
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
MARCH 26, 2003**

CALL TO ORDER

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

ROLL CALL

PRESENT: William L. Ossenmacher, Mayor
Joe Snyder, Mayor Pro Tem (*arrived at 5:01 p.m.*)
Wayne Rayfield, Council Member (*arrived at 5:03 p.m.*)
Russell Chilton, Council Member
James Lacy, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Pat Munoz, Interim City Attorney; Cathy Catlett, Assistant City Clerk; Sheryl Lindsey, Director of Administrative Services; Genia Garcia, Acting Director of Community Development; Robert Warren, Director of Public Works and Engineering Services; Kevin Evans, Recreation Manager; and Mark Billings, Chief of Police Services.

CLOSED SESSION

Interim 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), (2 cases)
- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (2 cases)

Mayor Ossenmacher recessed the meeting into a Closed Session at 5:01 p.m. pursuant to Government Code Section 54956 et. seq.

RECONVENE CITY COUNCIL MEETING

Mayor Ossenmacher reconvened the meeting at 6:15 p.m. All Council Members were present.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Pro Tem Snyder.

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INVOCATION

The Invocation was given by Council Member Chilton.

CONSENT CALENDAR

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

The motion carried by the following vote:

AYES: Council Members Chilton, Lacy, Rayfield, Mayor Pro Tem Snyder
and Mayor Ossenmacher
NOES: 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. REGULAR MEETING MINUTES, MARCH 12, 2003

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, MARCH 5, 2003 (0120-10)

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF MARCH 19, 2003 (0120-10)

RECEIVED AND FILED.

5. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR (0100-10)

RECEIVED AND FILED.

6. CLAIMS AND DEMANDS (0300-30)

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

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7. AWARD OF CONTRACT TO BRONGO CONSTRUCTION FOR THE CONSTRUCTION OF THE CONCRETE REPAIR AND REPLACEMENT PROJECT, FY 02/03 *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0400-10)*

(1) AWARDED A CONTRACT TO BRONGO CONSTRUCTION IN THE NOT-TO-EXCEED AMOUNT OF \$589,226.20 FOR THE CONSTRUCTION OF THE CONCRETE REPAIR AND REPLACEMENT PROJECT, FY 02/03; (2) AUTHORIZED THE CITY MANAGER TO EXECUTE THE CONTRACT; (3) AUTHORIZED THE EXPENDITURE OF \$79,000 FOR FIELD DESIGN MARK-OUTS/CONSTRUCTION SUPPORT SERVICES FOR REPAIR AND REPLACEMENT LOCATIONS PRIOR TO CONSTRUCTION IN THE VARIOUS CONSTRUCTION ZONES; (4) AUTHORIZED THE EXPENDITURE OF \$149,760 FOR CONSTRUCTION MANAGEMENT AND ADMINISTRATION; (5) AUTHORIZED A PURCHASE ORDER TO THE COUNTY OF ORANGE FOR SUPPLEMENTAL INSPECTION SERVICES FOR A NOT-TO-EXCEED AMOUNT OF \$102,661; (6) AUTHORIZED THE EXPENDITURE OF UP TO \$50,000 FOR ADDITIONAL INSPECTION SERVICES IF THE NEED ARISES ONCE THE PROJECT IS IN CONSTRUCTION; (7) AUTHORIZED A PURCHASE ORDER TO GOFFMAN MCCORMICK AND URBAN TO PROVIDE MATERIALS TESTING SERVICES FOR A NOT-TO-EXCEED FEE OF \$45,000; AND (8) ACKNOWLEDGED THAT THE DIRECTOR OF PUBLIC WORKS INTENDS TO UTILIZE CITY STAFF, VIA THE INTERIM STREET MAINTENANCE/PUBLIC WORKS INSPECTOR, FOR FULL TIME INSPECTION SERVICES FOR THIS PROJECT.

8. REJECTION OF ALL BIDS FOR THE CONSTRUCTION OF THE ALIPAZ RIGHT-OF-WAY LANDSCAPING PROJECT – STONEHILL DRIVE TO QUAIL RUN *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0370-38)*

(1) REJECTED ALL BIDS RECEIVED FOR THE CONSTRUCTION OF THE ALIPAZ RIGHT-OF-WAY LANDSCAPING PROJECT; (2) AUTHORIZED THE RETURN OF ALL CONTRACTOR-SUBMITTED BID SECURITIES FOR THE PROJECT; AND (3) AUTHORIZED STAFF TO REVISE THE BID DOCUMENTS AND RE-ADVERTISE THE PROJECT FOR CONSTRUCTION BIDS AS SOON AS POSSIBLE.

9. FIRST AMENDMENT TO CITY MANAGER CONTRACT *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES] (0400-10)*

APPROVED THE CONTRACT AMENDMENT.

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- 10. APPROVAL OF FINAL PLANS AND AUTHORIZATION TO ADVERTISE THE DEL OBISPO STORM DRAIN TREATMENT PROJECT** *[STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES] (0370-32)*

APPROVED THE FINAL PLANS, INCLUDED IN THE REPORT AS SUPPORTING DOCUMENT A, AND AUTHORIZED STAFF TO ADVERTISE THE DEL OBISPO STORM DRAIN TREATMENT PROJECT.

- 11. ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CRYSTAL LANTERN STORM DRAIN PHASE I PROJECT** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0400-10)*

(1) ADOPTED **RESOLUTION NO. 03-03-26-01**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CRYSTAL LANTERN STORM DRAIN PHASE I PROJECT;

(2) DIRECTED THE CITY ATTORNEY TO CONTINUE NEGOTIATIONS WITH THE IFT PIPELINE ENGINEERS' SURETY, AMERICAN SAFETY CASUALTY INSURANCE COMPANY, RELATED TO LIQUIDATED DAMAGES AND THE UNRESOLVED ISSUE OF THE BRICK SIDEWALK AT 34142 MANZANITA; AND
(3) DIRECTED THAT ANY PROJECT SAVINGS BE TRANSFERRED TO THE CAPITAL IMPROVEMENT PROGRAM (CIP) RESERVES.

- 12. APPROVAL OF AMENDMENT TO AGREEMENT WITH TETRA TECH, INC. FOR ADDITIONAL DESIGN SERVICES FOR THE STORM DRAIN MASTER PLAN IMPROVEMENTS – PHASE II PROJECT** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0400-10)*

(1) APPROVED AN AMENDMENT TO THE AGREEMENT WITH TETRA TECH, INC. FOR ADDITIONAL DESIGN SERVICES FOR THE STORM DRAIN MASTER PLAN IMPROVEMENTS – PHASE II PROJECT FOR A NOT-TO-EXCEED FEE OF \$121,919; (2) AUTHORIZED THE CITY MANAGER TO EXECUTE THE AMENDMENT; AND (3) AUTHORIZED THE EXPENDITURE OF \$10,000 FOR ADDITIONAL PROJECT MANAGEMENT SERVICES FOR THE STORM DRAIN MASTER PLAN IMPROVEMENTS – PHASE II PROJECT.

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- 13. AUTHORIZATION TO AMEND THE PURCHASE ORDER WITH PBS&J FOR ASSISTANCE WITH THE IMPLEMENTATION OF THE CITY'S JURISDICTIONAL URBAN RUNOFF MANAGEMENT PROGRAM TO COMPLY WITH THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT REQUIREMENTS [STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES] (0400-10)**

AUTHORIZED THE AMENDMENT OF THE PURCHASE ORDER WITH PBS&J IN AN AMOUNT NOT TO EXCEED \$40,000 FOR ADDITIONAL PROFESSIONAL ASSISTANCE IN IMPLEMENTING THE JURISDICTIONAL URBAN RUNOFF MANAGEMENT PROGRAM, ALSO KNOWN AS THE LOCAL IMPLEMENTATION PLAN (LIP), FOR THE REMAINDER OF THIS FISCAL YEAR.

PRESENTATIONS AND PROCLAMATIONS

Assistant City Clerk Catlett administered the Oath of Office to newly appointed Planning Commission Members Norman Denton III, April O'Connor, Greg Powers and Steven Weinberg and presented each of them with a Certificate of Appointment.

Mayor Ossenmacher recognized the contributions made by former Planning Commissioners Russell Chilton, James V. Lacy and Donald Goodkind and presented each of them with a City Seal Tile Plaque.

PUBLIC COMMENTS

Bob Moore, Dana Point, representing Veterans of Foreign Wars Dana Point Post 9934, encouraged contributions to the Navy/Marine Relief Society to provide necessary aid to families of military serving in the Iraq conflict.

Kathy Weaver, Dana Point, spoke regarding the Dana Point Marina Mobile Home Estates.

Robert McDonald, Capistrano Beach, spoke regarding the hazards of Orange County Transit District buses making u-turns at Calle Hermosa and Camino de Estrella.

Colene Schwandt, Dana Point, invited everyone to "Mostly Americana," an afternoon tea and concert to be held on April 27, 2003 at the Camino Real Playhouse in San Juan Capistrano.

PUBLIC HEARINGS

- 14. ZONE TEXT AMENDMENT FOR MINOR CHANGES AND CLARIFICATIONS TO THE ZONING CODE CLEAN-UP AND AMENDMENTS TO THE CURRENT ADULT BUSINESS REGULATIONS (0610-15)**

Acting Director of Community Development Garcia presented the staff report.

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Mayor Ossenmacher opened the Public Hearing.

Hearing no requests from the public to speak, Mayor Ossenmacher closed the Public Hearing.

Jeffrey Goldfarb, City Attorney's office, responded to questions by the City Council.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON, TO READ BY TITLE ONLY THE TITLES OF THE TWO ORDINANCES TO BE INTRODUCED AND THAT FURTHER READING OF THOSE ORDINANCES BE WAIVED.

The motion carried by the following vote:

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

Assistant City Clerk Catlett read the titles only of the two ordinances to be introduced.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON, TO:

(1) ADOPT **RESOLUTION NO. 03-03-26-02**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NEGATIVE DECLARATION FOR A ZONE TEXT AMENDMENT AND LOCAL COASTAL PROGRAM AMENDMENT TO AMEND THE ZONING CODE TO PROVIDE CLARIFICATION AND CONSISTENCY OF EXISTING REGULATIONS AND TO INTRODUCE NEW PROVISIONS WHICH FURTHER THE GOALS OF THE GENERAL PLAN;

(2) INTRODUCE AN ORDINANCE TO AMEND THE ZONING CODE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A ZONE TEXT AMENDMENT AND LOCAL COASTAL PROGRAM AMENDMENT REVISING THE CITY OF DANA POINT ZONING CODE TO PROVIDE CLARIFICATION AND CONSISTENCY OF EXISTING REGULATIONS AND TO INTRODUCE NEW PROVISIONS WHICH FURTHER THE GOALS OF THE GENERAL PLAN;

AND (3) INTRODUCE AN ORDINANCE TO REVISE THE CITY'S ADULT BUSINESS REGULATIONS ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 5.32, SECTION 9.07.090 AND SECTION

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9.75 OF THE DANA POINT MUNICIPAL CODE RELATING TO ADULT ORIENTED BUSINESS PERMITS.

The motion carried by the following vote:

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

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

15. AWARD OF CONTRACT FOR THE 4TH OF JULY AERIAL FIREWORKS DISPLAY AND BARGE CONTRACT *[STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES] (0400-10)*

Director of Administrative Services Lindsey introduced Recreation Manager Evans who presented the staff report including a visual presentation describing the proposed fireworks display.

IT WAS MOVED BY MAYOR OSSENMACHER, SECONDED BY COUNCIL MEMBER RAYFIELD, TO APPROVE THE FOLLOWING FOR THE 2003 FOURTH OF JULY AERIAL FIREWORKS DISPLAY:

1. CONTRACT WITH FIREWORKS & STAGE FX AMERICA IN THE AMOUNT OF \$40,000 FOR THE AERIAL DISPLAY;
2. CONTRACT WITH FOSS MARITIME COMPANY IN THE AMOUNT OF \$11,800 TO PROVIDE A BARGE TO BE USED AS THE STAGING AREA FOR THE FIREWORKS DISPLAY; AND
3. AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENTS.

The motion carried by the following vote:

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

ORAL REPORTS

There were no Oral Reports.

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STAFF REPORTS

City Manager Chotkevys reported he had testified before the California High Speed Rail Authority in San Diego yesterday. Mr. Chotkevys reported the City of Dana Point was working with the City of San Clemente to get double-tracking away from the coast, and encouraged the public to attend a High Speed Rail Authority meeting on April 2nd at 6:30 p.m. in the city of San Clemente to voice their opinion.

COUNCIL REPORTS

COUNCIL MEMBER RAYFIELD:

Council Member Rayfield reported on his attendance at the Orange County Sheriff's Department Medal of Valor luncheon held today and expressed appreciation to the Sheriff's Department for their work.

Council Member Rayfield stated someone from the City of Dana Point should attend the City of San Clemente City Council meeting to protect the safety and interest of our community with regard to the Orange County Transit Authority bus u-turn issue addressed by Mr. McDonald earlier in tonight's meeting. Mr. Rayfield also suggested placing this issue on the agenda for the next City Council meeting.

MAYOR PRO TEM SNYDER:

Mayor Pro Tem Snyder reported on his attendance at the Medal of Valor luncheon today and noted that the City of Dana Point was well-represented receiving one-third of the medals presented with five Dana Point deputies receiving six medals. Mr. Snyder congratulated Chief of Police Services Billings and all of his deputies for an outstanding performance of duties for this community.

COUNCIL MEMBER LACY:

Council Member Lacy reported he was unable to attend the Medal of Valor luncheon today due to the hospitalization of a friend. Mr. Lacy offered congratulations to Chief of Police Services Billings and the Dana Point professionals recognized today.

COUNCIL MEMBER CHILTON:

Council Member Chilton stated he had the opportunity to work with the deputies who had received awards today at the Medal of Valor luncheon and noted that the City is fortunate to have the finest law enforcement agency in the country. Mr. Chilton noted that Chief of Police Service Billings and all members of the Sheriff's Department do a fabulous job.

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Chief of Police Services Billings thanked the City Council, City Manager, City Attorney and City staff present at the ceremony today and noted that the relationship between the City and Police Services makes this a great place to live and visit.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Ossenmacher declared the meeting adjourned at 6:59 p.m.

The next Regular Meeting of the City Council will be Wednesday, April 9, 2003, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

CATHY CATLETT
ASSISTANT CITY CLERK

APPROVED AT MEETING OF APRIL 9, 2003