

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
JUNE 18, 2019
5:00 P.M.**

MINUTES

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

Next City Council Ordinance No. 19-04

CALL TO ORDER

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

ROLL CALL OF CITY COUNCIL MEMBERS:

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

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (1 case)
- B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (1 case)

Name of Case: Housing is a Human Right v. Dana Point, United States District Court for the Central District of California – Southern Division; Case No. 18-cv-00155 DOCKES

- C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957

Title: City Manager

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

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

RECONVENE CITY COUNCIL MEETING

Mayor Muller reconvened the meeting at 6:07 p.m. All Council Members were present.

STAFF PRESENT: Mark Denny, City Manager; Patrick Munoz, City Attorney; Mike Killebrew, Assistant City Manager; Lieutenant Margie Sheehan; Kathy Ward, City Clerk; Matthew Schneider, Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Robert Sedita, Director of General Services; Jeff Rosaler, Community Development Manager, Rachel Johnson, Management Analyst, and Shayna Sharke, Deputy City Clerk

PLEDGE OF ALLEGIANCE

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

INVOCATION

The invocation was provided by VFW Post 9934 Chaplain Morrie Hansen.

PRESENTATIONS AND PROCLAMATIONS

Orange County Human Relations Report

Bill Wood presented the Orange County Human Relations report.

OCFA Drowning Awareness Program

Mayor Joseph L. Muller presented a proclamation to Chief Rob Copobianco recognizing the OCFA Drowning Awareness Program.

VFW Deputy of the Year

Council Member Richard A. Viczorek, Lt. Margie Sheehan, and VFW Commander Wayne Yost presented Deputy Justin Smallwood with a Certificate of Recognition for VFW Deputy of the Year.

VFW Firefighter of the Year

Council Member Richard A. Viczorek, Chief Rob Copobianco, and VFW Commander Wayne Yost presented Captain Ryan Bishop with a Certificate of Recognition for VFW Firefighter of the Year.

VFW Reserve Firefighter EMT of the Year

Council Member Richard A. Viczorek, Chief Rob Copobianco, and VFW Commander Wayne Yost presented Steve McIntyre with a Certificate of Recognition for VFW Reserve Firefighter EMT of the Year.

READING OF ORDINANCE TITLES

There were no Ordinance titles.

CONSENT CALENDAR

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR.

☞The motion carried by the following vote:

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

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 4, 2019

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, MAY 13, 2019

RECEIVED AND FILED.

4. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

5. CITY TREASURER'S REPORT, MAY 2019

RECEIVED AND FILED THE CITY TREASURER'S REPORT, MAY 2019.

6. CLAIMS AND DEMANDS

RECEIVED AND FILED.

7. DANA POINT POLICE SERVICES MONTHLY REPORT

RECEIVED AND FILED THE POLICE SERVICES MONTHLY REPORT.

8. DEVELOPMENT UPDATE

RECEIVED AND FILED THE DEVELOPMENT UPDATE.

9. ARTS AND CULTURE COMMISSION AND TRAFFIC IMPROVEMENT SUBCOMMITTEE APPOINTMENTS

REAPPOINTED MARIA ELENA BANKS, NANCY JENKINS, AND KARIN SCHNELL TO THE ARTS AND CULTURE COMMISSION AND APPOINTED RICH HOLT TO THE TRAFFIC IMPROVEMENT SUBCOMMITTEE.

10. RESOLUTION AUTHORIZING STAFF TO APPLY FOR THE STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM

1) APPROVED RESOLUTION 19-06-18-01 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE APPLICATION FOR THE STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM; and

2) AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO APPLY FOR SUBJECT GRANTS.

PUBLIC COMMENTS

Joe Jagger (Monarch Beach) stated his disapproval of the Dana Point Taxpayers Association (DPTA) using City assets such as trolley services and signage and proposed questions of the planning, purpose, and outcome of the event.

Cassandra Andreas (Monarch Beach) stated that she is disappointed in the Trolley Hop activity and raised questions of where the money collected went.

Carol Wilson (Capistrano Beach) stated that once she discovered that the Dana Point Taxpayers Association was involved with the Trolley Hop she changed her plans and questioned the legality of the event and beneficiaries.

Carol Wilson read a statement from Charles Payne (Dana Point) stating that the Trolley Hop appeared to be a City event because of marketing pieces and advertising placement.

Wayne Yost (Dana Point / Commander of VFW Post 9934) stated that Dana Hills High School will again be hosting the Honor The Valor Football Game on September 13th and distributed a flyer for the event. Additionally, he encouraged residents to contact the U.S. House of Representatives and urge them to sign the bill providing benefits to first responders of 9/11.

Mark McGinn (Dana Point) stated that the DPTA ran ads that stated false information about him and stated his disapproval of the use of the trolleys for such an event.

Rory Hood (Dana Point) stated that he purchased a home in Dana Point with the intention to use it as a Short Term Rental when they are not living in California and encouraged Council to allow permits to be issued again.

Toni Nelson (Capistrano Beach) stated that the flyers for the Trolley Hop were intended to look like a City event and questioned the vetting of the event by the City.

Betty Hill (Dana Point) listed the donors to the Dana Point Tax Payers Association.

Hoyin Ip (Dana Point) spoke in favor of banning Styrofoam coolers.

Steve Stewart (Dana Point) stated as a business owner he would never have chosen to participate in the Trolley Hop if he knew it was sponsored by the Dana Point Tax Payers Association and spoke in opposition of their practices.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

11. 2019 WEED ABATEMENT PROGRAM, AUTHORIZATION TO ABATE WEEDS

Director of Community Development Matt Schneider provided a brief staff report.

There were no objections regarding weed abatement.

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER JAMEY M. FEDERICO, THAT THE CITY COUNCIL ADOPT **RESOLUTION 19-06-18-02** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA,
HEARING NO OBJECTIONS AND PROCEEDING WITH WEED ABATEMENT*

Discussion ensued.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

NEW BUSINESS

12. ADOPTION OF A RESOLUTION ADDRESSING THE REQUIRED FY19/20 MEASURE M2 ELIGIBILITY SUBMITTAL ITEMS TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY AND AN AMENDED RESOLUTION APPROVING THE FY17/18 MEASURE M2 EXPENDITURE REPORT

Director of Public Works Matthew Sinacori provided a brief staff report.

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

1) **ADOPT RESOLUTION NO. 19-06-18-03 ENTITLED:**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT CONCERNING THE STATUS AND UPDATE OF THE CIRCULATION ELEMENT, AND MITIGATION FEE PROGRAM FOR THE MEASURE M2 (M2) PROGRAM; and,

2) **ADOPT RESOLUTION NO. 19-06-18-04 ENTITLED:**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT CONCERNING THE STATUS AND UPDATE OF THE PAVEMENT MANAGEMENT PLAN FOR THE MEASURE M2 (M2) PROGRAM; and,

3) **ADOPT RESOLUTION NO. 19-06-18-05 ENTITLED:**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT CONCERNING THE MEASURE M2 (M2) PROGRAM EXPENDITURE REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2018, INCLUDING REVISIONS TO THE PREVIOUSLY ADOPTED RESOLUTION (18-11-20-01); and,

4) **APPROVE THE SEVEN YEAR CAPITAL IMPROVEMENT PROGRAM (CIP) FOR FY 2019-20 THROUGH FY 2025-26 AND CERTIFY COMPLIANCE AS REQUIRED BY THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) RENEWED MEASURE M2 (M2) PROGRAM AS PROVIDED IN SUPPORTING DOCUMENT D; AND**

5) **AUTHORIZE STAFF TO FORWARD THE NECESSARY RENEWED MEASURE M2 ELIGIBILITY DOCUMENTATION TO THE OCTA.**

The motion carried by the following vote:

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

NOES: None

ABSENT: None

13. PROFESSIONAL SERVICES AGREEMENTS FOR SUPPLEMENTAL PLAN CHECK, INSPECTION AND BUILDING OFFICIAL SERVICES

Director of Community Development Matt Schneider provided a staff report.

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK, THAT THE CITY COUNCIL AUTHORIZE AND DIRECT THE CITY MANAGER TO EXECUTE THE FOLLOWING CONTRACT:

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

4) MELAD & ASSOCIATES FOR PERSONNEL SERVICES – SENIOR BUILDING INSPECTOR AND/OR BUILDING INSPECTOR

5) CSG CONTRACT AMENDMENT FOR BUILDING OFFICIAL SERVICES

Discussion ensued.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

14. **CONTRACT AWARD FOR CITY COUNCIL CHAMBERS AUDIO/VIDEO AND BROADCAST ROOM UPGRADE**

Director of General Services Robert Sedita provided a staff report.

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED BY MAYOR PRO TEM PAUL N WYATT, THAT THE CITY COUNCIL AWARD A CONTRACT TO GOLDEN STAR TECHNOLOGY (GST) FOR THE UPGRADE OF THE CITY COUNCIL CHAMBERS AUDIO/VIDEO AND BROADCAST ROOM.

Discussion ensued.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

15. **AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE ANNUAL RESIDENTIAL ROADWAY RESURFACING PROJECT FY 18/19**

Director of Public Works Matthew Sinacori provided a staff report.

Mayor Joseph L. Muller opened public comments.

Toni Nelson (Capistrano Beach) spoke in favor of the improvements and provided additional suggestions.

Mayor Joseph L. Muller closed public comments.

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

- 1) APPROVE THE AWARD OF A CONTRACT (ACTION DOCUMENT A) TO ALL AMERICAN ASPHALT FOR CONSTRUCTION OF THE ANNUAL ROADWAY RESURFACING PROJECT FY 18/19 AND AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO SIGN AND ADMINISTER THE SUBJECT CONTRACT AND APPROVE ADDITIONAL PAYMENT FOR CHANGE ORDERS, CONTINGENCIES, SOILS AND MATERIAL TESTING, CONSTRUCTION STAKING AND CONSTRUCTION DESIGN SUPPORT FOR THE PROJECT; AND
- 2) AUTHORIZE THE EXPENDITURE FOR CIVIL ENGINEERING DESIGN SERVICES BY WEST COAST CIVIL FOR THE ANNUAL ROADWAY RESURFACING PROJECT FY 19/20 AS ALLOWED IN THEIR AS-NEEDED CONSULTANT SERVICES AGREEMENT PER THE PROPOSAL PROVIDED IN SUPPORTING DOCUMENT B.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

16. CONSIDERATION OF AMENDMENT TO CITY MANAGER EMPLOYMENT AGREEMENT AND PAYMENT OF ANNUAL BONUS

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

- 1) THAT THE CITY COUNCIL APPROVE A BONUS FOR THE CITY MANAGER PER SECTION 8(C) OF HIS EMPLOYMENT AGREEMENT; and
- 2) THAT THE CITY MANAGER'S EMPLOYMENT AGREEMENT BE AMENDED AS RECOMMENDED BY THE COUNCIL.

Brief discussion ensued.

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

NOES: None

ABSENT: None

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Jamey M. Federico stated that he turned in his list of meetings to the City Clerk. He responded to the Public Comments regarding the Trolley Hop and requested that the Chamber of Commerce or another organization run the event in the future.

Council Member Debra Lewis stated that the speakers were concerned with political entanglement with the Dana Point Taxpayers Association. She provided a Power Point Presentation showing Dana Point Taxpayers Association FPPC reporting forms and referred to the Trolley Hop marketing poster. She

stated that City codes were violated when the signs were posted on the trolley sign posts for days and questioned if the City was now subject to a lawsuit. She stated that the City must never allow this to happen again.

Council Member Richard A. Viczorek stated that he turned in his list of meetings attended to the City Clerk.

Mayor Pro Tem Paul N Wyatt stated that he turned in his list of meetings attended to the City Clerk.

Mayor Joseph L. Muller stated that he attended the Porsche Club Concours and the Dana Point High School graduation and commended the Valedictorians. Additionally he commended City staff.

STAFF REPORTS

City Manager Mark Denny thanked the City Council for the opportunity to serve as the City Manager. He reiterated that the City did not sponsor the Trolley Hop and was unaware that the sponsors had changed from the past 5 years. He added that the City will discuss future events with the Chamber of Commerce.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Muller adjourned the meeting at 8:04 p.m. He announced that the next Regular Meeting of the City Council will be July 16, 2019, 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 16, 2019.

Meetings attended since June 5, 2019:

Mayor Joseph L. Muller

06/05/2019 OCFA
06/06/2019 OCTA
06/06/2019 Dana Hills Graduation
06/06/2019 OC Parks
06/07/2019 Phil Edwards Dedication
06/10/2019 OCTA
06/10/2019 5th Marines Gold Tournament
06/11/2019 Resident Meeting
06/12/2019 TCA
06/13/2019 TCA
06/13/2019 OCFA
06/14/2019 League of Cities
06/15/2019 Porsche Club Concours
06/15/2019 Ohana Gala
06/16/2019 TCA City Manager Advisory Committee

Mayor Pro Tem Paul N Wyatt

06/14/2019 Coffee Importers 40th Anniversary Celebration

Council Member Jamey M. Federico

06/05/2019 LVA Meet& Greet
06/06/2019 DHHS Graduation
06/07/2019 Phil Edwards Dedication
06/09/2019 Surfboard Swap Meet, La Plaza Park
06/10/2019 DP5MRSG Golf Tournament
06/10/2019 CASA Board Meeting
06/14/2019 Coffee Importers 40th Anniversary
06/15/2019 SHACC Annual Gala

Council Member Richard A. Viczorek

06/07/2019 Phil Edwards Statue Unveiling
06/13/2019 SJHTCA Board of Directors Meeting
06/14/2019 Coffee Importers 40th Anniversary