

**SOLANA BEACH CITY COUNCIL / REDEVELOPMENT AGENCY**  
**/ PUBLIC FINANCING AUTHORITY**

**JOINT REGULAR MEETING**  
**WEDNESDAY, JANUARY 24, 2007**  
**6:00 P. M.**

**MINUTES**

CITY COUNCIL CHAMBERS  
635 S. HIGHWAY 101  
SOLANA BEACH, CALIFORNIA

*The City Council acts as the City of Solana Beach Redevelopment Agency and the Public Financing Authority.*

**CALL TO ORDER AND ROLL CALL:**

**PRESENT:** Councilmembers Lesa Heebner, Joe G. Kellejian, David W. Roberts and Thomas M. Campbell, Councilmember Nichols.

**ALSO PRESENT:** David Ott, City Manager  
James P. Lough, City Attorney  
Hilda Mendoza, Deputy City Attorney  
Angela Ivey, City Clerk  
Steve Apple, Community Development Dir.  
Lori Naylor, Principal Planner  
Chandra Collure, City Engineer  
Dennis Coleman, Finance Dir.  
Steve Didier, Management Analyst  
Jim Greenstein, Civil Engineer

James Lough, City Attorney, announced that there was no reportable action from the Closed Session.

Mayor Heebner reported that Council continued their Closed Session and would reconvene after this meeting.

**FLAG SALUTE:**

Dennis Coleman, Finance Dir., led the flag salute.

**APPROVAL OF AGENDA:**

**MOTION:** Moved by Councilmember Roberts and seconded by Councilmember Nichols to approve the agenda pulling Item #15 from the agenda. **Motion carried unanimously.**

**PROCLAMATIONS:**

Recognition of Community Volunteer – Bridget Augusta

Mayor Heebner presented a proclamation to Bridget Augusta, who is retiring from the Parks and Recreation Commission, for her service.

Geri Retman and Vicky Cypherd presented a gift to Bridget thanking her for her service on the Parks and Recreation Commission.

Councilmembers thanked Bridget for her service.

**PRESENTATIONS:**

San Dieguito River Project Update

David Kaye, Manager of Environmental Projects for Southern Ca. Edison & Co., working on the San Dieguito Wetlands Project, presented a powerpoint with video reviewing the status and goals of the current project. was based on conservation.

Council and staff discussion ensued regarding a bill board sign and that the Coastal Commission was not receptive to the idea.

Council and staff discussion ensued regarding the monitoring which will be done by the Coastal Commission and funded by Edison, that the maintenance of a functional wetland during the 40 year lifetime of the power plant will be funded by Edison, advertising the website and getting the word about what is going on, that educational signage was not supported by the Coastal Commission, that press releases and conference would highlight the issue to reach the public, that the open inlet on the beach will be excavated annually to return it to the beach, the City and State permits will require measurement of the profile of the sand on a quarterly basis until 10 years after the project completion, any issues that arise from the monitoring will be addressed by a independent review committee.

City Hall Plaque Presentation

This presentation was not heard.

**ORAL COMMUNICATIONS:**

This portion of the agenda provides an opportunity for members of the public to address the City Council on items relating to City business and not appearing on today's agenda by submitting a speaker slip to the City Clerk (located on the back table). Comments relating to items on this evening's agenda are taken at the time the items are heard. Pursuant to the Brown Act, no action shall be taken by the City Council on public comment items. Items can be referred to the City Manager for placement on a future agenda. The maximum time allotted for each presentation is **THREE MINUTES as per SBMC** . (Be aware of the timer lights on the speaker podium.)

John Cione said that the sewer street gutters on Palmita St. has water running and would request that it be covered, that the garbage from uphill lands at the foot of his driveway and then to Cedros St. He said the garbage is from the traffic. He said that the City does not clean it and should be concerned about the danger of going off the road and damage their car or hit a pedestrian.

David Zito, Save old Solana, asked voters to support Ordinance 357 and promote Proposition A, that this issue was brought to Council due to significant outcry of residents, he said that his organization filed a lawsuit to change the wording on the election documents submitted by the opponents, he said that other lawsuits attempted to stop the election but it was thrown out, and that the ballot arguments are opinions.

Councilmember Roberts stated that the article in the paper was not factual and that the lawsuit was filed by a group of people that circulated the petition.

Councilmember Kellejian stated that the article was factual.

Dan Chambers said that suited neighbors, the 'City's position on an election was a violation of the elections code, he said that he did not sue the neighbors but sued the City, that the City violated referendums and initiative, and that he will follow up with state legislative bodies.

James Lough, City Attorney, stated that there were two lawsuits challenging the election; one trying to overturn existing state law where you can have referendum and initiative simultaneously at an election filed with the 4<sup>th</sup> Court of Appeals instead of the Superior Court which could not hear the case and the other was regarding changing the ballot arguments, which is not allowed by the Clerk because she is not a fact finder, and that he represented the Clerk awaiting instructions from the judge's decision which was not to make any changes to the arguments. He said there is nothing that would prevent the election from going forward.

### **COMMUNITY ANNOUNCEMENTS:**

Deputy Mayor Kellejian announced the Valentine Venture with the Dixie Line Jam band honoring the beginning of La Colonia and Eden Gardens.

Councilmember Roberts announced that the Coalition for Drug Free Youth will host a networking lunch and that the Chamber of Commerce will host its Sundowner at California Pizza Kitchen.

Mayor Heebner announced that the Coastal Rail Trail and beach accesses will be receiving new trash cans and that she will be hosting an open Mayor's chat meeting at with residents.

**COMMENTARY:**

Councilmember Roberts stated that the 22<sup>nd</sup> Agricultural District, the City of Del Mar and the City of Solana Beach have joined to establish the Surf and Turf Wireless WiFi project to these areas with a wireless connection at no charge to the Cities and Agency, and that there had been a sidewalk issue at the Country Club Villa that was being addressed by the City, and that he attended The San Elijo Lagoon ADA Walkway Ribbon Cutting Event and encouraged citizens to visit the site, and that the Neuter Scooter would be visiting the Paws in the Park event for free or low cost service, and that he wanted to thank Mayor Wood of Oceanside for supporting Solana Beach for recent appointments which Mayor Heebner will explain, and he thanked the 30-40 people at Solana Vista School for Traffic Calming Hearing and asked City manager for update on next steps.

David Ott, City manager, said that interaction night traffic engineer consultant to discuss with residents of relative traffic issues and ideas and solutions. There will be 2<sup>nd</sup> and 3<sup>rd</sup> workshop for the area and then the information gathered will go to the Public Safety Commission and then to council.

Councilmember Roberts thanked City Staff for banners posted on the east side of I-5 as well, and that Councilmember Houlihan of Encinitas is one of four interviewing for a Coastal Commission seat and asked if any north coastal cities could write letters of recommendation.

Deputy Mayor Kellejian stated that he and Steve Apple, Community Development Dir., met with the Brigadier General McMann of the ACOE (Army Corps of Engineers) to show him the impacts of the City's beaches and bluffs and that the project had been in the process for 7 years instead of the original proposed 3 years, and that Solana Beach had contributed \$4 million dollars to the project and they encouraged them to get a project going in the City. He said that he attended the Regional Water Quality Board Hearing.

James Lough, City attorney, said that the issue is re-upping the storm water permit for another five years. The consensus for the committee is that the permit needs some clarification but the big issue is if the state mandate costs since funding is not provided by the State to assist Cities' to meet the State mandate.

Mayor Heebner stated that sponsoring the telephone pole that that is not funded or put on by the City. She stated that Council is funding the re-erecting of the story poles at the Gateway property site during the public comment period and asked if Council could consider funding signage.

Council Kellejian announced that there is a \$1,000 reward for the past vandalism of the poles.

Councilmember Roberts asked that the site could be walked at certain times. He asked that City Attorney review the election code regarding spending funds on campaigns.

James Lough, City Attorney, said that the limits of spending are limited to candidates but not committees and that it is difficult to draft stronger regulations so far and that is also an issue at State level. .

**CONSENT CALENDAR:** (Action Items) (Items 1-5)

Items listed on the Consent Calendar are considered routine; however, any member of the public may address the City Council on an item of concern by submitting to the City Clerk a request to speak form before the Consent Calendar is addressed. Those items removed from the Consent Calendar by a member of the Council will be trailed to the end of the agenda, while all other Consent Calendar items removed by the public will be discussed immediately after approval of the Consent Calendar.

Councilmember Campbell suggested that Item #13 be added to Consent.

Councilmember Roberts said that he would like to talk to the issue.

Councilmember Campbell removed the suggestion from the table.

**MOTION:** Moved by Councilmember Roberts and seconded by Councilmember Campbell. **Motion carried unanimously.**

**1. WAIVE TEXT READING OF ORDINANCES**

Recommendation: That the City Council

- A. Approve waiving the text reading of ordinances on this agenda pursuant to Solana Beach Municipal Code Section 2.04.460.

**MOTION:** Moved by Councilmember Roberts and seconded by Councilmember Campbell. **Motion carried unanimously.**

**2. MINUTES OF CITY COUNCIL MEETING**

Recommendation: That the City Council

- A. Approve the Minutes of the Regular and Closed Session City Council meetings held November 8, 2006 and Regular meeting held November 29, 2006.

**MOTION:** Moved by Councilmember Roberts and seconded by Councilmember Campbell. **Motion carried unanimously.**

**3. LIST OF DEMANDS** (File No. 0300-30)

Recommendation: That the City Council

- A. Ratify the List of Demands dated List of Demands - 12/09/06 Through 12/22/2006.

**MOTION:** Moved by Councilmember Roberts and seconded by Councilmember Campbell. **Motion carried unanimously.**

**4. STATUS REPORT ON MAJOR FY 2006/07 CAPITAL IMPROVEMENT PROJECTS** (File No. 0800-80)

Recommendation: That the City Council

- A. Receive report.

**MOTION:** Moved by Councilmember Roberts and seconded by Councilmember Campbell. **Motion carried unanimously.**

**5. RE-APPROPRIATE \$50,000 INTO BUDGET UNIT 244-9356-6510-6530 FOR THE LOMAS SANTA FE AT I-5 INTERCHANGE DESIGN.** (File No. 0830-30)

Recommendation: That the City Council

- A. Adopt **Resolution 2007-012**
  - 1. Appropriate \$50,000 from Undesignated Reserves 244-3200 into Budget Unit 244-9356-6510-6530.
  - 2. Authorize the City Treasurer to amend the Fiscal Year 2006/2007 Budget accordingly.

**MOTION:** Moved by Councilmember Roberts and seconded by Councilmember Campbell. **Motion carried unanimously.**

**NOTE: THE CITY COUNCIL MAY NOT BEGIN A NEW AGENDA ITEM AFTER 10:30 P.M. UNLESS UNANIMOUSLY APPROVED BY THE CITY COUNCIL.**

**PUBLIC HEARINGS:** (Items 6)

This portion of the agenda provides citizens an opportunity to express their views on a specific issue as required by law after proper noticing by submitting a speaker slip to the City Clerk (located on the back table). After considering all of the evidence, including written materials and oral testimony, the City Council must make a decision supported by findings and the findings must be supported by substantial evidence in the record. An applicant or designee for a private development/business project, for which the public hearing is being held, is allotted a total of fifteen minutes to speak, as per SBMC 2.04.210. A portion of the fifteen minutes may be saved to respond to those who speak in opposition. All other speakers have three minutes each. **Please be aware of the three-minute timer light on the podium.**

**6. A REQUEST FOR A DEVELOPMENT REVIEW PERMIT AND STRUCTURE DEVELOPMENT PERMIT TO CONSTRUCT A TWO-STORY RESIDENCE ON PROPERTY AT 662 CANYON DR. (APPLICANT: YEE – TUMA; CASE NO.: 17-05-40 DRP/SDP) (File No. 0600-40)**

Recommendation: That the City Council

- A. Find the project exempt from the California Environmental Quality Act pursuant to Section 15332 of the State CEQA Guidelines; and
- B. Adopt the **Resolution 2006-209** conditionally approving the request for a Development Review Permit and Structure Development Permit to construct a new two-story residence at a maximum height of 24 feet at 662 Canyon Drive.

David Ott, City Manager, introduced the item.

James Lough, City Attorney, stated that due to the concern of conflict at the last hearing, he asked that Council rehear the original presentations on the item from the beginning. He said that pages 35, 48, 49, 54, 55, 57, would be removed from public record in making the decision. He said that the VAC (View Assessment Committee) hearing still stands on the record.

Councilmember Kellejian asked to confirm that the vote of the prior hearing 4/1 (Heebner – No) was for the approval of the project.

Steve Apple, Community Development Dir., presented a powerpoint reviewing application submittals and the View Assessment Committees recommendation and approval of the project.

Mayor Heebner referenced the overhead page of the City's record, which was based on plans submitted, v. the County's records to correct their calculations that include garage square footage.

Council discussion ensued regarding confirmation on slides in the presentation.

Mayor Heebner opened the public hearing.

Tim Irish, architect for the project, said that the project was initially approved in 2001 but the applicant was unable to get through that building process within the year, and then they returned in 2004 to begin again and due to conflicting schedules and confusion on the process they missed the deadline. He said that they applicants contacted neighbors about the project and made extra efforts to obtain sign offs, and that they returned to the VAC (View Assessment Committee) and received another approval, and now it is before Council and they expect approval based on the VAC approval.

Terry Gooch said that he lived on Canyon Dr. and supported the project, that the project was well designed and would enhance the neighborhood, that he signed a support letter and was one of many supporters, that he had a northerly view similar of other neighbors, and that said that he wanted to show his support because Mr. Ostrow was circulating a claim that he represented all or some neighbors that are in opposition to the project. He said that he did not know of any neighbors that Mr. Ostrow did represent.

Patti Ash, who was authorized to speak for Donna Streed, who was present, since she cares for her in order to monitor her medications. She said that things were moving fast and that this was the first time she had seen plans, that her home would be in shadow, and that she was not sure the golf course will still be visible, and said that it was overwhelming and would diminish the value of her home.

Steve Ostrow, additional 3 min. donated by Geri Retman who was present, stated that he opposed the project due to the adjacent land use and the bulk and mass which does not preserve the community character, that the square footage range mentioned by staff is incorrect, that the Mueller project was denied due to the same criteria, that the VAC did not consider mass, bulk and scale, and that he asked Council to not set a precedence of expanding the building envelope that is currently present and preserve community character.

Jane Tuma stated that they had signed an agreement with Donna Streed in the past with her son and her past nurse, that she did approve the project.



Tim Irish, architect for the project, that the process of the VAC included the review of neighborhood compatibility, the neighborhood is large and should be viewed in an agreed context since Canyon wraps around the homes with various square footage which includes the same range size homes, and that the project already complies with all the existing ordinances.

Council discussion ensued regarding review of the homes in the area on the handout in the supplemental materials for this meeting, a discrepancy on the handout in relation to the PowerPoint presentation, the debate regarding the square footage of the Ostrow residence since the owner submitted a different calculation than the County's record which is based on plans permitted in the past and not on what was actually built, comparisons of nearby home's square footage that are inconsistent between slide and original slide, the discrepancies of the views presented, that this project had been approved in 2001 with a unanimous vote and again in 2004, that neighbors in the area had shown support for the project, that the VAC (View Assessment Center) decision should stand, and reviewed the testimony specifically to the view that they say that all have.

**MOVED:** Motion by Deputy Mayor Kellejian to approve the project.

Council and City Attorney discussion ensued regarding how any prior Council's approval had bearing on this decision, that this new hearing versus the past approvals which may be expired, that overturning a decision of the VAC should include findings, consideration of whether new issues are present than in the past that would change the findings.

Council discussion ensued regarding whether there was a significant view impairment, that the project appeared to be compatible with the immediate neighborhood character, whether the VAC reviews neighborhood compatibility within their review of views and that the interpretation needs to be clarified, that each property is judged on its own individual merits, that it had been approved twice before, that under the new rules the project would comply, that the finding regarding compatibility is the concern, that other homes on this street will eventually become two-stories within the rules so the incompatibility would not be an issue, the concerns with the finding regarding adjacent land use compatible with complimentary to the immediate vicinity and the finding regarding the immediate neighborhood character, that the VAC does review neighborhood compatibility which needs further clarification and makes it difficult for them to address, that many homes in the immediate area are one type of neighborhood characteristic and around the concern it becomes a different type of characteristic, that the project is 1,149 sq. ft. larger than any home in the immediate area, that even under the new rules that project would comply, and that the project whether it would be complimentary to existing and potential development since it is well below the restrictions so the findings could be made.

Mayor Heebner stated that the motion would fail based on Council's input. She suggested that Council ask the applicant to return with design modifications under the same permit.

Andrew Kurtz, represented Tuma, said that he did not understand why Council wanted reducing the square footage

Mayor Heebner stated that Council had to make findings that include more than the FAR, that permits always include findings on neighborhood compatibility based on existing and potential developments, that three of Council can not currently make that finding which would result in a denial at this time, that Council would offer the applicant time redesign with the input given regarding the size in relation to the neighborhood and allow them to return with same permit.

Deputy Mayor Kellejian said that the area is a typical example of 40-50's homes in transition and that Council recently approved a similar project which is now under construction.

Councilmember Campbell said that the existing FARs establishes the maximum size of a structure but does not automatically allow the right to build it.

James Lough, City Attorney, confirmed that this was the purpose of the neighborhood compatibility finding to provide the additional issues for review.

Dan Chambers said that the criteria to review neighborhood compatibility would have to include the homes along the rest of the street since the homes entering and leaving the neighborhood are part of the neighborhood.

Tim Irish said that a neighborhood can not be cut off within the street since it must include the whole street, there is a precedence for defining the neighborhood by the entire street, and asked how does person design to subjective criteria, and that the project has complied with the criteria given.

**MOTION:** Failed due to the lack of a second.

Council consensus was reached among three members to have the applicant decide whether they would like to go back for a redesign of the project or have a decision this evening.

Mayor Heebner recessed the meeting at 8:23 p.m.

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

James Lough, City Attorney, stated that the applicant will ask for a one month continuance to consider and address some concerns expressed by Council.

Councilmember Nichols said he wanted to restate his only issue and clarified his concern to aim for a project within the 1000 sq. ft. threshold.

Council disclosure included driving by, walking and visiting the project site.

**STAFF REPORTS:** (Item 7-15)  
*Submit speaker slips to the City Clerk.*

**7. 2007 COUNCIL CITIZEN COMMITTEES APPOINTMENTS** (File No. 0120-90)

Recommendation: That the City Council

- A. Appoint 2 members to the Budget and Finance Committee:
1. 1 vacancy nominated/appointed by **Campbell** for a four year term until Dec. 2010.

**MOTION:** Moved by Campbell and seconded by Heebner to nominate Craig Nelson.  
**Motion carried unanimously.**

2. 1 vacancy nominated/appointed by **Nichols** for a four year term until Dec. 2010.

**MOTION:** Moved by Nichols and seconded by Heebner by nominate Jeff Anderman.  
**Motion carried unanimously.**

- B. Appoint 5 members to the Parks and Recreation Commission:
1. 4 vacancies nominated/appointed by **Council at large** for a two year term until 2009.

Leticia Rodriguez, Deputy City Clerk, drew a name from the five appointees to choose which member would take the one year term position.

**MOTION:** Moved by Roberts and seconded by Heebner by nominate Victoria Cypherd, Jamie Anne Gonzales, Torgen Johnson, and Tracy Weiss for two year terms. **Motion carried unanimously.**

2. 1 vacancy nominated/appointed by **Council at large** for a one year term until 2008.

**MOTION:** Moved by Roberts and seconded by Heebner by nominate Tess Price for a one year term. **Motion carried unanimously.**

C. Appoint 3 members to the Public Arts Advisory Committee

1. 3 vacancies nominated/appointed by **Council at large** for a two year term until 2009.

**MOTION**: Moved by Heebner and seconded by Nichols to nominate Dennis Higgins.  
**Motion carried unanimously.**

**MOTION**: Moved by Heebner and seconded by Nichols to nominate Sharon Klein.  
**Motion carried unanimously.**

**MOTION**: Moved by Kellejian to nominate Ed Siegel.

Motion failed due to lack of second.

**MOTION**: Moved by Campbell to nominate Katie Pelisek.

Councilmember Roberts stated that Council might consider grooming younger people for this position and encourage diversity. He said he noticed some senior or tenured people and may begin adding new less tenured people.

**MOTION SECONDED**: seconded by Heebner to nominate Katie Pelisek. 4/1 (Kellejian – No to hold his nomination of Ed Siegel.) **Motion carried.**

D. Appoint 4 members to the Public Safety Commission

1. 1 vacancy is nominated/appointed by **Roberts** for a two year term until 2009.

**MOTION**: Moved by Roberts and seconded by Kellejian to nominate David Bittar for Robert's appointment. **Motion carried unanimously.**

2. 1 vacancy is nominated/appointed by **Kellejian** for a two year term until 2009.

**MOTION**: Moved by Kellejian and seconded by Heebner to nominate Thomas Alexander for Kellejian's appointment. **Motion carried unanimously.**

3. 1 vacancy is nominated/appointed by **Heebner** for a two year term until 2009.

**MOTION**: Moved by Heebner and seconded by Roberts to nominate Roger Boyd for Heebner's appointment. **Motion carried unanimously.**

4. 1 vacancy is nominated/appointed by **Nichols** for a two year term until 2009.

Council asked the remaining applicants, who are present, to speak on their behalf.

Barbara Hayner stated her background and experience at UCSD as an emergency services coordinator managing the CERT and defibrillator programs, she reviewed her history in San Diego, and stated that she is a property owner in Solana Beach.

Dr. Botomly said that his experience as a physician in public health, his volunteer work at the police department at UCSD, Red Cross, and numerous others, is the basis for his interest in the Public Safety Commission.

**MOTION:** Moved by Nichols and seconded by Kellejian to nominate Barbara Hayner for Nichol's appointment. **Motion carried unanimously.**

- E. Appoint 4 members to the View Assessment Committee

Council asked any applicants who were present to speak.

Robert Leard said he was a retired army officer and served in Washington, that he lived in Ca. in grad school, that they moved back, and want to serve his community.

Jack Hegenauer said that he lived in Solana Beach since 1970, was a biochemist and on the research faculty at UCSD, that he was active in community since the 70's, that he worked on the incorporation of the City and the Citizen Zoning Committee.

1. 1 vacancy is nominated/appointed by **Council at large** for a one year term until 2009.

**MOTION:** Moved by Kellejian and seconded by Heebner to nominate Robert Leard for an appointment by Council at Large. **Motion carried unanimously.**

2. 1 vacancy is nominated/appointed by **Roberts** for a two year term until 2009.

**MOTION:** Moved by Roberts and seconded by Councilmember Nichols to nominate Bruce Berend for Robert's appointment. **Motion carried unanimously.**

3. 1 vacancy is nominated/appointed by **Heebner** for a two year term until 2009.

**MOTION**: Moved by Heebner and seconded by Roberts to nominate Jewel Edson for Heebner's appointment. **Motion carried unanimously.**

4. 1 vacancy is nominated/appointed by **Nichols** for a two year term until 2008.

**MOTION**: Moved by Nichols and seconded by Roberts to nominate Jack Hegenauer for Nichols' appointment. **Motion carried unanimously.**

**MOTION**: Moved by Roberts and seconded by Heebner to change the Nichols appointment (Jack Hegenauer) to a two year term and the Council at Large appointment to a one year term. **Motion carried unanimously.**

#### **8. ANNUAL REPORT FOR THE REDEVELOPMENT AGENCY FOR THE YEAR ENDED JUNE 20, 2006 (File No. 00115-20)**

Recommendation: That the City Council

- A. Receive and file report.

David Ott, City Manager, introduced the item.

Dennis Coleman, Finance Dir., recited the highlights of the report.

**MOTION**: Moved by Campbell and seconded by Kellejian to approve.

Council and staff discussion ensued regarding clarification of the amount of RDA funds that must set aside for housing funding, that the 20% of the gross increment has to be set aside for preserving or creating or rehabbing housing for low and moderate income families, any low housing outside the project provide a lower credit than the housing built inside the boundaries, and that Staff will be returning to Council with a housing plan for the RDA and the City for low and moderate income housing to review,

**ACTION**: **Motion carried unanimously.**

#### **9. THE PROPOSED SCALED RESIDENTIAL OVERLAY ZONE (SROZ) DOES NOT TRIGGER THE REQUIREMENT FOR A DEVELOPMENT REVIEW PERMIT (DRP). (File No. 0610-10)**

David Ott, City Manager, introduced the item that the code contains clarification notes when it assists in interpretation by the public and that this clarification code note is being recommended for this purpose. He said that Staff would not interpret or enforce the code any differently, but due to the impending vote on Proposition A, it may provide more clarity to some residents.

James Lough, City Attorney, said that he reviewed the proposed note for more clarification. He said that Warren Diven, who is the author of the Municipal Law Handbook used statewide, provided an independent opinion which agreed with the Staff opinion of the clarification and the use of the note. He said that notes are not changes to the code but instead history or explanations and are common.

Dan Chambers (Group, donation donated by Louise Abbott, Ron Stroben, Jere Horsley) submitted a handout and presented a powerpoint of to review his interpretation of the proposed Ordinance 357. He said that the City's development review is design review. He stated that m. says that it will require a DRP and relates to the its section B. 1. and then the note contradicts the section. He said that the City's concern about the language should be due to the risk to litigation since it is still unclear. He reviewed various aspect of Ordinance 357 explaining the mistakes or lack of clarity.

David Zito, Save Old Solana, stated that he supported a reasonable interpretation of this language due the contention of the issue so that public is clear. He said that if the code said that all developments would require a DRP in the zone that he and his organization would not support it so it is not interpreted in that way.

Louise Abbott (allowed to speak as an individual instead of her prior group representation, Bill Glockner took her place as the representative to support Dan Chamber's allotted 10 min. as a group) said that she had submitted an architect's opinion on this issue and disagree with Staff's interpretation. She said that every other overlay zone triggers development review. She said that reading the ordinance as written it is extremely clear that it is triggering a DRP for all homes in the SROZ.

Marion Dodson said that the ordinance was poorly written, that Council admits there were mistakes and there have been corrected attempts, that the clarification note is a Band-Aid and could be taken off as well as being added in, and that it will not be presented to the voters.

James Lough, City Attorney, said that courts interpret legislation they look at the history of the legislative body's review. He said that the purpose is to provide more clarification even though there was good reason to place the item in this section but that there will often be disagreements.

Council discussion ensued regarding that people are trying to figure out what is legal language, that Council's intent was clear after two years of public testimony, that a qualified attorney reviewed it who said that the intent is clear, that re-clarifying every clause in the code would be impossible, that obtaining the second opinion is due diligence, that adding the note will eliminate further misunderstandings.

**MOTION**: Moved by Heebner and seconded by Campbell to approve.

Deputy Mayor Kellejian said that the ordinance should be fixed due to the concern with the clarification that he would vote no on Ordinance 357, but that if it did pass, the

clarification note would be an important issue for clarification. He said that since he voted against the Ordinance he would abstain from this vote.

**ACTION: 4/0/1 (Kellejian – Abstain) Motion carried.**

**10. ENVIRONMENTAL IMPACT REPORT (EIR) FOR A PROPOSED MARINE VIEW AVENUE VICINITY GENERAL PLAN AMENDMENT / REZONE (CASE 17-06-34; PACIFIC SOUND INVESTORS), AND SELECTION OF ENVIRONMENTAL CONSULTANT TO POTENTIALLY SERVE AS AN EXTENSION OF STAFF ON ADDITIONAL PROJECTS (File No. 0600-40)**

- A. Authorize staff to finalize negotiations with an environmental consulting firm to prepare an Environmental Impact Report and authorize the City Manager to enter into a Professional Services Agreement after receipt of funds from the applicant, and
- B. Authorize City Manager to enter into a Professional Services Agreement for as needed environmental consulting services in the amount not to exceed \$25,000 per year for a term of one year with an option of three additional one year terms.

David Ott, City Manager, introduced the item.

Steve Apple, Community Development Dir., reviewed the reason for requiring an EIR and does not agree with the applicant's interpretation of the code.

Council disclosures included drive by the projects and talks with the applicant.

Morgan Osborne, applicant, said that the subject matter is City and State law, that they require consistencies in the general plan, that the lack of burm affects many homes being flooded with noise conditions, that property values are affected by 30-40%, that because of inconsistencies in the general plan the EIR should not be imposed, that the zoning ordinance needs to be corrected, that he conducted a sound study which was reviewed by National Sound Clearing House, which is used by environment protection agency.

Marcia Smerican said that an office building in a residential area would be an intrusion in the neighborhood but respects the applicant's right to the process. She said that an EIR should be conducted and be paid for by the applicant. She stated that the County approved a past project in the area for 20,000 sq. ft., the neighbors objected but the project was approved and then grew to a 45,000 sq. ft. commercial site. She suggested that the EIR traffic study should include Highland, Solana Dr., San Andres, and Lomas Santa Fe, how the project would impact the I-5 widening and interchange projects, how the area would become a dark sky area; address the issues of drainage to Stevens Creek. She said that projects must meet the general plan ensuring developments are consistent with all community character and the issue of aesthetics and allowable height. She asked



that the notification radius reach beyond the 300 ft. radius since it affects so many more residents.

Alan Smerican said that he supported the recommendation, especially the EIR, and he is opposed to the project.

Jere Horsley stated that there is a problem with Solana Dr. school traffic and should be included in the EIR analysis.

Douglas Alden said that the report is lacking and that he does not believe there will be improvements to sound since most of it comes from I-5 and their parameters only looks at a few hundred feet affecting this area. He suggested that the EIR include review of two past projects on the site due to traffic.

Roy Axelrod said that he is a homeowner on Los Caballitos, and that he was concerned about construction on Marine View for possible adverse effects on lighting, traffic, irrigation and noise, and that the noise study is seriously flawed and the conclusion of the study is that noise reduction is speculative, that the EIR fails to consider additional traffic noise from the proposed office building, and that it is a dangerous area due to students at the school.

John Roshala said that he opposed the project and that an EIR is required, that he lives at the adjacent property, that the applicant showed neighbors a 125,000 buildings with underground parking which is a great idea but not in this area, that there is no reason the City should have to pay for an EIR that should be the reasonability of an applicant.

Gordon Rick stated that he lived on Los Caballitos in a dark zone area that does have traffic noise from I-5, and that he favored of a structure for noise reduction but opposed an occupied sound barrier that would bring in local traffic and more dark sky.

Robert Leard said that this development should be reviewed with a full EIR with no substitutions.

Tony Bernardini said he lived on Los Caballitos, that he supported Staff for an EIR based on traffic in the area, that the street is already burdened with traffic from schools and the Timbers building, that this project would seriously impact dark sky area, that the freeway changes will potentially help with the I-5 noise but did not recommend a building to do so.

Gerald Cole said that when the I-5 Interchange is completed the closed off area will increase traffic, that his experience as an ear surgeon qualified him to state that the study provided would not add any additional sound barrier.

Darren Quinn said that he lived on Los Caballitos and supported the EIR which should anticipate the worst case scenario, that he did not get notification and that the notification zone be expanded, that he wanted to provide a brief if the threat of a writ of mandate transpires.

Jim McMullen said that the project idea was good but not for this location and this was the decision in a past proposed project in this area that was lower density and low rise and many ameliorating factors that was turned down.

William Fields said he owned a property on the street in the past, when in county the Timbers property came and he regretted his support because it did not reduce the noise but created a nuisance of larger traffic including a sweeper to clean the office building parking lot. He said that an EIR because of the limited paths in and out of the neighborhood.

Rob Vickery said that he worked in the nearby office and watched walkers in the area and imagine the future commuter traffic, that he does not believe the statements the applicants had made, that the applicant had chopped down eucalyptus trees behind his home to increase the noise problem, and that he believes it was the intent of the applicant to exacerbate the noise in order to sell his building as a sound barrier.

Carly De Peralta said that there are give adjacent properties to the project area, that other neighbors represented his views, and supported the Staff recommendation for an EIR.

Paul Hsu said that he lived on Marine View, that he was a State engineer and worked on the freeway project in Southern Ca., that he had dealt with residents and built walls when necessary, that he would welcome a sound wall but not a building.

David Zito said that as a Prop T proponent in the past, any zone change that is not a decrease of density in residential zones, but going from residential to commercial or vice versa does require public vote, that this law was written and passed by a vote of the people.

Council discussion ensued regarding including additional streets and expanding the notification area.

**MOTION**: Moved by Kellejian and seconded by Campbell to approve the proceedings with the EIR and that Staff include additional streets in EIR and impacts from the schools, notification zone expand. **Motion carried unanimously.**

**11. ARMY CORPS OF ENGINEER BEACH SAND / COASTAL BLUFF FEASIBILITY STUDY UPDATE;** (File No. 0740-80)

Recommendation: That the City Council

- B. Accept update and authorize Mayor to sign letter to the ACOE, and
- C. Confirm appropriateness of staff and consultants to continue to encouraging the State to continue beach sand funding.

This item was continued to February 14, 2007.

Mayor Heebner recessed the meeting at 10:56 p.m.

Mayor Heebner reconvened the meeting at 11:00 p.m.

Council consensus was reached to hear Items 12 & 13 but continue the rest of the items.

**12. SOLANA BEACH TRAIN STATION MIXED-USE PROJECT (CEDROS CROSSING) EIR MEETING DATE(S) UPDATE (File No. 0600-40)**

Recommendation: That the City Council

- A. Select dates that satisfy as many as possible, if not all, of the four meeting date criteria.

David Ott, City Manager, introduced the item.

Council and staff discussion ensued regarding the initial release date of the EIR on January 16<sup>th</sup> in accordance with state procedures, that a typical 30 day public comment period would set a final date of February 16<sup>th</sup>, that the document has been posted on the website, is available on CD-rom, is available at City Hall and the Library, that an e-blast was sent to notify all subscribers of the comment period, that special meetings should be dedicated to the topic,

Council consensus was reached to set the meetings for

**MOTION:** Moved by Roberts and seconded by Nichols to set the hearings for public comment on March 10<sup>th</sup> and 24<sup>th</sup> and March 31<sup>st</sup> as a back up, if needed. **Motion carried unanimously.**

Greg Shannon, Shea Properties, applicant, said that he appreciated the completion of the EIR by Staff, that the criteria for public comment is 30 days and how the hearings are put out further, that Council has had an Ad Hoc Committee for this project and that NCTD has put together a subcommittee and he would suggest that the City put together a full subcommittee.

**13. RECLASSIFICATION OF FISCAL SERVICES SPECIALIST TO ACCOUNTANT, ESTABLISHMENT OF SENIOR PLANNER AND MODIFICATION OF THE CITY'S 2006-07 SALARY AND COMPENSATION PLAN ACCORDINGLY (File No. 0510-40)**

Recommendation: That the City Council

- A. Adopt **Resolution 2007-013** amending the FY 06/07 Salary and Classification Plan to:
1. Include the reclassification of the Fiscal Services Specialist to an Accountant in the Confidential Salary Schedule (Attachment 6); and
  2. Add the Senior Planner classification in the Management Salary Schedule (Attachment 7), and authorize a full-time Provisional Senior Planner position through FY 2008/09, and allocate budgetary resources to fund the position for the remainder of FY 2006/07 from the City Manager's Contingency Account.

Council and City Manager discussion ensued regarding the 4-6 month back up on plan reviews and that staffing plays a large part of the issue.

**MOTION:** Moved by Roberts and seconded by Heebner to approve. **Motion carried unanimously.**

**14. COMMUNITY WORKSHOP FACILITATED BY FRED KENT TO DISCUSS SOLANA BEACH LIVABILITY** (File No. 0640-80)

Recommendation: That the City Council

- A. Discuss the potential dates to host the Workshop and then select a date.

This item was continued.

**15. APPROVE PROP 40 SIGN AND LOCATION FOR THE COASTAL RAIL TRAIL AND AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE FABRICATION AND INSTALLATION OF THE SIGN** (File No. 0480-70)

Recommendation: That the City Council

- A. Authorize the City Manager to approve and fund the universal sign that has been requested by the State Parks Department for the recognition of the funding given to the City for construction of the CRT through the 2000 Parks Bond Act.
- B. Authorize the City Manager to execute a service agreement with Astra Coatings, Inc., not to exceed \$6,500.00 for production and installation of a terrazzo tile sign for the CRT.

This item was continued.

**ORDINANCE INTRODUCTION: 1<sup>st</sup> Reading** (Item 16)

*Submit speaker slips to the City Clerk.*

**16. SOLANA BEACH MUNICIPAL CODE REVISIONS TO CHAPTER 2 – SPEAKER LIMITS** (File No. 0480-10)

Recommendation: That the City Council

- A. *Introduce Ordinance 359* amending Chapter 2 of the Solana Beach Municipal Code defining groups and speaking limits.

This item was continued.

**ORDINANCE ADOPTION: 2<sup>nd</sup> Reading**      **NONE**

*Submit speaker slips to the City Clerk.*

**WORKPLAN COMMENTS:** *(Adopted June 28, 2006)*

*Material is located in front section of agenda binder.*

**COMPENSATION & REIMBURSEMENT DISCLOSURE:** GC: Article 2.3.

Compensation: 53232.3. (a) ... Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel. 53232.3 (d) Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

**COUNCIL COMMITTEE REPORTS:**

***Please state the committee you are speaking to before making each report.***

- California Cities Contract Association - Roberts, Heebner (alternate).
- City Selection Committee – Kellejian (meets twice a year)
- County Service Area 17 – Campbell, Nichols (alternate).
- Escondido Creek Watershed Authority – Nichols, Roberts (alternate).
- League of Calif. Cities SD County Executive Committee – Roberts, Kellejian (alternate).
- North County Dispatch JPA – Nichols, Campbell (alternate).
- North County Transit District – Roberts, Heebner (alternate).

Council discussion ensued regarding the Ad Hoc committee continuing to work with NCTD, that they would not participate in closed session meetings with NCTD, that the goal of the Ad Hoc is to track the project.

- Regional Solid Waste Association – Nichols, Kellejian (alternate).

- SANDAG – Heebner (Primary), Roberts (1<sup>st</sup> alternate), Nichols (2<sup>nd</sup> alternate).
- SANDAG Shoreline Preservation Committee – Kellejian, Roberts (alternate).
- San Dieguito River Valley JPA – Roberts, Nichols (alternate).
- San Elijo JPA – Campbell, Roberts (both primary members) (no alternates).
- 22<sup>nd</sup> Agricultural District Association Community Relations Committee - Roberts, Campbell (alternate).

**Standing Committees: (All Primary Members) (Permanent Committees)**

- Business Liaison Committee – Roberts, Campbell.
- Community/School Relations Committee – Roberts, Campbell.
- Public Arts Subcommittee – Roberts, Nichols.
- Traffic Transportation – TBD

**Ad Hoc Committees: (All Primary Members) (Temporary Committees)**

- Local Coastal Plan Ad-Hoc Committee – Roberts, Campbell.  
*Expires February 22, 2007 or at the California Coastal Commission adoption.*
- Sand Replenishment Alternative Review – Kellejian, Campbell.  
*Expires November 8, 2007.*
- Views and Vegetation Subcommittee – TBA.  
*Expires November 8, 2007.*
- User Fee Ad-Hoc Committee – Roberts, Campbell. *Expires June 30, 2007.*
- Development Review – Heebner, Roberts. *Expires November 29, 2007.*
- Highway 101 Improvement Ad-Hoc Committee – Heebner, Nichols.  
*Expires June 13, 2007.*
- La Colonia Park Master Plan Committee – Heebner, Roberts. *Expires June 30, 2007.*
- Condohotel – Heebner, Campbell. *Expires October 24, 2007.*

Mayor Heebner reported that Council would reconvene the Closed Session.

**ADJOURN:**

Mayor Heebner adjourned the meeting at 11:22 p.m.

---

Angela Ivey, City Clerk

Approved: May 9, 2007