
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
JULY 19, 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), (1 case)
- B. CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION, Government Code § 54956.9 (a), (2 cases) City of Dana Point, et al v Sobertec LLC, et al; Orange County Superior Court Case No. 30-2016-00859437-CU-MC-CJC; and City of Dana Point, et al v. Capo By the Sea, Inc; Orange County Superior Court Case No. 30-2016-00859426-CU-MC-CJC
- C. CONFERENCE WITH LABOR NEGOTIATOR, Government Code § 54957.6 Agency Designated Representatives: City Manager Unrepresented and Represented Employees: All positions in City
- D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957 Title: City Manager

Mayor Tomlinson recessed the meeting into a Closed Session at 5:02 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING - CALL TO ORDER

Mayor Tomlinson reconvened the meeting at 6:02 p.m. All Council Members were present.

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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; Matthew Schneider, Planning Manager; Brian McClure, Interim Director of Community Services and Parks; Mark Sutton, Building Official; DyAnne Weamire, Senior Administrative Assistant, and Bobbi Ogan, Deputy City Clerk.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that he had nothing to report.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Pro Tem Viczorek.

INVOCATION

The Invocation was provided by Associate Pastor Jens Christy of Capo Beach Church.

PRESENTATIONS AND PROCLAMATIONS

Business of the Month - Dana Point Auto Services

Assistant Administrative Analyst Johnson provided a PowerPoint presentation regarding Dana Point Auto Services. She reported that Richard Deffenbaugh had opened his business in June 1969 taking over the Richfield gas station and in 1986 grew to include repairs moving to their current location on Pacific Coast Highway. She stated that Dana Point Auto Services guarantees the quality of their work and has received five Golden Lantern Awards from the Dana Point Times for *Best Car Service* in Dana Point. She added that they have been a member of the Chamber of Commerce since 1971 and continue to support Dana Hills High School football and the Hobie Memorial Foundation. Mayor Tomlinson presented Richard with a Certificate for Dana Point Auto Services being selected Business of the Month, July 2016. Gary Macrides, representing the Chamber presented Richard with a certificate on behalf of the Chamber.

Employee of the Month - Donna Ducharm

Director of Community Development Luna-Reynosa provided an introduction of Donna Ducharm. She reported that Donna had come to Dana Point after having a long and loyal career with the City of San Juan Capistrano. She stated that her customer service and true care of the customer is very evident in the way she interacts with them. Mayor Tomlinson presented a Certificate of Recognition to Donna for being selected Employee of the Month for July 2016.

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CONSENT CALENDAR

A member of the Public removed Item 18 and Council Member Muller removed Items 10, 12, and 13 from the Consent Calendar.

Council Member Muller asked for his vote on Item 3 to be registered as an abstention due to the fact that he did not participate in that meeting.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER CARLOS N. OLVERA, THAT THE CITY COUNCIL ACCEPT THE RECOMMENDATIONS FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 10, 12, 13, AND 18.

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, JUNE 21, 2016

APPROVED THE MINUTES.

3. REGULAR MEETING MINUTES, JULY 5, 2016

APPROVED THE MINUTES.

4. PLANNING COMMISSION MEETING MINUTES, JUNE 13, 2016

RECEIVED AND FILED.

5. PLANNING COMMISSION ACTIONS, MEETING OF JUNE 27, 2016

RECEIVED AND FILED.

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6. ARTS AND CULTURE COMMISSION MEETING MINUTES, APRIL 20, 2016

RECEIVED AND FILED.

7. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

8. CITY TREASURER REPORTS, MAY AND JUNE, 2016

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTHS OF MAY AND JUNE.

9. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

10. DOHENY VILLAGE PLAN UPDATE

Council Member Muller removed this item from the Consent Calendar.

City Manager Chotkevys introduced the item and Director of Community Development Luna-Reynosa provided a progress report.

Council Member Muller showed a video clip from the charrette where parking was discussed.

Council Member Muller stated that he was concerned about how progressive the parking approach is and how similar to the parking program proposed for the Town Center. He felt that in light of Measure H's results he was not sure of the community's attitude for Doheny Village. He added that it was important to have this discussion early and not wait until the public hearings. He stated that staff needs to reach out to the community and start those meetings now.

City Manager Chotkevys suggested that Council Member Muller make a motion to accept the report and direct staff to conduct public meetings. He agreed that more public involvement was needed and suggested that the meetings start in earnest after Labor Day.

Council Member Muller stated that on the form based code committee they worked on sample projects and felt that parking was the hardest part.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, THAT THE CITY COUNCIL

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RECEIVE AND FILE THIS REPORT AS WELL AS DIRECT STAFF TO CONDUCT PUBLIC MEETINGS BEGINNING AFTER LABOR DAY FOR DISCUSSIONS ON THE PROPOSED PARKING STANDARDS IN THE DOHENY VILLAGE.

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

11. INTERVENTION SPECIALIST AGREEMENT FY2016-2017

AUTHORIZED THE CITY MANAGER TO APPROVE A CONTRACT FOR CONSULTANT SERVICES FOR THE INTERVENTION SPECIALIST PROGRAM, AND APPROVED UP TO TWO, ONE-YEAR RENEWALS IN ACCORDANCE WITH THE FISCAL IMPACT SECTION.

12. AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE DEL OBISPO STREET ARTERIAL ROADWAY RESURFACING PROJECT FY 15/16

Council Member Muller removed this item from the Consent Calendar.

Director of Public Works and Engineering Fowler provided an overview of the item.

Council Member Muller stated that what he did not understand was how much of the cost would be covered by a grant.

Director Fowler replied that the grant covers 50% up to \$500,000 for all activities covered by the grant.

Council Member Muller asked how does staff show that money coming back into the budget.

Director Fowler replied that staff showed in the budget documents that a portion of that budget was from grants and the remainder from other sources.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY MAYOR JOHN A. TOMLINSON, THAT THE CITY COUNCIL APPROVE THE CONSTRUCTION CONTRACT DOCUMENTS REQUIRED FOR THE DEL OBISPO STREET ARTERIAL ROADWAY RESURFACING PROJECT FY 15/16; APPROVE AWARD OF CONTRACT TO THE RJ NOBLE COMPANY FOR CONSTRUCTION OF THE DEL OBISPO STREET ARTERIAL ROADWAY RESURFACING PROJECT FY 15/16, PROVIDING THAT THE CITY MANAGER OR HIS DESIGNEE SIGNS AND ADMINISTERS THE SUBJECT CONTRACT AND MAY APPROVE ADDITIONAL PAYMENT FOR CHANGE ORDERS,

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CONTINGENCIES, MANAGEMENT SERVICES, SOILS AND MATERIAL TESTING, SURVEYING, AND CONSTRUCTION DESIGN SUPPORT FOR THE PROJECT; AUTHORIZE ADDITIONAL SURVEYING SERVICES PER THE AS-NEEDED CONSULTANT SERVICES AGREEMENT WITH DAVID EVANS AND ASSOCIATES, INC.; AUTHORIZE ADDITIONAL MATERIALS INSPECTION AND TESTING SERVICES PER THE AS-NEEDED CONSULTANT SERVICES AGREEMENTS WITH GMU GEOTECHNICAL FOR GEOTECHNICAL ENGINEERING AND MATERIALS TESTING; AND APPROVE THE RECOMMENDED FUNDING TRANSFER NOTED IN THE FISCAL IMPACT SECTION..

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

13. TOPOGRAPHIC SURVEY AND LANDSCAPE DESIGN SERVICES FOR CROWN VALLEY MEDIAN DROUGHT CONVERSION PROJECT

Council Member Muller removed this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Council Member Muller asked what was happening with the other \$350,000 that the Council had budgeted.

Director Fowler replied that those funds would go towards the landscaping of the median. He clarified that tonight, staff was asking for the funds to pay for the pre-construction items which include surveying, landscape design, and irrigation specifications.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY MAYOR PRO TEM RICHARD A. VICZOREK, THAT THE CITY COUNCIL APPROVE AN AMENDMENT WITH INTEGRATION DESIGN STUDIO, INC. FOR LANDSCAPE AND IRRIGATION DESIGN FOR THE CROWN VALLEY MEDIAN DROUGHT CONVERSION PROJECT; AUTHORIZED TOPOGRAPHIC SURVEY SERVICES WITH DAVID EVANS AND ASSOCIATES, INC. PER THE AS-NEEDED CONSULTANT SERVICES AGREEMENT; AND AUTHORIZE THE FUNDING TRANSFER NOTED IN THE FISCAL IMPACT SECTION.

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

- 14. ADOPT A RESOLUTION AUTHORIZING THE REMEDIATION OF A BIRD NUISANCE AT SALT CREEK OUTFALL IN ACCORDANCE WITH MUNICIPAL ORDINANCE SECTION 10.14.040**

ADOPTED RESOLUTION 16-07-19-01 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING THE DECLARATION AND REMEDIATION OF A BIRD NUISANCE AT SALT CREEK OUTFALL IN ACCORDANCE WITH MUNICIPAL ORDINANCE CHAPTER 10.14.040; and

AUTHORIZED THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH COUNTY OF ORANGE TO MANAGE SUBJECT BIRD NUISANCE.

- 15. APPROVAL OF AN AGREEMENT WITH SOUTH COAST WATER DISTRICT TO OPERATE THE HEADLANDS COMMUNITY FACILITIES DISTRICT STORM DRAIN DIVERSION AT BABY BEACH TO MAINTAIN WATER QUALITY**

APPROVED AN AGREEMENT BETWEEN THE CITY OF DANA POINT AND THE SOUTH COAST WATER DISTRICT FOR THE CITY OF DANA POINT'S INTERIM USE OF FACILITIES TO DIVERT DRY WEATHER FLOWS FROM BABY BEACH VIA DIVERSION, AND AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO SIGN THE AGREEMENT.

- 16. APPROVAL OF FIRST AMENDMENT TO AN EXISTING AGREEMENT WITH SOUTH COAST WATER DISTRICT TO CONTINUE TO OPERATE STORM DRAIN DIVERSIONS AT HEADLANDS**

ACCEPTED THE FIRST AMENDMENT TO THE EXISTING AGREEMENT FOR THE FACILITY OPERATION AND MAINTENANCE BETWEEN SOUTH COAST WATER DISTRICT AND THE CITY OF DANA POINT; AND AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO SIGN THE AGREEMENT.

- 17. APPROVAL OF A FIRST AMENDMENT WITH CO'S TRAFFIC CONTROL FOR SPECIAL EVENT TRAFFIC CONTROL**

APPROVED A FIRST AMENDMENT WITH CO'S TRAFFIC CONTROL, INCORPORATED FOR PLACEMENT OF SPECIAL EVENT TRAFFIC CONTROL FOR CITY EVENTS, AND AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO SIGN THE AGREEMENT.

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- 18. 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**

City Manager Chotkevys provided an introduction and Director of Community Development Luna-Reynosa provided an overview.

There was substantial discussion between the City Council and staff including testimony provided by Code Enforcement Officer Harris who manages the Short Term Rental Program for the City.

Mayor Tomlinson opened the Public Comments.

Angelina Buseemi, Dana Point, spoke regarding sober living facilities which she felt were short term rentals.

David Bartholomew, Dana Point, spoke about short term rentals turning homes into a business when the homes should be used by families.

Nadia Starner, Capistrano Beach, spoke about short term rentals turning into sober living homes. She suggested applying the revenue collected from short term rentals to fund more policing to control what is going on in the city.

Barbara Wilson, Dana Point, felt that homeowners associations have an advantage over the rest of the city by being able to stop short term rentals in their neighborhood. She suggested the following: impose a limit on the use to 26 weekends a year so neighborhoods don't have to put up with them; after two violations, permits should be revoked as opposed to waiting until they have four; prohibiting the advertisement of unlicensed rentals; limiting the amount of short term rentals owned by a single owner; and disallowing licenses being transferred to new property owners. She hoped that the Council would give this ordinance more thought.

Lynn Smith, Capistrano Beach, felt that the Council should not vote for the ordinance knowing that they could not make changes. She stated that neighborhoods are not businesses.

Mayor Tomlinson closed the Public Comments.

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Council Member Muller stated that he was concerned that the City would not be able to modify the ordinance without Coastal Commission approval. He added that he could not support approving the ordinance tonight.

Council Member Olvera stated that the City has been successfully regulating the program. He felt that the operators were complying with the rules and that it was the unlicensed operators not following the rules that the City needs to identify. He added that he supports additional help for Code Enforcement Officer Harris and Police Services to ensure any violations that are occurring are addressed.

Mayor Pro Tem Viczorek discussed his pros and cons for allowing short term rentals. He stated that he could not vote for this ordinance tonight because if the ordinance was adopted, the Council would allow the Coastal Commission to have control and the City Council would not be able to be responsive to the citizens.

Council Member Schoeffel stated that there were ways for this and future Councils to change the ordinance through the LCPA process. He proposed that Council re-notice the item and return one more time to allow people to testify to their experience. He suggested continuing the meeting of September 21st to allow all interested stakeholders to attend. He added that he did not want to reject the ordinance this evening. He stated that would be his motion.

City Manager Chotkevys clarified that the second meeting in September was scheduled for September 20th and felt that would allow people to return from the holiday as well as provide adequate notice to everyone.

Mayor Tomlinson felt that the testimony by Code Enforcement Officer Harris provided shows the type of ordinance the City could have if it was perfected. He stated that he would like to see what the community has to say and agreed with Council Member Schoeffel's motion to continue the item.

Council Member Muller stated that he was concerned about a change taking two years for a response from the Coastal Commission. He agreed with continuing the item to allow for public testimony.

Mayor Tomlinson stated that he would like to understand the process of going back to the Coastal Commission with any minor changes the Council may want to make.

Mayor Pro Tem Viczorek stated that he would not support the motion as it does not address the sovereignty question. He felt that a continuance would just be a delay when a decision could be made tonight.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR JOHN A. TOMLINSON, THAT THE CITY COUNCIL CONTINUE THE ITEM TO THE REGULAR CITY COUNCIL MEETING OF SEPTEMBER 20, 2016

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TO ALLOW ALL OF THE INTERESTED STAKEHOLDERS TO PROVIDE TESTIMONY ON THIS TOPIC.

The motion carried by the following vote:

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

NOES: Mayor Pro Tem Richard A. Viczorek

PUBLIC COMMENTS

Bob Becker, Dana Point, volunteer at Pet Project Foundation, announced that this Saturday was the "Clear the Shelters" campaign. He stated that all dogs and cats would be available for adoption for \$20. He added that they hoped to break last year's record and for more information on the event go to www.petprojectfoundation.org.

Karl Kuhn, Dana Point, spoke of summer trolley. He stated that he had a great experience and thanked the City Council for this benefit.

Joseph Moderow, Dana Point, spoke about parking in the Lantern District. He reported that businesses were having their employees to park on the lantern streets. He asked the Council for a parking benefit district to be established.

Jorge Luhan, Dana Point, requested a parking benefit district for the Street of Amber Lantern between Santa Clara and the cul de sac. He stated that petitions have been circulated. He asked the Council to help stop the commercial overflow in the neighborhood and the illegal actions taking place at night.

Sandie Iverson, Capistrano Beach, spoke about the Raintree construction documents that she had recently reviewed. She reported that the City had granted Raintree approval to build two subterranean parking structures on Election Day. She stated that the advantage includes 46 additional parking spaces, but the disadvantage will be the closure of Amber Lantern for some time. She felt that all changes to the project should be presented to the Planning Commission.

Lynn Smith, Capistrano Beach, stated that the two way traffic in the Lantern District came out very nicely and that it has an inviting design. She felt that diagonal parking spaces would be more inviting like on Del Mar Street.

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PUBLIC HEARINGS

19. 2016 WEED ABATEMENT ADMINISTRATIVE CITATION PROGRAM

City Manager Chotkevys provided a staff report.

Seeing no requests to speak, Mayor Tomlinson opened and closed the Public Hearing.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR PRO TEM RICHARD A. VICZOREK, THAT THE CITY COUNCIL CONDUCT A HEARING ON THE WEED ABATEMENT COST REPORT AND DELINQUENT ADMINISTRATIVE CITATION FINES, THEREAFTER, ADOPT **RESOLUTION 16-07-19-02** CONFIRMING THE COST REPORT/DELINQUENT ADMINISTRATIVE CITATION FINES AND PROVIDING FOR THE COLLECTION ON THE REGULAR TAX BILL ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE COST OF ABATEMENT/DELINQUENT ADMINISTRATIVE CITATION FINES AND PROVIDING FOR THE COLLECTION ON THE REGULAR TAX BILL.

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

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

There was no New Business.

PUBLIC COMMENTS

There were no additional Public Comments received.

STAFF REPORTS

City Manager Chotkevys thanked Mr. Becker for his report on "Clear The Shelter Program" scheduled for this weekend. He thanked Kim Cholondenko for the job she does

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as the General Manager of the shelter. He also thanked Mr. Kuhn for his remarks about the trolley and how it is accessible to all passengers.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Olvera stated that he had nothing to report.

Council Member Schoeffel thanked the General Manager at the shelter for the humane care given to the animals. He spoke about being contacted about three different animal trespass incidents and how CASA handled them right away. He felt that they were a well-trained group of animal control officers. He reported that the summer concert season was in full swing and thanked everyone involved.

Council Member Muller stated that he would turn in his list of meetings attended to the City Clerk.

Mayor Pro Tem Viczorek stated that he had nothing to report.

Mayor Tomlinson stated that he would turn in his list of meetings to the City Clerk. He reported that he had travelled on the trolley recently and felt that it was a great experience. He added that he liked the open air feel and hoped that the program would continue to be successful.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Tomlinson adjourned the meeting at 8:48 p.m. and announced that the next Regular Meeting of the City Council will be August 2, 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 AUGUST 16, 2016

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Meetings attended since July 5, 2016:

Mayor John A. Tomlinson

July 16 - 5th Marine Regiment Support Group Car Wash
July 17 - Dana Point Lantern District Car Show

Council Member Joseph L. Muller

July 13 - RFOTC Academy Lunch
Meeting with Alan Bell
July 14 - Meeting with Peter Burke

