

APPLICATION FOR APPEAL OR REHEARING

FEE: \$ \_\_\_\_\_

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Applicant Name Michael Berry

Address 2064 MEADOW VIEW LN COSTA MESA, CA 92626

Phone 949 631 9086 Representing SELF

CITY OF COSTA MESA  
BY \_\_\_\_\_

Decision upon which appeal or rehearing is requested: (Give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) CITY COUNCIL ITEM # VII-3 (COPY ATTACHED)  
DATED 4-5-05

Decision by: \_\_\_\_\_

Reason(s) for requesting appeal or rehearing:

SEE ATTACHED

Date: 4/12/05 Signature: Michael Berry

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SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

Reason(s) for requesting rehearing:

- 1) There was not adequate notice given to the public that the agenda item "request for rehearing" would, in fact, become the rehearing.
- 2) All attendees were instructed by Council that information presented during public comment could only be used to determine if a rehearing should be granted ("new information").
- 3) The manner in which the actual motion was brought forward created a condition "outside of the spirit" of previous Council's actions. Council policy has for some time been that once an issue is voted on by Council that the issue cannot be brought before Council for a new vote for six months. Since no rehearing was approved, the 3/15/05 item should not have been brought before Council again until after 9/15/05.
- 4) There was no agenda item reflecting that a new motion was to be presented modifying the decision of a previous meeting (3/15/05).
- 5) No new information was presented during public comment.
- 6) No rehearing motion was debated even though the item was titled "Request for rehearing".
- 7) Violation of City Ordinances during discussion of agenda items:
  - a) Sec. 2-304 (3). To justify a rehearing the applicant must show in the application that there is new, relevant evidence which, in the exercise of reasonable diligence, could not have been produced, or which was improperly excluded, at the earlier hearing, or that the person or body failed to comply with the law, which contention was not asserted at the earlier hearing. The person or body may in its discretion decide whether to hear additional evidence than what is contained in the application. The decision whether to grant the rehearing is final and may not be appealed or reheard.

No new evidence was presented.

- b) Sec 2-304 (4). If the person or body concludes the applicant has met the burden of justifying the rehearing, the rehearing will be scheduled for the next regular meeting which allows sufficient time for the giving of notice as required by section 2-308.

The rehearing (if approved) should have been scheduled for the next regular meeting, not conducted during the discussion of whether the rehearing should be granted.

c) Sec 2-62. Each person desiring to address the council shall approach either microphone at either podium, state his name and address for the record.....

The new forms given to the public (copy attached) indicate that the street address is optional, but advice given by council during public comment was that to ask for the address of residence was somehow illegal. Many of the speakers did not indicate their city of residence as is required.

d) Sec 2-61 (1). No person shall make any personal, impertinent, profane, insolent, or slanderous remarks.

At least one speaker was allowed to make personal, and what could be considered slanderous remarks about member (s) of the community. This was in no way providing "new evidence" as to why any rehearing should be held.

8) Exhaustion of administrative remedies. Sec 2-310. Unless appealed, reheard, or reviewed as provided herein, any decision becomes final for all purposes when made. To constitute the exhaustion of administrative remedies and as a condition precedent to filing any court action thereon, there must be filed and considered an application for rehearing of the council action.

9) Unclear motions. It is unclear from the motion made whether the job center will remain open at its current location. Is this contingent upon the information provided in the meeting to be held "no later than 5 months"? Will this become another Westside Specific Plan/CRAC/WROC that goes on for years and years with no benefit accruing to the Westside? The Council never granted nor denied a rehearing at the 4/5/05 meeting, as was noticed in the agenda. Based on that, what is the status of the motion of March 15? Based upon discussion it appears Council's intent was to amend the 3/15/05 motion; however, there does not appear to be any reference to the original motion in the motion of the 4/15/05 motion as published.

**COSTA MESA CITY COUNCIL**  
**PUBLIC COMMENT/REQUEST TO SPEAK TO THE COUNCIL**  
*(Please Print)*

Name: \_\_\_\_\_

Meeting Date: \_\_\_\_\_

Address (Street Address Optional\*): \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Item No: \_\_\_\_\_ or Public Comments/Non-Agenda Matter ( please specify):

\_\_\_\_\_  
\_\_\_\_\_

The Costa Mesa City Council welcomes your comments. Public comment is limited to three (3) minutes per speaker. When speaking please state your name and the city in which you reside and address your comments to the Council as a whole. Comments to individual supervisors or staff are not permitted. This form is not mandatory in order to address the City Council but please note that priority will be give to those speakers that have filled out the form and turned it into to the Deputy City Clerk.

\*This form provides necessary information for preparation of the permanent record of the meeting. If follow-up is requested an address is necessary for the purpose of receiving communication from staff.

NOTE: This form is subject to public disclosure.

*Please present the form to the Deputy City Clerk and thank you for your participation.  
The City Council is interested in your opinion.*

City Council Agenda – April 5, 2005

2. Continued from the meeting of March 15, 2005, presentation by the Costa Mesa United Foundation.
3. Request for Rehearing from Council Member Katrina Foley of the March 15, 2005, on Council decision to close the Costa Mesa Job Center.

**ACTION:**

1. Determined to continue to fund and operate the job center for a period 3 additional months past July 1, 2005, for a total of 6 months; directed that a public hearing be conducted within the next five (5) months to include a report back to council on the research conducted relative to the legal issues, alternatives and options developed and the lease option.
2. Removed the "resident only" restriction and directed the City Attorney to research the requirements and enforcement aspect of requiring documents showing proof of eligibility, consistent with Federal law, for right to obtain employment for those using the Center, to be implemented within approximately 30 days.
3. Directed staff to work together with the public and form a task force comprised of representatives of the non profits, churches, the private sector and the chamber of commerce to explore the alternatives including a public/private partnership job center, the operations of the job center, research an alternative location and other funding sources.
4. Directed the City Attorney to research legal issues of operating a public/private partnership job center and provide recommendations to the task force and the council.
5. Directed staff to research funding options.
6. Directed City Attorney to research the legal issues regarding the implementation of an employer fee in the range of \$10.00.

(3-2, Council Member Bever and Council Member Dixon voting no)

VIII NEW BUSINESS

1. General Plan Amendment Screening Request GPS-05-01, South Coast Metro Center, located at 475 – 595 (odd numbers only) Anton Blvd.

**Recommendation: Accept for processing**

**ACTION: Continued to the meeting of April 19, 2005. (5-0)**