
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
NOVEMBER 3, 2015**

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Olvera at 5:01 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Present: Mayor Carlos N. Olvera
Mayor Pro Tem John A. Tomlinson
Council Member Joseph L. Muller
Council Member J. Scott Schoeffel
Council Member Richard A. Viczorek

Absent: None

CLOSED SESSION

City Attorney Munoz indicated that there was a need for a Closed Session as follows:

- A. CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION, Government Code § 54956.9 (a), (1 case) Name of Case: City of Dana Point v. California Coastal Commission, et al Case No. 37-2010-00099827

Mayor Olvera recessed the meeting into a Closed Session at 5:02 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING - CALL TO ORDER

Mayor Olvera reconvened the meeting at 6:03 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Mike Killebrew, Assistant City Manager; Kathy Ward, City Clerk; Mike Rose, Director of Disaster Preparedness & Facilities; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Brad Fowler, Director of Public Works and Engineering; John Tilton, City Architect; Mark Sutton, Building Official; Kevin Evans, Director of Community Services and Parks; Erica Demkowicz, Senior Planner; Charlie View, Interim Planning Manager; Rachel Johnson, Assistant Administrative Analyst; Jackie Littler, Executive Assistant, DyAnne Weamire, Administrative Assistant, and Bobbi Ogan, Deputy City Clerk.

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PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Viczorek.

INVOCATION

The Invocation was provided by Morrie Hansen, VFW Post 9934 Chaplain.

PRESENTATIONS AND PROCLAMATIONS

Community Development Director Luna-Reynosa introduced Evelyn LaRocca. She reported that Evelyn was a Senior Permit Tech in the permit center and that she was on the front line for providing service to our customers and residents. She stated that she receives great feedback on the service that Evelyn provides. She added that Evelyn is always sharing her ideas on how to improve processes and stated that she appreciates everything that Evelyn does for the City. Mayor Olvera presented a Certificate of Recognition to Evelyn for being selected the employee of the month for November, 2015.

CONSENT CALENDAR

IT WAS MOVED BY MAYOR PRO TEM JOHN A. TOMLINSON, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT ALL RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 9.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro Tem John A. Tomlinson and Mayor Carlos N. Olvera

NOES: None

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

APPROVED 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, OCTOBER 20, 2015

APPROVED THE MINUTES.

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3. PLANNING COMMISSION MEETING MINUTES, OCTOBER 12, 2015

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF OCTOBER 26, 2015

RECEIVED AND FILED.

**5. TOURISM BUSINESS IMPROVEMENT DISTRICT MEETING MINUTES,
SEPTEMBER 22, 2015**

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

8. CITY TREASURER'S REPORT, SEPTEMBER 2015

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF SEPTEMBER, 2015.

9. DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT ANNUAL REPORT AND RENEWAL FOR 2016

A member of the public removed this item from the Consent Calendar.

City Manager Chotkevys provided an introduction and Assistant City Manager Killebrew provided a summary of the item.

Mayor Olvera opened the Public Comments.

Jim Miller, Dana Point, stated that he had reviewed the TBID's past fiscal year budget and found no mention of IlluminOcean. He felt that the report was not complete until all of the events had been reported. He added that he supports the TBID but felt that it could be managed better.

Toni Nelson, Capistrano Beach, stated that the Comprehensive Annual Financial Report had a complete detailing of how the money was spent. She added that the problem she had with IlluminOcean was that it cost One Million Dollars and that the sales tax only increased \$300,000 last year. She felt that the resorts were

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doing the City a favor and to suggest that they don't know what they are doing is insulting.

Mayor Olvera closed the Public Comments.

Council Member Viczorek asked about the makeup of the board and what role our board member plays.

City Manager Chotkevys replied that he was there as a City representative to facilitate the discussion.

Assistant City Manager Killebrew added that the board member also coordinates the day to day stuff with the contractors that the TBID choose.

Council Member Viczorek asked for the history of when the TBID was formed and what the role the City had and how the TBID came about to be formed in the next report.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR CARLOS N. OLVERA, ADOPT **RESOLUTION 15-11-03-01** ENTITLED:

A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE 2016 ANNUAL REPORT AND DECLARING THE INTENTION OF THE CITY COUNCIL TO CONTINUE THE PROGRAM AND ASSESSMENTS FOR THE 2016 CALENDAR YEAR FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID); AND

SET THE DATE FOR A PUBLIC HEARING FOR RENEWAL OF THE DANA POINT BUSINESS IMPROVEMENT DISTRICT FOR DECEMBER 1, 2015.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro Tem John A. Tomlinson and Mayor Carlos N. Olvera

NOES: None

10. AUTHORIZATION TO DISTRIBUTE REQUESTS FOR PROPOSALS FOR THE CUSTODIAL MAINTENANCE SERVICE AT CITY FACILITIES

AUTHORIZED STAFF TO DISTRIBUTE THE REQUESTS FOR PROPOSAL (RFP) TO QUALIFIED CONTRACTORS FOR CUSTODIAL SERVICES AT CITY HALL, THE COMMUNITY CENTER, THE NATURE INTERPRETIVE CENTER, THE PCH PEDESTRIAN BRIDGE AND PARK RESTROOMS.

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PUBLIC COMMENTS

There were no Public Comments received.

PUBLIC HEARINGS

- 11. COASTAL DEVELOPMENT PERMIT 15-0021 REGULATING HOURS OF OPERATION OF PUBLIC FACILITIES, INCLUDING THE MID-STRAND BEACH ACCESS AND CENTRAL STRAND BEACH ACCESS, AT THE DANA POINT HEADLANDS AND INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 13.04, PARKS AND RECREATIONAL FACILITIES REGULATIONS, OF THE MUNICIPAL CODE TO ADDRESS CITY PARKS AND FACILITIES**

City Manager Chotkevys provided an introduction and Community Development Director Luna-Reynosa provided a PowerPoint detailing the staff report. Staff responded to questions of the City Council.

Mayor Olvera opened the Public Hearing.

Susan Whittaker, Dana Point, felt that the public hearing notice was very vague and that she was concerned that people do not know about this item because it did not go to the Planning Commission first.

Denise Erkeneff, Dana Point, representing Surfrider South Orange County Chapter, felt that there was no consistency with the hours of operation on the gates. She stated that there have been four lawsuits and that the City has lost them all. She asked the Council to accept what the Coastal Commission had approved.

Lynn Taylor, Dana Point, stated that she supports staff's recommendation. She added that she walks Strands and has never felt restricted due to the fact that there are two accessways that people could use twenty-four seven. She stated that it was unreasonable to let people go to the beach after dark due to the liability.

Carol Cadora, Dana Point, felt that the beach was for everyone. She reported that she did not receive a public hearing notice and stated that she was opposed to the gates.

Kevin Darnall, Headlands Reserve, LLC, representing Strand Homeowners Association, felt that the staff report was thorough. He stated that there were justifiable reasons for the gates and hours of access, one reason was to prevent property crimes including vandalism and graffiti. He reported that there had been recent activity within the last 48 hours estimated to be about \$1,200 worth of damage.

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Carol Finizza, Dana Point, stated that she supports the staff recommendation to regulate the gates. She felt that staff's plan was consistent with what was approved in Malibu.

Preeti Mathur, Dana Point, stated that she supports the gates being allowed to be closed and added that the public has access to the beach 24 hours a day from the other access areas. She urged the City Council to approve staff's recommendation.

Angela Howe, San Clemente, Legal Counsel for Surfrider Foundation, stated that the CDP was opening the hours a little, but it was not enough. She cited the City's lack of notice to interested parties and stated that this is a public beach where everyone should be notified.

Buck Hill, Capistrano Beach, questioned why the City Council has allowed these gates for the past five years and asked what benefits have accrued to the citizens of Dana Point. He asked the City Council to not approve the application for gates when you know that the Coastal Commission will not approve it. He felt that the City Council should force the developer to honor his Coastal Commission approved plan.

Christine Lindenfelser, Dana Point, stated that she would like to feel safe in the neighborhood at night and that she supports staff's recommendation.

Hal Brice, Dana Point, stated that he supports staff's recommendation and added that access to the beach was not a problem.

August Brice, Dana Point, stated that she has witnessed people urinating and leaving trash. She added that she was concerned about the safety of people not using the sidewalks during the non-daylight hours.

Mayor Olvera closed the Public Hearing

Council Member Muller stated that common sense needs to be used. He does not understand why people need to access the beach through a neighborhood after dark. He made a motion to approve CDP and the new hours. He directed staff to implement the new hours tomorrow.

Council Member Viczorek stated that there was better access now than before and that the beach is very well used. He added that what the Council is talking about is access to the beach through the two gates at night. He stated that the City wants to provide access to the beach but felt that there needs to be a balance of the needs of the people who want to use the beach and the residents who live

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there. He added that he supports extending the hours and felt that this CDP was a reasonable compromise and that he would second the motion.

Mayor Pro Tem Tomlinson felt that the CDP was responsive to the Coastal Commission's request and that there was a balance and equity that can be achieved.

Council Member Schoeffel stated that he was concerned with ending the litigation. He hoped that this process was the first step in this.

Mayor Olvera commended the speakers. He summarized the questions posed by the Surfrider Foundation and stated that he supports staff's recommendation.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK, HOLD A PUBLIC HEARING AND ADOPT **RESOLUTION 15-11-03-02** APPROVING COSTAL DEVELOPMENT PERMIT 15-0021 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT CDP15-0021 REGULATING HOURS OF OPERATION OF PUBLIC FACILITIES, INCLUDING THE MID-STRAND BEACH ACCESS AND CENTRAL STRAND BEACH ACCESS AT THE DANA POINT HEADLANDS; AND

INTRODUCE AND HOLD A FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHPATER 13.04 PARKS AND RECREATIONAL FACILITIES REGULATIONS OF THE MUNICIPAL CODE TO ADDRESS PARKS AND FACILITIES IN THE CITY.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro Tem John A. Tomlinson and Mayor Carlos N. Olvera

NOES: None

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NEW BUSINESS

- 12. CERTIFY THE SUFFICIENCY OF CITIZENS' INITIATIVE PETITION FOR "THE 2015 TOWN CENTER INITIATIVE" AND CONSIDER ACTIONS TO ADOPT THE INITIATIVE ORDINANCE, OR ADOPT A RESOLUTION SUBMITTING THE INITIATIVE ORDINANCE TO THE VOTERS AT A SPECIAL ELECTION, OR ORDER A REPORT ON THE EFFECT OF THE PROPOSED ORDINANCE**

City Manager Chotkevys provided a staff report.

City Clerk Ward provided a summary of the actions outlined in the staff report.

Mayor Olvera opened the Public Comments

Betty Hill, Capistrano Beach, stated that the Town Center initiative includes the entire Town Center Plan. She added that the goal is to create a business district with shops, offices, restaurants and convenient parking. She felt that adopting the initiative would benefit residents and developers and would eliminate contentious issues that have arisen.

Wayne Rayfield, Dana Point, former chairman of the Town Center subcommittee, reminded everyone that the Town Center Plan was a text book example of public outreach. He spoke of the guiding principles and the fact sheet that was published. He asked the City Council to adopt the initiative tonight.

Buck Hill, Capistrano Beach, felt that massive parking concessions have been given to projects and stated that parking is key to the businesses. He asked the City Council to adopt the initiative.

Mayor Olvera closed the Public Comments.

Council Member Viczorek felt that it would be irresponsible to adopt the initiative without more information and stated that the obvious action should be to order a report. He made a motion to order the 30 day report.

Council Member Muller stated that he agreed with Council Member Viczorek that the City Council does not have enough information to adopt the Ordinance. He asked how much a special election would cost.

City Clerk Ward replied that a standalone election would cost anywhere from \$110,000 to \$120,000.

Council Member Muller stated that he needs to see a report so he can understand the implications and seconded the motion. He added that he needs to understand the fiscal impact, the effect on the General Plan and Specific Plan as well as

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the impacts on infrastructure, the ability to attract and obtain new businesses, on vacant parcels, traffic, and traffic congestion.

Council Member Schoeffel stated that the City Council was entitled to a report which is dictated by the Election Code.

Council Member Muller replied that he had pulled up the code and read that the Council could ask for other matters to be addressed in the report.

Council Member Schoeffel felt that the public needs to be heard on this item and a special election set after consideration of the report because 20% of the voters have shown interest in this.

Mayor Olvera stated that he would like to know what convenient parking means as well as what it means by towers in the initiative.

Council Member Schoeffel stated that he would like a thorough legal analysis of the issues that Council Member Muller had brought up this evening so Council will have an idea of what the impact of the initiative would be.

City Manager Chotkevys stated that staff will try and summarize what was said this evening. He added that if there are any specific issues the Council want clarified, they will need to list them tonight to be included in the report.

Mayor Olvera stated that he wants to see metrics; what is too much density, what is required to make this a viable project, will businesses flourish or fail, what is a good percentage of retail space, what percentage of residential is needed to support retail, and what are metrics that make parking plan successful or fail.

Council Member Viczorek stated that the Elections Code has a list of what is required in the report but that his one specific question was he would like a legal opinion on the preferred development of second and third floors as office space.

Council Member Muller asked for clarification on the election including the Coastal Commission.

Mayor Olvera stated that the Council looks to improve the quality of life and provide benefit to the residents. He asked what \$250,000 would do for the City.

IT WAS MOVED BY COUNCIL MEMBER VICZOREK, SECONDED BY COUNCIL MEMBER MULLER, THAT THE CITY COUNCIL 1) ACCEPT THE REPORT OF THE CITY CLERK DECLARING SUFFICIENCY OF THE INITIATIVE PETITION; AND APPROPRIATE FUNDS FROM GENERAL FUND RESERVES TO THE CITY CLERK'S OFFICE IN THE AMOUNT OF \$13,672 FOR COSTS INCURRED TO HAVE THE PETITION SIGNATURES VERIFIED BY THE ORANGE COUNTY REGISTRAR OF VOTERS AND 2) ORDER A REPORT ON THE INITIATIVE

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PURSUANT TO ELECTIONS CODE § 9212 TO BE PRESENTED TO THE CITY COUNCIL AT A REGULAR CITY COUNCIL MEETING NO LATER THAN DECEMBER 1.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, Mayor Pro Tem John A. Tomlinson and Mayor Carlos N. Olvera

NOES: None

Mayor Olvera recessed the meeting at 8:24 p.m. and reconvened the meeting at 8:38 p.m.

JOINT MEETING WITH THE PLANNING COMMISSION

ROLL CALL OF THE PLANNING COMMISSION MEMBERS:

Present: Chairwoman April O'Connor
Vice-Chairman Eric A. Nelson
Commissioner Liz Claus
Commissioner Scott McKhann
Commissioner Dannie R. Murphy

Absent: None

UNFINISHED BUSINESS

13. DOHENY VILLAGE DESIGN CHARRETTE OVERVIEW

Community Development Director Luna-Reynosa introduced staff and consultants.

Dan Frolik, Opticos, provided a PowerPoint presentation summarizing the charrette that was held for the Doheny Village planning area.

Kathe Head, Keyser Marston, provided a summary of the conceptual financial analysis.

Commissioner Claus felt that the City needs to develop a relationship with the realtor community. She stated that she likes the roundabouts and the process of getting everyone involved.

Commissioner McKhann felt that the concepts were great and he liked the economic viability tie in as well as reconfiguring and slowing down the traffic on Doheny Park Road. He added that the City should explore with Caltrans

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converting Pacific Coast Highway into an arterial. He stated that the gateways would be great and that connectivity to the beach is important.

Chairwoman O'Connor stated that it was an exciting way to view development.

Vice-Chairman Nelson asked about small use pop ups and whether or not they would have a separate review process to avoid the CDP process.

Dan Frolik replied that in project areas you want to make it fairly easy to get them through the process and that during the development of the code it will need to be addressed.

Community Development Director Luna-Reynosa clarified that a Local Coastal Plan would be processed for this and that a CDP would require a Planning Commission hearing.

Vice-Chairman Nelson asked how far the coastal boundary went into the village.

Community Development Director Luna-Reynosa replied that the entire plan was subject to the LCP.

Commissioner Murphy stated that she was very encouraged by what she saw at the charrette.

Council Member Viczorek felt that the concept of connectivity was great and asked how the bridge would fit into the form based code.

Dan Frolik replied that the bridge was just a planned concept and the form based code would not be the implementation piece. He added that the bridge was a long term idea based on the cost.

Council Member Viczorek asked what was being done with the code to ensure office space.

Dan Frolik replied that the code can determine areas where residential would not be allowed and that they were recommending no residential west of Doheny Park Road.

Council Member Viczorek asked where the idea of a magnate school came from.

Director of Community Development Luna-Reynosa replied that if the school district uses their property for education they would not have to comply with our zoning code and that is what the school district had indicated as their desired use.

Council Member Muller asked if the City does not use the roundabouts how that affects the overall plan for the village.

Dan Frolik replied that the benefit of a pedestrian oriented main street would not be realized.

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Council Member Muller clarified what would the lack of roundabouts mean economically to the plan.

Kathe Head replied that if the City cannot accomplish the roundabouts, it materially changes the plan.

Council Member Muller asked if the whole plan would fall apart if the changes to Doheny Park Road cannot be made.

Dan Frolik replied an industrial arts district could still be created.

Council Member Muller stated that a Doheny Village brand concerns him as it would create pockets within the City. He added that staff needs to be careful about the areas competing. He felt that the different areas need to enrich not compete with each other.

Mayor Pro Tem Tomlinson stated that he liked the idea of duplexes, triplexes and fourplexes in the residential component.

Mayor Olvera stated that he supports branding. He asked how do you measure full economic potential and what does market analysis for opportunity mean.

City Manager Chotkevys stated that this is an uncontrolled environment. He added that staff was going to plan this but there was no guarantee private development.

Mayor Olvera opened the Public Comments.

Toni Nelson, Capistrano Beach, co-founder of Capo Cares, stated that she loves this plan and was pleased to hear that the plans were progressing. She felt that it was important to begin setting aside separate designated reserves now to be able to accomplish the street improvements.

Mayor Olvera closed the Public Comments.

PUBLIC COMMENTS

There were no additional Public Comments received.

STAFF REPORTS

There were no Staff Reports provided.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

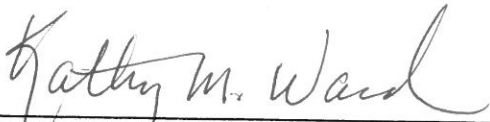
Council Member Viczorek, Council Member Muller, Mayor Pro Tem Tomlinson and

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Mayor Olvera stated that they would turn in their list of meetings attended to the City Clerk.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Olvera adjourned the meeting at 10:19 p.m. and announced that the next Regular Meeting of the City Council will be November 17, 2015, 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 NOVEMBER 17, 2015

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Meetings attended since October 20, 2015:

Mayor Carlos N. Olvera

- October 22 - South OC Association of Mayors
FOW meeting
- October 23 - South OC Economic Council meeting
- October 29 - Meeting of Mayor and Mayor Pro Tem with City Manager

Mayor Pro Tem John A. Tomlinson

- October 31 – Pines Park Halloween Party

Council Member Joseph L. Muller

- October 21 - TBID Board Meeting
Meeting with Jim Miller
- October 22 - Sprint Meeting
Sprint, Chamber Meeting
- October 23 - Raintree Partners Meeting
- October 26 - Meeting with Chamber of Commerce
- October 27 - Meeting with Chair of Coastal Commission

Council Member Richard A. Viczorek

- October 28 - Meeting with constituent re: Lantern District – Dana Point