

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
FEBRUARY 2, 2021
5:00 P.M.**

MINUTES

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

Next City Council Ordinance No. 21-01

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Jamey M. Federico at 5:00 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point. All Council Members were present.

ROLL CALL OF CITY COUNCIL MEMBERS:

Jamey M. Federico, Mayor
Joseph L. Muller, Mayor Pro Tem
Mike Frost, Council Member
Richard A. Viczorek, Council Member
Michael Villar, Council Member

CLOSED SESSION

City Attorney Patrick Munoz clarified that the Item B should list 3 cases including City of DP v. Sunshine Group LLC (Seaside Inn).

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (1 case)
 - 1. Name of Case: Campbell vs. Don Barnes, in his official capacity as Sheriff of Orange County, Orange County Superior Court Case No 30-2020-01141117-CU-WM-CXC CASE
- B. CONFERENCE WITH LEGAL COUNSEL - LITIGATION STRATEGY REVIEW INCLUDING POTENTIAL DISCUSSION OF THE FOLLOWING EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (3 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 DP v. Sunshine Group LLC (Seaside Inn), Orange County Superior Court Case No. 30-2017- 00915900

Mayor Jamey M. Federico recessed the meeting into a Closed Session at 5:01 p.m. pursuant to Government Code Section 54957.

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

RECONVENE CITY COUNCIL MEETING

Mayor Jamey M. Federico reconvened the meeting at 6:00 p.m. All Council Members were present.

STAFF PRESENT: Michael A. Killebrew, City Manager, Kelly Reenders, Assistant City Manager; Patrick Munoz, City Attorney; Capt. Kirsten Monteleone, Kathy Ward, City Clerk; Brenda Wisneski, Community Development Director; Matt Sinacori, Public Works Director and City Engineer; Robert Sedita, General Services Director; Jeff Rosaler, Community Development Manager; Belinda Deines, Principal Planner; Jaimie To, Management Analyst; and Shayna Sharke, Deputy City Clerk.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Richard A. Viczorek.

INVOCATION

There was no Invocation.

PRESENTATIONS AND PROCLAMATIONS

Certificate of Recognition – Chair Janie Raub, Arts and Culture Commission

Mayor Jamey M. Federico thanked Janie Raub for her service on the Arts and Culture Commission and presented her with a Certificate of Recognition on behalf of OC County Supervisor Lisa Bartlett and a Certificate of Recognition on behalf of the City of Dana Point.

Certificate of Recognition – Commissioner Scott McKhann, Planning Commission

Mayor Jamey M. Federico thanked Scott McKhann for his service on the Planning Commission and presented him with a Certificate of Recognition on behalf of the City of Dana Point.

READING OF ORDINANCE TITLES

City Clerk Kathy M. Ward read one (1) Ordinance title.

CONSENT CALENDAR

IT WAS MOVED BY MAYOR JAMEY M. FEDERICO, SECONDED BY COUNCIL MEMBER MICHAEL VILLAR, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR.

☞ The motion carried by the following vote:

AYES: Council Member Mike Frost, Council Member Richard A. Viczorek, Council Member Michael Villar, Mayor Pro Tem Joseph L. Muller, and Mayor Jamey M. Federico

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, JANUARY 19, 2021

APPROVED THE MEETING MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, DECEMBER 14, 2020

APPROVED THE MEETING MINUTES.

4. FINANCIAL REVIEW SUBCOMMITTEE MINUTES, OCTOBER 27, 2020

APPROVED THE MEETING MINUTES.

5. ARTS & CULTURE COMMISSION MEETING MINUTES, SEPTEMBER 9, 2020

APPROVED THE MEETING MINUTES.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CLAIMS AND DEMANDS

☞ RECEIVED AND FILED THE CLAIMS AND DEMANDS.

8. QUARTERLY FINANCIAL REPORT, DECEMBER 2020

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

9. CITY COUNCIL REPRESENTATIVE FOR OCEAN WATER QUALITY SUBCOMMITTEE

APPOINTED COUNCIL MEMBER MIKE FROST AS THE COUNCIL REPRESENTATIVE ON THE OCEAN WATER QUALITY SUBCOMMITTEE.

PUBLIC COMMENTS

City Clerk Kathy M. Ward read two (2) Public Comments that were emailed prior to 4:00 p.m.

Jonathan Hawes wrote regarding an embezzlement case in El Monte and asked for Council's support.

Toni Nelson (Dana Point) announced the accomplishments of the Hugs for Heroes program thus far and thanked the community and City staff for their support.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Mayor Pro Tem Joseph L. Muller brought attention to the legislation being considered in Sacramento requiring local meetings to be translated in multiple languages. He stated that he will turn in his list of meetings attended.

Council Member Richard A. Viczorek stated that he will turn in his list of meetings attended.

Mayor Jamey M. Federico stated that he has turned in his list of meetings attended.

Council Member Mike Frost stated that he will turn in his list of meetings attended.

Council Member Michael Villar stated that he has turned in his list of meetings attended to the City Clerk.

PUBLIC HEARINGS

10. 2021 WEED ABATEMENT PROGRAM

Community Development Manager Jeff Rosaler provided a staff report and answered questions of the Council.

Mayor Jamey M. Federico opened the Public Hearing at 6:25 p.m.

There were no Public Comments.

Mayor Jamey M. Federico closed the Public Hearing at 6:25 p.m.

Discussion ensued.

IT WAS MOVED BY MAYOR PRO TEM JOSEPH L. MULLER, SECONDED BY MAYOR JAMEY M. FEDERICO THAT THE CITY COUNCIL:

- 1) **ADOPT RESOLUTION 21-02-02-01 ENTITLED:**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING WEEDS A PUBLIC NUISANCE AND INITIATING ABATEMENT PROCEEDINGS; and

2) ADOPT RESOLUTION 21-02-02-02 ENTITLED:

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 Mike Frost, Council Member Richard A. Viczorek, Council Member Michael Villar, Mayor Pro Tem Joseph L. Muller, and Mayor Jamey M. Federico

NOES: None

ABSENT: None

11. ADOPTION OF DANA POINT MUNICIPAL CODE CHAPTER 5.42 SMALL WIRELESS FACILITY BUSINESS REGULATIONS AND ASSOCIATED PERMIT FEES

Community Development Manager Jeff Rosaler provided a staff report.

City Attorneys Patrick Munoz and Travis Van Ligten (teleconference) answered questions of the Council.

Community Development Manager Jeff Rosaler recommended two amendments to the proposed Ordinance:

- 1) 5.42.020 Subsection 6 – Definitions: Strike out “one antenna”, update to “the antennas”.
- 2) 5.42.110 - Strike out “one antenna”, update to “the antennas”.

Discussion ensued.

Mayor Jamey M. Federico opened the Public Hearing at 6:50 p.m.

City Clerk Kathy M. Ward read the Public Comment received via email prior to 4:00 p.m.

Michael Farragher (Verizon Wireless) wrote in opposition of the Ordinance adoption.

Kevin P. Sullivan, Esq. (Gatzke Dillon & Balance LLP) provided a letter that was entered into the record.

Mayor Jamey M. Federico closed the Public Hearing at 6:53 p.m.

IT WAS MOVED BY COUNCIL MEMBER RICHARD A. VICZOREK, SECONDED BY MAYOR PRO TEM JOSEPH L. MULLER, THAT THE CITY COUNCIL:

- 1) **INTRODUCE ORDINANCE 21-01, WITH RECOMMENDED LANGUAGE UPDATES INCLUDING CITY COUNCIL AS THE APPEAL AUTHORITY, ENTITLED:**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING CHAPTER 5.42 OF THE DANA POINT MUNICIPAL CODE; and

2) ADOPT RESOLUTION 21-02-02-03 ENTITLED:

A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A FEE SCHEDULE FOR THE PERMITTING OF SMALL WIRELESS FACILITIES

Discussion ensued.

COUNCIL MEMBER MIKE FROST REQUESTED THAT COUNCIL MEMBER RICHARD A. VICZOREK MAKE A SUBSTITUTE MOTION THAT THE CITY COUNCIL:

1) INTRODUCE ORDINANCE 21-01, WITH RECOMMENDED LANGUAGE UPDATES INCLUDING PLANNING COMMISSION AS THE FINAL APPEAL AUTHORITY, ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING CHAPTER 5.42 OF THE DANA POINT MUNICIPAL CODE; and

3) ADOPT RESOLUTION 21-02-02-03 ENTITLED:

A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A FEE SCHEDULE FOR THE PERMITTING OF SMALL WIRELESS FACILITIES

COUNCIL MEMBER RICHARD A. VICZOREK DENIED THE SUBSTITUTE MOTION.

The original motion carried by the following vote:

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

NOES: Council Member Mike Frost

ABSENT: None

UNFINISHED BUSINESS

12. INITIATION OF A GENERAL PLAN AMENDMENT AND SPECIFIC PLAN DISTRICT, AND PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES TO PREPARE THE VICTORIA BOULEVARD SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT

Principal Planner Belinda Deines provided a staff report.

Mayor Jamey M. Federico opened Public Comment.

Jim Schad (Dana Point) spoke in opposition of the General Plan Amendment and Environmental Impact Report.

Michael McCann (Toll Brothers) spoke in favor of the General Plan Amendment and Environmental Impact Report.

Deputy City Clerk Shayna Sharke read three (3) Public Comments emailed prior to 4:00 p.m.

Cesar Covarrubias (The Kennedy Commission) spoke in opposition to the General Plan Amendment and Specific Plan District and Environmental Impact Report.

Reverend Kent Doss and Rona Henry (Tapestry Unitarian Universalist Congregation) spoke in opposition to the General Plan Amendment and Specific Plan District and Environmental Impact Report.

Irene Fascher (Dana Point) spoke in opposition to the General Plan Amendment and Specific Plan District and Environmental Impact Report.

City Clerk Kathy Ward read one (1) Public Comment emailed prior to 4:00 p.m.

Maura Mikulec (Capistrano Beach) spoke in opposition to the General Plan Amendment and Specific Plan District and Environmental Impact Report.

IT WAS MOVED BY COUNCIL MEMBER MICHAEL VILLAR, SECONDED BY COUNCIL MEMBER MIKE FROST THAT THE CITY COUNCIL:

- 1) **ADOPT RESOLUTION 21-02-02-04 WITH THE RECOMMENDED UPDATED LANGUAGE IN SECTION 2 "ADDITIONALLY, ANOTHER 10-FEET IN HEIGHT MAY BE PERMITTED FOR RECREATIONAL STRUCTURES PROVIDED THEY ARE LOCATED IN THE MIDDLE TO REAR OF THE PROPERTY", ENTITLED:**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA INITIATING A GENERAL PLAN AMENDMENT AND A SPECIFIC PLAN DISTRICT FOR THE VICTORIA BOULEVARD APARTMENTS AT 26126 VICTORIA BOULEVARD; and

- 2) **APPROVE AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT WITH MICHAEL BAKER INTERNATIONAL**

Discussion ensued.

The motion carried by the following vote:

AYES: Council Member Mike Frost, Council Member Michael Villar, and Mayor Jamey M. Federico

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

ABSENT: None

NEW BUSINESS

13. **AUTHORIZATION TO TERMINATE CAPISTRANO UNIFIED SCHOOL DISTRICT AND CITY OF DANA POINT JOINT FACILITIES USE AGREEMENT FOR DANA HILLS HIGH SCHOOL SPORTS FIELDS**

City Manager Michael A. Killebrew provided a staff report.

IT WAS MOVED BY MAYOR PRO TEM JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER MIKE FROST, THAT THE CITY COUNCIL AUTHORIZE THE TERMINATION OF THE JOINT FACILITIES USE AGREEMENT BETWEEN CAPISTRANO UNIFIED SCHOOL DISTRICT AND THE CITY OF DANA POINT EFFECTIVE FEBRUARY 2, 2022 AND AUTHORIZE THE CITY MANAGER TO NOTIFY CAPISTRANO UNIFIED SCHOOL DISTRICT OF THE TERMINATION.

Discussion ensued.

The motion carried by the following vote:

AYES: Council Member Mike Frost, Council Member Richard A. Viczorek, Council Member Michael Villar, Mayor Pro Tem Joseph L. Muller, and Mayor Jamey M. Federico

NOES: None

ABSENT: None

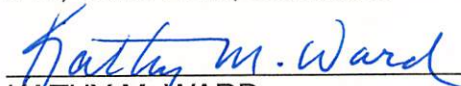
STAFF REPORTS

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

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

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Jamey M. Federico adjourned the meeting at 8:46 p.m. He announced that the next Regular Meeting of the City Council will be February 16, 2021, 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 16, 2021

Meetings attended since January 20, 2021:

Mayor Jamey M. Federico

- 01/21/2021 Meeting with Residents
- 01/22/2021 Chamber of Commerce Board Member Installation
- 01/29/2021 Meeting with CASA General Manager
- 02/01/2021 ACC-OC Advocacy Trip

Mayor Pro Tem Joseph L. Muller

- 01/20/2021 Peoples
- 01/20/2021 Judge Adams
- 01/21/2021 OCTA
- 01/25/2021 OCTA
- 01/27/2021 OCTA
- 01/27/2021 TCA
- 01/28/2021 OCFA
- 02/01/2021 TCA

Council Member Mike Frost

- 01/26/2021 FRC Meeting with City
- 01/28/2021 ACC-OC Regular Meeting
- 01/29/2021 Noncongregate Shelter in OC
- 01/29/2021 Cordova Residents and Neighbors Meeting

Council Member Richard A. Viczorek

- 01/21/2021 Meeting with Waldorf Astoria GM
- 01/21/2021 OCMVCD Board of Trustees Meeting

Council Member Michael Villar

- 01/20/2021 Meeting with Michael McCann – Toll Brothers
- 01/22/2021 Meeting with United Way
- 01/26/2021 Meeting with SONGS Decommissioning Committee – Manuel Camargo
- 01/28/2021 SONGS CEP Member Consultation Meeting
- 01/31/2021 District 5 Advisory Board Meeting