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 Bartlett

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

CLOSED SESSION

Absent:

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

 A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b1), (1 case)

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 with the exception of Council Member Bishop. Mayor Bartlett noted that Council Member Bishop intended to be live via teleconference, but he was not going to be available for the meeting.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Kathy M. Ward, City Clerk; 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; Christy Teague, Economic Development Manager; Kevin Evans, Director of Community Services and Parks; Lynn Kelly, Management Analyst; Sea Shelton, Management Analyst; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; Bobbi Ogan, Deputy City Clerk; and Windy Robles, City Clerk Specialist.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that there was no announcement.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Karin Schnell.

INVOCATION

The Invocation was provided by Father Steve Sallot of St. Edwards Catholic Church.

PRESENTATIONS AND PROCLAMATIONS

March Business of the Month - Chronic Tacos

Management Analyst Kelly provided a PowerPoint presentation on Chronic Tacos, Business of the Month for March 2009. Chronic Tacos currently has 23 locations and plan to open five more this year. The Dana Point location will be celebrating their 2 year anniversary later this year. Chronic Tacos is also a supporter of Life Rolls On which works with individuals who have spinal cord injuries. Mayor Bartlett presented a Certificate of Recognition to Deborah Lynn Adams along with Treavor Frost (manager) for being selected as Business of the Month for March 2009.

South County Senior Services Presentation

Management Analyst Shelton provided a PowerPoint presentation detailing the South County Senior Services organization. Dr. Marilyn Diddy, Chief Executive Officer for South County Senior Services, joined Mayor Bartlett along with Vanna Murphy and other seniors. Mayor Bartlett presented a Proclamation to Dr. Diddy to recognize the organization for their special contributions to the community. Mayor Bartlett and Director of Community Services and Parks Evans also presented a Certificate of Recognition to Vanna Murphy for her seven years of service as the Director of the Dana Point Senior Center.

CONSENT CALENDAR

Mayor Bartlett removed Item numbers 10 and 14 from the Consent Calendar for a separate vote.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY MAYOR PRO TEM STEVEN WEINBERG, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 10 AND 14.

The motion carried by the following vote:

AYES: Council Member Lara Anderson, Council Member Scott Schoeffel, Mayor Pro

Tem Steven Weinberg, and Mayor Lisa Bartlett

ABSENT: Council Member 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.

2. REGULAR MEETING MINUTES, FEBRUARY 23, 2009

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, FEBRUARY 2, 2009

RECEIVED AND FILED.

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

RECEIVED AND FILED.

5. YOUTH BOARD MEETING MINUTES, FEBRUARY 19, 2009

RECEIVED AND FILED.

6. OCEAN WATER QUALITY MEETING MINUTES, DECEMBER 16, 2008

RECEIVED AND FILED.

7. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

8. CITY TREASURER'S REPORT, JANUARY 2009

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF JANUARY 2009.

9. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

10. INTERVENTION SPECIALIST MEMORANDUM OF UNDERSTANDING WITH CAPISTRANO UNIFIED SCHOOL DISTRICT

Mayor Bartlett removed Item 10 for a separate vote.

City Manager Chotkevys provided a staff report.

Mayor Bartlett stated that this program is very important for the community and she appreciates the efforts between the City, the Dana Hills High School Administration, and the Orange County Sheriffs for being proactive.

IT WAS MOVED BY MAYOR LISA BARTLETT, SECONDED BY COUNCIL MEMBER LARA ANDERSON, TO AUTHORIZE THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE CAPISTRANO UNIFIED SCHOOL DISTRICT FOR IMPLEMENTATION OF A PILOT PROGRAM TO DELIVER AN INTERVENTION SPECIALIST PROGRAM AT DANA HILLS HIGH SCHOOL THAT IS JOINTLY MANAGED BY THE CITY, THE DANA HILLS HIGH SCHOOL ADMINISTRATION, AND THE ORANGE COUNTY SHERIFF'S DEPARTMENT RESOURCES UNDER CONTRACT WITH THE CITY.

The motion carried by the following vote:

AYES: Council Member Lara Anderson, Council Member Scott Schoeffel,

Mayor Pro Tem Steven Weinberg, and Mayor Lisa Bartlett

ABSENT: Council Member Joel Bishop

NOES: None

11. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE COMMUNITY DEVELOPMENT RENOVATION PROJECT

Adopted **RESOLUTION 09-03-09-01** entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE COMMUNITY DEVELOPMENT RENOVATION PROJECT.

12. SECOND READING AND ADOPTION OF AN ORDINANCE ADDING A CHAPTER TO THE MUNICIPAL CODE REGULATING FALSE ALARMS AND ADOPTION OF A RESOLUTION AUTHORIZING CITY'S PARTICIPATION IN THE ORANGE COUNTY SHERIFF'S DEPARTMENT FALSE ALARM FEE PROGRAM

Held second reading and adopted **Ordinance 09-03** entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING CHAPTER 11.60 "ALARM SYSTEMS, FALSE ALARMS," TO THE DANA POINT MUNICIPAL CODE TO REGULATE SECURITY SYSTEM ALARMS AND AUTHORIZING THE CHARGING OF CERTAIN FEES FOR RESPONSE TO FALSE ALARMS; and

Adopted **Resolution 09-03-09-02** entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AUTHORIZING CITY'S PARTICIPATION IN THE ORANGE COUNTY SHERIFF'S DEPARTMENT FALSE ALARM FEE PROGRAM.

13. 2009 WEED ABATEMENT PROGRAM

Adopted **Resolution 09-03-09-03** entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING WEEDS A PUBLIC NUISANCE AND INITIATING ABATEMENT PROCEEDINGS; and

Authorized staff to release bid packets to contractors to abate weeds in the City.

14. ITALIAN OPERA FESTIVAL AND POTENTIAL SISTER CITY RELATIONSHIP WITH THE CITY OF VITERBO, ITALY

Mayor Bartlett removed Item 14 for a separate vote.

City Manager Chotkevys provided a staff report.

Mayor Bartlett stated that this program is an exciting opportunity for the City of Dana Point and that it will benefit the entire community. She felt that this type of annual event would help put Dana Point on the international map.

Council Member Anderson stated that the staff report did not indicate any fiscal impact. She asked if the City would be putting out any additional money for this event.

City Manager Chotkevys replied that at this time there is no expenditure. He

stated that staff would work with the Italian American Opera to determine what costs would be involved before they bring any recommendations back. He stated that the City has invited the Italian Opera group to come and meet with Omega Events to see how the events are staged so the logistics of the event could be discussed.

Council Member Anderson asked if there would be an opportunity for local Italian restaurants to participate.

City Manager Chotkevys replied that the Italian America Opera Foundation has the support of the Country of Italy and that the Italian wine industry is involved as well. He felt that if the Opera works out, it could be something special for the City.

Mayor Bartlett felt that this is an opportunity for the entire community of Dana Point including the restaurants and businesses to get involved.

IT WAS MOVED BY MAYOR LISA BARTLETT, SECONDED BY MAYOR PRO TEM STEVEN WEINBERG, TO AUTHORIZE STAFF TO WORK WITH ITALIAN AMERICAN OPERA FOUNDATION (IAOF) ON A PROPOSAL FOR AN ITALIAN OPERA FESTIVAL IN DANA POINT AND AUTHORIZE A LETTER TO THE CITY OF VITERBO EXPRESSING INTEREST IN FORMING A SISTER CITY RELATIONSHIP WITH THE CITY OF DANA POINT AS WELL AS EXPRESSING THE CITY'S INTENT TO WORK WITH THE CITY OF VITERBO AND THE ITALIAN AMERICAN OPERA FOUNDATION TO EXPLORE THE FEASIBILITY OF AN ITALIAN OPERA FESTIVAL IN DANA POINT IN 2010.

The motion carried by the following vote:

AYES: Council Member Lara Anderson, Council Member Scott Schoeffel,

Mayor Pro Tem Steven Weinberg, and Mayor Lisa Bartlett

ABSENT: Council Member Joel Bishop

NOES: None

15. AWARD OF CONTRACT TO ALL AMERICAN ASPHALT FOR THE CONSTRUCTION OF THE ANNUAL ROADWAY RESURFACING PROJECT FY 2008/2009

APPROVED THE CONSTRUCTION CONTRACT DOCUMENTS REQUIRE FOR THE "ANNUAL ROADWAY RESURFACING PROJECT FY 2008/2009" AND APPROVED AWARD OF A CONTRACT TO ALL AMERICAN ASPHALT FOR CONSTRUCTION OF THE ANNUAL ROADWAY RESURFACING PROJECT FY 2008/2009, PROVIDING THAT THE CITY MANAGER OR HIS DESIGNEE SIGNS AND ADMINISTERS SUBJECT CONTRACT AND MAY APPROVE ADDITIONAL PAYMENT FOR CHANGE ORDERS, CONTINGENCIES,

CONSTRUCTION MANAGEMENT SERVICES, SOILS AND MATERIAL TESTING, AND CONSTRUCTION DESIGN SUPPORT FOR THE PROJECT AS NOTED IN THE FISCAL IMPACT SECTION.

PUBLIC COMMENTS

Carol Weling, Capistrano Beach, spoke in regards to a safer railroad crossing at Beach Road.

Lester Hill, Capistrano Beach, spoke regarding the railroad crossings at PCH and Beach Road.

Ingrid McGuire, Dana Point, stated that the South Coast Water District will be holding a Community Forum March 18 at 2:00 p.m. and 6:00 p.m. to answer any questions regarding the new water conservation ordinance.

Carlos Olvera, Dana Point, spoke regarding historical preservation and the California Environmental Quality Act (CEQA). He stated that there are 23 homes on the Dana Point registry.

Richard Dietmeier, Dana Point, spoke regarding the need for a production of additional water. He stated that it will be a joint activity between Dana Point and the South Coast Water District and they hope to double the production of the ground water plant by spring of next year.

PUBLIC HEARINGS

16. ESTABLISH DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT

City Manager Chotkevys provided a staff report.

There being no requests to speak, Mayor Bartlett opened and closed the Public Hearing.

Council Member Anderson proposed a motion to table the item until November. She stated that the hotel mangers requested that this not take effect until January of 2010 due to the economy. She stated that November would leave the Council enough time for the first and second reading of the ordinance. She stated that waiting until November would also give hotel managers a better idea of how business is going and they would know if January is still a time table that is amenable. She stated that a lot of the hotels' business is from conventions and \$3 per room per night may add up when several hundred rooms are booked. She added that she would hate for Dana Point to lose out on conventions which bring a lot of people to town due to the Business Improvement District assessment at that time.

Mayor Bartlett asked what is the expectation of the General Managers and how long would they need to put a program together. She asked that if the item is tabled until November, will that give them enough time to put an entire program together for implementation in the January time frame.

City Manager Chotkevys replied that the reason for the delay now is because the hotels have a number of conferences that are already booked and they do not want to go back and have to reassess. He stated that the hotels would like a date certain in the future that they can plan for as they market for events and conferences.

Mayor Bartlett asked if the hotels have a program put in place for their expenditures, if they take care of the expenditures on their end, and then if they submit the paperwork to the City who would then reimburse them for those expenditures.

City Manager Chotkevys replied that the hotels are going to do an annual marketing program and an annual budget that the Council will approve. He stated that as the City collects the assessment it will get transferred into an account and the hotels will have discretion over the expenditure of the money.

Director of Administrative Services Killebrew elaborated that the City will collect the assessment each month along with the Occupancy Tax and remit that money back to the four hotel general managers. He stated that as it has been set up, the hotels can only spend the money on certain things. He also stated that the hotels will have to submit an annual report to the City Council. He stated that the Council will have to adopt the budget to allow staff to make the payments of the funds that are collected to the Assessment District.

Council Member Anderson asked if the Council would see any of the materials that are being sent out or just an annual report.

Director of Administrative Services Killebrew replied that at any time the City should be able to ask the hotels to submit that information.

City Attorney Munoz stated that staff can be involved in the on-going decisions at whatever level the Council feels is appropriate. He stated that the Council will have input opportunities and the ability to pull away the money if the rules are not being followed.

Council Member Anderson asked if any of the information would be public.

City Manager Chotkevys stated that staff would require an accountability report stating what the hotels did the previous year and how they performed. He stated that the City Council will then be able to go back and make an assessment to see if the hotels are benefiting the City of Dana Point.

Mayor Bartlett stated that when the hotels implement items during the year for expenditures, they will work closely with City staff so they can put together a good program and be reimbursed for their expenses.

Council Member Anderson stated that the City does not have a marketing person on staff. She added that there should be some kind of public or professional oversight on behalf of the City that can help the City with reviewing the reports.

Mayor Bartlett stated that the General Managers would like to implement a very good program and they will make sure they have the appropriate marketing expertise on their end.

City Manager Chotkevys stated that the Council could go forward with the item and still have the opportunity to rescind the ordinance in October.

City Attorney Munoz stated that the item could be on the agenda again in October and in the meantime the managers could advertise and plan for the assessment. He added that if the economy suggests that this is not something they want, the Council can rescind it at that time.

Council Member Anderson asked if the Council could approve the Resolution and have the second reading of the Ordinance, but still revisit the item in October if necessary.

City Attorney Munoz replied yes that could be done.

Council Member Anderson stated that she stands by her original motion to table the item until November.

Mayor Pro Tem Weinberg stated that the hotels have conventions that are booked years in advanced and if they start the \$3 too early it will come out of their profits. He added that the hotels will be able to plan for the assessment if they wait until January. He stated that the hotels have a goal of bringing people in to the town and of being good citizens in the town and the assessment would be to their benefit. He made a motion to approve the item as is.

Council Member Schoeffel asked if the hotels could raise the price on their rooms and donate it towards their own private tourism board.

City Attorney Munoz replied that the hotels could form a trade association or a 501(c)3 that is designed for marketing and promotion. He stated that the funds donated would have to pay a TOT, but the funds in the assessment would not be subject to a TOT.

Council Member Schoeffel stated that the item could be approved and brought back at a later time for further discussion or withhold the approval and consider the item later. He added that either way, the Council will end up at the same decision. He stated that he would second Mayor Pro Tem Weinberg's motion.

Council Member Anderson asked if Mayor Pro Tem Weinberg had an amendment in the motion that the Council would revisit the item in October.

Mayor Pro Tem Weinberg replied that he did not because the item can be revisited at any time.

IT WAS MOVED BY MAYOR PRO TEM STEVEN WEINBERG, SECONDED BY COUNCIL MEMBER SCOTT SCHOEFFEL, TO CONDUCT A PUBLIC HEARING AND INTRODUCE AND HOLD FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID); AND

ADOPT **RESOLUTION 09-03-09-04** ENTITLED:

A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE 2010 CALENDAR YEAR ANNUAL REPORT FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID); AND

ADOPT RESOLUTION 09-03-09-05 ENTITLED:

A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING THE INTENTION OF THE CITY COUNCIL TO LEVY ASSESSMENTS FOR THE 2010 CALENDAR YEAR FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID).

The motion carried by the following vote:

AYES: Council Member Scott Schoeffel, Mayor Pro Tem Steven Weinberg,

and Mayor Lisa Bartlett

ABSENT: Council Member Joel Bishop
NOES: Council Member Lara Anderson

UNFINISHED BUSINESS

There were no Unfinished Business Items.

NEW BUSINESS

17. FISCAL YEAR 2008-09 BUDGET STATUS REPORT

City Manager Chotkevys provided an introduction of this item and Director of Administrative Services Killebrew provided a staff report and PowerPoint presentation.

Mayor Bartlett thanked Director Killebrew for the very detailed financial recap.

Mayor Pro Tem Weinberg asked for clarification regarding the in lieu property tax of a budget of \$4.1 million and actuals and budget of \$0.

Director of Administrative Services Killebrew replied that the in lieu tax has to do with two State budget balancing gimmicks. He stated that the State took 1/4 of the local government's sales tax and gave back property tax in exchange. He also stated that another one had to do with keeping the City whole on the Motor Vehicle in lieu fees when the State cut the Motor Vehicle Fee. He stated that the report says \$0 because the City gets payments in January and April and the report was through December.

City Manager Chotkevys stated that the in lieu fee was a constitutional tax that was established at the local level to reimburse cities for the impacts onto local roadways as a result of motor vehicles.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY MAYOR LISA BARTLETT, TO RECEIVE AND FILE THE FISCAL YEAR 2008-09 BUDGET STATUS REPORT AND AUTHORIZE THE BUDGET AMENDMENTS DETAILED IN THE REPORT.

The motion carried by the following vote:

AYES: Council Member Lara Anderson, Council Member Scott Schoeffel,

Mayor Pro Tem Steven Weinberg, and Mayor Lisa Bartlett

ABSENT: Council Member Joel Bishop

NOES: None

PUBLIC COMMENTS

There were no additional Public Comments.

STAFF REPORTS

City Manager Chotkevys thanked the Council, staff, and the community for the Festival of Whales parade and commented on how it was a great community event.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Schoeffel reported that he attended the kick off to the Festival of Whales. He also reported that he attended the Festival of Whales of parade.

Council Member Anderson stated that the Festival of Whales is for two weekends and to be sure to check out the event calendar at FestivalofWhales.org. She reported that she attended the Festival of Whales parade as well. She thanked staff and the participants.

She reported the following upcoming meetings:

Town Hall Meeting for the Surfing Heritage Museum - Wednesday, March 11th, at 6:00 p.m. at the Ocean Institute or Wednesday, March 25th at 6:00 p.m. She stated that both meetings will provide the same information.

She suggested that on a future agenda she would like Council to consider webcasting the Planning Commission meetings now that the City has the technology. She also suggested having a Food Bank Donation barrel at City Hall to collect donations during the year.

Mayor Pro Tem Weinberg stated that he turned in the meetings he had attended in writing to the City Clerk (attached as Exhibit 1). He spoke regarding standing water and mosquitoes breeding. He stated that if anyone knows of an empty home with a pool, call Vector Control so they can control the mosquitoes with mosquito eating fish so they do not breed.

Mayor Bartlett thanked staff for the outstanding job they did at the Festival of Whales parade.

She reported that she attended the following events:

Several TCA Board Meetings

February 26 - Provided the welcome remarks for the Executive Leadership Council at the St. Regis.

March 7 - Attended the Festival of Whales Parade

February 7 - Attended the Soroptimist International of Capistrano Bay fundraiser event.

She stated that she will continue with her regular office hours at City Hall on Friday afternoons from 1:30 p.m. to 4:30 p.m. Contact Jackie Littler at City Hall to make an appointment. Jackie can be reached at 949-248-3513.

She announced the following upcoming events: March 10 - Welcome Home Dinner for the 5th Marines at Cannon's Restaurant. Contact the restaurant to join the celebration. March 14 and 15 - Festival of Whales festivities continues in the harbor.

March 14 - Boys and Girls Club Teen Center Grand Opening at 4:00 p.m. March 21-May 2 - TCA will be hosting their annual series of guided spring tours. Contact Susie Williams at TCA at 949-754-3405 to make reservations.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Bartlett declared the meeting adjourned at 7:33 p.m. and announced that the next Adjourned Regular Meeting of the City Council will be March 31, 2009, at 6:00 p.m. at the Dana Point Community Center in the gym located at 34052 Del Obispo, Dana Point, California.

Exhibit 1

Meetings Attended By Steven Weinberg

| 2-25-2009 | Dana Point Library Foundation |
|------------|---|
| 2-26-2009 | TCA SAN JOAQUIN HILLS Board Training |
| 3-7,8-2009 | Dana Point Times Festival of the Whales |
| 3-9-2009 | Orange County Vector Control Budget Meeting |