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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 19, 2016**

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**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, Management Analyst; Jackie Littler, Executive Assistant; DyAnne Weamire, Senior Administrative Assistant, and Bobbi Ogan, Deputy City Clerk.

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**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

Assistant Administrative Analyst Johnson provided a PowerPoint presentation. She reported that Kim Brooks and Angie Carter opened Sundara 2-1/2 years ago. She stated that each client that comes in receives a stress relief treatment to help them relax and enjoy their experience. She added that the salon received the Silver Lantern Award for being named the best salon in Dana Point. She stated that Ms. Brooks and Ms. Carter support Clean Water, Preservation of Oceans and beach clean-up as well as volunteer at the Mission Viejo Animal Shelter. Mayor Tomlinson presented a Certificate of Recognition to Kim and Angie for Sundara Salon being selected as the Business of the Month for April 2016. Heather Johnston CEO of the Chamber of Commerce presented the women with a Certificate of Recognition and a one year free membership to the Chamber.

Employee of the Month - Kevin Evans

City Manager Chotkevys introduced Kevin Evans. He stated that Kevin is truly a humble servant of the public and has made himself available on a 24/7 basis. He thanked Kevin for everything that he has done and stated that he would be missed. Mayor Tomlinson presented Kevin with a Certificate of Recognition for being selected the Employee of the Month for April 2016.

Donate Life Month

Dick Veale provided information about Donate Life Month. He stated that the program was important to people who have the need for an organ transplant. He added that he was the recipient of a heart and liver transplant from a 28 year old man who had died in a construction accident. He stated that 44 other people were also recipients of organs

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from this donor. He encouraged everyone to become an organ donor. Mayor Tomlinson presented a Proclamation to Mr. Veale in recognition of 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 JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER CARLOS N. OLVERA, THAT THE CITY COUNCIL ACCEPT THE RECOMMENDATIONS 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 Carlos N. Olvera, Council Member J. Scott Schoeffel, Mayor Pro Tem Richard A. Viczorek, and Mayor John A. Tomlinson

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, 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.

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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.

City Manager Chotkevys provided a staff report.

Mayor Tomlinson opened the Public Comments.

Buck Hill, Capistrano Beach, felt that the report does not provide much information on where the City's money is being spent. He stated that the reason he was bringing this up is there was recently a discussion of the money spent in Town Center from 2003 through the completion of the Del Prado piece of the project this year and that through the testimony of Michael Killebrew it was stated that there has been over 26 Million spent. He added that there are a lot of people who do not know where the City's funds are going and how much is being spent on different projects. He stated that good, clear quarterly statements should be provided.

Mayor Tomlinson closed the Public Comments.

Council Member Muller asked Assistant City Manager Killebrew to respond to Mr. Hill's comments about the 27 Million.

Assistant City Manager Killebrew replied that he was asked to testify on the cost of improvements in Town Center. He stated that those improvements began in 2009 and to this day there are still some outstanding contracts for pick up items which total about \$100,000. He added that the total of all of those expenditures for the improvements themselves is right at 18.9 Million dollars.

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Council Member Muller asked if the Water District was a significant part of the 27 Million.

Assistant City Manager Killebrew replied that he does not know how they came up with 27 Million.

City Attorney Munoz stated that for sake of clarity for those who were not aware of what had transpired last week, Mr. Hill was sued by a citizen's group and he was accused of making false and misleading statements on the arguments relating to the ballot measures. He added that the court agreed that he had made false and misleading statements. He stated that relating particularly to the budget issue the argument made statements to the effect that the City's reserves had been depleted by 20 Million dollars for the Town Center improvements and that statement was deemed to be false and misleading. After much discussion in court it was agreed by Mr. Hill's attorneys, the City and the plaintiffs in the case that the proper number was 18.5 Million number that Mr. Killebrew had testified to. He added that they allowed the ballot statement to be changed to reflect that approximately 20 Million dollars was spent. He stated that the number that was stated again tonight was not accurate in the terms of the true facts and what occurred in court.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER CARLOS N. 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 Carlos N. Olvera, Council Member J. Scott Schoeffel, Mayor Pro Tem Richard A. Viczorek, and Mayor John A. Tomlinson

NOES: 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*

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*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.

City Manager Chotkevys introduced the item and Director Luna-Reynosa provided a staff report.

City Manager Chotkevys asked if staff could comment on the communications received from Caltrans relative to the "road diet".

Cindy Nelson reported that staff had started to include in the environmental impact report an analysis for the proposed "road diet" which was indicated by Opticos in the illustrative plan. She stated that the "road diet" called for the elimination of a travel lane in each direction and roundabouts in key intersections as well as changes to the on/off ramp to the 5 freeway. She added that in staff's discussions with Caltrans it became clear that they were going to require an extensive series of studies to be undertaken to ensure that all detailed analyses were in place before their review of our formal EIR. She stated that staff decided that in the best interest of advancing the land use plan, the City would be better served to peel off the "road diet" as a piece of the original EIR and assume that Doheny Park Road would remain in its current configuration. She added that staff would run a parallel study for the "road diet" and complete the additional technical studies that are being requested by Caltrans. She stated that at some point the two documents would converge.

City Manager Chotkevys added that there are a number of external factors entering the picture and that at some point staff is going to have to make key assumptions to move this project forward quickly.

Mayor Tomlinson opened the Public Comments.

Toni Nelson, Capistrano Beach, stated that the median on Doheny Park Road looks great as well as the landscaping down by the nursery school. She reported that Capo Cares had reached out to the City of San Juan Capistrano and they had mulched the median on the other end of Doheny Park Road. She added that they will be setting up a neighborhood watch program working with Jill Jackson of

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Police Services. She stated that she would prefer no delays and would like to see the Council working with Capistrano Unified School District. She added that it was also necessary for funding to be set aside for the infrastructure.

Mayor Tomlinson closed the Public Comments.

Council Member Muller stated that the City Council was being asked to do the same thing in Doheny Village that the City did in Town Center. He felt that it was time to start setting aside funds for Doheny Village. He asked Director Fowler what the improvements were going to cost.

Director Fowler replied that there are a lot of pieces; prior to the "road diet" and roundabouts. He stated that the improvements to Doheny Park Road will be about seven-ten million dollars, improvements to Victoria one-two million, realignment of Camino Capistrano four-five million, and improvements on Domingo and Sepulveda will be another few million dollars. He added in addition there are the costs associated with connecting the pedestrian and bike accessways. He stated that the project could cost anywhere up to 20-30 Million but it was difficult to say right now because it will depend on what the Council approves.

Council Member Muller stated that he wanted everyone to hear the costs and to know that he was looking for funding sources. He added that it has become clear that the City needs to expand its funding revenue sources for this project. He stated that he would like to direct staff to set up a Doheny Village fund using the development impact fees from Town Center if possible and the increased property and sales tax in that area.

Assistant City Manager Killebrew stated that a separate reserve account would be appropriate.

City Manager Chotkevys added that a line item could be added to the CIP budget and the Council could fund it as they choose from General Fund revenues.

City Attorney Munoz stated that development impact fees need to be used for the purposes they are collected.

**IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL RECEIVE AND FILE THIS REPORT.**

The motion carried by the following vote:

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

NOES: None

City Attorney Munoz asked if Council Member Muller's suggestions were intended to be included in the motion.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY MAYOR JOHN A. TOMLINSON, THAT THE CITY COUNCIL 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 Carlos N. Olvera, Council Member J. Scott Schoeffel, Mayor Pro Tem Richard A. Viczorek, and Mayor John A. Tomlinson

NOES: 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.

City Manager Chotkevys provided a staff report.

Mayor Tomlinson opened the Public Comments.



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Dana Yarger, Dana Point, provided an update and an example of the finished sculptures.

Mayor Tomlinson closed the Public Comments.

City Manager Chotkevys clarified that while the Arts & Culture Commission cannot approve funds, that there was a request for a \$10,000 sponsorship.

Council Member Schoeffel asked if the \$10,000 was reasonable to accomplish the tasks and provide a five-star cow exhibition.

City Manager Chotkevys replied that if the Council approves the concept, the \$10,000 was well within his authority and he would work with staff to make the appropriate funding sponsorship.

Council Member Olvera stated that he would support this display.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR JOHN A. TOMLINSON, THAT THE CITY COUNCIL SUPPORT THE ARTS AND CULTURE COMMISSION RECOMMENDATION TO ENDORSE A PUBLIC ART DISPLAY THEMED "CALIFORNIA'S CULTURE HERITAGE" IN DANA POINT.

The motion carried by the following vote:

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

NOES: 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'

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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.

Director Fowler provided a staff report.

City Manager Chotkevys included that the public needs to have a safe way to cross the road.

City Attorney Munoz asked that any motion that is made include for the agreement to be revised to include the Mayor Pro Tem's signature instead of the Mayor's due to his potential conflict of interest.

Council Member Muller stated that it was his understanding that the bridge was going to be replaced, not removed and that he was concerned with creating a signalized crosswalk. He asked if a study had been done since the traffic travels about 50 miles an hour and that it seems very dangerous to him. He asked for the reasoning for this proposal.

Director Fowler replied that the community have been asking for traffic calming in the area. He stated that County and City staff believe this would be a safe crossing and that the second phase will include elevators to cross over the railroad tracks in addition to a bridge. He added that the advantage was an affordable option for the County.

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City Manager Chotkevys added that a signalized crossing would provide a certain element of traffic calming.

Council Member Muller asked if the City would be taking on the liability with the removal of the bridge.

Director Fowler replied yes, that the County had been unwilling in the past to do improvements unless the City were to assume the possession.

Council Member Schoeffel stated that the bridge poses a safety hazard. He added that the removal of the bridge and the addition of a signalized crosswalk is not a perfect solution, but practical. He felt that in the interest of public safety that the City Council should approve this agreement. He made a motion to approve the contract with the amendment made for the Mayor Pro Tem's signature.

Mayor Pro Tem Viczorek stated that Council Member Muller brought up some good points. He asked how can the County say they would not comply with ADA and force the City to bail them out.

City Attorney Munoz replied that the bridge was built before 1992. He stated that if the crosswalk is built in a manner consistent with approved engineering designs and maintain it, the City would have design immunity.

Mayor Pro Tem Viczorek stated that he was struggling with this and that he was not convinced that it was the right thing to do. He questioned what the City was getting and asked what would happen if the City did not agree.

Director Fowler replied that the City has asked the County for years to do improvements to the bridge.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER CARLOS N. 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 Carlos N. Olvera, and Council Member J. Scott Schoeffel

NOES: Mayor Pro Tem Richard A. Viczorek

ABSTAIN: Mayor John A. Tomlinson

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**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, Dana Point, introduced the "Palisades Destination Imagination" team where each member of the team took turns describing their team. He thanked the City Council for the donation that will help them with their travel costs to the academic competition in Tennessee.

City Manager Chotkevys stated that in keeping with the Council's commitment to the youth and since the City had not received any requests from SOSCA in the last several years that he had asked Assistant City Manager Killebrew to draw a draft for \$2,000 to help sponsor these Dana Point based schools.

Terry Rifkin, Dana Point, reported that the Combat Golf Tournament was coming up and she invited the Council to join them. She thanked City Attorney Munoz for his continuous support and presented him with a plaque showing the 5th Marine Regiment Support Group's appreciation. She stated that members of the 5th Marine Regiment had been recently deployed to the Middle East and would be gone for about 10 months. She reported that in their Adopt-A-Marine program about 75 marines and or their families have been adopted. She added that there were a few left available.

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Mike Herlihy, Dana Point, stated that he supports Measure I and that he was excited for the possibilities that the Town Center will bring. He thanked the Council for their hard work.

Vanessa Christian, Mission Viejo, reported that a representative from each City would be meeting to discuss aerial spraying this coming Thursday. She stated that she did not support aerial spraying and felt that no decision making should be left to one person at Vector Control. She felt that there was a misconception with respect to mosquitos and stated that the public should be educated instead.

Rick Erkeneff, Dana Point, congratulated the City for the recent California Wine Festival and the car show on Del Prado. He commended Sherry Murphy for her actions at the car show.

Cindy Fleming, Dana Point, spoke regarding the ballot measures. She felt that parking leases were not long term solutions for the Town Center.

Carol Finizza, Dana Point, spoke of the recent article the Mayor had written in the Dana Point Times regarding the access at Strands.

Toni Nelson, Capistrano Beach/Capo Cares, stated that she was uncomfortable that the improvements for Doheny Village would be funded by Town Center. She suggested other funding sources such as TOT, operating surplus, and development impact fees from Doheny Village.

Council Member Muller responded to comments made by Cindy Fleming with regard to the Ballot Measures and parking in the Town Center.

## **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**

City Manager Chotkevys provided an introduction of the item and Director Luna-Reynosa provided a staff report.

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Council Member Schoeffel asked if the recommended action was consistent with the executed settlement agreement.

City Manager Chotkevys replied yes.

Council Member Schoeffel clarified that the settlement agreement was unanimously approved by this Council in the past 30 days and executed by the City Manager after that approval. He stated that tonight the City Council would be implementing an agreement that has been executed and is in its performance phase.

City Manager Chotkevys replied that he was correct and that the agreement was unanimously approved by the California Coastal Commission.

Mayor Tomlinson opened the Public Hearing.

Rick Erkeneff, Dana Point, congratulated the Council and staff for their hard work. He felt that the benefits for the public through the settlement is way beyond just access to the beach.

Tim Lindensfeld, Dana Point, stated that he was concerned with the times that were agreed to for the gates. He added that he did not understand why people would need to be at the beach when it was dark.

Christine Lindensfeld, Dana Point, stated that the homeowners do not feel safe and felt that they have been made a target. She added that she would like assistance to have the police patrol because this is no longer a private neighborhood, it is now public property through the streets.

John Summers, Dana Point, stated that he supports the homeowners of Strands and felt that the residents had a right to privacy.

Hal Brice, Dana Point, stated that there will be access to a beach that is closed from 10 p.m. to 5 a.m. with gates that will not be there and was concerned that it would not be controlled.

Preeti Mathur, Dana Point, stated that she supports closing the gates and felt that there was enough access available for the public that they did not need to access through the homes.

Mayor Tomlinson closed the Public Hearing.

Council Member Olvera stated that he was very proud of the Council and what they have accomplished. He made a motion to adopt the Resolution and introduce the Ordinance. Council Member Schoeffel seconded.

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Council Member Muller thanked staff and Coastal Commission staff. He stated that it was amazing when two agencies could come together. He added that the Coastal Commission staff had thanked the Dana Point City Council for their leadership.

Mayor Tomlinson acknowledged Mr. Kaufman for his help in the matter.

IT WAS MOVED BY COUNCIL MEMBER CARLOS N. OLVERA, SECONDED BY COUNCIL MEMBER J. SCOTT 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*

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

NOES: None

## **UNFINISHED BUSINESS**

### **25. 2016 ABATEMENT PROGRAM, AUTHORIZATION TO ABATE WEEDS**

City Manager Chotkevys provided a staff report.

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

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**CITY OF DANA POINT, CALIFORNIA  
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*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 Carlos N. Olvera, Council Member J. Scott Schoeffel, Mayor Pro Tem Richard A. Viczorek, and Mayor John A. Tomlinson

NOES: 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**

City Manager Chotkevys introduced the item and Cindy Nelson provided a staff report.

Council Member Schoeffel asked how many shared spaces does the City need; what is the target.

Director Luna-Reynosa replied that the target is two spaces per 1,000 feet of occupied commercial space less on-site parking associated with that commercial space. She stated that when staff brings another lease agreement to the Council, staff would provide the calculation.

City Manager Chotkevys stated that Mrs. Nelson was looking at innovative ways to try and meet the interim demand. He added that staff is also trying to find our own demand until the area has an economic base to support a parking district.

Mayor Tomlinson opened the Public Comments.

Bob Theel, Dana Point, felt that this lease was an excellent way for the City to begin converting private space to public space. He stated that public parking in the Lantern District will help mitigate overflow parking into residential neighborhoods. He added that the Lantern District Alliance have identified 150 spaces private spaces that could become public spaces and that currently they have 116 spaces in 9 locations that are in various degrees of agreement. He stated that they were coordinating these efforts with Cindy Nelson.

Buck Hill, Capistrano Beach, stated that he agreed with a leasing program and felt that a parking district should be paying for it, not the taxpayers.



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Mayor Tomlinson closed the Public Comments.

Council Member Muller stated that the plan is a "park once and walk" and it has always been designed to be that way. He agreed that at build out the City may need a parking benefit district but at this point there was no need. He added that he would support a motion to approve the item.

Council Member Olvera stated that in the staff report it had been noted that there are 1,000 spaces not being utilized during peak hours and felt that this lease agreement was an excellent start to making private spaces public.

Mayor Tomlinson thanked Mrs. Nelson for her work on negotiating the lease and stated that he was encouraged that there was more parking that may be made available.

Mayor Pro Tem Viczorek thanked staff for all of their work on this item as it was an excellent implementation of the parking strategy.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER CARLOS N. 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 Carlos N. Olvera, Council Member J. Scott Schoeffel, Mayor Pro Tem Richard A. Viczorek, and Mayor John A. Tomlinson

NOES: None

## **PUBLIC COMMENTS**

There were no additional Public Comments received.

## **STAFF REPORTS**

City Manager Chotkevys stated that a letter of support for AB 2772 was sent on behalf of the City. He added that he typically would have put the letter on the City Council

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agenda, but that there was no time. He thanked the Department Heads for everything they do for the City. He stated that the negotiations regarding the gate access have been very frustrating but credit goes to Coastal Commission staff and Dana Point staff.

City Attorney Munoz thanked the 5th Marine Regiment Support Group for the recognition. He stated that it was very humbling to be honored.

**COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED**

Council Member Olvera stated that he would turn in his list of meetings attended to the City Clerk.

Council Member Muller reported that OCFA would be at Beachwood Estates conducting their fire alarm program and installing fire alarms for free this weekend. He stated that he would turn in his list of meetings attended to the City Clerk.

Mayor Pro Tem Viczorek stated that he would turn in his list of meetings attended to the City Clerk.

Mayor Tomlinson reported that the 10th Annual Dana Point Grand Prix would be held Saturday, April 30th and Sunday, May 1st. He stated that he would turn in his list of meetings attended to the City Clerk.

**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.

  
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KATHY M. WARD  
CITY CLERK

APPROVED AT THE MEETING OF MAY 17, 2016

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Meetings attended since March 16, 2016:

**Mayor John A. Tomlinson**

- March 23 - Ribbon Cutting for Jack Randall Photography
- April 3 - Dana Point Historical Society reading of *Two Years Before the Mast*
- April 17 - Lantern District Car Show Mayors Cup Award

**Mayor Pro Tem Richard A. Viczorek**

- March 18 - League of California Cities Sober Living Homes Regional Event
- April 3 - Dana Point Historical Society reading of *Two Years Before the Mast*

**Council Member Joseph L. Muller**

- March 8 - Meeting with Jim Miller and John Hicks
- March 9 - Ribbon Cutting for the Craft House
- March 10 - TCA Board Meeting
- March 11 - Dana Point Harbor Meeting
- March 12 - Saddleback College Annual Gala

**Council Member Carlos N. Olvera**

- March 18 - League of California Cities Sober Living Homes Regional Event
- March 21 - OC Vector Control meeting
- March 23 - Ribbon Cutting for Jack Randall Photography
- March 24 - OC Historical Commission meeting  
SONGS public meeting
- March 30 - Dana Point Harbor 50<sup>th</sup> Anniversary meeting
- April 12 - OC Historical Commission
- April 14 - OC Library Board meeting
- April 15 - Dana Point Harbor 50<sup>th</sup> Anniversary meeting