



MINUTES OF THE REGULAR MEETING OF THE
SOLVANG CITY COUNCIL

Council Chambers
1644 Oak Street
Solvang, CA 93463

March 25, 2019
Monday
6:30 pm

CALL TO ORDER: Mayor Toussaint called the meeting to order at 5:45 p.m.

ROLL CALL:

PRESENT: Mayor Toussaint, Council Members Clarke, Djernaes, Johnson, and Waite

STAFF: Rick Haydon, Interim City Manager; Dave Fleishman, City Attorney; Matt van der Linden, Public Works Director

CLOSED SESSION

Government Code Section 54956.8 – Real Property Negotiations – Property 139-123-015 known as 579 Alisal Road – Under Negotiation: Price and Terms.

ADJOURNMENT: Closed session adjourned at 6:34 p.m.

REGULAR MEETING

Mayor Toussaint called the meeting to order at 6:41 p.m.

ROLL CALL

PRESENT: Mayor Toussaint, Council Members Clarke, Djernaes, Johnson, and Waite

STAFF: Rick Haydon, Interim City Manager; Dave Fleishman, City Attorney; Matt van der Linden, Public Works Director; Holly Owen, Planning & Economic Development Director; Sandra Featherson, Administrative Services Director; Lt. Eddie Hsueh; and Lisa S. Martin, City Clerk

PLEDGE OF ALLEGIANCE

City Attorney Fleishman indicated that there was No Reportable Action from closed session.

PRESENTATIONS

A presentation was given by students from Niels Brock College as to how they can help build a connection between Solvang and Denmark; helping Solvang be more Danish, helping with social media, and ideas regarding transit.

1. **PUBLIC COMMUNICATIONS – WRITTEN OR VERBAL**

Lee Rosenberg, Santa Ynez Valley Resident

- Discussed the special Council meeting of March 20, 2019

Ed Skytt, Solvang Resident

- Commented on the special Council meeting of March 20, 2019

Steve Renfrow, Solvang Resident and Business Owner

- Discussed code compliance issues

Rod Simmons, Solvang Resident

- Doesn't understand the current direction of the council

Cowboy Bob

- Requested to be placed on a future agenda to consider his proposal

Tracy Farhad, Solvang Conference & Visitors Bureau

- Update on Taste of Solvang event
- 50% of visitors stayed one night and 41% spent two nights
- 77% shopped and bought goods in Solvang
- 40% spent over \$500

Tracy Beard, Solvang Chamber of Commerce

- Will partner with EconAlliance for a program at the SY High School
- Honored over 50 Women in Business
- Community Awards Banquet is April 18

CITY MANAGER'S REPORT & ADVANCE CALENDAR

Interim City Manager Haydon gave an informational report.

3. CONSENT AGENDA

- Approval of Agenda as Presented
- Approval of draft Minutes of the February 25, 2019 Regular City Council Meeting and February 28, 2019 Special City Council Meeting
- VisitSYV 2018 Annual Report
 - Receive and file the 2018 VisitSYV Annual Report
- Award Construction Contract – Mission Drive Sewer Main Crossing Repair Project
 - Award a Construction Agreement for the Mission Drive Sewer Main Crossing Repair Project, PW 118, to Insituform Technologies, LLC, in the amount of \$69,994.00, and authorize execution of the agreement by the Mayor; and authorize the City Manager to execute any change orders if within the contingency amount of \$14,000.00
- Parks Maintenance Worker Job Description
 - Approve the proposed revision to the Parks Maintenance Worker Job Description
- Ordinance Amendment to Municipal Code Section 11-17-4, Development Plans, to require On-Site Noticing
 - Adopt on second reading, by title only, Ordinance No. 19-0336, amending the Zoning Ordinance, Section 11-17-4, Development Plans, to require on-site noticing of development projects
- License Agreement between Santa Ynez Valley Amateur Radio Repeater Group and the City of Solvang
 - Approve a multi-year license agreement between the City of Solvang and the Santa Ynez Valley Amateur Radio Repeater Group for the installation and operation of an amateur (HAM) radio antenna and associated equipment at the city's Chalk Hill Reservoir 2 site

Council Member Johnson commented that the vote was incorrect on Item 6 of the February 25th minutes. City Clerk Martin indicated she would make the change to reflect the correct 4-0-1 vote.

Mayor Toussaint indicated that he would be abstaining from the vote on Item C.

Motion made by Council Member Waite to approve the Consent Agenda as presented with the correction to the February 25, 2019 minutes, seconded by Council Member Clarke, and carried with a roll call vote of 5-0 with Mayor Toussaint abstaining from Item C.

REGULAR AGENDA

4. SOLVANG (SKYTT) MESA LANDSCAPE & LIGHTING MAINTENANCE DISTRICT NO. 2004-1, RESOLUTION CONFIRMING AND LEVYING ASSESSMENTS

Staff report by Matt van der Linden, Public Works Director. The assessment is proposed to be \$1,224.00 per parcel due to higher landscape bid prices. The bids came in 30 - 50% higher.

Council Member Clarke asked what the assessment was last year. Staff responded that the assessment for several years has been \$1,140.00.

Council Member Johnson questioned what the cost of the landscaping portion alone would be. Staff responded that if landscaping was taken out of the equation, the assessment would go down to \$595.00 if it was just the lighting district, irrigation water costs, and drainage/retention basin maintenance.

Mayor Toussaint opened the item to public comment at 7:20 p.m.

Marlene Hudson, Skytt Mesa Property Owner

- Discussed landscaping issues in Skytt Mesa, plants need pruning, constant weeding, low quality of mulch – hopes a 3 man crew can better keep up
- The amount spent landscaping the three lots on Chalk Hill would have been better spent on maintenance

Mayor Toussaint closed public comment at 7:24 p.m.

Council Member Johnson commented that the Council should figure out a way to give the landscaping responsibility back to the residents.

Mayor Toussaint expressed that although he agrees, there could be obstacles regarding creation of a homeowner's association.

Dave Fleishman explained that the Council does have the power under the Streets & Highways Code although the issue may have to go back to the Planning Commission to change the project's approved conditions of approval. The Council does have the power, it's just a question of how you get there.

Council Member Clarke liked Council Member Johnson's idea, but questioned if all the residents have to be on the same page.

City Attorney Fleishman responded that if the Council were to attempt to impose an assessment that was objectionable to a majority of those being assessed, they could protest against that assessment and you may not be able to impose.

Council Member Waite asked if the city would still be maintaining the open space areas, or if those areas were actually owned by the property owners.

Public Works Director van der Linden answered that those designated open spaces are part of people's lots.

Council Member Waite indicated that if it actually belongs to the residents, then she agrees with Council Member Johnson.

Mayor Toussaint asked staff to research whether these open spaces were actually easements.

Motion made by Council Member Clarke to adopt Resolution No. 19-1076 and direct staff to explore opportunities to transfer landscape maintenance to the homeowners, seconded by Council Member Waite, and carried with a roll call vote of 5-0.

5. **RESOLUTION ADOPTING THE SB1 ROAD MAINTENANCE & REHABILITATION ACCOUNT FY 2019-20 PROJECT LIST**

Staff report by Matt van der Linden, Public Works Director.

Mayor Toussaint opened the item to public comment at 7:42 p.m. and, seeing none, closed the item.

Council Member Clarke commented that he favored accumulating funds of a period of time to spend on more substantial projects.

Motion made by Council Member Waite to adopt Resolution No. 19-1077, seconded by Council Member Johnson, and carried with a roll call vote of 5-0.

6. **HOURS OF OPERATION FOR BUSINESSES WITHIN THE CITY OF SOLVANG**

Staff report by City Attorney, Dave Fleishman. The ordinance as proposed incorporates the Council's suggested changes.

Mayor Toussaint disclosed that he has discussed this matter with Josh Richman, owner of The Merkantile, and feels it is a good compromise.

Mayor Toussaint opened the item to public comment at 7:45 p.m.

Joel Asmussen, Solvang Resident

- Supports the ordinance due to safety concerns and because a 24-hour business selling alcohol and prescription drugs could attract problem casino customers

Susan Bott, Solvang Resident

- Supports the ordinance, it seems like a reasonable solution

Nancy Emerson, WE Watch

- Residents living near commercial zones need some period of peace and quiet
- Spoke in favor of the ordinance and protecting the rural character of Solvang and the Santa Ynez Valley

Charles Werner, Solvang Chamber of Commerce

- The ordinance is too restrictive to businesses, suggested the Council go back to midnight to 5:00 a.m.

Gabe Rosetti, Solvang Resident

- Asked Council to approve the ordinance

The item was closed to public comment at 7:54 p.m.

Council Member Waite commented that in listening to her constituents in looking around the town, she agreed with the Planning Commission and would like to go back to the 10:00 p.m. close of business.

Mayor Toussaint clarified that the ordinance as written states 12:00 a.m., and noted that although a business would be closed to the public, it would still be able to conduct other operations.

Motion made by Council Member Djernaes to approve the first reading of Ordinance No. 19-next in order, seconded by Council Member Clarke, and carried with a roll call vote of 4-1 with Council Member Waite voting No.

7. **MEDICAL CANNABIS DISPENSARY ORDINANCE AND REGULATORY PERMIT APPLICATION PROCESS**

Staff report by Dave Fleishman, City Attorney.

Council Member Waite stated that she did not give a nod to bring this item back to Council. We have policies and a process in place. Clearly you cannot force a property owner rent to a dispensary operator if they don't want to. Asked why the Council was discussing the item.

Mayor Toussaint replied that he did get three nods, if not hers, and that he had noticed problems in our ordinance that he felt needed to be discussed and possibly changed.

Mayor Toussaint opened the item to public comment at 8:05 p.m.

Sunni Vogel, The Flower Trade, Dispensary Applicant

- Detailed the challenges in the process and explained her difficulty during viewing or negotiating regarding the property
- Remove the land use component of the ordinance so that all of the applicants can be considered fairly, to the benefit of Solvang patients

Mayor Toussaint disclosed that he had met with applicants The Flower Trade, Diverse Real Estate, and Fristaden Wellness.

Raza Lawrence, representing Fristaden Wellness

- Solvang's ordinance created a monopoly to the property owner
- One available property is too restrictive

Nancy Emerson, Solvang Resident

- The County will allow eight (8) dispensaries, one in each area of the County, so the SY valley will have one other dispensary
- Suggested that the Council re-review the C-3 zone district as it may not be the only appropriate location

Aaron Petersen, Solvang Resident and Planning Commissioner

- Favored leaving the ordinance as it is, we haven't worked through the process yet
- The C-3 zone district actually does have two properties, and rezones are possible
- Don't act just because someone threatens a lawsuit

Alison Margolis, representing Fristaden Wellness

- The ordinance had unintended consequences which were problematic
- Applicants should be chosen on their merit and then negotiate with a property owner

Gay Infanti, Planning Commissioner

- The Planning Commission felt that the C-3 zone was the only one far enough from residential areas
- Reminded the Council that cannabis deliveries are allowed within the city

David Rasmussen, Solvang Resident

- Encouraged Council to leave the ordinance as is

Jeff Clay, Santa Ynez Valley Resident

- Opposed to cannabis dispensary
- Warned the Council not to let their legacy be one of disorganization and bad decisions

Lee Rosenberg, Santa Ynez Valley Resident

- No reason for a cannabis dispensary, most medical prescriptions are not necessary
- This is a profit making organization only and it is wrong for the city, especially at the entrance to the city

Hank Homburg, Solvang Resident

- The cannabis applicants should go propose to the Chumash to have a retail shop within the casino complex instead of in Solvang, since most drug users frequent the casino

The item was closed to public comment at 8:31 p.m.

Council Member Johnson commented that the city created a monopoly and that we need to fix the process to rectify.

Council Member Clarke does not want pot in Solvang but if we have to he would agree with speaker Aaron Petersen.

Council Member Djernaes agreed with the other members of Council, the property owner should not be the one who decides which medical cannabis business operates in the city.

Council Member Waite responded that she would like the ordinance to remain as it is. There is nothing wrong with our application process, it cannot be helped that the property owner only worked with one applicant. It is unfortunate for the other applicants but the Council cannot force a property owner to rent or sell to a certain party. Is also almost of the opinion that the whole thing should be scrapped.

Mayor Toussaint stated that he thought the Land Owner Authorization requirement was a problem. He would like all applicants to be able to go through the vetting process, and then work with potential property owners after that. This process is not transparent. Neither the Council nor the public was able to see the applicant submittals before they were disqualified. We should take a breath, reassess, and re-open the application process after that. We should look at whether or not an additional zone might be acceptable, such as the medical office area by the hospital. Maybe the Council should send the zoning issue back to the Planning Commission. If we can't get a dispensary that is appropriate for Solvang, then he agreed that the Council should rescind the ordinance and see what happens with the County process, and finding a fair and equitable way to choose the permittee.

Council Member Waite added that the Council initially was trying to gain local control and thought that there would be more applicants and more property owners willing to take on a dispensary use. The situation should be reassessed.

Mayor Toussaint reiterated that his stance is that he wants to ensure that we provide a clean and safe facility with quality product. Having only one property owner control over the process and negates any healthy free market competition. Does not feel that this process needs to be rushed and that we should take our time to fine tune the application process so that it works for the community.

City Attorney Fleishman went over the options. The Council can change the ordinance, the resolution, and/or the process. All other jurisdictions have the land owner authorization, the reason for it is that if you go through the process of vetting and choosing a permittee and then they cannot acquire land owner consent, you have wasted a lot of time and expense. If the Council changes its mind about the number of zones or the number of dispensaries, then the market opens back up. Removing the land owner consent would cause a variety of problems such as lack of a site security plan, a floor plan, etc. If the Council wishes to go this direction then staff would need direction as to how to properly vet applicants in the absence of a land owner consent as part of the qualification process is evaluation of the site security plan and the physical layout of the business. These things need to be vetted prior to the Council choosing a permittee.

Advised the Council that they could ask staff to come back with recommendations as to how to improve the process. Staff could look at other zones or changes in the number of dispensaries, and possibly rework where the land owner consent is in the process to allow for more qualified applicants.

Council Member Clarke asked if the issue should be sent back to the Planning Commission.

City Attorney replied that the Planning Commission would need very specific direction as to what the Council wants them to do, as far as land use.

Mayor Toussaint asked about the development agreement language and whether that could be used to ensure that Solvang gets the type and quality of dispensary that it is looking for.

Dave Fleishman responded that we could not craft regulations to require a certain design of display, but that it could potentially be part of the application process. This should be a random process. External influences shouldn't come into it. Alternatively, it should be based on objective standards. That is the way to keep the process transparent.

Council Member Djernaes expressed concern that State law will force allowance of recreational and our medical dispensary will go that route. Agreed that there is no rush in trying to get this right.

Mayor Toussaint acknowledged the comment, but clarified that we only have control over the number of dispensaries.

Motion made by Mayor Toussaint to direct staff to reprioritize and recommend changes in the application process including consideration of other zones and moving the land owner authorization to an alternate placement in the process, while leaving the number of dispensaries at one. Motion seconded by Council Member Djernaes, and carried with a roll call vote of 5-0.

8. **SET DATE FOR HEARING OF APPEAL OF CANNABIS MEDICAL DISPENSARY APPLICANT, FRISTADEN WELLNESS**

Staff report by Lisa Martin, City Clerk.

Mayor Toussaint opened the item to public comment at 9:14 p.m.

Alison Margolis

- In light of the decision as to Item 7, they would ask the Council to allow Fristaden Wellness to continue in the be considered in the qualification process

The item was closed to public comment at 9:16 p.m.

Mayor Toussaint asked if the action on Item 7 impacted the recommendation on this item.

City Attorney Fleishman responded that it did not, as the Council would only be setting the date of an appeal. At that hearing Council will decide whether the applicant met the letter of the law of the current ordinance.

Interim City Manager noted that it would be helpful if the applicant could stay the appeal until the new City Manager is able to come up to speed on the issue.

Raza Lawrence, appellant, indicated they would be willing to stay the appeal as long as they have the option to ask that it be added back on a future Council agenda if they feel the changes are taking too much time.

City Attorney Fleishman also commented that once City Manager Gassaway is on board an item could be agendized to set up a two member ad hoc committee to analyze and recommend changes to the process.

Motion made by Council Member Djernaes to stay the appeal while staff is developing proposed changes to the cannabis ordinance and application process to add formation of a cannabis ad hoc subcommittee to a future Council agenda, seconded by Council Member Clarke, and carried with a roll call vote of 5-0.

9. COUNCIL MEMBER AB1234 AND COMMITTEE REPORTS

- Santa Barbara County Association of Governments
Council Member Waite reported that there was discussion regarding transit service adding a line between the 154 and Buellton as well as the Black Rd intersection.
- Air Pollution Control Board
- Finance Committee
- League of California Cities
- Chumash Tribe
- Water Committee
- Joint Wastewater Committee
- Library Advisory Committee
- EMA Groundwater Sustainability Agency

10. CORRESPONDENCE RECEIVED BY CITY COUNCIL

Mayor Toussaint inquired if there was any discussion about merging transit services.

Interim City Manager Haydon indicated that there was interest, and that staff is in discussions with Santa Maria to take over management of transit operations.

Council Member Clarke expressed opposition to the Cowboy Bob proposal.

Jim Richardson spoke in favor of the Cowboy Bob proposal.

There was Council consensus to bring the proposal back on a future agenda.

11. COUNCIL COMMENTS AND REQUESTS

Council Member Johnson asked about a possible merger with ID#1.

In that light, Mayor Toussaint mentioned that we should discuss goals for the ad hoc committees as an item on a future agenda.

Council Member Clarke acknowledged and thanked Rick Haydon for his professionalism, demeanor, and assistance over his months of service.

Council Member Djernaes requested more Council educational workshops.

Mayor Toussaint asked that on future agendas each quasi-judicial agenda item be marked on the staff report as being subject to disclosure of ex-parte communications. Suggested that other Council Members review the League of California Cities publication on the subject.

There is Council consensus for staff to add such an identifier on future staff reports.

12. ADJOURNMENT: Mayor Toussaint adjourned the City Council meeting at 9:42 p.m.



Lisa S. Martin, City Clerk