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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 12, 2004**

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**CALL TO ORDER**

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Snyder at 5:00 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

**ROLL CALL**

PRESENT: Joe Snyder, Mayor  
James V. Lacy, Mayor Pro Tem  
Russell Chilton, Council Member  
William L. Ossenmacher, Council Member  
Wayne Rayfield, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Munoz, City Attorney; Sharon Street, Director of Public Affairs/City Clerk; Cathy Catlett, Assistant City Clerk; Kyle Butterwick, Director of Community Development; Larry Pierce, Interim Director of Public Works and Engineering Services; Brenda Chase, Associate Planner; Matt Sinacori, Deputy City Engineer; and Mark Billings, Chief of Police Services.

**CLOSED SESSION**

City Attorney Munoz indicated there was a need for a Closed Session as follows:

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b1), (8 cases)
- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (1 case)
- C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, Government Code § 54956.8 (3 cases)
  - 1. Location: Pacific Coast Highway between the north City limit and the western edge of San Juan Creek, Dana Point, California
  - Agency Negotiator: Douglas Chotkevys, City Manager  
Patrick Munoz, City Attorney  
Larry Pierce, Interim Director of Public Works/City Engineering  
Matthew Sinacori, Deputy City Engineer
  - Negotiating Parties: City of Dana Point and California Department of Transportation

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 12, 2004**

---

Under Negotiation: Relinquishment of portion of Pacific Coast Highway, including both price and terms of payment

2. Property: 26351 and 26315 Via Canon, Dana Point, California

City Negotiators: Douglas Chotkevys, City Manager  
Patrick Munoz, City Attorney  
Kyle Butterwick, Director of Community Development

Negotiating Parties: City of Dana Point and Barratt American Inc. or other interested parties

Under Negotiation: Price and terms of agreement relating to property

3. Property: 35009 Camino Capistrano, Capistrano Beach, California

City Negotiators: Douglas Chotkevys, City Manager  
Patrick Munoz, City Attorney  
Kyle Butterwick, Director of Community Development

Negotiating Parties: City of Dana Point and Pioneer Builders, Inc. or other interested parties

Under Negotiation: Price and terms of agreement relating to property

D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9(a), (2 cases)

1. Name of Case: Headlands Reserve LLC and M.H. Sherman Co. v. the City of Dana Point, et al, Orange County Superior Court Case No. 798758, Court of Appeals Case No. G024366

2. Name of Case: Jack Hamilton v. City Council of the City of Dana Point, California, Superior Court for the State of California, County of Orange – Central Justice Center, Case No. 04CC05259

State of California, County of Orange – Central Justice Center, Case No. 04CC05259

Mayor Snyder recessed the meeting into a Closed Session at 5:02 p.m. pursuant to Government Code Section 54956 et. seq.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 12, 2004**

---

**RECONVENE CITY COUNCIL MEETING**

Mayor Snyder reconvened the meeting at 6:42 p.m. All Council Members were present.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mr. Bob Moore, member of local VFW Chapter.

**INVOCATION**

The Invocation was given by the Reverend Gary Tucker, Hospice Chaplain at Gloria Dei Lutheran Church and also associated with Companion Hospice of Orange County.

**CONSENT CALENDAR**

Mayor Snyder removed Item 12.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 12.

The motion carried by the following vote:

AYES:	Council Members Chilton, Ossenmacher, Rayfield, Mayor Pro Tem Lacy, and Mayor Snyder
NOES:	None
ABSENT:	None
ABSTAIN:	None

**1. WAIVE THE READING OF ORDINANCES AND APPROVE READING BY TITLE ONLY**

APPROVED THE READING BY TITLE ONLY OF ALL ORDINANCES ON THE CONSENT CALENDAR AND THAT FURTHER READING OF SUCH ORDINANCES BE WAIVED.

**2. PLANNING COMMISSION MEETING MINUTES, APRIL 7, 2004**

RECEIVED AND FILED.

**3. PLANNING COMMISSION MEETING MINUTES, APRIL 21, 2004**

RECEIVED AND FILED.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 12, 2004**

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4. **PLANNING COMMISSION ACTIONS, MEETING OF APRIL 21, 2004**  
  
RECEIVED AND FILED.
5. **PLANNING COMMISSION ACTIONS, MEETING OF MAY 5, 2004**  
  
RECEIVED AND FILED.
6. **YOUTH BOARD MEETING MINUTES, MARCH 18, 2004**  
  
RECEIVED AND FILED.
7. **MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**  
  
RECEIVED AND FILED.
8. **CITY TREASURER'S REPORT, MARCH 2004**  
  
RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF MARCH 2004.
9. **CLAIMS AND DEMANDS**  
  
RECEIVED AND FILED.
10. **APPROVAL OF SERVICE AGREEMENT WITH SIGNAL MAINTENANCE, INC. FOR MAINTENANCE OF TRAFFIC SIGNALS AND APPURTENANCE, INTERCONNECT, FLASHING BEACONS, ILLUMINATED STREET NAME SIGNS AND SAFETY LIGHTS** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]* (0400-10)  
  
(1) APPROVED A SERVICE AGREEMENT WITH SIGNAL MAINTENANCE, INC. FOR MAINTENANCE OF TRAFFIC SIGNALS AND APPURTENANCES, INTERCONNECT, FLASHING BEACONS, ILLUMINATED STREET NAME SIGNS AND SAFETY LIGHTS; AND (2) AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT.
11. **RESOLUTION CONCERNING THE STATUS OF THE CIRCULATION ELEMENT FOR THE CITY OF DANA POINT, CALIFORNIA** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]* (0860-75)

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 12, 2004**

---

**ADOPTED RESOLUTION NO. 04-05-12-01 ENTITLED:**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONCERNING THE STATUS OF THE CIRCULATION ELEMENT FOR THE CITY OF DANA POINT, CALIFORNIA*

12. **AMEND THE STRATEGIC PLAN FOR CITY OF DANA POINT TO INCLUDE COMPLIANCE WITH AB 939** [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/ PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS] (0410-45)

This item was removed by Mayor Snyder.

City Manager Chotkevys gave a staff report.

Mayor Snyder suggested some changes for the record action for purposes of clarity and to better reflect the City's position.

Regarding the subject line of the item in the staff report, which reads: Amend the Strategic Plan for City of Dana Point to include compliance with AB 939, Mayor Snyder stated his motion would be to replace the word "**include**" with the word "**prioritize**", so the subject line would read:

**AMEND THE STRATEGIC PLAN FOR CITY OF DANA POINT TO PRIORITIZE COMPLIANCE WITH AB 939.**

Regarding Paragraph 1 in the Recommended Action in the staff report, which reads: *Amend the Strategic Plan to reflect the City's commitment to comply with the California Waste Management Act of 1989 (AB939)*, Mayor Snyder stated that he would motion to have that read:

**AMEND THE STRATEGIC PLAN TO PRIORITIZE COMPLIANCE WITH AB 939.**

Mayor Snyder then stated that in terms of some minor talking points to be read into the record, in the 4<sup>th</sup> paragraph of the staff report there is a sentence that he would like to complete. The sentence is:

*This is exemplified by the Council's recent adoption of a pilot automated curb-side green waste program, a multi-family residential waste program.*

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CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 12, 2004

---

Mayor Snyder stated he would want it to read:

**This is exemplified by the Council's recent adoption of a pilot automated curb-side green waste program, a multi-family residential waste program, and the Council passage of the C & D ordinance in December which requires a 75% diversion rate.**

Mayor Snyder noted that the Fiscal Impact section should read NONE.

Mayor Snyder also noted that under Alternative Actions there should not be direction to the City Manager to make further modification to the Strategic Plan because it is the Council that does that, so the alternative action would simply be to defer any action at this time.

Mayor Snyder commented for the record:

***"In the Strategic Plan under the Strategic Planning Initiative #6, Achieve Total Excellence In Municipal Services and City Administration/Planning with Excellent Customer Service and Cost-Effectiveness, this is the natural place within the Strategic Plan that this compliance, the City's compliance, with AB 939 would go."***

He stated that the actual verbiage for that can be worked out and submitted at a later date.

Mayor Snyder stated that those are his comments for inclusion in the record, and the motion would be to change the subject line to say prioritize compliance with AB 939 and in Paragraph 1 to amend the Strategic Plan to prioritize compliance with AB 939.

With that motion and those comments he brought it back to Council for discussion. There was no discussion at this time.

IT WAS MOVED BY MAYOR SNYDER, SECONDED BY COUNCIL MEMBER OSSENMACHER, THAT THE SUBJECT LINE READ

***AMEND THE STRATEGIC PLAN FOR CITY OF DANA POINT TO PRIORITIZE COMPLIANCE WITH AB 939,***

AND CHANGE PARAGRAPH 1 TO READ

***AMEND THE STRATEGIC PLAN TO PRIORITIZE COMPLIANCE WITH AB 939.***

Mayor Pro Tem Lacy spoke regarding the background of AB 939, and the City taking proactive steps to clean up the environment.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 12, 2004**

---

The motion carried by the following vote:

AYES: Council Members Chilton, Ossenmacher, Rayfield, Mayor Pro  
Tem Lacy, and Mayor Snyder  
NOES: None  
ABSENT: None  
ABSTAIN: None

13. **CITY COUNCIL GRANT RECOMMENDATION (OSSENMACHER)** *[STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES] (0330-25)*

APPROVED THE RECOMMENDED GRANT FUNDING BY COUNCIL MEMBER OSSENMACHER AS LISTED WITHIN THE STAFF REPORT PER CITY COUNCIL POLICY 116.

14. **SIGNALIZED PEDESTRIAN CROSSING AT THE DOUBLETREE SUITES HOTEL ACROSS PACIFIC COAST HIGHWAY TO ESTABLISH ACCESS TO DOHENY STATE BEACH** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0860-40)*

AUTHORIZED STAFF TO PROCEED WITH THE PROPOSED SIGNALIZED CROSSWALK AT THE DOUBLETREE SUITES HOTEL ACROSS PACIFIC COAST HIGHWAY TO ESTABLISH ACCESS TO DOHENY STATE BEACH.

**PRESENTATIONS AND PROCLAMATIONS**

There were no Presentations or Proclamations.

**ORAL REPORTS**

There were no Oral Reports.

**PUBLIC COMMENTS**

There were no Public Comments.

**PUBLIC HEARING**

15. **APPEAL OF PLANNING COMMISSION DECISION TO APPROVE VARIANCE AND SITE DEVELOPMENT PERMIT FOR SINGLE-FAMILY RESIDENCE AT 33821 ROBLES DRIVE** *[STRATEGIC PLAN: EVALUATE LAND USE ISSUES TO ENSURE THAT THE GOALS, POLICIES AND PROGRAMS OF THE GENERAL PLAN REFLECT THE COMMUNITY'S VISION AND MISSION] (0610-70)*

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 12, 2004**

---

City Manager Chotkevys gave a staff report and introduced Kyle Butterwick, Director of Community Development. Mr. Butterwick gave a staff report on the project, and introduced Brenda Chase, Associate Planner, who gave a slide presentation of the proposed project.

Mayor Pro Tem Lacy requested information regarding two other variances on the street.

Mayor Snyder requested information regarding the cost to City of an Appeal.

Mayor Snyder opened the Public Hearing.

Appellant Judy Fremer, Dana Point, gave a slide presentation and spoke in opposition to the proposed project.

Applicant David Miller, Glendora, spoke supporting the proposed project.

Mayor Snyder opened Public Comments regarding the proposed project.

Diane Harkey, Dana Point, spoke regarding the need to amend the Code, and in opposition to height variance for a roof deck.

Steve Marano, Dana Point, spoke in opposition to proposed project.

Lynn Smith, Capistrano Beach, spoke in opposition to granting of many variances.

Jay Mackro, San Juan Capistrano, owner of 33816 Robles Drive, the duplex across the street, spoke regarding concerns of height and loss of privacy to his tenants, and in opposition to the proposed project.

Mayor Snyder closed Public Comments and called for Rebuttal.

Judy Fremer, Appellant, spoke in opposition to the proposed project.

David Miller, Applicant, spoke in favor of the proposed project.

Mayor Snyder closed the Public Hearing, and called for a Recess.

Mayor Snyder recessed the meeting at 7:44 p.m.

Mayor Snyder reconvened the meeting at 8:01 p.m.

Mayor Snyder called for Council discussion.



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MAY 12, 2004**

---

IT WAS MOVED BY COUNCIL MEMBER CHILTON, SECONDED BY COUNCIL MEMBER OSSENMACHER, THAT THE CITY COUNCIL UPHOLD THE PLANNING COMMISSION'S DECISION.

The motion carried by the following vote:

AYES: Council Members Chilton, Ossenmacher, and Mayor Snyder  
NOES: Council Member Rayfield, and Mayor Pro Tem Lacy  
ABSENT: None  
ABSTAIN: None

Mayor Snyder recessed the meeting at 8:39 p.m.

Mayor Snyder reconvened the meeting at 8:47 p.m.

**UNFINISHED BUSINESS**

16. **AWARD OF CONTRACT TO ROMA DESIGN GROUP TO DEVELOP THE TOWN CENTER SPECIFIC PLAN** *[STRATEGIC PLAN: EVALUATE LAND USE ISSUES TO ENSURE THAT THE GOALS OF THE GENERAL PLAN REFLECT THE COMMUNITY'S VISION AND MISSION; INITIATE AND PROMOTE BUSINESS DEVELOPMENT] (0400-10)*

City Manager Chotkevys gave a staff report regarding the background of the Town Center Plan, and introduced Kyle Butterwick, Director of Community Development. Mr. Butterwick gave a staff report of the Town Center Plan, and introduced Boris Dramov and Bonnie Fisher of Roma Design Group, who gave a slide presentation of examples of their work.

Mayor Snyder opened Public Comments.

Jim Slark, Dana Point, stated that the project was premature, and expressed concerns regarding traffic.

AUTHORIZED THE CITY MANAGER TO FINALIZE THE SCOPE OF WORK AND ENTER INTO AN AGREEMENT WITH ROMA DESIGN GROUP; AND TRANSFERRED FUNDS FROM THE FOLLOWING SOURCES TO COMMUNITY DEVELOPMENT, PLANNING DIVISION 223:

1. THE RESERVE FOR SERVICE ENHANCEMENTS;
2. THE GENERAL FUND UNDESIGNATED RESERVE; AND
3. FUNDS AVAILABLE FROM THE COMMUNITY DEVELOPMENT'S PROFESSIONAL SERVICES BUDGET.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 12, 2004**

---

IT WAS MOVED BY COUNCIL MEMBER CHILTON, SECONDED BY COUNCIL MEMBER OSSENMACHER, TO AWARD A CONTRACT TO ROMA DESIGN GROUP TO DEVELOP THE TOWN CENTER SPECIFIC PLAN.

The motion carried by the following vote:

AYES:	Council Members Chilton, Ossenmacher, Rayfield, Mayor Pro Tem Lacy, and Mayor Snyder
NOES:	None
ABSENT:	None
ABSTAIN:	None

**NEW BUSINESS**

There was no New Business.

**STAFF REPORTS**

There were no Staff Reports.

**COUNCIL REPORTS**

Council Member Rayfield reported:

1. that Orange County Superior Court found no merit in 5 out of 6 issues or points in a lawsuit regarding El Toro;
2. that a sailboat from Dana Point took 3 trophies in the Newport to Ensenada Race;
3. that the Capistrano Valley Symphony Series begins Sunday, May 16.

**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Snyder declared the meeting adjourned at 9:34 p.m.

The next Regular Meeting of the City Council will be May 26, 2004 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

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SHARON STREET  
DIRECTOR OF PUBLIC AFFAIRS/CITY CLERK

APPROVED AT MEETING OF MAY 26, 2004