

EXCERPTS FROM
REGULAR MEETING OF THE CITY COUNCIL
CITY OF COSTA MESA

ATTACHMENT 2

SEPTEMBER 2, 2003

The City Council of the City of Costa Mesa, California, met in regular session September 2, 2003, at 6:30 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor, followed by the Pledge of Allegiance to the Flag led by Council Member Scheafer, and invocation by Chaplain Lloyd Sellers, Hoag Memorial Hospital Presbyterian.

ROLL CALL

Council Members Present: Mayor Gary Monahan
Mayor Pro Tem Chris Steel
Council Member Libby Cowan
Council Member Allan Mansoor
Council Member Mike Scheafer

Council Members Absent: None

Officials Present: City Manager Allan Roeder
Acting City Attorney Tom Wood
Development Services Director
Donald Lamm
Public Services Director William
Morris
Administrative Services Director
Steve Hayman
Risk Manager Karen Adams
Planning and Redevelopment
Manager Mike Robinson
Senior Planner Kim Brandt
Deputy City Clerk Julie Folck

**ORDINANCES AND
RESOLUTIONS**

A motion was made by Mayor Pro Tem Steel, seconded by Council Member Cowan, and carried 5-0, to read all ordinances and resolutions by title only.

**PRESENTATION
Costa Mesa National
and American Little
League All Star
Teams**

Mayor Monahan recognized the Costa Mesa National Little League All Star players and the American Little League All Star players for their participation in the 2003 Mayor's Cup Tournament. He presented certificates of appreciation to American League team members Dylan Gravelle, Chris Gute, and Mike Molina, and congratulated those who were not in attendance Ryan Boulger, Jesse Dawson, Kevin Hoffman, Jake Johnston, Mike Kelly, Ben Lounsbury, Austin Quon, Chris Robinson, Josh Werdel, and Roland Wood. Mayor Monahan presented certificates of appreciation to National League champion team members Weston Barloon, Frank Deoewer, Cody Green, Alex Grosek, Ryan Knapp, Troy McClanahan, Gavin Montague, Danny O'Neil, Nick Oliver, Nick Pederson, Josh Ryding and Taylor West.

**PRESENTATION
Employee of the Month**

Mayor Monahan congratulated Amy Kuchta, Administrative Services Department, on being named Employee of the Month for September, 2003, recognizing her hard work, attention to detail and dedication to the administration of CostaMazing and other recreation events which provide residents and businesses with constructive and successful programs designed to promote community and family.

Acting City Attorney reported that the paperwork has been forwarded to Sacramento and approval is anticipated from the Secretary of State within the next week or so.

Robert Graham, 3260 Dakota Avenue, Costa Mesa, opposed placing the \$200,000.00 from the Huscroft House into the general fund, suggesting instead that it could be given to the schools.

Sandra Genis, 1586 Myrtlewood Street, Costa Mesa, added that any available monies should be designated to the schools.

Mayor Pro Tem Steel supported directing the \$200,000.00 to the Historical Preservation Committee and to City code enforcement.

MOTION/Determined
Compliance with
DA-00-01; Gave First
Reading to Ordinance
03-9

On motion by Council Member Cowan, seconded by Council Member Mansoor, and carried 5-0, it was determined that the applicant and the City have demonstrated good faith and compliance with the terms and conditions of Development Agreement DA-00-01, and Ordinance 03-9 was given first reading: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROXIMATING AN AMENDMENT TO DEVELOPMENT AGREEMENT NO. DA-00-01 FOR THE HOME RANCH PROJECT. Second reading and adoption are scheduled for the meeting of September 15, 2003.

The Mayor declared a recess at 9:25 p.m., and reconvened the meeting at 9:40 p.m.

RECESS

The Deputy City Clerk presented from the meeting of August 18, 2003, Park Encroachments at Fairview Park. The Public Services Director summarized the Agenda Report dated August 21, 2003, commenting that a sale or lease situation involving the encroachment property would entail a tremendous amount of manpower over the next several years to provide the necessary information to Council. He and the Acting City Attorney responded to questions from Council.

OLD BUSINESS
Fairview Park
Encroachments

Robert Graham, 3260 Dakota Avenue, Costa Mesa, commented on the time and effort which has been expended by the City in an attempt to accommodate a few people, and observed that the issue is money, not encroachment. Mr. Graham provided photographs to substantiate his claim that the property is valuable, not "worthless as a park because its not natural" as the residents claim.

David Kincade, 2001 Swan Drive, Costa Mesa, observed that their property encroaches approximately 13 feet into the park, and reported that they used a portion of the land only after believing that permission had been granted. He alleged that during rainy periods, the strip is unpassable due to pooling water and mud, and the City will continue to incur costs and responsibility for weed abatement and soil erosion for the strip if not assumed by the adjacent property owners. Mr. Kincade reported that residents on Sandpiper Drive purchased from the County of Orange a significantly larger strip of land which is between their homes and the Greenville-Banning Channel.

Judi Berry, 2064 Meadow View Lane, Costa Mesa, observed that it would be too complicated for the City to sell the land and objected to it being given away. She encouraged the City to reclaim the parkland.

Tom Chandler, 2085 Swan Drive, Costa Mesa, preferred that the

City allow the homeowners to purchase the encroachment property.

Mike Berry, 2064 Meadow View Lane, Costa Mesa, remarked that by taking any action other than enforcing the existing code pertaining to encroachment, the people who broke the law will be rewarded, and the people who followed the law will be penalized.

Robin Leffler, 3025 Samoa Place, Costa Mesa, objected to selling or leasing public park property to individual private homeowners, and supported retaining the land as open space. She asked the cost of staff time, studies, reports, and liaisons to work with other agencies.

John King, 1991 Swan Drive, Costa Mesa, observed that the strip of land under discussion is parkland by a coincidence of surveying, and described the property as backed up by homes, 15 to 20 feet in width with a six-foot chain-link fence, a seven-foot berm, and a twenty-foot ditch. He asked for the opportunity to purchase the land.

Dean Reinemann, 1877 Park View Circle, Costa Mesa, encouraged Council to end encroachments and take back what the City owns.

Julie King, 1991 Swan Drive, Costa Mesa, described herself as a schoolteacher and a moral person, and provided a brief history of her "encroachment". She described the situation as a pre-existing one that many property owners inherited along with their purchases.

Larry Porter, 2077 Swan Drive, Costa Mesa, showed photographs of his encroachment, and suggested a reasonable solution to the problem. He asked for a formal survey report.

Steve Davey, 2033 Swan Drive, Costa Mesa, referring to Page 56 of the Agenda Report, pointed out the insignificant area of the property being discussed. The Fairview Park Master Plan specifically states that the area in question is designated for non-development.

Beth Refakes, 320 Magnolia Street, Costa Mesa, opposed selling or leasing the property to the residents who have encroached, and maintained that it is a property owner's responsibility to be familiar with their property line. She warned that should sale or lease of the property be considered, the City will be setting a precedent, and objected to the considerable expense involved. Ms. Refakes suggested that if the property is leased, the lease be for a specific period of time, with the property reverting to the City as open space at the end of that time or if the property is sold.

Sandra Genis, 1586 Myrtlewood Street, Costa Mesa, commended the policy on park encroachments as contained in Attachment H to the Agenda Report, modifying No. 6 on Page 2 to read, the " permit shall be void upon removal or replacement of at least 40 percent of the existing encroachment by the property owner or his/her agent for any reason...", and mentioning that any gate onto a park should open inward to avoid accidents. Ms. Genis encouraged an audit of park dedication fees and park bond monies, and outlined several of her concerns.

Tim Cromwell, 2920 Swan Drive, Costa Mesa, reported that he has

(7)

a two and one-half foot encroachment, and indicated that the land is of no value to the City, it was never intended to be part of Fairview Park, and almost every homeowner who is encroaching bought their property with the encroachment in effect. He added that the land is covered with easements so it will remain a buffer zone, and the City has allowed it to become weed infested.

Jim Jennings, 2017 Swan Drive, Costa Mesa, advised that it took two weeks to clean up the trash behind his home when it was purchased, and reported that he pulls the weeds for ten houses in both directions every year.

The Public Services Director showed a videotape of the Fairview Park encroachments.

A motion was made by Council Member Cowan to end all encroachments and return everything to the property line. The motion died for lack of a second.

**MOTION/To End
Encroachments Died**

A motion was made by Council Member Cowan to allow six-inch encroachments only for all properties currently within the six inches, all other properties to be returned to their property line or to within that six inches within one year. The motion died for lack of a second.

**MOTION/To Restrict
Encroachments to
Six Inches Died**

Steve Devey, 2033 Swan Drive, Costa Mesa, replied to a question from Council Member Mansoor by stating that the Mesa Consolidated Water District Engineering Department reported that there are two easements in each direction running down the middle of the property in question, fifty feet out from the center of Fairview Channel.

Council Member Mansoor asked staff for the following information: does the City have title reports which indicate to whom the easements belong and is there permission to encroach on them; regarding open space bonds, he would like clear indication that bond money was not used; should the burden of cost be on the property owner; questioned if the City should go forward with the sale based on County of Orange recommendations as contained in their letter of December 21, 2001, regarding 10-foot setbacks and the 30-foot wide ingress and egress; and asked if the sale of the land requires action by the County of Orange.

Mayor Pro Tem Steel asked for an estimate of the cost to the City if a sale is pursued, and suggested that the property owners pay the expenses. Council Member Cowan opposed the sale or lease of any land beyond the six inches.

A motion was made by Council Member Cowan to oppose the sale or lease of any portion of Fairview Park. The motion died for lack of a second.

**MOTION/To Oppose
Sale or Lease of Park
Land Died**

After considering the comments regarding the landscaping provided by Swan Drive residents, the walls being established prior to purchase of their property, and the balance of the property not being tended to in five years, Mayor Monahan asked what it is that the City is preserving. He believed that if all the questions could be answered and the financing worked out, that the funds could be used towards the betterment of Fairview Park. He did not find the encroachments illegal nor the requests out of line.

On motion by Mayor Monahan, seconded by Mayor Pro Tem Steel,

MOTION/Gave
Directions to Staff

and carried 4-1, Council Member Cowan voting no, staff was directed to research the means by which the subject property, down to the property line with the flood control channel, may be sold; to initiate negotiations with the property owners; to determine the costs that would be covered; to address the questions asked by Council Member Mansoor; to return to Council in four months with information regarding what it would take to sell the property if all the property owners are willing; to determine the cost of an appraisal; and to determine the opinion of the County of Orange on the pending sale.

Mayor Monahan clarified that his intent is to express an interest in selling the property after the questions are researched and the residents are "on board" regarding the costs and their willingness to purchase. Council Member Mansoor opposed the City spending money for title reports and other related costs, and asked for a rendering of how the proposed project will appear. He questioned if it were appropriate to request funds up front from the property owner to cover some of the costs. The Acting City Attorney replied that the Council could direct staff to proceed with certain investigations if a number of the property owners would deposit with the City monies to cover specified costs. The City Manager suggested that staff can accurately identify the costs, ascertain the number of interested property owners, and then prepare an estimate of the cost on a per parcel basis.

Council Member Cowan opposed the motion, deeming it inappropriate to sell or lease the property. She commented that the residents of Swan Drive were allowed to completely design Fairview Park, reporting that the original plan had designs for the area between the channel and the property lines. She expressed amazement that Council would take public, open space land, regardless of its current condition, and sell or lease it.

NEW BUSINESS
Texas Circle Resident
Parking

The Deputy City Clerk presented a resolution removing "resident only" parking on Texas Circle. The Public Services Director summarized the Agenda Report dated August 18, 2003, and reported that a petition had been received from a majority of the property owners on Texas Circle requesting that the "resident only" parking be removed. Communications supporting the removal were received from Carolyn Yurada, 1654 Texas Circle, Costa Mesa, and Esther Kosoy, 1658 Texas Circle, Costa Mesa.

Mayor Pro Tem Steel suggested that an attempt should be made to mitigate the problems which are causing the residents to request removal.

Eleanor Klein, 1661 Texas Circle, Costa Mesa, indicated that she had originally requested removal of the parking restrictions, and stressed that it is a great burden. She reported on the friends and neighbors who had been ticketed, and reaffirmed her position.

MOTION/Adopted
Resolution 03-56

On motion by Mayor Monahan, seconded by Mayor Pro Tem Steel, and carried 5-0, Resolution 03-56 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REMOVING "RESIDENT ONLY" PARKING ON TEXAS CIRCLE.

The Deputy City Clerk presented the proposed revised composition of the Traffic Impact Fee Ad Hoc Committee:

~~Include two at-large members and delete the specific~~