



# CITY OF SOLANA BEACH

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

## AGENDA

### Joint SPECIAL Meeting

Wednesday, March 23, 2022 \* 5:00 p.m.

Teleconference Location Only-City Hall/Council Chambers, 635 S. Highway 101, Solana Beach, California

This meeting will be conducted in accordance with California Government Code sections 54953(e) and 54954.3 and other applicable law.

#### MEETING LOCATION WILL NOT BE OPEN TO THE PUBLIC

Be advised that due to the COVID-19 pandemic in-person participation will not be allowed, there will be no members of the public in attendance at Council Meetings. Alternatives to in-person attendance for viewing and participating in City Council meetings are being provided under provided below.

#### AGENDA MATERIALS

A full City Council agenda packet including relative supporting documentation is posted online [www.cityofsolanabeach.org](http://www.cityofsolanabeach.org) Closed Session Agendas are posted at least 72 hours prior to regular meetings and at least 24 hours prior to special meetings.

#### WATCH THE MEETING

- Live web-streaming: Meetings web-stream live on the City's website on the City's [Public Meetings](#) webpage. Find the large Live Meeting button.
- Live Broadcast on Local Govt. Channel: Meetings are broadcast live on Cox Communications - Channel 19 / Spectrum (Time Warner)-Channel 24 / AT&T U-verse Channel 99.
- Archived videos online: The video taping of meetings are maintained as a permanent record and contain a detailed account of the proceedings. Council meeting tapings are archived and available for viewing on the City's [Public Meetings](#) webpage.

#### PUBLIC COMMENTS

- Written correspondence (supplemental items) regarding an agenda item at an open session meeting should be submitted to the City Clerk's Office at [clerkoffice@cosb.org](mailto:clerkoffice@cosb.org) with a) Subject line to include the meeting date b) Include the Agenda Item # as listed on the Agenda.
- Correspondence received after the official posting of the agenda, but before 3:00 p.m. (or 3 hrs. prior to the meeting start time) on the meeting day, will be distributed to Council and made available online along with the agenda posting. All submittals received before the start of the meeting will be made part of the record.
- Written submittals will be added to the record and not read out loud.
- The designated location for viewing supplemental documents is on the City's website [www.cityofsolanabeach.org](http://www.cityofsolanabeach.org) on the posted Agenda under the relative Agenda Item.

OR

Verbal Comment Participation: If you wish to provide a live verbal comment during the meeting, attend the virtual meeting via your computer or call in.

#### Before Meeting

- Alert Clerk's Office. We ask that you alert us that you will joining the meeting to speak. Please email us at [clerkoffice@cosb.org](mailto:clerkoffice@cosb.org) to let us know which item you will speak on. This allows our Staff to manage speakers more efficiently.
- Watch the Meeting and Make a Public Comment  
You can watch the meeting on the Live Meeting button on the Public Meetings page OR on TV at the stations provided above OR on the zoom event:

**Link:** <https://cosb-org.zoom.us/j/87525458827>

Webinar ID: 875 2545 8827

Or Telephone: Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 9128 or +1 346 248 7799 or +1 253 215 8782 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799 or 833 548 0282 (Toll Free) or 877 853 5257 (Toll Free) or 888 475 4499 (Toll Free) or 833 548 0276 (Toll Free)

- Join/Log-In to the meeting at least 15 minutes prior to the start time so that the City Clerk can verify that you are ready to speak before the meeting begins.
- Audio Accessibility: If your computer does not have a microphone or you have sound issues, you can call-in from a landline or cell phone and use it as your audio (phone # is provided once you log-in to Zoom, see above). If you call in for better audio, mute your computer's speakers to eliminate feedback so that you do not have two audios when you are speaking.

**During Meeting:**

- o During each Agenda Item and Oral Communications, attendees will be asked if they would like to speak. Speakers are taken during each agenda item.
- o Speakers will be asked to raise their hand (zoom icon under participants can be clicked or on the phone you can dial \*9) if they would like to be called on to speak during each item. We will call on you by your log in name or the last 4 digits of your phone #. When called on by the meeting organizer, we will unmute so you may provide comments for the allotted time. Allotted speaker times are listed under each [Agenda](#) section.
- o Choose Gallery View to see the presentations, when applicable.

**SPECIAL ASSISTANCE NEEDED - AMERICAN DISABILITIES ACT TITLE 2**

In compliance with the Americans with Disabilities Act of 1990, persons with a disability may request an agenda in appropriate alternative formats as required by Section 202. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to the City Clerk's office (858) 720-2400 [clerkoffice@cosb.org](mailto:clerkoffice@cosb.org) at least 72 hours prior to the meeting.

<b>CITY COUNCILMEMBERS</b>			
<b>Lesa Heebner, Mayor</b>			
<b>Kelly Harless</b> Deputy Mayor	<b>David A. Zito</b> Councilmember	<b>Jewel Edson</b> Councilmember District 1	<b>Kristi Becker</b> Councilmember District 3
Gregory Wade <b>City Manager</b>	Johanna Canlas <b>City Attorney</b>	Angela Ivey <b>City Clerk</b>	

**SPEAKERS:**

See Public Participation on the first page of the Agenda for publication participation options.

**READING OF ORDINANCES AND RESOLUTIONS:**

Pursuant to [Solana Beach Municipal Code](#) Section 2.04.460, at the time of introduction or adoption of an ordinance or adoption of a resolution, the same shall not be read in full unless after the reading of the title, further reading is requested by a member of the Council. If any Councilmember so requests, the ordinance or resolution shall be read in full. In the absence of such a request, this section shall constitute a waiver by the council of such reading.

**CALL TO ORDER AND ROLL CALL:**

**CLOSED SESSION REPORT:**

**FLAG SALUTE:**

**APPROVAL OF AGENDA:**

**D. STAFF REPORTS: (D.1.)**

**Note to Public: Refer to [Public Participation](#) for information on how to submit public comment.**

Any member of the public may address the City Council on an item of concern by submitting written correspondence for the record to be filed with the record or by registering to join the virtual meeting

online to speak live, per the Public Participation instructions on the Agenda. The maximum time allotted for each speaker is THREE MINUTES (SBMC 2.04.190).

**D.1. Redistricting Process Fourth Public Hearing.** (File 0430-60)

Recommendation: That the City Council

1. Receive Staff Report.
2. Conduct fourth public hearing.
3. Review submitted draft maps.
4. Adopt **Resolution 2022-028** adopting redistricting plan.

[Item D.1. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**ADJOURN:**

**AFFIDAVIT OF POSTING**

STATE OF CALIFORNIA }  
COUNTY OF SAN DIEGO } §  
CITY OF SOLANA BEACH }

I, Angela Ivey, City Clerk of the City of Solana Beach, do hereby certify that this Agenda for the March 23, 2022 Council Meeting was called by City Council, Successor Agency to the Redevelopment Agency, Public Financing Authority, and the Housing Authority of the City of Solana Beach, California, was provided and posted on March 16, 2022 at 5:30 p.m. on the City Bulletin Board at the entrance to the City Council Chambers. Said meeting is held at 5:00 p.m., March 23, 2022, in the Council Chambers, at City Hall, 635 S. Highway 101, Solana Beach, California.

Angela Ivey, City Clerk \* City of Solana Beach, CA



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** March 23, 2022  
**ORIGINATING DEPT:** City Attorney's Office  
**SUBJECT:** **Fourth Public Hearing - Redistricting Process**

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## **BACKGROUND:**

On April 11, 2018, the Council adopted Resolution 2018-042 declaring the City of Solana Beach's intent to change the way the Council members are elected, transitioning from an at-large Council Member election system to a district-based Councilmember election system with a directly elected Office of Mayor. On July 18, 2018, the Council adopted Ordinance 488 implementing district-based elections for Council members. The districts were drawn based on the 2010 Census data, the most recent available. The 2018 plan was used in City Council elections in 2020.

Following every federal decennial census, local governments are required to engage in a formal redistricting process as prescribed by the California Elections Code. Elec. Code § 21601 *et seq.* The California Legislature passed a new law in 2019, amended in 2020 and 2021, called the Fair Maps Act which specifies the procedures and mandatory, prioritized criteria under redistricting must occur.

The City has engaged assistance from Special Counsel Marguerite Leoni of Nielsen Merksamer Parrinello Gross & Leoni LLP and Demographers Douglas Johnson/Shannon Kelly from National Demographics Corporation to assist with the redistricting process.

The City conducted the initial/first public hearing on December 15, 2021. After the first public hearing, draft maps were published. The City conducted the second public hearing on January 12, 2022, and a third public hearing on March 9, 2022, where the City Council reviewed draft maps and invited the public to submit maps. To date, the City received eight (8) draft maps submitted by members of the public. The submitted maps have been analyzed by the City's demographer and posted with their corresponding demographic data at:

COUNCIL ACTION:

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[https://www.ci.solana-beach.ca.us/index.asp?SEC=56737889-4955-493D-8FBF-D9F2F8A9BC7A&Type=B\\_BASIC](https://www.ci.solana-beach.ca.us/index.asp?SEC=56737889-4955-493D-8FBF-D9F2F8A9BC7A&Type=B_BASIC)

Two maps were initially presented by the Demographer, draft Maps 101 and 102. After the second public hearing, draft Map 102 was modified in response to public testimony and identified as draft Map 102a. After the third public hearing, Draft Map 102a was further modified at the instruction of the City Council in response to public testimony and identified as draft Map 102b. These maps are also posted at above location on the City's redistricting website. Also, after the third public hearing, the City Council narrowed the number of maps under consideration to draft Maps 102a, Map 102b (102a as revised per instruction of the City Council), and Map 202, which was submitted by a member of the public. As of the fourth public hearing, the City Council has received and considered 12 draft maps.

The City has diligently complied with the statutory procedures set forth in the California Elections Code for the conduct of the redistricting process. The City has also complied with the Elections Code provisions applicable to the redistricting process that require the City to take steps to encourage residents, including those in underrepresented communities and non-English speaking communities, to participate in the redistricting public review process. Elec. Code § 21608(a). The Staff Report for the Third Public Hearing extensively describes this outreach. There has been significant public participation from all geographical areas of the City.

The item is before the City Council to conduct the fourth of the required public hearings under the law. In addition, the City Council may consider a Resolution adopting one of the draft maps as the redistricting map for the City Council districts following the 2020 Census and until changed in accordance with law.

## **DISCUSSION:**

### **Mandatory Redistricting Criteria**

California Elections Code section 21601 requires the City Council to adopt district boundaries using the following criteria, in the following order of priority:

1. Council districts shall be substantially equal in population based on total population of residents of the city as determined by the most recent federal decennial census with adjustments required by state law pertaining to incarcerated persons. (Changes to state law now require that the California Statewide Database perform certain "adjustments" to the data to reassign incarcerated residents back to their last known place of residence, rather than where they are incarcerated.)
2. Council districts must comply with the United States Constitution the California Constitution, and the federal Voting Rights Act of 1965.
3. To the extent practicable, council districts shall be geographically contiguous.

4. To the extent practicable, the geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes its division. (A “community of interest” is a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest do not include relationships with political parties, incumbents, or political candidates.)
5. District boundaries must be easily identifiable and understandable by residents. To the extent practicable, districts shall be defined by natural and artificial barriers, by streets or by the boundaries of the city.
6. To the extent practicable, boundaries must be drawn to encourage geographical compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations.
7. The Council shall not adopt District boundaries for the purpose of favoring or discrimination against a political party.

### **City Council’s Discretion**

The City’s redistricting plan must comply with the statutory criteria in the order set by the Legislature in the FAIR MAPS Act. Nevertheless, the Council retains significant discretion. Two of the areas in which the Council retains discretion are the following:

First, State law does not expressly prohibit other good government considerations for redistricting, such as avoiding to the extent possible the deferral of the exercise of the right to vote because of rearrangement of district boundaries, or a minimal change approach provided all statutory criteria are met.

Second, within each prioritized category of criteria, the Council retains discretion to make choices provided those choices are lawful and not arbitrary or capricious, meaning the choices are applied fairly and supported by the record of the redistricting process. One area in which this may be significant is in the Community of Interest criterion. The identification of “communities of interest” is not a question addressed in the abstract. It is a geographically-specific inquiry that “requires insights that cannot be obtained from maps or even census figures. Such insights require an understanding of the community at issue, which can often be acquired only through direct and extensive experience with the day-to-day lives of an area’s residents.” *Favors v. Cuomo*, 2012 U.S. Dist. LEXIS 36910, \*27 (E.D.N.Y. Mar. 19, 2012) (footnote omitted). State law requires that a properly established community of interest be “respected in a manner that minimizes its division.” Significantly, the law does not prohibit any division of a community of interest, nor does it limit the City Council’s discretion in determining the arrangement of communities of interest within the districting plan as a whole. Both would place a significant constraint on the Council’s ability to comply with the FAIR MAPS Act in its entirety. And since a community of interest is a geographically specific inquiry, communities of interest often compete for territory. The City Council retains discretion to resolve that competition.

A legislatively adopted districting plan “is presumptively constitutional, and a party challenging the plan bears the burden of demonstrating it inevitably poses a total and

fatal conflict with constitutional provisions.” *Nadler v. Schwarzenegger*, 137 Cal. App. 4th 1327, 1332 (2006). In other words, a plaintiff must show “that no set of circumstances exists under which the enactment would be valid.” *Id.* at 1338. “Courts will not declare such enactments invalid unless it appears the action taken was arbitrary, capricious or entirely lacking in evidentiary support. A court may not substitute its judgment for that of the legislative body merely because it doubts the wisdom of the action taken, and must sustain the legislative enactment if there is any reasonable basis for it.” *Griswold v. County of San Diego*, 32 Cal. App. 3d 56, 66 (1973) (citations omitted); see also *Nadler*, 137 Cal. App. 4th at 1338 (courts must uphold the plan “so long as the [council] could rationally have determined a set of facts that support it.”).

### **Method of Adoption of Redistricting Map**

California Elections Code section 21601(e) provides, “For purposes of this article [mandating the redistricting of city council district boundaries after the decennial Census], “adopt” or “adoption” in regard to council district boundaries means the passage of an ordinance or resolution specifying those boundaries.” Staff has proposed adoption by resolution, which is also consistent with Ordinance No. 488. The resolution is effective upon adoption, although it is subject to referendum. (See below regarding impact on tenure of City Council members.)

### **Deadline for Completion of Redistricting Process**

The statutory deadline for the Council to complete the redistricting process is April 17, 2022. Earlier completion is advised, to ensure that the County Registrar is provided sufficient time to implement the new boundaries considering the statewide and countywide redistricting currently underway in numerous jurisdictions, all with deadlines considering June and/or November 2022 elections. After the deadline, the redistricting must be referred to the superior court for completion.

If the City Council decides to make further amendments to a draft map that map must be published on the internet for at least three days before being adopted as a final map by the City Council.

### **Impact on Upcoming Elections**

State law provides the term of office of a council member whose term of office has not expired shall not be affected by any change in the boundaries of the district from which the council member was elected. Pursuant to Ordinance No. 488, in November 2020, elections were held in Districts 1 and 3 as adopted in 2018. The Council members for those districts serve four-year terms and their tenure is not affected by the redistricting, even if, as a result of the change in district boundaries, the member no longer resides within the same geographical boundaries as the district that elected that member.

Because redistricting is required by law, pursuant to Ordinance No. 488, Council Members will be elected for four-year terms in Council Districts 2 and 4 in the new

redistricting map in November 2022. This completes the transition to by-district elections. Council Members will be elected for four-year terms in Council Districts 1 and 3 in the new redistricting map in November 2024.

A vacancy in a district office would be filled by the same voters that elected the member who has since vacated the office. For example, a vacancy occurring this year in District 1 or 3 would be filled by the electorate that was included the 2018 boundaries of that district.

**CEQA COMPLIANCE STATEMENT:**

Not a project as defined under CEQA.

**FISCAL IMPACT:**

The Fiscal Year (FY) 2021-22 Adopted Budget contains appropriations of \$75,000 for the Special Counsel and \$25,000 for the Demographer. At this time, Staff believes these appropriations will be sufficient to cover the redistricting services.

**OPTIONS:**

- Pass the attached resolution adopting a redistricting plan for the City Council districts; or
- Provide further instructions to demographic consultant regarding the draft redistricting maps and/or
- Schedule another City Council meeting for adoption of a redistricting plan by resolution prior to April 17, 2022.

**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council:

1. Receive Staff Report.
2. Conduct fourth public hearing.
3. Review submitted draft maps.
4. Adopt Resolution 2022-028 adopting redistricting plan.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation.



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Gregory Wade, City Manager

Attachment 1: Resolution 2022-028

## RESOLUTION 2022-028

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH ADOPTING A REVISED CITY COUNCIL ELECTORAL DISTRICT MAP FOLLOWING THE 2020 FEDERAL CENSUS AND CONFIRMING ELECTION SEQUENCING PURSUANT TO ORDINANCE No. 488

**WHEREAS**, pursuant to Article 1A of Chapter 2.24 (Elections) of Title 2. (Administration and Personnel) of the Solana Beach Municipal Code adopted on July 10, 2018 (Ord. No. 488), City Council Members are elected by-district in four single-member districts, and the Mayor is directly elected by the voters of the City; and

**WHEREAS**, Ordinance No. 488 also incorporates a map of single-member districts reflected in Exhibit A, as adopted, and as subsequently reapportioned as provided by State law; and

**WHEREAS**, Ordinance No. 488 was adopted in response to a demand and threat of litigation under the California Voting Rights Act on behalf of the City's Latino residents, and Exhibit A to the Ordinance was designed after an extensive public process including all sectors of the City's residents including its Latino community with a focus on the City's historical Latino neighborhoods and institutions; and

**WHEREAS**, pursuant to Ordinance No. 488, in November 2020, elections were held in Districts 1 and 3 as adopted in 2018; and

**WHEREAS**, pursuant to Ordinance No. 488, in November 2022, elections will be held in Districts 2 and 4; and

**WHEREAS**, following each federal decennial census, the City Council must, by ordinance or resolution, adopt boundaries for all of the council districts so that the council districts shall be substantially equal in population as required by the United States Constitution and comply with other criteria specified in State and federal law; and

**WHEREAS**, the 2020 Census data shows that the City's current districts are not population balanced, with a deviation between District 3 (the most populated district) and District 2 (the least populated district) of approximately 13.25%; and

**WHEREAS**, the City must adjust its district boundary lines by adopting a final redistricting map before the statutory deadline of April 17, 2022; and

**WHEREAS**, between December 15, 2021, and March 23, 2022, the City Council held four (4) public hearings and meetings on redistricting; and

**WHEREAS**, the City Council took steps to encourage residents, including those in underrepresented communities and non-English speaking communities, to participate in the redistricting public review process; and

**WHEREAS**, the City Council allowed the public to submit testimony and draft maps in writing and electronically; and

**WHEREAS**, the City Council considered all community input including eight proposed redistricting maps submitted by members of the public (three of which were identical) and four maps prepared by its demographic consultant; and

**WHEREAS**, after a public hearing on March 9, 2022, the City Council instructed its demographer to revise Map 102a to reflect public testimony concerning communities of interest and narrowed the number of maps under consideration to draft Maps 102a, Map 102b (102a as revised per instruction of the City Council), and Map 202, which was submitted by a member of the public; and

**WHEREAS**, after a public hearing held on March 23, 2022, the City Council selected Map \_\_\_\_\_ attached hereto as Exhibit 1 and incorporated herein by reference, as the new redistricting map for the City Council districts for use in the 2022 City Council elections and thereafter until changed in accordance with law; and

**WHEREAS**, the term of office of a council member whose term of office has not expired shall not be affected by any change in the boundaries of the district from which the council member was elected; and

**WHEREAS**, pursuant to Ordinance No. 488, Council Members shall be elected for four-year terms in Council Districts 2 and 4 in the new redistricting map in November 2022 to complete the transition to by-district elections; and

**WHEREAS**, pursuant to Ordinance No. 488, Council Members shall be elected for four-year terms in Council Districts 1 and 3 in the new redistricting map in November 2024; and

**WHEREAS**, California Elections Code section 21601(e) provides that a redistricting map may be adopted by resolution specifying the new boundaries, and Ordinance No. 488 incorporates a map of electoral districts as Exhibit A, with the intent that the map be periodically “reapportioned as provided by law”,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOLANA BEACH THAT:**

1. The City Council electoral district map attached as Exhibit 1 is hereby approved and incorporated as Exhibit A to Ordinance No. 488 as the City’s new redistricting map.

2. The City Council districts specified in the new redistricting map (Exhibit 1 hereto) shall remain in effect until modified in accordance with law.
3. This Resolution shall be published and available on the City website for as long as the city council districts approved by this resolution are in effect.
4. The City Manager or designee, in conjunction with the City's demographer, is hereby authorized and directed to provide a copy of this Resolution to, and work with the San Diego County Registrar of Voters to conduct any additional administrative acts necessary to implement the new redistricting map in a timely fashion to be used in the City Council election to be held on November 8, 2022.
5. The City Council retains jurisdiction to amend or repeal this Resolution through the deadline set forth in Section 21602 of the California Elections Code. Thereafter, if necessary to facilitate the implementation of the new redistricting map, the City Manager in consultation with the City Attorney and City Clerk, is authorized to make technical adjustments to the district boundaries contained in the new redistricting plan that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district, or the intent of this Resolution. The City Manager shall consult with the City's demographer and shall advise the City Council of any such adjustments required in the implementation of the districts.
6. To the extent the terms and provisions of this Resolution may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule, or regulation governing the same subject, the terms of this Resolution shall prevail with respect to the subject matter thereof. Notwithstanding the previous sentence, section 10 of Ordinance No. 488, Sunset Provisions, shall prevail to the extent the terms and provisions of this Resolution may be inconsistent or in conflict with section 10 of Ordinance No. 488.
7. In interpreting this Resolution or resolving any ambiguity, this Resolution shall be interpreted in a manner that effectively accomplishes its stated purpose.
8. This Resolution and its exhibit shall become effective immediately.

**PASSED AND ADOPTED** this 23<sup>rd</sup> day of March, 2022, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

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LESA HEEBNER, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk