

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

January 02, 2008

The City Council meeting of the City of Costa Mesa, California met in regular session January 02, 2008, at 5:07 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor.

I. ROLL CALL

Council Members Present: Mayor Allan Mansoor
Mayor Pro Tem Eric Bever
Council Member Linda Dixon
Council Member Wendy Leece

Council Members Absent: Council Member Katrina Foley

Officials Present: City Manager Allan Roeder
City Attorney Kimberly Hall Barlow
City Clerk Julie Folcik

II. PUBLIC COMMENTS

There were no public speakers.

III. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL - Pending Litigation: Grazulis & Braga v. Wiater and City of Costa Mesa; Orange County Superior Court Case Number 04CC10146, pursuant to Government Code Section 54956.9(a).

Mayor Mansoor recessed the meeting at 5:08 p.m. to the closed session in Conference Room 1B.

The Mayor reconvened the regular meeting at 6:06 p.m.

PLEDGE OF ALLEGIANCE - Council Member Wendy Leece

MOMENT OF SOLEMN EXPRESSION

The Mayor wished all a happy new year and took a moment to remember those that are overseas protecting our freedom and those that are serving here in an emergency capacity.

ROLL CALL

Council Members Present: Mayor Allan Mansoor
Mayor Pro Tem Eric Bever
Council Member Linda Dixon
Council Member Wendy Leece

Council Members Absent: Council Member Katrina Foley

Officials Present: City Manager Allan Roeder
Assistant City Manager Thomas Hatch
City Attorney Kimberly Hall Barlow
Development Services Director Donald Lamm
Acting Public Services Director Peter Naghavi
Chief of Police Christopher Shawkey
Police Sergeant Philip Myers
Police Officer Jerry Hildeman
Assistant Planner Rebecca Robbins
City Clerk Julie Folcik

CLOSED SESSION REPORT

City Attorney Kimberly Hall Barlow reported that no action was taken on the closed session item.

The Mayor announced that Old Business Item No. 1, was asked to be continued due to the applicant's family emergency. It was unanimously agreed to address the item out of order.

VIII. OLD BUSINESS

1. From the meeting of November 20, 2007, request for rehearing by Lori McDonald of the Citywide Alley Improvements - Priority List concerning Alleys No. 107 and 108.

MOTION: Continue to the meeting of January 15, 2008.

Moved by Mayor Allan Mansoor, seconded by Council Member Linda Dixon.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Council Member Katrina Foley

PRESENTATIONS

The Mayor congratulated Martha Ford, Plan Check Engineer of Development

Services, as the Employee of the Month for January, 2008, in recognition of her service and dedication for the continued improvement to the City. The Mayor enumerated many of the project that was overseen by Ms. Ford.

IV. PUBLIC COMMENTS

1. Showleh Tolbert, Costa Mesa, spoke on behalf of Girls Incorporated of Orange County and promoted the Kaboom Physical Activity Center, a safe activity center for girls in the community. She announced the Kaboom Super Build Day to be held on February 14, 2008, and requested for volunteers, equipments, and donations in support of the event. She advised to contact (949) 646-7181, extension 306, for donation information.
2. Ernie Feeney, Costa Mesa, requested that the Council agendaize the Time Warner cable television service to address service problems and requested comparison of subscriber fees from the time they took over the franchise to the present.
3. John Feeney, Costa Mesa, protested the Police Department's Driving Under the Influence (DUI) check points within the City.
4. Anne Hogan Shereshevsky, Costa Mesa, wished everyone a happy new year and thanked the City for the improvements at the Senior Center. She referred to an article in the Senior Reporter recognizing ten seniors that mailed care packages to U.S. troops in Iraq.
5. Cindy Brenneman, Costa Mesa, presented pictures of the Veterans' Memorial and reported that it was complete and the Soldier's Cross had been installed. She announced that there is still time to purchase bricks through the Costa Mesa Community Foundation for the Veterans Memorial fund.
6. Mike Berry, Costa Mesa, asked the City to encourage the use of bicycles to reduce traffic and parking problems; spoke about the Time Warner Cable television service and reported as of January 1, 2008, the Federal Communications Commission (FCC) ruled that agreements with cable franchises and cities are no longer valid.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Wendy Leece announced that she has been chosen to attend the monthly Vector Control meetings; reported on complaints regarding graffiti behind the Department of Motor Vehicles (DMV) and advised she was working with staff on a resolution of the problem. In response to the Council Member's inquiry relative to public comments regarding the service by Time Warner Cable television, City Manager Allan Roeder informed that the franchise agreement was not an exclusive agreement and confirmed that the matter could be agendized if the Council was interested in doing so.

Mayor Allan Mansoor wished everyone a happy new year and echoed the request for the placement of the issue of Time Warner Cable service on the agenda.

Council Member Linda Dixon also requested that the Time Warner Cable service be agendized, reported that the Entertainment Book is available for \$35.00 through the Costa Mesa Senior Center to benefit the center and wished everyone a happy and safe new year.

Mayor Pro Tem Eric Bever recognized the Acting Public Services Director Peter Naghavi and his staff, Police Chief Christopher Shawkey, and the Police Department for their efforts in reducing speed on Victoria Street and Adams Avenue.

VI. CONSENT CALENDAR

CONSENT CALENDAR ITEM NOS. 1 THROUGH 10.

MOTION: Approve recommended actions for Consent Calendar Items Nos. 1 through 10, except for Consent Calendar Item Nos. 7 and 9.

Moved by Mayor Allan Mansoor, seconded by Council Member Linda Dixon.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Council Member Katrina Foley

1. Reading Folder.

The following Claims were received and processed by the City Clerk: Dr. Rami K. Batniji; John M. Beall; Bradley Kirk; Todd Ayres of Esurance on behalf of Roger Lehman; Richard Arredondo on behalf of Pacific Bell; and Valerie Blanchard of Progressive Insurance on behalf of Roberto Pinan.

The following Request for Alcoholic Beverage Control License was received and processed:

Sankei Global Venture Inc., for Chinese Restaurant Kohryu, located at

891 Baker Street, Suite B21, for stock transfer for an existing type 41 (on-sale beer and wine for a bona fide eating place).

The following notification letter was received and processed: Southern California Gas Company – Notice of Proposed Rate Increase, State Mandated Natural Gas Social Programs, Application No. A.07-12-006.

2. Regular Meeting Minutes of December 4, 2007; Adjourned Regular Meeting/Study Session Minutes of December 11, 2007.

ACTION: Approved.

3. Warrant Resolution 2191, funding Payroll No. 724 for \$2,479,281.05 and Payroll No. 723A for negative \$444.69, and City operating expenses for \$1,680,333.17 including payroll deductions.

ACTION: Resolution adopted.

4. Warrant Resolution 2192, funding City operating expenses for \$712,106.48.

ACTION: Resolution adopted.

5. Warrant Resolution 2193, funding Payroll No. 725 for \$2,741,465.68 and Payroll No. 724A for \$3,262.15, and City operating expenses for \$1,741,448.75 including payroll deductions.

ACTION: Resolution adopted.

6. Warrant Resolution 2194, funding City operating expenses for \$1,485,379.97.

ACTION: Resolution adopted.

8. Final Map for Tract No. 17132 located at 309 Monte Vista Avenue, Costa Mesa, for the subdivision to convert an existing eight (8) units, two story, unoccupied apartment complex into a residential common interest (condominiums) development.

ACTION: Approved; authorized City Engineer and City Clerk to sign.

10. Completion of Sunflower Avenue/Hyland Avenue Traffic Signal Project, City Project No. 06-23, by Pouk and Steinle, Inc., 2520 Rubidoux Boulevard, Riverside.

ACTION: Work was accepted; City Clerk was authorized to file a Notice of Completion; authorization was given to release of retention monies 35 days thereafter; the Labor and Material Bond was ordered exoneration seven (7) months thereafter; and the Faithful Performance Bond was

ordered exoneration twelve (12) months thereafter.

ITEMS REMOVED FROM THE CONSENT CALENDAR

7. Retirement of Police Service Dog Robbie and commend him for four years of outstanding service to the community.

(a). Purchase Agreement for the sale of Police Service Dog Robbie to Officer Jerry Hildeman.

The City Council recognized the retirement of Police Service Dog Robbie. The Mayor, reading the biography of Robbie, noted that he and Partner K9 Officer Jerry Hildeman graduated number one in their K9 Basic Training class, earning their certification to perform police work together. The Mayor acknowledged Robbie's numerous accomplishments, presented him with a Certificate of Recognition, and officially announced his retirement from the Costa Mesa Police Department.

MOTION: Approve retirement; approve purchase agreement and authorize the Chief of Police to sign.

Moved by Mayor Allan Mansoor, seconded by Mayor Pro Tem Eric Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Council Member Katrina Foley

9. Adopt plans and specifications, and working details for the Fairview Road/I-405 Interchange Widening Project, City Project No. 07-23, and award construction contract to Griffith Company, 2020 South Yale Street, Santa Ana, in the amount of \$5,549,940.60.

(a). Budget Adjustment No. 08-031 for \$4,253,070.

John Feeney, Costa Mesa, requested the item be continued due to the adverse effects on the community. He opined that the staff report was incomplete and did not specify how the effects of the project would be controlled. He suggested a project contact person available 24-hours a day to address the concerns of the community.

Ernie Feeney, Costa Mesa, expressed concern relative to the possibility of night work due to delays, of the excess noise from the work vehicles, and of the pounding of pylons. She questioned the contractor's experience, their history with the City, and their schedule for the work.

Mr. Peter Naghavi responded to questions from Mrs. Feeney, and pointed out that the contractor would work at night or on weekends only if City staff has directed such a schedule, which is expected only when a major freeway lane or

an on/off ramp is to be closed.

The Acting Public Services Director responded to questions from the City Council relating to the schedule of work, costs increase due to delays, and the handling of complaints.

MOTION: Approve and authorize the Mayor and City Clerk to sign; approved Budget Adjustment No. 08-031 and authorized the Mayor to sign. Moved by Mayor Allan Mansoor, seconded by Council Member Linda Dixon.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Council Member Katrina Foley

Mayor Mansoor noted that it was not quite 7:00 p.m. for Public Hearings, and proceeded to New Business Item No. 1.

IX. NEW BUSINESS

1. Selection of Council Officers

(a). Appoint Mayor for the balance of existing term.

(b). Appoint Mayor Pro Tem for the balance of existing term, if necessary.

Mayor Mansoor in addressing the reason for his requesting of this item, felt that it was time to allow someone else to fill the position of Mayor. He expressed appreciation for the opportunity to having served as Mayor, and voiced his support of Mayor Pro Tem Bever to serve in the position of Mayor for the remainder of the term.

Council Member Dixon requested that the item be continued to the next regular meeting as she felt that it was important to allow for all the Council Members to be present for the vote.

The Mayor disagreed and felt he was ready to proceed with the vote. Council Member Leece concurred.

Anne Hogan Shereshevsky, Costa Mesa, agreed with Council Member Dixon that the item should be continued. She opined that the matter was too important and that all Council Members should be present to vote on the matter.

Judi Berry, Costa Mesa, expressed her appreciation of the Mayor and thanked him for his dedicated service.

Gary Calacci, (no city given) thanked the Mayor for a job well done.

Rachel Perez Hamilton, Costa Mesa, concurred with Council Member Dixon in requesting a continuance, stating that it was too important to not have all Council Members present.

Cindy Brenneman, Costa Mesa, thanked the Mayor for his service and courage; and expressed appreciation for his work.

MOTION: Continue to the meeting of January 15, 2008.

Moved by Council Member Linda Dixon. Motion died for lack of second.

MOTION: Appoint Eric Bever as Mayor for the balance of existing term.

Moved by Mayor Allan Mansoor, seconded by Council Member Wendy Leece.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Council Member Katrina Foley

MOTION: Appoint Katrina Foley as Mayor Pro Tem for the balance of existing term.

Moved by Council Member Linda Dixon. Motion died for lack of second.

Council Member Mansoor relinquished his seat for Mayor Eric Bever. Mayor Bever thanked the Council for their support stating that it was an honor for the opportunity to serve as Mayor and will do his best.

MOTION: Appoint Allan Mansoor as Mayor Pro Tem for the balance of existing term.

Moved by Mayor Eric Bever, seconded by Council Member Wendy Leece.

Mayor Bever commented on the City's direction to continue true improvements and noted the need for a working relationship between Mayor and Mayor Pro Tem. He cited some City issues that he and Council Member Mansoor had jointly worked on; therefore stating the reason for the motion.

Council Member Dixon stated that she would not support the motion as she felt that another should be given the opportunity to serve as Mayor Pro Tem. She recommended Council Member Foley whom she felt would do a good job and would be happy to serve as Mayor Pro Tem.

The motion carried by the following roll call vote:

Ayes: Mayor Eric Bever, Mayor Pro Tem Allan Mansoor, Council

Member Wendy Leece
Noes: Council Member Linda Dixon
Absent: Council Member Katrina Foley

VII. PUBLIC HEARING

1. PUBLIC HEARING: General Plan Amendment (GP-07-03) / Rezone R-07-06 / Planning Application PA-07-19 / Tentative Tract Map T-17176 for Waterpointe Development located at 351 West Bay Street. Environmental Determination: exempt.

(a). A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING GENERAL PLAN AMENDMENT GP-07-03 FOR 351 WEST BAY STREET.

(b). AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REZONING ONE PARCEL TOTALING 0.77 ACRE FROM C2 (GENERAL COMMERCIAL) TO R2-MD (MULTIPLE FAMILY RESIDENTIAL - MEDIUM DENSITY) FOR PROPERTY LOCATED AT 351 WEST BAY STREET.

(c). A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING THE FOLLOWING: (1) PLANNING APPLICATION PA-07-19; AND (2) TENTATIVE TRACT MAP T-17176 AT 351 WEST BAY STREET.

Assistant Planner Rebecca Robbins presented the staff report; along with the Director of Development Services and the Acting Public Services Director responded to questions from Council Member Dixon relating to the undergrounding of utilities, red curbing, parking, and landscaping.

Garrett Calacci, applicant, addressed questions by Council Member Dixon and noted some concerns on undergrounding utilities pointing out that utilities would be underground on-site.

Discussion ensued among the Council, City staff, and applicant relating to overflow parking, inclusion of parking regulations in the Conditions, Covenants, and Restrictions (CC&R), and project enhancements.

Terry Shaw, Costa Mesa, referred to the rear of the property pointing out the variance of a specific unit and questioned the effects on the adjacent building.

The Director of Development Services confirmed that the project would not impede on the neighboring property.

**MOTION: Adopt Resolution No. 08-1.
Moved by Mayor Pro Tem Allan Mansoor, seconded by Mayor Eric Bever.**

The motion carried by the following roll call vote:

Ayes: Mayor Eric Bever, Mayor Pro Tem Allan Mansoor, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Council Member Katrina Foley

MOTION: Introduce Ordinance No. 08-1 for first reading, read by title only, and waived further reading.

Moved by Mayor Pro Tem Allan Mansoor, seconded by Mayor Eric Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Eric Bever, Mayor Pro Tem Allan Mansoor, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Council Member Katrina Foley

MOTION: Adopt Resolution No. 08-2.

Moved by Mayor Pro Tem Allan Mansoor, seconded by Mayor Eric Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Eric Bever, Mayor Pro Tem Allan Mansoor, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Council Member Katrina Foley

2. PUBLIC HEARING: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, TO REZONE A 1.4-ACRE PROPERTY FROM R1 (SINGLE-FAMILY RESIDENTIAL) TO I&R (INSTITUTIONAL AND RECREATIONAL) AT 265 MONTE VISTA AVENUE.

City Manager Roeder recused himself from the discussion due to the proximity of his residence to the property.

The Assistant Planner briefly summarized the staff report.

MOTION: Introduce Ordinance No. 08-2 for first reading, read by title only, and waived further reading.

Moved by Mayor Pro Tem Allan Mansoor, seconded by Council Member Linda Dixon.

The motion carried by the following roll call vote:

Ayes: Mayor Eric Bever, Mayor Pro Tem Allan Mansoor, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Council Member Katrina Foley

3. PUBLIC HEARING: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING SECTION 8-87 OF THE COSTA MESA MUNICIPAL CODE RELATING TO SOLID WASTE FRANCHISE FEES, adding language in Section 8-87(c)(1), to clarify the service areas for Class "A" franchisees to allow them to provide temporary dumpster service to the single-family residential sector.

The Acting Public Services Director briefly summarized the staff report.

**MOTION: Introduce Ordinance No. 08-3 for first reading, read by title only, and waived further reading.
Moved by Mayor Pro Tem Allan Mansoor, seconded by Council Member Linda Dixon.**

The motion carried by the following roll call vote:

Ayes: Mayor Eric Bever, Mayor Pro Tem Allan Mansoor, Council Member Linda Dixon, Council Member Wendy Leece

Noes: None.

Absent: Council Member Katrina Foley

X. REPORTS

The City Attorney wished everyone a happy new year; congratulated Mayor Bever and looked forward to working with him.

The City Manager reaffirmed the City's intent to do the best possible job for the City Council and community in 2008.

- XI. ADJOURNMENT - The Mayor declared the meeting adjourned at 7:35 p.m., to January 8, 2008, 4:30 p.m., for a Study Session. The next Regular City Council Meeting will be held on January 15, 2008.**

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa