

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

JOINT **REGULAR** MEETING

MINUTES

**WEDNESDAY, JANUARY 14, 2009
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:

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

Absent: None.

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

Mayor Nichols called the meeting to order at 6:00 p.m. He stated that the meeting would be adjourned in the memory of Bruce Rosen.

FLAG SALUTE:

Dr. Edman led the flag salute.

APPROVAL OF AGENDA:

David Ott, City Manager, requested to pull Item C.3. from the agenda.

MOTION: Moved by Heebner and seconded by Roberts to approve the agenda and removing Item C.3. **Motion carried unanimously.**

PROCLAMATIONS:

PRESENTATIONS:

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

1. San Diego Regional Coastal Sediment Management Plan

Chris Webb, SANDAG, presented a powerpoint.

Council, consultant and Mr. Webb discussed SANDAG working with the Army Corps of Engineers, that it should be available in June and that there would be workshops to get information from the community.

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.

Mary Jane Boyd stated that the League of California Cities conducted a survey on healthcare and that it was recommended that communities hold local meetings on healthcare. She stated that Councilmember Roberts recently sponsored a meeting in his home and over 70 residents attended the meeting and that he was appointed to a two-year term on the National Advisory Panel on Medicare.

Dr. Ruby Edman distributed a flyer for an event. She stated that she was the Chair of the Program Committee for the Solana Beach Civic and Historic Society and announced their upcoming event of the Valentine Venture.

David Carroll said that the Chamber was reaching out to various organizations in the City to enhance the Chamber of Commerce, that they were working with the American Cancer Society for the Relay for Life fundraising event, and that the upcoming Fiestal del Sol would be the event's 30th anniversary.

Suzanne Rincon stated that she resided in Lomas Santa Fe Hills, that she was concerned about zoning violations in her neighborhood, that a law firm relocated to a home business in her neighborhood, and that she notified the City's Code Enforcement Department about her concern. She distributed a petition that neighbors signed in opposition to the law firm operating in the neighborhood and she stated that she was concerned about the type of law that was practiced there.

David Ott, City Manager, stated that the case was under investigation, that Staff had met with the owners of the business, and that additional information would be provided to Council when it was available.

COMMUNITY ANNOUNCEMENTS:

Council reported community announcements.

COMMENTARY:

A. CONSENT CALENDAR: (Action Items)

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. Waive the reading of Ordinances.

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 Roberts and seconded by Kellejian. **Motion carried unanimously.**

A.2. Minutes of the City Council.

Recommendation: That the City Council

1. Approve the Minutes of the Regular City Council meetings held February 13, 2008 and March 12, 2008.

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

A.3. Register Of Demands. (File 0300-30)

Recommendation: That the City Council

1. Ratify the list of demands for November 22, 2008 - December 5, 2008.

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

A.4. Monthly Investment Report. (File 0350-45)

Recommendation: That the City Council

1. Accept and file the attached Cash and Investment Report for the months of October 2008 through November 2008.

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

A.5. Agreement with Hinderliter, De Llamas and Associates for Sales Tax Information and Audit Services. (File 0400-10)

Recommendation: That the City Council

1. Authorize the City Manager to execute the agreement between the City and Hinderliter, De Llamas and Associates on behalf of the City, and
2. Adopt Resolution 2009-007, authorizing the examination of sales and use tax records pursuant to California Revenue and Taxation Section 7056.

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

A.6. NCTD/Train Station Site Ad Hoc Committee. (File 0410-48)

Recommendation: That the City Council

1. Adopt Resolution 2009-006 establishing the NCTD (North County Transit District)/Train Station Site Ad Hoc Committee.
2. Appoint the past members of the prior committee (Heebner, Nichols) or appoint two new Councilmembers.

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

A.7. Proposed 2009 City Council Meeting Cancellations and Rescheduling. (File 0410-05)

Recommendation: That the City Council

1. Adopt Resolution 2009-001 authorizing the cancellation and/or rescheduling of Council meetings for the 2009 calendar year.

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

A.8. Reserve Transfers from the Risk Management Fund to the Workers Compensation Fund. (File 0330-30)

Recommendation: That the City Council

1. Approve Resolution 2009-008 authorizing the City Treasurer to transfer \$89,000 from the Risk Management Fund to the Workers Compensation Fund and amend the FY 2008-09 Budget accordingly.

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

A.9. Transfers of Reserves to the Asset Replacement Fund. (File 0330-30)

Recommendation: That the City Council

1. Approve Resolution 2009-009 authorizing the City Treasurer to Revise the FY 2008-09 Budget to transfer funds from the General Fund to the Asset Replacement Fund and authorize the City Treasurer to amend the budget accordingly.

David Ott, City Manager, introduce the item.

Deputy Mayor Campbell said that to make the budget a correct document the charge should be moved into the asset fund and paid out of there.

MOTION: Moved by Campbell and seconded by Nichols to approve with modifications. **Motion carried unanimously.**

NOTE: The City Council shall not begin a new agenda item after 10:30 p.m. unless approved by a unanimous vote of all members present. (SBMC 2.04.070)

B. PUBLIC HEARINGS:

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. Development Review Structure Development Permits 403 Mar View Drive, Applicants: Jack and Susie Burger, Case: 17-08-15. (File 0600-40)

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 2009-002 conditionally approving a Development Review Permit and Structure Development Permit

for the project to demolish the existing structure and construct a new two-story, square foot, single-family residence at 403 Mar View Road.

Councilmember Heebner recused herself due to the conflict of living within 500 ft. of the proposed project.

David Ott, City Manager, introduced the item.

Corey Johnson, Assistant Planner, presented a Powerpoint, reviewing the project.

Council discussion ensued with Mo Sammak, City Engineer, regarding that the project would require a grading permit as part of the site development, that staff would require appropriate erosion and drainage including inlets and catch basins as water runs off when the applicant applied for the permit, whether a condition could be added regarding a requirement to maintain any current water runoff on the project, that there had been complaints from below of upper projects, that there were design methods to maintain the rate of run off, that all issues would be addressed during the final grading permit process, and how methodologies are used to measure an increase of drainage.

Council disclosed their familiarity with the project.

Mayor Nichols disclosed that he worked with the applicant approximately two years prior on two adjacent parcels and that according to the City Attorney that he would not have a conflict due to the time passed.

Mayor Nichols opened the public hearing.

Steve Adams, applicant representative, architect, spoke about the drainage issue stating that the the owners recognized that the drainage should not be increased and planned to decrease it, that they planned to design a catch basin and permeate it back into the ground, that the applicant decided to dig into the ground to maintain the view of the ocean, and that it was two-story house in many sections and not three-stories.

Council and applicant reviewed views in the presentation.

Mayor Nichols stated that some appearances of bulk and scale issues could be mitigated by some landscaping and suggested planting trees to soften the front that faced Lomas Santa Fe and asked the applicant to provide an exhibit to countour the earth to mitigate the areas, even though the applicant was not required to do a landscaping plan.

Steve Adams, applicant representative, architect, said that they could screen some areas to help soften the building appearance angles and would submit a landscaping plan during the permitting process once it was developed.

Lesa Heebner, speaker, said that she and her husband live below the proposed property and appreciated the ensuring that runoff would be maintained and consideration of neighbors, that the current drainage conditions were not ideal, that the previous owners left the irrigation on unattended and other rain events provided problems for their home, that she would like to be assured that the runoff would be contained on the property as much as scientifically possible and noted in the resolution if possible, to request that the reference to not using Lomas Santa Fe for hauling be struck from the resolution since it would be required, and that the applicant had done an excellent job of design.

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

Councilmember Roberts said he had a concern of the appearance looking from below and that Mayor's Nichols suggestions had mitigated some of his concerns. He asked if some reference to best practices could be added and that stated that the applicant had done a good job with an interesting property.

Mayor Nichols stated that the reference should include that the runoff be contained as best as possible and that they are not ideal to begin with so the acknowledgement should be added as a reference.

Deputy Mayor Campbell and City Attorney Johanna Canlas discussed incorporating the engineer's willingness to eliminate the problem and adding language to Engineering Condition 6 of 7 to combine some language from Mr. Burgers letter and Council's discussion.

MOTION: Moved by Campbell and seconded by Nichols to reopen the public hearing. **Motion carried 4/0/1** (Absent: Heebner.)

Mr. Burger acknowledged that the current conditions were not ideal and they planned to redirect the drainage but did not want commit before they were sure of what could be done.

Councilmember Kellejain said that he liked the Best Management Practices inclusions as a catch all and supported the project.

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

Tina Christiansen, Community Development Dir., read the language for reference

include a lanscape plan for the vegetation screening of south elevation at the time of the building permit submittal to the satisfaction of the Community Development Dir. to soften the appearance of that facade up the first story of the building for the purposes of reducing bulk and scale of that facade.

Mayor Nichols recessed the meeting at 7:40 p.m. for a break and reconvened the meeting at 7:45 p.m.

Johanna Canlas, City Attorney, proposed that the language in the resolution Engineering Condition VIII be changed to read " The applicant shall design onsite drainage facilities and employ best management practices to the extent feasible to minimize the current and proposed drainage impact on neighboring properties to the satisfaction of the City Engineer."

MOTION: Moved by Kellejian and seconded by Nichols to approve with modifications of the Condition language and comment regarding lanscaping.
Motion carried 4/0/1 (Absent: Heebner.)

B.2. Emergency Request for Conditional Use Permit for coastal bluff stabilization at 611 West Circle Drive, Applicant/Owner: JRJ Partners, LLC. Case 17-08-18 (File 0610-10)

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 requirements of CEQA pursuant to 2008 State California CEQA Guidelines Section 15269(b) as a documented emergency exists.
4. Adopt Resolution 2009-003 conditionally approving an emergency request for a Conditional Use Permit to construct and stabilize the existing bluff below 611 West Circle Drive.

David Ott, City Manager, introduced the item.

Leslea Meyerhoff, consultant, presented a Powerpoint reviewing the project.

Jim Nolten, third party consultant, spoke about the erosion. He said that the walls had been routinely done over the years and only the last few years that state parks had expressed issues.

Council, Staff and consultants discussion ensued regarding the fact that future caissons could be driven in emergency cases, what to do when caissons would become exposed, that the applicant had to follow all the conditions once the project was approved including the requirement of bonds, that state law prevented a bond to be held as long as the caisson existed, that six months could be added to the length of time when exposed, eventually another wall may be required, whether the project was increasing or decreasing public safety, that a wall did protect the structure from eminent danger, and whether allowing the project created a less safe condition as proposed if it did not take care of lower bluff protection.

Jim Nolten, consultant, said that the project would not adversely affect the public and would not be making it less safe in his professional opinion.

Council disclosed their familiarity with the project.

Mayor Nichols opened the public hearing.

Bob Trettin, representing the applicant, responded to Council's discussion and questions. He reviewed forecasted erosion, the timeline to begin construction, and their hope to receive Coastal Commission approval 90 days after submittal.

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

Johanna Canlas, City Attorney, read new proposed language for the last sentence of Engineering Condition 8. "If the Caisson Performance Bond is not released by the City before the end of the five year period, the bond shall be renewed for additional five year terms at the recommendation of the City Engineer and to the satisfaction of the City Manager."

Council and Staff discussed concerns about holding a long term bond and the difficulty of obtaining a 30 year bond on a project of this type so that it why it was obtained in 5 year increments.

Johanna Canlas, City Attorney, read new proposed language for Engineering Condition 16. "Within six months of receipt of notice from the City, the Applicant must repair and construct, on the recommendation of the City Engineer to the satisfaction of the City Manager, a hand-sculpted, color-treated shotcrete treatment to the rear-yard caissons when the caissons become exposed due to further bluff sloughage. Failure to do so by the property owner would result in the call for the activation of the Performance Bond as outlined in Condition No. 8. In addition, the City may exercise any and all legal option to ensure the necessary repairs are made."

Councilmember Heebner asked that a reference be added regarding maintaining the natural form of the bluff. She asked if the City could talk further with the Department of Parks and Recreation to help them understand the consequences.

Mayor Nichols said that he would like to leave the door open for conversation in case things changed in a month for a cheaper, easier, wall, but to approve so that the applicant had the Deputy Mayor Campbell was concerned to not delay the process or project.

Johanna Canlas, City Attorney, said that nothing would preclude the applicant from returning to this body to amend the CUP in lieu of this approved project.

MOTION: Moved by Campbell and seconded by Roberts to approve with modifications. **Motion carried unanimously.**

C. STAFF REPORTS:

Submit speaker slips to the City Clerk

C.1. Extension to approval of Case 17-06-12 Development Review and Structure Development Permits (Applicant: Ryan Gonzales). (File 0600-40)

Recommendation: That the City Council

1. Grant the request for an extension beginning on November 8, 2008 to set a final expiration date of November 8, 2010 for the approval of 17-06-12 DRP/SDP for the construction of a new 3,838 square foot (including garage), two-story residence on property at 614 Mar Vista Drive.

David Ott, City Manager, introduced the item.

Corey Johnson, Assistant Planner, presented a Powerpoint reviewing the project.

Council discussion ensued regarding the easement on the property and whether it was misread by the Engineering department.

Tina Christiansen, Community Development Director, stated that the adjacent property owner submitted a document to the City which stated that the home was built on an easement, that the document was incorrect, and that the record was corrected to indicate that the building was not on an easement. She stated that the Engineering department was then able to approve the permit and that the delay was due to the error of an outside engineering company.

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

C.2. Adopt (2nd Reading) Ordinance 392 Density Bonus Regulations. (File 0630-10)

Recommendation: That the City Council

1. Adopt Ordinance 392 amending Solana Beach Municipal Code section 17.20.050 relating to Density Bonus Regulations.

Johanna Canlas, City Attorney, read the title.

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

C.3. Introduce (1st Reading) Ordinance 393 Related to Extensions of Project Approvals. (File 0600-05)

Recommendation: That the City Council

1. Adopt a City Council Policy regarding Application and Review Guidelines for Requests for Extension of Project Approvals.
2. Introduce Ordinance 393 amending SBMC section 17.72.110 related to extensions of project approvals.

This item was pulled from the agenda.

C.4. Request for Proposal for Solana Solar Program. (File 0400-10)

Recommendation: That the City Council

1. Authorize the release of the Request for Proposal for Professional Services, Administrative Support, and Bond Purchase Agreement for a Solar and Energy Efficiency Financing Program.

David Ott, City Manager, introduced the item. He stated that the City was dedicated to protecting the environment and conserving natural resources, and that the City would be the first in the San Diego region to provide this program to its residents.

Wende Protzman, Deputy City Manager, stated that legislation was adopted to

allow the City to form a Solar Program, that Berkeley and Palm Desert had a Solar Programs, that they had to use their General Fund to start the program, that the City was including a financial package in the Request for Proposals (RFP) to recoup all funds for the City, and that there were various challenges regarding liens and bonds.

Dennis Coleman, Finance Director, stated that a challenge for the program was that it was not a special tax, that assessment district funds could be used for the solar program, that the lien for the program would be voluntary, and that that disclosure on the bonds would be required.

David Ott, City Manager, stated that disclosure of the bonds was required to ensure that there would be no liability on the City and that the liability would be on the investor and bond holder.

Council discussion ensued regarding the funding of the Solar Program, that there would be no general fund costs, that there would be no liability to the City, and that the RFP protected the city.

Council and City Manager discussion ensued regarding the timeline of returning the proposals to Council, that proposals could be brought to Council by spring, that a schedule for completion of tasks should be required from applicants, and whether the lien would be in front of behind the mortgage.

Johanna Canlas, City Attorney, stated that where the lien would be placed would require a decision from the courts and that it would take time for this determination to occur.

Council discussion ensued regarding the City not subsidizing the program, that the City should request that the RFP applicant provide a legal opinion from their legal Counsel regarding the lien to ensure that the City would not be exposed to any liability.

Johanna Canlas, City Attorney, stated that she drafted language in the RFP to allow the City to seek third party opinions from legal and bond counsels to protect the best interest of the City.

MOTION: Moved by Roberts and seconded by Heebner to approve Staff recommendation with modifications made by Mayor Nichols, that the RFP would include an eligible equipment list that would be a non-proprietary element, that the equipment list could not be geared towards a particular manufacturer, and that a schedule of completion of tasks should be required under the submittal format section of the RFP. **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 COMMITTEE REPORTS:

Council made committee reports.

Regional Committees: (outside agencies)

- a. City Selection Committee - Roberts (meets twice a year).
- b. County Service Area 17 - Campbell, Nichols (alternate).
- c. Escondido Creek Watershed Authority - Nichols, Roberts (alternate).
- d. League of Ca. Cities' San Diego County Executive Committee - Roberts, Kellejian (alternate) and any Subcommittees.
- e. League of Ca. Cities' Local Legislative Committee - Roberts, Kellejian (alternate).
- f. League of Ca. Cities' Coastal Cities Issues Group (CCIG) - Kellejian, Roberts (alternate).
- g. North County Dispatch JPA - Nichols, Campbell (alternate).
- h. North County Transit District - Roberts, Heebner (alternate).
- i. Regional Solid Waste Association (RSWA) - Nichols, Kellejian (alternate).
- j. SANDAG & its' subcommittees - Heebner (Primary), Roberts (1st alternate), Nichols (2nd alternate).
- k. SANDAG Shoreline Preservation Committee - Kellejian, Roberts (alternate).
- l. San Dieguito River Valley JPA - Roberts, Nichols (alternate).
- m. San Elijo JPA - Campbell, Roberts (both primary members) (no alternates).
- n. 22nd Agricultural District Association Community Relations Committee - Campbell, Roberts.

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

- a. Business Liaison Committee - Roberts, Campbell.
- b. Highway 101 / Cedros Ave. Development Committee - Nichols, Heebner.
- c. I-5 Construction Committee - Heebner, Roberts.

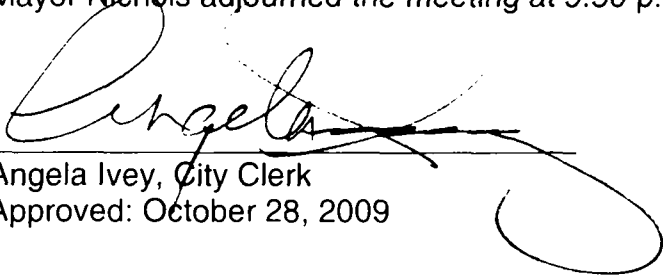
- d. Public Arts Committee - Roberts, Nichols.
- e. School Relations Committee - Roberts, Campbell.

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

- a. Army Corps of Engineers & Regional Beach Nourishment - Kellejian, Campbell. Expires December 9, 2009.
- b. Development Review - Nichols, Heebner. Expires November 18, 2009.
- c. Environmental Sustainability - Roberts, Heebner. Expires December 9, 2009.
- d. Fletcher Cove - Campbell, Heebner. Expires November 18, 2009.
- e. La Colonia Park Needs Assessment - Nichols, Heebner. Expires June 10, 2009.
- f. Local Coastal Plan Ad-Hoc Committee - Roberts, Campbell. Expires February 12, 2009 or at the California Coastal Commission adoption.
- g. Solana Beach Mixed-Use Train Station Project Ad Hoc Committee - Nichols, Heebner.
- h. View Assessment - Nichols, Heebner. Expires August 26, 2009

ADJOURN:

Mayor Nichols adjourned the meeting at 9:50 p.m. in memory of Bruce Rosen.



Angela Ivey, City Clerk
Approved: October 28, 2009