

**ONTARIO CITY COUNCIL
ONTARIO HOUSING AUTHORITY
MINUTES
JANUARY 15, 2013**

JOINT MEETINGS

Regular meetings of the Ontario City Council and Ontario Housing Authority were held on Tuesday, January 15, 2013, at the Ontario City Hall, 303 East B Street, Ontario, CA.

CLOSED SESSION

The Mayor called the City Council/ Housing Authority meetings to order at 6:02 p.m., and inquired whether persons were present who wished to speak to a Closed Session item. Hearing none, he advised that all Members were present and thereupon adjourned to Closed Session for discussion as follows:

- GC 54956.9 (b), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION: Two (2) cases. Acting as City Council in one case and as the Successor Agency of the Ontario Redevelopment Agency in the second case.
- GC 54956.9 (b), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION: One (1) or more cases: City of Los Angeles/Los Angeles World Airports (LAWA).

CALL TO ORDER

The Mayor called the City Council/ Housing Authority meetings to order at 6:31 p.m., and requested the City Clerk to call the roll.

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

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 Boy Scout Pack 306 including scouts Jerome Buck, Josh Kline, Zachary Schnelbach, Aaron Trujillo, and Adam Trujillo led by Pack Leader Charlie Kline.

The invocation was offered by *Pastor Miguel de Anda*, Montecito Baptist Church.

CLOSED SESSION REPORT

City Attorney Brown advised that no reportable action was taken by the City Council or the first case considered under Closed Session; and no reportable action was taken on the second item.

AGENCY REVIEW/ ANNOUNCEMENTS

City Manager Hughes advised Council Members there were no announcements.

PUBLIC COMMENT

There was no one present to speak during Public Comment.

JOINT AGENCIES CONSENT CALENDAR

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

1. APPROVAL OF MINUTES

Approved Minutes for the regular meetings of the City Council and Housing Authority dated December 4, December 18, 2012 and January 1, 2013 as on file in the Records Management Department.

2. BILLS/ PAYROLL

Approved Bills in the amount of \$17,083,285.33, from December 2 through December 29, 2012; and Payroll in the amount of \$4,763,355.27, from December 2 through December 29, 2012, when audited by the Finance Committee.

3. DEMOLITION AND SITE CLEARANCE SERVICES AT THREE (3) QUIET HOME PROGRAM PROPERTIES AND RELATED ON-CALL SERVICES FOR FUTURE PROJECTS

The City Council and Ontario Housing Authority Board:

- (A) Rejected any and all non-responsive bids;
- (B) Awarded Contract No. P150-1213-02, demolition and site clearance services at three (3) Quiet Home Program properties to National Demolition Contractors of San Pedro, CA in the amount of \$25,496 plus a 15% contingency of \$3,824 for a total not-to-exceed amount of \$29,320.

- (C) Authorized the City Manager/Executive Director to execute Contract No. P150-1213-02 for an initial term expiring June 30, 2013, and to exercise the option to extend the initial term for on-call services for up to three (3) consecutive one (1) year terms consistent with the City Council and Housing Authority Board-approved budgets for the respective fiscal years; and
- (D) Authorized the City Manager/Executive Director to execute other related documents necessary to implement said contract, and to file Notices of Completion with the San Bernardino County Recorder's Office.

4. RADIO SYSTEM ACCESS AND MAINTENANCE AGREEMENT/COUNTY OF SAN BERNARDINO

City Council approved and authorized the City Manager to execute a five-year radio system access and maintenance agreement with the County of San Bernardino for an annual estimated amount of \$710,000.

5. A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR THE STORMWATER MANAGEMENT GRANT PROGRAM FUNDED BY PROPOSITION 1E FOR THE FRANCIS STREET STORM DRAIN AND ELY BASIN FLOOD CONTROL AND AQUIFER RECHARGE PROJECT

City Council adopted a Resolution authorizing the filing of a grant application to obtain \$6 million of Stormwater Management Grant Program funds, funded by State Proposition 1E, for the construction of the Francis Street Storm Drain and Ely Basin Flood Control and Aquifer Recharge Project; and authorized the City Manager to execute a grant agreement with the California Department of Water Resources.

RESOLUTION NO. 2013-001 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING APPLICATION FOR FINANCIAL ASSISTANCE APPLICATION FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES FOR THE FRANCIS STREET STORM DRAIN AND ELY BASIN FLOOD CONTROL AND AQUIFER RECHARGE PROJECT AND AUTHORIZING THE CITY MANAGER TO SIGN AND FILE, FOR AND ON BEHALF OF THE CITY OF ONTARIO, FOR A GRANT FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES

6. EVERY 15 MINUTES GRANT PROGRAM FROM THE DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

City Council authorized the acceptance of grant funds in an amount up to \$10,000 for the Every 15 Minutes Grant Program from the Department of California Highway Patrol. This is a nationwide program dedicated to raising awareness of high school students about the dangers of drinking and driving.

The program's name was derived from the fact that every fifteen minutes someone in the United States dies in an alcohol-related traffic collision.

MOTION UNANIMOUSLY CARRIED. The Mayor/Chairman declared Resolution No. 2013-001 duly passed and adopted.

END OF JOINT CONSENT CALENDAR

PUBLIC HEARING

7. CONSIDERATION OF AN APPEAL OF THE PLANNING COMMISSION'S ACTION OF OCTOBER 30, 2012 TO APPROVE FILE NOS. PMTT12-007 (TT 18852), PMTT12-012 (TT18868), AND PDEV12-013 FOR PROPERTIES GENERALLY LOCATED ON THE NORTH SIDE OF INLAND EMPIRE BOULEVARD, BETWEEN ARCHIBALD AND TURNER AVENUES, WITHIN THE PLANNED RESIDENTIAL LAND USE DISTRICT OF THE ONTARIO FESTIVAL SPECIFIC PLAN (APNS: 210-631-05 THROUGH 11; AND 210-181-28, 29 & 39)

City Council conducted a public hearing to consider an appeal of the Planning Commission's action of October 30, 2012 including the following actions:

- (A) Adopt a Resolution denying the appeal of File No. PMTT12-007 (TT 18852), a request to subdivide approximately 5.81 acres of land into 15 numbered lots and 6 lettered (common) lots;
- (B) Adopt a Resolution denying the appeal of File No. PMTT12-012 (TT 18868), a request to subdivide approximately 1.05 acres of land into 4 numbered lots and one lettered (common) lot;
- (C) Adopt a Resolution denying the appeal of File No. PDEV12-013 a request to construct a total of 80 multiple-family (townhouse) dwellings over the two tentative tract map areas totaling approximately 6.9 acres of land; and
- (D) Uphold the Planning Commission's action to approve the project located on the north side of Inland Empire Boulevard between Archibald and Turner Avenues within the Planned Residential land use district of the Ontario Festival Specific Plan (APNs: 210-631-05 through 11; and 210-181-28, 29 & 39).

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

Written communications were received from Briggs Law Corporation and from K. Langwasser, both dated January 15, 2013.

Mayor Leon made opening remarks setting forth procedures and time allotments for speakers after a review of the item by City staff. Mayor Leon then opened the public hearing.

Planning Director Blum reviewed the history of the project which was initially begun in December 1980 with a General Plan Amendment and certification of an environmental impact report (EIR). In 1983, the Park Center Specific Plan was approved which resulted in the development of a commercial shopping center on the western portion of the site. In December 2003, the City Council approved a specific plan amendment which changed most of the remaining vacant property to residential with commercial and office uses along Inland Empire Boulevard. An addendum to the original EIR was prepared for the project. In 2012, Brookfield Homes filed for a specific plan amendment to change the land use at the western corner of the site from commercial to residential and add a "Residential Overlay" district to the mid-block office areas. An addendum to the previous EIR was prepared for the project. A Notice of Determination was filed with the County of San Bernardino on September 19, 2012. On October 30, 2012, the Ontario Planning Commission approved tentative tract maps and development plans for Brookfield's three residential land use types, and the Commission approved the use of a previous addendum for the projects.

Mr. Blum stated that on November 9, 2012, Mr. Cory Briggs, on behalf of the Inland Oversight Committee, appealed the decision of the Planning Commission. Mr. Blum then discussed the appeal in detail and offered staff's response to each point of the appeal. In summary, Mr. Blum stated the tentative tract maps and the development plans were reviewed and found to be consistent with the Festival Specific Plan and all other applicable City and State codes, that the Planning Commission's resolution approving the entitlements identified the facts and reasons supporting their conclusions and the environmental documentation is complete. Mr. Blum, responding to the appellant's concerns about the unreasonableness of the City's appeal fees, stated that the City's fees represent the actual cost of providing the service to process the appeal and are limited pursuant to State law.

Director Blum advised that the statute of limitations on filing a CEQA challenge on the specific plan amendment for the Festival Specific Plan expired on October 19, 2012 and no one filed a challenge to the use of an Addendum for the project. Therefore, the Addendum is no longer challengeable and the actions of the Planning Commission to approve the development plan and maps which are consistent with the specific plan do not need further environmental review and therefore the determination that the project was exempt from further CEQA review was legal and appropriate. In summation, Mr. Blum asked the City Council to uphold the Planning Commission's decisions and deny the appeal.

Cory Briggs, representing the Inland Oversight Committee (IOC), requested under the Public Records Act copies of the video from every angle of tonight's session as well as the audio recording.

Mr. Briggs stated that his client appealed this item maintaining the EIRs prepared since 1980 do not address new environmental effects not identified in the original EIR and did not rely upon proper documentation. He reviewed California Environmental Quality Act (CEQA) issues and alleged the project is not consistent with the General Plan and its approval a violation of the Ontario Municipal Code (OMC).

Mr. Briggs then made reference to the letter from Ms. Langwasser dated January 15, 2013, with respect to the possibility of endangered/threatened species being located on the property and requested it be made part of the record. He stated that the City's environmental documents do not adequately cover this issue.

Mr. Briggs commented on and explained the items submitted: a CD, a letter dated January 15, 2013 from City Global Investments, and a previous report of biological impacts for which there is no purported evidence of a study. He alleged the project will have significant effects not known in 1980 and air quality will be impacted. He requested continuation of the matter so these, traffic matters and the impact on public services can be reviewed

City Attorney Brown said the staff report speaks for itself and encouraged Council Members not to be involved in a dialogue with Mr. Briggs.

Mr. Briggs alleged that none of the environmental documents were in the agenda, he alleged a violation of CEQA, and he also submitted that Council did not see the documentation prior to discussion this evening. Mr. Briggs further presented his position on the City's appeal fee that was applied as being unrelated to the CEQA process and higher than what other cities charge.

Mayor Leon asked if the applicant wanted to speak to the item.

John Ramirez, representing Brookfield Homes, thanked staff for providing an excellent staff report with which they concur. He recommended denying the appeal and adopting the Resolutions contained in the staff report. Mr. Ramirez opposed the assertion that the City did not conduct an environmental review and allegations that they did not comply with CEQA. He said Brookfield is now ready to begin the project and it is no time to second guess CEQA, it should have been done during the third quarter of last year. He added that Council reviews environmental documents all the time and may rely on professional expertise. Mr. Ramirez said he is happy to take questions adding the staff report was adequately reviewed and requested support for the project and that the appeal be overturned.

Mr. Briggs alleged that staff failed to provide an adequate environmental review and to look at the underlying body of evidence. He added that Council cannot lawfully review the matter tonight and requested postponement of the proceedings. He said a biological study of the site was not reviewed.

Director Blum advised that Council was provided supporting documentation on at least two occasions and has had this information for over 45 days; and that a biological study was reviewed for the entire site stating there are no known endangered species or biological impacts for the project.

RECESS At 7:14 p.m., Mayor Leon called a recess after which Council reconvened at 7:32 p.m.

City Attorney Brown said he regrets the need for a recess that was due to grandstanding during the appeal and the lodging of lengthy letters at the last minute, and recommended consideration of the appeal on its merits with reference to environmental impacts after staff reviewed the materials presented by Briggs.

Deputy City Attorney Fernando Avila briefly reviewed the appellant's correspondence submitted to the Clerk and the allegations that new information was revealed which requires CEQA analysis. He said no new information of substantial importance was revealed and much of the letter refers to the time period of 1980 when the EIR was conducted. The issues raised by the appellant could have been known or should have been known at the time of the addendum adoption which was fall of 2012; and any issues should have been raised at that time.

City Attorney Brown said Mr. Briggs is an experienced trial lawyer and is good at asking rhetorical questions and turning body movements into affirmations and added there has been no acquiescence by any member of the Council during this hearing.

Planning Director Blum said, for clarification, that three Resolutions are proposed this evening; 1) a Resolution referring to the development plan where he said reference to the *Planning Commission* was used in error and the term should have been *City Council*, minor errors in naming the wrong agency; 2) approving staff's recommendation and a review of the six items upholding Planning Commission approvals of tentative tract map and development plan; and 3) upholding staff's recommendation to deny appeal of the project.

Mayor Leon closed the public hearing and opened the matter for Council discussion.

Mayor pro Tem Bowman said an exhaustive effort by staff has been made to be sure the City is in compliance and made a **MOTION** to deny the appeal.

City Attorney Brown suggested a roll call vote. Mayor pro Tem Bowman amended his **motion** to deny the appeal and accept the recommendations and Resolutions set forth by staff. Council Member Wapner seconded the amended **motion**.

RESOLUTION NO. 2013-002 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DENYING AN APPEAL OF THE PLANNING COMMISSION'S ACTION OF OCTOBER 30, 2012, APPROVING FILE NO. PMTT12-007 (TT 18852), A TENTATIVE TRACT MAP FOR CONDOMINIUM PURPOSES, SUBDIVIDING APPROXIMATELY 5.81 ACRES OF LAND INTO 10 NUMBERED LOTS AND 6 LETTERED (COMMON) LOTS TO FACILITATE THE DEVELOPMENT OF 60 MULTIPLE-FAMILY (TOWNHOUSE) DWELLINGS GENERALLY LOCATED ON THE NORTH SIDE OF INLAND EMPIRE BOULEVARD, BETWEEN ARCHIBALD AND TURNER AVENUES, WITHIN THE PLANNED RESIDENTIAL OVERLAY DISTRICT OF THE ONTARIO FESTIVAL SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0210-181-28, 29 & 39 AND 0210-631-05 THROUGH 11

RESOLUTION NO. 2013-003 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DENYING AN APPEAL OF THE PLANNING COMMISSION'S ACTION OF OCTOBER 30, 2012, APPROVING FILE NO. PMTT12-012 (TT 18868), A TENTATIVE TRACT MAP FOR CONDOMINIUM PURPOSES, SUBDIVIDING APPROXIMATELY 1.05 ACRES OF LAND INTO 4 NUMBERED LOTS AND ONE LETTERED (COMMON) LOT TO FACILITATE THE DEVELOPMENT OF 20 MULTIPLE-FAMILY (TOWNHOUSE) DWELLINGS GENERALLY LOCATED AT THE NORTHWEST CORNER OF INLAND EMPIRE BOULEVARD AND TURNER AVENUE, WITHIN THE PLANNED RESIDENTIAL OVERLAY DISTRICT OF THE ONTARIO FESTIVAL SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0210-181-28, 29 & 39 AND 0210-631-05 THROUGH 11

RESOLUTION NO. 2013-004 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DENYING AN APPEAL OF THE PLANNING COMMISSION'S ACTION OF OCTOBER 30, 2012, APPROVING FILE NO. PDEV12-013, A DEVELOPMENT PLAN TO CONSTRUCT 80 MULTIPLE-FAMILY TOWNHOUSE DWELLINGS ON APPROXIMATELY 6.9 ACRES OF LAND GENERALLY LOCATED ON THE NORTH SIDE OF INLAND EMPIRE BOULEVARD, BETWEEN ARCHIBALD AND TURNER AVENUES, WITHIN THE PLANNED RESIDENTIAL OVERLAY DISTRICT OF THE ONTARIO FESTIVAL SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0210-631-11 AND A PORTION OF 0218-181-39

MOTION UNANIMOUSLY CARRIED. The Mayor/ Chairman declared Resolution Nos. 2013-002, 2013-003, and 2014-004 duly passed and adopted by a unanimous roll call vote.

ADMINISTRATIVE REVIEW/DISCUSSION

BOARD AND COMMISSION APPOINTMENTS

Council Member Avila requested ratification of his three nominations as follows: *Fausto Reyes* to the Planning Commission, *Martina Rangel-Ortega* to the Library Board of Trustees, and *Elizabeth Ricci* to the Recreation and Parks Commission. He requested deferment of his appointment for the Museum of History and Art Board of Trustees. Council Member Avila also commended Mayor Leon on his expertise in facilitating Council meetings and recognized the patience, wisdom and teamwork of the Council this evening, adding he is proud to be a part of the City Council.

Mayor Leon said he also will need to make an appointment to the Museum Board due to the recent resignation of Catherine Bent. Council Member Dorst-Porada added that the Museum Board is a very exciting Board on which to serve as there is “good stuff” happening.

Mayor pro Tem Bowman nominated *Sheila Mautz* to the Planning Commission, and Council Members unanimously supported that appointment.

Council Member Wapner noted that at-large appointments were submitted for *Virginia Riley* to serve on the Recreation and Parks Commission and *Bob Gregorek* on the Planning Commission.

Council Member Dorst-Porada reconfirmed her past appointments including Jared DuBois to the Library Board, Christian Kueng to the Museum of History and Art Board, Rick Gage to the Planning Commission and Rita Nelsen to the Recreation and Parks Commission.

Mayor Leon reiterated that there are will continue to be two outstanding appointments to the Museum Board of Trustees.

MOTION: Moved by Council Member Avila, seconded by Council Member Wapner, and unanimously approved to ratify said appointments.

2013 CITY COUNCIL APPOINTMENTS

City Council Members ratified appointments as follows:

Mayor Leon

- *Gangs & Drugs Task Force*, alternate Council Member Wapner.
- *County Solid Waste Advisory Task Force*

- *County Zone 1 Advisory Committee*
- *County Homeless Partnership*
- *Metro Gold Line Phase II JPA Board of Directors*, alternate Mayor pro Tem Bowman
- *West Valley Mosquito & Vector Control District Board*
- *Water Facilities Authority Board*

Mayor pro Tem Bowman

- *Ontario International Airport Authority*
- *Council Nominations Committee*
- *Chino Basin Desalter Authority*
- *Chino Basin Watermaster Board*
- *Inland Empire Utilities Agency Region Policy Committee*, alternate Council Member Dorst-Porada

Council Member Wapner

- *Ontario International Airport Authority*
- *Council Nominations Committee*
- *Sister Cities Liaison*
- *Inland Empire League of California Cities Legislative Liaison*
- *Omnitrans Board of Directors*, alternate Council Member Dorst-Porada
- *Recreation & Parks Commission Liaison*, alternate Mayor pro Tem Bowman
- *San Bernardino Associated Governments Board*, alternate Council Member Dorst-Porada
- *Southern California Association of Governments General Assembly*, alternate Mayor pro Tem Bowman
- *Four Corners Transportation Coalition*, alternate Mayor pro Tem Bowman

Council Member Avila

- *Library Board of Trustees Liaison*, alternate Council member Dorst-Porada
- *School Districts*
- *Sister Cities Liaison*

Council Member Dorst-Porada

- *Museum of History and Art Liaison*, alternate Council Member Avila
- *School Districts*
- *Ontario Heritage Liaison*
- *Inland Empire League of California Cities Legislative Liaison*
- *Chino Valley Unified School District – Measure M*

Mayor Leon indicated he periodically visits City facilities and feels a *Facilities Oversight Committee* should be considered, adding he would like to serve on it. He acknowledged that responsibilities of the committee will need to be identified. Council Member Wapner suggested the matter be brought back at the next meeting.

City Attorney Brown clarified direction of Council that City Manager Hughes bring the item back for consideration at a future meeting. The City Manager agreed saying staff will come back with an outline of responsibilities for Council consideration.

MOTION: Moved by Council Member Dorst-Porada seconded by Council Member Wapner, to support the formation of this Committee. The **motion** carried unanimously.

COUNCIL MATTERS

Council Member Avila spoke of an occurrence on December 20th at which time he accidentally fell and injured his knee. He told of the help offered by the Fire and Police Departments and specifically Firefighters *Nicholas Perdue, Ryan Hafner, Bryan Ruppert* and *Jeremy Crandall*. He requested these individuals be thanked with written acknowledgements added to their personnel files. Council Member Avila again commended the Mayor for his ability to handle a meeting.

Council Member Wapner said he has exciting news and advised that Mayor Leon has announced his candidacy for the California State Senate. Mr. Wapner said he could not remember a time when anyone from Ontario had served in the state legislature, and Wapner supported and endorsed the Mayor's candidacy.

Council Member Dorst-Porada reminded members of the community to get their flu shots. She also urged members of the community to seek volunteer opportunities and related a story of a Travelers Aide representative who assisted 90-year old Shirley Macaulay from Riverside who lost her jacket. Council Member Dorst-Porada said that Volunteer Elenor Solorzano gave her jacket to the traveler who was en route to Michigan. Ten days later the woman brought it back and Ms. Dorst-Porada said she was thrilled by the story.

Mayor Leon said he often participates in an aerobics class at 8:00 a.m. at Munoz Park and believes in a Healthy Ontario; he encouraged community members to participate.

City Manager Hughes announced that Council Members will return to Closed Session at the conclusion of this meeting.

ADJOURN TO CLOSED SESSION

Council Members thereupon adjourned to Closed Session at 8:01 p.m. Mayor Leon announced the next regular meeting will be held on Tuesday, February 5, 2013.

RECONVENE IN OPEN SESSION ADJOURNMENT

At 8:18 p.m., Council Members reconvened in Open Session and announced that no reportable action had been taken in Closed Session after which they adjourned the Joint Meetings.

Respectfully submitted,



MARY E. WIRTES, MMC, CITY CLERK/ SECRETARY

APPROVED:



PAUL S. LEON, MAYOR/ CHAIRMAN