

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

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

TUESDAY, JULY 18, 2017
CITY COUNCIL CHAMBERS, 77 FAIR DRIVE
CLOSED SESSION – 4:00 P.M.
REGULAR MEETING – 6:00 P.M.

KATRINA FOLEY
Mayor

SANDRA L. GENIS
Mayor Pro Tem

JOHN B. STEPHENS
Council Member

JAMES M. RIGHEIMER
Council Member

ALLAN R. MANSOOR
Council Member

City Attorney
Thomas Duarte

City Manager
Thomas R. Hatch

CLOSED SESSION

CALL TO ORDER

The Closed Session was called to order by the Mayor at 4:03 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

ROLL CALL

Present: Council Member Mansoor, Council Member Righeimer (arrived at 4:30 p.m.), Council Member Stephens, Mayor Pro Tem Genis, and Mayor Foley.

Absent: None

FOR INFORMATIONAL PURPOSES ONLY

The City Council recessed to Conference Room 5A at 4:07 p.m. for Closed Session to consider the following items:

1. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Subdivision (a) of Section 54957.6, California Government Code
Agency Designated Representative: Tamara Letourneau, Assistant City Manager
Name of Employee Organization: Costa Mesa Firefighters Association (CMFA).

2. 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.

3. 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.

4. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Ming Cheng Chen; Hsiang Chu Shih Chen v. City of Costa Mesa, United States District Court, Central District of California, Case No. 8:16-cv-01624-JCG.

5. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: City of Costa Mesa, et al. v. New Harbor Inn, an unincorporated entity, et al., Orange County Superior Court of California, Case No. 30-2016-00848149-CU-OR-CJC.

6. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: James Faulkner v. City of Costa Mesa, Orange County Superior Court of California, Case No. 30-2017-00926083-CU-PO-CJC.

7. CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION

Pursuant to Subdivision (d)(2) of Section 54956.9, California Government Code for 1 potential case.

8. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Sanderson J. Ray Development v. City of Costa Mesa, Orange County Superior Court of California, Case No. 30-2017-00930947-CU-MC-CJC.

The City Council reconvened at 6:30 p.m.

FOR INFORMATIONAL PURPOSES ONLY

CALL TO ORDER

The meeting was called to order by the Mayor at 6:30 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

ROLL CALL

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

Absent: None

CITY ATTORNEY CLOSED SESSION REPORT

City Attorney Duarte reported on Closed Session #4 and #5, in which the City Council settled both cases with prejudice, on a vote of 5-0. No monies will be paid by either of the parties and each side will bear their own costs. The parties have agreed on additional conditions that are in the settlement agreement which will be posted on the City website.

COIN: Ex Parte Communications pursuant to Municipal Code Section 2-238 (b) –

Council Member Stephens stated he spoke with firefighters Rob Gagne and Mark Martinez regarding one term that has been presented and that he will follow-up with staff. Mayor Foley stated she spoke with Mr. Gagne and Mr. Martinez, which she had revealed with the Council Members in Closed Session.

CONSENT CALENDAR:

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

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 13 except for **2, 5, 9, 10, and 13.**

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

1. **READING FOLDER**

Claims received by the City Clerk: Aline Brower and Morigan Dawn.

ACTION:

City Council received and filed.

FOR INFORMATIONAL PURPOSES ONLY

3. MINUTES OF THE REGULAR CITY COUNCIL, HOUSING AUTHORITY, AND SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY MEETINGS OF MARCH 21, 2017, APRIL 18, 2017, MAY 2, 2017, AND JUNE 6, 2017

ACTION:

City Council approved the minutes of March 21, 2017, April 18, 2017, May 2, 2017 and June 6, 2017.

4. PUBLIC SAFETY SOFTWARE LICENSE AND SERVICES AGREEMENT

ACTION:

City Council authorized the City Manager to sign the Purchase Requisition in the amount of \$111,910.01 to fund the Software Maintenance Agreement with SunGard Public Sector Inc. (now Superion) from August 1, 2017 to July 31, 2018.

6. AMENDED AND RESTATED BYLAWS OF THE COSTA MESA HOUSING AUTHORITY (2017)

ACTION:

Housing Authority adopted Costa Mesa Housing Authority Resolution No. 2017-01 approving and adopting the Amended and Restated Bylaws of the Costa Mesa Housing Authority (2017).

7. REVIEW OF APPLICATIONS TO AND APPOINTMENT OF TENANT COMMISSIONERS TO THE HOUSING AUTHORITY BOARD

ACTION:

Housing Authority adopted Costa Mesa Housing Authority Resolution No. 2017-02 and appointed Tenant Commissioners Eloise Donaldson and Samira Reyes to the Costa Mesa Housing Authority Board.

8. FINAL MAP FOR TRACT NO. 17984 LOCATED AT 548 VICTORIA STREET, COSTA MESA, CALIFORNIA

ACTION:

City Council approved the Final Map for Tract No. 17984 and authorized signing of the Map by the City Clerk and the City Engineer.

FOR INFORMATIONAL PURPOSES ONLY

11. SLURRY SEAL PROJECT, CITY PROJECT NO. 16-13

ACTION:

1. City Council adopted plans, specifications, and working details for the Slurry Seal Project, City Project No. 16-13; and
2. Awarded a construction contract to Roy Allan Slurry Seal, Inc., 11922 Bloomfield Avenue, Santa Fe Springs, CA 90670, in the amount of \$543,097.75; and
3. Authorized the Mayor and the City Clerk to execute the Public Works Agreement.

12. THIRD AMENDMENT TO THE AGREEMENT WITH WEST COAST ARBORISTS, INC. FOR TREE MAINTENANCE SERVICES

ACTION:

1. City Council approved the Third Amendment to the maintenance agreement with West Coast Arborists, Inc. (WCA), 2200 E. Via Burton Street, Anaheim, CA 92806, extending the term of the existing agreement for tree maintenance services for one (1) year and increasing the compensation by \$164,155.05; and
2. Authorized the City Manager to execute the Amendment.

ITEMS REMOVED FROM THE CONSENT CALENDAR:

2. **WARRANT RESOLUTION NO. 2580 OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NOS. 17-12 FOR \$2,177,642.64 AND 17-13 FOR \$2,273,716.44; AND CITY OPERATING EXPENSES FOR \$3,400,920.75; AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID**

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

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council approved Warrant Resolution No. 2580.

FOR INFORMATIONAL PURPOSES ONLY

5. **ADOPTION OF RESOLUTION APPROVING SPECIAL USE PERMIT SL-15-0014 TO OPERATE A SOBER LIVING HOME SERVING SIX RESIDENTS AT 2152 RALEIGH AVENUE**

MOVED/SECOND: Council Member Stephens/Mayor Pro Tem Genis

The motion carried by the following roll call vote:

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

Nays: Council Member Mansoor and Council Member Righeimer.

Absent: None

Motion carried: 3-2

ACTION:

City Council adopted Resolution No. 17-48 reversing the Planning Commission's denial of Special Use Permit SL-15-0014.

9. **ALLEYS REHABILITATION PROJECT - CITY PROJECT NO. 16-03**

MOVED/SECOND: Council Member Stephens/Council Member Righeimer

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

1. City Council adopted plans, specifications, and working details for the Mace Avenue Alley (Alley No. 36), 19th Street Alley (Alley No. 70), Flower Street Alleys (Alley No. 77, Alley No. 78, and Alley No. 79), and Broadway Street Alleys (Alley No. 85, Alley No. 86, and Alley No. 88) Improvement Project - City Project No. 16-03; and
2. Awarded a construction contract to Black Rock Construction Company, 615 N. Berry Street, Unit G, Brea, CA 92821, in the amount of \$899,996.00; and
3. Authorized the Mayor and the City Clerk to execute the Public Works Agreement; and
4. Approved Contract Change Order No.1 in the amount of \$305,000.00, and authorized the City Manager to execute the Change Order.

10. PLACENTIA AVENUE MEDIAN IMPROVEMENTS, FEDERAL PROJECT NO. HSIPL-5312 (092) - CITY PROJECT NO. 16-04

MOVED/SECOND: Council Member Righeimer/Council Member Stephens

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

1. City Council adopted plans, specifications, and working details for the Placentia Avenue Median Improvements, Federal Project No. HSIPL-5312 (092) – City Project No. 16-04; and
2. Approved Budget Adjustment No. 18-002 in the amount of \$350,000.00; and
3. Awarded a construction contract to Beador Construction Company, Inc. 26320 Lespur Circle, Corona, CA, in the amount of \$1,682,299.40 (Base Bid plus Additive Items); and
4. Authorized the Mayor and the City Clerk to execute the Public Works Agreement.

13. ARLINGTON DRIVE BIOSWALE & DRY WEATHER DIVERSION PROJECT - CITY PROJECT NO. 17-09

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

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

1. City Council adopted plans, specifications, and working details for the Arlington Drive Bioswale & Dry Weather Diversion Project - City Project No. 17-09; and
2. Waived a minor irregularity in the bid submitted by the apparent low bidder and awarded a construction contract to Sully-Miller Contracting Company, 135 South State College Boulevard, Suite 400, Brea, CA 92821, in the amount of \$4,011,000.00 (Base Bid Only); and

FOR INFORMATIONAL PURPOSES ONLY

3. Authorized the Mayor and the City Clerk to execute the Public Works Agreement.

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

1. **CIVIC OPENNESS IN NEGOTIATIONS (COIN) ORDINANCE FIRST PUBLIC HEARING OF THE ADOPTION OF THE 2017-2022 MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF COSTA MESA AND THE COSTA MESA FIRE MANAGEMENT ASSOCIATION (CMFMA)**

MOVED/SECOND: Council Member Stephens/Mayor Pro Tem Genis

The motion carried by the following roll call vote:

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

Nays: Council Member Mansoor and Council Member Righeimer.

Absent: None

Motion carried: 3-2

ACTION:

1. City Council held the first public hearing regarding the proposed 2017-2022 Memorandum of Understanding between the City of Costa Mesa and the Costa Mesa Fire Management Association; and
2. Scheduled the second public hearing on August 1, 2017 as required by COIN.

ITEM #2 WAS WITHDRAWN FROM THE AGENDA AND NOT CONSIDERED.

2. **APPEAL OF PLANNING APPLICATION PA-16-60, A CONDITIONAL USE PERMIT TO ESTABLISH A DRIVE-THROUGH FAST FOOD RESTAURANT WITH WALK-UP SERVICE AND NO INTERIOR SEATING (CHICK FIL-A) AT 1750 NEWPORT BLVD. (FORMER GRANT BOYS STORE)**

OLD BUSINESS:

1. **THE LIONS PARK PROJECTS, CITY PROJECT NO. 17-03**

MOVED/SECOND: Mayor Foley/Council Member Righeimer

The motion carried by the following roll call vote:

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

Nays: Mayor Pro Tem Genis

Absent: None

Motion carried: 4-1

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ACTION:

1. City Council waived irregularities in the bid submitted by the low bidder and awarded a construction contract to Tovey/Shultz Construction, Inc., 18261 Collier Avenue, Unit A, Lake Elsinore, CA 92530, in the amount of \$28,739,822.00 (Base Bid only); and
2. Authorized the Mayor or City Manager to execute the Public Works Agreement.

NEW BUSINESS:

1. **SIX-MONTH REVIEW OF PLANNING APPLICATION PA-16-55 FOR HOLIDAY (FORMERLY LION'S DEN AND MAISON) 719 WEST 19TH STREET**

MOTION/SECOND: Council Member Mansoor/Council Member Righeimer

MOTION: To approve the recommended action and include the following additions: staff to provide a non-agendized written update in 6 months and the Community Improvement Division (CID) staff reserve the right to call upon Mr. Hardesty and/or any other qualified acoustical engineer to conduct a sound study if a complaint is verified by the CID and/or by Police Department personnel. The cost of the sound study would be covered by the applicant.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council received and filed the six-month review of the City Council's approval of Conditional Use Permit PA-16-55 and included the following additions: staff to provide a non-agendized written update in 6 months and the Community Improvement Division (CID) staff reserve the right to call upon Mr. Hardesty and/or any other qualified acoustical engineer to conduct a sound study if a complaint is verified by the CID and/or by Police Department personnel. The cost of the sound study would be covered by the applicant.

FOR INFORMATIONAL PURPOSES ONLY

2. REQUESTS FOR WAIVERS OF APPEAL FEE FOR DEVELOPMENT REVIEW PROJECTS

MOTION/SECOND: Mayor Foley/Council Member Stephens

MOTION: To approve the request for refund of appeal fees filed by Ms. Anne Parker and Ms. Carrie Renfro.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council approved the request for refund of appeal fees filed by Ms. Anne Parker and Ms. Carrie Renfro.

MOTION/SECOND: Mayor Pro Tem Genis/Council Member Stephens

MOTION: To continue the meeting past midnight

The motion carried by the following roll call vote:

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

Nays: Council Member Righeimer

Absent: None

Motion carried: 4-1

ACTION:

City Council approved to continue the meeting past midnight.

3. DISCUSSION OF A POSSIBLE MORATORIUM AS TO THE SMALL LOT ORDINANCE

MOTION/SECOND: Council Member Righeimer/Council Member Mansoor

MOTION: To receive and file and direct staff to proceed with a Joint Planning Commission and City Council Study Session on September 12, 2017 to consider the Small Lot Subdivision Ordinance.

The motion carried by the following roll call vote:

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

Nays: Mayor Pro Tem Genis

Absent: None

Motion carried: 4-1

FOR INFORMATIONAL PURPOSES ONLY

ACTION:

City Council received and filed and directed staff to proceed with a Joint Planning Commission and City Council Study Session on September 12, 2017 to consider the Small Lot Subdivision Ordinance.

REPORT – CITY MANAGER - NONE

REPORT – CITY ATTORNEY – NONE

ADJOURNMENT - The Mayor adjourned the meeting at 1:07 a.m.