

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



TUESDAY
September 17, 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), (3 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: 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.

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 6:05 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; Matthew Schneider, Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Robert Sedita, Director of General Services; Kelly Reenders, Economic Development Manager; Rachel Johnson, Management Analyst, and Shayna Sharke, Deputy City Clerk

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Jamey M. Federico.

INVOCATION

The invocation was provided by Associate Pastor Jens Christy of Capo Beach Church.

PRESENTATIONS AND PROCLAMATIONS

Daughters of the American Revolution Constitution Month

Mayor Joseph L. Muller presented a proclamation for Constitution Week recognizing the 232nd Anniversary of the signing of the Constitution of the United States to Daughters of the American Revolution Members Peg Collins, Ruth Relin, and Sharon Lawlor.

READING OF ORDINANCE TITLES

There were no Ordinance titles.

CONSENT CALENDAR

Item 14 was removed by the Public. Item 19 was removed by Council Member Debra Lewis:

IT WAS MOVED BY COUNCIL MEMBER RICHARD A. VICZOREK, SECONDED BY MAYOR PRO TEM PAUL N WYATT THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 14, AND ITEM 19.

Mayor Joseph L. Muller voted no on Item 18.

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, JULY 16, 2019**
APPROVED THE MINUTES.
3. **SPECIAL MEETING MINUTES, JULY 29, 2019**
RECEIVED AND FILED.
4. **REGULAR MEETING MINUTES, SEPTEMBER 3, 2019**
RECEIVED AND FILED.
5. **PLANNING COMMISSION MEETING MINUTES, JULY 8, 2019**
RECEIVED AND FILED.
6. **PLANNING COMMISSION MEETING MINUTES, JULY 22, 2019**
RECEIVED AND FILED.
7. **PLANNING COMMISSION MEETING MINUTES, AUGUST 26, 2019**
RECEIVED AND FILED.
8. **OCEAN WATER QUALITY SUBCOMMITTEE MEETING MINUTES, JUNE 20, 2019**
RECEIVED AND FILED.
9. **TRAFFIC IMPROVEMENT SUBCOMMITTEE MEETING MINUTES, JANUARY 17, 2018**
RECEIVED AND FILED.
10. **MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**
RECEIVED AND FILED.
11. **CITY TREASURER'S REPORT, JULY 2019**
RECEIVED AND FILED THE CITY TREASURER'S REPORT, JULY 2019.

12. CLAIMS AND DEMANDS

RECEIVED AND FILED.

13. DANA POINT POLICE SERVICES MONTHLY REPORT

RECEIVED AND FILED THE POLICE SERVICES MONTHLY REPORT.

14. DEVELOPMENT UPDATE

Item 14 was pulled from the Consent Calendar by the Public.

City Manager Mark Denny stated that staff is available for questions.

Mayor Joseph L. Muller opened Public Comment.

Gabrielle Buckley (Dana Point) spoke in favor of keeping existing Short Term Rental Permits.

Patrick McNulty (Dana Point) spoke in favor of keeping existing Short Term Rental Permits.

Elizabeth Ray (Dana Point) spoke in favor of keeping existing Short Term Rental Permits.

Carla Moore (Irvine) spoke in favor of keeping existing Short Term Rental Permits.

Susanne Christensen (San Diego) spoke in favor of keeping existing Short Term Rental Permits.

Jason Colaco (Dana Point) spoke in favor of keeping existing Short Term Rental Permits.

Miriam Rupke (Dana Point) spoke in favor of keeping existing Short Term Rental Permits.

Bryan Rupke (Dana Point) spoke in favor of keeping existing Short Term Rental Permits.

George Ray (Dana Point) spoke in favor of keeping existing Short Term Rental Permits.

Mayor Joseph L. Muller closed Public Comment.

Discussion ensued.

RECEIVED AND FILED THE DEVELOPMENT UPDATE.

15. AMENDMENT TO CITY COUNCIL POLICY 227

ADOPTED AMENDMENTS TO CITY COUNCIL POLICY 227.

16. NATIONAL ARTS AND HUMANITIES MONTH – OCTOBER 2019

ADOPTED RESOLUTION NO. 19-09-17-01 ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA,
PROCLAIMING OCTOBER 2019 AS NATIONAL ARTS AND HUMANITIES*

17. AMENDMENTS TO PROFESSIONAL SERVICES AGREEMENTS FOR BUILDING OFFICIAL SERVICES AND INSPECTION SERVICES

AUTHORIZED AND DIRECTED THE CITY MANAGER TO EXECUTE THE FOLLOWING CONTRACTS:

- 1) CSG SECOND AMENDMENT FOR ACTING BUILDING OFFICIAL SERVICES
- 2) CSG FIRST AMENDMENT FOR INSPECTION SERVICES AGREEMENT

18. 2019-20 PROPOSITION 218 CERTIFICATION OF ASSESSMENTS

AUTHORIZED THE MAYOR TO SIGN A CERTIFICATION OF ASSESSMENT TO THE COUNTY OF ORANGE REGARDING SPECIAL ASSESSMENTS FOR 2019-20 SECURED PROPERTY TAX BILL.

The 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

19. FINANCIAL REVIEW COMMITTEE APPOINTMENT

Item 19 was pulled from the Consent Calendar by Council Member Debra Lewis.

Discussion ensued.

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED COUNCIL MEMBER JAMEY M. FEDERICO TO SELECT MICHAEL FROST AS THE CITY COUNCIL'S APPOINTMENT TO 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, Mayor Joseph L. Muller

NOES: Council Member Debra Lewis

ABSENT: None

PUBLIC COMMENTS

Wayne Yost (Dana Point) announced that on Sunday the Dana Point Chamber of Commerce is sponsoring a car show on Del Prado, stated that the VFW 9934 is sponsoring a "What Makes America Great" essay contest for middle and high school students.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

20. FISCAL YEAR 2019 (FY19) 4TH QUARTER FINANCIAL REPORT AND PROPOSED FY19 CARRY-OVER BUDGET ADJUSTMENTS

Assistant City Manager Mike Killebrew provided a Power Point presentation.

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

- 1) RECEIVE AND FILE THE FY19 FINANCIAL REPORT FOR THE QUARTER ENDED JUNE 30, 2019; AND
- 2) AMEND THE FY2019-20 ("FY20") BUDGET BY AUTHORIZING THE CARRY-OVER AND APPROPRIATION OF ENCUMBERED AND UNENCUMBERED FUNDS FROM FY19 TO FY20; AND
- 3) RATIFY \$334,000 EMERGENCY CONTRACT WITH EXCEL PAVING FOR CAPISTRANO BEACH STORM DRAIN PREVENTIVE MAINTENANCE PROJECT

Mayor Joseph L. Muller opened Public Comment.

Buck Hill (Capistrano Beach) stated his concerns regarding the accuracy of the budget.

Mayor Joseph L. Muller closed Public Comment.

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

21. APPROVAL OF A LEASE AGREEMENT WITH MULLER-LIGHTHOUSE, LLC FOR USE OF PARKING AS SHARED, PUBLIC PARKING AT 24532 DEL PRADO, DANA POINT

Mayor Pro Tem Paul N Wyatt and Council Member Jamey M Federico recused themselves from Council Chambers at 8:09 p.m.

Economic Development Manager Kelly Reenders provided a staff report.

IT WAS MOVED BY COUNCIL MEMBER RICHARD A. VICZOREK, SECONDED BY COUNCIL MEMBER DEBRA LEWIS THAT THE CITY COUNCIL APPROVE A PARKING LOT LEASE AGREEMENT BY AND BETWEEN THE CITY OF DANA POINT AND MULLER-LIGHTHOUSE, LLC, AUTHORIZE THE CITY ATTORNEY TO APPROVE NON-SUBSTANTIVE CHANGES TO THE AGREEMENT AND AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY.

Mayor Joseph L. Muller opened Public Comment.

Hoyin Ip (Dana Point) encouraged metered parking and electronic vehicle charging stations.

Mayor Joseph L. Muller closed Public Comment.

Discussion ensued.

The motion carried by the following vote:

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

NOES: Council Member Debra Lewis

ABSENT: None

Mayor Pro Tem Paul N Wyatt and Council Member Jamey M Federico re-entered Council Chambers at 8:19 p.m.

22. TOURISM BUSINESS IMPROVEMENT DISTRICT ANNUAL REPORT AND RENEWAL FOR JANUARY 1 – JUNE 30, 2020 (1989 ACT); AND, RESOLUTION TO ESTABLISH THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (1994 ACT)

Economic Development Manager Kelly Reenders provided a Power Point presentation.

IT WAS MOVED BY COUNCIL MEMBER JAMEY M. FEDERICO, SECONDED BY MAYOR PRO TEM PAUL N WYATT THAT THE CITY COUNCIL:

1) ADOPT RESOLUTION 19-09-17-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE 2020 ANNUAL REPORT AND DECLARING THE INTENTION OF THE CITY COUNCIL TO CONTINUE THE PROGRAM AND ASSESSMENTS FROM JANUARY 1 THROUGH JUNE 30, 2020 FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT

DISTRICT (TBID) UNDER THE PARKING AND BUSINESS IMPROVEMENT AREA LAW OF 1989 (1989 ACT).; and;

2) Set the date for Public Hearing for renewal of the TBID 1989 ACT on October 15, 2019; AND

3) **ADOPT RESOLUTION 19-09-17-03 ENTITLED:**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING ITS INTENTION TO ESTABLISH THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (DPTBID) UNDER THE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994 (1994 ACT) AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING ON OCTOBER 15, 2019.;AND, FIXING THE TIME AND PLACE OF A PUBLIC HEARING TO ESTABLISH THE DPTBID (1994 ACT) PUBLIC HEARING FOR NOVEMBER 5, 2019.

Discussion ensued.

Jonny Westom (Executive Director, Visit Dana Point) answered questions of the City Council.

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

23. STATE OF THE CITY SPONSORSHIP

Economic Development Manager Kelly Reenders provided a staff report.

IT WAS MOVED BY MAYOR PRO TEM PAUL N WYATT SECONDED BY COUNCIL MEMBER JAMEY M. FEDERICO THAT THE CITY COUNCIL:

- 1) APPROVE THE RELEASE OF A REQUEST FOR SPONSORSHIP (RFS) FOR THE 2020 STATE OF THE CITY EVENT;
- 2) AUTHORIZE THE CITY MANAGER OR ECONOMIC DEVELOPMENT MANAGER TO EVALUATE SUBMITTED REQUEST FOR SPONSORSHIPS AND SELECT SPONSORS;
- 3) APPROVE SPONSORSHIP AGREEMENT TEMPLATE, SUBJECT TO SUCH CHANGES AS MAY BE APPROVED BY THE CITY MANAGER AND CITY ATTORNEY; AND
- 4) AUTHORIZE THE CITY MANAGER TO EXECUTE THE SPONSORSHIP AGREEMENTS.

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

24. CITY COUNCIL MEMBER EXPENSE REPORTS ON CITY WEBSITE

City Manager Mark Denny displayed the webpages requested by Council.

Discussion ensued.

RECEIVED AND FILED THE CITY COUNCIL MEMBER EXPENSE REPORTS ON CITY WEBSITE.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

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

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

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

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

Mayor Joseph L. Muller stated that he visited Helena Modjeska's Historic House and Gardens and presented the OC Parks website. He added that he attended a meeting with the Border Patrol and reported on what he learned. He added that he will turn in his list

STAFF REPORTS

Mark Denny announced upcoming events: Thursday, September 19th Bruce Brown statue reveal, Saturday, September 21st Coastal Clean Up Day, California Surfing Day Monday, September 23rd.

City Attorney Patrick Munoz reported that in closed session a motion was made by Council Member Jamey M. Federico, seconded by Mayor Pro Tem Paul N Wyatt that the City Council authorize participation in an amicus brief for the Martin v Boise case. The motion carried 5-0-0.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Muller adjourned the meeting at 8:47 p.m. He announced that the next Regular Meeting of the City Council will be October 1, 2019, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

Shauna Shih for:

KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF OCTOBER 1, 2019.

Meetings attended since September 4, 2019:

Mayor Joseph L. Muller

09/05/2019 OCTA
09/06/2019 RMV Tour
09/09/2019 OCTA
09/11/2019 OCFA
09/12/2019 Border Visit
09/13/2019 OC Parks

Mayor Pro Tem Paul N Wyatt

09/04/2019 Dana Point Harbor Time Capsule Planning Meeting
09/04/2019 BeWell OC Coalition Meeting
09/05/2019 Orange County Commission to End Homelessness Housing Ad Hoc Meeting
09/07/2019 Congressman Mike Levin Town Hall Meeting
09/14/2019 Edie Housley regarding code enforcement concerns

Council Member Jamey M. Federico

09/17/2019 Jim Samuels from Marriott regarding TBID