

# CITY OF DANA POINT

**CITY COUNCIL  
REGULAR  
MEETING**



**TUESDAY  
MAY 16, 2017  
5:00 P.M.**

## **ACTION AGENDA**

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

Next City Council Ordinance No. 17-04

### **CALL TO ORDER**

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

### **ROLL CALL OF CITY COUNCIL MEMBERS:**

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

### **CLOSED SESSION**

City Attorney Munoz stated that there would only be one (1) Anticipated Litigation Item discussed and announced a need for Closed Session as follows:

- A. PUBLIC EMPLOYMENT, Government Code § 54957: Title: City Manager recruitment
- B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (2 cases)

Name of Case: City of Dana Point v. Headlands Reserve LLC, Sanford Edward, et al;  
Orange County Superior Court Case No. 30-2016-00872051

Name of Case: Dana Point Automotive, Inc. v. City of Dana Point; Orange County Superior  
Court Case No. 30-2017-00914962-CU-EI-CXC

- C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d1), (1 case)

Mayor Lewis recessed the meeting into a Closed Session at 5:01 p.m. pursuant to Government Code Section 54956 et seq.

## **RECONVENE CITY COUNCIL MEETING – CALL TO ORDER**

Mayor Lewis reconvened the meeting at 6:42 p.m. All Council Members were present.

STAFF PRESENT: Patrick Munoz, City Attorney; Mike Killebrew, Acting City Manager; Kathy Ward, City Clerk; Mike Rose, Director of Emergency Services; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Mark Denny, Deputy City Manager; Matthew Schneider, Planning Manager; Brian McClure, Deputy Director of Community Services and Parks; Matthew Sinacori, Deputy Director of Public Works and Engineering; Mark Sutton, Building Official; Jackie Littler, Executive Assistant; DyAnne Weamire, Senior Administrative Assistant; and Bobbi Ogan, Deputy City Clerk.

## **CLOSED SESSION ANNOUNCEMENT**

There was no Closed Session announcement.

## **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Pro Tem Wyatt.

## **INVOCATION**

The Invocation was provided by OCFA Senior Chaplain Greg Keene.

## **PRESENTATIONS AND PROCLAMATIONS**

Drowning Prevention Awareness

## **CONSENT CALENDAR**

Mayor Lewis removed Item 7 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY MAYOR PRO TEM WYATT, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 7.

The motion carried by the following vote:

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

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. SPECIAL MEETING MINUTES, MAY 1, 2017**

APPROVED THE MINUTES.

**3. REGULAR MEETING MINUTES, MAY 2, 2017**

APPROVED THE MINUTES.

**4. YOUTH BOARD MEETING MINUTES, APRIL 20, 2017**

RECEIVED AND FILED.

**5. FINANCE REVIEW COMMITTEE MINUTES, APRIL 10, 2017**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**7. CITY TREASURER'S REPORT, APRIL 2017**

Mayor Lewis removed this item from the Consent Calendar.

IT WAS MOVED BY MAYOR PRO TEM WYATT, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL RECEIVE AND FILE THE CITY TREASURER'S REPORT FOR THE MONTH OF APRIL 2017.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

**8. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

## **PUBLIC COMMENTS**

Lynne Conger  
Joanna Adrian  
Penny Maynard  
Bill Mathes  
Joseph Jaeger  
Carol Kelly  
Brandon Day  
Theresa Bovee  
Hoiyin Ip  
Wayne Yost

## **UNFINISHED BUSINESS**

### **9. DOHENY VILLAGE PLAN UPDATE**

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER MULLER, THAT THE CITY COUNCIL RECEIVE AND FILE THIS REPORT.

The motion carried by the following vote:

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

## **NEW BUSINESS**

### **10. FY2017-18 LAW ENFORCEMENT SERVICES AGREEMENT**

IT WAS MOVED BY COUNCIL MEMBER VICZOREK, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL APPROVE THE LAW ENFORCEMENT SERVICES AGREEMENT WITH THE COUNTY OF ORANGE FOR LAW ENFORCEMENT SERVICES FOR THE 2017-18 FISCAL YEAR AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT.

The motion carried by the following vote:

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

**11. FISCAL YEARS 2017-18 AND 2018-19 BUDGET WORKSHOP**

IT WAS MOVED BY MAYOR PRO TEM WYATT, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL DIRECT STAFF TO SCHEDULE ANOTHER BUDGET WORKSHOP BEFORE THE REGULAR COUNCIL MEETING OF JUNE 6, 2017.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

**12. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE POLICE SERVICES RENOVATION PROJECT 2016**

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER MULLER, THAT THE CITY COUNCIL ADOPT **RESOLUTION 17-05-16-01** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE COMPLETION FOR THE POLICE SERVICES RENOVATION PROJECT 2016.*

The motion carried by the following vote:

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

NOES: None

ABSENT: None

**13. PARTICIPATION IN ORANGE COUNTY SMALL CITY URBAN PROGRAM**

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL APPROVE AMENDMENT FOUR TO COOPERATION AGREEMENT BETWEEN THE COUNTY OF ORANGE AND THE CITY OF DANA POINT

The motion carried by the following vote:

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

NOES: None

ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO SIGN THE COOPERATIVE AGREEMENT AND ANY NON-SUBSTANTIAL AMENDMENTS, INCLUDING TERM EXTENSIONS.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

#### **14. RENEWAL OF PROFESSIONAL SERVICES CONTRACT FOR INFORMATION TECHNOLOGY SERVICES**

Council Member Tomlinson recused himself from this item due to a potential conflict of interest and left the Council Chambers at 9:28 p.m.

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO EXECUTE A CONTRACT RENEWAL WITH THE CITY OF BREA (BREAT) FOR CONTRACT INFORMATION TECHNOLOGY SUPPORT SERVICES FOR A ONE YEAR TERM, WITH AN OPTIONAL, ONE YEAR EXTENSION.

The motion carried by the following vote:

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

NOES: None

ABSENT: Council Member John A. Tomlinson

Council member Tomlinson returned to the Council Chambers at 9:39 p.m.

#### **PUBLIC HEARINGS**

#### **15. COMPLEMENTARY PARATRANSIT SERVICES AS PART OF THE DANA POINT TROLLEY AND HARBOR SHUTTLE**

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY MAYOR PRO TEM WYATT, THAT THE CITY COUNCIL ADOPT A COMPLEMENTARY PARATRANSIT PLAN AS REQUIRED BY THE AMERICANS WITH DISABILITIES ACT (ADA) AND THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) 2016 PROJECT V GRANT FOR FIXED-ROUTE LOCAL TRANSIT SERVICE (THE DANA POINT TROLLEY AND HARBOR SHUTTLE).

The motion carried by the following vote:

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

NOES: None

ABSENT: None

Mayor Lewis recessed the meeting at 9:45 p.m. and reconvened at 9:53 p.m.

**16. APPEAL OF THE PLANNING COMMISSION’S DECISION TO UPHOLD THE COMMUNITY DEVELOPMENT DIRECTOR’S DETERMINATION THAT “RECREATIONAL VEHICLE STORAGE USE” IS A PROHIBITED USE WITHIN THE COMMUNITY COMMERCIAL/VEHICULAR DISTRICT (CC/V) ZONE AND “MAJOR AUTOMOTIVE REPAIR USE” IS A PROHIBITED USE WITHIN THE TRANSPORTATION CORRIDOR DISTRICT (TC) ZONE. THEREFORE, THE PROPOSED USES AT 25802 AND 25831 VICTORIA BOULEVARD ARE NOT ALLOWED IN ACCORDANCE WITH THE CITY’S MUNICIPAL CODE**

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL CONTINUE THIS HEARING TO THE REGULAR MEETING OF JUNE 6, 2017.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

**17. HEARING ON THE APPEAL OF THE DETERMINATION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT THAT THE PROPERTY LOCATED AT 35715 BEACH ROAD IS WITHIN THE FP3 FLOODPLAIN OVERLAY DISTRICT**

Council Member Tomlinson recused himself from this item due to a potential conflict of interest. He stated that he had turned in his list of meetings to the City Clerk and left the Council Chambers at 9:51 p.m.

IT WAS MOVED BY MAYOR LEWIS, SECONDED BY MAYOR PRO TEM WYATT, THAT THE CITY COUNCIL UPHOLD THE STAFF’S FINDING THAT THIS SUBJECT PROPERTY IS IN A COASTAL HIGH HAZARD AREA AND THEREFORE IN THE FP3 DISTRICT.

The motion carried by the following vote:

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

NOES: None

ABSENT: Council Member John A. Tomlinson

IT WAS MOVED BY MAYOR LEWIS, SECONDED BY MAYOR PRO TEM WYATT, THAT THE CITY COUNCIL SUPPORTS THE DETERMINATION BY THE COMMUNITY DEVELOPMENT DIRECTOR THAT THE SUBJECT PROPERTY IS WITHIN THE COASTAL HIGH HAZARD ZONE AND THEREFORE IN THE FP3 ZONE THAT THE CITY COUNCIL ADOPT **RESOLUTION 17-05-16-02** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, UPHOLDING THE DETERMINATION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT THAT THE PROPERTY AT 35715 BEACH ROAD IS LOCATED IN THE FP-3 FLOODPLAIN OVERLY DISTRICT; AND REAFFIRMING THE COUNCIL'S ADOPTION OF THE COASTAL FLOODPLAIN DEVELOPMENT STUDY, DEFINED IN SECTION 9.75.030.C OF THE MUNICIPAL CODE, FOR PURPOSES OF IDENTIFYING AREAS OF SPECIAL FLOOD HAZARDS, AS RECOMMENDED BY THE FLOODPLAIN ADMINISTRATOR.*

The motion carried by the following vote:

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

NOES: None

ABSENT: Council Member John A. Tomlinson

## **PUBLIC COMMENTS (Continued)**

There were no additional Public Comments.

## **STAFF REPORTS**

## **COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED**

## **ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Lewis adjourned the meeting at 11:40 p.m. and announced that the next Regular Meeting of the City Council will be June 6, 2017, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.