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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 6, 2016**

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**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 Closed Session discussion as follows:

A. CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION, Government Code § 54956.9 (a), (5 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

Surfrider Foundation v. City of Dana Point; San Diego Superior Court Case No. 37-2010-00099878

City of Dana Point v. Headlands Reserve LLC, Sanford Edward, et al (Orange County Superior Court Case No. 30-2016-00872051)

California Coastal Commission, et al Case No. 37-2010-00099827

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

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**RECONVENE CITY COUNCIL MEETING - CALL TO ORDER**

Mayor Tomlinson reconvened the meeting at 6:00 p.m. All Council Members were present.

STAFF PRESENT: Patrick Munoz, City Attorney; Mike Killebrew, Acting City Manager; Kathy Ward, City Clerk; Mike Rose, Director of Disaster Preparedness; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Mark Denny, Deputy City Manager; Matthew Schneider, Planning Manager; Brian McClure, Deputy Director of Community Services and Parks; Beverly Brion, Accounting Supervisor; Matthew Sinacori, Deputy Director of Public Works and Engineering; Rachel Johnson, Assistant Administrative Analyst, and Bobbi Ogan, Deputy City Clerk.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Munoz stated that he had no reportable items with the exception that a lawsuit has been filed against Luminance Health Care which operates a sober living home in the City.

**PLEDGE OF ALLEGIANCE**

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

**INVOCATION**

The Invocation was provided by Orange County Sheriff Chaplain Jim Davis.

**PRESENTATIONS AND PROCLAMATIONS**

Business of the Month - The Craft House

Assistant Administrative Analyst Johnson provided a PowerPoint presentation. She reported that the Craft House uses only locally sourced fresh ingredients and that their meatloaf is the most popular item. She stated that all of the Craft House employees reside in Dana Point. She added that the Craft House had been earned the Beautification Award from the Chamber of Commerce. Mayor Tomlinson presented Blake Mellgren with a Certificate of Recognition for the Craft House being selected the Business of the Month for December 2016 and Heather Johnston presented Blake with a Certificate on behalf of the Chamber of Commerce for the recognition.

Employee of the Month - Monique Leon

Deputy City Manager Denny provided remarks regarding Monique. He reported that she began her career with the City in 2007 where she started as a Recreation Leader and added that she was promoted a year ago to Recreation Coordinator. Mayor Tomlinson presented Monique with a Certificate of Recognition for being named the Employee of the Month for December 2016.

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Council Member Schoeffel thanked Monique for all of her help at the special events.

**CONSENT CALENDAR**

IT WAS MOVED BY COUNCIL MEMBER SCHOEFFEL, SECONDED BY COUNCIL MEMBER OLVERA, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR.

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, NOVEMBER 15, 2016**

APPROVED THE MINUTES.

**3. SPECIAL MEETING MINUTES, NOVEMBER 18, 2016**

APPROVED THE MINUTES.

**4. PLANNING COMMISSION MEETING MINUTES, OCTOBER 17, 2016**

RECEIVED AND FILED.

**5. TRAFFIC IMPROVEMENT SUBCOMMITTEE ACTION MINUTES, AUGUST 17, 2016**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

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**7. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**8. CITY TREASURERS REPORT, OCTOBER 2016**

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

**9. QUARTERLY FINANCIAL REPORT, SEPTEMBER 2016**

RECEIVED AND FILED THE CITY FINANCIAL REPORT AND MANAGEMENT DISCUSSION FOR THE QUARTER ENDED SEPTEMBER 30, 2016.

**PUBLIC COMMENTS**

Beth Mays, Anaheim, provided comments regarding Anaheim University. She stated that they want to be a solution to the problem of student debt and that Anaheim University offers a tuition relief program for their on-line business program. She added that the programs were designed for working professionals and that a degree would take 18 months to obtain. She stated that there were monthly payment plans of \$250 per month which were available to all incoming students in January 2017. She added that for more information go to [www.anaheim.edu](http://www.anaheim.edu) or visit their Admissions Office on State College Boulevard.

Rick Erkeneff, Dana Point, thanked the outgoing Council Members Olvera and Schoeffel for everything they have done over the years for the community. He commended Council Member Schoeffel for his financial contributions to SOSCA and scholarships for the outgoing seniors at Dana Hills High School.

Wayne Rayfield, Dana Point, thanked Council Members Olvera and Schoeffel for all they have done for the City and the community.

Penny Maynard, Dana Point, spoke regarding voting districts and how she felt that they were needed in Dana Point.

**PUBLIC HEARINGS**

**UNFINISHED BUSINESS**

**10. MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF DANA POINT AND THE HOBIE MEMORIAL FOUNDATION**

Acting City Manager Killebrew introduced the item and Community Development Director Luna-Reynosa provided a staff report.

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Robbie Roberson, Hobie Memorial Foundation, introduced the foundation members. He reported that they have raised \$75,000 thus far, with more fundraising opportunities coming in the future. He explained that they had chosen the Hobie 14 for the memorial because it was one of Hobie's designs that was still emulated today. He stated that they would like to not only build a memorial but would like to provide scholarships for kids in the future. He added that their hope was to have the memorial ready for Zephyr's grand opening.

Community Development Director Luna-Reynosa added that the first surf shop was established here in Dana Point and that the birth of the industry was here in Dana Point. She felt that the scale of the art was appropriate for the linear park. She reported that the park ground breaking was scheduled for January 26th. She stated that the Foundation has some great plans for fundraising.

Council Member Muller stated that he supports this project, but was concerned with dedicating 2/3 of the Art in Public Places funds for just one project. He thought that the intent was for the Foundation to provide the memorial and the City would provide the location.

Council Member Schoeffel asked if this project exaction meets the nexus requirement in terms of the amount of money set aside in the Art in Public Places.

Director Luna-Reynosa replied yes.

Council Member Olvera asked if staff had an estimate of what the fund total would be and what the current balance was.

Director Luna-Reynosa replied that staff would not know what the in lieu fees would be until building permits are pulled and then the fee is paid prior to the Certificate of Occupancy being issued. She stated that the current fund balance is \$117,000.

Mayor Tomlinson asked how many other projects has the City done where money was used from the Art in Public Places funds.

Acting City Manager Killebrew replied that there have been very few projects in the last several years and that not many have paid in lieu fees.

Director Luna-Reynosa added that typically the art is placed on-site rather than pay the in-lieu fee.

Mayor Pro Tem Viczorek asked for details on how the artist was chosen and the subject matter.

Robbie Roberson replied that the artist, Lance Jost provided the vision, and permission was gained from the family to use the Hobie brand. He stated that Lance received quotes from foundries.

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Mayor Pro Tem Viczorek stated that he did not understand the need to ask for money from the City.

Mayor Pro Tem Viczorek asked if the park belongs to Zephyr or the City.

Director Luna-Reynosa replied that when the park is completed it will be dedicated to the City.

Mayor Pro Tem Viczorek asked what the cost will be to maintain the memorial.

Acting City Manager Killebrew replied that the estimate is \$25,000-\$32,000 for annual park maintenance.

Mayor Tomlinson opened the public comments.

Heather Johnston, CEO of Dana Point Chamber of Commerce, stated that they support the project and that Hobie is unique to Dana Point. She felt that this will not just be a piece of art, but will help Dana Point build a story as well as provide great publicity for the City. She added that it will be a great addition to the entryway to Dana Point.

Nancy Jenkins, Dana Point, asked for support of the proposed memorial.

Bruce Beal, Dana Point, asked for the Council's support of the memorial.

Mayor Tomlinson closed the public comments.

Council Member Olvera felt that once people see that this memorial will be a reality, it will be easier to obtain donations. He stated that this is a piece of history and that it was important that we place it where it can be easily seen by everyone. He added that he supports this project.

Council Member Schoeffel stated that Hobie has been a large part of his life. He stated that this would be a great location and supports the project. He was convinced that the extraction is proportionally appropriate for a project of this size. He added that this is art and it is Dana Point's culture. He felt that that the money would be well spent and a tremendous opportunity.

Mayor Tomlinson stated that Hobie is part of Dana Point and our heritage. He felt that bronze would be very durable and added that this was the perfect use of the funds as well as time to spend this money.

Council Member Muller stated that his concern is the amount of money being spent is going to one place and that he would like to see it used around the City. He was also concerned that the fundraising effort would stop at \$200,000 and that there would be no tie-in to a future surfing heritage museum. He felt that the Foundation

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should be able to raise the money without the City's contribution. He added that he supports the project and excited about the location.

Mayor Pro Tem Viczorek stated that this memorial was a great thing for the City but he had a few concerns about the financial aspect. He found it hard to believe that the money could not be raised without the City's contribution and felt that it would be more difficult to raise funds when people know that the City is contributing. He proposed moving the project forward but would like to review the Memorandum of Understanding and structure the document to accomplish goals; 1. location, 2. ensure fundraising is not hampered, and 3. phase the funding until matched by the Foundation.

Council Member Schoeffel felt that the recommended action was clearly stated and made a motion to approve.

IT WAS MOVED BY COUNCIL MEMBER SCHOEFFEL, SECONDED BY COUNCIL MEMBER OLVERA, THAT THE CITY COUNCIL AUTHORIZE THE ACTING CITY MANAGER TO NEGOTIATE AND ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) WITH HOBIE MEMORIAL FOUNDATION ("THE FOUNDATION") FOR THE FABRICATION OF THE HOBIE MEMORIAL (THE "MEMORIAL") AT THE LINEAR PARK FRONTING PACIFIC COAST HIGHWAY.

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

## **NEW BUSINESS**

### **11. COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2016**

Acting City Manager Killebrew provided a staff report.

Council Member Olvera asked for an elaboration of the awards that the City has received for its finance practices.

Acting City Manager Killebrew replied that the City has received an award for 27 years in row from the Government Finance Officers Association. He added that in the past the City had also received budget awards from the California Society of Municipal Finance Officers.

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Council Member Olvera stated that he was disappointed that people were not in the audience that regularly challenges with regards to the City's budget. He felt that this report should put an end to the negative criticism.

IT WAS MOVED BY MAYOR TOMLINSON, SECONDED BY COUNCIL MEMBER SCHOEFFEL, THAT THE CITY COUNCIL RECEIVE AND FILE THE COMPREHENSIVE ANNUAL FINANCIAL REPORT ("CAFR") FOR THE YEAR ENDED JUNE 30, 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

**12. DISCUSSION REGARDING DATE UPON WHICH TO HOLD SECOND MEETING IN DECEMBER**

Acting City Manager Killebrew provided a staff report.

Council Member Schoeffel stated that the Council had discussed the Policy two meetings ago and that everyone knew what the rule would be but it had come to his attention that one of the Council Member's mother was getting married. He proposed moving the next meeting to December 14th at 5:00 p.m. He asked if the Council Members Elect had a preference.

Council Members Elect Lewis and Wyatt replied that they would prefer 6:00 p.m.

There was a consensus to hold the next meeting on Wednesday, December 14th at 6 p.m.

Mayor Pro Tem Viczorek asked if it would be considered a special meeting.

City Attorney Munoz replied that it would be best if the Council adjourned the meeting to December 14th.

IT WAS MOVED BY COUNCIL MEMBER SCHOEFFEL, SECONDED BY MAYOR TOMLINSON, THAT THE MAYOR ADJOURN THIS MEETING TO WEDNESDAY, DECEMBER 14, 2016 AT 6:00 P.M.

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

**PUBLIC COMMENTS**

There were no additional Public Comments received.

**CITY COUNCIL REORGANIZATION**

Mayor Tomlinson stated that he wanted to take an opportunity to thank Council Member Schoeffel for his service. He nominated Council Member Schoeffel to serve as Mayor for one last time.

IT WAS MOVED BY MAYOR TOMLINSON, SECONDED BY COUNCIL MEMBER OLVERA, TO NOMINATE COUNCIL MEMBER SCHOEFFEL TO SERVE AS MAYOR FOR THE LAST MEETING.

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

Mayor Schoeffel stated that he was honored and grateful for this gesture. He nominated Council Member Tomlinson to serve as the Mayor Pro Tem.

Council Member Muller stated that he could not support unseating Mayor Pro Tem Viczorek for eight days.

IT WAS MOVED BY MAYOR SCHOEFFEL, SECONDED BY COUNCIL MEMBER OLVERA, TO NOMINATE COUNCIL MEMBER TOMLINSON TO SERVE AS MAYOR PRO TEM FOR THE NEXT MEETING.

The motion carried by the following vote:

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

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

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**STAFF REPORTS**

There were no Staff Report.

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

Mayor Pro Tem Tomlinson reported that he helped light the Christmas tree and that the most enjoyable part of being the Mayor was watching the children. He stated that he would turn in his list of meetings attended to the City Clerk.

Council Member Viczorek stated that he had already turned in his list of meetings attended to the City Clerk.

Council Member Muller thanked the Council for accommodating his schedule. He stated that he would turn in his list of meetings attended to the City Clerk.

Mayor Schoeffel wished everyone a Happy Holiday Season.

**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Schoeffel adjourned the meeting at 7:58 p.m. and announced that the next Adjourned Regular Meeting of the City Council will be December 14, 2016, at 6:00 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 JANUARY 17, 2017

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Meetings attended since November 15, 2016:

**Mayor Pro Tem John A. Tomlinson**

December 2 - RH Dana Tree Decorating  
December 3 - City Tree Lighting Ceremony  
December 5 - Capistrano Beach Tree Lighting

**Council Member Carlos N. Olvera**

December 2 - RH Dana Kids meeting with Santa

**Council Member Richard A. Viczorek**

December 2 - GritCycle Ribbon Cutting  
December 3 - Tree Lighting Ceremony – La Plaza Park  
December 5 - Tree Lighting Ceremony – Pines Park