



CITY OF CARSON

Legislation Text

File #: 2017-035, Version: 1

Report to Mayor and City Council

Tuesday, January 24, 2017

Discussion

SUBJECT:

CONSIDER RESOLUTION NO. 17-014, A RESOLUTION OF THE CITY OF CARSON CITY COUNCIL AMENDING THE FISCAL YEAR 2016-17 BUDGET IN THE GENERAL FUND FOR PURCHASE OF AN APPEAL BOND RELATED TO THE CITY'S DEFENSE IN A LAWSUIT FILED BY THE OWNER OF THE COLONY COVE MOBILE HOME PARK

I. SUMMARY

Staff recommends a budget amendment to provide for the purchase of an appeal bond filed with federal court, related to the City's defense of *Colony Cove v. City of Carson, et al.*

II. RECOMMENDATION

WAIVE further reading and adopt Resolution No. 17-014, A RESOLUTION OF THE CITY OF CARSON CITY COUNCIL AMENDING THE FISCAL YEAR 2016-17 BUDGET IN THE GENERAL FUND.

III. ALTERNATIVES

TAKE another action deemed appropriate by City Council.

IV. BACKGROUND

The City is aggressively defending itself in a lawsuit filed by the owner of the Colony Cove Mobile Home Park (*Colony Cove v. City of Carson et al.*, Ninth Circuit Court of Appeals Case No. 16-56255). The lawsuit challenges the constitutionality of how the City applied its mobile home park rent control law to the plaintiff's mobile home park. The park owner first sued the City in state court, alleging the City's rent decisions in 2008 and 2009 did not provide the park owner a constitutional fair return under state law. All state courts rejected these claims, up to and including the California Supreme Court. The park owner has now filed in federal court, alleging the City's rent decisions are a regulatory taking under the U.S. Constitution.

The plaintiff received an initial judgment of \$3,336,056 from the jury. Plaintiff was also awarded pre-judgment interest and attorneys' fees for a total of \$7,464,719 against the City. The City is reasonably confident the jury made a mistake and that once an appellate panel of judges reviews the case on appeal, this incorrect jury verdict will be reversed and the justices will rule as judges in state court ruled, and rule in favor of the City. Hence, the City has filed a notice of appeal and expects a federal court decision in early 2018.

In order to move forward with the appeal, however, the City is required to deposit the amount of the judgment in an escrow account, purchase an appeal bond in lieu of an escrow deposit, or furnish some other form of financial guarantee to satisfy the plaintiff.

On November 14, 2016, in closed session, the City Council directed Staff to purchase an appeal bond as part of litigation strategy to complete the appeal in the case. Subsequently, the City acquired a bond from Bond Services of California, LLC for an annual premium of \$33,338.

At this time, Staff recommends a General Fund budget amendment to provide for the initial annual premium.

V. FISCAL IMPACT

The estimated Unassigned General Fund Balance (available to spend) at June 30, 2017 is \$2,114,646, as calculated in the attached General Fund Budget Summary. That estimate includes the purchase of the appeal bond, as previously authorized by City Council.

VI. EXHIBITS

B - Resolution No. 17-014, A RESOLUTION OF THE CITY OF CARSON CITY COUNCIL AMENDING THE FISCAL YEAR 2016-17 BUDGET IN THE GENERAL FUND (pages 3-4)

A - General Fund Budget Summary (page 5)

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