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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MARCH 23, 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 5:00 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; Kyle Butterwick, Director of Community Development; John Tilton, City Architect/Planning Manager; Brad Fowler, Director of Public Works/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), (2 cases)
- 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), (3 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: Hamilton v. City Council of the City of Dana Point, California (Respondent); James DeCarli, et al (Real Parties in Interest), Superior Court for the State of California, County of Orange, Central Justice Center, Case No. 04CC05259

D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957

Title: City Manager

Mayor Rayfield recessed the meeting into a Closed Session at 5:03 p.m. pursuant to Government Code Section 54956 et. seq.

**RECONVENE CITY COUNCIL MEETING**

Mayor Rayfield reconvened the meeting at 6:05 p.m. All Council Members were present.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Council Member Lacy.

**INVOCATION**

The Invocation was led by Cecil Cowder.

**PRESENTATIONS AND PROCLAMATIONS**

Presentation from Veteran of Foreign Wars Post 9934

Bob Moore and Bill Manes of Veterans of Foreign Wars (VFW) Post 9934 presented Deputy Matt Johnson with a plaque honoring him as Law Enforcement Officer of the Year 2004-05.

Mayor Rayfield presented Deputy Johnson with a City Certificate of Recognition in honor of his being selected as Law Enforcement Officer of the Year 2004-05 by VFW Post 9934.

**CONSENT CALENDAR**

A member of the public removed Items 10 and 11 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 AND 11.

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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. SPECIAL MEETING MINUTES, MARCH 7, 2005**

APPROVED THE MINUTES.

**3. REGULAR MEETING MINUTES, MARCH 9, 2005**

APPROVED THE MINUTES.

**4. SPECIAL MEETING AND ADJOURNED REGULAR MEETING MINUTES, MARCH 16, 2005**

APPROVED THE MINUTES.

**5. YOUTH BOARD MEETING MINUTES, FEBRUARY 17, 2005**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**7. CLAIMS AND DEMANDS**

RECEIVED AND FILED.

**8. RATIFICATION OF EMERGENCY PURCHASE FOR ASPHALT REPAIRS ON COAST HIGHWAY AND FOR TRUCKING REQUIRED TO REMOVE DEBRIS**  
*[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

(1) RATIFIED THE CITY MANAGER'S ACTION TO WAIVE COMPETITIVE BIDDING FOR EXCEEDING ALLOWABLE EXPENDITURES PER CITY

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ORDINANCES FOR EMERGENCY ASPHALT PAVEMENT REPAIRS ON COAST HIGHWAY; (2) RATIFIED THE CITY MANAGER'S ACTION TO WAIVE COMPETITIVE BIDDING FOR ALLOWABLE EXPENDITURES PER CITY ORDINANCES FOR EMERGENCY DEBRIS REMOVAL; (3) TRANSFERRED FUNDS FROM THE CAPITAL IMPROVEMENT PROGRAM RESERVES TO THE CIP 2005 STORM DAMAGE REPAIRS PROJECT, ACCOUNT NUMBER 1190 TO FUND THE COST OF THE WORK; AND (4) AUTHORIZED STAFF TO PAY QUICKEL PAVING, DONNY GOODWIN CONSTRUCTION, AND OTHER NECESSARY CONTRACTORS, VENDORS AND CONSULTANTS FOR COMPLETING ASPHALT REPAIRS AND DEBRIS REMOVAL UPON RECEIPT OF ACTUAL QUANTITIES AND COSTS FOR THE WORK.

9. **APPROVE AN AMENDMENT TO THE PARK, RECREATION, AND OPEN SPACE MASTER PLAN CONTRACT WITH RJM DESIGN GROUP, INC. TO: A) EXTEND THE TERM OF THE CONTRACT TO JULY 30, 2005; B) AUTHORIZE AN ADDITIONAL AMOUNT OF FUNDS TO COMPLETE THE PROJECT; AND C) AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT AMENDMENT** [*STRATEGIC PLAN: PROVIDE OPEN SPACE, PARKS, RECREATIONAL FACILITIES, GREENBELTS AND TRAILS*]

APPROVED AN AMENDMENT TO THE PARK, RECREATION AND OPEN SPACE MASTER PLAN CONTRACT TO: (A) EXTEND THE TERM OF THE CONTRACT TO JULY 30, 2005; (B) AUTHORIZED ADDITIONAL FUNDING TO COMPLETE THE PROJECT; AND (C) AUTHORIZED THE CITY MANAGER TO EXECUTE THE CONTRACT AMENDMENT.

10. **ORDINANCE AMENDING THE MUNICIPAL CODE RELATING TO FORMAL AND INFORMAL BID PROCEDURES FOR PUBLIC CONTRACTS** [*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 Attorney Muñoz presented the staff report.

Ed Labahn, Dana Point, suggested a revision to the language of the ordinance regarding selection of qualified bidders.

IT WAS MOVED BY COUNCIL MEMBER CHILTON, SECONDED BY COUNCIL MEMBER HARKEY (for discussion), TO INTRODUCE AND HOLD FIRST READING BY TITLE ONLY, OF AN ORDINANCE OF THE CITY OF DANA POINT ENTITLED:

*ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT,  
CALIFORNIA AMENDING THE DANA POINT MUNICIPAL CODE,*

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*CHAPTER 3.13, FOR THE PURPOSE OF ALLOWING THE CITY TO FURTHER UTILIZE INFORMAL BIDDING PROCEDURES AND CITY WORK FORCES PURSUANT TO THE CALIFORNIA UNIFORM CONSTRUCTION COST ACCOUNTING ACT*

SUBSTITUTE MOTION WAS MADE BY MAYOR PRO TEM ANDERSON, SECONDED BY COUNCIL MEMBER HARKEY, TO INTRODUCE AND HOLD FIRST READING BY TITLE ONLY, OF AN ORDINANCE OF THE CITY OF DANA POINT ENTITLED:

*ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING THE DANA POINT MUNICIPAL CODE, CHAPTER 3.13, FOR THE PURPOSE OF ALLOWING THE CITY TO FURTHER UTILIZE INFORMAL BIDDING PROCEDURES AND CITY WORK FORCES PURSUANT TO THE CALIFORNIA UNIFORM CONSTRUCTION COST ACCOUNTING ACT*

WITH LANGUAGE OF SECTION 1 PARAGRAPH (e) "TO THE LOWEST RESPONSIBLE BIDDER" REPLACED WITH "TO THE QUALIFIED, RESPONSIBLE BIDDER SUBMITTING THE LOWEST RESPONSIVE BID."

The substitute motion carried by the following vote:

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

- 11. LIQUEFIED NATURAL GAS (LNG) RECEIVING TERMINAL [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.

Ed Labahn, Dana Point, stated further study needed to be completed before establishing a position on this issue.

Richard Gardner, Capistrano Beach, stated it was premature to oppose or support this project at this time.

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Mayor Rayfield read into the record a portion of a letter received from Surfrider Foundation in support of adopting a resolution opposing a liquefied natural gas line receiving terminal off the coast of Camp Pendleton.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER CHILTON, TO 1) ASSIGN THE PROPOSED LNG TERMINAL TO THE OCEAN WATER QUALITY SUBCOMMITTEE TO FOLLOW AND REPORT BACK ON THE AFOREMENTIONED PROJECT; AND 2) ADOPT **RESOLUTION NO. 05-03-23-01**, *A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, OPPOSING A LIQUEFIED NATURAL GAS RECEIVING TERMINAL OFF THE COAST OF CAMP PENDLETON.*

The motion carried by the following vote:

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

### **ORAL REPORTS**

There were no Oral Reports.

### **PUBLIC COMMENTS**

Mayor Rayfield opened the meeting for public comments.

Patrick Evans, Huntington Beach, representing residents of the Dana Point Marina Mobile Home Estates, spoke regarding a veteran residing in the Mobile Home Estates.

Carrie Flores, Dana Point, spoke regarding recent approvals by the Planning Commission and a local property in Harbor Walk that is in alleged violation of City codes.

Mayor Rayfield declared a recess at 6:55 p.m. and reconvened the meeting at 7:08 p.m. All Council Members were present.

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**PUBLIC HEARINGS**

- 12. APPEAL OF PLANNING COMMISSION APPROVAL OF TENTATIVE TRACT MAP TTM 16620 AND SITE DEVELOPMENT PERMIT SDP04-32 AND A CORRESPONDING MITIGATED NEGATIVE DECLARATION AT 35392 CAMINO CAPISTRANO [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]**

City Attorney Muñoz presented the staff report, noting that formal notice of the appeal had been sent in accordance with legal noticing requirements to property owners within five hundred feet of the project. However, the City had inadvertently not provided the applicant, appellant or his attorney with formal notice of the hearing. Mr. Muñoz suggested the Public Hearing be opened and then continued to the meeting of April 11, 2005 in order to allow for the notice to be provided to the applicant and the appellant.

Mayor Rayfield opened the Public Hearing.

Daniel and Jeressie Wong, San Clemente, spoke in opposition to the proposed project.

Vernon Williams, Dana Point, spoke regarding the ground water level on the bluff and concerns about the extra water the additional homes would add.

Patrick Evans, Huntington Beach, appellant, spoke regarding his position on this project and the City's Housing Element.

MAYOR RAYFIELD NOTED THE PUBLIC HEARING WOULD REMAIN OPEN AND CONTINUED THE PUBLIC HEARING TO THE CITY COUNCIL MEETING OF APRIL 11, 2005 AT 6:00 P.M. OR SOON THEREAFTER.

**UNFINISHED BUSINESS**

There was no Unfinished Business.

**NEW BUSINESS**

- 13. DANA POINT YOUTH BOARD CITY MOTTO CONTEST [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]**

Management Analyst Wolf presented the staff report.

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IT WAS MOVED BY MAYOR PRO TEM ANDERSON, SECONDED BY COUNCIL MEMBER HARKEY, TO APPROVE THE YOUTH BOARD'S RECOMMENDED DANA POINT CITY MOTTO CONTEST PROJECT PLAN AS PRESENTED IN THE STAFF REPORT.

The motion carried by the following vote:

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

**14. EMERGENCY AND SUPPORT SERVICES** [*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.

Council Member Harkey stated for the record that she supports providing the staff with the necessary resources.

IT WAS MOVED BY MAYOR PRO TEM ANDERSON, SECONDED BY COUNCIL MEMBER CHILTON (as amended), TO APPROVE THE FOLLOWING ACTIONS DESIGNED TO ENHANCE DISASTER PREPAREDNESS PROGRAMS AND TO OPTIMIZE CITY SERVICES RELATED TO EMERGENCY RESPONSE, AND THE MAINTENANCE OF CITY FACILITIES AND INFRASTRUCTURE:

- a) COMBINE THE FACILITIES MAINTENANCE DIVISION WITH THE EMERGENCY SERVICES DIVISION UNDER THE UMBRELLA OF AN EXPANDED DIVISION IDENTIFIED AS EMERGENCY AND SUPPORT SERVICES;
- b) AUTHORIZE THE CREATION OF TWO NEW POSITIONS ENTITLED:  
1) EMERGENCY AND SUPPORT SERVICES MANAGER; AND 2)  
BUILDING/FACILITIES MAINTENANCE WORKER BY ADOPTING **RESOLUTION NO. 05-03-23-02**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING TWO ADDITIONAL POSITION TITLES AND SALARY RANGES;
- c) AUTHORIZE THE CITY MANAGER TO FILL THESE TWO NEW FULL-TIME POSITIONS;



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- d) AUTHORIZE THE CITY MANAGER TO PROVIDE NOTICE TO TERMINATE THE CURRENT AGREEMENT FOR BUILDING MANAGEMENT SERVICES; AND
- e) DIRECT STAFF TO BRING THE BUILDING/FACILITIES MAINTENANCE WORKER POSITION BACK TO THE CITY COUNCIL IN ONE YEAR FOR RE-EVALUATION.

The motion carried by the following vote:

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

### **STAFF REPORTS**

City Manager Chotkevys thanked the City Council for recognizing Deputy Matt Johnson and praised the performance of the Dana Point Orange County Sheriff's Deputies.

### **COUNCIL REPORTS**

Council Member Chilton reminded everyone of the two annual Easter Egg Hunts to be held this upcoming weekend at Pines Park and Sea Canyon Park.

Council Member Chilton reported on his attendance at the Friends of the Library meeting where Senate Bill 1160 was discussed, a bill to be on the November 2006 ballot that would allow another \$300 million dollars allocated for library construction. Also discussed was the possibility of creating a Foundation that would dovetail into future grant applications. Mr. Chilton suggested the City investigate this matter.

Council Member Harkey reported a well-attended rally was held in front of the Capistrano Unified School District headquarters in San Juan Capistrano and provided an update on the issue of restructuring of high school boundaries being considered.

Council Member Harkey reported a Bluff Top Task Force meeting had been held at Palisades School with approximately 65 households represented.

Council Member Harkey reported on her attendance at the Medal of Valor Luncheon and commented on how quickly officers are required to respond to many situations.

Council Member Harkey encouraged everyone to attend the Easter Egg Hunt and wished everyone a Happy Easter.

Council Member Lacy reported the Orange County Fire Authority was resolving differences with Medix Ambulance. A meeting will be held tomorrow night to discuss this

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issue, with Medix voluntarily relinquishing service to La Palma, Stanton, Villa Park and abiding by their contract in Cypress, Los Alamitos, Seal Beach and Rancho Santa Margarita.

Council Member Lacy reported on his meeting last week with two members of the San Clemente City Council where problems posed by the proposed off shore liquefied natural gas facility were discussed.

Council Member Lacy noted that the City Council recently began interviewing candidates for appointment to the Planning Commission. Additional candidates would be interviewed soon and thereafter appointments would be made.

Council Member Lacy requested that review of the City's fine schedule for nuisances be agendized for Council discussion during the month of April 2005. He felt that the current schedule was not a realistic fine schedule and should be reviewed and revised as necessary.

**DIRECTED STAFF TO AGENDIZE DISCUSSION OF THE CITY'S FINES FOR NUISANCE ACTIVITIES DURING THE MONTH OF APRIL 2005 IF POSSIBLE.**

Mayor Pro Tem Anderson paid tribute to local citizen Don Durant, who recently passed away, by playing one of his songs. Mr. Durant was a composer, singer and actor who most notably played Johnny Ringo on television.

Mayor Rayfield reported on his attendance at the Medal of Valor Luncheon and spoke regarding the Sheriffs officers' heroism within our county.

Mayor Rayfield noted the Ocean Institute will be sponsoring a weekend series, Tsunami Awareness Days, and encouraged everyone to attend.

Mayor Rayfield reported on his attendance at the Orange County Vector Control District Board meeting and requested that discussion of Assemblyman DeVore's legislative bill No. AB 991, which would delete the authority of the City Council to appoint members to the Vector Control District, be agendized for Council discussion.

**DIRECTED STAFF TO AGENDIZE ASSEMBLYMAN DEVORE'S LEGISLATIVE BILL NO. AB 991 FOR CITY COUNCIL DISCUSSION.**

Mayor Rayfield reminded everyone of the Easter Egg Hunts to be held this Saturday at Pines Park and Sea Canyon Park.

Mayor Rayfield thanked everyone for attending tonight's meeting and also thanked those watching at home on television.

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**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Rayfield declared the meeting adjourned at 8:08 p.m.

Mayor Rayfield adjourned the meeting in honor of Deputy Matt Johnson, Veterans of Foreign Wars Post 9934's Law Enforcement Officer of the Year 2004-05.

The next Adjourned Regular Meeting of the City Council will be March 30, 2005 at 6:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

The following Adjourned Regular Meeting of the City Council will be April 11, 2005 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California. (The Regular Meeting of April 13, 2005 will not be held due to lack of quorum.)

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SHARIE APODACA  
INTERIM CITY CLERK

APPROVED AT THE MEETING OF APRIL 11, 2005