
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 22, 2004**

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 5:02 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; Sharie Apodaca, Director of Administrative Services; Sharon Street, Director of Public Affairs/City Clerk; Cathy Catlett, Assistant City Clerk; Kyle Butterwick, Director of Community Development; John Tilton, City Architect/Planning Manager; Matt Sinacori, Deputy City Engineer; and Mark Billings, Chief of Police.

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), (3 cases)
City Attorney Munoz stated there is one case of SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b1)
- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (2 cases)
City Attorney Munoz stated there were no matters of INITIATION OF LITIGATION, Government Code § 54956.9 (c)
- C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (3 cases)
 - 1. Name of Case: 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
 - 2. Name of Case: City of Dana Point v. Warren & Does 1-50, Orange County Superior Court Case No. 04CC07344

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 22, 2004**

3. 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

Mayor Snyder recessed the meeting into a Closed Session at 5:04 p.m. pursuant to Government Code Section 54956 et. seq.

RECONVENE CITY COUNCIL MEETING

Mayor Snyder reconvened the meeting at 6:06 p.m. All Council Members were present.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Joe Snyder.

INVOCATION

The Invocation was led by Bob Moore of VFW Post Number 9934.

PRESENTATIONS AND PROCLAMATIONS

1. Featured Business of the Month – El Patio Cafe
Present to receive a Certificate of Recognition from Mayor Snyder was Jack Saunderson, owner of El Patio Cafe.
2. National Fire Prevention Week Proclamation

Mayor Snyder presented a Proclamation to Battallion Chief Marc Hawkins, proclaiming National Fire Prevention Week.

CONSENT CALENDAR

There were no items removed from the Consent Calendar.

IT WAS MOVED BY MAYOR PRO TEM LACY, SECONDED BY COUNCIL MEMBER RAYFIELD, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR.

The motion carried by the following vote:

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

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 22, 2004**

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.

MAYOR SNYDER REQUESTED THAT THE CITY CLERK READ TITLES OF THE ORDINANCES. CITY CLERK SHARON STREET READ THE TITLES OF ORDINANCES.

2. **REGULAR MEETING MINUTES, AUGUST 25, 2004**

RECEIVED AND FILED.

3. **REGULAR MEETING MINUTES, SEPTEMBER 8, 2004**

RECEIVED AND FILED.

4. **PLANNING COMMISSION MEETING MINUTES, SEPTEMBER 1, 2004**

RECEIVED AND FILED.

5. **PLANNING COMMISSION ACTIONS, MEETING OF SEPTEMBER 15, 2004**

RECEIVED AND FILED.

6. **MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**

RECEIVED AND FILED.

7. **CLAIMS AND DEMANDS**

RECEIVED AND FILED.

8. **ADOPTION OF RESOLUTION ADOPTING THE CITY OF DANA POINT DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM FOR THE PERIOD OF OCTOBER 2004 TO SEPTEMBER 2005 [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]**

(1) ADOPTED **RESOLUTION NO. 04-09-22-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING THE DISADVANTAGED BUSINESS

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 22, 2004**

*ENTERPRISE (DBE) ANNUAL PROGRAM FOR THE PERIOD OF
OCTOBER 2004 TO SEPTEMBER 2005;*

AND (2) AUTHORIZED THE CITY MANAGER TO EXECUTE THE DOCUMENT.

9. **APPROVAL OF PROFESSIONAL SERVICES AGREEMENT FOR AS-NEEDED TRAFFIC ENGINEERING SERVICES** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/ PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

(1) APPROVED THE PROFESSIONAL SERVICES AGREEMENT WITH LINSOTT, LAW AND GREENSPAN, ENGINEERS, FOR AS-NEEDED TRAFFIC ENGINEERING SERVICES IN ACCORDANCE WITH THE PROPOSAL RECEIVED; (2) AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT; (3) AUTHORIZED THE EXPENDITURE FOR TRAFFIC ENGINEERING SERVICES AS NOTED IN ACTION DOCUMENT A AND THE FISCAL IMPACT SECTION OF THE REPORT; (4) ACKNOWLEDGED THAT THE AGREEMENT CAN BE TERMINATED WITHOUT CAUSE UPON 30 DAYS WRITTEN NOTICE; AND (5) ACKNOWLEDGED THAT THE TERM OF THE AGREEMENT IS FOR A PERIOD OF APPROXIMATELY TWO YEARS AND MAY BE RENEWED FOR UP TO THREE CONSECUTIVE ONE-YEAR TERMS BY MUTUAL WRITTEN AGREEMENT OF THE PARTIES.

ORAL REPORTS

There were no Oral Reports.

PUBLIC COMMENTS

Mayor Snyder opened Public Comments.

Bob Moore, Dana Point, spoke regarding improper requests for donations from persons purporting to be acting on behalf of the VFW.

Paul Munroe, Dana Point, spoke regarding the upcoming election.

Gary Newkirk, Dana Point, spoke regarding beaches and ocean quality.

Patrick Evans, Huntington Beach, attorney for some residents of Dana Point

Marina Mobile Home Estates, spoke regarding the General Plan and land use decisions.

Lara Anderson, Dana Point, complimented the City's involvement in Coastal clean Up Day.

Kathy Weaver, Dana Point, expressed her opposition to the closure of Dana Point Marina Mobile Home Estates.

Toni Gallagher, Dana Point, spoke regarding the Mobile Home Park and the Dana Point Headlands.

Terry Walsh, Dana Point, announced on behalf of the Dana Point Historical

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 22, 2004**

Society, the upcoming Dana Point Historical Society's 5th Annual Home Tour.

Alex Lake, Oceanside, spoke regarding the Town Center Plan.

Diane Harkey, Dana Point, spoke regarding the placement and removal of political signs.

Mayor Snyder closed Public Comments.

Mayor Snyder called a recess at 6:57 p.m.

Mayor Snyder reconvened the meeting at 7:17 p.m.

PUBLIC HEARINGS

10. **EXTENSION OF TOWN CENTER LAND USE URGENCY ORDINANCE**
[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

City Manager Chotkevys introduced Director of Community Development Butterwick, who provided a report and an overview of the issue.

Council asked questions of Staff.

Mayor Snyder opened the Public Hearing at 7:22 p.m. and opened Public Comments.

Jeffrey Littell, Costa Mesa, Chairman of Marjack LLC which owns land in the Town Center, asked that the ordinance be revised.

Florentino Ortiz, San Juan Capistrano, spoke in opposition to the recommended action.

Patrick Evans, Huntington Beach, questioned the validity of the General Plan.

Mayor Snyder recessed the meeting at 7:31 p.m.

Mayor Snyder reconvened the meeting at 7:40 p.m.

City Attorney Munoz gave a brief explanation of the public comment process.

Mayor Snyder continued public comments.

Eric Friedrichsen, Carlsbad, and property owner in Dana Point, spoke in opposition to the recommended action.

Alex Lake, Oceanside, and property owner in Dana Point, spoke regarding the Town Center Plan.

Joanna Adrian, Dana Point, spoke in opposition to the recommended action.

Mayor Snyder closed the Public Hearing at 7:51p.m.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 22, 2004**

Council discussion ensued.

NO ACTION WAS TAKEN.

Mayor Snyder recessed the meeting at 8:06 p.m.

Mayor Snyder reconvened the meeting at 8:21 p.m.

11. **GENERAL PLAN AMENDMENT GPA 01-02, ZONE TEXT AMENDMENT ZTA 01-02, ZONE CHANGE ZC 01-01, PLANNED DEVELOPMENT DISTRICT PDD 01-01, AND LOCAL COASTAL PROGRAM AMENDMENT 01-02 TO REVIEW CALIFORNIA COASTAL COMMISSION RECOMMENDED MODIFICATIONS TO THE CITY APPROVAL OF THE DANA POINT HEADLANDS** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

City Manager Chotkevys gave a brief staff report and introduced Director of Community Development Butterwick, who provided a report and an overview of the issue. A slide presentation was given by Paul Huckabee, consultant with Hogle-Ireland.

City Manager Chotkevys gave a staff report. Council questions of staff ensued.

Mayor Snyder opened the Public Hearing at 8:50 p.m.

Mayor Snyder opened public comments.

Sanford Edward, Newport Beach, of Headlands Reserve LLC and property developer, spoke in favor of the recommended action.

Celia Kutcher, Capistrano Beach, spoke in opposition to the recommended action.

Randy Grofik, Dana Point, spoke in opposition to the recommended action.

Greg Sumter, Dana Point, spoke in opposition to the recommended action.

Patrick Evans, Huntington Beach, spoke regarding the validity of the General Plan.

Diane Harkey, Dana Point, expressed concern regarding the funicular, and opined that the hostel could be relocated.

Michael Lewis, San Juan Capistrano, spoke in opposition to the recommended action.

Toni Gallagher, Dana Point, spoke in opposition to the recommended action.

Jerry Grunor, Dana Point, requested that decisions be made unbiased and without prejudice.

John Gile, Dana Point, president of the Dana Point Lighthouse Society, spoke in favor of the recommended action.

Rick Morgan, Dana Point, stated he was neutral, and requested that

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 22, 2004**

Council carefully study the facts.

Donna Watkins, Dana Point, spoke in opposition to the recommended action.

Richard Faulk, Dana Point, spoke in opposition to the recommended action.

Dr. Bud Bruggeman, Dana Point, spoke in favor of the recommended action.

Judy Bourget, MD, Dana Point, spoke in opposition to the funicular.

Sam LaSala, Dana Point, spoke in opposition to the recommended action.

Elaine Grofik, Dana Point, spoke in opposition to the recommended action.

Mayor Snyder recessed the meeting at 9:45 p.m.

Mayor Snyder reconvened the meeting at 9:56 p.m.

Richard Gardner, Capistrano Beach, spoke regarding Proposition 50 and open space.

Sanford Edward Newport Beach, of Headlands Reserve LLC and property developer, spoke in favor of the recommended action.

Mayor Snyder closed the Public Hearing at 10:04 p.m.

Council discussion ensued.

IT WAS MOVED BY COUNCIL MEMBER OSSENMACHER, SECONDED BY COUNCIL MEMBER RAYFIELD,

THAT THE CITY COUNCIL APPROVE THE SUGGESTED MODIFICATIONS APPROVED BY THE CALIFORNIA COASTAL COMMISSION IN ITS CERTIFICATION CITY OF DANA POINT LOCAL COASTAL PROGRAM AMENDMENT 01-02, DANA POINT HEADLANDS, AND THE ADDENDUM TO THE ENVIRONMENTAL IMPACT REPORT AND ADOPT THE RESOLUTIONS.

City Attorney Munoz requested that Council take action on each resolution individually. Council Member Ossenmacher moved the resolutions, seconded by Council Member Rayfield.

ADOPTED RESOLUTION NO. 04-09-22-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT SC#2001071015 AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A REVISED MITIGATION MONITORING AND REPORTING PROGRAM AS THE SUPPORTING ENVIRONMENTAL DOCUMENTATION FOR GENERAL

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 22, 2004**

*PLAN AMENDMENT GPA 01-02, ZONE TEXT AMENDMENT ZTA 01-02,
ZONE CHANGE ZC 01-01, PLANNED DEVELOPMENT DISTRICT PDD
01-01, AND LOCAL COASTAL PROGRAM AMENDMENT LCPA 01-02*

The motion carried by the following vote:

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

ADOPTED RESOLUTION NO. 04-09-22-03 ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA
POINT, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT GPA
01-02, WHICH AMENDS THE GENERAL PLAN LAND USE ELEMENT,
URBAN DESIGN ELEMENT, CIRCULATION ELEMENT, PUBLIC SAFETY
ELEMENT, CONSERVATION AND OPEN SPACE ELEMENT, PUBLIC
FACILITIES/GROWTH MANAGEMENT ELEMENT, TEXT, TABLES AND
DIAGRAMS, AND SUBMISSION OF GPA 01-02 AS LOCAL COASTAL
PROGRAM AMENDMENT LCPA 01-02 FOR FINAL CERTIFICATION BY
THE CALIFORNIA COASTAL COMMISSION*

The motion carried by the following vote:

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

INTRODUCED AN ORDINANCE ENTITLED:

*AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA
POINT, CALIFORNIA, APPROVING PLANNED DEVELOPMENT
DISTRICT PDD 01-01, AND SUBMISSION OF PDD 01-01 AS LOCAL
COASTAL PROGRAM AMENDMENT LCPA 01-02 FOR FINAL
CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION*

The motion carried by the following vote:

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

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 22, 2004**

INTRODUCED AN **ORDINANCE** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA 01-02 TO ADD PLANNED DEVELOPMENT DISTRICTS AS A PERMITTED LAND USE, AND ZONE CHANGE ZC 01-01 WHICH AMENDS THE ZONING MAP DESIGNATION FOR THE HEADLANDS FROM SPECIFIC PLAN OVERLAY AND RESIDENTIAL MULTIPLE FAMILY-14, TO PLANNED DEVELOPMENT DISTRICT, AND SUBMISSION OF ZTA 01-02 AND ZC 01-01 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA 01-02 FOR FINAL CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION

The motion carried by the following vote:

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

ADOPTED **RESOLUTION NO. 04-09-22-04** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING DEVELOPMENT GUIDELINES FOR PLANNED DEVELOPMENT DISTRICT PDD 01-01, AND SUBMISSION OF PDD 01-01 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA 01-02 FOR FINAL CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION

The motion carried by the following vote:

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

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

There was no New Business.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 22, 2004**

STAFF REPORTS

There were no Staff Reports.

COUNCIL REPORTS

Council Member Rayfield thanked the Dana Point Youth Board and the volunteers for their work on Coastal Cleanup Day. He reminded all of the necessity to get rid of standing water in order to assist in efforts to eradicate the threat of West Nile virus. He reminded people of the Public Forum on the Town Center Specific Plan.

Mayor Snyder clarified some public comments made earlier in the meeting, noting that Baby Beach is owned by the County of Orange, and Doheny State Beach is owned by the State of California. He noted that \$3 million has been spent by the City for clean beaches.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Snyder declared the meeting adjourned at 10:49 p.m.

The next Regular Meeting of the City Council will be October 13, 2004 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

SHARON STREET
DIRECTOR OF PUBLIC AFFAIRS/CITY CLERK

APPROVED AT MEETING OF OCTOBER 13, 2004