
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 5, 2008**

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Bishop 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: Joel Bishop, Mayor
Lisa A. Bartlett, Mayor Pro Tem
Lara Anderson, Council Member
Diane L. Harkey, Council Member
Steven H. Weinberg, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Muñoz, City Attorney; Kathy Ward, City Clerk; Michael Killebrew, Administrative Services Director; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works/City Engineer; Matthew Sinacori, City Engineer; Lt. Mark Levy, Chief of Police; Christy Teague, Economic Development Manager; Lynn Kelly, Management Analyst; Mike Rose, Emergency & Support Services Manager; Kevin Evans, Director of Community Services & Parks; Jeremy Kirchner, Bobbi Ogan, Deputy City Clerk, Windy Robles, City Clerk Specialist; Jennifer Walters, Secretary; DyAnne Weamire, Administrative Secretary, and Jackie Littler, Executive Secretary.

CLOSED SESSION

City Attorney Muñoz indicated 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), (3 cases)
 - 1. Doheny House
 - 2. Makar: General Plan Amendment
 - 3. Vacation of Scenic Drive

- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (1 case)

NPDES Permit – San Diego Regional Water Quality Board

- C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (1 case)

Name of Case: People vs. Richard Kay, Case No. 06SM01994

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RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Bishop at 6:00 p.m. at the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

CLOSED SESSION ANNOUNCEMENT

City Attorney Muñoz announced that there was a motion by Council Member Harkey, seconded by Mayor Bishop, and approved 5-0 to authorize staff, if deemed appropriate by the City Manager, to file an administrative petition to appeal the proposed new NPDES permit by the San Diego Regional Water Quality Control Board.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Bob Moore.

INVOCATION

The Invocation was led by Chaplain George “Bucky” Weeks of South Coast Medical Center.

PRESENTATIONS AND PROCLAMATIONS

Recognition of:

Dana Hills High School Girls Cross Country Team

Mayor Bishop invited Dr. Rob Nye, Principal of Dana Hills High School, Rex Hall, Coach of the Girls Cross County Team, and Dan McClory, Past Chairman of Dana Hills High School Cross Country Team Foundation to join him. He asked Coach Hall to introduce his team. Mayor Bishop then presented a Proclamation to the team in recognition of their outstanding accomplishments this past season. The Mayor asked for the Myers Family to come forward and Karen Balbier presented a check to the Myers as a contribution to the Megan Myers Memorial Fund.

Dana Hills High School Boys Cross Country Team

Mayor Bishop invited Dr. Rob Nye, Principal of Dana Hills High School, Tim Butler, Coach of the Boys Cross County Team, and Dan McClory, Past Chairman of Dana Hills High School Cross Country Team Foundation to join him. He then asked Coach Butler to introduce his team. Mayor Bishop presented a Proclamation to the team in recognition of their outstanding accomplishments this past season.

January Business of the Month – Harbor Grill

Management Analyst Kelly provided a PowerPoint presentation. She stated that Harbor Grill has been operating in the Dana Point Harbor since 1984. The restaurant currently employs between 50-55 employees. The restaurant appeals to a wide range of customers by serving everything from traditional dishes to the more exotic. She stated that the Harbor Grill actively supports the 5th Marine Regiment as well as they dedicate proceeds from the menu “Marine Corps Special” to families of the

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military. Mayor Bishop presented a Certificate of Recognition to owner/operating John Hicks for the Harbor Grill being named the January Business of the Month.

Orange County Human Relations Commission

This presentation has been rescheduled for February 19, 2008.

CONSENT CALENDAR

Mayor Bishop removed Item No. 2 and Council Member Harkey removed Item No. 12 for separate votes.

IT WAS MOVED BY COUNCIL MEMBER ANDERSON, SECONDED BY MAYOR PRO TEM BARTLETT, THAT THE RECOMMENDATIONS BE ACCEPTED FOR THE BALANCE OF THE CONSENT CALENDAR.

The motion carried by the following vote:

AYES: Council Members Anderson, Harkey, Weinberg, Mayor Pro Tem Bartlett and Mayor Bishop
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 ON THE CONSENT CALENDAR AND THAT FURTHER READING OF SUCH ORDINANCES BE WAIVED.

2. REGULAR MEETING MINUTES, JANUARY 15, 2008

Mayor Bishop removed this item from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY MAYOR PRO TEM BARTLETT TO APPROVE THE MINUTES AS AMENDED.

The motion carried by the following vote:

AYES: Council Members Anderson, Harkey, Weinberg, Mayor Pro Tem Bartlett and Mayor Bishop
NOES: None
ABSENT: None

3. PLANNING COMMISSION MEETING MINUTES, DECEMBER 11, 2007

RECEIVED AND FILED.

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4. PLANNING COMMISSION MEETING MINUTES, JANUARY 8, 2008

RECEIVED AND FILED.

5. PLANNING COMMISSION ACTIONS, MEETING OF JANUARY 22, 2008

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CITY TREASURER'S REPORT, DECEMBER 2007

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF DECEMBER.

8. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

9. ADOPTION OF RESOLUTION APPROVING FINAL PARCEL MAP NO. 2007-101 TO ALLOW THE SUBDIVISION OF AN 11,895 SQUARE FOOT LOT INTO TWO SEPARATE LOTS OF EQUAL SIZE LOCATED IN THE RESIDENTIAL SINGLE FAMILY (RSF 7) ZONING DISTRICT AT 33872 GRANADA DRIVE.

Adopted **Resolution 08-02-05-01** entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING FINAL PARCEL MAP NO. 2007-101 TO ALLOW THE SUBDIVISION OF AN 11,895 SQUARE FOOT LOT INTO TWO SEPARATE LOTS OF EQUAL SIZE LOCATED IN THE RESIDENTIAL SINGLE FAMILY (RSF 7) ZONING DISTRICT AT 33872 GRANADA DRIVE.

10. APPROVAL OF A FOURTH AMENDMENT TO RENEW THE TRAFFIC SIGNAL MAINTENANCE SERVICES AGREEMENT WITH REPUBLIC ITS, INCORPORATED.

APPROVED THE FOURTH AMENDMENT TO RENEW THE TRAFFIC SIGNAL MAINTENANCE SERVICES AGREEMENT WITH REPUBLIC ITS, INCORPORATED; AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AMENDMENT.

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11. **INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADDING CHAPTER 14.20 AND SECTION 14.20.010 TO THE MUNICIPAL CODE REGARDING AUTHORIZATION TO APPROVE CITY PROJECT PLANS, STREET SIGNING AND STRIPING PLANS INCLUDING PAVEMENT MARKINGS, TRAFFIC WORK ORDER REQUESTS, TRAFFIC CONTROL PLANS, AND OTHER IMPROVEMENT PLANS.**

INTRODUCED FOR FIRST READING AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING CHAPTER 14.20 AND SECTION 14.20.010 TO TITLE 14 (STREETS AND SIDEWALKS) OF THE DANA POINT MUNICIPAL CODE CONCERNING AUTHORIZATION TO APPROVE CITY PROJECT PLANS, STREET SIGNING AND STRIPING PLANS INCLUDING PAVEMENT MARKINGS, TRAFFIC WORK ORDER REQUESTS, TRAFFIC CONTROL PLANS, AND OTHER IMPROVEMENT PLANS.

12. **REORGANIZATION – CITY CLERK’S OFFICE**

Mayor Harkey removed this item for a separate vote.

IT WAS MOVED BY COUNCIL MEMBER ANDERSON, SECONDED BY COUNCIL MEMBER WEINBERG TO APPROVE THE READING OF THE ORDINANCES BY TITLE ONLY.

The motion carried by the following vote:

AYES: Council Members Anderson, Harkey, Weinberg, Mayor Pro Tem Bartlett
and Mayor Bishop
NOES: None
ABSENT: None

City Clerk Ward held second reading of the titles of the Ordinances.

IT WAS MOVED BY MAYOR PRO TEM BARTLETT, SECONDED BY COUNCIL MEMBER WEINBERG TO ADOPT **ORDINANCE 08-01** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 2.08 OF THE DANA POINT MUNICIPAL CODE PERTAINING TO POWERS AND DUTIES OF THE CITY MANAGER; and

ORDINANCE 08-02 ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 2.10 OF THE DANA POINT MUNICIPAL CODE PERTAINING TO THE CITY CLERK.

The motion carried by the following vote:

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AYES: Council Members Anderson, Weinberg, Mayor Pro Tem Bartlett and Mayor Bishop
NOES: Council Member Harkey
ABSENT: None

13. RENEWAL OF CONTRACT FOR EMERGENCY AMBULANCE SERVICE

RENEWED THE CONTRACT FOR EMERGENCY AMBULANCE SERVICES FOR THE EXCLUSIVE OPERATING AREA #39 (DANA POINT) TO HERREN ENTERPRISES, INC. DBA – DOCTOR’S AMBULANCE SERVICE AND AUTHORIZED THE CITY MANAGER TO EXECUTE ALL ASSOCIATED CONTRACT RENEWAL DOCUMENTS.

PUBLIC COMMENTS

There were no Public Comments.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There were no Unfinished Business items.

NEW BUSINESS

14. INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING SECTIONS 6.14.002, 12.08.020, AND 12.08.050 OF THE MUNICIPAL CODE TO ADDRESS COMPLAINTS OF STORAGE OF VEHICLES ON PUBLIC STREETS.

City Manager Chotkevys provided a staff report and Public Works Director Fowler clarified the proposed amendments to the City’s Municipal Code.

Council Member Anderson asked how staff was defining “adjacent” because she was concerned with the City giving ownership of public parking spaces.

Director Fowler replied that the intent of the Code was to encourage residents to park in front of their homes, however; it does not restrict that parking space to only that resident.

Council Member Anderson asked how this would be handled if someone did not have parking in front of their home.

Director Fowler stated that the proposed amendment addresses the storage of vehicles over 72 hours. He added that the additional language would provide staff the teeth to enforce parking.

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Mayor Pro Tem Bartlett asked how the amendment would affect Code Enforcement and if approved, would signs have to be posted.

Director Fowler replied that Code Enforcement would only respond to complaints received from residents and that signs would not be necessary since the 72 hour parking limitation is the same criterion that the City had used previously. He added that the Code amendments would tighten the loopholes that residents have been using.

Council Member Harkey asked if residents would still be allowed to park their commercial or recreational vehicles in front of their own homes on the street.

Director Fowler replied yes they would be able to park on the street, but not for more than 72 hours.

Council Member Harkey asked if there was a definition section of the Ordinance for people to refer to regarding commercial recreational vehicles or business related vehicles.

Director Fowler replied that there is no specific definition section for the terms.

Council Member Harkey asked if she had a dog wash truck would she be able to park it in front of her home.

Director Fowler replied that if you are a business owner with a business vehicle you may park it in front of your home at night.

Lt. Levy clarified that currently state-wide in California per the Code a resident is not allowed to leave any vehicle parked on a public roadway for more than 72 hours.

Mayor Pro Tem Bartlett asked about a situation involving a plumbing truck that was servicing a home, but was not parked in front of the home they were working at; how would that situation would be handled.

Director Fowler replied that the Code does not apply to service vehicles because they are only parked temporarily and would not be restricted.

Mayor Pro Tem Bartlett stated that the way the proposed Code reads would it be a problem for this plumber if he did not park in front of the home or in front of adjacent properties.

City Manager Chotkevys replied that the City needs for this Code to be able to hold up in a Court of Law. He added that staff will need to exercise good judgment if someone is performing emergency repair work.

Mayor Bishop opened the meeting for public comments.

Rod Howorth, Dana Point, Chair of the Traffic Commission, spoke regarding the Commission's intent and stated that they were trying to satisfy resident complaints. He reported that the Lantern Village Association was working on a brochure in coordination with City staff which will be a Code education pamphlet for homeowners.

Doug Heim, Dana Point, asked for approval of the Code amendment and spoke of cars parked on his street that don't belong in his neighborhood.

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Jim Kelly, Dana Point, stated that he supports the approval and felt that it would help deter the cars parking on his street that were from a local business. He recommended an agreement be made with Luciana's Restaurant to allow Dana Point Foreign Car Service to use the restaurant's parking lot.

Carol Kelly, Dana Point, stated that she supports the approval and recommended a parking district be established in her neighborhood.

Terry Walsh, Dana Point, stated that he supports this small change in the Ordinance, it is not changing the Ordinance, but a change in the way staff could implement the current Ordinance and its intent.

Larry Vandenberg, Dana Point, was concerned that with the Code amendment that he would not be allowed to park his truck on the street with a camper because the camper would cause his vehicle to be over-sized according to the language.

Bill Avera, Dana Point, stated that he did not support the Code change. He asked whether he had to obtain a parking permit for his 5th wheel to park it overnight at his home.

Pat Eyster, Dana Point, stated that she does not support the Code amendment as currently written. She added that her home sits on a corner lot and on-street parking was unavailable due to the storm drain and other commercial vehicles parked on the street.

Tom Volkmann, Dana Point Foreign Car Service, stated that he supports the proposed amendment. He asked for clarification regarding the enforcement of on-site employee parking. He felt that sharing parking with Luciana's would be a good alternative.

Richard Dietmeier, Dana Point, stated that he supports the amendment to the Ordinance.

Mayor Bishop closed the public comments and asked staff to respond to the questions posed by the speakers.

Director Fowler provided the following responses:

1. In regards to the pick up truck with the camper top; the intent of the Ordinance was for regulating commercial/business vehicles. He added that staff was not trying to keep people from parking their personal vehicles on the street.
2. That there is no parking permit required by the City for a resident's toy hauler. The permit would only be needed if a guest was coming with their motor home and parking in front of your home.
3. Employee parking in front of other properties was a problem and that other arrangements needed to be made.

Council Member Anderson felt that parking lot sharing does work and she encouraged staff to help Dana Point Foreign Car Service obtain an agreement for their employees.

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Council Member Harkey stated that she was concerned with the enforcement of the Code. She felt that the amendment was well intended, but she was not convinced that the wording was appropriate. She added that she wanted to encourage communication and not have the City regulate the homeowners. She stated that a parking district should be investigated for the Santa Clara neighborhood. She added that she could not support the amendment as presented.

Mayor Pro Tem Bartlett felt that the basic intent was good, but that it was over-reaching and that she could not support the language as proposed.

Council Member Anderson stated that she was willing to support the amendment to see if it was enforceable and addressed the issues.

Mayor Bishop stated that he had concerns with nuisance vehicles and felt that more detail should be included. He recommended sending the language back to staff for further clarification based on the Council's comments.

City Attorney Muñoz stated that it would be helpful to staff if one or two Council Members could work with staff to ensure that the concerns are addressed.

Mayor Pro Tem Bartlett and Council Member Weinberg volunteered to meet with staff to work with staff on a possible re-wording of the Code amendment.

Council Member Harkey stated that she was concerned about the City being heavy-handed. She added that the language should be reviewed.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY MAYOR PRO TEM BARTLETT TO REFER THIS ORDINANCE BACK TO STAFF AND COUNCIL MEMBER WEINBERG AND MAYOR PRO TEM BARTLETT TO REVIEW.

Council Member Weinberg felt that the language would never be good enough for some and recommended that the Council approve it as is and modify it later if needed.

IT WAS MOVED BY COUNCIL MEMBER WEINBERG, SECONDED BY COUNCIL MEMBER ANDERSON TO APPROVE THE LANGUAGE AS IS AND CONDUCT A FIRST READING OF THE ORDINANCE.

Mayor Pro Tem Bartlett stated that there were too many questions regarding the language and that it was not fair to pass an Ordinance and expect the residents to know what the intent was.

Mayor Bishop asked if the City Attorney's office had an opportunity to review the proposed Code amendment.

City Attorney Muñoz replied that they had reviewed the Ordinance but agreed that there was room for improvement.

City Manager Chotkevys proposed that staff work with the Council Members identified to review the language and return the Ordinance back the City Council in 30 days.

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Mayor Bishop called for the question on the substitute motion which was to pass the Staff's recommendation.

The motion failed by the following vote:

AYES: Council Members Anderson and Weinberg
NOES: Council Member Harkey, Mayor Pro Tem Bartlett and Mayor Bishop
ABSENT: None

Mayor Bishop called for the question on the original motion which was to direct staff to work with Mayor Pro Tem Bartlett and Council Member Weinberg on the rewording of the Ordinance based on the Council's concerns and the public testimony with the Ordinance returning to Council for a first reading in 30 days.

The motion passed by the following vote:

AYES: Council Members Anderson, Harkey, Weinberg, Mayor Pro Tem Bartlett and Mayor Bishop
NOES: None
ABSENT: None

PUBLIC COMMENTS (Continued)

There were no additional Public Comments.

STAFF REPORTS

City Manager Chotkevys reported that the City is currently enjoying a competitive bid climate and that staff was hard at work with different projects planned in the City.

City Attorney Muñoz reported that the City of Newport Beach had adopted new regulations for group homes. He stated that their regulations are currently being challenged in Court and that his office was monitoring the litigation to see what the Court will allow and then perhaps Dana Point could adopt similar regulations.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Harkey reported that she had attended the following events:

- Chamber Installation Dinner at the Dana Point Yacht Club. She stated that the event was well attended.
- January 28 - the 5th Marine Regiment group met to discuss volunteering opportunities. She stated that there was a dinner planned for March 3rd at Jack's Restaurant. She added that she would be purchasing a table and sponsoring some of the Marines and wives of the 5th Marine Regiment.

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- She has been visiting with other Council Members from neighboring Cities and on Friday she had her first tour of duty as the Legislative Representative for the 73rd District for the League of California Cities.

She reported the following:

- Capo Valley News had reported on the south county gang restrictions that are being imposed on our adjacent cities and felt that Dana Point will benefit from their actions.
- California Coastal Commission would be meeting on February 6th for the hearing on the Toll Road extension.

Council Member Weinberg reported that he had missed the Chamber Installation Dinner due to his attending his daughter's baby shower in New York.

Mayor Pro Tem Bartlett reported that she had attended the following:

- Several TCA Board Meetings and visits with Coastal Commissioners to discuss the upcoming coastal consistency hearing.
- January 17 – South Orange County Mayor's Breakfast on behalf of Mayor Bishop.
- January 22 – Tri-City Trolley meeting with Council Member Anderson. She stated that the City was receiving a \$100,000 grant from the OCTA for the Go Local Mobility Program.
- January 25 – Toured the San Juan Capistrano Community Center and Senior Center with Mayor Bishop to see what activities they offer. She stated that it was her intention to bring more programs to Dana Point for our seniors.
- January 26 – Dana Point Chamber of Commerce Installation Dinner.
- January 27 – Senator Tom Harmon reception dinner where he spoke of the State's budget crisis.
- January 31 – Relay For Life kick-off meeting at the Ocean Institute. She encouraged everyone to participate.

She announced the following upcoming events:

- February 6 – California Coastal Commission Toll Road Hearing
- February 7 – 20th Anniversary celebration for the Monarch Beach Sunrise Rotary
- February 9 – The City was sponsoring a Clean Up Day Event to be held at Dana Hills High School and Palisades Elementary school from 7:30 a.m. – 2:30 p.m.

Council Member Anderson reported that she had attended the following:

- January 26 - Chamber Installation Dinner
- January 28 – JPA Animal Shelter meeting. She reported that the City of San Clemente was still working on their barking dog Ordinance and had not held a first reading yet.
- Tri-City Trolley meeting. There is a multi-city meeting scheduled for February 13th.

She announced that on April 5th the Dana Point Women's Club would be holding their annual fashion show at the Dana Point Yacht Club and that April 26th has been identified as date for the

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Wag-A-Thon with this year's celebrity dog "Nickadamous" who starred in the Robin Williams movie *License to Wed*.

Mayor Bishop reported that he was keeping his office hours on Friday and they were going well. He was introduced to the OCFA's new search and rescue dog. He stated that he had toured the CASA facility and that the animals in the shelter were well cared for. He announced that the City was hosting a blood drive on February 21st in the Council Chambers.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Bishop declared the meeting adjourned at 7:54 p.m. and announced that the next Regular Meeting of the City Council will be held on February 19, 2008, 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 19, 2008