

REGULAR MEETING OF THE CITY COUNCIL
CITY OF COSTA MESA

JANUARY 3, 2005

The City Council of the City of Costa Mesa, California, met in regular session January 3, 2005. at 6:30 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor, followed by the Pledge of Allegiance to the Flag led by Council Member Eric Bever, and a moment of solemn expression was observed.

ROLL CALL

Council Members Present: Mayor Gary Monahan
Mayor Pro Tem Allan Mansoor
Council Member Eric Bever
Council Member Linda Dixon
Council Member Katrina Foley

Council Members Absent: None

Officials Present: City Manager Allan Roeder
City Attorney Kimberly Hall
Barlow
Assistant Development Services
Director Mike Robinson
Public Services Director William
Morris
Deputy City Clerk Julie Folcik

ORDINANCES AND
RESOLUTIONS

A motion was made by Mayor Pro Tem Mansoor, seconded by Council Member Dixon, and carried 5-0, to read all ordinances and resolutions by title only.

PRESENTATION
Child Care and Youth
Services Committee
Presentation

Mayor Monahan recognized members of the Child Care and Youth Services Committee Ingrid Anderson and Vice Chairperson Gladys Green, and announced that the new Council liaison is Council Member Katrina Foley. Mrs. Green provided a brief history of the committee and addressed current goals, objectives, and recent accomplishments. She introduced committee members Toby Banahasky, Gloria Blotti, Valerie Breen, Ferry Noorbaksh, Gracie Ruano, and Marianne Segalla (who was not in attendance), alternates Hilda Alvarado and Pamela Schehl, and staff liaison, Richard Brunette, Recreation Division.

PRESENTATION
Employee of the Month

Mayor Monahan congratulated Hilda Veturis on being named Employee of the Month for January, 2005. He commended her dedication and commitment to the Westside Revitalization Oversight Committee (WROC) and her efforts which enabled the committee to reach agreement from a wide array of sentiments and opinions.

PRESENTATION
Sister City Wyndham,
Victoria, Australia

Mayor Monahan introduced Costa Mesa resident Sue Smith, coordinator of Costa Mesa's Educator Exchange Program with sister city Wyndham, Victoria, Australia, who reviewed the program and presented Dave Brees, co-coordinator and former Estancia High School educator, and Werribee Secondary College teachers Sarah Serong and Janine Sutton.

Election of Mayor and
Mayor Pro Tem

The Deputy City Clerk presented the item for the election of Mayor and Mayor Pro Tem. Mayor Monahan thanked everyone for the support he received during his term as Mayor.

MOTION/Elected
Mansoor as Mayor

The Deputy City Clerk called for nominations for Mayor: A motion was made by Mayor Monahan, seconded by Council Member Bever, to nominate Mayor Pro Tem Allan Mansoor.

MOTION/Closed
Nominations

A motion was made by Mayor Monahan, seconded by Council Member Bever, and it was unanimously agreed, to close the nominations for Mayor.

Sandra Genis, Costa Mesa, endorsed Mayor Pro Tem Mansoor for Mayor, and encouraged extending the Mayoral term to two years.

The motion carried 5-0 to elect Mayor Pro Tem Mansoor as Mayor for a one-year term.

MOTION/Gave
Directions to Staff
Regarding Term of
Office

A motion was made by Council Member Monahan, seconded by Council Member Bever, and carried 5-0, to direct the City Attorney's office to prepare an ordinance for a two-year term of office for the Mayor and Mayor Pro Tem.

Mayor Mansoor expressed his appreciation for the support of his fellow Council Members and members of the public, and pledged to focus on fiscal responsibility and infrastructure repair.

MOTION/Elected
Monahan as Mayor
Pro Tem

Mayor Mansoor called for nominations for Mayor Pro Tem: A motion was made by Council Member Bever, seconded by Mayor Mansoor, to nominate Council Member Monahan.

MOTION/Closed
Nominations

A motion was made by Mayor Mansoor, seconded by Council Member Bever, and carried 4-1, Council Member Dixon voting no, to close the nominations for Mayor Pro Tem.

Judi Berry, Costa Mesa, asked if the term of office of the Mayor Pro Tem would be two years. Council Member Monahan clarified that the intent of his previous motion was to direct staff to prepare an ordinance addressing a two-year term office for the Mayor and Mayor Pro Tem.

Eleanor Egan, Costa Mesa, asked that Council reconsider the motion to close nominations and instead receive public comment prior to the closure. The City Attorney responded that the normal process is to ask the public to speak after nominations are closed.

The motion carried 4-1, Council Member Dixon voting no, to elect Council Member Monahan as Mayor Pro Tem for a one-year term.

Council Member Dixon commented that she appreciated Mayor Pro Tem Monahan's contributions to the City but felt that responsibilities should be shared.

Mayor Pro Tem Monahan promised that he would serve to his best ability and share his experience as Mayor with Mayor Mansoor. Mayor Mansoor thought that the nomination process had been fair, additional nominations had not been made, and Mayor Pro Tem Monahan had expressed an interest in representing the City on several regional traffic issues.

Council Member Foley supported the motion but observed that others had expressed an interest in the position of Mayor Pro Tem. She asked that the Mayor and Mayor Pro Tem involve other Council Members in decisions being made in the City. Council Member Dixon indicated that she would have agreed to assuming the position of Mayor Pro Tem, stating that because of her prior

experience, it was important to work with the Mayor to move the City forward.

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| PUBLIC COMMENT Costa Mesa Historical Society Annual Dinner and Installation | Terry Shaw, Costa Mesa, extended an invitation to the Costa Mesa Historical Society Annual Dinner and Installation on Wednesday, January 19, 2005, at the Captain's Table Restaurant, Orange Coast College, 2701 Fairview Road, Costa Mesa. He announced that Police Chief John Hensley will be speaking on "The History of S.W.A.T.", and reservations can be made by calling (949) 631-5918. He added that the cost of the event is \$15.00 per person. |
| Costa Mesa Job Center | Martin Millard, Costa Mesa, referred to comments made at the Council meeting of December 6, 2004, in relation to the Costa Mesa Job Center, 1679 Placentia Avenue. He opposed having the Job Center operational and persons also soliciting work from the streets, stating that one or the other should be allowed. |
| CAFR | Mike Berry, Costa Mesa, addressed the City's Comprehensive Annual Financial Report (CAFR) which is a compilation of the City's financial position outside of the budget, noting that in a ten year period government spending has increased 63 percent while general revenues have increased 58 percent. He observed that the cost of supporting government has shifted from businesses to residents by a series of pro business decisions on the part of City Council with no corresponding income adjustment through localized tax spending. Mr. Berry felt that a simple reduction in spending will no longer be a solution and suggested a basic change in direction. The City Manager reported that the mid-year Budget review is scheduled for the Study Session of February 14, 2005. |
| New Years Eve's Fireworks | Beth Refakes, Costa Mesa, encouraged Council to concentrate on working as a team, and mentioned that she has observed conflict on some issues. She reported on the illegal New Year's fireworks in her neighborhood, and thought that the City should institute a policy similar to that in place for the 4 th of July. The City Manager informed Council Member Bever that the City could initiate a plan for New Years Eve fireworks which emulates that for July 4 th , and noted that all fireworks on the new year are illegal. Council Member Dixon agreed with Ms. Refakes, stating that her neighborhood also experienced an increase of illegal fireworks. She asked that extra police be on duty if need be for fireworks patrol. |
| MOTION/Gave Directions to Staff Regarding Fireworks | <p>A motion was made by Council Member Bever, seconded by Council Member Dixon, and carried 5-0, directing staff to proceed with formulating a plan with options for Council consideration addressing the fireworks issue for New Years Eve 2006, to include a patrol group which is comprised of Fire Prevention and Police personnel.</p> <p>Council Member Foley supported the motion but believed the D.U.I. patrol is the priority on New Years Eve. Mayor Mansoor concurred with Council Member Foley, and thought that the Police should exhibit a heightened awareness of the New Years Eve fireworks problem.</p> |
| City's Tax Structure | Judi Berry, Costa Mesa, commented on the City's financial situation, and suggested a more equitable tax structure. Referring to the CAFR reported trends since 2001, she observed that expenses are exceeding revenues and believed that this trend will continue. She proposed not placing a "cap" on the business |

license fee, but allowing for a reduction in the fee if a business contributes sales tax to the City.

Fee Structure

Sandra Genis, Costa Mesa, urged Council to reexamine the City's fee programs to ensure that the fees more closely reflect the impact on the community. She stated that the business license fee is regressive in that the smallest businesses pay a greater percentage of their income than the larger businesses.

Bob Graham, Costa Mesa, suggested that the City conduct a comparison study with other cities relative to fees.

CONSENT
CALENDAR

The following items were removed from the Consent Calendar: Item No. 9, Extension of an agreement with Hank Lloyd's Orange County Tennis; Item No. 10, Award of Bid Item No. 1077, Purchase of One New 2005 Ford; Item No. 11, Award of contract for Missing Link Sidewalks, Project No. 04-15; Item No. 12, Award of contract for Fairview Park Multipurpose Trail, Project No. 04-24, and Budget Adjustment No. 05-042 for \$84,400.00; and Item No. 13, Completion of Carpet Replacement at the Neighborhood Community Center, 1845 Park Avenue, Project No. 04-15.

MOTION/Approved
Except Item Nos. 9,
10, 11, 12, and 13

On motion by Mayor Pro Tem Monahan, seconded by Council Member Foley, and carried 5-0, the remaining Consent Calendar items were approved as recommended.

READING FOLDER

The following Reading Folder items were received and processed:

Claims

Claims received by the Deputy City Clerk: Robert P. Allman; Jesus Berumen; Dianna Coleman; Michelle Drouse and Sevda Aleckson; Amanda Jones; Dennis Jones; City of Huntington Beach; Maria Kovanko-Michalet; Billy Mejia; Emerson Mejia; Eric Mejia; Tracy Mejia; Mehdi Moussari; Annie Pattison; and Ann Stuart.

Alcoholic Beverage
Control Licenses

Request for Alcoholic Beverage Control Licenses :

Tabento, 1525 Mesa Verde Drive East, Suite E112, for an original Type 41 ABC license (on-sale beer and wine for a bona fide eating place).

Baja Fresh Mexican Grill, 171 East 17th Street, for an original Type 41 ABC license (on-sale beer and wine for a bona fide eating place).

Baja Fresh Mexican Grill, 3030 Harbor Blvd., for an original Type 41 ABC license (on-sale beer and wine for a bona fide eating place).

Winestyles, 270 East 17th Street, for a person-to-person and premise-to-premise transfer of a Type 20 ABC license (off-sale beer and wine), and an original Type 42 ABC license (on-sale beer and wine – public premises).

Public Utilities
Commission

Southern California Gas Company filed Application No. A.04-12-004 with the Public Utilities Commission for a proposed change in gas rates.

Public Utilities
Commission

Southern California Edison Company filed Application No. A.04-12-003 with the Public Utilities Commission for a proposed increase in electric rates.

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| Follow-up Report | Staff responded to a request at the City Council meeting of September 7, 2004, from former volunteers affiliated with the Orange County Humane Society that the City investigate their allegations relating to the mistreatment of animals. |
| WARRANTS | The following warrants were approved: |
| Approved Warrant 2035/Payroll 425 and 424A | Warrant Resolution 2035, funding Payroll No. 425 for \$2,469,080.99, Payroll No. 424A for negative \$487.09, and City operating expenses for \$1,208,618.96, including payroll deductions. |
| Approved Warrant 2036 | Warrant Resolution 2036, funding City operating expenses for \$2,389,783.41. |
| Approved Warrant 2037/Payroll 426 and 425A | Warrant Resolution 2037, funding Payroll No. 426 for \$2,106,157.32, Payroll No. 425A for \$1,200.92, and City operating expenses for \$603,112.66, including payroll deductions. |
| Approved Warrant 2038 | Warrant Resolution 2038, funding City operating expenses for \$1,092,603.88. |
| ADMINISTRATIVE ACTIONS/Found Sakioka and Sons in Good Faith Compliance for DA-99-02 (DA-04-05) | Regarding Development Agreement DA-04-05 for George Sakioka, authorized agent for Roy K. Sakioka and Sons/Marjack/RTS-Sunflower/Iscina-Sunflower/Sakioka Farms, Council determined that good faith compliance had been demonstrated with the terms and conditions of Development Agreement DA-99-02, for Sakioka Lots 1 and 2 located at 14850 Sunflower Avenue, and the following amendments to the periodic review process were approved: future periodic reviews were delegated to the Planning Commission; formal periodic review to be conducted every two years; and separate reviews shall be conducted for individual parcels due to separate ownerships. |
| Approved Final Map and Subdivision Agreement for Tract No. 16526 | The Final Map and Subdivision Agreement were approved for Tract No. 16526, located at 2455 Irvine Avenue, to subdivide one lot into eight, consisting of six dwelling unit lots and two lots for common purposes; the City Engineer and Deputy City Clerk were authorized to sign the map on behalf of the City; and the Mayor and Deputy City Clerk were authorized to sign the agreement on behalf of the City. |
| Received and Filed Report | The Costa Mesa Redevelopment Agency 2004 Annual Report was received and filed. |
| Extension of Agreement with Hank Lloyd's Orange County Tennis | Item No. 9 on the Consent Calendar was presented: Extension of agreement with Hank Lloyd's Orange County Tennis (HLOCT), 880 Junipero Drive, Costa Mesa, for five years (the first of two five-year options), to operate the Costa Mesa Tennis Center (same address), with revenues to the City of \$1,000.00 or 10 percent of the gross amount received from court rental use and 5 percent of the gross amount received from pro shop sales, whichever is greater. |
| MOTION/Continued to February 7, 2005 | On motion by Council Member Foley, seconded by Council Member Bever, and carried 5-0, the extension of the agreement was continued to the meeting of February 7, 2004, and staff was directed to provide detail regarding the actual sales tax revenue and rent income generated by the tennis center; to provide Council with the actual report prepared by HLOCT; the City Attorney's office was directed to review the contract to determine what is |

covered by the maintenance clause, the cost incurred by the City, and does the revenue generated balance out the costs; and staff was directed to provide a comparison with other cities who have private/public partnerships with similar type tennis centers.

Judi Berry, Costa Mesa, suggested that a comparison with other cities should also be prepared for the Costa Mesa Golf Course.

Consent Calendar
Item Nos. 10, 11, 12,
and 13

The following Consent Calendar items were presented:

Item No. 10, Award of Bid Item No. 1077, Purchase of One New 2005 Ford.

Item No. 11, Award of contract for Missing Link Sidewalks, Project No. 04-15.

Item No. 12, Award of contract for Fairview Park Multipurpose Trail, Project No. 04-24, and Budget Adjustment No. 05-042 for \$84,400.00.

Item No. 13, Completion of Carpet Replacement at the Neighborhood Community Center, 1845 Park Avenue, Project No. 04-15.

Martin Millard expressed concern that work for the City is being filled by out-of-town businesses, and encouraged Council to keep Costa Mesa taxpayer money in the City. He suggested determining a means to "local source" City work. The City Manager reported that previously Council had directed that the City provide a one percent credit, or offset, for local sales tax for bids submitted by local businesses which is currently in effect. The City Attorney added that the City is not allowed to give local preference to public works contracts and are required to accept the lowest responsible bid.

Mike Berry, Costa Mesa, concurred with keeping Costa Mesa tax money in the City, and suggested making the bid requirements less stringent. In reply to Council Member Foley's comment regarding the RFP (Request for Proposal) process, the City Manager proposed preparing a packet for Council and members of the public which explains procurement procedures, and to place this item on a future Council meeting or study session agenda.

Sandra Genis, Costa Mesa, disagreed that contracting with local businesses brings revenues to the community, commenting that the only monies to the City would be the sales tax.

Andrew Patterson, Newport Beach, commented on his construction projects in the City, stating that it is a pleasure to work with the Costa Mesa Building and Planning Divisions.

MOTION

On motion by Mayor Mansoor, seconded by Council Member Foley, and carried 5-0, the following action was taken:

Awarded Bid Item No. 1077, New Ford, to Fairway Ford

Awarded Bid Item No. 1077, Purchase of One New 2005 Ford F-350 Cut-away Chassis with Custom Built Enclosed Utility Body, to Fairway Ford, 1275 Yorba Linda Blvd., Placentia, for \$37,723.28.

Awarded Missing Link Sidewalk, Project No. 04-25, to Damon

Awarded contract for Missing Link Sidewalk, Project No. 04-25, to Damon Construction Company, 8851 Watson Street, Cypress, for \$135,240.00, to complete a path of travel along

sidewalks at various locations on 20th Street, and authorized the Mayor and Deputy City Clerk to sign on behalf of the City.

Awarded Fairview Park Multipurpose Trail, Project No. 04-24, to Sol; Approved Budget Adjustment 05-042

Awarded contract for Fairview Park Multipurpose Trail, Project No. 04-24, to Sol Construction, Inc., 19497 Hebron Court, Riverside, for \$261,174.00 (base bid only), authorized the Mayor and Deputy City Clerk to sign on behalf of the City; and approved Budget Adjustment No. 05-042 for \$84,400.00.

Accepted Work for Carpet Replacement at NCC, Project No. 04-15, by The Irvironmentalists

Carpet Replacement at the Neighborhood Community Center, 1845 Park Avenue, Project No. 04-15, was completed to the satisfaction of the Public Services Director on November 30, 2004, by The Invironmentalists Commercial Services Company, doing business as The Invironmentalists, 1355 South Acacia Avenue, Fullerton. The work was accepted; the Deputy City Clerk was authorized to file a Notice of Completion; authorization was given to release retention monies 35 days thereafter; the Labor and Material bond was ordered exonerated 7 months thereafter; and the Performance Bond was ordered exonerated 6 months thereafter.

OLD BUSINESS
City Seal

The Deputy City Clerk presented from the meeting of December 6, 2004, second reading and adoption of Ordinance 04-16, pertaining to restrictions for use of the City Seal and penalties for misuse.

Mike Berry, Costa Mesa, mentioned that the motivation behind the ordinance was display of the City Seal during the previous November, 2004, election, and pointed out that during that election a City fire truck had displayed election banners supporting candidates. He thought that both issues should be addressed. Council Member Foley advised that the City Seal is being used by several businesses within the community, therefore this issue is broader than simply the previous election.

MOTION/Adopted
Ordinance 04-16

On motion by Mayor Pro Tem Monahan, seconded by Council Member Dixon, and carried 5-0, Ordinance No. 04-16 was given second reading and adopted: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADDING SECTION 2-15 TO THE COSTA MESA MUNICIPAL CODE PERTAINING TO RESTRICTIONS FOR USE OF THE CITY SEAL AND PENALTIES FOR MISUSE THEREOF.

OLD BUSINESS
Appointment of
Commission, Boards,
and Committees

The Deputy City Clerk presented from the Special Meeting of December 13, 2004, second reading and adoption of Ordinance 04-17, regarding City Council appointment of commissions, boards, and committees.

MOTION/Adopted
Ordinance 04-17

On motion by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, and carried 4-1, Council Member Foley voting no, Ordinance No. 04-17 was given second reading and adopted: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING TITLES 2, 12, AND 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING CITY COUNCIL APPOINTMENT OF COMMISSIONS, BOARDS, AND COMMITTEES.

NEW BUSINESS
Commission Appoint-
ment Process

The Deputy City Clerk presented commission appointment process and selection. The City Manager reviewed the Agenda Report dated December 21, 2004.

MOTION/Accepted Applications

A motion was made by Council Member Foley, seconded by Mayor Mansoor, and carried 5-0, to accept applications which had been received after 5:00 p.m. on the date which they were due.

Sandra Genis, Costa Mesa, suggested a method of interviewing candidates which included the five Council Members interviewing selected candidates at the same time, Council discussion after the interview, ranking of the top five candidates, and reaching a consensus together.

Beth Refakes, Costa Mesa, expressed interest in viewing the letters of interest and resumes. The City Manager advised that applications were available in the City Manager's office for public review. Ms. Refakes agreed that the candidates selected should be interviewed by all five Council Members at the same time, and proposed that more than a simple majority be required.

MOTION/To Approve Option 1 Failed to Carry

A motion was made by Council Member Foley, seconded by Council Member Dixon, to approve interview Option No. 1 as amended, allowing for 15 to 20 minute interviews with the candidates that had previously been selected by each Council Member.

Mayor Mansoor opposed the motion, stating that he was not interested in this type of formal interview. He observed that Council is familiar with many of the applicants who regularly attend City Council and Planning Commission meetings. Council Member Bever opposed the motion, adding that the applicant's resumes and letters of interest provide adequate information.

The motion failed to carry 3-2, Mayor Mansoor, Mayor Pro Tem Monahan, and Council Member Bever voting no.

MOTION/Approved Conducting Individual Interviews

A motion was made by Mayor Mansoor, seconded by Mayor Pro Tem Monahan, to provide for City Council Members to individually conduct interviews of any of the applicants for the Planning Commission and the Parks and Recreation Commission.

Council Member Dixon indicated that she would like to ensure that there will be unanimous approval of the ten commissioners who will serve the community.

The motion carried 3-2, Council Member Dixon and Council Member Foley voting no.

MOTION/Approved Selection Process

A motion was made by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, to approve voting selection Option No. 3: to establish a procedure for the selection of commissioners to the Planning Commission and the Parks and Recreation Commission that provides: a random draw of numbers by Council Members to determine the order in which each nomination will be made; that for each nomination receiving a second, a vote will immediately be taken; that the right to nominate moves to the next Council Member, in order of draw, for those nominations not receiving a second; and that the process continues until five commissioners for each of the commissions are selected.

MOTION/To Approve Option 2 Failed to Carry

A substitute motion was made by Council Member Foley, seconded by Council Member Dixon, to approve voting selection Option No. 2, as noted in the Agenda Report dated December 21, 2004.

Council Member Foley preferred Option No. 2 because it provides for a system where every Council Member has the opportunity to put forward a nominee and to build consensus. She believed that Option No. 3 had the potential to confuse the nominating process. Council Member Bever thought that Option No. 3 was clear ensuring that the nomination process was straightforward.

The substitute motion failed to carry 3-2, Mayor Mansoor, Mayor Pro Tem Monahan, and Council Member Bever voting no.

The original motion carried 4-1, Council Member Foley voting no.

NEW BUSINESS
Eastside Annexation
Area 7

The Deputy City Clerk presented Eastside Annexation Area 7 Policy Direction. The Assistant Development Services Director reviewed the Agenda Report dated December 22, 2004, and responded to questions from Council.

Since the City of Newport Beach City Council will consider a resolution of application to annex West Santa Ana Heights at their meeting of January 25, 2005, Mayor Pro Tem Monahan suggested forwarding a letter to Newport Beach, or to the Local Agency Formation Commission (LAFCO), to advise that the City of Costa Mesa is not interested in relinquishing its sphere of influence at this time but would be interested in participating in discussions relating to sphere issues. Council Member Foley supported Mayor Pro Tem Monahan's suggestion, and encouraged working with the City of Newport Beach to negotiate a resolution to the different areas.

Cal Mclaughlin, Costa Mesa, coordinator of the protest regarding annexation to the City of Costa Mesa, reported that of the 500 registered voters in the area south of Mesa Drive in the Santa Ana County Club region, 79 percent supported annexation to Newport Beach, 5 percent to Costa Mesa, and 15 percent abstained. He indicated that the "County island" has existed for 40 years.

Art Cencel, Newport Beach, member of the Santa Ana Country Club, stated that 50 percent of the Club members are Newport Beach residents, and 5 percent are residents of Costa Mesa, noting that the majority support annexation to Newport Beach.

Mike Berry, Costa Mesa, asked Council to deny the City of Newport Beach's efforts to annex this area, and encouraged review of the fiscal impact. He observed that there are additional options, and commented that the Newport-Mesa Unified School District, the Mesa Consolidated Water District, and the Costa Mesa Sanitary District will be affected by this decision.

Martin Millard, Costa Mesa, approved negotiating with the City of Newport Beach, but thought that additional areas could be at risk for annexation.

Robert Graham, Costa Mesa, disagreed with the recommendation in the Agenda Report dated January 3, 2005, to not oppose efforts by Newport Beach to annex the West Santa Ana Heights area, commenting that it legitimately belongs to Costa Mesa. He supported retaining all three areas.

Beth Refakes, Costa Mesa, concurred that the West Santa Ana Heights region should be retained in Costa Mesa, and asked the amount of property tax and sales tax which are generated by each of the three areas in question, as well as the annexation costs.

Concerning the proximity of the areas to John Wayne Airport, she felt that should Newport Beach be successful in their annexation efforts, they would have a greater opportunity to control the airport.

Eleanor Egan, Costa Mesa, commented that a bargaining point in the negotiations with the City of Newport Beach should be the 12-inch section of Newport Beach which intrudes into Costa Mesa in the vicinity of Newport Terrace.

Paul Flanagan, Costa Mesa, supported Mayor Pro Tem Monahan's suggestion that this matter receive further refining by Council and be brought forward for public consideration.

Sandra Genis, Costa Mesa, questioned if annexation would be financially advantageous to the City. She proposed compiling data regarding requests for Fire Department, Paramedic, and Police Department service. She wondered how many times residents in this portion of Santa Ana Heights declined service from Costa Mesa because Newport Beach could serve them better.

Mayor Pro Tem Monahan did not believe that it would be possible to annex the areas in question to Costa Mesa, but disputed the ability of the City of Newport Beach to annex properties which are definitely within Costa Mesa's sphere of influence. He encouraged discussions with Newport Beach.

MOTION/Gave
Directions to Staff

A motion was made by Council Member Dixon, seconded by Council Member Foley, and carried 5-0, directing staff to retain the existing sphere of influence; that a letter be sent prior to the January 25, 2005, Newport Beach Council Meeting stating Costa Mesa's position and inviting the City of Newport Beach Council Members and staff to meet with an established sub-committee consisting of Council Member Bever and Council Member Foley, City Manager Allan Roeder, and pertinent staff to discuss these issues and broader border issues.

The City Manager reported that the City of Newport Beach had been notified in advance that the annexations would be discussed at this meeting and that there might be an interest in negotiations. He thought that they would be receptive to Council's action.

NEW BUSINESS
Conflict of Interest

The Deputy City Clerk presented a draft ordinance regarding the conduct of a Council Member with a conflict and conflict opinions issued by the City Attorney. The City Attorney reviewed the Agenda Report dated December 22, 2004, and responded to questions from Council.

Sandra Genis, Costa Mesa, advised that a written opinion provides "something for the record", and suggested that the wording in Section 1 read, "the City Attorney, in his or her discretion, shall render a written opinion upon such a question, or memorialize any verbal opinion with a subsequent written report." The City Attorney replied that it is required that the reason for a conflict of interest be stated from the dais and so reflected in the minutes.

Council Member Foley stated that a person is ultimately responsible for his own conduct, and the Fair Political Practices Commission (FPPC) is the ultimate authority. Council Member Bever indicated that financial positions are a matter of disclosure so there is a paper trail.

Judi Berry, Costa Mesa, asked if it would still be permissible for Council Members who cite a conflict of interest to leave the Council Chambers yet view the proceedings on a television within City Hall. The City Attorney replied in the affirmative.

MOTION/Gave Ordinance 05-1 First Reading

On motion by Council Member Foley, seconded by Mayor Mansoor, and carried 5-0, Ordinance 05-1 was given first reading: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 2 SECTION 2-68(d) AND (e) OF THE COSTA MESA MUNICIPAL CODE REGARDING COUNCIL MEMBERS CONFLICT OF INTEREST AND CITY ATTORNEY OPINIONS REGARDING CONFLICT OF INTEREST. Second reading and adoption are scheduled for the meeting of Tuesday, January 18, 2005.

CITY ATTORNEY'S REPORT/Request for Closed Session: Carmona v. City; City v. Nishamura

The City Attorney announced that pursuant to Section 54956.9(a) of the California Government Code, a closed session has been scheduled for the City Council to confer with the legal counsel regarding existing litigation involving two cases: Carmona v. City of Costa Mesa, et al, Case No. SA CV-00-1215AHS (MLGx); and City of Costa Mesa v. Nishamura, Case No. 04CC07196. Mayor Mansoor announced that these items would trail until after Council Comments.

CITY MANAGER'S REPORT Storms

The City Manager commended the City's maintenance personnel, Police, and Fire, on their work during the current storm season. He commented that the locations which regularly flood, 17th Street/Pomona Avenue, 19th Street/Anaheim, and Albatross Drive/Adams Avenue have been considerably contained considering the current flood situation.

COUNCIL COMMENTS

Council Member Foley and Council Member Dixon congratulated Mayor Mansoor on his election as Mayor.

Tsunami Safety Plan

Council Member Bever stated in light of the tragedy in the Indian Ocean, he would like to know if there are areas in Costa Mesa which are susceptible to tsunami flows in order to forewarn residents. He urged creating a safety plan.

Humane Society Report; Freeway News

Mayor Pro Tem Monahan addressed the follow-up report in the reading folder regarding the Orange County Humane Society, reporting that the City's report is currently available to the public. He reported that the I-405 freeway carpool connector to the northbound 55 freeway is now open.

Mayor Mansoor thanked his fellow Council Members and members of the public for his appointment as mayor.

ADJOURNMENT TO CLOSED SESSION

At 9:10 p.m., Mayor Mansoor adjourned the City Council meeting to a closed session in first floor Conference Room B to discuss the items previously announced by the City Attorney.

MEETING RECONVENED

At 9:42 p.m., Mayor Mansoor reconvened the meeting and announced the following action was taken during closed session.

No Action Taken Re Carmona

Regarding Carmona v. City of Costa Mesa, et al, Case No. SA CV-00-1215AHS (MLGx), no action was taken.

No Action Taken Re Nishamura

Regarding City of Costa Mesa v. Nishamura, Case No. 04CC07196, no action was taken.

ADJOURNMENT

The Mayor declared the meeting adjourned at 9:45 p.m.

