

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**JULY 28, 2004
4:30 P.M.**

AGENDA

Location: City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point, California 92629

Next City Council Ordinance No. 04-03

CALL TO ORDER

ROLL CALL OF CITY COUNCIL MEMBERS:

Russell Chilton, Council Member
William L. Ossenmacher, Council Member
Wayne Rayfield, Council Member
James V. Lacy, Mayor Pro Tem
Joe Snyder, Mayor

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b1), (3 cases)
- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (1 case)
- C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, Government Code § 54956.8 (1 case)

Property: Marinita Homeowners Association
Agency Negotiator: Douglas Chotkevys, City Manager
Patrick Munoz, City Attorney
Kyle Butterwick, Director of Community Development
Negotiating Parties: City of Dana Point and Marinita HOA or other interested parties
Under Negotiation: Price and terms of agreement relating to property

D. 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: 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
3. Name of Case: City of Dana Point v. Warren & Does 1 - 50, Orange County Superior Court Case No. 04CC07344

E. PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Government Code § 54957.6

Title: Director of Public Affairs/City Clerk

RECESS OF CITY COUNCIL MEETING UNTIL 6:00 P.M.

RECONVENE CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATIONS AND PROCLAMATIONS

1. Presentation to Dana Point Library
2. Featured Business of the Month – Tutor & Spunky's Deli
3. Memorial Tribute to Jerre Hayes
4. Memorial Tribute to Major Richard J. Gannon II, USMC

CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and all will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the City Council, the public, or staff request specific items be removed from the Consent Calendar for separate action.

At this time, the City Clerk will read the title(s) of the ordinance(s) listed herein except those that are removed for separate action, which will be read separately.

1. WAIVE THE READING OF ORDINANCES AND APPROVE READING BY TITLE ONLY

RECOMMENDED ACTION: That the City Council approve 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, JUNE 23, 2004

RECOMMENDED ACTION: That the City Council approve the minutes.

3. PLANNING COMMISSION MEETING MINUTES, JUNE 16, 2004

RECOMMENDED ACTION: That the City Council receive and file.

4. PLANNING COMMISSION ACTIONS, MEETING OF JULY 7, 2004

RECOMMENDED ACTION: That the City Council receive and file.

5. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECOMMENDED ACTION: That the City Council receive and file.

6. CITY TREASURER'S REPORT, MAY 2004

RECOMMENDED ACTION: That the City Council receive and file the City Treasurer's Report for the month of May 2004.

7. CLAIMS AND DEMANDS

RECOMMENDED ACTION: That the City Council receive and file the Claims and Demands.

8. AWARD OF CONTRACT FOR EMERGENCY AMBULANCE SERVICE [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]

RECOMMENDED ACTION: That the City Council:

1. Award the contract for Emergency Ambulance Services for the Exclusive Operating Area #39 (Dana Point) to Herren Enterprises, Inc. dba – Doctors Ambulance Service; and
2. Authorize the City Manager to execute an Exclusive Operating Area Agreement with Doctors Ambulance Service.

9. **AMENDMENT TO THE CONTRACT BETWEEN THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) AND THE CITY OF DANA POINT** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

RECOMMENDED ACTION: That the City Council conduct a second reading and adopt an Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF DANA POINT AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

10. **AMENDMENT TO CHAPTER 2.05 OF THE DANA POINT MUNICIPAL CODE RELATING TO CAMPAIGN FINANCE** *[STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS]*

RECOMMENDED ACTION: That the City Council conduct a second reading and adopt an Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 2.05 OF THE DANA POINT MUNICIPAL CODE RELATING TO CAMPAIGN FINANCE

11. **SECOND READING AND ADOPTION OF REGULATIONS PERTAINING TO FRACTIONAL OWNERSHIP DEVELOPMENT** *[STRATEGIC PLAN: EVALUATE LAND USE ISSUES TO ENSURE THAT THE GOALS OF THE GENERAL PLAN REFLECT THE COMMUNITY'S VISION]*

RECOMMENDED ACTION: That the City Council conduct a second reading and adopt an Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A ZONE TEXT AMENDMENT ZTA04-01 AND LOCAL COASTAL PROGRAM AMENDMENT LCPA04-01 ESTABLISHING FRACTIONAL OWNERSHIP DEVELOPMENT STANDARDS

to amend the Zoning Code and Local Coastal Program to establish regulations pertaining to fractional ownership development.

12. **ADOPTION OF RESOLUTION DESIGNATING SEVERAL INTERSECTIONS CITYWIDE AS ALL-WAY STOP CONTROL INTERSECTIONS AND AUTHORIZING THE INSTALLATION OF STOP SIGNS** [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

RECOMMENDED ACTION: That the City Council adopt a resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DESIGNATING SEVERAL INTERSECTIONS CITYWIDE AS ALL-WAY STOP CONTROL INTERSECTIONS AND AUTHORIZING THE INSTALLATION OF STOP SIGNS

13. **2004 WEED ABATEMENT PROGRAM** [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

RECOMMENDED ACTION: That the City Council conduct a hearing on the Weed Abatement Cost Report and thereafter, depending on any objections raised, adopt a resolution entitled:

A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE COST OF ABATEMENT AND PROVIDING FOR THE COLLECTION ON THE REGULAR TAX BILL

- or -

B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE COST OF ABATEMENT, OVERRULING OBJECTIONS AND PROTESTS THERETO, AND PROVIDING FOR THE COLLECTION ON THE REGULAR TAX BILL.

14. **CITY COUNCIL GRANT RECOMMENDATION (OSSENMACHER)** [STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES]

RECOMMENDED ACTION: That the City Council approve the recommended grant funding by Council Member Ossenmacher as listed within the staff report per City Council Policy 116.

15. **AUTHORIZE DESIGN AND MANAGEMENT SERVICES FOR THE ANNUAL ROADWAY RESURFACING PROJECT, FISCAL YEAR 2004/2005** [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

RECOMMENDED ACTION: That the City Council (1) authorize an expenditure to provide professional engineering design and management services for the Annual Roadway Resurfacing Project, Fiscal Year 2004/2005; (2) authorize a purchase order to Goffman McCormick and Urban (GMU) for geotechnical/pavement evaluation services for the Annual Roadway Resurfacing Project, Fiscal Year 2004/2005; and (3) authorize advertisement for construction bids once the design is complete.

16. RECEIVE AND FILE THE RESOLUTION ADOPTED BY THE DESIGNATED GROWTH MANAGEMENT AREA NUMBER 11 ELECTED OFFICIALS FOR THE USE OF GROWTH MANAGEMENT AREA (GMA) NUMBER 11 FUNDING [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

RECOMMENDED ACTION: That the City Council (1) receive and file the resolution adopted by the designated elected officials for the use of Growth Management Area (GMA) Number 11 Funding; (2) based on the approved resolution, authorize staff to remove funds in GMA #11 revenue from the Town Center Phase III Project; and (3) transfer that revenue to the Annual Traffic Safety Improvement Program, FY 03/04 for intersection modifications at the intersection of Stonehill Drive and Camino Capistrano.

17. REORGANIZATION – CITY CLERK OFFICE [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST- EFFECTIVENESS]

RECOMMENDED ACTION: That the City Council delegate the appointing authority, performance review and salary setting authority of the City Clerk position to the City Manager; and approve first reading of ordinances entitled:

1. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 2.08 OF THE DANA POINT MUNICIPAL CODE PERTAINING TO POWERS AND DUTIES OF THE CITY MANAGER
2. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 2.10 OF THE DANA POINT MUNICIPAL CODE PERTAINING TO THE CITY CLERK

amending the Municipal Code to revise the existing organizational structure to reflect that change.

18. RENEWAL OF AGREEMENT D02-073 FOR WATER QUALITY ORDINANCE IMPLEMENTATION FROM THE COUNTY OF ORANGE FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) AS NEEDED AUTHORIZED INSPECTOR SERVICES [STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES]

RECOMMENDED ACTION: That the City Council (1) approve Amendment No. 1 for the National Pollution Discharge Elimination System (NPDES) Water Quality Ordinance Implementation Agreement No. D02-073 with the County of Orange to provide as needed authorized inspector service; (2) authorize the City Manager to execute the Agreement; and (3) designate the City Manager to authorize all services associated with the Agreement.

19. **APPROVAL OF CONSULTANT SERVICES AGREEMENT WITH HARRIS AND ASSOCIATES FOR DESIGN OF MISCELLANEOUS STORM DRAIN REPAIRS IN CAPISTRANO BEACH**
[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

RECOMMENDED ACTION: That the City Council (1) approve the establishment of a new Capital Improvement Program (CIP) project for Miscellaneous Storm Drain Repairs in Capistrano Beach; (2) transfer funds from the Undesignated General Fund Reserves to the newly established project; (3) authorize an expenditure for a limited geotechnical investigation of the Camino Capistrano area impacted by this project; (4) approve a Consultant Services Agreement with Harris and Associates for design services for Miscellaneous Storm Drain Repairs along Camino Capistrano, provided that the City Manager may approve additional services; and (5) authorize the City Manager to execute the agreement.

20. **AUTHORIZATION OF AN ADDITIONAL EXPENDITURE FOR CONSULTING SERVICES FOR NEGOTIATIONS RELATED TO THE RELINQUISHMENT OF PACIFIC COAST HIGHWAY FROM THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION TO THE CITY OF DANA POINT**
[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

RECOMMENDED ACTION: That the City Council (1) authorize an expenditure to fund additional consulting services for negotiations related to the relinquishment of Pacific Coast Highway from the State of California Department of Transportation (Caltrans); and (2) approve the transfer of funds from the Undesignated General Reserves to the appropriate account to fund the additional consulting services.

ORAL REPORTS

PUBLIC COMMENTS

Any person wishing to address the City Council during the Public Comments section or on an Agenda item is asked to complete a "Request to Speak" form available on the table at the side of the Council Chamber. The completed form is to be submitted to the City Clerk prior to the Agenda item being called by the Mayor and prior to the individual being heard by the City Council.

In order to conduct a timely meeting, there will be a three-minute time limit per person and an overall time limit of fifteen minutes for the Public Comments portion of the agenda. State law prohibits the City Council from taking action on a specific item unless it appears on the posted Agenda.

If anyone has handouts to distribute to the City Council, please follow proper procedure and hand them to the City Clerk. The City Clerk will see that they are distributed.

PUBLIC HEARINGS

21. [ANNEXATION TO THE ACAPULCO PREFERENTIAL PARKING DISTRICT OF BLUE LANTERN, ALTA VISTA, AND A PORTION OF PRISCILLA DRIVE, CHELTAM WAY, NOTTINGHAM WAY, AND SHERWOOD WAY](#) [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

RECOMMENDED ACTION: That the City Council adopt a resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING RESOLUTION NO. 99-09-28-02 TO ANNEX THE FOLLOWING STREETS AS PART OF THE ACAPULCO PREFERENTIAL PARKING DISTRICT:

- (a) Blue Lantern from Selva Drive to Stonehill Drive
- (b) Alta Vista from Blue Lantern to cul-de-sac
- (c) Priscilla Drive from Esther Court to Golden Lantern
- (d) Cheltam Way between Golden lantern and Stonehill Drive
- (e) Nottingham Way between Cheltam Way and Sherwood Way
- (f) Sherwood Way between Nottingham Way and Cheltam Way

UNFINISHED BUSINESS

There is no Unfinished Business.

NEW BUSINESS

22. [ADOPTION OF A RESOLUTION APPROVING AN EASEMENT DEED AND AGREEMENT WITH THE COUNTY OF ORANGE REGARDING ACCESS ACROSS ASSESSOR PARCEL NUMBER 668-251-02, KNOWN AS THE DEL OBISPO YARD](#) [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

RECOMMENDED ACTION: That the City Council (1) adopt a resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN EASEMENT DEED AND AGREEMENT WITH THE COUNTY OF ORANGE REGARDING ACCESS ACROSS ASSESSOR PARCEL NUMBER 668-251-02, KNOWN AS THE DEL OBISPO YARD;

- (2) approve the easement deed and agreement and authorize the City Manager to sign; (3) authorize staff to finish the design of improvements for the access at Village Road and Del Obispo Street; and (4) advertise the project for construction bids once the design is finished.

STAFF REPORTS

(City Manager Doug Chotkevys)

COUNCIL REPORTS

The City Council may discuss, act upon or seek consensus on matters described under Council Reports only if: They are agendized with a complete written report included; or, If an item arose subsequent to the posting of the agenda and the Council determines that an emergency exists. Non-agendized items may be presented as informational only.

(Mayor Joe Snyder)

ADJOURNMENT

The August 11, 2004 Regular Meeting of the City Council will not be held due to a conflict with the California Coastal Commission meeting where the City of Dana Point is the applicant.

The next Regular Meeting of the City Council will be August 25, 2004 at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

CERTIFICATION

I, Sharon Street, City Clerk of the City of Dana Point, do hereby certify that a copy of the foregoing Agenda was posted at Dana Point City Hall, the Dana Point Post Office, the Capistrano Beach Post Office and the Dana Point Library by Friday, July 23, 2004, at 5:00 p.m.

SHARON STREET, CITY CLERK

DATE

Subscriptions to receive City Council Agendas on a regular basis are available through the City Clerk's Office. Agendas are also available on the City's website at www.danapoint.org.

PURSUANT TO THE AMERICANS WITH DISABILITIES ACT, PERSONS WITH A DISABILITY WHO REQUIRE A DISABILITY-RELATED MODIFICATION OR ACCOMMODATION IN ORDER TO PARTICIPATE IN A MEETING, INCLUDING AUXILIARY AIDS OR SERVICES, MAY REQUEST SUCH MODIFICATION OR ACCOMMODATION FROM THE CITY CLERK AT (949) 248-3500 (TELEPHONE) OR (949) 248-9920 (FACSIMILE). NOTIFICATION 48 HOURS PRIOR TO THE MEETING WILL ENABLE THE CITY TO MAKE REASONABLE ARRANGEMENTS TO ASSURE ACCESSIBILITY TO THE MEETING.