



City of Costa Mesa Council Agenda

TUESDAY, OCTOBER 19, 2010

Allan R. Mansoor
Mayor

Wendy Leece
Mayor Pro Tem

Katrina Foley
Council Member

Eric Bever
Council Member

Gary Monahan
Council Member

City Attorney
Kimberly Hall Barlow

City Manager
Allan Roeder

Development Services Director
Kimberly Brandt

Public Services Director
Peter Naghavi

City Clerk
Julie Folcik

Council Chambers, 77 Fair Drive
5:00 p.m. – Closed Session and 6:00 p.m. – Council Meeting

TIME LIMIT FOR CITY COUNCIL MEETINGS: Except by majority vote of the City Council to continue, meetings shall conclude at midnight. If there is unfinished business on the Agenda, those items will be continued to the next regularly scheduled City Council meeting, pursuant to Resolution No. 05-8.

Welcome to the City Council Meeting

Your attendance at this public meeting is valued and appreciated.

The following City codes, guidelines, and reminders are provided for your information:

1. In accordance with Costa Mesa Municipal Code, Sec. 2-64 (1): No person in the audience shall "engage in disorderly, disruptive, disturbing, delaying or boisterous conduct including but not limited to, handclapping, stomping of feet, whistling, making noise, use of profane language or obscene gestures, yelling or similar demonstrations, which may disrupt the peace and good order of the Council proceedings."
2. All cell phones and pagers are to be turned off or set to vibrate. Members of the audience are requested to step outside the Council Chambers to respond to a page or to conduct a phone conversation.
3. In accordance with City Council Policy 000-11, and among other requirements, any video submitted for display at a public meeting must have been previously reviewed by staff to verify appropriateness for general audiences. A copy of this policy is available at City Hall during normal office hours.

4. Please use the podiums on either side of the dais to speak to the City Council. Direct all verbal communications, requests, and/or questions to the Mayor.

5. Any written communications, pictures, etc., to be provided to the Council should be directed to the City Clerk. Any exhibits to be displayed on the overhead screen may be given to the appropriate staff member.

NOTE: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (714) 754-5225. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102.35.104 ADA Title II].

CLOSED SESSION

5:00 p.m.

At the conclusion of the Public Comment, the City Council will recess to Conference Room 1B for Closed Session. Please note that if there are not any closed session items listed, City Council will convene at its regular meeting time of 6:00 p.m.

I ROLL CALL

- II PUBLIC COMMENTS** Members of the public are welcome to address the City Council only on those items listed on the Closed Session agenda. Each member of the public will be given three (3) minutes to speak.

III CLOSED SESSION:

1. Conference with Legal Counsel – Existing Litigation: Newport Mesa Patients' Association and Robert Martinez v. City of Costa Mesa, Orange County Superior Court Case No. 30-2010 00370142 pursuant to Government Code Section 54956.9 (a).
2. Conference with Legal Counsel – Existing Litigation: Newport Mesa Patients' Association v. Colleen O'Donoghue, Real Party in Interest City of Costa Mesa, Orange County Superior Court Case No. 30-2010 00378745, pursuant to Government Code Section 54956.9 (a).
3. Conference with Legal Counsel – Potential Litigation: Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9 - two cases.

4. Pursuant to Government Code Section 54957.6, conference with Allan L. Roeder, City Manager and Labor Negotiator, Agency Negotiator: Stephen N. Mandoki, Administrative Services Director, regarding Employee Organizations: Costa Mesa City Employee Association (CMCEA), Costa Mesa Firefighters Association (CMFA), Costa Mesa Fire Management Association (CMFMA), Costa Mesa Police Association (CMPA), Costa Mesa Police Management Association (CMPMA) and Unrepresented Employees (Executive and Confidential).
5. Conference with Real Property Negotiators – Property: 88 Fair Drive. Agency Negotiator: Allan Roeder, City Manager. Negotiating parties: State of California and Facilities Management West, Under negotiation: price, terms of payment. Pursuant to Government Code Section 54956.8.
6. Conference with Legal Counsel – Initiation of Litigation pursuant to subdivision (c) of Government Code Section 54956.9 – one case.

RECESS TO STUDY SESSION:

The Council will recess to and convene an Agenda Review Study Session beginning at 5:30 p.m. in Conference Room 1-A of City Hall. The public is welcome to attend and offer comment.

Pursuant to Resolution No. 07-80, each member of the public will be given an opportunity to speak for two (2) minutes on Study Session agenda items. A maximum overall time of (15) minutes will be permitted for public comment. Note that no action may be taken by the City Council prior to the 6:00 p.m. meeting.

RECONVENE REGULAR MEETING

REGULAR CITY COUNCIL AGENDA

6:00 p.m.

PLEDGE OF ALLEGIANCE Mayor Pro Tem Leece

MOMENT OF SOLEMN EXPRESSION Pastor Mark Wiley, Mesa United Methodist Church

[Per Council Policy 000-12, these presentations are made by community volunteers stating their own views. The Council disclaims any intent to endorse or sponsor the views of any speaker. Interested presenters, please contact the City Clerk's office.]

ROLL CALL

CLOSED SESSION REPORT

PRESENTATIONS

Public Services Department Presentation on Capturing \$3.5 Million in Grant Funding

SPEAKERS: PLEASE PRINT YOUR NAME AND ADDRESS (Optional) ON THE SPEAKER FORM(S) AND PRESENT TO THE CITY CLERK PRIOR TO THE ITEM.

PLEASE NOTE:

- **YELLOW FORM IS FOR PUBLIC COMMENTS – TOPICS NOT ON THE AGENDA.**
- **GREEN FORM IS FOR AGENDA ITEMS. PLEASE FILL OUT FOR EACH AGENDA ITEM YOU WISH TO ADDRESS.**

IV **PUBLIC COMMENTS:** To ensure fair and equal treatment of all who appear before the City Council and to expedite City business, speakers will be limited to three (3) minutes each to address any item within the City Council's jurisdiction and which is not listed on the Agenda. The three (3) minute per speaker time limit may be extended for good cause by the Mayor, or by majority vote of City Council Members. Questions and comments made by public speakers may be addressed by Council during Council Comments.

V **COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS**

1. Mayor Pro Tem Wendy Leece
2. Mayor Allan Mansoor
3. Council Member Katrina Foley
4. Council Member Gary Monahan
5. Council Member Eric Bever

VI **CONSENT CALENDAR:** All matters listed under the Consent Calendar are considered to be routine and will be acted upon in one motion. There will be no separate discussion of these items unless members of the City Council, staff, or the public request specific items to be discussed and/or removed from the Consent Calendar for discussion. Items removed from the Consent Calendar will be discussed and voted upon immediately following City Council action on the remainder of the Consent Calendar.

Members of the public who wish to discuss Consent Calendar items should come forward to the microphone upon invitation by the Mayor, state their name, city in which they reside, and item number to be addressed.

CONSENT CALENDAR ITEM NOS. 1 THROUGH 9.

Written Communications

1. Reading Folder.

Recommendation: Receive and process

Minutes

2. Regular meeting of August 3, 2010.

Recommendation: Approve

Warrants

3. Warrant Resolution 2339, funding Payroll No. 10-20 for \$2,201,294.59 and City operating expenses for \$570,174.65 including payroll deductions.

Recommendation: Approve

4. Warrant Resolution 2340, funding City operating expenses for \$735,909.71.

Recommendation: Approve

Administrative Actions

5. [Completion of Traffic Congestion Relief Fund \(TCRF\) project for pavement rehabilitation of ten \(1\) streets, City Project No. 09-28, by Elite Bobcat Services, 1320 East 6th Street, #100, Corona.](#)

Recommendation: Accept work; authorize City Clerk to file a Notice of Completion; release retention monies 35 days thereafter; exonerate the Labor and Material Bond seven (7) months thereafter; and exonerate the Faithful Performance Bond twelve (12) months thereafter

6. [Completion of “Proposition 1B” Street Maintenance Project, City Project No. 10-05, by All American Asphalt, Post Office Box 2229, Corona.](#)

Recommendation: Accept work; authorize City Clerk to file a Notice of Completion; release retention monies 35 days thereafter; exonerate the Labor and Material Bond seven (7) months thereafter; and exonerate the Faithful Performance Bond twelve (12) months thereafter

7. [Completion of Costa Mesa Farm Sports Complex Soccer Field \(No. 5 and No. 6\) Lighting, 2750 Fairview Road, Costa Mesa, City Project No. 10-06, by RMF Contracting, Inc., dba R&M Electrical Contracting, 26301 Dimension Drive, Lake Forest.](#)

Recommendation: Accept work; authorize City Clerk to file a Notice of Completion; release retention monies 35 days thereafter; exonerate the Labor and Material Bond seven (7) months thereafter; and exonerate the Faithful Performance Bond twelve (12) months thereafter

8. [Adopt plans and specifications, and working details for American Recovery and Reinvestment Act, Rehabilitation of Wilson Street \(From Fairview Road to Newport Boulevard\), Federal Project No. ESPL-5312 \(079\), City Project No. 10-08, and award a construction contract to All American Asphalt, Post Office Box 2229, Corona, in the amount of \\$248,403.](#)

Recommendation: Approve; authorize the Mayor and City Clerk to sign

- (a) Budget Adjustment No. 11-006 for \$300,000.

Recommendation: Approve; authorize Mayor to sign

9. [A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING RESOLUTION NO. 10-53, regarding the solid waste hauling franchise fee.](#)

Recommendation: Adopt resolution

-----END OF CONSENT CALENDAR-----

VII PUBLIC HEARINGS - 7:00 p.m. (Resolution No. 05-55)

1. PUBLIC HEARING: Continued from the meeting of September 7, 2010, Appeal of the Planning Commission’s determination regarding Zoning Applications ZA-89-25 and ZA-92-10, for Review, modification, and/or revocation of Minor Conditional Use Permits for a recycling center with a maximum of two containers in a commercial shopping center, located at 739 W 19th Street, in a C1 (Local Business District) zone. Environmental determination: Exempt.
 - [Part 1](#)
 - [Part 2](#)
 - [Part 3](#)
 - [Part 4](#)
 - [Part 5](#)
 - [Part 6](#)
 - [Part 7](#)
 - [Part 8](#)
 - [Part 9](#)
 - [Part 10](#)
 - [Part 11](#)
 - [Part 12](#)

Recommendation: Adopt resolution to uphold or reverse Planning Commission’s decision to revoke the minor conditional use permits for the project

2. [PUBLIC HEARING: Continued from the meeting of September 7, 2010, Appeal of the Planning Commission’s determination regarding Planning Application PA-10-15, Conditional use permit for the following: \(1\) Potential off-site parking pursuant to a reciprocal access/parking agreement; and \(2\) Intermediate after school classes/programs for the Discovery School of Arts and Sciences \(Center for Spiritual Living.\), for property located at 3183 Red Hill Avenue, in a MP \(Industrial Park\) zone. Environmental determination: Exempt.](#)

Recommendation: Receive and file (application withdrawn)

3. [Annual review of the Citywide Traffic Impact Fee Program](#)

- (a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, CONTINUING THE CITYWIDE TRAFFIC IMPACT FEE FOR NEW DEVELOPMENT IN THE CITY OF COSTA MESA AND THE RELATED ANNUAL REVIEW OF THE CITYWIDE TRAFFIC IMPACT FEE PROGRAM AND CAPITAL IMPROVEMENT PLAN FOR TRANSPORTATION IMPROVEMENTS, approving the recommendations by staff and the Traffic Impact Fee Ad Hoc Committee to continue the current traffic impact fee of \$181 per Average Daily Trip (ADT), continue the incentive program for new developments by assessing traffic impact fees on an incremental basis for the first 100 trips, and approve the annual accounting of the Citywide Traffic Impact Fee Program.

Recommendation: Adopt resolution

4. [PUBLIC HEARING: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, AMENDING ZONING CODE SECTIONS 13-6 \(DEFINITIONS\) AND 13-16 \(ENFORCEMENT\) OF TITLE 13 \(PLANNING, ZONING, AND DEVELOPMENT\) OF THE COSTA MESA MUNICIPAL CODE REGARDING MEDICAL MARIJUANA DISPENSARIES.](#)

Recommendation: Adopt urgency ordinance, to be read by title only, and waive further reading

5. [PUBLIC HEARING: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, FOR CODE AMENDMENT CO-10-07, AMENDING ZONING CODE SECTIONS 13-6 \(DEFINITIONS\) AND 13-16 \(ENFORCEMENT\) OF TITLE 13 \(PLANNING, ZONING, AND DEVELOPMENT\) OF THE COSTA MESA MUNICIPAL CODE REGARDING MEDICAL MARIJUANA DISPENSARIES.](#)

Recommendation: Introduce ordinance for first reading, to be read by title only, and waive further reading

6. [PUBLIC HEARING: Authorization of the Business Improvement Area \(BIA\) Assessment increase to three percent \(3%\) for certain Costa Mesa hotels and motels for Fiscal Year 2010-2011.](#)

- (a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, LEVYING AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2010-2011 FOR A BUSINESS IMPROVEMENT AREA COVERING CERTAIN COSTA MESA HOTELS AND MOTELS.

Recommendation: Adopt resolution

VIII OLD BUSINESS

1. [From the meeting of October 5, 2010, Ordinance No. 10-11: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING ARTICLE 1 OF TITLE 8 OF THE COSTA MESA MUNICIPAL CODE REQUIRING THE USE OF CITY PERMITTED SOLID WASTE HAULERS FOR COLLECTION SERVICES IN THE CITY OF COSTA.](#)

Recommendation: Adopt Ordinance No. 10-11, to be read by title only, and waive further reading

2. [From the meeting of October 5, 2010, Ordinance No. 10-12: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 11 \(OFFENSES - MISCELLANEOUS\) OF THE COSTA MESA MUNICIPAL CODE REGARDING GRAFFITI; and graffiti vandalism.](#)

Recommendation: Adopt Ordinance No. 10-12, to be read by title only, and waive further reading

IX NEW BUSINESS

1. [Request of Mayor Mansoor for research on the possible use of the Federal E-Verify System.](#)

Recommendation: Direct staff

2. [Request of Council Member Monahan for adoption of a resolution supporting a ban on Dental Mercury.](#)

Recommendation: Direct staff

Agenda related writings or documents provided to a majority of the City Council members after distribution of the City Council Agenda Packet (GC 54957.5).

- [Resolution supporting the ban on Dental Mercury](#)

3. [Request of Mayor Pro Tem Leece for consideration of a request for City membership in the Association of California Cities - Orange County.](#)

Recommendation: Direct staff

X REPORTS

City Attorney:

City Manager:

- XI ADJOURNMENT – Adjourn to November 9, 2010 at 4:30 p.m. for a Study Session.
Next Regular City Council Meeting: November 16, 2010.

Agenda related writings or documents provided to a majority of the City Council members after distribution of the City Council Agenda Packet (GC 54957.5).

Any writings or documents provided to a majority of the City Council members regarding any item on this agenda will be made available for public inspection at the City Clerk’s Public Counter, Lobby Level, in City Hall located at 77 Fair Drive, Costa Mesa, during normal business hours. In addition, such writings and documents may be posted, whenever possible, and as part of the agenda, on the City’s website at www.ci.costa-mesa.ca.us.