
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
AUGUST 23, 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 5:00 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; Christy Teague, Economic Development Manager; Erika Williams, Senior Planner; Mike Rose, Emergency & Support Services Manager; Kevin Evans, Recreation Manager; and Jackie Littler, Acting Executive Secretary.

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): 34142 Chula Vista, Dana Point

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

Name of Case: City of Dana Point v. Debbie Block; RW Selby & Co., Inc.; Nieves Landscape, Inc. et al.; Orange County Superior Court Case No. 06CC02906

Mayor Pro Tem Chilton recused himself on Closed Session Item A due to economic conflict reasons.

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Mayor Anderson 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 Anderson reconvened the meeting at 6:00 p.m. All Council Members were present.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Rayfield.

INVOCATION

The Invocation was led by Reverend Paul Peck.

PRESENTATIONS AND PROCLAMATIONS

Business of the Month – Coffee Importers

Management Analyst Anderson gave a PowerPoint presentation of Coffee Importers, located in the Harbor. Coffee Importers has been owned by the Millers since 1979. Mayor Anderson presented Jim Miller, owner, a Certificate of Recognition.

Presentation to Deputy Ed Oliva, Deputy of the Year

Mayor Anderson presented this year's Deputy of the Year Certificate of Recognition to Deputy Ed Oliva. He was joined by his wife and son for this recognition. Mayor Anderson announced that there will be a reception for Deputy Oliva at the first recess.

CONSENT CALENDAR

Council Member Harkey removed Item No. 14 from the Consent Calendar. A member of the Public removed Item No. 20 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM CHILTON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM NOS. 14 AND 20.

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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

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. REGULAR MEETING MINUTES, JULY 12, 2006

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, AUGUST 2, 2006

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF AUGUST 16, 2006

RECEIVED AND FILED.

5. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

6. CITY TREASURER'S REPORT, JUNE 2006

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH ON JUNE 2006.

7. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

8. ADOPTION OF A RESOLUTION ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2007

ADOPTED RESOLUTION NO. 06-08-23-01, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2007.

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9. RESERVE AND CAPITAL INFRASTRUCTURE POLICIES

- A. APPROVED THE RECOMMENDATION OF THE INVESTMENT REVIEW COMMITTEE (IRC) TO ADOPT THE GENERAL FUND RESERVE POLICY AND THE CAPITAL INFRASTRUCTURE FUNDING POLICY, AND TO IMPLEMENT SAID POLICIES IN FY 2006-07; AND

- B. MODIFIED THE EXISTING \$1,500,000 CASH FLOW RESERVE BY ESTABLISHING THE LEVEL AT 10% OF GENERAL FUND REVENUES (\$2.8 MILLION); MODIFIED THE EXISTING \$2,000,000 EMERGENCY RESERVE BY ESTABLISHING THE LEVEL AT 20% OF GENERAL FUND REVENUES (\$5,500,000); ELIMINATE THE EXISTING \$1,000,000 UNINSURED CLAIMS RESERVE; ELIMINATED THE EXISTING \$66,685 VEHICLE & EQUIPMENT REPLACEMENT RESERVE; CREATED A NEW DESIGNATED GENERAL FUND RESERVE ENTITLED CAPITAL PROJECTS SINKING FUND RESERVE AND ESTABLISHED THE INITIAL FUNDING LEVEL AT \$2,500,000.

10. AUTHORIZATION TO ISSUE REQUEST FOR PROPOSAL FOR AUDITING SERVICES

AUTHORIZED STAFF TO ISSUE A REQUEST FOR PROPOSAL (RFP) FOR AUDITING SERVICES.

11. SECOND READING AND ADOPTION OF AN ORDINANCE - UNATTENDED ANIMALS

*ADOPTED **ORDINANCE NO 06-05**, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING SECTION 10.08.070 OF THE DANA POINT MUNICIPAL CODE RELATING TO UNATTENDED ANIMALS.*

12. SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING SECTION 11.10.014 OF THE MUNICIPAL CODE TO ADDRESS RECENT CHANGES IN PERMITTED WORK HOURS ON PUBLIC STREETS

*ADOPTED **ORDINANCE NO 06-06**, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING SECTION 11.10.014 OF THE MUNICIPAL CODE TO ADDRESS RECENT CHANGES IN PERMITTED WORK HOURS ON PUBLIC STREETS.*

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13. REAPPROPRIATION OF CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM FUNDS FROM FY 2005/2006 – (AB 1913)

ADJUSTED THE FY 2006/2007 BUDGET WITH THE REAPPROPRIATION OF UNENCUMBERED CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM UNSPENT MONIES REMAINING FROM THE FY 2005/2006 BUDGET, TO THE SUPPLEMENTAL LAW ENFORCEMENT SERVICE FUND (SLESF) ACCOUNT, AND APPROPRIATED FUNDS FROM THE SLESF TO IMPLEMENT THE FOLLOWING PROGRAMS:

- APPROVED FUNDING FOR THE SCHOOL RESOURCE OFFICER POSITION FOR THIS SCHOOL YEAR
- APPROVED FUNDING FOR THE PROJECT STOP (STOP TRASHING OUR PARKS)

14. HEALTH BENEFIT ALLOWANCE MODIFICATIONS FOR REPRESENTED AND NON-REPRESENTED CLASSIFICATIONS

Council Member Harkey removed Item No. 14 from the Consent Calendar.

ADOPTED RESOLUTION NO. 06-08-23-02, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, MODIFYING HEALTH BENEFIT PLAN ALLOWANCES FOR ALL ELIGIBLE REPRESENTED AND NON-REPRESENTED CLASSIFICATIONS.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER RAYFIELD TO BRING BACK AN ORDINANCE REVISION TO MODIFY THE MONTHLY HEALTH BENEFIT ALLOWANCE SUCH THAT THE BENEFIT WILL REMAIN AVAILABLE TO FUTURE ELIGIBLE ELECTED AND APPOINTED OFFICIALS BUT AT THEIR SOLE COST. ELIGIBLE ELECTED AND APPOINTED OFFICIALS CURRENTLY RECEIVING THIS BENEFIT SHALL CONTINUE TO DO SO. THE CITY COUNCIL POLICY TASK FORCE SHALL DEVELOP A RECOMMENDATION FOR FUTURE CITY COUNCIL CONSIDERATION.

The motion carried by the following vote:

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

15. AWARD OF CONTRACT FOR CRITICAL INFRASTRUCTURE PROTECTION

AWARDED A CONTRACT TO A-STAR GLASS FOR THE INSTALLATION OF REINFORCED BLAST RESISTANT STORE-FRONT WINDOWS FOR THE POLICE SERVICES FACILITY AND THE EMERGENCY OPERATIONS

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CENTER, PROVIDED THAT THE CITY MANAGER OR HIS DESIGNEE MAY APPROVE ADDITIONAL PAYMENT NOT TO EXCEED 15 PERCENT OF THIS AMOUNT FOR CHANGE ORDERS AND CONTINGENCIES; AUTHORIZED THE CITY MANAGER TO EXECUTE THE CONTRACT; AND AUTHORIZED THE ACCEPTANCE OF APPROVED URBAN AREA SECURITY INITIATIVE (UASI) GRANT FUNDS TO FULLY OFFSET THE COST OF THIS PROJECT.

16. AWARD OF CONTRACT TO REPLACE THE CITY PLAZA ROOF

AWARDED A CONTRACT TO BOVEE ROOFING, INC. FOR THE REPLACEMENT OF THE ROOF ON THE CITY PLAZA BUILDING, PROVIDED THAT THE CITY MANAGER OR HIS DESIGNEE MAY APPROVE ADDITIONAL PAYMENT NOT-TO-EXCEED 10 PERCENT OF THE CONTRACT AMOUNT FOR CHANGE ORDERS AND CONTINGENCIES; AUTHORIZED THE CITY MANAGER TO EXECUTE THE CONTRACT; AND AUTHORIZED BUDGET TRANSFERS FROM THE UNDESIGNATED GENERAL FUND TO FINANCE THIS UNBUDGETED ROOF REPLACEMENT AS NOTED IN THE FISCAL IMPACT SECTION OF THE REPORT.

17. AWARD OF CONTRACT FOR THE PAINTING OF CITY HALL

AWARDED A CONTRACT TO TIP TOP PAINTING FOR THE COMPLETE PAINTING OF THE EXTERIOR OF CITY PLAZA BUILDING AND RAILINGS, PROVIDED THAT THE CITY MANAGER OR HIS DESIGNEE MAY APPROVE ADDITIONAL PAYMENT NOT TO EXCEED 10 PERCENT OF THIS AMOUNT FOR CHANGE ORDERS AND CONTINGENCIES; AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE CONTRACT.

18. CHARITABLE GRANT FUNDING APPLICATION

APPROVED CHARITABLE GRANT FUNDING TOTALING \$1,200 TO THE FOLLOWING ORGANIZATION:

TOBY'S HOUSE	\$1,200
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19. ORDINANCE OF THE CITY COUNCIL OF THE DANA POINT REGULATING BICYCLES AND PEDESTRIANS ON COAST HIGHWAY BETWEEN PALISADES DRIVE AND CAMINO CAPISTRANO AND AUTHORIZING POSTING OF SIGNAGE REGARDING SAME

INTRODUCED AND HELD FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING CHAPTER 12.18 TO THE MUNICIPAL CODE ENTITLED "COAST HIGHWAY RESTRICTIONS" PROHIBITING BICYCLES, PEDESTRIANS AND OTHER NON-VEHICLE MODES OF TRANSPORTATION ON COAST

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HIGHWAY BETWEEN CAMINO CAPISTRANO AND PALISADES DRIVE AND REQUIRING THAT ALL SUCH MODES OF TRAVEL USE THE PROTECTED BICYCLE AND PEDESTRIAN TRAVEL WAY.

20. REQUEST FOR CALIFORNIA COASTAL COMMISSION CERTIFICATION OF LOCAL COASTAL PLAN AMENDMENT LCPA 06-02 PERTAINING TO RESIDENTIAL BUILDING HEIGHTS

A member of the public pulled Item No. 20. City Manager Chotkevys provided a staff report.

Scott Howell, Dana Point, spoke in opposition to the Ordinance that was adopted on April 12, 2006.

IT WAS MOVED BY MAYOR PRO TEM CHILTON, SECONDED BY COUNCIL MEMBER HARKEY, TO ADOPT **RESOLUTION NO. 06-08-23-03, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, REGARDING LOCAL COASTAL PROGRAM AMENDMENT LCPA-06-02 AND REQUESTING CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION**

The motion carried by the following vote:

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

Mayor Anderson recessed the meeting at 6:36 p.m. and reconvened the meeting at 6:54 p.m. All Council Members were present.

PUBLIC COMMENTS

Mayor Anderson opened the meeting for public comments.

John Chaffetz, Dana Point, spoke about the meeting concerning the Harbor Plan at the Youth & Group Facility on August 24 and looks forward to this item coming to the Council for discussion.

Dr. Ron Lackey, Dana Point, spoke about the 3 C's (communication, cooperation and collaboration) between the Council's of the 12 board districts and the Board of Supervisors and his participation as a candidate for the Board of Capistrano Unified School District.

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Maurine Lacher, Dana Point, owns Dana Point Art Center and invited the City Council to the next "Fantasea of Art" on September 9, from 2:00 – 8:00 p.m. at the Blue Lantern Plaza.

Dr. Jim Seitz, Dana Point, spoke about the General Plan Amendment for Makar that was approved by Council on June 24th and June 28th. He believes that the action taken on June 28th violated the Brown Act and is not legal/valid.

Kathleen Lebon, Mission Viejo, introduced herself as a candidate of District 7 for the Capistrano Unified School District.

Lisa Bartlett, Capistrano Beach, introduced herself as a candidate for the Dana Point City Council and provided her email address www.Lisa4DP.com.

Joel Bishop, Dana Point, thanked the Chief of Police and his deputies for their swift action in capturing the drunk driver that hit his car a couple of months ago.

Judy Rice, Laguna Hills and Hemet, mentioned that another former Dana Point Mobile Home Park resident, ex-manager Donna, died and is concerned about a Negative Declaration on the Mobile Home Park property.

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

21. PARKS AND RECREATION FACILITIES REGULATIONS

City Manager Chotkevys provided a staff report and indicated that the City of Dana Point would be accepting Lantern Bay Park from the County of Orange on September 1, 2006.

Director of Administrative Services Apodaca provided an overview of the Park Use policy and recommended revisions.

Lisa Bartlett, Capistrano Beach, requested that Pines Park be classified as one through three (200 persons maximum) instead of one through four (1000 persons maximum).

Richard Gardner, Capistrano Beach, spoke in favor of a skateboard park in Dana Point before eliminating skateboarding at Del Obispo Park.

Recreation Manager Evans responded to City Council questions.

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Council Member Harkey indicated she would prefer Pines Park be classified as one through three, except for City sponsored concerts, and hold other larger events at Lantern Bay Park.

City Council discussed other ideas for skateboarding in Dana Point. City Manager Chotkevys suggested portable skateboard units for trial in various areas of the city and to bring back skateboarding at Del Obispo Park at a future meeting.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER RAYFIELD TO CHANGE THE CLASSIFICATION TO ONE THROUGH THREE AT PINES PARK, EXCEPT FOR CITY SPONSORED EVENTS, AND INTRODUCED AND HELD FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING SECTIONS 13.04.030, 13.04.090, 13.04.130, 13.04.170, AND 13.04.220 OF THE MUNICIPAL CODE AND ADDING SECTION 13.04.235 TO THE MUNICIPAL CODE REGARDING PARKS AND RECREATIONAL FACILITIES REGULATIONS

APPROVED AND ADOPTED REVISED PARKS AND OVERLOOKS USE POLICY AND FEE SCHEDULE; AUTHORIZED CITY MANAGER TO ADMINISTRATIVELY AMEND THE POLICY AS WARRANTED.

The motion carried by the following vote:

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

22. PACIFIC COAST HIGHWAY PEDESTRIAN ACCESS WAY AT DEL OBISPO

Director of Public Works /City Engineer Fowler provided a staff report and PowerPoint presentation on various designs for this project.

Jim Wilson of 30th Street Architects responded to questions from City Council on the pedestrian access way designs.

Richard Gardner, Capistrano Beach, spoke about the people coming from Capistrano Beach into Dana Point, how they would be able to use this access way, and fix the pedestrian problems in the community first.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY MAYOR ANDERSON (for discussion) TO APPROVE STAFF'S RECOMMENDED CONCEPT DESIGN ON THE PACIFIC COAST HIGHWAY PEDESTRIAN ACCESS WAY.

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Council Members spoke in favor of the recommended concept design and Council Member Lacy would like to include City branding (i.e. City seal, motto, etc.), possible. Mayor Anderson asked that appropriate lights would be added to this access way so it so it can be seen at night.

The motion carried by the following vote:

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

Mayor Anderson recessed the meeting at 8:02 p.m. and reconvened the meeting at 8:12 p.m.

PUBLIC HEARINGS

- 23. APPEAL OF PLANNING COMMISSION DECISION APPROVING VARIANCE V05-08 TO ALLOW A NEW SINGLE-FAMILY RESIDENCE TO EXCEED THE MAXIMUM ALLOWABLE BUILDING HEIGHT BY 5-FEET; A COASTAL DEVELOPMENT PERMIT CDP05-25 FOR DEVELOPMENT IN THE COASTAL ZONE, AND A MINOR SITE DEVELOPMENT PERMIT SDP05-65(M) FOR RETAINING WALLS UP TO 6 FEET IN HEIGHT IN THE RESIDENTIAL SINGLE FAMILY (RSF7) ZONING DISTRICT AT 34142 CHULA VISTA.**

Mayor Pro Tem Chilton recused himself due to an economic conflict and left the Council Chambers.

Mayor Anderson reopened the Public Hearing for new information on this project.

City Manager Chotkevys asked City Attorney Muñoz to provide a update on what has transpired since the last City Council meeting. City Attorney Muñoz and the City Planning staff met with Mr. Howell to discuss various solutions as well as the applicant. The applicant provided a handout to the Council.

Scott Howell, provided the City Clerk with documents for the file, and provided a PowerPoint presentation on feasible alternatives presented and noted that all alternatives were rejected by the applicant/owners.

David Swerdlin, representing the owners, provided pictures with various designs and roof heights, the owners provided and option with a flat roof, and asked for approval of the recommended action prepared by staff.

Mayor Anderson closed the Public Hearing.

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Council Member Harkey presented pictures while discussing various alternatives and thought the options were not feasible.

City Council Members discussed their views on this project. Council Member Rayfield would like the City to revisit public views (versus private views). Council Member Lacy indicated he supported the appeal because of the statement in our ordinances and codes about compatibility in the community.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER RAYFIELD, TO:

ADOPT RESOLUTION NO. 06-08-23-04, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF VARIANCE V05-08 TO ALLOW A NEW 4,485 SQUARE FOOT, THREE-LEVEL SINGLE-FAMILY DWELLING AND ATTACHED 442 SQUARE FOOT GARAGE THAT EXCEEDS THE MAXIMUM ALLOWABLE HEIGHT OF 26 FEET, A COASTAL DEVELOPMENT PERMIT CDP05-25 FOR DEVELOPMENT IN THE COASTAL OVERLAY DISTRICT, AND A MINOR SITE DEVELOPMENT PERMIT SDP05-65(M) FOR RETAINING WALLS IN THE RESIDENTIAL SINGLE FAMILY 7 (RSF7) ZONING DISTRICT AT 34142 CHULA VISTA.

The motion carried by the following vote:

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

PUBLIC COMMENTS (Continued)

There we no additional public comments.

STAFF REPORTS

Director of Administrative Services Apodaca offered to update the Council on the "To Do List" on various inquires from the public at past Council meetings. Council asked that the recap of these items be provided with their mail.

City Manager Chotkevys congratulated Deputy Oliva and thanked Police Chief Billings (past Deputy of the Year) for all of his efforts.

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COUNCIL REPORTS

Council Member Harkey reported that former Council Member Ingrid McGuire is recovering from a car accident and would appreciate well wishes. Council Member Harkey also mentioned the upcoming Concerts in the Park and Harbor Open House at the Youth & Group Facility on August 24.

Mayor Anderson reported on the Richard Henry Dana Charity Regatta held by the Dana Point Yacht Club for Cystic Fibrosis. Information is available on their website www.dpyc.org. There will be a poker tournament and casino night on September 7, 8, 9, and 10.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Anderson declared the meeting adjourned at 8:52 p.m.

The next Regular Meeting of the City Council will be September 13, 2006 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF SEPTEMBER 13, 2006