SOLANA BEACH CITY COUNCIL REDEVELOPMENT AGENCY AND PUBLIC FINANCING AUTHORITY

JOINT REGULAR MEETING

MINUTES

6:00 P.M. WEDNESDAY, OCTOBER 28, 2009

ADJOURNED REGULAR

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

CALL TO ORDER AND ROLL CALL:

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

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

Absent: None.

Also Present: David Ott, City Manager

Johanna Canlas, City Attorney

Angela Ivey, City Clerk

Dennis Coleman, Finance Director

Wende Protzman, Dir. Admin. Serv/Deputy City Mgr

Tina Christiansen, Community Dev. Dir.

Mo Sammak, City Engineer/Public Works Dir.

FLAG SALUTE:

Mayor Nichols led the flag salute.

APPROVAL OF AGENDA:

<u>MOTION:</u> Moved by Heebner and seconded by Campbell. **Motion carried** unanimously.

PROCLAMATIONS:

1. Red Ribbon Week

Mayor Nichols presented Proclamations to eleven schools, Carmel Creek Elementary School, Skyline Elementary School, Solana Highlands Elementary School, Solana Pacific Elementary School, Solana Santa Fe Elementary School, Solana Vista Elementary School, Santa Fe Christian, St. James Academy, Canyon Crest Academy, Earl Warren Middle School, Torrey Pines High School.

Councilmember Kellejian stated that he discussed with the Mayor and asked if everyone could take a moment of silence in honor of the serious recent auto accidents.

PRESENTATIONS:

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.

Christy Guerin announced that an event honoring Joe Kellejian as a distinguished citizen would be taking place.

COMMUNITY ANNOUNCEMENTS:

Council reported community announcements.

COMMENTARY:

Council reported commentary.

A. <u>CONSENT CALENDAR: (Action Items)</u>

Items listed on the Consent Calendar are to be acted in a single action of the City Council unless pulled for discussion. Any member of the public may address the City Council on an item of concern by submitting to the City Clerk a speaker slip (located on the back table) before the Consent Calendar is addressed. Those items removed from the Consent Calendar by a member of the Council will be trailed to the end of the agenda, while Consent Calendar items removed by the public will be discussed

immediately after approval of the Consent Calendar.

A.1. Waive the reading of Ordinances.

Recommendation: That the City Council

1. Approve waiving the text reading of ordinances on this agenda pursuant to Solana Beach Municipal Code Section 2.04.460.

<u>MOTION:</u> Moved by Roberts and seconded by Heebner. **Motion carried** unanimously.

A.2. Minutes of the City Council.

Recommendation: That the City Council

1. Approve the Minutes of the City Council meetings held January 14, 2009 (Regular) and March 11, 2009 (Regular and Special).

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

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

Recommendation: That the City Council

1. Ratify the list of demands for September 26 - October 9, 2009.

<u>MOTION:</u> Moved by Roberts and seconded by Heebner. **Motion carried** unanimously.

A.4. Proposition 1A Securitization Financing Program. (File 0400-10)

Recommendation: That the City Council

 Adopt Resolution 2009-129 approving the form of and authorizing the execution and delivery of a Purchase and Sale Agreement and related documents with respect to the sale of the Seller's Proposition 1A Receivable from the State; and certain other actions in connections therewith.

<u>MOTION:</u> Moved by Roberts and seconded by Heebner <u>Motion carried</u> unanimously.

A.5. Nature & Culture International, Inc. (NCI) Memorandum of Understanding. (File 0230-45)

Recommendation: That the City Council

1. Adopt Resolution 2009-126 authorizing the City Manager to sign the Memorandum of Understanding with NCI allowing the placement of its hyperlink on the City's website.

<u>MOTION:</u> Moved by Roberts and seconded by Heebner. **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:

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. <u>Development Review Permit at 417 Pacific Avenue, Applicant:</u> <u>Caccavo, Case No. 17-09-06 Applicants.</u> (File 0600-40)

Recommendation: That the City Council

- 1. Report City Council disclosures;
- 2. Conduct the Public hearing: Open the Public Hearing, Receive Public Testimony, Close the Public Hearing;
- Find the project categorically exempt from the California Environmental Quality Act pursuant to Section 15301 of the 2009 State CEQA Guidelines; and

4. If the City Council makes the requisite findings and approves the Project, adopt Resolution 2009-098 conditionally approving a Development Review Permit to remodel an existing single-family residence on property at 417 Pacific Avenue.

David Ott, City Manager, introduced the item.

Leslea Meyerhoff, Staff consultant, presented a powerpoint.

Council and Staff discussion ensued regarding no changes to the existing rooflines or to the existing decks, that stop orders were issued due to complaints about work done and due to the project inspections, that the applicant would be required to pay double permit fees in penalties for work that had been done without permits, and the irrigation system requirements for the project.

Council reported their disclosures.

Mayor Nichols opened the public hearing.

Jack Henthorn, applicant's representative, stated that the first stop order was issued during the initial design period when remodeling needs were still being determined, and that permits were filed once determinations were made. He stated that the second stop work order was issued due to the contractor removing additional dry rot that had been identified, that the applicant had complied with all Coastal Commission requirements, that the applicant concurred with all recommendations made in the Staff report, and that the Development Review Permit (DRP) should be granted.

Council, Staff, and Mr. Henthornand discussed the applicant's surveyor conclusion that the distance between the top of the bluff and the closest point of the structure was 16 feet, that the City never received a copy of the surveyor report, that the report was provided to the Coastal Commission, that the City determined that the distance was ten feet from a Soil Engineering Construction Report and a report provided by GeoPacifica, that the structure was still within the required 25 foot range, and that the stop work order was issued due to internal structural changes that were not provided on the original plans.

<u>MOTION:</u> Moved by Roberts and seconded by Heebner to close the public hearing. **Motion carried unanimously.**

Council discussed that the City should work on developing methods to recover costs related to additional Staff time required to inspect and impose penalties on projects with non-permitted work.

Council discussed the revised language of the Development Review Permit which was provided as a supplemental item, that the revised language stated that neighbor disputes regarding vegetation and view impairment was a civil matter and should be enforced between the private parties.

Johanna Canlas, City Attorney, stated that the Development Review Ad Hoc Committee would be providing the Council with a recommendation regarding revisions to the Development Review Permit findings, that the supplemental item was due to a prior discussion regarding the City incurring costs over view disputes, and that Council had discretion whether or not to include the supplemental language as part of this project.

Councilmember Campbell stated that he was opposed to adding language regarding a view impairment issue due to the fact that the Council had not discussed the issue, that the Ad Hoc had not reviewed it, and that the code had not been revised.

Johanna Canlas, City Attorney, stated that the City had language regarding view obstruction in the DRP findings, there was not a process such as a view ordinance in place, that there were already private agreements in existance, that the City was asked to enforce the provisions, that any enforcement of private agreements would be the responsibility of the parties, and that there was no process in the code for enforcement of privately negotiated agreements.

<u>MOTION:</u> Moved by Kellejian and seconded by Heebner to approve the Staff recommendation and to direct staff to review recovery of costs to recover staff time of appraising project penalties.

Motion carried unanimously.

B.2. Minor Subdivision (SUB), Development Review Permit (DRP) and Structure Development Permit (SDP) at 823 Vera Street, Applicants: Kettering and Davis, Case # 17-08-24. (File 0600-40)

Recommendation: That the City Council

- 1. Report City Council disclosures;
- 2. Continue the Public hearing, Receive Public Testimony, Close the Public Hearing;
- 3. Find the project exempt from the California Environmental Quality Act pursuant to Section 15332 of the State CEQA Guidelines; and
- 4. If the City Council makes the requisite findings and approves the

Project, adopt Resolution 2009-118 conditionally approving a DRP, SUB and the administrative issuance of an SDP for the project to construct four new three-story, multiple-family residences at 823 Vera Street.

David Ott, City Manager, introduced the item.

Tina Christiansen, Community Development Dir., presented a powerpoint (on file).

Mayor Nichols stated that he was not present at the last hearing on September 9th, that he had discussed with the City Attorney and since that the only item covered at the last meeting was the fire lane and it was resolved, he would be able to sit in on the item.

Mayor Nichols reminded everyone that the public hearing was still open.

Consensus was reached among Council to give the applicant another 15 minutes to address the Council.

Council reported disclosures and their familiarity with the project.

Council discussed the distance between the units, where the landscape would be located throughout the project, that the applicant could not convert the area to a living space and that a garage was required, that the guest parking did comply with the off-street parking requirements, the stair was not properly drawn, address assignments had to be done by the post office, whether egress and ingress be required for emergency, and that a gate was not proposed.

Andres Davis, applicant, said that the project had been covered pretty well, that a panel in question was architectural.

Council and applicant discussion ensued regadring some inset area that was a panel to give some depth, that there was a window that could be opened but there was not a patio, under the window, referenced the patio area, that everyting had been set back due to the topography of the site, that the project could barely be seen from Ida, and clarified some other areas including a walkway arbor that was not a formal structure.

<u>MOTION:</u> Moved by Roberts and seconded by Heebner to close the public hearing. **Motion carried unanimously.**

Councilmember Heener said that she had spent a lot of time in Eden Gardens to review this project, that she could not make Finding #2, adjacent land use, that it was massive and not complimentary to the neighborhood, that many projects

being proposed were getting larger, that this street would be subject to more development in the future and could set a precedent in the area, and that she was not able to support the project.

Mayor Nichols said that he spent some time on the project today, that these 4 residences would be the top 6 in the neighborhood in size but were all within one development, that 8-10 letters had been received, and that it was difficult to come talk against neighbors, and that he could not support it.

Deputy Mayor Campbell said he agreed with comments, that he realized that this area woud be developed, that this project would be out of character with what was there, some are large on larger lots, that this was discretionary, that he problems with the height, that he agreed that this site needed redevelopment, and that he would not support it for same reasons.

Councilmember Kellejian said he spent time in the neighborhood reviewing this project, that it was below requirements, that he would not support any increase in height other than what was presented, that he had been clear on his opinion regarding the bulk and scale criteria absent of a toolkit to help judge it, and that he would support the project with the exception of the height increase.

MOTION: Moved by Campbell and seconded by Heebner to re-open the public hearing. **Motion carried unanimously.**

Mayor Nichols said that Council had the option to deny without prejudice and then he could return with a modified project within 12 months.

Mrs. Davis, applicant, said that the height was at the face of the drive area at a one-foot slice, because the garage was subterraranean and that is the only place it was at 25 ft.

Johanna Canlas, City Attorney, explained that Council had two options 1) to deny with prejudice which not allow the applicant to come back within 12 months and go to the end of the permitting line or 2) deny without prejudice which would allow the applicant to not lose their place in line while they re-design the project to address issues from Council comments and return within 12 months.

Mr. Davis stated that the second option was his preference.

Mayor Nichols stated that it was Finding 2 relating to adjacent land use and compatibility and that the comments could be used to guide his modifications.

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

MOTION: Moved by Heebner and seconded by Nichols to deny the project without prejudice. **Motion carried 4/1** (Noes: Kellejian.)

Johanna Canlas, City Attorney, read a notice to the applicant stating that the City Council's decision is final unless a petition for a writ of mandate is timely filed. The time within which judicial review of this decision must be sought is governed by the Code of Civil Procedure, Section 1094.6, which has been made applicable in the City of Solana Beach by the Solana Beach Municipal Code, Chapter 2.36. Any petition or other papers seeking judicial review must be filed in the appropriate court not later than the ninetieth (90th) day following the date on which this decision becomes final. A written request for preparation of the record of proceedings shall be made and filed with the Solana Beach City Clerk. This decision is final upon the adoption of this resolution of denial.

C. STAFF REPORTS:

Submit speaker slips to the City Clerk

C.1. Adopt (2nd Reading) of Ordinance 410 to revise Posted Speed Limits on City Streets. (File 0860-45)

Recommendation: That the City Council

1. Adopt Ordinance 410 amending Title 10 Chapter 36 of the Solana Beach Municipal Code.

David Ott, City Manager, introduced the item. He stated that Council provided direction and that Staff had reviewed the N. Cedros area, and the consultant looked at it again, that a second speed survey was performed and found some increased speed, that Staff looked at traffic calming measures that could be considered and and that some recommendations would be brought back.

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

<u>MOTION:</u> Moved by Heebner and seconded by Roberts. **Motion carried** unanimously.

C.2. <u>La Colonia Park and Community Center Improvement Project final design agreement with Van Dyke Landscape Architects.</u> (File 0400-10)

Recommendation: That the City Council

1. Adopt Resolution 2009-123:

- a. Authorizing the City Manager to execute a Professional Services Agreement with Van Dyke Landscape Architects for completion of the final design plans, preparation of bid/construction documents and providing construction support services for the La Colonia Park and Community Center Improvement Project.
- b. Appropriating \$159,700 from the Reserves for the Redevelopment Agency (Budget Unit 416-3200) into the capital project account established for the La Colonia Park and Community Center Improvement Project (Budget Unit 416-9438-6510-6530, Project Number 9438.02-6661).
- c. Authorizing the City Treasurer to amend the Fiscal Year 2009/2010 Adopted Budget accordingly.

David Ott, City Manager, introduced the item.

Mo Sammak, City Engineer/Public Works Dir., presented a powerpoint (on file). He introduced Mitch Phillips who would be the project manager.

Mitch Phillips, Sr. Partner, Van Dyke, said that they had been working with the City on the project and were looking forward to taking it to bid for construction.

Council, Staff and Mr. Phillips discussd what was being given up since the price had dropped, whether the project was giving up something due to the huge difference in the price, that most of the difference was due to identifying some redundancy and consolidating as well as reviewing some specific project management needs, they dropped the consultant mark-up fees, when the City originally worked with Van Dyke on the concept phase and produced a work product that there was always the chance of taking the process to a RFP process instead of continuing with Van Dyke, that the same process was used on Fletcher Cove Community Ctr. and Highway 101, that much discussion took place with Staff and Mayor Nichols reviewing the proposal, there was ultimately a confidence in going with Van Dyke due to the level of experience through the public workshops, that there would be more costs to have a new firm get them up to speed, and that details were reviewed to be sure something was not left off the table.

Council, Staff and Mr. Phillips continued discussion regarding some concerns regarding any loss of quality due to the reduction of the price, that exclusions were specifically listed so everything else in the plan would be included, that some things would be done by the City reducing the price including inspections and electrical and that the final product would not be impacted by the reduction, and that an agreement was reached given the quality of their work and that the community knows them and respects them, and that grants require that projects

are deemed complete and ready to construct in order to apply, confirmation was made that there was a provision in the contract to quit if the City decided to do so, and that mileage would be charged to the project if it was work related and not to drive home from the project.

Deputy Mayor Campbell stated that he respected all the opinions but that he could not support the approval of the contract.

<u>MOTION:</u> Moved by Heebner and seconded by Nichols. **Motion carried 4/1** (Noes: Campbell.)

C.3. <u>Del Mar Fairgrounds Master Plan- Draft Environmental Impact</u> <u>Report Review Process and Agreement. (File 0150-85)</u>

Recommendation: That the City Council

1. Adopt Resolution 2009-130 and amend the FY 2009-10 Budget by increasing an appropriation and expenditure of up to a maximum of \$25,000 from the General Fund Reserve and appropriate this amount to the Community Development Professional Services line item, account number 001-5500-5550-6530, from the General Fund Unreserved Fund Balance account number 001-3200 to review the Del Mar Fairgrounds Master Plan Draft EIR.

David Ott, City Manager, introduced the item. He said that the City was aware of potential issues with the project including noise and traffic that currently affect Solana Beach.

Tina Christiansen, Community Development Dir., presented a powerpoint (on file). She said that there potentially significant impacts to the City and that Staff had formed a technical team to review the document in order to prepare the City's comments.

Mr. Ott said that the goal was to bring it to the December 9th meeting, that there was a significant amount of work to do, that they would be reaching out to the City of Del Mar, County of San Diego, City of San Diego, and San Dieguito River Valley, to share notes.

Gary Martin (Gordon Johns donated time) presented a powerpoint (on file) reviewing the proposed development, there were 90 days to review and provide comments, that it was very important due to the long term impacts to the City, that he thought that the City had to do what it took outside consultants and Staff to do a complete analysis, that the City should go outside of San Diego County when hiring environmental consultants, that it was an investment that they could not afford to miss, that the funds had to be found for the City Manager and

Staff to get any expertise they needed, and that it was all about community character.

Tim Coughlin (Janell Johns donated time) presented a powerpoint (on file) and stated that his main concern was congestion, but he was not against development, that impacts needed to be correctly identified, and that something was wrong with the empirical data of traffic analysis in the report.

Jack Hegenauer, representing Clean and Green Committee, the issues should be focused on the health effects, that many issues will appear in the upcoming I-5 widening EIR, significant impacts will affect the area for decades even with mitigation, that as races diminish other events will increase, that no single event issue had been addressed, the traffic counts seemed inadequate, that tail pipe emissions during construction and operation will remain significant for decades, and that he encouraged the City to obtain as much professional help as possible.

Bruce Berend said he as a 40 year resident and that this EIR review was critical, that spending was important but it was critical to obtain helpful consulting, and that treatment for cancer had high costs.

Peter Zahn, Vice President of Solana Beach Chamber of Commerce, said that he had spoken with several members on their Board, that he understoood that the City might prefer to spend in-house funds using Staff but the complexity and size and aggressive timeline of the report could require much more work, that he was concerned about the costs but was also concerned about the impact and that it would be money well spent.

Eric Lodge said that everyone was in this together, that the City needed to spend enough resources and funds even with Staff and that the amount proposed seemed like a drop in the bucket, knowing what consultants charge, and that it was important that it was done right.

Council and Staff discussed how Staff would fit this work into daily operations, that some projects would be put on hold in order to dedicate the needed time to the work and that it would be a priority, that some various consultants would be used for certain expertise, that it was an extremely environmentally fragile area, that due to short timeline community workshops would not be held, that some community experts would be engaged, whether a mailing would help educate the community, that e-blasts would be used to keep it cost effective, to consider adding to the Shorelines to provide education, and whether the proposed funds would be enough.

Deputy Mayor Kellejian stated that he made a 1st motion regarding Staff's recommendation.

Discussion continued regarding allowing the City Manager to spend what was needed to complete the review and the comments, to move forward quickly, that some Councilmembers wanted a mailer and others did not think it was a necessary cost with alternative ways to communicate and the limited time, that the issue was too big to lay on the Community Relations Committee Ad Hoc in order to assist, to obtain consultants outside of San Diego County where possible and appropriate to ensure they were unbiased, that it was a big quality of life impact project, to consider increasing the amount of funds immediately available to the City Manager for the project, and to consider increasing the funding to \$50,000 or \$75,000.

<u>MOTION:</u> Moved by Kellejian and seconded by Heebner to approve increasing the amount to \$75,000 including the cost of a citywide mailer. **Motion carried unanimously.**

WORKPLAN COMMENTS:

(Adopted June 24, 2009)

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.

Council reported disclosures.

COUNCIL COMMITTEE REPORTS:

Regional Committees: (outside agencies)

- a. City Selection Committee Roberts (meets twice a year).
- b. County Service Area 17 Campbell, Nichols (alternate).
- c. Escondido Creek Watershed Authority Nichols, Roberts (alternate).
- d. League of Ca. Cities' San Diego County Executive Committee Roberts, Kellejian (alternate) and any subcommittees
- e. League of Ca. Cities' Local Legislative Committee Roberts, Kellejian (alternate).
- f. League of Ca. Cities' Coastal Cities Issues Group (CCIG) Kellejian, Roberts (alternate).
- g. North County Dispatch JPA Nichols, Campbell (alternate).
- h. North County Transit District Roberts, Heebner (alternate).
- Regional Solid Waste Association (RSWA) Nichols, Kellejian (alternate).
- j. SANDAG Heebner (Primary), Roberts (1st alternate), Nichols (2nd

- alternate) and any subcommittees.
- k. SANDAG Shoreline Preservation Committee Kellejian, Roberts (alternate).
- I. San Dieguito River Valley JPA Roberts, Nichols (alternate).
- m. San Elijo JPA Campbell, Roberts (both primary members) (no alternates).
- n. 22nd Agricultural District Association Community Relations Committee Campbell, Roberts.

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

- a. Business Liaison Committee Roberts, Campbell.
- b. Highway 101 / Cedros Ave. Development Committee Nichols, Heebner.
- c. I-5 Construction Committee Heebner, Roberts.
- d. Public Arts Committee Roberts, Nichols.
- e. School Relations Committee Roberts, Campbell.

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

- a. Army Corps of Engineers & Regional Beach Nourishment Kellejian, Campbell. Expires December 9, 2009.
- b. Development Review Nichols, Heebner. Expires November 18, 2009.
- c. Environmental Sustainability Roberts, Heebner. Expires December 9, 2009.
- d. Fletcher Cove Campbell, Heebner. Expires November 18, 2009.
- e. La Colonia Park Needs Assessment Nichols, Heebner. Expires May 26, 2010.
- f. Local Coastal Plan Ad-Hoc Committee Roberts, Campbell. Expires February 10, 2010 or at the California Coastal Commission adoption.
- g. NCTD / Train Station Site Project Ad Hoc Committee Nichols, Heebner. Expires January 13, 2010.
- h. View Assessment Nichols, Heebner. Expires August 25, 2010

There were no committee announcements.

ADJOURN:

Mayor Nichols adjourned the meeting at 9:34 p.m.

Angela Ivey, City Clerk

Approved: October 26, 2011