

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



**TUESDAY
FEBRUARY 6, 2018
5:00 P.M.**

REVISED AGENDA

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

Next City Council Ordinance No. 18-03

CALL TO ORDER

ROLL CALL OF CITY COUNCIL MEMBERS:

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

CLOSED SESSION

- A. CODE ENFORCEMENT UPDATE
 - a. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (3 cases)
 - i. City of DP v. Sunshine Group LLC (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. People v. Pickering Properties et al. Orange County Superior Court Case No. 16HM10192
 - b. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, Significant Exposure to Litigation, Government Code § 54956.9 (d)(2) (3 cases)
- B. UNLICENSED RESIDENTIAL RECOVERY FACILITIES UPDATE
 - a. CONFERENCE WITH LEGAL COUNCIL – EXISTING LITIGATION, Government Code Section 54956.9 (a) (6 cases)
 - i. City v. New Method Wellness, Inc., NMW Beds, LLC, and Pacific View Sober Living LLC, Orange County Superior Court Case No. 30-2017-00904169
 - ii. City v. Capo by the Sea, LLC, Orange County Superior Court Case No. 30-2016-00859426
 - iii. City of Dana Point v. 12 South Recovery; Marie Fike, LLC. Orange County Superior Court Case No. 30-2018-09666539

- iv. City Of Dana Point v. Sovereign Health, Orange County Superior Court Case No. 30-2018-0966557
- v. City Of Dana Point v. Donna's House, LLC, Orange County Superior Court Case No. 30-2018-09666527
- vi. City Of Dana Point v. Ocean Hills Recovery, Inc., Orange County Superior Court Case No. 30-2018-09666532
- b. CONFERENCE WITH LEGAL COUNCIL – ANTICIPATED LITIGATION, Significant Exposure to Litigation, Government Code Section 54956.9 (d)(2) (1 case)
- C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(1), (2 cases)
- D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957, including:
 - a. Direction regarding Written Reports to Council per Council Policy 227
 - b. Competitive Bid –City Attorney Contract
Title: City Attorney

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

RECONVENE CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATIONS AND PROCLAMATIONS

Introduction of Fire Chief Rob Capobianco
Introduction of Visit Dana Point Executive Director Jonny Westom

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, JANUARY 16, 2018](#)

RECOMMENDED ACTION: That the City Council approve the minutes.

3. [PLANNING COMMISSION MEETING MINUTES, JANUARY 8, 2018](#)

RECOMMENDED ACTION: That the City Council receive and file.

4. [FINANCIAL REVIEW COMMITTEE MINUTES, NOVEMBER 28, 2017](#)

RECOMMENDED ACTION: That the City Council receive and file.

5. [TRAFFIC IMPROVEMENT SUBCOMMITTEE MINUTES, DECEMBER 20, 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. [CITY TREASURER'S REPORT, DECEMBER 2017](#)

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

8. [CLAIMS AND DEMANDS](#)

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

9. [DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT/VISIT DANA POINT QUARTERLY REPORT FOR OCTOBER – DECEMBER 2017](#)

RECOMMENDED ACTION: That the City Council receive and file.

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

10. [AN APPEAL OF PLANNING COMMISSION APPROVAL FOR COASTAL DEVELOPMENT PERMIT CDP17-0016/VARIANCE V17-0001/SITE DEVELOPMENT PERMIT SDP17-0029 FOR AN ADDITION AND REMODEL TO AN EXISTING DUPLEX IN THE RESIDENTIAL BEACH ROAD DUPLEX 18 \(RBRD-18\) LOCATED AT 35099 BEACH ROAD IN THE COASTAL ZONE](#)

RECOMMENDED ACTION: That the City Council approve the applicant's appeal of the Planning Commission's modified approval for Coastal Development Permit CDP17-0016/Variance V17-0001/Site Development Permit SDP17-0029 for a remodel and addition to a duplex on Beach Road.

UNFINISHED BUSINESS

There are no Unfinished Business items.

NEW BUSINESS

11. [FUNICULAR TOOTH AND POWER RAIL REPLACEMENT](#)

RECOMMENDED ACTION: That the City Council 1) approve the use of Headlands Community Facilities District (CFD) funds for the purchase and installation of replacement tooth rails and power rails for the Strands Funicular; and 2) approve a sole source contract with Outdoor Engineers for the replacement project; and authorize the City Manager to execute the contract documents.

12. [2018 SPECIAL EVENTS CALENDAR](#)

RECOMMENDED ACTION: That the City Council 1) approve the Special Event calendar for 2018 and the recommended venues; and 2) authorize the City Manager to execute the two separate state and sound contracts to Southern California Sound Stage & Lighting Corporation for the Festival of Whales Concert and Concerts in the Park.

PUBLIC COMMENTS (Continued)

STAFF REPORTS

(City Manager Mark Denny)

(City Attorney Patrick Muñoz)

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

13. **MAYOR VICZOREK: RECEIVE STAFF REPORT ON STATUS OF HOMELESS TASK FORCE WORK PLAN**

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.

ADJOURNMENT

The next Regular Meeting of the City Council will be February 20, 2018, 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, January 30, 2018, 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.