

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



**TUESDAY
DECEMBER 5, 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 5:05 p.m.*)
Richard A. Viczorek, Council Member

CLOSED SESSION

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

A. 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)

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 6:01 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; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Matthew Schneider, Planning Manager; Kelly Reenders, Economic Development Manager; Sean Nicholas, 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 Muller.

INVOCATION

The Invocation was provided by OCFA Chaplain Jeff Hetschel.

PRESENTATIONS AND PROCLAMATIONS

There were no Presentations or Proclamations.

CONSENT CALENDAR

Council Member Viczorek removed Item 2 and Mayor Lewis removed Item 16 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY MAYOR PRO TEM WYATT, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 2 AND 16.

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, NOVEMBER 7, 2017

Council Member Viczorek removed this item from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER VICZOREK, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL APPROVE THE NOVEMBER 7, 2017 MINUTES, DENY THE REQUEST BY MAYOR LEWIS TO WAIVE CITY COUNCIL POLICY 118 – CITY MINUTES (STATEMENTS FOR THE RECORD) REGARDING THE ADDITION OF MAYOR LEWIS' STATEMENTS FOR ITEM #13, AND INCLUDE THE STATEMENTS READ INTO THE RECORD TONIGHT BY MAYOR LEWIS AS PART OF THE MINUTES THAT WILL BE PREPARED FOR THIS MEETING.

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

3. PLANNING COMMISSION MEETING MINUTES, OCTOBER 23, 2017

RECEIVED AND FILED.

4. PLANNING COMMISSION MEETING MINUTES, NOVEMBER 13, 2017

RECEIVED AND FILED.

5. PLANNING COMMISSION ACTIONS, MEETING OF NOVEMBER 27, 2017

RECEIVED AND FILED.

6. FINANCIAL REVIEW COMMITTEE MINUTES, OCTOBER 26, 2017

RECEIVED AND FILED.

7. YOUTH BOARD MEETING MINUTES, OCTOBER 5, 2017

RECEIVED AND FILED.

8. YOUTH BOARD MEETING MINUTES, OCTOBER 19, 2017

RECEIVED AND FILED.

9. TRAFFIC IMPROVEMENT SUBCOMMITTEE MINUTES, JULY 19, 2017

RECEIVED AND FILED.

10. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

11. CITY TREASURER'S REPORT, OCTOBER 2017

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

12. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

13. DANA POINT POLICE SERVICES MONTHLY REPORT

RECEIVED AND FILED THIS REPORT.

14. DISPOSITION OF NON-ESSENTIAL CITY RECORDS AND RECORDS RETENTION SCHEDULE UPDATE

APPROVED THE 2017 DISPOSITION OF NON-ESSENTIAL CITY RECORDS IN ACCORDANCE WITH CALIFORNIA STATE LAW AND THE CITY'S APPROVED RECORDS RETENTION SCHEDULE AND ADOPTED **RESOLUTIONS 17-12-05-01 AND 17-12-05-02** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING THE DISPOSITION OF CERTAIN INACTIVE CITY RECORDS AS PROVIDED BY SECTION 34090 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA; and

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING REVISED RECORDS RETENTION SCHEDULE FOR CERTAIN CITY DEPARTMENTS AS PROVIDED BY SECTION 34090 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

15. DEVELOPMENT UPDATE

RECEIVED AND FILED THE REPORT.

16. MONTHLY FINANCIAL ACTIVITY REPORT, OCTOBER 2017

Mayor Lewis 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 MONTHLY FINANCIAL ACTIVITY REPORT FOR OCTOBER 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

PUBLIC COMMENTS

Carol Wilson
Julie Simer
Irene Fascher
Doris Chan

PUBLIC HEARINGS

17. **LOCAL COASTAL PROGRAM AMENDMENT LPCA 17-0003/ZONE TEXT AMENDMENT ZTA 17-0001/SPECIFIC PLAN AMENDMENT SPA 17-0001 – TO AMEND VARIOUS PORTIONS OF THE ZONING ORDINANCE TO ADDRESS TYPOGRAPHICAL ERRORS, CLARIFY SECTIONS OF THE CODE, AND MODIFICATIONS CONSISTENT WITH RECENT STATE LAW CHANGES. A SPECIFIC PLAN AMENDMENT IS PROPOSED FOR THE DANA POINT SPECIFIC PLAN DIRECTLY RELATED TO USES ALLOWED ABOVE THE GROUND FLOOR IN THE COASTAL VISITOR COMMERCIAL (C-VC) ZONING DISTRICT, 2017 ZONING ORDINANCE CLEAN UP**

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL CONDUCT A PUBLIC HEARING AND ADOPT **RESOLUTION 17-12-05-03** APPROVING SPA 17-0001 AND REQUESTING CERTIFICATION OF LPCA 17-0003 FROM THE CALIFORNIA COASTAL COMMISSION ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING DANA POINT SPECIFIC PLAN AMENDMENT SPA17-0001 AND LOCAL COASTAL RPGRAM AMENDMENT LPCA 17-0003, WHICH MODIFIES THE C-VC ZONING DESIGNATION OF THE DANA POINT SPECIFIC PLAN, AND SUBMISSION OF ZTA 17-0001/SPA 17-0001 AS LOCAL COASTAL PROGRAM AMENDMENT LPCA 17-0003 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION; and

INTRODUCE FOR FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA17-0001 TO MODIFY AND ADD VARIOUS PROVISIONS TO THE ZONING ORDINANCE AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LPCA17-0003 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

ABSENT: None

UNFINISHED BUSINESS

18. AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE CROWN VALLEY PARKWAY MEDIAN REHABILITATION AND ARTERIAL RESURFACING PROJECT

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER MULLER, THAT THE CITY COUNCIL:

- 1) APPROVE THE CONSTRUCTION CONTRACT DOCUMENTS REQUIRED FOR THE "CROWN VALLEY PARKWAY MEDIAN REHABILITATION AND ARTERIAL RESURFACING PROJECT";
- 2) APPROVE AN AWARD OF CONTRACT TO ALL AMERICAN ASPHALT FOR CONSTRUCTION OF THE CROWN VALLEY PARKWAY MEDIAN REHABILITATION AND ARTERIAL ROADWAY RESURFACING PROJECT AND AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO SIGN AND ADMINISTER THE SUBJECT CONTRACT AND APPROVE ADDITIONAL PAYMENT FOR CHANGE ORDERS, CONTINGENCIES, MANAGEMENT SERVICES, SOILS AND MATERIAL TESTING, SURVEYING, AND CONSTRUCTION DESIGN SUPPORT FOR THE PROJECT AS NOTED IN THE FISCAL IMPACT SECTION;
- 3) AUTHORIZE MATERIALS INSPECTION AND TESTING SERVICES PER THE FISCAL IMPACT SECTION AND APPROVE THE SHORT FORM CONTRACT AGREEMENT;
- 4) AUTHORIZE SURVEYING SERVICES WITH WESTLAND GROUP PER THE FISCAL IMPACT SECTION AND APPROVE THE SHORT FORM CONTRACT AGREEMENT; AND
- 5) AUTHORIZE THE TRANSFER OF THE BALANCE OF THE CROWN VALLEY MEDIAN REHABILITATION PROJECT (CIP #1284) TO THE CROWN VALLEY PARKWAY ARTERIAL ROADWAY Resurfacing Project (CIP #1310) budget as the projects are being built together.

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. NO SMOKING IN PUBLIC PLACES ORDINANCE - Continued from the regular meeting of October 3, 2017

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 6.40 OF THE DANA POINT MUNICIPAL CODE RELATING TO THE REGULATION AND PROHIBITION OF SMOKING IN THE CITY.

The motion carried by the following vote:

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

NEW BUSINESS

20. HOMELESS OUTREACH SERVICES

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL:

- 1) RATIFY AND AMEND THE CONTRACT WITH MERCY HOUSE FOR HOMELESS OUTREACH ACTIVITIES IN AN AMOUNT NOT TO EXCEED A TOTAL CONTRACT OF \$80,000, AND EXTEND THE TERM THROUGH DECEMBER 31, 2018. APPROVE A BUDGET ADJUSTMENT AS DESCRIBED IN THE FISCAL IMPACT SECTION; AND
- 2) AUTHORIZE THE CITY MANAGER TO INITIATE NEGOTIATIONS WITH FAMILY ASSISTANCE MINISTRIES FOR TARGETED OUTREACH SERVICES PROVIDING OVERNIGHT SUPPORT AND HOMEWARD BOUND RELOCATION ASSISTANCE.

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
ABSTAIN: None

IN THE INTEREST OF TIME, IT WAS MOVED BY COUNCIL MEMBER VICZOREK, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL HEAR ITEM 22 AND CONTINUE ITEMS 21, 23, AND 24 TO A COUNCIL MEETING IN JANUARY.

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
ABSTAIN: None

21. SHORT TERM RENTAL MANAGEMENT APPLICATION

THIS ITEM WAS CONTINUED TO A COUNCIL MEETING IN JANUARY.

22. VEHICLE ACQUISITION PROGRAM

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL ADOPT THE PROPOSED CITY COUNCIL POLICY 226 ENTITLED "ACQUISITION AND USE OF CITY VEHICLES".

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

ABSTAIN: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO ENTER INTO A MASTER EQUITY LEASE AGREEMENT WITH ENTERPRISE FM TRUST AND ANY OTHER PERTINENT AGREEMENTS REQUIRED TO IMPLEMENT A FLEET LEASING PROGRAM, AND APPROPRIATE FUNDS IN THE AS OUTLINED IN THE FISCAL IMPACT SECTION.

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

ABSTAIN: None

23. USER FEE SUBSIDY POLICY

THIS ITEM WAS CONTINUED TO A COUNCIL MEETING IN JANUARY.

24. MANAGEMENT OF CITY ATTORNEY

THIS ITEM WAS CONTINUED TO A COUNCIL MEETING IN JANUARY.

PUBLIC COMMENTS (Continued)

There were no additional Public Comments received.

CITY COUNCIL REORGANIZATION

A. COUNCIL REORGANIZATION

City Clerk Ward called for nominations for Mayor.

Council Member Tomlinson nominated Council Member Viczorek and Mayor Lewis nominated Mayor Pro Tem Wyatt to serve as Mayor.

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON TO NOMINATE COUNCIL MEMBER VICZOREK TO SERVE AS MAYOR.

The motion carried by the following vote:

AYES: Council Member Muller, Council Member Tomlinson, and Council Member Viczorek

NOES: Mayor Pro Tem Wyatt and Mayor Lewis

Mayor Viczorek called for nominations for Mayor.

Mayor Viczorek nominated Council Member Muller and Council Member Lewis nominated Mayor Pro Tem Wyatt to serve as Mayor Pro Tem.

IT WAS MOVED BY MAYOR VICZOREK TO NOMINATE COUNCIL MEMBER MULLER TO SERVE AS MAYOR PRO TEM.

The motion carried by the following vote:

AYES: Council Member Muller, Council Member Tomlinson, and Mayor Viczorek

NOES: Mayor Pro Tem Wyatt and Council Member Lewis

B. RECOGNITION OF OUTGOING MAYOR

Mayor Viczorek presented Council Member Lewis a gavel plaque for her service to the City as well as Certificates of Recognition on behalf of Orange County Supervisor Lisa Bartlett, Congressman Darrell Issa, and Senator Kamala Harris.

STAFF REPORTS

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

RECEPTION

REFRESHMENTS WILL BE SERVED – THE PUBLIC WAS INVITED.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Viczorek adjourned the meeting at 10:53 p.m. and announced that the next Regular Meeting of the City Council will be January 16, 2018, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.