

**SPECIAL MEETING OF THE CITY COUNCIL CITY OF COSTA MESA**

**October 12, 2010**

The City Council of the City of Costa Mesa, California met in a Special Meeting on Tuesday, October 12, 2010 at 6:30 p.m. in Council Chambers, City Hall, 77, Fair Drive, Costa Mesa.

**ROLL CALL:**

Council Members Present: Mayor Allan R. Mansoor  
Mayor Pro Tem Wendy Leece  
Council Member Eric R. Bever  
Council Member Katrina Foley  
Council Member Gary Monahan

Council Members Absent: None

Officials Present: City Manager Allan L. Roeder  
Development Services Director Kimberly Brandt  
Public Services Director Peter Naghavi  
City Clerk Julie Folcik

The Mayor called the meeting to order and stated that the regular session items would be heard before the closed session item.

**PUBLIC COMMENT**

Sandra Genis, Costa Mesa, spoke on planning commissioners claiming to be bringing businesses to the city and then voting on a project which could be a conflict of interest. Ms. Genis suggested a definition of the roles of planning commissioners and also suggested that elected officials identify themselves when doing business with city staff. (01:00)

Martin H. Millard, Costa Mesa, stated that council members and commissioners should be known to staff. (03:44)

**REGULAR AGENDA ITEM**

1. Report on results of the City Attorney's Investigation of 7-16-10 DUI Check-Point Incident (04:23)

City Attorney Kimberly Hall Barlow reported on the investigation of the 7-16-10 DUI Check-Point Incident and concluded that there was no basis to indicate that Mr. Righheimer engaged in misconduct, although the Police Officers believed they were being directed to stop the DUI-Checkpoint. Ms. Barlow reported that the report is a

work-privilege document however; the City Council could decide to release the report and also pursue outside legal options. Ms. Barlow requested further direction from the City Council.

Mayor Mansoor stated time will be available after the report for public comments.

Council Member Gary Monahan asked if past investigative reports were released and stated the exemptions in the California Public Records Act as it relates to investigative records. Council Member Monahan stated he did not support releasing the report based on the report being an investigative record.

Council Member Foley asked for the statutory section used to determine the legal standard for the investigation. City Attorney Barlow stated there was no specific statutory section; therefore she researched legal cases and legal opinions to determine intent.

Discussion ensued on legalities, the investigation and release of the report.

## **PUBLIC COMMENTS**

Reggie Mundekis, Orange, stated that the incident occurred in a public place and the public has a right to know what happened. (14:32)

Sue Lester, Costa Mesa, spoke on restoring public confidence by releasing the report. (15:47)

Martin H. Millard, Costa Mesa, spoke on police officers speaking to the Daily Pilot without giving their names and inquired if that was a violation and asked for a complete investigation into the incident. (16:51)

**MOTION/SECOND:** Mayor Mansoor/Council Member Monahan: to receive and file the City Attorney's report.

Mayor Pro Tem Leece asked the City Attorney if she could abstain from voting on the motion since she had not had seen the police report on the incident. Ms. Barlow advised that Mayor Pro Tem Leece could either abstain or make a substitute motion.

**SUBSTITUTE MOTION/SECOND:** Mayor Pro Tem Leece/Council Member Foley: to continue the item to the next regular Council meeting to allow time to review the Police report on the incident.

**The motion failed by the following roll call vote:**

Ayes: Mayor Pro Tem Leece, Council Member Foley  
Noes: Mayor Mansoor, Council Member Bever, Council Member Monahan  
Absent: None

Discussion ensued on the incident, releasing the report, and the police procedures for setting up a DUI Checkpoint.

**ORIGINAL MOTION/SECOND:** Mayor Mansoor/Council Member Monahan: to receive and file the City Attorney's report.

**The motion carried by the following roll call vote:**

Ayes: Mayor Mansoor, Council Member Bever, Council Member Monahan  
Noes: Mayor Pro Tem Leece, Council Member Foley  
Absent: None

2. Side Letter of Agreement for the July 1, 2007 to June 30, 2013 Memorandum of Understanding between the Costa Mesa Firefighters Association (CMFA) and the City of Costa Mesa (26:11)

Administrative Services Director Steve Mandoki provided the report and background on the current contract extension approved on August 11, 2009 that extended the contract of 2007-2010 to June 30, 2013 with an agreement to reduce minimum staffing, and forego the 2009 salary increase in exchange for a 3% at 50 retirement formula. Mr. Mandoki stated that although CMFA did not have an obligation to open their contract, they were willing to talk to the city about cost saving measures that are reflected in the eight items in the proposed Side Letter of Agreement including the funding for a Request For Proposal from the Orange County Fire Authority (OCFA) to provide fire services to the city.

Council Member Bever expressed appreciation of CMFA to save costs for the city and asked for clarification on item four in the Side Letter and the amount of the projected budget shortfall. Council Member Bever indicated that the cost savings proposed may not be enough and further negotiations may be necessary.

**PUBLIC COMMENTS:**

Sandra Genis, Costa Mesa, spoke on the efforts by CMFA and encouraged the Council to support the Side Letter of Agreement. (38:11)

Beth Refakes, Costa Mesa, spoke in support of pursuing a Request For Proposal (RFP) for fire services through the Orange County Fire Authority and asked for the percentage of the general fund used for salary & benefits. (39:30)

Tim Vasin, President CMFA, spoke on previous efforts made by CMFA to provide cost savings to the city and current contributions to PERS and efforts to negotiate the proposed Side Letter of Agreement to help the city with its budget shortfall. (42:12)

Mayor Pro Tem Leece asked Mr. Vasin to talk about the meetings between CMFA and management staff and the proposal to obtain an RFP from the Orange County Fire Authority.

Mr. Vasin stated that meetings between CMFA and management staff began in May 2010 and CMFA felt it would be prudent to look at OCFA as an option to provide fire protection services. Mr. Vasin provided clarification of costs for the RFP analysis and the background on the decision by CMFA to contribute toward their retirement and answered questions regarding a proposed second retirement tier for new sworn personnel hired by the Costa Mesa Fire Department.

Mr. Roeder further clarified the proposed changes for new hires, current vacancies, the process to fill vacancies of sworn fire personnel and the effects on delaying filling vacant positions for fire protection services.

Council Member Bever offered a suggestion to take money from the equipment replacement fund to bring the cost savings higher.

Mayor Mansoor stated that other employee groups were meeting with the city as opposed to statements previously made.

Council Member Monahan confirmed the negotiations by other employee groups and spoke on the offer to ask for an RFP from OCFA and the positive collaboration to weigh options.

**MOTION/SECOND:** Council Member Monahan/Council Member Foley: to approve the Side Letter of Agreement.

**The motion carried by the following roll call vote:**

Ayes: Mayor Pro Tem Leece, Council Member Foley, Council Member Monahan  
Noes: Mayor Mansoor, Council Member Bever  
Absent: None

Council Member Foley stated that all employee groups are working on ways to contribute toward filling the budget shortfall and that having contracts provides stability. Council Member Foley asked for an update on revenue for the next regular City Council meeting.

Council Member Monahan spoke on the value of contracts and the cuts taking place in the private sector as well, but felt that the Side Letter of Agreement was a good first step.

Mayor Mansoor stated that the offer to fund an RFP for fire services through the OCFA was worth looking at but that there may be little community support to contract out for fire services.

3. Discussion of the cancellation of the November 2, 2010 City Council meeting. (01:06:02)

City Manager Allan Roeder requested moving the November 2, 2013 City Council meeting to another date or cancelling the meeting. Mr. Roeder stated that if the meeting was cancelled and an item needed to be heard and voted on before the next regular meeting, a special meeting could be called.

Discussion ensued on moving the meeting date to November 1 or November 3 rather than cancelling the meeting if there are items that need to be heard.

**PUBLIC COMMENTS:**

Sandra Genis, Costa Mesa, spoke on the need to meet as scheduled and encouraged the Council not to cancel the November 2<sup>nd</sup> meeting. (01:11:10)

**MOTION/SECOND:** Mayor Mansoor/Council Member Monahan: to cancel the November 2, 2010 meeting.

**SUBSTITUTE MOTION:** Mayor Pro Tem Leece: to move the November 2, 2013 meeting to November 1, 2013.  
Motion failed for lack of second.

**ORIGINAL MOTION/SECOND:** Mayor Mansoor/Council Member Monahan: to cancel the November 2, 2010 meeting.

**The motion carried by the following roll call vote:**

Ayes: Mayor Mansoor, Council Member Bever, Council Member Monahan  
Noes: Mayor Pro Tem Leece, Council Member Foley  
Absent: None

**CLOSED SESSION (01:15:19)**

1. Pursuant to Government Code Section 54957.6, conference with Allan L. Roeder, City Manager and Labor Negotiator, Agency Negotiator: Stephen N. Mandoki, Administrative Services Director, regarding Employee Organizations: Costa Mesa City Employee Association (CMCEA), Costa Mesa Firefighters Association (CMFA), Costa Mesa Police Association (CMPA), Costa Mesa Police Management Association (CMPMA) and Unrepresented Employees (Executive and Confidential).

**PUBLIC COMMENTS:**

None

City Attorney Barlow stated there would be no closed session report.

The Mayor recessed the meeting to Conference Room 1B for the closed session.

**ADJOURNMENT:**

The Mayor adjourned the special meeting at 7:55 p.m.

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Mayor of the City of Costa Mesa

ATTEST:

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City Clerk of the City of Costa Mesa