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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 24, 2011**

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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 Schoeffel at 5:03 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

**ROLL CALL OF CITY COUNCIL MEMBERS:**

Present: Mayor Scott Schoeffel  
Mayor Pro Tem Lara Anderson  
Council Member Lisa Bartlett  
Council Member William Brough  
Council Member Steven Weinberg

Absent: None

**CLOSED SESSION**

City Attorney Munoz 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), (1 case)
  - 1. Name of Case: Russel Thompson vs. City of Dana Point; Orange County Case Number: 07CC04217
- C. 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 Schoeffel recessed the meeting into a Closed Session at 5:05 p.m. pursuant to Government Code Section 54956 et seq.

**RECONVENE CITY COUNCIL MEETING - CALL TO ORDER**

Mayor Schoeffel reconvened the meeting at 6:01 p.m. All Council Members were present.

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**STAFF PRESENT:**

Douglas C. Chothevys, 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; Christy Teague, Economic Development Manager; Kevin Evan, Director of Community Services and Parks; Mark Sutton, Building Official; John Tilton, City Architect; Brian McClure, Parks Manager; Matthew Sinacori, City Engineering; Sherry Murphy, Recreation Specialist II; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; Jennifer Ransom, Secretary; and Bobbi Ogan, Deputy City Clerk.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Harold Kaufman.

**INVOCATION**

The Invocation was provided by Associate Pastor Sabrina Vasta from Gloria Dei Lutheran Church.

**PRESENTATIONS AND PROCLAMATIONS**

January Business of the Month - Danman's Music School & Academy

Management Analyst Kelly provided a PowerPoint presentation which described Danman's Music School & Academy. She reported that Danman's had 20 instructors with over 300 students. She stated that the school sponsors six (6) children's concerts throughout the year which are held at the Renaissance Cafe. She added that Danman's also held a summer rock camp for children. Mayor Schoeffel presented a Certificate of Recognition to Dan Lefler for Danman's Music School & Academy being selected the Featured Business of the Month, January 2011.

OCTA I-5 Widening Presentation

Rose Casey, OCTA Project Manager, provided a status report on the I-5 Widening Project which is part of a renewed Measure M or M2 program. She stated that the project was in the environmental phase and that their target start date was 2015. She added that there would be a public hearing held at the City of San Clemente, 910 Calle Negocio, 2nd Floor on January 31st from 6-8:00 p.m.

Proclamation to Angela Duzich - 20 Years of Service

Mayor Schoeffel presented a Proclamation to Angela Duzich in honor of her 20 years of service to the City.

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**CONSENT CALENDAR**

Council Member Lisa Bartlett removed Items 9, 13, and 16 and Council Member William Brough removed Item 10 from the Consent Calendar.

IT WAS MOVED BY MAYOR PRO TEM LARA ANDERSON, SECONDED BY COUNCIL MEMBER LISA BARTLETT, ACCEPT ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 9, 10, 13, AND 16.

The motion carried by the following vote:

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

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 10, 2011**

APPROVED THE MINUTES.

**3. PLANNING COMMISSION MEETING MINUTES, DECEMBER 20, 2010**

RECEIVED AND FILED.

**4. PLANNING COMMISSION ACTIONS, MEETING OF JANUARY 17, 2011**

RECEIVED AND FILED.

**5. YOUTH BOARD MEETING MINUTES, JANUARY 6, 2011**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

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**7. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**8. COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2010**

RECEIVED AND FILED THE COMPREHENSIVE ANNUAL FINANCIAL REPORT ("CAFR") FOR THE YEAR ENDED JUNE 30, 2010.

**9. DOCTOR'S AMBULANCE TRANSFER AGREEMENT**

Council Member Lisa Bartlett removed this item from the Consent Calendar. She felt that Doctor's Ambulance has provided really outstanding service to the City for the past eleven years. She stated that they have been a great vendor to work with and that the City could expect continued good service from them.

IT WAS MOVED BY COUNCIL MEMBER LISA BARTLETT, SECONDED BY MAYOR PRO TEM LARA ANDERSON, APPROVE THE CONSENT TO TRANSFER AGREEMENT BETWEEN HERREN ENTERPRISES, INC., OPERATING AS DOCTOR'S AMBULANCE SERVICE AND AMERICAN MEDICAL RESPONSE AMBULANCE SERVICE, INC. FOR THE EXCLUSIVE OPERATING AREA #39 (DANA POINT) AND AUTHORIZE THE CITY MANAGER TO EXECUTE ALL ASSOCIATED TRANSFER DOCUMENTS.

The motion carried by the following vote:

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

NOES: None

**10. VAN SCOYOC ASSOCIATES CONTRACT EXTENSION FOR FEDERAL GOVERNMENT REPRESENTATION, ADVOCACY AND CONSULTING SERVICES**

Council Member William Brough removed this item from the Consent Calendar. He stated that in this political climate that earmarks were unfavorable in Washington as well as with our Congressman. He added that possible we could change that to advocacy and felt that there were opportunities with water quality, Town Center, and other policy issues and that he looks forward to working with staff on some of those items.

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Mayor Pro Tem Anderson stated that on principle she has a problem with lobbyists and that she may be voting on this differently than others.

IT WAS MOVED BY COUNCIL MEMBER WILLIAM BROUGH, SECONDED BY COUNCIL MEMBER LISA BARTLETT, AUTHORIZE THE CITY MANAGER TO EXECUTE A CONTRACT EXTENSION WITH VAN SCOYOC ASSOCIATES WITH FIVE (5) ADDITIONAL ONE-YEAR RENEWAL OPTIONS.

The motion carried by the following vote:

AYES: Council Member Lisa Bartlett, Council Member William Brough, Council Member Steven Weinberg, and Mayor Scott Schoeffel

NOES: Mayor Pro Tem Lara Anderson

11. **SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING CHAPTER 12.08.050 OF THE MUNICIPAL CODE TO ADDRESS PARKING OF COMMERCIAL AND RECREATIONAL VEHICLES ON PUBLIC STREETS IN THE CITY OF DANA POINT**

HELD A SECOND READING AND ADOPTED ORDINANCE 11-01 ENTITLED: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING CHAPTER 12.08.050 OF THE DANA POINT MUNICIPAL CODE TO ADDRESS PARKING OF COMMERCIAL AND RECREATIONAL VEHICLES ON PUBLIC STREETS.

12. **OCTA INTERSTATE 5 (I-5) HIGH OCCUPANCY VEHICLE (HOV) LANE PROJECT BETWEEN AVENIDA PICO AND CAMINO CAPISTRANO/SAN JUAN CREEK ROAD**

RECEIVED AND FILED THIS SUMMARY STAFF REPORT AND THE ASSOCIATED PRESENTATION THAT WAS MADE BY THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) FOR THE I-5 HOV LANE PROJECT (PROJECT).

13. **APPROVAL OF A CONSULTANT SERVICES AGREEMENT WITH ULTRASYSTEMS FOR ENVIRONMENTAL SERVICES RELATED TO THE CONSTRUCTION OF THE DOHENY HOTEL**

Council Member Lisa Bartlett removed this item from the Consent Calendar. She stated that normally the City of Dana Point will choose the lowest responsible bidder for vendors and on this particular item, staff has selected the second highest bidder. She asked for staff to articulate its selection of this very qualified vendor.

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City Manager Chotkevys replied that environmental impact reports are always an interesting science. He added that you need someone who is very thorough, who is knowledgeable in their field, and can reach out and engage the community in a meaningful dialogue.

Director of Community Development Butterwick added that this particular firm has extensive experience in the coastal zone which is a critical part of their capabilities. He stated that they have done work for the City before and that they are a very well respected group of people.

IT WAS MOVED BY COUNCIL MEMBER LISA BARTLETT, SECONDED BY MAYOR PRO TEM LARA ANDERSON, APPROVE ULTRASYSTEMS AS THE ENVIRONMENTAL CONSULTANT FOR PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE DOHENY HOTEL PROJECT, AND AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ULTRASYSTEMS.

The motion carried by the following vote:

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

NOES: None

**14. AUTHORIZATION TO PROCEED WITH REMOVAL OF THE EASTERLY CROSSWALK ON PCH AT THE INTERSECTION OF PACIFIC COAST HIGHWAY AND SELVA ROAD PURSUANT TO SECTION 21950 OF THE CALIFORNIA VEHICLE CODE**

ACCEPTED THE REMOVAL OF THE CROSSWALK ON PCH ON THE EASTERLY LEG OF THE INTERSECTION OF PACIFIC COAST HIGHWAY AND SELVA ROAD, PURSUANT TO CALIFORNIA VEHICLE CODE SECTION 21950; AND AUTHORIZED STAFF TO PROCEED WITH THE REMOVAL IN CONJUNCTION WITH OTHER WORK AT THE INTERSECTION.

**15. A RESOLUTION ADDING TERMS OF SERVICE FOR THE TRAFFIC IMPROVEMENT SUBCOMMITTEE**

ADOPTED RESOLUTION 11-01-24-01 ADDING TERMS OF SERVICE FOR THE TRAFFIC IMPROVEMENT SUBCOMMITTEE ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING TERMS OF SERVICE FOR THE TRAFFIC IMPROVEMENT SUBCOMMITTEE.

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**16. AWARD OF CONTRACT FOR THE STAGE AND SOUND SYSTEM FOR THE 2011 CITY OF DANA POINT CALENDAR OF EVENTS**

Council Member Bartlett removed this item from the Consent Calendar. She stated that she has received correspondence from members of the community regarding the noise level of the concerts in the parks and felt that it would be good for staff to explain what is being done to mitigate the noise. She asked if staff could look at alternative venues for some of the concerts.

City Manager Chotkevys replied that the reason this item is before the Council is due to the addition of an event for this year. He stated that the City's summer concerts and movies in the parks are some of the best attended events in our community. He added that one of the things that staff struggles with is because of their popularity; Pines Park could not be used due to lack of parking. He stated that when staff has proposed moving away from Heritage Park, staff received many objections. He added that staff plans to return to the Council in the future with a plan of equitable distribution of these concerts. He stated that because of the popularity, that the use of a neighborhood park for a concert would be an imposition on the residents in the area.

IT WAS MOVED BY COUNCIL MEMBER LISA BARTLETT, SECONDED BY COUNCIL MEMBER WILLIAM BROUGH, APPROVE THE CONTRACT WITH SOUTHERN CALIFORNIA SOUND, STAGE, AND LIGHTING CORPORATION, DBA STAR WAY PRODUCTIONS FOR STAGE AND SOUND FOR 15 SPECIAL EVENTS IN THE 2011 CITY OF DANA POINT CALENDAR OF EVENTS; AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT.

The motion carried by the following vote:

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

NOES: None

**17. AWARD OF CONTRACTS FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS AND RIGHTS-OF-WAY**

AWARDED A CONTRACT TO SOTO COMPANY FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS; AWARDED A CONTRACT TO PINNACLE LANDSCAPE FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY RIGHTS-OF-WAY; AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE CONTRACTS.

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**PUBLIC COMMENTS**

Steve Scislaw, Dana Point, spoke regarding the SDG&E Smart Meter installation. He was concerned that residents were not being given the opportunity to opt out.

City Manager Chotkevys asked Mr. Scislaw to provide his contact information to staff so they could follow up on his concern.

Garrison Williams, San Clemente, spoke regarding the attorney fees being spent by the City to fight something without the public being aware. He stated that the use of medical marijuana became legal in the State of California in 1996 and felt that the City was violating the resident's rights. He claimed that they had 3,000 local members.

David Deal, Dana Point, stated that he was a patient of Beach Cities Collective and asked what they need to do to stay in business.

**PUBLIC HEARINGS**

**18. ZONE TEXT AMENDMENT ZTA10-0002 - INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING CHAPTERS 9.35.050 AND 9.75.010 OF THE MUNICIPAL CODE TO ADDRESS VEHICULAR ACCESS TO PROPERTY**

Director of Public Works Fowler provided a staff report.

There being no requests to speak on this item, Mayor Schoeffel opened and closed the Public Hearing.

IT WAS MOVED BY COUNCIL MEMBER STEVEN WEINBERG, SECONDED BY COUNCIL MEMBER LISA BARTLETT, CONDUCT A PUBLIC HEARING AND INTRODUCE AND HOLD THE FIRST READING OF AN ORDINANCE ENTITLED:

*AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING CHAPTERS 9.35.050 AND 9.75.010 OF THE DANA POINT MUNICIPAL CODE TO ADDRESS VEHICULAR ACCESS TO PROPERTY.*

The motion carried by the following vote:

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

NOES: None



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**UNFINISHED BUSINESS**

**19. TOURISM BUSINESS IMPROVEMENT DISTRICT**

City Manager Chotkevys provided a staff report.

Mayor Schoeffel stated that he liked the Mayor and Mayor Pro Tem idea and that from a year-to-year basis these two representatives would be the most appropriate to lend their insight on this process.

Mayor Pro Tem Anderson stated that she definitely wanted to serve on this committee as she has been involved with trying to brand market the City since being elected to the Council.

IT WAS MOVED BY MAYOR PRO TEM LARA ANDERSON, SECONDED BY COUNCIL MEMBER STEVEN WEINBERG, APPOINT THE MAYOR AND MAYOR PRO TEM TO MEET WITH TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID) ADVISORY BOARD IN PREPARATION FOR DANA POINT BRAND LAUNCH.

The motion carried by the following vote:

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

NOES: None

**NEW BUSINESS**

There were no New Business items.

**PUBLIC COMMENTS**

There were no additional Public Comments received.

**STAFF REPORTS**

City Manager Chotkevys stated that Angela Duzich was one of the special people that made things happen in the community. He thanked her for her service to the City.

City Attorney Munoz stated that the City had received a number of requests for appeals of Building Official actions that have occurred in the last week or so involving the medical marijuana dispensaries in Dana Point. He added that the dispensaries were in violation of various Building Code issues. He stated that staff would like to suggest that

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the City Council meet on February 4, 2011 at 2:00 p.m. for the purpose of conducting those appeals. He added that if that date worked for everyone that the Mayor would need to adjourn tonight's meeting to February 4, 2011 at 2:00 p.m.

City Attorney Munoz indicated that there was a need for City Council to return to Closed Session as they had to complete their discussion of an item.

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

Council Member Brough reported that he had attended the following:

January 11 - Met the VFW regarding the traveling Vietnam Wall which will be in Dana Point May 11-16, 2011

January 19-21 - Attended the League of California Cities New Council Member Conference

Council Member Weinberg reported that he had attended an OCFA Budget and Finance Committee meeting/Board of Directors meeting and a Vector Control Finance and Budget meeting/Board of Directors meeting. He commented that on these outside committees that the Chairman, Vice-Chairman, and Treasurer positions are selected by seniority and this is keeping those cities that do have term limits from getting a turn.

Council Member Bartlett stated that she agreed with Council Member Weinberg's comments on term limits. She reported that she had attended the following:

A TCA and several League of Cities meetings

January 14 - Swearing in Ceremony of Sheriff Sandra Hutchens

She stated that future events include:

January 25 - Stacks Pancake House Ribbon Cutting Ceremony

January 26 - Dana Point Chamber of Commerce Installation Dinner

February 4-5 - Jazz in January concert at the Ocean Institute

Mayor Pro Tem Anderson reported that CASA has reduced their pet adoption fees for the month of February. She stated that the cat room expansion was to begin this year and that commemorative tiles were still available for purchase.

Mayor Schoeffel reported that he had attended the South Orange County Mayors Breakfast on January 20th.

**CLOSED SESSION - CONTINUED**

Mayor Schoeffel recessed the meeting into a Closed Session at 7:03 p.m. pursuant to Government Code Section 54956 et seq.

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**RECONVENE CITY COUNCIL MEETING - CALL TO ORDER**

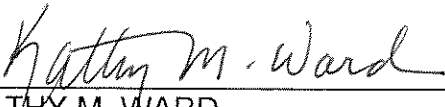
Mayor Schoeffel reconvened the meeting at 7:17 p.m. All Council Members were present.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Munoz announced that in connection with the litigation involving Holistic Health, Beach Cities Collective, and The Point Alternative Care that the City Council has concluded that the Legislative Subpoenas that were previously issued were no longer necessary. He stated that during the course of the litigation that the dispensaries were raising these subpoenas as a reason to try and delay various proceedings and staff felt that it is not an issue the City needs to deal with. He added that the City Council had voted unanimously to withdraw the Legislative Subpoenas that were issued and authorized the Mayor to take any actions necessary as well as to sign any documents that might be required.

**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Schoeffel declared the meeting adjourned at 7:18 p.m. and announced that the next Adjourned Regular Meeting of the City Council will be held on February 4, 2011, at 2:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.



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KATHY M. WARD  
CITY CLERK

APPROVED AT THE MEETING OF FEBRUARY 28, 2011