

REGULAR MEETING OF THE CITY COUNCIL
CITY OF COSTA MESA

JULY 19, 2004

The City Council of the City of Costa Mesa, California, met in regular session July 19, 2004, 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 a moment of solemn expression led by Pastor Enrique Sera, St. Joachim Catholic Church.

ROLL CALL

Council Members Present: Mayor Gary Monahan
Mayor Pro Tem Allan Mansoor
Council Member Libby Cowan
Council Member Chris Steel
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
Finance Director Marc Puckett
Associate Planner Mel Lee
Deputy City Clerk Julie Folcik

ORDINANCES AND
RESOLUTIONS

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

PRESENTATION
SCAQMD Presenta-
tion

Mayor Monahan asked that the presentation by the South Coast Air Quality Management District (SCAQMD), New Business Item No. 1, be given at this time. Bill Craycraft, Governing Board Member of SCAQMD, provided a history of air pollution in California, and linked poor air quality to several significant health risks. He reported that the District is comprised of more than 800 scientists, engineers, and inspectors, dedicated to cleaning the air, and listed significant accomplishments by the SCAQMD, including a tremendous reduction in air toxics. He asked that smoke or odor complaints be reported to (800) CUT-SMOG (288-7664), encouraged cities to include an air quality element in their general plan, extended an invitation to the public to attend SCAQMD Board Meetings which are held the first Friday of every month, and noted their website address: www.AQMD.gov. Mr. Craycraft encouraged support of Senate Bill 1397 which addresses the establishment of locomotive emission reduction and mitigation programs, and introduced Deborah Reed, of the Public Affairs Department. To a question from Council Member Steel regarding west side pollution, Mr. Craycraft stated that they are continuing efforts to monitor toxic levels in that area but that nothing had been found which would create alarm.

PUBLIC COMMENT
Millard Comments

Martin Millard, Costa Mesa, member of the Westside Revitalization Oversight Committee (WROC), complained that 14 percent of the City's land is zoned for industrial use, which he blamed for smog and related problems on the Westside, as compared to 2 percent

for Newport Beach and 8 percent for Huntington Beach. He reported that the Costa Mesa Police Department is slow to respond to the complaints of produce trucks and push carts in Mesa North. Mr. Millard also felt that the City's Dispatch (Telecommunications) a division of Administrative Services Department, should be under the supervision of the Police Chief.

Fireworks

Don Daniels, Costa Mesa, representing Newport-Harbor Girls Basketball, thanked Council for allowing the sale of fireworks for this 4th of July. He discussed the cleanup efforts made by his group, and felt that next year would bring improvements.

Sober Living Facility

Lee Ann Marienthal, Costa Mesa, reported that a new homeowner on her street is intending to rent his property at 306 Ramona Place to persons as a sober living facility, which is in addition to the facility next door. She submitted letters signed by her neighbors which confirmed that 100 percent of the residents on Ramona Place are opposed to the conversion of this home to another sober living facility, and thought that it was an unfair burden for two to be located on the same street. She proposed setting limits or establishing guidelines to prevent clustering the facilities which burdens a small residential community. Mayor Monahan suggested that Ms. Marienthal submit her list of questions to the Development Services Director. The Acting City Attorney responded to Council Member Steel by stating that group homes with 7 or more residents are required to obtain a conditional use permit from the City and are only allowed to operate in properly zoned areas.

Dr. Ernest Klatte, Costa Mesa, in reference to the above topic, expressed his opposition to the expansion. He stated that there are ten persons who currently reside in the facility at 302 Ramona Place, and reported that it has placed an average of six to ten additional cars on the street.

Tevis Hill, Costa Mesa, submitted photographs of the parking situation on Ramona Place along with tax records for 306 Ramona Place. She also stated that she believed that the house was within 300 feet of Newport Heights Elementary School.

Chris Hemmens, owner of 306 Ramona Place, indicated that he and his wife purchased the property with the intention of remodeling and are renting the house in the interim. He agreed that while it would be a group home by definition it could also be inhabited by six college students. He concurred that the parking is a problem but commented on the impact from the apartments across the street.

Fireworks

Anne Hogan-Shereshevsky, Costa Mesa, reiterated her request to ban fireworks, stating that there are alternative fundraising methods. She noted her intent to discover how other schools raise monies, and noted the dangers of using fireworks such as fires, pollution, and personal injury.

Downtown Community Center Pool

Barbara Beck, Costa Mesa, praised the pool at the Downtown Community Center but felt that it is too small to meet increasing demands. She indicated that the "lap swimmers" have requested additional time but pointed out that it would further limit the "swim time" for seniors. She reported that according to the current schedule, there are 15 opportunities for the lap swimmers and 2 opportunities for senior swimmers.

Tanager Park 4th
of July

Teresa Umetsu, Costa Mesa, representing 45 citizens who signed a petition for better law enforcement in Tanager Park on the 4th of July, reported that new signs had been placed in the park in English and Spanish and had been completely disregarded, as there were persons in the park after dusk, and the “no parking” restriction between 9:00 p.m. and 6:00 a.m. was ignored. She described the impact of fireworks on residents, and indicated that it was the overwhelming opinion of the persons who signed the petition that the Costa Mesa Police Department let them down by failing to enforce park regulations. Ms. Umetsu submitted the petition to the Deputy City Clerk, and the City Manager stated that a report on 4th of July activities was being prepared and would be available on the City’s website www.ci.costa-mesa.ca.us.

Wakeham Park Fee
Waiver

Elaine Krieger, representing St. John the Baptist School, 1021 Baker Street, advised that she had reserved a pavilion at Wakeham Park for a retreat for 8th grade students and asked that the \$100.00 deposit fee and \$75.00 park fee be waived because they are a nonprofit organization. She submitted her request in writing to the City Manager, and Mayor Monahan advised that staff would contact her on Tuesday, July 20, 2004.

Fireworks

Terry Shaw, Costa Mesa, concurred with previous speakers regarding fireworks. He expressed distress about Mayor Monahan’s comments as reported in a recent Daily Pilot article, and supported those working for a ban. Mayor Monahan replied that there is a 50/50 division in opinion regarding fireworks throughout the City, and shared his own experience of a neighborhood block party held on the 4th of July where safe and sane fireworks were used.

China Trip

Karl Alf, Costa Mesa, advised of a trip to China being planned by the Orange County Interfaith Council from November 4 thru 12, 2004.

Israel Court Case

Igal Israel, Costa Mesa, reiterated his request for the City Attorney’s office to provide him with the statute which allows the City to file charges against him in criminal court. He accused Code Enforcement of parking on Newport Boulevard and taking photographs of him.

CONSENT
CALENDAR
MOTION/Approved

On motion by Council Member Cowan, seconded by Council Member Scheafer, and carried 5-0, all Consent Calendar items were approved as recommended.

READING FOLDER

The following Reading Folder items were received and processed:

Claims

Claims received by the Deputy City Clerk: Donna Bryan-Diamond; Aresteo Roberto Euyoque; Todd Gronsky, and Carol Hayes.

Alcoholic Beverage
Control Licenses

Request for Alcoholic Beverage Control Licenses were received from:

Taco Surf (formerly New Sushi House), 1969 Harbor Boulevard, for a person-to-person transfer of a Type 41 ABC License (on-sale beer and wine for a bond fide eating place).

Asia Café Restaurant, 2360 Newport Boulevard, Suite B, for an original Type 41 ABC License (on-sale beer and wine for a bona fide eating place).

Public Utilities Commission Southern California Gas Company filed Application No. 04-06-025 with the Public Utilities Commission regarding proposed rate increases.

Verizon Wireless provided a Notification Letter to the Public Utilities Commission for Fairview of Los Angeles SMSA Limited Partnership (U-3003-C), of Los Angeles, CA MSA, in accordance with General Order No. 149.A.

WARRANTS

The following warrants were approved:

Approved Warrant 2013/Payroll 414 and 413A Warrant Resolution 2013, funding Payroll No. 414 for \$1,951,048.20, Payroll No. 413A for negative \$2,363.75, and City operating expenses for \$1,812,020.40, including payroll deductions.

Approved Warrant 2014 Warrant Resolution 2014, funding City operating expenses for \$1,224,917.08.

ADMINISTRATIVE ACTIONS/Awarded Hamilton and Bernard Rehabilitation, and Storm Drain Improvements, Project No. 04-09, to Shawnan Bids received for Hamilton Street Rehabilitation from Placentia Avenue to Pomona Avenue, and Storm Drain Improvements on Wallace Avenue and Hamilton Street (Project "A"), and Bernard Street Rehabilitation from Maple Avenue to Harbor Boulevard (Project "B"), Project No. 04-09, are on file in the City Clerk's office. The contract was awarded to Sialic Contactors doing business as Shawnan, 12240 Woodruff Avenue, Downey, for \$1,140, 739.00 (total base bid only for Project "A" and Project "B"), and the Mayor and Deputy City Clerk were authorized to sign on behalf of the City.

Accepted Work for Victoria/Harbor Improvement, Project No. 03-11, by Holland-Lowe Victoria Street/Harbor Boulevard Improvement, Project No. 03-11, was completed to the satisfaction of the Public Services Director on July 2, 2004, by Holland-Lowe Construction, Inc., 427 South Pershing Avenue, San Bernardino. The work was accepted; the Deputy City Clerk was authorized to file a Notice of Completion; authorization was given to release retention monies 35 days thereafter; the Labor and Material bond was ordered exonerated 7 months thereafter; and the Performance Bond was ordered exonerated 12 months thereafter.

Approved Final Map for Tract No. 16448; Approved Subdivision Agreement Final Map was approved for Tract No. 16448, located at 115 East Wilson Street, to subdivide two (2) lots into six (6) lots, to consist of five (5) dwelling unit lots and one (1) lot for common landscape purposes, the subdivision agreement was approved, and the Mayor and Deputy City Clerk were authorized to sign on behalf of the City.

**PUBLIC HEARING
ZA-04-15, Chilcott**

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider an appeal from Council Member Chris Steel of the Planning Commission's approval of Minor Design Review ZA-04-15 for Willard Chilcott, to construct a two-story, 2,376 square foot house with an attached 2-car garage, located at 2172 Myran Drive, in an R2-MD (Medium Density, Multi-family Residential) zone. Environmental determination: Exempt. The Affidavits of Publishing and Mailing are on file in the City Clerk's office. Communications were received from Tiny Hyder, Costa Mesa, opposing the type of structures planned for the project; Barbara Beck, Costa Mesa, stating that the project is out of scale with the neighborhood; and two letters from Pamela Frankel, Costa Mesa, addressing issues contained in the agenda report. Council Member Steel listed the areas of concern as being the easement/turnaround area; environmental considerations/undisclosed cumulative effect; character and continuity; drainage; and design of the dwelling. The Associate Planner reviewed the

Agenda Report dated July 8, 2004, and he and the Development Services Director responded to questions from Council.

Terry Shaw, Costa Mesa, believed that Mr. Chilcott had every right to build the project but thought that the neighbor's property rights should be respected in terms of drainage, mitigating construction as much as possible, providing fencing during construction, and paving the access road to the end.

Lori McDonald, Costa Mesa, opposed the project and asked why the undergrounding of utilities had not been required. The Associate Planner replied that the Uniform Building Code requires that utilities to the structures be underground. She asked that the applicant be denied use of the private easement because it would affect the rights of neighboring homeowners. Ms. McDonald expressed her concerns which included that of mature trees being damaged or removed, and the effects of the project on the character of the neighborhood.

Barbara Beck, Costa Mesa, addressed the population density of the neighborhood should other structures be constructed on the property. She suggested maintaining the current size or enlarging the easement and preserving the trees and privacy foliage.

Beth Refakes, Costa Mesa, remarked on the cumulative effect on the neighborhood in terms of noise and traffic, and noted a significant decrease in open space when the project is completed. She encouraged rezoning the property to R1 (Single-Family Residential) to ensure that the lots are not overbuilt and would promote single owner occupied housing. Ms. Refakes was concerned about air pollution and other hazardous particulates that would be released into the environment during demolition, and commented that the turnaround area did not appear to be large enough to accommodate large vehicles.

Joelle Frankel, Costa Mesa, observed that drainage could be a problem and suggested additional conditions of approval: that a temporary fence should be installed during construction; all construction vehicles should park on the subject property and not on the easement; and that Myran Drive be used only for ingress and egress to residences, and for utility and public safety purposes.

Martin Millard, Costa Mesa, stressed the importance of proper access by fire trucks, agreeing that the easement should be fully paved.

Gianna Gonzales Wood, a frequent visitor to a home on Myran Drive, stated that she enjoys the private, lush, and beautiful park-like setting on the street. She asked that the easement be maintained.

Shane Reuben, Seal Beach, a frequent visitor to a home on Myran Drive, urged Council to deny the project as it is not consistent with the character and continuity of the neighborhood. He asked that if the project is approved, Council include additional conditions of approval which address property owner concerns.

Tiny Hyder, Costa Mesa, related a recent incident where the Paramedics were called but had difficulty accessing her home, stressing the importance for the need of the "turn-around at the end of the easement.

Linus Phillips, Costa Mesa, felt that the area was unique, and affirmed that the properties have been in families for decades.

Pamela Frankel, Costa Mesa, opposed ZA 04-15 because it does not meet design guidelines, is not compatible nor harmonious with the older, rural neighborhood, and will have an adverse effect on privacy. She reviewed her letter dated July 19, 2004, and responded to questions from Council.

Discussion ensued regarding ownership of the hedge between 2166 and 2172 Myran Drive and the turnaround area on Myran Drive. Joelle Frankel clarified for Council Member Scheafer that it is not necessary to go to the end of the street to turn around, and indicated that the problem is primarily with guests of residents parking in the easement.

The Acting City Attorney responded to a question from the Mayor by stating that City Council has the authority to require that the easement be paved if it is justified by the need to use it for the proper circulation in the area.

MOTION/Adopted
Resolution 04-50

A motion was made by Mayor Monahan, seconded by Mayor Pro Tem Mansoor, to uphold the Planning Commission's approval of Minor Design Review ZA-04-15 by adopting Resolution 04-50: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING MINOR DESIGN REVIEW ZA-04-15, as amended to include a Condition of Approval that the current width of the easement shall be maintained, and repaved, to bring the easement up to current standards and clarified that the paving shall extend to the northerly end of the property line, and include the existing "turn-around".

Mayor Pro Tem Mansoor had difficulty understanding why cars could not execute a turn using a driveway, making, in effect, a three-point turn, and questioned why they had to proceed to the end of the cul-de-sac.

Willard Chilcott, owner of 2172 Myran Drive, agreed that the three-point turnaround is applicable to all four lots. The Associate Planner responded to Mayor Pro Tem Mansoor who inquired as to why the Planning Commission did not provide conditions of approval for the turnaround area by stating that the Commission felt that because the issue concerns use of a private easement, they did not have the authority to make such a condition.

SUBSTITUTE
MOTION/To Revise
Condition of Approval
No. 3 Died

A substitute motion was made by Council Member Steel to modify Condition of Approval No. 3 to read: "The applicant shall submit the drainage plans to the owner of the property at 2155 Myran Drive for review and input prior to approval by the City's Building Official." The motion died for lack of a second.

Council Member Cowan asked if the City can add a condition which stipulates that someone other than the property owner has the right to review and provide input prior to approval by the Building Official. The Development Services Director replied that Uniform Building Code regulates grading, and the City does not have the authority to request that input be received from a neighboring property owner. He added that there is a condition of approval which addresses the requirement of drainage plans.

A substitute motion was made by Council Member Steel to modify Condition of Approval No 4 as follows: "All hydrology and drainage studies shall be submitted to the owner of the property at 2166

SUBSTITUTE
MOTION/To Revise
Condition of Approval
No 4 Died

Myran Drive for consideration and input to the City.” The substitute motion died for lack of a second.

SUBSTITUTE
MOTION/To Revise
Condition of Approval
No. 9 Died

A substitute motion was made by Council Member Steel to modify Condition of Approval No. 9 to read, "Plans shall be submitted to the owner of property at 2166 Myran Drive, as well as all other affected property owners on Charle Street, for their input with respect to the efforts undertaken to minimize the intrusion on the privacy of the abutting property owners prior to City staff determination that all efforts have been made to maintain the privacy of abutting property owners." The substitute motion died for lack of a second.

SUBSTITUTE
MOTION/Modified
Condition of Approval
No. 15, Adding Tem-
porary Fencing

A substitute motion was made by Council Member Steel, seconded by Council Member Cowan, and carried 3-2, Mayor Pro Tem Mansoor and Council Member Scheafer voting no, to modify Condition of Approval No. 15 to read, "At the time of removal of any separation barrier including, but not limited to existing fencing, structures or property line hedges, a temporary chain link security fence, minimum six feet high, shall be put in place prior to demolition permit being issued for the property, to separate the subject property from 2166 Myran Drive, which shall remain in place until property line walls or fences have been constructed."

SUBSTITUTE
MOTION/To Add a
Condition for Parking
Died

A substitution motion was made by Council Member Steel to add the following condition of approval: "The parking of construction vehicles is not permitted in Myran Drive and shall be maintained outside of the easement area for Myran Drive at all times." The substitute motion died for lack of a second.

SUBSTITUTE
MOTION/To Revise
Condition of Approval
No 13 Died

A substitute motion was made by Council Member Steel to revise Condition of Approval No. 13 as follows: "The Planning Division shall use all efforts, including minor redesign of the project, to maintain existing mature vegetation." The substitute motion died to lack of a second.

SUBSTITUTE
MOTION/To Revise
Condition of Approval
No. 12 Died

A substitute motion was made by Council Member Steel, seconded by Mayor Monahan, to revise Condition of Approval No. 12 to read: "Applicant shall provide a paved driveway surface within the private street known as Myran Drive extending from the subject property to Victoria Street, a minimum of 25-feet in width, to the northerly property line of the subject property, including the additional four foot wide turnaround area currently at or near the northerly portion of existing Myran Drive. No automobile or vehicular parking shall be allowed on Myran Drive."

After discussion, Mayor Monahan withdrew his second, and the substitute motion died.

SUBSTITUTE
MOTION/To Revise
Condition of Approval
No. 10 Died

A substitute motion was made by Council Member Steel to revise Condition of Approval No. 10 as follows: "A second unit is not permitted on this lot because the lot area does not meet the minimum lot area even for lots existing as of March 16, 1992. No additional units will be permitted without a variance." The substitute motion died for lack of a second.

Mayor Monahan questioned if the City had the authority to maintain the easement. The Acting City Attorney opined that the City does have that authority. Mayor Monahan was still concerned that it is private property and a private easement for which a public entity is making conditions, however, believed that a need had been shown, noting that the easement was owned by all four property owners.

Regarding the substitute motions, he stated that he did not believe the City had the authority to approve the majority of the substitute motions.

Mayor Pro Tem Mansoor supported the original motion, stating that the project complies with the City's design standards. He believed that vehicles can make a turnaround utilizing a driveway and emergency vehicles should be able to back out without a problem. He thought that appeals should be the exception, not the rule, supported a renewed focus on property rights, and observed that this project is good for the west side and for the City.

Council Member Steel felt that the project is too intrusive and believed that "anybody has a right to appeal". He felt that he has an obligation to appeal projects which have a "real impact" on the neighborhood.

Council Member Cowan supported the original motion but was concerned about the compatibility of the project although it does meet requirements, and believed that the two additional changes to the conditions of approval are appropriate. She commented that the appeals process is allowed by code, and being appealed by a Council Member or a Planning Commissioner is no different than an appeal by a neighbor.

Council Member Scheafer supported the motion but was reluctant regarding paving to the end of the turnaround. He asked all four residents to take personal responsibility to control the parking situation.

The original motion carried 4-1, Council Member Steel voting no.

Council Member Cowan asked staff to determine if there is a majority of Council Members who are interested in exploring the rezoning of Myran Drive to R1, and to bring the matter back to a Council meeting.

The Deputy City Clerk presented from the meeting of July 6, 2004, second reading and adoption of Ordinance 04-8, adopting Rezone Petition R-04-04.

OLD BUSINESS

Rezone Petition R-04-04

MOTION/Adopted
Ordinance 04-8

On motion by Mayor Monahan, seconded by Council Member Cowan, and carried 4-1, Council Member Steel voting no, Ordinance 04-8 was given second reading and adopted: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING REZONE PETITION R-04-04 CHANGING THE ZONING OF 2436 NEWPORT BOULEVARD TO MEDIUM, MULTI-FAMILY RESIDENTIAL (R2-MD).

The Deputy City Clerk presented the Eastside Biennial Traffic Monitoring Report. The Public Services Director reviewed the Agenda Report dated July 19, 2004.

NEW BUSINESS

Traffic Monitoring
Report

Mayor Monahan felt that an good amount of staff time is spent on this report which is received and filed every year. He recommended discontinuing the report unless there is a specific need. Mayor Pro Tem Mansoor thought that eastside traffic should be monitored if not every two years, at least every three or four years.

Beth Refakes, Costa Mesa, urged Council to continue monitoring eastside traffic, stating that it indicates the trends on certain streets. She added that when the average daily traffic is

ascertained, additional traffic generated by a specific project can be monitored.

Sam Clark, Costa Mesa, agreed with the Mayor Pro Tem that the number of times the study is performed could be reduced, suggesting every four years.

MOTION/Received
and Filed

A motion was made by Mayor Monahan, seconded by Council Member Steel, and carried 4-1, Council Member Cowan voting no, to receive and file the report and to discontinue the requirement for an Eastside Biennial Monitoring Report except when the study is requested by the City Council.

Mayor Monahan commented that the eastside will always have cut-through traffic which worsens every year because the City is growing. He stated that the project at Orange Avenue and 16th Street will be required to do a traffic study, and did not understand the need for this monitoring report. Council Member Cowan appreciated the intent to eliminate "busy work" but would have preferred if the number of reports had been reduced to one every four years, not eliminated. Mayor Pro Tem Mansoor thought that a report could be generated upon request.

The Deputy City Clerk presented the 2003-2004 Fourth Quarter Community Objectives Update. The Finance Director reviewed the Agenda Report dated July 13, 2004.

NEW BUSINESS
Community Objectives

On motion by Mayor Monahan, seconded by Council Member Steel, and carried 5-0, the report was received and filed, and staff was directed to place future Quarterly Community Objectives Updates on the Consent Calendar.

MOTION/Received
and Filed

Mayor Monahan announced that pursuant to Section 54957.6 of the California Government Code, a closed session has been scheduled for the City Council to confer with the City's Representatives Steve Hayman, Assistant City Manager, and Steve A. Filarsky, regarding labor negotiations with the following representatives: Costa Mesa City Employees Association, Costa Mesa Firefighters Association, Costa Mesa Police Association, and the Costa Mesa Police Management Association.

NEW BUSINESS
Request for Closed
Session: Labor
Negotiations

Mayor Monahan announced that the item would trail until after Council Comments.

ADJOURNMENT TO
CLOSED SESSION

At 9:30 p.m., Mayor Monahan adjourned the City Council meeting to a closed session in first floor Conference Room A, for the City Council to confer with the City's Representatives Steve Hayman, Assistant City Manager, and Steve A. Filarsky, regarding labor negotiations with the following representatives: Costa Mesa City Employees Association, Costa Mesa Firefighters Association, Costa Mesa Police Association, and the Costa Mesa Police Management Association.

At 10:40 p.m., Mayor Monahan reconvened the meeting and announced that no action was taken during the closed session regarding the labor negotiations.

MEETING
RECONVENED

The Mayor declared the meeting adjourned at 10:43 p.m.

ADJOURNMENT

