
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
JUNE 8, 2005**

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Rayfield at 5:00 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

ROLL CALL

PRESENT: Wayne Rayfield, Mayor
Lara Anderson, Mayor Pro Tem
Russell Chilton, Council Member
Diane L. Harkey, Council Member
James V. Lacy, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Muñoz, City Attorney; Sharie Apodaca, Interim City Clerk/Director of Administrative Services; Cathy Catlett, Assistant City Clerk; Jennifer Gilbert, Management Analyst; Andrew Glass, Accounting Manager; Kyle Butterwick, Director of Community Development; John Tilton, City Architect/Planning Manager; Deborah Drasler, Planning Consultant; Brad Fowler, Director of Public Works/City Engineer; Matt Sinacori, Deputy City Engineer; Mark Billings, Chief of Police; Shanna Wolf, Management Analyst.

CLOSED SESSION

City Attorney Muñoz indicated there was a need for a Closed Session as follows:

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b1), (1 case)
- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (1 case)
- C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (1 case)
 - 1. Name of Case: Robert Traphagen and Bonny Pitkin v. the City of Dana Point, Superior Court of the State of California, County of Orange – Central District, Case No. 04CC00676

Mayor Rayfield recessed the meeting into a Closed Session at 5:02 p.m. pursuant to Government Code Section 54956 et. seq.

RECONVENE CITY COUNCIL MEETING

Mayor Rayfield reconvened the meeting at 6:12 p.m. All Council Members were present.

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PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Lacy.

INVOCATION

The Invocation was led by Bob Moore of Veterans of Foreign Wars Post Number 9934.

PRESENTATIONS AND PROCLAMATIONS

1. Business of the Month – May 2005

Management Analyst Shanna Wolf gave a Power Point presentation of The Wee Loft, Business of the Month for May 2005. Mayor Rayfield introduced owner Annette Garcia and presented her with a Certificate of Recognition.

Business of the Month – June 2005

Management Analyst Shanna Wolf gave a Power Point presentation of Monarch Silks, Business of the Month for June 2005. Mayor Rayfield introduced owner Gloria Cleary and presented her with a Certificate of Recognition.

2. Merry Grasska – National School Nurse of the Year

Mayor Rayfield introduced Dana Point resident Merry Grasska and presented her with a Certificate of Recognition honoring her for being named the National School Nurse of the Year.

3. Recognition of Employees Who Assisted in Storm Related Disasters

Mayor Rayfield presented Certificates of Recognition to the following individuals who assisted in recent storm related disasters in the City of Dana Point:

City of Dana Point

Brad J. Fowler
Matthew Sinacori
Rick Rudometkin
Werner Abrajano
Angela Duzich
Bill Beattie

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County of Orange

Joe Hernandez
Henry Filtz
Guy Batterton
Maurice Ortiz
David Gaipo

South Coast Water District

Ernie Garcia
Jimmy Gomez
Felipe Tax
Nick Beltier
Carlos Fajardo
Tom Wilson
Mike Acosta
Milton Tobar
Artie Garcia
David Chacon

Goffman, McCormick & Urban

Pat Jenks
Lisa Bates

4. CR&R – Presentation to the City of Donation for 4th of July Concert

David Fahrion, CR&R, presented the City of Dana Point with a \$20,000 contribution to sponsor the 2005 Capistrano Valley Symphony 4th of July Concert. Mayor Rayfield accepted the check on behalf of the City.

5. Mothers Against Drunk Driving (MADD) Award to Deputy Matt Johnson and Deputy Jonathan Daruvala

Mary Beth Griffin, representing the Orange County Chapter of Mothers Against Drunk Driving (MADD), presented Certificates of Recognition to Orange County Sheriff Deputies Matt Johnson and Jonathan Daruvala in recognition of their exemplary service to the community in the apprehension of impaired drivers.

CONSENT CALENDAR

Members of the public removed Items 8, 9, 10 and 11 from the Consent Calendar.

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IT WAS MOVED BY COUNCIL MEMBER LACY, SECONDED BY MAYOR PRO TEM ANDERSON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 8, 9, 10 AND 11.

The motion carried by the following vote:

AYES: Council Members Chilton, Harkey, Lacy,
Mayor Pro Tem Anderson and Mayor Rayfield
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. PLANNING COMMISSION MEETING MINUTES, MEETING OF MAY 18, 2005

RECEIVED AND FILED.

3. PLANNING COMMISSION ACTIONS, MEETING OF JUNE 1, 2005

RECEIVED AND FILED.

4. YOUTH BOARD MINUTES, MEETING OF MAY 19, 2005

RECEIVED AND FILED.

5. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED

6. TREASURER'S REPORT

RECEIVED AND FILED THE TREASURER'S REPORT FOR THE MONTH OF APRIL 2005.

7. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

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8. **AUTHORIZE AGREEMENT FOR PARTICIPATION IN THE URBAN COUNTY COMMUNITY BLOCK GRANT AND HOME PROGRAMS FOR FY 2006-2009**
[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

This item was removed from the Consent Calendar by a member of the public.

City Manager Chotkevys presented the staff report.

Patrick Evans, Huntington Beach, representing the Dana Point Marina Mobile Home Estates, spoke regarding affordable housing.

Mary Jeffries, Dana Point, spoke regarding affordable housing.

City Attorney Muñoz reviewed the validity of the City's Housing Element and prior actions taken by the City with regard to affordable housing.

IT WAS MOVED BY MAYOR PRO TEM ANDERSON, SECONDED BY COUNCIL MEMBER LACY (for discussion), TO AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT FOR THE CITY'S PARTICIPATION IN THE URBAN COUNTY COMMUNITY BLOCK GRANT AND HOME PROGRAMS FOR FY 2006-2009.

The motion carried by the following vote:

AYES: Council Members Chilton, Harkey, Lacy,
Mayor Pro Tem Anderson and Mayor Rayfield
NOES: None
ABSENT: None

9. **LANDSCAPING MODIFICATIONS AND ENTRY IMPROVEMENTS ON GOLDEN LANTERN BETWEEN DEL PRADO AND DANA POINT HARBOR DRIVE**
[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

This item was removed from the Consent Calendar by a member of the public.

City Manager Chotkevys presented the staff report.

Council Member Harkey commented she had voiced concerns to the County of Orange regarding the appearance of the landscaping and had offered planting suggestions to improve the overall appearance.

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IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER LACY, TO ACCEPT PROPOSED LANDSCAPING MODIFICATIONS AND ENTRY IMPROVEMENTS TO GOLDEN LANTERN BETWEEN DEL PRADO AND DANA POINT HARBOR DRIVE.

The motion carried by the following vote:

AYES: Council Members Chilton, Harkey, Lacy,
Mayor Pro Tem Anderson and Mayor Rayfield
NOES: None
ABSENT: None

- 10. RESOLUTION FOR ACCEPTANCE OF THE SOUTH ORANGE COUNTY INTEGRATED REGIONAL WATER MANAGEMENT PLAN [STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES]**

This item was removed from the Consent Calendar by a member of the public.

Director of Public Works and Engineering Services Fowler presented the staff report.

Richard Dietmeier, Dana Point, spoke in support of the plan.

IT WAS MOVED BY MAYOR PRO TEM ANDERSON, SECONDED BY COUNCIL MEMBER HARKEY, TO ADOPT **RESOLUTION NO. 05-06-08-03, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ACCEPTING THE "SOUTH ORANGE COUNTY INTEGRATED REGIONAL WATER MANAGEMENT PLAN"**.

The motion carried by the following vote:

AYES: Council Members Chilton, Harkey, Lacy,
Mayor Pro Tem Anderson and Mayor Rayfield
NOES: None
ABSENT: None

- 11. ADDITIONAL SUBMITTAL REQUIREMENTS FOR BUILDING HEIGHT VARIANCE APPLICATIONS [STRATEGIC PLAN: EVALUATE LAND USE ISSUES TO ENSURE THAT THE GOALS, POLICIES, AND PROGRAMS OF THE GENERAL PLAN REFLECT THE COMMUNITY'S VISION AND MISSION]**

This item was removed from the Consent Calendar by a member of the public.

City Manager Chotkevys presented the staff report.

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Jack Hamilton, Dana Point, spoke in support of story poles.

Mary Jeffries, Dana Point, spoke in support of story poles.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER CHILTON, TO DIRECT STAFF TO IMPLEMENT ADDITIONAL SUBMITTAL REQUIREMENTS THAT INCLUDE STORY POLE STAKING AND VISUAL CONTEXT EXHIBITS FOR DEVELOPMENT THAT DOES NOT COMPLY WITH THE CITY'S ZONING CODE STANDARDS FOR MAXIMUM ALLOWED BUILDING HEIGHT.

The motion carried by the following vote:

AYES:	Council Members Chilton, Harkey, Lacy, Mayor Pro Tem Anderson and Mayor Rayfield
NOES:	None
ABSENT:	None

12. ADOPTION OF RESOLUTION APPROVING THE INSTALLATION OF A DECORATIVE DRIVEWAY AT 33802 COPPER LANTERN PURSUANT TO THE DANA POINT MUNICIPAL CODE; AND INTRODUCE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING SECTION 14.01.530 OF THE MUNICIPAL CODE [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

(1) **ADOPTED RESOLUTION NO. 05-06-08-01, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE INSTALLATION OF A DECORATIVE DRIVEWAY AT 33802 COPPER LANTERN PURSUANT TO SECTION 14.01.530 OF THE DANA POINT MUNICIPAL CODE;**

(2) **DIRECTED STAFF TO ISSUE AN ENCROACHMENT PERMIT PURSUANT TO DANA POINT REQUIREMENTS FOR THE INSTALLATION OF THE DRIVEWAY; AND**

(3) **INTRODUCED AND HELD FIRST READING OF AN ORDINANCE ENTITLED:**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING SECTION 14.01.530 OF THE DANA POINT MUNICIPAL CODE.

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13. ADOPTION OF RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE HISTORICAL CONCRETE REPAIR AND REPLACEMENT PROJECT, FY 03/04 [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

(1) ADOPTED **RESOLUTION NO 05-06-08-02**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE HISTORICAL CONCRETE REPAIR AND REPLACEMENT PROJECT, FY 03/04;

AND (2) DIRECTED STAFF TO TRANSFER ALL PROJECT SAVINGS TO THE CAPITAL IMPROVEMENT PROGRAM RESERVE FUND.

ORAL REPORTS

There were no Oral Reports.

PUBLIC COMMENTS

Mayor Rayfield opened the meeting for public comments.

Jeroen Gerrese, Dana Point businessman, spoke in support of the formation of a Dana Point Marketing Council.

Evie Love, San Juan Capistrano, representing the Beach Cities Senior Center, spoke regarding the need for increased parking space at the Recreation Center.

Leslie Davis, Dana Point, spoke regarding the Dana Point Marina Mobile Home Estates.

Robert Traphagen, Dana Point, spoke regarding the Dana Point Marina Mobile Home Estates and the City's General Plan and Housing Element.

Donna Kalez, San Clemente, spoke in support of agendizing the formation of a Dana Point Marketing Council.

Jim Miller, Dana Point, spoke in support of the formation of a Dana Point Marketing Council.

Gene Burrus, Dana Point, spoke regarding funding for the Dana Point Senior Center.

Patrick Evans, Huntington Beach, spoke of his concerns regarding Dana Point.

Dr. Jim Seitz, Dana Point, spoke regarding political agendas and personal attacks.

Mary Jeffries, Dana Point, spoke regarding the City's timeshare ordinance.

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Terry Goller, Dana Point, spoke regarding a lack of activities for teens in the City of Dana Point.

Cynthia Carol, Dana Point, spoke regarding the restroom facility at the Del Obispo fields.

Donna Faass, Dana Point, spoke regarding low income housing.

Mayor Rayfield declared a recess at 8:05 p.m. and reconvened the meeting at 8:20 p.m. All Council Members were present.

PUBLIC HEARINGS

- 14. CONSIDER PRELIMINARY OPERATING AND CAPITAL IMPROVEMENT BUDGETS FOR FISCAL YEARS 2005-2006 AND 2006-2007 [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]**

City Manager Chotkevys presented the staff report.

Director of Administrative Services Apodaca provided a Power Point presentation of the proposed budgets for Fiscal Years 2005-2006 and 2006-2007.

Mayor Rayfield opened the Public Hearing.

Tom Brabeck, Dana Point, representing the Boys and Girls Clubs of Capistrano Valley, requested support of the Club be included in the City's budget.

Richard Dietmeier, Dana Point, praised Director of Administrative Services Apodaca and City Manager Chotkevys for an excellent staff report and proposed budget.

FOLLOWING PUBLIC INPUT AND COUNCIL QUESTIONS OF STAFF, MAYOR RAYFIELD CONTINUED THE PUBLIC HEARING TO JUNE 22, 2005 AT 6:00 P.M. FOR FURTHER DELIBERATION AND ADOPTION OF THE ENSUING TWO-YEAR BUDGET.

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15. **APPEAL OF PLANNING COMMISSION APPROVAL OF AMENDED SITE DEVELOPMENT PERMIT SDP91-07M(III); AND TENTATIVE TRACT MAP TTM 16769 FOR HOTEL RESIDENTIAL SOUTH IN THE MONARCH BEACH RESORT SPECIFIC PLAN AREA** [*STRATEGIC PLAN: EVALUATE LAND USE ISSUES TO ENSURE THAT THE GOALS, POLICIES, AND PROGRAMS OF THE GENERAL PLAN REFLECT THE COMMUNITY'S VISION AND MISSION*]

Director of Community Development Butterwick introduced Deborah Drasler, Planning Consultant, who provided a Power Point presentation of the proposed development.

Mayor Rayfield opened the Public Hearing.

Patrick Evans, Huntington Beach, appellant, reviewed the basis of his filing of the appeal of this project.

Michael Gagnet, Dana Point, representing Makallon Resorts I, LLC, applicant, reviewed the proposed project.

Dr. Jim Seitz, Dana Point, suggested the project be tabled and reviewed.

Mary Jeffries, Dana Point, spoke regarding the St. Regis Resort and in support of the appeal of the project.

Len Weinstein, Dana Point, representing the Villas at Monarch Beach, stated their position on the appeal was "neutral" and addressed concerns regarding views.

Mayor Rayfield declared a recess at 9:54 p.m. and reconvened the meeting at 10:10 p.m. All Council Members were present.

Patrick Evans, Huntington Beach, appellant, spoke in rebuttal, addressing issues raised by the public.

Michael Gagnet, Dana Point, representing Makallon Resorts I, LLC, applicant, addressed concerns raised by public speakers.

Hearing no further requests to speak, Mayor Rayfield closed the Public Hearing.

IT WAS MOVED BY COUNCIL MEMBER LACY, SECONDED BY COUNCIL MEMBER HARKEY, TO ADOPT **RESOLUTION NO. 05-06-08-04**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF TENTATIVE TRACT MAP TTM 16769 TO AMEND PREVIOUSLY RECORDED FINAL MAP 14589 AND SITE DEVELOPMENT PERMIT SDP91-07M(III) FOR A REDUCTION IN THE NUMBER OF DWELLING UNITS FOR HOTEL RESIDENTIAL SOUTH ON THE

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*NORTHWEST CORNER ON NIGUEL ROAD AND STONEHILL DRIVE IN THE
MONARCH BEACH RESORT SPECIFIC PLAN AREA*

WITH THE MODIFICATION THAT IN-LIEU HOUSING FEES OF \$5,000 PER UNIT ARE TO BE PAID, THAT CONDITIONS OF APPROVAL BE ADDED TO CREATE CONDITION 36A REQUIRING THAT THE CC&R'S WHICH WILL BE SUBMITTED FOR APPROVAL BY THE PLANNING DIRECTOR INCLUDE A VEGETATION HEIGHT OF 36 FEET MAXIMUM IN VIEW CORRIDORS, AND 36B REQUIRING THAT EQUIPMENT, IF ANY, ON HOUSING ROOFS BE COMPLIANT WITH THE EXISTING SPECIFIC PLAN REQUIREMENTS.

The motion carried by the following vote:

AYES: Council Members Chilton, Harkey, Lacy
and Mayor Rayfield
NOES: None
ABSENT: None
ABSTAIN: Mayor Pro Tem Anderson

UNFINISHED BUSINESS

- 16. REVIEW AND ADOPTION OF THE TOP TEN GUIDING PRINCIPLES FOR TOWN CENTER** *[STRATEGIC PLAN: EVALUATE LAND USE ISSUES TO ENSURE THAT THE GOALS, POLICIES, AND PROGRAMS OF THE GENERAL PLAN REFLECT THE COMMUNITY'S VISION AND MISSION]*

Council Member Chilton recused himself from discussion of this matter due to an economic conflict of interest. Council Member Chilton left the dais.

Council Member Harkey stated that she has a potential for a conflict of interest and as a cautionary measure would be recusing herself from discussion of this matter. Council Member Harkey left the dais.

City Manager Chothevys presented the staff report.

Jim Slark, Dana Point, spoke regarding the Town Center plan's traffic impact on adjacent neighborhoods.

Dr. Jim Seitz, Dana Point, spoke regarding affordable housing and the Dana Point Marina Mobile Home Estates.

IT WAS MOVED BY MAYOR PRO TEM ANDERSON, SECONDED BY COUNCIL MEMBER LACY (as amended) TO ADOPT **RESOLUTION NO. 05-06-08-05, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING THE TOP TEN GUIDING PRINCIPLES FOR TOWN CENTER**

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MODIFYING GUIDING PRINCIPLE #10 TO STATE "CREATE THE TOWN CENTER WITHOUT RESORTING TO THE CREATION OF REDEVELOPMENT PLANNING AREAS OR THE USE OF EMINENT DOMAIN."

The motion carried by the following vote:

AYES: Council Member Lacy, Mayor Pro Tem Anderson
and Mayor Rayfield.
NOES: None
ABSENT: None
ABSTAIN: Council Members Chilton and Harkey

NEW BUSINESS

There was no New Business.

STAFF REPORTS

This item was not heard.

COUNCIL REPORTS

This item was not heard.

CLOSED SESSION

Mayor Rayfield indicated there was a need for continuance of the earlier City Council Closed Session and recessed the meeting into a Closed Session at 11:07 p.m. pursuant to Government Code Section 54956 et. seq.

RECONVENE CITY COUNCIL MEETING

Mayor Rayfield reconvened the meeting at 11:44 p.m. All Council Members were present with the exception of Council Member Harkey.

The following announcement was made by the City Council following Closed Session:

Motion by Councilmember Lacy, seconded by Mayor Pro Tem Anderson, to send a letter to the Court of Appeals advising the Court that the City believes numerous errors exist in the DiCarli Development Proposal and all seem to favor DiCarli; and asking the Mayor to hold a public hearing to consider the matter further. These actions to happen if there is no settlement by next Friday. After staff explained the settlement is proceeding with a meeting on Monday, on a 3-0-2 vote (Harkey absent, Chilton abstained) the City Council tabled the motion to a Special Meeting at 4:00 p.m. on Wednesday June 15, 2005.

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ADJOURNMENT

There being no further business before the City Council at this session, Mayor Rayfield declared the meeting adjourned at 11:45 p.m.

The next Regular Meeting of the City Council will be June 22, 2005 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

SHARIE APODACA
INTERIM CITY CLERK

APPROVED AT THE MEETING OF JULY 13, 2005