

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
JULY 19, 2022
5:00 P.M.**

MINUTES

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

Next City Council Ordinance No. 22-04

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Joseph L. Muller at 5:00 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

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 – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (2 cases)
- B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (d)(1) – Finnegan v. City of Dana Point, OCSC Case No. 30-2021-01209328
- C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957 (Title: City Attorney)
- D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957 (Title: City Manager)

City Attorney Patrick Munoz recommended adding the following item to Closed Session:

- E. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, INITIATION OF LITIGATION – Government Code § 54956.9 (d)(3)

IT WAS MOVED BY MAYOR PRO TEM FROST, SECONDED BY COUNCIL MEMBER FEDERICO, TO ADD THE RECOMMENDED CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION – GOVERNMENT CODE § 54956.9 (D)(3).

The motion carried by the following vote:

AYES: Council Member Federico, Council Member Viczorek, Council Member Villar, Mayor Pro Tem Frost, and Mayor Muller

NOES: None

ABSENT: None

Mayor Muller recessed the meeting into a Closed Session at 5:02 p.m. pursuant to Government Code Section 54957.

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

RECONVENE CITY COUNCIL MEETING

Mayor Muller reconvened the meeting at 6:05 p.m. All Council Members were present.

STAFF PRESENT: Michael A. Killebrew, City Manager; Kelly Reenders, Assistant City Manager; Patrick Munoz, City Attorney; Shayna Sharke, City Clerk; Captain Kirsten Monteleone; Brenda Wisneski, Director of Community Development; Matthew Sinacori, Director of Public Works/City Engineer; James Shadle, Director of General Services; Belinda Deines, Principal Planner; and Jaimie To, Management Analyst.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Pro Tem Frost.

INVOCATION

There was no Invocation.

CLOSED SESSION REPORT

City Attorney Patrick Munoz reported that one (1) closed session item for the initiation of litigation regarding a public nuisance at 34092 Formosa Avenue was approved by the City Council, with a motion by Council Member Villar, seconded by Council Member Frost. He reported that the motion carried by a 5-0-0 vote.

PRESENTATIONS AND PROCLAMATIONS

There were no Presentations or Proclamations.

READING OF ORDINANCE TITLES

City Clerk Shayna Sharke read one (1) Ordinance title.

CONSENT CALENDAR

IT WAS MOVED BY MULLER, SECONDED BY COUNCIL MEMBER VILLAR, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR, WITH THE EXCEPTION OF ITEM 14.

The motion carried by the following vote:

AYES: Council Member Federico, Council Member Viczorek, Council Member Villar, Mayor Pro Tem Frost, and Mayor Muller

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, JUNE 21, 2022

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, MAY 9, 2022

RECEIVED AND FILED.

4. DANA POINT YOUTH BOARD MEETING MINUTES, MAY 5, 2022

RECEIVED AND FILED.

5. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

6. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

7. TREASURER'S REPORT

RECEIVED AND FILED THE TREASURER'S REPORT FOR MAY AND JUNE 2022.

8. DEVELOPMENT UPDATE

RECEIVED AND FILED THE DEVELOPMENT UPDATE.

9. CITY MANAGER CONTRACT

ADOPTED AMENDMENTS TO THE CITY MANAGER'S EMPLOYMENT AGREEMENT.

10. CITY ATTORNEY CONTRACT

ADOPTED AMENDMENTS TO THE AGREEMENT WITH RUTAN AND TUCKER FOR CITY ATTORNEY SERVICES.

11. RATIFY THE CONTRACT WITH AGE WELL SENIOR SERVICES FOR THE SENIOR MOBILITY PROGRAM

RATIFIED THE CITY MANAGER'S APPROVAL TO EXECUTE A CONTRACT AGREEMENT WITH AGE WELL SENIOR SERVICES FOR THE SENIOR MOBILITY PROGRAM AND AUTHORIZED THE CITY MANAGER TO EXECUTE UP TO FOUR ONE-YEAR OPTIONAL RENEWALS WITH AN ANNUAL CPI ADJUSTMENT AND 10% CONTINGENCY.

12. INFINITY TECHNOLOGIES CONTRACT AMENDMENT BUDGET INCREASE IN FY2023

- 1) AUTHORIZED THE CITY MANAGER TO EXECUTE A SECOND AMENDMENT TO THE AGREEMENT WITH INFINITY TECHNOLOGIES FOR INFORMATION TECHNOLOGY MANAGEMENT SERVICES FOR FY23 IN AN AMOUNT NOT TO EXCEED \$160,000; AND
- 2) AUTHORIZED THE CITY MANAGER TO EXECUTE THE FINAL TWO ANNUAL ONE-YEAR EXTENSIONS, IN AN AMOUNT NOT-TO-EXCEED \$160,000 ANNUALLY; AND
- 3) APPROVED THE BUDGET ADJUSTMENT INCLUDED IN THE FISCAL IMPACT SECTION OF THIS REPORT.

13. AMENDMENT TO COASTAL ANIMAL SERVICES AUTHORITY (CASA) JOINT POWERS AGREEMENT

APPROVED AND AUTHORIZED THE MAYOR TO EXECUTE THE AMENDED AND RESTATED JOINT POWERS AGREEMENT OF THE COASTAL ANIMAL SERVICES AUTHORITY.

14. BANKING SERVICES TO PROVIDE CUSTODY SERVICES FOR SAFEKEEPING OF CITY INVESTMENTS

AUTHORIZED THE CITY MANAGER TO ENTER INTO A CONTRACT AND EXECUTE NECESSARY DOCUMENTS FOR CUSTODY SERVICES FOR SAFEKEEPING OF CITY INVESTMENTS WITH U.S. BANK.

COUNCIL MEMBER VICZOREK RECUSED HIMSELF FROM ITEM 14.

IT WAS MOVED BY MULLER, SECONDED BY COUNCIL MEMBER VILLAR, THAT THE RECOMMENDATION BE ACCEPTED FOR ITEM 14.

The motion carried by the following vote:

AYES: Council Member Federico, Council Member Villar, Mayor Pro Tem Frost, and Mayor Muller
NOES: None
ABSENT: None
ABSTAIN: Council Member Viczorek

PUBLIC COMMENTS

Terry Rifkin (Dana Point, President of 5th Marine Regiment Support Group) spoke regarding a proposed monument at Heritage Park and presented possible renditions.

Robert Zasa (Dana Point) spoke regarding Sister Cities International, a new 501(c)3 non-profit organization in town.

Barbara Wilson (Dana Point) requested that Council pull Item 18 from the Agenda due to lack of review time.

Dennis Chase (Dana Point) voiced concerns regarding e-bicycle safety in town.

PUBLIC HEARINGS

15. 2022 WEED ABATEMENT PROGRAM

Community Development Director Brenda Wisneski provided a staff report.

Mayor Muller opened the Public Hearing at 6:22 p.m.

Mayor Muller closed the Public Hearing at 6:22 p.m.

IT WAS MOVED BY COUNCIL MEMBER VICZOREK, SECONDED BY MAYOR PRO TEM FROST, TO ADOPT RESOLUTION 22-07-19-01 CONFIRMING THE COST OF WEED ABATEMENT AND PROVIDING FOR THE COLLECTION ON THE REGULAR TAX BILL, ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE COST OF WEED ABATEMENT AND PROVIDING FOR THE COLLECTION ON THE REGULAR TAX BILL

The motion carried by the following vote:

AYES: Council Member Federico, Council Member Viczorek, Council Member Villar, Mayor Pro Tem Frost, and Mayor Muller
NOES: None
ABSENT: None

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

16. UPDATED GARDENER GUIDELINES AND USE AGREEMENT FOR THE HARRY OTSUBO COMMUNITY GARDENS

General Services Director James Shadle provided a staff report.

Chris Hahn (Dana Point) thanked James Shadle and City staff for their efforts on the updated gardener guidelines and program.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER FEDERICO, SECONDED BY MAYOR MILLER, THAT THE CITY COUNCIL:

- 1) AUTHORIZE THE CITY MANAGER OR DESIGNEE TO UPDATE COMMUNITY GARDEN GUIDELINES AND USE AGREEMENTS AS NEEDED; AND
- 2) RECEIVE AND FILE THE GUIDELINES AND USE AGREEMENT FOR THE HARRY OTSUBO COMMUNITY GARDENS.

The motion carried by the following vote:

AYES: Council Member Federico, Council Member Viczorek, Council Member Villar, Mayor Pro Tem Frost, and Mayor Muller

NOES: None

ABSENT: None

17. PROFESSIONAL SERVICES AGREEMENT FOR RRM DESIGN GROUP TO CONDUCT COMMUNITY ENGAGEMENT FOR A FUTURE GENERAL PLAN UPDATE

Community Development Director Brenda Wisneski introduced Principal Planner Belinda Deines, who provided a staff report and answered questions of the City Council.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER VICZOREK, SECONDED BY COUNCIL MEMBER FEDERICO, THAT THE CITY COUNCIL:

- 1) APPROVE AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT WITH RRM DESIGN GROUP IN AN AMOUNT NOT TO EXCEED \$223,615 WITH A 10% CONTINGENCY TO CONDUCT COMMUNITY ENGAGEMENT FOR A FUTURE GENERAL PLAN UPDATE; AND
- 2) AUTHORIZE A BUDGET APPROPRIATION IN THE AMOUNT OF \$245,977 (\$223,615 PLUS 10% CONTINGENCY) FROM THE GENERAL PLAN UPDATE RESERVE FUND.

The motion carried by the following vote:

AYES: Council Member Federico, Council Member Viczorek, Council Member Villar, Mayor Pro Tem Frost, and Mayor Muller

NOES: None

ABSENT: None

**18. FIRST READING OF ORDINANCE – AMENDMENT TO MUNICIPAL CODE SECTION 5.38
(SHORT TERM RENTAL PERMITS)**

City Attorney Patrick Munoz provided a staff report and answered questions of the Council.

Discussion ensued.

Miriam Rupke (Capistrano Beach, STR Permit Holder) spoke in favor of the STR Program and spoke about the long process over the last several years to develop the Program.

Bryan Rupke (Capistrano Beach, STR Permit Holder) spoke in favor of the STR Program.

Brian Randall (Dana Point, STR Permit Holder) spoke in favor of the STR Program and detailed his experiences as a permit holder and STR operator.

Barbara Wilson (Dana Point) spoke in opposition to the STR Program.

Shevy Akason (Dana Point, STR Permit Holder) spoke in support of the STR Program and about the history of STRs in town.

Greg Morton (Dana Point) posed questions regarding the STR Program.

Carla Moore (Irvine, Sunset Vacation Rentals) spoke in support of the STR Program and voiced concerns about existing STRs outside of the Coastal Zone being grandfathered into the Program.

Jason Colaco (Dana Point, STR Permit Holder) voiced concerns regarding the restriction of one STR per owner for Dana Point residents.

Brian Jewel (Capistrano Beach) voiced concerns regarding noticing and the STR Program and recommended that the Council ban STRs outside of the Coastal Zone.

Melissa Spangler (Capistrano Beach, STR Permit Holder) spoke in support of the STR Program.

Elizabeth Ray (Dana Point, STR Permit Holder) spoke in support of the STR Program.

George Ray (Dana Point, STR Permit Holder) spoke in support of the STR Program.

Sheri Cuono (Dana Point, STR Permit Holder) indicated that the recent changes to the Program were confusing but spoke in support of STRs in Dana Point.

Kim Tarantino (Dana Point) spoke on behalf of Toni Nelson (Capistrano Beach) in opposition to the STR Program and the noticing of the first reading of the Ordinance.

Discussion ensued.

IT WAS MOVED BY MAYOR PRO TEM FROST TO APPROVE STAFF'S RECOMMENDED ACTION THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE AMENDING SECTION 5.38 OF THE MUNICIPAL CODE TO CREATE PERMIT LIMITATIONS AND REGULATIONS FOR SHORT-TERM RENTALS LOCATED OUTSIDE OF THE COASTAL ZONE, WITH THE ADDITION OF LANGUAGE CAPPING HOMESTAY MULTI-FAMILY STRS AT 30 AND PRIMARY STRS AT 50.

Discussion ensued.

THE MOTION FAILED DUE TO LACK OF A SECOND.

Discussion ensued.

IT WAS MOVED BY MAYOR MULLER, SECONDED BY COUNCIL MEMBER VICZOREK, THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE AMENDING SECTION 5.38 OF THE MUNICIPAL CODE TO CREATE PERMIT LIMITATIONS AND REGULATIONS FOR SHORT-TERM RENTALS LOCATED OUTSIDE OF THE COASTAL ZONE THAT ARE SIMILAR TO THOSE APPROVED BY THE COUNCIL BY WAY OF COASTAL DEVELOPMENT PERMIT CDP22-0010 FOR SHORT-TERM RENTALS WITHIN THE COASTAL ZONE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT CALIFORNIA, AMENDING SECTION 5.38 OF THE DANA POINT MUNICIPAL CODE TO CREATE PERMIT LIMITATIONS AND REGULATIONS FOR SHORT-TERM RENTALS LOCATED OUTSIDE OF THE COASTAL ZONE

Discussion ensued.

The motion failed by the following vote:

AYES: Council Member Viczorek, and Mayor Muller

NOES: Council Member Federico, Council Member Villar, and Mayor Pro Tem Frost

ABSENT: None

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Villar turned in his list of meetings attended to the City Clerk.

Council Member Viczorek turned in his list of meetings attended to the City Clerk.

Council Member Federico will turn in his list of meetings attended to the City Clerk and indicated his support for Staff to work with Sister Cities International to possibly establish a sister city relationship Sorrento, Italy.

Council Member Villar also indicated his support for the Sister Cities program.

Mayor Pro Tem Frost will turn in his list of meetings attended to the City Clerk and also indicated his support for the Sister Cities program.

Mayor Muller turned in his list of meetings attended to the City Clerk.

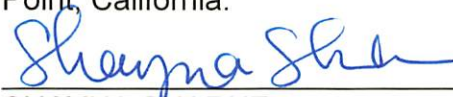
STAFF REPORTS

City Manager Michael A. Killebrew spoke regarding Summer Jams concert on Friday, July 22nd at the Ocean Institute, the Summer Concert Series on Sunday, July 24th and the Classic Car show on Sunday, August 28th.

City Attorney Patrick Munoz stated he had nothing to report.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Muller adjourned the meeting at 8:13 p.m. He announced that the next Regular Meeting of the City Council will be September 6, 2022, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.



SHAYNA SHARKE
CITY CLERK

APPROVED AT THE MEETING OF SEPTEMBER 20, 2022

Meetings attended since July 12, 2022

Mayor Joseph L. Muller

07/13/2022 OCTA
07/14/2022 TCA
07/14/2022 Dana Point Arts and Entertainment
07/14/2022 Cal Cities
07/18/2022 LOOSAN
07/19/2022 TCA

Mayor Pro Tem Mike Frost

Council Member Jamey M. Federico

No meetings attended.

Council Member Richard A. Viczorek

07/14/2022 SJHTCA Board of Directors Meeting
07/14/2022 OCMVCD Board of Trustees Special Meeting
07/14/2022 OCFA Board of Directors Special Meeting

Council Member Michael Villar

No meetings attended.