



REGULAR CITY COUNCIL AND SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY, AND HOUSING AUTHORITY JANUARY 16, 2024 - MINUTES

CALL TO ORDER –The Closed Session meeting was called to order by Mayor Stephens at 4:04 p.m.

ROLL CALL

Present: Council Member Chavez, Council Member Marr (Arrived 4:12 p.m.), Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Absent: Council Member Gameros and Council Member Harper.

PUBLIC COMMENTS

Dennis D'Alessio spoke on case no. 4 regarding 1963 Wallace Ave.

Alisha Patterson spoke on case no. 4 regarding 1963 Wallace Ave.

Steve Cedar spoke on case no. 4 regarding 1963 Wallace Ave.

Steve Sheldon spoke on case no. 4 regarding 1963 Wallace Ave.

Grant Hermes spoke on case no. 2 regarding 440 Fair Dr. and 1779 Newport Blvd.

CLOSED SESSION ITEMS:

1. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to California Government Code Section 54957.6 (a)

Agency Designated Representative: Lori Ann Farrell Harrison, City Manager and Alma Reyes, Deputy City Manager

Name of Employee Organization: Costa Mesa Firefighters Association (CMFA).

2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION – ONE CASE

Pursuant to California Government Code Section 54956.9 (d)(1)

Name of Case: City of Costa Mesa; People of State of Cal. v. D'Alessio Investments LLC, et al.

440 Fair Dr. and 1779 Newport Blvd.

Orange County Superior Court Case No. 30-2020-01170520

3. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION – ONE CASE

Pursuant to California Government Code Section 54956.9 (d)(1)
Name of Case: D'Alessio Investments LLC v. City of Costa Mesa
Orange County Superior Court Case No. 30-2020-01132646

4. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION – ONE CASE

Pursuant to California Government Code Section 54956.9 (d)(1)
Name of Case: City of Costa Mesa v. D'Alessio; 1963 Wallace Ave.
Orange County Superior Court Case No. 30-2020-01133479

City Council recessed at 4:21 p.m. for Closed Session.

Closed Session adjourned at 5:48 p.m.

CALL TO ORDER –The Regular City Council and Successor Agency to the Redevelopment Agency, and Housing Authority meeting was called to order by Mayor Stephens at 6:00 p.m.

NATIONAL ANTHEM AND PLEDGE OF ALLEGIANCE – Led by Chara Wondercheck.

MOMENT OF SOLEMN EXPRESSION – Led by Ian Stevenson, Trellis.

ROLL CALL

Present: Council Member Chavez, Council Member Gameros, Council Member Marr Council Member Reynolds, Mayor Pro Tem Harlan and Mayor Stephens.

Absent: Council Member Harper.

CITY ATTORNEY CLOSED SESSION REPORT – No reportable action.

PRESENTATIONS:

The Mayor recognized Police Service Dog Bodi's Retirement.

The Mayor recognized Jennifer Le, Economic and Development Services Director.

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA

Ida Wolf requested the large ice machine and blinds to be fixed at the Senior Center, and spoke on the Soup Kitchen needing a fence.

Charlene Ashendorf spoke on the Art Exhibit opening at the Senior Center, and introduced Ellie Brouse, who spoke on her art exhibit.

Dr. Wes Smith, Superintendent, Newport Mesa Unified School District, praised the leadership in the City.

Flo Martin spoke on the Pledge of Allegiance and is thankful for living in the United States.

Speaker, spoke on Domestic Violence and assisting individuals and families.

Kim Hendricks spoke on Fairview Park.

Marc Vukceovich spoke on housing, Assembly Bill 413 regarding not parking within 20 feet of crosswalks and requested markings or signage, and spoke on bicycle and scooter storage.

Speaker, extended personal thanks to Ms. Le, thanked the Public Works Department for the installation of the raised crosswalks at Pomona Avenue and Sterling Avenue and at Meyer Place and Bay Street, and for the new Hawk signal and crosswalk at Wilson Park, thanked the City Manager and Parks and Community Services Department for opening up West Side park space, and thanked the Finance and Police Departments for the animal shelter contract.

Urson Russell, Costa Mesa Brief reporter, spoke on previous reports on Measure AA and Measure BB and is working on a follow up story regarding Fairview Park and future plans, and requested a meeting with Kelly Dalton, Fairview Park Administrator, City Manager Farrell Harrison, and/or Council Member Reynolds.

Latricia Ortiz spoke on receiving flyers for events at Shalimar Park and requested information on future activities, and spoke on street sweeping on Wednesdays and patrolling for parked cars.

Speaker, spoke on Fairview Park, archeological sites, and native species.

Cynthia McDonald spoke on the Environmental Impact Report for the Emergency Operations Center, and the proposed Helicopter Pad.

Alexander Haberbusch, attorney, spoke against a proposed conditional use permit for a retail cannabis store at 1858 Newport Blvd, and spoke against the proliferation of cannabis businesses.

Speaker, congratulated Bodi on retirement, requested insurance for his future veterinary care, and spoke against the Helicopter Pad at the Emergency Operations Center.

COUNCIL MEMBER COMMITTEE REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Gameros wished all a Happy New Year and thanked all students for attending.

Council Member Marr wished all a Happy New Year and spoke on being available to meet with the public.

Council Member Reynolds shared optimism for the upcoming year, spoke on projects coming to fruition, spoke on the lighted crosswalk on Wilson Street, spoke on the Tenant Protection Ordinance workshop, and spoke on hearing from the public.

Council Member Chavez thanked staff for traffic slowing measures at Meyer Street and Pomona Avenue, spoke on street vendors blocking sidewalks and requested more patrolling between Wallace Avenue and Pomona Avenue on 19th Street, spoke on a lack of ticketing on Charle Street, and spoke on the Costa Mesa 311 App for reporting purposes.

Mayor Pro Tem Harlan thanked Costa Mesa United for the Charity Golf Tournament the Gordon Bowley Charity Classic, spoke on the Fairview Developmental Center Workshops, requested an update on the noise study for The 12 gym, and requested to remove the plexiglass in the Council Chambers.

Mayor Stephens spoke on attending the Apartment Association of Orange County meeting and being recognized for the Tenant Protection Ordinance, spoke on attending an event for the Orange County Youth Sports Foundation, spoke on the Arts and Learning Conservatory show called Music of the March at Barclay Theater, spoke on attending the Gordon Bowley Charity Classic event, congratulated Jake Knapp for playing his first PGA tour event, and spoke on adjourning the meeting in memory of Shawn Davidson.

REPORT – CITY MANAGER – NONE.

REPORT – CITY ATTORNEY – Ms. Hall Barlow reported that a mediated settlement has been reached for Leaman v. the City of Costa Mesa with no damages paid by the City and a waiver of costs only.

CONSENT CALENDAR

MOVED/SECOND: Council Member Chavez/Council Member Marr

MOTION: Approve the Consent Calendar except for Item Nos. 10 and 12.

The motion carried by the following roll call vote:

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

Nays: None

Absent: Council Member Harper.

Abstain: None.

Motion carried: 6-0

1. PROCEDURAL WAIVER: WAIVE THE FULL READING OF ALL ORDINANCES AND RESOLUTIONS

ACTION:

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

2. READING FOLDER

ACTION:

City Council received and filed Claims received by the City Clerk: George Abrina, Forrest Ascarrunz, Teresa Beck, Noreen Becker, Bryan Bennani, Automobile Club as Subrogee of Bryan Bennani, Andrea Grigsby, Amelia Salehpour, Antonio Urresti.

3. ADOPTION OF WARRANT RESOLUTION

ACTION:

City Council approved Warrant Resolution No. 2710.

4. MINUTES

ACTION:

City Council approved the minutes of the regular meeting of December 5, 2023 and the Study Session meeting of December 12, 2023.

5. REVIEW AND APPROVE RECOMMENDED CITY COUNCIL MEETING CALENDAR FOR 2024

ACTION:

City Council reviewed and approved City Council Meeting Calendar for 2024 and cancelled the Tuesday, November 5, 2024, City Council Meeting due to Election Day.

6. APPROVAL OF MAYOR'S APPOINTMENTS TO THE TRANSPORTATION CORRIDOR AGENCIES

ACTION:

City Council approved the Mayor's appointments to the Transportation Corridor Agencies (TCA): Appointee - Mayor John Stephens and Alternate - Councilmember Arlis Reynolds.

7. SECOND READING AND ADOPTION OF ORDINANCE NO. 2024-01 AMENDING TITLE 13 (PLANNING, ZONING, AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE TO MODIFY THE CITY'S OUTDOOR DINING PROVISIONS (CODE AMENDMENT PCTY-23-0002)

ACTION:

City Council gave second reading to and adopted Ordinance No. 2024-01 approving Code Amendment PCTY-23-0002, amending Title 13 (Planning, Zoning, and Development) of the Costa Mesa Municipal Code to modify the City's Outdoor Dining provisions.

8. AUTHORIZATION FOR THE RETIREMENT OF POLICE SERVICE DOG BODI AND THE SALE OF POLICE SERVICE DOG BODI TO OFFICER GEORGE MARIDAKIS

ACTION:

1. City Council approved the retirement of Police Service Dog Bodi after five years of outstanding service to the community.
2. Authorized the City Manager or designee to execute the purchase agreement for the sale of Police Service Dog Bodi to Officer George Maridakis.

9. AUTHORIZATION FOR THE PROCUREMENT OF DATA ANALYTICS SOFTWARE WITH PEREGRINE

ACTION:

1. City Council approved the purchase of data analytics software based on pricing provided through a cooperative agreement with the City of Fremont, No.21-0113.
2. Authorized the purchase of data analytics software under the awarded Organized Retail Theft Prevention Grant (ORT) with Peregrine Technologies in the amount of \$315,000.
3. Authorized the City Manager and City Clerk to execute an agreement with Peregrine Technologies in a form approved by the City Attorney.

11. PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE KETCHUM-LIBOLT PARK EXPANSION PROJECT

ACTION:

1. City Council awarded the Professional Services Agreement (PSA) to Architerra Design Group, Inc., 10221-A Trademark Street, Rancho Cucamonga, California in an amount not to exceed \$193,098 for the design of improvements and expansion of Ketchum-Libolt Park located at 2150 Maple Street, Costa Mesa.
2. Authorized an additional ten percent (10%) contingency in the amount of \$19,310 as needed for any unforeseen costs related to this project.
3. Authorized the City Manager and the City Clerk to execute the PSA and any future amendments to the agreement within Council authorized limits.

13. ACCEPTANCE OF THE JACK HAMMETT SPORTS COMPLEX EXPANSION PROJECT, CITY PROJECT NO. 21-05

ACTION:

1. City Council accepted the work performed by Horizons Construction Company International, Inc., 432 West Meats Avenue, Orange, California 92865, for the Jack Hammett Sports Complex Expansion Project, City Project No. 21-05, 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 and release the Faithful Performance Bond at the conclusion of the one-year warranty period. Retention monies have been released pursuant to Public Contract Code 7107(c).

14. CLEAN MOBILITY OPTIONS PILOT PROGRAM AND OCTA PROJECT V GRANT FOR COMMUNITY BASED TRANSIT

ACTION:

1. City Council adopted Resolution No. 2024-01, approving participation in the Clean Mobility Options Voucher Pilot Program.

2. Adopted Resolution No. 2024-02, approving the submittal of a grant application for the Community-Based Transit/Circulators Program (Project V) under the Orange County Transportation Authority's (OCTA's) Comprehensive Transportation Funding Program (CTFP).

ITEMS PULLED FROM THE CONSENT CALENDAR

10. PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE SHALIMAR PARK EXPANSION PROJECT

Public Comments: None.

MOVED/SECOND: Council Member Chavez/Council Member Reynolds

MOTION: Approve staff recommendation.

The motion carried by the following roll call vote:

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

Nays: None

Absent: Council Member Harper.

Abstain: None.

Motion carried: 6-0

ACTION:

1. City Council awarded Professional Services Agreement (PSA) to Community Works Design Group, Inc., 7111 Indiana Avenue, Suite 300, Riverside, California in an amount not to exceed \$158,970 for the design of improvements and expansion of Shalimar Park.
2. Authorized an additional ten percent (10%) contingency in the amount of \$15,897 as needed for any unforeseen costs related to this project.
3. Authorized the City Manager and the City Clerk to execute the PSA and any future amendments to the agreement within Council authorized limits.

12. AWARD OF THE LED LIGHTING INSTALLATION AT CITY PARKS AND ATHLETIC FACILITIES PROJECT, CITY PROJECT NO. 23-09

Public Comments:

Speaker, spoke on considering the impact on neighbors when lighting is installed.

Cynthia McDonald thanked staff for the Tennis Center lighting.

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

MOTION: Approve staff recommendation.

The motion carried by the following roll call vote:

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

Nays: None

Absent: Council Member Harper.

Abstain: None.

Motion carried: 6-0

ACTION:

1. City Council adopted plans, specifications, and working details for the LED Lighting Installation at City Parks and Athletic Facilities Project, City Project No. 23-09.
2. Authorized the City Manager and City Clerk to execute a Public Works Agreement (PWA) in the amount of \$759,700, and future contract amendments within City Council authorized limits to RMF Contracting, Inc., 1523 North Harmony Circle, Anaheim, California 92807.
3. Authorized a ten percent (10%) contingency in the amount of \$75,970 for unforeseen construction and miscellaneous costs related to the project.

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

PUBLIC HEARINGS:

(Pursuant to Resolution No. 05-55, Public Hearings begin at 7:00 p.m.)

1. **REVIEW OF THE PLANNING COMMISSION'S DECISION TO DENY PLANNING APPLICATION 22-45 FOR A NEW PUBLIC CHARTER HIGH SCHOOL ("VISTA MERIDIAN GLOBAL ACADEMY") AND A MINOR CONDITIONAL USE PERMIT FOR SMALL CAR PARKING LOCATED AT 1620 SUNFLOWER AVENUE**

Presentation by Gabriel Villalobos, Assistant Planner.

Dr. Don Wilson, Superintendent, Vista Meridian Academy, spoke on the project, spoke on their Charter, and spoke on the school curriculum.

Mr. Joseph Smith, Land Use Consultant, spoke on the Conditional Use Permit and land use matters.

Eric Nguyen, Property Owner, spoke in support of the project.

Public Comments:

Written communications received from Daniel Bistany, Justin Nassie, Wallid Kazi, Anna Schlotzhauer and Jim Bergman, and Ed Salcedo.

Dr. Wes Smith, Superintendent, Newport Mesa Unified School District, Smith spoke on Proposition 39, the charter, the legal notices to the school district, spoke on the impact to the school district, expressed concern on the single ingress/egress, and requested the Council to deny the application.

Speaker, spoke in favor of the item.

Speaker, spoke on the legal notices to the school district, and spoke in opposition of the item.

Jeff Trader, Assistant Superintendent of Newport Mesa Unified School District, spoke on the average daily attendance, and spoke in opposition of the item.

Speaker, spoke in favor of the item.

Sue Ann Evans, legal counsel for Newport Mesa Unified School District, spoke in opposition of the item.

Victor Jimenez, Costa Mesa, spoke in opposition of the item.

Christine Flores spoke in favor of the item.

Toby Nguyen, Costa Mesa, spoke in opposition of the item.

Trent Speier, Principal of Vista Meridian Global Academy, spoke in favor of the item.

Speaker, spoke in opposition of the item.

Brianna Williams, spoke in favor of the item.

Robert Sterling, spoke in opposition of the item.

Dianne Russell, Costa Mesa, spoke in opposition of the item and on the flow of traffic.

Speaker, spoke in opposition of the item.

Dr. Liz Dorn Parker, spoke in opposition of the item.

Marc Vukceovich, questioned if the item creates a school zone.

Speaker, spoke in favor of the item.

Ricardo Vazquez spoke in favor of the item.

Speaker, spoke in favor of the item.

Speaker, spoke in opposition of the item.

Speaker, spoke in favor of the item.

City Council recessed into a break at 9:30.

City Council reconvened at 9:42.

The applicant requested a continuance of the item.

MOVED/SECOND: Mayor Stephens/Mayor Pro Tem Harlan

MOTION: Continue the item.

The motion failed by the following roll call vote:

Ayes: Mayor Pro Tem Harlan and Mayor Stephens.

Nays: Council Member Chavez, Council Member Gameros, Council Member Marr, and Council Member Reynolds.

Absent: Council Member Harper.

Abstain: None.

Motion failed: 2-4-1

MOVED/SECOND: Council Member Gameros/Council Member Chavez

MOTION: Uphold the Planning Commission's decision.

The motion carried by the following roll call vote:

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

Nays: Mayor Stephens.

Absent: Council Member Harper.

Abstain: None.

Motion carried: 5-1-1

ACTION:

City Council upheld the Planning Commission's decision to deny Planning Application 22-45.

2. AN ORDINANCE AMENDING TITLE 13 (PLANNING, ZONING AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE TO ESTABLISH AFFORDABLE HOUSING REQUIREMENTS FOR NEW RESIDENTIAL DEVELOPMENT PROJECTS

Presentation by Nancy Huynh, Principal Planner.

Public Comments:

Written communications received from Priscilla Rocco, Jenn Tanaka, and Adam Wood, representing the Building Industry Association.

Jay Humphrey, Costa Mesa, spoke on in-lieu fees.

Adam Wood, Building Industry Association, spoke on State mandates, stated the ordinance is not incentive based, spoke on project threshold size, compared the ordinance to other cities, and spoke on exemptions for development agreements.

Jenn Tanaka spoke on Measure K and housing, spoke on in-lieu fees, and spoke on market rate housing.

Marc Vukceovich spoke on affordable housing and being competitive in the market.

Dianne Russell spoke in opposition of the ordinance as written.

Speaker, spoke on land value and expressed concern on the 10% and 5% thresholds in the ordinance.

George Sakioka spoke on land dedication, affordability, and allowing an exemption for development agreements.

Kathy Esfahani, Affordable Housing Coalition, spoke in opposition of the ordinance as written.

Christine Nolf spoke on increasing the inclusionary requirements.

Cynthia McDonald spoke in opposition of the ordinance as written.

Cesar Covarrubias, Executive Director of the Kennedy Commission, expressed concern on the in-lieu fees and the current requirements for affordable housing.

Speaker, Resilience Orange County, spoke on increasing the affordability percentages and spoke on renting affordability.

Speaker, spoke on increasing the affordability percentages and spoke on in lieu fees.

MOVED/SECOND: Mayor Pro Tem Harlan/Mayor Stephens

MOTION: Continue the item to a date uncertain and bring back the ordinance for Council consideration along with the in-lieu fee resolution.

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

SUBSTITUTE MOTION: Approve staff recommendation with the following changes: set the project threshold at 15 units instead of 10 units, for rental projects onsite production required for projects greater than 50 units, set affordability requirements to be 60+ dwelling units per acre at 12% low income and 8% very low income and under 60 units per acre maintain the staff recommendation at 6% low income and 4% very low income, for ownership projects require payment of in lieu fees only, and change section 13-331 to read: "The following are the alternative options to fulfill the requirements of this chapter if onsite production of affordable units is determined by the director or their designee to be economically infeasible and would impose an extreme hardship, or if it is determined to lead to a better planning result and/or additional affordable units. The director or their designee's determination shall be made based upon evidence provided by the applicant."

Mayor Stephens requested the exception of Development Agreements.

Council Member Marr (1st) and Council Member Reynolds (2nd) agreed to the change.

Council Member Chavez requested a flat rate of 10 low income units and 5 very low income units at 50 units per acre.

Council Member Marr (1st) offered to change the motion to staff recommendation.

Council Member Chavez requested to exempt the South Coast Plaza property.

Council Member Marr (1st) did not agree to the change.

Discussion ensued on bringing the ordinance back with the in-lieu fee resolution at the same time.

MOVED/SECOND: Council Member Marr/Council Member Reynolds

MOTION: Continue meeting past midnight.

The motion carried by the following roll call vote:

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

Nays: None

Absent: Council Member Harper.

Abstain: None.

Motion carried: 6-0

Mayor Pro Tem Harlan and Council Member Chavez spoke on not supporting the item due to wanting more time for consideration.

SUBSTITUTE MOTION/SECOND: Council Member Marr/Council Member Reynolds
SUBSTITUTE MOTION: Approve staff recommendation with the following changes: set the project threshold at 15 units instead of 10 units, for rental projects onsite production required for projects greater than 50 units, set affordability requirements to be 60+ dwelling units per acre at 11% low income or 7% very low income and under 60 dwelling units per acre at 6% low income or 4% very low income, for ownership projects require payment of in lieu fees only, an exception for Development Agreements reading: “Any residential project for which the city enters into a development agreement pursuant to California Government Code Section 65964 that provides affordable housing obligations equivalent to this chapter or alternative equivalent community benefits”, and in section 13-331 “The following are the alternative options to fulfill the requirements of this chapter if onsite production of affordable units is determined by the director or their designee to be economically infeasible and would impose an extreme hardship, or if it is determined to lead to a better planning result and/or additional affordable units. The director or their designee’s determination shall be made based upon evidence provided by the applicant.”

The motion carried by the following roll call vote:

Ayes: Council Member Gameros, Council Member Marr, Council Member Reynolds, and Mayor Stephens.

Nays: Council Member Chavez and Mayor Pro Tem Harlan.

Absent: Council Member Harper.

Abstain: None.

Motion carried: 4-2-1

ACTION:

1. City Council found that the adoption of Ordinance No. 2024-02 is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3), General Rule in that the affordable housing ordinance will not have a significant impact on the environment.
2. Gave first reading to Ordinance No. 2024-02 (PCTY-23-0001) modifying Title 13 (Planning, Zoning, and Development) of the Costa Mesa Municipal Code (CMMC) to establish affordable housing requirements for new residential developments.

OLD BUSINESS: NONE.

NEW BUSINESS: NONE.

ADDITIONAL COUNCIL/BOARD MEMBER COMMITTEE REPORTS, COMMENTS, AND SUGGESTIONS – NONE.

ADJOURNMENT – Mayor Stephens adjourned the meeting at 12:19 a.m. in memory of Shawn Davidson.

Minutes adopted on this 6th day of February, 2024.

John Stephens, Mayor

ATTEST:

Brenda Green, City Clerk

DRAFT