

**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, MARCH 5, 2019
COSTA MESA SENIOR CENTER
695 W. 19TH 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 Foley at 4:01 p.m. in Grand Hall 1 of the Costa Mesa Senior Center, 695 W. 19th Street, Costa Mesa, California.

ROLL CALL

Present: Council Member Chavez, Council Member Genis (arrived at 4:05 p.m.), Council Member Mansoor (arrived at 4:23 p.m.), Council Member Marr (arrived at 4:08 p.m.), Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley.

Absent: None

FOR INFORMATIONAL PURPOSES ONLY

The City Council recessed to Room 102 at 5:05 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 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.

3. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: AmeriCare MedServices, Inc. v. City of Costa Mesa and CARE Ambulance Services, United States District Court, Case No. 8:16-cv-01804-JLS-AFM

4. 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.

5. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: James Gardner v. City of Costa Mesa, Orange County Superior Court, Case No. 30-2018-01013117-CU-CR-CJC

6. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Cheryl Giacomino v. City of Costa Mesa; Jean Sola, Orange County Superior Court, Case No. 30-2017-00963795-CU-PO-CJC

7. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Gayle Hickey v. City of Costa Mesa, Orange County Superior Court, Case No. 30-2017-00951064-CU-PO-NJC

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8. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Huntington Glazing, Inc. v. Horizons Construction Company International; City of Costa Mesa; Old Republic Surety Company; Wesco Insurance Company, Orange County Superior Court, Case No. 30-2019-01046176-CU-BC-CJC

9. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: LAB Holding, LLC v. City of Costa Mesa; Costa Mesa City Council, Orange County Superior Court, Case No. 30-2018-01021810-CU-JR-CJC

10. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Arthur Lopez v. Costa Mesa Police Department; City of Costa Mesa; Christopher Walk; Isidro Gallardo, United States District Court, Case No. 8:17-cv-00297-VBF-MRW

11. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Arther Masaoka and June Masaoka v. G&W Towing; City of Costa Mesa; Costa Mesa Police Department et al., Orange County Superior Court, Case No. 30-2018-01009599-CU-PO-CXC

12. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Michael McDonough v. City of Costa Mesa; American Asphalt South, Inc., Orange County Superior Court, Case No. 30-2018-01009599-CU-PO-CXC

13. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Ivin Mood v. City of Costa Mesa; City of Newport Beach, United States District Court, Case No. 8:15-cv-01154-SVW (KK)

14. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Paramount Tile, Inc. v. Elite Flooring Concepts, John Oberlin, Tami Rondero, Horizons Construction Company, City of Costa Mesa, Orange County Superior Court, Case No. 30-2018-01036966-CU-BC-CJC related to Case No. 30-2017-00935973-CU-CO-CJC

15. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Cecil Patterson v. Michael Beltran; City of Costa Mesa, Orange County Superior Court, Case No. 30-2017-00954620-CU-PA-NJC

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16. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Juan Villeda v. Eric Fricke; City of Costa Mesa, Orange County Superior Court, Case No. 30-2018-00980935-CU-CR-CJC

17. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Juan Villeda v. David Sevilla; Slawek Luczkiewicz; City of Costa Mesa, Orange County Superior Court, Case No. 30-2017-00909844-CU-DF-CJC

18. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION INITIATION OF LITIGATION – ONE POTENTIAL CASE

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

Mayor Pro Tem Stephens recused himself from Closed Session Item No. 3 as Americare was a former client.

The City Council reconvened at 6:00 p.m.

CALL TO ORDER

The meeting was called to order by Mayor Foley at 6:00 p.m. in Grand Hall 1 of the Costa Mesa Senior Center, 695 W. 19th 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 – Ms. Barlow reported that direction was given by City Council but there was no reportable action.

REPORT – CITY MANAGER – Ms. Letourneau invited all to the Lions Park playground meeting on March 9th and spoke on the online surveys available on the City website; March 26th Community Open House on shelter plans; spoke on the Committee recruitment; and provided an update on the City Manager recruitment process.

REPORT – CITY ATTORNEY – Ms. Barlow spoke on the Orange County Catholic Worker case settlement; the Orange County Needle Exchange case, in which the motion to stay was withdrawn; and working with Orange County representatives and staff regarding the FPPC's recent rule change that will make it harder for Council Members in districts to participate in decisions directly affecting their constituents.

CONSENT CALENDAR:

MOVED/SECOND: Council Member Marr/Council Member Reynolds

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 8 except for 3, 6, 7 and 8.

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.

- 2. READING FOLDER**

Claims received by the City Clerk: Harrold Aguirre, Rosita Bishopp, Mario Figueroa, and George Tfaye and Albert Mardikian.

ACTION:

City Council received and filed.

- 4. 2018 EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG) PROGRAM ALLOCATION**

ACTION:

1. City Council authorized the Acting City Manager, or designee, to execute the Agreement to Transfer Funds for the 2018 Emergency Management Performance Grant (EMPG) Program; and
2. Adopted Resolution No. 19-10, which authorizes the application for and acceptance of funds under the Emergency Management Performance Grant (EMPG) Program, and authorized the City Manager, or designee, to accept the EMPG Program funds; and
3. Authorized a budget adjustment recognizing \$14,446.00 from the EMPG Program funds and appropriating \$14,446.00 in the Police Department budget for the specified purposes.

5. [AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT WITH AKAL CONSULTANTS](#)

ACTION:

1. City Council approved proposed Amendment No. 1 to the existing Professional Services Agreement with AAHK, Inc. dba AKALConsultants ("AKAL"), increasing the maximum compensation by \$63,040.00; and
2. Authorized the Acting City Manager and City Clerk to execute Amendment No. 1; and
3. Authorized the Acting City Manager and the City Clerk to execute future authorized contract amendments.

ITEMS PULLED FROM THE CONSENT CALENDAR

3. [WARRANT RESOLUTION NO. 2614 OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL 19-04 FOR \\$2,554,044.28; AND CITY OPERATING EXPENSES FOR \\$4,303,852.12; AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID](#)

MOVED/SECOND: Council Member Chavez/Council Member Reynolds

MOTION: Approve Warrant Resolution No. 2614.

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. 2614.

6. [PROFESSIONAL ENGINEERING SERVICES FOR TRANSPORTATION SERVICES DIVISION](#)

MOVED/SECOND: Mayor Pro Tem Stephens/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 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:

1. City Council approved Amendment No. 1 to the Professional Services Agreement (PSA) with Interwest Consulting Group, Inc., 15140 Transistor Lane, Huntington Beach, CA 92649, increasing the maximum compensation by \$120,000; and
2. Authorized the Acting City Manager and the City Clerk to execute the amendment and future authorized amendments to the agreement.

7. **CITYWIDE ALLEY REHABILITATION PROJECT - CITY PROJECT NO. 18-19**

Council Member Genis recused herself and stepped down from the dais and left Grand Hall 1 due to a potential conflict of interest in living within 1000 feet of the project.

MOVED/SECOND: Council Member Chavez/Council Member Marr

MOTION: Approve recommended actions.

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: None

Absent: None

Abstain: Council Member Genis

Motion carried: 6-0-0-1

ACTION:

1. City Council adopted the plans, specifications, and working details for the Rehabilitation of Alley Nos. 18, 37, 59, 83, and 112 Project, City Project No. 18-19; and
2. Awarded a construction contract to Black Rock Construction Company, 929 Mariner St., Brea, CA 92821, in the amount of \$498,560.00; and
3. Authorized the Acting City Manager and the City Clerk to execute the Public Works Agreement (PWA), and authorized the City Manager to execute future contract amendments within Council authorized limits; and
4. Authorized the City Manager to accept the work when completed and authorized the City Clerk to file the Notice of Completion upon such acceptance; authorized release of the retention monies 35 days after the Notice of Completion is filed; authorized release of the Labor and Material Bond one year after the Notice of Completion is filed; and authorized release of the Faithful Performance Bond, if appropriate, at the conclusion of the one-year warranty period.

8. [PROFESSIONAL SERVICES AGREEMENT FOR LEGAL SERVICES WITH EVERETT AND DOREY](#)

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

ORIGINAL MOTION: Approve recommended actions.

The motion carried by the following roll call vote:

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

Nays: Council Member Genis and Council Member Mansoor.

Absent: None

Motion carried: 5-2

ACTION:

1. City Council approved the Professional Services Agreement (PSA) with Everett and Dorey LLP (Everett and Dorey) for legal services in connection with challenges to and civil enforcement of the City's ordinances 13-04, 14-13, 15-06, 15-11, 17-05, and 17-06; and
2. Authorized the Acting City Manager and City Clerk to execute the Professional Services Agreement and future authorized amendments to the Agreement and the City Attorney to take necessary steps to associate Everett and Dorey as co-counsel in the legal matters; and
3. Authorized a budget adjustment of \$500,000 in the Self Insurance Fund and authorized a transfer of \$500,000 from the unassigned fund balance in the General Fund to the Self-Insurance Fund to provide legal services from Everett and Dorey and the City Attorney's Office to defend the City in various matters relating to sober living home ordinances for the R1 and multi-family zones, and related legal matters; and
4. Authorized the City Manager to appropriate additional amounts, as necessary, to pay legal costs above \$500,000 allowing the attorneys to see these cases through to completion.

RECONSIDERATION OF CC-8

Mayor Foley recused herself and stepped down from the dais and left Grand Hall 1 due to a potential conflict of interest with respect to a donation received in June 2018 from the principal of Everett and Dorey law firm.

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

MOTION: To reconsider Consent Calendar Item No. 8.

The motion carried by the following roll call vote:

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

Nays: Council Member Genis and Council Member Mansoor.

Absent: None

Abstain: Mayor Foley

Motion carried: 4-2-0-1

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ACTION:

City Council agreed to reconsider Consent Calendar Item No. 8.

MOVED/SECOND: Council Member Marr/Council Member Reynolds

MOTION: Approve recommended actions

The motion carried by the following roll call vote:

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

Nays: Council Member Genis and Council Member Mansoor.

Absent: None

Abstain: Mayor Foley

Motion carried: 4-2-0-1

ACTION:

1. City Council approved the Professional Services Agreement (PSA) with Everett and Dorey LLP (Everett and Dorey) for legal services in connection with challenges to and civil enforcement of the City's ordinances 13-04, 14-13, 15-06, 15-11, 17-05, and 17-06; and
2. Authorized the Acting City Manager and City Clerk to execute the Professional Services Agreement and future authorized amendments to the Agreement and the City Attorney to take necessary steps to associate Everett and Dorey as co-counsel in the legal matters; and
3. Authorized a budget adjustment of \$500,000 in the Self Insurance Fund and authorized a transfer of \$500,000 from the unassigned fund balance in the General Fund to the Self-Insurance Fund to provide legal services from Everett and Dorey and the City Attorney's Office to defend the City in various matters relating to sober living home ordinances for the R1 and multi-family zones, and related legal matters; and
4. Authorized the City Manager to appropriate additional amounts, as necessary, to pay legal costs above \$500,000 allowing the attorneys to see these cases through to completion.

City Council recessed into a break at 8:10 p.m.

City Council reconvened at 8:20 p.m.

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

OLD BUSINESS: NONE

NEW BUSINESS:

1. [GENERAL PLAN SCREENING REQUEST \(GPS-18-01\) FOR A MIXED-USE DEVELOPMENT ON A 15.23-ACRE SITE LOCATED AT 1683 SUNFLOWER AVENUE NORTH OF THE I-405 FREEWAY](#)

City Council recessed into a break at 10:34 p.m.

City Council reconvened at 10:45 p.m.

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

MOTION: Direct staff to process the application.

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:

City Council directed staff to process the application for a General Plan Amendment request for development of a 15.23-acre parcel with 1,057 residential units, 6,000 square feet of specialty retail space, a 25,000-square-foot office building, and 1.7 acres of park/open space. The General Plan Screening (GPS) is the first step to start the process of submittal for a General Plan Amendment, Specific Plan, and a Master Plan application for development of the site. The project would:

- Allow a mixed use development with a site-specific density of up to 80 dwelling units per acre in close proximity to the freeway.
- Create a new mix of land uses which would provide more housing close to employment centers and improve the City's jobs/housing balance.
- Allow additional housing opportunities to meet the City's housing needs and potential affordable housing requirements allocated with the next Regional Housing Needs Assessment (RHNA) cycle.
- Reduce the City's overall industrial land use area by 15.23 acres.

City Council recessed into a break at 11:50 p.m.

City Council reconvened at 12:00 a.m.

FOR INFORMATIONAL PURPOSES ONLY

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

MOTION: To continue the meeting past midnight.

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: None

Absent: Council Member Genis

Motion carried: 6-0-1

ACTION:

City Council continued the meeting past midnight.

2. **APPROVE THE ACQUISITION OF REAL PROPERTY LOCATED AT 3175 AIRWAY AVENUE, COSTA MESA, CA 92627 FOR EVALUATION OF USE AS THE CITY'S PERMANENT BRIDGE SHELTER AND OTHER POSSIBLE USES**

MOVED/SECOND: Mayor Pro Tem Stephens/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 determined the acquisition of the property is categorically exempt from analysis under the California Environmental Quality Act; and
2. Approved the acquisition of real property located at 3175 Airway Avenue, Costa Mesa, CA 92627 for evaluation of use as the City's permanent bridge shelter and other possible uses; and
3. Authorized the release of all contingency items related to the purchase agreement including the appraisal and inspections; and
4. Authorized a funding swap and the related budget adjustments, which will provide \$4,125,000 in non-General Fund funding for the acquisition and renovation of 3175 Airway Avenue, Costa Mesa, CA; and
5. Authorized a budget adjustment appropriating \$4,125,000 in the Capital Improvement Fund for the acquisition and renovation of 3175 Airway Avenue, Costa Mesa, CA; and
6. Authorized a budget adjustment appropriating \$3,425,000 in the General Fund using unassigned fund balance for the acquisition 3175 Airway Avenue, Costa Mesa, CA; and

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7. Authorized the Acting City Manager and City Clerk to execute all real estate purchase documents, disclosures, escrow paperwork and future authorized changes and amendments necessary to close escrow.

3. **FIRST READING OF ORDINANCES INCREASING THE NUMBER OF MEMBERS OF THE PLANNING AND PARKS AND RECREATION COMMISSIONS, RENAMING THE PARKS AND RECREATION COMMISSION, AND DISSOLVING THE SENIOR COMMISSION**

MOVED/SECOND: Council Member Marr/Council Member Reynolds

MOTION: Continue the item to the March 19, 2019 City Council meeting.

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 continued the item to the March 19, 2019 City Council meeting.

ADJOURNMENT – The Mayor adjourned the meeting at 12:50 a.m.