

# CITY OF DANA POINT

## CITY COUNCIL REGULAR MEETING



TUESDAY  
JULY 16, 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 (arrived at 5:55 p.m.)

### 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), (3 cases)

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

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: City of Dana Point v. New Life Addiction Treatment Center, et al, OCSC Case No. 30-2018-0102009

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

Title: City Manager

D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957

Title: City Attorney

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 6:04 p.m. All Council Members were present.

STAFF PRESENT: Mark Denny, City Manager; Patrick Munoz, City Attorney; Mike Killebrew, Assistant City Manager; Administrative Sergeant Kami Cappel; 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 Council Member Debra Lewis.

**INVOCATION**

The invocation was provided OCFA Chaplain Dave Keehn.

**PRESENTATIONS AND PROCLAMATIONS**

OCFA Wildlife Awareness and Prevention Season

Mayor Joseph L. Muller presented a proclamation to OCFA Battalion Chief Steve Hurdle. Chief Hurdle encouraged all to check their website for ways to be prepared for an emergency situation.

Certificates of Recognition for Lifesaving

Mayor Joseph L. Muller presented Certificates of Recognition and Battalion Chief Steve Hurdle presented letters of recognition to Oscar Estrada, Alaka Pellock and Sandy Andrews for assisting a citizen in need in an emergency situation.

**READING OF ORDINANCE TITLES**

There were no Ordinance titles.

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## CONSENT CALENDAR

Council Member Jamey M. Federico congratulated the Public Works Department for coming in under budget on the Annual Slurry Seal Project (Item 12) and removed Item 11 from the Consent Calendar. Council Member Debra Lewis removed Items 13 and 14.

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 WITH THE EXCEPTION OF ITEM 11, 13, AND 14.

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 18, 2019**

APPROVED THE MINUTES.

**3. PLANNING COMMISSION MEETING MINUTES, JUNE 10, 2019**

RECEIVED AND FILED.

**4. PLANNING COMMISSION MEETING MINUTES, JUNE 24, 2019**

RECEIVED AND FILED.

**5. OCEAN WATER QUALITY SUBCOMMITTEE MINUTES, FEBRUARY 26, 2019**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**7. CITY TREASURER'S REPORT, JUNE 2019**

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

**8. MONTHLY FINANCIAL ACTIVITY REPORT, MAY 2019**

RECEIVED AND FILED THE MONTHLY FINANCIAL ACTIVITY REPORT FOR MAY, 2019.

**9. CLAIMS AND DEMANDS**

RECEIVED AND FILED.

**10. DANA POINT POLICE SERVICES MONTHLY REPORT**

RECEIVED AND FILED THE POLICE SERVICES MONTHLY REPORT.

**11. DEVELOPMENT UPDATE**

City Manager Mark Denny stated that staff is available to answer questions.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER JAMEY M. FEDERICO, SECONDED BY MAYOR JOSEPH L. MULLER THAT THE CITY COUNCIL RECEIVE AND FILE THE DEVELOPMENT UPDATE.

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. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE ANNUAL SLURRY SEAL PROJECT FY 18/19**

ADOPTED RESOLUTION NO. 19-07-16-01 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 "ANNUAL SLURRY SEAL PROJECT FY 18/19"*

**13. FINANCIAL REVIEW COMMITTEE RECRUITMENT**

City Manager Mark Denny stated that staff is available to answer questions.

Discussion ensued.

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER JAMEY M. FEDERICO, THAT THE CITY COUNCIL DIRECT STAFF TO PROCEED WITH THE RECRUITMENT FOR A VACANCY ON THE FINANCIAL REVIEW COMMITTEE.

The motion carried by the following vote:

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

**14. UPDATED GANN LIMIT, FISCAL YEARS 2018-2019 (FY 19) AND 2019-2020 (FY 20)**

City Manager Mark Denny stated that staff is available to answer questions.

Assistant City Manager Mike Killebrew provided an overview of the Gann Limit calculations.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER DEBRA LEWIS, SECONDED BY MAYOR JOSEPH L. MULLER THAT THE CITY COUNCIL:

**1) ADOPT RESOLUTION NO. 19-07-16-02 ENTITLED:**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING AND ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2018-2019; and*

**2) ADOPT RESOLUTION NO. 19-07-16-03 ENTITLED:**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING AND ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2019-2020.*

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. AMENDMENT TO CONSULTANT SERVICES AGREEMENT BY AND BETWEEN THE CITY OF DANA POINT AND DUDEK**

AUTHORIZED THE CITY MANAGER TO EXECUTE AN AMENDMENT ("THE SECOND AMENDMENT") TO THE AGREEMENT FOR CONSULTANT SERVICES BY AND BETWEEN THE CITY OF DANA POINT AND DUDEK (THE "CONSULTANT")

**16. INTERVENTION SPECIALIST AGREEMENT FY 2019-2020**

AUTHORIZED THE CITY MANAGER TO:

- 1) APPROVE A CONTRACT FOR CONSULTANT SERVICES FOR THE INTERVENTION SPECIALIST PROGRAM AND
- 2) APPROVE UP TO TWO, ONE-YEAR RENEWALS.

## **PUBLIC COMMENTS**

Wayne Yost (Dana Point) congratulated the City on hosting a great concert this past weekend. He commended staff; and on Saturday Jay Bellamy will be creating a sand sculpture at Baby Beach at 9:00 a.m. through 2:00 p.m. commemorating the 50<sup>th</sup> anniversary of the NASA moon landing.

Ben Valencia (Dana Point) stated that the three astronauts that landed on the moon should be commemorated and worked with Jay Bellamy to develop the sand sculpture idea.

Jay Bellamy (Dana Point) stated that it is an honor to create the sculptures.

C. Borrowe (Dana Point) spoke regarding the recycle center between Ralph's Market and BevMo on Del Prado and stated that the tractors create a lot of noise.

Bob Oakley (Dana Point / Lantern Bay Villas Association) stated that the recycle center is a nuisance and is attracting homeless people and excess trash.

Parag Gondhalekar (Dana Point) expressed his concern regarding the Gloria Dei columbarium because of his religious beliefs and his concerns for his property value.

Gayle Gomez (Dana Point) stated that she opposes the Gloria Dei columbarium and agrees with the arguments that Parag made.

Deepa Lyengar (Dana Point) stated that she opposes the Gloria Dei columbarium and expressed her concern for a conflict of interest with the staff member involved.

Eva Karndo (Dana Point) stated that she did not receive a notification of the Gloria Dei columbarium hearing and stated that this use should not be a part of the church or near a school.

Lilia Smith (Dana Point) stated that she opposes the Gloria Dei columbarium because of her religious beliefs.

City Manager Mark Denny stated that the project can be denied or brought before the Planning Commission. He added that it may also be appealed by the public to the Planning Commission. He stated that the staff member involved is not a member of the church.

Hoyin Ip (Dana Point) presented a slide and spoke regarding the trash left on the beaches after the 4<sup>th</sup> of July

## **PUBLIC HEARINGS**

### **17. 2019 WEED ABATEMENT PROGRAM**

Community Development Director Matt Schneider provided a brief staff report.

Discussion ensued.

Mayor Joseph L. Muller opened the Public Hearing at 7:04 p.m.

Hoiyin Ip (Dana Point) stated that ground cover is a solution for lots that does not require watering or irrigation, and suggested that the tree trimmers provide mulch and requested that the lots on Pacific Coast Hwy be landscaped.

Mayor Joseph L. Muller closed the Public Hearing at 7:06 p.m.

IT WAS MOVED BY COUNCIL MEMBER JAMEY M. FEDERICO, SECONDED BY MAYOR PRO TEM PAUL N WYATT, THAT THE CITY COUNCIL CONDUCT A PUBLIC HEARING ON THE WEED ABATEMENT COST REPORT AND THEREAFTER ADOPTED **RESOLUTION NO. 19-07-16-04** CONFIRMING THE COST REPORT AND PROVIDING FOR THE COLLECTION ON THE REGULAR TAX BILL ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA,  
CONFIRMING THE COST OF ABATEMENT AND PROVIDING FOR THE COLLECTION  
ON THE REGULAR TAX BILL*

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

## **UNFINISHED BUSINESS**

There was no Unfinished Business.

## **NEW BUSINESS**

There was no New Business.

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

Council Member Jamey M. Federico turned in list of meetings attended to the City Clerk.

Council Member Debra Lewis commended staff on the fireworks display.

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

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

Mayor Joseph L. Muller turned in his list of meetings attended to the City Clerk.

## STAFF REPORTS

City Manager Mark Denny stated that he will follow up with the public speakers.

City Attorney Patrick Munoz reported that a settlement agreement was reached by which the current owner agreed to allow the Receiver to sell the Seaside property. A July 26<sup>th</sup> Hearing is scheduled with the Judge overseeing the receivership to approve a proposed sale. At the moment, the parties are disputing which of the two potential sales the Court should approve. As part of the settlement, any new buyer will be obligated to complete the renovation work as approved/permitted by the City. Since the permits have already been approved and issued, it is expected that work will commence on the project within a few weeks of any decision by the Judge to approve a sale of the property. In addition, as part of the settlement, any new buyer will be made a defendant in the receivership case in order to allow the court to continue to oversee the renovation work and insure its completed in a timely manner, consistent with the City's approved plans.

Mayor Muller recessed the meeting into a Closed Session at 7:09 p.m. pursuant to Government Code Section 54956 et seq.

Mayor Muller reconvened the meeting at 8:58 p.m. All Council Members were present.

City Attorney Munoz stated there were no reportable items from Closed Session.

## ADJOURNMENT

There being no further business before the City Council at this session, Mayor Muller adjourned the meeting at 8:58 p.m. He announced that the next Regular Meeting of the City Council will be September 3, 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 SEPTEMBER 17, 2019.



**Meetings attended since June 19, 2019:**

**Mayor Joseph L. Muller**

06/19/2019 OCFA  
06/20/2019 League of Cities  
06/21/2019 League of Cities  
06/24/2019 OCTA  
06/25/2019 Dan Bain  
06/27/2019 George Peterson  
06/27/2019 OCFA  
07/08/2019 OCTA  
07/09/2019 OCFA  
07/10/2019 OCFA  
07/12/2019 League of Cities  
07/13/2019 Fish For Life  
07/15/2019 Dan Bain, Brian Maryott

**Mayor Pro Tem Paul N Wyatt**

06/19/2019 Ribbon Cutting for Albertson's Grand Re-Opening  
06/19/2019 Dana Point Faith Leaders Meeting on Homelessness  
06/20/2019 Capistrano Unified School District Mayors Roundtable  
06/20/2019 Dana Point Ocean Quality Subcommittee Meeting  
06/21/2019 Community Choice Energy Symposium  
06/26/2019 Dana Point Harbor Time Capsule Meeting  
06/26/2019 Ocean Institute Full Board Meeting  
06/27/2019 Commission to End Homelessness Housing Ad Hoc Group Meeting  
06/27/2019 Commission to End Homelessness Data Ad Hoc Group Meeting  
07/08/2019 Dana Point Planning Commission Zoning Code Cleanup Workshop  
07/10/2019 Dana Point Harbor Time Capsule Meeting  
07/10/2019 Dawn Price, Friendship Shelter Meeting  
07/10/2019 Dana Point Faith Leaders Meeting on Homelessness  
07/11/2019 Patricia Benedict, Citizens Community Enhancement Project Regarding Homelessness Services  
07/12/2019 League of California Cities General Membership Meeting; CA Assembly-member Quirk-Silva on using Fairview for mentally ill homeless

**Council Member Jamey M. Federico**

06/19/2019 Albertson's Ribbon Cutting  
06/26/2019 CASA Board Meeting  
06/26/2019 Pet Project Foundation Volunteer Appreciation BBQ  
06/27/2019 OCHFT  
06/28/2019 Meeting with Kim Cholodenko, CASA  
07/01/2019 Meeting with Residents  
07/02/2019 Meeting with Chairwoman Lisa Bartlett, OC Supervisor  
07/08/2019 Meeting with Lt. Sheehan and Matt Sinacori Regarding Parking Enforcement

**Council Member Richard A. Viczorek**

06/20/2019 OCMVCD Board of Trustees Meeting