

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
SEPTEMBER 19, 2017
4:00 P.M.**

AGENDA

Location: Dana Point Community Center, 34052 Del Obispo, Dana Point, California 92629

Next City Council Ordinance No. 17-04

CALL TO ORDER

ROLL CALL OF CITY COUNCIL MEMBERS:

Debra Lewis, Mayor
Paul N Wyatt, Mayor Pro Tem
Joseph L. Muller, Council Member
John A. Tomlinson, Council Member
Richard A. Viczorek, Council Member

CLOSED SESSION

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957

Title: City Manager (setting goals and objectives)

B. CITY ATTORNEY SERVICES PERFORMANCE EVALUATION, Government Code § 54957

Title: City Attorney (setting goals and objectives)

C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d1), (2 cases)

D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (1 case)

Name of Case: City of Dana Point, et al v. Capo By the Sea, Inc; Orange County Superior Court Case No. 30-2016-00859426-CU-MC-CJC

E. CODE ENFORCEMENT UPDATE

- 1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Gov. Code §54956.9(d)(1) (3 cases)**

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Gov. Code §54956.9(a) (4 cases):
 - i. City of DP v. Karns, Case No. 16HM10382
 - ii. City of DP v. Pickering, Case No. 16HM10192
 - iii. Volkmann v. City of DP, OC Superior Case No. 30-2017-00914962-CU-EI-CXC
 - iv. City of DP v. The Sunshine Group LLC, Case No. OCSC Case No. 30-2017-00915900

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

RECONVENE CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATIONS AND PROCLAMATIONS

Presentation – Mark Sutton Retirement

Presentation – Daughters of the American Revolution – Constitution Week

Presentation – Volunteers in Police Services (VIPS) – Manny Jurado

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 on the Consent Calendar and that further reading of such ordinances be waived.

2. [REGULAR MEETING MINUTES, AUGUST 15, 2017](#)

RECOMMENDED ACTION: That the City Council approve the minutes.

3. [PLANNING COMMISSION MEETING MINUTES, JULY 24, 2017](#)

RECOMMENDED ACTION: That the City Council receive and file.

4. [PLANNING COMMISSION ACTIONS, MEETING OF AUGUST 28, 2017](#)

RECOMMENDED ACTION: That the City Council receive and file.

5. [FINANCIAL REVIEW COMMITTEE MINUTES, JULY 26, 2017](#)

RECOMMENDED ACTION: That the City Council receive and file.

6. [HOMELESS TASK FORCE MEETING MINUTES, JULY 26, 2017](#)

RECOMMENDED ACTION: That the City Council receive and file.

7. [MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR](#)

RECOMMENDED ACTION: That the City Council receive and file.

8. [CITY TREASURER'S REPORT, JULY 2017](#)

RECOMMENDED ACTION: That the City Council receive and file the City Treasurer's Report for the month of July 2017.

9. [CLAIMS AND DEMANDS](#)

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

10. [DANA POINT POLICE SERVICES MONTHLY REPORT](#)

RECOMMENDED ACTION: That the City Council receive and file this report.

11. [AMENDING SECTION 2.04.041\(C\) AND \(D\) OF THE DANA POINT MUNICIPAL CODE AND CITY POLICY 109 REGARDING PERMANENT RETENTION OF CITY AUDIO/VIDEOS](#)

RECOMMENDED ACTION: That the City Council 1) introduce an Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING TITLE 2 OF THE CITY OF DANA POINT MUNICIPAL CODE AT SECTION 2.04.041 (c) AUDIO AND VIDEO TAPE RETENTION AND (d) AUDIO TAPE ACCESSIBILITY TO THE PUBLIC; and

2) Amend City Council Policy 109 to reflect permanent retention of the City's audio and video recordings.

12. [SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED EMPLOYEE CLASSIFICATIONS; ESTABLISHING A POSITION TITLE; AND AMENDING THE CONFLICT OF INTEREST CODE](#)

RECOMMENDED ACTION: That the City Council adopt:

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

- 2) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING THE CONFLICT OF INTEREST CODE.

13. RESOLUTION FOR HOMELESS TASK FORCE

RECOMMENDED ACTION: That the City Council approve the Resolution for the Homeless Task Force entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING A HOMELESS TASK FORCE.

14. QUARTERLY FINANCIAL REPORT, JUNE 2017

RECOMMENDED ACTION: That the City Council receive and file the City Financial Report and Management Discussion for the fiscal year ended June 30, 2017.

15. CONTRACT AMENDMENT FOR AUDIT SERVICES

RECOMMENDED ACTION: That the City Council:

1. Approve a contract amendment with Vavrinek, Trine and Day, which covers new costs associated with the audit firm holding short meetings with each individual Financial Review Committee member separately; and
2. Approve a budget adjustment in the amount of \$1,000 to cover the cost of this additional audit services.

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

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

16. [APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF SITE DEVELOPMENT PERMITS 16-0001 AND 16-0002 FOR CONSTRUCTION OF TWO DETACHED DWELLING UNITS ON EACH OF TWO CONTINUOUS LOTS \(4 UNITS TOTAL\) IN THE RESIDENTIAL DUPLEX \(RD-14\) ZONING DISTRICT LOCATED AT 34466 AND 34468 VIA VERDE](#)

RECOMMENDED ACTION: That the City Council deny the appeal and uphold the Planning Commission's decision and adopt the following Resolution:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF SITE DEVELOPMENT PERMITS SDP16-0001 AND SDP16-0002 FOR CONSTRUCTION OF TWO DETACHED DWELLING UNITS ON EACH OF TWO CONTIGUOUS LOTS (4 UNITS TOTAL) IN THE RESIDENTIAL DUPLEX (RD-14) ZONING DISTRICT LOCATED AT 34466 AND 34468 VIA VERDE.

17. [HEARING ON A REQUEST FOR AN EXCEPTION TO THE FLOODPLAIN OVERLAY DISTRICT REGULATIONS FOR THE PROPERTY LOCATION AT 35591 BEACH ROAD](#)

RECOMMENDED ACTION: That the City Council adopt a Resolution approving the property owner's request for an Exception to the Floodplain Regulations limiting modification to structures located in the FP-3 Floodplain Overlay District for the property at 35591 Beach Road (APN: 691-161-24) entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, GRANTING AN EXCEPTION TO CHAPTER 9.31.050(c)(3)(A) TO ALLOW RETENTION OF ALTERATIONS EXCEEDING TEN PERCENT (10%) OF THE VALUATION OF THE STRUCTURE FOR THE PROPERTY LOCATED AT 35591 BEACH ROAD.

UNFINISHED BUSINESS

18. [2017 COMMUNITY SURVEY](#)

RECOMMENDED ACTION: That the City Council receive a presentation from FM3 Research on the 2017 Dana Point Community Survey.

19. [DEVELOPMENT UPDATE](#)

RECOMMENDED ACTION: That the City Council receive and file this report.

NEW BUSINESS

20. [PROPOSED MEMORANDUM OF UNDERSTANDING FOR EVALUATION OF ORANGE COUNTY SHERIFF'S DEPARTMENT CONTRACT LAW ENFORCEMENT SERVICES](#)

RECOMMENDED ACTION: That the City Council:

1. Approve the proposed Memorandum of Understanding (MOU) authorizing the City's participation and commitment to a multi-city effort to commission a contract law enforcement cost and efficiency study; and
2. Authorize the City Manager to execute the proposed MOU; and
3. Appropriate funds in the amount of \$15,700 for the City's estimated share of the cost of the study; authorize the City manager to amend the MOU up to his purchasing authority should the actual cost of the study be higher than currently estimated.

21. [AMENDING CHAPTER 6.14.002, PUBLIC NUISANCES DESIGNATED, OF THE MUNICIPAL CODE, TO DECLARE A PUBLIC NUISANCE EXISTS WHEN A FACILITY THAT SHOULD BE LICENSED PURSUANT TO HEALTH AND SAFETY CODE SECTION 11834.01 ET .SEQ., OR ANY OTHER PROVISION OF LAW, OPERATES WITHOUT A LICENSE OR OTHER REQUIRED APPROVAL, OR OPERATES IN VIOLATION OF A REQUIRED LICENSE OR APPROVAL](#)

RECOMMENDED ACTION: That the City Council introduce and hold a first reading of an Ordinance of the City of Dana Point entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 6.14.002, PUBLIC NUISANCES DESIGNATED, OF THE MUNICIPAL CODE, TO DECLARE A PUBLIC NUISANCE EXISTS WHEN A FACILITY THAT SHOULD BE LICENSED PURSUANT TO HEALTH AND SAFETY CODE SECTION 11834.01 ET. SEQ., OR ANY OTHER PROVISION OF LAW, OPERATES WITHOUT A LICENSE OR OTHER REQUIRED APPROVAL, OR OPERATES IN VIOLATION OF A REQUIRED LICENSE OR APPROVAL.

PUBLIC COMMENTS (Continued)

STAFF REPORTS

(City Manager Mark Denny)

(City Attorney Patrick Muñoz)

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.

ADJOURNMENT

The next Regular Meeting of the City Council will be October 3, 2017, 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, September 12, 2017, 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.