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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

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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 Bartlett 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 Lisa Bartlett  
Mayor Pro Tem Steven Weinberg  
Council Member William Brough  
Council Member Carlos N. Olvera  
Council Member Scott Schoeffel (*Arrived at 5:03 p.m.*)  
Absent: None

**CLOSED SESSION**

Assistant City Attorney Farrell indicated that there was a need for a Closed Session as follows:

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, INITIATION OF LITIGATION, Government Code § 54956.9 (d)(4), (1 case): California Regional Water Quality Control Board, San Diego Region
- B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Government Code § 54956.9 (a), (2 cases) Name of Case: In re Transient Occupancy Cases (California Court of Appeal, 2nd Dist., Div. 2; Docket No. B243800; Filed March 27, 2014) Name of Case: City of Dana Point, et al v. California Coastal Commission (San Diego County Superior Court; Case No. 37-2010-00099827)
- C. CONFERENCE WITH LABOR NEGOTIATOR, Government Code § 54957.6 Agency Designated Representatives: City Manager Unrepresented and Represented Employees: All positions in City

Mayor Bartlett 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 Bartlett reconvened the meeting at 6:03 p.m. All Council Members were present.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

---

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. Russ Chilton, Chief of Police Services; Ursula Luna-Reynosa, Director of Community Development; Brad Fowler, Director of Public Works and Engineering; Kevin Evans, Director of Community Services; Mark Sutton, Building Official; John Tilton, City Architect; Kurth Nelson, Senior Planner; Jackie Littler, Executive Secretary, DyAnne Weamire, Administrative Secretary; and Bobbi Ogan, Deputy City Clerk.

**CLOSED SESSION ANNOUNCEMENT**

Assistant City Attorney Farrell stated that she had no announcement.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Council Member Brough.

**INVOCATION**

The Invocation was provided by Pastor David Mattson from Gloria Dei Lutheran Church.

**PRESENTATIONS AND PROCLAMATIONS**

Business of the Month - Brio Tuscany Grille

Director of Community Development Luna-Reynosa provided a PowerPoint presentation regarding Brio Tuscany Grill. She stated that Brio had opened in Dana Point in 1993. Mayor Bartlett presented Enzo Scognamiglio with a Certificate of Recognition for Brio being selected as the Business of the Month, May 2014. Lauralyn Loynes, representing the Chamber of Commerce presented Enzo with a certificate.

Employee of the Month - Jennifer Anderson

Brad Fowler stated that Jennifer Anderson had worked her way up in the City from Administrative Secretary beginning in 1999 to Senior Management Analyst today in Public Works. He described a few of the duties that Jennifer takes care of for the City. Mayor Bartlett presented Jennifer with a Certificate of Recognition for being selected the Employee of the Month, May 2014.

OCFA Proclamations - Wildfire Awareness Week

Mayor Bartlett presented Battalion Chief Karl Schmutz with a Proclamation recognizing Wildfire Awareness Week.

OCFA Proclamations - Drowning Prevention Awareness

Mayor Bartlett presented Battalion Chief Karl Schmutz with a Proclamation recognizing Drowning Prevention Awareness.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

---

**CONSENT CALENDAR**

Council Member Schoeffel removed Item 17 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER WILLIAM BROUGH, SECONDED BY MAYOR PRO TEM STEVEN WEINBERG, ACCEPT ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 17.

The motion carried by the following vote:

AYES: Council Member William Brough, Council Member Carlos N. Olvera, Council Member Scott Schoeffel, Mayor Pro Tem Steven Weinberg and Mayor Lisa Bartlett

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, APRIL 15, 2014**

APPROVED THE MINUTES.

**3. PLANNING COMMISSION MEETING MINUTES, MARCH 24, 2014**

RECEIVED AND FILED.

**4. PLANNING COMMISSION MEETING MINUTES, APRIL 14, 2014**

RECEIVED AND FILED.

**5. PLANNING COMMISSION MEETING MINUTES, APRIL 28, 2014**

RECEIVED AND FILED.

**6. PLANNING COMMISSION ACTIONS, MEETING OF MAY 12, 2014**

RECEIVED AND FILED.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

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**7. YOUTH BOARD MEETING MINUTES, MARCH 6, 2014**

RECEIVED AND FILED.

**8. YOUTH BOARD MEETING MINUTES, APRIL 3, 2014**

RECEIVED AND FILED.

**9. YOUTH BOARD MEETING MINUTES, APRIL 17, 2014**

RECEIVED AND FILED.

**10. OCEAN WATER QUALITY SUBCOMMITTEE ACTION MINUTES,  
DECEMBER 10, 2013**

RECEIVED AND FILED.

**11. TRAFFIC IMPROVEMENT SUBCOMMITTEE ACTION MINUTES,  
DECEMBER 18, 2013**

RECEIVED AND FILED.

**12. INVESTMENT REVIEW COMMITTEE ACTION MINUTES, JANUARY 13, 2014**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**14. CITY TREASURER'S REPORT, APRIL 2014**

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF APRIL 2014.

**15. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**16. RENEWAL OF THE INFORMATION TECHNOLOGY CONTRACT WITH  
BREA IT**

CONSIDERED RENEWING THE CONTRACT WITH THE CITY OF BREA (BREA IT) FOR CONTRACT INFORMATION TECHNOLOGY SERVICES; AND

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

---

AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT FOR SAID EQUIPMENT AND SERVICES.

**17. APPROVAL OF THE SECOND AMENDMENT TO THE CONTRACT BY AND BETWEEN THE CITY OF DANA POINT AND THE LILLEY PLANNING GROUP**

Council Member Schoeffel removed this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Council Member Schoeffel asked if this contract was large enough to help the City with the current workload now and in the future.

City Manager Chotkevys replied that this contract amendment will help get staff through to the budget adjustment in June, then staff will be looking at the planning and building numbers and may make a recommendation for additional contract effort at that time.

Council Member Schoeffel asked if staff could provide a breakdown of the planning effort.

City Manager Chotkevys replied that 68 percent of our planning effort is geared toward residential projects; with the remaining 32 percent going toward commercial. He added that of the 418 active building permits, 352 are for residential projects representing an assessed value of 20 Million Dollars and 66 are for commercial projects with an assessed value of One Million Dollars.

Director Luna-Reynosa clarified that those numbers are from January 1 to today.

IT WAS MOVED BY COUNCIL MEMBER SCOTT SCHOEFFEL, SECONDED BY MAYOR PRO TEM STEVEN WEINBERG, TO APPROVE AN AMENDMENT (THE "SECOND AMENDMENT") TO THE AGREEMENT FOR CONTRACTOR SERVICES BY AND BETWEEN THE CITY OF DANA POINT AND THE LILLEY PLANNING GROUP (THE "CONTRACT") AND AUTHORIZE AND DIRECT THE CITY MANAGER TO EXECUTE THE SECOND AMENDMENT.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

---

The motion carried by the following vote:

AYES: Council Member William Brough, Council Member Carlos N. Olvera, Council Member Scott Schoeffel, Mayor Pro Tem Steven Weinberg and Mayor Lisa Bartlett

NOES: None

**PUBLIC COMMENTS**

James Littlejohn, Executive Director of Boys and Girls Club Capistrano Valley, spoke of the many accomplishments that the Boys and Girls Club. He urged the Council to consider increasing their contribution to the Club when the budget is discussed. He reported that there are 355 Dana Point children that participate in their programs and it costs roughly \$600 per year for each child.

Alan Wickstrom, Dana Point, complimented the Council and the VFW on the Vietnam Wall. He also voiced his support of the Boys and Girls Club.

Teresa Rathbun, Dana Point, voiced her support for the Boys and Girls Club and encouraged the City Council to continue to provide financial assistance.

Regina Hilburn, San Juan Capistrano, spoke in support of the Boys and Girls Club. She asked the Council to continue to support the Club.

Patti Short, Dana Point, spoke regarding the Dana Point 5th Marine Regiment Support Group. She thanked the City Council for their continued support.

**PUBLIC HEARINGS**

- 18. HEARING ON APPEAL OF PLANNING COMMISSION DECISION APPROVING SITE DEVELOPMENT PERMIT SDP07-15(I) AND CONDITIONAL USE PERMIT CUP98-14(M)(II) AMENDING PREVIOUS APPROVALS TO ALLOW THE RELOCATION AND EXPANSION OF APPROVED CONFERENCE FACILITIES IN PLACE OF THE EXISTING TENNIS COURTS, A REDUCTION IN THE NUMBER OF DETACHED CASITAS FROM THREE TO TWO, MINOR CHANGES TO THE LANDSCAPING PALATE, AND A CORRESPONDING REVISION TO THE HOTEL'S SHARED PARKING PROGRAM**

City Manager Chotkevys introduced the item and Director of Community Development Luna-Reynosa provided a staff report.

Mayor Bartlett opened the Public Hearing.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

---

Judith Hummer, Appellant, stated that she appreciates the revised conditions that have been included. She added that she did not support the removal of Condition 8e regarding the noise monitor requirement on site. She added that the outdoor terrace and function court are very close to the Niguel Beach residents than any other outdoor party location and that she had major reservations with their use and whether the hotel could use these areas and keep the peace. She stated that she was concerned with Condition 8d and the fact that the additional noise decibels could be modified as a result of a noise study.

Ted Harris, California Strategies, Applicant's representative, stated that they were happy that the appellant had recognized the concessions that the City and the applicant had made. He added that if you review Condition 8, you will see that the hotel has to comply with the City's existing noise Ordinance. He stated that the Pavilion space will create a sound barrier which should help the residents in Niguel Shores. He asked the City Council to uphold the Planning Commission's approval of the project.

Council Member Schoeffel asked what does the language in Condition 8d mean that the dB thresholds may be modified as a result of the noise study.

Ted Harris replied that it was their understanding that it would allow the City to be stricter.

Judith Hummer, stated that she was very happy that the City could become stricter. She added that excessive noise has always been a concern due to her daughter's hearing issues.

Rita Bergman, Dana Point, stated that their home was vibrating from drums being played at the hotel. She added that she does not understand how the hotel can claim that will comply with noise when they aren't complying at the moment.

City Manager Chotkevys dispatched Building Official Mark Sutton to Niguel Shores to investigate the complaint.

Irene Fascher, Dana Point, asked for an annual noise mitigation review similar to the parking requirement. She stated that when special use permits are issued for the Salt Creek parking lot or the Ritz Carlton property that the residents should not have to call Code Enforcement to complain.

Mayor Bartlett closed the Public Hearing.

Council Member Schoeffel asked staff how hard it would be to do an annual noise mitigation survey.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

---

Director Luna-Reynosa replied that Condition Number 8 sets the framework for a mitigation monitoring program which was the result of concerns that were raised at the Planning Commission hearing. She felt that the current language allowed for review as necessary, but an annual review could be done if the Council preferred.

Council Member Schoeffel felt that the insertion of the word annual would make the residents more comfortable and asked if that would be too hard.

Director Luna-Reynosa replied that it would not be difficult at the direction of the Council.

Council Member Olvera stated that he agreed with Council Member Schoeffel's comments. He asked how our noise Ordinance compared to other cities and other areas. He also asked if Dana Point's Ordinance was area specific or throughout the City.

Director Luna-Reynosa replied that she thought our Ordinance was in line with what other jurisdictions had adopted. She stated that the noise thresholds are consistent city-wide.

Council Member Olvera asked how the City measures compliance.

Director Luna-Reynosa replied that it is a complaint driven system. She stated that when a complaint is received staff will go out and take a measurement. She added that the City has recently purchased decibel readers with better technology that are calibrated and used frequently.

Council Member Olvera asked if the hotels should do their own monitoring so the City would not have to respond.

Director Luna-Reynosa replied that requirement could be added as a condition of approval. She stated that the noise study by an Acoustical Engineer will identify mitigation measures that the applicant can put into place to help monitor noise on-going.

Council Member Olvera stated that he would prefer to put the burden of responsibility on the violator as opposed to the enforcer and require an annual report to be submitted to the City from these venues.

Director Luna-Reynosa replied that she suspected that would be a likely recommendation from the Engineer.

Mayor Bartlett clarified that could be something we look at in other areas of the City but this item is project specific and we do have an existing Ordinance that we want to modify for this particular project.

City Manager Chotkevys asked if the annual noise study would be done at the expense of the applicant as a condition of this use.



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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

---

Director Luna-Reynosa replied yes.

Council Member Brough thanked the applicant for listening to the neighbors and addressing their concerns. He stated that this is a complaint driven system and the Council should not force the applicant to do an annual report.

IT WAS MOVED BY COUNCIL MEMBER WILLIAM BROUGH, SECONDED BY MAYOR PRO TEM STEVEN WEINBERG, THAT THE CITY COUNCIL CONDUCT A PUBLIC HEARING AND TAKE ACTION TO UPHOLD THE PLANNING COMMISSION'S ACTION BY APPROVING SITE DEVELOPMENT PERMIT SDP07-15(I) AND CONDITIONAL USE PERMIT CUP98-14(M)(II) BY ADOPTING **RESOLUTION 14-05-20-01** WHICH INCLUDES THE ADDITION OF AN ANNUAL NOISE SURVEY AS PART OF THE NOISE MONITORING/MITIGATION PROGRAM AND THE REVISION OF CONDITION OF APPROVAL NUMBER 13 ENTITLED:

*UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF SITE DEVELOPMENT PERMIT SDP07-15(I) AND CONDITIONAL USE PERMIT CUP98-14(M)(II) AMENDING PREVIOUS APPROVALS TO ALLOW THE RELOCATION AND EXPANSION OF APPROVED CONFERENCE FACILITIES IN PLACE OF THE EXISTING TENNIS COURTS, A REDUCTION IN THE NUMBER OF DETACHED CASITAS FROM THREE TO TWO, MINOR CHANGES TO THE LANDSCAPING PALATE, AND A CORRESPONDING REVISION TO THE HOTEL'S SHARED PARKING PROGRAM.*

The motion carried by the following vote:

AYES: Council Member William Brough, Council Member Carlos N. Olvera, Council Member Scott Schoeffel, Mayor Pro Tem Steven Weinberg and Mayor Lisa Bartlett

NOES: None

IT WAS MOVED BY COUNCIL MEMBER SCOTT SCHOEFFEL, SECONDED BY MAYOR PRO TEM STEVEN WEINBERG, TO ADOPT AN ADDENDUM TO THE PREVIOUSLY PREPARED AND ADOPTED NEGATIVE DECLARATION FOR THE PROJECT BY ADOPTING **RESOLUTION 14-05-20-02** ENTITLED:

*UPHOLDING THE PLANNING COMMISSION'S ADOPTION OF AN ADDENDUM TO THE ORIGINAL NEGATIVE DECLARATION FOR SITE DEVELOPMENT PERMIT SDP07-15(I), VARIANCE V07-07, AND CONDITIONAL USE PERMIT CUP98-14(M)(II).*

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

---

The motion carried by the following vote:

AYES: Council Member William Brough, Council Member Carlos N. Olvera,  
Council Member Scott Schoeffel, Mayor Pro Tem Steven Weinberg and  
Mayor Lisa Bartlett

NOES: None

### **UNFINISHED BUSINESS**

There were no Unfinished Business items.

### **NEW BUSINESS**

There were no New Business items.

### **PUBLIC COMMENTS**

There were no additional Public Comments received.

### **STAFF REPORTS**

City Manager Chotkevys thanked Chief Russ Chilton for the tenacity and commitment he is bringing to his new assignment and stated that he really appreciates how he has hit the ground running. He thanked Ursula for her work and added that he was excited that the City has 20 Million Dollars of private investment in people's homes whether it be new construction or a remodel. He also spoke regarding Mike Rose's effort with the recent fires that were displacing Marines and their families in south San Clemente.

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

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

April 17 - Dana Point Chamber Mixer at Boneyard Cafe at Doheny State Beach

April 26 - Chamber of Commerce Ribbon Cutting for So Cal Boot Camp

April 28 - American Legion meeting at Aventura in the Dana Point Harbor

April 29 - State of the City at the St. Regis Hotel

May 1 - Chamber of Commerce Ribbon Cutting for the 20th Anniversary of Planet Beauty

May 4 - Annual Dana Point Grand Prix of Cycling

May 13 - Town Center Association meeting

May 15 - 50th Anniversary of the Vietnam War commemoration of the Traveling Wall opening ceremony and Dana Point Chamber of Commerce mixer at Dana Wharf

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**CITY OF DANA POINT, CALIFORNIA**  
**CITY COUNCIL REGULAR MEETING MINUTES**  
**MAY 20, 2014**

---

May 16 - Delivered welcoming remarks at the 50th Anniversary of the Vietnam War Traveling Wall Commemoration

May 17 - Doheny Blues Festival

Council Member Olvera reported that he had attended the following:

April 29 - State of the City

April 30 - Chamber community meeting regarding Doheny Village and a Lantern Village working group meeting

May 1 - Ribbon Cutting at Planet Beauty for their 20th Anniversary

May 4 - Dana Point Grand Prix

May 8 - Orange County Library Advisory Board

May 14 - State of the County Address

May 15 - Opening ceremony for the Vietnam Wall and a Chamber of Commerce mixer

May 16 - Volunteer at the Vietnam Wall as a name locator

May 17 - Shared experiences at the Vietnam Wall of a high school classmate whose name appears on the Wall

Council Member Schoeffel welcomed Russ Chilton. He reported that he had turned in his list of meetings attended to the City Clerk. He encouraged attendance at the closing performance of the Dana Point Symphony Concert.

Mayor Pro Tem Weinberg stated that he had turned in his list of meetings attended to the City Clerk. He reminded everyone that fire season is now 12 months of the year and that there are some real drought issues. He stated that there were quite a few events coming up in the City including Movies in the Park and the Concerts in the Park.

Mayor Bartlett reported that she had attended several meetings for the Transportation Corridor Agency and a Southern California Association of Governments meeting. She stated that she had provided the opening remarks for two of the days at Vietnam War commemoration event. She added that the Doheny Blues Festival was a great concert and lots of fun. She mentioned that the Quarter 4 report had two areas of substantive increases; restaurants and hotels. She announced that there would be a Memorial Day service at Pines Park. She stated that the Movies in the Park would be held every Friday in June for free. She added that City calendars and Community News guides were available at City Hall or the Chamber of Commerce.

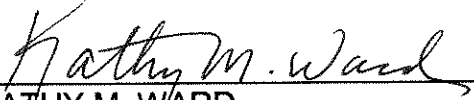
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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

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**ADJOURNMENT**

There being no further business before the Council at this session, Mayor Bartlett adjourned the meeting at 7:30 p.m. and announced that the next Regular Meeting of the City Council will be June 17, 2014, at 5:00 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 JUNE 17, 2014

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

---

Meetings attended since April 15, 2014:

**Mayor Lisa Bartlett**

April 17 South Orange County Association of Mayors meeting and the Orange County Sheriff's Department Medal of Valor Event  
April 19 Pancake breakfast and Easter Egg Hunt at Sea Canyon Park  
April 22 Investment Review Committee meeting  
April 25 Dana Point Symphony Concert  
April 27 Healthy Girls Event in Laguna Beach  
April 29 Provided the State of the City Address at the St. Regis  
May 1-2 SCAG Annual Regional Conference  
May 4 Dana Point Grand Prix  
May 6 Southern California Edison Community Engagement Panel Workshop  
May 14 Welcome BBQ for the Vietnam War Anniversary Commemoration in Sea Terrace Park  
May 15 Provided opening remarks at the 50<sup>th</sup> Anniversary Vietnam War Opening Ceremony  
May 16 State of the County event at the Laguna Cliffs Marriott  
May 17 Provided opening remarks at the City of Dana Point Safety Services Opening Day event for the Vietnam Wall Anniversary  
May 17-18 Doheny Blues Festival at Doheny State Beach

**Mayor Pro Tem Steven Weinberg**

April 16 Lantern District Working Group Meeting Notice  
April 17 26th Annual OCSD Medal of Valor Luncheon  
Vector Control Budget and Finance  
Vector Control Board of Directors  
April 21 OCFA Executive Committee meeting  
April 24 OCFA Board meeting  
OCFA Executive Committee meeting  
April 29 State of City, Dana Point  
April 30 Lantern District Working Group Meeting Notice  
Discovery Center visit for Vector Control.  
May 4 Dana Point Grand Prix  
May 6 OCFA Meeting with OC BOS  
May 8 OCFA Executive Committee meeting  
May 14 Management Partners Briefing for OCFA  
OCFA Budget and Finance Committee Meeting  
May 15 Vector Control Budget and Finance  
Vector Control Board of Directors  
OCFA Press Briefing  
May 18 Doheny Blues Festival

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 20, 2014**

---

**Council Member Scott Schoeffel**

- April 16 Meeting of the joint compensation ad hoc committee of the San Joaquin Hills and Foothill Eastern Transportation Corridor Agencies
- April 25 Dana Point Symphony Orchestra at St. Edward the Confessor Catholic Church
- April 29 State of the City luncheon at the St. Regis Resort and Spa
- May 7 Meeting of the joint legislative ad hoc committee of the San Joaquin Hills and Foothill Eastern Transportation Corridor Agencies
- May 8 San Joaquin Hills Transportation Corridor Agency Board of Directors meeting
- May 9 Event at The Shed Art Center in recognition and support of the Dana Point Symphony volunteers
- May 13 Meeting of the joint compensation ad hoc committee of the San Joaquin Hills and Foothill Eastern Transportation Corridor Agencies
- May 14 Barbecue sponsored by VFW Post 9934 at Sea Terrace Park in connection with the 50<sup>th</sup> anniversary of the commencement of the Vietnam War
- May 17 Dana Point Yacht Club's Opening Day ceremony  
Doheny Blues Festival at Doheny State Beach Park
- May 18 Performed music for the opening ceremonies, and throughout the afternoon, of the final day observing the 50<sup>th</sup> anniversary of the commencement of the Vietnam War at Sea Terrace Park  
Doheny Blues Festival at Doheny State Beach Park