
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
APRIL 12, 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 5:03 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 (*arrived 5:13 p.m.*)
James V. Lacy, Council Member
Wayne Rayfield, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Muñoz, City Attorney; Mike Rose, Emergency and Support Services Manager; Sharie Apodaca, Director of Administrative Services; Elizabeth Ehring, City Clerk; Cathy Catlett, Assistant City Clerk; Kyle Butterwick, Director of Community Development; Brenda Chase-Wisneski, Senior Planner; Brad Fowler, Director of Public Works/City Engineer; Matt Sinacori, City Engineer; Lt. Mark Billings, Chief of Police; Jennifer Anderson, 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), (1 case)
- B. ACCEPT NOTICE OF RETIREMENT AND APPOINTMENT OF PUBLIC EMPLOYEE, Government Code § 54957

Title: City Clerk

Mayor Anderson recessed the meeting into a Closed Session at 5:04 p.m. pursuant to Government Code Section 54956 et. seq.

RECONVENE CITY COUNCIL MEETING

Mayor Anderson reconvened the meeting at 6:03 p.m. All Council Members were present.

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CLOSED SESSION ANNOUNCEMENTS

Mayor Anderson announced the Sheriff's Department will be issuing a report the next morning relative to the hit-and-run incident with the motorist and two joggers in Capistrano Beach.

City Attorney Muñoz announced the action was taken at Closed Session to accept City Clerk Ehring's notice of retirement.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Rayfield.

INVOCATION

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

PRESENTATIONS AND PROCLAMATIONS

Presentation to Elenna Erkeneff

Mayor Anderson presented a Certificate of Recognition to Elenna Erkeneff, People to People Student Ambassador, who was accompanied by her parents, Denise and Rick Jr.; sister, Emma and grandparents, Richard and Stephanie. Ten-year old Elenna is currently the only student at St. Anne (possibly in all of Dana Point) who will be a delegate participating in the program, "Exploring the Cultures of Australia," to take place from June 26th to July 15th in Australia. The programs of the People to People organization have been chaired by every United States President ever since it was founded by President Dwight D. Eisenhower.

Business of the Month

Management Analyst Anderson gave a PowerPoint presentation of The Jig Stop Tackle and Tours, a bait shop in Dana Point. Current owners David and Penny Myers purchased the shop in May, 2003 and have expanded both the tackle and tours portions of the business, as well as adding an extensive website, www.jigstop.com. Mr. and Mrs. Myers could not be present to accept the Certificate of Recognition due to a funeral they were attending.

CONSENT CALENDAR

A member of the public removed Item No. 2 from the Consent Calendar.

Mayor Pro Tem Chilton and Council Member Harkey removed Item No. 14 in order to recuse themselves from voting due to potential conflicts of interest.

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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. 2 AND 14.

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

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, MARCH 22, 2006

This item was removed from the Consent Calendar by a member of the public.

Council Member Lacy abstained due to his absence from the meeting.

Pam Tappan, Capistrano Beach, requested that the minutes accurately reflect the events that took place during the continued portion of the Public Comments.

Mayor Anderson verified that the minutes are accurate.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM CHILTON, TO APPROVE THE MINUTES.

The motion carried by the following vote:

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

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3. PLANNING COMMISSION MINUTES, MEETING OF MARCH 15, 2006

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF APRIL 5, 2006

RECEIVED AND FILED.

5. YOUTH BOARD MINUTES, MEETING OF MARCH 16, 2006

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CITY TREASURER'S REPORT, FEBRUARY 2006

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

8. CLAIMS AND DEMANDS

RECEIVED AND FILED.

9. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR DEL OBISPO STREET REPAIRS BETWEEN STONEHILL DRIVE AND THE NORTHERLY CITY LIMIT

ADOPTED RESOLUTION NO. 06-04-12-01, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE ARTERIAL ROADWAY RESURFACING PROJECT – DEL OBISPO STREET;

AND (2) DIRECTED STAFF TO TRANSFER ALL PROJECT SAVINGS TO THE CAPITAL IMPROVEMENT PROGRAM RESERVES.

10. CONSTRUCTION STATUS FOR THE CAPISTRANO BEACH STORM DRAIN PHASE II PROJECT AND ESTABLISHMENT OF THE SOURCE OF CONTINGENCY FUNDS AS AUTHORIZED PREVIOUSLY BY THE CITY COUNCIL

RECEIVED AND FILED THE REPORT RELATIVE TO THE CONSTRUCTION STATUS FOR THE MASTER PLAN OF DRAINAGE PROJECT PHASE II (CAPISTRANO BEACH); AND (2) DIRECT STAFF TO TRANSFER THE FUNDS NOTED IN THE FISCAL IMPACT SECTION TO FUND THE PREVIOUSLY APPROVED CONTINGENCY FOR THE PROJECT.

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11. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR STONEHILL DRIVE ASPHALT STREET REPAIRS BETWEEN GOLDEN LANTERN AND NIGUEL ROAD

ADOPTED **RESOLUTION NO. 06-04-12-02**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE ARTERIAL ROADWAY RESURFACING PROJECT – STONEHILL DRIVE;

AND (2) DIRECTED STAFF TO TRANSFER ALL PROJECT SAVINGS TO THE CAPITAL IMPROVEMENT PROGRAM RESERVES.

12. SIXTH AMENDMENT TO EMPLOYMENT CONTRACT FOR CITY MANAGER DOUGLAS C. CHOTKEVYS, AND AMENDMENT TO CITY MANAGER HOUSING AGREEMENT

APPROVED THE SIXTH **AMENDMENT TO** THE EMPLOYMENT CONTRACT FOR **CITY MANAGER** DOUGLAS C. CHOTKEVYS, AS WELL AS AN AMENDMENT TO THE CITY MANAGER'S HOUSING AGREEMENT.

13. BIENNIAL CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS ADJUSTMENT

ADOPTED **RESOLUTION NO. 06-04-12-03**, RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADJUSTING THE CAMPAIGN CONTRIBUTION AND CAMPAIGN LOAN LIMITS TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX, AS REQUIRED BY SECTION 2.05.058 OF THE DANA POINT MUNICIPAL CODE.

14. TOWN CENTER PUBLIC OUTREACH CONTRACT

Mayor Pro Tem Chilton and Council Member Harkey removed this item in order to recuse themselves from voting due to potential conflicts of interest.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR ANDERSON, TO APPROVE THE EXTENSION OF THE TOWN CENTER PUBLIC OUTREACH CONTRACT WITH KATHY BARNUM AGENCY, INC. THROUGH SEPTEMBER 30, 2006 FOR PROFESSIONAL PUBLIC RELATIONS AND OUTREACH SERVICES AND AUTHORIZED AN EXPENDITURE FROM THE RESERVE FOR SERVICE ENHANCEMENT FUND.

The motion carried by the following vote:

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

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15. SECOND READING AND ADOPTION OF REGULATIONS RELATED TO RESIDENTIAL BUILDING HEIGHT (ZTA06-02/LCPA06-02)

ADOPTED ORDINANCE NO. 06-02, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, FOR A ZONE TEXT AMENDMENT AND LOCAL COASTAL PROGRAM AMENDMENT TO THE CITY OF DANA POINT ZONING CODE REGULATIONS FOR RESIDENTIAL ZONES

TO AMEND THE ZONING CODE AND LOCAL COASTAL PROGRAM REGULATIONS PERTAINING TO RESIDENTIAL BUILDING HEIGHT.

16. RATIFY FY 05-06 MID-YEAR BUDGET AMENDMENTS

RATIFIED THE BUDGET AMENDMENTS IDENTIFIED IN THE FISCAL YEAR 2005-06 MID-YEAR BUDGET REPORT AND AS PRESENTED BY STAFF AT THE MARCH 22, 2006 COUNCIL MEETING.

17. AWARD OF MAINTENANCE SERVICE AGREEMENT FOR DEL OBISPO BASEBALL FIELDS

AWARDED A MAINTENANCE SERVICE AGREEMENT TO PROFESSIONAL SPORTS FIELD MAINTENANCE AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT.

18. APPROVAL OF PARK EXPENDITURES

APPROVED EXPENDITURES FOR PARK FENCING.

PUBLIC COMMENTS

Mayor Anderson opened the meeting for public comments.

Malcolm Wilson, Capistrano Beach, spoke of the March 22, 2006 Council meeting with regards to the Doheny House and Public Comments.

Pam Tappan, Capistrano Beach, expressed her appreciation to Council and staff relative to actions taken on Paul Douglas's license.

Rev. Paul Peck, Dana Point, spoke on behalf of the Dana Point Earth Ocean Society, and recognized board members present in the audience. He announced a day of clean up, Earth Ocean Day on Saturday, April 22nd. Rev. Peck provided his email address at plp2203@cox.net to obtain applications for membership to the Society.

John Chaffetz, Dana Point, spoke regarding the City's progress in reducing the number of dogs in Strand Beach.

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Mayor Anderson mentioned that the Strand is a marine life beach, and asked Police Chief Lt. Billings to report on enforcement there.

Dr. Jim Seitz, Dana Point, spoke regarding affordable housing, citing an Orange County newspaper article on Mission Viejo and Irvine. Dr. Seitz inquired about the City's Housing Element.

City Manager Chotkevys provided an update that the City Council and the Planning Commission will hold a joint Housing Summit meeting for public input in three to four weeks.

PUBLIC HEARINGS

There were no public hearings.

UNFINISHED BUSINESS

19. COMMUNITY EMERGENCY RESPONSE TEAM STATUS REPORT

City Manager Chotkevys introduced Emergency and Support Services Manager Rose, who orally presented the staff report with the recommended action for the City Council to receive and file, and to recognize the recent program graduates.

Mr. Rose congratulated and presented Certificates of Recognition to the five graduates: Ed Bilansky, Gladys Choate, Jim Howard, Sandie Howard and Steven Serrao.

RECEIVED AND FILED THE STATUS REPORT ON THE CITY OF DANA POINT CERT PROGRAM AND RECOGNIZE RECENT PROGRAM GRADUATES.

Mayor Anderson declared a recess at 6:58 p.m. and reconvened the meeting at 7:05 p.m. All Council members were present.

20. CONCEPTUAL DESIGN REVIEW AND APPROVAL OF A CONSULTANT SERVICES AGREEMENT WITH THE RJM DESIGN GROUP FOR DESIGN SERVICES FOR THE DEVELOPMENT OF SEA TERRACE PARK

Council Member Harkey recused herself from voting on this item due to the close proximity to her residence, and left the Council Chamber.

City Manager Chotkevys introduced Director of Public Works/City Engineer Fowler who presented the PowerPoint report.

Mr. Fowler acknowledged members of the Library and Sea Terrace Park Subcommittee present that evening, including Chair, Council Member Lacy and Vice Chair, Council Member Rayfield.

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Pat Fairbanks, Dana Point, of the Dana Point Civic Association, commended the work on the project, which she stated was quickly accomplished.

Everyone was invited to attend the next meeting of the Library and Sea Terrace Park Subcommittee, which is scheduled to be held on Monday, May 8th at 3:00 p.m. in the Council Chamber.

IT WAS MOVED BY CHILTON, SECONDED BY ANDERSON, TO (1) REVIEW AND ACCEPT THE CONCEPTUAL DESIGN FOR THE DEVELOPMENT OF SEA TERRACE PARK; (2) APPROVE A CONSULTANT SERVICES AGREEMENT WITH THE RJM DESIGN GROUP TO PROVIDE DESIGN SERVICES FOR THE DEVELOPMENT OF SEA TERRACE PARK, PHASE I, PROVIDING ADDITIONAL AUTHORITY NOT TO EXCEED TEN PERCENT OF THE AGREEMENT AMOUNT FOR CONTINGENCIES, IF NEEDED; (3) AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT; (4) AUTHORIZE A PURCHASE ORDER TO GOFFMAN MCCORMICK AND URBAN FOR GEOTECHNICAL SERVICES IN CONJUNCTION WITH THE DESIGN EFFORT; AND (5) DIRECT STAFF TO WORK WITH THE MONARCH ST. REGIS TO DEVELOP AN EASEMENT AND MAINTENANCE AGREEMENT TO CONSIDER ALLOWING THE MAINTENANCE FACILITY TO BE SITED AT THE NORTHWEST END OF SEA TERRACE PARK AND TO HELP FUND THE PARK CONSTRUCTION.

The motion carried by the following vote:

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

Council Member Harkey returned to the Council Chamber upon completion of this item.

21. CONCEPTUAL DESIGN REVIEW AND APPROVAL OF A CONSULTANT SERVICES AGREEMENT WITH PSOMAS FOR DESIGN SERVICES FOR THE PACIFIC COAST HIGHWAY WIDENING PROJECT – SAN JUAN CREEK TO CRYSTAL LANTERN

City Manager Chotkevys introduced Director of Public Works/City Engineer Fowler who presented the PowerPoint report.

Subsequent to making a motion to approve the five-part Recommended Action, the maker, Mayor Pro Tem Chilton and the second, Council Member Harkey, withdrew from casting a vote on number (2) due to potential conflicts of interest.

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City Attorney Muñoz advised that it would be proper to add a motion to bifurcate the recommended action, splitting it in two. The first motion would be on (2), followed by a vote on the balance of the Recommended Action.

IT WAS MOVED (as amended) BY RAYFIELD, SECONDED BY ANDERSON, TO BIFURCATE THE MOTION ON THE TABLE.

The motion carried by the following vote:

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

IT WAS MOVED (as amended) BY RAYFIELD, SECONDED BY ANDERSON, TO DIRECT STAFF TO CHANGE THE PROJECT NAME FROM "THE TOWN CENTER BEAUTIFICATION PROJECT PHASE IV" TO THE "PACIFIC COAST HIGHWAY WIDENING PROJECT – SAN JUAN CREEK TO CRYSTAL LANTERN."

The motion carried by the following vote:

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

Mayor Pro Tem Chilton and Council Member Harkey remained at the Council Chamber dais in order to make the motion on the remainder of the Recommended Action:

IT WAS MOVED (as amended) BY CHILTON, SECONDED BY HARKEY, TO (1) REVIEW THE CONCEPTUAL DESIGN FOR THE PACIFIC COAST HIGHWAY WIDENING PROJECT AT DEL OBISPO; (2) [SEE ABOVE MOTION]; (3) DIRECT STAFF TO INITIATE THE ENVIRONMENTAL REVIEW PHASE OF THE PROJECT FOR THE PEDESTRIAN OVERCROSSING AND OTHER COMPONENTS REQUIRING REVIEW, AND AUTHORIZE A PURCHASE ORDER WITH KEETON KREITZER CONSULTING FOR ENVIRONMENTAL SERVICES, PROVIDING ADDITIONAL AUTHORITY NOT TO EXCEED TEN PERCENT OF THE AGREEMENT AMOUNT FOR CONTINGENCIES, IF NEEDED; (4) APPROVE A CONSULTANT SERVICES AGREEMENT WITH PSOMAS FOR PROJECT DESIGN, PROVIDING ADDITIONAL AUTHORITY NOT TO EXCEED TEN PERCENT OF THE AGREEMENT AMOUNT FOR

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CONTINGENCIES, IF NEEDED; AND (5) AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENTS.

The motion carried by the following vote:

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

NEW BUSINESS

22. APPROVAL OF COUNCIL CHAMBER RENOVATION DESIGN

Emergency and Support Services Manager Rose introduced HMC Architect's Senior Interior Designer Janet DeWees. Ms. DeWees distributed to Council and the City Clerk and reported on a PowerPoint presentation entitled *City of Dana Point Council Chamber Remodel*.

IT WAS MOVED BY CHILTON, SECONDED BY RAYFIELD, TO (1) APPROVE THE RECOMMENDED DESIGN CONCEPT PRESENTED BY HMC ARCHITECTS FOR THE RENOVATION OF THE CITY COUNCIL CHAMBERS, INCLUDING THE CREATION OF A FOYER EXPANDING THE USABLE PUBLIC SPACE AT CITY PLAZA AND THE PURCHASE AND INSTALLATION OF ASSOCIATED DIGITAL BROADCAST EQUIPMENT; (2) AUTHORIZE STAFF TO PUBLISH THE APPROPRIATE CONSTRUCTION DOCUMENTS FOR THE PURPOSE OF SOLICITING BIDS FOR THE CONSTRUCTION ASSOCIATED WITH THE RENOVATION PROJECT AND THE PURCHASE AND INSTALLATION OF THE ASSOCIATED TECHNOLOGY EQUIPMENT; AND (3) AUTHORIZE THE TRANSFER OF \$300,000 FROM THE GENERAL FUND UNDESIGNATED FUND TO THE FACILITIES IMPROVEMENT FUND FOR USE ON THIS PROJECT.

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.

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STAFF REPORTS

There were no Staff Reports.

COUNCIL REPORTS

Council Member Harkey announced a Dana Point/Capistrano Beach Historical Society fundraiser on Monday, April 24th, at 6:00 p.m. at the Dolph House. The number to call is 949-248-8121.

Council Member Harkey mentioned another fundraiser, the “Black Bandana Ball,” which begins the entertainment season of the Capistrano Valley Symphony. The website is www.capvalleysymphony.org.

Council Member Rayfield added that the opening performance of the Capistrano Valley Symphony will be held Sunday, May 20th. The purpose of the fundraiser is to offer free concerts to school children.

Council Member Rayfield requested that for the sake of transparency and responsiveness, staff track items of interest that come from the public. Council consented to accept a report two meetings from that evening on steps that can be taken to accomplish this.

Council Member Rayfield reminded everyone that the Annual Egg Hunts will take place 9:00 a.m. at Pines and Sea Canyon Parks that coming Easter Sunday.

Council Member Lacy expressed his appreciation for the action on Sea Terrace Park, and announced that he and Council Member Rayfield have been busy on the Ocean Water Quality Subcommittee. Council Member Lacy stated that the next meeting on Monday, May 8th of the Ocean Water Quality Subcommittee will be of special interest to citizens residing in Niguel Shores and Monarch Beach.

Council Member Lacy inquired on the status of a memo from the City Attorney addressing the zoning of Pacific Coast Highway and Del Obispo.

Council Member Lacy stated the need when amending the Housing Element portion of the General Plan for compliance with the State mandate for affordable housing.

City Manager Chotkevys verified that the Housing Element is a legal document which will be brought forward in three to four weeks at a joint Housing Summit of the Planning Commission and the City Council.

Mayor Pro Tem Chilton congratulated local art photographer Cliff Wassman on the one-year anniversary of the City’s “First Friday” art reception. For further information the website is www.dpcoastalarts.org.

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Mayor Anderson thanked Chris Cardenas of Cox Communications for his editing work at the 16th Annual South Orange County Regional Chamber of Commerce Red Tie Ball.

Mayor Anderson reminded everyone that Saturday, April 22nd is Earth Ocean Day as announced earlier by the Dana Point Earth Ocean Society during the public comments portion of the meeting.

Mayor Anderson announced a fashion show to be held Saturday, May 6th at 11:00 a.m. by the Dana Point Women's Club. The person to contact is Joanna Rollins at 949-363-8169.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Anderson declared the meeting adjourned at 8:37 p.m.

The next Regular Meeting of the City Council will be April 26, 2006 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

ELIZABETH EHRLING
CITY CLERK

APPROVED AT THE MEETING OF APRIL 26, 2006.