

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

**April 01, 2008**

The City Council meeting of the City of Costa Mesa, California met in regular session April 01, 2008, at 5:03 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 Eric R. Bever  
Mayor Pro Tem Allan R. Mansoor  
Council Member Linda W. 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

(Council Member Dixon entered at 5:10 p.m.)

**II. PUBLIC COMMENTS**

There were no public comments.

**III. CLOSED SESSION:**

1. CONFERENCE WITH LEGAL COUNSEL - Existing Litigation: Morton v. City of Costa Mesa; Orange County Superior Court Case Number 06CC09363, pursuant to Government Code Section 54956.9(a).
2. CONFERENCE WITH LEGAL COUNSEL - Existing Litigation: Acosta v. City of Costa Mesa, pursuant to Government Code Section 54956.9(a).
3. 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 Bever recessed the meeting to closed session in Conference Room 1B at 5:05 p.m.

The Mayor reconvened the regular meeting at 6:05 p.m.

## **ROLL CALL**

Council Members Present: Mayor Eric R. Bever  
Mayor Pro Tem Allan R. Mansoor  
Council Member Linda W. 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  
Public Services Director Peter Naghavi  
Human Resources Manager Terri Cassidy  
Management Analyst Carol Proctor  
City Clerk Julie Folcik

## **PLEDGE OF ALLEGIANCE - Council Member Wendy Leece**

## **MOMENT OF SOLEMN EXPRESSION - Pastor Nathan Abbate, Calvary Chapel**

## **CLOSED SESSION REPORT**

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

## **PRESENTATIONS**

The Mayor presented a proclamation to Robin Lassen and Shelly Campbell proclaiming the month of April as the Department of Motor Vehicles/Donate Life Month. Ms. Lassen informed of the need for the donation living organs and tissue in order to help save lives and encouraged the placement of the pink dot on drivers licenses and registering online to document the participant's wishes.

The Mayor presented certificates recognizing the following student ambassadors involved in the Costa Mesa Sister City Ambassadors to Wyndham, Australia - Summer 2007 Ambassador Exchange: Tyler Andrews, Hannah Butler, Cassandra Menendez, Israel Torres, Taylor Schow, Abby Koff, Sean Ulrich, and adult ambassadors Officer Jess Gilman, Rhonda Gilman, Lisa Grant, Sue Smith, Valerie Smith, Brandon Smith as they represented the City of Costa Mesa and the Newport Mesa Unified School District while visiting Wyndham, Australia where they learned and exchanged cultural, civic and educational information.

The Mayor recognized Gaetano Russo, Senior Maintenance Worker as Employee of the Month for April 2008. He commended him for his outstanding work ethic and positive cooperation with Code Enforcement in the rapid response eradication program for the immediate removal of

graffiti which has resulted in a noticeable reduction of graffiti throughout the City.

#### **IV. PUBLIC COMMENTS**

Terry Shaw, Costa Mesa, announced that Daniel Perez, curator and director of the Center for Bigfoot studies in Riverside would be the guest speaker at the Costa Mesa Historical Society's meeting scheduled for April 13, 2008; that the wildflower walk at Fairview Park was scheduled for April 5, 2008; and that the Neighbor for Neighbors annual spring clean-up at Fairview Park was to be held on April 12, 2008.

Tony Peca, Costa Mesa, in his comments referencing a comprehensive study regarding the SR-55, indicated a demand for a public hearing, whereby the Council as well as specified staff were directed to attend to address the serious problems and to reconcile the people as to what they have lost as it pertains to the SR-55 issue...".

Martin Millard, Costa Mesa, commenting on failing schools, increasing crime, gangs, Westside decline, and slum buildings, encouraged the Council to be proactive and to spread low-income housing throughout Costa Mesa.

Mary McKenna, Costa Mesa, complained that the quality of life on Broadway has deteriorated as the traffic has increased. She was hopeful that a solution would be found.

Jeff Mcconville, Costa Mesa, informed that he had served on the citizen's ad hoc committee to address the traffic on the eastside and reported a study was done by the consultant to address traffic issues that were becoming increasingly problematic. He felt that recent meetings with OCTA that the alternatives did not address the quality of life for the neighborhood.

#### **V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS**

Council Member Linda Dixon, in response to a public speakers comments regarding affordable housing, reminded the public that as part of a recently approved development, part of a motion she made was to ask for in-lieu-of funding from the developers in order to place affordable housing in another part of the community, but that it was voted down.

Mayor Eric Bever pointed out to staff that on the southbound at Fairview Road and Newport Boulevard the signal is very dim. In reference to comments from public speakers regarding the SR-55 Access Study, he reminded the public that in 2005 he had proposed abandonment of the existing master plan. He reported that public meetings were being held to review the current access study by the Orange County Transportation Authority (OCTA), and the purpose was to review other options to the master plan. He advised that the next meeting was to be held the following evening in the Council Chamber and encouraged public involvement.

Council Member Wendy Leece reported attendance at the League of California Cities Planners Institute and of the session she found particularly valuable regarding affordable housing for seniors. She advised that a new Citizen's Emergency Response Training (CERT) class would be held soon; and informed the public of the City's supplement of grad night activities for the local high schools.

Mayor Pro Tem Allan Mansoor announced the meeting to be held in the Council Chambers on April 2, 2008, with OCTA regarding the options for the SR-55 terminus. He reported that the options that were being presented were to be discussed, encouraged the public to provide their input, and offered to speak to anyone who would like to be more informed.

## **VI. CONSENT CALENDAR**

### **CONSENT CALENDAR**

**MOTION: Approve recommended actions for Consent Calendar Items Nos. 1 through 12, except for Consent Calendar Items Nos. 7, 8, and 11. Moved by Council Member Linda W. Dixon, seconded by Mayor Eric R. Bever.**

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. 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: Hannah Balsitis (by and through her guardian Debbie Balsitis); Allen, and Lichman Chevalier; Dave Petrun; Candace V.K. Fuller and (2) minors; Enterprise Rent-A-Car (two claims).

The following Notification Letters were received and processed: South Coast Air Quality Management District – Notice of Intent to Issue a “Permit to Construct and Operate” pursuant to Rule 212.

California Environmental Quality Act Availability of Notice of Preparation of a Draft EIR for the Los Angeles International Airport Specific Plan Amendment Study.

#### 2. Special Joint Study Session with the Planning Commission Minutes of February 12, 2008; Regular Meeting Minutes of March 18, 2008; and Adjourned Regular Meeting/Study Session Minutes of March 11, 2008.

ACTION: Approved.

3. Warrant Resolution 2206, funding City operating expenses for \$956,324.54.

ACTION: Resolution adopted.

4. Warrant Resolution 2207, funding Payroll No. 806 for \$2,553,499.72 and Payroll No. 805A for \$827.69 and City operating expenses for \$2,195,837.80 including payroll deductions.

ACTION: Resolution adopted.

5. Memorandum of Understanding with CCN, USA, LLC., 1920 Main Street, Suite 210, Irvine, confirming the City's interest in exploring the possible installation of a CCNtv Community Communications System.

ACTION: Approved; authorized the Mayor and City Clerk to sign.

6. Award Formal Bid Item No. 1121, for the purchase of four (4) Honda Police Motorcycles from Huntington Beach Honda, 17555 Beach Boulevard, Huntington Beach, in the amount of \$103,336.04.

ACTION: Approved.

9. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING THE PURCHASING OFFICER, OR HIS/HER DESIGNATED REPRESENTATIVE, TO ACQUIRE FEDERAL SURPLUS PROPERTY FROM THE CALIFORNIA STATE AGENCY FOR SURPLUS PROPERTY.

ACTION: Adopted Resolution No. 08-23.

10. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE VACATION OF A PORTION OF ALLEY NO. 62 BETWEEN OLD NEWPORT BOULEVARD AND ALLEY NO. 61, and setting the hearing date for April 15, 2008, at 7:00 p.m.

ACTION: Adopted Resolution No. 08-24.

12. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, SUMMARILY VACATING A PORTION OF EXCESS LANDSCAPE EASEMENT ADJACENT TO SAKIOKA DRIVE LOCATED AT 3400 AVENUE OF THE ARTS.

ACTION: Adopted Resolution No. 08-26.

ITEMS REMOVED FROM THE CONSENT CALENDAR

7. Annual Review of the Costa Mesa 2000 General Plan

Council Member Leece requested a brief overview of the General Plan, its purpose, the timelines for review and for any changes that may be made. The Director of Development Services gave a review of the the purpose and state requirements of the General Plan and highlighted that the City would be the first in Orange County to adopt the Housing Element of the General Plan by the July 1, 2008 deadline.

**MOTION: Receive and file report.  
Moved by Mayor Eric R. Bever, seconded by Council Member Linda W. Dixon.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Katrina Foley

8. Salary adjustments for Executive (Directors and Managers), Confidential Employees Unit and Part-time job classifications:

(a). A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REVISING THE EXECUTIVE COMPENSATION PLAN AND EXECUTIVE SALARY SCHEDULE TO REFLECT CHANGES IN THE ESTABLISHED LABOR MARKETPLACE.

(b). A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REVISING THE SALARY RANGES FOR JOB CLASSIFICATIONS WITHIN THE CONFIDENTIAL EMPLOYEES UNIT.

(c). A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADJUSTING THE RATES OF PAY FOR PART-TIME CLASSIFICATIONS AND EMPLOYEES TO REFLECT THE ESTABLISHED MARKETPLACE.

(d). Budget Adjustment No. 08-049 for \$362,925.

(e). Council Policy 300-2 Auto and Severance (for executive)

(f). Council Policy 300-7 Adjustments to Employee Compensation (revising methodology of employee compensation).

The Human Resources Manager Terri Cassidy confirmed for the Mayor, relative to the retirement benefit of 2.5 percent at 55 for employees, it was agreed that the employee would pay for the retirement enhancement. She also explained the provision which provides that in the event that the employee was paying four percent for the enhancement the bargaining unit would come back to the table to discuss how that would be paid for by the employee. The Mayor expressed concern that the wording was straying from Council's initial intent and therefore expressed his desire to

make it a part of the record to emphasize the previous direction of the Council requiring the employee to pay the full retirement enhancement.

Martin Millard, Costa Mesa, felt that higher level city employees should be encouraged to live within the City.

**MOTION: Adopt Resolution No. 08-20: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REVISING THE EXECUTIVE COMPENSATION PLAN AND EXECUTIVE SALARY SCHEDULE TO REFLECT CHANGES IN THE ESTABLISHED LABOR MARKETPLACE;**

**Adopt Resolution No. 08-21: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REVISING THE SALARY RANGES FOR JOB CLASSIFICATIONS WITHIN THE CONFIDENTIAL EMPLOYEES UNIT;**

**Adopt Resolution No. 08-22: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADJUSTING THE RATES OF PAY FOR PART-TIME CLASSIFICATIONS AND EMPLOYEES TO REFLECT THE ESTABLISHED MARKETPLACE;**

**Approve Budget Adjustment 08-49, and authorize the Mayor to sign; adopt Council Policy 300-2; adopt Council Policy 300-7; and emphasize that as agreed all Miscellaneous Employees (those represented by a bargaining unit as well as unrepresented management, confidential and part-time employees) would pay the total cost of the retirement enhancement from 2.0 to 2.5%@55. Moved by Mayor Eric R. Bever, seconded by Mayor Pro Tem Allan R. Mansoor.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Katrina Foley

11. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ACCEPTING FIVE CITY-OWNED ALLEY WAYS INTO THE CITY STREET SYSTEM.

(a). Budget Adjustment No. 08-048 for \$900,000

The Mayor asked the Public Services Director regarding factors for cost and quality of materials.

**MOTION: Adopt Resolution No. 08-25; approve Budget Adjustment 08-48, and authorize the Mayor to sign. Moved by Mayor Eric R. Bever, seconded by Council Member Linda**

## **W. Dixon.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Katrina Foley

## **VIII. OLD BUSINESS**

1. From the meeting of March 18, 2008, rehearing request by Mayor Eric R. Bever relative to the determination regarding Planning Application PA-07-48, for Richard and Wendy Schones, authorized agents for Gary F. Schones, for property located at 378 Costa Mesa Street.

Mayor Bever stated his reasons for requesting a rehearing indicating that there were inconsistencies in the motion and questioned the consideration of the alley issue. He felt that the matter should be referred back to the Planning Commission for their review of the non-permitted two-car garage and granny unit.

Council Member Leece clarified her motion and its intent stating that under the recommendation of the staff the rear structure would be brought into compliance. She commented that she felt that the decision should stand.

Council Member Dixon expressed that she also had concerns regarding the motion and supported the Mayor's decision to request a rehearing. She commented that she did not wish to see the alley used as a factor in the determination and supported review by the Planning Commission.

Wendy Schones, Costa Mesa, applicant, commented on the support of her abutting neighbors along with 62 other residents; expressed concern on the matter being sent back to the Planning Commission and opined that it would not be a fair meeting.

Tony Peca, Costa Mesa, reminded the Council of the unanimous vote to reverse the Planning Commission's decision; questioned the Mayor's request to rehear the matter; and asked the Council to uphold their decision.

Richard Schones, Costa Mesa, the applicant, spoke about his disappointment on the request to rehear the issue and felt that his family was being made an example of a situation that seldom occurs; requested that the matter not be sent back to the Planning Commission opining that it would not allow for a fair hearing; and asked the Council to uphold the original determination.

Dave Goldstein, Costa Mesa, expressed support to uphold the Council's



decision and requested to not send the issue back to the Planning Commission.

Gary Schones, Costa Mesa, applicant, encouraged the City Council to uphold their decision. He commented on the planning application process, staff's "recommendation" relative to the alley, commented that he had full staff support and that approval of the Planning Commission was expected; felt that he was placed in a disadvantaged position; reiterated his belief that an alley was once planned at the rear of his property; and emphasized the support of his neighbor who would be mostly affected.

Jerry Lund, Costa Mesa, advised he is a neighbor of eight years and expressed support of keeping the granny unit.

Kerri Reed, Costa Mesa, encouraged the Council to deny the rehearing request.

Jim Righeimer, Costa Mesa, Planning Commissioner, explained concerns relating to an approval of the illegal buildings and variances. He recounted conversations that he had with the Schones relating to issues with the granny unit, parking spaces, and proper setbacks; commented on the need to bring the units up to current code standards and expressed the safety concerns relating non-conformance with the setback requirements.

The Mayor commented that he did not believe based on the information presented that there was to have been an alley installed behind the property at the time the building was built and did not feel that was an argument that could be used to support an approval.

Council Member Dixon asked that if the application is referred back to the Planning Commission that the consideration of a tentative alley be left out of the discussion.

Council Member Leece commented that she visited the site and clarified that her motion was taken verbatim with staff recommended findings and conditions of approval, that it was intended for the building to be brought into compliance the building and safety codes. Commented that while the properties were never permitted the property has been handed down from generation to generation, and each application of this type should be reviewed on a case-by-case basis. She encouraged support of the original Council determination.

**MOTION:** Refer the issue back to the Planning Commission with the following directions that approval of the front house renovation remaining intact; that the review is to address the rear accessory apartment and that if the applicant is required to remove the unpermitted building that it will remain in place until the renovation has been completed and the

occupancy permits have been issued.

Moved by Mayor Eric R. Bever, seconded by Council Member Linda W. Dixon.

Council Member Leece commented that she felt that to require a property owner to demolish a building was a form of eminent domain.

Mayor Pro Tem expressed concern relative to referring the application back to the Planning Commission, stated that he felt the Schones' house was not the only house that was non-conforming but would like to see some consistency in the application of the regulation.

**SUBSTITUTE MOTION:** To approve the renovation of the main house; that the rear unit remain until a new policy for equal enforcement relative to citywide non-conformance be determined by the Planning Commission.

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

Discussion amongst the Council and the City Attorney and staff ensued regarding non-conforming buildings, variances, referring the application and or a review of the policy for non-conformance to the Planning Commission.

Mayor Bever felt that referring to the Planning Commission a review of the code would need to be done through a separate motion.

Mayor recessed the meeting at 7:44 p.m.

The Mayor reconvened the meeting at 7:55 p.m.

The Mayor Pro Tem withdrew his substitute motion and made the following substitute motion:

**SUBSTITUTE MOTION:** To grant the rehearing by the Council for the second unit and garage; deny the application for a variance without prejudice; to refer the review of non-conforming uses to the Planning Commission and that no action be taken on the granny-unit pending the determination of the Planning Commission.

Clarification was made by the City Attorney regarding the necessity for the rehearing before the Council relative to the application and reference to the rear-unit.

Mayor Pro Tem Mansoor restated his motion:

**SUBSTITUTE MOTION:** Grant the request for the rehearing by the Council regarding the existing rear-unit and garage relative to the property located at 378 Costa Mesa Street; referred to the Planning

**Commission review of the codes relative to legal non-conforming structures and that no enforcement action will be taken regarding the existing rear-unit and garage at the subject location pending Planning Commissions determination.**

**Moved by Mayor Pro Tem Allan R. Mansoor, seconded by Council Member Wendy Leece.**

Council Member Dixon confirmed that the renovation of the front house is approved and not intended to be a part of the rehearing or review.

The substitute motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Katrina Foley

## **IX. NEW BUSINESS**

1. Appointments to various Council-appointed committees.
  - a. Child Care and Youth Services Committee
  - b. Cultural Arts Committee
  - c. Fairview Park Friend/Fundraiser Committee
  - d. Historical Preservation Committee
  - e. Investment Oversight Committee

Management Analyst Carol Proctor presented the staff report.

**MOTION: Appoint Judith Connell and Dorothy Caruso to the Child Care & Youth Services Committee.**

**Moved by Mayor Eric R. Bever, seconded by Council Member Linda W. Dixon.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Katrina Foley

**MOTION: Re-appoint Christopher Bunyan, Ryan Baron, and Monet Quick as regular members; and appointed Anthony Manrique, Irene Pengard, and Monica Morita as alternate members to the Cultural Arts Committee.**

**Moved by Mayor Eric R. Bever, seconded by Council Member Linda W. Dixon.**

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Wendy Leece  
Noes: None.  
Absent: Council Member Katrina Foley

Council Member Dixon noted the apparent lack of interest in citizen involvement in the Fairview Park Friend/Fundraiser Committee.

**MOTION: Make no appointments and direct that the status of the committee be brought to a future meeting for discussion of possible disbandment of the Fairview Park Friend/Fundraiser Committee.**

**Moved by Council Member Linda W. Dixon, seconded by Mayor Eric R. Bever.**

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Wendy Leece  
Noes: None.  
Absent: Council Member Katrina Foley

**MOTION: Re-appoint Patti Bass, Margaret Johnson, and Mary Ellen Goddard as regular members; appoint Jeff Mathews as senior alternate member; and appoint Tyler Hilbert and Stephanie Love Callen as alternate members to the Historical Preservation Committee.**

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

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Wendy Leece  
Noes: None.  
Absent: Council Member Katrina Foley

**MOTION: Re-appoint Thomas Lightvoet and Pete Peterson to the Investment Oversight Committee.**

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

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Wendy Leece  
Noes: None.  
Absent: Council Member Katrina Foley

## **X. REPORTS**

There were no reports from the City Attorney and the City Manager.

## **XI. ADJOURNMENT - The Mayor declared the meeting adjourned at 8:18**

**p.m., to April 8, 2008, at 4:30 p.m., for a Study Session. The next Regular City Council Meeting will be held on April 15, 2008.**

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Mayor of the City of Costa Mesa

ATTEST:

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City Clerk of the City of Costa Mesa