

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

Reviewed	
By:	
DH	✓
CM	—

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
Wayne Rayfield, Council Member
Russell Chilton, Council Member
James Lacy, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Pat Munoz, Interim City Attorney; Susan A. Ramos, Director of Public Affairs/City Clerk; Sheryl Lindsey, Director of Administrative Services; Genia Garcia, Acting Director of Community Development; Matt Sinacori, Interim City Engineer, Mark Billings, Chief of Police Services.

CLOSED SESSION

City Attorney Munoz indicated there was a need for Closed Session on the following:

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b1), (1 case)
- B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Government Code § 54957.6
Title: City Manager

Mayor Ossenmacher recessed the meeting into a Closed Session at 5:05 p.m. pursuant to Government Code Section 54956 et. seq.

RECONVENE CITY COUNCIL MEETING

Mayor Ossenmacher reconvened the meeting at 6:30 p.m. All Council Members were present.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Rayfield

INVOCATION

The Invocation was given by Council Member Lacy.

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CONSENT CALENDAR

Members of the public removed Items 5, 6 and 15 from the Consent Calendar.
Staff withdrew Item 17 from the Consent Calendar.
Councilmember Rayfield removed Item 18 from the 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 WITH THE EXCEPTION OF ITEMS 5, 6, 15, 17 AND 18.

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 WAIVED FURTHER READING OF SUCH ORDINANCES.

2. REGULAR MEETING MINUTES, FEBRUARY 12, 2003

APPROVED AND FILED.

3. PLANNING COMMISSION MEETING MINUTES, JANUARY 15, 2003 (0120-10)

RECEIVED AND FILED.

4. PLANNING COMMISSION MEETING MINUTES, FEBRUARY 5, 2003 (0120-10)

RECEIVED AND FILED.

5. PLANNING COMMISSION ACTIONS, MEETING OF FEBRUARY 5, 2003 (0120-10)

THIS ITEM WAS PULLED BY THE PUBLIC.

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Genia Garcia, Acting Director of Community Development, presented the item.

Barbara Drummond, Dana Point, expressed support of Variance V02-19 and opposition to the floor plan submitted by Pioneer Builders for Lot 8, Tract 16197 under SDP01-80 because it does not comply with the provisions of the City's condition #17. She expressed opposition to the City's policy for speaker times and asked that it be amended to allow more time for the public.

Pam Tappan, Dana Point, expressed support of Variance V02-19 and opposition to the floor plan submitted by Pioneer Builders for Lot 8, Tract 16197 for SDP01-80 because it does not meet the City's imposed condition #17 of this project.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM SNYDER TO RECEIVE AND FILE THE PLANNING COMMISSION ACTIONS OF THE MEETING OF FEBRUARY 5, 2003.

The motion carried by the following vote:

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

**6. PLANNING COMMISSION ACTIONS, MEETING OF FEBRUARY 19, 2003
(0120-10)**

This item was pulled by the public.

Barbara Drummond, Dana Point, said she had no further comments on this matter.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON TO RECEIVE AND FILE THE PLANNING COMMISSION ACTIONS OF THE MEETING OF FEBRUARY 19, 2003.

The motion carried by the following vote:

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

7. YOUTH BOARD MEETING MINUTES, OCTOBER 17, 2002 (0120-40)

RECEIVED AND FILED.

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8. **YOUTH BOARD MEETING MINUTES, NOVEMBER 7, 2002 (0120-40)**
RECEIVED AND FILED.
9. **YOUTH BOARD MEETING MINUTES, NOVEMBER 21, 2002 (0120-40)**
RECEIVED AND FILED.
10. **YOUTH BOARD MEETING MINUTES, DECEMBER 19, 2002 (0120-40)**
RECEIVED AND FILED.
11. **MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR (0100-10)**
RECEIVED AND FILED.
12. **CLAIMS AND DEMANDS (0300-30)**
RECEIVED AND FILED.
13. **APPROVAL OF SECOND AMENDMENT TO THE RECREATION SERVICES AGREEMENT FOR SUMMER AQUATICS PROGRAM [STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES] (0400-10)**
APPROVED THE SECOND AMENDMENT TO THE RECREATION SERVICES AGREEMENT WITH DANA POINT AQUATICS TO OPERATE THE CITY OF DANA POINT SUMMER AQUATICS PROGRAM AT DANA HILLS HIGH SCHOOL.
14. **APPROVAL OF FUNDING FOR GRAD NITE 2003 AT DANA HILLS AND SAN CLEMENTE HIGH SCHOOLS [STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES] (0330-25)**
APPROVED THE DISTRIBUTION OF FUNDS FOR GRAD NITE 2003 TO DANA HILLS AND SAN CLEMENTE HIGH SCHOOL AS FOLLOWS: DANA HILLS HIGH SCHOOL - \$3,000; SAN CLEMENTE HIGH SCHOOL - \$1,000.
15. **LIBRARY FACILITY STUDY UPDATE - GRANT APPLICATION [STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES] (0120-40)**

Doug Chotkevys, City Manager, presented the staff report.

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June Bauer, Friends of Dana Point Library, commented on some of the needs of the library and urged the Council to move forward with the application.

Ingrid McGuire, Dana Point, expressed support for a new Library and is concerned about postponing the application submittal.

Steven Weinberg, Dana Point, suggested locating the proposed library in the center of town where it could draw shoppers, tourists, merchants and other people to it.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON TO RECEIVE AND FILE THE STATUS REPORT OF THE LIBRARY FACILITIES STUDY; TO DIRECT STAFF TO PURSUE AN ALTERNATIVE FACILITIES PLAN THAT LOCATES THE NEW LIBRARY FACILITY IN SEA TERRACE PARK AND PRESERVE THE EXISTING FACILITY FOR CULTURAL ACTIVITIES, ART GALLERY AND MEETING SPACE; AND, TO DEVELOP CONCEPTUAL BUILDING DESIGNS FOR COUNCIL REVIEW. THE COUNCIL ALSO DIRECTED STAFF TO TAKE ADDITIONAL STEPS TO CONTACT THE COUNTY OF ORANGE BOARD OF SUPERVISORS TO ELICIT ANY SUPPORT IT CAN PROVIDE TO ASSIST THE CITY IN GETTING THE LIBRARY APPLICATION PROPOSAL THROUGH.

The motion carried by the following vote:

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

16. **RESOLUTION AMENDING ANIMAL CONTROL SERVICE FEES FOR CASA** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS] (0390-23)*

ADOPTED **RESOLUTION 03-02-26-01**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING THE FEE SCHEDULE FOR ANIMAL SERVICES PROVIDED BY THE COASTAL ANIMAL SERVICES AUTHORITY

17. **CONTRACT WITH MBIA MUNISERVICES COMPANY TO PROVIDE TRANSIENT OCCUPANCY TAX (TOT) AUDITING SERVICES** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS] (0400-10)*

THIS ITEM WAS WITHDRAWN FROM THE AGENDA BY STAFF.

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18. **CITY COUNCIL DENIAL WITHOUT PREJUDICE OF COASTAL DEVELOPMENT PERMIT CDP01-36 AND SITE DEVELOPMENT PERMIT SDP01-62** *[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)*

This item was removed by Council Member Rayfield.

There was no need for a staff report presentation.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR OSSENMACHER TO 1) ADOPT **RESOLUTION NO. 03-02-26-03**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DENYING WITHOUT PREJUDICE COASTAL DEVELOPMENT PERMIT CDP01-36 AND SITE DEVELOPMENT PERMIT SDP01-62, TO ALLOW FOR THE DEMOLITION OF AN EXISTING MOTEL, A LOT LINE ADJUSTMENT TO COMBINE TWO PARCELS, AND FOR THE CONSTRUCTION OF A NEW APPROXIMATE 2,301 SQUARE FOOT RESTAURANT AND OFFICE BUILDING ON THE EASTERN TWO (2) PARCELS OF A FIVE (5) PARCEL BLOCK IN CONJUNCTION WITH A REQUEST FOR THE JOINT USE OF PARKING FACILITIES BETWEEN THE EXISTING AND PROPOSED USES FOR THE NEW OFFICE/RESTAURANT BUILDING AT 34224-30 PACIFIC COAST HIGHWAY; AND, 2) TO DIRECT STAFF TO WAIVE ADDITIONAL APPLICATION FEES FOR THE RESUBMITTAL THAT MAY HAVE ALREADY BEEN PAID AS PART OF THE PROJECT.

The motion carried by the following vote:

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

19. **ESTABLISHMENT OF AN EXEMPT POSITION TITLE AND SALARY RANGE – STREET MANAGER / PUBLIC WORKS INSPECTOR** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS] (0110-60)*

ADOPT **RESOLUTION 03-02-26-02**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ESTABLISHING AN ADDITIONAL POSITION TITLE AND SALARY RANGE.

20. **APPROVAL OF A PROPOSAL FROM WEST COAST ARBORISTS, INC. TO PROVIDE A STREET TREE MASTER PLAN FOR PUBLICLY OWNED**

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STREETS IN THE CITY OF DANA POINT *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0400-10)*

APPROVED A PROPOSAL TO PROVIDE A STREET TREE MASTER PLAN BY WEST COAST ARBORISTS, INC. FOR PUBLICLY OWNED STREETS IN THE CITY OF DANA POINT AND AUTHORIZED A PURCHASE ORDER TO WEST COAST ARBORISTS IN AN AMOUNT NOT TO EXCEED \$9,690.

PRESENTATIONS AND PROCLAMATIONS

There were no Presentations and Proclamations.

PUBLIC COMMENTS

Kathy Weaver, Dana Point, commented about the Dana Point Mobile Home Estates concerns.

Terri O'Neill, Dana Point, commented about the Dana Point Mobile Home Estates concerns.

Ron Grundy, Dana Point, commented about the Dana Point Mobile Home Estates concerns and asked for Council's support.

Patti Sampson, Dana Point, commented about the Dana Point Mobile Homes Estates concerns and asked for Council's support.

Mayor Ossenmacher declared a recess at 7:20 and reconvened the meeting at 7:30 p.m.

PUBLIC HEARINGS

21. **APPEAL OF PLANNING COMMISSION DECISION TO UPHOLD THE ADMINISTRATIVE APPROVAL OF LOT LINE ADJUSTMENT LLA02-288 TO AUTHORIZE THE MODIFICATION OF A LOT LINE BETWEEN 27302 VIA BELLA AND 35306 CAMINO CAPISTRANO LOCATED IN THE CAPISTRANO BEACH AREA OF THE CITY** *[STRATEGIC PLAN: ENSURE THAT THE GOALS, POLICIES AND PROGRAMS OF THE GENERAL PLAN REFLECT THE COMMUNITY'S VISION AND MISSION] (0600-20)*

Doug Chotkevys, City Manager, announced that the legal counsel representing the City on this matter is George Joseph, of Nossaman, Guthner, Knox and Elliott, LLP, in place of Interim City Attorney Munoz who has recused himself due to a potential conflict of interest.

Genia Garcia, Acting Director of Community Development, presented the staff report.

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Mayor Ossenmacher opened the public hearing.

Bruce Mann, Esq., Dana Point, Appellant, expressed his opposition to the subject lot line adjustment and identified his concerns. He urged the Council to reject the lot line adjustment.

Jenny Bugna, San Clemente, Applicant, said that the purpose of the lot line adjustment is to cure the violation. She deferred additional comments to her project manager, Robert Theel.

Robert Theel, Dana Point, Applicant's representative, provided clarification about the subject properties and explained the purpose of the lot line adjustment. He said that the applicants concur with two conditions in the staff report and would like to replace condition #3 with the provisions stated in Ms. Bugna's letter of indemnification to the City dated February 26, 2003.

Betty Snyder, Dana Point, co-applicant, expressed concerns about how this matter has evolved and explained that the intent is to fix a problem.

Mayor Ossenmacher called the appellants and applicants back for additional comments.

Bruce Mann, provided additional comments about the subject properties and reiterated his concerns.

Robert Theel, Project Manager, provided additional clarification about property ownerships.

Stephen Hogie, Attorney for Co-applicants (Snyder), stated he would support the City Attorney's comments and asked the Council to deny the appeal.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON TO CLOSE THE PUBLIC HEARING.

The motion carried by the following vote:

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

Mayor Ossenmacher declared a recess at 8:05 p.m. and reconvened the meeting at 8:15 p.m.

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City Attorney Joseph provided comments to reiterate the findings and statements in the staff report. For purposes of clarification, he read the indemnification paragraph that is stated in the letter from Ms. Bugna to the City, referenced to earlier by Mr. Theel, into the record. He said that this paragraph will be added to the Resolution under Condition No. 3.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM SNYDER TO ADOPT **RESOLUTION NO. 03-02-26-04**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, UPHOLDING THE PLANNING COMMISSION DECISION TO SUPPORT THE ADMINISTRATIVE APPROVAL OF LOT LINE ADJUSTMENT LLA02-288 TO AUTHORIZE THE MODIFICATION OF A LOT LINE BETWEEN 27302 VIA BELLA AND 35306 CAMINO CAPISTRANO LOCATED IN THE CAPISTRANO BEACH AREA OF THE CITY, AS AMENDED, TO REFLECT A THIRD PARAGRAPH TO CONDITION NO. 3 IN THE RESOLUTION AS FOLLOWS:

“APPLICANT MAY CHOOSE THE ATTORNEY TO IMPLEMENT SUCH DEFENSE, SUBJECT TO THE REASONABLE APPROVAL OF THE CITY. CITY SHALL REASONABLY COOPERATE WITH APPLICANT IN THE DEFENSE IN ORDER TO MINIMIZE COSTS AND TO UPHOLD AND VALIDATE THE CITY’S DETERMINATION. THE EXTENT OF APPLICANT’S INDEMNITY OBLIGATION SHALL BE NO BROADER THAN WOULD BE THE INDEMNITY OBLIGATION OF A SUBDIVIDER IN THE EVENT OF AN ACTION CONCERNING A SUBDIVISION UNDER GOVERNMENT CODE SECTION 66474.9; PROVIDED, HOWEVER, THAT IF THE CITY IS REPRESENTED BY COUNSEL SEPARATE FROM THE COUNSEL THAT REPRESENTS APPLICANT IN DEFENSE OF SUCH CLAIM, ACTION OR PROCEEDING, APPLICANT SHALL INDEMNIFY CITY FOR THE COST OF SUCH SEPARATE COUNSEL, UP TO A MAXIMUM AMOUNT OF \$35,000. IF APPLICANT AT ANY TIME ABANDONS THE LOT LINE ADJUSTMENT WHICH IS THE SUBJECT OF THIS RESOLUTION, AND AGREES THAT THE LOT LINE ADJUSTMENT MAY BE SET ASIDE, VOIDED AND ANNULLED, APPLICANT SHALL HAVE NO FURTHER INDEMNITY OBLIGATION FOR ANY COSTS INCURRED AFTER THE DATE OF SUCH ABANDONMENT AND AGREEMENT. “

The motion carried by the following vote:

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

UNFINISHED BUSINESS

There was no Unfinished Business.

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NEW BUSINESS

There was no New Business.

STAFF REPORTS

City Manager Chothevys gave no report.

COUNCIL REPORTS

Council Member Rayfield reported that the Orange County Board of Supervisors repealed the El Toro Airport Master Plan.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Ossenmacher declared the meeting adjourned at 8:30 p.m.

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

SUSAN A. RAMOS, CMC
DIRECTOR OF PUBLIC AFFAIRS/CITY CLERK

APPROVED AT MEETING OF _____