

**ONTARIO CITY COUNCIL
ONTARIO HOUSING AUTHORITY
MINUTES
June 4, 2013**

JOINT MEETINGS

Regular meetings of the Ontario City Council and Ontario Housing Authority were held on Tuesday, June 4, 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 the Closed Session items. Hearing none, he advised that all members were present and thereupon adjourned to Closed Session for discussions as follow:

- GC 54957.6, CONFERENCE WITH LABOR NEGOTIATOR: Chris Hughes regarding American Federation of State, County and Municipal Employees; San Bernardino Public Employees Association; Confidential Group; Management Group; Department Heads; and Executive Management.
- GC 54956.9(b), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION: One (1) or more cases: City of Los Angeles/Los Angeles World Airports (LAWA).
- GC 54956.9(d)(4), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION: One (1) or more cases.

CALL TO ORDER

The Mayor called the City Council/ Housing Authority meetings to order at 6:38 p.m., and requested that the Assistant City Clerk 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:	Council/Authority Members:	None
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Also present were City Manager/ Executive Director Chris Hughes, City Attorney/ Legal Counsel John Brown and Assistant City Clerk/ Secretary Vicki Kasad.

The Pledge of Allegiance was led by Council Member Avila.

The Invocation was provided by Rabbi Gil Alchadeff, Temple Sholom of Ontario.

CLOSED SESSION REPORT

City Attorney Brown advised that there was no reportable action from Closed Session, but noted that the matter listed as anticipated litigation on the agenda, was now a matter of pending litigation being the City of Ontario v. City of Los Angeles, Los Angeles World Airports; and Los Angeles Board of Airport Commissioners (Case #1306498).

AGENCY REVIEW/ ANNOUNCEMENTS

City Manager Hughes advised Council Members they had been provided with copies of correspondence and updated resolutions regarding Item 21. City Attorney Brown noted that after meetings with Southern California Edison this afternoon, the resolutions had been amended to include narrative descriptions of the proposed easements.

PUBLIC COMMENT

Petrina Delman & Randi Campbell, representing Ontario Heritage, announced the upcoming Historic Home Tour on June 8 from 10 a.m. to 5 p.m. They indicated that there will be five historic Ontario homes open for tours, and the group will offer tickets outside this meeting during the recess. They thanked the City, the Planning Department including Rudy Zeledon, the five homeowners, and volunteers for their assistance in planning this year's event. They encouraged everyone to become members of the Ontario Heritage organization and offered membership forms.

Henry Lopez requested that the City require trash cans to be placed in the shopping center located at 1800 South Euclid. He explained that it is a big shopping center and trash is always on the grass, along Euclid, or in his front yard. He also noted a panel truck parked in the parking lot with advertising for an insurance company which also has a billboard at the location. He indicated that it is unsightly and questioned the need for the van in addition to the billboard.

Albert Sabala expressed concern with a recycling center that opened in his neighborhood, at 612 West Park, in October of last year. He estimated that there are 40 to 50 trucks per day bringing recyclable materials in. Mr. Sabala noted that he had already spoken with the Code Enforcement Department and the Police Department who reportedly were working with the business. Mayor Leon directed Mr. Sabala to staff, as he believed the business was in the process of leaving the location. City Manager Hughes confirmed that the business was in fact moving out of this location.

Edward Sabala expressed concern with train whistles in the area, which are very loud and blaring and can cause hearing damage. He noted that there are “no blowing” zones in the City of Pomona.

Charis Dion read a letter from her aunt, Beth Fineman, regarding a traffic problem at the intersection of Graeagle Way and Mill Creek Avenue in the vicinity of Colony High School. She provided suggestions for street striping to alleviate the problems. City Manager Hughes referred her to City Engineer Abi-Younes for assistance.

SPECIAL CEREMONIES

13TH ANNUAL MODEL COLONY AWARDS PROGRAM

Mayor Leon introduced the Planning Commissioners present at this meeting. Planning Director Blum explained that in connection with National Historic Preservation Month, the City presents its annual Model Colony awards in the categories of Rehabilitation, Landscape and Merit. He detailed the historic districts in place and projects underway and previously completed within the City. He detailed the four awards for this year being:

Rehabilitation Award: For achievement in the exterior and interior rehabilitation of a historic property.

Recipient: The Lester Stroh House, 123 East La Deney Drive. Owned by *Cliff Perry and Karen Starr*.

Rehabilitation Award: For achievement in the exterior and interior rehabilitation of a historic property.

Recipient: The Mrs. W. L Poole House, 408 East Rosewood Court. Owned by *Edward and Stacy Jaureguy*.

John S. Armstrong Landscape Award: For Achievement in the landscape restoration of a historic property

Recipient: The A.J. Linkey House No. 2, 1003 North Euclid Avenue. Owned by *John and Mary Federico*.

Award of Merit: For achievement in the ongoing preservation of a historic property.

Recipient: The Carrie A. Vaughn House, 314 West H Street. Owned by *Andrew and Andreana Rabb*.

Council Member Dorst-Porada thanked the homeowners for their ongoing efforts, noting that the work is never done; and she appreciated their hard work.

Council Member Wapner congratulated the homeowners on their hard work and thanked them for uplifting the view of the City and improving their neighborhoods.

Mayor pro Tem Bowman congratulated the homeowners on their labors of love, calling their work and their properties “Ontario’s treasures”.

Council Member Avila commented that he was overwhelmed by the work that had been done, and noted that it gives him a sense of pride and reminds him why he lives in the City. He thanked the homeowners for their work.

Mayor pro Tem Bowman thanked the Planning Commission and the Ontario Heritage Group for their fine selections of the award winners.

Mayor Leon commented on the work that goes into restoring an old property and concurred that it is truly a labor of love. He commented on what the improvements do for the surrounding area and noted that there are diamonds in the rough all over town. He expressed pride in the efforts of these homeowners.

Planning Director Blum called each award winner forward to be recognized, receive their award and have photographs taken with the City Council and Planning Commission.

THE JOINT MEETINGS WERE RECESSED AT 7:21 P.M. FOR A CELEBRATORY RECEPTION.

THE JOINT MEETINGS RECONVENED AT 7:46 P.M.

JOINT AGENCIES CONSENT CALENDAR

Mayor Leon requested that Item #9 be pulled from the Consent Calendar for separate action.

MOTION: Moved by Mayor pro Tem Bowman, seconded by Council Member Wapner, and carried by unanimous vote, the Joint Agencies approved the following Consent Calendar items as recommended.

1. APPROVAL OF MINUTES

Approved the Minutes for the regular meeting of the City Council and Housing Authority of April 16, 2013 and May 7, 2013, as on file in the Records Management Department.

2. BILLS/PAYROLL

Approved **Bills** for the period of April 7, 2013 through May 4, 2013, in the amount of \$21,135,486.41 and **Payroll** for the period April 7, 2013 through May 4, 2013, in the amount of \$4,651,712.53 when audited by the Finance Committee.

3. A RESOLUTION OF INTENT TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 20 OF THE CITY OF ONTARIO AND AUTHORIZE THE ASSOCIATED LEVY OF SPECIAL TAXES

The City Council:

- (A) Accepted the written petition from Wal-Mart Stores, Inc., a Delaware corporation, to create a community facilities district (“CFD”) and to waive certain procedural matters under the Mello-Roos Community Facilities Act of 1982; and
- (B) Adopted a resolution of intent to establish Community Facilities District No. 20 of the City of Ontario; authorizing the levy of special taxes therein; and setting a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, July 16, 2013.

RESOLUTION NO. 2013-035 A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO 20. AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

4. A RESOLUTION OF INTENT REGARDING THE ISSUANCE OF TAX-EXEMPT BONDS AND REIMBURSEMENT TO THE CITY FROM BOND PROCEEDS FOR WATER SYSTEM AND IMPROVEMENTS COSTS

The City Council adopted a resolution of intent regarding the City’s issuance of tax-exempt obligations and to reimburse the City from proceeds of such obligations for water system and improvements costs incurred prior to issuance.

RESOLUTION NO. 2013-036 A RESOLUTION OF INTENT OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, REGARDING THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS AND TO REIMBURSE THE CITY FROM PROCEEDS OF SUCH OBLIGATIONS FOR COSTS INCURRED PRIOR TO ISSUANCE (WATER SYSTEM IMPROVEMENTS/CITY CAPITAL IMPROVEMENTS).

5. RESOLUTIONS AUTHORIZING THE EXECUTION OF A JOINT EXERCISE OF POWERS AGREEMENT BY AND BETWEEN THE CITY OF ONTARIO AND THE ONTARIO HOUSING AUTHORITY CREATING THE ONTARIO PUBLIC FINANCING AUTHORITY

The City Council of the City of Ontario and the Ontario Housing Authority Board adopted resolutions authorizing the execution and delivery of a Joint Exercise of Powers Agreement (on file in the Records Management Department) by and between the City of Ontario and the Ontario Housing Authority creating the Ontario Public Financing Authority.

RESOLUTION NO. 2013-037 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF A JOINT EXERCISE OF POWERS AGREEMENT BY AND BETWEEN THE CITY OF ONTARIO AND THE ONTARIO HOUSING AUTHORITY.

RESOLUTION NO. OHA-073 A RESOLUTION OF THE ONTARIO HOUSING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF A JOINT EXERCISE OF POWERS AGREEMENT BY AND BETWEEN THE CITY OF ONTARIO AND THE ONTARIO HOUSING AUTHORITY.

6. FISCAL YEAR 2012-13 THIRD QUARTER BUDGET REPORT

The City Council approved the budget adjustments and recommendations as listed in the Fiscal Year 2012-13 Third Quarter Budget Report.

7. AGREEMENT FOR RECORDS AND ARCHIVE STORAGE MANAGEMENT AND CERTIFIED DESTRUCTION SERVICES/DOCU-TRUST

The City Council authorized the City Manager to execute a three-year letter of agreement with Laguna Vault, LLC dba Docu-Trust, of San Bernardino, California, for records and archive storage/management and certified destruction with an annual estimated cost of \$30,000; and authorize up to two one-year extensions under the same terms, conditions, and billing rates for a total five-year estimate of \$150,000.

8. RESOLUTION PERTAINING TO DECLARED PRIMA FACIE SPEED LIMITS ON CERTAIN STREETS WITHIN THE CITY

The City Council adopted a resolution rescinding Resolution 2011-068, and declaring prima facie speed limits on certain streets within the City.

RESOLUTION NO. 2013-038 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, RESCINDING RESOLUTION 2011-068 AND DECLARING PRIMA FACIE SPEED LIMITS ON CERTAIN STREETS WITHIN THE CITY.

10. REJECTION OF BIDS RECEIVED FOR THE FY 2012/2013 SLURRY SEAL PROGRAM, BRIDGE APPROACH IMPROVEMENT AND CDBG-FUNDED BEGONIA AVENUE STREET LIGHTING AND SLURRY SEAL PROJECT

The City Council rejected all bids received to date in connection with the FY 2012/2013 Slurry Seal Program, Bridge Approach Improvement and CDBG-Funded Begonia Avenue Street Lighting and Slurry Seal Project.

11. CONSTRUCTION CONTRACT FOR CDBG ENERGY EFFICIENT STREET LIGHT PROJECT/FLATIRON ELECTRIC GROUP, LLC.

The City Council approved the plans and specifications, and awarded a construction contract to Flatiron Electric Group, LLC. of Chino, California, for the CDBG Energy Efficient Street Light Project (MS0901) for the bid amount of \$158,693 plus a five (5%) percent contingency in the amount of \$7,935 for a total authorized expenditure of \$166,628; authorize the City Manager to execute all related documents and file a notice of completion at the conclusion of construction activities.

12. RENTAL AGREEMENT WITH MT. SAN ANTONIO COLLEGE FIRE ACADEMY FOR TRAINING CENTER USAGE

The City Council authorized the City Manager to execute a one year agreement with Mt. San Antonio Community College District, of Walnut, California, for the rental of the City's Fire Training Center facilities in the amount of \$20,000.

13. RESOLUTIONS APPROVING A HOME PROGRAM PARTICIPATION AGREEMENT AMONG MERCY HOUSE LIVING CENTERS, ONTARIO HOUSING AUTHORITY AND THE CITY OF ONTARIO FOR THE SALE OF A MULTI-FAMILY PROPERTY LOCATED AT 412 NORTH PARKSIDE AVENUE; A SECOND AMENDMENT TO THE LEASE AGREEMENT FOR A MULTI-FAMILY PROPERTY LOCATED AT 411 NORTH PARKSIDE AVENUE BETWEEN THE AUTHORITY AND MERCY HOUSE LIVING CENTERS; AND FIRST AMENDMENTS TO THE LEASE AGREEMENTS FOR THE FRANCIS APARTMENTS LOCATED AT 307 – 311 WEST FRANCIS STREET AND A MULTI-FAMILY PROPERTY LOCATED AT 305 NORTH BEGONIA AVENUE BETWEEN THE AUTHORITY AND MERCY HOUSE CHDO

The City Council and the Board of the Ontario Housing Authority adopted resolutions approving the following agreements

- (A) HOME Program Participation Agreement for the disposition and rehabilitation for a multi-family property located at 412 North Parkside Avenue;
- (B) Lease Amendment for a multi-family property located at 411 North Parkside Avenue;
- (C) Lease Amendment for the Francis Apartments located at 307 – 311 West Francis Street; and
- (D) Lease Amendment for a multi-family property located at 305 North Begonia Avenue.

RESOLUTION NO. 2013-040 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A HOME PROGRAM PARTICIPATION AGREEMENT WITH THE ONTARIO HOUSING AUTHORITY AND MERCY HOUSE LIVING CENTERS REGARDING PROPERTY LOCATED AT 412 N. PARKSIDE AVENUE.

RESOLUTION NO. OHA-074 A RESOLUTION OF THE ONTARIO HOUSING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A HOME PROGRAM PARTICIPATION AGREEMENT WITH THE CITY OF ONTARIO AND MERCY HOUSE LIVING CENTERS AND A SECOND AMENDMENT TO LEASE AGREEMENT WITH MERCY HOUSE LIVING CENTERS REGARDING PROPERTY LOCATED AT 411 & 412 N. PARKSIDE AVENUE.

RESOLUTION NO. OHA-075 A RESOLUTION OF THE ONTARIO HOUSING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A FIRST AMENDMENT TO LEASE AGREEMENT WITH MERCY HOUSE CHDO, INC., REGARDING PROPERTY LOCATED AT 307 - 311 W. FRANCIS STREET.

RESOLUTION NO. OHA-076 A RESOLUTION OF THE ONTARIO HOUSING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A FIRST AMENDMENT TO LEASE AGREEMENT WITH MERCY HOUSE CHDO, INC., REGARDING PROPERTY LOCATED AT 305 N. BEGONIA AVENUE.

14. CONSTRUCTION CONTRACT FOR SEWER MAIN IMPROVEMENTS AT VARIOUS LOCATIONS/CP CONSTRUCTION COMPANY

The City Council:

- (A) Approved the project plans and specifications;
- (B) Authorized the withdrawal and return of the bid and bid bond submitted by MCC Equipment Rentals, Inc., of Yucaipa, California, due to bidder clerical errors;
- (C) Awarded Contract No. UT 1213-07 to CP Construction Company, Inc., of Ontario, California, for \$943,182 plus a 15% contingency (\$141,477) for a total authorization of \$1,084,659 for the Sewer Main Improvements at Various Locations Project; and authorized the City Manager to execute said contract and file a notice of completion at the conclusion of all construction activities related to the project.

15. ANNUAL MAINTENANCE CONTRACT FOR ON-CALL MAINTENANCE, REHABILITATION, INSPECTION AND URGENCY WELL REPAIRS/GENERAL PUMP COMPANY

The City Council award Bid No. UT1314-01 to General Pump Company of San Dimas, California, for on-call maintenance, rehabilitation, inspection and urgency well repairs in a not-to-exceed amount of \$794,054; and authorize the City Manager to execute a one-year maintenance contract and extend the contract for up to four additional years consistent with City Council approved budgets.

16. MAINTENANCE SERVICES AGREEMENT FOR THE WATER SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) COMPUTER PROGRAMMING SUPPORT SERVICES/FREEDOM AUTOMATION

The City Council authorize the City Manager to execute a one-year Maintenance Services Agreement with Freedom Automation of Oceanside, California, for the City's water Supervisory Control and Data Acquisition (SCADA) computer programming support services for a not to exceed amount of \$150,000; and, authorize the option to extend the agreement for up to four additional years consistent with City Council approved budgets.

17. MULTIPLE AGENCY MEMORANDUM OF UNDERSTANDING FOR COOPERATIVE EFFORTS TO MAINTAIN A SUSTAINABLE, HIGH QUALITY GROUNDWATER SUPPLY

The City Council authorized the City Manager to execute, subject to non-substantive changes required by member agencies, a Memorandum of Understanding (MOU) with the City of Upland, Inland Empire Utilities Agency, Chino Basin Desalter Authority, Jurupa Community Services District and Western Municipal Water District to provide for cooperative efforts to maintain sustainable, high quality groundwater supply in the Chino Basin.

18. AMENDED AND RESTATED WATER SERVICE AGREEMENT WITH SAN ANTONIO WATER COMPANY

The City Council approved the Amended and Restated Water Service Agreement with San Antonio Water Company (SAWCO) of Upland, California, subject to non-substantive changes; and authorized the City Manager to execute the agreement.

19. A LICENSE AGREEMENT FOR THE INSTALLATION OF A COMMUNICATIONS ANTENNA AT THE MILLIKEN LANDFILL/COUNTY OF SAN BERNARDINO

The City Council authorized the City Manager to execute a five-year license agreement, subject to non-substantive changes, with the County of San Bernardino for the installation of a communications antenna at the Milliken

Landfill; and authorized the extension of the agreement for up to four additional five-year terms.

MOTION UNANIMOUSLY CARRIED. The Mayor/Chairman declared Resolution Nos. 2013-035, 2013-036, 2013-037, 2013-038, and 2013-040, and Housing Authority Resolution Nos. OHA-073, OHA-074, OHA-075 and OHA-076 duly passed and adopted.

END OF JOINT CONSENT CALENDAR

DEFERRED ITEM

9. A RESOLUTION APPROVING FINAL TRACT MAP NOS. 18851 AND 18853

That the City Council adopt a resolution approving Final Tract Map Nos. 18851 and 18853 for property generally located at the northwest corner of Inland Empire Boulevard and Turner Avenue within the Ontario Festival Specific Plan area.

Council Member Dorst-Porada explained that the City Attorney had advised that she had no conflict of interest, but she chose to excuse herself from voting on this matter. Council Member Dorst-Porada left the Council Chambers.

MOTION: Moved by Council Member Wapner, seconded by Mayor pro Tem Bowman to adopt Resolution No. 2013-039. **MOTION CARRIED** by a vote to 4 to 0 with Council Member Dorst-Porada abstaining from vote.

RESOLUTION NO. 2013-039 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL TRACT MAP NOS. 18851 AND 18853.

PUBLIC HEARINGS

20. A PUBLIC HEARING TO CONSIDER ADOPTION OF A RESOLUTION ESTABLISHING THE GREATER ONTARIO TOURISM MARKETING DISTRICT AND ASSESSMENT OF AN ASSOCIATED 2% LEVY

The City Council held a public hearing to consider adoption of a resolution establishing the Greater Ontario Tourism Marketing District (GOTMD) and the assessment of a 2% levy to fund the District.

Notice of public hearing was duly given and affidavits of compliance are on file in the Records Management Department. One written communication was received in opposition to the proposed action from Cory J. Briggs, Briggs Law Corporation.

The Mayor opened the public hearing, no one requesting to be heard, the public hearing was closed.

Council Member Wapner thanked Michael Krouse, President and CEO, Ontario Convention Center and Visitors Bureau, for leading the charge on this action. He further thanked the hoteliers for their support, noting that it will be a huge benefit to the region with expanded marketing efforts. Council Member Wapner commented that this will operate essentially like a Business Improvement District, which in other cities have been very beneficial.

Mayor pro Tem Bowman commented that Michael Krouse is a dynamo who blends perfectly with City staff. He thanked Mr. Krouse for his contributions.

MOTION: Moved by Council Member Wapner, seconded by Council Member Dorst-Porada and unanimously carried to adopt Resolution No. 2013- 041 establishing the Greater Ontario Tourism Marketing District and the associated assessment of a 2% levy to fund the District.

RESOLUTION NO. 2013-041 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING THE RESULTS OF MAJORITY PROTEST PROCEEDINGS AND ESTABLISHING THE GREATER ONTARIO TOURISM MARKETING DISTRICT

21. A PUBLIC HEARING TO CONSIDER ADOPTION OF RESOLUTIONS OF NECESSITY FOR THE ACQUISITION OF EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY

The City Council held a public hearing to:

- (A) Consider the adoption of Resolutions of Necessity and provide all parties interested in the affected properties, their attorneys or representatives, an opportunity to be heard on the issues relevant to the Resolutions of Necessity; and
- (B) Make the following findings as hereinafter described in this report:
 - (1) The public interest and necessity require the proposed project;
 - (2) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
 - (3) The portions of real property to be acquired are necessary for the project;
 - (4) The offers of just compensation have been made to the property owners; and
- (C) Adopt Resolutions of Necessity declaring that the acquisition of easement interests in portions of certain real property, more particularly described as

APNs 156-020-044; 156-020-048; and 156-020-049 (all located in Riverside County) by eminent domain are necessary for public right-of-way and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements in the City of Ontario, San Bernardino County, California.

Notice of public hearing was duly given and affidavits of compliance are on file in the Records Management Department. Proofs of mailing of the notices to the affected property owners are also on file.

Written communications were received from attorneys representing two property owners: 12450 Philadelphia LLC, JW Mitchell and Sears Holding Management Corporation.

Mayor Leon opened the public hearing, noting three requests to speak.

Ivor Samson, representing Sears, the sole tenant in the building owned by J.W. Mitchell, indicated that they are a distribution facility for Sears and K-Mart Stores. He noted that he had represented public agencies in condemning property and property owners in the past, but in his 40 year career he had only challenged this type of action three times including tonight. He stressed that he does not take this action lightly, but indicated that the proposed resolution is wrong as a matter of law. He indicated that SCE for reasons not disclosed is trying to get the City to engage in an improper condemnation. He explained that the location and scope of the easements will have severe impacts on the proposed property and operation of the facilities as outlined in the May 30, 2013 letter. He estimated the impact to be in excess of five million dollars, and would not meet the legal standard of the best public good. He indicated that there were other less intrusive locations available which the City and Edison have not considered because Edison had dismissed them as too expensive. He stressed that the Council could not in this case make the finding that the action represents the greatest public good; and the City would be stuck with a lot of needless costs. He requested that the Council consider less intrusive alternatives.

Doug Evertz, representing J.W. Mitchell, echoed the comments of Mr. Samson, and noted he was recently before the City Council on another condemnation project where they were proposing design alternatives. He indicated that they had worked well with staff and the attorneys on that project but there were no Edison easements in play at that time. He indicated that initially three alternatives had been presented, and stressed that the resolution of necessity requires that the least injurious alternative be utilized. He explained that he did not agree that other alternatives were not feasible.

Rick Friess, stated that he represented the second property owner, and suggested that something broke down in this process. He explained that something had occurred between the City and Edison, and his clients received

an offer with very little consultation, which did not include the actual easements. He further explained that some version of the easements description was delivered late today which had been rushed through the process. He requested that the Council not adopt the resolution as presented tonight.

Mayor Leon closed the public hearing.

Council Member Wapner noted that he had heard from more than one of these speakers the threat of litigation and requested an adjournment to closed session to consider this issue. City Attorney Brown concurred that a brief closed session would be appropriate, but encouraged the Council to limit the discussion to the potential exposure issue.

THE MEETING WAS ADJOURNED TO CLOSED SESSION AT 8:02 P.M.

THE MEETING RECONVENED AT 8:16 P.M.

City Attorney Brown commented that the Council rarely exercises the power of eminent domain and does so with great reluctance. He indicated that it is always hoped that it will be possible to resolve the matters short of having to go to court. He expressed appreciation to the property owners present at this meeting, and indicated that if the Council exercised its discretion to adopt the resolution tonight, the City would do everything possible to address the concerns on record, so this matter would never have to go to court.

Mayor pro Tem Bowman indicated that having heard from the City Attorney regarding the threat of litigation, knowing the efforts that had gone into resolving this matter, and the City's desire to continue the process of working on addressing the concerns presented he supports the recommendation to adopt the resolution.

MOTION: Moved by Mayor pro Tem Bowman, seconded by Council Member Dorst-Porada and unanimously carried to adopt Resolutions of Necessity Nos. 2013-042 and 2013-043, based on the following findings.

- (1) The public interest and necessity require the proposed project.
- (2) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury.
- (3) The portions of real property to be acquired are necessary for the project; and
- (4) The offers of just compensation have been made to the property owners.

RESOLUTION NO. 2013-042 A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF STRUCTURE, ACCESS, CONSTRUCTION AND MAINTENANCE EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY

LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 156-020-044 BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA

RESOLUTION NO. 2013-043 A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF STRUCTURE, ACCESS, CONSTRUCTION AND MAINTENANCE EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NOS. 156-020-048 AND 156-020-049 BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

22. **A PUBLIC HEARING TO CONSIDER FILE NO. PHP13-001, THE DESIGNATION OF THE EUCLID AVENUE HISTORIC DISTRICT, WHICH INCLUDES ALL PROPERTIES WITH EUCLID AVENUE FRONTAGE, BOUND BY G STREET TO THE SOUTH AND THE I-10 TO THE NORTH, AS A LOCAL HISTORIC DISTRICT**

The City Council held a public hearing to consider adoption of a resolution approving File No. PHP13-001 designating the properties which front Euclid Avenue, bound by G Street to the south and the I-10 freeway to the north, as a local historic district.

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

The Mayor opened the public hearing, no one requesting to be heard, the public hearing was closed. There were no written communications.

MOTION: Moved by Council Member Dorst-Porada, seconded by Council Member Avila and unanimously carried to adopt Resolution No. 2013-044 designating the Euclid Avenue Historic District.

RESOLUTION NO. 2013-044 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PHP13-001, THE DESIGNATION OF THE EUCLID AVENUE HISTORIC DISTRICT, WHICH

FRONT ONTO EUCLID AVENUE BOUND BY G STREET TO THE SOUTH AND THE I-10 TO THE NORTH, A LOCAL HISTORIC DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF – VARIOUS APN'S.

23. A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE POLICY PLAN (GENERAL PLAN) COMPONENT OF THE ONTARIO PLAN (FILE NO. PGPA12-002) REVISING THE MOBILITY ELEMENT

The City Council held a public hearing to consider adoption of a resolution approving File No. PGPA12-002, an Amendment to the Mobility Element of the Policy Plan: Figure M-3: Multipurpose Trails and Bikeway Corridor Plan.

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

The Mayor opened the public hearing, no one requesting to be heard, the public hearing was closed. There were no written communications.

MOTION: Moved by Council Member Dorst-Porada, seconded by Mayor pro Tem Bowman and unanimously carried to adopt Resolution No. 2013-045 adopting an amendment to the policy plan component of the Ontario Plan, revising the mobility element.

RESOLUTION NO. 2013-045 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PGPA12-002, A GENERAL PLAN AMENDMENT TO REVISE THE MOBILITY ELEMENT OF THE POLICY PLAN, FIGURE M-3: MULTIPURPOSE TRAILS AND BIKEWAY CORRIDOR PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF.

COUNCIL MATTERS

Council Member Dorst-Porada reminded the community of the Historic Home Tour on Saturday.

Mayor Leon announced the California Sports Hall of Fame induction ceremony to be held on Sunday at the Ontario Convention Center. He indicated that this year's honorees will include Joe Montana, John Robinson, Greg Louganis, Luc Robitaille, Tony Guinn, and Florence Griffith Joyner. He noted that there would also be a special presentation for the Inland Empire Coach of the Year, and a special presentation in honor of Deacon Jones, a lifelong member of the Los Angeles Rams.

Mayor pro Tem Bowman commented on the beautiful Memorial Day service at Bellevue Cemetery. He indicated that Gary Ovitt delivered the message, Jack Mercer's Band provided the music, and the Ontario Police Department provided a rifle salute in honor of fallen soldiers. He also noted that the event included a playing of Taps, a bag piper, a fly over and a release of doves.

Council Member Avila offered compliments to the veterans, noting that he was a Vietnam veteran. He noted a recent breakfast with Mayor pro Tem Bowman and commended him on his knowledge of the Spanish language and Latino culture. Council Member Avila commented on his attendance at a window and doors business grand opening and his conversation with the owner about the potential of starting a new Mexican-American Chamber of Commerce. Avila advised that he had begun walking Ontario's neighborhoods and introducing himself which gave an opportunity to talk to residents and hear both their positive comments and complaints. Council Member Avila then commented on a recent visit to a fire station and the information he received regarding the City's Opticom™ equipment for traffic signals and the diesel exhaust system installed at all fire stations. He reminded the community that he is still in the learning process, as his history and experience is in other fields. He commented on his past experiences and how they have contributed to his persistent and competitive leadership style. Council Member Avila also discussed the upcoming State office election.

STAFF MATTERS

Staff had no comments.

ADJOURNMENT

Mayor Leon adjourned the joint meetings at 8:35 p.m., and announced the next regular meetings on June 18, 2013, in the City Hall Council Chambers.

Respectfully submitted,



VICKI KASAD, MMC, ASSISTANT CITY CLERK/ SECRETARY

APPROVED:



PAUL S. LEON, MAYOR/ CHAIRMAN