

# CITY OF DANA POINT

**CITY COUNCIL  
REGULAR  
MEETING**



**TUESDAY  
SEPTEMBER 20, 2022  
5:00 P.M.**

## **AGENDA**

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

Next City Council Ordinance No. 22-04

### **REVISED SAFETY ALERT (EFFECTIVE AS OF MARCH 1, 2022)**

**AS COVID-19 RELATED RESTRICTIONS ARE UPDATED, THE PUBLIC WILL 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 COUNCIL CHAMBER AND ADJACENT FOYER. MEMBERS OF THE PUBLIC MAY CHOOSE TO PARTICIPATE ELECTRONICALLY 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, ELECTRONICALLY, OR BY MAIL. CITY STAFF WILL BE COORDINATING ENTRY TO THE COUNCIL CHAMBERS DURING PUBLIC COMMENT AND MANAGING AVAILABLE SEATING CAPACITY THROUGHOUT THE MEETING. THEIR DIRECTIONS MUST BE FOLLOWED. ALTERNATIVELY, COMMENTS MAY BE SUBMITTED 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. 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:**

Joseph L. Muller, Mayor  
Mike Frost, Mayor Pro Tem

Jamey M. Federico, Council Member  
Richard A. Viczorek, Council Member  
Michael Villar, Council Member

## **CLOSED SESSION**

- A. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (1 case) - 34092 Formosa, Dana Point, CA
- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (2 cases)
- C. CONFERENCE WITH LEGAL COUNSEL - LITIGATION STRATEGY REVIEW INCLUDING POTENTIAL DISCUSSION OF THE FOLLOWING EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (4 cases), AND POTENTIAL DISCUSSION OF ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (1 case)
  - a. City of DP v. Sunshine Group LLC (Seaside Inn), Orange County Superior Court Case No. 30-2017- 00915900
  - b. Concerned Residents of Dana Point vs. City of Dana Point Case No. 2019- 01117892-CU-TT-CXC
  - c. 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
  - d. Center For Natural Lands Management v City of Dana Point, Orange County Superior Court Case No: 30-2021-01219668 CU-OR-CJC
  - e. Administrative cases involving Unlicensed Residential Recovery Homes - HUD/ DFEH Complaints

## **PLEDGE OF ALLEGIANCE**

## **INVOCATION**

## **PRESENTATIONS AND PROCLAMATIONS**

Proclamation – Hunger Action Month

Business of the Quarter – Luxe

Employee of the Quarter – Tamara Theodossin

## **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. ADJOURNED REGULAR MEETING MINUTES, JULY 12, 2022**

RECOMMENDED ACTION: That the City Council approve the minutes.

**3. REGULAR MEETING MINUTES, JULY 19, 2022**

RECOMMENDED ACTION: That the City Council approve the minutes.

**4. SPECIAL MEETING MINUTES, AUGUST 25, 2022**

RECOMMENDED ACTION: That the City Council approve the minutes.

**5. PLANNING COMMISSION MEETING MINUTES, JUNE 27, 2022**

RECOMMENDED ACTION: That the City Council approve the minutes.

**6. PLANNING COMMISSION MEETING MINUTES, JULY 11, 2022**

RECOMMENDED ACTION: That the City Council approve the minutes.

**7. PLANNING COMMISSION MEETING MINUTES, JULY 25, 2022**

RECOMMENDED ACTION: That the City Council approve the minutes.

**8. PLANNING COMMISSION MEETING MINUTES, AUGUST 8, 2022**

RECOMMENDED ACTION: That the City Council approve the minutes.

**9. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**

RECOMMENDED ACTION: That the City Council receive and file.

**10. CLAIMS AND DEMANDS**

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

**11. TREASURER’S REPORT**

RECOMMENDED ACTION: That the City Council receive and file the Treasurer’s Report for July 2022.

**12. DEVELOPMENT UPDATE**

RECOMMENDED ACTION: That the City Council receive and file the Development Update.

**13. POLICE SERVICES REPORT**

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

**14. AMENDMENT WITH DEKRA-LITE INDUSTRIES FOR HOLIDAY DÉCOR DISPLAYS, SPECIALTY DISPLAYS AND STREET LIGHT POLE BANNER SERVICES**

RECOMMENDED ACTION: That the City Council:

- 1) Approve an Amendment to the Original Agreement with Dekra-Lite Industries, Incorporated for holiday décor displays, specialty displays and street light pole banner services;
- 2) Authorize up to four optional two-year contract renewals beyond the current contract term of July 1, 2022 – June 30, 2024;
- 3) Authorize the City Manager or his designee to execute the Amendment and future amendments to the Contract; and
- 4) Approve the funding transfer needed to fund the recommended program enhancements.

**15. HEALTH PLAN PROVISIONS FOR CALENDAR YEAR 2023**

RECOMMENDED ACTION: That the City Council adopt a resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA,  
MODIFYING HEALTH BENEFIT PLAN ALLOWANCES FOR ALL ELIGIBLE REPRESENTED  
AND ALL ELIGIBLE NON-REPRESENTED CLASSIFICATIONS

**16. 2022 COMMUNITY SURVEY**

RECOMMENDED ACTION: That the City Council:

- 1) Approve a Contract Agreement with Fairbank, Maslin, Maullin, Metz & Associates (FM3) for the 2022 Community Survey; and
- 2) Authorize the City Manager to execute the Agreement.

**17. CONVERGINT TECHNOLOGIES CONTRACT RENEWAL FOR FY23**

RECOMMENDED ACTION: That the City Council authorize the City Manager to amend and extend the original Convergint Technologies contract expiration date from June 30, 2022, to March 31, 2023.

**18. THREE-YEAR CONTRACT FOR CITYWIDE PHONE SYSTEM**

RECOMMENDED ACTION: That the City Council authorize the City Manager to execute a three-year contract with GoTo Communications, Inc. with the option for two, one-year contract renewals for citywide telephone subscription and support services.

**19. SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED EMPLOYEE CLASSIFICATIONS; NEW JOB TITLES AND CLASS SPECIFICATIONS; AND AMENDMENTS TO CITY'S CONFLICT OF INTEREST CODE**

RECOMMENDED ACTION: That the City Council:

- 1) Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED CLASSIFICATIONS AND ADOPTING NEW JOB TITLES AND CLASS SPECIFICATIONS; and
- 2) Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING THE CITY'S CONFLICT OF INTEREST CODE; and
- 3) Authorize the City Manager to provide signing bonuses in unique situation for positions challenging to fill.

**20. CONSULTANT SERVICES AGREEMENT WITH THE BROADBAND GROUP FOR PRELIMINARY FIBER INFRASTRUCTURE REVIEW AND RECOMMENDATIONS**

RECOMMENDED ACTION: That the City Council:

- 1) Approve a Consultant Services Agreement with The Broadband Group for preparation of a preliminary assessment of fiber infrastructure in Dana Point; and
- 2) Approve the budget adjustment included in the Fiscal Impact Section.

**21. COMMUNITY BENEFIT DISTRICT INVESTIGATION FOR THE LANTERN DISTRICT**

RECOMMENDED ACTION: That the City Council:

- 1) Approve a contract with New City America to conduct a Community Benefit District (CBD) investigation in the Lantern District; and
- 2) Authorize the City Manager to execute the agreement; and

- 3) If the investigation supports a CBD, authorize the City Manager to execute an agreement with New City America for the formation of the CBD in the Lantern District.

**22. RECRUITMENT FOR THE PLANNING COMMISSION**

RECOMMENDED ACTION: That the City Council direct Staff to proceed with the recruitment of one (1) Planning Commission member.

**23. CONSIDERATION OF A RESOLUTION TO ADOPT AMENDMENTS TO THE EXCLUSIVE SOLID WASTE HANDLING AGREEMENT AND THE AGREEMENT FOR THE COLLECTION OF TEMPORARY WASTE WITH CR&R INCORPORATED**

RECOMMENDED ACTION: That the City Council adopt a Resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, APPROVING THE FOURTH AMENDMENT TO THE AGREEMENTS BETWEEN THE CITY OF DANA POINT AND CR&R INCORPORATED FOR SOLID WASTE HANDLING SERVICES AND THE COLLECTION AND HANDLING OF TEMPORARY WASTE

## **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**

**24. GENERAL PLAN AMENDMENT (GPA20-0003) TO UPDATE THE 2021-2029 HOUSING ELEMENT AND PUBLIC SAFETY ELEMENT**

RECOMMENDED ACTION: That the City Council:

- 1) Conduct a public hearing; and

- 2) Adopt a resolution approving GPA20-0003 to update the 2021-2029 Housing Element and Public Safety Element entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADOPTING GENERAL PLAN AMENDMENT (GPA 20-0003) FOR THE 2021-2029 HOUSING ELEMENT AND PUBLIC SAFETY ELEMENT, AND AUTHORIZING SUBMISSION OF THE HOUSING ELEMENT FOR CERTIFICATION BY THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD).

## UNFINISHED BUSINESS

## NEW BUSINESS

### 25. FISCAL YEAR 2021-22 (FY22) 4<sup>TH</sup> QUARTER FINANCIAL REPORT AND PROPOSED FY23 CARRY-OVER BUDGET ADJUSTMENTS

RECOMMENDED ACTION: That the City Council:

1. Receive and file the FY22 Financial Report for the quarter ended June 30, 2022; and
2. Amend the FY2022-23 ("FY23") budget by authorizing the carry-over and appropriation of encumbered and unencumbered funds from FY22 to FY23, and authorize the FY23 revenue and expenditure amendments; and
3. Authorize an annual loan from the General Fund to the Coastal Transit Fund for the City's Trolley program to ensure adequate funding until Orange County Transit Authority Project V grant funding is received by the City.

## 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 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.

## STAFF REPORTS

(City Manager Michael Killebrew)

(City Attorney Patrick Muñoz)

## ADJOURNMENT

The next Regular Meeting of the City Council will be October 4, 2022, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

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## 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 Friday, September 16, 2022, at 4:30 p.m.



SHAYNA SHARKE, CITY CLERK

9/15/2022

DATE

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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.