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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
FEBRUARY 28, 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 5:02 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 - 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 5:03 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.

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; Christy Teague, Economic Development Manager; Kevin Evan, Director of Community Services and Parks; Lynn Kelly, Management Analyst; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; and Bobbi Ogan, Deputy City Clerk.

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**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Orange County Fire Authority Chief Keith Richter.

**INVOCATION**

The Invocation was provided by Orange County Sheriff's Department Sr. Chaplain Jim Davis.

**PRESENTATIONS AND PROCLAMATIONS**

February Business of the Month - UP Sports

Management Analyst Kelly provided a PowerPoint presentation. She stated that UP Sports was founded in the late 1970's and that the Dana Point location was established in 1995. She added that UP Sports was excited to help make our community a better place. She stated that they have provided free demonstrations at the Dana Point Harbor Boat Show, participated in the Dana Point Grand Prix, and has provided donations to Dana Hills and San Clemente High Schools. Mayor Schoeffel presented Chris Mamola with a Certificate of Recognition in honor of UP Sports being selected the Featured Business of the Month, February 2011.

Deputy of the Year - Deputy KC Calder

Lt. Levy provided a summary of Deputy Calder's background. He reported that Deputy Calder has been a Sheriff Deputy for nine (9) years, was nominated for the Medal of Courage in 2010, has been responsible for nine (9) DUI arrests and over thirty (30) arrests for individuals on controlled substances in 2010. Lt. Levy and Mayor Schoeffel presented Deputy K.C. Calder with a Certificate of Recognition and a trophy for being named the Deputy of the Year.

MADD Presentation

Simon Casey, MADD representative, recognized Deputy Sheriff Kinney for his twenty-five (25) DUI arrests in 2010. Lt. Levy accepted the award on Deputy Kinney's behalf who was unable to attend the City Council meeting.

VFW Deputy of the Year - Deputy Brett Gardner

Bob Fowler and other VFW members recognized Deputy Brett Gardner as their chosen Deputy of the Year 2010. Mayor Schoeffel presented a Certificate of Recognition on behalf of the City Council to Deputy Gardner for his honor.

VFW Firefighter of the Year - Fire Captain Jack Perisho and VFW Reserve Firefighter of the Year

Bill Manes presented a Certificate of Recognition to Fire Captain Jack Perisho for being selected Fire Fighter of the Year 2010. He then presented a Certificate of Accommodation to Kevin Gates, Reserve Officer for being selected Reserve Fire

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Fighter of the Year 2010. Mayor Schoeffel presented both firefighters with Certificates of Recognition on behalf of the City Council for their honors.

**CONSENT CALENDAR**

Council Member Brough removed Item Number 12 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER STEVEN WEINBERG, SECONDED BY COUNCIL MEMBER LISA BARTLETT, ACCEPT ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM NUMBER 12.

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 24, 2011**

APPROVED THE MINUTES.

**3. SPECIAL MEETING MINUTES, FEBRUARY 4, 2011**

APPROVED THE MINUTES.

**4. PLANNING COMMISSION MEETING MINUTES, JANUARY 17, 2011**

RECEIVED AND FILED.

**5. PLANNING COMMISSION ACTIONS, MEETING OF FEBRUARY 7, 2011**

RECEIVED AND FILED.

**6. OCEAN WATER QUALITY SUBCOMMITTEE ACTION MINUTES, SEPTEMBER 28, 2010**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**8. CITY TREASURER'S REPORT, DECEMBER 2010 AND JANUARY 2011**

RECEIVED AND FILED THE TREASURER'S REPORTS FOR DECEMBER 2010 AND JANUARY 2011.

**9. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**10. SECOND READING - ZONE TEXT AMENDMENT ZTA10-0002**

HELD A SECOND READING AND ADOPTED **ORDINANCE 11-02** 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.*

**11. RATIFICATION OF EMERGENCY CONSTRUCTION ACTIVITIES CITYWIDE RESULTING FROM THE DECEMBER 2010 STORMS**

RATIFIED THE CITY MANAGER'S ACTION TO WAIVE COMPETITIVE BIDDING PER CITY ORDINANCES FOR EMERGENCY WORK ACTIVITIES CITYWIDE, AUTHORIZED THE BUDGET TRANSFERS TO FUND THE EXPECTED CITY PORTION OF THE COSTS OF THE STORM DAMAGE REPAIRS, AUTHORIZED THE TRANSFER OF UNDESIGNATED GENERAL FUND RESERVES TO THE ANNUAL ROADWAY RESURFACING PROJECT PHASE 1 (CIP #1231) FOR EMERGENCY ASPHALT REPAIRS ON VIA ESPINOZA, VIA SACRAMENTO, CALLE JUANITA, OLINDA DRIVE, AND OTHER STREETS; AUTHORIZED STAFF TO PROCESS A CHANGE ORDER WITH THE CITY'S CONTRACTOR FOR THE ANNUAL ROADWAY RESURFACING PROJECT PHASE 1 (CIP #1231), AND AUTHORIZED STAFF TO PAY ALL NECESSARY CONTRACTORS, VENDORS AND CONSULTANTS FOR COMPLETING STORM DAMAGE REPAIRS UPON RECEIPT OF ACTUAL INVOICES FOR STORM DAMAGE REPAIR WORK.

**12. 2011 DANA POINT SUMMER CONCERT VENUES**

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

City Manager Chotkevys provided a staff report.

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Council Member Brough stated that his only concern is that the City is starting a trial basis at a new park where six (6) concerts are scheduled. He asked what if there was a problem with the first concert.

City Manager Chotkevys replied that staff will be taking a lessons learned approach and will manage the program.

Council Member Brough stated that there is usually spill over from the events to the surrounding businesses. He added that he was concerned that by moving the concerts to Sea Terrace Park, that the City will be limiting the walking access after the concerts to local businesses.

City Manager Chotkevys replied that staff will work closely on that issue. He stated that it is a trial and that because the events are so popular there is a capacity issue. He added that the nice thing about Sea Terrace Park is that it does have a parking lot adjacent to the park.

Mayor Pro Tem Anderson stated that if the Harbor would like to do a shuttle to shuttle people from the park venue to the Harbor, she felt that would be phenomenal.

City Manager Chotkevys replied that the City has had a tremendous amount of success with working with the County with regard to overflow parking.

Council Member Brough stated that parking at Salt Creek is a dollar an hour and asked if that would keep people from using the lot.

City Manager Chotkevys replied that staff would be working with the County on the parking fee.

Council Member Weinberg stated that the parking lot is packed on a hot day. He was concerned that if concert goers showed up early, there may not be parking.

City Manager Chotkevys replied that staff felt that the beach crowd would be leaving the beach in the late afternoon since it will be the end of the weekend. He stated that staff will be evolving this as we go and if staff feels that the location has to be changed, then it will be moved to a different venue and residents will be notified.

**13. 2011 WEED ABATEMENT PROGRAM**

**ADOPTED RESOLUTION 11-02-28-01 ENTITLED:**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING WEEDS A PUBLIC NUISANCE AND INITIATING ABATEMENT PROCEEDINGS. FURTHER, BY MINUTE ORDER, TO AUTHORIZE STAFF TO RELEASE BID PACKETS TO CONTRACTORS TO ABATE WEEDS IN THE CITY.*

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- 14. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE ANNUAL ROADWAY RESURFACING PROJECT FY 10/11 PHASE 1**

ADOPTED RESOLUTION 11-02-28-02 ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE PROJECT ENTITLED "ANNUAL ROADWAY RESURFACING PROJECT FY 10/11 PHASE 1"; and*

AUTHORIZED STAFF TO ESTABLISH A NEW CIP PROJECT NAMELY CIP #1246, "ANNUAL ROADWAY RESURFACING PROJECT BY 10/11 PHASE III", AUTHORIZED STAFF TO TRANSFER ALL PROJECT SAVINGS TO THE NEWLY ESTABLISHED ANNUAL ROADWAY RESURFACING PROJECT FY 10/11 PHASE III"; AND AUTHORIZED STAFF TO MAKE OTHER CAPITAL IMPROVEMENT PROGRAM BUDGET TRANSFERS (EXISTING PROJECTS ONLY).

- 15. CALIFORNIA ASSEMBLY BILLS AB206 - MUNICIPAL FIREWORK DISPLAY EXEMPTION FORM CEQA & CCC, AND AB262 - REGIONAL WATER QUALITY CONTROL BOARD JURISDICTIONAL BOUNDARY CHANGE**

AUTHORIZED THE MAYOR TO SIGN LETTERS IN SUPPORT OF AB206 AND AB262.

- 16. AWARD OF CONTRACT FOR THE 4TH OF JULY FIREWORKS DISPLAY AND BARGE CONTRACT**

APPROVED THE FOLLOWING FOR THE 2011 FOURTH OF JULY AERIAL FIREWORKS DISPLAY: 1) CONTRACT WITH PYRO-SPECTACULARS FOR THE AERIAL DISPLAY; 2) CONTRACT WITH PACIFIC TUGBOAT 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 AGREEMENTS.

- 17. APPROVAL OF A CONTRACT AMENDMENT FOR GEOLOGICAL AND GEOTECHNICAL ENGINEERING PLAN CHECK AND INSPECTION SERVICES WITH COASTAL GEOTECHNICAL**

APPROVED A CONTRACT AMENDMENT WITH COASTAL GEOTECHNICAL FOR ADDITIONAL SERVICES, AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE CONTRACT AMENDMENT.

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- 18. ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT AUTHORIZING DANA POINT TO SUBMIT PROJECTS UNDER THE MULTI-JURISDICTIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM THROUGH MEASURE M2 (M2), PROJECT P**

**ADOPTED RESOLUTION 11-02-28-03 ENTITLED:**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING DANA POINT TO SUBMIT PROJECTS UNDER THE MULTI-JURISDICTIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM THROUGH MEASURE M2 (M2), PROJECT P.*

- 19. DANA POINT POLICE SERVICES REPORT FOR FEBRUARY, 2011**

RECEIVED AND FILED THE DANA POINT SERVICES REPORT FOR FEBRUARY 2011.

**PUBLIC COMMENTS**

George Avila, Mission Viejo, OC Human Relations, thanked the City Council for their support over this past year. He reported that over the past year they had mediated 63 cases in the courts involving Dana Point residents, and built a sense of community with residents and staff through their Police, Community, Reconciliation Program. He stated that this program included four (4) police and community cases and three (3) Police Chief consultations.

Lisa Ball, Rancho Santa Margarita, South Coast Air Quality Management District, spoke regarding air quality and submitted a video for the City Council to review.

Ingrid McGuire, Dana Point, provided an explanation of the signs asking residents to conserve water from February 27th to March 6th. She stated that South Coast Water District (SCWD) purchases 80% of their water from a filtration facility in Yorba Linda. She added that the facility is undergoing a retrofit and there have been some shutdowns of the facility. She stated that SCWD will not be able to refill their reservoirs during this week. She asked residents to curtail or cut down their outdoor watering during this week.

Karen Gee, San Clemente, representing Muzeo (which is a museum located in Anaheim) stated that the museum was introducing a county-wide project called the Trash Artist Challenge. She added that they were asking all students to create a project turning trash into art and create a video by April 1st to compete for scholarships. She stated that there will be a finalist selected from each city.

Curtis Lund, Dana Point, spoke about the Capistrano Beach Calvary homeless shelter. He stated that Dana Point is the only city in Orange County that has implemented a ten

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(10) bed rule. He added that the shelter was a collective effort of the volunteers who have spent money out of their own pocket and have not asked the City for any funding.

Julie Nance, Dana Point, stated that she was a volunteer at the shelter and she asked for the shelter to be allowed to be open for another month.

Steven Hagy, Dana Point, stated that he was a lead at the homeless shelter. He added that he was a witness to what the volunteers have been able to do. He stated that he would like Dana Point to set an example like Laguna Beach.

Jenese Sheldon-Smith, thanked the City Council for listening to them regarding the shelter.

Jess Lopez, San Juan Capistrano, spoke on behalf of the homeless in Dana Point. He stated that he also volunteers at the shelter. He recommended that the City draft a Resolution to increase the number of beds allowed. He felt that this was an emergency item and could be agendized.

Bill Devin, Capistrano Beach, stated that he was a lead at the shelter and that he would like the City to increase the bed limit.

Justin Howe, Dana Point, spoke in regards to the shelter and how it has helped him these last few weeks. He would ask that the Council increase the bed limit.

City Manager Chotkevys responded that Jens Christy has been working with Police Services. He stated that the City has to ensure that the occupancy is a safe level. He added that staff will continue to work with the church. He stated that ten (10) beds was identified by other churches as a number that would be adequate for an emergency shelter when the City was drafting the Housing Element.

Lt. Levy stated that staff has been working very closely in managing this and felt confident that some sort of an arrangement would be made that will serve everyone's needs.

## **PUBLIC HEARINGS**

There were no Public Hearing items.

## **UNFINISHED BUSINESS**

### **20. FISCAL YEAR 2010-11 MID-YEAR BUDGET STATUS REPORT**

City Manager Chotkevys provided an introduction and Assistant City Manager Killebrew provided a staff report.



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Mayor Schoeffel opened the Public Comments.

Bruce Beal, Dana Point, spoke on behalf of the Chamber of Commerce. He stated that they appreciate the City's support over the years and especially the last few months. He added that the Chamber looks forward to working in partnership with the City.

David Lambert, Capistrano Beach, asked the City Council to reject the recommended action on the budget status report. He felt that the public was not aware that the \$400,000 was to increase the amount of money to spend against the dispensaries.

City Manager Chotkevys replied that the \$400,000 was to cover the City's total litigation budget.

Mayor Schoeffel closed the public comments.

IT WAS MOVED BY MAYOR PRO TEM LARA ANDERSON, SECONDED BY COUNCIL MEMBER LISA BARTLETT, RECEIVE AND FILE THE FISCAL YEAR 2010-11 BUDGET STATUS REPORT AND AUTHORIZE THE BUDGET AMENDMENTS DETAILED WITHIN THIS REPORT.

The motion carried by the following vote:

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

NOES: Council Member William Brough

## **NEW BUSINESS**

### **21. COMMUNITY CENTER SOLAR PANEL EXPANSION PROJECT**

City Manager Chotkevys provided an introduction and Director Fowler provided a staff report.

Council Member Weinberg asked what the percentage of energy use will be at the Community Center.

Director Fowler replied that he was hopeful it would be over 50%, but the final percentage will not be known until all of the panels have been installed and staff is able to evaluate the bill.

Council Member Weinberg asked what is the whole energy bill per year for the Community Center.

Director of Disaster Preparedness Rose replied that the bill on average was \$3,500 to \$4,000 for electric per month. He stated that this amount

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does not include the ball field lighting. He added that in addition to the increased generation of electricity, staff will continue to reduce the amount of electricity used at the facility.

Council Member Brough asked if the City would lose the remaining funds if they were not used.

Director Fowler replied yes that the City would lose the remaining funds.

IT WAS MOVED BY MAYOR PRO TEM LARA ANDERSON, SECONDED BY COUNCIL MEMBER LISA BARTLETT, THAT THE CITY COUNCIL (1) AUTHORIZE STAFF TO ACCEPT THE BID SUBMITTED BY CANDELARIA ELECTRIC, INC. FOR ADDITIONAL SOLAR PANELS AT THE COMMUNITY CENTER TO SUPPLEMENT THE EXISTING SOLAR PANELS; AND (2) AUTHORIZE BUDGETED EXPENDITURES FOR THIS WORK; AND (3) AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE SUBJECT CONTRACT.

The motion carried by the following vote:

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

NOES: Council Member William Brough

## **PUBLIC COMMENTS**

There were no additional Public Comments received.

## **STAFF REPORTS**

City Manager Chotkevys stated that he had nothing to report, except to remind everyone that it was Festival of Whales time. He stated that the Harbor, the Chamber, and City staff were working very diligently towards the parade this weekend and the festivities for the following weekend in the Harbor.

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

Council Member Brough reported that he had attended the following events:

February 17 - Chamber of Commerce Mixer

February 18 - Civic Association Coffee Chat and later toured of the desalinization plant at Doheny State Beach

Council Member Weinberg reported that he had turned in his list of meetings attended to the City Clerk. He encouraged everyone to attend the Festival of Whales.

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Council Member Bartlett reported that she had attended the following events:

Several TCA meetings, SCAG meetings, and ACC-OC meetings

January 26 - Dana Point Chamber of Commerce Installation event at the Marriott

February 5 - Jazz in January gala event at the Ocean Institute

February 17 - Pension Boot Camp for Elected Officials

February 25 - Laguna Niguel State of the City address

She announced the following future events:

Dana Point Festival of Whales coming up, with Shark Tales on March 5th and on March 6th a pancake breakfast at the OC Sailing and Events Center

March 13th - Whale of a Concert at Baby Beach and BBQ

March 21st - 5th Marine Regiment Farewell to Colonel Buhl at Olamendi's in Monarch Beach

March 27th - Dana Point Coastal Arts Concert

This weekend, Friday and Saturday The Phil Vandermost Band will be performing at the Dana Point Marriott Resort and Spa beginning at 8:00 p.m.

Mayor Pro Tem Anderson encouraged everyone to look for the Dana Point Times which contains the official Festival of Whales program or go to [www.festivalofwhales.com](http://www.festivalofwhales.com). She reported that on January 27th she had attended a Coastal Animal Services Authority meeting and an Orange County Library Advisory Board meeting where she was named as Chairperson. She stated that she attended the Chamber of Commerce Installation Dinner where she was honored and named as the Citizen of the Year. She commended Mits Arayama of Minute Man Press for his assistance of Brad and Judy Brandmeier when they needed to leave to be with their son Craig. She stated that Mits had completed unfinished printing projects for Beacon Printing that allowed Brad and Judy to ensure that their customers were taken care of.

Mayor Schoeffel stated that he had attended the Chamber Installation Dinner, Jazz in January, the Chamber Mixer, four (4) TCA meetings, and the Dana Point Coastal Arts Concert. He added that there are three (3) concerts left. He asked for Dan Stetson to come up to the podium and provide details of the fundraiser being held in Maddie James' honor.

Dan Stetson shared the story of Maddie James. He stated that she is a five (5) year old who has participated in a number of programs at the Ocean Institute. He added that Maddie has been diagnosed with an incurable brain cancer and that her parents approached the Institute with a plan to work with the Institute to raise a million dollars to help fund the Seaside Learning Center. He stated that the family has created the Maddie James Foundation to help with this funding effort. He stated that the family has raised over \$75,000 dollars in just the past few days. He encouraged everyone to go to [www.maddiejamesfoundation.org](http://www.maddiejamesfoundation.org) to read all about this effort.

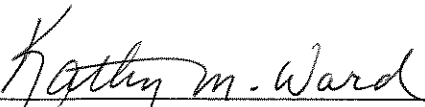
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**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Schoeffel declared the meeting adjourned at 7:54 p.m. and announced that the next Regular Meeting of the City Council will be held on March 14, 2011, at 6:00 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 MARCH 28, 2011

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Meetings Attended Since the Last City Council Meeting:

**Council Member Steven Weinberg**

- January 25 - Ribbon Cutting & Lunch at Stacks Pancake House  
Ocean Water Quality Subcommittee meeting
- January 26 - Dana Point Chamber of Commerce Installation Dinner
- February 4 - OCFA Best & Bravest Awards Dinner
- February 9 - OCFA Budget & Finance Meeting
- February 10 - Ribbon Cutting and Open House for Barrett Solutions
- February 28 - Vector Control Budget & Finance Meeting

