
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
MARCH 5, 2013**

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Weinberg at 5:00 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Present: Mayor Steven H. Weinberg
Mayor Pro Tem Lisa A. Bartlett
Council Member William P. Brough
Council Member Carlos N. Olvera
Council Member J. Scott Schoeffel

Absent: None

CLOSED SESSION

City Attorney Munoz indicated that there was a need for a Closed Session as follows with the exception of Item A which no longer required discussion:

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b1), (1 case)
- B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Government Code § 54956.9 (a), (1 case) Name of Case: Therese Coppi v. City of Dana Point; County of Orange - USDC Central District Case No. - SACV11-1813 JST (RNBx)

Mayor Weinberg recessed the meeting into a Closed Session at 5:01 p.m. pursuant to Government code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING - CALL TO ORDER

Mayor Weinberg reconvened the meeting at 6:01 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; A. Patrick Munoz, City Attorney; Kathy M. Ward, City Clerk; Mike Killebrew, Assistant City manager; Mike Rose, Director of Disaster Preparedness; Lt. Lynn Koehmstedt, Police Services; John Tilton, Acting Director of Community Development; Brad Fowler, Director of Public Works/Engineering; Kevin Evans, Director of Community Services and Parks, Christy

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Teague, Acting City Architect/Planning Manager; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; and Bobbi Ogan, Deputy City Clerk.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Heather Johnston, Executive Director of the Dana Point Chamber of Commerce.

INVOCATION

The Invocation was provided by Orange County Fire Authority Chaplain Jeff Hetschel.

PRESENTATIONS AND PROCLAMATIONS

Business of the Month - Buena Vista Market

Sea Shelton, Senior Management Analyst provided a PowerPoint presentation detailing Buena Vista Market. She reported that Mr. Espinoza opened the market in La Plaza in May of 2002. She stated that the market features fresh fruits, vegetables and meat, as well as a small kitchen offering some of the best Mexican dishes. Mayor Weinberg presented a Certificate of Recognition for being named the Business of the Month, March 2013 and Heather Johnston Dana Point Chamber Executive Director presented a one year membership to the Chamber.

Employee of the Month - Jennifer Ransom, City Clerk Specialist

City Clerk Ward spoke about Jennifer. Mayor Weinberg presented Jennifer with a Certificate of Recognition for being selected as the Employee of the Month for March, 2013.

Judy and Brad Brandmeier

Mayor Weinberg presented Judy and Brad Brandmeier with a Proclamation in honor of their retirement and the closing of their business, Beacon Printing. Heather Johnston presented the Brandmeier's with a Certificate on behalf of the Dana Point Chamber of Commerce.

CONSENT CALENDAR

Mayor Pro Tem Bartlett removed Item 9 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER CARLOS N. OLVERA, SECONDED BY MAYOR PRO TEM LISA A. BARTLETT, ACCEPT THE RECOMMENDATIONS FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 9.

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The motion carried by the following vote:

AYES: Council Member William Brough, Council Member Carlos N. Olvera, Council Member Scott Schoeffel, Mayor Pro Tem Lisa Bartlett and Mayor Steven Weinberg

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, FEBRUARY 19, 2013

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, FEBRUARY 11, 2013

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF FEBRUARY 25, 2013

RECEIVED AND FILED.

5. YOUTH BOARD MEETING MINUTES, FEBRUARY 7, 2013

RECEIVED AND FILED.

6. ARTS AND CULTURE COMMISSION MINUTES, JANUARY 16, 2013

RECEIVED AND FILED.

7. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

8. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

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9. AWARD OF CONTRACT FOR IT SERVICES

Mayor Pro Tem Bartlett felt that this was a great idea and that it was cost effective, but that cyber security was major concern.

City Manager Chotkevys replied that BreaIT has been providing this service to municipalities for years and that security was paramount.

IT WAS MOVED BY MAYOR PRO TEM LISA A. BARTLETT, SECONDED BY COUNCIL MEMBER CARLOS N. OLVERA, AWARD A CONTRACT TO THE CITY OF BREA (BREA IT) FOR CONTRACT INFORMATION TECHNOLOGY SERVICES; AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT FOR SAID EQUIPMENT AND SERVICES.

The motion carried by the following vote:

AYES: Council Member William Brough, Council Member Carlos N. Olvera, Council Member Scott Schoeffel, Mayor Pro Tem Lisa Bartlett and Mayor Steven Weinberg

NOES: None

10. AWARD OF CONTRACT FOR THE FOURTH OF JULY AERIAL FIREWORKS DISPLAY AND BARGE CONTRACT

APPROVED THE FOLLOWING CONTRACTS FOR THE 2013 FOURTH OF JULY AERIAL DISPLAY: 1) CONTRACT WITH BAY FIREWORKS FOR THE AERIAL DISPLAY; 2) CONTRACT WITH PACIFIC TUGBOAT TO PROVIDE A TUG AND BARGE TO BE USED AS THE STAGING AREA FOR THE FIREWORKS DISPLAY; AND 3) AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENTS.

11. 2013 WEED ABATEMENT PROGRAM

ADOPTED RESOLUTION 13-03-05-01 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING WEEDS A PUBLIC NUISANCE AND INITIATING ABATEMENT PROCEEDINGS.

PUBLIC COMMENTS

Angie Menendez, Aliso Viejo, stated that she was the owner of Baby Boot Camp. She added that she has been holding classes at Lantern Bay Park and Creekside Park which averages about six moms per class. She reported that she has been asked to start paying a \$20 per class fee. She requested that she be allowed to pay

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a percentage or a reduced fee of \$5 per class. She stated that she does not require anything from the staff, and that they clean up after themselves. She added that the moms that attend baby boot camp bring more business to Dana Point restaurants. She stated that she has been holding these classes since 2005.

City Manager Chotkevys replied that he would meet with Ms. Menendez after the meeting and that he will investigate a solution. He stated that the City has to treat her same as other businesses.

Steve Hagy, Dana Point, spoke regarding the homeless shelter that has closed at Capo Beach Church. He stated that the homeless are still in the area even though the shelter has closed. He asked for a task force to sit down with people in the community to find solutions.

Harold Kaufman, Dana Point, thanked the City Council for the action taken regarding the Town Center at the last meeting. He suggested that the City Council direct the City Manager to provide a monthly report on Town Center.

PUBLIC HEARINGS

12. SHORT TERM RENTALS

City Manager Chotkevys introduced the item and Assistant City Manager Killebrew provided a summary of the item.

Council Member Olvera asked if it was customary to give blanket, subjective authority for enforcement to the City.

City Attorney Munoz replied that it was a standard condition.

Council Member Olvera asked if this proposal could be discriminatory to large families.

City Attorney Munoz replied that from a legal standpoint the answer is no. He stated that a Court would uphold the City's position because they are reasonable restrictions placed on a business. He added that from a policy standpoint that was up to the Council to decide whether they want to be more or less inclusive.

Council Member Olvera asked if requiring a three day stay was illegal.

City Attorney Munoz replied that it was a policy issue.

Council Member Olvera asked if a one bedroom condo only has one parking spot, does that mean that they would not qualify as a vacation rental.

Assistant City Manager Killebrew replied that the maximum number of vehicles allowed shall be limited to one per, one bedroom unit, or two vehicles maximum with two or more bedrooms.

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City Attorney Munoz clarified that it was not a matter of parking spaces but how many cars that are allowed to come to the unit.

Council Member Olvera asked if the vacation rental was located in a Homeowners Association would street parking count as on-site parking.

Acting Community Development Director Tilton replied that there are gated communities where they provided designated guest parking and that would meet the standards.

Mayor Pro Tem Bartlett asked for clarification on parking and the requirement for each unit.

Acting Community Development Director Tilton replied that all parking is required to be on site. He stated that the requirement for single family homes is to have two enclosed spaces in the garage. He added that there are some legal non-conforming that may only have a one car garage but you could park in the driveway. He stated that a condo typically provides for two parking spaces.

Mayor Weinberg opened the Public Hearing.

Alex Martinez, Capistrano Beach, felt that by requiring a permit will not automatically make the vacation renters better and that it will be difficult to enforce.

Charles Hoose, Capistrano Beach, stated that he did not believe this commercial use was compatible with residential uses and questioned why the City had not enforced the Code all these years.

Bradley den Dulk, San Clemente, stated that he supports allowing vacation rentals. He asked what the objectives of the home inspection were and felt the three day stay was restrictive.

William Matthies, Capistrano Beach, questioned whether these rules will ever be enforceable. He felt that it will be difficult to manage large groups.

Gabrielle Buckley, Capistrano Beach, stated that she supports vacation rentals. She added that Beach Road has great security so if there is a problem, they could be contacted.

David Wilson, Redlands, felt that some of the provisions that are being proposed will create undue and unnecessary issues for owners.

Paul Weinberg, Irvine, legal counsel for a group of homeowners, felt that the proposal was vague with respect to weddings and parties.

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Hugh Limebrook, Capistrano Beach, stated that he has rented his home for years and has never had a problem.

Ross Blouin, Capistrano Beach, stated that he supports vacation rentals.

Maria Elena Banks, Dana Point, stated that this Ordinance affects all of Dana Point, not just Beach Road. She felt that this was an invasion of property rights.

Mayor Weinberg closed the public Hearing.

Council Member Olvera stated that he does support short term rentals but felt that the proposal Ordinance was very business-like and does not fix the problem.

Council Member Schoeffel stated that no one was trying to attack private property rights. He added that the purpose of the Ordinance was to effectively target abuse and deal with that abuse. He stated that these are transient uses by definition and those uses are subject to taxation.

Council Member Brough stated that he liked the fact that if the home is in a homeowners association, that the homeowners association was to approve it. He added that there were penalties for abusing the practice and that the inspections are really for safety. He felt that there should be further discussion on the two night stay. He stated that a homeowner or primary residence should be treated differently.

Mayor Pro Tem Bartlett stated that she was all for protecting private property rights but when you have a business there are things that need to be complied with. She added that there has not been any oversight on these rentals and by establishing a policy, there will be standards. She stated that added safety will be included and she would support moving forward with a well-crafted Ordinance.

Council Member Schoeffel asked what the rationale behind a three night minimum stay was.

Assistant City Manager Killebrew replied that it was a recommendation from the Planning Commission to limit the amount of turnover.

City Manager Chotkevys suggested that during the high season there be a three night minimum, and the low season could be reduced to two nights.

Mayor Weinberg stated that the City was trying to stop bad behavior. He added that if there are no complaints the City was not going to go looking for problems. He felt that owners should hold renters accountable and that the Ordinance was a starting point.

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Council Member Olvera stated that two areas that jump out; Niguel Beach Terrace and Beach Road. He felt that these areas could self-govern themselves and that the City could enforce existing Codes for all others.

Mayor Pro Tem Bartlett asked when the Planning Commission debated this item, did they look at other cities and the minimum stay.

Acting City Architect/Planning Manager Teague replied that Newport Beach was used as a model Ordinance and that Newport does not have a minimum stay.

Council Member Schoeffel stated that he would make a motion approving the Ordinance and amending it to include a two night stay as opposed to three night stay.

Council Member Brough asked what the next steps would be.

City Attorney Munoz replied that the Zone Change and Local Coastal Plan Amendment will go to the Planning Commission first, and then it will come to Council.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR PRO TEM LISA A. BARTLETT, CONDUCT A PUBLIC HEARING AND INTRODUCE AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING CHAPTER 5.38 RELATING TO SHORT TERM RENTAL PERMITS.

The motion carried by the following vote:

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

NOES: Council Member Carlos N. Olvera, and Council Member William P. Brough.

UNFINISHED BUSINESS

There were no Unfinished Business items.

NEW BUSINESS

There were no New Business items.

PUBLIC COMMENTS

There were no additional Public Comments received.

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STAFF REPORTS

City Manager Chotkevys reported that staff has been working diligently with staff from South Coast Water District regarding the infrastructure for the Town Center development and that the water/sewer committee will be meeting in next three weeks to review the draft critical path and develop a Gantt chart. He thanked staff for kicking off another phenomenal Festival of Whales event.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Olvera reported that he had attended a VIP Festival of Whales presentation and a California Republican Convention in Sacramento. He congratulated the Brandmeier's on their retirement.

Council Member Schoeffel reported that he had attended four Transportation Corridor Agency meetings, a Coastal Animal Services Authority meeting on March 4, and a VIP reception for the Festival of Whales. He encouraged attendance at the concert at Baby Beach and the Dana Point Symphony on March 8. He added that he had attended the Jazz in February at Ocean Institute.

Council Member Brough reported that he had attended the February 22 ribbon cutting for the Surfing Cowboy, February 28 Festival of Whales VIP reception, and March 2 Festival of Whales Parade.

Mayor Pro Tem Bartlett reported that she had attended several meetings for the Association of California Cities, Orange County and the Transportation Corridor Agency. She stated that she had attended the February 28 Festival of Whales kick off at Proud Mary's and on March 2 she had participated in the Festival of Whales Parade. She added that on the evening of March 2 she had attended the Age Well Senior Services Captain's Ball at the Ritz Carlton. She announced the upcoming future events:

March 9 and 10 second weekend for Festival of Whales events
March 15 Vorteil Dermatology Ribbon Cutting Ceremony
March 30 Egg Hunts in Pines Park and Sea Canyon Park

She reported that the sales tax was up in Dana Point restaurants and hotels by \$50,000 for the third quarter in comparison to the same time last year.


Council Member Olvera thanked the staff for providing the resumes for all sitting Planning Commissioners and stated that he looks forward to interviewing all Planning Commissioners.

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Mayor Weinberg reported that he had turned in his list of meetings attended to the City Clerk. He announced that on Sunday a Certificate will be given to the designer of this year's Festival of Whales logo.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Weinberg declared the meeting adjourned at 7:56 p.m. and announced that the next Regular Meeting of the City Council will be held on March 19, 2013, 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 APRIL 2, 2013

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Meetings attended since February 19, 2013:

Mayor Steven Weinberg

February 21	OCVC Budget & Finance Committee OCVC Board of Directors
February 22	Surf in Cowboy Ribbon Cutting
February 28	OCFA Executive Committee OCFA Board of Directors
March 2	Festival of the Whales Parade
March 3	Chowder Cook off judging and presentation

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