

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

Reviewed By:	
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CA	<input type="checkbox"/>

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**DATE: NOVEMBER 30, 2005**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: CITY COUNCIL POLICY REVIEW TASKFORCE**

**SUBJECT: CITY COUNCIL POLICIES**

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**RECOMMENDED ACTION:**

That the City Council:

1. Review the recommendations of the City Council Policy Review Task Force to revise Council Policy Nos. 204, 209 and 303; and to adopt "new" Council Policy Nos. 219 and 220; provide input and additional revisions as deemed appropriate; take formal action to approve the policies.
2. Approve first reading and introduction of the following ordinance to reflect revisions to Council Policy No. 302 – Appointment of Commissioners, which were approved at the Council Meeting of November 9, 2005.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT CALIFORNIA, AMENDING SECTIONS 2.06.060 AND 2.06.070 OF THE MUNICIPAL CODE REGARDING THE TERMS OF BOARD AND COMMISSION MEMBERS.

**ISSUE:**

Shall certain Council Policies be revised and new policies adopted in order to reflect current law and or Council policy?

**BACKGROUND:**

At the City Council Meeting of February 23, 2005, action was taken to form a Policy Review Task Force which was charged with reviewing the existing City Council Policies and related municipal code sections. Mayor Pro Tem Anderson and Council Member Lacy were appointed as the Council representatives to the Task Force, and Administrative Services Director Apodaca was appointed by the City Manager as the staff liaison.

At your meeting of October 26, 2005, the City Council approved revisions to Council Policy No. 116 regarding charitable grant funding. Consideration of this particular policy was fast tracked in response to inquiries by local non-profit groups that were seeking grant funding for holiday events. Therefore, Policy No. 116 is not part of this agenda report.

At your meetings of October 12 and 26, 2005 the City Council considered several ordinances related to election reform and campaign financing and reporting. In response to Council action, staff will be preparing several ordinances for future Council consideration that will address political signs, campaign financing and late filing penalties.

### **DISCUSSION:**

The Task Force has reviewed all existing Council Policies to ensure that they are not in conflict with current practice, Council policy and or City and state codes. The Task Force has finalized its proposed revisions to certain existing policies and as part of that submittal, has recommended the adoption of four new policies for the City Council's consideration relative to E-mail usage, media inquiries, attendance at subcommittee/task force meetings, and Proposition 59.

At your meeting of November 9, 2005, the City Council took action to approve all revised policies and new Policy Nos. 217 (E-mail usage) and 218 (compliance with Proposition 59), with the exception of Policy Nos. 204, 209, 219, 220 and 303. Because Councilmember Lacy was absent from the meeting, further discussion and consideration of Policy Nos. 204, 209, 219, 220 and 303 was deferred to the next meeting to allow for a full Council to be present.

The remaining policies in question are attached to this report with annotations. Underlined language represents new proposed language, while ~~strikethrough~~ represents proposed deleted language. The policies with recommended revisions and the two remaining new policies are attached (**ACTION DOCUMENT A**) in numerical order.

Revisions to Policy No. 302 – Appointment of Commissioners were approved on November 9<sup>th</sup> such that the terms of Commissioners will expire on March 31<sup>st</sup> rather than on the last of February as regulated by Municipal Code Sections 2.06.060 and 2.06.070. This will provide a more reasonable timeline for the City Clerk to post and publish required vacancy notices, and for the City Council to hold interviews in time to agendize appointments for a regular council meeting date prior to March 31<sup>st</sup>. These approved revisions prompted a necessary revision to the municipal code to reflect the same change from February to March. Therefore, staff is recommending first reading of the attached ordinance to accomplish this code revision (**ACTION DOCUMENT B**).

**Recommended Policy Revisions:****No. 204 – Site Visits and Non-Public Hearing Communications – City Council Members:**

This policy currently discourages visits to a project site by a City Council Member that includes discussions with a project applicant or other interested party outside the public hearing process.

The revised policy encourages project site visits when necessary to understand the facts and circumstances of the project to the extent a Council Member does not make contact with an interested party. However, language has been added such that if contact is made with an interested party, the Council Member should publicly disclose the nature of the contact at the public hearing when the project is heard. Language has also been added to emphasize that any contact with the public prior to a public hearing should be limited to the role of acquiring information about the project, and should not involve any expressions or opinions about the merits of the project.

**No. 209 – Health Benefits for City Council Members:** Minor revision to add a cross reference to Municipal Code Section 2.04.053 which regulates City Council health benefits.

***2.04.053 Council Health and Welfare Benefits.***

*An optional monthly health and welfare benefit shall be conferred on each City Council member. The amount of the optional monthly health and welfare benefit and the categories of health and welfare benefits available to City Council members may be adjusted by Resolution of the City Council and shall reflect the amount received by City department heads. (Added by Ord. 99-09, 8/10/99; amended by Ord. 01-05, 8/28/01; Ord. 02-05, 3/26/02)*

**No. 219 – Media Inquiries – Council Members, Commissioners, Advisory Bodies and City Staff:** A new policy to establish a media relations policy for the City of Dana Point government and the processes by which the City government responds to inquiries by the news media, including Council Members, Commissioners, Committee Members, and City staff. **(THIS IS A NEW POLICY)**

**No. 220 – Attendance at Subcommittee and Task Force Meetings:** A new policy to establish a uniform policy regarding the attendance of City Council Members at Subcommittee and Task Force Meetings. **(THIS IS A NEW POLICY)**

**No. 303 – Site Visits and Non-Public Hearing Communications – Commissioners/Committee Members:**

This policy currently discourages visits to a project site by a City Commissioner or Committee Member that includes discussions with a project applicant or other interested party outside the public hearing process.

The revised policy encourages project site visits when necessary to understand the facts and circumstances of the project to the extent a Commissioner or Committee Member does not make contact with an interested party. However, language has been added such that if contact is made with an interested party, the Commissioner or Committee Member should publicly disclose the nature of the contact at the public hearing when the project is heard. Language has also been added to emphasize that any contact with the public prior to a public hearing should be limited to the role of acquiring information about the project, and should not involve any expressions or opinions about the merits of the project.

**NOTIFICATION AND FOLLOW-UP:**

Provide versions of final approved policies to City Council, City Clerk's Office and appropriate administrative staff.

Provide relevant final approved policies to Commission, Committee and Task Force Members.

Hold second reading and adoption of ordinance to amend Municipal Code Sections 2.06.060 and 2.06.070 relative to Policy No. 302.

**STRATEGIC PLAN INITIATIVE:**

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

**FISCAL IMPACT:**

Costs associated with the Council Policies would be absorbed by the associated operating budgets.

**ALTERNATIVE ACTIONS:**

Any alternative action as deemed appropriate by the Council.

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

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A. [COUNCIL POLICIES WITH PROPOSED REVISIONS & NEW POLICIES IN NUMERICAL ORDER](#)

NO. 204, 209, 219, 220, 303.....6

B. [ORDINANCE AMENDING MUNICIPAL CODE SECTIONS 2.06.060 AND 20.06.070.....17](#)

Action Document A

## CITY OF DANA POINT

## COUNCIL POLICY

<b>SUBJECT:</b>  Site Visits and Non-Public Hearing Communications – <u>City Council Members</u>	<b>PAGE:</b>  1 of 2	<b>EFFECTIVE DATE:</b>  02/13/90  <u>AMENDED DATE:</u>	<b>POLICY NO.:</b>  204
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**PURPOSE:**

To establish a uniform policy regarding visits to project sites and non-public hearing communications regarding agenda items by City Council Members.

**BACKGROUND:**

The City Council regularly holds hearings in which quasi-judicial decisions are made regarding particular properties and/or projects. Basic principles of fairness and due process require that, when such decisions are made, the decisions be based solely upon information obtained and equally available to all attendees at the public hearing held to consider the matter. Visits to project sites which include discussions with applicants or other interested individuals outside the public hearing may violate these principles, and thus jeopardize the integrity and validity of the decisions reached.

While complete disclosure of the contents, impressions, and discussions which result from project site visits and discussions with project applicants and other interested persons, is theoretically possible, it poses practical difficulties. In an effort to provide a full, complete, and fair hearing to all who come before the City Council on a scheduled public hearing item, site visits by individual Council Members which include discussions with the applicant or other persons should be avoided.

**POLICY:**

~~Visits to project sites that include discussions with a project applicant or other interested persons outside the public hearing should be avoided. If an individual member of the City Council believes a site visit with an applicant or other interested person may be warranted, that member should request that a noticed, open visit by the entire Council be arranged.~~

<b>SUBJECT:</b>  Site Visits and Non-Public Hearing Communications – <b>City Council Members</b>	<b>PAGE:</b>  2 of 2	<b>EFFECTIVE DATE:</b>  02/13/90  <b>AMENDED DATE:</b>	<b>POLICY NO.:</b>  204
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Visits to project sites are encouraged when necessary to understand the facts and circumstances of the project to the extent they do not involve any contacts with interested parties. If an individual member of the City Council comes into contact with an applicant or neighborhood resident during a routine site visit, that member should disclose the contact at the Public Hearing. If an individual member of the City Council believes a site visit with an applicant or other interested person may be warranted, that member should request that a noticed, open visit by the entire Council be arranged. Any contact with the public prior to a Public Hearing should be limited to the role of acquiring information about the project, and should not involve any expressions or opinions about the merits of the project.

## CITY OF DANA POINT

### COUNCIL POLICY

<b>SUBJECT:</b>	<b>PAGE:</b>	<b>EFFECTIVE DATE:</b>	<b>POLICY NO.:</b>
<b>Health Benefits for City Council Members</b>	<b>1 of 1</b>	<b>02/13/90</b>	<b>209</b>
		<b>AMENDED DATE:</b>	
		<b>10/26/99</b>	
		<b>03/26/02</b>	

**PURPOSE:**

To provide optional health benefits to the City Council Members and their dependents for medical, optical and dental needs, and an optional life insurance benefit for City Council Members.

**BACKGROUND:**

The City has health insurance benefits available to a large number of City employees. In accordance with Government Code Section 36516, subdivision. (d) and Section 53208 for the State of California, City Council Members may be provided health benefits on the condition that these same health benefits are available to a large number of City employees.

**POLICY:**

An optional monthly health benefit and optional life insurance benefit shall be conferred on each City Council Member.

See Municipal Code Section 2.04.053.

***2.04.053 Council Health and Welfare Benefits.***

*An optional monthly health and welfare benefit shall be conferred on each City Council member. The amount of the optional monthly health and welfare benefit and the categories of health and welfare benefits available to City Council members may be adjusted by Resolution of the City Council and shall reflect the amount received by City department heads. (Added by Ord. 99-09, 8/10/99; amended by Ord. 01-05, 8/28/01; Ord. 02-05, 3/26/02)*

**THIS IS A NEW POLICY**

**CITY OF DANA POINT  
COUNCIL POLICY**

<b>SUBJECT:</b>  <b>Media Inquiries – Council Members, Commissioners, Advisory Bodies &amp; City Staff</b>	<b>PAGE:</b>  <b>1 of 4</b>	<b>EFFECTIVE DATE:</b>	<b>POLICY NO.:</b>  <b>219</b>
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**PURPOSE:**

To establish a media relations policy for the City of Dana Point government and the processes by which the City government responds to inquiries by the news media.

**BACKGROUND:**

The City has an obligation to provide accurate, consistent and timely information regarding the City to the media. In fulfilling this obligation, it is critical that the media receive accurate information and that it not inadvertently be misinformed by conflicting information from sources that may not be fully informed. In order to properly fulfill the City's obligation to the media, the City Council desires to adopt a policy for City Staff as well as members of the City Council, commissions, committees or other advisory bodies that addresses the proper protocol to follow in response to inquiries by the news media.

**POLICY:**

A. City Council:

The Mayor is the designated representative of the City Council to speak on its behalf and to provide the City's "official position" on any given issue. All news media inquiries received by a Council Member on issues within the policy making jurisdiction of the City Council shall be referred to the Mayor, or in his/her absence, the Mayor Pro Tem. The Mayor or Mayor Pro Tem may refer a media inquiry to the City Manager or City Attorney at his/her discretion.

**THIS IS A NEW POLICY**

**CITY OF DANA POINT**

## COUNCIL POLICY

<b>SUBJECT:</b>	<b>PAGE:</b>	<b>EFFECTIVE DATE:</b>	<b>POLICY NO.:</b>
<b>Media Inquiries– Council Members, Commissioners, Advisory Boards &amp; City Staff</b>	<b>2 of 4</b>		<b>219</b>

Individual Council Members may comment to the media but should be clear about whether their comments represent the official City position or a personal viewpoint. Council Members are encouraged to notify other members of the Council if they plan to write an editorial or issue an individual media release, and then provide other members advance copies of media responses.

Sometimes in the event of a response to a disaster, local emergency or matters involving public safety, the dissemination of timely and accurate information to the public is of vital important to insure the public well-being. In the event of a response to a disaster, local emergency or matters involving public safety, the City Manager will make every reasonable effort to coordinate real-time responses to media inquiries with the Mayor or the Mayor Pro Tem in the absence of the Mayor. The Mayor or Mayor pro tem may elect to be the first-line spokesperson to the media on behalf of the City or may defer that responsibility to the City Manager. At times it is not logistically possible to coordinate responses to media inquiries due to the unique issues relating to specific disaster responses and/or public safety issue. In those instances where it is not logistically possible to coordinate the response with the Mayor, the City Manager, or his designee in the event of the City Manager's absence, will coordinate responses to media inquiries relating to the specific disaster responses and/or public safety issues. As soon as it becomes possible, the City Manager, or his designee, will brief the Mayor as to the response provide to the media and the reason why timing was critical to the release of information relating to a media inquiry. This policy covers media inquiries and does not impact the City from releasing press releases as part of its normal course of business as identified in Council Policy #107, Preparation of City Press Releases.

**THIS IS A NEW POLICY**

**CITY OF DANA POINT  
COUNCIL POLICY**

<b>SUBJECT:</b>	<b>PAGE:</b>	<b>EFFECTIVE DATE:</b>	<b>POLICY NO.:</b>
<b>Media Inquiries– Council Members, Commissioners, Advisory Boards &amp; City Staff</b>	<b>3 of 4</b>		<b>219</b>

B. Commissions, Committees and other Advisory Bodies:

News media inquiries received by a City commissioner, committee member or other advisory board member regarding decisions or recommendations, shall be referred to the chairperson of the respective City Commission, committee or advisory board that is the subject of the inquiry. The respective chairperson may refer the media inquiry to the responsible City department director at his/her discretion.

In any case, the chairperson or responsible City department director who has responded to a media inquiry should promptly advise the City Manager of the subject matter and response.

C. City Manager or Designee/City Staff:

Administrative Policy 1-115 requires that all media requests received by City staff for information or inquiries shall be referred to the City Manager or his designee for a response.

All news media inquiries concerning City staff recommendations or the administration of Council adopted policies, programs and or services shall be referred to the City Manager or designee. The City Manager or designee may at their discretion, delegate the responsibility of responding to an inquiry to the appropriate department director, Sheriff's Department or Fire Authority.

City consultants or contractors shall not respond to news media inquiries without the express authorization of the City Manager

**THIS IS A NEW POLICY**

**CITY OF DANA POINT  
COUNCIL POLICY**

<b>SUBJECT:</b>  <b>Media Inquiries– Council Members, Commissioners, Advisory Boards &amp; City Staff</b>	<b>PAGE:</b>  <b>4 of 4</b>	<b>EFFECTIVE DATE:</b>	<b>POLICY NO.:</b>  <b>219</b>
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All news media inquiries concerning City litigation and legal services shall be referred to the City Manager who shall forward the inquiry to the City Attorney as he deems appropriate.

**CROSS REFERENCE:**

- City Council Policy No. 107 – Preparation of City Press Releases
- City Council Policy No. 214 – Advocacy of City Policy Positions
- Administrative Policy 1-115 – Media Inquiries

**THIS IS A NEW POLICY****CITY OF DANA POINT  
COUNCIL POLICY**

<b>SUBJECT:</b>  <b>Attendance at Subcommittee And Task Force Meetings</b>	<b>PAGE:</b>  <b>1 of 2</b>	<b>EFFECTIVE DATE:</b>	<b>POLICY NO.:</b>  <b>220</b>
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**PURPOSE:**

To establish a uniform policy regarding the attendance of City Council Members at Subcommittee and Task Force Meetings.

**BACKGROUND:**

The City Council has established a number of Subcommittees and Task Forces charged with a specific scope of work. Subcommittees are established by a resolution of the City Council which also defines its membership. Typically Subcommittees are comprised of no more than two Members of the City Council and a specified number of public members. All meetings held by Subcommittees are public meetings subject to the Brown Act.

The Subcommittees and Task Forces are advisory bodies that make recommendations to the City Council for consideration regarding a variety of subject matter. The recommendations developed and approved by a Subcommittee or Task Force are not based on quasi-judicial decisions, but are advisory only in nature, and are based on the facts and other information provided at the meeting.

**POLICY:**

In order to allow Subcommittees to operate as intended, as advisory bodies to the Council, and to ensure they do not become forums for discussions and the formulation of a collective concurrence on issues by a quorum of the Council, a Council Member who is not a Subcommittee Member and attends a meeting of a standing committee should only do so as an observer, and not a participant.

**THIS IS A NEW POLICY**

**CITY OF DANA POINT  
COUNCIL POLICY**

<b>SUBJECT:</b>	<b>PAGE:</b>	<b>EFFECTIVE DATE:</b>	<b>POLICY NO.:</b>
<b>Attendance at Subcommittee And Task Force Meetings</b>	<b>2 of 2</b>		<b>220</b>

Council Members who have disclosed a conflict of interest and thus recused themselves from participating in governmental decisions related to the subject matter under review by the Subcommittee or Task Force, may also attend and participate in meetings of those advisory bodies. However, a Councilmember having a conflict of interest may not use his or her official position to influence the governmental decisions of the Subcommittee. Attempts to influence include but are not limited to, appearances or contacts by the Council Member on behalf of a business, client or customer.

**CITY OF DANA POINT  
COUNCIL POLICY**

<b>SUBJECT:</b>  <b>Site Visits and Non-Public Hearing Communications – Commissioners/Committee Members</b>	<b>PAGE:</b>  <b>1 of 2</b>	<b>EFFECTIVE DATE:</b>  <b>02/13/90</b>  <b>AMENDED DATE:</b>	<b>POLICY NO.:</b>  <b>303</b>
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**PURPOSE:**

To establish a uniform policy regarding visits to project sites and non-public hearing communications regarding agendized items by members of City Commissions.

**BACKGROUND:**

Various City Commissions and Committees regularly hold hearings in which quasi-judicial decisions are made regarding particular properties and/or projects. Basic principles of fairness and due process require that, when such decisions are made, the decisions be based solely upon information obtained and equally available to all attendees at the public hearing held to consider the matter. Visits to project sites which include discussions with applicants or other interested individuals outside the public hearing may violate these principles, and thus jeopardize the integrity and validity of the decisions reached.

While complete disclosure of the contents, impressions, and discussions which result from project site visits and discussions with project applicants and other interested persons, is theoretically possible, it poses practical difficulties. In an effort to provide a full, complete, and fair hearing to all who come before any City Commission on a scheduled public hearing item, site visits by individual Commission Members which include discussions with the applicant or other persons should be avoided.

**CITY OF DANA POINT**

**COUNCIL POLICY**

<b>SUBJECT:</b>  <b>Site Visits and Non-Public Hearing Communications – Commissioners/Committee Members</b>	<b>PAGE:</b>  2 of 2	<b>EFFECTIVE DATE:</b> 02/13/90 <b>AMENDED DATE:</b>	<b>POLICY NO.:</b>  303
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**POLICY:**

~~Visits to project sites that include discussions with a project applicant or other interested persons outside the public hearing should be avoided. If an individual member of a City Commission or Committee believes a site visit with an applicant or other interested person may be warranted, that member should request that a noticed, open visit by the entire Commission, or Committee be arranged.~~

Visits to project sites are encouraged when necessary to understand the facts and circumstances of the project to the extent they do not involve any contacts with interested parties. If an individual member of the commission/committee comes into contact with an applicant or neighborhood resident during a routine site visit, that member should disclose the contact at the Public Hearing. If an individual member of the commission/committee believes a site visit with an applicant or other interested person may be warranted, that member should request that a noticed, open visit by the entire commission/committee be arranged. Any contact with the public prior to a Public Hearing should be limited to the role of acquiring information about the project, and should not involve any expressions or opinions about the merits of the project.

**ACTION DOCUMENT B**

## ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT CALIFORNIA, AMENDING SECTIONS 2.06.060 AND 2.06.070 OF THE MUNICIPAL CODE REGARDING THE TERMS OF BOARD AND COMMISSION MEMBERS.

WHEREAS, the City Council formed a Policy Review Task Force to review and develop recommendations for revisions to City Council Policies; and

WHEREAS, on November 9, 2005 the City Council approved revisions to Policy No. 302 regarding the appointment of commissioners such that the terms of commissioners shall be changed to expire on March 31<sup>st</sup> rather than on the last day of February as regulated by Municipal Code Sections 2.06.060 and 2.06.070; and

WHEREAS, this policy revision prompted the need to amend the aforementioned municipal code sections to reflect consistency between the two regulations.

NOW, THEREFORE, BE IT ORDAINED, that the City Council of the City of Dana Point does hereby revise the municipal code as follows:

**Section 1.****2.06.060 Term.**

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. Planning Commissioners shall serve four (4) year staggered terms. The term of the Youth Board members shall be one year; term to expire on the last day of August. With the exception of the Youth Board, terms shall expire on the last day of ~~February~~ **March** of the designated year or until such time as the City Council appoints a successor. 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.

**2.06.070 Vacancies.**

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 or shall remain vacant until the last day of ~~February~~ **March**.

Section 2.

This ordinance shall become effective thirty days after its adoption date.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of December, 2005.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
ELIZABETH EHRING, CITY CLERK