

# CITY OF DANA POINT

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## CITY COUNCIL REGULAR MEETING



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TUESDAY  
DECEMBER 3, 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 5:00 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), (2 cases)

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

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

Mayor Joseph L. 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.**

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## RECONVENE CITY COUNCIL MEETING

Mayor Joseph L. Muller reconvened the meeting at 6:00 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; Belinda Deines, Senior Planner; Rachel Johnson, Management Analyst and Shayna Sharke, Deputy City Clerk.

## PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Richard A. Viczorek.

## INVOCATION

The invocation was provided by OCFA Chaplain Dave Keehn.

## PRESENTATIONS AND PROCLAMATIONS

There were no Presentations or Proclamations.

## READING OF ORDINANCE TITLES

City Clerk Kathy Ward read one (1) Ordinance title for Item 7.

## CONSENT CALENDAR

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER JAMEY M. FEDERICO 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 19, 2019**  
RECEIVED AND FILED.
3. **PLANNING COMMISSION MEETING MINUTES, OCTOBER 28, 2019**  
RECEIVED AND FILED.
4. **PLANNING COMMISSION MEETING MINUTES, NOVEMBER 18, 2019**  
RECEIVED AND FILED.
5. **MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**  
RECEIVED AND FILED.
6. **CLAIMS AND DEMANDS**  
RECEIVED AND FILED.
7. **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.**

1) **HELD SECOND READING AND ADOPTED ORDINANCE 19-05 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**

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**EDITION OF THE CALIFORNIA FIRE CODE, MAKING AMENDMENTS THERETO,  
AND RELATED ACTIONS.**

**8. COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2019**

RECEIVED AND FILED THE COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) FOR THE YEAR ENDED JUNE 30, 2019.

**9. DISPOSITION OF NON-ESSENTIAL RECORDS AND RECORDS RETENTION SCHEDULE UPDATE**

APPROVED THE 2019 DISPOSITION OF NON-ESSENTIAL CITY RECORDS IN ACCORDANCE WITH CALIFORNIA STATE LAW AND THE CITY'S APPROVED RECORDS RETENTION SCHEDULE; AND

ADOPTED RESOLUTION 19-12-03-01 ENTITLED:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING THE DISPOSITION OF CERTAIN INACTIVE CITY RECORDS AS PROVIDED BY SECTION 34090 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA; and**

ADOPTED RESOLUTION 19-12-03-02 ENTITLED:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING REVISED RECORDS RETENTION SCHEDULE FOR CERTAIN CITY DEPARTMENTS AS PROVIDED BY SECTION 34090 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.**

**10. AMENDMENTS AND ASSOCIATED BUDGET ADJUSTMENTS TO PROFESSIONAL PLAN CHECK SERVICES AGREEMENTS FOR PLANNING, BUILDING AND PUBLIC WORKS DIVISIONS**

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

1. SUMMERS/MURPHY & PARTNERS ("SMP") – RATIFICATION AND FIRST AMENDMENT FOR LANDSCAPE PLAN CHECK SERVICES;
2. WEST COAST CODE CONSULTANTS ("WC3") - FIRST AMENDMENT FOR PLAN CHECK AND BUILDING INSPECTION SERVICES;
3. WEST COAST CODE CONSULTANTS ("WC3") – RATIFICATION AND FIRST AMENDMENT FOR PERMIT TECHNICIAN SERVICES;
4. NV5, INC. – THIRD AMENDMENT FOR PUBLIC WORKS DEVELOPMENT ENGINEERING PLAN CHECK SERVICES; AND,

5. AUTHORIZE BUDGET ADJUSTMENTS AS DESCRIBED IN THE AGENDA REPORT AND SUMMARIZED IN THE FISCAL IMPACT SECTION.

11. **TRAFFIC IMPROVEMENT SUBCOMMITTEE VACANCY**

ACCEPTED THE LETTER OF RESIGNATION FROM RICH HOLT OF THE TRAFFIC IMPROVEMENT SUBCOMMITTEE, DIRECTED STAFF TO ADVERTISE THE NOTICE OF VACANCY FOR 30 DAYS AND ACCEPT APPLICATIONS FOR COUNCIL'S REVIEW AND FUTURE APPOINTMENT.

12. **ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA APPROVING THE SUBMITTAL OF AN APPLICATION TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR ADDITIONAL FUNDING UNDER THE PROJECT V COMMUNITY-BASED TRANSIT/CIRCULATORS PROGRAM**

ADOPTED RESOLUTION 19-12-03-03 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA APPROVING THE SUBMITTAL OF AN APPLICATION TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR ADDITIONAL FUNDING UNDER THE PROJECT V COMMUNITY-BASED TRANSIT/CIRCULATORS PROGRAM;

2) Authorize the Mayor to sign the Resolution on behalf of the City; and

3) Authorize the City Manager or his designee to apply for additional funding consideration.

**PUBLIC COMMENTS**

Craig Alexander (Dana Point) spoke regarding the removed Item 14, stating his opposition to CUSD's bond measure.

Wayne Yost (Dana Point/VFW 9934) spoke regarding the resources they provide for veterans and invited the community to Winter Fest.

George Ray (Capistrano Beach) spoke in favor of a Short Term Rentals ordinance and provided a letter to Council and the City Manager with his recommendations.

**PUBLIC HEARINGS**

There were no Public Hearing items.

**UNFINISHED BUSINESS**

13. **CAPISTRANO BEACH VILLAGE PLAN UPDATE**

Interim Principal Planner Belinda Deines presented a staff report and PowerPoint presentation.

Mayor Joseph L. Muller opened Public Comment.

Larry Robinson (Capistrano Beach) thanked staff and spoke in favor of moving forward with the recommended action.

Steven Carpenter (Dana Point) thanked staff and spoke in favor of moving forward with the recommended action.

Therese Bovei (Dana Point) thanked staff and spoke in favor of moving forward with the recommended action.

Mayor Joseph L. Muller closed Public Comment.

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

- 1) RECEIVE AND FILE THE STATUS REPORT; AND
- 2) DIRECT STAFF TO INITIATE A ZONING CODE AMENDMENT, GENERAL PLAN AMENDMENT, AND LOCAL COASTAL PLAN AMENDMENT FOR THE CAPISTRANO BEACH VILLAGE PLAN ("VILLAGE PLAN"); AND
- 3) AUTHORIZE THE CITY MANAGER TO RATIFY THE AGREEMENT (SUPPORTING DOCUMENT A) AND EXECUTE THE ADDITIONAL WORK REQUEST NO. 1 (SUPPORTING DOCUMENT B) BY AND BETWEEN THE CITY AND MICHAEL BAKER INTERNATIONAL TO PREPARE THE ENVIRONMENTAL IMPACT REPORT ("EIR") FOR THE VILLAGE PLAN

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

## **NEW BUSINESS**

**14. ITEM 14 WAS REMOVED BY MAYOR JOSEPH L. MULLER**

**15. SOLID WASTE DISPOSAL CONTRACT AMENDMENT**

City Attorney Patrick Munoz 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 19-12-03-04 ENTITLED:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT APPROVING AN AMENDMENT TO FRANCHISE AGREEMENTS FOR SOLID WASTE HANDLING SERVICES WITH CR&R INCORPORATED; and**

**2) AUTHORIZE THE MAYOR TO SIGN THE RESOLUTION ON BEHALF OF THE CITY**

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

**16. ADOPTION OF A RESOLUTION OF THE CITY COUNCIL TO AMEND THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY JOINT POWERS AGREEMENT**

Assistant City Manager Mike Killebrew provided a staff report.

IT WAS MOVED BY MAYOR JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER JAMEY M. FEDERICO THAT THE CITY COUNCIL ADOPT **RESOLUTION 19-12-03-05** ENTITLED:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING APPROVAL OF THE AMENDMENT TO THE JOINT POWERS AGREEMENT OF THE CALIFORNIA JOINT POWERS INSURANCE 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

**17. 2020 CITY COUNCIL MEETING SCHEDULE**

City Manager Mark Denny 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 APPROVE THE 2020 CITY COUNCIL MEETING SCHEDULE.

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

## **CITY COUNCIL REORGANIZATION**

### **A. COUNCIL REORGANIZATION**

City Clerk Ward opened nominations for the position of Mayor.

COUNCIL MEMBER JAMEY M. FEDERICO NOMINATED COUNCIL MEMBER RICHARD A. VICZOREK TO SERVE AS MAYOR. THE NOMINATION WAS SECONDED BY MAYOR JOSEPH L. MULLER.

COUNCIL MEMBER DEBRA LEWIS NOMINATED MAYOR PRO TEM PAUL N WYATT TO SERVE AS MAYOR.

The nomination for Richard A. Viczorek carried by the following vote:

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

NOES: Council Member Debra Lewis, and Mayor Pro Tem Paul N Wyatt

ABSENT: None

Mayor Richard A. Viczorek opened nominations for the position of Mayor Pro Tem.

MAYOR RICHARD A. VICZOREK NOMINATED COUNCIL MEMBER JAMEY M. FEDERICO TO SERVE AS MAYOR PRO TEM. THE NOMINATION WAS SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER.

The nomination carried by the following vote:

AYES: Council Member Jamey M. Federico, Council Member Joseph L. Muller, and Mayor Pro Tem Paul N Wyatt, and Mayor Richard A. Viczorek

NOES: Council Member Debra Lewis

ABSENT: None

### **B. RECOGNITION OF OUTGOING MAYOR**

Mayor Richard A. Viczorek thanked Council Member Joseph L. Muller for his service as Mayor and praised the accomplishments under his leadership. He also commended Mr. Muller for his participation on multiple boards that directly impact the community all while being a dedicated family man.

Council Member Joseph L. Muller thanked the Council, staff, and the community.



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## COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Mayor Pro Tem Jamey M. Federico stated that he had nothing to report.

Council Member Debra Lewis stated her disappointment in the selection of Mayor and stated that Council Member Paul N Wyatt should have been Mayor. She added that the CUSD staff wasn't given sufficient time to answer questions posed by Council Member Muller in regard to Item No. 14.

Council Member Paul N Wyatt stated that he has turned in his list of meetings attended to the City Clerk.

Council Member Joseph L. Muller stated that he has turned in his list of meetings attended to the City Clerk.

Mayor Richard A. Viczorek stated that he had nothing to report.

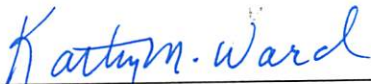
## STAFF REPORTS

City Manager Mark Denny announced upcoming holiday events including the tree lighting at La Plaza, which will occur rain or shine.

City Attorney Patrick Munoz reported that the Sea Side Inn attorney will be submitting a report to the court within the next two weeks and a press release will be released by the City that report is filed.

## ADJOURNMENT

There being no further business before the City Council at this session, Mayor Richard A. Viczorek adjourned the meeting at 7:34 p.m. He announced that the next Regular Meeting of the City Council will be January 21, 2020, 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 JANUARY 21, 2020.

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**Meetings attended since November 20, 2019:**

**Mayor Joseph L. Muller**

11/20/2019 TCA  
11/21/2019 TCA  
11/21/2019 SCE Consultant  
11/23/2019 OCFA  
11/25/2019 OCTA  
11/27/2019 OCFA  
12/02/2019 OCTA

**Mayor Pro Tem Paul N Wyatt**

11/20/2019 Orange County Commission to End Homelessness  
11/20/2019 Housing Advocacy 101  
11/21/2019 San Onofre Nuclear Generating Station Community Engagement Panel  
11/22/2019 ACC-OC Homelessness Update  
12/02/2019 OC Forum Housing Outlook

**Council Member Jamey M. Federico**

12/02/2019 CASA Board Meeting