



CITY COUNCIL AGENDA REPORT

MEETING DATE: APRIL 5, 2005

ITEM NUMBER:

SUBJECT: AMENDMENT TO TITLE 2 OF THE COSTA MESA MUNICIPAL CODE

DATE: MARCH 24, 2005

FROM: CITY ATTORNEY'S OFFICE

PRESENTATION BY: KIMBERLY HALL BARLOW, CITY ATTORNEY

FOR FURTHER INFORMATION CONTACT: KIMBERLY HALL BARLOW, 714-754-5399

RECOMMENDATION:

Introduce for first reading Ordinance No. 05-__ which amends Title 2 of the Municipal Code by amending Chapter III of Title 2, deleting Section 2-75, Chapter VII of Title 2, amending Sections 2-224 and 2-224.5, and Chapter IX of Title 2, amending Sections 2-305 and 2-309.

BACKGROUND:

When the City determined to contract out for legal services, the new City Attorney advised Council that she would undertake a review of the Municipal Code and bring forward appropriate revisions to eliminate inconsistencies with state law and to make such other changes as were necessary to address structural changes in the City's administration, policies, boards and committees, etc. Previous amendments to the provisions of Title 2 relating to conflicts of interest were previously approved by Council. The attached Ordinance makes the remainder of the changes in Title 2 which are currently recommended by the City Attorney.

ANALYSIS:

The first change proposed in the Ordinance is to delete Section 2-75, contained in Chapter III of Title 2, dealing with the reading of ordinances and resolutions. This change is recommended because the portion of the section dealing with the reading of ordinances is covered completely by state law and, in fact, conflicts with the California Government Code section on this subject. State law does not require the reading in full of resolutions or any action to waive further reading. Thus, this provision in the municipal code should simply be deleted.

The proposed changes to Chapter VII of Title 2 involve revisions to Sections 2-224 and 2-224.5 to eliminate references to the City Attorney as a position to which the personnel rules apply, and to make clear that the City Attorney is no longer an 'employee' position in the City. Section 2-224.5 is also being amended to include the Assistant City Manager as an at-will employee, who is appointed by the City Manager. The Council previously acted to create the position of Assistant City Manager, and included the position in the salary

resolution; however, the position was not added to the list of at-will appointees in the Municipal Code. This amendment will bring the code up to date to reflect current at will positions.

We also recommend changes to Section 2-305 of Chapter IX to codify existing practice with respect to the deadlines for filing of appeals, requests for rehearing and review, to confirm that such requests are to be made in writing and that they must be filed by 5:00 p.m. on the last date for such filing, and also to clarify that if the last date for filing a request for appeal, review or rehearing falls on a day on which City Hall is closed, then the next business day is the deadline. The recommended change to Section 2-309 is to revise this section of the code to reflect the Council's recent consolidation of the Building, Fire and Housing Board with the Access Appeals Board into the Access, Building, Fire and Housing Board of Appeals, to provide that appeals under section 5-3 are to the newly consolidated board.

ALTERNATIVES CONSIDERED:

Council could choose not to make any or all of the recommended changes.

FISCAL REVIEW:

None required.

LEGAL REVIEW:

The City Attorney's office has prepared the Ordinance for your consideration.

CONCLUSION:

The City Attorney recommends City Council introduce the attached Ordinance for first reading.

KIMBERLY HALL BARLOW
City Attorney

DISTRIBUTION: City Manager
Assistant City Manager

ATTACHMENTS: 1 [Ordinance No. 05-](#)
2 [Text of Existing Sections showing changes](#)

