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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

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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 Lewis at 5:06 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

**ROLL CALL OF CITY COUNCIL MEMBERS:**

Present: Mayor Debra Lewis  
Mayor Pro Tem Paul N Wyatt  
Council Member Joseph L. Muller  
Council Member John A. Tomlinson  
Council Member Richard A. Viczorek

Absent: None

**CLOSED SESSION**

City Attorney Munoz indicated that there was a need for Closed Session discussion and stated that there was also a need to eliminate one item under Anticipated Litigation Government Code § 54956.9 (d1).

- A. CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d1), (4 cases)
- B. CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION, Government Code § 54956.9 (a), (1 case) City of Dana Point v. Headlands Reserve LLC, Sanford Edward, et al (Orange County Superior Court Case No. 30-2016-00872051)
- C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957  
Title: City Attorney

Mayor Lewis recessed the meeting into a Closed Session at 5:07 p.m. pursuant to Government Code Section 54956 et seq.

**RECONVENE CITY COUNCIL MEETING - CALL TO ORDER**

Mayor Lewis reconvened the meeting at 6:23 p.m. All Council Members were present.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

STAFF PRESENT: Patrick Munoz, City Attorney; Mike Killebrew, Acting City Manager; Kathy Ward, City Clerk; Mike Rose, Director of Disaster Preparedness; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Mark Denny, Deputy City Manager; Matthew Schneider, Planning Manager; Brian McClure, Deputy Director of Community Services and Parks; Matthew Sinacori, Deputy Director of Public Works and Engineering; Kelly Reenders, Economic Development Manager, Jeff Rosaler, Parks Manager, and Bobbi Ogan, Deputy City Clerk.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Council Member Viczorek.

**INVOCATION**

The Invocation was provided by Chaplain Morrie Hansen of VFW Post 9934.

**PRESENTATIONS AND PROCLAMATIONS**

Business of the Month - Kenny's Music Store

Economic Development Manager Reenders provided a PowerPoint presentation. She reported that Kenny began teaching fourteen students in his home after he returned home from touring with his band. When he grew too large to continue lessons at home, he opened shop at his current location in La Plaza. She stated that giving back to the community was important to Kenny's Music and that he was a big supporter of Game Changer. Kenny's has also helped support benefit concerts for Children's Hospital of Orange County and has given many donations to local schools as well. Mayor Lewis presented Kenny and Michelle Williams with a Certificate of Recognition for Kenny's Music being selected Business of the Month for January 2017. Heather Johnston CEO of the Dana Point Chamber of Commerce presented Kenny and Michelle with a Certificate on behalf of the Chamber.

VFW Voice of Democracy

Wayne Yost Post Senior Vice Commander of Post 9934 introduced Jason Kalili, the VFW Voice of Democracy winner. Jason read his winning essay and Senior Vice Commander Yost presented Jason with a Certificate, a medal, and a check. Mayor Lewis presented Jason with a Certificate of Recognition on behalf of the City for his honor.

**CONSENT CALENDAR**

Mayor Lewis announced that Item 12 would not be heard due to the withdrawal of the appeal.

Council Member Viczorek removed Item 6, and members of the public removed Items 4 and 9 from the Consent Calendar.

---

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER JOHN A. TOMLINSON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 4, 6, AND 9.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

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, DECEMBER 6, 2016**

APPROVED THE MINUTES.

**3. ADJOURNED REGULAR MEETING MINUTES, DECEMBER 15, 2016**

APPROVED THE MINUTES.

**4. PLANNING COMMISSION MEETING MINUTES, NOVEMBER 14, 2016**

A member of the Public removed this item from the Consent Calendar.

Mayor Lewis opened the Public Comments.

Irene Fascher, Dana Point, felt that it would be appropriate to include on the City website a list of all of the Art In Public Places either under Points of Interest or on the Arts and Culture page. She stated that the list should include a picture and a description of the art so the residents could find them. She suggested a Walking Tour of the art in a brochure to be provided for visitors at the hotels. She stated that the public should be able to participate in discussions for the art funds.

Mayor Lewis closed the Public Comments.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

Council Member Muller stated that the speaker had made some good points about identifying where the arts are in the City and felt that staff should do something like that.

Deputy City Manager Denny replied that staff has been working with the Arts and Culture Commission in collecting the inventory with photographs and staff anticipates that the information should be up on the website by February.

IT WAS MOVED BY MAYOR PRO TEM PAUL N WYATT, SECONDED BY COUNCIL MEMBER JOHN A. TOMLINSON, THAT THE CITY COUNCIL RECEIVE AND FILE THE MINUTES.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

**5. YOUTH BOARD MEETING MINUTES, NOVEMBER 3, 2016**

RECEIVED AND FILED.

**6. FINANCIAL REVIEW COMMITTEE MEETING MINUTES, SEPTEMBER 23, 2015**

Council Member Viczorek removed this item from the Consent Calendar.

Council Member Viczorek felt that the minutes could not be received and filed because they have not been properly approved yet. He stated that Carlos Olvera was not on the Financial Review Committee but the minutes state that he was the chair of the meeting. He added that his motion would be to not receive and file.

Acting City Manager Killebrew replied that it was his mistake that Council Member Viczorek was not invited to the December meeting where these minutes were approved by the Committee. He stated that there was a staff mix up because of the Council reorganization. He felt that the minutes could be received and filed due to the fact that the meeting was properly noticed and that there was a majority of the committee members at the meeting.

City Attorney Munoz stated that the proper solution would be to put the business issues on the next Financial Review Committee agenda and ratify what had occurred at the prior meeting.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

Council Member Viczorek stated that his motion would not change that the minutes should not be received and filed.

City Attorney Munoz felt that Council Member Viczorek's motion was appropriate under the facts.

IT WAS MOVED BY COUNCIL MEMBER RICHARD A. VICZOREK, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL NOT RECEIVE AND FILE THE MINUTES.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

Council Member Muller stated that Item 14 on New Business is affected by this action and should be pulled from Council consideration.

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

RECEIVED AND FILED.

**8. CITY TREASURER'S REPORT, NOVEMBER 2016**

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF NOVEMBER, 2016.

**9. CLAIMS AND DEMANDS**

A member of the public removed this item from the Consent Calendar.

Mayor Lewis opened the Public Comments.

Buck Hill, Capistrano Beach, felt that the Council could be given better tools to make financial decisions. He spoke of the legal costs the City has been paying to Rutan & Tucker.

Mayor Lewis clarified that the amount paid to Rutan & Tucker in December was for three months, not just one month as the speaker had mentioned.

Mayor Lewis closed the Public Comments.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

Acting City Manager stated that he would be happy to provide a listing of current year expenditures or past year expenditures by month for our legal services. He added that any variances to the budget would appear in the quarterly report and he clarified that Doug Chotkevys' severance would appear in our payroll service numbers as well as show up in the monthly financial statements when they post.

IT WAS MOVED BY MAYOR PRO TEM PAUL N WYATT, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL RECEIVE AND FILE THE CLAIMS AND DEMANDS.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, and Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

**10. DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT/VISIT DANA POINT QUARTERLY REPORT FOR OCTOBER AND DECEMBER 2016**

RECEIVED AND FILED THIS REPORT.

**11. MONTHLY FINANCIAL ACTIVITY REPORT, OCTOBER AND NOVEMBER 2016**

RECEIVED AND FILED THE MONTHLY FINANCIAL ACTIVITY REPORT FOR OCTOBER AND NOVEMBER 2016.

**PUBLIC COMMENTS**

Steven Wontrobski, Mission Viejo, spoke of the city's overcharges from OCFA. He stated that member cities were liable for pensions.

Cindy Fleming, Dana Point, spoke of her Santa Clara neighborhood and how the improvements made by the City had unintended consequences for the residents. She stated that there is increased traffic through the neighborhood and overflow business parking. She suggested the City install planters on the residential side of the alley on each of the Lantern streets for a short distance as people come into the neighborhood which will calm traffic speeds and provide a de-markification between business and residential areas. She stated that within each planter a sign facing incoming traffic should be provided which reads "entering historic residential neighborhood no business parking". She also asked for three-way and four-way stop signs at all intersections on Santa Clara to stop the cut through traffic and mitigate speeding through the neighborhood.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

Carol Kelly, Dana Point, asked for additional stop signs to be installed on Santa Clara. She felt that the traffic will only increase when more businesses and homes are built. She asked for Santa Clara to be designated as a historic district and for signage indicating no business parking. She stated that a central parking structure was needed.

Penny Maynard, Dana Point, spoke of ideas she has to better connect residents with their Council Members. She suggested City Council districts, bring back bi-weekly Council Member office hours at City Hall, an E-News letter from the City Manager or Deputy City Manager of projects including upcoming projects and meetings. She stated that the newsletter could also be included on the website. She added that when hiring a new City Manager be mindful that it should be someone whose heart and soul cares about Dana Point and realizes that it is a 24-7 job.

Ross Teasley, Dana Point, invited everyone to look at an initiative that he has created on line called [opendanapoint.org](http://opendanapoint.org). He stated that the intention was to seek to establish an open data policy, make it easier for residents to understand and participate in City government, improve accountability and build trust between staff and residents; increase government transparency, increase information sharing and understanding the data from staff. He added that his goal in this effort is to begin with setting policies for government data.

Toni Nelson, Capistrano Beach/Capo Cares, reported on the community meeting they held last week regarding the lower portion of Pines Park. She stated that the initial thought was to use this area for a dog zone, but learned most residents wanted to restore the park but not for dog use. She added that geology and financial feasibility studies will need to be done. She asked for consideration of a dog zone somewhere in Capistrano Beach. She thanked the Architectural Guild of South Orange County for their efforts and asked for their presentation to be included on a future agenda.

## **PUBLIC HEARINGS**

- 12. AN APPEAL OF THE PLANNING COMMISSION APPROVAL OF COASTAL DEVELOPMENT PERMIT CDP16-0018 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO-STORY, SINGLE-FAMILY RESIDENCE AND MINOR SITE DEVELOPMENT PERMIT SDP16-0038(M) TO ALLOW INCREASED HEIGHT FOR RETAINING WALLS ON A LOT WITHIN THE COASTAL ZONE LOCATED AT 32687 SEA ISLAND DRIVE**

This item was not heard as the appeal had been withdrawn.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

**UNFINISHED BUSINESS**

There were no Unfinished Business items.

**NEW BUSINESS**

**13. DOHENY VILLAGE PLAN UPDATE**

Community Development Director Luna-Reynosa provided a staff report.

Mayor Pro Tem Wyatt stated that he had concerns about parking. He encouraged staff to take each of the parking areas being pursued and determine the sections of Doheny Village that could be served from each of these parking areas based on distance and street width. He stated that he would like to see the map split to see if any parking areas being pursued could offset any of the residential parking needs. He added that he does not want the City to spend the money on studies if the road diet was not viable with OCTA. He suggested meeting with the OCTA staff and eliminating their objections before continuing with the road diet. He encouraged staff to look for innovative ways to improve the area.

Mayor Lewis opened the Public Comments.

Tim Pickering, Phoenix, stated that he had concerns about boats being able to make the turn onto Victoria coming into their facility and felt that there could be a problem with a roundabout. He was concerned that if restrictions were put on the future use of the property that it would create a loss of value.

Toni Nelson, Capistrano Beach/Capo Cares, stated that she was delighted to see the efforts laid out in the report. She felt that real change would only be possible once the plan is implemented. She agreed with Opticos that the road diet was essential for a successful revitalization. She reported that new businesses have opened that are not part of the Opticos plan. She hoped that funding for the plan could be put into place. She urged the Council to remove any roadblocks, fund the necessary studies, and iron out the problems.

Robert Pickering, Laguna Niguel, stated that he did not agree that there was a consensus at the last Doheny Village meeting when the audience was asked if they wanted to move forward with the plan.

Mayor Lewis closed the Public Comments.

Council Member Tomlinson asked about the Pickering family and their building not being included on the plan.



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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

Director Luna-Reynosa replied that the Form Based Code is a Zoning Code and that there was a schematic produced as part of the design charrette and that document was part of a visioning exercise showing what uses could be. She reiterated that any legal use; approved and permits issued, if they continue operating under those permits even if the new Zoning Code does not allow that use, they would be considered Legal Nonconforming and would be allowed to continue their use.

Council Member Muller stated that Mr. Pickering had also mentioned the traffic circles and asked if that was not discussed at one of the charrettes.

Director Luna-Reynosa replied that was correct that they did verify that the trucks would be able to make the turn.

Council Member Muller stated that when planning the Town Center parking was kicked down the road and felt that the City was doing the same thing here. He felt that staff needs to resolve the parking issues first because it could change the Form Based Code.

Director Luna-Reynosa clarified that while the EIR itself does not analyze parking because it does not result in an environmental impact the Form Based Code does propose parking standards that the consultant and staff believe to be appropriate for the type of uses envisioned in the Form Based Code. She stated that was one of the key differences between the Town Center Plan and the Form Based Code. She added that the Town Center Plan did adopt the Zoning Code parking standards that are applied city-wide. She stated that the way the parking issue was punted was in the implementation section of the Plan which stated that certain tasks should be done and these were the things that were done later that turned contentious. She agreed that there should be additional meetings held to discuss the parking.

Council Member Muller stated that the City could not implement parking standards in the Form Based Code without input from the public. He felt that the parking needed to be resolved before going any further.

Director Luna-Reynosa replied that work that was done by staff between the September 14th meeting and the November 14th meeting was looking at existing on-street parking that is provided under the Doheny Village Plan that does not exist today. She stated that there are a number of additional public on-street parking spaces that would be created as part of the Form Based Code, in addition there were a number of potential parking lot opportunities found that could be purchased or leased.

Council Member Muller asked that if the Form Based Code changes because of the parking is that going to change the EIR.

Director Luna-Reynosa replied that it was her understanding that the concern was relative to commercial parking because the Form Based Code

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

currently requires residential parking to be provided on-site, and the commercial parking is limited to Doheny Park Road. She stated that by eliminating the need for on-site commercial parking because a parking facility would fulfill those needs it does allow for a slight increase in retail development which would not be significant enough to trigger a need to amend the EIR.

Council Member Muller stated that he would support joint study session with the Planning Commission and the City Council to receive a better buy-in from the public. He felt that the charrettes had been well attended but wants to be very conscientious about how the City moves forward.

Mayor Lewis felt that most people do not know what Form Based Code means and how it is going to impact Doheny Village planning long-term. She stated that significant outreach to residents was needed to explain what this means. Mayor Lewis added the she wants everyone to be on board with it (Form Based Code) before we determine whether or not we are going to approve or not approve it.

Mayor Pro Tem Wyatt asked if staff was changing the parking during the course of the EIR, will that impact the program level EIR.

Director Luna-Reynosa replied no.

Mayor Pro Tem Wyatt stated that he shares the concerns regarding parking requirements and felt that they are inadequate. He was concerned about residential parking being required on-site.

Director Luna-Reynosa replied that the Form Based Code puts form as the highest level of review for a project. She stated that parking is tied to a specific use and that prevents the turnover of uses.

IT WAS MOVED BY COUNCIL MEMBER JOHN A. TOMLINSON, SECONDED BY MAYOR PRO TEM PAUL N WYATT, THAT THE CITY COUNCIL RECEIVE AND FILE THIS REPORT.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

**14. ANNUAL REVIEW OF THE INVESTMENT POLICY**

This item was removed from Council consideration and will return on a future agenda.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

**15. AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE ANNUAL RESIDENTIAL ROADWAY RESURFACING PROJECT FY16/17**

Deputy City Manager Denny provided a staff report.

Mayor Lewis opened the Public Comments.

Sandie Iverson, Capistrano Beach/Capo Cares, stated that she supports the road improvements, traffic calming measures and proposed landscaping. She thanked Matt Davenport of Monarch Environmental for the donation of a drought tolerant landscape concept for this area. She encouraged staff to continue to lobby CalTrans to improve the hillside below the freeway. She also thanked Code Enforcement Officer Ted Harris for having the cars towed behind AAMCO.

Mayor Lewis closed the Public Comments.

There was discussion between Mayor Lewis and the City Attorney with regard to the contract.

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL APPROVE THE CONSTRUCTION CONTRACT DOCUMENTS REQUIRED FOR THE ANNUAL RESIDENTIAL ROADWAY RESURFACING PROJECT FY 16/17 WITH THE INCLUSION OF LANGUAGE WHICH STATES THAT THE WORK (CITY) SHALL ISSUE A CHANGE ORDER UNDER THE PROCEDURES DESCRIBED IN THIS CONTRACT BUT NOT-TO-EXCEED \$442,442.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR PRO TEM PAUL N WYATT, SECONDED BY COUNCIL MEMBER JOHN A. TOMLINSON, THAT THE CITY COUNCIL APPROVE THE AWARD OF A CONTRACT TO ALL AMERICAN ASPHALT FOR CONSTRUCTION OF THE ANNUAL RESIDENTIAL ROADWAY RESURFACING PROJECT FY 16/17 AND AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO SIGN AND ADMINISTER THE SUBJECT CONTRACT AND APPROVE ADDITIONAL PAYMENT FOR CHANGE ORDERS, CONTINGENCIES, MANAGEMENT SERVICES, SOILS AND MATERIAL TESTING, SURVEYING,

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

AND CONSTRUCTION DESIGN SUPPORT FOR THE PROJECT AS NOTED IN THE FISCAL IMPACT SECTION.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY MAYOR PRO TEM PAUL N WYATT, THAT THE CITY COUNCIL AUTHORIZE ADDITIONAL SURVEYING SERVICES PER THE AS-NEEDED CONSULTANT SERVICES AGREEMENT WITH DAVID EVANS AND ASSOCIATES PER THE FISCAL IMPACT SECTION.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY MAYOR PRO TEM PAUL N WYATT, THAT THE CITY COUNCIL AUTHORIZE ADDITIONAL MATERIALS INSPECTION AND TESTING SERVICES PER THE AS-NEEDED CONSULTANT SERVICES AGREEMENTS WITH GMU GEOTECHNICAL AND COASTAL GEOTECHNICAL FOR GEOTECHNICAL ENGINEERING AND MATERIALS TESTING PER THE FISCAL IMPACT SECTION.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

Mayor Lewis asked for an explanation of the reduction of the CIP budget. Acting City Manager Killebrew replied that the adopted budget was larger than the actual costs for the project so there are savings that staff is recommending reducing the project budget and the savings would become unspoken for funds in the Capital Improvement fund.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

IT WAS MOVED BY COUNCIL MEMBER JOHN A. TOMLINSON, SECONDED BY MAYOR PRO TEM PAUL N WYATT, THAT THE CITY COUNCIL AUTHORIZE THE REDUCTION OF THE EXPENDITURE BUDGET BY \$498,360 FOR CIP #1281.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER JOHN A. TOMLINSON, THAT THE CITY COUNCIL ESTABLISH A NEW \$150,000 BUDGET FOR A LANDSCAPING RENOVATION/BEAUTIFICATION PROJECT ALONG CAMINO CAPISTRANO IN DOHENY VILLAGE NEXT TO THE PORTION OF STREET BEING RESURFACED ALONG THE I-5 FREEWAY, AND EFFECT FUNDING AS FURTHER DESCRIBED IN THE FISCAL IMPACT SECTION.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

**16. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE DEL OBISPO STREET ARTERIAL ROADWAY RESURFACING PROJECT FY15/16**

Acting City Manager Killebrew provided a staff report.

IT WAS MOVED BY COUNCIL MEMBER JOHN A. TOMLINSON, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL ADOPT **RESOLUTION 17-01-17-01** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE PROJECT ENTITLED "DEL OBISPO STREET ARTERIAL ROADWAY RESURFACING PROJECT FY15/16".*

The motion carried by the following vote:

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY COUNCIL MEMBER JOHN A. TOMLINSON, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL TRANSFER \$173,320 IN UNEXPENDED GAS TAX FUNDING IN CIP #1282 TO THE GAS TAX FUND (FUND 02) FOR FUTURE COUNCIL APPROVED PROJECTS.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

**17. RECRUITMENTS FOR THE PLANNING COMMISSION AND TRAFFIC IMPROVEMENT SUBCOMMITTEE**

City Clerk Ward provided a staff report.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER JOHN A. TOMLINSON, THAT THE CITY COUNCIL DIRECT STAFF TO PROCEED WITH THE RECRUITMENT/APPOINTMENT OF PLANNING COMMISSION MEMBERS AND TRAFFIC IMPROVEMENT SUBCOMMITTEE MEMBERS.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

**18. REPORT ON 2016 CITY PROSECUTOR AND CODE ENFORCEMENT ACTIVITIES**

City Attorney Munoz provided a PowerPoint presentation which summarized the efforts made in 2016.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

Mayor Lewis asked how these properties were selected and if residents have problems with businesses or residents in their area how do they get the City to embark on the process.

City Attorney Munoz replied that the City uses a complaint driven process, where once a complaint is registered it is logged into the system and Code Enforcement investigates. He stated that residents should contact the Code Enforcement Department if they have anything to report.

Mayor Lewis asked if a goal is set for Code Enforcement between the time that someone registers a complaint and the time that complaint is addressed by Code Enforcement.

Director Luna-Reynosa replied that there are performance metrics for Code Enforcement and their annual review looks at the performance metrics. She stated that management was looking to moving toward a case management process.

Mayor Lewis asked if the metrics were something the public could see.

Director Luna-Reynosa replied that was a great suggestion and that staff would add the metrics to the City's website under Code Enforcement.

IT WAS MOVED BY COUNCIL MEMBER JOSEPH L. MULLER, SECONDED BY COUNCIL MEMBER JOHN A. TOMLINSON, THAT THE CITY COUNCIL RECEIVE AND FILE THIS UPDATE OF CITY PROSECUTOR AND CODE ENFORCEMENT ACTIVITIES.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

**19. CITY COUNCIL APPOINTED REPRESENTATIVES AND CITY COMMISSIONS, COMMITTEES, SUBCOMMITTEES AND TASK FORCES**

City Clerk Ward provided a staff report.

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY MAYOR PRO TEM PAUL N WYATT, THAT THE CITY COUNCIL APPROVE THE MAYOR AND MAYOR PRO TEM TO REMAIN THE REPRESENTATIVES ON THE COMMITTEES THAT THEY ARE LISTED.

The motion carried by the following vote:

---

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY MAYOR PRO TEM PAUL N WYATT, THAT THE CITY COUNCIL APPOINT COUNCIL MEMBER TOMLINSON TO SERVE AS THE CITY'S REPRESENTATIVE ON THE ANIMAL SERVICES SUBCOMMITTEE.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY MAYOR PRO TEM PAUL N WYATT, THAT THE CITY COUNCIL REAFFIRM COUNCIL MEMBER VICZOREK AS THE CITY'S REPRESENTATIVE ON THE CALIFORNIA JOINT POWERS AUTHORITY AND APPOINT COUNCIL MEMBER TOMLINSON TO SERVE AS THE ALTERNATE.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY COUNCIL MEMBER JOHN A. TOMLINSON, THAT THE CITY COUNCIL APPOINT MAYOR LEWIS AND REAFFIRM COUNCIL MEMBER MULLER TO SERVE AS THE CITY'S REPRESENTATIVES ON THE CAPISTRANO UNIFIED SCHOOL DISTRICT COMMITTEE.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None



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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

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IT WAS MOVED BY COUNCIL MEMBER JOHN A. TOMLINSON, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL REAFFIRM COUNCIL MEMBER MULLER AS THE CITY'S REPRESENTATIVE ON THE FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY AND APPOINT COUNCIL MEMBER VICZOREK TO SERVE AS THE ALTERNATE IN ADDITION, APPOINT COUNCIL MEMBER VICZOREK AS THE CITY'S REPRESENTATIVE ON THE SAN JOAQUIN TRANSPORTATION CORRIDOR AGENCY AND APPOINT COUNCIL MEMBER MULLER TO SERVE AS THE ALTERNATE.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL APPOINT MAYOR LEWIS TO SERVE AS THE CITY'S REPRESENTATIVE ON THE ORANGE COUNTY COUNCIL OF GOVERNMENTS (OCCOG) AND SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG) AND COUNCIL MEMBER MULLER TO SERVE AS THE ALTERNATE FOR BOTH.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY MAYOR PRO TEM PAUL N WYATT, THAT THE CITY COUNCIL REAFFIRM COUNCIL MEMBER MULLER AS THE CITY'S REPRESENTATIVE TO THE ORANGE COUNTY FIRE AUTHORITY.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY COUNCIL MEMBER JOHN A. TOMLINSON, THAT THE CITY COUNCIL APPOINT MAYOR PRO TEM WYATT TO SERVE AS THE CITY'S REPRESENTATIVE ON THE ORANGE COUNTY LIBRARY ADVISORY BOARD AND COUNCIL MEMBER MULLER TO SERVE AS THE ALTERNATE.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY COUNCIL MEMBER RICHARD A. VICZOREK, SECONDED BY MAYOR DEBRA LEWIS, THAT THE CITY COUNCIL APPOINT COUNCIL MEMBER VICZOREK AS THE CITY'S REPRESENTATIVE TO THE ORANGE COUNTY MOSQUITO & VECTOR CONTROL BOARD.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL APPOINT MAYOR PRO TEM WYATT AND COUNCIL MEMBER TOMLINSON AS THE CITY'S REPRESENTATIVES TO THE SOUTH COAST WATER DISTRICT WATER AND SEWER COMMITTEE.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL APPOINT MAYOR PRO TEM WYATT TO SERVE AS THE CITY'S REPRESENTATIVE TO THE SOUTH OC WATERSHED MANAGEMENT AREA PARTNERS EXECUTIVE COMMITTEE AND REAFFIRM DEPUTY CITY MANAGER DENNY AS THE CITY'S ALTERNATE.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

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The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson,  
Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and  
Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR PRO TEM PAUL N WYATT, SECONDED BY MAYOR  
DEBRA LEWIS, THAT THE CITY COUNCIL ELIMINATE THE DANA POINT  
DESTINY AD HOC COMMITTEE.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson,  
Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and  
Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY COUNCIL  
MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL APPOINT MAYOR  
PRO TEM WYATT AS THE CITY'S REPRESENTATIVE AND COUNCIL MEMBER  
TOMLINSON AS THE ALTERNATE ON THE HOMELESS TASK FORCE.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson,  
Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and  
Mayor Debra Lewis

NOES: None

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY COUNCIL  
MEMBER JOHN A. TOMLINSON, THAT THE CITY COUNCIL APPOINT MAYOR  
PRO TEM WYATT AS THE CITY'S REPRESENTATIVE ON THE OCEAN WATER  
QUALITY SUBCOMMITTEE.

The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson,  
Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and  
Mayor Debra Lewis

NOES: None

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

---

Mayor Lewis proposed revamping the Financial Review Committee to an oversight watchdog committee, meeting no more often than once a month with the Acting City Manager unless four members vote to meet less often but at least once a quarter, the purpose of the committee would be to serve as the public financial watchdog committee and to provide reports to the City Council after each meeting, the committee will consist of five members of the public who live full time in Dana Point, with each Council Member appointing one committee member to serve at the Council Member's pleasure, but no longer than that Council Member's City Council term. She stated that Council approval would not be required for the Council Member's appointment, each committee member will be given access to financial information reasonably requested to carry out the committee's purpose and the Council Members will each email to Acting City Manager Killebrew their appointed member by February 7th with the committee holding its first meeting by February 28th.

City Attorney Munoz suggested that a Resolution be brought back at the next meeting to amend the existing Resolutions that established the Financial Review Committee and the Investment Policy statement. He stated that for a clean record that rather than emailing Mr. Killebrew each Council Member should bring the name of the selection as a Consent Calendar item.

Acting City Manager Killebrew stated that if the Council would email him their selection, he would list them together on one Consent Calendar item.

Council Member Muller asked if the current members were not selected then they would no longer serve on the committee.

Mayor Lewis replied yes that is correct.

Council Member Muller asked for clarification on what the committee's functions will be because it sounds different from what they do now.

Acting City Manager Killebrew replied that the history of this committee goes back to when the City incorporated and the committee was formed to look at what the City staff was allowed to invest in. He stated that subsequent to that there were some changes made around 1994 in response to the County's bankruptcy and then in 2006 their duties included review mello roos for the Community Facilities District which was forming for the Headlands project. He added that two years ago the committee was reviewing the Zephyr project proposed community facilities district and the name was formally changed from Investment Review Committee to the Financial Review Committee. He stated that he does support having citizens appointed and regular meetings scheduled.

Council Member Muller asked if the committee would make recommendations to the Council and have the same authority as before.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

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Mayor Lewis replied that they will be a public financial watchdog and could make recommendations to the City Council.

Council Member Viczorek felt that this was a good idea for the change.

IT WAS MOVED BY MAYOR DEBRA LEWIS, SECONDED BY COUNCIL MEMBER JOSEPH L. MULLER, THAT THE CITY COUNCIL RESTRUCTURE THE FINANCE REVIEW COMMITTEE AS A FINANCIAL OVERSIGHT WATCHDOG COMMITTEE AS FOLLOWS:

- WILL BE A STANDING COMMITTEE;
- WILL CONSIST OF FIVE MEMBERS OF THE PUBLIC WHO LIVE FULL TIME IN DANA POINT;
- EACH COUNCIL MEMBER WILL APPOINT ONE MEMBER TO THE COMMITTEE;
- EACH MEMBER WILL SERVE AT THE PLEASURE OF THE COUNCIL MEMBER WHO APPOINTED HIM/HER BUT NO LONGER THAN THE TERM OF THAT COUNCIL MEMBER;
- THE COMMITTEE WILL MEET ONCE A MONTH UNLESS FOUR MEMBERS VOTE TO MEET LESS OFTEN, BUT AT LEAST ONCE A QUARTER;
- THE COMMITTEE WILL SUBMIT REPORTS TO THE CITY COUNCIL AFTER EACH MEETING; AND
- DIRECT STAFF TO RETURN TO THE NEXT CITY COUNCIL MEETING WITH A RESOLUTION ADOPTING THESE CHANGES.

. The motion carried by the following vote:

AYES: Council Member Joseph L. Muller, Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt, and Mayor Debra Lewis

NOES: None

## **PUBLIC COMMENTS**

There were no additional Public Comments received.

## **STAFF REPORTS**

Acting City Manager Killebrew wished everyone a Happy New Year. He reported that it was Lt. Chilton's birthday and wished him a Happy Birthday.

City Attorney Munoz announced that the ACCOC was hosting a forum on marijuana next Tuesday at the Laguna Hills Community Center where he would be one of the speakers.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

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

Council Member Muller stated that he had nothing to report but would turn in his list of meetings attended to the City Clerk.

Mayor Pro Tem Wyatt reported that he had turned in his list of meetings attended to the City Clerk.

Mayor Lewis reported that she had turned in her list of meetings attended to the City Clerk.

Council Member Tomlinson wished Lt. Chilton a Happy Birthday. He reported that while traveling he had the opportunity to read a great article on Dana Point in Southwest Magazine. He stated that he would turn in his list of meetings to the City Clerk.

**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Lewis adjourned the meeting at 9:45 p.m. and announced that the next Regular Meeting of the City Council will be February 7, 2017, 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 FEBRUARY 7, 2017

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 17, 2017**

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Meetings Attended Since December 14, 2016:

**Mayor Debra Lewis**

December 14 - Elaine Gennaway, Laguna Niguel Council Member  
December 15 - Niguel Shores Women's Club Holiday Party  
Chamber of Commerce Mixer  
December 21 - Robin Valles, Lantern Village Association  
Scott Schoeffel, Former Dana Point City Council Member  
December 22 - Toni Iseman, Mayor, Laguna Beach  
January 3 - Steven Swartz, Council Member, San Clemente  
January 5 - Association of California Cities – Orange County Parking Seminar  
January 6 - Lisa Bartlett, OC Board of Supervisors  
Toni Nelson, Capo Cares  
January 16 - Amy Hanacek, Capistrano Unified School District Board Member

**Mayor Pro Tem Paul N Wyatt**

December 15 - Dana Point Chamber of Commerce Holiday Mixer, Dana Point  
January 3 - Steven Swartz, San Clemente City Council Member, San Clemente  
January 6 - Lisa Bartlett, OC Board of Supervisors, Dana Point  
Toni Nelson, Capo Cares, San Juan Capistrano  
January 10 - OC Grand Jury, Santa Ana  
Jason Check, Jeffrey Allen, Raintree, Dana Point  
January 11 - Capo Cares Dog Park presentation, Dana Point  
January 13 - OC Forum, A Vision for OC's Future, Newport Beach  
January 15 - World Mission Club, UCI, Dana Point  
January 16 - Amy Hanacek, Capistrano Unified School District Board Member,  
Dana Point

**Council Member Joseph L. Muller**

December 7 - California Coastal Commission  
January 4 - Lantern Village Association  
January 5 - Save Dana Point  
City Manager Interviews  
January 9 - OCFA  
January 10 - League Conference Calls