

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

**March 16, 2010**

The City Council meeting of the City of Costa Mesa, California met in regular session March 16, 2010, at 5:06 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor.

**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  
City Clerk Julie Folcik

**II. PUBLIC COMMENTS**

There were no public comments.

**III. CLOSED SESSION**

1. Conference with Real Property Negotiators - Property: 88 Fair Drive. Agency Negotiator: Allan Roeder, City Manager. Negotiating parties: State of California, Under negotiation: price, terms of payment. Pursuant to Government Code Section 54956.8.
2. Conference with Legal Counsel - Existing Litigation: Asociacion De Jornaleros De Costa Mesa and the Colectivo Tonantzin v. City of Costa Mesa; United States District Court, Central District, Court Case Number SACV10-00128 CJC (RNBx), pursuant to Government Code Section 54956.9 (a).
3. Conference with Legal Counsel - Anticipated Litigation: Significant exposure to litigation, one case, pursuant to Government Code Section 54956.9(b).

The Mayor recessed the meeting at 5:08 p.m. to Conference Room 1B for the Closed Session.

The Mayor reconvened the Regular Meeting at 6:22 p.m.

**PLEDGE OF ALLEGIANCE - Robert Dugan, U.S. Marine Corps Staff Sergeant (Retired), Korean War Veteran**

**MOMENT OF SOLEMN EXPRESSION - Pastor Karl Corcoran, Calvary Chapel of Costa Mesa**

**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  
Public Services Director Peter Naghavi  
Acting Development Services Director Khanh Nguyen  
Police Chief Christopher Shawkey  
Police Officer Jason Chamness  
Senior Planner Minoo Ashabi  
City Clerk Julie Folcik

**CLOSED SESSION REPORT**

The City Attorney reported that no action was taken on the closed session items.

**PRESENTATIONS**

Officer Larry Seja of the Tustin Police Department and a volunteer with Mothers Against Drunk Driving (MADD) presented the MADD Deuce Award to Officers Jared Shurley and Crystal Rodriguez for their service to the community by apprehending 25 or more impaired drivers in 2009.

The Mayor recognized Mike Byrum, General Manager of Village Nurseries, Huntington Beach, and landscape designers Brooke Dietrich, Cherie Ciotti-Roco, Laura Dalton and Katie Cool for their donations of plants and design services for the design and installation of eight water-wise gardens that were planted around City Hall.

**IV. PUBLIC COMMENTS**

Sue Lester, Costa Mesa, supported the use of medical cannabis and asked that Council reconsider amending the current ordinance.

Dave Mason, Costa Mesa, supported the use of medical marijuana and reemphasized the importance of being able to purchase marijuana within the city.

Marla James, Costa Mesa, thanked the Mayor for meeting with medical marijuana supporters regarding the collectives, and requested Council to permit marijuana collectives to obtain business licenses.

Kandice Hawes, Lake Forest, was appreciative to the Mayor for meeting with medical marijuana supporters and was hopeful that the other Council Members could also meet with them in the future.

Tracie Neria, (no city provided), thanked the Mayor for listening to the concerns of medical marijuana supporters, and asked for Council's support in providing of safe access to medical marijuana.

Jonathan Hogo, Costa Mesa, supported medical marijuana dispensaries and asked Council to work with the collectives to make them legal and compliant.

Taylor Cannon, Costa Mesa, expressed the benefits in the use of medical marijuana and requested Council to consider an ordinance to allow dispensaries to exist within the city.

Martin H. Millard, Costa Mesa, expressed concern over the distribution of monies to non-profits that serviced only a fraction of the community.

Jerry Brown, San Clemente, noted the benefits in his wife's battle with cancer with the use of medical marijuana and requested the Council to consider permitting of the dispensaries.

Sharon Roberts, (no city provided), requested Council to work with medical marijuana dispensaries to create regulations permitting them.

Terry Shaw, Costa Mesa, announced upcoming Costa Mesa Historical Society events featuring architect Richard Dodd and his presentation titled "The Bungalow Era in Orange County," Professor Denny Haythorn and the history of Whittier College, and Michael Berry "Final Resting Places: Orange County's Dead and Famous" in conjunction with the Historical Society's open house.

Martha Rice, Costa Mesa, expressed her appreciation for having the facilities and options for medical marijuana dispensaries in the city.

Santina Giordano, (no city provided), spoke in support of medical marijuana.

Chris McEvoy, Costa Mesa, reported the Sunset Ridge Park Environmental Impact Report in Newport Beach was available for review and expressed concern on the impact to Costa Mesa, and noted support in the use of medical marijuana.

Tex Williamson, Costa Mesa, spoke in support of medical marijuana and expressed concern for access to medical marijuana for patients with transportation issues.

Elon Katz, Costa Mesa, spoke in support of medical marijuana dispensaries.

**V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS**

Mayor Pro Tem Wendy Leece recognized those honored at the Police Department Employee Recognition Ceremony; announced the recent grand opening of Loehmann's and the upcoming opening of Fresh and Easy at the Courtyards; reported her attendance at "Restoring Community Conference: Creating Cities that Protect Private Property, House the Family, and Foster Civic Culture," sponsored by Mayor Kurt Pringle of Anaheim; reported on the success of the Artist Showcase hosted by the Cultural Arts Committee, at Whittier Law School; and the Mayor's Prayer Breakfast part of the Orange Coast Christian Outreach Week.

Mayor Allan Mansoor wished former mayor Jack Hammett a Happy 90th Birthday. At the request of the Mayor the City Attorney informed of the City's current regulations regarding medical marijuana dispensaries.

Council Member Katrina Foley requested staff to look into a report of a neighboring city's high school football team's use of the Farm Sports Complex during downtime, and the fees that may have been paid.

Council Member Gary Monahan wished everyone a Happy St. Patrick's Day.

**VI. CONSENT CALENDAR ITEM NOS. 1 THROUGH 12**

**MOTION: Approve Recommended actions for Consent Calendar Item Nos. 1 through 12, except for Consent Calendar Item Nos. 2, 5, 8, and 9. 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.

1. Reading Folder.

The following Request for Alcoholic Beverage Control License was

received by the City Clerk for processing:

For Amorelia Mexican Café, located at 2200 Harbor Boulevard, Suite C110, for a type 41 (on-sale beer and wine for a bona fide eating place).

3. Warrant Resolution 2308, funding City operating expenses for \$362,897.23.

ACTION: Approved Resolution.

4. Warrant Resolution 2309, funding Payroll No. 10-05 for \$2,234,643.09 and Payroll No. 10-04A for \$1,085.08 and City operating expenses for \$495,194.86 including payroll deductions.

ACTION: Approved Resolution.

6. Acceptance of grant funds from Fireman's Fund Insurance Company, for the purchase of Dosimeters, Kev Air Bags, and a Rescue 42 System, in the amount of \$9,408.

(a) Budget Adjustment No. 10-020 for \$9,408.

ACTION: Approved; and approved Budget Adjustment No. 10-20 and authorized the Mayor to sign.

7. Acceptance of grant funds from the Federal Emergency Management Agency (FEMA) for the Fire Department to continue construction on the ventilation prop for training operations at Fire Station #4, in the amount of \$9,282.

(a) Budget Adjustment No. 10-021 for \$9,282.

ACTION: Approved; and approved Budget Adjustment No. 10-21 and authorized the Mayor to sign.

10. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING RECORDS DESTRUCTION FOR THE TECHNICAL BUREAU OF THE POLICE DEPARTMENT OF THE CITY OF COSTA MESA, PURSUANT TO ORDINANCE NO. 75-60.

ACTION: Adopted Resolution No. 10-21

11. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING APPLICATION FOR GRANT FUNDS FOR THE URBAN GREENING GRANT PROGRAM UNDER THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COSTAL PROTECTION BOND ACT OF 2006 (PROPOSITION 84), for the Fairview Channel Multipurpose Trail Project, and designates the Director of Public Services as the City's representative.

ACTION: Adopted Resolution No. 10-22.

12. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING APPLICATION FOR GRANT FUNDS FOR THE URBAN GREENING GRANT PROGRAM UNDER THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COSTAL PROTECTION BOND ACT OF 2006 (PROPOSITION 84), for the Fairview Park Wetlands and Riparian Habitat Project Phase II, and designates the Director of Public Services as the City's representative.

ACTION: Adopted Resolution No. 10-23.

#### **ITEMS REMOVED FROM CONSENT CALENDAR**

2. Regular Adjourned Meeting/Study Session of February 9, 2010, Regular Meeting of February 16, 2010, and Regular Meeting of March 2, 2010.

**MOTION: Approve Regular Adjourned Meeting/Study Session of February 9, 2010, the Regular Meeting of March 2, 2010 and continue Regular Meeting of February 16, 2010.**

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

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.

5. Cooperative Agreement and Memorandum of Understanding for the next phase of SR-55 Access Study.

(a) Cooperative Agreement C-9-0385 with Orange County Transportation Authority (OCTA).

(b) Memorandum of Understanding C-0-1306 with OCTA, State of California Department of Transportation (Caltrans), and Cities of Costa Mesa, Newport Beach and Huntington Beach.

Public Services Director Peter Naghavi presented the staff report and indicated the cooperative agreement would enable the start of the second phase of the project, which was expected to complete between 18 months to two years.

Martin H. Millard, Costa Mesa, complimented the Public Services Director for his work on the SR-55.

A video depicting the alternatives considered in the feasibility study for the SR-55 was presented.

**MOTION: Approve and authorize the City Manager and/or City Attorney to accept minor revisions based on final discussions with OCTA, Caltrans, and other cities involved; and authorize the Mayor and City Clerk to sign.**

**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.

8. Acceptance of donation from the American Youth Soccer Organization (AYSO) Region 120 for the lighting of Fields No. 5 and No. 6 at the Costa Mesa Farm Sports Complex, in the amount of \$182,000.

(a) Budget Adjustment No. 10-022 for \$182,000.

Council Member Foley recognized former John Rubright, former commission for AYSO 120, and thanked the league for the donation.

**MOTION: Approve; direct staff to initiate the preparation of construction; approve Budget Adjustment No. 10-22 and authorize Mayor to sign.**

**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.

9. 2009 Annual review of the Costa Mesa 2000 General Plan.

Mayor Pro Tem Leece asked if changes to the General Plan were already being implemented in accordance with SB375 or AB32. Senior Planner Minoo Ashabi explained that report presented was the annual review for 2009, and changes would not occur until 2011.

Chris McEvoy, Costa Mesa, expressed concern in the reduction in parking standards and increase in density, and suggested that Council reconsider parking issues.

**MOTION: Receive and file.**

**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.

## VII. PUBLIC HEARING

1. PUBLIC HEARING: AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA, AMENDING TITLE 11 (OFFENSES - MISCELLANEOUS) OF THE COSTA MESA MUNICIPAL CODE REGARDING GRAFFITI.

Council Member Bever noted the different versions of the report that was distributed, and noted staff's confusion as to the changes made and therefore requested a continuance to provide time for a clarification. The Mayor expressed his preference for staff to proceed with the report and answer Council's questions.

MOTION: continue the public hearing.

Moved by Council Member Eric R. Bever. Motion died for lack of second.

Assistant City Manager Tom Hatch introduced the item. Police Officer Jason Chamness introduced the Tracking and Automated Graffiti Reporting System (TAGR's) program, a reporting system to track taggers countywide, used to deter graffiti and vandalism, and for greater convictions and restitution of the abatement. He along with Mr. Hatch and Police Chief Shawkey responded to Council Members' questions regarding restitution by the responsible party, collaboration with the Newport Mesa Unified School District, multiple offenders, success rate and enforcement, ordinances of other cities, defined and identified graffiti



implements, community service versus fees, a private property owners' responsibility relative to the removal of the graffiti, property liens of the offender and that of the victimized property owner, and adhesive stickers as graffiti implements.

Deputy City Attorney Elena Gerli presented a summary of the draft ordinance amendments, which were suggested to provide more tools to law enforcement to curb graffiti. She covered the proposed regulations, and the penalties. She responded to questions from the Council regarding prosecution, retailer responsibilities, graffiti and the abatement from private property, methods of collecting restitution, parental responsibility, adhesive stickers, cost recovery system, civil versus criminal prosecution, attorney fees, and administrative cost recovery.

Discussion amongst the Council and staff ensued regarding non-responsive property owners for graffiti abatement, the responsibilities of retailers relative to display and sale of "Graffiti implements", adhesive stickers, "slap tagging" and its enforcement, merchandise inventory by retailers, the collection of restitution, reimbursement versus fines and penalties, notification of provision to the businesses, parental responsibility provisions, gang graffiti versus taggers, public outreach.

Council Member Bever expressed concern that elements of the proposed ordinance, such as the extensive definition of "graffiti implements", the need for proper identification for the purchase of a number of the implements, and a retailer's merchandise inventory. He felt that parts of the ordinance might be placing a burden on the victim, and the retailers in the process and not fully addressing the graffiti problem.

Council Member Foley, expressed her support of the TAGRS program, supported the proposed ordinance as it provided stricter tools to combat graffiti, as well as some parental accountability. She noted however some concerns with areas of the ordinance regarding adhesive stickers, and the "intent" language as a part of the implement possession by minors.

The Mayor recessed the meeting at 9:00 p.m.

The Mayor reconvened the meeting at 9:14 p.m.

Mayor Mansoor expressed that he would be more supportive of financial penalties rather than that of community service for offenders.

Martin H. Millard, Costa Mesa, opined that stickers should not be included in the ordinance and expressed concern for gang graffiti.

Colin McCarthy, Costa Mesa, supported the proposed ordinance commenting that it provided the necessary tools for the Police Department to combat graffiti, expressed concern regarding prosecutions by the District Attorney and recommended a revision to the graffiti award

program.

Beth Refakes, Costa Mesa, was supportive of the proposed regulations, for holding the parents responsible, and expressed concern for property owners whose properties are continuously targeted.

Chris McEvoy, Costa Mesa, suggested that teachers should be offered an incentive/reward for identifying taggers in school, and inquired about driving restrictions for convicted taggers.

MOTION: Continue the hearing to April 6, 2010.

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

Council Member Monahan requested April 20, 2010. The mover and seconder agreed.

**MOTION: Continue the hearing to April 20, 2010.**

**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 Katrina Foley, Council Member Gary Monahan

Noes: Council Member Eric R. Bever

Absent: None.

## VIII OLD BUSINESS

1. Continued from the meeting of March 2, 2010, request to waive Planning Application fee for Coast Motel for the conversion of a motel property into Single Room Occupancy (SRO) or Family Room Occupancy (FRO) units.

Senior Planner Minoo Ashabi presented the staff report and responded to questions from the City Council regarding the application process, the purpose of the outreach encouraging SRO conversions as part of the goal of Housing Element, and the options provided.

Mayor Mansoor expressed his concern regarding the intended use of the property after the conversion, suggested senior housing, and wondered how the waiving of the fee would facilitate the improvement of the property.

The property owner, Corey Donaldson, responded to questions from the Council regarding the conversion of the motel property to apartments, noting their goal was a desire for a more stable population to reside in the property.

Council Member Foley expressed her confusion at the process and in the

need of the fee waiver for the conversion, yet to be approved.

Council Member Monahan expressed the waiver noting that the project would be in keeping with the goals of the Old Newport Boulevard Specific Plan and the Housing Element.

MOTION: Approve waiver of planning application fee.

Moved by Council Member Gary Monahan, seconded by Council Member Eric R. Bever.

The motion failed by the following roll call vote:

Ayes: Council Member Eric R. Bever, Council Member Gary Monahan

Noes: Mayor Allan R. Mansoor, Mayor Pro Tem Wendy Leece, Council Member Katrina Foley

Absent: None.

## IX NEW BUSINESS

1. Amendment No. 4 to Cooperative Agreement No. D99-026, and full reinstatement of the Newport Bay Watershed and the Central Watershed Management Area Cooperative Agreement No. D08-104, to expand the scope of cooperation and responsibility.

(a) Appoint a designated City Council Member to the Newport Bay Watershed Executive Committee.

(b) Appointment of the Public Services Director to the Newport Bay Watershed Management Committee.

Public Services Director Peter Naghavi presented the report, indicated that the amendment was passed to include the City of Costa Mesa as a member agency for the Newport Bay Watershed, and noted that there were two committees to the governing body.

Mayor Pro Tem Leece volunteered appointed to the Executive Committee.

**MOTION: Approve and authorize the Mayor and City Clerk to sign; appoint Mayor Pro Tem Wendy Leece to the Newport Bay Watershed Executive Committee; and appoint Public Services Director Peter Naghavi to the Newport Bay Watershed Management Committee.**

**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.

2. Partnership Policy for Recreation Programs, Facilities and Services

**MOTION: Continue to the meeting of April 20, 2010.**

**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 Katrina Foley, Council Member Gary Monahan

Noes: Council Member Eric R. Bever

Absent: None.

**X REPORTS**

The City Attorney reported the sudden passing of Ben Kaufman, Senior Assistant Attorney for the City of Santa Ana and a member of the Orange County City Attorneys Association, and extended condolences.

**ADJOURNMENT - Next Regular City Council Meeting April 6, 2010 at 10:11 p.m.**

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Mayor of the City of Costa Mesa

ATTEST:

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City Clerk of the City of Costa Mesa