

**CITY OF DANA POINT  
PLANNING COMMISSION  
ADJOURNED REGULAR MEETING  
MINUTES**

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September 9, 2009  
6:10 – 8:41 p.m.

Dana Point Community Center  
34052 Del Obispo  
Dana Point, CA 92629

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**CALL TO ORDER** – Chairwoman Fitzgerald called the meeting to order.

**PLEDGE OF ALLEGIANCE** – Commissioner O'Connor led the Pledge of Allegiance.

**ROLL CALL**

**Commissioners Present:** Vice-Chairman Ed Conway, Commissioner Norman Denton, Chairwoman Liz Anderson Fitzgerald, and Commissioner April O'Connor

**Staff Present:** Kyle Butterwick (Director of Community Development), Patrick Munoz (City Attorney), Jennifer Farrell (Deputy City Attorney), Christy Teague (Economic Development Manager), Lynn Kelly (Management Analyst), and Denise Jacobo (Planning Secretary)

**A. APPROVAL OF MINUTES**

**ITEM 1:** **Minutes of the regular Planning Commission Meeting of August 17, 2009.**

**ACTION:** **Motion made (Denton) and seconded (Conway) to approve the Minutes of the regular Planning Commission Meeting of August 17, 2009. Motion carried 4-0. (AYES: Conway, Denton, Fitzgerald, O'Connor NOES: None ABSENT: None ABSTAIN: None)**

**B. PUBLIC COMMENTS**

**Tom Barnes** (San Clemente) stated that the Commission should extend the three minute time limit for speakers and offer speakers the opportunity to rebuttal at future meetings to get more information exchanged.

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**C. WORKSHOP**

**ITEM 2: Short Term Vacation Rentals.**

1. Director's Welcome/Introduction –  
**Kyle Butterwick** (Director) gave a brief background on the Planning Commission's assignment to review an evaluation of land use issues associated with vacation rentals. He stated that the focus of the workshop is to identify fundamental land use questions about short term vacation rentals and make recommendations to the City Council.
2. Staff Presentation –  
**Christy Teague** (Economic Development Manager) gave a PowerPoint presentation.
3. Public Comments –  
**Chairwoman Fitzgerald opened the Public Comments.**

**Morning Star Holmes** (Laguna Beach) stated that she is in support of short-term vacation rentals being permitted, regulated, and collection of Transient Occupancy Tax (TOT) to ensure that the surrounding areas are protected from any excess of complaints and noise.

**Drew Reynolds** (Dana Point) stated that he is in favor to enforce permit policies on short-term vacation rentals with TOTs because of concerns with less controlled rentals and "bootlegged" parking posing problems.

**Bill Everett** (Dana Point - Board of Directors President, Niguel Beach Terrace) stated that he is neutral about short-term vacation rentals. He indicated that there are no significant impacts on residents, specifically Niguel Beach Terrace, because only 10% percent are short term, and 65% are long term rentals.

**Jeffrey Perry** (Dana Point) stated that he has a business managing vacation rentals. He confirmed that Ms. Teague's findings, and the majority of complaints received are because of noise. He stated that he is in support of enforcing permit or accountability program, and requested that the Council should consider a low tax.

**Ray Nona** (Capistrano Beach) indicated that regulations on vacation rentals should be placed on areas as opposed to spot zones. He also stated his

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concerns with parking impacts. He added that operating short term rental housing should be taxed and licensed like a business.

**Jack Lanier** (Dana Point) stated that he owns vacation homes, but does not feel that vacation rentals are appropriate for every area in Dana Point. He stated that staff has done a great job with narrowing down five options, and prefers that it's limited to Niguel Beach Terrace, Dana Strand, and Beach Road because it predates the City.

**Vonne Barnes** (San Clemente) submitted her written testimony and read its contents.

**Beth Everett** (Laguna Niguel) stated that she owns three condos in Niguel Beach Terrace and has been a short term rental owner for six years and has not heard of any noise or problems. She stated that the Coastal Commission would disapprove of adding restrictions on short term rentals. She stated her concerns about City funding, fair treatment to everyone or just those who cooperate, and questioned policing the short term vacation rentals and how much they pay.

**Tom Barnes** (San Clemente) indicated that the staff report's five options are similar (regulate and tax) which would hurt short term rental owners thereby affecting commercial (sales tax revenue in retail, restaurants, etc.) business owners. He felt that option number six should be added to read, "leave everything alone" indicating that the City is offering a solution in search of a problem.

**Michael Sautner** (San Juan Capistrano) stated that as a vacation rental owner he concurs with speakers Ms. Everett, and Mr. Barnes. He stated that he would not recommend any taxation, but feels that an annual licensing fee would prevent vacation owners from going out of business.

**Jason Coloco** (Dana Point) stated that he is a vacation rental owner. He spoke against the City prohibiting vacation rentals or levying a large tax stating that it would be unfair to homeowners and decline tourism from frequent rental guests.

**John Murphy** (Dana Point) indicated that he is not a vacation rental owner. He stated that his concern is that the City needs to uphold the law, impose a fine, and follow up. He felt that if the vacation rental owners are taxed, they still do not follow the law.

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**Susan Whittaker** (Dana Point) indicated that vacation rentals are a commercial use in a residential zoned neighborhood which degrades her neighborhood. She stated that if vacation rentals are allowed in Dana Point they should be specifically prohibited in multi-family.

**Steven Moss** (Dana Point) stated that negative impacts come from weekly renters that disrupt properties, he added that he is not against the prospect to gain financially, but long term rentals are more stable. He asked the commission to propose long term rentals and not the short term vacations.

**Don Knapp** (Dana Point) stated his concern with the City enforcing short term renters. He asked if CC&Rs could be overturned by a City ordinance and how that could affect his property rights, values, and CC&Rs.

**Laura Zakarin** (Dana Point) stated that she moved into a residential neighborhood to see pride of ownership, and opposed short term vacation rentals.

**Murray Kalish** (Dana Point) stated that vacation villas are an enterprise and are being conducted in a residential neighborhood with the blight of advertising signs. He supported taxing short term vacation rentals.

**Michael Peters** (Dana Point / Murrieta) stated that long term rentals are undesirable and was against taxing short term rentals.

**Bill Peterson** (Dana Point) stated that he owns a long term rental and has not had any problems. He indicated that the staff report mentions that a single family residence rental agreement term is for seven days, which would allow a one week vacation rental. He asked for clarification on how it is against the law.

**Chairwoman Fitzgerald recessed the meeting at 7:30 p.m. and reconvened the meeting at 7:40 p.m.**

4. Planning Commission Discussion -

**Kyle Butterwick** (Director) responded to public comments, explaining that the City's current enforcement practice on short term rentals is complaint based; and noted that the City receives very few complaints regarding short term rentals. He added that Niguel Beach Terrace is a multi-family residentially zoned neighborhood that does not allow for commercial uses; and responded to a member of the public's sixth option to leave everything the way it is, and clarified that it is essentially the same as alternative

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number one (1) which allows short term rentals without regulation. He pointed that the Commissions options for permitting or prohibiting are wide open. The Commission should decide on a recommendation on the approach to land use questions relative to vacation rental businesses and whether they should be allowed in residential zones and if so, where and under what circumstances.

**Patrick Munoz** (City Attorney) responded to comments and questions regarding the legality of allowing or prohibiting the use and the relationship of HOAs/CC&Rs with the City's ability to regulate. Mr. Munoz recommended that the Commission consider a relatively simple and easy administrative process with performance criteria for licensing if it decides to go in the direction of allowing the use, especially considering that there are potentially 150 or more permits that the City would have to process.

**Commissioner Denton** stated that he would like to enforce rather than ignore without a permit process. He stated that he would like to see Option 2 showing that there is proof of business insurance, work on parking issues, and discuss multiple families renting out bedrooms. Registration and notification of adjacent neighbors to allow them notice of vacation rentals should be considered to ensure that occupants do not create noise nuisances, or engage in disorderly conduct.

**Vice Chairman Conway** acknowledged the public for attending. He stated that he is torn and has seen both sides. He stated that the first step would be to provide contact numbers to neighbors to communicate when guests get disruptive. He concurred with Commissioner Denton on Option 2 to enforce registration, permit fee, and decide on the maximum number of occupants.

**Commissioner O'Connor** stated that she agrees that there are some responsible vacation rental owners, and good renters too, but she felt there was a hardship for the neighbors who live adjacent to irresponsible short term vacationers. She proposed Option 2 would be best with the recommendation to allow short term rentals in specific areas, and suggested that the permit process should identify problem rentals, and the City should contact owners when there are problems and file the information. She felt that if business income is being collected they should be paying a TOT and she would like to see parking enforced per bedroom, and require realtor's disclosure of the proximity of short term rentals to be fair.

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**Chairwoman Fitzgerald** stated that she has been on both sides of the issue as a short term renter and owner. She indicated that Option 3 would require more paperwork and staff time, and it would be easier to enforce business regulations with Option 2, and she is not opposed to allowing it throughout the City. She added that a minimum stay of 5-7 days would be reasonable, and require parking enforcement.

The Commissioners asked staff to provide more information on whether or not to limit vacation rentals to certain parts of town.

5. Next Steps -

**Kyle Butterwick** (Director) suggested that staff would follow the Commissions direction, provide more details on Option #2 and return with a staff report incorporating the Commissions remarks to the first regular Planning Commission meeting in October.

**D. STAFF REPORTS**

**Patrick Munoz** (City Attorney) described an investigation on medical marijuana dispensaries.

**E. COMMISSIONER COMMENTS**

**There were no Commissioner Comments.**

**F. ADJOURNMENT**

**Chairwoman Fitzgerald** adjourned the meeting to the *next regular* meeting of the Planning Commission will be held on Monday, September 21, 2009, beginning at 7:00 p.m. (or as soon thereafter) in the Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

**The meeting adjourned at 8:41 p.m.**

*/s/ Liz Anderson Fitzgerald*

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Liz Anderson Fitzgerald, Chairwoman  
Planning Commission