



CITY COUNCIL AGENDA REPORT

MEETING DATE: June 20, 2006

ITEM NUMBER: IX-1

SUBJECT: CITY COUNCIL MINUTES

DATE: JUNE 5, 2006

FROM: KIMBERLY HALL BARLOW

PRESENTATION BY: KIMBERLY HALL BARLOW, CITY ATTORNEY

FOR FURTHER INFORMATION CONTACT: KIMBERLY HALL BARLOW, 714-754-5399

RECOMMENDATION:

Introduce and give first reading to the attached Ordinance Amending Chapter III of Title 2 relating to the official minutes of the City Council.

BACKGROUND:

The City Council adopted procedures in 1972 governing the keeping of the official minutes of the City Council by the City Clerk pursuant to state statute.

ANALYSIS:

Costa Mesa Municipal Code (CMMC) Section 2-82 states, in part, that the names and addresses of persons addressing the council shall be entered in the minutes. This provision is pursuant to Government Code § 36814 and § 40801 which require that the City Clerk keep a record of proceedings of the City Council. Case law and the California Attorney General have interpreted the above statutes to mean that "recording the substance of the proceedings" in the minutes is all that is required. (*City of King City v. Community Bank of Central California* (2005) 131 Cal. App. 4th 913; 64 Ops. Atty. Gen. 317)

After section 2-82 was codified, Government Code § 54953.3 was enacted. It provides that "[a] member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance." Because CMMC § 2-82 requires that the City Clerk enter the names and addresses of people who speak at City Council meetings, it arguably conflicts with state law and, because several past speakers have expressed concern about inclusion of their addresses in the minutes as a result of privacy concerns, we believe the code section should be amended.

ALTERNATIVES CONSIDERED:

The Council could determine not to adopt the proposed revisions.

FISCAL REVIEW:

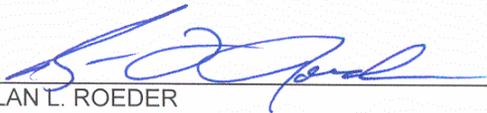
None required.

LEGAL REVIEW:

The City Attorney's office has prepared this staff report and the attached ordinance for your consideration.

CONCLUSION:

The proposed amendment to the Costa Mesa Municipal Code is intended to bring Section 2-82 into compliance with state law and to address speakers' privacy concerns. The City Attorney recommends that City Council give first reading to the Ordinance amendment.



ALLAN L. ROEDER
City Manager



KIMBERLY HALL BARLOW
City Attorney

DISTRIBUTION: City Manager

ATTACHMENTS: 1 Ordinance

File Name	Date	Time
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ORDINANCE NO. 06-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA AMENDING CHAPTER III OF TITLE 2 OF THE COSTA MESA MUNICIPAL CODE RELATING TO THE OFFICIAL MINUTES OF THE CITY COUNCIL

WHEREAS, Costa Mesa Municipal Code section 2-82, pursuant to Government Code sections 36814 and 40801, requires that the City Clerk keep the official minutes of the City Council in a minute book with a record of each business that was acted upon by the City Council; and

WHEREAS, Government Code section 54954.3 requires that an opportunity for members of the public to directly address the City Council on any item of interest to the public be provided; and

WHEREAS, Government Code section 54953.3 states, that members of the public, as a condition to attendance at a meeting, shall not be required to register their names or provide other information except on a voluntary basis; and

WHEREAS, section 2-82, which requires that the City Clerk enter the names and addresses of persons addressing the City Council into the official minutes conflicts with the Government Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter III of Title 2 of the Costa Mesa Municipal Code is hereby amended to read as follows:

Chapter III

Sec. 2-82. Minutes.

The official minutes of the city council will be kept by the city clerk in a minute book with a record of each particular type of business transacted set off in paragraph form with proper subheads. The city clerk shall be required to make a record only of such business as was actually passed upon by the city council and shall not be required to record any remarks of any members of the council or of any other person except at the special request of a member of the council. The city clerk shall enter into the minutes the reasons for dissent from or protest against any action of the council if any member of the council so requests. Names ~~and addresses~~ of persons addressing the council, if provided, the title of the subject matter to which their remarks are related, and whether they spoke in support of or in opposition to such matter shall be entered in the minutes.

Section 2. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 4. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED AND ADOPTED this ____ day of _____, 2006.

Mayor

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 06-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____th day of _____, 2006, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2006, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2006.

City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa