

CITY OF DANA POINT

AGENDA REPORT

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

DATE: JUNE 14, 2006

TO: CITY MANAGER/CITY COUNCIL

FROM: KATHY M. WARD, ACTING CITY CLERK

SUBJECT: CALLING FOR A GENERAL MUNICIPAL ELECTION ON NOVEMBER 7, 2006 TO FILL THREE CITY COUNCIL SEATS AND TO PLACE MEASURE CONCERNING EMINENT DOMAIN ON THE BALLOT

RECOMMENDED ACTION:

That the City Council adopt the following resolutions entitled:

- A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CALLING AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2006 FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES; and
- B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 7, 2006 WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE; and
- C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES' STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2006; and
- D. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF A CERTAIN MEASURE RELATING TO EMINENT DOMAIN AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2006 AS CALLED BY RESOLUTION NO. 06-06-14-___; and

- E. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS FOR A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2006; and
- F. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS.

BACKGROUND:

The procedures for conducting a General Municipal Election are established by State law. Prior to July 17, 2006, the City Council must adopt a resolution calling and giving notice of the November 7, 2006 General Municipal Election to elect three Council Members and request consolidation with the Statewide General Election. The Council must also adopt regulations for candidate statements by July 10, 2006.

On October 12, 2005, the City Council adopted Ordinance No. 05-07. This ordinance limits the use of eminent domain by the City and certain defined "City-Affiliated Agencies." Following adoption of this ordinance, the City Council directed staff to prepare a ballot measure to place the ordinance on the November 7, 2006 ballot in order to codify the ordinance by a vote of the people so that future City Councils are unable to amend or modify the ordinance without obtaining voter approval.

DISCUSSION:

The candidate filing period for the November 7, 2006 election will open on Monday, July 17, 2006, and close at 5:00 p.m. on Friday, August 11, 2006. If an incumbent does not file nomination papers by this deadline, the filing period for that office is extended five calendar days, until 5:00 p.m. on Wednesday, August 16, 2006, for candidates other than the incumbent to file.

It is optional for each candidate to submit a Candidate's Statement. If the candidate chooses to have a statement included in the Sample Ballot, the resolution stipulates that the costs involved are paid by the candidate at the time the nomination paper is filed. Based on an estimate from the Registrar of Voters, the deposit for printing each statement (maximum of 200 words) in the Sample Ballot is \$897.00.

The resolutions calling for the General Municipal Election, requesting consolidation with the Statewide General Election, and regulations for candidates' statements are presented as Action Documents A, B, and C respectively.

The process of placing the ballot measure to limit the use of eminent domain is as follows (as per Election Code section 9222):

- Place the ordinance on the ballot by adopting a City resolution

The Council may submit to the voters a proposition for the enactment of any ordinance. The ordinance must be voted on “at any succeeding regular or special City election” and shall be held not less than 88 days after the date of the order of election. If the ordinance receives “a majority of the votes cast on it at the election, the ordinance shall be ... enacted.”

The ordinance is presented as Exhibit A of Action Document D (Resolution No. 06-06-14-_____).

- Preparation of City Attorney’s impartial analysis and set priorities for written arguments

This resolution directs the City Attorney to prepare an impartial analysis of the ballot measure showing the effect of the measure on the existing law and the operation of the measure. The analysis shall not exceed 500 words in length.

The City Clerk will set the deadline for submittal of arguments for or against a measure, based upon the time reasonably necessary to prepare and print the arguments and sample ballots for the election. The deadlines for translations and printing set by the County Registrar of Voters, and the mandated 10-day public examination period of arguments must be taken into consideration. *Therefore, the City Clerk is recommending that Friday, August 11, 2006 at 5:00 p.m. be fixed as the deadline for the submittal of the impartial analysis and arguments.* Direct arguments may not exceed 300 words in length.

The resolution is presented as Action Document E

- Setting provisions for the filing of rebuttal arguments

Rebuttal argument must be filed not more than 10 days after the deadline for filing direct arguments, or Monday, August 21, 2006, and are limited to no more than 250 words.

Pursuant to the Elections Code, the impartial analysis or any direct argument will be made available in the City Clerk’s Office for public examination during the 10-calendar day period commencing on *Monday, August 14, 2006 and ending on Wednesday, August 23, 2006.*

Any rebuttal arguments will be made available in the City Clerk’s Office for public examination during the 10-day calendar day period commencing on *Tuesday, August 22, 2006 and ending on Thursday, August 31, 2006.*

During the 10-day examination periods, any qualified voter of the City of Dana Point may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted, pursuant to the provision of the Elections Code. These dates may be adjusted by the City Clerk in order to meet the requirements of the Orange County Registrar of Voters deadlines.

The resolution is presented as Action Document F.

The attached resolutions have been prepared for Council consideration and adoption at this time.

NOTIFICATION AND FOLLOW-UP:

Notice of the election will be provided in accordance with Elections Code requirements. In addition, a Press Release will be sent to local newspapers, radio and television stations, and Cox Communications.

STRATEGIC PLAN INITIATIVE:

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

FISCAL IMPACT:

Based on cost estimates from the Registrar of Voters, \$33,000 was budgeted for this election.

ACTION DOCUMENTS:

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Action Document A

RESOLUTION NO. 06-06-14-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CALLING AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2006 FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES

WHEREAS, under the provisions of the laws relating to General Law cities in the State of California, a General Municipal Election shall be held on Tuesday, November 7, 2006 for the election of Municipal Officers.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Dana Point, California, on Tuesday, November 7, 2006, a General Municipal Election for the purpose of electing three (3) members of the City Council for the full term of four years.

SECTION 2. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 3. That the City Clerk is authorized, instructed, and directed to procure and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 4. That the polls for the election shall be open at 7:00 a.m. of the day of the election and shall remain open continuously from that time until 8:00 p.m. of the same day when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California.

SECTION 5. That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 6. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election in time, form and manner as required by law.

SECTION 7. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED, AND ADOPTED this 14th day of June, 2006.

Lara Anderson
MAYOR

ATTEST:

Kathy M. Ward
ACTING CITY CLERK

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

I, KATHY M. WARD, Acting City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 06-06-14-____ adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 14th day of June, 2006.

AYES:

NOES:

ABSENT:

Kathy M. Ward
ACTING CITY CLERK

RESOLUTION NO. 06-06-14- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 7, 2006 WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

WHEREAS, the City Council of the City of Dana Point, California, called a General Municipal Election to be held on Tuesday, November 7, 2006 for the purpose of the election of three (3) members of the City Council and has ordered the submission to the voters of a measure relating to eminent domain to be voted on at the General Election; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places, and election officers of the two elections be the same, and that the County Election Department of the County of Orange canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Orange is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 7, 2006 for the purpose of the election of three (3) members of the City Council and for the purpose submitting to the voters a measure relating to eminent domain.

SECTION 2. That the County Election Department is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

SECTION 3. That the Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.

SECTION 4. That the City of Dana Point recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 5. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters/Election Department of the County of Orange.

SECTION 6. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED, AND ADOPTED this 14th day of June, 2006.

Lara Anderson
MAYOR

ATTEST:

Kathy M. Ward
ACTING CITY CLERK

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

I, KATHY M. WARD, Acting City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 06-06-14-____ adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 14th day of June, 2006, by the following vote:

AYES:

NOES:

ABSENT:

Kathy M. Ward
ACTING CITY CLERK

RESOLUTION NO. 06-06-14- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2006

WHEREAS, Section 13307 of the Elections Code of the State of California provides that the governing body of any local agency adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidate's statement;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. GENERAL PROVISIONS. Pursuant to Section 13307 of the Elections Code of the State of California, each candidate for elective office to be voted for at an Election to be held in the City of Dana Point on November 7, 2006, may prepare a candidates statement on an appropriate form provided by the City Clerk. The statement may include the name and a brief description of no more than 200 words of the candidate's occupation, education, and qualifications expressed by the candidate himself or herself. The statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed in typewritten form in the Office of the City Clerk at the time the candidate's nomination papers are filed. Except as provided by Section 13309 of the Elections Code, the statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:00 p.m. of the next working day after the close of the nomination period.

SECTION 2. FOREIGN LANGUAGE POLICY.

- A. Pursuant to the Federal Voting Rights Act, the City may be required to translate candidate statements into the following language: Spanish.
- B. Pursuant to state law, the candidates statement must be translated and printed in the voters pamphlet in Spanish at the candidate's request.
- C. The City Clerk shall:
 1. Have all candidates statements translated into the languages specified in (A) above.
 2. Print all translations of all candidates statements in the voters pamphlet and may have all translations made available upon request in the office of the City Clerk.

SECTION 3. PAYMENT.

A. Translations

1. The candidate shall be required to pay for the cost of translating the candidates statement into any required foreign language as specified in (A) and/or (B) of Section 2 above pursuant to state and federal law.
2. The candidate shall be required to pay for the cost of translating the candidates statement into any foreign language that is not required as specified in (A) and/or (B) of Section 2 above pursuant to state and federal law, but is requested as an option by the candidate.

B. Printing

1. The candidate shall be required to pay for the cost of printing the candidates statement in the voters pamphlet in all required languages pursuant to state and federal and/or state law.

The City Clerk shall estimate the total cost of printing, handling, translating and mailing the candidates statements filed pursuant to this section, including costs incurred as a result of complying with the Voting Rights Act of 1965, as amended, and require each candidate filing a statement to pay in advance to the local agency his or her estimated pro rata share as a condition of having his or her statement included in the voters' pamphlet. In the event the estimated payment is required, the estimate is just an approximation of the actual cost that varies from one election to another election and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements. Accordingly, the Clerk is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expense or refund any excess paid depending on the final actual cost. In the event of underpayment, the Clerk may require the candidate to pay the balance of the cost incurred. In the event of overpayment, the Clerk shall prorate the excess amount among the candidates and refund the excess amount paid within thirty (30) days of the election.

SECTION 4. Additional Materials. No candidate will be permitted to include additional materials in the sample ballot package.

SECTION 5. The City Clerk shall provide each candidate or the candidate representative a copy of this Resolution at the time nomination petitions are issued.

SECTION 6. All previous Resolutions establishing Council Policy on payment for candidate's statements are repealed.

SECTION 7. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED, AND ADOPTED this 14th day of June, 2006.

Lara Anderson
MAYOR

ATTEST:

Kathy M. Ward
ACTING CITY CLERK

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

I, Kathy M. Ward, Acting City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 06-06-14-___ adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 14th day of June, 2006, by the following vote:

AYES:

NOES:

ABSENT:

Kathy M. Ward
ACTING CITY CLERK

Action Document D

RESOLUTION NO. 06-06-14-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF A CERTAIN MEASURE RELATING TO EMINENT DOMAIN AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2006, AS CALLED BY RESOLUTION NO. 06-06-14-_____

WHEREAS, a General Election on Tuesday, November 7, 2006 has been called by Resolution No. 06-06-14-_____, adopted on June 14, 2006, and

WHEREAS, the City Council also desires to submit to the voters at the General Election a question relating to Eminent Domain;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

Shall Dana Point Municipal Code Chapter 4.30, which requires the City or its affiliated agencies to obtain a property owner's consent before the City or its affiliated agencies use eminent domain to transfer such owner's private property to private parties for commercial for-profit activity, be adopted by the voters in order to restrict the City Council from amending or repealing Chapter 4.30 without first seeking voter approval?	YES
	NO

SECTION 2. That the proposed measure submitted to the voters is attached as Exhibit A.

SECTION 3. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Resolution No. 06-06-14-____
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SECTION 4. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 5. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED, AND ADOPTED this 14th day of June, 2006.

Lara Anderson
MAYOR

ATTEST:

Kathy M. Ward
ACTING CITY CLERK

Resolution No. 06-06-14-_____
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EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
DANA POINT, CALIFORNIA, RELATING TO THE
LIMITATION OF THE USE OF EMINENT DOMAIN

The people of the City of Dana Point, California, do ordain as follows:

Section 1. Title. This Ordinance shall be known as the “City of Dana Point Eminent Domain Limitation Ordinance.”

Section 2. Effective Date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

Section 3. Purpose. This Ordinance is adopted to achieve the following purposes, among other purposes, and the people hereby direct that the provisions of this Ordinance be interpreted in order to accomplish these purposes:

- A. The people find and declare that the arbitrary use of eminent domain by local government agencies for the benefit of other private property owners hampers economic development;
- B. The people find and declare that adopting a clear policy concerning the City’s use of eminent domain will provide certainty for City property owners and encourage economic investment;
- C. The people desire to remove impediments to vibrant economic growth within the City and to also remove the threat of eminent domain occurring in arbitrary circumstances where private parties are the beneficiaries of the City’s use of eminent domain;
- D. The people find and declare that the arbitrary use of eminent domain by cities and local agencies for the purpose of transferring private property for the benefit of other private property owners is not in the spirit of the United States Constitution;
- E. The people find and declare that the above-mentioned purposes and the protection of private property in Dana Point will be best served by having this Ordinance approved by the voters so that the City or the City Council is prohibited from repealing or amending Dana Point Municipal Code Chapter 4.30 without having to submit such repeal or amendment to the voters for their approval.

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Section 4. Chapter 4.30 of the Dana Point Municipal Code is hereby reenacted as follows:

Chapter 4.30 EMINENT DOMAIN

Section 4.30.010 Limitations on the Use of Eminent Domain.

Neither the City of Dana Point nor any City-Affiliated Agency may exercise the power of eminent domain to acquire any property from any private owner thereof, without such owner's consent, where the purpose of the acquisition at the time of acquisition is the intended conveyance of the property so acquired to any other private party, for the conduct of any for-profit commercial activity.

As used in this Section, the following terms shall have the following ascribed meanings:

"Owner" means the owner of the fee title interest in the property to be acquired, as shown on the last equalized assessment roll, or other more current proof of vesting the City may have.

"Property" shall mean any interest in real or personal property otherwise subject to acquisition through the use of eminent domain.

"City-Affiliated Agency" shall mean the City of Dana Point and/or any other entity possessing the power of eminent domain, the governing board of which is solely composed of, or is solely appointed by, the members of the City Council of the City of Dana Point.

Section 5. Severability. 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 people hereby declare that they would have approved 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 6. Competition Measures.

- A. In the event that another ballot measure (hereafter, "competing initiative") appears on the same ballot as this Ordinance which competing initiative seeks to adopt or impose any Municipal Code provisions that differ in any regard to, or supplement, those contained in this Ordinance, the voters hereby express and declare their intent that if both the competing initiative

Resolution No. 06-06-14-____
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and this Ordinance receive a majority of votes cast, and if this Ordinance receives a greater number of votes than the competing initiative, then this Ordinance shall prevail in its entirety over the competing initiative without regard to whether specific provisions of each measure directly conflict with each other. Under these circumstances, the competing initiative shall have no force or effect and shall be void.

- B. In the event that both the competing initiative and this Ordinance receive a majority of votes cast, and the competing initiative receives a greater number of votes than this Ordinance, then this Ordinance shall be deemed to be complementary to the competing initiative. To this end, and to the maximum extent permitted by law, the provisions of this Ordinance shall be fully adopted except to the extent the specific provisions contained in each measure are deemed to be in direct conflict with each other on a “provision by provision” basis pursuant to *Yoshisato v. Superior Court* (1992) 2 Cal.4th 978.

Section 7. Repeal, Alteration, Modification, Amendment Requires Voter Approval. All amendment or proposed repeals of the provisions contained in this Ordinance shall only become effective when approved by the voters.

Section 8. Codification. Upon the Effective Date of this Ordinance provided in Section 2, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this Ordinance in the City’s Municipal Code.

Resolution No. 06-06-14-____
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STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, KATHY M. WARD, Acting City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 06-06-14-____ adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 14th day of June, 2006, by the following vote:

AYES:

NOES:

ABSENT:

Kathy M. Ward
ACTING CITY CLERK

Action Document E

RESOLUTION NO. 06-06-14-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS FOR A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2006

WHEREAS, a General Municipal Election is to be held in the City of Dana Point, California on November 7, 2006, at which there will be submitted to the voters the following measure:

Shall Dana Point Municipal Code Chapter 4.30, which requires the City or its affiliated agencies to obtain a property owner's consent before the City or its affiliated agencies use eminent domain to transfer such owner's private property to private parties for commercial for-profit activity, be adopted by the voters in order to restrict the City Council from amending or repealing Chapter 4.30 without first seeking voter approval?	YES
	NO

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council authorizes all members of the City Council to file (a) written argument(s) In Favor or Against City measure, accompanied by the printed name(s) and signature(s) of the author(s) submitting it; or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument; or if submitted by an individual voter or any combination of voters who is/are eligible to vote on the measure, the printed name and signature of each individual, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California.

SECTION 2. That per the Elections Code of the State of California, no argument shall exceed three hundred (300) words in length and shall not have more than five signatures. Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

SECTION 3. That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected. The City Attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. If the measure affects the organization or salaries of the office of the City Attorney, the City Clerk shall prepare the impartial analysis. The impartial analysis shall not exceed five hundred (500) words in length, and shall be filed by the date set by the City Clerk for the filing of direct arguments.

SECTION 4. That the City Clerk is directed to fix and determine a reasonable date prior to the election after which no arguments for or against the City measure may be submitted for printing and distribution to the voters. If more than one argument for or against the City measure is submitted to the City Clerk, the City Clerk shall select one of the arguments for printing and distribution to the voters, according to the following preference and priority, in the order named: the City Council, or member or members of the City Council; bona fide associates of citizens; individual voters who are eligible to vote on the City measure.

SECTION 5. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 14th day of June, 2006.

Lara Anderson
MAYOR

ATTEST:

Kathy M. Ward
ACTING CITY CLERK

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

I, Kathy M. Ward, Acting City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 06-06-14-___ adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 14th day of June, 2006, by the following vote:

AYES:

NOES:

ABSENT:

Kathy M. Ward
ACTING CITY CLERK

RESOLUTION NO. 06-06-14-_____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
DANA POINT, CALIFORNIA PROVIDING FOR THE FILING
OF REBUTTAL ARGUMENTS FOR CITY MEASURES
SUBMITTED AT MUNICIPAL ELECTIONS**

WHEREAS, Section 9220 and 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for city measures submitted at municipal elections;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to Sections 9220 and 9285 of the Elections Code of the State of California, when the City Clerk has selected the arguments for and against the measure which shall be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor immediately upon receiving the arguments. The author or a majority of the authors of an argument may prepare and submit rebuttal arguments not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit or sign the rebuttal argument. The rebuttal arguments shall be filed with the City Clerk, signed with the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not more than ten (10) days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut. A rebuttal argument may not be signed by more than five individuals.

SECTION 2. That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

SECTION 3. That the provisions of Section 1 shall apply only to the election to be held on November 7, 2006, and shall then be repealed.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book or original resolutions.

PASSED, APPROVED AND ADOPTED this 14th day of June, 2006.

Lara Anderson
MAYOR

ATTEST:

Kathy M. Ward
ACTING CITY CLERK

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

I, Kathy M. Ward, Acting City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 06-06-14-___ adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 14th day of June, 2006, by the following vote:

AYES:

NOES:

ABSENT:

Kathy M. Ward
ACTING CITY CLERK