#### CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Lewis at 5:00 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

#### **ROLL CALL OF CITY COUNCIL MEMBERS:**

Present:

Mayor Debra Lewis

Mayor Pro Tem Paul N Wyatt Council Member Joseph L. Muller Council Member John A. Tomlinson Council Member Richard A. Viczorek

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), (3 cases)

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

Name of Case: City of Dana Point v. The Sunshine Group LLC, et al; Orange County Superior Court Case No. 30-2017-00915900-CU-PT-CJC (Seaside Inn Property);

Name of Case: Thomas Volkmann v. City of Dana Point; Orange County Superior Court Case No. 30-2017-00914962-CU-EI-CXC

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

#### RECONVENE CITY COUNCIL MEETING

Mayor Lewis reconvened the meeting at 6:23 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; Matthew Sinacori, Deputy Director of Public Works and Engineering; Mark Sutton, Building Official; Jackie Littler, Executive Assistant, DyAnne Weamire, Senior Administrative Assistant; and Gail Enriquez, City Clerk Specialist.

#### **CLOSED SESSION ANNOUNCEMENT**

City Attorney Munoz stated that he had nothing to report.

#### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Tomlinson.

#### INVOCATION

The Invocation was led by VFW Chaplain Morrie Hansen.

#### PRESENTATIONS AND PROCLAMATIONS

#### Volunteer of the Quarter - Skip Wehan

Mayor Pro Tem Wyatt stated that Jim "Skip" Whelan is always at the Ocean Institute during the Tall Ships Festival. He said Skip founded the Sea Scouts about 40 years ago and that he volunteered at the Ocean Institute and 25 years ago became the Skipper of The Pilgrim and The Spirit of Dana Point. He presented Skip a Certificate of Recognition as the first Volunteer of the Quarter for 2017.

#### Annual Orange County Human Relations Report - Bill Woods

Mr. Woods presented an annual report of the non-profit group Orange County Human Relations. He stated that their programs help create safe and respectful communities to build understanding of our diverse communities. He stated that there were no hate crimes reported in Dana Point in the past year, but one hate incident in 2015/16. He presented Mayor Lewis with the copy of their annual report on hate crimes and a certificate from OC Human Relations.

#### VFW State Law Enforcement Officer of the Year - Deputy Zachariah Scott

Council Member Viczorek, as a member of the VFW Post 9934, introduced VFW District Commander John Muller who presented the State Law Enforcement Officer of the Year to Deputy Zachariah Scott. District Commander Muller presented a plaque to Deputy Scott from the State of California, as well as the National Award for VFW Law

Enforcement Officer of the Year. Wayne Yost, local VFW Commander, stated that there are over 6,000 VFW posts in the Country and congratulated Deputy Scott on this top award.

Lt. Chilton stated that this is a great honor for our City as this is the first National award received by a member of our community. He stated that Deputy Scott and his family is very involved in an organization for Cystic Fibrosis.

#### CONSENT CALENDAR

Council Member Muller pulled Item 2.

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER MULLER, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 2.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

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, APRIL 18, 2017

Council Member Muller removed this item from the Consent Calendar.

Council Member Muller stated that he attended the March 23<sup>rd</sup> Medal of Valor luncheon and requested that a correction be made to his list of meetings attended to add that event.

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL APPROVE THE MINUTES.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

3. SPECIAL MEETING MINUTES, APRIL 20, 2017

APPROVED THE MINUTES.

4. ARTS AND CULTURE MEETING MINUTES, JANUARY 18, 2017

RECEIVED AND FILED.

5. TRAFFIC IMPROVEMENT SUBCOMMITTEE MINUTES, JANUARY 18, 2017

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

8. MONTHLY FINANCIAL ACTIVITY REPORT, FEBRUARY 2017

RECEIVED AND FILED THE MONTHLY FINANCIAL ACTIVITY REPORT, FEBRUARY 2017.

#### **PUBLIC COMMENTS**

Penny Maynard, Dana Point spoke on Mayor Pro Tem Wyatt's presentation on the City budget at the April 18th City Council meeting. She stated that she disagreed with the Mayor Pro Tem and stated that she does not believe the City participates in negative spending. She reported that the May 2017 Coastal Living magazine stated that the City was named #9 in the Top 10 Happiest Coastal Town in the U.S. She said she still feels

as if the City should have Council Districts and that the word "Beach" should be added to the name of our City.

Carol Wilson, Dana Point, reported that she had been given Jill Jackson's name in Police Services as the City's contact for the Neighborhood Watch Program, but it took nearly two weeks to reach her since she had been given an incorrect email address and the phone number on the City's website; however, her voicemail was not correctly setup. She asked that Jill's email and phone number be added to the City's website. She reported on the results of the Neighborhood Watch Program meeting and her requested support of the Neighborhood Watch Program from Council.

Mayor Lewis asked if Ms. Wilson was able to obtain the correct number that she needed.

Ms. Wilson replied yes.

Nancy Jenkins, Dana Point, Vice Chair of the Arts & Cultural Commission shared information about the Arts Fest that will take place on Sunday, May 21st 10am-5pm. She stated that the businesses/restaurants on Del Prado will be offering specials that day as well to encourage attendees to stay the whole day. She added that Dean Kirkland of Hollywood will be there to finish up a drone video that can be used as a great public relations piece for the City and invited all to attend.

Mayor Lewis asked the name of card that Ms. Jenkins showed the Council.

Ms. Jenkins replied that it is a rack card.

Emmanuel Downes, Dana Point, shared his concern of the way immigration enforcement and local police services is handled. He believed that this will not result in a safer community, and residents would be more fearful of law enforcement.

#### **PUBLIC HEARINGS**

There were no Public Hearings.

#### **UNFINISHED BUSINESS**

#### 9. BUDGET STATUS UPDATE

Acting City Manager Killebrew presented a staff report. He reported that after meeting with Mayor Pro Tem Wyatt that they are, collectively, recommending for Council to direct staff to focus efforts over the next 60 days on getting the next two-

year budget adopted. He also stated that there is a request to have City Council direct staff to stabilize the budget and establish this year as a baseline year, and to fund the Capital Improvement Program to include a line item to fund capital maintenance of existing infrastructure by limited operating costs, where appropriate. He reported that they are taking the suggestion of Council Member Muller to include the establishment of a Strategic Plan as part of the overall recommendation.

Mayor Pro Tem Wyatt thanked Acting City Manager Killebrew and Deputy City Manager Denny for working with him on the budget status update. He stated that he would like to have the Council consider hiring a company to poll residents on what they think the City's priorities should be to assist in working with the Strategic Plan. He expressed his concern that money was not budgeted for City facilities and other assets in the City that were being maintained. He appreciated that a line item was added for that expense.

Acting City Manager Killebrew suggested that the citizen survey start now so that it will be ready for the Strategic Plan discussion.

Council Member Tomlinson asked if capital improvement projects have been considered and if there is a reserve fund for emergency work that needs to be done.

Acting City Manager Killebrew replied that standard projects are included in the budget and for mandates/emergency work.

Mayor Lewis opened Public Comments.

Penny Maynard, Dana Point stated her concerns about the hiring of the new City Manager since the new manager will be tasked with implementing all the budget decisions by the Council. She stated that she hopes that the new City Manager chosen would be familiar with the City and its budgets.

Mayor Lewis closed Public Comments.

IT WAS MOVED BY MAYOR PRO TEM WYATT, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL RECEIVE AND FILE THE BUDGET STATUS UPDATE FROM THE ACTING CITY MANAGER TO INITIATE THE FY 18-19 BUDGET ADOPTION PROCESS FOLLOWING THE DEADLINES SET BY THE FY 18-19 BUDGET CALENDAR AND THE BUDGET PRINCIPLES INCLUDED HEREIN.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

Council Member Muller thanked Mayor Pro Tem Wyatt on his work with the budget and the discussions on the Strategic Plan. He stated that the real conversation that needs to be made is with Community Development for generating revenue streams to offset the increased costs of running the City. He stated that he supports the idea of a community survey.

Council Member Tomlinson stated that he would like to echo Council Member Muller's comments. He agreed that we need to look at the revenue side of the budget. He agreed with the suggestion of a resident survey prior to going into the Strategic Plan discussion. He asked Acting City Manager Killebrew if he is looking at alternative new revenue sources.

Acting City Manager Killebrew stated that they are looking at grants, but not at new revenue streams.

Council Member Tomlinson asked Acting City Manager what his opinion was on the ease or difficulty of obtaining new grants.

Acting City Manager Killebrew replied that it would be more difficult with the new administration.

#### **NEW BUSINESS**

# 10. RENEWAL OF PROFESSIONAL SERVICES CONTRACT FOR INFORMATION TECHNOLOGY SERVICES

Acting City Manager Killebrew stated that a member of staff has pulled this Item and moved it to the next City Council Meeting on May 16<sup>th</sup>.

# 11. QUARTERLY FINANCIAL REPORT, MARCH, 2017

Acting City Manager Killebrew presented a staff report. He reported that revenues are up 2.7% and expenditures are up 4.6%. He reported the City's emergency and cash flow reserves and Capital Improvement reserves remain fully funded in accordance with Council Policy.

Mayor Pro Tem Wyatt thanked Acting City Manager Killebrew and stated that in one of his meetings with Mr. Killebrew, he helped him better understand how to read the budget and thanked him for re-formatting the budget to read better.

Council Member Tomlinson asked the Acting City Manager Killebrew if with his projections there would be a fund balance increase of a million dollars.

Acting City Manager replied that it would depend on what transpires operationally over the next few months.

IT WAS MOVED BY MAYOR PRO TEM WYATT, SECONDED BY COUNCIL MEMBER MULLER, THAT THE CITY COUNCIL RECEIVE AND FILE THE CITY FINANCIAL REPORT AND MANAGEMENT DISCUSSION FOR THE NINE MONTHS ENDED MARCH 31, 2017.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

12. SECOND READING FOR CALIFORNIA COASTAL COMMISSION SUGGESTED MODIFICATIONS TO THE CITY'S APPROVED ZONE TEXT AMENDMENT ZTA16-0001; TO AMEND THE HEADLANDS DEVELOPMENT AND CONSERVATION PLAN (HDCP), TO ADDRESS PUBLIC ACCESS OVER SPECIFIED ACCESSWAYS IN THE RESIDENTIAL PORTION OF THE HEADLANDS DEVELOPMENT AND CONSERVATION PLAN AND THE USE OF THREE ROPES OR SIMILAR DEVICES

Director Luna-Reynosa presented a staff report. She reported that there have been no additional correspondence on this item.

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL HOLD A SECOND READING AND ADOPT **ORDINANCE 17-03** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA16-0001 TO AMEND THE HEADLANDS DEVELOPMENT AND CONSERVATION PLAN; SECTION 4.0 TO ADDRESS PUBLIC ACCESS OVER SPECIFIED ACCESS

WAYS IN THE RESIDENTIAL PORTION OF THE HEADLANDS AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA16-0001 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

# 13. LICENSING AGREEMENT AMENDMENT #13 WITH DIGITAL MAP PRODUCTS FOR PROPERTY INFORMATION UPDATES AND GIS SERVICES

Acting City Manager Killebrew presented a staff report.

Council Member Muller asked Acting City Manager Killebrew to confirm that the City has been using this system since 1997.

Acting City Manager replied yes.

Council Member Muller asked if there are any other providers of this type of service since there is a bit of a concern of a 20-year contract with one company.

Acting City Manager Killebrew stated that there are others; however, this particular provider has an agreement with the County that gives the City staff access to County property records.

Council Member asked if OCSD or CASA share a cost to having access to our data. Acting City Manager Killebrew replied no.

IT WAS MOVED BY MAYOR PRO TEM, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO EXECUTE THE LICENSING AGREEMENT AMENDMENT #13 WITH DIGITAL MAP PRODUCTS AND THE CITY OF DANA POINT FOR PROPERTY INFORMATION UPDATES AND GIS SOFTWARE AND SERVICES.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson,

Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and

Mayor Debra Lewis

NOES: None

# 14. MAYOR'S REQUEST - NO SMOKING OR VAPING ORDINANCE IN PUBLIC PLACES

Acting City Manager Killebrew stated that there are some Ordinances prohibiting smoking in areas of the City, and stated that under state law there are other areas that were included. He reported that there is a movement in California to increase other no-smoking areas.

Mayor Lewis stated that she requested this item be added to the agenda and wanted to stress that they are not voting on an ordinance at this time. She said that she believes this is a quality of life issue, and asked the staff to investigate and advise the Council on how to proceed with this issue should they decide to move forward.

Mayor Lewis continued that she read the Manhattan Beach's Ordinance and reported that the City's council members and residents have been happy since it has been in place. She also stated that she received a comment from the Mayor of Laguna Beach that the Laguna Beach City Council passed such a resolution in January 2017 to ban smoking in public places in Laguna Beach and did a survey of their residents. Nearly 80% responded in favor of the smoking ban. The Laguna Beach Council will be voting on the Ordinance at their May 9<sup>th</sup> City Council meeting.

Mayor Pro Tem Wyatt stated that Council will need to consider the implication of enforcement since it will be difficult to enforce, but will be the most useful part of this ban.

Mayor Lewis agreed with Mayor Pro Tem.

Mayor Lewis opened Public Comments.

Carol Wilson, Capistrano Beach, provided input about the no-smoking ban. She supported the idea of the ban, especially the enforcement of this ban.

Mayor Lewis commented that this is an issue regardless of who is doing the smoking. She stated that the question is the behavior that effects the quality of life regardless of where that behavior emanates from. She provided examples such as the people with the RV, who left the RV, walked across the street to smoke, which

was a nuisance to the neighbors on that side of street, the people who are here for short term rentals and they are smoking. She mentioned that she talked to someone today who told her he walk down a sidewalk in front of a store, and there were a couple of people who hang out there, while unsure of whether or not they are just hanging out or whether they work there and were on break, but they would stand there smoking and the woman described it as walking through a gauntlet to get past it. Mayor Lewis stated that addressing this regardless of where it comes from, it is the behavior that is effecting the quality of life.

Ravi Choudhuri, Brea, thanked the Council for bringing this conversation into light. He stated that he is representing the American Lung Association and provided handout materials to the Council. He offered himself as a resource to help with this ban.

Mayor Lewis asked Mr. Choudhuri if he left his contact information. She stated that she talked to Mayor Iseman, and she said they did quite an extensive survey before they wrote up the ordinance, and was told that they have never received such a high return on that survey as they did for this one. She stated that 80% of the Laguna Beach residents approved and wanted this no-smoking ordinance.

Mayor Lewis closed Public Comments.

Council Member Tomlinson asked about the extent of the ordinance to include backyards and private residences.

Mayor Lewis stated that the extent is only in public places such as streets, sidewalks, parking garages, out in front of your house, so any places that are publicly accessible.

Council Member Tomlinson stated that he is a supporter of property rights, and asked who and how will this be enforced and what the costs will be to enforce this. He also asked if this will include smoking marijuana.

City Attorney Munoz stated that where we prohibit cigarette smoking, it will include prohibiting marijuana smoking as well. He stated that he has not taken the time yet to research the areas where the City can prohibit public smoking, but we can definitely look at it the Council's direction.

Mayor Lewis stated she also is wondering about enforcement and how Manhattan Beach is enforcing it and their success rate.

Council Member Tomlinson stated he is concerned about weighing in on private interests/rights of citizens.

Council Member Muller echoed Council Member Tomlinson's concern about private property rights and asked that we balance those rights when considering this ordinance and stated that he would have a concern about enforcement. He stated that he would encourage a resident scientific survey.

IT WAS MOVED BY MAYOR LEWIS, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL DIRECT STAFF TO INVESTIGATE, ADVISE AND WHERE APPROPRIATE, QUANTIFY FOR COUNCIL THE RISKS AND BENEFITS OF PROHIBITING SMOKING OR VAPING IN PUBLIC PLACES FROM THE CITY'S RESIDENTS; AND BUSINESSES' PERSPECTIVE AND PROVIDE COUNCIL WITH A HIGH LEVEL ROAD MAP, INCLUDING A SCIENTIFIC SURVEY OF THE RESIDENTS, OF HOW TO IMPLEMENT AN ORDINANCE.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

# **PUBLIC COMMENTS** (Continued)

There were no additional Public Comments.

#### STAFF REPORTS

Acting City Manager stated he had nothing to report.

City Attorney Munoz stated a receiver was appointed for the Seaside Inn, the property has been secured and efforts are under way for renovation.

# COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Muller reported on the OCFA Drowning Task Force and stated that the 35-64 age group is the largest number of drowning incidents in this City, mostly in the ocean. He asked that the City continue to support of this task force. He reported on "The

Stick Program" that he would like the Council to consider on the next agenda. He also reported that the Dana Point Grand Prix was a successful event with a large international participation and it was a successful event for the Town Center businesses. He added that he will turn in his list of meetings.

Mayor Pro Tem Wyatt reported that turned in his list of meetings.

Mayor Lewis thanked Toni Nelson of Capo Cares for her work on the Capistrano Beach Town Hall meeting. She will turn in her meeting list to the Clerk.

Council Member Viczorek reported he turned in his list of meetings to the Clerk, and had nothing additional to report.

Council Member Tomlinson thanked Police Services, Lt. Chilton, and all the Deputies for the service they provide to the community. He stated he will turn in his list of meetings.

#### **ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Lewis adjourned the meeting at 8:06 p.m. and announced that the next Regular Meeting of the City Council will be May 16, 2017, 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 MAY 16, 2017

Meetings attended since April 18, 2017:

# **Mayor Debra Lewis**

April 19	Capo Cares, Mark Sutton, Ted Harris
April 21	Marla Miller – Niguel Shores
April 21	Capistrano Unified School District – Mayors' Roundtable
April 22	High 5-A-Thon, Dana Hills High School
April 24	Killebrew, Chilton, Mayor Pro Tem, and San Juan Capistrano Mayor, Police Chief, Code Enforcement & City Manager
April 25	Ocean Institute – New President Reception
April 26	Heather Hutt & Brent Robinson – Kamala Harris Office, So. Cal Deputy Director and Field Representative
April 27	R.H. Dana Elementary School – Award Ceremony
April 27	Various Residents – Mayor's Office Hours
April 29	20th Annual Doheny Wood Auto Show, Award Mayor Trophy
May 1	Capo Cares Town Hall with Mayor meeting
May 2	Cliff Bream – Ocean Institute, Chairman of the Board
Mayor Pro Tem Paul N Wyatt	
April 19	Capo Cares
April 21	OC Business Council Luncheon, Irvine, CA
April 24	Watershed and Testing Laboratory Tour, Dana Point and Newport Beach
April 24	Cities of Dana Point and San Juan Capistrano Homeless meeting
April 25	Sanford Edward, Dana Point
April 25	Ocean Water Quality Subcommittee meeting
April 26	Surf Heritage Museum meeting
April 27	Ocean Institute Full Board meeting
April 28	South OC Economic Coalition meeting, Laguna Hills, CA
April 28	Neighboring City Mayors and Mayors Pro Tem common issues
	Discussion, Aliso Viejo, CA
May 2	Ocean Institute Tall Ship Task Force meeting
Council Member Joseph L. Muller	
April 19	TCA
April 21	CUSD Mayors Roundtable
April 26	TCA
•	Surf Heritage Museum
April 27	OCFA

April 30 Dana Point Grand Prix

May 2 Fire Station 61 Ground Breaking

Council Member Richard A. Viczorek

April 19 SJHTCA Board of Directors Budget Workshop