

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
MARCH 20, 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 5:29 p.m.*)
Paul N Wyatt, Council Member

CLOSED SESSION

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

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (3 cases)
- B. CODE ENFORCEMENT UPDATE
 - a. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (2 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
 - b. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2) (2 cases)
- C. UNLICENSED RESIDENTIAL RECOVERY FACILITIES UPDATE
 - a. CONFERENCE WITH LEGAL COUNCIL – EXISTING LITIGATION, Government Code Section 54956.9 (d)(1) (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

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

RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

Mayor Viczorek reconvened the meeting at 6:00 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; Rachel Johnson, Assistant Administrative Analyst; Lt. Margie Sheehan; Ursula Luna-Reynosa, Director of Community Development; Matthew Sinacori, Director of Public Works and Engineering; Matthew Schneider, Planning Manager; Belinda Deines, Senior Planner; and Bobbi Ogan, Deputy City Clerk.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that in connection with the closed session discussion regarding the threat of litigation the City received over districting, that the Council has asked that his office to send a letter to the attorney that had sent the demand requesting a meeting with him and his clients to discuss the case, specific facts here in Dana Point and remedies that might be available.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Wyatt.

INVOCATION

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

PRESENTATIONS AND PROCLAMATIONS

There were no Presentations nor Proclamations.

CONSENT CALENDAR

A member of the public removed Item 6, a member of staff removed Item 10, and Council Member Lewis removed Item 11.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 6, 10, AND 11.

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, MARCH 6, 2018

APPROVED THE MINUTES.

3. ADJOURNED REGULAR MEETING STRATEGIC PLAN WORKSHOP MINUTES, FEBRUARY 28, 2018

APPROVED THE MINUTES.

4. PLANNING COMMISSION MEETING MINUTES, FEBRUARY 26, 2018

RECEIVED AND FILED.

5. OCEAN WATER QUALITY SUBCOMMITTEE MINUTES, SEPTEMBER 26, 2017

RECEIVED AND FILED.

6. OCEAN WATER QUALITY SUBCOMMITTEE MINUTES, NOVEMBER 14, 2017

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

Hoiyin Ip, Dana Point, reported that the Sierra Club was working with cities on trash reduction campaigns and that she hoped that Dana Point could work with them also.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL RECEIVE AND FILE THE MINUTES.

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

7. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

8. MONTHLY FINANCIAL ACTIVITY REPORT, JANUARY 2018

RECEIVED AND FILED THE MONTHLY FINANCIAL ACTIVITY REPORT FOR JANUARY 2018.

9. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

10. DANA POINT POLICE SERVICES MONTHLY REPORT

Staff removed this item from the Consent Calendar.

Lt. Sheehan provided a PowerPoint presentation.

Brief discussion ensued.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE CITY COUNCIL RECEIVE AND FILE THE REPORT.

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

11. DEVELOPMENT UPDATE

Council Member Lewis removed this item from the Consent Calendar.

Council Member Wyatt left the Chambers at 6:20 p.m. due to a potential conflict of interest.

Discussion ensued.

Council Member Wyatt returned to the Chambers at 6:23 p.m.

Discussion continued.

IT WAS MOVED BY COUNCIL MEMBER LEWIS, SECONDED BY COUNCIL MEMBER WYATT, THAT THE CITY COUNCIL DIRECT STAFF TO ADD THE DANA POINT SPECIFIC PLAN AREA, THE TOWN CENTER PLAN AREA AND ANY OTHER AREAS THAT HAVE ANY FORM OF COMMERCIAL THAT IS NOT CURRENTLY LISTED UNDER THE FORMAL DEFINITION OF COMMERCIAL IN THE CODE, TO BE INCLUDED IN THE UPCOMING ANNUAL CODE CLEAN UP.

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

Discussion ensued.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL RECEIVE AND FILE THE REPORT.

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. ANNUAL HOUSING ELEMENT PROGRESS REPORT

RECEIVED AND FILED THE ANNUAL HOUSING ELEMENT PROGRESS REPORT FOR 2017.

PUBLIC COMMENTS

Hoiyin Ip, Dana Point, reported that an event called Community Choice Energy (CCE) was scheduled at the UCI on April 11th. She stated that all cities were invited and that the event was free.

Julian Joshua, Dana Point, asked the Council to consider adopting a zoning ordinance for residential recovery facilities.

Karen Ezell, Capistrano Beach, spoke about sober living homes and asked what the City has been doing about this subject. She felt that the information provided on the City's website was lacking.

Jenene Rudder, Dana Point, felt that the number of Homeless Task Force meetings should not be reduced due to current circumstances. She offered to participate on the task force as a resident.

Rebecca Goodman, Laguna Niguel, asked the Council to join the "March For Our Lives" which was taking place on Saturday morning at the San Clemente Public Library.

Nancy Leonard, Dana Point, commended the Council for agreeing to not contact the demographer for districting and suggested that they not discuss the demographer's work with the City Manager or the City Attorney as well.

City Council Member Lewis stated in response to Public Comments regarding sober living homes that the City of Dana Point had joined the ACC-OC last year and that she is serving on the Sober Living Task Force. She reported that the task force had met with the Florida State Attorney who is helping the cities with this issue. She wanted to ensure the public that the City is involved and active.

PUBLIC HEARINGS

13. PUBLIC HEARING TO TAKE INPUT REGARDING POTENTIAL TRANSITION TO BY-DISTRICT ELECTIONS FOR CITY COUNCIL MEMBERS

City Attorney Munoz provided a staff report and Robert McEntire from National Demographic Corporation (NDC) provided a PowerPoint presentation.

Mayor Viczorek opened the Public Hearing.

Jenene Rudder, Dana Point, spoke regarding districting and questioned whether it would be helpful.

DeeDee Blair, Dana Point, stated that she was opposed to districting and asked for the City to contact the attorney to begin negotiations.

Mark Zanides, Dana Point, felt that this process was being hastily done.

Carol Kelly, Dana Point, stated that she opposes districting and asked the Council to follow how Mission Viejo is handling this issue.

Jill Donello, Dana Point, stated that she does not support districting.

Mark Burton, Dana Point, felt that districting was not a good idea for Dana Point and he asked the Council to look at other solutions.

Chyrl Payne, Dana Point, stated that she was not convinced that the City was in violation of the CVRA and felt that dividing the City into districts was not a good solution.

Joanie McKnight, Dana Point, stated that she does not support districting in Dana Point.

Julian Joshua, Dana Point, stated that he does not support districting in Dana Point.

Karen Ezell, Capistrano Beach, stated that she opposes districting for the City.

Betty Hill, Capistrano Beach, felt that districting would reduce the voting rights of the residents and stated that there was still time for Council to consider other options.

Ardyce Kehiayan, Dana Point, suggested that the Council look for other solutions.

Carol Wilson, Capistrano Beach, stated that she was opposed to districting as she felt that it does not provide the representation that the City needs. She added that if it must be done, she suggested four districts with an at-large Mayor.

Toni Nelson, Capistrano Beach, stated that she does not support districting and that she did not understand the rush. She added that citizens should be able to choose how many districts there should be.

Nancy Leonard, Dana Point, stated that she was concerned with the haste of going to district elections.

Steve Stewart, Dana Point, stated that he opposes districting and suggested that the Council follow Mission Viejo's course of action.

Richard Gardner, Capistrano Beach, suggested three districts with two at large representatives.

Mayor Viczorek closed the Public Hearing.

Discussion ensued.

UNFINISHED BUSINESS

14. SHORT-TERM RENTAL COUNCIL AD HOC COMMITTEE

Mayor Viczorek opened the Public Comments.

Joanie McKnight, Dana Point, had questions about the purpose of the Ad Hoc Committee.

Bev Jorgensen, CEO of the Dana Point Chamber of Commerce, stated that the Chamber supports the idea of an Ad Hoc Committee and added that they would like to have a representative on the committee.

Mayor Viczorek closed the Public Comments.

Discussion ensued.

IT WAS MOVED BY MAYOR PRO TEM MULLER, SECONDED BY COUNCIL MEMBER LEWIS, THAT THE CITY COUNCIL APPOINT COUNCIL MEMBERS TOMLINSON AND WYATT TO AN AD HOC COMMITTEE TO WORK WITH STAFF ON THE DEVELOPMENT OF UPDATES TO THE MUNICIPAL CODE REGARDING THE REGULATION OF SHORT-TERM RENTALS.

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

Mayor Viczorek recessed the meeting at 9:30 p.m. and reconvened the meeting at 9:39 p.m.

NEW BUSINESS

15. DOHENY VILLAGE PLAN UPDATE

Senior Planner Deines provided a staff report and PowerPoint presentation.

Mayor Viczorek opened the Public Comments.

Bev Jorgensen, Executive Director of the Chamber of Commerce, stated that the board had voted to support and believe in the nine "Guiding Principles".

Larry Robinson, Capistrano Beach, stated that he was in support of the Doheny Village Plan update and felt that it would protect the culture of the area.

James Surber, Costa Mesa, felt that this was a workable outline for Zoning Code changes and represents a year of public input and workshops. He stated that it was a great collaboration.

Toni Nelson, Capistrano Beach, stated that she supports the "Guiding Principles" and that she was happy to see the current uses protected. She felt that the working group should include other stakeholders including Capistrano Unified School District as well as those in the Smart & Final shopping center.

Steve Carpenter, Capistrano Beach, stated that the community had come together and cohesively worked with staff to develop the update.

Mayor Viczorek closed the Public Comments.

Discussion ensued.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL RECEIVE AND FILE THE DOHENY VILLAGE PLAN UPDATE REPORT; ADOPT "GUIDING PRINCIPLES" FOR THE DOHENY VILLAGE PLAN UPDATE PROJECT; AND DIRECTED STAFF TO:

- A. CONTINUE MEETING WITH THE DOHENY VILLAGE MERCHANTS ASSOCIATION AS A WORKING GROUP AND PREPARE A DRAFT ZONING CODE UPDATE FOR CITY COUNCIL REVIEW;

- B. PREPARE A ZONE TEXT AMENDMENT FOR INCLUSION IN THE 2018 ZONING ORDINANCE CLEANUP PROJECT TO STREAMLINE EXISTING, NONCONFORMING PROPERTY REGULATIONS AND PROVIDE MORE FLEXIBILITY FOR VILLAGE PROPERTY OWNERS TO INVEST IN UPDATING AND IMPROVING THEIR PROPERTIES;
- C. PREPARE A BEAUTIFICATION PLAN; AND
- D. SUSPEND WORK AUTHORIZED BY THE COUNCIL FOR THE DOHENY VILLAGE PLAN UPDATE EIR CONTRACT.

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 thanked the Doheny Village Merchants Association members for coming out to the meeting. He reported that he had reviewed the information provided on the website regarding residential recovery facilities and felt that it was in need of an update which would be done. He stated that regarding the attempted suicide that the Sheriff's Department works closely with California Highway Patrol and that traffic was stopped on the I-5 during that incident.

Community Development Director Luna-Reynosa reported that per the Building Code that if the City receives an appeal of the Building Official's determination that staff is required to let the Council know and provide a copy of the appeal.

City Attorney Munoz added that the appeal was for the Dana Point Communion Center which is a marijuana dispensary that staff has taken some code enforcement action against and the appeal is on the action taken to address the code violations.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Tomlinson stated 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.

Council Member Lewis stated that she would turn in her list of meetings attended to the City Clerk.

Mayor Pro Tem Muller reported that the OCFA Board had appointed Brian Fennessy, who previously headed the San Diego Fire-Rescue Department, as its new Chief last Thursday. 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.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Viczorek adjourned the meeting at 10:03 p.m. and announced that the next Regular Meeting of the City Council will be April 3, 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 APRIL 3, 2018

Meetings attended since March 6, 2018:

Mayor Richard A. Viczorek

March 10 Festival of Whales Cardboard Classic Dinghy Dash Judge
Festival of Whales Fish for Life Clam Chowder Cook-off Judge
March 15 OCMVCD Board of Trustees Meetings
March 17 Santa Ana Riverbed Homeless Encampment Lawsuit Status Conference

Mayor Pro Tem Joseph L. Muller

March 7 CUSD AdHoc
Taste of Dana Point
Parking and Circulation Task Force
March 8 TCA
March 12 OCDA Rehabilitation Exploitation Hearing
March 14 OCFA Budget and Finance
March 15 OCFA Chief Retirement Luncheon
OCFA Board Meeting
March 16 OCFA Press Conference
March 20 Meeting with Residents

Council Member Debra Lewis

March 7 Capistrano Unified School District Ad Hoc
Dana Hills High School Taste of DP
March 8 Niguel Shores Women's Club
March 9 Chamber
March 10 Chief Sheehan
March 12 D.A. Sober Living Home Forum
March 13 Chiefs Chilton and Sheehan, Sgt. Hale promotion
Meeting with Residents
March 14 Lantern Village Association
March 19 Capo Cares Distracting Presentation
March 20 Dave Aronberg, FL State Attorney Sober Living Home Forum

Council Member Paul N Wyatt

March 7 Dana Hills High School Taste of Dana Point
March 8 iHope
March 9 ACC-OC Pension Forum
March 14 Mike Powers
March 15 Green Lantern Concerned Residents
March 16 Orange County Rescue Mission
March 20 R.H. Dana Elementary Coffee with the Principal
Roundtable Discussion with Florida State Attorney Dave Aronberg: Sober Living Homes