

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
SEPTEMBER 19, 2023
5:00 P.M.**

MINUTES

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

Next City Council Ordinance No. 23-07

CALL TO ORDER

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

ROLL CALL OF CITY COUNCIL MEMBERS:

Mike Frost, Mayor
Jamey M. Federico, Mayor Pro Tem
John Gabbard, Council Member
Matthew Pagano, Council Member
Michael Villar, Council Member

STAFF PRESENT: Michael A. Killebrew, City Manager; Patrick Munoz, City Attorney; Shayna Sharke, City Clerk; Captain Todd Hylton; Sea Shelton, Director of Administrative Services; Matthew Sinacori, Director of Public Works/City Engineer; Belinda Deines, Principal Planner; and Jaimie To, Senior Management Analyst.

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 – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (2 case)
- C. CONFERENCE WITH LEGAL COUNSEL - LITIGATION STRATEGY REVIEW INCLUDING POTENTIAL DISCUSSION OF THE FOLLOWING EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (3 cases), AND POTENTIAL DISCUSSION OF ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (3 cases)
 - 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. Center For Natural Lands Management v City of Dana Point, Orange County Superior Court Case No: 30-2021-01219668 CU-OR-CJC
- d. CONFERENCE WITH LABOR NEGOTIATOR, Government Code § 54957.6

Agency Designated Representatives: City Manager
Unrepresented and Represented Employees: All positions in City

Mayor Frost 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 Frost reconvened the meeting at 6:08 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Pagano.

INVOCATION

PRESENTATIONS AND PROCLAMATIONS

Harbor Heroes

Mayor Frost thanked the first responders for their heroic lifesaving efforts during a choking incident at a Dana Point Harbor restaurant and presented certificates of recognition to OCFA Captain Corey Gallup, Ian Creen, Mark Varker, Dickson Mitchell, Deputy Hodges, and Deputy Weimann.

Hunger Action Month

Mayor Frost presented Linda Lewis with a proclamation and Ms. Lewis urged the public to visit feedoc.org to help those in need of support.

Business of the Quarter - HÖM Dana Point

Mayor Frost presented Danielle Desimone with a proclamation.

READING OF ORDINANCE TITLES

There were no Ordinance titles.

CONSENT CALENDAR

Council Member Villar removed Item #9 and #10 from the Consent Calendar. Council Member Gabbard removed Item #12.

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

The motion carried by the following vote:

AYES: Council Member Gabbard, Council Member Pagano, Council Member Villar, Mayor Pro Tem Federico, and Mayor Frost

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, JULY 18, 2023

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, JULY 10, 2023

RECEIVED AND FILED THE MINUTES.

4. PLANNING COMMISSION MEETING MINUTES, AUGUST 14, 2023

RECEIVED AND FILED THE MINUTES.

5. TRAFFIC IMPROVEMENT SUBCOMMITTEE MEETING MINUTES, APRIL 6, 2023

RECEIVED AND FILED THE MINUTES.

6. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

7. TREASURER'S REPORT, JULY 2023

RECEIVED AND FILED THE TREASURER'S REPORT FOR JULY 2023.

8. DEVELOPMENT UPDATE

RECEIVED AND FILED THE DEVELOPMENT UPDATE.

9. POLICE SERVICES UPDATE

Item 9 was removed from the Consent Calendar by Council Member Villar.

Discussion ensued and Council Member Villar requested that Captain Hylton provide a 90-day assessment and asked Staff for a detailed assessment of the Short-Term Rental processes.

IT WAS MOVED BY COUNCIL MEMBER VILLAR, SECONDED BY MAYOR FROST, THAT THE CITY COUNCIL RECEIVE AND FILE THE REPORT.

The motion carried by the following vote:

AYES: Council Member Gabbard, Council Member Pagano, Council Member Villar, Mayor Pro Tem Federico, and Mayor Frost

NOES: None

ABSENT: None

10. CITY COUNCIL POLICY 235 – MUNICIPAL CODE REVIEW

Item 9 was removed from the Consent Calendar by Council Member Villar. He clarified the difference between Item 10 and Item 18.

Discussion ensued.

IT WAS MOVED BY MAYOR PRO TEM FEDERICO, SECONDED BY COUNCIL MEMBER VILLAR, THAT THE CITY COUNCIL ADOPT THE ADDITION TO THE CITY COUNCIL POLICY ESTABLISHING A ROUTINE REVIEW OF THE DANA POINT MUNICIPAL CODE

The motion carried by the following vote:

AYES: Council Member Gabbard, Council Member Pagano, Council Member Villar, Mayor Pro Tem Federico, and Mayor Frost

NOES: None

ABSENT: None

11. SENIOR SERVICES CONTRACT WITH AGE WELL SENIOR SERVICES FOR MEAL SERVICES AND CASE MANAGEMENT

- 1) RATIFIED THE MEMORANDUM OF UNDERSTANDING (MOU) SIGNED ON AUGUST 22, 2023, BETWEEN AGE WELL SENIOR SERVICES INC. AND THE CITY OF DANA POINT; AND
- 2) AWARDED A CONTRACT TO AGE WELL AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT.

12. CITY COUNCIL APPOINT A REPRESENTATIVE TO THE ORANGE COUNTY HARBOR ADVISORY COMMITTEE

Item 12 was removed from the Consent Calendar by Council Member Gabbard.

IT WAS MOVED BY COUNCIL MEMBER GABBARD THAT THE CITY COUNCIL APPOINT MAYOR FROST TO THE ORANGE COUNTY HARBOR ADVISORY COMMITTEE.

Discussion ensued.

COUNCIL MEMBER GABBARD WITHDREW HIS MOTION.

IT WAS MOVED BY COUNCIL MEMBER VILLAR, SECONDED BY MAYOR FROST THAT THE CITY COUNCIL APPOINT MAYOR FROST TO THE ORANGE COUNTY HARBOR ADVISORY COMMITTEE.

- 1) APPROVED APPOINTMENT OF THE CURRENT MAYOR OR MAYOR'S DESIGNEE TO THE ORANGE COUNTY HARBOR ADVISORY COMMITTEE; AND
- 2) DIRECTED STAFF TO NOTIFY AFFECTED AGENCIES AS NECESSARY.

The motion carried by the following vote:

AYES: Council Member Gabbard, Council Member Pagano, Council Member Villar, Mayor Pro Tem Federico, and Mayor Frost

NOES: None

ABSENT: None

13. PEG FEE FUNDS AUTHORIZATION

- 1) AUTHORIZED STAFF TO UTILIZE A PORTION OF THE CITY'S PUBLIC, EDUCATIONAL, AND GOVERNMENTAL (PEG) FUND FEES TO UPGRADE THE AUDIO AND VISUAL NEEDS OF THE OCEAN INSTITUTE'S SAMUELI LECTURE HALL AND CONFERENCE CENTER, CITY COUNCIL CHAMBER, AND EMERGENCY OPERATIONS CENTER; AND,
- 2) AUTHORIZED THE MAYOR TO ENTER A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN CITY OF DANA POINT AND THE OCEAN INSTITUTE (OI) PROVIDING FOR OCCASIONAL USE OF THE SAMUELI LECTURE HALL AND CONFERENCE CENTER FOR CITY-RELATED MEETINGS AND EVENTS AT NO CHARGE, INCLUDING THE ANNUAL STATE OF THE CITY EVENT, AND CREDIT THE CITY AS A TITLE SPONSOR OF THE ANNUAL MARITIME FESTIVAL FOR A PERIOD OF 5 YEARS.

14. ENVIRONMENTAL REVIEW AGREEMENT FOR THE STONEHILL DRIVE WIDENING IMPROVEMENT PROJECT

AUTHORIZED THE CITY MANAGER TO ENTER INTO A STANDARD CONSULTANT SERVICES AGREEMENT (WITH ANY NON-SUBSTANTIVE MODIFICATIONS) WITH LSA ASSOCIATES, INCORPORATED FOR THE ENVIRONMENTAL REVIEW OF THE STONEHILL DRIVE WIDENING IMPROVEMENT PROJECT.

PUBLIC COMMENTS

Kiana Berkman (Dana Point / Poles and Lines (PAL)) voiced concerns regarding overhead powerlines and homeowners insurance accessibility due to wildfire risk. She also asked for an update regarding the process that the City of Newport Beach took with their undergrounding project.

Wayne Yost (VFW Post 9934) thanked the Chamber of Commerce for the Car Show and complimented the Soroptimist Craft Show. He invited the community to the Goldstar Family Dedication at Strand Beach at 10AM on Saturday, September 23rd. He also invited veterans to utilize the VFW services during their VA Disability Claims Clinics on the first and third Wednesday of each month between 2:00 p.m. and 4:00 p.m.

LJ Cibelli (Monarch Beach Sunrise Rotary) urged Council to recognize September as Service Club Month.

Len Gardner (Dana Point / PAL) spoke regarding his concerns of the overhead powerlines and referenced the Lahaina fire. He distributed a letter that he had written to the Los Angeles Times.

Marilyn Gardner (Dana Point / PAL) spoke of a child from the City of Paradise whose life was upended by the fires there and urged Council to underground the powerlines.

Linda Hess (Monarch Beach Sunrise Rotary) echoed Mr. Cibelli's comments and urged Council to recognize September as Service Club Month.

Daniel Shabe (Dana Point) spoke regarding his concerns with election integrity and suggested that the City Council consider the actions taken by Huntington Beach regarding voting regulations.

Michelle Morgan (Dana Point) spoke regarding her concerns with election integrity and encouraged Council to review the County voter data and audits that her organization has acquired.

PUBLIC HEARINGS

None.

UNFINISHED BUSINESS

15. APPOINTMENT TO THE PLANNING COMMISSION

City Clerk Shayna Sharke provided a staff report.

The City Council interviewed the following applicants for one (1) position on the Planning Commission:

1. Daniel Burgner
2. Enzo Calandra
3. Ron Leland
4. Nathaniel Magnusson
5. Deana Christakes

City Clerk Shayna Sharke read the votes into the record. With no majority votes, the Council voted a second time, with two votes allowed per Council Member.

City Clerk Shayna Sharke read into the record the votes of the City Council, with the majority of the votes for Deana Christakes.

IT WAS MOVED BY COUNCIL MEMBER VILLAR, SECONDED BY COUNCIL MEMBER PAGANO TO APPOINT DEANA CHRISTAKES TO THE PLANNING COMMISSION.

The motion carried by the following vote:

AYES: Council Member Gabbard, Council Member Pagano, Council Member Villar, Mayor Pro Tem Federico, and Mayor Frost

NOES: None

ABSENT: None.

16. COMMUNITY BENEFIT DISTRICT FORMATION PROCESS FOR THE LANTERN DISTRICT

Mayor Pro Tem Federico recused himself due to a conflict of interest and left Council Chamber at 8:02 p.m.

Senior Management Analyst Jamie To provided a Staff Report.

Mayor Frost opened Public Comment.

Terry Labourdette (Oceanside) proposed questions regarding the contract, budget use, and referenced conversations that he has had with the vendor.

Mayor Frost closed Public Comment.

Discussion ensued.

IT WAS MOVED BY MAYOR FROST, SECONDED BY COUNCIL MEMBER GABBARD THAT THE CITY COUNCIL:

- 1) APPROVE A CONTRACT WITH NEW CITY AMERICA FOR THE FORMATION A COMMUNITY BENEFIT DISTRICT (CBD) IN THE LANTERN DISTRICT; AND**
- 2) AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT.**

The motion carried by the following vote:

AYES: Council Member Gabbard, Council Member Pagano, and Mayor Frost

NOES: Council Member Villar

ABSENT: Mayor Pro Tem Federico

Mayor Pro Tem Federico re-entered Council Chamber at 8:19 p.m.

17. FISCAL YEAR 2022-23 (FY23) 4TH QUARTER FINANCIAL REPORT; PROPOSED FY24 CARRY-OVER BUDGET ADJUSTMENTS; HEALTH PLAN PROVISIONS FOR CALENDAR YEAR 2024; AND SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED EMPLOYEE CLASSIFICATIONS; AND AMENDMENTS TO CITY'S CONFLICT OF INTEREST CODE

Director of Administrative Services, Sea Shelton provided a staff report.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER VILLAR, SECONDED BY MAYOR FROST THAT THE CITY COUNCIL:

1. RECEIVE AND FILE THE FY23 FINANCIAL REPORT FOR THE QUARTER ENDED JUNE 30, 2023; AND
2. AMEND THE FY2023-24 ("FY24") BUDGET BY AUTHORIZING THE CARRY-OVER AND APPROPRIATION OF ENCUMBERED AND UNENCUMBERED FUNDS FROM FY23 TO FY24, AND AUTHORIZE THE FY24 REVENUE AND EXPENDITURE ADJUSTMENTS, AS DETAILED IN THIS REPORT; AND
3. ADOPT RESOLUTION 23-09-19-01 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
4. ADOPT RESOLUTION 23-09-19-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING THE CITY'S CONFLICT OF INTEREST CODE; AND
5. ADOPT RESOLUTION 23-09-19-03 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, MODIFYING HEALTH BENEFIT PLAN ALLOWANCES FOR ELIGIBLE REPRESENTED AND ELIGIBLE NON-REPRESENTED CLASSIFICATIONS; AND
6. AUTHORIZE THE CITY MANAGER TO EXECUTE NECESSARY DOCUMENTS WITH MISSION SQUARE RETIREMENT TO AMEND THE CITY'S 457 DEFERRED COMPENSATION PLAN TO ALLOW FOR ROTH CONTRIBUTIONS.

The motion carried by the following vote:

AYES: Council Member Gabbard, Council Member Pagano, Council Member Villar, Mayor Pro Tem Federico, and Mayor Frost

NOES: None

ABSENT: None

NEW BUSINESS

18. DPMC UPDATE REMAINING PORTIONS OF TITLE 1 GENERAL PROVISIONS AND TITLE 2 ADMINISTRATION AND PERSONNEL

Director of Administrative Services, Sea Shelton provided a staff report.

Discussion ensued.

THE CITY COUNCIL RECEIVED AND FILED THE PROPOSED CHANGES TO PORTIONS OF TITLE 1: GENERAL PROVISIONS AND TITLE 2: ADMINISTRATIVE PERSONEL IN THE DANA POINT MUNICIPAL CODE

PUBLIC COMMENTS (Continued)

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Gabbard stated that he turned in his list of meetings attended.

Council Member Pagano stated that he will turn in his list of meetings attended.

Council Member Villar stated that he turned in his list of meetings attended.

Mayor Pro Tem Federico stated that he turned in his list of meetings attended. He suggested that the next recruitment for a Commission or Committee member start with a subcommittee to select the top candidates to interview with City Council.

Mayor Frost stated that he turned in his list of meetings attended. He complimented the Symphony on the Go and invited the community to attend REDO Market on Sunday, September 24th.

STAFF REPORTS

City Manager Michael Killebrew announced that the City will be participating in the AlertOC test exercise on Thursday, September 21st and announced that Youth Board applications are being accepted through Wednesday, September 27th.

City Attorney Patrick Muñoz provided a report out from Closed Session, on two subjects of Initiation of Litigation, stating that first a motion was made by Mayor Pro Tem Federico, seconded by Council Member Gabbard, and carried by a 5-0-0 vote, to participate in an amicus brief in the matter of Johnson v City of Grants Pass seeking to request Supreme Court review of the case. Secondly, a motion was made by Mayor Pro Tem Federico, seconded by Mayor Frost, and carried by a 4-1-0 vote (Council Member Villar – “No”) authorizing participation in an amicus brief in the matter of the City of Costa Mesa v SoCal Recovery, LLC, seeking Supreme Court review of the case.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Frost adjourned the meeting at 8:38 p.m. He announced that the next Regular Meeting of the City Council will be October 3, 2023, 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 OCTOBER 3, 2023

Meetings attended since July 19, 2023

Mayor Mike Frost

06/08/2023 TCA Joint Meeting of the Boards of Directors (SJHTCA & F/ETCA)
06/19/2023 OCHFT New Board Member briefing with Mike Frost
06/19/2023 ACC-OC - L&R committee prep
06/22/2023 ACC-OC Legislative and Regulatory Committee Meeting
07/13/2023 TCA Joint Meeting of the Boards of Directors (SJHTCA & F/ETCA)
07/19/2023 OCHFT - First Meeting
07/29/2023 Coastal Cities Group Leadership Committee
08/10/2023 TCA Joint Meeting of the Boards of Directors (SJHTCA & F/ETCA)
08/16/2023 Lantern Bay Stairs Ribbon-Cutting
08/17/2023 Coastal Cities Group Leadership Committee
08/24/2023 ACC-OC Legislative and Regulatory Committee Meeting
08/29/2023 Supervisor Foley District 5 Mayor/City Manager Meeting
08/30/2023 Sober Living & Recovery Home Virtual Roundtable (ACC-OC & CASLAR)
09/06/2023 D5 Dana Point Harbor Oversight Committee
09/08/2023 Sober Living Task Force Meeting | CASLAR

Mayor Pro Tem Jamey M. Federico

07/24/2023 OCTA Board Meeting
08/10/2023 TCA Board Meeting
08/14/2023 OCTA Board Meeting
08/16/2023 ACC-OC Board of Directors
08/17/2023 CIP Subcommittee
08/23/2023 OCTA Finance and Administration
08/27/2023 Dana Point Car Show
08/28/2023 OCTA Board Meeting
09/10/2023 Pet Project Foundation Gala
09/13/2023 ACC-OC Board of Directors
09/13/2023 OCTA Finance Committee
09/14/2023 TCA Board Meeting
09/19/2023 OCTA 5th District Mayors' Forum

Council Member John Gabbard

07/19/2023 JPIA Annual meeting
07/20/2023 OC Mosquito and Vector Control District Board Meeting
07/27/2023 Orange County Council of Government
08/11/2023 Ramps and Reels.
08/12/2023 Ramps and Reels
08/16/2023 SCAG Community, Economic, and Human Development Committee Special Meeting
08/16/2023 Lantern Bay Stairs Ribbon-Cutting
08/17/2023 OC Mosquito and Vector Control District Board Meeting
09/07/2023 SCAG Committee and Regional Council Meeting

- 09/13/2023 OCFA Budget/Finance Committee Meeting
- 09/15/2023 Strand Gathering
- 09/18/2023 Chamber of Commerce, Ribbon-Cutting BarVino

Council Member Matthew Pagano

Council Member Michael Villar

- 08/16/2023 Lantern Bay Stairs Ribbon Cutting
- 08/23/2023 Iwo Jima Golf Tournament Marine Corps League