

**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."

*OB-1 MID-YEAR BUDGET REPORT HAS BEEN WITHDRAWN FROM
THE AGENDA.

**TUESDAY, MARCH 20, 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 Mayor Genis at 4:05 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

ROLL CALL

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

Absent: Council Member Foley

FOR INFORMATIONAL PURPOSES ONLY

The City Council recessed to Conference Room 5A at 4:09 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, 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, United States District Court, Central District of California, Case No. SACV14-01852 JVS.

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

CALL TO ORDER

The meeting was called to order by Mayor Genis at 6:00 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, 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

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CONSENT CALENDAR:

MOVED/SECOND: Council Member Foley/Council Member Righeimer

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 8 except for 2, 4, and 8.

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: State Farm Insurance, as subrogee for Armin Skalmoloski and Steve Stevenson.

ACTION:

City Council received and filed.

3. **MINUTES OF THE REGULAR CITY COUNCIL AND SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY MEETING OF FEBRUARY 20, 2018**

City Manager's Office/City Clerk Division

ACTION:

City Council approved the minutes of February 20, 2018.

5. **2017 EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG) PROGRAM ALLOCATION - Police Department/Support Services Division**

ACTION:

1. City Council authorized the City Manager or his designee to execute the Agreement to Transfer Funds for the 2017 Emergency Management Performance Grant (EMPG) Program; and
2. Adopted Resolution No. 18-15, which authorizes the application for and acceptance of funds under the Emergency Management Performance Grant (EMPG) Program, and authorized the City Manager or his designee to accept the EMPG Program funds.

6. **UPDATE OF STATE OF CALIFORNIA, GOVERNOR'S OFFICE OF EMERGENCY SERVICES (CAL OES) DESIGNATION OF APPLICANT'S AGENT RESOLUTION - Police Department/Support Services Division**

ACTION:

1. City Council approved and adopted the State of California, Governor's Office of Emergency Services (Cal OES) Designation of Applicant's Agent Resolution (Cal OES Form 130); and

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2. Authorized submittal of the approved Cal OES Form 130 to the State.

7. **BUS SHELTER FRANCHISE AGREEMENT AND MAINTENANCE SERVICES**

Public Services Department/Transportation Services Division

ACTION:

1. City Council approved the First Amendment to the Franchise Agreement with Clear Channel Outdoor, Inc. (Clear Channel), reflecting their commitment to pay an additional \$35,000 annually, plus an annual CPI increase to the City, for additional bus shelter pressure washing services performed by the City or City's contractor; and
2. Authorized the City Manager to execute the First Amendment, and future amendments for extending the Franchise Agreement and CPI increases to the annual compensation to the City; and
3. Approved Budget Adjustment No. 18-014; and
4. Authorized the City Manager to execute a Maintenance Services Agreement with CleanStreet for bus shelter pressure washing services in the amount of \$35,000 annually for three years, with two one-year renewal options.

ITEMS PULLED FROM THE CONSENT CALENDAR:

2. **WARRANT RESOLUTION NO. 2594 OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NO. 18-04 "A" FOR \$0.00 AND 18-05 FOR \$2,468,828.02; AND CITY OPERATING EXPENSES FOR \$2,054,073.29; AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID - Finance Department**

MOVED/SECOND: Council Member Stephens/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 approved Warrant Resolution No. 2594.

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4. COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT: TEWINKLE PARK ADA AND PARKING LOT IMPROVEMENTS, CITY PROJECT NO. 17-01 - Public Services Department/Engineering Division

MOVED/SECOND: Council Member Stephens/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 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. THIRD PARTY WORKERS' COMPENSATION CLAIMS ADMINISTRATION SERVICES – City Manager's Office/Human Resources Division

MOVED/SECOND: Council Member Righeimer/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 awarded the contract for Third Party Workers Compensation Claims Administration Services per Request for Proposal (RFP) to AdminSure, Inc.; and
2. Authorized the Mayor and City Clerk to execute the four (4) year Professional Services Agreement for the contract; and
3. Authorized the City Manager to extend the contract for an additional one-year term as applicable.

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

FOR INFORMATIONAL PURPOSES ONLY

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

- 1. ORDINANCE 18-04: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA AMENDING ARTICLE 5 (ADMINISTRATION, APPLICATION AND PROCEDURES) OF CHAPTER I (BUSINESS TAX) AND CHAPTER VI (MEDICAL MARIJUANA BUSINESS PERMITS) OF TITLE 9 (LICENSES AND BUSINESS REGULATIONS); CHAPTER IV (CITYWIDE LAND USE MATRIX) AND ARTICLE 21 (MEDICAL MARIJUANA DISTRIBUTING, MANUFACTURING, PROCESSING, RESEARCH AND DEVELOPMENT, TESTING LABORATORIES AND TRANSPORTING LOCATIONS) OF CHAPTER IX (SPECIAL LAND USE REGULATIONS) OF TITLE 13 (PLANNING ZONING AND DEVELOPMENT), RELATING TO AMENDMENTS TO VOTER APPROVED ORDINANCE 16-15 (MEASURE X, THE COSTA MESA MEDICAL MARIJUANA MEASURE)**
Development Services Department/Planning Division

MOVED/SECOND: Council Member Righeimer/Council Member Foley

MOTION: To approve the recommended actions with the following modification (shown in strikethrough) to CMMC Section 13-200-392(b):

13-200.92. Marijuana distributing facilities, manufacturing sites, research and development laboratories, and testing laboratories.

(a) Marijuana distribution, manufacturing, research and development and testing is prohibited in all zone districts within the city, except for those portions of the manufacturing park (MP) and planned development industrial (PDI) zones that are located both north of South Coast Drive and west of Harbor Boulevard, excluding any portion of the South Coast Collection.

~~(b) No use permitted under this section may be conducted on any lot that is within 500 feet of Moon Park.~~

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 found that the ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, which states that “the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that activity in question may have an effect on the environment, the activity is not subject to CEQA”; and

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2. Introduced Ordinance No. 18-04, read by title only and further reading waived, adopting Code Amendment CO-17-07 for the following amendments:

- Article 5 of Chapter I of Title 9 of the Costa Mesa Municipal Code (Licenses and Business Regulations) Section 9-29.5 and Sections 9-481 through 9-499; and
- Chapter IV of Title 13 of the Costa Mesa Municipal Code (Planning, Zoning, and Development) Sections 13-30 (31a through 31f); and
- Article 21 of Chapter IX of Title 13 of the Costa Mesa Municipal Code (Planning, Zoning, And Development) Sections 13-200.90 through 13-200-94; and

Approved the following modification (shown in strikethrough) to CMMC Section 13-200.92(b):

13-200.92. Marijuana distributing facilities, manufacturing sites, research and development laboratories, and testing laboratories.

- (a) Marijuana distribution, manufacturing, research and development and testing is prohibited in all zone districts within the city, except for those portions of the manufacturing park (MP) and planned development industrial (PDI) zones that are located both north of South Coast Drive and west of Harbor Boulevard, excluding any portion of the South Coast Collection.
- ~~(b) No use permitted under this section may be conducted on any lot that is within 500 feet of Moon Park.~~

2. **ORDINANCE 18-05: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA ADOPTING THE TEXT OF URGENCY ORDINANCE 17-16, AMENDING ARTICLE 20 (MARIJUANA AND/OR MEDICAL MARIJUANA USES AND ACTIVITIES) OF CHAPTER IX (SPECIAL LAND USE REGULATIONS) OF TITLE 13 (PLANNING ZONING AND DEVELOPMENT), RELATING TO CULTIVATION OF MARIJUANA AND CERTAIN MARIJUANA RELATED USES – Development Services Department/Planning Division**

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

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ACTION:

1. City Council found that the ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, which states that “the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that activity in question may have an effect on the environment, the activity is not subject to CEQA”; and
2. Introduced Ordinance No. 18-05, read by title only and further reading waived, adopting Code Amendment CO-18-01 amending the following:
 - Article 20 (Marijuana and/or Medical Marijuana Uses and Activities) of Chapter IX (Special Land Use Regulations) of Title 13 (Planning Zoning and Development), Relating to Cultivation of Marijuana and Certain Marijuana Related Uses.
3. **APPEAL OF THE PLANNING COMMISSION’S DENIAL OF CONDITIONAL USE PERMIT PA-16-04 TO ALLOW A SOBER LIVING FACILITY SERVING 13 ADULTS OPERATED BY SUMMIT COASTAL LIVING AT 2041 TUSTIN AVENUE** - Development Services Department/Planning Division

Pursuant to Government Code 54954.2 (b)(2), the City Council determined a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted.

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 recessed into Closed Session at 9:27 p.m.

City Council reconvened at 10:15 p.m.

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MOVED/SECOND: Council Member Stephens/Mayor Genis

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:

1. City Council overturned the decision of the Planning Commission approving the Conditional Use Permit (CUP) PA-16-04 with certain conditions:
 - (a) The applicant shall not allow any person or persons who is or are on any form of probation or parole to reside in or otherwise occupy the facility or property, including, but not limited to those subject to Health & Safety Code section 11590 et seq. (Registration of Controlled Substance Offenders) and/or Penal Code section 290 et seq. (Sex Offender Registration Act).
 - (b) An authorized representative(s) of the City shall be allowed to inspect the interior and exterior of the property during normal business hours (9:00 a.m. to 5:00 p.m., Monday through Friday) provided the operator has received notice of said inspection at least 24 hours in advance.
 - (c) No more than two residents living in the facility at any one time shall have a domicile outside the State of California.
 - (d) This Conditional Use Permit shall expire and become null and void if the property is sold, transferred or the ownership, control and/or operation of the property otherwise changes in any manner whatsoever from that set forth in application number PA-16-04.
 - (e) All parking spaces, including those within garages, shall remain free and accessible for parking of vehicles. By December 1 of every year, the applicant shall submit written confirmation that all parking spaces on the property remain accessible for parking. This confirmation shall be accompanied by photographs that document the accessibility of each space for automobile parking.
2. City Council directed staff to prepare and bring back the resolution approving CUP PA-16-04 on the Consent Calendar on the April 3, 2018 City Council agenda.

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- 4. APPEAL OF THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT PA-16-15 TO ALLOW A LICENSED DRUG AND ALCOHOL TREATMENT FACILITY SERVING 14 ADULTS OPERATED BY CASA CAPRI LLC, AT 166 EAST 18TH STREET, INCLUDING AN APPEAL OF A DENIAL OF A REQUEST FOR A REASONABLE ACCOMMODATION FROM LAND USE REQUIREMENTS - Development Services Department/Planning Division**

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 denied the request for reasonable accommodation for PA-16-15.

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 upheld the Planning Commission's denial of Conditional Use Permit PA-16-15 by adoption of Resolution No. 18-17.

- 5. APPEAL OF THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMITS PA-16-42 AND PA-16-43 TO ALLOW A STATE-LICENSED DRUG AND ALCOHOL FACILITY SERVING 28 ADULTS OPERATED BY WINDWARD WAY RECOVERY AT 351 VICTORIA STREET AND 357 VICTORIA STREET, INCLUDING AN APPEAL OF A DENIAL OF A REQUEST FOR A REASONABLE ACCOMMODATION FROM LAND USE REQUIREMENTS - Development Services Department/Planning Division**

MOVED/SECOND: Mayor Pro Tem Mansoor/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

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ACTION:

City Council adopted Resolution No. 18-18 and Resolution No. 18-19, upholding the decisions of the Director of Economic and Development Services to deny the request for reasonable accommodation and the Planning Commission to deny Conditional Use Permits PA-16-42 and PA-16-43.

OLD BUSINESS:

THIS ITEM WAS WITHDRAWN FROM THE AGENDA.

~~1. **FY 2017-18 MID-YEAR BUDGET REPORT**—Finance Department~~

~~RECOMMENDATION:~~

- ~~1. City Council receive and file this report; and~~
- ~~2. Allocate \$1 million to potentially establish a 115 Trust; and~~
- ~~3. Allocate \$1,571,499 towards the Self-Insurance Fund; and~~
- ~~4. Approve 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~~
- ~~5. Approve recommended FY 2017-18 budget adjustments.~~

NEW BUSINESS:

1. APPOINTMENTS TO VARIOUS COMMITTEES

City Manager's Office/City Clerk Division

Bikeway and Walkability Committee:

MOVED/SECOND: Council Member Foley/Council Member Stephens (04:42:48)

ORIGINAL MOTION: To appoint Richard Huffman, James Kane, Florence Martin, Cynthia McDonald, Michael Nolf, Ralph Taboada, and Nathan Torres as regular members to the Bikeway and Walkability Committee, all for two-year terms.

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 appointed Richard Huffman, James Kane, Florence Martin, Cynthia McDonald, Michael Nolf, Ralph Taboada, and Nathan Torres as regular members to the Bikeway and Walkability Committee, all for two-year terms.

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Cultural Arts Committee

MOVED/SECOND: Council Member Foley/Council Member Righeimer

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 appointed the following to the Cultural Arts Committee: Charlene Ashendorf, Frank Gutierrez, Jason Komala, and Anthony Manrique as regular members for two-year terms; and Andrew Gallagher as an alternate member, for a one-year term.

Finance & Pension Advisory Committee

MOVED/SECOND: Mayor Genis/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:

City Council appointed Teresa Drain, Don Harper, Lee "John" Hinson, Marwan Khalifa, Al Melone, and Tom Pollitt as regular members to the Finance & Pension Advisory Committee, all for two-year terms.

Historical Preservation Committee

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 appointed Joshua Hutchinson, John McQueen, and Gary Parkin as regular members to the Historical Preservation Committee, all for two-year terms.

Housing and Public Service Grant Committee

MOVED/SECOND: Mayor Genis/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 appointed the following to the Housing and Public Service Grant Committee: Damon Anthony Burris, Christopher Cubeiro, Dave Goodman, Michael Habitz as regular members; and Ted Phung Ngo as an alternate member, all for two-year terms.

REPORT – CITY MANAGER - NONE

REPORT – CITY ATTORNEY - NONE

ADJOURNMENT – The Mayor adjourned the meeting at 11:40 p.m.