

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



TUESDAY
NOVEMBER 5, 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 - LITIGATION STRATEGY REVIEW INCLUDING POTENTIAL DISCUSSION OF THE FOLLOWING:
 - 1. EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (7 cases)

Name of Case: City of Dana Point v. Southern California Recovery Center, TML Holdings, LLC, Case No. 30-2018-01012750

Name of Case: 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

Name of Case: City of Dana Point v. Changes & Recovery, Inc., Shirley K. Zulauf, Case No. 30-2019-01059862

Name of Case: City of Dana Point v. Wings of Hope, Parissa Assadi, Hamid Rezaie,
Case No. 30-2019-01059792

Name of Case: Laguna Beach Sober Living and Donna's House v. City of Dana
Point, Case No. 8:19-cv-00024-AG-(JD Ex)

Name of Case: City of DP v. Sunshine Group LLC (Seaside Inn), Orange County
Superior Court Case No. 30-2017- 00915900

Name of Case: City v. New Method Wellness, Inc., NMW Beds, LLC, and Pacific
View Sober Living LLC, Orange County Superior Court Case No. 30-2017-
00904169

2. ANTICIPATED LITIGATION DUE TO SIGNIFICANT EXPOSURE TO LITIGATION,
Government Code § 54956.9 (d)(2), (1 case)

Mayor Muller recessed the meeting into a Closed Session at 5:03 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; Lt. Kirsten Monteleone; Kathy Ward; City Clerk; Kelly Reenders, Interim Director of
Community Development; Matthew Sinacori, Director of Public Works and Engineering; Robert Sedita,
Director of General Services; Sean Nicholas, Senior Planner; Rachel Johnson, Management Analyst,
and Shayna Sharke, Deputy City Clerk.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Richard A. Viczorek.

INVOCATION

The invocation was provided by Rabbi Eli Goorevitch of Chabad of Dana Point.

PRESENTATIONS AND PROCLAMATIONS

There were no presentations or proclamations.

READING OF ORDINANCE TITLES

City Clerk Kathy Ward read one (1) Ordinance title for Item number 10.

CLOSED SESSION ANNOUNCEMENT

City Attorney Patrick Munoz reported that there will be press release regarding the status of the Seaside Inn.

CONSENT CALENDAR

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER JAMEY M. FEDERICO 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, OCTOBER 15, 2019**
RECEIVED AND FILED.
3. **PLANNING COMMISSION MEETING MINUTES, OCTOBER 14, 2019**
RECEIVED AND FILED.
4. **YOUTH BOARD MEETING MINUTES, OCTOBER 3, 2019**
RECEIVED AND FILED.
5. **MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**
RECEIVED AND FILED.
6. **CLAIMS AND DEMANDS**
RECEIVED AND FILED.
7. **QUARTERLY FINANCIAL REPORT, SEPTEMBER 2019**
RECEIVED AND FILED THE CITY FINANCIAL REPORT AND MANAGEMENT DISCUSSION FOR QUARTER ENDED SEPTEMBER 30, 2019.

8. CITY TREASURER'S REPORT, SEPTEMBER 2019

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF SEPTEMBER 2019.

9. SENATE BILL 2 PLANNING GRANTS PROGRAM

- 1) **ADOPT RESOLUTION 19-11-05-01 AUTHORIZING THE APPLICATION FOR GRANT FUNDS FROM THE STATE OF CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (DEPARTMENT) SENATE BILL (SB) 2 PLANNING GRANTS PROGRAM (PGP) IN THE AMOUNT OF \$160,000 ENTITLED:**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING APPLICATION FOR, AND RECEIPT OF, SENATE BILL 2 PLANNING GRANTS PROGRAM FUNDS; and

- 2) **AUTHORIZED THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS TO APPLY FOR THE GRANT, AND IF AWARDED, ACCEPT AND ADMINISTER THE GRANT.**

10. SECOND READING OF AMENDMENT OF DANA POINT MUNICIPAL CODE SECTION 12.08.098, "VEHICLE CITATIONS – AUTHORIZED", TO ALLOW FOR THE ISSUANCE OF PARKING CITATIONS BY A NON-PEACE OFFICER

HELD A SECOND READING AND ADOPTED ORDINANCE 19-04 ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 12.08.098 OF THE DANA POINT MUNICIPAL CODE

PUBLIC COMMENTS

Carol Wilson (Dana Point) spoke regarding the discrimination investigation involving Council Member Debra Lewis and provided a report of her experience as someone who was interviewed by the investigator, which she felt was biased and handled poorly.

Nancy Leonard (Dana Point) spoke in support of Council Member Debra Lewis and stated that she feels the discrimination investigation was biased and handled poorly.

Julian Joshua (Dana Point) stated that the investigation appears to be biased and stated that the investigation should be disqualified because of the standard of appearance and conflict of interest.

Patti Short (Dana Point Chamber of Commerce) invited the community to the annual Turkey Trot in the Dana Point Harbor on November 28th.

PUBLIC HEARINGS

11. RESOLUTION TO ESTABLISH THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT

Interim Director of Community Development Kelly Reenders provided a staff report.

Mayor Joseph L. Muller opened the Public Hearing at 6:25 p.m.

There were no Public Comments.

Mayor Joseph L. Muller closed the Public Hearing at 6:25 p.m.

IT WAS MOVED BY MAYOR PRO TEM PAUL N WYATT, SECONDED BY COUNCIL MEMBER DEBRA LEWIS THAT THE CITY COUNCIL:

- 1) CONDUCT A PUBLIC HEARING; AND
- 2) ADOPT A RESOLUTION 19-11-05-02 ENTITLED:

A RESOLUTION OF THE CITY OF DANA POINT TO ESTABLISH THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (DPTBID) UNDER THE BUSINESS IMPROVEMENT DISTRICT LAW OF 1994 AND CONFIRM THE DPTBID MANAGEMENT DISTRICT PLAN.

Which will result in the formation of the Dana Point Tourism Business Improvement District (DPTBID) and the levy of assessments on lodging businesses.

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

12. AN APPEAL OF PLANNING COMMISSION APPROVAL FOR COASTAL DEVELOPMENT PERMIT CDP16-0014/CONDITIONAL USE PERMIT CUP16-0005 TO CONSTRUCT A NEW 51-ROOM HOTEL AND ASSOCIATED PARKING FACILITIES. THE APPLICANT IS REQUESTING A LOT MERGER, VALET AND TANDEM PARKING, AND MODIFIED PARKING GARAGE RAMPS LOCATED AT 34482 GREEN LANTERN WITHIN THE COASTAL ZONE

Senior Planner Sean Nicholas provided a staff report.

Mayor Joseph L. Muller opened the Public Hearing at 6:42 p.m.

Diane Buckingham (Appellant) spoke in opposition of the project. She stated that the project violates height restrictions and will impact traffic and parking on Green Lantern. She added that story poles were not installed and the City was not transparent in the beginning stages. Additionally, she stated that the

views and peacefulness of the neighborhood will be impacted and questioned the validity of the scale in the images presented by the City.

Sarah Platt (Appellant) spoke in opposition of the project and stated her concern with the hotel projects proposed in the Green Lantern neighborhood and the impacts on the special piece of land and the benefit of the residents.

Sagar Patel (Applicant) spoke in favor of the project. He stated that private and public views were given great consideration during the design of the hotel and planned according to the City and County standards.

Carol Kelly (Dana Point) stated her concerns regarding the project.

Marshall Lichterman (Dana Point) spoke in favor of the project.

Steve Heimuli (Laguna Niguel) spoke in favor of the project.

Diane Buckingham (Appellant) stated her concern for ADA access to see the views and the noise created from the pool and referred to the letter submitted by their legal support.

Sargar Patel (Applicant) stated that the designers created the project to be a good fit for the community and the operator will be a good neighbor.

Mayor Joseph L. Muller closed the Public Hearing at 7:09 p.m.

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

- 1) DENY THE APPEAL AND UPHOLD THE PLANNING COMMISSION'S APPROVAL OF COASTAL DEVELOPMENT PERMIT CDP16-0014/CONDITIONAL USE PERMIT CUP16-0005; and
- 2) ADOPT A RESOLUTION 19-11-05-03 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION APPROVAL OF COASTAL DEVELOPMENT PERMIT CDP16-0014 TO CONSTRUCT A NEW 51-ROOM HOTEL AND A LOT MERGER AND CONDITIONAL USE PERMIT CUP16-0005 FOR THE USE OF VALET AND TANDEM PARKING, AND MODIFIED PARKING GARAGE RAMP WIDTHS AT 34482 GREEN LANTERN

Discussion ensued. Staff, Mr. Patel (Applicant), and Rich Baretto (LLG, Traffic Engineer Consultant), answered questions of City Council.

A SUBSTITUTE MOTION WAS MADE BY MAYOR PRO TEM PAUL N WYATT, SECONDED BY COUNCIL MEMBER DEBRA LEWIS TO ADD A CONDITION OF APPROVAL TO THE ORIGINAL MOTION PROHIBITING LANDSCAPING TO EXCEED THE 35 FOOT HEIGHT REQUIREMENT.

Discussion ensued. Staff and Mr. Patel answered questions of City Council.

AN AMENDED MOTION WAS MADE BY MAYOR PRO TEM PAUL N WYATT, SECONDED BY COUNCIL MEMBER DEBRA LEWIS, ADDING TO THE ORIGINAL MOTION, TO DIRECT STAFF TO AMEND THE CONDITIONS OF APPROVAL TO PROHIBIT LANDSCAPING TO EXCEED THE 35 FOOT HEIGHT ENVELOPE.

The amended motion carried by the following vote:

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

NOES: Mayor Joseph L. Muller

ABSENT: None

Mayor Joseph L. Muller called for a recess of the meeting at 8:11 p.m.

Mayor Joseph L. Muller reconvened the meeting at 8:17 p.m.

UNFINISHED BUSINESS

13. PROPOSED CITY COUNCIL SPONSORED INITIATIVE RE: TOWN CENTER

Mayor Joseph L. Muller provided a brief background of the item.

Mayor Joseph L. Muller opened Public Comments.

Terry Walsh (Dana Point) spoke in opposition of the initiative as it is proposed.

Carol Kelly (Dana Point) spoke in opposition of the initiative.

Cindy Fleming (Architectural Guild of South Orange County) spoke in opposition of the initiative.

Michael Fox (Dana Point Chamber of Commerce) clarified the intent of the Chamber's letter.

Jason Check (Raintree Partners) spoke regarding the current Raintree project experience.

Wayne Rayfield (Dana Point) spoke in opposition of the initiative as written.

Jim Miller (Dana Point) spoke in opposition of the initiative as written.

Mayor Joseph L. Muller closed Public Comments.

A MOTION WAS MADE BY JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK, TO OPEN THE ITEM FOR COUNCIL DISCUSSION.

A SUBSTITUTE MOTION WAS MADE BY COUNCIL MEMBER DEBRA LEWIS, SECONDED BY MAYOR PRO TEM PAUL WYATT TO DENY THE RECOMMENDED ACTION.

Discussion ensued.

AN AMENDED MOTION WAS MADE BY COUNCIL MEMBER RICHARD A. VICZOREK, SECONDED BY MAYOR JOSEPH L. MULLER TO RECONSTITUTE THE TOWN CENTER SUBCOMMITTEE TO EVALUTATE THE TOWN CENTER PLAN AND BRING REPORT BACK TO COUNCIL FOR THE NOVEMBER 2020 ELECTION.

Discussion ensued.

The amended motion failed by the following vote:

AYES: Council Member Richard A. Viczorek, and Mayor Joseph L. Muller

NOES: Council Member Debra Lewis, Council Member Jamey M. Federico, and Mayor Pro Tem Paul N. Wyatt

ABSENT: None

The substitute 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

There were no New Business items.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Jamey M. Federico stated that he has turned in his list of meetings attended to the City Clerk. He stated that he would be supportive of working with the Chamber of Commerce to form a committee to study the Town Center and reported that Orange County Housing Finance Trust's budget was passed at no cost to the City and they are working on the budget for next year. Council Member Federico stated he will report on next year's budget prior to the six (6) month threshold required for cities to leave the membership.

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

Council Member Richard A. Viczorek stated that he had nothing to report.

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

Mayor Joseph L. Muller will turn in his list of meetings attended. He also reported that the OCTA has been working on hot lane issues and will be receiving a presentation regarding the CalTrans General Plan at the OCTA's first meeting in December.

STAFF REPORTS

There were no Staff Reports.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Muller adjourned the meeting at 9:01 p.m. He announced that the next Regular Meeting of the City Council will be November 19, 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 NOVEMBER 19, 2019.

Meetings attended since October 16, 2019:

Mayor Joseph L. Muller

10/16/2019 OCFA
10/16/2019 OC Parks
10/17/2019 League of Cities
10/17/2019 Mayors Homeless Meeting
10/17/2019 League of Cities
10/21/2019 3631 Meeting
10/21/2019 OCTA
10/22/2019 Mayors Round Table
10/22/2019 RMV Meeting
10/22/2019 Time capsule
10/23/2019 TCA
10/23/2019 TCA
10/23/2019 OCFA
10/28/2019 OCTA
10/28/2019 Time Capsule
10/29/2019 TCA
10/29/2019 FRC
11/04/2019 OCTA

Mayor Pro Tem Paul N Wyatt

10/16/2019 Dana Point Harbor Time Capsule Planning Meeting
10/17/2019 League of California Cities Conference
10/19/2019 South Orange County Disaster Expo
10/21/2019 Workplace Harassment Training
10/22/2019 Orange County Public Library Strategic Visioning Meeting
10/22/2019 Dana Point Harbor Time Capsule VIP Party
10/23/2019 Dana Point Harbor Time Capsule Planning Meeting
10/24/2019 Orange County Public Library Advisory Board Meeting
10/25/2019 ACC-OC Housing Forum
10/28/2019 Dana Point Harbor Time Capsule Public Unveiling
10/29/2019 Dana Point Financial Review Committee Meeting
10/31/2019 Be Well OC Performance Metrics Development Workshop
11/03/2019 Fish for Life Fishing Trip Send Off

Council Member Jamey M. Federico

10/16-10/18 League of California Cities Conference
10/23/2019 Lantern Village Association of Town Hall
10/25/2019 Trunk or Treat
10/26/2019 Soroptomist Craft Fair
10/27/2019 Pet Project Foundation Annual Gala
10/28/2019 OC/Harbor Time Capsule Dedication
10/29/2019 Orange County Housing Finance Trust