

CITY OF SOLANA BEACH

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

MINUTES

Joint REGULAR Meeting

Wednesday, March 23, 2016 * 6:00 P. M.



City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

- Minutes contain a summary of significant discussions and formal actions taken at a City Council meeting.
- City Council meetings are video recorded and archived as a permanent record. The [video recording](#) captures the complete proceedings of the meeting and is available for viewing on the City's website.
- Posted Reports & Supplemental Docs contain records up to the cut off time prior to meetings for processing new submittals. Complete records containing meeting handouts, PowerPoints, etc. can be obtained through a [Records Request](#).

CALL TO ORDER AND ROLL CALL:

Mayor Zito called the meeting to order at 6:00 p.m.

Councilmembers

Present: David A. Zito, Peter Zahn, Mike Nichols, Ginger Marshall, Lesa Heebner

Absent:

Also Present: Greg Wade, City Manager
Johanna Canlas, City Attorney
Angela Ivey, City Clerk,
Mo Sammak, City Engineer/Public Works Dir.
Marie Berkuti, Finance Manager
Bill Chopyk, Community Development Dir.
Danny King, Sr. Management Analyst

CLOSED SESSION REPORT: (when applicable)

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

FLAG SALUTE:

APPROVAL OF AGENDA:

Motion: Moved by Heebner and second by Zahn. 5/0 **Motion carried unanimously.**

PRESENTATIONS:

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

1. Reclaimed Water Construction Project Update

Mo Sammak, Public Works/Engineering Dir., reviewed the current construction project,

Council and Staff discussed coordinating with Del Mar for their force main, that they still needed to finish the connection of the last two manholes, there were some complaints from businesses who had been inconvenienced, that there was a little miscommunication at the beginning of the project, that the City of Del Mar held some workshops that educated their community, Solana Beach sent out e-blasts, but that businesses were not directly contacted in the area, and that it was on schedule to be completed before the first day of the fair.

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:

An opportunity for City Council to make brief announcements or report on their activities. These items are not agendized for official City business with no action or substantive discussion.

A. CONSENT CALENDAR: (Action Items) (A.1. - A.6.)

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 Meeting held February 24, 2016

Motion: Moved by Heebner and second 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 February 20 – March 4, 2016.

Motion: Moved by Heebner and second by Zahn. **Motion carried unanimously.**

A.3. General Fund Adopted Budget for Fiscal Year 2015-2016 Changes. (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2015-2016 General Fund Adopted Budget.

Motion: Moved by Heebner and second by Zahn. **Motion carried unanimously.**

A.4. Rescue Vehicle for the Marine Safety Department. (File 0270-30)

Recommendation: That the City Council

1. Adopt **Resolution 2016-036** approving the purchase of a new replacement Marine Safety Department rescue vehicle, necessary emergency response equipment and to retrofit the emergency response vehicle with emergency lights, warning devices, and communication devices for \$38,000 and authorizing the City Manager to take

any action(s) needed to effectuate the purchase.

Motion: Moved by Heebner and second by Zahn. **Motion carried unanimously.**

A.5. San Elijo Hills Pump Station Emergency Generator. (File 1040-30, 0400-10)

Recommendation: That the City Council

1. Adopt **Resolution No. 2016-035:**
 - a. Authorizing the City Manager to execute an amendment to the reimbursement agreement with the San Elijo Joint Powers Authority for costs associated with the replacement of an emergency generator at the San Elijo Hills Pump Station, for a total reimbursement cost of \$326,145.
 - b. Appropriating \$326,145 from the Sanitation Fund for the San Elijo Hills Pump Station project for Fiscal Year 2015-2016.
 - c. Authorizing the City Treasurer to amend the Fiscal Year 2015-2016 Adopted Budget accordingly.

Motion: Moved by Heebner and second by Zahn. **Motion carried unanimously.**

A.6. Emergency Storm Drain Repair at 841 Ida Avenue. (File 0850-40)

Recommendation: That the City Council

1. Receive report regarding the emergency storm drain repairs.

Motion: Moved by Heebner and second by Zahn. **Motion carried unanimously.**

B. PUBLIC HEARINGS: (B.1. – B.4.)

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. 2015 Annual Housing Element Progress Report. (File 0630-12)

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 2016-034:**
 - 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. Approving the 2015 Housing Element Annual Progress Report as submitted and directing City Staff to file the report with the Department of Housing and Community Development and the Governor's Office of Planning and Research.

Greg Wade, City Manager, introduced the item.

Russ Brown, presented a PowerPoint (on file) and stated that the City was required to file a progress report each year by April 1st.

Johanna Canlas, City Attorney, stated that a correction to Table C should be noted that the Hitzke project was approved in 2014 and not 2015.

Motion: Moved by Heebner and second by Nichols to close the public hearing. Approved 5/0. **Motion carried unanimously.**

Motion: Moved by Heebner and second by Nichols. Approved 5/0. **Motion carried unanimously.**

Councilmember Heebner stated that she was not present for the 1st hearings of these next three items and that she would be leaving for the evening. 6:34 p.m.

B.2. 517-521 Pacific Avenue Request for a Conditional Use Permit (CUP) for a Bluff Retention Device, Applicants: Ronald Lucker and David Winkler, Case No: CUP 17-15-43. (File 0610-60)

Recommendation: 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 Proposed Project exempt from the requirements of CEQA pursuant to the 2015 State California CEQA Guidelines §15269 as emergency conditions exist onsite and §15304 minor alteration of land.
3. Adopt **Resolution 2016-010** conditionally approving a Conditional Use Permit to construct a 140 foot long, 32 foot high, tied back shotcrete seawall along the coastal bluff at the base of properties located at 517-521 Pacific Avenue, Solana Beach.

Councilmember Nichols stated that he would recuse himself due to having a conflict of his company had done work for a company for which one of the applicants was a principal owner within the last 51 weeks, and that 52 weeks is the threshold for this type of conflict.

Open, staff already presented at last hearing, cont'd hearing,
Some questions for the consultant

Jim Knowlton, City's 3rd party consultant, presented a PowerPoint (on file) to address some of

Council questions from the last hearing. He stated that when an analysis was conducted for seismic and safety that they look at what holds the bluff up and what pulls it down, and how much pulls it up and how much holds it up. He stated that at 1.0 the forces of gravity are equal to the strength of that soil, so any change one way or another will cause it to stay there or fail, either increasing or decreasing the factor of safety. He said that the cause of changes could be erosion of the bluff, weathering of the material, heavy or persistent rainfall, and that water is about 98% cause of most failures of sediment, slope failures, and landslides. He said that to determine the seismic safety they input what they estimate to be the horizontal forces added to the existing situation so that a 1.0 safety, adding the seismic will lower it to less than 1 and could fail, that upper bluffs tend to rotate down when they fail and that flat plane failure is lower and had fractures, which is harder to determine. He said that not all projects are the same, that there are many factors, the static is the existing condition for the project, and factors that mean that when there is an earthquake there would be a failure, and they are very close to 1.0 because there are so many uncertainties in the materials that there is an imminent failure.

Council and Consultant discussed that 40-50 ft. of bluff would be lost in the next 75 years, which could be lost over or in 75 years or tomorrow, that sand at the base of the bluff would increase safety because it may slow the erosion at the transition of the sandstone and deposits, adding a few feet of sand would increase safety, and that the removal of a portion of the bluff sticking out is to smooth over the two properties and join them.

Council and Staff discussed that the extension projects in excess were based on Coastal Commission taking time to take action and that the City Council was warranted to extend.

Council disclosures:

Mayor Zito stated he had a brief email exchange with Mr. Winkler.

Deputy Mayor Zahn stated that he had a brief discussion with Mr. Winkler.

Councilmember Marshall stated that she had no discussion with the applicants.

Applicant

Walt Crampton, applicant representative, presented a PowerPoint (on file) reviewing the issues, the expected el Niño season that had not come to full force yet, that past El Niño seasons had affected fractures which could cause a failure to peel off where the public is recreating, showed several photos of erosion encroaching up into the bluff, and that mole holes had collapsed. He stated that the removal of 240 sq. ft. started with Coastal concerned that it would be hit by the waves and erode the wall to the left of it causing more erosion of this obstruction, that it was important to remove and would give back about 240 sq. ft. of beach, and reviewed other projects they had done in surrounding cities.

Sherry Winkler, applicant, stated that they wanted to live out their lives in their current home, that they worry about their home and the vulnerable bluff below, that they want to protect their property and for the purpose of public safety sakes, they ask for approval.

Dave Winkler, applicant, thanked Staff on their coverage of the project, that they looked at every point of the LUP (Land Use Plan), that they acknowledged that the applicants had made all reasonable efforts, and were in compliance with the LCP and LUP, that they minimized the project, pulled it back onto their property, and contributing sand to the beach.

Public Speakers

Kristin Brinner said that she was a resident of Solana Beach and a co-chair of San Diego Surfrider's Beach Preservation Committee. She stated that she objected to some of the language in the Staff report, that she urged Council to not continue down a destructive path for the entire City resulting in loss of the local beach, that the LCP policy stated that the permit would be valid until the existing permanent structure was redeveloped, that while both of the properties were built before the passage of the Coastal Act in the 1970s they had undergone remodeling since then and ask whether they had been reviewed in terms of the redevelopment stated per the LUP, that the LCP policy stated that when a setback was not achievable that acquisition of the property should be considered if feasible, and asked where was the discussion of alternative options, that there was not reference in the Staff report about whether this was private or public property, that the applicant was taking public property to protect private property, and that private property was being protected at the expense of public property, that if the bluff had naturally eroded over the years it would had had substantial effect on the beach area, that in the Coastal Act it stated that conflicts should resolved in a manner which on balance was most protective of significant natural resources, and asked why the default solution always be short term to build a seawall rather than longer term solutions of beach retreat.

Walt Crampton (rebuttal) said that never had a client who wanted to build a seawall that did not need to build one, that the erosion in the area is in relation to the watershed and urbanizing community which had taken away the sand, that Surfrider's interest was to stop the construction of seawalls and the only effect would be to lose property and safety to the public.

Mr. Winkler stated that he understood that the bluffs provided about 2.5% of what contributes to a healthy beach, that stopping seawalls was not going to restore the beach, that this seawall would increase the recreation area by pulling the wall back on his private property and that they were one of a few property owners whose property is owned to the toe of the bluff so they were cutting of part of their property, so they were contributing to the beach and were stopping the edge way at the end of the City seawall and making the recreation area safe.

Council, Staff, and Mr. Knowlton discussed the calculation of sand that would be deposited and the credit and how that amount being deposited determined the figure calculated, that the fee was calculated by determining how much sand would be lost and the erosion rate that would take away that sand, and they would be taking out some of the wall and depositing it on the beach therefore it would be subtracted from the amount being lost, then a rate of cost per yard of the sand, and that he had reviewed the calculation and were satisfactory.

Motion: Moved by Marshall and second by Zahn to close the public hearing. Approved 3/0/2 (Recused: Nichols, Absent: Heebner). **Motion carried.**

Council and Staff discussed that Staff's position and the City's analysis determined that the project as composed complies with the LUP and could be approved if the findings were made by the Council.

Motion: Moved by Zito and second by Zahn to reopen the public hearing. Approved 3/0/2 (Recused: Nichols, Absent: Heebner). **Motion carried.**

Council and Mr. Knowlton discussed that a portion of the project was on private property and a portion on public property, that the City currently did not have a mechanism to achieve acquisition of property at this point, that the resolution stated that the standard was 24 months to complete but that it was up to Council to consider longer periods of time to allow for completion.

Motion: Moved by Marshall and second by Zahn to close the public hearing. Approved 3/0/2 (Recused: Nichols, Absent: Heebner). **Motion carried.**

Councilmember Marshall said that two experts stated that the bluff was in imminent danger of failure, that she could make all the findings to approve the project with 36 months.

Deputy Mayor Zahn stated that he could make all the findings, that imminent harm was demonstrated, that he agreed with the fee and credit and with the 36 month process since delays could often be out of anyone's hands.

Mayor Zito said that he could make the findings, that this area would not receive sand replenishment, and that he was supportive.

Motion: Moved by Zito and second by Zahn. Approved 3/0/2 (Recused: Nichols, Absent: Heebner). **Motion carried.**

Mayor Zito recessed the meeting at 7:10 p.m. for a break and reconvened at 7:16 p.m.

B.3. 707 North Rios Avenue Request for a Development Review Permit to Demolish an Existing Single-Family Residence and Construct a New Single-Family Residence, Applicants: Jully and Doug Nguyen, Case # 17-15-27. (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 and administratively issue a SDP. 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 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 2016-025** conditionally approving a DRP to allow for the construction of a new 3,794 square-foot, two-story, single-family residence with an attached garage at 707 North Rios Avenue.

Mayor Zito stated that this was a continued hearing, that the full Staff presentation had taken place at the last meeting and to present just the update of changes.

Katie Benson, presented a PowerPoint (on file) reviewing the changes from the last proposal including removing 314 ft., provided a sun study showing minimal impact, and a proposed landscape privacy screen.

Applicant

Doug Nguyen said that he met with the neighbors regarding their new concerns and removed bulk, added screening and landscape, and they quickly reached an agreement.

Council thanked the applicants for their work with the neighbors to respond to their concerns at a rapid rate.

Motion: Moved by Marshall and second by Zahn to close the public hearing. Approved 4/0/1 (Absent: Heebner). **Motion carried.**

Motion: Moved by Marshall and second by Zahn. Approved 4/0/1 (Absent: Heebner). **Motion carried.**

B.4. 703 N. Rios Avenue Request for Development Review Permit (DRP) and Structure Development Permit (SDP), Applicants: Doug and Jully Nguyen, Case # 17-15-20. (File 0600-40)

The proposed project meets the minimum zoning requirements under the SBMC, could be found to be consistent with the General Plan and could be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP and administratively issue a SDP. 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 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 2016-024** conditionally approving a DRP and an administrative SDP to allow for the construction of a new two-story, single-family residence with an attached garage at 703 North Rios Avenue, Solana Beach.

Greg Wade, City Manager, stated that the presentation would show the changes from the last hearing.

Katie Benson, Associate Planner, presented a PowerPoint (on file), reviewing the proposed changes.

Council and Staff discussed that the City engineer provided a statement regarding the

relocation of power line with SDGE easement condition to give room to either underground or relocate the power pole, but that the permit would not issue until it was decided and agreed.

Doug Nguyen (rebuttal) said that they were committed to making the changes needed in the interest of reaching agreement quickly, and that they request that they be approved to go forward with the proposed requirements.

Motion: Moved by Marshall and second by Nichols to close the public hearing. Approved 3/0/2 (Recused: Zito, Absent: Heebner). **Motion carried.**

Motion: Moved by Nichols and second by Marshall. Approved 3/0/2 (Recused: Zito, Absent: Heebner). **Motion carried.**

C.1. Marine Safety Center Feasibility/Needs Assessment Study. (File 0730-30, 0400-10)

Recommendation: That the City Council

1. Adopt Resolution No. 2016-033:

- a. Authorizing the City Manager to enter into a Professional Services Agreement with Stephen Dalton Architects for the preparation of a feasibility/needs assessment study of the Marine Safety Center at Fletcher Cove Park.
- b. Transferring \$20,000 from the Fire Station Repairs project in the City's Capital Improvement Program (CIP) fund into the Marine Safety Feasibility Study project in the City's CIP fund.
- c. Authorizing the City Treasurer to amend the Fiscal Year 2015-2016 Adopted Budget accordingly.

Greg Wade, City Manager, introduced the project and began presenting a PowerPoint (on file).

Mo Sammak, Public Works/Engineering Dir., continued the PowerPoint presentation.

Motion: Moved by Nichols and second by Zahn. Approved 4/0/1 (Absent: Heebner). **Motion carried.**

WORKPLAN COMMENTS:

Adopted June 10, 2015

Mayor Zito stated that he had traveled to Washington regarding sand replenishment Work Plan item.

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.

Mayor Zito disclosed the City paid for his trip to Washington for meetings regarding sand replenishment.

COUNCIL COMMITTEE REPORTS:

Council reported committee activity.

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

- a. City Selection Committee (meets twice a year) – Nichols, Zahn (alternate).
- b. County Service Area 17 – Zahn, Marshall (alternate).
- c. Escondido Creek Watershed Authority – Marshall/Staff (no alternate).
- d. League of Ca. Cities' San Diego County Executive Committee – Nichols, Zahn (alternate) and any subcommittees.
- e. League of Ca. Cities' Local Legislative Committee – Nichols, Zahn (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 – Zito, Zahn (alternate).
- m. San Elijo JPA – Marshall, Zito (both primary members) (no alternates).
- n. 22nd Agricultural District Association Community Relations Committee – Heebner, Nichols.

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

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

ADJOURN:

Mayor Zito adjourned the meeting at 7:50 p.m.

Angela Ivey, City Clerk

Approved: April 27, 2016