

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

MAY 3, 2004

The City Council of the City of Costa Mesa, California, met in regular session May 3, 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 Cowan, and a moment of solemn expression lead by the Reverend Barbara Stewart, St. John the Divine Episcopal 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

PUBLIC HEARING
Regulation of Fire-
works Sales

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider an ordinance amending the Costa Mesa Municipal Code Chapter II, Article 8, of Title 9, regulating fireworks sales; and a resolution adopting Council Policy 400-2 regulating fireworks sales. Communications were received from Donald and Mildred Nicholson, Costa Mesa, asking Council to ban fireworks in Costa Mesa; and Jeanine Bass, via e-mail, submitting her letter which was sent to the Daily Pilot in support of continuing the tradition of fireworks. The City Manager and Acting City Attorney summarized the Agenda Report dated April 28, 2004. The Acting City Attorney proposed adding a definition of "youth", specifying persons 18 years or younger, and updating the provision for insurance to a minimum of \$1 million coverage, combined single limit. Regarding incorporating provisions governing fireworks in a Council Policy, the Acting City Attorney stated that it is more convenient to place some of the minor regulations in a policy which is subject to revisions at a later date. He confirmed that citizens have the ability through an initiative to ban fireworks. The Fire Marshall and the City Manager responded to questions from Council.

Council Member Cowan observed that it is necessary to read several documents to ascertain all of the City's rules and regulations pertaining to fireworks. She confirmed with the Acting City Attorney that this information could be combined into one ordinance making it easier for persons to determine the requirements. Council Member Cowan also asked if staff had researched the creation of a community-wide program as an alternative, which would provide youth groups access to booths, including a large display similar to the City's 50th anniversary CostAmazing celebration held at the Orange County Fairgrounds. The City Manager responded that specific research has not been conducted, reporting that the last City-wide events had been hosted by the Kiwanis Club at Orange Coast College and were discontinued after three years due to lack of community interest.

Council Member Cowan expressed her appreciation of fireworks but acknowledged that it is "time we move on and do something different". She objected to the fact that illegal fireworks cannot be controlled nor can the discharge of fireworks at other than the

approved time periods. She recognized the larger problem of debris. Council Member Steel thought that the greater problem is the illegal fireworks which are more dangerous than the safe and sane. He proposed sending a letter to every household in the City notifying them of the severity of illegal firework violations. Council Member Scheafer believed that the sale of safe and sane fireworks provides "much needed funding for these groups." He asked the Fire Marshall to determine that if fireworks were banned, what the savings to the City would be in regards to cleanup activities; reported that he had discussed fireworks with a Council Member from the City of Gillroy who indicated that only assortments are sold in their City; and asked for information regarding the possibility of instituting a fee which would be a percentage of the total sales.

The following Costa Mesa residents offered negative observations involving the sale of fireworks: Helen Evers advised that it is impossible to enforce the sale of fireworks; Mike Berry reported that there is a fire every 4th of July in his neighborhood; Judi Berry reported that she knew of two fires which were caused by legal fireworks bought at local stands; Anne Hogan-Shereshevsky read an article which stated that the Orange County Fire Marshal advocates abolishing the sale of all fireworks in the remaining Orange County cities where fireworks are legal; Terry Shaw felt that the situation is out of control; and Sandra Genis mentioned the costs incurred which are directly related to fireworks such as paramedic fees, and animal control, and opined that passing a new ordinance is useless.

The following Costa Mesa resident supported the sale of fireworks: Lou Desandro, representing Costa Mesa High School Baseball Boosters, and the Costa Mesa Pony Baseball League, who together operate a fireworks stand each year, questioned limiting the number of stands; Audrey Buck, representing the music program at Estancia High School; Liz Parker, representing Newport Harbor High School Baseball Boosters, commended the City for holding a town hall meeting on Wednesday, May 05, 2004, concerning fireworks issues; Gary Spenser, representing Costa Mesa High School Aquatics Program; Ramsey Degeare; and Igal Israel, Costa Mesa.

Addressing Section 9-190(d) of the proposed ordinance, John Kelly, of TNT Fireworks, Fullerton, questioned concluding sales at 8:00 p.m. on the 4th of July instead of the previous deadline of midnight. He asked who would enforce that rule and what is the punishment for violation. Regarding the term "homogeneous package" referred to in the Regulations, he asked if the Fire Chief makes the determination as to what that includes. Mayor Monahan assured Mr. Kelly that he would have a response to his questions prior to the meeting on Wednesday. Mr. Kelly encouraged the City of Costa Mesa, in conjunction with the County of Orange and Los Angeles County, to provide resources for ongoing efforts that are making a difference in the control of illegal fireworks.

Council Member Scheafer advised that there had been too many fireworks stands in 2003, and clarified that the City's options are to ban fireworks or to modify the ordinance to require more accountability. He thought that four stands per high school is a viable alternative.

Mayor Pro Tem Mansoor appreciated the public comments, and thanked Council Member Scheafer for bringing this item forward.

He indicated that he is not ready to ban fireworks, and urged personal and parental responsibility in connection with their use. He mentioned the patriotic aspect, and objected to canceling the fundraising aspect until alternate means are identified. Mayor Pro Tem Mansoor opposed prohibiting the sale of hand-held devices and spinners at this time. Regarding reducing the number of stands, he believed that new groups should not be denied the chance to raise funds by selling fireworks, concurred with limiting the number of stands per high school to four, agreed that 80 percent of the members of an organization selling fireworks should be Costa Mesa residents, was concerned about the "youth only" requirement when applying for a permit, and thought that 40 stands total would limit the visual blight.

MOTION/Gave Ordinance 04-5 First Reading; Adopted Resolution 04-30

On motion by Council Member Scheafer, seconded by Council Member Steel, and carried 3-2 Mayor Pro Tem Mansoor and Council Member Cowan voting no, Ordinance 04-5 was given first reading: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING CHAPTER III, ARTICLE 8, OF TITLE 9, OF THE COSTA MESA MUNICIPAL CODE REGULATING FIREWORKS SALES, adding Subparagraph (e) to Section 9-179, defining "youth" as a person 18 years or younger, and modifying Section 9-189 to update the insurance requirement to a minimum of \$1 million coverage, combined single limit; and Resolution 04-30 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING A COUNCIL POLICY REGULATING FIREWORKS SALES, adopting Council Policy No. 400-2.

Council Member Steel supported the motion, suggesting that Costa Mesa work with the Police and Fire Departments of surrounding cities to address fireworks issues. He commented that the sale of safe and sane fireworks allows a "cushion" against the growth in sales of illegal fireworks.

Mayor Pro Tem Mansoor opposed the motion for the reasons that he stated previously. Council Member Cowan opposed the motion, questioned the means to enforce the 8:00 p.m. closure on July 4th, and encouraged incorporating the Council Policy sections into the ordinance. She felt that Council is premature in adopting the resolution and approving the Council Policy. Mayor Monahan clarified with the Acting City Attorney that recommendations from the meeting on Wednesday, May 5, 2004, may be addressed when second reading of the ordinance is considered at the Council meeting of May 17, 2004. Mayor Monahan complimented Council Member Scheafer for addressing this issue, calling the approach reasonable.

The City Manager confirmed that the meeting regarding fireworks would be held on Wednesday, May 05, 2004, 5:00 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. He added that notices have been forwarded to the fireworks manufacturers and to those organizations who have held permits in the past, as well as being open to the public, Council will not be in attendance, and members of staff will conduct the meeting. Mayor Monahan clarified that this meeting is intended to relay informational material to the groups most affected by the ordinance, not a meeting to debate whether to ban fireworks.

Mayor Monahan declared the meeting adjourned at 11:12 p.m.

ADJOURNMENT

