

# CITY OF SOLANA BEACH

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



## MINUTES

### Joint REGULAR Meeting

Wednesday, March 9, 2016 \* 6:00 P. M.

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

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

#### CITY COUNCILMEMBERS

David A. Zito, Mayor

Peter Zahn, Deputy Mayor

Mike Nichols, Councilmember

Ginger Marshall, Councilmember

Lesa Heebner, Councilmember

Gregory Wade  
City Manager

Johanna Canlas  
City Attorney

Angela Ivey  
City Clerk

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#### CALL TO ORDER AND ROLL CALL:

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

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

Absent: Lesa Heebner

Also Present: Gregory Wade, City Manager,  
Johanna Canlas, City Attorney, Angela Ivey, City Clerk,  
Bill Chopyk, Community Development Dir.,  
Danny King, Assistant to City Manager

#### APPROVAL OF AGENDA:

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

#### ORAL COMMUNICATIONS: None

This portion of the agenda provides an opportunity for members of the public to address the City Council on items relating to City business and not appearing on today's agenda by submitting a speaker slip (located on the back table) to the City Clerk. Comments relating to items on this evening's agenda are taken at the time the items are heard. Pursuant to the Brown Act, no action shall be taken by the City Council on public comment items. Council may refer items to the City Manager for placement on a future agenda. The maximum time allotted for each presentation is THREE MINUTES (SBMC 2.04.190). Please be aware of the timer light on the Council Dais.

**COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:**

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

**A. CONSENT CALENDAR:** (Action Items) (A.1. - A.7.)

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 January – February 10, 2016.

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

**A.2. Register Of Demands.** (File 0300-30)

Recommendation: That the City Council

1. Ratify the list of demands for February 6, 2016 through February 19, 2016.

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

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

Recommendation: That the City Council

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

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

**A.4. California State Association of Counties-Excess Insurance Authority (CSAC-EIA) Joint Powers Agreement and Memorandum of Understanding for the Excess Liability Insurance Program.** (File 0320-20)

Recommendation: That the City Council

1. Adopt **Resolution 2016-031:**
  - a. Authorizing the City Manager to act as the City's authorized representative for CSAC-EIA.
  - b. Authorizing the City Manager to execute the CSAC-EAI Joint Powers Agreement and Memorandum of Understanding for the Excess Liability Program.

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

**A.5. Human Resources Services.** (File 0400-10)

Recommendation: That the City Council

1. Adopt **Resolution 2016-032** authorizing the City Manager to amend the PSA with Pouneh Sammak for part-time human resources consulting services from \$24,999 to a not-to-exceed amount of \$60,000 at an hourly billing rate of \$65 per hour.

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

**A.6. Fire Department Governance and Organizational Evaluation Council Standing Committee.** (File 0410-45)

Recommendation: That the City Council

1. Adopt **Resolution 2016-009** establishing the Fire Department Governance and Organizational Evaluation Council Standing Committee
2. Appoint two Councilmembers to serve on the Standing Committee.

**Motion:** Moved by Nichols and second by Marshall to appointed Zito and Zahn. 4/0/1 (Absent: Heebner). **Motion carried.**

**A.7. Emergency Audio/Visual Services.** (File 0400-10)

Recommendation: That the City Council

1. Adopt **Resolution 2016-029** ratifying an amendment, as approved by the City Manager, to the PSA with Western Audio Visual for maintenance and upgrading of the City's Audio Visual systems in an amount not to exceed \$36,000.

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

**B. PUBLIC HEARINGS:** (B.1. – B.3.)

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. Public Hearing: 517-521 Pacific Ave. Request for a Conditional Use Permit (CUP) for a Bluff Retention Device Below, Applicants: Ronald Lucker and David Winkler, Case # 17-15-43.** (File 0610-60)

Recommendation: That the City Council

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

Greg Wade, City Manager, introduced the item.

Bill Chopyk, Community Development Director, presented a PowerPoint (on file).

Council and Staff discussed that the eminent danger was 1.1 or less per the California Coastal Commission, that this was 1.7, that the City's geotechnical engineer consultants had reviewed and agreed on the factors of safety, that this wall was fairly small, only one property would be landscaped and one would not because one already had vegetation on it, and to consider a condition to ensure it be landscaped to the degree that the other one was or to ensure it be maintained.

Discussion continued regarding how the sand credit worked for putting sand on the beach, that the sand mitigation fee represented a charge for the loss of sand deposited on the beach because of the structure, the calculation was supposed to calculate the amount of sand that would have been deposited on the beach if the structure wasn't there, that in this case they were taking away some part of the bluff and that this was included in the calculation of sand that would have been lost.

Greg Wade, City Manager, explained that the LUP (Land Use Plan) was written on the sand mitigation fee was that it was a volume of sand that would apparently prevent nourishment of the beach by the installation of the structure, the volume of sand is subject to an equation in the LUP unless a site specificity is presented by the applicant that would demonstrate something other than that, that the applicant had submitted a site specific analysis with their application on this project that identified that area and that sand would be made available and would effectively reduce the impact and achieve that credit.

Johanna Canlas, City Attorney, stated that the typical height of a seawall is 35 feet.

Discussion regarding the City's 3<sup>rd</sup> party consultant, Jim Knowlton, who concurred with imminent danger but was not in attendance to address some technical questions before

proceeding, that once the factor goes over 1.0 it is in imminent danger, that some Council would feel better waiting to address the 3<sup>rd</sup> party consultant about some technical questions.

**Motion:** Moved by Marshal and second by Zahn to continue the item to a date certain of March 23, 2016. 4/0/1 (Absent: Heebner) **Motion carried.**

**B.2. Public Hearing: 703 N. Rios Ave. Request for a Development Review Permit (DRP) and Structural Development Permit (SDP), Applicants: Doug and Jully Nguyen, Case # 17-15-20.** (File 0600-40)

The proposed project meets the minimum zoning requirements under the SBMC, could be found to be consistent with the General Plan and could be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP and administratively issue a SDP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt **Resolution 2016-024** conditionally approving a DRP and an administrative SDP to allow for the construction of a new two-story, single-family residence with an attached garage at 703 North Rios Avenue, Solana Beach.

Mayor Zito recused himself due to his residence residing within 500 ft. of project.

Deputy Mayor Zahn opened the public hearing.

Greg Wade, City Manager, introduced the meeting.

Katie Benson, Assistant Planner, presented a PowerPoint (on file).

Council and Staff discussion included the driveway shared with other adjacent property, the easement was multi-purpose for driveway and for sewer line access which is why the City asked the applicant to widen that access, that there was a true rear set back and there was a typo on the plans, that there was at least a 3 ft. access easement for fire provided, and that the unattached guest house was not considered an accessory unit since it did not contain a kitchen so it would not require additional parking spaces.

Council disclosures.

*Applicant*

Doug and Julie Nguyen said that they were Solana Beach residents since 2005, that they

purchased two adjacent lots and decided that it would be easier to build both lots simultaneously because they shared common driveways, and that they worked closely with architect to keep with the character of the community.

Council and Applicant's Architect, JLC, discussed the fact that the electrical was underground, and that the existing Torrey Pines would probably remain and be trimmed unless it conflicted with the property line for construction purposes and would then be trimmed or remove a portion of it.

#### *Public Speakers*

Sean Pope said that this house was about 3700 sq. ft. on a 22,000 ft. lot and wondered if he could double his square footage, that the set back and how the noise would affect his backyard, whether the Torrey Pines could be removed because it was presenting some issues, and whether one could build 3 or 4 homes per acre.

Jack Troxell stated that he lived in the area for 7-8 years, that he was concerned about the size of homes being built behind them, that both homes looked nice but the issue was the size of the homes and built so close to the lot line at the end which took away from the flavor of the Solana Beach, that if they were reduced a bit with some space at the lot lines it would be much better for neighbors.

#### *Applicant Rebuttal*

Doug Nguyen said that they were going to remove the Torrey Pines if trimming along was not possible because it caused debris on both sides of the property line.

Greg Wade, City Manager, stated that the zoning for this site was low medium residential, allowing four units per acre, an acre was 44,565 sq. ft. and if divided by four that one unit could be built per 10,800 sq. ft., and that one unit could be built on this site.

**Motion:** Moved by Nichols and second by Marshall to close the public hearing. 3/0/1/1 (Recused: Zito, Absent: Heebner) **Motion carried.**

Council and Staff discussion ensued regarding the hardscape in the driveway which was an impervious driveway, that for a typical project in this neighborhood the engineering would evaluate the existing condition, that the ultimate goal was to duplicate an existing condition and not create any additional rate of runoff, that both projects were required to build retention basins as part of their development process, that the City allowed properties to encroach into the City's easements for retention basins overlap which required an encroachment agreement, that Council would condition the property to make it clear that there could not be any rental of the unattached bedroom and recorded against the property.

Discussion continued regarding that Torrey Pines were not protected tree species in the City of Solana Beach,

**Motion:** Moved by Marshall to approve the project.

Councilmember Nichols stated that without some condition on the guest unit being clarified that he could not support the motion and asked if it would be amended.

Councilmember Marshall asked it that was legal.

Johanna Canlas, City Attorney, stated that Council may condition the property as they choose regarding an additional space be prohibited from being rented and that it could also be conditioned and recorded that if it were rented that an additional space be created for the impact to the neighborhood.

Councilmember Marshall stated that she did not want to amend her motion to include Councilmember Nichols amendment.

Councilmember Zahn stated that he was concerned about the limits at the property line, that very few properties exceeded that level, that there were concerns expressed behind this property, and asked if Council was interested in asking the applicant to speak with neighbors.

Councilmember Nichols stated that he tended to agree, that he was concerned about the finding of adjacent land use, part of bedroom land use, and that he was interested in hearing more if the applicant was willing do more.

No second motion was received. **Motion failed.**

**Motion:** Moved by Marshall and second by Zahn to reopen the public hearing. 3/0/1/1 (Recused: Zito, Absent: Heebner) **Motion carried.**

Councilmember Marshall asked the applicant what their intentional use was for the room above the garage.

Mr. Nguyen stated that their parents would be coming to live with them eventually and had no intention to rent it out.

Deputy Mayor Zahn asked the applicant if they were willing to review the project and work with the neighbors to address some additional concerns.

**Motion:** Moved by Nichols and second by Marshall to continue the item to a date certain of March 23, 2016. 3/0/1/1 (Recused: Zito, Absent: Heebner) **Motion carried.**

**B.3. Public Hearing: 707 North Rios Ave. Request for a Development Review Permit (DRP) to Demolish an Existing Single-Family Residence and Construct a New Single-Family Residence, Applicants: Jully and Doug Nguyen, Case # 17-15-27. (File 0600-40)**

The proposed project meets the minimum objective requirements under the SBMC, is consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP and administratively issue a SDP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt **Resolution 2016-025** conditionally approving a DRP to allow for the construction of a new 3,708 square-foot, two-story, single-family residence with an attached garage at 707 North Rios Avenue.

Mayor Zito opened the public hearing.

Greg Wade, City Manager, introduced the meeting.

Katie Benson, Assistant Planner, presented a PowerPoint (on file).

Council disclosures.

*Applicant*

Doug and July Nguyen stated that they purchased both properties and had hoped to build them together, to keep them within the style of the neighborhood, that they thought they had worked with the neighbors, and that their architect, JLC, was in attendance.

Ellen Rodarte said that she lived in front of the project, that she and her husband had some concerns such as a sewer line that went through the back property line and wondered if it could be clearly marked to prevent potential damaged since it was recently repaired, that they felt these properties were large compared to their house, that they made special efforts to not have windows facing their existing bedroom areas, that blocking out the west lighting was not a big deal but blocking out the south light also was forming an L taking all of the light from the Steel's house and build in their yard, to consider having the home in the middle to not get in the way of the southern light exposure, that the easement for the road went through their road, that they emailed the property owners to ask for a hedge because of the bulk but did not receive a response, and that their main issue was the bulk of the project.

Betty Steele stated that they lived nearby and that this structure caused concern because they had not light coming any of their backyard windows, and asked that they reconsider to move the project a little back from their property, and that they wanted to put solar panels up at some point and needed some light access.

Council and Staff discussed that the sewer lateral would be protected, that the applicant will be required to submit a grading plan that will review this type of issue and consider protection of underground pipes, that if anything happened to these laterals it would be the responsibility of the private parties to address it between themselves, but that the grading plans accommodate these concerns.



Discussion continued to consider continuing this item and couple it with the same meeting date as the other adjacent property, that to consider a concern about the above garage room and potential offsite parking or additional parking space, to work with the neighbors and their concerns, to review compatibility with current potential development in the immediate area,

The applicant agreed that they would be willing to continue this item to same date as other prior item.

**Motion:** Moved by Zahn and second by Marshall to continue the item to a date certain of March 23, 2016. 4/0/1 (Absent: Heebner) **Motion carried.**

**COMPENSATION & REIMBURSEMENT DISCLOSURE:** None

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 COMMITTEE REPORTS:**

Councilmembers reported Committee activities.

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

- a. City Selection Committee (meets twice a year) – Nichols, Zahn (alternate).
- b. County Service Area 17 – Zahn, Marshall (alternate).
- c. Escondido Creek Watershed Authority – Marshall/Staff (no alternate).
- d. League of Ca. Cities' San Diego County Executive Committee – Nichols, Zahn (alternate) and any subcommittees.
- e. League of Ca. Cities' Local Legislative Committee – Nichols, Zahn (alternate).
- f. League of Ca. Cities' Coastal Cities Issues Group (CCIG) – Nichols, Heebner (alternate).
- g. North County Dispatch JPA – Zahn, Nichols (alternate).
- h. North County Transit District – Nichols, Heebner (1<sup>st</sup> alternate)
- i. Regional Solid Waste Association (RSWA) – Nichols, Zahn (alternate).
- j. SANDAG – Heebner (Primary), Nichols (1<sup>st</sup> alternate), Zito (2<sup>nd</sup> alternate) and any subcommittees.
- k. SANDAG Shoreline Preservation Committee – Nichols, Heebner (alternate).
- l. San Dieguito River Valley JPA – Zito, Zahn (alternate).
- m. San Elijo JPA – Marshall, Zito (both primary members) (no alternates).
- n. 22<sup>nd</sup> Agricultural District Association Community Relations Committee – Heebner, Nichols.

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

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

**ADJOURN:**

Mayor Zito adjourned the meeting at 8:15 p.m.

Angela Ivey, City Clerk

Approved: April 13, 2016