

---

---

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

---

**CALL TO ORDER**

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Olvera at 5:06 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

**ROLL CALL OF CITY COUNCIL MEMBERS:**

Present: Mayor Carlos N. Olvera  
Mayor Pro-Tem John A. Tomlinson  
Council Member Joseph L. Muller  
Council Member J. Scott Schoeffel  
Council Member Richard A. Viczorek

Absent: None

**CLOSED SESSION**

City Attorney Munoz indicated that there was a need for a Closed Session discussion with the exception of Item A and eliminated that item for discussion.

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d1), (1 case)
- B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, INITIATION OF LITIGATION, Government Code § 54956.9 (d)(4), (1 case):  
California Regional Water Quality Control Board, San Diego Region
- C. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Government Code § 54956.9 (a), (1 case) Name of Case: City of Dana Point v. California Coastal Commission, et al Case No. 37-2010-00099827

City Attorney Munoz reported that a correction to the agenda was needed to be made on Item #11. The correct amount for the Soto Company is \$490,835.99. City Attorney Munoz asked to remove Item A for discussion.

Mayor Olvera recessed the meeting into a Closed Session at 5:07 p.m. pursuant to Government Code Section 54956 et seq.

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

**RECONVENE CITY COUNCIL MEETING**

Mayor Olvera reconvened the meeting at 6:22 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Kathy Ward, City Clerk; Mike Killebrew, Assistant City Manager; Mike Rose, Director of Disaster Preparedness & Facilities; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Brad Fowler, Director of Public Works and Engineering; Mark Sutton, Building Official; Kevin Evans, Director of Community Services and Parks; Robert Sedita, Management Analyst; Rachel Johnson, Assistant Administrative Analyst; Jackie Littler, Executive Assistant, DyAnne Weamire, Sr. Administrative Assistant, Gail Enriquez, City Clerk Specialist, and Bobbi Ogan, Deputy City Clerk.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Council Member Muller.

**INVOCATION**

The Invocation was provided by Jens Christy, Associated Pastor at Capo Beach Church.

**PRESENTATIONS AND PROCLAMATIONS**Business of the Month - Keli's Outrigger & Paddle Sports

Assistant Administrative Analyst Johnson provided PowerPoint presentation. She reported that Keli's Outrigger and Paddle Sports opened in 2012 on Del Prado, manufacturing paddles and stand up paddle boards. She added that you can find everything related to outriggering and paddle boarding - from equipment sales and apparel to lessons, coaching, and rental equipment for parties that is affordable for anyone and any family. She stated that Keli is a very active supporter of many local charities and volunteers at any events related to outriggering and paddle sports. Mayor Olvera presented a Certificate of Recognition to owner Keli, in honor of Keli's Outrigger & Paddle Sports being selected as the Business of the Month for December 2015. Heather Johnson, CEO of the Chamber of Commerce presented Keli with a Certificate of Appreciation from the Chamber.

Employee of the Month - Archie Rempher

Director of Public Works and Engineering Services Brad Fowler provided remarks about Archie Rempher. He explained that Archie oversees all the construction projects in the City, particularly the recently completed PCH/Del Prado Street Improvement Project. He reported that every single Public Works Capital Improvement project that Archie has managed has been completed on time and under budget. Mayor Olvera presented

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

Archie with a Certificate of Recognition for being selected the Employee of the Month for December 2015.

**CONSENT CALENDAR**

A member of the Public removed Item #11 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON CONSENT CALENDAR, WITH THE EXCEPTION OF ITEM #11.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro-Tem John A. Tomlinson and Mayor Carlos N. Olvera

NOES: None

**1. WAIVE THE READING OF ORDINANCES AND APPROVE READING BY TITLE ONLY**

APPROVED THE READING BY TITLE ONLY OF ALL ORDINANCES ON THE CONSENT CALENDAR AND THAT FURTHER READING OF SUCH ORDINANCES BE WAIVED

**2. SPECIAL MEETING MINUTES, NOVEMBER 11, 2015**

APPROVED THE MINUTES.

**3. REGULAR MEETING MINUTES, NOVEMBER 17, 2015**

APPROVED THE MINUTES.

**4. PLANNING COMMISSION MEETING MINUTES, NOVEMBER 9, 2015**

RECEIVED AND FILED.

**5. PLANNING COMMISSION ACTIONS, MEETING OF NOVEMBER 23, 2015**

RECEIVED AND FILED.

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

**6. YOUTH BOARD MINUTES, NOVEMBER 5, 2015**

RECEIVED AND FILED.

**7. TRAFFIC IMPROVEMENT SUBCOMMITTEE MINUTES, AUGUST 19, 2015**

RECEIVED AND FILED.

**8. TOURISM BUSINESS IMPROVEMENT DISTRICT MINUTES, OCTOBER 21, 2015**

RECEIVED AND FILED.

**9. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**

RECEIVED AND FILED.

**10. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**11. AWARD OF CONTRACTS FOR THE MAINTENANCE OF PARK AND FOR THE MAINTENANCE OF LANDSCAPED MEDIANS AND PARKWAYS**

A member of the public removed this item from the Consent Calendar.

Mayor Olvera opened for Public Comments.

Toni Nelson, Capistrano Beach, co-founder of Capo Cares, reported that the residents of Capistrano Beach are pleased and thankful for Brian McClure and Kevin Evans with the events and attention that Capistrano Beach received during the tree lighting event. She would like to encourage the City Council to allocate the cost savings from the new contract with The Soto Company to landscaped areas in Capistrano Beach; first to the median improvements in Doheny Village and to the entrances throughout the community including Camino Capistrano, Via Canon, Palisades and Via California. She further requested that any remaining funds be allocated to neighborhood medians and park improvements that are not already budgeted.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER TO AWARD A CONTRACT TO THE SOTO COMPANY FOR \$521,560 PER YEAR FOR LANDSCAPE MAINTENANCE SERVICES FOR THE CITY PARKS; AND AWARD ANOTHER CONTRACT TO THE SOTO COMPANY FOR \$490,835.99 PER YEAR FOR

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

LANDSCAPE MAINTENANCE SERVICES FOR THE CITY'S MEDIANS AND PARKWAYS.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro-Tem John A. Tomlinson, and Mayor Carlos N. Olvera

NOES: None

**12. COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2015**

RECEIVED AND FILED THE COMPREHENSIVE ANNUAL FINANCIAL REPORT ("CAFR") FOR THE YEAR ENDED JUNE 30, 2015.

**13. PROFESSIONAL SERVICES AGREEMENT FOR SUPPLEMENTAL DEVELOPMENT COUNTER AND INSPECTION SERVICES**

AUTHORIZED AND DIRECTED THE CITY MANAGER TO EXECUTE THE SECOND AMENDMENT WITH THE CONSULTANT.

**PUBLIC COMMENTS**

Rene Cortez, Dana Point, spoke on behalf of the Gene Burrus family for the celebrations of Gene Burrus' life. He thanked Mayor Olvera, the City Council, Kevin Evans and members of the Parks staff for their contributions and participation. He thanked Council Member Schoeffel for playing at one of the events and for presenting the family with a certificate from OC Supervisor Lisa Bartlett's office.

Barbara Johannes, Dana Point and President of the Dana Point Historical Society, spoke on behalf of the Historical Society. She extended an invitation to the community and members of the City Council to join OC Supervisor Lisa Bartlett at the dedication of Dana Bi-centennial Commemorative Plaque on Sunday, December 6, 2015 at 1:30 pm at the Richard Henry Dana Statue on Harbor Island in Dana Point Harbor. She announced that there would be a holiday reception following.

Enzo Scoqnamiglio, Laguna Hills, member of Dana Point Chamber of Commerce, extended a note of congratulations to all for the Turkey Trot. He extended his appreciation to the Mayor and members of the Council for the Lantern District project as well as the Summer Weekend Trolley Service. He thanked Mayor

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

Olvera for his support for local small business. He recognized the Mayor for his dedication to the Chamber of Commerce and the small businesses of Dana Point. He presented, on behalf of the local small businesses and the Chamber of Commerce, the Mayor with a Certificate of Appreciation.

## **PUBLIC HEARINGS**

### **14. DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT ANNUAL REPORT AND RENEWAL FOR 2016**

City Manager Chotkevys introduced the item and Assistant City Manager Killebrew provided the Tourism Business Improvement District Annual Report.

Mayor Olvera opened the Public Hearing

Harold Kaufman, Dana Point, stated that he was in favor of the TBID and felt that the concept was great; execution not so great. He added that the Annual report only shows intent of what the TBID is going to do and he would like the report to show the expenses and accomplishments. He suggested that the TBID reorganize to include two members of the Council, a member of Chamber, a member of the Harbor association, a member of the community and a professional marketer. He encouraged the City to continue the \$3 assessment for the hotel rooms and consider a \$1 assessment at the hotels that have less than 150 rooms. He stated that tourism is important for the City and should benefit all the businesses in the City.

Mayor Olvera closed the Public Hearing.

Staff responded to questions from the Council.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, TO CONDUCT A PUBLIC HEARING AND ADOPT **RESOLUTION 15-12-01-01** ENTITLED:

*A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE 2016 ANNUAL REPORT AND DECLARING THE INTENTION OF THE COUNCIL TO CONTINUE THE PROGRAM AND ASSESSMENTS FOR THE 2016 CALENDAR YEAR FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID).*

The motion carried by the following vote:

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro-Tem John A. Tomlinson, and Mayor Carlos N. Olvera

NOES: None

**UNFINISHED BUSINESS**

**15. ELECTION CODE SECTION 9212 REPORT**

City Manager Chotkevys provided an introduction to the item and Director of Community Development Luna-Reynosa presented a staff report.

City Attorney Munoz provided a summary of the legal analysis.

Kathy Head, Managing Principal with Keyser Marston Associates, provided a presentation regarding the Town Center Initiative.

Council Member Muller asked Ms. Head to provide an explanation of how she reached her numbers that were provided in her report for the market analysis.

Ms. Head replied that a Market analysis for Town Center was created by using prototypes or prototypes/characteristics using development costs, to determine the land values.

Council Member Muller asked Ms. Head how many of these analyses has she performed.

Ms. Head replied that she has done hundreds, if not thousands. She has been doing this work for 32 years.

Council Member Muller asked Ms. Head of her background prior to doing these analyses.

Ms. Head replied that she holds an MBA Real Estate Finance and a Masters in Planning.

Mayor Olvera opened Public Comments.

Betty Hill, Capistrano Beach, she stated that the Initiative gives the residents of Dana Point a voice on the development of the Town Center, but what it doesn't do is change the intent of the development of a Local Business District or the desired land use diversity. She added that the City is ignoring the plan and leaves the City open to special deals with property owners and developers, litigation and the influence of campaign donations. She stated that with or without the Initiative, development will take years. She stated that the Town Center Initiative will keep residents involved and allow the City to move forward with transparent and responsible development.

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

Toni Nelson, Capistrano Beach, stated that she doesn't understand the Initiative. She added that the cost to the taxpayers, by her calculations say that it would take 32 years to get our money back and doesn't understand what the citizens of Dana Point received for this exchange. She was concerned that there would not be enough money for Doheny Village.

Mayor Olvera closed the Public Comments.

IT WAS MOVED BY MAYOR CARLOS N. OLVERA, SECONDED BY MAYOR PRO-TEM JOHN A. TOMLINSON, THAT THE CITY COUNCIL RECEIVE AND FILE THE REPORT.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro-Tem John A. Tomlinson and Mayor Carlos N. Olvera

NOES: None

**16. THE 2015 TOWN CENTER INITIATIVE EITHER ADOPT THE INITIATIVE ORDINANCE OR CALL A SPECIAL ELECTION**

City Manager Chotkevys invited City Attorney Munoz to provide an overview of the staff report.

City Attorney Munoz provided an overview of the report and explained the options that are before the City Council tonight.

Council Member Schoeffel asked City Attorney Munoz if the argument for and opposition against is in equal length, in word length.

City Attorney Munoz replied yes.

Council Member Viczorek asked the City Attorney if the rebuttal was optional.

City Attorney Munoz replied, yes, the Council must decide tonight on whether or not to allow rebuttals. If the Council adopts a resolution to allow rebuttal, it will carry from this point forward for all elections.

Council Member Viczorek asked if there is a sur-rebuttal or is it simply a rebuttal.

City Attorney Munoz replied, no there is not. He added that if the City Council votes tonight to allow rebuttals, there would be presumably an argument in favor; presumably an argument in opposition; presumably a rebuttal argument to the argument in favor and presumably a rebuttal to the argument in opposition and that would be the end of it. He added that the



**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

rebuttals would be printed in the election pamphlet that you get when you go to the polling place.

Mayor Pro Tem Tomlinson asked if it was possible to break this all down in steps to take. Or does this all have to be decided all in one manner.

City Attorney Munoz replied that Staff could walk you through it in steps and that the first step is if City Council wants to adopt the Ordinance or if City Council wants to put it out for election. He added, once that decision is made, Staff can walk through all the other steps. All the other steps are not necessary if you decide to adopt the Ordinance.

Mayor Olvera opened the Public Comments.

Steve Stewart, Dana Point, stated that he attended the talk that morning at the Niguel Shores Men's Club where Council Member Muller provided a presentation. He stated that Council Member Muller outlined why the residents should not be in favor of the initiative and had made a lot of points about the parking plan. He stated that by supporting the initiative he doesn't want to go back to the Coastal Commission because it would slow down development. He added that he feels the Majestic project is a prime example of why the initiative was created. He commended the Turkey Trot and felt it was a great event.

Richard Gardner, Capistrano Beach, stated that he has followed the Town Center project for years, since its inception. He added that it appeared that it was a great plan, and he felt troubled that the people had to come to this initiative stage, and it was the parking initiative that was the cause reason.

Sandi Iverson, Dana Point, asked where was this case study was in 2008 before the City submitted it to the Coastal Commission, and questioned what the Town Center Subcommittee members did that was so wrong before it went to the Coastal Commission. She stated that the Initiative was simply the 2008 Town Center Master Plan word-for-word with a few caveats of story polling so that the residents could see how massive and high a building would be. She asked the Council to keep following the plan, but if there was change that needed to be made, please do it before we have three huge 4-story buildings taking over the landscape in town and not having anything in common with nice coastal vibe.

Paul Hinman, Dana Point, stated that his longevity was an indication of how much he loves this City. He brought to the Council's attention to two articles that appeared in the LA Times: one on November 13th titled "Ground Zero and the Battle on Growth" and one on November 23rd titled "Building Backlash" and summarized the articles for Council as he felt that it was analogous to the situation here in Dana Point. He urged the Council to vote on the Initiative tonight and save the City from the added cost of an election.

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

Mayor Olvera closed the Public Comments.

Mayor Pro-Tem Tomlinson stated that after reading the KMA report that he would have trouble if we just immediately passed the initiative, and in his opinion think that it would be better for the citizens of Dana Point and for them to make the decision.

Mayor Olvera agreed with Mayor Pro-Tem Tomlinson, and he stated that he felt the people should be the ones to vote on it.

Council Member Muller stated that he would like to clarify a statement made by Mr. Stewart. He added that there is a lot of emotion around this, and that not taking the recommendation from staff to send this to the residents would be really irresponsible. He stated he could not support adopting the Ordinance tonight.

Mayor Olvera made a motion not to adopt the Initiative and that it be sent to the voters for decision, which was seconded by Council Member Muller.

Council Member Schoeffel asked Mayor Olvera for clarification on his motion.

Mayor Pro Tem Tomlinson asked for further clarification from the City Attorney if the motion on the floor is correct for the action.

City Attorney Munoz replied that as he understands the motion that it was correct if that was the action that the Council would like to take.

Council Member Viczorek stated that he would like to propose an Amended motion that the City Council adopt Action 1B.

Mayor Olvera accepted the substitute motion.

IT WAS MOVED BY COUNCIL MEMBER RICHARD A. VICZOREK, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, TO ADOPT **RESOLUTION 15-12-01-02** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ORDERING, CALLING, PROVIDING FOR AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION TO BE CONSOLIDATED WITH THE JUNE 7, 2016 REGULAR ELECTION, FOR THE SUBMISSION TO THE VOTERS OF A QUESTION RELATING TO AMENDING THE TOWN CENTER PLAN.*

The motion carried by the following vote:

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro-Tem John A. Tomlinson, and Mayor Carlos N. Olvera

NOES: None

City Attorney stated the next steps are whether or not the Council would like to direct the City Attorney to prepare an impartial analysis.

IT WAS MOVED BY COUNCIL MEMBER RICHARD A. VICZOREK, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, TO DIRECT THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro-Tem John A. Tomlinson, and Mayor Carlos N. Olvera

NOES: None

City Attorney stated that the next steps the Council needed to take that is outlined in the staff report is whether or not the Council, per Election Code Section 9282, wishes to authorize an argument in opposition to the initiative.

Council Member Schoeffel stated that it was a Democratic process and thinks that there should be two sides to the issue. He added that it was important that the City has an opportunity to lodge an opposition that whoever on City Council deems it to be acceptable to them. He stated that the real question was the process by which this occurs. He added that he would support a motion to delegate the writing process to two Council members and would subscribe to it or not and include that process as part of his motion.

Mayor Olvera states that there was a motion to adopt the submittal of an argument in opposition to the Town Center and giving related direction to staff on how to proceed.

City Attorney Munoz stated to clarify the action that is being taken by the Council is that of which Council Member Schoeffel has recommended to have two members of the Council to prepare the arguments and whoever wants to sign it can sign it, and it would not have to come back to Council for further discussion and deliberation.

Mayor Olvera asked City Attorney Munoz if the City Council appoint the people now.

---

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

City Attorney Munoz replied at some point City Council would need to. He stated that the current motion does not include who the people will be, but the City Council could vote on the motion and then come back and decide who those people will be.

Council Member Muller stated that he would like to second Council Member Schoeffel's motion with the caveat that it be the Mayor and Mayor Pro Tem be appointed.

Council Member Schoeffel accepted the proposed motion as mentioned by Council Member Muller.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, TO APPOINT THE MAYOR AND MAYOR PRO TEM TO PREPARE THE ARGUMENT IN OPPOSITION TO THE 2015 TOWN CENTER INITIATIVE AND DIRECT STAFF HOW TO PROCEED

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro-Tem John A. Tomlinson, and Mayor Carlos N. Olvera

NOES: None

City Attorney Munoz stated that the next step to take was, pursuant to Election Code Section 9285(b), if the Council would like to allow for rebuttal arguments by formal adoption of Resolution.

Council Member Muller made a motion to not allow rebuttal arguments as he felt they weren't necessary for this.

The motion failed due to lack of second.

Council Member Schoeffel proposed a motion to comply with the Election Code and permit for rebuttal arguments, which was Seconded by Mayor Pro Tem Tomlinson.

Mayor Olvera asked if the City Council had additional comments prior to voting.

Council Member Viczorek asked if there was additional cost to process the rebuttal arguments or if there would be an increase in costs.

City Attorney Munoz replied that it would be included in the cost.

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

Council Member Viczorek agreed with Council Member Schoeffel and felt that voices needed to be heard from each side.

Mayor Pro Tem Tomlinson asked City Attorney Munoz if rebuttals were to be admitted, what elections this would apply to.

City Attorney Munoz replied all future elections where you are voting on an initiative measure that was being proposed by a petition would now allow rebuttal arguments until Council repeals it.

Mayor Pro Tem Tomlinson asked City Attorney Munoz if this only applied to initiative measures.

City Attorney Munoz replied yes.

Council Member Muller asked if this passes who would write the rebuttal, would it be the Mayor and Mayor Pro Tem.

Mayor Olvera replied yes.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR PRO-TEM JOHN A. TOMLINSON, TO ADOPT **RESOLUTION 15-12-01-13** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING THE PROVISIONS OF ELECTIONS CODE SECTION 9285(A), AND THEREBY PERMITTING THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES.*

The motion carried by the following vote:

AYES: Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro-Tem John A. Tomlinson, and Mayor Carlos N. Olvera

NOES: Council Member Joseph L. Muller

City Attorney stated the last item was a motion to appropriate \$50,000 from the General Fund to the City Clerk Professional Services account (31-2230) for election services.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR PRO-TEM JOHN A. TOMLINSON, TO APPROPRIATE \$50,000, FROM THE GENERAL FUND UNASSIGNED RESERVE TO THE CITY CLERK PROFESSIONAL ACCOUNT (31-2230) FOR ELECTION SERVICES.

The motion carried by the following vote:

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro-Tem John A. Tomlinson, and Mayor Carlos N. Olvera

NOES: None.

**NEW BUSINESS**

There were no New Business items.

**PUBLIC COMMENTS**

There were no additional Public Comments received.

**CITY COUNCIL REORGANIZATION**

**A. COUNCIL REORGANIZATION**

Mayor Olvera stated in accordance with City Council Policy 117, the City Clerk shall open nominations for Mayor at the first regularly held meeting in December. Mayor Olvera invited City Clerk Ward to open nominations.

IT WAS MOVED BY MAYOR CARLOS N. OLVERA, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, TO NOMINATE MAYOR PRO TEM TOMLINSON FOR MAYOR.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro-Tem John A. Tomlinson, and Mayor Carlos N. Olvera

NOES: None.

Mayor Tomlinson opened nominations for Mayor Pro Tem.

IT WAS MOVED BY MAYOR PRO-TEM JOHN A. TOMLINSON, SECONDED BY MAYOR CARLOS N. OLVERA, TO NOMINATE COUNCIL MEMBER VICZOREK AS MAYOR PROTEM.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro-Tem John A. Tomlinson, and Mayor Carlos N. Olvera

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

NOES: None

**B. RECOGNITION OF OUTGOING MAYOR**

Wayne Yost, Sr. Vice Commander VFW Post 9934 Dana Point, reported that due to the dedication of Mayor Olvera, Council Members, Dana Point Staff in support of the VFW Post 9934 is on its way to receiving All American Post for 6 years in a row. He stated that only the top 25 posts receive the honor. Sr. Vice Commander Yost thanked the Mayor, Council and Staff for their support of the veterans and their families, and presented Mayor Olvera with the Post's Award from 2014-15.

Recognition and appreciation comments made by new Mayor Tomlinson. He thanked Council Member Olvera for all his and Georgeline's hours of service this year.

Assemblyman Bill Brough commented on Council Member Carlos N. Olvera's tenure as Mayor. He commented on the 2 of the 3 issues that he wanted to do while on City Council and commended Council Member Olvera on his accomplishments and within the timeframe he had done it.

Mayor Tomlinson presented Council Member Olvera with a plaque.

**STAFF REPORTS**

City Manager Chotkevys congratulated both new Mayor Tomlinson and Mayor Pro Tem Viczorek on their new positions on Council. City Manager Chotkevys commended Rene Cortez for his strength in coming before Council to speak on behalf Gene Burrus' family, and thanked him for all he does for our town and for his heartfelt words.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Munoz reports the Council made a unanimous vote this evening to authorize an appeal in the matter of the City vs. Coastal Commission. City Attorney Munoz stated that they will work diligently on the appeal.

Mayor Tomlinson asked is a special meeting will need to be called on this matter. City Attorney Munoz replied there may be at a future time. As the City progresses, there may need have a need for Closed Session.

City Manager Chotkevys added that he, along with City Attorney Munoz will reach out to the Mayor when a Closed Session will need to be called.

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

**COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED**

Council Member Schoeffel wished everyone Happy Holidays, and to stay safe and have lots of fun.

Mayor Pro Tem Viczorek thanked Council Member Olvera for service this year; and congratulated incoming Mayor Tomlinson. He thanked fellow members of the Council for the appointment of Mayor Pro Tem.

Council Member Muller thanked Council Member Olvera for his service this year as Mayor. He congratulated both the new Mayor Tomlinson and Mayor Pro Tem Viczorek. He wished everyone a safe holiday season.

Council Member Olvera thanked everyone for the recognition. He congratulated the new Mayor and Mayor Pro Tem. He thanked Mr. Yost, and Mr. Brough and the City.

Mayor Pro Tem Viczorek, Council Member Muller and Council Member Olvera reported that they would turn in their list of meetings attended to the City Clerk.

Mayor Tomlinson reported that he attended the Turkey Trot for the first time. He stated that he was very impressed with the way the event was run, and thanked the City for their hard work on this 5-Star Event. He thanked Director Evans and staff for the tree-lighting ceremony in Capistrano Beach for re-instating the event. He thanked CapoCares for making that event happen.

**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Tomlinson adjourned the meeting at 9:00 p.m. and announced that the next Regular Meeting of the City Council the next Regular Meeting of the City Council will be January 19, 2016, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

**RECEPTION**

REFRESHMENTS WERE SERVED - THE PUBLIC WAS INVITED.



---

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 1, 2015**

---

Meetings attended since November 17, 2015:

**Mayor John A. Tomlinson**

November 26 - Turkey Trot  
November 30 - Capistrano Beach Tree Lighting Ceremony

**Mayor Pro Tem Richard A. Viczorek**

November 20 - Smart & Final Turkey Donation to Family Assistance Ministries  
November 22 - Gene Burris Celebration of Life – Del Obispo Community Park  
November 26 - Dana Point Turkey Trot

**Council Member Joseph L. Muller**

November 19 - Orange County Fire Authority  
November 20 - Chamber Turkey Donations, Smart and Final  
November 30 - Coastal Commission Meeting, San Francisco  
December 1 - Niguel Shores Men's Club

**Council Member Carlos N. Olvera**

November 19 - Vector Control  
November 25 - Water Sewer Subcommittee  
November 26 - Turkey Trot

**Council Member J. Scott Schoeffel**

November 18 - Transportation Corridor Agencies Joint Finance and Investments Committee  
November 19 - Transportation Corridor Agencies Joint Strategic Planning Ad Hoc Committee  
November 20 – Perform at private memorial service for Gene Burris at Dana Point Community Center  
November 22 - Perform and speak at public memorial service for Gene Burris at the Dana Point Community Center ball fields  
November 25 - Dana Point Water and Sewer Committee meeting