

# CITY OF SOLANA BEACH

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



## MINUTES

Joint SPECIAL Meeting

Tuesday, September 11, 2018 \* 6:00 P. M.

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

Teleconference Location: 726 Solana Circle, Solana Beach CA 92075

**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

David A. Zito, Mayor

Jewel Edson, Deputy Mayor

Judy Hegenauer, Councilmember

Lesa Heebner, Councilmember

Peter Zahn, Councilmember

Gregory Wade  
City Manager

Johanna Canlas  
City Attorney

Angela Ivey  
City Clerk

### CALL TO ORDER AND ROLL CALL:

Deputy Mayor Zito called the meeting to order at 6:08 p.m.

Present: David A. Zito, Jewel Edson, Judy Hegenauer, Lesa Heebner, Peter Zahn

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  
Katie Benson, Associate Planner

### CLOSED SESSION REPORT:

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

### FLAG SALUTE:

### APPROVAL OF AGENDA:

**Motion:** Moved by Councilmember Zahn and second by Councilmember Heebner to approve. **Approved 5/0.** Motion carried unanimously.

### PROCLAMATIONS/CERTIFICATES: *Ceremonial*

Bocce Ball Tournament

Mayor Zito presented a proclamation for the event.

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

San Diego County Sheriff's Captain

Greg Wade, City Manager, introduced Captain Herb Taft of the North Coastal Encinitas Sheriff's Station.

Captain Taft spoke about his two approaches which are community involvement and being as safe as possible, urging residents to involve him to answer questions and that he was accessible, his 12 years of military service, and 19 years with the Sheriff's Department.

**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.

Harley Gordon spoke about the safety issue of roundabouts and did not support them.

Ed Benshop spoke about the intersection of Highland and Lomas Santa Fe needing some attention, was well designed but tricky to maneuver it safely, that a roundabout at that intersection with several incoming lanes approaching it merging into one lane would not be efficient.

Marjory Williams spoke about having taken a local poll among the east side of I-5 and those residents' interests for neighborhood safety, people most affected by them did not want any roundabouts, and selecting the four lane stripping options with no roundabouts.

John Towart spoke about his conducting an email poll of which 75 of the 87 homes in the area of the Isla Verde neighborhood responded resulting in 15 in favor of roundabouts and 130 against roundabouts, the poll discussed security, drawbacks of roundabouts, safety, cost, and unintended consequences. He spoke about long queues of vehicles entering and exiting roundabouts and the difficulty for new entries, lack of safety for handicap, sight impaired, and height challenged, their use required education and experience, and the consultants did not address the four roundabouts that were removed from Poinsettia in Carlsbad because they were not successful.

Edith Drcar spoke about her membership in American Society of Landscape Architect and her knowledge of planning, emergency vehicles being impacted by roundabouts, roundabouts not being necessary on Lomas Santa Fe, supporting clearly marked striping, safe paths for bikes and pedestrians, and landscaping, and use of funding to fix potholes and crosswalks.

Sandy Punch spoke about the east side of I-5 during rush hour, the Poinsettia roundabouts were removed due to problems, some roundabouts were being modified with adding stop signs due to issues, the Solana Beach Fire Department had stated that emergency

response time would be compromised, that lawsuits would be filed when the extra response time compromised an emergency response, the Leucadia roundabout experienced more accidents and delayed response times for emergency vehicle, certified traffic engineers reporting that roundabouts caused unbalanced traffic flow, and the Santa Fe roundabout was not a good comparison to the proposed Solana Beach roundabouts since it was not heavily used by east bound traffic.

John Frank spoke about the simulated video shown at a prior meeting for proposed roundabouts that did not appear to exhibit real traffic flow, his experience with roundabouts in Colorado that were used for intersection traffic problems and not used for traffic calming, roundabouts hurried drivers to make bad decisions and dangerous maneuvers, that available funds should be focused on potholes on San Mario, the need for better communications about proposals and how they were funded, and most people supporting the beautification on Lomas Santa Fe.

Scott Warren spoke about roundabouts directing traffic though Sun Valley and San Mario as shortcuts, bike lanes on Santa Helena widened and they were rarely used, improve the entrances to the City on the freeways areas with overgrown weeds, and that majority of citizens did not want roundabouts.

Johanna Canlas, City Attorney, clarified that the reference to petitions was either communication with Council or a citizen initiative dictated by the California Elections Code.

**COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:**

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

Mayor Zito asked the room to take a moment in silence to reflect on the nation's September 11<sup>th</sup> event as those who lost their lives.

Council reported general community announcements and events.

**Commentary**

Councilmember Heebner said that some of the community was confused about Council's direction regarding roundabouts at a prior Council Meeting, that some residents did not feel heard, that Council had received input from several residents requesting roundabouts, that the Council had given direction to eliminate consideration of three roundabouts and to study only one potential roundabout on Highland including pedestrian safety, emergency issues, and peak traffic times, simulation at real peak times, to have a study presented for review, without any commitment to build it, and that Council memorialized this intention in the motion. She said that other improvements being considered were narrowing the lanes, adding landscaped medians, buffered bike lanes, and adding a landscaped multi-use path on the north side of the street, adding purple pipe on the north side so residents could water hillsides to keep them green, that roundabouts worked well in other areas but four roundabouts on this small stretch of road were too impactful to the community. She asked for consensus among Council to return it to Council at the time the contract is approved for the scope for the next phase for further review and discussion, and Council agreed. She stated that the City uses a pavement management software program that assesses all of the City's streets and prioritizes the order of those needing the most repair, that the City

had spent \$750,000 a year the last two years, and that more funds were spent on the east side than the west side of I-5. She said that the weeds on the sidewalk are addressed as needed and can fit into the schedule, the east side asphalt path improvements will be planned, that the weeds around the freeway are not in the City's jurisdiction but CalTrans and they have not accepted the City's offers to assist in cleaning up their areas and the City does ask often for the areas to be addressed, and that residents should continue to stay engaged.

Mayor Zito stated that many contacts with CalTrans may prioritize their attention to these freeway areas.

Councilmember Zahn spoke about the strong sentiment over two Council meetings, that the comments were important in considering the project, that he supported only studying the Highland roundabout to clarify direction, and that there were many positive comments regarding the overall concepts of the rest of the improvement plan.

Councilmember Edson said that she concurred with Council comments.

Councilmember Hegenauer said that she agreed with Council comments, that she had been contacted by many people and that her assessment was that the position was 50/50 for both support and opposition of the roundabouts, that she believed in grassroots efforts and the opposition had been heard, and was interested in what was best for the community.

Mayor Zito stated that this item was not agendized so no action could be taken, that the clarification review was necessary as some were confused on the prior direction, and that all studies provided had been contrary to the comments received regarding roundabouts being unsafe.

Councilmember Heebner stated that the public should watch for posted agendas for when this item may return to Council.

#### **A. CONSENT CALENDAR:** (Action Items) (A.1. - A.3.)

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. Minutes of the City Council.**

Recommendation: That the City Council

1. Approve the Minutes of the City Council Meetings held February 14, 2018, February 28, 2018, March 14, 2018, March 21, 2018, March 28, 2018 and August 22, 2018.

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

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

**Motion:** Moved by Councilmember Heebner and second by Councilmember Hegenauer to approve. **Approved 5/0.** Motion carried unanimously.

**A.2. Register Of Demands.** (File 0300-30)

Recommendation: That the City Council

1. Ratify the list of demands for August 4 - August 17, 2018.

[Item A.2. Report \(click here\)](#)

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**Motion:** Moved by Councilmember Heebner and second by Councilmember Hegenauer to approve. **Approved 5/0.** Motion carried unanimously.

**A.3. 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.

[Item A.3. Report \(click here\)](#)

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**Motion:** Moved by Councilmember Heebner and second by Councilmember Hegenauer to approve. **Approved 5/0.** Motion carried unanimously.

**B. PUBLIC HEARINGS:** (B.1.)

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: 1058 Solana Dr., Applicant: Maria and Andre Bonilla, Case 17-16-44** (File 0600-40)

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the Public Hearing; Report Council Disclosures; Receive Public Testimony; 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 2018-122** conditionally approving a DRP (Development Review Permit) to construct an infinity edge pool and perform associated grading and site improvements at 1058 Solana Drive, Solana Beach.

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

Greg Wade, City Manager, introduced the item.

Regina Ochoa, Assistant Planner, presented a PowerPoint (on file).

Council disclosures.

Greg Wade, City Manager, confirmed that no public comments had been submitted for this project.

Andre Bonilla, Applicant, spoke about the project he started 5 years ago, worked with an architect to beatify it, broke ground four years ago and started construction on the pool, that there was confusion about the front and back of the property, that his garage and back door faced west and his front door faced east so the front of the house was east, that the inspector reviewed the project and they redesigned, that the inspector signed off after measuring and the pool was constructed because the City approved it, the submittal of the landscaping plan to the City brought up new issues with the pool encroaching on the setbacks after everything else was approved. He spoke about the importance of his reputation and honesty, about trusting someone to grade that did it incorrectly, but then the adjustments were made, and the City's third party inspector hired by the City approved the pool location.

Maria Bonilla spoke about the trough and the options so they chose the water feature, that they had not done any work in three years, that they reached out to Premier Pools to see if they could change it to a water feature, and that they did not have any other intentions other than finding out what they could do to remedy the issue.

Council and Staff discussed whether there was final sign-off on the permit.

Greg Wade, City Manager, spoke about the timeline, the issuance of full permit did not approve the location of where the pool was being built, the applicant revised their plans, the pool was to be built per the plans which indicated that it would be inside of the front yard setback, that an inspector may have signed off on the permit, however, when the survey was submitted for the grading application it was noticed that the setback line was beyond the edge of the pool and the trough.

Council and Staff discussed how the setback was measured and where the pool would be located in relation to the setback.

Aaron Temme, Premier Pools, spoke about the measurement for pools in Solana Beach was from the property line to water line of the pool, not to the outside structure or trough, that general setback is to the line of the actual water barrier line, following revision of what was the front and back yard the City requested representation of where the property line was, a surveyor conducted the string lines, the City's inspector came out and did the field measurements from the surveyors lines, signed off on the permit confirming that portion of the pool was correct, then they proceeded after they had the signoff and approval in 2015, the trough was a water feature and not the pool, that most pools in Solana Beach were not surveyed for the property line measurement, the purpose of the trough was to catch water

that spills over the vanishing edge, they put the trough within the setbacks according to the surveyors that were onsite and the City's inspector, the pool was modified to fit in the setback with a jagged edge to stay in the parameters, the 18 inch trough was enough to catch the cascading pool water to recirculate.

Council and Staff discussed that the survey was requested because of the grading, the City relies on design plans to be submitted according to the City's code, in a ministerial permit for a deck or pool the City relies on the design plans to be compliant since a survey is a costly item and is not required, the comment about how Solana Beach measures the setback to the pool edge was not in the City's zoning code, there was an option outlined in the Staff Report to consider the trough part of the pool, if the trough was lowered to 18 inches in depth that it may be considered a water feature rather than part of the swimming pool which was communicated to the applicant, and there may be an element of the pool itself that still would encroach into the setback.

Andre Bonilla, applicant rebuttal time, spoke about written law and the spirit of the law, that things had changed over time, and to consider that only a fraction of the pool wall was outside and still met within the spirit of the law.

Council, Applicant and Applicant Representatives discussed that to change the setback measurement would require a demo of the pool and re-pouring of concrete, the the trough itself was outside of the buildable area, that it was built with the thought that the survey, plot plans, and the City's inspector permit all approved of this measurement and it was correct, now it is clear that it was not, that the water feature was deeper than 18 inches because of the engineering on the slope topography, that Staff suggested to consider it a water feature to comply with the City's Municipal Code.

**Motion:** Moved by Councilmember Heebner and second by Councilmember Zahn to close the public hearing. **Approved 5/0.** Motion carried unanimously.

Council and Staff discussed that the building inspector approved it with the information they had at the time, the applicant failed to get a permit for the grading because they trusted a contractor to do it, that getting the permit required a survey, the initial stop work citation fee was nominal, and that the penalty for lack of permits was double the fees to compensate for Staff time.

Council discussed that the project was not cut and dry, there was less than adequate documentation and communication, lack of clarity of the pool contractor's knowledge, and that the pool contractor intended to build it within the setbacks.

**Motion:** Moved by Councilmember Heebner and second by Councilmember Zahn to approve with modifying the trough to less than 18 inches in depth. **Approved 5/0.** Motion carried unanimously.

**C. STAFF REPORTS:** (C.1. - C.2.)  
*Submit speaker slips to the City Clerk.*

**C.1. Proposed Fire Mitigation and Park Development Impact Fees Calculation Nexus Report Consideration and Discussion.** (File 0390-23)

Recommendation: That the City Council

1. Review the Nexus Report prepared by RCS and provide direction to Staff as to the next steps.

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

[C.1. Updated Report 1](#)

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Greg Wade, City Manager, introduced the item.

Scott Thorpe, Sr. Vice President of Revenue and Cost Specialists, presented a PowerPoint (on file) reviewing development impact fees. He spoke about a one-time charge to accommodate the same new development that would cause additional demand, fire suppression/rescues facilities, vehicle and equipment, public meeting facilities, and park land and improvements.

Council, Staff, and Consultant discussed that the fees were only for new development and additions to existing developments, they would not apply to hotels and motels because it was too difficult to calculate since it was not clear that they were using the park, that a brand new hotel would only be liable for room cost for fire suppression and rescue, how to estimate revenues based on the plan needed to build out, to define a bedroom was typically when it had a closet, it could be redefined, different fees for small additions or a larger additions, that sprinkler systems don't necessarily prevent fire just the magnitude of fires, no data was concrete but a finding would need to be used, that a lower fee could be adopted to encourage the installation of fire suppressions. Discussion continued regarding the letter from the Budget and Finance Commission referring to the last fee study as well as the new proposed study, to look at a total fee for an application in relation to neighboring jurisdictions, and that the remodel fee be capped but that many people building a master bedroom get the same fees as a brand new home

## **C.2. Quarterly Investment Report for June 30, 2018 and Amended Quarterly Investment Reports for Previous Quarters** (File 0350-44)

Recommendation: That the City Council

1. Accepts and files the attached Cash and Investment Report for the quarter ended June 30, 2018 and Amended Cash and Investment Reports for the quarters ended September 30, 2017, December 31, 2017, and March 31, 2018.

[Item C.2. Report \(click here\)](#)

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Genny Lynkiewicz, Chandler Asset Management, presented the PowerPoint (on file).

### **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:**

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

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

**ADJOURN:**

Mayor Zito adjourned the meeting at 8:32 p.m. in memory of all those lost on September 11<sup>th</sup>.

Angela Ivey, City Clerk

Approved: December 12, 2018