

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

June 01, 2010

The City Council meeting of the City of Costa Mesa, California met in regular session June 01, 2010, at 5:10 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

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

Council Members Absent: None

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

(Council Member Foley entered at 5:17 p.m.)

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION:

1. Pursuant to Government Code Section 54957.6, conference with Allan L. Roeder, City Manager and Labor Negotiator, Agency Negotiator: Stephen N. Mandoki, Administrative Services Director, regarding Employee Organizations: Costa Mesa City Employee Association (CMCEA), Costa Mesa Firefighters Association (CMFA), Costa Mesa Police Association (CMPA), Costa Mesa Police Management Association (CMPMA) and Unrepresented Employees (Executive and Confidential).
2. Conference with Real Property Negotiators - Property: 88 Fair Drive. Agency Negotiator: Allan Roeder, City Manager. Negotiating parties: State of California and Facilities Management West, Under negotiation: price, terms of payment. Pursuant to Government Code Section 54956.8.

The Mayor recessed the meeting at 5:15 p.m. to Conference Room 1B for the closed session.

The Mayor reconvened the regular meeting at 6:00 p.m.

PLEDGE OF ALLEGIANCE - Mayor Pro Tem Wendy Leece

MOMENT OF SOLEMN EXPRESSION

ROLL CALL

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

Council Members Absent: None

Officials Present: City Manager Allan Roeder
Assistant City Manager Thomas Hatch
City Attorney Kimberly Hall Barlow
Development Services Director Kimberly Brandt
Public Services Director Peter Naghavi
Recreation Manager Jana Ransom
Senior Planner Mel Lee
City Clerk Julie Folcik

CLOSED SESSION REPORT

The City Attorney reported that no action was taken on the Closed Session items.

PRESENTATIONS

Regional Manager Eddie Marquez of Southern California Edison provided an update regarding Edison's programs, and presented the city with an Energy Leader Award in recognition of its efforts to strive for energy efficiency.

The Mayor congratulated Senior Programmer Analyst Yang Hua, and Payroll Coordinator Anna Dolewski on being selected Employees of the Month for June. They were recognized for their roles in the development and employee training of the electronic timesheet system.

PUBLIC COMMENT

Nancy Timmons, Costa Mesa, spoke in support of maintaining the animal control officer, and suggested increasing the animal license fees.

Barbara Shefland, Costa Mesa, spoke in support of maintaining the current personnel in the Crime Prevention Bureau.

Larry Lykins, Orange County Employees Association representative for Costa Mesa City Employees Association, expressed disappointment in the city's proposed budget solutions, and presented an open letter with a list of cost-saving recommendations.

Gail Kaufman, Costa Mesa, spoke in support of maintaining the animal control officer, and provided some cost savings suggestions.

Lynn Copeland, Costa Mesa, volunteer at the OC SPCA, spoke in support of maintaining the animal control officer.

Helen Evers, Costa Mesa, spoke in support of maintaining the animal control officer, suggested that the city increase the animal licensing fees, and expressed opposition in eliminating the lighting at the Bark Park.

Brian Short, Costa Mesa, spoke in support of maintaining the lights at the Bark Park.

Tiffany Kaufman, Fountain Valley, spoke in support of maintaining the animal control officer and recited an story how a minimal financial contribution by each person in the community could make a big difference.

Wadie Sgarlata, President of the Costa Mesa Bark Park Foundation, spoke in opposition of turning off the lights at the Bark Park at night, and supported the increase of licensing fees.

Ray Hienstra, Associate Director for Orange County Coast Keepers, encouraged the Council and staff to review the draft supplemental Environmental Impact Report in connection with the Poseidon Resources Desalination Plan.

Scott Sink, Costa Mesa, expressed concern regarding the city's designation as a "Rule of Law city" and its influence on domestic violence being reported to the police, and suggested the elimination of the Immigration and Customs Enforcement agent.

Eloise Ott, Costa Mesa, thanked the Council for their hard work on the Fairgrounds issue, spoke in opposition of the "Rule of Law City" resolution; expressed concern regarding the trash on the freeway and its effects on property values; suggested that the regular meeting on Election night be rescheduled, and encouraged the community to better honor the veterans.

Patricia Allen, Past President of the Costa Mesa Bark Park, spoke in opposition of turning of the lights at the Bark Park and the Skate Park, and supported maintaining the animal control officer.

Chris Bunyan, Costa Mesa, spoke about the Banning Ranch Project and clarified that the developers want to take Bluff Road to 19th Street, and announced that the Banning Ranch Defenders would have a booth at the Costa Mesa Fish Fry.

Suzanne Wahlberger, Costa Mesa, spoke in support of maintaining the

recreation programs.

Barbara Beck, Costa Mesa, spoke in support of keeping the pool open year-round, and suggested restricted hours.

Melissa Brennan, Costa Mesa, spoke in support of saving the ROCKS after-school program.

Steve Deck, Costa Mesa, supported the elimination of the ABLE program, and suggested more money be allotted for capital improvement to help increase property values in the city.

Sandra Genis, Costa Mesa, encouraged and thanked the Council for their efforts regarding the Fairgrounds, urged the community to make donations toward the Bark Park, and expressed concern regarding political signs in the public right-of-way.

Ernie Feeney, Costa Mesa, requested that letters be sent out to solicit applicants for the Senior Center Board city appointees, and suggested that three Council members be appointed to the Senior Center Task Force.

Kathy Hoffstetter, Costa Mesa, stated she was offended by the "Rule of Law City" designation, and urged Council to update the community regarding the Fairgrounds purchase.

Tea Morris-Lowe, Costa Mesa, spoke in support of keeping the pool open, urged Council to consider limited hours, and suggested a "pay-as-you-go" option to use the pool.

Walter Garcia, Costa Mesa, supported maintaining the Community Services Specialist and the programs through the Police Department, and spoke in opposition to the "Rule of Law City" designation.

Chris McEvoy, Costa Mesa, suggested cost-savings ideas such as internalizing vehicle towing, reducing the use of street lights during low traffic periods, and eliminating the stipends for the Planning and Parks and Recreation commissioners.

Andy Godinez, Costa Mesa, spoke in support of maintaining the ROCKS after-school program.

Kathryn Hautman, Costa Mesa, encouraged volunteerism in the community, stated that the pool should be generating revenue and suggested a water therapy program.

Joy Williams, Costa Mesa, opined as to the importance of maintaining youth programs; suggested fees for using the Bark Park or Skate Park; and suggested the use of solar lights at the parks.

Amy Simco, Costa Mesa, encouraged the Council to reconsider its proposed

elimination of the ROCKS program.

In response to a request from the Mayor, the City Manager provided a brief update regarding the status of the Fairgrounds negotiations. He indicated that the Negotiation Team had been meeting almost daily with Facilities Management West relative the details of the negotiation to include that of the Deed of Trust for the property, the Promissory Note, and the Purchase and Sales Agreement; announced that the next scheduled meeting with the State was June 7, 2010.

V COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Katrina Foley commended the City Manager for his status update on the Fairgrounds purchase; announced the Swing-a-Thon fundraiser to be held on June 9th to support the ROCKS program; encouraged corporate sponsorship for the Bark Park lighting; asked staff to follow-up on the chair reportedly left on the freeway; announced events such as the Daily Pilot Cup that was in progress and the upcoming Fish Fry; and expressed appreciation toward the Police Department for the efforts in uncovering a recent crime.

Council Member Gary Monahan thanked the Police Department for their role in the uncovering the recent crime; mentioned the Daily Pilot Cup and upcoming Fish Fry; announced the Scottish Highland Games was successful and announced the upcoming Barrett-Jackson Car Auction to be held at the Fairgrounds; urged residents to vote for Measure C regarding the Fairgrounds land use at the upcoming election and encouraged residents to contact the Governor's office; indicated the Memorial Service at Harbor Lawn was a phenomenal event; and asked staff to clarify when fees were reviewed, in which the City Manager noted that some fees were reviewed at the Commission level while Council could provide direction at the next Study Session regarding the fees.

Mayor Pro Tem Wendy Leece thanked announced her attendance at the Newport-Mesa Soccer Club tournament and encouraged residents to attend the 1st Annual Costa Mesa Community Picnic to be held at Halecrest on June 12 from 12-4 p.m.; indicated that the full amount required to fund the Concerts in the Park had been raised through the Costa Mesa Community Foundation and expressed appreciation to the donors.

VI CONSENT CALENDAR ITEM NOS. 1 THROUGH 11:

**MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 10, except for Consent Calendar Item No. 11.
Moved by Council Member Gary Monahan, 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 Eric R. Bever, Council Member Katrina Foley, Council Member Gary Monahan

Noes: None.

Absent: None.

1. Reading Folder.

The following claims were received by the City Clerk for processing: Patrick D. Binder; Mary K. Dingeman; Mailinh Luong; Michael W. McKee; Percy L. and Patricia Torres.

2. Regular Meeting of May 4, 2010, Special Meeting of May 10, 2010, Study Session of May 11, 2010.

ACTION: Approved

3. Warrant Resolution 2319, funding Payroll No. 10-10 for \$2,311,301.46 and Payroll No. 10-10A for \$1,225.15 and City operating expenses for \$891,053.41 including payroll deductions.

ACTION: Approved resolution.

4. Warrant Resolution 2320, funding City operating expenses for \$402,806.74.

ACTION: Approved resolution.

5. Amendment to the agreement with Carl Warren & Company, to extend the term beginning July 1, 2010 and ending no later than December 31, 2011, in an amount not to exceed \$112,500.

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

6. Adopt plans and specifications, and working details for 2009-2010 Community Development Block Grant (CDBG) Project "A" (Center Street from Pomona Avenue to Anaheim Avenue), and Project "B" (Alley No. 007, west of Anaheim Avenue from Plumer Street to Center Street), City Project No. 10-03, and award a construction contract to R.J. Noble Company, 15505 East Lincoln Avenue, Orange., in the amount of \$378,608.

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

7. Completion of Rehabilitation of Two Segments of South Coast Drive (From Fairview Road to Carmel Drive, and from San Leandro Lane to Bear Street), City Project No. 09-11, 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.

8. Release of Performance and Labor and Material Bonds (Certificate No. 457591), in the amount of \$487,500 each, to Mesa Placentia 17 LP, P.O. Box 8083, Newport Beach, in connection with Parcel Map 2006-286 for storm drain repair at 755-785 and 711 West 17th Street, Costa Mesa.

ACTION: Approved.

9. General Municipal Election on November 2, 2010

(a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD TUESDAY, NOVEMBER 2, 2010, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES.

ACTION: Adopted Resolution No. 10-35.

(b) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REQUESTING THE ORANGE COUNTY BOARD OF SUPERVISORS TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 2, 2010, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE.

ACTION: Adopted Resolution No. 10-36.

10. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING APPLICATIONS FOR FUNDS FOR THE TRANSPORTATION ENHANCEMENT (TE) PROGRAM UNDER THE 2005 SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT, TRANSPORTATION EQUITY ACT - LEGACY FOR USERS FOR FOUR (4) PROJECTS IN THE CITY OF COSTA MESA.

ACTION: Adopted Resolution No. 10-37.

11. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING THE APPLICATION FOR NATURE EDUCATION FACILITY PROGRAM FUNDS FOR THE FAIRVIEW PARK OUTDOOR INTERPRETIVE CENTER PROJECT - SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006; and authorize the Director of Public Services to act as the city's representative.

Mayor Pro Tem Leece clarified that the planning and development of Fairview Park was progressing in conjunction with a grant application to

the State that would help with funding for Phase III of the project.

MOTION: Adopt Resolution No. 10-38

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 Eric R. Bever, Council Member Katrina Foley, Council Member Gary Monahan

Noes: None.

Absent: None.

VII PUBLIC HEARINGS - 7:00 p.m. (Resolution No. 05-55)

1. Continued from the meeting of March 16, 2010, PUBLIC HEARING: AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA, AMENDING TITLE 11 (OFFENSES - MISCELLANEOUS) OF THE COSTA MESA MUNICIPAL CODE REGARDING GRAFFITI.

MOTION: Receive and file.

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 Eric R. Bever, Council Member Katrina Foley, Council Member Gary Monahan

Noes: None.

Absent: None.

VIII OLD BUSINESS

1. Moratorium on the Issuance of Any Massage Establishment, Manager, and/or Practitioner License: Status Report.

Captain Les Gogerty provided an update on the moratorium and Senate Bill 1822 which had been recently modified.

MOTION: receive and file.

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 Eric R. Bever, Council Member Katrina Foley, Council Member Gary Monahan

Noes: None.

Absent: None.

2. From the meeting of May 4, 2010: Agreement with Costa Mesa Senior Corporation to operate the Costa Mesa Senior Center for an initial five (5) year term, effective July 1, 2010, with an option to extend the term for up to three (3) additional five (5) year terms.

Recreation Manager Jana Ransom made the presentation, and indicated that the Costa Mesa Senior Corporation Board of Directors had rejected the amendment to the agreement regarding financial audits approved by Council at the May 4, 2010 meeting and consequently approved substitute language at its May 18, 2010 meeting. She noted that the Costa Mesa Senior Center Corporation Board was concerned about the definition of a forensic audit, presented the Board's version of the agreement which omitted the term "forensic," and provided the suggestions of alternative actions that could be taken by the Council relative to the agreement.

The Mayor expressed his disappointment in how a forensic audit was being portrayed, stated his belief that the city had a right and obligation to audit public funds regardless of the type of audit, and clarified that he did not suggest any wrongdoing by the Senior Center.

Bruce Garlich, President of the Senior Center Corporation Board, expressed concern regarding the implications of needing a forensic audit, stated the alternate language provided would give the Council the opportunity to conduct audits, which would be separate from the required annual audits conducted by the Senior Center, which he felt should suffice in lieu of a separate city audit. He requested clarification regarding the standard for a "sound factual basis," in which the City Attorney indicated that any dispute about what a sound factual basis is would be resolved by a judge.

The City Manager stated that the suggested language regarding a forensic audit was identified as the standard language required in court to obtain a forensic audit. Mr. Garlich expressed concern regarding the term "forensic" and its impact on grant reviews.

The City Attorney recommended alternative language specifying a financial audit may be conducted during the term of the agreement.

Mary Hornbuckle, Costa Mesa, suggested that the language be changed to specify a financial audit, as the word "forensic" conjures a negative connotation and might impede grantors from granting funds.

Ernie Feeney, Costa Mesa, expressed concern regarding the reported income for travel in 2008 and 2009, and supported the suggested language but opined that the City should not be limited to just financial audits.

Aviva Goelman, Costa Mesa Senior Center Executive, responded to Ms.

Feeney's concerns, and clarified that the travel money comes in at different times of the year.

Kathleen Eric, Costa Mesa, suggested that if the Task Force must reconvene, it should only reconvene until November 1, 2010.

Mayor Mansoor was not supportive of the suggested language on page 3 of the agreement as it relates to a "forensic audit" noting that the purpose of the inclusion was about "relationships and an open process."

Council Member Bever recommended alternative language, and suggested "at the city's option and the city's expense an audit in accordance with auditing standards generally accepted in the United States of America will be performed to obtain reasonable assurance about whether the financial statements are free of material misstatement and to perform an audit of internal control over financial reporting; including expressing an opinion of the effectiveness of internal control over financial reporting. This may be conducted during the term of this agreement and at the expense of the City."

Bruce Garlich noted that the language approved by the Board was suggested by the auditors for that of a "gap audit."

Council Member Leece noted the importance of transparency and openness.

Council Member Monahan confirmed with Mr. Garlich that the language "at the city's option and at the city's expense a financial audit may be conducted during the term of this agreement" was acceptable.

MOTION: Approve the contract with the following modification to the language regarding independent audits: "At the city's option, and at the city's expense a financial audit may be conducted during the term of this agreement."

Moved by Council Member Gary Monahan, seconded by Council Member Katrina Foley.

SUBSTITUTE MOTION: At the City's option and at the City's expense an audit may be conducted during the term of this agreement.

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

Council Member Foley indicated that the suggested language would leave it open to all types of audits; more than just a financial audit.

Council Member Monahan noted the Senior Board's support of a financial audit but not of that of an open audit.

Mayor Mansoor expressed his desire for a good working relationship and

withdrew his substitute and noted his support of the original motion.

Council Member Bever indicated that he could not support the motion because it did not contain any dispute resolution language.

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: Council Member Eric R. Bever

Absent: None.

IX NEW BUSINESS

1. Request by property owner for waiver of Building Safety plan check and permit fees associated with demolition and construction activities at 378 Costa Mesa Street, Costa Mesa.

Senior Planner Mel Lee made the presentation.

Gary Schones, Costa Mesa, requested a waiver of the fees for the demolition and modification of the granny unit/garage. He indicated the emotional and financial strain associated with the demolition, did not feel it was prudent to take out an equity line to pay for the demolition.

Senior Planner Mel Lee stated that a sizable portion of the structure would be retained to remain in compliance with the 1961 setback requirements instead of the 2007 standards. He clarified that concessions were made by staff to help the applicant retain as much of the structure as possible.

Chris McEvoy, Costa Mesa, suggested a illegal structure amnesty program.

MOTION: Approve the request to waive the plan check and permit fees.

Moved by Mayor Pro Tem Wendy Leece, seconded by Council Member Katrina Foley.

The motion failed by the following roll call vote:

Ayes: Mayor Pro Tem Wendy Leece, Council Member Katrina Foley

Noes: Mayor Allan R. Mansoor, Council Member Eric R. Bever, Council Member Gary Monahan

Absent: None.

X REPORTS

The City Manager reminded the Council that the next Study Session would be dedicated to the budget, and the meeting would be conducted in the Council Chambers.

IX ADJOURNMENT -

The Mayor adjourned the meeting in memory of "Bud" Howle and expressed his

gratitude for his dedication in serving the community as well as his country. The meeting was adjourned at 8:43 p.m. to June 8, 2010 at 4:30 p.m. for a Study Session. He noted that the next Regular City Council Meeting would be June 15, 2010.

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa