

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
OCTOBER 6, 2020
5:00 P.M.**

AGENDA

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

Next City Council Ordinance No. 20-03

REVISED SAFETY ALERT (EFFECTIVE AS OF JUNE 2, 2020)

AS A RESULT OF THE COVID-19 VIRUS, AND RESULTING ORDERS AND DIRECTION FROM THE PRESIDENT OF THE UNITED STATES, THE GOVERNOR OF THE STATE OF CALIFORNIA, AND THE ORANGE COUNTY HEALTH CARE AGENCY, AS WELL AS THE CITY OF DANA POINT EMERGENCY DECLARATION, THE PUBLIC HAS NOT BEEN PERMITTED TO PHYSICALLY ATTEND DANA POINT CITY COUNCIL MEETINGS SINCE MID MARCH, 2020. AS COVID-19 RELATED RESTRICTIONS EASE, THE PUBLIC WILL NOW BE ALLOWED TO ATTEND COUNCIL MEETINGS PROVIDED SOCIAL DISTANCING GUIDELINES ARE FOLLOWED. THESE GUIDELINES WILL RESULT IN VERY LIMITED OPPORTUNITIES, ON A FIRST COME BASIS, FOR THE PUBLIC TO OBSERVE THE COUNCIL MEETING FROM THE FOYER WHICH IS ADJACENT TO THE COUNCIL CHAMBER AND TO ENTER THE CHAMBER TO MAKE PUBLIC COMMENTS. MEMBERS OF THE CITY COUNCIL MAY CONTINUE TO PARTICIPATE IN MEETINGS TELEPHONICALLY IF THEY CHOOSE PURSUANT TO GOVERNOR NEWSOM'S EXECUTIVE ORDER N-29-20. SIMILARLY, MEMBERS OF THE PUBLIC MAY CHOOSE TO PARTICIPATE ELECTRONICALLY BY WATCHING THE MEETING TO WHICH THIS AGENDA APPLIES LIVE ON COX CABLE CHANNEL 855 OR ONLINE ON THE CITY OF DANA POINT YouTube CHANNEL.

PUBLIC COMMENT: PUBLIC COMMENT MAY BE PROVIDED IN PERSON, ELECTRONICALLY OR BY MAIL. IF YOU CHOOSE TO ATTEND THE MEETING AND WISH TO DELIVER PUBLIC COMMENT IN PERSON, YOU ARE ENCOURAGED TO WEAR FACE COVERINGS AND MAINTAIN SOCIAL DISTANCING. TEMPERATURE SCREENINGS ARE MANDATORY FOR ALL PERSONS ENTERING CITY HALL. CITY STAFF IN ATTENDANCE AT THE MEETING WILL BE COORDINATING ENTRY TO THE COUNCIL CHAMBERS WHEN PUBLIC COMMENT IS OPEN. THERE WILL BE LIMITED SPACE AT THE COUNCIL MEETING FOR MEMBERS OF THE PUBLIC TO SIT OR STAND TO OBSERVE THE MEETING LIVE FROM THE FOYER ADJACENT TO THE COUNCIL CHAMBER. IF THAT SPACE IS EXCEEDED PERSONS WISHING TO PRESENT PUBLIC COMMENT IN PERSON WILL BE PERMITTED TO LINE UP OUTSIDE AND WILL BE ALLOWED TO SPEAK. AFTER SPEAKING, HOWEVER, THEY WILL BE REQUIRED TO GO BACK OUTSIDE UNLESS ONE

OF THE LIMITED SPOTS INSIDE THE FOYER BECOME AVAILABLE. MEMBERS OF THE PUBLIC WILL BE REQUIRED TO FOLLOW STAFF'S DIRECTIONS. ALTERNATIVELY, YOU MAY SUBMIT COMMENTS ON ANY AGENDA ITEM OR ON ANY ITEM NOT ON THE AGENDA IN WRITING VIA MAIL TO "CITY COUNCIL" 33282 GOLDEN LANTERN, DANA POINT, CA 92629 OR BY EMAIL TO COMMENT@DANAPOINT.ORG. ALL COMMENTS RECEIVED BY 4:00 PM ON THE DATE OF THE MEETING WILL BE PROVIDED TO THE CITY COUNCIL IN ADVANCE TO ALLOW TIME FOR THE COUNCIL TO READ THEM. TO BE CONSIDERED AS PART OF THE MEETING TO WHICH THIS AGENDA APPLIES, MAILED OR EMAILED COMMENTS MUST BE RECEIVED NO LATER THAN 4:00 P.M. ON THE DAY OF THE MEETING (ALTHOUGH ALL COMMENTS WHENEVER RECEIVED WILL BE SHARED WITH THE COUNCIL.) EMAILS SHOULD INCLUDE "PUBLIC COMMENT" AND THE DATE OF THE MEETING IN THE SUBJECT LINE, AS WELL AS REFERENCE THE AGENDA ITEM NUMBER, IF APPLICABLE. MAILED COMMENTS SHOULD PROMINENTLY INCLUDE A SIMILAR REFERENCE AT THE TOP OF THE FIRST PAGE. MAILED AND EMAILED COMMENTS WILL NOT BE READ BY THE CITY CLERK DURING THE MEETING, BUT WILL BE INCLUDED IN THE RECORD.

CALL TO ORDER

ROLL CALL OF CITY COUNCIL MEMBERS:

Richard A. Viczorek, Mayor
Jamey M. Federico, Mayor Pro Tem
Joseph L. Muller, Council Member
Paul N Wyatt, Council Member

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (1 case)
- B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (2 cases)

Name of Case: City of DP v. Sunshine Group LLC (Seaside Inn), Orange County Superior Court Case No. 30-2017- 00915900

Name of Case: City of Dana Point v. Changes & Recovery, Inc., Shirley K. Zulauf, Case No. 30-2019-01059862

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

RECONVENE CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATIONS AND PROCLAMATIONS

OCFA Fire Prevention Week

READING OF ORDINANCE TITLES

At this time, the City Clerk will read the title(s) of the ordinance(s) listed on the agenda.

CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and all will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the City Council, the public, or staff request specific items be removed from the Consent Calendar for separate action.

1. **WAIVE THE READING OF ORDINANCES AND APPROVE READING BY TITLE ONLY**

RECOMMENDED ACTION: That the City Council approve the reading by title only of all ordinances and that further reading of such ordinances be waived.

2. **[REGULAR MEETING MINUTES, SEPTEMBER 15, 2020](#)**

RECOMMENDED ACTION: That the City Council approve the minutes.

3. **[PLANNING COMMISSION MEETING MINUTES, AUGUST 24, 2020](#)**

RECOMMENDED ACTION: That the City Council receive and file.

4. **[PLANNING COMMISSION MEETING MINUTES, SEPTEMBER 14, 2020](#)**

RECOMMENDED ACTION: That the City Council receive and file.

5. **[ARTS & CULTURE COMMISSION MEETING MINUTES, JUNE 10, 2020](#)**

RECOMMENDED ACTION: That the City Council receive and file.

6. **[MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR](#)**

RECOMMENDED ACTION: That the City Council receive and file.

7. **[CITY TREASURER'S REPORT, AUGUST 2020](#)**

RECOMMENDED ACTION: That the City Council receive and file the City Treasurer's Report for the month of August 2020.

8. CLAIMS AND DEMANDS

RECOMMENDED ACTION: That the City Council receive and file the Claims and Demands.

9. AWARD OF CONTRACT FOR THE CONSTRUCTION OF THE ANNUAL RESIDENTIAL ROADWAY RESURFACING PROJECT FY 19/20

RECOMMENDED ACTION: That the City Council:

1) Declare the bid submitted by Onyx Paving Company non-responsive due to failure to list the required subcontractor for the landscape/irrigation restoration portions of the Annual Residential Roadway Resurfacing Project FY 19/20 (Project) as outlined in the Contract Documents, as well as not listing the proper prequalified subcontractor for work associated with the South Coast Water District's (SCWD) facilities.

2) Acknowledge that the inadvertent clerical error relative to the mobilization/demobilization bid amounts for Bid Schedules A, B and D outlined in the letter submitted by Nobest Incorporated, included as Supporting Document B, has not substantially altered the bid submitted, including the total Project amount, and no relief is warranted.

3) Approve the award of a contract (Action Document A) to Nobest, Inc. for construction of the Annual Roadway Resurfacing Project FY 19/20 and authorize the City Manager or his designee to sign and administer the subject contract and approve additional payment for change orders and contingencies.

4) Authorize the expenditure as noted in the Fiscal Impact Section with GMU Geotechnical for materials testing and quality assurance per the existing As-Needed Consultant Services Agreement with GMU Geotechnical.

5) Authorize the City Manager to process a Standard Consultant Services Agreement with Westland Group, Incorporated, for surveying, construction staking and monument preservation for the Project and the associated expenditure.

6) Authorize the funding transfers for Fund #12 and for CIP #1317.

10. CDBG CARES ACT CONTRACT

RECOMMENDED ACTION: That the City Council approve the contract for the Coronavirus Aid, Relief, and Economic Security (CARES) Act Community Development Block Grant for Emergency Operations Center Improvements and Meals on Wheels Program with the County of Orange, California.

11. ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA APPROVING THE SUBMITTAL OF AN IMPROVEMENT PROJECT, IN CONJUNCTION WITH OTHER AGENCIES, TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) FOR FUNDING UNDER THE COMPETITIVE MEASURE M2 REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM

RECOMMENDED ACTION: That the City Council:

1) Adopt a Resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA APPROVING THE SUBMITTAL OF AN IMPROVEMENT PROJECT, IN CONJUNCTION WITH OTHER AGENCIES, TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE COMPETITIVE MEASURE M2 REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM; and

2) Authorize the Mayor to sign the Resolution on behalf of the City.

12. **RATIFY THE SECOND AMENDMENT CONTRACT RENEWAL BETWEEN ALL CITY MANAGEMENT SERVICES, INC. AND THE CITY OF DANA POINT FOR PROVIDING SCHOOL CROSSING GUARD SERVICES**

RECOMMENDED ACTION: That the City Council ratify the City Manager's approval of the Second Amendment to the Contract Agreement between All City Management Services, Inc. and the City of Dana Point for providing School Crossing Guard Services for fiscal year 2020-2021.

PUBLIC COMMENTS

Any person wishing to address the City Council during the Public Comments section or on an Agenda item is asked to complete a "Request to Speak" form available on the table at the side of the Council Chamber. The completed form is to be submitted to the City Clerk prior to the Agenda item being called by the Mayor and prior to the individual being heard by the City Council.

In order to conduct a timely meeting, there will be a three-minute time limit per person and an overall time limit of thirty minutes for this Public Comments portion of the agenda. At the Mayor's discretion, the balance of public comments will be heard after the New Business portion of the agenda. All comments are to be directed to the City Council and shall not consist of any personal attacks. Members of the public are expected to maintain a professional, courteous decorum during their comments. State law prohibits the City Council from taking action on a specific item unless it appears on the posted Agenda.

If anyone has handouts to distribute to the City Council, please follow proper procedure and hand them to the City Clerk. The City Clerk will see that they are distributed.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

The City Council may discuss, act upon or seek consensus on matters described under Council Reports only if: they are agendaized with a complete written report included; or, if an item arose subsequent to the posting of the agenda and the Council determines that an emergency exists. Non-agendaized items may be presented as informational only.

PUBLIC HEARINGS

13. [LOCAL COASTAL PROGRAM AMENDMENT LCPA19-0002/ZONE TEXT AMENDMENT ZTA19-0002 RELATED TO ACCESSORY DWELLING UNITS, JOINT USE OF PARKING FACILITIES, AND PUBLIC NOTIFICATION](#)

RECOMMENDED ACTION: That the City Council:

- 1) Conduct a Public Hearing; and
- 2) Adopt the following Resolution approving and requesting certification of LCPA19-0002 from the California Coastal Commission:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AND SUBMISSION OF ZTA19-0002 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA19-0002 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION;

- 3) Introduce for first reading of an Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA19-0002 TO MODIFY THE ZONING CODE RELATED TO ACCESSORY DWELLING UNITS, JOINT PARKING PROVISIONS, AND PUBLIC NOTIFICATION AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA19-0002 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

14. [AMENDMENT OF DANA POINT MUNICIPAL CODE CHAPTER 5.20 MESSAGE BUSINESS REGULATIONS](#)

RECOMMENDED ACTION: That the City Council take the following actions:

1. Hold a second reading and adopt an Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 5.20 OF THE DANA POINT MUNICIPAL CODE; and

2. Conduct a Public Hearing; and adopt a Resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A FEE SCHEDULE FOR THE LICENSING OF MESSAGE ESTABLISHMENTS.

UNFINISHED BUSINESS

There are no Unfinished Business items.

NEW BUSINESS

15. STATUE COMMISSION FOR WATERMAN'S PLAZA – JOYCE HOFFMAN

RECOMMENDED ACTION: That the City Council authorize the use of the Arts in Public Places funds to commission a statue of Joyce Hoffman to be installed at Waterman's Plaza; and, approve the budget adjustments, and authorize the City Manager to execute a contract with artist Bill Limebrook.

PUBLIC COMMENTS (Continued)

STAFF REPORTS

(City Manager Michael Killebrew)

(City Attorney Patrick Muñoz)

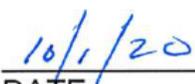
ADJOURNMENT

The next Regular Meeting of the City Council will be October 20, 2020, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

CERTIFICATION

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that a copy of the foregoing Agenda was posted at Dana Point City Hall, the Dana Point Post Office, and the Capistrano Beach Post Office by Thursday, October 1, 2020, at 5:30 p.m.


KATHY M. WARD, CITY CLERK


DATE

Subscriptions to receive City Council Agendas on a regular basis are available through the City Clerk's Office. Agendas are also available on the City's website at www.danapoint.org. In addition, Agenda related materials (including materials, if any, provided to the City Council after the Agenda was posted) may be reviewed in the office of the City Clerk during regular business hours or on the website at www.danapoint.org.

PURSUANT TO THE AMERICANS WITH DISABILITIES ACT, PERSONS WITH A DISABILITY WHO REQUIRE A DISABILITY-RELATED MODIFICATION OR ACCOMMODATION IN ORDER TO PARTICIPATE IN A MEETING, INCLUDING AUXILIARY AIDS OR SERVICES, MAY REQUEST SUCH MODIFICATION OR ACCOMMODATION FROM THE CITY CLERK AT (949) 248-3500 (TELEPHONE) OR (949) 248-9920 (FACSIMILE). NOTIFICATION 48 HOURS PRIOR TO THE MEETING WILL ENABLE THE CITY TO MAKE REASONABLE ARRANGEMENTS TO ASSURE ACCESSIBILITY TO THE MEETING.