# ONTARIO CITY COUNCIL ONTARIO HOUSING AUTHORITY MINUTES OCTOBER 2, 2012

#### JOINT MEETINGS

Regular meetings of the Ontario City Council and Ontario Housing Authority were held on Tuesday, October 2, 2012, at the Ontario City Hall, 303 East B St., Ontario, CA.

#### CLOSED SESSION

The Mayor called the City Council/Housing Authority meetings to order at 6:04 p.m., and inquired whether persons were present who wished to speak to a Closed Session item. Hearing none, he advised that all Members were present and thereupon adjourned to Closed Session for discussion as follows:

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
  Property: APN 0218-241-15, 9811 E. Edison Avenue; City/Authority Negotiator:
  Chris Hughes or his designee; Negotiating parties: Lee, Henrietta C. Trust –Est. of; Under negotiation: Price and terms of payment.
- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
  Property: APN 0218-241-16, 10084 E. Eucalyptus Avenue; City/Authority
  Negotiator: Chris Hughes or his designee; Negotiating parties: Lee, Helen J. Tr.
  and Lee, Henrietta C. Trust Est. of; Under negotiation: Price and terms of
  payment.
- GC 54956.9 (b), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION:

  One (1) or more cases: City of Los Angeles/Los Angeles World Airports (LAWA).

#### OPEN SESSION

At 6:14 p.m., Council Members reconvened in Open Session. City Attorney Brown said they were returned to Open Session in order to discuss Agenda Item #7 – Resolution of Necessity upon receipt of communications that may result in litigation. Mr. Brown indicated that at approximately 1:30 p.m. today information was received that will require a 4/5ths vote of Council Members in order to add the matter to the Closed Session agenda for Conference with Legal Counsel regarding possible anticipated litigation.

**MOTION:** Moved by Council Member Wapner, seconded by Mayor Leon, and unanimously approved to add the matter to the Closed Session agenda this evening.

At 6:16 p.m., Council Members again adjourned to Closed Session to discuss communications related to a Resolution of Necessity in the matter of APN 1008-431-04. eminent domain proceedings for public right-of-way and construction of the North Mountain Avenue Corridor Widening and related improvements.

#### CALL TO ORDER

The Mayor called the City Council/Housing Authority meetings to order at 6:34 p.m., and requested the City Clerk to call the roll.

PRESENT: Mayor/ Chairman

Paul S. Leon

Mayor pro Tem/ Vice Chairman Sheila Mautz

Council/ Authority Members:

Alan D. Wapner, Jim W. Bowman,

and Debra Dorst-Porada

ABSENT: None

Also present were City Manager/Executive Director Chris Hughes, City Attorney John Brown and City Clerk/Secretary Mary E. Wirtes.

The Pledge of Allegiance was led by Council Member Bowman.

The Invocation was offered by Reverend Nelson Grande, Westminster Presbyterian Church.

#### **CLOSED SESSION REPORT**

City Attorney Brown reported that no reportable action was taken on the first three items on the Closed Session agenda. He noted that an item was added for discussion based on receipt of communications earlier in the day and upon a 4/5ths vote of the City Council; and there was no reportable action on that item either.

#### AGENCY REVIEW/ ANNOUNCEMENTS

City Manager Hughes advised Council Members there were no announcements.

#### **PUBLIC COMMENT**

Kenneth Coble introduced himself as a Planning Commissioner for the City of Pomona and a candidate for state assembly. He said he is happy to see promotion of the Ontario Airport noting that Pomona is also along the Alameda Corridor transporting goods eastward from Los Angeles/Long Beach.

### JOINT AGENCIES CONSENT CALENDAR

**MOTION:** Moved by Mayor pro Tem Mautz, seconded by Council Member Bowman, the Joint Agencies approved the following Consent Calendar items as recommended.

#### 1. APPROVAL OF MINUTES

Approved Minutes for the regular meetings of the City Council and Housing Authority dated September 4, 2012 as on file in the Records Management Department.

#### 2. BILLS/ PAYROLL

Approved Bills in the amount of \$18,018,317.07, from August 12 through September 8, 2012; and Payroll in the amount of \$5,057,989.17, from August 12 through September 8, 2012, when audited by the Finance Committee.

## 3. REJECTION OF BIDS RECEIVED FOR CONSTRUCTION OF THE PROPOSED TOWN SQUARE PROJECT

City Council rejected, in accordance with Ontario Municipal Code Title 2, Chapter 6, Section 2-6.13(g), all bids received to date in connection with the construction of the proposed Ontario Town Square Project located at 224 North Euclid Avenue; and directed staff to reevaluate, re-scope, and rebid the project.

# 4. A RESOLUTION APPROVING A TIME EXTENSION FOR TENTATIVE TRACT MAP 18476 (FILE NO. PMTT07-002)

City Council adopted a Resolution approving a five-year time extension for Tentative Tract Map 18476 (File No. PMTT07-002), a request to subdivide 37.77 acres of land into 143 residential lots and 3 lettered lots within Planning Area 9 of the West Haven Specific Plan located along the east side of Turner Avenue, 255 feet north of Schaefer Avenue.

RESOLUTION NO. 2012-078 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A FIVE-YEAR TIME EXTENSION FOR FILE NO. PMTT07-002 (TT 18476), A REQUEST TO SUBDIVIDE 37.77 ACRES OF LAND INTO 143 RESIDENTIAL LOTS AND 3 LETTERED LOTS WITHIN PLANNING AREA 9 OF THE WEST HAVEN SPECIFIC PLAN, LOCATED ALONG THE EAST SIDE OF TURNER AVENUE, NORTH OF SCHAEFER AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 0218-151-19 AND 23.

5. A RESOLUTION APPROVING A TIME EXTENSION FOR TENTATIVE TRACT MAP 18477 (FILE NO. PMTT07-003)

City Council adopted a Resolution approving a five-year time extension for Tentative Tract Map 18477 (File No. PMTT07-003), a request to subdivide 37.77 acres of land into 2 numbered lots and 5 lettered lots within Planning Area 9 of the West Haven Specific Plan located along the east side of Turner Avenue, 255 feet north of Schaefer Avenue.

RESOLUTION NO. 2012-079 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A FIVE-YEAR TIME EXTENSION FOR FILE NO. PMTT07-003 (TT 18477), A TIME EXTENSION REQUEST FOR THE SUBDIVISION OF 37.77 ACRES INTO THREE NUMBERED LOTS AND FIVE LETTERED LOTS, WITHIN PLANNING AREA 9 OF THE WEST HAVEN SPECIFIC PLAN, LOCATED ALONG THE EAST SIDE OF TURNER AVENUE, NORTH OF SCHAEFER AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 0218-151-19 AND 23.

6. A PROFESSIONAL SERVICES AGREEMENT FOR FORENSIC MEDICAL EVIDENCE COLLECTION AND NURSES SERVICES/LAW ENFORCEMENT MEDICAL SERVICES, INC.

City Council authorized the City Manager to execute a professional services agreement with Law Enforcement Medical Services, Inc., (LEMS) of Fontana, CA for three years, with two (2) one-year options to extend forensic medical evidence collection and nurse services in an estimated amount of \$70,000 annually.

**MOTION UNANIMOUSLY CARRIED.** The Mayor/ Chairman declared Resolution Nos. 2012-078 and 2012-079 duly passed and adopted.

#### **END OF JOINT CONSENT CALENDAR**

#### PUBLIC HEARING

7. CONSIDERATION OF A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF FEE AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN A PORTION OF CERTAIN REAL PROPERTY

City Council conducted a public hearing to:

(A) Consider the adoption of a Resolution of Necessity and provide all parties interested in the affected property, their attorneys or representatives, an opportunity to be heard on the issues relevant to the Resolution of Necessity;

- (B) Make the following findings as hereinafter described in this report:
  - (1) The public interest and necessity require the proposed project:
  - (2) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
  - (3) The real property to be acquired is necessary for the project; the offer of just compensation has been made to the property owner; and
- (C) Adopt a Resolution of Necessity declaring that the acquisition of fee and temporary construction easement interests in a portion of certain real property, more particularly described as APN 1008-431-04, by eminent domain is necessary for public right-of-way and the construction of the North Mountain Avenue Corridor Widening Project and related public infrastructure improvements in the City of Ontario, San Bernardino County, CA

Notice of public hearing was duly given and affidavit of compliance is on file in the Records Management Department.

As reported earlier, written communications were received today from Peterson Law Group and Briggs Law Corporation protesting the actions recommended.

Judy Briggs asked whether a staff report would be heard prior to public comment. City Attorney Brown requested that she approach the microphone. Ms. Briggs protested a change from procedure for public comments used in the past indicating she would like to hear a report from City staff prior to speaking. City Attorney Brown gave a brief summary indicating the property is needed for the North Mountain Avenue Widening project and noted that diagrams and maps have been prepared that reflect the square footage required, and this information has been made available to the property owner in order to work with the appraiser. Mr. Brown indicated there have been on-going negotiations with the property owner and noted the City has a long history of acquiring property willingly and ably with an ability to reach agreement. He added that the City will only utilize the Resolution of Necessity in the event staff is unable to reach agreement with the property owner. Mayor Leon confirmed that City staff has every reason to believe agreement will be reached.

Judy Briggs stated that she does not represent the property owner but said she is unhappy with the way business is done in the City of Ontario. She added a public hearing was promised on the traffic study regarding this corner, but it was not held; and now a public hearing is being held regarding eminent domain out of the same issues her group brought up in the past. Briggs requested Council delay a decision on this matter.

Council Member Wapner asked what correspondence has been received from the property owner. City Attorney Brown responded that the City has received correspondence from the attorney representing the property owner solely dealing with the issue of just compensation, not the resolution of necessity or use of eminent domain.

No one else requesting to be heard, the Mayor closed the public hearing.

RESOLUTION NO. 2012-080 A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN A PORTION OF CERTAIN REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF MOUNTAIN AVENUE AND FIFTH STREET, IN ONTARIO, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS PORTIONS OF ASSESSOR PARCEL NO. 1008-431-04, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE NORTH MOUNTAIN AVENUE CORRIDOR WIDENING PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA

**MOTION:** Moved by Council Member Wapner, seconded by Council Member Bowman, the motion carried unanimously to adopt said Resolution No. 2012-080.

#### COUNCIL/ STAFF COMMENT

Council Member Dorst-Porada announced the Fire Department Open House will be held from 9:00 a.m. to 2:00 p.m. on Saturday, October 6<sup>th</sup>, and the downtown walks continue at 8:00 a.m. every Sunday from the bandstand on Euclid Avenue.

Mayor pro Tem Mautz also invited the public to attend the Fire Department Open House and announced the Airplane Pull fundraiser is coming up. She invited the community to dine at Applebee's, 1021 North Milliken from 8:00 a.m. to 10:00 a.m. on October 13<sup>th</sup> to support the USO located at the Ontario Airport.

Mayor Leon invited residents to participate in a community event painting and minor repair to historic Jay Littleton Field. He said they will be working from 8:00 a.m. to 12:00 p.m. on October 20<sup>th</sup> and again on November 10<sup>th</sup> at which time Niagara Bottling and Sam's Club will be providing food and refreshments. He added the Ontario Fire Department and Ontario Police Department will also be on hand to cook the lunches at each event.

## **ADJOURNMENT**

No further business to come before the joint meetings, Mayor Leon adjourned at  $6:56~\mathrm{p.m.}$ 

Respectfully submitted,

MARY E. WIRTES, MMC, CITY CLERK/ SECRETARY

APPROVED:

PAUL S. LEON, MAYOR/ CHAIRMAN