
PUBLIC NOTICE

CITY OF DANA POINT NOTICE OF PUBLIC HEARING

Subject: DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT RENEWAL FOR 2020
Hearing Date: November 5, 2019
Hearing Time: 6:00 p.m. (or as soon thereafter as possible)
Hearing Location: 33282 Golden Lantern, Dana Point, California 92629 (Dana Point Council Chambers)

RESOLUTION NO. 19-10-15-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND ESTABLISHING THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (DPTBID).

WHEREAS, the Property and Business Improvement District Law of 1994 (Streets and Highways Code §36600 et. seq.) authorizes the City to establish business improvement districts upon petition by a weighted majority of the business owners located within the boundaries of the district; and

WHEREAS, lodging business owners who will pay more than fifty percent (50%) of the proposed assessment, as weighted according to the amount of the assessment to be paid by the petitioners, within the boundaries of the DPTBID have petitioned the City Council to establish the DPTBID; and

WHEREAS, included with the petitions was a Management District Plan (Plan) summary that describes the proposed assessment to be levied on lodging businesses within the DPTBID to pay for destination sales, marketing, and programming programs, and other improvements and activities set forth in the Plan; and

WHEREAS, the assessed lodging businesses within the DPTBID will receive a specific benefit from the activities and improvements set forth in the Plan; and

WHEREAS, on September 17, 2019 at 6:00 PM at Council Chambers, 33282 Golden Lantern, Suite 210, Dana Point, CA 92629, the City Council adopted a Resolution of Intention, Resolution No. 2019-09-17-03; and

WHEREAS, the public meeting and public hearing to consider the establishment of the DPTBID have been properly noticed in accordance with Streets and Highways Code §36623; and

WHEREAS, on October 15, 2019 at 6:00 PM at Council Chambers, 33282 Golden Lantern, Suite 210, Dana Point, CA 92629, the City Council held a public meeting

regarding the establishment of the DPTBID, and the City Council heard and received objections and protests, if any, to the establishment of the DPTBID and the levy of the proposed assessment; and

WHEREAS, on November 5, 2019 at 6:00 PM at Council Chambers, 33282 Golden Lantern, Suite 210, Dana Point, CA 92629, the City Council held a public hearing regarding the establishment of the DPTBID, and the City Council heard and received all objections and protests, if any, to the establishment of the DPTBID and the levy of the proposed assessment; and

WHEREAS, the City Clerk has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in the established DPTBID which would pay fifty percent (50%) or more of the assessments proposed to be levied. Protests are weighted based on the assessment proposed to be levied on each lodging business; and

WHEREAS, the City bears the burden of proving by a preponderance of the evidence that an assessment imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the costs to the City in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

1. The recitals set forth herein are adopted by the City Council as findings and they are true and correct.
2. The DPTBID is hereby established for a five (5) year term, beginning July 1, 2020 through June 30, 2025.
3. The Plan dated October 11, 2019 is hereby adopted and approved.
4. The activities to be provided to benefit businesses in the DPTBID will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the DPTBID; to provide activities or improvements outside the DPTBID; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, and the Plan. Notwithstanding the foregoing, improvements and activities that must be provided outside the DPTBID boundaries to create a specific benefit to the assessed businesses may be provided, but shall be limited to marketing or signage pointing to the DPTBID.

5. The City Council finds as follows:

a) The activities funded by the assessment will provide a specific benefit to assessed businesses within the DPTBID that is not provided to those not paying the assessment.

b) The assessment is a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

c) The assessment is a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

d) Assessments imposed pursuant to the DPTBID are levied solely upon the assessed business, and the business owner is solely responsible for payment of the assessment when due. If the owner chooses to collect any portion of the assessment from a transient, that portion shall be specifically called out and identified for the transient in any and all communications from the business owner as the "DPTBID Assessment" or "Tourism Assessment" as specified in the Plan.

6. The assessments levied for the DPTBID shall be applied towards destination sales, marketing, and programming programs to market Dana Point lodging businesses as tourist, meeting and event destinations, and other improvements and activities as set forth in the Plan.

7. Assessments levied on lodging businesses pursuant to this resolution shall be levied on the basis of benefit. Because the services provided are intended to increase room rentals, an assessment based on room rentals is the best measure of benefit.

8. The assessments for the entire DPTBID will total approximately \$2,100,000 in year one (1).

9. Bonds shall not be issued to fund the DPTBID.

10. The DPTBID shall include all lodging business located within the boundaries of the City of Dana Point with twenty (20) rooms or greater, or any timeshare as set out in the California Revenue and Taxation Code Section 7280. A boundary map is attached hereto and incorporated herein by reference.

11. The assessments shall be used for the purposes set forth above and any funds remaining at the end of any year may be used in subsequent years in which the DPTBID assessment is levied as long as they are used consistent with the requirements set forth herein.

12. The assessments to fund the activities and improvements for the DPTBID will be collected by the City on a monthly basis, and in accordance with Streets and Highways Code §36631.

13. The City Council, through adoption of this Resolution and the Plan, has the right pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the DPTBID as defined in Streets and Highways Code §36612. The City Council has determined that the Dana Point Resorts Association dba Visit Dana Point shall be the DPTBID Owners' Association.

14. Dana Point Resorts Association dba Visit Dana Point, pursuant to Streets and Highways Code §36650, shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the DPTBID.

15. The DPTBID established pursuant to this resolution will be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code §36600 et. seq.).

16. The City Clerk, or his or her designee, is directed to take all necessary actions to complete the establishment of the DPTBID and to levy the assessments.

17. This Resolution shall take effect immediately upon its adoption by the City Council.

PASSED, APPROVED, AND ADOPTED this 15th day of October, 2019.

Joseph L. Muller
MAYOR

ATTEST:

Kathy M. Ward
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 19-10-15-01 was duly adopted and passed at a regular meeting of the City Council on the 15th day of October, 2019, by the following roll-call vote, to wit:

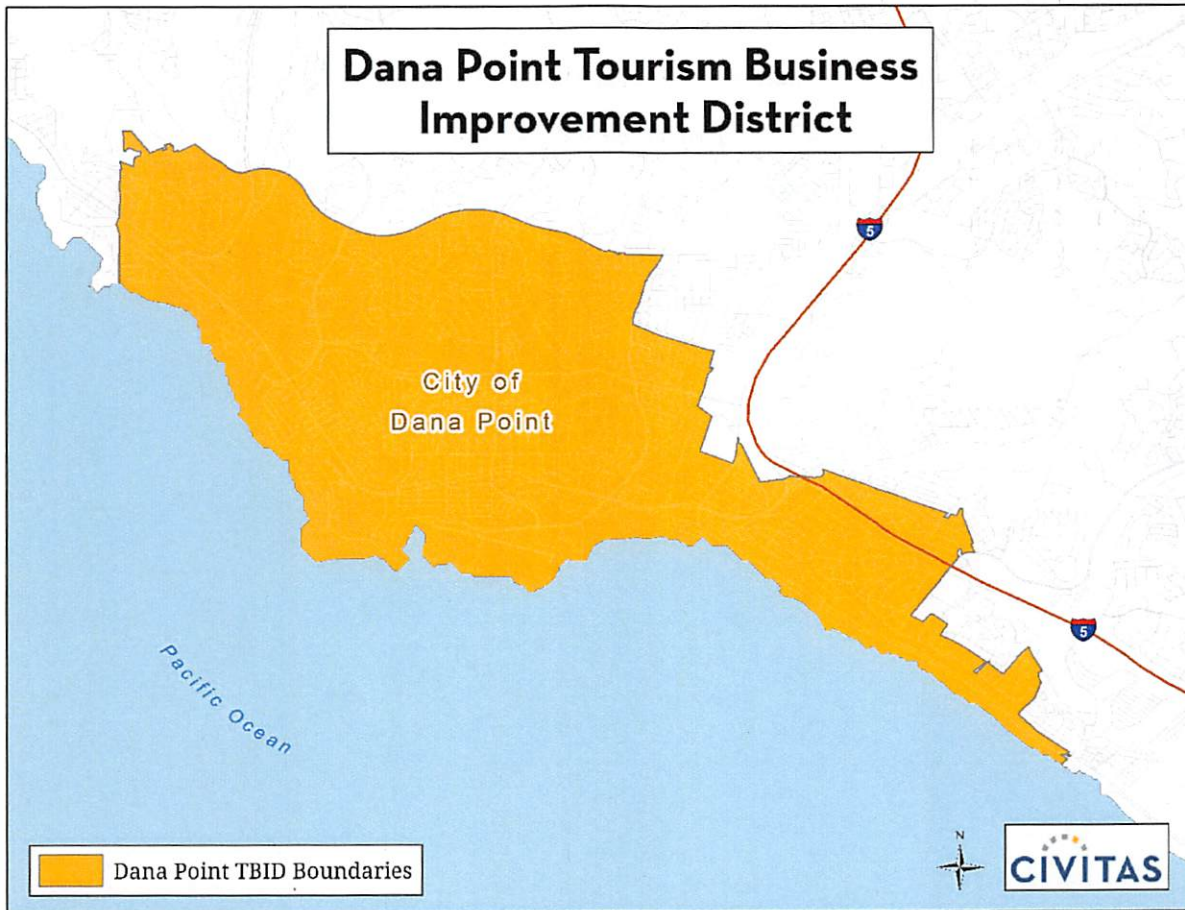
AYES: Council Member Federico, Council Member Lewis, Council Member
 Viczonek, Mayor Pro Tem Wyatt, and Mayor Muller

NOES: None

ABSENT: None

ABSTAIN: None

Boundary Map



The DPTBID will include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the City of Dana Point.

Lodging business means: any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes, but is not limited to, any hotel, inn, motel, studio hotel, bachelor hotel, lodging house, public or private club, or other similar structure or portion thereof, rented less than thirty (30) days and incidental to normal occupancy with twenty (20) rooms or greater, or any timeshare as set out in California Revenue and Taxation Code Section 7280; provided that the burden of establishing that the facility is not a lodging business shall be on the owner or operator thereof.

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF DANA POINT)

SS

AFFIDAVIT OF POSTING

Kathy M. Ward, being first duly sworn, deposes and says that she is the duly appointed and qualified City Clerk of the City of Dana Point and that by Friday, October 25, 2019 she caused the attached notice to be posted in four (4) public places in the City of Dana Point, to wit:

City Hall
Capistrano Beach Post Office
Dana Point Post Office
Dana Point Community Center

KATHY M. WARD, CITY CLERK