

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
FEBRUARY 6, 2018
5:00 P.M.**

MINUTES

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

Next City Council Ordinance No. 18-03

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Viczorek at 5:00 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Richard A. Viczorek, Mayor
Joseph L. Muller, Mayor Pro Tem
Debra Lewis, Council Member
John A. Tomlinson, Council Member (*Arrived at 5:04 p.m.*)
Paul N Wyatt, Council Member

CLOSED SESSION

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

- A. **CODE ENFORCEMENT UPDATE**
 - a. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**, Government Code § 54956.9 (a), (3 cases)
 - i. City of DP v. Sunshine Group LLC (Seaside Inn), Orange County Superior Court Case No. 30-2017- 00915900
 - ii. Thomas Volkmann v. City of DP, Orange County Superior Court Case No. 30-2017-00914962-CU-EI-CXC
 - iii. People v. Pickering Properties et al. Orange County Superior Court Case No. 16HM10192
 - b. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**, Significant Exposure to Litigation, Government Code § 54956.9 (d)(2) (3 cases)
- B. **UNLICENSED RESIDENTIAL RECOVERY FACILITIES UPDATE**
 - a. **CONFERENCE WITH LEGAL COUNCIL – EXISTING LITIGATION**, Government Code Section 54956.9 (a) (6 cases)

- i. City v. New Method Wellness, Inc., NMW Beds, LLC, and Pacific View Sober Living LLC, Orange County Superior Court Case No. 30-2017-00904169
 - ii. City v. Capo by the Sea, LLC, Orange County Superior Court Case No. 30-2016-00859426
 - iii. City of Dana Point v. 12 South Recovery; Marie Fike, LLC. Orange County Superior Court Case No. 30-2018-09666539
 - iv. City Of Dana Point v. Sovereign Health, Orange County Superior Court Case No. 30-2018-0966557
 - v. City Of Dana Point v. Donna's House, LLC, Orange County Superior Court Case No. 30-2018-09666527
 - vi. City Of Dana Point v. Ocean Hills Recovery, Inc., Orange County Superior Court Case No. 30-2018-09666532
 - b. CONFERENCE WITH LEGAL COUNCIL – ANTICIPATED LITIGATION, Significant Exposure to Litigation, Government Code Section 54956.9 (d)(2) (1 case)
- C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (2 cases)
- D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957, including:
- a. Direction regarding Written Reports to Council per Council Policy 227
 - b. Competitive Bid –City Attorney Contract
Title: City Attorney

PUBLIC COMMENTS:

Carol Kelly, Dana Point, spoke in support of bidding the City Attorney contract.

Mark Zanides, Dana Point, spoke in opposition to the Items on D(a) and D(b) being discussed on Closed Session instead of Open Session.

Mark Zanides, Dana Point, spoke in opposition to the process of these Closed Session items.

Nancy Leonard, Dana Point, spoke in opposition of putting Item D(b) in Closed Session, per the Brown Act, and would like it to be moved to Open Session.

A motion was made by Council Member Lewis and seconded by Council Member Wyatt to have the City Attorney answer questions related to Item D(b).

Discussion ensued.

A substitute motion was made by Council Member Tomlinson, seconded by Mayor Pro Tem Muller to table Closed Session Items D(a) and D(b).

The motion carried by the following vote:

AYES: Council Member John A. Tomlinson, Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek

NOES: Council Member Debra Lewis

ABSENT: None

Mayor Viczorek recessed the meeting into a Closed Session at 5:25 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

Mayor Viczorek reconvened the meeting at 6:01 p.m. All Council Members were present.

STAFF PRESENT: Mark Denny, City Manager; Patrick Munoz, City Attorney; Mike Killebrew, Assistant City Manager; Kathy Ward, City Clerk; Mike Rose, Director of General Services; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Matthew Schneider, Planning Manager; Jack Holden, Building Official; Rachel Johnson, Assistant Admin. Analyst; Brian McClure, Deputy Community Services Director; Sherry Murphy, Recreation Manager; John Ciampa, Senior Planner, Kelly Reenders, Economic Development Manager; and Bobbi Ogan, Deputy City Clerk.

CLOSED SESSION ANNOUNCEMENT

Mayor Viczorek stated that there was no report and that the City Council had not finished their Closed Session discussion so they would be adjourning after the conclusion of the open session.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Boy Scout Conrad Kistler who was working towards his Citizenship Merit Badge.

INVOCATION

The Invocation was provided by Pastor Father Brendan Manson of St. Edward the Confessor Catholic Church.

PRESENTATIONS AND PROCLAMATIONS

Fire Chief Rob Capobianco introduced himself and provided a summary of his background and experience.

Visit Dana Point Executive Director Jonny Westom introduced himself and provided a summary of his background and experience.

CONSENT CALENDAR

A member of the public removed Item 7 from the Consent Calendar.

IT WAS MOVED BY MAYOR PRO TEM MULLER, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 7.

The motion carried by the following vote:

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

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, JANUARY 16, 2018

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, JANUARY 8, 2018

RECEIVED AND FILED.

4. FINANCIAL REVIEW COMMITTEE MINUTES, NOVEMBER 28, 2017

RECEIVED AND FILED.

5. TRAFFIC IMPROVEMENT SUBCOMMITTEE MINUTES, DECEMBER 20, 2017

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CITY TREASURER'S REPORT, DECEMBER 2017

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

Toni Nelson, Capistrano Beach, indicated that the City Treasurer's report had significant errors.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER LEWIS, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL NOT RECEIVE AND FILE THE CITY TREASURER'S REPORT FOR THE MONTH OF DECEMBER 2017 AND TO DIRECT STAFF TO RETURN WITH THE REPORT AT THE NEXT MEETING WITH THE ERRORS CORRECTED.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

8. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

9. DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT/VISIT DANA POINT QUARTERLY REPORT FOR OCTOBER – DECEMBER 2017

RECEIVED AND FILED.

PUBLIC COMMENTS

Mary Navarro, Dana Point, announced her candidacy for the Orange County Board of Education and asked for support in this endeavor.

Jenene Rudder, Dana Point, shared information she had learned about sober living facilities. She felt that the City needed a more proactive approach.

Wayne Yost, Dana Point, spoke regarding sober living facilities. He announced that on Friday, February 23rd the VFW was going to conduct a ceremony to retire worn and tattered American flags. He stated that it was a community event and that all were invited.

Steve Stewart, Dana Point, spoke regarding competitive bidding for the City Attorney contract as the Financial Review Committee had recommended.

Nancy Leonard, Dana Point, spoke regarding the City Attorney contract and felt that it was not a personnel issue but a financial issue.

Mark Zanides, Dana Point, spoke regarding the City Attorney contract.

Discussion ensued.

Council Member Lewis made a motion to move Closed Session items D(a) and D(b) into open session. Council Member Wyatt seconded this motion for discussion.

Discussion ensued.

Council Member Lewis made a substitute motion to take the previously tabled motion off the table. The motion died for lack of a second.

PUBLIC HEARINGS

10. AN APPEAL OF PLANNING COMMISSION APPROVAL FOR COASTAL DEVELOPMENT PERMIT CDP17-0016/VARIANCE V17-0001/SITE DEVELOPMENT PERMIT SDP17-0029 FOR AN ADDITION AND REMODEL TO AN EXISTING DUPLEX IN THE RESIDENTIAL BEACH ROAD DUPLEX 18 (RBRD-18) LOCATED AT 35099 BEACH ROAD IN THE COASTAL ZONE

Senior Planner Ciampa provided a PowerPoint presentation. He stated that if the City Council approves the project, that staff would request that Condition Number 27 be removed, but if the Planning Commission's decision was upheld, that Condition Number 27 would remain.

Discussion ensued.

Mayor Viczorek opened the Public Hearing.

Rob Williams, Architect for the Applicant, stated that his client was asking for a one-time addition on the second floor. He added that the constraints of the detached carport did not allow for a second floor. He indicated that even with the addition that the home will be substantially smaller than the surrounding homes. He asked the Council to allow the owner to improve the property and for the garage door to remain.

Discussion ensued.

Mayor Viczorek closed the Public Hearing.

IT WAS MOVED BY COUNCIL MEMBER LEWIS, SECONDED BY COUNCIL MEMBER WYATT, THAT THE CITY COUNCIL APPROVE THE APPLICANT'S APPEAL OF THE PLANNING COMMISSION'S MODIFIED APPROVAL FOR COASTAL DEVELOPMENT PERMIT CDP17-0016/VARIANCE V17-0001/SITE DEVELOPMENT PERMIT SDP17-0029 FOR A REMODEL AND ADDITION TO A DUPLEX ON BEACH ROAD AND ADOPT **RESOLUTION 18-02-06-01** WITH THE REMOVAL OF CONDITION NUMBER 27 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVAL OF COASTAL DEVELOPMENT PERMIT CDP17-0016, VARIANCE V17-0001, AND SITE DEVELOPMENT PERMIT SDP17-0029 FOR AN ADDITION AND REMODEL TO AN EXISTING DUPLEX LOCATED WITHIN THE CITY'S FLOODPLAIN AND COASTAL OVERLAY DISTRICT AT 35099 BEACH ROAD.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

UNFINISHED BUSINESS

There were no Unfinished Business items.

NEW BUSINESS

11. FUNICULAR TOOTH AND POWER RAIL REPLACEMENT

Director of General Services Rose provided a staff report.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER LEWIS, SECONDED BY COUNCIL MEMBER WYATT, THAT THE CITY COUNCIL APPROVE THE USE OF HEADLANDS COMMUNITY FACILITIES DISTRICT (CFD) FUNDS FOR THE PURCHASE AND INSTALLATION OF REPLACEMENT TOOTH RAILS AND POWER RAILS FOR THE STRANDS FUNICULAR; AND APPROVE A SOLE SOURCE CONTRACT WITH OUTDOOR ENGINEERS FOR THE REPLACEMENT PROJECT; AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT DOCUMENTS.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

12. 2018 SPECIAL EVENTS CALENDAR

Deputy Community Services Director McClure provided a staff report.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER LEWIS, SECONDED BY COUNCIL MEMBER WYATT, THAT THE CITY COUNCIL APPROVE THE SPECIAL EVENT CALENDAR FOR 2018 AND THE RECOMMENDED VENUES; AND 2) AUTHORIZE THE CITY MANAGER TO EXECUTE THE TWO SEPARATE STATE AND SOUND CONTRACTS TO SOUTHERN CALIFORNIA SOUND STAGE & LIGHTING CORPORATION FOR THE FESTIVAL OF WHALES CONCERT AND CONCERTS IN THE PARK.

The motion carried by the following vote:

- AYES: Council Member Debra Lewis, Council Member John A. Tomlinson, Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek
- NOES: None
- ABSENT: None

PUBLIC COMMENTS (Continued)

There were no additional Public Comments received.

STAFF REPORTS

City Manager Denny introduced Jack Holden, the City's new Building Official.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

13. MAYOR VICZOREK: RECEIVE STAFF REPORT ON STATUS OF HOMELESS TASK FORCE WORK PLAN

Economic Development Director Reenders provided a PowerPoint presentation detailing the Homeless Task Force Work Plan.

Council Member Wyatt stated that at their task force meeting last week, they had added to the work plan putting together a regional proposal.

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

Council Member Wyatt stated that he had turned in his list of meetings attended to the City Clerk. He reported that he had spent two days in San Antonio at Haven for Hope learning about what works and what does not work. He indicated that a written trip report will be included with his list for the Minutes.

Council Member Lewis made three statements for the record as follows:

"I put item D, currently shown on Closed Session Agenda, on the PUBLIC portion of agenda. The Mayor moved them to closed session over my objection. I believe in transparency. Today was the opposite. Today was government in secret. Residents deserve to hear not just what happened, but WHY.

Debates must be public UNLESS we must protect confidential information per Brown Act. Public needs to hear their representatives' reasoning for a vote. That is American democracy. Excluding public is not justified just because a matter is sensitive, embarrassing or uncomfortable. I think the closed session for item D unjustified.

Twice before City Council has debated modifications to the City Attorney contract. 12/15/05. 7/3/07. Both times the debate took place in open session. Debate over competitive bid and the form for attorney's report should be in public, not secret. Secrecy breeds suspicion."

Mayor Pro Tem Muller welcomed Chief Campobianco and apologized for not conducting the introduction but that he was not feeling well. He stated that he would turn in his list of meetings attended to the City Clerk.

Mayor Viczorek stated that he had turned in his list of meetings attended to the City Clerk.

CLOSED SESSION – Continued

Mayor Viczorek announced that the Council would be returning to Closed Session and because most people would not be in attendance when they had finished he announced that he would be adjourning the meeting tonight in memory of Raymond Woods Jr. He reported that Mr. Woods was an accomplished pianist and a longtime member of SOSCA.

Mayor Viczorek recessed the meeting into a Closed Session at 8:26 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

Mayor Viczorek reconvened the meeting at 10:08 p.m. All Council Members were present with the exception of Council Member Lewis.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz reported that the City Council voted unanimously to ratify a settlement agreement with Pickering Properties, Inc.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Viczorek adjourned the meeting at 10:08 p.m. and announced that the next Regular Meeting of the City Council will be February 20, 2018, 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 FEBRUARY 20, 2018

Meetings attended since January 16, 2018:

Mayor Richard A. Viczorek

January 18 OCMVCD Board of Trustees Meeting
January 25 Dana Point chamber of commerce Board of Directors Installation Dinner
January 31 Strategic Plan Workshop

Mayor Pro Tem Joseph L. Muller

January 17 League of Cities
January 18 League of Cities
January 24 TCA
January 25 OCFA
January 31 Strategic Planning Workshop

Council Member Debra Lewis

January 18 Advocates for Responsible Treatment
January 19 Senator Pat Bates
January 22 Robin Valles Lantern Village Association
January 23 Niguel Shores
Financial Review Committee
January 24 DP Historical Society
January 25 Chamber Installation Dinner
January 26 Tarquin Perziosi Costa Mesa
January 29 Bev Jorgensen DP Chamber
Kelsey Brewer ACC-OC
Homeless Task Force
January 31 Strategic Planning Workshop
February 1 Kelly Prediville Ocean Institute

Council Member John A. Tomlinson

January 29 CASA

Council Member Paul N Wyatt

January 18-19 Haven for Hope, San Antonio, TX
January 25 Orange County Public Library Board Meeting
Dana Point Chamber of Commerce Induction Dinner
January 28 City of Dana Point Homeless Task Force Monthly Meeting
January 31 City of Dana Point City Council Workshop on Strategic Planning
February 1 South Orange County Watershed Management Area Executive Committee Meeting
February 2 ACC-OC Haven for Hope Debrief Call

Haven for Hope Trip Report Summary to City Council 6 February 2018

Visit Overview

On January 18th and 19th, Kelly Reenders and I travelled to San Antonio, Texas to visit the Haven for Hope - "an organization providing, coordinating, and delivering an efficient system of care for people experiencing homelessness in Bexar County." Haven for Hope is a 501(c)(3) nonprofit created by a public-private partnership that included the City of San Antonio and Bexar County but is managed by an independent board.

This visit was arranged by the Association of California Cities – Orange County and included State Senator John Moorlach and Orange County Director of OC Community Resources Dylan Wright plus staff and elected officials from several Orange County cities.

Haven for Hope has been in full operation since 2010 and is considered a leader in helping those experiencing homelessness with recovery. We toured the 22-acre campus and met with their Founder, CEO, Director of Transformational Services, and various staff members, plus the City of San Antonio's Director of Human Services, Police Homeless Patrolman, and members of Bexar County Jail Diversions and Mental Health Divisions.

The goal – to learn as much as possible from this organization and discuss how to apply it to Orange County.

Haven for Hope Overview

Recovery is a 2-year program consisting of 3 phases and managed by a Care Coordinator. Basic shelter is offered to all. All other services are limited to Baxer County residents.

Haven for Hope attempts to provide every service needed to enable homelessness recovery in one location.

Phase 1: Shelter is an emergency service with a low-barrier for entry and is available to all. Its' intent is to stabilize the situation, determine needs. start treatment if necessary and create a recovery plan. It includes mental health services including drug and alcohol recovery. A kennel and vet services are provided. Duration < 30 days. Capacity is 600 per night.

Phase 2: Transformational services implement the recovery plan. All the services necessary to prepare for permanent housing are provided. Residents must be drug and alcohol free and have a financial and housing plan. Job skills training, community involvement, and child care are provided. Duration < 5 months. Capacity 900 with about 2.5 turnovers per year; graduates about 2,300 per year.

Phase 3: Permanent housing with all the necessary support services. Duration of continued Care Coordination – 1 to 1 ½ years. All permanent housing is off-campus and sourced apartment by apartment.

Community Involvement

The homeless are members of the community who must be embraced and assisted in their recovery. They must be treated with dignity, respect and understanding but held to the same standards of conduct as all other members of the community. Their self-respect requires it and the community's tolerance requires it.

The faith-based organizations have taken the lead in reaching out as part of transformation services and including them in their communities; continuing after they are permanently housed.

To overcome objections from the neighbors, they were included with a goal of making the neighborhood better than it was before the facility was there. Additionally, Haven for Hope extended medical, dental and child care services to the neighborhood.

Community outreach to educate the public was and is a critical component. Panhandling, food give-away and other similar activities are discouraged, and donation stations are set up all over town.

Law Enforcement

Biometric-based photo IDs are required to access services, even the shelter, in order to keep bad actors out. Drug dealers prey on the homeless unless they are kept out. For those wanting to enter the transformation program, police will help clear warrants from their records.

The police contract with Haven for Hope's 24x7 Sobering Unit and Crisis Unit. This get the police back on the street quickly and provides better care.

An intake unit at the County Jail accepts inmates being discharged without homes into the transformation housing and services.

Those homeless who refuse services are informed that breaking the laws will not be tolerated. The proactive police patrols make it clear that they will follow up every couple of hours.

Summary

One message was repeated in nearly every meeting – this happened because of strong, determined leadership! Yes, it was nice that Bill Greehey contributed \$100 million of his own money to kick this off. Yes, it was nice that Bill Greehey had a lot of contacts from his years as the CEO of Valero Oil & Gas. Those were nice, but it was his leadership that was and is the key to making this happen. There were hundreds of excuses, many objections, dozens of places to stumble, become discouraged and give up. There was lack of agreement at every level of government. But there was one person who took the lead and refused to be deterred.