

# CITY OF DANA POINT

**CITY COUNCIL  
REGULAR  
MEETING**



**TUESDAY  
NOVEMBER 19, 2019  
5:00 P.M.**

## **MINUTES**

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

Next City Council Ordinance No. 19-05

### **CALL TO ORDER**

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Joseph L. Muller at 5:01 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 6:00 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 REAL PROPERTY NEGOTIATOR, Government Code § 54956.8

Location: Assessor Parcel Number 668-283-01  
Agency Negotiator: David Cosgrove; Matthew Sinacori  
Negotiating Parties: City of Dana Point and Cynthia Holder  
Under Negotiation: Price and terms of agreement relating to property

Mayor Joseph L. 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 Joseph L. Muller reconvened the meeting at 6:02 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; Kelly Reenders, Interim Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Robert Sedita, Director of General Services; Joe Romero, Building Official; 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**

There were no presentations or proclamations.

**READING OF ORDINANCE TITLES**

City Clerk Kathy Ward read one (1) Ordinance title for Item 12.

**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, NOVEMBER 5, 2019**

RECEIVED AND FILED.

**3. ARTS & CULTURE COMMISSION MEETING MINUTES, MAY 15, 2019**

RECEIVED AND FILED.

**4. FINANCIAL REVIEW COMMITTEE MEETING MINUTES, MAY 22, 2019**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**6. CITY TREASURER'S REPORT, OCTOBER 2019**

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF OCTOBER, 2019.

**7. CLAIMS AND DEMANDS**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**9. DEVELOPMENT UPDATE**

RECEIVED AND FILED.

**10. ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN IMPROVEMENT PROJECT SUBMITTAL TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) FOR FUNDING UNDER THE COMPETITIVE MEASURE M2 REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM**

**1) ADOPTED RESOLUTION 19-11-19-01 ENTITLED:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN IMPROVEMENT PROJECT SUBMITTAL TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) FOR FUNDING UNDER THE COMPETITIVE MEASURE M2 REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM; and**

**2) AUTHORIZED THE CITY MANAGER TO SIGN THE RESOLUTION ON BEHALF OF THE CITY; and**

**3) AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO APPLY FOR FUNDING CONSIDERATION.**

**11. ADOPTION OF A RESOLUTION OF THE CITY COUNCIL APPROVING THE MEASURE M (M2) EXPENDITURE REPORT FOR FY 2018-2019**

1) **ADOPTED RESOLUTION 19-11-19-02 ENTITLED:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE RENEWED MEASURE M (M2) EXPENDITURE REPORT FOR FISCAL YEAR 2018-2019; and**

2) **AUTHORIZED THE MAYOR TO SIGN THE RESOLUTION ON BEHALF OF THE CITY; and**

3) **DIRECTED STAFF TO SUBMIT THE ADOPTED RESOLUTION AND M2 EXPENDITURE REPORT FOR FISCAL YEAR 2018-2019 FOR THE CITY OF DANA POINT TO ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) TO MAINTAIN ELIGIBILITY IN THE MEASURE M (M2) PROGRAM.**

**PUBLIC COMMENTS**

Patti Short (5th Marine Regimen Support Group) thanked the City for their continued support and presented the Council with a plaque.

Bobby McDonald (Veterans Advisory Council) distributed documents listing resources available throughout the County for veterans.

Nancy Leonard (Dana Point) stated that every speaker is deserving of attention and respect from Council and staff.

Julian Joshua (Dana Point) asked when a sober living home ordinance and view protection ordinance would be adopted.

**PUBLIC HEARINGS**

**12. ADOPTION BY REFERENCE THE CALIFORNIA CODES OF REGULATIONS TITLE 24, PARTS 1-12, KNOWN AND DESIGNATED AS THE 2019 EDITION OF THE CALIFORNIA BUILDING CODE, 2019 EDITION OF THE CALIFORNIA RESIDENTIAL CODE, 2019 EDITION OF THE CALIFORNIA ELECTRICAL CODE, 2019 EDITION OF THE CALIFORNIA PLUMBING CODE, 2019 EDITION OF THE CALIFORNIA MECHANICAL CODE, 2019 EDITION OF THE CALIFORNIA ADMINISTRATIVE CODE, 2019 EDITION OF THE CALIFORNIA REFERENCE STANDARDS CODE, 2019 EDITION OF THE CALIFORNIA ENERGY CODE, 2019 EDITION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE, 2019 EDITION OF THE CALIFORNIA HISTORICAL BUILDING CODE, 2019 EDITION OF THE CALIFORNIA EXISTING BUILDING CODE AND THE 2019 EDITION OF THE CALIFORNIA FIRE CODE, MAKING AMENDMENTS THERETO, AND RELATED ACTIONS**

Building Official Joe Romero provided a staff report.

Mayor Joseph L. Muller opened the Public Hearing at 6:16 p.m.

There were no Public Comments.

Mayor Joseph L. Muller closed the Public Hearing at 6:16 p.m.

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK THAT THE CITY COUNCIL:

- 1) CONDUCT A PUBLIC HEARING; AND
- 2) INTRODUCE AND HOLD A FIRST READING FOR ORDINANCE 19-XX ENTITLED:

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTERS 8.02, 8.03, 8.12, 8.14, 8.16, 8.20, 8.24, 8.26, 8.28, 8.30, 8.32, 8.34, 8.36 AND 8.38 OF TITLE 8 OF THE DANA POINT MUNICIPAL CODE ADOPTING BY REFERENCE THE CALIFORNIA CODES OF REGULATIONS TITLE 24, PARTS 1-12, KNOWN AND DESIGNATED AS THE 2019 EDITION OF THE CALIFORNIA BUILDING CODE, 2019 EDITION OF THE CALIFORNIA RESIDENTIAL CODE, 2019 EDITION OF THE CALIFORNIA ELECTRICAL CODE, 2019 EDITION OF THE CALIFORNIA PLUMBING CODE, 2019 EDITION OF THE CALIFORNIA MECHANICAL CODE, 2019 EDITION OF THE CALIFORNIA ADMINISTRATIVE CODE, 2019 EDITION OF THE CALIFORNIA REFERENCE STANDARDS CODE, 2019 EDITION OF THE CALIFORNIA ENERGY CODE, 2019 EDITION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE, 2019 EDITION OF THE CALIFORNIA HISTORICAL BUILDING CODE, 2019 EDITION OF THE CALIFORNIA EXISTING BUILDING CODE AND THE 2019 EDITION OF THE CALIFORNIA FIRE CODE, MAKING AMENDMENTS THERETO, AND RELATED ACTIONS.**

The changes and modifications to the 2019 Editions of the California Building, Residential, Plumbing, Mechanical, Electrical, Green Building Standards and Fire Codes are reasonably necessary due to local conditions in Dana Point. Other amendments are of an administrative or procedural nature and concern themselves with subjects that are not covered by the Code or are reasonably necessary to safeguard life and property within the City of Dana Point. Adoption of these codes as amended will implement the latest codes in the City and complies with current State law; and

- 3) ADOPTED RESOLUTION 19-11-19-03 ENTITLED:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, SETTING FORTH FINDINGS WITH RESPECT TO LOCAL CONDITIONS WITHIN THE CITY OF DANA POINT WHICH MAKE CERTAIN MODIFICATIONS AND CHANGES TO THE CALIFORNIA BUILDING CODE, CALIFORNIA RESIDENTIAL CODE, THE CALIFORNIA PLUMBING CODE, THE CALIFORNIA MECHANICAL CODE, THE CALIFORNIA ELECTRICAL CODE, CALIFORNIA GREEN BUILDING**

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**STANDARDS CODE AND THE CALIFORNIA FIRE CODE AND FIRE CODE STANDARDS REASONABLY NECESSARY FOR DIFFERENT OCCUPANCIES; and**

- 4) INSTRUCT THE BUILDING OFFICIAL TO FILE THE RESOLUTION WITH THE CALIFORNIA BUILDING STANDARDS COMMISSION AND A COPY TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

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

**UNFINISHED BUSINESS**

There were no Unfinished Business items.

**NEW BUSINESS**

**13. AWARD OF CONTRACT FOR PARKS, MEDIANS, AND PARKWAY LANDSCAPE MAINTENANCE**

City Manager Mark Denny provided a brief staff report.

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK THAT THE CITY COUNCIL AWARD AN INITIAL 6 MONTH CONTRACT TO THE SOTO COMPANY FOR PARKS, MEDIANS, AND PARKWAY LANDSCAPE MAINTENANCE IN THE NOT-TO-EXCEED AMOUNT OF \$600,000 PLUS A 10% CONTINGENCY, WITH A NOT-TO-EXCEED AMOUNT OF \$1,200,000 ANNUALLY, PLUS A 10% CONTINGENCY BY AMENDMENT, AND AUTHORIZE THE CITY MANAGER TO EXTEND THE CONTRACT ANNUALLY FOR UP TO FOUR ADDITIONAL YEARS, INCLUDING CPI ADJUSTMENTS IF MUTUALLY AGREED UPON.

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

**14. AWARD OF CONTRACT FOR SPORTS FIELDS MAINTENANCE**

Director of General Services Robert Sedita provided a staff report.

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK THAT THE CITY COUNCIL AWARD AN INITIAL 6 MONTH CONTRACT TO PROFESSIONAL SPORTS FIELD MAINTENANCE, INC. FOR SPORTS FIELDS MAINTENANCE IN THE NOT-TO-EXCEED AMOUNT OF \$75,000 INCLUDING AN 11.6% CONTINGENCY; AND AUTHORIZE THE CITY MANAGER TO EXTEND THE CONTRACT ANNUALLY FOR UP TO FOUR ADDITIONAL YEARS WITH AN ANNUAL NOT-TO-EXCEED AMOUNT OF \$150,000 ANNUALLY, WITH CONTINGENCY AND CPI ADJUSTMENT, IF MUTUALLY AGREED UPON.

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

**15. MAYOR PRO TEM WYATT: APPROVAL OF ACTIONS REQUIRED TO PUT A SHORT TERM RENTAL ORDINANCE INTO EFFECT**

Mayor Pro Tem Paul N Wyatt provided a report.

Mayor Joseph L. Muller opened Public Comment.

Barbara Wilson (Dana Point) spoke in favor of creating a Short Term Rental ballot measure for a Citywide vote and spoke against Short Term Rentals.

Sandie Iverson (Capistrano Beach) spoke in favor of creating a Short Term Rental ballot measure for a Citywide vote and spoke against Short Term Rentals.

Joanie McKnight (Dana Point) spoke in favor of creating a Short Term Rental ballot measure for a Citywide vote.

Toni Nelson (Capistrano Beach) spoke in favor of creating a Short Term Rental ballot measure for a Citywide vote and spoke against Short Term Rentals.

Sherry Cuono (Dana Point) spoke in favor of Short Term Rentals.

Betty Hill (Dana Point) spoke in favor of creating a Short Term Rental ballot measure for a Citywide vote.

Susanne Christiansen (Dana Point) spoke in favor of Short Term Rentals.

Jeanette Krueger (Dana Point) spoke in favor of Short Term Rentals.

Carla Moore (Irvine) spoke in favor of Short Term Rentals and in favor of a ballot measure with input from Short Term Rental property owners and managers.

George Ray (Dana Point) spoke in favor of Short Term Rentals.

Elizabeth Ray (Dana Point) spoke in favor of Short Term Rentals and in favor of a ballot measure with input from Short Term Rental property owners.

Miriam Rupke (Capistrano Beach) spoke in favor of Short Term Rentals and in favor of a ballot measure with input from Short Term Rental property owners.

Melissa Spangler (Capistrano Beach) spoke in favor of Short Term Rentals and in favor of a ballot measure with input from Short Term Rental property owners.

Carol Wilson (President of Spinnaker Run Association) spoke in favor of creating a Short Term Rental ballot measure for a Citywide vote and spoke against Short Term Rentals.

Felicia Lurner (Capistrano Beach) spoke against Short Term Rentals.

Shevy Akason (Dana Point) spoke in favor of Short Term Rentals and in favor of a ballot measure with input from Short Term Rental property owners.

Carol Kelly (Dana Point) spoke in favor of creating a Short Term Rental ballot measure for a Citywide vote.

Jeff Bossom (Dana Point) stated that what he wanted to say has already been stated.

Alyssa Hendrie (Dana Point) spoke in favor of Short Term Rentals and in favor of a ballot measure with input from Short Term Rental property owners.

Julian Joshua (Dana Point) spoke in favor of creating a Short Term Rental ballot measure for a Citywide vote and spoke against Short Term Rentals.

Mayor Joseph L. Muller closed Public Comment.

IT WAS MOVED BY MAYOR PRO TEM PAUL N WYATT SECONDED BY COUNCIL MEMBER DEBRA LEWIS THAT THE CITY COUNCIL APPROVE ALL THE FOLLOWING RECOMMENDED ACTIONS THAT ESTABLISH THE PROCESS AND APPROVALS THAT MUST TAKE PLACE BEFORE A SHORT TERM RENTAL ORDINANCE CAN GO INTO EFFECT IN DANA POINT:

- 1) RESIDENT SURVEY BE CONDUCTED, RESULTS MADE PUBLIC; AND RESULTS REVIEWED AT A COUNCIL MEETING. THIS DIRECTION HAS ALREADY BEEN SET BY THE COUNCIL;
- 2) COUNCIL MUST PASS A SHORT TERM RENTAL ORDINANCE THAT WILL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CALIFORNIA COASTAL COMMISSION AND VOTED ON AND APPROVED BY A SIMPLE MAJORITY OF DANA POINT VOTERS;



- 3) CALIFORNIA COASTAL COMMISSION MUST APPROVE THE ORDINANCE PASSED BY THE CITY COUNCIL WITHOUT MATERIAL CHANGES; AND
- 4) A BALLOT MEASURE ON THE ORDINANCE IS APPROVED BY A SIMPLE MAJORITY OF THE DANA POINT VOTERS.

Discussion ensued.

A SUBSTITUTE MOTION WAS MADE BY COUNCIL MEMBER JAMEY M. FEDERICO, SECONDED BY MAYOR JOSEPH L. MULLER TO CONTINUE THIS ITEM UNTIL AN ORDINANCE IS DRAFTED.

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 Paul N Wyatt

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

ABSENT: None

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

Council Member Jamey M. Federico stated that he met with members of the original Town Center Committee and would like to discuss the plan further at a later date with the Council. He stated that he turned in his list of meetings attended to the City Clerk

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

Council Member Richard A. Viczorek stated that he had nothing to report.

Mayor Pro Tem Paul N Wyatt stated that he turned in his list of meetings attended to the City Clerk. He added that he met with Jason Check of Raintree Partners and discussed issues that he has identified in the Town Center Plan and is interested in revisiting the plan with Council at a later date.

Mayor Joseph L. Muller stated that he turned in his list of meetings attended to the City Clerk. He invited the community to the Winter Fest at La Plaza Park, the decoration of the tree by the R.H. Dana special needs students, and the tree lighting at Pines Park.

## STAFF REPORTS

There were no Staff Reports.

## ADJOURNMENT

There being no further business before the City Council at this session, Mayor Muller adjourned the meeting at 8:43 p.m. He announced that the next Regular Meeting of the City Council will be December 3, 2019, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.



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KATHY M. WARD  
CITY CLERK

APPROVED AT THE MEETING OF DECEMBER 3, 2019.

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**Meetings attended since November 6, 2019:**

**Mayor Joseph L. Muller**

11/10/2019 Marine Corp  
11/11/2019 Veterans Day  
11/13/2019 OCFA  
11/14/2019 TCA  
11/14/2019 City Selection

**Mayor Pro Tem Paul N Wyatt**

11/07/2019 Dana Point Harbor Time Capsule Debrief Meeting  
11/07/2019 South OC Watershed Management Area Executive Management Meeting  
11/08/2019 Mental Health Services Agency Community Workshop  
11/11/2019 Dana Point Veterans' Day Service  
11/14/2019 Hoiyin Ip, Sierra Club  
11/15/2019 Jason Check, Raintree Partners

**Council Member Jamey M. Federico**

11/06/2019 Dana Knolls Neighborhood Watch