

# CITY OF DANA POINT

**CITY COUNCIL  
REGULAR  
MEETING**



**MONDAY  
SEPTEMBER 26, 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. 11-06

### **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 5:00 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 – 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), (2 cases) Holistic Health v. City of Dana Point – 30-2011 00445008; Beach Cities Collective v. City of Dana Point - 30-2011 00444134.

Mayor Schoeffel 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 Schoeffel reconvened the meeting at 6:11 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Jennifer Farrell; Assistant 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; John Tilton, City Architect; Christy Teague, Economic Development Manager; Lynn Kelly, Management Analyst; Kevin Evans, Director of Community Services and Parks; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; and Bobbi Ogan, Deputy City Clerk.

## **CLOSED SESSION ANNOUNCEMENT**

City Attorney Munoz reported that in connection with two of the Closed Session items; Holistic Health vs. The City of Dana Point and Beach Cities Collective vs. The City of Dana Point, these cases have been dismissed. He stated that for the benefit of the audience that these were cases involving medical marijuana dispensaries that the City had put a great deal of effort into some litigation involving the dispensaries that the City had alleged were operating illegally selling marijuana that was not in compliance with the State's medical marijuana laws. He added that in the course of those cases, it came to the City's attention that the dispensaries were also operating in violation of the State Building Code. He stated that there was a hearing before the Fire Marshal, the Building Official with a retired judge presiding over the matter. He added that the judge had determined that there were serious fire safety threats because of some electronic doors that were installed improperly and without a permit.

He stated that in the course of this, Beach Cities and Holistic Health sued the City, the City Council and a number of the City staff. He added that those cases were brought before the court in the last couple of weeks for hearings on the merits of the cases. He stated that the judge had ruled against them and had allowed them to amend their complaints. He added that Beach Cities declined to amend their complaint and has filed a dismissal. He stated that in the Holistic Health case a similar ruling occurred, they did not amend their complaint and time has now passed to do so.

## **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Pat Fairbanks.

## **INVOCATION**

The Invocation was provided by Jens Christy, Associate Pastor/Recovery of Capo Beach Calvary.

## **PRESENTATIONS AND PROCLAMATIONS**

Police Services Public Safety Award  
September Business of the Month – Tutor & Spunky's Deli  
Green Business Award presented by Dana Point Earth Ocean Society  
Dana Point Relay for Life Presentation

## **CONSENT CALENDAR**

Council Member Brough removed Item Number 7 from the Consent Calendar.

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IT WAS MOVED BY COUNCIL MEMBER STEVEN WEINBERG, SECONDED BY MAYOR PRO TEM LARA ANDERSON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 7.

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, SEPTEMBER 12, 2011**

APPROVED THE MINUTES.

**3. PLANNING COMMISSION MEETING MINUTES, AUGUST 15, 2011**

RECEIVED AND FILED.

**4. PLANNING COMMISSION ACTIONS, MEETING OF SEPTEMBER 19, 2011**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**6. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**7. HEALTH PLAN PROVISIONS FOR CALENDAR YEAR 2012**

Council Member Brough removed this item from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER STEVEN WEINBERG, SECONDED BY COUNCIL MEMBER LISA BARTLETT, TO ADOPT **RESOLUTION 11-09-26-01** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, MODIFYING HEALTH BENEFIT PLAN ALLOWANCES FOR ALL ELIGIBLE REPRESENTED AND ALL ELIGIBLE NON-REPRESENTED CLASSIFICATIONS.*

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

**8. AWARD OF CONTRACT FOR THE CONSTRUCTION OF THE FOUNTAIN IMPROVEMENTS AT LA PLAZA PARK PROJECT**

AWARDED A CONTRACT FOR THE CONSTRUCTION OF THE FOUNTAIN IMPROVEMENTS AT LA PLAZA PARK PROJECT WHICH WAS INFORMALLY BID, AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO ADMINISTER THE CONTRACT WITH APPROPRIATE MONITORING, TESTING, INSPECTION, AND CHANGE ORDERS UP TO THE LIMIT OF FUNDS SHOWN IN THE FISCAL SECTION, AND TRANSFER PROJECT FUNDING PER THE FISCAL IMPACT SECTION.

**PUBLIC COMMENTS**

Iggy Israel  
Carlos Olvera  
Joe Snyder

**PUBLIC HEARINGS**

There were no Public Hearing Items.

**UNFINISHED BUSINESS**

There were no Unfinished Business items.

**NEW BUSINESS**

**9. SINGLE USE PLASTIC BAG DISPOSAL**

IT WAS MOVED BY COUNCIL MEMBER STEVEN WEINBERG, SECONDED BY MAYOR PRO TEM LARA ANDERSON, TO DIRECT STAFF TO CONSULT WITH DANA POINT DESTINY, BEGIN THE ENVIRONMENTAL ANALYSIS REQUIRED BY CEQA, AND RETURN WITH A DRAFT ORDINANCE ADDRESSING THE USE OF PLASTIC BAGS AND STYROFOAM NO LATER THAN DECEMBER 12, 2011.

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

## **PUBLIC COMMENTS (Continued)**

There were no additional Public Comments received.

## **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 8:22 p.m. and announced that the next Regular Meeting of the City Council will be held on October 10, 2011, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.