

**ACTION REPORT
CITY OF COSTA MESA
REGULAR CITY COUNCIL AND SUCCESSOR AGENCY
TO THE REDEVELOPMENT AGENCY* MEETING**

*NOTE: ALL AGENCY AND AUTHORITY MEMBERSHIPS ARE REFLECTED IN THE TITLE "COUNCIL MEMBER."

**TUESDAY, JULY 17, 2018
CITY COUNCIL CHAMBERS
77 FAIR DRIVE, COSTA MESA, CALIFORNIA
CLOSED SESSION – 4:00 P.M.
REGULAR MEETING – 6:00 P.M.**

SANDRA L. GENIS
Mayor

ALLAN R. MANSOOR
Mayor Pro Tem

KATRINA FOLEY
Council Member

JOHN B. STEPHENS
Council Member

JAMES M. RIGHEIMER
Council Member

City Attorney
Thomas Duarte

City Manager
Thomas R. Hatch

CALL TO ORDER

The Closed Session was called to order by Mayor Genis at 4:07 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

ROLL CALL

Present: Council Member Foley, Council Member Righeimer, Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Absent: None

The City Council recessed to Conference Room 5A at 4:20 p.m. for Closed Session to consider the following items:

1. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Section 54957.6, California Government Code

Agency Designated Representative: Tamara Letourneau, Assistant City Manager

Name of Employee Organization: Costa Mesa Police Management Association (CMPMA)

FOR INFORMATIONAL PURPOSES ONLY

2. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Section 54957.6, California Government Code

Agency Designated Representative: Tamara Letourneau, Assistant City Manager

Name of Employee Organization: Costa Mesa Police Association (CMPA)

3. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code

Name of Case: Timothy Dadey, et al. v. City of Costa Mesa, Orange County Superior Court of California, Case No. 30-2014-00757962-CU-CR-CJC.

4. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code

Name of Case: The Kennedy Commission, et al. v. City of Costa Mesa, Orange County Superior Court of California, Case No. 30-2016-00832585-CU-WM-CJC.

5. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code

Name of Case: Yellowstone Women's First Step House, Inc., and Sober Living Network, Inc. v. City of Costa Mesa, United States District Court, Central District of California, Case No. SACV14-01852 JVS.

6. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: New Harbor Inn, 2205 Harbor Boulevard, Costa Mesa, CA 92627

APN: 422-193-24

Pursuant to Section 54956.8, California Government Code

Negotiating Parties: Thomas R. Hatch, City Manager and 2205 Harbor LLC, Ming Chen and Hsiang Chen

Under Negotiation: Price and Terms

7. CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION

INITIATION OF LITIGATION – ONE POTENTIAL CASE

Pursuant to Subdivision (d)(4) of Section 54956.9, California Government Code

8. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION – ONE POTENTIAL CASE

Pursuant to Subdivision (d)(2) of Section 54956.9, California Government Code

With regards to Closed Session Item No. 8, Assistant City Attorney Tarquin Preziosi stated: The facts and circumstances related to the condition of approval number 1 of the tentative tract map and master plan for the Red Mountain Retail Group planning application PA-13-29, located at 511 Hamilton St., as set forth in the July 12, 2018 letter from the applicant's representative to the City.

The City Council reconvened at 6:15 p.m.

CALL TO ORDER

The meeting was called to order by Mayor Genis at 6:15 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

FOR INFORMATIONAL PURPOSES ONLY

ROLL CALL

Present: Council Member Foley, Council Member Righeimer (left at 11:58 p.m.), Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Absent: None

CITY ATTORNEY CLOSED SESSION REPORT – Assistant City Attorney Tarquin Preziosi reported on Closed Session Item Nos. 3 and 4, the Dadey and Kennedy Commission lawsuits, in which the City of Costa Mesa has reached a settlement agreement to settle the lengthy disputes over the development of the Costa Mesa Motor Inn site at 2277 Harbor Boulevard and challenges to the city’s motel ordinance. The Los Angeles Superior Court entered a judgment last week consistent with the settlement that allows development on the Motor Inn site of a new apartment project with up to 200 units, including nine units reserved for very low-income tenants for the next 55 years. The settlement agreement effectively ends three lawsuits, two filed in 2014 challenging a city ordinance that regulates long-term stays at motels, and one objecting to the City Council’s 2015 land use approvals for the owner-applicant to develop a 224-unit project on the Motor Inn site. Assistant City Attorney Preziosi also provided a follow-up from the June 19, 2018 Closed Session meeting, in which the City Council, on a vote of 5-0, authorized the initiation of litigation against Casa Capri located at 269 and 271 16th Place and Ohio House located at 247 and 253 Joan Street. The litigation has now been filed in court. (00:04:57)

COIN: Ex Parte Communications pursuant to Municipal Code Section 2-238 (b) - NONE

CONSENT CALENDAR:

MOVED/SECOND: Council Member Righeimer/Mayor Genis

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 15 except for 3, 6 and 9.

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Righeimer, Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Nays: None

Absent: None

Motion carried: 5-0

- 1. PROCEDURAL WAIVER: MOTION TO APPROVE THE READING BY TITLE ONLY OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED**

ACTION:

City Council/Agency Board/Authority Board waived reading of Ordinances and Resolutions.

FOR INFORMATIONAL PURPOSES ONLY

2. **READING FOLDER** - Claims received by the City Clerk: Erik Apple, Regina Barrett, Igal Israel and Guadalupe and Ana Villa.

ACTION:

City Council received and filed.

4. **RENEWAL OF THE MICROSOFT ENTERPRISE AGREEMENT**

ACTION:

1. City Council approved a three-year renewal of the Enterprise Agreement (“EA”) with Microsoft through SoftwareOne in the amount not-to-exceed \$225,159.75 (payable in three equal annual payments of \$75,053.25); and
2. Authorized the City Manager to sign the agreement and any documents necessary to continue the City’s participation in the program during the three-year term.

5. **COOPERATIVE AGREEMENT TO FUND TOTAL MAXIMUM DAILY LOAD PROGRAMS AND RELATED ACTIVITIES IN THE NEWPORT BAY WATERSHED**

ACTION:

1. City Council approved the Agreement to fund Nutrient, Fecal Coliform, and Toxics Total Maximum Daily Load (TMDL) studies in the Newport Bay Watershed, Cooperative Agreement No. MA-080-18011416; and
2. Authorized the Mayor and the City Clerk to execute Cooperative Agreement No. MA-080-18011416; and
3. Authorized the City Manager to execute any future amendments to this agreement.

7. **AGREEMENT FOR A SCHOOL RESOURCE OFFICER PROGRAM BETWEEN THE CITY OF COSTA MESA AND NEWPORT- MESA UNIFIED SCHOOL DISTRICT FOR FISCAL YEAR 2018-2019**

ACTION:

1. City Council approved the agreement for a School Resource Officer (SRO) Program between the City of Costa Mesa and Newport-Mesa Unified School District (NMUSD) for Fiscal Year 2018-2019; and
2. Authorized the City Manager to execute the agreement.

8. **MINUTES OF THE REGULAR CITY COUNCIL AND SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY MEETING OF JUNE 19, 2018**

ACTION:

City Council approved the minutes of June 19, 2018.

10. PUBLIC SAFETY SOFTWARE LICENSE AND SERVICES MAINTENANCE AGREEMENT

ACTION:

City Council authorized the City Manager to sign the Purchase Requisition in the amount of \$113,270.01 to fund the last contract year of the Software Maintenance Agreement between the City of Costa Mesa and Superion, LLC, from August 1, 2018 to July 31, 2019.

11. PARTICIPATION IN THE MOBILE SOURCE AIR POLLUTION REDUCTION REVIEW COMMITTEE (MSRC) LOCAL GOVERNMENT PARTNERSHIP PROGRAM

ACTION:

1. City Council received and filed the Mobile Source Air Pollution Reduction Committee (MSRC) Local Government Partnership Program presentation; and
2. Adopted Resolution No. 18-51, read by title only, authorizing submittal of an application to the MSRC Local Government Partnership Program for MSRC funding for electric vehicle charging infrastructure (EVSE) installation at City Hall and the purchase of up to three (3) electric vehicles, authorizing the implementation of projects, and allocating matching funds in connection therewith; and
3. Authorized staff to calculate and charge fees for use of the City's electric vehicle charging stations to help the City recover energy and operational costs associated with the EVSE.

12. MERRIMAC WAY STREET, SIDEWALK, AND BICYCLE FACILITY PROJECT

ACTION:

1. City Council approved the Professional Services Agreement with GHD Group Services (USA) Inc. ("GHD") for the design of the Merrimac Way Street, Sidewalk, and Bicycle Facility Project in the amount of \$194,953; and
2. Authorized the City Manager and the City Clerk to execute the Professional Services Agreement and future amendments to the agreement.

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13. PROFESSIONAL ENGINEERING SERVICES TO PROVIDE STAFF SUPPORT TO THE TRANSPORTATION SERVICES DIVISION

ACTION:

1. City Council approved the Professional Services Agreement with Interwest Consulting Group, 15140 Transistor Lane, Huntington Beach, CA 92649, in the amount of \$120,000; and
2. Authorized the City Manager and the City Clerk to execute the Professional Services Agreement and future amendments to the Agreement.

14. COSTA MESA CITY HALL AUDIO VISUAL (A/V) IMPROVEMENT AND BROADCAST PRODUCTION UPGRADE PROJECT – CITY PROJECT NO. 18-05

ACTION:

1. City Council adopted the plans, specifications, and working details for the City Hall Audio Visual (A/V) Improvement and Broadcast Production Upgrade Project – City Project No. 18-05; and
2. Rejected the bid of Western Audio Visual as non-responsive; and
3. Awarded a construction contract to Key Code Media, Inc., 270 S. Flower, Burbank, CA 91502 in the amount of \$1,754,509.86; and
4. Authorized the Mayor and the City Clerk to execute the Public Works Agreement.

15. PROFESSIONAL ENGINEERING SERVICES FOR VARIOUS CAPITAL IMPROVEMENT PROJECTS

ACTION:

1. City Council awarded the Professional Services Agreement to NV5, 9890 Irvine Center Drive, Irvine, California 92618, for a not-to-exceed amount of \$246,948, for professional engineering services for various Capital Improvement Projects; and
2. Authorized the Mayor and the City Clerk to execute the Professional Services Agreement.

ITEMS PULLED FROM THE CONSENT CALENDAR

3. **WARRANT RESOLUTION NO. 2602 OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NO. 18-12 "A" FOR \$0.00 AND 18-13 FOR \$2,447,097.60; AND CITY OPERATING EXPENSES FOR \$2,232,875.01; AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID**

MOVED/SECOND: Mayor Pro Tem Mansoor/Council Member Foley

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Nays: None

Absent: Council Member Righeimer

Motion carried: 4-0-1

ACTION:

City Council approved Warrant Resolution No. 2602.

6. **CDBG PROJECT: POMONA AVENUE PAVEMENT REHABILITATION FROM CITY LIMIT TO 18TH STREET – CITY PROJECT NO. 18-03**

MOVED/SECOND: Council Member Foley/Righeimer

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Righeimer, Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

1. City Council adopted the plans, specifications, and working details for the Community Development Block Grant (CDBG) Project: Pomona Avenue Pavement Rehabilitation from south City Limits to 18th Street, City Project No. 18-03; and
2. Awarded a construction contract to Copp Contracting, Inc., 6751 Stanton Ave. Buena Park, CA 90621, in the amount of \$878,896.60; and
3. Authorized the Mayor and the City Clerk to execute the Public Works Agreement.

9. **ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA REVERSING THE DECISION OF THE PLANNING COMMISSION AND DENYING MASTER PLAN PA-17-28 FOR A MIXED-USE PROJECT (THE PLANT) AT 765-767 BAKER STREET AND 2972 CENTURY PLACE**

MOVED/SECOND: Mayor Pro Tem Mansoor/Council Member Righeimer

MOTION: To adopt the revised Resolution No. 18-50 with findings, reversing the Planning Commission's approval of, and thereby denying, Planning Application 17-28.

The motion carried by the following roll call vote:

Ayes: Council Member Righeimer, Mayor Pro Tem Mansoor, and Mayor Genis.

Nays: Council Member Foley and Council Member Stephens.

Absent: None

Motion carried: 3-2

ACTION:

City Council adopted the revised Resolution No. 18-50 with findings, reversing the Planning Commission's approval of, and thereby denied, Planning Application 17-28.

City Council recessed into a break at 8:24 p.m.

City Council reconvened at 8:38 p.m.

MOVED/SECOND: Council Member Righeimer/Council Member Foley

MOTION: To consider New Business Item No. 3 Ambulance Transportation Service Contract prior to Public Hearing.

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Righeimer, Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council agreed to consider New Business Item No. 3 Ambulance Transportation Service Contract prior to Public Hearing.

NEW BUSINESS

3. AMBULANCE TRANSPORTATION SERVICE CONTRACT, RFP 18-08

MOVED/SECOND: Council Member Foley/Council Member Righeimer

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Righeimer, Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council received and filed independent auditor's report regarding the Ambulance Operator Service contract between Care Ambulance Service, Inc. and the City of Costa Mesa.

PUBLIC HEARINGS – 7:00 p.m. (Resolution No. 05-55):

1. APPEAL OF THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMITS PA-16-26 AND PA-16-32 TO ALLOW A SOBER LIVING FACILITY SERVING 22 RESIDENTS; INCLUDING AN APPEAL OF DENIAL OF A REQUEST FOR REASONABLE ACCOMMODATION FOR RELIEF FROM CERTAIN LAND USE REQUIREMENTS; OPERATED BY RAW RECOVERY, LLC, AT 3016 AND 3018 JEFFREY DRIVE

City Council recessed into a break at 10:05 p.m.

City Council reconvened at 10:14 p.m.

MOVED/SECOND: Council Member Righeimer/Council Member Foley

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Righeimer, Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

1. City Council conducted a single public hearing for the two applications, PA-16-26 and PA-16-32, since the sites are contiguous and operated as a single facility; and
2. Adopted Resolution No. 18-52, upholding the decisions of the Director of Economic and Development Services to deny the request for Reasonable Accommodation and the Planning Commission to deny Conditional Use Permit PA-16-26.

FOR INFORMATIONAL PURPOSES ONLY

MOVED/SECOND: Council Member Righeimer/Council Member Foley

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Righeimer, Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

3. City Council adopted Resolution No. 18-53, upholding the decisions of the Director of Economic and Development Services to deny the request for Reasonable Accommodation and the Planning Commission to deny Conditional Use Permit PA-16-32.

2. **REVIEW OF THE PLANNING COMMISSION'S APPROVAL OF CONDITIONAL USE PERMIT PA-16-33 TO ALLOW A SOBER LIVING FACILITY SERVING EIGHT RESIDENTS (APPLICANT REQUEST WAS FOR 10 RESIDENTS); INCLUDING AN APPEAL OF DENIAL OF A REQUEST FOR REASONABLE ACCOMMODATION FOR RELIEF FROM CERTAIN LAND USE REQUIREMENTS OF THE ZONING CODE; OPERATED BY RAW RECOVERY, LLC, AT 268 KNOX STREET**

MOVED/SECOND: Mayor Pro Tem Mansoor/Council Member Foley

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Righeimer, Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council adopted Resolution No. 18-54, upholding the decision of the Director of Economic and Development Services to deny the request for Reasonable Accommodation and overturned the decision of the Planning Commission and denied Conditional Use Permit PA-16-33 based on the 650' proximity to other rehab homes, calls for service listed in the staff report and testimonies received at the July 17, 2018 public hearing.

OLD BUSINESS: NONE

NEW BUSINESS:

MOVED/SECOND: Council Member Foley/Mayor Pro Tem Mansoor

MOTION: Continue the meeting past midnight to consider New Business Item No. 2 and continue New Business Item No. 1 to a future City Council meeting.

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Nays: None

Absent: Council Member Righeimer

Motion carried: 4-0-1

ACTION:

City Council continued the meeting past midnight to consider New Business Item No. 2.

1. AMENDMENT TO CITY ATTORNEY RETAINER AGREEMENT WITH JONES & MAYER

ACTION:

City Council continued the item to a future City Council meeting.

2. DESIGNATION OF VOTING DELEGATE AND VOTING DELEGATE ALTERNATE(S) FOR 2018 LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE

MOVED/SECOND: Council Member Foley/Mayor Pro Tem Mansoor

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Stephens, Mayor Pro Tem Mansoor, and Mayor Genis.

Nays: None

Absent: Council Member Righeimer

Motion carried: 4-0-1

ACTION:

City Council designated Mayor Genis as Costa Mesa's voting delegate for the 2018 League of California Cities Annual Conference.

REPORT – CITY MANAGER - NONE

REPORT – CITY ATTORNEY - NONE

ADJOURNMENT – Mayor Genis adjourned the meeting at 12:02 a.m. in memory of Hank Panian and Meghan Clevenger.