
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
JANUARY 26, 2009**

CALL TO ORDER

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

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Kathy M. Ward, City Clerk; Mike Rose, Emergency Services Manager; Michael Killebrew, Director of Administrative Services; Sgt. Jim Greenwood; Brad Fowler, Director of Public Works and Engineering; Kyle Butterwick, Director of Community Development; Lynn Kelly, Management Analyst; Christy Teague, Economic Development Manager; Kevin Evans, Director of Community Services and Parks; Jackie Littler, Executive Secretary; and Bobbi Ogan, Deputy City Clerk.

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 (b1), (2 cases)

City Attorney Munoz stated that an item needed to be added to the Closed Session discussion.

IT WAS MOVED BY MAYOR PRO TEM STEVEN WEINBERG, SECONDED BY COUNCIL MEMBER LARA ANDERSON, TO ADD ANOTHER ITEM TO CLOSED SESSION; ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, GOVERNMENT CODE SECTION 54956.9 (B1), (3 CASES).

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The motion carried by the following vote:

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

NOES: None.

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

RECONVENE CITY COUNCIL MEETING - CALL TO ORDER

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

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that he had nothing to report. He added that the City Council would have to continue their Closed Session at the end of the meeting and move Item #11 to after Closed Session.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Gene Burris.

INVOCATION

The Invocation was provided by Reverend Paul Peck.

PRESENTATIONS AND PROCLAMATIONS

Recognition of Dana Hills High School Football Team

Mayor Bartlett presented a Proclamation to the Dana Hills High School Football team in honor of their successful season and other off the field accomplishments. They have been involved in many projects in the community including Habitat For Humanity.

Business of the Year 2009 - CR&R Incorporated

Management Analyst Kelly provided a PowerPoint presentation detailing the CR&R Waste and Recycling Services business operations. She reported that CR&R is able to recycle 120,000 tons of materials each year due to the technology they use in addition to the 1,000 tons of construction materials they save from the landfill each day. Mayor Bartlett presented a Certificate of Recognition to CR&R representatives Maria Lazaruk, David Ronnenberg, and Dean Ruffridge for CR&R being named the 2009 Dana Point Business of the Year.

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Non-Profit of the Year 2009 - Monarch Beach Sunrise Rotary Club

Management Analyst Kelly provided a PowerPoint presentation detailing the Monarch Beach Sunrise Rotary Club and their activities in the community. She reported that the Club raises up to \$100,000 each year to be distributed to non-profit community groups and had celebrated their 20th birthday in February 2008. Mayor Bartlett presented a Certificate of Recognition to President Linda Know Hess in honor of the Club being named the 2009 Dana Point Non-Profit of the Year.

Presentation to the City from Miocean

Director Fowler provided a PowerPoint presentation which detailed the Strands Beach Division project that was accomplished jointly with the City of Dana Point and Miocean. He stated as a result of the project, urban runoff will go directly into the sewer system as opposed to emptying onto the beach. Representatives from Miocean Foundation, Pat Fuscoe and Martyn Hoffman presented Mayor Bartlett with a check in the amount of \$25,000 for Miocean's contribution to the Strands project.

SNAP to Dana Point Month Resolution

Sandra Ackerman, Pet Project Foundation, reported that CASA took in over 160 kittens in 2008. She stated that the shelter struggles each year in finding suitable homes for the kittens, puppies, and rabbits to stay in until they are old enough for adoption. She added that the Pet Project Foundation is committed to curbing the animal overpopulation in Dana Point. Mayor Bartlett presented a Proclamation to Ms. Ackerman in recognition of the Spay, Neuter, Assistance Program (SNAP). Ms. Ackerman stated that in the month of February, the Pet Project Foundation will provide a rebate of up to \$150 to Dana Point residents for the spay/neuter of their cat, dog, or rabbit. To receive the rebate residents can either go to the shelter for the application or go to www.petprojectfoundation.org.

CONSENT CALENDAR

Staff removed Items #2 and #11; Mayor Pro Tem Weinberg removed Item #12 for a separate vote.

IT WAS MOVED BY MAYOR PRO TEM STEVEN WEINBERG, SECONDED BY MAYOR LISA A. BARTLETT, TO APPROVE THE BALANCE OF THE CONSENT CALENDAR.

The motion carried by the following vote:

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

NOES: None

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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 12, 2009

City Manager Chotkevys provided clarification on the proposed amendments to the Minutes.

IT WAS MOVED BY MAYOR PRO TEM STEVEN WEINBERG, SECONDED BY MAYOR LISA A. BARTLETT, THAT THE CITY COUNCIL APPROVE THE MINUTES AS AMENDED.

The motion carried by the following vote:

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

NOES: None

3. PLANNING COMMISSION MEETING MINUTES, DECEMBER 9, 2008

RECEIVED AND FILED.

4. PLANNING COMMISSION MEETING MINUTES, JANUARY 5, 2009

RECEIVED AND FILED.

5. PLANNING COMMISSION ACTIONS, MEETING OF JANUARY 19, 2009

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

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8. APPROVAL OF LICENSE AGREEMENTS WITH PAUL HENNESSEY FOR PROPERTIES LOCATED AT 34091 AND 34111 LA PLAZA

APPROVED LICENSE AGREEMENTS FOR OUTDOOR PATIO AREAS AT THE TWO PROPERTIES IN QUESTION.

9. LEGISLATIVE ADVOCACY AGREEMENT

AUTHORIZED THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH DAVID B. NEISH, INC. FOR LEGISLATIVE ADVOCACY SERVICES RELATIVE TO THE CITY FOR THE DANA POINT HARBOR LOCAL COASTAL PROGRAM AMENDMENT PENDING BEFORE CALIFORNIA COASTAL COMMISSION.

10. ADOPTION OF A RESOLUTION CODIFYING THE NEW STATE MANDATED FEE SUPPORTING THE CREATION OF BUILDING STANDARDS FOR GREEN BUILDING REGULATIONS AND ASSOCIATED ACTIVITIES

ADOPTED **RESOLUTION 09-01-26-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CODIFYING THE NEW STATE MANDATED FEE SUPPORTING THE CREATION OF BUILDING STANDARDS FOR GREEN BUILDING REGULATIONS AND ASSOCIATED ACTIVITIES

12. HISTORIC PRESERVATION AGREEMENT (MILLS ACT) FOR THE PROPERTY LOCATED AT 24721 EL CAMINO CAPISTRANO

Mayor Pro Tem Weinberg had removed this item from the Consent Calendar. He spoke about the work the Teasley's have done on their home.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY MAYOR LISA A. BARTLETT, THAT THE CITY COUNCIL AUTHORIZE THE MAYOR TO SIGN A HISTORIC PROPERTY PRESERVATION AGREEMENT ALLOWING ROSS AND ELLENDEA TEASLEY, OWNERS OF THE LOCALLY DESIGNATED HISTORIC STRUCTURE LOCATED AT 24721 EL CAMINO CAPISTRANO, TO PARTICIPATE IN THE STATE'S MILLS ACT PROGRAM. .

The motion carried by the following vote:

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

NOES: None

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PUBLIC COMMENTS

Nick Tarantino, Capistrano Beach, spoke regarding the City's Council's no action taken on the proposed Quiet Zone. He stated that the train horns have gotten worse over the years. He added that he would like the City Council to reconsider this item and he would like to make a presentation at the February 9, 2009 meeting.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

13. AUTHORIZATION TO PROCEED WITH CROSSWALK REMOVAL AND STRIPING ADJUSTMENTS ON PALISADES DRIVE AT THE INTERSECTION OF COAST HIGHWAY, PURSUANT TO SECTION 21950 OF THE CALIFORNIA VEHICLE CODE

Mayor Bartlett recused herself from this item due to a potential conflict of interest and left the Council Chambers at 6:55 p.m.

City Manager Chotkevys provided a staff report.

There being no requests to speak on this item, Mayor Pro Tem opened and closed the public comments.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY COUNCIL MEMBER JOEL BISHOP, THAT THE CITY COUNCIL 1) ACCEPT THE REMOVAL OF THE CROSSWALK CONNECTING THE BLUFF SIDE CORNERS OF PALISADES DRIVE AT COAST HIGHWAY, PURSUANT TO CALIFORNIA VEHICLE CODE SECTION 21950 AND 2) AUTHORIZE STAFF TO PROCEED WITH THE REMOVAL.

The motion carried by the following vote:

AYES: Council Member Lara Anderson, Council Member Joel Bishop,
Council Member Scott Schoeffel, Mayor Pro Tem Steven Weinberg

NOES: None

ABSENT: Mayor Lisa A. Bartlett

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Mayor Bartlett returned to the meeting at 6:58 p.m.

PUBLIC COMMENTS

There were no additional Public Comments.

STAFF REPORTS

City Manager spoke in response to the Public Comment made by Nick Tarantino. He reminded the audience that because Public Comments are not noticed on the Agenda, that the City Council is prohibited from responding. He stated that as the discussion on the Quiet Zone progresses forward, he will be working with the Mayor as she sets the agenda in order to provide a response.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Schoeffel stated that he had attended the Chamber Installation Dinner last week. He congratulated Ed Conway for being selected the new Chairman.

Council Member Anderson stated that she had turned in her meetings and events she had attended to the City Clerk.

Council Member Bishop stated that he was appointed by the California League of Cities to a Community Services Policy Committee. He added that the Committee meets four times a year and last week he was in Sacramento to attend the first one of the year. He reported that their task is to set high-end policy and goals for the League.

Mayor Pro Tem Weinberg stated that he had turned in his meetings that he had attended to the City Clerk.

Mayor Bartlett stated that she had attended the following:

Several TCA Board Meetings.

January 15 - Attended the South Orange County Mayors Breakfast and the topic of discussion was the importance of water conservation and the water supply for Southern California. In the evening she attended the Dana Point Chamber mixer at Salt Creek Grille.

January 16 - Office hours and met with a resident to discuss the Town Center Plan.

January 17 - Attended and gave welcoming remarks at the VFW dinner held at the Doubletree Hotel.

January 21-22 - Sacramento to attend the California League of Cities Environmental Quality Policy Committee meeting. Covered numerous environmental issues in the State, including how to streamline the governmental application and approval process, development impacts, pending State projects and priorities and possible legislation. At the next meeting the Committee will determine which issues to raise with the State

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legislators. Returned to Orange County in the early evening to attend the Dana Point Chamber of Commerce Installation Dinner and presented awards from the City. January 23 - Attended the Kids Watershed Program at the Ocean Institute. Fabulous and informative presentations by the 5th graders from Palisades School about measuring PH Balance, chemicals, and water quality in our local watersheds and the San Juan Creek. Also attended the Orange County Business Forum legislative luncheon and the topic was the State's financial crisis. Office hours at City Hall and met with residents to discuss undergrounding utilities.

She announced the following upcoming events:

January 30 - Dana Point Chamber of Commerce special luncheon at the Ritz Carlton with our State Controller as the guest speaker. This will include an important update on the State's finances and budget. Contact the Chamber for reservations. January 30-31 - Jazz in January fundraiser events at the Ocean Institute. Contact the Ocean Institute for tickets.

February 7 - Dana Hills Make A Wish Club fundraising event at the El Adobe Restaurant in San Juan Capistrano. Havana Nights is the theme and proceeds benefit the Make A Wish Foundation which grants wishes to children with life threatening conditions. Contact Dana Hills High School for tickets.

CLOSED SESSION - CONTINUATION

Mayor Bartlett adjourned the meeting into Closed Session at 7:04 p.m.

RECONVENE CITY COUNCIL MEETING - CALL TO ORDER

Mayor Bartlett called the meeting back to order at 7:55 p.m. All Council Members were present.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that he had nothing to report from Closed Session.

11. MUNICIPAL CODE AMENDMENT REVISING REGULATIONS APPLICABLE TO THE PLANNING COMMISSION AND TRAFFIC IMPROVEMENT SUBCOMMITTEE AND ADOPTION OF A RESOLUTION ESTABLISHING THE TRAFFIC IMPROVEMENT SUBCOMMITTEE

City Manager Chotkevys provided a staff report.

City Attorney Munoz summarized the proposed revisions to the Municipal Code.

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Council Member Schoeffel asked if the City Attorney could clarify what Section 2.06.075 meant and what would be the policy and purpose for keeping this language in the Resolution.

City Attorney Munoz replied that the language states that if a member of a permanent City board or commission is appointed to a permanent advisory board or elected office of another governmental agency, then that person's seat is deemed to be vacant. He felt that it was an attempt to create a policy similar to the Incompatibility of Office Doctrine.

Council Member Schoeffel asked if language should be added that talks about the appointment or election to another office where there is overlapping jurisdiction or perceived conflict.

City Manager Chotkevys stated that by clarifying this language you would be clarifying the language for the public so they could consider City appointments or outside appointment, providing them guidance which would be very prescriptive.

Mayor Bartlett agreed that this Section of the Code was very vague and should it be deleted in its entirety, would the Incompatibility of Office Doctrine apply.

City Attorney Munoz replied that the Incompatible of Office Doctrine applies whether or not this language is used.

Mayor Bartlett stated that the language was very punitive to the Youth Board and Planning Commission and felt that the original language had that intent. She added that she would be comfortable with deleting this section in its entirety.

Council Member Anderson stated that this is not specifically an Incompatibility of Office issue. She added that it was her understanding that the Planning Commission was always meant to be a non-political position. She felt that there needs to be something in the Code.

City Manager Chotkevys suggested replacing this language with a reference to the Incompatibility of Office Doctrine.

Council Member Bishop stated that this was the City Council's opportunity to decide how this language should read. He agreed with the suggestion of making a reference to the Incompatibility of Office Doctrine.

Mayor Pro Tem Weinberg concurred with Council Members Bishop and Anderson to keep the Planning Commission as non-political as possible.

Mayor Bartlett stated that to effectively meet the Council's objective, she would suggest deleting the existing language and replace it with the language from the City Attorney that pertains to the Incompatibility of Office Doctrine as well as include some sort of review process.

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City Attorney Munoz replied that this was a choice for the City Council to make. He stated that it would be easy to add references to the existing language.

Council Member Bishop felt that the Incompatibility of Office statement should be included in the Code. He stated that the Council has the right at any time to remove someone from a board or commission.

Mayor Bartlett stated that she was not comfortable with the automatic clause that goes into effect, allowing no time for the City Council to review the situation.

Council Member Anderson asked if there was any reason for the Council to decide on the language now. She stated that for the sake of the advertisement of the Planning Commission positions that the Council should adopt everything as it is tonight with the addition of the Incompatibility of Office reference and then return later to discuss the language.

City Attorney Munoz replied that there was no sense of urgency, it had become an issue and should be addressed. He suggested the Council adopt everything tonight as recommended with the statement that "no person shall hold any permanent board or commission seat within the City if to do so would violate the Incompatibility of Office Doctrine" and then at the next meeting hold a second reading. He offered to prepare a separate Ordinance for a first reading at the next meeting with language options to address this Section.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY COUNCIL MEMBER JOEL BISHOP, THAT THE CITY COUNCIL 1) ADOPT RESOLUTION 09-01-26-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING THE DANA POINT TRAFFIC IMPROVEMENT SUBCOMMITTEE;

2) INTRODUCE AND HOLD FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING VARIOUS PROVISIONS OF THE DANA POINT MUNICIPAL CODE APPLICABLE TO THE PLANNING COMMISSION AND THE TRAFFIC IMPROVEMENT SUBCOMMITTEE, AND;

3) DIRECT THE CITY ATTORNEY TO RETURN WITH A NEW ORDINANCE FOR A FIRST READING AT THE NEXT CITY COUNCIL MEETING WHICH WOULD INCLUDE OPTIONS FOR AMENDING THE LANGUAGE IN SECTION 2.06.075 OF THE MUNICIPAL CODE.

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The motion carried by the following vote:

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

NOES: None

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Bartlett declared the meeting adjourned at 8:32 p.m. and announced that the next Regular Meeting of the City Council will be February 9, 2009, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

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Meetings Attended Since the Last City Council Meeting:

Council Member Lara Anderson

01/15/09 Orange County Public Library Advisory Board Meeting
01/22/09 Dana Point Chamber of Commerce Installation and Awards Dinner

Mayor Pro Tem Steven Weinberg

01/14/09 OCFA Budget and Finance Meeting
01/22/09 Chamber Installation Dinner