

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



**TUESDAY
OCTOBER 3, 2017
4:00 P.M.**

AGENDA

Location: City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point, California 92629

Next City Council Ordinance No. 17-04

CALL TO ORDER

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

- 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), (1 case)
- D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (3 cases)
 - i. Name of Case: City of DP v. Pickering, Case No. 16HM10192
 - ii. Volkmann v. City of DP, OC Superior Case No. 30-2017-00914962-CU-EI-CXC
 - iii. City of DP v. The Sunshine Group LLC, Case No. OCSC Case No. 30-2017-00915900

RECESS OF CITY COUNCIL MEETING UNTIL 6:00 P.M.

RECONVENE CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATIONS AND PROCLAMATIONS

Employee Recognition – Sherry Murphy

Employee Recognition – Kolleen Wallace, Monique Leon, and Oscar Estrada.

CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and all will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the City Council, the public, or staff request specific items be removed from the Consent Calendar for separate action.

1. WAIVE THE READING OF ORDINANCES AND APPROVE READING BY TITLE ONLY

RECOMMENDED ACTION: That the City Council approve 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 19, 2017](#)

RECOMMENDED ACTION: That the City Council approve the minutes.

3. [PLANNING COMMISSION MEETING MINUTES, AUGUST 28, 2017](#)

RECOMMENDED ACTION: That the City Council receive and file.

4. [PLANNING COMMISSION ACTIONS, MEETING OF SEPTEMBER 25, 2017](#)

RECOMMENDED ACTION: That the City Council receive and file.

5. [HOMELESS TASK FORCE MINUTES, AUGUST 30, 2017](#)

RECOMMENDED ACTION: That the City Council receive and file.

6. [MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR](#)

RECOMMENDED ACTION: That the City Council receive and file.

7. **YOUTH BOARD SPECIAL MEETING MINUTES, SEPTEMBER 14, 2017**

RECOMMENDED ACTION: That the City Council receive and file.

8. **CLAIMS AND DEMANDS**

RECOMMENDED ACTION: That the City Council receive and file the Claims and Demands.

9. **CITY TREASURER'S REPORT, AUGUST 2017**

RECOMMENDED ACTION: That the City Council receive and file the City Treasurer's Report for the month of August 2017.

10. **MONTHLY FINANCIAL ACTIVITY REPORT, JULY 2017**

RECOMMENDED ACTION: That the City Council receive and file the Monthly Financial Activity Report for July 2017.

11. **RESOLUTIONS AUTHORIZING STAFF TO APPLY FOR THE OUTDOOR ENVIRONMENTAL EDUCATION FACILITIES GRANT AND HABITAT CONSERVATION GRANT, FOR FUNDS PROVIDED FROM THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION ACT OF 2002 AND THE CALIFORNIA WILDLIFE PROTECTION ACT OF 1990**

RECOMMENDED ACTION: That the City Council 1) adopt Resolutions entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE APPLICATION FOR THE OUTDOOR ENVIRONMENTAL EDUCATION FACILITIES GRANT FUNDS; and

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE HABITAT CONSERVATION FUND PROGRAM; and

2) Authorize the City Manager or his designees to apply for subject grants.

12. **SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING SECTION 2.04.041(C) AND (D) OF THE DANA POINT MUNICIPAL CODE REGARDING PERMANENT RETENTION OF CITY AUDIO/VIDEOS**

RECOMMENDED ACTION: That the City Council hold a second a reading and adopt 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.

13. [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](#)

RECOMMENDED ACTION: That the City Council hold second reading and adopt 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.

14. [ASSOCIATION OF CALIFORNIA CITIES – ORANGE COUNTY MEMBERSHIP](#)

RECOMMENDED ACTION: That the City Council authorize the City manager to execute an annual City Membership in the Association of California Cities – Orange County.

15. [MAYOR DEBRA LEWIS APPOINTMENT OF JOSEPH JAEGER TO FINANCIAL REVIEW COMMITTEE](#)

RECOMMENDED ACTION: That the City Council ratify Mayor Debra Lewis' appointment of Joseph Jaeger to the Financial Review Committee

At this time, the City Clerk will read the title(s) of the ordinance(s) listed on the agenda.

PUBLIC COMMENTS

Any person wishing to address the City Council during the Public Comments section or on an Agenda item is asked to complete a "Request to Speak" form available on the table at the side of the Council Chamber. The completed form is to be submitted to the City Clerk prior to the Agenda item being called by the Mayor and prior to the individual being heard by the City Council.

In order to conduct a timely meeting, there will be a three-minute time limit per person and an overall time limit of fifteen minutes for this Public Comments portion of the agenda. At the Mayor's discretion, the balance of public comments will be heard after the New Business portion of the agenda. All comments are to be directed to the City Council and shall not consist of any personal attacks. Members of the public are expected to maintain a professional, courteous decorum during their comments. State law prohibits the City Council from taking action on a specific item unless it appears on the posted Agenda.

If anyone has handouts to distribute to the City Council, please follow proper procedure and hand them to the City Clerk. The City Clerk will see that they are distributed.

PUBLIC HEARINGS

16. [AN APPEAL OF PLANNING COMMISSION APPROVAL FOR COASTAL DEVELOPMENT PERMIT CDP17-0008; SITE DEVELOPMENT PERMIT SDP17-0013/MINOR CONDITIONAL USE PERMIT CUP17-0005\(M\) FOR A NEW 57 ROOM HOTEL, 4,000 SQUARE FOOT RESTAURANT SPACE WITH OUTDOOR DINING, 40-BED HOSTEL, VISITOR CENTER, RETAINING WALLS GREATER THAN 30 INCHES IN HEIGHT VISIBLE FROM THE PUBLIC RIGHT-OF-WAY, AND TANDEM PARKING FOR EMPLOYEES/VALET, WAVE RETORT \(HEADLANDS COMMERCIAL SITE\) LOCATED AT 34075 PACIFIC COAST HIGHWAY WITHIN THE COASTAL ZONE](#)

RECOMMENDED ACTION: That the City Council deny the appeal and uphold the Planning Commission's approval of Coastal Development Permit CDP17-0008/Site Development Permit SDP17-0013/Minor Site Development Permit CUP17-0005(M) and adopt a Resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION APPROVAL OF COASTAL DEVELOPMENT PERMIT CDP17-0008/SITE DEVELOPMENT PERMIT SDP17-0013/MINOR CONDITIONAL USE PERMIT CUP17-0005(M) FOR THE DEVELOPMENT OF A 35,000 SQUARE FOOT HOTEL, RESTAURANT, VISITOR CENTER, AND HOSTEL DEVELOPMENT LOCATED AT 34075 PACIFIC COAST HIGHWAY.

UNFINISHED BUSINESS

17. [CITYWIDE PARKING IMPLEMENTATION PLAN](#)

RECOMMENDED ACTION: That the City Council adopt a two-year Citywide Parking Implementation Plan.

NEW BUSINESS

18. [NO SMOKING IN PUBLIC PLACES ORDINANCE](#)

RECOMMENDED ACTION: That the City Council:

- 1) Consider a proposed amendment to the Dana Point Municipal Code Sections 6.40.010-6.40.030 "Prohibition Against Smoking in Certain Places Open to the Public"; and
- 2) Discuss the proposed ordinance amendment and provide direction to staff to prepare a final version for first reading at the next regular City Council meeting.

19. [STORY POLE ORDINANCE](#)

RECOMMENDED ACTION: That the City Council:

- 1) Consider a proposed amendment to Dana Point Municipal Code requiring the use of staking ("story poles") for development projects; and
- 2) Discuss the proposed ordinance and provide direction to staff to prepare a final version for first reading at the next regular City Council meeting.

20. **OPEN DATA POLICY AND ESTABLISHMENT OF COUNCIL SUBCOMMITTEE TO OVERSEE PROGRESS AND IMPLEMENTATION**

RECOMMENDED ACTION: That the City Council:

- 1) Consider the proposed City of Dana Point Open Data Policy; and
- 2) Establish a City Council Subcommittee to oversee progress and implementation of the Open Data Policy.

21. **DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT ANNUAL REPORT AND RENEWAL FOR 2017**

That the City Council take the following actions:

- 1) Receive and file Dana Point Tourism Business Improvement District Quarterly Report for July – September 2017; and

- 2) Adopt a Resolution entitled:

A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE 2018 ANNUAL REPORT AND DECLARING THE INTENTION OF THE CITY COUNCIL TO CONTINUE THE PROGRAM AND ASSESSMENTS FOR THE 2018 CALENDAR YEAR FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID); and

- 3) Set the date for public hearing for renewal of the Dana Point Tourism Business Improvement District on November 7, 2017.

22. **FISCAL YEAR 2017-18 PROPOSED BUDGET ADJUSTMENTS (CARRY-OVER)**

RECOMMENDED ACTION: That the City Council amend the FY2017-18 (“FY18”) budget by authorizing the carry-over and re-appropriation encumbered and unencumbered funds from FY17 to FY18.

23. **ADOPTION OF A RESOLUTION APPROVING THE SB-1 PROJECT LIST FOR FY17-18**

RECOMMENDED ACTION: That the City Council adopt a Resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT APPROVING THE FY17-18 SB-1 PROJECT LIST TO INCLUDE ARTERIAL ROADWAY RESURFACING-CROWN VALLEY PARKWAY FROM PCH TO CAMINO DEL AVION (CIP#1310”).

PUBLIC COMMENTS (Continued)

STAFF REPORTS

(City Manager Mark Denny)

(City Attorney Patrick Muñoz)

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

The City Council may discuss, act upon or seek consensus on matters described under Council Reports only if: They are agendized with a complete written report included; or, if an item arose subsequent to the posting of the agenda and the Council determines that an emergency exists. Non-agendized items may be presented as informational only.

24. COUNCILMAN MULLER: DISCUSS PROCEDURES FOR HANDLING COMPLAINTS AGAINST COUNCIL-APPOINTED COMMISSION, COMMITTEE AND TASK FORCE MEMBERS

ADJOURNMENT

The next Regular Meeting of the City Council will be October 17, 2017, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

CERTIFICATION

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that a copy of the foregoing Agenda was posted at Dana Point City Hall, the Dana Point Post Office, the Capistrano Beach Post Office and the Dana Point Library by Tuesday, September 26, 2017, at 5:30 p.m.

KATHY M. WARD, CITY CLERK

DATE

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PURSUANT TO THE AMERICANS WITH DISABILITIES ACT, PERSONS WITH A DISABILITY WHO REQUIRE A DISABILITY-RELATED MODIFICATION OR ACCOMMODATION IN ORDER TO PARTICIPATE IN A MEETING, INCLUDING AUXILIARY AIDS OR SERVICES, MAY REQUEST SUCH MODIFICATION OR ACCOMMODATION FROM THE CITY CLERK AT (949) 248-3500 (TELEPHONE) OR (949) 248-9920 (FACSIMILE). NOTIFICATION 48 HOURS PRIOR TO THE MEETING WILL ENABLE THE CITY TO MAKE REASONABLE ARRANGEMENTS TO ASSURE ACCESSIBILITY TO THE MEETING.