

MINUTES OF THE REGULAR MEETING OF THE COSTA MESA CITY COUNCIL AND THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY

AUGUST 21, 2012

CALL TO ORDER

The meeting was called to order by the Mayor at 5:00 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

ROLL CALL

Present: Mayor Bever, Mayor Pro Tem Righeimer, Council Member Leece, Council Member Mensinger and Council Member Monahan
Absent: None

PUBLIC COMMENTS ON CLOSED SESSION ITEMS None

CLOSED SESSION

The City Council and the Successor Agency to the Redevelopment Agency recessed into closed session at 5:02 p.m. to consider the following items:

1. Conference with Thomas R. Hatch, Chief Executive Officer, and Labor Negotiator, Agency Negotiator 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), Costa Mesa Fire Fighters Management Association, and Costa Mesa Division Managers Association pursuant to Government Code Section 564957.6.
2. Conference with legal counsel regarding existing litigation: Costa Mesa Employees Association v. City of Costa Mesa, a municipal corporation, et al., Orange County Superior Court Case No. 30-2011 00475281 pursuant to Government Code Section 54956.9(a).

The City Council and the Successor Agency to the Redevelopment Agency reconvened at 6:00 p.m.

PLEDGE OF ALLEGIANCE - Council Member Monahan

MOMENT OF SOLEMN EXPRESSION None

ROLL CALL

Present: Mayor/Chair Bever, Mayor Pro Tem/Vice Chair Righeimer, Council/Agency Member Leece, Council/Agency Member Mensinger and Council/Agency Member Monahan.
Absent: None

Officials Present: Chief Executive Officer Thomas R. Hatch, City Attorney Thomas Duarte, Assistant Chief Executive Officer Rick Francis, Economic and

Development Services Director Peter Naghavi, Public Services Director Ernesto Munoz, Finance and IT Director Bobby Young, Police Chief Tom Gazsi, Interim Fire Chief Tom Arnold, Public Affairs Manager Dan Joyce, Public Affairs Manager Bill Lobdell, Interim City Clerk Brenda Green.

CLOSED SESSION REPORT None

ANNOUNCEMENTS (00:01:15)

"Costa Mesa Minute" was played featuring upcoming events and activities in the community.

PRESENTATIONS (00:03:51)

Restaurant Week video was played.

The Mayor recognized youth rugby player Travis Whitlock for his accomplishments and placement on the USA National Rugby team.

PUBLIC COMMENTS (00:10:52)

Jeff Wilcox, Costa Mesa, Mesa Del Mar Association, spoke positively regarding parking changes and enforcement during the Orange County Fair. (00:11:27)

Kristen Kirk, Costa Mesa, spoke in support of the Council, the Charter Measure, and the transparency Ordinance. (00:11:57)

John Feeney, Costa Mesa, spoke in support of the OCTA Option 2 proposal of the I-405 widening project and opposition to the OCTA Option 3 proposal, expressed criticism toward the Costa Mesa Chamber of Commerce support for Option 3, and indicated that during construction night time demolition will occur. (00:13:29)

Ms. Bennett, Costa Mesa, expressed concern regarding the increase of crime on Ford Road and her concern about trailers in the area attracting drug dealers and squatters. (00:16:16)

Martin H. Millard, Costa Mesa, spoke in support of the Council, appreciated the new temporary sign on 19th St., and requested a hedge be planted for further beautification. (00:18:24)

Steve Price, Service Manager at Albertsons, 2300 Harbor Blvd., expressed concern regarding crime at the store resulting from the presence of transients and shoplifters. (00:20:40)

Robert Miranda, Loss Prevention Manager at Albertsons, 2300 Harbor Blvd., spoke about theft at the store, drug paraphernalia left in the store, intoxicated transients and requested additional police patrols. (00:22:21)

Linda Schwandt, Costa Mesa, listed various names or nicknames of homeless people or transients in the Ford Road area and Albertsons store area. (00:22:21)

Speaker, Costa Mesa, spoke about the home invasion robbery she experienced on Ford Road. (00:25:24)

Ms. Kay, Costa Mesa, spoke about crime on Ford Road and expressed the need for a neighborhood watch program and additional lighting. (00:27:17)

Speaker, Costa Mesa, suggested an increase in police presence on Ford Road due to the homeless, transients and drug dealers. (00:28:32)

Speaker, Costa Mesa, spoke about the crime and conditions on Ford Road. (00:30:07)

Robin Leffler, Costa Mesa, referred to comments made about the Charter Measure and requested clarification in regards to "we", and supported full ex-parte disclosure from City Council. (00:34:30)

Speaker, Costa Mesa, spoke about the increase in crime on Ford Road, commented on a home invasion robbery in her neighborhood, and proposed resident-only permit parking. (00:37:25)

Speaker, Costa Mesa, spoke about the crime on Ford Road and the abundance of vehicles parked on the street. (00:40:56)

Perry Valentine, Costa Mesa, suggested that Council reconsider the limit on police patrol staff to help resolve the crime on Ford Road. (00:45:15)

Terry Koken, Costa Mesa, spoke about beer deficiency. (00:46:44)

Tamar Goldmann, Costa Mesa, commented on the Special Meeting regarding the Charter measure and transparency in consultant pay. (00:49:42)

Terry Haugh, Costa Mesa, submitted a letter in opposition to the Charter.

COUNCIL MEMBER' REPORTS, COMMENTS, AND SUGGESTIONS

Mayor Bever requested staff to have the Neighborhood Improvement Task Force analyze the issues on Ford Road. (00:52:34)

Mayor Pro Tem Righeimer requested a meeting with staff, police and residents for the following day regarding the crime and transients on Ford Road; commented on Council approving monies in the budget to purchase motels to decrease crime; stated, "This City Council is being held hostage by the police union," and "this Council will not be shaken down", spoke on a playbook by the law firm of Lackie, Dammeier & McGill regarding negotiating tactics; spoke on a meeting with Orange County Transportation Authority (OCTA) regarding the I-405 Freeway Widening project, announcing that the demolition of the Fairview Bridge is no longer a consideration; and thanked the community for their activism and support. (00:54:20)

Council Member Leece thanked the Ford Road residents for expressing their concerns in their neighborhood; supports the hiring of additional police officers; acknowledged the 50th anniversary of Boy Scout Troop 339; spoke about mosquitoes and the West Nile Virus; suggested Costa Mesa brochures be placed at the Orange County Airport and requested a copy of the letter from the Chamber of Commerce regarding the I-405 Widening Freeway Project. (01:01:22)

Council Member Mensinger spoke about the nuisances and crime caused by the motels in the City; asked staff to provide an update on the staffing levels for code enforcement officers and an update regarding negotiations with the Costa Mesa Police Officers Association and spoke about the Mohave Air and Space Port and salaries of City employees. (01:06:04)

Council Member Monahan thanked the residents of Ford Road for coming to the meeting and speaking. (01:14:07)

Mayor Bever spoke regarding the I-405 Freeway widening project, and support for Alternative 2.

REPORT – CHIEF EXECUTIVE OFFICER (CEO) (01:15:02)

CEO Hatch responded to comments from the public speakers and provided the following updates:

Addressed concerns regarding Ford Road and invited interested citizens to attend the neighborhood meeting on Wednesday, August 22; spoke about the Neighborhood Improvement Task Force and indicated that staff is ready and available to address the problems on Ford Road; spoke about plans to recognize the Costa Mesa Olympians; and announced that the Public Services Department has secured a \$1.2 million bicycle improvement grant.

NEW BUSINESS ITEM NO. 5 WAS TAKEN OUT OF ORDER

NEW BUSINESS

5. CIVIC OPENNESS IN NEGOTIATIONS (COIN) ORDINANCE (01:18:23)

Staff report provided by CEO Tom Hatch, Finance and IT Director Bobby Young and Special Counsel Richard Kreisler.

Council Member Mensinger spoke about contracts and budgets, spoke on the Closed Session process, spoke on the Ordinance and the goal of transparency in civic negotiations, and highlighted the key objectives of the Ordinance.

Special Counsel Richard Kreisler explained that the Ordinance is consistent with the Meyers-Milias Brown Act, that it would apply to all meet and confer negotiations and the Ordinance is lawful.

Perry Valentine, Costa Mesa, expressed concern regarding the lack of input from the Human Resources staff, and suggested a broader ex parte communications Ordinance.

Beth Refakes, Costa Mesa, spoke in support of the Ordinance and requested information to be posted in an easily understandable format.

Terry Koken, Costa Mesa, commented on the grammar.

Robin Leffler, Costa Mesa, recommended a more comprehensive ex parte Ordinance and increased transparency.

Speaker, Costa Mesa, spoke in support of the Ordinance.

Sue Lester, Costa Mesa, spoke in support of increased transparency in all City processes.

Eleanor Egan, Costa Mesa, stated the Ordinance is too narrow and supports more transparency.

Jay Humphrey, Costa Mesa, spoke in support of a private negotiator and requested that ex parte disclosures apply to all matters.

Susan Shaw, Costa Mesa, spoke in support of disclosure on all matters and applying the Ordinance to management.

Marian Plunkett, Costa Mesa, spoke in support of the Ordinance.

Richard Russell, Costa Mesa, spoke in support of the Ordinance and supports the City purchasing motels.

Martin H. Millard, Costa Mesa, noted that a previously proposed ex parte communications Ordinance was too broad, and spoke in support of this proposed Ordinance.

Tamar Goldmann, Costa Mesa, commented that Mayor Bever signed the contracts previously negotiated.

Mayor Bever clarified that, as Mayor, he is required to sign contracts whether or not he agrees with them.

Sandra Genis, Costa Mesa, spoke in support of a broader ex parte communications Ordinance.

Harold Weitzberg, Costa Mesa, spoke in support of expanding the scope of the proposed Ordinance.

Mayor Bever spoke in support the Ordinance, stated that he supports the financial breakdown of the costs that would be provided and the clarity of all costs and supports the negotiation process that will be afforded by the Ordinance.

Council Member Monahan addressed comments about voting philosophies, and spoke in support of the Ordinance.

Council Member Leece inquired on the amount of time staff spent drafting the Ordinance.

CEO Hatch indicated that preparation of the report and Ordinance exceeded four hours.

Council Member Leece referred to Section 2-238 and asked for clarification regarding the meaning of "analytical thought process utilized."

Special Counsel Kreisler responded that facts would be provided to the public on proposals made but direction to representatives or how Council decided to give that direction will not be disclosed.

Council Member Leece referred to the ex parte communications Ordinance she previously proposed and expressed disappointment that it was not approved, and spoke in opposition of the current proposed Ordinance because of its narrow scope and expressed disappointment that it violated the four hour rule.

Council Member Mensinger requested Mr. Hatch to explain the four-hour staff rule.

CEO Hatch stated that Council approval is requested on projects that take significant staff time. However staff tries to support Council Members equally in their individual endeavors.

Council Member Mensinger indicated he is open to modifying or adding to the language to make the Ordinance more transparent, and expressed the necessity for the Ordinance.

Mayor Bever indicated he did not support changing the Ordinance to a broader ex parte Ordinance, and reiterated the specific nature of this proposed Ordinance.

Mayor Pro Tem Righeimer requested further clarification from staff on the four hour rule policy, reiterated the process for choosing contracts, spoke on ex parte communications and spoke in support of the proposed Ordinance.

MOTION: Introduce Ordinance for first reading, to be read by title only, and waive further reading.

MOVED/SECOND: Council Member Monahan/Mayor Pro Tem Righeimer.

The motion carried by the following roll call vote:

Ayes: Council Member Monahan, Council Member Mensinger, Mayor Pro Tem Righeimer, Mayor Bever

Noes: Council Member Leece

Absent: None

Mayor Bever recessed the meeting at 8:44 p.m.

Council reconvened at 9:03 p.m.

CONSENT CALENDAR (02:42:27)

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 4 except for Item No. 3.

MOVED/SECOND: Council Member Monahan/Mayor Pro Tem Righeimer

The motion carried unanimously.

1. READING FOLDER

(a) Claim received by the City Clerk: Rose Inkley.

(b) Requests for Alcohol Beverage Control licenses: UCBL, LLC dba Hotel Hanford, 3131 Bristol Street; Agustina Villalba dba Tacos Cancun, 1902 Harbor Boulevard, #B; SF Markets, LLC dba Sprouts Farmers Market, 225 East 17th Street.

(c) Letter of Notification: Southern California Edison Company Rate Application No. 12-08-001; Southern California Gas Company, Notice of Application Filing Requesting

Approval of Its 2013-2014 Energy Marketing, Education and Outreach Program and Budget, Application No. A.12-08-010.

ACTION: Received and processed.

2. **MINUTES: Regular Adjourned Meeting/Study Session of May 10, 2011; Special Meeting of July 12, 2012; and Regular Meeting of August 7, 2012**

ACTION: Approved.

4. **WARRANT RESOLUTION 2434: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID, funding City operating expenses for \$1,066,227.71**

ACTION: Approved.

5. **COOPERATIVE AGREEMENT WITH THE CITY OF NEWPORT BEACH, NEWPORT BEACH, CALIFORNIA, FOR THE REIMBURSEMENT OF COSTS FOR THE 15TH STREET PAVEMENT REHABILITATION PROJECT, IN THE AMOUNT OF \$115,000**

ACTION: Approved; authorized the Chief Executive Officer and Interim City Clerk to sign.

6. **FINAL TRACT MAP NO. 17417 LOCATED AT 449 HAMILTON STREET FOR THE SUBDIVISION OF ONE LOT INTO A FIVE-UNIT COMMON INTEREST DEVELOPMENT (CONDOMINIUMS)**

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

ITEMS REMOVED FROM THE CONSENT CALENDAR

3. **WARRANT RESOLUTION 2433: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NO. 12-16 AND PAYROLL REGISTER NO. 12-15A AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID, funding Payroll No. 12-16 for \$2,191,684.95, Payroll No. 12-15A for -\$268.58, and City operating expenses for \$625,025.62, including payroll deductions. (02:43:37)**

Tamar Goldmann, Costa Mesa, spoke on the high attorney costs.

MOTION: Approve Warrant Resolution 2433.

MOVED/SECOND: Council Member Monahan/Mayor Bever
The motion carried unanimously.

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY (02:46:53)

MINUTES - SPECIAL JOINT MEETING OF JUNE 12, 2012

MOTION: Approve

MOVED/SECOND: Agency Member Monahan/Chair Bever.

The motion carried unanimously.

NEW BUSINESS

1. **A RESOLUTION OF THE SUCCESSOR AGENCY TO THE COSTA MESA REDEVELOPMENT AGENCY, APPROVING THE SUCCESSOR AGENCY'S PROPOSED THIRD ADMINISTRATIVE BUDGET SUBJECT TO SUBMITTAL TO AND APPROVAL BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY PURSUANT TO THE DISSOLUTION ACT**

Staff report presented by Bobby Young, Finance and IT Director.

MOTION: Adopt Successor Agency Resolution No. 12-58: A RESOLUTION OF THE SUCCESSOR AGENCY TO THE COSTA MESA REDEVELOPMENT AGENCY, APPROVING THE SUCCESSOR AGENCY'S PROPOSED THIRD ADMINISTRATIVE BUDGET SUBJECT TO SUBMITTAL TO AND APPROVAL BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY PURSUANT TO THE DISSOLUTION ACT.

MOVED/SECOND: Agency Member Monahan/Chair Bever.

The motion carried unanimously.

2. **A RESOLUTION OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING DRAFT THIRD RECOGNIZED OBLIGATION PAYMENT SCHEDULE ("ROPS") FOR THE PERIOD OF JANUARY 1, 2013 TO JUNE 30, 2013, SUBJECT TO SUBMITTAL TO AND REVIEW BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY, WITH AUTHORITY TO THE ASSISTANT FINANCE DIRECTOR TO MAKE AUGMENTATIONS, MODIFICATIONS, ADDITIONS OR REVISIONS AS NECESSARY OR DIRECTED BY THE DOF.**

Staff report presented by Bobby Young, Finance and IT Director and Celeste Brady, Special Counsel.

MOTION: Adopt Successor Agency Resolution No. 12-59: A RESOLUTION OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING DRAFT THIRD RECOGNIZED OBLIGATION PAYMENT SCHEDULE ("ROPS") FOR THE PERIOD OF JANUARY 1, 2013 TO JUNE 30, 2013, SUBJECT TO SUBMITTAL TO AND REVIEW BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY, WITH AUTHORITY TO THE ASSISTANT FINANCE DIRECTOR TO MAKE AUGMENTATIONS, MODIFICATIONS, ADDITIONS OR REVISIONS AS NECESSARY OR DIRECTED BY THE DOF

MOVED/SECOND: Agency Member Monahan/Agency Member Mensinger

The motion carried unanimously.

3. **UPDATE TO SUCCESSOR AGENCY REGARDING ACCOUNTANT SELECTED FOR DUE DILIGENCE REVIEWS; UPDATE REGARDING COMMUNICATIONS WITH DOF AND CAC**

Staff report presented by Bobby Young, Finance and IT Director.

MOTION: Receive and file

MOVED/SECOND: Chair Bever/Agency Member Leece

The motion carried unanimously.

PUBLIC HEARINGS - 7 p.m.

1. PUBLIC HEARING: RECOMMENDED ALLOCATION OF FUNDS FOR THE 2012-2013 CITIZENS' OPTION FOR PUBLIC SAFETY/SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (COPS/SLESF) (02:56:23)

Lieutenant Bryan Glass presented the staff report and responded to questions regarding funding.

MOTION: Approve

MOVED/SECOND: Council Member Monahan/Council Member Mensinger.

The motion carried unanimously.

2. PUBLIC HEARING: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING TITLE 19, CHAPTER 1, ARTICLE 4, SECTIONS 19-14 AND 19-15 OF THE COSTA MESA MUNICIPAL CODE REGARDING TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY (02:59:54)

Mayor Pro Tem Righeimer recused himself due to a conflict of interest and left the Chambers at 9:22 p.m.

Staff report presented by Ernesto Munoz, Public Services Director.

Deputy City Attorney Chris Neumeyer gave a presentation regarding the federal and state laws governing local regulation of wireless telecommunications facilities.

Paul O'Boyle suggested traffic signals be made available for devices.

Speaker, Costa Mesa, spoke against the current T-Mobile telecommunication facility located at 20th St. and Tustin Ave.

Leslie Daigle, on behalf of Verizon Wireless, commented on the height limitations and expressed support for 35 feet.

Ron Moss, Costa Mesa, commented on the aesthetic nature of the towers.

Sandra Genis, Costa Mesa, spoke in support of the Ordinance.

Mr. Munoz explained the 30-foot height limitation is due to aesthetics. However, if the service provider can demonstrate that 35 feet is needed, then staff will allow it.

MOTION: Introduce Ordinance for first reading, to be read by title only, and waive further reading with two revisions: 1) allow 35-foot height and 2) do not pursue installing on traffic signals.

MOVED/SECOND: Council Member Monahan/Council Member Mensinger.
The motion carried unanimously.

Mayor Pro Tem Righeimer returned to the Chambers at 10:05 p.m.

OLD BUSINESS **None**

NEW BUSINESS

1. CITYWIDE ALLEYWAY SURVEY (03:43:59)

Public Services Director Ernesto Munoz presented the report and answered questions.

Mayor Bever inquired about assessment districts and costs over a long period of time.

Perry Valentine, Costa Mesa, spoke in favor of researching assessment districts.

Beth Refakes, Costa Mesa, spoke in favor of the survey and expressed concern on the costs for establishing an assessment district.

MOTION: Approve

MOVED/SECOND: Council Member Monahan/Council Member Leece
The motion carried unanimously.

2. PARK AND LANDSCAPE MAINTENANCE SERVICES REQUEST FOR PROPOSAL (03:57:22)

(a) Professional Services Agreement with Merchants Landscape Services, Inc., 1510 South Lyon Street, Santa Ana, California, for parks and landscape maintenance services. Public Services Director Ernesto Munoz presented the report and answered questions.

Mayor Bever questioned the calculations and percentage of savings and noted a savings of 59%.

Bobby Young, Finance and IT Director explained that there are various ways to calculate percentages but overall the savings remains the same at approximately 1.4 million.

Mr. Munoz stated that if the Charter Measure was to pass, the City could renegotiate the contract with the contractor.

Council Member Monahan commented on the benefits of outsourcing.

Questions and answers ensued regarding quality of service and price.

Speaker, Costa Mesa, asked if maintenance of the Bark Park would be included.

Mr. Munoz, responded that the contract does not include aspects of maintenance at the Bark Park, responded to questions and summarized the bid process.

Council Member Leece stated she will not be supporting this item until the current lawsuit is settled or the Charter Measure passes.

MOTION: Approve agreement and authorize the City CEO to sign and administratively implement a transition plan for impacted employees upon resolution of the City's outsourcing constraints; rescind layoff notices for six positions to be retained in the Parks and Landscape Maintenance section of the Maintenance Services division.

MOVED/SECOND: Mayor Bever/Mayor Pro Tem Righeimer

The motion carried by the following roll call vote:

Ayes: Council Member Monahan, Council Member Mensinger, Mayor Pro Tem Righeimer, Mayor Bever

Noes: Council Member Leece

Absent: None

**3. TEWINKLE PARK ATHLETIC COMPLEX TASK FORCE PROJECT UPDATE
(04:36:38)**

Staff report provided by Ernesto Munoz, Public Services Director.

Mayor Pro Tem Righeimer thanked everyone involved with the task force, expressed concern on the amount of money this project would require and stated that it is not financially feasible at this time. Also indicated possible complications with parking and alcohol sales.

Council Member Mensinger agreed with possible complications with parking and alcohol sales.

Council Member Leece agreed that the amount of money that would be spent on the project is not feasible and commented on working with the school district and developing a master plan.

Ann Kelley, Costa Mesa, spoke in opposition of the development of the park.

Robin Leffler, Costa Mesa, supported leaving the fields in their current capacity.

Sandra Genis, Costa Mesa, encouraged the master planning of the facility in conjunction with the school district, and also master planning the recreation facilities citywide.

Council Member Monahan requested staff to provide the minutes of the task force to the Recreation Manager, thanked everyone involved in the task force, and commented on the underutilization of the fields.

MOTION: Receive and file.

MOVED/SECOND: Mayor Bever/Mayor Pro Tem Righeimer

The motion carried unanimously.

4. NEIGHBORHOOD IMPROVEMENT TASK FORCE UPDATE (04:38:18)

MOTION: Continue item to a future meeting.

MOVED/SECOND: Council Member Monahan/Mayor Pro Tem Righeimer
The motion carried unanimously.

The Mayor adjourned the meeting at 11:23 p.m.



MAYOR



INTERIM CITY CLERK