
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
MARCH 9, 2005**

CALL TO ORDER

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

ROLL CALL

PRESENT: Wayne Rayfield, Mayor (*arrived at 5:04 p.m.*)
Lara Anderson, Mayor Pro Tem
Russell Chilton, Council Member
Diane L. Harkey, Council Member
James V. Lacy, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Muñoz, City Attorney; Sharie Apodaca, Interim City Clerk/Director of Administrative Services; Cathy Catlett, Assistant City Clerk; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works/City Engineer; Matt Sinacori, Deputy City Engineer; John Tilton, City Architect/Planning Manager; Mark Billings, Chief of Police; Shanna Wolf, 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), (3 cases)
- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (1 case)
- C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9(a) (3 cases)
 - 1. Name of Case: Diedrich Coffee, Inc. v. City of Dana Point, et al, Orange County Superior Court Case No. 05CC03529
 - 2. Name of Case: Surfrider Foundation and Sierra Club v. California Coastal Commission, Headlands Reserve, LLC and City of Dana Point, Superior Court of San Francisco County Case No. CPF05505023

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3. Name of Case: Headlands Reserve LLC and MH Sherman Co. v. the City of Dana Point, et al, Orange County Superior Court Case No. 798758, Court of Appeals Case No. G024366

Mayor Pro Tem 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 Rayfield reconvened the meeting at 6:05 p.m. All Council Members were present.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Chilton.

INVOCATION

The Invocation was led by Gene Burrus.

CLOSED SESSION ANNOUNCEMENT

City Attorney Muñoz announced that with regard to an anticipated litigation listed on the Closed Session agenda, a matter involving two local residents involved in other litigation and the impact that it may have on possible future litigation with the City of Dana Point was discussed. The matter is generally known as the Hamilton v. DeCarli matter. The City Council, during Closed Session discussion voted 4 – 0, with Council Member Chilton abstaining, to publicly invite the litigants in the existing matter (Mr. Hamilton and Mr. DeCarli) to attend a mediation session which Council Member Harkey and Mayor Pro Tem Anderson would attend, along with legal staff and planning staff, in an attempt to mediate their differences and find resolution.

PRESENTATIONS AND PROCLAMATIONS

Presentation from Orange County Human Relations Commission

Frank Marmolejo, Orange County Human Relations Commission, reviewed services provided in the City of Dana Point over the past year and presented Council Members with copies of the Commission's Annual Report and newsletter. Mr. Marmolejo also presented a Certificate of Recognition honoring the City for support of good human relations infrastructure in 2003 – 2004.

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Business of the Month

Management Analyst Shanna Wolf gave a power point presentation of Dana Point Jeweler. Mayor Rayfield introduced owner Vartan Jizmejian and presented him with a Certificate of Recognition.

Presentation to Deputy Jeff McLain, Orange County Sheriff's Department

Jim Miller, representing the Harbor Association, presented several mementos and gift certificates from various Harbor merchants to Deputy Jeff McLain in appreciation of his service.

Mayor Rayfield expressed appreciation to Deputy McLain on behalf of the City Council and presented him with a Certificate of Recognition honoring his many years of service to the City of Dana Point.

CONSENT CALENDAR

Council Member Harkey removed Item 4 from the Consent Calendar.

IT WAS MOVED BY MAYOR PRO TEM ANDERSON, SECONDED BY COUNCIL MEMBER CHILTON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 4.

The motion carried by the following vote:

AYES:	Council Members Chilton, Harkey, Lacy, Mayor Pro Tem Anderson and Mayor Rayfield
NOES:	None
ABSENT:	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. THERE WERE NO ORDINANCES.

2. REGULAR MEETING MINUTES, FEBRUARY 23, 2005

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, MEETING OF FEBRUARY 16, 2005

RECEIVED AND FILED.

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4. PLANNING COMMISSION ACTIONS, MEETING OF MARCH 2, 2005

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

IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY MAYOR RAYFIELD, TO RECEIVE AND FILE THE PLANNING COMMISSION ACTIONS OF MARCH 2, 2005, WITH THE VOTE ON PAGE THREE CORRECTED.

The motion carried by the following vote:

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

5. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

6. TREASURER'S REPORT, JANUARY 2005

RECEIVED AND FILED THE CITY'S TREASURER REPORT FOR THE MONTH OF JANUARY 2005.

7. CLAIMS AND DEMANDS

RECEIVED AND FILED.

8. 2005 WEED ABATEMENT PROGRAM *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

ADOPTED **RESOLUTION NO. 05-03-09-01**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING WEEDS A PUBLIC NUISANCE AND INITIATING ABATEMENT PROCEEDINGS.

FURTHER, BY MINUTE ORDER, AUTHORIZED STAFF TO RELEASE BID PACKETS TO CONTRACTORS TO ABATE WEEDS IN THE CITY.

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9. **JOINT AGREEMENT FOR THE OPERATION, MAINTENANCE, AND FINANCIAL MANAGEMENT OF THE ORANGE COUNTY 800 MHZ COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM DATED NOVEMBER 2004** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

(1) APPROVED THE JOINT AGREEMENT FOR THE OPERATION, MAINTENANCE, AND FINANCIAL MANAGEMENT OF THE ORANGE COUNTY 800 MHZ COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM; (2) AUTHORIZED THE MAYOR TO EXECUTE THE JOINT AGREEMENT; AND (3) DIRECTED THE CITY CLERK TO CERTIFY THE ADOPTION OF THIS AGREEMENT AND PROCESS TWO COPIES, ONE ORIGINAL FOR THE COUNTY CLERK OF THE BOARD, AND ONE ORIGINAL FOR THE CITY CLERK'S RECORDS.

10. **APPROVE AMENDMENT NO. 10 TO CONTRACT AGREEMENT NO.C-95-971 WITH ORANGE COUNTY TRANSIT AUTHORITY TO PROVIDE SENIOR TRANSPORTATION SERVICES TO THE DEL OBISPO COMMUNITY/SENIOR CENTER THROUGH JUNE 30, 2005** *[STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES]*

APPROVED AMENDMENT NO. 10 TO THE EXISTING CONTRACT NO. C-95-971 WITH ORANGE COUNTY TRANSIT AUTHORITY (OCTA) FOR SENIOR TRANSPORTATION TO THE DEL OBISPO COMMUNITY/SENIOR CENTER THROUGH JUNE 30, 2005 AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT.

11. **RATIFICATION OF EMERGENCY PURCHASE FOR STORM DRAIN DAMAGE REPAIRS ALONG DEL OBISPO STREET** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

(1) RATIFIED THE CITY MANAGER'S ACTION TO WAIVE COMPETITIVE BIDDING FOR IMMEDIATELY OBTAINING CONSTRUCTION SUPPORT SERVICES FOR EMERGENCY STORM DRAIN FACILITY REPAIRS ON A STORM DRAIN ACROSS DEL OBISPO STREET, HEREIN REFERRED TO AS "STORM DRAIN REPAIRS"; (2) AUTHORIZED THE TRANSFER OF FUNDS FROM THE CAPITAL IMPROVEMENT PROGRAM RESERVE FUND TO THE 2005 STORM DAMAGE REPAIR PROJECT (CIP#1190) TO FUND THE PROJECT; AND (3) AUTHORIZED STAFF TO PAY GCI CONSTRUCTION, INCORPORATED AND OTHER NECESSARY CONTRACTORS, VENDORS AND CONSULTANTS FOR COMPLETING STORM DRAIN REPAIRS UPON RECEIPT OF ACTUAL QUANTITIES AND COSTS FOR THE EMERGENCY WORK.

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12. ESTABLISHMENT OF THE DANA POINT OCEAN WATER QUALITY SUBCOMMITTEE *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

(1) ADOPTED **RESOLUTION NO. 05-03-09-02**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING A DANA POINT OCEAN WATER QUALITY SUBCOMMITTEE;

(2) ACKNOWLEDGED THE BUDGET OUTLINED IN THE FISCAL IMPACT SECTION THAT DESCRIBES THE STAFFING NEEDS AND RESOURCES FOR THE OCEAN WATER QUALITY SUBCOMMITTEE; AND (3) APPROVED THE APPLICATION, INCLUDED AS SUPPORTING DOCUMENT B, AND DIRECTED STAFF TO ADVERTISE FOR INTERESTED RESIDENT INVOLVEMENT AS IT RELATES TO SERVING ON THE SUBCOMMITTEE.

ORAL REPORTS

There were no Oral Reports.

PUBLIC COMMENTS

Mayor Rayfield opened the meeting for public comments.

Bob Moore, Dana Point, representing Veterans of Foreign Wars Dana Point Post #9934, expressed appreciation to the City Council for honoring veterans at a recent open house held by the Dana Point Historical Society and presented a Buddy Poppy to each Council Member.

Norm Denton, Dana Point, noted he would be unable to attend the upcoming interviews for appointment to the Planning Commission and stated he wished to be considered for reappointment.

Kelly Lockwood-Larson, Dana Point, Chairperson of the Dana Point Youth Board, provided an update of current events and projects of the Youth Board and thanked Council for their continued support.

Laura Petersen, Dana Point, representing the Dana Point Youth Board, spoke regarding the Youth Board's city motto contest.

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There was no Unfinished Business.

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NEW BUSINESS

- 13. 2004 ANNUAL REPORT - CODE ENFORCEMENT** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

City Manager Chotkevys provided an overview of code enforcement in the City.

Director of Community Development Butterwick presented the staff report noting the high level of voluntary compliance in the City.

City Architect/Planning Manager Tilton summarized various aspects of the code enforcement program.

Chief of Police Billings spoke regarding the effectiveness of the use of Sheriff's Department personnel as a code enforcement officer for the City.

City Attorney Muñoz spoke regarding utilization of the City Attorney's office for prosecution of code enforcement cases.

Rod Howorth, Dana Point, representing the Lantern Village Association, spoke in support of the City's code enforcement program.

IT WAS MOVED BY MAYOR RAYFIELD, SECONDED BY COUNCIL MEMBER HARKEY, TO RECEIVE AND FILE THE REPORT.

The motion carried by the following vote:

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

- 14. FISCAL YEAR 2004-2005 MID-YEAR BUDGET REVIEW** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

City Manager Chotkevys provided a brief status report on the City's budget.

Director of Administrative Services Apodaca presented the staff report summarizing the status of the City's adopted budget at mid-year and recommended adjustments.

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IT WAS MOVED BY COUNCIL MEMBER HARKEY, SECONDED BY COUNCIL MEMBER CHILTON, TO RECEIVE AND FILE THE MID-YEAR BUDGET REPORT AND APPROVE THE RECOMMENDED FY05 BUDGET ADJUSTMENT TO FUND A COMPREHENSIVE FEE STUDY.

The motion carried by the following vote:

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

- 15. APPROVE AN AGREEMENT WITH THE COUNTY OF ORANGE TO PROVIDE FUNDING SUPPORT FOR A DANA POINT HARBOR BABY BEACH WATER CIRCULATION DEMONSTRATION PROJECT TO IMPROVE WATER QUALITY [STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES]**

City Manager Chotkevys summarized the agreement and introduced Director of Public Works/City Engineer Fowler to provide the staff report.

Director of Public Works/City Engineer Fowler presented the staff report.

Richard Dietmeier, Dana Point, spoke in support of the project.

IT WAS MOVED BY MAYOR PRO TEM ANDERSON, SECONDED BY COUNCIL MEMBER CHILTON, TO (1) APPROVE AN AGREEMENT IN SUPPORT OF A DANA POINT HARBOR BABY BEACH WATER CIRCULATION DEMONSTRATION PROJECT TO IMPROVE WATER QUALITY WITH THE COUNTY OF ORANGE, TO BE ADMINISTERED BY THE CITY MANAGER, AND (2) APPROVE AN EXPENDITURE OF FUNDS FROM PUBLIC WORK'S WATER QUALITY ACCOUNT #57-251 FOR SUBJECT PROJECT.

The motion carried by the following vote:

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

STAFF REPORTS

City Manager Chotkevys reported he was privileged to recently serve as "Principal for a Day" at Dana Hills High School and praised Principal Carolyn Williams, whom the school is fortunate to have.

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City Manager Chotkevys complimented Accounting Manager Glass and Director of Administrative Services Apodaca for an excellent, easily understandable budget report.

COUNCIL REPORTS

Council Member Chilton remarked on the wonderful Festival of Whales parade and street fair and expressed appreciation to everyone involved with the event.

Council Member Lacy reported on his and the Mayor's meeting with Congressman Cox on February 24, 2005 where water quality was discussed. Congressman Cox is very supportive of the City's effort to improve water quality. The following day an additional meeting was held with Congressman Cox and Congressman Hobson, where assistance in requesting grant funding from the Federal government was discussed.

Council Member Lacy stated he has initiated a blog-site to receive comments from the community regarding issues of concern. The website address is www.workingfordanapoint.com/blog.

Council Member Harkey reported on her attendance at the Capistrano Unified School District Board Meeting on March 7th in support of allowing Capistrano Beach residents to continue attending San Clemente High School, or Dana Hills High School if a change must occur, and a reduction in the number of students at Dana Hills High School. She noted she had sent a follow-up e-mail to the Board restating the City's position on these issues.

Mayor Pro Tem Anderson reported she had toured the South Orange County Wastewater Authority (SOCWA) facilities on February 25th and was impressed with their well-run organization.

Mayor Pro Tem Anderson noted the Lantern Village Association (LVA) held their annual meeting on March 1st and stated it was good to see the LVA and the City working together.

Mayor Pro Tem Anderson reported on her recent attendance at both the residents' and business owners' Town Center Workshops and encouraged everyone to submit comments and participate in the workshops.

Mayor Pro Tem Anderson reminded everyone of the Wag-A-Thon sponsored by the Pet Project Foundation to be held this coming weekend on March 12th.

Mayor Pro Tem Anderson reported on her attendance at the tribute to military veterans held after the Festival of Whales parade on Saturday, March 5th and commented on the moving speech made by Mayor Rayfield at the event.

Mayor Pro Tem Anderson reported the Dana Point Yacht Club would be taking injured Marines just back from Iraq on a fishing trip this coming weekend.

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Mayor Rayfield commented on his optimism for the support of Congressman Cox and Congressman Hobson in the City's grant request to the Environmental Protection Agency (EPA).

Mayor Rayfield expressed appreciation to Council Member Harkey for representing the City of Dana Point at the Capistrano Unified School District meeting and to the City Council for conducting a special meeting to discuss these issues to provide a unified front.

Mayor Rayfield reminded everyone of the need to eliminate standing water to prevent the breeding of mosquitoes carrying the West Nile Virus.

Mayor Rayfield stated he would be throwing out the first ball at the Dana Point Youth Baseball opening day this coming Saturday at the Community Center.

Mayor Rayfield noted that Sunday, March 13th was Ocean Awareness Day and invited everyone to visit the City's booth.

Mayor Rayfield commented on the well-attended recent Town Center Workshops, thanked those who had provided comments and encouraged input regarding the future Town Center project.

CLOSED SESSION

Mayor Rayfield indicated the need for continuation of the Closed Session earlier on the agenda and recessed the meeting into Closed Session at 8:16 p.m. pursuant to Government Code Section 54956 et. seq.

RECONVENE CITY COUNCIL MEETING

Mayor Rayfield reconvened the meeting at 9:15 p.m. All Council Members were present.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Rayfield declared the meeting adjourned at 9:16 p.m.

There will be an Adjourned Meeting of the City Council on March 16, 2005 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

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The next Regular Meeting of the City Council will be March 23, 2005 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

SHARIE APODACA
INTERIM CITY CLERK

APPROVED AT THE MEETING OF MARCH 23, 2005