

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
OCTOBER 25, 2006**

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Acting City Clerk Ward at 5:00 p.m. at the Dana Point Community Center, 34052 Del Obispo, Dana Point. Acting City Clerk Ward announced that the meeting was adjourned to 6:30 p.m. due to a lack of quorum.

CLOSED SESSION

There were no Closed Session items.

TOWN CENTER SUBCOMMITTEE RECEPTION

6:00 P.M.

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 Anderson at 6:30 p.m. in the Dana Point City Community Center, 34052 Del Obispo, Dana Point.

ROLL CALL

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

ABSENT: Russell Chilton, Mayor Pro Tem

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Muñoz, City Attorney; Sharie Apodaca, Director of Administrative Services; Kathy Ward, Acting City Clerk; Cathy Catlett, Assistant City Clerk; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works; Matt Sinacori, City Engineer; Sgt. Mark Long; Brenda Chase-Wisneski, Senior Planner; John Tilton, City Architect/Planning Manager; and Jackie Littler, Acting Executive Secretary.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Lara Anderson.

INVOCATION

The Invocation was led by Reverend Paul Peck.

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PRESENTATIONS AND PROCLAMATIONS

Town Center Subcommittee Recognition

Mayor Anderson thanked Council Member Rayfield as Chairman of the Town Center Subcommittee and asked him to provide an overview on the efforts of the Town Center Subcommittee members. Mayor Anderson and Council Member Rayfield presented Certificates of Recognition to the following Town Center Subcommittee members: Alice Anderson, Yvonne English, Jim Howard, Ronna Kincaid, Bob Mardian, Jim Miller, Kirsten Reynolds, Karin Schnell, Beverly Sels, Georgia Theodor, Terry Walsh, Steven Weinberg, and Thomas Volkmann (as Advisor).

PUBLIC HEARINGS

1. GENERAL PLAN AMENDMENT (GPA06-02), ZONE CHANGE (ZC06-01), ZONE TEXT AMENDMENT (ZTA06-04) AND LOCAL COASTAL PROGRAM AMENDMENT (LCPA06-05) FOR ADOPTION OF THE TOWN CENTER PLAN

Council Member Harkey provided a statement for the record:

“As I have previously disclosed, my husband owns property that comes barely within 500 feet of the Town Center Planning Area. The FPPC’s regulations therefore automatically presume that I have a financial interest [or conflict] in decisions concerning Town Center. It is for that reason that I have previously recused myself from participating in those decisions.

The Political Reform Act, however, would nevertheless permit me to vote if the effect of the decisions on my husband’s property is indistinguishable from the effect of those decisions on the public generally. As I believe it is an elected official’s duty not to duck the tough votes, but to try to vote and have input whenever possible, I have obtained both an analysis by a professional economist and by legal counsel, which concluded that the effect of the decisions would come within this exception, and I would therefore be permitted to vote. However, when my intention to participate tonight became publicly known, I learned from a variety of sources that certain individual(s) stated that if I did vote, they would file a complaint with the FPPC to initiate an investigation and an enforcement action against me. I do not intend to participate if doing so will result in a long and protracted, and expensive, proceeding with the FPPC, and in the meantime cast a cloud over my reputation, participation in the Town Center process and possibly over decisions that the Council would make with my participation.

Therefore, I am continuing to recuse myself from official participation in the Town Center deliberations, at this point.

I intend to continue to exercise my rights. however. to speak out on the Town

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Center plans as they affect me and all other citizens of Dana Point, as a member of the general public, as I have in the past.”

Council Member Harkey recused herself from the dais.

Mayor Anderson opened the Public Hearing.

Council Member Lacy asked the City Attorney for advisement on whether or not Council Member Harkey had to leave the room during this item. The City Attorney indicated that according to the 1st Amendment, Council Member Harkey could stay in the room during the discussion of this item.

City Manager Chotkevys explained that Mayor Pro Tem Chilton and Council Member Harkey have advice letters from the Fair Political Practices Commission concerning their conflict on the Town Center item and indicated that because this item contains a General Plan Amendment, this item needs three affirmative votes in order for the Town Center Plan to move forward.

Director of Community Development Butterwick thanked all of the members of the Town Center Subcommittee for their efforts and provided an overview of the future phases for the Town Center Plan.

Senior Planner Chase-Wisneski provided an overview and PowerPoint presentation of the content of the Town Center Plan. The basis of the plan began in 1991 when the City adopted General Plan. Since September 2004 – September 2006, the City held 30 public meetings. The City conducted a number of outreach efforts including a survey, direct mailings, and City-wide newsletters.

The Town Center Plan includes a series of policies, development standards and design guidelines which were created to guide the transformation of the Town Center into a pedestrian-oriented, mixed-use district which serves the community more effectively and creates a more meaningful place that adds to the identity of Dana Point.

Boris Dramov, the City’s Town Center consultant, spoke about the Dana Point community and the characteristics of successful Town Center communities. Boris provided a PowerPoint presentation on the objectives of successful Town Center Plans

Boris summarized the following concepts of the Town Center Plan:

General Recommendations

- Reconfigure PCH and Del Prado and establish gateways to the Town Center
- Establish an In-Lieu Parking Program
- Allow and Encourage Upper Level Housing

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- Encourage Commercial, Civic and Cultural Activities that Distinguish Dana Point as a Stronger Destination for Residents and Visitors
- Encourage the Post Office to Relocate their Distribution Facility
- Establish a Town Center Downtown Business Association
- Amend Development Standards to Promote a More Pedestrian-Friendly Mixed-Use Environment

Circulation and Streetscape

- Two-way traffic on PCH and Del Prado
- Curbside parking on both streets
- Enhanced sidewalks and amenities
- Improved intersections for pedestrians
- Up and downcoast gateways
- Unique lighting and street design

Parking

- Curbside parking
- Commercial in-lieu district
- Parking behind buildings
- Alley access wherever possible
- Encourage below grade parking

Land Use

- Allow upper floor residential
- Require ground level commercial
- Encourage pedestrian friendly uses
- Encourage retail anchors
- Encourage clustering of uses
- Discourage formula businesses

Development Standards

- 2.5 Floor Area Ratio (FAR) for mixed use
- Lot coverage removed
- Building height: 40 feet
- 18-foot minimum ground floor
- Massing control
- Build to lines and setbacks
- Courtyards and pedestrian passages

Director of Community Development Butterwick stated that the public improvements will be provided in phases as part of the City's Capital Improvement Program process with Public Hearings and introduced Director of Public Works Brad Fowler and City Architect/Planning Manager John Tilton.

Mayor Anderson asked Boris to elaborate on various building improvements, etc, which would be provided by private investors (for vacant lots). Mayor Anderson

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asked staff to describe what would happen if we take a test run with two-way traffic. Director of Public Works Fowler explained the various changes to street signals, left turn lanes, could be very costly. Further, one would get the disruption of the new directional change limited parking and no bus cutouts with out any benefit of all the public improvements.

Wayne asked staff to clarify the process for developers. Staff indicated that developers will asked to follow the design guidelines and as well as the public process for improvements. Public Hearings will be mandatory and high quality standards will be required.

Council Member Lacy thanked the staff and Subcommittee members for their efforts. He asked about the development standards (changing from 35 – 40 feet) and how that is measured. City Architect/Planning Manager Tilton replied that the height limit is measured from the surface of the sidewalk and the third story will be required a step back by ten feet.

Council Member Lacy asked about the difference between special condition use permits and variances as it relates to the roof decks. Staff responded by saying the Town Center Plan discourages variances in all cases. Council Member Lacy also asked about elevator shafts & air conditioning units if they would be included with the 40 foot height limit. City Architect/Planning Manager Tilton indicated that they would be included in the 40 feet, but could also ask for a conditional use permit of up to 42 inches beyond the 40 feet.

Council Member Lacy asked staff how important is the mixed use element. Boris commented that the mixed use element is essential to permitting. While the mixed use element is essential to the Town Center, not all properties will be developed with residential uses.

Council Member Lacy asked how essential is two-way traffic. Boris replied saying that it is essential to change the barrier effect/character of Del Prado and Pacific Coast Highway. Staff evaluated one-way and two-way alternatives, both concepts can work. Director of Public Works Fowler indicated that both two-way and one-way would work from a traffic circulation perspective, but that the Subcommittee noted that two-way is more convenient for access and allows a more pedestrian friendly Del Prado, say 25mph+ versus 35mph+ with one-way as well as closing the Del Prado for street events. One-way will always have some conflicts between pedestrians and vehicles. There are advantages to parking on PCH going with one-way.

Director of Public Works Fowler announced that Teamsters Union Local 396 that employ many of the workers/drivers at CR&R, announced that the workers have refused to accept CR&R's proposal and will vote again tomorrow evening on whether to accept an agreement to avoid a strike on October 30. The City will notify the public via the website

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after the vote. If there is a strike, the City will notify the public via telephone using the City's teleminder system.

Mayor Anderson recessed the meeting at 8:20 p.m. and reconvened the meeting at 8:40 p.m. Mayor Anderson, Council Members Lacy and Rayfield were present.

Mayor Anderson opened the hearing for Public Comments.

Ed Salair, Dana Point, spoke concerning the maximum height of the proposed buildings in Town Center and believes 40 feet should be the maximum height.

Richard E. Dietmeier, Dana Point, representing the Village at Dana Point Homeowners Association, complimented the Subcommittee, is in support of the Town Center Plan, and would like to keep the Subcommittee active in the future.

Terry Walsh, Dana Point, a member of the Town Center Subcommittee, would like to keep Dana Point as a beach community with the small town feel and supports the Town Center Plan with two-way circulation.

John Chaffetz, Dana Point, thanked the staff and Subcommittee for their efforts and believes the majority of the people in Dana Point are happy with the Town Center Plan. He believes that we need to decide the one-way verses two-way circulation, parking and sidewalks.

Judy Rice, Laguna Hills and Hemet, asked what would the legal ramifications be if we didn't follow this plan.

Jim Kelley, Dana Point, spoke concerning parking in the Town Center Plan and feels we need a parking structure.

Jerry Grunor, Dana Point, spoke concerning one-way verses two-way traffic, public parking facilities, and height limits exceeding 35 feet which may jeopardize views.

Steve Carey, Dana Point, provided a petition to the Council, and is opposed mixed use next to residential neighborhoods, height limits higher than 35', and traffic circulation in the Town Center Plan.

Patti Converse, Dana Point, lives in a mixed use building and has problems with the bar that she lives above.

Greg Orlandella, Dana Point, has concerns about the parking issues and building heights and feels the Town Center Plan needs to be refined.

Georgia Theodor, reading a letter for Patti Short, Dana Point, provided an overview of efforts in the last 20 years and approves the Town Center Plan.

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Herb Hueg, Dana Point, would like the people to vote on the traffic changes and building heights.

Raul Novak, San Clemente, opposes the Town Center Plan as there are many missing points in the Plan.

Cathy McCool, Dana Point, had left the meeting and checked in favor of the plan on the speaker slip.

Ian Brown, Laguna Niguel, supports the Town Center Plan, which would bring a heart to Dana Point.

Jim Miller, Dana Point, a member of the Town Center Subcommittee, supports the Town Center Plan and has concerns about traffic circulation.

Bob Theel, Dana Point, thanked the Subcommittee for their efforts and stated he supports the Town Center Plan as presented.

Diane Harkey, Dana Point, provided a map, appreciates the staff and Subcommittees efforts, has concerns with traffic impacts of the proposed two-way streets, detailed costs for the project, does not agree with gondolas and escalators, opposed to anything more than 40 feet, would like to more about the retail anchors, concerned about parking impacts, would like to know what other cities with their historic preservation, wants a local serving plan, wants to keep a small town atmosphere, and provided a list of questions to the Council.

Richard Gardner, Capistrano Beach, complimented the staff and Subcommittee members and is in favor of the Town Center Plan.

Patrick Evans, Huntington Beach, spoke about the Housing Element and affordable housing as it relates to the Town Center Plan.

Tom Brabek, Dana Point, opposes the two-way traffic with the Town Center Plan.

David Myers, San Juan Capistrano, has concerns about changes in traffic patterns in the Town Center Plan.

Yvonne English, Dana Point, a member of the Town Center Subcommittee, spoke in support of the Town Center Plan and addressed concerns raised by speakers.

Gary Graziano, Laguna Niguel, spoke in favor of revitalization, but is concerned about changing the traffic flow.

Jim Howard, Dana Point, a member of the Town Center Subcommittee, thanked the staff, Steve Carey, Bob Theel and Ross Teasley, for their efforts, and prefers

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to keep one-way traffic in the Town Center Plan and provided some suggestions for the Town Center Plan (i.e. suggesting trollies as part of the plan).

Council Member Rayfield clarified by saying that the Subcommittee voted on traffic circulation three times and asked about the petition Mr. Howard signed.

Mayor Anderson recessed the Council meeting at 10:00 p.m. and reconvened the meeting at 10:14 p.m. Mayor Anderson, Council Members Lacy and Rayfield were present.

Mayor Anderson closed the Public Hearing.

Council Member Rayfield thanked everyone for their public input and asked to continue this item to the November 8, 2006 City Council meeting. Council Member Rayfield asked staff to address two issues: 1) how do you really make sure that the building heights don't go over 40 feet; and 2) the traffic circulation pattern, taking into account the questions and public comments.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER LACY, TO REOPEN THE PUBLIC HEARING.

The motion carried by the following vote:

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

Council Member Rayfield commented that if this plan is approved, he would like to work immediately to acquire parking space for the plan.

Mayor Anderson asked staff to look into whether or not we could put different conditions in different areas of Town Center and report back at the next Council meeting.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER LACY, TO CONTINUE THE PUBLIC HEARING TO THE CITY COUNCIL MEETING ON NOVEMBER 8, 2006.

The motion carried by the following vote:

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

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CONSENT CALENDAR

Council Member Harkey returned to the dias.

Council Member Harkey removed Item No. 7 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER LACY, SECONDED BY COUNCIL MEMBER RAYFIELD, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM NO. 7.

The motion carried by the following vote:

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

2. 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.

3. REGULAR MEETING MINUTES, OCTOBER 11, 2006

RECEIVED AND FILED.

4. YOUTH BOARD MEETING MINUTES, OCTOBER 5, 2006

RECEIVED AND FILED.

5. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

6. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

7. 2006 SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED EMPLOYEE CLASSIFICATIONS; REVISIONS FOR JOB DESCRIPTIONS

Council Member Harkey removed this item from the Consent Calendar. City Manager Chotkevys provided a staff report.

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IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER LACY, TO ADOPT **RESOLUTION NO. 06-10-25-02** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING SALARY RANGES FOR REPRESENTED AND NON-REPRESENTED CLASSIFICATIONS; AND AUTHORIZE 3.5% MERIT POOL FUNDING LIMIT FOR BOTH REPRESENTED AND NON-REPRESENTED EMPLOYEE GROUPS, WHICH IS CONSISTENT WITH PRIOR YEARS; AND

ADOPT **RESOLUTION NO. 06-10-25-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING REVISED JOB DESCRIPTIONS.

The motion carried by the following vote:

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

- 8. RESOLUTION OF SUMMARY VACATION OF STORM DRAIN EASEMENT LOCATED UPON THE PROPERTIES AT 34581 AND 34585 CAMINO CAPISTRANO (ASSESSOR PARCEL NUMBERS 123-381-09 AND 123-381-10) AS DEDICATED ON TRACT MAP NUMBER 6872**

ADOPTED **RESOLUTION NO. 06-10-25-03** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, SUMMARILY VACATING A STORM DRAIN EASEMENT LOCATED UPON THE PROPERTIES AT 34581 AND 34585 CAMINO CAPISTRANO (ASSESSOR PARCEL NUMBERS 123-381-09 AND 123-381-10) AS DEDICATED ON TRACT MAP NUMBER 6872.

- 9. RECEIVE AND FILE THE RESOLUTION ADOPTED BY THE DESIGNATED GROWTH MANAGEMENT AREA (GMA) NUMBER 11 ELECTED OFFICIALS FOR GMA 11 TRANSPORTATION PROJECT FUNDING**

RECEIVED AND FILED THE RESOLUTION ADOPTED BY THE DESIGNATED ELECTED OFFICIALS FOR THE USE OF GROWTH MANAGEMENT AREA (GMA) NUMBER 11 FUNDING; AND (2) BASED UPON THE APPROVED RESOLUTION, AUTHORIZED STAFF TO ADJUST THE ANTICIPATED REVENUE FROM THE GMA #11 PROGRAM TO THE VARIOUS CIP STREET PROJECT ACCOUNTS AS NOTED IN THE FISCAL IMPACT SECTION OF THE REPORT.

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PUBLIC COMMENTS

Mayor Anderson opened the meeting for public comments.

John Chaffetz, Dana Point, reported that the results of the States annual pollution tests reported that Doheny State Beach gets an “A” and Salt Creek beach gets a “B” and congratulated the Council and staff for these improvements.

Bob Theel, Dana Point, indicated that Council Member Lacy’s comments about him are incorrect regarding his favorite wine.

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

There was no New Business.

PUBLIC COMMENTS (Continued)

There was no additional Public Comments.

STAFF REPORTS

COUNCIL REPORTS

Mayor Anderson reported that Orange County Grand Jury is recruiting again, as well as the Orange County Special Needs In Transit Advisory Committee. Acting City Clerk Ward will put these notices in the lobby. The Mayor also reminded everyone about the Clean-up Day on Saturday at Palisades Elementary from 7:30 a.m. – 2:30 p.m.

Mayor Anderson thanked Brenda Chase-Wisneski for her years of service to the City and wished her well in her new position.

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ADJOURNMENT

There being no further business before the City Council at this session, Mayor Anderson declared the meeting adjourned at 10:30 p.m.

The next Regular Meeting of the City Council will be November 8, 2006 at 5:00 p.m. in the Dana Point Community Center located at 34052 Del Obispo, Dana Point, California.

KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF NOVEMBER 8, 2006