

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

March 17, 2009

The City Council meeting of the City of Costa Mesa, California met in regular session March 18, 2009, at 5:00 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 R. Mansoor
Mayor Pro Tem Wendy Leece
Council Member Eric Bever
Council Member Katrina Foley

Council Members Absent: Council Member Gary Monahan

Officials Present: City Manager Allan Roeder
City Attorney Kimberly Hall Barlow
City Clerk Julie Folcik

(Council Member Foley entered the meeting at 5:10 p.m.)

II. PUBLIC COMMENTS

There were no public comments.

The Mayor reconvened the regular meeting at 5:04 p.m., to the closed session in Conference Room 1B.

III. CLOSED SESSION:

1. Pursuant to Government Code Section 54957.6., conference with Allan L. Roeder, City Manager and Labor Negotiator, Agency Negotiator: Steve Mandoki, Administrative Services Director, regarding Employee Organizations: Costa Mesa City Employee Association (CMCEA), Costa Mesa Firefighters Association (CMFA), Costa Mesa Police Officers Association (CMPOA) and Costa Mesa Police Management Association (CMPMA).
2. CONFERENCE WITH LEGAL COUNSEL - Existing Litigation: Acosta v. City of Costa Mesa, District Court for the Central District of California Case Number SACV06-233 DOC (MLGx), pursuant to

Government Code Section 54956.9(a). RECONVENE REGULAR MEETING

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

PLEDGE OF ALLEGIANCE - Mayor Allan Mansoor

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 Bever
Council Member Katrina Foley

Council Members Absent: Council Member Gary Monahan

Officials Present: City Manager Allan Roeder
Assistant City Manager Thomas Hatch
City Attorney Kimberly Hall Barlow
Development Services Director Donald Lamm
Public Services Director Peter Naghavi
City Clerk Julie Folcik

CLOSED SESSION REPORT

City Attorney Kimberly Hall Barlow reported that no action was taken on either of the Closed Session items.

It was unanimously agreed to take the following item out of order.

IX. NEW BUSINESS

2. City Council's timing of adjustments to benefits and adjustments to compensation.

(a). AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECREASING SALARIES OF THE CITY COUNCIL MEMBERS.

(b). ADJUSTMENTS TO CITY COUNCIL BENEFITS.

Mayor Mansoor noted that due to the absence of a council member

that it was requested that the item would be continued for 30 days.

**MOTION: Continue to the meeting of April 21, 2009.
Moved by Council Member Katrina Foley, seconded by Council
Member Eric Bever.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Gary Monahan

PRESENTATIONS

Mayor Mansoor announced that Fred Arnold had been selected as a recipient for the Mayor's Award for volunteering his time to collect contributions for the Semper Fi Injured Marine Fund which provides financial assistance and quality of life solutions to those Marines injured in combat, training, or with life threatening illnesses. He was recognized for his instrumental role in obtaining the City's approval to adopt the 1st Battalion, 5th Marine Regiment also known as the "1/5". The Mayor expressed appreciation of his patriotism and support for the troops over the years. Mr. Fred Arnold presented the City Council a plaque as a token of appreciation from the Marine Regiment 1/5 and announced that they are in training for deployment to Afghanistan in the next month.

The Mayor announced the Anatolian Cultures & Food Festival to be held at the Orange County Fairgrounds on April 2 through 5, 2009; and introduced Mr. Tezcan Inanlar, Outreach Coordinator for Pacifica Institute, who presented a slide presentation of the upcoming event.

IV. PUBLIC COMMENTS

1. Russell Brammer, Costa Mesa, noted that the month of April is Child Abuse Prevention Month and announced the kick-off event will be held in Costa Mesa; and he invited everyone to attend the Blue Ribbon Family Festival to be held at Mackerel Flats and Goat Hill Junction Railroad on April 4, 2009, from 10:00 a.m. to 3:00 p.m.
2. James R. White, Costa Mesa, invited senior residents to join the Costa Mesa Senior Center and highlighted the various programs and activities sponsored by the Center. He announced their newly designed website and address: www.costamesaseniorcenter.org.

3. Judi Berry, Costa Mesa, referred to the City Budget and suggested that employees give up the salary increase that was effective July 1, 2008 opining that funds were not available for the raises.
4. Beth Refakes, Costa Mesa, commended Mayor Pro Tem Leece on her proactive approach regarding fireworks and expressed appreciation for her efforts to reduce the negative impacts of fireworks use. She referred to the visit of President Barack Obama on March 18, 2009, and inquired of City's costs and services associated with the event.
5. John Feeney, Costa Mesa, referred to the Costa Mesa Senior Center and read a letter from Lents & Foley, LLP, addressed to a senior resident regarding her request to resume her volunteering at the Center.
6. Ernie Feeney, Costa Mesa, referred to the previous speaker's comments and noted that the senior volunteer hired an attorney to respond to the letter from Lents & Foley, LLP. She read the response letter from the Law Offices of Utzurum on behalf of the senior volunteer.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Mayor Pro Tem Wendy Leece reported she attended the Mayor's Prayer Breakfast at the Orange Coast Christian Outreach and encouraged to visit their website at www.outreachweek.org for more information; thanked City Manager Allan Roeder and City staff for their efforts on the memorial service of former Mayor and Planning Commissioner Don Hall; announced she attended a meeting at Christ Lutheran Church and School relating to the neighborhood concerns of the church expansion; announced an open position in the Measure M Taxpayer's Oversight Committee of the Orange County Transportation Authority; and commented on fireworks issues and the concerns of the community.

Council Member Katrina Foley wished everyone a happy St. Patrick's day; announced she attended the Cultural Arts Committee's Artist Showcase and reported on the success of the event; recognized Public Services Director Peter Naghavi and staff for the completion of the crosswalk and traffic light on Irvine Avenue for a safe route to Mariners School; commended City Manager Allan Roeder and City staff for an excellent job on the memorial service for Planning Commissioner Donn Hall; and commented on President Barack Obama's visit at the Orange County Fairgrounds and noting the benefits to the business community and the City.

VI. CONSENT CALENDAR ITEM NOS. 1 THROUGH 10.

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 10, except for Consent Calendar Item No. 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 Bever, Council Member Katrina Foley

Noes: None.

Absent: Council Member Gary Monahan

1. Reading Folder.

The following Claims were received and processed by the City Clerk: Monica Anaya; Jeffrey Bennett; and Andrew C. Stoneman.

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

For Native Foods California LLC, for Native Foods located at 2937 Bristol Street, Suite E100, for a person-to-person transfer of a type 41 (on-sale beer and wine for a bona fide eating place).

For Annes Boutique Wines LLC, for WineStyles located at 270 East 17th Street, Suite 14, for a person-to-person transfer of a type 20 (off-sale beer and wine) and type 42 (on-sale beer and wine, public premises).

For Newport Beach Wine Company & Winery Inc., for Newport Beach Winery located at 124 East 17th Street, for a person-to-person transfer of a type 20 (off-sale beer and wine) and type 17 (beer and wine wholesaler).

The following notification letter was received and processed: Southern California Gas Company – Amended Application – Notice of filing of Energy Efficiency Program Application No. A.08-07-022 replacing original filed application 08-07-022 filed July 21, 2008 in its entirety.

2. Regular Meeting Minutes of March 3, 2009.

ACTION: Approved.

3. Warrant Resolution 2256, funding City operating expenses for \$933,210.80.

ACTION: Resolution adopted.

4. Warrant Resolution 2257, funding Payroll No. 905 for \$2,551,834.85, and Payroll No. 904A for negative \$2,905.07, and City operating expenses for \$827,270.28 including payroll deductions.

ACTION: Resolution adopted.

5. Roof replacement at the City's Old Corporation Yard at 2300 Placentia Avenue, City Project No. 08-14.

ACTION: Rejected all bids and directed staff to re-advertise the project at a future time.

6. Release of Performance Bond (Certificate No. 457592), in the amount of \$1,000, to Mesa Placentia 17 LP, P.O. Box 8083, Newport Beach, in connection with Parcel Map 2006-286 for corner monumentation located at 755 West 17th Street, Costa Mesa.

ACTION: Approved.

7. Acceptance of a grant from Bartwood Construction, Inc., for GPS devices and a hose testing pump, in the amount of \$5,000.

(a). Budget Adjustment No. 09-025 for \$5,000.

ACTION: Approved acceptance; approved Budget Adjustment No. 09-025 and authorized the Mayor to sign.

8. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, RESCINDING RESOLUTION NO. 05-14 AND ESTABLISHING A NEW DATE AND TIME FOR THE PARKS AND RECREATION COMMISSION MEETINGS AND THE PERMANENT CANCELLATION OF THE LAST MEETING IN DECEMBER.

ACTION: Adopted Resolution No. 09-18.

10. Memorandum of Understanding (MOU) with United States Department of Homeland Security, Immigration and Customs Enforcement (ICE) for the Reimbursement of Joint Operation Expenses from the Treasury Forfeiture Fund.

ACTION: Approved; and authorized the Chief of Police to sign.

ITEM REMOVED FROM THE CONSENT CALENDAR

9. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING THE CITY OF COSTA MESA TO APPLY FOR TECHNICAL ASSISTANCE FROM THE ENERGY COMMISSION, to conduct a detailed no-cost Energy Audit for City Hall, Civic Center Fire Station, Communications Building, and the Neighborhood Community Center.**

Mayor Pro Tem Leece expressed support of the item and commended staff for bringing the item forward.

MOTION: Adopt Resolution No. 09-19.

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 Bever, Council Member Katrina Foley

Noes: None.

Absent: Council Member Gary Monahan

Mayor Mansoor noted that it was not time for the Public Hearings pursuant to Resolution No. 05-55 and proceeded to Old Business Item No. 1.

VIII. OLD BUSINESS

1. From the meeting of February 17, 2009, rehearing request by Council Member Katrina Foley relative to the determination regarding Planning Application PA-08-30, for Richard and Wendy Schones, authorized agents for Gary F. Schones, for property located at 378 Costa Mesa Street.

Council Member Foley stated her reason for requesting a rehearing was that she received information relative to the design that would allow the applicant to retain the two-car garage space of the rear-unit.

In response to questions from the Mayor relating to rehearing procedures, City Attorney Kimberly Hall Barlow explained the rehearing process noting that the new proposal would need to be reviewed by the Planning Commission. Council Member Foley indicated that she would like to hear the Council's opinions and determinations on the applicant's proposal and opined that it would provide insight and direction to the applicant and the Planning

Commission. Discussion ensued amongst the Council and staff on the rehearing request versus the process for a new proposal.

Richard Shones, Costa Mesa, commented someone had mentioned "to tear down the residence and keep the garage". He was there to ask if this was possible and maybe grandfather the situation in and institute the RRIP program for this project. He advised that it would be extremely expensive and that they were already over budget for their remodeling project. He reminded the Council that the remodel project was approved based on the two parking spaces in the back. He informed the Council that the unit, as well as that the original home, had been built with a three-foot side offset, which still exists to the west of the property and through the remodel. He noted that many of the houses in the tract were built in the same way, and that includes their rear-unit. He advised that many of the accessory units around their property were sitting on one or two property-line(s); and that one property had three separate units on a single lot. He explained that their request was to keep the rear garage as they didn't have any storage space. He reiterated that they were trying to keep the garage although he hadn't contacted staff to inquire about variances or conditional use permits. He also indicated that while he is not trying to "rat" on his neighbors; he felt that if the city is going to enforce laws and codes on one resident, then some sort of system needs to be implemented rather than the "permit steam operation that is currently in place." He commented that he was fine with the pre-incorporated properties but would like to know how they are "safer" than his unit. He continued that staff has visited the property and felt that the unit/garage was safe and built in a workman-like manner and could easily be brought up to code. He opined that the topic of granny-units would be coming up in the future more frequently as properties are inherited. He expressed concern when the Director of Development Services commented that enforcement of granny units and illegally converted garages had never and probably would never be done as it was difficult (paraphrased); and that these types of units were usually reported by Police or Fire when an incident occurs. Mr. Shones felt that this type of enforcement was not acceptable as well. He commented that some sort of inspection or enforcement procedure should be adopted rather than "the current type of operation." He opined that the other 20-25 people who had been following this discussion were going to go along with a "bootleg process because they will be afraid to bring their project forward with the fear of losing and going through this process." He noted that he had been going through this process for a year and-a-half and that it has taken a toll on his business/patients. For his final statement he inquired if

Acquiescence or a type of implied dedication due to common law would apply in this situation.

Wendy Schones, Costa Mesa, noted that for their remodel they were approved with the one car garage because it was a remodel and were therefore not required to rebuild another garage once they demolish the granny unit with the garage; according to their approval on the permits because that structure was not supposed to be there" and "as long as the original one car garage was returned to a one car garage" She noted that they are a family of six who will eventually all be driving cars. Ms. Shones noted that if the garage was demolished they would not be able to rebuild the garage anytime soon and that "potentially there will be a family of six drivers with only two parking spaces." She suggested that if they were able to maintain the rear garage that they would be able to park two cars in the garage, have two parking spaces in front of the rear-garage and then the two parking spaces in the front garage which would accommodate the potential number of cars their family could have. She also noted it would be a financial burden to demolish the buildings. Ms. Shones inquired about the cost of a variance and if it were to be taken back to the Planning Commission if they would be responsible for the public hearing costs. The Development Services Director responded that the cost would be imposed and it was about \$1500.

In response to Council Member Foley regarding if the cost included the obtaining of the addresses for the required mailing, the Development Services Director responded that the applicant would be responsible for providing those labels and estimated the cost to be about \$70 additionally. He noted that the cost was for a Planning Application for which a newly revised application would fall under. He further advised that the existing garage would still require three variances for the rear and side set-back and one for lot coverage and noted that each of those would require a separate hearing by the Planning Commission. In response to a question from Mayor Pro Tem Leece regarding the ability for the fees to be waived in cases where a project has been changed, he responded that the Council has the authority to waive the fees. The Attorney confirmed that it was possible and that it would need to be agendaized on a future agenda.

The Mayor responded to a comment made by Mr. Shones regarding other like properties where the owners were watching and with regards to equal enforcement that, at the previous public hearing, a lengthy comment was made by the Development Services Director regarding the subject matter and encouraged a

review of his comments from that meeting.

MOTION: Approve rehearing request.

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

The motion failed by the following roll call vote:

Ayes: Mayor Pro Tem Wendy Leece, Council Member Katrina Foley

Noes: Mayor Allan R. Mansoor, Council Member Eric Bever

Absent: Council Member Gary Monahan

Council Member Foley commented that she did not understand why Council could not provide the Shones' some insight as to what they would like to see relative to this property. Mayor Mansoor indicated that the applicants were "free to discuss this with the Planning Commissioners or any one of the City Council" but noted that it would be hard for him to comment on something that hadn't been presented to the Planning Commission and that they had not deliberated on. Council Member Foley expressed disappointment.

Mayor Pro Tem Leece noted that the process had been going on for a while, and that it had been frustrating and expensive. She commented that the unit had "been there for a long time and was not hurting anybody. No harm, no fowl." She noted that there were other like units within the city and she was not in favor of going "one-by-one" and demolishing granny units. She recognized the uniqueness of Costa Mesa and that new families coming into Costa Mesa were not because of the granny-units. She felt that the units were a part of the history and heritage of the city and felt that there was a property rights issue. She commented that she was disappointed in the Planning Commission's decision to demolish such a building belonging to a family that have been longtime residents of the city; for four generations.

Council Member Foley agreed with Mayor Pro Tem Leece. She inquired if Council Member Bever, when he heard of the "new idea," had communicated his thoughts so that the applicant could have some insight and make some decisions that have a financial impact. Council Member Bever responded that he felt that there was a process "that works" and that it should be followed. Council Member Foley addressed the City Attorney relative to a question from Mr. Shones regarding Acquiescence, further commenting that the city had not previously enforced the law, if it would give them a vested property right. The City Attorney commented that she did not feel that it would apply and as

requested by Council Member Foley indicated that she would provide her opinion in writing.

VII. PUBLIC HEARINGS

1. PUBLIC HEARING: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ORDERING THE VACATION OF A PORTION OF WILSON STREET AT 979, 983, 987, 991, 995 AND 999 MODJESKA CIRCLE.

Public Services Director Peter Naghavi briefly summarized the staff report.

MOTION: Adopt Resolution No. 09-20; approve and authorize the Mayor and City Clerk to sign; and direct the City Clerk to record Quitclaim Deed 3680.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Gary Monahan

VIII. OLD BUSINESS

2. AT&T Above-Ground Utility Cabinets

The Public Services Director presented the staff report and responded to questions from the Council relating to the maintenance of landscape and graffiti issues. City Manager Allan Roeder clarified for the Council the receipt of funding to maintain the cabinets.

MOTION: Receive and file the report on AT&T "Project Lightspeed" to provide video service in Costa Mesa.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Gary Monahan

IX. NEW BUSINESS

1. Request for "Resident Only" parking restriction on Iowa Street, between Gisler Avenue and New Hampshire Drive.

(a). A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DESIGNATING PERMIT PARKING ON IOWA STREET, BETWEEN GISLER AVENUE AND NEW HAMPSHIRE DRIVE.

The Public Services Director summarized the staff report and recommended approval of the request.

Vicki Moore, Costa Mesa, President of the Mesa Villa Homeowner's Association, spoke about the limited parking on Iowa Street due to field use and expressed support of permit parking.

MOTION: Approve request; adopt Resolution No. 09-21; authorize the Transportation Services Manager to extend the "resident only" parking restriction within a maximum of 1,000 feet as needed.

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

Council Member Bever expressed reservation relating to permit parking on the school frontage. The Public Services Director explained that parking would create a safety hazard. He noted that adequate parking would be provided in the near future.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: Council Member Gary Monahan

X. REPORTS

The City Attorney reported that she will be on spring vacation with her family during the next meeting and advised that Assistant City Attorney Harold Potter would be available.

The City Manager referred to Council's comments relating to the memorial service of former Mayor and Planning Commissioner Donn Hall. He commended Assistant City Manager Tom Hatch, Management Analyst Carol Proctor, and City staff for assisting the Hall family with organizing a memorable service.

- XI. **ADJOURNMENT** - The Mayor declared the meeting adjourned at 7:35 p.m., and in memory of former Mayor and Planning Commissioner Donn Hall.

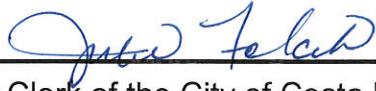
Council Member Foley also requested to close the meeting in memory of Marietta Garlich, Costa Mesa resident and wife of former Planning Commissioner Bruce Garlich.

The next Regular City Council Meeting will be held on April 7, 2009.



Mayor of the City of Costa Mesa

ATTEST:



City Clerk of the City of Costa Mesa

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