

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

January 03, 2006

The City Council meeting of the City of Costa Mesa, California met in regular session January 03, 2006, at 6:00 p.m., in the Council Chambers of City Hall, 77, Fair Drive, Costa Mesa. The meeting was called to order by the Mayor.

PLEDGE OF ALLEGIANCE Mayor Mansoor

MOMENT OF SOLEMN EXPRESSION Chaplain Lloyd Sellers, Hoag Memorial Hospital Presbyterian

ROLL CALL

Council Members Present: Mayor Pro Tem Eric Bever
Council Member Linda Dixon
Council Member Gary Monahan

Council Members Absent: Mayor Allan Mansoor
Council Member Katrina Foley

Officials Present: City Manager Allan Roeder
City Attorney Kimberly Hall Barlow
Development Services Director Donald Lamm
Public Services Director William Morris
Transportation Services Manager Peter Naghavi
Associate Planner Wendy Shih
City Clerk Julie Folcik

IV. PUBLIC COMMENTS

Paul Flanigan, Costa Mesa, felt that the City Council should rethink the Police Department's participation of the ICE program.

Robert Graham, Costa Mesa, stressed that the City should send a letter to the Federal Government, demanding that they enforce the immigration laws; and suggested that a bond measure be placed on the ballot to underground utilities.

Jim Gilchrist, Aliso Viejo, founder of the Minute Man Project, applauded Mayor Mansoor, Mayor Pro Tem Bever, and Council Member Monahan for

the approval of the Police Department's participation in the ICE program. He further commented that anyone who otherwise abades illegal activies, "are they themselves, criminals".

Paul Kelly, Costa Mesa, felt that illegal immigration is a national problem, and stressed the City's participation in the ICE program would not be of great impact on the national level.

Evelyn Miller, Irvine, pointed out in the Immigration and the Nationality Act that "persons who abate illegal aliens are subject to fines and jail time" and that the 1996 Federal Legislation authorizes local law enforcement to cooperate with ICE.

Mike Berry, Costa Mesa, inquired on the apparent high number of parolees and halfway houses in Costa Mesa and commented on the long-term occupancy at the area motels, encouraging the City to further regulate against the practice and to enforce it.

Steven Eichler, Anaheim, expressed support for the ICE program and advised of an attorney's group that will sue municipalities that give day-laborer center privileges to illegal aliens.

Harrison Brown, Costa Mesa, representing the Newport High School Young Democrats, expressed his disappointment regarding the Council's decision to move forward with the ICE program and of the closure of the job center.

Bernard Carrol, Anaheim, expressed support of the training of the Police Officers to deal with criminal aliens.

Chris Blank, Costa Mesa, referencing an e-mail that he sent to Council, asked questions regarding ICE proposal and felt that an alternative solution should have been found before the closure of the job center.

Laura Carder, Costa Mesa, speaking in support of the Council's decision regarding the ICE program stressed that "This is a nation of laws".

Robin Huidston, expressed support of the ICE Proposal.

Barbara Coe, Huntington Beach, commending the Council pointed out that it is a violation of Title 8 of the immigration laws to come into the country illegally, and against the abor law to employ such illegal aliens.

Arne Chandler, Temecula, supports the action of the Mayor for the ICE program.

Diane Harky, Dana Point City Council Member and Assembly candidate,

felt that the Federal Government should secure the borders and advised of HR 4437, a bill supported to increase border patrol.

David Garcia, Arizona, felt that immigration law enforcement is the Federal Government's responsibility.

Francisco Jorge, felt that illegal immigration was out of control.

Devan Falk, Costa Mesa, commented that the immigrants "do the the job that we don't want to do".

Ann Hogan Shereshevsky, Costa Mesa, gave her report on her trip to Washington D.C. for the conference she attended for The Council of Aging, advising that there will be resolutions given to Congress to authorize the Older Americans Act.

Steve Nelson, San Juan Capistrano, expressed his support of the ICE program and read a quote from Theodore Roosevelt.

Lupe Moreno, Santa Ana, President of the Latin Americans for Immigration Reform, thanked the Council for closing the Job Center and spoke in support of the ICE proposal.

Paula Dilarza, Illinois, spoke in opposition to the ICE Proposal and felt it would create racial profiling.

Coyotl Tezcalipoca, felt that there was no protection for victims of crimes for arbitrary deportation and demanded the reversal of the ICE decision.

Mayor Mansoor recessed the meeting at 6:58 p.m.

The Mayor reconvened the meeting at 7:35 p.m.

Mike Flick, Costa mesa, applauded the City Council for their decision on the ICE Proposal.

Humberto Caspa, Costa Mesa, spoke about the closing of the job center, and of the patterns he sees taking place in Costa Mesa that disturb him.

Ron Bell, Orange, emphasized that the ICE issue is not about race but that it is about being fair, and expressed his appreciation of what the Council was doing.

Kenneth Kelly, Los Angeles, felt that there was not a simple answer regarding the ICE program, and reminded the Council that there are two right sides to the story.

Phil Morello, Costa Mesa, speaking in support of the ICE Proposal thanked the Council for their courage.

Scott Sink, spoke regarding the earlier disruption of the meeting and questioned the meeting protocol.

VII. PUBLIC HEARING

The City Clerk announced that this was the time and place set for a public hearing to consider:

1. PUBLIC HEARING: Appeal of the Planning Commission's denial of Planning Applications PA-05-24 for Mark Rodriguez, authorized agent for Mendez Automotive Services, for a conditional use permit to demolish an existing gas station, convenience store, and auto service building in order to allow the construction of a new gas station with a convenience store and a car wash tunnel, with variances from street setback landscape requirements (20 feet required; 10 feet proposed along Bristol Street and 15 feet proposed along Paularino Avenue), for property located at 3048 Bristol Street in a C1 zone. Environmental determination: Mitigated Negative Declaration.

The Affidavits of Publication and of Mailing are on file in the City Clerk's Office.

The Principle Planner presented the report and answered questions from the City Council.

The Associated Planner presented the Report and answered questions from the City Council.

Marylou Mandez, property and business owner, advised the City Council of the benefits of the project to include an environmental clean-up of the area, and that a case-closure letter from the Orange County Health Care Agency would be issued, replacement of old gas tanks, along with state-of-the-art monitoring systems, the installation of new fueling stations, public restrooms, a laser touchless self-serve, environmentally friendly car-wash, that the landscaping would be increased by over 15 percent and new architecture would enhance the Bristol Street area. Mark Rodriguez, authorized agent for Mandez Automotive Services, explained the difficulties in designing the development to work around a Metropolitan Water District water pipeline easement and similar properties with variances approved and answered questions from the Council, including addressing concerns regarding

landscaping.

Martin Millard, Costa Mesa, expressed support for the denial, pointing out concerns regarding the location of a water main being situated in polluted grounds, and suggested a change in the use of the site.

Beth Refakes, Costa Mesa, expressed concern regarding the request of the setback variance, felt that the use of the site would be intense, and suggested the elimination of the car wash.

Council Member Monahan commented that the project had merit as it included the clean up of the site.

MOTION: Adopt Resolution No. 06-1: A RESOLUTION OF THE CITY COUNCIL, CITY OF COSTA MESA APPROVING PLANNING APPLICATION PA-05-24. Moved by Council Member Gary Monahan, seconded by Mayor Allan Mansoor.

Mayor Mansoor requested the maker of the motion to incorporate into the motion that the landscaping plan that has been put forth will be implemented. Council Member Monahan agreed.

Council Member Dixon stated that she would not support the motion, she felt that if the car wash were eliminated they would not need a variance for the set-back.

Mayor Pro Tem Bever felt that it was a benefit to the area.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Gary Monahan

Noes: Council Member Linda Dixon

Absent: Council Member Katrina Foley

MOTION: Adopt the Mitigated Negative Declaration. Moved by Council Member Gary Monahan, seconded by Mayor Allan Mansoor.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Gary Monahan

Noes: Council Member Linda Dixon

Absent: Council Member Katrina Foley

VI. CONSENT CALENDAR

MOTION: To approved recommendations for Consent Calendar items 1-13, except Consent Calendar Items Nos. 2 and 14.

Moved by Council Member Gary Monahan, seconded by Council Member Linda Dixon.

1. Reading Folder.

ACTION: Received and processed.

3. Warrant Resolution 2087, funding Payroll No. 524 for \$2,313,062.46, and Payroll No. 523A for \$310.62, and City operating expenses for \$586,507.63, including payroll deductions.

ACTION: Approved.

4. Warrant Resolution 2088, funding City operating expenses for \$1,191,874.16.

ACTION: Approved.

5. Warrant Resolution 2089, funding Payroll No. 525 for \$2,316,090.01, and Payroll No. 524A for \$5,905.69, and City operating expenses for \$1,154,368.68, including payroll deductions.

ACTION: Approved.

6. Warrant Resolution 2090, funding City operating expenses for \$1,171,26.45.

ACTION: Approved.

7. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING THE ORANGE COUNTY TRANSPORTION AUTHORITY COMMUTER BIKEWAYS STRATEGIC PLAN AS THE CITY'S BICYCLE TRANSPORTATION PLAN TO MAINTAIN ELIGIBILITY FOR FUNDING UNDER THE BICYCLE TRANSPORTATION ACCOUNT PROGRAM.

ACTION: Adopted Resolution No. 06-2.

8. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REVOKING ITS DELEGATION OF AUTHORITY AND ASSIGNMENT OF RESPONSIBILITY TO MAKE CERTAIN DETERMINATIONS AND RELATING TO DISABILITY RETIREMENTS UNDER THE PUBLIC EMPLOYEES RETIREMENT LAW, dissolving the

present Disability Retirement Committee (the "Committee") and revoking the City Manager's power to hear appeals, and directing that all appeal hearings be conducted by an Administrative Law Judge who will then make a recommendation for City Council's consideration and action.

ACTION: Adopted Resolution No. 06-3.

9. Completion of Soundwalls, Retaining Walls, and Slope Improvements along the West Side of Fairview Road and South of the Southbound I-405 Freeway Off ramp - Project No. 04-23, by Pima Corporation d.b.a. Advanced Construction, 2001 S. Barrington Avenue, Suite 204, Los Angeles.

ACTION: The work was accepted; the 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 12 months thereafter.

10. Purchase of two 2006 BMW Police Motorcycles from Long Beach BMW, 2996 Cherry Avenue, Long Beach, for \$33,489.40 (price includes: the cost of the two motorcycles per the Costa Mesa Police Department's specifications, delivery and freight costs, sales tax, and a tire tax of \$7.00 per motorcycle).

ACTION: Approved.

11. Purchase of a New 2006 Ford F550 Chassis with a 40-Foot aerial lift from Don Kott Ford, 21212 Avalon Boulevard, Carson, for \$94,371.27.

ACTION: Approved.

12. Agreement with Harris & Associates, 34 Executive Park, Suite 150, Irvine, for Construction Management of the Police Facility Expansion and Renovation Project: in an amount not to exceed \$1,716,748.

(a) Budget Adjustment No. 06-033 for \$1,716,748.00.

ACTION: Approved and authorized the Mayor and Clerk to sign on behalf of the City; and approved Budget Adjustment No. 06-033.

13. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE VACATION OF EXCESS RIGHT-OF-WAY AT 297 OGLE STREET (SANTA ANA AVENUE SIDE), setting a public hearing for February 7, 2006.**

ACTION: Adopted Resolution No. 06-4, and set the date of the hearing for February 7, 2006, at 6:30 p.m.

2. **Regular meeting of December 6, 2005.**

MOTION: Approve as corrected, by correcting the start time of the meeting and the identity of a speaker on page 4.

Moved by Mayor Allan Mansoor, seconded by Mayor Pro Tem Eric Bever.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Gary Monahan

Noes: None.

Absent: Council Member Katrina Foley

14. **Agreement with South Coast Plaza for street improvements on Sunflower Avenue, Anton Boulevard, Bristol Street, Park Center Drive, and Avenue of the Arts, within the Theatre and Arts District (TAD).**

(a) Resolution requesting the Orange County Board of Supervisors and the Orange County Transportation Authority (OCTA) to provide funding in the amount of \$3 million for the improvement of street pavement and related sidewalks, and medians, within the public right-of-way surrounding the Theatre and Arts District.

The Public Services Director addressed corrections to the contract that was made after distribution, on page 7 subsection (d) to delete "secure and/or" from the sentence on page 10 Section 13 (a) to correcting sentence to read "...having received."

MOTION: Approve as corrected, authorize the Mayor and the City Clerk to sign on behalf of the City; and adopted Resolution No. 06-5: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REQUESTING THE ORANGE COUNTY BOARD OF SUPERVISORS AND THE BOARD OF DIRECTORS OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY TO FUND THEATER AND ARTS DISTRICT STREET AND LANDSCAPE IMPROVEMENTS.

Moved by Council Member Gary Monahan, seconded by Council Member Linda Dixon.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Gary Monahan

Noes: None.

Absent: Council Member Katrina Foley

VIII. OLD BUSINESS

- 1. From the meeting of December 6, 2005, second reading and adoption of Ordinance 05-17, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA REZONING A PARCEL OF LAND FROM PLANNED DEVELOPMENT RESIDENTIAL-HIGH DENSITY (PDR-HD) AND INSTITUTIONAL & RECREATIONAL (I & R) TO PLANNED DEVELOPMENT RESIDENTIAL-MEDIUM DENSITY (PDR-MD) BY ADOPTION OF REZONE PETITION R-05-01 FOR 2501 HARBOR BOULEVARD.**

MOTION: Adopt Ordinance 05-17; read by title only and waive further reading

Moved by Mayor Allan Mansoor, seconded by Council Member Linda Dixon.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Council Member Linda Dixon, Mayor Pro Tem Eric Bever, Council Member Gary Monahan

Noes: None.

Absent: Council Member Katrina Foley

- 2. From the meeting of December 6, 2005, second reading and adoption of Ordinance 05-18, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REZONING A PARCEL OF LAND FROM R3 (MULTIPLE FAMILY RESIDENTIAL) TO C1-S (SHOPPING CENTER DISTRICT) BY ADOPTION OF REZONE PETITION R-05-03 FOR 380 WEST WILSON STREET.**

Tamar Goldmann, Costa Mesa, inquired as to the recording of the relocation of the deposal area and was informed it was included in the resolution adopted by Council.

MOTION: Adopt Ordinance 05-18; read by title only and waive further reading.

Moved by Council Member Gary Monahan, seconded by Council Member Linda Dixon.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Council Member Linda Dixon, Mayor Pro
Tem Eric Bever, Council Member Gary Monahan

Noes: None.

Absent: Council Member Katrina Foley

3. **Continued from the meeting of December 6, 2005, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING CHAPTER IX OF TITLE 2 OF THE COSTA MESA MUNICIPAL CODE RELATING TO APPEAL, REHEARING AND REVIEW PROCEDURES.**

The City Attorney presented a report.

Mayor Pro Tem Bever expressed he would not support the motion as he was satisfied with the current process and that the new process would add confusion to an already cohesive process.

Beth Refakes, Costa Mesa, clarified why she felt there was confusion and believed that there should be a definitive time when a rehearing of an item should be discussed, allowing an appropriate time for the public to provide comment for the reconsideration.

MOTION: Give ordinance No. 06-1 first reading, to be read by title only and waive further reading.

Moved by Council Member Gary Monahan, seconded by Council Member Linda Dixon.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Council Member Linda Dixon, Council
Member Gary Monahan

Noes: Mayor Pro Tem Eric Bever

Absent: Council Member Katrina Foley

4. **Continued from the meeting of December 6, 2005, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING AMENDMENTS TO THE STREETSCAPE AND MEDIAN DEVELOPMENT STANDARDS, AND THE LANDSCAPE AND SIGN GUIDELINES FOR THE NEWPORT BOULEVARD SPECIFIC PLAN, amending:**

(a) The Streetscape and Median Development Standards: Section 2.02 and Section 6.03 to designate the proposed plant palette for Newport Boulevard between Industrial Way and Bristol Street; and Section 7.0, Streetscape Corridor Furniture Coordination, to identify the Carpinteria Street Light.

(b) The Newport Boulevard Streetscape Study/Landscape and Sign Guidelines, Section 2, to designate the proposed parkway and median plant palette for Newport Boulevard between 19th Street and Bristol Street.

The Transportation Services Manager presented report.

MOTION: Adopt Resolution No. 06-6.

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

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Gary Monahan

Noes: None.

Absent: Council Member Katrina Foley

V. COUNCIL MEMBERS REPORTS, COMMENTS, AND SUGGESTIONS

1. Council Member Linda Dixon inquired as to the process of placing a bond measure on the November Ballot regarding undergrounding of utilities and that of block walls as well as the Transient Occupancy Tax (TOT). She also requested some information that can be provided to the public regarding the 28-day limitation and advised that the Council has encouraged the use of the motels for senior living and SRO's and affordable living accommodations. Encouraged those who spoke earlier regarding the ICE program to also write the Federal Government to share their disappointment that the Federal Government is not protecting the borders as the problem is a national problem.
2. Mayor Pro Tem Eric Bever requested staff to pursue the matter regarding the concerns mentioned by Mike Berry regarding the long-term stay in motels. He requested on the behalf of the Costa Mesa Historical Society to investigate costs and guidelines for a program to place historical markers (medallions) throughout the City and commented that he felt "soccer was a universal sport".
4. Mayor Allan Mansoor thanked the Police Department for thier professionalism they exhibited when handling the disruption earlier in the meeting.

X. ADJOURNMENT

The Mayor adjourned the meeting at 9:30 p.m. to January 17, 2006.

Mayor of the City of Costa Mesa

ATTEST:

Deputy City Clerk of the City of Costa Mesa