

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
OCTOBER 21, 2014
5:00 P.M.**

MINUTES

Location: Community Center Gym, 34052 Del Obispo, Dana Point, California 92629

Next City Council Ordinance No. 14-05

CALL TO ORDER

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Bartlett at 5:00 p.m. in the Community Center Gym, 34052 Del Obispo, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Lisa A. Bartlett, Mayor
Steven H. Weinberg, Mayor Pro Tem
William P. Brough, Council Member (*Arrived at 5:10 p.m.*)
Carlos N. Olvera, Council Member
J. Scott Schoeffel, Council Member (*Absent*)

CLOSED SESSION

City Attorney Munoz indicated that 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 (d)(2) (1 case)

Mayor Bartlett 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 Bartlett reconvened the meeting at 6:09 p.m. All Council Members were present.

STAFF PRESENT: Douglas C. Chotkevys, City Manager; Patrick Munoz, City Attorney; Kathy Ward, City Clerk; Mike Rose, Director of Disaster Preparedness; Lt. Russ Chilton; Ursula Luna-Reynosa, Director of Community Development; Brad Fowler, Director of Public Works and Engineering; Kevin Evans, Director of Community Services; John Tilton, City Architect; Mark Sutton, Building Official; Robert Sedita, Management Analyst; Christy Teague, Economic Development Manager, Saima

Qureshy, Senior Planner, Jackie Littler, Executive Secretary; DyAnne Weamire, Administrative Secretary; and Bobbi Ogan, Deputy City Clerk.

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that he had no announcement.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Olvera.

INVOCATION

The Invocation was provided by Chaplain Maury Hansen of VFW Post 9934.

PRESENTATIONS AND PROCLAMATIONS

There were no Presentations nor Proclamations made.

CONSENT CALENDAR

Mayor Bartlett removed Item 10 from the Consent Calendar.

IT WAS MOVED BY MAYOR PRO TEM WEINBERG, SECONDED BY COUNCIL MEMBER BROUGH, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 10.

The motion carried by the following vote:

AYES: Council Member William Brough, Council Member Carlos N. Olvera, Mayor Pro Tem Steven Weinberg and Mayor Lisa Bartlett

NOES: None

ABSENT: Council Member Scott Schoeffel

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, OCTOBER 7, 2014

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, SEPTEMBER 8, 2014

RECEIVED AND FILED.

4. PLANNING COMMISSION MEETING MINUTES, SEPTEMBER 22, 2014

RECEIVED AND FILED.

5. PLANNING COMMISSION ACTIONS, MEETING OF OCTOBER 13, 2014

RECEIVED AND FILED.

6. ARTS AND CULTURE COMMISSION MEETING MINUTES OF APRIL 16, 2014

RECEIVED AND FILED.

7. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

8. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

9. ADOPTION OF A RESOLUTION APPROVING THE FLOODPLAIN AND BASE FLOOD ELEVATION ANALYSIS FOR SAN JUAN CREEK AS IT RELATES TO THE PLANNED DEVELOPMENT AT 34202 DEL OBISPO STREET

ADOPTED RESOLUTION 14-10-21-01 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING THE FLOODPLAIN AND BASE FLOOD ELEVATION ANALYSIS FOR SAN JUAN CREEK AS IT RELATES TO THE PROPERTY AT 34202 DEL OBISPO STREET

10. UPDATE - COUNTY AMBULANCE CONTRACT RFP PROCESS

Mayor Bartlett removed this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Mayor Bartlett asked how many zones had Doctor's Ambulance bid on.

Mike Herran (Doctor's Ambulance) replied that they had bid on three of the five zones.

Mayor Bartlett asked how the bids differed from one zone versus the other two or were they the same.

Mike Herran replied that they had bid on three zones that they were providing services for with the exception of Villa Park. He stated that there was no difference between the bids except for deployment and station locations.

Mayor Bartlett asked if there was any way to verify that the evaluation panelists had no connection to any provider bidding on our zone whether being in the past or the present.

City Manager Chotkevys replied that he did not believe that the City could confirm that right now. He stated that if you represented an agency that was served by Doctors you could not evaluate. He questioned whether they could really make an unbiased decision based on the information presented. He asked the City Council to allow him to outline in his letter that there was the potential for bias.

IT WAS MOVED BY MAYOR BARTLETT, SECONDED BY MAYOR PRO TEM WEINBERG, THAT THE CITY COUNCIL RECEIVE A REPORT ON THE COUNTY AMBULANCE CONTRACT RFP PROCESS AND THEN AUTHORIZED THE CITY MANAGER TO SEND CORRESPONDENCE TO THE COUNTY BOARD OF SUPERVISORS OUTLINING CONCERNS RELATIVE TO THE RFP REVIEW PROCESS.

The motion carried by the following vote:

AYES: Council Member William Brough, Council Member Carlos N. Olvera, Mayor Pro Tem Steven Weinberg and Mayor Lisa Bartlett

NOES: None

ABSENT: Council Member Scott Schoeffel

11. DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT ANNUAL REPORT AND RENEWAL FOR 2015

ADOPTED RESOLUTION 14-10-21-02 ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CONFIRMING THE 2015 ANNUAL REPORT AND DECLARING THE INTENTION OF THE CITY COUNCIL TO CONTINUE THE PROGRAM AND ASSESSMENTS FOR THE 2015 CALENDAR YEAR FOR THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID); and

SET THE DATE FOR PUBLIC HEARING FOR RENEWAL OF THE DANA POINT TOURISM BUSINESS IMPROVEMENT DISTRICT ON NOVEMBER 18, 2014.

PUBLIC COMMENTS

Girault Claude, Dana Point, suggested that the City name the pedestrian pathway that connects Dana Strand Road and Pacific Coast Highway; Passage des Palmiers.

Nancy Jenkins, Dana Point, reported that the 5th Marine Regiment Support Group was still looking for people to adopt a single Marine or a Marine with family. She stated that Stillwater and Mahe would be providing dinners for the Marines and that they were looking for volunteers to help serve. She asked that if people were interested to go to the Dana Point 5th Marine website to sign up.

Lauralyn Loynes, Dana Point Chamber of Commerce, asked for support of the Lantern District businesses especially those located on Del Prado. She encouraged the City Council to continue to work together towards the goals of the Town Center Plan and support developments in the Lantern District that enhance the area as a primary business district in the city.

Ryan Divel, Dana Point, spoke regarding the closure of the emergency department at the San Clemente Hospital. He stated that if it closes, that it will increase the travel time for emergencies. He suggested that the City reach out to Memorial Care for a study session.

PUBLIC HEARINGS

- 12. HEARING ON THE APPEAL OF PLANNING COMMISSION'S SPLIT DECISION WITH A 2-2 VOTE WHICH HAS THE PRACTICAL EFFECT OF A DENIAL FOR TENTATIVE TRACT MAP TTM 17751, COASTAL DEVELOPMENT PERMIT CDP14-0008, SITE DEVELOPMENT PERMIT SDP14-0006, CONDITIONAL USE PERMIT CUP14-0005, AND VARIANCE V14-0004 FOR THE DEMOLITION OF CURRENT STRUCTURES ON SUBJECT PROPERTIES AND CONSTRUCTION OF A NEW THREE PHASED MIXED USE PROJECT FEATURING 32,500 SQUARE FEET OF RETAIL SPACE ON THE GROUND FLOORS AND 109 RESIDENTIAL CONDOMINIUMS ON THREE LEVELS ABOVE, WITH TWO LEVELS OF SUBTERRANEAN PARKING ON SEVEN NON-CONTIGUOUS LOTS LOCATED AT 34135 PCH, 24471 DEL PRADO, 34129 PCH (PHASE 1); 34137 PCH, 24501 DEL PRADO (PHASE 2); AND 34155 PCH, 24591 DEL PRADO (PHASE 3) IN THE CITY'S TOWN CENTER PLAN AREA**

City Manager Chotkevys introduced the item and City Architect Tilton provided an overview of the proposed elevations of the project.

Peggy Tabbas, Majestic Development, provided a PowerPoint presentation detailing the proposed project.

Council Member Olvera asked what the status was of the parking plan.

Director of Community Development Luna-Reynosa reported that the City has met with Coastal Commission staff and staff is dialoging with them regarding some of the recommendations and policies. She added that ultimately it will require an amendment to the Town Center Plan to implement those policies.

Council Member Olvera asked if there was an estimate for completion of that approval.

City Manager Chotkevys replied that once the City has identified the Coastal Commission's specific concerns, staff can modify the Plan and conduct a series of public meetings. He stated that the hope was to have this accomplished in the next twelve months. He added that the City was modeling the program after San Clemente which had their plan approved by the Coastal Commission.

Council Member Olvera stated that on page 31 of the Town Center Plan it talks about maximum height and provides a table with annotations, he asked for clarification on the first annotation which states count 2 levels of above-grade parking as a single story when fronted by a single story of retail space not exceeding 20 feet in height. He asked how many stories would that be.

City Architect Tilton replied four stories.

Council Member Olvera asked if that would require a variance.

City Architect Tilton replied that no variance would be required.

Mayor Bartlett opened the Public Hearing.

Joan Hansen, Dana Point, stated that she was concerned with the building heights and loss of ocean views for the homeowners on the surrounding hills. She added that she was also concerned with parking for the residential units and increased noise from potential parties on the decks of the residences.

Katherine Schenk, Capistrano Beach, stated that she was concerned with parking and felt with the recent reconfiguration of Pacific Coast Highway, some of the parking has been taken away.

Terry Walsh, Dana Point, stated that he was concerned with the height of the buildings and allowing four stories.

Karen Moderow, Dana Point, felt that the parking plan needed to be settled before approving the project. She suggested that two parking spaces on site per residence be required.

Bill McCormack, Newport Beach, stated that he was concerned with parking and asked for the parking plan to be approved prior to approving the project.

Donna Berger, Dana Point, stated that she was concerned with the height of the buildings and felt that views would be impacted or eliminated altogether. She felt that the buildings were too urban and that they could be more unique.

Bruce Stout, Dana Point, stated that he was concerned with residents using parking for storage and felt that the ocean breezes should be taken advantage of.

Sandie Iverson, Capistrano Beach, stated that she was concerned with how the project was presented to the public in July. She felt that the Nelson/Nygaard study should be re-done since it was prepared prior to Pacific Coast Highway being made two-way.

Carl Iverson, Capistrano Beach, stated that his biggest concern was the parking variance. He added that he would prefer no gates on the plaza areas to keep them open to the public.

Herb Hueg, Dana Point, stated that he was concerned that he would lose his view.

Chuck Rathbone, Dana Point, stated that he was concerned with the variances requested and felt precedent will be set with approval of the project.

Kirsten Reynolds, Dana Point, stated that she was concerned with the emphasis on the residential portion of the project as opposed to the commercial element.

Mayor Bartlett recessed the meeting at 7:59 p.m. and reconvened at 8:12 p.m.

Andrew Zimbaldi, Costa Mesa, stated that he was speaking on behalf of the owners of Lantern Bay Village shopping center and reported that they support the project.

Sue Osborne, Laguna Beach, stated that she was concerned with the lack of transparency on this project and asked for signs to be posted on the sites with a depiction of what was to be built. She added that the project felt more like a housing development.

Trent Hofferber, Dana Point, asked the Council to deny the variance for height and to follow the Town Center Plan. He stated that he was concerned with parking in the area.

Betty Hill, Capistrano Beach, felt that the project did not have a small town feel. She asked the City Council to continue the hearing until the next City Council was in place.

Brett Davis, Dana Point, stated that he supported the proposed project. He felt that it will be a place for people to come and spend their money.

Richard Curtis, Dana Point, stated that he was concerned with parking for the project.

Keith Johannes, Dana Point, stated that he was concerned with parking. He asked for the public hearing to be continued until the new Council was seated.

Buck Hill, Capistrano Beach, spoke regarding the variances requested and asked where the hardship was regarding the lot sizes.

Mike Balsamo, Aliso Viejo, representing the BIA Orange County Chapter, stated that they support the proposed project as it is materially consistent with the Lantern District Specific Plan criteria and will bring significant public benefit to the city.

Russ McKissick, Oceanside, stated that he was concerned about parking and view obstruction.

Paul Hinman, Dana Point, felt that changes still needed to be made to the project before the City Council could approve it.

Harold Kaufman, Dana Point, stated that he was concerned with the possibility of the residences being used for vacation rentals and with the roof decks as they would become another level of living space. He suggested that a condition be added prohibiting vacation rentals.

Carol Riemer, Dana Point, asked the City Council to approve the project.

Rick Morgan, Dana Point, stated that he did not support the project.

Peggy Tabbas stated that residential parking will be located entirely on site and in some cases exceed the number required. She added that the retail parking will include 111 spaces in the parking garages. She felt that none of the variance requests were precedent setting and that wherever possible the use on the first floor would be retail. She stated that they did not want the homes to be used as vacation rentals and that the CC&R's would address that use.

Mayor Bartlett asked if the roof top decks would have solid walls or be glass.

Peggy Tabbas replied that they would be glass.

Mayor Bartlett asked what percentage of the overall footprint of the building are the elevator towers.

Peggy Tabbas replied that they were the minimum size allowed by the Fire Department to accommodate a gurney.

Mayor Bartlett closed the Public Hearing.

Council Member Brough felt that the process has been open and the City has gone above and beyond with the public scoping sessions. He stated that he was pleased that no studio apartments were part of the proposal. He added that there was no lack of parking in the Town Center as determined by the parking study. He stated that the Town Center Plan does not address the accumulation of lots for development.

Council Member Olvera stated that the City needs the residential portion of the project in the Town Center for the residents to participate and live there to make this work. He stated that Certificates of Occupancy will not be issued until in lieu parking has been identified by the City. He felt that parking was a management issue, not a design issue.

Mayor Pro Tem Weinberg stated that he had been on the Town Center Subcommittee from day one and that there was never a discussion about someone being able to purchase multiple parcels for development. He added that if the Council eliminated the fourth floor, then there was a possibility of losing the courtyard. He felt that there was no parking problem, that it was a parking management problem.

Mayor Bartlett stated that she liked the continuity of the structures and felt that the consistent theme was good. She added that the developer could have proposed a denser project but she was concerned with parking. She felt that the project met the Town Center Plan conceptually and that subterranean parking was a key element. She suggested that each phase should not receive their Certificate of Occupancy until the parking in lieu was in place.

Mayor Pro Tem Weinberg made a motion to approve the project and Council Member Olvera seconded.

City Manager Chotkevys also suggested including a prohibition on vacation rentals.

City Attorney Munoz suggested the addition of subsection (l) to Condition Number 69 which would prohibit vacation rentals as well as the rewording of Condition Number 79 which should read "concurrent with recordation of the map related to the project, applicant shall have paid all applicable in lieu fees and prior to the issuance of the Certificate of Occupancy the City shall endeavor to identify the offsite parking space to which the in lieu fees apply."

Mayor Bartlett asked if the subterranean parking could be expanded to accommodate more spaces on site.

Peggy Tabbas replied that if they expanded the second level any further, they would have to go down another level which would be a considerable increase in cost.

Mayor Pro Tem Weinberg stated that he would amend his motion to include the amendments and Council Member Olvera concurred.

Council Member Brough stated that the Tri-City Trolley should be running next year which will help with parking. He felt that with the different uses that they will allow for more parking. He

added that the City had time to build and construct a parking structure. He suggested that the City talk to the Post Office about using their parking lot after hours and on Sundays.

IT WAS MOVED BY MAYOR PRO TEM WEINBERG, SECONDED BY COUNCIL MEMBER OLVERA, THAT THE CITY COUNCIL REVERSE THE PLANNING COMMISSION'S ACTION WHICH HAS THE PRACTICAL EFFECT OF A "DENIAL" AND ADOPT **RESOLUTION NO. 14-10-21-03** APPROVING TENTATIVE TRACT MAP TTM 17751, COASTAL DEVELOPMENT PERMIT CDP14-0008, SITE DEVELOPMENT PERMIT SDP14-0006, CONDITIONAL USE PERMIT CUP14-0005, AND VARIANCE V14-0004 WITH THE ADDITION OF SUBSECTION (L) TO CONDITION NUMBER 69 PROHIBITING VACATION RENTALS AND AN AMENDMENT OF CONDITION NUMBER 79 TO READ "CONCURRENT WITH THE RECORDATION OF THE MAP RELATED TO THE PROJECT, APPLICANT SHALL HAVE PAID ALL APPLICABLE IN LIEU PARKING FEES, AND PRIOR TO THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY THE CITY SHALL ENDEAVOR TO IDENTIFY THE OFFSITE PARKING SPACES TO WHICH THE IN LIEU FEES APPLY" ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING 1) TENTATIVE TRACT MAP TTM 17751, 2) COASTAL DEVELOPMENT PERMIT CDP14-0008, 3) SITE DEVELOPMENT PERMIT SDP14-0006, 4) CONDITIONAL USE PERMIT CUP14-0005, AND 5) VARIANCE V14-0004 AT 34135 PCH, 24471 DEL PRADO, 34129 PCH (PHASE 1); 34137 PCH, 24501 DEL PRADO (PHASE 2); AND 34155 PCH, 24591 DEL PRADO (PHASE 3) IN THE CITY'S TOWN CENTER PLAN AREA.

The motion carried by the following vote:

AYES: Council Member William Brough, Council Member Carlos N. Olvera, and Mayor Pro Tem Steven Weinberg

NOES: Mayor Lisa Bartlett

ABSENT: Council Member Scott Schoeffel

UNFINISHED BUSINESS

There were no Unfinished Business items.

NEW BUSINESS

There were no New Business items.

PUBLIC COMMENTS (Continued)

There were no additional Public Comments received.

STAFF REPORTS

City Manager Chotkevys reported that Fran Cain had turned 95 yesterday. He stated that Sheriff Hutchens had recognized Fran for 25 years of service to the City of Dana Point and over 10,000 hours of service to Orange County Sheriff's Department.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Olvera stated that he would turn in his list of meetings attended to the City Clerk.

Council Member Brough reported that he had attended the Dana Point Chamber of Commerce Mixer on October 16, 2014 at Tavern By The Coast.

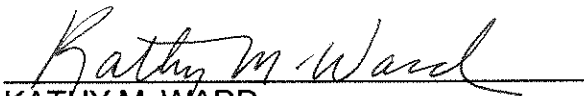
Mayor Pro Tem Weinberg stated that he would turn in his list of meetings attended to the City Clerk.

Mayor Bartlett announced that there would be Halloween Fall Family Fall on Wednesday, October 29th at the Capistrano Beach Farmers Market from 3-7:00 p.m. She stated that applications were being accepted for the OC Grand Jury until January 23, 2015 and that she would leave applications with the City Clerk for those that are interested in applying.

She reported that she had attended a number of her usual meetings including the South Orange County City Manager's meeting, the Aliso Viejo State of the City, Dana Wharf's Fish For Life and was the guest speaker at the Niguel Shore Men's Club. She stated that the Turkey Trot was coming up and for those interested to contact the Chamber of Commerce or sign up on line.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Bartlett adjourned the meeting at 9:34 p.m. and announced that the next Regular Meeting of the City Council will be held November 18, 2014, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.


KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF NOVEMBER 18, 2014

Meetings attended since October 7, 2014:

Mayor Lisa Bartlett

- October 11 10th Annual Soka University Peace Gala
- October 14 Grand Re-opening of the Dana Point Library
- October 16 South Orange County Association of Mayors and the Aliso Viejo State of the City
- October 18 Fish for Life event at Dana Wharf Sportfishing
- October 21 Guest speaker at the Niguel Shores Mens Club

Mayor Pro Tem Steven Weinberg

- October 8 Orange County Vector Control District Budget and Finance meeting
- October 16 Orange County Vector Control District Board Meeting
- Orange County Vector Control District Budget and Finance
- Orange County Fire Authority Executive Committee meeting

Council Member Carlos N. Olvera

- October 10 AB 109 Realignment meeting
- October 14 Re-opening of the Dana Point Library