

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
APRIL 19, 2016
5:00 P.M.**

ACTION AGENDA

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

Next City Council Ordinance No. 16-03

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Tomlinson at 5:02 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

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

CLOSED SESSION

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

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d1), (1 case)
- 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

Mayor Tomlinson recessed the meeting into a Closed Session at 5:03 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

Mayor Tomlinson reconvened the meeting at 6:28 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; Sgt. Rich Himmel; Ursula Luna-Reynosa, Director of Community Development; Brad Fowler, Director of Public Works and Engineering; John Tilton, City Architect; Kevin Evans, Director of Community Services and Parks; Mark Sutton, Building Official; Brian McClure, Parks Manager; Jeff Rosaler, Manager Analyst; Jackie Littler, Executive Assistant; DyAnne Weamire, Senior Administrative Assistant, and Bobbi Ogan, Deputy City Clerk.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that in reference to Closed Session Item A, Anticipated Litigation, the City Council had authorized his office to proceed with litigation in connection to a sober living issue. He added that more information will be available once the claim is filed and becomes public. He reported that last week, the City Manager on behalf of the City Council sent out a letter in support of AB 2772 which is a bill aimed at the regulation of sober living homes.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Schoeffel.

INVOCATION

The Invocation was provided by Associate Pastor Derick Zeulner from South Shores Church.

PRESENTATIONS AND PROCLAMATIONS

Business of the Month – Sundara Salon
Employee of the Month – Kevin Evans
Donate Life Month

CONSENT CALENDAR

Members of the public removed Items 10, 14, and 17 and Mayor Tomlinson removed Item 20 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER OLVERA, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 10, 14, 17 AND 20.

The motion carried by the following vote:

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

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 ON THE CONSENT CALENDAR AND THAT FURTHER READING OF SUCH ORDINANCES BE WAIVED.

2. REGULAR MEETING MINUTES, MARCH 15, 2016

APPROVED THE MINUTES.

3. SPECIAL MEETING MINUTES, MARCH 16, 2016

APPROVED THE MINUTES.

4. PLANNING COMMISSION MEETING MINUTES, FEBRUARY 22, 2016

RECEIVED AND FILED.

5. PLANNING COMMISSION MEETING MINUTES, MARCH 28, 2016

RECEIVED AND FILED.

6. PLANNING COMMISSION ACTIONS, MEETING OF APRIL 11, 2016

RECEIVED AND FILED.

7. TOURISM IMPROVEMENT BUSINESS DISTRICT MINUTES, MARCH 1, 2016

RECEIVED AND FILED.

8. TOURISM IMPROVEMENT BUSINESS DISTRICT MINUTES, MARCH 22, 2016

RECEIVED AND FILED.

9. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

10. CITY TREASURER'S REPORT, MARCH 2016

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

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY COUNCIL MEMBER OLVERA, THAT THE CITY COUNCIL RECEIVE AND FILE THE CITY TREASURER'S REPORT FOR THE MONTH OF MARCH 2016.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

11. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

12. BIENNIAL CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS ADJUSTMENT

APPROVED AND ADOPTED **RESOLUTION 16-04-19-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADJUSTING THE CAMPAIGN CONTRIBUTION AND CAMPAIGN LOAN LIMITS TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX, AS REQUIRED BY SECTION 2.05.058 OF THE DANA POINT MUNICIPAL CODE.

13. LETTER IN SUPPORT OF H.R. 3643 INTERIM CONSOLIDATED STORAGE ACT OF 2015

AUTHORIZED THE MAYOR TO SEND A LETTER IN SUPPORT OF H.R. 3643 ON BEHALF OF THE CITY COUNCIL.

14. DOHENY VILLAGE PLAN UPDATE

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

IT WAS MOVED BY COUNCIL MEMBER MULLER, SECONDED BY MAYOR TOMLINSON, THAT THE CITY COUNCIL RECEIVE AND FILE THIS REPORT AND DIRECT STAFF TO CREATE A RESERVE ACCOUNT FOR DOHENY VILLAGE AS WELL AS EXPLORE FUNDING SOURCES TO FUND THAT ACCOUNT.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

15. CR&R WASTE FRANCHISE AGREEMENT BIENNIAL AUDIT CONTRACT WITH HF&H CONSULTANTS, LLC

AWARDED A PROFESSIONAL SERVICES CONTRACT TO HF&H CONSULTANTS, LLC FOR A BIENNIAL SOLID WASTE FRANCHISE PERFORMANCE AUDIT, AND AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT.

16. APPROVAL OF ART IN PUBLIC PLACES MURAL FOR LOCAL BUSINESS – 34150 PACIFIC COAST HIGHWAY

APPROVED THE PROPOSED PUBLIC ART MURAL DESIGN LOCATED AT 34150 PACIFIC COAST HIGHWAY, DANA POINT AS RECOMMENDED BY THE ARTS AND CULTURE COMMISSION.

17. ENDORSEMENT OF THE CALIFORNIA CULTURAL HERITAGE ART DISPLAY IN DANA POINT

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

IT WAS MOVED BY COUNCIL MEMBER SCHOEFFEL, SECONDED BY MAYOR TOMLINSON, THAT THE CITY COUNCIL SUPPORT THE ARTS AND CULTURE COMMISSION RECOMMENDATION TO ENDORSE A PUBLIC ART DISPLAY THEMED “CALIFORNIA’S CULTURAL HERITAGE” IN DANA POINT.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

18. NATIONAL ARTS AND HUMANITIES MONTH – OCTOBER 2016

DECLARED OCTOBER 2016 AS NATIONAL ARTS AND HUMANITIES MONTH AND ADOPTED **RESOLUTION 16-04-19-02** DECLARING OCTOBER 2016 AS NATIONAL ARTS AND HUMANITIES MONTH ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING OCTOBER 2016 AS NATIONAL ARTS AND HUMANITIES MONTH.

19. AMENDMENT TO CHAPTER 2.20 OF THE DANA POINT MUNICIPAL CODE ENTITLED “EMERGENCY ORGANIZATION”

ADOPTED **RESOLUTION 16-04-19-03** RELATIVE TO WORKERS’ COMPENSATION BENEFITS FOR REGISTERED DISASTER SERVICE WORKERS ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, RELATIVE TO WORKERS' COMPENSATION BENEFITS FOR REGISTERED DISASTER SERVICE WORKER VOLUNTEERS; and

INTRODUCED AND HELD A FIRST READING OF THE ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 2.20 ENTITLED "EMERGENCY ORGANIZATION" OF THE DANA POINT MUNICIPAL CODE; and

AUTHORIZED THE CITY MANAGER TO SIGN CORRESPONDENCE BETWEEN THE CITY AND THE STATE OF CALIFORNIA WITH REGARD TO THESE ACTIONS.

20. APPROVAL OF COOPERATIVE AGREEMENT WITH THE COUNTY OF ORANGE COUNTY FOR CONSTRUCTION OF THE COAST HIGHWAY PEDESTRIAN CROSSING PHASE 1 PROJECT

Mayor Tomlinson removed this item from the Consent Calendar and stated that he would have to abstain from voting as he had a potential conflict of interest.

IT WAS MOVED BY COUNCIL MEMBER SCHOEFFEL, SECONDED BY COUNCIL MEMBER OLVERA, THAT THE CITY COUNCIL APPROVE THE COOPERATIVE AGREEMENT, CONSENT TO THE COUNTY HIGHWAY DECLARATION FOR A PORTION OF COAST HIGHWAY DURING CONSTRUCTION, AND AUTHORIZE THE MAYOR PRO TEM TO SIGN THE DOCUMENT.

The motion carried by the following vote:

- AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, and Council Member Carlos N. Olvera
NOES: Mayor Pro Tem Richard A. Viczorek
ABSENT: None
ABSTAIN: Mayor John A. Tomlinson

21. APPROVAL OF A FIRST AMENDMENT TO THE CONTRACT AGREEMENT WITH JM ELECTRIC FOR AS-NEEDED INSPECTION AND CONSTRUCTION SERVICES

AUTHORIZED THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO THE CONTRACT AGREEMENT WITH JM ELECTRIC, INCORPORATED FOR AS-NEEDED ELECTRICAL INSPECTION AND CONSTRUCTION ESTABLISHING THE ANNUAL NOT-TO-EXCEED AMOUNT FOR THIS MULTI-YEAR AGREEMENT OUTLINED IN THE FISCAL IMPACT SECTION.

22. DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT QUARTERLY REPORT FOR JANUARY-MARCH 2016

RECEIVED AND FILED.

23. AMENDMENT OF CONSULTANT SERVICES AGREEMENT BY AND BETWEEN THE CITY OF DANA POINT AND SZFM DESIGN STUDIOS

RATIFIED THE AGREEMENT ENTERED BETWEEN THE CITY AND SZFM DESIGN STUDIO FOR REVIEW AND DESIGN SERVICES PREVIOUSLY EXECUTED BY THE CITY MANAGER PURSUANT TO HIS SPENDING AUTHORITY, AND AMEND THE AGREEMENT TO AN AMOUNT AS LISTED IN THE FISCAL IMPACT SECTION.

PUBLIC COMMENTS

Michael Villar
Terry Rifkin
Mike Herlihy
Vanessa Christian
Rick Erkeneff
Cindy Fleming
Carol Finizza
Toni Nelson

PUBLIC HEARINGS

24. COASTAL DEVELOPMENT PERMIT CDP15-0021(1), AMENDING CDP15-0021 CONCERNING THE REGULATION OF HOURS OF OPERATION OF STRAND ACCESS AREAS, INCLUDING STRAND VISTA PARK AND THE BEACH ACCESS WAYS, LOCATED AT THE DANA POINT HEADLANDS, MODIFICATION OF PROVISIONS REGARDING GATES AT THE MID-STRAND BEACH ACCESS AND CENTRAL STRAND BEACH ACCESS, AND INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 13.04, PARKS AND RECREATIONAL FACILITIES REGULATIONS, OF THE MUNICIPAL CODE TO REFLECT MODIFIED HOURS OF USE IN THE STRAND ACCESS AREAS

IT WAS MOVED BY COUNCIL MEMBER OLVERA, SECONDED BY COUNCIL MEMBER SCHOEFFEL, THAT THE CITY COUNCIL HOLD A PUBLIC HEARING AND ADOPT **RESOLUTION 16-04-19-04** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AMENDMENTS TO COASTAL DEVELOPMENT PERMIT CDP15-0021 REGULATING HOURS OF OPERATION OF STRAND ACCESS AREAS, INCLUDING BUT NOT LIMITED TO STRAND VISTA PARK AND THE BEACH ACCESSWAYS, AT THE DANA POINT HEADLANDS; and

2) INTRODUCE AND HOLD A FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING SECTION 13.04.030 OF THE DANA POINT MUNICIPAL CODE, RELATING TO HOURS OF USE IN PUBLIC PARKS AND FACILITIES, INCLUDING STRAND ACCESS AREAS IN THE DANA POINT HEADLANDS, AND REPEALING CITY OF DANA POINT ORDINANCE NO. 10-05.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

UNFINISHED BUSINESS

25. 2016 ABATEMENT PROGRAM, AUTHORIZATION TO ABATE WEEDS

IT WAS MOVED BY MAYOR TOMLINSON, SECONDED BY COUNCIL MEMBER SCHOEFFEL, THAT THE CITY COUNCIL HEAR ANY OBJECTIONS REGARDING WEED ABATEMENT AND ADOPT **RESOLUTION 16-04-19-05**:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, HEARING NO OBJECTIONS AND PROCEEDING WITH WEED ABATEMENT.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

NEW BUSINESS

26. APPROVAL OF LEASE AGREEMENT WITH H & K TAKENAGA ENTERPRISES, INC. FOR USE OF PRIVATE PARKING INTO SHARED, PUBLIC PARKING AT 34119 PACIFIC COAST HIGHWAY

IT WAS MOVED BY COUNCIL MEMBER SCHOEFFEL, SECONDED BY COUNCIL MEMBER OLVERA, THAT THE CITY COUNCIL ADOPT **RESOLUTION 16-04-19-06** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF DANA POINT AND H & K TAKENAGA ENTERPRISES, INC. AUTHORIZING THE CITY ATTORNEY TO APPROVE NON-SUBSTANTIVE CHANGES TO THE AGREEMENT AND AUTHORIZING

AND DIRECTING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

PUBLIC COMMENTS (Continued)

There were no additional Public Comments received.

STAFF REPORTS

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Tomlinson adjourned the meeting at 9:28 p.m. and announced that the next Regular Meeting of the City Council will be May 3, 2016, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.