
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
NOVEMBER 17, 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 5:05 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 Closed Session discussion and stated that there was also a need to add an additional item to Anticipated Litigation Government Code § 54956.9 (d)(4).

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR PRO TEM JOHN A. TOMLINSON, THAT THE CITY COUNCIL ADD AN ITEM TO ANTICIPATED LITIGATION.

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

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, INITIATION OF LITIGATION, Government Code § 54956.9 (d)(4), (2 cases):
1) California Regional Water Quality Control Board, San Diego Region
2) 35291 Beach Road
- B. 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

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City Attorney Munoz reported that a correction to the agenda was needed to be made on Item 18. He stated that there were only two Resolutions for the Council's consideration.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR PRO TEM JOHN A. TOMLINSON, THAT THE CITY COUNCIL AMEND THE AGENDA.

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

RECONVENE CITY COUNCIL MEETING

Mayor Olvera reconvened the meeting at 6:18 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Kathy Ward, City Clerk; Mike Killebrew, Assistant City Manager; 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; Mark Sutton, Building Official; Kevin Evans, Director of Community Services and Parks; Robert Sedita, Management Analyst; Rachel Johnson, Assistant Administrative Analyst; Jackie Littler, Executive Assistant, DyAnne Weamire, Administrative Assistant, Gail Enriquez, City Clerk Specialist, and Bobbi Ogan, Deputy City Clerk.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Schoeffel.

INVOCATION

The Invocation was provided by OCFA chaplain Jeff Hetschel.

PRESENTATIONS AND PROCLAMATIONS

Business of the Month - Gelson's Market

Management Analyst Johnson provided a PowerPoint presentation. She reported that Gelson's opened their first store in 1951 in Burbank, their second location was opened in 1976 in Newport Beach, and in January 2001 their third location was opened in Monarch Beach Plaza. She stated that they employ 85 people from across Southern California. Mayor Olvera presented Jacquie Slobum, Senior Director of Operations and Tom Oliphant, Store Director with a Certificate of Recognition for Gelson's being selected Business of the Month for November, 2015. Heather Johnston, CEO of the

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Dana Point Chamber of Commerce presented Jacquie with a Certificate on behalf of the Chamber.

CONSENT CALENDAR

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR.

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, NOVEMBER 3, 2015

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, OCTOBER 26, 2015

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF NOVEMBER 9, 2015

RECEIVED AND FILED.

5. YOUTH BOARD MEETING MINUTES, OCTOBER 15, 2015

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CITY TREASURER'S REPORT, OCTOBER 2015

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

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8. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

9. DISPOSITION OF NON-ESSENTIAL CITY RECORDS

APPROVED THE 2015 DISPOSITION OF NON-ESSENTIAL CITY RECORDS IN ACCORDANCE WITH CALIFORNIA STATE LAW AND THE CITY'S APPROVED RECORDS RETENTION SCHEDULE AND ADOPTED **RESOLUTION 15-11-17-01** 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.

10. APPROVAL OF REVISION TO RECORDS RETENTION SCHEDULES

ADOPTED **RESOLUTION 15-11-17-02** ENTITLED:

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

11. RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE APPROVAL OF THE MEASURE M (M2) EXPENDITURE REPORT FOR FISCAL YEAR 2014-2015

ADOPTED **RESOLUTION 15-11-17-03** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE RENEWED MEASURE M (M2) EXPENDITURE REPORT FOR THE FISCAL YEAR 2014-2015; and

AUTHORIZED THE MAYOR TO SIGN THE RESOLUTION ON BEHALF OF THE CITY; AND DIRECTED STAFF TO SUBMIT THE RESOLUTION FOR THE CITY OF DANA POINT TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) TO MAINTAIN ELIGIBILITY IN THE MEASURE M (M2) PROGRAM.

12. CITY PARKS AND FACILITIES UTILITIES ACCOUNT COST SAVINGS

RATIFIED THE AGREEMENT BETWEEN THE CITY OF DANA POINT AND PROCURE AMERICA TO EFFECT CHANGES TO UTILITY RATE SCHEDULES IN ORDER TO REALIZE COST SAVINGS.

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13. VAN SCOYOC ASSOCIATES CONTRACT EXTENSION FOR FEDERAL GOVERNMENT REPRESENTATION, ADVOCACY AND CONSULTING SERVICES

APPROVED A CONTRACT EXTENSION WITH VAN SCOYOC ASSOCIATES FOR FIVE (5) ADDITIONAL ONE-YEAR OPTIONS.

14. QUARTERLY FINANCIAL REPORT, SEPTEMBER 2015

RECEIVED AND FILED THE CITY FINANCIAL REPORT AND MANAGEMENT DISCUSSION FOR THE QUARTER ENDED SEPTEMBER 30, 2015.

15. APPROVAL TO CARRYOVER EXISTING SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUNDS (SLESF) AND ALLOCATION OF NEW CITIZEN OPTIONS FOR PUBLIC SAFETY PROGRAM FUNDS TO SLESF

AMENDED THE FY2015-16 SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF) BUDGET BY APPROPRIATING \$139,949, INCLUSIVE OF THE CARRYOVER AND FY 2015/16 CITIZEN OPTIONS FOR PUBLIC SAFETY PROGRAM (COPS) FUNDING TO IMPLEMENT AND MAINTAIN THE FOLLOWING PROGRAMS IN THE CITY OF DANA POINT:

- SCHOOL RESOURCE OFFICER POSITION FOR THIS SCHOOL YEAR.
- BIKE PATROL PROGRAM.
- PROJECT HIDE IT, LOCK IT, OR LOSE IT.
- PARENT PROJECT CLASSES.
- MOTORCYCLE PROGRAM.
- SPECIAL ENFORCEMENT PROGRAM.
- NATIONAL NIGHT OUT PROGRAM.
- DISASTER RESPONSE PROGRAM.

16. SECOND AMENDMENT TO AGREEMENT WITH KEYSER MARSTON ASSOCIATES

AUTHORIZED THE CITY MANAGER TO EXECUTE A SECOND AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES BY AND BETWEEN THE CITY OF DANA POINT AND KEYSER MARSTON ASSOCIATES AND APPROVE AN AMENDMENT TO THE BUDGET.

17. DOHENY VILLAGE PLAN UPDATE

RECEIVED AND FILED.

PUBLIC COMMENTS

Heather Johnston, CEO of the Dana Point Chamber of Commerce, thanked the City Council for the work that was completed in the Lantern District. She felt that it was an

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incredible job and huge improvement for the businesses. She announced that the 38th annual Turkey Trot was coming up and she thanked the City Council for their support as the event provided 1/3 of the Chamber budget. She encouraged everyone to participate in "Shop Small Saturday" in Dana Point the Saturday after Thanksgiving.

Terry Goller, Dana Point, spoke regarding her concern over sober living homes. She asked the City Council to adopt an Ordinance similar to what Costa Mesa has.

City Manager Chotkevys responded that the situation was not easy and that staff was following closely what was going on with the State and Federal level as well as in the courts.

PUBLIC HEARINGS

18. RESOLUTION CONDITIONALLY VACATING A PORTION OF DEL PRADO AVENUE NEAR BLUE LANTERN AND A PORTION OF THE STREET OF THE RUBY LANTERN BETWEEN PACIFIC COAST HIGHWAY AND DEL PRADO AS A RESULT OF RECENT STREET IMPROVEMENTS

City Manager Chotkevys provided an introduction of the item and Director of Public Works and Engineering Fowler presented a staff report. Staff responded to questions of the City Council.

Mayor Olvera opened the Public Hearing.

Buck Hill, Capistrano Beach, stated that these properties were extremely valuable as they provide the property owners the ability to expand and was concerned that the Council was giving away City property. He asked for an explanation of what this would do for the citizens of Dana Point.

Mayor Olvera closed the Public Hearing.

Council Member Muller asked when this was designed did these properties have driveways off of Del Prado.

Director Fowler replied yes.

Council Member Muller asked if the driveways were eliminated when the traffic control was created.

Director Fowler replied yes.

Council Member Muller asked if the property owners only have access from the alley.

Director Fowler replied that yes they only have access from the rear.

Council Member Muller asked if UP Sports was a historic building.

Director of Community Development Luna-Reynosa replied yes.

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Council Member Muller asked if the building could be torn down and rebuilt larger.

Director Luna-Reynosa replied that an environmental impact report would have to be prepared to assess the impacts of destroying a historic resource.

Council Member Muller asked when the parking was designed did the City have to move the sidewalks back.

Director Fowler replied that the City did have to move the sidewalks and that there is an easement that staff is obtaining for use of private property to accommodate our need for parking and the sidewalk on the UP Sports property.

Council Member Schoeffel asked for a summary of the material terms of this proposed agreement.

City Attorney Munoz replied that the property owner owns the property and it was dedicated to the City for the purposes of right-of-way. He stated that the City is simply giving them back their property and that if the City needs the property back for right-of-way, we can get it back.

Council Member Schoeffel asked why this agreement was good for Dana Point.

City Attorney Munoz replied that this was their land. He added that the City was threatened with litigation because they were losing the entry driveways off of Pacific Coast Highway. He stated that the property owners agreed to not pursue litigation if the City moved forward with this process.

Council Member Schoeffel asked if litigation was a factor in this arrangement.

City Attorney Munoz replied yes, that as a part of the negotiation with the property owners, staff committed that they would bring this forward.

Mayor Olvera stated that the City had just recently landscaped, and asked who would be responsible for maintaining it.

Director Fowler replied that the sidewalk area will be maintained by the City and the property owner will maintain the area behind the sidewalk.

Council Member Viczorek asked if the City maintains any liability on the land.

City Attorney Munoz replied that with respect to any area where there is an easement for utilities the City is liable for any damages that the public utility caused. He stated that for surface areas the City would be liable if we did something to cause a dangerous condition to a private property and that it would be the same in the irrevocable offer area where the City had any easements.

Council Member Viczorek asked if the City was reducing its liability with these vacations.

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City Attorney Munoz replied that yes that if the City were to keep these properties as a public right of way area, then the City would have more liability because we would have ownership and control.

IT WAS MOVED BY MAYOR CARLOS N. OLVERA, SECONDED BY MAYOR PRO TEM JOHN A. TOMLINSON, ADOPT **RESOLUTION 15-11-17-04** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONDITIONALLY VACATING A PORTION OF DEL PRADO AVENUE (FORMERLY SAN JUAN AVENUE) PER TRACT MAP NUMBER 573 AND ADJACENT TO ASSESSOR PARCEL NUMBERS 682-233-02 AND 682-233-03; and

ADOPT **RESOLUTION 15-11-17-05** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONDITIONALLY VACATING A PORTION OF THE STREET OF THE RUBY LANTERN (FORMERLY JUANITA STREET), PER TRACT MAP NUMBER 768 AND ADJACENT TO ASSESSOR PARCEL NUMBER 682-231-01; and

APPROVE A PUBLIC ROADWAY, DRAINAGE, UTILITY AND LANDSCAPE EASEMENT AGREEMENT.

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

UNFINISHED BUSINESS

There were no Unfinished Business items.

PRESENTATIONS AND PROCLAMATIONS - CONTINUED

Senator Pat Bates presented to the Council an overview of the legislative session that ended in September.

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UNFINISHED BUSINESS

19. PETITION REGARDING PROCEEDINGS UNDER THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982

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

There being no requests to speak, Mayor Olvera opened and closed the Public Comments.

IT WAS MOVED BY MAYOR CARLOS N. OLVERA, SECONDED BY MAYOR PRO TEM JOHN A. TOMLINSON, TAKE THE FOLLOWING ACTIONS IN ACCORDANCE WITH GOVERNMENT CODE SECTION 53311 ET SEQ. REGARDING THE PETITION TO FORM THE DOHENY BEACH COMMUNITY FACILITIES DISTRICT NO. 2015-1 (CFD NO. 2015-1) AND TO SCHEDULE A PUBLIC HEARING; AND

ADOPT RESOLUTION 15-11-17-06 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING ITS INTENTION TO ESTABLISH CITY OF DANA POINT COMMUNITY FACILITIES DISTRICT NO. 2015-1 (DOHENY BEACH) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN; and

ADOPT RESOLUTION 15-11-17-07 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING ITS INTENTION TO INCUR BONDED INDEBTEDNESS FOR THE CITY OF DANA POINT COMMUNITY FACILITIES DISTRICT NO. 2015-1 (DOHENY BEACH).

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.

NEW BUSINESS

There were no New Business items.

STAFF REPORTS

City Manager Chotkevys reported that Dick Ranger had died last week and that his services were scheduled for November 23 at St. Edwards Church.

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Lt. Chilton added that Dick had served in WWII as a bomber pilot and then had a career with Ford Motor Company. He stated that Dick was a 22 year volunteer for Dana Point Police Services.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

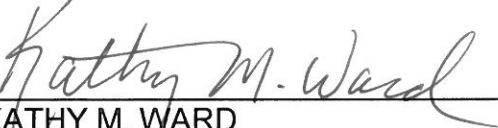
Council Member Schoeffel expressed his support for France.

Council Member Viczorek, Council Member Muller and Mayor Pro Tem Tomlinson reported that they would turn in their list of meetings attended to the City Clerk.

Mayor Olvera reported that he had attended the ribbon cutting for the Lantern District yesterday where he received positive comments and added that the businesses ecstatic were to see the project completed. He thanked the City Council and staff for making this project come to fruition.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Olvera adjourned the meeting in the memory of Dick Ranger at 7:33 p.m. and announced that the next the next Regular Meeting of the City Council will be December 1, 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 DECEMBER 1, 2015

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Meetings attended since November 3, 2015:

Mayor Carlos N. Olvera

November 5 - San Onofre community meeting
November 7 - Goodwill Gala
November 11 - Veterans Day Ceremonies
Speaker at The Fountains
November 13 - 240th Marine Ball
November 14 - Speaker at California Contract Cities
November 16 - Lantern District ribbon cutting
November 17 - Orange County Historical Commission

Mayor Pro Tem John A. Tomlinson

November 5 - City Selection Committee Meeting
November 7 - 2nd Annual Goodwill Gala
November 11 - Veterans Day Ceremony Strands Vista Park
November 16 - Meeting with Senator Bates
PCH/Del Prado Ribbon Cutting

Council Member Joseph L. Muller

November 5 - Meeting with Dave Gutierrez
November 7 - Goodwill Gala
November 11 - Veterans Day Service
November 13 - Marine Ball
November 16 - Legislative update with Senator Bates
Del Prado Ribbon Cutting

Council Member J. Scott Schoeffel

September 15 - Attend meeting with city staff and Larry Hanes regarding homeless issues.
Attend meeting with city staff and William Burger of Colonial Life regarding employee benefits issues.
September 19 - Attend and perform at Dana Point Relay for Life (American Cancer Society) at Lantern Bay Park.
September 23 - Attend meeting of the Transportation Corridor Agencies Joint Finance and Investments Committee.
October 4 - Attend and speak at Pet Project Foundation's 14th Annual Tail of Two Cities Gala at the San Clemente Casino.
October 7 - Attend Dana Point Symphony Board meeting.
October 8 - Attend San Joaquin Hills Transportation Corridor Agency Board of Directors meeting.

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- Attend Foothill/Eastern Transportation Corridor Agency Board of Directors meeting.
- October 11 - Attend and speak at Dana Point Historical Society's 2015 Home Tour reception.
- October 17 - Attend and perform with jazz quartet at the inaugural Art Walk on Del Prado Avenue celebrating National Arts and Humanities month.
- October 20 - Attend Dana Point Homeless Task Force meeting.
- October 22 - Attend meeting of the Transportation Corridor Agencies Joint Strategic Planning Ad Hoc Committee.
- October 28 - Attend meeting of the Transportation Corridor Agencies Joint Procurement Ad Hoc Committee.
Attend meeting of the Transportation Corridor Agencies Joint Finance and Investments Committee.
- October 29 - Attend meeting with Rush Hill (Newport Resource Management, Inc.), Capistrano Unified School District Trustee Gary Pritchard, and city staff regarding options to finance and develop an arts magnet school in Doheny Village.
- November 6 - Attend Soldiers of the Sea Band of Brothers Marine Ball at Laguna Cliffs Marriott Resort and Spa.
- November 12 - Attend San Joaquin Hills Transportation Corridor Agency Board of Directors meeting.
Attend Foothill/Eastern Transportation Corridor Agency Board of Directors meeting.

Council Member Richard A. Viczorek

- November 11 - VFW Post 9934 Veteran's Day Ceremony – Strand Vista Park Veteran's Memorial
- November 13 - 5th Marine Regiment Marine Corps 240th Birthday Ball – Laguna Cliffs Marriott
- November 16 - Lantern District Ribbon Cutting Ceremony – PCH/Del Prado