

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
MAY 18, 2021
4:30 P.M.**

MINUTES

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

Next City Council Ordinance No. 21-02

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Jamey M. Federico at 4:33 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point. All Council Members were present.

ROLL CALL OF CITY COUNCIL MEMBERS:

Jamey M. Federico, Mayor
Joseph L. Muller, Mayor Pro Tem
Mike Frost, Council Member
Richard A. Viczorek, Council Member (arrived at 5:04 p.m.)
Michael Villar, Council Member

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (1 case)
- B. LITIGATION STRATEGY REVIEW INCLUDING POTENTIAL DISCUSSION OF THE FOLLOWING:
 1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Government Code § 54956.9 (d)(1), (2 cases)
 - a. City of Dana Point v. Southern California Recovery Center, TML Holdings, LLC, Case No. 30-2018-01012750
 - b. City of DP v. Sunshine Group LLC (Seaside Inn), Orange County Superior Court Case No. 30-2017- 00915900
 2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(2), (1 case)

Mayor Jamey M. Federico recessed the meeting into a Closed Session at 4:34 p.m. pursuant to Government Code Section 54957.

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

RECONVENE CITY COUNCIL MEETING

Mayor Jamey M. Federico 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; Kathy Ward, City Clerk; Brenda Wisneski, Community Development Director; Matthew Sinacori, Public Works Director and City Engineer; Sergeant Isaac Felter; Jeff Rosaler, Community Development Manager; John Ciampa, Senior Planner; Jaimie To, Management Analyst; and Shayna Sharke, Deputy City Clerk.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Michael Villar.

INVOCATION

There was no Invocation.

PRESENTATIONS AND PROCLAMATIONS

Business of the Quarter – Doheny Builders Supply
Mayor Jamey M. Federico presented a Certificate of Recognition to Kyle Goerlitz, Gennie Neidermayor, Rod Giacomini, Managers of Doheny Builders Supply.

READING OF ORDINANCE TITLES

City Clerk Kathy Ward read one (1) Ordinance title.

CONSENT CALENDAR

Council Member Michael Villar pulled Item 6 from the Consent Calendar.

IT WAS MOVED BY MAYOR JAMEY M. FEDERICO, SECONDED BY MAYOR PRO TEM JOSEPH L. MULLER THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 6.

The motion carried by the following vote:

AYES: Council Member Mike Frost, Council Member Richard A. Viczorek, Council Member Michael Villar, Mayor Pro Tem Joseph L. Muller, and Mayor Jamey M. Federico

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, MAY 4, 2021

APPROVED THE MEETING MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, APRIL 26, 2021

RECEIVED AND FILED.

4. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

5. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

6. DANA POINT POLICE SERVICES MONTHLY REPORT.

Item 6 was pulled from the Consent Calendar by Council Member Michael Villar.

Sgt. Isaac Felter provided a Staff Report.

Discussion ensued.

THE CITY COUNCIL RECEIVED AND FILED THE POLICE SERVICES MONTHLY REPORT.

7. DEVELOPMENT UPDATE

RECEIVED AND FILED THE DEVELOPMENT UPDATE.

8. APPROVAL OF PURCHASE AND SALE AGREEMENT FOR THE HOLDER PROPERTY, ASSESSOR PARCEL NUMBER 668-283-01

1. APPROVED A PURCHASE AND SALE AGREEMENT FOR THE HOLDER PROPERTY, ASSESSOR PARCEL NUMBER 668-283-01; AND

2. AUTHORIZED THE CITY MANAGER TO SIGN THE AGREEMENT, INCLUDING ANY NON-SUBSTANTIVE CHANGES TO THE AGREEMENT; AND

3. CREATED A NEW CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECT ENTITLED "DOHENY VILLAGE CONNECTIVITY DESIGN/IMPROVEMENTS", ASSIGNED CIP PROJECT NUMBER 1340, AND ALLOCATED FUNDING; AND
4. AUTHORIZED THE BUDGET AND EXPENDITURES AS NOTED.

PUBLIC COMMENTS

John Bibeau (Dana Point Youth Baseball) spoke regarding the Dana Point 11-U Tsunami travel ball program and their invitation to the Perfect Game World Series in Georgia.

Eli Wolf (Dana Point Youth Baseball) thanked the Council for their support.

Wyatt Clark (Dana Point Youth Baseball) thanked the Council for their support.

Tanner McRae (Dana Point Youth Baseball) thanked the Council for their support.

Ryan Georgia (Dana Point Youth Baseball) spoke about his team and thanked the Council for their support.

Brock Rainis (Dana Point Youth Baseball) thanked the Council for their support.

Justin Spaulding (Dana Point Youth Baseball) thanked the Council for their support.

Jay Bibeau (Dana Point Youth Baseball) spoke regarding Dana Point Youth Baseball and the importance of baseball.

Carter Anderson (Dana Point Youth Baseball) thanked the Council for their support.

Jack Hogan (Dana Point Youth Baseball) thanked the Council for their support.

John Pintar (Dana Point Youth Baseball) spoke regarding his team and thanked the Council for their support. He announced a free baseball clinic that will be hosted by the team during the summer for kids 5-8 and a beach clean up at Doheny Beach. He invited the community to follow them on social media.

Mason Valles (Dana Point Youth Baseball) spoke regarding his teammates and coaches.

Ryan Bishop (Dana Point Youth Baseball) thanked the Council for their support.

John Bibeau (Dana Point Youth Baseball) thanked the Council for letting the team speak and asked for a \$5,000 grant from the City to help fund their travel to Georgia.

Mayor Pro Tem Joseph L. Muller reminded the Council that \$5,000 is within the City Managers spending authority.

Wayne Yost (Veterans of Foreign Wars Post 9934) commended the Dana Point Tsunami team. He invited the community to the annual Memorial Day Ceremony at Pines Park on May 31st at 10:00 a.m.

Peter Culp (Dana Point) asked City Council to allow hens in Dana Point.

David Culp (Dana Point) asked City Council to allow hens in Dana Point.

PUBLIC HEARINGS

9. AN APPEAL OF PLANNING COMMISSION APPROVAL FOR TENTATIVE PARCEL MAP TPM20-0002, VARIANCE V20-0003, MINOR SITE DEVELOPMENT PERMIT SDP20-0014(M), AND ADMINISTRATIVE MODIFICATIONS OF THE STANDARDS AMS21-0001 FOR A TRIPLEX CONDOMINIUM THAT PROPOSES TO EXCEED THE MAXIMUM HEIGHT FOR THE ZONING DISTRICT, RETAINING WALLS WITH INCREASED HEIGHT, AND A REDUCTION IN THE REQUIRED COMMON OPEN SPACE AT 25022 SELVA ROAD

Senior Planner John Ciampa provided a staff report.

Mayor Jamey M. Federico opened the Public Hearing at 6:47 p.m.

Brett Lindstrom (Appellant) provided a packet to the City Council, listed his concerns including the driveway grade, garage placement, and fill and spoke in opposition of the project.

Rob Williams (Applicant) provided some history on the project and responded to concerns presented by the Appellant.

Tim Wolford (Dana Point) spoke in opposition of the project and expressed his frustration in the process.

Gale Lorton (Dana Point) stated her concerns and spoke in opposition of the project.

John Pitzen (Dana Point) stated his concerns and spoke in opposition of the project.

Brett Lindstrom (Appellant) stated additional concerns including the width of the driveway, building size, and retaining wall. He urged Council to consider Option B in the document provided.

Rob Williams (Applicant) responded to concerns raised and explanations for how requirements were met in the plans.

Rob Williams, Adam Toal, and Todd Layman (Applicants), Brent Lindstrom (Appellant), and Staff answered questions of the City Council.

Mayor Jamey M. Federico closed the Public Hearing at 8:43 p.m.

Discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER RICHARD A. VICZOREK THAT THE CITY COUNCIL DIRECT THE APPELLANT AND APPLICANT TO MEET IN MEDIATION IN ATTEMPT TO ALLEVIATE PROJECT CONCERNS AND EXPLORE ALL OPTIONS.

City Attorney Patrick Munoz advised that the Council re-open the Public Hearing in order to continue to the Item to a date certain after the mediation is completed.

IT WAS MOVED BY COUNCIL MEMBER RICHARD A. VICZOREK, SECONDED BY MAYOR PRO TEM JOSEPH L. MULLER THAT THE CITY COUNCIL RE-OPEN THE PUBLIC HEARING.

A SUBSTITUTE MOTION WAS MADE BY COUNCIL MEMBER MICHAEL VILLAR, SECONDED BY COUNCIL MEMBER MIKE FROST, THAT THE CITY COUNCIL RETURN THE ITEM TO THE PLANNING COMMISSION TO FURTHER CONSIDER THEIR DECISION BASED ON THE CITY COUNCIL DISCUSSION.

Discussion ensued.

The substitute motion carried by the following vote:

AYES: Council Member Mike Frost, Council Member Richard A. Viczorek, Council Member Michael Villar, and Mayor Pro Tem Joseph L. Muller

NOES: Mayor Jamey M. Federico

ABSENT: None

MAYOR JAMEY M. FEDERICO CALLED FOR A BRIEF RECESS OF CITY COUNCIL MEETING AT 9:04 P.M.

MAYOR JAMEY M. FEDERICO RECONVENED CITY COUNCIL MEETING AT 9:09 P.M.

UNFINISHED BUSINESS

10. AMENDMENT TO SECTION 5.38 OF THE MUNICIPAL CODE FOR NEW AND ENHANCED REGULATIONS AND INCREASED PENALTIES AND VIOLATIONS FOR SHORT-TERM RENTALS

Senior Planner John Ciampa provided a staff report.

Mayor Jamey M. Federico opened Public Comment.

Paul N Wyatt (Dana Point) stated that his statement was recorded inaccurately in the May 4, 2021 meeting minutes. He provided a history of Short Term Rentals in Dana Point and stated that he is in support of a modified Ordinance with strong leadership and advocacy from the Council.

Steve Didier (Dana Point) suggested modifications to the proposed Ordinance based on his experience working for the City of Carlsbad.

Mark Zanides (Dana Point) endorsed Mr. Wyatt's comments and questioned the legality of the Short Term Rental program in the absence of a Zone Text Amendment and Local Coastal Plan Amendment.

Kim Tarantino (Capistrano Beach) addressed the number of Short-Term Rentals listed on the AirDNA website versus the number of permitted Dana Point Short-Term Rentals.

Toni Nelson (Capistrano Beach) listed her concerns regarding the proposed modifications to the Ordinance.

Carol Kelly (Dana Point) read a letter from Denise Iger in opposition of Short-Term Rentals and their effects on neighborhoods.

Barbara Wilson (Dana Point) listed her concerns regarding the proposed modifications to the Ordinance.

Mayor Jamey M. Federico closed Public Comment.

Discussion ensued.

IT WAS MOVED BY MAYOR PRO TEM JOSEPH L. MULLER SECONDED BY MAYOR JAMEY M. FEDERICO, THAT THE THAT THE CITY COUNCIL INTRODUCE AND HOLD A FIRST READING OF ORDINANCE 21-XX ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 5.38 OF THE DANA POINT MUNICIPAL CODE AMENDING REGULATIONS AND PENALTIES AFFECTING SHORT-TERM RENTALS

WITH THE FOLLOWING MODIFICATIONS:

- 1) REDUCE THE 40 MINUTE RESPONSE TIME REQUIREMENT TO 30 MINUTES
- 2) ADD A STATEMENT DECLARING THE TOTAL NUMBER OF DAYTIME OCCUPANTS SHALL NOT EXCEED 2.5 TIMES THE NUMBER ALLOWED FOR OVERNIGHT OCCUPANTS, WITH A MAX OF 20 OCCUPANTS

Discussion ensued.

The motion carried by the following vote:

AYES: Council Member Mike Frost, Council Member Richard A. Viczorek, Mayor Pro Tem Joseph L. Muller, and Mayor Jamey M. Federico

NOES: Council Member Michael Villar

ABSENT: None

NEW BUSINESS

There were no New Business items.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Michael Villar stated that he has turned in his list of meetings attended to the City Clerk.

Council Member Mike Frost stated that he will turn in his list of meetings attended to the City Clerk.

Council Member Richard A. Viczorek stated that he will turn in his list of meetings to the City Clerk.

Mayor Pro Tem Muller stated that he has turned in his list of meetings attended to the City Clerk.

Mayor Jamey M. Federico stated that he has turned in his list of meetings attended to the City Clerk and introduced the new street light pole banners that will be installed around the City promoting activities in Dana Point.

STAFF REPORTS

City Manager Michael A. Killebrew announced that the trolley program will start Memorial Day weekend and the VFW Memorial Day Ceremony is at 10:00 a.m. at Pines Park on May 31st. He added that staff will be hosting a virtual Housing Element Workshop on Thursday, May 20th at 6:00 p.m. and a Community Development Pop-Up event will be held on June 5th from 11:00 a.m.-1:00 p.m. in the Parking Lot next to Capo Beach Church with information on the Doheny Village Plan, Housing and Safety Element, and Code Enforcement efforts. Lastly, he stated that with loosened COVID-19 restrictions, we'll see the return of Movies in the Park beginning in June, plus Summer Concerts starting in July, and the 4th of July fireworks display.

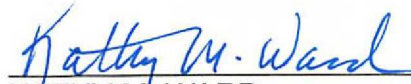
City Attorney Patrick Munoz stated that the State of California has taken the position that any city that adopts an Ordinance regulating Sober Living Homes is violating laws applicable to State Housing Element requirements. The State has acknowledged the litigation between the City of Costa Mesa and some Sober Living Home operators in Federal Court, and indicated that even if Costa Mesa prevails in that litigation addressing Federal Laws, it will not impact its view regarding State Housing Laws.

RECESS OF CITY COUNCIL MEETING TO CLOSED SESSION AT 10:13 P.M.

RECONVENED CITY COUNCIL MEETING AT 10:33 P.M.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Jamey M. Federico adjourned the meeting at 10:33 p.m. He announced that the next Regular Meeting of the City Council will be June 1, 2021, 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 JUNE 1, 2021

Meetings attended since May 5, 2021:

Mayor Jamey M. Federico

- 05/11/2021 Meeting with SC and SJC Mayors and Mayors Pro Tem regarding Homeless
- 05/13/2021 Meeting with OCPA
- 05/15/2021 DPYC Opening Day
- 05/15/2021 DWYC Opening Day

Mayor Pro Tem Joseph L. Muller

- 05/05/2021 TCA
- 05/06/2021 Chamber of Commerce
- 05/06/2021 OC Parks
- 05/10/2021 OCTA
- 05/10/2021 OCFA
- 05/10/2021 TCA
- 05/11/2021 Homeless Forum
- 05/11/2021 TCA
- 05/12/2021 OCTA
- 05/12/2021 OCFA
- 05/12/2021 State of the County
- 05/12/2021 Resident meeting
- 05/13/2021 TCA
- 05/18/2021 TCA

Council Member Mike Frost

- 05/06/2021 SCAG Year Review Conference
- 05/06/2021 OC Watershed Executive Committee
- 05/11/2021 Selva Appeal (City Staff)
- 05/13/2021 Selva Appeal (Appellant)
- 05/13/2021 Community Choice Energy Conversion OCPA
- 05/17/2021 Selva Appeal (Applicant)

Council Member Richard A. Viczorek

- 05/05/2021 SJHTCA Budget Workshop
- 05/12/2021 OCMVCD Budget Workshop
- 05/13/2021 SJHTCA Board of Directors Meeting

Council Member Michael Villar

- 05/10/2021 District 5 Advisory Board Meeting