
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
JUNE 6, 2017**

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Lewis at 5:02 p.m. in the City Council Chambers, 33282 Golden Lantern, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Present: Mayor Debra Lewis
Mayor Pro Tem Paul N Wyatt
Council Member John A. Tomlinson
Council Member Richard A. Viczorek
Absent: Council Member Joseph L. Muller

CLOSED SESSION

City Attorney Munoz indicated that there was a need for Closed Session as follows:

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (d1), (3 cases)
- B. PUBLIC EMPLOYMENT, Government Code § 54957: Title: City Manager recruitment
- C. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Government Code § 54956.9 (a), (3 cases)

Name of Case: City of Dana Point v. Headlands Reserve LLC, Sanford Edward, et al; Orange County Superior Court Case No. 30-2016-00872051

Name of Case: City of Dana Point, et al v. Capo By the Sea, Inc; Orange County Superior Court Case No. 30-2016-00859426-CU-MC-CJC

Name of Case: People v. Gary Karns; Local Janitorial & Vacuum Supply Company, Case No. 16HM10382

Mayor Lewis recessed the meeting into a Closed Session at 5:03 p.m. pursuant to Government Code Section 54956 et seq.

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RECONVENE CITY COUNCIL MEETING - CALL TO ORDER

Mayor Lewis reconvened the meeting at 6:17 p.m. All Council Members were present with the exception of Council Member Muller who was absent.

STAFF PRESENT: Patrick Munoz, City Attorney; Mike Killebrew, Acting City Manager; Kathy Ward, City Clerk; Mike Rose, Director of Emergency Services; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Mark Denny, Deputy City Manager; Matthew Schneider, Planning Manager; Brian McClure, Deputy Director of Community Services and Parks; Matthew Sinacori, Deputy Director of Public Works and Engineering; Mark Sutton, Building Official; Jackie Littler, Executive Assistant; DyAnne Weamire, Senior Administrative Assistant; and Bobbi Ogan, Deputy City Clerk.

PLEDGE OF ALLEGIANCE

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

INVOCATION

The Invocation was provided by Associate Pastor Jens Christy of Capo Beach Church.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that he had one item to report from Closed Session this evening; the matter of the City of Dana Point vs. Headlands Reserve LLC, Sanford Edward, et al. He reported that the Council had reached a settlement with the Headlands Reserve and Mr. Edward in that litigation and that there would be a press release issued tomorrow that will be available for the public. He added that the settlement agreement is a public record at this point.

PRESENTATIONS AND PROCLAMATIONS

Presentation to Dana Hills High School - Boys Swimming and Diving CIF Champions
Mayor Lewis presented a Certificate of Recognition to Coach Rosa for the Dana Hills High School Boys Swimming and Diving Team achieving their first CIF Championship in school history.

CONSENT CALENDAR

IT WAS MOVED BY MAYOR PRO TEM WYATT, SECONDED BY COUNCIL MEMBER TOMLINSON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR.

The motion carried by the following vote:

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AYES: Council Member John A. Tomlinson, Council Member Richard A. Viczorek,
Mayor Pro Tem Paul N Wyatt and Mayor Debra Lewis

NOES: None

ABSENT: Council Member Joseph L. Muller

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. SPECIAL JOINT MEETING MINUTES, MAY 15, 2017

APPROVED THE MINUTES.

3. REGULAR MEETING MINUTES, MAY 16, 2017

APPROVED THE MINUTES.

4. SPECIAL MEETING MINUTES, MAY 23, 2017

APPROVED THE MINUTES.

5. PLANNING COMMISSION MEETING MINUTES, APRIL 10, 2017

RECEIVED AND FILED.

6. PLANNING COMMISSION ACTIONS, MEETING OF MAY 22, 2017

RECEIVED AND FILED.

7. YOUTH BOARD MEETING MINUTES, MAY 4, 2017

RECEIVED AND FILED.

8. ARTS AND CULTURE COMMISSION MINUTES, MARCH 15, 2017

RECEIVED AND FILED.

9. OCEAN WATER QUALITY MEETING MINUTES, MARCH 28, 2017

RECEIVED AND FILED.

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10. FINANCE REVIEW COMMITTEE MEETING MINUTES, MAY 10, 2017

RECEIVED AND FILED.

11. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

12. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

13. MONTHLY FINANCIAL ACTIVITY REPORT, APRIL 2017

RECEIVED AND FILED THE MONTHLY FINANCIAL ACTIVITY REPORT FOR APRIL 2017.

14. GOVERNMENT FINANCE OFFICERS ASSOCIATION CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING FOR THE YEAR ENDED JUNE 30, 2016

RECEIVED AND FILED THE GFOA CERTIFICATE OF ACHIEVEMENT FOR THE YEAR ENDED JUNE 30, 2016.

15. WATER QUALITY NUISANCE WATER DIVERSION AGREEMENT AND SALT CREEK OZONE TREATMENT FACILITY BACKWASH AGREEMENT AMENDMENT WITH SOUTH COAST WATER DISTRICT

AUTHORIZED THE CITY MANAGER TO EXECUTE AND PROCESS THE REVISED DANA POINT DIVERSION AGREEMENT, AND EXECUTE AND PROCESS THE SALT CREEK BACKWASH AGREEMENT AMENDMENT #2 WITH SCWD TO ALLOW FLOW FROM STORM DRAINS TO BE DIVERTED TO THE SANITARY SEWER SYSTEM; AND DELEGATED AUTHORITY TO EXTEND FUTURE AMENDMENTS TO DIVERSION OR BACKWASH AGREEMENTS TO THE CITY MANAGER.

PUBLIC COMMENTS

Julie Slark, Dana Point, spoke about the two car accident that occurred on April 8, 2016 which involved one of her neighbors. She stated that there was an article on the accident in the Dana Point Times on April 22 which garnered 102 on line comments, but no response was provided by the City for over a year. She asked for the deputies to patrol the streets for traffic and speeding. She felt that the case should be reopened as she does not believe the other driver's excuse for the cause of the accident.

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Joan Smith, Dana Point, reported that she had attended a meeting at Laguna Niguel City Hall regarding airplane noise on May 15th and that it was standing room only. She stated that the NextGen Project has not yet been fully implemented and that changes were being made at John Wayne Airport with additional runways and flights. She added that they also get the noise from the airplanes coming in at night from San Diego and LAX. She also mentioned attending Darryl Issa's town hall meeting where she was selected to speak and she chose to speak about the impact from the airplanes on everyone's health. She felt that the additional airplane activity will impact the revenue received from visitors to the City as they will not want to stay. She asked the City Council to write letters to the FAA to get on record and not be left out of the loop.

Penny Maynard, Dana Point, spoke regarding the proposed budget and stated that because we are a five-star community that the goal should be to maintain this status by adding to our amenities and services, not reducing them. She added that she was happy to see that the City will have at least five additional TOT revenue sources coming on board soon and when a community is dependent upon revenue related to tourism that comprises more than 50% of the City's budget, it is important that the City work to grow this revenue source. She stated that there will come a time when adding "Beach" to the name Dana Point will be welcomed as this will grow tourism and the related TOT revenue to Dana Point.

PUBLIC HEARINGS

- 16. PUBLIC HEARING AND DISCUSS A RESOLUTION TO ADOPT THE PROPOSED OPERATING AND CAPITAL IMPROVEMENT BUDGETS FOR FISCAL YEARS 2017-2018 AND 2018-2019; ADOPTION OF A RESOLUTION TO ESTABLISH THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2017-2018; ADOPTION OF A RESOLUTION SUPPORTING RENEWED MEASURE M2 ELIGIBILITY PACKAGE; AUTHORIZE CLOSE OF CURRENTLY BUDGETED CIP PROJECTS IN FISCAL YEAR 2016-2017; AND AUTHORIZE CITY VEHICLE LEASING PROGRAM CONTRACTS That the City Council:**

Mayor Pro Tem Wyatt stated that the Council had held a budget workshop where there was a review to see what could be trimmed down. He felt that the Council has done what it set out to do which was to keep the budget flat and put together a plan to poll the residents to create a priority-based budget and do a mid-year budget update for the FY2018/2019 budget that would be based off of that priority-based budget, create a strategic plan and a five year forecast that could be put together in terms of revenue and expenses. He reminded Council that in three years there is a cliff we want to avoid driving off (\$1.648 million dollars) so each thing we do to structurally improve our expenses leading up to that will make it a lot easier to avoid or at least reduce that cliff so we can actually attack it. He stated that he would like to recommend that the Council ask staff to go back through their budgets to see what wiggle room there is and shift some of their expenses into a contingency fund at the City level instead of department level because he felt that the likelihood that

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every department would need a contingency in the same year is low enough that Council could put it into a fund and move it as needed. He would include that staff inform the Council if a service was to be cut, what the impacts would be.

Mayor Lewis stated that for her clarification; it looks like our expenditures are \$34.1 million and we are focusing on the \$1.648.090 number from Mr. Killebrew's slide.

Mayor Pro Tem Wyatt stated that she was correct and added that staff is currently working on the FY2018-2019 budget and if the Council makes no correction in either of those two years, the City will come to that issue so we have to deal with some of that in each of these two years and make that a more workable number.

Mayor Lewis stated so when we look at the operating expenditure slide (pie graph), Public Safety and Personnel Services combined are approximately \$21.2 million of our \$34.1 million leaving us \$12.9 million and if we were to identify \$1.648 million after what is left, we need a 13.7% reduction total and we are trying to do this over three years at 4.2% each year and leaves us in 2020 with no operating deficit.

Mayor Pro Tem Wyatt replied that it would allow the City to run flat.

Council Member Tomlinson asked if Acting City Manager Killebrew would be giving a presentation on this item as it seems that Council has drifted into discussion first and there may be members of the public that would want to speak.

Mayor Lewis replied that she was giving background and context so people would know what the Council is talking about.

Acting City Manager Killebrew provided a staff report. He stated that this was a duly noticed Public Hearing because City budgets have to be discussed and adopted at a Public Hearing. He added that included in the packet for Council's discussion is the resolution to adopt the operating and capital improvement budget for the next two years, a resolution establishing an appropriation limit which is a requirement of the California Government Code, a resolution adopting a seven year capital improvement program, M-2 eligibility documentation, a request to close capital projects where there is remaining budget balance funds, and vehicle leasing and maintenance program contracts. He stated that technically the City Council could adopt the budget tonight but that staff was recommending that this hearing be continued to the meeting of June 20th to allow the Finance Review Committee another chance for review at their meeting scheduled June 13th. He added that the document that Council has tonight includes the general direction of the Council from the last workshop which did reduce the budget in regards to State of the City program funding as well as some other funding in the Council's budget and a reduction for a federal state lobbyist that was in the City Manager's budget. He stated that there was discussion at the last workshop regarding community events so staff does have some information that was requested if the Council would like to discuss which includes full costing of some of the events.

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Council Member Tomlinson asked all of the items in the staff report were related to budget or separate.

Acting City Manager Killebrew replied that they were all related to the budget.

Mayor Lewis opened the Public Hearing, but there were no requests to speak on this item.

Council Member Viczorek asked for clarification on what the Mayor Pro Tem was proposing and was it a 4% cut across the board.

Mayor Pro Tem Wyatt replied that he was proposing is to request staff to look at whether a 4% or 4.5% cut could be made and what services if any would be affected. He felt that this would be much more productive for staff to do this and not Council. He stated that he would ask Acting City Manager Killebrew to set money aside for contingencies and allocate as needed, that way it could be managed more effectively.

Council Member Viczorek questioned whether asking staff to accomplish this in the next two weeks was realistic.

Acting City Manager Killebrew replied that he needs clarification on whether this request to reduce is across the board because there are items left in the \$13 million that the City is committed to spending like the animal shelter because of the Joint Powers Authority, or the insurance pool the City is a member of. He stated that it will be a larger percentage once the non-discretionary items are removed. He preferred a target for staff to try and achieve. He added that another option would be to move forward with the budget as proposed and work toward achieving a savings in the next year with the idea that we would identify on-going and not one-time savings that could then address the structural deficiency that staff shows three years out. He stated that there are new programs that have been asked for, but the rest are things staff does on a daily basis. He added that there is a contingency included in the budget and staff could work towards identifying it which would require if the City does experience a 100 year storm that staff would have to ask Council for budget authority but he was hesitant to recommend this as a structural solution given that it is in the budget for a reason. He stated that if the Council could give staff a number to work toward or the option to move forward with a target of savings with a particular direction to identify permanent eliminations as opposed to one time savings.

Council Member Viczorek asked what the direction was to the Department Heads when you were compiling this budget; did you not already do this.

Acting City Manager Killebrew replied that positions were eliminated, trimmed down travel and elimination of take home vehicles. He

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stated that there were cuts in the budget already and that there was room for contingency planning.

Council Member Viczorek asked how close does staff think they could get to 4%.

Acting City Manager Killebrew replied that it would be larger than 4% for the portion of the budget that there is room to talk about.

Council Member Viczorek asked Acting City Manager Killebrew to explain the \$1.6 million dollar number, if it may or may not fluctuate and why.

Acting City Manager Killebrew replied that it is based on a five year projection with an assumption on past budget practices. He stated that the projection for three years out is there would be a \$1.6 million dollar deficit between operating revenues and expenditures with the assumption we are funding our capital program. He added that he wanted to be very clear, on the record, and reflected in the minutes that this number will not be \$1.6 million dollars, that it will be above or below but it is his best guess at this point in time.

Council Member Viczorek asked for staff to take another look at the budget, is a number needed or a target.

Acting City Manager Killebrew replied that the Council could give a direction and staff will try and follow it. He stated that a major premise of putting this budget together and budgeting for a strategic plan update and budgeting for a financial policy and the Council's addition of a community survey was for the Council to work with the community and come up with their priorities which staff could then craft changes to the future budgets and service levels around. He added that a lot of thought had gone into the process and the recommendations that were made.

Mayor Lewis stated that Council will not hold staff to the exact number \$1,648,090, Council understands that it could be more or less and that is why it is called a budget.

Mayor Pro Tem Wyatt stated that Council will need to agree to a target number and that he was sensitive to the fact that staff has done a good job of reviewing the budget and trying to make it work. He added that getting to a priority-based budget would give Council the ability to make better decisions. He stated that for example the monies that are budgeted for community activities is about \$680,000 and he would challenge staff to look through the events to see if they could be put on for less. He agreed with staff that there are a variety of costs that are spread through the departments that are fixed costs. He gave other examples of budget items that could be reduced.

Council Member Tomlinson asked if the number he was suggesting was \$400,000.

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Mayor Pro Tem Wyatt replied that he would like to get \$600,000 but he was not very optimistic about that.

Mayor Lewis stated that if we need 4.2% of what we have left each year, that's \$585,500 and she would ask that staff come back if they could cut out \$600,000 out of this budget and let Council know what this would do.

Mayor Pro Tem Wyatt stated that he would like to see what could be cut out of the budget in total and those things would cross departments. He added that when the Council gets to priority-based budgeting Council will be able to cut an entire thing. He stated that the challenge now is keeping all the things but spending just a little bit less doing each of them.

Mayor Lewis stated that if Council asks staff to come back with \$600,000 staff can tell us what that does. She felt that if Council works with a number that at least gets 1/3 each year, it will make things easier. She stated that staff is in the position to tell Council what that will do for us.

Mayor Pro Tem Wyatt stated that he agrees that staff knows better than Council about what they have to work with. He added that as the Council moves into priority-based budgeting the real goal here is to establish the City's priorities and include metrics around what we intend to deliver and how we measure how effectively we are delivering. He stated that any cuts that could affect service; he would like to look at how we measure the effectiveness and have staff thinking about the metrics that go along with that.

Acting City Manager Killebrew stated that the Council is preparing to embark on a strategic plan process that will be heavily focused on setting priorities and those priorities will be translated into budgets to fund the efforts so he suggested as a first step task staff with identifying 1/3 of the solution so by the end of the process at the end of next spring, we will be aiming to tackle the whole problem as opposed to trying to accomplish this task in the next two weeks.

Mayor Lewis stated that if Council keeps putting this off the number will just keep getting bigger and will be more difficult. She asked if the budget includes deferred maintenance.

Acting City Manager Killebrew replied that the budget includes funding for maintenance going forward based on staff's best guess but also included in the budget is a facilities maintenance system and the effort to do a full assessment. He added that there is money in the forecast in the five year plan for maintenance to maintain the facilities that we have that had not been included in the budget in the past.

Mayor Lewis stated that the proposed budget does not include deferred

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maintenance that we have not done but includes maintenance going forward to keep what we have.

Acting City Manager Killebrew replied that the Mayor was right that there is a list of deferred maintenance that staff had made the recommendation at the workshop that the surplus generated from this year's budget when the books are closed be used to tackle the deferred maintenance so that Council is starting fresh with facilities that will not have deferred maintenance when we review the fiscal year 2020 budget.

Mayor Lewis stated that instead of the leftover money going into capital improvement she is hearing that it will go into maintenance we have not been doing.

Acting City Manager Killebrew stated that his recommendation is that we get caught up and then with the fiscal years 20, 21, and 22 the 3rd, 4th and 5th year of the five year plan, we did include in those numbers that were generating the \$1.6 million dollar deficit funding, the capital program (CIP and facilities) at that time, but not for new things only to maintain what we have.

Mayor Lewis stated that it was even more imperative that Council pare down this \$1.6 million if we are going to be using our surpluses just to do deferred maintenance and not adding to our capital improvement fund for a couple of years.

Acting City Manager Killebrew stated that his recommendation before we start building new things, is we fix what we have and establish the budget to maintain what we have and then the priority with the strategic plan might be to find more money whether it is reducing programs and expenses or finding more revenue to start building new things.

Mayor Pro Tem Wyatt stated that ultimately as a City we need to find funds that allow us to fund new projects. He added that the City has a bigger problem than the \$1.6 million dollars because that only keeps us whole, because it does not allow us to grow.

Council Member Tomlinson stated that he was supportive of asking staff to relook at the budget to find more money and to wait another two weeks to adopt the budget.

Council Member Viczorek stated that there was nothing wrong with asking staff to take a second look but he was not sure what Council will get back in two weeks. He felt that it would be difficult for staff to recommend cuts when they do not know what the Council priorities are. He suggested that Council give staff a place to look so they are not wasting their time.

Mayor Pro Tem Wyatt stated that he shares Council Member Viczorek's concern that to be clear, the goal of updating the strategic plan, setting priorities, putting

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together a five year plan, and building a budget off of it so Council can make those decisions that dictate where the cuts should happen. He added that the Council has to go there to get the City operating on a strong financial plan and be able to fund things that the Council needs to continue to be the five-star city that we are. He agreed that Council is not in the position yet to tell staff what to cut so all Council can do is rely on staff to know what they can do better and to provide their best input. He stated that if staff does not have room to cut without a huge impact, Council will have to accept that. He felt that Council will receive some meaningful results by asking staff.

Mayor Lewis stated that she would like to make a motion to direct staff to give us their best guess, best budget numbers finding \$600,000 more and then staff can tell the Council where we are, the feasibility of that and then Council could make policy decisions.

Council Member Tomlinson asked if it was necessary to make a motion or could Council just give staff direction to try and accomplish the task.

Acting City Manager Killebrew replied that he was looking to see if there was an agreement.

THE CITY COUNCIL AGREED TO DIRECT STAFF TO IDENTIFY WHERE ELIMINATIONS COULD BE MADE TO CUT \$600,000 OUT OF THE PROPOSED BUDGET.

Mayor Pro Tem Wyatt complimented staff because they have worked hard at this and Council has put a lot on them. He stated that they were knowledgeable and capable and he was positive that they will provide the Council with their best.

UNFINISHED BUSINESS

There were no Unfinished Business items.

NEW BUSINESS

17. APPROVAL OF A CONTRACT AGREEMENT FOR TRAFFIC SIGNAL MAINTENANCE SERVICES WITH SIEMENS INDUSTRY, INCORPORATED

Deputy City Manager Denny provided a staff report.

IT WAS MOVED BY COUNCIL MEMBER TOMLINSON, SECONDED BY MAYOR PRO TEM WYATT, THAT THE CITY COUNCIL APPROVE A CONTRACT AGREEMENT FOR TRAFFIC SIGNAL MAINTENANCE SERVICES WITH SIEMENS INDUSTRY, INCORPORATED; AUTHORIZE THREE ADDITIONAL TWO (2) YEAR CONTRACT TERM EXTENSION OPTIONS PROVIDED UNIT

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PRICES REMAIN COMPETITIVE WITH VENDORS PROVIDING SIMILAR SERVICES; AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT.

The motion carried by the following vote:

AYES: Council Member John A. Tomlinson, Council Member Richard A. Viczorek, Mayor Pro Tem Paul N Wyatt and Mayor Debra Lewis

NOES: None

ABSENT: Council Member Joseph L. Muller

PUBLIC COMMENTS

There were no additional Public Comments received.

STAFF REPORTS

There were no Staff Reports.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Mayor Pro tem Wyatt stated that he would turn in his list of meetings attended to the City Clerk.

Council Member Tomlinson stated he would turn in his list of meetings attended to the City Clerk.

Council Member Viczorek stated he would turn in his list of meetings attended to the City Clerk.

Mayor Lewis stated she would turn in his list of meetings attended to the City Clerk.

ADJOURNMENT

There being no further business before the City Council at this session, at 7:33 p.m. Mayor Lewis adjourned the meeting to Thursday, June 8, 2017 at 5:30 p.m. for a Closed Session regarding Item B – Public Employment.


KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF JUNE 20, 2017

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Meetings attended since May 16, 2017:

Mayor Debra Lewis

May 17 Capistrano Valley Unified School District
Cal Trans, Pat Bates' Assistant, OCTA
May 22-23 JPIA Academy
May 25 Mayor's Office Hours
Strands HOA
May 29 Memorial Day Service Pines Park
May 30 Dan Pingaro Ocean Institute
May 31 Sergio Prince Supervisor Bartlett's Office
City Selection Committee
June 1 Jason Check Prado West/Raintree
June 5 Heather Stratam ACC-OC
TCA - Toll Road

Mayor Pro Tem Paul N Wyatt

May 22-23 JPIA Newly Elected Officials Academy
May 24 Financial Review Committee meeting
May 29 Memorial Day Service at Pines Park
June 5 Heather Stratman, ACC-OC
Lori Zeller, OC Fire Authority
TCA Public Forum III

Council Member Joseph L. Muller

May 17 CUSD
May 18 TCA
May 24 OCFA
May 25 TCA
May 29 Memorial Day Service
May 31 Prado West
June 1 Dana Hills Graduation
June 5 OCFA
June 6 South County Mobility

Council Member John A. Tomlinson

May 29 Memorial Day Service Pines Park

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Council Member Richard A. Viczorek

May 18	OCMVCD Board of Trustees Budget Meeting
May 22	SJHTCA Budget Meeting
May 25	SJHTCA Operations and Finance Committee Meeting
May 29	VFW Memorial Day Service – Pines Park