
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
OCTOBER 2, 2007**

CALL TO ORDER

5:00 P.M.

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Harkey at 5:00 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Present: Diane L. Harkey, Mayor
Lisa A. Bartlett, Mayor Pro Tem
Joel Bishop, Council Member
Steven H. Weinberg, Council Member

Absent: Lara Anderson, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Muñoz, City Attorney; Kathy Ward, City Clerk; Michael Killebrew, Administrative Services Director; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works/City Engineer; Lt. Mark Levy, Chief of Police; Christy Teague, Economic Development Manager; Lynn Kelly, Management Analyst; Mike Rose, Emergency & Support Services Manager; Kevin Evans, Director of Community Services & Parks; Brian McClure, Parks Manager; Al Jacobo, Parks Supervisor; Andy Glass, Accounting Manager; Clara Wong, Administrative Services; Bobbi Ogan, Deputy City Clerk, and Jackie Littler, 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: Public Records Act Claim - Traphagen

- B. CONFERENCE WITH LABOR NEGOTIATOR, Government Code § 54957.6

Agency Designated Representatives: City Manager
Unrepresented and Represented Employees: All positions in City

RECONVENE CITY COUNCIL MEETING

Mayor Harkey reconvened the meeting at 6:01 p.m. All Council Members were present with the exception of Council Member Anderson.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Weinberg.

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INVOCATION

The Invocation was provided by Seminary Intern Cate Luehr of Gloria Dei Lutheran Church.

PRESENTATIONS AND PROCLAMATIONS

Business of the Month – The Market at Monarch Beach

Management Analyst Kelly provided a PowerPoint presentation. The market has been in the same location for 15 years, but under current ownership in the last 3 years, it has been transformed and upgraded into a deli, wine boutique, and unique gift shop also offering over 200 types of beer from around the world. The Market also hosts beer and wine tasting events each month. Mayor Harkey presented a Certificate of Recognition to the owner of The Market at Monarch Beach, Eric Krogious for being the featured Business of the Month for October.

CONSENT CALENDAR

Mayor Harkey removed Item No. 8 and Mayor Pro Tem Bartlett removed Item No. 9.

IT WAS MOVED BY MAYOR PRO TEM BARTLETT, SECONDED BY COUNCIL MEMBER WEINBERG, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM NOS. 8 AND 9.

The motion carried by the following vote:

AYES: Council Members Bishop, Weinberg, Mayor Pro Tem Bartlett and Mayor Harkey
NOES: None
ABSENT: Council Member Anderson

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, SEPTEMBER 18, 2007

APPROVED THE MINUTES.

3. PLANNING COMMISSION ACTIONS, MEETING OF SEPTEMBER 25, 2007 (0120-10)

RECEIVED AND FILED.

4. YOUTH BOARD MEETING MINUTES, SEPTEMBER 6, 2007

RECEIVED AND FILED.

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5. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

6. CITY TREASURER'S REPORT, AUGUST 2007

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

7. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

8. FISCAL YEAR 2007-08 PROPOSED BUDGET ADJUSTMENTS

Mayor Harkey removed Item No. 8.

Mayor Harkey commented that this item was very good news. She stated that the City had an additional \$2M of unused funds that can be transferred into the CIP budget.

City Manager Chotkevys provided a staff report.

IT WAS MOVED BY MAYOR HARKEY, SECONDED BY MAYOR PRO TEM BARTLETT, TO AMEND THE FY2007-08 ("FY08") GENERAL FUND OPERATING BUDGET AND FACILITIES FUND OPERATING BUDGET BY AUTHORIZING THE CARRYOVER AND RE-APPROPRIATION OF CERTAIN UNENCUMBERED FUNDS AS IDENTIFIED IN THIS REPORT, AND AUTHORIZE INCREASES TO CERTAIN FY08 GENERAL FUND REVENUES BASED ON UPDATED INFORMATION RECEIVED SINCE ADOPTION OF THE ORIGINAL BUDGET.

The motion carried by the following vote:

AYES:	Council Members Bishop, Weinberg, Mayor Pro Tem Bartlett, and Mayor Harkey
NOES:	None
ABSENT:	Council Member Anderson

9. AWARD OF CONTRACT FOR CUSTODIAL SERVICES FOR CITY HALL AND COMMUNITY CENTER

Mayor Pro Tem Bartlett removed Item No. 9.

Mayor Pro Tem Bartlett asked if Rock Maintenance would be using subcontractors to perform their maintenance duties.

Emergency & Support Services Manager Rose replied that at this time staff does not anticipate that Rock Maintenance will need to subcontract because the company has increased their staff to complete this contract.

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IT WAS MOVED BY MAYOR PRO TEM BARTLETT, SECONDED BY COUNCIL MEMBER BISHOP, TO AWARD A CONTRACT TO ROCK MAINTENANCE AND JANITORIAL FOR CUSTODIAL SERVICES FOR THE CITY HALL AND COMMUNITY CENTER FACILITIES AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT.

The motion carried by the following vote:

AYES:	Council Members Bishop, Weinberg, Mayor Pro Tem Bartlett, and Mayor Harkey
NOES:	None
ABSENT:	Council Member Anderson

PUBLIC COMMENTS

Joanna Adrian, San Clemente, complimented the Mayor on how she handles her duties and thanked her for her care, concern and record of service to the City of Dana Point.

Terry Walsh, Dana Point, spoke regarding the recall. He felt that the Mayor, Council and staff were doing a good job running the City. He commended the Council for their openness to listen to the citizens.

Malcolm Wilson, Capistrano Beach, spoke regarding his support for the recall.

Frank Tucker, Dana Point, reported on the recent fundraising car wash held by the 5th Marine Regiment. He stated that the efforts of the car wash will enable 170 Marines to attend their Annual Birthday Ball. He thanked everyone who had helped to make this event successful.

Alan Wickstrom, Dana Point, spoke regarding the South Orange County School of the Arts. He stated that they had recently applied for grant funding through the City which would enable the school to send students to experience an opera, provide help with tuition for low income families, and replace a cart that the school uses to provide nutritional food for the students. He announced that on October 18th, 19th, and 20th that the students were putting on a play, "The Haunting of Hill House" and that the tickets are \$12.00. For more information go to www.socsarts.org.

Antony Cooke, Capistrano Beach, spoke regarding his support for the recall.

Bob Moore, Dana Point, reported that the 5th Marine Regiment had raised \$12,987 toward attending their Annual Birthday Ball through the car wash and individual donations. He announced that another car wash was scheduled for Saturday, October 13, 2007 from 9:00 a.m. to 2:00 p.m. at South Shores Church.

Jeff Shirkani, Dana Point, spoke opposing the recall.

Bob Hall, Dana Point, spoke opposing the recall.

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Jerry Grunor, Dana Point, spoke supporting the recall.

Pam Tappan, Capistrano Beach, spoke opposing the recall.

Jack Roper, Dana Point, spoke opposing the recall.

Martha Torgow, Northridge, spoke regarding a Public Records Request that she was submitting to the City.

Martha Morrison, Dana Point, spoke opposing the recall.

John Chaffetz, Dana Point, commended the Volunteers In Police Services (VIPS) for their help in cleaning up graffiti in the Strand Beach area last week. He felt that they had gone beyond the call of duty.

Karin Schnell, Dana Point, spoke regarding the Dana Point Coastal Arts "Appraisal Day" that was scheduled for Wednesday, October 10, 2007 from 10:00 a.m. to 2:00 p.m. at the Dana Point Community House. The cost to have an item appraised is \$10 per item for non-members and \$5 per item for members of Dana Point Coastal Arts.

Kirk Lapple, Dana Point, spoke opposing the recall.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

10. APPROVAL OF SEA TERRACE PARK EASEMENT, RIGHT-OF-ENTRY, CONSTRUCTION AND MAINTENANCE AGREEMENT WITH MAKALLON, INCORPORATED AND ASSOCIATED SDG&E EASEMENT RESOLUTION

Mayor Harkey recused herself from this item due to a potential financial conflict of interest as a result of her interest in real property within 500' of the project.

City Manager Chotkevys introduced the item and Director of Public Works Fowler provided a staff report and PowerPoint presentation.

City Manager Chotkevys clarified that the maintenance facility will be built into the slope of the park so it will not be visible to the public and in exchange for this facility, the park will be maintained in perpetuity. He stated that the park will be essentially a continuation of the golf course and will be maintained in a very good condition. He added that the City will maintain control over the trimming of the trees. He stated that the City has been in discussion with South Coast Water District regarding a potential underground reservoir for reclaimed water.

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City Attorney Muñoz stated that the agreement had been revised to reflect the changes to the dates since the project has taken longer than originally anticipated. He added that if the agreement is approved by the Council, it will be subject to the Director of Public Works' final approval. He stated that staff was waiting for the exhibits as part of the agreement and once those are received, the document will be recorded against both the City's property and the golf course property. He added that the recordation of the agreement will ensure that the obligations will be carried out in the future.

Mayor Pro Tem Bartlett opened the Public Comments.

Ingrid McGuire, Dana Point, spoke regarding the proposed underground reclaimed water reservoir that is to be built at the park. She stated that this reservoir would aid in the future expansion of using reclaimed water in the City.

Judy Rice, Hemet/Laguna Hills, spoke regarding potential conflicts.

Mayor Pro Tem Bartlett closed the Public Comments.

Council Member Bishop stated that he was excited that the park will be completed.

Council Member Weinberg asked what "in perpetuity" meant in relation to this agreement.

City Attorney Muñoz replied that it means that the park will remain a public park maintained by the adjacent property owner until there is another agreement reached.

City Manager Chotkevys clarified that the agreement would be recorded against the golf course and hotel property and that regardless of the owner of the properties, the agreement would remain in place.

Council Member Weinberg asked if there a set of minimum specs for the park's maintenance.

City Attorney Muñoz replied that the minimum specs would be the City's adopted standards for park maintenance. He stated that the way the agreement is drafted that it is at the discretion of the Director of the Parks Department.

Council Member Weinberg stated that he supports this agreement.

Mayor Pro Tem Bartlett stated that she was excited about the improvements to the park.

IT WAS MOVED BY COUNCIL MEMBER WEINBERG, SECONDED BY COUNCIL MEMBER BISHOP, TO APPROVE EASEMENT, RIGHT-OF-ENTRY, CONSTRUCTION AND MAINTENANCE AGREEMENT; AUTHORIZE THE CITY MANAGER TO EXECUTE AN AMENDMENT WITH RJM CONSULTING GROUP FOR ADDITIONAL DESIGN SERVICES REQUIRED TO COMPLETE THE PREPARATION OF CONSTRUCTION DOCUMENTS FOR THE SEA TERRACE PARK IMPROVEMENT PROJECT; AND

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ADOPT RESOLUTION 07-10-02-01 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, GRANTING A EASEMENT FOR MAINTENANCE PURPOSES ACROSS SEA TERRACE PARK FROM THE CITY OF DANA POINT TO SAN DIEGO GAS AND ELECTRIC.

The motion carried by the following vote:

AYES:	Council Members Bishop, Weinberg, and Mayor Pro Tem Bartlett
NOES:	None
ABSENT:	Council Member Anderson and Mayor Harkey

Mayor Harkey returned to the meeting.

11. APPROVAL OF THE TRANSFER OF CAPITAL IMPROVEMENT PROGRAM RESERVE FUNDS FOR GOLDEN LANTERN MEDIAN LANDSCAPE IMPROVEMENTS

City Manager Chotkevys provided a staff report.

IT WAS MOVED BY COUNCIL MEMBER WEINBERG, SECONDED BY MAYOR PRO TEM BARTLETT, TO APPROVE THE TRANSFER OF FUNDS FROM THE CAPITAL IMPROVEMENT PROGRAM RESERVE INTO THE GENERAL FUNDS ACCOUNT 55-245 TO ENHANCE THE GOLDEN LANTERN MEDIANS.

Mayor Harkey stated that she was happy to see this happen; the fescue will be a much needed improvement.

The motion carried by the following vote:

AYES:	Council Members Bishop, Weinberg, Mayor Pro Tem Bartlett, and Mayor Harkey
NOES:	None
ABSENT:	Council Member Anderson

NEW BUSINESS

There were no New Business items.

PUBLIC COMMENTS (Continued)

There were no additional Public Comments.

STAFF REPORTS

City Manager Chotkevys introduced Mike Killebrew as the City's new Director of Administrative Services and welcomed him to the City.

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He reported that the Sea Bass was scheduled to be dedicated on October 9th at 12 noon at Fire Station No. 29 in Capistrano Beach.

He spoke regarding Megan Myers. He stated that the City was working with the Dana Hills High School Principal, Rob Nye on a memorial fund that is going to be established in Megan's honor. He added that Megan's memorial was scheduled for Wednesday, October 3, 2007 from 4:00 – 6:00 p.m.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Weinberg wished Council Member Anderson luck in the delivery of her baby and wished her speedy return to the Council meetings.

Council Member Bishop reported the following:

- Orange County Fire Authority Fire Prevention Week was coming up, October 7th – 13th. He stated that an open house would be held at each fire station on Saturday, October 13, 2007 from 9:00 a.m. – 2:00 p.m.
- He spoke about the South Coast Medical Center fashion show which was held recently where he and Mayor Harkey had participated. He stated that a lot of money had been raised for charity.
- That the Heal the Bay summer beach report had just been released and that all of our beaches had done well with the exception of the beach at the mouth of San Juan Creek.
- That on Saturday, September 22nd he attended the cross country track meet that was hosted by Dana Hills High School. He stated that the kids had a great time out there even though it was raining and muddy. He stated that when Megan had applied for a position on the Youth Board she provided a resume where she stated that her goal for the Youth Board was "to contribute my ideas for the community events as well as to inspire other people to volunteer and participate". He felt that she had been successful in her goal.

Mayor Pro Tem Bartlett welcomed Mike Killebrew to the City. She reported the following:

- OCTA letter was received regarding a pilot program for greater mobility on the freeways. She stated that they were considering allowing for continuous entry and exiting of the HOV lanes as well as allowing the HOV lanes to be open to all commuters during off-peak hours. She felt that this was a successful program in San Jose and that it would help our congestion here.
- Attended several TCA board meetings.
- On September 22nd she had attended the 5th Marine Regiment car wash and felt that it was heart warming to see the outpouring of support from the community even though it was raining.
- The Sand Dollar Guild's Chopper Drop was a huge success with over 550 people in attendance. She stated that the Guild would be donating all net proceeds to the Ocean Institute.

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- On September 28th she had attended the Lord of the Strings Concert and on her way home she and her husband had gone through the DUI check point that was established on Pacific Coast Highway. She commended Lt. Levy and the Sheriff's Department staff for the courteous and efficient manner in which they operated the check point.

She announced the following upcoming events:

- October 7th – Dana Point Historical Society Home Tour from 11:00 a.m. – 4:00 p.m. featuring homes in Capistrano Beach. Contact the Historical Society for more information.
- October 15th – Monarch Beach Sunrise Rotary is hosting its annual golf tournament for children's charities. The golf tournament will be held at the Talega Golf Course. There will be a morning shotgun start, followed by lunch and awards. Please call 949-493-2759 if you would like to participate or be a sponsor.

Mayor Harkey reported the following:

- Encouraged everyone to attend the upcoming Home Tour on October 7th.
- She had missed the 5th Marine Regiment car wash and the Chopper Drop because she was in Washington D.C. with a group of people where she met with all levels of representatives of the Administration, congress and Senate.
- The South Coast Medical Center Foundation fundraising fashion show held at the Marriott was well attended and great fun.
- The County had recently hired Brad Gross as the new Dana Point Harbor Director. She invited residents to stop by and say hello.
- Pete Hammer, the City's liaison with the 5th Marine Regiment had been hospitalized recently for an infection he had received while on a trip to Mexico.
- Scotty Smith's memorial was held last Friday at the Community Center. Scotty will be missed very much in the community.
- OCTA had sent an inquiry to recommend appointments to the Measure M Oversight Committee. The application deadline is Friday, October 5th and if anyone was interested to contact City Hall.
- The Sand Dollar Guild is the fundraising arm for the Ocean Institute and was the sponsor of the successful "Chopper Drop" held Sunday September 23rd. The profits from the event will be donated to the OI for the new dock or Seaside Learning Center. The next fundraiser is a fashion show coming up towards the end of November, first week of December to benefit the Ocean Institute's Seaside Learning Center.

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ADJOURNMENT

There being no further business before the Council at this session, Mayor Harkey adjourned at 7:55 p.m. the meeting in memory of Megan Myers and asked for a moment of silence.

The next Regular Meeting of the City Council will be October 16, 2007, 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 OCTOBER 16, 2007