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

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 (*arrived at 5:10 p.m.*)
Wayne Rayfield, Council Member
Russell Chilton, Council Member
James Lacy, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Pat Munoz, City Attorney; Cathy Catlett, Interim City Clerk; Shanna Wolf, Management Analyst; Kyle Butterwick, Director of Community Development; Genia Garcia, Senior Planner; Larry Pierce, Interim Director of Public Works and Engineering Services; Matt Sinacori, Deputy City Engineer; and Mark Billings, Chief of Police Services.

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 (b), (2 cases)
- B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Government Code § 54956.9 (c), (1 case)
- C. PUBLIC EMPLOYEE APPOINTMENT, Government Code § 54957
- D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9(a), (1 case)

Title: City Clerk

Name of Case: Pioneer Builders, Inc. v. the City of Dana Point; the City Council for the City of Dana Point; the Planning Commission for the City of Dana Point; and the Department of Public Works for the City of Dana Point, Orange County Superior Court Case No. 03CC13460

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

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mitch Higgenbotham, former Tuskegee Airman.

INVOCATION

The Invocation was given by Reverend Gary Tucker of Companion Hospice of Orange County.

CONSENT CALENDAR

Staff removed Item 20 from the Consent Calendar for consideration later in the meeting.

IT WAS MOVED BY COUNCIL 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 ITEM 20.

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, OCTOBER 22, 2003

APPROVED THE MINUTES.

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3. REGULAR MEETING MINUTES, NOVEMBER 12, 2003

APPROVED THE MINUTES.

4. PLANNING COMMISSION MEETING MINUTES, MEETING OF OCTOBER 15, 2003

RECEIVED AND FILED.

5. PLANNING COMMISSION MEETING MINUTES, MEETING OF NOVEMBER 5, 2003

RECEIVED AND FILED.

6. PLANNING COMMISSION/COMMITTEE ACTIONS, MEETING OF NOVEMBER 5, 2003

RECEIVED AND FILED.

7. PLANNING COMMISSION/COMMITTEE ACTIONS, MEETING OF NOVEMBER 19, 2003

RECEIVED AND FILED.

8. YOUTH BOARD REGULAR MEETING MINUTES, SEPTEMBER 18, 2003

RECEIVED AND FILED.

9. YOUTH BOARD REGULAR MEETING MINUTES, OCTOBER 16, 2003

RECEIVED AND FILED.

10. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

11. CITY TREASURER'S REPORT, SEPTEMBER 2003

RECEIVED AND FILED THE CITY TREASURER'S REPORT FOR THE MONTH OF SEPTEMBER 2003.

12. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

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13. CITY COUNCIL GRANT RECOMMENDATIONS

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

14. AWARD OF A CONTRACT TO NOBEST, INCORPORATED FOR THE CONSTRUCTION OF SIDEWALK IMPROVEMENTS ON CROWN VALLEY PARKWAY BETWEEN PACIFIC COAST HIGHWAY AND CAMINO DEL AVION *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

(1) AWARDED A CONTRACT TO NOBEST, INCORPORATED FOR THE CONSTRUCTION OF SIDEWALK IMPROVEMENTS ON CROWN VALLEY PARKWAY BETWEEN PACIFIC COAST HIGHWAY AND CAMINO DEL AVION, PROVIDED THAT THE CITY MANAGER OR HIS DESIGNEE MAY APPROVE ADDITIONAL PAYMENT NOT TO EXCEED TWENTY PERCENT OF THE AMOUNT FOR CHANGE ORDERS AND CONTINGENCIES; (2) APPROVED THE TRANSFER OF FUNDS FROM THE CITYWIDE SIDEWALK SYSTEM PROJECT, ACCOUNT NUMBER 11-99-30-1137-311, TO THE CROWN VALLEY LANDSCAPED MEDIAN PROJECT, ACCOUNT NUMBER 11-99-30-1160-311; (3) AUTHORIZED FUNDS FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE CONSTRUCTION OF SIDEWALK IMPROVEMENTS ON CROWN VALLEY PARKWAY BETWEEN PACIFIC COAST HIGHWAY AND CAMINO DEL AVION; (4) AUTHORIZED A PURCHASE ORDER TO GOFFMAN MCCORMICK AND URBAN FOR MATERIALS TESTING AND INSPECTION SERVICES; AND (5) AUTHORIZED THE FUNDS FOR CONSTRUCTION SUPPORT SERVICES FOR THE CONSTRUCTION OF SIDEWALK IMPROVEMENTS ON CROWN VALLEY PARKWAY BETWEEN PACIFIC COAST HIGHWAY AND CAMINO DEL AVION.

15. ADOPTION OF A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF DANA POINT AND THE SOUTH COAST WATER DISTRICT FOR THE INTERIM USE OF FACILITIES TO DIVERT BACKWASH FLOWS FROM THE SALT CREEK STORM DRAIN TREATMENT FACILITY *[STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES]*

(1) ADOPTED **RESOLUTION NO. 03-11-26-01**, 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 BACKWASH FLOWS FROM THE SALT CREEK STORM DRAIN TREATMENT FACILITY;

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AND (2) AUTHORIZED THE CITY MANAGER TO SIGN THE AGREEMENT ON THE CITY COUNCIL'S BEHALF ONCE THE AGREEMENT IS APPROVED AND THE RESOLUTION IS SIGNED.

- 16. ADOPTION OF A RESOLUTION APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF THE NORTH CREEK STORM DRAIN DIVERSION PROJECT** *[STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES]*

(1) ADOPTED **RESOLUTION NO. 03-11-26-02**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A NOTICE OF COMPLETION FOR THE CONSTRUCTION OF NORTH CREEK STORM DRAIN DIVERSION PROJECT

AND (2) DIRECTED STAFF TO TRANSFER ALL PROJECT SAVINGS TO THE CAPITAL IMPROVEMENT PROGRAM RESERVES.

- 17. HISTORIC PRESERVATION AGREEMENTS (MILLS ACT)** *[STRATEGIC PLAN: EVALUATE LAND USE ISSUES TO ENSURE THAT THE GOALS OF THE GENERAL PLAN REFLECT THE COMMUNITY'S VISION AND MISSION]*

AUTHORIZED THE MAYOR TO SIGN HISTORIC PROPERTY PRESERVATION AGREEMENTS WHICH WOULD ALLOW THE FOLLOWING PROPERTY OWNERS OF HISTORIC STRUCTURES TO PARTICIPATE IN THE STATE'S MILLS ACT PROGRAM:

1. JIM AND SANDIE HOWARD, 34162 CAMINO EL MOLINO
2. JOHANNA AND GARY SISKAR, 26771 CALLE REAL
3. JOAN M. HAEFNER, 34262 VIA VELEZ

- 18. ADOPTION OF A RESOLUTION APPROVING FINAL TRACT MAP AND OPEN SPACE AGREEMENT FOR TRACT NO. 16133** *[STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]*

ADOPTED **RESOLUTION NO. 03-11-26-03**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING FINAL TRACT MAP AND OPEN SPACE AGREEMENT FOR TRACT NO. 16133.

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- 19. PRESENTATION OF ACCOMPLISHMENTS RELATED TO THE CITY OF DANA POINT'S LOCAL IMPLEMENTATION PROGRAM PER THE REQUIREMENTS OF THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD-ADOPTED ORDER NUMBER R9-2002-0001 ADDRESSING WASTE DISCHARGE REQUIREMENTS [STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES]**

(1) RECEIVED AND FILED A PRESENTATION OF ACCOMPLISHMENTS RELATED TO THE CITY OF DANA POINT'S LOCAL IMPLEMENTATION PROGRAM PER THE REQUIREMENTS OF THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD (SDRWQCB) ADOPTED ORDER NUMBER R9-2002-0001 ADDRESSING WASTE DISCHARGE REQUIREMENTS; (2) RECEIVED AND REVIEWED THE CITY OF DANA POINT LOCAL IMPLEMENTATION PLAN; (3) AUTHORIZED THE EXPENDITURE OF ADDITIONAL FUNDS FOR IMPLEMENTATION OF THE LOCAL IMPLEMENTATION PROGRAM AND ASSOCIATED REQUIREMENTS; AND (4) AUTHORIZED THE EXPENDITURE OF ADDITIONAL FUNDS FOR WATERSHED TESTING IN THE SAN JUAN CREEK AND SALT CREEK WATERSHEDS PER THE REQUIREMENTS OF THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD (SDRWQCB) ADOPTED ORDER NUMBER R9-2002-0001 ADDRESSING WASTE DISCHARGE REQUIREMENTS

- 20. EMPLOYMENT AGREEMENT – CITY CLERK**

THIS ITEM WAS REMOVED FROM THE CONSENT CALENDAR FOR CONSIDERATION LATER IN THE MEETING.

- 21. INTRODUCE TWO ORDINANCES OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE CITY OF DANA POINT REVISED GRADING AND EXCAVATION CODE AND THE REVISED STORM WATER AND URBAN RUNOFF POLLUTION CODE PER THE REQUIREMENTS OF THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD-ADOPTED ORDER NUMBER R9-2002-0001 ADDRESSING WASTE DISCHARGE REQUIREMENTS [STRATEGIC PLAN: RESTORE AND MAINTAIN THE INTEGRITY OF OUR OCEAN WATERS AND BEACHES]**

INTRODUCED TWO ORDINANCES ENTITLED:

- A. *AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE REVISED GRADING AND EXCAVATION CODE*

- and -

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- B. *AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE REVISED STORM WATER AND URBAN RUNOFF POLLUTION CODE*

PER THE REQUIREMENTS OF THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD (SDRWQCB) ADOPTED ORDER NUMBER R9-2002-0001 ADDRESSING WASTE DISCHARGE REQUIREMENTS.

PRESENTATIONS AND PROCLAMATIONS

1. Presentation to City Council from Miocean Foundation

Keith Ross, Jeff Bizzack and John Moody from the Miocean Foundation presented the City of Dana Point with a check for \$100,000.00 for the North Creek Storm Drain Project.

Deputy City Engineer Sinacori narrated a photo presentation depicting the North Creek Storm Drain Project.

2. Certificate of Recognition for Toby's House

Mayor Ossenmacher presented a Certificate of Recognition to Toby's House, which was accepted by Mary Rayburn, Director, and Joan Hansen, Director of Fund Development.

3. Presentation to Dana Point Library

Mayor Ossenmacher presented the Dana Point Library with a donation of several DVD and VHS videos purchased from the City Council grant funding process. John Adams, Orange County Librarian, accepted the donation on behalf of the library.

Mayor Ossenmacher presented a Certificate of Recognition to Borders for their role in the purchasing of these DVD's and videos, which was accepted by Wade Lucas, Corporate Sales Representative for Borders,

4. Featured Business of the Month – ReelTime Sight and Sound

Senior Planner Garcia narrated a photo presentation depicting ReelTime Sight and Sound.

Mayor Ossenmacher presented an official certificate recognizing ReelTime Sight and Sound as the Featured Business of the Month to Skip Myers, owner, and Roger Washington, Store Manager.

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HOLIDAY REFRESHMENTS RECESS

Mayor Ossenmacher recessed the meeting for a Holiday Refreshments Recess.

PUBLIC COMMENTS

Clinton Miyazono, Dana Point, Dana Point Youth Board Member, spoke regarding the upcoming annual Holiday Home Decorating Contest held by the Youth Board. Richard Gardner, Capistrano Beach, provided an update on activities of the "Friends of Salt Creek."

PUBLIC HEARINGS

There were no Public Hearings.

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

22. CONSIDERATION OF AN ORDINANCE ESTABLISHING A CONSTRUCTION AND DEMOLITION WASTE RECYCLING PROGRAM [STRATEGIC PLAN: MAINTAIN, MODERNIZE AND BEAUTIFY THE CITY'S INFRASTRUCTURE AND NEIGHBORHOODS]

City Manager Chotkevys presented a brief staff report.

City Attorney Munoz provided a technical overview of the proposed ordinance.

IT WAS MOVED BY MAYOR PRO TEM SNYDER, SECONDED BY COUNCIL MEMBER RAYFIELD (for discussion) (as amended), TO (1) INTRODUCE AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING TITLE 6 "HEALTH AND SANITATION" OF THE DANA POINT MUNICIPAL CODE TO ESTABLISH THE CONSTRUCTION AND DEMOLITION WASTE RECYCLING PROGRAM

WITH REVISIONS TO DRAFT ORDINANCE TO INCLUDE A MANDATORY 75% DIVERSION RATE AND LANGUAGE ALLOWING NON-COMMERCIAL RESIDENTIAL CONSTRUCTION AND DEMOLITION HAULERS TO SELF-HAUL UTILIZING LOCAL FACILITIES AVAILABLE.

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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

ORAL REPORTS

There were no Oral Reports.

STAFF REPORTS

City Manager Chotkevys wished everyone a happy Thanksgiving.

COUNCIL REPORTS

Council Member Rayfield

1. Council Member Rayfield reported on the Dana Point Coastal Arts Association annual meeting held last week, where the South Coast Singers performed Christmas music.
2. Council Member Rayfield reported on the West Nile Virus, which has seen an increase in reported cases, and the need to eliminate the sources of mosquito breeding.
3. Council Member Rayfield wished everyone a happy Thanksgiving.

Council Member Chilton

1. Council Member Chilton wished everyone a happy and safe Thanksgiving.

Council Member Lacy

1. Council Member Lacy reported on the City Council grant funding approved on the Consent Calendar earlier in this meeting, where \$1,000 was donated to the Red Cross for disaster relief. Mr. Lacy also reported that \$500 was donated to the Los Angeles Mission, the Salvation Army, the Second Harvest Food Bank and the Union Rescue Mission.
2. Council Member Lacy wished everyone a happy Thanksgiving.

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Mayor Pro Tem Snyder

1. Mayor Pro Tem Snyder reported that Turkey Trot to be held on Thanksgiving Day in Dana Point had been mentioned on the front page of the Wall Street Journal.
2. Mayor Pro Tem Snyder wished everyone a safe and happy Thanksgiving.

Mayor Ossenmacher

1. Mayor Ossenmacher reflected on the many things to be thankful for on Thanksgiving Day.

CLOSED SESSION

City Attorney Munoz indicated there was a need for continuation of the Closed Session.

Mayor Ossenmacher recessed the meeting into a Closed Session at 8:43 p.m. pursuant to Government Code Section 54956 et. seq.

RECONVENE CITY COUNCIL MEETING

Mayor Ossenmacher reconvened the meeting at 10:55 p.m. All Council Members were present.

City Attorney Munoz reported the City Council had taken action in Closed Session to appoint Sharon Street as Director of Public Affairs/City Clerk by the following vote:

AYES: Council Member Lacy, Mayor Pro Tem Snyder and Mayor Ossenmacher

NOES: Council Members Chilton and Rayfield

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CONSIDERATION OF CONSENT CALENDAR ITEM (CONTINUED FROM EARLIER IN MEETING)

20. EMPLOYMENT AGREEMENT – CITY CLERK

IT WAS MOVED BY MAYOR PRO TEM SNYDER, SECONDED BY COUNCIL MEMBER LACY, TO APPROVE THE EMPLOYMENT AGREEMENT FOR THE DIRECTOR OF PUBLIC AFFAIRS/CITY CLERK.

The motion carried by the following vote:

AYES: Council Member Lacy, Mayor Pro Tem Snyder and Mayor Ossenmacher

NOES: Council Members Chilton and Rayfield

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Ossenmacher declared the meeting adjourned at 11:01 p.m.

The next Regular Meeting of the City Council will be Wednesday, December 10, 2003, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

CATHY CATLETT
ASSISTANT CITY CLERK

APPROVED AT MEETING OF DECEMBER 10, 2003