

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

MINUTES

JOINT **REGULAR** MEETING
Wednesday, April 23, 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:

Mayor Campbell called the meeting to order a 6:00 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 Zito and seconded by Zahn. **Motion carried unanimously.**

PRESENTATIONS:

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

1. Del Mar Shore Stairs

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.

Roman Skripkus stated that the City could save fund reorganizing top management positions and cited a newspaper article of salaries.

David Ott, City Manager, stated that the numbers cited were incorrect, that personnel did not fill every current title, that Wende Protzman was hired as the Deputy City Manager, but went on to fill in for the Planning Director, and has been in that position for more than a few years, that he did not receive a car allowance or phone allowance, that he negotiated to work for the City as a different PERS allotment than he had previously, and that he received a salary now that was less than in 2011.

Mayor Campbell said that Solana Beach was one of the tighter fiscally run cities in the county and coast and that if the speaker or anyone else wanted to learn more about the salaries that they should contact the City Manager to discuss.

Councilmember Zito stated that the City could not be compared to City Manager pay to the residents of the City, that it should be compared to what it took to obtain the right talent to run a 30 million dollar budget, and that Mr. Ott is the top manager of running an organization with that budget and 60-70 employees.

COUNCIL COMMUNITY ANNOUNCEMENTS / 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. Register Of Demands. (File 0300-30)

Recommendation: That the City Council

1. Ratify the list of demands for March 22, 2014 through April 4, 2014.

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

A.2. 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 Nichols and seconded by Campbell. **Motion carried unanimously.**

A.3. Quarterly Investment Report. (File 0350-44)

Recommendation: That the City Council

1. Accept and file the attached Cash and Investment Report for the quarter ended December 31, 2013.

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

A.4. Mitigation Fees for Conditional Use Permit (CUP) for 341, 347, 355 Pacific Ave., Case: 17-04-16. (File 0610-60)

Recommendation: That the City Council

1. Receive Payment of mitigation fees in the amount of \$150,000 for the mitigation of adverse impacts to public access and recreational use resulting from the subject shoreline protective devices.

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

A.5. National Pollutant Discharge Elimination System (NPDES) Commercial/Industrial Facility Inspections. (File 0400-10)

Recommendation: That the City Council

1. Adopt Resolution 2014-036
 - a. Authorizing the City Manager to execute a one year agreement with ECIS in an amount not to exceed \$10,000, for NPDES Commercial and Industrial inspections.
 - b. Authorizing the City Manager to extend the agreement for four additional years at the City's option per the terms of the proposal.

MOTION: Moved by Nichols and seconded by Campbell. **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. 500 Block of South Sierra Avenue: 1) Development Review Permit (DRP), Structure Development Permit (SDP), Density Bonus, Parking Ratio, and Incentive for City-Owned Property in the 500 Block of South Sierra Avenue; Applicant: Hitzke Development Corporation (Case # 17-11-05) 2) Development, Disposition, and Loan Agreement (DDLA) for Development of Affordable Housing. (File 0600-10)

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 and administratively issue a SDP. It will meet the City's commitment to provide 10 units of affordable replacement housing. Therefore, Staff recommends that the City Council:

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 (CEQA) pursuant to Class 32 "Infill Development Project" of the of the State CEQA Guidelines.
3. Approve Resolution 2014-039, making the requisite findings to conditionally approve a Development Review Permit (DRP); an administrative Structure Development Permit (SDP); a density bonus; the use of vehicular parking ratio for the residential component as provided in Government Code Section 65915(p); an incentive to waive the development standard in the Highway 101 Corridor Specific Plan that limits the residential component of a mixed use development to 40 percent or less of the total as required by State law; and approval of a categorical exemption to construct a mixed-use development on a City-owned, 14,721 square foot site in the 500 block of South Sierra Avenue.
4. If the City Council conditionally approves the project as per Items 1-3 above, approve Resolution 2014-040, approving the Development, Disposition, and Loan Agreement for the development of affordable

housing and authorizing the City Manager to sign the DDLA and associated documents on behalf of the City.

David Ott, City Manager, introduced the item.

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

Barbara Kautz, Special Counsel, continued the PowerPoint presentation reviewing California Environmental Quality Act (CEQA) exemptions and density bonus that the project was entitled. She stated that 100% of the proposed residential units were very low income, the project was entitled to three density bonus incentives, and that they had only requested one. She reviewed the development, disposition, and loan agreement (DDLA).

Paul Marra, Keyser Marston Associates, continued the PowerPoint presentation reviewing the financial pro forma analysis of the project.

Patricia Bluman, Principal Planner, concluded the PowerPoint presentation reviewing the findings required for approval of the Development Review and Structural Development Permits.

Mayor Campbell opened the public hearing.

Council disclosed their familiarity with the project.

Ginger Hitzke, applicant, presented a PowerPoint presentation (on file) reviewing the project. She stated that Hitzke Development began in 2007 and had since completed 5 development projects which totaled 449 units and 26,301 square feet of commercial space. She reviewed the history and design of the project.

Craig Abell, Foundation for Form Architecture, continued the PowerPoint presentation reviewing the design history of the project. He stated that the front yard set back had been increased, that the building had been shifted back, that there was more fire retention and landscaping areas, and that there was increased visibility when exiting both driveways.

Ginger Hitzke, applicant, continued the presentation, reviewing some features of the project.

Andrea Shlofser stated that he lived across the street from the proposed project, that he had seen some of the changes to the project since the 2007 submittal, and that the building was dense and did not fit in with the surrounding area. He stated that he was concerned about how traffic and parking would be impacted during the construction phase which would impact public safety and quality of life in the area.

Daniel Baker - did not answer when called.

Judy Gifford stated that she had submitted a letter to Council (on file) and read it aloud. She said that the study done on the project implied that the project would

decrease run-off rather than increase it, and that the bigger the project footprint the more runoff would be generated. She stated that the drainage study showed that the affordable housing project was on approximately 0.29 acres which was smaller than the property site indicated in the staff report, that a second opinion should be obtained by the City, and that the run-off on South Sierra was the City's responsibility.

Ann Peters stated that she had submitted a letter to Council (on file) and read it aloud. She said that the staff report failed to describe the entire history of the project, there had been significant public objection to the project, that some of the objections included 1) using public funds to build a project at a cost of over \$600,000 per unit, 2) use of Redevelopment funds outside of the Redevelopment area, and 3) use of coastal assets and a beach parking lot. She stated that the staff report failed to mention a petition that was signed by several hundred people objecting to the use of the beach parking lot for the project, that the petitions should be part of the public record, that 90% of the project funding was from the City, state and federal funds, and that it appeared to be like the original project.

Bill Gifford (time donated by Ella Brown & Jerry Brown) stated that 10 more units were needed to settle the Perl lawsuit, that there had not been public involvement on this project, and that there had only been 10 days from the staff report being available to prepare comments on this project. He stated that he was requesting a delay on this decision, that the beach was primarily used by surfers and beach goers who occupied the parking lot, the project was out of compliance with the City's General Plan, and that there were inconsistencies of lot size provided in the City staff report and documents provided by the developer. He stated that it was unclear if the project met the density requirements, the lot size increased from the original project lot size, and that he was uncertain how the figures became inflated. He said that the building design was not consistent with others in the neighborhood, that the new design had dual driveways, the development required compliance with the Municipal Code, and that the City had not conducted a required view assessment hearing. He stated that the facts in the staff report did not support facts in other written documentation, that since the announcement of the project the City tried to limit the neighboring residents' voices in the project, and that the City had only worked with the developer. He questioned why the City was giving away the last 1% of developed land, that he had sent the City a letter a year ago, and questioned why there were no low income units on the east side of the City. He stated that the residents were not being treated fairly, that at least 90% of the people who came out of the post office were opposed to the project, that the current parking spaces in the parking lot were a comfortable size, and that the new proposed parking spaces would be reduced. He stated that it would be inconvenient, that the turnaround radius would be 22 ft. in the new project, that there were safety concerns with the project, and that the project should be placed in the City parking lot that had almost double the space as the current location.

Dan Peters stated that the staff report failed to provide accurate information, that the project was not in compliance with the City's Municipal Code, and that the applicant's fees had been refunded for the second view assessment application. He stated that the City never communicated that the fees were being refunded because Seascape Sur had no standing to request a view assessment proceeding, that the

City's code did not allow staff to arbitrarily decide who had standing over view assessment issues, and that by accepting 2 view assessment applications the City had waived its rights to not receive view assessment applications. He stated that Municipal Code Section 17.63.040 (E) defined "person," that a corporation was considered a person under the law as well, that he demanded 1) code section 17.63.040 (E) should be followed prior to approval of the project, 2) that a notice that accurately reflected the public's rights be mailed out, and 3) he wanted an investigation into what occurred at City Hall to ensure that government resources are not being used a preferential way.

Jovan Owens - not present when called.

Catherine Rodman (time donated by Carlos Devara) stated that she was an attorney with Affordable Housing Advocates, that she supported the project, and that the project had been 22 years in the making. She stated that the City had other opportunities for affordable housing, that the Housing Element laws compelled the City to approve the project, and that it was the right thing to do. She stated that it was difficult to listen to community's concerns about the impacts of the project, that the Council represented the entire community not just the people present at the meeting, and that it would be a joy for the families displaced from the Perl property in 1992 to be in such a beautiful place. She stated that the subsidy seemed fair, that housing could not be built without cost, and that there was not any unsubsidized housing in the country. She stated that the City could not discriminate against families with children, that the affordable housing act called for affordable housing opportunities to be provided in the coastal zone, and that she encouraged the Council to approve the project.

Sharron Frank stated that she was a resident and had followed the project for the last several years. She stated that she was concerned about security at the project, that low income housing project had been built across the street from her parent's home in Las Vegas and within some years of the project the security became so unmanageable that the police would not go into the project. She stated that if this project were approved there may be a serious security problem, there was no information of what would be placed in the commercial space, and that she requested a delay on the project since she felt the public did not have adequate time to review the new proposal.

Mayor Campbell recessed the meeting for a break at 7:58 p.m. and reconvened at 8:03 p.m.

David Altheide stated that he had several concerns, that he supported affordable housing, it was the right thing to do but questioned the best way to provide the project and how to pay for it. He stated that he was concerned about the process that had occurred, that citizen voices had not been heard as much as they should have been, that Seascape Sur and Sand Pebbles Resort had both filed view assessment applications and had been told by the City that a homeowners association or a time share did not meet the definition of "person," and therefore they did not have a standing to file for view assessment and that the SDP requirements had been met. He stated that this process should be delayed and the view assessment applications submitted should be considered.

Veronica Seay (time donated by Roni) stated that she was speaking as a member of the League of Women Voters of North County, that they had supported affordable housing, that the League supported the project because 1) state law required all communities to provide affordable housing, 2) that the project appeared to be in line with principals of sustainable communities, and 3) local residents may at one point need to find affordable housing for the short or long term. She stated that other projects would be needed to meet the city's state mandates for affordable housing.

Margaret Schlesinger stated that she encouraged the Council to fulfill the City's obligations to meet the legal obligations of the Perl Settlement, that the location was an appropriate place for the project, and that the project fit into the area. She stated that she remembered protests regarding building the condos on South Sierra, residents learned to live with them, and that the findings could be made to approve the project that would credit the City's requirements for affordable housing.

Martin Schmidt stated that it was a beautiful project, that he did not think the project would create a security risk, but that the project did not fit into the area. He stated that in order for the project to be financial feasible it had to be for very low income, that the project would be busting at the seams on the small parking lot, that he had lived on South Sierra for 20 years and that it was utilized the most by cyclists, pedestrians, and beachgoers. He stated that there would be danger to people from cars moving in and out of the project, that there was no way to build safe underground parking, and that the view assessment application denial was arbitrary.

Allison Russell, Manager, and Michael Powell, Assistant Manager, Sand Pebbles Resort. Allison stated that there were 2,548 owners who enjoyed vacationing at the timeshare resort, they were all oppose to the project, and that the project came within 8 inches of the southwest boundary of the resort. She stated that the units would be looking at a towering 35 foot building. Michael stated that he had made an attempt to get through the over 1,000 page report on the project, there was a one million dollar budget to complete the survey, and that the per unit cost of the building was not fiscally responsible. He stated that if he were a resident he would not want his tax payer dollars to fund this project which was on a mainly pedestrian street, that it was a bad project in a bad place, he understood the spirit of the project, and that the project would be too close to the Sand Pebbles Resort. He stated that he did not oppose the project but opposed the project location. Allison stated that many resort residents had not received the public hearing notice, that they opposed the project and requested a delay of the project.

Marilyn Jones (time donated by Wally King and Judi Stubbs) said that she was concerned with the process, that many issues were discussed at a workshop but that she felt they were not allowed to speak, submitted exhibit from the first workshop (on file), stated that reactions of the people were emotional because people were not properly informed, that Seascape Sur could offer low income units, that other options had not been considered for the location, the traffic study did not have any credibility and that there was already impact on Sierra. She asked the City to do a credible traffic study and that the project required comparable parking that

would being replaced and said that it was not a case, that the view assessment process was not proper or fair and that a legal process would be needed, and asked the City Council to deny the project. She said that the City was the fiduciary of the funds of the City and there would not be any value of this parking lot to the City.

Marilyn Rinaldi asked why this issue was not going up for the vote of the people.

Herb Brown said that he did not live in Solana Beach but his family had a condo in the City. He stated that low income housing was valuable, that he saw the plans and that the problem was parking without a turn around.

Ginger Hitzke, applicant, rebuttal, stated that it was difficult to hear negative comments but thought it was going to be a good project, that she had a good track record, that she had been involved in her projects, and encouraged the Council to support Staff's recommendation.

Johanna Canlas, City Attorney, addressed comments regarding the process, and stated that all public input was part of the record, clarified the view assessment ordinance, that both filings for the view assessment did not have standing, that the remedy for them was speaking up in front of the Council, and the City went above and beyond in noticing public including hand delivery to Seascape Sur.

David Ott, City Manager, stated that he personally reached out to COOSA and provided copies to them before it was delivered to the City Council and hand delivered staff report to timeshare.

Mike Nichols, Councilmember, asked to provide a list of affordable housing projects in the City.

Mayor Campbell said that the City did have the policy of integrating affordable housing in the community and that it was required by the state to have certain number of units.

David Ott, City Manager, read the list of the streets of affordable housing: 859, 865 Vera Street, 222 S. Helix Avenue, 930 Via Mil Cumbres, 403,405,407 N. Cedros Avenue, 348 S. Rios, 725 Seabright Lane, 548 N. Rios, 701 Seabright Lane, and stated that current applications for projects on S. Nardo proposed 32 affordable units and that project on Dahlia & Highway 101 proposed 4-5 low income units.

Peter Zahn, Councilmember, asked if the city hall parking site was considered.

David Ott, City Manager, asked Ginger to look at the City Hall parking lot as an option but stated that it would take much more City subsidies to make it a reality, not enough units to support over double parking spaces and that per forma was completed.

Johanna Canlas, City Attorney, clarified that the City had certified LUP and addressed assertions made. She stated that public parking would be replaced with no net loss, that no evidence that it would impact any stairway access or public access, that the project would be before the Coastal Commission, and stated that

there was no land donation being involved in.

Mo Sammak, City Engineer, stated that projects generally increased the rate of runoff primarily due to the change of the surface of the project but there were no significant changes in this case because asphalt was replaced with rooftops. He said that the runoff would slightly decrease after the development, and that the City required water to be cleaned before it reached the streets. He stated that for the most part applicant addressed all drainage issues.

David Ott, City Manager, stated that after concerns expressed during the workshop commercial space had been reduced and could only be office spaces. He said that there were numerous similar parking entrances along Sierra and that parking experts confirmed that it was safe for both drivers and pedestrians.

Mayor Campbell stated that the Fletcher Cove Community Center went to a vote because it was initiated by the public.

Barbara Kautz, special counsel, addressed Article 34 and stated that if a project was financed by the City, that more than 49% low income housing public vote would be required and stated that project that replaced former low income housing was not subject to Article 34.

Council, Staff, and Ms. Kautz discussed that the state planning and zoning law did not allow any restriction on low income housing and the City could not distinguish between low income housing or multi-million dollar housing, and that the initiative regarding low income housing only being located in certain areas would not comply with the state planning and zoning law. Discussion continued regarding the Redevelopment Agency (RDA) that dissolved in 2012, the pre-development loan agreement with the applicant that was entered into in 2011, and the existing agreement prior to dissolution was an enforceable obligation. She said that only in mid-2013 the City could feel fairly confident that the existing pre-development agreement was recognizable by the state.

Discussion continued regarding that it took a year and a half to be certain that the money could be released to the City and could not be used for other than this enforceable obligation, an existing contractual obligation could not be used for anything else, that the site that was about 500 ft. outside of the former RDA project area which would benefit the needs within the project area, that 0.05 trips would be added and that they were based on the original standards and capacity that would be less than 50%.

Ginger Hitzke, applicant, addressed security and backgrounds checks. She stated that residents went through 3rd party income verification, criminal search, title search as well as contacting the last two years of landlords, and that households with felonies were rejected with a blind service. She said that crime free release agreement addressed any convictions, that annual re-certifications were performed, and that it was in the company's interest to have successful long term renters.

Council, Staff, and applicant discussed that actual construction would take about 12 months, the development process would be around 2 years, and that the City had

remedies if the specific project standards were not met.

David Ott, City Manager, said that at the public workshop there were individual stations for people to provide input and that the public comments were not shut down.

Johanna Canlas, City Attorney, clarified that the Council cannot comment on issues until it reaches the public hearing to have due process, and that there were certain limitations.

Council and Staff discussed that Councilmembers were aware that Council could listen to a workshop or meeting on various issues or projects, but could not commit to a course of action.

Ginger Hitzke, applicant, explained that the renters had to make 2 1/2 times the rent and that she had a lot of interest in renting office spaces.

Paul Gifford, special counsel, said that rent for office spaces could fluctuate but the unit rent was based on the state requirements and the developer would pay the rent if it was not rented.

Council and Staff discussed that the floor area ratio (FAR) could be the same size and smaller density and that the site could be used for similar or bigger project with allowable zoning code.

Johanna Canlas, City Attorney, stated that the City did not have a project that was 100% and that the state law was to round up.

Paul Gifford, special counsel for the applicant, explained that it was a typical structure used throughout the nation, and that tax credit equity amount was based on estimated rate of investment that could rise and fall with the market, that the applicant was incentivized, that \$1.50 sq. ft. for offices was determined based on office listings in the City.

David Ott, City Manager, said that width and length of the parking spaces were consistent throughout the City.

Barbara Kautz, special council, stated that the only right of the developer was the land lease, that the City could terminate the ground lease, and that the City would not lose this property.

David Ott, City Manager, explained that the west side of the City had more opportunities than the east side that consisted of the single-family homes, that the Row homes completed in 2004-05 were an example that low income housing did not depress values of the surrounding properties.

Councilmember Nichols did not think that parking spaces were being replaced in-kind, that only 22 were going to be on the street level leaving 9 parking spaces on the 2nd level. He asked to address effects if offices went away.

Ginger Hitzke, applicant, stated that commercial income supported the project costs and that the project needed the rental income.

Mr. Gifford said that commercial rent was little more than 25% of rental income, but that by the 55th year it would be 3/4 of the rental income because affordable rents moved gradually, but expenses rise based on the market rate.

Councilmember Nichols suggested design changes for better beach access by switching two parking entrances, easier turn around, better bicycle access, and larger trash enclosures.

Ginger Hitzke, applicant, stated that utility companies had their specific requirements that had to be met.

Councilmember Zahn suggested parking spaces sensors that indicated if any parking spaces were available. He did not agree that this project would affect surrounding property values and saw it valuable to the neighborhood. He was concerned with some of the public's comments made about low income components. He said that the City should exercise its right to do a performance review of the properties' management.

David Ott, City Manager, said that Transient Occupancy Tax (TOT) could not be used to buy parking spaces at this time and that the remaining funds from old RDA were approximately \$400,000.

Ginger Hitzke, applicant, stated that she would study and examine the cost of the parking sensors.

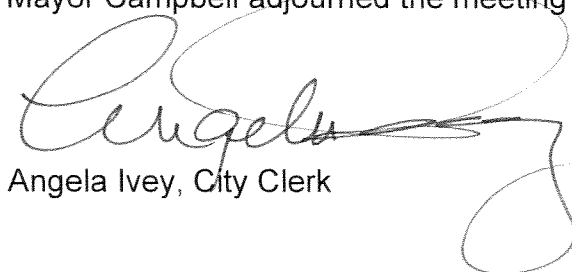
MOTION: Moved by Heebner and seconded by Nichols to close the public hearing **Motion carried unanimously.**

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

COUNCIL COMMITTEE REPORTS:

ADJOURN:

Mayor Campbell adjourned the meeting at 10:35 p.m.



Angela Ivey, City Clerk

Approved: June 11, 2014