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

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:

Douglas C. Chotkevys, City Manager; 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; 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 reported that the City Council has begun an investigation into the appropriateness of the medical marijuana dispensaries in the City and has issued some legislative subpoenas towards that end. He stated that matter is tied up in court at the moment and pending some future conclusion of that investigation which may or may not result in a change of the existing zoning, the Council has authorized the City Attorney's office to move forward to take civil action to cause the operators of the dispensaries illegally in violation of our zoning to cease conducting business pending the outcome of the investigation.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by OCFA Division Chief Rick Robinson.

INVOCATION

The Invocation was provided Chaplain Jeff Herschel of OCFA Battalion 5.

PRESENTATIONS AND PROCLAMATIONS

Business of the Month - The Ritz Carlton, Dana Point

Management Analyst Kelly provided a PowerPoint presentation providing a summary of The Ritz Carlton Hotel's many amenities. Mayor Weinberg presented General Manager Bruce Brainerd a Certificate of Recognition in honor of The Ritz Carton being named the Business of the Month, March 2010.

Bruce Brainerd, General Manager of The Ritz Carlton Hotel stated that on Earth Day, April 22, 2010, the hotel will launch the new Ambassador's of the Environment. He added that this was an exclusive license agreement they have with Jean Michel Cousteau and Ocean Futures and will include a new indoor learning center within the resort as well as an outdoor center which will include activities in the water, on land, and green living.

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CONSENT CALENDAR

A member of the public had removed Item #18, Council Member Bishop removed Items #18 and #19, and Council Member Anderson removed Item #2 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY MAYOR PRO TEM SCOTT SCHOEFFEL, APPROVE ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 2, 18, AND 19.

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, FEBRUARY 22, 2010

This item was removed from the Consent Calendar by Council Member Anderson.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY MAYOR PRO TEM SCOTT SCHOEFFEL, APPROVE THE MINUTES WITH AMENDMENT.

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

3. PLANNING COMMISSION MEETING MINUTES, FEBRUARY 1, 2010

RECEIVED AND FILED.

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4. PLANNING COMMISSION ACTIONS, MEETING OF MARCH 1, 2010

RECEIVED AND FILED.

5. YOUTH BOARD MEETING MINUTES, JANUARY 21, 2010

RECEIVED AND FILED.

**6. TRAFFIC IMPROVEMENT SUBCOMMITTEE MEETING MINUTES,
NOVEMBER 18, 2009**

RECEIVED AND FILED.

**7. OCEAN WATER QUALITY SUBCOMMITTEE MEETING MINUTES,
JANUARY 26, 2010**

RECEIVED AND FILED.

8. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

9. CITY TREASURER'S REPORT, JANUARY, 2010

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF JANUARY, 2010.

10. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

11. 2010 WEED ABATEMENT PROGRAM

ADOPTED **RESOLUTION 10-03-08-01** 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.

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12. EXPANDED CITY-WIDE BANNER PROGRAM FOR SEASONAL EVENTS

APPROVED THE RECOMMENDATION TO EXPAND THE CITY-WIDE BANNER PROGRAM FOR SEASON EVENTS.

13. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE ANNUAL ROADWAY RESURFACING PROJECT FY 2008/2009

ADOPTED **RESOLUTION 10-03-08-02** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL FO THE CITY OF DANA POINT, CALIFORNIA APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE PROJECT ENTITLED "ANNUAL ROADWAY RESURFACING PROJECT FY 2008/2009".

14. AWARD OF CONTRACT FOR THE 2010 FOURTH OF JULY AERIAL FIREWORKS DISPLAY AND BARGE CONTRACT

APPROVED THE FOLLOWING FOR THE 2010 FOURTH OF JULY AERIAL FIREWORKS DISPLAY: 1) CONTRACT WITH PYRO-SPECTACULARS INC. FOR THE AERIAL DISPLAY, 2) CONTRACT WITH PACIFIC TUGBOAT SERVICE TO PROVIDE A TUG AND BARGE TO BE USED AS THE STAGING AREA FOR THE FIREWORKS DISPLAY, AND 3) AUTHORIZED THE CITY MANAGER TO EXECUTE THE CONTRACTS.

15. CALIFORNIA ASSEMBLY BILL NO. 1867 REVISING HOUSING ELEMENT LAW

ADOPTED RESOLUTION 10-03-08-03 SUPPORTING ASSEMBLY BILL 1867 (HARKEY) TO REVISE STATE HOUSING ELEMENT LAW ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, TO SUPPORT ASSEMBLY BILL 1867 (HARKEY) AMENDMENTS TO CALIFORNIA GOVERNMENT CODE HOUSING ELEMENT LAW.

16. APPROVAL OF APPOINTMENT OF ASSISTANT CITY ATTORNEY

APPROVED THE APPOINTMENT OF JENNIFER FARRELL OF RUTAN & TUCKER LLP AS THE ASSISTANT CITY ATTORNEY.

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17. NEXTG NETWORKS TELECOMMUNICATIONS RIGHT-OF-WAY USE AGREEMENT WITH REVISION

APPROVED SUBJECT AGREEMENT AS REVISED, AND AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE SUBJECT AGREEMENT.

18. INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 13.04, PARKS AND RECREATIONAL FACILITIES REGULATIONS, OF THE MUNICIPAL CODE TO ADDRESS THE ENFORCEMENT OF NO SMOKING IN CITY PARKS

Council Member Bishop and a member of the Public had pulled this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Mayor Weinberg opened the Public Comments.

Gwen Drenick, Dana Point, Orange County Tobacco Education Coalition, commended staff on the preparation of the report. She offered the Coalition's support for implementing this Ordinance with technical assistance. She stated that she was proud of her City for proactively promoting a healthy environment and that cigarettes were the #1 litter item in the world.

Mayor Weinberg closed the Public Comments.

Council Member Bishop stated that he was not a proponent of smoking but felt that maybe the Council was jumping to a legislative conclusion too quickly. He added that he did not feel that there was a problem with smoking in Dana Point. He stated that he would like to modify the motion to restrict the prohibition of smoking to activity fields where sports are being played and concerts.

Council Member Anderson stated that she would like to make an alternate motion to support the recommended action as presented.

Council Member Schoeffel stated that he would second Council Member Anderson's motion.

Council Member Bartlett asked Council Member Bishop how smoking would be restricted at sporting events or concerts, would there be a posting beforehand.

Council Member Bishop replied that staff had provided a listing of other cities and what they restrict and the majority of them restrict smoking at activity fields or other places where sports and athletics were being

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played. He stated that he would assume that the prohibition would be posted but he was not sure how it would work.

Council Member Bartlett stated that she would second Council Member Bishop's modified motion.

Mayor Weinberg asked about the procedures of handling two motions.

City Manager Chotkevys clarified that Council Member Bishop's immediate motion died for lack of a second. He stated that Council Member Anderson offered a substitute motion which was seconded so he believed that there is a motion to approve as presented with a second.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY MAYOR PRO TEM SCOTT SCHOEFFEL, TO INTRODUCE AND HOLD FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING CHAPTER 13.04, PARKS AND RECREATIONAL FACILITIES REGULATIONS, OF THE MUNICIPAL CODE TO THE ENFORCEMENT OF NO SMOKING IN PARKS LOCATED WITHIN THE CITY.

The motion carried by the following vote:

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

NOES: Council Member Lisa Bartlett, and Council Member Joel Bishop

19. INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING CHAPTER 13.04, PARKS AND RECREATIONAL FACILITIES REGULATIONS, OF THE MUNICIPAL CODE TO ADDRESS THE CENTER FOR NATURAL LANDS MANAGEMENT DANA POINT PRESERVE OWNED AND OPERATED BY THE CENTER FOR NATURAL LANDS MANAGEMENT

Council Member Bishop had removed this item from the Consent Calendar.

Council Member Bishop stated that Dana Point loves their dogs and felt that it didn't make any sense that we would restrict them. He made a motion to strike the meandering trail and the revetment from the Ordinance.

Council Member Anderson stated that Council had held a first reading of an Ordinance allowing dogs on the trails, but tonight this is a first reading of another Ordinance. She asked where the appropriate place to address dogs was or was this a replacement Ordinance.

City Manager Chotkevys clarified that tonight's Ordinance has been brought forward at the request of the Center for Natural Lands

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Management. He stated that there is a trail easement that runs along the Center and since this is private property, they want the City to be able to enforce that there be no trespassing into the Environmentally Sensitive Habitat Areas (ESHA) and that dogs not be permitted. He added that their concern is that these are narrow trails into ESHA that if a dog gets off leash and the owner would have to go into the ESHA disrupting the flora, fauna, or endangered species.

Director Fowler added that this Ordinance affects not only dogs, but hours of use, trespassing, throwing items, bicycles, skateboards, and rollerblades on private property.

Council Member Bishop asked if this affected the meandering trail and the revetment.

Director Fowler replied that those trails were not a part of this Ordinance, that this only affected the private property.

Council Member Anderson stated that the City Council was being asked to amend an existing Ordinance to include the Center for Natural Lands Management.

Council Member Bartlett asked if the majority of the problems were being caused by dogs off leash or on too long of leash.

City Manager Chotkevys replied that on these particular trails there are environmentally sensitive habitat areas that need a set of rules in place to protect these assets. He stated that the Center for Natural Lands Management wants the City to be able to enforce no trespassing and no dogs on the trails.

IT WAS MOVED BY COUNCIL MEMBER JOEL BISHOP, SECONDED BY COUNCIL MEMBER LISA BARTLETT, TO INTRODUCE AND HOLD FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING CHAPTER 13.04, PARKS AND RECREATIONAL FACILITIES REGULATIONS, OF THE MUNICIPAL CODE TO ADDRESS THE CENTER FOR NATURAL LANDS MANAGEMENT DANA POINT PRESERVE OWNED AND OPERATED BY THE CENTER FOR NATURAL LANDS MANAGEMENT.

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

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NOES: None

PUBLIC COMMENTS

Dwight Del Gado, US Census, spoke about the Census information that will be mailed to each home and how important it was for the residents to complete the form and return it.

Norma Struthers, Dana Point, thanked the City Council for the new pedestrian bridge on Pacific Coast Highway. She spoke about a recent news article that listed the 10 dirtiest hotels in the United States and one of our City's hotels was listed.

Alan Wickstrom, Dana Point, thanked the City Council for attending the Star Studded Spectacular last Sunday which was a fundraising event held in support of the new theater for Dana Hills High School. He announced the next concert of the Dana Point Coastal Arts series was to be held at St. Edwards Church this Thursday, March 11. He stated that tickets were \$12 for adults, \$8 for students and military. He added that the Monarch Beach Sunrise Rotary was sponsoring a diamond dig at Baby Beach at noon on Sunday with great prizes to be won. He stated that on March 28 SOSCA was holding their 7th Annual Opera Night at the Laguna Cliffs Marriott Resort and on March 27 is concert night at Dana Hills High School.

Joanna Adrian, Dana Point, spoke regarding the Dana Point Library and the current condition of the building.

City Manager Chotkevys replied that he had not been aware of the issues at the library and added that Kevin Evans will contact County staff to follow up.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There were no Unfinished Business items.

NEW BUSINESS

20. INITIATION OF A PLANNING PROCESS FOR THE DOHENY VILLAGE PLAN

City Manager Chotkevys provided a staff report.

Mayor Weinberg opened the Public Comments.

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Robert Theel, Dana Point, supports the City moving forward with a planning document for Doheny Village. He felt that the vision for the plan will not be as easy as it was for the Town Center. He stated that there are professional organizations which can assist with the plan such as the Urban Land Institute or the Building Industry Association.

Mayor Weinberg closed the Public Comments.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY COUNCIL MEMBER LISA BARTLETT, AUTHORIZE STAFF TO INITIATE A PLANNING PROCESS TO CREATE A DOHENY VILLAGE PLAN AND IDENTIFIED MAYOR WEINBERG AND MAYOR PRO TEM SCHOEFFEL TO WORK WITH CITY STAFF ON THE PROCESS.

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

PUBLIC COMMENTS

There were no additional Public Comments.

STAFF REPORTS

City Manager Chotkevys thanked Kevin Evans, Mike Killebrew and the rest of the staff for a fabulous Festival of Whales parade.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Anderson stated that there had been a mis-print in the Dana Point News recently and reported that there is no meeting on March 11 for the surfing heritage museum. She added that the Festival of Whales had one more weekend. She stated that people won't want to miss the VFW's deluxe pancake breakfast at the OC Sailing Event Center; \$8 for adults and children under 10 will be \$5 from 8-11 a.m.

Council Member Bartlett reported that she had attended several TCA, League of Cities, and Southern California Association of Government. She stated that she had also attended the Strands Vista Park dedication. She announced that the St. Patrick's Day luncheon will be held at the Senior Center at 11:30 a.m.

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Council Member Bishop stated that the dedication of Strands Vista Park was awesome. He added that he had attended the lunch and learn at the Chamber last week. He stated that the Festival of Whales parade was great and thanked staff. He added that the SOSCA event was held in a great location and he hoped that they were successful with their fundraising.

Mayor Pro Tem Schoeffel urged everyone to attend the upcoming concert at 7:30 p.m. at St. Edwards on Thursday. He stated that the concert is held in the sanctuary.

Mayor Weinberg stated that he had turned in his meetings attended to the City Clerk. He encouraged everyone to visit the Strand Vista Park. He stated that the Festival of Whales was on again this weekend and that the events were taking place in the Harbor. He announced the upcoming St. Patrick's Day lunch in the Senior Center; reservations are required and lunch was to be catered by Hennessey's.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Weinberg declared the meeting adjourned at 6:56 p.m. and announced that the next Regular Meeting of the City Council will be March 22, 2010, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF MARCH 22, 2010

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Meetings Attended Since the Last City Council Meeting:

Mayor Steven Weinberg

February 23	Meeting with SCWD Dedication of Strands Vista Park
March 4	Meeting with SCWD
March 5	Festival of the Whales VIP reception
March 6	Festival of the Whales Parade