



CITY COUNCIL AGENDA REPORT

MEETING DATE: June 19, 2007

ITEM NUMBER:

VIII-3

SUBJECT: LIABILITY CLAIMS SETTLEMENT AND REJECTION AUTHORITY

DATE: JUNE 6, 2007

FROM: KIMBERLY HALL BARLOW

PRESENTATION BY: KIMBERLY HALL BARLOW, CITY ATTORNEY

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

RECOMMENDATION:

Give second reading and adopt the attached Ordinance Amending Title 2, Article 3, relating to claims against the City.

BACKGROUND:

At the City Council meeting on May 15, 2007, the issue of raising the City Manager's settlement authority for liability claims and adding the ability to reject any claims was presented due to settlement value inflation in the liability claims environment. City Council directed staff to prepare an amendment to the ordinance. Council gave the ordinance first reading at its meeting on June 5, 2007.

ANALYSIS:

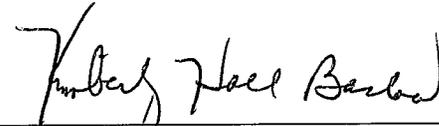
Existing procedures require that all claims over the amount of \$25,000 be presented to City Council for review and disposition. At its regular meeting on June 5, 2007, City Council gave first reading to the proposed ordinance. In addition to adoption of the ordinance, Council should consider and adopt an amendment to Council Policy 000-3 to completely reconcile the City's codes and policies on this issue. The ordinance, increasing the City Manager's authority for settling claims to \$50,000 and allowing him to reject any claim, regardless of amount, is before you for second reading and adoption.

CONCLUSION:

The proposed amendment to the Costa Mesa Municipal Code is intended to streamline and improve the efficiency of processing claims against the City. The City Attorney recommends that City Council give second reading to and adopt the Ordinance and adopt the amended Council Policy 000-3 .


ALLAN L. ROEDER

City Manager


KIMBERLY HALL BARLOW

City Attorney



STEPHEN N. MANDOKI

Administrative Services Director

ATTACHMENTS: 1 Ordinance
2 Council Policy 000-3

File Name

Date

Time

ORDINANCE NO. 07-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 2, CHAPTER V, ARTICLE 3 OF THE COSTA MESA MUNICIPAL CODE REGARDING SETTLEMENT AND REJECTION AUTHORITY OF LIABILITY CLAIMS.

WHEREAS, the liability claims environment has changed significantly since the Code was last amended in 1996; and

WHEREAS, the facts notwithstanding, claimants now make claims for millions of dollars, but the authority limits have not been raised accordingly; and

WHEREAS, over the last ten years, claim settlement value has increased to the point where the industry standard of the nuisance value of claims is anything less than \$25,000; and

WHEREAS, by adopting higher settlement authority limits for the City Manager, fewer claims would have to be presented to City Council for review and disposition, thereby reducing staff involvement and streamlining claims processing; and

WHEREAS, by giving the City Manager the authority to review and reject any meritless claims regardless of the amount claimed would allow the City to reject claims quickly, resulting in lower litigation costs by restricting claimants to a shorter time period in which to file lawsuits and encouraging more expedient discovery.

WHEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 2-189, Title 2, Chapter V, Article 3 of the Costa Mesa Municipal Code is hereby amended as follows:

Sec. 2-189. Settlement of certain claims.

(a) The city council authorizes an insurance committee, comprised of the city manager, director of finance, and city attorney, or designees, to perform such functions of the city council as provided in Chapter 5 of Title 1 of the Government Code, including the rejection or negotiation of all claims and settlement of any claim where the amounts to be paid pursuant to an allowance, compromise or settlement does not exceed twenty-five thousand dollars (\$25,000.00). Upon approval of a majority of the insurance committee, the director of finance shall cause a warrant to be issued upon the treasury of the city in the amount for which a claim has been allowed, compromised or settled.

(b) The Human Resources/Risk Manager is hereby authorized, with the concurrence of the city attorney, to allow, reject, compromise, or settle any tort claim for a sum not to

exceed five thousand dollars (\$5,000.00). Upon approval by the Human Resources/Risk Manager, the director of finance shall cause a warrant to be issued upon the treasury of the city in the amount for which a claim has been allowed, compromised or settled.

(c) The City Manager is hereby authorized to reject any claim, regardless of amount stated or unstated. This authority may be delegated by the City Manager to the City's Insurance Committee or an individual employee.

(d) The City Manager is hereby authorized to negotiate and settle any liability claim up to an amount not to exceed \$50,000. Upon approval by the Human Resources/Risk Manager, the director of finance shall cause a warrant to be issued upon the treasury of the city in the amount for which a claim has been allowed, compromised or settled. This authority may be delegated by the City Manager to the City's Insurance Committee or an individual employee.

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 no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 4. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 5. Publication. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect thirty (30) days after its final passage.

PASSED AND ADOPTED this 19th day of June, 2007.

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk and ex-officio clerk of
the City of Costa Mesa

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Julie Folcik, City Clerk of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 07-14 was introduced and considered section by section at a regular meeting of said City Council held on the 5th day of June, 2007, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the 19th day of June, 2007, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this 20th day of June, 2007.

City Clerk of the City of Costa Mesa

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
LIABILITY CLAIMS PROCEDURE	000-3	02/01/1992 REVISED: 06/19/2007	1 OF 1

PURPOSE:

The purpose of this policy is to provide the authorization of settlement of liability claims under the City's Self-Insured Plan, and to establish consistent guidelines for the settlement of such claims. ~~It is felt that authorization for the settlement of these claims should be on different levels depending upon the amount of the claim.~~

PROCEDURE:

1. The City's Human Resources/Risk Manager has authority to settle tort claims under ~~\$1,000~~ \$5,000 and provide payment through the Finance Department.
2. ~~It is recommended that~~ Any claims from ~~\$1,000~~ \$5,000 to ~~\$5,000~~ \$25,000 may be reviewed and approved by the City's Insurance Committee, consisting of the City Manager, City Attorney, and Finance Director. This Committee would meet as required to approve the payment of these claims.
3. The City Manager has the authority to settle liability claims up to \$50,000. Such authority may be delegated to the City's Insurance Committee or an individual employee.
4. The City Manager has the authority to reject any claim, regardless of the stated or unstated amount. This authority may be delegated by the City Manager to the City's Insurance Committee or an individual employee.
5. ~~On~~ Settlement of claims for an amount over ~~\$5,000~~ \$50,000 shall be placed before City Council for review and approval ~~would have to be obtained.~~