
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
JANUARY 17, 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 Lacy at 5:05 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

ROLL CALL

PRESENT: James V. Lacy, Mayor Pro Tem
Lara Anderson, Council Member
Russell Chilton, Council Member
Diane L. Harkey, Council Member
Wayne Rayfield, 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), (6 cases)
 - 1. Name of Case: Hamilton v. City Council of the City of Dana Point, California, Superior Court for the State of California, County of Orange, Central Justice Center, Case No. 04CC05259
 - 2. Name of Case: City of Dana Point v. Warren & Does 1-50, Orange County Superior Court Case No. 04CC07344

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3. Name of Case: Pepi Weitzman v. The City of Dana Point and Headlands Reserve, LLC, Superior Court for the State of California, County of Orange Central District, Case No. 04CC00716
4. Name of Case: Robert Traphagen and Bonny Pitkin v. the City of Dana Point, Superior Court of the State of California, County of Orange – Central District, Case No. 04CC00676
5. Name of Case: James Seitz v. the City of Dana Point & Does 1-10, Superior Court of the State of California, County of Orange – Central District, Case No. 04CC00691
6. 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

Mayor Pro Tem Lacy recessed the meeting into a Closed Session at 5:09 p.m. pursuant to Government Code Section 54956 et. seq.

RECONVENE CITY COUNCIL MEETING

Mayor Pro Tem Lacy reconvened the meeting at 6:11 p.m. All Council Members were present.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Harkey.

INVOCATION

The Invocation was led by the Reverend Paul Lachlen Peck.

PRESENTATIONS AND PROCLAMATIONS

Presentations from Orange County Fire Authority and City of Dana Point
In recognition of saving the life of Gary Springer, Orange County Fire Authority presented a Certificate to Firefighter Andrew Powell, El Segundo Fire Department; to Battalion Chief Steve Pillar, Anaheim Fire Department; and to Dana Outrigger Canoe Club.

Also in recognition of saving the life of Gary Springer, Mayor Pro Tem Lacy, on behalf of the City of Dana Point, presented a Certificate of Recognition to Firefighter Andrew Powell, El Segundo Fire Department; to Battalion Chief Steve Pillar, Anaheim Fire Department; and to Dana Outrigger Canoe Club.

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Business of the Month

Management Analyst Shanna Wolf gave a power point presentation of Brio Tuscany Grille. Mayor Pro Tem Lacy introduced owner Enzo Scognamiglio and Pepe Rivera, General Manager, and presented them with Certificates of Recognition.

Business of the Year

Management Analyst Shanna Wolf gave a power point presentation of Dana Point Nursery. Mayor Pro Tem Lacy introduced owner Harry Otsubo, and presented him with a Proclamation of Business of the Year.

CONSENT CALENDAR

City Manager Chotkevys removed Item 9 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR EXCEPT FOR ITEM 9.

The motion carried by the following vote:

AYES: Mayor Pro Tem Lacy, Council Members Anderson, Chilton, Harkey, and 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, DECEMBER 8, 2004**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

4. **YOUTH BOARD MINUTES, MEETING OF NOVEMBER 18, 2004**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

6. **CITY TREASURER S REPORT, NOVEMBER 2004**

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF NOVEMBER, 2004.

7. **AWARD OF CONTRACT TO ALL AMERICAN ASPHALT FOR DEL OBISPO STREET REPAIRS BETWEEN STONEHILL DRIVE AND THE NORTHERLY CITY LIMIT** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

(1) FOUND THAT THE FAILURE OF ALL AMERICAN ASPHALT TO PROPERLY EXTEND SEVERAL UNIT PRICES CORRECTLY WHILE COMPLETING THEIR BID DID NOT PROVIDE AN UNFAIR ADVANTAGE OVER OTHER BIDDERS, THAT ALL AMERICAN ASPHALT WAS STILL THE LOWEST RESPONSIVE BIDDER, AND, THEREFORE, THE CITY COUNCIL WAIVED SUCH IRREGULARITY; (2) AWARDED A CONTRACT TO ALL AMERICAN ASPHALT FOR THE CONSTRUCTION OF THE ARTERIAL ROADWAY RESURFACING PROJECT, PHASE III ON DEL OBISPO STREET BETWEEN STONEHILL DRIVE AND THE NORTHERLY CITY LIMIT, PROVIDED THAT THE CITY MANAGER OR HIS DESIGNEE MAY APPROVE ADDITIONAL PAYMENT NOT TO EXCEED FIFTEEN PERCENT OF THE AMOUNT FOR CHANGE ORDERS AND CONTINGENCIES; (3) AUTHORIZED THE EXPENDITURES FOR VARIOUS CONSTRUCTION SUPPORT, ADMINISTRATION AND MANAGEMENT EXPENDITURES AS OUTLINED IN THE FISCAL IMPACT SECTION OF THIS REPORT; AND (4) DIRECTED STAFF TO SECURE PAYMENT FROM THE CITY OF SAN JUAN CAPISTRANO PURSUANT TO SECTION 1.4 OF THE REIMBURSEMENT AGREEMENT APPROVED BY THE DANA POINT CITY COUNCIL ON FEBRUARY 12, 2003.

8. **ADOPT A RESOLUTION AUTHORIZING STAFF TO SUBMIT ARTERIAL HIGHWAY REHABILITATION PROGRAM APPLICATIONS TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE COMBINED TRANSPORTATION FUNDING PROGRAM** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

ADOPTED RESOLUTION NO. 05-01-17-01 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING STAFF TO SUBMIT ARTERIAL HIGHWAY REHABILITATION PROGRAM APPLICATIONS TO THE

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*ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING
UNDER THE COMBINED TRANSPORTATION FUNDING PROGRAM.*

9. **SUPPLEMENTAL FUNDING FOR THE FESTIVAL OF WHALES** *[STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES]*

THIS ITEM WAS REMOVED FROM THE CONSENT CALENDAR BY STAFF TO BE BROUGHT FORWARD AT A FUTURE MEETING.

10. **RECEIVE AND FILE THE RESOLUTION ADOPTED BY THE DESIGNATED GROWTH MANAGEMENT AREA (GMA) NUMBER 11 ELECTED OFFICIALS FOR GMA 11 TRANSPORTATION PROJECT FUNDING** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

(1) RECEIVED AND FILED THE RESOLUTION ADOPTED BY THE DESIGNATED ELECTED OFFICIALS FOR THE USE OF GROWTH MANAGEMENT AREA (GMA) NUMBER 11 FUNDING; AND (2) BASED ON THE APPROVED RESOLUTION, AUTHORIZED STAFF TO ADD THE ANTICIPATED REVENUE FROM THE GMA #11 PROGRAM TO THE VARIOUS CIP STREET PROJECT ACCOUNTS AS NOTED IN THE FISCAL IMPACT SECTION.

11. **RESOLUTION PROCLAIMING EXISTENCE OF A LOCAL EMERGENCY** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

RATIFIED AND ADOPTED **RESOLUTION NO. 05-01-17-02** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, PROCLAIMING EXISTENCE OF A LOCAL EMERGENCY.

ORAL REPORTS

PUBLIC COMMENTS

Mayor Pro Tem Lacy opened the meeting for public comments.

Bob Moore, Dana Point, congratulated Harry Otsubo on Business of the Year, and wished all a Happy New Year, and best wishes for new council.

Pam Tappan, Capistrano Beach, congratulated new members on their election victory, and spoke regarding members of city staff.

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Fred Jankhe, Dana Point, Capistrano Beach area, spoke regarding clean up problems due to recent storms, and council reorganization being conducted so long after the election.

Pat Fairbanks, Dana Point, congratulated new council, and spoke of the meeting of the Dana Point Civic Association and concerns expressed at that meeting.

Mary Jeffries, Dana Point, spoke in opposition to timeshares, and amount of litigation.

Patrick Evans, Huntington Beach, congratulated the new members of the council, wished all a Happy New Year, and commented on the General Plan and its Housing Element, and litigation issues.

Ingrid McGuire, Dana Point, extended best wishes to the new Council Members and expressed her hope that South Coast Water District and the City of Dana Point continue working well together.

Richard Gardner, Capistrano Beach, spoke regarding having South Coast Water District meetings being held in Dana Point Council Chambers.

PUBLIC HEARINGS

THERE WERE NO PUBLIC HEARINGS.

UNFINISHED BUSINESS

12. **CONSULTANT'S REVIEW OF PLANNING, BUILDING AND PUBLIC WORKS COUNTER OPERATIONS FOR THE CITY OF DANA POINT** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

City manager Chotkevys gave a staff report regarding the background of the consultant's review and introduced the consultant, Mr. de Russe, who gave an overview of the results from Citygate's study of the City of Dana Point's public counter operations. He explained the study and how they responded and stratified the results of the customer survey, and identified recommendations for economy and efficiency.

Mayor Pro Tem Lacy opened for Council questions. Council discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER ANDERSON, THAT THE CITY COUNCIL (1) RECEIVE AND FILE THE CITYGATE ASSOCIATES' REPORT OF THE PLANNING, BUILDING AND PUBLIC WORKS COUNTER OPERATIONS AND (2) DIRECT STAFF TO

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PREPARE AN IMPLEMENTATION PLAN OF CITYGATE ASSOCIATES' REPORT RECOMMENDATIONS IN CONJUNCTION WITH THE FY2005-2007 CITY BUDGET AND RETURN WITH AN IMPLEMENTATION PLAN IN THIS YEAR'S FISCAL BUDGET AS WELL.

The motion carried by the following vote:

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

NEW BUSINESS

13. COUNCIL REORGANIZATION

Mayor Pro Tem Lacy recognized City Clerk Street, who gave a brief introduction to the process, and turned the meeting over to Mayor Pro Tem Lacy.

Mayor Pro Tem Lacy nominated Council Member Rayfield. There were no further nominations.

Mayor Pro Tem Lacy called for the vote.

The nomination carried by the following vote:

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

Council Member Lacy congratulated Mayor Rayfield.

Newly elected Mayor Rayfield thanked his colleagues, and announced that nominations for the position for Mayor Pro Tem are open, and nominated Council Member Harkey for Mayor Pro Tem.

Council Member Chilton nominated Council Member Anderson.

Council Member Harkey stated that in the interest of unity that if Council Member Anderson will not withdraw her name, she herself will withdraw hers.

Council Member Anderson stated a ballot would be acceptable. Council Member Harkey withdrew her name from the nomination.

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Mayor Rayfield called for the vote.

The nomination carried by the following vote:

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

Mayor Rayfield congratulated Mayor Pro Tem Anderson.

Mayor Rayfield called a recess at 7:34 p.m. and announced Council Member Chilton's birthday.

Mayor Rayfield reconvened the meeting at 7:47 p.m.

14. **CITY COUNCIL APPOINTED REPRESENTATIVES** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

THE CITY COUNCIL MADE REVISIONS TO THE LIST OF CITY REPRESENTATIVES.

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]*

THE CITY COUNCIL ESTABLISHED NEW SUBCOMMITTEES, ASSIGNMENTS AND TASK FORCES:

COUNCIL POLICIES REVIEW TASK FORCE OR WORKING GROUP
FOR THREE TO SIX MONTHS

OCEAN WATER RESOURCES SUBCOMMITTEE

UNDERGROUNDING UTILITIES SUBCOMMITTEE

TOWN CENTER SUBCOMMITTEE – was deferred to next meeting

TRAFFIC ISSUES SUBCOMMITTEE

DANA POINT HARBOR RENOVATION ASSIGNMENT

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SOUTH COAST WATER DISTRICT ASSIGNMENT

DANA POINT LIBRARY AND SEA TERRACE PARK SUBCOMMITTEE

CAPISTRANO UNIFIED SCHOOL DISTRICT ASSIGNMENT

COUNCIL CHAMBERS RENOVATION ASSIGNMENT

Mayor Rayfield asked that it be brought back at next meeting for discussion on citizen participation.

Council discussion ensued regarding the Planning Commission. City Manager requested Council consensus to provide direction regarding moving forward with the application process. Council discussion ensued. After discussion, Mayor Rayfield directed staff to return at next meeting with an assessment of what can be done in terms of background checks with applicants.

STAFF REPORTS

City Manager Doug Chotkevys noted that the City's legal fees are being reimbursed. He thanked staff for the Emergency Operations Center response to the events caused by the winter storms.

City Attorney Munoz gave a report from Closed Session.

Pursuant to Govt Code section 54957.1 reported out on an action that occurred in Closed Session in regards to the matter of Hamilton vs. the City of Dana Point, Orange County Superior Court Case No. 04CC05259. The Council did take reportable action, specifically by deciding to refrain from seeking appellate review in that case on a 4-0-1 with Council Member Chilton abstaining because of conflict issues.

COUNCIL REPORTS

Mayor Rayfield announced to Council that during reports, if there were an item they would like to see on the next agenda they could request it at Council Reports.

Council Member Chilton congratulated the newly elected Mayor and Mayor Pro Tem, and requested that members of the community call him regarding concerns within the community.

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Council Member Harkey congratulated the newly elected Mayor, and commended city staff and the emergency team for work during the winter storms. She reported on an illness of a local business owner, whose wife would appreciate a kind word. She noted she had the opportunity to participate in a DUI checkpoint, and was impressed with the professionalism of the Police Officers.

Council Member Lacy noted that there could be a City Policy change where the second meeting in December would be held during election years. He commended staff in their efforts dealing with the effects of the winter storms, and congratulated Mayor Rayfield.

Mayor Pro Tem Anderson congratulated Mayor Rayfield and commended City staff and emergency services for their work dealing with the effects of the winter storms, and noted she attended the League of California Cities Mayors and Councilmembers Leadership Academy in Sacramento. She informed of the availability of the City of Dana Point calendars.

Mayor Rayfield congratulated staff on doing a wonderful job during the storms. He noted he too was at the DUI checkpoint, and that the Sheriff's deputies are outstanding individuals, and are professional and courteous. He thanked his colleagues for the trust placed in him, and requested that persons let Council hear from them. He reminded of the upcoming public forums on Town Center in February.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Rayfield declared the meeting adjourned at 8:59 p.m.

The next Regular Meeting of the City Council will be January 26, 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 JANUARY 26, 2005