

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

October 06, 2009

The City Council meeting of the City of Costa Mesa, California met in regular session October 06, 2009, 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 - Lt. Col. Theodore "Ted" Tanner, U.S. Air Force (Retired), World War II Veteran

MOMENT OF SOLEMN EXPRESSION - Associate Pastor Michael Castro, Harbor Trinity Baptist Church

ROLL CALL

Council Members Present: Mayor Allan R. Mansoor
Mayor Pro Tem Wendy Leece
Council Member Eric R. Bever
Council Member Katrina Foley
Council Member Gary Monahan

Council Members Absent: None

Officials Present: City Manager Allan Roeder
Assistant City Manager Thomas Hatch
City Attorney Kimberly Hall Barlow
Acting Development Services Director Kimberly Brandt
City Engineer Ernesto Munoz
Management Analyst Carol Proctor
Senior Planner Mel Lee
City Clerk Julie Folcik

SPECIAL MEETING REPORT

City Attorney Kimberly Hall Barlow reported that no action was taken on the closed session item.

PRESENTATIONS

Mayor Mansoor announced that Corporal Mike Carver had been selected as recipient for the Mayor's Award for his heroic pursuit and apprehension of a gang member who was a previously deported felon. The Mayor expressed his appreciation and thanked him for his outstanding actions and commitment to public safety.

The Mayor announced the presentation of a proclamation to Save our Youth (SOY) organization and its volunteers for their work in changing the lives and future of children in Costa Mesa.

IV. PUBLIC COMMENTS

1. Eloise Ott, Costa Mesa, requested that litter signs be posted on Baker Street and to include fines for chewing gum litter; suggested the examination of the immigration status of minors in Juvenile Hall; commented on the enforcement of Government Code relating to darkened windows of vehicles; and reported her observation of "joy-riding" in shopping carts.
2. Chris McEvoy, Costa Mesa, referred to Vista Park as a passive park and suggested that soccer not be allowed on crowded park days; commented on a vehicle crash on Victoria Street; and suggested that the City contact Tesla Motors for consideration as a business location.
3. Terry Shaw, Costa Mesa, member of the Costa Mesa Historical Society, announced an upcoming meeting entitled *Surf is Way Up* to be held on October 18, 2009, at 2:00 p.m. as well as an upcoming event to feature Theodore Tanner who would speak on his World War II experience, to be held on November 15, 2009.
4. Theodore Tanner, Costa Mesa, reported a phone call he received requesting him to pay monies in order to bail-out a family member overseas; he cautioned about this type of phone call scam.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Eric Bever, referring to an article in the Orange County Register noted that Costa Mesa was in the top ten for home values; and announced that the Costa Mesa Conference and Visitors Bureau had secured the Berritt Jackson Automotive Auction which was to be held at the Orange County Fairgrounds; announced efforts for placement of a speed soccer facility in an easement of the Southern California Edison (SCE) located northwest of the city; and addressed a discrepancy in a comment made by a public speaker regarding a vehicle crash on Victoria Street.

Mayor Pro Tem Wendy Leece announced the Hank Lloyd Tennis Center hosted the Costa Mesa Pro Classic U.S.T.A. Pro Futures; recognized the City's updated website and requested that events be advertised on the website; advised she attended a tour of solar homes in Costa Mesa and suggested that such homes be recognized by the Planning Commission; reported her attendance to a meeting concerning the 211 system; expressed appreciation to SOY and encouraged donations to support an unfunded after-school program that was once conducted at the Costa Mesa High School.

Mayor Allan Mansoor thanked Father Tashgian of the St. Mary Armenian Church for the desserts and announced an upcoming event entitled the *First Annual St. Mary Armenian Church Food Festival* to be held on October 11, 2009, from 11:30 a.m. to 6:00 p.m.

Council Member Katrina Foley requested a status report on the Bristol Street property; congratulated the Costa Mesa Pop Warner Junior Peewee Black Football Team for being League Champions; announced that Pop Warner Football will host the Orange Bowl at the Jim Scott Stadium; extended an invitation to the community to attend the Battle of the Bell Dinner hosted by the Costa Mesa United to be held on October 16, 2009; announced that the Costa Mesa United Board had agreed to pay \$77,000 for the building of the Estancia Training Facility and to donate \$77,000 toward the building of a weight and training facility at the Costa Mesa High School; encouraged the donation of gently used or new children's books for the Sonora Elementary School Book Exchange event and spoke of the need for volunteers.

Council Member Gary Monahan congratulated the Estancia High School Homecoming Varsity Football Game victory; announced the Public Safety Recognition Barbeque to be held on October 8, 2009, at 11:30 a.m., at the O.C. Fairgrounds; requested regular updates regarding the City Budget and the California Public Employee Retirement System (CALPERS) rates.

VI. CONSENT CALENDAR ITEM NOS. 1 THROUGH 14.

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 14, except for Consent Calendar Item Nos. 10 and 11.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

1. Reading Folder.

ACTION: The following claim was received and processed by the City Clerk: Randy Bennett.

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

Eye Candy Bikini Bar LLC, Eye Candy Bikini Bar located at 1562 Newport Boulevard for a person-to-person transfer of an existing type 42 (on-sale beer and wine – public premises).

Rare Hospitality Management Inc., The Capital Grille located at South

Coast Plaza for a person-to-person and premise-to-premise transfer of a type 47 (on-sale general for a bona fide eating place).

Broadland Investments Inc., May Garden Restaurant located at 1400 Bristol Street, for a person-to-person transfer of an existing 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 an application to expand injection capacity of the Aliso Canyon Natural Gas Storage Facility and anticipated increase in gas rates, Application No. A.09-09-020.

2. Regular Meeting Minutes of September 15, 2009.

ACTION: Approved.

3. Warrant Resolution 2284, funding City operating expenses for \$627,305.66.

ACTION: Resolution adopted.

4. Warrant Resolution 2285, funding Payroll No. 919 for \$2,472,731.68 and Payroll No. 918A for \$239.39, and City operating expenses for \$615,902.28 including payroll deductions.

ACTION: Resolution adopted.

5. Warrant Resolution 2286, funding City operating expenses for \$429,845.03.

ACTION: Resolution adopted.

6. Professional Services Agreement with Civil Source Engineering, 500 Wald Street, Irvine, for engineering services and design of Center Street, Anaheim Avenue Alley, and Knox Place Alley Rehabilitation Projects, in an amount not to exceed \$93,251.

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

7. Release of Performance and Labor and Materials Bond (Certificate Nos. 559866S, 730033S), in the amounts of \$53,640 and \$15,910 respectively, to Pacific Rim Communities Builder, Inc., 3111 N. Tustin Avenue, Suite 220, Orange in connection with Encroachment Permit Nos. PS05-00418 and PS06-00086 for street improvements and corner monumentation for Tract 16070 located at 2100 Canyon Drive, Costa Mesa.

ACTION: Approved.

8. Authorize refund of cash deposit in the amount of \$6,435 to South Coast Concrete Inc., 4223 Fairground Street, Riverside, in connection with

Encroachment Permit No. PS09-00300 for street improvements located at 760 Victoria Street.

ACTION: Approved.

9. Adopt plans and specifications, and working details for the rehabilitation of Vehicle Parking District No. 1 (VPD 1), City Project No. 09-20, and award a construction contract to Terra Pave, Inc., 12511 Putnam Street, Whittier, in the amount of \$367,694.75.

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

12. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING A MANDATORY UNPAID FURLOUGH AND BENEFIT REDUCTIONS FOR DEPUTY FIRE CHIEFS AND BATTALION CHIEFS DURING OCTOBER 11, 2009 - OCTOBER 9, 2010.

(a). Budget Adjustment No. 10-009 FOR \$22,800.

ACTION: Adopted Resolution No. 09-61; approve Budget Adjustment No. 10-009 and authorized the Mayor to sign.

13. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, SUMMARILY VACATING A CITY INGRESS AND EGRESS EASEMENT WITHIN TRACT MAP NO. 16917.

ACTION: Adopted Resolution No. 09-62; approved and authorized the Mayor and City Clerk to sign; and authorized Clerk to record Quitclaim Deed 3715.

14. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING A RECORDS RETENTION SCHEDULE FOR THE CITY CLERK'S OFFICE.

ACTION: Adopted Resolution No. 09-63.

ITEMS REMOVED FROM THE CONSENT CALENDAR

10. **Completion of rehabilitation of five alleys: Alley No. 61, Alley No. 65, Alley No. 80, Alley No. 107, and Alley No. 108, City Project No. 09-06, by NPG, Inc., 1354 Jet Way, Perris.**

Mayor Pro Tem Leece recognized the improvements and completion of the five alleys.

MOTION: 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.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

11. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, FINDING PUBLIC CONVENIENCE OR NECESSITY FOR THE PROPOSED PERSON TO PERSON/PREMISE TO PREMISE TRANSFER OF A TYPE 48 (ON-SALE GENERAL - PUBLIC PREMISES) ALCOHOLIC BEVERAGE CONTROL LICENSE FOR TIKI BAR AT 1700 PLACENTIA AVENUE.**

Mayor Pro Tem Leece expressed opposition to the granting of a "Public Convenience and Necessity" finding, pointing out that the area has an over-concentration of ABC licenses.

Acting Development Services Director Kimberly Brandt gave a brief history of the establishment as well as informed the Council of the new change in policy by the State Department of Alcohol Beverage Control which required a determination by the Council since the permit was for a person-to-person/premises-to-premises transfer.

Council Member Monahan informed that the census tract is based on population and that it is not uncommon in a commercial area, where there is little residence, for there to appear to be an over-concentration in the area by default. He felt that the business would be a professional operation.

Kyle Raymond Kontny, applicant, responded to questions from the Council by giving a brief history of the establishment and how he came to acquire it; affirmed his working relationship with the police department during the time he initially managed the business; confirmed that there would be a restaurant in the establishment; and informed of mandatory training through the LEAD Program for all of his employees.

Mayor Pro Tem Leece expressed concern about the "hotspots" around town and emphasized the importance for the applicant to maintain a responsible business.

Council Member Bever expressed concern as to the high assault numbers in the crime-statistics and noted his preference for the applicant to acquire a license as a Bonafide Eating Establishment instead of the current application for a premise-to-premise transfer.

Council Member Monahan commented that the timeframe for acquiring a new license would delay the re-opening of the establishment.

Staff responded to questions from the City Council relative to the Conditional Use Permit, and the procedure if the business was found not to be operating in an appropriate manner, parking, and the validation of the CUP.

Mayor Pro Tem Leece expressed her pleasure at the action of the Department of ABC in taking a proactive approach with their new policy and encourage the applicant to consider applying for the Bonafide Eating Establishment license.

Council Member Monahan noted that the applicant had been working many months before the change in policy by the Department of ABC which up until the policy change would have been approved.

MOTION: Adopt the Resolution No. 09-64.

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

Mayor Mansoor expressed his support of the motion noting the applicant's previous history in responsibly managing the business, of his good working relationship with the police department during that time and felt that it was a quality establishment.

SUBSTITUTE MOTION: Take no action.

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

The substitute motion failed by the following roll call vote:

Ayes: Council Member Eric R. Bever, Mayor Pro Tem Wendy Leece

Noes: Council Member Katrina Foley, Mayor Allan R. Mansoor, Council Member Gary Monahan

Absent: None.

The vote was taken on the original motion.

The motion carried by the following roll call vote:

Ayes: Mayor Allan R. Mansoor, Council Member Katrina Foley, Council Member Gary Monahan

Noes: Mayor Pro Tem Wendy Leece, Council Member Eric R. Bever

Absent: None.

VII. PUBLIC HEARINGS

No Public Hearings were scheduled.

VIII. OLD BUSINESS

No Old Business was scheduled.

IX. NEW BUSINESS

1. Appointments to various Council-appointed committees.
 - a. Child Care and Youth Services Committee
 - b. Cultural Arts Committee
 - c. Historical Preservation Committee
 - d. Investment Oversight Committee
 - e. Redevelopment and Residential Rehabilitation (3R) Committee

Management Analyst Carol Proctor presented the staff report noting that no applications were received for the Child Care and Youth Services Committee.

Council Member Foley, as the liaison to the Cultural Arts Committee, suggested increasing the regular members to 11 and revising the number of alternate members to three.

MOTION: Appoint Barbara Steck, Anthony Manrique, Caryn Kallal as regular members; appointed Jessica Brunner and Craig Beauchamp as alternate members to the Cultural Arts Committee.

Moved by Council Member Katrina Foley, seconded by Council Member Gary Monahan.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

MOTION: Appoint John McQueen as regular member; appointed Garrett Peterson as alternate member to the Historical Preservation Committee.

Moved by Mayor Pro Tem Wendy Leece, seconded by Council Member Katrina Foley.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

**MOTION: Appoint Terry Shaw as a regular member; appointed David Stiller as an alternate member.
Moved by Mayor Allan R. Mansoor, seconded by Mayor Pro Tem Wendy Leece.**

The motion carried by the following roll call vote:

Ayes: Mayor Allan R. Mansoor, Mayor Pro Tem Wendy Leece, Council Member Katrina Foley, Council Member Gary Monahan

Noes: Council Member Eric R. Bever

Absent: None.

In reference to the Investment Oversight Committee, Council Member Bever noted the qualifications of applicant Robert Juneman and suggested expanding the committee by one member as an alternate. The City Manager informed that the committee was established by ordinance and would therefore require a code amendment before changes to the membership could be made.

The Mayor expressed support for the original motion. Council Member Monahan suggested notifying the other applicants and to invite them to attend the Investment Oversight Committee meeting.

MOTION: Appoint Bob Wakeham, Cambria Briggs, Arlene Schafer, and Philip Morello as regular members to the Redevelopment and Residential Rehabilitation (3R) Committee.

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

Council Member Foley inquired as to the actual number of possible appointments. Discussion ensued amongst Council and staff on the number of vacancies available, term expiration dates for alternate members, and membership status of some alternate members.

Mayor Mansoor withdrew the original motion.

MOTION: Continue to the meeting of October 20, 2009.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

2. Urban Master Plan Screening request for UMP-09-11 for 573 through 591 Victoria Street.

Senior Planner Mel Lee presented the staff report and responded to questions regarding guest parking spaces that were located between the houses, common open space parking, and of the location of the entry doors for the single detached homes.

Council Member Monahan expressed his support of the parking that was proposed and felt that the project met the Council's expectations for the vision for the Urban Plan areas. Council Member Bever concurred, highlighting that the units would be solar powered.

Bryan Coggins, Costa Mesa, applicant, gave an overview of the project noting the attributes of the project of the combined lots for acreage and the density bonus incentive; that it was within the vision of the Urban Plans, the units would be single family detached homes, owner occupied, that no parking variances were requested, that it would be the first fully solar project; and explained the plans of each of the units as well as the open space areas. He addressed concerns as noted in the staff report relative to the size of the units, and that of air and light. He responded to questions from the Council relative to other green building elements of the development, the size of open space, the possible relocating of the bus stop, set backs, backyards, sideyards, floor ratio, the profile of the target buyer, the amenities for young children and the school system.

Council Member Bever expressed concern relative to the guest parking being located under the building, but was supportive the removal or relocation of the bus stop to increase setback.

Council provided their comments and suggestions relative to the project that included the security, lighting, parking, the relocation of the bus stop/turnout, guest garages and parking, walkways, signage, the waiving of green building permit fees, and the payment of fees when the occupancy permit is issued.

Chris McEvoy, Costa Mesa, expressed his concern regarding guest parking as he felt that one space was not adequate, and that with the units to be "reasonably priced" would encourage not only ownership but also rental.

Beth Refakes, Costa Mesa, expressed concern regarding the guest parking, the size of the yards, of the shade and shadow effect and adequate air circulation.

Jim Fitzpatrick, Costa Mesa, noted the standards of rain water which he felt the project met.

MOTION: Receive and file report.

Moved by Mayor Allan R. Mansoor, seconded by Council Member Eric R. Bever.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

X. REPORTS

There were no reports.

XI. ADJOURNMENT - The Mayor declared the meeting adjourned at 8:35 p.m., to October 13, 2009, at 4:30 p.m., for a Study Session. The next Regular City Council Meeting will be held on October 20, 2009.

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa