
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
JUNE 28, 2006**

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 5:02 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

ROLL CALL

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

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/City Engineer; Matt Sinacori, City Engineer; Lt. Mark Billings, Chief of Police; Jennifer Anderson, Management Analyst, Brenda Chase Wisneski, Senior Planner, Jackie Littler, Acting Executive Secretary, Assistant City Attorney, John Ramirez, and Christy Teague, Economic Development Manager.

CLOSED SESSION

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

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (1 case)

1. Name of Case: Waterford Pointe Homeowners Association vs. the City of Dana Point and Orange County Sheriff-Coroner Department, Orange County Superior Court Case No. 06CC05447

B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Government Code § 54957

Title: City Attorney

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

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RECONVENE CITY COUNCIL MEETING

Mayor Anderson reconvened the meeting at 6:14 p.m.

CALL TO ORDER -- 6:15 P. M.

**JOINT MEETING WITH THE PLANNING COMMISSION TO CONTINUE DISCUSSION
OF HOUSING SUMMIT**

ROLL CALL OF CITY COUNCIL MEMBERS:

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

ROLL CALL OF THE PLANNING COMMISSION MEMBERS:

PRESENT: J. Scott Schoeffel, Chairman
Steve Weinberg, Vice-Chairman
Liz Anderson-Fitzgerald, Commissioner
Norman Denton, Commissioner
April O' Connor, Commissioner

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chairman of the Planning Commission, J. Scott Schoeffel.

INVOCATION

The Invocation was led by Bob Moore.

UNFINISHED BUSINESS

**1. CONTINUATION OF HOUSING SUMMIT AND REVIEW OF DRAFT HOUSING
ELEMENT**

Director of Community Development Butterwick introduced the City's new Economic Development Manager Christy Teague and provided a overview of the Housing Summit from the City Council meeting on May 10, 2006, highlighting the significant comments expressed by the Council and Planning Commission:

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- 1) adopt an Inclusionary Housing Program; 2) establish an Affordable Housing Fund; 3) increase the housing in-lieu fees commensurate with fees in the surrounding jurisdictions; and 4) commitment to increase the level of affordable housing opportunities above the minimum requirement.

Director of Community Development Butterwick also presented the timeline for Phase One – Approval in Concept of Housing Element and Approval of Density Bonus and Inclusionary Ordinance.

Director of Community Development Butterwick introduced Kathy Head, Principal of Keyser Marsten Associates in Los Angeles, who will be assisting staff in the preparation of the Inclusionary Housing Program. Ms. Head provided a PowerPoint presentation and overview of Inclusionary Housing Programs. She mentioned that Inclusionary Housing Programs are becoming more popular throughout the State, and there are 130 cities in California that have Inclusionary Housing Programs.

Council Member Lacy inquired about Ms. Head's experience with the Mello Act and asked a question in reference to the Dana Point Mobile Home Park closure. Ms. Head stated that units occupied by low/moderate income must be replaced unless it's infeasible (economic or social).

Mayor Anderson called on the Public Comment speakers for this item.

Colleen Traphagen, Dana Point, spoke in favor of affordable housing and indicated that there are 91 families that would qualify for affordable housing.

Robert Traphagen, Dana Point, spoke about the last Housing Summit meeting on May 10, 2006 and the prior litigation concerning the Dana Point Mobile Home Park.

Dr. Jim Seitz, Dana Point, spoke about the Dana Point Mobile Home Park closure and the lack of affordable housing and in-lieu fees.

Donna Faass, Capistrano Beach, talked about the timeline for the Housing Element and the closure of the Dana Point Mobile Home Park.

Jessica Barfield McCarren, Los Angeles, with Evans and Associates, spoke representing Jim Seitz, Robert Traphagen, Bonnie Pitkin and other former residents of the Dana Point Mobile Home Park. Ms. McCarren presented a PowerPoint presentation on the draft 2000 Housing Element.

Mayor Anderson opened the discussion to the Council and the Planning Commission.

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Council Member Harkey commented on various items of Supporting Document A, Comment Summary & Action Plan provided by staff. Council Member Harkey stated on Item #3 (Establish condominium conversion housing provisions), we should exclude anything under ten units. Council Member Harkey supports Item #4 (Include provisions which provide oversight/monitoring of deed and rent-restricted units). Regarding Item #5 (Establish a affordable housing fund), Council Member Harkey is opposed to selling Via Cañon; instead, would support the Bus Yard option. Regarding Item #6 (Raise affordable housing in-lieu fees), does not support this item, would prefer to work with incentives, density bonuses, etc. Regarding Item #8 (Establish criteria for affordable housing criteria), would prefer an easy qualification process. Regarding Item #10 (Increase affordable housing commitment above the baseline), supports meeting our requirement. Regarding Item #13 (Adopt a mobile home park ordinance), does not think this is necessary at this time. Council Member Harkey supports Item #14 (Establish building incentives for production affordable housing).

Council Member Rayfield spoke in favor of a Mobile Home park Ordinance and would like a policy that would give preference to Dana Point residents. He is in favor of a Policy statement of affordable housing opportunities including workforce and senior housing. Regarding Item #15 (Allow for a 4th floor in Town Center), Council Member Rayfield supports a significant contribution in affordable housing units and need to clarify location. Regarding Item #7 (Consider the use of affordable housing in-lieu fees), commercial development would pay in-lieu fees for affordable housing. Council Member Rayfield is also in favor of inclusionary and incentive approach to our efforts.

Council Member Lacy stated he supports a certifiable housing element and believes the City needs to consider selling Via Cañon to catch up on our in-lieu fees and provide cash for affordable housing. Council Member Lacy would like to agendize this item for a future meeting.

Mayor Pro Tem Chilton is concerned about becoming too restrictive for growth.

Mayor Anderson thanked Kathy Head for her helpful presentation. Mayor Anderson asked the Planning Commission to consider reviewing our ordinances concerning remodeling/privacy to be sensitive to surrounding communities.

Council Member Rayfield requested the comments/suggestions be updated for future reference and be posted to the website. City Manager Chotkevys indicated that information will be updated and posted on the website.

The City Council and Planning Commission unanimously agreed to continue this item to a future meeting.

Mayor Anderson recessed the meeting at 7:35 p.m. and reconvened to a regular City Council meeting at 7:53 p.m.

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CONSENT CALENDAR

Members of the public pulled Item Nos. 3 and 5. Council Member Lacy recused himself on Item No. 3 due to a potential conflict of interest.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER LACY, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM NOS. 3 AND 5.

The motion carried by the following vote:

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

2. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**3. SECOND READING OF ORDINANCE RE: HEADLANDS RESERVE LLC
COMMUNITY FACILITIES DISTRICT NO. 2006-1**

This item was removed from the Consent Calendar by a member of the public. Council Member Lacy left the Chambers due to a potential conflict of interest. City Manager Chotkevys provided a staff report.

Dr. Jim Seitz, Dana Point, spoke in opposition to the Community Financing District (CFD) and referenced a letter he submitted concerning the City of Palmdale and indicated that they paid \$1.5 million for CFD failure. City Attorney Muñoz responded to Dr. Seitz's comments regarding the City of Palmdale. Council Member Harkey stated her concern about the City of Palmdale's CFD, and City Attorney Muñoz indicated he would report back on this issue.

Robert Traphagen, Dana Point, spoke about comments made at the last Council meeting with regard to Council Member Lacy's recusal on the Headland's CFD item.

Council Member Harkey suggested that the Council should delay this vote and asked about the letter of credit. Staff is still waiting to hear on the letter of credit. Council Member Rayfield commented on the letter provided by Dr. Seitz regarding the issuance of bonds and asked staff to analyze this as soon as possible.

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IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM CHILTON, TO ADOPT **ORDINANCE NO. 06-04**

AN ORDINANCE OF COMMUNITY FACILITIES DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT LEVYING SPECIAL TAXES WITHIN COMMUNITY FACILITIES DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT.

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

4. RENEWAL OF TRANSIENT OCCUPANCY TAX INSURANCE FY06-07

RATIFIED THE RENEWAL OF THE COMMERCIAL PROPERTY INSURANCE AND TERRORISM COVERAGE POLICY OBTAINED THROUGH LANDMARK AMERICAN INSURANCE COMPANY FOR PROTECTION OF TRANSIENT OCCUPANCY TAX REVENUES; AUTHORIZED A TRANSFER OF FUNDS IN FY 2006-07 FROM RESERVE FOR ENHANCEMENT ACCOUNT IN THE AMOUNT OF \$13,167 TO COVER BUDGET SHORTFALL DUE TO INCREASE IN PREMIUMS; AND AUTHORIZED REMITTANCE OF PREMIUM IN THE AMOUNT OF \$48,167 FOR FY 2006-07.

5. RESOLUTION IN SUPPORT OF THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION ACT OF 2006

Council Member Lacy returned to the Chambers.

This item was removed from the Consent Calendar by a member of the public. Director of Public Works/City Engineer Fowler provided a staff report on this item.

Dr. Jim Seitz, Dana Point, spoke about various illnesses/health issues of the Dana Point Mobile Home Park former residents and asked that the Environmental Impact Report be reviewed very closely.

Richard E. Dietmeier, Dana Point, representing Village at Dana Point Homeowners Association, spoke in favor of this resolution, and proposed the resolution to say "in support of" as Council is not approving this measure and will be approved by the voters in November.

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It was moved by Council Member Rayfield to approve the recommended action to approve and adopt a resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT APPROVING THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION ACT OF 2006.

The motion *died* for a lack of a second. NO ACTION TAKEN.

PUBLIC COMMENTS

Mayor Anderson opened the meeting for public comments.

Donna Faass, Capistrano Beach, spoke about the closure of the Dana Point Mobile Home Park.

Pam Tappan, Capistrano Beach, spoke about citations issued to Mr. Paul Douglas and provided information to the Council. She also is concerned about safety issues with regard to the Capistrano Beach Storm Drain project and indicated Pines Park needs restrooms. Staff will follow up concerning the safety issues with the Capistrano Beach Storm Drain project.

Robert Traphagen, Dana Point, spoke about possible legal issues against the City from Headlands Reserve LLC and Makar.

Dr. Jim Seitz, Dana Point, introduced Sam Bahonian and Jessica McCarren that will be assisting them in the future. Dr. Seitz is also concerned about a recent occurrence of flag desecration and in-lieu fees.

Richard E. Dietmeier, Dana Point, representing the Village at Dana Point Homeowners Association, mentioned he received a fraudulent email, purported to be from Bank of America. Mr. Dietmeier also inquired about the amount the City has in the Affordable Housing Fund, Art in Public Places Fund, and Sea Terrace Park Fund and would like to see these funds listed in the next Monthly Financial Report. City Manager Chotkevys will provide a memo at the next Council meeting detailing the amounts in these funds. Council Member Rayfield indicated the Investment Review Committee has established a series of financial policies on this subject which will be coming forward to the Council soon.

Kathy Weaver, Apopka, Florida, spoke about the Dana Point Mobile Home Park closure and the draft Housing Element process.

Judy Rice, Laguna Hills and Hemet, spoke concerning affordable housing and Dana Point's efforts to be compliant.

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John Chaffetz, Dana Point, suggested to the Council that we make the in-lieu fees high, obligating the builder to build affordable housing units.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

6. REQUEST TO INITIATE A GENERAL PLAN AMENDMENT GPA05-01 TO CHANGE THE LAND USE DESIGNATION AT THE PROPERTY LOCATED 34202 DEL OBISPO

This item was pulled by a member of the public. City Manager Chotkevys provided a staff report.

Dr. Jim Seitz, Dana Point, spoke in opposition to initiate a General Plan Amendment for this property.

Richard E. Dietmeier, Dana Point, representing the Village at Dana Point Homeowners Association, mentioned the Bal Harbour project and wanted to know how the City will proceed with this General Plan Amendment. City Manager Chotkevys indicated that the City is working on several issues on Bal Harbour.

Michael Gagnet, Dana Point, representing Makar, spoke about the affordable housing for the property at 34202 Del Obispo and is looking forward to working with Council, staff, and the community.

Donna Faass, Capistrano Beach, asked the Council and staff not to rush the review process for this project.

Mayor Anderson recessed the meeting at 9:10 p.m. and reconvened at the Council meeting at 9:20 p.m. All Council Members were present except for Mayor Pro Tem Chilton. Mayor Pro Tem Chilton returned to the Chambers at 9:24 p.m.

Council Member Lacy spoke in favor of this item and referenced a meeting with Gary Hunt, John Ramirez, Michael Gagnet and Paul Makarechien, of Makar. He indicated that Makar may offer to settle with the Dana Point Mobile Home Park residents for \$500,000.

Council Member Rayfield asked staff to provide answers on the Mello Act and would like a thorough analysis of this zoning change. Council Member Rayfield provided answers to questions asked by Dr. Seitz and Richard Dietmeier.

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IT WAS MOVED BY MAYOR PRO TEM CHILTON, SECONDED BY COUNCIL MEMBER HARKEY, TO AUTHORIZE THE INITIATION OF GENERAL PLAN AMENDMENT GPA05-01 BASED UPON THE INFORMATION AND DISCUSSION INCLUDED IN THIS REPORT. THE APPLICANT'S LETTER OF REQUEST IS PROVIDED AS SUPPORTING DOCUMENT A.

The motion carried by the following vote:

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

NEW BUSINESS

7. ACCEPTANCE OF AGREEMENTS FOR CONVEYANCE OF LANTERN BAY PARK AND MAINTENANCE LICENSE OF KEN SAMPSON OVERLOOK

This item was pulled by a member of the public. City Manager Chotkevys provided a staff report and confirmed that the County of Orange voted unanimously to offer this park to Dana Point. The Planning Commission also unanimously approved their General Plan Consistency Finding GPC06-02.

Richard Dietmeier, Dana Point, representing the Village at Dana Point, spoke in favor of accepting Lantern Bay Park and maintenance of Ken Sampson Overlook.

Jack Roper, Dana Point, spoke in favor of accepting this park and is looking forward to improvements in the park. Mr. Roper also asked about the maintenance of Park Lantern and Eastern Lantern streets. Staff will respond to his questions concerning the maintenance of these two streets.

IT WAS MOVED BY MAYOR PRO TEM CHILTON, SECONDED BY COUNCIL MEMBER RAYFIELD, TO APPROVE SUBJECT AGREEMENTS; DIRECT THE CITY MANAGER TO EXECUTE SAME; AND APPROVE BUDGET EXPENSES AS FOLLOWS: FUNDING FOR THIS PROJECT SHALL BE FROM A TRANSFER OF \$159,000 FOR THE UNDESIGNATED GENERAL FUND RESERVE INTO ACCOUNT 01-55-20-0000-255 AND \$350,000 FROM THE UNDESIGNATED CAPITAL IMPROVEMENT PROGRAM (CIP) RESERVE INTO A NEW CIP PROJECT NUMBER TO BE CREATED FOR LANTERN BAY PARK DEFERRED MAINTENANCE.

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The motion carried by the following vote:

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

PUBLIC COMMENTS (Continued)

There were no additional Public Comments.

BY CONSENSUS, THE COUNCIL VOTED TO ADD COUNCIL REPORTS TO THE AGENDA.

COUNCIL REPORTS

Mayor Pro Tem Chilton indicated he will not seek re-election in the election on November 7, 2006.

Council Member Rayfield thanked staff for the \$3 million grant for the Epidemiological Study at Doheny State Beach.

Council Member Rayfield offered congratulations to staff as the American Public Works Association has selected the Salt Creek Ozone Treatment Project as their Environmental Project of the Year.

Council Member Rayfield wished everyone a happy 4th of July and reminded everyone to watch our wonderful fireworks show.

Council Member Harkey wished everyone a happy 4th of July and indicated there will be a symphony concert at the Laguna Cliffs Marriott again this year.

Council Member Harkey thanked everyone who has been asking about her mother who is very ill and said she appreciated all the birthday wishes she had received.

Mayor Anderson mentioned the Chamber remodel will begin September 14th and is scheduled to be completed in January 2007.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Anderson declared the meeting adjourned at 10:00 p.m.

The next Regular Meeting of the City Council will be July 12, 2006 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

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KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF JULY 12, 2006.