

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

**February 02, 2010**

The City Council meeting of the City of Costa Mesa, California met in regular session February 02, 2010, 5:00 p.m., at 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 R. Mansoor  
Mayor Pro Tem Wendy Leece  
Council Member Katrina Foley  
Council Member Gary Monahan

Council Members Absent: Council Member Eric R. Bever

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

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

**II. PUBLIC COMMENTS**

There was no public comment.

**III. CLOSED SESSION:**

1. Conference with Legal Counsel - Potential Litigation: Initiation of litigation, one case, pursuant to Government Code Section 54956.9(c).
2. Conference with Legal Counsel - Potential Litigation: Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9 (one case).
3. Conference with Real Property Negotiators - Property: 88 Fair Drive. Agency Negotiator: Allan Roeder, City Manager. Negotiating parties: State of California, Under negotiation: price, terms of payment. Pursuant to Government Code Section 54956.8.

The Mayor recessed the meeting at 5:03 p.m. to Conference Room 1B for the closed sessions.

The Mayor reconvened the regular meeting at 6:03 p.m.

**PLEDGE OF ALLEGIANCE - Lieutenant Colonel Don A. Oldis, U.S. Air Force (Retired), World War II, Korean, Vietnam, and Cold War Veteran**

**MOMENT OF SOLEMN EXPRESSION**

**ROLL CALL**

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

Council Members Absent: Council Member Eric R. Bever

Officials Present: City Manager Allan Roeder  
City Attorney Kimberly Hall Barlow  
Building Official Khanh Nguyen  
Principal Planner Claire Flynn  
Associate Planner Wendy Shih  
City Clerk Julie Folcik

**CLOSED SESSION REPORT**

No action was taken on the closed session items.

**PRESENTATIONS**

The Mayor congratulated Todd Palombo, Firefighter Paramedic, on being selected Employee of the Month for February. He was recognized for his service and for spearheading the Santa Letter Program, a program bringing food and toys to those in need.

**PUBLIC COMMENTS**

1. Steve Lemler, a representative for 2-1-1 Orange County, provided an informational presentation about 2-1-1, a phone number that serves as a health and human services resource and disaster response partner.
2. Kenji Klein, Irvine, urged Council to reconsider the use of medical marijuana, stating that the medicinal qualities are real and shutting down existing dispensaries would hurt legitimate patients, and encouraged Council to find a solution that works for everyone involved.
3. Sandra Genis, Costa Mesa, provided a video clip of the legislative hearing in Sacramento regarding the sale of the Orange County Fairgrounds, and urged residents to call or fax the Governor's office.

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

1. Council Member Katrina Foley requested that the meeting be adjourned in memory of Harriet Weider, former Orange County Supervisor; announced that the schools in the "Costa Mesa High School zone" were participating in a joint fundraiser titled "Mardi Gras Celebration" to fundraise for Science Camp, facility improvements, and other school programs.
2. Mayor Pro Tem Wendy Leece reported her attending several meetings including the League of California Cities Environmental Committee; attended the Citizen's Aviation Committee, that address the noise, traffic and expansion issues surrounding John Wayne Airport; she reported that a presentation was made to the Costa Mesa Foundation regarding the Costa Mesa Clean-up Sponsorship Program and encouraged the public to support the program. She noted the recent publication of the Costa Mesa Community News and Recreation guide; and indicated that she would like to work with staff to look for possible projects that could be submitted for the League of California Cities Helen Putnam Award for Excellence.

**VI. CONSENT CALENDAR ITEM NOS. 1 THROUGH 14.**

**MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 14, except for Consent Calendar Item Nos. 6, 7, and 13.  
Moved by Mayor Allan R. Mansoor, seconded by Council Member Katrina Foley.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Eric R. Bever

1. Reading Folder.

ACTION: The following claims were received and processed by the City Clerk:Lindsey Eastman; Jeff Henderson; Byron J. Beam & Susan D. Garbutt on behalf of Daniel James Hitt; Law Offices of Larry H. Parker on behalf of Penny Snow; Law Office of Michael S. Braun on behalf of Mary Sandra Vogel.

The following requests for Alcoholic Beverage Control Licenses were received and processed:

For Yamato Kura LLC, Kura Sushi located at 212 East 17th Street for a person-to-person transfer of a type 41 (on-sale beer and wine).

For Rosanna, Wyndham Hotel Of Orange County located at 3350 Avenue of the Arts, for a person-to-person and premise-to-premise transfer of a type 47 (on-sale general for a bona fide eating place, type 58 (caterer permit) and type 68 (portable bar).

2. Regular Adjourned Meeting/Study Session of January 12, 2010, and Regular Meeting of January 19, 2010.

ACTION: Approved.

3. Warrant Resolution 2302, funding City operating expenses for \$958,091.87.

ACTION: Approved Resolution.

4. Warrant Resolution 2303, funding Payroll No. 10-02 for \$2,262,362.58 and Payroll No. 10-01A for \$3,071.29 and City operating expenses for \$781,706.90 including payroll deductions.

ACTION: Approved Resolution.

5. Renewal of the Oracle/PeopleSoft Support Agreement with Oracle Corporation, 1001 Sunset Boulevard, Rocklin, effective March 19, 2010 through March 18, 2011, and the renewal of the E-Pay modules effective June 3, 2010 through June 2, 2011, in the annual amount of \$179,451.45 plus applicable tax.

ACTION: Approved; and authorized the City Manager to sign.

8. Completion of Reconstruction of 18th Street from Newport Boulevard to Anaheim Avenue (Project "A") and 18th Street from Newport Boulevard to Orange Avenue (Project "B"), City Project No. 09-04, by R.J. Noble Company, 15505 East Lincoln Avenue, Orange.

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 exonerated seven (7) months thereafter; and the Faithful Performance Bond was ordered exonerated twelve (12) months thereafter.

9. Completion of Rehabilitation of Orange Avenue from 17th Street to 18th Street, City Project No. 09-09, by R.J. Noble Company, 15505 East Lincoln Avenue, Orange.

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 exonerated seven (7) months thereafter; and the Faithful Performance Bond was ordered exonerated twelve (12) months thereafter.

10. Completion of Rehabilitation of Tustin Avenue from 15th Street to 17th Street, City Project No. 09-15, by C.J. Concrete Construction, Inc., 10142

Shoemaker Avenue, Santa Fe Springs.

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 exonerated seven (7) months thereafter; and the Faithful Performance Bond was ordered exonerated twelve (12) months thereafter.

11. Completion of Rehabilitation of Alley No. 109, City Project No. 09-16, by Farino Engineering, Inc., 23201 Orange Avenue, Lake Forest.

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 exonerated seven (7) months thereafter; and the Faithful Performance Bond was ordered exonerated twelve (12) months thereafter.

12. Completion of Roof Replacement at the Old Corporation Yard at 2300 Placentia Avenue, Costa Mesa, Project No. 09-25.

ACTION: Rejected all bids and directed to re-advertise the project at a future date.

14. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING RECORDS DESTRUCTION FOR THE ADMINISTRATION DIVISION AND TECHNICAL SERVICES DIVISION OF THE POLICE DEPARTMENT OF THE CITY OF COSTA MESA, PURSUANT TO ORDINANCE NO. 75-60.

ACTION: Adopted Resolution No. 10-6.

ITEMS REMOVED FROM THE CONSENT CALENDAR

6. **Professional Services Agreement with CNC Engineering, Inc., 1 Corporate Park, Suite 101, Irvine, for design and environmental services for SR-55 Gateway Improvement Project, in the amount of \$97,069.**

In response to an inquiry from Mayor Pro Tem Leece, Public Services Director Naghavi explained that the funding was provided through the Transportation Enhancement Activities (TEA) federal grant, and the grant funds could only be used for beautification projects.

**MOTION: Approve and authorize the Mayor and City Clerk to sign.  
Moved by Mayor Allan R. Mansoor, seconded by Mayor Pro Tem Wendy Leece.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Eric R. Bever

7. **Adopt plans and specifications, and working details for Traffic Congestion Relief Fund (TCRF) Project, City Project No. 09-28, and award a construction contract to Elite Bobcat Services, 1320 East 6th Street, #100, Corona, in the amount of \$974,567.63.**

(a) Budget Adjustment No. 10-018 for \$969,284.

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

In response to a request from Mayor Pro Tem Leece, Public Services Director Peter Naghavi highlighted of the street improvements that would include rehabilitation of the nine streets.

**MOTION: Approve ; authorize the Mayor and City Clerk to sign; approve Budget Adjustment No. 10-018, and authorize the Mayor and the City Clerk to sign.  
Moved by Mayor Allan R. Mansoor, seconded by Mayor Pro Tem Wendy Leece.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Eric R. Bever

13. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING RECORDS DESTRUCTION FOR THE BUILDING SAFETY DIVISION OF THE DEVELOPMENT SERVICES DEPARTMENT OF THE CITY OF COSTA MESA, PURSUANT TO ORDINANCE NO. 75-60.**

City Attorney Kimberly Hall Barlow requested amending the resolution by rewording the last paragraph to delete reference to the method of records destruction "not allow them to be restored or reconstituted and replacing the wording with "or disposed of." She along with Building Official Khahn Kgyuen responded to questions from the Council regarding the options for disposal of records, cost, recycling of records to be destroyed, and documents with sensitive information.

**MOTION: Adopt Resolution No. 10-7, as amended, by deleting "in such a manner that will not allow them to be restored or reconstituted" and replacing it with "or disposed of."  
Moved by Mayor Allan R. Mansoor, seconded by Council Member Gary Monahan.**

The motion carried by the following roll call vote:

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

## VIII. OLD BUSINESS

1. From the meeting of January 19, 2010, second reading and adoption of Ordinance 10-2: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING ZONING CODE AMENDMENT CO-09-14 TO AMEND TITLE 13, CHAPTER VII OF THE COSTA MESA MUNICIPAL CODE REGARDING WATER EFFICIENCY IN LANDSCAPE STANDARDS; CONSISTENT WITH THE STATE MODEL ORDINANCE AND CONSIDERATION OF THE ADOPTION OF NEW WATER EFFICIENT LANDSCAPE GUIDELINES.

Mayor Pro Tem Leece expressed appreciation to the League of California Cities and for all the cities that were involved in creating the landscape guidelines for Orange County in response to the new state requirement regarding water conservation.

**MOTION: Adopt Ordinance No. 10-2, to be read by title only and to waive further reading.**

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Eric R. Bever

The Mayor Recessed the meeting at 6:40 p.m.

The Mayor Reconvened the meeting at 7:00 p.m.

## IX. NEW BUSINESS

No New Business scheduled.

## VII. PUBLIC HEARINGS

1. PUBLIC HEARING: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING ZONING CODE AMENDMENT CO-09-16 TO AMEND TITLE 13, CHAPTER XIII, SECTION 13-279(B) OF THE COSTA MESA MUNICIPAL CODE RELATING TO THE DAYS AND HOURS IN WHICH CONSTRUCTION ACTIVITY IS EXEMPT FROM THE CITY'S NOISE REGULATIONS AND TO ESTABLISH A PROCEDURE TO SEEK RELIEF FROM THE

PROPOSED RESTRICTIONS.

Building Official Khanh Nguyen introduced the item explaining the Planning Commission's purpose for proposing the code amendment, further noting that the proposed code amendment was consistent with surrounding cities and provides a necessary tool for violators.

Associate Planner Wendy Shih presented the staff report and along with the Building Official responded to questions from the City Council regarding code enforcement, weekend hours of code enforcement, permissible activities, relief from the restriction, and conditions of approval.

Council Member Monahan expressed support of the proposal however noted his concern regarding the list of federal holiday restriction and suggested exempting from the restriction Columbus Day, Veteran's Day, Martin Luther King Jr. Birthday and Washington's Birthday.

Sandra Genis, Costa Mesa, expressed support of the ordinance but needed clarification in terms of enforcement of the ordinance.

Beth Refakes, Costa Mesa, expressed support of the ordinance, but stated that exclusion of specific days or federal holidays would make the process confusing and complicated, and also expressed concern regarding enforcement on the weekends.

Chris McEvoy, Costa Mesa, suggested that the ordinance should differentiate between construction by crews from that of homeowners working on their homes.

Colin McCarthy, Costa Mesa, expressed support in vesting the discretion of construction issues with city staff and encouraged Council to adopt the ordinance.

Jeff Dixon, Costa Mesa, lived next to a prolonged construction project, and stated that construction should be allowed on some of the holidays, but not all.

Greg Ridge, Costa Mesa, spoke in opposition of the ordinance, commenting that if he would like to work on his house on a Sunday afternoon, he would appreciate the privilege to do so.

Gary Peacock, Costa Mesa, opined that it was not unreasonable to expect that construction would occur on Sundays and holidays.

Trudy Ohlig-Hall, Costa Mesa, spoke in support of the ordinance, expressing concern of the length of time some construction projects seem to take, and suggested that time limits be placed on the duration of



construction projects.

Council Member Foley felt that the proposed ordinance did not address the concern regarding the length of time that construction project can sometimes take and felt that there could be some unintended consequences if home owners are not able to do home improvements on the Sunday's and holidays.

**MOTION: Introduce Ordinance No. 10-3, as amended, for first reading, to be read by title only, and waive further reading; amending the list of federal holidays when construction is prohibited by removing the following holidays: the third Monday in January (Birthday of Martin Luther King Jr.), the third Monday in February (Washington's Birthday), the second Monday in October (Columbus Day) and Veteran's Day.**

**Moved by Council Member Gary Monahan, seconded by Mayor Allan R. Mansoor.**

Mayor Pro Tem Leece felt that the ordinance allowed for some reasonable and sporadic activity on the prohibited days. Mayor Mansoor concurred noting that the ordinance would provide a tool for those that are chronic violators.

Council Member Foley agreed that the length of a construction project was the primary concern but felt that the ordinance did not address the time factor for construction and therefore could not support the motion.

The motion carried by the following roll call vote:

Ayes: Mayor Allan R. Mansoor, Mayor Pro Tem Wendy Leece, Council Member Gary Monahan

Noes: Council Member Katrina Foley

Absent: Council Member Eric R. Bever

2. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING GENERAL PLAN AMENDMENT GP-09-01 TO AMEND THE FAIRGROUND LAND USE DESIGNATION IN THE LAND USE ELEMENT OF THE 2000 GENERAL PLAN.

Senior Planner Claire Flynn presented the staff report and responded to questions from the City Council regarding clarification of certain prohibited uses as well as permitted uses.

Mayor Mansoor expressed his preference that in the attachment to the resolution that "swap meet" be replaced with "outdoor market place."

Chris McEvoy, Costa Mesa, stated that Orange Coast College's use of the fairgrounds parking lot is not mentioned, and asked if the Christmas

tree lot would be restricted under this resolution.

Sandra Genis, Costa Mesa, supported the resolution and stated that she would not like to see the fairgrounds to become the home of an exclusive team, referencing field use.

Council Member Foley suggested some clarification in the proposed language relative to athletic sport activities and that of educational activities. The City Attorney responded to questions and after some discussion it was suggested that the references be separated to read as follows:

"...Prohibited uses include, but are not limited to, casinos/gambling venues, shopping centers, hotel/motels, residential uses, self-storage facilities, hospitals, and medical uses. In addition exclusive use or dedicated athletic sports facilities, and educational uses that are unrelated to the OCFEC are prohibited."

**MOTION: Adopted Resolution No. 10-8, as amended, by amending Attachment A regarding prohibited uses, to read as follows: "Uses that are not supportive of fairground and event center uses are expressly prohibited. Prohibited uses include, but are not limited to, casinos/gambling venues, shopping centers, hotel/motels, residential uses, self-storage facilities, hospitals, and medical uses. In addition exclusive use or dedicated athletic sports facilities, and educational uses that are unrelated to the OCFEC are prohibited," and for permitted uses to delete "swap meet" and replace with "outdoor market place."**

**Moved by Mayor Allan R. Mansoor, seconded by Council Member Katrina Foley.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Eric R. Bever

## X. REPORTS

The City Attorney noted the absence of the proposed ballot measure for the Orange County Fairgrounds from the current agenda but advised that it would be considered at the February 16, 2010 meeting along with the resolutions that would be considered for calling of a Special Municipal Election.

The City Manager announced that a Special Meeting would be scheduled immediately following the February 9, 2010, Study Session for the purpose of conducting a Closed Session relative to the Orange County Fair and Event Center.

**XI. ADJOURNMENT**

The Mayor adjourned the meeting in memory of Former Orange County Supervisor Harriet Weider, declaring adjournment at 7:58 p.m., to a Regular Adjourned/Study Session on February 9, 2010 at 4:30 p.m. The next Regular City Council Meeting would be held February 16, 2010.

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Mayor of the City of Costa Mesa

ATTEST:

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City Clerk of the City of Costa Mesa