

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

JOINT **REGULAR** MEETING

MINUTES

**WEDNESDAY, MAY 27, 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:

Mayor Nichols called the meeting to order at 7:83 p.m.

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.

FLAG SALUTE:

Michael Bazillian, representing Cubschout Pack 782, led the flag salute.

APPROVAL OF AGENDA:

David Ott, City Manager, requested to move Item B.3. to June 10th.

MOTION: Moved by Roberts and seconded by Heebner to approve removing

Item B.3. from the agenda. **Motion carried unanimously.**

Johanna Canlas, City Attorney, reported regarding Closed Session, She said that a settlement was reached between the City and Gina Jackson arising out of the November 27, 2008 sewer spill which affected 211 N. Granados Avenue. The monetary settlement amount of \$16,430.00 is in addition to costs incurred directly by the City for pack-out, clean up, repair and/or lodging. The settlement reached resolves all claims, disputes and differences between the claimant and the City.

PROCLAMATIONS:

1. Child Cancer Awareness Month

Mayor Nichols presented a proclamation.

PRESENTATIONS:

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

2. Destination Lindberg

Mike Hicks, SANDAG, Lewis Misco, City of San Diego, and Ryna Hall, San Diego Regional Airport Authority, presented a powerpoint.

Council commented on the plans and thanked them for their ideas.

1. San Diego County Fair

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.

Pat Feldman handed out a card for www.kindnessbank.com and read a story about Lily Zafar.

Bill Howden handed out an unofficial transcript of a View Assessment Commission meeting and stated that the problem he had could have been

cleared up in an appeal process after the meeting.

COMMUNITY ANNOUNCEMENTS:

Council made 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 Heebner. **Motion carried unanimously.**

A.2. Minutes of the City Council.

Recommendation: That the City Council

1. Approve the Minutes of the Special City Council meeting held June 25, 2008.

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

A.3. Register of Demands. (File 0330-30)

Recommendation: That the City Council

1. Ratify the list of demands for April 18 - May 1, 2009.

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

A.4. Destroy Obsolete Records. (File 0170-50)

Recommendation: That the City Council

1. Adopt Resolution 2009- 057 authorizing the destruction of obsolete records.

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

A.5. Prequalified Geotechnical Consultants for Bluff Retention Devices. (File 0610-12)

Recommendation: That the City Council

1. Adopt Resolution 2009-060 accepting the list of geotechnical consultants that are prequalified for use by property owners that are processing applications for bluff retention devices. The list consists of the following firms: Hetherington Engineering, Inc., Leighton and Associates, Inc., Ninyo and Moore, Soil Engineering Construction, Inc., and TerraCosta Consulting Group, Inc.

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

A.6. Re-establishing the La Colonia Needs Assessment Ad Hoc. (File 0410-48)

Recommendation: That the City Council

1. Adopt Resolution 2009-058 re-establishing the La Colonia Needs Assessment Ad Hoc Committee until May 26, 2010.
2. Re-appoint the current Councilmembers serving on the committee, Councilmembers Nichols and Heebner or appoint new members.

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

A.7. Environmental Compliance Inspection Services (ECIS) Agreement. (File No. 0400-10)

Recommendation: That the City Council

1. Adopt Resolution 2009-056 authorizing the City Manager to sign an amendment extending the agreement with ECIS for required National Pollutant Discharge Elimination System (NPDES) and Fats, Oils and Grease (FOG) inspections at commercial/industrial facilities.

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

A.9. Support of Assembly Bill (AB) 715 - City Ordinance Publishing and Posting Requirements. (File No. 0480-70)

Recommendation: That the City Council

1. Authorize the Mayor to sign a letter of support for AB 715 authorizing the alternative publishing of ordinances on the City's website in lieu of costly newspaper advertising.

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

A.8. Denial of a Development Review Permit (DRP) at 130 S. Granados Ave., Applicant: Tim & Ann McCormick, Case No. 17-08-17 (File No. 0600-40)

Recommendation: That the City Council

1. Adopt the Resolution 2009-062 denying the request for a Development Review Permit for a single family residence.

David Ott, City Manager, introduced the item.

Tyler Michael said he was an energy consultant and worked on this project personally, that the Platinum design surpassed the current Title 24 design standards by over 50%, that it was a project that should stand out in the community, that there should be clarity of building codes, that the platinum rating was exactly what is trying to be achieved the community, that unclear, subjective or vague policies would discourage development, and encouraged Council to take a second look at this project. He said that promoting green building may

mean accepting new concepts and designs that may not look like homes from the past, that Solana Beach had already stepped up to the plate in other areas of Senate Bill 375, that Council now had the ability to prove that commitment, and asked Council to support to the project.

Tim McCormick, applicant, said that he was concerned that the City had and continued to review applications with no documented process in terms of viable description or definition of what they refer to as bulk and scale, that the City code did not contain a reference to what would constitute grounds for a denial due to bulk and scale even when Staff had provided information regarding compliance, that there appeared to be an intentional vagueness to leave the door open for arbitrary decisions for denial, that little credence was given to the fact that his project was one of the most green projects ever presented to the City, that it did not take into account that the property had a high bluff or that it sloped up from the street level, that various calculations left a substantial amount of space around the home on the lot, and that the denial was indicative of Council's willingness to overlook certain benefits the project would lend to the neighborhood.

Councilmember Roberts asked if an email that was received after the last meeting regarding the applicant's plan to give the property away could be added to the record.

David Ott, City Manager, stated that the email was regarding the potential donation of the property and the inquiry of a pre-fabricated home built and stated that it would be still located in the overlay zone and would trigger a discretionary permit process.

Johanna Canlas, City Attorney, stated that the communication was already on record with the project file.

Councilmember Heebner stated that she appreciated the green efforts on the project and said that all past approved green projects met all other requirements as well. She said that she would make the motion to accept Staff's recommendation for denial.

Councilmember Kellejian stated that after further review of the project, the report and the findings and the clarification that the applicant was asked to address, he believed that the project deserved approval. He said that the lot was in excess of 18,000 square feet and was difficult to develop, that much of the home would be below existing grade and did not impair neighbor's views, that similar homes had been approved and built, and that he would not support denial.

MOTION: Moved by Heebner and seconded by Roberts. **Motion carried 4/1** (Noes: Kellejian.)

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. Introduce (1st Reading) Ordinance 402 - Annual Sewer Service Charge for Fiscal Year (FY) 2009-10 (File No. 1040-70)

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. Introduce Ordinance 402 amending Section 14.08.060 of Chapter 14.08 of the Solana Beach Municipal Code Relating to the Annual Sewer Service Charge of \$560 per Equivalent Dwelling Unit (EDU) and Adopt by Reference by the City of Solana Beach.

David Ott, City Manager, introduced the item.

Dennis Coleman, Finance Director, presented a powerpoint.

Mayor Nichols opened the public hearing.

Council and Staff discussed the deficit for the CIP inclusion, the purpose of raising rates that were based on a three old study, the need for up-to-date information instead of three year old studies, and that the City was currently engaging a consulting firm to do a comprehensive master sewer plan which

would provide a sewer replacement program to address a portion of the system that was constantly being replaced.

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

Angela Ivey, City Clerk, reported that nine official protests had been received.

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

B.2. Introduce (1st Reading) Ordinance 399 - Noise Abatement and Storm Water Management. (File No. 0270-30)

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 that the project categorically exempt from the California Quality Environment Act (CEQA) pursuant to Section 15308 of the State CEQA Guidelines.
4. Introduce Ordinance 399 amending Title 7, Chapter 34 and Title 13, Chapter 10 of the Solana Beach Municipal Code.

David Ott, City Manager, introduced the item.

Johanna Canlas, City Attorney, stated that the noise ordinance had not been amended since the City's incorporation, that clarifications were made to the ordinance, and that additional amendments were provided to Council in the supplemental "blue folder."

Council discussion ensued regarding definitions in the Ordinance and whether the "thresholds" definition was related to subdivision codes.

Johana Canlas, City Attorney, stated that the "thresholds" definition was the current definition in the Municipal Code and that the existing definition could be modified if desired by Council.

Council discussion ensued regarding notification of the new code requirements, that there should be notification to landscapers regarding equipment required by

the ordinance, that information should also be sent out in Spanish, and that the ordinance would be effective January 2011 to allow time for businesses to purchase proper equipment.

Council discussion ensued regarding how complaints would be enforced for animal noise complaints and how many residents had to complain for it to be a valid complaint.

Council discussion ensued with Johanna Canlas, City Attorney, regarding that two residents living at different residences would have to complain for it to be considered a valid noise disturbance complaint, whether the same rules would apply for other types of noise disturbances, that animal noise complaints were qualified differently because the barking was not continuous, and that other noise disturbances were easier to verify.

David Ott, City Manager, stated that in the past four residents were required to make an animal noise complaint valid and that the noise board would be removed from the ordinance since it never existed.

Council discussion ensued regarding that two people would be required for all types of noise complaints, that two complaints would prompt an investigation, that the ordinance language required clarification whether a ticket would be given by two complaints or whether only an investigation would be prompted.

Johanna Canlas, City Attorney, stated that the ordinance would be returned to Council at a future meeting with proposed changes directed at this meeting.

Council discussion ensued regarding whether noise level determined the type of equipment would be ban or whether it was determined by the amount of pollution that was being emitted, that it was a combination of both, that lawn mowers were not included in the ordinance because they were four stroke and not two stroke so they were quieter, that Council had not received complaints on lawn movers, that lawn mover clippings could also get into the storm drain, whether yard vacuums should be required to pick up all grass clippings, and whether this issue could be addressed in the ordinance.

Johanna Canlas, City Attorney, stated that the language was already identified in the ordinance, and that other changes identified at this meeting would be incorporated in the ordinance and would return to Council for approval.

B.3. Development Review Permit (DRP), Structure Development Permit (SDP), and Conditional Use Permit (CUP) at 233, 235 and 237 North Rios Avenue, Applicant: Peter C. McNally, Case: 17-07-18. (File No. 0600-40)

This item will be continued to the June 10, 2009.

C. STAFF REPORTS:

Submit speaker slips to the City Clerk

C.1. Introduce (1st Reading) Ordinance 398 - Ban on Alcohol Consumption at City Beaches. (File No. 0270-30)

Recommendation: That the City Council

1. Introduce Ordinance 398 amending the Solana Beach Municipal Code section 11.12.095(A) to extend the ban on alcohol consumption at city beaches year-round regardless of the time of day.

David Ott, City Manager, introduced the item. He stated that various communities had problems on their beaches with alcohol consumption, that San Diego was the first to regulate alcohol consumption on beaches, that other cities had followed with regulations, that Solana Beach was one of few beaches that still allowed alcohol which had brought media attention, and that the City had placed a recent one-year ban of alcohol on beaches and was now in consideration of a permanent ban.

Judy Strang, Executive Director, San Dieguito Alliance, stated that they supported the year round ban of no alcohol on the beaches. She distributed information from the San Diego Police Department showing the decrease of minors in possession of alcohol since the alcohol ban on beaches, and that more people were at the beach on Memorial day with less problems than in the past.

MOTION: Moved by Campbell and seconded by Heebner to approve Staff recommendation to set the alcohol ban year round. **Motion carried unanimously.**

C.2. Adoption of Preferred Bluff Retention Designs for Shoreline Protection Projects per the Local Coastal Program (LCP) Land Use Plan (LUP). (File No. 0610-12)

Recommendation: That the City Council

1. Adopt the Preferred Bluff Retention Designs for use by applicants seeking shoreline protection devices in the City of Solana Beach.

David Ott, City Manager, introduced the item.

Leslea Meyerhoff, consultant, presented a powerpoint which included the key goals of the Local Coastal Program and reducing devices.

Council and consultants discussed the concerns about the engineering slope, that a preferred solution could be added as a note, and whether caissons would be added inside the property line and add note on the plans that that would be the intent.

MOTION: Moved by Kellejian and seconded by Campbell to approve with modifications of notes to add to the plans regarding Slides 7, 8, and 10 of the presentation, as mentioned by Mayor Nichols. **Motion carried unanimously.**

C.3. Del Mar Shores Beach Access Stairway. (File No. 0400-10)

Recommendation: That the City Council

1. Adopt Resolution 2009-055:
 - a. Accepting the preliminary design plan submitted by Noble Consultants, Inc.
 - b. Authorizing the City Engineer to submit a Coastal Development Permit application to the California Coastal Commission.

David Ott, City Manager, introduced the item.

Mo Sammak, City Engineer, presented a powerpoint.

Council and Staff discussed potential for increasing the maximum tread width to navigate the stairs due to the steepness, that timber was treated two different ways, that some old treatment was no longer use for environmental reasons, that a new option was being researched by Staff with the consultant that is now more widely used, the consideration for a tread that would provide longer life span, that other designs like the float design could be reviewed but the material would have to be selected so that Coastal could approve the project, the input from some residents regarding using the Lifeguard station as an observation rather than the station and that some of those issue had been reviewed, and that a key issue was that Lifeguard station currently had a special vantage point.

Mark Tiddens stated that he lived at Del Mar Shores and was Vice President and also on the COOSA homeowners association, that there had been good correspondence with City Staff, that he submitted some emails to address their concerns that included the disturbance of the bluff, that there was a current homeless shelter under the stair area and would like to prevent that in the

future, that they like the stairs at Seascape Sur, that their experience with the potential plastic wood was that it had not held up over time, and that they wanted to explore making the Lifeguard observation area multipurpose for visitors when it was not utilized by the Lifeguards.

Council discussed the room on the landing and ask Staff and consultant to review that issue of shared use further and return with additional input, to give direction to Staff to review further issues, meet with the HOA and return to Council with more detailed recommendations.

**C.4. Extension Request for Conditional Use, Development Review and Structure
Development Permits at 838 Academy Drive, Applicant: Santa Fe Christian School, Case No. 17-04-07. (File 0600-40)**

Recommendation: That the City Council

1. Adopt Resolution 2009-061 to conditionally approve the request for an extension for the use of a 6,000 square foot interim athletic tent at 838 Academy Drive beginning on May 18, 2009 to set a final expiration date of May 18, 2011 subject to the completion of the Engineering Department's conditions.

David Ott, City Manager, introduced the item.

Corey Johnson, Associate Planner, presented a powerpoint.

Mo Sammak, City Engineer, said that the third party engineer observed the site operations for a day and returned with recommendations which included allocating more curb space for drop offs, to have a no U-turn on Academy, and to add a sign and stencil on the pavement to address the concerns of the residents in the cul-de-sac. He said that the recommendations were shared with the school district, TTAC and the Public Safety Commission.

Council and Staff discussed the efforts and meetings with residents and invitations to the Safety meetings, whether most u-turn travelers would stay on Academy or go through the neighborhood, the need for a crosswalk on Genevieve, and to consider closely monitor the issue if no u-turn signs are posted.

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

C.5. Introduce and Adopt Ordinance 404 – Business Tax License

(File No. 0390-90)

1. Introduce and adopt Ordinance 404, adding Chapter 3.44 to the Municipal Code related to a Business Tax License.

Ordinance 404 is an exhibit to Resolution 2009-049. Please see the 5:30 p.m. Special Council meeting agenda for additional information.

This item was pulled from the agenda.

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:**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 - Heebner (Primary), Roberts (1st alternate), Nichols (2nd alternate) and any subcommittees.
- 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 10, 2010 or at the California Coastal Commission adoption.
- g. NCTD / Train Station Site Project Ad Hoc Committee - Heebner, Nichols. Expires 1-13-2010
- h. View Assessment - Nichols, Heebner. Expires August 26, 2009

ADJOURN:

Mayor Nichols adjourned the meeting at 10:10 p.m.



Angela Ivey, City Clerk
Approved: November 10, 2009