



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: December 18, 2012
To: Honorable Mayor & City Council
From: City Attorney
Subject: Discussion of Vice Mayor Mirisch Request to Consider Local Regulations Concerning Bargaining Unit Negotiations
Attachment Potential Beverly Hills Ordinance Implementing Basic Provisions of Costa Mesa COIN Ordinance
Costa Mesa COIN ordinance

INTRODUCTION

Vice Mayor Mirisch has requested that the City Council consider adopting regulations governing the process for negotiating with City employee bargaining units based on a Costa Mesa ordinance commonly referred to as the "Civic Openness in Negotiations (COIN)" ordinance.

DISCUSSION

The attached ordinance imports the basic provisions of the Costa Mesa COIN ordinance into the format of a Beverly Hills ordinance and makes other language changes to conform to the Beverly Hills Municipal Code and remove Costa Mesa specific provisions. It is provided to the City Council for discussion purposes in order to allow the Council to review the provisions of the COIN ordinance in a manner in which they could be imported into the Beverly Hills Municipal Code. The Costa Mesa COIN ordinance is also attached for your information.

RECOMMENDATION

The City Attorney's office and staff are seeking direction on whether the City Council wishes to further pursue all or any portion of this ordinance.

A handwritten signature in cursive script, appearing to read "Laurence S. Wiener".

Laurence S. Wiener

Approved By

Attachment 1

ORDINANCE NO. 12-O-

AN ORDINANCE OF THE CITY OF BEVERLY HILLS REGARDING CIVIC
OPENNESS IN NEGOTIATIONS

Section 1. Article __ is hereby added to Chapter ___ of Title ___ of the Beverly Hills Municipal Code to read as follows:

ARTICLE __. – CIVIC OPENNES IN NEGOTIATIONS

Section _____. – Applicability. This article shall apply to all meet and confer processes undertaken pursuant to the Meyers-Milias-Brown Act, where either a recognized employee organization or the city, through their respective representatives, propose changes in wages, hours, or any other terms or conditions of employment.

Section _____. City Representative. The principal representative negotiating on behalf of the city in any negotiation or meet and confer process; 1) shall not be an employee of the city, and 2) shall have a demonstrated expertise in negotiating labor and employment agreements on behalf of municipalities. The city manager may designate one or more executive employees to be present during negotiations and to assist the principal negotiator as the city manager deems appropriate.

Section _____. – Independent Economic Analysis.

- (a) In order to implement the requirements of section _____, the city shall have prepared on its behalf, by a non-employee fiscal consultant in cooperation with the Director of Administrative Services a fiscal impacts analysis of each term and condition of employment proposed to be offered by the city to the members of a recognized employee organizations
- (b) In connection with the negotiation or renegotiation of a memorandum of understanding or an amendment, or extension to a memorandum of understanding, the above fiscal impacts analysis shall be completed and made available for review by the city council and the public at least thirty (30) days before consideration by the city council of an initial proposal to be presented to any reorganized employee organization.
- (c) The above report shall be regularly updated to itemize the costs and the funded and unfunded actuarial liability which would or may result from adoption or acceptance of each meet and confer proposal. The report shall include the fiscal

impacts of the employee association and/or city proposals. The report shall analyze all benefit and pay aspects of each proposal.

Section _____. – Civic Openness in the Meet and Confer Process.

- (a) Government Code section 3505, as it currently exists, mandates that changes in wages, hours and other terms and conditions of employment be preceded by participation of representatives from both the recognized employee organization and the city in good faith “meet and confer.” Government Code section 54957.6 authorizes the city council to meet in closed session with its designated representatives for the purpose of reviewing its meet and confer position and instructing its designated representatives as to how to participate in the meet and confer process. The city council shall report out from such closed session all prior offers, counteroffers, and meet and confer-related bargaining positions made by either the city and representatives of any employee organization, which were communicated to the city council during the closed session and are no longer being considered. The City’s principal representative shall have a duty to advise the city council during any such closed session of offers, counteroffers, information and/or statements of position discussed by employee association and city representatives participating in the meet and confer process since the last such closed session. This section shall not mandate publication of city council-directed future proposals or proposals that have not been formally rejected, but have not been included in a counter offer. In no event shall the City Council be required to disclose the analytical thought process utilized by the city council in addressing issues subject to the meet and confer process.
- (b) Each city council member shall disclose both publicly and during closed sessions, the identity of any and all employee association representatives with whom the city council member has had any verbal, written, electronic or other communication regarding a subject matter of a pending meet and confer process.

Section _____. – Adoption of Memorandum of Understanding.

Excepting the resolution of any meet and confer impasse, the rendering of a final city council determination regarding adoption of a memorandum of understanding shall only be undertaken after the matter has been heard at a minimum of two (2) city council meetings wherein the public has had the opportunity to review and comment on the matter. Not less than seven (7) days prior to the first city council meeting where the matter shall be heard, the city shall post on its website the memorandum of understanding under consideration for adoption.

Section 3. Severability. If any provision or clause of this Ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this Ordinance which can be implemented without the invalid

provision, clause or application; and to this end, the provisions of this Ordinance are declared to be severable.

PASSED AND ADOPTED this _____ day of _____, 2012.

Attachment 2

ORDINANCE NO. 12-7

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING CHAPTER VI OF TITLE 2 OF THE COSTA MESA MUNICIPAL CODE TO ORGANIZE EXISTING SECTIONS INTO ARTICLE 1 AND ADD A NEW ARTICLE 2 REGARDING CIVIC OPENNESS IN NEGOTIATIONS

WHEREAS, the City Council of the City of Costa Mesa finds that civic openness during labor negotiations is essential to good government; and

WHEREAS, Government Code section 3500 *et seq.* is known as the "Meyers-Milias-Brown Act" ("the Act"); and

WHEREAS, Government Code section 3500 provides in pertinent part that the purpose and intent of the Act is "to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed"; and

WHEREAS, the City Council finds that public information and knowledge is enhanced by virtue of employees and public agencies undertaking their duties and obligations pursuant to the Act in an open and transparent manner; and

WHEREAS, the City Council finds that the communication between the City and its employees required by the Act, regarding changes in wages, hours and other terms and conditions of employment, would benefit from the opinions of an informed and knowledgeable public; and

WHEREAS, it is the determination of the City Council that performance by the City and its employees of their respective duties and obligations under the Act will be facilitated when undertaken in the presence of an informed public.

WHEREFORE, the City Council of the City of Costa Mesa does hereby ordain as follows:

Section 1. Article 1 is hereby added to Chapter VI (Personnel) of Title 2 of the Costa Mesa Municipal Code to include existing Sections 2-210 through 2-235. Article 1 shall be titled, "Purpose, Rules, and Retirement."

Section 2. Article 2 is hereby added to Chapter VI (Personnel) of Title 2 of the Costa Mesa Municipal Code to read as follows:

ARTICLE 2. – CIVIC OPENNESS IN NEGOTIATIONS

Section 2-236. - Applicability. This article shall apply to all meet and confer processes undertaken pursuant to the Meyers-Milias-Brown Act, where either a recognized employee organization or the city, through their respective representatives, propose changes in wages, hours, or any other terms or conditions of employment. In an effort to avoid inherent conflicts of interest, the principal representative negotiating on behalf of the city 1) shall not be an employee of the city, 2) shall not be a member of any retirement system providing a defined benefit to the member, and 3) shall have a demonstrated expertise in negotiating labor and employment agreements on behalf of municipalities. The city council shall designate one or more Executive employees to be present during negotiations and to assist the principal negotiator as the city council and/or principal negotiator deem appropriate.

Section 2-237. - Independent Economic Analysis.

- (a) In order to implement the requirements of section 2-236, the city shall have prepared on its behalf, by an independent auditor in cooperation with the Finance Director, a study and supplemental data upon which the study is based, determining the fiscal impacts attributed to each term and condition of employment made available to the members of all recognized employee organizations.
- (b) The above report and findings of the independent auditor shall be completed and made available for review by the city council and the public at least thirty (30) days before consideration by the city council of an initial meet and confer proposal to be presented to any recognized employee organization regarding negotiation of an amended, extended, successor, or original memorandum of understanding.
- (c) The above report shall be regularly updated by the independent auditor to itemize the costs and the funded and unfunded actuarial liability which would or may result from adoption or acceptance of each meet and confer proposal. These measurements shall display the fiscal impacts of the employee association and/or city proposals. The report shall be prepared in the following format, including all benefit and or pay aspects of each MOU, and shall include written council member acknowledgement that the report has been read and considered by the signing council member.

REPORT FORMAT

ASSOCIATION							
BENEFIT/PAY	VALUE OF BENEFIT/ PAY	EXISTING COST TO CITY	PROJECTED COST TO CITY	EXISTING UNFUNDED LIABILITY	PROJECTED UNFUNDED LIABILITY COST	EXISTING FUNDED LIABILITY	PROJECTED FUNDED LIABILITY COST
Base Salary							
Pension/Retirement Benefit							
Cafeteria - Health Benefits							
Bilingual Pay							
Shorthand Pay							
Holiday Allowance Pay							
Longevity Pay							
Class A/B License Pay							
Shift Differential Pay							
Shift Differential Pay - A/M							
Emergency Med Dispatch Pay							
Canine Care Pay							
Motor Officer Maintenance Pay							
Motor Officer Assignment Pay							
Motor Training Officer Assign Pay							
POST Advanced Certificate Pay							
POST Intermediate Certificate Pay							
Uniform Pay-Patrol - 2.5%							
Paramedic Assignment Pay							
1st Medic Re-Certification Pay							
2nd Medic Re-Certification							
3rd Medic Re-Certification Pay							
Medic Recertification Bonus Pay							
Investigator II Certification Pay							
Instructor II Certification Pay							
Instructor III Certification Pay							
Prevention Officer II Certification Pay							
Prevention Officer III Certification Pay							
Public Education Officer Certification Pay							
Driver/Operator Certification Pay							
Rescue Specialist Certification Pay							
Confined Space Oper Tech Certification Pay							
Specialized Rescue Tech Certification Pay							
Firefighter II Certification Pay							
Fire Officer Certification Pay							
Chief Officer Certification Pay							
Fire Certification Pay - 60 Units							
Fire Certification Pay - 120 Units							
Fire Certification Pay - 180 Units							

Units
Fire Certification Pay - AS / AA
Degree
Fire Certification Pay - BS/BA
Degree
Fire Certification Pay - MS/MA
Degree
Others as deemed necessary

COUNCIL MEMBER ACKNOWLEDGMENT

Council member ____ (initials) Dated _____

Section 2-238. – Civic Openness in the Meet and Confer Process.

- (a) Government Code section 3505, as it currently exists, mandates that changes in wages, hours and other terms and conditions of employment be preceded by participation of representatives from both the recognized employee organization and the city in good faith “meet and confer.” Government Code section 54957.6 authorizes the city council to meet in closed session with its designated representatives for the purpose of reviewing its meet and confer position and instructing its designated representatives as to how to participate in the meet and confer process. The city council shall report out from such closed session the facts, including their significance and impacts, relating to any and all prior offers, counteroffers, and meet and confer-related bargaining positions made by either the city and representatives of any employee organization, which were communicated to the city council during the closed session and are no longer being considered. City council representatives shall have a duty to advise the city council during any such closed session of offers, counteroffers, information, and/or statements of position discussed by employee organization and city representatives participating in the meet and confer process since the last such closed session. This section shall not mandate publication of city council-directed future proposals and/or the analytical thought process utilized by the city council in addressing issues subject to the meet and confer process.
- (b) Each city council member shall disclose both publicly and during closed sessions, the identity of any and all employee association representatives with whom the

city council member has had any verbal, written, electronic or other communication(s) regarding a subject matter of a pending meet and confer process.

Section 2-239. - Adoption of Memorandum of Understanding.

Excepting the resolution of any meet and confer impasse, the rendering of a final city council determination regarding adoption of a memorandum of understanding shall only be undertaken after the matter has been heard at a minimum of two (2) city council meetings wherein the public has had the opportunity to review and comment on the matter. Not less than seven (7) days prior to the first city council meeting where the matter shall be heard, the city shall post on its website those materials explaining the basis for the memorandum of understanding under consideration for adoption.

Section 3. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance.

Section 4. Severability. If any provision or clause of this Ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this Ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this Ordinance are declared to be severable.

Section 5. Publication. This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and members of the City Council voting for and against the same.

PASSED AND ADOPTED this ____ day of _____, 2012.

Eric Bever, Mayor