

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

JOINT **REGULAR** MEETING

# **MINUTES**

**6:00 P.M.**  
**WEDNESDAY, APRIL 28, 2010**

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 Campbell called the meeting to order at 6:00 p.m. with all members present.

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

**FLAG SALUTE:**

Lisa Platt, Principal of Skyline Elementary, led the flag salute.

**APPROVAL OF AGENDA:**

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

**PRESENTATIONS:**

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

**SOLANA VISTA ELEMENTARY SCHOOL**

The Student Council recited a poem they wrote regarding Earth Day.

Lisa Platt, Principal, explained the displayed boards of recycled materials.

**PROCLAMATIONS:**1. Law Enforcement Memorial Day

Mayor Campbell presented a proclamation to the San Diego County Sheriff's Department for Law Enforcement Memorial Day.

**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.

David Carroll stated that the Relay for Life event. He said that the contributions to Relay for Life allows them to donate to needs for trips for treatment for patients.

**COMMUNITY ANNOUNCEMENTS:**

Council made community announcements.

**COMMENTARY:**

Council made commentary reports.

**A. CONSENT CALENDAR: (Action Items) (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 Recommendation: That the City Council **Motion carried unanimously.**

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

Recommendation: That the City Council

1. Ratify the list of demands for March 20 - April 2, 2010.

**MOTION:** Moved by Roberts and seconded by Kellejian Recommendation: That the City Council **Motion carried unanimously.**

**A.3. Solana Beach Sewer Pump Station Upgrade Preliminary Design. (File 0400-10)**

Recommendation: That the City Council

1. Adopt Resolution 2010-045 authorizing the City Manager to execute a Professional Services Agreement with Dudek in the amount of \$81,680 for a preliminary Design Study and Report for the Solana Beach Pump Station upgrade project.

**MOTION:** Moved by Roberts and seconded by Kellejian Recommendation: That the City Council **Motion carried unanimously.**

**A.4. Legal Services with Hogan, Guiney, Dick LLP. (File 0400-10)**

Recommendation: That the City Council

1. Adopt Resolution 2010- 044 ratifying the Professional Services Agreement with Hogan, Guiney, Dick LLP for legal services and approving the First Amendment to the Professional Services Agreement.

**MOTION:** Moved by Roberts and seconded by Kellejian Recommendation: That the City Council **Motion carried unanimously.**

**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: (Items B.1. - B.2.)**

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. Conditional Use Permit (CUP) at 320 S. Cedros Ave, Suite 400, Applicant: Adam Carruth, Case No. 17-09-24. (File 0610-60)**

The proposed Project meets the minimum objective requirements under the SBMC, is consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a CUP.

Therefore, Staff recommends 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 15301 of the State CEQA Guidelines; and
4. If the City Council makes the requisite findings and approves the Project, adopt Resolution 2010-036 conditionally approving a CUP for the project to allow for on- and off-site alcohol sales at 320 South Cedros Avenue.

David Ott, City Manager, introduced the item.

Luella Greco, Assistant Planner, presented a powerpoint.

Council and Staff discussed the operations of producing and barreling wine, that wine would be produced on a daily basis including the weekends, and that the City had enforcement provisions regarding noise and odors produced by the business.

Johanna Canlas, City Attorney, stated that the City had the ability to revoke the Conditional Use Permit (CUP) or modify the conditions.

Council and Staff discussed that all of the wine operation activities would occur within the leased space, that there would be insulation to mitigate any noise impacts, and that the carport would not be used for storage or production of any wine.

Johana Canlas, City Attorney, stated that one of the lease conditions would be to abide by the law and if any conditions of the CUP were violated it could cause termination of the lease, and that the City would not be liable if the lease were lost.

Council and Staff discussed that limits could be placed on the amount of wine production by adding a condition to the resolution.

Mayor Campbell opened the public hearing.

Council disclosed their familiarity with the project.

Adam Carruth, applicant, stated that he was pleased about the support he had received from the community, that he wanted to be a positive addition to the Cedros Design District, that he had twelve years experience in the wine business, and his focus was on high quality wine, that he wanted his business to be "green," that the grapes were processed five to six days a year, that he would be bringing a high quality project to the City, that he hoped his business would stimulate the other businesses in the area, and that the carport would be insulated which would decrease noise.

Council, Applicant, and Staff discussed whether the applicant understood the City's process, that the applicant failed to obtain a business license when he initially obtained a lease, that the business required a Conditional Use Permit to address impacts to the community, that the manufacturing process would take place 5-6 times a year, and the crushing process took place about seven days once the grapes arrived, that all production would take place indoors, that the entire building would be insulated to minimize noise, that there would be activated carbon filters to mitigate the odor from the wine, that the crushing process took place for approximately five consecutive Sundays in a row, that the stems would be taken off-site immediately and disposed of at the Miramar landfill, that no special events were anticipated at the site, that the state already

limited the production of 84 barrels a year, that on-site consumption was only for wine tastings, that the carbon filter would be placed on the roof and would not face the neighborhood, that the notice should be given to the City seven days prior to crushing, and that the crusher produced 70 decibels of noise.

Council, Staff, and Applicant discussed that the work on Sundays would be restricted to beginning at 8 a.m. and that all equipment cleaning would be done indoors.

Renne Anderson stated that everyone had been affected by economic issues, that the wine business provided jobs for many Californians, that opening the doors to a new business would assist the economy, and that Curruth Cellars would enhance the business community in the City.

David Carroll, President of the Chamber of Commerce, stated that this was a positive change in the community, that Dave Hodges and Sean Macleod had many brought many diverse changes to the area, that everyone was attempting to bring visitors to the City, and that the opportunity to provide a new business to the area would give visitors what they wanted and assist in improving sales tax.

Steve Kwik stated that he was supportive of the business, that he had helped the applicant with the crushing operations, that it was a low impact business, that Mr. Carruth was very knowledgeable about wine making, that the business would enhance the Cedros Design area, and that wine tastings were always in control and educational.

Sean MacLeod stated that he was a resident and property owner on Cedros Avenue and that he supported the project.

Dave Hodges stated that he supported the project, that he wanted to attract handmade products back on Cedros Avenue, that furniture and other products on the street were not selling, and that he welcomed the new business.

Council discussed the conditions that would be placed on the project, to consider some flexibility for the Applicant, that the noise and odors should be contained within the building, that there should be a ten day limit for crushing, that wine production would be limited to 84 wine barrels, that the Applicant should notify the City seven days prior to production, that Sunday work would be limited, that disposal of stems should be removed from the site within 24 hours, and that educational opportunities should be allowed on the site.

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

**MOTION:** Moved by Heebner and seconded by Nichols to approve with

modifications with the modifications as recited by the City Attorney. **Motion carried unanimously.**

Johanna Canlas, City Attorney, recited the conditions placed on the project: That condition 7 would be revised to change the hours of operation on Sundays to 8:00 a.m. to 9:00 p.m., that condition 8 would be added to require organic waste matter from grape crushing to be removed within 24 hours after crushing, that condition 9 would be added to limit wine production to 84 barrels per year pursuant to the Applicant's state issued license, condition 10 would limit grape crushing to ten days per year, condition 11 would require the Applicant to notify the Community Development Director seven days prior to each crushing, and to include the additions already presented in all supplemental items.

**B.2. Development Review Permit (DRP) for a Seawall Repair at 135 S. Sierra Ave., Applicant: Las Brisas Condominium Association, Case No. 17-10-08. (File 0610-60)**

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 consistent with the requirements and findings of Solana Beach Municipal Code 17.68.040;
4. Find the project exempt from the requirements of CEQA pursuant to 2010 State CEQA §21060.3 and CEQA Guidelines §15269(b) as a documented emergency exists; and
5. Adopt Resolution 2010-042 approving the project subject to the conditions stated therein.

David Ott, City Manager, introduced the item.

Leslea Meyerhoff, consultant, presented a powerpoint.

Council and Staff discussed the lack of the recorded document and that Staff was recommending that the Applicant record an amendment with their CC&Rs (Covenants, Conditions & Restrictions) which would cure the failure to comply with the initial condition which was a violation of the condition in 2004.

Council and Staff continued discussion regarding the six year gap of non-

compliance, that luckily nothing had happened in the interim, that Staff had initiated internal controls to ensure that required recordations do not fall through the cracks in the future, that the Board had to approve CC&Rs by owners from all over the world, that the records search turned up an amendment in 2005 to the CC&Rs that provided for a unilateral of any recordation if it was pursuant to conditions proposed by the Coastal Commission or any governmental entity, and that Las Brisas had a mechanism in place to record CC&Rs with a ratification provision that sends out notice to the members 30 days out with a 15 day lead time which resulting in the proposed 45 days.

Council and Staff discussed that concern when one signature could not get obtained, that the Board confirmed that communication allow the Board to be willing to move forward, that once the Applicant would be made aware that they could not make the 45 days that they could communicate it with the City, that the City Manager had been assured that the Applicant had confidence that they could make the deadline, and confirmed that there was not any landscaping as a condition and that all the irrigation would be removed within 100 ft. of the bluff edge.

Mayor Campbell opened the public hearing.

Council disclosed their familiarity with the project.

Bob Tretin, Applicant representative, stated that the process was not intentional in that things did not progress the way they were supposed to, that Surfrider had added the Applicant to a lawsuit that had not been resolved until 2005, that the project was approved in October 2005 by the Coastal Commission, that they litigated with the Coastal Commission regarding the huge fee which was ultimately dropped and resolved in 2006, that the bluff condition was getting worse, that the lack of the deed restriction was an oversight and that it would be corrected within the next 45 days, that they tried to address it with the first permit, that the Board initiating it in an emergency would only have an issue if the number of protests were received to warrant a meeting to hear the matter, and that the price could double if it did not proceed before the end of the summer.

Councilmember Roberts stated that the permit had been approved in December 2004 rather than November.

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

Council and Staff discussion ensued regarding the HOA Board's ability to ratify the action, that if they do not receive ratification they would pay \$500 a day until they receive ratification, that they need to be clear on what the price would be if they do not achieve the ratification, that the fine would be imposed in order to given



incentive to get it done due to the past events, and that the HOA Boardmember explained that it would not be a deed restriction but instead an amendment to the CC&Rs.

**MOTION:** Moved by Heebner and seconded by Kellejian to approve with modifications. **Motion carried unanimously.**

**C. STAFF REPORTS: (Items C.1. - C.4.)**

*Submit speaker slips to the City Clerk*

**C.1. Mid-Year 2009/10 Budget Amendments. (File 0330-30)**

Recommendation: That the City Council/Redevelopment Agency:

1. Approve Resolution 2010-046, revising revenue estimates and expenditures for the Fiscal Year 2009-10 Budget and authorize the City Treasurer to amend the budget accordingly; and
2. Approve Resolution RDA 038, revising revenue estimates and expenditures for the Fiscal Year 2009-10 Budget and authorize the Finance Officer to amend the budget accordingly.

David Ott, City Manager, introduced the item and presented a powerpoint.

Council and Staff discussed alternative uses for filling fire shifts and some potential analysis, that Jr. Lifeguards was listed as an increase in revenue since the release of the staff report, and that there were no additions to the Community Grant Program.

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

**C.2. Discussion Related to Smoking Tobacco and Public Property and Places. (File 0270-30)**

Recommendation: That the City Council

1. Discuss the item and provide direction to Staff.

David Ott, City Manager, introduced the item.

Johanna Canlas, City Attorney, presented a powerpoint regarding options for enhancing ban on smoking, explained what nuisance would mean in relation to the smoking ban in relation to private citizens/residents, additional bans that

may include declaring common areas in free housing, that the City would not dictate or ticket but provide an avenue for private citizens to take action under the law.

Michelle Singerland, San Diego Apartment Association, stated that she was interested in address no smoking housing policies, that she commended efforts on reducing smoking exposures in public places, that there were distinctions on public places and providing places for smoking in private residences when it was regarding a legal activity, that there were complex issues with the operation of rental facilities namely whether residents want it, that their Association suggested to their members that they survey their residents to see how receptive they are to the idea of a no smoking policy, how it would be enforced, how to transition them, consideration of Section 8 Housing, that due to these various issues the Association recommended that no smoking policy should be at the discretion of the property owner and on a voluntary basis, that there was an incentive to move to non smoking including reduc in fire hazard and that they had worked with the Lung Association in created a guide to provide resources to facilities attempting to making these efforts, and that they would be interested in participating in discussions if the City decided to further their discussion on establishing policies.

Barbara Gordon said that she was a youth director in Solana Beach and that when youth observed tobacco use in the parks and beaches it provided a model and that if teens saw that people did not accept smoking they would be likely to not smoke.

Debra Kelly, American Lung Association, provided a handout, and said that she did not live locally but that she did contribute to the tax base by visit local venues, that multi-unit housing (apartments and condos) have substantial health risks with second hand smoke drifting from unit to unit, that it takes only 30 minutes to cause a heatattack to someone with heart disease, that the enforcement and compliance issues are the top concerns with city leaders, and that they would like to discuss different approaches with the City.

Judi Strang, San Dieguito Alliance, that there is interest in getting information and assessments in common areas at multi-unit housing, that there is litter associated with it, that a Conditional Use Permit would allow distance between the sellers and limit youth frequented areas, that they belong to the County's multi-unit housing work group because the recent fires were related to these issues, and that San Francisco had recently adopted a ban in common areas.

Kathleen Sullivan, American Lung Association, said that the onerous should be on those who pollute and not on those who are trying to stay healthy, that the Lung Association issued a report card and Solana Beach was one of 15 cities in the state to receive a B grade and only 4 cities received an A.

Council discussed the options whether to include all private events on public or private property, whether to include parking lots, sidewalks, employee parking lots, within cars, that some issues would have to be thought through, that if the ban was inside could they smoke on their patio, that if bans are in the common area they smoke inside the unit with children, a way to survey larger multi-units to get an idea of where policies exist, and that it seemed that in order to get an A in smoking the City needed to get a B in housing.

Council discussion continue regarding that the purpose was to protect citizens from second hand smoke, one option would be to have an apartment owner state how many units were non-smoking because it would be important to know, to give private citizens a tool like nuisance if neighbors are affected by smoke through the wall, that it would be for preventing second hand smoke for places that do not have individual ventilation but common ventilation and walls and common areas, how smoke lingers from one unit into the next unit, that they was one unit that was non-smoking on Valley Avenue, to discuss prioritization at the Workplan discussion, and that it was critical for community health.

**C.3. Sanitary Sewer Assessment, Repairs and Management Plan.**  
**(File 1040-26)**

Recommendation: That the City Council

1. Adopt Resolution 2010-039

- a. Approving the "Solana Beach Red Flag Report, Project Number 1", prepared by RBF, that identifies eight sewer facilities that are in need of immediate repairs on the west side of Interstate 5.
- b. Approving the "Assessment of Northwest and Southwest Quadrants, Project No. 2" (West Side Condition Assessment) Report, prepared by RBF, for the assessment of the City's sewer system on the west side of Interstate 5.
- c. Authorizing the City Manager to execute an amendment to the Professional Services Agreement with RBF Consulting, in an amount not to exceed \$38,079, to review the closed circuit television information associated with the City's sanitary sewer pipeline system on the east side of Interstate 5 and prepare a report related to the findings that makes specific recommendations for each of the sewer lines identified in the report as needing repair.

David Ott, City Manager, introduced the item.

Mo Sammak, City Engineer, presented a powerpoint reviewing the identified

sewer repairs on the West side of the City.

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

2. Adopt Resolution 2010-040

- a. Awarding a construction contract for the 2010 West Side Sewer Pipeline Repair Project in the amount of \$72,305 to Scott Michael, Inc.
- b. Approving an amount of \$11,695 for construction contingency.
- c. Authorizing the City Manager to execute the construction contract on behalf of the City.

Mo Sammak, City Engineer, continued the powerpoint reviewing the East side assessment and needs.

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

3. Adopt Resolution 2010-041 approving the City of Solana Beach Sewer System Management Plan.

Mo Sammak, City Engineer, continued the powerpoint reviewing the Sewer System Management Plan (SSMP) which is required and captures overflows and discharges.

Councilmember Campbell stated that this item would be brought back with budgeting items in the future.

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

**C.4. Adopt (2nd Reading) Ordinance 415 Regarding Establishing the Effective Dates for Permits and Approvals. (File 0600-95)**

Recommendation: That the City Council

1. Adopt Ordinance 415 amending Solana Beach Municipal Code (SBMC) Sections 17.72.040, 17.72.050, 17.72.060, 17.72.070 and 17.72.080 regarding establishing effective dates for permits and approvals.

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

**MOTION:** Moved by Heebner and seconded by Roberts. **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 reported disclosures.

**COUNCIL COMMITTEE REPORTS:**

Council reported committee activity.

**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)**

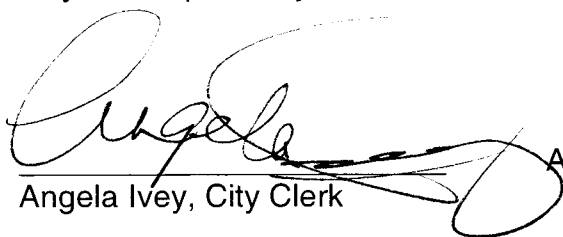
- a. Business Liaison Committee - Roberts, Campbell.
- b. Highway 101 / Cedros Ave. Development Committee - Nichols, Heebner.
- c. I-5 Construction Committee - Heebner, Roberts.
- d. Public Arts Committee - Roberts, Nichols.
- e. School Relations Committee - Roberts, Campbell.

**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 9, 2011 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 9:50 p.m.



Angela Ivey, City Clerk

Approved: August 25, 2010