

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, May 23, 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:

Mayor Kellejian called the meeting to order at 6:19 p.m.

APPROVAL OF AGENDA:

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

PROCLAMATIONS/CERTIFICATES:

1. National Public Works Week

PRESENTATIONS:

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

1. San Diego County Fair

They were not able to attend but left flyers for the public.

2. Fiesta Del Sol

Carolyn Cohen, President of the Solana Beach Chamber, reviewed changes for this year's plans for the Fiesta event in June.

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.

Tiffany Schiebe stated that she was a resident and a homeowner in the City for 12 years. She asked Council for consideration to allow for public rental use of the Fletcher Cove Community Center. She stated that she found the location to be very desirable to hold a wedding reception, that she knew that there had been some public concern regarding allowing public use, and she asked Council to consider a trial period for use of the Center. She stated that she would like to use the Fletcher Cove Community Center on April 11th and asked for a timely response from the City.

Lane Sharman stated that he was a resident, and that he wanted to recognize all those around the country who supported the Community Choice Aggregation movement, the local energy movement to provide residents and businesses competition in their energy supply. He acknowledged Councilmember Heeber who suggested that supporters of the movement come to Council meetings to speak, that the purpose of the presentation was to have the consideration for the resolution to be brought before Council for a vote and for a study for Community Choice Aggregation to be done at no cost to the City. He stated that he had written a letter to Mayor Sanders, City of San Diego, and read the letter aloud. He thanked Council for their consideration to place the item on a future agenda.

David Reis stated that he was a resident and that he had been volunteering to support Lane Sharman's effort in bringing Community Choice Aggregation to the City. He stated that there was a lot of external support for the movement, that he participated on the Clean and Green Committee, and that they supported the idea. He stated that the City had adopted a resolution stating that the City strived to be a zero emissions community, that the community needed support in their efforts to limit their emissions, and that the Community Choice Aggregation was the best way to reduce emissions in the city. He stated that they had just recently began reaching out to local businesses, and that they would continue outreach to the businesses if the resolution was placed on an agenda.

Jack Hegenauer stated that he was speaking in support of Council's consideration of the Community Choice Aggregation, that he understood that the City was going to revise the General Plan around the ideas of environmental sustainability, and that he was unsure if the City knew what sustainability looked like at the community level. He stated that the local water district was selling water at high prices to pay for pension obligations, that the local power monopoly, SDG&E, was trying to do an end run at the legislature around the Public Utility Commission in regards to the tax on solar customers, and that SDG&E should distribute its load to roof top solar. He stated that it was time for solid community leadership on this issue to get a broader look on

sustainability, and that it should be studied further and brought back to a Council meeting for discussion.

Michael Hetz stated that he was a resident of the City, that he was proud to be a resident since the City adopted environmental sustainability as its mission statement, that the environment did not stop at the City border, and that carbon was a huge issue in the environment. He stated that Community Choice Aggregation was the fastest way to lower our carbon footprint, that the City could green the grid without the gridlock and make the energy community responsible, that all people had to do was not say "No," that the City could get the job done by forming a Community Choice Aggregation (CCA), and that the City needed to do it now.

Ty Tosdal stated that he was with the San Diego Energy District Foundation. He stated that he was a resident of Encinitas and a long time patron of the City, that he urged Council to take a closer look at the Community Choice Aggregation, and to place the issue on a future agenda.

Torgen Johnson gave an update on San Onofre. He stated that Edison was pushing hard to get the power plant running again, that one public servant was lost, and that the Chairman of the Nuclear Regulatory Commission (NRC) was forced out of office. He stated that there was a cold war era monopoly running the energy grid, that it was time for a change, that the nuclear plant was risking all of our lives, that the public needed to step into unregulated industry, and that there was a community and private sector push to lead the way. He stated that he attended a meeting with a North County Mayor who stated that the City was a very environmental City, he was in full support of starting a discussion and putting the Community Choice Aggregation (CCA) on a future agenda, that public banking was the next portion of the idea, and he urged Council to put the item on a future agenda.

Councilmember Heebner responded to the speakers' comments on the Community Choice Aggregation (CCA). She stated that there could not be discussion on the item at Oral Communications, that she had met with members of the San Diego Energy District, SDG&E, CCAC Executives and Shell Oil members. She asked the City Attorney and City Manager to review the resolution on the study to make sure it did not put the City in any financial or legal liability, and encouraged in subsequent communications to Lane Sharman to continue to reach out to the community and businesses to make sure that there was broad community support for the issue.

Council discussed that this was the first time they had heard about the Community Choice Aggregation topic, that they needed to research it further, it could be on a future agenda for public input, that continued community outreach should be done, and requested for the City Manager to prepare a report for the Council outlining the issues of the topic prior to having a meeting on the issue.

COUNCIL COMMUNITY ANNOUNCEMENTS:

Council reported community announcements.

A. CONSENT CALENDAR: (Action Items) (A.1. - A.7.)

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 Campbell and seconded by Nichols. **Motion carried 4/0/1** (Absent: Roberts)

A.2. Minutes of the City Council.

Recommendation: That the City Council

1. Approve the Minutes of the City Council Meetings held January 11, March 14, 2012.

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

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

Recommendation: That the City Council

1. Ratify the list of demands for April 21 - May 4, 2012.

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

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 Campbell and seconded by Nichols. **Motion carried 4/0/1** (Absent: Roberts)

A.5. Building Department Services Agreement with EsGil Corporation. (File 0400-10)

Recommendation: That the City Council

1. Adopt Resolution 2012-059, approving and ratifying the professional services agreement with EsGil Corporation for City Building Services for the period July 1, 2012 to June 30, 2013, as executed by the City Manager.

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

A.6. Ocean Street, Seabright Lane and Access Road Storm Drain Facilities Project. (File 0400-10)

Recommendation: That the City Council

1. Adopt Resolution 2012-054:
 - a. Authorizing the City Council to accept as complete the Ocean Street, Seabright Lane and Access Road Storm Drain Facilities Contract, Bid No. 2011-04, performed by Hunter General Engineering.
 - b. Authorizing the City Clerk to file a Notice of Completion.

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

A.7. Emergency Generator for City Hall. (File 0400-10)

Recommendation: That the City Council

1. Adopt Resolution 2012-062, authorizing the City Manager to execute all agreements related to the purchase and installation of a back-up generator for City Hall[a1].
2. That the City Council authorizes the appropriation of \$40,000 into the Equipment account in the Asset Replacement Fund (135-6500-6510-

6640) and authorizes the City Treasurer to amend the FY2012 Adopted Budget accordingly.

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

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.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. Time Extension Request of Amended Development Review Permit and Structure Development Permit for Solana Beach Self-Storage at 545 Stevens Avenue. Applicant: Proptech, David Bubnash, Case No. 17-10-04. (File 0610-12)

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 2012-061, approving the request for a 12 month extension for the Amended DRP/SDP and setting the expiration date as June 9, 2013.

David Ott, City Manager, introduced the item.

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

Council and City Attorney discussed that there was a total of 24 months of extension possible, that only 12 months could be approved at a time, and that this was the first extension request for the June 2010 amended plan.

Council and Staff discussed that the scale of the project was not for consideration at this time, that if there was an amendment to the project the applicant would be under the time constraints of the extension period, and that in order for more time to be granted a new project application would have to be submitted.

Mayor Kellejian opened the public hearing.

Council reported disclosures of their familiarity with the project.

David Bubnash, PropTech, applicant, stated that he was available for questions and did not have a presentation.

Council and Applicant discussion ensued regarding that the applicant had not pursued a building permit for the approved project because of lack of funding, that funding precluded going to Coastal Commission and obtaining building permits which had big fees attached to them, and that he was looking at the feasibility of the approved and alternative projects. Discussion continued regarding the state of the economy which had dried up financing sources and demand, the approved project would replace the existing 100,000 square feet facility into a 290,000 square feet facility and would be executed in phases, that during the 12 month extension period a final decision would be made on whether the applicant would pull permits for the approved or a new proposed project.

Council and Staff discussed that new application for a proposed project that had been submitted, that the project would have to go to before Council, the new project had nothing to do with the extension on the current project, that once the new project went before Council, that if a new project went before Council that the applicant would have to choose which project to build and abandon the other project, and that the Applicant would prefer to build the approved project if financing was obtained.

Mr. Bubnash stated that the conceptual drawings had been submitted, that the alternative project would fit within the envelope of the already approved project, and that it would just be a smaller project of 140,000 square feet.

Council and City Attorney discussed that there could not be 2 concurrent approvals on the same property, that the Applicant would have to make a choice on which project to build, that if and when there was a new project before the Council the Applicant would be acknowledging that they would be walking away from the previous entitlement that they obtained, and that if the alternative project was approved the other project would go away.

Mr. Bubnash stated that there was a risk associated with construction of the project, that the facility was currently generating cash flow which would be reduced during the construction process, that he needed financing and a strong economy to fill the facility, the ultimate desire would be to build the approved project but that the timing was not right and too much of a financial risk, and that if the alternative project did not get approved he would be left with one choice.

Council and the Applicant discussed that he wanted the new project to be heard by Council, that if the applicant decided to build the approved project before the alternative plan went to Council then he would pull the proposed project prior going to Council for approval, and that that if the approved project was not approved then he would continue with initial project.

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

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

B.2. Time Extension Request for Development Review Permit, Structure Development Permit, Conditional Use Permit at 233, 235 and 237 North Rios Ave. Applicant: Peter McNally, Case No. 17-07-18. (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. Adopt Resolution 2012-060, approving the request for a 12 month extension for DRP/SDP/CUP and setting the expiration date as June 10, 2013.

Councilmember Roberts joined the meeting at 7:40 p.m.

David Ott, City Manager, introduced the item.

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

Mayor Kellejian opened the public hearing.

Council reported disclosures regarding familiarity with the project.

Peter McNally, Applicant, stated that he had been trying to obtain financing for 18 months for the project, that more capital was required to be put up for the project, that the bank was also requiring for the property to be set up for two ownerships which he was looking into, and that he had hired another architect to re-focus the project so they could better qualify for the construction financing.

Council discussion ensued regarding that if the applicant revised the project or made modifications to the project that new fees and a new application would be required, and

that this would be the 2nd extension so there would be no more extensions allowed.

David Cain stated that he had been tracking the project for 6 years, that he owned the property across the street from the project, and that he requested a denial of the extension. He stated that the project was a duplex with an illegal bootleg garage that had been converted, that there was no house in the front or back as stated by the Applicant and that the front was a duplex. He submitted photos of the property. He stated that there was a fence that divided the yard, that the location had 4 addresses associated with it according to the post office, and that he had failed to get to Council meetings in the past. He stated that he had checked with the County Assessors Office and that the applicant had only been paying for 2 sewer hook-ups, that a deed on the accessory units had to be assessed for EDU's and other fees, and that he recommended for Council reject the extension.

Council and Staff discussed that there were two separate issues with this project which included a code enforcement issue and the extension, that the code complaint had not been verified, that no written complaint on the property had been submitted to the City, and that the issues were separate.

Johanna Canlas, City Attorney, stated that a vote for consideration was on the extension request only, and that the complaint would be investigated once a complaint was submitted to the City.

Peter McNally, Applicant, stated that he had owned the property since 1994, that it had been in the same configuration since he bought it, he had never stated that there were two houses on the property but that he may have said that there were 2 buildings, he would be happy to address any code enforcement issues as a separate matter, that he needed the extension so that he could obtain financing, and that he wanted to build 3 separate units on the property as approved in 2009.

Council, Staff, and the Applicant discussed that there were 3 separate addresses listed on the report, that there was not a lot split, that addresses given out by the post office had nothing to do with the specifics of the lot and the project, that the City was treating the project as one lot, that there would be two structures on the lot and one structure would have an accessory unit, that there were currently 3 units on the property, which were all occupied and allowed by the County prior to incorporation of the City, and that the accessory unit could have its own address.

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

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

C. **STAFF REPORTS: (C.1. - C.4.)**
Submit speaker slips to the City Clerk

**C.1. Highway 101 West Side Improvement Project Construction Contract.
(File 0400-10)**

Recommendation: That the City Council

1. Adopt Resolution No. 2012-067 authorizing the City Manager to enter into a professional services agreement, in the amount of \$109,679, with Nasland Engineering for construction support services during construction of the Highway 101 West Side Improvement Project.
2. Staff is still doing due diligence on the issues raised in the bid protest letter. All findings related to these issues, the result of the findings and the final recommendations on how to proceed with the possible awarding of a construction contract will be presented in a blue folder revision to this Staff Report.
3. Adopt Resolution 2012-066
 - a. Awarding a construction contract for the Highway 101 West Side Improvement Project, Bid No. 2012-01, in the amount of \$5,948,984, to Dick Miller, Inc.
 - b. Approving an amount of \$651,016 for construction contingency.
 - c. Authorizing the City Manager to execute the construction contract on behalf of the City.

David Ott, City Manager, introduced the item.

Mo Sammak, City Engineer/Public Works Director, presented a powerpoint (on file) reviewing the project. He stated that 9 bids had been received for the project, varying from 5.9 to 7.5 million dollars, and that the lowest bid was from Dick Miller, Inc. He stated that a bid protest was received from the second lowest bidder, Sierra Pacific, that the City worked with the City Attorney to properly address the bid protest, and that the City was ready to award the contract to the lowest bidder, Dick Miller, Inc.

Council and Staff discussed that there needed to be communication with residents and businesses during the construction process, that there should be signage for alternative parking spots, that the concrete and sidewalk portions of the project would be phased, that the waterline portion would not be phased, and that the City had already coordinated with the businesses.

Glen Bullock, Dick Miller, Inc., stated that he wanted to share his motivation on the project, that the City was saving 7% on the project, and that he was a hands-on employer and owner. He stated that his pricing was competitive because he used subcontractors that had competitive pricing, that he used smaller local companies, had minimal overhead and minimal staff, that he had 27 employees who had to feed their families, that 5% of something was better than 10% of nothing, and that he assure 100% attention to detail on the project. He stated that he had vision and ability, that Dick

Miller had completed multiple Capital Improvement Projects (CIP) for the City of San Marcos, and that they worked on the Rotary Plaza for the City of Coronado and won multiple awards for that project.

Council discussed their concern regarding the contractor using a subcontractor who was not licensed for a short time, which had been resolved, and stated that the City would be watching this issue in the future.

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

C.2. Solana Beach Coastal Rail Trail Maintenance District for the Annual Levy and Collection of Assessments. (File 0495-20)

Recommendation: That the City Council

1. Adopt Resolution 2012-063 initiating the proceedings for the annual levy of assessments within the Coastal Rail Trail Maintenance District.
2. Adopt Resolution 2012-064, approving the Engineer's Report for proceedings of the annual levy of assessments within Coastal Rail Trail Maintenance District.
3. Adopt Resolution 2012-065, declaring intention to provide for the annual levy and collection of assessments in Coastal Rail Trail Maintenance District and setting a time and date for a public hearing for June 27, 2012.

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

C.3. Solana Beach Lighting District: Engineer's Report, annual levy and collection of assessments and setting time and date for public hearing. (File 0497-30)

Recommendation: That the City Council

1. Adopt Resolution 2012-068 approving the Engineer's Report for proceedings for the annual levy of assessments within a special maintenance district.
2. Adopt Resolution 2012-069 declaring intention to provide for an annual levy and collection of assessment in a special maintenance district and setting a time and date for a public hearing; and scheduling the public hearing for June 27, 2012.

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

C.4. Adopt (2nd Reading) Ordinance 436 - Election Code Minor Revisions. (File 0430-10)

Recommendation: That the City Council

1. Adopt (2nd Reading) Ordinance 436 amending Solana Beach Municipal Code 2.24 regarding Elections.

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

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

WORKPLAN COMMENTS:

(Adopted June 23, 2010)

COUNCIL COMMITTEE REPORTS:

Council reported committee activity.

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.

Deputy Mayor reported that the City reimbursed his attendance of the League Luncheon.

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)

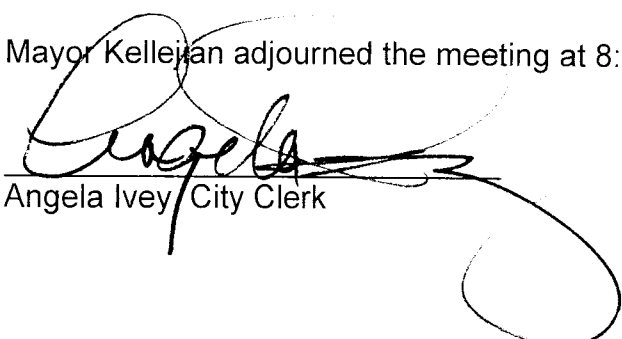
- a. Business Liaison Committee - Roberts, Campbell.
- b. Highway 101 / Cedros Ave. Development Committee - Nichols, Heebner.
- c. I-5 Construction Committee - Heebner, Roberts.
- d. Parks and Recreation Committee - Heebner, Nichols
- e. Public Arts Committee - Roberts, Nichols.
- f. School Relations 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 8:00 p.m.


Angela Ivey / City Clerk

Approved: August 22, 2012