

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

December 7, 2010

The City Council of the City of Costa Mesa, California met in a closed session on Tuesday, December 7, 2010 at 11:15 p.m. in Council Chambers of City Hall, 77 Fair Drive, Costa Mesa and in regular session at 6:00 p.m. The meeting was called to order by the Mayor Pro Tem.

I. ROLL CALL:

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

Council Members Absent: None

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

II. PUBLIC COMMENTS

III. CLOSED SESSION – (00:03:35) Postponed to after the regular meeting.

1. Public Employment, Title: City Manager, pursuant to California Government Code section 54957.
2. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation: Acosta v. City of Costa Mesa, District Court for the Central District of California Case Number SACV06-233 DOC (MLGx), pursuant to Government Code Section 54956.9(a).
3. Conference with Legal Counsel – Potential Litigation: Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9 - one case.
4. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation: Advanced Real Estate Services, Inc., American Fairs & Festivals, Inc., Tel Phil Enterprises, Inc. and Jeffrey Teller vs The Department of General Services of the State of California, Ron Diedrich, as Director of the Department of General Services; and Facilities Management West, Inc. and OC Fair and Event Center, L.P. vs. Advanced Real Estate Services, Inc. American Fairs and Festivals, Inc. Tel Phil

Enterprises, Inc. and Jeffrey Teller, for Superior Court for the County of Orange, Case Number 30-2010-00424923, pursuant to Government Code Section 54956.9(c).

RECESS TO STUDY SESSION

The Council will recess to and convene an Agenda Review Study Session beginning at 5:30 p.m. in Conference Room 1-A of City Hall. The public is welcome to attend and offer comment.

Pursuant to Resolution No. 07-80, each member of the public will be given an opportunity to speak for two (2) minutes on Study Session agenda items. A maximum overall time of (15) minutes will be permitted for public comment. Note that no action may be taken by the City Council prior to the 6:00 p.m. meeting.

RECONVENE REGULAR MEETING

Mayor Pro Tem Leece called the regular meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE Boy Scout Troop 106, Orange County Council,
Rancho Del Mar District

**MOMENT OF SOLEMN
EXPRESSION** Elder Jeffrey Call, the Church of Jesus Christ of
Latter-day Saints

ROLL CALL

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

Council Members Absent: None

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

Mayor Pro Tem Leece reported that there has been a request to move the Closed Session until the end of the regular meeting.

MOTION/SECOND: Council Member Monahan/ Council Member Foley.
The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Wendy Leece, Council Member Eric R. Bever,
Council Member Katrina Foley, Council Member Gary Monahan
Noes: None.
Absent: None.

ACTION: City Council approved moving Council Closed Session to the end of the regular meeting,

PRESENTATIONS

Proclamation – Support for Central Costa Mesa Library

Mayor Pro Tem Leece asked representatives of the Costa Mesa Library Foundation to join her at the podium. She presented them with a Proclamation in support of the Central Costa Mesa Library.

Discussion followed regarding student participation in a City-wide essay contest entitled, "Why you think libraries are important". Three of the essay winners were recognized.

IV. PUBLIC COMMENTS (00:11:49)

Mayor Pro Tem Leece invited public comments on non-agenda items at this time.

James Proctor requested the annexation of the City of Costa Mesa as its own kingdom.

Reggie Mundekis spoke regarding public comments on closed session items and the fairgrounds litigation.

John Lens spoke in support of Costa Mesa Police Department Chief Chris Shawkey.

Gary Parkins, Costa Mesa, addressed tree removals and concrete repair on Fairview and thanked staff for completing the project.

Eloise Ott, Costa Mesa, congratulated Council and staff and commented positively on the City.

Jay Photoglou commented on a public records request and a police report.

Jan Green, local business owner, commented positively on Chief Chris Shawkey and other officers with the Costa Mesa Police Department.

Sandra Genis, Costa Mesa, commented on the delay of Closed Session items and spoke against the sale of the fairgrounds.

Council Member Foley inquired whether it would be possible to take public comment on closed session items at this time.

Ms. Hall Barlow indicated that it would be possible, if Council so moves.

MOTION/SECOND: Council Member Foley/Council Member Monahan.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Wendy Leece, Council Member Eric R. Bever,
Council Member Katrina Foley, Council Member Gary Monahan

Noes: None

Absent: None

ACTION: City Council approved allowing public comments on Closed-Session items at this time.

PUBLIC COMMENTS

Mitch Hill spoke in support of Chief Chris Shawkey.

Lisa Sabo, Newport Beach, Horse Trainer at the Equestrian Center of the Orange County fairgrounds, thanked Council for its efforts to help fight the sale of the fairgrounds.

Robin Leffler, Costa Mesa, distributed a cartoon and spoke on lobbyist interests.

Jeff McOnville thanked Council for its commitment; and supports Chris McEvoy for Council.

Beth Refakes, Costa Mesa expressed congratulations to Council and encouraged Council to save the fairgrounds.

Dave Bitter spoke in support of Police Chief Shawkey.

Mitch Coucher encouraged Council to bring back the ROCKS program

Cheryl Ice congratulated Council and thanked Mayor Pro Tem Leece.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS (00:39:54)

Mayor Pro Tem Wendy Leece addressed a recently-released press release in support of the First Battalion Fifth Marines at Camp San Mateo and a campaign to collect items to support care packs for them during the month of December. Also, spoke on a fundraiser for Officer Dennis Dickens.

Council Member Katrina Foley noted that this will be her last Council meeting as a Member of Council and stated how much she has enjoyed serving the community and City of Costa Mesa. She listed accomplishments made during her tenure and stated that she is proud to have been a part of it.

Mayor Pro Tem Leece, Council Member Monahan and Council Member Bever thanked Council Member Foley and wished her well in her new position.

VI. GENERAL MUNICIPAL ELECTION (00:53:07)

1. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, RECITING THE FACTS OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 2, 2010, DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW.

City Clerk Folcik stated the election for two City Council seats was called pursuant to Municipal Code 2-14. She addressed the term for each Member and Measure L regarding the City's Transient Occupancy Tax. Ms. Folcik addressed the nomination period, listed the qualifying candidates, the number of votes cast in the election and the results. She stated that the two top candidates are Jim Righeimer and Wendy Leece. She added that Measure L had passed.

- a) Ordinance No. 10-18: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA REPEALING AND REPLACING SECTION 16-68 OF CHAPTER IV OF THE COSTA MESA MUNICIPAL CODE REGARDING THE CITY'S TRANSIENT OCCUPANY TAX.

No public comments for this item.

MOTION/SECOND: Council Member Monahan/Council Member Foley.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Wendy Leece, Council Member Eric R. Bever,
Council Member Katrina Foley, Council Member Gary Monahan

Noes: None.

Absent: None

ACTION: City Council adopted Resoluition No. 10-78 declaring the results of the November 2, 2010 election and adopted Ordinance No. 10-18, to be read by title only and waived further reading

- b) Swearing in of newly-elected City Council Members.

City Clerk Folcik administered the Oath of Allegiance to Wendy Leece and James Righeimer.

Council Member Leece expressed her appreciation for the opportunity to serve and pledged to continue to work for the benefit of the City and the community. She listed accomplishments, challenges ahead and her goals for the future. She took her place on the dais.

Council Member Righeimer expressed his appreciation to his family and stressed the importance of working together towards the future. He thanked those who helped him with the campaign and the citizens of Costa Mesa and listed his goals for the City in the future. He took his place on the dais.

2. Election of Mayor and Mayor Pro Tem

Mayor Pro Tem Leece turned the item over to City Clerk Folcik.

a) Nominations for Mayor

Ms. Folcik reported that at this time, nominations will be accepted for the positions of Mayor and Mayor Pro Tem and described the process to be followed.

Ms. Folcik opened the floor for nominations for Mayor.

Council Member Foley nominated Wendy Leece for Mayor. Council Member Leece seconded the nomination.

Council Member Righeimer nominated Council Member Monahan for Mayor. Council Member Bever seconded the nomination. (01:13:50)

There being no other nominations, City Clerk Folcik called for a motion to close the nominations.

MOTION/SECOND: To close the nominations, moved by Council Member Foley, seconded by Council Member Righeimer.

The motion carried by the following roll call vote:

Ayes: Mayor Pro Tem Wendy Leece, Council Member Eric R. Bever,
Council Member Katrina Foley, Council Member Gary Monahan,
Council Member Jim Righeimer

Noes: None.

Absent: None.

Public Comments:

Dan Goldman spoke in support of Mayor Pro Tem Leece as Mayor.

Anna Reagan congratulated Council Members and expressed her support for Mayor Pro Tem Leece as Mayor.

Sandra Genis thanked all Members of Council for their work. She spoke in support of Mayor Pro Tem Leece as Mayor.

Amy Leece spoke in support of her mother as Mayor.

Marcia Lynn spoke in support of Mayor Pro Tem Leece as Mayor.

Megan Leece spoke in support of Mayor Pro Tem Leece as Mayor.

Robin Leffler spoke in support of Mayor Pro Tem Leece as Mayor.

Mitch Coucher spoke in support of Mayor Pro Tem Leece as Mayor.

Katie Arthur spoke in support of Mayor Pro Tem Leece as Mayor.

Diane Schwartz spoke in support of Mayor Pro Tem Leece as Mayor.

Terry Shaw spoke in support of the Proclamation for the Library, congratulated Council and voiced his support for Mayor Pro Tem Leece as Mayor.

There being no others wishing to address Council, public comments were closed.

Mayor Pro Tem Leece thanked those who spoke in her support and noted that she is honored to be re-elected and have the people's trust. She addressed the challenges ahead and stated why she believes she would make a good Mayor.

Council Member Righeimer addressed the need to make tough decisions and confront tough economic problems. He stated his reasons for nominating Council Member Monahan as Mayor.

Council Member Monahan reported that he would be honored to serve as Mayor.

Council Member Foley noted that all Council Members play an important role in addressing the issues in Costa Mesa. She stated that no individual has greater authority and believed that the position of Mayor should be on a rotational basis. She spoke in support of Mayor Pro Tem Leece.

City Clerk Folcik closed Council comments at this time and called for the vote for the nomination of Mayor Pro Tem Leece for Mayor.

The motion failed by the following roll call vote:

Ayes: Mayor Pro Tem Wendy Leece, Council Member Katrina Foley
Noes: Council Member Eric R. Bever, Council Member Gary Monahan,
Council Member Jim Righeimer
Absent: None.

City Clerk Folcik called for the vote for the nomination of Council Member Monahan for Mayor.

The motion carried by the following roll call vote:

Ayes: Council Member Eric R. Bever, Council Member Gary Monahan,
Council Member Jim Righeimer
Noes: Mayor Pro Tem Wendy Leece, Council Member Katrina Foley
Absent: None.

Mayor Monahan thanked his colleagues and stated that he would do his best in moving the City of Costa Mesa forward.

b) Nominations for Mayor Pro Tem

Mayor Monahan opened the floor for nominations for the position of Mayor Pro Tem.

Council Member Foley nominated Mayor Pro Tem Leece to continue as Mayor Pro Tem. Mayor Pro Tem Leece seconded the nomination.

Council Member Bever nominated Council Member Righeimer as Mayor Pro Tem. Mayor Monahan seconded the nomination.

Mayor Monahan listed his reasons for supporting Council Member Righeimer as Mayor Pro Tem.

MOTION: To close the nominations, moved by Mayor Monahan, seconded by Council Member Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Leece, Council Member Eric
R. Bever, Council Member Katrina Foley, Council Member Jim
Righeimer
Noes: None.
Absent: None.

Public Comments:

Reggie Mundekis spoke in support of women in politics and asked that Council support the nomination of Mayor Pro Tem Leece to continue as Mayor Pro Tem.

Chris McEvoy expressed his support for Mayor Pro Tem Leece to continue in her position as Mayor Pro Tem.

Marcia Lynn spoke in support of Mayor Pro Tem.

Dan Goldman spoke in support of Mayor Pro Tem Leece.

Speaker spoke in support of Council Member Righeimer and wished him luck.

Terry Shaw spoke in support of Mayor Pro Tem Leece.

Robin Leffler spoke in support of Mayor Pro Tem Leece.

Lisa Sabo, Newport Beach, spoke in support of Mayor Pro Tem Leece.

Amy Leece spoke in support of Mayor Pro Tem Leece continuing in her present position.

Lisa Reedy spoke in support of Wendy Leece as Mayor Pro Tem.

Katie Arthur spoke in support of Mayor Pro Tem Leece keeping her current position.

Speaker thanked Council and expressed hope for Council to work together in solving the City's issues.

Council Member Foley spoke regarding the Mayor Pro Tem position and in support of Wendy Leece as Mayor Pro Tem.

Mayor Pro Tem Leece noted that she has enjoyed serving as Mayor Pro Tem and stated appreciation for everyone's support.

Mayor Monahan closed comments and called for the vote for the nomination of Mayor Pro Tem Leece to continue in her position as Mayor Pro Tem.

The motion failed by the following roll call vote:

Ayes: Mayor Pro Tem Wendy Leece, Council Member Katrina Foley
Noes: Mayor Gary Monahan, Council Member Eric R. Bever, Council Member Jim Righeimer
Absent: None.

Mayor Monahan called for the vote for the nomination of Council Member Righeimer for Mayor Pro Tem.

The motion carried by the following roll call vote:

Ayes: Mayor Monahan, Council Member Eric R. Bever, Council Member Jim Righeimer
Noes: Council Member Katrina Foley, Council Member Wendy Leece,
Absent: None.

RECESS AND RECONVENE

Mayor Monahan called for a recess at 8:20 p.m. The assembly reconvened at 8:25 p.m. with all Members, present.

VII. CONSENT CALENDAR

MOTION/SECOND: Mayor Monahan/Council Member Bever

To approve the Items under the Consent Calendar except for items removed for separate discussion and consideration (Items No. 2).

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None

CONSENT CALENDAR ITEM NOS. 1 THROUGH 14. (02:11:03)

Written Communications

1. Reading Folder.

Action: Received and processed.

Minutes

2. Regular meetings of September 21, 2010, and October 5, 2010.

This item was pulled for separate consideration and action.

Warrants

3. Warrant Resolution 2345, funding Payroll No. 10-23 for \$2,140,796.03 and Payroll No. 10-22A for \$451.62, and City operating expenses for \$477,500.81, including payroll deductions.

Action: Approved

4. Warrant Resolution 2346, funding City operating expenses for \$581,512.74.

Action: Approved

Administrative Actions

5. Adopt plans and specifications, and working details for Rehabilitation of Alley No. 47 (between Cleveland Avenue and Coolidge Avenue and from Baker Street to Paularino Avenue), City Project No. 10-12, and award a construction contract to Black Rock Construction, 282 North St. Crispin Avenue, Brea, in the amount of \$155,000.

Action: Approved; authorized the Mayor and City Clerk to sign

6. Completion of Rehabilitation of Mendoza Drive (from Lorenzo Avenue to Mission Drive), City Project No. 10-02, by R.J. Noble Company, Orange.

Action: City Council accepted work; authorized City Clerk to file a Notice of Completion and to release retention monies 35 days thereafter; exonerate the Labor and Material Bond seven (7) months thereafter; and exonerate the Faithful Performance Bond twelve (12) months thereafter.

7. Completion of Protected/Permissive Traffic Signal Modification Project, City Project No. 10-07, by Christopher R. Morales, Inc., San Dimas.

Action: City Council accepted work; authorized City Clerk to file a Notice of Completion and to release retention monies 35 days thereafter; exonerate the Labor and Material Bond seven (7) months thereafter; and exonerate the Faithful Performance Bond twelve (12) months thereafter.

8. Completion of American Recovery and Reinvestment Act, Title 24 Cool Roof Replacement at the Old Corporation Yard at 2300 Placentia Avenue Costa Mesa, City Project No. 10-09, by Rite-Way Roof Corporation, 15425 Arrow Route, Fontana.

Action: City Council accepted work; authorized City Clerk to file a Notice of Completion and to release retention monies 35 days thereafter; exonerate the Labor and Material Bond seven (7) months thereafter; and exonerate the Faithful Performance Bond seven (7) months thereafter.

9. Cooperative Agreement No. C-0-1802 with the Orange County Transportation Authority (OCTA) for the use of Federal Transportation Administration (FTA) Section 5307 Project Grand Funding, in the amount of \$500,000 for the Fairview Channel Multipurpose Trail.

Action: City Council approved; authorized the Mayor and City Clerk to sign

10. Acceptance and allocation of the 2010 Community Oriented Policing Services (COPS) Hiring Program (CHP) Grant.

Action: City Council approved; authorized the Police Chief and City Manager to sign.

11. A RESOLUTION OF THE CITY OF COSTA MESA, CALIFORNIA, ESTABLISHING THE CITY'S PENALTIES FOR VIOLATIONS OF COSTA MESA MUNICIPAL CODE SECTION 8-83 AND AMENDING THE CIVIL FINES AND PENALTIES SCHEDULE PURSUANT TO COSTA MESA MUNICIPAL CODE SECTION 1-40.

Action: City Council adopted resolution.

12.A RESOLUTION OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING RECORDS DESTRUCTION FOR THE FINANCE DEPARTMENT OF THE CITY OF COSTA MESA, PURSUANT TO ORDINANCE NO. 75-60.

Action: City Council adopted resolution.

13. Redevelopment Agency's 2010 Annual Report.

Action: Received and filed.

14. Acceptance and allocation of the Edward Byrne Memorial Justice Assistance Grant (JAG) funds for fiscal year 2010-2011.

- a) Budget Adjustment No. 11-009 for \$26,880.

Action: City Council approved the JAG funds and Budget Adjustment No. 11-009.

ITEMS REMOVED FROM THE CONSENT CALENDAR

Minutes

2. Regular meetings of September 21, 2010, and October 5, 2010.

Council Member Bever requested continuing the item.

MOTION/SECOND: Mayor Monahan/Council Member Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None

Action: To continue approval of the minutes to the next regularly-scheduled Council meeting.

VIII. PUBLIC HEARINGS (02:12:22)

1. PUBLIC HEARING: Request of M. V. Partners for Rezone R-10-01 for a 21.22-acre commercial site from C-1S (Shopping Center) and C2 (General Business) to PDC (Planned Development Commercial) zone; and Master Plan PA-10-10 request to develop a 7.55-acre vacant portion (1500 Mesa Verde Drive East) of this commercial site with 224 senior housing units, 258 parking spaces, and maximum 52 foot building height. Proposed construction includes two buildings that are two to four stories high with common outdoor amenities and parking areas, and a variance request to identify private outdoor patios/balconies as exempt from the City's Noise Ordinance for property located at 2699 Harbor Boulevard, 2701 Harbor Boulevard,

1545 Adams Avenue, 1555 Adams Avenue, and 1500 Mesa Verde Dr. East.
Environmental Determination: Mitigated Negative Declaration.

- a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (IS/MND) FOR REZONE R-10-01 AND PLANNING APPLICATION PA-10-10 FOR PROPERTIES LOCATED AT 2699 AND 2701 HARBOR BOULEVARD, 1545 AND 1555 ADAMS AVENUE, AND 1500 MESA VERDE DRIVE EAST.
- b) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REZONING A 21.22-ACRE PARCEL FROM C1-S AND C2 TO PDC (PLANNED DEVELOPMENT COMMERCIAL) FOR PROPERTIES LOCATED AT 2699 AND 2701 HARBOR BOULEVARD, 1545 AND 1555 ADAMS AVENUE, AND 1500 MESA VERDE DRIVE EAST.
- c) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING PLANNING APPLICATION PA-10-10 FOR PROPERTY LOCATED AT 1500 MESA VERDE DRIVE EAST.

Presentation provided by Senior Planner Minoo Ashabi.

Justin McCuster, on behalf of MV Partners, introduced himself and deferred to the project architect for a report.

Robert Fernandez, MV Partners, addressed a description of the project and the process for selecting an architect, developing the context of the project and emphasis on a horizontal mixed-use project and senior housing. He presented details of the concept using a "resort" philosophy and addressed entrances to the property, site plan, parking lots, landscaping, cooperation with adjacent neighbors, structures, clubhouse, amenities, and architectural style and gated resident entry. He addressed the interior and exterior of the club house and energy-efficient construction efforts.

Justin McCuster, on behalf of MV Partners, addressed community outreach efforts and changes made to the concept as a result of public input. He reported that many of the existing trees will be maintained and presented details of feedback received including concerns about traffic, emergency vehicle roads and access, setback enhancements, proposed monument sign, design features, revised site plan, reduction in the number of units and the landscape buffer plan.

Council Member Bever thanked MV Partners for the extensive community outreach and incorporating public input into the plan.

Discussion followed regarding industry standards for parking requirements, the retaining wall and the process for delivery trucks into the nearby Vons Market as well as times of delivery.

Council Members Leece and Foley thanked the developer for the community outreach efforts.

Public Comments:

Henry S. Panian spoke in support of the proposed project.

Forest Warner spoke in support of the proposed project.

Eugenia Emont spoke in support of the proposed project.

Lisa Emont spoke in support of the proposed project.

Safara Navari spoke in support of the proposed project.

Sandra Genis spoke in support of the proposed project and expressed with traffic/pedestrian safety issues at the intersection of Royal Palm and Adams.

Robin Leffler, representing the Mesa Verde Community, Inc., the Mesa Verde Homeowners' Association, referenced a letter sent to the Planning Commission and Council listing some of the organization's concerns.

Ed Faucett, Costa Mesa Chamber of Commerce, spoke in support of the project

There being no others wishing to address Council, Mayor Monahan closed public comments for this item.

Council Member Foley expressed concerns about pedestrian safety and providing a signalized crossing by the public golf course.

Mr. Naghavi addressed an existing signalized crossing and stated that providing another across Mesa Verde would back traffic up into Harbor Boulevard.

Mr. McCuster addressed the issue of parking spaces and staffing requirements.

City Attorney Hall Barlow indicated she consulted with Mayor Pro Tem Righeimer because he participated in this item while on the Planning Commission and advised him to abstain from voting on Item 1c because it involves a variance and entitlement.

MOTION/SECOND: Mayor Monahan/Council Member Foley

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None

- a) ACTION: City Council approved Item 1a) Resolution No. 10-81 approving the initial study/mitigated negative declaration (IS/MND) for rezone R-10-01 and Planning application PA-10-10 for properties located at 2699 AND 2701 Harbor Boulevard, 1545 and 1555 Adams Avenue, and 1500 Mesa Verde Drive East and; 1b) First Reading of Ordinance No. 10-19, to be read by title only and further reading waived, rezoning a 21.22-Acre parcel from C1-S and C2 TO PDC (Planned Development Commercial) for properties located at 2699 and 2701 Harbor Blvd., 1545 AND 1555 Adams Avenue, and 1500 Mesa Verde Drive East.

MOTION/SECOND: Mayor Monahan/Council Member Bever

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None

Abstain: Mayor Pro Tem Jim Rigeheimer

ACTION: City Council approved Item 1c) Resolution No. 10-82 approving Planning Application PA-10-10 for property located at 1500 Mesa Verde Drive East.

2. PUBLIC HEARING: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, ADOPTING ZONING CODE AMENDMENT CO-10-02, AMENDING TITLE 13, CHAPTER VII, SIGNS OF THE COSTA MESA MUNICIPAL CODE RELATED TO TEMPORARY BANNER SIGNS.

Report by Senior Planner Claire Flynn addressing the purpose of the Code amendment to establish a banner permit process; time limits for banners once they are posted; a survey of other cities with banner regulations; and a request by the Apartment Association to apply the ordinance to all residential complexes, not just those with one hundred or more units.

Discussion followed regarding calculation allowances, distinguishing between residential and other developments, changes to the ordinance relative to the length of time a sign can be displayed per tenant, promoting the changes and administering the ordinance and monitoring compliance through Code Enforcement.

Public Comments:

Emily Ostenburg representing the Apartment Association of Orange County, expressed concern with the forty-two day limit for small- to mid-size apartment complex owners and requested that they be allowed 120 non-consecutive days, the same as larger units

Robin Leffler, Costa Mesa, addressed the need for the ordinance and inquired regarding the IKEA building banner.

Beth Refakes, Costa Mesa, spoke in support of the ordinance.

There being no others wishing to address Council, Mayor Monahan closed public comments for this item.

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

MOTION: Introduce for first reading Ordinance No. 10-20, to be read by title only, and waive further reading adopting Zoning Code Amendment CO-10-02, Amending Title 13, Chapter VII, Signs of the Costa Mesa Municipal Code related to Temporary Banner signs

Mayor Monahan asked the makers of the motion if they would accept changing the forty-two day period for displaying signs to sixty days. Council Member Foley and Mayor Pro Tem Righeimer agreed.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None

ACTION: City Council introduced for first reading Ordinance No. 10-20 to be read by title only, and waived further reading adopting Zoning Code Amendment CO-10-02, Amending Title 13, Chapter VII, Signs of the Costa Mesa Municipal Code related to Temporary Banner signs.

3. PUBLIC HEARING: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, ADOPTING ZONING CODE AMENDMENT CO-10-05, AMENDING TITLE 13, CHAPTER V, DEVELOPMENT STANDARDS OF THE COSTA MESA MUNICIPAL CODE RELATED TO PERIMETER WALLS IN MULTIPLE-FAMILY RESIDENTIAL PROJECTS.

Presentation by Senior Planner Claire Flynn. Discussion followed regarding applying the ordinance to new development projects, not existing projects, providing flexibility for the types of materials allowed as well as landscaping material and consideration of exceptions.

City Attorney Kim Barlow indicated that the ordinance already provides the flexibility to include landscape covering materials on the walls.

Mayor Monahan invited comments from the public on this item. There being no one wishing to address Council, Mayor Monahan closed public comments.

MOTION/SECOND: Council Member Bever, Mayor Pro Tem Righeimer.

MOTION: To introduce the ordinance for first reading to be read by title only, and waive further reading.

Council Member Foley asked if the maker of the motion would approve adding "landscaping" to the ordinance. Council Member Bever said that the City Attorney had clarified the language is inclusive of landscape covering material within the exceptions and does not need to be specified.

SUBSTITUTE MOTION/SECOND: Council Member Foley/Council Member Leece
SUBSTITUTE MOTION: To introduce the ordinance for first reading to be read by title only, and waive further reading, and including specific language relative to allowing landscape material on perimeter walls.

Discussion followed regarding including allowing "green wall" landscaping to the language and the amendment was agreed to by the maker of the motion as well as the second.

Mayor Monahan called for the vote on the substitute motion.

The substitute motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Wendy Leece
Noes: None.
Absent: None

ACTION: City Council introduced the ordinance for first reading to be read by title only, and waived further reading, and included specific language allowing landscape material on perimeter walls.

IX. OLD BUSINESS (03:44:10)

1. From the meeting of November 16, 2010, Ordinance No. 10-15: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, ADOPTING ZONING CODE AMENDMENT CO-10-03, AMENDING TITLE 20 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE PARKING AND STORAGE OF INOPERABLE VEHICLES ON RESIDENTIAL PROPERTIES.

Public Comments:

Chris McEvoy, Costa Mesa, spoke in opposition to the Ordinance.

Council Member Leece stated that she will not be supporting as she feels it is a violation of property rights.

MOTION/SECOND: Council Member Righeimer/Mayor Monahan.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council Member Eric R. Bever
Noes: Council Member Katrina Foley, Council Member Wendy Leece
Absent: None

ACTION: City Council adopted Ordinance No. 10-15, to be read by title only, and waived further reading.

2. From the meeting of November 16, 2010, Ordinance No. 10-16: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, EXTENDING THE TIME LIMIT OF THE EFFECTIVENESS OF AND THE REDEVELOPMENT PLAN FOR THE DOWNTOWN REDEVELOPMENT PROJECT AREA; EXTENDING THE TIME LIMIT FOR PAYMENT OF INDEBTNESS AND RECEIPT OF PROPERTY TAXES UNDER THE REDEVELOPMENT PLAN FOR THE DOWNTOWN REDEVELOPMENT PROJECT AREA; AND MAKING OTHER FINDINGS IN CONNECTION THEREWITH.

Interested parties were invited to address Council on this item. There was no response and Mayor Monahan closed public comments.

MOTION/SECOND: Council Member Foley/Council Member Leece.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Wendy Leece
Noes: None
Absent: None

ACTION: City Council adopted Ordinance No. 10-16, to be read by title only, and waived further reading.

3. From the meeting of November 16, 2010, Ordinance No. 10-17: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, AMENDING SECTION 12-20 "DISORDERLY CONDUCT" OF ARTICLE 1 "GENERALLY" OF CHAPTER II "USE REGULATED" OF TITLE 12 "PARKS AND RECREATION" OF THE COSTA MESA MUNICIPAL CODE TO PROHIBIT FISHING AND FEEDING OF WILD FOWL IN CITY PARKS.

Interested parties were invited to address Council on this item. There was no response and Mayor Monahan closed public comments.

MOTION/SECOND: Mayor Monahan/Council Member Bever.

Motion: Adopt Ordinance No. 10-17, to be read by title only, and waive further reading

SUBSTITUTE MOTION/SECOND: Council Member Foley/Mayor Pro Tem Righeimer.
SUBSTITUTE MOTION: To continue the item for six months and direct staff to develop a program for installation of duck feeding machines and to work with the neighborhood community association relative to cleaning up and fishing in the lake.

Mayor Pro Tem Righeimer stated his focus only relates to the fowl feeding issue.

Council Member Foley indicated that her intent is to include fishing since there has been no outreach to residents who fish in the lake.

Council Member Leece addressed the unsanitary conditions in the lake.

Mr. Naghavi reported that fishing is a problem; explained the related problems with the pipes under the water that would require draining the entire lake; affirmed that there is no funding available for draining the lake; addressed the water quality because of the overpopulation of fowl in the lake; and suggested a six-month moratorium before enforcement to allow staff to implement public education.

Discussion followed regarding possible problems with the County Health Department because of the water quality; public education; and disobeying a lawful order and fines.

Mayor Monahan commented on appropriate signage and other efforts to educate the problem.

The substitute motion failed by the following roll call vote:

Ayes: Council Member Katrina Foley
Noes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council Member Eric R. Bever, Council Member Wendy Leece
Absent: None

Mayor Pro Tem Righeimer asked whether the maker and second of the original motion would agree to adding a six-month moratorium, from December 7, 2010, before enforcement to allow for public education.

Council Member Foley expressed opposition to multiple signage in the area.

Mr. Naghavi reported that part of the outreach would involve discussions regarding the size, content and location of the signs.

Mayor Monahan and Council Member Bever agreed to the amendment to the motion regarding placing a six-month moratorium on enforcement.

Mayor Monahan called for the vote on the original motion.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council Member Eric R. Bever, Council Member Wendy Leece
Noes: Council Member Katrina Foley
Absent: None

ACTION: City Council adopted Ordinance No. 10-17, to be read by title only and waived further reading, including a six-month moratorium on enforcement.

4. From the meeting of November 16, 2010, Administrative Services Fiscal Year 2010-2011 budget reductions.
 - a) Downtown Community Pool operations.
 - b) Recreation on Campus (ROCS) Program.
 - c) First Amendment to the City of Costa Mesa's CDBG-R Substantial Amendment to fund a portion of the Whittier School site ROCS Program.

Lisa McPherson, Recreation Supervisor, presented details of the report including fundraising efforts; CDBG-R funds for a matching contribution; reduced hours for community pool operations; the possibility of increasing fees; and fiscal impacts.

Council Member Leece reported receiving a petition from swimmers requesting not to close the pool.

Discussion followed regarding the possibility of forming a board for raising funds through donations and/or sponsorships; using City match funds from the ROCKS program; and funding of the Costa Mesa Middle School Teen Center.

Public Comments:

Mitch Coucher spoke in support of the ROCS ; addressed funding-raising efforts; and felt that families in the community are in need of the program.

Discussion followed regarding the Tewinkle snack bar opportunity for raising funds.

Charles Gardner urged Council to keep the community pool open. He referenced a swimmer's petition and noted increased attendance at the facility.

Todd Ferguson addressed the benefits of physical activity, on the use of the community pool and related benefits for the elderly and the disabled; and encouraged Council to keep the pool open.

Barbara Beck thanked Council for their efforts to keep the pool open and noted that Katherine Houghton is offering volunteer time to run a water exercise program to generate revenue to help bridge the gap.

Mark West encouraged Council to keep the pool open.

Speaker encouraged Council to keep the pool open.

Terry Kurzin commented on the valuable asset of the pool and encouraged Council to keep it open. She also spoke in support of the ROCKS program and commented on the importance and benefits of the program and suggested increasing community awareness regarding the value of the program.

Chris McEvoy addressed the importance of the program for the youth. He suggested possible fundraising opportunities to raise money to keep the program running.

There being no others wishing to address Council on this item, Mayor Monahan closed public comments.

Discussion followed regarding the number of swimmers using the pool in the winter and related costs, staffing requirements, cost of operations including staff and the requirement to meet certain regulations regarding staffing and challenges.

MOTION/SECOND: Council Member Foley/Mayor Monahan.

MOTION: Direct staff to reduce the hours of operation at the pool and add the fee increase presented in Option 1; continue with requests for donations and continue to fund on a matching basis the ROCKS program at Sonora, Palomino, Davis, Whittier, California and Victoria and Tewinkle School and add Costa Mesa Middle School Teen Center in a matching amount of \$10,000; and approve the First Amendment to the City of Costa Mesa's CDBG-R Substantial Amendment to fund a portion of the Whittier School site ROCKS Program and authorize staff to submit the 1st Amendment to the U.S. Department of Housing and Urban Development.

Discussion followed regarding the dollar amount to appropriate to each of the subject schools and raising the fees for the community pool.

Council Member Foley agreed to delete the fee increase suggested in the motion pertaining to an adult swim pass and Mayor Monahan confirmed agreement.

Council Member Foley withdrew the motion.

Motion/Second: Council Member Foley/Mayor Pro Tem Righeimer.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None

Absent: None

ACTION: City Council approved the expenditures for the matching funds for Sonora, Palomino, Davis, Whittier, California, Victoria, Tewinkle and Costa Mesa Middle School in the amount of \$10,000; and approved the First Amendment to the City of Costa Mesa's CDBG-R Substantial Amendment to fund a portion of the Whittier School site ROCKS Program; and authorized staff to submit the 1st Amendment to the U.S. Department of Housing and Urban Development.

MOTION/SECOND: Council Member Foley/Mayor Monahan.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Council Member Katrina Foley, Council Member Wendy Leece

Noes: Mayor Pro Tem Righeimer, Council Member Bever

Absent: None

ACTION: City Council approved reducing the hours of operation of the downtown pool as presented in Option 1.

X. NEW BUSINESS (04:48:35)

1. Bicycle Trail Connection between Santa Ana River and Upper Newport Bay Feasibility Study.

Mr. Naghavi presented a brief update on the item including previous review and consideration by Council; recommendations by the Planning Commission; unavailability of funds; and changes to the item to conduct a feasibility study and bring the results back to Council before approval of a conceptual design.

Interested parties were invited to address Council on this item. There was no response and public comments were closed.

Discussion followed regarding budgeted funds and the possibility of continuing the item until funds are identified. It was noted that the Planning Commission was informed about the unavailability of funds at this time, but the possibility of funding through AQMD grants.

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

Discussion followed regarding support of the issue by residents. Mayor Pro Tem Righeimer explained that he would support a feasibility study but felt that the concerns of adjacent residents need to be addressed.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council Member Katrina Foley

Noes: Council Member Eric R. Bever, Council Member Wendy Leece

Absent: None

ACTION: City Council authorized staff to to conduct a feasibility study.

2. Authorization of Zoning Code Amendment for Recycling and Collection Facilities.

Ms. Brandt presented details of the report noting the recommendations from the Planning Commission. She addressed changes to methods of collection of recyclable materials and stated this would be an opportunity to clarify and update the Zoning Code.

Interested parties were invited to address Council on this item. There was no response and Mayor Monahan closed public comments.

MOTION/SECOND: Mayor Pro Tem Righeimer/Council Member Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem Jim Righeimer, Council member Eric R. Bever, Council Member Katrina Foley, Council Member Leece

Noes: None

Absent: None

ACTION: City Council directed staff to investigate changes to the Code.

3. Budget Update for FY 2009-10 and Calendar Year Financial Status.

Mr. Roeder noted a request by Council to bring the item forward and completion of a recent audit. He presented an update for the FY 2009-10 budgets and the calendar year financial status. He addressed personnel, revenues, expenditures and fund balance. Mr. Roeder reported that a mid-year budget review is scheduled for mid-January.

Mr. Roeder presented an overview of personnel changes and challenges of matching the City's financial capabilities with expectations relative to levels of service. He addressed personnel reductions, personnel reductions by department, priorities in public safety, and benefits of adjusting staffing demands.

Budget and Research Officer Bobby Young addressed a three-year trend in decreases regarding revenues and expenses; revenue sources and changes from prior years, historical expenditures and reductions implemented, historical fund balance and details of current year changes.

Interested parties were invited to address Council on this item. There was no response and Mayor Monahan closed public comments.

XI. REPORTS (05:11:28)

City Attorney Hall Barlow noted no reports at this time but stated corrections for the Closed Session items.

Mr. Roeder briefly addressed a correction to a previous issue regarding Banning Ranch and annexation efforts.

City Clerk Folcik read titles to Closed-Session items.

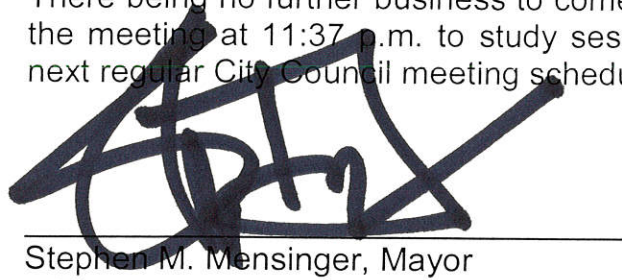
Council recessed into Closed Session at 11:15 p.m.

III. CLOSED SESSION (05:13:13)

1. Public Employment, Title: City Manager, pursuant to California Government Code section 54957.
2. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation: Acosta v. City of Costa Mesa, District Court for the Central District of California Case Number SACV06-233 DOC (MLGx), pursuant to Government Code Section 54956.9(a).
3. Conference with Legal Counsel – Potential Litigation: Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9 - one case.
4. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation: Advanced Real Estate Services, Inc., American Fairs & Festivals, Inc., Tel Phil Enterprises, Inc. and Jeffrey Teller vs. The Department of General Services of the State of California, Ron Diedrich, as Director of the Department of General Services; and Facilities Management West, Inc. and OC Fair and Event Center, L.P. vs. Advanced Real Estate Services, Inc. American Fairs and Festivals, Inc. Tel Phil Enterprises, Inc. and Jeffrey Teller, for Superior Court for the County of Orange, Case Number 30-2010-00424923, pursuant to Government Code Section 54956.9(c).

XII. ADJOURNMENT

There being no further business to come before Council, the Mayor Pro Tem adjourned the meeting at 11:37 p.m. to study session on December 14, 2010 at 4:30 p.m. The next regular City Council meeting scheduled for January 4, 2011.



Stephen M. Mensinger, Mayor

ATTEST:



Brenda Green, City Clerk