

August 1, 2006

**MINUTES OF AN ADJOURNED REGULAR
MEETING OF THE TORRANCE CITY COUNCIL**

1. CALL TO ORDER

The Torrance City Council convened in an adjourned regular session at 7:00 p.m. on Tuesday, August 1, 2006 in City Council Chambers at Torrance City Hall.

ROLL CALL

Present: Councilmembers Brewer, McIntyre, Nowatka, Sutherland, Witkowsky, and Mayor Scotto.

Absent: None.

Also Present: Assistant City Manager Giordano, Assistant City Attorney Pohl, City Clerk Herbers, and other staff representatives

2. FLAG SALUTE

The Pledge of Allegiance was led by General Services Director Sheryl Ballew.

Captain Ivan Wild, Salvation Army, gave the non-sectarian invocation.

3. AFFIDAVIT OF POSTING/WAIVE FURTHER READING

MOTION: Councilmember Sutherland moved to accept and file the report of the City Clerk on the posting of the agenda for this meeting. The motion was seconded by Councilmember Witkowsky and passed by unanimous roll call vote.

MOTION: Councilmember Sutherland moved that after the City Clerk has read aloud the number and title to any resolution or ordinance on the meeting agenda, the further reading thereof shall be waived, reserving and guaranteeing to each Councilmember the right to demand the reading of any such resolution or ordinance in regular order. The motion was seconded by Councilmember Witkowsky and passed by unanimous roll call vote.

4. ANNOUNCEMENT OF WITHDRAWN AND DEFERRED ITEMS

None.

5. COUNCIL COMMITTEE MEETINGS AND ANNOUNCEMENTS

Police Chief Herren announced that this was National Night Out and invited residents to attend Neighborhood Watch events being held at 12 locations throughout the City between 7:00 p.m. and 9:00 p.m. He also encouraged them to turn their porch lights on during this time period as a sign of neighborhood unity in the fight against crime.

Fire Division Chief Thompson reminded the public that ExxonMobil would be conducting the monthly siren testing on Wednesday, August 2, at approximately 11:30 a.m.

City Clerk Herbers announced that the vacancy on the Civil Service Commission would be brought to the City Council for appointment on Tuesday, August 15, and that the term would be from the date of appointment to January 15, 2008.

7. CONSENT CALENDAR

7A. AMENDMENT TO FEE AGREEMENT WITH RUTAN & TUCKER

Recommendation

Recommendation of the City Attorney that City Council approve the Third Amendment to the fee agreement with the law firm of Rutan & Tucker (C2004-179) to provide legal services in the case of Time Warner v. City of Torrance in the additional amount of \$25,000 for a total contract amount not to exceed \$119,000.

7B. INVESTMENT REPORT FOR JUNE 2006

Recommendation

Recommendation of the City Treasurer that City Council accept and file the monthly investment report for the month of June 2006.

7C. PURCHASE AGREEMENT FOR ANNUAL SUPPLY OF T-SHIRTS, SWEATSHIRTS, JACKETS AND COLLARED SHIRTS

Recommendation

Recommendation of the Community Services Director that City Council authorize a purchase agreement with Custom Embroidery and Screen Printing by Icon, in Torrance, for the purchase of T-shirts, sweatshirts, jackets and collared shirts, for an annual amount not to exceed \$100,943.74.

7D. PURCHASE ORDERS RE CONVERSION OF REFUSE COLLECTION TRUCKS

Recommendation

Recommendation of the General Services Director and the Public Works Director that City Council:

- 1) Approve a sole source purchase order with Rush Truck Center of Pico Rivera, CA in an amount not to exceed \$403,806.23, including sales tax and a five percent (5%) contingency, for conversion of six (6) existing Peterbilt Refuse Truck Cab and Chassis to accommodate newly-installed Automated Side-Loader Truck Bodies; and
- 2) Approve a sole source purchase order with Bodyworks Equipment of Monrovia, CA in an amount not to exceed \$720,642.42, including sales tax, to remove six (6) existing Front-Loader Refuse Collection Truck Bodies and install six (6) new Heil 33YDx DuraPack 7000 Eject Automated Side-Loader Truck Bodies.

7E. ADOPTION OF TORRANCE TRANSIT'S OVERALL ANNUAL DBE GOAL

Recommendation

Recommendation of the Transit Director that City Council approve the Overall Annual DBE Goal of 2% of Federal Fiscal Year 2006-2007, developed in conformance with revised Title 49 CFR Part 26 provisions; Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation (DOT) Programs and New Policy Race Neutral Directives, for submission to the funding operating administration, the Federal Transit Administration (FTA).

7F. RENEWAL OF DELINQUENCY PREVENTION PROGRAM CONTRACT

Recommendation

Recommendation of the Chief of Police that City Council accept, endorse, and appropriate the County of Los Angeles Delinquency Prevention Program contract in the amount of \$29,070.

MOTION: Councilmember Witkowsky moved for the approval of Consent Calendar Items 7A through 7F. The motion was seconded by Councilmember McIntyre and passed by unanimous roll call vote.

11. ADMINISTRATIVE MATTERS

11A. SCHEDULING OF COMMUNITY OUTREACH MEETING

Recommendation

Recommendation of the City Manager that City Council set October 24, 2006, at 7:00 p.m. in the North Torrance High School Library for the first Community Outreach Meeting of the City Council. (*Supplemental material*)

Cable and Community Relations Manager Smith reported that staff was recommending that the first Community Outreach Meeting of the City Council be held in the North Torrance High School Library on October 24, 2006.

Councilmember Witkowsky voiced support for periodically holding City Council meetings at other locations in the community, noting that this form of community outreach has been very successful in the past.

MOTION: Councilmember Witkowsky moved to concur with the staff recommendation. The motion was seconded by Councilmember McIntyre and passed by unanimous roll call vote.

11B. TORRANCE TRANSIT'S FY 2006-07 CLAIM FOR TRANSPORTATION DEVELOPMENT ACT AND STATE TRANSIT ASSISTANCE FUNDS

Recommendation

Recommendation of the Transit Director that City Council authorize the City Manager to execute and the Transit Department to submit the annual claim to the L.A. County Metropolitan Transportation Authority (Metro) for \$5,291,526 in Transportation Development Act (TDA) funding and \$637,764 in State Transit Assistance (STA) funding for the Torrance Transit System in FY 2006-2007.

MOTION: Councilmember McIntyre moved to concur with the staff recommendation. The motion was seconded by Councilmember Brewer and passed by unanimous roll call vote.

11C. OPPOSITION OF AB 1368 RE DISABILITY PAYMENTS

Recommendation

Recommendation of the Human Resources Director that City Council oppose AB1368 which allows for disability payments for non-employment related medical conditions.

Workers Compensation Program Administrator Rizzo briefly summarized AB1368, which would exempt police officers and firefighters from current legislation which allows the apportionment of permanent disability awards for medical conditions associated with presumptive injuries when there are contributory factors that are non-employment related.

In response to Councilmember Witkowsky's inquiry, Ms. Rizzo clarified that the apportionment for presumptive injuries applies to permanent disability awards only; that medical expenses and lost wages for presumptive injuries are completely covered; and that safety employees are covered for presumptive injuries for up to 60 months after they retire or leave the City's employ.

MOTION: Councilmember Witkowsky moved to concur with the staff recommendation. The motion was seconded by Councilmember Brewer and passed by unanimous roll call vote.

11D. SALARY MODIFICATIONS FOR ELECTED OFFICIALS

Recommendation

Recommendation of the City Manager that City Council provide direction with respect to the timeframe of the salary resolution and to salary modification for Elected Officials that also serve as department heads. (*Supplemental material*)

Assistant City Manager Giordano advised that staff was recommending that the timeframe of the salary resolution for elected officials who also serve as department heads (City Clerk and City Treasurer) be changed to coincide with the City's fiscal year and requested that the Council provide direction regarding salary modification.

In response to Councilmember Witkowsky's inquiry, Assistant City Manager Giordano confirmed that that a survey of other local cities revealed that the base pay for Torrance's City Clerk and City Treasurer are below the median base pay for comparable positions.

MOTION: Mayor Scotto moved that compensation for elected officials who also serve as department heads be adjusted by 3.5% effective immediately to June 30, 2007. The motion was seconded by Councilmember Witkowsky and passed by unanimous roll call vote.

11E. RECONSIDERATION OF PROPOSED AMENDMENT TO MUNICIPAL CODE RELATING TO ISSUANCE OF BUSINESS LICENSES

Recommendation

Recommendation of the City Manager that City Council address the issue of reconsideration of previous action related to a proposed amendment to the Municipal Code relating to the issuance of business licenses. If reconsideration is agreed to, the City Council should address the original item that is attached.

MOTION: Councilmember Nowatka moved to reconsider the proposed amendment to the Municipal Code originally considered on July 18, 2006. The motion was seconded by Councilmember Brewer and passed by unanimous roll call vote.

Police Chief Herren reported that the Police Department was recommending that the Council adopt the proposed amendment clarifying the City's business license ordinance to ensure that licenses are not issued to any business that violates state or federal law. He explained that the amendment was intended to address concerns about an existing Torrance business distributing marijuana for medical purposes in conflict with a ruling from the United States Supreme Court, which indicated that such a practice is in violation of the Federal Controlled Substance Act.

Mayor Scotto invited comments from the audience, asking that speakers limit their remarks to three minutes.

Laurie Storely, Lawndale, reported that she has multiple sclerosis, scoliosis and arthritis, and medical marijuana has helped relieve her symptoms and allowed her to avoid becoming addicted to stronger pain medications.

Spencer Chan, Grand Summit Road, stated that he did not want drugs distributed in Torrance for any reason, relating his understanding that there are other ways to treat medical ailments.

Jan Matthews (no speaker card) stated that marijuana is much more effective in relieving intense pain and other symptoms related to a brain injury and has fewer side effects than the prescription medications she used to take.

Don Duncan, Los Angeles, Southern California Coordinator for Americans for Safe Access, maintained that there is no correlation between a well-run medical marijuana dispensary and increased crime or drug use and cited a USA Today report that marijuana use among teenagers has decreased since the passage of Proposition 215 (Compassionate Use Act). He contended that the best course of action was to regulate medical marijuana dispensaries rather than banning them and allowing a "black market" to develop, noting that several other cities and counties have taken steps to do so. He related his belief that there is nothing in the U.S. Supreme Court ruling that would prevent the implementation of Proposition 215 and recommended that a moratorium be enacted to allow time for the drafting of appropriate regulations that protect both the community and patients.

Josh Shriber, Redondo Beach, reported that he uses medical marijuana for symptoms associated with a brain injury and urged the Council not ban dispensaries.

Richard Kearns, Los Angeles, AIDS activist and member of Americans for Safe Access, maintained that medical marijuana is a matter of life and death for HIV/ AIDS patients, citing statistics that indicate that they are 3.3 times more likely to stick with their drug regimens if they use medical marijuana. He estimated that there are approximately 25,000 people in Los Angeles who could benefit from this treatment and urged the Council to regulate dispensaries rather than banning them.

Amanda Brazel, L.A. County Field Coordinator for Americans for Safe Access, reported that physicians are not allowed to prescribe marijuana for their patients and pharmacies cannot dispense it, therefore, an alternative source is needed for those patients who rely on it to relieve their suffering. She expressed concerns that these patients will have to obtain marijuana from street dealers if dispensaries continue to be shut down, noting that the dispensary in Redondo Beach recently closed. She urged the Council to have compassion for the seriously ill and dying patients who need this medicine.

Tony Arguelles, Anza Avenue, sought to dispel stereotypes about marijuana users, explaining that he is a medical marijuana user, who is also a single father, a Republican and a small business owner. He disputed the idea that marijuana is a dangerous drug, contending that there is overwhelming scientific evidence that marijuana is an effective medicine and extremely safe. He maintained that the only reason it has not been legalized is because the pharmaceutical, tobacco, and alcohol industries fear it would drastically reduce their profits. He related his experience that marijuana is the only medicine that controls his asthma and, at the same time, allows him to be a good father to his daughter.

Anita Thomas, Marjorie Avenue, indicated that she supports the Police Chief's recommendation as he is charged with protecting residents and she respects his judgment and that she also respects the judgment of the FDA (Federal Drug Administration) the only agency charged with determining whether a drug is safe and effective.

A resident (name not given/ no speaker card) voiced support for allowing safe access to medical marijuana, noting that he uses medical marijuana to combat stress associated with spinal injuries.

Steven Smith, Redondo Beach, reported that medical marijuana relieves the pulsating sensation in his damaged eye and allows him to lead a more normal life. He suggested that banning dispensaries would only encourage street dealers and increase their profits.

Greg Storely, Lawndale, stated that he first used marijuana when he was a young teenager to combat an eye injury and now uses it to relieve pain from injuries sustained in an accident involving a drunk driver. He reported that his IQ has actually gone up over the years and cited this as evidence that long-term marijuana use does not affect one's intelligence. He urged that medical marijuana be regulated, not banned.

Bob Burrill, San Pedro, reported that his wife has major medical problems and marijuana relieves her pain and improves her appetite. He stressed the need for safe and convenient access to this medicine.

Gabriel Guzman, Hawthorne, stated that he uses medical marijuana for a severe gastrointestinal disorder and urged compassion for patients who need this medication.

John Shearer, Manhattan Beach, reported that marijuana is the only thing that has been effective in controlling his epilepsy and urged the Council to allow him to obtain it in a convenient and legal way.

Newt Young, Hickory Avenue, stated that he strongly supports the proposed ordinance because he believes it is important that Torrance not become a haven for marijuana users. He disputed the claim that marijuana is a medicine, maintaining that it is a mind-altering, entry-level drug that can lead to the use of cocaine and heroin. He expressed concerns that dispensaries would pop up in storefronts throughout the City if the Council fails to take action and it would be impossible to police them. He suggested that there must be another method of dispensing marijuana to those who believe they derive some medical benefit from it, possibly through pharmacies.

Nina McCoy, 220th Street, voiced support for the proposed ordinance. She related her experience with relatives who formerly used marijuana, resulting in failing grades, lack of initiative, and heroin addiction. She expressed concerns that marijuana could be easily obtained from dispensaries for recreational use simply by producing a letter from a doctor.

Jonathan Call, attorney for Green Cross of Torrance, contended that the City was attempting to regulate an area that has been expressly preempted by California law, citing the Supreme Court's interpretation of Article 11, Section 7 of the California Constitution, which states, "In an area of statewide concern, a local legislative body may act only if the state has not revealed an intention to occupy the field to the exclusion of the local regulation." He quoted from SB 420, Section I, as evidence of the state's preemption on this issue.

Mr. Call also contended that the proposed ordinance was overly broad because it includes no provision for dealing with existing operations, such a Green Cross that may be in violation of the ordinance, and it does not leave open any possibility for licensing businesses when there a conflict between local, state and federal law. He noted that other cities have dealt with dispensaries as a zoning issue, but the City's ordinance appears to preclude any alternative means by which a business can obtain a license, such as the Conditional Use Permit process. He urged the City to regulate access to medical marijuana, not prevent it. He reported that Green Cross obtained a Torrance business

license in February 2006, having fully disclosed the nature of the business; that Green Cross subsequently relied on this business license when executing contracts; and that Green Cross intends to take all necessary actions to protect its rights.

Asked to comment on the claim that state law has preempted local action on this issue, Assistant City Attorney Pohl stated that although Mr. Call has argued that state law trumps local law, the U.S. Supreme Court has opined that federal law trumps state law in this matter. He explained that Proposition 215 did not grant Californians a constitutional right to medical marijuana, but rather created a defense in a criminal action, which provides that under certain circumstances, people charged with using, possessing or distributing marijuana cannot be prosecuted, and that the U.S. Supreme Court subsequently ruled that there is no exemption to the Federal Controlled Substance Act for medical marijuana, therefore it remains a federal crime.

The Council recessed from 8:25 p.m. to 8:35 p.m.

Jonathan Kim (no speaker card) explained that he is a medical marijuana user who has had a very successful high school career and will soon be attending college at U.C. Berkeley.

Sondra Martinez (no speaker card) expressed support for allowing medical marijuana dispensaries in Torrance.

Ann Lau, Grand Summit Road, voiced support for the proposed ordinance. She reported on a Columbia University study that revealed that adolescents who smoke marijuana are far more likely to use cocaine. She explained that marijuana is much more potent than it was in the 1960s due to a greater concentration of the active ingredient and expressed concerns about the harmful effects of drug use on society. She noted that many people have the ailments mentioned by the proponents of medical marijuana, but they do not use marijuana and suggested that other alternatives should be considered, including oriental medicine and acupuncture.

Ted Kim, Anza Avenue, stated that he is a high school student, who has done research on marijuana, and has learned that it is one of the safest drugs around and a very effective treatment for some neurological conditions. He maintained that there was no logical reason why it should be illegal.

Christopher Drong, Carson Street, stated that California voters approved the use of medical marijuana and the City should not attempt to override their vote. He noted that the City bears no risk of being prosecuted by the federal government because only the owner of the dispensary could be prosecuted. He suggested that closing the dispensary would only enrich gang members who profit from the sale of illegal drugs and disputed the idea that marijuana is a gateway drug.

June Lee, Vanderhill Road, voiced support for the proposed ordinance, noting that two elementary schools are within three blocks of the existing dispensary in Torrance. She pointed out that only 6 of the 18 people, who submitted letters in support of the dispensary, live in Torrance; that only 4 listed specific ailments; and that all of the letters were mailed from Santa Clarita on the same date. She related her understanding that there are currently 6 dispensaries approximately 3 to 10 miles from Torrance. She reported that there are several doctors in the area who will provide documentation for medical marijuana use and questioned why no doctors or medical personnel have appeared at this hearing extolling marijuana's benefits if it's such a valuable medication. She expressed concerns

that the dispensary will bring more crime to the City, noting that the dispensary plans to offer home delivery and deliverymen could be easy targets. She also expressed concerns about the effect on children who live with people who smoke marijuana on a regular basis. She urged the Council to support the Police Department's recommendation.

Laura See (no address given/ no speaker card) contended that the City was charged with enforcing state law over federal law.

Councilmember Witkowsky reported that she was very touched by those who spoke of their need for medical marijuana at the July 18 meeting; that she subsequently discussed the possibility of having the L.A. County Health Department dispense medical marijuana with Supervisor Don Knabe because she was not comfortable with having storefront dispensaries in Torrance; and that he indicated that he favored having hospitals dispense it and agreed to follow up on this issue.

Police Lieutenant Chase responded to questions from the Council regarding enforcement issues, explaining that people found to be in possession of marijuana would be dealt with on a case-by-case basis. He noted that ID cards for medical marijuana are easily counterfeited because there are no standards for these cards.

Responding to questions from the Council, Assistant City Attorney Pohl confirmed that it remains illegal to sell marijuana for profit in California. He explained that Proposition 215 granted patients or their primary care provider the right to possess and cultivate a certain amount of marijuana for use by the patient and that SB 420 allowed patients and care providers to act collectively to cultivate and distribute marijuana, however, it may not be sold for profit. He noted that the dispensary in Torrance lists the business as a sole proprietorship on the business license application despite the word "co-op" in its name and it is not clear whether it would qualify as a collective effort. He related his understanding that the state is now issuing ID cards with a letter from a physician verifying eligibility.

Councilmember Sutherland reported that he voted against the proposed ordinance at the July 18 meeting because he didn't want to go against the will of the voters who passed Proposition 215, however, after doing some research, he has changed his position. He stated that he believed the list of ailments treated by medical marijuana has gone far beyond what voters envisioned when they approved Proposition 215 and related his observation that most of the support for the dispensary has come from people who do not live in Torrance, while most of the opposition has come from Torrance residents. He noted that there are other dispensaries in the area, so those who need it will still be able to obtain it.

Voicing support for the proposed ordinance, Councilmember Brewer stated that he did not believe the City should become involved in the licensing of dispensaries until the differences in state and federal law have been resolved.

Councilmember McIntyre stated that she voted against the proposed ordinance at the July 18 meeting because she felt the matter might have been better handled as a zoning issue, however, since that time she has received a tremendous outpouring from Torrance residents who support the ordinance, and as a result, she has changed her position.

Councilmember Nowatka voiced support for the proposed ordinance, indicating that his decision was based on a desire to protect the standards and values of the community, not a lack of compassion. He related his belief that residents appreciate and want to maintain Torrance's squeaky clean reputation, noting the City's history of

opposition to tattoo parlors, porn shops and gambling. He disputed the claim that patients would be forced to buy marijuana from street dealers should the dispensary be closed as there are other dispensaries in the area. Commenting on his background in law enforcement, he noted that distributing marijuana remains a federal crime and stressed the importance of upholding the law.

Mayor Scotto reported that he received numerous phone calls from Torrance residents on this issue, the vast majority of whom were strongly opposed to having a marijuana dispensary in their city. He noted that callers were not all senior citizens as one might suspect, but also included high school students who felt that the drug was too easily obtained at dispensaries.

MOTION: Councilmember Nowatka moved to concur with the staff recommendation to adopt an ordinance clarifying the existing Municipal Code to insure that business licenses are not issued for the provision of any service, good, or product that is illegal under California or Federal law. The motion was seconded by Councilmember Witkowsky and passed by unanimous roll call vote.

ORDINANCE NO. 3684

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE AMENDING SECTIONS OF THE TORRANCE MUNICIPAL CODE RELATING TO THE ISSUANCE OF BUSINESS LICENSES

MOTION: Councilmember Nowatka moved for the adoption of Ordinance No. 3684. The motion was seconded by Councilmember Witkowsky and passed by unanimous roll call vote.

MOTION: Councilmember Nowatka moved to approve an ordinance summary for publication. The motion was seconded by Councilmember Witkowsky and passed by unanimous roll call vote.

The Council met as the Redevelopment Agency from 9:18 p.m. to 9:19 p.m.

16. ORAL COMMUNICATIONS

16A. Councilmember Nowatka asked for City Council concurrence to look into increased funding for Torrance Symphony at the 1st Quarter Budget Review. Hearing no objection, Mayor Scotto so ordered.

16B. Councilmember Nowatka announced a free Torrance Symphony performance at Wilson Park on August 27 at 1:30 p.m.

16C. Councilmember Sutherland requested, with the concurrence of the Council, that staff bring forward an agenda item to waive the Armstrong Theatre rental fees for the City Employee Variety Show benefiting the American Cancer Society.

16D. Councilmember Brewer announced the rededication of Lago Seco Park on August 26 at 10:00 a.m.

16E. Councilmember Brewer commended the City Clerk for making City Council agenda staff items available online each week.

16F. Councilmember McIntyre announced that *Grease* was opening at the Armstrong Theater on Saturday, August 5, and invited the public to attend.

16G. Mayor Scotto, with the concurrence of the Council, asked staff to prepare an analysis on televising the Planning Commission meetings within 90 days.

16H. Mayor Scotto reported that he had been contacted by Edison regarding the possibility of opening cooling centers during heat waves and asked for staff to bring back information regarding possible locations.

16I. Leo Lewis, Knolls Lodge Mobile Home Park, offered thanks to Mayor Scotto for his efforts to decrease their rental rates

Several residents of Knolls Lodge and Knolls Manor came forward to thank the Mayor as well.

17. EXECUTIVE SESSION

None.

18. ADJOURNMENT

At 9:36 p.m., the meeting was adjourned to Tuesday, August 8, 2006 at 5:30 p.m. for an executive session, with the regular meeting commencing at 7:00 p.m. in the Council Chambers.

Attest:

/s/ Frank Scotto

Mayor of the City of Torrance

/s/ Sue Herbers

Sue Herbers

City Clerk of the City of Torrance

Approved on September 26, 2006