

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
DECEMBER 7, 2021
5:00 P.M.**

AGENDA

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

Next City Council Ordinance No. 21-09

REVISED SAFETY ALERT (EFFECTIVE AS OF DECEMBER 7, 2021)

AS COVID-19 RELATED RESTRICTIONS EASE, THE PUBLIC MAY ATTEND COUNCIL MEETINGS PROVIDED SOCIAL DISTANCING GUIDELINES ARE FOLLOWED. THESE GUIDELINES WILL RESULT IN VERY LIMITED OPPORTUNITIES, ON A FIRST COME, FIRST SERVED BASIS, FOR THE PUBLIC TO OBSERVE THE COUNCIL MEETING FROM THE COUNCIL CHAMBER AND ADJACENT FOYER. FACE MASKS ARE ENCOURAGED. MEMBERS OF THE PUBLIC MAY ALSO PARTICIPATE BY WATCHING THE MEETING LIVE ON COX CABLE CHANNEL 855 OR VIA THE CITY'S YOUTUBE CHANNEL.

PUBLIC COMMENT: PUBLIC COMMENT MAY BE PROVIDED IN PERSON, VIA EMAIL AT COMMENT@DANAPOINT.ORG, OR BY MAIL TO "PUBLIC COMMENT", 33282 GOLDEN LANTERN, DANA POINT, CA 92629. TO BE CONSIDERED AS PART OF THE MEETING TO WHICH THIS AGENDA APPLIES AND PROVIDED TO CITY COUNCIL PRIOR TO THE MEETING, COMMENTS MUST BE RECEIVED NO LATER THAN 4:00 P.M. ON THE DAY OF THE MEETING. ALL COMMENTS, WHENEVER RECEIVED, WILL BE SHARED WITH THE CITY COUNCIL. EMAILS SHOULD INCLUDE "PUBLIC COMMENT", THE DATE OF THE MEETING IN THE SUBJECT LINE, AS WELL AS REFERENCE TO 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:

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

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (3 cases)
- B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (1 case)

Name of Case: *In re National Prescription Opiate Litigation*, No. 1:17-md-02804 (N.D. Ohio)

- C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957

Title: City Manager

- D. CONFERENCE WITH LEGAL COUNSEL - LITIGATION STRATEGY REVIEW INCLUDING POTENTIAL DISCUSSION OF THE FOLLOWING EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (4 cases)
 - 1. City of DP v. Sunshine Group LLC (Seaside Inn), Orange County Superior Court Case No. 30-2017- 00915900
 - 2. Concerned Residents of Dana Point vs. City of Dana Point Case No. 2019- 01117892-CU-TT-CXC
 - 3. Susan A. Aguirre, Trustee Of The Aguirre Family Trust Dated December 29, 1993 v. City of Dana Point, Orange County Superior Court Case No: 30-2021-01217610 CU-WM-CJC
 - 4. Center For Natural Lands Management v City of Dana Point, Orange County Superior Court Case No: 30-2021-01219668 CU-OR-CJC

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

RECONVENE CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATIONS AND PROCLAMATIONS

Business of the Quarter – Doheny Bike

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, NOVEMBER 16, 2021](#)

RECOMMENDED ACTION: That the City Council approve the minutes.

3. [PLANNING COMMISSION MEETING MINUTES, OCTOBER 25, 2021](#)

RECOMMENDED ACTION: That the City Council receive and file.

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

RECOMMENDED ACTION: That the City Council receive and file.

5. [CLAIMS AND DEMANDS](#)

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

6. [ANNUAL COMPREHENSIVE FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2021](#)

RECOMMENDED ACTION: That the City Council receive and file the Annual Comprehensive Financial Report for the fiscal year ended June 30, 2021.

7. [POLICE SERVICES REPORT](#)

RECOMMENDED ACTION: That the City Council receive and file the Police Services Report.

8. [2022 CITY COUNCIL MEETING SCHEDULE](#)

RECOMMENDED ACTION: That the City Council approve the 2022 City Council meeting schedule.

9. [AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE ANNUAL RESIDENTIAL ROADWAY RESURFACING PROJECT FY 20/21](#)

RECOMMENDED ACTION: That the City Council:

- 1) Declare the bid submitted by LC Paving, Incorporated as non-responsive due to failure to list the required prequalified subcontractor for utility work as outlined in the Annual Residential Roadway Resurfacing Project FY 20/21 Contract Documents.
- 2) Approve the award of a contract to Onyx Paving Company, Inc. for construction of the Annual Roadway Resurfacing Project FY 20/21 and authorize the City Manager or his designee to sign and administer the subject contract and approve additional payment for change orders and contingencies.
- 3) Authorize the expenditure as noted in the Fiscal Impact Section with GMU Geotechnical, Inc. for materials testing and quality assurance per the existing As-Needed Consultant Services Agreement with GMU Geotechnical.
- 4) 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 as noted in the Fiscal Impact Section.
- 5) Authorize the funding allocation, transfers and expenditures outlined in the Fiscal Impact Section.

10. AUTHORIZE THE PURCHASE OF A POLICE MOTORCYCLE

RECOMMENDED ACTION: That the City Council authorize the purchase of a police motorcycle using funding as outlined in the Fiscal Impact Section.

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.

PUBLIC HEARINGS

11. APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY THE APPEAL AND UPHOLD THE COMMUNITY DEVELOPMENT DIRECTOR'S APPROVAL OF MINOR SITE DEVELOPMENT PERMIT SDP21-0009(M) TO CONSTRUCT AN ADDITION GREATER THAN

**10 PERCENT TO A NONCONFORMING STRUCTURE AT 34732 CALLE FORTUNA
(CONTINUED FROM NOVEMBER 2, 2021 MEETING)**

RECOMMENDED ACTION: That the City Council adopt the resolution denying the appeal and sustaining the Planning Commission's decision to uphold the Community Development Director's approval of Minor Site Development Permit SDP21-0009(M) to construct a 739 square-foot living area addition to a nonconforming single-family dwelling.

UNFINISHED BUSINESS

NEW BUSINESS

12. DOHENY VILLAGE PUBLIC ART MURAL

RECOMMENDED ACTION: That the City Council authorize the installation of a mural on private property at 34281 Doheny Park Road; and approve the budget adjustments listed in the Fiscal Impact section.

CITY COUNCIL REORGANIZATION

- A. COUNCIL REORGANIZATION**
- B. RECOGNITION OF OUTGOING MAYOR**

PUBLIC COMMENTS (Continued)

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 agendized 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-agendized items may be presented as informational only.

STAFF REPORTS

(City Manager Michael Killebrew)

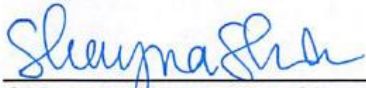
(City Attorney Patrick Muñoz)

ADJOURNMENT

The next Regular Meeting of the City Council will be January 18, 2022, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

CERTIFICATION

I, Shayna Sharke, 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, and Dana Point Library by Thursday, December 2, 2021, at 5:30 p.m.



SHAYNA SHARKE, CITY CLERK

12/2/2021

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.