

CITY COUNCIL
CITY OF COSTA MESA

COUNCIL CHAMBERS
CITY HALL
77 FAIR DRIVE

AUGUST 15, 2006
REGULAR MEETING

Mayor Mansoor called the Regular Meeting of the City of Costa Mesa, California to order at 5:00 p.m. and requested the City Clerk to call the roll.

PRESENT: COUNCIL MEMBERS: ALLAN R. MANSOOR
LINDA W. DIXON
GARY C. MONAHAN

ABSENT: COUNCIL MEMBERS: ERIC R. BEVER
KATRINA A. FOLEY

ALSO PRESENT: ALLAN L. ROEDER, CITY MANAGER
KIMBERLY HALL BARLOW, CITY ATTORNEY
DONALD LAMM, DEVELOPMENT SERVICES DIRECTOR
WILLIAM MORRIS, PUBLIC SERVICES DIRECTOR
LINDA D. RUTH, INTERIM CITY CLERK
MEL LEE, SENIOR PLANNER

PUBLIC COMMENTS: There were no public comments.

CLOSED SESSION: The Mayor declared the City Council recessed into Closed Session at 5:07 p.m., to consider the following:

1. Conference with Legal Counsel – Existing Litigation; pursuant to Government Code Section 54956.9(a).

- a. Mansfield v. City of Costa Mesa, Case Number SACV 05-133 CJC (RNBx)
- b. Acosta v. City of Costa Mesa, Case Number SACV 06-233 DOC (MLGx).

2. Bristol Street Mini-Storage

- a. Conference with Real Property Negotiators: Property at 1100 Bristol Street, Costa Mesa. Agency Negotiator: Allan Roeder. Negotiating Parties: Bristol Street Mini-Storage LLC (Lee Jamieson) and County of Orange (Herb Nakasone), pursuant to Government Code Section 54956.8.
- b. Conference with Legal Counsel – Anticipated Litigation: Significant exposure to litigation, one case, Bristol Street Mini-Storage, pursuant to Government Code Section 54956.9(b).

AFTER RECESS: The Mayor reconvened the meeting with all Council Members being present, except Council Member Foley. Council Member Bever entered the meeting at 5:30 p.m.

AGENDA REVIEW STUDY SESSION: The Mayor announced that the agenda review study session would be conducted in Conference Room 1A on the first floor of City Hall and would commence immediately. No action was taken on any matter.

AFTER RECESS: The Mayor reconvened the Regular Meeting of the City Council at 6:00 p.m.

PLEDGE OF ALLEGIANCE: Mayor Mansoor led the assembly in the Pledge of Allegiance to the Flag.

MOMENT OF SOLEMN EXPRESSION: Pastor Bill Gartner, Harbor Christian Fellowship, noted that he and his wife visited with the parents of Israel Masciel, the young man who was recently killed, and advised that they spoke of love and concern for their City and expressed the hope that people would be touched by the life and death of their son.

ROLL CALL: The Mayor requested the City Clerk to call the roll:

PRESENT: COUNCIL MEMBERS: ALLAN R. MANSOOR,
ERIC R. BEVER
LINDA W. DIXON
GARY C. MONAHAN

ABSENT: COUNCIL MEMBERS: KATRINA A. FOLEY

ALSO PRESENT: ALLAN L. ROEDER, CITY MANAGER
KIMBERLY HALL BARLOW, CITY ATTORNEY
LINDA D. RUTH, INTERIM CITY CLERK
DONALD LAMM, DEVELOPMENT SERVICES DIRECTOR
WILLIAM MORRIS, PUBLIC SERVICES DIRECTOR

CLOSED SESSION REPORT: City Attorney Kimberly Barlow announced that relating to:

1. Acosta vs City: City Council voted 3 to 0, with Council Members Bever and Foley absent, to defend the individual officers involved.
2. Bristol Street Mini-Storage: City Council voted 3 to 0, with Council Members Bever and Foley absent, to extend up to 90 days the existing tolling agreement, subject to 30 days' cancellation notice.

INTRODUCTION OF INTERIM FIRE CHIEF: City Manager Allan Roeder introduced Steve Parker, Interim Fire Chief in the extended absence of Chief Ellis.

PRESENTATIONS

1. All Stars, Little League Mayor's Cup Teams: The Mayor introduced the members of the All Stars of the Costa Mesa American and National Little League Mayor's Cup Teams and presented them with congratulatory certificates.
2. 2007 Fish Fry Parade: Mike Scheafer of the Newport-Harbor Lions Club announced the tentative date of June 2, 2007, at 10:00 a.m., for the return of the Fish Fry Parade, which would be sponsored by the Lions Club and the Costa Mesa Community Foundation, introduced Mike McIlroy, President, who would be in charge of the event, requested City Council support, and noted that additional information was available at www.cmnhlions.com.

Cindy Brenneman of the Costa Mesa Community Foundation submitted a petition (on file in the City Clerk's Office) signed by members of the community requesting the return of the Fish Fry Parade and encouraged anyone who wished to volunteer and/or donate to contact them at www.cm-fund.org. The group showed pictures of past parades. The Mayor thanked the group for bringing the Fish Fry Parade back and stated the City was looking forward to it.

PUBLIC COMMENTS

1. John Earl, Huntington Beach, complimented Council Member Dixon on her recent editorial in the newspaper and criticized the Mayor's campaign and his position on issues.
2. Scott Sink, Costa Mesa, criticized the Mayor's recent western theme fundraiser and gave a historical perspective of the American cowboy.

3. Hema Salas, Costa Mesa, expressed her concurrence with Council Member Dixon's editorial in the newspaper and criticized the Mayor's comments relating to immigration and the recent death of Israel Masciel.
4. Antonio Mendoza, Costa Mesa, disagreed with the Mayor's position on immigrants and comments on the death of Israel Masciel.
5. Terry Shaw, Costa Mesa Historical Society, invited the City Council and the public to their 40th Anniversary Celebration to be held September 16th, 10:00 a.m. to 3:00 p.m., at the Diego Sepulveda Adobe, also known as the Estancia Adobe, noted their guest speakers, and advised additional information could be obtained at www.costamesahistory@sbcglobal.net or by calling 949/631-5918.
6. Mark Abrahms, Costa Mesa, stated he was appalled by Council Member Dixon's recent editorial; expressed support for the Mayor's comments; and believed this was just another political ploy which was very divisive.
7. Sandra Genis, Costa Mesa, gave a chronology of newspaper reports following the recent shooting of a young man on Baker Street and criticized the City Council and members of the public for their politicization of the tragedy.
8. Wendy Leece, Costa Mesa, stated she learned that the young man killed recently was the innocent victim of a gang-related shooting; this was the fourth murder in the City; and believed that the rhetoric and name calling should stop and the City and community should focus on solving the problem and enforcing the law.
9. Humberto Caspa, Costa Mesa, stated he was concerned about our local government being so divisive; noted in school it is taught that our political system is one of compromise and in his opinion, compromise was not apparent in the City; and he urged the City Council to work together for the betterment of the community.

COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Mayor Pro Tem Bever

1. Referred to Senate Bill 1322 relating to the elimination of the numerical factor for permitting group homes and requested the Legislative Analyst in the City Manager's office to prepare a letter for his signature or the full Council's signature opposing the legislation; City Manager Roeder advised if it had not already been done, his office would prepare a letter.
2. Although he agreed with some of the public comments this date, he expressed strong concern that the death of a fine young man was being used for political purposes, that the Mayor was being attacked, and that Council Member Dixon wrote a letter to the newspaper with disparaging remarks about the Mayor and members of the community, which he found to be disturbing and unprofessional as a member of the City Council; and challenged Council Member Dixon to show him any evidence that supports her contentions.

Council Member Monahan

1. Congratulated the two Little League All Star Teams who participated in the 10th Annual Mayor's Cup Tournament, especially the American Little League this year, noting each team has won five times.
2. Advised he will be seeking election to the Costa Mesa Sanitary District.
3. Relating to a public comment speaker about the lack of compromise among Council Members and the community, he referred to certain issues over the past couple of years which were resolved by compromising.

Mayor Mansoor

1. Relating to Bark Park, learned that the Parks and Recreation Commission was supportive of a second entrance with two gates for small dogs and asked the City Manager to determine if the construction bidding process could be stepped up, since it was a dog safety issue. The City Manager acknowledged that the Parks and Recreation Commission had considered the matter and requested the Public Services Director to give a status report on the project. Bill Morris advised that they were in contact with the Bark Park Foundation to ascertain their need and were

working with fencing companies to get a cost estimate for a second gate into the small dog area. Mr. Morris believed that the project could be accomplished in the next several weeks and advised he would submit a status report to the City Council.

2. Noted that former Council Member Genis was correct, that his response to the newspaper was about the City-wide issues, including crime and gang issues; it didn't matter if the recent shooting was gang-related or not, it was a shooting and someone lost their life; advised that the family had his deepest sympathy and he has stated that publicly; advised he had received many calls of concern about the matter and noted he was going to continue to focus on crime and revitalization issues. He noted that his original quote in the newspaper was accurate in its entirety and that he simply said when you have a large concentration of this type of activity, it negatively impacts the City, but when the second article appeared, the newspaper printed only a portion of his quote stating that he continued to defend his opinion that the violence was the result of job centers and soup kitchens and that was not what he said. He stated he called the reporter who wrote the article and was advised that it was changed considerably by her editors. The Mayor expressed concern about his statements being misstated and taken out of context.

Relating to Council Member Dixon's letter to the newspaper, he expressed his disappointment with it and noted she had never brought to his attention any matter which she believed he did not handle properly or respectfully; he encouraged anyone who had a problem with how he was handling a meeting, to contact him. Relating to the immigration issue, the Mayor related the history of his parents and other relatives international ancestry; stated he favored legal immigration and believed in following the law; clarified that he voted for the two gang officers in the budget and joining Target; did not want to close the golf course; was in favor of sports fields and use of parks for sports, but wanted to minimize any negative impacts on surrounding neighborhoods; and that he would continue to address quality of life issues and revitalization in the City.

Council Member Dixon

1. Thanked the Lions Club and the Community Foundation for their efforts in bringing back the Fish Fry Parade.
2. Apologized to anyone in the community who thought she wrote the letter to the newspaper for political purposes; that was not her intention; and further stated she would not defend her comments and stood by what she said.

CONSENT CALENDAR

Mayor Mansoor removed Item No. 13 and Council Member Dixon removed Item No. 16 from the Consent Calendar for comment.

MOTION: On motion by Council Member Monahan, seconded by Council Member Dixon, the City Council took the following actions on the following items:

Written Communications

1. The following claim was received and processed: Conrado A. Leones

The following Alcoholic Beverage Control Licenses was received and processed: Kwik Korner, for George Issa Alhosry, 612 Baker Street, Unit B, Costa Mesa, for a person-to-person transfer of an existing type 21 (off-sale general).

Minutes

2. Approved the Minutes of the Regular Meeting held July 18, 2006.

Warrants

3. Adopted Warrant Resolution No. 2121, funding City operating expenses in the amount of \$568,819.72.
4. Adopted Warrant Resolution No. 2122, funding Payroll No. 615, 614A and City operating expenses, including payroll deductions, in the amounts of \$2,309,667.55, \$722.15 and \$955,249.28, respectively.

Administrative Actions

5. Accepted the completion, as of March 1, 2006, of the Costa Mesa Police Facility Basement Renovation, Project No. 04-26, by Pardess Air, Inc., 1769 Kelton Avenue, Los Angeles; authorized the City Clerk to file a Notice of Completion; authorized release of retention monies 35 days thereafter; exonerated the Labor and Material Bond seven (7) months thereafter; and exonerated the Faithful Performance Bond twelve (12) months thereafter.
6. Accepted the completion of State Avenue Storm Emergency Construction and Repairs, Project No. 05-01, by Mike Kilbride, Ltd.
7. Accepted the completion of Albert Place Storm Drain Emergency Construction and Repairs, Project No. 05-02, by S. Parker Engineering, Inc.
8. 2005-2006 CDBG Projects: Wallace Avenue (Project "A"), Buoy Street (Project "B"), Kenwood Place (Project "C"), and Congress Street (Project "D"), Project No. 06-05:
 - a) Approved Budget Adjustment No. 07-006 in the amount of \$35,000 and authorized the Mayor to sign.
 - b) Awarded a Construction Contract to R. J. Noble Company, 15505 East Lincoln Avenue, Orange, in the amount of \$497,329.20, and authorized the Mayor and City Clerk to sign.
9. 2005-2006 CDBG Project: Alley No. 123, Project No. 06-09:
 - a) Approved Budget Adjustment No. 07-007 in the amount of \$25,000 and authorized the Mayor to sign.
 - b) Awarded a Construction Contract to Kalban, Inc., 9075 Glenoaks Boulevard, Sun Valley, in the amount of \$187,145.64 and authorized the Mayor and City Clerk to sign.
10. Awarded a Construction Contract for the Costa Mesa Police Facility, Renovation of the Sewer Lift Station, Project No. 06-11, to Jamison Engineering Contractors, Inc., 17197 Newhope Street, Suite J, Fountain Valley, in the amount of \$43,800 and authorized the Mayor and City Clerk to sign.
 - a) Approved Budget Adjustment No. 07-005 in the amount of \$50,000 and authorized the Mayor to sign.
11. Awarded a Construction Contract for the Costa Mesa Police Facility, Hazardous Materials Abatement, Project No. 06-12, to TEG/LVI Environmental Services, Inc., 13320 Cambridge Street, Santa Fe springs, in the amount of \$72,000 and authorized the Mayor and City Clerk to sign.
 - a) Approved Budget Adjustment No. 07-002 in the amount of \$72,000 and authorized the Mayor to sign.
12. Awarded Construction Contract for the Fair Drive Storm Drain Improvements, Project No. 06-16, to Lonerock, Inc., 25 Vista Firenze, Laguna Hills, in the amount of \$497,759.50 and authorized the Mayor and City Clerk to sign.
 - a) Budget Adjustment No. 07-008 in the amount of \$540,000 and authorized the Mayor to sign.

14. Amendment of Streetscape and Median Development Standards:

a) Adopted the following entitled Resolution:

RESOLUTION NO. 06-65. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING AMENDMENTS TO THE STREETScape AND MEDIAN DEVELOPMENT STANDARDS. (To enhance the planting palette for the medians on Mesa Verde Drive East and West).

b) Adopted the following entitled Resolution:

RESOLUTION NO. 06-66. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING AMENDMENTS TO THE STREETScape AND MEDIAN DEVELOPMENT STANDARDS. (Authorizes the Parks and Recreation Commission to approve future amendments to the Streetscape and Median Development Standards without City Council action)

15. Approved Amendment No. 1 to Professional Services Agreement for Traffic Signal System Integration Upgrades to recognize Telvent Farradyne, Inc., as contract successor to PB Farradyne, for development of the Signal Management System Integration Project, and authorized the Mayor and City Clerk to sign.

17. Approved Purchase Order for the rehabilitation of two City-owned street sweepers to GCS Western Power and Equipment, 8721 Commonwealth Avenue, Buena Park, in the amount of \$210,920.62.

18. Approved the purchase of eight 2007 Police Interceptor black and white Ford Crown Victoria vehicles with the police package from Clippinger Ford, 2000 E. Garvey South, West Covina, in the amount of \$197,916.24.

a) Approved Budget Adjustment No. 01-010 in the amount of \$24,730 to appropriate available balance in the Equipment Replacement Fund for replacement of one police unit that was involved in a traffic collision and authorized the Mayor to sign.

19. Approved the release and exoneration of Performance Bond (Certificate No. 819474S) and Performance and Labor and Material Bonds (Certificate No. 819475S) in the amounts of \$2,000 and \$25,562.28, respectively, to Encore Builders, LLC, P. O. Box 1183, Los Alamitos, in connection with Tract Map No. 16476 for Survey Monumentation and Encroachment Permit No. PS05-00169 issued for property located at 2553 Santa Ana Avenue.

A vote was taken on the foregoing motion. Council Member Foley absent. MOTION CARRIED. The Mayor declared Warrants Resolution Nos. 2121 and 2122 duly passed and adopted.

END OF CONSENT CALENDAR

ITEMS REMOVED FROM THE CONSENT CALENDAR

13. Residential Remodeling Incentive Program: Mayor Mansoor removed the item from the Consent Calendar to emphasize that due to the success of last year's Program, the City was reauthorizing it this year, noting it was for residential remodeling only and would commence September 5, 2006 and end on December 15, 2006.

MOTION: On motion by Council Member Mansoor, seconded by Council Member Dixon, the City Council adopted the following Resolution entitled:

RESOLUTION NO. 06-73. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA MODIFYING BUILDING AND CONSTRUCTION FEES TO ESTABLISH AND PROMOTE A RESIDENTIAL REMODELING INCENTIVE

PROGRAM. (Amends Resolution No. 06-12; for residential remodeling Building Permits issued between September 5, 2006 and December 15, 2006)

Roll Call Vote:

AYES: COUNCIL MEMBERS: MANSOOR, BEVER, DIXON, AND MONAHAN

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: FOLEY

MOTION CARRIED. The Mayor declared Resolution No. 06-73 duly passed and adopted.

16. NOTICE OF INTENT TO VACATE—PORTIONS OF EL CAMINO, MENDOZA, AND CORONADO DRIVES: Council Member Dixon removed the item from the Consent Calendar and asked when building construction is expected. Development Services Director Don Lamm advised that the property owner expects to demolish the existing buildings within 60 to 90 days. Council Member Dixon requested that the City Council receive status/progress reports.

MOTION: On motion by Council Member Dixon, seconded by Council Member Bever, the City Council adopted the following entitled resolution:

RESOLUTION NO. 06-67: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA DECLARING ITS INTENTION TO ORDER THE VACATION OF A PORTION OF EL CAMINO DRIVE, MENDOZA DRIVE, AND CORONADO DRIVE ADJACENT TO 1011-1045 EL CAMINO DRIVE AND AT 2805 AND 2829 SAN JUAN LANE. (Setting a public hearing date for September 19, 2006, 7:00 p.m.)

Roll Call Vote:

AYES: COUNCIL MEMBERS: MANSOOR, BEVER, DIXON, AND MONAHAN

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: FOLEY

MOTION CARRIED. The Mayor declared Resolution No. 06-67 duly passed and adopted.

PUBLIC HEARINGS

1. PUBLIC HEARING: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING ZONING CODE AMENDMENT CO-06-04 WHICH AMENDS TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE DEFINITION, REVIEW PROCEDURE, AND REGULATION OF "ASSEMBLY USE".
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The City Clerk read the title of the Ordinance and stated the public hearing was continued from the July 18, 2006 City Council Meeting.

Principal Planner Kimberly Brandt referred to her Council Agenda Report dated August 3, 2006 and advised that Council Member Foley had questions about the proposed ordinance which the City Attorney has subsequently addressed.

The Mayor declared the public hearing open and asked if anyone wished to address the City Council on the matter; hearing no response, he closed the public hearing.

MOTION: On motion by Council Member Monahan, seconded by Council Member Dixon, the City Council introduced for first reading and waived further reading of the Planning Commission alternate ordinance, with the deletion of the portion of Section 13.51.52(b) relating to permitting single-family dwelling units, entitled:

ORDINANCE NO. 06-18: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING ZONING CODE AMENDMENT CO-06-04 WHICH AMENDS TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE DEFINITION, REVIEW PROCEDURE, AND REGULATION OF "ASSEMBLY USE".

Mayor Mansoor requested the City Manager to have the Planning Commission consider requiring a conditional use permit on job placement or training centers in general.

A vote was taken on the foregoing motion. Council Member Foley absent. MOTION CARRIED.

2. PUBLIC HEARING: MASTER PLAN OF DRAINAGE AND DRAINAGE REQUIREMENTS UPDATE & NEW DRAINAGE IMPACT FEES.

To consider adoption of an ordinance amending title 15, Chapter III of the Costa Mesa Municipal Code to update the City's Master Plan of Drainage and drainage requirements and to adopt a resolution setting new Drainage Impact Fees. The City Clerk announced that this was the date and time set for public hearing, that legal publication had been made and that the Affidavit of Publication was on file in her office, and she read the titles of the proposed ordinance and resolution.

Ernesto Munoz, City Engineer, briefed his Council Agenda Report dated August 3, 2006, noting that the Master Plan of Drainage was last updated in 1984 and that the drainage requirements and drainage fees were established in 1971 and have not been amended to date. Mr. Munoz stated that the City retained Psomas in association with Stanley R. Hoffman Associates, Inc., and Hromadka & Associates, to update the Plan (on file in the City Clerk's Office).

The Mayor declared the public hearing open and asked if anyone wished to address the City Council on the matter.

1. Walt Halwell, Costa Mesa, complimented staff and the consultant for their insight; noted the importance of upgrading and maintaining the City's infrastructure system; and stated he was in favor of the increased fees.
2. Terry Shaw, Costa Mesa, questioned the basis for the fee for a specific sized lot.
3. Wendy Leece, Costa Mesa, questioned if the increased fees meant more taxes; the City Manager responded the new fees would apply to properties being developed or redeveloped.

The Mayor asked if anyone else wished to address the City Council; hearing no response, he closed the public hearing.

Council discussion ensued relating to the City-wide impact/benefit on the drainage system, the fact the City is ninety-eight percent built-out, the need to update drainage fees, and possible City-wide bond funding for improvements.

Council Member Bever expressed the opinion that increasing the fees to the extent proposed would have a chilling effect on the City's revitalization efforts; that requiring a developer or property owner to pay for drainage improvements which would benefit the entire City was not fair; everyone should pay their fair share of the improvement; and believed City should use a combination of drainage fees and bond indebtedness to pay for drainage improvements.

MOTION: On motion by Council Member Mansoor, the City Council approved the updated Master Plan of Drainage, introduced for first reading an ordinance amending

the Costa Mesa Municipal Code relating to drainage, and adopted a resolution revising the drainage fees. Council Member Dixon seconded the motion.

SUBSTITUTE MOTION: Council Member Monahan stated he could not support the ordinance or resolution at this time and thereupon moved to approve the updated Master Plan of Drainage only.

Council Member Mansoor withdrew his motion and stated each item would be taken separately.

Council Member Mansoor seconded the foregoing substitute motion. Council Member Foley absent. MOTION CARRIED.

MOTION: On motion by Council Member Dixon, seconded by Council Member Mansoor, the City Council introduced for first reading and waived further reading thereof, the following entitled ordinance:

ORDINANCE NO. 06-19. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING CHAPTER III OF TITLE 15 OF THE COSTA MESA MUNICIPAL CODE RELATING TO DRAINAGE.

Council Member Monahan voted "No" and Council Member Foley was absent. MOTION CARRIED.

MOTION: On motion by Council Member Dixon, seconded by Council Member Mansoor, the City Council adopted a resolution establishing a revised drainage fee. Council Members Bever and Monahan voted "No" and Council Member Foley was absent. MOTION FAILED TO CARRY.

Council Member Monahan stated he preferred a sliding scale over time and to look at other funds to help defray some of the costs for drainage improvements.

MOTION: On motion by Council Member Monahan, seconded by Council Member Dixon, the City Council continued consideration of adoption of a resolution establishing a revised drainage fee to September 5, 2006.

Mayor Mansoor stated he wanted to see the City's infrastructure improved, street repair, drainage and other improvements. He stated he would support a compromise in fees, but emphasized the need for the City to move forward. The Mayor and Council Member Dixon requested staff to submit fee alternatives.

A vote was taken on the foregoing motion. Council Member Bever voted "No" and Council Member Foley was absent. MOTION CARRIED.

3. PUBLIC HEARING: APPEAL OF PLANNING APPLICATION PA-06-29, 2379 THROUGH 2381 ELDEN AVENUE, CATEGORICAL EXEMPTION.

Appeal of the Planning Commission's denial of Planning Application PA-06-29, a residential common interest conversion of an existing 12-unit apartment project to condominiums on property located at 2379 through 2381 Elden Avenue (odd numbers), in an R2-MD zone; Peter Zehnder, authorized agent for Evans Trust, applicant; Environmental Determination, Categorically Exempt.

City Council Agenda Report dated August 3, 2006 noted that the applicant requested a continuance of the public hearing to provide additional information for review.

MOTION: On motion by Council Member Monahan, seconded by Council Member Dixon, the City Council continued the public hearing on the appeal of Planning Application 06-29 to September 5, 2006, at 7:00 p.m. Council Member Foley absent. MOTION CARRIED.

RECESS: The Mayor declared the meeting recessed at 8:00 p.m.

AFTER RECESS: The Mayor reconvened the meeting at 8:15 p.m. with all Council Members present, except Council Member Foley.

4. PUBLIC HEARING: REVIEW OF ZA 06-18, 1676 TUSTIN AVENUE, CATEGORICAL EXEMPTION

Review of Planning Commission's denial of ZA-06-18, a minor conditional use permit to allow an outdoor Television behind the Beach Pit Barbeque Restaurant located at 1676 Tustin Avenue in a C1 zone; Tim DeCinces, authorized agent for Mike Simonian, applicant; Environmental Determination, Categorically Exempt.

The City Clerk announced this was the date and time set for public hearing and that the Affidavit of Publication was on file in her office.

Wendy Shih, Associate Planner, briefed her Council Agenda Report dated August 3, 2006, noting the applicant was requesting that an outdoor television with muted sound, be permitted.

Council discussion ensued relating to government's involvement in licensing televisions, impact on the surrounding neighborhood, and hours and locations for deliveries.

Tim DeCinces, authorized agent for Mike Simonian, apologized for using a television on one weekend during the NCAA basketball finals without City approval for which he paid a fine; stated they agreed with the no sound requirement and turning the TV off at 9:00 p.m; and emphasized the restaurant was in a C1 zone and leased before the adjacent neighbors purchased their homes. He advised that the adjoining property owners have harassed them and their customers, noting the Air Quality Management District was out four times in one week and found no violations, and Code Enforcement is out daily; and read a mass email received by the neighborhood.

The Mayor declared the public hearing open and asked if anyone wished to address the City Council on the matter.

1. Dorothy McNiff, Costa Mesa, reiterated the historical background on the zoning of the property; disputed the applicant's claim of hours of operation and deliveries; read a condition of approval that required the applicant to conduct his business in a manner that would not impact the quiet enjoyment of the surrounding neighborhood; and requested denial of the application.
2. Brian Griffith, Newport Beach, a partner in the Beach Pit Barbeque, stated that he did not believe a muted television would increase the noise level and pointed out the harassment experienced by their business and customers.
4. Beth Refakes, Costa Mesa, expressed the opinion that cheering from customers watching the TV would increase the noise and encouraged the City Council to deny the outdoor TV.
5. Celeste Ames, Costa Mesa, advised that she knows of no one in the immediate area who wants the TV permitted; parking on Tustin Avenue is bad; noted traffic safety concerns; and stated the restaurant's customers park in their condominium parking spaces or in the adjacent strip mall.

The Mayor asked if anyone else wished to address the City Council; hearing no response, he closed the public hearing.

Council deliberated, and issues relating to noise levels, hours of operation, condition requiring the restaurant to provide for the quiet enjoyment of the neighborhood, and concern about customer cheering even if TV is muted, were discussed.

MOTION: On motion by Council Member Mansoor, seconded by Council Member Dixon, the City Council adopted Resolution No. 06-68 upholding the Planning Commission's denial of ZA-06-18 and denying Minor Conditional Use Permit ZA-06-18.

Council Member Monahan reiterated he did not believe the City Council should be in the business of licensing televisions.

Tim DeCinces, applicant, surmised that his zoning matter was about to be denied, but wanted to again apologize for his error; noted that he is currently allowed to have a TV indoors; and confirmed with staff that his business has never been cited for violation of permitted delivery hours.

Council Member Bever noted the City Council was about to deny use of an outdoor TV at the restaurant, which was what the surrounding neighborhood wanted, and that the business owner was required to comply with certain conditions of approval. He encouraged and requested both parties respect each other's rights.

RESOLUTION NO. 06-68. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, DENYING MINOR CONDITIONAL USE PERMIT ZA-06-18.

Roll Call Vote:

AYES:	COUNCIL MEMBERS:	MANSOOR, BEVER, AND DIXON
NOES:	COUNCIL MEMBERS:	MONAHAN
ABSENT:	COUNCIL MEMBERS:	FOLEY

The Mayor declared Resolution No. 06-68 duly passed and adopted.

5. PUBLIC HEARING: CERTIFICATION OF SPECIAL ASSESSMENTS FOR DELINQUENT CIVIL FINES FOR MUNICIPAL CODE VIOLATIONS

A resolution certifying special assessments for collection of delinquent civil citations for Municipal Code violations. The City Clerk announced this was the date and time set for public hearing and that the Affidavit of Publication was on file in her office.

Director of Finance Marc Puckett briefed his Council Agenda Report dated August 2, 2006 and advised that a revised resolution had been submitted, noting there was a change in a reference to a Municipal Code section and authorizing State Code section and elimination of the name of a property owner in the attachment to the resolution who recently paid his fine.

In response to Council, Director of Finance Puckett explained the collection and foreclosure proceedings permitted by law.

The Mayor declared the public hearing open and asked if anyone wished to address the City Council; hearing no response, he closed the public hearing.

MOTION: On motion by Council Member Monahan, seconded by Council Member Dixon, the City Council adopted Resolution No. 06-69 entitled:

RESOLUTION NO. 06-69. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CERTIFYING SPECIAL ASSESSMENTS FOR COLLECTION OF DELINQUENT CIVIL CITATIONS FOR MUNICIPAL CODE VIOLATIONS.

Roll Call Vote:

AYES:	COUNCIL MEMBERS:	MANSOOR, BEVER, DIXON, AND MONAHAN
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	FOLEY

MOTION CARRIED. The Mayor declared Resolution No. 06-69 duly passed and adopted.

OLD BUSINESS

1. The City Clerk read the title of Ordinance No. 06-16 and noted it was introduced for first reading at the August 1, 2006 meeting.

MOTION: On motion by Council Member Mansoor, seconded by Council Member Bever, the City Council waived further reading and adopted Ordinance No. 06-16.

ORDINANCE NO. 06-16: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFONRIA ADOPTING PETITION R-06-02 CHANGING THE ZONING OF 1450 ADAMS AVENUE FROM CL (COMMERCIAL LIMITED) AND I & R (INSTITUTIONAL & RECREATIONAL) TO P (OFF-STREET PARKING).

Roll Call Vote:

AYES: COUNCIL MEMBERS: MANSOOR, BEVER, DIXON, AND MONAHAN

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: FOLEY

MOTION CARRIED. The Mayor declared Ordinance No. 06-16 duly passed and adopted.

2. The City Clerk read the title of Ordinance No. 06-17 and noted it was introduced for first reading at the August 1, 2006 meeting.

MOTION: On motion by Council Member Mansoor, seconded by Council Member Dixon, the City Council waived further reading and adopted Ordinance No. 06-17.

ORDINANCE NO. 06-17: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFONRIA AMENDING CHAPTER 1 OF TITLE 11 OF THE COSTA MESA MUNICIPAL CODE RELATING TO FALSE REPORTS.

Roll Call Vote:

AYES: COUNCIL MEMBERS: MANSOOR, BEVER, DIXON, AND MONAHAN

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: FOLEY

MOTION CARRIED. The Mayor declared Ordinance No. 06-17 duly passed and adopted.

3. Application for rehearing on DR-06-01, to legalize the installation of a mobile home on a lot with an existing home located at 2333 Eldon Avenue. (Public Hearing held august 1, 2006)

At the beginning of the meeting, Mayor Mansoor noted that the application for rehearing was filed by Council Member Foley, who was absent this date, and suggested a continuance.

MOTION: On motion by Council Member Mansoor, seconded by Council Member Monahan, the City Council continued the application for rehearing on DR-06-01 to September 5, 2006. Council Member Foley absent. MOTION CARRIED.

NEW BUSINESS

1. Urban Master Plan Screening requests for the following:

a. UMP-06-07 for 801 Baker Street in the SoBeca Urban Plan

Senior Planner Claire Flynn briefed her Council Agenda Report dated August 1, 2006 and advised the purpose of the screening process was to allow the applicant to consider Council's initial comments and to refine the development concept based on their feedback. Ms. Flynn described the conceptual project, noting it incorporates the existing building being used as retail and residential units constructed over it.

The City Council recognized the conceptual plans were for urban-style living, which may have a higher density and different traffic patterns, and expressed confidence in staff to carefully review them. City Council asked questions for clarification purposes, noted concerns about traffic, height of building proposed, need for landscaping, setback issue along Century, need for a landscape buffer along the Shark Club, the floor area ratio, and massing of the project to provide appropriate building transitioning from the street.

Eric Nelson, Red Mountain Retail Group, clarified questions posed and stated they were excited to have the opportunity to provide this new type of living in the City.

The Mayor asked if anyone in the audience wished to address the item; no one responded.

b. UMP06-08 for 1945 Placentia Avenue in the 19 West Urban Plan

Ms. Flynn described the conceptual project, noting it involved the demolition of an industrial office complex and construction of a combined live-work and residential development with a maximum height of four stories. Ms. Flynn noted that the density and intensity of the conceptual project exceeded what was envisioned for the Urban Plan area, that traffic studies would have to accompany an environmental impact document for the project, the 19th Street frontage requirement has not been met, and whether a sufficient amount of retail would be provided.

Brian Malliet, BKM Development, Costa Mesa, stated they are having trouble with the floor area ratio required in the Urban Plan and the perceived 13 dwelling units per acre; and that the new Urban Plan projects will not meet the traffic standards. Mr. Malliet stated they believed in order to encourage urban development in the area, 35 to 40 dwelling units per acre would be needed to offset the values of the industrial properties in the area.

Council discussion ensued, including the 19th Street frontage requirement should not be held against the proposed project, since the owners have attempted to buy the properties, but property owners for whatever reasons did not want to sell; revitalization of the area was the goal; increased traffic due to live/work development; mitigation of traffic issues; floor area ratio in the mixed use overlay; provision for larger units; height of buildings; inclusion of strict commercial uses on the street level with walking areas; possible inclusion of green roofs; and an increase in the number of live/work units.

The Mayor asked if anyone in the audience wished to address the item.

Michael Connelly, Costa Mesa, owner of property on 19th Street, stated he believed that the project would be a good one; encouraged the developer to be sensitive to the commercial core businesses on 19th Street; believed the frontage property on 19th Street should remain the focus for any mixed use development along 19th Street; if project is allowed, six commercial frontage properties would be landlocked on the outside of the project; consolidation of properties was key to mixed use development in the area; and was willing to negotiate with Mr. Malliet on consolidation.

Rob Sake, partner in the project, stated they would be happy to work with Mr. Connelly and other owners to develop an attractive quality development. Mr. Sake emphasized the need to work out the density and traffic issues.

The Mayor asked if anyone else wished to address the City Council; there was no further response.

The City Council encouraged the developer to proceed.

MOTION: On motion by Council Member Mansoor, seconded by Council Member Dixon, the City Council ordered the report received and filed. Council Member Foley absent. MOTION CARRIED.

2. GP-06-04, General Plan Screening request for 352-382 Victoria Street: Senior Planner Claire Flynn briefed her Council Agenda Report dated July 31, 2006, noting that the applicant had acquired and was proposing consolidation of five separate parcels and development of a high density residential project. Ms. Flynn explained the General Plan Screening criteria and noted that staff does have concerns relating to the site-specific density proposal (26 dwelling units/acre), but the relative merits of the project warrant further evaluation/analysis.

Shawn Rosen and Brian Coggens of The Preface Group pointed out that the project would allow the future residents to walk to local businesses, would increase the City's housing supply, promote redevelopment/revitalization of the West side, would support local businesses along Harbor Boulevard, and would reduce the number of existing driveways by combining them into one entrance.

Council discussion ensued and it was pointed out that the area would be enhanced with "for sale" housing; that the Tuscan Hills design type by KB Homes, San Jose, was a good one; and whether there was any interest or merit in having the project proceed under an urban plan overlay rather than a rezoning.

The Mayor asked if anyone wished to address the City Council on the matter; there was no response.

MOTION: On motion by Council Member Monahan, seconded by Council Member Mansoor, the City Council accepted the proposed General Plan amendment screening request, contingent upon the concurrent processing of the General Plan Amendment, rezoning, development project, and tentative tract map. Council Member Foley absent. MOTION CARRIED.

REPORTS

City Attorney:

1. Ms. Kim Barlow noted that one AB 1234 training session had been held recently and another session would be scheduled in the very near future to accommodate those who were unable to attend. Ms. Barlow reminded the City Council that the law requires certain public officials (City Council, Planning Commission and Parks and Recreation Commission in Costa Mesa) to receive AB 1234 training by the first of next year and then every two years thereafter.
2. Ms. Barlow advised she would be on vacation from August 17th to the 31st, and that Mr. Harold Potter would be serving in her absence.

City Manager: None

ADJOURNMENT: The Mayor declared the meeting adjourned at 10:10 p.m., to August 16, 2006, 4:30 p.m., for the purpose of conducting a Closed Session. The next Regular Meeting would be held September 5, 2006.

Respectfully submitted,

BY: LINDA D. RUTH, INTERIM CITY CLERK

Allan R. Mansoor, Mayor

ATTEST:

Julie Folcik, City Clerk