
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
JUNE 21, 2016**

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Tomlinson at 5:01 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Present: Mayor John A. Tomlinson
Mayor Pro Tem Richard A. Viczorek
Council Member Joseph L. Muller
Council Member Carlos N. Olvera
Council Member J. Scott Schoeffel
Absent: None

CLOSED SESSION

City Attorney Munoz indicated that there was a need for a Closed Session as follows:

- A. CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d1), 3 cases
- 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

Mayor Tomlinson recessed the meeting into a Closed Session at 5:01 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING - CALL TO ORDER

Mayor Tomlinson reconvened the meeting at 6:19 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Mike Killebrew, Assistant City Manager; Kathy Ward, City Clerk; Mike Rose, Director of Disaster Preparedness; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Brad Fowler, Director of Public Works and Engineering; Rachel Johnson, Assistant Administrative Analyst; Kelly Reenders, Economic Development Manager; Brian McClure, Interim Director of Community Services and Parks; Mark Sutton, Building Official; Sean Vogt, Natural Resource Protection Officer; Shelley Velez, Senior Personnel

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Analyst; Jeff Rosaler, Management Analyst; Jackie Littler, Executive Assistant; DyAnne Weamire, Senior Administrative Assistant, and Bobbi Ogan, Deputy City Clerk.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Schoeffel.

INVOCATION

The Invocation was provided by Orange County Fire Authority Chaplain Jeff Hetschel.

PRESENTATIONS AND PROCLAMATIONS

Business of the Month – Beach Cities Glass, Inc.

Assistant Administrative Analyst Johnson provided a PowerPoint presentation regarding Beach Cities Glass. She reported that Doug Lowe opened Beach Cities at the age of 24 in 1977. She stated that Beach Cities Glass has been a proud member of the Chamber for many years. Mayor Tomlinson presented a Certificate of Recognition to Doug Lowe for Beach Cities Glass being named Business of the Month for June 2016. Heather Johnston presented Doug with a Certificate on behalf of the Chamber of Commerce.

Employee of the Month – Aaron Rosen

Mike Rose provided comments regarding Aaron Rosen. He stated that he first met Aaron while he worked for Doctors Ambulance when they provided medical response for our Dana Point Grand Prix. He added that eight years later when the Emergency Services Coordinator position became available, Aaron applied. He stated that Aaron has done a great job for the City. Mayor Tomlinson presented Aaron with a Certificate of Recognition for being selected the Employee of the Month for June.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz announced that the City Council has made the decision to participate in a county wide effort to pursue what is called an unfunded mandates claim against the State to reimburse the City for costs associated with new regulations that have been imposed related to water quality and the City Council had voted 5-0 in favor of initiating litigation on that matter. He provided a PowerPoint presentation regarding sober living homes. He reported that the City Council had authorized his office to file two lawsuits which will be our test cases to pursue this issue. He stated that the core legal theories that Rutan will be pursuing are if you are supposed to have a license but you do not then you are in violation of the law and if you are providing treatment at a facility and you do not have a license and you should have a license that is a violation of the law. He added that as appropriate, we will be looking to enforce the City's home occupancy law. He stated that the City Council had authorized his office in a general way to bring lawsuits against operators that fit within these parameters on these types of lawsuits. He added that the City Council directed his office to work with the District Attorney in an effort

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to be authorized to file business and professional code cases against these operators. He reported that the City Council had specifically authorized Code Enforcement activity against one particular licensed facility where we have reason to believe that they are not in compliance with their licensing requirements. He stated that the City Council had directed staff to conduct a study session with the idea that it would be a public forum where staff can explain in further detail exactly what is being done with these cases as well as receive other ideas from the public that could be done within the parameters of the law.

CITY MANAGER REPORT

City Manager Chotkevys stated that with regard to Measure H that City Clerk Ward is in daily dialogue with the Registrar's office as to when the final ballot count will be reached and the election will be certified. He added that they are still counting ballots and expect that process to be completed by the end of the month and shortly thereafter the City should receive the certification notice. He stated that he and the Mayor have been discussing agendizing a City Council meeting where the Council can accept the certification and then direct staff to process an LPCA as appropriate for Measure H with the Coastal Commission. He added that once the LPCA goes to the Coastal Commission it would be out of the City's hands, as the Commission sets their own schedule and determines how they will review the document as well as seek any additional information as needed.

City Manager Chotkevys provided a report on Code Enforcement cases in the City and City Attorney Munoz supplied the details of the cases the City Attorney's office has been handling. He stated that his office handles cases that come through the Sheriff's Department and the Code Enforcement Department on behalf of the City Council. He reported that through May 31, 2016 his office has filed 20 misdemeanor complaints on behalf of the Sheriff's Department and 12 infraction complaints on behalf of Code Enforcement which have resulted in 32 guilty verdicts through either plea bargain or trials. He added that of the 32 guilty verdicts, persons have spent 218 days in custody. He stated that since January there have been 13 Code Enforcement cases where 3 of the cases have resulted in a warrant for inspection or abatement of property, 1 receivership action was filed, and 7 cases were resolved by administrative effort.

Mayor Tomlinson thanked the voters for turning out for the recent election and congratulated the proponents of Measure H on their victory. He stated that he will work with the City Manager to agendize the item to move it forward to the Coastal Commission.

Council Member Muller stated that he did not think he would be able to attend the meeting in July, but that the item would have his support if on the agenda. He congratulated all who had worked on Measure H and stated that it was amazing to see the effort that was put into this. He felt that the goals were still the same for the area with shops and restaurants.

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CONSENT CALENDAR

Members of the Public removed Items 16, 23, 24; Council Member Muller removed Item 13, Council Member Schoeffel removed Item 26, and Mayor Pro Tem Viczorek removed Items 11, 15, 18, 19, and 22 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER CARLOS N. OLVERA, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 11, 13, 15, 16, 18, 19, 22, 23, 24, AND 26.

The motion carried by the following vote:

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

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. REGULAR MEETING MINUTES, MAY 3, 2016

APPROVED THE MINUTES.

3. SPECIAL MEETING MINUTES, MAY 11, 2016

APPROVED THE MINUTES.

4. REGULAR MEETING MINUTES, MAY 17, 2016

APPROVED THE MINUTES.

5. PLANNING COMMISSION MEETING MINUTES, MAY 9, 2016

RECEIVED AND FILED.

6. PLANNING COMMISSION ACTIONS, MEETING OF JUNE 13, 2016

RECEIVED AND FILED.

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7. **TRAFFIC IMPROVEMENT SUBCOMMITTEE ACTION MINUTES, NOVEMBER 18, 2015**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

9. **CITY TREASURER'S REPORT, APRIL 2016**

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF APRIL 2016.

10. **CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

11. **RESOLUTION AMENDING THE CITY'S ICMA 457 DEFERRED COMPENSATION PLAN TO PERMIT LOANS**

Mayor Pro Tem Viczorek removed this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Mayor Pro Tem Viczorek asked if this was being proposed to bring the City in line with the private sector and to attract better talent to the City.

Assistant City Manager Killebrew replied that this option had been available since the City's incorporation but the City never enacted this. He stated that it would be the employee's money that they are borrowing and would be paying it back at a reduced rate.

IT WAS MOVED BY MAYOR PRO TEM RICHARD A. VICZOREK, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL ADOPT **RESOLUTION 16-06-21-08** AMENDING THE INTERNATIONAL CITY MANAGER ASSOCIATION RETIREMENT CORPORATION (ICMA_RC) TO PERMIT LOANS ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING THE ICMA-RC 457 DEFERRED COMPENSATION PLAN TO PERMIT LOANS; AND

AUTHORIZE THE CITY MANAGER TO EXECUTE THE LOAN ADMINISTRATION AGREEMENT.

The motion carried by the following vote:

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

NOES: None

12. AMENDMENT TO RESOLUTION TO 89-10-10-02, NATURAL RESOURCES PROTECTION OFFICER CLASS SPECIFICATION, AND SENIOR BUILDING INSPECTOR SALARY RANGE; AND ADOPTION OF CLASS SPECIFICATION AND SALARY RANGE FOR PRINCIPAL PLANNER

ADOPTED **RESOLUTION 16-06-21-01** AMENDING RESOLUTION NO. 89-10-10-2 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING CERTAIN CITY EMPLOYEES TO ISSUE CRIMINAL CITATIONS FOR VIOLATIONS OF THE DANA POINT MUNICIPAL CODE AND RELATED DOCUMENTS; and

APPROVED THE AMENDED NATURAL RESOURCES PROTECTION OFFICER JOB DESCRIPTION; AUTHORIZED THE EXECUTION OF A SIDE LETTER OF AGREEMENT WITH THE DPEA RELATING TO THE SENIOR BUILDING INSPECTOR SALARY RANGE; AND

ADOPTED **RESOLUTION 16-06-21-02** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING THE SENIOR BUILDING INSPECTOR SALARY RANGE, AND ESTABLISHING A CLASS SPECIFICATION AND SALARY RANGE FOR PRINCIPAL PLANNER.

13. DOHENY VILLAGE PLAN UPDATE

Council Member Muller removed this item from the Consent Calendar.

Director Luna-Reynosa provided a staff report.

Council Member Muller stated that he was concerned about the parking plan and felt that the City should take a step back and look at other options.

City Manager Chotkevys stated that staff understands the expectations of the residents and will take a step back to re-examine the parking.

Council Member Schoeffel asked when Council could expect an executive summary of the form based committee meetings.

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Director Luna-Reynosa replied that a memo could be prepared with the details. She explained that they were more of a working session where people were put into groups and given pretend projects.

City Manager Chotkevys stated that staff should be able to work with Opticos to put together a summary.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, THAT THE CITY COUNCIL RECEIVE AND FILE THE UPDATE AS WELL AS DIRECT STAFF TO PROVIDE AN EXECUTIVE SUMMARY OF THE CODE BASED MEETINGS THAT WERE HELD.

The motion carried by the following vote:

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

NOES: None

14. CALLING FOR A GENERAL MUNICIPAL ELECTION ON NOVEMBER 8, 2016 TO FILL TWO CITY COUNCIL SEATS

ADOPTED RESOLUTION 16-06-21-03 ENTITLED:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016 FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES; and

RESOLUTION 16-06-21-04:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016 WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE; and

RESOLUTION 16-06-21-05:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE

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*OFFICE PERTAINING TO CANDIDATES' STATEMENTS SUBMITTED TO THE
VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016.*

15. ANNUAL APPROVAL OF THE SEVEN YEAR CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2016-2017 THROUGH FISCAL YEAR 2022-2023 AND AUTHORIZATION TO FORWARD RENEWED MEASURE M ELIGIBILITY DOCUMENTATION TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY

Mayor Pro Tem Viczorek removed this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Mayor Pro Tem Viczorek asked for clarification of the statement on page 2 of the staff report that failure to identify potential projects on the seven year CIP document would preclude grant funding applications. He asked if that meant if the City did not turn in anything or list something specifically that the City would not be eligible to spend the money on that particular project.

Director Fowler replied that if a project is not identified on this list, then it would have to wait until the next year to apply for grant funding. He stated that staff tries to include all of the transportation projects that people have suggested that the City do. He added that way when it comes time to apply for grant funding, those projects would qualify.

City Manager Chotkevys added that it allows for the City to plan for this year as well as put projects on the radar screen early.

Council Member Muller asked if funds could be reallocated to a higher priority project.

Director Fowler replied that if funds are received for a specific project, they must be used for that project.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER CARLOS N. OLVERA, THAT THE CITY COUNCIL ADOPT **RESOLUTION 16-06-21-09** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADOPTING THE SEVEN YEAR CAPITAL IMPROVEMENT PROGRAM FOR FY2016-17 THROUGH FY2022-23 AS REQUIRED BY THE OCTA RENEWED MEASURE M (M2) PROGRAM; AND

AUTHORIZE THE DIRECTOR OF PUBLIC WORKS AND ENGINEERING SERVICES TO FORWARD THE NECESSARY RENEWED MEASURE M ELIGIBILITY DOCUMENTATION TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY.

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The motion carried by the following vote:

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

NOES: None

- 16. SECOND READING AND ADOPTION OF ORDINANCE WITH CALIFORNIA COASTAL COMMISSION SUGGESTED MODIFICATIONS TO THE CITY'S APPROVED ZONE TEXT AMENDMENT ZTA13-0001, LOCAL COASTAL PROGRAM AMENDMENT LCPA13-0001; SPECIFIC PLAN AMENDMENT SPA13-0001, AND LOCAL COASTAL PROGRAM AMENDMENT LCPA13-0002 TO AMEND THE CITY'S ZONING ORDINANCE AND THE DANA POINT SPECIFIC PLAN TO ALLOW SHORT TERM RENTALS IN ALL ZONING DISTRICTS WHERE RESIDENTIAL USES ARE ALLOWED**

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

City Manager Chotkevys provided a staff report.

Mayor Tomlinson opened the Public Comments.

Betty Hill, Capistrano Beach, stated that she was concerned with what the Council intends to accomplish with the approval from the California Coastal Commission. She asked for clarification on whether this was intended only for the coastal zone including the Town Center area. She felt that the City should limit the number of vacation rentals allowed in a neighborhood.

Ann Romano, Capistrano Beach, read a letter on behalf of Toni Nelson sharing her concerns about vacation rentals which included asking the Council to protect and preserve the resident's right to quiet enjoyment of their homes.

Elizabeth Ray, Capistrano Beach, spoke regarding two Airbnb's that they own and stated that they have not had any issues. She stated that they pay their permit fee, ten percent of their gross every quarter and have their units inspected. She asked that the same requirements be applied to all of the short term rental homes.

Mayor Tomlinson closed the Public Comments.

Council Member Schoeffel stated that he was very familiar with the Ordinance. He added that since there was no time urgency on when a second reading had to be conducted, he asked if the item could be continued to allow staff time to prepare a response to the questions posed by the public.

City Attorney Munoz replied that there was no time urgency and stated that he could answer all of the questions that were posed by the public tonight.

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Council Member Schoeffel stated that he would prefer a document that everyone could read.

City Manager Chotkevys asked if Council Member Schoeffel was volunteering to work with staff to draft a response.

Council Member Schoeffel replied yes.

Mayor Pro Tem Viczorek asked if there were any legal ramifications by tabling the item.

City Attorney Munoz replied that the Ordinance does not become effective until 30 days after the 2nd reading.

City Manager Chotkevys stated that the earliest the item could return would be July 19.

Mayor Pro Tem Viczorek asked if this Ordinance only applies to the areas within the coastal zone.

City Attorney Munoz replied that the City Council adopted a business regulation that would apply to any vacation rental as well as a Zoning Ordinance that would apply to all residential areas of the City to allow that particular business to operate. He added that Zoning Ordinances within the coastal zone also require approval of the Coastal Commission and because the Ordinance applies citywide, the City needed the Coastal Commission's certification prior to it being effective.

City Manager Chotkevys added that anything in the coastal zone has to be approved by the Coastal Commission.

City Attorney Munoz stated that the Ordinance does apply to all zones in the City.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR JOHN A. TOMLINSON, THAT THE CITY COUNCIL TABLE THIS ITEM TO THE REGULAR MEETING OF JULY 19, 2016.

The motion carried by the following vote:

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

NOES: None

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- 17. ADOPT A RESOLUTION AUTHORIZING THE AGREEMENT AND ACCEPTANCE OF LOCAL ASSISTANCE GRANT FUNDS FROM THE STATE OF CALIFORNIA FOR THE ASSESSMENT OF PACIFIC POCKET MOUSE DISTRIBUTION AND RELATIVE ABUNDANCE WITHIN TWO CITY OF DANA POINT CONSERVATION PARKS (GRANT AGREEMENT NO. P1582107)**

ADOPTED RESOLUTION 16-06-21-06 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING THE AGREEMENT AND ACCEPTANCE OF LOCAL ASSISTANCE GRANT FUNDS FROM THE STATE OF CALIFORNIA FOR THE ASSESSMENT OF PACIFIC POCKET DISTRIBUTION AND RELATIVE ABUNDANCE WITHIN TWO CITY OF DANA POINT CONSERVATION PARKS (GRANT AGREEMENT NO. P1582107).

- 18. AMENDMENT OF CONSULTANT SERVICES AGREEMENT BY AND BETWEEN THE CITY OF DANA POINT AND INTERWEST CONSULTING GROUP**

Mayor Pro Tem Viczorek removed this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Mayor Pro Tem Viczorek stated that he wanted to understand the reason for the contract and asked if the City was short-staffed.

City Manager Chotkevys replied that for the last 18 months and the next 12 months yes, the City is short staffed and that was the reason we use contract staff.

Director Luna-Reynosa added that recruitments were currently in process for a couple of positions.

Mayor Pro Tem Viczorek asked if the contract would terminate after more staff is hired.

Director Luna-Reynosa replied that staff would still require the assistance if the City continues to receive the level of activity that we have been experiencing.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER CARLOS N. OLVERA, THAT THE CITY COUNCIL RATIFY THE AGREEMENT ENTERED BETWEEN THE CITY AND INTERWEST CONSULTING GROUP FOR PLANNING AND PROJECT MANAGEMENT SERVICES PREVIOUSLY EXECUTED BY THE CITY MANAGER PURSUANT TO HIS SPENDING AUTHORITY, AND AMEND THE AMOUNT OF THE AGREEMENT.

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The motion carried by the following vote:

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

NOES: None

19. ADOPT A RESOLUTION AUTHORIZING THE CITY OF DANA POINT TO SUBMIT THE COAST HIGHWAY CLASS 1 BIKEWAY/PEDESTRIAN WAY PHASE 2 PROJECT FOR THE OCTA BICYCLE CORRIDOR IMPROVEMENT PROGRAM (BCIP) GRANT

Mayor Pro Tem Viczorek removed this item from the Consent Calendar.

City Manager Chotkevys introduced the item and Director Fowler provided an overview.

Mayor Pro Tem Viczorek stated that he supports the project and asked if the amount could be spread out.

Director Fowler replied that staff is budgeting typically 3 Million a year in Capital Improvement Programs. He felt that there were sufficient CIP funds available to consider doing this project along with many of the other projects.

City Manager Chotkevys stated that it was important to point out that this project translates into safety for bicyclists and pedestrians.

Assistant City Manager Killebrew added that this project was on the City's list of projects to accomplish. He stated that if the City receives grant funds, staff would have to return to Council for approval.

Council Member Schoeffel stated that he loves this project because of the safety measures that it will provide.

Council Member Muller asked if there was any way to connect to the Doheny Village.

Director Fowler replied that staff had reviewed that possibility but it enters into the Caltrans right-of-way. He stated that the time and ability to work with Caltrans would preclude the City from receiving grant funding because you have to already have an agreement in place.

Mayor Tomlinson opened the Public Comments.

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Buck Hill, Capistrano Beach, stated that speaking from his experience that none of the local bicyclists take that route and he felt that this would not benefit the average Dana Point resident.

Betty Hill, Capistrano Beach, stated that she was concerned with adding more sidewalk and would prefer more landscaping. She added that she did not want State Parks to prohibit cyclists through the park if this project were completed.

Mayor Tomlinson closed the Public Comments.

Mayor Pro Tem Viczorek stated that he supports the concept of this and that the City was simply applying for grant funding.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER CARLOS N. OLVERA, THAT THE CITY COUNCIL ADOPT **RESOLUTION 16-06-21-10** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING THE CITY OF DANA POINT TO SUBMIT THE COAST HIGHWAY CLASS 1 BIKEWAY/PEDESTRIAN WAY PHASE 2 PROJECT FOR THE OCTA BICYCLE CORRIDOR IMPROVEMENT PROGRAM (BCIP) GRANT; AND AUTHORIZE THE CITY MANAGER TO SIGN ALL NEEDED DOCUMENTATION UNDER THE PROGRAM AS PREVIOUSLY APPROVED BY THE RESOLUTION INCLUDED AS SUPPORTING DOCUMENT B.

The motion carried by the following vote:

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

NOES: None

20. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE ANNUAL RESIDENTIAL ROADWAY RESURFACING PROJECT FY 14/15

ADOPTED RESOLUTION 16-06-21-07 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE PROJECT ENTITLED "ANNUAL RESIDENTIAL ROADWAY RESURFACING PROJECT FY 14/15"; and

AUTHORIZED THE FUNDING TRANSFERS NOTED IN THE FISCAL IMPACT SECTION; AND AUTHORIZED DAVID EVANS AND ASSOCIATES TO

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COMPLETE ADDITIONAL AS-NEEDED SURVEYING TO ADDRESS GENERAL SURVEYING, AND PREPARATION OF LEGAL DESCRIPTIONS (FOR EASEMENTS AND OTHER PURPOSES) CITYWIDE PER THE FISCAL IMPACT SECTION.

21. RENEWAL OF PROFESSIONAL SERVICES CONTRACT FOR INFORMATION TECHNOLOGY SERVICES

RENEWED A CONTRACT WITH THE CITY OF BREA (BREAIT) FOR CONTRACT INFORMATION TECHNOLOGY SERVICES; AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT FOR SAID PROFESSIONAL SERVICES.

22. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AMENDMENTS TO THE SECURITY DEPOSIT AMOUNT APPLICABLE FOR IDENTIFIED COVERED PROJECTS FOR THE CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING PROGRAM, AND RESCINDING RESOLUTION 03-12-10-04

Mayor Pro Tem Viczorek removed this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Mayor Pro Tem Viczorek asked why if the program was successful, why would staff want to change it.

City Manager Chotkevys replied that staff was proposing to change the amount of deposit required to incentivize the continued recycling of materials. He added that it is a deposit that is returned to the customer when their receipts are submitted.

Director Fowler clarified that staff was recommending a reduction in the amount of deposit required.

Mayor Pro Tem Viczorek stated that he did not see how reducing the fee would ensure success and asked how staff arrived at these numbers.

Director Fowler replied that staff reviewed what neighboring cities were charging and proposed our deposit to be consistent.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL ADOPT **RESOLUTION 16-06-21-11** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AMENDMENTS TO THE SECURITY DEPOSIT AMOUNT APPLICABLE FOR IDENTIFIED COVERED PROJECTS FOR THE

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*CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING PROGRAM AND
RESCINDING RESOLUTION 03-12-10-04.*

The motion carried by the following vote:

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

NOES: None

**23. FISCAL YEAR-END 2015-16 AND 2016-17 BUDGET UPDATE REPORT AND
RESOLUTION ESTABLISHING THE APPROPRIATIONS LIMITS FOR FISCAL
YEAR 2016-17**

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

City Manager Chotkevys introduced the item and Assistant City Manager provided
a staff report.

Mayor Tomlinson opened the Public Comments.

Buck Hill, Capistrano Beach, felt that staff had problems with forecasting and stated
that the City Council should receive more accurate information.

Mayor Tomlinson closed the Public Comments.

Assistant City Manager provided clarification on some of the comments that were
made by the public.

City Manager Chotkevys felt that the Council would not find a better financial mind
than Mr. Killebrew. He added that he was the previous CFO for the City of Long
Beach and has done more sophisticated bond underwritings than most investment
bankers. He stated that he did not want the Council or the public to think what was
being done was sloppy or mismanaged and that the Council was being given the
ability to make choices to program monies to meet the needs of the community. He
thanked Mr. Killebrew for the job he does for the City.

IT WAS MOVED BY COUNCIL MEMBER CARLOS N. OLVERA, SECONDED BY
COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL RECEIVE
AND FILE THIS FISCAL YEAR 2015-16 AND 2016-17 BUDGET ADJUSTMENT
REPORT AND AUTHORIZE THE BUDGET AMENDMENTS DETAILED WITHIN
THIS REPORT; AND ADOPT **RESOLUTION 16-06-21-12** ENTITLED:

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2016-2017.

The motion carried by the following vote:

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

NOES: Council Member J. Scott Schoeffel

24. FY 2016-17 LAW ENFORCEMENT SERVICES AGREEMENT

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

Mayor Tomlinson opened the Public Comments.

Stephen Wentrobski, Mission Viejo, felt that a thorough review of the contract should be provided to the public. He suggested asking for a report from the League of California Cities which contains cost saving recommendations.

Mayor Tomlinson closed the Public Comments.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR JOHN A. TOMLINSON, THAT THE CITY COUNCIL APPROVE THE LAW ENFORCEMENT SERVICES AGREEMENT WITH THE COUNTY OF ORANGE FOR LAW ENFORCEMENT SERVICES FOR THE 2016-17 FISCAL YEAR AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT.

The motion carried by the following vote:

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

NOES: None

25. FIRST AMENDMENT TO AGE WELL SENIOR SERVICES CONTRACT

AUTHORIZED THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO THE CONTRACT AGREEMENT WITH AGE WELL SENIOR SERVICES, INC. TO PROVIDE TRANSPORTATION SERVICES FOR THE SENIOR MOBILITY PROGRAM FOR AN ADDITIONAL FIVE YEARS.

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26. AMENDMENT OF CONSULTANT SERVICES AGREEMENT BY AND BETWEEN THE CITY OF DANA POINT AND NELSON/NYGAARD CONSULTING ASSOCIATES FOR SERVICES RELATED TO THE TRAFFIC IMPACT ANALYSIS FOR THE DOHENY VILLAGE PLAN ENVIRONMENTAL IMPACT REPORT

Council Member Schoeffel removed this item from the Consent Calendar.

City Manager Chotkevys introduced the item and Director Luna-Reynosa provided an overview.

Council Member Schoeffel asked if this contract was for traffic, not parking.
Director Luna-Reynosa replied yes.

Council Member Schoeffel asked if the \$20,000 was needed for a traffic analysis to be done to complete the EIR because of the comments made by the other jurisdictions.
Director Luna-Reynosa replied yes.

Council Member Schoeffel stated that he would support the item.

Mayor Pro Tem Viczorek asked if these changes were asked for by San Juan and Caltrans, are they able to delay the project and put the cost of that on us.

Director Luna-Reynosa replied that the project was being delayed because there is additional work that will require more time and as part of the environmental review process, the City is required to notice other adjacent cities and entities to provide them time to comment on proposed projects.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES BY AND BETWEEN THE CITY OF DANA POINT AND NELSON/NYGAARD CONSULTING ASSOCIATES.

The motion carried by the following vote:

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

NOES: None

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27. APPROVAL OF CONSULTANT SERVICES AGREEMENT BETWEEN THE CITY OF DANA POINT AND RSM DESIGN FOR SERVICES RELATED TO ECONOMIC DEVELOPMENT MARKETING

AUTHORIZED THE CITY MANAGER TO EXECUTE A CONSULTANT SERVICES AGREEMENT FOR DESIGN SERVICES BY AND BETWEEN THE CITY OF DANA POINT AND RSM DESIGN.

28. APPROVAL OF A CONTRACT WITH PAYMENTUS FOR AN INTERACTIVE VOICE RECOGNITION (IVR) SYSTEM FOR THE COMMUNITY DEVELOPMENT DEPARTMENT

AUTHORIZED THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PAYMENTUS TO PROVIDE THE CITY WITH AN INTERACTIVE VOICE RECOGNITION SYSTEM (IVR) FOR THE AUTOMATED SCHEDULING OF INSPECTION REQUESTS FOR BUILDING, PLANNING, AND PUBLIC WORKS.

29. AMENDMENT OF CONSULTANT SERVICES AGREEMENT BY AND BETWEEN THE CITY OF DANA POINT AND LILLEY PLANNING GROUP

AUTHORIZED THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES BY AND BETWEEN THE CITY OF DANA POINT AND LILLEY PLANNING GROUP.

PUBLIC COMMENTS

Paul Wyatt, Dana Point, spoke of the measures that were on the primary election and of the trust that needs to be rebuilt between the Council and the residents.

Penny Maynard, Dana Point, stated that she intends to run for City Council to continue to grow the Dana Point economy.

Mary Lou Rodearmel, Dana Point, spoke of dead vegetation that she has seen in the parks. She recommended that staff check the irrigation to ensure that it is working properly.

Julie Aros, Dana Point, spoke of sober living homes and asked for a census to be conducted to understand how many homes there are in the city. She asked for an Ordinance to be adopted restricting short term living units to designated areas, regulate the density on a given street, require business licenses for all group homes, as well as address second hand smoking issues.

Buck Hill, Capistrano Beach, thanked voters for their support of Measure H. He asked if a jump could be made on receiving approval of the Coastal Commission as he felt that they would not need a year to review the plan as it is not a new plan.

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Nancy Leonara, Dana Point, spoke regarding sober living facilities. She stated that she was concerned about a group home on her block and asked for increased patrol on the streets.

Cindy Fleming, Dana Point, stated that long term public parking was needed in the Lantern District. She asked the City to work with businesses to eliminate overflow into residential neighborhoods.

Heather Johnston, CEO Dana Point Chamber, thanked Council and staff for extending the trolley hours.

Sandie Iverson, Capistrano Beach, spoke regarding the measures and the funding behind each campaign.

Susan Hinman, Dana Point, stated that she was concerned with the contentious feel in the community. She felt that a better balance between the voters and the City Council was needed. She asked for Public Comments to be moved up in the agenda in the future.

Carol Kelly, Dana Point, stated that it the duty of the Planning Commission and City Council to protect the residents. She added that a parking structure needs to be addressed for the Town Center.

Patti Short, Dana Point, thanked the Council for serving the residents.

Mayor Tomlinson recessed the meeting at 9:20 p.m. and reconvened the meeting at 9:31 p.m.

PUBLIC HEARINGS

There were no Public Hearing items.

UNFINISHED BUSINESS

There were no Unfinished Business items.

NEW BUSINESS

30. APPEAL OF TRAFFIC IMPROVEMENT SUBCOMMITTEE ESTABLISHMENT OF BLUE LANTERN PREFERENTIAL PARKING DISTRICT

City Manager Chotkevys introduced the item and Director Fowler provided a staff report.

Council Member Schoeffel asked if the appellant was present.
Director Fowler replied no.

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Council Member Olvera asked if the homes on the west side of Blue Lantern have parking access on both Chula Vista and Blue Lantern

Director Fowler replied that they all have curb space on Blue Lantern.

Mayor Tomlinson opened the Public Comments.

Ladan Williamson, Dana Point, stated that she supports the establishment of the Blue Lantern Preferential Parking District and described the issues they have had with people parking in front of their home.

Eoin O'Cuilleainain, Dana Point, stated that he supports the parking district and described the parking issues they have had from overflow parking from the nearby businesses.

Craig Williamson, Dana Point, stated that he supports the parking district and described the issues they have encountered in front of their home.

Mayor Tomlinson closed the public comments.

Council Member Schoeffel felt that the Traffic Improvement Subcommittee did a great job with this one.

Mayor Tomlinson stated that he would support the item.

Mayor Pro Tem Viczorek congratulated the backers of Measure H. He stated that by supporting this he wanted it on the record that the Council was trying to take into account Measure H. He added that Measure I was to ratify the City's parking plan which was overwhelmingly rejected by the voters so now the Council is piecemealing the parking. He added that he supports the establishment of this parking district.

City Manager Chotkevys replied that staff is phasing it across so it can be managed and engaging the residents.

Council Member Muller shared the comments made by Mayor Pro Tem Viczorek. He stated that he does not like the piece meal approach and asked how the Council addresses a parking district that is no longer needed.

Council Member Schoeffel replied that the City Council could terminate the districts if they were not needed.

IT WAS MOVED BY COUNCIL MEMBER CARLOS N. OLVERA, SECONDED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, THAT THE CITY COUNCIL UPHOLD THE RESOLUTION OF THE TRAFFIC IMPROVEMENT SUBCOMMITTEE IN ESTABLISHING A RESIDENTIAL PREFERENTIAL PARKING DISTRICT ON A SECTION OF THE STREET OF THE BLUE LANTERN.

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The motion carried by the following vote:

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

NOES: None

PUBLIC COMMENTS

There were no additional Public Comments received.

STAFF REPORTS

There were no Staff Reports.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Olvera stated that he looks forward to moving ahead with a plan and reaching that with a common goal.

Council Member Muller thanked the people who came out to speak tonight. He reported that a group of firefighters were sent to San Diego to help with the fire and asked that people keep them in their prayers.

Mayor Pro Tem Viczorek stated that he would turn in his list of meetings attended to the City Clerk.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Tomlinson adjourned the meeting at 10:16 p.m. and announced that the next Regular Meeting of the City Council will be July 5, 2016, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.



KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF JULY 19, 2016

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Meetings attended since May 17, 2016:

Mayor John A. Tomlinson

May 22-25 - ICSC RECon
May 30 - Memorial Day Ceremony at Pines Park
June 9 - Dana Hills High School Graduation
June 13 - Ribbon Cutting for the Grand Opening of Coastal Kitchen
June 15 - Dana Point Trolley Photo

Mayor Pro Tem Richard A. Viczorek

May 19 - Ocean Institute Board of Directors Meeting
May 22-25 - ICSC RECon
May 30 - VFW Memorial Day Services
June 13 - Coastal Kitchen Ribbon Cutting
June 15 - Dana Point Trolley launch photographs

Council Member Joseph L. Muller

May 19 - Strands Homeowners
May 21 - Doheny Blues Fest
May 26 - Sailing and Events Center Meeting
OCFA Meeting
May 27 - SOCEC Meeting
May 30 - Memorial Day Services, Pines Park
May 31 - Dana Point Times Meeting
June 2 - Chamber Mixer
TCA SOCEC Meeting
June 9 - TCA Board Meeting
Dana Hills High School Graduation
June 13 - 5th Marine Regiment Golf Tournament
June 14 - Capo Cares
June 15 - Dana Point Trolley Unveiling
June 16 - League of Cities
June 20 - OCFA Meeting
TCA Mobility Workshop

Council Member Carlos N. Olvera

May 25 - Harbor Time Capsule Meeting
May 30 - Memorial Day Services
June 9 - Dana Hills High School Graduation
June 13 - Coastal Kitchen Ribbon Cutting
June 15 - Dana Point Trolley Promotion

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June 16 - Vector Control Meeting