

**CITY OF DANA POINT**  
**AGENDA REPORT**

Reviewed By:	
DH	_X_
CM	_X_
CA	_

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**DATE: MARCH 20, 2007**

**TO: CITY MANAGER/CITY COUNCIL**

**FROM KATHY WARD, CITY CLERK**

**SUBJECT: PLANNING COMMISSION APPOINTMENTS**

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**RECOMMENDED ACTION:**

That the City Council:

- 1) Consider appointments to fill three expiring terms and alternate seat(s) on the Dana Point Planning Commission; and
- 2) Introduce a first reading of an Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING SECTIONS 2.06.050, 2.06.060 AND 2.06.070 OF THE MUNICIPAL CODE, AND ADDING SECTION 2.07.016 TO THE MUNICIPAL CODE REGARDING PLANNING COMMISSION ALTERNATES AND PLANNING COMMISSION TERM LIMITS.

**BACKGROUND:**

The Planning Commission is comprised of five members who serve staggered four-year terms. Planning Commissioners may be appointed, reappointed, and removed by a majority of the City Council. The November 2006 election and the installation of newly elected City Council Members created vacancies on the Planning Commission. Planning Commissioner Weinberg has been elected to serve on the City Council, as well as Planning Commission Alternate Bartlett. The terms of Planning Commissioners Fitzgerald and O'Connor expire on March 31, 2007. Council Policy 302 (Supporting Document C) states that commissioners shall continue to serve until such time as the Council appoints a successor.

At the Council's direction, the City Clerk's Office published and posted notices inviting interested residents of Dana Point to apply. A total of sixteen applications were filed by the February 9, 2007 deadline. Commissioners Fitzgerald and O'Connor submitted their applications. Applicants James D. Howard, William D. Sharp, and Nicholas Yibyock withdrew their applications, leaving a total of thirteen applicants. Staff verified that all applicants are registered voters of the City of Dana Point. Planning Commission applicants were asked to complete a

questionnaire comprised of questions submitted by the Council prior to their interview. Planning Commission applications, questionnaires and current resumes for current Planning Commissioners J. Scott Schoeffel and Norman Denton are provided with this report.

Per Council Policy 302, the Council may also appoint one or more alternates to the commission. Council may also want to consider making new appointments to the alternate seat(s).

**DISCUSSION:**

On March 6<sup>th</sup> City Council meeting, Planning Commission applicants were invited for interviews, scheduled at 10-minute intervals. The City Council was able to interview twelve applicants (per the attached schedule). One applicant, Chris Turner was out of town on March 6. The Council invited Mr. Turner to meet with them this evening prior to the discussion of this item.

Additionally, the Mayor asked the City Attorney to prepare materials concerning term limits for Planning Commissioners and the possibility of alternates taking an active role on the Planning Commission in the absence of a Planning Commissioner. In response thereto, the City Attorney's Office has prepared for the City Council's determination an ordinance (Action Document A) that amends the City's Municipal Code.

In summary, the draft ordinance makes two substantive changes to the City's current code. First, it imposes term limits on Planning Commissioners. Planning Commissioners shall be limited to a maximum of two four (4) year terms on the Planning Commission. This term limit would begin with the Planning Commission appointments made in 2007 and would not count terms that commenced prior to 2007. Second, the ordinance would name a specific first and second alternate to the Planning Commission. If a Planning Commissioner is absent from a meeting or otherwise unable to participate on a matter for any reason, including but not limited to a conflict of interest, then the first alternate would become an active Planning Commissioner for that meeting or matter, as applicable, with full participation and voting privileges. If two Planning Commissioners or the first alternate are not able to participate, the second alternate would participate.

**FISCAL IMPACT:**

Planning Commissioners currently receive a monthly stipend of \$150.00 which is budgeted for in the Community Development Budget.

**NOTIFICATION/FOLLOWUP:**

The City Clerk will notify the applicants with regard to the status of their application/appointment to the Planning Commission.

If the City Council approves the first reading of the Ordinance, a second reading of the Ordinance is required for final adoption.

**ALTERNATIVE ACTIONS:**

Other actions as determined by the Council.

**SUPPORTING DOCUMENTS:** **PAGE NO.**

A.	<a href="#"><u>Interview Schedule on March 6, 2007.....</u></a>	<a href="#"><u>4</u></a>
B.	<a href="#"><u>Applications and Responses to Questionnaires (by order of interview time) (hard copies provided).....</u></a>	<a href="#"><u>5</u></a>
C.	<a href="#"><u>Resumes of Current Planning Commissioners.....</u></a> <a href="#"><u>(hard copies provided)</u></a>	<a href="#"><u>6</u></a>
D.	<a href="#"><u>Council Policy 302.....</u></a>	<a href="#"><u>7</u></a>

**ACTION DOCUMENTS:** **PAGE NO.**

E.	<a href="#"><u>Ordinance Amending 2.06.050, 2.06.050 and 2.06.070 of DPMC1.....</u></a>	<a href="#"><u>11</u></a>
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**SUPPORTING DOCUMENT A**

<b>MARCH 6, 2007</b>	<b>INTERVIEWS FOR PLANNING COMMISSION APPOINTMENTS</b>
5:15	Edward Benz
5:25	Barbara Merriman
5:35	Pam Corliss
5:45	Ed Conway
5:55	April O'Connor
6:05	Liz Anderson Fitzgerald
6:15	Michelle Rene Brough
6:25	<b>**BREAK**</b>
6:40	Karen Kulick
6:50	Jo Ann Christman
7:00	Robin Valles
7:10	Paul Weiss
7:20	Michael Dec

**SUPPORTING DOCUMENT B**

**PLANNING COMMISSION APPLICATIONS**  
**AND RESPONSES TO QUESTIONNAIRE**  
(Hard copies provided)

**SUPPORTING DOCUMENT C**

**CURRENT PLANNING COMMISSIONER**  
**RESUMES**  
**(Hard copies provided)**

**SUPPORTING DOCUMENT D**  
**CITY OF DANA POINT**  
**COUNCIL POLICY**

<b>SUBJECT:</b>	<b>PAGE:</b>	<b>EFFECTIVE DATE:</b>	<b>POLICY NO.:</b>
Appointment of Commissioners	1 of 4	<b>02/13/90</b> <b>AMENDED:</b> <b>04/23/91</b> <b>05/25/93</b> <b>10/25/94</b> <b>11/08/94</b> <b>08/26/97</b> <b>11/09/05</b>	302

**PURPOSE:**

To provide guidelines for appointing Commissioners as terms expire and as vacancies occur.

**BACKGROUND:**

It is advantageous to have a smooth transition as terms for City Commissioners expire or positions are vacated. This policy provides those guidelines.

(Also see Municipal Code Chapters 2.06 and 2.07.)

**POLICY:**Term of Office

The terms of office for City Commissioners are established by ordinance or resolution and expire on the last day of March of the designated year. Reappointment of a Commissioner upon the expiration of his/her term is not automatic. The Commissioner may apply for the vacancy and go through the application process. Except for removals from office at Council's discretion, for excessive absences, or resignations, all appointees shall continue to serve until such time as the Council appoints a successor.

Applications:

1. Applications for Commission appointments shall be submitted on forms designated by the City Manager and made available at the City Clerk's Office.

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COUNCIL POLICY**

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<b>Appointment of Commissioners</b>	<b>2 of 4</b>	<b>02/13/90</b>  <b>AMENDED:</b>  <b>04/23/91</b> <b>05/25/93</b> <b>10/25/94</b> <b>11/08/94</b> <b>08/26/97</b> <b>11/09/05</b>	<b>302</b>

2. Applications shall be submitted to the City Clerk and dated upon receipt. Applications shall be maintained by the City Clerk in an active status for a period of one year, after which time they shall be placed in an inactive status for a time period as set forth in the City's official records retention schedule.

Expiration of Terms:

1. The City Clerk shall on January 15 of each year post a Notice of Vacancy and issue a Press Release for the terms of office that will expire on the last day of March. The Notice shall be posted and applications accepted for a period of thirty (30) days.
2. Applications received shall be forwarded to the City Council for review by February 15 and interviews scheduled during the month of February or March at the direction of the Mayor.
3. Appointments are agendaized for a City Council meeting at the direction of the Mayor.
4. The City Council shall annually appoint or may select one or more alternates for each Board or Commission. If vacancies in any Board or Commission occur, other than by expiration of term, such vacancy shall be filled by the alternate selected by the City Council during the most recent selection process. Any alternate appointed pursuant to a vacancy shall serve the remaining term of the seat being filled. Vacancies which occur when no alternate is available for appointment to the remaining term shall be filled in a manner determined by the City Council and shall remain vacant until the last day of March.

Resignations of Commissioners:

1. A vacancy does not exist on a Commission until the City Council officially takes action to accept the written resignation of the Commissioner.

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2. Once the City Council accepts the resignation and declares the vacancy on the Commission, the assigned alternate will be automatically seated. Additional vacancies will be reported to the City Council to be filled at their discretion.
3. If additional applications are to be solicited, the City Clerk shall post a Notice of Vacancy and issue a Press Release. The Notice shall be posted and applications accepted for a period of thirty (30) days.
4. Applications received shall be forwarded to the City Council for review within ten days of the close of the application period and interviews scheduled at the direction of the Mayor.
5. Appointments are agendized for a City Council meeting at the direction of the Mayor.

Removal from Office:

Subject to the provisions of Section 2.06.075 of the Dana Point Municipal Code, a vacancy does not exist upon a commission until the City Council officially takes action to remove the commissioner. Once a vacancy occurs in accordance with Section 2.06.075 of the Municipal Code, the Council shall thereafter be notified of the same by the City Clerk, and the vacancy filled in accordance with procedures for filling normal vacancies.

Any commission member that misses three regular meetings in a calendar year shall be removed from office by a majority vote of the City Council.

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COUNCIL POLICY**

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Council Appointment:

All appointments and reappointments shall be made at a regularly scheduled City Council meeting and require an affirmative vote of not less than three Council Members. However, the individual selected as Commission alternate shall be seated without further City Council action upon Council acceptance of a resignation.

**ACTION DOCUMENT A****ORDINANCE NO. 07-**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING SECTIONS 2.06.050, 2.06.060 AND 2.06.070 OF THE MUNICIPAL CODE, AND ADDING SECTION 2.07.016 TO THE MUNICIPAL CODE REGARDING PLANNING COMMISSION ALTERNATES AND PLANNING COMMISSION TERM LIMITS.

WHEREAS, the City of Dana Point ("City") desires to increase the effectiveness of the Planning Commission; and

WHEREAS, the City seeks to increase the responsibilities of Planning Commission Alternates, thereby increasing the effectiveness of the Planning Commission, by providing for Alternates to participate and vote on matters in which a Planning Commissioner is absent or has a conflict of interest; and

WHEREAS, the City seeks to increase community involvement in the Planning Commission and obtain additional perspectives, thereby increasing the effectiveness of the Planning Commission, by imposing term limits on Planning Commissioners; and

WHEREAS, to facilitate the above stated goals, the City desires to amend and add sections to Chapters 2.06 and 2.07 of the Dana Point Municipal Code.

THE CITY COUNCIL OF THE CITY OF DANA POINT DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2.06.050 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

**2.06.050 Appointment.**

Members and alternates of each board and commission shall be appointed, and may be removed, by a majority of the City Council. The chairperson of the board or commission shall be selected by a majority of the membership of that board or commission. Alternates do not participate in the selection of chairperson of the board of commission.

(a) This subdivision (a) applies to all boards and commissions except the Planning Commission. The City Council may select one or more alternates for each board or commission. Alternates shall not become members of the designated board or commission except by the filling of a vacancy pursuant to Section 2.06.070.

(b) This subdivision (b) applies solely to the Planning Commission. The City Council shall select two (2) alternates for the Planning Commission.

The alternates shall be called the First Alternate and Second Alternate. Alternates shall not become permanent members of the Planning Commission except by the filling of a vacancy pursuant to Section 2.06.070. An alternate shall become a temporary member of the Planning Commission when the alternate participates as a Planning Commissioner pursuant to Section 2.07.016.

SECTION 2. Section 2.06.060 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

2.06.060 Term.

(a) The term of each board or commission member, other than the Youth Board members and Planning Commission members, shall be two (2) years with staggered terms.

(b) Planning Commission members shall serve four (4) year staggered terms and, beginning with terms commencing in 2007 and continuing with all appointments thereafter, shall be limited to serving a total of two (2) such terms. Terms of Planning Commissioners appointed to a partial term of less than the normal four (4) years and terms as an Alternate Planning Commissioner shall not be included as terms for the purpose of term limits.

(c) The term of the Youth Board members shall be one year and shall expire on the last day of August.

(d) With the exception of the Youth Board, terms shall expire on the last day of March of the designated year or until such time as the City Council appoints a successor. Subject to any term limits provided by this Chapter, at the completion of any term, a board or commission member may be reappointed pursuant to the procedures set forth in Section 2.06.050 of this Chapter.

SECTION 3. Section 2.06.070 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

2.06.070 Vacancies.

If vacancies in any board or commission except the Planning Commission occur other than by expiration of term, such vacancy shall be filled by the alternate selected by the City Council during the most recent selection process. If vacancies in the Planning Commission occur other than by expiration of term, such vacancy shall be filled by the First Alternate, and if the First Alternate is unable to fill the vacancy, by the Second Alternate. Any alternate appointed pursuant to a vacancy shall serve the remaining term of the seat being filled. Vacancies which occur when no alternate is available for appointment to the remaining term shall be filled in a manner determined by the City Council or shall remain vacant until the last day of March.

SECTION 4. Section 2.07.016 of the Dana Point Municipal Code is hereby added to read in its entirety as follows:

2.07.016 Planning Commission Alternates.

Planning Commission Alternates shall be required to attend all regular meetings of the Planning Commission, but are not counted for quorum purposes unless participating as regular Planning Commissioners. If a Planning Commissioner is absent from a meeting or unable to participate in a matter for any reason, including but not limited to a conflict of interest, the First Alternate shall participate in the meeting or matter and vote as a regular Planning Commissioners for that meeting or matter as applicable. If the First Alternate is unable to participate or vote, the Second Alternate shall participate and vote in the stead of the Planning Commissioner who is unable to vote. No Planning Commission Alternate may participate or vote on a matter if he or she has a conflict of interest that would preclude him or her from participating or voting.

SECTION 7. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 8. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
DIANE L. HARKEY, MAYOR

ATTEST:

\_\_\_\_\_  
KATHY M. WARD,  
CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF DANA POINT )

I, Kathy Ward, Acting City Clerk of the City of Dana Point, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 07-\_\_ introduced at a regular meeting of the City Council held this \_\_\_\_ day of \_\_\_\_\_, 2007, and passed and adopted at a regular meeting held \_\_\_\_\_, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

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KATHY M. WARD