

CITY OF ONTARIO
CITY COUNCIL AND HOUSING AUTHORITY
AGENDA
JULY 1, 2014

Paul S. Leon
Mayor

Alan D. Wapner
Mayor pro Tem

Jim W. Bowman
Council Member

Debra Dorst-Porada
Council Member

Paul Vincent Avila
Council Member



Al C. Boling
City Manager

John E. Brown
City Attorney

Mary E. Wirtes, MMC
City Clerk

James R. Milhiser
Treasurer

WELCOME to a meeting of the Ontario City Council.

- All documents for public review are on file with the Records Management/City Clerk's Department located at 303 East B Street, Ontario, CA 91764.
- Anyone wishing to speak during public comment or on a particular item will be required to fill out a blue slip. Blue slips must be turned in prior to public comment beginning or before an agenda item is taken up. The Clerk will not accept blue slips after that time.
- Comments will be limited to 3 minutes. Speakers will be alerted when they have 1 minute remaining and when their time is up. Speakers are then to return to their seats and no further comments will be permitted.
- In accordance with State Law, remarks during public comment are to be limited to subjects within Council's jurisdiction. Remarks on other agenda items will be limited to those items.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council and Staff need to be recognized by the Chair before speaking.

ORDER OF BUSINESS: The regular City Council and Housing Authority meeting begins with Closed Session and Closed Session Comment at 6:00 p.m., Public Comment at 6:30 p.m. immediately followed by the Regular Meeting and Public Hearings. No agenda item will be introduced for consideration after 10:00 p.m. except by majority vote of the City Council.

(EQUIPMENT FOR THE HEARING IMPAIRED AVAILABLE IN THE RECORDS MANAGEMENT OFFICE)

CALL TO ORDER (*OPEN SESSION*)

6:00 p.m.

ROLL CALL

Wapner, Bowman, Dorst-Porada, Avila, Mayor/Chairman Leon

CLOSED SESSION PUBLIC COMMENT The Closed Session Public Comment portion of the Council/Housing Authority meeting is limited to a maximum of 3 minutes for each speaker and comments will be limited to matters appearing on the Closed Session. Additional opportunities for further Public Comment will be given during and at the end of the meeting.

CLOSED SESSION

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *City of Ontario vs. City of Los Angeles, Los Angeles World Airports, and Los Angeles Board of Airport Commissioners, RIC 1306498.*

In attendance: Wapner, Bowman, Dorst-Porada, Avila, Mayor/Chairman Leon

PLEDGE OF ALLEGIANCE

Council Member Bowman

INVOCATION

Pastor Reegis Richard, The Joshua Center International

REPORT ON CLOSED SESSION

City Attorney

PUBLIC COMMENTS

6:30 p.m.

The Public Comment portion of the Council/Housing Authority meeting is limited to 30 minutes with each speaker given a maximum of 3 minutes. An opportunity for further Public Comment may be given at the end of the meeting. Under provisions of the Brown Act, Council is prohibited from taking action on oral requests.

As previously noted -- if you wish to address the Council, fill out one of the blue slips at the rear of the chambers and give it to the City Clerk.

AGENDA REVIEW/ANNOUNCEMENTS: The City Manager will go over all updated materials and correspondence received after the Agenda was distributed to ensure Council Members have received them. He will also make any necessary recommendations regarding Agenda modifications or announcements regarding Agenda items to be considered.

CONSENT CALENDAR

All matters listed under CONSENT CALENDAR will be enacted by one motion in the form listed below – there will be no separate discussion on these items prior to the time Council votes on them, unless a member of the Council requests a specific item be removed from the Consent Calendar for a separate vote.

Each member of the public wishing to address the City Council on items listed on the Consent Calendar will be given a total of 3 minutes.

1. APPROVAL OF MINUTES

Minutes for the regular meetings of the City Council and Housing Authority of May 20 and June 3, 2014, and approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills May 18, 2014 through May 31, 2014 and **Payroll** May 18, 2014 through May 31, 2014, when audited by the Finance Committee.

3. A MAINTENANCE AND REPAIR SERVICES AGREEMENT FOR THE CITY'S COMPRESSED NATURAL GAS FUELING STATION/CLEAN ENERGY

That the City Council approve and authorize the City Manager to execute a three-year Maintenance Services Agreement (on file in the Records Management Department), in the amount of \$353,238, including a 20% contingency, with Clean Energy of Newport Beach, California, to provide proactive, scheduled and maintenance and repair services, and remote monitoring for the City-owned Compressed Natural Gas fueling facility; authorize the extension of the agreement for up to two additional one-year periods, consistent with City Council approved budgets and under the same terms and conditions; and authorize the City Manager, to amend the agreement as needed, to address emergencies, provided that such funds are within the approved Fleet Services Fund budget.

4. AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 27 (NEW HAVEN SERVICES)

That the City Council consider and adopt an ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 27 (New Haven Services).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 27 (NEW HAVEN SERVICES).

5. AN ORDINANCE AMENDING TITLE 9, CHAPTER 1, ARTICLE 14 (RESIDENTIAL DISTRICT) OF THE ONTARIO MUNICIPAL CODE

That the City Council consider and adopt an ordinance approving File No. PDCA14-002, a Development Code Amendment revising Title 9 (Development Code), Chapter 1 (Zoning and Land Use Requirements), Article 14 (Residential Districts), R2 (Medium Density Residential Zoning District), of the Ontario Municipal Code, revising the density range from 11.1-16 du/ac to 11.1-18 du/ac and increasing the maximum building and structure height from 35 feet to 45 feet consistent with Planning Commission Recommendation.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA14-002, A DEVELOPMENT CODE AMENDMENT FOR REVISING TITLE 9 (DEVELOPMENT CODE), CHAPTER 1 (ZONING AND LAND USE REQUIREMENTS), ARTICLE 14 (RESIDENTIAL DISTRICTS), R2 (MEDIUM DENSITY RESIDENTIAL), OF THE ONTARIO MUNICIPAL CODE, ZONING DISTRICT TO CHANGE THE DENSITY RANGE FROM 11.1-16 DU/ACRE TO 11.1-18 DU/ACRE, AND INCREASE THE HEIGHT RESTRICTION FROM 35 FEET TO 45 FEET, AND MAKING FINDINGS IN SUPPORT THEREOF.

6. AN ORDINANCE APPROVING A ZONE CHANGE FROM C3 (COMMERCIAL SERVICE) TO R2 (MEDIUM DENSITY RESIDENTIAL 11.1-16 DU/AC) ON 7.8 ACRES OF LAND, LOCATED AT THE NORTHWEST CORNER OF EUCLID AVENUE AND STATE HIGHWAY ROUTE 60

That the City Council consider and adopt an ordinance approving a Zone Change (File No. PZC13-004) from C3 (Commercial Service) to R2 (Medium Density Residential) for 7.8 acres of land located at the northwest corner of Euclid Avenue and State Highway Route 60.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A ZONE CHANGE, FILE NO. PZC13-004, TO CHANGE THE ZONING DESIGNATION FROM C3 (COMMERCIAL SERVICE) TO R2 (MEDIUM DENSITY RESIDENTIAL 11.1-16 DU/AC) FOR 7.8 ACRES OF LAND LOCATED AT THE NORTHWEST CORNER OF EUCLID AVENUE AND STATE HIGHWAY ROUTE 60, FROM, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1051-061-01.

7. AN ORDINANCE TO AMEND SECTION 2-2.101 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE APPOINTMENT, NUMBER, REMOVAL, TERMS AND VACANCIES OF REGULAR AND AT-LARGE MEMBERS OF CITY COMMISSIONS, COMMITTEES, AND BOARDS

That the City Council consider and adopt an ordinance relating to Section 2-2.101 of the Ontario Municipal Code relating to the appointment, number, removal, terms and vacancies of regular and at-large members of City Commissions, Committees, and Boards to gain consistency between practices and protocols outlined in the Ontario Municipal Code and the Ontario City Boards, Commissions, and Committees Handbook; and authorize an update to applicable provisions of the Ontario City Boards, Commissions and Committees Handbook.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTION 2-2.101 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE APPOINTMENT, NUMBER, REMOVAL, TERMS AND VACANCIES OF REGULAR AND AT-LARGE MEMBERS OF COMMISSIONS, COMMITTEES AND BOARDS.

PUBLIC HEARINGS

8. ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO'S. 1, 2, 3 AND 4 FOR FISCAL YEAR 2014-2015

That the City Council take the following actions pertaining to the levy of assessments within Ontario Parkway Maintenance Assessment Districts (OPMAD) No's. 1, 2, 3 and 4:

- (A) Conduct a combined public hearing on the levy of the annual assessments for each district;
- (B) Consider and adopt a resolution approving the Engineer's Reports relating to the levy of assessments for each district; and
- (C) Consider and adopt resolutions confirming the diagrams and assessments, and providing for the assessment levy within each District.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2, 3 AND 4 FOR FISCAL YEAR 2014-15.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAMS AND ASSESSMENTS, AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2 AND 3 FOR FISCAL YEAR 2014-15.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICT NO. 4 FOR FISCAL YEAR 2014-15.

9. ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICTS NO. 1 AND 2 FOR FISCAL YEAR 2014-15

That the City Council take the following actions pertaining to the levy of assessments within Street Lighting Maintenance Districts (SLMD) No. 1 and 2:

- (A) Conduct a combined public hearing on the levy of the annual assessments for each district;
- (B) Consider and adopt a resolution approving the Engineer's Reports relating to the levy of assessments for each district; and
- (C) Consider and adopt resolutions confirming the diagrams and assessments, and providing for the assessment levy for each District.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICTS NO. 1 AND 2 FOR FISCAL YEAR 2014-2015.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2014-2015.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 2 FOR FISCAL YEAR 2014-2015.

ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

10. CITY COUNCIL MEMBER AVILA'S REQUEST FOR INDEPENDENT COUNSEL AND AN INDEPENDENT INVESTIGATOR

That the City Council receive and consider the request of City Council Member Paul Vincent Avila for independent counsel and an independent investigator.

11. REVIEW OF CITY COUNCIL MEETING DECORUM EXPECTATIONS, RULES OF CONDUCT AND ASSOCIATED CONSEQUENCES

That the City Council receive and review City Council Resolution No. 92-50 which established the current rules of "Conduct of City Council Meetings"; consider amendments to the existing resolution and conduct policy to address recent decorum concerns; and consider consequences and courses of action for City Council Members not adhering to decorum expectations.

STAFF MATTERS

City Manager Boling

COUNCIL MATTERS

COMMISSION APPOINTMENT

Mayor Leon
Mayor pro Tem Wapner
Council Member Bowman
Council Member Dorst-Porada
Council Member Avila

ADJOURNMENT

**CITY OF ONTARIO
CLOSED SESSION REPORT**
City Council // Housing Authority // Other // (GC 54957.1)
July 1, 2014

ROLL CALL: Wapner __, Bowman __, Dorst-Porada __, Avila __ Mayor / Chairman Leon __.

STAFF: City Manager / Executive Director __, City Attorney __

In attendance: Wapner __, Bowman __, Dorst-Porada __, Avila __, Mayor / Chairman Leon __

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *City of Ontario vs. City of Los Angeles, Los Angeles World Airports, and Los Angeles Board of Airport Commissioners, RIC 1306498.*

No Reportable Action Continue Approved

/ / / / / /

Disposition: _____

Reported by: _____
City Attorney / City Manager / Executive Director

CITY OF ONTARIO

Agenda Report
July 1, 2014

SECTION:
CONSENT CALENDAR

SUBJECT: A MAINTENANCE AND REPAIR SERVICES AGREEMENT FOR THE CITY'S COMPRESSED NATURAL GAS FUELING STATION

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute a three-year Maintenance Services Agreement (on file in the Records Management Department), in the amount of \$353,238, including a 20% contingency, with Clean Energy of Newport Beach, California, to provide proactive, scheduled and maintenance and repair services, and remote monitoring for the City-owned Compressed Natural Gas fueling facility; authorize the extension of the agreement for up to two additional one-year periods, consistent with City Council approved budgets and under the same terms and conditions; and authorize the City Manager, to amend the agreement as needed, to address emergencies, provided that such funds are within the approved Fleet Services Fund budget.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The annual cost of the agreement is \$98,121, plus a 20% contingency of \$19,625 for unforeseen repair needs, for a total of \$117,746 annually, or \$353,238 for the three-year term. Appropriations for this agreement are included in the Fleet Services baseline annual budget. Emergency services required may be completed at the negotiated labor and materials prices included in the agreement to ensure continuity of service to the public. The total cost of services shall not exceed the City Council approved budget for the Fleet Services Fund.

At the City's discretion, two additional one-year extensions may be authorized. Pricing for these future years will be negotiated, but any increase will be limited to a maximum of 3% per year. Future contracting actions will be commensurate with City Council authorized work programs and approval of appropriations in the budgets for the respective future years.

STAFF MEMBER PRESENTING: Brent Schultz, Housing & Municipal Services Director

Prepared by: Victor Moraga
Department: Housing & Municipal Services

City Manager
Approval: 

Submitted to Council/O.H.A. 07/01/2014

Approved: _____

Continued to: _____

Denied: _____

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BACKGROUND: Since 1995 the City has owned and operated a Compressed Natural Gas (CNG) fueling facility. Over the years, this facility has reduced the community’s collective carbon footprint, improved air quality, lowered dependency on fossil fuels and foreign oil and enabled compliance with the South Coast Air Quality Management District Rule 1193 “Clean On-Road Residential and Commercial Refuse Collection Vehicles.”

The facility provides CNG for 78 City vehicles and the Ontario-Montclair School District. It also makes CNG available for purchase at our public fueling station at 1440 South Cucamonga Street, to citizens and local companies that operate alternative fuel CNG vehicles.

The existing CNG fueling facility maintenance agreement will expire on June 30, 2014. In February 2014, staff solicited a request for proposal. Ten vendors downloaded the proposal from the City’s online procurement system and two vendors responded.

Company

Clean Energy
Micro-Design, Inc.

Location

Newport Beach, CA
Dallas, TX

Staff invited the two firms to participate in a panel interview. After considering responses and interview scores, staff finalized the scope of services and negotiated rate structures with the top firm. Staff selected Clean Energy as the firm that would best meet the City’s criteria which includes availability of parts and supplies, emergency response, and availability of staff to provide the service.

CITY OF ONTARIO

Agenda Report

July 1, 2014

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 27 (NEW HAVEN SERVICES)

RECOMMENDATION: That the City Council consider and adopt an ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 27 (New Haven Services).

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

FISCAL IMPACT: In accordance with the City Council's long standing direction that development in the New Model Colony generate sufficient revenues to fund its required City services without reliance on the existing financial resources of the Old Model Colony, the use of Mello-Roos financing in connection with the New Haven development is projected to generate approximately \$2,000,000 per year, at build-out, to fund City services. As proposed, the maximum annual tax rates to be assessed on the residential units are: \$1,387 for each single family detached unit, \$1,202 for each multi family unit, and \$1,008 for each gated apartment unit. The use of Mello-Roos financing for City services is critical in achieving the City Council's goal of "Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony." The use of Mello-Roos financing for the New Haven development will not generate funds for facilities, and bonds will not be issued as part of this formation.

BACKGROUND: On May 6, 2014, the City Council, in accordance with the Mello-Roos Act, took the initial steps in the formation of Community Facilities District No. 27 with the adoption of Resolution No. 2014-035, declaring the City's intention to establish the district and to authorize the levying of special taxes in the district. The Resolution of Intention set the public hearing on the establishment of the CFD for June 17, 2014. On that date, the City Council conducted the public hearing, adopted the resolutions of formation for the District, and introduced and waived further reading of the ordinance

STAFF MEMBER PRESENTING: Grant D. Yee, Administrative Services/Finance Director

Prepared by: Bob Chandler
Department: Management Services

City Manager
Approval: 

Submitted to Council/O.H.A. 07/01/2014

Approved: _____

Continued to: _____

Denied: _____

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authorizing the levy of special taxes within City of Ontario Community Facilities District No. 27 (New Haven Services). Adoption of the ordinance will conclude the formation process for the District.

The Mello-Roos Community Facilities Act of 1982 provides local government, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to finance various kinds of public infrastructure facilities and government services. Government services that may be included in a community facilities district include police protection services, fire protection and suppression services, ambulance and paramedic services, maintenance and lighting of parks, parkways, streets, roads, open space and flood and storm drain protection services, and maintenance and operation of any real property or tangible property owned by the City with an estimated useful life of five or more years.

On May 6, 2014, the City Council approved Resolution No. 2014-035, a Resolution of Intention to establish City of Ontario Community Facilities District No. 27 (New Haven Services) and authorize the levy of special taxes within the district. The New Haven project addresses the residential development of approximately 179 acres located north of Edison Avenue, south of Schaefer Avenue, east of Archibald Avenue, and west of Haven Avenue. At build-out, the development is projected to include 1,247 residential units: 712 detached units, 352 attached units and 183 apartments. Included, as part of the Resolution of Intention, is the proposed Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 27 (New Haven Services). The terms of the Rate and Method of Apportionment of Special Tax are consistent with the City Council's adopted Mello-Roos local goals and policies, and City staff have discussed the proposed Rate and Method of Apportionment of Special Tax with the landowner. The CFD is being formed pursuant to the provisions of the New Haven project's Development Agreement, and the First Amended and Restated Construction Agreement between the City and NMC Builders.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 27 (NEW HAVEN SERVICES).

WHEREAS, on May 6, 2014, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 27 (New Haven Services) (the "Community Facilities District") and to finance certain services (the "Services"); and

WHEREAS, on June 17, 2014, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 27 (New Haven Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation") and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 27 (New Haven Services)," which resolutions established the Community Facilities District, authorized the levy of a special tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of levying a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District, respectively; and

WHEREAS, on June 17, 2014, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act;

THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby authorizes and levies special taxes within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method of Apportionment"). The special taxes are hereby levied commencing in fiscal year 2014-15 and in each fiscal year thereafter until the last fiscal year in which such special taxes are authorized to be levied pursuant to the Rate and Method of Apportionment.

SECTION 2. The City Council may, in accordance with subdivision (b) of Section 53340 of the Act, provide, by resolution, for the levy of the special tax in future tax years at the same rate or at a lower rate than the rate provided by this Ordinance. In no event shall the special tax be levied on any parcel within the Community Facilities District in excess of the maximum tax specified therefor in the Rate and Method of Apportionment.

SECTION 3. The special tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Rate and Method of Apportionment.

SECTION 4. The proceeds of the special tax shall only be used to pay, in whole or in part, the cost of providing the Services and incidental expenses pursuant to the Act.

SECTION 5. The special tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes, unless another procedure is adopted by the City Council.

SECTION 6. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the Community Facilities District, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the Community Facilities District shall not be affected.

SECTION 7. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 1st day of July 2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 2993 was duly introduced at a regular meeting of the City Council of the City of Ontario held June 17, 2014 and adopted at the regular meeting held July 1, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 2993 duly passed and adopted by the Ontario City Council at their regular meeting held July 1, 2014 and that Summaries of the Ordinance were published on June 24, 2014 and July 8, 2014 in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
July 1, 2014

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE AMENDING TITLE 9, CHAPTER 1, ARTICLE 14 (RESIDENTIAL DISTRICT) OF THE ONTARIO MUNICIPAL CODE

RECOMMENDATION: That the City Council consider and adopt an ordinance approving File No. PDCA14-002, a Development Code Amendment revising Title 9 (Development Code), Chapter 1 (Zoning and Land Use Requirements), Article 14 (Residential Districts), R2 (Medium Density Residential Zoning District), of the Ontario Municipal Code, revising the density range from 11.1-16 du/ac to 11.1-18 du/ac and increasing the maximum building and structure height from 35 feet to 45 feet consistent with Planning Commission Recommendation.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner

FISCAL IMPACT: None.

BACKGROUND: On June 17, 2014, the City Council introduced an ordinance approving a Development Code Amendment. Under The Ontario Plan (TOP), the Medium Density Residential designation provides a range of 11.1 to 25 dwelling units per acre ("du/acre"). This density range anticipated accommodating two zoning designations – R2 and R3. The current R2 zone allows 11.1 to 16 du/acre and R3 allows 16.1 to 25 du/acre. The proposal would slide the scale up slightly to provide an R2 density range of 11.1 to 18 du/acre, splitting the General Plan density range down the middle. In reviewing various developments in the City, staff noted there are a number of properties designated R2 with densities in excess of 16 du/acre (16-17 du/acre range). The slight increase in density will bring these properties into conformance with the R2 standards, and eliminating the non-conforming status.

Currently, the R2 zone allows a maximum height of 35 feet, the same as the R1 and R1.5 zones. The R3 zone allows a maximum height of 55 feet. In order to provide a more gradual transition between zones, the R2 height limit is being requested to increase to 45 feet. This would accommodate three-story

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Diane Ayala
Department: Planning

City Manager
Approval: 

Submitted to Council/O.H.A. 07/01/2014

Approved: _____

Continued to: _____

Denied: _____

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elements for single family residential, condos, and townhome units without constraining architectural design.

On May 27, 2014, the Planning Commission voted unanimously (6-0) to recommend approval of the Development Code Amendment, finding that the proposed changes would provide for the intended product housing types within the zone, address current market trends, establish the maximum density of the R2 zone at the mid-point of the Policy Plan Medium Density Residential, and provide consistency with existing R2 zoned properties.

ENVIRONMENTAL REVIEW: The project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to § 15061(b) (3) of the CEQA Guidelines, which is the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA14-002, A DEVELOPMENT CODE AMENDMENT FOR REVISING TITLE 9 (DEVELOPMENT CODE), CHAPTER 1 (ZONING AND LAND USE REQUIREMENTS), ARTICLE 14 (RESIDENTIAL DISTRICTS), R2 (MEDIUM DENSITY RESIDENTIAL), OF THE ONTARIO MUNICIPAL CODE, ZONING DISTRICT TO CHANGE THE DENSITY RANGE FROM 11.1-16 DU/ACRE TO 11.1-18 DU/ACRE, AND INCREASE THE HEIGHT RESTRICTION FROM 35 FEET TO 45 FEET, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, City of Ontario ("Applicant") has filed an Application for the approval of a Development Code Amendment, File No. PDCA14-002, as described in the title of this ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, an amendment is proposed to the provisions of Ontario Municipal Code Title 9 (Development Code), Chapter 1 (Zoning and Land Use Requirements), Article 14 (Residential Districts), which regulates the development of properties within each residential zoning district of the City; and

WHEREAS, in January 2010, the City Council adopted an update to the City's General Plan and Preferred Land Use Plan (File No. PGPA06-001), which requires the completion of numerous significant and comprehensive changes to the City's Development Code and Official Zoning Map, and over the past four years, staff has worked toward completing the necessary zoning and Development Code revisions; and

WHEREAS, the proposed changes to Article 14 of Chapter 1 (Zoning and Land Use Requirements) of the Development Code are a revision to the density range in the R2 (Medium Density Residential) Zoning District from 11.1-16 dwelling units per acre of land to 11.1-18 dwelling units per acre of land, and an increase in height limitation from 35 feet to 45 feet; and

WHEREAS, The project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to § 15061(b) (3) of the CEQA Guidelines, which is the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, on May 27, 2014, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and issued Resolution No. PC14-039, recommending the City Council approve the application; and

WHEREAS, on June 17, 2014, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDAINED by the City Council of the City of Ontario, as follows:

SECTION 1. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as that the Project is exempt from environmental review pursuant to Section 15061(b) (3) general rule of the CEQA Guidelines.

SECTION 2. Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the City Council hereby concludes as follows:

(a) The proposed Development Code Amendment is consistent with the goals and policies of the Policy Plan component of The Ontario Plan; and

(b) The proposed Development Code Amendment is reasonable and beneficial, and in the interest of good zoning practice; and

(c) The proposed development code amendment will not have a significant adverse impact on the environment.

SECTION 3. Amend Article 14 (Residential Districts) of Chapter 1 (Zoning and Land Use Requirements) of the Development Code, revising Paragraph 9-1.1400.B.5 to the read as read as follows:

“R2 (Medium Density Residential) Zoning District. The R2 zoning district is established to allow for the development of a mix of single family dwellings, duplexes, townhouses, condominiums, garden apartments and other types of residential development at densities in the range of 11.1 to 18 dwellings per acre with an appropriate level of on-site amenities and open space.”

SECTION 4. Amend Table 14-1: Single Family Residential Development Standards of Chapter 1 (Zoning and Land Use Requirements) of the Development Code, revising the maximum density to read as follows:

Table 14-1: Single-Family Residential Development Standards

Requirement	Residential Zoning Districts						Additional Regulations
	AR	RE	R1	R1.5	R2	R3	
A. SITE REQUIREMENTS							
1. Maximum lot coverage	30%	40%	50%	60%			
2. Minimum lot size (in SF)	18,000	10,000	7,200 min./8,000 avg.	5,000 min./6,000 avg.			Note 1
3. Maximum density (in dwelling units per net acre)							
a. Base density	2		5	8	13	20	
b. Maximum density	2		5	11	18	25	Note 2

SECTION 5. Amend Table 14-2: Multiple Family Residential Development Standards of Chapter 1 (Zoning and Land Use Requirements) of the Development Code, revising the maximum density and maximum structure height to read as follows:

Table 14-2: Multiple Family Residential Development Standards

Requirement	Zoning Districts				Additional Regulations
	R1.5	R2	R3	HDR-45	
A. SITE REQUIREMENTS					
1. Maximum Lot Coverage	60%			100%	
2. Minimum Lot Size (in SF)	8,000	7,200		20,000	Note 1
3. Maximum Density (in dwelling units per net acre)					
a. Base Density	8	13	20	N/A	
b. Maximum Density	11	18	25	45	Note 2
4. Maximum Structure Height (in FT)	35	45	55	75	

SECTION 6. Based upon the findings and conclusions set forth in Sections 1 through 5 above, the City Council hereby approves File No. PDCA14-002, amending Chapter I, Article 14 of the City of Ontario Development Code.

SECTION 7. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid, unconstitutional or otherwise struck-down by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more portions of this ordinance might be declared invalid.

SECTION 8. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 9. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 1st day of July 2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held June 17, 2014 and adopted at the regular meeting held July 1, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. _____ duly passed and adopted by the Ontario City Council at their regular meeting held July 1, 2014 and that Summaries of the Ordinance were published on June 24, 2014 and July 8, 2014, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
July 1, 2014

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE APPROVING A ZONE CHANGE FROM C3 (COMMERCIAL SERVICE) TO R2 (MEDIUM DENSITY RESIDENTIAL 11.1-16 DU/AC) ON 7.8 ACRES OF LAND, LOCATED AT THE NORTHWEST CORNER OF EUCLID AVENUE AND STATE HIGHWAY ROUTE 60

RECOMMENDATION: That the City Council consider and adopt an ordinance approving a Zone Change (File No. PZC13-004) from C3 (Commercial Service) to R2 (Medium Density Residential) for 7.8 acres of land located at the northwest corner of Euclid Avenue and State Highway Route 60.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner

FISCAL IMPACT: The General Plan designation for this site is split between Neighborhood Commercial and Medium Density Residential. Over the years, several attempts have been made to develop the eastern portion as commercial but these have been unsuccessful due to access constraints. The configuration of the site further limits commercial opportunities and square footage, making the long-term viability of the center questionable. The proposal for residential development will bring increased property tax to the City. Adjacency to existing commercial development may also increase sales tax generation from the center. While residential does tend to have an impact on services (e.g. fire, police), the extent is anticipated to be minor and will likely result in fewer impacts than marginal commercial properties.

BACKGROUND: On June 17, 2014, the City Council introduced an ordinance approving a zone change. South Coast Communities, LLC, of Irvine, California, is requesting the approval of a General Plan Amendment (GPA) and a Zone Change to facilitate the development of a multi-family residential project on approximately 7.8 acres of land at the northwest corner of Euclid Avenue and State Highway Route 60, located at 2324 South Euclid Avenue.

The western portion of the site is designated as Medium Density Residential (11.1 to 25 dwelling units per acre) and the eastern portion is General Commercial. The commercial portion of the site is not

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Diane Ayala
Department: Planning

City Manager
Approval: 

Submitted to Council/O.H.A. 07/01/2014

Approved: _____

Continued to: _____

Denied: _____

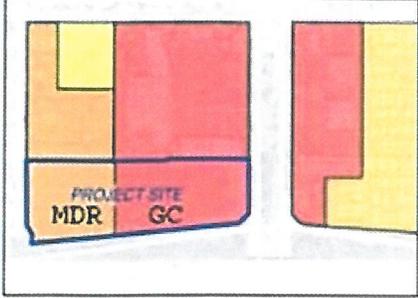
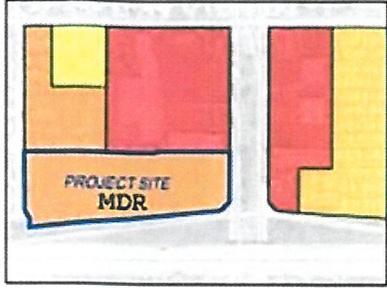
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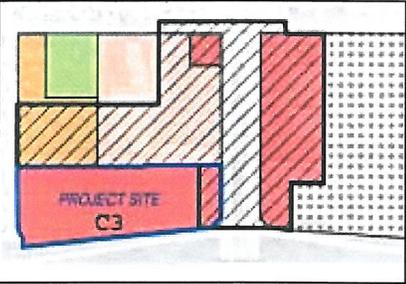
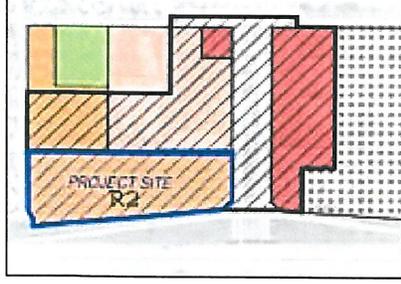
conducive to commercial development because of its access limitations to Euclid Avenue (due to the limited street frontage and close proximity to State Route Highway 60). Additionally, potential developers have been unable to obtain access easements through the commercial property to the north.

The General Plan Amendment would convert the eastern portion to Medium Density Residential. The associated zone change would change the entire site from C3 to R2 (11.1 to 16 dwelling units per acre). The General Plan Amendment and zone change will provide for a comprehensive development opportunity over the entire site, providing access from both Euclid and Fern Avenues. The proposed project will allow for residential development consistent with the existing multi-family residential development to the north.

On May 27, 2014, the Planning Commission voted unanimously (5-0) to recommend the City Council adoption of a Mitigated Negative Declaration for the project and approval of the proposed GPA and Zone Change.

ENVIRONMENTAL REVIEW: Staff recommends adoption of the Mitigated Negative Declaration prepared for the project. The initial study identified potential impacts resulting from the project in the area of utilities (water and sewer), noise, air quality, and traffic. With the proposed mitigation measures, the potential impacts identified in the initial study will be reduced to a level of less than significant. To ensure that the all mitigation measures are implemented, a Mitigation Monitoring and Reporting Program has been prepared for the Project pursuant to CEQA Guidelines § 15097, which specifies responsible agencies/departments, monitoring frequency, timing and method of verification and possible sanctions for non-compliance with mitigation measures.

Existing General Plan	Assessor Parcel Numbers Involved	Proposed General Plan
 <p data-bbox="147 604 565 674">Medium Density Residential and General Commercial</p>	<p data-bbox="711 373 878 485">1051-061-01 <i>(1 property)</i></p> <p data-bbox="618 625 971 657">NEC Euclid Ave. & SR-60</p>	 <p data-bbox="1024 625 1401 657">Medium Density Residential</p>

Existing Zoning	Assessor Parcel Numbers Involved	Proposed Zone Change
 <p data-bbox="175 1350 508 1381">C3 (Commercial Service)</p>	<p data-bbox="695 1098 862 1209">1051-061-01 <i>(1 property)</i></p> <p data-bbox="602 1350 954 1381">NEC Euclid Ave. & SR-60</p>	 <p data-bbox="1057 1335 1336 1400">R2 (Medium Density Residential)</p>

**ATTACHMENT 1: PROPOSED REVISION TO THE ONTARIO PLAN FUTURE BUILDOUT
TABLE**



LU-03 Future Buildout

Note: Deletions to the table are shown in ~~striketrough text~~, and additions are shown in **red text**

Land Use	Acres²	Assumed Density/Intensity³	Units	Population⁴	Non-Residential Square Feet	Jobs⁵
Residential						
Rural	458	2.0 du/ac	916	3,660		
Low Density ⁶	7,454	4.0 du/ac (OMC) 4.5 du/ac (NMC)	31,400	125,506		
Low-Medium ⁶ Density	843	8.5 du/ac	7,166	28,644		
Medium Density	1,931 1,937	18.0 du/ac (OMC) 22.0 du/ac (NMC)	39,002 39,094	136,318 136,668		
High Density	236	35.0 du/ac	8,259	27,643		
<i>Subtotal</i>	10,923 10,928		86,743 86,835	321,771 322,121		
Retail/ Service						
Neighborhood ⁶ General	265	0.30 FAR			3,466,679	8,388
General Commercial	609 604	0.30 FAR			7,955,798 7,889,152	7,391 7,329
Office/ Commercial	414	0.75 FAR			13,534,854	30,015
Hospitality	145	1.00 FAR			6,316,200	7,241
<i>Subtotal</i>	1,433 1,428				31,273,532 31,206,885	53,036 52,974

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A ZONE CHANGE, FILE NO. PZC13-004, TO CHANGE THE ZONING DESIGNATION FROM C3 (COMMERCIAL SERVICE) TO R2 (MEDIUM DENSITY RESIDENTIAL 11.1-16 DU/AC) FOR 7.8 ACRES OF LAND LOCATED AT THE NORTHWEST CORNER OF EUCLID AVENUE AND STATE HIGHWAY ROUTE 60, FROM, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1051-061-01.

WHEREAS, South Coast Communities, LLC. ("Applicant") has initiated a Zone Change, File No. PZC13-004, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 7.8 acres of land located at the northwest corner of Euclid Avenue and State Highway Route 60, which is largely undeveloped, and has been regularly used for the farming of food crops, such as strawberries; and

WHEREAS, the properties north of the project site are characterized by multifamily residential dwellings and commercial retail and are located within the R2 (Medium Density Residential 11.1-16 du/ac) and C3 (Commercial Service) zoning districts. The properties to the west are developed with single-family dwellings in the RR (Rural Residential) zoning district. Properties located east of the project site, across Euclid Avenue are developed with commercial retail land uses and are within the C1 (Shopping Center) zone. The project site abuts State Highway Route 60 to the south; and

WHEREAS, the project site is currently within the C3 (Commercial Service) zoning district. The Applicant is requesting a Zone Change, on the project site to Medium Density Residential (11.1- 16 dwellings units per acre) as shown in Exhibit A; and

WHEREAS, the Application will allow for residential development consistent with the existing multi-family residential development to the north (15.5 dwelling units per acre) and the Project site is not conducive to commercial development because it cannot accommodate adequate vehicular access due to the lot configuration and close proximity to the freeway (within 300 feet). The primary access to the site is Fern Avenue since the California Department of Transportation (CalTrans) is limiting access from Euclid Avenue due to the proximity of State Highway Route 60 westbound onramp; and

WHEREAS, the project site is located within the Airport Influence Area of Ontario International Airport and the Project is consistent with the policies and criteria set forth within the Airport Land Use Compatibility Plan; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, on May 1, 2014, the City of Ontario conducted a community meeting to gain input from the surrounding property owners; and

WHEREAS, on May 27, 2014, the Planning Commission of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date. After considering all public testimony, the Planning Commission voted unanimously (6-0) to recommend (Resolution PC14-038) City Council adoption of a Resolution approving the Zone Change (PZC13-004); and

WHEREAS, as the first action on the Project, on June 17, 2014, the City Council approved a Resolution adopting a Mitigated Negative Declaration. The Mitigated Negative Declaration finds that all environmental impacts of the Project are either insignificant or can be mitigated to a level of less than significance pursuant to the mitigation measures outlined in the MND, the Mitigation Monitoring and Reporting Program and the initial study; and

WHEREAS, on June 17, 2014, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDAINED by the City Council of the City of Ontario, as follows:

SECTION 1. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for File Nos. PGPA13-006 and PZC13-004, and supporting documentation. Based upon the facts and information contained in the Mitigated Negative Declaration and supporting documentation, the City Council finds as follows:

a. The Initial Study/Mitigated Negative Declaration and other information in the record has been independently reviewed and analyzed, and the information contained therein has been thoroughly considered prior to acting upon or approving the Project;

b. The Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA; and

c. The Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City of Ontario, as lead agency for the Project.

d. All environmental impacts of the Project are either insignificant or can be mitigated to a level of less than significance pursuant to the mitigation measures outlined in the MND, the Mitigation Monitoring and Reporting Program and the initial study.

SECTION 2. Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the City Council hereby concludes as follows:

a. The proposed zone change is consistent with the goals and policies of the Policy Plan component of The Ontario Plan.

b. The proposed zone change is reasonable and beneficial, and in the interest of good zoning practice.

c. The project sites are physically suitable, including, but not limited to parcel size, shape, access, availability of utilities and compatibility with adjoining land uses, for the requested zoning designations and anticipated developments.

d. The proposed zone change will not adversely affect the harmonious relationship with adjacent parcels and land uses.

e. The proposed zone change will not have a significant adverse impact on the environment.

f. The proposed project is consistent with the adopted Housing Element. The site is not one of the properties listed in the Available Land Inventory in the Housing Element. Changing the zoning designation of the subject property from C3 (Commercial Service) to R2 (Medium Density Residential 11.1-16 du/ac) will not negatively impact the City's Regional Housing Needs Allocation obligations or the City's ability to satisfy its share of the region's future housing need.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves the requested Zone Change, as shown on the attached Exhibit A.

SECTION 4. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, unconstitutional or otherwise struck-down by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more portions of this ordinance might be declared invalid.

SECTION 5. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 6. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 7. Effective Date. This Ordinance shall become effective 30 days following its adoption.

SECTION 8. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 1st day of July 2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held June 17, 2014, and adopted at the regular meeting held July 1, 2014, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

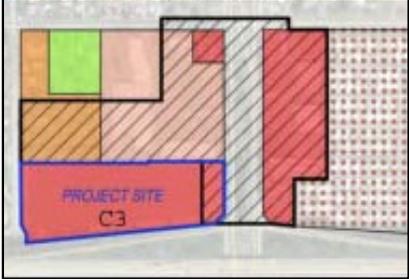
(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. _____ duly passed and adopted by the Ontario City Council at their regular meeting held July 1, 2014 and that Summaries of the Ordinance were published on June 24, 2014 and July 8, 2014, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

EXHIBIT A Zone Change

Existing Zoning	Assessor Parcel Numbers Involved	Proposed Zone Change
 <p style="text-align: center;">C3 (Commercial Service)</p>	<p style="text-align: center;">1051-061-01 <i>(1 property)</i></p> <p style="text-align: center;">NEC Euclid Ave. & SR-60</p>	 <p style="text-align: center;">R2 (Medium Density Residential)</p>

CITY OF ONTARIO

Agenda Report

July 1, 2014

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE TO AMEND SECTION 2-2.101 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE APPOINTMENT, NUMBER, REMOVAL, TERMS AND VACANCIES OF REGULAR AND AT-LARGE MEMBERS OF CITY COMMISSIONS, COMMITTEES, AND BOARDS

RECOMMENDATION: That the City Council consider and adopt an ordinance relating to Section 2-2.101 of the Ontario Municipal Code relating to the appointment, number, removal, terms and vacancies of regular and at-large members of City Commissions, Committees, and Boards to gain consistency between practices and protocols outlined in the Ontario Municipal Code and the Ontario City Boards, Commissions, and Committees Handbook; and authorize an update to applicable provisions of the Ontario City Boards, Commissions and Committees Handbook.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Operate in a Businesslike Manner
Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: None.

BACKGROUND: At the April 15 and May 6, 2014 meetings of the Ontario City Council, staff received direction to review the existing practices and processes for the appointment and removal of appointees to City Commissions, Committees, and Boards to ensure consistency between practice and protocols. On June 17, 2014, the City Council introduced an ordinance relating to the appointment, number, removal, terms and vacancies of regular and at-large members of City Commissions, Committees, and Boards.

The City's current policy and practices are outlined in Section 2-2.101 of the Ontario Municipal Code and the Ontario City Boards, Commissions and Committees Handbook (January 2012) ("Handbook"). The Handbook contains relevant policy and protocol statements adopted by the City Council and

STAFF MEMBER PRESENTING: Al C. Boling, City Manager

Prepared by: Al C. Boling
Department: Citywide Administration

City Manager
Approval: 

Submitted to Council/O.H.A. 07/01/2014

Approved: _____

Continued to: _____

Denied: _____

7

incorporates pertinent sections of the Ontario Municipal Code. The Handbook is issued to all City Council Members and each appointee upon the commencement of their respective positions.

The City's policies for removing an appointee are inconsistent and lack details on a process to be followed, which has led to a more abbreviated practice for removal of appointees. In practice, the vast majority of appointees serve their full terms and are often reappointed to serve multiple terms. In instances where a City Council Member that previously appointed an individual to a board, commission, or committee desires to remove an appointee, past practice included a written notice by the Council Member to the appointee thanking that individual for their service and a statement that their term has ended. No further action was taken by the Mayor, the full City Council, nor was the action typically reflected in the minutes of any Council meeting.

Currently, the Ontario Municipal Code and the Handbook permit an appointee to be removed by the individual City Council Member who nominated him or her; by a majority vote of the City Council; or by operation of fact in the case of an appointee's own actions relative to absenteeism. The methods by which those removals could take place range from no action required by the City Council, a letter initiated by an individual Council Member or the vote of the full City Council as an agenda item in a duly noticed public meeting and documented by the minutes of the City Clerk.

Staff has reviewed options and determined in consultation with the City Attorney's Office that in order to establish a more consistent practice for the appointment and removal of appointees, the City Council could consider for adoption an ordinance amending the Ontario Municipal Code to clarify and simplify the process.

The recommended ordinance includes language consistent with the process used for appointments. It is suggested that each of the five City Council Members submit to the Mayor the name of one person proposed for appointment or removal to a committee, commission or board and upon approval of such name by the Mayor and concurrence of the City Council, the action shall be recorded in the minutes of the City Council meeting. If the City Council Member responsible for the original nomination fails to make a successful nomination within sixty days following the beginning of that City Council Member's term, the City Council may itself appoint an individual to fill that position.

The recommended ordinance also includes language to address the potential of a mid-term vacancy. The suggested language advises that the City Council Member who made the original nomination shall have the ability to nominate a person to fill the vacancy subject to the approval of the Mayor and the concurrence of the City Council. If the City Council Member who made the original nomination fails to make a successful nomination to fill a vacancy, the City Council may itself appoint an individual to fill that position.

The recommended ordinance also discusses the process for removal of an appointee to a commission, committee or board. It is suggested that a City Council Member submit to the Mayor the name of an appointee proposed for removal from a commission, committee or board. Upon approval of such name by the Mayor and concurrence of the City Council, the appointee's removal shall be recorded in the minutes of the City Council meeting.

If the recommended ordinance is approved by the City Council, the City's Commissions, Committees, and Boards will update their respective bylaws and the Handbook will be updated and distributed to City Council Members and all regular and at-large members of the City's Commission, Committees, and Boards.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTION 2-2.101 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE APPOINTMENT, NUMBER, REMOVAL, TERMS AND VACANCIES OF REGULAR AND AT-LARGE MEMBERS OF COMMISSIONS, COMMITTEES AND BOARDS.

WHEREAS, the general provisions governing the members of commissions, committees and boards are set forth in Chapter 2 of Title 2 of the Ontario Municipal Code; and

WHEREAS, at the April 15, 2014 meeting of the Ontario City Council, City staff received direction to review the existing practices and processes for the appointment and removal of appointees to City Commissions, Committees and Boards to ensure consistency between practices and protocols; and

WHEREAS, on May 6, 2014, the Ontario City Council voted to update Section 2-2.101 of the Ontario Municipal Code to implement a more standardized and consistent process for all City Commissions, Committees and Boards; and

WHEREAS, on June 17, 2014, the City Council conducted a public hearing to introduce and waive further reading of an ordinance relating to the appointment and removal of appointees to City Commissions, Committees and Boards; and

WHEREAS, the City Council desires to establish a more consistent practice, clarify and simplify the process for the appointment and removal of appointees included within the Ontario Municipal Code; and

WHEREAS, the updated appointment and removal process of appointees to City Commissions, Committees and Boards will become effective within thirty (30) days upon approval by the City Council.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDAINED by the City Council of the City of Ontario, as follows:

SECTION 1. Section 2-2.101(d)(3)-(5) of Chapter 2, of Title 2 of the Ontario Municipal Code is hereby amended, in its entirety, to read as follows:

(3) Each of the five (5) City Council members shall submit to the Mayor the name of one (1) person proposed for appointment to a committee, commission or board; said nominees shall be eligible for appointment only if a formal application is on file with the City Clerk, and upon approval of such appointment by the Mayor and concurrence of the City Council, the name of the appointee shall be recorded in the minutes of the City Council meeting. If the City Council member responsible for the original nomination fails to make a successful nomination within sixty days following the beginning of that City Council member's term, the City Council may itself appoint an individual to fill that position.

(4) The City Council, by a majority vote, shall appoint two (2) of its members to serve as a Nominations Committee to bring forward nominees from the applicant pool to serve as the at-large members on committees, commissions or boards. These nominees must be approved by the Mayor and the concurrence of the City Council.

(5) In the case of a vacancy on committees, commissions or boards, the City Council member who made the original nomination shall have the right to nominate a person to fill the vacancy subject to the approval of the Mayor and the concurrence of the City Council in accordance with subsection (d)(3). If the City Council member who made the original nomination fails to make a successful nomination following the vacancy, the City Council may itself appoint an individual to fill that position. If the vacancy occurs by an at-large member appointed through the process in subsection (d)(4), then the nomination of a replacement shall be made in accordance with that subsection.

SECTION 2. Section 2-2.101(e) of Chapter 2, of Title 2 of the Ontario Municipal Code is hereby amended, in its entirety, to read as follows:

(e) A City Council member may submit to the Mayor the name of an appointee proposed for removal from a commission, committee or board, and upon approval of such name by the Mayor and concurrence of the City Council, such appointee's removal shall be recorded in the minutes of the City Council meeting.

SECTION 3. This updated amendment to the ordinance shall become effective thirty (30) days following its adoption.

SECTION 4. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 1st day of July 2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held June 17, 2014 and adopted at the regular meeting held July 1, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. _____ duly passed and adopted by the Ontario City Council at their regular meeting held July 1, 2014 and that Summaries of the Ordinance were published on June 24, 2014 and July 8, 2014, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report

July 1, 2014

SECTION:
PUBLIC HEARINGS

SUBJECT: ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO'S. 1, 2, 3 AND 4 FOR FISCAL YEAR 2014-2015

RECOMMENDATION: That the City Council take the following actions pertaining to the levy of assessments within Ontario Parkway Maintenance Assessment Districts (OPMAD) No's. 1, 2, 3 and 4:

- (A) Conduct a combined public hearing on the levy of the annual assessments for each district;
- (B) Consider and adopt a resolution approving the Engineer's Reports relating to the levy of assessments for each district; and
- (C) Consider and adopt resolutions confirming the diagrams and assessments, and providing for the assessment levy within each District.

**COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Operate in a Businesslike Manner**

FISCAL IMPACT: As proposed, special assessment revenue will be generated in the amount of \$283,671 from OPMAD No's. 1, 2 and 3, and \$297,245 from OPMAD No. 4 during Fiscal Year 2014-15. The operation and maintenance costs of \$571,240 within OPMAD No's. 1, 2 and 3 will exceed the assessment revenues by \$287,569. The differential will be funded with \$19,907 from available fund balance in the Parkway Maintenance District Fund; and with \$267,662 from the General Fund. If approved, the General Fund portion will be included in the City's proposed budget for Fiscal Year 2014-15. The total proposed special assessment for OPMAD No. 4 is sufficient to pay all expenses within this service area. The special assessments for OPMAD No's. 1, 2, and 3 Zone 2000-1 are capped, so there are no proposed changes from the FY 2013-14 special assessments. The recommended special assessment rate for OPMAD No. 3 Zone 2000-2 represents an increase of 4.8%. The average increase in the recommended special assessment rates for the 6 maintenance areas in OPMAD No. 4 is 1.5%.

STAFF MEMBER PRESENTING: Grant D. Yee, Administrative Services/Finance Director

Prepared by: Bob Chandler
Department: Management Services

City Manager
Approval: 

Submitted to Council/O.H.A. 07/01/2014

Approved: _____

Continued to: _____

Denied: _____

BACKGROUND: The first of these districts was formed in 1976 pursuant to the Landscaping and Lighting Act of 1972 (the 1972 Act). Additional territories are annexed to the districts from time to time as development proceeds. The districts were formed to help minimize the continually increasing cost of maintaining and operating the landscaping along public streets where the property owners do not have direct access to the landscaping. A special assessment is levied annually on benefiting properties for the cost of operation and maintenance of certain parkway landscaping facilities within the districts. The City's Community and Public Services Agency establishes the annual operation and maintenance costs and administers the maintenance of the landscaping. Annually, an Engineer's Report for each district must be prepared which apportions these costs to each parcel within the districts. The locations of the districts are shown on the attached maps.

OPMAD No's. 1, 2, and 3 are comprised of single-family residential developments. Due to varying characteristics, the districts are organized into benefit zones and/or maintenance areas. Each zone/maintenance area is assessed for only the operation and maintenance of the facilities from which it receives special direct benefit. The total assessment for each maintenance area is then apportioned to its constituent parcels.

Special assessment revenue will be generated in the combined amount of \$283,671 from OPMAD No's. 1, 2 and 3. The maximum and proposed Fiscal Year 2014-15 special assessment rates for OPMAD No.'s 1, 2 and 3, along with last year's special assessment rates, are as follows:

	Prior Year 2013-14		Proposed 2014-15	Maximum 2014-15
OPMAD No. 1	\$ 66.32	Per Lot	\$ 66.32	\$ 66.32
OPMAD No. 2	\$ 34.04	Per Lot	\$ 34.04	\$ 34.04
OPMAD No. 3, Zone 2000-1	\$ 41.29	Per Lot	\$ 41.29	\$ 41.29
OPMAD No. 3, Zone 2000-2	\$ 161.42	Per Lot	\$ 169.17	\$ 207.88

OPMAD No. 4 is comprised of single-family residential tracts and the Ontario Mills development area. The district is organized into 6 Maintenance Areas (MAs). Each maintenance area is assessed for only the operation and maintenance of the facilities from which it receives direct special benefit. The total assessment for each maintenance area is then apportioned to its constituent parcels.

The assessments for OPMAD No. 4 will generate a total of \$297,245. OPMAD No. 4 will generate sufficient revenue to pay all expenses within this service area. The maximum and proposed Fiscal Year 2014-15 special assessment rates for OPMAD No. 4 along with last year's special assessment rates are as follows:

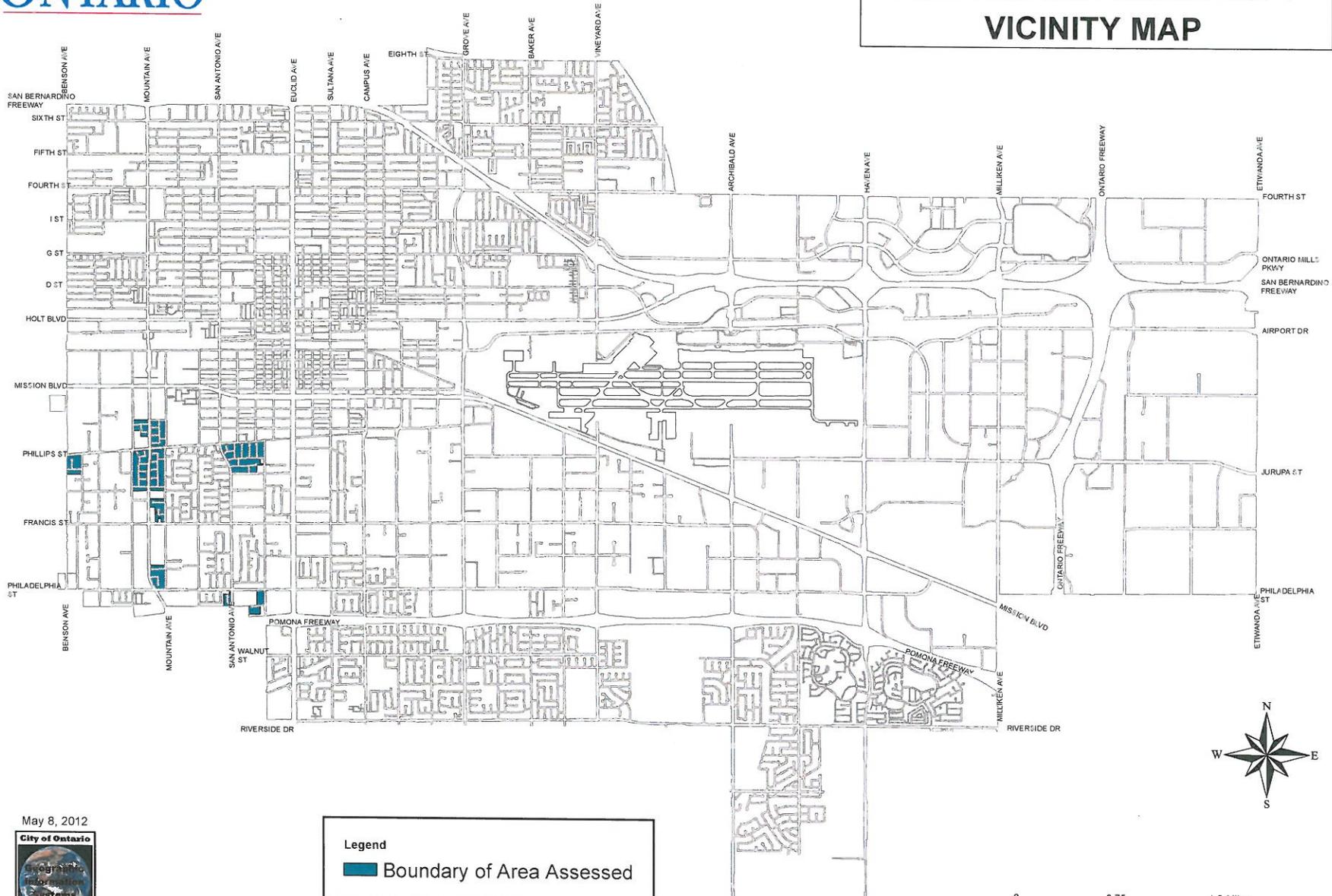
	Prior Year 2013-14		Proposed 2014-15	Maximum 2014-15
MA# 99-1	\$ 50.18	Per Lot	\$ 50.58	\$ 50.58
MA# 99-2	\$ 316.53	Per Lot	\$ 319.06	\$ 319.06
MA# 99-3	\$ 960.07	Per Acre	\$ 979.27	\$ 1,145.67
MA# 00-1	\$ 235.85	Per Lot	\$ 240.57	\$ 314.24
MA# 04-1	\$ 954.68	Per Lot	\$ 972.84	\$ 2,001.58
MA# 05-1	\$ 1,300.25	Per Lot	\$ 1,323.67	\$ 2,481.06

On June 3, 2014, the City Council adopted resolutions which ordered the preparation of Engineer's Reports for the annual levy of assessments within each District, preliminarily approved the Engineer's Reports, declared Council's intention to levy and collect assessments within the Districts for the referenced fiscal year, and set tonight as the date for the public hearing for each district. Notices of the public hearings have been published and proof of publication is on file in the Records Management Department.

The Engineer's Reports, which have been prepared for each district pursuant to the 1972 Act, are on file with the Records Management Department. Each report includes plans and specifications for the improvements and maintenance, an estimate of costs, a diagram of the area proposed to be assessed, and an assessment of the costs to the various parcels within each District.



Ontario Parkway Maintenance Assessment District No. 1 VICINITY MAP



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May 8, 2012

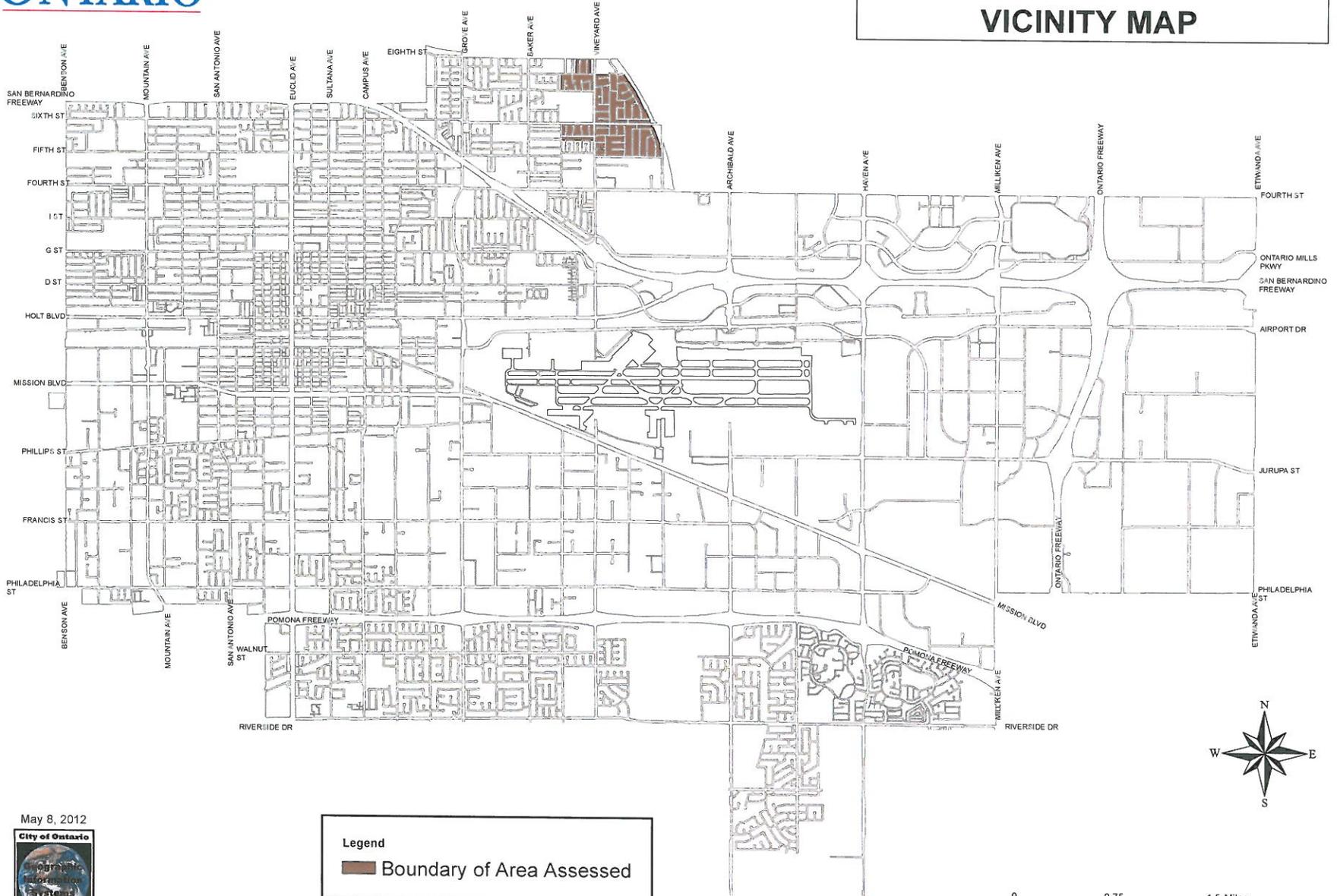


Legend
■ Boundary of Area Assessed

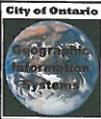
0 0.75 1.5 Miles



Ontario Parkway Maintenance Assessment District No. 2 VICINITY MAP



May 8, 2012

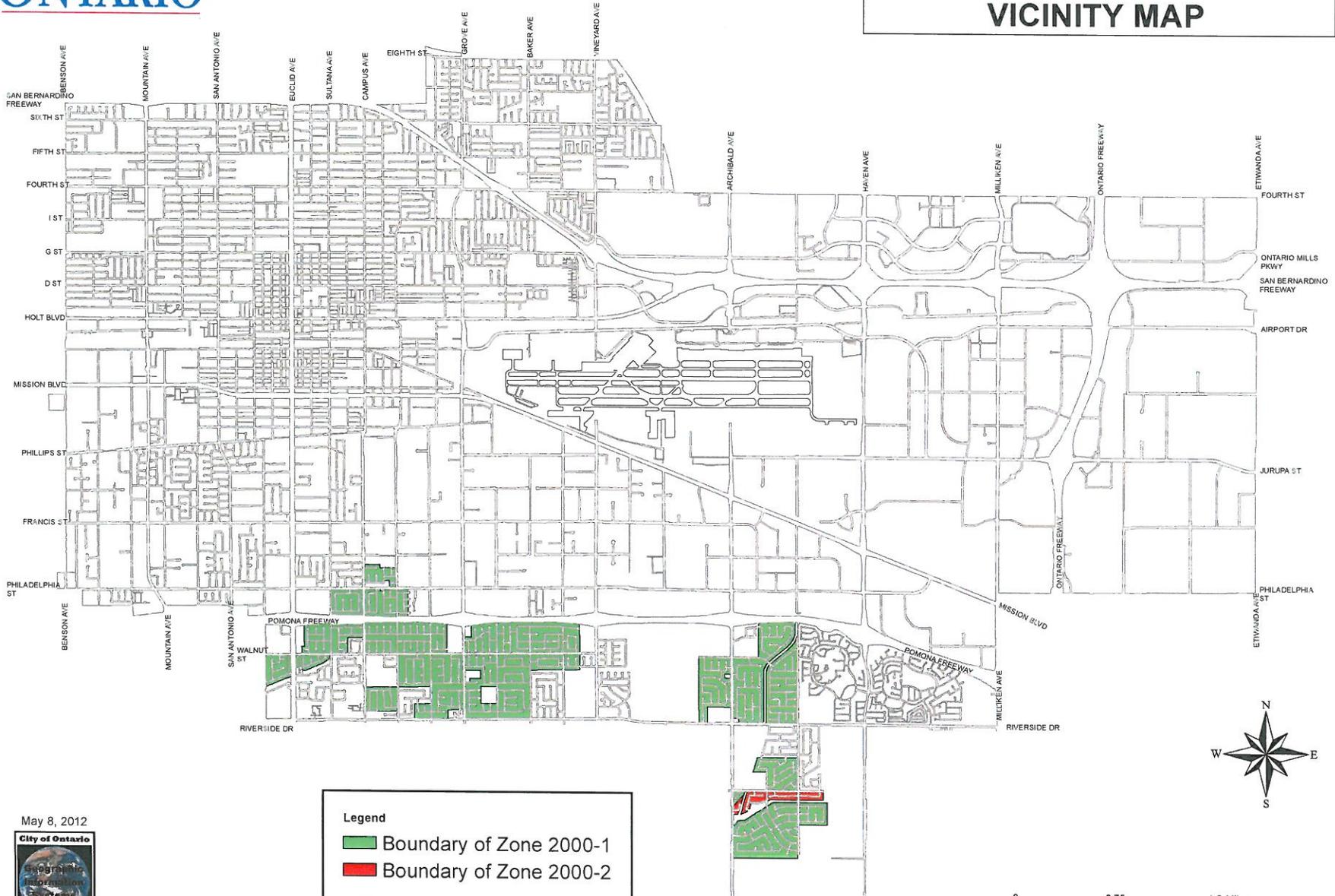


Legend
■ Boundary of Area Assessed

0 0.75 1.5 Miles

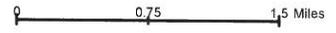


Ontario Parkway Maintenance Assessment District No. 3 VICINITY MAP



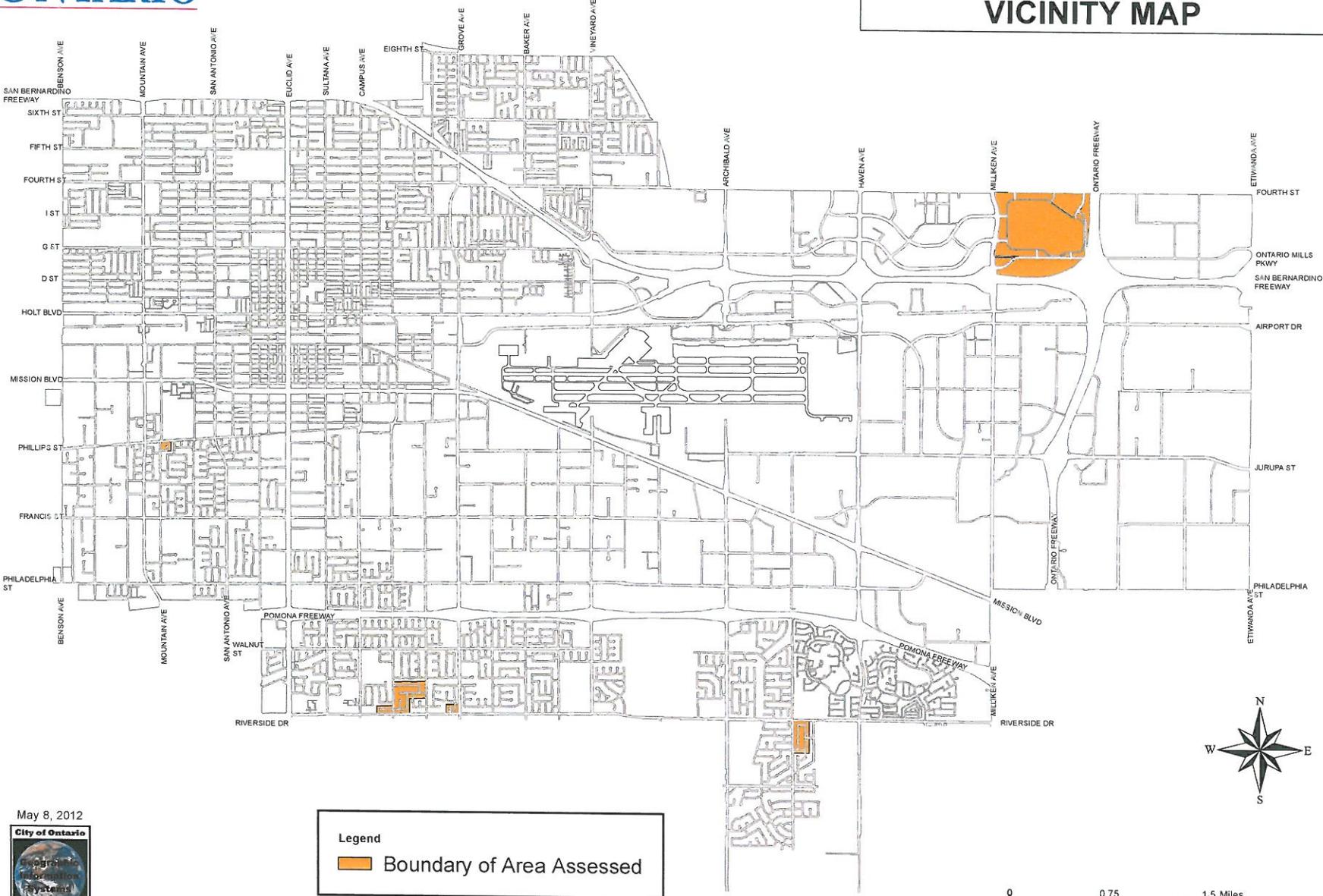
Legend

- Boundary of Zone 2000-1
- Boundary of Zone 2000-2





Ontario Parkway Maintenance Assessment District No. 4 VICINITY MAP

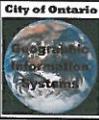


Legend
 Boundary of Area Assessed



P:\user\scottmark\2012\CPMAD_4_vicinity.mxd

May 8, 2012



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2, 3 AND 4 FOR FISCAL YEAR 2014-15.

WHEREAS, the City Council of the City of Ontario, California, pursuant to the provisions of the "Landscaping and Lighting Act of 1972," being Division 15, Part 2, of the Streets and Highways Code of the State of California, did, by previous Resolution, order the preparation of Engineer's Reports for the annual levy of assessments, consisting of plans and specifications, cost estimates, diagrams of the districts, and the assessment relating to what are now known and designated as

CITY OF ONTARIO
PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2, 3 and 4

(hereinafter referred to as the Districts); and

WHEREAS, there have now been presented to this City Council the Reports as required by said Division 15 of the Streets and Highways Code and as previously directed by Resolution; and

WHEREAS, this City Council has approved on a preliminary basis the Reports by a previous Resolution, and ordered the Reports to be filed in the Records Management Department to be open to public inspection; and

WHEREAS, this City Council has now examined and reviewed the Reports as presented, and is satisfied with each and all of the items and documents as set forth therein, and is satisfied that the assessments have been spread in accordance with the benefits received from the maintenance to be performed as set forth in said Reports.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That the Reports as presented, consisting of the following:

- A. Plans and Specifications,
- B. Estimates of cost,
- C. Diagrams of the Districts, and
- D. Assessment of the estimated cost

are hereby approved, and are ordered to be filed in the Records Management Department, as a permanent record and to remain open to public inspection.

SECTION 3. That the City Clerk shall certify the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Engineer's Reports.

PASSED, APPROVED, AND ADOPTED this 1st day of July 2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2014- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 1, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2014- duly passed and adopted by the Ontario City Council at their regular meeting held July 1, 2014.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAMS AND ASSESSMENTS, AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2 AND 3 FOR FISCAL YEAR 2014-15.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the annual levy of assessments in special maintenance districts pursuant to the terms and provisions of the "Landscaping and Lighting Act of 1972," being Division 15, Part 2, of the Streets and Highways Code of the State of California in what is known and designated as

CITY OF ONTARIO
PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2 AND 3

(hereinafter referred to as the Districts); and

WHEREAS, the City Council has ordered the preparation of the Engineer's Reports, and the Engineer's Reports have been prepared and filed with this City Council pursuant to law for its consideration, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above referenced Districts, and further did proceed to give notice of the time and place for a Public Hearing on all matters relating to said annual levy of the proposed assessments; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That the estimates of costs, the assessment diagrams, the assessments and all other matters, as set forth in the Engineer's Reports pursuant to said "Landscaping and Lighting Act of 1972," as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Engineer's Reports, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the referenced fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment, and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessments and diagrams shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 1st day of July 2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2014- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 1, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2014- duly passed and adopted by the Ontario City Council at their regular meeting held July 1, 2014.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICT NO. 4 FOR FISCAL YEAR 2014-15.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the levy of the annual assessment in a special maintenance district created pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Landscaping Act"), Article XIID of the Constitution of the State of California ("Article XIID") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the Landscaping Act, Article XIID and the Implementation Act may be referred to collectively herein as the "Assessment Law"), in a special maintenance district known and designated as

CITY OF ONTARIO
PARKWAY MAINTENANCE ASSESSMENT DISTRICT NO. 4

(hereinafter referred to as the "District"); and

WHEREAS, the City Council has ordered the preparation of an Engineer's Report, and such a report (the "Assessment Engineer's Report") has been prepared and filed with this City Council for its consideration pursuant to Assessment Law, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above-referenced District, and further did proceed to give notice of the time and place for the Public Hearing on all matters relating to said annual levy of the proposed assessment; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That based upon the Assessment Engineer's Report and the testimony and other evidence presented at the public hearing, the City Council hereby makes the following determinations regarding the assessments proposed to be imposed for the referenced Fiscal Year:

- A. The proportionate special benefit derived by each individual parcel assessed has been determined in relationship to the entirety of the cost of the operations and maintenance expenses.
- B. The assessments do not exceed the reasonable cost of the proportional special benefit conferred on each parcel.
- C. Only the special benefits have been assessed.
- D. There are no publicly owned parcels within the District.
- E. The assessments do not exceed the maximum annual assessments previously authorized to be levied pursuant to the Assessment Law.

The estimates of costs, the assessment diagram, the assessments and all other matters, as set forth in the Assessment Engineer's Report pursuant to the Assessment Law as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Assessment Engineer's Report, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment, and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessment and diagram shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 1st day of July 2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2014- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 1, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2014- duly passed and adopted by the Ontario City Council at their regular meeting held July 1, 2014.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
July 1, 2014

**SECTION:
PUBLIC HEARINGS**

SUBJECT: ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICTS NO. 1 AND 2 FOR FISCAL YEAR 2014-15

RECOMMENDATION: That the City Council take the following actions pertaining to the levy of assessments within Street Lighting Maintenance Districts (SLMD) No. 1 and 2:

- (A) Conduct a combined public hearing on the levy of the annual assessments for each district;
- (B) Consider and adopt a resolution approving the Engineer's Reports relating to the levy of assessments for each district; and
- (C) Consider and adopt resolutions confirming the diagrams and assessments, and providing for the assessment levy for each District.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport Operate in a Businesslike Manner

FISCAL IMPACT: As proposed, special assessment revenue will be generated in the amount of \$382,535 from SLMD No. 1 and \$89,649 from SLMD No. 2 during Fiscal Year 2014-15. A portion of the facilities within SLMD No. 1 provide general benefit to the public at large and cannot be funded with the assessment. The amount of general benefit is \$19,150. The total of the recommended assessments is increasing by 2.3% for the two Benefit Zones within SLMD No. 1, and increasing by 0.5% for the twelve Maintenance Areas in SLMD No. 2.

BACKGROUND: Street Lighting Maintenance District No. 1 was formed in 1984, and Street Lighting Maintenance District No. 2 was formed in 1999, pursuant to the Landscaping and Lighting Act of 1972 (the 1972 Act), to help minimize the continually increasing cost for maintaining and operating the City's street lighting system. A special assessment is levied annually on benefiting properties for the cost of

STAFF MEMBER PRESENTING: Grant D. Yee, Administrative Services/Finance Director

Prepared by: Bob Chandler
Department: Management Services

City Manager
Approval: 

Submitted to Council/O.H.A. 07/01/2014

Approved: _____

Continued to: _____

Denied: _____

9

maintenance and operation of certain street lighting facilities within the districts. The locations of the districts are shown on the attached maps.

The City’s Municipal Services Department establishes the annual maintenance costs and maintains the street lighting system. An Engineer’s Report for each district must be prepared annually, apportioning the costs to each parcel within the districts. The districts are comprised of commercial, industrial and some multi-family residential properties. Due to varying characteristics, the districts are organized into Benefit Zones and/or Maintenance Areas. Each zone/maintenance area is assessed for only the operation and maintenance of the facilities from which it receives direct special benefit. The total assessment for each zone/maintenance area is then apportioned to its constituent parcels. Therefore, the assessments are unique and specific to each individual parcel of property.

The total assessment during tax year 2013-14 was \$373,986 in SLMD No. 1, and \$89,203 in SLMD No. 2. The proposed total assessment levy for tax year 2014-15 is \$382,535 in SLMD No. 1, and \$89,649 in SLMD No. 2. A portion of the facilities within SLMD No. 1 provide general benefit to the public at large and cannot be funded with the assessment. The amount of general benefit is \$19,150. The total of the recommended assessments is increasing by an average of 0.9% for the two Benefit Zones within SLMD No. 1, and by an average of 0.4% for the twelve Maintenance Areas in SLMD No. 2.

	Prior Year 2013-14		Proposed 2014-15	Maximum 2014-15
SLMD No. 1, Zone 2000-1	\$	133 Per AU	\$ 134	\$ 134
SLMD No. 1, Zone 2000-2	\$	66 Per AU	\$ 66	\$ 110
SLMD No. 2, MA# 99-1	\$	3,952	\$ 3,983	\$ 9,583
SLMD No. 2, MA# 99-2	\$	2,058	\$ 2,058	\$ 4,765
SLMD No. 2, MA# 99-3	\$	4,117	\$ 4,112	\$ 7,940
SLMD No. 2, MA# 99-4	\$	1,373	\$ 1,376	\$ 3,180
SLMD No. 2, MA# 99-5	\$	1,244	\$ 1,256	\$ 2,982
SLMD No. 2, MA# 99-6	\$	12,209	\$ 12,314	\$ 27,828
SLMD No. 2, MA# 99-7	\$	372	\$ 374	\$ 860
SLMD No. 2, MA# 99-8	\$	2,744	\$ 2,744	\$ 6,352
SLMD No. 2, MA# 00-1	\$	2,614	\$ 2,625	\$ 2,923
SLMD No. 2, MA# 00-2	\$	1,373	\$ 1,376	\$ 1,950
SLMD No. 2, MA# 00-3	\$	7,546	\$ 7,539	\$ 10,720
SLMD No. 2, MA# 00-4	\$	49,603	\$ 49,891	\$ 61,384

AU-Assessment Unit (e.g. – Zone 2000-1: 1 vacant acre = 0.25 AU; Zone 2000-2: 1 vacant acre = 1 AU)

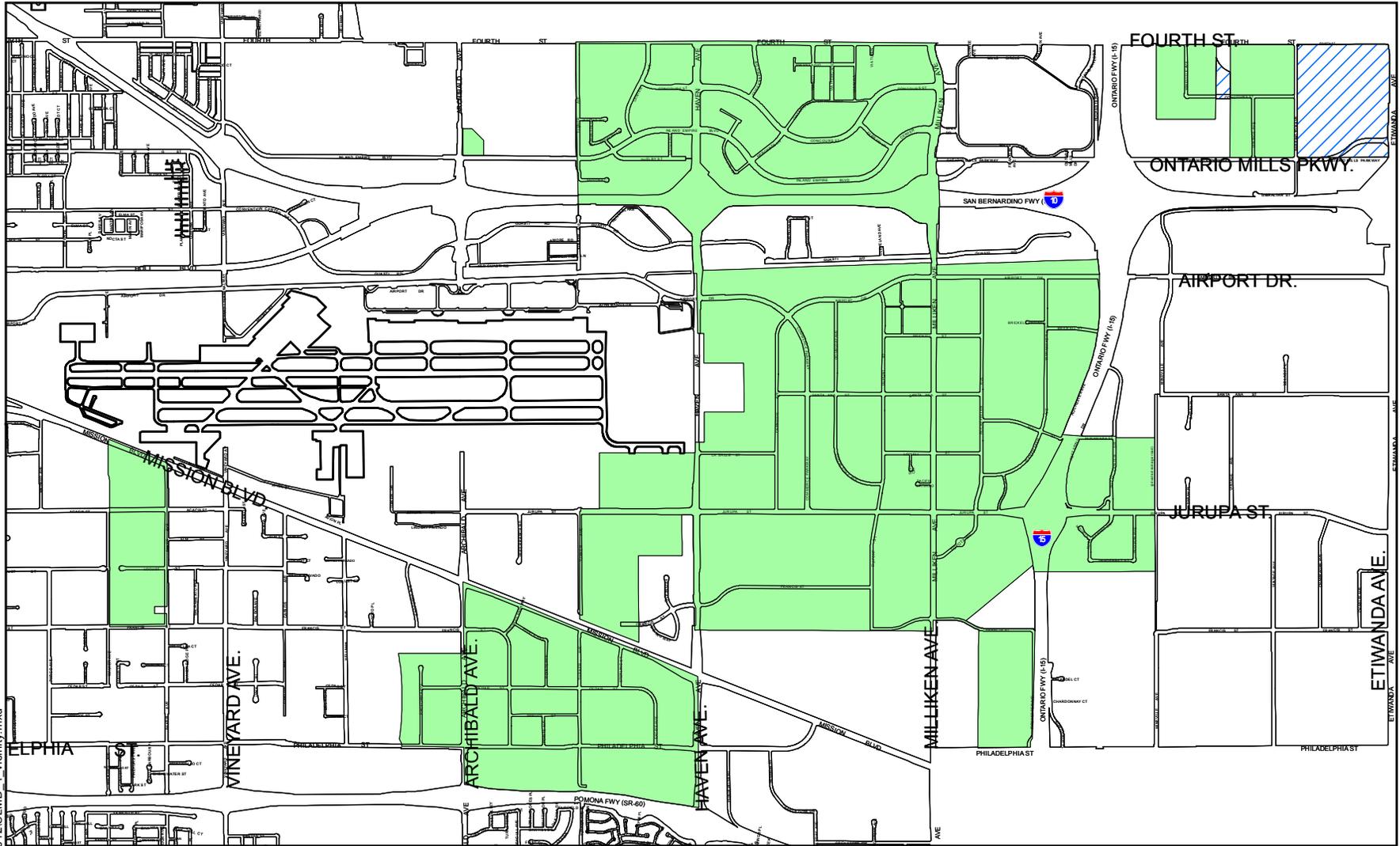
On June 3, 2014, the City Council adopted resolutions which ordered the preparation of Engineer's Reports for the annual levy of assessments within each district, preliminarily approved the Engineer's Reports, declared City Council's intention to levy and collect assessments within the districts for the referenced fiscal year, and set July 1, 2014 as the date for the public hearing for each district. Notices of

the public hearings have been published, and proof of publication is on file in the Records Management Department.

The Engineer's Reports, which have been prepared for each district pursuant to the 1972 Act, are on file with the Records Management Department. Each report includes plans and specifications for the improvements being operated and maintained, an estimate of costs, a diagram of the area proposed to be assessed, and an assessment of the costs to the various parcels within the districts.

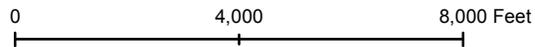
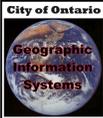


Street Lighting Maintenance District No.1 VICINITY MAP



P:\users\scottmark\2012\SLMD_1_vicinity.mxd

May 8, 2012



Legend

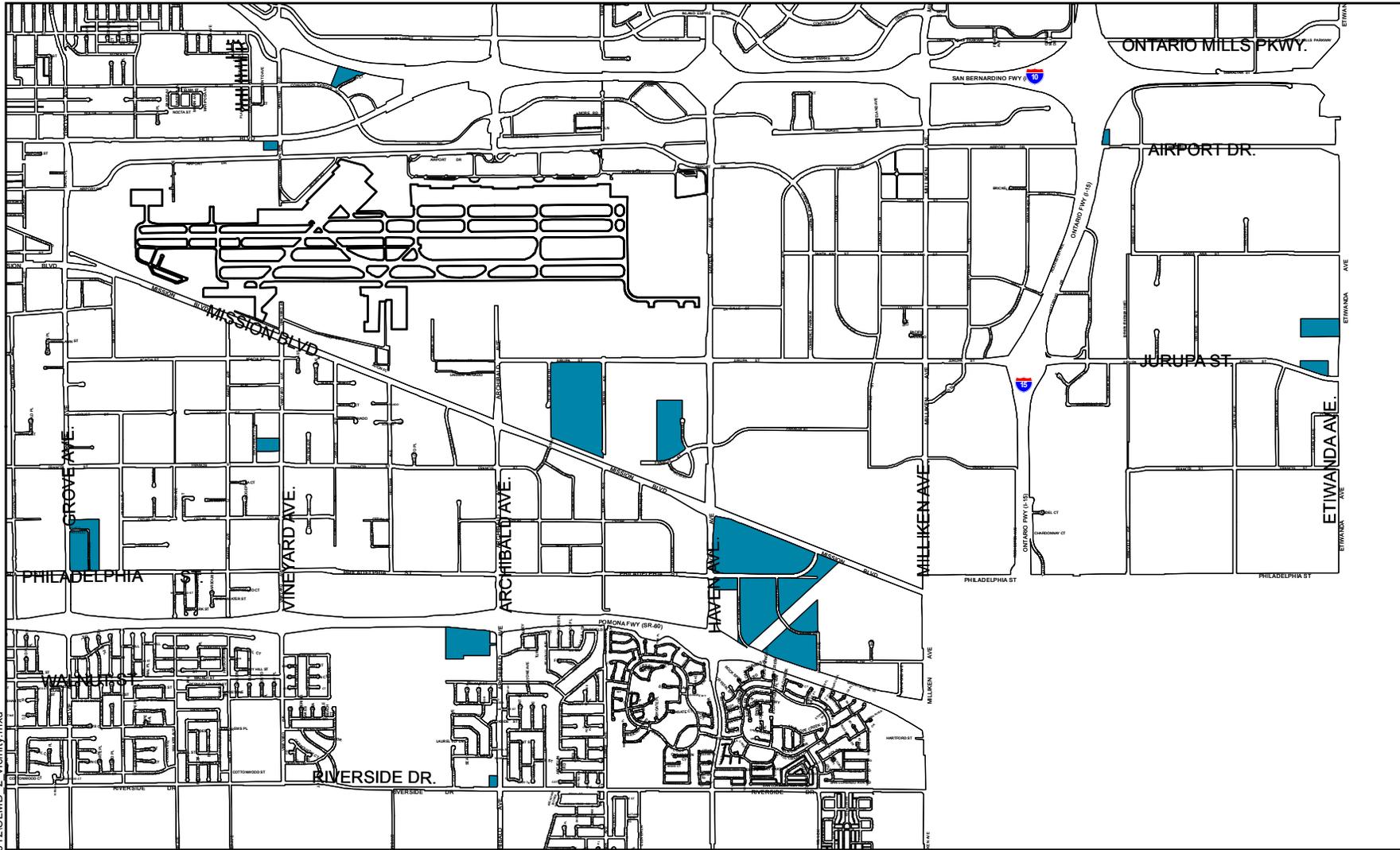
- ZONE 2000-1
- Zone 2000-2

Note:

Reference is hereby made to the Maps of The Assessor of the County of San Bernardino, California, for a detailed description of the lines and dimensions of the parcels shown hereon.

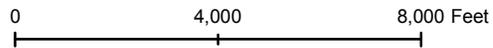
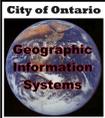


Street Lighting Maintenance District No.2 VICINITY MAP



P:\users\scottmark\2012\SLMD_2_vicinity.mxd

May 8, 2012



Legend

- Street Light Maintenance District 2

Note:
Reference is hereby made to the Maps of The Assessor of the County of San Bernardino, California, for a detailed description of the lines and dimensions of the parcels shown hereon.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICTS NO. 1 AND 2 FOR FISCAL YEAR 2014-2015.

WHEREAS, the City Council of the City of Ontario, California, pursuant to the provisions of the "Landscaping and Lighting Act of 1972," being Division 15, Part 2, of the Streets and Highways Code of the State of California, did, by previous Resolution, order the preparation of Engineer's Reports for the annual levy of assessments, consisting of plans and specifications, cost estimates, diagrams of the districts, and the assessments relating to what are now known and designated as

CITY OF ONTARIO
STREET LIGHTING MAINTENANCE DISTRICTS NO. 1 AND 2

(hereinafter referred to as the Districts); and

WHEREAS, there have now been presented to this City Council the Reports as required by said Division 15 of the Streets and Highways Code and as previously directed by Resolution; and

WHEREAS, this City Council has approved on a preliminary basis the Reports by a previous Resolution, and ordered the Reports to be filed in the Records Management Department to be open to public inspection; and

WHEREAS, this City Council has now examined and reviewed the Reports as presented, and is satisfied with each and all of the items and documents as set forth therein, and is satisfied that the assessments have been spread in accordance with the benefits received from the maintenance to be performed as set forth in said Reports.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That the Reports as presented, consisting of the following:

- A. Plans and Specifications,
- B. Estimates of cost,
- C. Diagrams of the Districts, and
- D. Assessment of the estimated costs

are hereby approved, and are ordered to be filed in the Records Management Department, as a permanent record and to remain open to public inspection.

SECTION 3. That the City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Engineer's Reports.

PASSED, APPROVED, AND ADOPTED this 1st day of July 2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2014- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 1, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2014- duly passed and adopted by the Ontario City Council at their regular meeting held July 1, 2014.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2014-2015.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the levy of the annual assessment in a street lighting maintenance district created pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Lighting Act"), Article XIID of the Constitution of the State of California ("Article XIID") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the Lighting Act, Article XIID and the Implementation Act may be referred to collectively herein as the "Assessment Law"), in a special maintenance district known and designated as

CITY OF ONTARIO
STREET LIGHTING MAINTENANCE DISTRICT NO. 1

(hereinafter referred to as the "District"); and

WHEREAS, the City Council has ordered the preparation of an Engineer's Report, and such report (the "Assessment Engineer's Report") has been prepared pursuant to the Assessment Law and filed with this City Council for its consideration, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above-referenced District, and further did proceed to give notice of the time and place for the Public Hearing on all matters relating to said annual levy of the proposed assessment; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That based upon the Assessment Engineer's Report and the testimony and other evidence presented at the public hearing, the City Council hereby makes the following determinations regarding the assessments proposed to be imposed for the referenced fiscal year:

- A. The proportionate special benefit derived by each individual parcel assessed has been determined in relationship to the entirety of the cost of the operations and maintenance expenses.
- B. The assessments do not exceed the reasonable cost of the proportional special benefit conferred on each parcel.
- C. Only the special benefits have been assessed.
- D. All parcels within the District that are owned or used either by a local government, the State of California or the United States and which specially benefit from the improvements to be maintained are being assessed.
- E. The assessments do not exceed the maximum annual assessments previously authorized to be levied pursuant to the Assessment Law.

The estimate of costs, the assessment diagram, the assessments and all other matters, as set forth in the Assessment Engineer's Report pursuant to the Assessment Law as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Assessment Engineer's Report, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment, and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessment and diagram shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 1st day of July 2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2014- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 1, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2014- duly passed and adopted by the Ontario City Council at their regular meeting held July 1, 2014.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 2 FOR FISCAL YEAR 2014-2015.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the levy of the annual assessment in a street lighting maintenance district created pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Lighting Act"), Article XIID of the Constitution of the State of California ("Article XIID") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the Lighting Act, Article XIID and the Implementation Act may be referred to collectively herein as the "Assessment Law"), in a special maintenance district known and designated as

CITY OF ONTARIO
STREET LIGHTING MAINTENANCE DISTRICT NO. 2

(hereinafter referred to as the "District"); and

WHEREAS, the City Council has ordered the preparation of an Engineer's Report, and such report (the "Assessment Engineer's Report") has been prepared pursuant to the Assessment Law and filed with this City Council for its consideration, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above-referenced District, and further did proceed to give notice of the time and place for the Public Hearing on all matters relating to said annual levy of the proposed assessment; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That based upon the Assessment Engineer's Report and the testimony and other evidence presented at the public hearing, the City Council hereby makes the following determinations regarding the assessments proposed to be imposed for the referenced fiscal year:

- A. The proportionate special benefit derived by each individual parcel assessed has been determined in relationship to the entirety of the cost of the operations and maintenance expenses.
- B. The assessments do not exceed the reasonable cost of the proportional special benefit conferred on each parcel.
- C. Only the special benefits have been assessed.
- D. All parcels within the District that are owned or used either by a local government, the State of California or the United States and which specially benefit from the improvements to be maintained are being assessed.
- E. The assessments do not exceed the maximum annual assessments previously authorized to be levied pursuant to the Assessment Law.

The estimate of costs, the assessment diagram, the assessments and all other matters, as set forth in the Assessment Engineer's Report pursuant to the Assessment Law as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Assessment Engineer's Report, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment, and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessment and diagram shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 1st day of July 2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2014- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 1, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2014- duly passed and adopted by the Ontario City Council at their regular meeting held July 1, 2014.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
July 1, 2014

**SECTION:
ADMINISTRATIVE REPORTS/
DISCUSSION/ACTION**

SUBJECT: CITY COUNCIL MEMBER AVILA'S REQUEST FOR INDEPENDENT COUNSEL AND AN INDEPENDENT INVESTIGATOR

RECOMMENDATION: That the City Council receive and consider the request of City Council Member Paul Vincent Avila for independent counsel and an independent investigator.

FISCAL IMPACT: Undetermined.

BACKGROUND: On June 10, 2014, the City Manager received Council Member Paul Vincent Avila's letter dated June 6, 2014, requesting independent counsel and an independent investigator. A copy of that letter is attached for City Council consideration and direction.

STAFF MEMBER PRESENTING: Al C. Boling, City Manager

Prepared by: Al C. Boling
Department: Citywide Administration

City Manager
Approval: 

Submitted to Council/O.H.A. 07/01/2014

Approved: _____

Continued to: _____

Denied: _____

10

AL BOLING COPY

June 6, 2014

VIA U.S. Mail

Al C. Boling, City Manager
303 East B Street
Ontario, CA 91762

Re: Best Best & Krieger Investigation and Complaint Against Council Member Wapner

Mr. Al C. Boling,

On June 4, 2014, I received a letter from the law firm of Best Best & Krieger ("BBK") stating that the firm is commencing an investigation into my conduct. The letter stated that the investigation concerns a complaint made by Council Member Dorst-Porada. Additionally, the letter states that Best Best & Krieger has a conflict of interest. According to the letter, BBK's solution is to assign two partners to conduct the investigation. This constitutes my formal request for a copy of the purported complaint against me, as I have a right to be informed of the allegations against me.

I believe the complaint made against me is retaliatory. I have recently attempted to call attention to possible corruption within the city council. Specifically, my fellow council members have entered into a fifteen-year contract with Burrtec, a waste management company. This contract was entered into by the city council improperly: there was no bidding process and no other companies were considered for the contract, which is valued at approximately 50 million dollars.

Even more unsettling, Burrtec has made political contributions to the campaigns of each of my four fellow council members. I questioned the propriety of this contract at a city council meeting and was threatened by the city attorney, who alleged that I was disruptive and violated the rules of decorum merely by questioning the approval of the city's contract with Burrtec.

Because Council Member Dorst-Porada's complaint is retaliatory, this letter shall constitute my formal request to be assigned independent counsel that has no affiliation with the city. Further, I fail to see how assigning two BBK partners to the investigation will lead to an independent investigation. BBK has a conflict of interest that it cannot circumvent by assigning attorneys other than the BBK attorney's recommended by Mr. Brown to the investigation. Therefore, I also request to have an independent firm conduct the investigation.

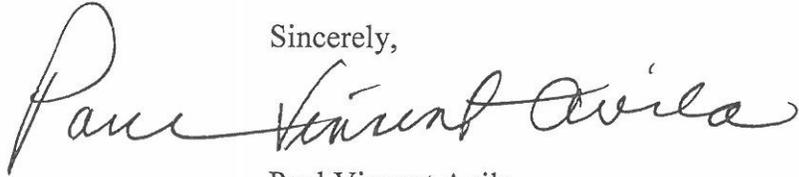
Finally, I am lodging a complaint against Council Member Wapner. At the last city council meeting on June 3, 2014, Council Member Wapner grabbed his briefcase to exit the meeting and approached me aggressively. As he walked by, he brushed against me and struck me with his briefcase. Council Member Wapner also acted in retaliation against me for calling

REC'D
06/10/14
1640

attention to my fellow council members' corruption. I trust that the city will investigate this promptly.

Accordingly, please respond to my request for Independent Counsel and my internal complaint against Councilman Wapner within three (3) business days so that my due process rights are not continued to be violated.

Sincerely,

A handwritten signature in black ink that reads "Paul Vincent Avila". The signature is written in a cursive style with a large initial "P" and a long, sweeping underline.

Paul Vincent Avila
Ontario City Council Member

CITY OF ONTARIO

Agenda Report

July 1, 2014

**SECTION:
ADMINISTRATIVE REPORTS/
DISCUSSION/ACTION**

**SUBJECT: REVIEW OF CITY COUNCIL MEETING DECORUM EXPECTATIONS,
RULES OF CONDUCT AND ASSOCIATED CONSEQUENCES**

RECOMMENDATION: That the City Council receive and review City Council Resolution No. 92-50 which established the current rules of "Conduct of City Council Meetings"; consider amendments to the existing resolution and conduct policy to address recent decorum concerns; and consider consequences and courses of action for City Council Members not adhering to decorum expectations.

COUNCIL GOALS: Operate in a Businesslike Manner

FISCAL IMPACT: None

BACKGROUND: On June 3, 2014, the City Council directed staff to work with the City Attorney's Office to review existing practices and policies regarding City Council decorum, code of conduct, censure protocols and sanction options. Attached for City Council review is a compilation of documents to assist the City Council in: understanding the current "Rules of Conduct for Members of the City Council"; considering and developing possible amendments to said rules; and applying the rules to determine consequences and courses of action for City Council Members not adhering to decorum expectations.

Provided for reference is Resolution No. 92-50, adopted May 5, 1992, which establishes the "Rules of Conduct for Members of the City Council" and creates a framework for the type of conduct and activities generally considered by the City Council as acceptable and unacceptable. Staff has also provided copies of similar policies from the cities of Palm Desert, Hayward, and Sunnyvale in the event the City Council desires language modifications and/or the insertion of additional decorum parameters to amend the current rules of conduct. The imposition of consequences, sanctions, censure and courses of action for City Council Members who do not adhere to established decorum expectations falls under the authority and purview of the City Council as the City's governing body and should be addressed on a case-by-case basis.

STAFF MEMBER PRESENTING: Al C. Boling, City Manager

Prepared by: Al C. Boling
Department: Citywide Administration

City Manager
Approval: 

Submitted to Council/O.H.A. 07/01/14

Approved: _____

Continued to: _____

Denied: _____

11

RESOLUTION NO. 92-50

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING RULES GOVERNING THE CONDUCT OF CITY COUNCIL MEETINGS.

WHEREAS, as the City of Ontario has adopted norms of conduct for the conduct of City business; and,

WHEREAS, it is the purpose of this City Council meeting to provide for the orderly, dignified conduct of City business;

IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1: The City Council shall make an effort to conclude each City Council meeting by 10:00 p.m. If it appears that all items cannot be considered within that time period, the City Council may either continue hearing such agenda item or continue such item to the next regular City Council meeting, special City Council meeting or an adjourned City Council meeting.

SECTION 2: After legal notice has been given, closed sessions of the City Council shall be conducted at 6:30 p.m. preceding the regular or special City Council meeting.

SECTION 3: In order to ensure that all members of the public have an opportunity to speak and that the City Council is able to complete its business within the prescribed time frame, there will be a three (3)-minute limitation on comments by the public, unless otherwise prohibited by law or additional time is required to adequately present a matter before the City Council or the City Council establishes a different time limitation. The three (3)-minute time limitation for each speaker will be monitored by the City Clerk.

SECTION 4: All written informational material requested by individual City Council Members shall be submitted by City staff to all City Council Members with a notation indicating which City Council Member requested the information. Where such written material relates to a City Council agenda item, City Council Members will be provided such material at least three (3) days prior to the City Council meeting.

SECTION 5: City Council Members shall not direct City staff to initiate any action or prepare any report that is significant in nature or initiate any project or study without the approval of a majority of the City Council.

SECTION 6: In addressing the public, City staff or other City Council Members, each City Council Member shall avoid personal attacks, and all persons speaking at City Council meetings should be encouraged to do so with mutual respect for all persons.

PASSED, APPROVED and ADOPTED this 5th day of May, 1992, by the following vote:

AYES: Bowman, Dastrup, ~~Skropos~~ Waters; Mayor Fatland

NOES: None

ABSENT: ~~None~~ Skropos



James R. Fatland

JAMES R. FATLAND, Mayor

ATTEST:

DeLoris E. Arterburn

DeLORIS E. ARTERBURN, City Clerk

APPROVED AS TO FORM AND CONTENT:

SAMUEL CROWE, City Attorney

I HEREBY CERTIFY that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Ontario, California, at a regular meeting thereof held on the 5th day of May, 1992.

DeLoris E. Arterburn

City Clerk

RULES OF CONDUCT
FOR MEMBERS OF THE CITY COUNCIL
OF THE CITY OF ONTARIO, CALIFORNIA

POLICY

It is the policy of the City of Ontario that the members of the Ontario City Council conduct themselves individually and as a council so that all matters related to the City are conducted in a fair, responsible and impartial manner, that all City business be conducted in an orderly and efficient manner, that all governmental policies be made in the proper channels of the government structure, that public offices not be used for personal gain, and that the public have confidence in the integrity of its government, including such amendments as may be adopted from time to time. Therefore, the following Rules of Conduct shall be observed by each City Council Member.

1. City Manager Form of Government.

These Rules of Conduct affirm the City Manager form of government. As provided in Article 1 of Chapter 3 of the Ontario Municipal Code, the City Manager is the administrative head of the City government. All City staff are under the direct management and control of the City Manager. Staff is directed to report any attempts by individual members of the City Council to influence or otherwise pressure them into making, changing or suppressing staff decisions or recommendations. Staff shall report such attempts to influence them in confidence to the City Manager.

City Council Members shall not attempt to coerce or influence City staff in the making of appointments, the awarding

of contracts, the selection of consultants, the processing of development applications, or the granting of City licenses or permits. City Council Members shall not attempt to change or interfere with the operating policies and practices of any City department.

Members of the City Council should not attempt to influence commission or committee recommendations, or to influence or lobby individual commission or committee members on any item under their consideration. It is important for commissions and committees to be able to make objective recommendations to the City Council on items before them. Members of the City Council that attempt to influence commission or committee positions on an item may prejudice or hinder their role in reviewing the commission's or committee's recommendation as a member of the City Council.

The City Manager shall establish a procedure by which City Council Members can direct complaints, suggestions and information directly and quickly to department personnel. It is important that all such matters be handled promptly through the City Manager's Office for the satisfaction of the City Council Members and their constituents.

2. Representation of the City.

Except where specifically authorized by City Council action or for purely ceremonial purposes, no City Council Member should make any statement or appearance or indicate in any way that he or she is representing the City. Individual City Council Members should not insert themselves into or take positions on matters which will or are likely to be the subject of public hearings or which will be decided upon by the City Council after

considering opposing sides to an issue.

3. Non-Disclosure of Confidential Matters.

From time to time, matters come before the City Council which should be kept confidential, such as employee discipline, the prosecution and defense of legal matters, salary negotiations, and matters properly handled in closed meetings. The City Council Members shall not disclose such information to others.

4. Conduct of City Council Meetings.

City Council meetings are for the orderly conduct of City business and each City Council Member should conduct himself or herself accordingly.

The City Council shall, from time to time, by majority vote, establish the City Council meeting format as to time for public hearings, public comments, time limit for speakers, and time limits for City Council comments, all toward the goal of preventing unnecessary long City Council meetings.

The consent calendar should be reserved for matters of a non-controversial nature which have been fully disclosed to the City Council Members. The City Council and staff shall make every effort to ensure that the consent calendar is promptly acted upon.

After each individual City Council Member has addressed a matter and the closing of a public hearing, if applicable, the City Council, by majority vote, may close further City Council debate and call for a vote on any related matters.

Items shall be placed on the City Council agenda by the following persons:

- (a) any City Council Member;
- (b) City Clerk;

(c) City Manager; and,

(d) City Attorney (as to legal matters only).

Items may be removed from the agenda only before the agenda is posted by the City Clerk by the person who placed the item on the agenda.

5. City Council Appointments.

Unless otherwise provided by law, ordinance, resolution, or City Council action, all City commissioners and committee members shall be appointed by majority vote of the City Council.

6. General Rules.

No City Council Member shall take any action which will, or is likely to, result in a conflict of interest as defined by state law, and no City Council Member shall engage in or accept employment where such employment is incompatible with the proper discharge of his or her official duties.

No City Council Member shall use his or her office or the power or authority of that office in any manner intended to induce or coerce any person or entity to provide, directly or indirectly, anything of value which shall accrue to the advantage, benefit or economic benefit of that City Council Member or any other person.

It is common that City Council Members will differ on matters and that such differences should be debated; however, the debate should be limited to the issue, and each City Council Member shall refrain from making personal and/or derogatory remarks about other City Council Members.

CITY OF PALM DESERT

CODE OF ETHICS AND CONDUCT FOR ELECTED AND APPOINTED OFFICIALS

Policy Purpose

The Palm Desert City Council has adopted a Code of Ethics and Conduct for City Council and the City commission/committee officials to assure public confidence in the integrity of local government and its effective and fair operation.

I. ETHICS

Palm Desert citizens and businesses are entitled to fair, ethical, and accountable local government. An effective democratic government requires that:

- public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting government operation;
- public officials be independent, impartial and fair in their judgment and actions;
- public office be used for the public good, not for personal gain; and
- public deliberations and processes be conducted openly, unless legally confidential, in an respectful and civil atmosphere.

To this end, officials must carry out the following precepts.

- A. Act in the Public Interest. Officials shall work for the common good of Palm Desert citizens and not for any private or personal interest, and will assure that all persons, claims and transactions before the Palm Desert City Council, commissions and committees are given fair and equal treatment.
- B. Comply With the Spirit and Letter of the Law and City Policy. Officials shall comply with the laws of the nation, the State of California and the City of Palm Desert in performing their public duties. These laws include, but are not limited to: the United States and California constitutions, the Palm Desert City Charter, laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government, and City ordinances and policies.
- C. Officials' Conduct. Officials' personal and professional conduct must be above reproach and avoid even the appearance of impropriety. Officials shall refrain from abusive conduct, personal charges, or verbal attacks on the character or motives of other officials, staff, or the public.
- D. Respect for Process. Officials shall obey the rules of order established by the City Council, commissions, and committees governing public policy deliberation, public involvement, and policy implementation by staff.

- E. Conduct of Public Meetings. Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.
- F. Decisions Based on Merit. Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
- G. Communication. Officials shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or commissions and committees, which they may have received from sources outside of the public decision-making process.
- H. Conflict of Interest. Officials shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest. In accordance with the law, officials shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.
- I. Gifts and Favors. Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
- J. Confidential Information. Officials shall respect the confidentiality of information concerning the property, personnel, or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
- K. Use of Public Resources. Officials shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.
- L. Representation of Private Interests. Officials shall not appear on behalf of the private interests of third parties before the Council or any commission or committee on matters related to the areas of service of their bodies.
- M. Advocacy. Officials shall represent policies or positions of the City Council, commission or committee to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, officials shall explicitly state they do not represent their body or the City of Palm Desert, nor will they allow the inference that they do. Councilmembers and commission and committee members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or

display endorsements during Council meetings, commission/committee meetings, or other official City meetings.

- N. Policy Role of Officials. Officials shall respect and adhere to the council-manager structure of Palm Desert City government as outlined by the Palm Desert City Charter. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, commissions and committees, and City staff. Except as provided by the City Charter, members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
- O. Independence of Commissions and Committees. Independent advice from commissions and committees is invaluable. Council members shall refrain from using their position to unduly influence commission/committee deliberations or proceedings.
- P. Positive Work Place Environment. Officials shall support a positive and constructive work environment for City employees and for citizens and businesses dealing with the City. Officials shall recognize their special role when dealing with City employees, such that they do not create the perception of inappropriate direction to staff.

II. CONDUCT

The Conduct section of the City's Code of Ethics and Conduct is designed to describe the manner in which Council members and commission and committee members should treat one another, City staff, constituents, and others they come into contact with in representing the City of Palm Desert.

The constant and consistent theme through all of the conduct guidelines is "respect." Council members experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, elected and appointed officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide Council members and commission and committee members to do the right thing in even the most difficult situations.

A. Elected and Appointed Officials' Conduct with One Another

Elected and appointed officials are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may "agree to disagree" on contentious issues.

1. In Public Meetings

Use formal titles

Elected and appointed officials should refer to one another formally during public meetings, such as Mayor, Vice Mayor, Chair, Commissioner or Councilmember followed by the individual's last name.

Practice civility and decorum in discussions and debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.

Honor the role of the chair in maintaining order

It is the responsibility of the chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

Avoid personal comments that could offend other officials

If an official is personally offended by the remarks of another official, the offended official should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

Demonstrate effective problem-solving approaches

Members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

Outside of official commission or committee meetings, individual commission and committee members are not authorized to represent the City or their commission or committee unless specifically designated by the Council, commission or committee to do so for a particular purpose. In private settings, commission and committee members may communicate at any time and on any subject with individual members of the City Council, and may express to them individual viewpoints and opinions. In public, however, all officials shall represent the official policies or positions of their commission or committee, with the following exception. During a Council public hearing on any item addressed by the commission or committee, any member may speak under standard time limits, but shall indicate whether their testimony represents an official position (majority opinion) or a minority opinion of the commission/committee to which they belong. The chair shall represent the majority view of the commission or committee, but may report on any minority views as well, including his or her own. When an official commission or committee position differs from staff's recommendation on a particular policy issue, then at the Mayor's discretion additional time may be provided to the chair of the commission or committee (or his/her designee) to explain the position of the commission/committee or to rebut statements made by staff or the public. If new

information is brought to light during a public hearing which was not shared previously with the commission or committee, the Mayor may allow the commission or committee chair to respond. If the Council deems the new information sufficient to warrant additional study, then by majority vote Council may remand the issue back to the commission or committee for further study prior to taking other action itself.

Individual opinions and positions may be expressed by commission and committee members regarding items that have not come before the particular commission/committee to which they belong. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Palm Desert, nor will they allow the inference that they do.

Although a commission or committee may disagree with the final decision the Council makes, the commission or committee shall not act in any manner contrary to the established policy adopted by the Council.

2. In Private Encounters

Continue respectful behavior in private

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

Be aware of the insecurity of written notes, voicemail messages, and E-mail

Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable if your words were on the front page of The Desert Sun? Would you feel comfortable to have this note faxed to others? How would you feel if this voicemail message were played on a speaker phone in a full office? What would happen if this E-mail message were forwarded to others? Written notes, voicemail messages and e-mail should be treated as potentially “public” communication.

Even private conversations can have a public presence. Elected and appointed officials are always on display – their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted.

B. Elected and Appointed Officials’ Conduct with City Staff

City governance relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implement and administer the Council’s policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

Treat all staff as professionals

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

Member questions/inquiries to City staff

1. General. Council and commission/committee communications with City staff should be limited to normal City business hours unless the circumstances warrant otherwise. Responses to Council questions posed outside of normal business hours should be expected no earlier than the next business day.
2. Routine Requests for Information and Inquiries. Officials may contact staff directly for information made readily available to the general public on a regular basis (e.g., “What are the library’s hours of operation?” or “How does one reserve a tee time at the golf course?”). Under these circumstances staff shall treat the official no differently than they would the general public, and the official shall not use their elected status to secure preferential treatment. The city manager does not need to be advised of such contacts.
3. Non-Routine Requests for Readily Available Information. Officials may also contact staff directly for easily retrievable information not routinely requested by the general public so long as it does not require staff to discuss the issue or express an opinion (e.g., “How many traffic lights are there in the City?” or “Under what circumstances does the City lower its flags to half-mast?”)
4. Non-Routine Requests Requiring Special Effort. Any official’s request or inquiry that requires staff to compile information that is not readily available or easily retrievable and/or that requests staff to express an opinion (legal or otherwise) must be directed to the city manager, or to the city attorney, as appropriate (e.g., “How many Study Issues completed over the past five years have required 500 or more hours of staff time?”, or “What is the logic behind the City’s sign ordinances affecting businesses along El Paseo?”). The city manager (or city attorney as appropriate) shall be responsible for distributing such requests to his/her staff for follow-up. Responses to such requests shall be copied to all Council members (if originating from a Council member), relevant commission or committee members (if originating from a commission or committee member), the city manager, the city attorney as appropriate and affected department directors.
5. Meeting Requests. Any official’s request for a meeting with staff must be directed to the city manager or city attorney, as appropriate.
6. Public Safety Restrictions. Under certain circumstances, requests for information regarding operations or personnel of the Department of Public Safety may be legally restricted. Applicable statutes include: The Peace Officers’ Procedural Bill of Rights (California Government Code Section 3300, *et seq.*), Confidentiality of Peace Officer Records (California Penal Code Section 832.5-7), and a number of exceptions to the California Public Records Act, defined in Government Code Section 6254. Providing information in response to such requests could violate the law, and might

also violate due process rights that have been defined for peace officers in the State of California. Accordingly, it shall be the policy of the City of Palm Desert to strictly comply with all applicable legal authorities governing the release of Department of Public Safety information and records.

Do not disrupt City staff from their jobs

Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, intimidates staff, and hampers staff’s ability to do their job objectively.

Never publicly criticize an individual employee

Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee’s manager. Comments about staff performance should only be made to the city manager through private correspondence or conversation. Comments about staff in the office of the city attorney should be made directly to the city attorney. Appointed officials should make their comments regarding staff to the city manager or the Mayor.

Do not get involved in administrative functions

Elected and appointed officials must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits. [See Code of Ethics]

Check with City staff on correspondence before taking action

Before sending correspondence, Councilmembers should check with City staff to see if an official City response has already been sent or is in progress.

Limit requests for staff support

Routine secretarial support will be provided to all Council members. The Council Executive Assistant opens all mail for Councilmembers, unless a Council member requests other arrangements. Mail addressed to the Mayor is reviewed first by the city manager who notes suggested action and/or follow-up items.

Requests for additional staff support – even in high priority or emergency situations – should be made to the city manager who is responsible for allocating City resources in order to maintain a professional, well-run City government.

Do not solicit political support from staff

Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from

City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

C. Elected and Appointed Officials' Conduct with the Public

1. In Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

Be welcoming to speakers and treat them with care and gentleness. While questions of clarification may be asked, the official's primary role during public testimony is to listen.

Be fair and equitable in allocating public hearing time to individual speakers.

The chair will determine and announce limits on speakers at the start of the public hearing process. Questions should not be asked for the express purpose of allowing one speaker to evade the time limit imposed on all others (e.g., "Was there something else you wanted to say?"). Generally, each speaker will be allocated three minutes with applicants and appellants or their designated representatives allowed ten. If many speakers are anticipated, the chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public hearing unless the chair requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the chair reopens the public hearing for a limited and specific purpose.

Give the appearance of active listening

It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.

Maintain an open mind

Members of the public deserve an opportunity to influence the thinking of elected and appointed officials. To express an opinion or pass judgment prior to the close of a public hearing casts doubt on a member's ability to conduct a fair review of the issue. This is particularly important when officials are serving in a quasi-judicial capacity.

Ask for clarification, but avoid debate and argument with the public

Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

If speakers become flustered or defensive by questions, it is the responsibility of the chair to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by members to the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

No personal attacks of any kind, under any circumstance

Members should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

Follow parliamentary procedure in conducting public meetings

The city attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. The chair, subject to the appeal of the full Council or commission/committee makes final rulings on parliamentary procedure.

2. In Unofficial Settings

Make no promises on behalf of the Council, commission/committee or City

Members will frequently be asked to explain a Council or commission/committee action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Council or commission/committee action, or to promise City staff will do something specific (fix a pothole, plant new flowers in the median, etc.).

Make no personal comments about other members

It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other members, their opinions and actions.

Remember that Palm Desert is a relatively small town. Members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Palm Desert. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

D. Council Conduct with Other Public Agencies

Be clear about representing the City or personal interests

When representing the City, the Council member must support and advocate the official City position on an issue, not a personal viewpoint. Outside of official commission or committee meetings, commission and committee members are not authorized to represent the City or their commission or committee unless specifically designated by the Council or the commission or committee to do so for a particular purpose.

When representing another organization whose position is different from the City, the Council member should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. Council members should be clear about which organizations they represent and inform the Mayor and Council of their involvement.

Correspondence also should be equally clear about representation

City letterhead may be used when the Councilmember is representing the City and the City's official position. A copy of official correspondence should be given to the City Clerk to be filed as part of the permanent public record.

City letterhead should not be used for non-City business nor for correspondence representing a dissenting point of view from an official Council position.

E. Council Conduct with Commissions and committees

The City has established several commissions and committees as a means of gathering more community input. Citizens who serve on commissions and committees become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

If attending a commission or committee meeting, be careful to only express personal opinions

Councilmembers may attend any commission or committee meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation especially if it is on behalf of an individual, business or developer -- could be viewed as unfairly affecting the process. Any public comments by a Council member at a commission or committee meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.

Limit contact with commission and committee members to questions of clarification

It is inappropriate for a Council member to contact a commission or committee member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact commission or committee members in order to clarify a position taken by the commission or committee.

Remember that commissions and committees serve the community, not individual Councilmembers. The City Council appoints individuals to serve on commissions and committees, and it is the responsibility of commissions and committees to follow policy established by the Council. But commission and committee members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten commission and committee members with

removal if they disagree about an issue. Appointment and re-appointment to a commission or committee should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A commission or committee appointment should not be used as a political “reward.”

Be respectful of diverse opinions

A primary role of commissions and committees is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on commissions and committees, but must be fair and respectful of all citizens serving on commissions and committees.

Keep political support away from public forums

Commission and committee members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support commission and committee members who are running for office, but not in an official forum in their capacity as a Councilmember.

F. Conduct with the Media

Commission and committee members are not authorized to represent the City outside of official commission/committee meetings unless specifically authorized to do so.

Councilmembers are frequently contacted by the media for background and quotes.

The best advice for dealing with the media is to never go “off the record”

Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted.

The Mayor is the official spokesperson for the City on City positions.

The Mayor is the designated representative of the Council to present and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether their comments represent the official City position or a personal viewpoint.

Choose words carefully and cautiously

Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

III. SANCTIONS

Public Disruption

Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.

Inappropriate Staff Behavior

Council members should refer to the city manager any City staff or to the city attorney any City Attorney's staff who do not follow proper conduct in their dealings with Councilmembers, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions. (Please refer to the section on Council Conduct with City Staff for more details on interaction with Staff.)

Councilmembers Behavior and Conduct

The Palm Desert Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the Palm Desert City Council, commissions and committees. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of commissions and committees and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.

City Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, lose seniority or committee assignments (both within the City of Palm Desert or with inter-government agencies) or have official travel restricted. Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by Council.

Councilmembers should point out to the offending Councilmember infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Vice Mayor.

It is the responsibility of the Mayor to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full Council in a public meeting.

Commission and Committee Members Behavior and Conduct

Counseling, verbal reprimands and written warnings may be administered by the Mayor to commission and committee members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective commission or committee, the city clerk, the city attorney, the city manager, and the City Council. Written reprimands administered by the Mayor shall not be included in packets for public meetings and shall not be publicized except as required under the Public Records Act.

The City Council may impose sanctions on commission and committee members whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of at least a quorum of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation. The Report to Council shall be distributed in accordance with normal procedures, including hard copies to numerous public facilities and posting online. Any Report to Council addressing alleged misconduct by a commission or committee member shall be routed through the Office of the city attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

When deemed warranted, the Mayor or majority of Council may call for an investigation of commission or committee member conduct. Should the city manager or city attorney believe an investigation is warranted, they shall confer with the Mayor or Council. The Mayor or Council shall ask the city manager and/or the city attorney to investigate the allegation and report the findings.

The results of any such investigation shall be provided to the full Council in the form of a Report to Council, and shall be placed on the agenda of a noticed public meeting as "Information Only". Any such report shall be made public and distributed in accordance with normal procedures (i.e., hard copies to numerous public locations and posted online). Any report to Council addressing the investigation of commission and committee members shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

It shall be the Mayor and/or the Council's responsibility to determine the next appropriate action. Any such action taken by Council (with the exception of "take no further action") shall be conducted at a noticed public hearing. These actions include, but are not limited to: discussing and counseling the individual on the violations; placing the matter on a future public hearing agenda to consider sanctions; forming a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration.

IV. PRINCIPLES OF PROPER CONDUCT

Proper conduct IS ...

- Keeping promises
- Being dependable
- Building a solid reputation
- Participating and being available
- Demonstrating patience
- Showing empathy

- Holding onto ethical principles under stress
- Listening attentively
- Studying thoroughly
- Keeping integrity intact
- Overcoming discouragement
- Going above and beyond, time and time again
- Modeling a professional manner

Proper conduct IS NOT ...

- Showing antagonism or hostility
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up bad feelings, divisiveness
- Acting in a self-righteous manner

It all comes down to respect

Respect for one another as individuals ... respect for the validity of different opinions ... respect for the democratic process ... respect for the community that we serve.

V. CHECKLIST FOR MONITORING CONDUCT

- Will my decision/statement/action violate the trust, rights or good will of others?
- What are my interior motives and the spirit behind my actions?
- If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- How would my conduct be evaluated by people whose integrity and character I respect?
- Even if my conduct is not illegal or unethical, is it done at someone else's painful expense? Will it destroy their trust in me? Will it harm their reputation?
- Is my conduct fair? Just? Morally right?
- If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?

- Does my conduct give others reason to trust or distrust me?
- Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
- Do I exhibit the same conduct in my private life as I do in my public life?
- Can I take legitimate pride in the way I conduct myself and the example I set?
- Do I listen and understand the views of others?
- Do I question and confront different points of view in a constructive manner?
- Do I work to resolve differences and come to mutual agreement?
- Do I support others and show respect for their ideas?
- Will my conduct cause public embarrassment to someone else?

VI. IMPLEMENTATION

As an expression of the standards of conduct for members expected by the City, the Palm Desert Code of Ethics and Conduct is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions. For this reason, this document shall be included in the regular orientations for candidates for City Council, applicants to commission and committees, and newly elected and appointed officials. Members entering office shall sign a statement affirming they read and understood the City of Palm Desert Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be annually reviewed by the City Council, commissions and committees, and the City Council shall consider recommendations from commissions and committees and update it as necessary.



CITY OF
HAYWARD
HEART OF THE BAY

Special Meeting

CITY MANAGER'S OFFICE

Council Appointed Officers Committee Meeting

Date: February 7, 2011

Time: 3:00 pm

Room: 4B, City Hall

777 B Street

Hayward, CA 94541

AGENDA

Public Comments: (Note: For matters not otherwise listed on the agenda. The Committee welcomes your comments under this section, but is prohibited by state law from discussing items not listed on this agenda. Your item will be taken under consideration and referred to staff.)

1. Revisions to Council Member Handbook
2. Council Appointed Officers Assessment Process and Timelines
3. Next Meeting Date: To Be Determined

Distribution:

Mayor and City Council
City Manager
City Attorney
City Clerk
Assistant City Manager
Director of Finance

Development Services Director
Fire Chief
Human Resources Director
Library Director
Police Chief
Public Works Director

Maintenance Services Director
Daily Review
Interested Parties
Post

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request accommodations at least 48 hours in advance of the meeting by contacting the Assistant City Manager at (510) 583-4300 or TDD (510) 247-3340.



CITY OF
HAYWARD
HEART OF THE BAY

DATE: February 7, 2011
TO: Council Appointed Officers Committee
FROM: City Manager
City Attorney
City Clerk
SUBJECT: Revisions to Council Member Handbook

RECOMMENDATION

That the Committee discusses and provides recommendations to Council on proposed changes to the Council Member Handbook.

DISCUSSION

Attachment I to this report provides revised language for the Council Member Handbook on Council and Public Decorum and Order at meetings. Staff has revised this language pursuant to comments received prior to the December 14, 2010 Council meeting and is seeking further input and comment from the Committee.

Prepared by: Kelly McAdoo Morariu, Assistant City Manager

Approved by:

Fran David, City Manager

Attachments:

Attachment I – Proposed Council Member Handbook Language

Attachment I – Proposed Council Member Handbook Language
February 7, 2011

Decorum and Order - Council Members

(a) Any Council Member desiring to speak shall address the Chair and, upon recognition by the Mayor, shall confine himself/herself to the question under debate.

(b) A Council Member desiring to question a staff member shall address his/her question to the City Manager, City Attorney, or the City Clerk in appropriate cases, who shall be entitled to answer the inquiry himself/herself or to designate some member of the staff for that purpose.

(c) A Council Member, once recognized, shall not be interrupted while speaking unless called to order by the Mayor; unless a Point of Order is raised by another Council Member; or unless the speaker chooses to yield to questions from another Council Member.

(d) Any Council Member challenged while speaking, shall cease speaking immediately until the question of order is determined. If ruled to be in order, he/she shall be permitted to proceed. If ruled to be not in order, he/she shall remain silent or shall alter his/her remarks so as to comply with rules of the Council.

(e) Council Members shall accord the utmost courtesy to each other, to City employees and to the public appearing before the Council, and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities.

(f) Any Council Member may move to require the Mayor to enforce the rules and the affirmative vote of a majority of the Council shall require him/her to so act.

(g) Section 611 of the City Charter provides that the City Council may determine its own rules of procedure, may punish its members for disorderly conduct and compel their attendance at Council meetings. In addition to the sanctions identified herein, the failure of a Council Member to observe these rules of decorum may warrant his or her removal from the Council Chambers in accordance with the procedures described in the section entitled "Enforcement of Decorum" below.

Sanctions and Procedures for Violations of Rules of Decorum and Order

(h) Council Members who fail to observe these rules of Decorum and Order, or violate any state or federal law, the City Charter, or any City ordinance or policy, may be reprimanded or formally censured, lose seniority or committee assignments (both within the City of Hayward or with

Attachment I – Proposed Council Member Handbook Language
February 7, 2011

inter-government agencies), have official travel restricted or be ordered to attend Council meetings, if the Council Member is absent without justification. Serious infractions of these rules of Decorum and Order could lead to other sanctions as deemed appropriate by the Council, including, but not limited to, referral to the Alameda District Attorney and/or Civil Grand Jury if the conduct is egregious or allegedly criminal in nature. Council Members should point out to the offending Council Member any perceived infraction of these rules of Decorum and Order as it occurs. No Council Member shall be reprimanded, sanctioned or censured for the exercise of his or her First Amendment rights. However, nothing herein shall be construed to prohibit the City Council from individually or collectively condemning or expressing disapproval of behavior in violation of these rules.

(i) It is the responsibility of the Mayor to initiate formal action if a Council Member's behavior may warrant reprimand, sanction or censure. If no action is taken by the Mayor, action on the alleged violation may be placed on a future agenda for consideration by a majority of the full Council.

(j) Reprimand is the least severe form of action for a violation of these rules and may be issued by majority vote of the City Council without findings of fact or investigation. Reprimand is not considered a sanction or censure.

(k) Formal censure, loss of seniority or committee assignments and travel restrictions may be requested by any Council Member in writing submitted to the Mayor. The written request must set forth specific allegations of violations of state or federal law, the City Charter, or City ordinances or policies, including these rules of Decorum and Order, upon which the proposed sanction is based. If the Mayor determines that the request for censure or sanction warrants Council consideration, the request shall be scheduled for consideration by the Council at the next regularly scheduled Council meeting. If a majority of the Council wishes to take action on the request for sanction or censure, the request shall be scheduled for public hearing far enough in advance to give the affected Council Member adequate time to prepare a response to the request. The Council Member shall be given the opportunity to make opening and closing statements; to present or question witnesses; and is entitled to be represented by an advisor or counsel of his or her choosing. The Mayor, or the Mayor Pro Tempore if the Mayor is the subject of the sanction request, shall preside over the proceedings. The rules of evidence shall not apply. The City Attorney or his or her designee shall provide legal advice to the Council, as needed. A decision to censure or impose other sanction requires the adoption of a resolution containing findings with respect to the specific charges, based on substantial evidence, by a two-thirds vote of the Council.

**Attachment I – Proposed Council Member Handbook Language
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DECORUM AND ORDER - PUBLIC

Members of the Public attending Council meetings shall observe the same rules of order and decorum applicable to the Council

Each person who addresses the Council from the podium shall do so in an orderly manner and shall not make personal, slanderous, or profane remarks to any member of the Council, staff, or general public. Any person who makes such remarks, or who utters loud, threatening, personal, or abusive language, or engages in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of any Council meeting, whether from the podium or in the audience, may, at the discretion of the Mayor after observance of the procedure for enforcement of decorum described below, be escorted from Council Chambers and barred from further audience before the Council during that meeting. These rules shall be enforced as set forth in the section entitled "Enforcement of Decorum" below.

ENFORCEMENT OF DECORUM

The Chief of Police or his/her representative shall be ex-officio Sergeant -at-Arms of the Council. He/she shall carry out all orders and instructions given him/her by the Mayor for the purpose of maintaining order and decorum in the Council Chambers. Upon instructions from the Mayor, it shall be the duty of the Chief of Police or his/her representative to eject any person from the Council Chambers or place him/her under arrest or both.

As set forth in the Brown Act (Government Code Section 54957.9), in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the Council may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in the section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

Decorum and order shall be enforced in the following manner:

(a) **Warnings.** The Mayor shall ask that any person violating the rules of decorum be orderly and silent. The warning shall be in substantially the form described below. If, after receiving a clear warning from the Mayor, the person persists in disturbing the

**Attachment I – Proposed Council Member Handbook Language
February 7, 2011**

meeting, the Mayor may order a brief recess of the Council to regain order. If the person persists in disturbing the meeting, despite having been previously warned, the Mayor may order him or her to leave the Council meeting. If the person does not depart the Council chambers of his or her own volition, the Mayor may order any law enforcement officer who is on duty at the meeting as Sergeant-at-Arms of the Council to escort that person from the Council chambers.

(b) Text for Warning. The Mayor shall deliver the requisite warning in substantially the following form:

You are hereby advised that your conduct is in violation of the Rules of Order and Decorum of the City Council and California Penal Code Section 403, and you are directed to be orderly and silent. Penal Code Section 403 states that any person who, without authority of law, willfully disturbs or breaks up a lawfully convened meeting of the City Council is guilty of a misdemeanor. Continued disruption of this City Council meeting will result in your removal from the meeting by the Sergeant-at-Arms and you will not be permitted to return to Council chambers for the duration of the meeting. In addition, any continued disruption of this meeting is grounds for your being arrested and charged with a misdemeanor. Do you understand this admonition?

(c) Removal. Any law enforcement officer who is serving as Sergeant-at-Arms of the Council shall carry out all orders and instructions given by the Mayor for the purpose of maintaining order and decorum at the Council meeting. Upon instruction of the Mayor, it shall be the duty of the Sergeant-at-Arms to remove from the Council meeting any person who is disturbing the proceedings of the Council. Removal of a disruptive member of the public from Council chambers shall be accomplished by the Sergeant-at-Arms or other sworn law enforcement officers only.

(d) Misdemeanor. Any person who willfully disturbs or breaks up a Council meeting may be arrested and charged with a misdemeanor, pursuant to California Penal Code Section 403.

(e) Motion to Enforce. If the Mayor fails to enforce the rules set forth above, any member of the Council may move to require the Mayor to do so and, by an affirmative vote of a majority of the Council, shall require the Mayor to do so. If the Mayor of the Council fails to carry out the will of a majority of the Council, the majority may designate the Mayor Pro Tempore to act as Presiding Officer for the limited purpose of enforcing these rules of decorum.

**Attachment I – Proposed Council Member Handbook Language
February 7, 2011**

Attendance at Council Meetings does not provide individuals or groups immunity of protection when their conduct is in violation of any other laws (California Penal Code, City of Hayward Municipal Code, etc.). The Sergeant-at-Arms should and will be called upon by the Mayor to enforce these laws at Council Meetings.



CITY OF
HAYWARD
HEART OF THE BAY

DATE: February 7, 2011
TO: Council Appointed Officers Committee
FROM: City Manager
SUBJECT: Council Appointed Officers Assessment Process and Timelines

RECOMMENDATION

That the Committee discusses and provides recommendations to Council on the process and timelines for conducting annual Council Appointed Officer accountability and performance reviews.

DISCUSSION

One of the key roles of the newly formed Council Appointed Officers Committee is “scheduling and coordinating annual evaluations of appointed officers.” At the December 1, 2010 CAO Committee meeting, the Committee discussed elements of a proposed process and timeline for annual assessments of the appointed officers. Attached to this report is an overview of the proposed process discussed at the December meeting, along with proposed schedules to complete this and next years’ assessments (Attachment I).

Staff is providing background information in this report regarding the timing of each officer’s assessment to assist the Committee in formulating recommendations to Council on the annual schedule and process for the assessments. Creating an annual schedule will enable increase executive accountability and allow for adequate preparation and scheduling of meetings with the Council to accomplish the assessments within the established timeframes.

Prepared by: Kelly McAdoo Morariu, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I – Proposed Council Appointed Officer Assessment Process and Timelines

Attachment I - Proposed Process for Council Appointed Officer Evaluations (Draft One)
February 7, 2011

- 1) CAO to prepare report to include:
 - Annual accomplishments – how have Council priorities been supported? How have they done versus the last evaluation?
 - Self-evaluation
 - Proposed goals for upcoming yearReport to be provided to Council prior to first Closed Session

- 2) Closed Session #1: For each CAO, the Council will hold an initial closed session to hear the CAO's summary presentation of the report from #1 above, and to begin the conversation about the CAO's performance. The Council may excuse the CAO at the end of the meeting to continue their discussion.

- 3) Closed Session #2: The Council and CAO meet together (preferably one-two weeks after the initial closed session) to continue the dialogue about overall performance. This session may also include establishment of goals for the upcoming year and discussion of changes to contract terms and/or compensation. The Council may excuse the CAO at the end of the meeting to discuss any final comments and to discuss elements of evaluation summary to be provided to CAO.

- 4) CAO Committee: The CAO Committee may meet at any point in the process to facilitate the conversation between Council and CAO, draft any needed documents or written positions for Council's consideration, and to finalize the written evaluation summary. After approval by Council, the evaluative document will be provided to the CAO.

- 5) Closed Session #3 (optional): After finalizing the evaluation summary, either the Council or CAO may request another closed session to discuss the summary document or any remaining items.

- 6) The City Attorney will review all employment contracts other than his/her own prior to Council approval. The City Manager will review the City Attorney's contract prior to Council Approval.

- 7) Working through the City Manager, the Human Resources Director will be available to the Council and Committee to provide requested compensation analysis or other information related to salary and benefits for CAOs related to "market".

- 8) Working through the City Manager, the Assistant City Manager will be assigned to staff the CAOC, and to provide support to the Committee through the annual CAO evaluative process.

Proposed Schedule – 2010 Evaluations

City Manager:

- Complete for 2010

Attachment I - Proposed Process for Council Appointed Officer Evaluations (Draft One)
February 7, 2011

City Clerk:

- Annual Report finalized – 2/10/2011
- Closed Session 1: 2/15/2011
- Closed Session 2: 3/1/2011

City Attorney:

- Annual Report finalized – 3/10/2011
- Closed Session 1: 3/15/2011
- Closed Session 2: 4/5/2011

Proposed Schedule – Future Evaluations

City Manager (Contract provides for annual evaluation in December each year):

- Annual Report finalized – Thursday prior to last November Council meeting
- Closed Session 1: Last November Council meeting
- Closed Session 2: Third December Council meeting

City Clerk (annual contract renewal date – March 16):

- Annual Report finalized – Thursday prior to last February Council meeting
- Closed Session 1: Third February Council meeting
- Closed Session 2: First March Council meeting

City Attorney (annual contract renewal date – January):

- Annual Report finalized – Thursday prior to last December Council meeting
- Closed Session 1: Last December Council meeting
- Closed Session 2: First January Council meeting



City of Sunnyvale

2012 Code of Ethics and Conduct for Elected and Appointed Officials

"Conduct is three-fourths of our life and its largest concern."

-- Matthew Arnold

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For ease of reference in the Code of Ethics and Conduct, the term "member" refers to any member of the Sunnyvale City Council or the City's boards and commissions established by the City Charter, City Ordinance or Council policy.

Policy Purpose

The Sunnyvale City Council has adopted a Code of Ethics and Conduct for members of the City Council and the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation.

A. ETHICS

The citizens and businesses of Sunnyvale are entitled to have fair, ethical and accountable local government which has earned the public's full confidence for integrity. In keeping with the City of Sunnyvale Commitment to Excellence, the effective functioning of democratic government therefore requires that:

- public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- public officials be independent, impartial and fair in their judgment and actions;
- public office be used for the public good, not for personal gain; and
- public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Sunnyvale City Council has adopted a Code of Ethics and Conduct for members of the City Council and of the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation. The Ethics section of the City's Code of Ethics and Conduct provides guidance on ethical issues and questions of right and wrong.

1. Act in the Public Interest. Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Sunnyvale and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Sunnyvale City Council, boards and commissions.
2. Comply with both the spirit and the letter of the Law and City Policy. Members shall comply with the laws of the nation, the State of California and the City of Sunnyvale in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Sunnyvale City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.
3. Conduct of Members. The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public.
4. Respect for Process. Members shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.
5. Conduct of Public Meetings. Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

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6. Decisions Based on Merit. Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
7. Communication. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.
8. Conflict of Interest. In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest. In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.
9. Gifts and Favors. Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
10. Confidential Information. Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
11. Use of Public Resources. Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.
12. Representation of Private Interests. In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
13. Advocacy. Members shall represent the official policies or positions of the City Council, board or commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Sunnyvale, nor will they allow the inference that they do. Councilmembers and board and commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, board/commission meetings, or other official City meetings.
14. Policy Role of Members. Members shall respect and adhere to the council-manager structure of Sunnyvale City government as outlined by the Sunnyvale City Charter. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff. Except as provided by the City Charter, members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

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15. Independence of boards and commissions. Because of the value of the independent advice of boards and commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board and commission proceedings.
16. Positive Work Place Environment. Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

B. CONDUCT

The Conduct section of the City's Code of Ethics and Conduct is designed to describe the manner in which Councilmembers and board and commission members should treat one another, City staff, constituents, and others they come into contact with in representing the City of Sunnyvale. It reflects the work of a Council Policy and Protocol Subcommittee that was charged with defining more clearly the behavior, manners, and courtesies that are suitable for various occasions. The Subcommittee also considered a wide variety of policy changes and clarifications designed to make public meetings and the process of governance run more smoothly.

The constant and consistent theme through all of the conduct guidelines is "respect." Councilmembers experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, elected and appointed officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide Councilmembers and board and commission members to do the right thing in even the most difficult situations.

1. Elected and Appointed Officials' Conduct with One Another

"In life, courtesy and self-possession, and in the arts, style, are the sensible impressions of the free mind, for both arise out of a deliberate shaping of all things and from never being swept away, whatever the emotion, into confusion or dullness."

-- William Butler Yeats

Elected and appointed officials are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may "agree to disagree" on contentious issues.

1(a). In Public Meetings

Use formal titles

Elected and appointed officials should refer to one another formally during public meetings, such as Mayor, Vice Mayor, Chair, Commissioner or Councilmember followed by the individual's last name.

Practice civility and decorum in discussions and debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.

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Honor the role of the chair in maintaining order

It is the responsibility of the chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

Avoid personal comments that could offend other members

If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

Demonstrate effective problem-solving approaches

Members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

Outside of official board or commission meetings, individual board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose. In private settings, board and commission members may communicate at any time and on any subject with individual members of the City Council, and may express to them individual viewpoints and opinions. In public, however, all members shall represent the official policies or positions of their board or commission, with the following exception. During a Council public hearing on any item addressed by the board or commission, any member may speak under standard time limits, but shall indicate whether their testimony represents an official position (majority opinion) or a minority opinion of the board/commission to which they belong. The chair shall represent the majority view of the board or commission, but may report on any minority views as well, including his or her own. When an official board or commission position differs from staff's recommendation on a particular policy issue, then at the Mayor's discretion additional time may be provided to the chair of the board or commission (or his/her designee) to explain the position of the board/commission or to rebut statements made by staff or the public. If new information is brought to light during a public hearing which was not shared previously with the board or commission, the Mayor may allow the board or commission chair to respond. If the Council deems the new information sufficient to warrant additional study, then by majority vote Council may remand the issue back to the board or commission for further study prior to taking other action itself.

Individual opinions and positions may be expressed by board and commission members regarding items that have not come before the particular board/commission to which they belong. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Sunnyvale, nor will they allow the inference that they do.

Although a board or commission may disagree with the final decision the Council makes, the board or commission shall not act in any manner contrary to the established policy adopted by the Council.

1(b). In Private Encounters

Continue respectful behavior in private

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

Be aware of the insecurity of written notes, voicemail messages, and E-mail

Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voicemail message were

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played on a speaker phone in a full office? What would happen if this E-mail message were forwarded to others? Written notes, voicemail messages and e-mail should be treated as potentially "public" communication.

Even private conversations can have a public presence

Elected and appointed officials are always on display – their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted.

In private, board and commission members may communicate at any time and on any subject with the City Council, and may express to Council individual viewpoints and opinions.

2. Elected and Appointed Officials' Conduct with City Staff

"Never let a problem become an excuse."

-- Robert Schuller

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implements and administers the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

Treat all staff as professionals

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

Member questions/inquiries to City staff

1. **General.** Council and board/commission communications with City staff should be limited to normal City business hours unless the circumstances warrant otherwise. Responses to Council questions posed outside of normal business hours should be expected no earlier than the next business day.
2. **Routine Requests for Information and Inquiries.** Members may contact staff directly for information made readily available to the general public on a regular basis (e.g., "What are the library's hours of operation?" or "How does one reserve a tee time at the golf course?"). Under these circumstances staff shall treat the member no differently than they would the general public, and the member shall not use their elected status to secure preferential treatment. The city manager does not need to be advised of such contacts.
3. **Non-Routine Requests for Readily Available Information.** Members may also contact staff directly for easily retrievable information not routinely requested by the general public so long as it does not require staff to discuss the issue or express an opinion (e.g., "How many traffic lights are there in the City?" or "Under what circumstances does the City lower its flags to half mast?")
4. **Non-Routine Requests Requiring Special Effort.** Any member request or inquiry that requires staff to compile information that is not readily available or easily retrievable and/or that requests staff to express an opinion (legal or otherwise) must be directed to the city manager, or to the city attorney, as appropriate (e.g., "How many Study Issues completed over the past five years have required 500 or more hours of staff time?", or "What is the logic behind the City's sign ordinances affecting businesses along El Camino Real?"). The city manager (or city attorney as appropriate) shall be responsible for

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distributing such requests to his/her staff for follow-up. Responses to such requests shall be copied to all Councilmembers (if originating from a Councilmember), relevant board or commission members (if originating from a board or commission member), the city manager, the city attorney as appropriate and affected department directors.

5. Meeting Requests. Any member request for a meeting with staff must be directed to the city manager or city attorney, as appropriate.
6. Public Safety Restrictions. Under certain circumstances, requests for information regarding operations or personnel of the Department of Public Safety may be legally restricted. Applicable statutes include: The Peace Officers' Procedural Bill of Rights (California Government Code Section 3300, et seq.), Confidentiality of Peace Officer Records (California Penal Code Section 832.5-7), and a number of exceptions to the California Public Records Act, defined in Government Code Section 6254. Providing information in response to such requests could violate the law, and might also violate due process rights that have been defined for peace officers in the State of California. Accordingly, it shall be the policy of the City of Sunnyvale to strictly comply with all applicable legal authorities governing the release of Department of Public Safety information and records.

Do not disrupt City staff from their jobs

Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, intimidates staff, and hampers staff's ability to do their job objectively.

Never publicly criticize an individual employee

Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the city manager through private correspondence or conversation. Comments about staff in the office of the city attorney should be made directly to the city attorney. Appointed officials should make their comments regarding staff to the city manager or the Mayor.

Do not get involved in administrative functions

Elected and appointed officials must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits. [See Code of Ethics] The Sunnyvale City Charter, Section 807, also contains information about the prohibition of Council interference in administrative functions.

Check with City staff on correspondence before taking action

Before sending correspondence, Councilmembers should check with City staff to see if an official City response has already been sent or is in progress. Board and commission members shall not send correspondence except as authorized under the City's policies governing volunteers. (Council Policy 7.2.19, Boards and Commissions.)

Limit requests for staff support

Routine secretarial support will be provided to all Councilmembers. The Council Executive Assistant opens all mail for Councilmembers, unless a Councilmember requests other arrangements. Mail addressed to the Mayor is reviewed first by the city manager who notes suggested action and/or follow-up items.

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Requests for additional staff support – even in high priority or emergency situations – should be made to the city manager who is responsible for allocating City resources in order to maintain a professional, well-run City government.

Do not solicit political support from staff

Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

3. Elected and Appointed Officials' Conduct with the Public

"If a man be gracious and courteous to strangers, it shows he is a citizen of the world, and that his heart is no island cut off from other lands, but a continent that joins to them."

-- Francis Bacon

3(a). In Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

Be welcoming to speakers and treat them with care and gentleness. While questions of clarification may be asked, the official's primary role during public testimony is to listen.

"I give many public presentations so standing up in front of a group and using a microphone is not new to me. But I found that speaking in front of Council was an entirely different experience. I was incredibly nervous and my voice was shaking. I think the reason was because the issue was so personal to me. The Council was going to take a vote that would affect my family's daily life and my home. I was feeling a lot of emotion. The way that Council treats people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity."

Be fair and equitable in allocating public hearing time to individual speakers.

"The first thing the Mayor said to me was to be brief because the meeting was running late and the Council was eager to go home. That shouldn't be my problem. I'm sorry my item was at the end of the agenda and that there were a lot of speakers, but it is critically important to me and I should be allowed to say what I have to say and believe that the Council is listening to me."

The chair will determine and announce limits on speakers at the start of the public hearing process. Questions should not be asked for the express purpose of allowing one speaker to evade the time limit imposed on all others (e.g., "Was there something else you wanted to say?"). Generally, each speaker will be allocated three minutes with applicants and appellants or their designated representatives allowed ten. If many speakers are anticipated, the chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public hearing unless the chair requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the chair reopens the public hearing for a limited and specific purpose.

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Give the appearance of active listening

It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.

Maintain an open mind

Members of the public deserve an opportunity to influence the thinking of elected and appointed officials. To express an opinion or pass judgment prior to the close of a public hearing casts doubt on a member's ability to conduct a fair review of the issue. This is particularly important when officials are serving in a quasi-judicial capacity.

Ask for clarification, but avoid debate and argument with the public

Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

If speakers become flustered or defensive by questions, it is the responsibility of the chair to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by members to the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

No personal attacks of any kind, under any circumstance

Members should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

Follow parliamentary procedure in conducting public meetings

The city attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. The chair, subject to the appeal of the full Council or board/commission makes final rulings on parliamentary procedure.

3(b). In Unofficial Settings

Make no promises on behalf of the Council, board/commission or City

Members will frequently be asked to explain a Council or board/commission action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Council or board/commission action, or to promise City staff will do something specific (fix a pothole, remove a library book, plant new flowers in the median, etc.).

Make no personal comments about other members

It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other members, their opinions and actions.

Remember that despite its impressive population figures, Sunnyvale is a small town at heart
Members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Sunnyvale. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

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4. Council Conduct with Other Public Agencies

*"Always do right. This will gratify some people and astonish the rest."
-- Mark Twain*

Be clear about representing the City or personal interests

When representing the City, the Councilmember must support and advocate the official City position on an issue, not a personal viewpoint. Outside of official board or commission meetings, board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose.

When representing another organization whose position is different from the City, the Councilmember should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. Councilmembers should be clear about which organizations they represent and inform the Mayor and Council of their involvement.

Correspondence also should be equally clear about representation

City letterhead may be used when the Councilmember is representing the City and the City's official position. A copy of official correspondence should be given to the Council Executive Assistant to be filed in the Council Office as part of the permanent public record.

City letterhead should not be used for non-City business nor for correspondence representing a dissenting point of view from an official Council position.

5. Council Conduct with Boards and Commissions

*"We rarely find that people have good sense unless they agree with us."
--Francois, Duc de La Rochefoucauld*

The City has established several boards and commissions as a means of gathering more community input. Citizens who serve on boards and commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

If attending a board or commission meeting, be careful to only express personal opinions

Councilmembers may attend any board or commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation especially if it is on behalf of an individual, business or developer -- could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a board or commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.

Limit contact with board and commission members to questions of clarification

It is inappropriate for a Councilmember to contact a board or commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact board or commission members in order to clarify a position taken by the board or commission.

Remember that boards and commissions serve the community, not individual Councilmembers

The City Council appoints individuals to serve on boards and commissions, and it is the responsibility of boards and commissions to follow policy established by the Council. But board and commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to

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threaten board and commission members with removal if they disagree about an issue. Appointment and re-appointment to a board or commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A board or commission appointment should not be used as a political "reward."

Be respectful of diverse opinions

A primary role of boards and commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on boards and commissions, but must be fair and respectful of all citizens serving on boards and commissions.

Keep political support away from public forums

Board and commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support board and commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

6. Conduct with the Media

*"Keep them well fed and never let them know that all you've got is a chair and a whip."
-- Lion Tamer School*

Board and commission members are not authorized to represent the City outside of official board/commission meetings unless specifically authorized to do so.

Councilmembers are frequently contacted by the media for background and quotes.

The best advice for dealing with the media is to never go "off the record"

Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted.

The Mayor is the official spokesperson for the City on City positions.

The Mayor is the designated representative of the Council to present and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether their comments represent the official City position or a personal viewpoint.

Choose words carefully and cautiously

Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

C. SANCTIONS

*"You cannot have a proud and chivalrous spirit if your conduct is mean and paltry;
for whatever a man's actions are, such must be his spirit."
-- Demosthenes*

Public Disruption

Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.

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Inappropriate Staff Behavior

Councilmembers should refer to the city manager any City staff or to the city attorney any City Attorney's staff who do not follow proper conduct in their dealings with Councilmembers, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions. (Please refer to the section on Council Conduct with City Staff for more details on interaction with Staff.)

Councilmembers Behavior and Conduct

Compliance and Enforcement. The Sunnyvale Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the Sunnyvale City Council, boards and commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of boards and commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.

City Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, lose seniority or committee assignments (both within the City of Sunnyvale or with inter-government agencies) or have official travel restricted. Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by Council.

Councilmembers should point out to the offending Councilmember infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Vice Mayor.

It is the responsibility of the Mayor to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full Council in a public meeting.

Board and Commission Members Behavior and Conduct

Counseling, verbal reprimands and written warnings may be administered by the Mayor to board and commission members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective board or commission, the city clerk, the city attorney, the city manager, and the City Council. Written reprimands administered by the Mayor shall not be included in packets for public meetings and shall not be publicized except as required under the Public Records Act.

The City Council may impose sanctions on board and commission members whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of at least a quorum of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation. The Report to Council shall be distributed in accordance with normal procedures, including hard copies to numerous public facilities and posting online. Any Report to Council addressing alleged misconduct by a board or commission member shall be routed through the Office of the city attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

When deemed warranted, the Mayor or majority of Council may call for an investigation of board or commission member conduct. Should the city manager or city attorney believe an investigation is warranted,

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they shall confer with the Mayor or Council. The Mayor or Council shall ask the city manager and/or the city attorney to investigate the allegation and report the findings.

The results of any such investigation shall be provided to the full Council in the form of a Report to Council, and shall be placed on the agenda of a noticed public meeting as “Information Only”. Any such report shall be made public and distributed in accordance with normal procedures (i.e., hard copies to numerous public locations and posted online). Any report to Council addressing the investigation of board and commission members shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

It shall be the Mayor and/or the Council’s responsibility to determine the next appropriate action. Any such action taken by Council (with the exception of “take no further action”) shall be conducted at a noticed public hearing. These actions include, but are not limited to: discussing and counseling the individual on the violations; placing the matter on a future public hearing agenda to consider sanctions; forming a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration.

Under the City Charter, the City Council also may remove members of boards and commissions from office. A violation of this Code of Ethics and Conduct shall not be considered a basis for challenging the validity of a Council, board or commission decision.

D. PRINCIPLES OF PROPER CONDUCT

Proper conduct IS ...

- Keeping promises
- Being dependable
- Building a solid reputation
- Participating and being available
- Demonstrating patience
- Showing empathy
- Holding onto ethical principles under stress
- Listening attentively
- Studying thoroughly
- Keeping integrity intact
- Overcoming discouragement
- Going above and beyond, time and time again
- Modeling a professional manner

Proper conduct IS NOT ...

- Showing antagonism or hostility
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up bad feelings, divisiveness
- Acting in a self-righteous manner

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It all comes down to respect

Respect for one another as individuals ... respect for the validity of different opinions ... respect for the democratic process ... respect for the community that we serve.

E. CHECKLIST FOR MONITORING CONDUCT

- Will my decision/statement/action violate the trust, rights or good will of others?
- What are my interior motives and the spirit behind my actions?
- If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- How would my conduct be evaluated by people whose integrity and character I respect?
- Even if my conduct is not illegal or unethical, is it done at someone else's painful expense? Will it destroy their trust in me? Will it harm their reputation?
- Is my conduct fair? Just? Morally right?
- If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
- Does my conduct give others reason to trust or distrust me?
- Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
- Do I exhibit the same conduct in my private life as I do in my public life?
- Can I take legitimate pride in the way I conduct myself and the example I set?
- Do I listen and understand the views of others?
- Do I question and confront different points of view in a constructive manner?
- Do I work to resolve differences and come to mutual agreement?
- Do I support others and show respect for their ideas?
- Will my conduct cause public embarrassment to someone else?

F. GLOSSARY OF TERMS

attitude	The manner in which one shows one's dispositions, opinions, and feelings
behavior	External appearance or action; manner of behaving; carriage of oneself
civility	Politeness, consideration, courtesy
conduct	The way one acts; personal behavior
courtesy	Politeness connected with kindness
decorum	Suitable; proper; good taste in behavior
manners	A way of acting; a style, method, or form; the way in which things are done
point of order	An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration
point of personal privilege	A challenge to a speaker to defend or apologize for comments that a fellow member considers offensive
propriety	Conforming to acceptable standards of behavior
protocol	The courtesies that are established as proper and correct
respect	The act of noticing with attention; holding in esteem; courteous regard

G. IMPLEMENTATION

As an expression of the standards of conduct for members expected by the City, the Sunnyvale Code of Ethics and Conduct is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions. For this reason, this document shall be included in the regular orientations for candidates for City Council, applicants to board and commissions, and newly elected

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and appointed officials. Members entering office shall sign a statement affirming they read and understood the City of Sunnyvale Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be annually reviewed by the City Council, boards and commissions, and the City Council shall consider recommendations from boards and commissions and update it as necessary.

(Adopted: RTC 08-113 (4/8/08), Update: RTC 09-036 (2/3/09); Updated: RTC 09-047 (2/24/09); Approved with no changes: RTC 10-078 (3/23/10); Approved with no changes: RTC 11-058 (3/29/11); Approved with no changes: RTC 12-067 (3/20/2012))

Lead Department: Office of the City Manager

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