

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

September 21, 2010

The City Council Meeting of the City of Costa Mesa, California met in regular session September 21, 2010, at 5:05 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 Members Absent: Council Member Gary Monahan

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

PUBLIC COMMENTS

There was no public comment.

The City Attorney advised that an additional item for Closed Session was necessary relative to the Orange County Fair and Event Center declaring the urgency due to new happenstances relative to the potential sale and acquisition of the fairgrounds which had come to light after the required posting of the agenda, informing that a vote to add the item to the agenda was required.

MOTION: Approve adding the following item to the City Council agenda: 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. 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

Noes: None.

Absent: Council Member Gary Monahan

III. 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 Fire Management Association (CMFMA), 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 5:08 p.m. to Conference Room 1B for the closed sessions. The Mayor reconvened the regular meeting at 6:39 p.m.

ROLL CALL

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

Council Members Absent: Council Member Gary Monahan

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
Neighborhood Improvement Manager Muriel Ulman
Building Official Khanh Nguyen
City Clerk Julie Folcik

PLEDGE OF ALLEGIANCE - Mayor Allan Mansoor.

MOMENT OF SOLEMN EXPRESSION - Elder Robert Van Sweden, The Church of Jesus Christ of Latter-Day Saints

CLOSED SESSION REPORT

The City Attorney reported that no action was taken on Closed Session Item Nos. 1 and 2, and reported that the following action was taken on Closed Session Item No. 3:

MOTION: Provide direction to the City Manager with regards to pending legislation.

The motion carried by the following roll call vote:

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

Noes: Council Member Eric R. Bever

Absent: Council Member Gary Monahan

PRESENTATIONS

The Mayor presented the Mayor's Award to Ed Baume and Chuck Perry for their contributions and the countless hours that they both have donated to the community and youth sports.

IV PUBLIC COMMENTS

Sue Lester, Costa Mesa, spoke on behalf of the residents of the 700 block of Center Street who expressed their concerns regarding street conditions, criminal activity, police response times and asked for information regarding neighborhood watch.

Allen Rieckhof, President, Costa Mesa Police Association, addressed an alleged incident involving Planning Commissioner Jim Righeimer and Costa Mesa Police Officers at a Driving Under the Influence (DUI) checkpoint, requested that the Council initiate an investigation into possible abuse of authority and requested that the report be made public.

Dana Potts, Vice-President of the Costa Mesa Police Association, recounted his story where his life, as well as the lives of his wife and unborn child, were affected by a drunk driver. He spoke to the incident at the DUI checkpoint and of the importance of those checkpoints.

Vicky Macia, Victim Advocate for the Orange County Chapter of Mothers Against Drunk Driving (MADD), congratulated the Costa Mesa Police Department for recently acquiring the OTS STEP Grant to conduct further DUI projects, used in the successful deterrence of people who drink and drive.

Patty Moulton, representative of the Orange County Chapter of the Alzheimer's Association, spoke about Alzheimer awareness and announced upcoming fundraisers.

Peter Boyd, Costa Mesa, shared his story in the apprehension of a burglar in his neighborhood, expressed concerned regarding reductions in public safety and encouraged Council to make it a priority.

Ed Guilmette, Costa Mesa, opined of mismanagement on the Mesa Consolidated Water District, spoke of concerns regarding his water bill, and the funding of a

loan to retrofit the water plant.

Jay Photoglou, Huntington Beach, referred to an investigation he was involved in and asked for a response to the public records requests he had filed.

Chris McEvoy, Costa Mesa, encouraged Council to support Council Member Foley's recommendation to allocate 10 percent of the one percent increase of the Business Improvement Area toward youth programs and community services.

John Feeney, Costa Mesa, referencing the proposed Graffiti Ordinance discussed at a previous study session requested clarification in addressing, separately, specific aspects of the proposed ordinance.

Judi Berry, Costa Mesa, referred to the lease agreement for the Fairgrounds and supported Council Member Foley's dissenting vote, and expressed concern regarding campaign signs in the public right-of-way.

Martin H. Millard, Costa Mesa, suggested charging reasonable rates for field use and to allot the funds to the ROCKS program.

Sandra Genis, Costa Mesa, expressed concern regarding campaign signs in the public right-of-way, spoke in support of the police department and the DUI checkpoints.

Mike Berry, Costa Mesa, complained of noise from Triangle Square, and opined that Costa Mesa residents should not be charged for using the fields for youth sports.

V COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Foley thanked Officer Potts for sharing his personal story where his life was directly effected by a drunk driver; referred to a public speaker's public records request; informed that Group 1 Users are comprised of 80 percent residents and therefore expressed opposition to increasing user fees; and addressed posted campaign signs as they relate to her own campaign.

Mayor Pro Tem Wendy Leece thanked former Mayor Jack Hammett for his work with the Freedom Committee; expressed support for the DUI checkpoints, commenting that they serve as a deterrent to drunk driving; and asked the City Manager to investigate the confrontation between a Planning Commissioner and police personnel at a checkpoint; and noted that a follow-up report was conducted regarding noise from Triangle Square.

Mayor Allan Mansoor responded to a public speaker's comments advising that specifics of the proposed Graffiti Ordinance could and would be discussed separately; and referenced the DUI checkpoint incident, noting that the City Attorney's office was conducting an investigation as to any impropriety.

VI CONSENT CALENDAR ITEM NOS. 1 THROUGH 11

MOTION: Approve the recommended actions for Consent Calendar Item Nos. 1 through 11, except for Consent Calendar Item Nos. 6, 7, 8, and 11. 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

Noes: None.

Absent: Council Member Gary Monahan

1. Reading Folder.

ACTION: A claim was received by the City Clerk for processing: Edward N. Morris of the Law Office of Edward N. Morris on behalf of Timothy M. Slappy

The following Request for Alcoholic Beverage Control Licenses was received by the city for processing:

For Helene Marietherese Briggs dba The Wrapper, located at 3333 Bristol Street, Suite 2243, Costa Mesa, for a premise-to-premise transfer of an existing type 20 (off-sale beer and wine).

For Casual Community Crew LLC dba Kitsch Bar, located at 891 Baker Street, Suite A10, Costa Mesa, for type 48 license (on-sale general for public premises).

A Letter of Notification was received by the city for Southern California Edison ? Application for Additional Dynamic Pricing Rates, Application No. 10-09-002

2. Regular meeting minutes of July 6, 2010.

ACTION: Approved.

3. Warrant Resolution 2335, funding Payroll No. 10-18 for \$2,235,023.91 and City operating expenses for \$408,729.14 including payroll deductions.

ACTION: Approved resolution.

4. Warrant Resolution 2336, funding City operating expenses for \$459,933.51

ACTION: Approved resolution.

5. Amendment to the agreement with Western Transit Services, 1619 East

Lincoln Avenue, Anaheim, for Costa Mesa Senior Mobility Program driver services, to extend the term for one (1) year.

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

9. Adopt plans and specifications, and working details for American Recovery and Reinvestment Act, Title 24 Cool Roof Replacement at City Hall, 77 Fair Drive, Costa Mesa, City Project No. 10-11, and award a construction contract to F. Rodgers Corporation, 2817 East Cedar Street, #100, Ontario, in the amount of \$427,480.

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

10. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE HABITAT CONSERVATION FUND PROGRAM FOR THE FAIRVIEW PARK WETLANDS AND RIPARIAN HABITAT PLANTING PROJECT, and authorize the Director of Public Services to act as the City's representative.

ACTION: Adopted Resolution No 10-66; and authorized the Director of Public Services to act as the City's representative.

ITEMS REMOVED FROM CONSENT CALENDAR

6. Professional Services Agreement with Civil Source, Inc., 500 Wald, Irvine, for design and environmental services for Broadway Improvement Project, in the amount of \$79,540.

(a) Budget Adjustment No. 11-004 for \$19,540.

Jim Fitzpatrick suggested that consulted utilize the Orange Coast College architecture dean and students in the next step of the project, noting their involvement in the development of the program, and recognized the efforts of the Eastside Neighbors Group who also were allowed to participate in the project.

MOTION: approve; authorize the Mayor and City Clerk to sign; approve Budget Adjustment 11-004 and authorize Mayor to sign. Moved by Council Member Katrina Foley, seconded by Mayor Pro Tem Wendy Leece.

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

Noes: None.

Absent: Council Member Gary Monahan

7. Award Formal Bid Item No. 1139, for the purchase of four (4) mid-size, four (4)-door, five (5)-passenger hybrid sedans (2011 Nissan Altima), to

Cardinale Nissan, Inc., 1661 Del Monte Avenue, Seaside, in the amount of \$105,139.70

Council Member Foley requested that the purchase be deferred, and indicated that the vehicles were currently functioning.

Discussion amongst the Council and staff ensued regarding the current need to replace the vehicles.

Martin H. Millard, Costa Mesa, expressed opposition in the purchase of the vehicles.

(Speaker name not provided), offered information on the mechanical issues with the hybrid vehicles and therefore asked that Council consider the use of natural gas vehicles.

Beth Refakes, Costa Mesa, questioned the cost savings in the use of hybrid vehicles and opined that the expenditure was not warranted given the budget crisis.

Mayor Pro Tem Leece supported the reduction in the number of vehicles in the fleet.

Council Member Bever noted that while the City was not required to purchase strictly hybrid vehicles, it was a Council Policy, and agreed that replacement vehicles must have greater efficiency than the vehicles being replaced.

MOTION: Receive and file, and direct staff to look at options for future replacement.

Moved by Council Member Eric R. Bever, 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

Noes: Council Member Gary Monahan

Absent: None.

8. Adopt plans and specifications, and working details for Joann Street Bike Trail Improvements, Federal Project No. RPSTPLE-5312 (075), City Project No. 09-17, and award a construction contract to MG Construction and Development, Inc., 8900 Eton Avenue, #C, Canoga Park, in the amount of \$1,229,435.48 (base bid plus Additive Bid Item A-2).

(a) Budget Adjustment No. 11-003 for \$179,668.

Judi Berry, Costa Mesa, supported the project and expressed excitement in the completion of the project.

ACTION: Approved; authorized the Mayor and City Clerk to sign; and approved Budget Adjustment 11-003, and authorized the Mayor to sign.

MOTION: Approve; authorize the Mayor and City Clerk to sign; and approve Budget Adjustment 11-003, and authorize the Mayor to sign. Moved by Council Member Katrina Foley, seconded by Mayor Allan R. Mansoor.

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

Noes: None.

Absent: Council Member Gary Monahan

11. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REVISING THE LIST OF DESIGNATED POSITIONS FOR THE CITY'S CONFLICT OF INTEREST CODE.

Chris McEvoy, Costa Mesa, inquired as to a reason that the Planning Commissioners and City Council Members were not on the list of designated Conflict of Interest filers.

The City Attorney clarified that the Planning Commissioners and City Council Members were required by State law to file economic disclosure forms and that the resolution specifies additional positions that the City would require the filing of the forms.

Sandra Genis, Costa Mesa, suggested that consultants or contractors be included on the list of required filers.

MOTION: Adopt Resolution No. 10-67: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REVISING THE LIST OF DESIGNATED POSITIONS FOR THE CITY'S CONFLICT OF INTEREST CODE.

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

Noes: None.

Absent: Council Member Gary Monahan

VII PUBLIC HEARINGS

1. PUBLIC HEARING: Adoption of the 2010 Editions of the California Codes and Related Model Codes with Appendices and Amendments.

(a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, SETTING FORTH FINDINGS FOR REQUIRED

AMENDMENTS TO THE 2010 CALIFORNIA BUILDING CODE AND TO THE 2010 CALIFORNIA RESIDENTIAL CODE, AND TO THE 2010 CALIFORNIA FIRE CODE RELATIVE TO LOCAL CLIMATIC AND GEOGRAPHIC CONDITIONS.

(b) From the meeting of September 7, 2010, second reading and adoption of ORDINANCE NO. 10-10: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING SECTIONS 5-1, 5-1.1, 5-1.3, 5-3, AND 5-95 OF TITLE 5 AND SECTIONS 7-14 AND 7-15 OF TITLE 7 OF THE COSTA MESA MUNICIPAL CODE BY ADOPTING THE 2010 EDITIONS OF THE CALIFORNIA CODES AND RELATED MODEL CODES WITH APPENDICES AND AMENDMENTS THERETO; the codes include the California Building Code, Fire Code, Residential Code, Green Building Standards Code, Plumbing Code, Mechanical Code, Electrical Code, and the Model Codes related to International Property Maintenance Code, Uniform Code for Abatement of Dangerous Buildings, and the Orange County Grading Code.

Building Official Khahn Nguyen presented the staff report.

**MOTION: Adopt Resolution No. 10-68.
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 Eric R. Bever, Mayor Pro Tem Wendy Leece

Noes: None.

Absent: Council Member Gary Monahan

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

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Gary Monahan

VIII OLD BUSINESS

1. Request for rehearing by Sandra L. Genis regarding the City Council adoption on August 24, 2010 of Resolution No. 10-62: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, FINDING THE PROPOSED LEASE AGREEMENT FOR THE ORANGE COUNTY FAIR AND EVENT CENTER TO BE

CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

Sandra Genis indicated that there was new information regarding historical resources that was not available at the time that the vote was taken, which indicated that the buildings were valuable historical resources and that two of the sites were less than 5,000 square feet which made them eligible for demolition. She noted that there was discussion regarding future intent subsequent to the action on categorical exemption to address portions of the development on an individual basis, which was contrary to the provisions of CEQA, and that the lease was "in a state of flux" at the time the categorical exemption was adopted.

The City Attorney responded to questions from the Council which included the ability for the buildings in question to be registered as historical buildings.

In response to an inquiry of the Mayor the City Attorney indicated that she believed the City had complied with, and addressed Ms. Genis' concerns, and clarified that the exemptions were for current uses on the site only.

Greg Ridge, Costa Mesa, opined the necessity for compliance with CEQA and suggested more time to address CEQA concerns relative to the exemptions.

Judi Berry, Costa Mesa, indicated her support for the rehearing noting her concerns relative to the exemption to CEQA requirements.

Beth Refakes, Costa Mesa, expressed concern regarding protection in maintaining the historical structures.

**MOTION: Receive and file
Moved by Mayor Allan R. Mansoor, seconded by Council Member Eric R. Bever.**

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

Noes: None.

Absent: Council Member Gary Monahan

IX NEW BUSINESS

1. Review of Neighborhood Stabilization Program

Assistant City Manager Tom Hatch presented the staff report.

Council Member Bever indicated his support in the City retaining equity share, but did not support the stipulation that after 30 years, the homebuyer would be relieved 1/15th of the duty. He also asked how this

would function if the homeowner was to give the house away or other similar type of arrangements.

Celeste Brady, Special Housing Consultant, indicated that if the property was sold by the original buyer during the 45-year period, the original principal amount would be due, and confirmed that starting year 31, the 1/15th of the principle would be forgiven.

John Feeney, Costa Mesa, expressed his opposition to the program and suggested that Council discontinue the program.

Martin H. Millard, Costa Mesa, expressed opposition in the Neighborhood Stabilization Program.

Ernie Feeney, Costa Mesa, expressed concern regarding the length of time of the mortgage, noting her opposition to the proposal.

Ben Phillips, Regional Director and Vice President of Mercy Housing, Southern California, provided an overview of the organization.

**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

Noes: None.

Absent: Council Member Gary Monahan

X REPORTS

The City Manager informed the Council that the required AB123 Ethics Training would be scheduled for the October Study Session.

XI ADJOURNMENT - The Mayor declared the meeting adjourned at 8:56 p.m.

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa