

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

October 19, 2010

The City Council Meeting of the City of Costa Mesa, California met in regular session October 19, 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 Pro Tem.

I 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
City Clerk Julie Folcik

(Mayor Mansoor entered at 5:15 p.m.)

II PUBLIC COMMENTS

There were no public comments.

III CLOSED SESSION

1. Conference with Legal Counsel - Existing Litigation: Newport Mesa Patients' Association and Robert Martinez v. City of Costa Mesa, Orange County Superior Court Case No. 30-2010 00370142 pursuant to Government Code Section 54956.9 (a).
2. Conference with Legal Counsel - Existing Litigation: Newport Mesa Patients' Association v. Colleen O'Donoghue, Real Party in Interest City of Costa Mesa, Orange County Superior Court Case No. 30-2010 00378745, pursuant to Government Code Section 54956.9 (a).
3. Conference with Legal Counsel - Potential Litigation: Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9 - two cases.
4. 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).

5. 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.
6. Conference with Legal Counsel - Initiation of Litigation pursuant to subdivision (c) of Government Code Section 54956.9 - one case.

The Mayor Pro Tem recessed the meeting at 5:10 p.m. to Conference Room 1B for the Closed Sessions.

The Mayor reconvened the regular City Council meeting at 6:48 p.m.

PLEDGE OF ALLEGIANCE - Mayor Pro Tem Leece

MOMENT OF SOLEMN EXPRESSION - Pastor Mark Wiley, Mesa United Methodist Church

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
Development Services Director Kimberly Brandt
Public Services Director Peter Naghavi
City Clerk Julie Folcik

CLOSED SESSION REPORT

The City Attorney reported that the following motions were voted upon for Closed Session No. 5, Closed Session Nos. 4, 5 and 6 were trailed to the end of the meeting and no actions taken on the remainder of the closed sessions:

MOTION: Direct staff to send notice to the State of California pursuant to Government Code Section 11-11.1 that the City of Costa Mesa believes that

**it has priority to purchase the Orange County Fair and Event Center.
Moved by Council Member Gary Monahan, seconded by Council Member
Katrina Foley.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Mayor Allan R. Mansoor

PRESENTATION - Public Services Department Presentation on Capturing \$3.5 Million in Grant Funding

City Engineer Ernesto Munoz presented an overview of the recent grants totaling \$3.5 million recently acquired by the Public Services Department for various City projects.

IV PUBLIC COMMENTS

Sue Lester, Costa Mesa, thanked City staff for their involvement in aiding a senior citizen, and encouraged Council to investigate providing greater resources to the senior community.

Damian Stafford, Secretary to the Costa Mesa Police Association, and a member of the negotiating team commended the City's negotiation team and summarized their efforts in reducing personnel costs to the city.

Allen Rieckhof, President of the Costa Mesa Police Association, informed the Council of history of high standards of the Costa Mesa Police Department; noted their primary objective for public safety and reminded of their effectiveness and benefit to the community.

Steve Deck, Costa Mesa, expressed concern of the conditions of the West Side, and suggested the elimination of locations which may be magnets for transients to the area.

Joseph Yashar, Costa Mesa, suggested the banning of marijuana and cigarette smoking in apartment communities noting health and safety concerns.

Peter Metler, Costa Mesa, requested extension of the time that campaign signs could be consistently posted suggesting from the end of October through election day.

Wendell Mitchell, Costa Mesa, thanked the Costa Mesa Police Department for offering the ride-along program, and shared his positive experience.

Rex Tompkins, Costa Mesa, expressed his concern regarding the focus of employee salaries, opined that it was misleading when compared with neighboring cities and noted the value to the community to hire the best. He also

was not supportive of eliminating revenue generating positions.

Tim Vasin, President of the Costa Mesa Firefighters Association, addressed statements made by a Council Member, emphasizing the commitment of the firemen to their jobs.

Sandra Genis, Costa Mesa, encouraged residents to vote for Measure L, and to contact the governor's office to stop the sale of the Fairgrounds.

Julie Oshmy, Costa Mesa, noted her support of the Police Department and informed of their valued assistance at the Developmental Center with the children with disabilities.

Terry Shaw, Costa Mesa, representing the Costa Mesa Historical Society, announced the upcoming event featuring Gordon Bricken, author of "Pioneers in Blue and Grey: Civil War Veterans in Orange County," and also announced a fundraiser at Newport Rib Company on November 2, 2010, in which a portion of the proceeds would benefit the Historical Society.

Lauren Snyder, Costa Mesa, expressed her support of the Costa Mesa Police Department, shared her own experience and noted their effectiveness and importance to the community.

John Hawley, Costa Mesa, thanked Council and staff for their efforts on the graffiti ordinance.

Cindy Brenneman, Costa Mesa, thanked members of the Costa Mesa Fire Department and Costa Mesa Police Department for their participation in breast cancer awareness month and commented on the importance and service of excellence by the departments.

V COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Mayor Pro Tem Wendy Leece requested staff to follow-up on a concern expressed by a resident regarding netting at Davis Field.

Mayor Allan Mansoor presented the City Manager with the Employee of the Month award for the month of October for his hard work and selfless devotion to the city and community over the 25 years that he has served as City Manager.

Council Member Katrina Foley reported that the Pop Warner football players were wearing pink socks and wrist guards to support breast cancer awareness.

Council Member Eric Bever announced the upcoming car wash fundraiser on October 30, 2010, at City Hall to support the 1st Battalion 5th Marine Regiment.

VI CONSENT CALENDAR ITEM NOS. 1 THROUGH 9

MOTION: Approve recommended actions for Consent Calendar Items Nos. 1 through 9.

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, Council Member Gary Monahan

Noes: None.

Absent: None.

1. Reading Folder.

ACTION: The following Claims were received by the City Clerk for processing: Judy Malaepule on behalf of Asbury Environmental Services; Ken Shelton on behalf of Westbluff Village HOA.

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

For Eventown USA Inc. dba Maki Yaki 19, located at 1093 Baker Street, Suite B, Costa Mesa, for a premise-to-premise transfer of an existing type 41 (on-sale beer and wine for a bona fide eating place).

2. Regular meeting of August 3, 2010.

ACTION: Approved.

3. Warrant Resolution 2339, funding Payroll No. 10-20 for \$2,201,294.59 and City operating expenses for \$570,174.65 including payroll deductions.

ACTION: Adopt resolution.

4. Warrant Resolution 2340, funding City operating expenses for \$735,909.71.

ACTION: Adopt resolution.

5. Completion of Traffic Congestion Relief Fund (TCRF) project for pavement rehabilitation of ten (1) streets, City Project No. 09-28, by Elite Bobcat Services, 1320 East 6th Street, #100, Corona.

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.

6. Completion of "Proposition 1B" Street Maintenance Project, City Project No. 09-05, by All American Asphalt, Post Office Box 2229, Corona.

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.

7. Completion of Costa Mesa Farm Sports Complex Soccer Field (No. 5 and No. 6) Lighting, 2750 Fairview Road, Costa Mesa, City Project No. 10-06, by RMF Contracting, Inc., dba R&M Electrical Contracting, 26301 Dimension Drive, 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.

8. Adopt plans and specifications, and working details for American Recovery and Reinvestment Act, Rehabilitation of Wilson Street (From Fairview Road to Newport Boulevard), Federal Project No. ESPL-5312 (079), City Project No. 10-08, and award a construction contract to All American Asphalt, Post Office Box 2229, Corona, in the amount of \$248,403.

(a) Budget Adjustment No. 11-006 for \$300,000.

ACTION: Approved; authorize the Mayor and City Clerk to sign; approved Budget Adjustment 11-006, and authorized the Mayor to sign.

9. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING RESOLUTION NO. 10-53, regarding the solid waste hauling franchise fee.

ACTION: Adopted Resolution No. 10-69.

PUBLIC HEARINGS

1. PUBLIC HEARING: Continued from the meeting of September 7, 2010, Appeal of the Planning Commission's determination regarding Zoning Applications ZA-89-25 and ZA-92-10, for review, modification, and/or revocation of Minor Conditional Use Permits for a recycling center with a maximum of two containers in a commercial shopping center, located at 739 W 19th Street, in a C1 (Local Business District) zone. Environmental determination: Exempt.

Senior Planner Mel Lee summarized the staff report.

Patricia Chen, Miles Chen Law Group, counsel for Garcia Recycling, provided a timeline of events. She spoke to the citations that had been corrected, addressed landscaping and the parking issues and argued that there were no violations of the Conditional Use Permit that warranted a revocation, nor time provided to correct the "violations".

The following residents spoke in support of upholding the Planning Commission's decision to revoke the Minor Conditional User Permit: Franca Carmona, Costa Mesa; Terrell E. Koken on behalf Manuel Schmotzer, Costa Mesa; Hailey Herbertz on behalf of Joyce P. Thomas, Costa Mesa, and Jeff Byrne, Costa Mesa.

Hildegard Gonzalez, Costa Mesa, felt the actions were long overdue and urged support to uphold the Planning Commission's determination.

Edward Carmona, Costa Mesa, read a letter he had written in October 1992 in opposition to enlarging the current operation and noted a hazardous egress and ingress.

Steven Chan, Costa Mesa, resides 200 feet from the facility and complained of the excessive noise from the facility.

Harrison Chan, Costa Mesa, felt that the Planning Commission acted appropriately in determining a public nuisance and that it was incompatible with the surrounding properties.

Steve Deck, Costa Mesa, expressed support in the relocation and commented that the operation had depressed the value of the area and affected the quality of life.

Danielle Bonilla, Costa Mesa, spoke on behalf of her father Victor Garcia, noting that the state, in 1989, had approached her father to place a recycling center in the area, spoke of their efforts to work with code enforcement and their neighbors, recognized a homeless issue but opined that the Soup Kitchen and liquor store had contributed to the increase of transient traffic to the location.

John Hawley, Costa Mesa, spoke in support of the Planning Commission's findings, and suggested relocation to the City's Corp Yard.

Sue Lester, Costa Mesa, spoke on behalf of residents who indicated that they did not have an issue with the recycling center, but rather the quality of life issues associated with the recycling center, and supported relocation.

Chris McEvoy, Costa Mesa, spoke in support of allowing the recycling center to relocate.

At the recommendation of the City Attorney the Mayor called for a recess to provide staff time to make copies of documents received during Public Comment, and to allow the Council and the appellant additional time to review the documents.

The Mayor recessed the meeting at 8:45 p.m.

The Mayor reconvened the meeting at 9:03 p.m.

Steven Miles, Miles Chen Law Group, counsel for Garcia Recycling, felt that the focus of the comments from the public was that of the glass from the recycling center, argued the findings for the revocation made at the Planning Commission hearing, informed that no previous code enforcement violations had been received, questioned the measurement for "excessive noise", commented on the concerns relating to odor, loitering and noise, and suggested additional time to address allegations.

The City Attorney referred to CMMC Section 2-303(a), which indicated that the appeal hearing is based on "any relevant evidence, including staff reports, etc. submitted at the time of the prior decision and at the appeal hearing," and noted that it was appropriate to consider both the original findings and any new findings that Council may be considering based on the evidence.

Discussion ensued between the Council and Ms. Chen and Mr. Miles regarding the relocation of trucks, relocation assistance for the business, and noise reduction measures.

Mayor Pro Tem Leece referencing a letter from the Planning Division to Garcia Recycling, questioned their willingness to comply with the condition that required that all activity be conducted inside the container.

Ms. Chen commented that their interpretation was that the condition stated that all materials must remain inside the container, not activity.

Council Member Foley expressed reservations relative to the process but recognized the concerns of the residents while trying to balance the interest of the business.

Staff responded to questions from the Council Member regarding the interpretation of a provision that "all materials shall remain inside the containers."

In response to Mayor Pro Tem Leece's question the City Attorney advised of the options available to the Council relative to the determination and the ability for adding additional findings and or conditions.

MOTION: Uphold the Planning Commission's decision to revoke the minor conditional use permit, directed the City Attorney to prepare a resolution with amended findings. Moved by Mayor Allan R. Mansoor, seconded by Mayor Pro Tem Wendy Leece.

Council Member Foley asked the maker of the motion to add the specified time of six-month's to allow for relocation and transition.

Mayor Mansoor while not opposed to applicant working towards relocation

expressed his preference to leave the timeframe open and that it be define it at a later time. The City Attorney advised that direction as to time frame would be helpful when drafting the resolution.

Discussion ensued amongst the City Council regarding the permitting of transition time and relocation.

The Mayor amended his motion to include a three-month time period. Mayor Pro Tem Leece agreed to the amendment.

Council Member Monahan commented that he would support the motion, as he felt that the time was reasonable and it would allow an opportunity to review if progress was being made. He felt action was necessary opining that the impacts from the business had become too intense for the neighborhood.

Council Member Foley inquired as to the length of time Mr. Garcia would need to relocate the business.

Counsel for Garcia Recycling requested an opportunity to consult with Mr. Garcia.

The Mayor recessed the meeting at 9:57 p.m.

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

Mr. Miles responded to a previous question regarding reducing of noise noting that there was a way to mitigate with the use of rubberized cushioning. He further requested that the relocation be kept separate from the revocation. He suggested a six-month time period to allow the appellant time to work with staff to find an alternative location.

Development Services Director Kimberly Brandt responded to questions from the Council regarding relocation and Conditional Use Permits. She clarified that it would be a Minor Conditional Use Permit, and the initial authority to review and approve was with the Zoning Administrator.

In response to Council Member Monahan's question relative to the possibility of a delay if there is sufficient "activity", the City Attorney confirmed that there could language included in the resolution, stipulating that if the 90-days proved to be insufficient, the appellant could make a request for a time extension.

MOTION: Uphold the Planning Commission's decision to revoke the minor conditional use permit, directed the City Attorney to prepare a resolution with amended findings, and directed staff to work with the applicant, providing 90 days in which to investigate a relocation of the business but with the option to extend, with Council approval, if sufficient progress has been made.

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

Wendy Leece.

Council Member Foley suggested providing six-months as a reasonable timeframe for the business owner and the property owner who are affected.

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 Gary Monahan

Noes: Council Member Katrina Foley

Absent: None.

2. PUBLIC HEARING: Continued from the meeting of September 7, 2010, Appeal of the Planning Commission's determination regarding Planning Application PA-10-15, Conditional Use Permit for the following: (1) Potential off-site parking pursuant to a reciprocal access/parking agreement; and (2) Intermediate after school classes/programs for the Discovery School of Arts and Sciences (Center for Spiritual Living.), for property located at 3183 Red Hill Avenue, in a MP (Industrial Park) zone. Environmental determination: Exempt.

It was noted that the application had been withdrawn.

MOTION: Receive and file.

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

Noes: None.

Absent: None.

3. Annual review of the Citywide Traffic Impact Fee Program

(a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CONTINUING THE CITYWIDE TRAFFIC IMPACT FEE FOR NEW DEVELOPMENT IN THE CITY OF COSTA MESA AND THE RELATED ANNUAL REVIEW OF THE CITYWIDE TRAFFIC IMPACT FEE PROGRAM AND CAPITAL IMPROVEMENT PLAN FOR TRANSPORTATION IMPROVEMENTS, approving the recommendations by staff and the Traffic Impact Fee Ad Hoc Committee to continue the current traffic impact fee of \$181 per Average Daily Trip (ADT), continue the incentive program for new developments by assessing traffic impact fees on an incremental basis for the first 100 trips, and approve the annual accounting of the Citywide Traffic Impact Fee Program.

The Public Services Director presented the report.

**MOTION: Adopt Resolution No. 10-70
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, Mayor Pro Tem Wendy Leece, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Gary Monahan

Noes: None.

Absent: None.

Council Member Foley requested that Public Hearing Items No. VII-4 and VII-5 be heard after Public Hearing No. VII-6 and Old Business.

MOTION: To address Public Hearing Item Nos. VII-4 and VII-5 at the conclusion of Public Hearing Item No. VII-6 and Old Business. Motion 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.

6. PUBLIC HEARING: Authorization of the Business Improvement Area (BIA) Assessment increase to three percent (3%) for certain Costa Mesa hotels and motels for Fiscal Year 2010-2011.

(a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, LEVYING AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2010-2011 FOR A BUSINESS IMPROVEMENT AREA COVERING CERTAIN COSTA MESA HOTELS AND MOTELS.

Assistant City Manager Tom Hatch presented the report.

Chris McEvoy, Costa Mesa, asked Council to consider the use of the revenue for youth programs that were being "cut".

**MOTION: Approve Adopt Resolution No. 10-71.
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, Mayor Pro Tem Wendy Leece, Council Member Eric R. Bever, Council Member Katrina Foley, Council Member Gary Monahan

Noes: None.

Absent: None.

OLD BUSINESS

1. From the meeting of October 5, 2010, Ordinance No. 10-11: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING ARTICLE 1 OF TITLE 8 OF THE COSTA MESA MUNICIPAL CODE REQUIRING THE USE OF CITY PERMITTED SOLID WASTE HAULERS FOR COLLECTION SERVICES IN THE CITY OF COSTA.

MOTION: Adopt Ordinance No. 10-11, to be read by title only, and waive further reading

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 October 5, 2010, Ordinance No. 10-12: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 11 (OFFENSES - MISCELLANEOUS) OF THE COSTA MESA MUNICIPAL CODE REGARDING GRAFFITI; and graffiti vandalism.

MOTION: Adopt Ordinance No. 10-12, to be read by title only, and waive further reading

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

The motion carried by the following roll call vote:

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

Noes: Mayor Allan R. Mansoor

Absent: None.

ITEMS FROM PUBLIC HEARINGS TAKEN OUT OF ORDER

4. PUBLIC HEARING: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, AMENDING ZONING CODE SECTIONS 13-6 (DEFINITIONS) AND 13-16 (ENFORCEMENT) OF TITLE 13 (PLANNING, ZONING, AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE REGARDING MEDICAL MARIJUANA DISPENSARIES.

The City Attorney presented the report.

Sue Lester, Costa Mesa, spoke in favor of the ordinance, but urged Council to research further into access for legitimate users.

Speaker (name not provided), Costa Mesa, while in support of the ordinance, noted the "demand" for the legitimate patients in the area.

Steve Deck, Costa Mesa, expressed concern regarding crimes associated with dispensaries.

The Mayor expressed support in further discussion of the issues related to the legitimate use of medical marijuana, and to research what other cities were doing relative to the issue.

The City Attorney responded that the City had been working with the Police Department and that the topic would be discussed at a future Study Session.

MOTION: Adopt Urgency Ordinance No. 10-13, to be read by title only, and waive further reading.

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, Council Member Gary Monahan

Noes: None.

Absent: None.

5. PUBLIC HEARING: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, FOR CODE AMENDMENT CO-10-07, AMENDING ZONING CODE SECTIONS 13-6 (DEFINITIONS) AND 13-16 (ENFORCEMENT) OF TITLE 13 (PLANNING, ZONING, AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE REGARDING MEDICAL MARIJUANA DISPENSARIES.

Sue Lester, Costa Mesa, thanked the Mayor for keeping an open mind and encouraged the Police Department to visit the dispensaries that are "functioning within the spirit of the law."

MOTION: Introduce ordinance for first reading, to be read by title only, and waive further reading

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, Council Member Gary Monahan

Noes: None.

Absent: None.

NEW BUSINESS

1. Request of Mayor Mansoor for research on the possible use of the Federal E-Verify System.

Mayor Mansoor presented the report and asked for staff time for research purposes.

Chris McEvoy, Costa Mesa, expressed concern regarding enforcement of the e-Verify system and opined that the system would cause a hardship for businesses.

Steve Deck, Costa Mesa, supported the e-Verify system.

MOTION: Authorize additional staff time for research on the application of the E-Verify for 1. Use in City Employment; 2. Use in City Contracts and Agreements, and 3. Use as a Condition of Business Licensing.

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, Council Member Gary Monahan

Noes: None.

Absent: None.

2. Request of Council Member Monahan for adoption of a resolution supporting a ban on Dental Mercury.

Council Member Monahan presented the reported, and introduced representatives of the California for Green Dentistry.

Anita Vasquez Tibau, Director of Californians for Green Dentistry, spoke in support of the ban, noting the dangerous effects of the use and of the dental mercury and presented a petition with signatures of those supporting the resolution.

Charles Brown, Executive Director, Consumers for Dental Choice and President, World Alliance for Mercury Free Dentistry, spoke in support of the ban on dental mercury, noting that amalgam is considered a household waste, is an environmental pollutant and is hazardous to our health.

Chester Yokoyama, DDS, spoke about his 23 years of experience as a

mercury-free dentist, and explained protections taken and the process for removing and handling of the amalgam.

Dr. James Rota, Los Angeles, spoke in support of the ban on dental mercury and expressed concern regarding the disposal of mercury from dental offices.

Marisa Russo, dental hygienist spoke in support of the ban on dental mercury noting its toxicity.

Carmella Costancio, Costa Mesa, encouraged Council to adopt the resolution and the supporting of a mercury free dental zone.

Mary Froemke, Costa Mesa, spoke against mercury based on her experience at a water purification store.

Brad Miller, Costa Mesa, supported the the resolution to ban the use of amalgam.

Christy Mills, Newport Beach, reported on various uses of mercury and the harmful effects of contamination, and spoke in support of the ban on dental mercury.

Fernando Santiago, molecular biologist, noted that there is no safe level of mercury exposure, and supported the Council's adoption of the resolution.

Stephanie Adamson spoke of her experience as a patient with dental mercury poisoning.

Dr. Ron Housepian, Costa Mesa, opined that the testimony regarding dental mercury might not be balanced, and opposed the resolution.

Speaker (name not provided) spoke in support of the resolution to ban dental mercury.

Beth Refakes, Costa Mesa, expressed support for the resolution if it was a simply a policy statement and not an enforceable policy.

Council Member Bever clarified that the resolution was for a voluntary compliance.

MOTION: Adopt Resolution No. 10-72.

Moved by Council Member Eric R. Bever, seconded by Council Member Gary Monahan.

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.

3. Request of Mayor Pro Tem Leece for consideration of a request for City membership in the Association of California Cities - Orange County.

Mayor Pro Tem Leece and the City Manager presented the report.

The City Manager recommended that the City should consider, in the future, involvement in an organization that will provide representation for the City, independent of the State League of California Cities, noting that participation in the Orange County division of the League was not allowed unless the City was a paid member of the State League.

MOTION: Continue.

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, Council Member Gary Monahan

Noes: None.
Absent: None.

REPORTS

There were no reports given by the City Attorney or the City Manager.

The Mayor recessed the meeting to IB for the continuation of the Closed Session Nos. 4, 5 and 6 at 11:48 p.m.

The meeting was reconvened at 12:39 a.m. and the City Attorney reported the following actions for Closed Session No. 5:

MOTION: To file a formal protest with DGS of the bidding process for fairgrounds.

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

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.

ADJOURNMENT - The meeting was adjourned at 12:40 a.m. Next City Council Study Session: November 9, 2010 at 4:30 p.m. Next Regular City Council Meeting: November 16, 2010.

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa