

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

MINUTES

JOINT **REGULAR** MEETING
Wednesday, January 8, 2014
06:00 P.M.

Minutes contain a summary of the discussions and actions taken by the City Council during a meeting. City Council meetings are video recorded and archived as a permanent record. The video recordings capture the complete proceedings of the meeting and are available for viewing on the City's website.

CALL TO ORDER AND ROLL CALL:

Present: Campbell, Heebner, Zito, Zahn, and Nichols.
Absent: None.
Also Present: David Ott, City Manager
Johanna Canlas, City Attorney
Angela Ivey, City Clerk
Wende Protzman, Community Development Dir.
Mo Sammak, City Engineer/Public Works Dir.
Dan King, Sr. Management Analyst

Mayor Campbell called the meeting to order at 6:07 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 Heebner and seconded by Zito **Motion carried unanimously.**

PRESENTATIONS:

(Ceremonial items that do not contain in-depth discussion and no action/direction.)
None at the posting of this agenda

City Employee Retirees

David Ott, City Manager, presented Certificates of Appreciation to retiring employee Casey Lopez, Solana Beach Fire Department for 32 years and Lori Borowski,

Engineering/Public Works Department Administrative Assistance, for 16 years of service.

ORAL COMMUNICATIONS: None

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.

COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:

Council made community announcements.

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. Minutes of the City Council.

Recommendation: That the City Council

1. Approve the Minutes of the City Council Meetings held November 13, 2013.

MOTION: Moved by Zito and seconded by Zahn. **Motion carried unanimously.**

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

Recommendation: That the City Council

1. Ratify the list of demands for November 30, 2013 through December 20, 2013.

MOTION: Moved by Zito and seconded by Zahn. **Motion carried unanimously.**

A.3. General Fund Adopted Budget for Fiscal Year 2013-14 Changes. (File

0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2013-2014 General Fund Adopted Budget.

MOTION: Moved by Zahn and seconded by Zito. **Motion carried unanimously.**

A.4. City Council Meeting Schedule 2014. (File 0410-05)

Recommendation: That the City Council

1. Authorize the cancellations/additions of certain Council Meetings for the 2014 calendar year.

MOTION: Moved by Zahn and seconded by Zito **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.)

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 405 South Granados Ave, Applicant: Freeman, Case No: 17-13-06. (File 0600-40)

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project,

adopt Resolution 2014-001 conditionally approving a DRP to construct an 812 square foot addition to the lower level of an existing single-family residence at 405 South Granados Avenue.

David Ott, City Manager introduced the item.

Patricia Bluman, Principal Planner, presented a PowerPoint (on file) reviewing the project.

Mayor Campbell opened the public hearing. Council disclosed their familiarity with the project.

Steve Dalton, architect, reviewed the project and stated that the neighbors were supportive of the project.

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

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

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

C.1. Fire Station Vehicle Exhaust Removal System. (File 0400-10)

Recommendation: That the City Council

1. Adopt Resolution 2014-003:
 - a. Awarding the construction contract for the Solana Beach Fire Station Vehicle Exhaust Removal System, Bid No. 2013-12, to Reinhart Corp., dba AAir Purification Systems, in the amount of \$51,200.
 - b. Approving an amount of \$7,800 for construction contingency.

David Ott, City Manager introduced the item.

Mo Sammak, Director of Engineering and Public Works, presented a powerpoint (on file).

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

C.2. Introduce (1st Reading) Ordinance 446 - Tree Removal Permit Moratorium in the Public Right-of-Way. (File 0820-00)

Recommendation: That the City Council

1. Introduce Ordinance 446, establishing a moratorium on the issuance of tree removal permits as provided under Chapter 11.24 of the Solana Beach Municipal Code.

David Ott, City Manager, introduced the item.

Johanna Canlas, City Attorney, presented a PowerPoint (on file).

Council and Staff discussed that the right-of-way was not private property, that when the property was developed a portion was taken to be used for public right-of-way, and that the property was dedicated for public use. Discussion continued that the city could not sell the property, that the city could vacate the dedication to go back to the private property owner, that most the the public right-of-ways were from the county days, and that state law stated that the private property owner adjacent to the sidewalk had a duty to the city to maintain that sidewalk. Discussion continued regarding that there were only about 5 tree removal permits received by the city of Del Mar and that there had not been an inventory done of the number of trees in the right-of-way in the city.

Public Speakers

Sue Sherry stated that she had lived in the city for about 11 years, that the word moratorium was very finite, and that she was unaware of how many applications there were to cut down trees. She stated that each application should be handled on a case by case basis, that there should not be a moratorium on the tree removal process, and that she should be able to cut down tree on the public right-of-way in front of her house. She stated that there were thousands of trees in the public right-of-ways and who was going to care for them, and that she did not like the idea of a moratorium.

Kerry Kayajanian stated that she was a homeowner with a tree issue, that she had an issue with the damage that some of the trees were causing residents, and that the city had informed her to get support from neighbors if she wanted to cut down a tree. She stated that she collected 73 signatures from neighbors that agreed that her property was being damaged, that sh had pictures showing the damage to her property, and that her permit was denied. She stated that insurance did not cover any damage from the front door to the street, and questioned who was responsible for the damage.

Council discussed with speaker that the tree she wanted removed was on the public right-of-way, that the previous owner was denied as well due to the tree being in the public right-of-way, and that Council should consider the residents and damage that was being caused to properties. She stated that the previous owner's son had disclosed that they were unable to remove the tree due to the tree being half on property and half in the right-of-way.

Council and Staff discussed that the city's code did not provide answers on tree removal, that there were benefits to the public in large and to the individual wanting to

remove the tree, and that the code was very arbitrary. Discussion continued that there had been 5 applications in a short period of time, that the City Manager brought this issue to Council due to arbitrary nature of the code, that the current code dictated for the City Manager to make the final decision of tree removal process, and that he was requesting guidance from the Council on how to formulate and make decision on these issues.

Tracy Weiss stated that she had been taking care of the public right-of-way in front of her home for 25 years, that she had hired a tree trimmer to trim a tree in the right-of-way but he told her the tree was dead, and that she told him to remove the tree. She stated that the tree trimmer was halted from removing the tree by the city since they had not acquired a permit, that she did not know a \$250 permit was required, and questioned who would be liable if the tree fell down. She stated that she wanted to remove the tree and replace it with another one and she was unsure of the problem.

Council discussed with the speaker that it was her choice to irrigate and maintain the right-of-way, that it was not the city's policy to regulate the maintenance of the right-of-way, and that it was not her right to cut down the tree if it was not on her property. She stated that there was a policy to ensure that the public's benefit was satisfied as well as the property owners, and that the public could not just do on their own.

Gordon Johns stated that he lived adjacent to the previous speaker, that he had removed 14 trees on the city property, and that his neighbor who was a former Councilmember did not realize a permit was required for tree removal. He stated that he removed 9 coral trees, that he replaced them with better trees, that everything should not be tied up in bureaucracy, that permit cost was a disincentive, and that he cautioned against a moratorium.

David Ott, City Manager, responded to the speaker that there was no charge for a tree removal permit, that there was a cost to have an arborist provide a neutral opinion on the condition of the trees.

Council and Staff discussed that a permit was required for tree trimming and removal, that arborists was not needed for trimming, and that the City Manager's decision was final. Discussion continued that applicants could appeal to the City Council, that the proposed term "moratorium" seemed very severe, that there would be a process to follow, and that there could be an escalation to the Council if needed. Discussion continued that state law - Streets and Highway Code Section 5610 stated that residents were responsible for maintenance of sidewalk including tree maintenance in front of home, and that there were various ways to address damage to a tree than only cutting it down. Discussion continued that there were competing issues between the public to enjoy the right-of-way, and residents issues with protecting property, that the moratorium would only be supported if it was a short period with a finite date, that there should be some form of public education to inform the public on tree removal, that there were concerns on both sides, and that there could be a short term stop on issuing permits to assess how to provide guidance for the City Manger on how to make final decisions on tree removal.

Council and Staff discussion continued regarding that the length of time it took for the City Manager to respond to an applicant depended on whether an arborist opinion was needed, that there were a total of 5 applications received, that 3 were denied, and one of them was a pending appeal. Discussion continued that one was denied because there were other solutions other than cutting down trees, that public safety was a clear criteria or blocking access was another reason for cutting trees, that the City Manager was looking for direction from Council on how to handle these applications, that trees on private property could be cut without Council approval, and whether the existing law was biased towards keeping trees and not cutting them down. Discussion continued that the lack of clarity made it difficult to consistently interpret and implement the code, and that time was needed for staff to come back to Council with information on what other local cities were handling these issues.

Councilmember Campbell stated that he was hesitant to establish a moratorium, that he appreciated the City Manager's position and concern, that in lieu of a formal moratorium the city could continue to accept tree permits, that those applications that the City Manager was having difficulty making a decision on could be subject to an appeal, and that the City Manager could return to Council with suggested language to provide clarity in the code on making decisions on tree removal permits.

David Ott, City Manager, asked Council to provide criteria to use on when to save trees or remove them.

Council discussed that if a tree was damaging private property and there was no other solution then cutting down the tree would be reasonable, and that ultimately the cost of whether cutting down or putting in a root barrier under the existing code was at the expense of the property owner and not the city.

Council discussion continued whether or not to use the word "moratorium" or rather temporary halt to permits, that there was an administrative cost to appeals, that there could be a temporary stop on permits while staff compiled information to return to Council in a month, and that all applications would apply to the current ordinance rather than the new ordinance unless there were a "moratorium" in place.

Councilmember Nichols made a motion to approve a 45-day moratorium with the exception of removal of trees that were public safety related.

Johanna Canlas, City Attorney, stated that this would be a regular ordinance with an introduction, adoption, and then would be in effect 30 days from the adoption date, and that this was not a land use moratorium which take effect immediately.

Johanna Canlas, City Attorney, stated that moratorium was a technical term, that it could be the adoption of Ord 446 halting the issuance of tree removal in the public right-of-way with the exception of public safety and approved projects.

Johanna Canlas, City Attorney, stated that direction could be given to the City Manager on how to weigh factors, that once the tree was taken down it was gone, that it would take time to grow back, that there was an environmental review component of tree removal, that if a tree was removed there was a physical change to the environment, and that tree removal could not be done immediately until the environmental review was completed.

Councilmember Nichols withdrew his motion and stated that the only way he would be supportive of removing trees would be for public safety reasons.

Council reached consensus to not adopt the moratorium, that tree removal should only occur for public safety reasons or approved project, that the existing criteria and proposed criteria should be used to create proposed language for the code that would provide clarifying language on making determinations for tree removal permits, and that this proposed language should be brought back to the City Council within 45 days.

MOTION: Moved by Campbell and seconded by Zito to authorize the City Manager to issue tree removal permits only for the purpose of public safety or a project related matter, until Council determines otherwise. The City Manager will utilize the existing criteria in the Solana Beach Municipal Code Chapter 11.24 or criteria in the proposed draft Ordinance 446. The City Manager will return to Council in 45 days with recommendations to clarify the criteria in the Municipal Code for the purpose of making more clear determinations on tree removal permit requests. **Motion carried unanimously.**

C.3. Sierra Club Request for a Letter of Support - San Onofre Nuclear Generating Station Electrical Generation Capacity. (File 0480-75)

Recommendation: That the City Council

1. Discuss and provide direction on whether to provide a City Council Letter of Support supporting the Sierra Club's proposal to the CPUC regarding replacement of the electrical generation capacity of the retired San Onofre Nuclear Generating Station (SONGS) and provide the City Council's Letter of Support to the CPUC.

Mayor Campbell recessed the meeting at 7:58 p.m. for a break, and reconvened the meeting at 8:05 p.m.

David Ott, City Manager, introduced the item.

Roger Davenport stated that for the last 5 years they had been living in a home that was completely powered by solar energy. He stated that Minnesota had received bids for 150 megawatts of new electricity generation, that the bids were received from a couple of combined cycle gas plants, simple cycle combustion turbines, and that there was one company that was proposing 100 megawatts of distributed solar capacity. He stated that

after evaluation the solar proposal was the most cost effective and had the lowest risk against policy compliance of all the proposals they had received. He encouraged council to support the proposal.

Cindy Davenport stated that she was representing Butler, Sons, Solutions, Inc., a local business in the city. She stated that the business started in 2002, that they had created 9 jobs since then, that they created solar water heaters, and that they created 3 patters. She stated that they were trying to create jobs by not purchasing parts from China but from local vendors, that they were trying to make it easier for people to get solar hot water, and that nuclear energy was increasing in costs. She stated that solar energy would ay the customer back, that a natural gas power plant would cost the home owners more, and stated that there there was not a need for new power plants. She stated that the county had been without San Onofre for about a year and a half and people have gotten by without it, that the cost of solar was going down, and that Council should support the letter.

Pete Hasapopoulos (time donated by Jack Hegenauer) stated that he worked for the Sierra Club, San Diego Chapter. He stated that that they had 185 members in the city, that the notion that new plants were needed after San Onofre was an important matter, and that San Onofre had been down for nearly 2 years and there had not been any blackouts. He stated that the vast majority of San Onofre power did not flow to SDG&E customers, that nearly 2,000 megawatts had come online in the last two years that could be shared in the SDG&E territory, and that by 2022 it was projected that 1,000 megawatts less would be needed. He stated that demand was going down due to energy efficiency, that the cost of gas plants for residential/business customers was tremendous, and that SDG&E would like to build a power plant called Pio Pico in Otay Mesa which would cost about 1.6 billion dollars. He stated that natural gas plants generally offered 10-20 permanent jobs, and that the Pio Pico plant would only offer about 15 jobs. He distributed a poll that the Sierra Club had done and stated that 60% of poll responders stated that clean energy industry job growth was more important than fossil fuel job growth, and that 56% of pollers wanted to use clean energy to replace San Onofre. He stated that the cities of Encinitas and Del Mar had already sent letters to the Public Energy Commission.

Gene Walker showed a website of a map demonstrating that Germany produced 30 gigawatts of electricity, that the US produced about 60 gigawatts, and that the habit of using fossil fuels had to be broken. He stated that he supported the Sierra Club letter.

Councilmember Heebner made a motion to support the letter and stated that San Onofre had been down for 18 months and there had not been a black out, that SDG&E was proposing peaker plants, that they were looking for a way to fulfill their old business model, and that rooftop solar was not on their business plan. She stated that SDG&E had been speaking with Camp Pendelton about building a plant at that site which would cost tax payers \$5-6 billion dollars, and that a message had to be sent to SDG&E that there were smarter ways for energy.

Council discussed their support of the item. Councilmembers Nichols, Zahn, Zito, and

Heebner all disclosed that they were Sierra Club members.

Council stated that they would like the letter to be signed by the entire Council.

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

C.4. Council Boards, Committees, & Commissions Review. (File 0410-05)

Recommendation: That the City Council

1. Reviews the current member appointments of Boards/Committees/Commissions, and makes changes as necessary.
 - a. If Council Regional Boards/Committees/Commission appointment changes are necessary:
 - i. City Selection Committee: Appoint an alternative, if the Mayor prefers to forego this appointment (optional).
 - ii. Remaining Regional Appointments: Appoint changes (optional).
 - b. Council Standing Committees: Make appointment changes, if necessary (optional).
 - c. Council Ad Hoc Committees: Make appointment changes, if necessary (optional).

Council modified appointments to San Dieguito River Valley JPA (Primary-Zito, Alternate-Zahn)

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.

Councilmember Nichols reported that he turned in a mileage report for the last year for a total of about \$240.

COUNCIL COMMITTEE REPORTS:

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

- a. City Selection Committee (meets twice a year) - Nichols, Heebner (alternate).
- b. County Service Area 17 - Zahn, Campbell (alternate).
- c. Escondido Creek Watershed Authority - Zito.
- d. League of Ca. Cities' San Diego County Executive Committee - Nichols, Heebner (alternate) and any subcommittees.
- e. League of Ca. Cities' Local Legislative Committee - Nichols, Heebner

- (alternate).
- f. League of Ca. Cities' Coastal Cities Issues Group (CCIG) - Nichols, Heebner (alternate).
 - g. North County Dispatch JPA - Zahn, Nichols (alternate).
 - h. North County Transit District - Nichols, Heebner (1st alternate)
 - i. Regional Solid Waste Association (RSWA) - Nichols, Zahn (alternate).
 - j. SANDAG - Heebner (Primary), Nichols (1st alternate), Zito (2nd alternate) and any subcommittees.
 - k. SANDAG Shoreline Preservation Committee - Nichols, Heebner (alternate).
 - l. San Dieguito River Valley JPA - Heebner, Nichols (alternate).
 - m. San Elijo JPA - Campbell, Zito (both primary members) (no alternates).
 - n. 22nd Agricultural District Association Community Relations Committee - Heebner, Campbell.

Standing Committees: (All Primary Members) (Permanent Committees)

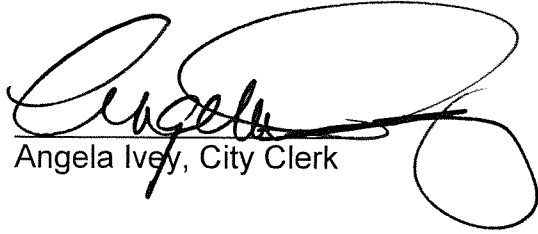
- a. Business Liaison Committee - Campbell, Zahn.
- b. Highway 101 / Cedros Ave. Development Committee - Nichols, Heebner.
- c. I-5 Construction Committee - Heebner, Zito.
- d. Parks and Recreation Committee - Nichols, Heebner.
- e. Public Arts Committee - Nichols, Zito.
- f. School Relations Committee - Zito, Zahn.

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

- a. Army Corps of Engineers & Regional Beach Nourishment - Campbell, Nichols. Expires December 10, 2014.
- b. Development Review - Nichols, Heebner. Expires October 22, 2014.
- c. Environmental Sustainability - Heebner, Zahn. Expires December 10, 2014.
- d. Fire Department Management Governance - Zito, Zahn. Expires July 09, 2014.
- e. Fiscal Sustainability - Campbell, Zito. Expires June 11, 2014.
- f. Gateway Property - Campbell, Heebner. Expires April 9, 2014.
- g. General Plan - Nichols, Zito. Expires July 09, 2014.
- h. La Colonia Park - Nichols, Heebner. Expires June 11, 2014.
- i. Local Coastal Plan Ad-Hoc Committee - Campbell, Nichols. Expires January 22, 2014 or at the California Coastal Commission adoption.
- j. NCTD / Train Station Site Project Ad Hoc Committee - Nichols, Heebner. Expires January 8, 2014.
- k. View Assessment - Heebner, Zito. Expires June 11, 2014.

ADJOURN:

Mayor Campbell adjourned the meeting at 8:40 p.m.



Angela Ivey, City Clerk

Approved: March 26, 2014