
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
AUGUST 25, 2004**

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Snyder at 5:06 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

ROLL CALL

PRESENT: Joe Snyder, Mayor
James V. Lacy, Mayor Pro Tem (*arrived at 5:07 p.m.*)
Russell Chilton, Council Member
William L. Ossenmacher, Council Member
Wayne Rayfield, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Munoz, City Attorney; Sharon Street, Director of Public Affairs/City Clerk; Cathy Catlett, Assistant City Clerk; Sharie Apodaca, Director of Administrative Services; Shanna Wolf, Management Analyst; John Tilton, City Architect/Planning Manager; Matt Sinacori, Deputy City Engineer; and Mark Billings, Chief of Police.

CLOSED SESSION

City Manager Chotkevys 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), (5 cases)
- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (2 cases)
- C. PERSONNEL MATTERS – Government Code §54957
TITLE: Director of Public Works
- D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9(a), (2 cases)
 - 1. Name of Case: Hamilton v. City Council of the City of Dana Point, California, Superior Court for the State of California, County of Orange – Central Justice Center, Case No. 04CC05259
 - 2. Name of Case: City of Dana Point v. Warren & Does 1-50, Orange County Superior Court Case No. 04CC07344

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Mayor Snyder recessed the meeting into a Closed Session at 5:08 p.m. pursuant to Government Code Section 54956 et. seq.

Council Member Chilton recused himself from Hamilton v. City Council of the City of Dana Point, California, Superior Court for the State of California, County of Orange – Central Justice Center, Case No. 04CC05259 due to a conflict of interest pursuant to Government Code § 87100 et. seq.

RECONVENE CITY COUNCIL MEETING

Mayor Snyder reconvened the meeting at 6:20 p.m. All Council Members were present.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Pro Tem Lacy.

INVOCATION

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

PRESENTATIONS AND PROCLAMATIONS

1. Featured Business of the Month – Laguna Cliffs Marriott Resort and Spa
Present to receive a certificate was Jeroen Gerresse, General Manager.
2. Memorial Tribute to Major Richard J. Gannon II, USMC

Mayor Snyder introduced Administrative Deputy and First Sergeant in the Marine Corps Reserve Matt Johnson, who introduced the Marine Corps Honor Guard. Marines in attendance were:

Cpl. Longoria
Cpl. Lavvorn
Lcpl. Reid
Lcpl. Gatian

Mayor Snyder presented a Proclamation in tribute to Major Richard J. Gannon II, USMC, to Mrs. Sally Gannon. Present were Major Gannon's Family Members:

Ann Reyes (Grandmother – Capistrano Beach resident)
Sally Gannon (Wife)
Tess Gannon (Mother)

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Norma Pate (Aunt)
Alyssia Lalonde (Aunt)
Rita McKinney (Aunt)
Marcos Reyes (Uncle)
Juan Reyes (Uncle)
Hector Reyes (Uncle)

Chaplain Ty Guy of South Shores Church led an invocation in remembrance and thanksgiving.

Flowers were presented to members of the family.

The Marine Honor Guard did a closing ceremony and stood down.

Mayor Snyder recessed the meeting at 6:31 p.m.

The meeting was reconvened at 6:56 p.m.

CONSENT CALENDAR

Items 17, 19, and 21 were removed from the Consent Calendar by the public.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 17, 19, and 21.

The motion carried by the following vote:

AYES: Mayor Snyder, Mayor Pro Tem Lacy, Council Members Chilton, Ossenmacher, and Rayfield.
NOES: None
ABSENT: None
ABSTAIN: None

1. **WAIVE THE READING OF ORDINANCES AND APPROVE READING BY TITLE ONLY**

APPROVE THE READING BY TITLE ONLY OF ALL ORDINANCES ON THE CONSENT CALENDAR AND THAT FURTHER READING OF SUCH ORDINANCES BE WAIVED. THERE WERE NO ORDINANCES.

2. **REGULAR MEETING MINUTES, JULY 28, 2004**

RECEIVED AND FILED.

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3. **PLANNING COMMISSION MEETING MINUTES, JULY 7, 2004 (0120-10)**
RECEIVED AND FILED.
4. **PLANNING COMMISSION MEETING MINUTES, JULY 21, 2004 (0120-10)**
RECEIVED AND FILED.
5. **PLANNING COMMISSION MEETING MINUTES, AUGUST 4, 2004 (0120-10)**
RECEIVED AND FILED.
6. **PLANNING COMMISSION ACTIONS, MEETING OF JULY 21, 2004 (0120-10)**
RECEIVED AND FILED.
7. **PLANNING COMMISSION ACTIONS, MEETING OF AUGUST 4, 2004 (0120-10)**
RECEIVED AND FILED.
8. **PLANNING COMMISSION ACTIONS, MEETING OF AUGUST 18, 2004 (0120-10)**
RECEIVED AND FILED.
9. **MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR (0100-10)**
RECEIVED AND FILED.
10. **CITY TREASURER'S REPORT, JUNE 2004**
RECEIVED AND FILED.
11. **CLAIMS AND DEMANDS (0300-30)**
RECEIVED AND FILED.
12. **ADOPTION OF RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF IMPROVEMENTS AT DEL OBISPO PARK AS PART OF THE GENERAL PARK REHABILITATION PROGRAM [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]**

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(1) ADOPTED **RESOLUTION NO. 04-08-25-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE GENERAL PARK REHABILITATION PROJECT AT DEL OBISPO PARK

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

13. **APPROPRIATION OF CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM FUNDS (AB 1913)** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS] (0260-05)*

1. ADJUSTED THE FY 2004/05 BUDGET WITH THE ADDITION OF FUNDS TO THE SUPPLEMENTAL LAW ENFORCEMENT SERVICE FUND (SLESF) ACCOUNT; AND
2. 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 PROJECT STOP (STOP TRASHING OUR PARKS).

14. **AUTHORIZE ADVERTISEMENT FOR CONSTRUCTION BIDS FROM PREQUALIFIED CONTRACTORS FOR THE CONSTRUCTION OF THE CAPISTRANO BEACH STORM DRAIN PHASE II PROJECT** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

(1) AUTHORIZED THE ADVERTISEMENT FOR CONSTRUCTION BIDS FROM PREQUALIFIED CONTRACTORS FOR THE CONSTRUCTION OF THE CAPISTRANO BEACH STORM DRAIN PHASE II PROJECT; (2) DIRECTED STAFF TO BRING CONSTRUCTION BIDS BACK TO THE CITY COUNCIL AT A LATER DATE FOR AWARD OF A CONSTRUCTION CONTRACT; AND (3) DIRECTED STAFF TO SHOW THE RECEIPT OF REVENUE, AS A RESULT OF GRANT FUNDING PROCUREMENT UNDER THE STATE WATER RESOURCES CONTROL BOARD CLEAN BEACHES INITIATIVE GRANT PROGRAM.

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15. **CITY COUNCIL GRANT RECOMMENDATIONS (SNYDER, LACY, CHILTON, OSSENMACHER, RAYFIELD)** *[STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES]*

APPROVED THE RECOMMENDED GRANT FUNDING BY MAYOR SNYDER, MAYOR PRO TEM LACY, AND COUNCIL MEMBERS CHILTON, OSSENMACHER AND RAYFIELD AS LISTED WITHIN THE STAFF REPORT PER CITY COUNCIL POLICY 116.

16. **ADOPTION OF CLASS SPECIFICATION FOR EXISTING RECREATION COORDINATOR POSITION** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

ADOPTED **RESOLUTION NO. 04-08-25-02** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING A CLASS SPECIFICATION FOR RECREATION COORDINATOR.

17. **ADOPTION OF A RESOLUTION APPROVING AN EASEMENT DEED AND AGREEMENT WITH THE COUNTY OF ORANGE REGARDING ACCESS ACROSS ASSESSOR PARCEL NUMBER 668-251-02, KNOWN AS THE DEL OBISPO YARD** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0490-30)*

This item was removed from the Consent Calendar by the public.

City Manager Chotkevys gave a staff report. There were no questions from Council Members.

Mayor Snyder opened the meeting for Public Comments.

Richard Dietmeier, Dana Point, spoke in favor of the proposed resolution.

Greg Powers, Dana Point, spoke in favor of the proposed resolution.

Council discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER OSSENMACHER, SECONDED BY COUNCIL MEMBER RAYFIELD, THAT THE CITY COUNCIL:

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(1) **ADOPT RESOLUTION NO. 04-08-25-04** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN EASEMENT DEED AND AGREEMENT WITH THE COUNTY OF ORANGE REGARDING ACCESS ACROSS ASSESSOR PARCEL NUMBER 668-251-02, KNOWN AS THE DEL OBISPO YARD;

(2) APPROVE THE EASEMENT DEED AND AGREEMENT AND AUTHORIZE THE CITY MANAGER TO SIGN; (3) AUTHORIZE STAFF TO FINISH THE DESIGN OF IMPROVEMENTS FOR THE ACCESS AT VILLAGE ROAD AND DEL OBISPO STREET; AND (4) TO ADVERTISE THE PROJECT FOR CONSTRUCTION BIDS ONCE THE DESIGN IS FINISHED.

The motion carried by the following vote:

AYES: Mayor Snyder, Mayor Pro Tem Lacy, Council Members Chilton, Ossenmacher, and Rayfield.
NOES: None
ABSENT: None
ABSTAIN: None

18. **AUTHORIZATION OF AN EXPENDITURE FOR CONSULTANT SERVICES TO IMPLEMENT THE REQUIREMENTS OF THE NEWLY ADOPTED LOCAL IMPLEMENTATION PLAN TO CONTINUE TO MEET THE CITY'S STRATEGIC PLAN** [*STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES*]

(1) AUTHORIZED THE EXPENDITURE OF FUNDS FOR CONSULTANT SERVICES TO IMPLEMENT THE REQUIREMENTS OF THE NEWLY ADOPTED LOCAL IMPLEMENTATION PLAN (LIP) TO MEET THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD (SDRWQCB) ADOPTED ORDER NUMBER R9-2002-0001; (2) ACKNOWLEDGED THAT THE COST OF THESE CONSULTANT SERVICES ARE FULLY FUNDED FROM THE CITY'S OPERATING BUDGET; AND (3) ACKNOWLEDGED THAT THE CITY'S NUMBER ONE STRATEGIC PLAN INITIATIVE IS TO "RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES."

19. **AWARD OF CONTRACTS FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS AND RIGHTS-OF-WAY** [*STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS*] (0400-10)

This item was removed from the Consent Calendar by the public.

City Manager Chotkevys gave a staff report. There were no questions from Council Members.

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Mayor Snyder opened the meeting for Public Comments.

Joe Soto, San Juan Capistrano, President of The Soto Company, spoke regarding his company's background and service in the City of Dana Point.

Council discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON, THAT THE CITY COUNCIL:

(1) AWARD A CONTRACT TO TRUGREEN LANDCARE FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS; (2) AWARD A CONTRACT TO THE SOTO COMPANY FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY RIGHTS-OF-WAY; (3) AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACTS; AND (4) AUTHORIZE THE TRANSFER OF FUNDS FROM THE RESERVE FOR SERVICE ENHANCEMENT TO ACCOUNT NUMBER 55-255.

COUNCIL MEMBER OSSENMACHER REQUESTED AS A COURTESY OF THE COUNCIL THAT THE MOTION BE SEPARATED.

There was Council consensus to bifurcate the motion. Mayor Snyder called for the vote that the City Council:

AWARD A CONTRACT TO TRUGREEN LANDCARE FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS; AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT; AND AUTHORIZE THE TRANSFER OF FUNDS FROM THE RESERVE FOR SERVICE ENHANCEMENT TO ACCOUNT NUMBER 55-255.

The motion carried by the following vote:

AYES: Mayor Snyder, Mayor Pro Tem Lacy, Council Members Chilton, and Rayfield.
NOES: Council Member Ossenmacher
ABSENT: None
ABSTAIN: None

Mayor Snyder called for the vote that the City Council:

AWARD A CONTRACT TO THE SOTO COMPANY FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY RIGHTS-OF-WAY; AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT; AND AUTHORIZE THE TRANSFER OF FUNDS FROM THE RESERVE FOR SERVICE ENHANCEMENT TO ACCOUNT NUMBER 55-255.

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The motion carried by the following vote:

AYES: Mayor Snyder, Mayor Pro Tem Lacy, Council Members
Chilton, Ossenmacher, and Rayfield.
NOES: None
ABSENT: None
ABSTAIN: None

Mayor Snyder recessed the meeting at 7:44 p.m.

The meeting was reconvened at 7:55 p.m.

20. **APPROVAL OF BUDGET AMENDMENTS FY 2004-05** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION /PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS] (0330-15)*

ADOPTED RESOLUTION NO. 04-08-25-03 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING THE FISCAL YEAR 2004-05 BUDGET.

21. **ADOPTION OF RESOLUTION FOR AMENDED FINDINGS IN SUPPORT OF APPROVAL OF VARIANCE FOR PROPERTY LOCATED AT 34111 BLUE LANTERN** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0610-50)*

This item was removed from the Consent Calendar by the public.

Council Member Chilton recused himself due to a conflict of interest pursuant to Government Code § 87100 et. seq.

City Manager Chotkevys gave a staff report, and requested that the City's litigation Counsel Phil Kohn give a clarification of what is being presented at the meeting.

Mayor Pro Tem Lacy made a statement for the record:

"I reviewed the staff papers and in the last week I have received a lot of information from the public and in the past I've received information from the public and I have reviewed all the public comments at your hearing on it so I feel completely up to speed."

Mayor Snyder opened the meeting for Public Comments.

Jim DeCarli, owner of subject property, spoke in favor of the proposed project.

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Ted Toch, Dana Point, spoke in opposition to the proposed project.

Robyn Hamilton, Dana Point, spoke in opposition to the proposed project.

Jack Hamilton, Dana Point, spoke in opposition to the proposed project.

Norm Jackes, Dana Point, spoke in opposition to the proposed project.

Diane Harkey, Dana Point, spoke in opposition to the proposed project.

Judy Fremer, Dana Point, spoke in opposition to the proposed project.

Lara Anderson, Dana Point, spoke in opposition to the proposed project.

George Piggitt, Newport Beach, attorney for James DeCarli, spoke in favor of the proposed project.

Council discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER OSSENMACHER, SECONDED BY MAYOR SNYDER, THAT THE CITY COUNCIL ADOPT **RESOLUTION NO. 04-08-25-05** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CERTAIN FINDINGS CONTAINED IN RESOLUTION NO. 04-01-28-05 WITH REGARD TO VARIANCE 03-23 FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE FOR PROPERTY LOCATED AT 34111 THE STREET OF THE BLUE LANTERN.

The motion carried by the following vote:

AYES:	Mayor Snyder, Mayor Pro Tem Lacy, Council Member Ossenmacher
NOES:	Council Member Rayfield
ABSENT:	Council Member Chilton
ABSTAIN:	None

22. **SIGNALIZED PEDESTRIAN CROSSING AT THE DOUBLETREE SUITES HOTEL ACROSS PACIFIC COAST HIGHWAY TO ESTABLISH ACCESS TO DOHENY STATE BEACH** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

ACKNOWLEDGED THAT THE DOUBLETREE PEDESTRIAN SIGNAL HAS BEEN COMPLETED.

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ORAL REPORTS

1. Del Obispo Park

City Manager Chotkevys gave a staff report. Deputy City Engineer Matt Sinacori provided a slide presentation of before and after photos of the Del Obispo Park Project.

2. Doubletree Suites

Coty Manager Chotkevys gave a staff report. Deputy City Engineer Matt Sinacori provided a slide presentation of the Pedestrian Crossing at the Doubletree Suites.

Mayor Snyder recessed the meeting at 8:45 p.m.

The meeting was reconvened at 8:52 p.m.

PUBLIC COMMENTS

Mayor Snyder opened Public Comments.

Bob Moore, Dana Point, Commander of Veterans of Foreign Wars, gave a brief history of the Veterans of Foreign Wars and noted that September 29 is the 105th anniversary of the VFW.

Gene Burns, Dana Point, expressed thanks to the City Council for the Summer Concert Series, and complimented the Police, the Community Center, the public, homeowners, and the professionalism of the performers.

Bob Becker, Dana Point, of the Pet Project Foundation, noted that there would be a fundraiser for the animal shelter at the El Niguel Country Club at 5:30 p.m. October 2nd.

Greg Powers, Dana Point, spoke regarding the success of the Farmers' Market.

Walter Webb, Capistrano Beach, remarked that many people cannot afford to live in Dana Point.

Diane Harkey, Dana Point, commented on various concerns she has regarding landscaping, signage, and drainage.

Mayor Snyder closed Public Comments.

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PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

There was no New Business.

STAFF REPORTS

City Manager Chotkevys commented regarding West Nile Virus and noted that Doheny Lagoon is monitored and treated every seven days, and that anyone with concerns with standing water may call his office.

COUNCIL REPORTS

Council Member Rayfield commented regarding West Nile Virus and getting rid of standing water. He thanked Gene Burns for his comments regarding the Summer Concert Series. He commented on an article in U.S. News and World Reports regarding Dana Point beach closures, and noted that one was a State beach and one a County Beach. Council Member Rayfield noted that San Clemente Hospital is being bought.

Mayor Pro Tem Lacy noted that the people in Lantern Bay Estates HOA said they loved the Concerts in Heritage Park, and expressed his appreciation for Gene Burns remarks. He reported that he was in Santa Barbara and saw a commercial on TV narrated by Council Member Rayfield.

Mayor Snyder thanked Cathy McCool Flowers for donating the flowers for the Tribute to Major Gannon, and announced Saturday, September 18th as Coastal Cleanup Day, in which the City of Dana Point will be participating.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Snyder declared the meeting adjourned at 9:19 p.m.

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The next Regular Meeting of the City Council will be September 8, 2004 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

SHARON STREET
DIRECTOR OF PUBLIC AFFAIRS/CITY CLERK

APPROVED AT MEETING OF SEPTEMBER 22, 2004.