
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
NOVEMBER 22, 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), Name of cases: City of Dana Point v. Holistic Health - 30-201000352106; City of Dana Point v. Beach Cities Collective - 30-201000352103; City of Dana Point v. The Point Alternative Care - 30-201000352093

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 6:02 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney, Kathy 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/Engineering; Brian McClure, Parks Manager; Christy Teague, Economic Development Manager; Jackie

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Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; and Bobbi Ogan, Deputy City Clerk.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that he had no announcement.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Bob Fowler, Commander of VFW Post 9934.

INVOCATION

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

CONSENT CALENDAR

IT WAS MOVED BY COUNCIL MEMBER LISA BARTLETT, SECONDED BY MAYOR PRO TEM SCOTT SCHOEFFEL, 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, NOVEMBER 8, 2010

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, NOVEMBER 1, 2010

RECEIVED AND FILED.

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4. PLANNING COMMISSION ACTIONS, MEETING OF NOVEMBER 15, 2010

RECEIVED AND FILED.

5. YOUTH BOARD MEETING MINUTES, OCTOBER 21, 2010

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

8. RESOLUTION AUTHORIZING AND ORDERING JUDICIAL FORECLOSURE OF CURRENT AND FUTURE DELINQUENT SPECIAL TAXES IN COMMUNITY FACILITIES DISTRICT NO. 2006-1 PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982 AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH

AUTHORIZED THE NECESSARY STEPS TO COMMENCE THE COLLECTION OF DELINQUENT SPECIAL TAXES AND ADOPTED RESOLUTION 10-11-22-01 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ACTING AS THE GOVERNING BODY OF COMMUNITY FACILITIES DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT, AUTHORIZING AND ORDERING JUDICIAL FORECLOSURE OF CURRENT AND FUTURE DELINQUENT SPECIAL TAXES IN SAID DISTRICT PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982 AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH; and

AUTHORIZED CITY PERSONNEL, IN CONJUNCTION WITH CITY ATTORNEY AND OTHER CITY CONSULTANTS, PURSUANT TO GOVERNMENT CODE SECTION 53356.2: (A) TO RECORD NOTICES OF INTENT TO REMOVE THE DELINQUENT SPECIAL TAXES FROM THE TAX ROLLS, AND (B) TO AUTHORIZE THE APPLICABLE COUNTY OFFICIALS REMOVE CURRENT AND FUTURE DELINQUENT SPECIAL TAXES FROM THE TAX ROLLS; AND AUTHORIZED THE CITY ATTORNEY TO PROSECUTE A FORECLOSURE ACTION AND TO COLLECT, IN THE NAME OF THE CITY AND ON BEHALF OF THE OWNERS OF THE BONDS, ALL AMOUNTS DUE ON THE ACCOUNT OF THE DELINQUENT SPECIAL TAXES WITH RESPECT TO THE PROPERTY IDENTIFIED IN THE REFERENCED RESOLUTION.

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PRESENTATIONS AND PROCLAMATIONS

California Ships to Reefs Presentation

Council Member Bishop stated that three years ago an item was taken to the Council regarding the possibility of taking a retired U.S. Military vessel and sinking it off the coast of Dana Point. He added that he had asked the California Ships To Reef representatives to provide a status report on that project. He stated that in the last three years there have been a number of pieces of legislation that have been passed to aid this project along and that most recently Assembly Woman Harkey was able to get an Assembly Bill passed and signed by the Governor that will take the liability of scuba diving out of the hands of the City. He introduced three people who had served on a vessel named the Kawishiwi; Robert Huber, Richard Hinman, and Jim Gabrish.

Joel Gelden, Chairman of the Board and Chief Executive Officer of California Ships To Reefs, thanked the City Council for their support. He stated that they have made substantial progress and that they were prepared to begin work on what will become the 2nd largest artificial reef project in the United States. He added that they were able to work with Assembly Woman Harkey to construct a resolution to remove liability from municipal and State authorities for any potential accidents that might occur on these reefs. He stated that they have completed surveys of the water and as a result of those surveys have made application to the State Lands Commission for research grants. He added that they feel they have selected a ship that will serve their purpose. He stated that they are ready to begin the next process and that they need the opportunity to start working with City staff on the variety of permits needed to begin the project.

Robert Huber, stated that he had served on the Kawishiwi from 1966 through 1968. He added that he has had contact with fellow sailors and that they are of the opinion that it would be a wonderful thing to have her in tact serving the community. He stated that former crew members may be able to prepare the ship for reefing.

PUBLIC COMMENTS

Howard Duhan, Dana Point, stated that he would like to help make Dana Point the courtesy city of California and he offered his services to the City Manager. He felt that more jobs could be created by offering more services for the elderly residents of the City.

City Manager Chotkevys invited Mr. Duhan to contact him to set up a meeting to discuss opportunities for him to become involved at City Hall. He stated that in regard to the concerns that he raised, the City has a wonderful senior program and that OCTA does offer a Dial-A-Ride program.

Joe Snyder, Capistrano Beach, spoke about the "Bring the Wall" golf tournament that is being sponsored by VFW Post 9934. He stated that this was a fundraiser to help bring

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the traveling Vietnam Wall Memorial to Dana Point in May, 2011. He added that they needed golfers and that the tournament was scheduled for December 6th at Shorecliff's Golf Course. He stated that there was an opportunity to sponsor a marine to play or make a donation at www.vfwpost9934.org.

City Manager Chotkevys added that the City has been working with Bob Fowler on this event. He stated that staff will be putting up another web page advertisement and broadcasting on Dana Point TV announcing the Wall as well as an opportunity for people to provide donations to the VFW to assist with this effort.

PUBLIC HEARINGS

9. DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT ANNUAL REPORT AND RENEWAL FOR 2011

City Manager Chotkevys provided a staff report.

Mayor Pro Tem Schoeffel asked if there has been any addition of personnel or shifting of responsibilities to accommodate the City's duty under the TBID.

City Manager replied that these duties have been absorbed by City staff so there have been no additional resources required. He thanked Christy Teague for her diligence and commitment.

Mayor Weinberg opened the Public Hearing.

Donna Kalez, San Clemente, stated that she was a major supporter of the TBID. She felt that the TBID will help promote tourism in Dana Point and will allow Dana Point to compete with other cities.

Mayor Weinberg closed the Public Hearing.

Council Member Bartlett clarified that the Dana Point TBID was an existing program that the City Council is being asked to renew again this year. She stated that the program was originally requested by the four major hotel general managers. She added that the program allows Dana Point to compete with other coastal cities that have TBIDs. She stated that the hotels have not lost any business as a result of having the TBID in place this past year. She reported that the TBID receives 100 percent of all benefit assessment dollars and they work with a marketing and advertising agency of their choosing to promote Dana Point as an international resort destination. She stated that tourism is the primary industry in Dana Point and our four major hotels accounts for almost 90 percent of our TOT and our TOT accounts for one-third of our annual revenue. She felt it was important for the City Council to do everything that was within their power to help protect and enhance the good work and revenues of Dana Point hotels. She stated that the tourism industry offers the greatest number of jobs to the

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Dana Point community. She felt that from a business perspective, that the TBID was a pro-business decision and will help ensure that the City maintains its staffing levels, continue to complete all of the City's projects, and continue to provide the essential services to the Dana Point community.

Council Member Anderson stated that at the last Council meeting that she and Mayor Pro Tem Schoeffel had asked for a breakdown of the expenditures to date and that \$92,000 has been spent with nothing to show for it yet. She added that she had asked staff to clarify the expenditure on special events and advertising and that staff had responded that the ad that was placed in the Barrett Jackson car auction ad this year was a recycled ad that was not created by Agency 51. She stated that anything original to the TBID has not been produced yet and that she was satisfied with the information the Council had been provided and she wanted to clarify that for anyone who may have read the staff report.

Mayor Pro Tem Schoeffel stated that he would like to clear up a couple of mis-impressions about this program. He stated that the City staff takes their monitoring duties very seriously and that no additional staff will be needed. He added that this was not a general obligation tax, that it is benefit assessment voluntarily assessed and collected by the businesses who will benefit by this.

IT WAS MOVED BY COUNCIL MEMBER LISA BARTLETT, SECONDED BY MAYOR PRO TEM SCOTT SCHOEFFEL, CONDUCT A PUBLIC HEARING AND ADOPT RESOLUTION 10-11-22-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONTINUING THE PROGRAM AND ASSESSMENTS FOR THE 2011 CALENDAR YEAR FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID).

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 was no Unfinished Business.

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NEW BUSINESS

10. PROPOSED ASSOCIATION OF CALIFORNIA CITIES - ORANGE COUNTY

City Manager Chotkevys provided a staff report.

Council Member Bartlett stated that we do want to have a strong Orange County division so we do have that local advocacy and representation with the Board of Supervisors, Caltrans, and OCTA. She added that the fee will be the same as before and that the new entity the Association of California Cities, Orange County will be one of the sixteen divisions that the State League has. She stated that it will operate just like the other divisions. She felt that it would offer more organization and flexibility in the way that it operates for efficiency sake, greater local control and the opportunity to participate on statewide legislative issues. She stated that as a 501(c)3 the association will be able to attract more sponsors to help with the goals and objectives that we have on a local and statewide basis. She added for the reasonable fee that Dana Point would pay, there would be a lot in return for being part of the group and we would ensure that the Orange County cities have good representation and a voice in both Orange County as well as in Sacramento.

Council Member Anderson asked for a breakdown of the financials. She stated that she didn't understand how it would be a cost savings for a large city to join a new organization and pay the same dues level as the existing organization.

City Manager Chotkevys replied that there would not be a cost savings for Dana Point unless we chose to sign up for two years at which time they are offering a 10 percent discount and that the larger cities would save money by not paying State dues.

Council Member Anderson stated that the City has three options; join nothing and pay nothing, join one of the organizations and pay \$10,000, or join two organizations and pay \$20,000.

City Manager Chotkevys stated that it was his understanding that the local Orange County Division will not exist as the City Council has come to know it with its own dedicated staff but would resemble the existing League of California Cities County Divisions. Thus, it would be his advice to not be a dues paying member of the Orange County Division of the League of California Cities but rather simply be a member of the State League.

Council Member Anderson asked if the questions before the Council were to one; join the new organization or two; maintain our membership in the State organization.

City Manager Chotkevys replied that she was correct. He stated that the City is actively engaged with the State organization in dealing with the

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City's issue relative to our recreation employees who are contractors and the IRS wants them to be considered as part-time employees. He added that the City has a lot of support from the League in developing expert testimony for our case. He recommended that the Council consider continuing the State League affiliation for at least one year or until such time that the City can resolve the issue with the part-time employees.

Council Member Bartlett stated that she would agree with the City Manager. She added that the State League was responsible for Proposition 22 passing which protects the local tax dollars for cities.

City Manager Chotkevys stated that these dues are for calendar year, as opposed to fiscal year. He added that staff will be developing the budget for the next fiscal year which will commence on July 1, 2011. He stated that everything will be listed and that the City Council may have to deal with these issues depending on what the City's revenue looks like in the spring. He recommended that the Council consider maintaining the State League membership and depending on how the budget turns out make a recommendation in the budget for the Orange County Division for the following year.

There being no requests to speak, Mayor Weinberg opened and closed the Public Comments.

Council Member Anderson felt that this was a lot of money and she was concerned with committing another \$10,000 in addition to the lobbyists that the City currently employs.

Council Member Bishop felt that this was poorly presented to the Council Members at the League meetings and that the people who sponsored this could have done a better job. He stated that it was important to have an organization and to be able to work on a regional basis. He added that he supports this item.

Council Member Anderson asked if the Council needs to vote for joining the State League or is that something that has already been budgeted for.

City Manager Chotkevys replied that both memberships have already been addressed in the existing budget.

Mayor Weinberg stated that it was important to be involved so our opinions are heard. He suggested the City join for a year and see where our budget is then.

Mayor Pro Tem Schoeffel suggested that the Council continue with the State association given the recreation employee issue and see what the \$10,000 dollars gets the City on this important issue. He felt that the new association would be the only opportunity to voice our concerns at a regional level.

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City Manager Chotkevys stated that based on the comments from the Council, if the Council does choose to go forward and belong to the new organization, he suggested that the Council join the new association for one year and revisit the membership during the review of the budget.

IT WAS MOVED BY COUNCIL MEMBER LISA BARTLETT, SECONDED BY MAYOR PRO TEM SCOTT SCHOEFFEL, CONTINUE MEMBERSHIP WITH THE LEAGUE OF CALIFORNIA CITIES FOR ONE YEAR AND SUPPORT, JOIN, AND PAY MEMBERSHIP DUES TO THE NEW ASSOCIATION, IF ESTABLISHED.

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

There were no Staff Reports.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Anderson reported that she had attended the Veterans Day service at the City's Veterans Memorial, the Coastal Animal Services Authority Joint Powers Authority meeting on November 15th, and the Ritz Carlton tree lighting ceremony. She stated that on November 16th she had followed a street sweeper to the dump to see what the sweeper picks up and felt that it was very educational. She announced that the Pet Project Foundation's annual fundraiser, Santa Claus and Paws event will be held on Saturday, December 4th from 10:00 a.m. to 3:00 p.m. at Aegis Assisted Living in Capistrano Beach. She stated that the Dana Point Harbor Parade of Lights was coming up December 10th and 11th, December 17th and 18th. She added that the City's Winter Festival will be held on December 11th. She wished everyone a happy Thanksgiving.

Council Member Bartlett reported that she had attended the following:

November 10th - 5th Marine Regiment Birthday Ball at the Marriott

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November 15th - Tri City Trolley/Project V meeting where the discussion was regarding the opportunity for a new local trolley for special events in Dana Point.

November 20 - Served the seniors a Thanksgiving dinner at the Senior Center which was sponsored by the Monarch Beach Sunrise Rotary

November 21 - Tree lighting ceremony at the Ritz Carlton

She wished everyone a wonderful Thanksgiving.

Mayor Pro Tem Schoeffel reported that he had attended a TCA meeting on November 17th and the Marine Corp Birthday Ball on November 10th. He wished everyone a happy Thanksgiving.

Mayor Weinberg reported that he had attended the Marine Corp Ball and a Vector Control meeting where bed bugs were discussed. He led everyone in singing happy birthday to Council Members Anderson and Bartlett.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Weinberg declared the meeting adjourned at 7:08 p.m. and announced that the next Regular Meeting of the City Council will be held on December 13, 2010, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.