
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by City Clerk Ward at 5:00 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point. City Clerk Ward announced that the meeting was adjourned to 6:00 p.m. due to a lack of quorum.

RECONVENE CITY COUNCIL MEETING

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Joel Bishop at 6:00 p.m. at 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 Bartlett
Council Member Lara Anderson
Council Member Diane Harkey
Council Member Steven Weinberg

Absent: None

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Kathy M. Ward, City Clerk; Jeremy Kirchner, Emergency Services Coordinator; Mike Killebrew, Director of Administrative Services; Lt. Mark Levy, Chief of Police Services; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works and Engineering; Lynn Kelly, Management Analyst; Kevin Evans, Director of Community Services and Parks; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; Matthew Sinacori, City Engineer; Christy Teague, Economic Development Manager; John Tilton, Planning Manager; Shelley Velez, Personnel Analyst; Bobbi Ogan, Deputy City Clerk; Windy Robles, City Clerk Specialist; and Jennifer Walters, City Clerk Secretary.

CLOSED SESSION

There were no Closed Session items.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the President of South Coast Water District, Richard Dietmeier.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

INVOCATION

The invocation was provided by Bishop Kirk Lindahl of the Capistrano Ward of the Church of Latter Day Saints.

PRESENTATIONS AND PROCLAMATIONS

Business of the Month Hobie Sports

Management Analyst Kelly provided a PowerPoint presentation. She stated that Hobie Sports started Southern California's first surf shop in Dana Point in 1954. They currently have five stores throughout South Orange County. Hobie Sports carries products for surfing, skateboarding, water sports, and snow sports. Mayor Bishop presented a Certificate of Recognition to Jake Schwaner, General Manager of Hobie Sports, for being selected Business of the Month for November.

Presentation by the Assistance League of Capistrano Valley

Mayor Bishop welcomed Kay Zoltan from the Assistance League of Capistrano Valley. She was assisted by Carrie Miller. Ms. Zoltan stated that the Capistrano Valley Chapter was founded in 1977 to help the students and teachers of the elementary and middle schools within the Capo Unified School District. They have also been serving the families of Camp Pendleton since 2000. They provided a PowerPoint presentation detailing how the Capistrano Valley Chapter is serving the Capistrano Valley community, about their joint effort with other local Assistance League chapters, and how they support the families of the Camp Pendleton Marine Base. She announced that on December 7, they will be having their Annual Christmas Home Tour and for more information call 949-291-8404.

Certificate of Recognition--Citizen Assist

Mayor Bishop invited Lt. Mark Levy to come forward and provide the background on the rescue of a woman from a bridge over the 5 freeway on October 27, 2008. Mayor Bishop presented Scott Hartigan, Paul Hartigan, and California Highway Patrol Officer Michael Stoney with Certificates of Recognition for saving the life of a citizen in distress. Lt. Levy introduced Captain Brian Wilkerson of the Orange County Sheriff's Department. Captain Wilkerson presented Scott and Paul Hartigan and Officer Stoney with Proclamations on behalf of the Orange County Sheriffs Department.

Recognition of outgoing Council Member Diane Harkey

Mayor Bishop recognized Council Member Harkey for winning the 73rd Assembly District and presented her with a Proclamation for the years she served on the Dana Point City Council. Mayor Bishop also presented her with a City Tile Plaque.

On behalf of Congressman John Campbell's Office, Lou Penrose presented Council Member Harkey with a Certificate of Recognition for her service.

On behalf of Senator Harman's Office, Emanuel Patrascu presented Council Member Harkey with a Certificate of Recognition for her service.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

On behalf of Assemblywoman Mimi Walters Office, Sharie Hodges presented Council Member Harkey with a Certificate of Appreciation for her continued dedication and service.

On behalf of Orange County Supervisor Pat Bates Office, Sergio Prince presented Council Member Harkey with a Proclamation.

On behalf of Sheriff Sandra Hutchens Office, Captain Wilkerson presented Council Member Harkey with a Certificate of Recognition for her service.

Council Member Harkey thanked the community, staff, and Council. She stated that it has been a privilege to serve the City of Dana Point.

Mayor Bishop called for a recess at 6:45 p.m.

Mayor Bishop reconvened the meeting at 6:59 p.m.

CONSENT CALENDAR

It was moved by Mayor Joel Bishop and seconded by Mayor Pro Tem Lisa Bartlett to move Item number 25 before Item number 21.

The motion carried by the following vote:

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

NOES: None

IT WAS MOVED BY COUNCIL MEMBER STEVEN WEINBERG, SECONDED BY MAYOR PRO TEM LISA BARTLETT, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON CONSENT CALENDAR.

The motion carried by the following vote:

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

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.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

- 2. REGULAR MEETING MINUTES, OCTOBER 21, 2008**

APPROVED THE MINUTES.
- 3. PLANNING COMMISSION MEETING MINUTES, SEPTEMBER 23, 2008**

RECEIVED AND FILED.
- 4. PLANNING COMMISSION MEETING MINUTES, OCTOBER 14, 2008**

RECEIVED AND FILED.
- 5. PLANNING COMMISSION ACTIONS, MEETING OF OCTOBER 28, 2008**

RECEIVED AND FILED.
- 6. YOUTH BOARD MEETING MINUTES, OCTOBER 2, 2008**

RECEIVED AND FILED.
- 7. YOUTH BOARD MEETING MINUTES, OCTOBER 16, 2008**

RECEIVED AND FILED.
- 8. CHARITABLE GRANT SUBCOMMITTEE DRAFT MINUTES, OCTOBER 29, 2008**

RECEIVED AND FILED.
- 9. OCEAN WATER QUALITY SUBCOMMITTEE ACTION MINUTES, SEPTEMBER 9, 2008**

RECEIVED AND FILED.
- 10. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**

RECEIVED AND FILED.
- 11. CITY TREASURER'S REPORT, SEPTEMBER**

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF SEPTEMBER.
- 12. CLAIMS AND DEMANDS**

RECEIVED AND FILED CLAIMS AND DEMANDS.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

13. DISPOSITION OF NON-ESSENTIAL CITY RECORDS

ADOPTED RESOLUTION 08-11-18-01 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING THE DISPOSITION OF CERTAIN INACTIVE CITY RECORDS AS PROVIDED BY SECTION 34090 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

14. RESOLUTION FOR EMPLOYER PAID MEMBER CONTRIBUTIONS (EPMC) TO CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS)

ADOPTED RESOLUTION 08-11-18-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, FOR EMPLOYER PAID MEMBER CONTRIBUTIONS (EPMC) TO CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS).

15. LINSOTT, LAW & GREENSPAN, ENGINEERS CONTRACT EXTENSION FOR TRAFFIC ENGINEERING PROFESSIONAL SERVICES

AUTHORIZED THE CITY MANAGER TO EXECUTE A TWO YEAR CONTRACT EXTENSION WITH LINSOTT, LAW & GREENSPAN (LLG) WITH THREE ADDITIONAL TWO YEAR OPTIONS.

16. LEGISLATIVE ADVOCACY AGREEMENT

AUTHORIZED THE CITY MANAGER TO EXECUTE A ONE-YEAR AGREEMENT WITH AN OPTIONAL ONE-YEAR EXTENSION WITH MIKE TOPE FOR LEGISLATIVE ADVOCACY SERVICES RELATIVE TO CERTAIN PUBLIC WORKS AND COMMUNITY DEVELOPMENT PROJECTS SUBJECT TO CALIFORNIA COASTAL COMMISSION REVIEW.

17. GREASE INTERCEPTOR REBATE PROGRAM MODIFICATIONS

APPROVED THE FOLLOWING PROPOSED MODIFICATIONS TO THE EXISTING GREASE INTERCEPTOR REBATE PROGRAM:

UPON CHANGE OF OWNERSHIP, ALLOWED NEW FOOD SERVICE FACILITY OWNERS TO PARTICIPATE IN THE REBATE PROGRAM, AS FUNDS ALLOW, ON A FIRST COME FIRST SERVED BASIS.

ALLOWED OWNERS WHO REMODEL THEIR FOOD SERVICE FACILITIES TO PARTICIPATE IN THE INCENTIVE PROGRAM, AS FUNDS ALLOW, ON A FIRST COME FIRST SERVED BASIS.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

ADJUSTED THE PROGRAM DESCRIPTION TO BECOME "GREASE MANAGEMENT REBATE PROGRAM" TO INCLUDE NOT ONLY GREASE INTERCEPTORS, BUT OTHER GREASE CONTROL REQUIREMENTS, SUCH AS A SELF-CONTAINED KITCHEN GREASE MANAGEMENT SYSTEM, PROPERLY DESIGNED MAT WASH AREA AND ROOF TOP EXHAUST CONTROLS (UP TO EXISTING CAP OF \$7,500 CONTRIBUTION EACH FROM SCWD & DP), AS FUNDS ALLOW, ON A FIRST COME FIRST SERVED BASIS.

18. APPROVAL OF TELECOMMUNICATIONS ENCROACHMENT SYSTEM AGREEMENT WITH GREENFIELD COMMUNICATIONS

APPROVED SUBJECT AGREEMENT AND AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE EXECUTE THE AGREEMENT.

19. PRELIMINARY APPROVAL OF \$250,000 FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION THROUGH COUNTY OF ORANGE FOR IMPLEMENTATION OF HOUSING REHABILITATION PROGRAM TO ASSIST IN THE PRESERVATION OF HOUSING STOCK FOR 2009-2010, 2010-11, AND 2011-12 FISCAL YEARS

ADOPTED RESOLUTION 08-11-18-03 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, TO SEEK PRELIMINARY APPROVAL OF \$250,000 FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION THROUGH COUNTY OF ORANGE FOR IMPLEMENTATION OF HOUSING REHABILITATION PROGRAM TO ASSIST IN PRESERVATION OF HOUSING STOCK FOR 2009-10, 2010-11, and 2011-12 FISCAL YEARS.

20. ADOPTION OF A RESOLUTION DESIGNATING CITY'S AGENDA FOR FEDERAL FINANCIAL ASSISTANCE

ADOPTED RESOLUTION 08-11-18-04 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DESIGNATING CITY'S AGENT FOR FEDERAL FINANCIAL ASSISTANCE.

PUBLIC COMMENTS

Paula Becker, Dana Point, on behalf of Pet Project Foundation thanked the City for their Charitable Grant funding for the spaying and neutering of pets.

John Chaffetz, Dana Point, invited everyone to a special event at the Community Center on December 7th from 2:00 p.m. to 4:00 p.m. with Tom Blake to debut a special program for Laura's House.

CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008

Mary Jeffries, Dana Point, spoke regarding a proposed zone change at the mobile home park.

Dave Duree, President of the Chamber of Commerce, spoke about the Turkey Trot and invited everyone to attend.

25. SURFING HERITAGE MUSEUM

Item 25 was moved out of order.

Council Member Harkey recused herself from this item due to a potential financial conflict of interest and left the Council Chambers at 7:10 p.m.

City Manager Chotkevys provided a staff report and recommended forming a Task Force to include two Council members to work with staff and representatives of the Surf Heritage Museum.

City Manager Chotkevys welcomed Jim Wilson from Thirtieth Street Architects. Mr. Wilson provided a PowerPoint presentation showing various sites that were considered for the museum throughout Dana Point.

Brad Gross, Dana Point Harbor Manager, clarified that the museum would be much too large for the Youth and Group facility area in the Harbor.

Council Member Anderson asked if the Council was under any time pressure to approve this item.

City Manager Chotkevys replied that the Surf Heritage Foundation would like to know if the Council is interested in taking this project to the next step, but the Council is not under any time obligation.

Council Member Anderson felt that the Council should table the item until January when all of the Council members are seated. She stated that one of the criticisms from the Niguel Shores community was that they feel they did not receive enough notice. She recommended possibly staking the area in Sea Terrace Park that the City is considering so people can see what is being discussed and what the potential impacts may be.

City Manager Chotkevys stated that Council Member Anderson brought up an excellent point. He felt that if the item was held over, a date should be set as to when the item would be discussed again.

Mayor Pro Tem Bartlett stated that due to the location of the project, there could be impacts on other developments in the area such as Ritz Cove or Point Monarch. She stated that she has not seen any comments from either development and asked if those areas are for or against the project or if they have any other input.

CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008

City Manager Chotkevys replied that the City invited all of the other Home Owners Association (HOA) boards.

Economic Development Manager Teague clarified that 13 HOA's from the surrounding area were invited to a focus group meeting, but the meeting was not well attended.

City Manager Chotkevys stated that the City made every opportunity to invite them. He feels that the strong opposition is from Niguel Shores.

Council Member Weinberg stated that he could vote either way on this item. He stated that this item is for recommendation only. He said that he does not have a problem addressing the item tonight.

Mayor Bishop stated that there are a number of steps to take to start raising funds. He asked what the next step would be.

City Manager Chotkevys replied that if the City Council wanted to pursue the project, the Council would appoint a Task Force to meet with staff and members of the Surf Heritage Foundation to identify a joint use. He also stated there would be a series of meetings to discuss what the City envisions. He stated that it could take anywhere from five to eight years to raise the money to build the museum and then another two to three years of construction.

Mayor Bishop asked if there will be different points where the City could back out if the project is not working out.

City Manager Chotkevys replied that there would be contract milestones in the agreement for performance. He stated that if certain milestones are not met, the City could pull out of the project. He felt that by creating a Task Force to meet with the Surf Heritage Foundation, they could identify the milestones to be brought back with the Joint Use Agreement.

Council Member Anderson asked if the Council could form the Task Force tonight. She then made a motion to continue the item to the first meeting in January and form a Task Force.

City Manager Chotkevys stated that the Council should table the item tonight, appoint two Council members to meet with staff and the Surf Heritage Foundation, and revisit the issue in January.

Council Member Weinberg stated that the Council is being asked to consider a Surfing Heritage Museum in Sea Terrace Park. He stated that the Council is being asked to gather input from the City and the museum to see if the project will work. He felt that this is what the Council was being asked to approve.

City Manager Chotkevys replied that the Council was being asked to add an intermediary step. The recommendation is for the Council to approve

CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008

the Sea Terrace Park concept. He stated that Council Member Anderson is asking that before that concept is approved, a Task Force should be formed to listen to the comments and then bring the issue back for discussion.

Council Member Anderson stated that she would like to have a little more information.

Mayor Pro Tem Bartlett asked if the Council enters into a Joint Use Agreement tonight and approves the item, can the City still consider alternate locations for the museum.

City Manager Chotkevys replied that the City could consider other locations. He stated that by forming the Task Force, more information could be gathered and the Council could have a more informed discussion in January.

Mayor Bishop stated that he seconded the motion made by Council Member Anderson.

City Attorney Munoz stated if Council Member Anderson's recommendation is followed, the Council could hear the Public Comments tonight or postpone them until a later date.

Mayor Bishop stated that he would open the Public Comments and the speakers should consider the motion on the table and comment at that motion.

Council Member Anderson asked if Council Member Schoeffel would be able to take the testimony of the public comments in to consideration for his decision making.

City Attorney Munoz replied that Council Member Schoeffel could use the comments if he chooses to take the time to review the record.

Council Member Weinberg stated that the citizens should be able to comment.

Mayor Bishop opened the Public Comments.

Irene Fascher, Dana Point, spoke regarding her opposition to the development of the Surf Heritage Museum at Sea Terrace Park.

Dick Mackaig, Dana Point, stated that he does not support the museum at Sea Terrace Park.

Leo Riley, General Manager of Niguel Shores Community Association, spoke in regards to the petition signed by 235 residents of the Niguel Shores Community. They do not understand the intent of the facility.

CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008

Janine McCusker, Capistrano Beach, stated that she is in favor of the Joint Use Agreement with the museum at Sea Terrace Park.

Lynn Dawson, Dana Point, stated that she does not support a museum at Sea Terrace Park.

Joanna Adrian, Dana Point, feels the museum would cause the library expansion to be put on hold.

Judy Davis, Dana Point, stated that she is not against the museum, but not at the proposed site.

Bob Mardian, Dana Point, felt that the museum should be in Dana Point and that Sea Terrace Park is the best place for it.

June Bauer, Dana Point, President of Friends of the Dana Point Library, stated that she was concerned the library would lose space for the expansion.

Charles Meyers, Dana Point, stated that he would welcome the museum at Sea Terrace Park.

Mary Jefferies, Dana Point, felt that the museum should be developed at the corner of Del Obispo and Pacific Coast Highway, rather than at Sea Terrace Park.

Nicole Chambers, Dana Point Chamber of Commerce, voiced the Chambers' support of the museum at Sea Terrace Park.

Lynn Dawson spoke on behalf of Linda Brame and stated that Ms. Brame appreciates Council Member Anderson's recommendation and that she agrees with Mr. Mackaig.

Cliff Anderson, Dana Point, suggested waiting to consider the museum until the Surf Heritage Foundation had the money to develop.

Alan Wickstrom, Dana Point, stated he supports the museum.

Lewis Dawson, Dana Point, stated that he opposes the museum in Sea Terrace Park.

Bill Smith, Dana Point, stated that he is opposed to the museum at Sea Terrace Park.

Karl Kuhn, Dana Point, felt that a citizen should also be a member of the Task Force.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

Mayor Bishop closed the Public Comments.

Council Member Anderson felt that people were not opposed to museum, they just need more information.

Mayor Bishop stated that there is room for discussion. He encouraged the public to go look at the staked area in Sea Terrace Park.

Council Member Anderson stated that the motion is to form a task force to work on the Joint Use Agreement and return to the first meeting in January.

City Manager Chotkevys stated that the meeting will be January 12th and asked who would be on the Task Force.

City Attorney Munoz stated that staff will be able to return with deal points, but not with a draft agreement.

Mayor Bishop appointed Mayor Pro Tem Bartlett and Council Member Anderson as the Task Force members.

THE ITEM WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY MAYOR JOEL BISHOP, TO CONTINUE ITEM 25 UNTIL THE FIRST MEETING IN JANUARY AND TO FORM A TASK FORCE, WHICH WILL BE MAYOR PRO TEM BARTLETT AND COUNCIL MEMBER ANDERSON, TO BEGIN THE PROCESS OF A JOINT USE AGREEMENT WITH THE SURF HERITAGE FOUNDATION.

The motion carried by the following vote:

AYES: Council Member Lara Anderson, Council Member Steven Weinberg, Mayor Pro Tem Lisa Bartlett, and Mayor Joel Bishop

NOES: None

ABSENT: Council Member Diane Harkey

PUBLIC COMMENTS

There were no additional Public Comments.

Council Member Harkey returned to the Council Chambers.

Mayor Bishop called for a recess at 8:35 p.m. and reconvened at 8:43 p.m.

PUBLIC HEARINGS

21. ANNUAL REVIEW OF THE GENERAL GOVERNMENT FACILITIES AND TRANSPORTATION FACILITIES DEVELOPMENT IMPACT FEES

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

City Manager Chotkevys provided the staff report.
There being no requests to speak, Mayor Bishop opened and closed the Public Hearing.

IT WAS MOVED BY COUNCIL MEMBER STEVEN WEINBERG, SECONDED BY COUNCIL MEMBER LARA ANDERSON, TO CONDUCT A PUBLIC HEARING AND ADOPTED **RESOLUTION 08-11-18-05** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, REAFFIRMING THE APPLICATION OF THE GENERAL GOVERNMENT FACILITIES AND TRANSPORTATION FACILITIES DEVELOPMENT IMPACT FEE PROGRAM FOR ALL NEW DEVELOPMENT LOCATED WITHIN THE CITY OF DANA POINT FOR THE 2007-2008 FISCAL YEAR.

The motion carried by the following vote:

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

NOES: None

UNFINISHED BUSINESS

22. CITY COUNCIL AND PLANNING COMMISSION MEETING DATES

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY MAYOR PRO TEM LISA BARTLETT, THAT THE CITY COUNCIL CHANGE THE COUNCIL MEETINGS TO THE SECOND AND FOURTH MONDAYS AND THE PLANNING COMMISSION MEETINGS TO THE FIRST AND THIRD MONDAYS AND INTRODUCE AND HOLD FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING SECTIONS 2.04.010 AND 2.07.011 OF THE DANA POINT MUNICIPAL CODE REGARDING TIME OF REGULAR MEETINGS FOR THE CITY COUNCIL AND THE PLANNING COMMISSION.

The motion carried by the following vote:

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

NOES: None

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

23. CITY COUNCIL MEMBERS' AND PLANNING COMMISSION MEMBERS' STIPEND AND BENEFITS - SECOND READING OF ORDINANCE

Mayor Bishop opened the Public Comments.

Irene Fascher, Dana Point, asked for clarification of the item.

Mayor Bishop stated that the item was to adjust the stipend of the Council Members and the Planning Commissioners and to potentially reinstate a health benefit that was removed 2 years ago.

John Chaffetz, Dana Point, supports the increase in benefits for Council and Planning Commission.

Mayor Bishop closed the Public Comments.

Mayor Bishop stated that he is in support of the raise in benefits for the City Council and Planning Commission.

Council Member Harkey stated that medical benefits should not be included and now is not a good time to give a raise. She stated that she opposes this proposal.

Mayor Pro Tem Bartlett felt that the Council is adequately compensated. She stated that she is comfortable with the current level of compensation.

Council Member Weinberg stated that he is on the Council to serve the City. He felt that people should be compensated to serve on the City Council and the raise in compensation is not unreasonable.

Council Member Anderson stated she has not heard of anyone saying they do not run for Council because it does not pay enough. She felt that campaigning costs are a strong prohibiting factor to run for City Council. She stated that Council Members have the option to purchase medical benefits from the City. She felt that compensation should not be a motivating factor to be on the Council because it would attract the wrong kind of people.

IT WAS MOVED BY COUNCIL MEMBER DIANE HARKEY, SECONDED BY MAYOR PRO TEM LISA BARTLETT, THAT THE CITY COUNCIL DENY THE SECOND READING AND ADOPTION OF THE ORDINANCE.

The motion carried by the following vote:

AYES: Council Member Lara Anderson, Council Member Diane Harkey, and Mayor Pro Tem Lisa Bartlett

NOES: Council Member Steven Weinberg and Mayor Joel Bishop

CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008

24. AGREEMENT FOR CONSTRUCTION AND MAINTENANCE WITH THE SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (SCRRA) IN CONJUNCTION WITH THE RAIL HIGHWAY CROSSING ENHANCEMENT PROGRAM FOR BEACH ROAD

Mayor Pro Tem Lisa Bartlett recused herself from item 24 due to a conflict of interest and left the Council Chambers at 9:19 p.m.

City Manager Chotkevys provided a staff report.

Council Member Anderson asked what the actual cost would be to the City.

Director Fowler replied that there were two costs to the City. One is the participating 12% which is estimated to be approximately \$150,000 and then there is a requirement for an annual maintenance fee in the amount of \$4,800.

Council Member Anderson asked if there are additional insurance requirements or any additional costs that need to be factored in.

Director Killebrew replied that the insurance provider has already gone through the agreements and there will not be any additional premiums.

City Manager Chotkevys stated that in all fairness, this does not mean that the City cannot be sued.

Mayor Bishop asked what the limit of liability insurance is.

City Manager Chotkevys replied that it is \$50,000,000.

Mayor Bishop asked if the City would be required to pay the difference in the event it is more than \$50,000,000.

City Manager Chotkevys replied that the City would be one of many agencies, but it would depend on the extent of the accident.

Council Member Weinberg asked what other agencies would contribute.

City Attorney Munoz replied that the Southern California Regional Rail Authority (SCRRA) is the rail operator and the Orange County Transportation Authority (OCTA) is the regional authority. He stated from the City's prospective, the SCRRA and the OCTA should take on all liability for this project.

City Manager Chotkevys stated that the City does not operate a train. He added that the policy excludes coverage if the City is operating a train or a rail system.

Council Member Weinberg asked about the liability of the double gates.

City Attorney Munoz replied that if the City does not go through with the Quiet Zone project, it will be the railroads responsibility if there is an

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

accident. He stated that if the City wants the Quiet Zone, the City must bare the risk.

Council Member Weinberg asked for help in understanding why the City would want to do this and put the tax payers at risk.

Council Member Harkey stated that this is being done up and down the train route in all of the cities. She stated that OCTA is granting some funds to increase train traffic because they want to increase the use of alternate forms of transportation.

Council Member Anderson asked if anyone received any emails regarding this item.

City Manager Chotkevys stated that he recalls seeing a letter from Beach Road supporting the Quiet Zone initiative.

Council Member Harkey stated that there have been several requests for the Quiet Zone during the time she has been on the Council.

Mayor Bishop stated that just because other cities are doing it, does not mean it is right. He felt that this was a bad and risky idea.

Council Member Anderson asked if the City could do any of the improvements without the Quiet Zone.

Director Fowler replied that the City cannot do any of the improvements without the railroads permission. He stated that these improvements would not make the area a Quiet Zone. He said that a Quiet Zone would still have to be requested.

City Manager Chotkevys stated that the Joint Power Insurance Authority (JPIA) states that as long as the City is not operating a railroad, the City has \$50,000,000 of coverage so there is some security there.

Mayor Bishop asked if there was a rush to get this done. He stated that he would rather wait until the City had additional information from the attorneys.

City Attorney Munoz replied that in his opinion, the City would not get any further information. He stated that there is no question that this is a liability shift and that the railroads are shifting liability to the City. He stated that there are some timing concerns.

Director Fowler stated that OCTA wants the contract for the work. He stated that if the Council chooses not to act tonight, he cannot guarantee that the opportunity would not be lost.

Council Member Weinberg stated that this is putting the City at risk and he cannot justify doing that.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

Council Member Anderson stated that she hears the San Juan Capistrano crossing horns and they are becoming far more frequent.

City Manager Chotkevys stated that the train will still blow the horn if transients are on the track.

IT WAS MOVED BY COUNCIL MEMBER DIANE HARKEY, SECONDED BY COUNCIL MEMBER LARA ANDERSON, TO APPROVE THE CONSTRUCTION AND MAINTENANCE AGREEMENT WITH THE SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (SCRRA), AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND AUTHORIZE A BUDGETED TWELVE PERCENT MATCHING FUND PAYMENT REQUIRED BY THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) FOR PROJECT CONSTRUCTION.

The motion failed by the following vote: No action was taken.

AYES: Council Member Lara Anderson and Council Member Diane Harkey

NOES: Council Member Steven Weinberg and Mayor Joel Bishop

ABSENT: Mayor Pro Tem Lisa Bartlett

NEW BUSINESS

There were no New Business items.

Mayor Pro Tem Bartlett returned to the Council Chambers at 9:39 p.m.

STAFF REPORT

City Manager Chotkevys provided a PowerPoint presentation of the Lantern Bay Park Entry Improvements and the Calle Paloma Improvements.

City Attorney Munoz stated that the City has been monitoring Newport Beach group recovery homes. He stated that their ordinance was recently challenged in a Federal Court and it was upheld by the court. He also stated that the City would like to bring back a similar type of ordinance for Council consideration in Dana Point.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Anderson announced that she attended the following:

October 29 - Coastal Animal Services Authority and Joint Powers Authority

October 31 - Senior Center Halloween Party

Various ribbon cutting events

CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008

She stated that the Teen Center at the Boys and Girls Club is going up. She also stated that she received a letter from the OCTA regarding the Tri City Trolley program. She stated that they approved the mix flow bus shuttle proposal to advance to step 2.

Council Member Anderson thanked everyone for their support with the election.

Mayor Pro Tem Bartlett thanked staff for the Calle Paloma and Lantern Bay Improvements. She also thanked the Dana Point personnel from the Orange County Fire Authority, the Orange County Sheriffs Department and the CERT Team for their work at the recent fires. Mayor Pro Tem Bartlett congratulated Council Member Anderson on her re-election and thanked Council Member Harkey for her service and dedication to the City. She wished Council Member Harkey well at the State Assembly.

Mayor Pro Tem Bartlett announced that she attended the following:

Several TCA Board meetings

October 30 - Marco Forster 40th Anniversary celebration

November 5 - Kick-off meeting for the Monarch Beach Sunrise Rotary Vocational Day for students. She thanked Lt. Mark Levy for spending his morning at City Hall giving several students a behind the scenes look at law enforcement.

November 7 - Heroes with Hearts event

November 8 - Home Raffle at the Ocean Institute

November 10 - Marine kick off event for Veterans Day at City Hall

November 13 - League of Cities meeting

November 17 - Turkey Trot kick off event at the Ocean Institute

She announced the following upcoming events:

November 20 - McCool Flowers ribbon cutting ceremony

November 22 - Thanksgiving luncheon for the seniors provided by the Monarch Beach Sunrise Rotary at the Community Center

She wished everyone a happy and safe Thanksgiving!

Council Member Weinberg stated that he had turned in the meetings he had attended in writing to the City Clerk (attached as Exhibit 1). He wished everyone a great Thanksgiving.

Council Member Harkey stated that she will miss everyone and that she has enjoyed serving in the community. She congratulated Council Member Anderson on her re-election and thanked the City of Dana Point and all of the staff.

Mayor Bishop stated that he turned in the meetings he had attended in writing to the City Clerk (attached as Exhibit 1). He stated that the South Coast Medical

CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008

Center Foundation has been disbanded and that it no longer exists. He stated that the stairway at the Headlands is now open. He reported that he frequently writes on his blog and everyone is welcome to comment on it. www.joel4dp.com

Mayor Bishop thanked the firefighters for all of their great work at the fires.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Bishop declared the meeting adjourned in the memory of Captain Trevor Yurista of the United States Marine Corps at 10:01 p.m. and announced that the next Regular Meeting of the City Council will be December 2, 2008, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
November 18, 2008**

Exhibit 1

Joel Bishop

Meetings Attended

October 21, 2009 through November 18, 2008

10/28/08 Ocean Water Subcommittee
10/30/08 Marco Forster 40th Birthday
11/5/08 Rotary Career Day
11/6/08 SCAG

Steven Weinberg

City Council Related Meetings

November 5 – Rotary Youth meeting
November 8 – Ocean Institute Raffle
November 10 – 5th Marines Food Drive Kick-off
November 12 – OCFA Budget and Finance meeting
November 17 – Turkey Trot VIP reception