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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL SPECIAL MEETING MINUTES  
JANUARY 28, 2005**

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**CALL TO ORDER**

The Special Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Rayfield at 4:05 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  
Diane L. Harkey, Council Member  
James V. Lacy, Council Member

ABSENT: Russell Chilton, Council Member (*scheduled to participate in Closed Session via teleconference*)

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Munoz, City Attorney; Sharie Apodaca, Director of Administrative Services/Interim City Clerk.

Interim City Clerk Apodaca noted that this Special Meeting of the City Council had been noticed within twenty-four hours of the meeting time and the agenda had been posted within twenty-four hours prior on January 27, 2005 by 4:00 p.m. at the designated posting places. Additionally, the agenda was faxed and e-mailed to the media as well as to the City Council Members.

Mayor Rayfield questioned Ms. Apodaca as to whether the City had met the legal posting requirements for noticing this meeting and Ms. Apodaca replied that those requirements had been met.

**CLOSED SESSION**

- A. PUBLIC EMPLOYEE DISMISSAL/RELEASE, pursuant to Government Code § 54957

Title: Director of Public Affairs/City Clerk

City Attorney Munoz indicated there was an opportunity to have this matter held as an open matter if Ms. Sharon Street would prefer.

Mayor Rayfield questioned Ms. Street if she had requested the matter to be heard as an open matter. Ms. Street replied that she had made that request.

City Attorney Munoz stated this answered the question he had, as Ms. Street had submitted a request to speak and it was necessary to clarify if that was a request to make the matter a public item or if it was a request to speak later on the agenda.

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Mayor Rayfield stated that the City Council, therefore, would not conduct a Closed Session and would hear the matter as an open matter.

City Attorney Munoz stated provisions had not been made for Council Member Chilton or members of the public to participate in the open session telephonically. Provisions had been made for Council Member Chilton to participate in the Closed Session if the matter had been held in that manner.

Mayor Rayfield briefly deferred discussion of this matter to conduct the Pledge of Allegiance.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Council Member Lacy.

**OPEN SESSION DISCUSSION:**

**PUBLIC EMPLOYEE DISMISSAL/RELEASE, pursuant to Government Code § 54957**

Title: Director of Public Affairs/City Clerk

Mayor Rayfield stated the potential dismissal and termination of the Director of Public Affairs/City Clerk arose in the context of a personnel review in the Closed Session held on January 26, 2005, and that the matter was scheduled for a special meeting to allow a discussion on the topic to occur. Mayor Rayfield deemed it appropriate to begin with public comments on this matter and questioned if there was a request to speak, or if the request was only for the matter to be held in open session.

Sharon Street, Director of Public Affairs/City Clerk, stated that she had submitted a request to speak. She also noted that this hearing was being recorded and requested that she receive a copy of the hearing. Ms. Street stated she did want this hearing conducted in an open session and that she believed that the two newly elected members of the City Council "want transparency in government, so let's make it so." Ms. Street stated that she did go through her evaluation on, December 8, 2004, and that the evaluation was an excellent evaluation. She stated that the Mayor had chosen to do another evaluation of her with people who hadn't worked with her.

City Attorney Munoz noted that under the Brown Act there are "safe harbor provisions" which apply when an item is noticed for agenda, and that if notice is given in a certain way then it's deemed to be acceptable noticing to the public. Mr. Munoz stated that the way that the City had noticed this item stating "public employee dismissal or release" specifically did not include consideration of complaints or charges against a public employee, as there were not charges or complaints that he had been made aware of to be considered.

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Mayor Rayfield thanked City Attorney Munoz for that information, and thanked Ms. Street for her comments.

Mayor Rayfield reminded the Council Members that this was not an item regarding anyone's personal or job performance. Mayor Rayfield noted that the City Clerk position is an at-will position appointed by the City Council and was basically a politically hired position. At the City Council meeting held on January 26, 2005, it was thought that it was an appropriate time to bring back an agenda item to allow the Council to reconsider this political appointment, which is what the Council was doing at this meeting.

Mayor Rayfield noted that before opening this item for City Council discussion he wanted to state that the situation had changed and he was of the opinion that the Council should recruit for a new City Clerk, and that the current action had nothing to do with performance whatsoever and, again, this position was a political appointment with the City Clerk serving at the will of the City Council. Mayor Rayfield noted that it was now time to consider the will of the City Council to determine whether or not to conduct a recruitment for a new City Clerk.

Mayor Rayfield asked for comments from City Council Members.

Council Member Harkey voiced her support of Mayor Rayfield's position and stated she had reviewed the City Clerk's contract and agreed that it was an at-will contract with a severance clause, that it was a totally at-will position and political appointment.

Hearing no further requests from City Council Members to speak, Mayor Rayfield made a motion for consideration by the City Council.

**IT WAS MOVED BY MAYOR RAYFIELD, SECONDED BY COUNCIL MEMBER HARKEY, THAT THE CITY COUNCIL TERMINATE THE EXISTING CONTRACT FOR THE DIRECTOR OF PUBLIC AFFAIRS/CITY CLERK POSITION WITH MS. SHARON STREET AND LOOK AT THE HIRING OF A NEW CITY CLERK.**

The motion carried by the following vote:

AYES: Council Member Harkey, Mayor Pro Tem Anderson and Mayor Rayfield  
NOES: Council Member Lacy  
ABSENT: Council Member Chilton

Mayor Rayfield reiterated that the action taken by the City Council had nothing whatsoever to do with performance.

## **NEW BUSINESS**

### **1. RECRUITMENT OF CITY CLERK**

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City Manager Chotkevys stated that in light of the action taken by the City Council it was recommended that Council appoint two Council Members to serve in a task force assignment capacity to work with him and Ms. Apodaca to recruit a new City Clerk for the City of Dana Point.

Mayor Rayfield noted it may be appropriate to appoint the Mayor and the Mayor Pro Tem to serve on the task force.

Council Member Harkey offered her services as she had experience in hiring employees.

Mayor Pro Tem Anderson stated that either of the suggested appointments would be acceptable.

Council Member Lacy stated that since most of these hires are conducted through involvement with the Mayor and Mayor Pro Tem he recognized substance in approaching it in that manner, and he would prefer to defer his own involvement until the recommendation is made and he had the opportunity at a later date to review the recommendation.

Mayor Rayfield asked for clarification of City Manager Chotkevys' recommendation for two Council Members to complete the initial screening. Mr. Chotkevys stated he would ask that two Council Members work with Ms. Apodaca and himself to identify a process to be brought back to the City Council for a vote. From that point, if the City Council desired for the two designated Council Members to continue in that capacity, a short list would be developed for Council consideration. Mr. Chotkevys felt that having two City Council Members involved would expedite moving forward in this matter.

Mayor Pro Tem Anderson recommended that Council Member Harkey be assigned to the task force along with Mayor Rayfield.

IT WAS MOVED BY MAYOR PRO TEM ANDERSON, SECONDED BY COUNCIL MEMBER HARKEY, THAT THE AD HOC CITY CLERK TASK FORCE BE COMPRISED OF MAYOR RAYFIELD AND COUNCIL MEMBER HARKEY TO SCREEN POTENTIAL CANDIDATES FOR THE CITY CLERK POSITION.

The motion carried by the following vote:

AYES: Council Members Harkey, Mayor Pro Tem Anderson  
and Mayor Rayfield  
NOES: Council Member Lacy  
ABSENT: Council Member Chilton

City Attorney Munoz informed Mayor Rayfield that he had apparently inadvertently skipped over the Public Comment portion of this item. Mayor Rayfield noted that

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he had inadvertently skipped over public comments on this item and invited public testimony. Hearing no requests to speak from the public, Mayor Rayfield concluded the item.

Before adjourning the City Council meeting, Mayor Rayfield reiterated to Ms. Street emphatically that this action was not a question of performance and thanked her for her services.

**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Rayfield declared the meeting adjourned at 4:20 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 \_\_\_\_\_