

CITY COUNCIL
CITY OF COSTA MESA

COUNCIL CHAMBERS
CITY HALL
77 FAIR DRIVE

NOVEMBER 1, 2004
REGULAR MEETING

Mayor Monahan called the Regular Meeting of the City of Costa Mesa, California to order at 6:30 p.m.

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

MOMENT OF SOLEMN EXPRESSION: Pastor Dave Mann of the Calvary Chapel of Costa Mesa gave a moment of solemn expression.

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

PRESENT:	COUNCIL MEMBERS:	GARY C. MONAHAN, MAYOR ALLAN R. MANSOOR, MAYOR PRO TEM LIBBY COWAN MIKE SCHEAFER CHRIS STEEL
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ABSENT:	COUNCIL MEMBERS:	NONE
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ALSO PRESENT:	ALLAN L. ROEDER, CITY MANAGER KIMBERLY HALL BARLOW, CITY ATTORNEY STEVEN HAYMAN, ASSISTANT CITY MANAGER JULIE FOLCIK, DEPUTY CITY CLERK DONALD LAMM, DEVELOPMENT SERVICES DIRECTOR WILLIAM MORRIS, PUBLIC SERVICES DIRECTOR MARC PUCKETT, FINANCE DIRECTOR
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MINUTES: None

READING OF TITLES ONLY: Council Member Cowan moved to read all ordinances and resolutions by title only. Council Member Schaefer seconded the motion. MOTION CARRIED UNANIMOUSLY CARRIED.

PRESENTATIONS

1. Employees of the Month—Sethuraman, Banks, Stevens, and Cho: The Mayor acknowledged and, on behalf of the City Council, expressed appreciation to Raja Sethuraman, Associate Engineer, Transportation Services; Tom Banks, Senior Engineer, Construction Management; Mike Stevens, Construction Inspector; Construction Management; and David Cho, Engineering Tech II, Transportation Services of the Public Services Department, on being selected as Employees of the Month, for their combined efforts leading toward completion of the Newport Boulevard Bicycle Trail along Newport Boulevard adjacent to the Orange County Fairgrounds.
2. Trauma Intervention Program (TIP): Cindy Brenneman, a volunteer, gave an update on the Trauma Intervention Program and expressed appreciation to the City for their support of the Program. She explained there were nine chapters in California, that the purpose of TIP was to

provide emotional first aid to trauma victims, that police, fire, hospitals use their services, that last year they served 2,160 victims and provided 3,250 services last year alone. Ms. Brenneman encouraged anyone who could, to get involved in the Program, noting classes were scheduled for next January and invited everyone to attend their Heroes with Hearts event.

3. Fairview Park Friends Committee Update: Mr. Kyle Quatman gave a Power Point presentation, showing the Committee structure, composition and purpose; noting the Committee meets on the second Tuesday of month at 6:30 p.m. in the Neighborhood Community Center; described the following activities: Train rides provided by the Orange County Engineers group, seasonal tours with the next one scheduled for November 20th at 9:00 a.m.; Harbor Soaring Society with glider planes and motor-operated planes; biking, hiking, running, and picnicking activities; and the following events: Vernal pool walk, Paws Around the Park, Wildflower Walk, and Earth Day in the Park. He noted they raise money for the Park through the public's participation in certain events at the Park and encouraged everyone to become a Friend of Fairview Park by either calling 714.754.5698 or through their website at www.cmfairviewpark.org On behalf of the City Council, the Mayor thanked Mr. Quatman and the Committee for the time and effort they spend on Fairview Park.

PROCLAMATIONS: Mayor Monahan acknowledged the following proclamations:

1. Dedication of the new Heath Academic Center at Vanguard University.
2. National Bible Week, November 21 - 28, 2004

PUBLIC COMMENTS:

1. Terry Shaw, Costa Mesa, congratulated the Mayor and his wife on their new addition, welcomed Ms. Barlow and congratulated her on being selected City Attorney; and thanked his fellow Council candidates for a fair and informative campaign and wished them luck in tomorrow's Election.
2. Brian Lee Evans, Newport Beach, also congratulated the Mayor and his wife; congratulated Ms. Barlow on her appointment as City Attorney and offered to provide copies of any documentation on matters that the former City Attorney could not locate; would welcome changes in the Building Department; and would like to see additional benches in the park.
3. Rich Reiser, Newport Beach, encouraged the City to enforce the Vehicle Code relating to pedestrian safety, particularly on West 19th Street, Newport Boulevard between 17 and 19th, Costa Mesa Court Yard perimeter, and on 18th Street near the Police satellite office.
4. Martin Mallard, Costa Mesa, related a negative experience he had with the Parks and Recreation Division concerning a Public Records Act request, responses to persons at a recent Commission meeting, and lack of information presented by a person wanting to use soccer fields, and he requested a management review of the Division.
5. Sam Clark, Costa Mesa, referred to a recent newspaper article relating to access barriers to public agencies and access to public documents and advised, as a follow-up to a conversation he had with the City Manager, that he is concerned about the length of time it took to get a response to a Public Records Request, and requested a review of City policies and procedures to ensure compliance with the Public Records Act.

At the request of the Mayor, City Manager Allan Roeder explained that The Register had sent teams out to cities in Orange County to request copies of city managers' contracts and recent expense recent reimbursement claims. When Costa Mesa was contacted, the reporter was advised that no contract or reimbursement claim was available. Mr. Roeder advised he is not employed under a contract, nor does he file reimbursement claims. Later, in a telephone conversation with a senior reporter, he clarified the matter. Mr. Roeder stated the experience caused the City to comprehensively review its Public Records Requests procedures to ensure compliance with the aw, identify types of records not subject to the Public Records Act, and to provide quick access to public records upon request.

City Attorney Kimberly Hall-Barlow confirmed that the reporter had come to the City Attorney's office when he was advised that the two documents were not available. In an effort to be sure there was no alternative information available, the reporter was requested to complete a Public Records Request form which he declined to do. Ms. Barlow reiterated that the law does allow governmental agencies 10 days in which to respond to requests.

6. Ernie Feeney, Costa Mesa, reported that on Saturday she received a telephone call from friends in the Mesa Del Mar area advising that a fire truck with three large campaign banners endorsing certain Council candidates on it, was driving through their neighborhood.

City Manager Allan Roeder advised that Mr. Feeney had contacted him Saturday morning about the issue and that he requested on-duty Fire Battalion Chief Riley to investigate the matter. Battalion Chief Riley reported the fire truck was not a City vehicle, was owned by the Costa Mesa Fire Association, and was manned by three off-duty firemen not in uniform. Mr. Roeder further advised he communicated the information to Mr. Feeney Saturday morning.

Ms. Feeney criticized the Fire Association and the off-duty firemen manning the fire truck for use of such tactics, noting that the general public assumes the truck is an official City vehicle; she questioned where the truck is parked when not in use, who insures it, where is it fueled, and what the names of the firemen manning the truck were.

7. Igal Israel, Costa Mesa, referred to an October 19th newspaper article about his case and asked the City Attorney what her defense would be, since in his opinion the ordinances were invalid due to the process through which they were enacted; City Attorney Barlow responded that any defense strategy would be discussed only with the City Council. Additionally, Mr. Israel requested Code Enforcement not to harass him on Sunday mornings by knocking on his RV at 7:00 a.m. and that Council campaign signs posted on his property be removed immediately, since nobody has permission to erect or post signs on his property.
8. Dick Carroll, Costa Mesa, stated he was a Council candidate and although his banner was not on the fire truck, he saw nothing wrong with it and praised the Fire Association for their idea, noting he thought it was patriotic and a display of the home town value of the community.
9. Judi Berry, Costa Mesa, referred to the recent newspaper article about the lawsuit over technicalities in the Code Enforcement ordinance and stated if people were considerate of their neighbors, the City would not be arguing the issue; she requested the City to increase Code enforcement and fines on repeat offenders of Code provisions.
10. Pamela Frankel, West Side Costa Mesa, stated she received a campaign mailer showing a Council candidate standing next to a fire truck showing the City logo and questioned if there was a law prohibiting that and what would be the consequence.

City Manager Allan Roeder stated that every election they have requests from Council candidates to have their picture taken beside City vehicles with City employees huddled around; the City does not permit that. However, anyone has the right to take a picture beside a City vehicle or in front of a City facility, since they are in the public domain. He further advised there is an ordinance prohibiting the unauthorized use of the City seal.

City Attorney Kimberly Hall-Barlow noted that City personnel in their official capacity cannot endorse Council candidates; City employees on their own time can.

Council Member Libby Cowan requested the City Attorney to review the ordinance relating to use of the City seal on campaign material and to report back to the Council.

11. Laurie McDonald, East Side Costa Mesa, stated that when a Council candidate is pictured beside a fire truck in their campaign literature, it appears the City is endorsing him or her and that is the basis for people's complaints.

CONSENT CALENDAR

The Mayor asked if anyone wished to remove any items from the Consent Calendar, Item Nos. 1 through 10. Item Nos. 4 and 5 were requested to be removed by the public.

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

Written Communications

A.. The following claims were received by the Deputy City Clerk: a) Alexander Petrow for Application to Present Late Claim. b) City of Huntington Beach. C) Robert and Michelle White.

B. The following Alcoholic Beverage Control Licenses were received and processed:

- 1) Richard Adams Irons, dba Domenicos, 562 West 19th Street, for a person-to-person transfer of a Type 41 ABC License (on-sale beer and wine for a bona fide eating place).
- 2) SWH Corporation, dba Mimi's Café, 1835 Newport Boulevard, Unit F, for stock transfer of an existing Type 41 ABC License (on-sale beer and wine for a bona fide eating place).
- 3) IBR Incorporated, dba Arco Newport, 2021 Newport Boulevard, for a person-to-person transfer of an existing Type 20 ABC License (on-sale beer and wine).
- 4) Sun Duck Cho, dba, Fusion Sushi, 427 East 17th Street, Unit D, for a person-to-person transfer of an existing Type 41 License (on-sale beer and wine for a bona fide eating place).

C. The following Follow-up Reports were submitted:

- 1) Towing of car from private parking lot at 2300 Harbor Boulevard.
- 2) Detour on Placentia Avenue for the October 2 and 3, 2004 weekend.

Warrants

2. Adopted the following entitled Warrant Resolution:

WARRANT RESOLUTION NO. 2028: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID. (Funding City operating expenses in the amount of \$1,291,322.06)

3. Adopted the following entitled Warrant Resolution:

WARRANT RESOLUTION NO. 2029: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NO. 410 AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID. (Funding Payroll No. 422 in the amount of \$1,907,502.20, Payroll No. 421A in the amount of \$4,011.69, and City operating expenses in the amount of \$840,188.31, including payroll deductions.

Administrative Actions

6. Rejected all bids received and authorized the project to be readvertised with appropriate revisions in the scope of work to address the encapsulation or abatement of the asbestos roofing material for the Roof Replacement at the Neighborhood Community Center, 1845 Park Avenue, and the Police Substation, 567 West 18th Street, City Project No. 04-20.

7. Adopted the following entitled Resolution:

RESOLUTION NO. 04-66. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION ACT OF 2002 FOR TEWINKLE PARK TOT LOT.

8. Adopted the following entitled Resolution:

RESOLUTION NO. 04-67. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION ACT OF 2002 FOR TEWINKLE PARK ATHLETIC COMPLEX.

9. Approved and authorized the Mayor and Deputy City Clerk to execute Amendment No. 9 to Cooperative Agreement No. C-95-968 with the Orange County Transportation Authority, to provide for the inclusion of a revised list of open projects as of July 29, 2004.
10. Ordered received and filed the First Quarter Report for the Fiscal Year 2004-2005 Community Objectives.

MOTION CARRIED. The Mayor declared Resolution Nos. 2028, 2029 and 04-66 and 04-67 duly passed and adopted.

END OF CONSENT CALENDAR

4. AND 5. AGREEMENTS WITH GAS EQUIPMENT SYSTEMS AND ATLAST ENVIRONMENTAL ENGINEERING, INC., —PURCHASE OF NATURAL GAS VEHICLE FUELING EQUIPMENT AND REMEDIATION OF FUEL LEAKS FROM UNDERGROUND STORAGE TANKS: Michael Berry requested the matters be removed from the Consent Calendar and questioned the justification for the purchase of natural gas vehicle fueling appliances for two trucks and the lack of notification to school and community areas around the City Yard, Police Department and Fire Department where chemicals would be leached out of the underground storage tanks. He encouraged the City to check the underground water table and parents to have their children tested for any metal contamination.

Public Services Director William Morris explained that unfortunately there were a number of leaks in underground storage tanks and the City has remediated them in accordance with laws and regulations in place at the time. A major leak in the Fire Station No. 1 tank was discovered and remediated 18 to 19 years ago. Subsequently, new regulations were adopted and the City opened up the area and removed the tank. Fire Station No. 1 now fuels at other locations. The City is under a mandate from and direction by the Orange County Health Department to clean up the site, and thus the recommendation to contract with Atlas Environmental Engineering. It is anticipated, based upon the Health Department's expertise and experience to take eight years to clean up the site. Any notification to people in the area would be in accordance with the Health Department's requirements. The City originally had 17 underground storage tanks and staff has reduced the number to 10 tanks. Mr. Morris advised that in concert with the Police and Fire Departments and the Maintenance Services Division, a long range plan on underground storage tanks was developed, since staff recognized that over time, regulations would become even more stringent and the City's costs would increase.

MOTION: On motion by Council Member Cowan, seconded by Council Member Steel, the City Council approved and authorized the Mayor and Deputy City Clerk to execute the following Agreements: 1) General Contract for Services with Gas Equipment Systems, 8930 Center Avenue, Rancho Cucamonga, in an amount not to exceed \$106,675, for the sole source purchase of natural gas vehicle fueling equipment. 2) Professional Services Agreement for Remediation Services with Atlas Environmental Engineering, Inc., 15701 Chemical Lane, Huntington Beach, with an initial term of five years, with the first year amount not to exceed \$475,000, with subsequent years not to exceed \$200,000 per year, for professional engineering and related services for the remediation of fuel leaks from underground storage tanks, contingent upon funds being budgeted in subsequent years; and authorized the City Manager to execute up to three additional one-year periods, beyond the initial five-year term, each in an amount not to exceed \$200,000, for a maximum term not to exceed eight years, contingent upon funds being budgeted in those years. MOTION UNANIMOUSLY CARRIED.

PUBLIC HEARING

1. PUBLIC HEARING: DELETION AND/OR MODIFICATIONS OF THE IKEA MASTER PLAN, PLANNING APPLICATION NO. PA-99-34, CONDITION OF APPROVAL NO. 18 RELATING TO THE PROVISION OF ONSITE PUBLIC ART LOCATED AT 1475 SOUTH COAST DRIVE

Consideration of the deletion and/or modifications of the IKEA Master Plan, Planning Application No. 99-34, Condition of Approval No. 18 relating to the provision of onsite public art on property at 1574 South Coast Drive located within a Planned Development Commercial Zone, and the consideration of alternate uses of the \$200,000 set aside funds granted for the Huscroft house.

The Deputy City Clerk announced this was the date and time for public hearing on the matter and reported that the Affidavits of Mailing and Publication were on file in her office.

Community Development Director Don Lamm briefed his City Council Agenda Report dated October 20, 2004 and pointed out that Condition No. 18 required IKEA to provide onsite public art valued at \$350,000 within six months of issuance of its Certificate of Occupancy, subject to prior City approval. He explained that IKEA was awaiting direction through adoption of a Public Art Ordinance, which failed to be enacted, and subsequently deposited the monies with the City. Mr. Lamm advised he executed an agreement with IKEA granting the City an additional six months to determine if the City Council was desirous of having public art provided or an alternative. Mr. Lamm recommended that Condition No. 18 of the Conditions of Approval be amended to provide an additional six months for a determination to be made. Staff believes Mr. Don Collins, the IKEA Store Manager, is agreeable to the extension. Mr. Lamm stated that if at the end of the six months no determination had been made, IKEA would then again be responsible for providing public art on the property.

Mr. Lamm advised that the second issue to be addressed was the Huscroft House. As part of Development Agreement DA-00-01, the Segerstrom Corporation agreed to contribute \$200,000 toward the relocation and remodel of the Huscroft House from TeWinkle Park Maintenance Yard to another location. Subsequently, the Huscroft House sold and the monies have been deposited with the Finance Department. Mr. Lamm advised that the last amendment to the Development Agreement provided that the City Council could use the monies for something other than the Huscroft House, most likely a notable capital improvement project like a park, if both the City and Segerstrom Corporation agreed. He stated that representatives of the Segerstrom Corporation, David Wilson and Paul Freeman, were present to answer any questions.

In response to Council Member Cowan, Mr. Lamm advised the matter was submitted to the City Council first for a decision and had not been reviewed by any of the historical or cultural committees.

Mayor Pro Tem Mansoor stated that the requirement on IKEA to provide art should have been a stand alone project and not part of their conditions of approval, since the City did not have an art in public

places ordinance enacted at the time. In the alternative, he suggested that since the monies have been required and are on deposit with the City, that they be used to replace some of the traffic impact fees recently forgiven for the Symphony Hall. If the monies are needed for that purpose, then they could be used for signal coordination, matching funds for widening intersections, or turn pockets/turn lanes.

Council Member Steel suggested that use of the monies for Huscroft House be referred to the Historical Preservation and Cultural Arts Committees for recommendations, including the Veterans Memorial which was estimated to cost approximately \$135,000.

The Mayor opened the public hearing and asked if anyone wished to address the City Council. The following persons spoke:

1. Brian Lee Evans, Newport Beach, suggested using the IKEA monies for park benches, helping artists, contacting school art departments and/or art schools for projects including how to improve the appearance of unsightly industrial buildings, funding outdoor theatre presentations, or sculptures in the parks.
2. Igal Israel, Costa Mesa, suggested returning the monies since a building should stand on its own design elements not its art, and that the requirement for art in public places should be equally applied.
3. Kathleen Eric, Costa Mesa, recommended that since Costa Mesa was known as the City of the Arts, that the monies should be allocated to fund some of the worthy long-term goals of the Cultural Arts and Historical Preservation Committees.
4. Pat Murwin, IKEA Real Estate, representing Don Collins of IKEA, advised they were happy to move forward with the public art project, but encouraged the City Council to support projects for which IKEA was known, namely projects involving children, families or the environment, like a children's playground in a park. In response to the Mayor, Ms. Murwin advised IKEA was amenable to amending Condition No. 18.
5. Beth Refakes, East Side Costa Mesa, pointed out art in public places in the City of Brea and noted it was the responsibility of each developer to provide art in their development; and recommended that the Huscroft House monies be distributed to the Historical Society, the preservation of the Estancia Adobe, fixing the Museum roof, and the proposed Veterans Memorial.
6. Terry Shaw, Costa Mesa, suggested that the monies be used for park improvements which IKEA seems to favor, the Veterans Memorial, and Historical Society projects.
7. Martin Mallard, Costa Mesa, suggested buying and razing a slum building, building a park in its place and perhaps naming the park IKEA.

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

Mayor Monahan asked Paul Freeman of the Segerstrom Corporation, if they would support giving some of the Huscroft House monies to the Historical Society, Historical Preservation Committee, and the Cultural Arts Committee and to the proposed Veterans Memorial. Mr. Freeman stated they would be interested in exploring any Committee project recommendation with the City Council, and since they were not familiar with the Veterans Memorial Project, they would need to know more about the proposal. He emphasized they wanted a definitive, meaningful project.

MOTION: Council Member Cowan moved to preserve the \$550,000 for City use relating to the arts and historical preservation and to create a joint project committee to be composed of the Parks and Recreation Commission, Historical Preservation Committee, Cultural Arts Committee, Historical Society, IKEA, and Segerstrom if they desire, to provide recommendations, of which the Veterans Memorial should be considered, to the City Council within six months; and to amend the IKEA Master Plan Condition of Approval No. 18. Council Member Scheafer seconded the motion.

Mayor Pro Tem Mansoor stated he could not support the motion if it included the Huscroft House, since in his opinion, it has no historical value, is full of termites, and has a leaky roof which has been covered with blue tarp for the past three years. He stated the monies were set aside for the restoration of the Huscroft House and since it has been renovated by a private individual, the monies should be returned. Mayor Pro Tem Mansoor emphasized that conditions were placed on IKEA, which either they could do independently if they so desired, that were not imposed on other developers.

Mayor Monahan stated he could not support the motion because he believed setting aside over one-half million dollars and creating a committee to decide how to spend it was not the responsible thing to do at this particular point, and thereupon offered the following substitute motion.

SUBSTITUTE MOTION: Council Member Monahan moved to adopt the following resolution amending Condition No. 18 of the IKEA Master Plan (PA-99-34), to provide six additional months for developing a recommendation on the allocation of the \$350,000 from IKEA; relating to the Huscroft House monies, allocate up to \$135,000 for the Veterans Memorial, with the remaining \$65,000 to be set aside pending a project recommendation from the Historical Preservation Committee, Cultural Arts Committee and the Historical Society; relating to the IKEA monies, suggested allocation of the \$350,000: To the Park Acquisition and/or Development Fund for Park Improvements, such as tot lots, soccer, baseball or Pop Warner fields, or for purchase of lease of land for park purposes. MOTION DIED FOR LACK OF A SECOND.

Council Member Steel stated he believed the Huscroft House monies should be held in abeyance pending a project recommendation by the Historical Preservation and Cultural Arts Committees; that part of the \$350,000 IKEA monies should be allocated to the Traffic Impact Fee Program as it relates to the new Performing Arts Center; and agreed with some monies being allocated to the Veterans Memorial, but wanted to see the Committee decide on the amount.

SUBSTITUTE MOTION: Council Member Mansoor moved to return all monies to their rightful owners. MOTION DIED FOR LACK OF A SECOND.

SUBSTITUTE MOTION: Council Member Mansoor moved to allocate \$135,000, or as much as is needed, of the Huscroft House monies, for the Veterans Memorial, if the Segerstrom Corporation is in agreement, with the remaining monies to be allocated, pending a project recommendation to the City Council from the Arts Committees; and to allocate the \$350,000 IKEA monies to the Traffic Impact Fees Program. MOTION DIED FOR LACK OF A SECOND.

ORIGINAL MOTION: Council Members Monahan, Mansoor and Steel voted "No." MOTION FAILED TO CARRY.

MOTION: On motion by Council Member Monahan, seconded by Council Member Steel, the City Council adopted the following entitled resolution amending Condition No. 18 of the IKEA Master Plan (PA-99-34), to provide six additional months for developing a recommendation on the allocation of the \$350,000 from IKEA.

RESOLUTION NO. 04-68: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING THE IKEA MASTER PLAN (PA-99-34) CONDITION OF APPROVAL NO. 18 RELATING TO THE PROVISION OF ONSITE PUBLIC ART AT 1475 SOUTH COAST DRIVE.

Roll Call Vote:

AYES: COUNCIL MEMBERS: MONAHAN, MANSOOR, COWAN, SCHEAFER,
AND STEEL

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

MOTION CARRIED. The Mayor declared Resolution No. 04-68 duly passed and adopted.

MOTION: On motion by Council Member Monahan, seconded by Council Member Steel, relating to the Huscroft House monies, the City Council allocated up to \$135,000 for the Veterans Memorial, with the remaining \$65,000 to be set aside pending a project recommendation from the Historical Preservation Committee, Cultural Arts Committee and the Historical Society. Council Member Cowan voted "No."
MOTION CARRIED.

RECESS: The Mayor declared the meeting recessed at 9:15 p.m.

AFTER RECESS: The Mayor reconvened the meeting at 9:30 p.m., with all Council Members being present.

OLD BUSINESS

1. Ordinance No. 04-12, Waste Hauling Franchise Fee Ordinance: The Deputy City Clerk read the title of the Ordinance and noted the matter was continued from the October 18, 2004 meeting. She noted for the record that two communications had been received, one from Harper and Burns relating to the ordinance's language, and the other from John Kelly Astor of Astor and Phillips, representing CR & R Inc., reiterating concerns about the City's imposition of the franchise fee over residential waste hauling services.

Finance Director Marc Puckett briefed his City Council Agenda Report dated October 20, 2004, and noted that the proposed Ordinance was prepared in concert with the waste haulers and the Costa Mesa Sanitary District. Mr. Puckett referenced a memo distributed prior to the meeting by the City Attorney indicating that the Sanitary District franchise contract waste haulers would be exempt from application of the fee, and clarifying the classes of franchises, with Class B being allowed to service temporary bin accounts.

Council Member Scheafer related a conversation he had with the President of the Sanitary District who advised him that she and the General Manager of the District fully supported the proposed ordinance.

The Mayor asked if anyone wished to address the City Council; the following persons spoke:

1. Martin Mallard, Costa Mesa, pointed out that the Sanitation Franchise Fee 2003 Survey, listed only two agencies providing sanitary services who were not part of a city and Costa Mesa was one; expressed the opinion that residents of the City pay for two bureaucracies to provide sanitary services; and that the Costa Mesa Sanitary District should be a part of the City.
2. Terry Shaw, Costa Mesa, expressed support for the proposed ordinance as revised and exemption of the Sanitary District from the fee.
3. George Lazaruk, Vice President of CR & R Incorporated, expressed his appreciation for the opportunity to participate in the proposed solid waste hauling franchise fee ordinance process; advised they would not be opposed to increasing the fee for the Class A license.

The Mayor asked if anyone else wished to speak to the matter; there was no response.

MOTION: On motion by Council Member Cowan, seconded by Council Member Scheafer, the City Council introduced Ordinance No. 04-12 for an amended first reading.

ORDINANCE NO. 04-12. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING A SOLID WASTE HAULING FRANCHISE FEE.

Council Members Mansoor and Steel advised they could not support the ordinance on the belief that the City should be looking at other operational areas to cut, and not raising taxes and fees to increase revenues, as articulated at prior meetings.

A vote was taken on the foregoing motion. Council Members Mansoor and Steel voted "No".
MOTION CARRIED.

2. Skate Park Sponsorship Program—Public Enterprise Group Feasibility Study: The Deputy City Clerk introduced the matter and advised it had been continued from the August 2, 2004 meeting.

Recreation Manager Jana Ransom briefed her City Council Agenda Report dated October 14, 2004, and made a slide show presentation. She noted that at the August 2nd meeting, the City Council awarded a contract to the Public Enterprise Group (PEG) to conduct a feasibility study to determine the potential for a skatepark sponsorship program, along with a corporate partnership/sponsorship program. Mrs. Ransom reported that PEG met with staff, the skateboard community, and the skatepark designer to gather information on the Costa Mesa skatepark and the elements within the park. Ms. Ransom advised that at the October 11th Study Session, staff provided the City Council with a draft copy of the report and provided a brief explanation of each element that was considered marketable and feasible for implementation. She stated that PEG completed their study and the final Feasibility Study was now being presented.

Ms. Ransom pointed out the revenue development goal of the corporate partnership/sponsorship program was to develop a contractually-obligated revenue stream to support the maintenance and operation of the skatepark so it does not negatively impact the City's General Fund. She reviewed the opportunities and constraints of the skatepark which were presented at the Study Session. Ms. Ransom advised that PEG has developed three programs, Asset Management Program, Facility Rental Program, and Naming Rights Package. Ms. Ransom advised that a \$45,000 to \$60,000 revenue stream could be anticipated. She advised that PEG believes long-term contracts that provide fixed revenue streams were the most viable option. In conclusion, Ms. Ransom reviewed the marketing programs recommended by PEG and the next recommended steps.

Council Member Steel thanked Ms. Ransom for the comprehensive report. He asked if PEG could proceed on a percentage basis and derive their income from the sponsors rather than the City. Recreation Manager Ransom answered in the affirmative, noting the commission rate to negotiate with individual sponsors was 12 to 15 percent, with upfront costs totaling \$39,500 which would be far less than the \$54,000 to \$73,000 projected if the City selects individual elements.

In response to Council Member Cowan, Mr. Hagen of PEG advised that the advertising on trash receptacles changes every 90 to 180 days.

Mayor Monahan asked if anyone wished to address the City Council on the matter. The following persons spoke:

1. Igal Israel, Costa Mesa, inquired why a skatepark was going to be allowed to have advertising banners when Little League was prohibited from doing so. The Mayor advised that an ordinance was enacted which allows Little League to put up banners at the beginning of the baseball season and requires them to remove them at the end of the season. Mr. Israel expressed concern about skaters spraying graffiti on the walls of the skatepark. Council Member Schaefer interjected that most skaters do not graffiti

- because they take pride in their parks, and further advised he has toured three dozen skateparks and did not see any graffiti.
2. Judi Berry, Costa Mesa, referred to a certain Budget page and expressed concern that the skatepark was not budgeted and funding would be taken from other projects. Recreation Manager Ransom advised that the construction of a skatepark was budgeted last year in a different account and that the funding being requested is for a sponsorship marketing plan and value of the contract over a 10-year period is estimated to be between \$450,000 and \$650,000. The Mayor requested the Finance Director to review the budgeted figures with Ms. Berry.
 3. Brian Lee Evans, Newport Beach, congratulated the City Council on moving forward with a skatepark, believed securing sponsors would not be a problem; recommended commission-based contracts, and suggested pre-selling the advertising.
 5. Laurie McDonald, Costa Mesa, expressed the opinion that the City should not be involved in skateparks, given the possible life-long injuries and City liability involved.
 6. Beth Refakes, Costa Mesa, expressed concern about the impact of a skatepark on surrounding residents, the commercial banner program given the number of banners already allowed in the City, and the commercial rental of the facility which will create additional noise and traffic, and questioned the wisdom of moving forward with such a project.

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

Mayor Pro Tem Mansoor expressed concern about over-commercializing a skatepark, the higher impact on a surrounding neighborhood, and the usage of a skatepark by other than Costa Mesa residents, pointing out references in the PEG report indicating users from as far away as an hour's drive, regional use, and company events. He questioned whether there would be enough parking for the increased visitors to the City, noting that weekdays could present 200 unduplicated visits per day and 300 to 400 unduplicated visits per day on the weekends. He asked if the facility is rented out, were Costa Mesa residents then prohibited from using it for the day.

Mr. Hagen of PEG advised that under a benefits package for the Naming Rights element, the sponsors could combine packages and allow two uses per year where they would bring in their sponsors/supporters and hold expos. On a commercial rental, the City may wish to limit it to one day per month during the Spring and Summer, for a total of six events. He advised that the City would have the parking issue regardless if the City entered into a marketing program or not, noting that skateboarders are like golfers, they play at home, but they travel all over to play different venues. Mr. Hagen emphasized that a skateboard park is a regional draw and as such, the value of the advertising space at the park is at a much greater value.

Council Member Cowan stated she believed that the public was inundated with commercialization and expressed concern with the aesthetic aspect of advertising on the park and the surrounding neighborhood. She expressed the desire to see pictures of proposed advertising for the City of Costa Mesa, schematic or computer-generated, and not just materials from other cities. Recreation Manager Jana Ransom stated that under the Asset Management Program, staff could seek requests for information from various vendors and provide pictures with proposed advertising for the City's skateboard park. Mr. Hagen of PEG advised that the actual proposed advertising was in the next phase of the project, including the design and packaging of the benefits in the various categories which would be submitted to the City Council prior to distribution to prospective sponsors.

Council Member Scheafer expressed concern about over-commercialization, the impact on the Mesa Del Mar neighborhood, and banners on light poles. He expressed interest and support for the monument sign, kiosks and trash receptacle advertising. Council Member Scheafer stated he did not want to see the skatepark closed for filming, but would like to see one or two events a

year by a promoter who would stage an interactive event with the skaters, such as presentation of new skate technology/clothing. Council Member advised that he is interested in pursuing a donor wall or sponsor brick program for the skatepark. He too expressed the desire to see renderings of the proposed advertising for the skatepark.

MOTION: On motion by Council Member Monahan, seconded by Council Member Scheafer, the City Council accepted the Feasibility Study for the Corporate Partnership/Sponsorship Program for a Skate Facility to be located in TeWinkle Park prepared by the Public Enterprise Group. Council Member Steel voted "No". MOTION CARRIED.

The Mayor and City Manager noted that the City Council was desirous to see renderings of proposed advertising and asked if those would be included in Phase 2 of the project.

Mr. Hagen of PEG responded renderings would be included in Phase 2, that they would solicit input from prospective sponsors who would provide visuals, that they would return to the City Council for approval of the advertising, together with an economic analysis. Mr. Hagen recommended that the term of a sponsor contract be ten years, two five-year options with a one-year termination clause by either party.

MOTION: On motion by Council Member Monahan, seconded by Council Member Scheafer, the City Council directed staff to proceed with Phase 2 only and to return to the City Council with a report that includes phased visuals of the park, contract term increments, and a list of assets, before proceeding to Phase 3. Council Members Mansoor and Steel voted "No". MOTION CARRIED.

3. Ordinance No. 04-13—Rezoning of Property at 1626/1640 Newport Boulevard: The Deputy City Clerk read the title of Ordinance No. 04-13 and noted it was introduced for first reading at the October 18, 2004 meeting.

The Mayor asked if anyone wished to address the City Council on the matter. The following person spoke:

Brian Lee Evans, Newport Beach, referred to the ordinance adoption process specified in Government Code Section 36934 and reiterated his position that he did not believe the City Council followed the process precisely. The Mayor acknowledged his position and again noted the City Attorney's opinion that the City's procedure is in compliance with the law.

MOTION: On motion by Council Member Monahan, seconded by Council Member Cowan, the City Council adopted Ordinance No. 04-13 entitled:

ORDINANCE NO. 04-13: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REZONING 4.4 ACRES FROM C2 TO PDC BY ADOPTION OF REZONE PETITION R-02-03. (Property located at 1626/1640 Newport Boulevard; rezoning from General Business District to Planned Development Commercial)

Roll Call Vote:

AYES: COUNCIL MEMBERS: MONAHAN, COWAN, AND SCHEAFER

NOES: COUNCIL MEMBERS: MANSOOR AND STEEL

ABSENT: COUNCIL MEMBERS: NONE

MOTION CARRIED. The Mayor declared Ordinance No. 04-13 duly passed and adopted.

NEW BUSINESS

1. Citywide Undergrounding of Overhead Utilities: William Morris, Public Services Director, briefed his City Council Agenda Report dated October 21, 2004, and noted that the Table on Page 2 of the Report reflects a significant difference from the estimated figures contained in the July 12, 2004 City Council Study Session Report which were based upon figures used for the 19th Street and Placentia Avenue Undergrounding Utility District. He noted they subsequently received revised figures from Southern California Edison (SCE) and they are reflected in the October 21st Report.

Mr. Morris reviewed the following options: Formation of One Overall Assessment District Citywide, Formation of Regional Assessment Districts, Formation of an Arterial Streets Underground District, and Formation of a Residential Streets Assessment District. Mr. Morris pointed out that as the size of an assessment district area may shrink, the costs do not proportionately shrink, since there are certain fixed costs associated with the formation and construction of a district, such as assessment engineer's services, design, and required structures on each side of the district to bring the wires up to the existing overhead facilities.

Mayor Monahan noted that it was projected to cost approximately \$850 million to underground the City. He asked what the cost in a residential neighborhood would be. Mr. Morris responded that they projected a one-half mile residential section containing about 78 six thousand square foot, single-family residential parcels, to cost each parcel up to \$31,500.

Mayor Monahan noted the larger lot sizes on the East Side of the City could be required to pay \$40,000. Mr. Morris pointed out the estimate was based on square footage, but that an assessment engineer would present various assessment options, such as square footage of a parcel, street footage, etc. Mayor Monahan stated that, given the costs involved, he would prefer to have neighborhoods interested in undergrounding petition the City, if so inclined.

Mayor Pro Tem Mansoor concurred, stating he preferred to have formation of assessment districts for undergrounding utilities be resident-generated.

Public Services Director Morris referred to his staff report and noted that the City Council may wish to direct staff to develop a draft Council Policy to help guide residents, as well as staff, through the assessment district process. He also recommended that staff be directed to develop criteria for identifying the next logical cost/benefit area for undergrounding arterial streets, since that would provide the largest benefit to the City given the traffic impact, when Rule 20A funds become available which is not until 2010 or 2011. Mr. Morris advised Eddie Marquez of Southern California Edison (SCE) was present to answer any questions.

Mayor Pro Tem Mansoor stated that he would like questions relating to the following addressed in any motion made this evening: 1) Goal to underground utilities for the whole City. 2) Coordination of undergrounding with street repair as much as possible. 3) Bond issues for main arterial street transmission lines. 4) Policy relating to residential undergrounding of utilities be resident-generated. 5) Explore options for undergrounding in commercial areas to insure the whole City is addressed and included. 6) Direction to staff relating to Rule 20A funds, if necessary at this time. Mayor Pro Tem Mansoor advised he would like to hear from the SCE representative relating to the most efficient way to approach undergrounding of utilities throughout the City.

SCE representative Eddie Marquez reported they have been meeting with Public Services Director Bill Morris to discuss available options and communicating with the City Manager. Mr. Marquez advised that SCE would be happy to work with the City and explore all SCE programs relating to use of Rule 20A and 20B funds. In response to the Mayor's inquiry, another SCE representative in the audience stated that it is more expensive and dangerous to address underground utility problems, but that if they were SCE-owned facilities, SCE bears the cost and liability. Council Member Scheafer advised his father-in-law worked for SCE for many years and always said underground utility problems were more expensive and dangerous to address than overhead utilities.

In response to Council Member Cowan's request for additional information, City Manager Roeder advised he and the Mayor Pro Tem had discussed earlier in the day the creation of a method to fund the undergrounding of arterials that would be fair and equitable to all property owners and residents of the City. One of the concepts discussed was the possibility of a ballot measure(s) to authorize bonds which would include specific projects to be undertaken, with repayment of the bonds through property taxes. Council Member Cowan expressed support for such an approach. Mayor Monahan disagreed, stating that the 80 or 90 percent of the residents paying for the bonds would not have their utilities undergrounded for some time, and stated he would not support staff exploring such an approach. He would support creation of a policy or guidelines for resident-generated assessment districts.

Mayor Pro Tem Mansoor clarified that the bond issue would be for arterial streets and inclusion of three to five major streets so there was benefit to numerous residents and successive bond issues would include another five streets and so on. The Newport Beach policy he referred to was for formation of assessment districts on a resident-generated basis. He stated both approaches required community support or it would not go forward, and that it was a start in achieving the ultimate goal of undergrounding the entire City.

The Mayor asked if anyone wished to address the City Council on the matter; the following persons spoke:

1. Laurie McDonald, East Side Costa Mesa, stated she believed that individuals could work directly with SCE and not have to form assessment districts through the City; that the Internet provided listings of programs utilized in the Inland Empire; that other local cities she contacted had much less expensive undergrounding programs than what was being discussed; projects in the City are approved with no regard to impact on the current utility capability of small residential streets; non-stop jet noise makes the electrical wiring "sing;" that there are competing interests in the wiring on overhead lines; developers should be required to underground; and that she supports a City-wide undergrounding program should be developed.

In response to Mayor Monahan, Development Services Director Don Lamm advised that utilities for all new dwellings are required, by Code, to be undergrounded from the utility pole to the service box on the structure and that on remodel projects of less than 50 percent of the value of the structure, it is not required.

2. David Stiller, Costa Mesa, stated that redevelopment areas in certain parts of the City have not been fully determined and power usage requirements in those areas could be different; that many streets flood which would cause extensive damage to underground vaults; and that the City should consider future technology applications before embarking on a comprehensive undergrounding utility program.

3. Beth Refakes, East Side Costa Mesa, expressed concern about the ability of retired persons on fixed incomes or low-income residents to pay for undergrounding of utilities; that a higher vote percentage (80 percent) for approving a bond issue should be required; and that changing technology should be considered.
4. Jim Kerins, Costa Mesa, stated that although undergrounding was a very expensive issue, he encouraged the City Council to continue to move forward, come up with options, and eventually put the issue on the ballot.
5. Sam Clark, Costa Mesa, expressed concern about the prohibitive cost of undergrounding, the ability of persons on fixed or low incomes to pay, and encouraged the City to find affordable methods.
6. Terry Shaw, Costa Mesa, expressed the belief that although undergrounding of utilities would be aesthetically pleasing, the cost was too prohibitive and that there were too many unanswered logistical questions at this time.

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

Mayor Pro Tem Mansoor stated he believed that there was strong community support for undergrounding but given the extraordinary expense, he suggested that the City could conduct a poll to determine the threshold amount people would be willing to pay for undergrounding. He asked what the construction impact on property owners would be. A SCE representative, speaking from the audience, advised there would be substantial disruption to property owners, that open trenches were the least expensive but they could use a boring approach if there was sufficient room in the street, and who would bear replacement costs for driveways, lawns, shrubbery, etc., would be a determination by the City Council.

MOTION: Council Member Mansoor moved to declare a desire to ultimately underground utilities in the entire City; to direct staff to coordinate street repair as much as possible with the undergrounding; to explore bond issues for the undergrounding of arterial transmission and distribution lines and to conduct resident polling on threshold amounts, when appropriate; to develop a resident-generated assessment district policy in residential areas; and to explore options for inclusion of commercial areas in a City-wide undergrounding program. Council Member Cowan seconded the motion.

For clarification purposes, City Manager Roeder advised that a committee comprised of the Public Services Director, the Finance Director, himself and others would need to be formed to research the various bonding/repayment options, with a report submitted to the City Council for further direction.

Council Member Steel stated he would support the motion, since he has always favored the undergrounding of utilities, and the proposal was a good step in that direction.

Council Member Cowan stated she would support the motion, since it promoted the ultimate goal of a City-wide underground utility program.

Mayor Monahan stated he could not support the motion due to cost, impact on fixed and low-income residents, need for other municipal infrastructure such as storm drains, parks and street repair, and potentially large tax increase to pay for bonds.

Council Member Scheafer stated he would support the motion, since he believed a City-wide underground utility program was a great benefit to the City, and he was desirous of seeing the electorate decide the bonding/payment issue.

A vote was taken on the foregoing motion. Council Member Monahan voted "No."
MOTION CARRIED.

2. Council Policy 100-7—Use of City Hall Conference Rooms by Outside Organizations:
The Deputy City Clerk introduced the item. Assistant City Manager Steven Hayman briefed his City Council Agenda Report dated October 1, 2004, explaining that as a result of a homeowners association's request to use City Hall Conference Rooms, staff discovered certain ambiguous language in sections of the Council Policy. Subsequently, staff reviewed the entire Policy including the Attachment A. Mr. Hayman noted that Council Policy 100-7 was discussed at the City Council September 13, 2004 Study Session.

The Mayor asked if anyone wished to address the City Council on the matter. The following persons spoke:

1. David Stiller, Costa Mesa, explained that they have an 11-member Board of Directors and when residents wish to attend the Homeowners Association meetings, they have insufficient room to accommodate everyone; if City Hall facilities were available, they would like to the opportunity to use them with a waiver of any fee; and he noted there are five other organizations who use City Hall facilities.

The Mayor pointed out that the five organizations referred to were City committees working for the City Council.

2. Beth Refakes, East Side Costa Mesa, expressed the opinion that City Hall Conference Rooms should be excluded from public use, other than for City committees conducting City business and that use by outside organizations imposes additional personnel and maintenance costs on the City. She pointed out that there was the City Community Center, as well as other private facilities in the community available for use or rent
3. Laurie McDonald, East Side Costa Mesa, stated she would like to see rooms available to homeowners on a limited basis and also a room set-up for the public to access public information and not have to go to individual departments.

Council Member Cowan referred to Attachment 3 and questioned why the Keep Costa Mesa Beautiful Committee and the Costa Mesa Federal Credit Union Board were permitted to use City Hall facilities. Assistant City Manager Hayden responded that the Credit Union in its infancy was the City Employees Federal Credit Union and the City was the official sponsor, and permitting the current Credit Union to use City Hall facilities during normal daytime hours was a historical continuation. Mr. Hayden had no personal recollection of the history of the Keep Costa Mesa Beautiful Committee meeting dates and times.

In response to the Mayor and Council Member Cowan, Assistant City Manager Hayden advised that if it is the City Council's desire to open conference rooms to private groups, staff would submit a report reflecting the full implications of such an action, i.e., costs associated if staff presence required, additional security measures, maintenance costs, liability issues, etc., so that the fees and waiver provisions could be established.

City Attorney Kimberly Hall Barlow stated that in addition to cost issues, the City Council may wish to also consider the fact that city halls, council chambers and conference rooms are considered public and any discussion held therein perceived as the message of the people. When private organizations, including religious organizations, use city hall facilities, the issue of public vs private message sometimes surfaces. That is why many

cities have private organizations use their community centers and not city halls, so as not to convey any message of endorsement. Ms. Barlow encouraged the City Council to fully explore these issues before opening City Hall to all groups.

Council Member Steel questioned if the second floor conference room of the Police Department could be used for homeowner groups. City Manager Roeder stated -he could not recommend opening a secure facility for general public use.

MOTION: On motion by Council Member Cowan, seconded by Council Member Monahan, the City Council determined that City Hall conference rooms would not be made available to outside organizations, with the exception of the Costa Mesa Federal Credit Union Board, and that all other organizations be given sixty days to locate to another suitable meeting place.

Council Member Steel stated he could not support the motion since he had no problem with homeowner groups using City Hall conference rooms, if it could be coordinated.

A vote was taken on the foregoing motion. Council Member Steel voted "No." MOTION CARRIED.

MOTION: On motion by Council Member Cowan, seconded by Council Member Monahan, the City Council directed staff to submit any necessary amendments to Council Policy 100-7, including all subsequent exhibits. MOTION UNANIMOUSLY CARRIED.

REPORTS

City Attorney: None

City Manager: City Manager Allan Roeder complimented Deputy City Clerk Julie Folcik and staff on a job well done in providing the public with the ability to advance vote electronically in this year's November Election. He noted the automated voting machines were placed in City Hall and public comment about early electronic voting were very positive.

COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Scheafer

1. Congratulated the Police Department on the successful drive-through Driving Under the Influence (DUI) program staged last Friday evening and thanked the California Highway Patrol (CHP) for their participation.
2. Expressed appreciation to the Police Department for their efforts in the recovery of his car which was stolen last week.
3. Encouraged the public to vote in the November 5th General Election.

Council Member Steel

1. Encouraged the public to vote in the November 5th General Election.
2. Expressed his appreciation to staff for their assistance during his four years of service on the City Council.

Council Member Cowan

1. Encouraged the public to vote in the November 5th General Election.

2. Welcomed new City Attorney Kimberly Hall Barlow to the City.

Mayor Pro Tem Mansoor

1. Welcomed new City Attorney Kimberly Hall Barlow to the City.
2. Encouraged the public to vote in the November 5th General Election.

ADJOURNMENT: The Mayor declared the meeting adjourned at 11:03 p.m. and noted the next Regular Meeting would be held November 15, 2004.

Respectfully submitted,

JULIE FOLCIK, DEPUTY CITY CLERK

GARY C. MONAHAN, MAYOR