Mesa, spoke on behalf of the Costa Mesa Library Foundation and invited the public to the event "Learn Spanish in a Day" to be held on August 3, 2007, from 9:00 a.m. to 4:00 p.m., at the Neighborhood Community Center.
6. Janet Lee Krochman, Costa Mesa, relative to fireworks and fundraising pointed out that the school foundations are prohibited from funding sports organizations.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Linda Dixon expressed disappointment in the closure of the community garden and advised she would work on allocating funds from the sale of the garden parcel to purchase another plot of land for another community garden. She requested the City Manager to place on a future agenda the matter of prohibiting fireworks on the Primary Election ballots and review a one percent increase of the Transient Occupancy Tax (TOT) for Council to discuss a grant program for youth sports organizations.

Council Member Wendy Leece commented she also would like to find a new location for the community garden. The City Manager affirmed that there would be a Study Session relating to alternative sites and encouraged gardeners to share ideas of other parcel sites on the West side that would be a good location for a community garden. She reported the California Department of Food and Agriculture's detection of the Diaprepes Root Weevil insect. Assistant City Manager Thomas Hatch reported on the infestation of the insect in and around the City and that spraying would be done in a couple of weeks. Council Member Leece announced the next Community Emergency Response Team Training (CERT) would be starting on September 29, 2007; expressed concern of the activities that took place on the fourth of July; and informed she is looking for alternative ways of funding for youth activities.

Mayor Pro Tem Eric Bever, relative to the community garden, reminded the public of Council's unanimous support of finding a new site; recommended possible suggestions on fundraising opportunities and for allowing the public to utilize Vista Park to view the Huntington Beach Pier fireworks show and/or Fairview Park to view the Mesa Verde Country Club fireworks show; expressed concern relating to the increase of the TOT tax to provide youth grants for youth programs and gifting with public funds. The City

Attorney pointed out the City's support of youth programs through the Parks and Recreation Department and confirmed that the matter is considered a public purpose.

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 and 6. Moved by Council Member Linda Dixon, seconded by Mayor Pro Tem Eric Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Mayor Allan Mansoor, Council Member Katrina Foley

1. Reading Folder.

The following claims were received and processed by the City Clerk: Mercury Insurance Company on behalf of Victor Armand; Curd, Galindo & Smith, L.L.P. on behalf of Jeffrey Gryde; Manuel Lopez; Mike Nahidi, and Evelyn Sherie Talley (2 separate claims).

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

Sakayausa Inc., 660 Baker Street, Suite. 405 F, for a type 17 (beer and wine wholesaler) and type 20 (off-sale beer and wine).

Gerald Allen Grady, for The Wine Consultant, 277 Robinhood Lane, Anthony Paduano, for a type 17 (beer and wine wholesaler) and type 20 (off-sale beer and wine).

The following notification letters were received and processed: Mesa Consolidated Water District – Notice of Public Hearing Proposed Water Rate Increase to be held Tuesday, August 28, 2007 at 7:00 p.m.

Southern California Gas Company – Notice to Customers of Proposed Rate Increase, Application No. A.07-06-021.

Cingular Wireless – Notification letter of the intent to construct a cellular facility – Cingular Wireless Site No. LA3089-01, 1701 Golf Course Road.

3. Warrant Resolution 2169, funding City operating expenses for \$686,557.23.

ACTION: Resolution adopted.

4. Warrant Resolution 2170, funding Payroll No. 713 for \$2,344,961.22 and Payroll No. 712A for \$2,668.44, and City operating expenses for \$1,019,925.19 including payroll deductions.

ACTION: Resolution adopted.

5. Professional Services Agreement and Purchase Request with A.C.T. GIS, Inc., 19000 Grovewood Drive, Corona, for support services for the City's Geographic Information System (GIS), in the amount of \$83,747.

ACTION: Approved; authorized the Mayor and City Clerk to sign.

7. Final Map for Tract No. 16926 located at 2287 and 2295 Pacific Avenue, Costa Mesa, to convert ten (10) residential numbered lots and one lettered lot for a common interest residential development.

ACTION: Approved; authorized the City Engineer and City Clerk to sign.

8. Appoint Council Representative and Alternate for the Transportation Corridor System (TCS) Board.

ACTION: Appointed Mayor Pro Tem Eric Bever as the City's representative and Council Member Katrina Foley as alternate.

ITEMS REMOVED FROM THE CONSENT CALENDAR

2. Regular Meeting Minutes of June 19, 2007.

MOTION: Approve, as amended, by amending page 14, deleting "...the implementation of an additional reserve for budget adjustments," and replacing it with "that it be adjusted for inflation." Moved by Council Member Linda Dixon, seconded by Mayor Pro Tem Eric Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Mayor Allan Mansoor, Council Member Katrina Foley

6. Agreement for right-of-way acquisition and escrow instructions with Superior 17th LLC, 14500 Firestone Boulevard, La Mirada, for a portion of property at 1726 Superior Avenue for the Newport Boulevard Improvement Project.

MOTION: Continue to the meeting of August 7, 2007. Moved by Council Member Linda Dixon, seconded by Mayor Pro

Tem Eric Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Mayor Allan Mansoor, Council Member Katrina Foley

VII. PUBLIC HEARINGS

1. PUBLIC HEARING: Appeal of Planning Commission's denial of Planning Application PA-06-59 and Parcel Map PM-06-250, for Louie Del Real, authorized agent for Aurelio Pimentel, for a residential common interest development conversion of four apartment units into condominiums and a parcel map to facilitate the conversion, located at 1843 Pomona Street, in an R2-HD zone (Multiple-Family Residential District, High Density). Environmental determination: exempt.

MOTION: Continue to the meeting of August 7, 2007, at 7:00 p.m. Moved by Council Member Linda Dixon, seconded by Council Member Wendy Leece.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Mayor Allan Mansoor, Council Member Katrina Foley

2. PUBLIC HEARING: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ORDERING THE VACATION OF PAULARINO AVENUE BETWEEN AIRWAY AVENUE AND JOHN WAYNE AIRPORT SUBJECT TO CONDITIONS.

MOTION: Continue to the meeting of August 21, 2007, at 7:00 p.m. Moved by Council Member Linda Dixon, seconded by Mayor Pro Tem Eric Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Mayor Allan Mansoor, Council Member Katrina Foley

VIII. OLD BUSINESS

1. From the meeting of July 3, 2007, second reading and adoption of Ordinance 07-15, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REZONING THREE PARCELS TOTALING 1.68 ACRES FROM R2-HD AND R3 (MULTIPLE-FAMILY

RESIDENTIAL) TO PLANNED DEVELOPMENT RESIDENTIAL HIGH DENSITY (PDR-HD) FOR PROPERTY LOCATED AT 372, 378, AND 382 VICTORIA STREET.

MOTION: Adopt Ordinance No. 07-15, to be read by title only, and waive further reading.

Moved by Council Member Linda Dixon, seconded by Mayor Pro Tem Eric Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Mayor Allan Mansoor, Council Member Katrina Foley

2. From the meeting of July 3, 2007, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING TITLE 3 OF THE COSTA MESA MUNICIPAL CODE RELATING TO ANIMAL REGULATIONS AND SECTION 12-42 RELATING TO DOGS.

The City Attorney briefed the staff report and addressed issues presented at the Study Session. She, along with Police Sergeant Philip Myers, responded to questions from the Council and public speakers.

Janet Lee Krochman, Costa Mesa, expressed concern on language defining reptiles as "non-domesticated animals" which are subject to animal permit and asked Council to amend language to exclude certain non-dangerous reptiles.

In response an inquiry by Council Member Dixon the City Attorney proposed some changes in the definition of the dangerous reptiles.

L. Schwandt, Costa Mesa, pointed out the negative aspects of feeding of free roaming cats, suggested keeping pets indoors at night for their safety, and supported the registering of cats.

Beth Refakes, Costa Mesa, questioned parts of the ordinance relating to special permits for pot belly pigs, did not support a number of the types of animals that may be owned, nor the proposed language regarding the feeding of stray animals, or the licensing of cats, and expressed concern regarding fencing of animals.

Sandra Genis, Costa Mesa, did not support the language relative the number and type of animals that may be owned, asked for clarification on the definition of "keep", the "reporting of animal injury inflicted by another animal", proof of pet ownership, and commented on cat licensing, and the use of the Bark Park by only spayed or neutered pets.

Mayor Pro Tem Bever expressed that he would like to introduce the

animal ordinance for first reading with the entire Council present due to the controversial item.

Council Member Leece referring to an ordinance recently adopted by the County commented that she felt that there should be stronger language regarding the regulations and definitions of a barking dog that may be incorporated in the future.

Council Member Dixon commented that she was supportive of revising the proposed ordinance to allow for keeping of no more than six pets; to list the dangerous reptiles as poisonous snakes, boa constrictors, alligators, gila monsters, and other poisonous or dangerous reptiles"; and indicated that she did not feel it necessary to require that dogs be spayed or neutered in order to use the Bark Park since it is already required that a dog in heat may no be permitted in the park.

Mayor Pro Tem Bever was supportive of allowing a total of five animals.

Council Member Dixon expressed that it was not the responsibility of the Bark Park Foundation to enforce the spaying or neutering of pets requirement. She made the motion to Introduce Ordinance No. 07-16, amended as follows, for first reading, read by title only, and waived further reading:

1. Section 3-14, deleting "three dogs and three cats" and replaced with "six pets";
2. Deleted Section 3-12, entitled, "Registration of cats";
3. Section 3-142, deleted "snakes and other reptiles" and replace with "poisonous snakes, boa constrictors, alligators, gila monsters, and other poisonous or dangerous reptiles", and
4. Section 12-42 (4), deleted "spayed/neutered."

Mayor Pro Tem Bever requested that Section 3-14 be replaced with five pets instead of six pets. The maker of the motion agreed.

The motion restated:

MOTION: Introduce Ordinance No. 07-16, amended as follows, for first reading, read by title only, and waived further reading:

- 1. Section 3-14, deleting "three dogs and three cats" and replaced with "five pets";**
- 2. Deleted Section 3-12, entitled, "Registration of cats";**
- 3. Section 3-142, deleted "snakes and other reptiles" and replace with "poisonous snakes, boa constrictors, alligators, gila monsters, and other poisonous or dangerous reptiles", and**
- 4. Section 12-42 (4), deleted "spayed/neutered."**

Moved by Council Member Linda Dixon, seconded by Mayor Pro Tem Eric Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Mayor Allan Mansoor, Council Member Katrina Foley

3. From the meeting of October 18, 2005, Parks and Recreation Commission Recommendations Regarding Paularino Park.

Recreation Manager Jana Ransom presented the staff report and responded to questions from the Council.

Mayor Pro Tem Bever commented that there should be a consistency of neighborhood park policies for all neighborhood parks and felt that signage should be posted indicating a passive park and no active sports permitted.

Council Member Dixon questioned the definition of "no active sports". Due to the Costa Mesa Municipal Code Section 12-45(a) prohibiting sporting activities, Council Member Dixon stated she would not support the recommendation.

Ellen Wright, Costa Mesa, gave a history of the usage of Paularino Park and stated that passive use of the park does not fit the need of open play space for the neighboring children.

Colin McCarthy, Costa Mesa, President of the Mesa North Community Home Owners Association, expressed support of the passive park designation.

Eric Christianson, Costa Mesa, member of the Mesa North Community Homeowners Association, urged the Council to approve the directive of the Parks and Recreation Commission.

Gary Peacock, Costa Mesa, conducted an ad hoc poll of the Mesa North Homeowners and reported that 11 people were supportive of Paularino Park as being a passive park with one person who was not in support.

Martin Millard, Costa Mesa, respectfully request that the Council adopt all five of the recommendations and suggested revising recommendation three to the following language, "No soccer or sports activities that interferes with passive uses."

MOTION: To approve recommendations of the Parks and Recreation Commission regarding designation of Paularino Park for passive use, installation of landscape and signage elements, and to amend park signage to read "Passive Park. No Team Sports Activity. CMMC 12-45a." Moved by Mayor Pro Tem Eric Bever, seconded by Council Member Wendy Leece.

Discussion ensued amongst Council Member Dixon and City staff relating to violation fines and the enforcement of park rules. The City Manager recommended that the Council allow the Police Department to work with the surrounding neighborhood for the next six months, and after the improvements are installed, reporting back results to the Parks and Recreation Commission and Council.

Mayor Pro Tem Bever amended his motion to revise recommendation number five regarding consulting with the neighborhood to include consulting with the Costa Mesa Police Department. Council Member Leece agreed.

The motion restated:

MOTION: Approve recommendations of the Parks and Recreation Commission regarding designation of Paularino Park for passive use, installation of landscape and signage elements, and amending park signage to read “Passive Park. No Team Sports Activity. CMMC 12-45a.”; and to include in recommendation five, consulting with the Costa Mesa Police Department. Moved by Mayor Pro Tem Eric Bever, seconded by Council Member Wendy Leece.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Eric Bever, Council Member Wendy Leece

Noes: Council Member Linda Dixon

Absent: Mayor Allan Mansoor, Council Member Katrina Foley

RECESS: Mayor Pro Tem Bever declared the meeting recess at 8:17 p.m.

AFTER RECESS: Mayor Pro Tem Bever reconvened the meeting at 8:26 p.m.

IX. NEW BUSINESS

1. Field Use and Allocation Policy.

Recreation Manager Jana Ransom presented the staff report and answered questions from the City Council.

Mayor Pro Tem Bever expressed support of the changes and recommendations of the Parks and Recreation Commission.

In reference to questions from Council Members, the Recreation Manager stated that the fields are monitored daily by the school sites; clarified the no-show issue noting that the Field Ambassadors would monitor field use; stated that members of the Ad Hoc Committee included the major youth sports user groups; and pointed out that user groups requests their fields based on the prior years numbers noting that

there is not a lot of abuse.

MOTION: Approve revisions.

Moved by Mayor Pro Tem Eric Bever, seconded by Council Member Linda Dixon.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Mayor Allan Mansoor, Council Member Katrina Foley

X. REPORTS

The City Manager announced the appointment of Fire Chief Mike Morgan who will be the City's new Fire Chief effective July 30, 2007.

XI. ADJOURNMENT - The Mayor declared the meeting adjourned at 8:50 p.m. The next Regular City Council Meeting will be held on August 7, 2007.

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa