

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

January 10, 2012

The City Council of the City of Costa Mesa, California met in a Special Meeting on January 10, 2012 at 7 p.m. in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor.

ROLL CALL (00:02:53)

Council Members Present: Mayor Gary Monahan
Mayor Pro Tem James Righeimer
Council Member Wendy Leece
Council Member Stephen Mensinger

Council Members Absent: Council Member Eric R. Bever

Officials Present: Chief Executive Officer Thomas R. Hatch
City Attorney Thomas Duarte
Interim Development Services Director Khanh Nguyen
Interim Public Services Director Ernesto Munoz
Police Chief Tom Gazsi
Interim Public Affairs Manager Dan Joyce
Director of Communications Bill Lobdell
City Clerk Julie Folcik

PUBLIC HEARING (00:03:04)

1. PUBLIC HEARING: Consider Proposal of Charter and content of Proposed Charter (00:03:22)

CEO Thomas Hatch introduced the item, documents, and staff involved; and provided the background and anticipated timeline for the drafting and consideration of the proposed charter. (00:03:37)

Michael Houston of Cummins and White, General Counsel for the Association of California Cities, Orange County, introduced himself and was available to answer questions. (00:07:07)

Director of Communications Bill Lobdell gave an overview of the outreach efforts, reported on the feedback received to date, and announced that suggestions were still being solicited. (00:13:53)

City Attorney Tom Duarte provided follow-up responses to questions

posed at the information meeting on January 4, 2012. (00:16:43)

Mayor Pro Tem Righeimer commented on the necessity of a charter, and provided a review of the first draft of the proposed charter, noting that General Law provisions would prevail unless noted in the charter. (00:18:08)

The city attorney addressed questions from Council Member Leece regarding the timeline requirements pursuant to AB1344 and the flexibility for changes to the draft charter in order to meet the deadlines for placing the charter on the June ballot, and informed that a third public hearing would not be held. Council Member Leece expressed her concern in the lack of time for dialogue and discussion. (00:48:52)

Council Member Mensinger when discussing charter provisions suggested addressing the 19th Street Bridge and requested that staff move forward in removing the 19th Street Bridge from the Master Plan of Arterial Highways. (00:52:47)

The Mayor supported a suggestion for a code of ethics and conduct for elected officials. (00:55:20)

James Bridges, Costa Mesa, expressed his support of a charter. (00:59:20)

Jim Conway, Danville, consultant to a statewide construction coalition, spoke in support of maintaining prevailing wage, and encouraged the Council to slow down the process in moving forward with the proposed charter. (00:58:54)

Julie Muller Neff, Orange, urged the support of protecting prevailing wage. (01:02:04)

Mike Tardif, Santa Ana, spoke in support of maintaining prevailing wage for construction projects. (01:06:10)

Larry Simpson, Costa Mesa, spoke in support of prevailing wage and commented on quality of services. (01:09:45)

Greg McClelland, Roseville, expressed concern regarding the outsourcing of services, and spoke in support of protecting prevailing wage. (01:11:35)

Mark Fowler, Orange, spoke in support of protecting prevailing wage and commented on benefits for workers. (01:14:35)

Eleanor Egan, Costa Mesa, urged Council to slow down and allow more time in the process in approving a city charter, and suggested that the residents draft it. (01:16:51)

Susan Shaw, Costa Mesa, expressed concern in the speed of moving

forward with the charter, and opined that the document needed more community input. (01:19:02)

Greg Thunell, Costa Mesa, supported a draft charter written by the residents. (01:21:15)

Robin Leffler, Costa Mesa, suggested that an ex parte section be included, opposed the proposed charter, and supported it be drafted by a charter commission. (01:24:46)

Tamar Goldmann, Costa Mesa, opposed the charter process, made suggestions for a "Balance of Powers" provision, and recommended changes to the selection of commissioners. (01:28:22)

Karin Ahlf, Costa Mesa, commented and made recommendations to sections of the proposed charter regarding appointment of council members, the "Bell Clause" and prevailing wage. (01:31:40)

Jason Curtis, Costa Mesa, spoke in support of protecting prevailing wage, and commented on the potential dangers of removing prevailing wage. (01:35:15)

Mark Shafer, Costa Mesa, opposed the removal of prevailing wage and suggested that the charter be placed on the November ballot. (01:37:40)

Arlene Jones, Costa Mesa, urged the Council to slow down the charter process, and recommended a charter review committee. (01:39:46)

Alan Remington, Costa Mesa, suggested a charter committee. (01:43:14)

George Greenwalt, Costa Mesa, commented on the speed of the charter process and inquired about the benefits of a charter. (01:45:28)

David Zech, Santa Ana, spoke in support of prevailing wage. (01:47:46)

The mayor recessed the meeting at 8:57 p.m.

The mayor reconvened the meeting at 9:10 p.m.

Dan Goldmann, Costa Mesa, opposed the proposed charter and the process, and expressed concern in the way residents were notified of the public hearing. (1:50:23)

Jay Litvak, Costa Mesa, supported a charter committee drafting the charter and that the proposed charter be placed on the November ballot. (01:54:24)

Derek Spalding, Costa Mesa, spoke in opposition of the elimination of prevailing wage, supported a charter committee, and expressed concern

in the process. (01:56:55)

Joe Martinez, Costa Mesa, urged the Council to protect prevailing wage. (02:00:02)

Don Chase, Glendale, spoke in support of prevailing wage. (02:01:30)

Robert Rowe, Lakewood, on behalf of the Fire Sprinkler Advisory Board of Southern California, asked that language be included in the proposed charter for prevailing wage on city-funded projects. (02:03:16)

Jim Fitzpatrick, Costa Mesa, spoke in support of the proposed charter, noting the local authority over municipal affairs. (02:05:15)

Doug Mangione, Orange, submitted a study regarding prevailing wage, and spoke in support of prevailing wage. (02:08:01)

Emmet O'Malony, Costa Mesa, spoke in support of prevailing wage. (02:10:19)

Charles Mooney, Costa Mesa, opposed the proposed charter, and suggested that the charter be written by an elected committee.

David Lawhorn, Santa Ana, spoke in opposition to changes in prevailing wage, and noted that other charter cities pay prevailing wage.

Barbara Morihiro, Costa Mesa, expressed concern regarding the cost of the charter process.

Cindy Brenneman, Costa Mesa, opposed of the manner in which the charter was drafted, but did not oppose a charter, and urged Council to slow down the process and solicit more input.

Perry Valantine, Costa Mesa, supported the date change for the second public hearing, opined that a charter was unnecessary, and spoke in support of a charter committee.

The mayor recessed the meeting at 9:52 p.m.

The mayor reconvened the meeting at 10:08 p.m.

Martin Radu, Costa Mesa, spoke in support of prevailing wage. (02:36:38)

Terry Koken, Costa Mesa, suggested a 10-member Council based on precinct, and supported the regulation of marijuana. (02:39:56)

Steve Vallenta, Costa Mesa, spoke in support of prevailing wage. (02:42:35)

Jim Adams, on behalf of the Los Angeles/Orange Counties Building and

Construction Trades Council, spoke in support of prevailing wage. (02:43:27)

Ron Miller, Los Angeles/Orange Counties Building and Construction Trades Council, read a letter on behalf of Jay Hanson and the California Medical Association in opposition to removing prevailing wage from the draft charter. (02:46:35)

Susan Myer, Costa Mesa, urged the Council to slow down the charter process and supported a charter commission. (02:50:00)

Sandra Genis, Costa Mesa, shared her experience as a member of the Orange County Charter Commission, and commented on enumeration of powers. (02:53:03)

Phil Morello, Costa Mesa, supported a city charter, and stated a charter committee was not necessary. (02:56:20)

Bonnie Copeland, Costa Mesa, spoke in opposition of the charter process and noted lack of public input. (02:59:36)

Taoward Lee, Costa Mesa, supported a charter but not necessarily the proposed charter, and urged Council to slow down the process. (03:01:45)

Greg Ridge, Costa Mesa, opposed the charter and commented on process. (03:03:13)

Christopher Ganere, Costa Mesa, spoke in support of removing prevailing wage from the proposed charter. (03:06:50)

Tom Egan, Costa Mesa, suggested a court of review, and expressed concern regarding the necessity of a city charter. (03:09:22)

John Stephens, Costa Mesa, provided legal advice as a litigator, urged Council not to rush the process, and offered to provide pro bono services to assist with the charter. (03:11:45)

Louise Rasher, Costa Mesa, spoke in opposition of a city charter, and commented on new fees for services and projects in other charter cities. (03:14:11)

Mary Ann O'Connell, Costa Mesa, supported maintaining prevailing wage provisions in the proposed charter. (03:15:48)

Dianne Russell, Costa Mesa, expressed concern in fair wages and outsourcing, and urged Council to slow down the charter process. (03:17:14)

Patrick D. Kelly, Costa Mesa, opposed the elimination of prevailing wage

from the proposed charter. (03:19:12)

Lisa Reedy, Costa Mesa, commented on the necessity of a charter, and suggested that the proposed charter be placed on the November ballot. (03:23:01)

Sue Lester, Costa Mesa, commented on provisions in the draft relating to retirement benefits and political contributions, suggested a section for ex parte communications, and recommended that the charter be placed on the November ballot. (03:26:21)

Council Member Leece expressed concern in the speed of the charter process, stated opposition in placing the charter on the June ballot, and opined that more time is needed to consider the submitted ideas and suggestions. (03:59:22)

Mayor Pro Tem Righeimer commented on unfunded pension liability, stated the need for capital improvements, referred to the litigation with the employees' association, and commented on prevailing wage. (04:03:38)

Council Member Mensinger spoke about prevailing wage, unfunded liability, and deferred maintenance; and responded to comments made by public speakers. (04:14:51)

**MOTION: Reschedule the Special Public Hearing of February 14, 2012 to February 13, 2012 at 7 p.m.
Moved by Mayor Pro Tem James Righeimer, seconded by Mayor Gary Monahan.**

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem James Righeimer, Council Member Stephen Mensinger

Noes: Council Member Wendy Leece

Absent: Council Member Eric R. Bever

MOTION: Form a 15-member charter committee.

Moved by Council Member Wendy Leece. Motion died for lack of second.

MOTION: Remove Paragraph 7 of Section 401 of Article 4 regarding prevailing wage, and revise the draft to state, "The city will pay prevailing wage for city projects."

Moved by Council Member Wendy Leece. Motion died for lack of second.

MOTION: Place the charter on the November 2014 ballot.

Moved by Council Member Wendy Leece. Motion died for lack of second.

MOTION: Place the charter on the November 2012 ballot.

Moved by Council Member Wendy Leece. Motion died for lack of second.

MOTION: Approve the charter with the following amendments as

referenced in "City Charter Suggestions (through Jan. 10, 2012)":

-Section 300, No. 2: To include "...and no ordinance shall become effective until thirty (30) days from and after the date of its final passage."

-Section 300, No. 6: To include, "Section 302. Planning and Zoning The Zoning Code, land use designations of properties as shown on the official Zoning Map, and land use decisions (including, but not limited to, subdivisions, variances, conditional use permits, and administrative zoning approvals) shall be consistent with the General Plan and any applicable Specific Plan. In the event that a zoning ordinance or zoning map becomes inconsistent with the General Plan or Specific Plan by reason of amendment to the General Plan or Specific Plan, the zoning ordinance or zoning map shall be amended within a reasonable time so that it is consistent with the General Plan or Specific Plan as amended."

-Section 400, No. 7: To include, if it is not currently enacted, "All construction and maintenance contracts awarded by the City shall provide that all persons providing services under the contract shall be legally entitled to perform the work and shall possess all required licenses and permits needed for the work. The contracts shall require the contractor to provide adequate proof of compliance prior to the start of the work and monthly thereafter until the work is completed."

-Section 800, No. 4: To include, "Section 801. Charter Review The City Council shall hold a public hearing to determine if there is a need to convene a citizens' Charter Review Commission to conduct a review of the City Charter no less frequently than every ten years." Moved by Mayor Pro Tem James Righeimer, seconded by Mayor Gary Monahan.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem James Righeimer, Council Member Wendy Leece, Council Member Stephen Mensinger

Noes: None.

Absent: Council Member Eric R. Bever

MOTION: Approve the charter with the following amendment as referenced in "City Charter Suggestions (through Jan. 10, 2012):

-Section 200, No. 1: To include, "The parts that are here are fine but a specific qualification section should be added. City Council members should be U.S. citizens, at least 18 years old, a registered voter, resident of the City of Costa Mesa for at least 2 years and remain a resident as long as they are on the Council. Include language about City Council's compensation/expenses; include language about Council vacancies, forfeitures (absenteeism); felony convictions; rules for conflict of interest and nepotism" and to include language for conflict of interests related to former employees and voting as a member of the City Council.

Moved by Council Member Stephen Mensinger, seconded by Mayor Gary Monahan.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem James Righeimer, Council Member Stephen Mensinger

Noes: Council Member Wendy Leece

Absent: Council Member Eric R. Bever

MOTION: Approve the charter with the following amendment as referenced in "City Charter Suggestions (through Jan. 10, 2012):

-Section 200, No. 22: To include, "Code of Ethics and Conduct The City Council shall adopt a Code of Ethics and Conduct for elected officials and members of appointed commissions, boards and committees to assure public confidence in the integrity of local government elected and appointed officials. The City Council shall adopt said Code of Ethics and Conduct by ordinance or resolution within six months of the effective date of this Charter," and to apply the rule to the entire organization.

Moved by Mayor Gary Monahan, seconded by Mayor Pro Tem James Righeimer.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem James Righeimer, Council Member Wendy Leece, Council Member Stephen Mensinger

Noes: None.

Absent: Council Member Eric R. Bever

MOTION: Approve the charter with the following amendment as referenced in "City Charter Suggestions (through Jan. 10, 2012):

-Section 600, No. 18: To include, "Add language that protects our status as a 'Rule of Law' City and continues to oppose illegal immigration violations and so-called 'Safe Harbor' cities."

Moved by Mayor Gary Monahan, seconded by Mayor Pro Tem James Righeimer.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem James Righeimer, Council Member Wendy Leece, Council Member Stephen Mensinger

Noes: None.

Absent: Council Member Eric R. Bever

MOTION: Approve the charter with the following amendment as referenced in "City Charter Suggestions (through Jan. 10, 2012):

-Section 600, No. 6: To include, "Section 602.1 – The City is a right to work City. No employee is required to join a union or the OC Employee Assn."

Moved by Mayor Gary Monahan, seconded by Mayor Pro Tem James

Righeimer.

The motion carried by the following roll call vote:

Ayes: Mayor Gary Monahan, Mayor Pro Tem James Righeimer, Council
Member Stephen Mensinger

Noes: Council Member Wendy Leece

Absent: Council Member Eric R. Bever

**ADJOURNMENT - The mayor adjourned the meeting at 11:59 p.m. Next Regular
City Council Meeting: January 17, 2012.**

Mayor of the City of Costa Mesa

ATTEST:

Acting Deputy City Clerk of the City of Costa Mesa