

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

June 15, 2010

The City Council meeting of the City of Costa Mesa, California met in regular session June 15, 2010, at 5:07 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor.

CLOSED SESSION

I. 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 speakers.

III CLOSED SESSION:

1. Conference with Legal Counsel - Potential Litigation: Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9 (one case).
2. Pursuant to Government Code Section 54957.6, conference with Allan L. Roeder, City Manager and Labor Negotiator, Agency Negotiator: Stephen N. Mandoki, Administrative Services Director, regarding Employee Organizations: Costa Mesa City Employee Association (CMCEA), Costa Mesa Firefighters Association (CMFA), Costa Mesa Police Association (CMPA), Costa Mesa Police Management Association (CMPMA) and Unrepresented Employees (Executive and Confidential). CLOSED SESSION - continued
3. Conference with Real Property Negotiators - Property: 88 Fair Drive. Agency Negotiator: Allan Roeder, City Manager. Negotiating parties: State of California and Facilities Management West, Under negotiation:

price, terms of payment. Pursuant to Government Code Section 54956.8.

4. 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).

The Mayor recessed the meeting at 5:10 p.m. to Conference Room 1B for the Closed Session.

The Mayor reconvened the regular meeting at 6:00 p.m.

PLEDGE OF ALLEGIANCE - Council Member Eric Bever

MOMENT OF SOLEMN EXPRESSION - Pastor Mike Decker, Palm Harvest 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
Development Services Director Kimberly Brandt
Public Services Director Peter Naghavi
City Clerk Julie Folcik

CLOSED SESSION REPORT

The City Attorney reported no action was taken on Closed Session Item Nos. 2, 3, and 4, and reported that the following action was taken on Closed Session Item No. 1:

MOTION: To authorize the City Attorney to participate in litigation. Motion by Mayor Allan Mansoor, seconded by Council Member Katrina Foley.

The motion carried by the following roll call vote:

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

PRESENTATIONS

The Mayor presented the Mayor's Award to the Community Emergency Response Team (CERT) instructor staff recognizing Volunteer Instructors Larry Kinsella, Dee Chester, Cindy Brenneman and Fire Battalion Chief Kevin Diamond, and Police Segeant Vic Bakkila for their collective efforts for their training and overseeing the CERT Training Program to ensure the residents of the community are prepared in case of an emergency.

The Mayor presented a proclamation to Stacy de Boom, Principle of Paularino High School which was recognized for having received the 2010 California Distinction School Award.

IV PUBLIC COMMENTS

Jay Photoglou, Huntington Beach, presented a letter regarding a police report he previously filed, and asked staff to follow-up on the complaint.

Terry Shaw, Costa Mesa, announced the upcoming Costa Mesa Historical Society event June 26, 2010, featuring Lawrence Christon, author of "Stepping Ahead: A History of South Coast Repertory," and indicated that a trivia contest would be held for two tickets for the Catalina Flyer.

Beth Refakes, Costa Mesa, thanked the City Manager and Budget and Research Officer for their participation in the community budget meeting, recommended a budget task force be created comprised of residents and staff to help with budget ideas, and did not support extra taxes and fees imposed on residents.

Donna Lavin, American Coast Theater Company, spoke about the company's current musical "Boomers," and encouraged the community support the local theater.

V COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Katrina Foley thanked everyone who participated in the Swing-A-Thon, reported that approximately \$35,000 was raised, indicated that donations could still be made, and encouraged the schools to urge parents to make a minimum donation of \$25 toward the cause.

Thanks to all that participated in the swing-a-thon. Pleased to report that they raised about \$35,000! Very please and people can still donate. Each school site to ask the parents to contribute and almost all did.

VI CONSENT CALENDAR

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 9, except for Consent Calendar Item No. 2, continuing the meeting minutes for the Regular Meeting of May 4, 2010 and May 18, 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.

1. Reading Folder.

The following Claims were received by the City Clerk for processing: Carolyn Bradley; Darling & Risbrough, LLP on behalf of Helyn Elitzak; Emily Chipman of GMAC Insurance; Jane Hartloff, James Meschersky; and Debbie Sowul.

2. Regular Meeting of May 4, 2010, and Regular Meeting of May 18, 2010.

ACTION: Continued.

3. Warrant Resolution 2321, funding Payroll No. 10-11 for \$2,300,560.48 and Payroll No. 10-11A for \$649.54 and City operating expenses for \$631,810.15 including payroll deductions.

ACTION: Approved Resolution.

4. Warrant Resolution 2322, funding City operating expenses for \$412,358.40.

ACTION: Approved Resolution.

5. Professional Services Agreement with Albert Grover & Associates, 211 East Imperial Highway, Suite 208, Fullerton, for traffic signal timing and traffic signal system review services, in the amount of \$85,000.

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

6. Adopt plans and specifications, and working details for Rehabilitation of Mendoza Drive (from Lorenzo Avenue to Mission Drive), City Project No. 10-02, and award a construction contract to R.J. Noble Company, 15505 East Lincoln Avenue, Orange, in the amount of \$606,983.44.

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

7. Adopt plans and specifications, and working details for Rehabilitation of Alley No. 63 and Alley No. 64 (between Knox Place and Knox Street from Orange Avenue to east of Westminster Avenue), City Project No. 10-04, and award a construction contract to Ron Brehm Construction, Inc., 833A South Main Street #343, Fallbrook, in the amount of \$134,954.20.

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

8. Adopt plans and specifications, and working details for Parkway Concrete Repair and New Sidewalk Construction Project, City Project No. 10-05, and award a construction contract to D.P. Mangan, Inc. dba Pave West, 551 South Harbor Boulevard, La Habra, in the amount of \$282,565.

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

9. Measure M Eligibility

- (a) City's Maintenance of Effort for Fiscal Year 2010-2011.

ACTION: Approved.

- (b) City's Seven (7)-Year Capital Improvement Program for Fiscal Year 2010-2011 through Fiscal Year 2016-2017.

ACTION: Approved.

- (c) City's Pavement Management Program.

ACTION: Approved.

- (d) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CONCERNING THE STATUS OF THE CIRCULATION ELEMENT FOR THE CITY OF COSTA MESA.

ACTION: Adopted Resolution No. 10-39

As it was not yet time for the public hearings pursuant to Resolution 5-55, New Business Item No. IX-1 was taken out of order.

IX NEW BUSINESS

1. Notice of Costs Disclosure to provide two (2) years additional service credit for local Fire Safety members.

Risk Administrator Debra Yasui presented the staff report. She and Budget and Research Officer Bobby Young responded to questions from Council regarding the number of firefighters anticipated to retire, what cost savings would be realized, and the need to rehire at lower rates to meet

minimum staffing requirements.

**MOTION: Receive and file
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.

Mayor Mansoor noted a request was made to move Public Hearing Item No. VII-3 out of order to provide an opportunity for members of the public to address the item.

**MOTION: To address Public Hearing Item No. VII-3 out of order. Motion by Mayor
Mansoor, seconded by Council Member 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.

PUBLIC HEARINGS

3. PUBLIC HEARING: City Budget for Fiscal Year 2010-2011.

(a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DETERMINING AND ADOPTING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2010-2011, IN ACCORDANCE WITH ARTICLE XIII-B OF THE CONSTITUTION OF THE STATE OF CALIFORNIA, AS AMENDED BY PROPOSITION 111 AND SENATE BILL 88.

(b) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING A BUDGET FOR THE FISCAL YEAR 2010-2011.

(c) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DETERMINING AND ADOPTING THE GENERAL FUND OPERATING RESERVE FOR FISCAL YEAR 2010-2011, IN ACCORDANCE WITH TITLE 2, CHAPTER V, ARTICLE 6, OF THE COSTA MESA MUNICIPAL CODE.

City Manager Allan Roeder introduced the item and announced that recommended continuation of the public hearing to a special meeting on Tuesday, June 22, 2010, to allow Council and the public more time to

review the materials prepared by staff in response the Costa Mesa Employees Association and to questions from the City Council.

Mayor Mansoor referred to the memo titled "Responses to Letter from City of Costa Mesa Employees Association" and indicated his support in reducing the amount of medical coverage for the Council and also changes to the janitorial services.

Council Member Monahan expressed his support in continuing the item, and presented a list of bullet points regarding the budget.

Council Member Leece supported continuing to the Special Meeting, having a budget task force or on-going committee, reducing the City-provided medical bucket for Council members, and bringing forward an increase in the Transient Occupancy Tax (TOT).

Council Member Foley supported the continuance of the item to a Special Meeting, asked if there was a "phasing" option available, and supported consideration of placing the Transient Occupancy Tax (TOT) on the ballot.

Julia Schwarman, Costa Mesa, spoke in support of the ROCK program and asked Council not to cancel the program.

Sandra Schwarman, Costa Mesa, requested the City Council to not eliminate the youth programs and asked Council to give the community a chance to find private funding.

Sharon Ashley, Costa Mesa, spoke in support of the ROCKS afterschool program.

Michelle Albright, Lake Forest, referring to the Community Service Specialist position proposed for elimination, clarified the duties and responsibilities of the position, and noted that the elimination of the positions would not eliminate the work required.

Sue Lester, Costa Mesa business owner, expressed concern regarding the reductions in Police and Fire personnel.

Dana Fisher, Costa Mesa, spoke about her and her daughter's experience with the ROCKS afterschool program and asked Council to consider other options before cutting the program.

Helen Evers, Costa Mesa, spoke in support of maintaining the third animal control officer.

Mondo Medina, Huntington Beach, expressed his confidence in the Council.

Cindy Brenneman, Costa Mesa, spoke in support of retaining public

safety and fire staff, and encouraged the Council to consider "phasing."

MOTION: Continue the hearing to a Special Meeting of the City Council to be held June 22, 2010 at 5:30 p.m.

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

The City Attorney advised that Council could take action on Item No. VII-3 (a). Mayor Mansoor withdrew his motion.

MOTION: Adopt Resolution No. 10-40: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DETERMINING AND ADOPTING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2010-2011, IN ACCORDANCE WITH ARTICLE XIII-B OF THE CONSTITUTION OF THE STATE OF CALIFORNIA, AS AMENDED BY PROPOSITION 111 AND SENATE BILL 88.

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.

MOTION: Continue the hearing to a Special Meeting of the City Council to be held June 22, 2010 at 5:30 p.m.

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

SUBSTITUTE MOTION: Direct Staff to bring forward for consideration a Transient Occupancy Tax increase by three percent.

Moved by Council Member Katrina Foley. Motion died for lack of second.

The City Attorney confirmed that a vote was not required to give direction.

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.

Council Member Monahan noted his support for a TOT increase, but would like to consider working the increase in connection with raising the Business Improvement Area percentage, suggesting a TOT increase of two percent and a BID increase of one percent.

Council Member Foley directed staff to bring forward the Fire Prevention ALS fee increase program, inspection fee programs, and the "pay to stay"

jail fee, and requested an updated list that reflected the recent changes to the proposed cuts. She informed the Council that the sports user groups had agreed to collect \$10 from each registrant to go toward maintenance of the fields.

Mayor Pro Tem Leece referred to the Emergency Medical Service (EMS) fees, asked how the City could recoup the money from Medicare or insurance companies for emergency services, and expressed concern that the City was losing money on services that could be billed.

Fire Chief Mike Morgan clarified that ALS services are billable to third-party insurance carriers and Medicare, and stated that if the City were to bill both residents and non-residents, the City would be closer to recouping the cost of the providing the service.

Council Member Monahan exited the meeting at 7:35 p.m.

Council Member Foley commented that there had been discussion to allow the school sites to raise money using the snack bar, suggested corporate matching, and assembling a group together to write grants.

Mayor Pro Tem Leece reiterated concern regarding longer response times for firefighters and asked the Fire Chief to elaborate on impacts to response time. The Fire Chief stated that response time and efficiency of service would be affected negatively and staff is trying to minimize the impact as best as possible.

The Mayor recessed the meeting at 7:52 p.m.

The Mayor Pro Tem reconvened the meeting at 8:01 p.m.

The Mayor exited the meeting at the time of recess.

1. Reauthorization of the Business Improvement Area (BIA) Assessment of two percent (2%) for certain Costa Mesa hotels and motels for Fiscal Year 2010-2011.

(a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, LEVYING AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2010-2011 FOR A BUSINESS IMPROVEMENT AREA COVERING CERTAIN COSTA MESA HOTELS AND MOTELS.

Assistant City Manager Tom Hatch presented the staff report.

MOTION: Adopt Resolution No. 10-41.

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

Council Member Foley thanked the Costa Mesa Conference and Visitors Bureau for their promotional efforts with the Barrett-Jackson Event, Back

Bay Rugby Group and Costa Mesa Soccer Club.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Mayor Allan R. Mansoor, Council Member Gary Monahan

2. PUBLIC HEARING: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, EXTENDING FOR A PERIOD OF ONE YEAR, AN EXISTING MORATORIUM ON THE APPROVAL OF ANY BUSINESS LICENSE, USE PERMIT, OR ANY APPLICABLE APPLICATION RELATED TO MASSAGE ESTABLISHMENTS AND/OR MASSAGE PRACTITIONERS.

Captain Les Gogerty presented the staff report.

MOTION: Introduced and adopted Urgency Ordinance No. 10-7, to be read by title only, and waive further reading; direct staff to review the amended State laws governing massage practitioners for recommended amendments to the Municipal Code Moved by Council Member Katrina Foley, seconded by Council Member Eric R. Bever.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Mayor Allan R. Mansoor, Council Member Gary Monahan

VIII OLD BUSINESS

There was no Old Business scheduled.

X REPORTS

XI ADJOURNMENT - The Mayor Pro Tem declared the meeting adjourned at 8:11 p.m. to the Special City Council Meeting to be held on June 22, 2010 at 5:30 p.m.

Adjourned the meeting 8:11 p.m. adjourn to the Special Meeting June 22, 2010 at 5:30 p.m.

ATTEST:

Mayor of the City of Costa Mesa

City Clerk of the City of Costa Mesa