

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 23, 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 5:05 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 (Absent)  
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; Robert Warren, Director of Public Works and Engineering Services; Matthew Sinacori, Deputy City Engineer, Kurth Nelson, Associate Planner 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. PERSONNEL MATTERS – Government Code § 54957

Mayor Ossenmacher recessed the meeting into a Closed Session at 5:06 p.m. pursuant to Government Code Section 54956 et. seq.

### **RECONVENE CITY COUNCIL MEETING**

Mayor Ossenmacher reconvened the meeting at 6:20 p.m. All Council Members were present.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Council Member Rayfield

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**INVOCATION**

The Invocation was given by Council Member Lacy

**CONSENT CALENDAR**

Members of the public removed Items 11 and 12 from the Consent Calendar.

At the direction of Mayor Ossenmacher, the City Clerk read the title of all ordinances on the Consent Calendar.

IT WAS MOVED BY MAYOR PRO TEM SNYDER, SECONDED BY COUNCIL MEMBER RAYFIELD, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 11 AND 12.

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, APRIL 9, 2003**

APPROVED THE REVISED MINUTES SUBMITTED BY THE CITY CLERK TO THE COUNCIL AT THE DAIS.

**3. YOUTH BOARD MEETING MINUTES, JANUARY 16, 2003 (0120-40)**

RECEIVED AND FILED.

**4. YOUTH BOARD MEETING MINUTES, FEBRUARY 20, 2003 (0120-40)**

RECEIVED AND FILED.

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**5. YOUTH BOARD MEETING MINUTES, MARCH 20, 2003 (0120-40)**

RECEIVED AND FILED.

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

RECEIVED AND FILED.

**7. CLAIMS AND DEMANDS (0300-30)**

RECEIVED AND FILED.

**8. 2003 WEED ABATEMENT PROGRAM – AWARD OF CONTRACT (0400-10)**

AWARDED THE 2003 WEED ABATEMENT CONTRACT TO PETE'S TRUCKING.

**9. FIRST AMENDMENT TO MANAGEMENT AGREEMENT FOR FACILITY MAINTENANCE SERVICES (0400-10)**

APPROVED THE FIRST AMENDMENT FOR THE AGREEMENT FOR MANAGEMENT OF CITY OWNED FACILITIES AND AUTHORIZED THE CITY MANAGER TO SIGN THE AGREEMENT.

**10. APPROVAL OF SECOND AMENDMENT TO THE TREE MAINTENANCE SERVICES CONTRACT WITH WEST COAST ARBORISTS, INC. AND APPROVAL OF AN AGREEMENT WITH ARBOR LIFE CONSULTING FOR PROJECT INSPECTION BY A CERTIFIED ARBORIST FOR A ONE-YEAR TERM (0400-10)**

APPROVED THE SECOND AMENDMENT TO THE AGREEMENT WITH WEST COAST ARBORISTS, INC. FOR TREE MAINTENANCE SERVICES FOR A ONE-YEAR RENEWAL; (2) APPROVED AN AGREEMENT WITH ARBOR LIFE CONSULTING FOR PROJECT INSPECTION BY A CERTIFIED ARBORIST; AND (3) AUTHORIZED THE CITY MANAGER TO EXECUTE THE AMENDMENT AND THE AGREEMENT.

**11. FISCAL YEAR 2002-2003 GRANT FUNDING PROGRAM (0330-25)**

John Chaffetz, Dana Point, expressed concerns about the premise of this action.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR OSSENMACHER TO FUND \$1,000 FOR TOBY'S HOUSE FROM THE CULTURAL & HUMAN SERVICES GRANT FUNDING PROGRAM.

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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

**12. SECOND READING AND ADOPTION OF AN ORDINANCE APPROVING A ZONE TEXT AMENDMENT AND LOCAL COASTAL PROGRAM AMENDMENT TO MODIFY THE MONUMENT SIGN REGULATIONS (0610-15)**

Howard "Buck" Jones, Laguna Beach, clarified that the proposed new regulations would require him to submit an application for a minor conditional use permit and submit a sign program for his signs at Doheny Plaza.

Kirk Lapple, Dana Point, Chamber of Commerce, clarified that the proposed sign regulations would require signs exceeding six feet to go through a conditional use permit and sign program process in order to remain in place. He expressed support for the proposed changes.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM SNYDER TO ADOPT **ORDINANCE 03-09**, 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 SIGN CODE.

The motion carried by the following vote:

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

**13. SECOND READING AND ADOPTION OF ORDINANCE CODIFYING SPEED LIMITS AT SECTION 12.16.010 OF THE DANA POINT MUNICIPAL CODE (0860-20)**

RECOMMENDED ACTION: That the City Council adopt an ordinance entitled:

ADOPTED **ORDINANCE 03-08**, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CODIFYING SPEED LIMITS AT SECTION 12.16.010 OF THE MUNICIPAL CODE.

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- 14. ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT ADOPTING A PROGRAM FOR THE PRE-QUALIFICATION OF CONTRACTORS SEEKING TO BID ON PUBLIC WORKS PROJECTS WITHIN THE CITY OF DANA POINT (0370-05)**

ADOPTED **RESOLUTION 03-04-23-01**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING A PROGRAM FOR THE PRE-QUALIFICATION OF CONTRACTORS SEEKING TO BID ON PUBLIC WORKS PROJECTS WITHIN THE CITY OF DANA POINT

- 15. AUTHORIZATION OF A PURCHASE ORDER TO LINSOTT LAW AND GREENSPAN FOR TRAFFIC ENGINEERING SERVICES FOR THE DESIGN OF THE CROWN VALLEY LANDSCAPED MEDIAN PROJECT (0400-10)**

AUTHORIZED A PURCHASE ORDER TO LINSOTT LAW AND GREENSPAN FOR TRAFFIC ENGINEERING SERVICES NEEDED FOR THE DESIGN OF THE CROWN VALLEY LANDSCAPED MEDIAN PROJECT; APPROVED AN EXPENDITURE FOR PROJECT MANAGEMENT SERVICES AS PART OF THIS EFFORT; AND AUTHORIZED A PURCHASE ORDER TO BUSH AND ASSOCIATES FOR SURVEYING SERVICES.

- 16. APPROVAL OF CONSULTANT SERVICES AGREEMENT WITH RJM DESIGN GROUP FOR CONCEPTUAL DESIGN SERVICES FOR THE DEVELOPMENT OF SEA TERRACE (0400-10)**

APPROVED A CONSULTANT SERVICES AGREEMENT WITH RJM DESIGN GROUP TO PROVIDE PROFESSIONAL DESIGN SERVICES FOR THE DEVELOPMENT OF A CONCEPTUAL DESIGN FOR THE DEVELOPMENT OF SEA TERRACE PARK; AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZED AN EXPENDITURE FOR PROJECT MANAGEMENT SERVICES; AND ESTABLISHED A CAPITAL IMPROVEMENT PROGRAM PROJECT IN FISCAL YEAR 2002/2003 FOR DEVELOPMENT OF SEA TERRACE PARK PROJECT TO ALLOW THE CONCEPTUAL DESIGN AND DESIGN EFFORT TO COMMENCE.

- 17. AUTHORIZATION OF A PURCHASE ORDER TO ASSOCIATED LABORATORIES FOR SAMPLING OF URBAN RUNOFF AS REQUIRED BY THE SOUTH ORANGE COUNTY WASTEWATER AUTHORITY FOR THE ALIPAZ STORM DRAIN DIVERSION AND THE DIVERSIONS CONSTRUCTED AS PART OF THE URBAN RUNOFF DIVERSION PROJECT (0400-10)**

AUTHORIZED A PURCHASE ORDER TO ASSOCIATED LABORATORIES FOR SAMPLING OF URBAN RUNOFF AS REQUIRED BY THE SOUTH ORANGE COUNTY WASTEWATER AUTHORITY FOR THE ALIPAZ STORM DRAIN DIVERSION AND THE DIVERSIONS CONSTRUCTED AS PART OF THE

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URBAN RUNOFF DIVERSION PROJECT; APPROVED AN EXPENDITURE FOR PROJECT MANAGEMENT SERVICES AS PART OF THIS EFFORT; AND AUTHORIZED PAYMENT TO THE CITY OF SAN JUAN CAPISTRANO FOR THE ACCEPTANCE OF URBAN RUNOFF AS IT RELATES TO THE ALIPAZ STORM DRAIN DIVERSION PROJECT.

**18. RESPONSE TO THE ORANGE COUNTY GRAND JURY FINDINGS ON WOOD ROOFS (0150-05)**

REVIEWED THE ORANGE COUNTY GRAND JURY'S FEBRUARY 4, 2003 REPORT ENTITLED "WOOD ROOFS ARE DANGEROUS" AND AUTHORIZED THE MAYOR TO SIGN THE LETTER RESPONDING TO THE FINDINGS AND RECOMMENDED ACTION.

**19. ADOPTION OF A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF DANA POINT AND THE SOUTH COAST WATER DISTRICT FOR THE CITY OF DANA POINT'S INTERIM USE OF FACILITIES TO DIVERT DRY WEATHER FLOWS FROM A STORM DRAIN CHANNEL LOCATED IN DEL OBISPO PARK (0400-10)**

ADOPTED **RESOLUTION 03-04-23-02**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN AGREEMENT BETWEEN THE CITY OF DANA POINT AND THE SOUTH COAST WATER DISTRICT FOR THE INTERIM USE OF FACILITIES TO DIVERT DRY WEATHER FLOWS FROM THE DEL OBISPO STORM DRAIN.

**20. ADOPTION OF A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF DANA POINT AND THE SOUTH COAST WATER DISTRICT FOR THE CITY OF DANA POINT'S INTERIM USE OF FACILITIES TO DIVERT DRY WEATHER FLOWS FROM THE NORTH CREEK STORM DRAIN (0400-10)**

ADOPTED **RESOLUTION 03-04-23-03**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN AGREEMENT BETWEEN THE CITY OF DANA POINT AND THE SOUTH COAST WATER DISTRICT FOR THE INTERIM USE OF FACILITIES TO DIVERT DRY WEATHER FLOWS FROM THE NORTH CREEK STORM DRAIN.

**PRESENTATIONS AND PROCLAMATIONS**

Certificates of Recognition – Medal of Valor Recipients

Sheryl Lindsey, Director of Administrative Services, gave an overhead and video presentation about the recipients.

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Mayor Ossenmacher commended the officers and expressed thanks and appreciation for the service provided by the Sheriff's Department. He presented a certificate of appreciation and recognition for all of the recipients.

Mayor Ossenmacher switched the order of the items under Oral Reports.

## **ORAL REPORTS**

### **B. STATUS UPDATE - THE MARINE CORPS FAMILY ASSISTANCE FUND**

Mayor Pro Tem Joe Snyder gave an update on the family assistance program and encouraged the public to support this cause. He reported that the families in Camp Pendleton are in need of non-perishable items and said that the public can bring their donated goods to City Hall for delivery to Camp Pendleton.

### **A. CONSIDERATION OF GRANT FUNDING SUPPORT FOR PROJECT 999**

Mayor Ossenmacher and Council Member Chilton provided some comments and deferred to a video presentation by Sheryl Lindsey, Director of Administrative Services, regarding Project 999, a program to assist families of the Sheriff's Department who are injured or killed in the line of duty.

IT WAS MOVED BY MAYOR PRO TEM SNYDER, SECONDED BY COUNCIL MEMBER RAYFIELD TO CONTRIBUTE \$2000 FROM EACH OF THE COUNCIL MEMBER'S GRANT FUNDING ACCOUNT FOR PROJECT 999, FOR A TOTAL CONTRIBUTION OF \$10,000.

The motion carried by the following vote:

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

## **RECEPTION - HONORING OUR MEDAL OF VALOR RECIPIENTS**

Mayor Ossenmacher declared a recess at 7:40 p.m. to hold a reception in honor of the Medal of Valor recipients.

## **PUBLIC COMMENTS**

Pam Tappan, Capistrano Beach, commented about the wetlands issue and asked the Council to convene an emergency meeting to discuss it tonight.

## **PUBLIC HEARINGS**

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**21. APPEAL OF PLANNING COMMISSION DECISION TO UPHOLD THE ADMINISTRATIVE DECISION APPROVING A ONE YEAR EXTENSION FOR THE ENTITLEMENTS FOR TENTATIVE PARCEL MAP TPM98-230 AND SITE DEVELOPMENT PERMIT SDP99-17 (0610-20)**

City Manager Chokeyvs reported that staff has received a request tonight from the appellant, Paul Douglas, to continue this matter.

City Attorney Munoz noted that after informing the property owners about the request, the property owners said they would be severely prejudiced if the matter was continued. On this basis, staff recommends hearing the item tonight.

Kurth Nelson, Planning Consultant, presented a staff report.

Mayor Ossenmacher opened the public hearing.

Paul Douglas, Pioneer Builders, Appellant, provided background information and described his concerns and the basis for his request.

Laurie Beylik, Capistrano Beach, Applicant, requested denial of the appeal.

Duane Fitzgerald, Laguna Niguel, Applicant, said that the extension is in place and granting the appeal would further delay construction.

Taonus Nigro, Dana Point, commented about estoppel provisions of the law and said that the appellant's argument has no basis.

Lane Langley, Dana Point, said that the empty lots are an eyesore and would therefore support the proposed construction and opposed the appeal.

Duane Fitzgerald, Applicant, rebutted that the issue at hand is that the extension was granted and is in place.

Paul Douglas, Appellant, rebutted in disagreement of the extension based on findings that the project was inconsistent with Council-approved plans.

Mayor Ossenmacher closed the public hearing.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM SNYDER TO DENY THE APPEAL AND ADOPT **RESOLUTION 03-04-23-04**, A RESOLUTION UPHOLDING THE PLANNING COMMISSION DECISION TO APPROVE A ONE YEAR EXTENSION FOR THE ENTITLEMENTS FOR TENTATIVE PARCEL MAP TPM 98-230 AND SITE DEVELOPMENT PERMIT SDP 99-17.

The motion carried by the following vote:

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

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ABSTAIN: Mayor Ossenmacher

**22. AMENDMENT TO SITE DEVELOPMENT PERMIT SDP01-80(I) AND VARIANCE V02-19 (PIONEER) TO AUTHORIZE THE CONSTRUCTION OF A SINGLE FAMILY DWELLING ON LOT 8 OF TRACT 16197 WITH A REDUCED REAR YARD SETBACK AND AMENDMENT TO THE FLOOR PLAN AND DEED RESTRICTION AREAS FOR A PROJECT LOCATED IN THE CAPISTRANO BEACH PORTION OF THE CITY (0600-30)**

Mayor Pro Tem Snyder recused himself due to a potential conflict of interest and removed himself from the dais.

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

City Manager Chotkevys clarified that the item at hand is not about the wetlands, it is about a variance request.

City Attorney Munoz affirmed the City Manager's statement and added that it would be appropriate to receive public testimony on the variance issue only.

Mayor Ossenmacher opened the public hearing.

Paul Douglas, Applicant, provided background and described the modifications to the project.

Pam Tappan, Capistrano Beach, provided background and requested denial of the variance request and modifications to the Site Development Permit and protection of the wetlands.

Barbara Drummond, Capistrano Beach, provided handouts to the Council and urged the Council to deny the request and restore the wetlands.

Warner Tappan, Capistrano Beach, opposed the project on the basis that it is not a reversal of the earlier plan and asked for adoption of the deed restriction referenced in Exhibit X to restore the wetlands as presented by Ms. Drummond.

Dave Drummond, Capistrano Beach, expressed opposition to the project.

Larry Straight, Capistrano Beach, expressed concern about the significant drainage issue in the subject property (Lot 8). He commented that the project is incompatible with the neighborhood and the proposed house is too big for the lot.

Bob Harris, Capistrano Beach, provided a letter to Council from Chris and Shirley Koerner opposing the proposed project because it is a wetland.

Paul Douglas, Applicant, rebutted and asked the Council for some consideration.

Mayor Ossenmacher declared a recess at 9:10 p.m. and reconvened the meeting at 9:15 p.m.

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Mayor Ossenmacher closed the public hearing.

Council Member Lacy stated for the record that there have been some steps taken by the developer to deal with the issue. He added that he has not heard a compelling reason why the proposed plan is an appropriate plan.

IT WAS MOVED BY COUNCIL MEMBER LACY, SECONDED BY COUNCIL MEMBER RAYFIELD TO SUPPORT ALTERNATIVE ACTION #2 TO DENY THE VARIANCE REQUEST AND THE AMENDMENT TO THE SITE DEVELOPMENT PERMIT CONDITIONS RELATING TO THE REVERSE DESIGN AND DEED RESTRICTION AREA AND REQUIRE THE APPLICANT TO DESIGN PLANS PER THE ORIGINAL CONDITIONS OF APPROVAL.

Mayor Ossenmacher declared a recess at 9:35 p.m. and reconvened the meeting at 9:37 p.m.

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 dais.

### **UNFINISHED BUSINESS**

**23. ADOPTION OF RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE CRYSTAL COVE BLUFF STABILIZATION PROJECT**

City Manager Chotkevys gave a brief staff report and deferred additional comments to Matthew Sinacori, Deputy City Engineer, who provided an overhead presentation.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON TO ADOPT RESOLUTION 03-04-23-05, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CRYSTAL COVE BLUFF STABILIZATION PROJECT; AND DIRECT THAT ANY PROJECT SAVINGS BE TRANSFERRED TO THE CAPITAL IMPROVEMENT PROGRAM (CIP) RESERVES.

The motion carried by the following vote:

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

**24. 2003 WEED ABATEMENT PROGRAM – AUTHORIZATION TO ABATE WEEDS**

City Manager Chotkevys presented the staff report.

IT WAS MOVED BY MAYOR PRO TEM SNYDER, SECONDED BY COUNCIL MEMBER RAYFIELD TO ADOPT RESOLUTION 03-04-23-06, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, HEARING NO OBJECTIONS AND PROCEEDING WITH WEED ABATEMENT

The motion carried by the following vote:

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

**NEW BUSINESS**

There was no New Business.

**STAFF REPORTS**

City Manager Doug Chotkevys expressed thanks to the Mayor and the Council for recognizing and honoring the City's deputies who have put their lives on the line for public safety.

**COUNCIL REPORTS**

Mayor William L. Ossenmacher announced that May 1 is the National Day of Prayer and invited the public to attend a short ceremony annually held at the City Plaza at 12 noon on that day.

**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Ossenmacher declared the meeting adjourned at 9:50 p.m.

The next Regular Meeting of the City Council will be Wednesday, May 14, 2003, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

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

APPROVED AT MEETING OF \_\_\_\_\_