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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
JANUARY 26, 2005**

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**CALL TO ORDER**

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Rayfield 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  
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 Munoz, City Attorney; Sharon Street, Director of Public Affairs/City Clerk; Sharie Apodaca, 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; Mark Billings, Chief of Police; Shanna Wolf, Management Analyst.

**CLOSED SESSION**

City Attorney Munoz 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), (2 cases)
  - 1. Name of Case: City of Dana Point v. Warren & Does 1-50, Orange County Superior Court Case No. 04CC07344
  - 2. Name of Case: City of Dana Point v. Cheryl Saltus, SeAir Properties, Jose M. Barraza, and Does 1 – 50, Superior Court of the State of California, County of Orange – Central Justice Center, Case No. 04CC11069

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D. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, Government Code § 54956.8 (1 case)

1. Location: Pacific Coast Highway between the north City limit and the western edge of San Juan Creek, Dana Point, California
- Agency Negotiator: Douglas Chotkevys, City Manager  
Patrick Munoz, City Attorney  
Brad Fowler, Director of Public Works/  
City Engineer  
Matthew Sinacori, Deputy City Engineer
- Negotiating Parties: City of Dana Point and California Department of Transportation
- Under Negotiation: Relinquishment of portion of Pacific Coast Highway, including both price and terms of payment

E. PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Government Code § 54957.6

Title: Director of Public Affairs/City Clerk

Mayor Rayfield recessed the meeting into a Closed Session at 5:05 p.m. pursuant to Government Code Section 54956 et. seq.

**RECONVENE CITY COUNCIL MEETING**

Mayor Rayfield reconvened the meeting at 6:10 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 the Pastor Jens Christy of Calvary Chapel, Capistrano Beach.

**PRESENTATIONS AND PROCLAMATIONS**

Presentation from Orange County Health Agency

Larry Honeybourne, Environmental Health Engineering Specialist, gave a presentation on the Ocean Water Protection Program and Ocean Water Monitoring Requirements.

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**CONSENT CALENDAR**

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

The motion carried by the following vote:

AYES: Council Members, Chilton, Harkey, and Lacy, Mayor Pro Tem Anderson, and Mayor Rayfield.  
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. THERE WERE NO ORDINANCES.

**2. REGULAR MEETING MINUTES, JANUARY 17, 2005**

RECEIVED AND FILED.

**3. PLANNING COMMISSION MINUTES, MEETING OF DECEMBER 15, 2004**

RECEIVED AND FILED.

**4. PLANNING COMMISSION ACTIONS, MEETING OF JANUARY 19, 2005**

RECEIVED AND FILED.

**5. YOUTH BOARD MINUTES, MEETING OF JANUARY 6, 2005**

RECEIVED AND FILED.

**6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**

RECEIVED AND FILED.

**7. CLAIMS AND DEMANDS**

RECEIVED AND FILED.

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- 8. ESTABLISHMENT OF A NON-EXEMPT POSITION TITLE AND SALARY RANGE – PUBLIC WORKS INTERN (PART TIME)** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

**ADOPTED RESOLUTION NO. 05-01-26-01**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING AN ADDITIONAL POSITION TITLE AND SALARY RANGE.*

- 9. DISPOSITION OF NON-ESSENTIAL RECORDS** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

**ADOPTED RESOLUTION NO. 05-01-26-02 ENTITLED:**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING THE DISPOSITION OF CERTAIN INACTIVE CITY RECORDS AS PROVIDED BY SECTION 34090 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.*

- 10. RATIFICATION OF EMERGENCY PURCHASE FOR STORM DRAIN DAMAGE REPAIRS AT 34695 CAMINO CAPISTRANO** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

CITY COUNCIL (1) RATIFIED THE CITY MANAGER'S ACTION TO WAIVE COMPETITIVE BIDDING FOR IMMEDIATELY OBTAINING CONSTRUCTION SUPPORT SERVICES FOR EMERGENCY STORM DRAIN AND INFRASTRUCTURE REPAIRS AT 34695 CAMINO CAPISTRANO; (2) AUTHORIZED THE TRANSFER OF FUNDS FROM THE CAPITAL IMPROVEMENT PROGRAM RESERVE FUND TO THE NEW CIP 2005 STORM DAMAGE REPAIRS PROJECT; AND (3) AUTHORIZED STAFF TO PAY GCI CONSTRUCTION, INCORPORATED AND OTHER NECESSARY CONTRACTORS, VENDORS AND CONSULTANTS FOR THE EMERGENCY REPAIRS AT 34695 CAMINO CAPISTRANO BASED UPON ACTUAL QUANTITIES AND COSTS FOR THE EMERGENCY WORK FROM THE APPROPRIATE ACCOUNT.

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**11. CONTINUANCE OF LOCAL EMERGENCY PROCLAMATION FOR DANA POINT**  
*[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES  
AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER  
SERVICE AND COST-EFFECTIVENESS]*

CITY COUNCIL (1) CONTINUED THE PROCLAMATION OF LOCAL EMERGENCY THAT EXISTS AS A RESULT OF THE RECENT WINTER STORMS; AND (2) AGENDIZED THIS ITEM FOR FURTHER CONSIDERATION TO THE FEBRUARY 9, 2005 CITY COUNCIL MEETING.

**ORAL REPORTS**

There were no Oral Reports.

**PUBLIC COMMENTS**

Mayor Rayfield opened the meeting for public comments.

George Follman, Dana Point, UP Sports, thanked the City Council for the landscaping at the entrance into Dana Point nearby his business. He also spoke about the traffic flow and how it will affect the surrounding businesses.

Craig Alexander, Dana Point, President of the South Orange County Republican Assembly, congratulated the new council members and stated that the CRA is sponsoring a petition to prohibit the issuance of driver's licenses to undocumented immigrants.

Gene Burrus, Dana Point, thanked City Manager Chotkevys for stopping by the Senior Center during the rain storm to check on the residents.

Bob Moore, Dana Point, Commander of VFW Post 9934, thanked the City Council, city staff and the Chamber of Commerce for supporting military service personnel. He also asked that various items continue to be donated for military personnel that are in nearby military hospitals.

**PUBLIC HEARINGS**

**12. APPEAL OF THE PLANNING COMMISSION'S APPROVAL TO UPHOLD THE  
COMMUNITY DEVELOPMENT DIRECTOR'S DETERMINATION THAT THE  
PREVIOUS ENTITLEMENT TO OPERATE A DRIVE-THROUGH RESTAURANT AT  
THE PROPERTY LOCATED AT 34122 PACIFIC COAST HIGHWAY SHALL NOT  
APPLY TO THE PROPOSED COFFEE HOUSE/DRIVE THROUGH USE AND THAT  
A CONDITIONAL USE PERMIT IS REQUIRED**

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Council Member Chilton recused himself from the hearing due to the proximity of the subject location to his wife's business, and left the dais.

City Manager Chotkevys gave a staff report regarding the history of the conditional use permit that was approved for previous businesses at the property location. Kyle Butterwick, Director of Community Development, was introduced and presented a report and background information on the project and the conditional use permit process and restrictions.

Mayor Pro Tem Anderson inquired on the length of a conditional use permit and if it may be negotiable.

City Attorney Munoz clarified the use and entitlement of a conditional use permit with a lease on a property.

Mayor Rayfield opened the public hearing.

On behalf of the Appellant:

Rose Bacinski, Dana Point, Architect and consultant for Diedrich's Coffee, stated that the applicant selected the site because of the drive-thru and confirmed that a lease has been signed to occupy the property. In closing, requested that the Council overturn the Planning Commission's decision and allow Diedrich's to use the existing conditional use permit.

William Steel, Laguna Beach, Attorney for Diedrich's, stated that the denial of use of the drive-thru is due to Diedrich's not serving the same menu items as Kentucky Fried Chicken (KFC). However, Mega Burger, who didn't have the same menu as KFC, wasn't required to apply for a conditional use permit and served breakfast, which Diedrich's would like to do in conjunction with the drive-thru. In closing, Mr. Steel presented a petition in support of the applicant's use of the drive-thru and requested the City Council to consider overturning the Planning Commission's decision.

Mayor Rayfield opened the public comment section of the hearing.

Todd Leetch, Dana Point, spoke in opposition to the use of the drive-thru and believes it will be hazardous to drivers.

Mary Hartmann, Dana Point, Girl in the Curl, looks forward to Diedrich's in the City, however, another drive-thru during peak hours will make the current traffic situation even more dangerous to pedestrians as well as other drivers.

George Follman, San Clemente, UP Sports, stated business competition is diversification and spoke in support of Diedrich's and their use of the drive-thru.

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Larry Leis, Dana Point, spoke in support of the Diedrich's drive-thru.

Stan Andrade, Dana Point, believes the entitlement approved by the County did not take future city planning into consideration twenty years ago. Although he would like to see Diedrich's Coffee operate within the City, he believes the City Council should support the Planning Commission's decision and should look further into the traffic impacts.

Craig Alexander, Dana Point, spoke in support of Diedrich's and believes the prior use should dictate the subsequent use of the drive-thru.

Kirk Lapple, Dana Point, City Affairs Legislative Chairman for the Dana Point Chamber of Commerce, spoke in support of Diedrich's appeal of the Planning Commission's decision and stated that the Board of Directors of the Chamber of Commerce unanimously voted and do not agree with the determination that Diedrich's proposed use constitutes a change in use.

Jim Miller, Dana Point, stated the County of Orange issued a site permit for KFC to operate the drive-thru; and Condition Number 3 allows the Director of Community Development the latitude to require a new conditional use permit if there is a change to the precise plan.

Tristan Krogus, Dana Point, stated that the Diedrich's project is a concern of many residents. The existing permit gives specific approval under specific conditions and allows the City to determine whether a change in use would determine the decision to require a new conditional use permit.

Al Scaduto, Dana Point, stated that the City has been burdened with mitigating decisions made by the County of Orange prior to incorporation. He commended the Director of Community Development for rejecting Diedrich's proposal and believes that the applicant should apply for a conditional use permit.

John Hourian, San Clemente, as a business owner in the City of Dana Point, spoke in support of Diedrich's Coffee house with a drive-thru and outdoor dining as it will add support and vitality in the Town Center.

Mayor Rayfield called for the appellant to give closing comments:

Bill Ossenmacher, Dana Point, representing Diedrich's Coffee, stated how hard it has been for the City to attract quality businesses to the community due the financial and time consuming challenges. Also, he reported on various businesses within the City that have opened up without being subject to the same review process.

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Mayor Rayfield closed the public hearing.

Mayor Rayfield recessed the meeting at 8:00 p.m.

Mayor Rayfield reconvened the meeting at 8:10 p.m.

Mayor Rayfield called for Council discussion of the public hearing.

Mayor Rayfield clarified that the issue before the Council is whether or not the decision by the Director of Community Development and Planning Commission was proper in determining that a conditional use permit was required. Also reiterated that the applicant has submitted an application for demolition to begin tenant improvement.

Council Member Lacy presented points of fact as to why he is supporting staff's recommendation. The current site permit is based on an approval from 20 years ago when traffic was not an issue as it is today and further stated that a conditional use permit application will be subject to a traffic analysis to determine the impacts of a drive-thru.

Mayor Pro Tem Anderson welcomed Diedrich's to the City and encouraged them to apply for a conditional use permit. Also stated that the City should start to follow its own codes and not the codes that the County imposed on them many years ago.

Councilmember Harkey stated that she had heard from many residents in the community on this issue via e-mail and telephone. She thought that under real estate analysis that the highest and best use for the property was a drive-through restaurant, as the building was not suitable for retail, office or an art gallery. She stated that she felt the location, property and company were a dream tenant, and that upscale business such as Diedrich's would benefit local retail and art galleries. She stated that she thought it was our goal to complete the Town Center without redevelopment and government mandates by enticing private investment of quality merchants in our city. However, she did see a safety problem with the drive through as presently proposed, and traffic stacking up on PCH based on traffic problems cited by constituents with regard to JC Beans. She suggested that if a conditional use permit is required for the Diedrich's site that a review of JC Beans should also be conducted to assess alternatives to the traffic impacts on PCH.

Mayor Rayfield clarified that the City has a distinction among food uses, in that coffee houses and restaurants fall under separate categories. The Council's role is to make sure the community is not impacted by a new business, it is not, however, trying to control which businesses come into the City. Believes that it would be a disservice to the community if the City did not require a conditional use permit to assess the traffic impacts.



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IT WAS MOVED BY COUNCIL MEMBER LACY AND SECONDED BY MAYOR PRO TEM ANDERSON, THAT THE CITY COUNCIL ADOPT **RESOLUTION NO. 05-01-26-03** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, TO UPHOLD THE PLANNING COMMISSION'S ACTION TO UPHOLD THE COMMUNITY DEVELOPMENT DIRECTOR'S DETERMINATION THAT THE PREVIOUS ENTITLEMENT TO OPERATE A DRIVE-THROUGH RESTAURANT AT THE PROPERTY LOCATED AT 34122 PACIFIC COAST HIGHWAY SHALL NOT APPLY TO THE PROPOSED COFFEE HOUSE DRIVE-THROUGH USE AND THAT CONDITIONAL USE PERMIT IS REQUIRED.*

The motion carried by the following vote:

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

**13. ADOPTION OF A RESOLUTION APPROVING A REQUESTED STREET NAME CHANGE FROM CORNICHE DRIVE TO RITZ POINTE DRIVE PURSUANT TO THE DANA POINT MUNICIPAL CODE [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]**

Council Member Chilton returned to the dais.

City Manager Chotkevys gave a staff report

Mayor Rayfield opened the public hearing.

There were no public speakers

Mayor Rayfield closed the public hearing.

IT WAS MOVED BY COUNCIL MEMBER HARKEY AND SECONDED BY COUNCIL MEMBER CHILTON, THAT THE CITY COUNCIL ADOPT **RESOLUTION NO. 05-01-26-04** ENTITLED:

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*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A REQUESTED STREET NAME CHANGE FROM CORNICHE DRIVE TO RITZ POINTE DRIVE PURSUANT TO THE DANA POINT MUNICIPAL CODE*

The motion carried by the following vote:

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

**UNFINISHED BUSINESS**

**14. ADOPTION OF RESOLUTION AMENDING THE AMOUNT OF SECURITY DEPOSIT APPLICABLE TO ROOFING COMPANIES IN CONNECTION WITH THE CITY'S CONSTRUCTION AND DEMOLITION WASTE RECYCLING PROGRAM**  
*[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

City Manager Chotkevys presented a staff report and provided background information regarding the City's compliance with AB 939, which is a state mandate requiring the City to divert a percentage of it's waste stream from landfill's, and how the contractor's security deposit process works.

There were no public comments.

Mayor Rayfield called for Council discussion.

Council Member Harkey gave an analysis of the cost for contractors taking roofing materials to a landfill versus a recycling center.

City Attorney Muñoz stated that the County Integrated Waste Management Board will be or have raised the rates for dumping at landfills to equal the rate at recycling facilities.

Mayor Rayfield stated he would like to see this item come back to the Council in six to nine months for an update.

**IT WAS MOVED BY MAYOR PRO TEM ANDERSON AND SECONDED BY COUNCIL MEMBER CHILTON, THAT THE CITY COUNCIL ADOPT RESOLUTION NO. 05-01-26-05 ENTITLED:**

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*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA APPROVING AN INCREASE IN THE SECURITY DEPOSIT AMOUNT APPLICABLE TO ROOFING COMPANIES FOR THE CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING PROGRAM*

The motion carried by the following vote:

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

**15. BOARDS AND COMMISSIONS, COMMITTEES AND SUB-COMMITTEES**

*[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST EFFECTIVENESS]*

City Manager Chotkevys presented a report which reiterated that staff will return to the Council with enabling resolutions once the Council has identified all new subcommittees, including their specific scope and membership.

Mayor Rayfield called for public comments.

Richard Deitmeier, Dana Point, commented on the suggestion by a council member regarding background checks and stated that if those procedures are enacted that the City Council should be subject to the same. He also commented on ocean water quality, and stated the Council has no authority in the matter. He suggested forming a sewer and water commission as an alternative.

Mayor Rayfield called for Council discussion.

Council Member Harkey requested the formation of a subcommittee to review the building code as it pertains to residential height limitations and variances. Council Member Harkey agreed to serve as Chair and Council Member Chilton agreed to serve as the other representative. Council Member Lacy suggested appointing two Planning Commissioners to the subcommittee.

Council Member Harkey requested a Capistrano Beach bluff task force to address land hazards and to work with staff to assist residents with landslide and related issues. She agreed to serve as the Council representative on an assignment basis.

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Mayor Pro Tem Anderson suggested that the two Council Members assigned to the South Coast Water District Representative task force consider forming a joint committee with District Directors to work together in a formal capacity.

Mayor Rayfield agreed to replace Council Member Chilton on the Library and Sea Terrace Park Subcommittee.

Mayor Pro Tem Anderson was directed by the council to return with a recommendation to appoint a representative and an alternate to the CASA Animal Shelter Project Committee.

City Manager Chotkevys requested direction on proceeding with upcoming Planning Commission vacancies, including the issue of requiring background checks.

The Council discussed the matter of requiring background and credit investigations for Planning Commission applicants. As a result of discussions, the Council decided not to require the investigations, but rather to direct staff to revise the Planning Commission application in order to obtain any criminal or bankruptcy history on each applicant, and to use the City's employment application as a guideline.

IT WAS MOVED BY COUNCIL MEMBER LACY AND SECONDED BY COUNCIL MEMBER HARKEY, THAT THE CITY COUNCIL GIVE STAFF AUTHORITY TO MOVE FORWARD TO ADVERTISE FOR TWO PLANNING COMMISSION POSITIONS AND TO MODIFY THE PLANNING COMMISSION APPLICATION AS DIRECTED.

The Motion carried by the following vote:

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

## **NEW BUSINESS**

### **16. SUPPLEMENTAL FUNDING FOR THE FESTIVAL OF WHALES [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]**

City Manager Chotkevys presented a staff report regarding the City's participation and the supplemental funding of the Festival of Whales.

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Staff responded to Council's questions regarding the current budget.

Mayor Rayfield opened the item to public comments.

Jim Miller, Dana Point, Vice President of the Dana Point Harbor Association, spoke in support of the City taking a larger role in the Festival of Whales and approving the funding as recommended by staff. He also responded to Council's questions.

City Council Comments:

Council Member Chilton stated that the Festival of Whales is a community event which brings people to the Harbor and highlights the community. He noted support of staff's recommendation.

Council Member Lacy recommended amending staff's recommendation by providing an additional \$10,000 from the City's community grant budget. He stated the \$10,000 in additional funds should be restricted to advertising purposes only, be revenue neutral, and be subject to the staff's review of an expenditure plan developed by the Festival of Whales Committee.

IT WAS MOVED BY COUNCIL MEMBER LACY AND SECONDED BY COUNCIL MEMBER CHILTON, THAT THE CITY COUNCIL APPROVE STAFF'S RECOMMENDATION WITH THE MODIFICATION OF ADDING AN ADDITIONAL \$10,000 TO BE USED SPECIFICALLY FOR ADVERTISING BASED ON AN EXPENDITURE PLAN PREPARED BY THE FESTIVAL OF WHALES COMMITTEE TO BE SUBMITTED TO CITY STAFF FOR REVIEW.

The Motion carried by the following vote:

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

Mayor Rayfield made the following points to consider for future City funded events: an application process and guidelines, review of the full cost of events, the cost to participants, some form of audited financial statement be provided at the end of the event, and City input on various procedures.

**STAFF REPORTS**

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City Manager Doug Chotkevys reported that there were no staff reports and recommended that the City Council adjourn to continue the Closed Session items.

**COUNCIL REPORTS**

Mayor Pro Tem Anderson – Stated that the Campaign Disclosure Forms due January 31<sup>st</sup> are available to view on the City's web-site. Also informed the public that video tapes of City Council meetings are currently available in the City Clerk's Office on a check-out basis and will also be available for check-out at the Dana Point Library.

Council Member Harkey – Commented on the City Manager and City Attorney being criticized at the last meeting and reminded the public to understand that they work at the will of and take direction from the City Council.

Mayor Rayfield – In response to suggestions that the City allow the South Coast Water District to utilize the City's Chamber for its board meetings, noted that a letter has been sent to the District inquiring if they were still interested and requesting further information. Also stated that the County of Los Angeles is working with State officials to possibly acquire the El Toro Base to build an airport. Would also like to agendize a discussion regarding the start time of the City Council meetings.

Council Member Lacy – Concerned with other entities holding meetings in the City Council chambers, specifically with the possibility of accidents, vandalism and other liabilities. Would also like to hear why other agencies aren't able to provide their own space and video equipment for their meetings.

**CLOSED SESSION – CONTINUED**

The City Council adjourned to Closed Session at 10:25 p.m. as follows:

PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Government Code  
§ 54957.6

Title: Director of Public Affairs/City Clerk

The City Council reconvened at 11:20 p.m.

City Attorney Munoz reported that during Closed Session the City Council took action to place the City Clerk on paid administrative leave and directed the City Manager to notice a special meeting on Friday, January 28, 2005 at 4:00 p.m. to consider the termination of the City Clerk. The vote on the matter was a 4 to 1 vote, with Council Member Lacy voting in opposition.

IT WAS MOVED BY COUNCIL MEMBER HARKEY AND SECONDED BY  
COUNCIL MEMBER CHILTON, TO ADD AN URGENCY ITEM TO THE AGENDA.

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The Motion carried by the following vote:

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

IT WAS MOVED BY COUNCIL MEMBER HARKEY AND SECONDED BY COUNCIL MEMBER CHILTON, TO AUTHORIZE THE CITY MANAGER TO DESIGNATE AN INTERIM CITY CLERK UNTIL THE CITY COUNCIL CAN APPOINT A NEW CITY CLERK.

The Motion carried by the following vote:

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

**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Rayfield declared the meeting adjourned at 11:25 p.m.

The next Regular Meeting of the City Council will be February 9, 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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SHARIE APODACA  
INTERIM CITY CLERK

APPROVED AT THE MEETING OF FEBRUARY 9, 2005