

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



# MINUTES

## Joint REGULAR Meeting

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

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

- 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 6:00 p.m.

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

Absent: Mike Nichols

Also Present: Gregory Wade, City Manager  
Johanna Canlas, City Attorney  
Angela Ivey, City Clerk  
Bill Chopyk, Community Development Dir.  
Mo Sammak, City Engineer/Public Works Dir.  
Danny King, Assistant City Manager

**CLOSED SESSION REPORT:** (when applicable) None

### FLAG SALUTE:

### APPROVAL OF AGENDA:

**Motion:** Moved by Councilmember Heebner and second by Deputy Mayor Zahn. Approved 5/0. **Motion carried unanimously.**

### 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.

## **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.3.)

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 August 24, 2016 and October 12, 2016.

**Motion:** Moved by Deputy Mayor Zahn and second by Councilmember Nichols. Approved 5/0. **Motion carried unanimously.**

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

Recommendation: That the City Council

1. Ratify the list of demands for October 8, 2016 through October 21, 2016.

**Motion:** Moved by Deputy Mayor Zahn and second by Councilmember Nichols. Approved 5/0. **Motion carried unanimously.**

#### **A.3. General Fund Adopted Budget for Fiscal Year 2016-2017 Changes.** (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2016-2017 General Fund Adopted Budget.

**Motion:** Moved by Deputy Mayor Zahn and second by Councilmember Nichols. Approved 5/0. **Motion carried unanimously.**

### **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: 1129 Highland Dr., Applicants: Hayashi and Sorensen, Case 17-16-12.** (File 0610-10)

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 Development Review Permit (DRP) and administratively issue a Structural Development Permit (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 2016-125** conditionally approving a DRP and SDP to construct an 872 square-foot first-floor addition and new 668 second-floor addition to an existing, single-story, single-family residence with a detached three-car garage located at 1129 Highland Drive.

Greg Wade, City Manager, introduced the item.

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

Council and Staff discussed a neighbor's submitted concern which was address, that there was no conflict with the zoning ordinance, that an easement located on the adjacent property was originally a driveway, which would be used for recreation and landscaping, that the neighbor had a quit claim deed to take away the use of the driveway, that there were no proposed improvements on the easement subject to Council approval and that the City had no role in overriding a private agreement between neighbors.

Council disclosed their familiarity with the project.

Krista Percival said that she was the neighbor of the applicant, that the easement was private but that the project was not consistent with the adjacent land use, the focus of the applicant's family living area was on her property, that the applicant had a landscape plan that was in violation of the land and recreation easement, there was a current violation and the plan presented to her had many violations, that she rejected the setbacks on the plan and that she wanted the landscape redefined on the site plan correctly. She stated that in 2003 she came to the City to talk about the lots around her home to make sure that nobody could build behind her, that she had a Senior Planner sign off on a form designating where the front, rear and side setbacks of the adjoining property were to her property, that she relied on the planner's information, and she would like Council to review the landscape plan. She said that she would fight it in civil court if needed based on detrimental reliance, the interpretation of the setbacks on the current site plan were different that the setbacks signed off by a former Planner, there was not anything before

Council now that she was worried about but that she worried about the future. She stated that the landscape plan presented to her exhibited an overhead structure, a chicken coop, and a guesthouse that backed up to her property.

Greg Wade, City Manager, said that there was nothing proposed or before Council showing development within the easement area, that if there were a structure it would be subject to review and approval by the City, and that nothing had been submitted to the City showing a structure being built at this time.

Council and Staff discussed that if there were plans that they were not seen, then the applicant would now be on notice that they would need permits and have to go through the Planning Department. Discussion continued regarding permits required for chicken coops was dependent on the size, placement and location of the structure.

Paul Sorenson, co-owner of house, stated that in his preliminary title report the easement was a driveway, landscaping, and recreation easement, that he spoke with his neighbors regarding the easement and was told a quit claim deed changed it, that he was not planning to do any landscaping until the project was completed, he had met with his neighbors about the plans and they came to an agreement, they had said no to a lot of things on the plans including a driveway, poles, and a chicken coop which they resolved, and that he was surprised it was being brought up at the hearing.

Council, Staff, and Applicant discussed that the applicant had been working with a landscape architect to develop a plan but there was no landscape plan at this time, that a past Planner's interpretation did not bind the City, the interpretation of the code did not rest on Staff, that if there was an interpretation disagreement it would go before the Council, that the Planning Department felt confident that the current setbacks were the correct interpretation of the setback requirements of the City's zoning code, that if there was a code violation in the future then code enforcement would look into it, private easements agreements were between those private parties and not under the City's jurisdiction, and that if the applicant developed in the future there was protection to the neighboring property through the City's codes.

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

**Motion:** Moved by Councilmember Heebner and second by Deputy Mayor Zahn. Approved 5/0. **Motion carried unanimously.**

**B.2. Public Hearing: 840 Vera St., Applicants: Levanetz, Case 17-16-05.** (File 0610-10)

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 Development Review Permit (DRP) and Minor Exception (MEC). 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 2016-124** conditionally approving a DRP and MEC to relocate a single-story, historic-period, single-family residence with a detached garage to a vacant lot located at 840 Vera Street.

Greg Wade, City Manager, introduced the item.

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

Council and Staff discussed that the two car garage was 14 inches narrower than standard spaces, that the covered arcade could accommodate a 400 square foot garage which would still comply with the required setbacks, that the pictures of the existing home that would be moved to the lot were available, and passed them out (on file).

Council disclosed their familiarity with the project.

#### Applicant

Applicant, Joel Levanetz, stated that they wanted to use the existing footprints when relocating the house, that it was compatible with the surrounding area and complied with the requirements, requested the minor exception for the parking stole, that their office would be used as their storage area and the garage would be only used for parking their vehicles.

Council and Applicant discussed that the house was currently in five pieces for the move, that the second story was two of these pieces, that they wanted to be contributing members of the community and decided not to move the two upstairs units, that the applicant was trying to recreate the roof how it was originally intended, and hoped not to have to make any more concessions.

Council and Applicant discussed that there were existing parking issues in this neighborhood, whether the applicant would add a foot to width of the garage, that the applicant said it would be an added expense and that the contractor would have to review it but thought that it could be done.

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

Council discussed adding 14 feet to the garage and denying the minor exception.

Deputy Mayor Zahn said that he was supportive of a motion, appreciated the approach the applicant had taken and his willingness to work things out, in terms of parking concerns.

**Motion:** Moved by Councilmember Heebner and second by Councilmember Nichols. Approved 5/0 adding 14 ft. to the garage and denying the minor exception. **Motion carried unanimously.**

**B.3. Public Hearing: 460 S. Nardo Ave., Applicant: Krupp, Case 17-16-21.** (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 Development Review Permit (DRP). 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 2016-126** conditionally approving a DRP to construct a new, single-story, single-family residence with an attached, two-car garage and an attached, Accessory Living Unit (ALU) at 460 South Nardo Avenue.

Greg Wade, City Manager, introduced the item.

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

Council disclosures.

Joe Krupp stated that he was a resident of Madison, Wisconsin and his wife wanted to make the City of Solana Beach their home in the future, that this lot would allow them to build a single story home to meet their needs and as part of that they designed accessory living unit for winter visitors and the likelihood for caretakers in the future for their mother. He asked Council to consider Ordinance 470 modifications regarding deed restrictions and auxiliary parking stall that would take effect once the new ordinance was adopted and to consider treating these two conditions under Ordinance 470 conditions at this time, and that he was he was requesting consideration in order to be able to finish the project by the following January.

Johanna Canlas, City Attorney, stated that currently there was no law or regulation that would allow this request, that the applicable regulations for the project were those that were in place at the time the application was completed under the Permits Streamlining Act, there were no pipeline provision that would exempt projects before the adoption of Ordinance 470, that the state law provided for a waiting period to challenge the ordinance, and that applying it beforehand was not advisable.

Council and Staff discussed that one of the options was to continue the hearing to the date certain of December 14, 2016 and that if Ordinance 470 was adopted tonight it would be effective by that date, that there would be a new Council at the dais who would have to review all of the initial hearing and evidence needed as they did not have the benefit of this

discussion. Discussion continued regarding that the applicant could withdraw an application and file a new one and the City would have to re-evaluate the submittal to review the associated costs with any new considerations to be analyzed, whether any fees could be waived, and that there would be some associated costs for the packet publication, that all ADA requirements had to be met at the time of the issuance of the building permit, that the building official would have to review the accessible path of travel, and that single family residences were not typically a subject to ADA requirements but the applicant would have to consider what met his needs.

Councilmembers and Staff discussed that there was an option to add conditional approval language upon Council's consent stating that should 470 became effective before the permit was pulled the following conditions would no longer apply, that removing the conditions would require a DRP modification and Council's approval, that the fee for modification would be less, that the time would not be lost by continuing a hearing in order to get a building permit.

Discussed continued that adding a conditional approval language would be unprecedented, that it required applying a law prior to its effective date, that a continuance required a new Council to make the findings, and that the applicant would send his representative to the next meeting if it was continued.

Mr. Krupp, Applicant, asked for a continuance to the date certain of December 14, 2016.

**Motion:** Moved by Councilmember Nichols and second by Deputy Mayor Zahn. Approved 5/0 to continue the hearing to a date certain of December 14, 2016. **Motion carried unanimously.**

Mayor Zito recessed the meeting at 7:47 p.m. for a break and reconvened at 8:53 p.m.

**C. STAFF REPORTS:** (C.1. - C.3.)  
*Submit speaker slips to the City Clerk.*

**C.1. Lomas Santa Fe Corridor Feasibility Study Agreement.** (File 0820-75)

Recommendation: That the City Council

1. Adopt **Resolution 2016-127** authorizing the City Manager to sign an agreement with STC Traffic, Inc. for the Lomas Santa Fe Corridor Feasibility Study.

Greg Wade, City Manager, introduced the item and presented a PowerPoint (on file).

Council and Staff discussed they had enlisted the services of RRM Landscape Architect Group for use at a later phase first phase but were listed as part of the consultant team, that ATS consultants addressed 2-3 very specific segments of the corridor, that the study would allow for a conceptual plan for the entire corridor that would then be broken down to allow for alternate plans for each section, that timeline was approximately six months with a goal to begin in January, and that an e-blast and outreach programs would be ideal to give residents adequate notice.

Discussion continued regarding the issue of pedestrian safety and a desire for the City to reach out to stakeholders and people who have communicated to the City that there was an issue, the possibility of funding being diverted from the I-5 Mitigation Plan, that a grant would be requested due the similarity of the project, and to review the area near the Minute Shop, the old 7/11, and Peets due to confusion for motorists, and that the community outreach include the residential or rural corridor of the project due to the problem of speeding traffic and the need for sidewalks.

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

**C.2. Adopt (2<sup>nd</sup> Reading) Ordinance 471 – Building and Fire Code Updates.** (File 0800-90)

Recommendation: That the City Council

1. Adopt **Ordinance 471** amending Title 15 of the Solana Beach Municipal Code.

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

**Motion:** Moved by Deputy Mayor Zahn and second by Councilmember Heebner. Approved 5/0. **Motion carried unanimously.**

**C.3. Adopt (2<sup>nd</sup> Reading) Ordinance 470 – Providing Regulations Concerning Accessory Dwelling Units in Residential Zones.** (File 0610-10)

Recommendation: That the City Council

1. Adopt **Ordinance 470** regulating the development of accessory dwelling units.

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

**Motion:** Moved by Councilmember Nichols and second by Deputy Mayor Zahn. Approved 5/0. **Motion carried unanimously.**

**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:**

**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 8:12 p.m.

Angela Ivey, City Clerk

Approved: December 14, 2016