

# CITY OF DANA POINT

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## CITY COUNCIL REGULAR MEETING



TUESDAY  
SEPTEMBER 20, 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 – Arrived at 6:00 p.m.  
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

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 6:00 p.m.

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; and Staci Sheaks, Deputy City Clerk.

## **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Council Member Villar.

## **INVOCATION**

There was no Invocation.

## **CLOSED SESSION REPORT**

Council Member Viczorek entered Council Chambers at 6:00 p.m.

City Attorney Patrick Munoz reported that one (1) closed session item for the initiation of litigation regarding bringing receivership action against the property located at 34092 Formosa was approved by the City Council, with a motion by Mayor Pro Tem Frost, seconded by Council Member Villar, and Council Member Viczorek absent. The motion carried 4-0-1.

City Attorney Patrick Munoz also reported that in relation to closed session Item C, HUD/ DFEH reported to the City that they were not taking any action on the complaints they received involving unlicensed residential recovery homes in the City, and that there is no active litigation on this matter.

## **PRESENTATIONS AND PROCLAMATIONS**

Business of the Quarter

City staff played a video showcasing Luxe Restaurant and World Famous Martini Bar.

Mayor Muller presented a Certificate of Recognition to Cindy Monroe and Jimmy Khadivi, Luxe Restaurant and World Famous Martini Bar.

Hunger Action Month

Malia Cary (OC Hunger Alliance) spoke regarding Hunger Action Month.

Mayor Muller presented a Proclamation to Malia Cary, OC Hunger Alliance.

Employee of the Quarter

Mayor Muller presented a Certificate of Recognition to Tamara Theodossin.

Commendation

Mayor Muller presented Rod Hawkins (OC Public Works) with a commendation from Supervisor Lisa Bartlett for his work on homeless outreach in the City.

**READING OF ORDINANCE TITLES**

There were no Ordinance titles.

**CONSENT CALENDAR**

Item 20 was pulled by the Public.

Items 16 and 21 were pulled by the City Council.

IT WAS MOVED BY MAYOR MULLER, SECONDED BY COUNCIL MEMBER FEDERICO, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR, WITH THE EXCEPTION OF ITEMS 16, 20, AND 21.

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

APPROVED THE MINUTES.

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

APPROVED THE MINUTES.

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

APPROVED THE MINUTES.

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

APPROVED THE MINUTES.

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

APPROVED THE MINUTES.

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

APPROVED THE MINUTES.

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

APPROVED THE MINUTES.

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

RECEIVED AND FILED.

**10. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**11. TREASURER'S REPORT**

RECEIVED AND FILED THE TREASURER'S REPORT FOR JULY 2022.

**12. DEVELOPMENT UPDATE**

RECEIVED AND FILED THE DEVELOPMENT UPDATE.

**13. POLICE SERVICES REPORT**

RECEIVED AND FILED THE POLICE SERVICES REPORT.

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

- 1) APPROVED AN AMENDMENT TO THE ORIGINAL AGREEMENT WITH DEKRA-LITE INDUSTRIES, INCORPORATED FOR HOLIDAY DÉCOR DISPLAYS, SPECIALTY DISPLAYS AND STREET LIGHT POLE BANNER SERVICES;
- 2) AUTHORIZED UP TO FOUR OPTIONAL TWO-YEAR CONTRACT RENEWALS BEYOND THE CURRENT CONTRACT TERM OF JULY 1, 2022 – JUNE 30, 2024;
- 3) AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT AND FUTURE AMENDMENTS TO THE CONTRACT; AND
- 4) APPROVED THE FUNDING TRANSFER NEEDED TO FUND THE RECOMMENDED PROGRAM ENHANCEMENTS.

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

**ADOPTED RESOLUTION 22-09-20-01 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**

Item 16 was pulled by Mayor Pro Tem Frost.

City Manager Michael A. Killebrew answered questions of the Council.

Discussion ensued.

IT WAS MOVED BY MAYOR PRO TEM FROST, SECONDED BY MAYOR MULLER, 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.

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. CONVERGINT TECHNOLOGIES CONTRACT RENEWAL FOR FY23**

AUTHORIZED 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**

AUTHORIZED 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**

- 1) ADOPTED RESOLUTION 22-09-20-02, ENTITLED:

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) ADOPTED RESOLUTION 22-09-20-03, ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING THE CITY'S CONFLICT OF INTEREST CODE; AND

- 3) AUTHORIZED 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**

Item 20 was pulled by the Public.

Rod Hansen (Mission Viejo, CEO of Cityside Networks / Slice Fiber) spoke of his proposal for a fiber optic network in Dana Point and asked the Council to recognize Senate Bill 378 regarding micro trenching.

IT WAS MOVED BY COUNCIL MEMBER FEDERICO, SECONDED BY COUNCIL MEMBER VILLAR, 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.

Public Works Director Matthew Sinacori answered questions of the Council.

Discussion ensued.

City Manager Michael A. Killebrew answered questions of the Council.

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

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

Item 21 was pulled by Mayor Muller.

Assistant City Manager Kelly Reenders answered questions of the Council.

Discussion ensued.

IT WAS MOVED BY MAYOR MULLER, SECONDED BY COUNCIL MEMBER FEDERICO, 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.

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

## **22. RECRUITMENT FOR THE PLANNING COMMISSION**

DIRECTED 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**

ADOPTED RESOLUTION 22-09-20-04 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**

Vickie McMurchie (Dana Point Chamber of Commerce) thanked the Council and City staff for their support at the Classic Car Show and invited residents/visitors to the Trolley Hop on September 25<sup>th</sup>. She also spoke about upcoming events, including the annual Turkey Trot and 75<sup>th</sup> Anniversary of the Chamber of Commerce.

**PUBLIC HEARINGS**

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

Community Development Director Brenda Wisneski introduced Colin Drukker (Placeworks) who provided a presentation and answered questions of the Council.

Mayor Muller opened the Public Hearing at 6:51 p.m.

Mayor Muller closed the Public Hearing at 6:51 p.m.

IT WAS MOVED BY MAYOR PRO TEM FROST, SECONDED BY COUNCIL MEMBER VILLAR, TO ADOPT RESOLUTION 22-09-20-05 TO APPROVE 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).**

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**

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

Finance Manager Sea Shelton provided a staff report and answered questions of the Council.

Discussion ensued.

City Manager Michael A. Killebrew answered questions of the Council.

Discussion ensued.

IT WAS MOVED BY MAYOR MULLER, SECONDED BY MAYOR PRO TEM FROST, 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.

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

## **COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED**

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

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

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

Mayor Pro Tem Frost will turn in his list of meetings attended to the City Clerk.

Mayor Muller turned in his list of meetings attended to the City Clerk and spoke of the upcoming Ohana Fest, thanked the Chamber of Commerce for a great Classic Car Show, and stated he is looking forward to the Turkey Trot.

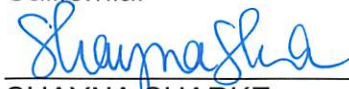
## STAFF REPORTS

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

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 7:11 p.m. He announced that 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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SHAYNA SHARKE  
CITY CLERK

APPROVED AT THE MEETING OF OCTOBER 18, 2022

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**Meetings attended since August 25, 2022**

**Mayor Joseph L. Muller**

08/26/2022 SDG&E  
08/26/2022 ACC-OC  
08/27/2022 5<sup>th</sup> Marines  
08/28/2022 Car Show  
08/28/2022 Ocean Institute  
08/30/2022 NMBOA  
08/30/2022 TCA  
08/31/2022 Ocean Institute  
09/01/2022 Delahunt Brewing  
09/01/2022 OC Parks  
09/02/2022 OCTA  
09/03/2022 SCWD  
09/03/2022 Marriott  
09/06/2022 Coastal Commission  
09/07/2022 Coastal Commission  
09/08/2022 TCA  
09/12/2022 OCTA  
09/12/2022 5<sup>th</sup> Marines  
09/13/2022 LOOSAN  
09/14/2022 Resident Lunch  
09/15/2022 OCTax  
09/20/2022 TCA

**Mayor Pro Tem Mike Frost**

**Council Member Jamey M. Federico**

08/26/2022 ACC-OC Social Mixer  
09/01/2022 CASA Board Meeting  
09/06/2022 CASA Board Meeting  
09/10/2022 Ocean Institute Fundraiser  
09/12/2022 DP5MSG Laughs for Leathernecks  
09/13/2022 Financial Review Committee Meeting  
09/14/2022 OCHFT Board Meeting  
09/18/2022 Pet Project Foundation Annual Gala

**Council Member Richard A. Viczorek**

09/08/2022 TCA Board of Directors Meeting and Special Board of Directors Meeting  
09/15/2022 OCMVCD Board of Trustees Meeting

**Council Member Michael Villar**

8/30/2022 CUSD Facilities: Follow Up Meeting on School Security with City of Dana Point