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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
SEPTEMBER 16, 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 5:01 p.m. in the Dana Point Community Center Gym, 34052 Del Obispo, Dana Point, California 92629.

**ROLL CALL OF CITY COUNCIL MEMBERS:**

Present: Mayor Lisa Bartlett  
Mayor Pro Tem Steven Weinberg  
Council Member William Brough (*Arrived at 5:04 p.m.*)  
Council Member Carlos N. Olvera  
Council Member Scott Schoeffel

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), (1 case)

Name of Case: City of Dana Point v. California Coastal Commission, Surfrider Foundation, Headlands Reserve LLC; California Court of Appeal – 4<sup>th</sup> Appellate District – Division One Case No. D060260 (Consolidated with D060369); and

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(1) (1 case):

Surfrider Public Records Request for Fee Waiver

- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d)(1) (2 cases)

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- C. CONFERENCE WITH LABOR NEGOTIATOR, Government Code § 54957.6

Agency Designated Representatives: City Manager  
Unrepresented and Represented Employees: All positions in City

- D. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, Government Code § 54956.8

Location: 34232/34236 Doheny Park Road  
Agency Negotiator: Douglas Chotkevys and Mike Killebrew  
Negotiating Parties: City of Dana Point and Capo Beach Church  
Under Negotiation: Price and terms of agreement relating to property

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 6:09 p.m. All Council Members were present.

**STAFF PRESENT:**

Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Kathy Ward, City Clerk; Mike Rose, Director of Disaster Preparedness; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Brad Fowler, Director of Public Works and Engineering; Kevin Evans, Director of Community Services; John Tilton, City Architect; Mark Sutton, Building Official; Robert Sedita, Management Analyst; Shelley Velez, Senior Personnel Analyst; Christy Teague, Economic Development Manager; Erica Demkowicz, Senior Planner; Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; Bobbi Ogan, Deputy City Clerk; and Jennifer Ransom, City Clerk Specialist.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Munoz announced that the City Council considered the request by Surfrider for Public Records Request Fee Waiver and that the request was declined.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance of was led by Mayor Pro Tem Weinberg.

**INVOCATION**

The Invocation was provided by Chaplain Jeff Hetschel.

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**PRESENTATIONS AND PROCLAMATION**

Business of the Month – Cornerstone Openings

Management Analyst Sedita provided a PowerPoint presentation. He reported that Cornerstone Openings, located on Pacific Coast Highway across from La Plaza Center, first opened in Dana Point three years ago. He stated that they are a premiere supplier of custom doors and windows in Orange County. He added that customer satisfaction is top priority, and Cornerstone Openings partners with local contractors, allowing them to provide a wide range of installation services. Mayor Bartlett presented a Certificate of Recognition to President and CEO Sean Scholl, in honor of Cornerstone Openings being selected the Business of the Month for September 2014. Heather Johnston, CEO of the Chamber of Commerce presented Sean with a free one-year membership to the Dana Point Chamber of Commerce.

Employee of the Month – Matt Kunk

Director of Public Works and Engineering Brad Fowler provided remarks about Matt Kunk. He described Matt's responsibilities in the Public Works department. He stated that Matt had been promoted to a Senior Civil Engineer and was a very valuable asset to the City. Mayor Bartlett presented Matt with a Certificate of Recognition for being selected the Employee of the Month for September 2014.

Certificate of Recognition – Stephanie Rose Ramsey

James Littlejohn, Executive Director of the Boys and Girls Clubs of Capistrano Valley, introduced Stephanie Rose Ramsey. Stephanie provided details on her background and her involvement with the local Boys and Girls Club. Mayor Bartlett presented Stephanie with a Certificate of Recognition for being recognized for her exemplary academic achievements.

Lifesaving Certificate Recognition – Bill Bowden and Ed Schlegel

Battalion Chief Cliff Bramlette of the Orange County Fire Authority introduced Bill Bowden and Ed Schlegel. Battalion Chief Bramlette presented Bowden and Schlegel with a Lifesaving Certificate from the Orange County Fire Authority for their heroic efforts in saving the life of a patron at a local Dana Point restaurant.

Breakthrough San Juan Capistrano Presentation – Lorena Martinez

Lorena Martinez, Director of Breakthrough San Juan Capistrano, provided a PowerPoint presentation summarizing the program offered by Breakthrough San Juan Capistrano.

**CONSENT CALENDAR**

Council Member Brough removed Item 23 from the Consent Calendar.

IT WAS MOVED BY MAYOR PRO TEM WEINBERG, SECONDED BY COUNCIL MEMBER BROUGH, TO ACCEPT ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 23.

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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

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, JULY 1, 2014**

APPROVED THE MINUTES.

**3. PLANNING COMMISSION MEETING MINUTES, JUNE 23, 2014**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**6. PLANNING COMMISSION MEETING MINUTES, AUGUST 11, 2014**

RECEIVED AND FILED.

**7. PLANNING COMMISSION MEETING ACTIONS, MEETING OF SEPTEMBER 8, 2014**

RECEIVED AND FILED.

**8. TRAFFIC IMPROVEMENT SUBCOMMITTEE ACTION MINUTES, JUNE 18, 2014**

RECEIVED AND FILED.

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9. **OCEAN WATER QUALITY SUBCOMMITTEE ACTION MINUTES, APRIL 22, 2014.**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

11. **CITY TREASURER'S REPORT, JUNE, JULY, AND AUGUST, 2014**

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTHS OF JUNE, JULY, AND AUGUST, 2014.

12. **CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

13. **DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT UPDATE REPORT FOR APRIL – AUGUST, 2014**

RECEIVED AND FILED.

14. **HEALTH PLAN PROVISIONS FOR CALENDAR YEAR 2015**

ADOPTED RESOLUTION 14-09-16-01 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.*

15. **2014-2015 SALARY RANGES FOR NON-REPRESENTED EMPLOYEE CLASSIFICATIONS**

ADOPTED RESOLUTION 14-09-16-02 ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING SALARY RANGES FOR NON-REPRESENTED JOB CLASSIFICATIONS.*

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**16. APPROVAL TO SPEND EXISTING AND ANTICIPATED CITIZEN OPTIONS FOR PUBLIC SAFETY (COPS) PROGRAM FUNDS (AB 1913) TO IMPLEMENT AND MAINTAIN FRONTLINE MUNICIPAL POLICE SERVICES**

ADJUSTED THE FY 2014/15 BUDGET WITH THE RE-APPROPRIATION OF UNENCUMBERED CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM UNSPENT MONIES REMAINING FROM THE FY 2013/14 BUDGET, TO THE SUPPLEMENTAL LAW ENFORCEMENT SERVICE FUND (SLESF) ACCOUNT, AND ALLOWED THE APPROPRIATION OF EXISTING AND FUTURE FUNDS FROM THE COPS/SLESF TO IMPLEMENT AND MAINTAIN THE FOLLOWING PROGRAMS IN THE CITY OF DANA POINT:

- APPROVE FUNDING FOR OVERTIME BACKFILL FOR THE SCHOOL RESOURCE OFFICER POSITION FOR THIS SCHOOL YEAR.
- APPROVE FUNDING FOR PROJECT STOP (STOP TRASHING OUR PARKS)
- APPROVE FUNDING FOR PROJECT HIDE IT, LOCK IT, OR LOSE IT
- APPROVE FUNDING FOR PROJECT "IT'S YOUR BUSINESS"

**17. AMENDMENT TO THE CITY'S CONFLICT OF INTEREST CODE**

ADOPTED RESOLUTION 14-09-16-03 ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING THE CONFLICT OF INTEREST CODE.*

**18. EMERGENCY AMBULANCE CONTRACT EXTENSION**

EXTENDED THE CURRENT CONTRACT FOR EMERGENCY AMBULANCE SERVICES TO MARCH 1, 2015, AND AUTHORIZED THE MAYOR TO EXECUTE THE CONTRACT.

**19. DOHENY VILLAGE PRIVATE PROPERTY LEASE FOR PUBLIC PARKING LOT USE AND IMPROVEMENT; PILOT PROJECT AT 34232/34236 DOHENY PARK ROAD**

AUTHORIZED THE CITY MANAGER TO NEGOTIATE A 20-YEAR LEASE AND IMPROVE SUBJECT VACANT DIRT LOT FOR PUBLIC PARKING.

**20. CR&R WASTE FRANCHISE AGREEMENT BI-ANNUAL AUDIT CONTRACT WITH HF&H CONSULTANTS, LLC**

AWARDED A PROFESSIONAL SERVICES CONTRACT TO HF&H CONSULTANTS, LLC FOR A SOLID WASTE FRANCHISE PERFORMANCE

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AUDIT; AND AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT.

**21. 2014-2015 DANA POINT YOUTH BOARD APPOINTMENTS**

APPOINTED ELEVEN (11) BOARD MEMBERS AND FIVE (5) MEMBERS-AT-LARGE TO THE DANA POINT YOUTH BOARD.

**22. HISTORIC PRESERVATION AGREEMENT (MILLS ACT) FOR THE HISTORIC PROPERTY LOCATED AT 34171 RUBY LANTERN**

AUTHORIZED THE MAYOR TO SIGN A HISTORIC PROPERTY PRESERVATION AGREEMENT ALLOWING THE OWNERS OF THE HISTORIC STRUCTURE AT 34171 RUBY LANTERN STREET TO PARTICIPATE IN THE STATE'S MILLS ACT PROGRAM.

**23. FISCAL YEAR 2014-15 PROPOSED BUDGET ADJUSTMENTS**

Council Member Brough removed this item from the Consent Calendar.

City Manager Chotkevys introduced the item and Assistant City Manager Killebrew provided a staff report.

Council Member Brough stated that the staff report indicated how well the City is doing financially. He felt that it was important that the residents to be aware of this. He added that the City was undertaking the largest project in its history.

Council Member Schoeffel thanked staff. He stated how he was encouraged to see that prudence over the years had influenced the City's financial prosperity.

IT WAS MOVED BY COUNCIL MEMBER BROUGH, SECONDED BY COUNCIL MEMBER SCHOEFFEL, THAT THE CITY COUNCIL APPROVE THE AMENDMENTS TO THE FY 2014-15 ("FY15") BUDGET AND AUTHORIZE THE CARRY-OVER AND RE-APPROPRIATION OF ENCUMBERED AND UNENCUMBERED FROM FY14 TO FY15.

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

ABSENT: None

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**PUBLIC COMMENTS**

Nancy Jenkins, Dana Point, stated that she was speaking in support of two groups, the Dana Point 5<sup>th</sup> Marine Support Group and the Dana Point Relay for Life. She added that the Dana Point 5<sup>th</sup> Marine Support Group is looking for civilian volunteers to join "Operation Joining Forces" and for more information please go to [danapoint5thmarines.com](http://danapoint5thmarines.com). She reported that the upcoming Saturday and Sunday is the Dana Point Relay for Life at Lantern Bay Park.

Todd Glen, Dana Point, reported that he is a member of Voices of Monarch Beach. He stated that he wanted to thank the group Save Dana Point with regard to their efforts concerning the Doheny Hotel project. He made comments pertaining to item 24, the Doheny Hotel Project. The Mayor indicated that he was speaking on another item and suggested that he request to speak during public comments for that item.

Scott Williams, Dana Point, stated that he owns a boat and would like to anchor outside of the Dana Point Harbor. He added that there were no safe anchorage points outside of the 500 foot restricted area. He asked that the City Council consider registered anchoring or moorings within the restricted area.

Karin Schnell, Dana Point, reported that she was the Chair of John Wayne Airport's Arts Commission and shared information about the current art exhibition. She stated that the exhibition showcases Orange County's 125<sup>th</sup> anniversary. She added that the exhibition was located in the non-secure area of the airport and that there were brochures available onsite and online at [ocair.com](http://ocair.com). She indicated that Dana Point is showcased very well. She added that Councilmember Carlos N. Olvera is on the Orange County Historical Commission and was involved in putting together an interactive historical map of Orange County.

Erin O'Neill, Laguna Niguel, stated that she noticed a large number of mature trees being removed over the course of the summer and wanted to know why. She asked that Council stop removing mature trees from the City's streets and parks.

Mayor Pro Tem Weinberg requested that Item 25 and 26 be heard before Item 24.

Mayor Bartlett granted the request.

**UNFINISHED BUSINESS**

**25. CONSIDER AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE PCH/DEL PRADO STREETScape IMPROVEMENT PROJECT PHASE 2A PROJECT/MENT PROGRAM**

City Manager Chotkevys provided a staff report.



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Council Member Schoeffel asked if there was anything that ensures that the City will benefit from its bargain by frontloading the cost of these improvements. He asked if a future Council would be required to complete the plan as it was intended.

City Manager Chotkevys replied that there was no way to predict what a future City Council would decide. He stated that absent some form of development agreement, any future City Council could make land use changes.

Council Member Schoeffel stated that once these improvements were made there was a guarantee that they can't be changed; however, there was no guarantee for the rest of the plan, absent a development agreement.

City Manager Chotkevys confirmed his statement.

Council Member Schoeffel stated that he would like to see some protection for the City and the land owners in the form of a development agreement.

Council Member Brough felt that it was important to stay on the process. He asked why there was reference to a reduced project without a staff report.

City Manager Chotkevys clarified that there was no alternate option. If the Council decided to reject the bids, the City would go out to bid again for the reduced project.

Council Member Brough asked City Attorney Munoz if action could be taken on the modified option.

City Attorney Munoz replied that if the City Council would like to see an alternate option for a reduced project that the process would be to reject all bids and rebid for the downsized project.

Council Member Olvera stated that it would be prudent to have a schedule to go along with any alternate option. He felt that it was important to have the complete picture before rejecting the item.

City Manager Chotkevys clarified that there was currently no alternate option available. He stated that the information was provided to the City Council in response to a question.

City Attorney Munoz stated that if information is provided to one Council Member it is provided to all.

Council Member Brough provided an overview of key stages in the project so far and the costs associated.

Mayor Bartlett opened the Public Comments.

Betty Hill, Capistrano Beach, felt that the residents were not provided proper notice of this item and therefore it should be removed and discussed at a future City

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Council meeting. She stated that there should be no rush to spend this money. She added that residents were not going to see any benefit from this money being spent now. She felt that there needs to be a prudent budget in place for the Town Center.

Steve Stewart, Dana Point, stated that he would like to see this item tabled, and give the next City Council a chance to decide what to do with these funds. He felt that it was financially imprudent and that the improvements pull too much money out of reserves. He felt that if this money was spent that there would not be enough money to continue other equally important City projects such as Doheny Village.

Bill McCormack, Newport Beach, stated that he has owned property in Dana Point since 1971. He stated that he supports the approval of this item. He felt that it was important to continue with the pace of the project in order to see it through to completion and avoid costs associated with delaying the project.

Harold Kaufman, Dana Point, stated that the City has been working on the Town Center plan for many years to get to this point. He added that the current plan has been accepted and has the approval of the Coastal Commission. He felt that it was time to complete the project. He added that he would like to see this item approved in its entirety in order to preserve the uniformity of the plan.

Mayor Bartlett closed the Public Comments.

Mayor Bartlett stated that she was aware that everyone wants an improved Town Center; however, she was concerned about the timing and cost. She felt that the suggested improvements will use funds from projected revenues not actuals, and that the amounts could change. She added that she was concerned about wiping out the CIP fund with this item and leaving nothing for future projects. She stated that she would like to see a more prudent alternate option available. She added that the extra money spent not grouping services may be worth spending, if it prevents putting the City in a perilous financial position now.

Mayor Pro Tem stated that it was important to complete the plan that they started. He asked if the City will still have the mandated reserves set aside.

City Manager Chotkevys replied that the City maintains the reserves at the City Council required levels.

Assistant City Manager Killebrew provided clarification and an overview of the funds that were being considered for this project.

Council Member Brough stated that improvements to all areas of the City are equally important. He added that the Town Center Project happened to be the first project. He stated that once this project is complete the City can move on to other projects.

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Council Member Schoeffel stated that he supports the project. He felt that there needs to be more protection that the plan will be completed and meet the expectations of the community.

Council Member Olvera stated that he would like a timeline for the completion of the Town Center Plan. He stated that it was important to have a timeline to allow for the consideration of future projects.

Mayor Pro Tem Weinberg stated that he was encouraged by the current development activity happening in the City but was concerned that this development would cease if this project was stalled.

IT WAS MOVED BY COUNCIL MEMBER BROUGH, SECONDED BY MAYOR PRO TEM WEINBERG, THAT THE CITY COUNCIL APPROVE THE CONSTRUCTION CONTRACT DOCUMENTS REQUIRED FOR THE PCH/DEL PRADO STREETScape IMPROVEMENT PHASE 2A PROJECT (CIP #1242); APPROVE AWARD OF A CONTRACT TO GMC ENGINEERING, INCORPORATED FOR CONSTRUCTION OF THE PCH/DEL PRADO STREETScape IMPROVEMENT PHASE 2A PROJECT (CIP #1242), PROVIDING THAT THE CITY MANAGER OR HIS DESIGNEE SIGNS AND ADMINISTERS THE SUBJECT CONTRACT AND MAY APPROVE ADDITIONAL PAYMENT FOR CHANGE ORDERS, CONTINGENCIES, MANAGEMENT SERVICES, SOILS AND MATERIAL TESTING, SURVEYING, AND CONSTRUCTION DESIGN SUPPORT FOR THE PROJECT; AUTHORIZE THE CITY MANAGER TO PROCESS THE SECOND AMENDMENT TO AGREEMENT WITH PSOMAS FOR ADDITIONAL CONSTRUCTION/DESIGN SUPPORT SERVICES FROM PSOMAS/ROMA; AUTHORIZE THE CITY MANAGER TO EXECUTE A CONTRACT AGREEMENT WITH JM ELECTRIC, INCORPORATED FOR AS-NEEDED ELECTRICAL INSPECTION AND CONSTRUCTION IN THE NOT-TO-EXCEED AMOUNT OUTLINED THE FISCAL IMPACT SECTION AND ACTION DOCUMENT C; AUTHORIZE THE CITY MANAGER TO PAY SDG&E FOR INSTALLATION OF THE NEW STREET LIGHTING SYSTEM FOR THIS PHASE OF THE PROJECT; AUTHORIZE ADDITIONAL SURVEYING SERVICES PER THE AS-NEEDED CONSULTANT SERVICES AGREEMENT WITH HALL AND FOREMAN; AUTHORIZE ADDITIONAL INSPECTION AND MATERIALS AND TESTING SERVICES PER THE AS-NEEDED CONSULTANT SERVICES AGREEMENT WITH GMU GEOTECHNICAL FOR GEOTECHNICAL ENGINEERING; AUTHORIZE ADDITIONAL INSPECTION MATERIALS AND TESTING SERVICES PER THE AS-NEEDED CONSULTANT SERVICES AGREEMENT WITH COASTAL GEOTECHNICAL FOR GEOTECHNICAL ENGINEERING; AUTHORIZE THE PRE-PURCHASE OF TRAFFIC SIGNALS FROM JTB SUPPLY COMPANY FOR THE GOLDEN LANTERN/DEL PRADO INTERSECTION; AND AUTHORIZE THE CITY MANAGER TO REIMBURSE SCWD FOR SEWER RELOCATION.

The motion carried by the following vote:

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AYES: Council Member William Brough, Council Member Carlos N. Olvera, Mayor Pro Tem Steven Weinberg

NOES: Council Member Scott Schoeffel, Mayor Lisa Bartlett

ABSENT: None

## **NEW BUSINESS**

### **26. SKATE PARK STUDY OVERVIEW**

City Manager Chotkevys introduced the item and Management Analyst Sedita provided a staff report.

City Manager Chotkevys thanked Management Analyst Sedita for the report. He stated that limited open space and finding an appropriate location for a skate park was the biggest challenge. He stated that the two locations that could be considered were the Doheny State Beach area and the South Coast Water District site.

Mayor Pro Tem Weinberg asked if at any time there had been discussion about reaching out to private operators of skate parks.

City Manager Chotkevys replied that he wasn't directed to, but would if directed by City Council.

Mayor Bartlett agreed that the challenge was finding an appropriate location. She agreed with reaching out to State Parks.

Mayor Bartlett opened Public Comments

Bradley Ellis, Dana Point, asked that the City Council consider building a skate park. He felt that a skate park would benefit tourism and the community.

Brandon Phillips, Dana Point, asked that City Council consider building a skate park. He felt that if the City Council looked into recent advances in skate park design, that they might be surprised by what could be built on a modest sized lot.

Jasmine Smith, Dana Point, asked that the City Council re-zone a passive park into a park that people could use.

Deana Christakes, Dana Point, stated that this was the second meeting that she has attended regarding this issue. She felt that no one was looking out for the kids in the community.

Richard M. Banister, Dana Point, stated that he appreciated the desire to build a skate park. He felt that it may be unwise to consider asking for land from the South Coast Water District. He suggested Sea Terrace Park as a better alternative.

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Mayor Bartlett closed Public Comments

Council Member Brough stated that he appreciated the desire of the community and supported further efforts to find a suitable location. He suggested contacting the City of San Juan.

City Manager Chotkevys stated that he would reach out to the City of San Juan Capistrano as well.

Council Member Olvera stated that he supported reaching out to neighboring jurisdictions.

Council Member Schoeffel stated that he supported taking a closer look into the options. He added that he would like a detailed analysis of what it takes to build and operate a skate park.

City Manager Chotkevys stated that information was readily available for building and operating a skate park. He felt that the challenge was to find an appropriate location.

Mayor Bartlett stated that she supported reaching out to neighboring jurisdictions.

Mayor Pro Tem Weinberg felt that it may be beneficial to reach out to private investors that may be in the business of building and operating skate parks.

Council Member Olvera stated that Doheny State Park was given to the State by a Capistrano Beach resident.

City Manager Chotkevys stated that he would start with contacting the Director of State Parks.

RECEIVED AND FILED THE SKATE PARK STUDY OVERVIEW. COUNCIL DIRECTED STAFF TO REACH OUT TO NEIGHBORING JURISDICTIONS (STATE PARK, CUSD, SCWD, AND SAN JUAN CAPISTRANO) FOR POSSIBLE PARK SITES AND RETURN TO COUNCIL WITH A REPORT.

Mayor Bartlett recessed the meeting at 8:09 p.m. and reconvened the meeting at 8:26 p.m.

## **PUBLIC HEARINGS**

24. **HEARING ON APPEAL OF PLANNING COMMISSION DECISION DENYING COASTAL DEVELOPMENT PERMIT (CDP09-0011), VARIANCE (V09-0003), CONDITIONAL USE PERMIT (CUP09-0009) AND SITE DEVELOPMENT PERMIT (SDP09-0032) FOR THE DEMOLITION OF EXISTING STRUCTURES AND THE CONSTRUCTION OF A NEW 248,850 SQUARE FOOT HOTEL WITH 250 ROOMS THAT WILL RANGE FROM TWO TO FIVE STORIES IN HEIGHT. THE APPLICATION INCLUDES A VARIANCE TO EXCEED THE MAXIMUM**

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**ALLOWABLE BUILDING HEIGHT AND TO DEVIATE FROM REQUIRED BUILDING SETBACKS. A CONDITIONAL USE PERMIT IS BEING REQUESTED TO ALLOW AN ALTERNATIVE TO THE OFF-STREET PARKING REGULATIONS THROUGH A SHARED PARKING AND VALET PROGRAM. A FINAL ENVIRONMENTAL IMPACT REPORT (EIR) HAS BEEN PREPARED TO ADDRESS POTENTIAL ENVIRONMENTAL IMPACTS ASSOCIATED WITH THE PROJECT. THE SUBJECT SITE IS LOCATED AT THE SOUTHWEST CORNER OF DANA POINT HARBOR DRIVE AND PACIFIC COAST HIGHWAY IN THE COASTAL COUPLET COMMERCIAL (C-CPC) AND COASTAL VISITOR COMMERCIAL (C-VC) ZONES OF THE DANA POINT SPECIFIC PLAN**

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

Council Member Schoeffel asked if the site had changed since 2009.

Director Luna-Reynosa replied that she was not aware of any changes to the site since 2009.

Council Member Schoeffel asked if there was originally supposed to be more parcels included in this project than were currently being considered.

Director Luna-Reynosa replied that to her knowledge the project was always meant to include the present number of parcels.

Council Member Schoeffel asked if there have been any changes to the zoning ordinance since 2009 applicable to this project.

Director Luna-Reynosa replied that the zoning ordinance has not changed applicable to this project since 2009.

Council Member Schoeffel asked if there were past discussions regarding alternate land use remedies such as re-zoning. He asked if a request for a variance was encouraged or discouraged.

Director Luna-Reynosa replied that since she was not with the City at that time, that she was not a part of those discussions; however, she was not aware of there ever being a request for re-zoning. She stated that to her knowledge it was communicated to the applicant that the process to obtain the required variances would be difficult.

Council Member Schoeffel asked for confirmation that the site had not changed and the zoning had not changed for the site since 2009.

Director Luna-Reynosa confirmed.

Mayor Bartlett opened the Public Hearing.

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Coralee Newman and Bob Theel spoke on behalf of Draz/Beverly Hills Hospitality the appellant. Coralee Newman provided an overview of the modifications to project and Bob Theel Provided a PowerPoint presentation.

Nancy Jenkins, Dana Point, thanked Coralee Newman and Bob Theel for their efforts. She stated that she was opposed to the project. She felt that even with the modifications, the project was not consistent with planning and design standards for the City. She questioned if the recommended restrictions could be or would be adhered to.

Bob Moore, Dana Point, stated that he was attending the meeting as a resident, and not as a Board Member for the South Coast Water District. He stated that he has been a resident of Dana Point for 37 years. He asked that the City Council uphold the Planning Commission decision to deny this project.

Chuck Rathbone, Dana Point, stated that he supported the Planning Commission's unanimous decision to deny this project. He stated that he was concerned because the Planning Commission had not yet reviewed the recent modifications being presented. He felt that the decision should be to uphold the Planning Commission's denial, or if the modifications were to be considered, that the project be sent back to the Planning Commission.

Julia Lisle, Dana Point, stated that she was there to share her generation's opinion on the hotel. She felt that the project would have a negative impact on the residents. She added that the City has a sufficient number of hotels to accommodate tourists. She stated that she hoped that the City Council would consider her generation and focus on building something that would benefit the residents.

Joe Cury, Dana Point, stated that the hotel would increase City revenue. He felt that the increase in City revenue would provide for enhanced City services and provide for better quality of life for the residents. He added that the hotel would generate less activity than several smaller storefronts. He stated that the project should be approved provided the conditions are met.

Lester "Buck" Hill, Dana Point, stated that there were liability concerns with the project. He felt that the public parking will not be available for public use. He felt that the portion of the park being used for the parking spaces was not the best use for the public.

John Murphy, Dana Point, stated that he has been a resident for 25 years. He stated that the Planning Commission has reviewed extensive data that the City Council does not have. He felt that if the modifications were to be considered that the Planning Commission should review them. He asked that the City Council support the Planning Commission and the residents.

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Steven Moss, Dana Point, stated that outsiders are trying to change laws and felt that the residents would suffer for it. He added that the City Council needs to support the public, and the Planning Commission's decision.

Jim Johnson, Dana Point, stated that he has been a resident for 18 years. He felt that the project site needed improvement but not this project. He felt that there were several issues with approval of the current project at this site, including bike and pedestrian safety concerns, traffic issues, and delivery issues. He added that there is no mention of how the hotel planned to stage specialty vehicles for meetings or special events. He asked that the City Council support Planning Commission's decision.

Michael Luna, San Clemente, reported that he is President of the Architect Guild of South Orange County. He stated that the development team for the project met with their group and presented and discussed the proposed changes. He and the group felt that the modifications were a step in the right direction, but still needed review in certain areas. He added that the project is closer to compliance, considering the current modifications. He stated that he supports the approval of the project, if additional language was added to the conditions to satisfy concerns of the Planning Commission.

Michael Mollenhauer, Dana Point, stated that he recently moved himself and his business to Dana Point after being a visitor for many years. He stated that he supports the project. He added that the project will benefit economic development and tourism. He asked that the City Council support the approval of the project.

Mike Powers, Dana Point, stated that he was a commercial property owner in Dana Point. He stated that he was in favor of the hotel. He felt that the area was in need of improvement and was tired of the empty lots. He felt that the developer had made numerous concessions after hearing the concerns of the residents and Planning Commission, and would like to see the project move forward.

John Maturo, Capistrano Beach, stated that he was tired of looking at the abandoned corner, and getting approached by the vagrants in that area. He felt that in order for the City to remain prosperous it must progress. He added that he was in favor of the project.

Pam Shannon, Capistrano Beach, stated that she was in favor of the project. She felt that the hotel would welcome visitors when they came into the City and would encourage them to stay. She stated that it would generate revenue for the City and employment opportunities for the younger generation.

Charles Allocter, Capistrano Beach, stated that he was a longtime resident and was in favor of the project. He added that developers were coming to the City and



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spending money. He felt that it was unfortunate that it has taken this long to improve this area and that it was definitely time.

Drew Reynolds, Dana Point, felt that the project was not consistent with the overall planning for the City. He added that it was important to use the Town Center Plan as a comparison to preserve design consistency throughout the City. He asked that the City Council take this into consideration. He added that he thinks that it is a great spot for a hotel, but a hotel with a more consistent design.

Betty Hill, Capistrano Beach, felt that it was not an attractive hotel. She added that the number of floors was not correctly reported. She stated that she was concerned that there was no employee parking.

Wayne Via, Dana Point, stated that he attended three meetings of the Planning Commission. He was concerned about how the hotel would look while driving down PCH. He felt that there will be a hotel on the site eventually, but that this design needed improvement.

Doug Green, San Clemente, stated that he had been a resident on and off for 10 years. He added that he was a commercial real estate agent specializing in the area. He felt that the project would encourage tourism and economic development. He stated that he supports the project.

Cheryl Yocum, Dana Point, thanked the Planning Commission. She felt that the City Council should support the action of the Planning Commission. She stated that she understands that the site needs development but that this project would overdevelop the spot. She added that she was not opposed to a hotel. She felt that by approving another hotel it would take away from the other hotels.

Jack Lanier, Dana Point, stated that he was not opposed to most items. He felt that the process should be that the modifications be reviewed by the Planning Commission. He added that the Planning Commission decision should be supported. He stated that if the City Council were considering rezoning the area they should start that process and get public opinion on that.

Deborah Remeyer, Dana Point, stated that she completely supports the project. She felt that the project would create new jobs and encourage tourism.

Ron Remeyer, Dana Point, felt that the site needed development. He felt that the project was a great opportunity and a great plan.

Steve Stewart, Dana Point, stated that the need for developing the corner was not an excuse to allow a project that is not appropriate for the site. He felt that the project should conform to standards.

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William Sarros, Dana Point, stated that he has been a resident for 34 years. He felt that the project would be good for the City and that he supports the project.

Cyndi Elders, Dana Point, stated that she has been a resident for 15 years. She stated that she supports the project. She felt that the caliber of hotel would be consistent with the other hotels in the City. She added that the developers have made numerous concessions and she hopes that they have been noticed.

Bob Elders, Dana Point, stated that he supports the project. He felt that the developer has scaled back to successfully address the concerns of the residents.

Duane Fitzgerald, Laguna Niguel, stated that he has lived most of his life in Dana Point and was in support of the project. He stated that he was concerned that developers were going to walk away when the site still needs to be developed.

Samir Ibreighith, San Juan Capistrano, stated that he fully supports the project. He stated that as a business owner across from the site, he is forced to look at it every day and would like to see it developed.

John H. Hazelrigg, Dana Point, stated that he has been a resident for 19 years. He asked if the Planning Commission denied the project's request for a variance based on the municipal code where in the findings would the City Council approve it. He asked how another hotel asking for a variance could be denied if this project is approved. He stated that he was opposed to the project.

Keith Johannes, Dana Point, stated that his main issue was with the appeal process. He felt that the Planning Commission should review the modifications not the City Council. He stated that the project should be denied or sent back to the Planning Commission.

Darren Perman, Dana Point, stated that he has been a resident for 25 years. He stated that he was disappointed in the modifications that were presented. He felt that the developer did not listen to the resident's concerns or the Planning Commission.

Raymond Payne, Dana Point, stated that the Planning Commission voted against the project because it was a bad project. He felt that the City Council should see the errors of the project. He added that the residents are against it. He felt that there was no guarantee that the hotel would be an upscale hotel. He added that he was concerned about conditions that can be changed in the future. He asked that the City Council support the Planning Commission's decision.

Craig Sink, Dana Point, stated that he has been a resident since 2001. He asked that the City Council support the Planning Commission's decision.

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Sandie Iverson, Capistrano Beach, asked that the developer do something to improve the corner to make it look nicer until a project is approved.

Carl Iverson, Capistrano Beach, stated that he wants a hotel at this location, but this was not the right one. He felt that there are a number concerns.

Rick Morgan, Dana Point, stated that he was against the project. He felt that the plan was not consistent with the planning throughout the city. He asked the City Council reject the project.

Susan Hinman, Dana Point, asked that the City Council deny the appeal. She felt that even with the modifications the project was not suitable for the site.

Ken Yoshino, Dana Point, stated that he was against the project. He felt that this project was going to create significant liability for the City. He asks that the City Council support the Planning Commission.

Audrey Biesk, Newport Beach, spoke on behalf of Tom Quirk, Dana Point and voiced support for the project.

Albert Hanna, Newport Beach, stated his concern for what would be developed in place of the hotel if this project were denied. He felt that the project would bring visitors and revenue to the City. He asked that the City Council approve the project.

Josh Canter, Irvine, stated that he is an Associate with Government Solutions. He stated that the result of the various community outreach efforts showed overwhelming support for the hotel.

Mayor Bartlett recessed the meeting at 10:40 p.m. and reconvened the meeting at 10:57 p.m.

Coralee Newman spoke on behalf of Draz/Beverly Hills Hospitality for the appellant rebuttal. She stated that the hotel has revised numerous items to address the concerns of the residents and the Planning Commission. She added if the City Council decided to approve the project, the applicant was willing to include language for the building of a bridge. She stated that the highest use for the site was visitor serving uses. She stated that all of the hotels in the City have been granted variances. She added that it was their intention to follow the rules of Dana Point as well as address all of the concerns of the residents and Planning Commission. She felt that the mass, scale, traffic, and height concerns have been remedied. She thanked everyone for providing feedback.

Mayor Bartlett closed Public Hearing.

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Mayor Pro Tem Weinberg asked the City Attorney if the park could be utilized in the manner suggested by the project.

City Attorney Munoz replied that in the event the City Council was inclined to approve the project including the portion of parkland, it becomes a factual question for the City Council to make a determination on. It is at the discretion of the City Council considering the terms of the grant deed from the County of Orange.

Council Member Brough felt that the Zoning Code was crucial to development. He stated that it appears that the Zoning Code has been adhered to on a project by project basis. He stated that the residents are supportive of a project but that it needs to be the right project.

Mayor Bartlett ask if the cited variances were granted by the County of Orange.

Director Luna-Reynosa confirmed that the variances were granted under the County of Orange.

Council Member Schoeffel stated that he would like to see the site developed. He reiterated the importance of utilizing the Zoning Ordinance consistently throughout the City. He restated the requirements for a variance.

Mayor Bartlett stated that residents want an improvement on the site. She stated that the Planning Commission has not had the benefit of reviewing the modified plan and would like it sent back to the Planning Commission so they can review the modifications and take into account the comments from the residents.

Council Member Olvera sited findings in the EIR that address items that cannot be mitigated. He also commented on findings that may override the environmental concerns.

Council Member Schoeffel discussed the findings and added that they support two separate decisions.

Mayor Pro Tem Weinberg asked the applicant if they could come back at the October 7<sup>th</sup> City Council Meeting and present a project that would be accepted.

Mayor Bartlett stated that it was too short of a timeframe.

City Attorney Munoz stated that there needs to be a motion to reopen the public hearing and continue it to a date certain if that is what the City Council choses.

Council Member Olvera felt that the developer was trying to force a project that cannot be supported by the size of the site.

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City Manager Chotkevys asked for clarification from Mayor Pro Tem Weinberg on what he expects of the applicant.

Mayor Pro Tem Weinberg restated what the requirements were if the applicant agreed to come back for the next City Council Meeting.

City Manager Chotkevys stated his concern was that the staff may not have enough time before the October 7<sup>th</sup> meeting with other equally important projects scheduled for the next meeting.

Mayor Pro Tem Weinberg stated that this process needs to have an end.

Mayor Bartlett stated her concern for the other projects and felt that they were just as important.

Mayor Pro Tem Weinberg replied that this process should take very little staff time and that it is up to the applicant to come back with an acceptable plan.

Council Member Schoeffel suggested to uphold the appeal and give guidance for reapplication.

Mayor Bartlett felt that the Planning Commission needed to have the option of reviewing the modified plan.

Coralee Newman accepted the option, on behalf of Draz/Beverly Hills Hospitality the appellant, to come back on October 7<sup>th</sup> provided City Council approval.

IT WAS MOVED BY MAYOR PRO TEM WEINBERG, SECONDED BY COUNCIL MEMBER BROUGH, THAT THE CITY COUNCIL REOPEN THE PUBLIC HEARING AND CONTINUE THIS ITEM TO THE NEXT REGULAR CITY COUNCIL MEETING HELD ON OCTOBER 7, 2014.

The motion carried by the following vote:

AYES: Council Member William Brough, Council Member Carlos N. Olvera, Mayor Pro Tem Steven Weinberg

NOES: Council Member Scott Schoeffel, Mayor Lisa Bartlett

ABSENT: None

#### **PUBLIC COMMENTS**

There were no additional Public Comments received.

#### **STAFF REPORTS**

There were no Staff Reports.

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

Council Member Olvera stated that he would turn in his list of meetings attended to the City Clerk.

Council Member Brough stated that he would turn his list of meetings attended to the City Clerk.

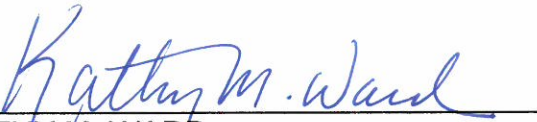
Council Member Schoeffel stated that he would turn his list of meetings attended to the City Clerk

Mayor Pro Tem Weinberg stated that he would turn in his list of meetings attended to the City Clerk.

Mayor Bartlett stated that she would turn in her list of meetings attended to the Clerk. She added that there were a number of upcoming events such as the Relay for Life on September 20<sup>th</sup>-21<sup>st</sup>, Battle for the Paddle on October 4<sup>th</sup>-5<sup>th</sup>, Re-grand opening of the Dana Point Library on October 4<sup>th</sup>, Dana Point Historical Society Home Tour October 5<sup>th</sup>, Dana Point Oktoberfest hosted by Pet Project Foundation on September 28<sup>th</sup>, and Coastal Cleanup Day on September 20<sup>th</sup>. She announced the fall edition of Community News was available.

**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Bartlett declared the meeting adjourned at 11:45 p.m. and announced that the next Regular Meeting of the City Council would be on October 7, 2014, at 5:00 p.m. in the Community Center Gym, located at 34052 Del Obispo, Dana Point, California.

  
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KATHY M. WARD  
CITY CLERK

APPROVED AT THE MEETING OF OCTOBER 7, 2014

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Meetings attended since July 1, 2014:

**Council Member Carlos N. Olvera**

July	23	Orange County Fair
July	31	League of California Cities, Orange Division
August	09	Seafood Festival
August	16	Lobster Fest
August	26	John Wayne Airport 'Orange County 125 <sup>th</sup> Anniversary' event
August	29	Orange County Marine Protected Area cruise
September	3-6	League of Cities convention, LA
September	12	What a Dish ribbon cutting

**Council Member Bill Brough**

July	02	Ribbon Cutting for Capo Beach Farmers Market
July	16	Dana Point, San Juan, and San Clemente Day, Orange County Fair
August	08	Orange County Association of Realtors day, Doheny State Beach
August	16	Monarch Beach Sunrise Rotary Lobster Fest, Doheny State Beach
August	18	American Legion meeting, Aventura Dana Point Harbor
August	19	Water and Sewer Committee meeting, City Hall
August	27	Jimmy's Famous Tavern 1 year anniversary event, Harbor
September	04	Orange County Taxpayers Association Roses & Radishes dinner, Irvine
September	11	Saddleback College 9/11 ceremony, Saddleback College Veterans Memorial
September	11	Taste of South County 4 city chamber reception, San Juan Capistrano
September	13	Ribbon Cutting for Waterman's Restaurant, Dana Point Harbor
September	15	American Legion meeting, Aventura Dana Point Harbor

**Mayor Pro Tem Steven Weinberg**

July	02	Capistrano Beach Farmers Market ribbon cutting ceremony
July	09	OCFA Budget and Finance Committee meeting
July	17	Vector Control Board meeting
July	17	OCFA Executive Committee meeting
July	24	OCFA Claim meeting
July	24	OCFA Board meeting
August	05	OCFA HR Committee meeting
August	13	OCFA Budget and Finance Committee meeting
August	14	OCFA Vision meeting
August	16	Monarch Beach Sunrise Rotary Lobster Fest
August	19	Water and Sewer Committee meeting
August	21	Vector Control Board meeting

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August	21	OCFA Executive Committee meeting
August	26	Ocean Water Quality Subcommittee meeting
September	10	OCFA Budget and Finance Committee meeting
September	13	VIP opening of Waterman's Harbor Restaurant
September	15	5 <sup>th</sup> Marine Support Group "Laughs for Leathernecks" Dinner and Comedy Show

**Mayor Lisa Bartlett**

7/1-9/11/14		Attended several TCA meetings and several Concerts in the Park
July	08	Be Blown Away ribbon cutting ceremony
July	10-11	Southern California of Governments (SCAG) retreat
July	16	Orange County Fair Flag Raising ceremony
July	17	SOCAM meeting
July	18	Sun Salute Yoga grand opening and ribbon cutting ceremony
July	18	Billy Blanks Art Studio grand opening and ribbon cutting ceremony
July	22	St. Margaret's School Breakthrough breakfast and awards ceremony
July	31	California League of Cities meeting
August	07	Age Well Senior Services Founders' Tea
August	13	Tri city Chamber of Commerce event
August	15	San Juan Capistrano Rodeo Week kickoff event
August	16	Fish for Life event
August	16	Monarch Beach Sunrise Rotary Lobsterfest event
September	08	Alzheimer's GO Purple Campaign
September	09	Ocean Institute Board of Director's meeting
September	11	Taste of South Orange County
September	13	Waterman's Harbor Restaurant grand opening and ribbon cutting ceremony