

**MINUTES OF THE REGULAR JOINT MEETING OF THE CITY COUNCIL
AND SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
AND COSTA MESA HOUSING AUTHORITY MEETING**

TUESDAY, MARCH 16, 2021

**CLOSED SESSION
4:00 P.M.**

CALL TO ORDER - The Closed Session meeting was called to order by Mayor Foley at 4:01 p.m.

ROLL CALL

Present by Zoom: Council Member Chavez, Council Member Gameros, Council Member Harlan, Council Member Harper, Council Member Reynolds, Mayor Pro Tem Marr, and Mayor Foley.

Absent: None

PUBLIC COMMENTS

Ms. Beatificato, spoke on Closed Session Item number 3.

Ms. Elliott, representing Disability Rights California, spoke on Closed Session Item number 3.

Ms. Green, City Clerk, noted that written communication was received regarding item number 3, provided to City Council, and made part of the meeting record.

CLOSED SESSION ITEMS:

- 1. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION – THREE CASES** - Pursuant to subdivision (d)(4) of Section 54956.9 California Government Code, Potential Litigation.
- 2. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION – TWO CASES** - Pursuant to subdivision (d)(2) of Section 54956.9 California Government Code, Potential Litigation.
- 3. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION – ONE CASE** Pursuant to subdivision (d)(1) of Section 54956.9, California Government Code Insight Psychology and Addiction, Inc. v. City of Costa Mesa, US District Court, Central District of California, Case No. 8:20-cv-00504-JVS-JDE

4. THREAT TO SECURITY

Pursuant to subdivision (a) of Section 54957, California Government Code
Consultation with: Costa Mesa Director of Emergency Services, and City Manager, Lori Ann Farrell Harrison; Bryan Glass, Police Chief; Dan Stefano, Fire Chief; and Jason Dempsey, Emergency Services Administrator.

Ms. Hall Barlow reported that item number 1 on the closed session agenda, three cases of potential litigation, two of those cases will not be identified at this time, the third case is related to the city's RHNA assignment and the potential action of a multitude of cities in the state contesting the RHNA allocations and methodology.

Item number 2 on the closed session agenda is two items of potential exposure to litigation, one item is the letter from Ms. Beatificato regarding the Brown Act claims asserted and the associated threat of litigation.

Ms. Hall Barlow noted that the city has disabled the YouTube chat feature, but that the public is still able to speak to the council in connection with the City Council meeting.

City Council recessed at 4:13 p.m. for Closed Session.

Closed Session adjourned at 5:44 p.m.

CALL TO ORDER - The regular joint meeting of the Costa Mesa City Council and Successor Agency to the Redevelopment Agency and Costa Mesa Housing Authority was called to order by Mayor Foley at 6:02 p.m. via Zoom webinar.

NATIONAL ANTHEM AND PLEDGE OF ALLEGIANCE

Led by Council Member Chavez

MOMENT OF SOLEMN EXPRESSION

Pastor Phil Eyskens, Lighthouse Community Church, Costa Mesa

ROLL CALL

Present by Zoom: Council Member Chavez, Council Member Gameros, Council Member Harlan, Council Member Harper, Council Member Reynolds, Mayor Pro Tem Marr, and Mayor Foley.

Absent: None

CITY ATTORNEY CLOSED SESSION REPORT – Ms. Hall Barlow reported, that on item 2 a Brown Act demand letter concerning actions taken at the previous council meeting on March 2, 2021, council has directed that the items raised in the letter be cured and specifically acted to rescind the two actions taken in Closed Session at the March 2nd meeting. The motion by Mayor Pro Tem Marr and seconded by Council Member Reynolds and was approved on a 7-0 vote which includes the rescission of the action on item number 3 on this agenda but was on a prior agenda as well.

With respect to two items of anticipated litigation under item number 1, potential initiation of litigation, there were two items that were approved by Council, the first was a nuisance abatement action, motion by Mayor Foley, seconded by Mayor Pro Tem Marr and approved by 7-0 vote. A second item of potential litigation authorizing nuisance abatement was moved by Council Member Harlan, seconded by Mayor Pro Tem Marr and approved by a 7-0 vote. The action, defendant, and particulars are not being identified. The action has been given to approve and the defendants and particulars, shall, once formally commenced, be disclosed to any person upon inquiry unless it would jeopardize the ability to service of process or conclude negotiations.

The third item under item number 1 anticipated litigation, potential initiation of litigation, no action was taken, with respect to the City's RHNA allocation.

Item number 2, anticipated litigation potential initiation of litigation, other than the Brown Act demand letter, the other item was discussed but no reportable action was taken.

Item number 3 existing litigation with Insight Psychology and Addiction, Inc., City Council did ratify the direction that was previously given by the City Attorney and City Manager authorizing cross complaints in the existing litigation made with a motion by Council Member Chavez and seconded by Mayor Pro Tem Marr and approved with a 7-0 vote.

Item number 4 Threat to Security, no reportable action was taken.

Ms. Hall Barlow requested that council observe the action taken to rescind the March 2, 2021 Closed Session action which includes the Consent Calendar number 10 on the current agenda, the previous approval has been rescinded, a new action may be taken after public comment on the item and staff is requesting it to be pulled for clarification.

PRESENTATIONS:

Ms. McDonald, Chair, provided the Bikeway and Walkability Committee Annual update.

Ms. Price, Assistant City Manager, provided a Homelessness Update.

Mayor Foley presented a Proclamation for "Let's Be Kind" Costa Mesa Month.

Mayor Foley presented a Proclamation regarding Condemning Acts of Violence and Hate Crimes Against Asian-Americans and Pacific Islanders.

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA

Speaker, spoke on First Amendment rights.

Mitch Seigel, representing the Orange County Hispanic Chamber of Commerce, spoke on building a relationship with the city.

Bill Turpit, reported on the Orange County Mosquito and Vector Control Board.

Jimmy Vivar, thanked City Council and staff for the Small Business Grant Program and wished Mayor Foley the best.

Steven Chan, played an audio clip regarding Smart n Final.

Speaker, requested an update on when council meetings will be back in Council Chambers.

Al Morelli, congratulated Mayor Foley on her election to the Orange County Board of Supervisors position and requested follow up on his Code Enforcement request regarding Target.

Ben Chapman, spoke on YouTube chat and opening Council Chambers for in person City Council meetings.

Speaker, congratulated Mayor Foley on her election to the Orange County Board of Supervisors position and thanked City Council and staff for recognizing Roger Neth.

Ralph Tabaoda, Congratulated Mayor Foley on her election to the Orange County Board of Supervisors position and thanked her for her work with the city.

Speaker, spoke on Mayor Foley's election and listening to voter's.

COUNCIL MEMBER COMMITTEE REPORTS, COMMENTS, AND SUGGESTIONS

Mayor Pro Tem Marr thanked Mayor Foley for her accomplishments while working with the city.

Council Member Reynolds spoke on the parking study and the meetings being held for the public to participate and spoke on Mayor Foley's accomplishments while working with the city.

Council Member Chavez spoke on the unveiling of the Dolly Parton mural, health care workers, the parking study meetings, and Mayor Foley's accomplishments while working with the city.

Council Member Gameros thanked Mayor Foley, responded to public comments regarding Target, attending the Strut Grand Opening, and the little leagues merging.

Council Member Harlan spoke on the Randy's Donuts grand opening, thanked the Bikeway and Walkability Committee for their presentation, spoke on the Parking Study meetings, congratulated Mayor Foley on her election to the Orange County Board of Supervisors, and requested to adjourn the meeting in memory of Huy Pham.

Council Member Harper congratulated Mayor Foley on her election to the Orange County Board of Supervisors and spoke on freedom of speech.

Mayor Foley thanked everyone for their comments and spoke on all the work the city and Council are doing.

REPORT – CITY MANAGER – Ms. Farrell Harrison spoke on Mayor Foley’s election to the Orange County Board of Supervisors, on Orange County moving to the red tier, conducted a moment of silence for those lost to COVID-19, and played a video marking the 1-year anniversary since the pandemic began.

REPORT – CITY ATTORNEY – Ms. Hall Barlow clarified why the YouTube chat feature is disabled, spoke on First Amendment rights, and thanked the mayor for her support and congratulated her on her election to the Orange County Board of Supervisors.

CONSENT CALENDAR: (Items 1-10)

MOVED/SECOND: Council Member Reynolds/Council Member Chavez

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

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harlan, Council Member Harper, Council Member Reynolds, Mayor Pro Tem Marr, and Mayor Foley.

Nays: None

Absent: None

Motion carried: 7-0

1. PROCEDURAL WAIVER: APPROVE THE READING BY TITLE ONLY OF ALL ORDINANCES AND RESOLUTIONS

ACTION:

City Council and Agency Board approved the reading by title only and waived full reading of Ordinances and Resolutions.

2. READING FOLDER

Claims received by the City Clerk: Southern California Edison, Olen Properties, Yusuf Shojaee.

ACTION:

City Council received and filed.

3. WARRANT RESOLUTION NO. 2656 – Finance Department

ACTION:

City Council approved Warrant Resolution No. 2656 of the City Council of the City of Costa Mesa, California, allowing certain claims and demands, including Payroll Register Nos. 21-04 “A” for \$120.53 and 21-05 for \$2,546,949.57; and City operating expenses for \$1,949,874.60.

4. MINUTES - City Manager's Office/City Clerk's Division

ACTION:

City Council approved the Minutes of the regular meetings of February 2, 2021 and February 16, 2021.

5. STRATEGIC PLAN UPDATE – City Manager's Office

ACTION:

City Council approved the March update to the work plan for the 2021 Strategic Plan - Three Year Goals and Six Month Objectives (hereafter "Strategic Plan").

7. CITY HALL ELECTRIC VEHICLE (EV) CHARGING STATIONS – CITY PROJECT NO. 20-09 - Public Services Department/Engineering Division

ACTION:

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

8. AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH STV CONSTRUCTION - Public Services Department/Engineering Division

ACTION:

1. City Council authorized the City Attorney to prepare an amendment to the Professional Services Agreement (PSA) with STV Construction, Inc., 1055 West 7th Street, Suite 2900, Los Angeles, CA 90017, increasing the maximum compensation by \$90,000 for construction management services for the Lions Park Projects, for a total not-to-exceed amount of \$2,984,056.21.
2. Authorized the City Manager and the City Clerk to execute the amendment.

**9. OPERATIONAL AREA AGREEMENT JURISDICTION APPROVAL
Police Department**

ACTION:

City Council approved the Operational Area (OA) Agreement and authorized submittal of the approved Operational Area Agreement to the County of Orange.

ITEMS PULLED FROM THE CONSENT CALENDAR

6. ADAMS AVENUE AND PINECREEK DRIVE INTERSECTION PROJECT AND ADAMS AVENUE BICYCLE FACILITY PROJECT
Public Services Department/Transportation Division

Staff presentation by Ms. Rosales, Transportation Services Manager.

Discussion ensued on design review and community engagement.

Public Comments:

David Martinez Ibarra, spoke on the design, bike lanes, slip lanes, and cross walks.

Cynthia McDonald, spoke on the active transportation plan, the design of the project, and slip lanes.

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

MOTION: Approve recommended actions and request that community engagement is done early enough to incorporate the design considerations as appropriate into the final design.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harlan, Council Member Harper, Council Member Reynolds, Mayor Pro Tem Marr, and Mayor Foley.

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

1. City Council awarded a Professional Services Agreement (PSA) to KOA Corporation for the design of the Adams Avenue and Pinecreek Drive Intersection Project (Federal Project No. CML-5312(104)) in the amount of \$110,787.03, in substantially the form as attached and in such final form as approved by the City Attorney, and authorize the City Manager and the City Clerk to execute the agreement and future amendments to the agreement.
2. Awarded a Professional Services Agreement (PSA) to KOA Corporation for the design of the Adams Avenue Bicycle Facility Project in the amount of \$132,547, in substantially the form as attached and in such final form as approved by the City Attorney, and authorize the City Manager and the City Clerk to execute the agreement and future amendments to the agreement.
3. Approved the establishment of the Adams Avenue Bicycle Facility Project.

4. Approved a Cooperative Agreement between the City of Costa Mesa and the Orange County Transportation Authority (OCTA) for the Adams Avenue and Pinecreek Drive Intersection Project, and authorize the City Manager and the City Clerk to accept minor changes and execute the cooperative agreement and future amendments to the agreement.
5. Approved the funding agreement between the City of Costa Mesa and the Coast Community College District for the Adams Avenue and Pinecreek Drive Intersection Project and the Adams Avenue Bicycle Facility Project.

10. DELEGATION OF AUTHORITY TO CITY MANAGER AND CITY ATTORNEY REGARDING NUISANCE ABATEMENT ACTIONS – City Manager’s Office

Staff presentation by Ms. Hall Barlow, City Attorney.

Public Comments:

Mary Helen Beatificato spoke on the item.

Autumn Elliott spoke on the item.

Austin Haubenschild spoke on the item.

Carly Telenko spoke on the item.

MOVED/SECOND: Mayor Foley/Council Member Chavez

MOTION: Approve recommended actions.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harlan, Council Member Harper, Council Member Reynolds, Mayor Pro Tem Marr, and Mayor Foley.

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

City Council delegated authority to the City Manager and the City Attorney to authorize nuisance abatement actions against operators of “sober living” group homes who are already engaged in pending litigation with the City.

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

City Council recessed into a break at 8:46 p.m.

City Council reconvened at 8:58 p.m.

PUBLIC HEARINGS: NONE

OLD BUSINESS: NONE

NEW BUSINESS:

1. REQUEST COUNCIL DIRECTION FOR THE RENAMING OF CIVIC CENTER PARK, 111 FAIR DRIVE – Parks and Community Services Department

Staff presentation by Mr. Minter, Parks and Community Services Director.

Public Comments: None.

MOVED/SECOND: Mayor Foley/Council Member Gameros

MOTION: Approve recommended actions.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harlan, Council Member Harper, Council Member Reynolds, Mayor Pro Tem Marr, and Mayor Foley.

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

1. City Council waived the “City Parks and Facilities Naming Policy” requirement for the naming of a Park and/or facility.
2. Renamed the Civic Center Park, located at 111 Fair Drive at the corner of Fair Drive and Vanguard Way, in honor of retired Costa Mesa Police Chief Roger Neth.
3. Authorized the City Manager or designee to appropriate and execute any and all actions necessary to purchase and install the signage.

2. ARTS AND CULTURE MASTER PLAN

Parks and Community Services Department

Staff presentation by Mr. Minter, Parks and Community Services Director and Mr. Stein, Consultant, Arts of Orange County.

Discussion ensued on the differences between an Arts Commission and the current Cultural Arts Committee, including more cultural history into the plan, collaborating with Coastline Community College, including diversity, the budget plan, and spending per capita in other communities.

Public Comments:

Andrew Nelson spoke in support of the item.

Wendy Leece spoke in support of the item and requested that the Finance and Pension Advisory Committee review the budget portion on the item and be allowed to make recommendations.

Charlene Ashendorf spoke in support of the item.

John Forsyte spoke in support of the item and utilizing COVID-19 relief funds for the Arts.

David Martinez Ibarra spoke in support of the item, requested more murals in areas where the public are biking and walking, and spoke on updating the city flag and seal.

Speaker spoke on including the founding of the Costa Mesa Art League and freedom of expression.

Steven Chan spoke on the Dolly Parton mural.

MOVED/SECOND: Mayor Pro Tem Marr/Mayor Foley

MOTION: Accept the Arts and Culture Master Plan as written with the addition of the historical references as discussed.

Mayor Pro Tem Marr and Mayor Foley spoke in favor of the motion.

Council Member Reynolds requested to include an objective honoring and celebrating ethnic diversity.

Mayor Pro Tem Marr and Mayor Foley agreed to the addition.

MOVED/SECOND: Mayor Pro Tem Marr/Mayor Foley

MOTION: Accept the Arts and Culture Master Plan as written with the additions of the historical references discussed and including an objective honoring and celebrating ethnic diversity.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gamos, Council Member Harlan, Council Member Harper, Council Member Reynolds, Mayor Pro Tem Marr, and Mayor Foley.

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

City Council approved and adopted the Arts and Culture Master Plan as written with the additions of the historical references discussed and including an objective honoring and celebrating ethnic diversity.

3. COVID-19 HOMELESS PREVENTION AND STREET OUTREACH SERVICES, AND FOOD ASSISTANCE PROGRAMS – City Manager’s Office/ Executive Director’s Office

Staff presentation by Ms. Price, Assistant City Manager.

Public Comments:

Ian Stevenson, Trellis, spoke in support of the item.

Brad Fieldhouse, City Net, spoke on the item and thanked City Council.

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

MOTION: Approve recommended actions.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harlan, Council Member Harper, Council Member Reynolds, Mayor Pro Tem Marr, and Mayor Foley.

Nays: None

Absent: None

Motion carried: 7-0

ACTION:

1. City Council and the Housing Authority Board of Directors authorized the City Manager/Executive Director to execute agreements for Community Development Block Grant – Coronavirus (CDBG-CV) funding combined from Round 1 (\$122,382) and Round 3 (\$160,000), each for a term of one year, with the option of a one year, no fee extension, at the discretion of the City Manager, with the following two vendors:
 - a. Kingdom Causes Inc., dba City Net in an amount not to exceed \$192,000 for the Afterhours Street Outreach program; and
 - b. Trellis in an amount not to exceed \$90,382 for the Innovative Street Outreach and Lifeskills Program.
2. Authorized release a new bid of the \$177,382 homeless prevention/food assistance funds to consider all eligible CDBG CV activities to effectively address impacts to low and moderate income households in Costa Mesa.

4. FRONTLINE GROCERY WORKERS HAZARD PAY – City Manager’s Office

Staff presentation by Ms. Hall Barlow, City Attorney and Ms. Farrell Harrison, City Manager.

Discussion ensued on the number of stores and employees.

Public Comments:

Speaker, spoke in support of the item.

Nick Buro, spoke against the item.

Speaker, spoke in support of the item.

Hengameh Abraham, Costa Mesa, spoke on pharmacy technicians needing the hazard pay instead of grocery workers, and to do more research.

Steven Chan, Costa Mesa, spoke against the Smart n Final store receiving the extra pay.

Ben Chapman, Costa Mesa, spoke in opposition of the item and to deal with the health crisis first.

Tom Pollitt, Costa Mesa, spoke in opposition of the item.

David Ibarra, spoke in support of the item.

Wendy Leece, Costa Mesa, spoke in opposition of the item.

Speaker, spoke in support of the item.

Speaker, spoke in support of the item.

Speaker, spoke in support of the item.

Speaker, spoke in support of the item.

MOVED/SECOND: Council Member Gameros/Council Member Chavez

MOTION: Approve recommended actions.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harlan, Council Member Reynolds, Mayor Pro Tem Marr, and Mayor Foley.

Nays: Council Member Harper

Absent: None

Motion carried: 6-1

ACTION:

City Council adopted Urgency Ordinance No. 2021-05 requiring local grocery stores and retail drug stores to provide hazard pay to their frontline employees for 120-day period during the COVID-19 pandemic.

MOVED/SECOND: Mayor Pro Tem Marr/Mayor Foley

MOTION: Extend the meeting past midnight.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harlan, Council Member Reynolds, Mayor Pro Tem Marr, and Mayor Foley.

Nays: Council Member Harper

Absent: None

Motion carried: 6-1

5. VACANCY IN ELECTED MAYORAL POSITION – City Manager’s Office

Staff presentation by Ms. Hall Barlow, City Attorney.

Public Comments:

Hengameh Abraham, Costa Mesa, spoke on appointing someone who ran in the mayoral campaign, appointing Sandy Genis, or someone who has held the office of mayor previously.

Adam Ereth, Costa Mesa, spoke in support of John Stephens.

Ben Chapman, Costa Mesa, spoke in support on Sandy Genis.

Tom Johnson spoke in support of John Stephens.

Tom Pollitt, Costa Mesa, spoke on not appointing someone who lost an election.

Jay Humphrey, Costa Mesa, spoke on an elected mayor by the people.

Steven Chan, Costa Mesa, spoke on the appointment process.

Ralph Taboada, Costa Mesa, spoke in support of John Stephens.

Speaker, spoke on the people being able to vote for their mayor and having another elected mayor.

Cynthia McDonald, Costa Mesa, spoke in support of an appointment process and taking applications.

Cassius Rutherford, Costa Mesa, spoke in support of John Stephens.

Robert Morse, Costa Mesa, spoke in support of an appointment process and taking applications.

David Ibarra, Costa Mesa, spoke in support of an appointment process and not taking the 2nd highest votes.

Speaker, spoke in support of a special election.

MOVED/SECOND: Council Member Chavez/Council Member Gamos
MOTION: Appoint John Stephens as Mayor effective upon Mayor Foley's oath of office to the Orange County Board of Supervisors position.

Discussion ensued on the costs of holding a special election, supporting John Stephens, supporting an application process, and the government code on appointing a new mayor.

SUBSTITUTE MOTION/SECOND: Council Member Reynolds/ Council Member Harper

SUBSTITUTE MOTION: Open up an appointment process using the schedule that staff recommended in the staff report.

The motion failed by the following roll call vote:

Ayes: Council Member Reynolds and Council Member Harper.

Nays: Council Member Chavez, Council Member Gamos, Council Member Harlan, and Mayor Pro Tem Marr.

Absent: None

Abstain: Mayor Foley.

Motion failed: 2-4-1

MOVED/SECOND: Council Member Chavez/Council Member Gamos

MOTION: Appoint John Stephens as Mayor effective upon Mayor Foley's oath of office to the Orange County Board of Supervisors position.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gamos, Council Member Harlan, Council Member Reynolds, and Mayor Pro Tem Marr.

Nays: Council Member Harper.

Absent: None

Abstain: Mayor Foley.

Motion carried: 5-1-1

ACTION:

Pursuant to Government Code Section 34902(a), City Council appointed John Stephens to the position of Mayor, effective upon Mayor Foley's oath of office to the Orange County Board of Supervisors.

ADDITIONAL COUNCIL/BOARD MEMBER COMMITTEE REPORTS, COMMENTS, AND SUGGESTIONS

Mayor Foley spoke on wishing for the Fish Fry and parade to return in September.

ADJOURNMENT – Mayor Foley adjourned the meeting at 12:35 a.m., March 17, 2021 in memory of Huy Pham.

Minutes adopted on this 6th day of April, 2021.



John Stephens, Mayor

ATTEST:



Brenda Green, City Clerk