

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

JOINT **REGULAR** MEETING

MINUTES

**WEDNESDAY, OCTOBER 22, 2008
6:00 P.M.**

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:

Mayor Roberts called the meeting to order at 6:00 p.m.

Present: Roberts, Nichols, Campbell, Heebner, and Kellejian.

Absent: None.

Also Present: David Ott, City Manager
Johanna Canlas, City Attorney
Dennis Coleman, Finance Director
Angela Ivey, City Clerk
Wende Protzman, Dir Admin. Serv/Deputy City Mgr
Tina Christiansen, Community Dev. Dir.
Mo Sammak, City Engineer/Public Works Dir.

FLAG SALUTE:

Troop and Pack 782 led the flag salute.

APPROVAL OF AGENDA:

MOTION: Moved by Kellejian and seconded by Heebner to approved the agenda with the exception of Item B.1. which was removed by the applicant's request.

Motion carried unanimously.

PROCLAMATIONS / ACKNOWLEDGEMENTS:

Mayor Roberts presented proclamations.

Lynne Henkin

Red Ribbon Week

Boy Scout Troup 782

National Community Planning Month

PRESENTATIONS:

(Ceremonial items that do not contain in-depth discussion and no action/direction.)

Santa Fe Irrigation District

Mike Barton, General Manager, Santa Fe Irrigation District, introduced some attending Board Members. He presented a Powerpoint reviewing local water supply issues.

Council and Mr. Barton discussed the price differential to desalinized water, that recycled water would be distribution projects or custom retrofitting, whether recycled water for the Coastal Rail Trail would be cost effective, that the San Dieguito Park needed retrofitting instead of new piping, that the City would be at a level two in January, that there would be a voluntary ten percent cut back, that Santa Fe Irrigation could consider providing past water usage to all customers, that the City needed examples of specific ways to reduce water usage, and whether the City should write a letter to the County to allow the private residents to use recycled water.

Budget & Finance Commission

Gordon Johns, Chair of Budget and Finance Commission, presented a Powerpoint reviewing the activities of the commission.

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 (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.

PoliceWatch.org presented his thoughts on the use of alcohol, drugs, regulations, police brutality, absurd laws, and economy.

Dan Chambers stated that an indemnification agreement that was part of an agenda item this evening and that he thought it went way beyond what was necessary in asking of applicants.

COMMUNITY ANNOUNCEMENTS:

Council presented community announcements.

COMMENTARY:

CONSENT CALENDAR: (Action Items)

A.1. Waive the reading of Ordinances.

Recommendation: Recommendation: That the City Council

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

MOTION: Moved by Kellejian and seconded by Heebner. **Motion carried unanimously.**

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

Recommendation: Recommendation: That the City Council

1. Ratify the list of demands for September 13-26, 2008.

MOTION: Moved by Kellejian and seconded by Heebner. **Motion carried unanimously.**

A.3. Monthly Investment Report. (File 0330-30)

Recommendation: Recommendation: That the City Council

1. Accept and file the attached Cash and Investment Report for the month of June 2008.

MOTION: Moved by Kellejian and seconded by Heebner. **Motion carried unanimously.**

A.4. Animal Control Services Contract. (File 0400-10)

Recommendation: Recommendation: That the City Council

1. Adopt Resolution 2008-184 authorizing the City Manager to sign a contractual agreement with San Diego County for the delivery of Animal Control Services.

MOTION: Moved by Kellejian and seconded by Heebner. **Motion carried unanimously.**

A.5. Capital Improvement Projects Status Report. (File 0800-80)

Recommendation: Recommendation: That the City Council

1. Receive report from staff.

MOTION: Moved by Kellejian and seconded by Heebner. **Motion carried unanimously.**

A.6. Amendment to Landscape Maintenance Agreement. (File 0400-10)

Recommendation: Recommendation: That the City Council

1. Adopt Resolution 2008-183 approving Amendment #4 to the City's agreement with Blue Skies.
2. Pay for the Coastal Rail Trail portion of the amendment through District funds by making the adjustments indicated in Table 3.

MOTION: Moved by Kellejian and seconded by Heebner. **Motion carried unanimously.**

A.7. Recordation of Resolution No. 94-88 for vacation of easement.

Recommendation: Recommendation: That the City Council

1. Receive report and proceed with the recordation of Resolution 94-88, as directed by Council action on November 21, 1994.

David Ott, City Manager, introduced the item and explained that there was an intent to vacate an easement since it was no longer needed since there would not be a road at that location but the resolution was never recorded and still needed to be done. He said that he wanted to bring it to Council's attention and now the property owner has offered to do a dedication of offer as well.

Johanna Canlas, City Attorney, stated that fourteen years had passed and since new staff needed to review the issue and ensure that the legal findings were met. She said it was in an abundance of caution to make sure that the initial requirements were met before proceeding with the recordation. She said that it was placed on Consent since it was not the vacation that was being considered but instead the housecleaning of alerting Council that this action was not done and would not be done after this recent review under this Council's watch.

Deputy Mayor said that he did not understand why this needed to be done since the applicant was not doing anything that required it, that he was told that the process of a boundary adjustment plat was gaining and losing dirt, and that he did not want to associate his name with this vote fourteen years later.

Jorge Palacios stated that he was the engineer at the time for the applicant and that prior to the approval there was a condition to vacate the right of way in the area since there was not a way to connect the through streets and the land would go back to the adjacent properties. He said that they finished the improvements and realized that the property was not vacated so they talked with Chandra Collure, former City Engineer, who agreed that it should have been vacated and went through the process. He said that they thought the City recorded the document.

Deputy Mayor Roberts asked who owned the 40 ft. of property and why it could not be a pocket park.

Johanna Canlas, City Attonrey, stated that the City was extinguishing its right as a result of the easement, that the City did not own but only had an easement right.

Mo Sammak, City Engineer, statd that the area was a dedicated right of way, that in the process of land development it is common practice that property owners dedicated land at no cost to the City by subdividing the property and giving portions to the City for the right of way, then the city takes on the responsibility to maintain it and allow the public to travel it, and when the City does not need the property it may be vacated and returned to the original property owner. He said that in this example the City never owned the right of

way but had the responsibility to maintain the land but never had the ownership.

Deputy Mayor said that it appears that the the driveway is actually a public street in the map.

Jorge Palacios stated that it is not a public street but instead was the area that they could use since the City did not need it and they improvement plans when the vacated this area.

Deputy Mayor Roberts asked if the vacation and the plot adjustment could be done at the same time.

Mo Sammak, City Engineer, said that it could be done and that Staff wanted to perfect that process and alert Council of the action first.

Councilmember Heebner asked to confirm that the City did not own the land but only had an easement.

Jorge Palacios said that they dedicated the street to the City for public use, since the street was not used it was a law to return it to the parcels who own them, and that they are offering another area for access.

David Ott, City Manager, stated that this was similar to when the City Council vacated land for sidewalks when the City did not use them and then return them to the property owners.

Bryan, applicant, said that once completed the Marsolan undergrounding district, then wanted to go deal with the easements for the gas and water and deal with the improvements, and this was when he discovered that the document was not recorded.

Council and Staff discussed the 40 ft. being vacated to the parcel since it was the original dedication, why Staff needs direction from Council, that it was informational for Council and when other issues came up with the Offer of Dedication which would require your direction, that there was no taking of land since it was part of what was required by the County to create the subdivision, that the City only would have an option to put a road through the easement, and that the original vacation and the new offer of dedication could be recorded simultaneously.

MOTION: Moved by Heebner and seconded by Kellejian to approve, assuming Resolution 94-88 is recorded, acknowledging the Irrevocable Offer of Dedication.
Motion carried unanimously.

PUBLIC HEARINGS:

B.1. Development Review and Structure Development Permit Request for 545 Stevens, Case 17-06-03, Solana Beach Self-Storage, Applicant: Proptech, George Hunt. (File 0600-40)

Recommendation: Recommendation: That the City Council

1. Report Council disclosures.
2. Conduct the Public Hearing: Open the public hearing, Receive public testimony, Close the public hearing.
3. Certify that the Initial Study and Mitigated Negative Declaration prepared for the project has been prepared consistent with CEQA and the 2008 State CEQA Guidelines and certify the Initial Study and Mitigated Negative Declaration;
4. Adopt the Mitigation Monitoring and Reporting Program prepared for the project; and
5. Adopt Resolution 2008-140 conditionally approving the request for a Development Review Permit and Structure Development Permit to redevelop an existing self-storage facility for the continued use with a larger storage capacity at 545 Stevens Avenue.

This item was removed from the agenda at the applicant's request and continued to November 12, 2008.

B.2. Development Review and Structure Development Permit Request for 312 North Rios Avenue, Case 17-07-21, Applicants: Rich Williams and Allison Renshaw. (File 0600-40)

Recommendation: Recommendation: That the City Council

1. Report Council disclosures.
2. Conduct the Public Hearing: Open the public hearing, Receive public testimony, Close the public hearing.
3. Finding the project exempt from the California Environmental Quality Act pursuant to Section 15332 of the State CEQA

Guidelines; and

4. Adopt Resolution 2008-159 conditionally approving a Development Review Permit and Structure Development Permit for the project to demolish the existing structure and construct a new two-story, 3,400 square foot, single-family residence at 312 North Rios Avenue.

David Ott, City Manager, introduced the item.

Corey Johnson, Assistant Planner, presented a Powerpoint.

Mayor Roberts opened the public hearing.

Council reported disclosures.

Rich Williams, applicant, presented a PowerPoint summarizing the September 10, 2008 Council meeting, and stated that two considerations from that meeting were neighborhood compatibility and project design revisions, that a condition on the project included an indemnification agreement, and that this requirement exposed him to liability.

Bob Scott, architect, continued the Powerpoint presentation. He reviewed zoning designations, reviewed several projects in the area that were of similar size and scale, and he distributed a handout showing the lot size of surrounding homes. He stated that the County Assessor's information was outdated and inconsistent, questioned whether the Assessor's calculations included garages, and stated that the project was consistent with other projects in the area.

Tina Christiansen, Community Development Director, stated that there were several updates to the staff report that were provided as supplemental information, that there were other properties with updated Assessor's information, and that the City did not audit the Assessor's information.

Johanna Canlas, City Attorney, stated that the revised language to the indemnification agreement was to protect the City's interest.

Council discussion and City Attorney discussion ensued regarding the prevalence of indemnification agreements, whether other cities in the County used these agreements, that the City had always used indemnification agreements, and that the City Attorney recently updated the language.

Dan Chambers stated that he was in support of the project, that the indemnification agreement was extreme, that it required people to defend the

City, that the City had plans of all approved projects and should know the lot sizes, and that there should be no uncertainties of Floor Area Ratios (FARs).

Council and Staff discussion ensued whether there were any inaccurate FAR numbers in the staff report and that some projects were not built according to plans submitted to the City.

Peter Lambrou (time donated by Ted Migita and Sue Halfaker) He stated that he reviewed past Council meetings, that he wanted Council to review the stucco wall used to disguise the stairway, and that the project should be modified further to reduce the bulk and mass of the second story. He stated that some larger homes in the area existed before the City was incorporated, that neighbors wanted complimentary developments, and that people defined a neighborhood instead of homes. He stated that ocean views added 10-20 percent to the value of a home, that neighbors also wanted to preserve their view elements, and that compromises needed to be made.

Council and applicant discussion ensued regarding an email the applicant sent to Peter Lambrou, that the applicant was building a loft home, and that the applicant had not discussed any additional building with Staff.

Tina Christiansen, Community Development Director, stated that a loft design would require to cut into the hillside, and that there had been no discussion with the applicant on the loft design.

Council discussion ensued with Staff regarding the stucco wall to hide the staircase, that the wall was to the height of the guard rail, and that it conformed to the building height recommended by the View Assessment Commission.

Councilmember Heebner stated that the Council had criteria to determine projects which included Floor Area Ratio and the Development Review Findings. She stated that she took several photos of homes in the area and showed those pictures at the meeting.

Council discussion ensued regarding the impact of FARs on a neighborhood, that the project was too large, that the neighbors complaints were in the back of the house, and that the project should be reduced.

Councilmember Heebner stated that she could not make the neighborhood compatibility finding and would vote no on the project.

Council discussion ensued regarding whether the applicant would remove eighty feet from the east back end of the property, to consider having a conditional

approval, and whether the one year period to return the project could be waived.

Johanna Canlas, City Attorney, stated that the Municipal Code allowed the Council the discretion to waive the twelve month waiting period to return with a submittal, and that Council had used this discretion in the past.

Peter Lambrou stated that his concern was the east upper back side of the building, that moving the upper level west would create a smaller bulk of the building, and that removing some square footage from the upper rear of the building would be an acceptable compromise.

Toby Long, architect, stated that the east wall of the building could be moved to the west four feet.

Council discussion ensued regarding the lack of articulation of the back wall, and that moving the second story back would be one way of creating articulation.

Council discussion ensued regarding criteria used to determine projects, that Council had qualitative and quantitative measures, and that this project had issues with square footage and articulation.

Mayor Roberts recessed at 9:00 p.m. and reconvened the meeting at 9:10 p.m.

David Ott, City Manager, stated that the applicant and neighbors came to an agreement to remove 4 feet from the second floor wall and move the wall on the west side 1 foot for a total of 5 feet so that there would be a five foot articulation on the back of the home.

Corey Johnson, Assistant Planner, stated that the applicant would move the second story over 1 foot, and remove 4 feet, which would remove approximately 80 feet from the second story.

Council discussion ensued with Peter Lambrou regarding the compromise, that this compromise would move the project forward, and that the neighbors were in agreement with the compromise.

MOTION: Moved by Roberts and seconded by Kellejian to close the public hearing. **Motion carried 4/0/1** (Absent: Nichols.)

Councilmember Nichols recused due to living within 500 feet of the project.

Johanna Canlas, City Attorney, stated that it was Council's decision whether to use the new or the old indemnification language, that under the previous language the City did not have a choice to hire it's own attorney, and that the City had less input in its defense if Council's action was challenged.

Council discussion ensued regarding their discretion to determine projects, that the project was still too big, that the neighbors present were in agreement with the project, that the additional language in the indemnification agreement added clarification, and that the language could be re-evaluated in the future.

MOTION: Moved by Heebner and seconded by Kellejian to approve with the condition that 4 et from the rear of the second story would be removed and the recessed portion of the front would be moved 1 foot to the west. **Motion carried 4/0/1** (Absent: Nichols.)

Councilmember Nichols recused due to living within 500 feet of the project.

B.3. Introduce (1st Reading) Ordinance 391 regarding Wireless Communication Facilities. (File 1000-50)

Recommendation: Recommendation: That the City Council

1. Report Council disclosures.
2. Conduct the Public Hearing: Open the public hearing, Receive public testimony, Close the public hearing.
3. Find the project exempt from the California Environmental Quality Act pursuant to Section 15305 and/or 15308 of the State CEQA Guidelines; and
4. Adopt City Council Policy Providing Guidelines for Wireless Communication Facilities.
5. Introduce Ordinance 391 establishing new regulations for the review, placement, construction, and modification of wireless communication facilities.

David Ott, City Manager, introduced the item.

Tina Christiansen, Community Development Dir., presented a Powerpoint reviewing the proposed ordinance and policy.

Council and Staff reviewed the blue folder item 8.a.

Johanna Canlas, City Attorney, stated that the policy was a guideline for the Council's consideration in which they still had discretion.

Mayor Roberts opened public hearing.

Doug Munson, M & M Telecom, suggested that the City set a two-tiered process which would be less expensive and time consuming, that the industry tends to lean towards to those areas for speed, that they had advised 12 jurisdictions in the area, that he recommended to return this ordinance and set up workshops and invite the telecom industry and discuss the limiting factors that could keep the City from getting the best result.

Council and City Manager Ott the language, discussing the locations, communicating with other cities of what works and doesn't, to choose some to leave the flexibility.

Johanna Canlas, City Attorney, said that the City's municipal code does not contain what other cities have for a Conditional Use Permit and that is why ours is set up this way.

MOTION: Moved by Heebner and seconded by Roberts to close the public hearing. **Motion carried unanimously.**

Mayor Roberts said that the Staff had heard the issues and addressed them in the report and this ordinance.

Deputy Mayor Nichols asked if an addition to the Motion could be the designation of scenic highways as identified in the General Plan.

Mayor Roberts agreed to amend his motion and add the "Shalls" mentioned by Councilmember Heebner.

Council and Staff discussed the inclusion of irrigation and landscaping, that the 3rd party expert would evaluate whether it is the best coverage they can obtain and other locations could be located, and that the 3rd party was for technical plan review.

Johanna Canlas, City Attorney, read the title.

MOTION: Moved by Roberts and seconded by Heebner with modifications to the policy. **Motion carried unanimously.**

STAFF REPORTS:

C.1. Adopt (2nd Reading) Ordinance 401 Revising the Graffiti

Ordinance. (File 0230-80)

Recommendation: Recommendation: That the City Council

- 1. Adopt Ordinance 401 amending Title 11, Chapter 11.14 of the Solana Beach Municipal Code.

Johanna Canlas, City Attorney, read the title of the ordinance.

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

C.2. Solana Beach Local Coastal Program (LCP) Land Use Plan (LUP) Status Update. (File 0610-12) No Action

Recommendation: Recommendation: That the City Council

- 1. Receive the information update.

Leslea Meyerhoff, Consultant, presented a Powerpoint.

C.3. Identity Theft Prevention Program. (File 0210-30)

Recommendation: Recommendation: That the City Council

- 1. Adopt Resolution 2008-185 adopting an Identity Theft Prevention Program.

David Ott, City Manager, introduced the item.

Dennis Coleman, Finance Dir., stated that the Federal Trade Commission issued regulations requiring institutions even though the City charges the property not the individuals but still meets the requirement to meet the mandate. He reviewed the City's process that limits any identity theft.

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

WORKPLAN COMMENTS:
(Adopted June 25, 2008)

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 reported reimbursements.

COUNCIL COMMITTEE REPORTS:

Regional Committees: (outside agencies)

City Selection Committee - Kellejian (meets twice a year).

County Service Area 17 - Campbell, Nichols (alternate).

Escondido Creek Watershed Authority - Nichols, Roberts (alternate).

League of Ca. Cities' San Diego County Executive Committee and its' Subcommittees - Roberts, Kellejian (alternate).

League of Ca. Cities' Local Legislative Committee - Roberts, Kellejian (alternate).

League of Ca. Cities' Coastal Cities Issues Group (CCIG) - Kellejian, Roberts (alternate).

North County Dispatch JPA - Nichols, Campbell (alternate).

North County Transit District - Roberts, Heebner (alternate).

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

SANDAG & its' subcommittees - Heebner (Primary), Roberts (1st alternate), Nichols (2nd 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).

22nd Agricultural District Association Community Relations Committee - Campbell, Roberts.

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

Business Liaison Committee - Roberts, Campbell.

Highway 101 / Cedros Ave. Development Committee - Nichols, Heebner.

I-5 Construction Committee - Kellejian, Roberts.

Public Arts Committee - Roberts, Nichols.

School Relations Committee - Roberts, Campbell.

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

Army Corps of Engineers & Regional Beach Nourishment - Kellejian, Campbell. Expires January 9, 2009.

Development Review - Nichols, Heebner. Expires November 29, 2008.

Environmental Sustainability - Roberts, Heebner. Expires January 9, 2009.

Fletcher Cove - Campbell, Heebner. Expires November 28, 2008.

La Colonia Park Needs Assessment - Nichols, Heebner. Expires June 13, 2008.

Local Coastal Plan Ad-Hoc Committee - Roberts, Campbell. Expires February 12, 2009 or at the California Coastal Commission adoption.

Solana Beach Mixed-Use Train Station Project Ad Hoc Committee - Nichols, Heebner.

View Assessment - Nichols, Heebner. Expires August 28, 2009

ADJOURN:

Mayor Roberts adjourned the meeting at 10:27 p.m.


Angela Ivey, City Clerk
Approved: September 23, 2009