

# CITY OF DANA POINT

**CITY COUNCIL  
REGULAR  
MEETING**



**TUESDAY  
MAY 1, 2018  
5:00 P.M.**

## **MINUTES**

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

Next City Council Ordinance No. 18-03

### **CALL TO ORDER**

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Viczorek at 5:02 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

### **ROLL CALL OF CITY COUNCIL MEMBERS:**

Richard A. Viczorek, Mayor  
Joseph L. Muller, Mayor Pro Tem  
Debra Lewis, Council Member *(Arrived at 5:04 p.m.)*  
John A. Tomlinson, Council Member *(Arrived at 5:04 p.m.)*  
Paul N Wyatt, Council Member

### **CLOSED SESSION**

City Attorney Munoz stated that an additional item was needed to be added to Closed Session; existing litigation matter of Albert Bertha v. City of Dana Point, Case Number 30-2017-00932275 in the Orange County Superior Court. He added that the issue was not on the agenda for this evening but a settlement proposal had been received today and because of timing issues needed to be considered this evening. He asked that the item be added to the agenda with a unanimous vote.

**IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL ADD THE ITEM TO CLOSED SESSION.**

The motion carried by the following vote:

**AYES:** Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek

**NOES:** None

**ABSENT:** Council Member Debra Lewis and Council Member John A. Tomlinson

City Attorney Munoz stated that in addition to the item that was just added, that there was a need for Closed Session as follows:

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

Mayor Viczorek recessed the meeting into a Closed Session at 5:04 p.m. pursuant to Government Code Section 54956 et seq.

## **RECONVENE CITY COUNCIL MEETING – CALL TO ORDER**

Mayor Viczorek reconvened the meeting at 6:15 p.m. All Council Members were present.

STAFF PRESENT: Mark Denny, City Manager; Patrick Munoz, City Attorney; Mike Killebrew, Assistant City Manager; Bobbi Ogan, Deputy City Clerk; Ursula Luna-Reynosa, Director of Community Development; Mike Rose, Director of General Services; Lt. Margie Sheehan; Matthew Sinacori, Director of Public Works and Engineering; Matthew Schneider, Planning Manager; and Shayna Sharke, Senior Administrative Assistant.

## **CLOSED SESSION ANNOUNCEMENT**

City Attorney Munoz stated that he had nothing to report.

## **PLEDGE OF ALLEGIANCE**

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

## **INVOCATION**

The Invocation was provided by Associate Pastor Jens Christy of Capo Beach Church.

## **PRESENTATIONS AND PROCLAMATIONS**

Presentation by Rick Howard, O.C. Mosquito and Vector Control District

Rick Howard, District Manager, provided a PowerPoint presentation which included an overview of what services the District provides to the county.

## **CONSENT CALENDAR**

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR.

The motion carried by the following vote:

AYES: Council Member Debra Lewis, Council Member John A. Tomlinson, Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek

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 ON THE CONSENT CALENDAR AND THAT FURTHER READING OF SUCH ORDINANCES BE WAIVED.

**2. REGULAR MEETING MINUTES, APRIL 17, 2018**

APPROVED THE MINUTES.

**3. DANA POINT COMMUNITY WORKSHOP MINUTES, APRIL 9, 2018**

APPROVED THE MINUTES.

**4. PLANNING COMMISSION MEETING MINUTES, MARCH 26, 2018**

RECEIVED AND FILED.

**5. YOUTH BOARD MEETING MINUTES, FEBRUARY 15, 2018**

RECEIVED AND FILED.

**6. YOUTH BOARD MEETING MINUTES, MARCH 22, 2018**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**8. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**9. CITY TREASURER'S REPORT, MARCH 2018**

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF MARCH 2018.

**10. AMENDMENT OF A CONTRACT FOR STORM WATER BEST MANAGEMENT PRACTICE (BMP) MAINTENANCE SERVICES AND AS-NEEDED SPILL RESPONSE**

AUTHORIZED THE CITY MANAGER TO PROCESS AN AMENDMENT TO THE AGREEMENT WITH UNITED STORM WATER, INC. FOR STORM WATER BEST MANAGEMENT PRACTICE (BMP) MAINTENANCE SERVICES AND AS-NEEDED SPILL RESPONSE BASED ON A RECENT REQUEST FOR PROPOSAL PROCESS.

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## **PUBLIC COMMENTS**

Wayne Yost, Dana Point, spoke regarding the districting process and announced the Veterans of Foreign Wars Memorial Day Ceremony to be held at Pines Park on May 28<sup>th</sup> beginning at 10:00 a.m.

Lynn Kupfer, Laguna Niguel, spoke regarding Short Term Rentals.

Layse and Enzo Johnson, Solana Beach, spoke regarding San Onofre Nuclear Power Plant and public safety.

Torgen Johnson, Solana Beach, spoke regarding the shutdown of San Onofre and the possible public safety issues.

Nancy Leonard, Dana Point, thanked Capo Cares and Lt. Sheehan for the recent "Meet the Chief" forum that was held at Capo Beach Church. She also thanked the church for hosting events.

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

Council Member Wyatt stated that he had turned in his list of meetings attended to the City Clerk. He reported that he had attended a Library Advisory Board meeting and learned that the budget had not been balanced for years. He was concerned that days of library operation would be eliminated. He stated that there was another meeting scheduled next week to discuss the balancing the budget. He added that they had kicked off the short term rental subcommittee meetings with staff and stated that the ACC-OC Short Term Rental Task Force which he is also a member of had met. He indicated that he would be able to provide a report in the future.

Council Member Lewis thanked Capo Beach Church for their hosting of events. She also thanked Capo Cares for putting on these events. She reported that she had attended the Candidate Forum which was a great opportunity to meet four of the candidates that was held at the church last night.

Mayor Pro Tem Muller reported that he had attended the Pinning Ceremony of the new Fire Chief Brian Fennessy and that the ceremony was something that everyone should experience. He stated that he had turned in his list of meetings attended to the City Clerk.

Mayor Viczorek stated that he had turned in his list of meetings attended to the City Clerk.

Mayor Viczorek recessed the meeting at 7:00 p.m. and reconvened the meeting at 7:08 p.m.

## **PUBLIC HEARINGS**

### **11. FIRST READING OF ORDINANCE ADOPTING TRANSITION TO BY-DISTRICT ELECTIONS FOR CITY COUNCIL MEMBERS**

City Attorney Munoz provided an introduction of this item.

Discussion ensued.

Doug Johnson of NDC reviewed the new maps that had been created as a result of input from the public.

Discussion ensued.

Mayor Viczorek opened the Public Hearing.

Penny Maynard, Dana Point, spoke in support of five districts.

Bev Jorgenson, Chamber of Commerce, spoke in support of five districts.

Greg Wall, Dana Point, spoke in support of the Tan VI map and was not supportive of four districts.

Jenene Rudder, Dana Point, spoke in support of an elected Mayor as demonstrated in the Pine IV map. She indicated that if there were to be five districts chosen that she would support map Tan VII.

Susan Swayze, Dana Point, spoke in support of four districts with an at-large Mayor.

Nancy Jenkins, Dana Point, spoke in support of five districts.

Nancy Leonard, Dana Point, spoke regarding how the decision made by the Council will change the voting rights of the community and how she was not in favor of districting.

Carol Kelly, Dana Point, spoke in support of four districts with an at-large Mayor and felt that Pine IV was the best solution.

Patricia Short, Dana Point, spoke in support of five districts.

Mayor Viczorek closed the Public Hearing.

Mayor Viczorek explained how he would be handling the issues that the Council would be voting on beginning with whether the Council would be availing themselves of the Safe Harbor provision; how many districts; which map would be chosen, and which districts would be up for election.

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY COUNCIL MEMBER WYATT, THAT THE CITY COUNCIL TAKE ADVANTAGE OF THE SAFE HARBOR.

Discussion ensued.

The motion carried by the following vote:

AYES: Council Member Debra Lewis, Council Member John A. Tomlinson, Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek

NOES: None

ABSENT: None

It was moved by Council Member Lewis, seconded by Council Member Wyatt that regardless whether five districts or four districts were selected, that the City Council would put a Ballot Measure on the 2018 Election to allow the voters to make the decision.

Discussion ensued.

A SUBSTITUTE MOTION WAS MADE BY COUNCIL MEMBER LEWIS, SECONDED BY COUNCIL MEMBER WYATT, THAT THE CITY CONTRACT WITH FM3 TO CONDUCT A COMMUNITY SURVEY ON WHETHER THERE SHOULD BE FOUR DISTRICTS, WITH AN AT-LARGE MAYOR OR FIVE DISTRICTS.

The motion carried by the following vote:

AYES: Council Member Debra Lewis, Council Member John A. Tomlinson, Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek

NOES: None

ABSENT: None

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY MAYOR VICZOREK, THAT THE CITY COUNCIL SELECT FIVE DISTRICTS AS INDICATED IN ACTION DOCUMENT A.

Discussion ensued.

The motion carried by the following vote:

AYES: Council Member John A. Tomlinson, Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek

NOES: Council Member Debra Lewis

ABSENT: None

It was moved by Council Member Tomlinson, seconded by Council Member Wyatt that the City Council choose map Tan VII as the City's Voting District Map.

Discussion ensued.

A SUBSTITUTE MOTION WAS MADE BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL SELECT MAP TAN VI AS THE CITY'S VOTING DISTRICT MAP.

The motion carried by the following vote:

AYES: Council Member John A. Tomlinson, Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek

NOES: None

ABSENT: None

ABSTAIN: Council Member Debra Lewis

It was moved by Council Member Tomlinson, seconded by Mayor Pro Tem Muller that the City Council select Districts 1, 2, and 3 to be voted upon in the November 2018 Election.

A substitute motion was made by Council Member Lewis, that the City Council select Districts 1, 2, and 5 to be voted upon in the November 2018 Election. The substitute motion died for a lack of a second.

Discussion ensued.

A SUBSTITUTE MOTION WAS MADE BY COUNCIL MEMBER LEWIS, SECONDED BY COUNCIL MEMBER WYATT, THAT THE CITY COUNCIL SELECT DISTRICTS 2, 3, AND 5 TO BE PLACED ON THE CITY'S 2018 BALLOT.

The motion failed by the following vote:

AYES: Council Member Debra Lewis

NOES: Council Member John A. Tomlinson, Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek

ABSENT: None

Discussion ensued.

It was moved by Council Member Lewis to put the Districts in a hat and select them. The motion died for a lack of a second.

Mayor Viczorek returned to the original motion made by Council Member Tomlinson:

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY MAYOR PRO TEM MULLER THAT THE CITY COUNCIL SELECT DISTRICTS 1, 2, AND 3 TO PLACED ON THE CITY'S 2018 BALLOT.

The motion carried by the following vote:

AYES: Council Member John A. Tomlinson, Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek

NOES: Council Member Debra Lewis

ABSENT: None

Brief discussion ensued.

IT WAS MOVED BY MAYOR PRO TEM MULLER, SECONDED BY COUNCIL MEMBER WYATT, THAT THE CITY COUNCIL INTRODUCE FOR FIRST READING ACTION DOCUMENT A ORDINANCE WITH THE BLANKS COMPLETED ON PAGES 11 AND 12 WHICH REFERENCE THE DISTRICT MAP AND THE COUNCIL DISTRICTS THAT WILL BE PLACED

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ON THE CITY'S 2018 BALLOT AS WELL AS THE COUNCIL DISTRICTS WHICH WILL BE PLACED ON THE CITY'S 2020 BALLOT ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ESTABLISHING AND IMPLEMENTING BY-DISTRICT ELECTIONS (GOV. CODE § 34886 & ELEC. CODE §10010).

Discussion ensued.

The motion carried by the following vote:

AYES: Council Member John A. Tomlinson, Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek

NOES: Council Member Debra Lewis

ABSENT: None

Mayor Viczorek recessed the meeting at 10:07 p.m. and reconvened the meeting at 10:12 p.m.

## **UNFINISHED BUSINESS**

There were no Unfinished Business items.

## **NEW BUSINESS**

### **12. BUDGET WORKSHOP**

Assistant City Manager Killebrew introduced the item and Mary Beth Redding from Bartel Associates, LLC provided a PowerPoint presentation.

### **13. DRAFT FINANCIAL POLICIES**

THIS ITEM WAS CARRIED OVER TO THE REGULAR MEETING OF MAY 15, 2018.

### **14. AWARD OF CONTRACT FOR THE COMMUNITY CENTER RENOVATION PROJECT 2018**

Director Rose provided a staff report.

Mayor Viczorek opened the Public Comments.

Buck Hill, Capistrano Beach, had questions regarding the cost of the project.

Mayor Viczorek closed the Public Comments.

Discussion ensued.

IT WAS MOVED BY MAYOR VICZOREK, SECONDED BY MAYOR PRO TEM MULLER, THAT THE CITY COUNCIL AWARD A CONTRACT TO OPTIMA RPM, INCORPORATED FOR THE



COMMUNITY CENTER RENOVATION PROJECT 2018; AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO SIGN THE CONTRACT DOCUMENTS AND TO APPROVE ADDITIONAL EXPENDITURES FOR CHANGE ORDERS, CONTINGENCIES, AND OTHER PROJECT COSTS AS NOTED IN THE FISCAL IMPACT SECTION; AND ALLOCATE FUNDS, INCLUDING A 10% CONTINGENCY, IN THE FACILITIES IMPROVEMENT FUND (FUND 12) TO PAY FOR THE PROJECT.

The motion carried by the following vote:

AYES: Council Member Debra Lewis, Council Member John A. Tomlinson, Council Member Paul N Wyatt, Mayor Pro Tem Joseph L. Muller, and Mayor Richard A. Viczorek

NOES: None

ABSENT: None

### **PUBLIC COMMENTS (Continued)**

There were no additional Public Comments received.

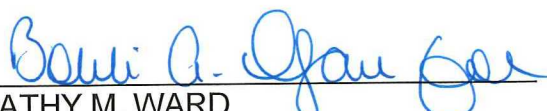
### **STAFF REPORTS**

City Manager Denny announced that the Nature Interpretive Center won an award recently and thanked the staff and docents.

### **ADJOURNMENT**

Mayor Viczorek stated that before he adjourned the meeting he wanted to take a brief moment to offer to our City Attorney the City's deepest condolences and sympathies on the loss of his mother. He added that for those of you who did not know, the City Attorney's mother passed away this week and that he will be adjourning the meeting in her memory. He stated that in addition, the community has suffered another sad passing, former Planning Commissioner Liz Claus who had served on the Commission from November 2005 through January 2016.

Mayor Viczorek adjourned the meeting at 10:57 p.m. in the memory of Liz Claus and City Attorney Munoz's mother Jacqueline Jensen. He announced that the next Regular Meeting of the City Council will be May 15, 2018, 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 MAY 15, 2018

Meetings attended since April 17, 2018:

**Mayor Richard A. Viczorek**

April 19      SOCAM Meeting  
                  OCMVCD Board of Trustees meeting  
April 25      SJHTCA Budget Workshop  
April 27      OCSD Medal of Valor Luncheon

**Mayor Pro Tem Joseph L. Muller**

April 19      Meeting with Resident  
April 25      TCA  
                  CVRA Meeting  
April 26      OCFA  
April 27      OCFA  
April 27      Medal of Valor Luncheon

**Council Member Debra Lewis**

April 19      HOA presentation  
April 20      Council members for San Juan Capistrano and San Clemente  
April 21      Andrae Bailey, Orlando - Homeless Webinar  
April 22      Capo Cares presents Chief Sheehan Forum  
April 23      Districting Workshop  
April 24      HOA presentation  
April 30      Candidate Forum

**Council Member Paul N. Wyatt**

April 19      Library Advisory Board Meeting  
April 20      R. H. Dana Elementary STEM Presentation  
                  ACC-OC Short-term Rental Roundtable  
                  Club Pilates Ribbon Cutting  
April 23      Short-term Rental Subcommittee Meeting  
April 24      Ocean Water Quality Subcommittee Meeting  
April 25      California Voter Rights Act Workshop  
April 27      South Orange County Economic Coalition – Continuing the Discussion on Homelessness  
                  Orange County Sheriff Department Best and Bravest Awards