

# CITY OF SOLANA BEACH

SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY,  
PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY



## MINUTES

Joint REGULAR Meeting

Wednesday, February 14, 2018 \* 6:00 P. M.

City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

- City Council meetings are video recorded and archived as a permanent record. The video recording captures the complete proceedings of the meeting and is available for viewing on the City's website.
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### CITY COUNCILMEMBERS

Ginger Marshall, Mayor

David A. Zito, Deputy Mayor

Jewel Edson, Councilmember

Judy Hegenauer, Councilmember

Mike Nichols, Councilmember

Gregory Wade  
City Manager

Johanna Canlas  
City Attorney

Angela Ivey  
City Clerk

### CALL TO ORDER AND ROLL CALL:

Deputy Mayor Zito called the meeting to order at 6:03 p.m.

Present: David A. Zito, Jewel Edson, Judy Hegenauer, Mike Nichols

Absent: Ginger Marshall

Also Present: Greg Wade, City Manager  
Johanna Canlas, City Attorney  
Angela Ivey, City Clerk,  
Mo Sammak, City Engineer/Public Works Dir.  
Marie Berkuti, Finance Manager  
Corey Andrews, Principal Planner,  
Dan King, Assistant City Manager

### CLOSED SESSION REPORT: (when applicable)

Johanna Canlas, City Attorney, stated that there was no reportable action.

### FLAG SALUTE:

### APPROVAL OF AGENDA:

**Motion:** Moved by Councilmember Edson and second by Councilmember Nichols to approve. **Approved 4/0/1** (Absent: Marshall). Motion carried.

### PRESENTATIONS: Ceremonial items that do not contain in-depth discussion and no action/direction.

1. Solana Beach Civic and Historical Society

Cindi Clemens presented a donation of \$8,000 to Councilmember Nichols and Deputy Mayor Zito for the La Colonia Skate Park.

**ORAL COMMUNICATIONS: None**

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 (located on the back table) to the City Clerk. 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. Council may refer items to the City Manager for placement on a future agenda. The maximum time allotted for each presentation is THREE MINUTES (SBMC 2.04.190). Please be aware of the timer light on the Council Dais.

**COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:**

*An opportunity for City Council to make brief announcements or report on their activities. These items are not agendized for official City business with no action or substantive discussion.*

**A. CONSENT CALENDAR:** (Action Items) (A.1. - A.4.)

Items listed on the Consent Calendar are to be acted in a single action of the City Council unless pulled for discussion. Any member of the public may address the City Council on an item of concern by submitting to the City Clerk a speaker slip (located on the back table) 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 Consent Calendar items removed by the public will be discussed immediately after approval of the Consent Calendar.

**A.1. Minutes of the City Council.**

Recommendation: That the City Council

1. Approve the Minutes of the City Council Meetings held December 13, 2017.

See Approved Minutes [http://www.ci.solana-beach.ca.us/index.asp?SEC=F0F1200D-21C6-4A88-8AE1-0BC07C1A81A7&Type=B\\_BASIC](http://www.ci.solana-beach.ca.us/index.asp?SEC=F0F1200D-21C6-4A88-8AE1-0BC07C1A81A7&Type=B_BASIC)

**Motion:** Moved by Councilmember Nichols and second by Councilmember Edson to approve. **Approved 4/0/1** (Absent: Marshall). Motion carried.

**A.2. Register Of Demands.** (File 0300-30)

Recommendation: That the City Council

1. Ratify the list of demands for January 6, 2018 through January 26, 2018.

**Motion:** Moved by Councilmember Nichols and second by Councilmember Edson to approve. **Approved 4/0/1** (Absent: Marshall). Motion carried.

**A.3. General Fund Adopted Budget for Fiscal Year 2017-2018 Changes.** (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2017-2018 General Fund Adopted Budget.

**Motion:** Moved by Councilmember Nichols and second by Councilmember Edson to approve. **Approved 4/0/1** (Absent: Marshall). Motion carried.

**A.4. Streetlight Preventative Maintenance and Repair Services.** (File 0820-35)

Recommendation: That the City Council

1. Adopt **Resolution 2018-011:**

- a. Authorizing the City Manager to execute Amendment No. 2 to the Professional Services Agreement with Siemens Industry, Inc. for streetlight preventative maintenance and repair services for FY 2017/18 to increase the compensation by \$37,095 for a contract total amount not to exceed \$69,429.
- b. Authorizing an appropriation of \$33,745 from the Streetlight District Reserves for partial funding of the amendment to the Agreement with Siemens Industry, Inc.
- c. Authorizing the City Treasurer to amend the FY 2017/18 Adopted Budget accordingly.

**Motion:** Moved by Councilmember Nichols and second by Councilmember Edson to approve. **Approved 4/0/1** (Absent: Marshall). Motion carried.

**B. PUBLIC HEARINGS:** (B.1. – B.3.)

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 (located on the back table) to the City Clerk. 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 designees 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 timer light on the Council Dais.

**B.1. Public Hearing: 201 Lomas Santa Fe, Applicant: AT&T Mobility, Case 17-17-15.**  
(File 0610-60)

Recommendation: The proposed project meets the minimum zoning requirements under the SBMC, may be found to be consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15301 of the State CEQA Guidelines; and
3. Adopt **Resolution 2017-167** conditionally approving a CUP/DRP/SDP for a new WCF and associated equipment located on the roof of an existing commercial office building at 201 Lomas Santa Fe, Solana Beach.

Greg Wade, City Manager, introduced the item.

Corey Andrews, Principal Planner, presented a PowerPoint (on file) reviewing the applicant's third alternative.

Tim Henion, Applicant's representative, stated that they tried to address all concerns as well as they could and that they were available for questions.

Deputy Mayor Zito opened the public hearing.

Council disclosures.

Council and Staff discussed the fence on the edge of the street, a lower fence, allowing walking space between the existing asphalt curb and fence, a black vinyl chain link fence that vines could grow on, and restricting construction vehicle parking on site rather than in the neighborhood.

Gerri Retman (time donated by Ira Opper) thanked Council for listening to the surrounding neighbors of the building and the applicant for extending the tolling agreement and addressing the negative impact, and said that the new design was much better, to consider saving the tree if possible, a chain link fence was not ideal and a hurried way to replace the bamboo, and asked that the telecommunications issue be separated from the fence issue and to work further with the property owners to address the area.

**Motion:** Moved by Councilmember Nichols and second by Councilmember Edson to close the public hearing. **Approved 4/0/1** (Absent: Marshall). Motion carried.

Council and Staff discussed keeping the tree, Staff monitoring, if the tree had to be replaced that a 60-inch box tree in the same species would be ideal, to work with a local 3<sup>rd</sup> party landscaper or other gardeners for the street planting for something attractive and acceptable, and that the enforcement mechanism be addressed.

**Motion:** Moved by Councilmember Nichols and second by Councilmember Edson to approve. **Approved 4/0/1** (Absent: Marshall). Motion carried.

**B.2. Public Hearing: 439 S. Cedros, Applicant: 439 Cedros, LLC, Case 17-17-29.**  
(File 0600-40)

Recommendation: The proposed project meets the minimum zoning requirements under the SBMC, may be found to be consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt **Resolution 2018-014** conditionally approving a DRP to convert 1,291 square feet of an existing commercial building to a café, construct a new 540 square foot

outdoor seating area and a new parking lot to provide 16 new parking spaces at 439 S. Cedros Avenue.

Greg Wade, City Manager, introduced the item.

Corey Andrews, Principal Planner, presented a PowerPoint (on file).

Council and Staff discussed that the patio area would have an architectural feature over it but would not cover it entirely, that the parking spaces were an existing non-conforming use, to change the existing sidewalk size it would result in losing existing parking spaces, that they were allowed to maintain the non-conformity so they would have 26 spaces, which included 10 non-conforming spaces, that the 10 non-conforming spaces were not very functional, that if the applicant wanted to change the café to a bar someday they would be required to return to Council for approval, an entertainment license was a discretionary permit usually issued by Staff, a condition was added that if the lease was terminated that the parking spaces would be required within 6 months of the notice of the lease termination, roofing materials were standard commercial construction, to consider a condition that if they applied for an entertainment license in the future that it would be conditioned that the surrounding neighborhood would be notified, and that a dedication of right-of-way was maintained to control the sidewalk.

Deputy Mayor Zito opened the public hearing.

Council disclosures.

Brian Church, Project Architect, stated that they did not have a presentation.

Council, Staff, and Applicant discussed the parking issue and removing the encroachment on the sidewalk, that if the parking was changed to parallel it would result in losing parking, the roofing materials and how it deals with sound, that Belly Up upgraded their roof and it contained the sound more than in the past, that there was no plan to use the space for music, that all changes were being made within the existing footprint, that all spaces were not changed except the ADA space.

Discussion continued regarding that the existing driveway did not meet standards so it was being reconstructed to comply, that the parking area was being modified, that the sidewalk was in the right-of-way, there was 16-18 inches of bumper overhang, that Public Works reviewed the project trying to bring it up to conformity but they would lose required parking, that the Resolution stated the applicant would indemnify the City of any claims that arrived from the development of this site so the applicant had the duty to defend the City and reimburse for any attorney fees.

Discussion continued regarding the difficult turnaround in the parking area, that the project was a good re-use of the building, that the parking needed to work better even though there was an attempt to utilize the exemption clause in the City's code, that some compromise was need to make it better for everyone and the success of the business and its visitors, that the area had entrances to office spaces, that they could tuck in a few parallel spaces and reduce a regular space or two since the requirement was less than the project was offering.

Brian Church, applicant's representation, stated that they would work on the project further and ask Council for the additional time to see what else could be done on the project.

**Motion:** Moved by Councilmember Edson and second by Councilmember Nichols to continue to a date certain to March 14, 2018. **Approved 4/0/1** (Absent: Marshall). Motion carried.

**B.3. Public Hearing: 601 W. Circle, Applicants: Harris, Case 17-17-13.** (File 0600-40)

Recommendation: The proposed project meets the minimum objective requirements under the LUP, SBMC, is consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt **Resolution 2018-013** conditionally approving to convert the existing garage to living area, add a covered patio and remodel the interior of an existing single-story residence on property at 601 W. Circle Drive.

Greg Wade, City Manager, introduced the item.

Corey Andrews, Principal Planner, presented a PowerPoint (on file).

Councilmember discussed irrigation options, parking regulations and the number of parking spaces, and that if termite damage was identified the application would be required to return to update the calculation.

Deputy Mayor Zito opened the public hearing.

Council disclosures.

Jim Dyjak, applicant representative, said that they worked within the guidelines allowed while being sensitive to the bluff top property and allowed them to repair and remodel their property, that a structural engineer reviewed it before the project was proposed to the City, that no foundation or concrete work would be done within the footprint of the house, there were two piers outside of the geological set back line, and there was a large masonry fireplace in the center of the house that went all the way down into the bluff and they proposed removing it from the bluff.

Council and Applicant discussed the existing bamboo planted that blocked views and whether it would be removed, that the applicant would adhere to whatever conditions in the right-of-way, and that vegetation can be a discretionary process and could condition the

project.

Bill Kempner (time donated by Bonnie Kempner) presented a PowerPoint (on file) and said that he lived in the area and asked for some considerations for some landscape guidelines for this project, he showed pictures of the vegetation plant growth over time and the current height, requested that Council condition the project with a specified vegetation height including the complete removal of the bamboo and trees to alleviate any future conflicts with the neighbor. He stated that he asked the applicant to trim the vegetation to 10 ft., at the initial cost of the neighbors and then for the applicant to maintain it, but he returned with a proposal to trim to 14 ft. with no guarantee of any repetitive maintenance, asked that the fence structure meet the City's code, and he said that it had been difficult to work with the neighbor on the overgrowth for view and neighborhood compatibility.

Kristin Brinner stated that she lived in the City and was the co-chair of the Beach Coastal Preservation Committee for San Diego Surfrider, that the bulk of the house was set west of the required 40 ft. setback and the bluffs had eroded so that the residence is 13 ft. from the bluff's edge and the deck is 4 ft. from it, that any findings that the project would be safe from erosion over 75 years directly contradicts the economic justification for the Army Corps Coastal Storm Drain Reduction project which relies on the justification that all structures along the bluff would be threatened by erosion over 50 years of erosion, the proposed project did not comply with the City's LUP (Local Use Plan) policies, that stated that structures could be improved without any increase in the structure, safe setbacks, and that all new development should be designed for removal if endangered, and that rate of erosion calculation was objectionable, and that the project should be denied.

Greg Wade, City Manager, said that the 75 year time period applied to new development and that this project was landward of the GSL (geological setback lines) so the entire structure was not subject to that 75 yr. period, the rest of the project was built in 1951, so Staff's position was that it did not conflict with the Army Corps project, that there was no work on the decks, that the Staff Report included a guideline about improvements of that are subject to 5 ft. within the bluff top, and the project as proposed did not conflict with that policy.

Jim Knowlton, City's 3<sup>rd</sup> party consultant, Geopacific, said that he reviewed the Surfrider's letter, that it was well written and factual, that the statement about State Parks and Recreation had disallowed walls, that State Parks had reversed some of their opinions lately about seawalls, and that they would consider them, that the issue with this property was that it was existing non-conforming and built before the Coastal Commission Act was adopted, that the LUP required a site specific evaluation by a geotechnical engineer and during his review he requested they justify the .2 instead of the .4 and was approved, the erosion rate would create the bluff set back going into the structure within the 75 yr. period which would eventually put the property in danger allowing them to go to Coastal to request approval to stabilize the bluff, but at the moment this was an existing non-conforming which allowed a remodel if certain parameters were met, which had been, and that the bluff would erode further in the future, but would not affect this application or the Coastal Development Permit application.

Council and Mr. Knowlton discussed that seawalls could not be applied for if a structure was built after 1971, that 90% of properties on the bluff met that GSL and would have erosion

eventually, that Coastal had been approving these situations as long as it was not a new development, that in the past Coastal did not like seawalls but they seemed to have changed their position, that an emergency condition still allows a seawall, that Coastal would add a condition to monitor and that if a 50% threshold was met it would require them to return to apply for a new development, and that Coastal had conditioned approvals of new developments waiving their right for a seawall, that before the 75 yrs. this property would most likely be in danger, that elements of the project subject to that erosion rate falling behind the GSL, allowed the protection of those new elements, and that the elements behind the GSL would not be protected, that all of the house within the 40 ft. setback zone should not be there if it was a new structure, that it was still a theoretical discussion on which erosion would apply, the certified LUP allowed for less than the suggested rate of erosion if there were specific conditions of the site that warranted it, and that any future development would be cumulative increasing their threshold and meeting 50%.

Councilmember Edson stated that she could not remember exactly if she may have heard a past project on this house or another one nearby when she was on the View Assessment Commission.

Discussion ensued regarding that vegetation should comply with fence rules of 42 inches maximum height due to findings of neighborhood compatibility and adjacency to a public easement to maintain views in a major view corridor requiring perimeter landscaping to be in line with fencing.

**Motion:** Moved by Councilmember Nichols and second by Councilmember Edson to close the public hearing. **Approved 4/0/1** (Absent: Marshall). Motion carried.

**Motion:** Moved by Councilmember Nichols and second by Councilmember Hegenauer to approve with conditions of vegetation to meet fence regulations. **Approved 4/0/1** (Absent: Marshall). Motion carried.

### **C. STAFF REPORTS:** (C.1.)

*Submit speaker slips to the City Clerk.*

#### **C.1. Mid-Year Budget Adjustments for Fiscal Year 2017-2018.** (File 0330-30)

Recommendation: That the City Council

1. Adopt **Resolution 2018-015** revising appropriations in the Fiscal Year 2017/18 Budget.

Greg Wade, City Manager, introduced the item.

Marie Berkuti, Finance Manager, Principal Planner, presented a PowerPoint (on file).

**Motion:** Moved by Councilmember Edson and second by Councilmember Hegenauer to approve. **Approved 4/0/1** (Absent: Marshall). Motion carried.



**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.

Councilmember Edson reported that she attended the SANDAG Board retreat and the City paid a portion of the expenses.

Deputy Mayor Zito said that he attended the Board retreat and his expenses were paid by SANDAG.

**COUNCIL COMMITTEE REPORTS:**

**Regional Committees:** (outside agencies, appointed by this Council)

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

Councilmembers reported Committee activities.

**ADJOURN:**

Deputy Mayor Zito adjourned the meeting at 8:50 p.m.

Angela Ivey, City Clerk

Approved: September 11, 2018