
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
February 22, 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; Mike Rose, Emergency & Support Services Manager; Patrick Muñoz, City Attorney; Elizabeth Ehring, City Clerk; Kyle Butterwick, Director of Community Development; John Tilton, City Architect/Planning Manager; Brenda Chase-Wisneski, Senior Planner; Brad Fowler, Director of Public Works/City Engineer; Matt Sinacori, City Engineer; Mark Billings, Chief of Police; Kathy Ward, 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)

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 Lacy.

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INVOCATION

The Invocation was led by Bob Moore, of the Veterans of Foreign Wars Post No. 9934 and a South Coast Water District (SCWD) representative.

PRESENTATIONS AND PROCLAMATIONS

DUI – Mothers against Drunk Driving (MADD) Deuce Awards
Volunteer Mary Beth Griffen presented MADD Deuce Awards to Orange County Sheriff's Deputies who have made 25 or more DUI arrests in 2005: Deputies Brett Gardner with 40 DUI arrests; Jonathan Daruvala with 39 DUI arrests; and Steven Hoffman, with 36 DUI arrests. City Manager Chotkevys and Chief of Police Services Billings commended the officers for their accomplishments and dedication to the safety of Dana Point citizens.

CONSENT CALENDAR

Council Member Harkey removed Item No. 9 from the Consent Calendar. City Manager Chotkevys removed Item No. 11, to be returned at a future date.

IT WAS MOVED BY COUNCIL MEMBER LACY, SECONDED BY COUNCIL MEMBER HARKEY, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM NOS. 9 AND 11.

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.

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2. REGULAR MEETING MINUTES, FEBRUARY 8, 2006

RECEIVED AND FILED.

3. PLANNING COMMISSION MINUTES, MEETING OF FEBRUARY 1, 2006

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF FEBRUARY 15, 2006

RECEIVED AND FILED.

5. YOUTH BOARD MINUTES, MEETING OF JANUARY 19, 2006

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CLAIMS AND DEMANDS

RECEIVED AND FILED.

8. ADOPTION OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM

ADOPTED RESOLUTION NO. 06-02-22-01, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM.

9. ADOPTION OF A RESOLUTION SUPPORTING THE WASTE MANAGEMENT COMMISSION'S RECOMMENDATION TO REDUCE THE AMOUNT OF RECYCLABLE SELF-HAUL WASTE DISPOSAL IN COUNTY LANDFILLS

This item was removed from the Consent Calendar by Council Member Harkey.

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

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IT WAS MOVED BY COUNCIL MEMBER LACY, SECONDED BY MAYOR PRO TEM CHILTON TO ADOPT **RESOLUTION NO. 06-02-22-02**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, SUPPORTING THE WASTE MANAGEMENT COMMISSION'S RECOMMENDATION TO REDUCE THE AMOUNT OF RECYCLABLE SELF-HAUL WASTE DISPOSAL IN COUNTY LANDFILLS.

The motion carried by the following vote:

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

10. AWARD OF CONTRACT FOR DESIGN SERVICES FOR THE CITY COUNCIL CHAMBERS RENOVATION PROJECT

(1) AWARDED A CONTRACT TO HMC ARCHITECTS IN AN AMOUNT INCLUDING REIMBURSABLE EXPENSES FOR ARCHITECTURAL, ENGINEERING, AUDIO/VISUAL, AND INTERIOR DESIGN SERVICES FOR THE CITY COUNCIL CHAMBERS; (2) AUTHORIZED THE CITY MANAGER OR HIS DESIGNEE TO APPROVE ADDITIONAL PAYMENT NOT TO EXCEED TEN PERCENT OF THE CONTRACT AMOUNT FOR CHANGE ORDERS AND CONTINGENCIES; AND (3) AUTHORIZED THE CITY MANAGER TO EXECUTE THE CONTRACT.

11. MEMORANDUM OF UNDERSTANDING (MOU) FOR LYON PROPERTY MANAGEMENT COMPANY – MONARCH COVE APARTMENTS

City Manager Chotkevys removed this item to be returned at a future date.

PUBLIC COMMENTS

Mayor Anderson opened the meeting for public comments.

Robert Traphagen, Dana Point, spoke in appreciation of Council's practice of "transparency in government," and regarding the Closure Impact Report (CIR).

Bob Becker, Dana Point, spoke as a volunteer of the Pet Project Foundation to announce the 13th Annual Wag-A-Thon to be held Saturday, March 11, 2006. Mr. Becker provided the website www.petprojectfoundation.org for further information, and a phone number: 949-595-8899 for obtaining a brochure on the event.

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John Chaffetz, Dana Point, presented what he referred to as an investment opportunity to City Manager Chotkevys.

Dr. Jim Seitz, Dana Point, commended Council for its forward movement on the affordable housing issue and on practicing "transparency in government."

PUBLIC HEARINGS

12. REVIEW AND CONSIDERATION OF PROPOSED BICYCLE AND PEDESTRIAN TRAILS MASTER PLAN

City Manager Chotkevys presented the staff report.

Ryan Snyder, of Ryan Snyder Associates, provided a PowerPoint presentation entitled *Bicycle and Pedestrian Trails Master Plan*.

Ingrid McGuire, Dana Point, spoke regarding the city's ability to place easements on pedestrian trails.

Richard Gardner, Capistrano Beach, urged Council to adopt the proposed improvements to the bike trails. Mr. Gardner made several suggestions to the Master Plan.

IT WAS MOVED BY COUNCIL MEMBER LACY, SECONDED BY MAYOR PRO TEM CHILTON, TO ADOPT **RESOLUTION NO. 06-02-22-03**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE BICYCLE AND PEDESTRIAN TRAILS MASTER PLAN.

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

Mayor Anderson declared a recess at 7:10 p.m. and reconvened the meeting at 7:20 p.m. All Council Members were present.

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UNFINISHED BUSINESS

**13. REIMBURSEMENT AGREEMENT – HEADLANDS RESERVE LLC
COMMUNITY FACILITIES DISTRICT BOND FINANCE PROGRAM**

City Manager Chothevys presented the staff report. Mr. Chothevys spoke in appreciation of the assistance provided by Larry Rolapp, of Fieldman, Rolapp and Associates and member of the City's Investment Review Committee, and Stan Wolcott of the legal firm of Rutan & Tucker, Attorneys-at-Law.

Kevin Darnell, Dana Point, voiced his approval of the staff report, and commended Mr. Rolapp as an excellent advisor.

Dr. Jim Seitz, Dana Point, expressed concern over what he regards as a lack of transparency in the process.

IT WAS MOVED BY COUNCILMEMBER LACY, SECONDED BY COUNCIL MEMBER HARKEY, TO TABLE THIS ITEM FOR FURTHER CONSIDERATION, UNTIL SUCH TIME AS COUNCIL HAS REVIEWED THE STATEMENT OF POLICY AND GOALS FOR USE OF THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, RELATIVE TO THE APPROVAL OF BONDS FOR THE HEADLANDS.

Mayor Anderson declared a recess at 8:30 p.m. and reconvened the meeting at 8:46 p.m. All Council Members were present.

Following continued discussion of this item, the motion on the table was withdrawn by the maker and the second.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM CHILTON, TO APPROVE (as amended) THE REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF DANA POINT AND HEADLANDS RESERVE LLC TO GUARANTEE ADVANCE FUNDS TO THE CITY TO DEFRAY ADMINISTRATIVE COSTS AND OUTSIDE CONSULTING FEES RELATED TO THE FORMATION OF A PROPOSED COMMUNITY FACILITIES DISTRICT 2006-1 (CFD) AND SUBSEQUENT ISSUANCE OF SPECIAL TAX BONDS IN CONJUNCTION WITH THE HEADLANDS DEVELOPMENT, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT WITH THE FOLLOWING REVISIONS:

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RECITAL A, SECOND SENTENCE, CHANGE "WOULD" TO "COULD" AND INSERT A PERIOD AFTER THE WORD "DISTRICT," STRIKING THROUGH THE REMAINDER OF THAT SENTENCE. IN THE THIRD SENTENCE CHANGE "WOULD" TO "COULD." DELETE RECITAL C IN ITS ENTIRETY.

IN SECTION 4, DELETE THE LAST SENTENCE. DELETE SECTION 9 IN ITS ENTIRETY.

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

14. COMMUNITY FACILITIES DISTRICT - PROFESSIONAL SERVICES AGREEMENTS FOR CITY CONSULTANTS

Council Member Harkey recused herself upon advice by Counsel from discussion of this item to avoid any possible misperception of a potential conflict of interest. Council Member Harkey left the dais and joined the audience.

City Manager Chotkevys presented the staff report.

Dr. Jim Seitz, Dana Point, spoke regarding the Professional Services Agreement.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM CHILTON, TO APPROVE AND AUTHORIZE THE CITY MANAGER TO EXECUTE PROFESSIONAL CONSULTANT AGREEMENTS WITH STEPHEN G. WHITE, MAI FOR REAL ESTATE APPRAISAL SERVICES, MUNIFINANCIAL FOR SPECIAL TAX SERVICES, AND EMPIRE ECONOMICS, INC. FOR PRICE POINT ANALYSIS AND MARKET ABSORPTION STUDIES RELATIVE TO THE PROPOSED COMMUNITY FACILITIES DISTRICT 2006-1 (CFD) ASSOCIATED WITH THE HEADLANDS DEVELOPMENT; AND AUTHORIZE THE CITY MANAGER TO APPROVE ADDITIONAL SERVICES AS REQUIRED PER THE TERMS OF THE RESPECTIVE AGREEMENTS.

The motion carried by the following vote:

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

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A recommendation was made that the Investment Review Committee review the process relative to the bond counsel and underwriter for this project.

NEW BUSINESS

There was no New Business.

PUBLIC COMMENTS (Continued)

There were no additional Public Comments.

STAFF REPORTS

City Manager Chotkevys thanked Council for its recognition of the Orange County Sheriff's Deputies. He spoke of the responsiveness of the families of the deputies' officers, and how he views them as members of the City's extended family. Mr. Chotkevys expressed his pleasure at seeing Brett Gardner, whom he visited in the Emergency Room when the officer was injured in the line of duty assisting another deputy.

COUNCIL REPORTS

Mayor Pro Tem Chilton reminded everyone that Saturday, March 4th is the Festival of Whales parade. The street faire runs that weekend of the 4th and 5th and the weekend following on April 11th and 12th.

Mayor Pro Tem Chilton spoke regarding the Wag-A-Thon as a worthwhile experience in which he had participated during the last few years. The flyers for the event are available throughout the community, including pet shops and veterinarian offices. As mentioned by Mr. Bob Becker, the website is: www.petprojectfoundation.org.

Mayor Pro Tem Chilton congratulated the Dana Point Historical Society's new president, Carlos Olvera. He also thanked Terry Walsh and Mary Crowl for their outstanding job during the past year. Mayor Pro Tem Chilton spoke on behalf of Council to recognize the selfless dedication of all of the City's community organizations and their volunteers.

Mayor Pro Tem Chilton requested the Mayor to agendize a General Plan Amendment for mobile home parks for the March 8th Council Meeting. He stated it as a positive step towards meeting the City's affordable housing needs. It is also an opportunity for the mobile home residents to speak on the future use of the property.

Council Member Rayfield invited everyone to attend the next Town Center Subcommittee meeting, which will be dealing with land use, on Thursday, March 2nd at 5:00 p.m. in the City Council Chambers.

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Council Member Rayfield announced the Library and Sea Terrace Park Subcommittee meeting on Thursday, March 9th at 3:00 p.m. in Suite 203 in the Administrative Conference Room.

Council Member Rayfield remarked as part of the Festival of Whales that Sunday, March 12th is Ocean Awareness Day, and the City will have a booth at the street faire. He mentioned that a new group in the City involved in environmental issues and chaired by the Reverend Paul L. Peck will also have a booth there.

Council Member Rayfield directed staff to provide a history of the zoning and re-zoning of the property for the Mobile Home Park General Plan Amendment being proposed by Mayor Pro Tem Chilton. He stated that its history before and after the city's incorporation is crucial to the process.

Council Member Harkey reported that she was in attendance at the whale-watching press tour to kick off the Festival of the Whales, although unable to take the cruise. Council Member Harkey commended Dana Wharf Sportfishing and other harbor merchants for their marketing contributions to Dana Point.

Council Member Harkey proposed that the City work together with the many other coastal cities that have similar concerns as Dana Point with regards to ocean water quality, urban run-off and the sewers.

Council Member Harkey stated that Senator Bill Morrow is proposing a resolution that will establish Carlsbad as the city with the official California State surfing museum, even though Huntington Beach, Santa Cruz and Newport Beach are also part of the surfing industry. Dana Point has the Doheny Longboard Surfing Association, which has been meeting for years, as well as famous Doheny Beach. Council Member Harkey suggested pursuing promotion of the surfing legends of all these cities to retain their history.

Council Member Harkey informed Council that the County Supervisors are meeting with Sheriff Corona to get updates on his proposal to allow deputies to work in cooperation with U. S. Immigration and Customs Enforcement (ICE) officials if there is an illegal immigrant who is suspected of a serious crime. This is similar to what the City of Costa Mesa is doing with automatic FBI and ICE checks. Council Member Harkey stated she would like to see this implemented in the City as it would be good for national security. The County is drafting a Memorandum of Understanding (MOU) for this partnership.

Council Member Harkey stated that the City of Fountain Valley School District chose to opt out of applying for State matching funds to build facilities, enumerating several reasons. She mentioned restrictions relative to State reimbursement, and how Fountain Valley had had more freedom, was able to sell off three properties and use the moneys to increase teachers' salaries, etc., instead. Councilmember Harkey suggested this may be of interest once the Capistrano School District goes forward with their efforts to surplus property.

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Council Member Lacy announced that City Manager Chotkevys and he attended the Orange County Tax Assessors' annual presentation on the state of Orange County's property tax assessment. He brought forward the good news that even after Proposition 13, the assessed legal values upon which tax revenues are based have gone up twelve times. Council Member Lacy explained that this is both a tax cut and increase in revenues.

Council Member Rayfield added in relation to Council Member Harkey's comments, that Dana Point is the birthplace of the surfing industry. Council Member Rayfield named Hobie Sports and others in the City; also mentioning the surfing heritage museum in San Clemente.

Mayor Anderson has been requested by Beverly Sels, President of the Dana Point Women's Club to announce the Rubber Duck Race to be held Sunday, March 12th, 11:00 a.m. to 2:00 p.m. at Baby Beach as part of the Festival of Whales. For details on the race, and where the ducks may be purchased, call 949-496-4539 or view the Festival of Whales calendar at www.danapoint.org.

Mayor Anderson announced that on February 28th she will be meeting with San Clemente Council Member Susan Ritschel and San Juan Capistrano Mayor David M. Swerdlin to talk about a tri-city trolley system. One of Dana Point's citizens, Jim Howard has been working on this project, and the City will be participating to further discussions.

Mayor Anderson spoke in appreciation of Council Member Harkey's comments regarding the County Sheriff's proposal for immigration. She received a copy of the draft with a brief presentation about what it entailed, at a Mayor's Breakfast. Mayor Anderson reiterated that it is very similar to the MOU between the County and the City of Costa Mesa, and which basically empowers the police officers to relieve the over-tasked ICE of some of its current duties. She also mentioned as a side note because she is asked what Dana Point does about illegal immigration, that any suspected criminals in Dana Point, regardless of the crime, are taken to Santa Ana.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Anderson declared the meeting adjourned at 9:23 p.m.

The next Regular Meeting of the City Council will be March 8, 2006 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

ELIZABETH EHRING, CITY CLERK

APPROVED AT THE MEETING OF MARCH 8, 2006.