

**MINUTES OF THE REGULAR MEETING OF THE COSTA MESA CITY COUNCIL,
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY**

OCTOBER 15, 2013

CALL TO ORDER

The meeting was called to order by the Mayor at 4:05 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

ROLL CALL

Council Members Present: Mayor Righeimer, Mayor Pro Tem Mensinger, Council Member Leece, Council Member Genis and Council Member Monahan (arrived at 5:15 pm)

Council Members Absent: None

PUBLIC COMMENTS ON CLOSED SESSION ITEMS

CLOSED SESSION

The City Council recessed into closed session at 4:05 p.m. to consider the following items:

1. Conference with Thomas R. Hatch, Chief Executive Officer, and Labor Negotiator, Agency Negotiator regarding Employee Organizations: Costa Mesa City Employees Association (CMCEA), Costa Mesa Division Managers Association, and Costa Mesa Fire Fighters Management Association pursuant to California Government Code Section 54957.6.
2. Conference with legal counsel regarding existing litigation: Costa Mesa City Employees Association v. City of Costa Mesa, a municipal corporation, et al., Orange County Superior Court Case No. 30-2011 00475281, pursuant to California Government Code Section 54956.9(a).

The City Council reconvened at 6:00 p.m.

CALL TO ORDER (00:00:20)

PLEDGE OF ALLEGIANCE (00:00:34) – Council Member Leece

MOMENT OF SOLEMN EXPRESSION (00:00:59)

Pastor Tim McCalmont, Presbyterian Church of the Covenant

ROLL CALL (00:03:38)

Present: Mayor Righeimer, Mayor Pro Tem Mensinger, Council Member Leece, Council Member Genis and Council Member Monahan.

Absent: None

Officials Present: Chief Executive Officer Thomas R. Hatch, City Attorney Thomas Duarte, Assistant Chief Executive Officer Rick Francis, Economic and Development Services Director Gary Armstrong, Public Services Director Ernesto Munoz, and City Clerk Brenda Green.

CITY ATTORNEY CLOSED SESSION REPORT (00:03:50) - None

- COIN: Ex Parte Communications pursuant to Municipal Code Section 2-238 (b)

Council Member Leece: Ex Parte Communication with Helen Nenadal, President of the CMCEA, regarding employee work schedules. (00:03:57)

ANNOUNCEMENTS (00:04:29)

"Costa Mesa Minute" was played featuring upcoming events and activities in the community.

PRESENTATIONS (00:06:44)

Mayor Righeimer presented the Mayor's Award to Mr. Martin Benson, Mr. Marc Masterson and Ms. Paula Tomei, from South Coast Repertory. A video was played celebrating SCR's 50th Anniversary. (00:07:03)

Jennifer Vaughn from Southern California Gas Company provided a presentation on the advanced meter project. (00:16:20)

PUBLIC COMMENTS (00:24:15)

Jay Humphrey, Costa Mesa, congratulated staff on their rapid response in cleaning up the graffiti in Costa Mesa. (00:24:56)

Scott Morlan, Costa Mesa, spoke regarding staffing levels in the Costa Mesa Police Department; crime and safety in the City. (00:25:31)

Beth Refakes, Costa Mesa, spoke on the Marines candy drive; requested an update on the CMTV repairs; spoke on SB-7 regarding Prevailing Wage; expressed concerns regarding the demolition on 18th Street, and asked for that area be screened off. (00:27:43)

Greg Thunell, Costa Mesa, spoke on the Federal Government shutdown; transparency; and public records requests. (00:30:13)

Robin Leffler, Costa Mesa, expressed concern regarding information given out as to when citizens can express themselves on Fairview Park. (00:33:30)

Terry Koken, Costa Mesa, spoke in regards to the missing cannon across from Lyons Park; and the Mayor and Mayor Pro Tem's lawsuit. (00:36:20)

Tamar Goldmann, Costa Mesa, spoke on an article in the Daily Pilot regarding comments from the Mayor; and outsourcing of employees. (00:37:24)

James Bridges, Costa Mesa, spoke on expanding broadcasting; and the Charter Committee prevailing wage issue. (00:40:48)

COUNCIL MEMBER' REPORTS, COMMENTS, AND SUGGESTIONS (00:41:53)

Council Member Leece thanked the participants of the Scarecrow Festival; spoke on the 60th Anniversary coloring book; requested a report every six months on investments from Chandler Asset Management; spoke on the Costa Mesa Senior Center Gatsby Affair; pedestrian safety on 19th Street; legal billings from Jones Day and Jones Mayer; public records requests; and congratulated the Waffleholic Cafe, a new business in Costa Mesa. (00:41:59)

Council Member Monahan spoke on the CMCEA lawsuit against the City and legal billings.

Mayor Righeimer requested to place Public Records Requests and responsive documents on the city's website. (00:49:28)

CEO Hatch stated that the volume of work in organizing those documents to place them on-line can be done but will require extra employees. (00:50:08)

Mayor Righeimer spoke on safety in the city; presented crime statistics; spoke on the reorganization of the Police Department; the pension issue; reported his attendance at the Hoover Institute in Stanford regarding the pension issue; spoke on SB-7 regarding Prevailing Wage; commended the Charter Committee members for their work; and spoke on the Battle of the Bell game. (00:51:19)

Mayor Pro Tem Mensinger thanked the volunteers for the Scarecrow Festival, the Battle of the Bell, and the Historical Society event; congratulated CMHS football for winning the Battle of the Bell; spoke on the success of the graffiti abatement workers; and asked for clean-up of the bus stops. (00:59:52)

Council Member Genis thanked the Scarecrow Festival volunteers, especially Charlene Ashendorf; spoke on pet safety; reported attending a meeting with Metropolitan Water District officials and about grants for artificial turfs; spoke on spending of surplus monies and pension obligations. (01:02:17)

Mayor Pro Tem Mensinger requested CEO Hatch to set a study session date regarding funding for Capital Improvement Projects. (01:06:01)

REPORT-CHIEF EXECUTIVE OFFICER (CEO) (01:06:53)

CEO Thomas Hatch spoke on the 60th Anniversary coloring books; announced the CMHS Foundation annual fundraiser event to be held on November 9th, 2013 commemorating Costa Mesa's 60th Anniversary; announced the Town Hall meeting on October 29th, 2013 regarding the I-405 Freeway; and spoke on improvements to the Costa Mesa Country Club. (01:06:56)

Ernesto Munoz, Public Services Director, spoke regarding the annual upgrades to the golf course at the Costa Mesa Country Club and the cost of finishing the fence. (01:09:15)

CONSENT CALENDAR (01:13:07)

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 13 except for Items 1, and 12.

MOVED/SECOND: Council Member Monahan/Mayor Pro Tem Mensinger
The motion carried unanimously:

2. READING FOLDER

- a. Claims received by the City Clerk: Donna/Michael Contino

ACTION: Received and filed

3. WARRANT RESOLUTION 2493: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NO. 13-19 "A" AND 13-20 AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID, funding Payroll No. 13-19 "A" for \$0.00, Payroll No. 13-20 for \$2,002,217.35 and City operating expenses for \$1,452,953.21.

ACTION: Approved

4. WARRANT RESOLUTION 2494: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID, funding City operating expenses for \$631,372.48.

ACTION: Approved

5. RELEASE OF BONDS IN CONNECTION WITH ENCROACHMENT PERMIT NO. PS11-00158 FOR STREET IMPROVEMENTS FOR TRACT 17401 LOCATED AT 2079 AND 2083 THURIN STREET, COSTA MESA, CALIFORNIA

ACTION: City Council released the Performance and Labor and Material Bonds (Certificate No. 782666S) in the amounts of \$18,340 each for street improvements to White-Thurin Street Associates LP, a California Limited Partnership (Developer), 3090 Pullman Street, Costa Mesa, California 92626.

6. PROFESSIONAL ENGINEERING SERVICES FOR THE DESIGN OF SEVERAL ALLEYS

ACTION: City Council awarded a contract to Civil Source, 9890 Irvine Center Drive, Irvine, California 92618, in an amount not to exceed \$124,880 for design services, and authorized the Mayor and the City Clerk to execute the Professional Services Agreement.

7. HARBOR BOULEVARD REHABILITATION (FROM BAKER STREET TO SOUTH COAST DRIVE), CITY PROJECT NO. 12-01

ACTION:

1. City Council accepted the work performed by R.J. Noble Company and authorized the City Clerk to file the Notice of Completion; and
2. Authorized release of the Labor and Material Bond seven (7) months after the filing date; release of the Faithful Performance Bond one (1) year the filing date; and release of the retention monies 35 days after the Notice of Completion filing date.

8. PARKWAY CONCRETE REPAIR AND NEW SIDEWALK CONSTRUCTION PROJECT - CITY PROJECT NO. 12-04

ACTION:

1. City Council accepted the work performed by Black Rock Construction Company and authorized the City Clerk to file the Notice of Completion; and
2. Authorized release of the Labor and Material Bond seven (7) months after the filing date; release of the Faithful Performance Bond one (1) year after the filing date; and release of the retention monies 35 days after the Notice of Completion filing date.

9. EAST SIDE SLURRY SEAL PROJECT, CITY PROJECT NO. 12-06

ACTION:

1. City Council accepted the work performed by Pavement Coatings Co. and authorized the City Clerk to file the Notice of Completion; and
2. Authorized release of the Labor and Material Bond seven (7) months after the filing date; release of the Faithful Performance Bond one (1) year after the filing date; and release of the retention monies 35 days after the Notice of Completion filing date.

10. 2012-2013 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT: 20TH STREET STORM DRAIN IMPROVEMENTS (FROM PLACENTIA AVENUE TO WALLACE AVENUE) PROJECT – CITY PROJECT NO. 12-12

ACTION:

1. City Council accepted the work performed by Excel Paving Company, and authorized the City Clerk to file the Notice of Completion; and
2. Authorized release of the Labor and Material Bond seven (7) months after the filing date; release of the Faithful Performance Bond one (1) year after the filing date; and release of the retention monies 35 days after the Notice of Completion filing date.

11. **MINUTES:** Special Joint Study Session Meeting of the Costa Mesa City Council and Planning Commission of September 10, 2013; and Regular Meeting of September 17, 2013.

ACTION: Approved

13. **BROADBAND SERVICE UPGRADE**

ACTION: City Council approved and authorized the CEO to sign the Purchasing Agreement, not to exceed \$91,259.52 annually, for the City's broadband service upgrade with Verizon Business Network Services, Inc., 5055 North Point Parkway, Alpharetta, GA 30022.

PUBLIC HEARINGS (01:13:43)

1. **REQUEST FOR A REHEARING ON THE MATTER OF FAIRVIEW PARK ENTRYWAY CONCEPT PLANS (01:13:45)**

Mayor Righeimer explained the rehearing process, and explained new relevant evidence; spoke on respect for Native Americans; using an archeologist; contacting tribes; indicated that there is an application to rehear the item by Council Member Genis and requested an explanation of the new relevant information in the letter submitted from the State Historical Preservation Office. (01:13:54)

Council Member Genis provided a Power Point presentation. Council Member Genis spoke on environmental steps through the CEQA process; monitoring of work at the end of Pacific Avenue; parking spaces in the Master Plan; information unavailable to be presented by an archeologist; a letter received from the State Natural Resources Agency, Office of Historic Preservation; communication with the State Historic Preservation Office; spoke on the preservation of archeological sites, and Fairview Park possibly being a prehistoric village; ORA 58 connecting to ORA 165; consulting with Native American tribes pursuant to CEQA; conducting a Section 106 review pursuant to the National Historic Preservation Act; and indicated great concern in the letter is the reference to CEQA Section 106 National Historic Preservation Act, where failure to adhere would mean losing all the grants. (01:18:01)

Mayor Righeimer spoke regarding the statement from Mr. Valentine, and relevant evidence received. (01:28:32)

Council Member Genis spoke regarding adherence to the law as stated by the Office of Historic Preservation. (01:29:05)

Mayor Righeimer stated the plan requires that development on land containing known archeological resources to use reasonable care to locate structures, paving, landscaping and fill dirt in such a way as to preserve the resources and that an archeologist has been hired and will be on site for the turnaround construction. (01:29:29)

Ernesto Munoz, Public Services Director, confirmed that there will be an archeologist present during the construction and that the city is required to have an archeologist monitor any construction at the park, and that has been done with all the projects that

have been completed in the park. Also stated the city is working in collaboration with all the effective agencies; and spoke on the CEQA process. (01:30:22)

Discussion ensued regarding the monitoring of the drainage pipe; the hearing process; respect for Indian burial grounds and villages; using an archeologist; concerns about a trench; design elements and stages; the CEQA process; environmental review; completing Section 106 before funds are spent; Master Plan elements; grant applications; Council approval for construction after CEQA; and grant funding. (01:31:08)

Council Member Genis stated that the State Historic Preservation Office requested the entry plan be reconsidered and expressed concerns on adhering to CEQA. (01:35:28)

Mr. Muñoz stated that in order to determine environmental impacts drawings that outline what the impacts will be are needed; spoke on the turnaround, and the CEQA process after the plans are drawn. (01:37:21)

Gary Armstrong, Economic and Development Services Director, stated that CEQA requires an adequately defined project before it can proceed through the CEQA process. (01:38:35)

Council Member Genis spoke on the Park Commission minutes from August 22, 2013, page 6, regarding CEQA coverage and the Master Plan. (01:39:27)

Council Member Monahan inquired if anything had been done differently regarding the projects in Fairview Park to those projects done in past in regards to design, concept, CEQA, and grants. (01:41:27)

Mr. Muñoz stated that this project would be executed the same as other projects executed at Fairview Park. (01:41:40)

Council Member Leece spoke on meeting requirements from other agencies regarding CEQA and expressed concerns regarding grant monies. (01:42:00)

Speaker, spoke on the ancient land being sacred, and the harm being done to the earth and ocean. (01:45:51)

Jay Humphrey, Costa Mesa, spoke on potential violation of rules at TeWinkle Park; and expressed concerns on Fairview Park. (01:47:14)

Harold Weitzberg, Costa Mesa, spoke on archeological aspects that may not have been considered by the Parks and Recreation Committee; and impacts that may not have been considered previously. (01:48:38)

Larry Courter, Costa Mesa, presented a slide show regarding the original Fairview Park open space documents. (01:49:59)

Terry Koken, Costa Mesa, sang a song on the issue. (01:52:18)

Thomas Tallon, Costa Mesa, requested a rehearing. (01:53:48)

Nicholas Hernandez, supports a rehearing. (01:54:33)

Alfred Cruz Jr., Orange, Acjachemen descendents are people indigenous to this area, spoke on the recent reburial of remains found in Fairview Park, and requested a rehearing for the Fairview Park entryway. (01:55:10)

Hector Perez-Pacheco, Los Angeles, spoke on the spirit of the land, and learning more about indigenous people of the area. (01:57:25)

Rebecca Robles, San Clemente, Acjachemen descendent, spoke on Fairview Park being on the National Register of Historic Places since 1972; stones removed from site; preserving open space; CEQA consultation with the tribes; SRS Company; and indicated opposition to development in the park. (01:58:25)

Tamar Goldmann, Costa Mesa, spoke on new information in the newspaper; and indicated opposition to the turnaround. (02:00:38)

Ruth Stoffel, Tustin, spoke on behalf of the Acjachemen Indians, and requested a meeting with Mayor Righeimer. (02:01:26)

Kim Hendricks, Costa Mesa, spoke on new information from archeologists on ORA 58. (02:02:44)

Bob Exiba, Costa Mesa, requested a meeting with CEO Hatch. (02:03:24)

Patricia Martz, Irvine, Professor Emeritus, spoke on decisions made without considering archeological sites; plans consistent with conservation easement of 2008; phase 1 studies; and CEQA alternatives. (02:05:16)

Jim Tolan, Costa Mesa, stated open space is important and protecting the park. (02:07:50)

Steve Pope, Costa Mesa, spoke on archeological remains in the park; and indicated that Native Americans have not been consulted. (02:09:26)

Robin Leffler, Costa Mesa, spoke on the rehearing process; spoke on new information received; archeological sites; CEQA considerations; and archeological evidence. (02:11:53)

Janice Posnikoff, Laguna Beach, Canadian descent, requested a rehearing. (02:15:00)

Cindy Brennaman, Costa Mesa, stated she agreed with Council Member Genis. (02:16:25)

William Gilbert, Costa Mesa, spoke on signage to solve the turnaround problem. (02:17:47)

Joyce Stanfield Perry, Tribal Manager and Cultural Resource Director, supports a rehearing. (02:18:42)

Anna Vrska, Costa Mesa, spoke on a letter sent to the City Council by Dr. Keith Dixon. (02:19:44)

Kevin Nelson, Costa Mesa, spoke on the watershed aspects of the vernal pool #4; satellite images showing ponding at the turnaround site, a 1997 image showing a much larger vernal pool; and read quotes on watershed factors and vernal pools. (02:21:24)

Council Member Genis indicated that new information was received, and evidence that potential resources exist at the south end; spoke on CEQA compliance; watershed information received; spoke on consulting with the indigenous people; and indicated that she believes there is adequate information to warrant a rehearing. (02:25:17)

Council Member Leece thanked Council Member Genis for requesting this rehearing; and thanked individuals that brought new information; spoke on consulting with people that have not been heard; spoke on the mural designed by Ms. Gardner near the Fire Department; the benefit of many scholars, Dr. Dixon, Dr. Marks, and Professor Patricia Martz; honoring the people that have attended the meeting representing different tribes; read a letter from Dr. Dixon; indicated that there is no harm in delaying the item and supports a rehearing. (02:29:10)

Mayor Righeimer, indicated that a rehearing is unusual; indicated that he did not hear new relevant evidence that could not have been produced previously; indicated that Mr. e had spoken; clarified the process for speaking during public hearings; and read a portion of a letter submitted by Mr. Mehren, "Archeology Controversy: The excellent and scientifically precise report prepared by the Keith Company and presented to the City in 1993 which specifically delineated CA-ORA-58 boundaries", spoke on being respectful to Native Americans; and indicated that he did not see new evidence. (02:33:35)

MOTION: To deny a Rehearing

MOVED/SECOND: Mayor Righeimer/Council Member Monahan

Council member Genis stated that the letter read by the Mayor is not by archeologist but by an expert in biology; spoke on information presented by Public Services Director; and asked if there will be an archeological monitor for the site. (02:38:05)

SUBSTITUTE MOTION: To hold a Rehearing

MOVED/SECOND: Council Member Genis/Council Member Leece

Council Member Leece spoke on the petition from change.org; indicated that many residents of Pacific Avenue do not support a turnaround; spoke on the solved parking problem; indicated the possibility of legal action if there is no rehearing (02:40:35)

The motion failed by the following roll call vote:

Ayes: Council Member Leece and Council Member Genis

Noes: Mayor Righeimer, Mayor Pro Tem Mensinger, and Council Member Monahan

Motion failed 2-3

ORIGINAL MOTION: To deny a Public Hearing

MOVED/SECOND: Mayor Righeimer/Council Member Monahan

The motion carried by the following roll call vote:

Ayes: Mayor Righeimer, Mayor Pro Tem Mensinger, and Council Member Monahan

Noes: Council Member Leece and Council Member Genis

Motion carried 3-2

ITEMS REMOVED FROM THE CONSENT CALENDAR (02:47:57)

- 1. PROCEDURAL WAIVER: MOTION TO APPROVE THE READING BY TITLE ONLY OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED (02:48:01)**

MOTION/SECOND: Council Member Monahan/Council Member Genis

The motion carried unanimously:

ACTION: City Council waived reading of Ordinances and Resolutions

- 12. PURCHASE OF DESKTOP COMPUTERS (02:48:30)**

Beth Refakes, Costa Mesa, spoke in support of the motion. (02:48:46)

MOTION/SECOND: Council Member Monahan/Mayor Pro Tem Mensinger

The motion carried unanimously:

ACTION: City Council approved and authorized the CEO to sign the Purchasing Agreement in an amount of \$439,328 for desktop computers citywide, with Golden Star Technology Inc., 13043 166th Street, Cerritos, CA 90703.

OLD BUSINESS - None

NEW BUSINESS - None

REPORT – CITY ATTORNEY – None

ADJOURNMENT – To Regular Meeting, November 5, 2013.

The Mayor adjourned the meeting at 9:01 p.m.

MAYOR

Brenda Green

CITY CLERK