

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

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

**TUESDAY, FEBRUARY 5, 2019  
COSTA MESA SENIOR CENTER  
695 W. 19<sup>TH</sup> STREET, COSTA MESA, CALIFORNIA  
CLOSED SESSION – 4:00 P.M. (ROOM 102)  
REGULAR MEETING – 6:00 P.M. (GRAND HALL 1)**

**KATRINA FOLEY**  
Mayor

**MANUEL CHAVEZ**  
Council Member

**JOHN B. STEPHENS**  
Mayor Pro Tem

**ANDREA MARR**  
Council Member

**ARLIS REYNOLDS**  
Council Member

**ALLAN R. MANSOOR**  
Council Member

**SANDRA L. GENIS**  
Council Member

City Attorney  
**Kimberly Hall Barlow**

Acting City Manager  
**Tamara S. Letourneau**

**CALL TO ORDER**

The Closed Session was called to order by Mayor Pro Tem Stephens at 4:00 p.m. in Grand Hall 1 of the Costa Mesa Senior Center, 695 W. 19<sup>th</sup> Street, Costa Mesa, California.

**ROLL CALL**

Present: Council Member Chavez, Council Member Genis (arrived at 4:10 p.m.), Council Member Mansoor, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley (arrived at 4:01 p.m.)

Absent: None

## FOR INFORMATIONAL PURPOSES ONLY

The City Council recessed to Room 102 at 4:04 p.m. for Closed Session to consider the following items:

### **1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code  
Name of Case: Orange County Catholic Worker, an unincorporated association: Lisa Bell, Shawn Carroll, Melissa Fields, Larry Ford, Cameron Ralston, Kathy Schuler, Gloria Shoemake, as individuals v. Orange County, City of Anaheim, City of Costa Mesa, and City of Orange, United States District Court, Central District of California – Southern Division, Case No. 8:18-cv-00155.

### **2. 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 v. Clean Path Recovery, LLC, a California limited liability company; Lee Heligman, an individual; Lucy Lee Holdings, LLC, a California limited liability company; Pomona Associates CM, LLC, a California limited liability company, Superior Court of the State of California, County of Orange, Central Justice Center, Case No. 30-2018-01015745-CU-OR-CJC.

### **3. 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 v. Casa Capri, LLC, a California limited liability corporation; Casa Capri Recovery Center, LLC, a California limited liability corporation; Irani Zackary, an individual; Timothy Carr, an individual; Melissa Holmes Goodmon, an individual; Jeremy Broderick, an individual, Superior Court of the State of California, County of Orange, Central Justice Center, Case No. 30-2018-01006156-CU-OR-CJC.

### **4. 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 v. Ohio House, LLC, a California limited liability corporation; Richard Perlin, Nancy Perlin, Dolores Perlin, and Brandon Stump as individuals, Superior Court of the State of California, County of Orange, North Justice Center, Case No. 30-2018-01006173-CU-OR-NJC.

### **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 v. SoCal Recovery, Inc., a California corporation; Darryl Shinder, an individual; Kenneth Norwood, an individual; Ian Grimley, an individual, Superior Court of the State of California, County of Orange, North Justice Center, Case No. 30-2018-01022764-CU-OR-NJC.

### **6. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code  
Name of Case: Casa Capri Recovery, Inc. v. City of Costa Mesa, United States District Court, Central District of California – Southern Division, Case No. 8:18-cv-00329-JVS-PJW.

## FOR INFORMATIONAL PURPOSES ONLY

### **7. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code  
Name of Case: National Therapeutic Services, Inc. dba Northbound Treatment Services, a Nevada corporation v. City of Costa Mesa, United States District Court, Central District of California, Case No. 8:18-cv-01080-JVS-AGR.

### **8. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code  
Name of Case: Pacific Shores, LLC, a California corporation v. City of Costa Mesa, United States District Court, Central District of California, Case No. 8:18-cv-01170 JVS-PJW.

### **9. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code  
Name of Case: SoCal Recovery, LLC, a California limited liability company v. City of Costa Mesa, United States District Court, Central District of California, Case No. 8:18-cv-01304-JVS-PJW.

### **10. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code  
Name of Case: Summit Coastal Living, Inc., a California corporation v. City of Costa Mesa, United States District Court, Central District of California, Case No. 8:18-cv-01369-JVS-PJW.

### **11. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code  
Name of Case: County of Orange, Orange County Flood Control District, City of Costa Mesa, City of Orange, and City of Anaheim v. California Department of Public Health; Karen L. Smith, in her official capacity as Director and State Public Health Officer, Orange County Needle Exchange Program, Superior Court of the State of California, County of San Diego, Hall of Justice Center Courthouse, Case No. 37-2018-00039176-CU-MC-CTL.

### **12. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION INITIATION OF LITIGATION – SIX POTENTIAL CASES**

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

### **13. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

Property: 3175 Airway Ave., Costa Mesa, CA 92627  
APN: 427-091-12

Pursuant to Section 54956.8, California Government Code  
Negotiating Parties: Tamara Letourneau, Acting City Manager and Dale Camera, Lee & Associates and Steve Millen, Owner.  
Negotiation: Price and Terms of Payment.

The City Council reconvened at 6:11 p.m.

## FOR INFORMATIONAL PURPOSES ONLY

### CALL TO ORDER

The meeting was called to order by Mayor Foley at 6:11 p.m. in Grand Hall 1 of the Costa Mesa Senior Center, 695 W. 19<sup>th</sup> Street, Costa Mesa, California.

### ROLL CALL

Present: Council Member Chavez, Council Member Genis, Council Member Mansoor, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley.

Absent: None

**CITY ATTORNEY CLOSED SESSION REPORT** – No reportable action.

**REPORT – CITY MANAGER** – Ms. Letourneau congratulated the Public Services Department on receiving the American Society of Civil Engineers Orange County Environmental Project of the Year for the Arlington Drive Bioswale Project; and provided an update on the I-405 project.

**REPORT – CITY ATTORNEY** – Ms. Barlow spoke on briefing the City Council on all litigation matters; and reported that the plaintiffs in the Orange County Needle Exchange program have filed an appeal.

### CONSENT CALENDAR:

**MOVED/SECOND:** Mayor Pro Tem Stephens/Council Member Reynolds

**MOTION:** Approve recommended actions for Consent Calendar Item Nos. 1 through 11 except for 3, 6, 8, 9 and 11.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

- 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 and Agency Board waived reading of Ordinances and Resolutions.

## FOR INFORMATIONAL PURPOSES ONLY

2. **READING FOLDER** - Claims received by the City Clerk: Karin Barela, Sally Davenport, Patricia Ferguson, William Hart, Robert Hewlett, Stephanie Keefer, De'Arna Kilekas, Dean Lob, Justin Nissel, Ann Parker, Donna Patterson, Brenda Rojas, Debra Von Trapp.

**ACTION:**

City Council received and filed.

4. **MINUTES OF THE REGULAR CITY COUNCIL AND SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY MEETING OF JANUARY 8, 2019**

**ACTION:**

City Council approved the minutes of January 8, 2019.

5. **ACTING CITY MANAGER PAY**

**ACTION:**

City Council approved Acting Pay for the Assistant City Manager compensating her in her capacity as Acting City Manager retroactive to November 13, 2018 when she was appointed and continuing until a new City Manager is hired per the City's Personnel Rules & Regulations.

7. **SAFE TRANSIT STOPS PROGRAM APPLICATIONS**

**ACTION:**

City Council adopted Resolution No. 19-07, approving the submittal of grant funding applications for three (3) bus stop improvement projects under the Orange County Transportation Authority's (OCTA) Measure M2 Project W - Safe Transit Stops Program.

10. **SECOND READING AND ADOPTION OF AN ORDINANCE TO AMEND SECTION 2-165 OF ARTICLE 2 OF CHAPTER V OF TITLE 2 OF THE COSTA MESA MUNICIPAL CODE RELATING TO EXEMPTIONS FROM BIDDING PROCEDURES**

**ACTION:**

City Council gave second reading and adopted Ordinance No. 19-01, amending Section 2-165 (Bidding required; exceptions) of Article 2 (Purchasing) of Chapter V (Finance) of Title 2 (Administration) of the Costa Mesa Municipal Code.

ITEMS PULLED FROM THE CONSENT CALENDAR

3. WARRANT RESOLUTION NO. 2612 OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL NOS. 18-26 "A" FOR \$1,103.19 AND 19-01 FOR \$2,815,714.89; AND CITY OPERATING EXPENSES FOR \$4,995,707.51; AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID

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

**MOTION:** Approve Warrant Resolution No. 2612.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

**ACTION:**

City Council approved Warrant Resolution No. 2612.

6. SECOND READING OF THE ORDINANCE TO REPEAL ARTICLE 2 OF CHAPTER VI OF TITLE 2 OF THE COSTA MESA MUNICIPAL CODE RELATED TO CIVIC OPENNESS IN NEGOTIATIONS

**MOVED/SECOND:** Mayor Pro Tem Stephens/Council Member Marr

**MOTION:** Give second reading and adopt Ordinance No. 19-04.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley.

Nays: Council Member Genis and Council Member Mansoor.

Absent: None

Motion carried: 5-2

**ACTION:**

City Council gave second reading and adopted Ordinance No. 19-04 repealing Article 2 (Civic Openness in Negotiations) of Chapter VI (Personnel) of Title 2 (Administration) of the Costa Mesa Municipal Code.

8. AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR ARCHITECTURAL DESIGN SERVICES FOR THE LIONS PARK PLAYGROUND IMPROVEMENTS

**MOVED/SECOND:** Council Member Reynolds/Council Member Marr

**MOTION:** Approve recommended actions.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

**ACTION:**

1. City Council approved Amendment No. 1 to the existing Professional Services Agreement with David Volz Design Landscape Architects, Inc., 151 Kalmus Drive, Ste. M8, Costa Mesa, CA for the design of playground improvements at Lions Park, increasing the compensation by \$207,122.20; and
2. Authorized the Acting City Manager and City Clerk to execute the Professional Services Agreement and future authorized amendments to the Agreement.

9. AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT WITH STRADLING, YOCCA, CARLSON & RAUTH FOR SPECIAL COUNSEL LEGAL SERVICES

**MOVED/SECOND:** Council Member Reynolds/Council Member Chavez

**MOTION:** Approve recommended actions.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

**ACTION:**

1. City Council approved the proposed Amendment No. 5 to the Professional Services Agreement with Stradling Yocca Carlson & Rauth, PC ("Stradling firm") for special counsel legal services; and
2. Authorized the Acting City Manager and City Clerk to execute the proposed amendment and future amendments to the agreement.

11. FUNDING FOR EMERGENCY REPAIRS TO FAIRVIEW PARK BLUFFS

**MOVED/SECOND:** Council Member Genis/Council Member Reynolds

**MOTION:** Approve recommended actions.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

**ACTION:**

1. City Council approved a budget adjustment in the amount of \$200,000 from unassigned fund balance in the Park Fees Fund to pay for necessary emergency repairs to the bluffs (cliffs) at Fairview Park; and
2. Authorized the City Manager to enter into a contract to complete the emergency work.

**PUBLIC HEARINGS – 7:00 p.m. (Resolution No. 05-55): NONE**

**OLD BUSINESS: NONE**

**NEW BUSINESS:**

1. AUTHORIZATION OF BIDDING EXEMPTION UNDER SECTION 2-165 OF THE COSTA MESA MUNICIPAL CODE AND AWARD OF BRIDGE SHELTER OPERATOR PROFESSIONAL SERVICES AGREEMENT

**MOVED/SECOND:** Mayor Pro Tem Stephens/Mayor Foley

**MOTION:** Approve recommended action number 1.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

**ACTION:**

1. City Council determined that compliance with the bidding requirements and procedures of the Costa Mesa Municipal Code for the procurement of a shelter operator for the City's temporary interim and long-term bridge shelter facilities is not in the best interest of the City, such that the procurement of the shelter operator will be exempt from the Municipal Code's formal bidding requirements due to the need to move homeless individuals off the streets and meet federal court deadlines.



## FOR INFORMATIONAL PURPOSES ONLY

**MOVED/SECOND:** Mayor Pro Tem Stephens/Mayor Foley

**MOTION:** Approve recommended action number 2.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

### **ACTION:**

2. City Council awarded a Professional Services Agreement to Mercy House Living Centers in the amount of \$1,457,000 as the City's interim and long-term bridge shelter operator.

**MOVED/SECOND:** Mayor Pro Tem Stephens/Mayor Foley

**MOTION:** Approve recommended action number 3.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

### **ACTION:**

3. City Council authorized the Acting City Manager and City Clerk to execute the proposed agreement and future authorized changes and amendments to the agreement and allow up to an additional ten percent (10%) contingency totaling \$145,700 as needed for unforeseen costs.

**MOVED/SECOND:** Mayor Pro Tem Stephens/Mayor Foley

**MOTION:** Approve recommended action number 4.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Mansoor, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley.

Nays: Council Member Genis

Absent: None

Motion carried: 6-1

### **ACTION:**

4. City Council authorized a budget adjustment totaling \$509,950.00 for bridge shelter operator services from unassigned fund balance in the General Fund.

2. [URBAN MASTER PLAN SCREENING REQUEST \(UMP-17-01\) FOR A MIXED-USE DEVELOPMENT IN THE SOUTH BRISTOL ENTERTAINMENT AND CULTURAL ARTS \(SOBECA\) URBAN PLAN AREA CALLED "CAMP OUT" AT 2944 AND 2948 RANDOLPH AVENUE](#)

City Council provided feedback to accept for processing the development plans for a proposed Urban Master Plan for a mixed-use development within the South Bristol Entertainment & Cultural Arts (SoBECA) Urban Plan area.

3. [APPOINTMENTS TO THE PLANNING COMMISSION, PARKS AND RECREATION COMMISSION AND SENIOR COMMISSION](#)

**PLANNING COMMISSION**

**MOVED/SECOND:** Mayor Foley/Mayor Pro Tem Stephens (04:44:29)

**MOTION #1:** City Council direct staff to bring back an ordinance that would expand the Planning Commission from five (5) to seven (7) seats with one Planning Commissioner for each electoral district of the City and one at-large member. The Council Member for each electoral district will nominate the planning commission member for his or her district and the Mayor will nominate the at-large member. All appointments will be subject to approval of a majority vote of the entire council.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley.

Nays: Council Member Genis and Council Member Mansoor.

Absent: None

Motion carried: 5-2

**ACTION:**

City Council directed staff to bring back an ordinance that would expand the Planning Commission from five (5) to seven (7) seats with one Planning Commissioner for each electoral district of the City and one at-large member. The Council Member for each electoral district will nominate the planning commission member for his or her district and the Mayor will nominate the at-large member. All appointments will be subject to approval of a majority vote of the entire council.

**MOVED/SECOND:** Mayor Pro Tem Stephens/Council Member Marr (04:54:41)

**MOTION #2:** Appoint Kedarious O. Colbert (District 2), Carla Navarro Woods (District 3) and Jonathan Zich (District 1) to the Planning Commission with a term expiration of February 2023.

The motion carried by the following roll call vote:

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

Nays: Council Member Mansoor.

Absent: None

Motion carried: 6-1

## FOR INFORMATIONAL PURPOSES ONLY

### **ACTION:**

City Council appointed Kedarious O. Colbert (District 2), Carla Navarro Woods (District 3) and Jonathan Zich (District 1) to the Planning Commission with a term expiration of February 2023.

**MOVED/SECOND:** Mayor Foley/Mayor Pro Tem Stephens (04:56:19)

**MOTION #3:** Following the adoption of the ordinance, direct staff to begin recruitment for Districts 4 and 5.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley.

Nays: Council Member Genis and Council Member Mansoor.

Absent: None

Motion carried: 5-2

### **ACTION:**

Following the adoption of the ordinance, directed staff to begin recruitment for Districts 4 and 5.

## **SENIOR COMMISSION AND PARKS AND RECREATION COMMISSION**

**MOVED/SECOND:** Council Member Marr/Council Member Chavez

**MOTION #4:** Direct staff to bring back ordinances to:

- a) Dissolve the Senior Commission; and
- b) Rename the Parks and Recreation Commission to the Parks, Arts and Community Services Commission; and
- c) Expand the Parks, Arts and Community Services Commission from five (5) to seven (7) seats, with one member designated as the liaison for the Senior Center and one to serve as the liaison to arts and cultural related initiatives in the City.

The motion carried by the following roll call vote:

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

Nays: Council Member Mansoor

Absent: None

Motion carried: 6-1

### **ACTION:**

City Council directed staff to bring back ordinances to:

- a) Dissolve the Senior Commission; and
- b) Rename the Parks and Recreation Commission to the Parks, Arts, and Community Services Commission; and
- c) Expand the Parks, Arts and Community Services Commission from five (5) to seven (7) seats, with one member designated as the liaison for the Senior Center and one to serve as the liaison to arts and cultural related initiatives in the City.

## FOR INFORMATIONAL PURPOSES ONLY

**MOVED/SECOND:** Mayor Pro Tem Stephens/Council Member Marr

**MOTION #5:** Appoint Derek DeCicco, Sara J. Fahy and Cassius A. Rutherford to the Parks and Recreation Commission with a term expiration of February 2023.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley.

Nays: Council Member Genis and Council Member Mansoor.

Absent: None

Motion carried: 5-2

**ACTION:**

City Council appointed Derek DeCicco, Sara J. Fahy and Cassius A. Rutherford to the Parks and Recreation Commission with a term expiration of February 2023.

**ADJOURNMENT** – Mayor Foley adjourned the meeting at 11:50 p.m. in memory of Garden Grove Fire Chief Tom Schultz and Ventura County Sheriff's Department search and rescue team member Jeff Dye.