CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



TUESDAY JULY 21, 2020 5:00 P.M.

MINUTES

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

Next City Council Ordinance No. 20-02

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Richard A. Viczorek at 5:02 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Richard A. Viczorek, Mayor Jamey M. Federico, Mayor Pro Tem Debra Lewis, Council Member (Teleconference) Joseph L. Muller, Council Member Paul N Wyatt, Council Member

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (3 cases)
- B. THREAT TO PUBLIC SERVICES OR FACILITIES Government Code § 54957 (a): consultation with City Attorney, Director of Emergency Services, Director of General Services regarding COVID 19
- C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957

Title: Annual City Attorney Performance Review

Mayor Richard A. Viczorek recessed the meeting into a Closed Session at 5:03 p.m. pursuant to Government Code Section 54957.

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

RECONVENE CITY COUNCIL MEETING

Mayor Richard A. Viczorek reconvened the meeting at 6:00 p.m. All Council Members were present (with Council Member Lewis present via teleconference).

STAFF PRESENT: Michael A. Killebrew, City Manager; Kelly Reenders, Acting Assistant City Manager, Patrick Munoz, City Attorney; Kathy Ward, City Clerk; Brenda Wisneski, Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Robert Sedita, Director of General Services; Jeff Rosaler, Community Development Manager; Belinda Deines, Principal Planner, Johnathan Ciampa, Senior Planner; Jaimie To, Management Analyst; and Shayna Sharke, Deputy City Clerk

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Paul N Wyatt

INVOCATION

There was no Invocation.

PRESENTATIONS AND PROCLAMATIONS

OCFA Wildfire Prevention Proclamation

Council Member Joseph L. Muller read the OCFA Wildfire Prevention Proclamation.

Certificate of Recognition for VFW Post 9934 Commander Wayne Yost

Mayor Richard A. Viczorek presented Commander Wayne Yost with a Certificate of Recognition. Wayne Yost introduced Lew Talbot as the new Commander of VFW Post 9934.

READING OF ORDINANCE TITLES

City Clerk Kathy Ward read one (1) Ordinance title.

CONSENT CALENDAR

IT WAS MOVED BY MAYOR RICHARD A. VICZOREK, SECONDED BY COUNCIL MEMBER JOSEPH L. 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 Joseph L. Muller, Council Member Paul N

Wyatt, Mayor Pro Tem Jamey M. Federico, 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 AND THAT FURTHER READING OF SUCH ORDINANCES BE WAIVED.

2. REGULAR MEETING MINUTES, JUNE 16, 2020

APPROVED THE MEETING MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, MAY 27, 2020

APPROVED THE MEETING MINUTES.

4. PLANNING COMMISSION MEETING MINUTES, JUNE 22, 2020

RECEIVED AND FILED.

5. FINANCIAL REVIEW COMMITTEE MEETING MINUTES, JANUARY 28, 2020

RECEIVED AND FILED.

6. ARTS AND CULTURE COMMISSION MEETING MINUTES, JANUARY 8, 2020

RECEIVED AND FILED.

7. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

8. CITY TREASURER'S REPORT, JUNE 2020

RECEIVED AND FILED.

9. CLAIMS AND DEMANDS

RECEIVED AND FILED.

△ 10. DANA POINT POLICE SERVICES MONTHLY REPORT

RECEIVED AND FILED THE POLICE SERVICES MONTHLY REPORT.

11. DEVELOPMENT UPDATE

THE CITY COUNCIL RECEIVED AND FILED THE DEVELOPMENT UPDATE.

12. LOCAL COASTAL PROGRAM AMENDMENT LCPA19-0003/ZONE TEXT AMENDMENT ZTA19-0003, AMENDING THE DANA POINT HARBOR REVITALIZATION PLAN AND DISTRICT REGULATIONS FOR PLANNING AREA 3

ADOPTED ORDINANCE 20-02 ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA19-0003 AMENDING THE DANA POINT HARBOR REVITALIZATION PLAN AND DISTRICT REGULATIONS FOR PLANNING AREA 3 AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA19-0003 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

13. APPROVAL OF ORANGE COUNTY OPERATIONAL AREA AGREEMENT

APPROVED THE ORANGE COUNTY OPERATIONAL AREA AGREEMENT OF THE COUNTY OF ORANGE AND POLITICAL SUBDIVISIONS AND AUTHORIZED THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT.

14. SB2 GRANT - HOMELESS OUTREACH SERVICES

- 1) ADOPTED A RESOLUTION TO ESTABLISH A CLASS SPECIFICATION AND SALARY RANGE FOR THE POSITION OF COMMUNITY OUTREACH WORKER.
- 2) AUTHORIZED THE CITY MANAGER TO SIGN A CONTRACT WITH THE COUNTY OF ORANGE TO ACCEPT SB2 PERMANENT LOCAL HOUSING ALLOCATION (PLHA) GRANT FUNDS FOR HOMELESS OUTREACH SERVICES IN DANA POINT, AND SUBSEQUENT AMENDMENTS CONSISTENT WITH SUPPORTING DOCUMENTS A & B.

PUBLIC COMMENTS

City Clerk Kathy Ward read ten (10) Public Comments that were emailed prior to the 4:00 p.m.

Hoyin Ip (Dana Point) wrote encouraging the Meals on Wheels program to utilize reusable packaging for their meals.

Sandi Lindenkohl (Dana Point) wrote regarding her concerns with the large, illegal fireworks being set off in her neighborhood and the activity in the RH Dana Elementary School parking lot.

Len Gardner (Dana Point) wrote regarding her concerns with the illegal fireworks being set off in her neighborhood.

Karen Champ (Dana Point) wrote regarding her concerns with the illegal fireworks being set off in her neighborhood.

Penny Maynard (Dana Point) wrote regarding the rising number of COVID-19 cases in Orange County and encouraged the use of face masks.

Nancy Freeman (Capistrano Beach) wrote regarding her concerns with the illegal fireworks being set off in her neighborhood.

Jacci Labrum (Dana Point) wrote regarding her concerns with the nightly illegal activity in the Strands

Jim Owens wrote asking the City Council to stop the fireworks.

Miriam Gardner (Dana Point) wrote regarding her concerns about the illegal fireworks being set off in her neighborhood.

Pam Buxton (Dana Point) wrote asking the City Council to stop the noise from the illegal fireworks.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Paul N. Wyatt stated that he has submitted his list of meetings attended to the City Clerk.

Council Member Debra Lewis stated that she has nothing to report.

Council Member Joseph L. Muller encouraged the Orange County Health Department to increase their COVID-19 testing efforts. He stated that a change of culture is necessary and encouraged residents to wear a mask to slow the spread of the pandemic.

Mayor Pro Tem Jamey M. Federico stated that he has turned in his list of meetings to the City Clerk.

Mayor Richard A. Viczorek stated that he will turn in his list of meetings to the City Clerk.

PUBLIC HEARINGS

15. 2020 WEED ABATEMENT PROGRAM

City Manager Michael A. Killebrew provided a brief staff report.

Mayor Richard A. Viczorek opened the Public Hearing at 6:34 p.m.

There were no public comments.

Mayor Richard A. Viczorek closed the Public Hearing at 6:35 p.m.

IT WAS MOVED BY MAYOR RICHARD A. VICZOREK, SECONDED BY COUNCIL MEMBER PAUL N WYATT THAT THE CITY COUNCIL:

1) CONDUCT A PUBLIC HEARING ON THE WEED ABATEMENT COST REPORT AND THEREAFTER, ADOPT **RESOLUTION 20-07-21-01** CONFIRMING THE COST REPORT AND PROVIDING FOR THE COLLECTION ON THE REGULAR TAX BILL ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE COST OF ABATEMENT AND PROVIDING FOR THE COLLECTION ON

THE REGULAR TAX BILL

2) THE CITY COUNCIL AUTHORIZE THE MAYOR TO SIGN A CERTIFICATION OF ASSESSMENT TO THE COUNTY OF ORANGE REGARDING SPECIAL ASSESSMENTS FOR THE 2020-21 SECURED PROPERTY TAX BILL.

Discussion ensued.

The motion carried by the following vote:

AYES: Council Member Debra Lewis, Council Member Joseph L. Muller, Council Member Paul N

Wyatt, Mayor Pro Tem Jamey M. Federico, and Mayor Richard A. Viczorek

NOES: None ABSENT: None

UNFINISHED BUSINESS

16. UPDATE OF LOCAL EMERGENCY BY DIRECTOR OF EMERGENCY SERVICES CREATED BY COVID19

City Manager Michael A. Killebrew provided a staff report.

Discussion ensued.

THE CITY COUNCIL RECEIVED AND FILED THE REPORT.

17. SHORT TERM RENTAL SURVEY AND NEXT STEPS FOR SHORT TERM RENTAL PILOT PROGRAM

Community Development Director Brenda Wisneski introduced Adam Sonenshein with FM3, who presented the results of the Short Term Rental (STR) survey.

Discussion ensued regarding the survey.

Senior Planner Johnathan Ciampa provided a staff report.

Discussion ensued regarding the Home Stay STR Pilot Program.

Mayor Richard A. Viczorek opened public comment.

Deanna Slocum (Dana Point) spoke in favor of continuing the Short Term Rental Program.

George Ray (Dana Point) spoke in favor of continuing the Short Term Rental Program.

City Clerk Kathy Ward read twelve (12) Public Comments that were emailed prior to 4:00 p.m.

Rob Hughes wrote against imposing a regulation requiring a homeowner to be present when the unit is rented.

Jeff Bosson wrote referencing the Coastal Commission recommendations and recommended that the City use the language used by the City of Laguna Beach.

Jeff Perry wrote in favor of having a permit and rules, but against imposing a regulation requiring a homeowner to be present when the unit is rented.

Brenda Anderson wrote asking the Council to host in-person workshops before a decision is made.

Laurie Beylik (Dana Point) wrote against imposing a regulation requiring a homeowner to be present when the unit is rented.

Stephanie Leger (Dana Point) wrote in favor of the pilot program.

Laura Lanier (Dana Point) wrote in favor of the Short Term Rental Program.

Betty Hill (Dana Point) wrote that residents should be allowed to vote on the Short Term Rental Program.

Barbara Wilson (Dana Point) wrote regarding her concerns with resident representation and enforcement surrounding the Short Term Rental Program and in favor of the Home Stay option.

John Choi (AirBnB) wrote in favor of the Short Term Rental program and against the Hosted Home Stay option.

Don Raabe (Dana Point) wrote in favor of the Short Term Rental Program.

Toni Nelson (Capistrano Beach) wrote in support of the pilot program for the Home Stay option.

Mayor Richard A. Viczorek closed public comment.

IT WAS MOVED BY PAUL N WYATT THAT THE CITY COUNCIL:

- 1) RECEIVE AND FILE THE SHORT-TERM RENTAL (STR) SURVEY REPORT; AND
- 2) DIRECT STAFF TO PROCEED WITH DEVELOPMENT OF THE HOME STAY STR PILOT PROGRAM.

Motion failed due to lack of a second.

IT WAS MOVED BY MAYOR PRO TEM JAMEY M FEDERICO, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER THAT THE CITY COUNCIL:

- 1) RECEIVE AND FILE THE SHORT-TERM RENTAL (STR) SURVEY REPORT; AND
- 2) DIRECT STAFF TO PROCEED WITH DEVELOPMENT OF STR PILOT PROGRAM.

Discussion ensued.

Mayor Pro Tem Jamey M. Federico clarified his motion, stating that he is striking "home stay" from the recommended action, directing staff to proceed with the development of the STR Pilot Program.

Mayor Richard A. Viczorek further clarified stating that receive and file the survey report does not need to be a part of the motion. He re-stated the motion, direct staff to proceed with the development of the STR Pilot Program. He verified that Mayor Pro Tem Federico's intent would be to exclude the paragraph following step 7 on page 2 of the staff report from the motion.

Community Development Director Brenda Wisneski stated that she understands that the motion would include directing staff to continue the development of the STR Pilot Program, conduct public outreach, and ultimately take the program to the Coastal Commission for a Coastal Development Permit.

Mayor Pro Tem Jamey M. Federico confirmed Ms. Wisneski's statement and that the paragraph after step 7 on page 2 of the staff report is not included in his motion.

Council Member Joseph L. Muller agreed to the second on the motion as clarified.

Discussion ensued.

A SUBSTITUE MOTION WAS MADE BY COUNCIL MEMBER DEBRA LEWIS, SECONDED BY COUNCIL MEMBER PAUL N WYATT THAT ANY MOTION PASSED BY COUNCIL REGARDING SHORT TERM RENTALS MUST BE TAKEN TO A VOTE OF THE PEOPLE AND PASSED BY AT LEAST 50% BEFORE IT IS EFFECTIVE.

The substitute motion failed by the following vote:

AYES: Council Member Debra Lewis, and Council Member Paul N Wyatt

NOES: Council Member Joseph L. Muller, Mayor Pro Tem Jamey M. Federico, and Mayor Richard A.

Viczorek

ABSENT: None

The original motion passed by the following vote:

AYES: Council Member Joseph L. Muller, Mayor Pro Tem Jamey M. Federico, and Mayor Richard A.

Viczorek

NOES: Council Member Debra Lewis, and Council Member Paul N Wyatt

ABSENT: None

NEW BUSINESS

18. AUTHORIZATION TO ISSUE CITY OF DANA POINT COMMUNITY FACILITIES DISTRICT NO. 2006-1 (CFD 2006-1) 2020 SPECIAL TAX REFUNDING BONDS (Headlands)

City Manager Michael A. Killebrew provided a staff report.

IT WAS MOVED BY MAYOR RICHARD A. VICZOREK, SECONDED BY MAYOR PRO TEM JAMEY M. FEDERICO THAT CITY COUNCIL ADOPT RESOLUTION 20-07-21-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT AUTHORIZING THE ISSUANCE OF ITS 2020 SPECIAL TAX REFUNDING BONDS, SERIES A IN A PRINCIPAL AMOUNT NOT TO EXCEED SIXTEEN MILLION (\$16,000,000) AND ITS 2020 SPECIAL TAX REFUNDING BONDS, TAXABLE SERIES B IN A PRINCIPAL AMOUNT NOT TO EXCEED TWENTY SEVEN MILLION (\$27,000,000) OR A COMBINED TOTAL OF FORTY-THREE MILLION DOLLARS (\$43,000,000) AND APPROVING THEREWITH CERTAIN DOCUMENTS AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION

Discussion ensued.

The motion carried by the following vote:

Council Member Debra Lewis, Council Member Joseph L. Muller, Council Member Paul N

Wyatt, Mayor Pro Tem Jamey M. Federico, and Mayor Richard A. Viczorek

NOES: None **ABSENT: None**

APPROVAL OF A COST SHARING AND COOPERATIVE AGREEMENT WITH CITY OF SAN 19. JUAN CAPISTRANO FOR THE STONEHILL DRIVE IMPROVEMENTS PROJECT

Director of Public Works & Engineering Matthew Sinacori provided a staff report.

IT WAS MOVED BY MAYOR RICHARD A. VICZOREK, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER THAT CITY COUNCIL:

- 1) APPROVE THE COOPERATIVE AGREEMENT WITH THE CITY OF SAN JUAN **CAPISTRANO: AND**
- 2) AUTHORIZE THE CITY MANAGER TO SIGN THE COOPERATIVE AGREEMENT.

Discussion ensued.

The motion carried by the following vote:

Council Member Debra Lewis, Council Member Joseph L. Muller, Council Member Paul N AYES:

Wyatt, Mayor Pro Tem Jamey M. Federico, and Mayor Richard A. Viczorek

NOES: None **ABSENT: None**

INITIATION OF A GENERAL PLAN AMENDMENT AND SPECIFIC PLAN DISTRICT, AND 20. PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES TO PREPARE THE VICTORIA BOULEVARD SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT

Principal Planner Belinda Deines provided a staff report.

Discussion ensued.

Mayor Richard A. Viczorek opened public comment.

City Clerk Kathy Ward read one (1) Public Comment that was emailed prior to 4:00 p.m.

Michael McCann (Toll Brothers) wrote addressing issues raised and wrote in favor of proceeding with the recommended action.

IT WAS MOVED BY COUNCIL MEMBER DEBRA LEWIS SECONDED BY COUNCIL MEMBER PAUL N WYATT THAT CITY COUNCIL:

1) ADOPT **RESOLUTION 20-07-21-XX** INITIATING A GENERAL PLAN AMENDMENT AND A SPECIFIC PLAN DISTRICT FOR THE VICTORIA BOULEVARD APARTMENTS AT 26126 VICTORIA BOULEVARD ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT INITIATING A GENERAL PLAN AMENDMENT AND THE VICTORIA BOULEVARD SPECIFIC PLAN; AND

2) APPROVE AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DANA POINT AND MICHAEL BAKER INTERNATIONAL FOR PREPARATION OF THE ENVIRONMENTAL IMPACT REPORT FOR THE VICTORIA BOULEVARD SPECIFIC PLAN.

Discussion ensued.

The motion failed by the following vote:

AYES: Council Member Debra Lewis, and Council Member Paul Wyatt

Council Member Joseph L. Muller, Mayor Pro Tem Jamey M. Federico, and Mayor Richard A.

NOES: Viczorek

ABSENT: None

21. PROPOSED CITY COUNCIL SPONSORED INITIATIVE RE: CANNABIS BUSINESS TAX

Mayor Pro Tem Jamey M. Federico provided a staff report.

Discussion ensued.

Mayor Richard A. Viczorek opened public comment.

Todd Wallin (Dana Point) spoke in favor of the tax measure.

Jeffrey Nelson (Dana Point) spoke in favor of the tax measure.

City Clerk Kathy Ward read one (1) Public Comment that was emailed prior to 4:00 p.m.

Russell Pflueger (Dana Point) wrote in favor of the tax measure.

Mayor Richard A. Viczorek closed public comment.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY MAYOR PRO TEM JAMEY M. FEDERICO THAT CITY COUNCIL ADOPT **RESOLUTION 20-07-21-03** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION BALLOT FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE 20-XX ADDING CHAPTER 3.30 TO TITLE 3 OF THE DANA POINT MUNICIPAL CODE, ESTABLISHING A TAX ON CANNABIS BUSINESSES OPERATING WITHIN THE CITY OF DANA POINT; REQUESTING FULL ELECTION SERVICES FROM THE COUNTY OF ORANGE TO CONDUCT SAID ELECTION; AND SETTING RULES AND DEADLINES FOR ARGUMENTS AND REBUTTALS FOR AND AGAINST THE ORDINANCE

Discussion ensued.

The motion failed by the following vote:

AYES: Member Joseph L. Muller, and Mayor Pro Tem Jamey M. Federico

NOES: Council Member Debra Lewis, Council Member Paul N Wyatt, and Mayor Richard A. Viczorek

ABSENT: None

NEW BUSINESS

There was no New Business.

STAFF REPORTS

City Manager Michael A. Killebrew announced that former City Manager Steve Julian recently passed away and extended the City's sympathies.

City Attorney Patrick Munoz stated he had nothing to report.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Richard A. Viczorek adjourned the meeting at 10:43 p.m. He announced that the next Regular Meeting of the City Council will be September 1, 2020, 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 SEPTEMBER 1, 2020.

W. Wan

Meetings attended since June 17, 2020:

Mayor Richard A. Viczorek

06/18/2020	OCMVCD Board of Trustees Meeting
06/18/2020	FRC Meeting
07/09/2020	SJHTCA Board of Directors Meeting
07/16/2020	OCMVCD Board of Trustees Meeting
07/17/2020	Meeting with Congressman Mike Levin

Mayor Pro Tem Jamey M. Federico

07/15/2020	OCHFT
07/15/2020	ACC-OC

Council Member Joseph L. Muller

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TCA
OC Parks
OCTA

Council Member Paul N Wyatt

06/23/2020 06/23/2020	Be Well OC Coalition Meeting OC United Way Financial Literacy training audit
06/25/2020	OC Social Services Agency Services Training hosted by OC United Way
06/26/2020	Karen Williams, CEO, 211OC
06/26/2020	Marshall Moncrief, CEO, BeWell OC, regarding digital navigation system for behavioral health services
06/30/2020	OC United Way Financial Literacy training audit
06/30/2020	Be Well OC, Digital Platform discussion
07/01/2020	League of California Cities, End of Session Briefing
07/07/2020	OC United Way Financial Literacy training audit
07/10/2020	Karen Williams, CEO, 2110C
07/13/2020	OC United Way, OC Department of Education, Capo United School District, RH Dana
	School Principal, regarding outreach to those with high financial risk due to COVID-19
07/14/2020	OC United Way Financial Literacy training audit
07/14/2020	Toll Bros, introduction to Victoria Boulevard Project
07/16/2020	Be Well OC, Digital Platform discussion

07/17/2020 Be Well OC, OC Health Care Agency, UCLA Digital Navigator staff, regarding OC Unified Care Navigation Platform
07/21/2020 OC United Way Financial Literacy training audit