

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
APRIL 2, 2019
5:00 P.M.**

MINUTES

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

Next City Council Ordinance No. 19-01

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), (2 cases)

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

Name of Case: Laguna Beach Sober Living, LLC, and Donna's House, Inc. v. City of Dana Point, U.S. District Court, Central District of CA, Case No. 8:19-cv-00024-AG-JDE

Mayor Muller recessed the meeting into a Closed Session at 5:02 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 6:00 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; Matthew Schneider, Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Robert Sedita, Director of General Services; 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

Presentation to Bill Beattie

Mayor Muller thanked Bill Beattie, Code Enforcement Officer, for his nearly 30 years of service to the community of Dana Point and congratulated him on his retirement.

Donate Life Month

Dick Veale, Donate Life, encouraged all to become an organ donor on their license. Mayor Muller presented Mr. Veale with a proclamation on behalf of the City of Dana Point.

READING OF ORDINANCE TITLES

City Clerk Kathy Ward read two (2) 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, MARCH 19, 2019

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, MARCH 11, 2019

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. MONTHLY FINANCIAL ACTIVITY REPORT, FEBRUARY 2019

RECEIVED AND FILED THE MONTHLY FINANCIAL ACTIVITY REPORT FOR JANUARY 2019.

7. ADOPTION OF A RESOLUTION APPROVING THE SB-1 PROJECT LIST FOR FISCAL YEAR 19/20 (FY 19/20)

1) ADOPTED **RESOLUTION 19-04-02-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT ADOPTING THE FISCAL YEAR 2019-20 SB-1 PROJECT LIST TO INCLUDE THE FY19-20 ANNUAL RESIDENTIAL RESURFACING PROJECT; AND

2) AUTHORIZED THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT ALL REQUIRED DOCUMENTATION TO MAINTAIN FUNDING ELIGIBILITY FOR FY19-20; AND

3) AUTHORIZED THE MAYOR TO SIGN THE RESOLUTION ON BEHALF OF THE CITY.

8. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE ARTERIAL ROADWAY RESURFACING & PAVEMENT PRESERVATION PROJECT FY18/19

1) ADOPTED **RESOLUTION 19-04-02-02** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE PROJECT

ENTITLED "ARTERIAL ROADWAY RESURFACING & PAVEMENT PRESERVATION PROJECT FY 18/19"

9. RECRUITMENT FOR THE ARTS AND CULTURE COMMISSION

DIRECTED STAFF TO PROCEED WITH THE RECRUITMENT FOR THE ARTS AND CULTURE COMMISSION.

10. SECOND READING AND ADOPTION OF ZONE TEXT AMENDMENT ZTA19-0001 AMENDING CHAPTER 9.31 (FLOODPLAIN OVERLAY DISTRICT) AND CHAPTER 9.75 (DEFINITION AND ILLUSTRATIONS OF TERMS) TO MEET MINIMUM NATIONAL FLOOD INSURANCE PROGRAM REQUIREMENTS

HELD A SECOND READING AND ADOPTED **ORDINANCE 19-01** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA19-0001 AMENDING CHAPTER 9.31 (FLOODPLAIN OVERLAY DISTRICT) AND CHAPTER 9.75 (DEFINITION AND ILLUSTRATIONS OF TERMS) TO MEET MINIMUM NATIONAL FLOOD INSURANCE PROGRAM REQUIREMENTS AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA19-0001 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

11. SPECIAL MEETING MINUTES, MARCH 19, 2019

APPROVED THE MINUTES.

PUBLIC COMMENTS

There were no Public Comments.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There were no Unfinished Business items.

NEW BUSINESS

12. INTRODUCTION OF AN ORDINANCE OF THE DANA POINT CITY COUNCIL ESTABLISHING STREET VENDING BUSINESS REGULATION

Economic Development Manager Kelly Reenders provided a Power Point presentation.

Discussion ensued.

Mayor Muller opened Public Comment.

Hoiyin Ip (Dana Point Times Columnist) stated concerns with single-use plastics.

Mayor Muller closed Public Comment.

IT WAS MOVED BY MAYOR JOSEPH L. MULLER AND SECONDED BY COUNCIL MEMBER JAMEY M. FEDERICO, THAT THE CITY COUNCIL ENSURED COMPLIANCE WITH STATE LAW AND THE PROTECTION OF PUBLIC HEALTH AND SAFETY, AND GENERAL WELFARE OF ITS RESIDENTS BY:

- 1) INTRODUCING ORDINANCE 19-XX ESTABLISHING DANA POINT MUNICIPAL CODE TITLE 5.03 RESOLUTION OF SIDEWALK VENDORS CONSISTENT WITH RECENTLY ADOPTED STATE LEGISLATION ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING CHAPTER 5.03 TO THE DANA POINT MUNICIPAL CODE; and

- 2) AMENDED DANA POINT MUNICIPAL CODE TITLE 5.02 REGULATION OF STREET VENDORS ACTIVITIES TO ADDRESS MOTORIZED STREET VENDING; AND
- 3) SET MAY 7, 2019 AS THE DATE TO CONDUCT A PUBLIC HEARING RELATED TO ADOPTION OF THE SIDEWALK VENDING REGISTRATION FEE

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. UPDATE ON THE EVALUATION OF ORANGE COUNTY SHERIFF'S DEPARTMENT CONTRACT LAW ENFORCEMENT SERVICES STUDY

City Manager Mark Denny provided a staff report.

Discussion ensued.

Mayor Muller opened Public Comment.

Toni Nelson (Capistrano Beach) requested further assessment of the Orange County Sheriff's Department contract.

Mayor Muller closed Public Comment

IT WAS MOVED BY MAYOR PRO TEM PAUL N WYATT, SECONDED BY COUNCIL MEMBER DEBRA LEWIS, TO RECEIVE AND FILE THE ANALYSIS OF CONTRACT LAW ENFORCEMENT SERVICES COSTS AND METHODOLOGY FOR CONTRACT CITIES STUDY PREPARED BY MATRIX CONSULTING GROUP.

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

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

14. COUNCIL MEMBER LEWIS: SUPPORT FOR INDEPENDENT INVESTIGATION OF TCA

Council Member Lewis provided a report.

IT WAS MOVED BY COUNCIL MEMBER DEBRA LEWIS, SECONDED BY MAYOR PRO TEM PAUL N WYATT, TO ADOPT **RESOLUTION NO. 19-04-02-XX** SUPPORTING OUR NEIGHBOR, SAN CLEMENTE, AND CONGRESSMAN LEVIN'S CALL FOR AN INDEPENDENT INVESTIGATION OF THE TCA TO DETERMINE THAT THIS PUBLIC AGENCY HAS OR HAS NOT MISUSED PUBLIC FUNDS ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT IN SUPPORT OF THE CALL FOR A THIRD PARTY INDEPENDENT INVESTIGATION OF THE TRANSPORTATION CORRIDOR AGENCY, A PUBLIC AGENCY, BY CONGRESSMAN MIKE LEVIN AND THE CITY OF SAN CLEMENTE TO ENSURE THE PROPER USE OF PUBLIC FUNDS.

Mayor Muller opened Public Comment.

Toni Nelson (Capistrano Beach) spoke in favor of adopting the proposed resolution.

Steve Stewart (Dana Point) spoke in favor of adopting the proposed resolution.

Mayor Muller closed Public Comment.

Discussion ensued.

A SUBSTITUTE MOTION WAS MADE BY COUNCIL MEMBER JAMEY M. FEDERICO, SECONDED BY MAYOR JOSEPH L. MULLER TO TABLE THE ITEM UNTIL THE INDEPENDENT AUDIT IS CONDUCTED THROUGH TCA ON THURSDAY, APRIL 11, 2019 AND AFTER CONGRESSMAN LEVIN RECEIVES RESPONSE FROM THE GOVERNOR'S OFFICE.

Discussion ensued.

The substitute motion failed by the following vote:

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

The original motion failed by the following vote:

AYES: Council Member Debra Lewis, and Mayor Pro Tem Wyatt
NOES: Council Member Jamey M. Federico, Council Member Richard A. Viczorek, and Mayor Joseph L. Muller
ABSENT: None

Discussion ensued.

STAFF REPORTS

City Manager Mark Denny had nothing to report.

City Attorney Patrick Munoz clarified that food prepared outside of the City may have an exemption on the Styrofoam ban ordinance.

COUNCIL REPORTS

Council Member Federico had nothing to report.

Council Member Lewis questioned the Styrofoam ban ordinance and the implications of City Attorney Munoz's statement.

City Manager Denny stated that staff will bring the Ordinance back for Council's review.

Mayor Pro Tem Wyatt stated that he has turned in his list of meetings attended.

Council Member Viczorek stated that he will turn in his list of meetings attended.

Mayor Muller reported on the OCFA, stating that it was voted unanimously to add the City of Irvine back into the Authority and unanimously offered membership to the City of Garden Grove. OCFA will implement larger fire academy classes to fill additional firefighters. Mayor Muller stated he turned in his list of meetings.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Muller adjourned the meeting at 8:14 p.m. He announced that the next Regular Meeting of the City Council will be April 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 APRIL 16, 2019.

DRAFT

Meetings attended since March 20, 2019:

Mayor Joseph L. Muller

03/20/2019 OCFA
03/20/2019 Resident Meeting
03/21/2019 Career Speaker Marco Forester
03/21/2019 Metrolink
03/27/2019 TCA
03/27/2019 OCFA
03/28/2019 TCA
03/28/2019 OCFA
04/01/2019 OCTA
04/02/2019 Judge Carter

Mayor Pro Tem Paul N Wyatt

03/20/2019 Orange County Commission to End Homelessness Meeting
03/28/2019 Orange County Public Library Advisory Board Strategic Visioning Committee Meeting
03/28/2019 San Onofre Nuclear Generating Station Community Engagement Panel Meeting
03/29/2019 CR&R Anaerobic Digester for Green and Food Waste Plant Tour
03/30/2019 Dana Point Surf Shop Challenge at Salt Creek
04/02/2019 Federal Court re: Housing is a Human Right Orange County v. City of Dana Point

Council Member Debra Lewis

03/06/2019 Dana Point Chamber
03/06/2019 Staff and CIP Subcommittee
03/06/2019 Parking and Circulation Task Force
03/07/2019 Dana Point Women's Club
03/18/2019 Residents
03/18/2019 City Manager
03/20/2019 Meeting with Residents
03/24/2019 Meeting with Residents
03/25/2019 Meeting with staff and CIP subcommittee
03/29/2019 CR&R ROAR tour
03/29/2019 City Manager
03/29/2019 Ribbon Cutting - Bistro Provincia
03/29/2019 Residents
03/30/2019 Women's History Breakfast
04/01/2019 City Manager
04/01/2019 Homeless Panel Presentation

Council Member Richard A. Viczorek

03/19/2019 OCMVCD Board of Trustees Meeting