

CITY OF DANA POINT

CITY COUNCIL REGULAR MEETING



**MONDAY
MAY 23, 2011
5:00 P.M.**

ACTION AGENDA

Location: City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point, California 92629

Next City Council Ordinance No. 11-03

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:

Scott Schoeffel, Mayor
Lara Anderson, Mayor Pro Tem
Lisa A. Bartlett, Council Member
William P. Brough, Council Member
Steven H. Weinberg, Council Member

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), two cases:

Name of case: City of Dana Point, Petitioner v. Commissioner of Internal Revenue Service, Respondent, United States Tax Court, Docket No. 3457-10

Name of case: Community Facilities District No. 2006-1 of the City of Dana Point v. Andrew Fonfa, et al. Central Justice Center Case No. 30-2010-00432084

Mayor Schoeffel recessed the meeting into Closed Session at 5:04 p.m. pursuant to Government Code Section 54956 et seq.

RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

Mayor Schoeffel 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; Jeremy Kirchner, Emergency Services Coordinator; Lt. Mark Levy, Police Services; John Tilton, City Architect; Brad Fowler, Director of Public Works/Engineering; John Tilton, City Architect; Christy Teague, Economic Development Manager; Lynn Kelly, Management Analyst; Andy Glass, Accounting Manager; Kevin Evans, Director of Community Services and Parks; Mark Sutton, Building Official; Kelly Straine, Assistant Director of the Dana Point Chamber of Commerce; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; and Bobbi Ogan, Deputy City Clerk.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz reported that the City has prevailed in the action against the Internal Revenue Service (IRS) regarding the IRS's challenge of the City's designation of Recreational Class Instructors as independent contractors. He stated that the IRS wanted the instructors to be designated as employees. He added that there would have been a very significant financial impact on the City if the City had agreed to the IRS's determination. He stated that when the case was to go to trial, the IRS ultimately capitulated and this morning a Stipulated Decision in favor of the City was filed.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Brad Fowler, Director of Public Works and Engineering.

INVOCATION

The Invocation was provided by Bishop Kirk Lindahl of the Capistrano First Ward, Church of Jesus Christ of Latter Day Saints.

PRESENTATIONS AND PROCLAMATIONS

May Business of the Month – Luxe Restaurant and Bar

CONSENT CALENDAR

IT WAS MOVED BY COUNCIL MEMBER STEVEN WEINBERG, SECONDED BY COUNCIL MEMBER LISA BARTLETT, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR.

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

ABSENT: 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, APRIL 25, 2011

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, APRIL 18, 2011

RECEIVED AND FILED.

4. PLANNING COMMISSION MEETING MINUTES, MAY 2, 2011

RECEIVED AND FILED.

5. PLANNING COMMISSION ACTIONS, MAY 16, 2011

RECEIVED AND FILED.

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

RECEIVED AND FILED.

7. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

8. CITY TREASURER'S REPORT, MARCH 2011

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF MARCH, 2011.

9. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

10. 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 1) ADOPTED **RESOLUTION 11-05-23-01** 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 THE 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 AN ON BEHALF OF THE OWNERS OF THE BONDS, ALL AMOUNTS DUE ON ACCOUNT OF THE DELINQUENT SPECIAL TAXES WITH RESPECT TO THE PROPERTY IDENTIFIED IN REFERENCED RESOLUTION.

11. ADOPTION OF A RESOLUTION DESIGNATING CITY'S AGENT FOR FEDERAL AND STATE FINANCIAL ASSISTANCE

ADOPTED RESOLUTION 11-05-23-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DESIGNATING THE CITY'S AGENT FOR FEDERAL AND STATE FINANCIAL ASSISTANCE.

12. AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE ANNUAL ROADWAY RESURFACING PROJECT FY 10/11, PHASE III

APPROVED THE CONSTRUCTION CONTRACT DOCUMENTS REQUIRED FOR THE ANNUAL RESIDENTIAL ROADWAY RESURFACING PROJECT FY 10/11 PHASE III; APPROVED AWARD OF CONTRACT TO PALP, INC., DBA EXCEL PAVING COMPANY FOR THE CONSTRUCTION OF THE ANNUAL RESIDENTIAL ROADWAY RESURFACING PROJECT FY 10/11 PHASE III, PROVIDING THAT THE CITY MANAGER OR HIS DESIGNEE SIGNS AND ADMINISTERS THE SUBJECT CONTRACT AND MAY APPROVE ADDITIONAL PAYMENT FOR CHANGE ORDERS, CONTINGENCIES, CONSTRUCTION MANAGEMENT SERVICES, SOILS AND MATERIAL TESTING, AND CONSTRUCTION DESIGN SUPPORT FOR THE PROJECT AS NOTED IN THE FISCAL IMPACT SECTION; AND TRANSFERRED FUNDING AS NOTED IN THE FISCAL IMPACT SECTION.

13. MEMORANDUM OF AGREEMENT FOR ESTABLISHMENT AND OPERATION OF ORANGE COUNTY MARINE PROTECTED AREA COUNCIL

APPROVED THE MEMORANDUM OF AGREEMENT ENTITLED: MEMORANDUM OF AGREEMENT FOR THE ESTABLISHMENT AND OPERATION OF THE ORANGE COUNTY MARINE PROTECTED AREA COUNCIL; AND AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO PARTICIPATE IN THE PROGRAM.

14. 2011-2012 LAW ENFORCEMENT SERVICES AGREEMENT

APPROVED THE LAW ENFORCEMENT SERVICES AGREEMENT WITH THE COUNTY OF ORANGE FOR LAW ENFORCEMENT SERVICES FOR THE 2011-2012 FISCAL YEAR AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT.

15. INITIATION OF BUSINESS LEADER AD HOC COMMITTEE – DANA POINT DESTINY

AUTHORIZED THE INITIATION OF AN AD HOC COMMITTEE OF DANA POINT BUSINESS LEADERS AND APPOINT MAYOR SCOTT SCHOEFFEL AS THE CITY COUNCIL REPRESENTATIVE.

PUBLIC COMMENTS

Bob Fowler
Joe Snyder
Ingrid McGuire

PUBLIC HEARINGS

16. PUBLIC HEARING AND RESOLUTION TO ADOPT THE PROPOSED OPERATING AND CAPITAL IMPROVEMENT BUDGETS FOR FISCAL YEARS 2011-2012 AND 2012-2013, AND RESOLUTION TO ESTABLISH APPROPRIATIONS LIMIT FOR FISCAL YEAR 2011-2012

IT WAS MOVED BY MAYOR PRO TEM LARA ANDERSON, SECONDED BY COUNCIL MEMBER STEVEN WEINBERG, THAT THE CITY COUNCIL CONDUCT A PUBLIC HEARING TO REVIEW THE CITY OF DANA POINT PROPOSED OPERATING AND CAPITAL IMPROVEMENT BUDGETS FOR FISCAL YEARS 2011-2012 (“FY 2011”) AND 2012-2013 (“FY 2012”) AND ADOPT **RESOLUTION 11-05-23-03** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2011-12; and

RESOLUTION 11-05-23-04 ENTITLED:

A RESOLUTION OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING AN OPERATING AND CAPITAL IMPROVEMENT BUDGET FOR THE CITY OF DANA POINT FOR FISCAL YEARS 2011-2012 AND 2012-2013; and

RESOLUTION 11-05-23-05 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING THE SEVEN-YEAR CAPITAL IMPROVEMENT PROGRAM (CIP) FOR FY 12 THROUGH FY 18 AS REQUIRED BY THE OCTA RENEWED MEASURE M GROWTH MANAGEMENT PROGRAM AND VERIFYING THE STATUS OF THE CIRCULATION ELEMENT FOR THE CITY OF DANA POINT; and

AUTHORIZED THE DIRECTOR OF PUBLIC WORKS AND ENGINEERING SERVICES TO FORWARD THE NECESSARY MEASURE M ELIGIBILITY DOCUMENTATION TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY.

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

ABSENT: None

UNFINISHED BUSINESS

There are no Unfinished Business items.

NEW BUSINESS

There are no New Business items.

PUBLIC COMMENTS (Continued)

There were no additional Public Comments.

STAFF REPORTS

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Schoeffel declared the meeting adjourned at 6:53 p.m. and announced that the next Regular Meeting of the City Council will be held on June 13, 2011, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.