

**CITY OF DANA POINT**  
**AGENDA REPORT**

Reviewed By:	
DH	X
CM	X
CA	X

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**DATE: JULY 30, 2013**

**TO: CITY MANAGER/CITY COUNCIL**

**FROM: URSULA LUNA-REYNOSA, DIRECTOR OF COMMUNITY DEVELOPMENT**

**SUBJECT: RESOLUTION OF INTENTION TO DISPOSE OF 26351 AND 26315 VIA CANON AND MAKE THE NECESSARY FINDINGS PURSUANT TO GOVERNMENT CODE § 38501-38510 AND SET A PUBLIC HEARING FOR SEPTEMBER 17, 2013**

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**RECOMMENDED ACTION:**

That the City Council approve the attached Resolution of Intention to dispose 26351 and 26315 Via Canon (the "Property"), make the necessary findings, and set a public hearing for September 17, 2013 pursuant to Government Code § 38501-38510 (Action Document A) entitled:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING ITS INTENT TO DISPOSE OF 26351 AND 26315 VIA CANON AND MAKING THE NECESSARY FINDINGS PURSUANT TO GOVERNMENT CODE § 38501-38510 AND SETTING A PUBLIC HEARING FOR SEPTEMBER 17, 2013**

**DISCUSSION:**

The Property was originally purchased by the Capo Bay Parks & Recreation District (the "District") in 1992 for \$1.9 million. On December 22, 1993, pursuant to a resolution of the Orange County Local Agency Formation Commission ("LAFCO"), the District merged with the City. The merger resulted from the permanent reallocation by the State of California of 59% of the District's property tax revenue base. As a result of this revenue loss, the District ceased generating sufficient revenues to support its operations. At the recommendation of both the City Council and the District's Board of Directors, LAFCO approved the merger of the two entities. In connection with the merger, the City assumed all real property assets, including the Property and all District financial obligations.

Although the Property was intended to be used for recreational/park purposes by the District, neither the District nor the City ever dedicated as a public park, ever used as a public park, no park improvements were made to the Property, and no money was ever spent by the District or City in upgrading the Property to be used for park purposes.

**MUNICIPAL PARK ABANDONMENT LAW:**

When property is purchased for the purpose of using it as a park, but never used as a park or improved as a park, it can be sold subject to compliance with the provisions of

the Municipal Park Abandonment Law of 1939 (Government Code §§ 38501-38510) (hereinafter referred to as the "MPAL"). The MPAL allows cities to dispose of property that was purchased for park purposes but not used as such if the Council makes the following findings:

- All or a portion of the Property has not been used by the public for park purposes; and
- No consideration has been paid for the land except by the City; and
- No public funds have been used to improve the land as a park; and
- All or a portion of the land is not appropriate, convenient, or necessary for park purposes.

The City Council can make the required findings, mentioned above, for the Property as the site has not been used for public park purposes nor improved as a public park, no consideration has been paid for the property except by the City and the land is not appropriate, convenient or necessary for park purposes.

#### **SITE ANALYSIS FOR PARK PURPOSES:**

The Property is not identified in the Open Space Plan of the City's General Plan for existing or proposed future recreation sites or for future recreation and/ or open space use. In September, 2005, the City adopted its first "Parks, Recreation and Open Space Master Plan" as a resource document to guide the orderly development and management of recreation facilities and programs to carry out the goals and policies of the General Plan.

The ***Acreage Analysis*** in the Parks Master Plan evaluates existing recreational opportunities in the City and identifies the need for future parkland. The Master Plan recognizes that in compliance with the Quimby Act of California, a standard of 5 acres/1000 residents is adopted by the City to establish development fees and/or dedication of land for future parkland facilities. However the Master Plan established a higher goal of 6 acres/1000 people for the City's residents, visitors and other users of park facilities.

The Acreage Analysis looked at City, County and State owned recreation facilities, public schools, private facilities and other facilities such as the Links at Monarch Bay, Dana Hills Tennis Center, and Ocean Institute to calculate existing total park acreage available for use by the public. The Master Plan devised a credit system to calculate the total parkland acreage e.g. 100% credit was given to City, County and State facilities, 37.5% credit was given to public schools, and no credit was given to private and most of the other facilities. At the time of adoption of the Parks Master Plan, the total existing parkland in the City was estimated to be 199.91 acres, which is equivalent to a ratio of 5.52 acres/1000 residents. Using the acreage goal of 6 acres/ 1000 residents, a theoretical need of 55.4 acres was projected to exist in year 2025. The Master Plan lists possible strategies to achieve the goal of additional 55.4 acres of parkland. The desirable sites for future acquisitions do not include the Property. In fact, the Master Plan recommends that the City liquidate the Property as it determined that the Property is not appropriate for park uses for the following reasons:

1. Reported geological issues and historical erosion damage to previous structures on site.
2. Limited vehicular and pedestrian access due to the steep topography and proximity to the freeway.
3. Potential security issues related to limited visibility of the site from the surrounding areas.
4. Significant potential costs of improvement due to extensive site grading requirements.
5. Provision of a neighborhood park in this general area could be accomplished at other, more appropriate sites.

The possible future sites that were identified in the Master Plan included the Headlands Project (62 acres), Sea Terrace Park Phase II (24 acres), a portion of South Coast Water District property, and acquisition of parkland in the Capistrano Beach area.

In 2009, the City accepted 70.8 acres at the Headlands in open space (30 acres in Conservation Park and 40.8 acres divided in four separate parks). The City has also accepted 21 acres at Sea Terrace Park (Phase II) in 2008 and completed a .6 acre passive park in Capo Beach at Calle Paloma around 2008. The City has therefore exceeded its goal of acquiring 55.4 acres, as stated in the Parks Master Plan. Since the adoption of the Master Plan, the City now has an additional 92.4 acres of parkland/open space.

Based on the above information, the City can make the necessary findings required under the MPAL.

**MPAL PROCESS:**

The MPAL outlines a process that requires the City Council to adopt a Resolution of Intent setting a hearing date at least 30 days from the date that the Resolution of Intent is adopted. The Resolution of Intent must be published pursuant to Government Code § 6063 prior to the scheduled public hearing. The purpose of the public hearing is for the City Council to hear and consider objections (if any) to the abandonment of the Property.

The attached Resolution of Intention describes the Property proposed to be abandoned in its entirety and sets a public hearing for September 17, 2013.

**SURPLUS LAND ACT:**

While the Surplus Land Act (Government Code §§ 54220 et. seq.) (the "Act") does not apply to the Property, it is the policy direction of the City Council to comply with the policy rationale set forth in the Act. Notices to the entities outlined in the Act (namely entities that provide affordable housing and open space/ recreational facilities) have been sent soliciting their interest to acquire the Property. Should the City receive interest from such entities, negotiations will commence only if and **AFTER** the City Council hears and passes on objections to the abandonment of the Property at the public hearing proposed to be scheduled on September 17, 2013.

**FISCAL IMPACT:**

There is no fiscal impact associated with the adoption of the Resolution of Intention.

**ALTERNATIVE ACTIONS:**

As determined by the Council.

**ACTION DOCUMENTS:**

**PAGE NO.**

A. [Resolution of Intention](#)

**5**

**ACTION DOCUMENT A****RESOLUTION NO. 13-07-30-XX****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DECLARING ITS INTENT TO DISPOSE OF 26351 AND 26315 VIA CANON AND MAKING THE NECESSARY FINDINGS PURSUANT TO GOVERNMENT CODE § 38501-38510 AND SETTING A PUBLIC HEARING FOR SEPTEMBER 17, 2013**

The City Council for the City of Dana Point does hereby resolve as follows:

WHEREAS, the land commonly referred to as 26351 and 26315 Via Canon, consisting of four parcels of land (Assessor's Parcel Numbers 123-141-22, -25, -26 and -29) (the "Property") is owned by the City of Dana Point (the "City"); and

WHEREAS, the Property is currently unimproved and consists of approximately 3.24 gross acres and is located just south of the intersection of Camino Las Ramblas/ Pacific Coast Highway and Interstate 5; and

WHEREAS, the Property was acquired by the Capo Bay Parks & Recreation District (the "District") in 1992 for \$1.9 million; and

WHEREAS, on December 22, 1993, pursuant to a resolution of the Orange County Local Agency Formation Commission ("LAFCO"), the District merged with the City and the City assumed all real property assets of the District including the Property, and all District financial obligations; and

WHEREAS, the current zoning of the Property is RD-14 (Residential Duplex 14 dwelling units per acre) and the Property has no approved entitlements or plans for development; and

WHEREAS, while the Property was intended to be used for recreational/ park purposes, it was never dedicated as a public park, never used as a public park, no park improvements were made at the site, and no money was ever spent by the City in upgrading the Property to be used for park purposes.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Dana Point as follows:

- A) The above recitations are true and correct.
- B) The City Council adopts the following Findings and approves the Resolution of Intention to abandon the Property pursuant to Government Code §§ 38501 – 38510, subject to the following Findings.

**Findings**

1. That the Property has NOT been used by the public for park purposes. Building records on file indicate that the Property was formerly improved with at least one single family dwelling unit that was relocated on the Property in 1959 and was subsequently demolished. The Property is currently vacant and unimproved. The Property is zoned RD-14 and has no approved entitlements or plans for any development.
2. That no consideration has been paid for the Property except by the City. The Property was assumed by the City in 1993 when LAFCO approved a merger between the City and District.
3. No public funds have been used to improve the Property as a park. The Property contains no park improvements now or ever and therefore no funds have been used to improve the Property as a park.
4. That the Property has been purchased for park purposes and that Property is not appropriate, convenient, or necessary for park purposes as more particularly described in the attached staff report, attached hereto and incorporated herein.

C) The City Council hereby sets a public hearing for September 17, 2013 to hear and pass on objections to the abandonment of the Property.

PASSED, APPROVED, AND ADOPTED this 30<sup>th</sup> day of July, 2013.

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STEVEN H. WEINBERG, MAYOR

ATTEST:

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KATHY WARD,  
CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF DANA POINT )

I, KATHY WARD, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Resolution No. 13-xx was duly introduced at a regular meeting of the City Council on the 30<sup>th</sup> day of January, 2013, and was duly adopted and passed at a regular meeting of the City Council on the \_\_\_ day of \_\_\_\_\_, 2013, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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KATHY WARD, CITY CLERK