

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



**TUESDAY
APRIL 17, 2018
5:00 P.M.**

MINUTES

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

Next City Council Ordinance No. 18-03

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 (*Arrived at 5:03 p.m.*)
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. CODE ENFORCEMENT UPDATE
 - a. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (2 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
- C. UNLICENSED RESIDENTIAL RECOVERY FACILITIES UPDATE
 - a. CONFERENCE WITH LEGAL COUNCIL – EXISTING LITIGATION, Government Code Section 54956.9 (d)(1) (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

D. CONFERENCE WITH LABOR NEGOTIATOR, Government Code § 54957.6

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

Mayor Viczorek recessed the meeting into a Closed Session at 5:03 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

Mayor Viczorek reconvened the meeting at 6:40 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; Matthew Sinacori, Director of Public Works and Engineering; Brian McClure, Deputy Community Services Director; and Bobbi Ogan, Deputy City Clerk.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that he had no report.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Tomlinson.

INVOCATION

The Invocation was provided by VFW Post 9934 Chaplain Morrie Hanson.

PRESENTATIONS AND PROCLAMATIONS

VFW Post 9934 Teacher of the Year

Wayne Yost, Post 9934 Commander presented the Teacher of the Year award to two of Ms. Atkinson's students who accepted the award on her behalf. Mayor Viczorek presented the girls with a Certificate of Recognition on behalf of the City for the honor of Ms. Atkinson being named the VFW Teacher of the Year.

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, APRIL 3, 2018

APPROVED THE MINUTES.

3. ARTS AND CULTURE SPECIAL MEETING MINUTES, FEBRUARY 7, 2018

RECEIVED AND FILED.

4. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

5. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

6. DANA POINT POLICE SERVICES MONTHLY REPORT

RECEIVED AND FILED REPORT.

7. DEVELOPMENT UPDATE

RECEIVED AND FILED.

8. MONTHLY FINANCIAL ACTIVITY REPORT, FEBRUARY 2018

RECEIVED AND FILED THE MONTHLY FINANCIAL ACTIVITY REPORT FOR FEBRUARY 2018.

9. AMENDMENT TO SOUTHERN CALIFORNIA SOUND, STAGE AND LIGHTING CORPORATION CONTRACT TO ADD A SIXTH CONCERT TO THE 2018 CONCERTS IN THE PARK SERIES

APPROVED THE AMENDMENT TO THE SOUTHERN CALIFORNIA SOUND, STAGE AND LIGHTING CORPORATION CONTRACT TO ADD A SIXTH CONCERT DATE FOR THE CITY OF DANA POINT SUMMER CONCERTS IN THE PARK SERIES AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AMENDMENT FOR THE STAGE AND SOUND CONTRACT TO SOUTHERN CALIFORNIA SOUND, STAGE AND LIGHTING CORPORATION FOR THE ADDED CONCERT ON SUNDAY, JULY 8, 2018.

10. AMENDMENT TO CITY COUNCIL POLICY 216, CITY COUNCIL AGENDA FORMAT

APPROVED THE PROPOSED AMENDMENT TO THE CITY COUNCIL POLICY 216.

PUBLIC COMMENTS

Cyndi Elders, Dana Point, thanked Council for support on behalf of the cycling foundation. She announced that the Grand Prix of Cycling will be happening on April 29th beginning at 7:00 a.m.

Genevieve Peters, spoke regarding Veterans and how they are being honored.

Frank McAdams, Dana Point, spoke regarding an accessory dwelling unit permit that was issued recently on Pequito Drive.

Mary Navarro, Dana Point, supports being a sanctuary city.

Kris Stoddard, Dana Point, supports being a sanctuary city.

Charlie Larwood, spoke regarding the accessory dwelling unit permit that was recently approved and the concerns that he has.

Grant Lopez, Laguna Niguel, supports Lenore Albert Sherington for District Attorney.

John Donello, Dana Point, spoke regarding the accessory dwelling unit permit that was issued recently on Pequito.

Carol Wilson, Capistrano Beach, spoke regarding the treatment of Council Member Lewis.

Joanie Smith, spoke regarding plane noise they are experiencing in Monarch Beach.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Tomlinson had nothing to report.

Council Member Wyatt stated he had turned in his meetings to the City Clerk.

Council Member Lewis stated she had issues on the ADU and the airplane noise will be investigated.

Mayor Pro Tem Muller mentioned the passing of former First Lady Barbara Bush today. He also stated that the Dana Point Grand Prix is a great event on April 29th and encouraged everyone to attend. He stated he would turn in his list of meetings to the City Clerk.

Mayor Viczorek stated he turned in his list of meetings.

PUBLIC HEARINGS

11. FOURTH PUBLIC HEARING TO TAKE INPUT REGARDING POTENTIAL TRANSITION TO BY-DISTRICT ELECTIONS FOR CITY COUNCIL MEMBERS AND CONSIDER DRAFT VOTING DISTRICT MAPS

City Attorney Munoz provided a staff report and Doug Johnson from NDC provided a review of the draft districting maps and described the challenges that they face as demographers.

Discussion ensued.

Mayor Viczorek opened the Public Hearing.

Patricia Short, stated that she favors five districts.

Don Russell, Capistrano Beach, asked for a legend on the maps that listed where the Council Members live and what district they reside in. He supports the four districts with at-large Mayor and the Oak II map.

Linda Naylor, read a letter for Carlos Olvera, who was not in support of districting.

Carol Wilson, Capistrano Beach, spoke regarding the workshop that was held and felt that it was helpful. She would support the Pine II map with four districts and one at-large Mayor.

Mayor Viczorek closed the Public Hearing.

Discussion ensued.

Mayor Viczorek recessed the meeting at 8:18 p.m. and reconvened the meeting at 8:30 p.m.

UNFINISHED BUSINESS

There were no Unfinished Business items.

NEW BUSINESS

12. RESOLUTION OF OPPOSITION OF SB 54

Council Member Tomlinson provided a staff report.

Mayor Viczorek opened the Public Comments.

Lesa Antone, Phoenix, Arizona, spoke of those who had been murdered by illegal aliens.

Dr. Mike Schmitt, Dana Point, felt that SB 54 protects criminals and encouraged the Council to adopt the Resolution.

Linda Naylor, Dana Point, felt that SB 54 protects criminals and encouraged the Council to adopt the Resolution.

Skye Wagoner, Huntington Beach, spoke regarding the constitutionality of SB 54.

Landon Russell, Capistrano Beach felt that this was not a City issue.

David Koontz, San Clemente, spoke in support of SB 54.

Leslie Zieminski, San Clemente, spoke in support of SB 54.

Judy Jones, San Clemente (League of Women's Voters), spoke in support of SB 54.

Emma Jenson, San Clemente, spoke in support of SB 54.

Wayne Yost, Dana Point, spoke in opposition of SB 54.

John Kelly, Tustin, spoke regarding his support of opposing SB 54.

Lauren Canty, Laguna Beach, spoke regarding her support of SB 54.

Tamela Hyatt, Yuma, Arizona, support the Resolution opposing SB 54.

Jennifer Harrison, spoke regarding support of the Resolution opposing SB 54.

Genevieve Peters, spoke in support of the Resolution in opposition of SB 54.

Nancy Rohr, Dana Point, spoke regarding her support of SB 54.

Megan Dowling, Los Angeles, spoke against SB 54.

Christine Williams, Rancho Palos Verdes, spoke regarding her opposition of SB 54.

Arly, spoke regarding her opposition of SB 54.

Jessica Runfola, O.C., spoke regarding the support of adopting the Resolution opposing SB54.

Sunny Meagher, O.C., encouraged the City Council to adopt the resolution opposing SB 54.

Sam Hahn, Dana Point, supports SB 54.

Ryan McAdams, spoke regarding is opposition of SB 54.

Jennifer Martinez, spoke regarding her opposition of SB 54.

Jackson Hinkle, San Clemente, supports SB 564.

Fred Macintosh, spoke regarding his opposition of SB 54.

Dura Young, spoke in opposition of SB 54.

Larry Bales, Tustin, spoke regarding his opposition of SB 54.

Emmanuel Downes, Dana Point, spoke regarding his support of SB 54.

Chris McGee, Dana Point, Spoke regarding his support of SB 54.

Carol Wilson, Capistrano Beach, stated that she opposes the proposed Resolution. Vote no or table to another meeting.

Olivia Fu, spoke in support of SB 54.

Cyrus Hojiaty, Las Vegas NV, spoke regarding is opposition of SB 54.

Elsa Aguilar, spoke in opposition of SB 54.

Mayor Viczorek recessed the meeting at 9:32 pm. and reconvened the meeting at 9:34 p.m.

James Bradley, spoke in opposition of SB 54.

No name speaker, spoke in opposition of SB 54.

Mayor Viczorek closed the Public Comments.

Discussion ensued.

Council Member Lewis provided the following three 50 word statements for the record:
"If you want to make a difference, do the real work to change props 47 and 57. But if you wish to merely create a disturbance, keep doing what you are doing.

I am disappointed that despite pleas not to aginize this item, you chose this fragile moment to cause the self-inflicted wound of division and discord. At this moment, we are working hard to reach our Latino residents, to show them they are welcome members of our community.

Ironically, tonight's posturing allows the laws imposed by the Sacramento politicians you profess to rail against to be more easily imposed on us. You help the lawyers divide our community into voting districts our residents don't want.

You choose division. That is not good governance.

Tonight, hearing Dana Point speakers, I am proud of Dana Point residents and I am proud to be a Dana Point resident.”

Brief discussion ensued.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL ADOPT **RESOLUTION 18-04-17-01** SUPPORTING THE COUNTY OF ORANGE’S POSITION ON AND ASSOCIATED LITIGATION RELATED TO SB 54 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA TO CONDEMN STATE LAW THAT RESTRICTS LAW ENFORCEMENT AND ENDANGERS PUBLIC SAFETY.

The motion carried by the following vote:

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

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

ABSENT: None

Mayor Viczorek recessed the meeting at 9:58 p.m. and reconvened the meeting at 10:01 p.m.

13. LONG TERM FINANCIAL PLAN UPDATE

Assistant City Manager Killebrew provided a staff report and a PowerPoint presentation.

Discussion ensued.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL RECEIVE AND FILE THE LONG TERM FINANCIAL UPDATE.

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

14. AWARD OF CONTRACT FOR ONLINE FINANCIAL TRANSPARENCY AND BUDGETING SOFTWARE

City Manager Denny provided a staff report.

Brief discussion ensued.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO EXECUTE A THREE-YEAR

SOFTWARE SERVICES AGREEMENT WITH OPENGOV, INC. (OPENGOV) FOR IMPLEMENTATION AND MAINTENANCE OF ITS BUDGETING AND TRANSPARENCY SOFTWARE, WITH TWO OPTIONAL ONE-YEAR EXTENSIONS.

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

15. BIENNIAL CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS ADJUSTMENT

City Clerk Ward provided a staff report.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL APPROVE AND ADOPT **RESOLUTION 18-04-17-02** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADJUSTING THE CAMPAIGN CONTRIBUTION AND CAMPAIGN LOAN LIMITS TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX, AS REQUIRED BY SECTION 2.05.058 OF THE DANA POINT MUNICIPAL CODE.

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. SPONSORSHIP AGREEMENT FOR DANA POINT'S 2018 SUMMER CONCERTS

City Manager Denny provided a staff report.

Brief discussion ensued.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO EXECUTE A SPONSORSHIP AGREEMENT WITH OMEGA EVENTS, INC. (DOHENY BLUES FESTIVAL), FOR THE 2018 DANA POINT'S SUMMER OF MUSIC.

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

PUBLIC COMMENTS (Continued)

There were no additional Public Comments received.

STAFF REPORTS

City Manager Denny announced that on next Wednesday, April 25th at 6:30 p.m. at R.H. Dana Elementary School will be the next forum on districting. Flyers will be disturbed starting tomorrow.

City Attorney Munoz suggest that the meeting be adjourned to April 25th.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

This item was moved up in the order of agenda and was heard after public comments.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Viczorek adjourned the meeting at 10:39 p.m. and announced that the next Regular Meeting of the City Council will be April 25, 2018, at 6:30 p.m. at R.H. Dana Elementary School, 24242 La Cresta Drive, Dana Point, California.



KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF MAY 1, 2018

Meetings attended since April 3, 2018:

Mayor Richard A. Viczorek

April 9, 2018 CVRA Districting Forum
April 12, 2018 TCA Board of Directors Meeting

Mayor Pro Tem Joseph L. Muller

April 5, 2018 OC Parks
April 11, 2018 OCFA
April 12, 2018 League of Cities

Council Member Debra Lewis

April 9, 2018 Districting Workshop
April 10, 2018 Meeting with Resident
April 11, 2018 Meeting with Resident
April 11, 2018 Lantern Village Association
April 12, 2018 Niguel Shores Women's Club
April 13, 2018 Council Member, Costa Mesa
April 14, 2018 Jurupa Valley City Manager
April 17, 2018 Niguel Shores Men's Club

Council Member John A. Tomlinson

April 9, 2018 CASA

Council Member Paul N Wyatt

04/09/2018 California Voter Rights Act Workshop
04/12/2018 Welcome Inn Executives