

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 22, 2019 * 6:00 p.m.

Minutes contain a summary of significant discussions and formal actions taken at a City Council meeting.

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

Jewel Edson, Deputy Mayor

Judy Hegenauer, Councilmember

Kristi Becker, Councilmember

Kelly Harless, Councilmember

Gregory Wade
City Manager

Johanna Canlas
City Attorney

Angela Ivey
City Clerk

CALL TO ORDER AND ROLL CALL:

Mayor Zito called the meeting to order at 8:07 p.m.

Present: David A. Zito, Jewel Edson, Judy Hegenauer, Kristi Becker, Kelly Harless

Absent: None

Also Present: Greg Wade, City Manager
Johanna Canlas, City Attorney
Angela Ivey, City Clerk,
Dan King, Assistant City Manager
Mo Sammak, City Engineer/Public Works Dir.
Marie Berkuti, Finance Manager
Joseph Lim, Community Development Dir.

CLOSED SESSION: No reportable action.

APPROVAL OF AGENDA:

Motion: Moved by Deputy Mayor Edson and second by Councilmember Becker to approve. **Approved 5/0.** Motion carried unanimously.

PROCLAMATIONS:

Motion: Moved by Deputy Mayor Edson and second by Councilmember Harless to add a proclamation. **Approved 5/0.** Motion carried unanimously.

Mayor Zito presented a proclamation for National gun violence prevention day.

Cindi Clemons thanked the City for issuing the proclamation, and spoke about efforts with the Del Mar Fairgrounds Gun shows, statistics of gun violence, and that they wear orange as a color for declaring “safety in woods” and in honor of victims, and presented their orange t-shirt to the Mayor.

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

San Diego County Fair

Amy Laughlin presented a PowerPoint (on file) and spoke about the theme ‘The Wizard of Oz’ and this year’s highlighted programs.

Council and Ms. Laughlin discussed how many nighttime concerts were planned in addition to Saturday and Sunday nights, offsite parking options at Mira Costa, Torrey Pines High school, buses routed on the I-5, horse park parking for \$5, all parking locations provided shuttles to the O’Brien gate, that the recent bluff failure along Jimmy Durant was not anticipated to cause any issues, Del Mar’s activity working on the bluff failure that was expected to be completed by June 4th or 5th, accommodating direction flagman to assist during the repairs, and the new foods this year included deep fried crème brulee and monte cristo sandwiches.

ORAL COMMUNICATIONS: None

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

COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:

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

A. CONSENT CALENDAR: (Action Items) (A.1. - A.10.)

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 20 - May 03, 2019.

Motion: Moved by Deputy Mayor Edson and second by Councilmember Harless to approve. **Approved 5/0.** Motion carried unanimously.

A.2. General Fund Adopted Budget for Fiscal Year 2018-2019 Changes. (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2018-2019 General Fund Adopted Budget.

Motion: Moved by Deputy Mayor Edson and second by Councilmember Harless to approve. **Approved 5/0.** Motion carried unanimously.

A.3. Emergency Storm Drain Repair Report - Update No. 3 (File 0840-50)

Recommendation: That the City Council

1. Receive Update No. 3 and provide further direction, if necessary.

Motion: Moved by Deputy Mayor Edson and second by Councilmember Harless to approve. **Approved 5/0.** Motion carried unanimously.

A.4. Solana Beach Coastal Rail Trail Maintenance District Engineer's Report, Annual Levy, and Collection of Assessments. (File 0495-20)

Recommendation: That the City Council

1. Adopt **Resolution 2019-060**, initiating the proceedings for the annual levy of assessments within the Coastal Rail Trail Maintenance District for Fiscal Year 2019/20.
2. Adopt **Resolution 2019-061**, approving the Engineer's Report for proceedings of the annual levy of assessments within Coastal Rail Trail Maintenance District.
3. Adopt **Resolution 2019-062**, declaring intention to provide for the annual levy and collection of assessments in Coastal Rail Trail Maintenance District and setting a time and date for a public hearing for June 26, 2019.

Motion: Moved by Deputy Mayor Edson and second by Councilmember Harless to approve. **Approved 5/0.** Motion carried unanimously.

A.5. Solana Beach Lighting Maintenance District Engineer's Report, Annual Levy, and Collection of Assessments. (File 0495-20)

Recommendation: That the City Council

1. Adopt **Resolution 2019-063** approving the Solana Beach Lighting Maintenance District Engineer's Report for Fiscal Year 2019/20 for proceedings of the annual levy of assessments within a special maintenance district.
2. Adopt **Resolution 2019-064** declaring intention to provide for an annual levy and collection of assessment in a special maintenance district and setting a time and date for a public hearing; and scheduling the public hearing for June 26, 2019.

Motion: Moved by Deputy Mayor Edson and second by Councilmember Harless to approve. **Approved 5/0.** Motion carried unanimously.

A.6. Glencrest Drive Vertical Realignment Project Bid 2019-03 (File 0820-75)

Recommendation: That the City Council

1. Adopt **Resolution 2019-072:**
 - a. Awarding the construction contract to Portillo Concrete, in the amount of \$205,690, for the Glencrest Drive Vertical Realignment Project, Bid No. 2019-03.
 - b. Approving an amount of \$30,000 for construction contingency.
 - c. Authorizing the City Manager to execute the construction contract on behalf of the City.
 - d. Authorizing the City Manager to approve cumulative change orders up to the construction contingency amount.
 - e. Authorizing the City Manager to execute a reimbursement agreement between the City and Santa Fe Irrigation District, in the amount of \$60,000, for relocating the water main in Glencrest Drive.
 - f. Authorizing an appropriation of \$60,000, to be reimbursed by Santa Fe Irrigation District, into the Reimbursement Agreement Revenue Account for Capital Projects, and appropriating the same amount into the project budget unit, both in the City CIP fund.
 - g. Authorizing an appropriation of \$96,000 to the project budget unit in Gas Tax funds.
 - h. Authorizing the City Treasurer to amend the Fiscal Year 2018/19 Adopted Budget accordingly.

Motion: Moved by Deputy Mayor Edson and second by Councilmember Harless to approve. **Approved 5/0.** Motion carried unanimously.

A.7. Public Works Vehicle Purchase. (File 0370-26)

Recommendation: That the City Council

1. Adopt **Resolution 2019-058:**
 - a. Approving the purchase of a 2019 Ford -350 for \$60,000.
 - b. Authorizing an appropriation of \$60,000 from the Asset Replacement Reserve Fund into the Asset Replacement Public Works Vehicle Expenditure account.
 - c. Authorizing the City Treasurer to amend the FY 2018/2019 Adopted Budget accordingly.

Motion: Moved by Deputy Mayor Edson and second by Councilmember Harless to approve. **Approved 5/0.** Motion carried unanimously.

A.8. Stormwater Program Management Services. (File 0850-40)

Recommendation: That the City Council

1. Adopt **Resolution 2019-073** authorizing the City Manager to sign the amendment

to the Professional Services Agreement with Mikhail Ogawa Engineering for Stormwater Program Management Services for FY 2019/20 to increase the total cost of the agreement by \$30,000 for an amount not exceed \$115,000 and to extend the agreement for one additional year.

Motion: Moved by Deputy Mayor Edson and second by Councilmember Harless to approve. **Approved 5/0.** Motion carried unanimously.

A.9. Information Technology (IT) Manager Job Description. (File 0510-20)

Recommendation: That the City Council

1. Adopt **Resolution 2019-075** approving the adoption of the IT Manager job description and authorizing the City Manager to make any future subsequent changes to the job description as deemed necessary for the position.

Motion: Moved by Deputy Mayor Edson and second by Councilmember Harless to approve. **Approved 5/0.** Motion carried unanimously.

A.10. Master Encroachment Maintenance and Removal Agreement for Construction of Fiber Optic Facilities in Public Right of Way. (File 1000-10-05)

Recommendation: That the City Council

1. Adopt **Resolution 2019-077** approving a Master Encroachment Maintenance and Removal Agreement for Fiber Optic Cables in the Public Right of Way.

This item was pulled from Consent by a public speaker.

Johanna Canlas, City Attorney, addressed some statements in the blue folders submittals, and said that this template was before Council because the City was being inundated by requests to fill the right-of-way with fiber optics, that it was not a franchise agreement and did not supersede or inoculate from Digital Infrastructure and Video Competition Act (DIVCA), that franchises were not exempt from over-seeing certain aspects as it affected the public right-of-way, and that it was subject to time, place, and manner that would inconvenience the public.

Michael Hadland, Cox Communications, spoke about being a provider to Solana Beach for over 40 years made possible through local franchises and DVICA, concerns about the proposed agreements, Cox being fully authorized to use the City's public right-of-way due to DIVCA and no further agreements were necessary or permitted, the proposed agreement appearing to violate Cox's rights, intending to be used by entities not covered by DIVCA for the purpose of providing telecommunication services, which were defined to specifically exclude video services, and far exceeding the City's limited authority to regulate Cox's access to the public right-of-way, recommending that Council pull this item and have City Staff review the agreement language which did not comply with state and federal law, and have Staff work with them towards the intent without violating DIVCA or the cable act, and referencing their submittal outlining Cox's position and interest in being a resource.

Tiffany Bromfield, Charter Communications, operating as Spectrum, spoke about their being a partner in the community, the concern that the maintenance removal agreement exceeded the bounds of DIVCA, and referenced their submittal to the City.

John Osborne, AT&T, requested that the City involve industry input in determining a final template agreement regarding some constraints, and spoke about the City's right to control time, place and manner, concerns about some additional cost to carriers and the five-year plan, insurance requirements, carriers usually being self-insured, and their interest in providing more feedback to the proposed agreement before it was finalized.

Jack Demers, CEO of Netly Fiber, spoke about their open access fiber optic company, having submitted plans to the City to provide fiber optics to all residents, their initial concerns about the agreement, and their current position in support of the proposed agreement template.

Council and Staff discussed that three other municipalities had gone through this process with three carriers signing on, and that all vendors would need to be treated equally so the template would be a standard for all applicants, protecting interests of the City.

Motion: Moved by Deputy Mayor Edson and second by Mayor Zito to approve. **Approved 5/0.** Motion carried unanimously.

B. PUBLIC HEARINGS: (B.1. – B.2.)

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 designee(s) 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: Solana Energy Alliance (SEA) Rate Schedule and Quarterly Update. (File 1010-40)

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Adopt **Resolution 2019-076** amending the rate schedule for Solana Energy Alliance.
3. Receive and file report on Solana Energy Alliance (SEA) Activities and Operations and provide comment and/or direction.

Greg Wade, City Manager, introduced the item, and presented a PowerPoint (on file) reviewing Solana Energy Alliance goals and that it was a major element of the City meeting its Climate Action goals.

Barb Boswell, Bay Shore, continued the PowerPoint reviewing the quarterly update.

Jeff Fuller, The Energy Authority, continued the PowerPoint reviewing the financial outlook.

Ty Tosdall, Tosdal Law Firm, continued the PowerPoint reviewing regulatory activity.

Dan King, Assistant City Manager, continued the PowerPoint.

Greg Wade, City Manager, continued the PowerPoint reviewing recommendations.

Mayor Zito opened the public hearing.

Council and consultants discussed how appealing the Solana Beach program was and whether it would be able to combine with another program, alternative options for ongoing operations, assessing the most feasible options, and that the majority of tenured programs were located in northern California.

Lane Sharman (time donated by R. Sharman) said that he was the Executive Director of San Diego Energy District Foundation and presented a PowerPoint (on file).

Motion: Moved by Mayor Zito and second by Deputy Mayor Edson to close the public hearing. **Approved 5/0.** Motion carried unanimously.

Council and Staff discussed that even if some projections were not met and the program broke even, that the main purpose would have been achieved in meeting Climate Action Plan goals, aiming to continue to offer the 3% reduction from SDG&E rates, the importance of offering choice and better rates, staying the course, that it was a benefit to the residents, and primary objective was to meet Climate Action Plan, be green, and provide local control to decide for themselves between green efforts and lower rates or a balance of both.

Motion: Moved by Mayor Zito and second by Deputy Mayor Edson to approve. **Approved 5/0.** Motion carried unanimously.

B.2. Public Hearing: 325-327 Pacific Avenue, Applicant: Laughlin/Greenberg, Case 17-18-28. (File 0600-40)

The proposed project meets the minimum objective requirements under the SBMC, could be found to be consistent with the General Plan and could be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a CUP (Conditional Use Permit). 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 Proposed Project exempt from the requirements of CEQA pursuant to 2019 State California CEQA Guidelines §15269 as emergency conditions exist onsite.
3. Adopt **Resolution 2019-074** conditionally approving a Conditional Use Permit (CUP) and Development Review Permit (DRP) to increase the height of an existing bluff

retention device, reconstruct the mid- and upper-bluff with soil, geogrid, soil nails and grade beams, and landscaping the reconstructed coastal bluffs below 325 and 327 Pacific Avenue, Solana Beach.

Councilmember Harless recused herself due to having property within 500 ft. of the project.

Greg Wade, City Manager, introduced the item.

Corey Andrews, Principal Planner, presented a PowerPoint (on file).

Council disclosures.

Bob Trettin, applicant representative, presented a PowerPoint (on file) and spoke about the request that was a continuation of the same project he presented to Council 18 years ago with a shorter wall and a tie back system in the top, with the idea that someday it might become exposed and would require a resurface resulting in an upper wall, this project having been approved long before the City's current policies, a past bluff failure that exposed clean sand lanes and an 8 ft. deep grouting system pumped into the bluff to stabilize the areas that had eroded down to around 6 ft. of grouting, the 2007 request for a permit for aesthetic improvement because the grade beam in the upper bluff system had become exposed from erosion and a portion of an overhanging patio was removed, their anticipation that they would return someday to Council to at least surface the upper wall, the City adopted LCP would require reconstruction of the bluff instead of building a second wall, rebuilding the bluff would require reconstruction of the bluff landscaping with native planting to be consistent with the surrounding area's newer and higher seawalls and landscaping, Coastal Commission's sand mitigation fee formula measured a project from the top of the seawall to the top of the bluff and everything inside it, which would be the beach quality portion of the sand that would reach the beach if it were not retained, their project area had already had a bluff failure and the sand had reached the beach, the Coastal Commission had not been mitigating for sand that was no longer present, this project qualified for a seawall in 2001 and Coastal mandated improvements to the seawall, the confusion with the sand mitigation fee regarding sand that was no longer there, nor being prevented from erosion, their support of the Staff Report and agreement to pay a fee if it were assessed, their opinion that a fee should not be charged as they would be paying twice for the same sand, consideration of how to assess the fee if it were charged so they would not be paying for sand that was no longer there, and their request for approval of an amended permit.

Kristin Brinner, resident and co-lead of the Beach Preservation Committee of Surfrider, presented a PowerPoint (on file) and spoke about the bluffs being public lands, this property being constructed after the Coastal Act and therefore had no right to protective armoring, allowing private property owners to take public land solely for protection of their private home gave the City the right to deny this request, public land was being essentially given away to private property owners, the public recreation fee calculates for the space that the seawall occupies on the beach which was 10 ft. long by 2.2 ft. 4 inch deep which is the initial rate, the complication of this project is that the seawall has already been in place for 19 years preventing natural erosion for that period of time, assuming a retreat rate of

0.4 ft. a yr., means that the bluff should be back about 7 ½ ft. from where it was now, the seawall having artificially fixed the back of the beach now occupying a much greater area of the beach since the bluff was not allowed to retreat, the initial area rates should be corrected to take into account the 19 years of occupation of this bluff if the seawall was approved, and the City's right to not approve these seawalls since they are on public lands.

Bob Trettin said that assessing mitigation fees back in time for permits approved 10, 20, or 30 years ago was not appropriate, that Coastal Commission determined to start the sand fees in 2005, that it was wrong to assess fees for a period of time before the fee was even created or assessed, and the City's 2007 established fee of \$1,000 per linear foot was from that point on and did not go backwards and assess past approvals with more fees or credits.

Council and Mr. Trettin discussed that the seawall had been there for the last 18 yrs., it was improved aesthetically at one time, and now being improved so that the upper bluff would not wear off.

Council and staff discussed fee calculations, and the irrigation and types of new landscaping.

Jim Knowlton, Geopacifica, City's 3rd party consultant, stated that the seawall could not have been built that steep in the past, that plants stabilize the surface soils and reduce erosion, the reinforcement was inside of the slope and not on the surface, that only the soil and planting would be seen, some wind screens are used initially to protect new planting for two years to ensure their attachment and growth and require limited irrigation, that further irrigation is assessed after that period and continued only if needed.

Motion: Moved by Deputy Mayor Edson and second by Councilmember Hegenauer to close the public hearing. **Approved 4/0/1** (Recused: Harless). Motion carried.

Council and Staff discussed that if landscape plants did not take after 2 years that some other solutions would be allowed, the sand mitigation fee was not as large in the beginning, whether a proration of the fee already paid would be assessed, whether the fee was used per the permit issuance, and preventing the dirt from upper bluff planting ending up on the beach.

Motion: Moved by Deputy Mayor Edson and second by Councilmember Becker to approve with modifications. **Approved 4/0/1** (Recused: Harless). Motion carried.

COMPENSATION & REIMBURSEMENT DISCLOSURE: None

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

COUNCIL COMMITTEE REPORTS: [Council Committees](#)

REGIONAL COMMITTEES: (outside agencies, appointed by this Council)

STANDING COMMITTEES:_(All Primary Members) (*Permanent Committees*)

ADJOURN:

Mayor Zito adjourned the meeting at 10:35 p.m.

Angela Ivey, City Clerk

Approved: October 23, 2019