

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



**TUESDAY
NOVEMBER 7, 2017
5:00 P.M.**

ACTION AGENDA

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

Next City Council Ordinance No. 17-06

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 5:03 p.m. in the City Council Chambers, 33282 Golden Lantern, 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 (*Arrived at 5:25 p.m.*)
Richard A. Viczorek, Council Member

CLOSED SESSION

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

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

Name of Case: City of Dana Point v. California Coastal Commission, et al, Case No. 37-2010-00099827

City Attorney Munoz stated that this was an update on the on-going settlement agreement.

B. CODE ENFORCEMENT UPDATE

- a. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (3 cases)
 - i. City of DP v. Seaside Inn, Orange County Superior Court Case No. 30-2017-00915900
 - ii. Thomas Volkmann v. City of DP, Orange County Superior Court Case No. 30-2017-00914962-CU-EI-CXC
 - iii. City of DP v. Pickering, Orange County Superior Court Case No. 16HM10192

- b. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION,
Government Code § 54956.9 (d)(2) (3 cases)

- C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, Government Code § 54956.9 (d)(2), (3 cases)

Mayor Lewis recessed the meeting into a Closed Session at 5:04 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

Mayor Lewis reconvened the meeting at 6:23 p.m. All Council Members were present.

STAFF PRESENT: Mark Denny, City Manager; Patrick Munoz, City Attorney; Mike Killebrew, Assistant City Manager; Kathy Ward, City Clerk; Mike Rose, Director of General Services; Ursula Luna-Reynosa, Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Matthew Schneider, Planning Manager; Belinda Deines, Senior Planner; and Bobbi Ogan, Deputy City Clerk.

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 Viczorek.

INVOCATION

The Invocation was provided by Pastor Jens Christy of Capo Beach Church.

PRESENTATIONS AND PROCLAMATIONS

Presentation to Killer Dana
Presentation to Smart & Final

CONSENT CALENDAR

A member of the Public removed Item 9 and a member of Staff removed Item 10 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 9 AND 10.

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, OCTOBER 17, 2017

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, OCTOBER 9, 2017

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF OCTOBER 23, 2017

RECEIVED AND FILED.

5. FINANCIAL REVIEW COMMITTEE MINUTES, SEPTEMBER 27, 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. CITY TREASURER'S REPORT, SEPTEMBER 2017

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

9. QUARTERLY FINANCIAL REPORT, SEPTEMBER 2017

A member of the Public removed this item from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER MULLER, THAT THE CITY COUNCIL RECEIVE AND FILE THE QUARTERLY FINANCIAL REPORT AND MANAGEMENT DISCUSSION FOR THE QUARTER ENDED SEPTEMBER 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

10. ADOPTION OF A RESOLUTION OF THE CITY COUNCIL APPROVING THE MEASURE M (M2) EXPENDITURE REPORT FOR FY2016-2017

Staff had removed this item from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY MAYOR PRO TEM WYATT, THAT THE CITY COUNCIL RECEIVE AND FILE THE 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

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER MULLER, THAT THE CITY COUNCIL ADOPT **RESOLUTION 17-11-07-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE RENEWED MEASURE M (M2) EXPENDITURE REPORT FOR FISCAL YEAR 2016-2017; and

AUTHORIZED THE MAYOR TO SIGN THE RESOLUTION ON BEHALF OF THE CITY; AND DIRECTED STAFF TO SUBMIT THE ADOPTED RESOLUTION AND M2 EXPENDITURE REPORT FOR FISCAL YEAR 2016-2017 FOR THE CITY OF DANA POINT TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) TO MAINTAIN ELIGIBILITY IN THE MEASURE M (M2) PROGRAM.

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

Nancy Leonard
Keith Johannes
Steve Stewart

PUBLIC HEARINGS

11. DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT ANNUAL RENEWAL FOR 2018

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL CONDUCT A PUBLIC HEARING AND ADOPT **RESOLUTION 17-11-07-02** ENTITLED:

A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE 2017 ANNUAL REPORT AND DECLARING THE INTENTION OF THE COUNCIL TO CONTINUE THE PROGRAM AND ASSESSMENTS FOR THE 2018 CALENDAR YEAR FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID).

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

UNFINISHED BUSINESS

12. ESTABLISHMENT OF A PARKING AND CIRCULATION OVERSIGHT TASK FORCE

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY MAYOR PRO TEM WYATT, THAT THE CITY COUNCIL CREATE A PARKING AND CIRCULATION OVERSIGHT TASK FORCE AND ADOPT **RESOLUTION 17-11-07-03** WITH AMENDMENT TO SECTION E ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING A PARKING AND CIRCULATION OVERSIGHT 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

IT WAS MOVED BY MAYOR LEWIS, SECONDED BY MAYOR PRO TEM WYATT, THAT THE CITY COUNCIL APPOINT MAYOR LEWIS TO THE TASK FORCE.

The motion failed by the following vote:

AYES: Mayor Pro Tem Paul N Wyatt and Mayor Debra Lewis

NOES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, and Council Member Richard A. Viczorek

ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPOINT COUNCIL MEMBER MULLER TO THE 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, and Mayor Debra Lewis

NOES: Mayor Pro Tem Paul N Wyatt

ABSENT: None

13. FISCAL YEAR 2017-18 PROPOSED BUDGET ADJUSTMENTS (CARRY-OVER FISCAL YEAR 2016-17) Continued from the regular meeting of October 3, 2017

IT WAS MOVED BY MAYOR PRO TEM WYATT, SECONDED BY MAYOR LEWIS, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF EXISTING PURCHASE ORDERS/CONTRACTS FROM FY17 TO FY18.

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 TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$5,000 FOR LARGE FORMAT SCANNING FROM FY17 TO FY18.

The motion carried by the following vote:

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

NOES: Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$40,000 FOR MICROFICHE CONVERSION FROM FY17 TO FY18.

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 TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$125,000 FOR PROFESSIONAL SERVICES BUILDING INSPECTORS AND PERMIT TECH (PLAN REVIEW AND INSPECTIONS) FROM FY17 TO FY18.

The motion carried by the following vote:

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

NOES: Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$60,947 FOR PARK STRUCTURES & IMPROVEMENTS (HOBIE MEMORIAL) FROM FY17 TO FY18.

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 TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$150,000 FOR PARKS LANDSCAPE MAINTENANCE (CAMINO CAPISTRANO LANDSCAPE) FROM FY17 TO FY18.

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 TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$8,300 FOR PROFESSIONAL SERVICES SOLID WASTE (CALRECYCLE) FROM FY17 TO FY18.

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 TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$25,000 FOR PROFESSIONAL SERVICES ENGINEERING (PREVAILING WAGE COMPLIANCE) FROM FY17 TO FY18.

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 TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$50,000 FOR PROFESSIONAL SERVICES ENGINEERING (DOHENY VILLAGE LIGHTING) FROM FY17 TO FY18.

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: Council Member John A. Tomlinson

ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$25,000 FOR PROFESSIONAL SERVICES STREET MAINTENANCE (DOHENY VILLAGE SIDEWALK STEAM CLEANING/PRESSURE WASHING) FROM FY17 TO FY18.

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 TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$20,000 FOR PROFESSIONAL SERVICES WATER QUALITY (FALCONER SERVICES AT SALT CREEK BEACH) FROM FY17 TO FY18.

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 TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$24,000 FOR PROFESSIONAL SERVICES PARKS (PARKS FACILITIES ASSESSMENT) FROM FY17 TO FY18.

The motion carried by the following vote:

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

NOES: Mayor Debra Lewis

ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$34,000 FOR PROFESSIONAL SERVICES PARKS (HOLIDAY DÉCOR PROGRAM) FROM FY17 TO FY18.

The motion carried by the following vote:

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

NOES: Council Member John A. Tomlinson and Council Member Richard A. Viczorek,

ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$8,000 FOR PROFESSIONAL SERVICES (PUBLIC ACCESS APP) FROM FY17 TO FY18.

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: Council Member John A. Tomlinson and Mayor Debra Lewis

ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$30,000 FOR PROFESSIONAL SERVICES (CONTRACT MAINTENANCE WORKER) FROM FY17 TO FY18.

The motion carried by the following vote:

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

NOES: Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$25,000 FOR FURNITURE AND EQUIPMENT (EMERGENCY OPERATIONS CENTER AND PUBLIC WORKS OFFICE FURNITURE) FROM FY17 TO FY18.

The motion carried by the following vote:

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

NOES: Mayor Debra Lewis

ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$87,142 FOR EQUIPMENT MAINTENANCE (800 MHZ COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM FY18 PROJECT PARTNERSHIP COST).

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 TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE TRANSFER OUT TO FACILITIES FUND 12 FOR DEFERRED MAINTENANCE \$2,000,000.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, and Council Member Richard A. Viczorek
NOES: Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis
ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$63,251 FOR SLESF EXPENDITURES (SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND 25).

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 TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE THE CARRY-OVER OF \$18,000 AND \$24,000 FOR CITY HALL RESTROOMS (SUNBELT FLOORING AND CONAN CONSTRUCTION).

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 TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL APPROVE OF \$1,546,318 CAPITAL PROJECTS FUND EXPENDITURE ITEM ADJUSTMENT & CARRY-OVERS FROM FY17 TO FY18 (ARTERIAL ROADWAY REHABILITATION, ANNUAL RESIDENTIAL ROADWAY RESURFACING, CROWN VALLEY MEDIAN DROUGHT CONVERSION, AND CAPO BEACH CONNECTIVITY STUDY ENHANCEMENTS).

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

There were no New Business items.

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 9:48 p.m. and announced that the next Regular Meeting of the City Council will be December 5, 2017, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.