

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

October 16, 2012

CALL TO ORDER

The meeting was called to order by the Mayor at 5:05 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

ROLL CALL

Council Members Present: Mayor Bever, Mayor Pro Tem Righeimer, Council Member Leece,
Council Member Mensinger, and Council Member Monahan

Council Members Absent: None

PUBLIC COMMENTS ON CLOSED SESSION ITEMS

No public comments received.

CLOSED SESSION

The City Council recessed into closed session at 5:06 p.m. to consider the following items:

1. Conference with legal counsel regarding existing litigation: Costa Mesa Employees Association v. City of Costa Mesa, a municipal corporation, et al., Orange County Superior Court Case No. 30-2011 00475281, pursuant to Government Code Section 54956.9(a).

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

CALL TO ORDER (00:00:10)

PLEDGE OF ALLEGIANCE (00:00:22) – Council Member Mensinger

MOMENT OF SOLEMN EXPRESSION – None

ROLL CALL (00:00:45)

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

Absent: None

Officials Present: Chief Executive Officer Thomas R. Hatch, Deputy City Attorney Christian Bettenhausen, Assistant Chief Executive Officer Rick Francis, Economic and Development Services Director Peter Naghavi, Public Services Director Ernesto Munoz, and Interim City Clerk Brenda Green.

CLOSED SESSION REPORT (00:00:55)

Deputy City Attorney Bettenhausen reported that the following action was taken regarding Closed Session item number 1:

MOTION: To file a petition to review the Appellate Court decision in the case.

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

The motion carried by the following roll call vote:

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

Noes: Council Member Leece

Motion carried 4-1.

ANNOUNCEMENTS (00:01:40)

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

PRESENTATIONS (00:04:10)

Mayor Bever congratulated and presented the Mayor's Cup to the 2012 Costa Mesa National Little League All-Star Team.

PUBLIC COMMENTS (00:09:07)

Laura Wells, Costa Mesa, spoke about Metastatic Breast Cancer and promoted Breast Cancer Awareness Month. (00:09:23)

James Bridges, Costa Mesa, wished all candidates luck on the upcoming election and expressed opposition to Measure V. (00:12:12)

Bob Ooten, President of the Costa Mesa Sanitary District, announced a free Household Hazardous Waste Collection event on Saturday, November 17, 2012. (00:14:50)

Flo Martin, Costa Mesa, spoke regarding the removal of campaign signs by a city employee. (00:16:53)

Perry Valentine, Costa Mesa, spoke about the layoff notices, litigation with the Employee's Association, and a City Charter. (00:21:00)

David Meyer, Costa Mesa, expressed complaints on a Costa Mesa Police employee. (00:24:14)

Sue Lester, Costa Mesa, spoke regarding campaign signs and informed of the massage parlors and banners at the 440 Building. (00:25:20)

Rich Reiser, Costa Mesa, requested City approval for a Marine Corps flag at the Senior Center; expressed support of assistance for homeless people; requested increased police enforcement for the protection of wheelchairs on the sidewalks; and expressed opposition to the City Charter. (00:28:40)

Jay Humphrey, Costa Mesa, spoke regarding comments made by Mr. Reiser about wheelchairs on the sidewalks. (00:32:20)

Chris McEvoy, Costa Mesa, spoke on a political flyer he received in the mail and informed of a Notice of Intent to Circulate a Recall Petition. (00:34:34)

Jim Fitzpatrick, Costa Mesa, President of the Costa Mesa Tax Payers' Association, spoke about vandalism of campaign signs. (00:39:41)

Greg Tunnell, Costa Mesa, spoke about residing in Costa Mesa and the national economy; and expressed opposition to Measure V. (00:42:42)

Robin Leffler, Costa Mesa, spoke about Costa Mesans for Responsible Government, Banning Ranch, campaign signs being removed on Mesa Verde Drive, and crime in the City. (00:45:57)

Terry Koken, Costa Mesa, spoke on the number of ballots cast in previous elections. (00:49:35)

Sandy Johnson, Costa Mesa, spoke in opposition to Council actions and speech. (00:52:12)

John Feeney, Costa Mesa, expressed opposition to the TCA and spoke about a flyer distributed by Coastline Community College and the 405 Toll Roads. (00:54:45)

Tamar Goldmann, Costa Mesa, read an article from the Daily Pilot regarding Council actions; and expressed support for police officers in the City. (00:57:36)

Ernie Feeney, Costa Mesa, spoke regarding an article from the Daily Pilot regarding Assessment Districts. (01:00:52)

COUNCIL MEMBER' REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Mensinger spoke about the issue of the theft and vandalism of campaign signs and free speech; spoke against disparaging remarks; and expressed best wishes to all candidates in the upcoming election. (01:03:48)

Council Member Monahan spoke about the issue of the theft and vandalism of campaign signs and informed of a reward offer for the missing banners; spoke regarding campaigns in 1988 and 1992, attorney fees, and a previous lawsuit against the City; and recognized Boy Scouts Troops 344 and 106. (01:11:43)

Mayor Bever provided an update on the I-405 issues; spoke on campaign mail he received regarding Measure V; requested for CEO Hatch to explain the Senior Center being an independently run organization; spoke on the Banning Ranch Traffic Mitigation and issues with the Soup Kitchen. (01:15:25)

Mayor Pro Tem Rigeheimer spoke regarding the Feet to the Fire Charter Debate on October 15, 2012; praised the police and fire employees; spoke on pensions, campaign mail pieces; spoke on police and fire recruitments and spoke on campaign contributions. (01:23:28)

Discussion ensued regarding a letter signed by Council Member Leece. Mayor Pro Tem Rigeheimer read the letter out loud. (01:33:45)

Council Member Leece spoke highly on the life of Bobbie Hedrick, who had recently passed away, and expressed condolences to the family; commended Ms. Wells for the courage to speak about Metastatic Breast Cancer; thanked the Chamber of Commerce for the BBQ in honor of the Public Safety employees; thanked the Halecrest Community for the success of the Chili Cook-Off; announced the Shake Out Event on Thursday, October 18, 2012; spoke on issues regarding coyotes and the Town Hall Meeting to be held on October 29, 2012; commended the Historical Preservation Committee for their efforts towards Costa Mesa's 60th Anniversary; requested for CEO Hatch to follow-up on Mr. Reiser's request regarding the Marine Corps flag; spoke on the wheelchair safety issue, an Assessment District, the Soup Kitchen; the Orange County Fire Authority and the Brown Act. (01:43:50)

REPORT-CHIEF EXECUTIVE OFFICER (CEO) (01:59:40)

CEO Thomas Hatch informed that Council will be provided with an update on the Banning Ranch Agreement at a later time; spoke on the Senior Center and the Marine Corps flag, the temporary closure of the I-73, the service in honor of Bobbie Hedrick, and the earthquake preparedness drill.

CONSENT CALENDAR (02:04:50)

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 11 except for Items 3, 4, and 5.

MOVED/SECOND: Council Member Monahan/Mayor Bever
The motion carried unanimously.

1. READING FOLDER

(a) CLAIMS RECEIVED BY THE CITY CLERK: LAW OFFICES OF W. DOUGLAS EASTON ON BEHALF OF MYRA BAILEY; PAM BLAKESLEE; AND COBY N. KELLER, ESQ. ON BEHALF OF RICHARD DIAMOND.

ACTION: Received and filed.

2. NO MINUTES

6. ACCEPTANCE AND ALLOCATION OF THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FUNDS FOR FISCAL YEAR 2012-2013.

(a) BUDGET ADJUSTMENT NO. 13-009 IN THE AMOUNT OF \$20,801.

ACTION:

1. City Council approved staff's recommendation to allocate 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) funds to the Police Department's operating budget; and
2. Approved the budget adjustment (BA #13-009) to increase revenue and appropriations in the Jag fund and allocate specified funds.

7. AUTHORIZE REFUND OF CASH DEPOSIT IN THE AMOUNT OF \$5,280 TO DIVERSE HOLDING COMPANY IN CONNECTION WITH ENCROACHMENT PERMIT NO. PS06-00630 FOR CORNER MONUMENTATION AT 1011 EL CAMINO DRIVE.

ACTION:

City Council approved refund cash deposit in connection with Encroachment Permit No. PS06-00630 in the amount of \$5,280 to Diverse Holding Company, 186 E. 16th Street, Costa Mesa, California 92627.

8. AUTHORIZE REFUND OF CASH DEPOSIT IN THE AMOUNT OF \$13,474 TO MELIA HOMES INC. IN CONNECTION WITH ENCROACHMENT PERMIT NO. PS11-00494 FOR STREET IMPROVEMENTS AT 178 EAST 19TH STREET.

ACTION:

City Council approved refund cash deposit in connection with Encroachment Permit No. PS11-00494 in the amount of \$13,474 to Melia Homes Inc., 8951 Research Drive, Suite 100, Irvine, California 92618.

9. AUTHORIZE REFUND OF CASH DEPOSIT IN THE AMOUNT OF \$17,171 TO SCEL PROPERTIES LLC IN CONNECTION WITH ENCROACHMENT PERMIT NO. PS12-00107 FOR STREET IMPROVEMENTS AND CORNER MONUMENTATION AT 2201 SANTA ANA AVENUE.

ACTION:

City Council approved refund cash deposit in connection with Encroachment Permit Nos. PS12-00107, PS12-00119, and PS12-00286 in the amount of \$17,171 to SCEL Properties LLC, 620 Newport Center Drive, 12th Floor, Newport Beach, California 92660.

10. **AUTHORIZE REFUND OF CASH DEPOSIT IN THE AMOUNT OF \$8,483.65 TO SCEL PROPERTIES LLC IN CONNECTION WITH ENCROACHMENT PERMIT NO. PS12-00190 FOR STREET IMPROVEMENTS AND CORNER MONUMENTATION AT 1928 SANTA ANA AVENUE.**

ACTION:

City Council approved refund cash deposit in connection with Encroachment Permit No. PS12-00190 in the amount of \$8,483.65 to SCEL Properties LLC, 620 Newport Center Drive, 12th Floor, Newport Beach, California 92660.

11. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING AN AMENDMENT TO RESOLUTION NO. 10-73 MAINTAINING THE CITY'S CURRENT FLEXIBLE CONTRIBUTION FOR EMPLOYEES REPRESENTED BY THE COSTA MESA DIVISION MANAGERS' ASSOCIATION (CMDMA).**

ACTION:

City Council adopted a Resolution of the City Council of the City of Costa Mesa, California, adopting an amendment to Resolution No. 10-73 maintaining the City's current flexible contribution for employees represented by the Costa Mesa Division Managers' Association (CMDMA).

ITEMS REMOVED FROM THE CONSENT CALENDAR (02:05:10)

3. **WARRANT RESOLUTION 2441: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NO. 12-20 AND PAYROLL REGISTER NO. 12-19A AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID, FUNDING PAYROLL NO. 12-20 FOR \$2,090,007.87 AND PAYROLL NO. 12-19A FOR - \$356.82, AND CITY OPERATING EXPENSES FOR \$734,574.74, INCLUDING PAYROLL DEDUCTIONS. (02:05:21)**

Perry Valantine, Costa Mesa, requested clarification on payments.

MOTION/SECOND: Council Member Monahan/Mayor Bever
The motion carried unanimously.

ACTION: Approved.

4. **WARRANT RESOLUTION 2442: 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 OPERATIONS EXPENSE FOR \$632,238.54. (02:08:23)**

Tamar Goldmann, Costa Mesa, commented on amount paid to Jones and Mayer Law Firm for legal services.

MOTION/SECOND: Council Member Monahan/Mayor Bever
The motion carried unanimously.

ACTION: Approved.

5. **AUTHORIZATION FOR TWO CODE ENFORCEMENT OFFICER POSITIONS. (02:10:55)**

(a) BUDGET ADJUSTMENT NO. 13-008 IN THE AMOUNT OF \$106,623

Council Member Leece requested an overview of the duties of the Code Enforcement officers.

Discussion ensued regarding the amount of full-time and part-time Code Enforcement officers and the duties of the officers. (02:11:50)

Beth Refakes, Costa Mesa, expressed support of hiring more Police Officers, rather than Code Enforcement officers. (02:16:30)

Discussion ensued regarding the Budget Adjustments; pension for the two new Code Enforcement Officers, plans to hire more Police staff, and tracking of calls regarding code enforcement. (02:17:58)

MOTION/SECOND: Council Member Mensinger/Mayor Bever
The motion carried unanimously.

ACTION:

1. City Council authorized two new Code Enforcement Officer positions in the Development Services Department; and
2. Approved Budget Adjustment (BA #13-008).

PUBLIC HEARINGS – (02:31:11)

- 1. CONTINUED FROM THE MEETING OF OCTOBER 2, 2012, PUBLIC HEARING: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ORDERING THE VACATION OF A PORTION OF FULLERTON AVENUE RIGHT-OF-WAY AT 164 FLOWER STREET.**

Staff report provided by Ernesto Munoz, Public Services Director. (02:31:30)

Steve Pier, Newport Beach, expressed opposition to the item. (02:34:13)

Deputy City Attorney Bettenhausen informed that the noticing and findings for the vacation are appropriate according to state law. (02:38:45)

Discussion ensued regarding the abandonment of the easement, the development planned for the property, and the noticing requirements. (02:39:25)

MOTION/SECOND: Council Member Monahan/Mayor Pro Tem Righeimer
The motion carried unanimously.

ACTION:

1. City Council adopted the resolution ordering the street vacation; and
2. Authorized the Mayor and Interim City Clerk to sign the Quitclaim Deed; and
3. Authorized Interim City Clerk to record the Quitclaim Deed

OLD BUSINESS – None

NEW BUSINESS (02:44:00)

- 1. AMENDMENT TO THE CONTRACT BETWEEN CALPERS AND THE CITY OF COSTA MESA TO INCLUDE PROVISIONS PURSUANT TO GOVERNMENT CODE SECTION 20475 IN ORDER TO IMPLEMENT 2%@50 RETIREMENT FORMULA (FIRE SAFETY GROUP). (02:44:05)**

Staff report provided by Lance Nakamoto, HR Manager, and Ryan Thomas, Principal HR Analyst. (02:44:25)

- (a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, OF INTENTION TO APPROVE AN AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE CITY COUNCIL CITY OF COSTA MESA.**

MOTION/SECOND: Council Member Monahan/Council Member Leece
The motion carried unanimously.

ACTION:

City Council adopted a Resolution of Intention to approve an Amendment to the Contract between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City Council of the City of Costa Mesa in order to implement the lower-level retirement formula of 2%@50 for Fire Safety employees.

(b) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF COSTA MESA AND BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

MOTION/SECOND: Council Member Monahan/Council Member Mensinger
The motion carried unanimously.

ACTION:

1. City Council introduced, gave first reading by title only, and waived further reading of Ordinance No. 12-XX which authorizes the amendment to the CalPERS contract to implement the 2%@50 retirement formula for Fire Safety employees; and
2. Authorized the City Clerk to execute required CalPERS certifications:
 - a. Certification of Governing Body's Action- PERS-CON-12.
 - b. Certification of Compliance with Government Code Section 7507 PERS-CON-12A.
 - c. Certification of Compliance with Government Code Section 20475- PERS-CON-30.

REPORT – CITY ATTORNEY – None (02:48:05)

The Mayor adjourned the meeting at 8:51 p.m.

MAYOR

Brenda Green

CITY CLERK