

## CITY OF SOLANA BEACH

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

# MINUTES

JOINT **SPECIAL** MEETING

**Wednesday, November 6, 2013**

**06:00 P.M.**

City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California  
Teleconference Location (Campbell) 15 Grindell Ave., Dennis Port, MA 02639

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:** Nichols, Campbell, Heebner, Peter Zahn, David Zito, Marie Berkuti, Finance Manager, and Danny King, Sr. Management Analyst.

**Absent:** None.

**Also Present:** David Ott, City Manager  
Johanna Canlas, City Attorney  
Angela Ivey, City Clerk  
Wende Protzman, Dir. Admin. Serv/Deputy City Mgr  
Mo Sammak, City Engineer/Public Works Dir.

Mayor Nichols called the meeting to order at 6:00 p.m.

### **CLOSED SESSION REPORT: (when applicable)**

Johanna Canlas, City Attorney, stated that there was no reportable action.

### **FLAG SALUTE:**

### **APPROVAL OF AGENDA:**

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

### **ORAL COMMUNICATIONS:**

This portion of the agenda provides an opportunity for members of the public to

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

**C. STAFF REPORTS: (C.1. - C.2.)**

*Submit speaker slips to the City Clerk*

**C.1. Election Code Section 9212 Report on Citizen's Initiative Regarding the Use of Fletcher Cove Community Center for Special Events. (File 0430-20)**

Recommendation: That the City Council

1. Receive report.

David Ott, City Manager, introduced the item. Council came to consensus to receive and file the report.

**C.2. Citizen's Initiative Petition for Proposed Ordinance 443 - Special Event Permit for Fletcher Cove Community Center. (File 0430-20)**

Recommendation: That the City Council

1. Take action on one of the following three options regarding the qualified petition, and potential competing ordinance:
  - a. Adopt Ordinance 443 relating to special use permits at the Fletcher Cove Community Center; or
  - b. Submit Ordinance 443 to the voters at a Special Municipal Election and adopt:
    - i. Resolution 2013-115 Calling an Election & Requesting ROV Services for a February 11, 2014 election, and
    - ii. Resolution 2013-116 Authorizing Written Arguments, and
    - iii. Resolution 2013-117 Authorizing Rebuttal Arguments; or
  - c. Return to a Council meeting within 10 days to adopt the ordinance.
  - d. Determine whether to submit a Council competing ordinance.

David Ott, City Manager, introduced the item.

Mary Jane Boyd (time donated by Roger Boyd) stated that the Council was divided and the community was polarized on issue, it had appeared to be one of the most divisive issues in the City's history, that 2 years of many meetings and no decision Council decided that this issue would not be back for discussion in June 2013, community members decided to take action and circulated a petition and gathered signatures in July, and that the initiative could not be changed once it had been circulated. She stated that Council had adopted a policy on August 28th, at which time it was too late to change the petition, that a special election was not being forced, the options were to adopt the ordinance or allow the voters to decide the use of the community center, and the Council would ultimately be responsible for whether or not to call a special election. She requested that Council adopt the proposed ordinance, allow for a trial period of the use of the center, and then make a decision based on the facts. She stated that before taking any action Council should consider that over 2,000 voters signed the petition to adopt the ordinance, that the voters were not asking for special election, over 500 voters had asked Council not to hold a special election, and more than 100 voters asked Council not to hold an early election when the ordinance could be adopted and Council could make changes to the ordinance at a general election. She said that she encouraged people to read the October 9th Council meeting report which concluded that if the ordinance was adopted that there would be no adverse impacts on the City.

Bruce Berend (time donated by Mary Berend) stated that he was an initiative supporter and that Council had the option to either adopt the ordinance or call a special election. He stated that calling a special election would be fiscally irresponsible, that Council had insinuated at the October 9th meeting that petitioners had schemed to submit the petition early forcing the Council to call a special election rather than consolidating with the June primary election, Council could set the record straight by not calling the special meeting, that over 2,000 voters had signed the petition within a couple of weeks, and that over 700 more voters had sent Council emails for the recent meetings on the issue. He stated that prior to the initiative a majority of the Council expressed strong opposition of the use of alcohol at the community center and reluctantly agreed upon some alcohol use for the eventual policy that, without this vote, Council would probably revoke the alcohol provision or the whole policy at the first complaint of the neighbors. He said that they had a celebration in 1995, which had been characterized as a nice party, and that it could not be replicated under the new policy.

Vicki Driver (time donated by Gary Garber) presented a PowerPoint (on file) regarding how the \$200,000 cost for calling a special election could instead be spent on City maintenance needs rather than on a special election. She stated that many streets in the City were in disrepair and needed improvements, that many were streets where children walked to school and that action was needed to repair the beach access stairways. She stated that there was a new tavern being considered for a liquor license 2 blocks from the community center, that

she had not been aware of any complaints about this establishment, that funds were also needed for improvements to the La Colonia Community Center and Eden Gardens Veterans Memorial, and asked Council to not spend \$200,000 for a special election and spend funds for public safety needs.

Mayor Nichols responded stating that street repairs had been budgeted and that the contractor had begun work on the repairs.

Mayor Nichols and Ms. Driver, discussed the fact that she had signed the petition, that she was not aware of the total cost of the election when she signed it, and that initiatives could only be changed by the vote of the people.

Carol Childs stated that she questioned what the collective community legacy would be looking back at this issue and that everyone should take a moment to move out of the issue and look at the long term view. She shared a personal story about her father when he was Naval Officer in Pear Harbor and had seen unimaginable things, that he had demonstrated peace making and reconciliation, and that he had accomplished this through building a home with many Japanese elements in it bringing peace and tranquility. She questioned how residents could give the same positive legacy to the community that everyone loved.

Betsy Walcott urged Council not to adopt the initiative. She stated that adopting the ordinance would negate the hard work that had been done to create compromise and that it would send the message that compromise was not valued. She stated that it seemed financially prudent to adopt the ordinance but it would set a dangerous precedent for the future, that adopting the initiative could promote similar situations in the future, Council and the community deserved the right to work together to come to terms on the use of the community center, and that Council's policy was an adequate starting point. She stated that Council was faced with options to adopt the proposed ordinance or call a special election, that the issue had become so divisive that people should have the option to vote on it, and that Council should not adopt the initiative ordinance.

Tracy Richmond stated that he had changed his mind on this issue, that adopting the ordinance would allow a minority to adopt legislation for the entire City, and that it rewarded campaign misinformation. He stated that he had many friends who had signed the initiative who were confused on the petition language, they were misinformed, and that he was angered that misinformation had been communicated. He said that the issue had been turned upside down, if the ordinance was adopted it would deprive Council of their discretion to ensure the community center worked appropriately for everyone, that the election process had affected him, and he read out loud a portion of the initiative petition.

Gordon Johns (time donated by Janell Johns) stated that he attended a presentation by the Small Business Law Center (SBLC), who were proponents of Civil Rights, that some people in the City were acting like bullies, and urged

the Council to reserve their right to govern the City. He stated that he was upset that there were people who wanted to bring Washington style politics to the City, if the initiative was adopted Council that it would be giving up some of their own rights and abilities to look out for the entire City, and that \$200,000 should be spent to preserve democracy in the City. He urged Council to not adopt the initiative and to hold a special election and encouraged everyone to become fully educated on the issue.

Kelly Harless (time donated by Anna Levy & Joe Berman) stated that she was concerned about parking and noise, that inadequate parking would be a big impact for the City, and that what impacted one area impacted the entire community. She stated that when residents who lived close to the train station expressed concerns of the train station project they were not belittled or bullied for owning property near the train station, that legitimate concerns had been raised at the train station meetings, that the City had a history of community driven policy, and that community driven policies provided balance. She stated that historically the Council encouraged views from both sides and considered all options, that community driven policy was the attempt with the community center, and that Council had established a policy that could be modified and that was community driven. She stated that the proponents sought to force Council to adopt a policy that met their agenda, that adopting the policy would become law and remove power from the Council to modify it, the policy could not be not be changed without another election, and that there were legitimate concerns regarding the initiative, similar to those surrounding the train station. She stated that although the Council had established a policy that the proponents continued to fight for more, that they had requested a special election and now they were campaigning against the election they orchestrated, and that voters realized that the proponents were providing misinformation and bullying Council into a special election. She stated that many residents did not understand the history of the issue, the community center had only been open for private events for four weeks, that it took time for a policy to play out, and that the party policy initiative was much larger than the City's policy. She stated that the law required Council to choose to adopt the policy or send it to the voters, the party policy initiative over-rode three Municipal Code provisions, once a voter initiative was passed the municipal code must accommodate the initiative, that big money politics should not be rewarded, and requested Council to not adopt the proposed ordinance.

Vicki Cypherd stated that the proponents knew that their actions would lead the City to the predicament that it was in now, they were trying to deflect blame away from themselves and force Council to adopt their policy, and that holding a special election may discourage people from strong arm tactics in the future. She stated the Council had worked hard to adopt a compromise policy to balance the community's desires, that the party policy would negatively affect property values and quality of life, that the neighbors made genuine concessions that were dismissed by the proponents, and that the policy did not meet city parking or alcohol policies. She stated that Council had a record of protecting individual neighborhoods, and that due to this initiative the election was the only way the neighborhood could try to protect itself.

Gerri Retman (time donated by Ira Opper) presented a PowerPoint (on file). She stated that \$200,000 was worth democracy, that bars were in a commercially zoned area, that the proponents told misinformation in order to get people to sign the petition, that a special election was not mentioned to people signing it, that the proponents had signed a notice of intention requesting a special election, the compromised policy was in place and they continued to gather signatures, and they could have submitted a petition in order to make the June primary election. She said that they were placing the blame of the cost of an election on Council, signing a petition was not an indicator of how the vote would end up, that this group asked for a special election and turned in the petition prior to the filing deadline, adoption of the ordinance was wrong because it sent a message to the community stating that Council was in agreement with the policy, that it would give an incentive to others to threaten special elections to put their own policies in place, that the cost of the election was on the shoulders of those who wanted the election, that they could have tried the adopted policy but instead they wanted the community to try their super policy, and urged Council to move forward with a special election.

Councilmember Zito reported on the Fletcher Cove Community Center Ad Hoc meetings. He stated that they had received much public input, they had reviewed several options for competing initiatives, and that the final recommendation of the committee was to not submit a competing initiative.

Councilmember Zito stated that there were a number of public comments regarding the divisiveness of the issue, that he had personal experience with petitions in the City, that petition campaigns were divisive, and that the City had survived them before. He stated that some personal relationships would not survive the process which was painful, that emotions needed to be withheld from the issue, and that the development of the City had changed since 1995, regarding a party referenced by a speaker. She stated that Council had to be able to adjust the use of the center based on development changes in the City, that this was the 7th qualified petition in the City that he was aware of, that a public vote was the norm in this City, and that there was angst that a special election had been forced. He said that Council took immediate action during the summer break and enacted a policy for the Fletcher Cove Community Center (FCCC), the policy was not perfect but could be changed at any time, that he could not support adopting the ordinance, and that Council needed to maintain some discretion on this issue.

Councilmember Campbell stated that he agreed with the comments, that he could not support adopting the initiative, and supported calling for a vote.

Councilmember Heebner stated that this had been a divisive and emotional issue, that her intention for the past two years had been to protect the neighbors and to listen to the desires of the larger community, and that she thought a compromise could be crafted. She stated that a trial period would have worked, that there had been some deceptive tactics by the proponents, they gathered signatures with the intent to force an expensive special election, and that they

had sent out postcards and emails to get their way. She stated that the initiative was not good law, that the municipal code could not cover everything, the permanent damage would occur to the democratic process in the City, there was a current use policy that could be altered as needed, that funds required for a special election would be taken from un-designated reserves, and that she supported the calling of a special election.

Councilmember Zahn stated that the community center was a community asset, it was for the use and enjoyment of all residents of the City, and that the restriction of use had to be looked at carefully. He stated that the center's location was challenging with regards to having parties due to the proximity to neighborhoods, that there were well meaning residents who wanted to use the community center and others who had hidden agendas, and that certain people had used the opportunity to attack the City, Council, and neighbors. He stated that calling an election early could bring more divisiveness in the City, that he was disgusted by tactics used by some to promote their agenda, that a June ballot would have been a viable option, and that the only remedy was to put the initiative to a vote of the people.

Mayor Nichols stated that the issue had caused a lot of damage to personal relationships, that people should try to be respectful and listen to others, and that the Council had placed high values and priority on protecting property values and public safety in the City. He reflected on some comments made by speakers and stated that he could not support adopting the initiative because it violated protecting property values and public safety, that it was bad policy to have a policy that could not be changed, that the adopted policy was Council's exercise in moderation, that it could have evolved over time, the initiative policy was in excess and had no regard for negative impacts that could occur, and that he supported calling a special election.

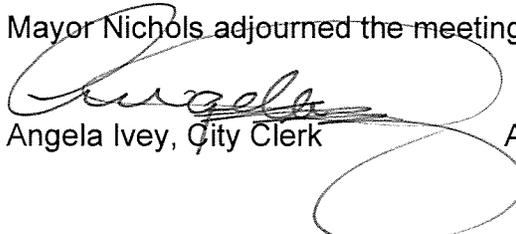
**MOTION:** Moved by David Zito and seconded by Heebner for all Resolutions. A Special Election has been called for February 11, 2014.

See the City's website Election page for updates [http://www.ci.solana-beach.ca.us/index.asp?SEC=801712E0-D2B7-45EF-91AC-4896EFD95DA1&Type=B\\_BASIC](http://www.ci.solana-beach.ca.us/index.asp?SEC=801712E0-D2B7-45EF-91AC-4896EFD95DA1&Type=B_BASIC)

**Motion carried unanimously.**

**ADJOURN:**

Mayor Nichols adjourned the meeting at 7:30 pm

  
Angela Ivey, City Clerk

Approved: December 11, 2013