

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

December 04, 2007

The City Council meeting of the City of Costa Mesa, California met in regular session December 04, 2007, 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 Allan Mansoor
Mayor Pro Tem Eric Bever
Council Member Katrina Foley
Council Member Wendy Leece

Council Members Absent: Council Member Linda Dixon

Officials Present: City Manager Allan Roeder
Assistant City Attorney Harold W. Potter
City Clerk Julie Folcik

II. PUBLIC COMMENTS

There were no public comments.

III. CLOSED SESSION

1. Public Employee Performance Evaluation for City Attorney and City Manager, pursuant to California Code Section 54957.
2. CONFERENCE WITH LEGAL COUNSEL - Existing Litigation: Morton v. City of Costa Mesa; Orange County Superior Court Case Number 06CC09363, pursuant to Government Code Section 54956.9(a).

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

The Mayor reconvened the regular meeting at 6:09 p.m.

PLEDGE OF ALLEGIANCE - Mayor Allan Mansoor

MOMENT OF SOLEMN EXPRESSION - Pastor Phil Twente, Costa Mesa Calvary Chapel

ROLL CALL

Council Members Present: Mayor Allan Mansoor
Mayor Pro Tem Eric Bever
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
Assistant City Attorney Harold W. Potter
Development Services Director Donald Lamm
Acting Public Services Director Peter Naghavi
Engineering Tech II David Cho
Assistant Planner Rebecca Robbins
City Clerk Julie Folcik

CLOSED SESSION REPORT

City Attorney Kimberly Hall Barlow reported that no action was taken on any Closed Session Items.

PRESENTATIONS

The Southern California Edison's State of the System Report was presented by Eddie Marquez, Region Manager for Edison Public Affairs. He reported on California's energy situation, energy efficiency partnerships, and programs.

IV. PUBLIC COMMENTS

1. Gema Salas, Costa Mesa, opposed the prosecution costs of Benito Acosta.
2. Scott Sink, Costa Mesa, addressed comments by Council Members relating to litigation costs for the Benito Acosta case and expressed opposition to the Immigration Custom Enforcement Proposal.
3. Naii Huitzilopochtli, Westminster, reported that he was arrested for his public protest and expressed support for Coyotl Tezcatlipoca.
4. Beth Refakes, Costa Mesa, wished the Council a Happy Holiday; reported on the improvements on the East 17th Street and expressed some concern for an ordinance adopted by the City of Newport Beach relating to group homes.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Mayor Allan Mansoor wished everyone a Merry Christmas.

The Mayor exited the meeting at 6:19 p.m.

Council Member Katrina Foley recognized the Costa Mesa High School Cheerleading Squad and Cheerleading Coach Corrie Johnson. She announced the recognition of the President of the United States and the President's Council on Service and Civic Participation and presented the squad a Volunteer Service Award, Plaque, and Certificates. She wished everyone Happy Holidays.

Council Member Linda Dixon inquired on how the City's Group Home Ordinance compared to Newport Beach's proposed group home ordinance; welcomed Mr. Peter Naghavi as the Acting Public Services Director; and wished the community a happy and safe Holiday.

Mayor Pro Tem Eric Bever echoed Council Member's Dixon regarding the group home ordinance; wished everyone a Merry Christmas and Happy Holiday.

Council Member Wendy Leece announced she along with Council Member Foley attended the Youth Sports Council Meeting on addressing field safety; commented on the passing of Brian Kapko, local high school student, and asked to keep the Kapko Family in prayers during their court proceedings in Colorado; and wished everyone a very Merry Christmas.

VI. CONSENT CALENDAR

CONSENT CALENDAR ITEM NOS. 1 THROUGH 20.

MOTION: Approve recommended actions for Consent Calendar Items Nos. 1 through 20, except for Consent Calendar Items Nos. 6, 7, and 16. Moved by Council Member Linda Dixon, seconded by Mayor Pro Tem Eric Bever.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Mayor Allan Mansoor

1. Reading Folder.

ACTION: The following claims were received and processed by the City Clerk: Jennifer and Erik Flowers on behalf of Kaylie Kohana Flowers; Mike Gonzales on behalf of Erika Gonzales; Joseph D. Guy; Christine McNicoll of Western Recovery on behalf of Joseph Guy; Jason Mowery; Renee Nam; Megan Buell on behalf of Connell Nissan.

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

Hisafumi Endo, for Ango Tei, located at 675 Paularino Avenue, Suite

5, for a person-to-person transfer of an existing type 41 (on-sale beer and wine).

Caliente Southwest Express, for Caliente Southwest Grill, located at 271 East 17th Street, for an original type 41 (on-sale beer and wine).

The following notification letters were received and processed: Petition of San Diego Gas & Electric Company (U 902 E) to Adopt, Amend, or Repeal a Regulation Pursuant to Public Utilities Code Section 1708.5.

Southern California Edison Company – Notice on 2009 General Rate Case Application (A.07-11-011) filing with the California Public Utilities Commission.

2. Adjourned Regular Meeting/Study Session Minutes of November 13, 2007; Regular Meeting Minutes of November 20, 2007.

ACTION: Approved Regular Meeting/Study Session Minutes of November 13, 2007; and Regular Meeting Minutes of November 20, 2007, as amended, adding language to clarify Council Member Dixon's comments regarding Public Hearing No. 3.

3. Warrant Resolution 2189, funding Payroll No. 723 for \$2,418,455.91 and Payroll No. 722A for negative \$1,047.03, and City operating expenses for \$2,532,134.51 including payroll deductions.

ACTION: Resolution adopted.

4. Warrant Resolution 2190, funding City operating expenses for \$396,040.06.

ACTION: Resolution adopted.

5. Agreement for right-of-way acquisition for the Harbor Boulevard/I-405 Freeway Improvement Project.

(a). Purchase Agreement and escrow instructions with 3330 Harbor Boulevard Associates, LLC, for a portion of property located at 3330 Harbor Boulevard.

(b). Purchase Agreement and escrow instructions with Exchange of the Automobile Club for a portion of property located at 3350 Harbor Boulevard.

ACTION: Approved purchase agreements; authorized the Mayor and City Clerk to sign and directed City Clerk to record deeds.

8. Adopt plans and specifications, and working details for the Roadway Rehabilitation of Baker Street from 750 feet east of Fairview Road to Bear

Street, Federal Project No. STPL-5312 (054), City Project No. 07-04, and award construction contract to All American Asphalt, P.O. Box 2229, Corona, in the amount of \$751,649 (base bid plus additive bid item).

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

9. Adopt plans and specifications, and working details for the Roadway Rehabilitation of Harbor Boulevard from Wilson Street to Newport Boulevard, Federal Project No. STPL-5312 (051), City Project No. 07-05, and award construction contract to R.J. Noble Company, 15505 East Lincoln Avenue, Orange, in the amount of \$1,430,213.98 (base bid plus additive bid item).

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

10. Adopt plans and specifications, and working details for the Roadway Rehabilitation of Sunflower Avenue from Harbor Boulevard to 250 feet west of Hyland Avenue, Federal Project No. STPL-5312 (063), City Project No. 07-07, and award construction contract to R.J. Noble Company, 15505 East Lincoln Avenue, Orange, in the amount of \$1,092,387.38 (base bid plus additive bid item).

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

11. Adopt plans and specifications, and working details for the Roadway Rehabilitation of Hyland Avenue from South Coast Drive to Macarthur Boulevard, Federal Project No. STPL-5312 (057), City Project No. 07-08, and award construction contract to All American Asphalt, P.O. Box 2229, Corona, in the amount of \$859,000.

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

12. Adopt plans and specifications, and working details for the Roadway Rehabilitation of South Coast Drive from 500 feet west of Harbor Boulevard to Hyland Avenue, Federal Project No. STPL-5312 (062), City Project No. 07-09, and award construction contract to R.J. Noble Company, 15505 East Lincoln Avenue, Orange, in the amount of \$475,363.10.

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

13. Adopt plans and specifications, and working details for the Roadway Rehabilitation of South Coast Drive from Carmel Drive to San Leandro Lane, Federal Project No. STPL-5312 (061), City Project No. 07-10, and award construction contract to R.J. Noble Company, 15505 East Lincoln Avenue, Orange, in the amount of \$842,030.

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

14. Adopt plans and specifications, and working details for the Construction of

Parkway Concrete Repair and New Sidewalk Project, City Project No. 07-27, and award construction contract to S. Parker Engineering, Inc., 2783 Tern Circle, Costa Mesa, in the amount of \$374,800.

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

15. Completion of Bristol Street/I-405 Landscaping Project, City Project No. 06-14, by Diversified Landscape Management, Inc., 12112 Severn Way, Riverside.

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.

17. Accept the California Beverage Container Recycling and Litter Reduction Grant for Fiscal Year 2007-2008.

(a). Budget Adjustment No. 08-024 for \$30,067.

ACTION: Approved; and approved Budget Adjustment No. 08-024 and authorized the Mayor to sign.

18. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CERTIFYING THAT THE CITY OF COSTA MESA HAS THE RESOURCES TO FUND THE PROJECTS SUBMITTED FOR INCLUSION IN THE FY 2008/2009 - 2011/2012 REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM AND AFFIRMING ITS COMMITMENT TO IMPLEMENT ALL OF THE PROJECTS SUBMITTED IN THE PROGRAM.

ACTION: Adopted Resolution No. 07-90.

19. Appointment to the Board of the Orange County Vector Control District.

ACTION: Approved appointment of Council Member Wendy Leece.

20. Redevelopment Agency's 2007 Annual Report

ACTION: Received and filed.

The Mayor returned to the meeting at 6:32 p.m.

ITEMS REMOVED FROM THE CONSENT CALENDAR

6. Professional Services Contract with KFM Engineering, Inc., 26672 Towne Center Drive, Suite 300, Foothill Ranch, for conceptual design and public outreach services for the proposed multipurpose trail at Paularino and Santa Ana Delhi Flood Control Channels, in an amount not to exceed

\$92,277.

(a). Budget Adjustment No. 08-011 for \$29,500.

Len Bose, Costa Mesa, submitted 37 letters expressing concerns on the proposed trail pointing out the increase of traffic, tagging, noise, possible home intrusions, and privacy issues. He noted that the area where the trail exits onto Bristol Street is a very high risk area for the bike rider and asked the Council to reconsider.

Acting Public Services Director Peter Naghavi briefly summarized the staff report and responded to questions from the City Council relating to trail description and locations, public outreach process, and the project's viability.

Costa Mesa resident (no name given) reported on the invasion of privacy and intrusion.

Geraldine Evans, Costa Mesa, expressed her concerns on the impact on the quality of her life pointing out the loss of privacy, effect on property values, and the potential for loitering and graffiti.

Andy Paul, Costa Mesa, stated that he has been burglarized four times since he has lived at his home and opposed the proposed use.

Mayor Pro Tem Bever expressed concerns on public access, possible increase in graffiti, and noted the neighbors' petition opposing the bike trail; therefore stated that he would not support the recommendation.

In reference to questions from Council Member Dixon, the Acting Public Services Director stated that the project would provide fencing options for the residential units abutting the trail and also include the installment of shielded lighting. Council Member Leece said that it was a good idea but expressed concern of the Mesa Del Mar Neighborhood who were not in support of the proposed trail. Council Member Foley noted that there were correspondences in support of the proposal and hoped to proceed forward in the process.

Council Member Leece stated that she would not be supporting the recommendation due to the impact on the quality of life of the neighbors and indicated the need for a community outreach prior to approval.

**MOTION: Not move forward with the contract at this time.
Moved by Mayor Pro Tem Eric Bever, seconded by Mayor Allan Mansoor.**

The Mayor seconded the motion for discussion. He expressed reservation on the proposed trail pointing out the trail's smaller size and minimal area for landscaping, and noted his concern on the invasion

of privacy.

Council Member Dixon stated that she would not support the motion. She indicated that a bike trail and outreach would be a positive thing in the community and could be a solution to some neighborhood concerns. Council Member Foley agreed with Council Member Dixon and said she would not support the motion. She indicated that a multi-purpose trail would be an asset to the neighborhood pointing out the deterioration of the flood channel, the available grant funding for this project, and access opportunity to schools.

Mayor Pro Tem Bever expressed concerns on the trail's landscape setback and access of maintenance vehicles pointing out issues with the Joanne Street Bike Trail.

The motion carried by the following roll call vote:

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

Noes: Council Member Linda Dixon, Council Member Katrina Foley

Absent: None.

7. Adopt plans and specifications, and working details for the Roadway Rehabilitation of East 19th Street, from Santa Ana Avenue to Irvine Avenue, Federal Project No. STPL-5312 (050), City Project No. 07-03, and award construction contract to All American Asphalt, P.O. Box 2229, Corona, in the amount of \$555,555.

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

MOTION: Approve and authorize the Mayor and City Clerk to sign. Moved by Mayor Allan Mansoor, seconded by Mayor Pro Tem Eric Bever.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

16. Completion of Installation of Sports Lighting System at the Farm Sports Complex, 2750 Fairview Road, City Project No. 07-17, by MacKenzie Electric, Inc., 7933 Palm Avenue, Highland.

Council Member Foley recused herself from the discussion and the decision of the item due to the proximity to her home. She exited the meeting at 7:23 p.m.

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

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

Abstained: Council Member Katrina Foley

Council Member Foley returned to the meeting at 7:24 p.m.

VII. PUBLIC HEARING

No Public Hearings scheduled.

VIII. OLD BUSINESS

1. From the meeting of November 20, 2007, second reading and adoption of Ordinance 07-19, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING SECTION 8-87 OF THE COSTA MESA MUNICIPAL CODE RELATING TO SOLID WASTE FRANCHISE FEES, to redefine the classes of waste hauler franchises and to set penalties for delinquent or non-payment of franchise fees.

(a). A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING A SOLID WASTE HAULING FRANCHISE FEE AND RELATING COMPUTATION AND COLLECTION PROCEDURES.

The Acting Public Services Director advised that there is a minor amendment that would be brought back at the next regular meeting.

MOTION: Adopt Ordinance No. 07-19, read by title only, and waived further reading; and adopted Resolution No. 07-91.

Moved by Mayor Allan Mansoor, seconded by Mayor Pro Tem Eric Bever.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

2. From the meeting of November 20, 2007, second reading and adoption of Ordinance 07-20, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING CHAPTER I OF TITLE 19 OF THE COSTA MESA MUNICIPAL CODE RELATING TO STATE-ISSUED FRANCHISES AND THE PUBLIC, EDUCATIONAL AND GOVERNMENTAL CHANNEL ACCESS FACILITY FEE.

MOTION: Adopt Ordinance No. 07-20, read by title only, and waived further reading.

Moved by Mayor Allan Mansoor, seconded by Mayor Pro Tem Eric Bever.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

IX. NEW BUSINESS

1. General Plan Screening Requests:

(a). GPS-07-04 for 1957 Newport Boulevard.

(b). GPS-07-05 for 440 Fair Drive.

(c). GPS-07-06 for 320 East 18th Street.

Assistant Planner Rebecca Robbins briefly summarized the staff report, presented each General Plan requests, and responded to questions from the City Council.

Rick Coleman, Costa Mesa, Architect representing the applicant for GPS-07-04 stated that the owner would like to expand the business and maximize the building. He described the proposed building and noted the increase in the floor-area-ratio (FAR), building height, and the use of solar power.

David Donavan, applicant for GPS-07-04, 1957 Newport Boulevard, presented his vision and goals for the future pointing out his ownership of properties on both sides of Ford Road. He responded to questions from the Council and requested their support.

Mike Geck, Resident Property Manager, commented on the calculation of the amount of daily traffic and reported that the facility

averages 3.5 visits per day noting a small impact to traffic in the area.

In reference to questions from the Council, the Director of Development Services clarified the process of amending the general plan and advised of other possible uses other than a self-storage use.

Rick Coleman, Architect, explained the reason for the request for an increase in the FAR is due to the unique size and shape of the property.

**MOTION: Deny GPS-07-04 screening request for processing.
Moved by Council Member Linda Dixon, seconded by Mayor Allan Mansoor.**

The Mayor expressed reservation on the proposed third level but indicated his support for revitalization.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

The Assistant Planner presented the screening request for GPS-07-05 for 440 Fair Drive. She along with the Director of Development Services responded to questions from the Council.

Discussion ensued among the Council and staff relating to the land use designation, parking issues, traffic volume, and clarification on the zoning code for general commercial and neighborhood commercial use.

Mayor Pro Tem Bever indicated that he would like the proposed project as either residential use or commercial use.

Greg McCalferty, representing the applicant for GPS-07-05, conveyed to Council the applicant's intent to upgrade the property and requested their support to proceed forward with their request.

The Mayor commented that he would like to see positive changes in the property that would be beneficial to the surrounding neighbors and to see a reduction in traffic.

Denis Biladeau, DK & Associates, questioned the estimate on the average daily trips and advised the applicant's interest in a general office use. He stated that he would like to meet with City staff to develop a number for the average daily trips generated and to proceed forward on their proposal.

Discussion ensued among the Council, Director of Development Services,

and City staff on the process of general plan screening requests and land use designation, and the possibility of continuing the item to a date specific. The applicant expressed interest in continuing the matter in order to gain the support of the Council.

Mayor Pro Tem Bever suggested to the applicant a high-density or medium-density residential for the entire parcel indicating that he would like to see an excellent project. The applicant said they would consider the matter for a general plan amendment.

Following further discussion, it was unanimously agreed to continue the item to the meeting of January 15, 2007.

The architect commented on the FAR stating that it was not an accurate measure of the impacts of a proposed project opening zoning codes may hinder good projects.

MOTION: continue GPS-07-05 screening request to the meeting of January 15, 2007.

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

Council Member Foley pointed out the areas of her concerns relating to the property's incompatible urban-living design and hoped the project is redesigned to architecturally blend with the surrounding neighborhood.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

The Assistant Planner presented the screening request for GPS-07-06 for 320 East 18th Street and responded to questions from the Council.

Phillip Schwartze, represented the applicant for GPS-07-06, clarified for the Council the unit types adjacent to the property and advised the owners' interest in developing a compatible residential property.

Beth Refakes, Costa Mesa, expressed support for the requested general plan amendment and the rezone to residential pointing out a reduction in traffic and adequate parking spaces for the neighborhood.

MOTION: Approve GPS-07-06 screening requests for processing.

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

Mayor Pro Tem Bever inquired on the inclusion of combining the two

adjoining residential properties to the west in the general plan screening requests. The Assistant City Attorney advised that the matter would need to be agendaized.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

2. Request to support the Orange Coast River Park Vision Plan Proposal.

ACTION: Withdrawn.

X. REPORTS

The Assistant City Attorney wished everyone a Merry Christmas and Happy Holidays.

The City Manager wished the Council and community a safe holiday reminding everyone to practice care, patience, and moderation.

- XI. ADJOURNMENT - The Mayor declared the meeting adjourned at 8:52 p.m., to December 11, 2007, at 4:30 p.m., for a Study Session. The next Regular City Council Meeting will be held Wednesday, January 2, 2008.**

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa