

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

February 05, 2008

The City Council meeting of the City of Costa Mesa, California met in regular session February 05, 2008, at 5:03 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor.

I. ROLL CALL

Council Members Absent: None

Officials Present: Mayor Eric Bever
Mayor Pro Tem Allan Mansoor
Council Member Linda Dixon
Council Member Katrina Foley
Council Member Wendy Leece
City Manager Allan Roeder
City Attorney Kimberly Hall Barlow
City Clerk Julie Folcik

(Council Member Katrina Foley entered at 5:05 p.m.)

II. PUBLIC COMMENTS

There were no public speakers.

III. CLOSED SESSION:

1. CONFERENCE WITH LABOR NEGOTIATORS pursuant to California Government Code Section 54957.6: Agency designated representatives: Allan Roeder, City Manager, Steve Mandoki, Administrative Services Director, and Terri Cassidy, Human Resources Manager regarding employee organizations: the Costa Mesa Police Management Association (CMPMA), Confidential Employees Unit, Executives, and Part-Time Employees.
2. CONFERENCE WITH LEGAL COUNSEL - Pending Litigation: Grazulis & Braga v. Wiater and City of Costa Mesa; Orange County Superior Court Case Number 04CC10146, pursuant to Government Code Section 54956.9(a).

3. CONFERENCE WITH LEGAL COUNSEL - Pending Litigation: Benito Acosta v. City of Costa Mesa; District Court for the Central District of California Case Number SACV06-233 DOC (MLGx), pursuant to Government Code Section 54956.9(a).
4. Conference with Legal Counsel - Anticipated Litigation: Initiation of litigation, one case, pursuant to Government Code Section 54956.9(c)

Mayor Bever recessed the meeting at 5:07 p.m. to the closed session in Conference Room 1B.

The Mayor reconvened the regular meeting at 6:28 p.m.

ROLL CALL

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

Council Members Absent: None

Officials Present: City Manager Allan Roeder
Assistant City Manager Thomas Hatch
City Attorney Kimberly Hall Barlow
Development Services Director Donald Lamm
Acting Public Services Director Peter Naghavi
Police Field Operations Capt. Ron Smith
Finance Director Marc Puckett
Budget & Research Officer Bobby Young
Administrative Services Director Steve Mandoki
Legislative & Public Affairs Manager Ann Shultz
City Clerk Julie Folcik

PLEDGE OF ALLEGIANCE - Council Member Linda Dixon

MOMENT OF SOLEMN EXPRESSION - Father Hildebrand Garceau of St. John, the Baptist Roman Catholic Church

PRESENTATIONS

The Mayor recognized Tammy Sack, Communications Officer, as February's Employee of the Month. He congratulated her and recounted the incident in which Tammy utilized her investigation and communications skills in the location and apprehension of a violent criminal.

CLOSED SESSION REPORT

The City Attorney reported that no action was taken on the Closed Session items.

IV. PUBLIC COMMENTS

John Feeney, Costa Mesa, in referencing an article in the Orange County Register he pointed out that Costa Mesa was named as one of the cities in the Orange County area with a concentration of gangs; inquired about the Proposition 21 requirement of registering convicted gang members in Costa Mesa at the Police Department and of the status for the review of gang injunctions.

Darnell Wyrick, Costa Mesa, President of the Mesa Verde Community, Incorporated, expressed appreciation to Mr. Naghavi and his staff in their cooperative efforts and in successfully reducing the traffic speed along Adams Avenue; and announced that the Mesa Verde Home Owners' Association General Meeting would take place on March 5, 2008, at the Mesa Verde United Methodist Church.

Martin Millard, Costa Mesa, felt that more needs to be done relative to crime, gangs, graffiti, school scores and day-workers. He encouraged Council to review and implement an ordinance such as that adopted by the City of Orange that would address these issues.

Humberto Caspa, Costa Mesa, recalled that in the early 1990's, in addressing the rising crime and the gangs that law enforcement and other governmental agencies became involved with the community groups; he encouraged the City to revisit the outreach efforts he felt were successful, in dealing with today's issues.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Mayor Eric Bever reported that he had requested the City Manger to work with Orange County Board of Supervisors for a possible Municipal Services Agreement for the patrolling of the Orange County Talbert Regional Park and the Santa Ana River Channel by the Costa Mesa Police Department; announced that low-flow shower heads were being distributed by the Mesa Consolidated Water District; commended Peter Naghavi and Police Chief Christopher Shawkey in their efforts in the speeding abatement along Adams Avenue, and indicated that other locations were also being considered for speed reductions; and informed the Council that he had a meeting with the City of Newport Beach Mayor Edward Selich relative to regional transportation issues and in the finding fields that are lit for the sports teams; and expressed concern regarding the gangs within the City.

Council Member Leece announced that she attended along with Mayor Pro Tem Mansoor the Ground Water Treatment System Dedication Ceremony,

pointed out that the water is treated to replenish ground water basins; reported that the Orange County Vector Board announced that there is an increase in the flea-borne typhus, and stated that by controlling fleas indoors and out would help to protect pets and humans. She also informed that she attended the Costa Mesa Youth Sports Council Meeting where improving the quality of the fields was discussed; and asked a question for a citizen on how the increase of gas prices would impact the City's budget with regards to Police and Fire safety vehicles. The City Manager responded that through competitive bids the fuel for the vehicles is negotiated and there is a cooperative agreement with the airport for the refueling of the police helicopters therefore the cost is not the same as that paid by the local consumer. He also pointed out that non-emergency fleet vehicles are being switched over to alternative fuel source vehicles.

Mayor Pro Tem Mansoor inquired about the policy of newspapers and periodicals that are permitted to be placed in City Hall. The City Manager responded that the lobby is for public documents and that the newspapers and advertisements are restricted to employee lounges. The Mayor Pro Tem expressed appreciation to Mr. Naghavi for the reduction of speeding along Adams Avenue; and relative to comments made by a public speaker regarding crime pointed out the success of the Immigration Custom Enforcement (ICE) program.

Council Member Foley expressed appreciation to Mr. Naghavi for his efforts in reducing the speed along Adams Avenue; reminded the audience to vote; relative to her request for a status update on possible solutions in addressing general security and safety issues along the Santa Ana River Trail, the City Manager reported that the Police Department would be working on a report that would cover the multiple jurisdictional issues as well as a Municipal Services Agreement relative to the graffiti removal along the flood control channel and other safety related services. Council Member Foley asked the City Manager to include consideration of security lighting in certain areas along the channel; asked the City Manager to look into the current status of the design, building and timeline for completion of the aquatics complex; asked that a formal written request be made for the explanation of the current situation in the providing of supporting financial documentation and the new plans for the aquatic park and why it has been delayed. The City Manager informed the Council that an extensive report was being prepared by the School District and would be provided to the Council. She further requested that consideration be made by staff of the Santa Ana Delhi Channel leading up to the upper Newport trail system as an option for a multipurpose trail to be brought to a future study session for discussion.

VI. CONSENT CALENDAR

MOTION: Approve recommended actions for Consent Calendar Items Nos. 1 through 12, except for Consent Calendar Item No. 11.

Moved by Council Member Linda Dixon, seconded by Council Member Wendy Leece.

The motion carried by the following roll call vote:

Ayes: Council Member Linda Dixon, Council Member Katrina Foley, Council Member Wendy Leece, Mayor Pro Tem Allan Mansoor, Mayor Eric Bever

Noes: None.

Absent: None.

1. Reading Folder.

The following Claim for Damages were received and processed by the City Clerk: Irene Hutton; Hung Viet Le, Ned P. Reilly (on behalf of Peggy A. Honeywell).

The following Request for Alcoholic Beverage Control License was received and processed:

Patrick's Pub LLC, Patrick's Pub, located at 2645 Harbor Boulevard, for a fiduciary transfer (business is self-incorporating) of an existing type 48 (on-sale general for a public premises).

The following Notification letter was received and processed: Orange County Sanitation District – Notice of Proposed Sewer Service Charges, APN 424-311-01.

2. Adjourned Regular Meeting/Study Session of January 8, 2008; and Regular Meeting of January 15, 2008.

ACTION: Approved.

3. Warrant Resolution 2197, funding Payroll No. 801 for \$2,449,680.02 and Payroll No. 726A for \$575.86, and City operating expenses for \$817,471.66 including payroll deductions.

ACTION: Resolution adopted.

4. Warrant Resolution 2198, funding City operating expenses for \$2,399,127.97.

ACTION: Resolution adopted.

5. Warrant Resolution 2199, funding Payroll No. 802 for \$2,440,254.44 and Payroll No. 801A for \$737.52, and City operating expenses for \$1,419,930.48 including payroll deductions.

ACTION: Resolution adopted.

6. Agreement with the County of Orange for participation in the Proposition 42 City Aid Program funding in Fiscal Year 2008-2009 for city roadway maintenance projects, in the amount of \$381,898.

ACTION: Approved; and authorized the Mayor and City Clerk to sign.

7. Sole Source Purchase of fifty-eight (58) broadband modems for the Police Department's public safety vehicles from Wireless Mobile Data, P.O. Box 1088, El Granada, in the amount of \$62,045.14.

ACTION: Approved.

8. Final Map for Tract No. 17147, located at 322 Ogle Street, Costa Mesa; for a one (1) lot subdivision to facilitate the conversion of a five-unit apartment complex into a common interest development (condominiums).

ACTION: Approved Tract Map17147; and authorized City Engineer and City Clerk to sign.

9. Authorize refund of cash deposit in the amount of \$5,633 to Rick Hamm Construction, Inc. (Contractor), 201 W. Carleton Avenue, Orange, in connection with Encroachment Permit No. PS07-00753 for street improvements located at 2030 Paloma Drive, Costa Mesa.

ACTION: Approved.

10. Release of Performance and Labor and Materials Bond to Sully Miller Contracting Company (Contractor), 100 E. Orangethorpe Avenue, Suite 200, Anaheim, in connection with Encroachment Permit No. PS03-00300 in the completion in the installation of two new street lights and reconstruction of a sidewalk located at 940 South Coast Drive, Costa Mesa.

ACTION: Accepted work and ordered the bonds exonerated.

12. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING RECORDS DESTRUCTION FOR THE TRANSPORTATION SERVICES DIVISION OF THE PUBLIC SERVICES DEPARTMENT OF THE CITY OF COSTA MESA, PURSUANT TO ORDINANCE NO. 75-60.

ACTION: Adopted Resolution No. 08-9.

ITEM REMOVED FROM THE CONSENT CALENDAR

11. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING AN AMENDMENT TO THE JOINT POWERS AGREEMENT FOR THE INTEGRATED LAW AND JUSTICE AGENCY FOR ORANGE COUNTY.

In response to Council Member Leece, the City Manager explained that the necessity for the amendment was to incorporate the City Attorney's recommended language changes.

John Feeney, Costa Mesa, inquired if the amendment deviates from Proposition 21 which requires the registering of convicted gang members with the Police Department. The City Manager confirmed that it did not.

MOTION: Adopt Resolution No. 08-10.

Moved by Council Member Wendy Leece, seconded by Council Member Linda Dixon.

The motion carried by the following roll call vote:

Ayes: Council Member Linda Dixon, Council Member Katrina Foley,
Council Member Wendy Leece, Mayor Pro Tem Allan Mansoor,
Mayor Eric Bever

Noes: None.

Absent: None.

VII. PUBLIC HEARINGS

1. PUBLIC HEARING: Planning Application PA-07-41, for Bill Hall, authorized agent for Art Robertson/LA Lakes QRS, Inc., for a master plan amendment for "3400 Avenue of the Arts" apartment complex (formerly known as "The Lakes at South Coast") to reduce the landscape/sidewalk easement along a portion of Sakioka Drive from 25 ft. to 20 ft., located at 3400 Avenue of the Arts, in a PDR-HD (Planned Development Residential-High Density) zone. Environmental determination: exempt.

Development Services Director, Don Lamm presented the staff report and he along with Acting Public Services Director Peter Naghavi responded to questions from the Council.

Council Member Dixon inquired as to the number of mature trees that were to be relocated and requested that it be noted in the conditions of approval that the trees that are to be relocated, be saved.

MOTION: Adopt Resolution No. 08-11, approving the Planning Application based upon findings established in Exhibit "A"; subject to conditions of approval in Exhibit "B", as amended by adding a condition of approval that all trees to be moved will be saved.

Moved by Council Member Wendy Leece, seconded by Council Member Linda Dixon.

The motion carried by the following roll call vote:

Ayes: Council Member Linda Dixon, Council Member Katrina Foley,
Council Member Wendy Leece, Mayor Pro Tem Allan Mansoor,
Mayor Eric Bever

Noes: None.

Absent: None.

2. PUBLIC HEARING: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ESTABLISHING AND

ADOPTING SCHEDULES OF RATES, FEES, AND CHARGES FOR FISCAL YEAR 2007-2008 FOR SERVICES PROVIDED BY THE CITY OF COSTA MESA.

Finance Director Marc Puckett summarized the staff report and along with Budget and Research Officer Bobby Young responded to questions from the Council.

Council Member Foley inquired as to the increase of the fees for the rental of the public pool by residential/non-profit group. Administrative Services Director Steve Mandoki responded to the question that the fees were previously under market.

MOTION: Adopt Resolution No. 08-12.

Moved by Mayor Eric Bever, seconded by Council Member Wendy Leece.

Council Member Foley requested that the maker of the motion to consider amending the fees for residential/non-profit pool rental by reducing the amount to 35 dollars.

Mayor Bever did not agree with making the amendment to the fee schedule.

SUBSTITUTE MOTION: Adopt Resolution No. 08-12, as amended, by increasing the fee for the Downtown Recreation Center pool rental for resident/non-profit to \$45.

Moved by Mayor Pro Tem Allan Mansoor, seconded by Council Member Katrina Foley.

The substitute motion carried by the following roll call vote:

Ayes: Council Member Linda Dixon, Council Member Katrina Foley,
Council Member Wendy Leece, Mayor Pro Tem Allan Mansoor,
Mayor Eric Bever

Noes: None.

Absent: None.

3. PUBLIC HEARING: Establishment of a Development Impact Fee For Library Services:

(a) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA ADDING CHAPTER XV OF TITLE 13 OF THE COSTA MESA MUNICIPAL CODE RELATING TO THE LIBRARY IMPACT FEE

(b) Determine finding that fees will be used to construct a new library within Civic Center Park or another location and/or if plans for new construction are not finalized within four (4) years then revenue generated from impact fee may be used to refurbish, reconstruct, or expand existing library facilities.

Assistant City Manager Tom Hatch and Legislative and Public Affairs Manager Ann Shultz presented the report and responded to questions from the Council.

Bruce Garlich, Costa Mesa, Friends of the Costa Mesa Libraries, pointed out that while the money generated from the proposed impact fee would not support the building of a library it would support the upgrading of existing facilities; and encouraged the Council's support of Option 4 that would provide direction to staff to look at other funding mechanisms.

Eleanor Egan, Costa Mesa, cautioned the Council as to the perception as to their lack of support for a new library if the proposed impact fees were not supported; and she responded to inaccuracies in a letter presented by the Building Industry Association.

Kevin Koon, Costa Mesa, spoke in support of the proposed initiative and encouraged the Council to look at the funding obtained by San Marino's new public library.

Bruce Garlich, Costa Mesa, asked Council to also consider Certificates of Participation as a funding mechanism.

Council Member Foley asked if Council Member Dixon would consider adding to the motion that at the time that the ordinance is brought back for second reading that language for a sunset clause be added to the ordinance should a bond measure be approved. Council Member Dixon agreed to add that to the motion.

Mayor Bever asked if the motion would include a reimbursement of the fees paid. Council Member Dixon stated that it would not, as she did not feel it would be necessary. Council Member Foley agreed as she felt that it should not fully be the burden of the community and that it was fair to have a small portion contributed by the development community.

Council Member Dixon referencing the staff report, pointed out that comparisons in the library space available in each of the surrounding cities and commented that Costa Mesa with 16,000 square feet of available library space falls short of that which is needed based upon the population and felt that this was a good opportunity to do something for the community.

Mayor Pro Tem Mansoor expressed concern relative to adding fees to development on the Westside that the City is trying to encourage. He felt

that there were other options that could be considered such as a citywide bond. He felt that the current proposal would not provide the amount of money needed.

Council Member Leece commented that there is a need to understand the current needs for a new library and felt it is worthy of studying a state of the art library.

Council Member Foley inquired of a sunset clause could be incorporated in the structure of the proposed impact fee to terminate should a bond be passed by the voters. The City Attorney and the City Manager responded to her questions relative to initiating a bond or partnering with other agencies relative to a bond for funding of libraries.

Mayor Bever supported the concept of a citywide bond whereby it would be the community as a whole who would be financially supporting a community library. He did not feel the money generated by the proposed fee would be sufficient and was not supportive of imposing such a financial burden on the developers.

MOTION: Introduce Ordinance 08-4, for first reading, to be read by title only and to waive further reading; to charge up to \$500 per single family unit and \$510 per multi-family unit; and if the Ordinance is adopted, to find that the fees will be used to construct a new library and if the plans for new construction are not finalized within four years, then the impact fee revenue would be used to refurbish, reconstruct, or expand existing library facilities; to continue to pursue alternative financing options to include a citywide bond measure and for staff to return with the necessary process.

Moved by Council Member Linda Dixon, seconded by Council Member Katrina Foley.

SUBSTITUTE MOTION: Received and filed report, and direct staff to prepare a report for Council consideration that will provide a variety of funding mechanisms, including but not limited to a bond measure or a Certificate of Participation (COP).

Moved by Mayor Pro Tem Allan Mansoor, seconded by Council Member Wendy Leece.

Mayor Pro Tem Mansoor clarified his request that there be a report provided on a variety of funding options to include bond issue.

Council Member Leece did not feel that it would be prudent to add a fee to the developers fees in the current economy, but supported working with the Library foundation to see what their vision for a library is.

Council Member Dixon did not feel that there was the opposition to the impact fee nor would the fees discourage development. She felt it was an opportunity for the community to move forward.

Council Member Foley asked Mayor Pro Tem Mansoor if he would consider adding direction to continue to pursue alternative financing options and for staff to continue to work with the Library foundation relative to the campaign. Mayor Pro Tem Mansoor after inquiring about process felt that the option provided for the collaborative effort.

Council Member Leece felt that the citywide bond issue would be better option for Costa Mesa. Council Member Foley reminded the Council on the uncertainty that may come from placing a bond on the ballot. Supports the idea of the bond but is concerned about the likeliness of it passing but felt there was a compromise with some funding by the proposed impact fee. In support of fundraising for a new library, Council Member Foley suggested the organizing of an annual gala event as a major fundraiser that would include the City and other private entities in sponsoring.

Mayor Bever felt the Council as a whole supports the libraries and felt that a bond issue would produce the money necessary.

Council Member Foley clarified her support of the substitute motion stating that she is supportive of moving forward in the pursuing of a bond measure. Council Member Dixon explained her reason for opposition to the substitute motion as she felt that both options could be pursued.

The substitute motion carried by the following roll call vote:

Ayes: Council Member Katrina Foley, Council Member Wendy Leece,
Mayor Pro Tem Allan Mansoor, Mayor Eric Bever

Noes: Council Member Linda Dixon

Absent: None.

VIII. OLD BUSINESS

There was no Old Business scheduled.

IX. NEW BUSINESS

There was no New Business scheduled.

X. REPORTS

The City Manager reminded the City Council that the Study Session of February 12, 2008, will be followed by a Joint Meeting with the Planning Commission for a preview of the draft Housing Element; reported on the badge pinning of seven new Fire Fighters that joined the Costa Mesa Fire Department; and advised of discussions with the City of Newport Beach and the Orange County Transportation Authority (OCTA) on the "Go Local" application to link John Wayne Airport to Metrolink.

The Mayor thanked the Acting Public Services Director for the filing request for Proposition 1B Funds for the SR-55 terminus project.

- XI. ADJOURNMENT – The Mayor adjourned the meeting at 8:25 p.m., to February 12, 2008, at 4:30 p.m. for a Study Session. The next Regular City Council Meeting will be held on February 19, 2008.**

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa