

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

MINUTES

JOINT **REGULAR** MEETING
Wednesday, May 28, 2014
06:00 P.M.

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

CALL TO ORDER AND ROLL CALL:

Present: Campbell, Heebner, Zito, Zahn, and Nichols.
Absent: None.
Also Present: David Ott, City Manager
Johanna Canlas, City Attorney
Angela Ivey, City Clerk
Wende Protzman, Community Development Dir.
Mo Sammak, Engin/Public Works Dir.
Marie Berkuti, Finance Manager
Dan King, Sr. Management Analyst

Mayor Campbell called the meeting to order at 6:10 p.m.

CLOSED SESSION REPORT: (when applicable)

Mayor Campbell stated that there was no reportable action.

FLAG SALUTE:

APPROVAL OF AGENDA:

MOTION: Moved by Heebner and seconded by Zahn **Motion carried unanimously.**

PRESENTATIONS:

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

Earth Week at Solana Vista
San Diego County Fair

Paulina Villagran presented a PowerPoint (on file) reviewing this year's event.

Del Mar Shores Stairs

Mo Sammak presented a PowerPoint (on file).

ORAL COMMUNICATIONS:

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

Eva Beckman said that he had a safety concern on Lomas Santa Fe and requested that a sign be posted because of the frequent pedestrian traffic and that she had submitted a petition of signatures from local citizens.

David Ott, City Manager, stated that signs had been ordered for this location.

COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:

A. CONSENT CALENDAR: (Action Items) (A.1. - A.4.)

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. Register Of Demands. (File 0300-30)

Recommendation: That the City Council

1. Ratify the list of demands for April 19, 2014 through May 02, 2014.

MOTION: Moved by Zito and seconded by Heebner. **Motion carried unanimously.**

A.2. General Fund Adopted Budget for Fiscal Year 2013-14 Changes. (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2013-2014 General Fund Adopted Budget.

MOTION: Moved by Zito and seconded by Heebner. **Motion carried unanimously.**

A.3. San Diego Regional Stormwater Copermittees For The National Pollutant Discharge Elimination System. (File 0400-10)

Recommendation: That the City Council

1. Adopt Resolution 2014-037:
 - a. Approving the MOU and authorizing the City Manager to execute the MOU (Memorandum of Understanding) regarding sharing of costs associated with implementing the NPDES program.

MOTION: Moved by Zito and seconded by Heebner. **Motion carried unanimously.**

A.4. Community Development Department Agreements (File 0400-10)

Recommendation: That the City Council

1. Adopt Resolution 2014-057 authorizing the City Manager to execute a Professional Services Agreement with Harvey Meyerhoff Consulting Group.
2. Adopt Resolution 2014-058 authorizing the City Manager to execute a Professional Services Agreement with Marlowe & Company, LLC.

MOTION: Moved by Zito and seconded by Heebner. **Motion carried unanimously.**

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

B. PUBLIC HEARINGS: (B.1. - 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. Adopt Five-Year Regional Transportation Improvement Program (RTIP) for Fiscal Years 2015 through 2019. (File 0840-30)

Recommendation: That the City Council

1. Report Council disclosures.
2. Conduct the Public Hearing: Open the public hearing, receive public testimony, and close the public hearing. Adopt Resolution 2014-054, approving the TransNet Local Street Improvement Program list of projects for Fiscal Years 2015 through 2019.3.

MOTION: Moved by Heebner and seconded by Zito to close the public hearing. **Motion carried unanimously.**

MOTION: Moved by Heebner and seconded by Zito. **Motion carried unanimously.**

B.2. 1416 San Ignacio Development Review Permit (DRP), Applicants: Parker and Megan Lyons, Case No. 17-13-39. (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, which exempts limited numbers of new, small structures, such as single-family residences; and;
3. If the City Council makes the requisite findings and approves the project, adopt Resolution 2014-050 conditionally approving a DRP to construct a 904 square foot, one-story addition to an existing 2,865 square foot, one-story, single-family residence at 1416 San Ignacio in Solana Beach.

David Ott, City Manager, introduced the item.

Patricia Bluman, Principal Planner, presented a PowerPoint presentation (on file) reviewing the project.

Council and Staff discussed adding a condition in the approval resolution stating that the applicant would be required to return to Council if they desired to enclose the exterior patio, since the patio was in excess of 500 square feet a Development Review Permit would be required to enclose the area.

Mayor Campbell opened the public hearing.

Council disclosed their familiarity of the project.

MOTION: Moved by Heebner and seconded by Nichols to close the public hearing. **Motion carried unanimously.**

MOTION: Moved by Nichols and seconded by Heebner. **Motion carried unanimously.**

B.3. 421 N. Granados Development Review Permit (DRP) and Structural Development Permit (SDP), Applicant: Dan and Shawn Hethcock, Case No. 17-13-24. (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 2014-056 conditionally approving a DRP and an administrative SDP to allow for the construction of a new 4,520 square foot, single-family residence with an attached 878 square foot garage and a partially subterranean lower level at 421 North Granados Avenue.

This Public Hearing was continued to July 9, 2014.

C. STAFF REPORTS: (C.1. - C.5.)
Submit speaker slips to the City Clerk

C.1. Introduce (1st Reading) Ordinance 449 Relating To Allowing Dogs On City Beaches. (File 0730-40)

Recommendation: That the City Council

1. Introduce Ordinance 449, amending Section 11.12.020(x) and adding Section 11.12.035 of Chapter 11.12 of the Solana Beach Municipal Code relating to allowing dogs on City beaches.

David Ott, City Manager, introduced the item.

Dan King, Sr. Management Analyst, presented a PowerPoint (on file).

Barbara Heyman, consultant, stated that dogs on City beaches did not impact the beach or water quality, that it had been determined that water quality impacts would not be significant as long as dog waste was disposed properly based on research. She said that water quality in Solana Beach was graded A+, that if dog's waste was not picked up the results would be slightly different, that the noise study concluded that barking and the dog owners created the most intrusive noise levels but the noise was not considered substantial.

David Ott, City Manager, said that compliance would be enforced by the lifeguards.

Barbara Heyman, consultant, said that if dog waste was not properly collected there would be potential hazard, the amount of bacteria in a dog waste was greater than in a bird waste.

Council and Staff discussed periodical water sampling.

Paul Henkart presented a PowerPoint (on file) and said that 40% of the dogs in San Elijo Lagoon were unleashed, that there were dog attacks of other dogs and humans, that the lack of Staff enforcement would be an issue, and asked to modify the ordinance excluding usage of the beach during summer months.

Ellie Eigen said that her concerns were water quality, sand quality, and children safety, and that not all dogs would be leashed when required.

John Metzger stated that he disagreed with the report, it was difficult to predict when dogs would attack, he had recently witnessed a dog attack, and that it would be difficult to enforce dogs off leashes. He presented pictures (on file) indicating close encounters with dogs.

Steve Ostrow asked the Council to approve the ordinance and said that most dog owners were responsible.

David Winkler (time donated by Vicki Cypherd) submitted a document (on file) and said that walking dogs on Highway 101 was not safe, that owners were responsible, but to consider other options.

Bridget Augusta was in favor of the ordinance and asked the Council to consider all citizen concerns as well as earlier hours for beach access.

Gerri Retman (time donated by Trish Murray) asked for the opportunity to walk dogs on the beach and was open to different options.

Ira Oppen said that he supported different options, asked Council to approve something reasonable, and return later to evaluate or modify it.

Michelle Blake said she was the owner of Rancho Solana Pet Spa and supported the ordinance.

David Zito, Councilmember, said that he noticed that most dogs on the beach were leashed but that a lot of dogs were not patrolled, that enforcement would be necessary, some people were afraid of dogs and would not be able to enjoy the beach, and that he supported an option allowing dogs on north and south side of the stairs keeping the main beach dog free.

Craig Miller, Marine Safety Captain, said that isolating both ends of the beach was similar to the current rules, that they made over 2000 dog contacts last year and the majority were from north and south ends. He said that it would be easier to enforce it if it was isolated on both ends, especially during the summer months.

David Ott, City Manager, said that signs would be located mainly on the stairways and at Fletcher Cove.

Peter Zahn, Councilmember, said he agreed to expanding hours from 7 a.m. and supported opening north and south ends of the City's beaches.

Craig Miller, Marine Safety Captain, stated that enforcement would be difficult regardless of hours.

David Ott, City Manager, said that the beach usage increased during non-summer months due to the extra sand on the beach.

Lesa Heebner, Councilmember, said that she never saw unleashed dogs, or dog waste on Coastal Rail Trail because of the bag access. She said that one reason she hesitated about no Fletcher cove because it was the only none stair access, and that she favored seasonal, leashed dogs during limited hours.

Mike Nichols, Councilmember, said that consistent rules throughout the seasons would be the best way to handle it, that non dog people should be taken into consideration, and did not want Fletcher Cove to be effected by more traffic or changing its character. He said that he supported allowing dogs on north and south defined by the stairs, no hour's limitations, increasing the existing fines, and making flyers of existing rules available for the public.

David Ott, City Manager, stated that currently the 1st offense was \$100, then \$200 and then \$500.

Council and Staff discussed that contacts made by the lifeguards got in a way of their primary responsibility but that 95% of the people complied when contacted.

Mayor Campbell said that public safety was a major concern, that he did not support allowing dogs at Fletcher Cove regardless of the season.

Council and Staff discussed cost of enforcement and bringing it back for discussion in a year to discuss any possible issues.

MOTION: Moved by Nichols and seconded by Zito to introduce the ordinance with modifications, which included that dogs on six foot leashes would be allowed on the beach south of the Del Mar Shore Public Stairway and north of the Tide Park Public Stairway and that no restricted hours would be set. **Motion carried unanimously.**

C.2. Local Coastal Planning Grant From The California Coastal Commission.
(File 0390-34)

Recommendation: That the City Council

1. Approve Resolution 2014-061 formally accepting the California Coastal Commission Local Coastal Planning Grant in the amount of \$120,000 and authorizing the City Manager to execute a contract with the CCC.

MOTION: Moved by Zito and seconded by Heebner. **Motion carried unanimously.**

C.3. Introduce (1st Reading) Ordinance 451 Increasing The Value Of Improvements Required For Dedications Or Installation Of Public Improvements. (File 0800-90)

Recommendation: That the City Council

1. Introduce Ordinance 451, amending Sections 11.04.020(B), 11.04.030(B), and 11.04.040(C) of the Solana Beach Municipal Code to increase the value of improvements required for dedications and/or for installation of public improvements.

MOTION: Moved by Heebner and seconded by Zahn. **Motion carried unanimously.**

C.4. Introduce (1st Reading) Ordinance 448 Related To The Use Of City Seal And Other Official City Insignia. (File 0160-30)

Recommendation: That the City Council

- 1.

Introduce Ordinance 448, amending SBMC Section 1.08.010(F) to include in the definition of the official City insignia, a modified Seal of the City of Solana Beach for a cultural, ceremonial, or other public event, and amending SBMC Section 1.08.030 clarifying that each and every unauthorized use constitutes a violation of this Chapter.

MOTION: Moved by Zahn and seconded by Zito. **Motion carried unanimously.**

C.5. Introduce (1st Reading) Ordinance 450 Related to E-Cigarettes Vendors. (File 0270-30)

Recommendation: That the City Council

1. Find the Ordinance 450 exempt from the provisions of the California Environmental Quality Act ("CEQA") as an action where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment pursuant to 14 C.C.R. § 15061(b)(3).
2. Introduce Ordinance 450 to include the requirement that vendors of e-cigarettes and other similar devices be subject to the restrictions on the sale of tobacco products in Chapter 6.16 and to obtain a tobacco retailer license pursuant to Chapter 6.17 of the Solana Beach Municipal Code.

David Ott, City Manager, introduced the item.

Johanna Canlas, City Attorney, presented a PowerPoint presentation (on file) reviewing the e-cigarette ordinance regulation options. She stated that Council had previously directed Staff to prepare an ordinance applying the current tobacco sales restrictions to e-cigarette purchases and tobacco retail license requirements for e-cigarette vendors. She stated that the Council had previously adopted ordinance 447 relating to e-cigarette on March 12, 2014, that tonight was the introduction of a new ordinance, ordinance 450, which included the additional restrictions requested by Council. She stated that ordinance 450 included the requirement that vendors of e-cigarettes and other similar devices would be subject to the restrictions on the sales of tobacco products in Chapter 6.16 of the Solana Beach Municipal Code and would be required to obtain a tobacco retailer license pursuant to Chapter 6.17 of the code.

Peggy Walker stated that she worked with the San Dieguito School District for about 15 years in tobacco use education prevention. She urged Council to pass the ordinance because the marketing of tobacco products to the youth outweighed any controls on the retail sales of e-cigarettes. She stated that a recent report from the Senate showed that companies were aggressively promoting e-cigarettes to youth, that the companies were promoting products through youth oriented events, that the products were available for purchase at stores and on-line, and that

product warning labels lacked uniformity which may lead to misunderstanding. She provided a copy of the report study by the House and Senate findings for the Council and thanked the Council for bringing the Ordinance forward.

Barbara Gordon stated that she was one of the leaders of "La Colonia Changers," which was an Eden Gardens Youth Group, that wanted to encourage adding the vaping devices to the ordinance as well, which contained carcinogens and other toxins, and that the use of the products among middle and high school students had doubled. She stated that there could be a risk of significant increase of youth being addicted to nicotine.

Debbie Kelly, Regional Director of Programs and Advocacy of the American Lung Association of California, stated that the City was the first to prohibit smoking on beaches, and that in the past the tobacco industry had fought against all the provisions currently in the City's ordinance. She stated that the tobacco industry did not want retailers to be licensed, that they wanted to provide free samples, and wanted to make products easy to access. She stated that regulations had come a long way since then, she thanked the Council for taking action to protect youth, and that she hoped the City would be an example for surrounding cities and they would also strengthen their laws.

Council and speaker discussed one option available to the City was to have a moratorium on any new e-cigarette lounges and vapor bars, that El Cajon and Lemon Grove had passed moratoriums to control regulating sales, and that some communities had chosen to change zoning laws and require conditional use permits to prevent vape shops and e-cigarette lounges from opening near schools or child sensitive areas.

Judy Strang, San Dieguito Alliance for Drug Free Youth, distributed an article (on file) to Council regarding the addition of e-cigarettes to tobacco licensing regulations and policies which mentioned efforts made by the City of Solana Beach. She stated that there had been many parents concerned about the escalating use of e-cigarette and vape pens among youth, and that the parents could not attend this meeting. She stated that the use of these devices had reached into middle schools, and that e-cigarettes were now becoming a problem for children whom would never had considered smoking in the past.

Joe Kellejian thanked the Council for bringing the ordinance forward. He stated that the ordinance was very precise, that these devices appealed to youth due to the variety of colors and flavors available, and that the e-cigarette industry was not interested in the welfare of children. He showed a picture of an e-cigarette vending kiosk in a mall in Maui and inquired if the regulation of kiosks were also included in the City's ordinance.

Council and Staff discusses that the ordinance included kiosks.

Councilmember Zahn stated that he wanted to amend the motion to include the consideration of adopting a moratorium on e-cigarette lounges and vape bars which would allow Staff adequate time to study the issue and return to Council with a recommendation on the City's stance on the bars and lounges, to determine

whether zoning changes would be needed in the City's codes, and to review existing studies and regulations adopted by other cities.

Johanna Canlas, City Attorney, stated that the moratorium issue was not posted on the agenda notice, that Council could direct Staff to return with a drafted ordinance addressing the moratorium and land use issue which would be separate from ordinance 450.

MOTION: Moved by Heebner and seconded by Zahn. **Motion carried unanimously.**

Council discussed Councilmember's Zahn request to direct Staff to return to Council regarding some related issues to this item for future discussion.

Johanna Canlas, City Attorney, stated that Staff could return with various options for Council to discuss, including a moratorium, and possible amendments to the zoning code which would require a Conditional Use Permit for e-cigarette establishments and limiting the radius of the location of e-cigarette lounges.

Council reached consensus to direct Staff to return with additional options regarding the regulation of e-cigarette vendors.

WORKPLAN COMMENTS:

Adopted June 26, 2013

COMPENSATION & REIMBURSEMENT DISCLOSURE:

GC: Article 2.3. Compensation: 53232.3. (a) Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel. 53232.3 (d) Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

COUNCIL COMMITTEE REPORTS:

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

- a. City Selection Committee (meets twice a year) - Nichols, Heebner (alternate).
- b. County Service Area 17 - Zahn, Campbell (alternate).
- c. Escondido Creek Watershed Authority - Zito.
- d. League of Ca. Cities' San Diego County Executive Committee - Nichols, Heebner (alternate) and any subcommittees.
- e. League of Ca. Cities' Local Legislative Committee - Nichols, Heebner (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 (1st alternate)
- i. Regional Solid Waste Association (RSWA) - Nichols, Zahn (alternate).

- j. SANDAG - Heebner (Primary), Nichols (1st alternate), Zito (2nd alternate) and any subcommittees.
- k. SANDAG Shoreline Preservation Committee - Nichols, Heebner (alternate).
- l. San Dieguito River Valley JPA - Zito, Zahn (alternate).
- m. San Elijo JPA - Campbell, Zito (both primary members) (no alternates).
- n. 22nd Agricultural District Association Community Relations Committee - Heebner, Campbell.

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

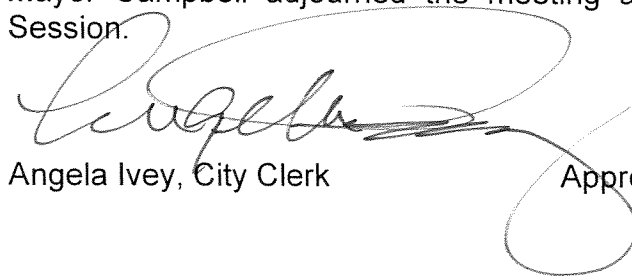
- a. Business Liaison Committee - Campbell, Zahn.
- b. Highway 101 / Cedros Ave. Development Committee - Nichols, Heebner.
- c. I-5 Construction Committee - Heebner, Zito.
- d. Parks and Recreation Committee - Nichols, Heebner.
- e. Public Arts Committee - Nichols, Zito.
- f. School Relations Committee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

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

- a. Army Corps of Engineers & Regional Beach Nourishment - Campbell, Nichols. Expires December 10, 2014.
- b. Development Review - Nichols, Heebner. Expires October 22, 2014.
- c. Environmental Sustainability - Heebner, Zahn. Expires December 10, 2014.
- d. Fire Department Management Governance - Zito, Zahn. Expires July 09, 2014.
- e. Fiscal Sustainability - Campbell, Zito. Expires June 11, 2014.
- f. Gateway Property - Campbell, Heebner. Expires April 8, 2015.
- g. General Plan - Nichols, Zito. Expires July 09, 2014.
- h. La Colonia Park - Nichols, Heebner. Expires June 11, 2014.
- i. Local Coastal Plan Ad-Hoc Committee - Campbell, Nichols. Expires January 21, 2015 or at the California Coastal Commission adoption.
- j. NCTD / Train Station Site Project Ad Hoc Committee - Nichols, Heebner. Expires January 21, 2015.
- k. View Assessment - Heebner, Zito. Expires June 11, 2014.

ADJOURN:

Mayor Campbell adjourned the meeting at 9:01 p.m. and returned to Closed Session.



Angela Ivey, City Clerk

Approved: July 16, 2014