

**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, JANUARY 3, 2017
CITY COUNCIL CHAMBERS, 77 FAIR DRIVE
SPECIAL CLOSED SESSION – 3:30 P.M.
REGULAR MEETING – 5:45 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

Note regarding agenda-related documents provided to a majority of the City Council after distribution of the City Council agenda packet (GC §54957.5):

Any related documents provided to a majority of the City Council after distribution of the City Council Agenda Packets will be made available for public inspection. Binders containing these agenda-related documents are located in the Council Chambers lobby. In addition, such documents may be posted—whenever possible on the city's website at www.costamesaca.gov.

Please note that records submitted by the public will not be redacted in any way and will be posted online as submitted, including any personal contact information.

Your attendance at this public meeting is valued and appreciated. If you have questions regarding the agenda, public comments or wish to obtain copies of documents please contact the City Clerk office at (714) 754-5225 or e-mail cityclerk@costamesaca.gov

FOR INFORMATIONAL PURPOSES ONLY

SPECIAL CLOSED SESSION – 3:30 P.M.

CALL TO ORDER

ROLL CALL

Present: Council Member Mansoor, Council Member Righeimer (arrived at 3:50 p.m.), Council Member Stephens, Mayor Pro Tem Genis (arrived at 3:42 p.m.), and Mayor Foley.

Absent: None

PUBLIC COMMENTS

Members of the public are welcome to address the City Council only on those items on the Special Closed Session agenda. Each member of the public will be given three minutes to speak.

1. Conference with legal counsel regarding existing litigation: City of Costa Mesa, a municipal corporation, et al., v. Civic Center Barrio Housing, Orange County Superior Court Case No. 30-2014-00715552-CU-BC-CJC, pursuant to California Government Code Section 54956.9(d)(1).
2. Conference with legal counsel regarding existing litigation: Gosson v. City of Costa Mesa, et al., Orange County Superior Court Case No. 30-2015-00816221-CU-PO-CJC, pursuant to California Government Code Section 54956.9(d)(1).
3. Conference with legal counsel regarding existing litigation: AmeriCare MedServices, Inc. v. City of Costa Mesa and CARE Ambulance Service, Inc., United States District Court, Central District of California, Case No. 8:16-cv-01804-AG-SK, pursuant to California Government Code Section 54956.9(d)(1).
4. Conference with legal counsel regarding existing litigation: 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, pursuant to California Government Code Section 54956.9(d)(2).
5. Conference with legal counsel regarding existing litigation: 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, pursuant to California Government Code Section 54956.9(d)(1).
6. Conference with legal counsel regarding existing litigation: The Kennedy Commission, et al vs. City of Costa Mesa, Superior Court of California, County of Orange, Case No. 30-2016-00832585-CU-WM-CJC, pursuant to California Government Code Section 54956.9(d)(1).

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7. Conference with legal counsel regarding existing litigation: Timothy Dadey, et al. v. City of Costa Mesa, Superior Court of California, County of Orange, Case No. 30-2014-00757962-CU-CR-CJC, pursuant to California Government Code Section 54956.9(d)(1).
8. Conference with legal counsel regarding existing litigation: Yellowstone Women's First Step House, Inc., and Sober Living Network, Inc. v. City of Costa Mesa; U.S. District Court, Central District of California Case No. SACV14-01852 JVS, pursuant to California Government Code Section 54956.9(d)(1).
9. Conference with legal counsel regarding anticipated litigation, significant exposure to litigation, pursuant to California Government Code Section 54956.9(d)(2) for 2 potential cases.
10. Conference with legal counsel regarding anticipated litigation, initiation of litigation, pursuant to California Government Code Section 54956.9(d)(4) for 1 potential case.

Mayor Pro Tem Genis recused herself from Closed Session item #1 due to a potential conflict of interest.

The City Council, Housing Authority, and Successor Agency to the Redevelopment Agency recessed to Conference Room 5A for Special Closed Session at the conclusion of public comments.

REGULAR MEETING OF THE CITY COUNCIL, HOUSING AUTHORITY, AND SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY TUESDAY, JANUARY 3, 2017 - 5:45 P.M.

CALL TO ORDER

PLEDGE OF ALLEGIANCE Mayor Pro Tem Genis

MOMENT OF SOLEMN EXPRESSION

[Per Council Policy 000-12, these presentations are made by community volunteers stating their own views. The City Council disclaims any intent to endorse or sponsor the views of any speaker.]

Deacon Tim Donovan, Saint Joachim Catholic Church, Costa Mesa

ROLL CALL

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

Absent: None

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CITY ATTORNEY CLOSED SESSION REPORT

City Attorney Duarte reported on Closed Session item# 6 in which the City Council provided direction to legal counsel authorizing dismissal of Costa Mesa's pending appeal and the main legal action remains active and will proceed in Superior Court.

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

Mayor Foley had communications with the members of the bargaining unit to discuss operational matters and equipment needs.

ANNOUNCEMENTS: There's always something happening in Costa Mesa!

The Mayor will play a video clip of the "Costa Mesa Minute," featuring upcoming events and activities in the community.

PUBLIC COMMENTS – MATTER NOT LISTED ON THE AGENDA:

Members of the public desiring to speak during the Public Comments period on a matter not on the agenda are not required to submit a speaker card but may choose to voluntarily complete a card for facilitation of the minutes and possible follow-up to their comments. Members of the public shall only address the City Council one time at any given meeting for non-agenda items. Each speaker is limited to three minutes. The three minute per speaker time limit may be extended for good cause by the Mayor or by a majority vote of City Council. Questions and comments made by public speakers may be addressed by the City Council during Council Comments or by the City Manager during the City Manager's Report.

COUNCIL MEMBERS' REPORTS, COMMENTS, AND SUGGESTIONS

1. Mayor Pro Tem Genis
2. Council Member Stephens
3. Council Member Righeimer
4. Council Member Mansoor
5. Mayor Foley

REPORT – CITY MANAGER

City Manager Hatch spoke on supporting the new City Council; and a new tracking sheet.

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CONSENT CALENDAR:

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 6 except for 3 and 4.

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

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

1. **READING FOLDER**

Claims received by the City Clerk: Juanita J. Alboney and Barbara D. Tracy.

ACTION:

City Council received and filed.

2. **WARRANT RESOLUTION NO. 2568 OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NO. 16-24 "A" FOR \$2,402.26, 16-25 FOR \$2,144,079.66, 16-25 "A" FOR \$-0.25, AND 16-26 FOR 2,236,423.48; AND CITY OPERATING EXPENSES FOR \$2,920,492.00; AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID -**

ACTION:

City Council approved Warrant Resolution No. 2568.

5. **RECOMMENDED ACCEPTANCE AND ALLOCATION OF THE 2016 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FUNDS**

ACTION:

1. City Council approved staff's recommendation to allocate 2016 Edward Byrne Memorial Justice Assistance Grant (JAG) funds to the Police Department's operating budget; and
2. Approved the budget adjustment (BA #17-006) to increase revenue and appropriations in the JAG fund, and allocate funds as follows:
 - Electronic Citation (E-Citation) System Upgrade - \$20,004.53

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6. AWARD PROCUREMENT AND INSTALLATION OF WORKSTATIONS AND FURNITURE FOR 4TH FLOOR REMODEL

ACTION:

City Council authorized the City Manager to execute a purchase order with Culver-Newlin for the procurement and installation of office workstations and furniture in the amount of \$153,099 to remodel a large portion of the 4th Floor of City Hall.

----- **END OF CONSENT CALENDAR** -----

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

1. AN URGENCY ORDINANCE TO ADOPT CODE AMENDMENT CO-16-006: AN AMENDMENT TO TITLE 13 OF THE COSTA MESA MUNICIPAL CODE RELATED TO CULTIVATION OF MARIJUANA AND/OR MEDICAL MARIJUANA

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

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council introduced and adopted Urgency Ordinance 17-01, to be read by title only, and further reading waived, to adopt Code Amendment CO-16-006 amending Costa Mesa Municipal Code Title 13, Article 20 of Chapter IX, Special Land Use Regulations.

2. REVIEW OF PLANNING APPLICATION PA-16-55 FOR HOLIDAY (FORMERLY LION’S DEN AND MAISON)

MOVED/SECOND: Mayor Pro Tem Genis/Mayor Foley

MOTION: To approve the CUP as proposed with additional Conditions of Approval as adopted under Resolution 17-03.

The motion carried by the following roll call vote:

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

Nays: Council Member Righeimer

Absent: None

Motion carried: 4-1

ACTION:

City Council approved the CUP as proposed with additional Conditions of Approval as adopted under Resolution 17-03.

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3. ANNUAL REVIEW OF THE CITYWIDE TRAFFIC IMPACT FEE PROGRAM

MOVED/SECOND: Mayor Pro Tem Genis/Mayor Foley

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council adopted Resolution 17-02 to approve the recommendations by the Traffic Impact Fee Ad Hoc Committee and staff as follows:

1. Continue the current traffic impact fee of \$181 per Average Daily Trip (ADT); and
2. Continue the incentive program for new developments by assessing traffic impact fees on an incremental basis for the first 100 trips; and
3. Approve the annual accounting of the Citywide Traffic Impact Fee Program.

Mayor Foley requested to include an analysis of Bikeway and Walkability Committee as part of the study.

Council Member Stephens requested a comparison to other cities.

OLD BUSINESS: NONE

NEW BUSINESS:

1. **FIRST READING OF ORDINANCE 17-02 OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING THE COSTA MESA MUNICIPAL CODE SECTIONS 2-97 and 2-101 CHANGING THE TITLE OF CHIEF EXECUTIVE OFFICER TO CITY MANAGER AND ASSISTANT CHIEF EXECUTIVE OFFICER TO ASSISTANT CITY MANAGER**

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

The motion carried by the following roll call vote:

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

Nays: Council Member Mansoor and Council Member Righeimer

Absent: None

Motion carried: 3-2

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ACTION:

City Council gave first reading to Ordinance 17-02, to be read by title only, and further reading waived, amending sections 2-97 and 2-101 of the Costa Mesa Municipal Code to remove references to the Chief Executive Officer and Assistant Chief Executive Officer and change the titles to City Manager and Assistant City Manager respectively.

2. MODIFICATIONS TO ORDER OF BUSINESS, PUBLIC COMMENTS AND CONSENT CALENDAR ON THE CITY COUNCIL AGENDA; AND SETTING THE COMMENCEMENT TIME FOR CLOSED SESSION AND CITY COUNCIL MEETINGS

MOVED/SECOND: Council Member Mansoor/Council Member Righeimer

MOTION: To approve the recommended action with one change of keeping Council Members' Reports, Comments and Suggestions to immediately follow Public Comments.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council adopted Resolution No. 17-01 with the following changes: Council Members' Reports, Comments and Suggestions to immediately follow Public Comments and limited to 4 minutes each at the beginning and additional comments at the end without a time restriction.

3. COMMISSIONERS RELEASE FROM APPOINTMENT ON THE PLANNING COMMISSION, SENIOR COMMISSION, AND PARKS AND RECREATION COMMISSION – City Manager's Office

SUBSTITUTE MOTION/SECOND: Council Member Stephens/Mayor Foley

SUBSTITUTE MOTION: To approve the recommended actions and include that each Council Member identify up to three of their top choices to interview for each commission.

The motion carried by the following roll call vote:

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

Nays: Council Member Mansoor and Council Member Righeimer

Absent: None

Motion carried: 3-2

ACTION:

1. City Council authorized the release of the appointment of commissioners whose terms expire in 2019 and 2021, effective January 4, 2017; and

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2. Directed the City Clerk to post the special vacancy notices pursuant to GC §54974(a), and to proceed with a recruitment for new commissioners; and
3. Scheduled a Special Meeting on Tuesday, January 24, 2017 to interview the applicants; and
4. Scheduled a Special Meeting on Tuesday, January 31, 2017, to complete the interview of applicants and to make the appointments to the commissions; and
5. Include each Council Member identify up to three of their top choices to interview for each commission.

4. FIRE STATION #6 AND RELATED STAFFING

MOTION/SECOND: Mayor Foley/Mayor Pro Tem Genis

MOTION: Continue the meeting past midnight

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council approved to continue the meeting past midnight.

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

The motion carried by the following roll call vote:

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

Nays: Council Member Mansoor and Council Member Righeimer

Absent: None

Motion carried: 3-2

ACTION:

1. City Council formally authorized and approved the recommendation to keep Fire Station #6 open; and
2. Formally authorized and approved a total of six sworn positions for the Fire & Rescue Department which are currently being filled with overtime personnel, including:
 - a. Three Fire Captain positions
 - b. Three Firefighter positions

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ITEMS REMOVED FROM THE CONSENT CALENDAR

3. MINUTES OF THE REGULAR CITY COUNCIL, HOUSING AUTHORITY, AND SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF DECEMBER 6, 2016

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

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Abstain: Council Member Mansoor and Council Member Stephens

Motion carried: 3-0-0-2

ACTION:

City Council continued the item to the January 17, 2017 City Council meeting.

4. PURCHASE FOR FABRICATION OF AN ARBOR AT PINKLEY PARK

MOVED/SECOND: Mayor Foley/Council Member Mansoor

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council approved and authorized the City Manager to execute a purchase order with Coast Recreation Inc., 3151 Airway Avenue, #A-3, Costa Mesa, CA, for the fabrication of an arbor located at Pinkley Park, in the amount of \$64,982.00.

REPORT – CITY ATTORNEY

City Attorney Duarte stated a litigation log will be prepared and posted on the city website.

ADJOURNMENT – The Mayor adjourned the meeting at 12:18 a.m.