

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
MAY 5, 2020
5:00 P.M.**

MINUTES

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

Next City Council Ordinance No. 20-02

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Richard A. Viczorek at 5:01 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Richard A. Viczorek, Mayor
Jamey M. Federico, Mayor Pro Tem (Teleconference)
Debra Lewis, Council Member (Teleconference)
Joseph L. Muller, Council Member (Teleconference)
Paul N Wyatt, Council Member (Teleconference)

CLOSED SESSION

City Attorney Patrick Munoz requested that the City Council add an Anticipated Litigation item to the Agenda.

D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION - Government Code § 54956.9 (d)(1), (1 case)

1. City of Huntington Beach, City of Dana Point, et al. v. Governor Newsom, Orange County Superior Court No. 30202001139512-CU-MC-CJC

IT WAS MOVED BY MAYOR RICHARD A. VICZOREK, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER THAT THE CITY COUNCIL ADD THE ITEM TO THE CLOSED SESSION AGENDA.

Discussion ensued.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

He read the additional items for discussion:

- A. THREAT TO PUBLIC SERVICES OR FACILITIES – Government Code § 54957 (a): consultation with City Attorney, Director of Emergency Services, Director of General Services regarding COVID 19
- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), 1 case
- C. CONFERENCE WITH LEGAL COUNSEL - LITIGATION STRATEGY REVIEW INCLUDING POTENTIAL DISCUSSION OF THE FOLLOWING EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (7 cases)
 1. City of Dana Point v. Southern California Recovery Center, TML Holdings, LLC, Case No. 30-2018-01012750
 2. City of Dana Point v. Donna's House, LLC, Michael Marriner, Jr., Katy Marriner, Ralph M. Wright, Jr., Trustee, or His Successor, Under The Ralph M. Wright, Jr. 2017 Family Trust, Case No. 30-2018-01011653
 3. City of Dana Point v. Changes & Recovery, Inc., Shirley K. Zulauf, Case No. 30-2019-01059862
 4. City of Dana Point v. Wings of Hope, Parissa Assadi, Hamid Rezaie, Case No. 30-2019-01059792
 5. City of DP v. Sunshine Group LLC (Seaside Inn), Orange County Superior Court Case No. 30-2017- 00915900
 6. City v. New Method Wellness, Inc., NMW Beds, LLC, and Pacific View Sober Living LLC, Orange County Superior Court Case No. 30-2017-00904169
 7. Concerned Residents of Dana Point vs. City of Dana Point Case No. 2019- 01117892-CU-TT-CXC

Mayor Richard A. Viczorek recessed the meeting into a Closed Session at 5:06 p.m. pursuant to Government Code Section 54957.

RECESS OF CITY COUNCIL MEETING UNTIL 6:00 P.M.

RECONVENE CITY COUNCIL MEETING

Mayor Richard A. Viczorek reconvened the meeting at 6:06 p.m. All Council Members were present (with all but Mayor Viczorek present) via teleconference.

STAFF PRESENT: Michael Killebrew, City Manager; Kelly Reenders, Acting Assistant City Manager; Patrick Munoz, City Attorney; Kathy Ward, City Clerk; Brenda Wisneski, Community Development Director; Matt Sinacori, Public Works Director and City Engineer; Robert Sedita, General Services Director; Lt. Kirsten Monteleone, Chief of Police Services; Jeff Rosaler, Community Development Manager, and Jaimie To, Management Analyst.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Richard A. Viczorek.

INVOCATION

There was no Invocation.

PRESENTATIONS AND PROCLAMATIONS

There were no Presentations or Proclamations.

READING OF ORDINANCE TITLES

There were no Ordinance Titles.

CONSENT CALENDAR

IT WAS MOVED BY MAYOR RICHARD A. VICZOREK 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 Debra Lewis, Council Member Joseph L. Muller, Council Member Paul N Wyatt, Mayor Pro Tem Jamey M. Federico, 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 AND THAT FURTHER READING OF SUCH ORDINANCES BE WAIVED.

2. REGULAR MEETING MINUTES, APRIL 21, 2020

APPROVED THE MEETING MINUTES.

3. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

4. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CITY TREASURER'S REPORT, FEBRUARY 2020.

5. CITY TREASURER'S REPORT, MARCH 2020

RECEIVED AND FILED.

6. QUARTERLY FINANCIAL REPORT, MARCH 2020

RECEIVED AND FILED THE CITY FINANCIAL REPORT AND MANAGEMENT DISCUSSION FOR THE QUARTER ENDED MARCH 31, 2020.

PUBLIC COMMENTS

City Clerk Kathy Ward read sixteen (16) Public Comments that were submitted to her via email.

DeniseMarie Bettencourt listed reasons why she feels the Transportation Corridor Agency (TCA) is a corrupt agency.

Samuel Goldstein asked the City Council to explore alternative uses of the 73 right of way.

Michelle Schumacher urged City Council to look deeper into TCA operations and budgets.

Pam Ollar wrote in opposition of opening the beaches.

Craig Alexander (Dana Point) wrote in favor of rescinding the stay at home order.

Patrick Brennan (Dana Point) wrote in favor of opening the beaches.

Teresa Jackson asked for additional clarity on instructions regarding beach closures and wrote in favor of opening the beaches.

Kimberly Lee-Valdivia (Dana Point) wrote in favor of re-opening the City and County.

Jim & Carol Kelly (Dana Point) wrote in opposition of the legal action against Governor Newsom.

Wayne Yost (Dana Point) wrote with his concerns regarding the shut down and political and economic policy.

Hoiyin Ip (Dana Point) suggested that grocery stores set up a Shop Local section.

Jim Celer spoke in opposition of opening the beaches.

Maura Mikulec (Dana Point) spoke in opposition of the legal action against Governor Newsom.

Julie Bishop (Dana Point) spoke in favor of opening the beaches.

Tyler Kumaaz suggested that the City create one-way sidewalks to encourage social distancing and encouraged the City to provide more food distribution for seniors.

Toni Nelson (Dana Point) spoke in opposition of the legal action against Governor Newsom.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Paul N Wyatt stated that he has turned in his list of meetings attended to the City Clerk.

Council Member Debra Lewis thanked the public for their comments and stated that she would like to continue to receive emailed public comments. She also stated her concerns with the TCA Board and their money management.

City Attorney Patrick Munoz suggested that the discussion regarding TCA be agendized to adhere to the Brown Act.

Discussion ensued.

Council Member Joseph L. Muller stated that he has turned in his list of meetings attended to the City Clerk. He also commended the City Council for their leadership and taking a position regarding the State order.

City Attorney Patrick Munoz stated that Council Member Joseph L. Muller's comments would be more appropriate under the agendized item regarding the subject.

Discussion ensued.

Mayor Pro Tem Jamey M. Federico stated that he had no comments.

Mayor Richard A. Viczorek stated that he will turn in his list of meetings attended to the City Clerk.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

7. OPERATING AGREEMENT BETWEEN CITY OF DANA POINT AND THE RESORTS OF DANA POINT ASSOCIATION, INC.

Kelly Reenders, Acting Assistant City Manager, Provided a Staff Report.

IT WAS MOVED BY MAYOR RICHARD A. VICZOREK SECONDED BY COUNCIL MEMBER PAUL N WYATT THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO EXECUTE AN OPERATING AGREEMENT BETWEEN THE CITY OF DANA POINT AND THE DANA POINT RESORTS ASSOCIATION INC. DBA VISIT DANA POINT TO PROVIDE TOURISM RELATED SERVICES ON BEHALF OF THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (THE "AGREEMENT").

Discussion ensued.

The motion carried by the following vote:

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

NOES: None

ABSENT: None

8. UPDATE OF LOCAL EMERGENCY BY DIRECTOR OF EMERGENCY SERVICES CREATED BY COVID19

City Manager Michael Killebrew provided a staff report.

Discussion ensued.

MAYOR RICHARD A. VICZOREK CALLED FOR A BRIEF RECESS OF THE MEETING AT 7:34 PM

MAYOR RICHARD A. VICZOREK RECONVENED THE MEETING AT 7:38 PM

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER DEBRA LEWIS, SECONDED BY COUNCIL MEMBER PAUL N WYATT, TO MIRROR THE SAN DIEGO COUNTY ORDINANCE MANDATING FACE COVERINGS

Discussion ensued.

The motion failed by the following vote:

AYES: Council Member Debra Lewis and Council Member Paul N Wyatt

NOES: Council Member Joseph L. Muller, Mayor Pro Tem Jamey M. Federico, and Mayor Richard A. Viczorek

ABSENT: None

Discussion ensued.

THE CITY COUNCIL RECEIVED AND FILED THE REPORT.

9. RECOUPING COSTS UNDER WEED ABATEMENT PROGRAM – COUNCIL MEMBER LEWIS

Council Member Debra Lewis provided a report.

Mayor Richard A. Viczorek opened Public Comment.

Toni Nelson (Dana Point) spoke in support of recouping costs under the weed abatement program.

Mayor Richard A. Viczorek closed Public Comment.

IT WAS MOVED BY COUNCIL MEMBER DEBRA LEWIS SECONDED BY COUNCIL MEMBER PAUL N WYATT THAT THE CITY COUNCIL AUGMENT THE EXISTING WEED ABATEMENT POLICY TO INCLUDE FEES INCURRED REGARDLESS OF AT WHAT STAGE A PROPERTY OWNER COMPLIES.

Discussion ensued.

AN AMENDED MOTION WAS MADE BY MAYOR PRO TEM JAMEY M. FEDERICO, AGREED UPON BY COUNCIL MEMBER LEWIS TO DIRECT STAFF TO REVIEW THE WEED ABATEMENT PROGRAM AND CREATE A STRUCTURE WHERE FEES OF THE PROGRAM CAN REASONABLY BE RECOUPED AND RESEARCH A STRATEGY TO REDUCE THE NUMBER OF PROPERTIES INCLUDED IN THE WEED ABATEMENT PROGRAM AND REPORT BACK TO COUNCIL WITHIN SIXTY DAYS.

STAFF REPORTS

City Manager Michael Killebrew stated that he had nothing to report.

City Attorney Patrick Munoz stated that he had nothing to report.

PUBLIC COMMENTS (CONT.)

Mayor Richard A. Viczorek re-opened Public Comment.

Penny Maynard (Dana Point) stated that she has developed a website (retailtogodanapoint.com) assisting local businesses during the transition to re-opening.

Karen (Beachwood) stated that there is a man living in a truck across the street from the Beachwood Mobile Home Park.

Liz Rice (Dana Point) thanked the City Council for keeping the beaches open.

Mayor Richard A. Viczorek closed Public Comment.

RECESS OF CITY COUNCIL MEETING TO CLOSED SESSION AT 8:50 P.M.

RECONVENE CITY COUNCIL MEETING AT 9:59 P.M.

ADJOURNMENT

There being no further business before the City Council at this session, City Clerk Kathy Ward adjourned the meeting at 10:00 p.m. She announced that the next Regular Meeting of the City Council will be May 19, 2020, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

Shayna Suh for:

KATHY M WARD
CITY CLERK

APPROVED AT THE MEETING OF MAY 19, 2020.

Meetings attended since April 22, 2020:

Mayor Richard A. Viczorek

04/27/2020 Meeting with Congressman Mike Levin
04/29/2020 SJHTCA Joint Operations and Finance Committee Meeting
04/30/2020 Emergency City Council Meeting

Council Member Paul N Wyatt

04/22/2020 Ocean Institute Board of Directors Meeting
04/24/2020 Sue Parks, OC United Way and Jeanne Awrey, OC Department of Education
04/24/2020 CA Governor's Testing Task Force Webinar
04/28/2020 Soledad Rivera, Family Solutions Collaborative and Ariel Hyatt, Habitat for Humanity
04/28/2020 Congressman Mike Levin's Virtual Town Hall
04/29/2020 ACC-OC Evictions and Foreclosures Moratorium Webinar – Best Practices and Resources for Local Leaders
04/29/2020 Ocean Institute Partnerships and Collaborations Task Force
04/30/2020 Marshall Moncrief and Clayton Chau, Be Well OC
04/30/2020 CA Governor's Office and CalOES Conference Call with OC Elected Officials on OC Beach Closures

Council Member Joseph L. Muller

04/22/2020 TCA
04/22/2020 OCTA
04/23/2020 TCA
04/23/2020 OCFA
04/24/2020 League of Cities
04/24/2020 Assemblywoman Petrie-Norris
04/27/2020 TCA
04/29/2020 TCA
05/04/2020 OCTA