

CITY OF SOLANA BEACH
SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY,
PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY

JOINT **REGULAR** MEETING

MINUTES

6:00 P.M.
Wednesday, March 28, 2012

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

Absent: None.

Also Present: David Ott, City Manager
Johanna Canlas, City Attorney
Angela Ivey, City Clerk
Wende Protzman, Deputy City Mgr/Community
Development Dir.
Mo Sammak, City Engineer/Public Works Dir.
Marie Berkuti, Finance Manager
Dan King, Sr. Management Analyst

Mayor Kellejian called the meeting to order at 6:10 p.m.

CLOSED SESSION REPORT: (when applicable)

Johanna Canlas, City Attorney, stated there was no reportable action.

FLAG SALUTE:

APPROVAL OF AGENDA:

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

PROCLAMATIONS/CERTIFICATES:

1. Earth Hour
2. Solana Beach School Superintendent Leslie Fausset Day

PRESENTATIONS:

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

1. San Diego County Regional Airport Authority

Loyd Hubbs, Boardmember, presented a powerpoint (on file) reviewing the pending project.

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.

Torgen Johnson stated that the San Onofre power plant's two nuclear reactors were shut down on January 31st due to emergency conditions within the power plant that were foreseen by whistle blowers two years ago, that \$670 million dollars of rate payers money was spent on two steam generators within the power plant that were modified to produce more power and more money for Southern California Edison, that Ron Litzinger, president of Southern California Edison, stated that their #1 priority was the health and safety of the public and employees. He said that the whistleblowers were knowledgeable engineers who feared for their lives and were retaliated against by Southern California Edison and Nuclear Regulatory Commission, that Southern California Edison wanted to restart the reactors as soon as possible, that there needed to be a clarity on the extent of the conditions and the root cause, urged City Council to take a position regarding the National Regulatory Commission, that public places become exclusion zones forever in the event of a nuclear disaster.

Swedina Hurt stated there was a health risk associated with the San Onofre

nuclear generating station, that in 1982 the Nuclear Regulatory Commission stated that a nuclear meltdown at San Onofre would cause 300,000 casualties from cancer and 600,00 genetic defects, that there had been 1.3 to 1.5 times population growth over the past 3 decades in Southern California, that they knew that radiation caused cancer and genetic defects 3 times more than they thought 30 years ago, that there was a potential for 1,350,000 cancer deaths and 2,700,000 genetic defects, that Dr. Helen Caldicott said that fetuses were 1,000 times, and children 20 times, more vulnerable to radiation than adults due to their rapidly replicating cells, that there were more cancers than normal at younger ages in San Clemente, and that an epidemiological study was requested.

COUNCIL COMMUNITY ANNOUNCEMENTS:

COUNCIL COMMENTARY:

A. CONSENT CALENDAR: (Action Items) (A.1. - A.5.)

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 Nichols. **Motion carried unanimously.**

A.2. Minutes of the City Council.

Recommendation: That the City Council

1. Approve the Minutes of the City Council Meetings held November 16 and December 14, 2011.

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

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

Recommendation: That the City Council

1. Ratify the list of demands for February 18 - March 2, 2012.

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

A.4. General Fund Adopted Budget for Fiscal Year 2011-12 Changes. (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2011-2012 General Fund Adopted Budget.

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

A.5. League of California Cities 2012 Legislative Policy Guidelines. (File 0140-10)

Recommendation: That the City Council

1. Receive this report and discuss the 2012 Guidelines.

MOTION: Moved by Roberts and seconded by Nichols. **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.3.)

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 Permit (DRP) for 536 South Granados Ave., Applicant: Peter Fay, Case # 17-11-31. (File 0600-40)

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 DRP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing; Report Council Disclosures; Receive Public Testimony, Close the Public Hearing;
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15301 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt Resolution 2012-038 conditionally approving a DRP for an addition to an existing single-family residence at 536 South Granados Avenue.

David Ott, City Manager, introduced the item. Corey Johnson, Associate Planner, presented a powerpoint (on file) reviewing the project.

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

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

B.2. Development Review Permit (DRP) for 707 S. Sierra Ave., Applicant: Seascape Chateau Condominium Association, Case No: 17-11-18. (File 0600-40)

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the Public Hearing; Report Council Disclosures; Receive Public Testimony; Close the Public

Hearing.

2. Find the project categorically exempt from the requirements of CEQA pursuant to 2012 State California CEQA Guidelines Section 15301, minor alteration of land.
3. Adopt Resolution 2012-026 approving DRP 17-11-18 to construct two reinforced concrete return walls at the north and south ends of an existing lower seawall on the coastal bluff below 707 South Sierra Avenue, Solana Beach.

David Ott, City Manager, introduced the item. Corey Johnson, Associate Planner, presented a powerpoint (on file).

Council and Staff clarified the location of the wall, that other projects Council had considered an alternative to a deed restriction and had allowed CCRs to be amended, that if Council wanted to approve an amended CCR there needed to be a provision that if at any time they were not in compliance with any of the conditions of approval their permits would be revoked, and that the provision would be a clarification with additional language in the resolution to ensure they could not change their CCRs after the fact.

Discussion continued stating that working on the lower wall would extend the life of the upper wall, that it would be a long time in the future before the upper wall came back to Council, that the wall was not on public property but adjacent to public property, that Resolution 2007-42 which stated that the Land Lease Fee was more of a Recreation Fee which meant the fee could be imposed, and that the LUP/LCP Policy 4.64 was the policy for consideration if there was a nexus for working on the upper wall.

Council announced disclosures.

Bob Trentin, applicants representative, stated that if surfacing on the walls was required it would become a non-project, that he had spent a year working with Staff and the Coastal Commission, that they were told there were trenches, that when the wall was built that something was done wrong, that the extra work would cost 5-8 thousand dollars and that now it would be 25 thousand dollars in administration costs alone for something that would only last a few years, that returns would trigger mitigation, that the Staff report surprised them with a mention of surfacing the wall, that resurfacing would extend the life of the wall but would require 200 thousand dollars which they could not afford, and that it would stop the project as a result.

Scott Meyers stated that they were a small complex of thirty units, that what

happened two years ago was very wrong, to get hit with the total project would be total chaos, that they would like to fix the wall so that it would not continue to erode the beach and give themselves time to make full repairs.

Bob Trentin continued, stating that if the Council said it had to be done they would work with Staff to figure out a solution, that the upper wall was not totally dependent on the lower wall, emphasized that it was private property, that the life of the wall would be extended five to ten years at most so it was not a long term decision, and that David Skelly was available for geotech questions.

Council and Staff discussed that there were no fees, that whatever the coastal commission did the coastal commission did, that if anything was approved tonight there would be three years to build the project.

Jim Nolton, 3rd party consultant, answered questions from Council, stating that the wall would have to be evaluated before anything could be done to the wall, that the wall was almost three decades old, that the panels had metal strips and the earth was compacted, and that the condition of the metal strips needed to be determined.

Johanna Canlas, City Attorney mentioned that there needed to be evidence of any decision on record to prove that Council satisfied all policies, rules, and regulations.

Council and Staff discussed the cost mentioned by Mr. Trentin and the kind of due diligence needed before starting the project.

Mr. Nolton stated that a coastal development permit would be needed to evaluate the wall and that the wall would need to be inspected as part of the work, and that if they find the condition was worse than anticipated then they would have to come back for a change.

Council and Staff discussed that this was the first wall that was on private property only, that a previous project was partially on private property and both fees were assessed, the liability for the wall was the responsibility of the owner, but that if the wall failed most people would look to the City, that Council's decision should not be motivated by financial factors, that the damage to the wall was caused by the ocean, that the aesthetic requirements had to be met, and that policy required that the wall must meet LUP requirements.

Mr. Nolton stated that the 200 thousand dollars for the repairs fee Bob Trentin referred to was mitigation fees and other fees the Coastal Commission may assess him.

Council and Staff discussed that fact that the stability of the current structure was

not known, the instability of the structure would not be caused by the addition of the shop crate, that the wall was in a deteriorated condition already and needed to be repaired, that removing the unapproved changes would not fix the problem, the fee was for a new wall and not a repair, that Winkler's wall was extended and was not a repair, that the permits and fees were required because they were increasing the life of the wall, and that both fees could be applied.

Bob Trentin stated that the wall was colored and treated when it was first installed, that the deposit was 69 thousand dollars, that the 200 thousand dollars was in mitigation fees for a 30 thousand dollar repair project, that the Coastal Commission confirmed that would be the fee, adding to the wall would be building a new wall because there would be new depth, and that there would be parts of their work that would be difficult to remove.

David Ott, City Manager, stated that the Code Enforcement action was a separate issue, that Code Enforcement went through Staff and not Council, that the fees Mr. Trentin mentioned referred to the old study, and that the plan was based on a 75 year lease.

Council and Staff discussed that if Council decided to approve the permit the applicant had the opportunity to do the work or walk away, and that the burden was on them whether or not they executed it.

Bob Trentin stated that the Coastal Commission told him that he needed a permit just to remove something.

David Ott, City Manager, clarified that he was discussing City requirements and not Coastal Commission requirements.

Bob Trentin stated that the Coastal Commission required a permit to remove what was there, that the City policy stated he needed a DRP if the Coastal Commission required a CDP, and that he would be back applying for a new DRP.

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

Council and Staff discussed that the financial concerns were understood but that it was out of their realm, that after 15 years of working on the LCP they had a consensus, that Council could not deviate from the guidelines, that it seemed clear that resurfacing of the wall in the center would be required, that the Code Enforcement issue resulted from the applicant's mistakes, whether there was a nexus for the middle wall, and whether or not all fees should have been applied.

Councilmember Roberts stated that he was in favor of deferring the item and letting the applicants go back to Coastal.

Council and Staff discussed that Mr. Trentin's negotiations were with the Coastal Commission, that the item was before Council to approve the aesthetic improvements on the wall, that if the applicant elected not to proceed then it would go to Code Enforcement which would trigger removal, the applicant did not want the aesthetics, the applicant wanted to use the DRP fee to swap options and do the code enforcement option, and that if once the evaluation of the walls was done they could not afford the repairs Council would discuss swapping the fees.

Council and Staff discussed that deferring the item would not change anything.

Johanna Canlas, City Attorney, recommended that an alternative was included making the project subject to the City Attorney's review.

Staff clarified that it would not be included with the motion because it would have to come back and would be discussed at that time.

Councilmember Nichols stated that he would not be supporting the motion because he believed that fees should be applied.

Council and Staff discussed that the life extension of the upper wall was not necessarily dependent on the lower wall and that it was Council's discretion whether or not to consider it a nexus.

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

Mayor Kellejian recessed the meeting at 8:10 p.m. and reconvened the meeting at 8:15 p.m.

B.3. Annual Housing Element Progress Report for 2012. (File 0630-10)

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing
2. Adopt Resolution 2012-035:

- a. Finding that the proposed action is not a project, and is therefore exempt from the California Environmental Quality Act pursuant to Section 21065 of the State CEQA Guidelines; and
- b. Approve the 2012 Housing Element Annual Progress Report as submitted and directing the City Staff to file the report with the Department of Housing and Community Development and the Governor's Office of Planning and Research.

David Ott, City Manager, introduced the item.

Catherine Lorbeer, Principal Planner, presented a powerpoint (on file) reviewing the report.

Mayor Kellejian 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.**

WORKPLAN COMMENTS:

(Adopted June 23, 2010)

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, appointed by this Council)

- a. City Selection Committee (meets twice a year) - Roberts, Kellejian (alternate).
- 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, Nichols (1st alternate), Heebner (2nd alternate)
- i. Regional Solid Waste Association (RSWA) - Nichols, Kellejian (alternate).
- j. SANDAG - Heebner (Primary), Nichols (1st alternate), Roberts (2nd alternate) and any subcommittees.
- k. SANDAG Shoreline Preservation Committee - Kellejian, Roberts (alternate).
- l. San Dieguito River Valley JPA - Heebner, Nichols (alternate).
- m. San Elijo JPA - Campbell, Roberts (both primary members) (no alternates).
- n. 22nd Agricultural District Association Community Relations Committee - Heebner, 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. Parks and Recreation Committee - Heebner, Nichols
- e. Public Arts Committee - Roberts, Nichols.
- f. School Relations Committee - Roberts, Nichols.

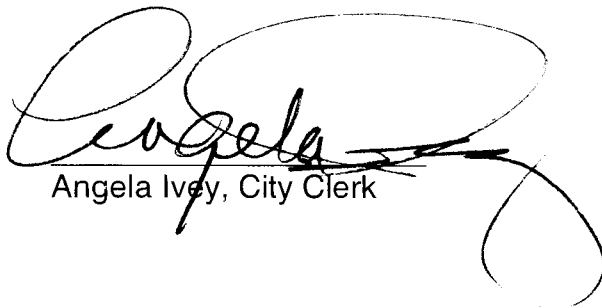
Ad Hoc Committees: (All Primary Members) (Temporary Committees)

- a. Army Corps of Engineers & Regional Beach Nourishment - Kellejian, Campbell. Expires December 6, 2012.
- b. Development Review - Nichols, Heebner. Expires November 15, 2012.
- c. Environmental Sustainability - Roberts, Heebner. Expires December 6, 2012.
- d. Fire Department Management Governance-Kellejian,Roberts. Expires July 12, 2012.
- e. Fiscal Sustainability - Campbell, Roberts. Expires June 28, 2012.
- f. Fletcher Cove - Campbell, Heebner. Expires May 9, 2012.
- g. General Plan - Campbell, Nichols. Expires July 12, 2012.
- h. La Colonia Park - Nichols, Heebner. Expires May 10, 2012.
- i. Local Coastal Plan Ad-Hoc Committee - Roberts, Campbell. Expires February 7, 2013 or at the California Coastal Commission adoption.

- j. NCTD / Train Station Site Project Ad Hoc Committee - Heebner, Nichols. Expires January 10, 2013
- k. View Assessment - Nichols, Heebner. Expires October 21, 2012

ADJOURN:

Mayor Kellejian adjourned the meeting at 8:25 p.m

A handwritten signature in black ink, appearing to read 'Angela Ivey', with a large, looping flourish extending from the end of the signature.

Angela Ivey, City Clerk

Approved: July 11, 2012