

August 4, 2009

**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 7:03 p.m. on Tuesday, August 4, 2009 in City Council Chambers at Torrance City Hall.

ROLL CALL

Present: Councilmembers Barnett, Brewer, Furey, Numark, Rhilinger, Sutherland, and Mayor Scotto.

Absent: None.

Also Present: City Manager Jackson, Deputy City Attorney Sullivan, City Clerk Herbers, and other staff representatives.

2. FLAG SALUTE/INVOCATION

The flag salute was led by Girl Scout Troop #973.

Councilmember Rhilinger gave the non-sectarian invocation.

3. REPORT OF CITY CLERK ON POSTING OF THE AGENDA / MOTION TO WAIVE FURTHER READING

City Clerk Herbers reported that the agenda was posted on the Public Notice Board at 3031 Torrance Boulevard on Thursday, July 30, 2009.

MOTION: Councilmember Rhilinger 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 Furey and passed by unanimous roll call vote.

4. WITHDRAWN, DEFERRED OR SUPPLEMENTAL ITEMS

City Manager Jackson announced that Item 8C had been withdrawn and deferred to a later date.

5. COUNCIL COMMITTEE MEETINGS AND ANNOUNCEMENTS

Councilmember Barnett announced that the City Council Facility Naming Committee had met earlier in the day to discuss an application and a recommendation will be forwarded to the City Council for consideration in the near future.

Councilmember Barnett announced that the Ad Hoc City Council Committee for Commission Review will meet on Monday, August 24, 2009 at 7:00 p.m. in the Katy Geissert Civic Center Library Meeting Room to discuss the duties of each City commission/board/committee and the potential for consolidation.

Management Associate Barthe-Jones announced that Torrance Centennial Committee applications are available online at www.torranceca.gov/centennial and in the City Clerk's office and must be submitted by Wednesday, August 26, with appointments to be made on Tuesday, September 1.

Fire Chief Racowski announced that the ExxonMobil Torrance Refinery Monthly Community Alert Siren testing will take place on Wednesday, August 5, 2009 at approximately 11:30 a.m., with additional information available at 310.212.4756.

City Clerk Herbers invited the public to view the watercolors of Torrance Artist Guild member Magoo Valentine as a part of the continuing Art on View program in the City Clerk's office for the month of August.

Police Chief Neu announced that it was the 26th Annual National Night Out, held in conjunction with Neighborhood Watch program, and encouraged everyone to attend one of the twenty-one block parties going on in Torrance until 9:00 p.m.

6. COMMUNITY MATTERS

6A. RECOGNITION OF GIRL SCOUT TROOP #973

Mayor Scotto recognized Leigh Gaines, Kristie Wand, Katie Wand, and Marki Whetsell of Girl Scout Troop #973 for successfully completing their Gold Awards and each of the girls briefly described her Gold Award project.

7. ORAL COMMUNICATIONS #1

7A. Melanie Lapovich, Teens Against Cancer, encouraged everyone to attend a variety show fundraiser at El Camino College on August 8 at 7:00 p.m., with additional information available at www.teensagaincancer.org.

7B. Paul Stern, Torrance, voiced objections to the City's handling of his complaints about a neighbor who cut down a tree on his property without permission.

8. CONSENT CALENDAR

8A. JUNE 2009 MONTHLY INVESTMENT REPORT

Recommendation

Recommendation of the City Treasurer that City Council accept and file the monthly investment report for June 2009.

8B. CONTRACT AMENDMENT RE SMURFIT RECYLING COMPANY

Recommendation

Recommendation of the Public Works Director that City Council approve an amendment stating the proper legal name for Smurfit Recycling Company in the existing contract (C2007-115) for recycling services with the City.

8C. APPROPRIATION OF GRANT FOR TERRORISM LIAISON OFFICER TRAINING

Recommendation

Recommendation of the Fire Chief that City Council:

- 1) Accept and appropriate the Fiscal Year 2008 Urban Areas Security Initiative (UASI) federal grant in the amount of \$6,750 for terrorism liaison officer training; and
- 2) Authorize the City Manager to execute a subgrantee agreement with the City of Los Angeles.

Item was withdrawn and deferred to a later date.

MOTION: Councilmember Numark moved for the approval of Consent Calendar Items 8A and 8B. The motion was seconded by Councilmember Brewer and passed by unanimous roll call vote.

12. ADMINISTRATIVE MATTERS

12A. ADOPTION OF ORDINANCE RE MASSAGE THERAPY REGULATIONS

Recommendation

Recommendation of the Chief of Police and the Finance Director that City Council:

- 1) Adopt an Ordinance adding a new Article 14 of Chapter 5 of Division 3 of the Torrance Municipal Code relating to massage therapy regulations; and
- 2) Approve an ordinance summary for publication.

Councilmember Brewer noted that he was absent from the July 28, 2009 Council meeting when this matter was previously discussed, but had watched the videotape from that meeting and was prepared to participate in consideration of this item.

Assistant Finance Director Flewellyn reported that the information requested by the Council at the July 28 meeting has been provided in the staff report and noted supplemental material available at the meeting.

Referring to the survey of the hours of operation for massage establishments in Torrance, Redondo Beach, Hermosa Beach and Manhattan Beach, Mayor Scotto pointed out that closing times for Torrance establishments are later than in other nearby cities. He indicated that he favored a 7:00 p.m. closing time.

Assistant Finance Director Flewellyn noted that staff's recommendation for hours of operation was revised after the survey was conducted and the new recommendation is 10:00 a.m. - 9:00 p.m. Monday through Saturday and 10:00 a.m. - 10:00 p.m. on Sunday.

Councilmember Furey expressed concerns that limiting hours could hurt legitimate businesses that have been operating in Torrance for many years and related his belief that there were other ways to curb illegal activities.

Councilmember Sutherland voiced his opinion that a 9:00 p.m. closing time was a reasonable compromise.

Councilmember Brewer stated that he supported the 10:00 p.m. closing time as originally proposed and was more concerned about the proliferation of massage establishments than the hours of operation.

John Bailey, president of Southeast Torrance Homeowners Association, proposed revisions to §35.14.080 of the Ordinance concerning minimum lighting requirements for massage rooms/cubicles. He suggested specifying that one standard 40-watt white light bulb or equivalent must be used; that no strobe, flashing or colored lights are permitted; and that the light must be activated at all times the room/cubicle is in use.

Raymond Cordova, representing Imperial Spa, provided background information about the company, noting that they have obtained approval to build a spa in Torrance at 2433 Moreton Street. He stated that he supports the City's efforts to regulate massage establishments in order to curb illicit activities but was concerned about the proposed hours of operation. He explained that Imperial Spa is patterned after Asian spas; that massage is only a small part of their business; and that customers often come early in the morning or late in the evening to use the spa's amenities, which include fitness equipment, Jacuzzis and saunas. He indicated that he would be willing to limit massages to the hours of 7:00 a.m. to 10:00 p.m., but would like an opportunity to have facility open from 6:00 a.m. to 12:00 midnight. He emphasized that Imperial Spa is a reputable business that contributes to the communities in which their spas are located. He submitted photographs of Imperial Spas at other locations.

Micki Schneider, owner of DuBunne Day Spa, 23725 Arlington Avenue, reported that her business opens at 9:00 a.m., Monday through Saturday, and 10:00 a.m. on Sunday and requested that they continue to be able to open at that time. She explained that the spa offers many other services besides massages, including facials, waxing and nail care, and customers who are having more than one service typically like to have their massage first.

Newt Young, Torrance, voiced his opinion that the last massage appointment should be no later than one hour before closing time, i.e. 9:00 p.m. for a 10:00 p.m. closing time. He expressed concerns about massage establishments that have windows covered in the reception area making it impossible to look inside and related his belief that at least the entry door should be clear glass. He also expressed concerns that the many massage establishments in Torrance were damaging the city's reputation.

A representative of Natural Spa, 21210 Hawthorne Boulevard (name inaudible/no speaker card), noted that Natural Spa has been at this location for 10 years and has never been cited for any violations; reported that many customers come after work and can't get there before 7:00 p.m., and contended that law-abiding businesses should not be penalized by having to reduce their hours of operation

Charles Deemer, Torrance, recommended that minimum lighting requirements be stated in candle power instead of wattage to account for differences in incandescent, fluorescent and LED lighting.

Commissioner Brewer, echoed by Councilmember Barnett, indicated that he favored requiring massage establishments to have clear windows in reception areas.

Deputy City Attorney Sullivan advised that such a requirement would have to apply to all businesses because SB 731 does not allow cities to single-out massage establishments and that staff has already discussed this matter with the Police Department and they are in favor of such a requirement.

Referring to the requirement that massage establishments either list all of their massage therapists' State Certificate numbers in advertisements or include a link to their website for this information, Councilmember Brewer proposed listing the establishment's

City of Torrance business license number instead since some massage establishments may not have a website.

Councilmember Rhilinger stated that the purpose of listing massage therapists' State Certificate numbers was so that consumers could research them before visiting a massage establishment, therefore, she supported this provision as proposed.

Councilmember Sutherland related his understanding that massage establishments offer 30-minute massages, therefore the last appointment could be 30 minutes from closing time instead of an hour. With regard to lighting requirements, he stated that he thought it was a good idea to specify that the light must be turned on when a client is in a room/cubical, however, he could understand why lights might be covered because glaring lights would detract from the relaxing atmosphere people are seeking when they get a massage. He acknowledged that honest businesses could be hurt by the Ordinance, but felt it was necessary in order to eliminate dishonest businesses.

Councilmember Furey requested clarification regarding staff's recommendation that minimum lighting requirements in the Ordinance be amended to read, "Minimum lighting as required by Building Code §1205.3 or any successor section."

Deputy City Attorney Sullivan explained that staff has learned that the provision requiring a 40-watt light bulb or equivalent did not comply with Building Code requirements and felt it would be best to reference the Code section instead of including the lengthy technical description it contains.

Councilmember Furey questioned whether the City could limit the number of massage establishments in Torrance, and Deputy City Attorney Sullivan advised that such a restriction would require further study.

Councilmember Numark asked if allowing businesses to stay open for other services before or after the hours specified for massages would make enforcement more difficult. Police Lieutenant Chase reported that the differing hours would make enforcement slightly more difficult, but would not be a major problem.

Councilmember Numark proposed that the Ordinance regulate the hours for massage services only and allow businesses such as day spas to offer other services outside these hours. He expressed support for Councilmember Brewer's suggestion that advertisements include the massage establishment's Torrance Business License number instead of listing massage therapists' State Certificate numbers, noting that the Ordinance requires massage establishments to submit a list of their massage therapist's State Certificate numbers on a monthly basis.

Councilmember Brewer pointed out that the proposed Ordinance will provide the Police Department with additional tools to combat illegal activities at massage establishments; expressed concerns about over-regulating legitimate businesses; and voiced support for the hours of operation as originally proposed - 7:00 a.m. to 10:00 p.m.

Mayor Scotto stated that he would eventually like to limit the number of massage establishments in Torrance, noting that the City puts limits on taxicab companies.

Deputy City Attorney Sullivan clarified that the limitation on taxicab companies is due to franchise agreements. He reported that he was aware of two cities that have set

limits on the number of massage establishments, Vista and Huntington Beach, but he could find no studies to support these limitations.

As a compromise, Mayor Scotto proposed that hours of operation be 8:00 a.m. to 9:00 p.m., seven days a week.

MOTION: Councilmember Sutherland moved to concur with Ordinance No. 3720 as proposed, with the following amendments: 1) That the hours of operation shall be from 8:00 a.m. to 9:00 p.m., seven days a week; 2) That lights shall remain on at all times a client is present in a massage room or cubicle; 3) That minimum lighting requirements shall be amended as proposed (Supplemental page 7); and 4) That advertising requirements shall be amended as proposed (Staff Report page 29). The motion was seconded by Councilmember Rhilinger and discussion continued.

Councilmember Brewer stated that he believed it was unfair to arbitrarily change the hours of operation of legitimate businesses and he also believed requiring the listing of all massage therapists' State Certificate numbers in advertisements was overly burdensome given the cost of advertising. He proposed the following substitute motion:

MOTION: Councilmember Brewer moved to concur with Ordinance No. 3720 as proposed, with the following amendments: 1) That the hours of operation shall be from 7:00 a.m. to 10:00 p.m., seven days a week, and 2) That massage establishments shall list their City of Torrance Business License number in all advertisements instead of massage therapists' State Certificate numbers. The motion was seconded by Councilmember Numark and failed to pass as reflected in the following roll call vote:

AYES: Councilmembers Brewer, Furey and Numark.

NOES: Councilmembers Barnett, Rhilinger, Sutherland and Mayor Scotto.

Mayor Scotto called for a vote on the original motion (Sutherland/Rhilinger), and the motion passed as reflected in the following roll call vote:

AYES: Councilmembers Barnett, Rhilinger, Sutherland and Mayor Scotto.

NOES: Councilmembers Brewer, Furey and Numark.

ORDINANCE NO. 3720

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE
ADDING A NEW ARTICLE 14 OF CHAPTER 5 OF DIVISION 3 TO THE
TORRANCE MUNICIPAL CODE RELATING TO MASSAGE THERAPY
REGULATIONS

MOTION: Councilmember Barnett moved for the adoption of Ordinance No. 3720 as amended. The motion was seconded by Councilmember Sutherland and passed as reflected in the following roll call vote:

AYES: Councilmembers Barnett, Rhilinger, Sutherland and Mayor Scotto.

NOES: Councilmembers Brewer, Furey and Numark.

Mayor Scotto requested that staff explore limiting the number of massage establishments, establishing zoning restrictions, and prohibiting blacked-out windows on storefronts.

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The City Council met as the Redevelopment Agency from 8:30 p.m. to 8:32 p.m.

17. ORAL COMMUNICATIONS

17A. Councilmember Furey noted that he and his wife attended the opening night performance of *Damn Yankees* at the Armstrong Theatre and commended cast and crew for an excellent production. He encouraged the public to attend one of the remaining performances on August, 7, 8, 9, 14 and 15.

17B. Councilmember Furey reported that the Torrance Little League All-Stars competed in the Southern California Regional Championship and requested that they be recognized for their accomplishments.

17C. Councilmember Numark echoed comments on the *Damn Yankees* and encouraged the public to attend. He also encouraged attendance at the Teens Against Cancer variety show in the Marsee Auditorium at El Camino College on August 8.

17D. Councilmember Numark, with the concurrence of Council, requested that staff to look into the possibility of regulating scantily clad sign twirlers.

17E. Councilmember Rhilinger invited the public to attend a presentation by Deborah Budding, PhD entitled: "Old Dogs Learning New Tricks; How We Form Habits and Why They Are So Hard to Change" at the Katy Geissert Civic Center Library on Wednesday, August 5, at 7:00 p.m.

17F. Councilmember Sutherland cautioned the public that condominiums were being marketed as being in the City of Torrance when in fact they are not within city limits and only have a Torrance mailing address. He asked that staff look into ways of curbing this type of deceptive advertising.

17G. Councilmember Barnett invited the public to attend a presentation by Russell Olsen author of *Route 66: Lost and Found* at the Katy Geissert Civic Center Library on Wednesday, August 12, at 7:00 p.m.

17H. Councilmember Brewer invited the public to attend the *Wild Wednesday* concert at the Torino Plaza on Wednesday, August 5, from 11:30 a.m. to 1:30 p.m.

18. EXECUTIVE SESSION

None.

19. ADJOURNMENT

At 8:39 p.m., the meeting was adjourned to Tuesday, August 11, 2009 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 22, 2009