

REGULAR MEETING OF THE CITY COUNCIL  
CITY OF COSTA MESA

MAY 3, 2005

The City Council of the City of Costa Mesa, California, met in regular session May 3, 2005, at 6:34 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 Mayor Mansoor, and a moment of solemn expression led by Lloyd Sellers, Hoag Memorial Hospital Presbyterian.

ROLL CALL

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

Council Members Absent: None

Officials Present: City Manager Allan Roeder  
Assistant City Manager Steve Hayman  
City Attorney Kimberly Hall Barlow  
Development Services Director Donald Lamm  
Public Services Director William Morris  
Finance Director Marc Puckett  
Fire Chief Jim Ellis  
Administrative Services Director Steve Mandoki  
Recreation Supervisor Richard Brunette  
Senior Planner Mel Lee  
Associate Planner Wendy Shih  
Legislative and Public Affairs Manager Ann Shultz  
Deputy City Clerk Julie Folcik

PUBLIC HEARING  
GP-05-01 and Rezone  
R-05-01, for a 5-acre  
Portion of the Fairview  
Developmental Center

It was unanimously agreed to address Public Hearing No. 4 out of order: A public hearing for General Plan Amendment GP-05-01 and Rezone Petition R-05-01, for a 5-acre portion of the Fairview Developmental Center, located at 2501 Harbor Boulevard; a general plan amendment to change the land use designation from High Density Residential (20 units per acre) to Medium Density Residential (12 units per acre), and a rezone from PDR-HD (Planned Development Residential, High Density) to PDR-MD (Planned Development Residential, Medium Density). Environmental determination: Negative declaration.

The Mayor reported that a request was received by the applicant to continue the hearing. Bob McKinnon, California State Department of General Services, Real Estate Services Division, spoke and reiterated his request for a continuance. The Development Services Director suggested referring the hearing to the Planning Commission in order to allow the Planning Commission an opportunity to review and bring the item back. Mr. McKinnon concurred with the recommendation.

MOTION/To Refer to Planning Commission	On motion by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, and carried 5-0, to refer this item to the Planning Commission.
OLD BUSINESS Allocation of IKEA Public Project Contribution	It was unanimously agreed to address out of order Old Business, Item No. 1, from the meeting of April 19, 2005, allocation of IKEA Public Project Contribution. The Mayor reported that two weeks would allow sufficient time to address the new proposal submitted by Council Member Foley.
MOTION/To Continue to May 17, 2005	On motion by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, and carried 5-0, to continue this item to the regular City Council meeting of May 17, 2005.
OLD BUSINESS Allocation of funds from the Segerstrom Home Ranch Development Agreement	It was unanimously agreed to address out of order Old Business, Item No. 2, from the meeting of April 19, 2005, recommendations for use of \$200,000.00 in funds from the Segerstrom Home Ranch Development Agreement originally designated for the relocation and renovation of the Huscroft House. The Mayor reported that two weeks would allow sufficient time to address the new proposal submitted by Council Member Dixon.
MOTION/To Continue to May 17, 2005	On motion by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, and carried 5-0, to continue this item to the regular City Council meeting of May 17, 2005.
PRESENTATION Orange County Human Relations Committee Update	Pat Krone, member of the Orange County Human Relations Commission, reported on the Commission's accomplishments in Costa Mesa during the past year, and submitted the annual report and the most recent newsletter. She reported that in cooperation with the Costa Mesa Police Department, the Commission had eleven "hate-related crimes" during 2003 and mediated 121 cases. Ms. Krone indicated that the Commission provides Costa Mesa High School, Estancia High School and Tewinkle Middle School, with programs relating to inter-ethnic relations, violence prevention and school leadership.
PUBLIC COMMENT Rehearing Procedure	Ernie Feeney, Costa Mesa, referring to a Request for Rehearing, from the meeting of April 19, 2005, relative to the job center, commented that the decision was not handled in the usual manner. Mrs. Feeney pointed out that a vote was not taken to rehear the item, but instead gave direction. She inquired as to the procedure that would be followed in deciding to rehear an upcoming item that was before the Council. Mayor Mansoor stated his intention is to simply decide on whether to grant the rehearing or not.
Revenue Possibility	John Feeney, Costa Mesa, suggested that to increase revenue to impose higher fees and/or taxes for such papers as the Los Angeles Times Newspaper and implementing a tax or fee on daily newspapers that are published or produced in Costa Mesa.
Fireworks Ban	Anne Hogan-Shereshevsky, Costa Mesa, reiterated her request for Council to ban fireworks in the City, reporting that only five cities in Orange County still permit fireworks. She indicated she had a petition for audience members to sign encouraging Council to permanently ban fireworks. She also thanked the City and residents for their participation in the Neighbors for Neighbors project, which was held on Saturday,

April 27, 2005, at Canyon Park; and expressed her desire to attend the Whitehouse Conference on Aging in October, 2005, at which she would like to represent Seniors from Costa Mesa and Orange County.

Westside Revitalization Oversight Committee

Martin Pickett, San Juan Capistrano, President of Cla-Val Company, located in Costa Mesa, reviewed the history and attributes of the company, pointing out that this was the company's 50<sup>th</sup> year operating in Costa Mesa. In relation to the Westside Redevelopment, and the decision made by Council at their meeting held March 15, 2005, he expressed concern regarding the residential overlay and recommended that Council go with the Westside Revitalization Oversight Committee's recommendations.

Mesa Consolidated Water District

Jim Atkinson, Mesa Consolidated Water District Board Member, reported that May was Water Awareness Month. As part of the celebration of the month he stated that the district has sponsored a team of students from Costa Mesa High School to compete in the Metropolitan Water District Solar Cup Competition, to be held at Lake Skinner on May 13-15, 2005, against thirty-two other schools from the Metropolitan service area. He advised that the district would have a booth at the Orange County Fair Farmers Market, to discuss water conservation with the public; that the district offers seminars on water conservation, and also offers a free service in which a representative from the district would visit a residence to conduct surveys on their water. He reported that the district provides seminars on drought tolerant plants and invited the public to visit [www.mesawater.org](http://www.mesawater.org) for further information; and invited the public to visit [www.leadershiptomorrow.org](http://www.leadershiptomorrow.org) for individuals interested in attending the guest luncheon or participating in the Leadership Tomorrow program.

Millard Comments

Martin Millard, Costa Mesa, believed that Costa Mesa was the only city that had foundries on bluffs along with million dollar homes on them, and encouraged Council to allow the private industry build homes, where appropriate, allowing heavy industries to gravitate to land appropriate for them.

He expressed his belief that, except for Santa Ana, Costa Mesa had the highest crime rate, contained more parolees, more registered sex offenders and more group homes than other cities. He also reported the lowest performance of schools, had the lowest percentage of owner-occupied residences, had a decline of 32 percent of the middle-class citizen population between 1990 and 2000; and suggested changes in direction and moving the City forward.

Cla-Val Company and Westside Revitalization

Christian Eric, Costa Mesa and former member of the Westside Revitalization Oversight Committee (WROC), commented on the odors that permeate from the Cla-Val Company. He expressed his support of the recommendations from the WROC Committee.

Sink Hole

Lea Claveran, Costa Mesa, reported a sink hole problem in front of her home located on Albert Street. She also reported that while planting in her garden, she discovered a sink hole directly beneath her residence, and requested that the City investigate.

The City Manager reported that Council received a report on

the sink hole and the emergency actions that were taken to affect those repairs and insured that the Public Services Director and staff would follow-up to assess what the situation is with the on-site conditions.

Costa Mesa United Foundation Robert Graham, Costa Mesa, thanked the Council for approving the fund allocation for the Costa Mesa United Foundation to build the swimming pool at Costa Mesa High School and a stadium at Estancia High Schools; felt it was important for the City's infrastructure and would benefit all the citizens of Costa Mesa.

Westside Revitalization Plan John Hawley, Costa Mesa, believed that the companies located in the Westside area were a valuable asset to the City; and encouraged the City and Council to make all necessary efforts for proper relocation of the companies located on the Westside.

Westside Overlay Plan Kathleen Eric, Costa Mesa, thanked Council and staff for passing the Westside Overlay plan, and believed the plan offered the residents hope.

CONSENT CALENDAR The following items were removed from the Consent Calendar: Item No. 12, Agreement No. SA-76-05F with the 32<sup>nd</sup> District Agricultural Association, 88 Fair Drive, Costa Mesa, for an amount no tot exceed \$50,000.00, for the City to provide and coordinate traffic management services during designated interim events at the Orange County Fair and Exposition Center from April 1, 2005, through December 31, 2005; and Item No. 13, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING AMENDMENTS TO THE PLANNING COMMISSION BYLAWS RELATED TO ARTICLE III (MEETINGS AND PROCEDURES) AND AMENDING THE COMMISSIONS / COMMITTEES / BOARDS HANDBOOK.

MOTION/Approved Except Item Nos. 12 and 13 On motion by Mayor Pro Tem Monahan, seconded by Council Member Dixon, and carried 5-0, the remaining Consent Calendar items were approved as recommended.

READING FOLDER The following Reading Folder items were received and processed:

Alcoholic Beverage Control Licenses Request from Italyc Quality Food Corporation d.b.a. Onotria, 2831 Bristol Street, Unit A, for a premise-to-premise transfer of an existing Type 47 ABC License (on-sale general for a bona fide eating place).

Request from S&J Tithe Inc. d.b.a. Sushi Wave, 2075 Newport Boulevard, Suite 108, for a person-to-person transfer of an existing Type 41 ABC License (on-sale beer and wine for a bona fide eating place).

Follow-Up Reports The following concerns received follow-up reports from staff:  
  
Response to an inquiry from Council Member Dixon, from the Council Meeting of March 15, 2005, regarding 19<sup>th</sup> Street Bicycle Trail Connection to Santa Ana River Trail.

Response to concerns voiced by Ann Hogan-Shereshevsky, from the Council Meeting of April 5, 2005, regarding seniors being adversely affected by changes in bus service on 19<sup>th</sup>

Street and an inquiry as to the absence of bus service on Wilson Street.

Response to concerns voiced by Richard Gillock, from the Council Meeting of April 5, 2005, regarding bicycle lanes on Sunflower Avenue.

#### WARRANTS

The following warrants were approved:

Approved Warrant 2054                      Warrant Resolution 2054, funding City operating expenses for \$1,014,421.17.

Approved Warrant 2055                      Warrant Resolution 2055, funding Payroll No. 508 for \$2,053,100.10, Payroll No. 507A for \$243.05, and City operating expenses for \$436,788.00, including payroll deductions.

#### ADMINISTRATIVE ACTIONS

Right-of-Way Acquisition and Utility Easements for the Harbor Boulevard/Gisler Avenue Intersection Improvement Project, for roadway improvements to mitigate traffic congestion and improve public safety:

Approved Purchase Agreement with Fainbarg Trust and the Feuerstein Community Property Trust                      Purchase agreement and escrow instructions for a portion of property owned by the Fainbarg Trust, 129 West Wilson Street, Suite 100, Costa Mesa, and the Feuerstein Community Property Trust, 508 West 30<sup>th</sup> Street, Newport Beach, was approved; and the Mayor and Deputy City Clerk were authorized to sign on behalf of the City.

Approved Purchase Agreement with C.J. Segerstrom & Sons                      Purchase agreement and escrow instructions for a portion of property owned by C.J. Segerstrom & Sons, a California General Partnership, 3315 Fairview Road, Costa Mesa, was approved; and the Mayor and Deputy City Clerk were authorized to sign on behalf of the City.

Approved Joint Use Agreement with Southern California Edison                      Joint use agreement with Southern California Edison, 14799 Chestnut Street, Westminster, for utility relocations and easement rights, was approved; and the Mayor and Deputy City Clerk were authorized to sign on behalf of the City.

Accepted Work for Bristol Street/Newport Boulevard Signal Improvement, Project No. 04-08, by Dynalectric                      Bristol Street/Newport Boulevard Signal Improvement, Project No. 04-08, was completed to the satisfaction of the City Engineer and the Director of Public Services on March 7, 2005, by KDC, Inc., d.b.a. Dynalectric, 4462 Corporate Center Drive, Los Alamitos. 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.

Accepted Work for Parkway Concrete Repair and New Sidewalk Construction, Project No. 04-16, by S. Parker Engineering                      Parkway Concrete Repair and New Sidewalk Construction, Project No. 04-16, was completed to the satisfaction of the City Engineer and the Director of Public Services on February 19, 2005, by S. Parker Engineering, Inc., 10059 Whippoorwill Avenue, Fountain Valley. 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.

<p>Encroachment Permit No. PS04-00744 Refunded Cash Deposit of \$6,827.00</p>	<p>Off-site improvement at 2463 Santa Ana Avenue, by Joe Cefalia, 1312 Dover Drive, Newport Beach, in connection with Encroachment Permit No. PS04-00744, was completed. The work was accepted; authorization was given to refund the cash deposit of \$6,827.00.</p>
<p>Approved Agreement with Hewlett Packard</p>	<p>Support Agreement with Hewlett Packard, 1421 South Manhattan Avenue, Fullerton, for \$153,728.00, to continue support of Public Safety and City business computer systems, was approved. The Mayor and Deputy City Clerk were authorized to sign on behalf of the City.</p>
<p>Accepted FEMA Grant for \$69,416.00 and CM Community Foundation Grant for \$2,999.00</p>	<p>A grant from Federal Emergency Management Agency (FEMA), for \$69,416.00, and Costa Mesa Community Foundation grant for \$2,999.00, to purchase Self-contained Breathing Apparatus for the Costa Mesa Fire Department, was accepted.</p>
<p>Approved Budget Adjustment No. 05-096</p>	<p>Budget Adjustment No. 05-096 for \$72,415.00, to appropriate the grant funds to the Fire Department's operating budget, was approved.</p>
<p>Approved Agreement No. SA-75-05IE with 32<sup>nd</sup> District Agricultural Association</p>	<p>Agreement No. SA-75-05IE with the 32<sup>nd</sup> District Agricultural Association, 88 Fair Drive, Costa Mesa, for an amount not to exceed \$50,000.00, for the City to provide and coordinate traffic management services during designated interim events at the Orange County Fair and Exposition Center from April 1, through December 31, 2005, was approved and authorization was given for the Police Chief to sign on behalf of the City.</p>
<p>Agreement No. SA-76-05F with 32<sup>nd</sup> District Agricultural Association</p>	<p>Item No. 12 on the Consent Calendar was presented: Agreement No. SA-76-05F with the 32<sup>nd</sup> District Agricultural Association, 88 Fair Drive, Costa Mesa, for an amount not to exceed \$150,000.00, for the City to provide traffic management services at the Orange County Fair and Exposition Center for the 2005 Orange County Fair from July 8, through July 31, 2005.</p> <p>Mayor Pro Tem Monahan noted the correction of a typographical error on the Agenda relative to the year of the events.</p>
<p>MOTION/Approved Agreement No. SA-76-05F with 32<sup>nd</sup> District Agricultural Association</p>	<p>On motion by Mayor Mansoor, seconded by Council Member Dixon, and carried, 5-0, the agreement was approved with the 32<sup>nd</sup> District Agricultural Association, 88 Fair Drive, Costa Mesa, for an amount not to exceed \$150,000.00, for the City to provide traffic management services at the Orange County Fair and Exposition Center for the 2005 Orange County Fair from July 8, through July 31, 2005; and authorization was given for the Police Chief to sign on behalf of the City.</p>
<p>Amendments to Planning Commission Bylaws</p>	<p>Item No. 13 was presented: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING AMENDMENTS TO THE PLANNING COMMISSION BYLAWS RELATED TO ARTICLE III (MEETINGS AND PROCEDURES) AND AMENDING THE COMMISSIONS/COMMITTEES/BOARDS HANDBOOK.</p> <p>In response to Council Member Dixon's inquiry as to the purpose of the proposed changes and the practice of other cities, the City Attorney reported that other cities follow the</p>

same procedure as proposed, calling study sessions when needed, allowing the opportunity for the Planning Commission to discuss and provide guidance to staff on such topics as adoption of new design guidelines or amendments which would be appropriate subjects for study sessions.

MOTION/Adopted  
Resolution No. 05-28

On motion by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, and carried 5-0, Resolution No. 05-28 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING AMENDMENTS TO THE PLANNING COMMISSION BYLAWS RELATED TO ARTICLE III (MEETINGS AND PROCEDURES) AND AMENDING THE COMMISSIONS/COMMITTEES/BOARDS HANDBOOK, to be read by title only and waived further reading.

Council Member Foley recused herself from the next item and exited the chamber, indicating that she resides within 500 feet from the applicant's property.

PUBLIC HEARING  
Appeal of PA-04-21,  
Jack Sakzlyan

The Deputy City Clerk announced the public hearing, continued from the meeting of February 7, 2005, the appeal from Jack Sakzlyan of the Planning Commission's decision to deny Conditional Use Permit PA-04-21 for Daniel C. Carlton, Attorney, authorized agent for Carl Reinhart/El Camino Partners, to modify an existing conditional use permit for a former gasoline service station to discontinue sales of gasoline to become solely an auto repair facility, located at 1045 El Camino Drive in a R2-MD zone, (Multi-Family Residential District, Medium Density). Environmental determination: Exempt. A withdrawal of the appeal had been received from the applicant.

Council Member Dixon inquired as to the closing date of the service station. The Associate Planner confirmed the closure, but reported that a specific date has not been set.

Martin Millard, Costa Mesa, wondered if the applicant would continue operating under the former Conditional Use Permit or if their intention was to close the operation; and thought that homes would be built in that area.

MOTION/Received and  
Filed the Appeal

On motion by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, and carried 4-0, Council Member Foley abstaining, to receive and file the appeal.

Council Member Foley returned to the chamber.

PUBLIC HEARING  
Appeal of PA-04-49,  
Michael D. Faulkner

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider an appeal by Council Member Dixon of the Planning Commission's approval of Conditional Use Permit PA-04-49 for Michael D. Faulkner, to allow a general contractor business with outdoor storage, located at 814 West 19<sup>th</sup> Street, in a C1 zone (Local Business District). Environmental determination: Exempt. The Affidavits of Publication and of mailing are on file in the City Clerk's office. Nine communications were received in support of the Planning Commission's approval from Nicholas Dinger; Steve Huebner; Mike Faulkner; Lewis Dinger; Georgia Ethier; Casey Blust; Michael Wells; C.K. Allen; and Delia Delgado. Two communications were received in opposition of the approval from Kathleen and Christian Eric; and Chris and Mary Fewell.

Council Member Dixon outlined her reasons for her appeal stating that she believed that the proposed industrial use at this site was incompatible and would undermine the revitalization efforts as approved in the Westside Revitalization Plan that was approved at the meeting of March 15, 2005. She pointed out that if the property was sold, the new owner would also have all the rights granted under the Conditional Use Permit; there were no conditions of approval that required him to upgrade the property; and that the Conditional Use Permit can neither be terminated nor modified without the consent of the holder.

Norman Dias, applicant, indicated he was not proposing an industrial use. He advised that City regulations require all general contracting companies to obtain a conditional use permit for any commercial property and that his use of the property would be for an office for a construction company, and would house a secretary, a part-time bookkeeper and himself. He pointed out that he would not be producing or manufacturing anything and that there would be no outside storage.

The following persons spoke in support of the approval for Conditional Use Permit PA-04-49: Ray Stevens, Costa Mesa; Delia Delgado, Costa Mesa business owner; Tom Richardson, Costa Mesa; Jo Gerlach, Costa Mesa; Michael Faulkner, current occupant of Faulkner's Lawnmower Shop; Mike Dinger, Co-owner of Faulkner's Lawnmower Shop, requested Council to approve the permit, so that he may sell his business; and Terry Shaw, Costa Mesa.

Angela Uriu, Pasadena, quoted from the staff report in Exhibit A "the proposed development and use is compatible and harmonious with uses on the surrounding properties", and pointed out that a contracting business was less intensive in terms of pedestrian traffic and parking than the current lawn mower shop.

Wally Gerlach, Costa Mesa, pointed out that the current businesses in that location were non-conforming and felt that denial of the permit would make a financial burden on the current owner.

Wayne Chambers, Costa Mesa business owner, believed that construction companies have nice offices in order to impress their clientele and felt that Mr. Dias' business would be an improvement to the area.

Nicholas Dinger, Costa Mesa, felt that approval of the CUP would not create inconsistencies with surrounding areas, but would be an improvement and emphasized that the site would be used exclusively as an office and would decrease pedestrian traffic as merchants would not be visiting the establishment.

The following persons spoke in opposition of the approval of Conditional Use Permit PA-04-49: Mike Berry, Costa Mesa, concurred with Council Member Dixon and encouraged Council to deny the permit; Martin Millard, Costa Mesa, felt that this business was the wrong use in the wrong place; Chris Steele, Costa Mesa; Kathleen Eric, Costa Mesa, believed the permit



would be a counter-action to improving the Westside; Chris Eric, Costa Mesa, inquired as to the necessity for a conditional use permit for a contractor's business, and believed that approval of the permit would further downgrade the Westside area.

Council Member Foley pointed out that code regulates all general contractors to apply for a conditional use permit.

In response to a question regarding the types of uses allowable for the zoning of that area, Mel Lee, Senior Planner, reported that current zoning of the property is C1 (Local Business District), which allows for limited commercial retail and general office uses, such as accounting, real estate and business offices. He advised that Mr. Dias' particular type of use is categorized as "contractor" and "operative builder" which necessitates the required conditional use permit.

Mayor Pro Tem Monahan commented that this issue was a property owner rights issue and believed that Mr. Dias would improve the aesthetics of the building. He reiterated that the CUP prohibits outdoor storage and pointed out that it would be used for operations and bookkeeping.

MOTION/To Adopt  
Resolution to Uphold  
Planning Commission's  
Approval of CUP  
PA-04-49

A motion was made by Mayor Pro Tem Monahan, seconded by Council Member Foley, to adopt the resolution to uphold the Planning Commission's approval of Conditional Use Permit PA-04-49.

Council Member Foley requested amending the motion to revise Conditions of Approval No. 4, to state "the use shall be limited to the type of operation described in the staff report, i.e., a construction contractor's business office with no outdoor storage" and to revise Conditions of Approval No. 7, to require a landscape plan to be discussed with planning staff and subject to approval.

The Senior Planner recommended the applicants concurrence for the proposed revisions made by Council Member Foley, and stated that staff has no objections to adding those revisions to the conditions.

Mr. Dias confirmed his concurrence with the additional condition.

Mayor Pro Tem Monahan agreed with the changes.

Council Member Dixon felt the location was wrong for this type of business.

SUBSTITUTE MOTION/  
To Deny Conditional Use  
Permit PA-04-49

A substitute motion was made by Council Member Dixon, seconded by Council Member Bever, to reverse the Planning Commission's approval of Conditional Use Permit PA-04-49 for reasons that the project does not comply with Costa Mesa Municipal Code Section 13-29, because the proposed development was not compatible and harmonious with the use of the surrounding properties and the project was not consistent with the general plan.

Council Member Bever concurred with Council Member Dixon and felt that approval of the project would be against the

direction that Council has chosen to take in relation to revitalizing the Westside area.

Council Member Foley pointed out that Council had not adopted an overlay zone, stating that public hearings still need to take place before any adoptions of the zoning; that projects should be analyzed under current zoning codes; and that vacant parcels were not a good image for the Westside.

Council Member Bever agreed that while the legal aspects were not finalized, he felt that approval of the permit would be unfair to the applicant, with the impending changes on the Westside.

Mayor Mansoor commented that other uses were still available with the existing zoning in place for that site and expressed concerns adding additional conditions to the Conditional Use Permit.

SUBSTITUTE MOTION/  
Adopted Resolution 05-  
29; Denied Conditional  
Use Permit PA-04-49

On motion by Council Member Dixon, seconded by Council Member Bever, and carried 3-2, Mayor Pro Tem Monahan and Council Member Foley voting no, Resolution No. 05-29 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DENYING CONDITIONAL USE PERMIT PA-04-49.

MOTION/Resolution To  
Be Read By Title Only  
and Waived Further  
Reading

On motion by Mayor Pro Tem Monahan, seconded by Council Member Foley, and carried 5-0, to read the resolution by title only and waived further reading.

PUBLIC HEARING  
Appeal of PA-04-48  
James Sutherland

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider an appeal by James Sutherland of the Planning Commission's denial of Planning Application PA-04-48 for a conditional use permit to allow a maximum 16-bed residential care facility for the elderly, located at 191 23<sup>rd</sup> Street, in an R2-MD zone (Multiple-family Residential District, Medium Density). Environmental determination: Exempt. The Affidavits of Publication and mailing are on file in the City Clerk's office. Eleven communications were received. Seven in support of the residential care facility from Percy L. Torres; Leticia Ambrose; Ed Arnold; Marilyn L. Ditty; Donald Firth; Mark Les; and Susan Peterson. Four communications in opposition of the residential care facility from Jessica Gilbert; Danielle and Kyle Anderson; Julie Allen; and 23<sup>rd</sup> Street Homeowners: Don and Ann Knipp; Steve and Sue Sheflin; Brian and Lisa Henke; Mike and Nora Reitano; Tom and Jeane Tarzevits; Dennis and Mary Leshure.

Wendy Shih, Associate Planner, reviewed the Agenda Report dated April 21, 2005, and responded to questions from Council.

Mayor Pro Tem Monahan inquired if the site could be conditioned to allow residential care for seniors only. Ms. Shih responded in the affirmative.

In response to a question from Council Member Dixon, Ms. Shih responded that neither the State nor the City has any regulation on the number and concentration of group homes in an area, but the State has regulations for distance; stating that if group homes are proposed within 300 feet of each other, the

State may refuse or deny a license; and added that the City does not have regulations for distance.

James Sutherland, applicant, and Dr. Jacqueline Dupont, licensee, reviewed the proposed establishment, and felt that seniors of Costa Mesa needed to be integrated into residential neighborhoods.

In response to a question from Council Member Dixon, Ms. Dupont quoted Title 22, Section 5, that states “a residential care facility for the elderly shall have older adults over the age of 60 or who have needs that are compatible with those existing in that residence”. She provided the example of Alzheimer’s patients or Parkinson’s patients and pointed out that pathologies don’t discriminate chronologically.

Council Member Bever inquired if the facility would be exclusively accommodating seniors from Costa Mesa. Ms. Dupont responded that 17 percent of the population is over age 55, but that they would not discriminate against age.

The following persons spoke in support of the facility: Winifred Wilson, Costa Mesa, felt the facility was not a commercial endeavor; Robert Rosenberg, representing the United States Elder Care Referral Agency, emphasized that it’s a residential care facility for the elderly; Aileen Sherman, praised Ms. Jacqueline Dupont for her work and urged Council to be understanding and compassionate for seniors; and Anne Hogan-Shereshevsky, Costa Mesa, announced that May was National Older Americans Month, and referenced articles in “Senior Reporter” newsletter that address senior homes.

The following persons spoke in opposition of the facility: Jan Morris, Costa Mesa, felt the location wasn’t appropriate and that the area was over concentrated with group homes, and expressed concern about parking issues, delivery trucks, etc.; an unknown Costa Mesa resident, thought that the floor plan was intended to house as many people as possible, regardless of mobility, and felt the establishment was an institution; Don Knipp, Costa Mesa, read a letter in opposition of the facility; Steve Le Gere, Costa Mesa, felt the establishment was a commercial venture; Paul Steiner, Costa Mesa, inquired if the residents included the care givers, felt that the project would add to the density of the area and urged Council consider the vision of the neighbors for their neighborhood; unknown Costa Mesa resident, expressed concern about congestion of the new development; Lea Claveran, Costa Mesa, felt that the facility would not be compatible with the current zoning of the property; Dennis Lashur, Costa Mesa, expressed his difficulty in attempts to having the property owner maintain the property, as furniture and mattresses were left outside; Beth Refakes, Costa Mesa, expressed concern about the location, parking, emergency services, deliveries, and suggested the facility be located near the Pacific Medical Plaza on Newport Boulevard; and Tiffany Nelson, Costa Mesa, urged Council to consider the adjacent neighbors, and expressed concern with the increased traffic.

Council Member Dixon inquired as to the deciding factor of the location that was chosen. Ms. Dupont responded that based on a demographic study, Costa Mesa’s population was aging more rapidly than the surrounding areas, and noted the

affordability of residential care facilities compared to individual care.

Mayor Pro Tem Monahan inquired whether the applicant would be interested in reducing the number of beds to twelve in the building, allowing for better care of seniors and the City Council could impose a CUP. The applicant responded that he would be amenable to that option.

MOTION/To Deny  
Planning Application  
PA-04-48

A motion was made by Council Member Dixon to adopt a resolution to uphold the Planning Commission's decision. The motion died for lack of a second.

In response to an inquiry from Mayor Pro Tem Monahan regarding delivery trucks, Ms. Dupont stated the State requires that commercial trucks are not allowed to be used, including grocery store deliveries, although mini-vans may be used.

In relation to the visiting hours of the proposed facility, Ms. Dupont reported that the hours would be from 10:30 a.m. to 4:30 p.m., but noted that exceptions would be made in cases of emergencies and based on individual circumstances. Mayor Mansoor expressed concern regarding after-hour visits. Mr. Sutherland stated he would abide by the conditions set forth regarding the limitations on visiting hours.

Mayor Mansoor indicated he would support the previous motion. Council Member Dixon agreed to resubmit the motion. Mayor Mansoor conveyed his support of seniors and referenced the increased funding in Community Development Block Grant (CDBG) funds, as well as the lease renewal of the Senior Center, and believed the proposed project was a commercial venture and felt there were other locations suitable for this type of facility.

Mayor Pro Tem Monahan expressed his opposition to the motion, stating he tried to compromise by reducing the number of beds to twelve, in order to include conditions on the Conditional Use Permit, and pointed out that two separate dwelling units with six beds each were allowed on the parcel with the current zoning restrictions, without the requirement of conditional use permits.

MOTION/Adopted  
Resolution 05-30  
Denying Planning  
Application PA-04-48

On motion by Council Member Dixon, seconded by Mayor Mansoor, and carried 3-2, Mayor Pro Tem Monahan and Council Member Foley voting no, Resolution No. 05-30 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DENYING PLANNING APPLICATION PA-04-48.

MOTION/Waived Further  
Reading

On motion by Mayor Pro Tem Monahan, seconded by Council Member Dixon, and carried 5-0, to read Resolution No. 05-30 by title only and waived further reading.

PUBLIC HEARING  
Vacation of Town Center  
Drive Right-Of-Way  
Between Park Center  
Drive and Avenue of the  
Arts

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider a resolution ordering the vacation of Town Center Drive Right-Of-Way between Park Center Drive and Avenue of the Arts. The Affidavits of Publication and of posting are on file in the City Clerk's office. The Public Services Director reviewed the Agenda Report dated April 21, 2005 and responded to questions from Council.

Paul Freeman, C.J. Segerstrom & Sons, thanked staff members from the Transportation, Engineering and Planning Departments for their collaborative efforts in processing their request.

MOTION/Adopted  
Resolution No. 05-31

On motion by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, and carried 5-0, Resolution No. 05-31 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ORDERING THE VACATION OF TOWN CENTER DRIVE RIGHT-OF-WAY BETWEEN PARK CENTER DRIVE AND AVENUE OF THE ARTS, read by title only and waived further reading; and authorized Mayor and Deputy City Clerk to sign Quitclaim Deed No. 3530 on behalf of the City.

OLD BUSINESS  
Committee  
Appointments

The Deputy City Clerk presented from the meeting of April 19, 2005, Council-appointed standing committees: appointments to Child Care and Youth Services Committee, Cultural Arts Committee, Fairview Friends/Fundraising Committee, and Historical Preservation Committee; consideration of changing the status of the Fairview Park Friends Committee from standing to ad hoc, with the four established events to be part of recreational programming, and the seasonal tours to be handled by the Fairview Park Administrator; consideration of changes to the membership of the Cultural Arts Committee and/or the status of the Committee. The Assistant City Manager reviewed the Agenda Report dated April 21, 2005 and responded to questions from Council. He corrected the recommended action relative to one vacancy and one alternate vacancy for the Historical Preservation Committee, which should read two regular vacancies and one alternate member vacancy.

Cultural Arts Committee

Council Member Bever, liaison to Cultural Arts Committee, reported that based on the current criteria for committee membership, the vacancy has not been filled. He stated the current criteria is limited to Costa Mesa residents and suggested broadening the basis for membership to include Costa Mesa business owners. Mayor Mansoor expressed concern allowing non-resident members, and suggested discontinuing the committee.

Council Member Foley concurred with Council Member Bever and felt that the Cultural Arts Committee would benefit from business owners who were interested in becoming members, and suggested extending the deadline for applications.

Council Member Dixon felt that Council discouraged community members from becoming involved because of the lack of support from Council in relation to the Arts.

Mayor Mansoor believed the issue was a matter of private involvement versus public involvement and referenced the Orange County Performing Arts Center and Symphony Hall that are private projects with state of the art facilities.

Beth Refakes, Costa Mesa, concurred with Council Member Dixon's comments. She believed committee membership should be restricted to Costa Mesa residents; supported maintaining the Cultural Arts committee; and discouraged the combination of Cultural Arts and Historical Preservation as both

committees have different goals and objectives.

Dan Vandersloof, Newport Beach, expressed his interest in Fairview Park and commented on an applicant's interest to explore the use of Fairview Park vernal pools for treating urban runoff and suggested against it, stating it would be detrimental to the vernal pools; and suggested resurrecting the Fairview Park Citizens Advisory Committee in order to deal with daily issues that may arise.

MOTION/To Broaden Membership Criteria and Extend Recruitment Period

On motion by Council Member Foley, seconded by Council Member Dixon, to change the Cultural Arts Committee make-up to include Costa Mesa residents, Costa Mesa business owners, and individuals employed in Costa Mesa, and to extend the recruitment period for one month.

SUBSTITUTE MOTION/ Discontinue Cultural Arts Committee; and Fairview Friends Fundraising Committee to be Ad Hoc Died

A substitute motion was made by Mayor Mansoor to discontinue the Cultural Arts Committee and to modify the Fairview Friends/Fundraising Committee to ad hoc. Motion died for lack of a second.

The original motion carried 4-1, Mayor Mansoor voting no.

On motion by Council Member Bever, seconded by Council Member Foley, and carried 4-1, Mayor Mansoor voting no, amending the previous motion extending the recruitment period for the Cultural Arts Committee for 60 days.

MOTION/Appointed Members to Child Care and Youth Services Committee

On motion by Council Member Foley, liaison to the Child Care and Youth Services Committee, seconded by Council Member Dixon, and carried 5-0, reappointed Gloria Blotti as a regular member; appointed Roseann Andrus, Eleanor Teregis-Strojny, Charlene Ashendorf, and Amanda Frazier as regular members; and retained one alternate member vacancy.

MOTION/Appointed Members to Historical Preservation Committee

On motion by Council Member Bever, liaison to the Historical Preservation Committee, seconded by Council Member Foley, and carried 5-0, reappointed Kathleen Eric as regular member; appointed Darren Tietgen as regular member, and Genaro Caprese as an alternate member.

MOTION/Appointed Members to Fairview Friends/Fundraising Committee

On motion by Council Member Dixon, liaison to the Fairview Friends/Fundraising Committee, seconded by Council Member Dixon, and carried 5-0, reappointed Kimberly Woods as regular member; appointed William Thomas, Robert Ooten and Terry Shaw as regular members.

MOTION/To Change Status of Fairview Friends/Fundraising Committee and Eliminate Two Fundraising Events.

A motion was made by Mayor Mansoor, seconded by Council Member Bever, to change the Fairview Park Friends Committee to Ad Hoc status, reduce the committee's fundraising events to two, eliminate Earth Day and Park-O-Rama, and maintain the seasonal tours conducted by the committee.

Council Member Dixon expressed her opposition to Mayor Mansoor's motion; believed the events encouraged family involvement and continued to grow in community participation.

SUBSTITUTE MOTION/ Change Status of Fairview

A substitute motion was made by Council Member Dixon, seconded by Council Member Foley, to change the status of Fairview Friends Committee to ad hoc and retain the four

Friends/Fundraising  
Committee and Maintain  
Four Events  
Failed

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

MOTION/Approved Ad  
Hoc Status for Fairview  
Friends/Fundraising  
Committee and  
Elimination of Two  
Fundraising Events

The Mayor called for the original motion. The motion carried 3-2, Council Member Dixon, and Council Member Foley voting no.

OLD BUSINESS  
Mobile Recreation  
Program and Mobile  
Skate Park Program

The Deputy City Clerk presented from the meeting of April 19, 2005, review of two City Recreation Division Programs: Mobile Recreation and Mobile Skate Park. Mayor Pro Tem Monahan stated his reasons for bringing the item forward to Council in light of the newly constructed skate park being built and felt both programs were a duplication of efforts. The Recreation Supervisor, reviewed the Agenda Report dated April 26, 2005, and responded to questions from Council.

Byron De Arakal, member of Parks and Recreation Commission, suggested discontinuing the Mobile Skate Program; donating the equipment to Shalimar Park, Save Our Youth (SOY), or a school located on the Westside; reallocating funds from the Mobile Skate Park Program to the Mobile Recreation Program, to be used to upgrade the equipment; and suggested a phasing out of the Mobile Recreation Program and research possibilities such as public-private partnerships to meet the recreational needs of the children.

MOTION/To Retain  
Mobile Recreation  
Program and Mobile  
Skate Program

A motion was made by Council Member Dixon, seconded by Council Member Foley, to continue both programs and maintain the budget of \$61,723.00 and \$32,464.00 for both the Mobile Recreation Program and the Mobile Skate Program.

Council Member Foley concurred with Council Member Dixon and urged Council to retain both programs, suggested researching alternatives for funding before eliminating the programs and felt the programs serve the community well and are a risk preventative.

Council Member Dixon felt that the cost of the programs was such a small percentage of the budget and was concerned of the message Council was sending when cutting programs that are so valuable to the community.

SUBSTITUTE MOTION/  
Discontinue Mobile  
Recreation Program;  
Redirect Funds  
Died

A substitute motion was made by Mayor Pro Tem Monahan, to discontinue the Mobile Skate Program and redirect the funds to be invested in equipment for the Mobile Recreation Program. The motion died for lack of a second.

SUBSTITUTE MOTION/  
Discontinue Mobile  
Recreation and Mobile  
Skate Programs  
Died

A substitute motion was made by Mayor Mansoor, to discontinue the Mobile Recreation Program and the Mobile Skate Program. The motion died for lack of a second.

Mayor Mansoor felt the Mobile Skate Program was a duplication of efforts, as the new skate park is close to completion. Regarding the Mobile Recreation Program, Mayor Mansoor felt the benefits it offered were minimal.

Mayor Pro Tem Monahan concurred with Mayor Mansoor regarding the Mobile Skate Program, but believed it would be beneficial to retain the Mobile Recreation Program.

SUBSTITUTE MOTION/  
Discontinue Mobile  
Skate Program and  
Redirect Funds

A substitute motion was made by Mayor Mansoor, seconded by Mayor Pro Tem Monahan, to discontinue the Mobile Skate Program and reallocate the funds to the general fund.

Council Member Foley disagreed that the Mobile Skate Program was a duplication of efforts and suggested maintaining operation in areas that would be better served, such as the Westside.

Council Member Bever suggested utilizing the concrete pad and permanently affixing the mobile skate equipment at Ketchum-Libolt Park, located at 2150 Maple Street, to be used for the Mobile Skate Program. He suggested revisiting the Mobile Skate Program in order to address the costs associated with permanently affixing the equipment.

The Recreation Supervisor reported that Ketchum-Libolt Park is one of the parks that the program frequents and permanently affixing the equipment is a possibility, although he pointed out that the mobile skate equipment wasn't built to handle lengthy outdoor exposure and would deteriorate rapidly.

Council Member Foley suggested adding the Mobile Skate Program to the after-school programs that already exist on school sites. The Recreation Supervisor pointed out that it was a liability issue on the City's part, but that staff could approach the school district to negotiate alternatives.

SUBSTITUTE MOTION/  
Approved  
Discontinuation of Mobile  
Skate Park Program and  
Reallocate Funds to the  
General Fund

The Mayor called for the substitute motion. The motion carried 3-2, Council Member Dixon and Council Member Foley voting no.

The Mayor declared a recess at 10:31 p.m. and reconvened the meeting at 10:41 p.m.

OLD BUSINESS  
Request for Rehearing of  
the Emergency Medical  
Services Subscription  
(EMS) Fees

The Deputy City Clerk presented a request for rehearing from Mayor Pro Tem Monahan, of the decision of the City Council at its regular meeting held on April 19, 2005, to oppose the establishment of the Emergency Medical Services Subscription (EMS) Fees. Mayor Pro Tem Monahan stated his request for a rehearing was due to information that was not provided in the staff report and from the questions that arose after the April 19, 2005 Council meeting.

The City Manager reported that the item could be brought forward in thirty days, and requested that Council indicate the elements that Council would or would not support, in order to assist staff in shaping a program that would meet the needs and interests that satisfies both the Council and the community.

The Fire Chief responded to questions from Council providing a history of the ambulance services that are currently provided by Schaefer Ambulance, and pointing out that initially an EMS subscription program was suggested in an effort to mirror



surrounding cities. He clarified that proposed EMS subscription fee is separate from the ambulance service that is provided.

Mayor Mansoor commented that he did not support any type of subscription fee service. He indicated that he supports: straight billing, separate fees for Advanced Life Support (ALS) and Basic Life Support (BLS), not to exceed costs; and would like to research the capability of waiving insurance deductibles and co-payments for Medicare patients, an option of waiving fees for those persons age 65 and older, an option of utilizing Schaefer Ambulance as the City's billing agent, with an evaluation of uninsured persons on a case-by-case basis. He also would like to have an appeals process be included.

The City Attorney advised that base criteria could be established so that anyone who fell below that base, the fee would be automatically waived. The Mayor agreed to include that in his request to review.

Council Member Bever believed that the residents would be disadvantaged if a subscription fee program were in place and felt the revenue it would generate was not a significant gain.

MOTION/To Approve  
Request for Rehearing

A motion was made by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, to approve the request for rehearing to be held at the Council Meeting of June 7, 2005.

Council Member Foley indicated that she would not support the proposal, as she was concerned for those who could not pay the fee and of the complicated process one must go through if they wish to have it waived.

MOTION/Failed

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

OLD BUSINESS  
Second Reading and  
Adoption of Ordinance  
No. 05-8

The Deputy City Clerk presented from the special meeting of April 26, 2005, second reading and adoption of Ordinance No. 05-8, regarding solicitation of employment, business or contributions from streets and certain commercial parking lots. The City Attorney reviewed the Agenda Report dated April 27, 2005.

MOTION/Adopted  
Ordinance No. 05-8

On motion by Mayor Mansoor, seconded by Council Member Bever, and carried 5-0, Ordinance No. 05-8 was given second reading and adopted: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING TITLE 10, CHAPTER XIX, OF THE COSTA MESA MUNICIPAL CODE REGARDING SOLICITATION OF EMPLOYMENT, BUSINESS, OR CONTRIBUTIONS FROM STREETS AND CERTAIN COMMERCIAL PARKING LOTS, read by title only and waived further reading.

NEW BUSINESS  
Request for Resident  
Only Parking on 16<sup>th</sup>  
Street

The Deputy City Clerk presented a resolution designating permit parking on 16<sup>th</sup> Street between Aliso Avenue and Irvine Avenue. The Transportation Services Manager reviewed the Agenda Report dated April 21, 2005, and answered questions from Council.

MOTION/Adopted  
Resolution No. 05-32

On motion by Mayor Pro Tem Monahan, seconded by Mayor Mansoor, and carried 5-0, Resolution No. 05-32 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DESIGNATING PERMIT

PARKING ON 16<sup>th</sup> STREET BETWEEN ALISO AVENUE AND IRVINE AVENUE; and authorized the Transportation Services Manager to extend the “resident only” parking restriction on 16<sup>th</sup> Street, westerly of Aliso Avenue as needed if the initial phase is unsuccessful and a qualifying petition is received from the affected residents.

MOTION/Resolution No. 05-32 Read By Title Only and Waived Further Reading

On motion by Mayor Pro Tem Monahan, seconded by Council Member Foley, and carried 5-0, to read Resolution No. 05-32 by title only and waived further reading

NEW BUSINESS  
Business Improvement Area (BIA) Annual Report for Fiscal Year 2005-2006

The Deputy City Clerk presented Business Improvement Area (BIA) Annual Report for Fiscal Year 2005-2006 and Reauthorization of Assessment District boundaries; and a resolution declaring its intention to levy an annual assessment for Fiscal Year 2005-2006 for a business improvement area covering certain Costa Mesa hotels and motels and setting the time and place for a public hearing on proposal. Ann Shultz, the Legislative and Public Affairs Manager, reviewed the Agenda Report dated April 13, 2005 and responded to questions from Council.

Joe DeDio, president of the Costa Mesa Conference and Visitor Bureau, along with Sue Firth and Carol Haywood recounted the awards that the bureau received this year for their marketing campaigns and presented a commemorative plaque to Council from the 2004 Drive and Dine Television Coverage for KABC, that highlighted South Coast Plaza, the Performing Arts Center, Scott’s Seafood, and the collection of hotels.

Council Member Bever thanked the bureau for the efforts and commended them on their work.

MOTION/Adopted Resolution 05-33

A motion was made by Mayor Mansoor, seconded by Council Member Foley, and carried 5-0, to receive and file annual report for Fiscal Year 2005-2006, approved the BIA budget, and adopted Resolution No. 05-33: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO LEVY AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2005-2006 FOR A BUSINESS IMPROVEMENT AREA COVERING CERTAIN COSTA MESA HOTELS AND MOTELS AND SETTING THE TIME AND PLACE FOR A PUBLIC HEARING ON PROPOSAL, to be read by title only and waived further reading.

REPORTS  
City Attorney

The City Attorney reported that a notice of appeal was received from Mr. Igal Israel, and Council would be informed of the progress as it is received.

COUNCIL COMMENTS

Council Member Bever requested that staff evaluate the conditions of motels in Costa Mesa, in order to develop suggestions from a planning perspective, to encourage redevelopment on some of those properties; requested that Parks and Recreation Commission research the applicability of installing skate elements in parks that have available concrete pads or unused concrete pads; and expressed his appreciation for a job well done to Police Chief John Hensley and his staff, as numerous letters of recognition are continuously received.

ADJOURNMENT

The Mayor declared the meeting adjourned at 11:15 p.m.