

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL AND SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY

MARCH 6, 2018

CALL TO ORDER

The Closed Session was called to order by the Mayor at 4:00 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 (arrived at 4:08 p.m.), Council Member Stephens, Mayor Pro Tem Mansoor and Mayor Genis.

Absent: None

PUBLIC COMMENTS ON CLOSED SESSION ITEMS - NONE

The City Council recessed to Conference Room 5A at 4:03 p.m. for Closed Session to consider the following items:

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Subdivision (b)(1) of Section 54957, California Government Code
Title: City Attorney

2. 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.

3. 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.

4. 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 for the Central District of California – Southern Division, Case No. 8:18-cv-00155.

5. 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, U.S. District Court, Central District of California, Case No. SACV14-01852 JVS.

6. 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)

7. 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 Officers Association (CMPOA)

The City Council reconvened at 6:04 p.m.

CALL TO ORDER (00:00:13)

The meeting was called to order by the Mayor at 6:04 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

PLEDGE OF ALLEGIANCE (00:00:33) - Mayor Genis

MOMENT OF SOLEMN EXPRESSION (00:00:50) - Pastor Josh Harrison, ROCKHARBOR Church, Costa Mesa

ROLL CALL (00:01:31)

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

Absent: None

Officials Present: City Manager Tom Hatch, City Attorney Thomas Duarte, Assistant City Manager Tamara Letourneau, Economic and Development Services Director Barry Curtis, Public Services Director Raja Sethuraman, and City Clerk Brenda Green.

CITY ATTORNEY CLOSED SESSION REPORT (00:01:56) – NONE

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

ANNOUNCEMENTS (00:02:14) - "Costa Mesa Minute" was played featuring upcoming events and activities in the community.

PRESENTATIONS:

1. Check Presentation (00:05:09) – The Costa Mesa Library Foundation Committee presented three checks to the Mayor, which included, \$6,000 for the Children's Library Early Childhood play and Learning Island, \$15,000 for the Teen Library Technology Bar and \$5,000 for the Interactive Media Display.
2. Upcoming OC Fair Events and Information (00:09:47) – Ms. Kathy Kramer, CEO of the Orange County Fair, provided a power point presentation of the upcoming OC Fair Events and Information.

PUBLIC COMMENTS – MATTER NOT LISTED ON THE AGENDA (00:16:15)

Speaker, spoke on the preservation of the Talbert Nature Reserve. (00:16:51)

Tho Tran, Costa Mesa and representing the Orange County Financial Center, spoke on Financial Literacy Month and National Campaign for Financial Literacy. (00:20:25)

Dennis Ashendorf, Costa Mesa, thanked the City Council for their service. (00:24:25)

Tamar Goldman, Costa Mesa, requested a handicapped accessible crosswalk at Fordham and Wake Forest. (00:27:48)

Al Melone, Costa Mesa, showed photographs and spoke on benches at the dog park; and donations for the park. (00:31:08)

Tim Lewis, Costa Mesa, spoke on street ADA requirements; the Public Records Act; and the status of the project at Harbor Blvd. and Hamilton. (00:33:16)

Terry Koken, Costa Mesa, spoke on the Model Engineers contract at Fairview Park. (00:36:30)

Wendy Leece, Costa Mesa, spoke on the First Amendment and the right to petition government; and the Public Records Act. (00:39:42)

Speaker, spoke on good governance. (00:42:50)

Speaker, spoke on articles in the newspapers; and sober living issues. (00:45:20)

Ralph Taboada, Costa Mesa, spoke on pro-activeness; and spoke on public pension reform. (00:48:37)

Speaker, spoke on the direction of the Orange County Fairgrounds; and transparency and accountability. (00:51:22)

Speaker, spoke on the monies given to Dr. Butros and the Orange County Humane Society; and enforcing State Health and Safety Codes pertaining to Sober Living Homes. (00:54:23)

Beth Refakes, Costa Mesa, spoke on the OC Fairgrounds Master Site Plan and issues; and traffic enforcement. (00:57:10)

Reggie Mundekis, spoke on the OC Fairgrounds Master Site Plan and issues; and thanked staff for the Arlington trail and Bioswale project. (01:00:08)

Speaker, spoke on transparency; and attendance at the Planning Commission meeting. (01:01:54)

COUNCIL MEMBER COMMITTEE REPORTS, COMMENTS, AND SUGGESTIONS (01:05:00)

Mayor Genis spoke on Talbert Park issues; handicapped accessibility; Code Enforcement information page on the City website; and invited everyone to the Senior Center on March 12th at 5:00 pm for a meeting with District Attorney regarding legal abuses within the sober living community. (01:05:19)

Council Member Stephens spoke on the adoption of animals; Little League Opening Day; Golf Tournament for Fresh Beginnings on March 9th; United Way campaign; ACC-OC first task-force meeting on March 27th; and Public Records Requests. (01:08:25)

Council Member Righeimer spoke on the meeting with the District Attorney on March 12th; and consumer protection. (01:12:17)

Mayor Pro Tem Mansoor invited everyone to an Alzheimers Forum at the Senior Center on March 29th. (01:14:35)

Council Member Foley requested the disabled curb cut to be addressed; thanked the police department for the neighborhood watch programs; spoke on the information on the City website for Code Enforcement actions and Sober Living Home matters; Model Engineers contract renewal; reported on her attendance at the OC Lantern Fest at Argyos Plaza; spoke regarding the West Side Listening Tour responses on her Council Member page on the City website; requested a copy of Planning Commissioner Andranian's e-mail about the Sober Living Home ordinance; spoke on Women's History Month; and praised Norma Hertzog, first woman mayor. (01:14:55)

CONSENT CALENDAR (01:18:33)

Council Member Righeimer stated he will be recusing himself from Consent Calendar Item No. 5 as he is friends with the person who runs the Orange County Marathon. (01:18:52)

MOVED/SECOND: Council Member Righeimer/Council Member Stephens

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 7 except for 2, 5, 6, and 7.

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: Lisa Ayers and Yoram Benbarak.

ACTION:

City Council received and filed.

3. MINUTES OF THE REGULAR CITY COUNCIL AND SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY MEETING OF FEBRUARY 6, 2018 AND STUDY SESSION OF FEBRUARY 13, 2018

City Manager's Office/City Clerk Division

ACTION:

City Council approved the minutes of February 6, 2018 and February 13, 2018.

THIS ITEM WAS WITHDRAWN FROM THE AGENDA.

4. ~~PROFESSIONAL SERVICES AGREEMENT FOR ARCHITECTURAL DESIGN SERVICES FOR THE LIONS PARK PLAYGROUND IMPROVEMENTS~~

ITEMS PULLED FROM THE CONSENT CALENDAR:

- 2. WARRANT RESOLUTION NO. 2593 OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NO. 18-03 "A" FOR \$214.22 AND 18-04 FOR \$2,406,540.43; AND CITY OPERATING EXPENSES FOR \$1,877,150.98; AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID (01:19:24) - Finance Department**

Public Comments:

Speaker, spoke on Yellowstone and legal fees. (01:19:29)

Mayor Genis stated she will not recuse herself from the warrants and clarified attendance at a meeting. (01:21:35)

MOVED/SECOND: Mayor Pro Tem Mansoor/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. 2593.

5. RESOLUTION AUTHORIZING STREET CLOSURES FOR THE 2018 ORANGE COUNTY MARATHON

Public Services Department/Transportation Services Division

Council Member Righeimer recused himself and stepped down from the dais and left the Council Chambers due to a potential conflict of interest. (01:23:17)

Public Comments:

Wendy Leece, Costa Mesa, spoke on paying full fees for police and fire. (01:23:21)

Speaker, spoke on paying full fees for police and fire. (01:24:46)

Public Comments Closed.

Council Member Foley clarified voting on the closure of the streets. (01:25:55)

City Manager Hatch spoke on the changes to the fully burdened rate. (01:26:17)

Discussion ensued on the contract with the Orange County Marathon and reimbursement to the City for the cost of Police and Fire support. (01:26:45)

MOVED/SECOND: Council Member Foley/Council Member Stephens

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Abstain: Council Member Righeimer

Motion carried: 4-0-0-1

ACTION:

City Council adopted Resolution No. 18-12 designating event routes for the 2018 Orange County (OC) Marathon and approved the temporary street closures for May 5, 2018, and May 6, 2018, as requested for the 2018 OC Marathon.

6. CONSIDER ADOPTION OF A RESOLUTION SUPPORTING THE REDUCING CRIME AND KEEPING CALIFORNIA SAFE ACT OF 2018 (01:29:47)

Police Department

Public Comments:

Speaker, spoke on crime issues and in support of the resolution. (01:29:58)

Public Comments Closed.

Discussion ensued on placing resolutions under Consent Calendar vs. New Business. (01:30:55)

MOVED/SECOND: Council Member Righeimer/Council Member Foley

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. 18-13, which supports the Reducing Crime and Keeping California Safe Act of 2018.

7. THIRD PARTY WORKERS' COMPENSATION CLAIMS ADMINISTRATION SERVICES (01:33:01) – City Manager's Office/Human Resources Division

Public Comments:

Ralph Taboada, Costa Mesa, spoke on separating Workers' Compensation Reserve Liability from General Liability; and expressed concern on Worker's Compensation costs. (01:33:19)

MOVED/SECOND: Council Member Righeimer/Mayor Genis (01:36:05)

MOTION: To approve the recommended actions of awarding the contract for Third Party Workers Compensation Claims Administration to AdminSure, authorize the Mayor and City Clerk to execute the four-year Professional Services Agreement for the contract, and authorize the City Manager to extend the contract for an additional one-year term as applicable.

MOVED/SECOND: Council Member Foley (01:36:09)

SUBSTITUTE MOTION: For a continuance for two months to allow time for a City Council sub-committee to review the Workers' Compensation program and administration.

Itzia Carvajal, Principal Human Resources Analyst, presented the staff report. (01:39:06)

Discussion ensued on Corvel, the prior third party administrator (TPA); and consequences of delaying the voting of the contract. (01:42:48)

City Manager Hatch spoke on the services provided by AdminSure. (01:44:00)

Council Member Foley spoke on the request for continuance on the item. (01:45:46)

Council Member Righeimer spoke on the contract process. (01:47:25)

Council Member Stephens spoke on amending the substitute motion to continue the item to the March 20th City Council meeting. (01:49:33)

Council Member Righeimer withdrew his motion. (01:49:48)

MOVED/SECOND: Council Member Foley/Council Member Stephens

MOTION: To continue the item to the March 20, 2018 City Council meeting.

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 item to the March 20, 2018 City Council meeting.

PUBLIC HEARINGS – 7:00 p.m. (Resolution No. 05-55): (01:50:08)

1. PUBLIC HEARING FOR THE VACATION OF A PORTION OF LANDSCAPE EASEMENT AT 1585 MACARTHUR BOULEVARD, 3530 HYLAND AVENUE AND 1580-1590 SCENIC AVENUE (01:50:16)

Public Services Department/Engineering Division

Raja Sethuraman, Public Services Director, presented the staff report. (01:50:34)

No public comments on this item.

MOVED/SECOND: Council Member Righeimer/Council Member Foley

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 adopted Resolution No. 18-14, ordering the vacation of a portion of a Landscape Easement at 1585 MacArthur Boulevard, 3530 Hyland Avenue and 1580-1590 Scenic Avenue; and
2. Authorized the execution of the Quitclaim Deed by the Mayor and the City Clerk.

OLD BUSINESS (01:55:14)

1. ANALYSIS OF ALTERNATIVES FOR CITY ATTORNEY SERVICES (01:55:19)

City Manager's Office

City Attorney Duarte recused himself, stepped down from the dais and left the Council Chambers due to potential financial conflicts on the City Attorney's contract with the City. (01:55:27)

Tammy Letourneau, Assistant City Manager, presented the staff report. (01:55:45)

Public Comments:

Speaker, spoke in support of changing City Attorney services. (02:01:00)

Wendy Leece, Costa Mesa, spoke on Jones-Day legal fees and advantages of an in-house attorney. (02:02:15)

Beth Refakes, Costa Mesa, requested information on the additional costs related to hiring an in-house attorney; and supports a contract city attorney. (02:04:06)

Terry Koken, Costa Mesa, spoke in support of Kimberly Barlow, the previous City Attorney and politicizing the City Attorney position. (02:06:52)

Ralph Taboada, Costa Mesa, inquired on the cost of an in-house attorney with the pension; and annual operating costs. (02:08:29)

Public Comments Closed.

Council Member Righeimer spoke against an elected and in-house attorney. (02:10:40)

MOVED/SECOND: Council Member Righeimer/Mayor Pro Tem Mansoor
MOTION: To receive and file the report.

MOVED/SECOND: Council Member Stephens/Mayor Foley
SUBSTITUTE MOTION: To direct staff to maintain the contract City Attorney's office and prepare a Request for Proposal for Legal Services.

Council Member Stephens spoke on the substitute motion. (02:13:00)

Mayor Pro Tem Mansoor spoke on concerns regarding the timing. (02:29:20)

Council Member Foley spoke in support of the substitute motion. (02:31:10)

Council Member Stephens spoke on the issue. (02:37:50)

MOVED/SECOND: Council Member Stephens/Mayor Foley
SUBSTITUTE MOTION: To direct staff to maintain the contract City Attorney's office and prepare a Request for Proposal for Legal Services.

The motion failed by the following roll call vote:

Ayes: Council Member Foley and Council Member Stephens.

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

Absent: None

Motion failed: 2-3

MOVED/SECOND: Council Member Righeimer/Mayor Pro Tem Mansoor
ORIGINAL MOTION: To receive and file the report.

The motion carried by the following roll call vote:

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

Nays: Council Member Foley and Council Member Stephens.

Absent: None

Motion carried: 3-2

ACTION:

City Council received and filed the report.

City Council recessed into a break at 8:45 p.m. (02:41:22)

City Council reconvened at 8:55 p.m. (02:50:18)

NEW BUSINESS (02:50:19)

1. CANDIDATE FORUMS (02:50:27) – City Manager’s Office

Dane Bora, Public Affairs Manager, presented the staff report. (02:50:32)

Public Comments:

Terry Koken, Costa Mesa, spoke in support of videotaping candidate forums and posting on the City website. (02:54:21)

Beth Refakes, Costa Mesa, spoke in support of videotaping candidate forums and establishing guidelines. (02:56:10)

Wendy Leece, Costa Mesa, spoke in support of videotaping candidate forums and establishing guidelines. (02:58:22)

Speaker, spoke in support of videotaping candidate forums. (03:00:05)

Tamar Goldmann, Costa Mesa, spoke in support of videotaping candidate forums. (03:01:30)

Public Comments Closed.

MOVED/SECOND: Council Member Stephens/Council Member Foley
MOTION: To videotape the candidate forums for the City Council and Mayor for three (3) organizations only and one night each: Feet to the Fire, Mesa Verde Community, and the Eastside Homeowners Group; and the inclusion of such forums on the City’s cable television channel (CMTV3) and website. (03:02:07)

Council Member Foley spoke on adding a Westside forum. (03:04:03)

Council Member Stephens spoke on the motion. (03:04:50)

Mayor Genis spoke in support of videotaping candidate forums; spoke on defining a group; all candidates invited; and running the forums in real time. (03:09:08)

Mayor Pro Tem Mansoor spoke on establishing a policy and criteria. (03:11:52)

Council Member Foley spoke on limiting to four forums on a first-come, first served basis; and no staff involvement except for filming. (03:14:23)

Council Member Stephens spoke on accepting the friendly amendment. (03:17:36)

Council Member Righeimer spoke against the City being involved. (03:17:46)

Council Member Foley spoke on CMTV as a government controlled channel. (03:21:17)

Mayor Genis spoke on the use of City Resources. (03:22:22)

MOVED/SECOND: Mayor Pro Tem Mansoor

SUBSTITUTE MOTION: To establish a policy for videotaping and support the videotaping of Feet to the Fire only. (03:22:50)

The motion died due to lack of a second.

MOVED/SECOND: Council Member Stephens/Council Member Foley

ORIGINAL MOTION: To authorize staff to videotape candidate forums with the following conditions: (1) A maximum of four forums allowed and considered on a first-come, first-served basis; (2) all candidates running for City Council or Mayor must be invited; and (3) the forums will run in real time with no editing by staff and the inclusion of such forums on the City's cable television channel (CMTV3) and website. (03:23:10)

The motion carried by the following roll call vote:

Ayes: Council Member Foley, Council Member Stephens, and Mayor Genis.

Nays: Council Member Righeimer and Mayor Pro Tem Mansoor.

Absent: None

Motion carried: 3-2

ACTION:

City Council authorized staff to videotape candidate forums with the following conditions: (1) A maximum of four forums allowed and considered on a first-come, first-served basis; (2) all candidates running for City Council or Mayor must be invited; and (3) the forums will run in real time with no editing by staff and the inclusion of such forums on the City's cable television channel (CMTV3) and website.

2. SECOND AMENDMENT TO THE CITY MANAGER EMPLOYMENT AGREEMENT (03:26:49) – City Manager's Office

City Manager Hatch recused himself, stepped down from the dais and left the Council Chambers due to potential financial conflicts. (03:26:59)

MOVED/SECOND: Council Member Foley/Council Member Stephens
MOTION: To continue the item to a future City Council meeting. (03:27:14)

Thomas Duarte, City Attorney, presented the staff report. (03:27:53)

Mayor Genis clarified that Mr. Hatch did not receive an increase in 2016; and spoke on fiscal review. (03:29:35)

Council Member Righeimer spoke against continuing the item to a future City Council meeting. (03:30:28)

Council Member Foley spoke on the issue. (03:31:15)

Public Comments:

Terry Koken, Costa Mesa, spoke on the issue. (03:35:35)

Speaker, spoke against City Attorney Duarte and City Manager Hatch. (03:36:16)

Wendy Leece, Costa Mesa, inquired on the evaluation process for City Manager Hatch. (03:38:24)

Ralph Taboada, Costa Mesa, spoke on the vacation accrual increase for City Manager Hatch. (03:39:20)

Public Comments Closed.

Council Member Foley spoke on the evaluation process. (03:40:37)

Council Member Righeimer spoke on the issue. (03:44:15)

Council Member Stephens spoke on the issue. (03:47:28)

MOVED/SECOND: Council Member Righeimer/Mayor Pro Tem Mansoor
SUBSTITUTE MOTION: To approve the second amendment to the City Manager employment agreement. (03:52:21)

Mayor Pro Tem Mansoor spoke in support of the substitute motion. (03:52:40)

Council Member Foley spoke on compensation tied to achievements. (03:53:27)

MOVED/SECOND: Council Member Righeimer/Mayor Pro Tem Mansoor
SUBSTITUTE MOTION: To approve the second amendment to the City Manager employment agreement. (03:52:21)

The motion carried by the following roll call vote:

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

Nays: Council Member Foley and Council Member Stephens.

Absent: None

Motion carried: 3-2

ACTION:

City Council approved the second amendment to the City Manager employment agreement.

ADDITIONAL COUNCIL MEMBER COMMITTEE REPORTS, COMMENTS, AND SUGGESTIONS (04:00:17)

Mayor Genis reminded everyone about the last week to purchase Girl Scout cookies.

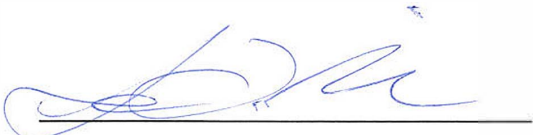
Council Member Foley requested an update on the Council policies.

REPORT – CITY MANAGER - NONE

REPORT – CITY ATTORNEY - NONE

ADJOURNMENT (04:02:15) – The Mayor adjourned the meeting at 10:06 p.m.

Minutes adopted on this 3rd day of April, 2018.



Sandra L. Genis, Mayor

ATTEST:



Brenda Green, City Clerk