
CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
June 3, 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: Mayor Joel Bishop
Mayor Pro Tem Lisa A. Bartlett
Council Member Lara Anderson (arrived at 5:02 p.m.)
Council Member Diane L. Harkey
Council Member Steven Weinberg

Absent: None

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Munoz, City Attorney; Mike Killebrew, Director of Administrative Services; Kathy Ward, City Clerk; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works/City Engineer; Mike Rose, Emergency Services Manager; Lt. Mark Levy, Chief of Police; Jackie Littler, Executive Secretary; John Tilton, City Architect; Kevin Evans, Director of Community Services & Parks; Christy Teague, Economic Development Manager; DyAnne Weamire, Administrative Secretary; Windy Robles, City Clerk Specialist; Sea Shelton, Management Analyst; Jennifer Anderson, Management Analyst; and Andrew Glass, Accounting Manager.

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b)(3)(c), (3 cases: AT&T; Scenic Drive; Clark)**

- B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b)(3)(a), (one case)**

RECESS OF CITY COUNCIL MEETING UNTIL 6:00 P.M.

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

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RECONVENE CITY COUNCIL MEETING

Mayor Bishop reconvened the meeting at 6:00 p.m. All Council Members were present.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that there was no announcement.

PLEDGE OF ALLEGIANCE

The Pledge of the Allegiance was led by Richard Runge, Director of South Coast Water District.

INVOCATION

The Invocation was led by Seminary Intern Cate Luehr of Gloria Dei Lutheran Church.

PRESENTATIONS AND PROCLAMATIONS

Recognition of Graduating Youth Board Members

Mayor Bishop along with Mayor Pro Tem Bartlett recognized graduating Youth Board members Alexandra de Peyster, Morgan Miyazono, and Kristina Spaur. They presented them with a Certificate of Recognition.

Recognition of Deputy Paul Martin, School Resource Officer

Mayor Bishop invited Lt. Levy to come up and to introduce Deputy Paul Martin. Lt. Levy thanked Deputy Paul Martin for doing a great job as the Dana Hills High School Resource Officer. Mayor Bishop along with Lt. Levy presented Deputy Martin with a Certificate of Recognition and a plaque.

5th Marine Regiment Presentation

Mayor Bishop introduced John Hicks on behalf of Pete Hammer. John Hicks is a member of the 5th Marine Regiment Support Group. He stated that the 5th Marine Regiment is based out of Camp Pendleton. He introduced Lt. Colonel Charles Burk who extended his appreciation to the Council and the City for the support of the 5th Marine Regiment. He presented the City Council Members with a plaque and a glass statuette for their support of the 5th Marines. He also gave a PowerPoint presentation showing the structure of the 5th Marine Regiment within the 1st Marine Expeditionary Force and the 1st Marine Division. He presented a flag that flew over Fallujah in Iraq under Lt. Colonel Dowling's command, along with a Certificate of Authenticity to the City Council.

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CONSENT CALENDAR

Council Member Harkey removed Item No. 12 from the Consent Calendar for a separate vote.

IT WAS MOVED BY COUNCIL MEMBER DIANE L. HARKEY, SECONDED BY COUNCIL MEMBER LARA ANDERSON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ITEMS LISTED ON CONSENT CALENDAR WITH THE EXCEPTION OF ITEM NO. 12.

The motion carried by the following vote:

AYES: Mayor Joel Bishop, Mayor Pro Tem Lisa A. Bartlett, Council Member Lara Anderson, Council Member Diane L. Harkey, and Council Member Steven H. Weinberg

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, MAY 20, 2008

RECEIVED AND FILED.

3. PLANNING COMMISSION MEETING MINUTES, MAY 13, 2008

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF MAY 27, 2008

RECEIVED AND FILED.

5. YOUTH BOARD MEETING MINUTES, MAY 1, 2008

RECEIVED AND FILED.

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6. TRAFFIC IMPROVEMENT COMMISSION MINUTES, APRIL 16, 2008

RECEIVED AND FILED.

7. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

8. CITY TREASURER'S REPORT, APRIL

RECEIVED AND FILED.

9. CLAIMS AND DEMANDS

RECEIVED AND FILED.

10. TRANSIENT OCCUPANCY TAX INSURANCE RENEWAL FOR FY 2008/2009

RATIFIED THE RENEWAL OF BUSINESS INTERRUPTION INSURANCE COVERAGE OBTAINED FROM LANDMARK AMERICAN INSURANCE COMPANY FOR PROTECTION OF TRANSIENT OCCUPANCY TAX ("TOT") REVENUE FOR THE POLICY PERIOD OF JUNE 17, 2008 TO JUNE 17, 2009.

11. 2008-2009 LAW ENFORCEMENT SERVICES AGREEMENT

APPROVED THE LAW ENFORCEMENT SERVICES AGREEMENT WITH THE COUNTY OF ORANGE FOR LAW ENFORCEMENT SERVICES FOR THE 2008-2009 FISCAL YEAR AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT.

12. SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADDING ARTICLE 9 TO THE DANA POINT MUNICIPAL CODE INCLUDING SECTIONS 14.01.780 THROUGH 14.01.950, ENTITLED "CONSTRUCTION OF CABLE COMMUNICATIONS SYSTEMS"

Council Member Harkey removed this item from the Consent Calendar for a separate vote.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY COUNCIL MEMBER STEVEN WEINBERG, TO ADOPT ORDINANCE **08-07** ENTITLED:

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING ARTICLE 9, INCLUDING SECTIONS 14.01.780 THROUGH 14.01.950, ENTITLED "CONSTRUCTION OF CABLE COMMUNICATIONS SYSTEMS."

The motion carried by the following vote:

AYES: Mayor Joel Bishop, Mayor Pro Tem Lisa A. Bartlett, Council Member Lara Anderson, and Council Member Steven H. Weinberg
NOES: Council Member Diane L. Harkey
ABSENT: None

13. SECOND READING AND ADOPTION OF ZONING CODE UPDATE PROGRAM - ZONE TEXT AMENDMENTS ZTA08-0002 AND ZTA08-0003

Held second reading and adopted Ordinance **08-06** entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENTS ZTA08-0002 AND ZTA08-0003, REVISING THE CITY OF DANA POINT ZONING ORDINANCE TO CORRECT INCONSISTENCIES, CLARIFY EXISTING REGULATIONS, SIMPLIFY THE REVIEW PROCESS, UPDATE "NONCONFORMING USES AND STRUCTURES" CHAPTER, AND PROVIDE FOR AMENDMENTS TO PREVIOUSLY APPROVED DISCRETIONARY PERMITS.

PUBLIC COMMENTS

Richard Alonzo and Heidi Langefeld, American Cancer Society and Relay for Life, thanked the City Council and Police Services for all of their support. Heidi Langefeld stated that they had raised over \$54,000. They presented the City Council with a Certificate of Appreciation and a plaque and thanked them for their support during the 2008 American Cancer Society Relay for Life.

Ingrid McGuire, Dana Point, South Coast Water District, invited everyone to the Open House for the Ground Water Recovery Plant on Saturday, June 21 from 10:00 a.m. to 2:00 p.m.

Richard Dietmeier, Dana Point, South Coast Water District, he spoke about an article in the newspaper regarding water conservation.

Wayne Rayfield, Dana Point, Orange County Vector Control District, thanked City staff for all of their work on the Grand Prix Bike Race. He spoke in regards to controlling mosquito breeding. He stated that it looks like there will be more mosquitoes this year.

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Council Member Weinberg asked Mr. Rayfield about having mosquito-eating fish in abandoned pools.

Mr. Rayfield replied that they do use mosquito-eating fish in the abandoned pools.

PUBLIC HEARINGS

14. GENERAL PLAN AMENDMENT (GPA06-02), ZONE CHANGE (ZC06-01), ZONE TEXT AMENDMENT (ZTA06-04), AND LOCAL COASTAL PROGRAM AMENDMENT (LCPA06-05) TO REVIEW CALIFORNIA COASTAL COMMISSION SUGGESTED MODIFICATIONS TO THE CITY'S APPROVAL OF THE TOWN CENTER PLAN

Council Member Harkey recused herself from this item due to a possible conflict of interest and left the Council Chambers.

City Manager Chotkevys provided a staff report.

City Manager Chotkevys asked Community Development Director Butterwick to provide a summary of the key changes that were submitted and approved by the City Council versus what was approved by the Coastal Commission.

Director Butterwick provided a more in-depth staff report.

City Manager Chotkevys stated that if approved by Council this would go back to the Coastal Commission for final certification and a newsletter will go out to the community to explain what is next. He would also like to form a Town Center subcommittee to handle the implementation of the Town Center and the impacts on the community.

Council Member Weinberg stated that there are only two ways to vote to accept or not to accept the Coastal Commission recommendations, yes or no. He asked if the vote is to strictly accept the recommendation or not.

City Manager Chotkevys stated that was correct and City Attorney Munoz confirmed.

Council Member Weinberg stated that the Council will not have much discussion over this item because they have very little control over it. It is either a yes or no vote.

Mayor Pro Tem Bartlett stated that she was excited that the City actually has a Town Center Plan. She felt that the City now has a plan to move forward.

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Mayor Bishop stated that the Coastal Commission came back with requirements for water quality, landscaping, and vegetation. He asked if those requirements would expand beyond Town Center to the rest of the Coastal Zone.

City Manager Chotkevys replied that there is a debate about who is responsible for water quality in the Coastal Zone, the Regional Boards or the Coastal Commission. The City's view is that water quality falls under the jurisdiction of the Regional Boards and State Water Quality Control Board. As a result the City has the National Pollutant Discharge Elimination System (NPDES) permit. There is a requirement that if anything is changed in the water quality aspect, then it would require a Local Coastal Program Amendment (LCPA) and it would have to be reviewed once again. If the City had to return to the Coastal Commission for a LCPA for the water quality permit, then the City would be out of compliance with the State Regional Boards because the review process with the California Coastal Commission can take up to 18 months. The Coastal Commission is looking at water quality in the Coastal Zone as coming from the Regional Boards permit.

Mayor Bishop opened the Public Hearing.

Wayne Rayfield, Dana Point, stated that he agrees with the staff and with the recommendations from the Coastal Commission. He would like to see the Council approve the plans for the Town Center.

Mayor Bishop closed the Public Hearing.

Council Member Anderson thanked all of the Subcommittee members for all of their hard work.

Council Member Weinberg stated that this has been a long process, but a great process. It shows what can be done when a City works together and lets everyone be heard.

Mayor Bishop thanked all of those that have been involved.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY MAYOR PRO TEM LISA A. BARTLETT, TO ADOPT **RESOLUTION 08-06-03-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT GPA 06-02, WHICH AMENDS THE GENERAL PLAN LAND USE ELEMENT, URBAN DESIGN ELEMENT, CIRCULATION ELEMENT, AND CONSERVATION/OPEN SPACE ELEMENT, TEXT, TABLES AND DIAGRAMS, AND SUBMISSION OF

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GPA 06-02 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA 06-05 FOR FINAL APPROVAL BY THE CITY COUNCIL.

INTRODUCE A FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA06-04 AND ZONE CHANGE ZC06-01 TO ESTABLISH THE TOWN CENTER DISTRICT AND INCORPORATE THE TOWN CENTER PLAN AS APPENDIX "E" OF THE ZONING ORDINANCE AS PART OF LOCAL COASTAL PLAN AMENDMENT LCPA06-05 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

RESOLUTION 08-06-03-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING LOCAL COASTAL PROGRAM AMENDMENT LCPA06-05 AND REQUESTING FINAL CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

The motion carried by the following vote:

AYES: Mayor Joel Bishop, Mayor Pro Tem Lisa A. Bartlett, Council Member Lara Anderson, and Council Member Steven H. Weinberg
NOES: None
ABSENT: Council Member Diane L. Harkey

UNFINISHED BUSINESS

15. AUTHORIZATION TO ISSUE CITY OF DANA POINT COMMUNITY FACILITIES DISTRICT NO. 2006-1 (CFD 2006-1), 2008 SPECIAL TAX BONDS AND ESTABLISH SPECIAL TAX FOR FISCAL YEAR 2008/2009

Mayor Bishop recused himself from this item due to a possible conflict of interest and left the Council Chambers.

City Manager Chotkevys provided the staff report.

Director of Administrative Services Killebrew provided a PowerPoint presentation on the Community Facilities District 2006-1.

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Council Member Harkey asked Bill Huck of Stone and Youngberg what the actual debt service was.

Bill Huck replied that the bond debt service is a function of the number of lots and taxes. The bonds will have an interest rate that will be applied in two weeks. They will work with the staff in sizing the bond issue and 110% would be the minimum. They would expect to size the bonds to raise as much money as they can based on the interest rate at the time and the cash flow revenue so 110% debt service coverage could be achieved.

Council Member Harkey asked if the bonds went below 110%, would they be in default.

Mr. Huck replied that the debt service coverage would be determined at the time the bonds were issued.

Council Member Harkey asked if there would be extra cushion beyond the 110%.

Mr. Huck replied that it has not yet been established.

Council Member Harkey stated that at the \$8,000,000 rate there should be a cushion.

Mr. Huck replied that they expect the bond issue to be at eight and a quarter million and the debt service coverage ratio would be at 110% at the minimum.

Council Member Harkey asked if they were allowing for extra cushion or not.

Mr. Huck replied that the plan was to raise as much money as they can based on the interest rates at the time of the sale. He stated that they would keep it right at 110% with no cushion.

Council Member Harkey asked Director of Administrative Services Killebrew if the Council is only being asked about the timing of the bond and the dollar amount.

He replied that was correct.

Council Member Harkey asked City Attorney Munoz if the Council is deciding the timing of the bond and the dollar amount that the Council will allocate.

City Attorney Munoz replied that the decision to bond was made by the previous City Council. That Council committed future Councils to use their best good faith efforts to allow for bond financing for public improvements. This Council is making the decision to issue these bonds, but the underlying decision as to whether or not to use bonds was made a long time ago.

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Council Member Anderson stated that the City is starting off with nine million and could possibly go to forty million in bonds. She asked when the City anticipated they would need to bond again.

City Manager Chotkevys replied that to ensure security, the City would need to do this in phases. The next time to bond would occur when the next sufficient number of houses sell.

Council Member Anderson asked Kevin Darnall from the Headlands Reserve when the Headlands would be starting their next phase of home sales.

Mr. Darnall stated that they were selling homes now.

City Attorney Munoz stated that the absorption study has a report on the forecast of the next sales.

Mr. Darnall stated that the study was done in the last 35 to 40 days.

IT WAS MOVED BY COUNCIL MEMBER STEVEN WEINBERG, SECONDED BY COUNCIL MEMBER LARA ANDERSON, TO ADOPT RESOLUTION 08-06-03-03 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT AUTHORIZING THE ISSUANCE OF ITS 2008 SPECIAL TAX BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED NINE MILLION DOLLARS (\$9,000,000) AND APPROVING CERTAIN DOCUMENTS AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH; and,

RESOLUTION 08-06-03-04 ENTITLED:

A RESOLUTION OF THE CITY OF DANA POINT COMMUNITY FACILITIES DISTRICT NO. 2006-1 ESTABLISHING ANNUAL SPECIAL TAX FOR FISCAL YEAR 2008/2009.

The motion carried by the following vote:

AYES: Mayor Pro Tem Lisa A. Bartlett, Council Member Lara Anderson, and Council Member Steven Weinberg.

NOES: None

ABSENT: Mayor Joel Bishop

NEW BUSINESS

There were no New Business items.

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PUBLIC COMMENTS

There were no additional Public Comments.

STAFF REPORTS

There were no Staff Reports.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Anderson stated that she was out of town so she did not have anything to report.

Mayor Pro Tem Bartlett reported that she attended the following:

- Several TCA board meetings.
- May 21: Orange County Sheriff's Peace Officers Memorial Ceremony.
- May 26: Memorial Day services in Pines Park.
- May 30: Governmental Leaders Prayer Breakfast and the CUSD Ad Hoc meeting to discuss topics of mutual interest.

She reported the following upcoming events:

- June 9: SOSCA event at the Orange County Performing Arts Segerstrom Hall.
- June 11: Ribbon cutting ceremony at the new location for Jack Randall Photography.
- June 14: Build-a-Boat contest at the Ocean Institute. This event will be great fun for the whole family. Participants need to construct their own boat.

Council Member Harkey stated that she attended the same events as Mayor Pro Tem Bartlett. She reported the following upcoming events:

- June 22 - Capistrano Valley Symphony at the Mission.
- Concerts in the Park.

Council Member Harkey left the Council Chambers at 7:21 P.M.

Council Member Weinberg stated that he attended the Orange Fire Authority Board Meeting. He also commented on the Dana Point Grand Prix and thanked staff for all of their hard work on the event.

Mayor Bishop reported that on June 12th, South Coast Water District would hold their first meeting in the Council Chambers. He attended "Is Your Teen at Risk?" at Dana Hills High School on May 31st.

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Mayor Bishop submitted other meetings that he attended and upcoming events in writing to the City Clerk (attached as Exhibit 1).

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Bishop declared the meeting adjourned at 7:23 p.m. and announced that the next Regular Meeting of the City Council will be June 17, 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 June 17, 2008

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EXHIBIT 1

Meetings and Events Attended by Joel Bishop 5/22/08 – 6/1/08

5/22/08	Sunrise Rotary Student Awards
5/23/08	Office Hours
5/26/08	VFW Memorial Day Services in Pines Park
5/28/08	Historical Society honoring Susan Hinman
5/29/08	DP Boat Show
5/30/08	Office Hours
5/31/08	Is Your Teen at Risk Conference
6/01/08	DP Grand Prix