

CITY OF SOLANA BEACH

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

MINUTES

JOINT **REGULAR** MEETING

Wednesday, January 23, 2013

6:00 P.M.

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

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

CALL TO ORDER AND ROLL CALL:

Present: Nichols, Campbell, Zito, and Zahn.

Absent: Heebner.

Also Present: David Ott, City Manager
Johanna Canlas, City Attorney
Angela Ivey, City Clerk
Wende Protzman, Deputy City Mgr/Community Development Dir.
Mo Sammak, City Engineer/Public Works Dir.
David Kloz, Accountant
Dan King, Sr. Management Analyst

Mayor Nichols called the meeting to order at 6:15 p.m.

CLOSED SESSION REPORT: (when applicable)

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

FLAG SALUTE:

APPROVAL OF AGENDA:

MOTION: Moved by Campbell and seconded by Zito. **Motion carried 4/0/1** (Absent: Heebner)

PROCLAMATIONS/CERTIFICATES:

Santa Fe Christian School Football Team

PRESENTATIONS:

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

1. Highway 101 Project Westside Improvement Project Update.

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

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.

Celine Olson stated that she supported the ban on plastic bags, that imposing a charge on bio-degradable paper bags was much, and that she wanted her purchased products to be protected from view. She stated that she did not want to pay for paper bags with advertising on them, that she was told by several stores that the previous Council decided on the 10 cent fee, and that the fee should be removed. She stated that she had shopped in the City for the last 40 years, that management and employees admitted to a loss of business, that she would not pay to bring her products home, and that reusable bags contained bacteria if they were not washed after every use. She stated that she did not realize that the intent of the ordinance was to ban paper bags as well, that paper bags were made from trees grown specifically for that purpose, that paper bags should be free, and that paper bags did not cost stores 10 cents per bag.

Council discussed placing the plastic bag ban ordinance on a future agenda to discuss: 1) modifying the ordinance for removal the 10 cent charge for paper bags, 2) comments regarding the alleged loss of business in the city due to the ban, and 3) comments regarding bacteria contained in reusable bags.

David Ott, City Manager, stated that the contents placed in the reusable bags caused bacteria so the bags should be washed after use, and that the Council voted to have plastic bags available for meat and vegetable products. He stated that the 10 cent fee was from the Grocers Association, that 7 other jurisdictions had enacted that fee, and that legislation had been introduced at the state level regarding a plastic ban which would also include a fee after the year 2018.

Lane Sharman stated that he was representing the San Diego Energy District Foundation. He stated that there had been a confidentiality agreement formulated between the City and the Energy District Foundation that the Energy Foundation would keep the data gathered by the City from SDG&E confidential. He stated that the data would be used for a study, paid for by a group called "Protecting our Communities, on

whether an energy only power company could be implemented with competitive pricing to SDG&E, while also meeting the state renewable energy standards. He submitted two copies of the agreement to the City Council. He stated that the Energy Foundation understood their obligations to the city, that they wanted to cooperate with the city on obtaining data they needed, and that once the study was complete they wanted to make an informational presentation to the Council and public on whether the energy only power company would be a community benefit and whether pricing could be provided at/or less than the price of energy charged by SDG&E.

Council and City Attorney discussed whether the terms and conditions of the agreement would return to Council for discussion, that the agreement was only a confidentiality agreement stating that the Energy Foundation would not to share data received by SDG&E, that the parties of the agreement were the City and the Energy Foundation, that the Energy Foundation would be liable in the event of a breach of confidentiality, that the City Attorney would discuss errors and omission insurance with the Energy Foundation.

Council requested that Staff send them a memo regarding the risks of the agreement and how the City would be protected from any liability.

COUNCIL COMMUNITY ANNOUNCEMENTS:

COUNCIL COMMENTARY:

A. CONSENT CALENDAR: (Action Items) (A.1. - A.5.)

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

A.1. Minutes of the City Council.

Recommendation: That the City Council

1. Approve the Minutes of the City Council Meetings held January 9, 2013.

MOTION: Moved by Campbell and seconded by Zahn. **Motion carried 4/0/1** (Absent: Heebner)

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

Recommendation: That the City Council

1. Ratify the list of demands for December 15 - 28, 2012.

MOTION: Moved by Campbell and seconded by Zahn. **Motion carried 4/0/1** (Absent: Heebner)

A.3. General Fund Adopted Budget for Fiscal Year 2012-13 Changes. (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2012-2013 General Fund Adopted Budget.

MOTION: Moved by Campbell and seconded by Zahn. **Motion carried 4/0/1** (Absent: Heebner)

A.4. Second Amendment to First Amended and Restated Exclusive Right to Negotiate and Predevelopment Loan Agreement with Hitzke Development (South Sierra Avenue Development). (File 400-10)

Recommendation: That the City Council

1. Adopt Resolution 2013-008 approving and Authorizing the City Manager to execute the Second Amendment to the First Amended and Restated Exclusive Right to Negotiate Agreement between the City of Solana Beach and Hitzke Development Corporation.

MOTION: Moved by Campbell and seconded by Zahn. **Motion carried 4/0/1** (Absent: Heebner)

A.5. Local Coastal Plan Ad Hoc Committee. (File 410-48)

Recommendation: That the City Council

1. Adopt Resolution 2013-006 re-establishing the Local Coastal Plan Ad Hoc Committee until January 22, 2014 or until the California Coastal Commission's adoption of the Solana Beach Local Coastal Plan.

MOTION: Moved by Campbell and seconded by Zahn. **Motion carried 4/0/1** (Absent: Heebner)

NOTE: The City Council shall not begin a new agenda item after 10:30 p.m. unless approved by a unanimous vote of all members present. (SBMC 2.04.070)

B. PUBLIC HEARINGS: (B.1.)

This portion of the agenda provides citizens an opportunity to express their views on a specific issue as required by law after proper noticing by submitting a speaker slip (located on the back table) to the City Clerk. After considering all of the evidence, including written materials and oral testimony, the City Council must make a decision supported by findings and the findings must be supported by substantial evidence in the record. An applicant or designees for a private development/business project, for which the public hearing is being held, is allotted a total of fifteen minutes to speak, as per SBMC 2.04.210. A portion of the fifteen minutes may be saved to respond to those who speak in opposition. All other speakers have three minutes each. Please be aware of the timer light on the Council Dais.

B.1. Development Review (DRP) and Structure Development (SDP) Permits at 238 S. Nardo Avenue, Applicant: Keystone Financial Group, Robert Mueller, Case: 17-12-24. (File 600-40)

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, 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 2013-004 conditionally approving a DRP and an administrative SDP for a new two (2) story, single family residence with 3,144 square feet of living area, 463 square feet of garage, 320 square feet of deck and 55 square feet of front porch at 238 S. Nardo Avenue.

David Ott, City Manager, introduced the item.

Catherine Lorbeer, Principal Planner, presented a powerpoint (on file) reviewing the project.

Council and Staff discussion ensued regarding where calculations begin in relation to the hillside overlay zone, and that various criteria for different issues including grading % in excess of 25% which resulted in 80% of more, and could be considered inland bluff, reach a minimum height and whether it exceeded the 80% areas, and that two single family dwellings could possible reside on the property but could not be sure until a specific project could be analyzed.

Mayor Nichols opened the public hearing.
Council reported their familiarity with the project.

Mr. Mueller, applicant, said that he was a resident for 16 yrs, that Keystone Financial Group was his small company, that the deck was about 17 ft. deep, that the foundation to hold up with back of the desk was about 6 ft. from the story poles, the house was set back 15-20 ft., and an overlay zone existed along the east side, that Staff did a job of reviewing hte project, and presented a powerpoint (on file). He continued stating that he picked this house because all the rooms were functional, that it was consistent and smaller than neighboring houses, that he could have built up to 4600 sq. ft., and that this layout was chosen to provide for more adequate yardage around the house.

Anna Smith said that her house was nearby and was a parcel that was intended to be improve, that she purchased it because of the land that came behind it, that she intended to build and would not be looking at a two-story structure on the bluff which would be enormous from her view, and asked Council to consider the impact of that structure on her property, since a a two-story structure would ruin their back yard.

Council stated that some privacy issues were huge, but that she was contacted by the applicant with no returned calls.

Mr. Mueller utilized his remaining time for rebuttal, and stated that if she had called back he did not get the message, that other neighbors had called back and he met with them, and that he would have met with her, that the room available on this property did not prevent site constraints, and that it could not be any smaller, and that there were many two-story homes already built in the area over the past 10 years.

MOTION: Moved by Campbell and seconded by Zahn to close the public hearing.
Motion carried 4/0/1 (Absent: Heebner)

Council and City Attorney discussed the letter from Smith referring to an excerpt from the code, that this section was not a required finding, there there was nothing on overcrowding, other than in a multi-family unit, which this was not. Discussion continued regarding grounds of privacy and that U.S. Supreme Court found that there was no right to privacy in a back yard, so that privacy could be a consideraton, but not a finding alone, or protection of privacy under the City's code. Discussion continued existing view sheds, the opportunity to take advantage of te View Assessment process, which was not used in this case, and that view was not a consideration under findings for a DRP, however, building and structure placement was a consideration.

Deputy Mayor Campbell stated that he could make the findings and that privacy issues could be solved with vegetation or reasonable screening.

Councilmember Zito said that he could make the findings, that he agreed Campbells comments around privacy issues, that there were two properties in the area close to the

bluff as well, and that he was comfortable making the findings.

Mayor Nichols said that he agreed and could support the project and make the findings.

Councilmember Zahn said that he supported the project, that it was a challenging parcel, and appreciated the applicant's effort to reach out.

MOTION: Moved by Campbell and seconded by Zito. **Motion carried 4/0/1** (Absent: Heebner)

C. STAFF REPORTS: (C.1. - C.2.)
Submit speaker slips to the City Clerk

C.1. Annual Citizen Commission Appointments. (File 0120-05)

Recommendation: That the City Council

David Ott, City Manager, introduced the item.

Allen Moffson stated that he had been the Chair of the Public Arts Advisory Commission and was requesting reappointment, that a lot was happening including a new art installation on Lomas Santa Fe, and that art was a quality of life issue and he appreciated the consideration.

Carol Beth Rodriguez said that she had lived in Solana Beach for 27 years and had been on the Commission for the past 2 years, that it was a wonderful position and she loved volunteering for the City and would like to continue.

Bernhard Geierstanger said that he had served on the Public Safety Commission for the last 2 years and would like to extend his term.

Brett Reisdorft stated that he was interested in the Public Arts Committee and that he thought he would bring a youthful and sustainability to the art world and the Commission.

1. Appoint 3 members to the Budget and Finance Commission:
 - a. Three (3) vacancies shall be nominated/appointed each by individual Councilmembers (Heebner, Zito, and Zahn) for a two year term until January 2015.

MOTION: Moved by Campbell and seconded by Zito to appoint Anthony Craig (Zito appointment), Michael Whitton (Zahn appointment), and Gordon Johns (Heebner appointment) to the Budget & Finance Commission. **Motion carried 4/0/1** (Absent: Heebner)

3. Appoint 3 members to the Public Arts Advisory Commission:

- a. Three (3) vacancies shall be nominated/appointed each by Council-at-large for a two year term until January 2015.

MOTION: Moved by Nichols and seconded by Campbell to appoint Allen Moffson, Carol Beth Rodriguez, and Brett Reisdorf to the Public Arts Advisory Commission (all appointed by Council-at-large). **Motion carried 4/0/1** (Absent: Heebner)

2. Appoint 4 members to the Parks and Recreation Commission.

- a. Four (4) vacancies shall be nominated/appointed each by Council-at-large for a two year term until January 2015.

MOTION: Moved by Campbell and seconded by Zahn to appoint Chris Hohn, Steve Ostrow, Holly Coughlin, and Peggy Walker (all appointed by Council-at-large). **Motion carried 4/0/1** (Absent: Heebner)

5. Appoint 4 members to the View Assessment Commission:

- a. Three (3) vacancies shall be nominated/appointed each by individual Councilmembers (Nichols, Heebner, Zahn) for a two year term until January 2015.
- b. One (1) vacancy shall be nominated/appointed by individual Councilmembers (Campbell) for a one year term until January 2014.

MOTION: Moved by Nichols and seconded by Zito to appoint Jack Hegenauer (Nichols appointment), Jewel Edson (Heebner appointment), Rebecca Lawson (Campbell appointment), and Dean Pasko (Zahn appointment). **Motion carried 4/0/1** (Absent: Heebner)

4. Appoint 5 members to the Public Safety Commission:

- a. Four (4) vacancies shall be nominated/appointed each by individual Councilmembers (Nichols, Heebner, Zito, Zahn) for a two year term until January 2015.
- b. One (1) vacancy shall be nominated/appointed by Council-at-large for a one year term until January 2014.

MOTION: Moved by Nichols and seconded by Zito to appoint David Bittar (Zahn appointment), Bernhard Geierstanger (Nichols appointments), and Morey Rahimi (Zito appointment). **Motion carried 4/0/1** (Absent: Heebner)

Mayor Nichols recessed the meeting at 7:30 p.m. for a break and reconvened at 7:40 p.m.

C.2. Chevron Energy Solutions (Chevron ES) Contract Change Orders and

Notice of Completion. (File 0400-10)

Recommendation: That the City Council

1. Adopt Resolution 2013-005
 - a. Appropriating \$14,995 from General Fund Undesignated Reserves to the Chevron ES Project in the City CIP Fund for costs associated with Change Order No. 1.
 - b. Appropriating \$1,465.50 from Street Lighting Undesignated Reserves to the Chevron ES Project in the City CIP Fund for costs associated with Change Order No. 2.
 - c. Accepting as complete the Chevron ES contract and authorizing the City Clerk to file a Notice of Completion for the project.
 - d. Authorizing the City Treasurer to amend the FY 2012-13 Adopted Budget accordingly.

David Ott, City Manager, introduced the item.

Mo Sammak, City Engineer/Dir. of Public Works, presented a powerpoint (on file) reviewing the background and fiscal impacts of the projects that required a change order, which included the City Hall roof replacement and the the street light replacement projects.

Council and Staff discussed that one of the street lights on Sun Valley Road had not been replaced and asked Staff to research if the light was owned by SDG&E or whether it had been missed for replacement. Discussion continued regarding SDG&E's disinterest in replacing their lights in the City with LED lights for consistency with the City's own lights, that the City was analyzing whether there would be a cost benefit to purchase the lights from SDG&E, and that the topic would return to Council when the analysis was complete. Discussion continued regarding the purchase of lights providing a higher level of customer service, that the City was charged a fixed rate by SDG&E for service, and other cities had recent success with purchasing lights from SDG&E.

MOTION: Moved by Campbell and seconded by Zahn. **Motion carried 4/0/1** (Absent: Heebner)

WORKPLAN COMMENTS:

(Adopted June 27, 2012)

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 Nichols disclosed that he attended the League of California Cities luncheon meeting which was paid for by the City.

Councilmembers Zito and Zahn disclosed that they attended the Mayors and New Councilmember Academy which was paid for by the City.

COUNCIL COMMITTEE REPORTS:

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

- a. City Selection Committee (meets twice a year) - Vacant, Vacant (alternate).
- b. County Service Area 17 - Campbell, Nichols (alternate).
- c. Escondido Creek Watershed Authority - Nichols, Vacant (alternate).
- d. League of Ca. Cities' San Diego County Executive Committee - Vacant, Vacant (alternate) and any subcommittees.
- e. League of Ca. Cities' Local Legislative Committee - Vacant, Vacant (alternate).
- f. League of Ca. Cities' Coastal Cities Issues Group (CCIG) - Vacant, Vacant (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, Vacant (alternate).
- j. SANDAG - Heebner (Primary), Nichols (1st alternate), Zito (2nd alternate) and any subcommittees.
- k. SANDAG Shoreline Preservation Committee - Nichols, Heebner (alternate).
- l. San Dieguito River Valley JPA - Heebner, Nichols (alternate).
- m. San Elijo JPA - Campbell, Vacant (both primary members) (no alternates).
- n. 22nd Agricultural District Association Community Relations Committee - Campbell, Heebner.

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

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

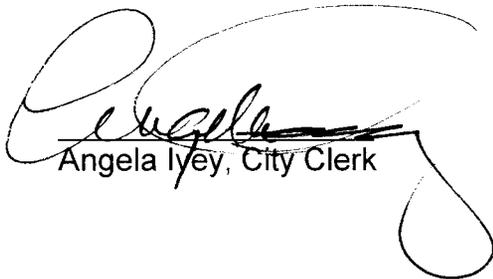
Ad Hoc Committees: (All Primary Members) (Temporary Committees)

- a. Army Corps of Engineers & Regional Beach Nourishment - Campbell, Vacant. Expires December 5, 2013.
- b. Development Review - Nichols, Heebner. Expires October 23, 2013.

- c. Environmental Sustainability - Heebner, Vacant. Expires December 5, 2013.
- d. Fire Department Management Governance Vacant, Vacant. Expires July 10, 2013.
- e. Fiscal Sustainability - Campbell, Vacant. Expires June 12, 2013.
- f. General Plan - Nichols, Campbell. Expires July 10, 2013.
- g. La Colonia Park - Nichols, Heebner. Expires June 12, 2013.
- h. Local Coastal Plan Ad-Hoc Committee - Campbell, Vacant. Expires February 7, 2013 or at the California Coastal Commission adoption.
- i. NCTD / Train Station Site Project Ad Hoc Committee - Nichols, Heebner. Expires January 10, 2013
- j. View Assessment - Nichols, Heebner. Expires June 10, 2013

ADJOURN:

Mayor Nichols adjourned the meeting at 8:19 p.m.



Angela Ivey, City Clerk

Approved: February 13, 2013