

ORDINANCE NO. 05-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 2 SECTION 2-68(d) AND (e) OF THE COSTA MESA MUNICIPAL CODE REGARDING COUNCIL MEMBERS CONFLICT OF INTEREST AND CITY ATTORNEY OPINIONS REGARDING CONFLICT OF INTEREST.

~~WHEREAS, the Costa Mesa Municipal Code currently requires that all conflict of interest opinions rendered by the City Attorney at the request of a Council Member to be in writing; and~~

WHEREAS, it has been determined that the requirement that all conflict of interest opinions must be in writing is not practical and is not a requirement of State law; and

WHEREAS, the California Government Code Section 87105 was recently amended to prohibit a Council Member with a conflict of interest to remain in the room during a discussion of the agenda item in which that member has a conflict of interest; and

WHEREAS, the City of Costa Mesa's Municipal Code currently indicates that in the event of a conflict of interest, a Council Member who has a conflict "may" remain in his seat during the discussion; and

WHEREAS, to avoid a conflict between the State law and the Costa Mesa Municipal Code, it has been determined that the Municipal Code should be amended to reflect the change in State law.

WHEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Costa Mesa Municipal Code Section 2-68(d) is hereby amended to read as follows:

In the event the city attorney is requested by a member of city council, or a member of city commissions or boards established and appointed by city council or by law, to render an opinion upon the question of such public official's disqualification from making, or participating in making, of decisions which may foreseeably have a material effect on a financial interest, the city attorney, in his or her discretion, may, render a written opinion upon such question.

Section 2. Costa Mesa Municipal Code Section 2-68(e) is hereby amended to read as follows:

Any council member, or member of city commissions or boards established and appointed by city council or by law, who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state or have the presiding officer or city

attorney state the nature of such disqualification in the open council, or commission or board meeting. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the council member affected, be decided by other council members or by the city attorney. A council member who is disqualified by reason of a conflict of interest in any matter shall comply with the provisions of California Government Code Section 87105 as may be amended from time to time regarding the conduct of a Council Member with a conflict of interest.

Section 3. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 4. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 5. Publication. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after its passage and, before the expiration of fifteen (15) days after its passage, shall be published once in the NEWPORT BEACH-COSTA MESA PILOT, a newspaper of general circulation printed and published in the City of Costa Mesa, or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names of the members of the City Council voting for and against the same.

PASSED AND ADOPTED this 18th day of January, 2005

(d)(5)

Mayor of the City of Costa Mesa

ATTEST:

(d)(5)

Deputy City Clerk of the
City of Costa Mesa

APPROVED AS TO FORM:

(d)(5)

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, Deputy City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 05-1 was introduced and considered section by section at a regular meeting of said City Council held on the 3rd day of January, 2005, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the 18th day of January, 2005, by the following roll call vote:

AYES: Mansoor, Monahan, Bever, Dixon, Foley

NOES: None

ABSENT: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this 19th day of January, 2005.

(d)(5)

Deputy City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa