
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
APRIL 2, 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 5:02 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 (*arrived at 5:04 p.m.*)

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 (b)(1), (4 cases)

Mayor Weinberg recessed the meeting into a closed Session at 5:03 p.m. pursuant to Government code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING - CALL TO ORDER

Mayor Weinberg reconvened the meeting at 6:06 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; A. Patrick Munoz, City Attorney; Kathy 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; Sea Shelton, Senior Management Analyst; Kevin Evans, Director of Community Services and Parks; Christy Teague, Acting City Architect/Planning Manager; Mark Sutton, Building Official; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; and Bobbi Ogan, Deputy City Clerk.

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CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that he had no announcement.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by OCFA Chief Keith Richter.

INVOCATION

The Invocation was provided by OCFA Chaplain Jeff Hetschel.

PRESENTATIONS AND PROCLAMATIONS

Business of the Month - Laguna Dana Urgent Care

Senior Management Analyst Shelton provided a PowerPoint presentation detailing Laguna Dana Urgent Care. She reported that Laguna Dana Urgent Care is family owned and operated, managed by Dr. Amster's daughter Jackie for the past five years. She stated that Dr. Amster has been a Board Certified Emergency Physician and an Occupational Medicine Physician for over 30 years. She added that Laguna Dana provides a wide-range of services treating colds and flus to broken bones and burns. She stated that they sponsor a variety of activities at Dana Hills High School as well as offer free physicals to local Pop Warner Football and Pony League Baseball teams. Mayor Weinberg presented a Certificate of Recognition to Dr. Amster for Laguna Dana Urgent Care being selected as the Business of the Month for April, 2013. Heather Johnston, CEO of the Dana Point Chamber of Commerce presented Dr. Amster with a plaque and a free year membership to the Chamber.

Employee of the Month - Sherry Murphy, Recreation Supervisor II

Director of Community Services and Parks Evans introduced Sherry Murphy and provided a summary of Sherry's background. Mayor Weinberg presented Sherry with a Certificate of Recognition for being selected the Employee of the Month for April 2013.

Proclamation Rick Robinson (Retirement)

Mayor Weinberg presented a Proclamation to Rick Robinson in honor of his service to the Dana Point community and celebration of his retirement from the Orange County Fire Authority.

CONSENT CALENDAR

Item 8 was removed from the Consent Calendar by a member of the public.

Council Member Brough abstained from voting on Item 3.

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IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY MAYOR PRO TEM LISA A. BARTLETT, ACCEPT THE RECOMMENDATIONS FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 8.

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, MARCH 5, 2013

APPROVED THE MINUTES.

3. REGULAR MEETING MINUTES, MARCH 19, 2013

APPROVED THE MINUTES.

4. PLANNING COMMISSION MEETING MINUTES, MARCH 11, 2013

RECEIVED AND FILED.

5. PLANNING COMMISSION ACTIONS, MEETING OF MARCH 25, 2013

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

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8. SECOND READING AND ADOPTION OF SHORT TERM RENTALS ORDINANCE

This item was removed from the Consent Calendar by a member of the public.

City Manager Chotkevys provided a brief staff report.

City Attorney Munoz reported that there was a typographical error in the draft Ordinance in the definition section and that three night stay should be changed to two night stay.

Mayor Weinberg opened the Public Comments.

Sean McNulty, Carlsbad, stated that he was opposed to the regulations being proposed. He felt that Beach Road was its own self-contained entity and that they had not experienced any problems with renting his mother's home over the years.

Chris Jones, Irvine, stated that Capistrano Realty represents 40 homes on Beach Road. He spoke regarding the history of beach rentals on Beach Road.

Ross Blouin, Capistrano Beach, stated that he would like an opportunity to modify the proposed Ordinance.

Hugh Limebrook, Capistrano Beach, felt that Beach Road was different from other areas in the City and did not agree with the proposed Ordinance. He stated that one size fits all does not work for their community.

Drew Reynolds, Dana Point, felt that the neighborhoods will be lost with the short term rentals. He stated that controls needed to be in place to assist the other areas in the City that don't have their own security.

David Wilson, Dana Point, stated that he was opposed to the Ordinance as drafted. He felt that the compliance language in the Ordinance will force the rentals to no longer rent for the short term.

Dr. Nadine Levinson, Capistrano Beach, stated that she was a full time resident on Beach Road and that she was opposed to the Ordinance as drafted and written. She felt that the language was very intrusive to the citizens.

Phoebe Limebrook, Capistrano Beach, spoke about her parents renting on Beach Road during the summers for 30 years. She felt that the Ordinance should be rewritten.

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Dave Limebrook, Parker, Colorado, felt that if the rates go up, it will make it more difficult to rent their home. He asked the City Council to give them a chance to compete with other communities.

Bill Burnham, El Dorado Hills, urged the Council to table the Ordinance to allow time to consider the statements being made.

Paul Weinberg, Newport Beach, provided the background of how Beach Road was formed. He felt that Beach Road needs to be treated as a separate entity. He urged Council to table the Ordinance to provide them time to talk to the residents.

Mayor Weinberg closed the Public Comments.

Council Member Brough made a motion for one representative from Beach Road to meet with city staff to discuss the inspection language, and bring something back to Council on April 16. Council Member Olvera seconded the motion.

Mayor Pro Tem Bartlett asked if this Ordinance language was consistent with what other cities have implemented with regard to the inspections.

Assistant City Manager Killebrew replied that it was consistent and less intrusive than other cities. He stated that staff had worked with the Building Official to limit the inspection list to true life safety issues.

City Attorney Munoz added that there was no specific language about the type of inspections in the Ordinance because staff was not going to take a 1952 beach cottage and try to apply the 2010 Building Codes. He stated that staff purposely made the language flexible.

Mayor Pro Tem Bartlett stated that it seems prudent that the City would have an Ordinance city-wide, as opposed to one specific area. She added that the City Council could not exempt one area of the City.

City Attorney Munoz replied that there is a zoning question that has to be taken into account. He stated that first we have business regulations which is before the Council tonight. He added that once the Planning Commission and the City Council address the zoning districts, every homeowners association will have the ability to regulate this use as well.

Council Member Schoeffel asked if the motion that was made was to approve the Ordinance subject to working out the inspection language, would there need to be a third reading or would a small revision be considered a lawful second reading at the next meeting.

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City Attorney Munoz replied that there were a couple of different approaches. He stated that one is to move forward with the way it is and then bring back an Ordinance amendment later to change the inspection procedures. He added that if the change you are talking about is substantial and would require a new first reading and second reading to adopt. He stated that this Ordinance will not take effect for some time still because of the zoning aspect of it so he felt that there was still time to amend if needed.

Council Member Brough asked if Council held the second reading tonight with the exception of the inspection checklist, Council could deal with that later.

City Attorney Munoz replied that if you pass without that section, a new first reading would need to be held, followed by a new second reading.

City Manager Chotkevys stated that if the Council were to hold a second reading and adoption tonight, the Ordinance will not go into effect until January 2014. He added that this will not preclude Mr. Weinberg to begin dialog with staff to see what changes could be made and brought back to Council.

Mayor Weinberg asked if anyone besides the Council had seen this checklist.

City Manager Chotkevys replied that the material was presented to Mr. Jones and Mr. Weinberg for review.

Council Member Olvera agreed that the conditions were too much, but that he would like to move this forward. He stated that he would support City Manager Chotkevys' suggestion of redlining the Ordinance to proceed and get the language cleared up with a completion date.

Council Member Schoeffel asked if the motion was to redline the language before the City Council adopt the Ordinance, or as City Manager Chotkevys suggested; adopt the language that was read at the first reading and then direct staff to work on a redline version of the Ordinance in the future with a definite completion date.

Council Member Olvera replied that he was not comfortable passing the Ordinance as written for a second reading.

Council Member Brough suggested giving the staff until April 16 to return for a new first reading.

Mayor Pro Tem Bartlett stated that if the City Council approves the current second reading, staff could still meet with the residents to fine tune and return with amendments if needed. She felt that this would be moving forward in a positive fashion.

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City Attorney Munoz replied that he understands the motion to mean for the Council to not take action tonight, to work with interested community members and bring something back at a subsequent meeting. He stated that a different way would be to adopt what is before the Council tonight, then work with community and return with redlines for another first reading and second reading.

City Manager Chotkevys stated that what he was hearing was a narrow red lining of the inspection criteria, not another redraft of the entire Ordinance.

Mayor Weinberg asked if the inspection list was part of the Ordinance.

City Attorney Munoz replied the list is not part of the Ordinance; it is criteria that staff intends to utilize.

Mayor Weinberg asked if Council were to approve the second reading of the Ordinance, for the next six months, staff could work on the inspection list.

Mayor Pro Tem Bartlett made a substitute motion to approve the second reading.

Council Member Brough asked if the inspection list is not part of the Ordinance then his original motion to remove that portion does not apply.

City Attorney Munoz replied that the inspection list was generic criteria but that the form was not part of the Ordinance.

Mayor Pro Tem Bartlett made a substitute motion to move forward to approve the second reading and allow staff to meet with public. Council Member Schoeffel seconded the substitute motion.

IT WAS MOVED BY MAYOR PRO TEM LISA A. BARTLETT, SECONDED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, TO HOLD A SECOND READING AND ADOPT **ORDINANCE 13-01 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 William Brough, Council Member Scott Schoeffel, Mayor Pro Tem Lisa Bartlett and Mayor Steven Weinberg

NOES: Council Member Carlos N. Olvera

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City Manager Chotkevys clarified that staff will meet with Mr. Weinberg and his clients to discuss the inspection criteria and staff will respond back to Council in two weeks with a staff report with either an update or a recommendation to update the policy.

9. AWARD OF CONTRACT FOR AUDIT SERVICES

AWARDED A CONTRACT FOR AUDIT SERVICES TO THE ACCOUNTING FIRM VAVRINEK, TRINE, DAY & CO., LLP, COVERING THE FISCAL YEARS ENDING JUNE 30, 2013, 2014, AND 2015, WITH THE OPTION TO EXTEND THE AGREEMENT FOR TWO, ONE (1) YEAR EXTENSIONS AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE CONTRACT ON THE CITY'S BEHALF.

10. UPDATE OF RECORDS MANAGEMENT PROGRAM POLICY AND RECORDS RETENTION SCHEDULES; AND WEBSITE PORTAL LAUNCH OF PUBLIC RECORDS

ADOPTED RESOLUTION 13-04-02-01 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, UPDATING THE CITY'S RECORDS MANAGEMENT PROGRAM POLICY AND RECORDS RETENTION SCHEDULE FOR CITY DEPARTMENTS AS PROVIDED BY SECTION 34090 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

11. RESOLUTIONS REORGANIZING THE PLANNING COMMISSION AND TRAFFIC IMPROVEMENT SUBCOMMITTEE

ADOPTED THE ENTITLED RESOLUTIONS THAT EFFECTUATE APPOINTMENTS/REPLACEMENTS TO THE PLANNING COMMISSION AND TRAFFIC IMPROVEMENT SUBCOMMITTEE:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, TO REORGANIZE THE PLANNING COMMISSION BY APPOINTING COMMISSIONERS O'CONNOR AND DENTON TO NEW FOUR (4) YEAR TERMS AND APPOINTING WHITTAKER TO REPLACE COMMISSIONER PREZIOSI FOR THE BALANCE OF HIS TERM; and

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, TO REORGANIZE THE TRAFFIC IMPROVEMENT SUBCOMMITTEE BY APPOINTING BILL CLINE AND MICHAEL LEAHY TO NEW FOUR (4) YEAR TERMS.

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PUBLIC COMMENTS

Nancy Jenkins, Dana Point, spoke regarding the Dana Point Symphony and recommended that people attend this Friday's concert at 7:30 p.m.

Max Wasinger, Capistrano Beach, spoke regarding iHope, an organization which works with the homeless and working poor. He solicited the City Council to help with a cold weather shelter. He stated that they have the volunteers, but not the resources.

Drew Reynolds, Dana Point, spoke regarding Harry Otsubo Community Gardens. He stated that they had signed up on the waiting list three years ago. He felt that the administration of the gardens was broken and that it seems there should be a more fair way to allow people to garden. He suggested a five year term and offered his help put a program together.

Harold Kaufman, Dana Point, thanked the City Council and staff for the amount of work they are doing on Town Center. He stated that there will be a public meeting held on April 8 at the Women's Center where there will be a speaker from the water district and invited the City to attend as well.

Jim Miller, Dana Point, reported that he had recently shopped at Smart and Final and found that they are providing their customers with a new plastic bag.

City Manager Chotkevys stated that Director Fowler will be checking into the bags and to determine if they do meet the Code and will report back.

Steve Stuart, Dana Point, stated that he was a supporter of iHope. He requested the City's action for the homeless in Dana Point by providing a cold weather shelter, feeding accommodations, and bathroom facilities in the Doheny Park Road area.

Christy Sanders, Dana Point, stated that she was a homeless advocate and was not affiliated with anyone. She asked for the 10 bed limit to be raised.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There were no Unfinished Business items.

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NEW BUSINESS

12. **ADOPTION OF A RESOLUTION OF THE CITY COUNCIL AUTHORIZING APPLICATION FOR FUNDS FOR THE PILOT SUMMER WEEKEND PACIFIC COAST HIGHWAY (PCH) TROLLEY, DHHS/HARBOR SHUTTLE & MISCELLANEOUS SPECIAL EVENTS SHUTTLES; FROM THE ORANGE COUNTY TRANSPORTATION AUTHORITY PROJECT 'V' FUNDING PROGRAM**

City Manager Chotkevys provided an introduction to the item and Director of Public Works Fowler provided an overview and summary the staff report.

Mayor Weinberg opened the Public Comments.

Jim Miller, Dana Point, felt that this proposal was fantastic and that the City should pursue it.

Mayor Weinberg closed the Public Comments.

Director Fowler stated that the decision will not be made by OCTA until this summer, so the program would not go into effect until the summer of 2014. He added that the trolley program would start as a pilot and would continue for seven years.

Council Member Schoeffel thanked the City Manager and Brad Fowler for going above and beyond for the City to make this application deadline.

IT WAS MOVED BY COUNCIL MEMBER WILLIAM P. BROUGH, SECONDED BY MAYOR PRO TEM LISA A. BARTLETT, TO ADOPT **RESOLUTION 12-04-02-04** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING AN APPLICATION FOR PROJECT V GRANT FUNDS TO INITIATE A SUMMER WEEKEND PILOT PACIFIC COAST HIGHWAY (PCH) TROLLEY AND DHHS/HARBOR SHUTTLE AND A SPECIAL EVENTS SHUTTLE PROGRAM; and

AUTHORIZE THE MAYOR TO SIGN THE RESOLUTION ON BEHALF OF THE CITY.

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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

PUBLIC COMMENTS

There were no additional Public Comments received.

STAFF REPORTS

City Manager Chotkevys provided a Town Center progress report. He stated that there was a successful water and sewer working group meeting held recently to specifically address the Town Center. He felt that it was still premature for staff to meet with a citizen's committee. He stated that before staff makes any presentations to the community, he would want to present to the Council first. He added that staff will try and have something to report to the City Council in May.

City Manager Chotkevys spoke regarding the multi-million dollar drug empire that was brought down by the Feds and how this operation had a medical marijuana store in Dana Point that the City had closed down.

City Attorney Munoz provided more details of the case. He stated that the criminal prosecution of the medical marijuana dispensaries is a very difficult and time consuming process. He added that what Rutan had gone through with the support of the Council on the civil side was very time consuming but nothing compared to what the Orange County Sheriff's Department had to go through to put together their case. He reported that in the case, the operator had plead guilty to selling 25 million dollars' worth of marijuana and that he will be required to paying back millions of dollars to the IRS and the State Board of Equalization. He stated that the operator was looking at a life term in prison and his plea bargain was that he would not ask for a sentence of less than 15 years. He stated that the City Council should be commended for going after these types of people.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Olvera reported that he had attended the Festival of Whales close out meeting, the Historical Society Ribbon Cutting, and the Orange County Sheriff Department Medal of Valor luncheon.

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Council Member Schoeffel reported that he had attended the Medal of Valor Luncheon, the SOCSA Opera Night at Soka University, the Dana Point Historical Society Ribbon Cutting, TCA meetings, a Dana Point Destiny meeting, and the City sponsored Egg Hunt at Sea Canyon Park. He stated that he had also attended an open house on March 24 celebrating the quiet zone at the home of Buck and Betty Hill on the bluff in Capistrano Beach. He announced that the third performance of the Dana Point Symphony Orchestra, Beethoven's Ninth Symphony is scheduled for 7:30 p.m. Friday night.

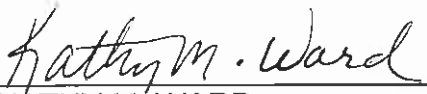
Council Member Brough reported that he had attended the Chamber of Commerce Mixer at Brio on March 21, the Medal of Valor luncheon, ad hoc Town Center with the Water District representatives on March 27, the ribbon cutting for the Dana Point Historical Society, and the Easter Egg Hunt this past weekend.

Mayor Pro Tem Bartlett reported that she had attended several Association of Cities - Orange County and Transportation Corridor Agency meetings. She stated that on March 28 she went on a Meals On Wheels ride along delivering meals to the elderly. She added that on March 26 she attended the Medal of Valor luncheon, the March 27 Dana Point Historical Society ribbon cutting, and Easter Egg Hunt at Pines Park. She thanked Kevin Evans and his staff for a great event. She announced that the California Wine Festival will be held on April 19-20 and the State of the City will be on April 22. She stated that calendars with all of the upcoming events listed are still available and encouraged people to pick one up if they have not already.

Mayor Weinberg stated that he had turned in his list of meetings attended to the City Clerk. He reported that Dana Point's major stores have gone plastic free and that he had spent time with the Surfriders outside of Ralphs handing out reusable bags. He stated that the State of the City will be held on April 22.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Weinberg declared the meeting adjourned at 8:04 p.m. and announced that the next Regular Meeting of the City Council will be held on April 16, 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 16, 2013

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Meetings attended since March 19, 2013:

Mayor Steven Weinberg

March 7	City Auditor interviews
March 10	Festival of the Whales Concert FOW Logo Award presentation
March 13	OCFA Budget and Finance Committee
March 15	Ribbon Cutting for Vorteil Dermatology
March 20	OCFA Equity Meeting
March 21	OCFA Deputy Chief Ron Baul Retirement lunch OCVC Budget & Finance Committee OCVC Board of Directors
March 27	Water/Sewer Meeting Ribbon Cutting for the Dana Point Historical Society
March 28	OCVC Budget & Finance Committee OCFA Settlement Committee OCFA Executive Committee OCFA Board of Directors