
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 3, 2015**

CALL TO ORDER

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

ROLL CALL OF CITY COUNCIL MEMBERS:

Present: Mayor Carlos N. Olvera
Mayor Pro Tem John A. Tomlinson
Council Member Joseph L. Muller
Council Member J. Scott Schoeffel
Council Member Richard A. Viczorek

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 (d1), (2 cases)
- B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Government Code § 54956.9 (a), (1 case) Name of Case: City of Dana Point v. Beach Cities Collective (Court of Appeal Case No. G047839 - Petition for Writ of Certiorari)

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

RECONVENE CITY COUNCIL MEETING

Mayor Olvera reconvened the meeting at 6:08 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Kathy Ward, City Clerk; Mike Rose, Director of Disaster Preparedness; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Brad Fowler, Director of Public Works and Engineering; Kevin Evans, Director of Community Services; John Tilton, City Architect; Mark Sutton, Building Official; Robert Sedita, Management Analyst; Christy Teague, Economic Development Manager, Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; and Bobbi Ogan, Deputy City Clerk.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 3, 2015**

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that regarding the item on Closed Session involving the Petition for Writ of Certiorari to the United States Supreme Court in the matter of the City of Dana Point versus Beach Cities Collective, the Brown Act requires a report any time the City Council authorizes defending against an appeal. He added that the Council voted 5-0 that is the Supreme Court requests a response to the petition that he was authorized to defend against it even though it is unlikely that will occur.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Pro Tem Tomlinson.

INVOCATION

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

PRESENTATIONS AND PROCLAMATIONS

Business of the Month - Kimble Photography

Management Analyst Sedita provided a PowerPoint presentation. He stated that Marvin Kimble's love of photography began as a photo-journalist during his undergraduate education where he did photograph for the daily paper. He added that after college Marvin went on to photograph for the U.S. Ski Team, snowboard ski resorts, local papers, publications and more. He stated that in 2009, Marvin started Kimble Photography. He added that Marvin was the main photographer and his wife Jamie was the assistant photographer. He stated that Kimble Photography serves all of Orange County and will travel to other destinations to meet their client's needs. Mayor Olvera presented Marvin and Jamie Kimble with a Certificate of Recognition for Kimble Photography being selected Business of the Month for February 2015.

Employee of the Month - Gail Enriquez

Director of Public Works and Engineering Fowler introduced Gail Enriquez. He stated that the administrative job has evolved over the years and Gail has been able to grow with it. He added that Gail was an integral part of the success of his department. Mayor Olvera presented Gail with a Certificate of Recognition for her being selected Employee of the Month, February 2015.

Shop Del Prado Contest

Community Development Director Luna-Reynosa spoke regarding the Shop Del Prado Program. Mayor Olvera drew the winning ticket for January and announced that Marc Taub as the winner.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 3, 2015**

CONSENT CALENDAR

City Manager Chotkevys removed Item 10 from the Agenda and stated that the item would be brought back to the City Council at a later time.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, TO ACCEPT ALL RECOMMENDATIONS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 10.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, and Mayor Pro Tem John A. Tomlinson, Mayor Carlos N. Olvera

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, JANUARY 20, 2015

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, JANUARY 12, 2015

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF JANUARY 26, 2015

RECEIVED AND FILED.

5. ARTS AND CULTURE COMMISSION MINUTES, MEETING OF OCTOBER 15, 2014

RECEIVED AND FILED.

6. YOUTH BOARD MEETING MINUTES, DECEMBER 18, 2014

RECEIVED AND FILED.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 3, 2015**

7. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

8. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

9. 2015 WEED ABATEMENT PROGRAM

ADOPTED RESOLUTION 15-02-03-01 ENTITLED:

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

Item 10 was removed from the Agenda and will be brought back for Council consideration at a later date.

10. APPROVAL OF A FORM LEASE AGREEMENT TO CONVERT EXCLUSIVE, PRIVATE PARKING LOTS INTO SHARED, PUBLIC PARKING LOTS WITHIN THE TOWN CENTER/LANTERN DISTRICT AREA

PUBLIC COMMENTS

Carol Wilson, Capistrano Beach, spoke regarding the closure of San Clemente Hospital. She stated that Senator Pat Bates and Assemblyman Bill Brough sent a letter asking for the delay of the closure. She reminded everyone of the urgency of this matter and that they will be voting on the closure in March.

City Manager Chotkevys reported that staff had met with Carol and some of the doctors last week. He added that staff was collecting materials from the other cities and performing due diligence. He stated that it was his anticipation that the review could be wrapped up in the next few weeks and then staff would be in the position to work with the Mayor to see what direction he would like to go with agendizing the item.

Claude Girault, Dana Point, stated that he appreciates the improvements that have been made in the City. He spoke of the pathway between Dana Strands and Pacific Coast Highway and suggested that the City name the passageway "Passage des Palmiers".

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 3, 2015**

Penny Maynard, Dana Point, spoke of a time capsule that was buried for the City's 10th Anniversary in La Plaza Park. She stated that there was no marker in the park and was hoping someone would look for the time capsule.

Debbie Weddle, Laguna Niguel, stated that she has been the nursing supervisor at San Clemente Hospital for the last 33 years. She added that she was concerned about the effect the closure will have on patients and asked for a Resolution of support to keep the hospital open.

Nick Karahalios, San Clemente, thanked the City Council for their participation in evaluating the issue of the potential hospital closure. He asked the City Council to adopt a Resolution in support of keeping the hospital open.

PUBLIC HEARINGS

There were no Public Hearing items.

UNFINISHED BUSINESS

11. AWARD OF CONTRACT FOR TROLLEY/SHUTTLE SERVICES

City Manager Chotkevys introduced the item. He stated that the MOU needed to be amended and would prefer the Council and the public be able to review the amendments and then bring it back to Council.

Director Fowler provided a staff report.

City Manager Chotkevys asked Director Fowler to describe the key deal points on the MOU with the Coastal Commission.

Director Fowler replied that the Coastal Commission wanted a nine year commitment, but the funds from OCTA were only for seven years so they agreed to seven years. He added that the Coastal Commission also wanted a water taxi service, but the Harbor did not feel that they needed that except for a few events. He stated that the Coastal Commission agreed to go with the current LCP language that indicates that the service would be studied.

Council Member Schoeffel thanked Director Fowler and his staff for the years of work on this project. He felt that if the City could work with stakeholders to get the ridership up that this will be an exciting mobility solution, it will be helpful to businesses and helpful for our tourism. He asked if there would be bike racks on the trolleys.

Director Fowler replied yes they will be included on all of the vehicles.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 3, 2015**

Council Member Schoeffel stated that he was prepared to move the recommended action.

Council Member Muller asked if the City goes to daily service, who picks up the cost for that.

Director Fowler replied that staff projected out all seven years and has costed the 1st year on a reduced amount based on the fact that the City is only going to run on the weekends but that the balance of years 2-7 is costed and accounted for as a full summer service.

City Manager Chotkevys clarified that the grant funds pick up the cost based upon a percentage of the ridership.

Council Member Viczorek stated that he was glad to see this moving forward. He asked if there was any delay of awarding the contract without the MOU.

City Attorney Munoz replied that the City Council can approve the contract and make it subject to compliance with the MOU.

Council Member Schoeffel stated that he would amend his sitting motion to approve the subject contract subject to compliance with all terms of the MOU.

Mayor Pro Tem Tomlinson asked if OCTA grants a one year review or is it every year.

Director Fowler replied that it will be reviewed every year.

Mayor Pro Tem Tomlinson asked if the trolleys will be timed with the Laguna Beach trolley to meet at around the same time.

Director Fowler replied no. He stated that he did not think that was possible due to no control over their schedule or delays due to traffic congestion in the summer.

City Manager Chotkevys stated that staff will make a coordinated effort to get the word out to the riders.

IT WAS MOVED BY COUNCIL MEMBER J. SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER RICHARD A. VICZOREK, TO APPROVE AWARD OF SUBJECT CONTRACT AND RECOMMENDED BUDGET ADJUSTMENT AND AUTHORIZE THE CITY MANAGER TO ENTER INTO THE SUBJECT AGREEMENT WITH PROFESSIONAL PARKING TRANSIT SERVICES SUBJECT TO COMPLIANCE WITH THE MOU WITH THE CALIFORNIA COASTAL COMMISSION.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 3, 2015**

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, and Mayor Pro Tem John A. Tomlinson, Mayor Carlos N. Olvera

NOES: None

NEW BUSINESS

12. HISTORIC PRESERVATION AGREEMENT (MILLS ACT) FOR THE PROPERTY LOCATED AT 34545 SCENIC DRIVE

City Manager Chotkevys provided a staff report.

Mayor Olvera opened the Public Comments.

Barbara Johannes, Dana Point, asked the City Council to approve the Mills Act Contract.

Director Luna-Reynosa provided a brief overview of the Mills Act Program.

Mayor Olvera closed the Public Comments.

Mayor Olvera thanked the Historical Society, specifically Ms. Johannes for her many years of historic preservation for the City of Dana Point.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY MAYOR PRO TEM JOHN A. TOMLINSON, TO AUTHORIZE THE MAYOR TO SIGN A HISTORICAL PROPERTY PRESERVATION AGREEMENT WHICH WOULD ALLOW THE TWO PROPERTY OWNERS, BEN AND MICHELLE DAY AND BOYD AND CAROL PLOWMAN, OF THE HISTORIC STRUCTURE LOCATED AT 34545 SCENIC DRIVE, TO PARTICIPATE IN THE STATE'S MILLS ACT PROGRAM.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member J. Scott Schoeffel, Council Member Richard A. Viczorek, and Mayor Pro Tem John A. Tomlinson, Mayor Carlos N. Olvera

NOES: None

PUBLIC COMMENTS

There were no additional Public Comments received.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 3, 2015**

STAFF REPORTS

City Manager Chotkevys asked Director Fowler to ensure that there is appropriate signage when people disembark from the Laguna Beach trolley so they know that Dana Point will have a trolley that will pick them up.

City Attorney Munoz stated that a recent case just came out of the Court of Appeal involving the City of Newport Beach. He felt that it was a significant case that the Council should be aware of and that he would be sending out a brief summary of the case. He stated that the case dealt with due process and fundamental fairness that goes into situations when the Council acts in a judicatory capacity on any discretionary type of decisions as opposed to legislative decisions. He added that the situation involved a Variance that had been granted by the Planning Commission and then appealed by a Council Member. He stated that the Council Member was described by the Court as being outspoken in advance of the hearing on the matter and very outspoken during the hearing. He added that the Court ruled that it was inappropriate for someone to be a participant as well as the judge in their own case and that it violated due process concepts. He felt that it was a significant case because there had not been a ruling up until now that says that a Council Member could not participate in the hearing of the item he appealed.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Schoeffel stated that he would turn in his list of meetings attended to the City Clerk.

Council Member Viczorek reported that he had attended the Chamber of Commerce dinner on January 29.

Mayor Pro Tem Tomlinson stated that he would turn in his list of meetings attended to the City Clerk.

Council Member Muller stated that he had turned in his list of meetings attended to the City Clerk.

Mayor Olvera reported that he had attended the following:

January 27 - Staff briefing on the parking study

January 28 - A meeting in Sacramento with the Alcohol Beverage Control

January 29 - Library Advisory Board meeting and Chamber of Commerce Installation Dinner


January 31 - Multiple Sclerosis Chapter held at the Marriott where the City received an award for being a partner in support of Multiple Sclerosis

February 2 – Saddleback Hospital Open House

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 3, 2015**

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Olvera adjourned the meeting at 7:17 p.m. and announced that the next Regular Meeting of the City Council will be held on March 3, 2015, 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 FEBRUARY 25, 2015

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 3, 2015**

Meetings attended since January 20, 2015:

Mayor Pro Tem John A. Tomlinson

January 27 - TCA Orientation
January 29 - 2015 Dana Point Chamber of Commerce Installation Dinner & Annual Meeting

Council Member Joseph L. Muller

January 22 - OCFA Board Meeting
January 28 - Sacramento ABC Meeting
January 29 - OCFA Best and Bravest Dinner
Dana Point Chamber of Commerce Dinner
January 30 - San Clemente Hospital Tour
February 2 - Saddleback Hospital Reception

Council Member J. Scott Schoeffel

January 23 - Sponsor and attend Ocean Institute Jazz Festival 2015 in support of the Ocean Institute's Adopt-A-Class Program
February 3 - Joint environmental ad hoc committee meeting for the San Joaquin Hills and Foothill Eastern Transportation Corridor Agencies.