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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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**CALL TO ORDER**

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Pro Tem Lacy at 5:06 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

**ROLL CALL**

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

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Munoz, City Attorney; Sharon Street, Director of Public Affairs/City Clerk; Cathy Catlett, Assistant City Clerk; Sheryl Lindsey, Director of Administrative Services; Kyle Butterwick, Director of Community Development; Larry Pierce, Interim Director of Public Works and Engineering Services; Matt Sinacori, Deputy City Engineer; and Mark Billings, Chief of Police Services.

Mayor Snyder arrived at 5:08 p.m.

**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. Location: Pacific Coast Highway between the north City limit and the western edge of San Juan Creek, Dana Point, California
  - City Negotiators: Douglas Chotkevys, City Manager  
Patrick Munoz, City Attorney  
Larry Pierce, Interim Director of Public Works/Engineering  
Matthew Sinacori, Deputy City Engineer
  - Negotiating Parties: City of Dana Point and California Department of

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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- Under Negotiation: Transportation  
Relinquishment of portion of Pacific Coast Highway, including both price and terms of payment
2. Property: 26351 and 26315 Via Canon, Dana Point, California  
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

City Attorney Patrick Munoz announced two additional items which came to the attention of the City Attorney after the Agenda was posted.

D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (2 cases)

- 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
- Name of Case: Jack 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

E. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, Government Code § 54956.8 (1 case)

- Location: 35009 Camino Capistrano, Dana Point, California  
Agency Negotiators: Douglas Chotkevys, City Manager  
Patrick Munoz, City Attorney  
Negotiating Parties: City of Dana Point and Pioneer Builders, Inc.  
Under Negotiation: Price and terms of agreement relating to property

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON TO ACCEPT THE ITEMS INTO CLOSED SESSION.

Mayor Snyder recessed the meeting into a Closed Session at 5:09 p.m. pursuant to Government Code Section 54956 et. seq.

**RECONVENE CITY COUNCIL MEETING**

Mayor Snyder reconvened the meeting at 7:10 p.m. All Council Members were present.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by a member of The Boys and Girls Club of San Juan Capistrano.

**INVOCATION**

The Invocation was given by Pastor Margaret Duttera from Christ Lutheran Church.

Mayor Snyder announced that he was moving Presentations and Proclamations to this time.

**PRESENTATIONS AND PROCLAMATIONS**

Orange County Transportation Authority (OCTA)

Mayor Snyder introduced Orange County Supervisor and Director of OCTA Tom Wilson, who gave a brief overview of the South Orange County Transit study. Supervisor Wilson then introduced Dan Boyle of Boyle Engineering, who gave a slide presentation of the South Orange County Transit Study.

Festival of Whales Awards Certificates

Orange County Sheriff's Department Reserve Bureau

Mayor Snyder introduced Lieutenant Mark Billings, Chief of Police Services. Lieutenant Billings provided information regarding the Reserve Bureau and the Reserve Deputies. He introduced Dana Point's new Canine Handler Larry Luhrsen and his dog Oz. Deputy Luhrsen gave a brief background of his dog.

Mayor Snyder then presented a Certificate of Recognition to The Orange County Sheriff's Department Reserve Bureau, accepted by Lieutenant Jeff Bardzik. He also was presented with 17 individual Certificates of Recognition thanking each Reserve Deputy for his/her police services the day of the Festival of Whales Parade.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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Featured Business of the Month – Aegis Assisted Living of Dana Point

Sheryl Lindsey, Director of Administrative Services, gave a slide presentation. Mayor Snyder presented a Certificate of Recognition to Aegis Assisted Living of Dana Point. Present to receive the Certificate were Marilyn Williams and Jacquie McCord.

Mayor Snyder presented the proclamations for the 5<sup>th</sup> Marine Regiment for their participation in the Festival of Whales Parade. Mayor Snyder announced that the Proclamation and the individual Certificates of Recognition will be given to Colonel Navarre, as the 5<sup>th</sup> Regiment is now in Iraq.

Mayor Snyder presented a Certificate of Recognition to Greg Sadler and his company Big Events, Inc. for his donation of the whale balloon for the Festival of Whales Parade.

Mayor Snyder then presented a Certificate of Recognition to Gene Burrus for volunteering to announce the Festival of Whales Parade and also for his special efforts at the Senior Center.

Sheryl Lindsey, Director of Administrative Services, gave a slide presentation of photographs of the Festival of Whales Parade.

Mayor Snyder announced that he was moving the Public Hearing to this time.

**PUBLIC HEARING**

29. **APPEAL OF PLANNING COMMISSION DECISION APPROVING COASTAL DEVELOPMENT PERMIT CDP94-01(I) TO ALLOW THE CONSTRUCTION OF A NEW APPROXIMATE 7,835 SQUARE FOOT, SINGLE-FAMILY RESIDENCE ON A 34,630 SQUARE FOOT BLUFF-TOP LOT WITH A SITE DEVELOPMENT PERMIT SDP03-09 TO ALLOW A GARAGE AND TWO (2) STORY CONFIGURATION AND RETAINING WALLS AS HIGH AS 6.5 FEET IN HEIGHT AND VARIANCE V03-10 TO EXCEED THE MAXIMUM HEIGHT LIMIT BY 11 FEET THREE (3) INCHES, AND FOR THE REQUIREMENTS FOR DEVELOPMENT ADJACENT TO COASTAL BLUFFS LOCATED AT 35009 CAMINO CAPISTRANO (CONTINUED FROM THE MEETING OF MARCH 10, 2004) [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)**

At this time Mayor Snyder opened the Public Hearing and announced the continuance of Item 29, the Public Hearing regarding an appeal of Planning Commission decision

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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approving Coastal Development CDP94-01(I) until May 26, 2004 at the City Council Regular Meeting.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER LACY, THAT THE PUBLIC HEARING BE CONTINUED TO THE MAY 26, 2004 CITY COUNCIL MEETING.

The motion carried by the following vote:

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

Mayor Snyder recessed the meeting at 8:01 p.m.

Mayor Snyder reconvened the meeting at 8:30 p.m.

**CONSENT CALENDAR**

Items 14, 22, and 27 were removed by members of the public. Council Member Ossenmacher removed Items 15 and 21. City Manager Chotkevys reported a conflict of interest regarding Item 22 due to living in close proximity, and announced he would leave the Council Chambers at that time.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON, THAT THE RECOMMENDATIONS BE ACCEPTED FOR ALL ITEMS LISTED ON THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 14, 15, 21, 22, AND 27.

The motion carried by the following vote:

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

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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- 2. REGULAR MEETING MINUTES, MARCH 10, 2004**

RECEIVED AND FILED.
- 3. REGULAR MEETING/JOINT MEETING MINUTES, MARCH 24, 2004**

RECEIVED AND FILED.
- 4. PLANNING COMMISSION MEETING MINUTES, MARCH 3, 2004**

RECEIVED AND FILED.
- 5. PLANNING COMMISSION MEETING MINUTES, MARCH 17, 2004**

RECEIVED AND FILED.
- 6. PLANNING COMMISSION ACTIONS, MEETING OF MARCH 17, 2004**

RECEIVED AND FILED.
- 7. PLANNING COMMISSION ACTIONS, MEETING OF APRIL 7, 2004**

RECEIVED AND FILED.
- 8. YOUTH BOARD MEETING MINUTES, FEBRUARY 19, 2004**

RECEIVED AND FILED.
- 9. YOUTH BOARD MEETING MINUTES, MARCH 4, 2004**

RECEIVED AND FILED.
- 10. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**

RECEIVED AND FILED.
- 11. CITY TREASURER'S REPORT, FEBRUARY 2004**

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF FEBRUARY 2004.
- 12. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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13. **AMENDMENT TO AGREEMENT BETWEEN ALL CITY MANAGEMENT SERVICES, INC. AND THE CITY OF DANA POINT FOR PROVIDING SCHOOL CROSSING GUARD SERVICES** [*STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS*] (0400-10)

(1) AUTHORIZED THE CITY MANAGER TO APPROVE THE AMENDMENT TO AGREEMENT BETWEEN ALL CITY MANAGEMENT SERVICES, INC. AND THE CITY OF DANA POINT FOR PROVIDING SCHOOL CROSSING GUARD SERVICES FOR FISCAL YEAR 2004-2005; AND (2) AUTHORIZED THE NECESSARY BUDGET APPROPRIATIONS LISTED IN THE FISCAL IMPACT SECTION OF THE REPORT FOR FY04 AND FY05.

14. **BIANNUAL CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS ADJUSTMENT** [*STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS*] (0430-20)

This item was removed by a member of the public.

City Manager Chotkevys gave a staff report.

Mayor Snyder opened Public Comments.

Jim Slark, Dana Point, commented on advisory limits.

Lara Anderson, Dana Point, commented on advisory limits.

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON, TO ADOPT **RESOLUTION NO. 04-04-28-04** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADJUSTING THE CAMPAIGN CONTRIBUTION AND CAMPAIGN EXPENDITURE LIMITS TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX, AS REQUIRED BY SECTION 2.05.058 OF THE DANA POINT MUNICIPAL CODE, WITH THE DELETION OF (D) AND (E)*

AND DIRECTED STAFF TO BRING IT BACK TO COUNCIL WITH A REVISED ORDINANCE WHICH WOULD ELIMINATE (d) AND (e) REGARDING ADVISORY LIMITS ON EXPENDITURES FROM PERSONAL FUNDS AND TOTAL EXPENDITURES.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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The motion carried by the following vote:

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

**15. CITY MANAGER EMPLOYMENT AGREEMENT [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS] (0400-10)**

This item was removed by Council Member Ossenmacher.

City Manager Chotkevys introduced Mayor Pro Tem Lacy, who gave a report.

Council Member Ossenmacher expressed concern about not being provided information requested.

Mayor Pro Tem Lacy spoke regarding the Comparability Study by the subcommittee regarding compensation of City Managers in other cities.

Council discussion ensued.

IT WAS MOVED BY MAYOR PRO TEM LACY, SECONDED BY COUNCIL MEMBER CHILTON, TO APPROVE THE FIFTH AMENDMENT TO THE EMPLOYMENT CONTRACT FOR CITY MANAGER DOUGLAS C. CHOTKEVYS

After further Council discussion, Mayor Snyder made a substitute motion to provide Council Member Ossenmacher with the information he requested to ensure that all Council Members were informed, and to continue this item to the next Council meeting. The motion died for lack of a second.

Mayor Snyder noted that there was a motion on the floor for the recommended action and called for the vote.

The motion carried by the following vote:

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



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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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ABSTAIN: Council Member Ossenmacher

Council Member Ossenmacher stated he would like to make a for the record statement at this time:

“BECAUSE WE HAVE NOT BEEN PROVIDED WITH INFORMATION REQUESTED OVER SIX WEEKS AGO, HELPFUL IN MAKING AN INFORMED DECISION ON THIS MATTER, THEREFORE I WAS NOT ABLE TO SUPPORT THE RECOMMENDED ACTION AT THIS TIME.”

Mayor Pro Tem Lacy made a for the record statement at this time:

“TO THE EXTENT THAT COUNCILMAN OSSENMACHER HAD EXPECTATIONS ABOUT INFORMATION ON MARCH 10, HE MADE ABSOLUTELY NO REQUESTS FOR ANY SUCH INFORMATION UNTIL THE LAST MINUTE, UNTIL TODAY, AND HE DID RECEIVE HIS AGENDA REPORT ON FRIDAY, AND WAS IN A POSITION ON FRIDAY, KNOWING THAT THIS WAS GOING TO...”

16. **ADOPTION OF A RESOLUTION ACCEPTING TWO EASEMENTS BETWEEN THE CITY OF DANA POINT AND CAPISTRANO BAY DISTRICT FOR THE PLACEMENT AND FUTURE MAINTENANCE OF STORM DRAIN FACILITIES AND STRUCTURES ASSOCIATED WITH THE CAPISTRANO BEACH STORM DRAIN PHASE II PROJECT** [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0490-30)

ADOPTED RESOLUTION **NUMBER 04-04-28-01** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ACCEPTING TWO EASEMENTS BETWEEN THE CITY OF DANA POINT AND CAPISTRANO BAY DISTRICT FOR THE PLACEMENT AND FUTURE MAINTENANCE OF STORM DRAIN FACILITIES AND STRUCTURES ASSOCIATED WITH THE CAPISTRANO BEACH STORM DRAIN PHASE II PROJECT*

17. **STATUS REPORT EMERGENCY AMBULANCE RFP PROCESS** [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS] (0250-20)

RECEIVED AND FILED THE STATUS REPORT, AND DIRECTED MAYOR PRO TEM JIM LACY, THE CITY MANAGER, AND THE EMERGENCY SERVICES

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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COORDINATOR TO REVIEW THE SUBMITTED RFP'S AND RETURN WITH A RECOMMENDATION.

- 18. CITY COUNCIL GRANT RECOMMENDATION (SNYDER) [STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES] (0330-25)**

APPROVED THE RECOMMENDED GRANT FUNDING BY MAYOR SNYDER AS LISTED WITHIN THE STAFF REPORT PER CITY COUNCIL POLICY 116.

- 19. PILOT PROGRAM – AUTOMATED GREEN WASTE COLLECTION AND MULTI-FAMILY RESIDENTIAL WASTE PROCESSING [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS] (1060-50)**

APPROVED IMPLEMENTATION OF A PILOT AUTOMATED GREEN WASTE COLLECTION PROGRAM AND PILOT PROGRAM FOR PROCESSING MULTI-FAMILY RESIDENTIAL WASTE.

- 20. AWARD OF CONTRACT FOR AUDIT SERVICES [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS] (0400-10)**

AWARDED A THREE-YEAR CONTRACT FOR AUDIT SERVICES TO TEAMAN, RAMIREZ & SMITH, COVERING THE FISCAL YEARS ENDED JUNE 30, 2004, 2005 AND 2006, AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE CONTRACT ON THE CITY'S BEHALF.

- 21. CITY MANAGER HOUSING AGREEMENT [STRATEGIC PLAN: ACHIEVE TOTAL EXCELLENCE IN MUNICIPAL SERVICES AND CITY ADMINISTRATION/PLANNING WITH EXCELLENT CUSTOMER SERVICE AND COST-EFFECTIVENESS] (0400-10)**

This item was removed from the Consent Calendar by Council Member Ossenmacher.

City Manager Chotkevys introduced Mayor Pro Tem Lacy, who gave a report.

Council discussion ensued.

City Manager Chotkevys requested that the item be withdrawn.

Mayor Snyder called a recess at 10:17 p.m.

The meeting reconvened at 10:30 p.m.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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- 22. APPROVAL OF THE INSTALLATION OF A TRAFFIC SIGNAL AT THE INTERSECTION OF BLUE SAIL DRIVE AND DEL OBISPO STREET AS PART OF THE ANNUAL TRAFFIC SAFETY IMPROVEMENTS PROGRAM, FISCAL YEAR 2003/2004 [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0860-50)**

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

City Manager Chotkevys left the Council Chamber due to a conflict of interest.

Interim Director of Public Works/Engineering Larry Pierce gave a staff report.

The person who requested to speak was not present.

IT WAS MOVED BY MAYOR PRO TEM LACY, SECONDED BY COUNCIL MEMBER RAYFIELD TO APPROVE THE INSTALLATION OF A TRAFFIC SIGNAL AT BLUE SAIL DRIVE AND DEL OBISPO STREET UNDER THE ANNUAL TRAFFIC SAFETY IMPROVEMENTS PROGRAM, FISCAL YEAR 2003-2004; AND (2) AUTHORIZE A TRANSFER OF FUNDS FROM THE ANNUAL TRAFFIC SAFETY IMPROVEMENT PROGRAM FY03/04 ACCOUNT TO THE ARTERIAL ROADWAY RESURFACING PROJECT PHASE III (DEL OBISPO) TO CONSTRUCT THE NEW SIGNAL.

The motion carried by the following vote:

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

- 23. 2004 ABATEMENT PROGRAM, AUTHORIZATION TO ABATE WEEDS [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0240-50)**

**ADOPTED RESOLUTION NO. 04-04-28-02 ENTITLED:**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, HEARING NO OBJECTIONS AND PROCEEDING WITH WEED ABATEMENT*

AUTHORIZING STAFF TO ABATE WEEDS UPON PUBLIC OR PRIVATE PROPERTY, AND TO REPORT BACK TO THE CITY COUNCIL ON JULY 28, 2004 WITH AN ITEMIZED REPORT DETAILING ABATEMENT COST.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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- 24. WEED ABATEMENT PROGRAM, AWARD CONTRACT** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0400-10)*

AWARDED THE 2004 WEED ABATEMENT CONTRACT TO H&M EXCAVATING.

- 25. STORM WATER EDUCATION STREET BANNERS** *[STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES] (0680-20)*

(1) RECEIVED AND FILED THE REPORT ON THE STATUS OF THE CITY'S USED OIL RECYCLING GRANT PROGRAM; AND (2) APPROVED THE PURCHASE OF STROM WATER EDUCATION STREET BANNERS.

- 26. ADOPTION OF A RESOLUTION APPROVING THE SUBMITTAL OF AN APPLICATION TO THE LAND AND WATER CONSERVATION FUND PROGRAM FOR THE SEA TERRACE PARK RECREATIONAL TRAILS PROJECT** *[STRATEGIC PLAN: PROVIDE OPEN SPACE, PARKS, RECREATIONAL FACILITIES, GREENBELTS AND TRAILS] (0700-10)*

ADOPTED **RESOLUTION NO. 04-04-28-03** ENTITLED:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE APPLICATION FOR LAND AND WATER CONSERVATION FUNDS FOR THE SEA TERRACE PARK RECREATIONAL TRAILS PROJECT; and*

AUTHORIZED STAFF TO PREPARE A LAND AND WATER CONSERVATION FUND PROGRAM GRANT APPLICATION FOR SUBMITTAL TO THE STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION FOR COMPLETION OF THE SEA TERRACE PARK RECREATIONAL TRAILS PROJECT.

- 27. AWARD OF CONTRACT FOR THE 4<sup>TH</sup> OF JULY AERIAL FIREWORKS DISPLAY AND BARGE CONTRACT** *[STRATEGIC PLAN: PROMOTE CULTURAL ARTS AND HUMAN SERVICES] (0400-10)*

This item was removed from the Consent Calendar by the public.

City Manager Chotkevys gave a staff report and introduced Kevin Evans, Recreation Manager, who gave a slide presentation regarding the varying costs for vendors and programs.

Mayor Snyder opened Public Comments.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

---

---

Lara Anderson, Dana Point, spoke regarding the opportunity to educate the public on water quality awareness on the Fourth of July.

IT WAS MOVED BY COUNCIL MEMBER OSSENMACHER, SECONDED BY COUNCIL MEMBER CHILTON, TO (1) APPROVE A CONTRACT WITH PYRO-SPECTACULARA IN THE AMOUNT OF \$40,000.00 FOR THE 2004 FOURTH OF JULY AERIAL FIREWORKS DISPLAY, AND (2) APPROVE A CONTRACT WITH PACIFIC TUGBOAT SERVICE TO PROVIDE A BARGE TO BE USED AS THE STAGING AREA FOR THE FIREWORKS DISPLAY; AND (3) AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENTS.

After Council discussion,

COUNCIL MEMBER OSSENMACHER AMENDED HIS MOTION AND MOVED TO INCREASE THE FUNDING FROM \$40,000.00 to \$45,000.00, SECONDED BY COUNCIL MEMBER CHILTON, TO (1) APPROVE A CONTRACT WITH A VENDOR TO BE SELECTED BY STAFF IN THE AMOUNT OF \$45,000.00 FOR THE 2004 FOURTH OF JULY AERIAL FIREWORKS DISPLAY, AND (2) APPROVE A CONTRACT WITH PACIFIC TUGBOAT SERVICE TO PROVIDE A BARGE TO BE USED AS THE STAGING AREA FOR THE FIREWORKS DISPLAY; AND (3) AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENTS.

The motion carried by the following vote:

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

**28. APPROVAL OF AN INCREASED CONTINGENCY FOR THE CONSTRUCTION OF THE ANNUAL ROADWAY RESURFACING PROJECT, FISCAL YEAR 2003/2004 [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0820-15)**

(1) APPROVED AN INCREASE IN THE ALLOWABLE CONTINGENCY FROM TEN PERCENT TO THIRTY PERCENT OF THE TOTAL CONTRACT AMOUNT FOR CONSTRUCTION OF THE ANNUAL ROADWAY RESURFACING PROJECT FY 03/04; (2) AUTHORIZED ADDITIONAL FUNDS FOR ADDITIONAL CONSTRUCTION MANAGEMENT SERVICES; AND (3) APPROVED THE TRANSFER OF FUNDS FROM THE SAN JUAN AVENUE AND BIOLET LANTERN RECONSTRUCTION PROJECT TO THE ANNUAL ROADWAY RESURFACING PROJECT, FISCAL YEAR 2003/2004, ACCOUNT NUMBER 11-99-30-1177-311.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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**ORAL REPORTS**

There were no Oral Reports.

Mayor Snyder recessed the meeting at 10:17 p.m.

Mayor Snyder reconvened the meeting at 10:30 p.m.

**PUBLIC COMMENTS**

Mayor Snyder opened the Public Comments.

Laurence Wilson, Three Arch Bay, reported that a meeting of the Three Arch Bay HOA would take place the following evening, updating the master plan of drainage.

Richard Gardner, Capistrano Beach reported on the Heal the Bay website regarding rating water quality.

- 29. APPEAL OF PLANNING COMMISSION DECISION APPROVING COASTAL DEVELOPMENT PERMIT CDP94-01(I) TO ALLOW THE CONSTRUCTION OF A NEW APPROXIMATE 7,835 SQUARE FOOT, SINGLE-FAMILY RESIDENCE ON A 34,630 SQUARE FOOT BLUFF-TOP LOT WITH A SITE DEVELOPMENT PERMIT SDP03-09 TO ALLOW A GARAGE AND TWO (2) STORY CONFIGURATION AND RETAINING WALLS AS HIGH AS 6.5 FEET IN HEIGHT AND VARIANCE V03-10 TO EXCEED THE MAXIMUM HEIGHT LIMIT BY 11 FEET THREE (3) INCHES, AND FOR THE REQUIREMENTS FOR DEVELOPMENT ADJACENT TO COASTAL BLUFFS LOCATED AT 35009 CAMINO CAPISTRANO (CONTINUED FROM THE MEETING OF MARCH 10, 2004) [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]**

IT WAS MOVED BY COUNCIL MEMBER RAYFIELD, SECONDED BY MAYOR PRO TEM LACY, TO CONTINUE THE ITEM TO THE MAY 26, 2004 COUNCIL MEETING.

The motion carried by the following vote:

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

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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**UNFINISHED BUSINESS**

**30. AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE SALT CREEK OZONE TREATMENT FACILITY [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS] (0400-10)**

City Manager Chotkevys gave a staff report and introduced Matt Sinacori, Deputy City Engineer, who gave a slide presentation on the subject of the City Strategic Plan, the goals of eliminating urban runoff, the project background.

Mayor Snyder opened Public Comments.

Ed Labahn, Dana Point, stated he felt the project is premature.

Richard Gardner suggested using the treated water as reclaimed water.

IT WAS MOVED BY COUNCILMEMBER RAYFIELD, SECONDED BY COUNCIL MEMBER CHILTON, TO (1) AWARD A CONTRACT TO METRO BUILDERS AND ENGINEERS GROUP, LTD. FOR THE CONSTRUCTION OF THE SALT CREEK OZONE TREATMENT FACILITY ALONG WITH ACCEPTANCE OF LETTER RELATIVE TO BID IRREGULARITY; (2) AUTHORIZE THE EXPENDITURES FOR VARIOUS CONSTRUCTION SUPPORT, ADMINISTRATION AND MANAGEMENT EXPENDITURES AS OUTLINED IN THE FISCAL IMPACT SECTION OF THE REPORT; AND (3) AUTHORIZE THE TRANSFER OF FUNDS FROM VARIOUS CIP PROJECTS AND RESERVE ACCOUNTS TO THE SALT CREEK OZONE TREATMENT FACILITY AS OUTLINED IN THE FISCAL IMPACT SECTION OF THE REPORT, AND DESIGNATE FUNDS SECURED FROM THE STATE OF CALIFORNIA WATER RESOURCES CONTROL BOARD FOR THE DEL OBISPO STORM DRAIN DIVERSION PROJECT AS AN ANTICIPATED PROJECT REVENUE.

The motion carried by the following vote:

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

**NEW BUSINESS**

There was no New Business.

**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 28, 2004**

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IT WAS MOVED BY COUNCILMEMBER LACY, SECONDED BY COUNCIL MEMBER CHILTON, TO CONTINUE THE MEETING PAST 11:00 P.M. THERE WAS CONSENSUS TO DO SO.

**STAFF REPORTS**

City Manager Chotkevys announced that Sheryl Lindsey, Director of Administration, would be leaving employment with the City, and gave a personal heart-felt thank you to her.

There being no further business before the City Council at this session, Mayor Snyder declared the meeting adjourned at 11:10 p.m.

The next Regular Meeting of the City Council will be May 12, 2004 at 6:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California, 92629.

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SHARON STREET  
DIRECTOR OF PUBLIC AFFAIRS/CITY CLERK

APPROVED AT MEETING OF JUNE 23, 2004