



MINUTES OF THE SPECIAL MEETING OF  
THE SOLVANG CITY COUNCIL

Council Chambers  
1644 Oak Street  
Solvang, CA 93463

May 20, 2019  
Monday  
6:30pm

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**CALL TO ORDER:** Mayor Toussaint called the meeting to order at 6:30 p.m.

**ROLL CALL:**

PRESENT: Mayor Ryan Toussaint, Council Members Robert Clarke, Chris Djernaes, Daniel Johnson, and Karen Waite

STAFF: David Gassaway, City Manager; Dave Fleishman, City Attorney; Xenia Bradford, Interim Administrative Services Director; Holly Owen, Planning & Economic Development Director; Lt. Eddie Hsueh; and Lisa S. Martin, City Clerk

**PLEDGE OF ALLEGIANCE**

**1. CALPERS/OPEB REQUEST FOR PROPOSAL REVIEW**

Interim Administrative Services Director Xenia Bradford presented the staff report and displayed a PowerPoint presentation. She addressed previous Council direction, CalPERS Unfunded Liability, Strategies to address CalPERS Unfunded Liability and Recommendations.

Mayor Toussaint referenced changing service-level delivery options and asked for clarification. Interim Administrative Services Director Bradford explained as the City evaluates its long-term forecast, there will be fixed costs as well as discretionary costs within the budget. Council has the ability to modify those allocations and the options have been used by other organizations to balance their budgets by reducing services offered.

Council Member Waite referenced pension obligation bond options and asked about the related interest rate and Interim Administrative Services Director Bradford reported the rate would be based on market rates, quality and grades of the City.

Council Member Djernaes asked about the source of the \$30.8 million figure and Interim Administrative Services Director Bradford indicated it came from the CalPERS evaluation and noted there is a section on their website relative to hypothetical termination liability. If the City were to stay with the plan, the unfunded liability would be \$3.8 million.

City Manager David Gassaway explained the City would not be forfeiting \$11 million, but rather the \$11 million is the employee's retirement payments. The \$30.8 million is CalPERS applying a reduced discount rate at 1.75%. CalPERS would take those funds and invest them in low-risk mechanisms. That amount of funding would, in perpetuity, based on their calculations, handle all pension obligations for every employee, currently employed, today.

Council Member Djernaes referenced the \$3.8 million for the City's current unfunded liability using a 7.25% discount rate.

Interim Administrative Services Director Bradford reported this is the second wave of the phasing approach and it went from 7.5% to 7.25%. She added that City is not using 6% noting the CalPERS Board determines the expected rate of return that is applied.

Council Member Djernaes reported the California Public Employees Retirement System acknowledged the last five-year returns were 5.1%; they have under-performed the market for the last five years. He noted they are not the best investment advisors out there.

Mayor Toussaint opened the item to public comment at 6:53 p.m. and, seeing none, closed the item.

In response to Council Member Djernaes' question as to what would happen if there were another big correction, Interim Administrative Services Director Bradford stated there would be further unfunded liability which is why forming a trust is one of the options presented. Council Member Djernaes commented on CalPERS not having a floor, like a typical annuity, and noted the City takes all the risk.

Mayor Toussaint stated that is how the CalPERS system works; noted that before recession, the City of Solvang was 100% funded and after recession it was nearly 50% funded, while currently, the City is about 73% funded.

Council Member Djernaes added the City will need to make up differences every time the system collapses. He asked about OPEB noting it has its own unfunded liability. Interim Administrative Services Director Bradford stated she would have to get back to Council with that number. Council Member Djernaes stated Council needs to know that number as he did not believe the \$3.8 million is a correct number. Interim Administrative Services Director Bradford stressed this item is focused only on CalPERS but noted there will be future discussions regarding other unfunded liabilities. Council Member Djernaes felt a comprehensive approach is needed on this item.

Council Member Waite reported individuals who are in charge of investments for CalPERS are very well qualified in investing in vehicles that are suitable for public entities and she would never want to suggest she would make better decisions than they do. She stated nothing is guaranteed and opined the City will want to pick a vehicle in which it could limit its loss liability and have a reserve to cover it. She spoke in support of the formation of a trust to smooth over changes in liability and the City maintaining control of its finances.

Council Member Clarke agreed with Council Member Waite's comments adding that some of the items could be combined and noting transferring the burden to visitors is an option. He suggested a combination of options 3, 4 and 5.

Council Member Johnson suggested another option to get out of CalPERS could be limiting the hiring of new employees that would go into CalPERS. He believed that would reduce the liability that is increasing all of the time.

Council Member Djernaes noted there are alternative products out there that work.

Council Member Clarke interjected that would mean getting out of CalPERS.

Council Member Johnson noted CalPERS has done a great job at making it expensive to withdraw from unless there is a combination of strategies such as not hiring into it, paying into it and slowly paying it off in time and withdrawing through attrition.

Council Member Djernaes added they have an actuarial standard that recommends dropping the rate at 6%. He agreed with Council Member Johnson's suggestion and opined the City needs to explore it.

Mayor Toussaint stated no one thing will solve the problem and it will take a mix of strategies. He expressed concern with prefunding and noted some cities have switched to a 20-year amortization schedule but wondered about the effects of another recession.

City Manager Gassaway reported CalPERS is trying to stabilize the system to prevent wild swings in the market. As they get more conservative with the discount rate and the pension plans that are offered, the liability will start to come down.

In response to Council Member Johnson's question regarding the Sheriff and Fire Department, Mayor Toussaint stated they have a County retirement system, which is funded by half of property taxes and a full-cost recovery system for the Sheriff's Department.

Mayor Toussaint reported there are several different strategies to address the issues and slowly get control of the process. He explained the reason for bringing up the matter again to solicit RFPs in consideration of terminating the contract and determine the options available. He noted agreement with staff's recommendations and was looking at redirecting the RFP for its original intent and soliciting new proposals. He agreed with Alternatives 2 and 4 in the staff report.

***Motion made by Mayor Toussaint to pursue Alternative 2 of the staff report and under Alternative 4, direct staff to modify the current RFP to reflect proposals for terminating the defined pension program, paying for the cost of such, and replacing it with a new defined contribution plan and providing all information needed to do so to the interested parties inclusive of current employees, Census information and current CalPERS account information. (Options to leave the system and what financing/funding options would look like on a yearly basis.) Council Member Djernaes seconded the motion but offered an amendment to include a similar analysis of OPEB and Safety.***

Discussion followed regarding considering buying out of the safety plan as well.

*Mayor Toussaint accepted the second and the amendment. The motion **carried** with a roll call vote of 4-1 with Council Member Waite voting No.*

## **2. PLANNING COMMISSION VACANCY**

City Clerk Lisa Martin presented the staff report noting the resignation of Planning Commissioner Cuff whose family relocated outside of California. She addressed applicable sections of the Solvang Municipal Code; reported Commissioner Cuff was originally appointed by Council Member Djernaes and provided options including another appointment by Council Member Djernaes.

Alternatively, she reported the City has received applications during the last several months and noted the names of remaining applicants including Gay Infanti, Kenny Esko Lama and Gregory Millikin. She presented options available to the City Council for appointment of a new Commissioner.

Council Member Djernaes asked the City Attorney to comment on appointing Commissioners from the City of Solvang versus outside the City of Solvang. City Attorney Fleishman reported there is nothing set forth in State law that prohibits appointing a Planning Commissioner from outside the City, although that is unusual, and added that there is a residency requirement in the Municipal Code but if the Council were interested in making that change they have the authority to do so.

Council Member Clarke clarified it could refer to someone who owns a business in the City of Solvang but lives outside the City.

Council Member Djernaes noted many qualified professionals live just outside the City limits but still within Solvang postal zip codes.

Mayor Toussaint opened the item to public comment at 7:24 p.m. and, seeing none, closed the item.

Council Member Djernaes nominated Scott Gold as his appointee to the Planning Commission.

*Motion made by Council Member Djernaes to appoint Scott Gold to the Planning Commission, seconded by Council Member Clarke.*

Council Member Waite noted Mr. Gold is new to Solvang and to government relations and felt someone with more experience would be a better choice. She added Mr. Gold is not in attendance to accept and there is an individual in the audience who has previously served on the Planning Commission, Gaye Infanti. She suggested that Ms. Infanti be appointed to the Planning Commission.

*Substitute Motion made by Council Member Waite to appoint Gaye Infanti to the Planning Commission. The motion failed for lack of a second.*

*The original motion carried with a roll call vote of 4-1 with Council Member Waite voting No.*

### **3. CITY COUNCIL AGENDA FORMAT AND ORDER OPTIONS**

City Manager Gassaway presented the staff report addressing background, prior discussions regarding the location of Council comments on the agenda and focusing on ensuring the agenda focuses on the things the City Council would like to get done. He indicated staff considered the agendas of twelve different cities as examples of best practices and noted the City of Solvang is generally in line with the best practices of other cities. He offered to take Council direction with respect to moving items on the agenda. In terms of agenda items that are Council's goals, he recommended doing an administrative switch on the structure of staff reports so that after Council's goal-setting retreat, staff will identify directly, in the staff reports, the alignment of the subject with the goals set by Council.

Council Member Djernaes asked whether this incorporates changes to the Advance Calendar as to what Council would like to consider in the future.

City Manager Gassaway reported the one outlier for Solvang is that it has an Advance Calendar adding that no other city uses and Advance Calendar. He felt that is something the City can continue doing but expressed concerns with including "dates certain" it could cause frustration as staff may need additional time to complete a comprehensive review. He added that under current protocols, the City Manager sets the agenda for future meetings.

Discussion followed regarding previous Council requests for agenda items including considering a new attrition policy which was voted on and supported by Council majority.

Council Member Johnson stated he would like to have a list of items Council voted to include in future agendas, so they are not forgotten.

Mayor Toussaint opened the item to public comment at 7:37 p.m. and, seeing none, closed the item.

Council Member Djernaes indicated he would like to see a section that focuses on the visions and strategies that Council has been discussing adding that a reasonable time to address them would be one- to-three months and listed an Amnesty program as one of the topics.

In reply to Council Member Djernaes' question, City Manager Gassaway reported if a Council Member requests adding an item to a future agenda, under Council Comments, and there is concurrence with at least two other Council Members, he will take Council's direction and place the item on a future agenda and will be included in the Advance Calendar. These must be balanced with Council's goals to be discussed and decided during Council's upcoming retreat. If an item goes beyond three months, it is an indication there is too much on the plate and there may be a need to slow down the process. He added that through the retreat process, Council will identify and prioritize its goals and strategies for the City. Staff will present a report to Council, quarterly, to update Council on its progress in meeting the goals. The document will be available to the public.

Discussion followed regarding removing or leaving the Advance Calendar on the agenda, the possibility of having the Mayor take a bigger role in shaping the agenda, removing the dates on the Advance Calendar and indicating the priority of items instead, allowing flexibility to change priorities and opportunities to request adding items to the agenda during Council Comments.

Council Member Waite opined the Advance Calendar could be covered under Council Comments as it would be the appropriate time for Council Members to request items to be included in a future agenda. It would also be included in the meeting minutes. She added if the Advance Calendar will be kept on the agenda, she suggested placing it towards the end in addition to Council Comments/Committee Reports.

Discussion followed regarding leaving Committee Reports at its current position in the agenda, having the City Manager's Report and Advance Calendar towards the beginning of the agenda and having Council Comments and Committee Reports towards the end. Ensuing discussion followed regarding Public Comments and Public Hearings.

City Attorney Fleishman addressed the various types of Public Hearings and their respective requirements.

*There was Council consensus to keep Council Comments and Committee Reports at the end of the agenda and to keep the Advance Calendar but making it a priority-based document rather than date-based.*

**4. CITY COUNCIL COMMITTEE GOALS DISCUSSION**

City Manager Gassaway presented the staff report noting it was at the request of the Mayor and it has been laid out to show Council's legislative priorities for the future. Staff reviewed the Committees, identified their members, frequency of meetings, goals and public transparencies. He requested input from Council as to its goals for each committee; noted the addition of the Economic Development Ad Hoc Subcommittee which was omitted from the original list and recommended removing "Ad Hoc" from committees that meet regularly, such as the Finance Committee.

Mayor Toussaint opened the item to public comment at 8:09 p.m. and, seeing none, closed the item.

Council Member Waite and Council Member Clarke expressed agreement with staff recommendations to delete "Ad Hoc" from standing committees.

City Manager Gassaway indicated those meetings would not be recorded but action minutes would be generated. He stated the public would be allowed to comment and the meetings would be noticed as a public meeting.

Mayor Toussaint explained his rationale for bringing the item forward including making sure committees are in line with Council goals.

Discussion followed regarding making changes in the context of Council's goal-setting retreat and potential Brown Act issues.

City Manager Gassaway explained there are four areas where the City has "Ad Hoc" committees that are not running as "ad hoc" in that they are not for temporary periods to discuss targeted topics. Those committees include Finance, Water, Libraries and Parks and Recreation, and they are operations for the City. The recommendation is to make them formal committees, which will be subject to the Brown Act.

City Attorney Fleishman explained the word "Ad Hoc Committee" does not appear in the definition of a Legislative Body under Government Code Section 5152. What it addresses is a "standing committee" of a legislative body that has continuing subject matter jurisdiction. Committees with such jurisdictions, to avoid a Brown Act problem, should be open, agendaized and be held in public.

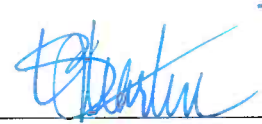
Council Member Clarke commented on the Library Committee being a standing committee and the importance of allowing public input.

Mayor Toussaint felt it would be more appropriate for the Council to think about appropriate goals for our committees and discuss them at the council retreat.

City Attorney Fleishman stated that the purpose of an ad hoc subcommittee is basically to facilitate faster action by the Council when the issue comes forth because the members facilitate that process and bring information back to the Council. That the importance for those standing committees in regards to the Brown Act, because if it is a committee whose decisions are going to be taken seriously by the Council, that is why it is a legislative body covered by the Brown Act.

*City Manager Gassaway asked for Council's consensus to direct him to remove committees that no longer exist from the list and Council concurred without objection.*

5. **ADJOURNMENT:** Mayor Toussaint adjourned the City Council meeting at 8:28 p.m.



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Lisa S. Martin, City Clerk