

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

JOINT **REGULAR** MEETING

**MINUTES**

**WEDNESDAY, MARCH 10, 2010**  
**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:**

Johanna Canlas, City Attorney, stated that there was no reportable action from the Closed Session.

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

**FLAG SALUTE:**

Mayor Campbell led the flag salute.

**APPROVAL OF AGENDA:**

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

**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.

Jim Nelson stated that the Civic and Historical Society had created a new book and passed around. He said proceeds from all purchases of the book would be going to the Fletcher Cove Community Center project. He said the book was a prequel to the first book "Early Solana Beach" and covered the earlier years of the area.

David Carroll said that the Chamber of Commerce had their 67th year coming and was having an installation dinner in March, announced the approaching Fiesta del Sol even that would take place on June 5th and 6th, and that the American Cancer Society Relay for Life event was in August.

### **COMMUNITY ANNOUNCEMENTS:**

Council made community announcements.

### **COMMENTARY:**

#### **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. 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 City Council meeting held January 27,

2010 (Regular).

**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 February 2 - 19, 2010.

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

**A.4. Monthly Investment Reports. (File 0350-45)**

Recommendation: That the City Council

1. Accept and file the attached Cash and Investment Reports for the month of November 2009.

**MOTION:** Moved by Roberts and seconded by Kellejian. **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: (B.1. - B.4.)**

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. FY 2009-10 User Fee Amendment. (File 0390-20)**

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 that the adoption of an amendment to the 2009/2010 Schedule of Fees is not a project as defined by CEQA.
4. Adopt Resolution 2010-005 amending the FY 2009/2010 Schedule of Fees to recover the City's costs for six services.

David Ott, City Manager, introduced the item.

Rich Whipple, Priincipal Planner, presented a powerpoint.

Council and Staff discussed potential fees for permit violations and and that they would require more work by Staff and would be brought back at a separate time int he form of an ordinance.

Mayor Campbell opened the public hearing.

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

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

**B.2. Development Review Permit (DRP) and Structure Development Permit (SDP) for 190 S. Rios Avenue, Applicant: Land Holdings III, LLC, Case # 17-09-17. (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. Find the project exempt from the California Environmental Quality Act pursuant to Section 15332 of the State CEQA Guidelines; and

4. If the City Council makes the requisite findings and approves the project, adopt Resolution 2010-021 conditionally approving a DRP and an administrative SDP for the project for new single family residence at 190 S. Rios Avenue.

David Ott, City Manager introduced the item.

Luella Greco, Assistant Planner, presented a powerpoint reviewing the project.

Councilmember Kellejian stated that the report stated the project was on the west side of Rios but was actually on the east side of Rios, but this discrepancy had no bearing on the Resolution.

Mayor Campbell opened the public hearing.

Council disclosed their familiarity with the project.

Robert Mueller, applicant, presented a powerpoint reviewing compatability and compliance.

Council and Applicant discussed the open area deck and possibility of being converted to living quarters in the future and whether he would be open to a deed restriction to ensure it and the Applicant agreed.

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

**MOTION:** Moved by Roberts and seconded by Heebner to approve the project and adding a deed restriction for two areas, the front area that is U shaped open to the sky and surround on 3 sides by walls, and rear area was the uncovered rear court outside of kitchen and guest room. **Motion carried unanimously.**

**B.3. Amendment to Development Review Permit (DRP), Structure Development Permit (SDP) for 403 Mar View Drive, Applicants: Jack and Susie Burger, Case # 17-09-23. (File 0600-40)**

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. If the City Council makes the requisite findings and approves the project, adopt Resolution 2010-029 conditionally approving an amendment to DRP/SDP (Case No. 17-08-15) for a new single-family residence on a vacant lot at 403 Mar View Drive.

Deputy Mayor Heebner recused herself from the item having lived within 500 ft. of the project area.

Corey Johnson, Associate Planner, presented a powerpoint reviewing the project.

Council and Staff discussed the exempt garden structure which was exempt due to the lack of sides and only a roof similar to a trellace, that it was exhibited on the plans since it had to be permitted in order to build it, and past concerns about drainage issues that would be improved with this revision.

Council disclosed their familiarity with the project.

Mayor Campbell opened the public hearing.

Jack Burger, applicant, said that as he worked on the project eventually simplified the project and eliminated a lot of retaining walls.

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

**MOTION:** Moved by Roberts and seconded by Nichols. **Motion carried 4/0/1** (Recuse: Heebner)

**B.4. Participation in the CaliforniaFIRST Property Assessed Clean Energy (PACE) Program. (File 0230-25)**

1. Report Council disclosures.
2. Conduct the Public Hearing: Open the public hearing, Receive public testimony, Close the public hearing.
3. Adopt Resolution 2010-030 approving the City's participation in the CaliforniaFIRST Property Assessed Clean Energy Program.

David Ott, City Manager, introduced the item.

Wende Protzman, Deputy City Manager, began a powerpoint presentation

regarding PACE (Property Assessed Clean Energy Program) that would provide citizens financing for solar and energy efficiency upgrades. She reviewed the steps that the City had taken so far to get involved.

Matthew Messina, continued the powerpoint regarding PACE that he said was a 501(c)(3) non-profit corporation which provides assistance to save energy, reduce grid demand, and generating onsite renewable energy. He stated that the program would enhance benefits in the San Diego region which had experienced an unemployment rate of 11%, pace by hiring local contractors and stimulate job growth in the most depressed industries. He said that benefit to property owners is savings and the benefits to municipalities and the state includes meeting climate control goals laid out in Assembly Bill 32.

Council and Mr. Messina discussed the pool bond that can be accessed, that administrative costs that would be added into the bond at the sale with the additional basis points above the treasury, that his organization is compensated by any local partner that may contract with a city for marketing and funding in a separate contract, that Renewable Funding had been selected to proceed by the state, that if the City had a role in the process that the fees would have to be considered if they were needed, that the typical \$10,000 fee for start up costs would be waived for Solana Beach due to the population size and may provide for some marketing and research as well, that the term could be up to 20 years and added to the property tax assessment, that the range of interest rate was anticipated to be 6-8%, that it would be fixed once an applicant applies and locked it in, that they anticipated that the program would be available in late June or July depending on coordinating the funding.

Mr. Messine stated that other types of inclusions would be renewable energy, solar PV, solar thermal, energy efficiency fixtures, HVAC, etc.

Council and Mr. Messina discussion continued regarding that currently there were not provisions for a retroactive funding process, that they would work through local green interest groups, and confirmed that there was no costs to the City to participate in the program.

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

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

Mayor Campbell recessed at 7:25 p.m. for a break and reconvened at 7:30 p.m.

**C. STAFF REPORTS: (C.1. - C.3.)**  
*Submit speaker slips to the City Clerk*

**C.1. Extension Request of Development Review Permit (DRP) and Structure Development Permit (SDP) for 700 Stevens Avenue, Applicant: Stevens Street LLC/Brio Investment Group, Case No. 17-06-22. (File 0600-40)**

Recommendation: That the City Council

1. Deny the request for an extension because the application was not filed within the time required by the SBMC Section 17.72.110 B.2.

Councilmember Nichols recused himself since due to a contractual relationship between his employer and the Applicant.

Deputy Mayor Heebner stated that when this project came to Council before she had conflict since one of the Applicants at the time was a client of hers, which not the case at this time, therefore she was able to participate.

David Ott, City Manager, introduced the item.

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

Council and Staff discussed the fact that notification was the same under the old or new code, that the only change in the code was from "should" to "shall," that the code was now drafted that did not provide flexibility due to the work "shall," that the code specifically states regarding extensions that it is 24 months after the approval date and not after the effective date and there is no vagueness, and that the statutory interpretation is a presumption that the legislative body is aware of other provisions in the code.

Council and Staff discussed further that Council could direct the City Attorney to amend the code and consider alternative options for these types of timely filing situations, that any alternative course could set a precedent for other Applicants and to not treat other Applicants differently, and that being situated in the Redevelopment Agency did not affect it.

Bob Scott, RGS Planning Solutions, Applicant representative, (time donated by Mike Hall), said that it was a good project for the City which would increase tax base, that it was approved unanimously in the pas, that there was no formal process to apply for extension but could be in the form of a letter or email, that there was early notification 9 month prior by the Applicant that they would need a time extension, that he did receive an email regarding the standards of review, that the issue between should and shall in July 2009 meant the different between approval and denial, and that there was early communication and they did not



wait for the application to expire and then submit. He said that he proposed three or four options to move forward giving Council the discretion which included 1. considering any projects in the pipeline prior to the code change are not affected by the code change, 2. due to the lack of a formal application, recognize the email, well in advance of the 60 days, as the request for extension, 3. consider the effective vs. approval date that creates the issue.

Council and Staff discussed whether allowing the recognition of the March email as a potential extension request would implicate any other applications, that it could have certain legal issues that would need research, that the code is silent whether the ruling would be with prejudice or not so this is within Council's discretion, that there was not an appeal fee for this extension request, that the extension request fee had been paid, that further Staff time would be required,

Mr. Scott said that this was not an appeal in a classic sense and that they would not have applied if this would have been the end result.

David Ott, City Manager, said that he met with Mr. Scott and he expressed in the interest in bringing the issue to Council, that if he had decided to pull out at that time he could have asked for a refund if nothing had been spent, that the City did not charge the regular Appeal fee, and that there was not a request for a refund since the desire was expressed to bring the issue before Council for consideration.

Council and Mr. Scott discussion ensued regarding their understanding that the expiration would be in 60 days, that Mr. Scott's expectations was December 12 and in the interest of finding solutions he realized the code stated something about an effective date and he thought that perhaps this triggered the clock, and that at one of his meetings at the counter paying fees he was informed that he missed the date.

Council and Staff discussion ensued regarding that there was not any past discussion about what to do in case of projects that had been approved while the prior language had been in affect during the transition to the new language, to defer the decision and have the City Attorney do additional research to look at possible options whether it affects this project or not, objective is to come up with fair and equitable solution, to look at instituting application process if a formal one is warranted, that in this the current economic time it had been difficult to obtain loans for everyone and how or if that affects this decision, tha the email exchange and the City's response on March 27th providing the process was black and white and that on this process the intention was put in writing between both parties, that it seemed pretty clear that it was spelled out to the applicant, that the email stated clearly when the letter should be received in order prepare for an extension and then what would happen so it was clearly indicated that they had to do something else, that the City Attorney was not in a position at this time

to address all the appropriate issue and would require time to research issues, and that at the discussion of the code change from "should" to "shall" there was the unanimous vote to approve it.

**C.2. Second Extension Request of Development Review Permit (DRP) and Structure Development Permit (SDP) for 1128 Solana Drive, Applicants: Michael Hall, Case No. 17-06-25. (File 0600-40)**

Recommendation: That the City Council

1. Grant the request for a second extension to set a new expiration date of September 26, 2011 for the approval of 17-06-25 DRP/SDP for the construction of a new 4,598 square foot (not including 400 square feet of garage), two-story residence on property at 1128 Solana Drive.

David Ott, City Manager, introduced the item.

Corey Johnson, Associate Planner, presented a powerpoint reviewing the project.

Mike Hall (Peter House donated time) said that he had worked on this project for some time and was asking for extension as Staff recommended.

Council, Staff and Mr. Hall discussed what he did during the six month extension including redesign and engineering and having to go through Coastal Commission, that in order to start the plans it as \$50,000 commitment, that they were working on the engineering and value engineering on the actual structure and would have made better time in a better economic time, that the Applicant had many reasons beyond their control including inability to qualify for the loan,

Mike when originally approved, staff issue with whether should graded land or original graded land and how it would relate to teh height limitation and delayed in in getting approved, that engineering delays were not by the City but on the Applicant's end, that they need to obtain Coastal Commission in order to request the building permit which would require about a year, that in relation to Staff's knowledge of the project it was feasible to complete the project in the next 12 months, that the economic downturn in housing market had a marked affect on his project, that the Applicant had talked with three banks in the last 6-12 months, that the code could allow the Applicant to request two more extensions which would total four extensions totalling 24 months, that a letter from a neighbor said they were supportive but troubled with the analysis stating that the Applicant had not made progress, and that it appeared with the information it appeared that the Applicant had been working on different processes to move forward.

Councilmember Nichols asked to consider reducing the request to 9 months to keep things on track.

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

**C.3. Adopt (2nd Reading) of Ordinance 413 Relating to Sidewalk Maintenance. (File 0820-45)**

Recommendation: That the City Council

1. Adopt Ordinance 413 repealing Solana Beach Municipal Code Section 11.24.110 relating to sidewalk maintenance.

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

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

**WORKPLAN COMMENTS:**

(Adopted June 24, 2009)

**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 reported on committees.

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

- 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 8, 2010.
- b. Development Review - Nichols, Heebner. Expires November 17, 2010.
- c. Environmental Sustainability - Roberts, Heebner. Expires December 8, 2010.
- d. Fletcher Cove - Campbell, Heebner. Expires November 17, 2010.
- e. La Colonia Park - Nichols, Heebner. Expires May 26, 2010.
- 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 1-12-2011
- h. View Assessment - Nichols, Heebner. Expires August 25, 2010

**ADJOURN:**

Mayor Campbell adjourned the meeting at 8:44 p.m.



Angela Ivey, City Clerk

Approved: May 26, 2010