

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
JULY 12, 2006**

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. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point. Acting City Clerk Ward announced that the meeting was adjourned to 6:00 p.m. due to a lack of quorum.

CLOSED SESSION

There were no Closed Session items.

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 6:05 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; Mark Long, Sergeant; Jennifer Anderson, Management Analyst; Brenda Chase-Wisneski, Senior Planner; John Tilton, City Architect, Planning Manager; Christy Teague, Economic Development Manager, and Jackie Littler, Acting Executive Secretary.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Harkey.

INVOCATION

The Invocation was led by Pastor Ty Guy of South Shores Church.

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REORGANIZATION OF AGENDA ORDER

IT WAS MOVED BY MAYOR PRO TEM CHILTON, SECONDED BY COUNCIL MEMBER RAYFIELD, TO HEAR ITEM NOS. 22 AND 23 (UNFINISHED AND NEW BUSINESS) BEFORE ITEM NOS. 20 AND 21 (PUBLIC HEARINGS).

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 announced that those interested in closed captioning of City Council meetings should contact Acting City Clerk Ward. The upcoming remodel of the Council Chambers could include this feature if resident interest level is high.

PRESENTATIONS AND PROCLAMATIONS

Business of the Month – Salon Surreal

Management Analyst Anderson gave a PowerPoint presentation of Salon Surreal in Capistrano Beach. Mayor Anderson presented Dena Lux, owner, a Certificate of Recognition.

Presentation by Mission Hospital Regarding Hospital Expansion and Widening of Crown Valley Parkway

This presentation will be rescheduled to a future meeting due to a conflict by Paula Serios, Vice President of Marketing at Mission Hospital.

CONSENT CALENDAR

Council Member Harkey removed Item Nos. 2, 13, and 15 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER LACY, 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. 2, 13, AND 15.

The motion carried by the following vote:

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

2. REGULAR MEETING MINUTES, JUNE 14, 2006

Council Member Harkey removed Item No. 2 from the Consent Calendar. Council Member Lacy recused himself due to a potential conflict of interest.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER RAYFIELD, TO APPROVE THE MINUTES AS AMENDED TO INCLUDE TRANSCRIBED MINUTES ON THE HEADLANDS COMMUNITY FACILITES DISTRICT FORMATION AS PROVIDED IN EXHIBIT B.

The motion carried by the following vote:

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

3. ADJOURNED REGULAR JOINT MEETING WITH THE PLANNING COMMISSION MINUTES, JUNE 28, 2006

APPROVED THE MINUTES.

4. PLANNING COMMISSION MEETING MINUTES, JUNE 7, 2006

RECEIVED AND FILED.

5. PLANNING COMMISSION MEETING MINUTES, JUNE 21, 2006

RECEIVED AND FILED.

6. PLANNING COMMISSION ACTIONS, MEETING OF JUNE 21, 2006

RECEIVED AND FILED.

7. PLANNING COMMISSION ACTIONS, MEETING OF JULY 5, 2006

RECEIVED AND FILED.

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8. YOUTH BOARD MEETING MINUTES, JUNE 1, 2006

RECEIVED AND FILED.

9. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

10. CITY TREASURER'S REPORT, MAY 2006

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF MAY 2006.

11. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

12. REVISED PERSONNEL RULES AND REGULATIONS

ADOPTED **RESOLUTION NO. 06-07-12-01**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING PERSONNEL POLICIES AND ADOPTING A REVISED CITY OF DANA POINT PERSONNEL RULES AND REGULATIONS.

13. UNATTENDED ANIMALS – CODE REVISION

Council Member Harkey removed Item No. 3 from the Consent Calendar.

Director of Administrative Services Apodaca provided a staff report, and Rick Gilliland, General Manager of the Coastal Animal Services Authority, was available for questions.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER LACY, TO AMEND THE ORDINANCE TO REMOVE THE WORDS ON PAGE 5, SECTION 1, C.2 "PROVIDING THE PERIOD DOES NOT EXTEND BEYOND 21 DAYS" AND INTRODUCED AND HELD FIRST READING OF AN ORDINANCE ENTITLED:

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.

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

14. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE ADMINISTRATION AND POLICE SERVICES RENOVATION PROJECT

ADOPTED RESOLUTION NO. 06-07-12-02, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE ADMINISTRATION AND POLICE SERVICES RENOVATION PROJECT.

15. CHARITABLE GRANT FUNDING APPLICATIONS

Council Member Harkey removed Item No. 15 from the Consent Calendar.

Council Member Harkey stated that the Lighthouse Society's application was similar to the Dana Point Historical Society's previously approved grant application requesting a laptop computer.

John Gile, President of the Dana Point Lighthouse Society, indicated that the Historical Society is unable to share their equipment.

Motion was made by Council Member Harkey to table this item. The motion died for lack of a second.

Motion was made by Council Member Lacy to support the recommended action of the staff report. The motion died for lack of a second.

IT WAS MOVED BY MAYOR ANDERSON, SECONDED BY COUNCIL MEMBER HARKEY, TO AMEND THE GRANT REQUEST OF THE DANA POINT LIGHTHOUSE SOCIETY TO \$3,500, ALLOWING THE LIGHTHOUSE SOCIETY TO SUBMIT A SUPPLEMENTAL APPLICATION IN THIS FISCAL YEAR, AND APPROVE THE GRANT FUNDING TOTALING \$8,500 TO THE FOLLOWING ORGANIZATIONS:

DANA POINT LIGHTHOUSE SOCIETY	\$ 3,500
PET PROJECT FOUNDATION	\$ 5,000

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

16. DANA POINT YOUTH BOARD APPOINTMENTS

APPOINTED ELEVEN (11) BOARD MEMBERS AND TWO (2) MEMBERS AT-LARGE TO THE DANA POINT YOUTH BOARD.

17. CIVIL FINES FOR VIOLATIONS OF THE CITY'S STORM WATER AND URBAN RUNOFF POLLUTION CONTROLS ORDINANCE REVISION

ADOPTED **RESOLUTION NO. 06-07-12-04**, *A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, SPECIFYING CIVIL FINES FOR VIOLATIONS OF THE CITY'S STORM WATER AND URBAN RUNOFF POLLUTION CONTROLS ORDINANCE AND AMENDING THE CITY'S SCHEDULE OF FINES*

AMENDING THE CURRENT CODE TO ADJUST CIVIL FINES FOR VIOLATIONS OF THE CITY'S STORM WATER AND URBAN RUNOFF POLLUTION CONTROLS (WATER QUALITY ORDINANCE) (DPMC CHAPTER 15.10).

18. BUDGET FUNDS IN SUPPORT OF THE EPIDEMIOLOGY MICROBIAL SOURCE TRACKING STUDY AT DOHENY STATE PARK BEACH AND SAN JUAN CREEK

AUTHORIZED FUNDS FROM THE UNDESIGNATED GENERAL FUND, IN THE AMOUNT NOT TO EXCEED \$500,000 DURING FY 06-07 AND FY 07-08 TO PROVIDE REQUIRED MATCHING FUNDS TO SUPPORT SOUTHERN CALIFORNIA COASTAL WATER RESEARCH PROJECT (SCCWRP) FOR THE EPIDEMIOLOGY AND MICROBIAL SOURCE TRACKING STUDY FOR DOHENY STATE PARK BEACH.

19. RECLASSIFICATION OF BUILDING/FACILITIES MAINTENANCE WORKER POSITION

ADOPTED **RESOLUTION NO. 06-07-12-05**, *A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING ONE ADDITIONAL POSITION TITLE AND SALARY RANGE*

RECLASSIFYING THE BUILDING/FACILITIES MAINTENANCE WORKER POSITION TO THE BUILDING/FACILITIES WORKER III CLASS

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SPECIFICATION, EFFECTIVE AUGUST 1, 2006, TO MORE APPROPRIATELY REPRESENT THE POSITION'S SCOPE OF WORK.

PUBLIC COMMENTS

Mayor Anderson opened the meeting for public comments.

Pepi Weitzman, Mission Viejo and Hemet, thanked the Council regarding the Dana Point Marina Mobile Park and spoke in favor of comments made by Council Member Lacy at the last meeting concerning a possible settlement of \$500,000 to the former Dana Point Mobile Home Park residents.

Judy Rice, Laguna Hills and Hemet, spoke in reference to the former Dana Point Mobile Home Park residents and possible settlement of \$500,000.

John Chaffetz, Dana Point, spoke about Lifeguards at Strands Beach and their lack of watching the water and swimmers.

City Manager Chotkevys will talk with the County about this situation.

Dr. Jim Seitz, Dana Point, spoke about several former Dana Point Mobile Home Park residents who passed away last week.

Kathy Weaver, homeless for several months, spoke about the former residents of the Dana Point Mobile Home Park that recently passed away.

Greg Powers, Dana Point, had intended to speak about the Harbor, but decided not to make any comment at this time.

Mayor Anderson recessed the meeting at 7:00 p.m. and reconvened the meeting at 7:11 p.m. All Council Members were present.

UNFINISHED BUSINESS

22. 2006 WEED ABATEMENT PROGRAM

This item was heard out of order per City Council action earlier in the meeting.

City Manager Chotkevys provided a staff report.

IT WAS MOVED BY COUNCIL MEMBER LACY, SECONDED BY MAYOR PRO TEM CHILTON, TO ADOPT **RESOLUTION NO. 06-07-12-03**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE COST OF ABATEMENT AND PROVIDING FOR THE COLLECTION ON THE REGULAR TAX BILL.

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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

NEW BUSINESS

23. SOUTH ORANGE COUNTY MAJOR INVESTMENT STUDY POLICY WORKING GROUP, OCTA, ELECTED OFFICIAL REPRESENTATION

This item was heard out of order per City Council action earlier in the meeting.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM CHILTON, TO APPOINT COUNCIL MEMBER HARKEY TO REPRESENT THE CITY ON THE SOUTH ORANGE COUNTY MAJOR INVESTMENT STUDY (SOCMIS) POLICY WORKING GROUP; COUNCIL MEMBER LACY WAS SELECTED AS THE ALTERNATE.

The motion carried by the following vote:

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

Staff was directed to add this information to the City's representative list on the City website and send notification to the OCTA of these appointments.

PUBLIC HEARINGS

20. INTRODUCTION 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

This item was heard out of order per City Council action earlier in the meeting.

City Manager Chotkevys provided the staff report.

THERE BEING NO PUBLIC TESTIMONY, IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM CHILTON, TO INTRODUCE AND HOLD THE FIRST READING OF AN ORDINANCE ENTITLED:

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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.

The motion carried by the following vote:

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

- 21. 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.**

This item was heard out of order per City Council action earlier in the meeting.

Mayor Pro Tem Chilton recused himself from discussion on this item due to a conflict of interest resulting from the close proximity of the site to his home and left the Council Chambers.

Director of Community Development Butterwick provided a staff report and overview and format for this project.

Senior Planner Chase-Wisneski provided a PowerPoint presentation on this project.

City Architect/Planning Manager Tilton provided a PowerPoint presentation presenting the alternate designs for this project.

Director of Community Development Butterwick spoke about the various types of views (public vs. private).

Mayor Anderson opened the Public Hearing.

J. Craig Williams, Newport Beach, Appellant's attorney, representing the Dana Point Vista Preservation Organization, spoke in opposition of the proposed development at 24142 Chula Vista and asked to preserve the public views at this location.

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Stephen Coontz, Laguna Beach, representing the owner of the property, Usha Gopal, spoke in favor of the project and the view corridors, and responded to concerns provided by J. Craig Williams. Mr. Coontz deferred the rest of his time to speak to David Swerdlin, San Juan Capistrano. Mr. Swerdlin spoke in favor of this project, and discussed view issues and variances for this project.

Mayor Anderson recessed the meeting at 8:35 p.m. and reconvened the meeting at 8:52 p.m. All Council Members were present, with the exception of Mayor Pro Tem Chilton.

Mayor Anderson opened the Public Comment portion of this hearing.

Scott Howell, Dana Point, representing the Appellant, presented alternatives in a PowerPoint presentation and a video of the street and the various views. Mr. Howell spoke in opposition to the proposed development.

Ida Owen, Dana Point, spoke in favor of the proposed project.

Clarence Owen, Dana Point, spoke in favor of the proposed project and variances on his own home.

Patty Leavitt, Dana Point, spoke in opposition to this development and believes Chula Vista is a protected public view.

Dr. Pravin M. Shah, Dana Point, spoke in opposition to this development considering the community.

Dr. Pritavi Dhani, Ladera Ranch, spoke in favor of this development.

Raj Dhani, Dana Point, fiancé to the owner of the property, spoke in favor of this project, and indicated that he owns only one lot, not three lots.

Usha Gopal, owner of the property, spoke in favor of this development.

Bill Nikkel, Dana Point, would like this project modified to move the garage to Blue Lantern.

Karen Howell, referenced letters provided by Teri Miller, President of the Lantern Village Association, encouraging the Council to create a view ordinance and spoke in opposition to this development.

Kathleen Leaf Kanter, Dana Point, spoke in opposition to this development.

Michelle Hoover, Dana Point, spoke in opposition to this development and would like to preserve the view.

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Chip Hoover, Dana Point, spoke in opposition to this project and noted how the community would be negatively affected by this project.

Richard Folmer, Dana Point, opposes the development as designed, but would consider alternatives.

Tim Hardy, Dana Point, opposes the height variances of this project.

Appellants J. Craig Williams and Scott Howell provided their rebuttals indicating that there are errors in this application.

Respondent David Swirling provided his rebuttal and provided the Council with a document on the "Five reasons to deny the appeal" and discussed those items.

Mayor Anderson closed the Public Hearing and brought back this item to Council for discussion.

Council Members provided disclosures concerning this project:

Council Member Rayfield indicated he visited the site on Saturday and met with ten neighbors to listen to their comments/concerns. He indicated he admires Mr. Swirling as a friend and received a phone call from Jack Hamilton on this project.

Council Member Harkey also met with neighbors and also talked with Jack Hamilton, who she worked with on the Residential Building Heights Task Force. Council Member Harkey indicated she knows Lynn Muir and David Swirling.

Council Member Lacy met with a few neighbors, toured the site, and talked with Jack Hamilton. He indicated Mr. Swirling had called him, but he did not get an opportunity to talk with him before the Council meeting.

Mayor Anderson did not meet with the neighbors, but had visited the site and talked with Jim Hamilton.

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

The motion carried by the following vote:

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

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Mayor Anderson reopened the Public Hearing.

Appellant Scott Howell responded to Council questions.

Mayor Anderson closed the Public Hearing.

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY MAYOR ANDERSON (for discussion), TO APPROVE THE PROJECT AMENDING THE GARAGE ROOF TO BE LOWERED BY TWO FEET.

Council Member Lacy suggested an amendment to the motion to request staff to return with further options for this project and to refund the fee paid for the appeal.

SUBSTITUTE MOTION WAS MADE BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER RAYFIELD, TO CONTINUE THE PUBLIC HEARING AND DIRECT STAFF TO WORK WITH THE APPLICANT TO DETERMINE IF A DESIGN MEETING WITH COUNCIL DEFINED PERIMETERS COULD BE BROUGHT BACK TO THE COUNCIL.

Mayor Anderson recessed the meeting at 10:37 p.m. and reconvened the meeting at 11:03 p.m. All Council Members were present, with the exception of Mayor Pro Tem Chilton.

UPON ADVICE FROM THE CITY ATTORNEY TO BIFURCATE ANY MOTION MADE REGARDING THIS PROJECT FOR CLARIFICATION PURPOSES, ALL PRIOR MOTIONS WERE WITHDRAWN BY CONSENSUS.

IT WAS MOVED BY COUNCIL MEMBER LACY, SECONDED BY COUNCIL MEMBER RAYFIELD, TO REFUND THE FEE TO THE APPLICANT.

The motion carried by the following vote:

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

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IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER LACY, TO REOPEN THE PUBLIC HEARING AND CONTINUE THE HEARING TO A DATE CERTAIN; DIRECT STAFF TO WORK WITH ALL PARTIES; AND RETURN TO THE COUNCIL WITH OPTIONS TO REDUCE THE HEIGHT OF THE GARAGE.

The motion carried by the following vote:

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

Mayor Anderson reopened the Public Hearing.

IT WAS MOVED BY MAYOR ANDERSON, SECONDED BY COUNCIL MEMBER RAYFIELD, TO CONTINUE THE PUBLIC HEARING TO THE DATE CERTAIN OF AUGUST 23, 2006.

The motion carried by the following vote:

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

PUBLIC COMMENTS (Continued)

There were no additional Public Comments.

STAFF REPORTS

There were no Staff Reports.

COUNCIL REPORTS

There were no Council Reports.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Anderson declared the meeting adjourned at 11:10 p.m.

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In order to allow for summer vacation schedules, the next Regular Meeting of the City Council will be August 9, 2006 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California. As a special note, the August 9, 2006 City Council meeting could change to account for a mandatory ethics training session or a Joint Meeting of the City Council and the Planning Commission to receive the recommendations from the Town Center Subcommittee concerning the Town Center Specific Plan.

KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF AUGUST 23, 2006