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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING AND  
JOINT MEETING WITH THE PLANNING COMMISSION MINUTES  
APRIL 27, 2005**

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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 Rayfield at 5:01 p.m. in the Dana Point Community Center, 34052 Del Obispo, 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; Kyle Butterwick, Director of Community Development; John Tilton, City Architect/Planning Manager; Brad Fowler, Director of Public Works/City Engineer; Matt Sinacori, Deputy City Engineer; Mark Billings, Chief of Police; Shanna Wolf, Management Analyst; Kevin Evans, Recreation Manager.

**CLOSED SESSION**

City Manager Chotkevys 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), (3 cases)
- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (1 case)  
--THIS CLOSED SESSION ITEM WAS NOT HELD.--
- C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (4 cases)
  - 1. Name of Case: City of Dana Point v. Warren & Does 1-50, Orange County Superior Court Case No. 04CC07344
  - 2. Name of Case: Diedrich Coffee, Inc. v. City of Dana Point, et al, Orange County Superior Court Case No. 05CC03529

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3. Name of Case: Surfrider Foundation and Sierra Club v. California Coastal Commission, Headlands Reserve, LLC and City of Dana Point, Superior Court of San Francisco County Case No. CPF05505023
4. Name of Case: Pioneer Builders v. City of Dana Point, Orange County Superior Court Case No. 03CC13460

Mayor Rayfield recessed the meeting into a Closed Session at 5:04 p.m. pursuant to Government Code Section 54956 et. seq.

**RECONVENE CITY COUNCIL MEETING**

Mayor Rayfield reconvened the meeting at 6:10 p.m. All Council Members were present.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Planning Commissioner Steven Weinberg.

**INVOCATION**

The Invocation was led by Kris DiLeo, South Shores Church.

**PRESENTATIONS AND PROCLAMATIONS**

There were no Presentations and Proclamations.

**CONSENT CALENDAR**

Staff withdrew Item 9 from the agenda for consideration at a future date. Members of the public removed Items 10, 14 and 15 from the Consent Calendar. Council Member Lacy removed Item 15 for comment and Mayor Pro Tem Anderson removed Items 16 and 17 from the Consent Calendar.

IT WAS MOVED BY MAYOR PRO TEM ANDERSON, SECONDED BY COUNCIL MEMBER HARKEY, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 10, 14, 15, 16 AND 17, AND WITH ITEM 9 WITHDRAWN FROM THE AGENDA.

The motion carried by the following vote:

AYES: Council Members Chilton, Harkey, Lacy,  
Mayor Pro Tem Anderson and Mayor Rayfield

NOES: None

ABSENT: None

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**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. THERE WERE NO ORDINANCES.

**2. REGULAR ADJOURNED MEETING MINUTES, APRIL 11, 2005**

APPROVED THE MINUTES.

**3. PLANNING COMMISSION MEETING MINUTES, MEETING OF APRIL 6, 2005**

RECEIVED AND FILED.

**4. PLANNING COMMISSION ACTIONS, MEETING OF APRIL 20, 2005**

RECEIVED AND FILED.

**5. YOUTH BOARD MINUTES, MEETING OF MARCH 17, 2005**

RECEIVED AND FILED.

**6. YOUTH BOARD MINUTES, MEETING OF APRIL 7, 2005**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**8. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**9. ADOPTION OF RESOLUTION APPROVING FINAL TRACT MAP NO. 15924, THE ACCOMPANYING LANDSCAPE AND MAINTENANCE AGREEMENT AND THE ACCOMPANYING SUBDIVISION IMPROVEMENT AGREEMENT [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]**

THIS ITEM WAS WITHDRAWN FROM THE AGENDA BY STAFF FOR CONSIDERATION AT A LATER DATE.

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10. **AWARD OF CONTRACT FOR THE CONSTRUCTION OF THE STONEHILL DRIVE AND CAMINO CAPISTRANO INTERSECTION IMPROVEMENT PROJECT, AS PART OF THE ANNUAL TRAFFIC SAFETY IMPROVEMENT PROGRAM** *[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.

Joe Soto, Council Member in San Juan Capistrano, thanked the City for taking a lead role in this project.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER CHILTON, TO (1) AWARD A CONTRACT TO ORION CONTRACTING, INCORPORATED (BID SCHEDULE A WORK ONLY) FOR THE CONSTRUCTION OF THE STONEHILL DRIVE AND CAMINO CAPISTRANO INTERSECTION IMPROVEMENT PROJECT AS PART OF THE ANNUAL TRAFFIC SAFETY PROGRAM (CIP #1175), PROVIDED THAT THE CITY MANAGER OR HIS DESIGNEE MAY APPROVE ADDITIONAL PAYMENT NOT TO EXCEED TEN PERCENT OF THE CONTRACT AMOUNT FOR CHANGE ORDERS AND CONTINGENCIES; (2) AUTHORIZE THE EXPENDITURES FOR VARIOUS CONSTRUCTION SUPPORT, ADMINISTRATION AND MANAGEMENT EXPENDITURES AS OUTLINED IN THE FISCAL IMPACT SECTION OF THE AGENDA REPORT; (3) DIRECT STAFF TO SECURE PAYMENT FROM THE ORANGE COUNTY TRANSPORTATION AUTHORITY UNDER THE GROWTH MANAGEMENT AREA FUNDING PROGRAM, AS THIS PROJECT IS BEING PARTIALLY FUNDED USING GRANT FUNDS; (4) AUTHORIZE THE TRANSFER OF FUNDS FROM THE ANNUAL ROADWAY RESURFACING PROJECT FY04-05 (CIP #1184); AND (5) AUTHORIZE THE TRANSFER OF FUNDS FROM THE CITYWIDE SIDEWALK EVALUATION PROJECT (CIP #1137).

The motion carried by the following vote:

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

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11. **2005 WEED ABATEMENT PROGRAM, AUTHORIZATION TO ABATE WEEDS** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

HEARD NO OBJECTIONS REGARDING WEED ABATEMENT AND ADOPTED **RESOLUTION NO. 05-04-27-01**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, HEARING NO OBJECTIONS AND PROCEEDING WITH WEED ABATEMENT AUTHORIZING STAFF TO ABATE WEEDS UPON PUBLIC OR PRIVATE PROPERTY, AND TO REPORT BACK TO THE CITY COUNCIL ON JULY 27, 2005, WITH AN ITEMIZED REPORT DETAILING ABATEMENT COST.

12. **REJECTION OF ALL BIDS FOR CONSTRUCTION OF THE NEW POLICE SERVICES FACILITY AT CITY PLAZA** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

(1) REJECTED ALL BIDS RECEIVED FOR THE CONSTRUCTION OF THE POLICE SERVICES RENOVATION PROJECT 2005; (2) AUTHORIZED THE RETURN OF ALL CONTRACTOR-SUBMITTED BID SECURITIES FOR THE PROJECT; AND (3) AUTHORIZED STAFF TO REVISE THE BID DOCUMENTS TO INCLUDE THE ADMINISTRATION OFFICE EXPANSION AND RE-ADVERTISE THE PROJECT FOR CONSTRUCTION BIDS AS SOON AS POSSIBLE.

13. **SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING THE DANA POINT MUNICIPAL CODE CODIFYING SPEED LIMITS** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

ADOPTED **ORDINANCE NO. 05-02**, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING SECTION 12.16.010 OF THE CITY OF DANA POINT MUNICIPAL CODE CODIFYING SPEED LIMITS IN THE CITY OF DANA POINT.

14. **2004-2005 BUDGET ADJUSTMENT** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

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

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City Manager Chotkevys presented the staff report.

Patrick Evans, Huntington Beach, spoke regarding funds to be transferred from the General Fund to the City Attorney budget.

Pam Tappan, Capistrano Beach, spoke regarding City Attorney services for the City.

IT WAS MOVED BY COUNCIL MEMBER LACY, SECONDED BY COUNCIL MEMBER HARKEY, TO TRANSFER FUNDS FROM THE UNDESIGNATED GENERAL RESERVE FUND TO THE CITY ATTORNEY ACCOUNT NUMBER 01-97-40-0000-409 TO PAY FOR ADDITIONAL CITY ATTORNEY FEES RELATED TO UNANTICIPATED LITIGATION.

The motion carried by the following vote:

AYES: Council Members Chilton, Harkey, Lacy,  
Mayor Pro Tem Anderson and Mayor Rayfield

NOES: None

ABSENT: None

**15. FEES FOR APPEALING PLANNING COMMISSION ACTIONS** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

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

City Manager Chotkevys presented the staff report.

Director of Community Development Butterwick provided an analysis of other cities' fees for appeals of Planning Commission actions.

CONSENSUS TO TABLE THIS ITEM AND CONSIDER AT A FUTURE CITY COUNCIL MEETING.

**16. CIVIL FINES FOR VIOLATIONS OF THE CITY'S NOISE CONTROL ORDINANCE** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

This Item was removed from the Consent Calendar by Mayor Pro Tem Anderson.

City Manager Chotkevys presented the staff report.

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IT WAS MOVED BY COUNCIL MEMBER LACY, SECONDED BY COUNCIL MEMBER HARKEY, TO SPECIFY A CIVIL FINE NOT EXCEEDING ONE THOUSAND DOLLARS (\$1,000.00) FOR VIOLATIONS OF THE CITY'S NOISE CONTROL ORDINANCE [DMP CHAPTER 11.10] BY ADOPTING **RESOLUTION NO. 05-04-27-02**, *A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, SPECIFYING CIVIL FINES FOR VIOLATIONS OF THE CITY'S NOISE CONTROL ORDINANCE.*

The motion carried by the following vote:

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

17. **APPROVE (a) THE SPONSORSHIP OF THE CAPISTRANO VALLEY SYMPHONY 2005 FOURTH OF JULY CONCERT; (b) APPROVE THE TRANSFER OF FUNDS FROM THE RESERVE SERVICE ENHANCEMENT FUND TO THE COMMUNITY SERVICES ACCOUNT (81); AND (c) AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]**

This item was removed from the Consent Calendar by Mayor Pro Tem Anderson.

City Manager Chotkevys presented the staff report.

IT WAS MOVED BY MAYOR PRO TEM ANDERSON, SECONDED BY COUNCIL MEMBER CHILTON, TO A) APPROVE THE SPONSORSHIP OF THE CAPISTRANO VALLEY SYMPHONY (CVS) 2005 FOURTH OF JULY CONCERT; B) APPROVE THE TRANSFER OF FUNDS FROM THE RESERVE SERVICE ENHANCEMENT (RSE) FUND TO THE COMMUNITY SERVICES ACCOUNT (81-241); AND C) AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT.

The motion carried by the following vote:

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

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**ORAL REPORTS**

City Attorney Muñoz announced that during Closed Session the City Council took action with regard to the case known as City of Dana Point v. Warren & Does 1-50, Orange County Superior Court Case No. 04CC07344. A settlement had been reached, approved by the defendant in the case, and the Mayor had been authorized to execute the settlement agreement.

**PUBLIC COMMENTS**

Mayor Rayfield opened the meeting for public comments.

Mary Jeffries, Dana Point, spoke regarding zone changes and community serving property, and submitted a listing of other cities' fees for appeals of Planning Commission decisions.

Terry Goller, Dana Point, spoke regarding funds spent on Consent Calendar items and the need to fund activities benefiting teenagers.

Dr. Jim Seitz, Dana Point, spoke regarding the City's General Plan and the recent election's mandate for change.

Bob Theel, Dana Point, spoke regarding his recent appeal to the City Council of a Planning Commission decision.

Pam Tappan, Capistrano Beach, submitted copies of a lawsuit against a local builder and spoke of the subject project.

Maria Elena Banks, Monarch Beach, representing the Monarch Beach Homeowners Association, spoke regarding problems with unleashed dogs on the Salt Creek pedestrian trail.

Dave Christakes, Dana Point, spoke regarding problems with people not remaining on the Salt Creek pedestrian trail.

Patrick Evans, Huntington Beach, spoke regarding fees for City Attorney services.

**URGENCY MATTER**

City Attorney Muñoz reported of the need for the City Council to take action on an urgency matter that arose after the posting of the agenda. In order for the City to meaningfully participate in the selection process for a seat on the California Coastal Commission, it was necessary for the City Council to take action at this time.



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IT WAS MOVED BY COUNCIL MEMBER CHILTON, SECONDED BY MAYOR PRO TEM ANDERSON, TO APPROVE THIS ITEM AS AN URGENCY MATTER FOR IMMEDIATE CONSIDERATION AT THIS TIME.

The motion carried by the following vote:

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

City Manager Chotkevys presented the staff report.

Jim Slark, Dana Point, questioned how Toni Iseman had voted on the Headlands matter when it was heard by the California Coastal Commission.

IT WAS MOVED BY MAYOR RAYFIELD, SECONDED BY COUNCIL MEMBER HARKEY, TO AUTHORIZE THE ISSUANCE OF A LETTER OF SUPPORT FOR THE RE-APPOINTMENT OF COMMISSIONER TONI ISEMAN TO THE CALIFORNIA COASTAL COMMISSION FOR A FOUR-YEAR TERM AND DIRECT STAFF TO FORWARD THE LETTER TO THE CALIFORNIA COASTAL COMMISSION, SENATE RULES COMMITTEE, SENATE PRESIDENT PRO TEM DON PERATA, SENATOR DENISE DUCHENY, SENATOR JOE DUNN, AND SENATOR SHEILA KUEHL.

The motion carried by the following vote:

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

Mayor Rayfield declared a recess at 7:45 p.m. and reconvened the meeting at 8:04 p.m. All Council Members were present.

**CALL TO ORDER OF THE JOINT SESSION OF THE CITY COUNCIL AND THE PLANNING COMMISSION**

The Joint Session of the City Council and the Planning Commission of the City of Dana Point, California, was called to order by Mayor Rayfield at 8:04 p.m. in the Dana Point Community Center, 34052 Del Obispo, Dana Point.

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**ROLL CALL OF CITY COUNCIL MEMBERS:**

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

**ROLL CALL OF PLANNING COMMISSION MEMBERS:**

PRESENT: April O'Connor, Chair  
J. Scott Schoeffel, Vice-Chair  
Norman Denton, Commissioner  
Greg Powers, Commissioner  
Steve Weinberg, Commissioner

**NEW BUSINESS**

**18. JOINT SESSION WITH PLANNING COMMISSION RE: STRATEGIC PLAN AND OTHER PLANNING MATTERS**

City Manager Chotkevys presented the staff report.

Jim Slark, Dana Point, spoke regarding the history of accidents occurring on Blue Lantern.

Pam Tappan, Dana Point, spoke regarding building codes in the City and submitted photos of alleged area code violations.

Bill Agee, Capistrano Beach, spoke regarding the granting of variances.

Patrick Evans, Huntington Beach, spoke regarding goals he believed the City should have.

Mayor Rayfield and City Manager Chotkevys served as facilitators of the workshop to review and discuss the City's Strategic Plan and make amendments as required.

The City Council and the Planning Commission addressed and provided direction to staff for revisions to portions of the Vision Statement, Mission Statement, Community Core Values, Initiatives and Tactical Elements of the Strategic Plan. Also discussed was the City's process for granting variances on projects. Staff was directed to bring back for City Council approval a draft of the Strategic Plan as revised/amended at this meeting.

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Mayor Rayfield declared a recess at 9:45 p.m. and reconvened the meeting at 9:50 p.m. All Council Members and Planning Commissioners were present, with the exception of Council Member Lacy who returned to the meeting at 9:52 p.m.

CITY COUNCIL CONSENSUS TO DIRECT STAFF TO REQUIRE, ON AN INTERIM BASIS, THE PROVISION OF A STAKING PLAN AND STORY POLES WITH CERTIFICATION FROM A LICENSED LAND SURVEYOR ON PROJECTS REQUESTING A VARIANCE, AND TO RETURN TO THE CITY COUNCIL WITH A PROPOSED CODE AMENDMENT MAKING THIS A PERMANENT MANDATORY REQUIREMENT FOR VARIANCE REQUESTS.

The City Council and the Planning Commission will meet again in a Joint Session on May 25, 2005 to discuss the City's General Plan and the Capital Improvement Project program, as well as the Town Center Plan.

**STAFF REPORTS**

This item was not heard.

**COMMISSION REPORTS**

This item was not heard.

**COUNCIL REPORTS**

This item was not heard.

**ADJOURNMENT OF JOINT SESSION WITH THE PLANNING COMMISSION**

There being no further business before the Joint Session of the City Council and the Planning Commission, Mayor Rayfield declared the joint meeting adjourned at 10:55 p.m.

**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 10:55 p.m. pursuant to Government Code Section 54956 et. seq.

**RECONVENE CITY COUNCIL MEETING**

Mayor Rayfield reconvened the meeting at 11:29 p.m. All Council Members were present.

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**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Rayfield declared the meeting adjourned at 11:30 p.m.

The next Regular Meeting of the City Council will be May 11, 2005 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

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SHARIE APODACA  
INTERIM CITY CLERK

APPROVED AT THE MEETING OF MAY 25, 2005