

SOLANA BEACH CITY COUNCIL
REDEVELOPMENT AGENCY AND PUBLIC FINANCING AUTHORITY

JOINT **REGULAR** MEETING

MINUTES

WEDNESDAY, JUNE 13, 2007
6:00 P.M.

CITY COUNCIL CHAMBERS
635 S. HIGHWAY 101,
SOLANA BEACH, CALIFORNIA

The City Council acts as the City of Solana Beach Redevelopment Agency and the Public Financing Authority.

CALL TO ORDER AND ROLL CALL:

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

Absent: None.

Also Present: David Ott, City Manager
James Lough, City Attorney
Angela Ivey, City Clerk
Chandra Collure, City Engineer
Dennis Coleman, Finance Dir.
Steve Didier, Management Analyst
Mary Blais, Interim Community Development Dir.

FLAG SALUTE:

Mrs. Strang led the flag salute

APPROVAL OF AGENDA:

MOTION: Moved by Roberts and seconded by Kellejian to approve the agenda pulling Item #6 from the agenda. . **Motion carried unanimously.**

PUBLIC HEARINGS

1. Consider Adoption of the Fiscal Year (FY) 2007-08 Sewer Service Charges at \$508 per Equivalent Dwelling Unit (EDU) (File No. 1040-70)

A. Following the Public Hearing, introduce Ordinance No. 365 amending Section 14.08.060 of Chapter 14.08 of the Solana Beach Municipal

Code Relating to Annual Sewer Service Charge of \$508 per Equivalent Dwelling Unit and Adopt by Reference by the City of Solana Beach.

David Ott, City Manager, introduced the item and reviewed background information for the reasons of the need for increasing the annual EDU to \$508.00, that the proposed charges would cover the administration, maintenance, debt service, and capital costs for the City's Sanitation District improvements.

Mayor Heebner opened the public hearing.

Irene Young, stated that she is an Eden Gardens homeowner and questioned why residents are receiving an increase in fees when sewer bills from the previous year had not been reconciled yet, that this will confuse tax payers, and asked if the residents would receive a bill for sewer charges from last year.

David Ott, City Manager, stated that the sewer charge billing had been mailed out.

Dennis Coleman, Finance Director, stated that due to the Prop 218 requirement and the Bighorn case, the City could not include the sewer increases on the property tax rolls last year, that property owners had to be notified 45 days in advance, that the return envelopes are printed and delivered, that the invoices would be out within the next week. He stated that the option would be to pay the bill in two payments or all at once, and that another bill would be sent out until the bill is paid.

Jim Lough, City Attorney, read the Ordinance title into the record.

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

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

PROCLAMATIONS: None

PRESENTATIONS:

A. I-5 Interchange

David Ott, City Manager, introduced the item and stated that Caltrans would be making a presentation this evening.

Chandra Collure, City Engineer, stated that this project was started in 1997, that the project study was approved in 2001, that Dokken Engineering was awarded the contract in 2001 for the final design, and that the funds came from Transnet and Federal funds.

Caltrans staff member presented a powerpoint presentation of the I-5 Interchange project explaining that the HOV lane was extended to the San Elijo Lagoon, that the project had three components including the Aux lanes and the addition of HOV

extension to the Lagoon and the interchange improvements. He stated that there is good funding for the project, that the HOV would extend to Carol Canyon Rd., that there will be ground breaking for this project in September, and he explained the construction process for the I-5 Interchange project.

Council discussed the construction of the project to begin September 2007, that during the duration of the construction there would be a sidewalk open and one lane on each side would be closed during two consecutive weekends, and that the freeway would never be closed during the construction process.

Council requested a copy of the powerpoint presentation, and asked about the staging of the interchange project, and whether the Northbound off-ramp to Lomas Santa Fe would be the first project to be completed.

Jason Lemintz, Dokken Engineering, reported the stages of the project. He said that Stage 1 is the HOV lane at I-5, that Stage 2 is the Lomas Santa Fe off-ramp, that Stage 3 is lowering the profile of Lomas Santa Fe Dr, and Stage 4 is constructing the remainder of the bridge, widening, and ramps, and Stage 5 would be when construction is complete. He stated that construction on the soundwalls are currently in progress.

Council discussed the concern for loss of parking spaces at Santa Fe Christian School.

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 to the City Clerk (located on the back table). 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. Items can be referred to the City Manager for placement on a future agenda. The maximum time allotted for each presentation is THREE MINUTES as per SBMC . (Be aware of the timer lights on the Council dais.)

Judy Strang (3 minutes donated by Barbara Gordon), Representative from the San Dieguito Alliance thanked the Council for sending two representatives to a presentation on what a Responsible Beverage Sales and Service (RBSS) Ordinance could do. She stated that had to do with the way that alcohol is served and sold in a community, that communities recognize the risk when bars, restraunts, stores, serve alcohol to a minor or intoxicated individuals, that by adopting a policy to train workers on how to avoid illegally selling alcohol to underage youth and intoxicated individuals. She stated that Solana Beach is a leading community in prevention, that the City should look into adopting this ordinance, that through training there is less likelihood that alchol will be served in illegal ways, and that it would benefit the City in numerous ways such as creating a safe place for families to dine, less accidents, and protects servers and sales persons. She stated that there are 51 alcohol licenses in the City, and gave the Council a sample ordinance, and that they would like the City to be the first one to implement a Responsible Beverage Sales and Service Ordinance.

Council discussion to add this item to the Council Workplan, that the Business Liaison

Committee could review this item and bring back a report to the Workplan meeting.

Irene Young, stated that she is requesting help from the Council to obtain all written information from the Vista Sheriffs regarding all criminal activity at the Vista skate park, that this information would assist Solana Beach residents in being aware of issues for a skate park.

Jim Lough, City Attorney, stated that this would be public records request to that agency.

COMMUNITY ANNOUNCEMENTS:

Mayor Heebner stated that the San Diego County Fair theme is a Salute to Heroes, that the Heroes banners are hanging in the City, that Time Warner Cable Government channel would be changing from channel 66 to 24 beginning July 11th, reviewed the upcoming Council meeting schedule, that the Sheriffs Academy began at La Colonia Community Center, and announced the grand opening of Fletcher Cove.

Deputy Mayor Kellejian stated that transit agencies are working to coordinate schedules of the various train services from San Diego to Los Angeles.

Councilmember Roberts stated that a community sing along would be centered around Flag Day, that the North Coast Reperatory Theater 25th anniversary fundraiser is scheduled for June 25th, and that there are openings for the City summer day camps.

COMMENTARY:

Deputy Mayor Kellejian stated that he attended a Sandag meeting and gave a presentation regarding the issue of sand replenishment, that public safety is a problem on the beache and that there have been several incidents of bluffs collapsing, that the City implemented a transient occupancy tax to assist with sand replenishment, and that he attended the career day at Torrey Pines Highschool to represent the City.

Councilmember Roberts stated that the City had a lot of good projects, that the people of the City make the City great, that Fiesta Del Sol was well done this year, and that he and Mayor Heebner presented to a first grade class on leadership.

CONSENT CALENDAR: (Action Items) (Items 1-12)

Items listed on the Consent Calendar are considered routine; however, any member of the public may address the City Council on an item of concern by submitting to the City Clerk a request to speak form 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 all other Consent Calendar items removed by the public will be discussed immediately after approval of the Consent Calendar.

2. Waive text reading of ordinances.

A. Approve waiving the text reading of ordinances on this agenda pursuant

to Solana Beach Municipal Code Section 2.04.460.

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

3. Minutes of City Council meeting.

A. Approve the Minutes of City Council meetings held March 10 (Special), March 14 (Regular and Closed) and March 17, 2007 (Special).

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

4. List of Demands. (File No. 0300-30)

A. Ratify the List of Demands dated April 28 - May 25, 2007.

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

5. Support the San Dieguito Watershed Management Plan. (File No. 0140-90)

A. Adopt Resolution No. 2007-064 supporting the San Dieguito Watershed Management Plan.

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

6. Authorize the Escondido Creek and San Elijo Lagoon Watershed Preservation Area Cooperative Agreement. (File No. 0400-10)

A. Adopt Resolution No. 2007-066 authorizing the City to sign the Escondido Creek and San Elijo Lagoon Watershed Preservation Area Cooperative Agreement.

This item was pulled from the agenda.

7. Authorize the City Manager to execute a contract with Koppel & Gruber Public Finance for Proposition 218 noticing services related to the proposed Solid Waste Fee Increases. (File No. 0410-10)

A. Adopt Resolution No. 2007- 075 authorizing the City Manager to hire the firm of Koppel & Gruber to provide services, not to exceed \$18,290, related to the Proposition 218 noticing requirements and amending the FY 2006-07 Budget.

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

8. Authorize Purchase of Lomas Santa Fe Drive at Lomas Santa Fe Plaza Traffic Signal Poles Required for the I-5 Interchange Project. (File No. 0820-75)

- A. Adopt Resolution No. 2007-062 authorizing the Finance Director's issuance of the purchase order in the amount of \$17,002.95 to Ameron Pole Products Division c/o Pacific Lighting Sales for the purchase of traffic signal poles on Lomas Santa Fe Drive at Lomas Santa Fe Plaza.

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

9. Re-Establish the La Colonia Needs Assessment Ad Hoc Committee. (File No. 0120-90)

- A. Adopt Resolution No. 2007-063 re-establishing the La Colonia Needs Assessment Ad Hoc Committee.
- B. Appoint Mayor Heebner and Councilmember Nichols to serve on the Committee.

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

11. Adoption of the 2007-2008 Fire Benefit Fee. (File No. 0390-23)

- A. Adopt the Resolution 2007-069 setting the 2007-2008 Benefit Fee at \$10.00 per unit for levying on the tax roll.

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

12. Adoption of FY 2007-2008 Municipal Improvements Districts Benefit (MID) Fees. (File No. 0495-20)

- A. Adopt Resolution No. 2007-070 setting the benefit charges for Municipal Improvement District #33 for Fiscal Year 2007-08. MID #33 - Highway 101/Railroad Right-of-Way (Fee \$3.12/unit -- Revenue \$11,500)

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

- B. Adopt Resolution No. 2007-071 setting the benefit charges for Municipal Improvement district Number 9C for Fiscal Year 2007-08. MID #9C - Santa Fe Hills (Fee \$232.10/unit -- Revenue \$94,700)

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

- C. Adopt Resolution No. 2007-072 setting the benefit charges for

Municipal District Number 9E for Fiscal Year 2007-08. MID #9E - Isla Verde (Fee \$68.74/unit -- Revenue \$6,000)

MOTION: Moved by Heebner and seconded by Nichols (Absent: Roberts recused due to living within the assessment area.). **Motion carried 4/0** (Absent: Roberts.)

Councilmember Roberts Recused due to living within the Isla Verde District.

D. Adopt Resolution No. 2006-073 setting the benefit charges for Municipal Improvement District Number 9H for Fiscal Year 2007-08. MID #9H - San Elijo Hills #2 (Fee \$289.58/unit -- Revenue \$34,200)

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

10. Establish Ad Hoc Interim Fee Program guidelines for Bluff Retention Device Projects under Chapter 17.62 of the Solana Beach Municipal Code. (File No. 0740-80)

A. Adopt Resolution 2007- 042, which approves the ad hoc fee guidelines contained therein.

David Ott, City Manager, stated that reviewed the item explaining that the City has four pending permits for bluff retention devices and two of them on this agenda. He said that a fee structure needs to be set in order to proceed with the permit review and will be needed in order for the Local Coastal Plan to be approved.

James Lough, City Attorney, said that the citizens ad hoc committee has been working o this issue for some time, that this resolution's purpose is to establish fees on an ad hoc basis since there is not a fee in place now in order to move forward with the process, that a fee deposit was not resolved among the citizen committee at the time of the agenda and that there was not a vote or consensus regarding this fee amount, that he decided on \$25,000 fee deposit to land use fees and sand fees in order to set a reasonable amount and to limit any initial challenges for the fee, that there should not be any challenges for the basis of the fee, and that the fee deposit should be consistent among all applicants unless there are significant circumstances.

Jim Jaffe confirmed that there was not consensus on the fee deposit amount, that his worksheet contained considerations for Coastal Commission fees, average fees in the past and other documented rates, he said that Dwight Worden will not be working on the committe any longer due to personal commitments, he agreed on having consistency among applicants, that the Coastal Commission does not have jurisdiction on the easement properties in the areas, and recommended that the City use .4 ft. per year for 75 years and add to the resolution that the fee deposit could be as high as \$1,000,000 per 50 ft.

James Lough, City Attorney, confirmed that the committee did not take a vote for the fee inclusion and amount, this is something that is not always done so it is being explored

carefully and that he chose these initial fees to keep the process moving with more discretion.

Marco Gonzales, Attorney for Surfrider, said that there is nothing that prevented the two applicants on this agenda from them from beginning environmental review, that these permits may not qualify as emergency, bluff top owners want to use the most aggressive rate when it considers their homes and when it is for sand mitigation they want to use the least erosion rate, and that that benefit to properties is immediate with a permit approved and the City should be able to capitalize on the interest of a more significant fee by allowing them to act as emergency walls rather than planning ahead.

David Winkler said that he agreed that the amount of 25k-50k was not an agreement but was used hypothetically so it is not the final resolution but for an interim period, the number used for Las Brisas was around \$249,000 and that association gave up the informal challenge, the question is what % of the estimated fee, to disclose the range of fees up front to prepare the applicant, and that the goal is to be fair and reasonable.

Councilmember Roberts said that he did talk to Jim Jaffe after the meeting about the fee and that this fee deposit is too low, and suggested considering a different way to assess it maybe \$1,000 per linear foot, that refunds would be returned with interest to the applicant and not duplicative of coastal fees.

David Winkler responded to Council's questions stating that he agreed that it is within the range of what staff already recommended and it is a good idea to have an objective formula approach because there is some rational nexus, and that the committee seems intact, use formula but the analysis is respect to the ultimate fee charged, and that it is difficult to assess until a peer reviewed objective analysis by the best consultant that the City can hire is done.

James Lough, City Attorney, said that staff did not suggest the per linear foot approach because in filling a sea cave, seawall and upper bluff it is difficult to determine where to measure, either calculating the cumulative or each one individually.

Councilmember Nichols said he would support one fee for the standard size lot and over 50 ft. would be an oversize lot and that if they are doing an infill but one fee fits all.

James Lough, City Attorney, said that the condition of approval would be subject to the approval of the City Attorney so that it could include the assessment of letters of credit, various legal elements, and that conditions would be met through deed restrictions that would run with the land.

Council and staff continued discussion regarding weighing longest or widest, that the \$1,000 per linear lot size ft. seems like a good compromise, that walls are classified in different levels and whether they should be paid accordingly, to charge \$1,000 per linear lot size ft. for widest portion of seawall, that this is just a deposit and not the full fee, and that the walls are classified in different levels as upper bluff and lower bluff, to use the longest section to charge for.

James Lough, City Attorney, read the motion referencing Section 5 "the recommended deposit shall be based on \$1,000 per linear ft. of the longest portion of the bluff retention device approved. Add two sentences "the applicant shall be refunded any amount of fees in excess of fees assessed with interest, and returned as determined by the Finance Director on the money deposited."

James Lough, City Attorney, said that the reference to the fee "as high as " would be placed in the application rather than the resolution.

MOTION: Moved by Roberts and seconded by Nichols to approve with modifications: The recommended deposit shall be a one thousand dollars per linear foot of the longest portion of the bluff retention device approved, that the applicant shall be refunded any amount deposited in excess of the amount of the total fees assessed with interest. Interest shall be received based on the return as determined by the Finance Dir. on the money deposited. . **Motion carried unanimously.**

PUBLIC HEARINGS continued: (Items 13-15)

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 to the City Clerk (located on the back table). 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 designee 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 three-minute timer light on the Council Dais.

13. Streetlight Assessment for Fiscal Year 2007/08 and Adoption of Resolution renewing the Solana Beach Lighting District and confirming the Engineer's Report. (File No. 0495-20)

- A. Accept public testimony.
- B. Adopt Resolution 2007-077 confirming the diagram and assessment; providing for the levy of the annual assessment in a special maintenance district; confirming the Engineer's Report; and ordering the transmission of charges to the County Auditor for collection.

David Ott, City Manager, introduced the item stated that in every year the costs for this district go to Council for approval, and that there is no fee increase recommended for this year.

Mayor Heebner opened the public hearing.

There were no speakers for this item.

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

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

14. Emergency Request for a Conditional Use Permit to construct a Bluff Retention Device consisting of a sea cave infill of an existing 20+ foot deep sea cave with concrete, and a 170-foot long, 35 foot high, free form, structural shotcrete tied back wall extending along the base of the bluffs for the properties and geogrid reinforced rebuilt sloping upper bluff located at 417 and 423 Pacific Avenue, Solana Beach (Case No:# 17-06-18); Applicant: Burns / Matchinske. (File No. 0610-60)

- A. Find the project exempt from the requirements of CEQA pursuant to 2007 State California CEQA Guidelines §15269(b) as a documented emergency exists; and
- B. Adopt Resolution 2007-084 which approves the project subject to the conditions state therein.

David Ott, City Manager introduced the item and stated that this property has a sea cave below it, and that Leslea Meyerhoff, Consultant would give a power point presentation on this item.

Leslea Meyerhoff, Consultant, gave back ground information on the projects, that the application was submitted in May 2006 and that the City could not act on it due to pending litigation. She stated that this project is before the City Council as a conditional use permit because of the City Council Policies that strictly regulate new seawalls, that seawalls have unique requirements, and that a Coastal Commission permit is also required for this project. She stated that an emergency permit was issued by the City in 1998, that there has ben continued errosion since this time, that this seacave is 20 feet deep at this time, and that a collapse is eminent.

Council discussion ensued on the set backs required for the homes on Pacific Avenue, that geolocial reports would be required for certain unstable areas of the City, and whether the Coastal Commission would allow for any temporary irrigation within 100 feet of the bluff edge.

Leslea Meyerhoff, Consultant, stated that the Coastal Commission allows for temporary irrigation for drought resistant species and that after the plants are established they would rely on natural irrigation methods.

Council discussion ensued on questions about wording in the staff report and resolution that would conditionally approve the project, what would occur if a homeowner built a minimum size home but would be then require a seawall, and whether the owner would have to chose to build a minimum size home or a sea wall.

Jim Lough, City Attorney, clarified questions for the Council and stated that in the year 2081 the bluff retention devices would be taken down unless they can meet some very strict requirements that would allow them to remain on 20 year increments.

David Winkler, stated that he was a member of the ad-hoc committee, that Dwight Warden who is on the committee had concerns that if a property owner was not entitled to build a minimum size home there would be property rights violations issues. He stated that if a minimum size home encroached on the geological set back that the homeowner would not be able to build a seawall and the homeowner would have to decide whether or not to waive those rights of building a minimum size home or building a sea wall.

Council discussion ensued on whether the City has first right of refusal on the property if the owner sold the property and whether the City would have the first right of refusal to purchase the home.

Jim Lough, City Attorney, stated that there are provisions that would allow the City to purchase the property, explained the process of how the first right of refusal would work, and stated that the City has the first right to offer the property prior to the first right to refusal.

Council discussion ensued regarding irrigation systems and requirements on the property and types of landscape for bluff properties.

David Winkler, responded to the City Council and stated that there is no permanent irrigation, that some irrigation is allowed that would not contribute to bluff failure, that there is different language on the resolution before Council tonight and the Draft Local Coastal Plan, and Council should look at the language in both of the documents since there is conflicting language.

Mayor Heebner opened the public hearing.

Walt Crampton, Engineer for the applicant, stated that this is the largest sea cave in Solana Beach, that the sea cave above Mr. Winker's home collapsed in 1987, that Sea Scape Surf sea cave collapsed in 1983, and that these sea caves immediately caused failures to the top of the bluffs and the same would occur today. He stated that this cave will collapse as others have, that it is dangerous for people on the beach, and that this cave is very unstable and will collapse in the near future.

Greg Moser, Attorney for the applicant, stated that he worked on the Las Brisas litigation, that Council received a document from Surfrider Foundation on why this project should not be approved, that the arguments in the document were the arguments that were rejected by the Trial Courts, and that these are not new arguments but arguments that had been made for the last three years.

Brad Burns, applicant, stated that this is a safety issue, that kids play almost everyday in the cave, that the cave is worse than it had ever been, and that Council has to take action.

Jim Jaffey not present when called.

Marco Gonzalez, stated that the facts are that the bluffs are eroding, there have been 19 emergency exemptions granted in Solana Beach, that people in the City should be put on notice that an emergency situation will exist and they should go through CEQA today, that in 2006 the geotechnical engineer stated that this eminent that this will fall within 12 months, and the people of the City should be informed that the bluffs in the City will fall, and that at one point they will be before the Council for an emergency permit. He stated that the people of the City should follow the process and the law, that the process is being manipulated, and that there is no sudden or unexpected bluff failure in the City of Solana Beach.

Todd Cardiff (3 minutes donated by Marti Vincent), stated that the Surfrider Foundation is objecting to the process, that the Council cares about the environment, and that he appreciates that these properties have to comply with conditions of the draft LCP. He showed various slides of the coastline from 1979 through 2006 showing erosion of the bluff along this area. He stated that a problem with emergency permits is that this problem had been existing for a long time and the applicant could've gone through the CEQA process, that the home could be moved back from the bluff, that this option would be cheaper than building a seawall, and that there could be other options to look at.

Togen Johnson (3 minutes donated by Clayton Palmer), stated that the homeowners along the bluff did not create the bluff condition it existed before the homes were built. He showed a slide show of the sea cave, that the cave grows with the waves hitting it, he showed a slide of a piece of bluff that had fallen, he stated that each situation needs to be looked at, that the bluff collapses without notice, that geologic processes happen slowly, that if the bluff collapses it would close the entire beach, that property owners are armoring a bluff to protect a public beach, and that the application for an emergency permit is urgent as the situation is getting worse.

Walt Crampton, Engineer for the applicant, stated that he commends the Council and attorney for dealing with the challenges of Surfrider, that the Coastal Commission will still review this project very carefully, that they are waiting for the City to hear this project, and that he proposes that this project is for a sea cave that will collapse in the near future.

Brad Burns, Applicant, stated that he did buy the house knowing that there was erosion, that he did not know how quickly the sea cave was going to erode, that this is about public safety and not about his house.

Jim Nolton, President of GeoPacifica, stated he is a third party consultant for the City. He stated that he had been doing the same kind of work for Encinitas and Oceanside. He stated that he received the reports for compliance for the Ordinances of the City, he reviewed reports for standard of practice for the geotechnical reports, reviewed all materials used for their analysis of the bluff condition, that he had worked on various issues with bluffs in Solana Beach, that this project meets the findings for the City, that there is a safety factor of 1.0 that is looked at, that the driving force and resistance force is equal, that eminent is that any point in time the slope could fail, and that the

conclusion is that this project meets all findings required for an emergency permit.

Council discussion ensued on irrigation of the bluffs, and questioned the Jim Nolton regarding the safety of irrigating bluffs due to water causing erosion.

Jim Nolton, President of GeoPaifica, stated that there is some allowance of irrigation on bluffs temporarily and there is strict regulation of any irrigation used on the bluffs.

Council discussion ensued on concerns that the public was not given enough time to review the analysis done by the third party reviewer on the bluff condition and that Council did not have ample time either to review the document.

Jim Lough, City Attorney, stated that the document was not ready in time for the agenda and that the third party reviewer was present at the meeting to give Council a report on his conclusion that the bluff was considered an emergency situation, and that Council can make decisions based on documents for the agenda and also public testimony, and that having the third party reviewer present allowed for Council to ask questions.

Council discussion ensued with Jim Nolton on the how the bluff was determined to be an emergency situation, and what analysis was done to come to that conclusion.

Council disclosures on the site and property.

Council discussion ensued on whether the nine findings can be met. Council discussion on whether moving the structure is another alternative.

Jim Lough, state that there was not enough space to move the home, and that it was not a feasible method. Council discussion and City Attorney discussion ensued on the the feasibility of moving the home and whether that would prevent the need for building a seawall.

Council discussion ensued on going through the list of the nine findings on whether they can be met. Council came to consensus that all nine findings can be met to grant the emergency permit for the project.

Jim Lough, City Attorney, stated that Council would be incorporating two conditions including incorporating all appropriate LCP conditions the conditions will be listed in the resolution and the fee issue will be addressed based on the fee policy established. If Council approves the project the resolution will be brought back at a future meeting to review the resolution to ensure that all conditions are included that should be.

Council discussion ensued regarding the definition of temporary irrigation due to Coastal Commission enforcing no irrigation within 100 feet of the bluffs edge, anything outside 100 feet can be irrigated but only with adequate drainage, that the hydroseed used on the bluff face does not need temporary irrigation, that the hydroseed will be applied during a wet season and manual watering could be used when needed, and that any hydroseed on the face of the bluff needs to meet the criteria of the native, non-irrigated, drought tolerant, salt tolerant pallet to be reviewed by City Staff, and that these conditions should be applicable to all projects not only this project.

Jim Lough, City Attorney, stated that the definition of temporary irrigation can be added as a condition of approval. City Attorney reported that these conditions would be added to the resolution brought back to Council for review and approval.

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

MOTION: Moved by Campbell and seconded by Kellejian to approve with modifications that will be brought back in a resolution for final confirmation. . **Motion carried unanimously.**

Mayor Heebner recessed the meeting for a break at 10:00 p.m.

Mayor Heebner reconvened the meeting at 10:05 p.m.

15. Emergency Request for a Conditional Use Permit to construct a seawall, 75 feet in length, from the elevation of 15-feet to the elevation of 35-feet to support the upper half of the sea cliff and the toe of the sloping upper bluff against failure for the properties located at 311 and 319 Pacific Avenue, Solana Beach (Case No: 17-06-17); Applicant: Hajjar Properties. (File No. 0610-60)

- A. Find the project exempt from the requirements of CEQA pursuant to 2007 State California CEQA Guidelines §15269(b) as a documented emergency exists; and
- B. Adopt Resolution 2007-061, which approves the project subject to the conditions state therein.

David Ott, City Manager, introduced Leslea Meyerhoff, Consultant to presents a power point on the item.

Leslea Meyerhoff, Consultant, stated that this application was submitted in May 2006 and had not been acted on due to pending litigation, that this application became an emergency in April 2007, that the goal of the retention device would be to support the upper bluff and toe of the sloping bluff against failure, and that no landscaping or irrigation is proposed for this project.

Leslea Meyerhoff, Consultant, stated this conditional use permit is required due to Council policy that regulates the building of sea walls, that Council approved the infill of the cave on February 2000, that it was approved for modification in December 2000, and that the applicants could not meet all Coastal Commission conditions so the permit expired in November 2005. She stated that this project is continued an emergency due to continued erosion of the bluff, that both geotechnical engineers are in agreement that this is an emergency situation, and that the public and structures on the bluff are in imminent danger if the bluff collapses.

Council discussion ensued on the Coastal Commission requirements for the upper and lower bluff, and whether the applicant would be able to meet the Coastal Commission requirements at this time.

Mayor Heebner opened the public hearing.

Walt Crampton, Engineer for the applicant, showed a series of photo slide to demonstrate the continued erosion that has occurred on this property. He stated that they had been began working with the Coastal Commission on this project in 2000, that the project has been approved by the Coastal Commission, and that the project needs approval by the Council.

Jim Jaffey, not present when called.

Marco Gonzales, stated that the applicants do not go through the CEQA process until it became an emergency condition, that it is known that there is continued erosion of the bluffs, that nothing gets done, that the Council and public deserve more information on these types of projects.

Todd Cardiff, not present when called.

Walt Crampton, Engineer for the applicant, stated that he appologized implying that there are no environmental reviews, that most of the time there are negative declarations filed on behalf of projects, that the projects are reviewed, and that his intent was not to imply that there are no Environmental Reviews they are still evaluated.

Mark Hajar, applicant, stated that he is not opposed to what Surfrider wants, that he is environmentally sound, that he is asking for lateral support for public safety, that there could be a lot of arguments made, that they had been working on this for a long time, and that not approving it could be risky for public safety.

Mayor Heebner closed the public hearing.

Jim Lough, City Attorney, stated that the same standards applied to the previous project should be added to this resolution.

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

MOTION: Moved by Roberts and seconded by Heebner to approve with modifications that will be brought back in a resolution for final confirmation. . **Motion carried unanimously.**

ORDINANCE INTRODUCTION: 1st Reading (Item #1 and 21-23)
Submit speaker slips to the City Clerk

21. Report On Condo-Hotel Issue, Request for Direction on Permanent

Regulations And Request To Extend The Interim Ordinance To Prohibit Maps Or Permits For Condominium Maps Or Permits For Condo-Hotels During An Extended Study Period For 120 Days. (File No. 0610-10)

- A. Give Staff direction as to whether to process a regulatory ordinance to develop a ban of the condo-hotel ownership method for hotels in the Commercial Zone or allowing for restrictions on condo-hotel uses.

- B. Adopt Ordinance 364 extending the current moratorium an additional 120 days to the previously approved moratorium while the City Staff brings back a proposal to either ban or regulate condo-hotel projects in the City of Solana Beach.

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

Jim Lough, City Attorney read the title of the Ordinance into the record.

STAFF REPORTS: (Items 16-20)

Submit speaker slips to the City Clerk.

16. No item. Pulled from agenda after numbering was complete.

17. Award Solana Circle Guardrail, Bid No. 2007-05, to Area West Fence Company. (File No. 0350-80)

A. Adopt Resolution No. 2007-065:

David Ott, City Manager, introduced the item and stated that there had been numerous requests to replace the guardrail.

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

18. Adoption of City Investment Policy. (File No. 0350-80)

A. Adopt Resolution No. 2007-068 approving the City's Investment Policy for fiscal 2007-2008.

This item was not heard and was adjourned to the June 19, 2007 meeting.

19. Establish Fixed Dates for City Council Sub-Committees Meetings. (File No. 0410-20)

A. Receive report, City Council discussion, and provide direction.

This item was not heard and was adjourned to the June 19, 2007 meeting.

20. Establish the Appropriations Limit for Fiscal Year 2007/08. (File No. 0330-30)

A. Adopt Resolution No. 2007-074 establishing the 2007/08 Appropriations Limit in accordance with Article XIIB of the California Constitution and Government Code Section 7910 to be 24,668,117.

This item was not heard and was adjourned to the June 19, 2007 meeting.

ORDINANCE INTRODUCTION: CONT'D 1st Reading (Item #1 and 21-23)

23. Describing the Redevelopment Agency's Eminent Domain Powers, As Required By California Health and Safety Code Section 33342.7(A) (SB 53) (File No. 0115-22) Recommendation: That the City Council

A. Introduce Ordinance No. 366 describing the fact that there is not an eminent domain program to acquire real property in the Redevelopment Agency Project of Solana Beach, therefore it does not have the power of eminent domain.

Jim Lough, City Attorney, stated that since the Keylo decision on takings there had been a series of legislative enactments that put new requirements on Redevelopment Agencies, that SP53 was approved last year and required every City with an RDA to describe to their eminent domain policy to the public even if the City had no policy. He stated that State law required the City to act on this by July 1st, and that this item was to confirm that the City does not have eminent domain program to acquire real property.

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

22. State and City Video Franchises (File No. 1000-10)

Recommendation: This item was pulled from the agenda.

A. Introduce Ordinance No. 363

This item was not heard and adjourned to the June 19th Council meeting.

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.

WORKPLAN COMMENTS: (Adopted June 28, 2006)

Material is located in front section of agenda binder.

COUNCIL COMMITTEE REPORTS:

Please state the committee you are speaking to before making each report.

Regional Committees: (outside agencies)

1. **California Cities Contract Association (CCCA) - Roberts, Heebner (alternate).**
2. **City Selection Committee - Kellejian (meets twice a year)**
3. **County Service Area 17 - Campbell, Nichols (alternate).**
4. **Escondido Creek Watershed Authority - Nichols, Roberts (alternate).**
5. **League of Ca. Cities' San Diego County Executive Committee - Roberts, Kellejian (alternate).**
6. **League of Ca. Cities' Local Legislative Committee - Roberts, Kellejian (alternate).**
7. **League of Ca. Cities' Coastal Cities Issues Group (CCIG) - Roberts, Kellejian (alternate).**
8. **North County Dispatch JPA - Nichols, Campbell (alternate).**
9. **North County Transit District - Roberts, Heebner (alternate).**

next mtg on June 21st in coeanside smart parking project, paid parking at coaster station, pay to reserve parking at those coaster stations, up to local jurisdictions of how to enforce,

Adjourned to an adjourned regular meeting on June 19th at 6:00 p.m.

10. **Regional Solid Waste Association (RSWA) - Nichols, Kellejian (alternate).**
11. **SANDAG - Heebner (Primary), Roberts (1st alternate), Nichols (2nd alternate).**

12. **SANDAG Shoreline Preservation Committee - Kellejian, Roberts (alternate).**
13. **San Dieguito River Valley JPA - Roberts, Nichols (alternate).**
14. **San Elijo JPA - Campbell, Roberts (both primary members) (no alternates).**
15. **22nd Agricultural District Association Community Relations Committee - Roberts, Campbell (alternate).**

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

1. **Business Liaison Committee - Roberts, Campbell.**
2. **School Relations Committee - Roberts, Campbell.**
3. **Public Arts Committee - Roberts, Nichols.**
4. **Traffic Transportation - Heebner, Kellejian.**
5. **Highway 101 / Cedros Ave. Development Committee - Heebner, Nichols.**

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

1. **Local Coastal Plan Ad-Hoc Committee - Roberts, Campbell. Expires February 14, 2008 or at the California Coastal Commission adoption.**
2. **Sand Replenishment Alternative Review - Kellejian, Campbell. Expires November 8, 2007.**
3. **Views and Vegetation Subcommittee - Roberts, Nichols. Expires November 8, 2007.**
4. **User Fee Ad-Hoc Committee - Roberts, Campbell. Expires June 30, 2007.**
5. **Development Review - Heebner, Nichols. Expires November 29, 2007.**
6. **La Colonia Park Needs Assessment - Heebner, Roberts. Expires June 30, 2007.**
7. **Condohotel - Heebner, Campbell. Expires October 24, 2007.**

ADJOURN:

UPCOMING CITIZEN CITY COMMISSION AND COMMITTEE MEETINGS:

Regularly Scheduled or Special Meetings that have been announced as of this Agenda Posting.

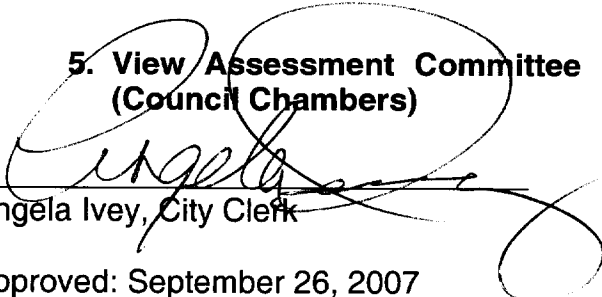
1. **Budget & Finance Committee Thursday, July 21, 2007, 6:00 p.m.
(Council Chambers)**

2. **Public Arts Advisory Commission Tuesday, July 10, 2007, 3:30 p.m.
(Council Chambers)**

3. **Parks & Recreation Commission Thursday, June 14, 2007, 4:00 p.m. (La
Colonia Park)**

4. **Public Safety Commission Tuesday, July 10, 2007, 6:30 p.m. (Council
Chambers)**

5. **View Assessment Committee Tuesday, July 17, 2007, 6:00 p.m.
(Council Chambers)**



Angela Ivey, City Clerk

Approved: September 26, 2007