

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

March 21, 2006

The City Council meeting of the City of Costa Mesa, California met in regular session March 21, 2006, 5:00 p.m. in the Council Chambers of City Hall, 77, Fair Drive, Costa Mesa. The meeting was called to order by the Mayor.

ROLL CALL

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

Council Members Absent: Council Member Gary Monahan

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

PUBLIC COMMENT

There were no public speakers.

CLOSED SESSION

1. Bristol Street Mini-Storage

(a) Conference with real property negotiators pursuant to California Government Code Section 54956.8 for property at 1100 Bristol Street, Costa Mesa, California. Agency Negotiator: Allan Roeder. Negotiating Parties: Bristol Street Mini-Storage LLC (Lee Jamieson) and County of Orange (Herb Nakasone).

(b) Conference with legal counsel - anticipated litigation. Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the California Government Code, one case, Bristol Street Mini-Storage.

2. Conference with legal counsel pursuant to California Government Code Section 54956.9(a) - existing litigation, Acosta v. City of Costa Mesa, et al, Case Number SACV06-233 DOC (MLGx)

Mayor Mansoor adjourned the meeting at 5:04 p.m. to closed session in Conference Room 1B.

RECONVENE REGULAR MEETING

Mayor Mansoor reconvened the meeting at 6:06 p.m.

PLEDGE OF ALLEGIANCE - Mayor Allan Mansoor

MOMENT OF SOLEMN EXPRESSION - Reverend Dennis Short, Harbor Christian Church

ROLL CALL

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

Council Members Absent: Council Member Gary Monahan

Officials Present: City Manager Allan Roeder
City Attorney Kimberly Hall Barlow
Development Services Director Donald Lamm
Public Services Director William Morris
Senior Planner Mel Lee
City Clerk, Julie Folcik

CLOSED SESSION REPORT

City Attorney advised that no action was taken on the closed sessions held.

PUBLIC COMMENT

James Robert Reade, Anaheim, recounted the accomplishments of Dr. Hector Garcia.

Alma Ramirez, Anaheim, commented on the accomplishments of Benito Juarez, former Mexican President (1800's).

Ann Hogan-Shereshevsky, Costa Mesa, spoke regarding disposal of batteries and requested that leaf blowers be prohibited in Costa Mesa.

Janice Gammill, Costa Mesa, expressed support regarding the ICE Proposal.

Gustavo Mc Geisey, Costa Mesa, expressed support for the ICE program.

Marshall Bryan, Costa Mesa, expressed support regarding the ICE Proposal.

Robert Lauten, Brea, expressed support regarding the ICE Proposal.

Gerald Volomino, Lake Forest, expressed thanks to Council, law enforcement

and to the men and women serving their country.

Phil Tryon, Costa Mesa, spoke about J. Edgar Hoover, expressed support for the adoption of the ICE Proposal and read a quote from Theodore Roosevelt.

Dee Barrow, Upland, expressed support for the ICE Proposal.

Steve Nelson, San Juan Capistrano, referenced a Washington Times article regarding violence at the borders, and expressed support for the ICE program.

Robin Hvidston, Upland, expressed support of the ICE Proposal.

Ron Bell, Orange, expressed support of the ICE Proposal.

Stan Nelson, Lake Forest, expressed support for the ICE Proposal pointing out the California Penal Code Section 834(b).

Raymond Herrera, Victorville, recounted history and expressed support of the ICE Proposal.

Beth Refakes, Costa Mesa, speaking relative to the battery disposal, suggested a program such as the Hazardous Waste Disposal Program for the City of Corona (Riverside County); she also expressed concern regarding the eastside traffic.

Richard Gillock, Costa Mesa, expressed opposition to the deportation illegal aliens.

Danielle Gardner, Costa Mesa, expressed concern regarding a local contaminated land fill and requested that the grading of the land be done during hours similar to those of Code Enforcement.

Howard Williams, Ridgecrest, expressed support for the ICE Proposal.

Scott Palmer, Ontario, expressed support for the ICE Proposal.

Brook Williamson, North Hollywood, expressed support for the ICE Proposal.

MOTION: Take five additional public speakers and continue the remainder of Public Comments until after New Business.

Moved by Mayor Allan Mansoor, 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 Katrina Foley

Noes: None.

Abstain: Council Member Gary Monahan

Absent: None.

Judi Berry, Costa Mesa, suggested a battery disposal receptacle be placed at the Senior Center, and expressed concern regarding the City's Budget expenditures.

Vincent Burke, Lake Forest, expressed support for the ICE Proposal.

Eileen Garcia, Laguna Beach, made reference to a previous Council meeting when a Public Comment Speaker spoke in another language, requested Council to insist speakers communicate in a language that is understood by all.

Hildegard Gonzalez, Costa Mesa, expressed support regarding the ICE Proposal.

COUNCIL MEMBERS REPORTS, COMMENTS AND SUGGESTIONS

Council Member Linda Dixon encouraged Costa Mesa residents to become involved in the committees that have current vacancies.

Mayor Pro Tem Eric Bever, reported that the City of Maywood had gone on record that they have chosen not to enforce the laws of the Federal Government relative to illegal immigration, he hoped that other cities would follow Costa Mesa's example relative to enforcement and noted "that freedom does not mean without laws."

Mayor Allan Mansoor expressed his appreciation and respect, commending the Chief of Police and the police officers for their work, and pointed out that the Chief of Police is doing what the Council has directed him to do and what the community expects of him.

Council Member Katrina Foley requested an update regarding adult soccer restrictions.

CONSENT CALENDAR

MOTION: To approve the recommended actions for Consent Calendar Item Nos. 1 through 24, except for Consent Calendar Item Nos. 12, 16 and 21. Moved by Mayor Allan Mansoor, 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 Katrina Foley

Noes: None.

Absent: Council Member Gary Monahan

1. Reading Folder.

ACTION: Receive and processed.

2. **Regular meeting of March 7, 2006**

ACTION: Approved.

3. **Warrant Resolution 2100, funding City operating expenses for \$594, 603.66.**

ACTION: Approved.

4. **Warrant Resolution 2101, funding Payroll No. 605 for \$2,166,419.54 and No. 604 A for \$ 507.40, and City operating expenses for \$1,187,082.73, including payroll deductions.**

ACTION: Approved.

5. **Purchase of a Microsoft Office Professional 2003 licensing for 480 systems to upgrade for compatibility with other software citywide from Shi, 12452 Santa Rosalia, Garden Grove for \$152,424.01, (through the State of California Software Licensing Program).**

ACTION: Approved.

6. **Award Formal Bid No 1094 to Nautilus GSA, 6465 Dumbarton Drive, Hudson, Ohio, for purchase of six treadmills and four recumbent bikes for the Fire Department for the total cost of \$40,526.93.**

ACTION: Approved; and authorize the City Manager and the City Clerk to sign on behalf of the City.

7. **Completion of Costa Mesa Police Substation Renovation, Project No. 05-25, by Enkay Engineering, 1639 Monrovia Avenue, Costa Mesa.**

ACTION: The work was accepted; the City Clerk was authorized to file a Notice of Completion; authorization was 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 twelve (12) months thereafter.

8. **Revised agreement with South Coast Plaza (SCP) for street improvements on: Sunflower Avenue, Anton Boulevard, Bristol Street, Park Center Drive, Avenue of the Arts within the Theater and Arts District (TAD).**

ACTION: Approved; and authorize the City Manager and the City Clerk to sign on behalf of the City.

9. **Completion of street improvement located at 2080 Newport Boulevard, by Andre Bachtari, 234 E. 17th Street, Costa Mesa, in connection with Encroachment Permit No. PS05-00750.**

ACTION: Approved work and authorized refund of cash deposit.

10. **Completion of street improvement located at 1561 Orange Avenue, by Willard Chilcott, 1561 Orange Avenue, Costa Mesa, in connection with Encroachment Permit No. PS06-00082.**

ACTION: Approved work and authorized refund of cash deposit.

11. **Completion of street improvement located at 2084 Orange Avenue by Mike Kilbride, Ltd., P.O. Box 3341, Newport Beach, in connection with Encroachment Permit No. PS02-00132.**

ACTION: Approved work and ordered the bond exonerated.

13. **Agreement for design services of Gisler Avenue through the Arterial Highway Rehabilitation Program (AHRP) Program with Praedium Engineering, 2030 Main Street, Suite 1300, Irvine, in an amount not to exceed \$122,700.00**

(a) Budget Adjustment No. 06-051a in the amount of \$122,700.00, from the Gas Tax Fund and the Measure "M" Fund.

ACTION: Approved; and authorize the City Manager and the City Clerk to sign on behalf of the City; and approved Budget Adjustment No. 06-051a in the amount of \$122,700.00.

14. **Agreement for design services of Sakioka Avenue through the Arterial Highway Rehabilitation Program (AHRP) Program with Civil Works Engineering, 3151 Airway Avenue, Suite S-2, Costa Mesa, in an amount not to exceed \$102,860.00.**

(a) Budget Adjustment No. 06-051a in the amount of \$102,860.00, from the Gas Tax Fund and the Measure "M" Fund.

ACTION: Approved; and authorize the City Manager and the City Clerk to sign on behalf of the City; and approved Budget Adjustment No. 06-051a in the amount of \$102,860.00.

15. **Agreement for design services of South Coast Drive from Carmel Drive to San Leandro Lane, through the Arterial Highway Rehabilitation Program (AHRP) Program with Civil Works Engineering, 3151 Airway Avenue, Suite S-2, Costa Mesa, in an amount not to exceed \$99,809.00.**

(a) Budget Adjustment No. 06-051a in the amount of \$99,809.00 from the Gas Tax Fund and the Measure "M" Fund.

ACTION: Approved; and authorize the City Manager and the City Clerk to sign on behalf of the City; and approved Budget Adjustment No. 06-051a in the amount of \$99,809.00.

17. **Agreement for design services of Wilson Street through the Arterial Highway Rehabilitation Program (AHRP) Program with Civil Works Engineering, 3151 Airway Avenue, Suite S-2, Costa Mesa, in an amount not to exceed \$101,394.00.**

(a) Budget Adjustment No. 06-051a in the amount of \$101,394.00, from the Gas Tax Fund and the Measure "M" Fund.

ACTION: Approved; and authorize the City Manager and the City Clerk to sign on behalf of the City; and approved Budget Adjustment No. 06-051a in the amount of \$101,349.00.

18. **Agreement for design services of South Coast Drive from Harbor Boulevard to Hyland Avenue, through the Arterial Highway Rehabilitation Program (AHRP) Program with KABBARA Engineering, 121 North Harwood Street, Orange, in an amount not to exceed \$115,705.00.**

(a) Budget Adjustment No. 06-051a in the amount of \$115,705.00, from the Gas Tax Fund and the Measure "M" Fund.

ACTION: Approved; and authorize the City Manager and the City Clerk to sign on behalf of the City; and approved Budget Adjustment No. 06-051a in the amount of \$115,705.00.

19. **Agreement for design services of Hyland Avenue through the Arterial Highway Rehabilitation Program (AHRP) Program with KABBARA Engineering, 121 North Harwood Street, Orange, in an amount not to exceed \$162,035.00.**

(a) Budget Adjustment No. 06-051a in the amount of \$162,035.00, from the Gas Tax Fund and the Measure "M" Fund.

ACTION: Approved; and authorize the City Manager and the City Clerk to sign on behalf of the City; and approved Budget Adjustment No. 06-051a in the amount of \$162,035.00.

20. **From the meeting of March 7, 2006, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REVERSING THE PLANNING COMMISSION'S DECISION TO REVOKE CONDITONAL USE PERMIT PA-95-10.**

ACTION: Adopted Resolution No. 06-23.

22. **Letter in regard to the progress and recommendations implemented of the 2004-2005 Orange County Grand Jury report, "Red Light Cameras: Automated Traffic Cops in Orange County".**

ACTION: Approved; and authorize the Mayor and Police Chief to sign on behalf of the City.

23. ~~**Agreement to provide Third Party Administration claims services for self-insured workers compensation programs with Hazelrigg Risk Management Services, Inc. 14275 Pipeline Avenue, Chino, California, for the term of April 1, 2006 to December 31, 2006.**~~

Withdrawn.

24. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CONDITIONALLY AUTHORIZING THE ASSIGNMENT OF A CABLE TELEVISION FRANCHISE BY TIME WARNER CABLE INC. TO TWE HOLDING I LLC, A WHOLLY-OWNED SUBSIDIARY OF TIME WARNER CABLE INC.**

ACTION: Adopted Resolution No. 06-24.

12. **Agreement for design services of Baker Street through the Arterial Highway Rehabilitation Program (AHRP) Program with Praedium Engineering, 2030 Main Street, Suite 1300, Irvine, in an amount not to exceed \$144,700.00.**

(a) Budget Adjustment No. 06-051a in the amount of \$144,700.00, from the Gas Tax Fund and the Measure "M" Fund.

Ann Hogan-Shereshevsky, Costa Mesa, inquired regarding funding.

MOTION: to Approved; and authorize the City Manager and the City Clerk to sign on behalf of the City; and approved Budget Adjustment No. 06-051a in the amount of \$144,700.00.

Moved by Mayor Allan Mansoor, 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 Katrina Foley

Noes: None.

Absent: Council Member Gary Monahan

16. **Agreement for design services of Superior Avenue from the southerly City limits to 17th Street, through the Arterial Highway Rehabilitation Program (AHRP) Program with Civil Works Engineering, 3151 Airway Avenue, Suite S-2, Costa Mesa, in an amount not to exceed \$135,692.00.**

(a) Budget Adjustment No. 06-051a in the amount of \$135,692.00, from the Gas Tax Fund and the Measure "M" Fund.

Council Member Dixon complimented the staff on the projects and pointed out \$30 million dollars of Measure "M" money will be used to create new streets and repair potholes.

MOTION: Approved; and authorize the City Manager and the City Clerk to

sign on behalf of the City; and approved Budget Adjustment No. 06-051a in the amount of \$135,692.00.

Moved by Council Member Linda Dixon, 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 Katrina Foley

Noes: None.

Absent: Council Member Gary Monahan

21. Memorandum of Understanding (MOU) with Fairview Developmental Center for a five-year term for use of open space on the property for athletic fields.

Mayor Mansoor indicated his support of the MOU and expressed that his desire for the Pop Warner baseball team to be re-allocated a field that was previously lost.

Mike Berry, Costa Mesa, expressed support of the MOU, and reiterated the need for more fields, particularly in the spring and fall seasons.

Chris Blank, Costa Mesa, felt that children and adults need a safe place to play.

Richard Gillock, Costa Mesa, suggested that his neighborhood park had some openspace that could be utilized for a playing field.

MOTION: Approve; and authorize the Mayor and City Clerk to sign, on behalf of the City and authorize staff to negotiate a lease with State of California for use of property located along the 2500 block of Merrimac Way.

Moved by Mayor Pro Tem Eric Bever, 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 Katrina Foley

Noes: None.

Absent: Council Member Gary Monahan

PUBLIC HEARING

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

- 1. PUBLIC HEARING: Continued from the meeting of March 7, 2006, Request for Review by Council Member Dixon of the Planning Commission's approval for Planning Application PA-05-42 for Pete Volbeda, authorized agent for Joe Cefalia, for a variance from minimum lot size requirements (12,000 sq. ft. required; approximately 4,000 sq. ft. per lot proposed) and lot**

width requirements (100 ft. required; 58 ft. and 62 ft. proposed) to subdivide an existing nonconforming lot into two and to consider Susannah Place instead of Orange Avenue as the front of Parcel 2, in conjunction with a development review for the construction of two, two-story single-family residences, located at 2590 Orange Avenue, in an R2-MD zone. Environmental determination: exempt.

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

The Senior Planner summarized the Agenda Report and responded to questions from the City Council.

Council Member Dixon expressing her reasons for the request for review indicated that approving the project with such variances would set a precedent. She also felt that proposed homes were not compatible with the scale and character of the neighborhood.

Pete Volbeda, Upland, architect for the project, requested that the Council to uphold the decision of the Planning Commission. He advised that with the approval of the subdivision it will allow the development to proceed without a homeowners association, and that there would be eight parking spaces added onsite relieving some parking issues.

Council Member Dixon advised that she would be requesting the project be redesigned with one drive way.

Terese Capland, Costa Mesa, expressed concerns regarding oversized homes built on undersized lots.

Dana (no last name given), Costa Mesa, expressed concern regarding the increase of density in the neighborhood with the project as well as potential parking issues.

Victor Packman, Costa Mesa, indicated that he felt that the proposed development was not compatible with the neighborhood.

Richard Nelson, Costa Mesa, speaking in opposition to the project pointed out the impact he felt the proposed development would have on the neighborhood.

Norm (inaudible), Costa Mesa, expressed preference to low impact rentals than that of the impact of a high density development.

Gunner Christianson, Costa Mesa, expressed opposition to the claim that the "variance will not set a precedence for future development."

Erin Nelson, Costa Mesa, encouraged the Council to deny the project.

Beth Refakes, Costa Mesa, expressed concern relative to the parking problems, and suggested that the project be re-evaluated or designed.

Council Member Dixon commented that she would like Mr. Cefalia to work with staff to redesign the project that works with one driveway.

Council Member Foley stated that she does not support a driveway on Orange Avenue as it is a busy street. She indicated that she would like to see staff work out a way to find a creative way to add parking to the existing proposed driveways.

Pete Volbeda, pointed out that the property is zoned R-2, and requested the Council to approve the project, as proposed for two single family homes.

MOTION: Continue the hearing to April 18, 2006 at 7:00 p.m. and direct staff to work within the existing zoning, to reduce the home size, to look at the option of a driveway on Susannah and look at the option of a driveway on Orange Avenue.

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

Council Member Dixon requested the maker of the motion to add that the applicant take into consideration a common interest development (one driveway). Mayor Mansoor agreed.

Council Member Foley requested that the motion include that staff work to keep the entrance of the home on Susannah Place. The Mayor felt that it should be an option for staff to consider but that it need not be added to the motion.

The motion restated:

MOTION: Continue the hearing to April 18, 2006 at 7:00 p.m. and direct staff to work within the existing zoning, to reduce the home size, to look at the option of a driveway on Susannah Place and at the option of a driveway on Orange Avenue and for the applicant take into consideration a common interest development (with one driveway).

Moved by Mayor Allan Mansoor, 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 Katrina Foley

Noes: None.

Abstain: Council Member Gary Monahan

Absent: None.

The Mayor recessed the meeting at 8:51 p.m.

The Mayor Reconvened the meeting at 9:01 p.m.

OLD BUSINESS

- 1. From the meeting of March 7, 2006, second reading and adoption of**

Ordinance 06-6, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CREATING CHAPTER IX OF TITLE 5 OF THE COSTA MESA MUNICIPAL CODE RELATING TO IN-BUILDING PUBLIC SAFETY RADIO SYSTEM COVERAGE.

MOTION: Adopt Ordinance 06-6, to be 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, Council Member Katrina Foley, Mayor Pro Tem Eric Bever

Noes: None.

Absent: Council Member Gary Monahan

2. From the meeting of July 19, 2005, request for Construction of Adams Avenue Sound Wall-Haynes Family at 2051 Calvert Avenue.

The Director of Developmental Services summarized the Agenda Report and responded to questions from Council.

Larry Haynes and Donna Haynes, Costa Mesa, owners of the subject property requested that their request for construction be considered a high priority in the next budget year. They pointed out that a sidewalk was recently installed behind their property and felt that it was a safety issue with their two small children.

Phil Morello, Costa Mesa, suggested that a consideration be given to the material used for the wall and how well it is able to absorb noise, and expressed concern regarding the estimated costs and encouraged the Council consider other priorities at budget time.

MOTION: Defer consideration of funding to Council Budget deliberation for Fiscal Year 2006-2007; direct staff to bring the topic of forming Assessment Districts to a future study session for Council.

Moved by Council Member Linda Dixon, 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 Katrina Foley

Noes: None.

Abstain: Council Member Gary Monahan

Absent: None.

Mayor Mansoor returned to taking Public Comment:

Jeff Evans, Costa Mesa, expressed support regarding the ICE Proposal.

Phil Morello, Costa Mesa, expressed support regarding the ICE Proposal and asked for improvement regarding Police response time to calls.

Joann Morello, Costa Mesa, expressed support regarding the ICE proposal.

Gerry Nance, Fullerton, expressed support regarding the ICE Proposal.

Nancy Hubbert, expressed that a lot of money is being spent on illegal aliens.

Jim Kering, Costa Mesa, expressed concern regarding underground utilities.

REPORTS

City Attorney expressed thanks to a recently deceased Council Member from Westminster for his many years of Civil Service.

ADJOURNMENT -

The Mayor adjourned the meeting at 9:50 p.m. to Tuesday, April 4, 2006, in memory of Damian Carver, son of Sergeant Marty Carver.

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa