

REGULAR MEETING OF THE CITY COUNCIL
CITY OF COSTA MESA

FEBRUARY 22, 2005

The City Council of the City of Costa Mesa, California, met in regular session February 22, 2005, at 6:30 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor, followed by the Pledge of Allegiance to the Flag led by Mayor Mansoor, and a moment of solemn expression led by Dr. Dennis Short, Harbor Christian Church.

ROLL CALL

Council Members Present: Mayor Allan Mansoor
Mayor Pro Tem Gary Monahan
Council Member Eric Bever
Council Member Linda Dixon

Council Members Absent: Council Member Katrina Foley

Officials Present: City Manager Allan Roeder
City Attorney Kimberly Hall
Barlow
Development Services Director
Donald Lamm
Public Services Director William
Morris
Assistant to the City Manager
Steve Hayman
Transportation Services Manager
Peter Naghavi
Principal Planner Kim Brandt
Senior Planner Mel Lee
Associate Planner Wendy Shih
Deputy Fire Chief Gregg Stewart
Deputy City Clerk Julie Folcik

ORDINANCES AND
RESOLUTIONS

A motion was made by Mayor Mansoor, seconded by Council Member Dixon, and carried 4-0, Council Member Foley absent, to read all ordinances and resolutions by title only.

PUBLIC COMMENT
Walnut Avenue
Parking

Edward Carmona, Costa Mesa, commented that vehicles which are marked "for sale" create parking problems on Walnut Avenue between Center and 19th Streets, and believed that the cars were being left by residents from as far away as the cities of Santa Ana, Huntington Beach, and Irvine. He observed that these cars cause an increase in traffic, and homeowners are prevented from parking on the street near their property. He encouraged Council to adopt an ordinance requiring a person attempting to sell a vehicle parked on a public street to obtain a sales permit. Mr. Carmona suggested that the permits be limited to Costa Mesa residents. Mayor Mansoor asked the City Manager to review this situation.

Hogan-Shereshevsky
Comments

Anne Hogan-Shereshevsky, Costa Mesa, requested that Public Hearing No. 6, regarding permit parking on Walnut Avenue, be the first hearing heard because of the number of persons in attendance to address this item.

MOTION/Approved Revised Order of Business	A motion was made by Mayor Pro Tem Monahan, seconded by Council Member Bever, and carried 4-0, revising the order of business in order to consider Public Hearing No. 6, "Resident Only Permit Parking" on Walnut Avenue, directly after Public Hearing No. 1, EMS Subscription Program.
Hogan-Shereshevsky Comments	Ms. Hogan-Shereshevsky encouraged the candidates who ran for City Council in the November 2, 2004, election to remain active in City government. She complained about the potholes on 18 th Street and Newport Boulevard, and thanked the City for allowing parking on Orange Avenue for Ash Wednesday services. She commented that State and Federal budget cuts will adversely affect residents of Costa Mesa.
Millard Comments	Martin Millard, Costa Mesa, proposed that Council be more proactive regarding important issues such as the expansion of John Wayne Airport, which he indicated will occur unless an alternative is provided. He encouraged Council to use their influence to speak with congressmen and other influential persons regarding this issue. Other areas of concern which he addressed were land issues with Newport Beach, extension of the 57 Freeway, traffic at Triangle Square, the lack of owner-occupied single-family homes in the City and the preponderance of industrial uses.
Leadership Tomorrow	Heather Somers, Costa Mesa, member of the Board of Directors for Leadership Tomorrow, announced that their annual awards event would be held Thursday, February 24, 2005, 5:30 p.m., at the Center Club at the Performing Arts Center. She reported that Leadership Tomorrow was founded by the Chamber of Commerce organizations from the cities of Irvine, Costa Mesa, and Newport Beach, and the award recipients this year were Robert Prior and Debby Magnuson. She encouraged Council Members and residents to attend the event.
CONSENT CALENDAR	The following item was removed from the Consent Calendar: Item No. 7, 2004-2005 Second Quarter Community Objectives Update.
MOTION/Approved Except Item No. 7	On motion by Mayor Pro Tem Monahan, seconded by Council Member Dixon, and carried 4-0, the remaining Consent Calendar items were approved as recommended.
READING FOLDER	The following Reading Folder items were received and processed:
Claims	Claims received by the Deputy City Clerk: Javier Alvarado; and Arash Zomorodi.
Alcoholic Beverage Control Licenses	<p>Request for Alcoholic Beverage Control Licenses:</p> <p>ROC, 1700 Placentia Avenue, for a person-to-person transfer of an existing Type 48 ABC License (on-sale general – public premises).</p> <p>Alta Dena Dairy, 1085 Baker Street, for a person-to-person transfer of an existing Type 20 ABC License (off-sale beer and wine).</p> <p>Sushi Sho Japanese Restaurant, 2263 Fairview Road, Suite J, for a person-to-person transfer of an existing Type 41 ABC License (on-sale beer and wine for a bona fide eating place).</p>

Kings Food & Liquor, 2263 Fairview Road, Suite Q, for a person-to-person transfer of an existing Type 21 ABC license (off-sale general).

WARRANTS

The following warrants were approved:

Approved Warrant 2044 Warrant Resolution 2044, funding City operating expenses for \$1,964,153.98.

Approved Warrant 2045/Payroll 503 and 502A Warrant Resolution 2045, funding Payroll No. 503 for \$2,018,356.01, Payroll No. 502A for negative \$2,582.71, and City operating expenses for \$1,161,326.85, including payroll deductions.

ADMINISTRATIVE ACTIONS/Approved Agreement with City of Santa Ana for Terrorism Related Training An agreement was approved with the City of Santa Ana for FY 2004-2005 Urban Areas Security Initiative (UASI), to reimburse training costs for approved, terrorism related, Office of Domestic Preparedness and Office of Homeland Security training: \$20,779.00 for the Costa Mesa Police Department, and \$13,174.00 for the Costa Mesa Fire Department, and the City Manager was authorized to sign on behalf of the City.

Telecommunications Services The following action was taken regarding Telecommunications Services for Local, Long Distance, and Internet Connectivity:

Approved Agreement with Pacific Bell, dba SBC California A three-year "Express Agreement for Private Line Services" was approved with Pacific Bell Telephone Company, doing business as SBC California, 200 Center Street Promenade, Anaheim, and the City Manager was authorized to sign on behalf of the City.

Approved Agreement with SBC Global Services A three-year "Long Distance Voice and PRI Agreement HVCP II Plus" was approved with SBC Global Services, Inc., One SBC Plaza, Dallas, Texas, and the City Manager was authorized to sign on behalf of the City.

Approved Letter of Agency and Letter of Authorization A Letter of Agency and Letter of Authorization for access and transfer of existing service was approved, and the City Manager was authorized to sign on behalf of the City.

Accepted Work for Fire Command Training Structure, Project No. 04-21, by WRG Fire Training Construction of Fire Command Training Structure, 2300 Placentia Avenue, Project No. 04-21, was completed to the satisfaction of the Public Services Director on January 28, 2005, by WRG Fire Training Simulation Systems, Inc., 13780 Galbreath, Building C, Sherwood, Oregon. The work was accepted; the Deputy City Clerk was authorized to file a Notice of Completion; authorization was given to release retention monies 35 days thereafter; the Labor and Material bond was ordered exonerated 7 months thereafter; and the Performance Bond was ordered exonerated 6 months thereafter.

Approved Purchase of Computer Equipment from CompuCom Systems Purchase was approved of Microsoft Windows 2003 server and exchange licensing for eleven servers and 375 computers from CompuCom Systems Inc., 10415 Old Placerville Road, Suite 235, Sacramento, for \$32,152.75, to comply with the rules and guidelines from Microsoft and the Software Protection Agency, and includes a fee of \$744.84 (1.21 percent) to the State of California for use of the California Multiple Award Schedule.

Approved Budget Adjustment No. 05-064 for Police Projects Budget Adjustment No. 05-064 was approved for \$24,500.00 to appropriate funds for the following Police Department projects/purchases: Juvenile Holding Room and Arsenal retrofits

(\$12,550.00); Jail Rest Room retrofit (\$2,210.00); purchase of an ergonomic workstation replacement for the Police Records Administrator's office (\$4,530.00); and purchase or ergonomic workstation replacement for the Technical Services Commander (\$5,210.00), and the City Manager was authorized to sign on behalf of the City. This appropriation is offset by monies cleared from the Property and Evidence Bureau which have been deposited into the General Fund revenue.

Adopted Resolution 05-5, Record Destruction for Police Records Division

Resolution 05-5 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING RECORDS DESTRUCTION FOR THE RECORDS DIVISION OF THE POLICE DEPARTMENT OF THE CITY OF COSTA MESA, PURSUANT TO ORDINANCE NO. 75-60.

2004-2005 Community Objectives

Item No 7 on the Consent Calendar was presented: 2004-2005 Second Quarter Community Objectives Update. Council Member Dixon commented that the landscaping of 17th and 19th Streets is included in the Community Objectives, asked if the City is using drought tolerant plants in the medians and parkways as required in the landscape plan, and recommended that the issue be reviewed and brought back to Council if drought tolerant plants are not being incorporated. Council Member Dixon noted that plants which require watering contribute to the City's problem with runoff. The Transportation Services Manager replied that this issue had been discussed by the East 17th Street Ad Hoc Committee, and a landscaping palette, which is currently in the final design phase, had been approved by Council in May, 2004. Mayor Pro Tem Monahan asked that members of the community be invited to attend any future discussions on this subject in order to provide input. Mayor Mansoor expressed his satisfaction with the current landscape plans, noting his appreciation of color in the medians.

MOTION/Received and Filed

On motion by Council Member Bever, seconded by Mayor Pro Tem Monahan, and carried 4-0, the 2004-2005 Second Quarter Community Objectives Update were received and filed.

PUBLIC HEARING EMS Subscription Program

The Deputy City Clerk announced the public hearing, continued from the meeting of January 18, 2005, adopting an Emergency Medical Services (EMS) Subscription Program. The Deputy Fire Chief requested an extension of time in order to sufficiently address questions.

MOTION/Continued to March 15, 2005

On motion by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, and carried 4-0, the public hearing was continued to the meeting of March 15, 2005.

PUBLIC HEARING Walnut Avenue "Resident Only" Permit Parking

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider a request for a "Resident Only" permit parking restriction on Walnut Avenue between Orange Avenue and Westminster Avenue, and A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DESIGNATING PERMIT PARKING ON WALNUT AVENUE BETWEEN ORANGE AVENUE AND WESTMINSTER AVENUE. The Affidavits of Publishing and Mailing are on file in the City Clerk's office. The Transportation Services Manager reviewed the Agenda Report dated January 26, 2005, and responded to questions from Council.

The following members of St. Joachim Church spoke in opposition to "Resident Only" permit parking on Walnut Avenue: Romeo Vides, Costa Mesa; Gary Brown, Costa Mesa; John Schmoller;

Anne Hogan-Shereshevsky, Costa Mesa; expressed her views and read a letter from Fred and Irina Morris opposing the restricted parking; Maria Jakubowska, Costa Mesa; Enrique Sera, the St. Joachim Parish Priest; Matt Bays, Costa Mesa; Mike Kehoe, Costa Mesa; Susan Post, Costa Mesa; Kathy Lewis, Costa Mesa, parishioner and staff member of the church; and Maura Sekas, Costa Mesa.

The following Costa Mesa residents supported "Resident Only" permit parking: Mrs. Williams, a resident on Walnut Avenue; Lori McDonald, asked for an extension in order to circulation a petition; Martin Millard; and Bill Kelley, provided a statement which he indicated reflected the views of his neighbors.

Beth Refakes, Costa Mesa, commented that the parking issues are common throughout the City, the churches were established in the era when there were fewer cars and the congregations were not as large. She suggested an arrangement for off-site parking.

Jeff Butcher, Costa Mesa, owner of property on Costa Mesa Street, a block from St. Joachim Church, commented that he knew that the church was there when he purchased the property, as did other residents in the neighborhood. He advised that parking has always been an issue.

Mayor Mansoor asked, should the "Resident Only" parking be approved, if the Police Department could be diligent in enforcement during special event situations. Mayor Pro Tem Monahan observed that neighborhood churches service a particular area of the City, and St. Joachim Church has been in its present location for 59 years. He objected to the proposed "finding" that the church is "unrelated to the neighborhood", and opposed the permit parking.

Council Member Dixon believed that the church and its parishioners should be good neighbors and respectful of the resident's property. She encouraged the church to work with the congregation toward this end. In reply to an inquiry from Council Member Bever, the Development Services Director acknowledged that in the use permit for a recent church project, adequate parking was provided in the parking plan to meet zoning code requirements. Council Member Bever favored the church providing additional parking prior to instituting a permitted parking situation.

MOTION/To Receive
and File Died

A motion was made by Mayor Pro Tem Monahan to receive and file the report. The motion died for lack of a second.

Mayor Mansoor asked that the litter problem be addressed, concurred with the Planning Commission conditions of approval, and supported the restricted parking. Council Member Dixon opposed restricted parking in this area but asked that the church encourage its parishioners to ensure that the parking lot is full prior to parking on the street. She supported a continuance and asked that St. Joachim Church devise a plan with the congregation to address parking and other issues. Council Member Bever supported a continuance stating that he wished staff to review the conditions of approval to determine if one of the conditions addresses additional parking. He asked the Parish Priest to hold meetings with the neighbors to arrive at a solution.

MOTION/Continued
to April 5, 2005

On motion by Council Member Bever, seconded by Council Member Dixon, and carried 3-1, Mayor Pro Tem Monahan voting

no, the public hearing was continued to the meeting of April 5, 2005, and staff was directed to provide Council with the conditions of approval for the current construction project at St. Joachim Church, and a church representative was asked to meet with the neighbors of the affected streets, prepare a plan for resolution of existing parking issues, and submit it to staff for Council consideration at the continued hearing.

RECESS

The Mayor declared a recess at 7:00 p.m., and reconvened the meeting at 8:05 p.m.

PUBLIC HEARING
PA-03-31/Cameo
Homes/Berry

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider a request from Kim Berry, authorized agent for Cameo Homes, for a one-year extension of time for Planning Application PA-03-31 for a master plan amendment and variance from perimeter open space requirements (20 feet required; 6 feet proposed) for the construction of garages along a side property line, located at 550 Paularino Avenue in a Planned Development Residential - High Density (PDR-HD) zone. Environmental determination: Exempt. The Affidavits of Publishing and Mailing are on file in the City Clerk's Office. A communication was received from Suzanne Richmond, Costa Mesa, expressing her concerns with the construction and the proposed variance request regarding open space for the project. The Senior Planner summarized the Agenda Report dated February 10, 2005, and responded to questions from Council.

Kim Berry, authorized agent for Cameo Homes, asked that Council agree to the time extension, stating that she plans to apply for the balance of the permits on the following day. She explained her misunderstanding with the Building Division concerning the extension. The Development Services Director confirmed that if the extension is not granted, the previously approved project cannot be built. Mayor Pro Tem Monahan thought that the request for an extension was basic, the applicant had been unaware of the procedure because of a miscommunication with staff, and he encouraged approval. The Development Services Director did not believe that staff had provided misinformation, and the Senior Planner provided clarification of the incident.

Suzanne Richmond, Costa Mesa, owner of three Costa Mesa properties near Paularino Avenue, complained that she had received the public hearing notice 18 days prior, and felt that the time was inadequate to address real property issues.

Daryl Green, Costa Mesa, opposed the project, citing insufficient research by the City regarding parking issues. He maintained that staff did not adequately determine the relevant issues of the neighborhood.

Charles Ives, Costa Mesa, opposed the project because of the proposed removal of parking spaces in order to enclose garages for the apartment complex.

Mr. Georgie, Costa Mesa, opposed the project, stating that the parking structure was unneeded.

MOTION/To Deny
PA-03-31

A motion was made by Council Member Dixon, seconded by Mayor Mansoor, to deny the one-year extension for PA-03-31 and the variance from perimeter open space requirements.

Mayor Mansoor opposed the project due to the lack of sufficient parking, and thought that the one-year time limit for a project was standard procedure. Mayor Pro Tem Monahan opposed the motion stating that the applicant had acted in good faith when requesting the extension, and the original project had been approved. Council Member Bever thought that approval of the project would mitigate the parking issues because cars would be parked in the structure, not on the street. Referring to access to the apartment complex from Manistee Drive, a resident confirmed that there are three gates. Mayor Pro Tem Monahan proposed approving the extension if the applicant will close one of the access gates.

SUBSTITUTE
MOTION/To Approve
Extension Died

A substitute motion was made by Mayor Pro Tem Monahan to approve the one-year extension, with the addition of a condition of approval that the north gate access to the apartment building be closed. The motion died for lack of a second.

SUBSTITUTE
MOTION/To Approve
Extension Failed to
Carry

A substitute motion was made by Mayor Pro Tem Monahan, seconded by Council Member Bever, to approve the one-year extension, adding a condition of approval that the north and west gates are not accessible to the public and will be used for emergency ingress and egress only. The substitute motion failed to carry 2-2, Mayor Mansoor and Council Member Dixon voting no.

Mayor Mansoor opposed the motion, indicating that the above potential solutions had been previously addressed. He expressed his desire that the parking issues be resolved, and noted his goal to review the concerns expressed by Council at the meeting of October 6, 2003, when this project was originally considered. Council Member Bever believed that addressing the gate situation was an opportunity to limit impact from the apartments on the neighboring street.

SUBSTITUTE
MOTION/Continued
to March 15, 2005

A substitute motion was made by Mayor Mansoor, seconded by Mayor Pro Tem Monahan, and carried 4-0, to continue the public hearing to the meeting of March 15, 2005.

PUBLIC HEARING
PA-04-33/DeFrenza

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider an appeal of the Planning Commission's denial of Conditional Use Permit PA-04-33 for John DeFrenza, authorized agent for D'Alessio Investments, for a proposed 4,245 square foot restaurant/lounge within 200 feet of residential property to be opened until 2 a.m., 7 days a week, located at 1777 Newport Boulevard in a General Business District (C2) zone with off-site valet parking at 1764 Anaheim Avenue in an Multi-Family Residential District High Density (R2-HD) zone, and 640 West 17th Street in a General Business District (C2) zone. Environmental determination: exempt. The Affidavits of Publishing and Mailing are on file in the City Clerk's office. Communications opposing the project were received from Jeffrey and Karen Martin, Costa Mesa; Russell and Kerry Hartley; Mr. and Mrs. Howard Martin; and the Bamboo Terrace. The Senior Planner reviewed the Agenda Report dated February 10, 2005, and responded to questions from Council.

Dennis D'Alessio, D'Alessio Investments, addressed the revised plan, stating that it is "fair" to all parties. He advised that the parking lot for his property at 1764 Anaheim Avenue is illegal, non-conforming, and has been so since prior to the City's incorporation in 1953. He compared his use to other uses in the area, and referred to his project as an upscale, high-end restaurant, not a

nightclub. Mr. D'Alessio felt that noise which originates from the rear parking lot is the major issue for the Planning Commission, as well as the neighbors. He stated that eight representatives of surrounding businesses had written letters volunteering to allow use of their parking area in the evening for use by Mr. D'Alessio's patrons. He asked that the conditional use permit for the restaurant be approved with the existing front parking, and suggested surrendering his right to the legal non-conforming parking lot in the back and converting it to full residential use. He responded to questions from Council.

Mayor Pro Tem Monahan observed that his largest concern is the parking situation. He asked Mr. D'Alessio if the plan had been altered since the Planning Commission meeting to alleviate the concerns of City staff, as well as the majority of the residences and businesses in the area. Mr. D'Alessio responded that the valet parking plan would allow options for the parking situation, stating his goal to alleviate noise. The Public Services Director replied to a question from Council Member Bever by stating that the entire strip of parking on the east side of the building from 18th Street south down to 17th Street and Superior Avenue is owned by the City and is public right-of-way. The Associate Planner commented on a parking survey which had been done for the Bamboo Terrace which indicated that in the evening hours and on weekends, the frontage road is packed with cars and the rear lot is open.

Mark Korando, Costa Mesa, observed that the Bamboo Terrace has a permit for valet parking but they have not used it in ten years because it does not work. He added that the rear parking lot is not available after 12:00 p.m., and noted that it is the alcohol-related, nighttime use which is objected to by the neighbors. He contested the existing non-conforming use of the parking lot on Anaheim Avenue.

Jeff Barden, Costa Mesa, stated that the parking overflows into his neighborhood which creates problems on his property.

Derek Yeager, Costa Mesa, objected to the valet parking because of the proximity of his home to the proposed project, and denied the need for another lounge, nightclub, or bar in this area.

Terry Shaw, Costa Mesa, reiterated the need for resolution to the parking issues, and commented that the project would be an intrusion into the privacy of the adjacent neighbors. He referred to the over-concentration of Alcoholic Beverage Control licenses in the area.

Natalie Yeager, Costa Mesa, indicated that she moved into the neighborhood one and one-half years ago and assumed that it would remain quiet.

Sandra Genis, Costa Mesa, felt that it was unreasonable for the applicant to expect Council to evaluate the information presented at the meeting. She suggested that the application should be withdrawn and a new one submitted to the Planning Commission.

Beth Refakes, Costa Mesa, enumerated the problems involved with the project including parking, incompatibility with the residential neighborhood, and the overabundance of bars in the area. She agreed that the project should either be redone and resubmitted to the Planning Commission or denied.

Richard D'Alessio, commented that the project will be an upscale establishment, not a bar or nightclub, and Council is entitled to revoke the permit if complaints are received. He indicated that the nighttime parking was considerably better than that in the daytime.

Lori McDonald, Costa Mesa, asked how many bars are located in Costa Mesa, and asked if consideration being given to a limit. She observed that the use is incompatible with a residential neighborhood, and suggested that a better location could be found for both the neighbors and the business.

Sandy Johnson, Costa Mesa, reported that she lives behind the Pierce Street Annex which is a bar in a residential neighborhood, and addressed the noise factors from the patrons when they exit. She asked that the Police Department check out traffic on Raymond Street, which is a marked one-way street, between Cabrillo Avenue and 17th Street.

Mark Allen Korando, Costa Mesa, suggested relocating the project, and stated that a home was previously located on what is the proposed parking lot for the project. He suggested Triangle Square as an alternative location.

Deborah Young, representing Bamboo Terrace, opposed the proposed project due to inadequate parking in the strip mall along Newport Boulevard, and mentioned that the parking is not adequate for even their employees in the afternoon. She thought that the increased demand in parking would discourage existing customers from patronizing existing businesses.

Chris Ayayo, co-owner of Bamboo Terrace, open since 1971, asked if the parking is not adequate, why is the use allowed.

Dennis D'Alessio asked Council to consider their request, stating that they have solutions to the parking issues, and maintained that the project is not a bar but will contain one of the finest restaurants in California.

There being no other speakers, the Mayor closed the public hearing.

The Mayor Pro Tem Monahan asked the City Attorney to prepare a report for Council on the zoning of the rear parking lot. He thought that the parking situation is unsolvable.

MOTION/Adopted
Resolution 05-6

A motion was made by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, and carried 4-0, to uphold the Planning Commission's decision by adopting Resolution 05-6, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DENYING CONDITIONAL USE PERMIT PA-04-33.

Mayor Mansoor liked the design of the project and the upscale atmosphere but did not approve of the location because of parking issues and noise.

RECESS

The Mayor declared a recess at 10:35 p.m., and reconvened the meeting at 10:50 p.m.

PUBLIC HEARING
PA-04-41, Lu/Loft 18

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider an appeal of the Planning Commission's approval of Planning Application PA-04-41 for

Johnny Lu/Loft 18 LLC, to construct a 6-unit, common-interest development (airspace condominiums) with minor modifications for a 4 ft. (5 ft. required) side setback and a 12 ft. wide (16 ft. required) common driveway, located at 654 West 18th Street in an Multi-Family Residential High Residential (R2-HD) zone. Environmental determination: exempt. The Affidavits of Publishing and Mailing are on file in the City Clerk's office. The Associate Planner summarized the Agenda Report dated February 10, 2005, and responded to questions from Council.

Theresa Gunther, Garden Grove, owner of property adjacent to the proposed project, spoke on behalf of her tenants and objected to the potential noise problems. She asked that the parking plan be changed.

Johnny Lu reported that they are addressing the neighbor's concerns by providing an additional one-foot curb to prevent accidents when parallel parking, and open parking, which is guest parking required by the zoning code, will be placed in a location in order to prevent car noise from disturbing the neighbors. He and Ms. Gunther replied to questions from Council.

There being no other speakers, the Mayor closed the public hearing.

MOTION/Adopted
Resolution 05-7

A motion was made by Council Member Bever, seconded by Council Member Dixon, and carried 4-0, to uphold the Planning Commission's decision by adopting Resolution 05-7, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING PLANNING APPLICATION PA-04-41, adding a condition of approval that the on-site garages must be utilized for tenant parking.

PUBLIC HEARING
GP-04-03/R-04-05,
Fairview Developmental
Center

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider General Plan Amendment GP-04-03 and Rezone R-04-05 for Fairview Developmental Center located at 2501 Harbor Boulevard, to change the land use designation from High Density Residential to Public/Institutional and a rezone from PDR-HD (Planned Development Residential-High Density) to I & R (Institutional and Recreational) on approximately 6.5 acres. Environmental determination: Negative declaration: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT GP-04-03, WHICH AMENDS THE LAND USE DESIGNATION FROM HIGH DENSITY RESIDENTIAL TO PUBLIC/INSTITUTIONAL FOR A PORTION OF 2501 HARBOR BOULEVARD, and approving the initial study and negative declaration; and AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REZONING 5 ACRES FROM PLANNED DEVELOPMENT RESIDENTIAL-HIGH DENSITY TO INSTITUTIONAL AND RECREATIONAL BY ADOPTION OF REZONE PETITION R-04-05 FOR A PORTION OF 2501 HARBOR BOULEVARD. The Affidavits of Publishing and Mailing are on file in the City Clerk's Office. A communication was received from Keith and Louise Raffle, Costa Mesa, encouraging Council to uphold the Planning Commission's decision to rezone the property. The Principal Planner reviewed the Agenda Report dated February 9, 2005, and responded to questions from Council.

Paula Guterrez, representing the State of California, presented a feasibility analysis which provided various alternatives under the existing High Density Residential zoning, commenting that the

State is opposed to the proposed General Plan Amendment and Rezone. She introduced the architect from McLarand Vasquez and Partners who provided an overview of several development options, showing drawings which illustrated lower to high densities, all within the allowable zoning designation. He explained that their job was to understand the dynamics of the site and to determine the issues from a site plan standpoint. He clarified that his presentation consisted of for-sale products only.

Dee Storme, Costa Mesa, opposed the High Density Residential zoning and commented that there is no guarantee that the person who buys the property will conform to the diagrams that the State had just presented. She predicted that there would be 20-units per acre, and claimed that Costa Mesa does not need that kind of density.

Terry Shaw, Costa Mesa, supported retaining the residential zoning and encouraged reduced density. He suggested senior housing or low to moderate incoming housing for the property.

Alexing Wells, San Diego, reported that her brother resides at Fairview Developmental Center, one of the largest employers in Costa Mesa, and the Center also provides low-income housing units for the disabled, employees, and others who live in Harbor Villas, the apartment complex on the property. She addressed the “triangle property” at the entrance to the Center, asking that it be retained in a park-like situation with trees and benches, and requested that the I & R zoning for the “triangle” be retained.

Sandra Genis, Costa Mesa, indicated that the City and the Newport-Mesa Unified School District had expressed an interest in the 2501 Harbor Boulevard parcel and both would be using it for a public or institutional use. She urged Council to approve the amendment, commenting that the City needs more parks, libraries, etc.

Beth Refakes, Costa Mesa, agreed that the zoning should be changed to I & R, and opposed the high-density housing. She thought that senior housing would be acceptable but stressed that Council needed to protect the citizens of Costa Mesa.

Lori McDonald, Costa Mesa, supported the change to I & R zoning.

There being no other speakers, the Mayor closed the public hearing.

Council Member Bever did not believe that it was appropriate to consider the rezone at this time.

Sandra Genis, Costa Mesa, clarified that in approximately 1995, the City had contacted the State regarding acquiring this site for local uses. She stated that the State had originally shown an interest in selling the property but later changed its mind.

MOTION/Gave
Directions to Staff

A motion was made by Council Member Bever, seconded by Mayor Pro Tem Monahan, directing staff to proceed with changing the zoning of the property located at 2501 Harbor Boulevard to PDR-MD (Planned Development Residential – Medium Density), and TO allow the State to market the property to the development community.

The Senior Planner confirmed that the appropriate environmental

documentation for the zoning change would be prepared and considered by the Planning Commission prior to being returned to the City Council.

Mayor Pro Tem Monahan thought that the City should make it clear to the State that we are only interested in a lower-density project, preferably 12 to 13 units per acre, which are for-sale and detached. He commented that that land is extremely valuable but is out of the City's price range, the location is not appropriate for ball fields, and the best use is a low-density housing project. Mayor Pro Tem Monahan believed that the I & R zoned "triangle", which is the entrance to Fairview Development Center, is untouchable and not being considered for a rezone.

Council Member Bever suggested that the segment behind the site which currently has older, rental homes, be considered for rezoning as well. The Principal Planner informed Council Member Bever that this area is currently zoned PDR-HD. Mayor Pro Tem Monahan observed that the housing behind Fairview Development Center is mainly used for their personnel. Council Member Dixon opposed the motion, objecting to the forfeiture of open space without allowing the public or a private developer to propose a more passive use. Mayor Mansoor agreed with Mayor Pro Tem Monahan and Council Member Bever.

The motion carried 3-1, Council Member Dixon voting no.

PUBLIC HEARING
Mobilehome Defini-
tions

The Deputy City Clerk presented an ordinance to amend existing definitions relating to "Manufactured Housing", "Modilehome", and "Mobilehome Park", and "Mobilehome Park Conversion Permit" and to add a definition for Mobilehome Lot." The Affidavit of Publication is on file in the City Clerk's office. A communication was received from Jeff Goldfarb, Rutan and Tucker, stating that the proposed amendments are in conflict with existing State law. The Principal Planner summarized the Agenda Report dated February 8, 2005.

Vickey Talley, Executive Director Manufactured Housing Educational Trust, 25241 Paseo de Alicia, Laguna Hills, representing owners of mobile home parks in Costa Mesa, reiterated her opposition to making any changes, and concurred with the letter from Rutan and Tucker regarding the conflict with State law. She submitted her comments in writing. For the record, Ms. Talley asked that Council not adopt the proposed changes.

Chris Welsh, owner of Palms Mobile Home Park, 140 Cabrillo Street, Costa Mesa, felt that the issues had already been covered, and the definition of recreational vehicles is capricious. He mentioned the pre-emption of State law, and asked about the references to "partial closures" in the ordinance.

There being no other speakers, the Mayor closed the public hearing.

MOTION/Received
and Filed

On motion by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, and carried 3-1, Council Member Dixon voting no, the report was received and filed.

Mayor Mansoor supported the motion stating that he was satisfied with the State law governing mobilehomes.

The Deputy City Clerk presented from the meeting of February 7,

OLD BUSINESS
Zoning Code Modifi-
cations

2005, second reading and adoption of Ordinance 05-2, amending the zoning code to modify the land use matrix, public notice requirements, and various permit processes.

MOTION/Adopted
Ordinance 05-2

On motion by Mayor Mansoor, seconded by Council Member Dixon, and carried 4-0, Ordinance 05-2 was given second reading and adopted: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING THE ZONING CODE TO MODIFY THE LAND USE MATRIX, PUBLIC NOTICE REQUIREMENTS, AND VARIOUS PERMIT PROCESSES.

OLD BUSINESS
Council Order of
Business

The Deputy City Clerk presented from the meeting of February 7, 2005, a resolution concerning Council meeting order of business. The Assistant City Manager reviewed the Agenda Report dated February 10, 2005. He noted that in a supplemental report had been distributed which added, "except that there shall be no meeting on the third Tuesday in December," to the resolution, that being consistent with prior action taken by Council. He responded to questions from Council. The City Attorney confirmed that one-minute public comment, ten minutes total, should be taken at the Council Meeting dinner session, limited to items on which are on the agenda. Mayor Pro Tem Monahan suggested trying public comment during dinner study sessions but would object if it turned into a "de facto public hearing", and voiced support for canceling the study sessions altogether. Council Member Dixon proposed starting the study session earlier.

Beth Refakes, Costa Mesa, thanked Council for retaining the current public comments at the beginning of City Council meetings. She did not think that the comments at the dinner study sessions would be a problem as not that many residents attend.

MOTION/Adopted
Resolution 05-8

On motion by Mayor Mansoor, seconded by Mayor Mansoor, and carried 4-0, Resolution 05-8 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CONCERNING COUNCIL MEETING ORDER OF BUSINESS AND SCHEDULING AND RESCINDING RESOLUTION NO. 01-47 AND RESOLUTION NO. 89-126, as amended by adding to Section 2(a) "except that there shall be no meeting on the third Tuesday in December", and adding Section 2(c) "Except by majority vote of the City Council, the City Council shall conclude meetings by 12:00 midnight. The determination of whether to continue the meeting or adjourn the meeting shall be made at the conclusion of the item of council business ending after 11:45 p.m. and nearest to midnight. In the event there is unfinished business on the Agenda, the Council will continue any remaining items of unfinished business to the next Regular Meeting of the City Council, or to a Special Meeting at the option of the City Council"; and repealing existing Council Policy 000-4, with the new schedule effective as of March 1, 2005.

The Deputy City Clerk presented the following requests for closed session:

CITY ATTORNEY

Requests for Closed
Session: People v.
Fishetti, Case No.
CH46167PE

Pursuant to subdivision (a) of Section 54956.9 of the California Government Code, a closed session has been scheduled for the City Council to confer with legal counsel, Kimberly Hall Barlow, City Attorney, regarding existing litigation (one case): People v. Fishetti, Case No. CM46167PE.

Pursuant to subdivision (b) (1) of Section 54957 of the California

Public Employment:
Sr. Deputy City
Attorney and Paralegal

Government Code, a closed session has been scheduled for the City Council to confer with the City's representative, Steve Mandoki, Director of Administrative Services, regarding public employment. Title: Sr. Deputy City Attorney and Paralegal.

Brandt Development
Ltd. v. City of Costa
Mesa, Case No.
03CC05315; and City
v. Lindeman, Case No.
03CC13307

Pursuant to Subdivision (a) of Section 54956.9 of the California Government Code, a closed session has been scheduled for the City Council to confer with legal counsel, Kimberly Hall Barlow, City Attorney, regarding existing litigation in two (2) cases: Brandt Development Ltd. v. City of Costa Mesa (Case No. 03CC05315 Orange County Superior Court) and City of Costa Mesa v. Lindeman (Case No. 03CC13307 Orange County Superior Court).

Anticipated Litigation
for Two Potential
Cases

Pursuant to subdivision (c) of Section 54956.9 of the California Government Code, a closed session has been scheduled for the City Council to confer with the legal counsel regarding matters involving anticipated litigation - possible initiation of two (2) potential cases.

Mayor Mansoor announced that closed session would be held at the conclusion of regular business.

Mayor Pro Tem Monahan asked if staff could determine if there is a permanent "on/off" switch for the microphones at the dais.

COUNCIL
COMMENTS

At 12:20 a.m., Mayor Mansoor adjourned the City Council meeting to a closed session in first floor Conference Room B to discuss the items previously announced by the Deputy City Clerk.

ADJOURNMENT TO
CLOSED SESSION

At 1:05 a.m., Mayor Mansoor reconvened the meeting and announced the following action was taken during closed session.

MOTION/Staff
Authorized to File
Appeal/Fishetti

Regarding existing litigation (one case): People v. Fishetti, Case No. CM46167PE, by a vote of 4-0, staff was authorized to file an appeal.

MOTION/Approved
Extension for Sr.
Deputy City Attorney
and Paralegal.

Regarding public employment for the Sr. Deputy City Attorney and Paralegal, by a vote of 3-1, Council Member Dixon voting no, an employment extension for the Sr. Deputy City Attorney was approved; and by a vote of 4-0, an employment extension for the Paralegal was approved.

No Action Taken

No action was taken regarding Brandt Development Ltd. v. City of Costa Mesa (Case No. 03CC05315 Orange County Superior Court) and City of Costa Mesa v. Lindeman (Case No. 03CC13307 Orange County Superior Court).

No Action Taken

No action was taken regarding anticipated litigation - possible initiation of two (2) potential cases.

The Mayor declared the meeting adjourned at 1:10 a.m.

ADJOURNMENT

