

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

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

**TUESDAY, DECEMBER 17, 2019
CITY COUNCIL CHAMBERS, 77 FAIR DRIVE
CLOSED SESSION – 4:00 P.M.
REGULAR MEETING – 6:00 P.M.**

KATRINA FOLEY
Mayor

MANUEL CHAVEZ
Council Member

JOHN B. STEPHENS
Mayor Pro Tem

ANDREA MARR
Council Member

ARLIS REYNOLDS
Council Member

ALLAN R. MANSOOR
Council Member

SANDRA L. GENIS
Council Member

City Attorney
Kimberly Hall Barlow

City Manager
Lori Ann Farrell Harrison

CALL TO ORDER

The Closed Session was called to order by Mayor Foley 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 Chavez, Council Member Genis, Council Member Mansoor, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley.

Absent: None

PUBLIC COMMENT

None

FOR INFORMATIONAL PURPOSES ONLY

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

1. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Subdivision (a) of Section 54957.6, California Government Code
Agency Designated Representatives: Peter Brown, Partner, Liebert Cassidy
Whitmore, Lori Ann Farrell Harrison, City Manager
Name of Employee Organization: Costa Mesa Firefighters Association (CMFA)

**2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
INITIATION OF LITIGATION**

Pursuant to Subdivision (d)(4) of Section 54956.9, California Government Code – one
case

3. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Pursuant to Subdivision (d)(2) of Section 54956.9, California Government Code – one
case

4. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Montgomery v. Costa Mesa, Potts, USDC, Central District, Case No. 8:19-cv-01874-
DOC-DFM

5. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Casa Capri Recovery, Inc. v. City of Costa Mesa, United States District
Court, Central District of California – Southern Division, Case No. 8:18-cv-00329-JVS-
PJW.

6. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: National Therapeutic Services, Inc. dba Northbound Treatment
Services, a Nevada corporation; RAW Recovery LLC, a California limited liability
company v. City of Costa Mesa, United States District Court, Central District of
California, Case No. 8:18-cv-01080-JVS-AGR.

7. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Pacific Shores, LLC, a California corporation v. City of Costa Mesa,
United States District Court, Central District of California, Case No. 8:18-cv-01170
JVS-PJW.

FOR INFORMATIONAL PURPOSES ONLY

8. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: SoCal Recovery, LLC, a California limited liability company v. City of Costa Mesa, United States District Court, Central District of California, Case No. 8:18-cv-01304-JVS-PJW.

9. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Summit Coastal Living, Inc., a California corporation v. City of Costa Mesa, United States District Court, Central District of California, Case No. 8:18-cv-01369-JVS-PJW.

10. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Subdivision (d)(1) of Section 54956.9, California Government Code
Name of Case: Ohio House, LLC v. City of Costa Mesa, USDC, Central District of CA, Case No. 8:19-cv-01710-DOC (KESx)

Closed Session ended at 6:14 p.m.

CALL TO ORDER

The meeting was called to order by Mayor Foley at 6:14 p.m. in the Council Chambers at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

ROLL CALL

Present: Council Member Chavez, Council Member Genis, Council Member Mansoor, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley.

Absent: None

CONSENT CALENDAR:

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

MOTION: Approve recommended actions for Consent Calendar Item Nos. 1 through 14

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

FOR INFORMATIONAL PURPOSES ONLY

1. **PROCEDURAL WAIVER: MOTION TO APPROVE THE READING BY TITLE ONLY OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED**

ACTION:

City Council and Agency Board waived reading of Ordinances and Resolutions.

2. **READING FOLDER**

Claims received by the City Clerk: Walter MacDonald.

ACTION:

City Council received and filed.

3. **WARRANT RESOLUTION NO. 2632 OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NOS. 19-23 "A" FOR \$7,259.83; 19-24 FOR \$2,701,718.20 AND CITY OPERATING EXPENSES FOR \$1,705,331.06; AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID**

ACTION:

City Council approved Warrant Resolution No. 2632.

4. **AMENDMENT NUMBER ONE TO PROFESSIONAL SERVICES AGREEMENT WITH MICHAEL BAKER INTERNATIONAL, INC.**

ACTION:

1. City Council approved proposed Amendment No. 1 to the Professional Services Agreement (PSA) with Michael Baker International, Inc. ("Michael Baker") amending the scope of services and increasing the contract by \$43,763; and
2. Authorized the City Manager and City Clerk to sign and execute the amendment; and
3. Authorized the City Manager to execute future amendments to this agreement, including any potential increase in compensation as long as the amendment is specifically for the One Metro West Project and is fully funded by Rose Equities, thereby not affecting the City's General Fund.

FOR INFORMATIONAL PURPOSES ONLY

5. RESOLUTION FOR SUBMITTAL OF GRANT APPLICATION FOR THE REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM (PROJECT) FUNDING

ACTION:

City Council adopted the proposed resolution approving the submittal of a grant application for the Regional Traffic Signal Synchronization Program (Project P) under the Orange County Transportation Authority's (OCTA's) Comprehensive Transportation Funding Program (CTFP) for Fiscal Years 2019-20 through 2021-22.

6. DEVELOPMENT IMPACT FEES ANNUAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2019

ACTION:

City Council received and filed the Development Impact Fees Annual Report for the Fiscal Year ended June 30, 2019.

7. APPROVE PURCHASE OF THE MILESTONE VIDEO MANAGEMENT SYSTEM SERVER, FIVE ADDITIONAL INTERNET PROTOCOL (IP) CAMERAS AND UPGRADE OF CURRENT ANALOG CAMERAS USED FOR THE POLICE DEPARTMENT'S SURVEILLANCE SYSTEM

ACTION:

1. City Council authorized a budget adjustment appropriating \$60,000.00 from the unassigned fund balance in the Asset Forfeiture Fund in the Police Department budget for the specified purposes below; and
2. Approved and authorize the City Manager to sign the Justification for Sole Source Request for Siemens Industry Inc. for the specified purposes below; and
3. Authorized the City Manager to execute a Purchase Order, and any other documents required in connection with the purchase, with Siemens Industry Inc. for \$60,000.00 to replace current, end of life, Intellex DVR system with the Milestone Video Management System (VMS) server, purchase (5) additional internet protocol (IP) cameras and upgrade current analog cameras to stream IP video by updating the wiring to a 16-channel encoder.

FOR INFORMATIONAL PURPOSES ONLY

8. ACCEPTANCE AND ALLOCATION OF THE 2017 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FUNDS

ACTION:

1. City Council approved the proposed resolution authorizing acceptance of the 2017 Edward Byrne Memorial Justice Assistance Grant (JAG) Program funds and authorizing the City Manager, or designee, to execute the Memorandum of Understanding (MOU) with Orange County and participating Orange County cities for the 2017 Edward Byrne Memorial Justice Assistance Grant (JAG); and
2. Approved a budget adjustment recognizing \$21,990.60 in JAG funding and appropriating \$21,990.60 to the Police Department budget for the specified purpose.

9. ACCEPTANCE AND ALLOCATION OF THE 2018 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FUNDS

ACTION:

1. City Council approved the proposed resolution authorizing acceptance of the 2018 Edward Byrne Memorial Justice Assistance Grant (JAG) Program funds and authorizing the City Manager, or designee, to execute the Memorandum of Understanding (MOU) with Orange County and participating Orange County cities for the 2018 Edward Byrne Memorial Justice Assistance Grant (JAG); and
2. Approved a budget adjustment recognizing \$25,030.80 in JAG funding and appropriating \$25,030.80 to the Police Department budget for the specified purpose.

10. REFUND OF CASH DEPOSIT IN CONNECTION WITH ENCROACHMENT PERMIT NO. PS17-00472 FOR STREET IMPROVEMENTS AT 155 AND 163 FLOWER STREET, COSTA MESA, CALIFORNIA

ACTION:

City Council refunded a cash deposit in connection with Encroachment Permit No. PS17-00472 in the amount of \$34,380.00 for street improvements to Shu Kaneko, 2372 Morse Avenue, Suite 416, Irvine, California 92614.

FOR INFORMATIONAL PURPOSES ONLY

11. VEHICLE RENTAL FROM ENTERPRISE RENT-A-CAR HOLDINGS THROUGH COOPERATIVE PRICING AGREEMENT

ACTION:

1. City Council approved the proposed agreement #5159905 with EAN Services, LLC (Enterprise Rent-A-Car) for vehicle rentals in an annual amount of \$85,000.00, utilizing the pricing provided through a cooperative agreement with the State of California Department of General Services for an initial term ending February 28, 2020, with the option to extend the agreement for a one (1) year period; and
2. Authorized the City Manager and City Clerk to execute the agreement and future authorized amendments to the agreement.

12. APPROVAL OF A PURCHASE ORDER WITH VERIZON FOR WIRELESS VOICE AND DATA SERVICES

ACTION:

1. City Council authorized the City Manager to execute a Purchase Order for Fiscal Year 2019-20 (January – June 2020) for \$77,000 and a Purchase Order for Fiscal Year 2020-21 (July – December 2020) for \$65,000 with Verizon for wireless voice and data services utilizing the National Association of State Procurement Officer's (NASPO) cooperative agreement; and
2. Authorized the City Manager to utilize NASPO's future negotiated agreement (following the existing expiration of December 31, 2020), or amended existing contract agreement, and execute a purchase order in accordance with the Council approved budgeted amount through the agreement's expiration.

13. LIONS PARK NEIGHBORHOOD COMMUNITY CENTER AUDIO VISUAL PROJECT, CITY PROJECT NO. 19-17

ACTION:

1. City Council adopted plans, specifications, and working details for Lions Park Neighborhood Community Center Audio Visual Project, City Project No. 19-17; and
2. Awarded a construction contract to EIDIM Group, Inc., 6905 Oslo Circle, Suite J, Buena Park, CA 90621 in the amount of \$243,909.06; and
3. Authorized a ten percent (10%) contingency totaling \$24,390.91 as needed for unforeseen costs; and
4. Authorized the City Manager and the City Clerk to execute the Public Works Agreement and future contract amendments within Council-authorized limits.

FOR INFORMATIONAL PURPOSES ONLY

14. REHABILITATION OF ALLEY NOS. 18, 37, 59, 83 AND 112, CITY PROJECT NO. 18-19

ACTION:

1. City Council accepted the work performed by Black Rock Construction Company and authorize the City Clerk to file the Notice of Completion; and
2. Authorized the City Manager to release the Labor and Material Bond seven (7) months after the filing date; release the Faithful Performance Bond if appropriate, at the conclusion of the one-year warranty period; and release the retention monies 35 days after the Notice of Completion filing date.

AT THIS TIME COUNCIL WILL ADDRESS ANY ITEMS PULLED FROM THE CONSENT CALENDAR

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

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

1. PUBLIC HEARING FOR THE VACATION OF SIDEWALK AND LANDSCAPE EASEMENT AT 3350 AVENUE OF THE ARTS

MOVED/SECOND: Council Member Marr/Council Member Chavez

MOTION: Approve recommended actions.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

1. City Council adopted proposed Resolution No. 19-82 ordering the vacation of a portion of sidewalk and landscape easement at 3350 Avenue of the Arts; and
2. Authorized execution of the Quitclaim Deed by the Mayor and the City Clerk

FOR INFORMATIONAL PURPOSES ONLY

3. CONTINUED PUBLIC HEARING TO CONSIDER ANNUAL REVIEW OF THE CITYWIDE TRAFFIC IMPACT FEES

MOVED/SECOND: Council Member Reynolds/Council Member Chavez

MOTION: Approve recommended actions.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

City Council adopted the proposed resolution, continuing the citywide traffic impact fee for new development in the City of Costa Mesa and conducting the related annual review of the citywide traffic impact fee program and capital improvement plan for transportation improvements. The resolution incorporates the recommendations from the Traffic Impact Fee Ad Hoc Committee and staff, which include:

1. Continued a traffic impact fee of \$235 per Average Daily Trip (ADT) based on the Capital Improvement Projects in Attachment 2 and inclusion of Active Transportation projects; and
2. Approved allocation of up to 10% of traffic impact fees towards traffic signal synchronization projects; and
3. Removed the 5% cap on Active Transportation Plan (ATP) Projects to allow for additional active transportation projects; and
4. Approved a five percent (5%) reduction in automobile trips as a result of ATP implementation and an additional five percent (5%) reduction in automobile trips for developments proposing to implement active transportation improvements beyond typical development requirements.

OLD BUSINESS: NONE

FOR INFORMATIONAL PURPOSES ONLY

NEW BUSINESS:

1. INFRASTRUCTURE IMPROVEMENT AGREEMENT BETWEEN EF EDUCATION FIRST AND THE CITY OF COSTA MESA

MOVED/SECOND: Mayor Pro Tem Stephens/Mayor Foley

MOTION: Approve recommended actions with changes.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Genis, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley.

Nays: Council Member Mansoor

Absent: None

Motion carried: 6-1

ACTION:

City Council approved the Infrastructure Improvement Agreement between the City of Costa Mesa and EF Education First.

2. ADOPTION OF URGENCY ORDINANCE NO. 19-19 AMENDING THE MUNICIPAL CODE, TITLE 13, ARTICLE 2 RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

MOVED/SECOND: Council Member Chavez/Council Member Marr

MOTION: Approve recommended actions.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

City Council introduced and adopted as an urgency measure Urgency Ordinance No. 19-19 amending Municipal Code, Title 13, Article 2 relating to accessory dwelling units and junior accessory dwelling units.

FOR INFORMATIONAL PURPOSES ONLY

3. ADOPT RESOLUTION 19-80 AND APPROVE A LETTER OF SUPPORT FOR HOUSE RESOLUTION 763, THE ENERGY INNOVATION AND CARBON DIVIDEND ACT OF 2019

MOVED/SECOND: Council Member Marr/Council Member Reynolds

MOTION: Approve recommended actions.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Genis, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Stephens, and Mayor Foley.

Nays: Council Member Mansoor

Absent: None

Motion carried: 6-1

ACTION:

City Council approved a letter in support of House Resolution 763 (H.R. 763), The Energy Innovation and Carbon Dividend Act of 2019

4. POLICY REGARDING NAMING OF CITY PARKS AND COMMUNITY FACILITIES

MOVED/SECOND: Mayor Foley/Council Member Genis

MOTION: Approve recommended actions.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

1. City Council adopted revisions to Council Policy 800-1 and renamed it as "City Park and Facilities Naming Policy"; and
2. Approved naming the Neighborhood Community Center at Lions Park after former Mayor Norma Hertzog.

FOR INFORMATIONAL PURPOSES ONLY

5. SELECTION OF CITY COUNCIL SUBCOMMITTEE FOR ONE METRO WEST PROJECT DEVELOPMENT AGREEMENT

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

MOTION: Create a subcommittee and appoint Mayor Foley, Mayor Pro Tem Stephens, and Council Member Genis for negotiations with One Metro West.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

City Council created a subcommittee to work directly with staff regarding the negotiations with the applicant for the One Metro West Project (Rose Equities) and designated Mayor Foley, Mayor Pro Tem Stephens, and Council Member Genis on the subcommittee. All subcommittee recommendations would still need to be reviewed and approved by the full City Council for final adoption.

6. FORMATION OF AD HOC COMMITTEE OF THE COUNCIL TO EVALUATE CANNABIS TAX RATES AND REGULATIONS

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

MOTION: Approve recommended actions and appoint Council Member Chavez as the third member of the Ad Hoc Committee.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

City Council formed, a three-member Cannabis Ad Hoc Committee to consist of the Mayor, the Mayor Pro Tem, and Council Member Chavez, to review and discuss the City's cannabis tax rate and other requests from local operators within the City's boundaries, and whether any changes may be warranted.

FOR INFORMATIONAL PURPOSES ONLY

7. **APPROVE RESOLUTION FOR APPOINTMENT OF BALTAZAR MEJIA AS INTERIM CITY ENGINEER AND CERTIFICATION OF EXCEPTION TO THE 180-DAY WAIT PERIOD PURSUANT TO GOVERNMENT CODE SECTIONS 7522.56 & 21221(h)**

MOVED/SECOND: Council Member Marr/Council Member Chavez

MOTION: Approve recommended actions.

The motion carried by the following roll call vote:

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

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

City Council adopted by resolution the appointment of retired City Engineer Baltazar Mejia to the position of Interim City Engineer and certify the exception to the 180-Day Wait Period pursuant to Government Code Sections 7522.56 and 21221(h)

ADJOURNMENT

Mayor Foley adjourned the meeting at 11:51p.m.