
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
DECEMBER 12, 2011**

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Schoeffel at 5:05 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Present: Mayor Scott Schoeffel
Mayor Pro Tem Lara Anderson
Council Member Lisa Bartlett
Council Member William Brough
Council Member Steven Weinberg
Absent: None

CLOSED SESSION

City Attorney Munoz indicated that there was a need for a Closed Session as follows:

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b1), (2 cases)
- B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Government Code § 54956.9 (a), (2 cases) Name of case: City of Dana Point v. Holistic Health - 30-201000352106; Name of Case: City of Dana Point v. California Coastal Commission, San Diego County Superior Court Case No. 37-2010-00099827 (Consolidated with San Diego County Superior Court Case No. 37-2010-00099878)

Mayor Schoeffel recessed the meeting into a Closed Session at 5:06 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING - CALL TO ORDER

Mayor Schoeffel reconvened the meeting at 6:09 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz; City Attorney; Kathy Ward, City Clerk; Mike Killebrew, Assistant City Manager; Mike Rose, Director of Disaster Preparedness; Lt. Mark Levy, Police Services; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works/Engineering; John

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Tilton, City Architect; Lynn Kelly, Management Analyst; Christy Teague, Economic Development Manager; Kevin Evans, Director of Community Services and Parks; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; and Bobbi Ogan, Deputy City Clerk.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that he had two items to report out of Closed Session. He reported that the first was that the City Council had approved of a settlement agreement with Developers Surety and Indemnity Company relating to improvements to be made in connection with the Del Rey subdivision as a result of a bond default by the developer on that project. He stated that secondly, the City Council considered and rejected a settlement proposal from Holistic Health relating to that dispensary litigation. He added that the settlement proposal was the City waive the two and one half million dollar judgment that it has and the City Council did not find acceptable.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Cambria Grisham, a 5th grade student of the RH Dana Exceptional Needs Facility.

INVOCATION

The Invocation was provided by Associate Pastor Sabrina Vasta of Gloria Dei Lutheran Church.

PRESENTATIONS AND PROCLAMATIONS

December Business of the Month - Estrella Veterinary Hospital

Management Analyst Kelly provided a PowerPoint presentation regarding Estrella Veterinary Hospital located in Capistrano Beach. She reported that they have a staff of 17 employees. She stated that Estrella Veterinary Hospital was the first in the area to get digital x-rays and radiology machines. She added that Dr. Ontiveros has also created a video series; heathypetu.com. She stated that recently Estrella Veterinary Hospital has begun to offer low cost spay and neutering. She added that Estrella promotes their love of animals through the Pet Project Foundation and Wag-A-Thon. Mayor Schoeffel presented Dr. Ontiveros with a Certificate of Recognition for the Estrella Veterinary Hospital being selected as the Featured Business of the Month for December 2011.

Recognition of Doheny State Beach Supervising Ranger Jim Serpa

Mayor Schoeffel presented Jim Serpa with a Certificate of Recognition honoring him for his service to California State Parks and Doheny State Beach for the past 21 years.

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CONSENT CALENDAR

IT WAS MOVED BY COUNCIL MEMBER STEVEN WEINBERG, SECONDED BY COUNCIL MEMBER LISA BARTLETT, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR.

The motion carried by the following vote:

AYES: Council Member Lisa Bartlett, Council Member William Brough, Council Member Steven Weinberg, Mayor Pro Tem Lara Anderson, and Mayor Scott Schoeffel

NOES: 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, NOVEMBER 14, 2011

APPROVED THE MINUTES.

3. REGULAR MEETING MINUTES, NOVEMBER 28, 2011

APPROVED THE MINUTES.

4. PLANNING COMMISSION MEETING MINUTES, NOVEMBER 7, 2011

RECEIVED AND FILED.

5. PLANNING COMMISSION ACTIONS, MEETING OF DECEMBER 5, 2012

RECEIVED AND FILED.

6. YOUTH BOARD MEETING MINUTES, MEETING OF NOVEMBER 3, 2011

RECEIVED AND FILED.

7. YOUTH BOARD MEETING MINUTES, MEETING OF NOVEMBER 17, 2011

RECEIVED AND FILED.

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8. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

9. CITY TREASURER'S REPORT, NOVEMBER, 2011

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF NOVEMBER, 2011.

10. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

11. APPROVE FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR TOPOGRAPHIC SURVEY SERVICES

APPROVED THE FIRST AMENDMENT TO A PROFESSIONAL SERVICE AGREEMENT WITH HALL AND FOREMAN, INCORPORATED FOR TOPOGRAPHIC SURVEY SERVICES FOR THE ANNUAL RESIDENTIAL ROADWAY RESURFACING PROJECT; AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT.

PUBLIC COMMENTS

Robert Fowler, Dana Point, reported that they have moved the Veteran's Assistance to the second Tuesday of every month at the Community Center at 1:00 p.m. He stated that their VFW post was on schedule to achieve for the third year in a row, the status of Number 1 All American Post. He added that they wouldn't be successful without the support of the City and the residents. He thanked the City Council for their support.

Rick Erkeneff, Dana Point, spoke regarding beach clean ups and the items that were most commonly found. He commended the City for even recommending a ban on Styrofoam and plastic bags.

Barbara Merriman, Dana Point, spoke regarding the plastic bag and Styrofoam issues. She stated that on January 7 and 8 the Ocean Institute was partnering with the Algalita Research Foundation to do a program on plastics in the ocean.

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PUBLIC HEARINGS

12. DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT ANNUAL REPORT AN RENEWAL FOR 2012

City Manager Chotkevys provided an introduction of the item.

City Attorney Munoz provided background on the Tourism Business Improvement District (TBID) and the assessments. He stated that the assessment is different from a tax and can only be used as identified by the board.

Economic Development Manager Teague provided a PowerPoint presentation on the economic benefits of the Tourism Business Improvement District.

Tony Cerna and Matt McNally, Agency51 Advertising, provided a summary of what Agency51 has done thus far with working with the Tourism Business Improvement District and where they plan to go in the future.

Mayor Pro Tem Anderson clarified her comments she made at a meeting in April. She asked what had happened to launching the brand in the summer of 2011.

Matt McNally replied that they needed to do their due diligence and that summer 2011 was very ambitious.

Mayor Pro Tem Anderson said that the community was very excited and wanted to see this move forward.

Council Member Weinberg asked how the Return On Investment (ROI) was measured on a program such as this.

Matt McNally replied that there was a delicate balance that had to be achieved. He stated that they need to set a bench mark year would need to be set so they could understand the effects from there.

Council Member Bartlett asked what the status of the trademark was with the Patent Office.

City Attorney Munoz replied that one of his partners was handling that issue.

Mayor Pro Tem Anderson asked what types of marketing tools were going to be used.

Matt McNally replied that everything was being explored in how it could promote Dana Point.

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Council Member Brough asked if the patent and trademarking process was the only reason it has taken two years.

Matt McNally replied no, that validating takes time. He stated that the first 4-5 months were the development of the creative assets, but now everything was moving forward at a nice pace.

City Manager Chotkevys added that it was an intellectual process and that he was pleased with Agency51's due diligence.

Council Member Brough asked if they could commit to a launch date.

Tony Cerna replied that this was a partnership and that Agency51 was not driving the dates.

Council Member Brough asked if they were concerned with using two year old research.

Tony Cerna replied that the research was updated as needed.

Mayor Pro Tem Anderson asked if the City was the reason for the delay.

City Attorney Munoz replied that the City did create some delay to make sure that all of the meetings were complying with the Brown Act.

City Manager Chotkevys stated that he couldn't see any reason why the City would delay the launch.

Council Member Bartlett stated that she appreciates Agency51's due diligence in trying to get it right.

Council Member Weinberg asked if at the end of each quarter, Agency51 could provide the City Council with an update of how things are going. He felt that periodic updates would help everyone understand the process better.

City Manager Chotkevys replied that we can't discount what efforts have been done so far but that staff will work diligently to make that happen if that is the Council's desire.

Council Member Brough stated that he would like to see a more firm timeline and benchmarks for the rollout.

Mayor Schoeffel opened the Public Hearing.

Donna Kalez, San Clemente, stated that she was very excited and happy to see it going forward.

Mayor Schoeffel closed the Public Hearing.

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Council Member Weinberg made a motion to approve the item.

Council Member Brough stated that he supports marketing the City and the hotels but he would like to see the City put stronger oversight on the TBID.

Council Member Bartlett felt that there was some confusion about this item. She stated that the Council was being asked to renew the existing program and not start over. She added that once the City was branded and the TBID was in place, the return would be evident in the coming years. She stated that it takes time to implement a strong program and that she appreciates everyone's efforts.

Mayor Pro Tem Anderson felt like the City was on the right track.

Mayor Schoeffel felt that everyone had the incentives properly aligned and that there was a real and honest effort to launch Dana Point. He stated that it takes time to create a dream.

IT WAS MOVED BY COUNCIL MEMBER STEVEN WEINBERG, SECONDED BY COUNCIL MEMBER LISA BARTLETT, CONDUCT A PUBLIC HEARING AND ADOPT RESOLUTION 11-12-12-01 ENTITLED:

A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA CONFIRMING THE 2012 ANNUAL REPORT AND DECLARING THE INTENTION OF THE CITY COUNCIL TO CONTINUE THE PROGRAM AND ASSESSMENTS FOR THE 2012 CALENDAR YEAR FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID).

The motion carried by the following vote:

AYES: Council Member Lisa Bartlett, Council Member Steven Weinberg, Mayor Pro Tem Lara Anderson, and Mayor Scott Schoeffel

NOES: Council Member William Brough

UNFINISHED BUSINESS

13. AWARD OF CONTRACT FOR MARKETING SERVICES FOR DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT

City Manager Chotkevys provided a staff report.

Council Member Weinberg asked for quarterly reports to be included into the contract scope of work.

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Council Member Brough suggested that the \$40,000 for community relations be eliminated and that the Chamber could be used for that to save money as well as use the Historical Society for the video.

Council Member Bartlett felt that the City Council should leave it to Agency51's discretion on whom they would like to use for the various aspects of the contract.

Mayor Pro Tem Anderson stated that there is a lot of information out there and felt that we should use some of the resources and talent that already exists.

Council Member Weinberg felt that the Council was starting to try and micromanage the contract. He stated that he does not want the Council to take ownership.

City Manager Chotkevys stated that if staff could find something locally generated that it would be considered but it will be Agency51's decision.

IT WAS MOVED BY MAYOR SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER STEVEN WEINBERG, AUTHORIZE THE CITY MANAGER TO EXECUTE A CONTRACT WITH AGENCY51 FOR MARKETING SERVICES ON BEHALF OF THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT INCLUDING A QUARTERLY REPORT TO THE CITY COUNCIL PROVIDED BY AGENCY51.

The motion carried by the following vote:

AYES: Council Member Lisa Bartlett, Council Member William Brough, Council Member Steven Weinberg, Mayor Pro Tem Lara Anderson, and Mayor Scott Schoeffel

NOES: None

- 14. ADOPTION OF NEGATIVE DECLARATION FOR PROHIBITING THE DISTRIBUTION OF EXPANDED POLYSTYRENE (STYROFOAM) FOOD SERVICE WARE AT LOCAL FOOD VENDORS, CITY FACILITIES, AND CITY-SPONSORED EVENTS AND INTRODUCTION AND FIRST READING OF AN ORDINANCE ADDING A NEW CHAPTER 6.46 "EXPANDED POLYSTYRENE FOOD SERVICE WARE" TO TITLE 6 OF THE DANA POINT MUNICIPAL CODE PROHIBITING THE DISTRIBUTION OF EXPANDED POLYSTYRENE (STYROFOAM) FOOD SERVICE WARE AT LOCAL FOOD VENDORS, CITY FACILITIES, AND CITY SPONSORED EVENTS**

Due to the amount of communications received on this item, this item was carried over into early 2012.

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15. ADOPTION OF NEGATIVE DECLARATION FOR PROHIBITING THE DISTRIBUTION OF SINGLE USE PLASTIC CARRYOUT BAGS AT THE POINT-OF-SALE AT LOCAL RETAIL ESTABLISHMENTS AND INTRODUCTION AND FIRST READING OF AN ORDINANCE ADDING A NEW CHAPTER 6.47 "PLASTIC CARRY-OUT BAGS" TO TITLE 6 OF THE DANA POINT MUNICIPAL CODE PROHIBITING THE DISTRIBUTION OF SINGLE-USE PLASTIC CARRY-OUT BAGS AT THE POINT-OF-SALE AT LOCAL RETAIL ESTABLISHMENTS

Due to the amount of communications received on this item, this item was carried over into early 2012.

NEW BUSINESS

There was no New Business.

PUBLIC COMMENTS

There were no additional Public Comments received.

CITY COUNCIL REORGANIZATION

IT WAS MOVED BY MAYOR SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER WILLIAM BROUGH, TO NOMINATE LARA ANDERSON TO SERVE AS MAYOR FOR 2012.

The motion carried by the following vote:

AYES: Council Member Lisa Bartlett, Council Member William Brough, Council Member Steven Weinberg, Mayor Pro Tem Lara Anderson, and Mayor Scott Schoeffel

NOES: None

Mayor Anderson stated that this was a very special honor as she has found that there have only been four (4) other multi-term Mayors in this City. She stated that she looks forward to serving this year and making Dana Point proud.

IT WAS MOVED BY MAYOR PRO TEM LARA ANDERSON, SECONDED BY COUNCIL MEMBER LISA BARTLETT, NOMINATE STEVEN WEINBERG TO SERVE AS MAYOR PRO TEM FOR 2012.

The motion carried by the following vote:

AYES: Council Member Lisa Bartlett, Council Member William Brough, Council Member Steven Weinberg, Mayor Pro Tem Lara Anderson, and Mayor Scott Schoeffel

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NOES: None

B. RECOGNITION OF OUTGOING MAYOR

Karin Schnell, Dana Point, stated that through Scott's passionate leadership, Dana Point now has an Arts and Culture Commission. She thanked Scott for everything he has done.

Mayor Anderson presented a plaque to Council Member Schoeffel in recognition of his service as Mayor this past year.

Council Member Schoeffel thanked his colleagues on the City Council. He stated that it has been a privilege.

STAFF REPORTS

City Manager Chotkevys congratulated Lara Anderson and Steven Weinberg for being selected Mayor and Mayor Pro Tem. He congratulated Scott Schoeffel for his year of accomplishments and felt that the dedication of the fountain was one of the crowning events and summed up the year of culture and arts. He reported that City Attorney Munoz was recently recognized in the Daily Journal as one of the top 25 municipal attorneys in the State of California.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Brough reported that he had attended the following:

December 2 - Orange County Association of Realtors banquet at the Dana Point Marriott

December 5 - Played golf in the Sunset's 5th Marine Support Group tournament

December 10 - City's tree lighting ceremony in La Plaza

He congratulated Council Member Schoeffel and thanked him for his year as Mayor.

Council Member Bartlett thanked Council Member Schoeffel for serving as Mayor this past year. She reported that she attended the following:

Transportation Corridor Agency, Association of California Cities - Orange County, and League of Cities - Orange County Division meetings

December 2 - Orange County Association of Realtors Installation ceremony at the Laguna Cliffs Marriott

December 11 - Fountain dedication in La Plaza

December 10 - Holiday brunch hosted by the Commanding Officers at Camp Pendleton
Boat judging ceremony in Harbor

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She reported that the City's Q2 sales tax numbers are up from the previous year. She stated that the 2012 calendars are available at City Hall. She wished everyone happy holiday season and a prosperous New Year.

Council Member Schoeffel stated that it has been a very busy year. He thanked everyone in the City and his colleagues on the Council. He wished everyone happy holidays.

Mayor Pro Tem Weinberg congratulated Mayor Anderson and thanked Council Member Schoeffel for being his mentor this past year. He stated that he had turned in his list of meetings attend to City Clerk. He reported that he had attended the RH Dana Elementary tree decorating in La Plaza. He said that it was so gratifying to watch the children hang the ornaments that they had made. He wished everyone a great holiday.

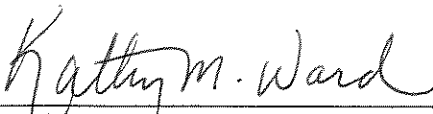
Mayor Anderson stated that she had turned in her list of meetings attended. She thanked Council Member Schoeffel for a year well-served. She stated that she is looking forward to seeing everyone in the coming year.

RECEPTION

REFRESHMENTS WERE SERVED – THE PUBLIC WAS INVITED.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Anderson declared the meeting adjourned at 7:50 p.m. and announced that the next Regular Meeting of the City Council will be held on January 17, 2012, 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 JANUARY 17, 2012

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Meetings Attended Since the November 28, 2011 City Council Meeting:

Mayor Lara Anderson

December 5	La Plaza Fountain dedication
December 5	Coastal Animal Services Authority JPA Meeting
December 10	Winter Festival and Tree Lighting

Mayor Pro Tem Steven Weinberg

December 2	Meeting with Keith Richter, Chief, OCFA
December 5	Fountain Dedication, La Plaza
December 7	OCFA Executive Meeting.
December 9	R.H. Dana Exceptional Needs Facility Holiday Tree Decoration
December 10	La Plaza Holiday Tree Lighting Ceremony. Holiday Boat Light Judging