

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

March 27, 2012

The City Council of the City of Costa Mesa, California met in a Special Meeting on Monday, March 27, 2012 at 5 p.m. in the Council Chambers, City Hall, 77, Fair Drive, Costa Mesa. The meeting was called to order by the Mayor.

ROLL CALL:

Council Members Present: Mayor Eric R. Bever
Mayor Pro Tem James M. Righeimer
Council Member Wendy Leece
Council Member Stephen M. Mensinger
Council Member Gary Monahan

Council Members Absent: None

Officials Present: CEO Thomas R. Hatch
Assistant CEO Rick Francis
City Attorney Thomas Duarte
Economic Development Dir/Deputy CEO Peter Naghavi
Transportation Manager Raja Sethuraman
Interim Development Services Director Khanh Nguyen
Finance/IT Director Bobby Young
Public Affairs Manager Bill Lobdell
Public Affairs Manager Dan Joyce
City Clerk Julie Folcik

PUBLIC COMMENT (00:00:50)

No public comments

REGULAR AGENDA ITEM

- I. Engagement Letter with Jones Day for legal services in the connection with Julie Folcik vs. Orange County Registrar of Voters and Neal Kelley, Registrar of Voters (Orange County Superior Case No. 30-2012 00553905). (00:01:03)

City Attorney Thomas Duarte reported that in early March the City Council approved resolutions to place the charter measure on the June ballot. Due to a clerical error by the City Clerk, the Resolutions were not sent to the Registrar of Voters office by the March 9 deadline. Jones Day filed a lawsuit to obtain court approval to direct the Registrar of Voters to put the charter ballot measure on the June elections ballot. City

Attorney Duarte indicated that the rate for service is \$495 per hour and the engagement letter would be effective March 14, 2012.

Council Member Wendy Leece asked for a reason why the City Council did not vote to retain Jones Day prior to filing the lawsuit and if there were other cases of a City Clerk filing a lawsuit for a City.

City Attorney Duarte advised that he was directed to have a retainer for Jones Day authorized for the purposes of this lawsuit and the CEO has authority to retain outside counsel. City Attorney Duarte also confirmed many cases of city clerks as the elections official bringing lawsuits and can discuss further in the agendaized closed session.

Council Member Leece stated that her reasons for dissenting were that the City is already in court and did not want to spend more taxpayer money to pursue this lawsuit. She noted that at Council meetings, residents asked that the Charter not be put on the June ballot so that they can have more time to understand the Charter, there is a bigger voter turnout in November, and the entire process had been rushed.

MOTION: To approve the Engagement Letter, moved by Council Member Monahan, seconded by Mayor Pro Tem Righeimer. (00:04:00)

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem James M. Righeimer, Council Member Stephen M. Mensinger, Council Member Gary Monahan

Noes: Council Member Wendy Leece

Absent: None.

The Mayor adjourned to Closed Session at 5:10 p.m. (00:05:48)

The Mayor reconvened the Special City Council meeting at 6:42 p.m. (00:07:21)

City Attorney Report: (00:07:30)

City Attorney Duarte reported the City Council's action for closed session item two approving a motion to amend the petition and add the City as a party to Superior Court Case No. 30-2012 00553905.

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem James M. Righeimer, Council Member Stephen M. Mensinger, Council Member Gary Monahan

Noes: Council Member Wendy Leece

Absent: None.

City Attorney Duarte reported that the City Council approved a second motion to appeal the lower courts decision in the Julie Folcik vs. Orange County Registrar of Voters Superior Court Case No. 30-2012 00553905.

The motion carried by the following roll call vote:

Ayes: Mayor Eric R. Bever, Mayor Pro Tem James M. Righeimer, Council Member Stephen M. Mensinger, Council Member Gary Monahan

Noes: Council Member Wendy Leece

Absent: None.

The City Council took no action on Closed Session Item No. 3.

ADJOURNMENT:

The Mayor adjourned the Special Meeting at 6:43 p.m. (00:08:23)



Mayor of the City of Costa Mesa

ATTEST:



Acting Deputy City Clerk of the
City of Costa Mesa

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