
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
OCTOBER 22, 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 5:20 p.m.*)
Wayne Rayfield, Council Member
Russell Chilton, Council Member
James Lacy, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Pat Munoz, City Attorney; Cathy Catlett, Interim City Clerk; Sheryl Lindsey, Director of Administrative Services; Kyle Butterwick, Director of Community Development; Genia Garcia, Senior Planner; Albert Armijo, Planning Consultant; Larry Pierce, Interim Director of Public Works and Engineering Services; 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), (2 cases)
- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (2 cases)
- C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, Government Code § 54956.8, (2 cases)
 - 1. Property: 26351 and 26315 Via Canon, Dana Point, CA
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

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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, SEPTEMBER 24, 2003

APPROVED THE MINUTES.

**3. PLANNING COMMISSION MEETING MINUTES, MEETING OF SEPTEMBER
17, 2003**

RECEIVED AND FILED.

**4. PLANNING COMMISSION MEETING MINUTES, MEETING OF OCTOBER 1,
2003**

RECEIVED AND FILED.

**5. PLANNING COMMISSION/COMMITTEE ACTIONS, MEETING OF OCTOBER 1,
2003**

RECEIVED AND FILED.

**6. PLANNING COMMISSION/COMMITTEE ACTIONS, MEETING OF OCTOBER
15, 2003**

This item was removed from the Consent Calendar by a member of the public.

City Manager Chotkevys presented the staff report.

Richard Dietmeier, Dana Point, commented on the Actions being too brief.

Mayor Ossenmacher noted Planning Commission Actions were not a detailed
accounting of proceedings and that the formal minutes of the meeting would reflect
specifics.

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IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON, TO RECEIVE AND FILE THE PLANNING COMMISSION ACTIONS OF THE OCTOBER 15, 2003 MEETING.

The motion carried by the following vote:

AYES: Council Members Chilton, Lacy, Rayfield, Mayor Pro Tem Snyder and Mayor Ossenmacher

NOES: None

7. YOUTH BOARD MEETING MINUTES, MEETING OF SEPTEMBER 4, 2003

RECEIVED AND FILED.

8. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

9. CITY TREASURER'S REPORT, AUGUST 2003

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF AUGUST 2003.

10. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

11. LIBRARY FACILITY STUDY UPDATE – GRANT APPLICATION *[STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES]*

This item was removed from the Consent Calendar by a member of the public.

City Manager Chotkevys presented the staff report.

Ingrid McGuire, Dana Point, President of the Friends of the Dana Point Library, stated the current library was too small and in need of revitalization.

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IT WAS MOVED BY MAYOR PRO TEM SNYDER, SECONDED BY COUNCIL MEMBER RAYFIELD, TO:

1. RECEIVE AND FILE THE REPORT ON THE STATUS OF THE LIBRARY FACILITIES STUDY; AND
2. REVIEW AND APPROVE THE RECOMMENDED REVISED SITE LAYOUT.

The motion carried by the following vote:

AYES: Council Members Chilton, Lacy, Rayfield, Mayor Pro Tem Snyder and Mayor Ossenmacher

NOES: None

- 12. APPROVAL AND EXECUTION OF THE JOINT USE COOPERATIVE AGREEMENT BETWEEN THE CITY OF DANA POINT, CAPISTRANO UNIFIED SCHOOL DISTRICT, THE COUNTY OF ORANGE, AND THE ORANGE COUNTY PUBLIC LIBRARY WITH REGARDS TO PROVIDING A HOMEWORK CENTER AND SPECIAL NEEDS CENTER AT THE PROPOSED DANA POINT BRANCH LIBRARY** *[STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES]*

APPROVED AND EXECUTED THE JOINT USE COOPERATIVE AGREEMENT BETWEEN THE CITY OF DANA POINT, CAPISTRANO UNIFIED SCHOOL DISTRICT (CUSD), THE COUNTY OF ORANGE, AND ORANGE COUNTY PUBLIC LIBRARY (OCPL) WITH REGARDS TO PROVIDING A HOMEWORK CENTER AND SPECIAL NEEDS CENTER AT THE PROPOSED DANA POINT BRANCH LIBRARY.

- 13. PURCHASE OF TWO ALTERNATIVE FUEL PICKUP TRUCKS AND RETROFITTING THE EXISTING COMPRESSED NATURAL GAS (CNG) FUELING STATION WITH AB2766 FUNDS** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST- EFFECTIVENESS]*

THIS ITEM WAS WITHDRAWN FROM THE AGENDA BY STAFF.

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- 14. APPROVAL OF THIRD AMENDMENT TO AGREEMENT WITH UNITED STORM WATER, INC. TO MAINTAIN ALL STORM DRAIN FILTERS (CLEANING AND TESTING) AND TO EXPAND THE SCOPE OF SERVICES TO INCLUDE MAINTENANCE OF SOLIDS REMOVAL SYSTEMS AND DIVERSIONS** *[STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES]*

(1) APPROVED THE THIRD AMENDMENT TO THE AGREEMENT WITH UNITED STORM WATER, INC. FOR A NINETEEN AND ONE-HALF MONTH CONTRACT TIME EXTENSION TO COINCIDE WITH FISCAL YEAR ENDING JUNE 30, 2005 WITH TWO OPTIONAL ONE-YEAR RENEWALS, TO MAINTAIN ALL STORM DRAIN FILTERS (CLEANING AND TESTING), AND TO EXPAND THE SCOPE OF SERVICES TO INCLUDE MAINTENANCE OF SOLIDS REMOVAL SYSTEMS AND DIVERSIONS IN THE CITY; AND (2) AUTHORIZED THE CITY MANAGER TO EXECUTE THE AMENDMENT.

- 15. APPROVAL OF CITY PARTICIPATION FOR THE 2004 DANA POINT FESTIVAL OF WHALES 5K SPLASH AND FUN RUN** *[STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES]*

THIS ITEM WAS WITHDRAWN FROM THE AGENDA BY STAFF.

- 16. AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE CONSTRUCTION OF THE OPEN SPACE BEAUTIFICATION IMPROVEMENTS AT THE CITY-OWNED LOT LOCATED AT 24611 LA CRESTA DRIVE** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

AUTHORIZED THE ADVERTISEMENT FOR BIDS FOR THE CONSTRUCTION OF THE OPEN SPACE BEAUTIFICATION IMPROVEMENTS AT THE CITY-OWNED LOT LOCATED AT 24611 LA CRESTA DRIVE.

- 17. ADOPTION OF A RESOLUTION ACCEPTING EASEMENTS ACROSS REAL PROPERTY FOR PUBLIC ACCESS ACROSS LOT A, LOT C AND LOT E, ALL OPEN SPACE AREAS, IN TRACT NUMBER 15405 (BAL HARBOUR)** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

ADOPTED **RESOLUTION NO. 03-10-22-01**, A RESOLUTION ACCEPTING EASEMENTS ACROSS REAL PROPERTY FOR PUBLIC ACCESS ACROSS LOT A, LOT C AND LOT E, ALL OPEN SPACE AREAS, IN TRACT NUMBER 15405 (BAL HARBOUR).

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18. APPROVAL OF ADDITIONAL PROJECT MANAGEMENT FOR THE STORM DRAIN MASTER PLAN IMPROVEMENTS – PHASE II PROJECT *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

AUTHORIZED THE EXPENDITURE FOR ADDITIONAL PROJECT MANAGEMENT SERVICES FOR THE STORM DRAIN MASTER PLAN IMPROVEMENTS – PHASE II PROJECT.

PRESENTATIONS AND PROCLAMATIONS

Proclamation - Dana Point Deputy of the Year, 2003

Chief of Police Services Billings introduced Dana Point 2003 Deputy of the Year Paul Martin and spoke of his many accomplishments.

Mayor Ossenmacher and Chief of Police Services Billings presented Deputy Martin with an official proclamation.

Featured Business of the Month – Cliff Wassmann Fine Art

Director of Administrative Services Lindsey narrated a photo presentation depicting Cliff Wassmann's gallery and art.

Mayor Ossenmacher presented Cliff Wassmann with an official certificate recognizing Cliff Wassmann Fine Art as the Featured Business of the Month.

PUBLIC COMMENTS

Laura Peterson, Dana Point, Dana Point Youth Board Member, stated she was the City Council liaison from the Youth Board this year and that one Youth Board Member would be in attendance at each City Council meeting.

Richard Froehlich, Capistrano Beach, distributed packets with geological studies and photos of properties along Camino Capistrano and spoke of the removal of talus and bedrock in that area.

Dean Clark, Capistrano Beach, spoke of the fragility of the slope along Camino Capistrano.

Stephen Coppola, Dana Point, spoke in support of a skateboard park for Dana Point youth.

Roger von Butow, Laguna Beach, spoke regarding the South Orange County Watershed Conservancy which will be seating officers on November 1st.

Edward Kopp, Capistrano Beach, spoke regarding the compromised foundation of properties along Camino Capistrano.

Pam Tappan, Capistrano Beach, spoke regarding Paul Douglas's termination from Pioneer Builders and distributed information regarding him.

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Barbara Drummond, Dana Point, spoke regarding Pioneer Builder's not reversing the floor plan on Lot 8 on a project located in Capistrano Beach.

Elaine Zax, Capistrano Beach, spoke regarding the Pioneer project and a high wall built there.

PUBLIC HEARINGS

- 19. HEARING ON APPEAL OF PLANNING COMMISSION DECISION DENYING SITE DEVELOPMENT PERMIT SDP03-23(M) TO ALLOW CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE WITH A HABITABLE AREA OF 2,932 SQUARE FEET ON A STEEPLY SLOPING 3,887 SQUARE FOOT LOT, WITH VARIANCES TO STRUCTURAL HEIGHT, FRONT YARD SETBACK, REAR YARD SETBACK, AND STEPPED BACK DISTANCE AND EXTENSION FOR EACH FLOOR ABOVE THE FIRST FLOOR OF THE STRUCTURE FROM THE FLOOR BELOW, FOR PROPERTY LOCATED AT 34111 STREET OF THE BLUE LANTERN** *[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]*

City Manager Chotkevys introduced Director of Community Development Butterwick, who stated correspondence had been received from the appellant/applicant's representative requesting withdrawal of the appeal. The applicant intends to submit a revised project to the City for consideration by the Planning Commission.

NO ACTION TAKEN ON THIS ITEM.

- 20. HEARING ON APPEAL OF PLANNING COMMISSION DECISION APPROVING A ONE YEAR EXTENSION OF TIME FOR TENTATIVE TRACT MAP TTM16197 TO SUBDIVIDE A 2-ACRE SITE INTO EIGHT NUMBERED LOTS AND ONE LETTERED LOT IN ORDER TO CONSTRUCT EIGHT SINGLE-FAMILY HOMES AND RELATED SITE IMPROVEMENTS ON PROPERTY LOCATED ON THE NORTH SIDE OF CAMINO CAPISTRANO, BETWEEN PASEO PINZON AND CALLE ANEJO IN THE CAPISTRANO BEACH AREA OF THE CITY** *[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]*

Mayor Pro Tem Snyder indicated that he had a Conflict of Interest with this issue and would not be participating in this discussion. Mayor Pro Tem Snyder left the Council Chambers.

City Manager Chotkevys introduced Director of Community Development Butterwick who presented the staff report.

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Planning Consultant Armijo and Deputy City Engineer Sinacori responded to questions from the City Council.

Mayor Ossenmacher opened the Public Hearing.

Pam Tappan, Capistrano Beach, appellant, reviewed the past two and one-half years of this project and spoke of misrepresentations by Pioneer Builders. Ms. Tappan reviewed her reasons for appealing the one year extension of time for Tentative Tract Map TTM16197.

Terry Hirschag, San Clemente, applicant, owner of Pioneer Builders, requested an extension of Tentative Tract Map TTM16197 and reviewed the progress of the project to date.

Margaret O'Rourke, San Clemente, expressed concern with the height of walls in the project and the continual delivery of landfill to the project.

Pam Tappan, Capistrano Beach, appellant, spoke regarding conditions not having been met by the builder of this project, and requested that the builder follow Dana Point codes.

Terry Hirschag, San Clemente, applicant, stated Pioneer Builders had followed Code and the direction of the City Council and was looking forward to continuing with the project.

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

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER LACY, TO REVERSE THE PLANNING COMMISSION DECISION AND DENY THE EXTENSION APPLICATION, AND DIRECT STAFF TO PREPARE A RESOLUTION FOR THE CONSENT CALENDAR OF THE NEXT REGULARLY SCHEDULED MEETING.

The motion carried by the following vote:

AYES: Council Members Chilton, Lacy, Rayfield
and Mayor Ossenmacher

NOES: None

ABSENT: Mayor Pro Tem Snyder

Mayor Pro Tem Snyder returned to the Council Chambers.

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**21. EXTENSION OF TOWN CENTER LAND USE URGENCY ORDINANCE
[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]**

City Manager Chotkevys introduced Director of Community Development Butterwick who presented the staff report.

Mayor Ossenmacher opened the Public Hearing.

Kirk Lapple, Dana Point, Dana Point Chamber of Commerce, stated the Chamber of Commerce supports the proposed ordinance.

Fred Pardes, Dana Point, spoke in opposition to the proposed ordinance.

Lynn Muir, Dana Point, spoke in opposition to the proposed ordinance.

Eric James, Dana Point, spoke in opposition to the proposed ordinance.

Marlyn Ortiz, San Juan Capistrano, property owner in Dana Point, spoke in opposition to the proposed ordinance.

Richard Dietmeier, Dana Point, spoke in opposition to the proposed ordinance.

Georgia Theodor, Dana Point, requested Council to remember the small "Mom and Pop" businesses in Dana Point when considering this proposed ordinance.

Howard Jones, Laguna Beach, spoke in opposition to the proposed ordinance.

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

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM SNYDER, TO ADOPT **ORDINANCE NO. 03-16**, AN *URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA EXTENDING AN INTERIM ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858(a) PERTAINING TO LAND USES IN THE TOWN CENTER, DECLARING THE URGENCY THEREOF, FOR A PERIOD OF 10 MONTHS, 15 DAYS*

EXTENDING THE LAND USES PROVISIONS IN THE TOWN CENTER FOR AN ADDITIONAL 10 MONTHS, 15 DAYS.

The motion carried by the following vote:

AYES: Council Members Chilton, Lacy, Rayfield, Mayor Pro Tem Snyder and Mayor Ossenmacher

NOES: None

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As there was not a City Council four-fifths majority to continue the meeting beyond the 11:00 p.m. time certain for adjournment, Mayor Ossenmacher stated the remaining items on the agenda would not be heard.

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

There was no New Business.

ORAL REPORTS

This item was not heard.

STAFF REPORTS

This item was not heard.

COUNCIL REPORTS

This item was not heard.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Ossenmacher declared the meeting adjourned at 11:07 p.m.

The next Regular Meeting of the City Council will be Wednesday, November 12, 2003, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

CATHY CATLETT
INTERIM CITY CLERK

APPROVED AT MEETING OF NOVEMBER 26, 2003