

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	<u> X </u>
CM	<u> X </u>
CA	<u> X </u>

DATE: APRIL 12, 2006

TO: CITY COUNCIL

FROM: MAYOR ANDERSON AND MAYOR PRO-TEM CHILTON

SUBJECT: SIXTH AMENDMENT TO EMPLOYMENT CONTRACT FOR CITY MANAGER DOUGLAS C. CHOTKEVYS, AND AMENDMENT TO CITY MANAGER HOUSING AGREEMENT.

RECOMMENDED ACTION:

The Council Subcommittee recommends that the City Council approve the Sixth Amendment to the Employment Contract for City Manager Douglas C. Chotkevys, as well as an amendment to the City Manager's Housing Agreement.

BACKGROUND:

On January 8, 2002, the City Council approved an employment contract with Mr. Chotkevys to serve as City Manager ("Contract"). In conjunction with Mr. Chotkevys' bi-annual evaluation, the City Council recently formed a Subcommittee comprised of Mayor Anderson and Mayor Pro Tem Chilton to make recommendations to the Council for changes to the compensation portion of his Contract bearing in mind the Council's favorable evaluation of Mr. Chotkevys' service and performance. In connection with the City Manager's performance evaluation, the Council also directed the Subcommittee to bring back recommended changes to the City Manager's Housing Agreement to address issues of concern in that agreement.

DISCUSSION:

In recognition of Mr. Chotkevys' job performance, the Subcommittee recommends that Mr. Chotkevys' Contract be modified such that his base salary be increased by six percent (6%), bringing his annual base salary from One Hundred Sixty Seven Thousand Six Hundred Seventy Dollars (\$167,670.00) to One Hundred Seventy Seven Thousand Seven Hundred Thirty Dollars (\$177,730.00). (The current average salary of City Managers in Orange County is \$175,907 and the current median salary is \$179,448.) The City Attorney has prepared a contract amendment which is attached for Council consideration and approval. Also attached is a redline version of this amendment demonstrating the change that will result to Mr. Chotkevys' employment Contract by virtue of the recommended action.

The Subcommittee additionally recommends changes be made to the City Manager's Housing Agreement to address three issues:

First, the Subcommittee is concerned about the legal relationship it will have with the City Manager's family in the event of his untimely death. Accordingly it is recommended that the Agreement be amended to require a "key man" insurance policy. This amendment will secure the City's ability to recover its interest in the property without being put in the difficult position of having to potentially impose a forced sale on a widow and her children as might otherwise be the case.

The Agreement currently requires the City's interest in the property to be recorded in a manner that could subject the City to liability in the event of a personal injury at the property. The Subcommittee recommends that the Agreement be amended so as to allow the fact the City's interest is equitable in nature to be properly recorded and thus eliminate the potential for liability that otherwise exists.

Finally, the Subcommittee has been made aware that the Agreement has been drafted in a manner that requires the City Manager to overpay his income taxes. Hence, it recommends that the Agreement be amended to require the City Manager to be responsible for any income tax consequences flowing from the Agreement in a manner consistent with applicable taxing requirements, which he will be responsible to determine.

FISCAL IMPACT:

There are sufficient funds in the General Fund to fund this action should the Council choose to follow the recommendation of the Subcommittee. If approved, Staff will make the necessary budget adjustment.

SUPPORTING DOCUMENT:

- A. Redline comparing proposed Sixth Amendment to Chotkevys' Employment Contract to existing Fifth Amendment

(HARD COPY TO BE PROVIDED)

ACTION DOCUMENTS:

- B. Sixth Amendment to the Employment Contract Between the City of Dana Point and Douglas C. Chotkevys (final version)
- C. First Amendment to City Manager Housing Assistance Agreement

(HARD COPIES TO BE PROVIDED)