

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

September 15, 2009

The City Council meeting of the City of Costa Mesa, California met in regular session September 15, 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 R. Bever
Council Member Katrina Foley
Council Member Gary Monahan

Council Members Absent: None

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

II. PUBLIC COMMENTS

There were no public speakers.

III. CLOSED SESSION:

1. CONFERENCE WITH LEGAL COUNSEL - Pending Litigation: Gryde v. City of Costa Mesa, Superior Court of the State of California, Orange County, Case No. 30-2008 00101068, pursuant to Government Code Section 54956.9 (a).

Mayor Mansoor recessed the meeting at 5:04 p.m. to the closed session in Conference Room 1B.

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

PLEDGE OF ALLEGIANCE - Francis L. Flacks, U.S. Air Force Staff Sergeant (Retired), World War II Veteran

MOMENT OF SOLEMN EXPRESSION - Pastor Brian McDaniel, Calvary Chapel Costa Mesa

ROLL CALL

Council Members Present: Mayor Allan R. Mansoor
Mayor Pro Tem Wendy Leece
Council Member Eric R. Bever
Council Member Katrina Foley
Council Member Gary Monahan

Council Members Absent: None

Officials Present: City Manager Allan Roeder
Assistant City Manager Thomas Hatch
City Attorney Kimberly Hall Barlow
Acting Development Services Director Kimberly Brandt
Public Services Director Peter Naghavi
Chief of Police Christopher Shawkey
Police Sergeant Robert Sharpnack
Neighborhood Improvement Manager Muriel Ullman
CDBG/HOME Coordinator Mike Linares
City Clerk Julie Folcik

CLOSED SESSION REPORT

City Attorney Kimberly Hall Barlow reported no action was taken on the closed session item.

PRESENTATIONS

The Mayor congratulated Taylor Voss, Firefighter/Paramedic, on being named Employee of the Month of September 2009. The Mayor recognized him for his courage when rescuing an elderly man who was overcome with smoke from a house that had caught fire and was filling with smoke. Being off-duty at the time of the incident, Mr. Taylor's heroic actions and quick thinking prevented a tragic outcome.

IV. PUBLIC COMMENTS

1. Eloise Ott, Costa Mesa, commented on litter and trash in the City and suggested posting a sign notating the penalty for littering and hoped to reduce the cost of running the street sweeper; requested that mobile businesses require proof of a driver's license, vehicle registration and insurance; reported litter along the on-ramp to the SR-73 and SR-55 Freeways; and suggested that the City include a veterans preference in the hiring policy.
2. Beth Refakes, Costa Mesa, speaking on behalf of the Costa Mesa Historical Society announced that an Open House would be held on September 19, 2009, from 10:00 a.m. to 2:00 p.m., at the Diego Sepulveda Adobe; and in referring to the improvements made along

Newport Boulevard, reported that banners of businesses were not being maintained and were unsightly.

3. Judi Berry, Costa Mesa, announced a Canine Clean-up Fund was established through the Costa Mesa Community Foundation and encouraged contributions.
4. Mike Berry, Costa Mesa, suggested contacting the City of Newport Beach to assist in contributions to the Canine Clean-up Fund.
5. Aviva Goldman, Executive Director of the Costa Mesa Senior Center, addressed allegations about the Senior Center relating to the "new" requirements of the senior medical transportation program.
6. Ernie Feeney, Costa Mesa, noted that the bus drivers of the senior medical van notified the senior participants that they had to be a member of the Costa Mesa Senior Center to utilize the service.
7. John Feeney, Costa Mesa, noted a discrepancy in the transcript of the Costa Mesa Senior Board of Director's meeting; and further commented that the requirement of membership to the Senior Center, in order to utilize the medical van services, was directed by the Senior Center Executive.

V. COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Mayor Pro Tem Wendy Leece thanked public speaker Judi Berry for announcing the Canine Clean-up Fund; noted that the Diego Sepulveda Adobe building had been refurbished; and informed of a grant funding opportunity from Home Depot's Building a Home and Building a Family and requested staff to review the program.

Council Member Katrina Foley announced she participated in the "Canstruction Project" to benefit the Orange County Food Bank and encouraged food donations that were being accepted at South Coast Plaza. She announced the Annual Mesa Del Mar Homeowners Association "Luau in the Park" to be held on September 20, 2009, at TeWinkle Park.

VI. CONSENT CALENDAR ITEM NOS. 1 THROUGH 11.

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 11, except for Consent Calendar Item No. 5.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

1. Reading Folder.

ACTION: The following claims were received and processed by the City Clerk: Brian Coley; Neufeld Leo (AKA Leo Nevfeld); Diane Stafford Munoz; and Han Wu.

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

Notkon LLC, Tiki Bar located at 1700 Placentia Avenue, for a person-to-person transfer of a type 48 (on-sale general – public premises).

BP West Coast Products LLC, Quick Stuff 7709 located at 2602 Newport Boulevard, for a person-to-person transfer of a type 21 (off-sale general).

Q Club Inc., Q Club located at 1525 Mesa Verde Drive East, Suites 123-125, for stock transfer of a type 41 (on-sale beer and wine for a bona fide eating place).

The following notification letter was received and processed: Southern California Gas Company – Notice of an application requesting authority from the California Public Utilities Commission (CPUC) to approve a mechanism to allow the Utilities to recover uninsured costs associated with wildfires, Application No. 09-08-020.

2. Regular Meeting Minutes of September 1, 2009, and Regular Adjourned/Study Session Meeting Minutes of September 8, 2009.

ACTION: Approved.

3. Warrant Resolution 2282, funding City operating expenses for \$789,179.53.

ACTION: Resolution adopted.

4. Warrant Resolution 2283, funding Payroll No. 918 for \$2,420,012.64 and City operating expenses for \$520,364.78 including payroll deductions.

ACTION: Resolution adopted.

6. Legal Services Agreement with law firm of Liebert Cassidy Whitmore, 6033 W. Century Boulevard, Suite 500, Los Angeles, for providing legal services pertaining to employment relation matters, not to exceed \$50,000.

ACTION: Withdrawn.

7. Accept donation of a 2001 Ford Eldorado, Paratransit, 19-Passenger Bus from the Orange County Transportation Authority (OCTA) Senior Mobility Program.

ACTION: Approved.

8. Acceptance and allocation of the Recovery Act Edward Byrne Memorial Justice Assistance Grant (JAG) funds for fiscal year 2009-2010.

(a) Budget Adjustment No. 10-007 for \$111,684.

ACTION: Approved; Budget Adjustment No. 10-007 and authorized the Mayor to sign.

9. Completion of rehabilitation of Century Place, Howard Way, and East 16th Street, City Project No. 09-01, by R.J. Noble Company, 15505 East Lincoln Avenue, Orange.

ACTION: Work was accepted; City Clerk was authorized to file a Notice of Completion; authorization was given to release of retention monies 35 days thereafter; the Labor and Material Bond was ordered exoneration seven (7) months thereafter; and the Faithful Performance Bond was ordered exoneration twelve (12) months thereafter.

10. Completion of 2008-2009 Slurry Seal Project, City Project No. 09-02, by Bond Blacktop, Inc., Post Office Box 616, Union City.

ACTION: Work was accepted; City Clerk was authorized to file a Notice of Completion; authorization was given to release of retention monies 35 days thereafter; the Labor and Material Bond was ordered exoneration seven (7) months thereafter; and the Faithful Performance Bond was ordered exoneration twelve (12) months thereafter.

11. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING A RECORDS RETENTION SCHEDULE FOR THE CITY CLERK'S OFFICE.

ACTION: Withdrawn.

ITEM REMOVED FROM THE CONSENT CALENDAR

5. Memorandum of Understanding with Newport-Mesa Unified School District (NMUSD) for a two (2) year extension of the School Resource Officer Program

Council Member Leece complimented the joint effort with the Newport Mesa Unified School District and of the worthwhile program that she opined keeps children in school and focused on education. Chief of

Police Christopher Shawkey responded to questions from the Council relating to SROs assigned the various school locations.

Mike Berry, Costa Mesa, expressed his concern of the issue of truancy and wondered how that was being addressed by the Police Department.

Discussion ensued amongst the Council regarding the responsibility of the schools and the SRO's relative to truancy and tardiness.

MOTION: Approve.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

VII. PUBLIC HEARINGS

No Public Hearings scheduled.

VIII. OLD BUSINESS

1. From the meeting of September 1, 2009; Approval of Homeless Prevention and Rapid Re-Housing Program (HPRP) funds distribution.

Neighborhood Improvement Manager Muriel Ullman presented the staff report along with CDBG/HOME Coordinator Mike Linares was present to respond to questions from the Council.

Janet McCammon, Costa Mesa, commented on the economic hardship of her neighbors and hoped that funds would assist Costa Mesa residents only.

Mike Berry, Costa Mesa, questioned the City's ability to maintain control of the proper administration of the program.

Martin Millard, Costa Mesa, pointed out that the City could not require the non-profit organization to verify legal status of residency and felt that the program should not be approved.

Larry Haines, Executive Director of Mercy House, in responding to the concern of the organization's checking the legal residency status of a participant, noted the organization's compliance with the state laws when having served legal residents of the community, that are homeless, for over the last 20 years.

Ernie Feeney, Costa Mesa, inquired if funding would be available to seniors who are on fixed incomes that are below the poverty line.

Paul Flanigan, Costa Mesa, noted the hypocrisy to claim "In God We Trust" and then to deny the acceptance of funds that could help those in need.

Jean Wagner, Executive Director of SPIN, informed that as a non-profit five percent of funding is allowed to be used for administration costs and the rest supports the programs of the organization that has functioned within the City for many years. She confirmed that the funding was required to be used to provide services for Costa Mesa residents and that the organization would abide by the requirements. In response to Mayor Mansoor's question she explained the the process of verifying residency and noted that the organization does inquire of the legal status of residents.

Staff responded to questions from Mayor Pro Tem Leece regarding the requirement of providing the program funding only to Costa Mesa residents and of the minimum standard length of time of residency. The City Attorney responded to questions from the Council relating to eligibility language in the agreement and of the monitoring process.

Mayor Mansoor and Mayor Pro Tem Leece noted their satisfaction with the safeguards in place for proper administration of the program.

MOTION: Approve; authorize the City Manager to act as the official representative of the City and to execute all the Professional Services Agreement with the selected sub-grantees related to the receipt of HPRP funds.

Moved by Council Member Gary Monahan, seconded by Council Member Katrina Foley.

2. From the meeting of September 1, 2009, Nestor Red Light Camera Enforcement Program determination of action regarding program and contract.

The City Attorney summarized the staff report and along with Chief of Police Christopher Shawkey and Police Sergeant Rob Sharpnack responded to questions from the Council relating to outstanding citations, the removal equipment and repair of public right-of-way, and the receivership of Nestor's assets by American Traffic Solutions, Inc.

Council Member Bever went on record as supporting the Red Light Camera Program.

Janet McCammon, Costa Mesa, expressed opposition to the expense of the current program and of the safety hazards caused by the cameras;

sharing her experience of nearly being rear-ended at the intersections with the red light cameras on several occasions.

Martin Millard, Costa Mesa, pointed out that the purpose of the program had been successful in reducing incidents but suggested creating a provision within a new contract that would prevent the city from having to pay additional monies.

Chris McEvoy, Costa Mesa, reported that rear-end collisions have increased in intersections with and without the red light camera. He spoke of the need for a better contract and opined that the City should replace the cameras with more police officers.

Beth Refakes, Costa Mesa, suggested a continuance of the item in order to consider negotiations with American Traffic Solutions, Inc., (ATS).

Will Toms, Costa Mesa, expressed concern regarding the duration of the timing of the yellow lights and its perceived connection with increased revenue.

Bill Krosky, V.P. of American Traffic Solutions, referenced an article on the City of San Diego and the Red Light Camera Enforcement Program noting the improvement of the program. He gave an overview of their company and hoped that Council would consider the options available.

In reference to questions from the Council, City staff responded to questions relating to the timing of yellow light, impact of a continuance, communication with ATS, and City's compensation and profit of the program.

The Mayor indicated that he was not supportive of red light cameras and expressed interest in direct enforcement approach by police.

MOTION: Terminate the program; directed staff to notify Nestor Traffic Systems and American Traffic Solutions that it will not consent to the assignment of the contract and will terminate the agreement.

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

SUBSTITUTE MOTION: Continue the item for 30 days to allow for staff to discuss with American Traffic Solutions (ATS) options relative to the program and contract to be brought back for council consideration.

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

The substitute motion carried by the following roll call vote:

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

Noes: Mayor Allan R. Mansoor, Council Member Gary Monahan
Absent: None.

IX. NEW BUSINESS

1. 2010-2014 Consolidated Plan

The CDBG/HOME Coordinator presented the overview of the Plan.

MOTION: Receive and file report.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

2. Request a waiver of the Special Event Application Fee for the Vanguard University Cross Country Team and the Orange Coast College Cross Country Team for cross country meets and for teams to provide in-kind services at Fairview Park.

Assistant City Manager Thomas Hatch presented the staff report.

The Mayor expressed support of the request.

MOTION: Approve the waiver of the Special Event Application Fee for both the Vanguard University Cross Country Team and the Orange Coast College Cross Country Team for cross country meets, with the waiver of the fee for not more than two per year for each team/organization in return for the teams to provide in-kind services/labor at Fairview Park, as determined by the Department of Public Services.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

X. REPORTS

The City Manager reported that the funding of the Senior Center's Medical Van

Service has been reduced pointing out that the service could not be sustained without additional funding. He announced that a supplement report concerning the service was forthcoming.

- XI. ADJOURNMENT - The Mayor declared the meeting adjourned at 7:55 p.m. The next Regular City Council Meeting to be held on October 6, 2009.**

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa