

**ONTARIO CITY COUNCIL
ONTARIO HOUSING AUTHORITY
ONTARIO REDEVELOPMENT AGENCY**

**MINUTES
JUNE 7, 2011**

JOINT MEETINGS

Regular meetings of the Ontario City Council, Ontario Housing Authority and Ontario Redevelopment Agency were held on Tuesday, June 7, 2011, in the Council Chambers, City Hall, 303 East B Street.

CALL TO ORDER

The Mayor called the City Council/ Housing Authority/ Redevelopment Agency meetings to order at 6:30 p.m., and requested the City Clerk to call the roll.

PRESENT:	Mayor/ Chairman	Paul S. Leon
	Mayor pro Tem/ Vice Chairman	Debra Dorst-Porada
	Council/ Authority/ Agency Members:	Alan D. Wapner, Sheila Mautz and Jim W. Bowman

ABSENT: None

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

The Pledge of Allegiance was led by Mayor pro Tem Dorst-Porada

The Invocation was offered by *Pastor Patricia Wheaton*, New Life Christian Center of Ontario

AGENCY REVIEW/ ANNOUNCEMENTS

City Manager Hughes advised Council Members there were no announcements.

JOINT AGENCIES CONSENT CALENDAR

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

1. APPROVAL OF MINUTES

Minutes for the regular meeting of the City Council, Redevelopment Agency and Housing Authority of May 3, 2011, and approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills in the amount of \$2,210,017.68 from March 27, 2011 through April 9, 2011; and **Payroll** in the amount of \$2,319,754.07 from March 27, 2011 through April 9, 2011, were approved contingent upon an audit by the Finance Committee.

3. CONSTRUCTION CONTRACT FOR 2011 C.D.B.G. PERVIOUS CONCRETE GUTTER AND STORM WATER/NPDES PROGRAMS/T.B. PENICK AND SONS, INC.

City Council approved the plans and specifications and awarded a construction contract to T.B. Penick and Sons, Inc. of San Diego, CA, for the 2011 Community Development Block Grant (CDBG) Pervious Concrete Gutter and Storm Water/NPDES Programs in the amount of \$129,999 plus a ten percent (10%) contingency of \$13,000 for a total of \$142,999; authorized the City Manager to execute said contract and related documents, and file a Notice of completion at the conclusion of all construction activities related to the project.

4. AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION MANAGEMENT ON THE I-10 FREEWAY AT ARCHIBALD AVENUE LANDSCAPE PROJECT/HERNANDEZ, KROONE AND ASSOCIATES, INC.

City Council approved Amendment No. 2 to the Professional Services Agreement with Hernandez, Kroone and Associates, Inc. of San Bernardino, CA, for construction management services related to the I-10 Freeway at Archibald Avenue Interchange Landscape Project (ST0908) increasing the agreement by \$24,400 for a total authorized expenditure of \$320,095, and authorized the City Manager to execute said amendment and related documents.

5. CONSTRUCTION CONTRACT FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENERGY EFFICIENT LIGHTING INSTALLATION AT VARIOUS CITY FACILITIES/ADVANCED BUILDING & ELECTRONIC CONTROL SYSTEMS, INC.

City Council:

(A) Rejected all previous bids and authorized the return of all appropriate bid materials;

(B) Awarded Contract No. MS 1011-3 to Advanced Building & Electronic Control Systems, Inc. of San Clemente, CA, in the amount of \$132,000 for the installation of energy efficient lighting at various City facilities;

(C) Authorized the City Manager to execute said contract; and

(D) Authorized filing of a Notice of Completion at the conclusion of all construction activities related to the project.

6. AN OPERATIONS AND MANAGEMENT AGREEMENT WITH PARA LOS NIÑOS ORGANIZATION FOR THE VETERAN'S MEMORIAL PARK COMMUNITY CENTER/PARA LOS NIÑOS

City Council authorized the City Manager to execute an Operations and Management Agreement with the Para Los Niños Organization of Ontario, CA for use of the Veteran's Memorial Park Community Center for one (1) year with the option to extend for up to two additional years

MOTION UNANIMOUSLY CARRIED. The Mayor/ Chairman declared the Joint Consent Calendar duly passed and adopted.

END OF JOINT CONSENT CALENDAR

PUBLIC COMMENT

Dorene Hopkins mentioned that the people in Ontario do not want a Walmart Store, suggested senior housing be located at the site; announced that the 500 block of East J Street needs curb replacement and said she observed a lack of pedestrians in downtown Ontario.

Larry Branson, adoptive foster parent, said he has assisted twenty children in his home, six of whom he has adopted, and doing so has made him a better person. He advocated observance of National Adoption Day to increase public awareness of children who need foster care. Mr. Branson announced that 123,000 children were awaiting adoption in 2010 and requested support for the program.

Ed Bustamante and Imelda Carrizosa, Principal and Vice Principal of Woodcrest Jr. High School, thanked Council Members on behalf of the Chino Valley Unified School District for promoting the District's programs. Ms. Carrizosa sent apologies on behalf of *Brandon Blanchard*, Board Member, for his absence this evening due to attendance at commencement ceremonies. Ms. Carrizosa advised that all eight Chino High School graduation ceremonies are being held at the Citizens Business Bank Arena. She also announced the promotion of eighth-grade students from Woodcrest at 9:00 a.m., on June 10th, noted that Certificates of Appreciation were presented to City Employees *Christina Alvarez, Joseph Arreola and Geneo Farrar*, and displayed a poster prepared by Woodcrest students. She expressed appreciation to Ontario officials for use of their facility to build teen programs.

Tim Greenwood, Magnolia Street Productions, indicated he has filmed the July 4th Independence Day Parade in Ontario for many years. He noted the Parks and Recreation Department have given information to assist his company. Mr. Greenwood advised they will be broadcasting regionally at the time of the parade, and later in the day from 2:00 – 5:00 pm. He also indicated that an L. A. Ballet Team will perform prior to the event and noted they previously performed at the Mayor's Gala.

Cory Briggs, attorney for the Ontario Mountain Village Association (OMVA), advised the microphones were not working as no sound was being heard outside the Chambers.

RECESS: Mayor Leon called a recess at 6:50 p.m. to correct the sound issues. The meeting thereupon resumed at 6:56 p.m.

City Attorney Brown addressed Council noting that Council Member Wapner has consistently disqualified himself with respect to matters related to Walmart and is not currently present in the Chambers.

Cory Briggs, on behalf of OMVA, requested postponement of a decision this evening pending receipt of the traffic study and other documents related to the Walmart Development. Mr. Briggs said the Addendum on this matter was sent to him at 11:47 p.m. on May 27th permitting him no time to respond in a meaningful way.

PUBLIC HEARING

Council Member Wapner returned to his seat at the dais.

- 7. AN ORDINANCE AMENDING THE DOWNTOWN CIVIC CENTER PLANNED UNIT DEVELOPMENT, INCREASING THE MAXIMUM RESIDENTIAL DENSITY RANGE FOR COMMERCIAL/RESIDENTIAL MIXED-USE DEVELOPMENT PROJECTS FROM 45-50 DWELLING UNITS PER ACRE TO 45-65 DWELLING UNITS PER ACRE, AND CLARIFYING THAT BOTH "FOR SALE" AND "FOR RENT" HOUSING IS ALLOWED WITHIN THE DISTRICT, AFFECTING PROPERTIES GENERALLY LOCATED AT THE NORTHEAST CORNER OF EUCLID AVENUE AND HOLT BOULEVARD (BLOCK A1), AND PROPERTIES LOCATED AT THE SOUTHEAST CORNER OF EUCLID AVENUE AND D STREET (BLOCK C1)**

City Council introduced and waived further reading of an Ordinance approving File No. PUD08-001 amending the Downtown Civic Center Planned Unit Development.

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

There was no written communication, and no one wishing to be heard, the Mayor closed the public hearing.

Mayor pro Tem Dorst-Porada noted that when the Specific Plan was prepared, the development was for new downtown luxury condominiums. She said she agrees with the increased density related to development of the C1 block, but wants to retain current densities with respect to A2, 3 and 4 blocks to attract higher income residents. Council Member Wapner indicated that he agrees in order to see how well the market is developing before considering changes to the A blocks. Council Member Bowman also agreed.

ORDINANCE NO. 2937 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PUD08-001, AN AMENDMENT TO THE DOWNTOWN CIVIC CENTER PLANNED UNIT DEVELOPMENT, INCREASING THE MAXIMUM RESIDENTIAL DENSITY RANGE WITHIN BLOCK C1 FROM 45-50 DWELLING UNITS PER ACRE TO 45-65 DWELLING UNITS PER ACRE, AND CLARIFYING THAT BOTH "FOR SALE" AND "FOR RENT" HOUSING IS ALLOWED WITHIN THE COMMERCIAL/RESIDENTIAL MIXED-USE DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1048-551-10 THROUGH 13; 1048-552-13 THROUGH 19; 1048-553-01 THROUGH 17; 1048-547-04 THROUGH 94; AND 1048-548-01 THROUGH 54.

MOTION: City Manager Hughes noted there was consensus with respect to introduction and first reading of the Ordinance as amended to reflect a change in the density range from 45-50 dwelling units per acre to 45-60 dwelling units per acre with respect to Block C1. All Members were present.

ADMINISTRATIVE REPORTS/ DISCUSSION

Council Member Wapner left the Chambers prior to consideration of the following.

8. A RESOLUTION MAKING A DETERMINATION OF SUBSTANTIAL CONFORMANCE REGARDING PROPOSED CHANGES TO THE WALMART PROJECT DEVELOPMENT PLAN, AND ADOPTING THE ADDENDUM TO THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT ANALYZING THE ENVIRONMENTAL EFFECTS THEREOF

Mayor Leon outlined the order of presentations with the concurrence of City Attorney Brown. He indicated they will begin with a staff report after which the Walmart representatives will be allowed 15 minutes, the OMVA representatives and other public comment will be allowed 30 minutes, after which Walmart may respond for an additional 15 minutes.

Planning Director Blum reviewed the 7-year history of the project proposed to be located at the northwest corner of Mountain Avenue and Fifth Street. He indicated the project plan was approved by the Planning Commission and City Council and later was appealed by the OMVA. The matter was heard in Superior Court where it was determined that the City's CEQA process was sufficient for the project, except that further analysis was needed to address potential safety issues involving the Walmart delivery trucks' access into the project site from Fifth Street. A Modified Site Plan was prepared to allow large trucks access from Mountain and no access from 5th Street with no other substantive revisions to the Supplemental Environmental Impact Report (SEIR) required to implement the Modified Site Plan. Mr. Blum said the City determined that it would prepare an Addendum to the SEIR in order to comply with the Superior Court's ruling and address re-routing of truck traffic as the applicant had proposed. Staff recommends: 1) Council Members determine that the changes as shown on the Modified Site Plan are consistent with the approved Mountain Village Specific Plan and minor in nature and, therefore, are in substantial conformance with the Approved Site Plan; and 2) Council Members approve the Addendum to the Proposed Ontario Walmart Supercenter SEIR.

Jennifer Guenther, Walmart Representative, indicated City staff has worked diligently with them to find solutions. She said the Project approved on November 26, 2007, still exists in its approved form noting they hope to create a draw for the community. She said signage has been reduced, colors slightly modified and there is only one remaining issue which has merit, the right-hand turn from Mountain Avenue onto Fifth Street for very large trucks.

Ms. Guenther outlined the new conditions to which Walmart has agreed that include solutions evaluated for truck safety, and outlined changes to the Approved Site Plan

and instructions for use by Walmart delivery vehicles. Ms. Guenther stated the Modified Site Plan conforms to the Mountain Village Specific Plan and concluded that use of an Addendum is appropriate and consistent with California Environmental Quality Act (CEQA) Guidelines.

Cory Briggs, attorney for OMVA, advised that requests to speak were submitted by Pat Haderer and John Logue who deferred their time to Annette Crowe and Anita Logue. Mr. Briggs objected to the order of comments, as stated by the City Attorney.

Anita Logue reviewed the promise made to OMVA stating the City did not keep their promise and read aloud the definition of a "promise" in Webster's Dictionary.

Annette Crowe recounted past associations with each Council Member stating their help is really needed now. She indicated the OMVA has hundreds of people who represent and maintain the integrity of northwest Ontario and asked that Council listen to their concerns regarding traffic flow.

Cory Briggs read in full his letter dated June 7, 2011, requesting denial of the Addendum. The letter included comments regarding parking space, Conditions and potential breach of contract, Closed Session discussions, and lack of meaningful opportunity for public review. Mr. Briggs indicated that OMVA will sue for breach of contract and/or fraud. He made reference to the adequacy of the environmental report, authority of the Planning Commission, appellate jurisdiction, and extension of necessary construction deadlines in accordance with the City's Development Code. He urged the Council Members not to approve the Addendum tonight so that the OMVA[MSOffice1] may review the document.

Dorothy McKnight, longstanding member of the OMVA, said she truly believes in their cause. She described her years of involvement and participation, and expressed her concerns about safety issues and young children noting the location of schools and churches on Fifth Street. Ms. McKnight believes there is a better location for Walmart.

City Clerk Wirtes advised Council Members that correspondence in support of the Walmart Project has been received by email from 23 people representing 35 separately-named individuals.

Nancy McComas said she has lived in Ontario since 1963 noting they are still discussing Walmart after four years and she feels the "truck issue" has been resolved. She indicated Walmart owns the property, has been paying property taxes and will generate more revenue as they still need to obtain permits, licenses, fees, etc., that will go into City funds. Ms. McComas referred to the need to hire demolition crews, builders, pavers, landscapers that will create jobs as well as the

need for a work force when completed all of which will provide a steady income into City coffers.

Ruby Mattingly, works for a group of senior citizens who must be bused to and from the store. She said she has received notice from 133 people willing to sign a letter supporting a Walmart store and indicated traffic safety will always be an issue. Ms. Mattingly added that Ontario needs a store where she can buy the things she needs and she supports a local Walmart with gas prices so high.

Uva Mendez indicated the previous speaker expressed her concerns.

Virginia Rodriguez, with her neighbor, agrees with Ms. Mattingly. She said a Walmart is needed to avoid excessive driving.

Judy Briggs said she is not against Walmart but she urged it be as safe as possible. She referred to the Walmart team introduced earlier and indicated Cory Briggs has no team as she observed during settlement hearings. Ms. Briggs said she was concerned when Walmart agreed not to sell ammunition across from a park, then later backed out of it. She referred to Director Blum's earlier statement about trucks accessing Fifth Street that she believes was in error and wondered how Costco has avoided trucks entering or exiting their property on Central Avenue. Ms. Briggs said two children were killed on Fifth Street and now there will be additional cars and trucks. She also noted that it was great to work with Walmart representatives and urged Council Members to listen to Cory who does not agree the Addendum must be approved tonight.

Pat Corby and *George Cerisaro* waived their opportunity to speak.

Ron Wall, resident on Fourth Street, noted he is familiar with the area. He referred to newspaper articles on traffic in the Inland Empire that indicate Mountain Avenue north of the I-10 Freeway has been consistently referenced; and wondered if it is part of the project to which Mayor Leon responded that it was not. He said the request to delay is a simple procedural issue and does not seem to be a difficult decision to make. He recommended a delay to another meeting.

Rosemarie Taylor, resident on West Princeton Street, indicated she represents many people who are good neighbors and support Walmart. She noted there are advantages and disadvantages but consideration should be given to the many who are concerned about long drives. Ms. Taylor said she spent \$7,000 at the Chino Walmart store that was not spent in Ontario and added that northwest Ontario needs a shopping destination. She noted there will be traffic issues but job opportunities as well.

Jennifer Guenther, representing Walmart, responded to many of the concerns raised noting that tonight's meeting is a process to allow finality; in 2007 the project plan

was reviewed and analyzed, and they consider it now approved and hope it will soon be constructed. Ms. Guenther advised there has been an extreme environmental review and that the site has always housed the same amount of square footage. She referred to the letter from Cory Briggs submitted tonight referring to a lawsuit. She said the truck turn has been addressed and decision appealed. Walmart determined they could do better and the Appellate court supported the City's decision. Nothing about the site has changed with the exception of signage and building colors and she added an opportunity was provided for every member of the public to participate. Ms. Guenther and her team feel comments were considered in 2007, approved then and should be approved today. There has to be an end to the process. She added that trucks leaving the site have never been an issue. If you look at the Court's Statement of Decision, the only thing addressed was this turn and it has been handled. Ms. Guenther added the Site Plan requires 714 parking spaces and is pursuant to the City's code and Walmart has added conditions as part of the project description. She emphasized this is what Walmart will do for the safety of citizens and patrons with respect to contract drivers and they believe the City is providing a proper course of action. Traffic study drafts were reviewed by their engineers. They examined several options in order to determine the safest routing and in accordance with the City's Development Code. She stated the City Council's final authority includes environmental authority. Ms. Guenther added that entitlements have not expired as the City Council took action to extend the period to November 2012 and, in view of the fact the SEIR was approved in 2007 when environmental factors were thoroughly analyzed, it is time to move on.

RECESS At 8:32 p.m., City Manager Hughes requested a 10 minute recess for staff to confer on Mr. Briggs' letter. The Joint Meetings resumed at 8:46 p.m.

Council Member Bowman noted that a great deal has been said and pointed out that the item under consideration is an Addendum to the SEIR we are all familiar with. He added Council has a tremendous amount of information on the matter. Mr. Bowman thanked those attending and involved. He questioned if the Council was persuaded by what has been presented this evening, and whether it was appropriate to adopt an Addendum to this matter. He said he believes a significant amount of effort has been spent to keep the playing field level and noted discussions were more civilized than most, and thanked City Manager Hughes for his efforts to resolve issues. Council Member Bowman indicated it is City Attorney Brown's opinion that the Mayor and Council Members went to great lengths to act in accordance with the Brown Act and noted the City has experts available to respond to any questions.

City Attorney Brown said a decision can be made tonight on the Addendum before the Council. There have been open discussions with OMVA and Council Members, and Attorney Brown said he appreciates the community's attendance with both sides of the matter represented noting the voice of the community is coming from a mixed crowd which helps Council to know where people stand and contributes to open deliberation.

Council Member Mautz said she has spent 8 years on this matter causing many sleepless nights. She said she has listened to friends, neighbors with an open heart on an issue that has become very emotional to a lot of people. When Council is charged to represent the people there is prayer and a great deal of consideration given to a project. Ms. Mautz added she became involved while on the Planning Commission and believes every issue has been addressed.

MOTION: Council Member Mautz moved to approve the Resolution.

Mayor pro Tem Dorst-Porada said everybody knows what side of the fence she has been on. She brought issues forward she opined could be fixed and still questions whether more could be done. Ms. Dorst-Porada added the decision by the judge disappointed her and wondered how they could make the project into something better. She said she urged Walmart and OMVA to come together again and they did try and gave a valiant effort noting she wished it could have been resolved differently. Mayor pro Tem Dorst-Porada trusts that Council has looked at all sides of the issue and staff has done a decent job in trying to address them. She believes the process has made a good community better and hopes Walmart will come forward if problems are encountered, adding she does not want this Walmart to look like Upland's store.

Council Member Bowman thanked everyone involved over the years noting it has been difficult for all of them. He said it has been hard for Council to weigh all the facts and the project's worthiness. Tonight's meeting is limited to the right turn issue; and they have listened to both sides and said a valiant effort has been made. Mr. Bowman advised he feels the safety issue has been resolved as much as possible which causes this to become a matter of common sense. He added the combination of drivers and traffic design will be responsible for safety and referred to the history of the location which shows there have been three active businesses at the site. Tonight, Council must either accept or deny; and Mr. Bowman stated they have gone the extra mile, there has been a democratic process and he will support the Addendum.

Mayor Leon said they have all learned a great deal during this process. It has not been an easy place to be, having friends on both sides of the aisle. As elected officials, they must represent the greater City good and show respect for everybody. He added some will be happy and some upset, and he hopes they can walk away with continued respect for each other. Mayor Leon described the election where he first learned of the matter, and added it has been a rough ride because at every turn the people are either intensely positive or negative. It has been the roughest endeavor of anything he has done. The Mayor said his colleagues have covered issues well adding tonight's issue is not the total project but the right hand turn. He believes it has been resolved and said he supports the Addendum before them.

Council Member Bowman seconded the **MOTION** made earlier by Council Member Mautz. Resolution No. 2011-024 was adopted unanimously with Council Member Wapner absent.

RESOLUTION NO. 2011-024 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, MAKING A DETERMINATION OF SUBSTANTIAL CONFORMANCE WITH REGARD TO THE PROPOSED MINOR CHANGES TO THE WALMART PROJECT DEVELOPMENT PLAN, FILE NO. PDEV04-047, AND ADOPTING THE ADDENDUM TO THE SUBSEQUENT ENVIRONMENTAL IMPACT REPORT ANALYZING THE ENVIRONMENTAL EFFECTS THEREOF.

COUNCIL/ STAFF COMMENT

Mayor pro Tem Dorst-Porada clarified her comments with respect to Agenda Item #7 to add that "density is no problem with the square footage of dwelling units." She noted several Council Members were wearing shirts in support of the Police & Fire Games at the Ontario Convention Center. Ms. Dorst-Porada announced the Chili Cook Off tomorrow and the boxing finals on Friday. She invited the community to join her on Sunday when she and others participate in a Healthy Ontario Walk by traveling 3.1 miles.

Council Member Mautz said the Mayor's Red Carpet Gala on May 20th hosted by the Esperanza Foundation was very successful this year with over 100 children receiving \$1,000. She thanked Mayor Leon for attending the funeral and burial at Riverside National Cemetery of Army PFC Ramon Mora who was killed in Afghanistan. Ms. Mautz said she was sorry to miss the Memorial Day observances at Bellevue Cemetery this year but lost family members and attended services at Riverside National. She was pleased to announce an Ontario boy who participated in the "America's Got Talent" competition, and has made it to Las Vegas.

Council Member Mautz requested prayers for former City employee *Marie Corregia* who was seriously injured, and requested that tonight's meeting be adjourned in memory of PFC Mora.

Council Member Bowman thanked the Police & Fire Games directors and participants for their contributions to the games that will continue through June 11th. He noted the Memorial Day Services at Bellevue Cemetery were outstanding and beautifully done.

Mayor Leon thanked those who attended the Esperanza Foundation evening and said he was very proud to see 100+ students receive scholarships. He indicated the event was assisted by the Drama Department at Chaffey High School who did an outstanding job. Mr. Leon noted the difficulty in attending PFC Mora's funeral and said he was killed in Afghanistan. He thanked Police Chief Hopley, Sgt. Birkett and the Police and Fire

Departments for the incredible job they did to support the family as the casket arrived at the airport. The family was honored with a trip around town escorted by Police Department personnel and said it was touching to review his life's places. Mayor Leon also thanked Colony High School for a great job supporting the event.

ADJOURN IN MEMORIAM

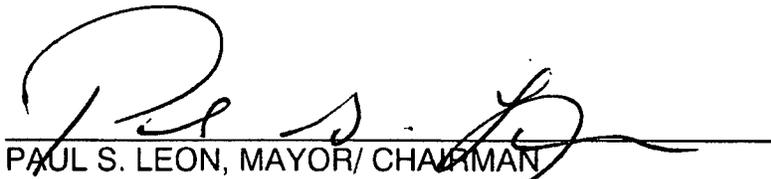
As requested, the Joint Meetings were adjourned to the memory of PFC Ramon Mora at 9:18 p.m. Mayor Leon announced the next regular meeting will be held on June 21, 2011.

Respectfully submitted,



MARY E. WIRTES, MMC, CITY CLERK/ SECRETARY

APPROVED:



PAUL S. LEON, MAYOR/ CHAIRMAN