

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

December 02, 2008

The City Council meeting of the City of Costa Mesa, California met in regular session December 02, 2008, 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 - Council Member Wendy Leece

MOMENT OF SOLEMN EXPRESSION - Ministry Coach Diane Chavez, Palm Harvest Church

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
Assistant City Attorney Harold W. Potter
Development Services Director Donald Lamm
Public Services Director Peter Naghavi
Management Analyst Carol Proctor
Fairview Park Plan Administrator Robert Staples
City Clerk Julie Folcik

IV. PUBLIC COMMENTS

1. Ernie Feeney, Costa Mesa, expressed concern in the excessive spending of the Mesa Consolidated Water District, and referred to the District's employee benefits and recently implemented employee wellness program.
2. Martin Millard, Costa Mesa, noted that the two school foundations existing in the City have failed to provide annual financial reports and audits in accordance with their bylaws; referring to a memo addressed from the Director of Finance, noted that tax forms had been filed by the foundation in lieu of annual audits and requested review of the situation.
3. Maggie Waterman, Costa Mesa, on behalf of the Presbyterian Church of

the Covenant, thanked the Council for its support of the church's musical performances held in the past. She announced this year's performance titled "Joyeaux Noel: An Elegant French Christmas" to take place on December 14, 2008, and invited the public and the City Council to attend.

4. Eloise Ott, Costa Mesa, reminded the Council of her suggestion of prestaging 747 airplanes at Southern California airports in conjunction with anticipated Santa Ana Winds and of her concern for litter on the SR-55 and the I-405 freeways. Ms. Ott and Bruce Brown distributed and read aloud "My Country, 'Tis of Thee."
5. Judi Berry, Costa Mesa, referred to a summary she prepared of the City's budget that covered FY2004-2005 through the current budget year. She noted that while the City has only increased its revenue by 4.1 percent, salary and benefits have increased 7.69 percent. She suggested that the city be proactive in discussing the situation with the labor unions to freeze or decrease salaries, or to discuss possibly lay-offs.
6. Robin Leffler, Costa Mesa, announced that a magnet school is anticipated to open in the fall of 2009. She encouraged parents with school-aged children to find out more information about the proposed magnet school by visiting the Newport-Mesa Unified School District's website, and suggested that they e-mail the school board members with their opinions.
7. Mike Berry, Costa Mesa, commented on blight indicators within the community; specifically murals on walls. He felt that the mid-year budget review second-guessed the remainder of the budget in the fiscal year, and that the City regularly over-budgets despite the shortfalls in "expected revenues."
8. Beth Refakes, Costa Mesa, commended Council Member Linda Dixon for her public service and dedication, and congratulated the newly-elected officials and recommended that Council focus on the budget.
9. Kevin Doane, Costa Mesa, reported that in his efforts to conserve water and save money, he has received a series of citations relative to yard maintenance. He requested the City address what he felt was a conflict of ideals.
10. Steve Beck, Costa Mesa, reported on the increasing problem of transients on the Westside and encouraged Council to make it a priority to address the matter.
11. John Feeney, Costa Mesa, commented on the placement of murals on public property.
12. Cindy Brennehan, Costa Mesa, congratulated the newly elected council members; thanked Council Member Linda Dixon for her years of service; and announced a Susan G. Komen race for the Cure event would be held

on June 6, 2009, at the Noguchi Gardens.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Linda Dixon encouraged giving to any of the local charitable agencies that collect for those who are unable to provide Christmas gifts and food for their families this holiday season; expressed appreciation to Costa Mesa resident Ernie Feeney for bringing forth valuable and important issues to the attention of the Council over the years; and wished everyone a Happy Holidays.

Council Member Wendy Leece thanked Ernie Feeney for bringing forward the information regarding the water billing increases; noted that as a representative on the Orange County Vector Control Committee she opposed the employee benefit package that was recently approved. She reported that she attended, along with Council Member Foley, the Youth Sports Council meeting where they discussed the improvements of school district fields; expressed her support regarding the mural project by the Historical Preservation Committee noting the art is a replication of Costa Mesa's History; and thanked Council Member Linda Dixon for her service to the community.

Mayor Pro Tem Allan Mansoor expressed his appreciation to Council Member Dixon for her time and efforts while on council; commented on the mural project of the Historical Preservation Committee noting that he would have liked to have had the matter brought before the City Council for consideration; and wished everyone Happy Holidays.

Council Member Katrina Foley thanked Council Member Dixon for dedication to the community, and presented a video that highlighted Council Member Dixon's service throughout her tenure with the City. Council Member Foley in addressing the budget concerns noted that the City has discussed making \$8.3 million in budget cuts and emphasized her desire to protect jobs; she encouraged the public to get involved with the school district's decision on magnet schools; and announced that City Manager Allan Roeder was selected as the Costa Mesa United Honoree for 2009 and he would be recognized at the Costa Mesa United Golf Tournament to be held on January 19, 2009.

VI. GENERAL MUNICIPAL ELECTION

1. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, RECITING THE FACTS OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 4, 2008, DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW.

(a). Swearing in of newly-elected City Council Members.

City Clerk Julie Folcik presented the Election Results announcing the top three candidates to succeed to City Council and having the

most votes were Gary Monahan, Katrina Foley, and Eric Bever.

MOTION: Adopt Resolution No. 08-89.

Moved by Mayor Eric R. Bever, seconded by Council Member Katrina Foley.

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 Linda Dixon thanked the Video Production staff for the DVD presentation; thanked the residents of Costa Mesa for their support; thanked the Police and Fire Departments for their dedication and service; recognized the City volunteers on committees and non-profit organizations; special thanks to City Manager Allan Roeder, Development Services Director Donald Lamm, and Public Services Director Peter Naghavi for their service to the community and to City Council. She thanked City staff for their efforts on making Costa Mesa a great place to live and work; she recognized her family for their unfailing support; and wished the best to the new Council.

The City Clerk administered the oath of office to the newly-elected City Council Members.

Council Member Foley thanked the many volunteers for their participation in the campaign and encouraged the public to be involved in the City. She recognized her family and office personnel, expressing appreciation for their support. She commented on the campaign and congratulated the other candidates.

Council Member Monahan thanked the residents for their votes, expressed appreciation to his family for their support, and thanked his campaign volunteers for their efforts.

Council Member Bever thanked the campaign supporters and volunteers, expressed appreciation to his wife for her support, and looked forward to improving the City of Costa Mesa.

2. Election of Mayor and Mayor Pro Tem:

(a). Nominations for Mayor.

(b). Nominations for Mayor Pro Tem.

Council Member Monahan nominated Council Member Allan Mansoor for Mayor, seconded by Council Member Wendy Leece.

**MOTION: To close nominations for Mayor.
Moved by Council Member Gary Monahan, seconded by Council Member Wendy Leece.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

**MOTION: Elected Council Member Allan Mansoor as Mayor.
Moved by Council Member Gary Monahan, seconded by Council Member Wendy Leece.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

Mayor Mansoor expressed appreciation to the Council and their support.

Mayor Mansoor nominated Council Member Wendy Leece for Mayor Pro Tem, seconded by Council Member Gary Monahan.

**MOTION: Close nominations for Mayor Pro Tem.
Moved by Council Member Gary Monahan, seconded by Mayor Allan R. Mansoor.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

**MOTION: Elect Council Member Wendy Leece as Mayor Pro Tem.
Moved by Council Member Allan R. Mansoor, seconded by Council Member Gary Monahan.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

Mayor Pro Tem Wendy Leece commented that it was an honor to serve and that she was looking forward to make Costa Mesa the best place to live, work, retire, and raise a family.

RECESS: The Mayor declared the meeting recessed at 7:07 p.m.

AFTER RECESS: The Mayor reconvened the meeting at 7:20 p.m.

VII. CONSENT CALENDAR ITEM NOS. 1 THROUGH 15.

MOTION: approve recommended actions for Consent Calendar Item Nos. 1 through 15, except for Consent Calendar Nos. 2 and 11.

Moved by Mayor Allan R. Mansoor, 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.

1. Reading Folder.

ACTION: The following Claims were received and processed by the City Clerk: Adrian Fonseca on behalf of French Quarter HOA; and Viola R. Brown, Esq. of Stephenson, Acquisto & Colman on behalf of Haog Memorial Hospital.

The request for Alcoholic Beverage Control License was received and processed:

Kim Pham Group Inc., for Mesa Verde Liquor, located at 1520 Baker Street, for a type 21 (off-sale general).

3. Warrant Resolution 2241, funding Payroll No. 823 for \$2,619,943.68, and Payroll No. 822A for \$6,117.33 and City operating expenses for \$538,919.32 including payroll deductions.

ACTION: Resolution adopted.

4. Warrant Resolution 2242, funding City operating expenses for

\$331,146.23.

ACTION: Resolution adopted.

5. Maintenance and Support Agreement and a Purchase Request for application support services of the City's Public Safety system, with Motorola Inc., 1303 East Algonquin Road, Schaumburg, Illinois, over the term of five (5) years, in the amount of \$129,366.

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

6. Sole Source Purchase of an upgrade package of the City-owned fuel management system from ORPAK USA, 100 First Street, Suite 200, Hackensack, New Jersey, in the amount of \$68,806.17.

ACTION: Approved.

7. Release of Performance and Labor and Material Bonds (Certificate No. 023-007-100), in the amount of \$151,475, to American Drug Stores, Inc (Developer), 1421 South Manhattan Avenue, Fullerton, in connection with Encroachment Permit No. PS05-00788 for street improvements located at 1150 Baker Street.

ACTION: Approved.

8. Release of Performance and Labor and Material Bonds (Certificate No. 661117280), in the amount of \$40,390, to Bristol Newport Medical Plaza, LP (Developer), 1048 Irvine Avenue, Suite 446, Newport Beach, in connection with Encroachment Permit No. PS06-00258 for street improvements located at 1202 Bristol Street.

ACTION: Approved.

9. Release of Performance and Labor and Material Bonds (Certificate No. SU5017587), in the amount of \$19,116, to Patriot Development Co., Inc (Developer), 3111 N. Tustin Avenue, Suite 220, Orange, in connection with Encroachment Permit No. PS07-00088 for street improvements located at 168 Merrill Place.

ACTION: Approved.

10. Completion of Roadway Rehabilitation of Grace Lane, new Hampshire Drive, and Randolph Avenue, City Project No. 08-05, by All American Asphalt, Post Office Box 2229, Corona.

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. Grant from the Fireman's Fund Heritage Grant Program through Arthur J. Gallagher Risk Management Services, for the purchase of three (3) sets of technical rescue equipment, two (2) forcible entry training door props, three (3) parts washers, three (3) CERT Emergency tool and supply caches, one (1) CERT emergency power generator, and three (3) CERT emergency power lights, stands and cords.

(a). Budget Adjustment No. 09-012 for \$12,919

ACTION: Approved grant; approved Budget Adjustment No. 09-012 and authorized the City Manager to sign.

13. Grant from the State Office of Emergency Services (OES) for \$24,000 with a \$6,000 match (totaling \$30,000), to develop a program to prepare a Hazardous Material Area Plan pursuant to the California Health and Safety Code and California Code of Regulations.

(a). Budget Adjustment No. 09-013 for \$24,000

ACTION: Approved grant; approved Budget Adjustment No. 09-013 and authorized the City Manager to sign.

14. Redevelopment Agency's 2008 Annual Report

ACTION: Received and filed report.

15. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING THE EXECUTION OF ACTIONS NECESSARY TO OBTAIN STATE FINANCIAL ASSISTANCE THROUGH THE CALIFORNIA COASTAL COMMISSION 2008-2009 WHALE TAIL COMPETITIVE GRANTS PROGRAM.

ACTION: Adopted Resolution No. 08-90.

ITEMS REMOVED FROM THE CONSENT CALENDAR

2. Special Joint Meeting with the Newport Beach City Council Minutes of September 30, 2008; and Regular Adjourned Meeting/Study Session Minutes of October 14, 2008 and November 12, 2008; and Regular Meeting Minutes of November 18, 2008.

MOTION: Approve.

Moved by Mayor Allan R. Mansoor, 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

Noes: None.
Abstain: Council Member Gary Monahan
Absent: None.

11. Adopt plans and specifications, and working details for the Parkway Concrete Repair and new Sidewalk Construction Project, City Project No. 08-15.

(a). Reject bid submitted by ACT Construction & Engineering, 48 Almond Tree Lane, Irvine.

(b). Award construction contract to C.J. Concrete Construction, Inc., 10142 Shoemaker Avenue, Santa Fe, in the amount of \$541,155.

Karl Ahlf, Costa Mesa, expressed the need for repairing of sidewalks for the safety of the senior citizens.

MOTION: Approve; approve rejected bid; and approved contract and authorized the Mayor and City Clerk to sign.

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

VIII. PUBLIC HEARINGS

1. PUBLIC HEARING: Appeal of the Planning Commission's determination regarding Planning Application PA-07-39 for Anna R. Lauri of Red Mountain Retail Group, authorized agent for Harbor Hamilton, LLC, for a master plan for remodel of three existing buildings and construction of four new buildings for a 19,000 square-foot commercial center, located at the southwest corner of Harbor Boulevard and Hamilton Street at 2089, 2099 Harbor Boulevard, and 511 Hamilton Street in a PDC (Planned Development Commercial) zone. Environmental determination: Mitigated Negative Declaration.

Mayor Mansoor noted that a request was made by the applicant to continue the public hearing.

**MOTION: Continue to the meeting of January 6, 2009, at 7:00 p.m.
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 Eric R. Bever, Council Member Katrina Foley, Council Member Gary Monahan

Noes: None.

Absent: None.

IX. OLD BUSINESS

1. Amendment of Titles 1 And 2 relating to General Provisions and Administration:

Assistant City Attorney Harold Potter presented a brief staff report. He responded to questions from the City Council.

Council Member Foley suggested that Section 2-144, should read "...the City Attorney or his/her designee."

(a). A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CLARIFYING ITS INTENT WITH RESPECT TO LEGAL SERVICES PROVIDED BY CONTRACT CITY ATTORNEY JONES & MAYER.

MOTION: Adopt Resolution No. 08-91.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

(b). AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING TITLE 1 AND TITLE 2 OF THE COSTA MESA MUNICIPAL CODE RELATING TO GENERAL PROVISIONS AND ADMINISTRATION, in order to affirm the rights, powers, duties and obligations of the City Attorney.

MOTION: Introduce Ordinance No. 08-8 for first reading, as amended, by amending Section 2-144 to add "...the City Attorney or his/her designee..." to be read by title only and waive further reading.

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 Eric R. Bever, Council Member Katrina Foley, Council Member Gary Monahan

Noes: None.

Absent: None.

X. NEW BUSINESS

1. Review of the Fairview Park Master Plan Process

Public Services Director Peter Naghavi presented the staff report and responded to questions from the City Council.

Mayor Mansoor commented that he was not supportive of adding a lower parking lot to Fairview park.

Robert Graham, Costa Mesa, noted his proposal was to provide a convenient parking area and access, especially to the physically challenged, to the lower part of Fairview Park and felt that it would not provide the impact to the surrounding residents as is perceived.

Martin Millard, Costa Mesa, spoke in opposition to the lower parking lot.

Robin Leffler, Costa Mesa, asked questions of staff regarding the current process for submitting amendments to the Fairview Park Master Plan, how the proposal would follow or change that process and about the botanical garden that was once proposed and since removed from the Master Plan.

Bill Turpit, Costa Mesa, felt that making small changes to the plan was a poor idea after so much work had gone into creating and approving of the Master Plan. He commented that the money that would be spent on a study would be better spent if devoted to park improvements.

Cindy Brenneman, Costa Mesa, commented that she did not support of adding the lower parking lot, noting that there has not been support by residents of the lower parking lot.

Tim Cromwell, Costa Mesa, reiterated his opposition to the proposal and of adding of any more concrete to what it a natural preserve.

Steve Downey, Costa Mesa, expressed support for the current master plan.

MOTION: Receive and File.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

2. 2009 Costa Mesa Community Run

Management Analyst Carol Proctor presented the staff report.

Karl Ahlf, Costa Mesa, expressed support of the temporary street closures

for the purpose of the community run.

Council Member Foley reminded the public that the Community Run is scheduled for April 18, 2009, and requested information of the event and the use of proceeds be placed on the City's website and Community News.

Mayor Pro Tem Leece felt it was important to follow-up on the reporting of the foundations, as mentioned by a public speaker.

Discussion ensued amongst staff and Council regarding reporting requirements of the School Foundations. Council Member Bever commented that he would not be supportive of relieving the foundation of their reporting responsibilities.

MOTION: Approve temporary street closure for a portion of Placentia Avenue (southbound lanes only) from Adams Avenue to the signalized entrance on Placentia Avenue at Estancia High School and the Corporate Yard.

Moved by Mayor Allan R. Mansoor, 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.

X. REPORTS

The City Manager congratulated the newly-elected Council Members; highlighted the agenda for the upcoming study session; and implored the public to have a safe but enjoyable holiday.

XI. ADJOURNMENT - The Mayor adjourned the meeting at 8:10 p.m. to December 9, 2008, 4:30 p.m., for a Study Session. He noted that the next Regular City Council Meeting will be held on January 6, 2009.

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa