

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
NOVEMBER 5, 2019
5:00 P.M.**

AGENDA

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

Next City Council Ordinance No. 19-04

CALL TO ORDER

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)

RECESS OF CITY COUNCIL MEETING UNTIL 6:00 P.M.

RECONVENE CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATIONS AND PROCLAMATIONS

READING OF ORDINANCE TITLES

At this time, the City Clerk will read the title(s) of the ordinance(s) listed on the agenda.

CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and all will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the City Council, the public, or staff request specific items be removed from the Consent Calendar for separate action.

1. WAIVE THE READING OF ORDINANCES AND APPROVE READING BY TITLE ONLY

RECOMMENDED ACTION: That the City Council approve the reading by title only of all ordinances and that further reading of such ordinances be waived.

2. [REGULAR MEETING MINUTES, OCTOBER 15, 2019](#)

RECOMMENDED ACTION: That the City Council approve the minutes.

3. [PLANNING COMMISSION MEETING MINUTES, OCTOBER 14, 2019](#)

RECOMMENDED ACTION: That the City Council approve the minutes.

4. **YOUTH BOARD MEETING MINUTES, OCTOBER 3, 2019**

RECOMMENDED ACTION: That the City Council receive and file.

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

RECOMMENDED ACTION: That the City Council receive and file.

6. **CLAIMS AND DEMANDS**

RECOMMENDED ACTION: That the City Council receive and file the Claims and Demands.

7. **QUARTERLY FINANCIAL REPORT, SEPTEMBER 2019**

RECOMMENDED ACTION: That the City Council receive and file the City Financial Report and Management Discussion for quarter ended September 30, 2019.

8. **CITY TREASURER'S REPORT, SEPTEMBER 2019**

RECOMMENDED ACTION: That the City Council receive and file the City Treasurer's Report for the month of September 2019.

9. **SENATE BILL 2 PLANNING GRANTS PROGRAM**

RECOMMENDED ACTION: That the City Council:

- 1) Adopt the attached Resolution 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) Authorize 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**

RECOMMENDED ACTION: That the City Council hold a second reading and adopt an Ordinance 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

Any person wishing to address the City Council during the Public Comments section or on an Agenda item is asked to complete a "Request to Speak" form available on the table at the side of the Council Chamber. The completed form is to be submitted to the City Clerk prior to the Agenda item being called by the Mayor and prior to the individual being heard by the City Council.

In order to conduct a timely meeting, there will be a three-minute time limit per person and an overall time limit of fifteen minutes for this Public Comments portion of the agenda. At the Mayor's discretion, the balance of public comments will be heard after the New Business portion of the agenda. All comments are to be directed to the City Council and shall not consist of any personal attacks. Members of the public are expected to maintain a professional, courteous decorum during their comments. State law prohibits the City Council from taking action on a specific item unless it appears on the posted Agenda.

If anyone has handouts to distribute to the City Council, please follow proper procedure and hand them to the City Clerk. The City Clerk will see that they are distributed.

PUBLIC HEARINGS

11. [RESOLUTION TO ESTABLISH THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT](#)

RECOMMENDED ACTION: That the City Council take the following actions:

- 1) Conduct a Public Hearing, declaring the results of the majority protest proceeding; and
- 2) Adopt a Resolution 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.

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](#)

RECOMMENDED ACTION: That the City Council deny the appeal and uphold the Planning Commission's approval of Coastal Development Permit CDP16-0014/Conditional Use Permit CUP16-0005.

UNFINISHED BUSINESS

13. PROPOSED CITY COUNCIL SPONSORED INITIATIVE RE: TOWN CENTER

RECOMMENDED ACTION: That, should Council desire to proceed with a Council initiated ballot measure, the City Council:

1. Take the following action pursuant to Elections Code Section 9222:
 - a. Adopt Action Document A, a Resolution by which the Council would submit a City Council sponsored ordinance, which will be referred to as the “2020 Town Center Measure,” to the voters for a general election to be held on March 3, 2020, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, SUBMITTING AN ORDINANCE ENTITLED “2020 TOWN CENTER MEASURE” TO THE VOTERS FOR THE ELECTION CONSOLIDATED WITH THE STATEWIDE AND PRESIDENTIAL PRIMARY ELECTION SCHEDULED TO THE HELD ON MARCH 3, 2020; and

- b. If the Council takes action to call for an election, consider taking the following actions (all of which are optional, and at the Council’s discretion):
 - a. Adopt a motion directing the City Attorney to prepare an impartial analysis
 - b. Adopt a motion calling for the City Council to submit an argument in favor of the 2020 Town Center Measure, and giving related direction to staff regarding how to proceed.
 - c. If the Council takes action to call for an election, adopt a motion by which to transfer \$64,000 from General Fund Operations Contingency Account (99-2999) to the City Clerk Professional Services account (31-2230) for election services.

NEW BUSINESS

There are no New Business items.

PUBLIC COMMENTS (Continued)

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

The City Council may discuss, act upon or seek consensus on matters described under Council Reports only if: they are agendized with a complete written report included; or, if an item arose subsequent to the posting of the agenda and the Council determines that an emergency exists. Non-agendized items may be presented as informational only.

STAFF REPORTS

(City Manager Mark Denny)

(City Attorney Patrick Muñoz)

ADJOURNMENT

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.

CERTIFICATION

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that a copy of the foregoing Agenda was posted at Dana Point City Hall, the Dana Point Post Office, the Capistrano Beach Post Office and the Dana Point Library by Tuesday, October 29, 2019, at 5:30 p.m.

KATHY M. WARD, CITY CLERK

DATE

Subscriptions to receive City Council Agendas on a regular basis are available through the City Clerk's Office. Agendas are also available on the City's website at www.danapoint.org. In addition, Agenda related materials (including materials, if any, provided to the City Council after the Agenda was posted) may be reviewed in the office of the City Clerk during regular business hours or on the website at www.danapoint.org.

PURSUANT TO THE AMERICANS WITH DISABILITIES ACT, PERSONS WITH A DISABILITY WHO REQUIRE A DISABILITY-RELATED MODIFICATION OR ACCOMMODATION IN ORDER TO PARTICIPATE IN A MEETING, INCLUDING AUXILIARY AIDS OR SERVICES, MAY REQUEST SUCH MODIFICATION OR ACCOMMODATION FROM THE CITY CLERK AT (949) 248-3500 (TELEPHONE) OR (949) 248-9920 (FACSIMILE). NOTIFICATION 48 HOURS PRIOR TO THE MEETING WILL ENABLE THE CITY TO MAKE REASONABLE ARRANGEMENTS TO ASSURE ACCESSIBILITY TO THE MEETING.