
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
FEBRUARY 9, 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

CLOSED SESSION

City Attorney Munoz indicated that there was a need for a Closed Session as follows:

- A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, Government Code § 54956.8 Location: APN# 682-311-02 and 682-311-03 Agency Negotiator: Douglas C. Chotkevys, City Manager Negotiating Parties: City of Dana Point and Beverly Hills Hospitality Group, LLC Under Negotiation: Terms of agreement relating to property

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 6:00 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Kathy M. Ward, City Clerk; Mike Killebrew, Director of Administrative Services; Sgt. Lynn Koehmstedt, Police Services; Kyle Butterwick, Director of Community Development; Matthew Sinacori, City Engineer; Lynn Kelly, Management Analyst; Christy Teague, Economic Development Manager; Kevin Evans, Director of Community Services and Parks; John Tilton, City Architect, Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; Bobbi Ogan, Deputy City Clerk; Shelley Velez, Personnel Analyst; Bill Beattie, Code Enforcement Officer; Andy Glass, Accounting Manager; Pat Mitchell, Secretary; and Sue Steinriede, Administrative Aide.

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CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that there was no announcement.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Chamber of Commerce Citizen of the Year, Rodney Howorth.

INVOCATION

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

PRESENTATIONS AND PROCLAMATIONS

January Business of the Month - Casanova Ristorante

Management Analyst Kelly provided a PowerPoint presentation. She stated that Casanova had opened its doors in December 2001. She reported that next month the restaurant will expand to the suite next door allowing for a new wine bar, expanded wine list, and a larger dining area. She stated that Mr. Doda has been in the restaurant business for 21 years and that he started waiting tables in restaurants at the age of 14. She added that in 2008, the Orange County Register rated Casanova Ristorante as one of the best restaurants in Orange County. Mayor Bartlett presented a Certificate of Recognition to Nick Doda in honor of Casanova Ristorante being selected Business of the Month for January 2009.

Certificate of Recognition for Michelle Brough

Mayor Bartlett thanked Michelle Brough for her unbiased and dedicated efforts on the Planning Commission and presented her with a Certificate of Recognition as well as a City Tile plaque in recognition of her service.

20th Anniversary Presentation by Dana Point Historical Society and Recognition of 20 Year Employees

Mayor Bartlett invited Carlos Olvera from the Dana Point Historical Society to join her to make his presentation recognizing the City's 20 year employees. Mr. Olvera presented Certificates of Recognition to each of the following: Pat Mitchell, Sue Steinriede, Kevin Evans, Shelley Velez, Bill Beattie, Kathy Ward, and Andy Glass. Mayor Bartlett also presented Certificates of Recognition from the City in recognition of the employees' 20 years of service to the City.

Orange County Human Relations Commission Report - Bill Woods

Bill Woods provided a report on the issues over the past year. He stated that there was only one hate crime documented in the Fiscal Year 07/08 and that 29 cases were remediated in the community or the courts where one of the parties was a resident of

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Dana Point. He provided copies of the annual report for the City Council to review. He also presented a Certificate of Recognition to the Mayor in recognition of the City performing a safe, inclusive community in collaboration with the Orange County Human Relations Commission for 2007/2008.

CONSENT CALENDAR

Council Member Anderson removed Item No. 2 from the Consent Calendar; Staff removed Item No. 9 from consideration, and removed Item No. 10 for discussion.

IT WAS MOVED BY COUNCIL MEMBER JOEL BISHOP, SECONDED BY COUNCIL MEMBER LARA ANDERSON, 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 A. Bartlett

NOES: None

1. WAIVE THE READING OF ORDINANCES AND APPROVE READING BY TITLE ONLY

APPROVED THE READING BY TITLE ONLY OF ALL ORDINANCES ON THE CONSENT CALENDAR AND THAT FURTHER READING OF SUCH ORDINANCES BE WAIVED.

2. REGULAR MEETING MINUTES, JANUARY 26, 2009

Council Member Anderson removed this Item from the Consent Calendar for an amendment to the Minutes.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY MAYOR PRO TEM STEVEN WEINBERG, THAT THE CITY COUNCIL APPROVE THE CORRECTED MINUTES.

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 A. Bartlett

NOES: None

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3. PLANNING COMMISSION MEETING MINUTES, JANUARY 19, 2009

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF FEBRUARY 2, 2009

RECEIVED AND FILED.

5. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

6. CITY TREASURER'S REPORT, DECEMBER 2008

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF DECEMBER 2008.

7. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

8. COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2008

RECEIVED AND FILED THE COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) FOR THE YEAR ENDED JUNE 30, 2008.

9. EXCLUSIVE NEGOTIATING AGREEMENT (ENA) - DANA POINT HOTEL

This Item had been removed from the Agenda and was not considered by the City Council.

10. SPONSORSHIP OF THE CONCOURS d'ELEGANCE CAR SHOW

Staff had removed this Item from the Consent Calendar for discussion.

City Manager Chotkevys provided a staff report.

IT WAS MOVED BY MAYOR PRO TEM STEVEN WEINBERG, SECONDED BY COUNCIL MEMBER JOEL BISHOP, THAT THE CITY COUNCIL:

1. APPROVE THE USE OF SEA TERRACE PARK FOR SUNDAY, SEPTEMBER 27, 2009 IN KEEPING WITH EASEMENT, RIGHT OF ENTRY AGREEMENT FOR SEA TERRACE PARK;

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2. APPROVE A SPONSORSHIP AGREEMENT WITH THE PROMOTER FOR THE 2009 EVENT AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND
3. AUTHORIZE THE CITY MANAGER TO NEGOTIATE A SUBSEQUENT MULTI-YEAR AGREEMENT WITH THE PROMOTER AT SUCH TIME AN AUTO AUCTION IS PLANNED TO BE ADDED TO THE EVENT.

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 A. Bartlett

NOES: None

PUBLIC COMMENTS

Robert Neal, Capistrano Beach, spoke about his concerns with the railroad crossing at Beach Road. Mr. Neal provided his speech in its entirety as well as pictures for the public record.

Richard Dietmeier, Dana Point, spoke regarding water management. He reported that mandatory water rationing may be required beginning in April if not in July.

Carole Weling, Capistrano Beach, spoke regarding the Quiet Zone project and the lack of outreach to the residents regarding this issue.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

11. DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT

City Manager Chotkevys provided an introduction of the agenda item and Economic Development Manager Teague provided a staff report.

Council Member Anderson asked if the City Council will have any oversight or recourse to revisit this item once approved.

City Manager Chotkevys replied that there will be a formalized marketing plan and budget that will have to be reviewed by the City Council.

Council Member Anderson asked what the Chamber of Commerce's role will be in this.

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City Manager Chotkevys replied that the Chamber of Commerce is just an interested party.

Council Member Anderson asked who would be the face of the advisory board. Economic Development Manager Teague replied that the four General Managers will serve as the advisory board and they have asked that the City Manager or his designee be the ex-officio member to guide them through the process.

Mayor Bartlett opened the Public Comments.

Nichole Chambers, CEO of Chamber of Commerce, reiterated the Chamber's support of the Business Improvement District. She felt that the Business Improvement District will create a unique synergy between the larger businesses and smaller businesses and that the timing was perfect for the summer season.

Mayor Bartlett closed the Public Comments.

Council Member Bishop felt that the Business Improvement District was a good idea as it will help with the marketing of Dana Point.

IT WAS MOVED BY COUNCIL MEMBER JOEL BISHOP, SECONDED BY MAYOR LISA A. BARTLETT, THAT THE CITY COUNCIL ADOPT RESOLUTION 09-02-09-09 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING THE INTENTION OF THE CITY COUNCIL TO ESTABLISH THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT AND FIXING THE TIME AND PLACE OF A PUBLIC HEARING; AND SET THE DATE FOR PUBLIC HEARING TO ESTABLISH THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT ON MARCH 9, 2009.

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 A. Bartlett

NOES: None

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12. SECOND READING AND ADOPTION OF A MUNICIPAL CODE AMENDMENT REVISING REGULATIONS APPLICABLE TO THE PLANNING COMMISSION AND TRAFFIC IMPROVEMENT SUBCOMMITTEE

City Manager Chotkevys provided a staff report.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY COUNCIL MEMBER JOEL BISHOP, THAT THE CITY COUNCIL HOLD SECOND READING AND ADOPT ORDINANCE 09-01 WITH THE AMENDED LANGUAGE ADDED TO SECTION 2.06.075 ENTITLED:

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

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 A. Bartlett

NOES: None

13. PROPOSED AMENDMENT TO DANA POINT MUNICIPAL CODE SECTION 2.06.075 RELATING TO VACANCIES OF CITY BOARD AND COMMISSION SEATS

City Attorney Munoz provided a staff report.

Mayor Bartlett opened the Public Comments.

Michelle Brough, Dana Point, spoke regarding the language of Section 2.06.075 and felt that the interpretation of the language could have been handled differently.

Mayor Bartlett closed the Public Comments.

Council Member Anderson felt that the reference to the Youth Board, Subcommittees, and Task Forces should be eliminated. She stated that she would like to take Options 4 and 5 out of the discussion if everyone else agreed and making the Ordinance specific to Commissions only.

Council Member Bishop felt that simpler is better and that he would support Option 1.

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IT WAS MOVED BY COUNCIL MEMBER JOEL BISHOP, SECONDED BY MAYOR PRO TEM STEVEN WEINBERG, THAT THE CITY COUNCIL INTRODUCE AND HOLD FIRST READING OF AN ORDINANCE INCLUDING THE LANGUAGE IN OPTION 1.

Council Member Anderson proposed an alternate motion for Option 3 striking Board from this ordinance. She felt that it was not unreasonable to ask the people who serve on the Commission to make this their only commitment.

Council Member Schoeffel stated that he would support Option 1 as he felt that the statement was clear and that it relies upon a very well developed doctrine.

Council Member Anderson asked why Board was in the language.

City Attorney Munoz replied that he was attempting to stay true to the original language and that the City has one Board and one Commission.

Council Member Anderson felt that the word "Board" should be deleted from any approved option.

Council Member Bishop and Mayor Pro Tem Weinberg stated that they could accept the change to Option 1 striking Board from the language.

Mayor Bartlett felt that Option 1 was the best option and that she would support the elimination of Board in the language. She stated that the Council wants to have as many individuals from the public be able to serve on the Boards or Planning Commission if there is no conflict.

City Attorney Munoz suggested the following language for the Council's motion "Whenever a member of any City commission is appointed or elected to an office of another governmental agency and it is determined that such appointment or election creates a violation of the Incompatibility of Office Doctrine under applicable law, the office held by said member shall immediately and automatically be rendered vacant".

IT WAS MOVED BY COUNCIL MEMBER JOEL BISHOP, SECONDED BY MAYOR PRO TEM STEVEN WEINBERG, THAT THE CITY COUNCIL INTRODUCE AND HOLD FIRST READING OF AN ORDINANCE WITH THE FOLLOWING LANGUAGE INCLUDED AS EXHIBIT A; "WHENEVER A MEMBER OF ANY CITY COMMISSION IS APPOINTED OR ELECTED TO AN OFFICE OF ANOTHER GOVERNMENTAL AGENCY AND IT IS DETERMINED THAT SUCH APPOINTMENT OR ELECTION CREATES A VIOLATION OF THE INCOMPATIBILITY OF OFFICE DOCTRINE UNDER APPLICABLE LAW, THE OFFICE HELD BY SAID MEMBER SHALL IMMEDIATELY AND AUTOMATICALLY BE RENDERED VACANT". THE ORDINANCE IS ENTITLED:

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING SECTION 2.06.075 OF THE DANA POINT MUNICIPAL CODE RELATING TO VACANCIES CREATED ON CITY BOARDS AND COMMISSIONS .

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 A. Bartlett

NOES: None

14. VACATED PLANNING COMMISSION SEAT (MICHELLE BROUGH)

City Manager Chotkevys provided a staff report.

Mayor Pro Tem Weinberg recommended that the City Council appoint Michael Dec to the Planning Commission to complete Michelle Brough's remaining term. He felt that Mr. Dec would be a good addition to the Planning Commission.

IT WAS MOVED BY MAYOR PRO TEM STEVEN WEINBERG, THAT THE CITY COUNCIL APPOINT MICHAEL DEC TO FILL THE VACANT PLANNING COMMISSION SEAT OF MICHELLE BROUGH.

Council Member Anderson proposed an alternate motion that the City should advertise for three (3) positions and encourage Michael Dec to apply since the City Council is scheduled to make appointments in March.

Council Member Bishop stated that he would support appointing Michael Dec as a full commissioner retroactive to November so he could receive the pay and the rights he would have had as a Commissioner.

City Attorney Munoz replied that the Council could appoint Mr. Dec formally and make the appointment retroactive, but he could not be paid for that time as it would be considered a gift of public funds.

Council Member Anderson felt that the City Council should wait until the interview process to fill the vacant seat.

Mayor Bartlett stated that in reviewing Mr. Dec's record as an alternate and of filling in on the Planning Commission; he has done a great job.

IT WAS MOVED BY MAYOR PRO TEM STEVEN WEINBERG, SECONDED BY MAYOR LISA A. BARTLETT, RECOMMENDED THAT THE CITY COUNCIL APPOINT MICHAEL DEC TO FILL THE VACANT PLANNING COMMISSION

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SEAT OF MICHELLE BROUGH AND SERVE THE REMAINING TERM THROUGH MARCH 31, 2011.

The motion carried by the following vote:

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

NOES: Council Member Lara Anderson

NEW BUSINESS

There was no New Business.

PUBLIC COMMENTS

There were no additional Public Comments received.

STAFF REPORTS

City Manager Chotkevys reported that there is a blood drive scheduled for Wednesday afternoon. If anyone is interested in donating, please contact City Hall. He stated that the month of March will be an interesting schedule for the City Council as there will be Planning Commissioner interviews and a possible study session scheduled on the Town Center.

City Attorney Munoz advised the City Council about new legislation that is being proposed to deal with plastic grocery bags. He stated that he was serving on a task force of City Attorneys to study the issues and make recommendations to State Legislatures and that if anyone from the Council would like to discuss this issue to let him know.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Schoeffel reported that he had attended the Jazz in January event at the Ocean Institute.

Council Member Anderson stated that the Spring Recreation Guide just came out; a lot of events are coming up. She encouraged residents to take a look at it.

Council Member Bishop stated that he had turned in his meetings that he has attended to the City Clerk.

Mayor Pro Tem Weinberg reported that the Senior Center will be holding a Valentines Day dance on the 14th. He stated that he had attended the OCFA Best and Bravest

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awards dinner. He added that the Chip Prather, Chief of Fire Authority is retiring on July 2nd. He stated that he had provided his list of meetings attended to the City Clerk.

Mayor Bartlett reported that she had attended the following:

Several TCA meeting and met with resident during her designated office hours.

January 29 - Mayors roundtable in Huntington Beach that was chaired by Anaheim Mayor, Curt Pringle where the discussion was on the fiscal issues with the State and how cities are adjusting to the State budget impacts and different ways cities can reinvent themselves in these tough economic times.

January 30 - Attended the Dana Point Chamber of Commerce special meeting and the keynote speaker was State Controller, John Chiang.

February 6 - Met with representatives from the Census Bureau and put into effect a plan to provide accurate census information for our City. In the evening she attended the Boys and Girls Club Youth of the Year program. The outstanding youth is a young man who attends Dana Hills High School and is a member of the football team.

February 7 - Visited with participants in the Girls in Science Teen conference at the Ocean Institute. These young women completed an intensive one day land and sea program and many of them now hope to follow a career path in ocean sciences. In the evening she attended the Dana Hills Make a Wish Club event which was a lot of fun and she encouraged everyone to attend next year as all of the funds raised go to such a worthy cause.

She announced that she will continue with her regular office hours at City Hall on Friday afternoons from 1:30 - 4:30 p.m. She is booked for the next two weeks but has availability on February 27th. Contact Jackie Littler at City Hall to make an appointment. She can be reached at 949-248-3513.

She announced the following upcoming events:

February 10 - Orange County Business Council annual dinner in Irvine. Receive the latest updates on business issues in Orange County and the State. For USC fans, Coach Pete Carroll is one of the event speakers.

February 13 - Join the Chamber of Commerce, City Council and staff at Picket Fence Media for a ribbon cutting ceremony and to celebrate the 1 year anniversary of the Dana Point Times newspaper.

February 14 - Valentine Dinner Dance at the Senior Center.

February 18 - Kickoff for the Dana Point Relay For Life, 6:30 p.m. at the Ocean Institute.

She reminded everyone that February is SNAP month so take advantage of the spay/neuter rebate program for your pets. Contact the Pet Project Foundation for details.

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ADJOURNMENT

There being no further business before the City Council at this session, Mayor Bartlett declared the meeting adjourned at 7:34 p.m. and announced that the next Regular Meeting of the City Council will be held on February 23, 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:

Mayor Pro Tem Steven Weinberg

01/29/09 County Fire Authority Best and Bravest Awards Dinner
02/04/09 TCA meeting

Council Member Joel Bishop

01/29/09 OCFA Best and Bravest Awards Dinner
01/30/09 Chamber luncheon at Ritz Carlton
02/05/09 SCAG Transportation and Communications Committee