
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
APRIL 3, 2007**

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by City Clerk Ward at 5:00 p.m. in the Dana Point City Community Center, 34052 Del Obispo, Dana Point. City Clerk Ward announced that the meeting was adjourned to 6:00 p.m. due to a lack of quorum.

CLOSED SESSION

There were no Closed Session items.

RECONVENE CITY COUNCIL MEETING – CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Harkey at 6:00 p.m. at the Dana Point Community Center, 34052 Del Obispo, Dana Point. All Council Members were present.

ROLL CALL

PRESENT: Diane L. Harkey, Mayor
Lisa A. Bartlett, Mayor Pro Tem
Lara Anderson, Council Member
Joel Bishop, Council Member
Steven Weinberg, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Muñoz, City Attorney; Clara Wong, Interim Director of Administrative Services; Kathy Ward, City Clerk; Cathy Catlett, Assistant City Clerk; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works/City Engineer; Lt. Mark Levy, Chief of Police; Andrew Glass, Accounting Manager; Lynn Kelly, Management Analyst; Christy Teague, Economic Development Manager; and Jackie Littler, Executive Secretary.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Weinberg.

INVOCATION

The Invocation was led by Pastor Ty Guy of South Shores Church.

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PRESENTATIONS AND PROCLAMATIONS

Business of the Month – JTC Salon

Management Analyst Kelly gave a PowerPoint presentation of JTC Salon. The Salon will celebrate its fifteenth anniversary in Dana Point on April 9th. Mayor Harkey presented a Certificate of Recognition to owner Colin Godwin, his wife Lynette and children Elisa, Cassie and Kristina.

Volunteers In Police Services (VIPS) – Recognition of President's Volunteer Service Award Recipients

Lt. Mark Levy introduced VIPS Jerry Brillheart, Frances Cain, William “Scotty” Smith and Joe Trimm, recipients of the President’s Volunteer Service Award which is awarded to individuals who have completed over 4,000 hours of volunteer service within their community, and presented them with a Certificate of Recognition. VIPS Irene Wirtz, also a recipient of this award, was unable to attend the meeting to receive her Certificate due to illness.

CONSENT CALENDAR

Council Member Anderson removed Item No. 12 for a separate vote, a member of the public removed Item No. 14, and Council Member Weinberg removed Item No. 15 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER ANDERSON, SECONDED BY MAYOR PRO TEM BARTLETT, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM NOS. 12, 14, AND 15.

The motion carried by the following vote:

AYES: Council Members Anderson, Bishop, Weinberg,
Mayor Pro Tem Bartlett and Mayor Harkey
NOES: None
ABSTAIN: 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.

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2. REGULAR MEETING MINUTES, MARCH 20, 2007

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, MARCH 13, 2007

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF MARCH 27, 2007

RECEIVED AND FILED.

5. YOUTH BOARD MEETING MINUTES, MARCH 1, 2007

RECEIVED AND FILED.

6. YOUTH BOARD MEETING MINUTES, MARCH 15, 2007

RECEIVED AND FILED.

7. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

8. CITY TREASURER'S REPORT, FEBRUARY 2007

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF FEBRUARY 2007.

9. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

10. AMENDMENT TO EMPLOYMENT CONTRACT FOR CITY MANAGER

APPROVED THE SEVENTH AMENDMENT TO THE EMPLOYMENT CONTRACT FOR CITY MANAGER DOUGLAS C. CHOTKEVYS.

11. AWARD OF CONTRACT FOR THE 4TH OF JULY AERIAL FIREWORKS DISPLAY AND BARGE CONTRACT

APPROVED THE FOLLOWING FOR THE 2007 FOURTH OF JULY AERIAL FIREWORKS DISPLAY:

1. CONTRACT WITH FIREWORKS & STAGE FX AMERICA, INC. IN THE AMOUNT OF \$60,000 FOR THE AERIAL DISPLAY;

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2. CONTRACT WITH POINT LOMA MARITIME SERVICES IN THE AMOUNT OF \$12,000 TO PROVIDE A TUG AND BARGE TO BE UTILIZED AS THE STAGING AREA FOR THE FIREWORKS DISPLAY; AND
3. AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENTS.

12. CHARITABLE GRANT FUNDING APPLICATION

Council Member Anderson removed this item from the Consent Calendar and recused herself from voting on this item as she is involved in the organization.

Mayor Harkey commented on what a fine organization the Soroptimist International is, assisting those in college with good grades who are having difficulty making ends meet and others. The group helps women from disadvantaged families and working women with families who are trying to better themselves, but just need a little help.

IT WAS MOVED BY MAYOR HARKEY, SECONDED BY MAYOR PRO TEM BARTLETT, TO APPROVE CHARITABLE GRANT FUNDING TOTALING \$3,000 TO THE SOROPTIMIST INTERNATIONAL OF CAPISTRANO BAY.

The motion carried by the following vote:

AYES: Council Members Bishop, Weinberg,
Mayor Pro Tem Bartlett and Mayor Harkey
NOES: None
ABSTAIN: Council Member Anderson

13. PROPOSED AMENDMENT TO SKATEBOARDING ORDINANCE

CONDUCTED SECOND READING AND ADOPTED **ORDINANCE NO. 07-04** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 4.02 OF THE MUNICIPAL CODE ENTITLED "ROLLERSKATING, SKATEBOARDING, AND BICYCLING PROHIBITED IN CERTAIN DESIGNATED AREAS."

14. TRESPASSING ON PRIVATE PROPERTY

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

Robert Lauten, Brea, stated that part of the loitering problem was due to the Federal government's lack of desire to enforce immigration laws. While it is not the job of city government to enforce immigration laws, but Mr. Lauten feels it is okay for City governments to pass resolutions that urge their Congressman to not

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allow the situation to worsen. Mr. Lauten submitted a copy of the New American Magazine's article entitled "The North American Union" and urged the Council to adopt a resolution that opposes the North American Union and the North American Free Trade Agreement, which he feels is the root cause of immigration.

Jean Silva, Capistrano Beach, Manager of Beachwood Mobile Home Park, spoke regarding day workers congregating outside of Donut World and the problem it creates for the Beachwood residents. She is in support of adoption of the proposed ordinance.

IT WAS MOVED BY COUNCIL MEMBER ANDERSON, SECONDED BY MAYOR PRO TEM BARTLETT, TO:

1. CONDUCT SECOND READING AND ADOPT **ORDINANCE NO. 07-05** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING CHAPTER 11.50 ENTITLED "TRESPASSES UPON PRIVATE PROPERTY PROHIBITED" TO TITLE 11 (PEACE, MORALS, AND SAFETY) TO THE DANA POINT MUNICIPAL CODE; and

2. CONDUCT SECOND READING AND ADOPT **ORDINANCE NO. 07-06** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, REPEALING CHAPTER 5.06 ENTITLED "SOLICITATION OF EMPLOYMENT OR BUSINESS FROM PUBLIC STREETS PROHIBITED" FROM TITLE 5 (BUSINESS REGULATIONS) OF THE DANA POINT MUNICIPAL CODE.

The motion carried by the following vote:

AYES: Council Members Anderson, Bishop, Weinberg,
Mayor Pro Tem Bartlett and Mayor Harkey

NOES: None

ABSTAIN: None

15. **SECOND READING OF AND ADOPTION OF PLANNING COMMISSION ALTERNATES AND TERM LIMITS ORDINANCE**

Council Member Weinberg removed this item from the Consent Calendar for a separate vote.

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IT WAS MOVED BY COUNCIL MEMBER BISHOP, SECONDED BY MAYOR PRO TEM BARTLETT, TO CONDUCT SECOND READING AND ADOPT **ORDINANCE NO. 07-07** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING SECTIONS 2.06.050, 2.06.060 AND 2.06.070 OF THE MUNICIPAL CODE, AND ADDING SECTION 2.07.016 TO THE MUNICIPAL CODE REGARDING PLANNING COMMISSION ALTERNATES AND PLANNING COMMISSION TERM LIMITS.

The motion carried by the following vote:

AYES: Council Members Anderson, Bishop,
Mayor Pro Tem Bartlett and Mayor Harkey
NOES: Council Member Weinberg
ABSTAIN: None

PUBLIC COMMENTS

Mayor Harkey opened the meeting for public comments.

Judy Rice, Laguna Hills, expressed concern regarding the recommendation of one of the appointed Planning Commissioners by former City Manager William Talley.

John C. Lewis, Dana Point, spoke regarding street sweeping signage in his neighborhood. Both sides of his street are swept at the same time which he feels is unfair and not in accordance with the City's resolution.

John Chaffetz, Dana Point, spoke regarding the noise problem emanating from the service driveway between Lantern Bay Villas and the Laguna Cliffs Marriott Resort. City Manager Chotkevys organized a meeting of the principles including Jim Samuels, manager of the Marriott Resort. Mr. Chaffetz expressed appreciation to Mr. Chotkevys and Mr. Samuels for resolving this situation.

Steve Nelson, San Juan Capistrano, spoke in support of the ordinance banning loitering addressing the problem of day laborers and immigration issues.

PUBLIC HEARINGS

There were no Public Hearings.

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UNFINISHED BUSINESS

16. FISCAL YEAR 2006-07 BUDGET STATUS REPORT

City Manager Chotkevys introduced Interim Director of Administrative Services Wong.

City Manager Chotkevys provided a staff report, giving a status report on the financial situation of the City leading into the two-year budget cycle. Fiscal Year 2006 ended with an overall operating surplus of \$33.8 million where revenues were in excess of expenditures. Revenues were slightly over \$2 million of what was budgeted and expenditures were at \$1.2 million below what was budgeted. Transient occupancy taxes, sales and property taxes were better than expected. People are finding Dana Point a very desirable place to visit and live with a number of our venues greatly improving, increasing desirability of the area. 2007 appears to be a continuation of 2006, as revenues for the first eight months show we are \$1 million over budget and we expect to finish the year at \$1.2 over what was budgeted. Expenditures to date are where we expected to be at this time. Mr. Chotkevys complimented Accounting Manager Glass on his conservative revenue estimates. At this time, staff needs to adjust the budget to accommodate Council action on certain programs. At the end of April staff will bring a proposed "City Manager Proposed Budget" to the Council addressing the operational needs of the City as well as a status of CIP projects that are recommended to be implemented. During May, Mr. Chotkevys will meet with Council Members individually to review this proposed budget and answer any questions. A Budget Study Session will be conducted at the end of May to review the proposed budget from beginning to end, giving the public an opportunity to comment, and provide staff with Council direction. As a result of that direction, Mr. Chotkevys will bring back a budget in June for a second public hearing and adoption of a two-year budget.

Mayor Harkey commented on the fabulous job the City staff has done. She commented that all of our revenues are up and expenses are down despite extraordinary capital improvement expenses that were required. She believes that City funds are being spent wisely in areas the residents want and on services that residents expect government to provide for them. Mayor Harkey noted she is very proud to see these recommended adjustments, including the new Reserve Policy in place protecting public funds. She expressed appreciation to staff for their efforts in this process and to the public for their patience and understanding, and encouraged public input in the budget process.

IT WAS MOVED BY MAYOR HARKEY, SECONDED BY MAYOR PRO TEM BARTLETT, TO RECEIVE AND FILE THE FISCAL YEAR 2006-07 BUDGET STATUS REPORT AND AUTHORIZE THE BUDGET ADJUSTMENTS DETAILED WITHIN THE REPORT.

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The motion carried by the following vote:

AYES: Council Members Anderson, Bishop, Weinberg,
Mayor Pro Tem Bartlett and Mayor Harkey
NOES: None
ABSTAIN: None

NEW BUSINESS

17. CITY COUNCIL POLICY ON THE CITY MANAGER EVALUATION

Mayor Harkey noted that this item had been agendaized at her and Mayor Pro Tem Bartlett's request. Last year, the review procedures for the City Manager were adjusted and it was discovered that the policies did not coincide with the employment agreement contract and possibly presented potential Brown Act violations with regard to Council Members meeting to discuss the City Manager's performance. She thought it would be desirable to review the policy and either revise to conform with the previous policy or amend the City Manager's contract.

IT WAS MOVED BY COUNCIL MEMBER BISHOP, SECONDED BY MAYOR PRO TEM BARTLETT, TO AUTHORIZE THE MAYOR AND MAYOR PRO TEM TO PREPARE AN AMENDED POLICY FOR THE CITY MANAGER'S EVALUATION FOR FUTURE COUNCIL CONSIDERATION.

The motion carried by the following vote:

AYES: Council Members Anderson, Bishop, Weinberg,
Mayor Pro Tem Bartlett and Mayor Harkey
NOES: None
ABSTAIN: None

PUBLIC COMMENTS (Continued)

There were no additional Public Comments.

STAFF REPORTS

City Attorney Muñoz noted that the City had received a favorable ruling on the last outstanding case and, with the exception of personal injury cases taken care of by our insurance company, has no pending litigation at this time.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Bishop commented on the recent water emergency in Orange County. Water that comes into the area is imported from the Diemer Filtration Plant, which was shut down for scheduled repairs for one week. South Coast Water District built-up all of

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their reservoirs, and Dana Point had no problems during the scheduled outage as other cities experienced. Mr. Bishop commended South Coast Water District on their efforts during this time.

Mayor Pro Tem Bartlett noted the American Cancer Society's Relay for Life second annual event was scheduled for April 19th at 6 p.m. at the Doubletree Hotel and encouraged everyone to attend.

Council Member Anderson commented on the adoption last year of a City ordinance regulating massage parlors. Recent headlines featured a disreputable massage parlor in Dana Point, so she was very happy that the ordinance was in place. She expressed appreciation to Community Center staff for hosting the recent memorial service for resident Pat Plepler and thanked everyone who had attended to honor Pat. On March 23rd and April 2nd, she participated in Library Task Force meetings. On March 23rd, she attended the Medal of Valor Luncheon honoring Orange County Sheriff Deputies who provided outstanding service this year. On March 30th, Senator Tom Harman came to JC Beans in Dana Point and spoke with residents about current issues in Sacramento. Council Member Anderson wished everyone a Happy Easter.

Council Member Weinberg thanked residents for saving water during the one week period of repairs. He had attended the Medal of Valor Luncheon, which he thought was a spectacular event. Earth/Ocean Day, sponsored by the Dana Point Ocean Society and CR&R, will be held on April 21st at 9:30 a.m. The event is held to clean up our beaches, with gloves, bags and refreshments provided to volunteers who participate.

Mayor Harkey commented on the memorial service held at Dana Point Yacht Club for Dick Ribble on March 31st, which was a wonderful celebration of his life attended by several hundred people. Mr. Ribble founded the Dana Niguel Bank and, after retirement, Ribble Consulting which provided assistance to businesses and individuals. She noted that on Saturday, April 7th, Easter Egg Hunts will be held in Pines Park and Sea Canyon Park. On March 21st Mayor Harkey attended the semi-monthly meeting of the Orange County Major Investment Study Group for elected officials from all over the County to meet and discuss transportation issues for the next thirty years, looking at all potential options. The study will most likely be completed before the end of this year. She also attended the Medal of Valor Luncheon where the City's Sgt. Craig Nelson received an award. On March 29th, she attended the Orange County Mayors' Roundtable and took a tour of the Great Park. She commented on the huge undertaking that the Park was, with varied transportation systems, park facilities, community facilities, housing options, and a canyon offering recreational activities such as boating and kayaking. The Park should be underway by 2011 and Mayor Harkey commended those working on this project. On March 30th, she attended a luncheon in Newport Beach for the Orange County Delegation for the Assembly as well as State Senators, including Senator Tom Harman. Reports on what's happening in Sacramento were provided. She encouraged everyone to contact their local legislator and/or review their websites for more information on what's going on. On April 2nd, she visited the Ocean Institute and the Sand Dollar Guild to discuss raising funds for their new Sea Lab project, which is a big dock that the Ocean Institute will use

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for multipurpose research and educational activities. The Ocean Institute and Boys and Girls Club offer programs for children and teenagers that she encourages residents to look into. Mayor Harkey reported on the Council receiving the Sheriff's Report for the first six weeks on the Immigration and Nationality Act Cross-Designation Program outlining local efforts by our deputies. On April 19th, she will be speaking at a Mayors Forum with the Urban Land Institute, discussing planning issues with regard to housing, transportation and business generation. Mayor Harkey noted that a fundraising dinner in support of heroes at Camp Pendleton Marine Base would be held on Wednesday, April 18th at Cannons Seafood Grill from 5 to 9 p.m. Reservations are required and can be made by calling Cannons at 496-6146. The cost is \$50 per person with proceeds going towards the Camp Pendleton Armed Services YMCA.

ADJOURNMENT

Mayor Harkey announced this was the last meeting to be conducted at the Community Center. The next meeting of the City Council will be held in the newly remodeled City Council Chamber. Mayor Harkey expressed appreciation to Council Member Anderson for her research and implementation of this project and noted the new Council Chamber is quite beautiful.

There being no further business before the City Council at this session, Mayor Harkey declared the meeting adjourned at 7:00 p.m.

The next Regular Meeting of the City Council will be April 17, 2007 at 5:00 p.m. in the Dana Point City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF APRIL 17, 2007