

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

Reviewed By:	
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**DATE:** APRIL 17, 2007

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** CLARA WONG, INTERIM DIRECTOR OF ADMINISTRATIVE SERVICES

**SUBJECT:** DISSOLUTION OF THE DANA POINT SCHOLARSHIP FOUNDATION

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**RECOMMENDED ACTION:**

It is recommended that the City Council:

- A. Authorize the dissolution the Dana Point Scholarship Foundation.

**ISSUE:**

The Dana Point Scholarship Foundation was incorporated on January 14, 2002 with Dana Point Youth Board members serving as the Board of Directors. The Dana Point Scholarship Foundation was established as a vehicle to raise funds and receive contributions from the public for college scholarships for graduating Dana Point high school seniors without having to contribute those funds directly to the City. However, since incorporation, this Foundation has remained stagnant. On January 10, 2007, the City received correspondence from the Internal Revenue Service requesting the total amount of funds and contributions raised for said Foundation since inception. To date, the amount raised for the Dana Point Scholarship Foundation is \$0.00. Staff is requesting authorization to dissolve this Foundation due to non-activity, as advised by the Internal Revenue Service.

**BACKGROUND:**

On January 14, 2002, the Law Offices of Burke, Williams and Sorensen established the Dana Point Scholarship Fund on behalf of the Dana Point Youth Board as a 501(c)(3) tax exempt organization whose purpose is to solicit and receive funds and contributions for the awarding of scholarships to graduating high school seniors who reside in the City of Dana Point and plan to attend college. A point of emphasis regarding the recipients of the scholarships is that they shall demonstrate a commitment to community service and volunteer work. The Dana Point Scholarship Foundation was created to provide a non-profit organization for which funds could be solicited and raised from the public and monitored by the

Dana Point Scholarship Foundation as an alternative to the funds be raised and paid to directly to the City of Dana Point.

At its inception, the Dana Point Scholarship Foundation qualified for the Internal Revenue Service's Five Year Advance Ruling Period which recognized the Dana Point Scholarship Foundation as a publically supported organization for it's first five years in existence to allow the Foundation to develop an adequate support history on which to base an initial determination as to foundation status. The Dana Point Scholarship Foundation's Advance Ruling Period expired on December 31, 2006. The Internal Revenue Service has communicated with staff that the City has 6 months from December 31, 2006 to respond to their inquiry regarding the viability of the Dana Point Scholarship Foundation.

### **DISCUSSION:**

The Dana Point Scholarship Foundation was created to conduct fund raising activities including, but not limited to, contribution drives, car washes, bake sales, etc. with local businesses and the general public. These programs and activities would help to raise the funds necessary to allow the Foundation to award scholarships to deserving applicants. Applications for scholarships were to be accepted annually and a panel of judges would review the applications and the accompanying essay. The review would involve both objective and subjective criteria regarding scholastic, extra-curricular and volunteer efforts. Initially, the Foundation expected to award approximately three scholarships annually in the amount of \$250 to \$1000 to graduating high school seniors who reside in the City of Dana Point and who have demonstrated a commitment to volunteer work and plan on attending college. To date, no scholarship dollars have been raised nor awarded.

The Dana Point Scholarship Foundation's governing body consisted of three Youth Board members as the CEO/President, Secretary and CFO/Treasurer as the Board of Directors. In Article VI, Section 6.02., the Bylaws of the Dana Point Scholarship Foundation granted authority to the Board of Directors as follows, "All checks, orders for the payment of money, bills of lading, warehouse receipts, obligations, bills of exchange and insurance certificates shall be signed or endorsed by such officer or officers or agent or agents of the Corporation and in such manner as shall from time to time be determined by resolutions of the Board of Directors or of any committee to which such authority has been delegated by the Board." Without administrative oversight by the City of Dana Point staff being written into the Bylaws of the Dana Point Scholarship Foundation, it allowed the Dana Point Youth Board members to maintain its own checkbook and bank account for the scholarship funds and gave the Youth Board members the ability to sign checks for any awarded scholarships.

The Internal Revenue Service has contacted the City with regards to the expiration of the City's Five Year Advance Ruling Period. The City must completed Form 8734, Support Schedule for Advance Ruling Period, to document and state the dollar amount of funds that have been raised since inception of the Dana Point

Scholarship Foundation. The Internal Revenue Service has advised the City to dissolve the Foundation given the fact that no funds or public contributions have been raised to support the Dana Point Scholarship Foundation in the five years that the Foundation has been in existence. Given that no funds have been raised to support this tax-exempt Foundation, the Internal Revenue Service will make a final determination and deem the Dana Point Scholarship Foundation as a private foundation since it did not garner the broadly based support from the general public, public charities and governmental units that is necessary to meet the requirements for a publically supported organization as the original filing documents stated it would in January 2002.

Staff concurs with the Internal Revenue Service's recommendation to dissolve the Dana Point Scholarship Foundation effective immediately. Staff believes that if funds are to be solicited and raised for awarding scholarships to graduating Dana Point high school seniors in the future, said funds may be donated to the City for the same purpose and administered by City staff. The Dana Point Youth Board will no longer have administrative authority over the donated funds.

**NOTIFICATION AND FOLLOW-UP:**

The Internal Revenue Service  
Secretary of State of the State of California

**STRATEGIC PLAN IMPLEMENTATION:**

Achieve total excellence in municipal services and City administration/planning with excellent customer service and cost-effectiveness.

**FISCAL IMPACT:**

None

**ALTERNATIVE ACTIONS:**

If the City Council opts to keep the Dana Point Scholarship Foundation as an active organization, the City will file Form 8734, Support Schedule for Advance Ruling, with the Internal Revenue Service. The completed Form 8734 will reflect that no scholarship dollars have been raised nor awarded since the Foundation's inception. Once the Internal Revenue Service recognizes that the Foundation has been non-active for the past five years, it will determine that the Dana Point Scholarship Foundation is a private foundation. Upon formal notification from the Internal Revenue Service, the City will be required to annually file Form 990-PF, Return of Private Foundation.