
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
May 24, 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 5:01 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

Absent: Council Member Joel Bishop

CLOSED SESSION

City Manager Chotkevys indicated that there was a need for a Closed Session as follows:

- A. CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION, Government Code § 54956.9 (c), (1 case)
- B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Government Code § 54956.9 (a), (8 cases) Name of Case(s):
 - 1.City of Dana Point v. Beach Cities Collective - 30-201000352103
 - 2.City of Dana Point v. Dana Point Beach Collective - 30-201000352109
 - 3.City of Dana Point v. Dana Point Safe Harbor Collective - 30-201000352107
 - 4.City of Dana Point v. Holistic Health - 30-201000352106
 - 5.City of Dana Point v. The Point Alternative Care - 30-201000352093
 - 6.City of Dana Point v. Redwood Sanctuary - 30-201000352110
 - 7.Malinda Traudt by and Through her Guardian ad litem, Shelly White v. City of Dana Point Case No. 30-2010 00373287
 - 8.City of Dana Point v. Commissioner of Internal Revenue - Docket No. 3457-10

City Attorney Munoz clarified for the record that the City Council will be discussing Item A which has become City of Dana Point v. California Coastal Commission, Case #00374874. The Coastal Commission had been served this afternoon. Mayor Weinberg recessed the meeting into a Closed Session at 5:05 p.m. pursuant to Government Code Section 54956 et. seq.

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RECONVENE CITY COUNCIL MEETING - CALL TO ORDER

Mayor Weinberg reconvened the meeting at 6:00 p.m. All Council Members were present with the exception of Council Member Bishop.

STAFF PRESENT:

Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Bobbi Ogan, Deputy City Clerk; Mike Killebrew, Assistant City Manager; Mike Rose, Director of Disaster Preparedness; Sgt. Lynn Koehmstedt, Police Services; Kyle Butterwick, Director of Community Development; Kevin Evans, Director of Community Services and Parks; Christy Teague, Economic Development Manager; Brian McClure, Parks Manager; Sea Shelton, Senior Management Analyst; Lynn Kelly, Management Analyst; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; and Windy Robles, City Clerk Specialist.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that the City Council had asked that he announce that in the matter of the City of Dana Point v. the California Coastal Commission that the City has initiated litigation in connection with the Coastal Commission's determination that it can, in our opinion, second-guess whether or not the City has a public safety problem down at Strand Beach and how the City will spend its public safety budget. At this time, the City is pursuing a Writ of Mandate to challenge the Commission's authority with respect to those issues.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Eagle Scout Nicholas Whelan.

INVOCATION

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

PRESENTATIONS AND PROCLAMATIONS

May Business of the Month - Girl in the Curl Surf Shop

Management Analyst Kelly provided a PowerPoint presentation. She reported that Girl in the Curl was opened in 1997 and was the first just-for-girls surf shop and surf school in Orange County. Mayor Weinberg presented store owner, Mary Hartman along with her business partner Todd Leech, and co-workers Meghan Cheney and Betsy Bowes with a Certificate of Recognition for being selected the Business of Month for May 2010. Mary invited the community to join Girl in the Curl the first Saturday of the month for Zero Trash Day in Dana Point.

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Recognition of Eagle Scout Nicholas Whelan

Mayor Weinberg presented Eagle Scout Nicholas Whelan with a Certificate of Recognition for completing 21 Merit Badges to become an Eagle Scout with the Boy Scouts of America.

Recognition of Capistrano Valley Boys and Girls Club 2009 Youth of the Year

Mayor Weinberg along with James Littlejohn from the Capistrano Valley Boys and Girls Club presented Tallica McIntyre with a Certificate of Recognition for being named Capistrano Valley Boys & Girls Clubs 2009 Youth of the Year.

CONSENT CALENDAR

Staff removed Item 15 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER LISA BARTLETT, SECONDED BY COUNCIL MEMBER LARA ANDERSON, THAT THE RECOMMENDED ACTIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 15.

The motion carried by the following vote:

- AYES: Council Member Lara Anderson, Council Member Lisa Bartlett, Mayor Pro Tem Scott Schoeffel, and Mayor Steven Weinberg
- NOES: None
- ABSENT: Council Member Joel Bishop

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, APRIL 26, 2010

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, APRIL 19, 2010

RECEIVED AND FILED.

4. PLANNING COMMISSION MEETING MINUTES, MAY 3, 2010

RECEIVED AND FILED.

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5. PLANNING COMMISSION ACTIONS, MEETING OF MAY 17, 2010

RECEIVED AND FILED.

6. TRAFFIC IMPROVEMENT SUBCOMMITTEE ACTION MINUTES, MARCH 17, 2010

RECEIVED AND FILED.

7. CHARITABLE GRANT SUBCOMMITTEE DRAFT ACTION MINUTES, MAY 12, 2010

RECEIVED AND FILED.

8. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

9. CITY TREASURER'S REPORT, MARCH, 2010

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

10. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

11. ZONE TEXT AMENDMENT ZTA10-0001 - HOUSING ELEMENT IMPLEMENTATION PROGRAM

HELD A SECOND READING AND ADOPTED **ORDINANCE 10-06** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA10-0001 FOR THE HOUSING ELEMENT IMPLEMENTATION PROGRAM.

12. APPROVE AMENDMENT NO. 14 TO CONTRACT AGREEMENT NO. C-8-0370 WITH ORANGE COUNTY TRANSPORTATION AUTHORITY TO PROVIDE SENIOR TRANSPORTATION SERVICES TO THE DEL OBISPO COMMUNITY/SENIOR CENTER THROUGH JUNE 30, 2011

APPROVED AMENDMENT NO. 14 TO THE EXISTING AGREEMENT NO. C-8-0370 WITH ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) FOR SENIOR TRANSPORTATION TO THE DEL OBISPO COMMUNITY/SENIOR

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CENTER THROUGH JUNE 30, 2011 AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT.

13. AUTHORIZE STAFF TO DISTRIBUTE TWO REQUESTS FOR PROPOSALS FOR THE MAINTENANCE OF PARKS AND FOR THE MAINTENANCE OF LANDSCAPED MEDIANS AND PARKWAYS

AUTHORIZED STAFF TO DISTRIBUTE A REQUEST FOR PROPOSAL (RFP) TO QUALIFIED LANDSCAPE MAINTENANCE CONTRACTORS FOR THE MAINTENANCE OF PARKS; AND DISTRIBUTE A RFP TO QUALIFIED LANDSCAPE MAINTENANCE CONTRACTORS FOR THE MAINTENANCE OF LANDSCAPED MEDIANS AND PARKWAYS.

14. ALLEY QUIT CLAIM DEED AT 25812 LAS VEGAS AVENUE (ASSESSOR PARCEL NUMBER 668-342-11)

AUTHORIZED APPROVAL OF THE QUIT CLAIM DEED; AND AUTHORIZED THE CITY ENGINEER TO SIGN THE QUIT CLAIM DEED AND HAVE IT RECORDED WITH THE COUNTY RECORDER'S OFFICE, PROVIDED THAT THE PROPERTY OWNER PROCESSES EASEMENTS IN ADVANCE WITH ALL UTILITY COMPANIES THAT CURRENTLY OPERATE FACILITIES WITHIN THE SUBJECT PROPERTY BEING CONTEMPLATED FOR QUIT CLAIM.

15. SUPPORT FOR THE CALIFORNIA GRAY WHALE

Staff removed Item 15 from the Consent Calendar.

City Manager Chotkevys provided a staff report and added another proposed Resolution.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY COUNCIL MEMBER LISA BARTLETT, TO ADOPT **RESOLUTION 10-05-24-03** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, JOINING THE ASSEMBLY AND THE SENATE OF THE STATE OF CALIFORNIA IN CALLING UPON THE FEDERAL GOVERNMENT TO CONDUCT A COMPREHENSIVE ASSESSMENT OF THE CALIFORNIA GRAY WHALE; and

RESOLUTION 10-05-24-04 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT ON PROTECTION OF WHALES AND OPPOSITION TO PROPOSED RESUMPTION OF COMMERCIAL WHALING AND TEN-YEAR QUOTAS FOR

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WHALES AS PROPOSED BY THE INTERNATIONAL WHALING COMMISSION.

The motion carried by the following vote:

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

NOES: None

ABSENT: Council Member Joel Bishop

16. ADOPTION OF A RESOLUTION DESIGNATING CITY'S AGENT FOR STATE FINANCIAL ASSISTANCE

ADOPTED RESOLUTION 10-05-24-01 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DESIGNATING CITY'S AGENT FOR STATE FINANCIAL ASSISTANCE; and

AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT TO TRANSFER PROPERTY OR FUNDS FOR 2009 HOMELAND SECURITY GRANT PROGRAM PURPOSES.

17. RECORDS MANAGEMENT/DOCUMENT IMAGING SYSTEM REQUEST FOR PROPOSAL

AUTHORIZED STAFF TO RELEASE A REQUEST FOR PROPOSAL (RFP) FOR THE PURCHASE, IMPLEMENTATION AND MAINTENANCE SERVICES FOR A NEW RECORDS MANAGEMENT AND DOCUMENT IMAGING SYSTEM.

18. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE ARTERIAL ROADWAY REHABILITATION OF DEL PRADO (FROM COPPER LANTERN TO GOLDEN LANTERN) AND STONEHILL DRIVE (FROM SEASIDE DRIVE TO CITY LIMIT) - FY2009/10

ADOPTED RESOLUTION 10-05-24-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE ARTERIAL ROADWAY REHABILITATION OF DEL PRADO (FROM COPPER LANTERN TO GOLDEN LANTERN) AND STONEHILL DRIVE (FROM SEASIDE DRIVE TO CITY LIMIT) – FY 2009/10; and

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TRANSFERRED PROJECT SAVINGS AS PROVIDED IN FISCAL SECTION.

PUBLIC COMMENTS

Edward Kopp, Capistrano Beach, stated that he submitted a packet for distribution to the Council. He asked that the Council read the letter that was submitted.

Bob Fowler, VFW Post 9934, reported that with support from the City, the Post is able to provide assistance to Marines and their families. He thanked the Council and Staff for the on-going support of the VFW. He reported that the Post will be named All-State in June and will be one of the top posts in the nation. He also thanked the City for the successful car wash that was held April 17th. He stated that on Memorial Day they will be acknowledging the Korean War veterans.

Nancy Jenkins, Dana Point, reported that on June 9th there will be a dinner at Cannon's to celebrate the 5th Marines Birthday. She stated that Mayor Weinberg will be the guest of honor and that the youngest and oldest Marine present will also be honored. She also invited the community to RJ's on May 25th for a fundraiser for Craig Brandmeier who has leukemia.

Joanna Adrian, Dana Point, reported on the Dana Point Coastal Arts Concert series.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

19. AGREEMENT FOR CONSTRUCTION AND MAINTENANCE WITH THE SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (SCRRA) IN CONJUNCTION WITH THE RAIL HIGHWAY CROSSING ENHANCEMENT PROGRAM FOR BEACH ROAD (MINOR REVISION RATIFICATION)

Council Member Bartlett announced that she had a potential conflict of interest and recused herself and left the Council Chambers at 6:35 p.m.

City Manager Chotkevys provided a staff report.

Mayor Weinberg asked what the difference was between this item and what was approved a year ago.

City Manager Chotkevys replied that a year ago there were some indemnification issues relating to the Construction and Maintenance Agreement for the public safety improvements. He stated that the City has been able to work through all of the issues. He also stated that the City was not certain if there was coverage a year ago from the JPIA and in

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fact there was no liability coverage. He added that JPIA staff has found a carrier for the liability insurance and they are willing to go from year to year.

Mayor Weinberg asked what the estimated start of construction would be.

Director Fowler replied that the improvements will hopefully be done by the fall of 2011. He added that they would probably start in the summer to finish by next fall.

Mayor Pro Tem Schoeffel commended the City Manager and Staff for all of their hard work on the project over the past year. He asked if the risk pool extended through Southern California, the State of California, or the United States.

Assistant City Manager Killebrew replied that it is his understanding that the carrier is currently working with JPIA on the policy. He stated that he has not received word that they have been marketing the policy elsewhere. He reported that staff wanted to communicate with Council that the insurance will only be available a year at a time because it is not known if the insurance carrier will find it to be a profitable line of business if there are not enough participants.

Mayor Pro Tem Schoeffel stated that if the insurance carrier broadened the risk pool wide enough, they would hopefully find it to be a profitable line of business.

IT WAS MOVED BY MAYOR PRO TEM SCOTT SCHOEFFEL, SECONDED BY COUNCIL MEMBER LARA ANDERSON, TO APPROVE THE REVISED CONSTRUCTION AND MAINTENANCE AGREEMENT WITH THE SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (SCRRA), AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT.

The motion carried by the following vote:

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

NOES: None

RECUSE: Council Member Lisa Bartlett

ABSENT: Council Member Joel Bishop

Council Member Bartlett returned to the Council Chambers at 6:42 p.m.

NEW BUSINESS

There were no New Business items.

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PUBLIC COMMENTS

There were no additional Public Comments.

STAFF REPORTS

City Manager Chotkevys thanked Sergeant Koehmstedt, who was the acting Lieutenant while Lieutenant Levy was out of town and Sergeant Greenwood for their Public Safety response at the Doheny Blues Festival. He also thanked Public Works, with a special thanks to Matt Sinacori and Mike Killebrew because they had to shut down day use parking at the State Beach on Sunday due to high surf. He asked Sergeant Koehmstedt if there were any noise complaints this year.

Sergeant Koehmstedt replied that there were no complaints and he also thanked Deputy Gardner who assisted in the planning.

City Manager Chotkevys stated that these types of events benefit the resorts. He reported that the Marriott and the Double Tree were both sold out for the weekend.

City Attorney Munoz reported that there was a recent case that required a Coastal Development Permit for a firework show in the coastal zone. He stated that the Coastal Commission was not in favor of issuing the permit, which resulted in litigation. He added that there are some environmental groups that have been pressing the issue in San Diego with a goal to end free public firework shows on the coast. He stated that he has been exploring the issue as well as potential legislative solutions that anyone may use against the City to prevent the firework programs.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Bartlett reported that she attended the following:

Several TCA and Orange County League of Cities meetings

May 17 - Special recognition breakfast Deputy Matt Johnson and Deputy Larry Packard who both received promotions within the Orange County Sheriff's Department.

May 20 - Four City Chamber of Commerce event at the Marriott

May 22 and 23 - Doheny Blues Festival.

She announced the following upcoming events:

May 31 - Memorial Day Services in Pines Park at 10:00 a.m.

June 3-6 - The Dana Point Harbor Boat Show as well as the Green Expo.

June 4, 11, 18, and 26 - Free movies in the park. Movie starts at 8:00 p.m.

June 26 - Concerts in the park begin

Council Member Anderson stated that she had turned in her meetings attended to the City Clerk. She also stated that the Orange Public Library Advisory Board at their last

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meeting passed the budget for the fiscal year 2010/2011. She added that revenue is based on property taxes so the funding for the programs is not doing well. She stated they were able to provide a balanced budget without dipping into reserves and no library hours will be cut. She added that the facility and maintenance projects will be prioritized first by health and safety issues and second by building preservations. She stated that the biggest impact to the public will be that the extra help has been eliminated. She added that the library will now start charging for the five free print outs which will generate a large cost savings. She announced that the Summer Recreation Guide is now available. She also stated that resident Jacinda Smith is setting up a Memorial Service for Lily the Whale on Sunday, June 6 at 9:00 a.m. at Baby Beach.

Mayor Pro Tem Schoeffel stated that he had one of the best weeks in Dana Point the past week. He reported that on Thursday, May 20 he attended the Dana Point Coastal Arts Concert series. He stated that he also attended the Doheny Blues Festival on May 22 and 23. He added that the summer concert series are always well attended and he encourages everyone to attend.

Mayor Weinberg stated that he had turned in his meetings attended to the City Clerk. He reported that Monday, May 31 is the Memorial Day Service at Pines Park and also June 9 there will be a reception at Cannon's for the 5th Marines Birthday Celebration. He added that the Doheny Blues Festival took place the past weekend and it was sold out.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Weinberg adjourned at 6:55 p.m. in memory of Dick Burrus, brother of Gene Burrus. He announced that the next Regular Meeting of the City Council will be June 14, 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 JUNE 14, 2010

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Meetings Attended Since the Last City Council Meeting:

Mayor Steven Weinberg

April 29	Chamber of Commerce State of the City
April 30	Laguna Cliffs Marriott Resort & Spa Grand Reopening
May 8	"Fish for Life" Disabled Kids on Fishing Trip
May 12	OCFA Budget Meeting
May 12	Monarch Beach Sunrise Rotary Dana Hills High School Student of the Month Banquet
May 13	OC League of CA cities
May 14	Celebrate Anniversary of Older Americans Act
May 17	Promotion Breakfast in Honor of Larry Packard and Matt Johnson's promotion to Sergeant
May 18	Bike to Work BBQ
May 20	SOCAM Meeting Hosted by San Juan Capistrano
May 20	Vector Control Board Meeting
May 20	Coastal Arts Concert, Mira Khomik
May 22 and 23	Doheny Blues Festival

Mayor Pro Tem J. Scott Schoeffel

April 27	State of the City of Dana Point
April 30	Grand reopening of the Laguna Cliffs Marriott Resort and Spa
May 13	San Joaquin Hills Transportation Corridor Agency Board of Directors budget workshop meeting
May 13	San Joaquin Hills Transportation Corridor Agency meeting of the Financial Options Ad Hoc Committee
May 19	San Joaquin Hills Transportation Corridor Agency Board of Directors budget workshop meeting
May 19	Dana Point Coastal Arts classical music concert at St. Edward's Catholic Church

Council Member Lara Anderson

April 29	State of the City luncheon at the Laguna Cliffs Marriott
April 30	Ribbon cutting at Laguna Cliffs Marriott
May 3	Meeting with True North regarding revenue survey
May 3	CASA Joint Powers Authority Board meeting
May 13	OC Public Library Advisory Board meeting
May 19	CASA Joint Powers Authority Board meeting
May 22	Doheny Blues Festival

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Council Member Lisa Bartlett

May 17

Welcome home event for Brigadier General Nicholson from the 5th Marines