



Public Comments
City Council Meeting
December 1, 2021

From Url: <https://www.escondido.org/public-comment>

From IP Address: 68.111.173.149

Email christinenava858@gmail.com

Council Meeting Date 12/1/2021

Agenda # 11

Subject Eminent Domain taking

Position In Opposition

First and Last Name Christine Nava

Are you an Escondido Resident Yes

Comments I stand in full support of Escondido Neighbors United (ENU) and the NCG of the Sierra Club, in strong opposition to the staff recommendation to take part of Felicita Park by eminent domain. This proposed action is not in the public interest and raises many questions relevant to assumptions made by staff in recommending this action. To assume that just because an entity does not sue over a project there is de-facto concurrence is a leap and does not hold water. Unacceptable is the assumption that the addition of two 72 inch drainage pipes is not related to an increase in drainage from the project. The truth of the matter is that this project essentially paves and hardens most of 47 acres of former farmland which once paved can never be restored to its natural state. There are many other reasons to oppose this action – too many for this commentary – but it needs to be noted that KB Homes has a history of violations and was cited with a Stop work Order by the city and a notice of Violation from the Regional Board. They know the rules, but they push the envelope by continually asking for changes and accommodations. They are not to be trusted and to support a developer who seeks to exploit a natural area for profit is totally unacceptable. The taking of Felicita Park by Eminent Domain without adequate information on negative impacts is to reward a developer who has no regard for rules that apply to this development. It is unjust, inequitable, and unconscionable. Please vote no on eminent domain in Felicita Park for KB Home and Oak Creek. Sincerely, Christine Nava

Would you like your comment read out loud? Yes

A form has been submitted, click the link below to view the submission:

<https://www.escondido.org/FormWizard/ViewSubmission.aspx?mid=5168&pageid=3094&rid=75df2fab-9d9c-4ffe-88c7-a7962e0cd38d>

From Url: <https://www.escondido.org/public-comment>

From IP Address: 68.101.172.166

Email dtownsend5@gmail.com

Council Meeting Date 12/1/2021

Agenda # 11

Subject Oppose Resolution No. 2021-174

Position In Opposition

First and Last Name Dan Townsend

Are you an Escondido Resident Yes

Comments I object to the City's attempt to offer relief to a wealthy corporate developer for their mismanaged drainage issues at the Oak Creek development. Instead the City must force these scofflaws to repair the damage they have done and adhere to the agreements undertaken when initiating this project. Anything less is a shameful abdication of responsibility by this Council and will not be forgotten by the voters. Dan Townsend Escondido

Would you like your comment read out loud? No

A form has been submitted, click the link below to view the submission:

<https://www.escondido.org/FormWizard/ViewSubmission.aspx?mid=5168&pageid=3094&rid=af4ef04f-140a-4b98-89e8-6768dd8290ad>

From Url: <https://www.escondido.org/public-comment>

From IP Address: 68.111.193.217

Email dreagl@gmail.com

Council Meeting Date 12/1/2021

Agenda # 11

Subject CONSIDERATION OF A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF A DRAINAGE EASEMENT OVER A PORTION OF FELICITA COUNTY PARK

Position In Opposition

First and Last Name Doreen Reagle

Are you an Escondido Resident Yes

Comments Dear Council Members: Please do NOT approve the taking by eminent domain of any portion of Felicita County Park for any use by the development of Oak Creek. Using eminent domain for the benefit of a private entity does not serve the public. A public asset should not be used to subsidize poor planning by a private entity. In addition, more study/research is necessary to determine the impacts of the increased volume and speed of water in Felicita Creek running through the park as well as impacts to private residents along Felicita Creek to the south. Developers of Oak Creek knew the requirements of drainage prior to acquiring the property as they are an experienced developer. In addition, they were aware of the County's opposition. It is not the responsibility of the public or County to address the known drainage challenges. Please oppose the eminent domain, Item 11. Thank you, Doreen Reagle

Would you like your comment read out loud? Yes

A form has been submitted, click the link below to view the submission:

<https://www.escondido.org/FormWizard/ViewSubmission.aspx?mid=5168&pageid=3094&rid=c71fc61b-3041-4cde-b100-e771d3d67b7d>



December 1, 2021

Mayor and City Council
City of Escondido
Via Email

RE: ENU OPPOSITION to eminent domain action in favor of Oak Creek

Dear Mayor and City Council,

Escondido Neighbors United (ENU) is a neighborhood organization with a long history with Oak Creek. ENU strenuously opposes the proposed action recommended by staff to take part of Felicita Park by eminent domain.

This action is nothing short of cannibalizing a historic public park asset to enrich a private developer, and one with a poor record at that.

ENU was active throughout the environmental review process regarding Oak Creek in 2014-2015. Our priority concerns included impacts of the development on contamination related to Chatham and concerns related to stormwater and non-stormwater drainage from the project into the creek, impacting our precious Felicita Park and creek, and then into our Quiet Hills Neighborhood.

ENU has never supported the attempt by, then New Urban West, to externalize their drainage issues. Neither, as has been stated repeatedly, did the County of San Diego.

It is inaccurate to suggest, as it does in the staff report, that just because an entity does not sue over a project there is de-facto concurrence. ENU's concerns are well documented, and although ENU did not bring legal action against the project, we **never** concurred with the project or with their plan to externalize their drainage issues.

Further, it is not credible to suggest, as it does in the staff report, that the addition of two 72-inch drainage pipes is not related to increases from drainage from the project. This project essentially paves and hardens most of 47 acres of land which was originally open farmland.

Although ENU opposed the project, we offered several recommendations to reduce our issues of highest concern around creek protection and drainage. One of our primary

recommendations was that the number of homes be reduced. By reducing the amount of impervious surface and increasing the amount of area where infiltration of stormwater may occur, the volume and velocity of stormwater discharged into the creek would be reduced. This would have reduced the volume of sediment that would be discharged into the creek and reduce erosion and scouring in the creek. These requests fell on deaf ears and now the developers want to move forward with their project on the backs of our public park.

The major concerns with offsite flows are two-fold. This project and Felicita Park are located on top of the Chatham groundwater contamination plume. More scouring of the creek in the Park may lead to additional discharge of contaminants from the Chatham plume, which already 'daylight' (when the contamination is released into the air) into the Creek near the site.

Second, inadequate retention and drainage from the site will worsen sedimentation, siltation, flooding flows, and other issues that degrade the designated beneficial uses of the creek, such as Contact and Non-contact Water Recreation, Wildlife Habitat, and Warm Freshwater Habitat. This reduces the use of the creek to support wildlife, and park users and the public's enjoyment of the creek, especially in Quiet Hills.

A February 20, 2020 letter from the City of Escondido made suggestions about how to resolve issues. Rather than addressing all the issues, KB Home's response was to sue the City of Escondido and now has resulted in the proposed exercise of eminent domain. Such bad behavior should not be rewarded by the city.

KB Home also caused significant violations of the stormwater regulations and was cited with a Stop Work order by the city and a Notice of Violation from the Regional Board. KB Home is an experienced home builder and they know the rules--or should. In this case, KB Home didn't do what needed to be done until they were caught and reported to authorities. Only then did they take appropriate action.

Another issue that warrants your attention is the fact that KB Home, after purchasing the property and entitlements, asked for changes to accommodate its needs. The lesson here is that KB Home **can and has** changed its plans based on conditions. Now, they need to change its plan again to accommodate the drainage issues and locate a solution on-site.

It is not unreasonable to think that such an experienced company would read the relevant mitigation requirements prior to making such an investment. It is neither our problem nor the park's that they were not paying attention. **These rules and conditions were well-known in advance.** Unfortunately, we are sorry to once again see a developer seeking to exploit a natural area, in this case our park, to meet their profit margins. It is completely unacceptable.

In closing, we want to **register our strongest objection** to this eminent domain action.

Eminent domain is **not** in the public interest or a necessity for the project. It was **not** planned in the manner most compatible with the greatest public good, the impacts of this action promise to extend **far beyond** the headwall and riprap area so the action does not propose adequate real property, and there is **no** acceptable compensation for the loss of public parkland. The record does not ensure that recreational, biological, and cultural resources are protected in the historic public park. The required findings cannot be made.

We attached and incorporate our previous letters into the record.

In closing, the city should not be bailing out a moneyed interest by degrading a public asset.

Sincerely,

Escondido Neighbors United

Doreen Reagle

Maria Armpalu

Tina Iki

Brenda and Dan Townsend

Pamela and John Heatherington

Carrigan James

Ron Forster and Laura Hunter

Maria Armpalu

Tina Iki

Christine Nava

Lucero Sanchez

CC.

Sean McGlynn, City Manager, smcglynn@escondido.org

Kurt Whitman, Senior Deputy City Attorney, kwhitman@escondido.org

Brooke Miller, Senior Deputy County Counsel, brooke.miller@sdcounty.ca.gov

From Url: <https://www.escondido.org/public-comment>

From IP Address: 68.111.194.161

Email peter.randolph@cox.net

Council Meeting Date 12/1/2021

Agenda # 11

Subject Oak Creek Drainage Issue

Position In Opposition

First and Last Name J Peter Randolph

Are you an Escondido Resident Yes

Comments I oppose Oak Creek's request for the city of Escondido to use eminent domain to take over a portion of Felicita Park to solve Oak Creek's lack of responsible mitigation regarding storm water drainage. It is the developer's responsibility to resolve this issue without taking over public land. Felicita Park is a San Diego County Park serving citizens of the entire county; it should not be compromised for the benefit of a private contractor. How is it that the City of Escondido can take any action involving County property?

Would you like your comment read out loud? No

A form has been submitted, click the link below to view the submission:

<https://www.escondido.org/FormWizard/ViewSubmission.aspx?mid=5168&pageid=3094&rid=e8916022-d827-4343-9740-9d3e83b19e08>

From Url: <https://www.escondido.org/public-comment>

From IP Address: 75.80.132.65

Email pjheatherington@gmail.com

Council Meeting Date 12/1/2021

Agenda # 11

Subject Felicita Park giveaway

Position In Opposition

First and Last Name Pamela & John Heatherington

Are you an Escondido Resident No

Comments Felicita Park is a public asset. I oppose any compromise that rewards bad behavior by the developer. We oppose this action. Oak Creek has operated in violation of Stormwater regulations and knew about the requirement, and the County opposition, prior to purchasing this land. This is a problem of their own making. They should be made to address the drainage problem on-site. The public should not be responsible for their mistake. The Park should not have to subsidize Oak Creek's bad planning and development actions. Cannibalizing a public park asset to enrich private development interests should not be allowed. Pam and John Heatherington

Would you like your comment read out loud? Yes

A form has been submitted, click the link below to view the submission:

<https://www.escondido.org/FormWizard/ViewSubmission.aspx?mid=5168&pageid=3094&rid=715c8140-c470-43f4-9bdf-52b98a1914ad>

Mayor McNamara and City Council

City of Escondido

Via Email

RE: Opposition to Agenda #11, Urge denial action on eminent domain of land in Felicita Park for private developer economic benefits

Dear Mayor and City Council Members:

I am writing in support of Sierra Club North County Group (NCG) correspondence, to urge Escondido City Council to take action for **denial** on Agenda #11, to reject the proposal for eminent domain of land in Felicita Park for economic benefit of private developer (KB Homes/Oak Creek).

Council members are reminded how KB Homes has **not** been a good neighbor since they purchased the Oak Creek subdivision property, and failed to implement drainage mitigation measures identified in the Final EIR for Oak Creek. Additionally, their careless development violated stormwater regulations in 2019-2020 which caused significant offsite environmental damage and pollution discharges to Felicita Creek.

Despite consistent public opposition before the project was ever approved in 2015, KB Homes continued to apply adversarial tactics, by their refusal to reduce the number of homes to accommodate drainage runoff and stormwater detention, and KB Homes instead sued the City. Now it appears KB Homes now only adds more insult to injury, by this current proposal for eminent domain to reduce land in Felicita Park, a heavily used, important and popular public park located in County jurisdiction.

The neighbors, and countless users of Felicita Park are public stakeholders have already identified legitimate reasons for denial of KB Homes request for eminent domain, primarily because Felicita Park should not have to be degraded to enrich the developers (KB Homes). **The required findings of Public Necessity are unmet.** It is apparent to countless public stakeholders that there is zero 'community benefit' that will be derived, and this 'taking' of public parkland from Felicita Park is only contrived by KB Homes as a Public Necessity to benefit their private exclusive economic interest. This proposed action is contrary to the public interest, and is vigorously opposed by the public, County of San Diego (Attachment 3), and environmental organizations.

*"On November 19, 2021, the County submitted a letter requesting to be heard and outlining its objections to adoption of the Resolution of Necessity. A copy of that letter is attached to this Report as Attachment "3". In the letter, the County states that it "recognizes the importance of appropriately conveying the drainage off Felicita Road and is supportive of the concept of diverting the drainage to a drainage structure in the Park. As a result, the County has never denied the request to provide an easement to either the City or the Project applicant." The County represents that its "intention has always been to work with the City and Project applicant to find a suitable agreement where the Project can proceed forward." Nonetheless, the County contends that **"at this time, the County does not concur***

with the easement description or proposed offer, as the City has not provided adequate information to allow the County to determine whether the easement area is adequate or if the increased drainage to the Park will cause harm to recreational, biological, and cultural resources.” As the County letter acknowledges, the parties have been in protracted discussions since 2015. The County has continued to insist on additional analysis beyond what was done prior to approval of the Oak Creek Project and the FEIR. The County failed to challenge the FEIR and has since continued to insist on revisiting various issues, including demands for further hydrological analysis reports, that should have been resolved and/or litigated before the Oak Creek Project got under way”

The Staff Report indicates the City Council has the option of either adopting, or **refusing to adopt**, the proposed Resolution. If the Resolution is adopted, City staff and Special Counsel will proceed to initiate eminent domain proceedings, which ultimately would lead to a determination of the fair market value of the property interests proposed to be taken through court proceedings. **If the City Council does not adopt the Resolution, the City can either (i) commit to acquiring the identified Subject Property from the owner only by negotiated acquisition; (ii) decide not to implement the Project; or (iii) provide alternative direction to staff.**

For reasons outlined in public hearing correspondence regarding Agenda #11, and objections by County of San Diego (Attachment 3), public stakeholders seek action by Escondido City Council to **refuse to adopt proposed Resolution, and instead deploy other options, either (i), (ii), or (iii), as outlined by City Attorney, on page 7 of Staff Report.**

It is unjust, inequitable, and unconscionable. Please do not reward this kind of behavior on the part of KB Home. This is not the precedent you should set for our city. It is not the kind of precedent that serves the public.

Please vote no on eminent domain for KB Home and Oak Creek.

Sincerely,

Patricia Borchmann

From Url: <https://www.escondido.org/public-comment>

From IP Address: 68.111.194.161

Email rebecca.smith@cox.net

Council Meeting Date 12/1/2021

Agenda # 11

Subject Oak Creek Eminent Domain Over Felicita Park

Position In Opposition

First and Last Name Rebecca Randolph

Are you an Escondido Resident Yes

Comments It is not fair to ask other Escondido residents, the County, and users of Felicita Park to subsidize required mitigation of Oak Creek's drainage problems. The developer agreed to address these problems in exchange for being allowed to build. The developer's repeated attempts to avoid its responsibilities for stormwater drainage are offensive, and this new proposal is downright insulting. Felicita Park must not become Oak Creek's private playground.

Would you like your comment read out loud? No

A form has been submitted, click the link below to view the submission:

<https://www.escondido.org/FormWizard/ViewSubmission.aspx?mid=5168&pageid=3094&rid=d2c14968-d227-46b5-9fb1-6379decae136>



North County Group
Sierra Club San Diego
P.O. Box 2141
Escondido, CA 92033

December 1, 2021

Mayor McNamara and City Council
City of Escondido
Via Email

RE: Sierra Club NCG opposition to #11 action on eminent domain of land in Felicita Park for private developer economic benefits

Dear Mayor and City Council Members:

Sierra Club North County Group (NCG) strongly opposes eminent domain to extract land from a public County Park to enrich a private developer. The findings required for this action simply cannot be made by the city. The city cannot find that this action is in the public interest, is planned or located for the greatest public good, proposes (or even knows) an adequate area of impact or real property or provided just compensation. The taking of public property without adequate information on negative impacts to public resources for the benefit of a developer is not in the public interest. Because this impacts to the park and downstream residents and uses are unknown and unprotected, this taking cannot be justified.

The drainage issue has been well-known to the developer, local residents, and the city. The developer, KB Home Coastal (KB Home), now infamous for its flagrant disregard for rules that apply to this development, namely the mitigations required in the FEIR (of which they were fully aware when they purchased the property) and stormwater regulations which they significantly violated in 2019-2020.

The downstream neighbors, Escondido Neighbors United, and the County have been consistent in their positions since the project was proposed. There is inadequate information in the record to assure that water quality, designated and protected beneficial uses, and cultural assets will not be degraded. **Felicita Park should not have to be degraded to enrich the developers.** There are multiple things KB Homes could do on-site to address the drainage issues. They just refuse to do them.

Please understand, Felicita Park is not just any park. It has been a gathering place for people for centuries and its rich Native American and pioneer history have landed this park on the National Register of Historic Places. It was the site of a large Kumeyaay Indian village. It a jewel precious to the region and especially to park-users. It deserves better treatment than this.

Suggestions on how on-site accommodation of water retention were made by ENU and others such as to reduce the number of home sites to accommodate adequate runoff and detention. The claim that this taking has nothing to do with the drainage from the project is laughable.

However, KB Home refused to re-design the project and, instead, sued the city. The city, in turn, appears to now be attempting to bail KB Home out at the expense of a heavily used, historic public park.

It is unjust, inequitable, and unconscionable. Please do not reward this kind of behavior on the part of KB Home. This is not the precedent you should set for our city. It is not the kind of precedent that serves the public.

We also endorse comments made by the local community group most impacted, Escondido Neighbors United, and by the County on this action as well.

Please vote no on eminent domain in Felicita Park for KB Home and Oak Creek.

Sincerely,



Laura Hunter, Chair
NCG Conservation Committee



Richard Miller
Chapter Director and Escondido resident

cc.

Escondido Planning Commission
County DPR
Supervisor Terra Lawson-Remer