

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



**TUESDAY
SEPTEMBER 19, 2017
4:00 P.M.**

ACTION AGENDA

Location: Dana Point Community Center, 34052 Del Obispo, Dana Point, California 92629

Next City Council Ordinance No. 17-04

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 4:02 p.m. at the Dana Point Community Center, 34052 Del Obispo Street, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

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

CLOSED SESSION

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

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957

Title: City Manager (setting goals and objectives)

B. CITY ATTORNEY SERVICES PERFORMANCE EVALUATION, Government Code § 54957

Title: City Attorney (setting goals and objectives)

C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d1), (2 cases)

D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (1 case)

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

E. CODE ENFORCEMENT UPDATE

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Gov. Code §54956.9(d)(1) (3 cases)
2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Gov. Code §54956.9(a) (4 cases):
 - i. City of DP v. Karns, Case No. 16HM10382
 - ii. City of DP v. Pickering, Case No. 16HM10192
 - iii. Volkmann v. City of DP, OC Superior Case No. 30-2017-00914962-CU-EI-CXC
 - iv. City of DP v. The Sunshine Group LLC, Case No. OCSC Case No. 30-2017-00915900

Mayor Lewis recessed the meeting into a Closed Session at 4:05 p.m. pursuant to Government Code Section 54956 et seq

RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

Mayor Lewis reconvened the meeting at 6:07 p.m. All Council Members were present.

STAFF PRESENT: Mark Denny, City Manager; Patrick Munoz, City Attorney; Mike Rose, Director of General Services; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Matthew Schneider, Planning Manager; Brian McClure, Deputy Director of Community Services and Parks; Mark Sutton, Building Official; Belinda Deines, Senior Planner, Belinda Deines, Senior Planner, Kelly Reenders, Economic Development Manager; Shelley Velez, Human Resources Manager; Jackie Littler, Executive Assistant, DyAnne Weamire, Assistant Administrative Analyst, and Bobbi Ogan, Deputy City Clerk.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Viczorek.

INVOCATION

The Invocation was provided by Father Tony Park of St. Edwards the Confessor Catholic Church.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz had no report.

PRESENTATIONS AND PROCLAMATIONS

Presentation – Mark Sutton Retirement

Presentation – Daughters of the American Revolution – Constitution Week

Presentation – Volunteers in Police Services (VIPS) – Manny Jurado

CONSENT CALENDAR

Staff removed Item 10, Mayor Lewis removed Item 12, Mayor Pro Tem Wyatt removed Item 13, and Council Member Muller removed Item 14 from the Consent Calendar.

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 ITEMS 10, 12, 13 AND 14.

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

ABSENT: 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, AUGUST 15, 2017

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, JULY 24, 2017

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF AUGUST 28, 2017

RECEIVED AND FILED.

5. FINANCIAL REVIEW COMMITTEE MINUTES, JULY 26, 2017

RECEIVED AND FILED.

6. HOMELESS TASK FORCE MEETING MINUTES, JULY 26, 2017

RECEIVED AND FILED.

7. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

8. CITY TREASURER'S REPORT, JULY 2017

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF JULY 2017.

9. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

10. DANA POINT POLICE SERVICES MONTHLY REPORT

Staff removed this item from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL RECEIVE AND FILE THIS REPORT.

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

ABSENT: None

11. AMENDING SECTION 2.04.041(C) AND (D) OF THE DANA POINT MUNICIPAL CODE AND CITY POLICY 109 REGARDING PERMANENT RETENTION OF CITY AUDIO/VIDEOS

INTRODUCED AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING TITLE 2 OF THE CITY OF DANA POINT MUNICIPAL CODE AT SECTION 2.04.041 (c) AUDIO AND VIDEO TAPE RETENTION AND (d) AUDIO TAPE ACCESSIBILITY TO THE PUBLIC; and

AMENDED CITY COUNCIL POLICY 109 TO REFLECT PERMANENT RETENTION OF THE CITY'S AUDIO AND VIDEO RECORDINGS.

12. SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED EMPLOYEE CLASSIFICATIONS; ESTABLISHING A POSITION TITLE; AND AMENDING THE CONFLICT OF INTEREST CODE

Mayor Lewis removed this item from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL ADOPT **RESOLUTION 17-09-19-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED CLASSIFICATIONS; AND ESTABLISHING A POSITION TITLE; and

RESOLUTION 17-09-19-02 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 John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt and Mayor Debra Lewis

NOES: None

ABSENT: None

13. RESOLUTION FOR HOMELESS TASK FORCE

Council Member Muller removed this item from the Consent Calendar.

IT WAS MOVED BY MAYOR PRO TEM WYATT, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL ADOPT **RESOLUTION 17-09-19-03** AMENDED TO INCLUDE THE DOHENY VILLAGE MERCHANTS ASSOCIATION AND THE VFW POST 9934 AS WELL AS ALLOW FOR THE USE OF ALTERNATES FOR THE HOMELESS TASK FORCE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING A HOMELESS TASK FORCE.

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

ABSENT: None

14. QUARTERLY FINANCIAL REPORT, JUNE 2017

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

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 FISCAL YEAR ENDED JUNE 30, 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

ABSENT: None

15. CONTRACT AMENDMENT FOR AUDIT SERVICES

RECOMMENDED ACTION: That the City Council:

1. Approve a contract amendment with Vavrinek, Trine and Day, which covers new costs associated with the audit firm holding short meetings with each individual Financial Review Committee member separately; and
2. Approve a budget adjustment in the amount of \$1,000 to cover the cost of this additional audit services.

PUBLIC COMMENTS

Patricia Sexton
Hoiyin
Brandon Day

PUBLIC HEARINGS

Council Member Tomlinson recused himself from Items 16 and 17 due to a potential conflict of interest and left the meeting at 7:25 p.m.

16. APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF SITE DEVELOPMENT PERMITS 16-0001 AND 16-0002 FOR CONSTRUCTION OF TWO DETACHED DWELLING UNITS ON EACH OF TWO CONTINUOUS LOTS (4 UNITS TOTAL) IN THE RESIDENTIAL DUPLEX (RD-14) ZONING DISTRICT LOCATED AT 34466 AND 34468 VIA VERDE

IT WAS MOVED BY MAYOR PRO TEM WYATT, SECONDED BY MAYOR LEWIS, THAT THE CITY COUNCIL DENY THE APPEAL AND UPHOLD THE PLANNING COMMISSION'S DECISION AND ADOPT **RESOLUTION 17-09-19-04** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF SITE DEVELOPMENT PERMITS SDP16-0001 AND SDP16-0002 FOR CONSTRUCTION OF TWO DETACHED DWELLING UNITS ON EACH OF TWO CONTIGUOUS LOTS (4 UNITS TOTAL) IN THE RESIDENTIAL DUPLEX (RD-14) ZONING DISTRICT LOCATED AT 34466 AND 34468 VIA VERDE.

The motion carried by the following vote:

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

17. HEARING ON A REQUEST FOR AN EXCEPTION TO THE FLOODPLAIN OVERLAY DISTRICT REGULATIONS FOR THE PROPERTY LOCATION AT 35591 BEACH ROAD

IT WAS MOVED BY MAYOR LEWIS, SECONDED BY MAYOR PRO TEM WYATT, THAT THE CITY COUNCIL ADOPT **RESOLUTION 17-09-19-05** WITH AMENDMENT TO CONDITION NUMBER 9 TO INCLUDE THE DEFINITION OF “BFE” (BASE FLOOD ELEVATION), THE DELETION OF CONDITION NUMBER 18 B, AND THE INCLUSION OF APPROVING THE PROPERTY OWNER’S REQUEST FOR AN EXCEPTION TO THE FLOODPLAIN REGULATIONS LIMITING MODIFICATION TO STRUCTURES LOCATED IN THE FP-3 FLOODPLAIN OVERLAY DISTRICT FOR THE PROPERTY AT 35591 BEACH ROAD (APN: 691-161-24) ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, GRANTING AN EXCEPTION TO CHAPTER 9.31.050(c)(3)(A) TO ALLOW RETENTION OF ALTERATIONS EXCEEDING TEN PERCENT (10%) OF THE VALUATION OF THE STRUCTURE FOR THE PROPERTY LOCATED AT 35591 BEACH ROAD.

The motion carried by the following vote:

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

NOES: None

ABSENT: Council Member John A. Tomlinson

UNFINISHED BUSINESS

18. 2017 COMMUNITY SURVEY

IT WAS MOVED BY MAYOR LEWIS, SECONDED BY MAYOR PRO TEM WYATT, THAT THE CITY COUNCIL RECEIVE A PRESENTATION FROM FM3 RESEARCH ON THE 2017 DANA POINT COMMUNITY SURVEY.

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

ABSENT: None

19. DEVELOPMENT UPDATE

IT WAS MOVED BY MAYOR PRO TEM WYATT, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL RECEIVE AND FILE THIS REPORT.

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
ABSENT: None

NEW BUSINESS

20. PROPOSED MEMORANDUM OF UNDERSTANDING FOR EVALUATION OF ORANGE COUNTY SHERIFF'S DEPARTMENT CONTRACT LAW ENFORCEMENT SERVICES

IT WAS MOVED BY MAYOR PRO TEM WYATT, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL APPROVE THE PROPOSED MEMORANDUM OF UNDERSTANDING (MOU) AUTHORIZING THE CITY'S PARTICIPATION AND COMMITMENT TO A MULTI-CITY EFFORT TO COMMISSION A CONTRACT LAW ENFORCEMENT COST AND EFFICIENCY STUDY.

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
ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO EXECUTE THE PROPOSED MOU; AND APPROPRIATE FUNDS IN THE AMOUNT OF \$15,700 FOR THE CITY'S ESTIMATED SHARE OF THE COST OF THE STUDY; AUTHORIZE THE CITY MANAGER TO AMEND THE MOU UP TO HIS PURCHASING AUTHORITY SHOULD THE ACTUAL COST OF THE STUDY BE HIGHER THAN CURRENTLY ESTIMATED.

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
ABSENT: None

21. AMENDING CHAPTER 6.14.002, PUBLIC NUISANCES DESIGNATED, OF THE MUNICIPAL CODE, TO DECLARE A PUBLIC NUISANCE EXISTS WHEN A FACILITY THAT SHOULD BE LICENSED PURSUANT TO HEALTH AND SAFETY CODE SECTION 11834.01 ET .SEQ., OR ANY OTHER PROVISION OF LAW, OPERATES WITHOUT A LICENSE OR OTHER REQUIRED APPROVAL, OR OPERATES IN VIOLATION OF A REQUIRED LICENSE OR APPROVAL

IT WAS MOVED BY MAYOR PRO TEM WYATT, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL INTRODUCE AND HOLD A FIRST READING OF AN ORDINANCE OF THE CITY OF DANA POINT ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 6.14.002, PUBLIC NUISANCES DESIGNATED, OF THE MUNICIPAL CODE, TO DECLARE A PUBLIC NUISANCE EXISTS WHEN A FACILITY THAT SHOULD BE LICENSED PURSUANT TO HEALTH AND SAFETY CODE SECTION 11834.01 ET. SEQ., OR ANY OTHER PROVISION OF LAW, OPERATES WITHOUT A LICENSE OR OTHER REQUIRED APPROVAL, OR OPERATES IN VIOLATION OF A REQUIRED LICENSE OR APPROVAL.

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

ABSENT: None

PUBLIC COMMENTS (Continued)

There were no additional Public Comments received.

STAFF REPORTS

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Lewis adjourned the meeting at 11:25 p.m. and announced that the next Regular Meeting of the City Council will be October 3, 2017, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.