
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 20, 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 (*Arrived at 5:05 p.m.*)
Absent: None

CLOSED SESSION

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

- A. CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION, Government Code § 54956.9 (a), (2 cases): Name of Case: City of Dana Point, et al v Sobertec LLC, et al; Orange County Superior Court Case No. 30-2016-00859437-CU-MC-CJC; and Name of Case: City of Dana Point, et al v. Capo By the Sea, Inc; Orange County Superior Court Case No. 30-2016-00859426-CU-MC-CJC
- B. CONFERENCE WITH LABOR NEGOTIATOR, Government Code § 54957.6 Agency Designated Representatives: City Manager Unrepresented and Represented Employees: All positions in City

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 6:09 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; Matthew Schneider, Planning Manager; Rachel Johnson, Assistant Administrative Analyst;

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Shelley Velez, Senior Personnel Analyst; Brian McClure, Interim Director of Community Services and Parks; Mark Sutton, Building Official; Matthew Sinacori, City Engineer; Jackie Littler, Executive Assistant; and Bobbi Ogan, Deputy City Clerk.

PLEDGE OF ALLEGIANCE

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

INVOCATION

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

PRESENTATIONS AND PROCLAMATIONS

Business of the Month - The Shwack Beach Grill

Assistant Administrative Analyst Johnson provided a PowerPoint presentation. She reported that the Shwack opened in June of 2011 after months of preparation. She stated that Shwack has received many awards including the Golden Lantern for best burger, the best chicken sandwich in Orange County as well as the Beautification Award from the Chamber of Commerce for their patio renovation. She added that being a part of and giving back to the community was important to Shwack as they are involved in sponsoring three charity golf tournaments, including raising almost One Million dollars for Muscular Dystrophy. She stated that they also support Wounded Warriors, Dana Hills High School Grad Night, and has become a sponsor of the Del Prado Car Show.

Mayor Tomlinson presented Max Fisher with a Certificate of Recognition for being selected the Business of the Month for September 2016 and Heather Johnston, CEO of the Chamber of Commerce presented Max with a Certificate as well.

Employee of the Month - Sean Nicholas

Community Development Director Luna-Reynosa spoke of Sean's hard work and dedication to serving the community. Mayor Tomlinson presented Sean with a Certificate of Recognition for his being selected Employee of the Month for September 2016.

Daughters of the American Revolution (DAR) Constitution Week

Mayor Tomlinson presented a Proclamation to Mary Lou Rodearmel from DAR proclaiming the week of September 17 through September 23 as Constitution Week.

Lantern District Public Art Competition

Mayor Tomlinson stated that Raintree Development had partnered with Dana Hills High School and sponsored a public art competition focused on two themes: 1) Lanterns in the Lantern District, and 2) Faces of Dana Point. He added that 24 finalists were selected from over 100 submittals. He stated that the art of 24 finalists was displayed on the project site along Pacific Coast Highway and the public was encouraged to vote

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for their favorite piece. Mayor Tomlinson presented Certificates of Recognition to the following:

Madison Conrad, First Place
Hannah Scott, First Runner Up
Costa B. Pappas, Second Runner Up

CONSENT CALENDAR

Council Member Muller removed Items 8, 10, 12, 13 and Mayor Pro Tem Viczorek removed Item 14 from the Consent Calendar.

City Attorney Munoz reported that there was a typographical error on the agenda for Item 2; the correct date should be September 6, 2016. He added that the information provided in the agenda packet was correct and that the Agenda would be revised to reflect the correct date.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL ACCEPT THE RECOMMENDATIONS FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 8, 10, 12, 13, AND 14.

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, SEPTEMBER 6, 2016

APPROVED THE MINUTES.

3. TRAFFIC IMPROVEMENT SUBCOMMITTEE ACTION MINUTES, MAY 18, 2016

RECEIVED AND FILED.

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4. ARTS AND CULTURE COMMISSION MEETING MINUTES, JUNE 15, 2016

RECEIVED AND FILED.

5. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

6. CITY TREASURERS REPORT, AUGUST 2016

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

7. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

8. FISCAL YEAR 2016-17 PROPOSED BUDGET ADJUSTMENTS (CARRY-OVER)

Council Member Muller removed this item from the Consent Calendar.

Assistant City Manager Killebrew provided a staff report.

Council Member Muller asked for an explanation of the triple flip.

Assistant City Manager Killebrew replied that in 2004 when the State was struggling to balance their budget and instead of cutting their budget they took 1/4 of sales tax calling it new revenue. He stated that they were calling it new revenue so they could issue bonds without going to a vote of the people. He added that the State reimbursed the City with their portion of property tax and that there was always a timing delay. He stated that in July of this year the final payment was received and that the sales tax is back at the full 1%. He added that in lieu property tax has been reduced down to only the other taking that the State had done around 2005.

IT WAS MOVED BY MAYOR TOMLINSON, SECONDED BY COUNCIL MEMBER SCHOEFFEL, THAT THE CITY COUNCIL AMEND THE FY2016-17 ("FY17") BUDGET BY AUTHORIZING THE CARRY-OVER AND RE-APPROPRIATION OF ENCUMBERED AND UNENCUMBERED FUNDS FROM FY16 TO FY17; AND AUTHORIZE THE CITY MANAGER TO RATIFY AND EXECUTE THE FIRST AMENDMENT TO THE AGREEMENT BETWEEN WEST COAST CIVIL, INCORPORATED AND THE CITY OF DANA POINT.

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

9. DOHENY VILLAGE PLAN UPDATE

RECEIVED AND FILED THIS REPORT.

**10. SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED
EMPLOYEE CLASSIFICATIONS AND ESTABLISHING ADDITIONAL NON-
REPRESENTED POSITION TITLES AND CLASS SPECIFICATIONS**

Council Member Muller removed this item from the Consent Calendar.

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

Council Member Muller stated that he would like to see the annual ranges instead of monthly as well as total compensation for each classification and how many employees are in each classification. He added that this looks like a reorganization and that he was uncomfortable voting on this as he felt he has not seen enough information. He stated that he did not understand the need for these new positions.

City Manager Chotkevys replied that he was planning for his eventual retirement and preparing the Deputy Department Heads to transition into the Department Head role. He stated that the point of this was to identify some efficiencies, give people additional training and support to be Department Heads, and provide an opportunity for the organization to evolve as well as provide stability and security in the interim.

Council Member Muller stated that he needs more time to study this and understand the impacts. He added that his recommendation would be to table this item.

Council Member Olvera felt that the organization chart was inspired to meet the goal of the City Manager's future retirement. He stated that the City Manager would be able to guide and train his successor. He added that he supports staff's recommendation.

Council Member Muller asked what the purpose of a Deputy City Manager would be.

City Manager Chotkevys replied that when he retires in the next 2-3 years, he wanted a Deputy to be capable of taking over for a seamless transition

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to either City Manager or to the Assistant City Manager. He added that their responsibility would be over two departments.

Mayor Pro Tem Viczorek asked for clarification on staff's recommended action.

Assistant City Manager Killebrew replied that every salary range has to be on one schedule per the PERS audit including City Council Members.

Mayor Pro Tem Viczorek asked if the new positions and the salary schedule had to be adopted together.

Assistant City Manager Killebrew replied that the Council could amend the motion to exclude the new positions.

Mayor Pro Tem Viczorek asked what the intent of creating the Deputy City Manager position, why not just have a Director of Public Works and Community Services.

City Manager Chotkevys replied that because of the additional responsibility and the thought being that this person would be groomed for either the Assistant City Manager or City Manager position in the future.

Council Member Muller made a motion to table this item; seconded by Mayor Pro Tem Viczorek.

Mayor Tomlinson asked if there was a deadline for adoption of this item.

Assistant City Manager Killebrew replied that due to the CalPERS audit, the Council needed to adopt the salary schedule to be in compliance.

Mayor Tomlinson asked how long Mr. Killebrew has been employed at the City.

Assistant City Manager Killebrew replied nine years, with the last seven as the Assistant City Manager.

City Manager Chotkevys stated that staff does not get into titles, they just do their job. He added that he saw this as an opportunity to plan for his retirement.

Council Member Muller asked if Council could adopt the salary schedule without approving the job descriptions.

City Attorney Munoz replied that if the Council gives that direction, yes.

Council Member Muller amended his previous motion that the City Council adopt the salary schedule without the job descriptions; seconded by Mayor Pro Tem Viczorek.

Council Member Schoeffel made a substitute motion that the City Council move the recommended action; seconded by Council Member Olvera.

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City Attorney Munoz stated that according to Robert's Rules, the Council must vote on the substitute motion first then depending on the outcome, Council would go back to the original motion.

Mayor Tomlinson felt that this issue has been fully vetted by the City Manager and Assistant City Manager and that he had no problem with the titles. He stated that he was happy that there would be some cost savings to the City also.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER CARLOS N. OLVERA, THAT THE CITY COUNCIL ADOPT **RESOLUTION 16-09-20-02** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, ESTABLISHING SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED CLASSIFICATIONS; ESTABLISHING POSITION TITLES AND CLASS SPECIFICATIONS FOR ADDITION NON-REPRESENTED CLASSIFICATIONS; AND AMENDING SALARY RANGES FROM JULY 1, 2012 - JUNE 21, 2016.

The motion carried by the following vote:

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

NOES: Mayor Pro Tem Richard A. Viczorek, and Council Member Joseph L. Muller

11. 2016-2017 DANA POINT YOUTH BOARD APPOINTMENTS

APPOINTED 11 BOARD MEMBERS AND 10 MEMBERS-AT-LARGE TO THE DANA POINT YOUTH BOARD.

12. PRELIMINARY DESIGN ACTIVITIES FOR THE DOHENY VILLAGE CONNECTIVITY ENHANCEMENT STUDY IMPROVEMENTS

Council Member Muller removed this item from the Consent Calendar.

Council Member Muller stated that since Items 12 and 13 were closely related, he felt that they should be heard together.

Mayor Tomlinson stated that if the items were going to be combined, that he would need to recuse himself due to a potential conflict of interest with regard to Item 13.

Mayor Tomlinson left the Council Chambers at 7:20 p.m.

Director of Public Works and Engineering Fowler provided a staff report.

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Council Member Muller stated that one of the questions from the public last week was regarding accessing the path through Doheny State Beach along the creek instead of trying to navigate the on ramps.

Director Fowler explained that the public would have to cross the railroad tracks and the 30-acre property.

Mayor Pro Tem Viczorek opened the Public Comments.

Richard Gardner, Capistrano Beach, felt that the question of mobility in Doheny Village was important as it could help and enhance the future of the whole area.

Mayor Pro Tem Viczorek closed the Public Comments.

Council Member Schoeffel felt that the City Council should move forward with this study.

IT WAS MOVED BY COUNCIL MEMBER SCHOEFFEL, SECONDED BY MAYOR PRO TEM VICZOREK, THAT THE CITY COUNCIL ESTABLISH A NEW CAPITAL IMPROVEMENT PROGRAM PROJECT ENTITLED "CAPISTRANO BEACH CONNECTIVITY STUDY ENHANCEMENTS PROJECT"; AUTHORIZE PRELIMINARY DESIGN SERVICES FOR THE CONNECTIVITY STUDY IMPROVEMENTS BY THE CITY'S AS-NEEDED TRAFFIC ENGINEERING CONSULTANT (LINSCOTT, LAW & GREENSPAN, ENGINEERS); AUTHORIZE THE CITY MANAGER TO EXECUTE A TWO YEAR CONTRACT EXTENSION WITH LINSCOTT, LAW & GREENSPAN, ENGINEERS (LLG) FOR AS-NEEDED TRAFFIC ENGINEERING SERVICES WITH TWO ADDITIONAL FOUR YEAR OPTIONS TO ALLOW THIS WORK TO BE DONE ALONG WITH OTHER ACTIVITIES; AND AUTHORIZED ADDITIONAL SURVEYING SERVICES PER THE AS-NEEDED CONSULTANT SERVICES AGREEMENT WITH DAVID EVANS AND ASSOCIATES, INC.

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 Pro Tem Richard A. Viczorek

NOES: None.

ABSENT: Mayor John A. Tomlinson

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**13. COAST HIGHWAY CLASS 1 BIKEWAY/PEDESTRIAN WAY PHASE 2
PROJECT FOR THE OCTA BICYCLE CORRIDOR IMPROVEMENT PROGRAM
(BCIP) GRANT ACCEPTANCE**

Council Member Muller removed this item from the Consent Calendar.

Director of Public Works and Engineering Fowler provided a staff report.

Council Member Muller asked where does this start and end for this phase.

Director Fowler replied that this phase begins where the new crosswalk near Olamendi's all the way up to Doheny Park Road. He stated that it would meet where the Connectivity Study begins.

Council Member Muller asked if there would be a protected bike lane.

Director Fowler replied that the bike lane would be on the sidewalk shared with pedestrians.

Council Member Muller asked if the lane would be in both directions and connect into Doheny State Beach.

Director Fowler replied yes that it would connect both ways. He added that there would be a two-way bicycle corridor that runs from Doheny Park Road all the way to San Clemente and going on Coast Highway near the Doubletree a safe bicycle access way into State Park.

Mayor Pro Tem Viczorek opened the Public Comments.

Richard Gardner, Capistrano Beach, stated that it was good to see these items come to the City Council. He added that changes need to occur to make it safer for the public.

Mayor Pro Tem Viczorek closed the Public Comments.

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER SCHOEFFEL, THAT THE CITY COUNCIL ACCEPT OCTA'S GRANT AND ESTABLISH A COMPLIMENTARY CAPITAL IMPROVEMENT PROGRAM PROJECT, NAMELY THE COAST HIGHWAY CLASS 1 BIKEWAY/PEDESTRIAN WAY PHASE 2 PROJECT; AUTHORIZE THE FUNDING TRANSFERS TO COVER THE CITY'S REQUIRED MATCHING FUNDS AND OTHER NEEDED SERVICES; AND AUTHORIZE ADDITIONAL SURVEYING SERVICES PER THE AS-NEEDED CONSULTANT SERVICES AGREEMENT WITH DAVID EVANS AND ASSOCIATES, INC.

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, and Mayor Pro Tem Richard A. Viczorek

NOES: None

ABSENT: Mayor John A. Tomlinson

14. AMENDMENT TO THE CITY'S CONFLICT OF INTEREST CODE

Mayor Tomlinson returned to the Council Chambers at 7:37 p.m.

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 had no questions and explained that he pulled this item as he thought it was related to a previous item adding the new positions.

IT WAS MOVED BY MAYOR PRO TEM RICHARD A. VICZOREK, SECONDED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, THAT THE CITY COUNCIL ADOPT **RESOLUTION 16-09-20-03** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING THE CONFLICT OF INTEREST CODE.

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

15. HEALTH PLAN PROVISIONS FOR CALENDAR YEAR 2017

ADOPTED **RESOLUTION 16-09-20-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, MODIFYING HEALTH BENEFIT PLAN ALLOWANCES FOR ALL ELIGIBLE REPRESENTED AND ELIGIBLE NON-REPRESENTED CLASSIFICATIONS.

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PUBLIC COMMENTS

Miriam Rupke, Capistrano Beach, thanked the City Council for approving the short term rental ordinance. She asked for the City Council to include a facts page regarding short term rentals on the City's website.

Penny Maynard, Dana Point, reported that she was a candidate for the City Council. She stated that she was concerned with the report of Airbnb suing other cities over short term rentals. She added that it was time to take the negative discourse out of the campaign and suggested that everyone work together to make Dana Point even better.

Jason Colaco, Dana Point, stated that he was pleased with the short term rental ordinance and felt that it had teeth and substance. He asked the City Council to continue to educate the public on short term rentals.

Deanna Slocum, Capistrano Beach, thanked the City Council for adopting the short term rental ordinance. She asked the Council to include education on short term rentals on the website.

Richard Gardner, Capistrano Beach, reported that he was a candidate in the upcoming election for Municipal Water District (MWD) of Orange County, District 7. He stated that MWD is the wholesale entity that provides drinking water to various agencies.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There were no Unfinished Business items.

NEW BUSINESS

There were no New Business items.

PUBLIC COMMENTS

There were no additional Public Comments received.

STAFF REPORTS

City Manager Chotkevys thanked staff for all of the great events this past summer and stated that he was proud to be associated with everyone. He added that no city could compare to the team that Dana Point has.

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COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

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

Council Member Schoeffel reported that an Art Walk was scheduled for October 16 on Del Prado from 1-5 p.m.

Council Member Muller reported that he had attended the 9-11 ceremony at Station 29 with his children. He recommended that people attend in the future. He stated that the Game Changer Music Festival was coming up on October 2nd at Sea Terrace Park. He added that he would turn in his list of meetings attended to the City Clerk.

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

Mayor Tomlinson 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 7:56 p.m. and announced that the next Regular Meeting of the City Council will be October 4, 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 OCTOBER 18, 2016

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Meetings attended since September 6, 2016:

Mayor Pro Tem Richard A. Viczorek

September 16 CCDEH Conference Welcoming Remarks – Laguna Cliffs Marriott

Council Member Joseph L. Muller

September 8 Transportation Corridor Agency
September 14 Meeting with Jason Colaco and Shevy Akason
Orange County Fire Authority
Doheny Village Meeting

Council Member Carlos N. Olvera

September 7 Dana Point Harbor Time Capsule Meeting
September 15 Vector Control Meeting