

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

February 19, 2008

The City Council meeting of the City of Costa Mesa, California met in regular session February 19, 2008, at 5:02 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 Present: Mayor Eric R. Bever
Mayor Pro Tem Allan R. Mansoor
Council Member Linda W. 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
City Clerk Julie Folcik

II. PUBLIC COMMENTS

There were no public comments.

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), Costa Mesa Police Association (CMPA) Confidential Employees Unit, Executives, & Part-Time Employees.

2. Conference with Legal Counsel - Anticipated Litigation: Initiation of litigation, one case, pursuant to Government Code Section 54956.9(c)

3. 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).

Mayor Bever recessed the meeting at 5:02 p.m. to the closed session in Conference Room 1B.

The Mayor reconvened the regular meeting at 6:06 p.m.

PLEDGE OF ALLEGIANCE - Mayor Eric Bever

MOMENT OF SOLEMN EXPRESSION

None was provided.

ROLL CALL

Council Members Present: Mayor Eric R. Bever
Mayor Pro Tem Allan R. Mansoor
Council Member Linda W. 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
Chief of Police Christopher Shawkey
Police Lieutenant David Andersen
Police Sergeant Robert Sharpnack
Police Officer Jared Barnes
Administrative Services Director Steve Mandoki
Video Production Coordinator Dane Bora
City Clerk Julie Folcik

CLOSED SESSION REPORT

City Attorney Kimberly Hall Barlow reported that no action was taken on Closed Session Items Nos. 2 and 3; and that it was unanimously agreed that Closed Session Item No. 1 be continued to the end of the meeting.

PRESENTATIONS

James Armendaris, Senior Human Relations Specialist, presented the Annual Report of the Orange County Human Relations Commission reporting on the services and programs provided in the City.

Dan Memoseck, Representative of Mothers Against Drunk Drivers (MADD), along with Police Sergeant Robert Sharpnack and Police Lieutenant David Andersen presented the 2007 MADD Deuce Award to Police Officer Jared Barnes. He was recognized for his 39 Driving Under the Influence (DUI) arrests in 2007.

IV. PUBLIC COMMENTS

1. John Feeney, Costa Mesa, objected to the placement on the agenda and the presentation by the Orange County Human Relations Commission, stating he felt they are bias and not objective.
2. Anne Hogan Shereshevsky, Costa Mesa, referred to an article in the Daily Pilot relating to the change of address of the Bethel Towers and questioned the City's jurisdiction on such change; commented on the need of senior affordable housing; inquired on a home for the Veteran of Foreign Wars and American Legion; and reported on a bus stop sign that was struck down at West Bay Street and Orange Avenue.
3. Ernie Feeney, Costa Mesa, reported on the negative traffic impact of the construction on Fairview Road and asked City staff to look into the signal timing on north of Fairview Road toward Paularino Avenue.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Katrina Foley agreed with the previous public speaker on the traffic congestion at Fairview Drive; reported she along with Council Member Leece attended the City School Liaison Committee Meeting and discussed field improvements, maintenance of the Costa Mesa High School Pool, student probation, and the efforts of the Police Department and School District to intervene and help students to stay in school; expressed concern on the enforcement of code violations of foreclosed properties in the City and inquired on a contact resource list available through the banks to report any problems.

Council Member Linda Dixon inquired on the change of address of the Bethel Towers and asked that the Council be informed of such changes. The Mayor advised that it was the interest of a longtime resident and property management to change the address of Bethel Towers.

Council Member Wendy Leece announced that she and Council Member Foley met with organizations and service providers who offer services to the homeless in the City and some how would like to coordinate the resources. She spoke about the Historical Preservation Committee's mural project located at the Placentia Fire Station and announced the committee was looking for volunteers.

Mayor Pro Tem Allan Mansoor referred to the proposed landscaped medians on Placentia Avenue and requested the matter to consider landscaped medians on Adams Avenue be agendized. Upon clarification by the City Manager, Mayor Pro Tem Mansoor expressed that he would like to place the matter to consider reallocation of funds for median design from Placentia Avenue to Adams Avenue. He announced he sent a letter on various City issues that was published by the Daily Pilot and referred to his website at www.allanmansoor.com for the unedited version. He commented on a public speaker's remarks on the Orange County Human Relations Commission, stated for the record that the City does not financially support the commission, and requested to be advised of future presentations expressing his disinterest on updates by the commission. The City Manager advised that the commission makes a request to present their annual report to all cities in Orange County.

Mayor Eric Bever recognized the Historical Preservation Committee for receiving an achievement award on the publication of the book, The Story of Costa Mesa.

VI. CONSENT CALENDAR

CONSENT CALENDAR ITEM NOS. 1 THROUGH 16.

MOTION: Approve recommended actions for Consent Calendar Items Nos. 1 through 16, except for Consent Calendar Items Nos. 2, 6, 7, and 15.

Moved by Council Member Linda W. Dixon, seconded by Mayor Eric R. Bever.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

1. Reading Folder.

The following Claims were received and processed: Gregory J. Barnett; David Carroll; Raymond O Grissom.

The following Requests for Alcoholic Beverage Control Licenses were received and processed:

WP SC Plaza LLC, for Wolfgang Puck Café, located at South Coast Plaza, 3333 Bristol Street, Suite 200, for a person-to-person transfer of an existing type 41 (on-sale beer and wine for a bona fide eating place).

CP Costa Mesa LLC, for Charlie Palmer (a new restaurant), located in a portion of Bloomingdales at South Coast Plaza, 3333 Bristol Street, for a person-to-person transfer and a premise-to-premise transfer of a type 47 (on-sale general for a bona fide eating place).

The following Notification Letter was received and processed: Southern California Gas Company – Notice of Proposed Rate Increase, Biennial Cost Allocation Proceeding, APN A.08-02-001.

3. Warrant Resolution 2200, funding City operating expenses for \$1,297,252.97.

ACTION: Resolution approved.

4. Warrant Resolution 2201, funding Payroll No. 803 for \$2,824,678.02 and Payroll No. 802A for \$6,846.71, and City operating expenses for \$1,034,227.81 including payroll deductions.

ACTION: Resolution approved.

5. Professional Services Agreement with Civil Source, 500 Wald Street, Irvine, for the engineering design of Orange Avenue and Bear Street Rehabilitation Project, in an amount not to exceed \$81,000.

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

8. Authorize refund of cash deposit, in the amount of \$92,923.19, to Makar Properties, 4100 MacArthur Boulevard, Suite 200, Newport Beach, in connection with Wyndham Boutique Hotel, 3350 Avenue of the Arts, Costa Mesa.

ACTION: Approved.

9. Completion of Fair Drive Storm Drain Improvements, City Project No. 06-16, by Lonerock, Inc., 26 Vista Firenze, Laguna Hills.

ACTION: Work was accepted; City Clerk was authorized to file a Notice of Completion; authorization was given to release of retention monies 35 days thereafter; the Labor and Material Bond was ordered exoneration seven (7) months thereafter; and the Faithful Performance Bond was ordered exoneration twelve (12) months thereafter.

10. Completion of Replacement of Heating, Ventilation, and Air Conditioning (HVAC) Units at the Costa Mesa Senior Center, 695 West 19th Street, City Project No. 07-21, by F.M. Thomas Air Conditioning, Inc., 231 Gemini Avenue, Brea.

ACTION: Work was accepted; City Clerk was authorized to file a Notice of Completion; authorization was given to release of retention monies 35 days thereafter; the Labor and Material Bond was ordered exoneration seven (7) months thereafter; and the Faithful Performance Bond was ordered exoneration twelve (12) months thereafter.

11. Completion of Roof Replacement at the Communications Building, 79 Fair Drive, City Project No. 07-24, by Danny Letner, Inc., DBA Letner Roofing Co., 1490 North Glassell Street, Orange.

ACTION: Work was accepted; City Clerk was authorized to file a Notice of Completion; authorization was given to release of retention monies 35 days thereafter; the Labor and Material Bond was ordered exoneration seven (7) months thereafter; and the Faithful Performance Bond was ordered exoneration twelve (12) months thereafter.

12. Completion of Energy Efficient Roof Coating at Mesa Verde Library, 2969 Mesa Verde Drive East, City Project No. 07-25, by Lavey Roofing Services, Inc., 1217 East Wakeham Avenue, Santa Ana.

ACTION: Work was accepted; City Clerk was authorized to file a Notice of Completion; authorization was given to release of retention monies 35 days thereafter; the Labor and Material Bond was ordered exoneration seven (7) months thereafter; and the Faithful Performance Bond was ordered exoneration twelve (12) months thereafter.

13. Completion of Energy Efficient Roof Coating at Fire Station No. 5, 2450 Vanguard Way, City Project No. 07-26, by Lavey Roofing Services, Inc., 1217 East Wakeham Avenue, Santa Ana.

ACTION: Work was accepted; City Clerk was authorized to file a Notice of Completion; authorization was given to release of retention monies 35 days thereafter; the Labor and Material Bond was ordered exoneration seven (7) months thereafter; and the Faithful Performance Bond was ordered exoneration twelve (12) months thereafter.

14. 2007 Emergency Management Performance Grant (EMPG) Allocation:

(a). Agreement to Transfer Funds with the County of Orange for the 2007 Emergency Management Performance Grant (EMPG) Program.

(b). A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING APPLICATION FOR AND ACCEPTANCE OF YEAR 2007 EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG) REIMBURSEMENT ALLOCATION.

(c). Allocation of the 2007 EMPG Program proceeds in an amount not to exceed \$10,800 to the City's General Fund - Emergency Services.

ACTION: Approved agreement and authorized the City Manager to sign; adopted Resolution No. 08-13; approved allocation of the 2007 EMPG Program.

16. Fiscal year 2007-2008 Mid-Year Budget Report

(a). Budget Adjustment No. 08-039 for \$2,914,613

ACTION: Received and filed; approved Budget Adjustment No. 08-039 and authorized the Mayor to sign.

ITEMS REMOVED FROM THE CONSENT CALENDAR

2. Regular Meeting Minutes of February 5, 2008.

MOTION: Approved, as amended, Council Member Leece's comments to include "and humans" in reference to controlling flea-borne typhus (page four). Moved by Mayor Pro Tem Allan R. Mansoor, seconded by Mayor Eric R. Bever.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

6. Contract Change Order with Beador Construction Company, Inc., 26320 Lester Circle, Corona, for the Harbor Boulevard/I-405 Improvement Project, City Project No. 07-22, in the amount of \$216,145.50.

(a). Budget Adjustment No. 08-038 for \$108,000.

The City Manager responded to questions from Council Member Leece and advised that this item was brought forward to address a design error. Acting Public Services Director Peter Naghavi explained that a typographical error was made on the length of a certain element of the project advising that the error was being resolved with the consultant and recommended approval of the change order to prevent project delays.

MOTION: Approve and authorize the City Manager and City Clerk to sign. Moved by Mayor Eric R. Bever, seconded by Council Member Wendy Leece.

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece
Noes: None.
Absent: None.

7. Water Quality Ordinance Implementation Agreement No. D07-107 with the Orange County Flood Control District to serve as the Authorized Inspector for the pollutant release portion of the National Pollutant Discharge Elimination System (NPDES) and Spill Prevention Containment and Control (SPCC) permit programs.

At the request of Council Member Leece, the City Manager explained the purpose of the contract stating that it would expand the City's capacity to respond to hazardous spills or in the event of an emergency.

**MOTION: Approve; authorized the Mayor and City Clerk to sign.
Moved by Mayor Eric R. Bever, seconded by Council Member Linda W. Dixon.**

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece
Noes: None.
Absent: None.

Mayor Pro Tem Mansoor requested reconsideration of Consent Calendar Item No. 15 stating his original intent to remove the item for discussion. The City Attorney affirmed that any member voting in favor of an item may request for reconsideration.

15. Pacific Coast Girls Fast Pitch Softball "Group One" Field User Status

Mayor Pro Tem Mansoor expressed concern with the apparent encouragement of the grandfathering status for group field users, commenting that it would create a new standard.

Administrative Services Director Steve Mandoki briefed the staff report and responded to questions from the City Council.

Council Member Foley pointed out that staff was present for the item but left due to the approval of the item earlier. She informed the Council that the City does not have a local Costa Mesa girl's softball organization and explained the inability for the group to attain group one status. The Administrative Services Director noted that the field was equally accessible to all groups but was not being utilized to its full extent. He pointed out that the Parks and Recreation Commission took this fact into consideration in the discussion of redesignation of group status.

The Mayor Pro Tem noted that the policy is based on residency and expressed reservation on approving the group field user status and supports fair and consistent application.

Council Member Leece indicated that the recommendation could set a precedence and suggested a condition of approval to monitor the groups' residency status for two years until they attain 90 percent.

The City Manager clarified that AYSO 97 and 120 served both residents of Costa Mesa and Newport Beach and were grandfathered into the new policy subsequently to the development of the Sports Farm Complex. He further explained that the Pacific Coast Girls Fast Pitch Softball also served Costa Mesa and Newport Beach residents and that all games were played at Newport Beach; noted that as a group three user, the group was paying to utilize the City field.

Mayor Bever suggested a waive of the rental fee in the amount equal to the percentage of Costa Mesa participants.

**MOTION: Maintain “Group Three” Field User Status; waived 61 percent of field rental fees and approve a future fee waiver based on the groups’ percentage of Costa Mesa residents; and directed staff to grant “Group One” Field User Status once the group has met the 90 percent residency requirement.
Moved by Mayor Eric R. Bever, seconded by Council Member Wendy Leece.**

The Mayor Pro Tem opposed the motion, reiterated his reservation relative to fair and equal application of the policy.

SUBSTITUTE MOTION: Receive and file report; maintain "Group Three" Field User Status.

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

Council Member Wendy Leece withdrew her second from the original motion. Council Member Dixon seconded the original motion.

The substitute motion failed by the following roll call vote:

Ayes: Mayor Pro Tem Allan R. Mansoor, Council Member Wendy Leece
Noes: Mayor Eric R. Bever, Council Member Linda W. Dixon, Council Member Katrina Foley
Absent: None.

Council Member Foley expressed concern on the noticing and the absence of representation by staff and the organization.

SUBSTITUTE MOTION: Continue to the meeting of March 4, 2008.
Moved by Council Member Katrina Foley. Motion died for lack of second.

Council Member Foley expressed her support of the waiving of all fees, therefore supported the original motion.

The original motion restated:

**MOTION: Maintain “Group Three” Field User Status; waive 61 percent of field rental fees and approve a future fee waiver based on the groups’ percentage of Costa Mesa residents; and direct staff to grant “Group One” Field User Status once the group has met the 90 percent residency requirement.
Moved by Mayor Eric R. Bever, seconded by Council Member Linda W. Dixon.**

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece
Noes: Mayor Pro Tem Allan R. Mansoor
Absent: None.

VII. PUBLIC HEARING

1. PUBLIC HEARING: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ORDERING THE VACATION OF A PORTION OF ANTON BOULEVARD BETWEEN AVENUE OF THE ARTS AND SAKIOKA DRIVE.

The Acting Public Services Director summarized the staff report.

**MOTION: Adopt Resolution No. 08-14; authorize the Mayor and City Clerk to sign Quitclaim Deed; and authorize City Clerk to record.
Moved by Mayor Eric R. Bever, seconded by Council Member Linda W. Dixon.**

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece
Noes: None.
Absent: None.

2. PUBLIC HEARING: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ORDERING THE VACATION OF A PORTION OF CHARLE STREET AT 523 HAMILTON STREET.

The Acting Public Services Director summarized the staff report and responded to questions from the City Council.

Lynn Redman, Costa Mesa, read a letter submitted to Council requesting to not close the community garden.

Debbie Koken, Costa Mesa, enjoyed the benefits of the community garden and hoped that the Council would not close the garden or encouraged them to consider an alternate location.

Kathy (last name inaudible), Costa Mesa, stated she is a gardener, spoke about the growth of community gardens in California, and inquired of other locations for a community garden.

Costa Mesa resident (no name given) advised she was fortunate to obtain a garden spot at the Del Mar Community Garden and commented on the insufficient space at alternate community garden locations.

Anne Hogan Shereshevsky, Costa Mesa, inquired on the status of the community garden and the status on the sale of the property.

Council Member Dixon stated for the record her support of the community garden at Hamilton Street and felt that it was an asset to the City.

MOTION: Adopt Resolution No. 08-15; authorize the Mayor and City Clerk to sign Quitclaim Deed; and authorize City Clerk to record.
Moved by Mayor Pro Tem Allan R. Mansoor. Motion died for lack of second.

Council Member Foley agreed with Council Member Dixon and supported keeping the community garden.

**MOTION: Adopt Resolution No. 08-15; authorize the Mayor and City Clerk to sign Quitclaim Deed; and authorize City Clerk to record.
Moved by Mayor Pro Tem Allan R. Mansoor, seconded by Council Member Wendy Leece.**

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem Allan R. Mansoor, Council Member Linda W. Dixon, Council Member Katrina Foley, Council Member Wendy Leece
Noes: None.
Absent: None.

VIII. OLD BUSINESS

No Old Business scheduled.

IX. NEW BUSINESS

1. Time Warner Cable Presentation regarding cable services.

The Administrative Services Director summarized the staff report and introduced Kristy Hennessey, Vice President of Community Affairs, Time Warner Cable. Ms. Hennessey gave a presentation reporting on the transition and the challenges in the consolidation with Comcast and Adelphia, and addressed the concerns relative to the customer service. She reported that the City received 28 complaints in 2007, and responded to questions from the City Council.

Council Member Foley commented on residential complaints on the technical service and reception quality. Ms. Hennessey advised of previous problems with digitizing and software, and reported of the upgrades to their cable systems.

Ernie Feeney, Costa Mesa, disagreed with the number of City complaints and comments made during the presentation; complained about Time Warner Cable services and reported on unresolved technical problems.

Beth Refakes, Costa Mesa, commented on the poor cable service provided by Time Warner Cable and outlined the numerous problems with reception and sound.

John Feeney, Costa Mesa, complained about the cost for an inferior product and reported on the cable service problems.

Video Production Coordinator Dane Bora clarified for the Council that the reported 28 complaints were received directly by his office; not the number of complaints to Time Warner Cable.

MOTION: Receive and file report; request that Time Warner Cable provide a report on the number of subscribers at the time Comcast was in place compared to the current number of Time Warner Cable subscribers; and direct staff to research the actual number of complaints to Time Warner Cable from Costa Mesa. Moved by Council Member Katrina Foley, seconded by Mayor Pro Tem Allan R. Mansoor.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

2. Application to the Orange County Transportation Authority (OCTA) for "Go Local" Funding.

Acting Public Services Director Peter Naghavi presented the staff report and along with the City Manager Allan Roeder responded to questions from the Council.

Mayor Eric Bever felt that it was a good beginning in addressing air passenger traffic to other inland empire airports.

Council Member Leece felt that it was a good opportunity to work with Newport Beach on the airport issues.

Peggy Ducey, Ducey and Associates, in response to Council Member Foley gave an overview of the short, medium, and long-term solutions to the air-passenger traffic. She pointed out that there would be several phases starting with a rapid bus link that would directly transport to airports; second phase would be the use of existing metrolink rail for airport express service; and the third step would be high speed rail. She pointed out that the approach was from an aviation perspective (market).

Council Member Dixon was supportive of transporting of passengers, however felt that high speed rail was a more reliable method of transit alternative.

Kelly Hart, Acting Project Manager, Local Initiatives, Orange County Transportation Authority, reminded Council that their approval of the action was for Phase 1 which was for the preparation of a needs assessment that would be due by the date of June 30, 2008.

MOTION: Approve agreement with OCTA; authorize the City Manager and City Attorney to accept minor revisions based on discussions with OCTA; authorize Mayor and City Clerk to sign; direct staff to schedule a joint meeting with the City of Newport Beach to consider a Cooperative Agreement to implement the subject application, if approved by OCTA.

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

Council Member Dixon requested that regular updates be given to the Council after each of the OCTA meetings relative to the "Go Local Program".

The City Manager announced that an agreement with Newport Beach will also be brought before the Council for consideration relative to cooperative efforts on airport issues.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

Council Member Foley asked that a Council airport policy that is similar to the Newport Beach Priority Resolution discussing the minimizing of the adverse effect of John Wayne Airport be agendized.

X. REPORTS

There were no reports by the City Attorney or the City Manager.

The Mayor recessed to Conference Room 1B at 8:20 p.m., for Closed Session Item No. one.

The Mayor reconvened the meeting at 9:04 p.m. The City Attorney announced that no action was taken at the closed session.

IX. ADJOURNMENT - The Mayor declared the meeting adjourned at 9:06 p.m. The next Regular City Council Meeting will be held on March 4, 2008.

Eric R. Bever, Mayor

ATTEST:

Julie Folcik, City Clerk