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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
FEBRUARY 8, 2010**

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**CALL TO ORDER**

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

Absent: None

**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), (1 case)
  
- B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Government Code § 54956.9 (a), (5 cases) Name of Case(s):
  - The Point Alternative Care - Case No. 30-2009-00298187
  - Holistic Health - Case No. 30-2009-00298196
  - Beach Cities Collective - Case No. 30-2009-00298208
  - Dana Point Safe Harbor Collective - Case No. 30-2009-00298200
  - Dana Point Beach Collective - Case No. 30-2009-00298206

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

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**STAFF PRESENT:**

Patrick Munoz, City Attorney; Kathy M. Ward, City Clerk; Mike Killebrew, Assistant City manager; Mike Rose, Director of Disaster Preparedness; Lt. Mark Levy, Police Services; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works and Engineering; Kevin Evans, Director of Community Services and Parks; John Tilton, City Architect; Christy Teague, Economic Development Manager; Lynn Kelly, Management Analyst; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; and Bobbi Ogan, Deputy City Clerk.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Munoz stated that there was no announcement.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Sheriff Sandra Hutchens.

**INVOCATION**

The Invocation was provided by Orange County Sheriff's Department Chief Senior chaplain Sandy Otsuji.

**PRESENTATIONS AND PROCLAMATIONS**

Business of the Month - Pulse Fitness

Management Analyst Kelly provided a PowerPoint presentation. She reported that Pulse Fitness is the result of the marriage of Bill and Kristi Brotherton and their three businesses (Sweat Shop, Exhale Pilates, and Headlands Fitness). Pulse employees seventeen personal trainers, fourteen spin instructors, and three Pilates instructors. She announced that Pulse Fitness had recently partnered with the City of Dana Point to assist with the employee fitness challenge. Mayor Weinberg presented a Certificate of Recognition to Bill and Kristi Brotherton in honor of Pulse Fitness being named the Business of the Month, February 2010.

2009 Deputy of the Year - Deputy Robert Edwards

Lt. Levy provided a summary of Deputy Edwards' background. He stated that Robert Edwards has been a Deputy in the Orange County Sheriffs Department for over twelve years, and has worked in Dana Point since 2007. Lt. Levy explained that the Deputy of the Year was chosen by the Deputy's peers. Lt. Levy and Mayor Weinberg presented Deputy Robert Edwards with a Certificate of Recognition and a trophy for being named the Deputy of the Year.

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**CONSENT CALENDAR**

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY COUNCIL MEMBER LISA BARTLETT, ACCEPT ALL ITEMS LISTED ON THE CONSENT CALENDAR.

The motion carried by the following vote:

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

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 25, 2010**

APPROVED THE MINUTES.

**3. PLANNING COMMISSION MEETING MINUTES, JANUARY 18, 2010**

RECEIVED AND FILED.

**4. PLANNING COMMISSION ACTIONS, MEETING OF FEBRUARY 1, 2010**

RECEIVED AND FILED.

**5. YOUTH BOARD MEETING MINUTES, JANUARY 7, 2010**

RECEIVED AND FILED.

**6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**

RECEIVED AND FILED.

**7. CITY TREASURER'S REPORT, DECEMBER, 2009**

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

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**8. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**9. ADOPTION OF A RESOLUTION DESIGNATING CITY'S AGENT FOR FEDERAL FINANCIAL ASSISTANCE**

ADOPTED RESOLUTION 10-02-08-01 ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DESIGNATING CITY'S AGENT FOR FEDERAL FINANCIAL ASSISTANCE; AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT.*

**10. FACILITY USE AGREEMENT WITH SOUTH COAST WATER DISTRICT**

APPROVED THE USE OF THE CITY COUNCIL CHAMBER BY THE SOUTH COAST WATER DISTRICT FOR A PERIOD OF ONE YEAR AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE FACILITY USE AGREEMENT DEFINING THE TERMS AND COSTS ASSOCIATED WITH THIS USE.

**PUBLIC COMMENTS**

Todd Glenn, Dana Point, spoke regarding the Notice of Preparation for South Shores Church and the contract with LSA.

Patricia McCarroll, Dana Point, spoke regarding the environmental documents for the South Shores Church project and the contract with LSA.

Council Member Anderson asked if the City did have a signed contract with LSA, and if not, why.

City Attorney Munoz replied that the agreement has yet to be signed because he had some concerns with some of the language. He stated that those concerns were being worked out and that there was nothing inappropriate about the process.

Roxanne Willinger, Dana Point, spoke regarding CEQA.

Carlos Olvera, Dana Point, stated that the Historical Society had received a grant from the City to produce a driving tour map of Dana Point. He reported that the map identified thirty-three points of interest and that the Historical Society would be distributing the map to businesses this week in Dana Point.

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**PUBLIC HEARINGS**

**11. CALIFORNIA COASTAL COMMISSION SUGGESTED MODIFICATIONS TO DANA POINT LOCAL COASTAL PLAN AMENDMENT 06-03 FOR THE LAND USE COMPONENT OF THE DANA POINT HARBOR REVITALIZATION PLAN AND DISTRICT REGULATIONS**

Director of Community Development Butterwick provided a staff report.

Council Member Anderson asked for clarification of the Council's options regarding this item.

City Attorney Munoz replied that the Council could approve the suggested modifications of the Coastal Commission or they could reject them and the process would start over.

Mayor Weinberg asked if the Council were to vote no, what would be the estimated timeframe that this plan would come back and what would be the cost to the City to go through this process again?

Director Butterwick replied that as the City Attorney had indicated, the City would be starting the process over by filing another application with the Coastal Commission. He stated that if there was a significant change to the plan it would be a close duplication of what we have just experienced.

Council Member Bartlett stated that the City has spent three years in this process to reach this point and that starting over would not necessarily guarantee the same result due to the change of Coastal Commissioners.

Mayor Weinberg opened the Public Hearing.

Brad Gross, OC Dana Point Harbor, thanked City staff for their wonderful collaboration. He stated that the County fully supports the suggested modifications of the Coastal Commission.

Jim Miller, Dana Point, stated that he was speaking on behalf of 18 other people who support the revitalization of the Harbor. He added that they support the suggested modifications of the Coastal Commission. He urged the City Council to vote yes on the amendment.

Doug Haim, Dana Point, stated that he was concerned about the proposed buildings and building heights in the Harbor. He felt that they would be damaging to the City and have an impact on the Town Center.

Bob Moore, Dana Point, stated that he supports the approval of the suggested modifications as presented.

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Pat Fairbanks, Dana Point, Dana Point Civic Association, stated that she supports the suggested modifications. She added that Dana Point relies on its tourists and by adopting the suggested modifications it will help ensure that the income keeps coming in, bring pleasure to the residents, a source of jobs, and business.

Bruce Heyman, San Juan Capistrano, Boaters for Dana Point Harbor, felt that the suggested modifications do not represent what the Coastal Commissioners had asked for at the hearing in October such as the building heights. He recommended that the item be continued to allow interested members of the public to work with staff, County staff and Coastal Commission staff to collaboratively align the new LUP language to actions that were taken last October during the hearing.

Nichole Chambers, Dana Point, Dana Point Chamber of Commerce, stated that she was representing the Chamber members and asked for support of the suggested modifications for the Dana Point Harbor Revitalization Plan.

Carlos Olvera, Dana Point, stated that he supports the staff's recommendation to adopt the LCP for the Harbor revitalization.

Pete Hammer, Dana Point, asked for the Council's support of the suggested modifications to the Dana Point Coastal Plan Amendment 06-03.

Rodger Beard, San Juan Capistrano, Dana Point Boaters Association, stated that he supports the approval of the LCP.

Steve Carpenter, Capistrano Beach, urged approval of the suggested modifications.

Wayne Rayfield, Dana Point, stated on behalf of Dana Point Harbor Now, that they urged support of the approval of the suggested modifications.

Mayor Weinberg closed the Public Hearing.

Council Member Anderson asked if City staff had collaborated with Coastal Commission staff to accurately interpret the comments made by the Coastal Commission.

Director Butterwick replied that he was very confident that staff had understood the Coastal Commission's directions.

Council Member Bartlett stated that if the Council desired, they could make additional changes in the CDP stage and then the Coastal Commission would review those specific changes, but the City would not be back at ground zero, is that correct.

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Director Butterwick clarified that the Council could not make changes to the Local Coastal Plan that was before them this evening, but the Council would have discretion on a whole variety of details as part of the coastal planning process.

Council Member Anderson elaborated on the CDP process for the land side of the harbor. She stated that before any building was constructed, each individual project would need to come before the Planning Commission for the CDP permit and at that point, it would be determined whether the project met the community character.

Director Butterwick replied that she was correct.

Council Member Bishop asked what the process was if the document was approved tonight.

Director Butterwick replied that if the City Council decides to accept the document this evening with the suggested modifications, City staff would transmit the Council's action to the Coastal Commission. He stated that the action would appear on a Coastal Commission agenda as an administrative report from their Executive Director and that would complete one of two phases of this particular Land Use Plan. He added that the next phase would be the Implementation Plan which is the detailed development standards. He expected the Coastal Commission to hold a public hearing in the next 60-90 days and that process will more than likely be what we are experiencing this evening.

City Attorney Munoz clarified that the City Council was adopting an Ordinance tonight so there will be a second reading as part of the overall process but that will be on the Council's Consent Calendar.

Council Member Anderson felt that at this point that the Plan was a compromise and that it was clear what the Council needed to do.

Mayor Weinberg asked if this Plan represented the most that the County could build and that if they wanted to build less they could, was this a correct statement.

Director Butterwick replied that it was a correct statement.

IT WAS MOVED BY COUNCIL MEMBER LISA BARTLETT, SECONDED BY MAYOR PRO TEM SCOTT SCHOEFFEL, THAT THE CITY COUNCIL CONDUCT A PUBLIC HEARING, INTRODUCE AN ORDINANCE ENTITLED:

*AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADOPTING THE LOCAL COASTAL PROGRAM AMENDMENT LCPA06-03 FOR THE DANA POINT HARBOR REVITALIZATION PLAN AND DISTRICT REGULATIONS, THAT ALSO AMENDS THE DANA POINT*

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*SPECIFIC PLAN AND ZONING CODE, FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION; and*

DIRECT STAFF TO FORWARD THE ADOPTED MODIFICATIONS TO THE COASTAL COMMISSION FOR FINAL CERTIFICATION BY ADOPTING **RESOLUTION 10-02-08-02** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, REGARDING MODIFICATIONS TO LOCAL COASTAL PROGRAM AMENDMENT LCPA06-03 AND REQUESTING CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.*

The motion carried by the following vote:

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

NOES: None

#### **UNFINISHED BUSINESS**

There were no Unfinished Business items.

#### **NEW BUSINESS**

There were no New Business items.

#### **PUBLIC COMMENTS**

There were no additional Public Comments.

#### **STAFF REPORTS**

There were no Staff Reports.

#### **COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED**

Council Member Bartlett reported that she had turned in her list of meetings attended to the City Clerk. She reported the following upcoming events:

February 13 - The Seniors' Valentines Day dinner dance at the Community Center this Saturday

March 5 - Orange County Supervisor Pat Bates was hosting a Senior Summit. Contact Supervisor Bates' office if you are interested in attending. Reservations were required to attend.



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Council Member Anderson reported that she had attended the following:

February 1 - Joint Powers Authority meeting with Coastal Animal Services Authority  
February 27 - Attended the Petproject Foundation kick off event for the cat room expansion at The Cellar in San Clemente. She stated that Council Members Bishop and Mayor Pro Tem Schoeffel were also there and she thanked them for their support.

She reported the following upcoming events:

If you would like to support the animal shelter, the Paws for Brunch is to be held at Casanova Italian Ristorante in Dana Point on Sunday, February 21st from 12-3:00 p.m. Cost is \$49 per person and the brunch includes hor d'oeuvres, choice of main dish, dessert, and free flowing mimosa champagne and wine. If you are interested, please go to [www.petprojectfoundation.org](http://www.petprojectfoundation.org) or call 949-595-8899.

Veterans of Foreign Wars Post 9934 and ladies auxiliary is sponsoring a charitable golf tournament to fight leukemia and to benefit Craig Brandmeier at Shorecliffs Golf Course on Monday, March 22nd. There is a \$99 donation for the tournament. If you can't play, you can sponsor a Marine or just send donations. The website is [www.vfpost9934.org](http://www.vfpost9934.org) or contact Wiley Hall at 949-400-0838 to register.

Council Member Bishop reported that he had attended the SCAG meeting where he is on the Transportation and Communications Committee. He stated that he had joined the City's fitness challenge and as part of the challenge they encourage you to participate in one of the recreation activities that the Community Center offers. He added that he went to ballroom dancing. He stated that the classes are great and he encouraged people to check out the classes that are offered.

Mayor Pro Tem Schoeffel wished everyone a happy Valentines Day. He encouraged everyone to make arrangements at a local restaurant to celebrate Valentines Day. He reminded everyone of the Dana Point Coastal Arts inaugural concert on February 18th at St. Edwards Church.

Mayor Weinberg stated that he had turned in his meetings attended to the City Clerk. He reminded everyone that the agenda materials for the City Council and Planning Commission meetings were made available on the City's website or available at City Hall during business hours.

## **ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Weinberg declared the meeting adjourned at 7:12 p.m. and announced that the next Regular Meeting of the City Council will be February 22, 2010, 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 Steven Weinberg**

February 4           OCFA Best and Bravest Awards Dinner

**Mayor Pro Tem Scott Schoeffel**

February 4           Directors Meeting of San Joaquin Hills TCA

**Council Member Lisa Bartlett**

Attended several TCA meetings