

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

March 17, 2015

CALL TO ORDER

The meeting was called to order by the Mayor at 5:00 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

ROLL CALL

Council Members Present: Mayor Mensinger, Mayor Pro Tem Righeimer, Council Member Foley, and Council Member Genis
Council Members Absent: Council Member Monahan

PUBLIC COMMENTS ON CLOSED SESSION ITEMS – NONE

CLOSED SESSION

The City Council recessed into Closed Session at 5:07 p.m. to consider the following items:

1. Conference with legal counsel regarding existing litigation: Costa Mesa City Employees Association (CMCEA) 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 5:45 p.m.

CALL TO ORDER

The meeting was called to order by the Mayor at 5:45 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

CALL TO ORDER (00:00:14)

PLEDGE OF ALLEGIANCE (00:00:30) – Council Member Genis

MOMENT OF SOLEMN EXPRESSION (00:00:45)

Jonathan Allbaugh, Vanguard University

ROLL CALL (00:02:04)

Present: Council Member Foley, Council Member Genis, Mayor Pro Tem Righeimer, Mayor Mensinger
Absent: Council Member Monahan

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 Muñoz, and City Clerk Brenda Green.

CITY ATTORNEY CLOSED SESSION REPORT (00:02:23) – NONE

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

ANNOUNCEMENTS (00:02:28)

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

PRESENTATIONS (00:04:52)

City Council presentation to Werner Escher, South Coast Plaza's Executive Director of Domestic and International Markets.

PUBLIC COMMENTS (00:13:35)

Flo Martin, Costa Mesa, thanked Staff for having an additional Police Officer on Fair Dr. monitoring speed limits; and requested lowering the speed limit at Harbor and Fairview. (00:14:29)

Joy Thomas, representing non-profit organization Ability First, spoke on the organization. (00:16:11)

John W. Goddard, Costa Mesa, spoke on the Senior Center; the Senior Commission; and recommendation of Wendy Leece for the Senior Commission. (00:20:08)

Wendy Leece, Costa Mesa, spoke on the Freedom of Information; and the Brown Act. (00:24:36)

Barrie Fisher, Costa Mesa, spoke on the State report on Sober Living Homes; and a moratorium on licenses allowed by the State. (00:28:09)

Ann Parker, Costa Mesa, spoke on correspondence regarding Sober Living Homes; and homeless individuals that come from Sober Living Homes. (00:30:49)

Jonathan Aspuria, Costa Mesa, spoke on comprehensive services for students and students that are struggling; and HR Bill 375 which provides funding for comprehensive studies. (00:32:51)

Beth Rafakes, Costa Mesa, spoke on behalf of the Military Affairs Team accepting donations for the Easter Egg Hunt. (00:35:59)

Stephen Chan, Costa Mesa, spoke on construction at Lions Den with no permits. (00:38:00)

Jay Humphrey, Costa Mesa, spoke on the Police Department staffing levels; and lateral transfers. (00:41:15)

Eileen Lewis, Costa Mesa, spoke in opposition of dorms being built at Orange Coast College. (00:43:16)

Tom Pollitt, Costa Mesa, spoke on the Police Association's contract; raises; and pension contributions. (00:46:27)

Johnathan Murillo, Costa Mesa, invited residents and Council to the 11th Annual C3 Basketball Tournament and Community Fair Saturday from 11:00 a.m. – 4:00 p.m. (00:49:35)

COUNCIL MEMBER' REPORTS, COMMENTS, AND SUGGESTIONS (00:51:06)

Council Member Genis spoke on the 11th Annual C3 Basketball Tournament and Community Fair Saturday; Orange Coast College proposals; Police negotiations; use of the Emergency Operation Center (EOC) and meeting space; discussed Emergency Operations Plan and creating a Hazard Mitigation Plan; and spoke in memoriam of Huy Pham. (00:51:18)

Mayor Pro Tem Righeimer spoke on the Group Home issue; AB 838; a meeting with Department of Health Care Services; traffic concerns; and Orange Coast College future proposals. (00:59:19)

Mayor Mensinger spoke on the Ability First program; spoke on the Group Homes issue; spoke on a potential business relocating back to Costa Mesa; fundraiser on Monday March 23, 2015 for Estancia High School at Subway; and the "All that Glitters" Gala on Saturday March 28, 2015. (01:06:31)

Council Member Foley spoke on the speed limit on Fair Dr.; spoke on evaluation of City Attorney services; Cultural Arts Committee; and spoke on meetings held with residents regarding the 60th anniversary. (01:10:11)

REPORT – CHIEF EXECUTIVE OFFICER (CEO) (01:12:43)

CEO Tom Hatch reported on attendance at the National League of Cities conference; discussed budget sessions in May; Orange Coast College construction; and City Committee recruitments.

CONSENT CALENDAR (01:18:19)

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 14 except for Items 5 and 11.

MOVED/SECOND: Mayor Pro Tem Righeimer/Council Member Foley

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Genis, Mayor Pro Tem Righeimer, and Mayor Mensinger

Nays: None

Absent: Council Member Monahan

Motions carried: 4-0-1

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**

ACTION:

City Council waived reading in full of Ordinances and Resolutions and approved and adopted of same by reading title only.

2. **READING FOLDER**

- a. Claims received by the City Clerk: Dino Bonadonna and John Halbakken.

ACTION:

City Council received and filed.

3. **WARRANT RESOLUTION NO. 2532 OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NOS. 15-04 "A" FOR (-\$4,547.74) AND 15-05 FOR \$2,028,376.04; AND CITY OPERATING EXPENSES FOR \$1,550,339.86; AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID**

ACTION:

Approved Warrant Resolution No. 2532, to be read by the title only, and waived further reading.

4. **APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$1,500 IN REGARDS TO A DONATION MADE BY THE COSTA MESA COMMUNITY RUN TO THE CITY'S "HAPPY FEET RUNNING CLUB" YOUTH SPORTS PROGRAM**

ACTION:

City Council authorized a budget adjustment (budget adjustment #15-012) in the amount of \$1,500 to accept a donation from the Costa Mesa Community Run for the youth sports program, "Happy Feet Running Club."

6. **RELEASE OF BONDS IN CONNECTION WITH ENCROACHMENT PERMIT NO. PS10-00187 FOR STREET IMPROVEMENTS AND CORNER MONUMENTATION FOR TRACT 17176 LOCATED AT 351 W. BAY STREET, COSTA MESA, CALIFORNIA**

ACTION:

City Council authorized the release of the Performance and Labor and Material Bonds (Certificate No. 4371998) in the amounts of \$18,266.00 each for street improvements and (Certificate No. 4371999) for setting corner monuments in the amount of \$2,750.00 to Bayside West, LLC (Developer), 190 Newport Center Drive, Suite 220, Newport Beach, California 92660.

7. **RELEASE OF BONDS IN CONNECTION WITH ENCROACHMENT PERMIT NO. PS13-00147 FOR STREET IMPROVEMENTS AND CORNER MONUMENTATION FOR TRACT 16990 LOCATED AT 372/378/382 VICTORIA STREET, COSTA MESA, CALIFORNIA**

ACTION:

City Council authorized the release of the Performance and Labor and Material Bonds (Certificate No. 0176156) in the amounts of \$32,753.00 each for street improvements and (Certificate No. 0176155) for setting corner monuments in the amount of \$1,500.00 to Taylor Morrison of California, LLC (Developer), 8105 Irvine Center Drive, Suite 1450, Irvine, California 92618.

8. **REFUND OF CASH DEPOSIT IN CONNECTION WITH ENCROACHMENT PERMIT NO. PS13-00230 FOR PARKWAY IMPROVEMENTS AT 421 BERNARD STREET, COSTA MESA, CALIFORNIA**

ACTION:

City Council authorized a refund cash deposit in connection with the Encroachment Permit No. PS13-00230 in the amount of \$88,185.25 to Behringer Harvard Pacifica, 5510 Morehouse Dr. Suite 200, San Diego CA 92121.

9. FINAL MAP FOR TRACT NO. 17708 LOCATED AT 2075 PLACENTIA AVENUE, COSTA MESA, CALIFORNIA

ACTION:

City Council approved the Final Map for Tract No. 17708 and authorized the signing of the Map by the City Clerk and the City Engineer.

10. BLOOD WITHDRAWAL TESTING SERVICES AGREEMENT

ACTION:

1. City Council awarded a 2nd Amendment to the Professional Services Agreement with California Forensic Phlebotomy, Inc., 27762 Antonio Parkway, Suite L1-647, Ladera Ranch, CA, for blood withdrawal testing services for a one-year period for an amount not to exceed \$91,000 per year for the term to 1/25/2016; and
2. City Council authorized the Mayor to execute the 2nd Amendment to the Professional Services Agreement; and
3. City Council authorized the Chief Executive Officer to renew the contract for up to three (3) term periods of one-year each with final expiration 1/25/2019 for any rate increases or any amount above \$91,000 as long as the increase fall within his signing authority.

12. ENERGY PARTNERSHIP CONTRACT EXTENSIONS BETWEEN SOUTHERN CALIFORNIA EDISON AND SOUTHERN CALIFORNIA GAS AND THE CITY OF COSTA MESA FOR 2015 – 2016 – Office of the Chief Executive Officer

ACTION:

1. City Council approved and authorized the Mayor and City CEO to execute the "Second Amendment" to the Agreement to Jointly Deliver the 2010-2012 Orange County Energy Leader Partnership Program with Southern California Edison Company; and
2. City Council approved and authorized the Mayor and City CEO to execute the "Second Amendment" to the Agreement to Jointly Deliver the 2010-2012 Orange County Energy Leader Partnership Program with Southern California Gas Company and adjacent Orange County cities; and
3. City Council authorized the City CEO to execute any subsequent documents approved as to form by the City Attorney necessary to advance, manage or complete Energy Leader Partnership activities.

13. APPOINTMENT OF CITY NEGOTIATORS FOR THE COSTA MESA CITY EMPLOYEES ASSOCIATION MEET AND CONFER SALARY REOPENER AND AUTHORIZATION TO PROCEED WITH THE FINANCIAL ANALYSIS OF THE MOU PER THE COIN ORDINANCE

ACTION:

1. City Council designated Tamara Letourneau, Assistant Chief Executive Officer and Laura Kalty, Partner, Liebert Cassidy Whitmore as the City's representatives in negotiations with the Costa Mesa City Employees Association (CMCEA) as to the salary reopener; and
2. City Council authorized Staff to have the independent fiscal analysis of the current CMCEA Memorandum of Understanding (MOU) completed per the requirements of the COIN Ordinance.

14. AMENDMENT TO JOINT AGREEMENT FOR THE OPERATION, MAINTENANCE AND FINANCIAL MANAGEMENT OF THE ORANGE COUNTY 800 MEGAHERTZ COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM

ACTION:

City Council approved the terms of the Amendment to the Joint Agreement for the Operation, Maintenance, and Financial Maintenance of the 800 Megahertz Countywide Coordinated Communications System.

----- **END OF CONSENT CALENDAR** -----

PUBLIC HEARINGS – 7:00 P.M. (Resolution NO. 05-55) – (01:19:28)

1. CIVIC OPENNESS IN NEGOTIATIONS (COIN) ORDINANCE SECOND PUBLIC HEARING OF THE APPROVAL AND ADOPTION OF THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY OF COSTA MESA AND THE COSTA MESA POLICE MANAGEMENT ASSOCIATION (CMPA)

Laura Kalty, Chief Negotiator's for Costa Mesa Police Management Association (CMPA), provided staff report pursuant to COIN Ordinance, specifically for Section 2-239. (01:19:47)

MOVED/SECOND: Mayor Pro Tem Righeimer/Council Member Genis

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Genis, Mayor Pro Tem Righeimer and Mayor Mensinger

Nays: None

Absent: Council Member Monahan

Motion carried: 4-0-1

ACTION:

1. City Council held the second Public Hearing as required by COIN; and
2. City Council approved and adopted the CMPMA Side Letter of Agreement between the City of Costa Mesa and the CMPMA for 26 consecutive pay periods through and inclusive of February 20th, 2016.

2. APPEAL OF PLANNING APPLICATION PA-14-40 FOR THE GANAHL LUMBER HARDWARE STORE AND OUTDOOR STORAGE YARD AT 1100 BRISTOL STREET (01:21:27)

Senior Planner, Mel Lee, provided the Staff Report highlighting the issues raised by the Appellant in the Appeal application. (01:22:00)

Mayor Pro Tem Righeimer discussed the Zoning Code; use categories; and Conditional Use Permit. (01:27:07)

Ex Parte Communications: Council Member Foley, Council Member Genis, Mayor Pro Tem Righeimer and Mayor Mensinger stated they had separately spoken with representatives of Ganahl. (01:31:40)

Discussion ensued on types of businesses allowed in C1 Zone. (01:32:00)

Michael H. Leifer, spoke on behalf of Appellant, spoke on the type of use not permitted in the C1 Zone; variance findings; non-conforming uses; setbacks on the property inconsistent with surrounding area; retail use; parking demand; comparison to a Home Depot not valid; a lumber yard versus a retail operation; and recommended denial. (01:33:55)

Discussion ensued on variance findings; setback variance inconsistency; height variances for other buildings not shown; parking use analysis; floor area ratio (FAR) and Pole Shed excluded from count; and deliveries of building materials. (01:38:40)

Council Member Genis clarified that the B Shed square footage was included but the Pole Shed square footage was not included. (01:50:24)

Mel Lee responded that per the Zoning Code, the Pole Shed building was not included into the FAR because it is not a fully enclosed building. (01:40:45)

Joe Miller, on behalf of the property owners of 1072 Bristol, spoke on the Industrial Use not being complimentary with an office building use; spoke on zoning laws protecting business owners; and expressed opposition to the use at that site. (01:51:44)

Peter Ganahl, CEO of Ganahl Lumber, spoke on history of Ganahl Lumber Company; and longevity and philosophy of the Company. (01:54:28)

Discussion ensued on sales tax generated for the City specifically for items sold to the general public and contractors; and discussion on the types of products and services to be provided at the location. (01:59:36)

Bob Carpenter, Architect, spoke on the site plan of the building and the parking spaces on the property. (02:02:42)

Discussion ensued on the property's ownership by the County Flood Control District that limits the development potential due to its location and required unbuildable easements by Caltrans and the County Flood Control District; underground water conduit; designing the project around the box culvert; topography restrictions; building within the property lines; setback requirements; the street dedication along Bristol St.; property line within the street; B Shed 28 ft. behind existing property line; and solar panel accommodations. (02:05:42)

Public Comments:

Alexandra Kozak, on behalf of Izzy Hirsch of 1102 Bristol St., spoke against the project; the proposed use is not permitted in the C1 zone; no façade drawings have been submitted for review; and relocation of lumber yard with increase of noise pollution and the effect on air quality. (02:12:27)

Kyle Woosley, Costa Mesa, spoke in support of the project. (02:14:52)

Jay Humphrey, Costa Mesa, spoke in support of the project, expressed concerns with having existing facility closed prior to utilization of the new site; and the inclusion of larger trees. (02:15:18)

T. Koken, Costa Mesa, spoke in support of preserving Ganahl Lumber. (02:17:48)

Ann Parker, Costa Mesa, spoke on Santa Ana Country Club effects to the Ganahl proposal. (02:19:27)

Shari Markley, Costa Mesa, owner of 1120 Bristol St., spoke in opposition of the project. (02:21:00)

Richard Russell, Costa Mesa, spoke in support of the project and architecture. (02:22:35)

James Campbell, representing the County of Orange, spoke in support of the project. (02:25:30)

Council Member Genis spoke on the limited development options on the site due to the location and the required unbuildable easements by Caltrans and the County Flood Control District; agreed with the Planning Commission's decision; stated the following additional findings be included:

1. Special circumstances also exist with regard to the unique size of the resultant buildable area of the property due to two major constrains related to existing Caltrans and County easements; and
 2. The unique location of the existing property line within Bristol Street provides justification for the building setback variance;
- and spoke on merchandise sold at store subject to retail sales tax and stated for the record that the Ganahl business is a retail operation that will provide sales tax. (02:26:35)

Discussion ensued on street dedication requirements; buildable area of the property; and reducing the front setback. (02:33:14)

MOVED/SECOND: Council Member Genis/Council Member Foley

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Genis, Mayor Pro Tem Righeimer and Mayor Mensinger

Nays: None

Absent: Council Member Monahan

Motion carried: 4-0-1

ACTION:

City Council upheld the Planning Commission's decision and approved PA-14-40 by adopting Resolution 15-xx, to be read by title only and further reading waived, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF PLANNING APPLICATION PA-14-40 FOR THE RELOCATION AND EXPANSION OF GANAHL LUMBER LOCATED AT 1100 BRISTOL STREET.

OLD BUSINESS: None

NEW BUSINESS: (02:37:40)

1. PROFESSIONAL SERVICES AGREEMENT FOR THE UPDATE OF THE OPEN SPACE MASTER PLAN OF PARKS AND RECREATION

Director of Public Services, Ernesto Munoz, provided the Staff Report. (02:37:54)

Zachary Mueting, Project Manager with RJM, spoke on the telephone survey; and demographic profile data. (02:46:33)

Discussion ensued on the phone survey and recommended alternative options such as an online survey. (02:48:40)

Mr. Mueting spoke on how the surveys will be conducted including: executive interviews of key members of the community; sports organizations questionnaires; community wide telephone survey; and three public workshops. (02:49:04)

Discussion ensued on the interviews including stakeholders; the phone survey; open space; parking uses; analyzing field usage; Fairview Park; and the length of the study. (02:51:07)

Public Comments:

Flo Martin, Costa Mesa, spoke on the Fairview Advisory Committee and requested no decision be made until after the Open Space Master Plan is completed. (03:09:55)

Wendy Leece, Costa Mesa, spoke on parks and open space; field usage data; and the promoting of the workshops. (03:10:33)

T. Koken, Costa Mesa, spoke on the phone survey; requested more than three public workshops; include previous community input; sports fields lighting; and requested leaving Fairview Park alone. (03:13:38)

Beth Rafakes, Costa Mesa, requested an update on the open space and master plan; spoke on the landline telephone survey method; disagreed with limiting 50 people attending public workshops; requested adequate noticing; parks on the Eastside needed; and improved outreach methods. (03:16:31)

Gay Royer, Costa Mesa, spoke in support of the survey; recommended an online survey as an option. (03:19:02)

Jay Humphrey, Costa Mesa, spoke on validation of data; fields reserved but not used; acquisitions for acquiring additional properties; adequate noticing on public meetings; and no limitations on number of attendees. (03:20:46)

Discussion ensued on attendance levels for General Plan Workshops; and workshops be held on both the Eastside and Westside. (03:23:55)

MOVED/SECOND: Council Member Foley/Mayor Mensinger

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Genis, Mayor Pro Tem Righheimer and Mayor Mensinger

Nays: None

Absent: Council Member Monahan

Motion carried: 4-0-1

ACTION:

1. City Council awarded a contract to RJM Design Group, 31591 Camino Capistrano, San Juan Capistrano, CA 92675 in the amount of \$161,270.00 for professional services for the update of the Open Space Master Plan of Parks and Recreation; and
2. City Council authorized the Mayor and the City Clerk to execute the Professional Services Agreement; and
3. City Council directed Staff to hold a Fairview Park Committee meeting to present data for information purposes only and to postpone Fairview Park Committee meetings until the Open Space Master Plan is completed.

ITEMS REMOVED FROM THE CONSENT CALENDAR (03:19:20)

5. MINUTES

Jay Humphrey, Costa Mesa, spoke regarding Council Members voting on minutes when not in attendance. (03:29:39)

(A) MOVED/SECOND: Mayor Pro Tem Righeimer/Council Member Genis

The motion carried by the following roll call vote:

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

Nays: None

Absent: Council Member Monahan

Abstain: Council Member Foley (Not a Council Member at those meetings)

Motion carried: 3-0-1-1

ACTION:

City Council approved the minutes of the Special Closed Session Meetings of the City Council for July 25, 2012, July 31, 2012, October 7, 2013 and November 26, 2013.

(B) MOVED/SECOND: Mayor Pro Tem Righeimer/Council Member Genis

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Genis, Mayor Pro Tem Righeimer and Mayor Mensinger

Nays: None

Absent: Council Member Monahan

Abstain: None

Motion carried: 4-0-1

ACTION:

City Council approved the minutes of the regular City Council and Successor Agency Meeting of March 3, 2015.

11. BRENTWOOD PARK, PHASE II, CITY PROJECT NO. 14-17 (03:33:50)

Mayor Pro Tem Righeimer spoke on the purchasing of Brentwood Park; needs in the community; concern of spending money on walking trails and not the park itself; and stated he is not in support of the project or the re-advertising. (03:33:57)

Discussion ensued on placing the project on hold until after the Open Space Master Plan is in updated. (03:37:41)

Ernesto Munoz, Director of Public Services, spoke on returning grant monies to the State. (03:38:06)

Discussion ensued on utilization of State grant monies; rejecting all bids; and not authorizing re-advertisement of the project. (03:39:12)

MOVED/SECOND: Mayor Pro Tem Righeimer/Mayor Mensinger

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Genis, Mayor Pro Tem Righeimer and Mayor Mensinger

Nays: None

Absent: Council Member Monahan

Abstain: None

Motion carried: 4-0-1

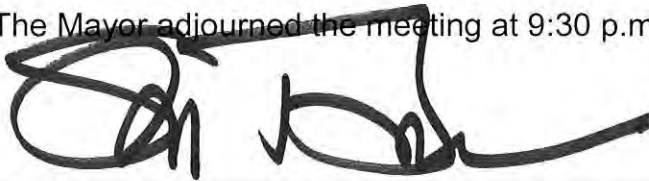
ACTION:

City Council rejected all bids and did not authorize re-advertisement of the project.

REPORT – CITY ATTORNEY – None (03:42:41)

ADJOURNMENT – To the Regular Meeting, April 7, 2015, 5:00 p.m.

The Mayor adjourned the meeting at 9:30 p.m.



Stephen M. Mensinger, Mayor



Brenda Green, City Clerk