

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



**TUESDAY
JUNE 19, 2018
5:00 P.M.**

MINUTES

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

Next City Council Ordinance No. 18-04

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Viczorek at 5:00 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

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

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

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (1 case)
- B. UNLICENSED RESIDENTIAL RECOVERY FACILITIES UPDATE
 - a. CONFERENCE WITH LEGAL COUNCIL – EXISTING LITIGATION, Government Code Section 54956.9 (a) (9 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
- vii. City of Dana Point v. Sobertec LLC, Orange County Superior Court Case No. 30-2016-00859437
- viii. City of Dana Point v. Luminance Health Group, Inc., Orange County Superior Court Case No. 30-2016-00890481
- ix. City of Dana Point v. Sunshine Behavioral Health, LLC, Orange County Superior Court Case No. 30-2017-00904184
- b. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2) (1 case)

C. CONFERENCE WITH LABOR NEGOTIATOR, Government Code § 54957.6

Agency Designated Representatives: City Manager
Unrepresented and Represented Employees: All positions in City

D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957

Title: City Manager

Mayor Viczorek recessed the meeting into a Closed Session at 5:02 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

Mayor Viczorek reconvened the meeting at 6:00 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. Margie Sheehan; Ursula Luna-Reynosa, Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Kelly Reenders, Economic Development Manager; Jack Holden, Building Official; Brian McClure, Deputy Community Services Director; and Bobbi Ogan, Deputy City Clerk.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz presented an update on the City's efforts regarding unlicensed residential recovery facilities.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Tomlinson.

INVOCATION

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

PRESENTATIONS AND PROCLAMATIONS

Presentation by Tony Rackauckas, District Attorney

Tony Rackauckas provided a PowerPoint presentation regarding his newly formed Sober Living Home Investigation and Prosecution task force.

Presentation to Ursula Luna-Reynosa

Bev Jorgensen representing the Dana Point Chamber of Commerce and their board presented Ursula with a Certificate of Recognition for her service to the City and Mayor Viczorek presented a Proclamation to Ursula recognizing her for her contributions.

READING OF ORDINANCE TITLES

City Clerk Ward read the Ordinance title listed on the agenda.

CONSENT CALENDAR

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR.

The motion carried by the following vote:

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

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, JUNE 5, 2018

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, MAY 14, 2018

RECEIVED AND FILED.

4. PLANNING COMMISSION MEETING MINUTES, MAY 31, 2018

RECEIVED AND FILED.

5. OCEAN WATER QUALITY SUBCOMMITTEE MEETING MINUTES, APRIL 24, 2018

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CITY TREASURER'S REPORT, MAY 2018

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF MAY 2018.

8. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

9. DANA POINT POLICE SERVICES MONTHLY REPORT

RECEIVED AND FILED THE REPORT.

10. DEVELOPMENT UPDATE

RECEIVED AND FILED.

11. CANCELLATION OF JULY 3, 2018 CITY COUNCIL MEETING

CANCELLED THE JULY 3RD CITY COUNCIL MEETING.

PUBLIC COMMENTS

Penny Maynard, Dana Point, spoke regarding a variety of issues including Districting, off shore oil drilling, social media updates and renaming Dana Point to Dana Point Beach.

Don Lemly, San Clemente, spoke regarding Welcome Inn and their activities include the attendance at the beach feed.

Cassandra Ondrya, Dana Point, spoke regarding the stabbing that occurred last week.

Michele Schumacher, San Clemente, spoke regarding the development impact fees that are being paid to the Transportation Corridor Agencies.

Ghada Gbantous, San Clemente, spoke regarding the development impact fees that are being paid to the Transportation Corridor Agencies.

Toni Nelson, Capistrano Beach, spoke regarding the stabbing at Doheny State Beach and how it had ended up a hoax.

Kimberly Williams, Dana Point, felt that she could be more beneficial to the City if she were an ex-officio member of the Arts and Culture Commission.

Julie Aros, Dana Point, spoke regarding how best to help the homeless.

Keith Johannes, Dana Point, invited the City Council to the Dana Point Historical Society Fiesta event tomorrow night at Doheny State Beach where the scholarships will be awarded. He reported that tickets were \$25 for members and \$30 for non-members and would be catered by El Patio. He added that there is a museum event on the first Saturday of every month from 10-4:00 p.m. to review and purchase historic photos. He thanked Ursula Luna-Reynosa for her work with the Historical Society.

Dana Yarger, Dana Point, thanked everyone who had helped organize the ArtFest. He encouraged the City to hold more of the events. He thanked Ursula Luna-Reynosa for what she had done for the City.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Mayor Viczorek asked Lt. Sheehan to provide an update on the alleged stabbing incident.

Lt. Sheehan provided an update on the incident regarding a reported stabbing at Doheny State Beach.

Council Member Tomlinson stated that he would turn in his list of meetings attended to the City Clerk.

Council Member Wyatt stated that he turned in his list of meetings attended to the City Clerk. He reported that he had sent a letter to Welcome Inn on behalf of the Homeless Task Force and the City asking them to eliminate the feed on the beach.

Council Member Lewis stated that she would turn in her list of meetings attended to the City Clerk.

Mayor Pro Tem Muller addressed the comments made regarding development impact fees. He stated that he turned in his list of meetings attended to the City Clerk.

Mayor Viczorek reported that he had turned in his list of meetings attended to the City Clerk.

PUBLIC HEARINGS

12. UPDATED USER FEE SCHEDULE

Assistant City Manager Killebrew provided a staff report.

Mayor Viczorek opened the Public Hearing.

Juan Gonzalez, So Cal Gas, spoke regarding their concerns with the proposed increase of fees. He asked if the City would meet with the utilities to provide clarity in terms of the fees.

Mayor Viczorek closed the Public Hearing.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER LEWIS, SECONDED BY COUNCIL MEMBER WYATT THAT THE CITY COUNCIL CONDUCT A PUBLIC HEARING RELATED TO USER FEES AND ADOPT **RESOLUTION 18-06-19-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN UPDATED SCHEDULE OF SERVICE FEE CHARGES, AND RESCINDING RESOLUTIONS 98-01-13-05 AND 05-07-13-09.

The motion carried by the following vote:

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

UNFINISHED BUSINESS

13. **UPDATED STRATEGIC PLAN AND FINANCIAL POLICIES, CAPITAL IMPROVEMENT PROGRAM, AND FY19 BUDGET ADJUSTMENTS; AND RESOLUTION ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2018-19**

City Manager Denny provided a staff report.

Mayor Viczorek made a motion to approve all of the items of the recommended action with the exception of Item F which was brought forward by Council Member Lewis to allow her to provide a report, Mayor Pro Tem Muller seconded the motion.

Discussion ensued.

Council Member Lewis made a motion to takes Items D and F together, Council Member Wyatt seconded the motion.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER LEWIS, SECONDED BY COUNCIL MEMBER WYATT THAT THE CITY COUNCIL THAT THE CITY COUNCIL CONSIDER ITEMS D AND F TOGETHER.

The motion failed by the following vote:

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

Brief discussion ensued.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL APPROVE ALL OF THE ITEMS OF THE RECOMMENDED ACTION WITH THE EXCEPTION OF ITEM F:

- A. APPROVE IN CONCEPT CITY'S UPDATED STRATEGIC PLAN AND DIRECT CITY MANAGER TO WORK WITH COUNCIL TO FINALIZE OBJECTIVES AND MEASURES ([ITEM #13.1](#));
- B. APPROVE FINANCIAL POLICIES ([ITEM #13.2](#));
- C. APPROVE PERSONNEL ACTION, **RESOLUTION 18-06-19-02** ([ITEM #13.3](#));
- D. APPROVE ADOPTION OF THE SEVEN YEAR CAPITAL IMPROVEMENT PROGRAM FOR FY2018-19 THROUGH FY2024-25 AND CERTIFY COMPLIANCE AS REQUIRED BY THE OCTA RENEWED MEASURE M (M2) PROGRAM ([ITEM #13.4](#));
- E. AUTHORIZE STAFF TO FORWARD THE NECESSARY RENEWED MEASURE M2 ELIGIBILITY DOCUMENTATION TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) ([ITEM #13.4](#));
- G. APPROVE FISCAL YEAR 2018-19 BUDGET ADJUSTMENTS ([ITEM #13.6](#));
- H. ADOPT **RESOLUTION 18-06-19-03** OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2018-2019 ([ITEM #13.6](#)).

The motion carried by the following vote:

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

Mayor Pro Tem Muller asked staff to add another (\$200,000) into 01-99-10-1199 Organizational Review Savings on page 41 of Action Document E (Item 13.6).

- F. COUNCILMEMBER LEWIS: ESTABLISH CITY COUNCIL CAPITAL IMPROVEMENT PROGRAM SUBCOMMITTEE TO REVIEW AND PRIORITIZE CIP FOR FUTURE CITY COUNCIL CONSIDERATION ([ITEM #13.5](#)).

Council Member Lewis provided a report.

Council Member Lewis made a motion to establish a City Council Capital Improvement Program Subcommittee, Council Member Wyatt seconded the motion.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER LEWIS, SECONDED BY COUNCIL MEMBER WYATT TO ESTABLISH A CITY COUNCIL CAPITAL IMPROVEMENT PROGRAM SUBCOMMITTEE.

The motion carried by the following vote:

AYES: Council Member Debra Lewis, Council Member John A. Tomlinson, Council Member Paul N Wyatt

NOES: Mayor Pro Tem Joseph L. Muller and Mayor Richard A. Viczorek

ABSENT: None

Discussion ensued.

Council Member Wyatt nominated Mayor Pro Tem Muller to serve on the subcommittee with Council Member Lewis and Mayor Pro Tem Muller accepted the appointment.

NEW BUSINESS

14. CALLING FOR A GENERAL MUNICIPAL ELECTION ON NOVEMBER 6, 2018 TO FILL THREE CITY COUNCIL SEATS IN DISTRICTS 1, 2, AND 3.

City Clerk Ward provided a staff report.

Mayor Viczorek made a motion to approve the recommended action, Mayor Pro Tem Muller seconded the motion.

Discussion ensued.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER THAT THE CITY COUNCIL ADOPT THE FOLLOWING RESOLUTIONS ENTITLED:

- A. **RESOLUTION 18-06-19-04:** RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018 FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES; and
- B. **RESOLUTION 18-06-19-05:** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6, 2018 WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE; and
- C. **RESOLUTION 18-06-19-06:** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES' STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018.

The motion carried by the following vote:

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

NOES: Council Member Debra Lewis

ABSENT: None

15. INTRODUCTION OF AN ORDINANCE OF THE CITY OF DANA POINT AMENDING TITLE 8, BUILDING AND CONSTRUCTION, OF THE MUNICIPAL CODE, TO ADD 1) SECTION 8.22.019, "EXPEDITING PERMITTING PROCESSING FOR RESIDENTIAL ROOFTOP SOLAR PHOTO VOLTAIC INSTALLATIONS", AND 2) CHAPTER 8.33 "EXPEDITED ELECTRIC VEHICLE CHARGING STATION PERMITTING".

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER 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 TITLE 8, BUILDING AND CONSTRUCTION, OF THE MUNICIPAL CODE, TO ADD 1) SECTION 8.22.019, "EXPEDITING PERMITTING PROCESSING FOR RESIDENTIAL ROOFTOP SOLAR PHOTO VOLTAIC INSTALLATIONS", AND 2) CHAPTER 8.33, "EXPEDITED ELECTRIC VEHICLE CHARGING STATION PERMITTING".

The motion carried by the following vote:

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

NOES: None

ABSENT: None

16. PROFESSIONAL SERVICES AGREEMENTS FOR SUPPLEMENTAL PLAN CHECK, COUNTER, INSPECTION AND CODE ENFORCEMENT SERVICES

Director Luna-Reynosa provided a staff report.

Brief discussion ensued.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER THAT THE CITY COUNCIL AUTHORIZE AND DIRECT THE CITY MANAGER TO EXECUTE THE FOLLOWING CONTRACTS:

1. VCA/THE CODE GROUP FOR PLAN CHECK SERVICES;
2. MELAD & ASSOCIATES FOR PLAN CHECK SERVICES; AND
3. MELAD & ASSOCIATES FOR PERSONNEL SERVICES – SENIOR BUILDING INSPECTOR AND/OR BUILDING INSPECTOR.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

17. RESOLUTION TO AMEND THE ARTS AND CULTURE COMMISSION TO INCLUDE EX-OFFICIO MEMBERS

City Manager Denny provided a staff report.

Brief discussion ensued.

IT WAS MOVED BY MAYOR PRO TEM MULLER, SECONDED BY COUNCIL MEMBER WYATT, THAT THE CITY COUNCIL APPROVE AND ADOPT **RESOLUTION 18-06-19-07** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING THE MEMBERSHIP OF THE ARTS AND CULTURE COMMISSION.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

The City Council appointed Kimberly Williams of the Arts and Culture Commission as an ex-officio member and asked staff to proceed to fill the vacancy on the Arts and Culture Commission.

PUBLIC COMMENTS (Continued)

There were no additional Public Comments received.

STAFF REPORTS

City Manager Denny thanked Police Services for his ride along with Deputy Merz last Thursday. He stated that Deputy Merz was truly an asset to the City and we were fortunate to have him. He thanked Lt. Sheehan for her focus on addressing the issue and how concerned she is with the safety of this community. He recognized the ArtFest committee for the great event and he announced that the Doheny Surf Festival was this weekend.

City Attorney Munoz stated that it had been a pleasure to work with Ursula.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Viczorek adjourned the meeting at 9:20 p.m. and announced that the next Regular Meeting of the City Council will be July 17, 2018, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.



KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF JULY 17, 2018

Meetings attended since June 5, 2018:

Mayor Richard A. Viczorek

June 7 DHHS Graduation Ceremony
June 14 SJHTCA Board of Directors Meeting

Mayor Pro Tem Joseph L. Muller

June 6 TCA
June 11 5th Marine Golf Tournament
June 12 OCGOP Flag Day Celebration

Council Member Debra Lewis

June 8 Meeting with residents
June 13 Women in Leadership
June 14 Meeting with residents
June 15 Meeting with residents

Council Member John A. Tomlinson

June 21 Short term rental subcommittee meeting

Council Member Paul N Wyatt

06/06/2018 ILG Webinar: Tools and Approaches to Address Homelessness
06/14/2018 ACC-OC Housing Tour
06/15/2018 DP Coffee Chat
06/16/2018 Dana Point Trolley Hop