

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



**TUESDAY
SEPTEMBER 4, 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 5:01 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) (15 cases)
 - 1. *City of Dana Point v. Sobertec LLC*, Superior Court for the State of California, County of Orange, Case No. 30-2016-00859437.
 - 2. *City of Dana Point v. Capo By the Sea*, Superior Court for the State of California, County of Orange, Case No. 30-2016-008594260.
 - 3. *City of Dana Point v. Luminance Health Group, Inc.*, Superior Court for the State of California, County of Orange, Case No. 30-2016-00890481.
 - 4. *City of Dana Point v. Sunshine Behavioral Health, LLC*, Superior Court for the State of California, County of Orange, Case No. 30-2017-00904184.
 - 5. *City v. New Method Wellness, Inc., NMW Beds, LLC, and Pacific View Sober Living LLC*, Orange County Superior Court Case No. 30-2017-00904169.
 - 6. *City of Dana Point v. Donna's House, LLC*, Superior Court for the State of

- California, County of Orange, Case No. 30-2018-00966527.
7. *City of Dana Point v. Ocean Hills Recovery Inc.*, Superior Court for the State of California, County of Orange, Case No. 30-2018-00966532.
 8. *City of Dana Point v. Sovereign Health of California*, Superior Court for the State of California, County of Orange, Case No. 30-2018-00966557.
 9. *City of Dana Point v. 12 South Recovery*, Superior Court for the State of California, County of Orange, Case No. 30-2018-00966539.
 10. *City of Dana Point v. Mainstream Group, Inc., Snaier Z. Varkel and Francina S. Varkel, Trustees Of The Snaier Z. Varkel And Francina S. Varkel 1999 Trust, Dated March 5, 1999*, Case No. 30-2018-01011128.
 11. *City of Dana Point v. Sanctuary House Recovery, Barbara Mullin*, Case No. 30-2018-01011154.
 12. *City of Dana Point v. Happy Destiny Foundation, Inc.; JTK Pacific Homes, LLC*, Case No. 30-2018-01011176.
 13. *City of Dana Point v. Donna's House, LLC, Michael Marriner, Jr., Katy Marriner, Ralph M. Wright, Jr., Trustee, or His Successor, Under The Ralph M. Wright, Jr. 2017 Family Trust*, Case No. 30-2018-01011653.
 14. *City of Dana Point v. New Life Treatment & Addiction Center, Melody Barnett*, Case No. 30-2018-01011481.
 15. *City of Dana Point v. Southern California Recovery Center, TML Holdings, LLC*, Case No. 30-2018-01012750

Mayor Viczorek recessed the meeting into a Closed Session at 5:05 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

Mayor Viczorek reconvened the meeting at 6:05 p.m. All Council Members were present.

STAFF PRESENT: Patrick Munoz, City Attorney; Mark Denny, City Manager; Mike Killebrew, Assistant City Manager and Director of Administrative Services, Kathy Ward, City Clerk; Mike Rose, Director of General Services; Lt. Margie Sheehan; Mark Denny, Deputy City Manager; Matthew Schneider, Acting Planning Director; Matthew Sinacori, Director of Public Works and Engineering; Kelly Reenders, Economic Development Manager, Rachel Johnson, Management Analyst, and Shayna Sharke, 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 Tomlinson

INVOCATION

The Invocation was provided by Orange County Sheriff Chaplain Serena Cummins

PRESENTATIONS AND PROCLAMATIONS

Mayor Viczorek presented Daughters of the American Revolution (DAR) with a proclamation declaring September 17th through 23rd Constitution Week.

Mayor Viczorek and Lt. Sheehan recognized Manuel Jurado and Dr. William Barcroft, Volunteers In Police Services (VIPS), with a proclamation thanking them for their service.

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 WITH THE EXCEPTION OF ITEM 10.

The motion carried by the following vote:

AYES: Council Member Lewis, Council Member Tomlinson, Council Member Wyatt, Mayor Pro Tem Muller, and Mayor 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, JULY 17, 2018

APPROVED THE MINUTES.

3. SPECIAL MEETING MINUTES, AUGUST 16, 2018

APPROVED THE MINUTES.

4. PLANNING COMMISSION MEETING MINUTES, JULY 23, 2018

RECEIVED AND FILED.

5. ARTS AND CULTURE COMMISSION MINUTES, MAY 16, 2018

RECEIVED AND FILED.

6. **OCEAN WATER QUALITY SUBCOMMITTEE MINUTES, MAY 22, 2018**

RECEIVED AND FILED.

7. **MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**

RECEIVED AND FILED.

8. **CLAIMS AND DEMANDS**

RECEIVED AND FILED.

9. **CITY TREASURER'S REPORT, JUNE 2018**

RECEIVE AND FILE THE CITY TREASURER'S REPORT FOR THE MONTH OF JUNE 2018.

10. **SECOND READING 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"**

Item #10 was removed from the Consent Calendar by a member of the public.

Mayor Viczorek opened the Public Comments:

Rick Erkeneff, Dana Point, spoke in favor of the proposed ordinance. He added that the Surfrider Foundation is hosting an informational solar meeting on September 12th at the Dana Point Tennis Center from 6:00 p.m. to 8:00 p.m.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL HOLD A SECOND READING AND ADOPTED **ORDINANCE 18-04** 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 Lewis, Council Member Tomlinson, Council Member Wyatt, Mayor Pro Tem Muller, and Mayor Viczorek

NOES: None

ABSENT: None

11. SECOND READING OF AN ORDINANCE OF THE CITY OF DANA POINT, CALIFORNIA AMENDING DANA POINT MUNICIPAL CODE TITLE 11 (PEACE, MORALS AND SAFETY) AND TITLE 13 (PARKS AND RECREATION FACILITIES)

HELD A SECOND READING AND ADOPTED **ORDINANCE 18-05** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING TITLE 11 AND TITLE 13 OF THE DANA POINT MUNICIPAL CODE TO CLARIFY AND AMEND THE CITY'S REGULATIONS RELATING TO NUISANCE BEHAVIOR.

12. SECOND READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING CHAPTER 14.01 STREETS AND SIDEWALKS CODE, OF THE MUNICIPAL CODE

HELD A SECOND READING AND ADOPTED **ORDINANCE 18-06** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 14.01 OF THE DANA POINT MUNICIPAL CODE

PUBLIC COMMENTS

Penny Maynard, Dana Point, spoke regarding adding "Beach" to Dana Point name.

Wayne Yost, Dana Point, thanked Council for excellent summer programs and spoke of concern regarding the disbanding of the Homeless Task Force. He volunteered to take the lead on a regularly meeting group to address homelessness concerns.

Nancy Jenkins, Dana Point, thanked Council for their support of the Art Fest and presented an art piece to the Council.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Tomlinson had nothing to report.

Council Member Wyatt turned in his list to the City Clerk.

Council Member Lewis reported that she enjoyed the time off with her family. She will submit her list to the City Clerk.

Mayor Pro Tem Muller reported that he met with the new Fire Chief and was very impressed with his responsiveness. He also thanked all emergency response staff for their service during the recent fires in California and asked everyone to honor and appreciate those who had lost their lives during the fires, including dozer drivers. He turned in his list to the City Clerk.

Mayor Viczorek turned in his list to the City Clerk.

NEW BUSINESS

13. ARTS AND CULTURE COMMISSION INTERVIEWS

Interviews were conducted in the following order:

Loretta (Kaye) Crippen
JoAnn Christman
Dr. Lydia Ledesma-Reese
Maria Elena Banks

BY COUNCIL MAJORITY, MARIA ELENA BANKS WAS APPOINTED TO THE ARTS AND CULTURE COMMISSION

14. 2018 – 2019 DANA POINT YOUTH BOARD APPOINTMENTS

Management Analyst Johnson provided a staff report.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL APPOINT SEVEN (7) BOARD MEMBERS AND TWO (2) MEMBERS-AT-LARGE TO THE DANA POINT YOUTH BOARD.

The motion carried by the following vote:

AYES: Council Member Lewis, Council Member Tomlinson, Council Member Wyatt, Mayor Pro Tem Muller, and Mayor Viczorek

NOES: None

ABSENT: None

15. CITY ATTORNEY PERIODIC STATUS REPORT – COUNCIL MEMBER LEWIS

Councilmember Lewis provided a staff report.

Discussion ensued.

IT WAS MOVED BY COUNCILMEMBER LEWIS, SECONDED BY COUNCILMEMBER WYATT, THAT THE CITY COUNCIL REQUIRE THE CITY ATTORNEY TO SUBMIT TO THE CITY COUNCIL PERIODIC STATUS REPORTS ON ALL NEW AND ONGOING LEGAL MATTERS, BOTH LITIGATION AND TRANSACTIONAL, BEGINNING SEPTEMBER 18, 2018 AND THEREAFTER, ONCE EVERY MONTH ON THE 3RD TUESDAY OF EACH AND EVERY MONTH IN THE FORMAT OF THE STATUS REPORT FORM ATTACHED TO THE REPORT.

AN AMENDMENT WAS MADE BY MAYOR VICZOREK, AND SECONDED BY MAYOR PRO TEM MULLER, TO ENFORCE THE POLICY THAT WAS APPROVED BY CITY COUNCIL IN JANUARY, 2018.

AN AMENDMENT WAS MADE BY COUNCILMEMBER LEWIS TO REQUIRE THE USE OF THE FORM ATTACHED IN HER REPORT FOR THE QUARTERLY REPORTING. THE AMENDMENT WAS ACCEPTED BY MAYOR VICZOREK AND SECONDED BY MAYOR PRO TEM MULLER.

The motion carried by the following vote:

AYES: Council Member Lewis, Council Member Tomlinson, Council Member Wyatt, Mayor Pro Tem Muller, and Mayor Viczorek

NOES: None

ABSENT: None

NEW BUSINESS

There were no New Business items.

PUBLIC HEARINGS

There were no Public Hearing items.

UNFINISHED BUSINESS

16. STORY POLE ORDINANCE – COUNCIL MEMBER LEWIS

Councilmember Lewis provided a staff report.

Mayor Viczorek opened the Public Comments:

Richard Gardner, Dana Point, spoke in favor of story poles.

Rick Erkeneff, Dana Point, spoke in favor of story poles.

Discussion ensued.

IT WAS MOVED BY COUNCILMEMBER WYATT, SECONDED BY COUNCILMEMBER LEWIS, THAT THE CITY COUNCIL DIRECT STAFF TO WRITE A STORY POLE ORDINANCE AND RETURN IT TO COUNCIL FOR REVIEW AND APPROVAL BY NO LATER THAN THE 3RD TUESDAY OF OCTOBER, 2018.

The motion carried by the following vote:

AYES: Council Member Lewis, Council Member Tomlinson, Council Member Wyatt

NOES: Mayor Pro Tem Muller, Mayor Viczorek

ABSENT: None

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 Viczorek adjourned the meeting at 9:08 in memory of James Raub and announced that the next Regular Meeting of the City Council will be September 18, 2018, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

AN AMENDMENT WAS MADE BY COUNCILMEMBER LEWIS TO REQUIRE THE USE OF THE FORM ATTACHED IN HER REPORT FOR THE QUARTERLY REPORTING. THE AMENDMENT WAS ACCEPTED BY MAYOR VICZOREK AND SECONDED BY MAYOR PRO TEM MULLER.

The motion carried by the following vote:

AYES: Council Member Lewis, Council Member Tomlinson, Council Member Wyatt, Mayor Pro Tem Muller, and Mayor Viczorek

NOES: None

ABSENT: None

NEW BUSINESS

There were no New Business items.

PUBLIC HEARINGS

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UNFINISHED BUSINESS

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The motion carried by the following vote:

AYES: Council Member Lewis, Council Member Tomlinson, Council Member Wyatt

NOES: Mayor Pro Tem Muller, Mayor Viczorek

ABSENT: None

PUBLIC COMMENTS (Continued)

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STAFF REPORTS

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

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KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF SEPTEMBER 18, 2018.

Meetings attended since July 17, 2018:

Mayor Richard A. Viczorek

07/18/2018 CA JPIA Board of Directors Meeting
07/19/2018 OCMVCD Board of Trustees Meeting
08/09/2018 SJHTCA Board of Directors Meeting
08/16/2018 OCMVCD Board of Trustees Meeting

Mayor Pro Tem Joseph L. Muller

07/20/2018 OCFA
07/25/2018 TCA
07/25/2018 OC Day at the Fair
07/26/2018 OCFA
07/27/2018 Senator Bates
08/17/2018 5th Marine 10th Anniversary
08/23/2018 OCFA
08/30/2018 League of Cities
08/30/2018 OCTA

Council Member Paul N Wyatt

07/27/2018 South OC Economic Coalition
07/30/2018 California Coastal Commission regarding short-term rentals
08/02/2018 South OC Watershed Management Area Executive Committee
08/06/2018 OC Association of Realtors – AB448 & OC Homelessness Trust
08/27/2018 Jonny Westom, Visit Dana Point
08/30/2018 League of California Cities General Membership Meeting
08/31/2018 Niguel Beach Terrace short-term rental discussion with resident

Council Member Debra Lewis

07/18/2018 Meeting with residents
07/19/2018 Meeting with residents
07/30/2018 Ride along with Stephanie and Deputy Anderson, Mercy House
08/07/2018 Meeting with business owner
08/20/2018 Meeting with residents
08/23/2018 Meeting with residents
08/30/2018 Meeting with James Campbell, OC Harbor

