

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

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

**TUESDAY, APRIL 17, 2018
CITY COUNCIL CHAMBERS
77 FAIR DRIVE, COSTA MESA, CALIFORNIA
CLOSED SESSION – 4:00 P.M.
REGULAR MEETING – 6:00 P.M.**

SANDRA L. GENIS
Mayor

ALLAN R. MANSOOR
Mayor Pro Tem

KATRINA FOLEY
Council Member

JOHN B. STEPHENS
Council Member

JAMES M. RIGHEIMER
Council Member

City Attorney
Thomas Duarte

City Manager
Thomas R. Hatch

CALL TO ORDER

The Closed Session was called to order by the Mayor at 4:02 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

ROLL CALL

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

Absent: Mayor Genis

FOR INFORMATIONAL PURPOSES ONLY

The City Council recessed to Conference Room 5A at 4:05 p.m. for Closed Session to consider the following items:

1. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Section 54957.6, California Government Code

Agency Designated Representative: Tamara Letourneau, Assistant City Manager

Name of Employee Organization: Costa Mesa Police Management Association (CMPMA)

2. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Section 54957.6, California Government Code

Agency Designated Representative: Tamara Letourneau, Assistant City Manager

Name of Employee Organization: Costa Mesa Police Association (CMPA)

3. 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.

4. 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.

5. 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.

6. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code

Name of Case: Yellowstone Women's First Step House, Inc., and Sober Living Network, Inc. v. City of Costa Mesa, United States District Court, Central District of California, Case No. SACV14-01852 JVS.

The City Council reconvened at 6:03 p.m.

CALL TO ORDER

The meeting was called to order by the Mayor at 6:03 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

ROLL CALL

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

Absent: None

CITY ATTORNEY CLOSED SESSION REPORT – NONE

COIN: Ex Parte Communications pursuant to Municipal Code Section 2-238 (b) - NONE

CONSENT CALENDAR:

MOVED/SECOND: Council Member Righeimer/Council Member Stephens

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 11 except for 2, 6, 7, and 10.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

1. READING FOLDER

Claims received by the City Clerk: Mark M. Gnesin

ACTION:

City Council received and filed.

3. MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION OF FEBRUARY 27, 2018

ACTION:

City Council approved the minutes of February 27, 2018.

4. APPROVE RESOLUTION FOR THE APPLICATION OF GRANT FUNDS FOR THE ENVIRONMENTAL CLEANUP, TIER 1 GRANT PROGRAM UNDER ORANGE COUNTY LOCAL TRANSPORTATION ORDINANCE NO. 3 FOR THE TIER 1 WATER QUALITY BMP INSTALLATION PROJECT

ACTION:

1. City Council approved Resolution No. 18-22, for the submittal of a grant application to the Orange County Transportation Authority (OCTA) for the City's Tier 1 Water Quality BMP Installation Project; and

2. Authorized the Public Services Director to act as the City's representative.

FOR INFORMATIONAL PURPOSES ONLY

5. **PARKING LOT REHABILITATION PROJECT AT VARIOUS LOCATIONS, BIKE TRAIL WEST OF HARBOR BOULEVARD AND BALEARIC COMMUNITY CENTER IMPROVEMENTS, CITY PROJECT NO. 17-02**

ACTION:

1. City Council accepted the work performed by All American Asphalt for the subject project and authorized the City Clerk to file the Notice of Completion; and
2. Authorized the release of the Labor and Material Bond seven (7) months after the filing date; release of the Faithful Performance Bond one (1) year after the filing date; and release of the retention monies 35 days after the Notice of Completion filing date.

8. **RESOLUTION ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2018-19 FUNDED BY SENATE BILL 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

ACTION:

City Council adopted Resolution No. 18-23, adopting a list of projects for Fiscal Year (FY) 2018-19 proposed to be funded with Road Maintenance and Rehabilitation Account (RMRA) revenues.

9. **BUILDING SAFETY & FIRE PREVENTION PLAN REVIEW AND INSPECTION SERVICES**

ACTION:

1. City Council approved and authorized the Mayor and the City Clerk to amend professional service agreements for contract building plan check and contract building counter permit technicians with the companies of Scott Fazekas & Associates Inc., Bureau Veritas, Melad & Associates, Interwest Group, VCA Code, HR Green, Permit Management Solutions and JAS Pacific. Also approve and authorize the Mayor and the City Clerk to execute one-year professional service agreements for contract building inspection services with the companies of JAS Pacific, Interwest Group, Bureau Veritas, VCA Code and Safebuilt. The additional requested amount for contract building plan check, contract counter permit technicians and contract building inspections services is \$103,584 in addition to the current contract amount of \$107,938, as budgeted for FY 2017-2018. The same consultants for building plan check and contract building contract counter permit technicians are providing contract fire plan checking for a total aggregate amount up to \$142,000 as budgeted for FY 2017-2018 with no change to this amount; and
2. Authorized the City Manager and the City Clerk to renew the agreement for four (4) additional one-year periods upon mutual written agreement of both parties

FOR INFORMATIONAL PURPOSES ONLY

11. DESIGNATION OF VOTING DELEGATE FOR THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG) 2018 REGIONAL CONFERENCE AND GENERAL ASSEMBLY

ACTION:

City Council designated Mayor Genis as the delegate for the upcoming 2018 Annual SCAG Regional Conference & General Assembly.

ITEMS PULLED FROM THE CONSENT CALENDAR:

2. WARRANT RESOLUTION NO. 2596 OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NO. 18-06 "A" FOR \$-6,410.77 AND 18-07 FOR 2,546,307.71; AND CITY OPERATING EXPENSES FOR \$2,409,571.95; AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID

MOVED/SECOND: Council Member Stephens/Mayor Genis

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council approved Warrant Resolution No. 2596.

6. PICNIC SHELTER IMPROVEMENTS AT PAULARINO PARK AND PINKLEY PARK - CITY PROJECT NO. 17-07

MOVED/SECOND: Council Member Stephens/Mayor Genis

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

1. City Council accepted the work performed by R.E. Shultz Construction, Inc. and authorized the City Clerk to file the Notice of Completion; and
2. Authorized the release of the Labor and Material Bond seven (7) months after the filing date; release of the Faithful Performance Bond one (1) year after the filing date; and release of the retention monies 35 days after the Notice of Completion filing date.

7. ANNUAL REVIEW OF THE CURRENT HOUSING ELEMENT AND FINAL REVIEW OF THE PREVIOUS GENERAL PLAN PURSUANT TO STATE LAW

MOVED/SECOND: Council Member Righeimer/Mayor Genis

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council approved the 2017 Annual Report of the 2015-2035 adopted Costa Mesa General Plan.

10. FUNDING FOR LEGAL SERVICES AGREEMENT WITH BEST BEST & KRIEGER

MOVED/SECOND: Council Member Righeimer/Mayor Genis

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Abstain: Council Member Stephens

Motion carried: 4-0-0-1

ACTION:

1. City Council authorized additional funding in the amount \$75,000 to allow Best Best & Krieger (BB&K) to provide legal assistance with group home issues and a multi-agency lawsuit involving AmeriCare MedServices, Inc.; and
2. Satisfied the City's financial obligation to BB&K in connection with the sober living home litigation and additional work related to the AmeriCare MedServices, Inc. litigation in the amount of \$33,502.34.

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

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

1. REVIEW OF MASTER PLAN PA-17-28 FOR A MIXED-USE PROJECT (THE PLANT) AT 765-767 BAKER STREET AND 2972 CENTURY PLACE

MOVED/SECOND: Council Member Foley/Council Member Stephens

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council continued the hearing to the May 1, 2018 City Council meeting to allow staff additional time to review the issues raised at the April 3, 2018 hearing for this project.

PH-2 WAS REMOVED FROM THE AGENDA.

~~**2. APPEAL OF THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMITS PA-16-30 AND PA-16-31 TO OPERATE A SOBER LIVING FACILITY SERVING 37 GENDER-SPECIFIC ADULTS; INCLUDING AN APPEAL OF THE DENIAL OF A REQUEST FOR REASONABLE ACCOMMODATION TO DEVIATE FROM VARIOUS REQUIREMENTS OF THE ZONING CODE; OPERATED BY RAW RECOVERY, LLC, AT 321 AND 327 CABRILLO STREET**~~

3. APPEAL OF THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMITS PA-16-37 AND PA-16-38 TO OPERATE A STATE-LICENSED DRUG AND ALCOHOL TREATMENT FACILITY SERVING 26 RESIDENTS; INCLUDING AN APPEAL OF DENIAL OF A REQUEST FOR REASONABLE ACCOMMODATION TO DEVIATE FROM VARIOUS REQUIREMENTS OF THE ZONING CODE; OPERATED BY NORTHBOUND TREATMENT SERVICES AT 125 AND 131 EAST WILSON STREET

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

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

1. City Council held a single public hearing for Conditional Use Permits PA-16-37 and PA-16-38 since the sites are contiguous and operated as a single facility; and

FOR INFORMATIONAL PURPOSES ONLY

2. Adopted Resolution No. 18-24, upholding the decisions of the Director of Economic and Development Services to deny a request for reasonable accommodation and the Planning Commission to deny Conditional Use Permit PA-16-37 with the following revisions to the findings:
 - (a) Updating the number of applications received by the City from 65 to 54 sober living homes and 11 to 7 licensed treatment facilities that are subject to compliance with Ordinance Nos. 24-13 and 15-11.
 - (b) Updating the number of existing state-licensed drug and alcohol facilities in Costa Mesa that are exempt from City regulation, or have already obtained the required Conditional Use Permit, from 60 to 83.

3. Adopted Resolution No. 18-25, upholding the decisions of the Director of Economic and Development Services to deny a request for reasonable accommodation and the Planning Commission to deny Conditional Use Permit PA-16-38 with the following revisions to the findings:
 - a) Updating the number of applications received by the City from 65 to 54 sober living homes and 11 to 7 licensed treatment facilities that are subject to compliance with Ordinance Nos. 24-13 and 15-11.
 - (b) Updating the number of existing state-licensed drug and alcohol facilities in Costa Mesa that are exempt from City regulation, or have already obtained the required Conditional Use Permit, from 60 to 83.

City Council recessed into a break at 8:55 p.m.

City Council reconvened at 9:06 p.m.

4. APPEAL OF THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMITS PA-16-39 AND PA-16-40 TO ALLOW A STATE-LICENSED DRUG AND ALCOHOL TREATMENT FACILITY SERVING 24 ADULTS; INCLUDING AN APPEAL OF DENIAL OF A REQUEST FOR REASONABLE ACCOMMODATION TO DEVIATE FROM VARIOUS REQUIREMENTS OF THE ZONING CODE; OPERATED BY NORTHBOUND TREATMENT SERVICES AT 235 AND 241 E. 18TH STREET

MOVED/SECOND: Council Member Foley/Mayor Pro Tem Mansoor

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

1. City Council held a single public hearing for Conditional Use Permits PA-16-39 and PA-16-40 since the sites are contiguous and operated as a single facility.

FOR INFORMATIONAL PURPOSES ONLY

2. Adopted Resolution No. 18-26, upholding the decisions of the Director of Economic and Development Services to deny a request for reasonable accommodation and the Planning Commission to deny Conditional Use Permit PA-16-39 with the following revisions to the findings:
 - a) Updating the number of applications received by the City from 65 to 54 sober living homes and 11 to 7 licensed treatment facilities that are subject to compliance with Ordinance Nos. 24-13 and 15-11.
 - (b) Updating the number of existing state-licensed drug and alcohol facilities in Costa Mesa that are exempt from City regulation, or have already obtained the required Conditional Use Permit, from 60 to 83.
 - (c) Include testimonies in the record to support the noise impacts; vehicle traffic impacts; parking limitations; neighbors' expenses regarding security measures; and alcohol and marijuana usage on-site.

3. Adopted Resolution No. 18-27, upholding the decisions of the Director of Economic and Development Services to deny a request for reasonable accommodation and the Planning Commission to deny Conditional Use Permit PA-16-40 with the following revisions to the findings:
 - a) Updating the number of applications received by the City from 65 to 54 sober living homes and 11 to 7 licensed treatment facilities that are subject to compliance with Ordinance Nos. 24-13 and 15-11.
 - (b) Updating the number of existing state-licensed drug and alcohol facilities in Costa Mesa that are exempt from City regulation, or have already obtained the required Conditional Use Permit, from 60 to 83.
 - (c) Include testimonies in the record to support the noise impacts; vehicle traffic impacts; parking limitations; neighbors' expenses regarding security measures; and alcohol and marijuana usage on-site.

OLD BUSINESS:

1. **FY 2017-18 MID-YEAR BUDGET REPORT AND 5 YEAR FINANCIAL PROJECTIONS**

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

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

1. Mid-Year Budget Report:
 - a. City Council received and filed the report; and
 - b. Allocated \$1 million as a placeholder to potentially establish a 115 Trust; and
 - c. Allocated \$1,571,499 towards the Self-Insurance Fund; and

FOR INFORMATIONAL PURPOSES ONLY

- d. Approved the two new code enforcement officer positions and eliminate the vacant Programmer Analyst II in the IT Department and Plan Check Engineer in Development Services; and
 - e. Approved recommended FY 2017-18 budget adjustments.
2. Five-Year Financial Plan:
 - a. City Council reviewed and filed the five-year financial plan; and
 - b. Provided direction to staff regarding the issues raised in connection with the five-year financial plan and future priorities.

NEW BUSINESS:

1. **CONSIDER ADOPTION OF A RESOLUTION SEEKING CALIFORNIA STATE LEGISLATIVE SUPPORT TO REGULATE RESIDENTIAL RECOVERY FACILITIES (SOBER LIVING HOMES)**

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

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council adopted Resolution No. 18-28 and approved to send to the League of California and ACC-OC to share with other cities, which requests support from the State of California to provide the necessary regulatory tools to ensure local jurisdictions have adequate means to bring balance between neighborhoods and the placement of residential recovery facilities (Sober Living Homes) with the following additions:

(a) Whereas it prohibits patient brokering or referrals for any consideration.

(b) Encourages support for AB-572.

2. **CONSIDERATION OF FUNDING ALLOCATION FOR A COMMUNITY FOURTH OF JULY EVENT TO PROMOTE PUBLIC SAFETY AND PROMOTION OF AN INCREASE FOR ILLEGAL FIREWORK DISCHARGE FINE**

MOVED/SECOND: Mayor Foley/Council Member Stephens

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 5-0

ACTION:

City Council received and filed.

REPORT – CITY MANAGER - NONE

REPORT – CITY ATTORNEY - NONE

ADJOURNMENT - The Mayor adjourned the meeting at 11:40 p.m. in memory of Barbara Panian.