



CITY COUNCIL AGENDA REPORT

MEETING DATE: July 17, 2012

ITEM NUMBER:

SUBJECT: AMENDMENTS TO CHAPTER IX OF THE MUNICIPAL CODE RELATING TO APPEAL, REVIEW AND REHEARING PROCEDURE

DATE: JULY 12, 2012

FROM: OFFICE OF THE CHIEF EXECUTIVE OFFICER

PRESENTATION BY: THOMAS R. HATCH, CHIEF EXECUTIVE OFFICER

FOR FURTHER INFORMATION CONTACT: THOMAS R. HATCH, (714) 754-5328

RECOMMENDATION:

Introduce ordinance for first reading to be read by title only and waive further reading.

BACKGROUND:

Staff was asked by Mayor Bever to review the procedure for appeals, reviews, and rehearing set forth in the Municipal Code in an effort to streamline the process for such matters to be brought before the City Council. Chapter IX of Title 2 of the Costa Mesa Municipal Code states that the purpose of this procedure is to provide an orderly and fair method of appeal, rehearing, and review of decisions of the staff, committees, commissions and Council of the City. One way to better achieve this purpose would be to require at least two members of the Council to make a request for review. The current procedure only requires one council member in order for review of a decision to be brought. Staff was directed to draft amendments to Chapter IX accordingly.

ANALYSIS:

Currently, Sections 2-301(9), 2-302, and 2-304(1) of the Costa Mesa Municipal Code provide that any individual council member may make a request for a review or rehearing of a matter so long as it is made within the timeframes set out in the code. As applied to council member requests for rehearing or review, the attached ordinance would require at least two council members to submit a request for rehearing or review. This would potentially save the City time and resources related to preparing for and providing a rehearing or review, because it would require a concurrence by a second council member as to whether such a matter needed to be reheard or reviewed.

ALTERNATIVES CONSIDERED:

The City Council could choose not to adopt the proposed ordinance amending the procedure, keep the procedure to allow one council member to initiate reviews, or give other direction to Staff.

FISCAL REVIEW:

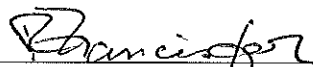
No fiscal impact.

LEGAL REVIEW:

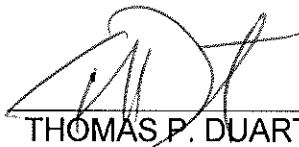
The City Attorney's office has reviewed and approved the attached municipal ordinance as to form and content.

CONCLUSION:

Currently, the existing municipal code allows individual council members to submit matters for rehearing or review. The adoption of this ordinance would require at least two council members to submit matters for rehearing or review.



THOMAS R. HATCH
Chief Executive Officer



THOMAS P. DUARTE
City Attorney

DISTRIBUTION: Assistant CEO
City Clerk

ATTACHMENTS: 1. Proposed ordinance amending Sections 2-301(9), 2-302, and 2-304(1) of Chapter IX of Title 2 of the Costa Mesa Municipal Code

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA AMENDING SECTIONS 2-301(9), 2-302, AND 2-304(1) OF CHAPTER IX OF TITLE 2 OF THE COSTA MESA MUNICIPAL CODE RELATING TO APPEAL, REHEARING, AND REVIEW PROCEDURE

WHEREAS, Costa Mesa Municipal Code sections 2-301(9), 2-302, and 2-304(1) only require one council member to request review or rehearing of a decision made by the City of Costa Mesa before the applicable reviewing person or body; and

WHEREAS, the City Council now desires to change Sections 2-301(9), 2-302, and 2-304(1) to require, solely in the case of council member requests, at least two council members to bring such review requests or requests for rehearing of a decision made by the City before the applicable reviewing person or body.

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

Section 1. Subsection (9) of Section 2-301 of Chapter IX of Title 2 of the Costa Mesa Municipal Code is hereby amended in the following manner:

Review means reconsideration of the decision of any city employee, committee, or commission requested by the city council, on its own motion, or upon request of at least two ~~any~~ council members, in order to consider the decision and any broad legislative and policy factors involved.

Section 2. Section 2-302 of Chapter IX of Title 2 of the Costa Mesa Municipal Code is hereby amended in the following manner:

Sec. 2-302. - City council review requests.

Within the time limits set forth in section 2-305, the city council, or at least two ~~or any~~ council members, may request that a decision of any city employee, committee, or commission be reviewed by filing an application with the city clerk stating the reasons for the requested review. Said review will be conducted according to the procedures specified in section 2-303 and 2-309. The person or body to hear the review will be designated in the application by the person(s) or body seeking such review and shall be as specified in section 2-309, unless the council as a whole specifies a higher level of review in the first instance.

Section 3. Subsection (1) of Section 2-304 of Chapter IX of Title 2 of the Costa Mesa Municipal Code is hereby amended in the following manner:

Sec. 2-304. - Procedure for rehearing.

(1) Any affected person, the city council, or at least two any council members may within the time limits set forth in section 2-305 file an application for rehearing with the city clerk. The application shall contain sufficient information to identify the party, its interest in the matter, and the reasons for requesting a rehearing.

Section 4. 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 effect the provisions of this Ordinance.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance 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 portions of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 6. 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 30 days after its final passage.

PASSED AND ADOPTED this ____ day of _____, 2012.

Mayor

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk of the City of Costa Mesa

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

I, BRENDA GREEN, Interim City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. _____ was introduced and considered section by section at a regular meeting of said City Council held on the _____th day of _____, 2012, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the _____ day of _____, 2012, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2012.

Interim City Clerk and ex-officio
Interim Clerk of the City Council of the
City of Costa Mesa