

# CITY OF SOLANA BEACH

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



## MINUTES

### Joint REGULAR Meeting

Wednesday, September 9, 2015 \* 6:00 P. M.

City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

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

**Lesa Heebner, Mayor**

**David A. Zito, Deputy Mayor**

**Mike Nichols, Councilmember**

**Peter Zahn, Councilmember**

**Ginger Marshall, Councilmember**

Gregory Wade  
City Manager

Johanna Canlas  
City Attorney

Angela Ivey  
City Clerk

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#### CALL TO ORDER AND ROLL CALL:

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

Present: Mayor Lesa Heebner, Deputy Mayor David A. Zito,  
Councilmembers Peter Zahn, Mike Nichols, Ginger Marshall

Absent: None

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

#### CLOSED SESSION REPORT:

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

#### FLAG SALUTE:

#### APPROVAL OF AGENDA:

**Motion:** Moved by Zito and second by Zahn. 5/0 **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.

Peggy Walker stated that she had concerns about the approaching KABBOO event in regards to security and safety measures and traffic and parking and crown control and DUI's, that families and children would be coming day and night, that a safety plan existed but would it be the same as larger events, that DUI checkpoints had not been implemented, and that the City of Del Mar Council meeting expressed an interest to charge them for additional charges.

Mayor Heebner thanked the speaker and her concerns were taken seriously, that Council and Staff had worked with law enforcement and there were collaborating to address issues with additional sheriff's present at this event.

### **COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:**

#### **A. CONSENT CALENDAR:** (Action Items) (A.1. - A.6.)

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 August 1, 2015 through August 14, 2015.

**Motion:** Moved by Zito and second by Zahn. **Motion carried unanimously.**

#### **A.2. General Fund Adopted Budget for Fiscal Year 2015-16 Changes.** (File 0330-30) Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2015-2016 General Fund Adopted Budget.

**Motion:** Moved by Zito and second by Zahn. **Motion carried unanimously.**

#### **A.3. Recognized Obligation Payment Schedule (ROPS) and Administrative Budget.** (File 0115-30) Recommendation: That the Successor Agency

1. Receive the Successor Agency's enforceable obligations payment information and administrative budget for the period January 1, 2016 to June 30, 2016.
2. Consider approval or the ROPS 15-16B and the SA Administrative Budget for January 1, 2016 through June 30, 2016.

**Motion:** Moved by Zito and second by Zahn. **Motion carried unanimously.**

**A.4. Annual Progress Reports on the Status of Projects for the Public Improvement Agreement with the Successor Agency.** (File 0115-30)

Recommendation: That the Successor Agency

1. Receive report.

**Motion:** Moved by Zito and second by Zahn. **Motion carried unanimously.**

**A.5. Memorandum of Understanding with the Miscellaneous Employee Group and Adoption of Corrected Salary and Compensation Plan.** (File 0520-10)

Recommendation: That the City Council

1. Adopt **Resolution 2015-106** approving a Two-Year Memorandum of Understanding (MOU) between the City and the SBEA-MISC for Fiscal Years 2015-2017 and a revised Salary Schedule for Fiscal Year 2015-2016.

**Motion:** Moved by Zito and second by Zahn. **Motion carried unanimously.**

**A.6. ADA Pedestrian Ramps Contract Award.** (File 0820-20)

Recommendation: That the City Council

**1. Adopt Resolution 2015-100:**

- a. Rejecting Quality Construction & Engineering's bid as nonresponsive due to an incomplete bid package.
- b. Awarding the construction contract to Blue Pacific Engineering & Construction, in the amount of \$66,400, for the ADA Pedestrian Ramps, Bid 2015-04.
- c. Approving a change order reducing Bid Item Number 4, from 19 ramps to 15 ramps.
- d. Authorizing the City Manager to execute the construction contract and change order on behalf of the City.
- e. Approving an amount of \$2,648 for bid advertising, construction contingency and inspection.
- f. Appropriating \$69,048 to the Federal Grants revenue account and Professional Services expenditure account in the CDBG fund for the ADA Pedestrian Ramps CIP project for FY 2015-16 and authorizing the City Treasurer to amend the FY 2015-16 Adopted Budget accordingly.

**Motion:** Moved by Zito and second by Zahn. **Motion carried unanimously.**

**C.4. Pension and OPEB (Other Post-Employment Benefits) Trust Funds.** (File 0520-50)

Recommendation: That the City Council

1. Adopt **Resolution 2015-107** approving the Public Agencies Post-Employment Benefits Trust administered by Public Agency Retirement Services (PARS).

Gregory Wade, City Manager, introduced the item and introduced the consultants and some actions that could be considered and taken for the City's PERS liability reduction by creating a combined trust for pension liabilities and other benefits, such as health benefits, and review some options for funding amounts and risk tolerance.

Mitch Barker, PARS, presented a PowerPoint (on file) reviewing their firm as Trust Administrator, and works with other firms to who collaborate on various aspect of management of funds. He said that also do consulting and sub-trust accounting, which were multiple agencies in one account but as individual agencies, that they could not let earnings or liability be crossed shared between any agencies and keep the plan compliant. He said over 170 agencies have joined this type of process so far. He said that one trust could be pre-funded and other trust later or never, that different risk tolerance levels could be chosen from and could be different for each of the two accounts, that deposits had to be used for the relative trust, that pre-funding OPEB will allow assets offset liabilities if not already in a trust, will become a line item on the balance sheet in two years, and lower liabilities allow to keep some form of retiree healthcare. He said that agencies are beginning to place their pension funds in trust since economy was doing better and earn something on reserved funds rather than leave them in the general fund and lower liability, and help offsets the pension increases or underperformance of PERS.

Chris Suda, Highmark Capital, continued the PowerPoint presentation and stated they had an investment policy statement and go over it with clients every year to show each investments, that they had 5 different asset allocation models to choose from, they do onsite visits and are accessible anytime for inquiries, would review active and passive managed funds with the City to develop the portfolio.

Council, Staff, and Consultants discussed that the purpose was to gain a better return than what the City would get at CalPERS or in the City's general fund, that the liquidity and accessibility of the funds were Mutual Funds being Trade day + 1 day and ETFs being Trade day + 3 days, and that their investment policy stated that they do not invest in illiquid vehicles. Discussion continued regarding stabilization of fees, investment strategies, that OPEB and Pension were accounted for separately but one pot of funds, that fees were lowest for over \$5million and that each agency would adopt their own investment and that their minimum was waived hoping to gain the City's business, that the funds are not typically customized and were highly vetted funds selected by their division, that they maintain certain funds for efficiency purposes, and whether they would help the City by recommending a percentage and that they usually recommend choosing the ARC which is investing the full amount and taking out the needed payment annually. Discussion continued regarding that CalPERS was pressured to invest in environmental sustainable investments, whether the City should aim for similar goal such as fossil fuel free funds, and that that approach could limit returns.

Council reached consensus to return with a Resolution to proceed.

## **C.2. Polystyrene Options for Regulating. (File 0220-70)**

Recommendation: That the City Council

1. Receive report.
2. Provide further direction.

Gregory Wade, City Manager, introduced the item.

Johanna Canlas, City Attorney, presented a PowerPoint (on file). She stated that the item was returning to Council for additional direction, that there were a variety of options for regulating polystyrene and presented several questions to Council regarding how and what type of polystyrene Council desired to regulate.

Councilmember Zahn distributed an excerpt from the City of Santa Monica's Municipal Code regarding polystyrene. He reviewed Santa Monica's regulations which included prohibiting food providers from dispensing food in containers made from expanded polystyrene and non-recyclable plastic products, stated that the regulations also pertained to all city facilities and city permitted events, that compostable products or recyclable products could be used as replacements for the polystyrene, and that the last page of handout was a list of cities and counties in the state that had polystyrene regulations. He stated that Santa Monica's code should be used as a guide to develop the City's ordinance.

Greg Wade, City Manager, stated that Waste Management did not recycle polystyrene and that EDCO had a very limited facility for recycling polystyrene as this material was difficult to recycle.

Councilmember Marshall stated that she had spoken with EDCO whom stated that they did recycle polystyrene if it was wiped clean, that the public should be educated on this, and that the City should switch to a residential waste service that recycles polystyrene rather than prohibiting the use and bringing additional costs to businesses to switch packaging materials.

Council discussed using the Clean and Green Committee to assist in educating the public and community outreach, and that the City of Encinitas was also discussing regulating polystyrene and whether coordination could be made to explore options they may be considering. Discussion continued that polystyrene was a long term problem for the environment, that a waiver for financial hardship for businesses that could not afford the transition should be considered, that some exemptions should be allowed, that it could be difficult for grocery stores to adhere to the regulations, and that exemptions should be made for ice chests since they did not contain food items.

Johanna Canlas, City Attorney, noted that two blue folders were received in opposition of this item.

Councilmember Zahn stated that the City of Santa Monica's code also included exceptions for financial hardships and addressed pre-packaged foods in grocery stores.

Councilmember Zahn made a motion to provide direction to Staff to draft an ordinance based on the discussion provided using the City of Santa Monica's ordinance and other city's ordinances for reference.

Councilmember Marshall inquired on reasons for the ban.

Councilmember Zahn stated that there were a variety of reasons for the ban including that polystyrene did not degrade for hundreds of years, that the material contributed to coastal waste, and that it went into the food supply.

Council discussed providing direction to Staff to also review banning packaging peanuts which had similar impacts as polystyrene and were not recyclable, and that only items packaged within the City could be regulated.

**Motion:** Moved by Zahn and second by Nichols to provide direction to Staff to draft an ordinance based on the discussion provided using the City of Santa Monica's ordinance and other city's ordinances for reference and to also include regulating packaging peanuts into the ordinance. **Motion carried 4/1.** (Noes: Marshall)

Mayor Heebner introduced Bill Chopyk, new Community Development Director,

**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 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. Public Hearing: 716 S. Cedros - Development Review Permit (DRP) and Structural Development Permit (SDP), Applicant: Loseke, Case No: 17-15-10.** (File 0600-40)

Recommendation: 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 15301 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt **Resolution 2015-096** conditionally approving a DRP and an administrative

SDP to allow for the construction of a remodel and addition to an existing single-family residence at 716 South Cedros Avenue.

Mayor Heebner opened the public hearing.

Gregory Wade, City Manager, introduced the item.

Katie Benson, Associate Planner, presented a PowerPoint (on file).

Council Disclosures: All Councilmembers reported that they were familiar with the project and had not spoken with the applicant.

There was no presentation by the applicant.

**Motion:** Moved by Zito and second by Zahn to close the public hearing. **Motion carried unanimously.**

Deputy Mayor Zito stated that the square footage of 2609 referenced in the assessors chart in the Staff Report should be 1669 since the garage square footage should have been excluded and wanted to make this correction for the record.

**Motion:** Moved by Zito and second by Marshall. **Motion carried unanimously.**

**B.2. Public Hearing: Introduce (1st Reading) Ordinance 464 – Amending the Findings for the Issuance of a Development Review Permit (DRP) Where Another Agency Must Also Approve or Permit the Same Project.** (File 0600-95)

Recommendation: That the City Council

1. Receive the Report.
2. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.
3. Introduce **Ordinance 464** amending the findings for the issuance of a development review permit where another agency must also approve or permit the same project.

Mayor Heebner opened the public hearing.

Gregory Wade, City Manager, introduced the item.

Johanna Canlas, City Attorney, presented a PowerPoint (on file)

Johanna Canlas, City Attorney, stated that the ordinance codified the practice that if a DRP was required by another agency, it would be conditionally approved by the City subject to the other agencies' permit approvals being received prior to the issuance of the City's permit.

**Motion:** Moved by Zito and second by Zahn to close the public hearing. Vote 5/0  
**Motion carried unanimously.**

**Motion:** Moved by Zito and second by Zahn. Vote 5/0 **Motion carried unanimously.**

**C. STAFF REPORT** (C.1. – C.6.)

*Submit speaker slips to the City Clerk.*

**C.1. Citizen Commission Appointments.** (File 0120-05)

Recommendation: That the City Council

1. Make one appointment (by Council-at-large) to the vacant position on the Parks and Recreation Commission with a term expiration date of January 2017.
2. Make one appointment (by Council-at-large) to the vacant position on the Public Arts Commission with a term expiration date of January 2016.
3. Make one appointment (by Councilmember Marshall) to the vacant position on the View Assessment Commission with a term expiration date of January 2016.

Greg Wade, City Manager, introduced the item. He stated that no applications were received to fill the vacancies on the Parks and Recreation and the Public Arts Commissions so the application period would be extended for those commissions. He stated that two applications were received for the vacancy on the View Assessment Commission, that the vacancy was Councilmember Marshall's nomination, and that the appointment was subject to majority vote by the Council.

Janet Nielsen stated that she submitted an application for a position on the View Assessment Commission (VAC) that she had lived in the City for 21 years, that she was and interior designer, and had experience reading and drafting plans.

Council and speaker discussed her qualifications which included a Bachelors' degree in interior design, experience working with clients, and negotiating compromises with builders.

Councilmember Zahn reviewed both applicants' experience noted on their applications. He stated that Mr. Garber's application did not reflect the experience that Ms. Nielsen had, and that Mr. Garber's application had several supplemental questions left blank.

Councilmember Marshall stated that Mr. Garber had to fill out the application quickly and that he was out of town so unable to attend the meeting.

Motion: Councilmember Marshall made a motion to appoint to Gary Garber to VAC. Zito second.

Councilmember Zito stated that he was unsure whether he could support the nomination due to Mr. Garber's poorly written application and uncertainty of the quality of work Mr. Garber would provide on the VAC.



Councilmember Marshall stated that she had 99% certainty that Mr. Garber would be able to fulfill his commitment on the VAC and be present to participate in the Solana Highlands project.

Councilmember Zahn expressed his concern regarding the incompleteness of the application, that both recommendations submitted with Mr. Garber's application were nearly identical which raised concerns for him, and that the most qualified candidate was needed for the VAC due to the complexity of projects presented to the commission.

Councilmember Marshall stated that Mr. Garber was qualified for the position because he was a successful business owner, a problem solver, dealt with customers, dealt with client complaints, had common sense, and she felt he would be fair and balanced on the View Assessment Commission.

Councilmember Nichols and Staff discussed determinations used to deem an application complete due to Mr. Garber's application having several unanswered questions, that property ownership validation and the two required two recommendation letters were required for submission, and that further review on the completeness of the application was at the Council's discretion.

Deputy Mayor Zito stated that he could not support the nomination for a full 2 year term, that he would consider the appointment since it was only 3 month term, and that the position could be further reviewed upon expiration of the term.

Mayor Heebner stated that a vote needed to be ratified by the Council and depending upon the vote results further options could be explored.

Councilmember Nichols stated that he would abstain from the vote due to not knowing either applicant.

**Motion:** Moved by Marshall and second by Zito to nominate Gary Garber for the View Assessment Commission. **Motion failed 2/2/1.** (Noes: Heebner, Zahn; Abstain: Nichols)

Johanna Canlas, City Attorney, stated that since the vote was a tie there was no action taken.

Mayor Heebner stated that Councilmember Marshall could make another nomination at this time for Council approval.

Councilmember Marshall stated that she did not wish to make another nomination.

Johanna Canlas, City Attorney, stated that since no appointment was made the vacancy would be re-noticed and the item would return to a later date.

**C.3. Introduce (1<sup>st</sup> Reading) Ordinance 465 - Public Safety Commission.** (File 0120-35)  
Recommendation: That the City Council

1. Introduce **Ordinance 465** repealing Chapter 2.62 of the Solana Beach Municipal Code regarding the Public Safety Commission.

Gregory Wade, City Manager, introduced the item.

Councilmember Nichols stated that he would be abstaining since he was not at the 1<sup>st</sup> reading of the Ordinance.

**Motion:** Moved by Zito and second by Zahn. **Motion carried 4/0/1.** (Abstain: Nichols)

**C.5. Adopt (2<sup>nd</sup> Reading) Ordinance 463 - Clarify Projects Subject to the City's Waste Diversion Requirements. (File 0810-90)**

Recommendation: That the City Council

1. Adopt **Ordinance 463** to amend Section 6.36.020 of the Solana Beach Municipal Code to clarify projects that must meet the City's waste diversion requirements.

Johanna Canlas, City Attorney, read the title.

**Motion:** Moved by Zito and second by Zahn. **Motion carried 4/0/1.** (Abstain: Nichols)

**C.6. Adopt (2<sup>nd</sup> Reading) Ordinance 456 - Expedited, Streamlined Permitting Process for Small Residential Rooftop Solar Systems. (File 600-05)**

Recommendation: That the City Council

1. Adopt **Ordinance 456** to add Chapter 15.52 to the Solana Beach Municipal Code to Provide an Expedited, Streamlined Permitting Process for Small Residential Rooftop Solar Systems.

GM stated status of looking at online permitting

Johanna Canlas, City Attorney read the title.

**Motion:** Moved by Zito and second by Marshall. **Motion carried 4/0/1.** (Abstain: Nichols)

Councilmember Zahn left the meeting at 7:48 p.m.

**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 local agency at the next regular meeting of the legislative body.

**COUNCIL COMMITTEE REPORTS:**

Council reported their community activities.

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

- a. City Selection Committee (meets twice a year) – Nichols, Zahn (alternate).
- b. County Service Area 17 – Zahn, Marshall (alternate).

- c. Escondido Creek Watershed Authority – Marshall/Staff (no alternate).
- d. League of Ca. Cities’ San Diego County Executive Committee – Nichols, Zahn (alternate) and any subcommittees.
- e. League of Ca. Cities’ Local Legislative Committee – Nichols, Zahn (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 (1<sup>st</sup> alternate)
- i. Regional Solid Waste Association (RSWA) – Nichols, Zahn (alternate).
- j. SANDAG – Heebner (Primary), Nichols (1<sup>st</sup> alternate), Zito (2<sup>nd</sup> 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 – Marshall, Zito (both primary members) (no alternates).
- n. 22<sup>nd</sup> Agricultural District Association Community Relations Committee – Heebner, Nichols.

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

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

**ADJOURN:**

Mayor Heebner adjourned the meeting at 7:49 p.m.

Angela Ivey, City Clerk

Approved: May 25, 2016