

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



TUESDAY
OCTOBER 1, 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 5:02 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), (3 cases)
- B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (2 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: 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 5:04 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 6:03 p.m and announced that the City Council would return to Closed Session after the conclusion of Open Session. All Council Members were present.

STAFF PRESENT: Mark Denny, City Manager; Patrick Munoz, City Attorney; Mike Killebrew, Assistant City Manager; Lt. Kirsten Monteleone; Matthew Schneider, Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Robert Sedita, Director of General Services; Rachel Johnson, Management Analyst, Shayna Sharke, Deputy City Clerk, Robin Gray, City Clerk Specialist

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

Dolphin Whale Capital of the World Presentation

Donna Kalez, Dana Wharf Sportsfishing and Whale Watching, and Gisele Anderson, Captain Dave's Dolphin and Whale Safari, presented a video and announced the trademark of "Dolphin and Whale Watching Capital of the World". County Supervisor Lisa Bartlett presented Ms. Kalez and Ms. Anderson with a Certificate of Recognition.

READING OF ORDINANCE TITLES

There were no Ordinance titles.

CONSENT CALENDAR

Item 2 was removed by Council Member Debra Lewis.

IT WAS MOVED BY MAYOR PRO TEM PAUL N WYATT, SECONDED BY COUNCIL MEMBER JAMEY M. FEDERICO THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 2.

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, SEPTEMBER 17, 2019

Council Member Lewis removed Item 2 from the Consent Calendar and asked questions to Staff regarding the recording of the meeting.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER DEBRA LEWIS, SECONDED BY MAYOR JOSEPH L. MULLER THAT CITY COUNCIL RECEIVE AND FILE THE REGULAR MEETING MINUTES, SEPTEMBER 17, 2019.

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

3. PLANNING COMMISSION MEETING MINUTES, SEPTEMBER 9, 2019

RECEIVED AND FILED.

4. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

5. CITY TREASURER'S REPORT, AUGUST 2019

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

6. CLAIMS AND DEMANDS

RECEIVED AND FILED.

7. RESOLUTION AUTHORIZING STAFF TO APPLY FOR THE STATE OF CALIFORNIA PARKS AND WATER BOND OF 2018 PER CAPITA GRANT PROGRAM

1) ADOPTED RESOLUTION 19-10-01-01 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT,

CALIFORNIA, APPROVING THE APPLICATION FOR THE STATE OF CALIFORNIA PARKS AND WATER BOND OF 2018 PER CAPITA GRANT PROGRAM; and

- 2) AUTHORIZED THE CITY MANAGER OR HIS DESIGNEES TO APPLY FOR SUBJECT GRANTS.

8. ADOPT A RESOLUTION AUTHORIZING THE CITY OF DANA POINT TO SUBMIT A LOCAL COASTAL PROGRAM PLANNING GRANT APPLICATION TO THE CALIFORNIA COASTAL COMMISSION

- 1) ADOPTED RESOLUTION 19-10-01-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING THE CITY OF DANA POINT TO SUBMIT A LOCAL COASTAL PROGRAM PLANNING GRANT APPLICATION TO THE CALIFORNIA COASTAL COMMISSION; and

- 2) AUTHORIZED THE CITY MANAGER TO SIGN ALL NEEDED DOCUMENTATION UNDER THE CALIFORNIA COASTAL COMMISSION (CCC) GRANT PROGRAM, AND AMEND THE BUDGET AS DESCRIBED IN THE FISCAL IMPACT SECTION.

PUBLIC COMMENTS

Barbara Wilson (Dana Point) stated that she was concerned with the recording of the September 17, 2019 meeting, but is relieved to hear of the back-up technology now in place.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There were no Unfinished Business items.

NEW BUSINESS

9. COUNCILMEMBER FEDERICO: SHORT TERM RENTAL SUBCOMMITTEE POLICY DIRECTION

Council Member Jamey M. Federico provided a report.

Mayor Joseph L. Muller opened Public Comment.

Roger Malcom (Capistrano Beach) spoke in opposition of allowing Short Term Rentals.

Deby Snow Grover (Property Manager) spoke in favor of allowing permitted Short Term Rentals.

Ken Piloti (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Shevy Akason (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Betha Lea Everett (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Greg Linn (Dana Point) spoke in opposition of allowing permitted Short Term Rentals.

Gabrielle Buckley (Pasadena) spoke in favor of allowing permitted Short Term Rentals.

Barbara Wilson (Dana Point) spoke in favor of allowing Short Term Rentals with a hosted stay policy.

Deanna Slocum (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Miriam Rupke (Capistrano Beach) spoke in favor of allowing permitted Short Term Rentals.

Susanne Christensen (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Jason Colaco (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Betty Hill (Capistrano Beach) spoke in opposition of allowing permitted Short Term Rentals.

Dana Yarger (Dana Point) spoke in favor of allowing permitted Short Term Rentals.

Hoyin Ip (Dana Point) spoke of the importance of transparency in committees and groups.

Melissa Spanglin (Capistrano Beach) spoke in favor of allowing permitted Short Term Rentals.

Jeff Lurner (Dana Point) spoke in opposition of allowing permitted Short Term Rentals.

Felicia (Dana Point) spoke in opposition of allowing permitted Short Term Rentals.

Mayor Joseph L. Muller closed Public Comment.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER JAMEY M. FEDERICO, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK THAT THE CITY COUNCIL:

- 1) FORMALLY ADOPT POLICY OBJECTIVES THAT STAFF AND THE SHORT TERM RENTAL SUBCOMMITTEE WILL USE IN DRAFTING ANY PROPOSED ORDINANCE. ANY SHORT TERM RENTAL ORDINANCE MUST:
 - a. MAINTAIN THE CHARACTER OF OUR NEIGHBORHOODS BY NOT ENCOURAGING ABSENTEE CORPORATE INVESTMENT.
 - b. FIRMLY PROTECT AGAINST NUISANCES.
 - c. BALANCE THE RIGHTS AND RESPONSIBILITIES OF ALL RESIDENTS AND HOMEOWNERS AND HONOR HOA REGULATIONS; AND
- 2) DIRECT THAT SHORT TERM RENTAL SUBCOMMITTEE MEETINGS BE OPEN TO THE PUBLIC; AND

- 3) AUTHORIZE THE CITY MANAGER TO CONTRACT FOR THE COMPLETION OF A STATISTICALLY VALID RESIDENT SURVEY FOCUSED ON SHORT TERM RENTAL POLICY.

A SUBSITUTE MOTION WAS MADE BY COUNCIL MEMBER DEBRA LEWIS THAT THE CITY COUNCIL VOTE ON EACH ACTION SEPARATELY FROM COUNCIL MEMBER FEDERICO'S MOTION; AND ADD TO THIS MOTION TO DIRECT ANY SHORT TERM RENTAL POLICY DECISION TO GO TO A VOTE OF THE PEOPLE.

The substitute motion failed due to a lack of a second.

COUNCIL MEMBER JAMEY M. FEDERICO AMENDED THE ORIGINAL MOTION, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK THAT THE CITY COUNCIL VOTE ON EACH ACTION SEPARATELY AND AMENDED LANGUAGE IN ACTION 2 TO DIRECT THAT SHORT TERM RENTAL SUBCOMMITTEE CONDUCT PUBLIC OUTREACH

Each separate action carried by the following votes:

- 1) FORMALLY ADOPT POLICY OBJECTIVES THAT STAFF AND THE SHORT TERM RENTAL SUBCOMMITTEE WILL USE IN DRAFTING ANY PROPOSED ORDINANCE. ANY SHORT TERM RENTAL ORDINANCE MUST:
- a. MAINTAIN THE CHARACTER OF OUR NEIGHBORHOODS BY NOT ENCOURAGING ABSENTEE CORPORATE INVESTMENT.
 - b. FIRMLY PROTECT AGAINST NUISANCES.
 - c. BALANCE THE RIGHTS AND RESPONSIBILITIES OF ALL RESIDENTS AND HOMEOWNERS AND HONOR HOA REGULATIONS

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

- 2) DIRECT THAT SHORT TERM RENTAL SUBCOMMITTEE CONDUCT PUBLIC OUTREACH

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

- 3) AUTHORIZE THE CITY MANAGER TO CONTRACT FOR THE COMPLETION OF A STATISTICALLY VALID RESIDENT SURVEY FOCUSED ON SHORT TERM RENTAL POLICY

AYES: Council Member Jamey M. Federico, Council Member Debra Lewis, and Mayor Pro Tem Paul N Wyatt

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

ABSENT: None

10. MAYOR MULLER: PROPOSED AMENDMENTS TO TOWN CENTER PLAN

Mayor Joseph L. Muller provided a report.

Mayor Joseph L. Muller opened Public Comment.

Michael Fox (Chamber of Commerce) spoke in favor of the proposed amendment.

Dana Yarger (Dana Point) spoke in favor of the proposed amendment.

Patricia Short (Dana Point) spoke in favor of the proposed amendment.

Mayor Joseph L. Muller closed Public Comment.

Discussion ensued.

MAYOR JOSEPH L. MULLER MOVED THE DISCUSSION TO THE REGULAR MEETING OF THE CITY COUNCIL ON OCTOBER 15, 2019 AND DIRECTED STAFF TO PRESENT A PROPOSED AMENDMENT TO THE TOWN CENTER PLAN FOR COUNCIL'S CONSIDERATION.

The direction carried with 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

11. SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED EMPLOYEE CLASSIFICATIONS; AND AMENDING CITY'S CONFLICT OF INTEREST CODE

Assistant City Manager Mike Killebrew provided a staff report.

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

1) ADOPT RESOLUTION 19-10-01-03 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED CLASSIFICATIONS; and

2) ADOPT RESOLUTION 19-10-01-04 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING THE CITY'S CONFLICT OF INTEREST CODE

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

12. PENSION LIABILITY UPDATE – SECTION 115 TRUST

Assistant City Manager Mike Killebrew provided a staff report.

Discussion ensued.

THE COUNCIL RECEIVED AND FILED THE REPORT.

13. 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

This item was moved to the October 15th Regular Meeting of the City Council.

14. 2019-2020 DANA POINT YOUTH BOARD APPOINTMENTS AND AMENDMENT TO CITY COUNCIL POLICY 302

Management Analyst Rachel Johnson provided a staff report.

IT WAS MOVED BY COUNCIL MEMBER JAMEY M. FEDERICO, SECONDED BY MAYOR JOSEPH L. MULLER THAT THE CITY COUNCIL:

- 1) APPOINT EIGHT (8) BOARD MEMBERS TO THE DANA POINT YOUTH BOARD; AND
- 2) ADOPT THE AMENDMENTS TO CITY COUNCIL POLICY NO. 302

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 COASTAL ANIMAL SERVICES AUTHORITY (CASA) JOINT POWERS AGREEMENT

Assistant City Manager Mike Killebrew provided a staff report.

IT WAS MOVED BY COUNCIL MEMBER JAMEY M. FEDERICO, SECONDED BY MAYOR JOSEPH L. MULLER THAT THE CITY COUNCIL APPROVE THE AMENDED AND RESTATED JOINT POWERS AGREEMENT OF THE COASTAL ANIMAL SERVICES AUTHORITY.

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

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 turned in his list of meetings attended to the City Clerk and stated that he attended the Bruce Brown statue dedication and met Joyce Hoffman, who will also have a statue in the park. He requested that the Arts and Culture Commission prepare a schedule of the future statue installations. Mayor Muller also stated that he attended International Surfing Day; additionally he read a letter from a resident praising the City's basketball program as well as the Recreation staff.

STAFF REPORTS

City Manager Mark Denny thanked the Mayor for his participation in the International Surfing Day event and also reported that the Coastal Clean Up day was a success. Additionally he thanked Lt. Monteleone and Public Works and Engineering Director Matt Sinacori for their work during Ohana Fest. He wished the community a happy Rosh Hashanah.

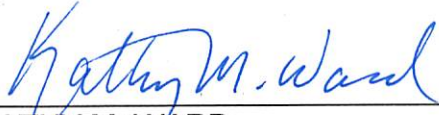
RECESS OF CITY COUNCIL MEETING

Mayor Muller recessed the meeting into a Closed Session at 9:27 p.m. pursuant to Government Code Section 54956 et seq.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Muller adjourned the meeting at 10:15 p.m. He announced that the next Regular Meeting of the City Council will be October

15, 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 OCTOBER 15, 2019.

Meetings attended since September 18, 2019:

Mayor Joseph L. Muller

09/18/2019 OCFA
09/19/2019 Miguel Pulido
09/19/2019 Bruce Brown Ribbon Cutting
09/23/2019 OCFA
09/24/2019 OCTA
09/25/2019 TCA
09/25/2019 Ohana Story Tellers
09/26/2019 TCA
09/26/2019 OCFA

Mayor Pro Tem Paul N Wyatt

09/18/2019 Dana Point Harbor Time Capsule Planning Meeting
09/18/2019 Matt Bates, CityNet
09/19/2019 Bruce Brown Memorial Ribbon Cutting & Reception
09/24/2019 Lucy Dunn, Orange County Business Council; Dan Young, Commission to End Homelessness
09/26/2019 Orange County Public Library Advisory Board Strategic Visioning Committee Meeting
09/27/2019 Marshall Moncrief and Clayton Chau, Mind OC
09/30/2019 Tom Kisela, City of Orange Chief of Police
09/30/2019 Randy Black, Orange County Fire Authority

Council Member Jamey M. Federico

09/22/2019 Dana Point Car Show
09/25/2019 LVA Taco Fest
09/26/2019 CASA Board Meeting

Council Member Richard A. Viczorek

09/19/2019 OCMVCD Board of Trustees Meeting