

**MINUTES OF THE CITY COUNCIL
OF THE CITY OF FONTANA
REGULAR MEETING
SEPTEMBER 23, 2009**

WORKSHOP

A workshop meeting of the Fontana City Council was held on Wednesday, September 23, 2009, in the City of Fontana Council Chambers, 8353 Sierra Avenue, Fontana, CA. Mayor Pro Tem Warren called the workshop to order at 5:05 p.m.

ROLL CALL: Present: Mayor Nuaimi (arrived at 5:11 p.m.), Mayor Pro Tem Warren, Council Members Roberts, Rutherford, and Scialdone.

Absent: None.

Presentation on readiness of the Office of Emergency Management (Laura Wolbert, Emergency Services Technician)

Following agenda review and City Manager comments, the meeting adjourned at 5:49 p.m. to the Closed Session.

REGULAR CITY COUNCIL MEETING

The Regular Meeting of the City of Fontana City Council was held on Wednesday, September 23, 2009, in the City of Fontana Council Chambers, 8353 Sierra Avenue, Fontana, CA. Mayor Nuaimi called the meeting to order at 7:12 p.m.

ROLL CALL: Present: Mayor Nuaimi, Mayor Pro Tem Warren, Council Members Roberts, Rutherford, and Scialdone.

Absent: None.

Following the Invocation by Pastor Daniel Vasquez, Up Word Ministry, the Pledge of Allegiance was led by Mayor Nuaimi.

CLOSED SESSION:

The City Attorney stated the City Council met in closed session to discuss the following item and the matter be continued to after tonight's meeting.

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT
CODE**

SECTION 54957

Title of Position: Chief of Police

CITY COUNCIL MINUTES
SPECIAL PRESENTATIONS:

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- A. Mayor and Council recognized Officer David Campa and Officer Brian Binks as the July 2009 "Employees of the Month." Chief Rod Jones presented each officer with a plaque.
- B. Mayor and Council proclaimed October 4-10, 2009, as "Fire Prevention Week". Mayor presented the proclamation to Fire Chief Terry Welsh.
- C. Mayor and Council recognized Fontana Days Run Sponsors. Mayor introduced Rob Bock, Community Services Department Supervisor to announce the sponsors.

PUBLIC COMMUNICATIONS

The following Public Communications were received:

Randall Reed, Fontana Project Foundation, spoke regarding the Frontier Green Tie Gala.

Randy Campbell, 16650 Arrow Blvd, Fontana Freemasons, spoke regarding service group signs.

Raymond Herrera, P. O. Box 403275, Hesperia, We the People, spoke regarding 287G.

Robin Huidston, Upland, We the People California Crusader, spoke regarding 287(g) immigration article that was printed in the Herald News, on September 4th.

Jesse He, 13722 Baboa Ct, spoke regarding agenda at hand.

Mrs. Lynda Gonzalez, P.O. Box 310454, spoke regarding the Business Women's Summit, held at the Lewis Library and Technology Center on September 18, 2009.

CONSENT CALENDAR

- A. Approving the minutes of the September 9, 2009 regular City Council meeting.
- B. Adoption of Ordinance
 - (1) Adopting **Ordinance No. 1605**, approving Amendment No. 09-007 and amendment of the Citrus Heights North Specific Plan Development Agreement.
- C. Approving a Lien Agreement for Track No. 16800
 - (1) Authorizing the City Manager to execute a Lien Agreement to secure construction of subdivision improvements for Tract No. 16800.
 - (2) Authorizing the release of the Performance/Labor and Materials Bond No. 4360824.

- D. Final Acceptance of Subdivision Improvements for Tract No. 16809
- (1) Accepting as complete the subdivision improvements for Tract No. 16809 located west of Maple Avenue and north of Arrow Boulevard.
 - (2) Adopting **Resolution No. 2009-083**, accepting sewers in Tract No. 16809 as part of the City sewer system.
- E. Final Acceptance of Subdivision Improvements for Tract No. 16852
- (1) Accepting as complete the subdivision improvements for Tract No. 16852 located west of Poplar Avenue and south of Randall Avenue.
 - (2) Adopting **Resolution No. 2009-084**, accepting sewers in Tract No. 16852 as part of the City sewer system.
- F. Final Acceptance of Subdivision Improvements for Tract No. 2183
- (1) Accepting as complete the subdivision improvements for Tract No. 2183 located west of Locust Avenue and north of Foothill Boulevard.
 - (2) Adopting **Resolution No. 2009-085**, accepting sewers in Tract No. 2183 as part of the City sewer system.
- G. Final Acceptance of the Construction of the Sierra Avenue Metal Beam Guard Rail Project.
- (1) Accepting as complete the work performed by Alcorn Fence Company for the construction of the Sierra Avenue Metal Beam SB-432-DE-09 Guard Rail Project.
 - (2) Approving the final construction amount of \$69,515.63.
 - (3) Authorizing the City Engineer to execute and file the Notice of Completion for City Project Bid Number SB-432-DE-09.
- H. Ratification of the election of the Project Area Committee in connection with Amendment No. 9 to the Redevelopment Plan No. 09-086 for the Southwest Industrial Park Redevelopment Project Area.
- (1) Adopting **Resolution No. 2009-086**, a Resolution of the City Council of the City of Fontana finding that all applicable procedures were followed in the election of the Project Area Committee for Amendment No. 9 to the Redevelopment Plan for Southwest Industrial Park Redevelopment Project Area.
- I. Approving a Resolution Adopting the List of Projects to be placed on the 2010 Regional Transportation Improvement Program.
- (1) Adopting **Resolution No. 2009-087**, certifying that the City of Fontana has the resources to fund the projects submitted for inclusion in the 2010 Regional Transportation Improvement Program and affirming its commitment to implement all of the projects submitted in the program.
- J. Approving the Measure I Five Year Capital Project and the Five Year Local Streets Program.
- (1) Adopting **Resolution No. 2009-088**, approving the Measure I Five Year Capital Project needs analysis and the Measure I Five Year Local Streets Program.

- K. Use of Sales Tax Revenue generated within Fontana's Western Sphere of Influence per the Memorandum of Understanding (MOU) between the City of Fontana and County of San Bernardino for Landscape Maintenance at the I-10 Freeway Interchange and Cherry Avenue.
- (1) Approving the County of San Bernardino's request to use sales tax revenues generated in the City of Fontana's Western Sphere of Influence as outlined in the terms of the Memorandum of Understanding (MOU) between the City of Fontana and the County of San Bernardino.
 - (2) Authorizing the City Manager to execute the agreement between the City of Fontana and the County of San Bernardino for the use of sales tax revenues per the MOU for landscape maintenance at the I-10 Freeway and Cherry Avenue Interchange.
- L. Approving the purchase of fitness equipment for Fontana Community Senior Center.
- (1) Authorizing purchasing to join in the cooperative bid process using General Services Administration (GSA) Contract GS-07F-92345 with Technogym USA Corp. to purchase, deliver and install fitness equipment.
 - (2) Authorizing the Purchasing to issue purchase orders by department with Technogym USA Corp. on an as-needed basis for the term of the GSA contract.

ACTION: Motion was made by Mayor Pro Tem Warren, seconded by Council Member Scialdone, and carried unanimously, to approve Consent Calendar Items "A-L":

PUBLIC HEARINGS:

- A. The Public hearing was opened regarding the adoption of Resolution of Necessity Staff presentation was given by Delia Mejia.
Written Communications were received from Martin Holiday and Mehrdad Fakhravar.
No one spoke in favor of adopting the resolution.
Speaking in opposition were Martin Holiday, 10803 Hillside Road, Alta Loma; and Mehrdad Avar, (a.k.a Mehrdad Fakhravar) 9285 9th Street, Rancho Cucamonga. Neither property owner challenged the City's right to acquire the property. They questioned the amount of compensation that should be paid for their individual properties. The public comment portion of the hearing was closed and after being informed of the findings necessary for passing the resolution, Council voted.

ACTION: Motion was made by Council Member Scialdone, seconded by Council Member Rutherford, and carried by a vote of 4-1, with Mayor Pro Tem Warren opposing:

- (1) Conduct the hearing to consider the adoption of the proposed Resolution of Necessity, including providing all interested parties of the affected property, their Attorneys or their representatives an opportunity to be heard on the issues relevant to the Resolution of Necessity;

(2) Making the following findings as hereinafter described in this report:
a. the public interest and necessity require the proposed project. b. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury. c. The real property to be acquired is necessary for the project. d. The offer of just compensation has been made to the property owner; and

(3) Adopting **Resolution No. 2009-091**, a Resolution of Necessity by the City Council of the City of Fontana, declaring the acquisition of fee interest and temporary construction easement interests in portions of real property located on Foothill Boulevard, more particularly described as Assessor's Parcel Numbers: 1110-141-14, 1110-151-22, 0230-062-41, 0230-081-06, and 0230-081-07, by eminent domain is necessary for street widening and related public infrastructure improvements to Foothill Boulevard, Fontana, California.

- B. Public hearing was opened regarding Approval of Specific Plan No. 04-006 Arboretum Specific Plan.
Staff presentation was given by Don Williams, AICP, and Charles Fahie, AICP
Speaking for the applicant were Bryan Goodman, Lewis, 1156 N. Mountain Avenue, Upland; Garth Chambers, North Fontana Investment Company LLC, 1156 N. Mountain Avenue; and, Ed Lyon, RMA Group Inc., 5906 Etiwanda Avenue, Rancho Cucamonga
Speaking in favor was Melinda Pure, FUSD, 9680 Citrus Avenue.
Speaking in opposition was Frank Jordan, John R. Byerly, Inc., 17822 Randall Avenue. The hearing was closed.

ACTION: Motion was made by Council Member Roberts, seconded by Council Member Scialdone, and carried unanimously:

(1) Adopting **Resolution No. 2009-089**, a Resolution of the City Council of the City of Fontana, California, certifying the Final Environmental Impact Report (FEIR) (State Clearinghouse No. 2006071109), adopting the Statement of Overriding Consideration proposed for the Final EIR, adopting the Mitigation Monitoring Program, adopting the Statement of Facts and Findings, directing staff to file a Notice of Determination that: the Final EIR has been completed in compliance with CEQA, and the State guidelines; the City Council has reviewed and analyzed the Final EIR before approving the project; and, the Final EIR reflects the independent judgment of the City;

(2) Adopting **Resolution No. 2009-090**, a Resolution of the City Council of the City of Fontana, California, approving General Plan Amendment No. 06-006
(a) an amendment of the General Plan Land Use Map to change the land use designation of approximately 275.7 gross acres of Residential Planned Community Commercial (R-PC) land, approximately 27.2 gross acres of Community Commercial (C-C) land, and approximately 189.6 gross acres of Regional Mixed Use (RMU) land to Multi-Family Residential (R-MF); (b)

amending the Circulation Master Plan Map by upgrading the street classification of Duncan Canyon Road (from Citrus Avenue to Sierra Avenue) and Cypress Avenue (from the project main entrance to Grapeland Street) from a secondary highway to primary highway; and, (c) modifying the General Plan Text to allow 3,000 square foot Single-Family Residential lots within an approved specific plan;

(3) Waiving further reading of and introduce **Ordinance No. 1606**, approving Zone Change No. 07-005, to change the zoning on approximately 275.7 gross acres of Residential Planned Community (R-PC) land, approximately 27.2 gross acres of Community Commercial (C-C) land, and approximately 231.6 gross acres of Regional Mixed Use (RMU) land to Specific Plan No. 27 to reflect the adoption of the Specific Plan, and that the reading of the title constitutes the first reading thereof;

(4) Waiving further reading of and introduce **Ordinance No. 1607**, approving Specific Plan No. 04-006 (Arboretum Specific Plan), and that the reading of the title constitutes the first reading thereof; and,

(5) Waiving further reading of and introduce **Ordinance No. 1608**, approving Development Agreement No. 09-001 (Arboretum Specific Plan Development Agreement), and that the reading of the title constitutes the first reading thereof.

- C. Public hearing was opened regarding Municipal Code Amendment No. 09-004 Staff presentation was given by Don Williams, AICP. No one spoke in favor or opposition. The hearing was closed.

ACTION: Motion was made by Council Member Rutherford, seconded by Mayor Pro Tem Warren, and carried unanimously:

(1) Find that the project is exempt pursuant to Section 15061 (b)(c) of the California Environmental Quality Act (CEQA), and direct staff to file the Notice of Exemption;

(2) Waiving further reading of and introduce **Ordinance No. 1609**, amending Chapter 15, Article XII, of the Fontana Municipal Code regarding Massage Establishments and Massage Technicians, and that the reading of the title constitutes the first reading thereof.

- D. Public hearing was opened regarding Quarterly Lien Action for delinquent Sewer, Rubbish and Weed Abatement Accounts Staff presentation was given by Dawn Brooks. No one spoke in favor or opposition. The hearing was closed.

ACTION: Motion was made by Council Member Scialdone, seconded by Mayor Nuaimi, and carried unanimously:

(1) Authorize staff to complete and record Lien Notices against real property for those sewer accounts sixty days or more delinquent as described in the Certified Lien List, and direct staff to forward recorded liens to the County for Collection;

(2) Authorizing staff to complete and record liens against real property for those Rubbish accounts more than ninety days delinquent as described in the Certified Lien List, and direct staff to forward recorded liens to the County for collection; and

(3) Adopting **Resolution No. 2009-092**, a Resolution of the City Council of the City of Fontana, adopting the Statement of Unpaid Expenses for Weed Abatement and imposing a lien against real property for payment thereof.

NEW BUSINESS:

- A. Election Ballot Measure relative to Fireworks
Staff presentation by City Manger Ken Hunt.

ACTION: Motion made by Council Member Scialdone, seconded by Council Member Roberts, and carried unanimously, directing staff to bring the Election Ballot Measure relative to Fireworks prohibition back to a future City Council Meeting for action to place the measure on the 2010 the November Ballot.

ELECTED OFFICIALS COMMUNICATIONS/REPORTS:

The following Elected Officials Communications were received:

Mayor Pro Tem Warren congratulated the Community Services and Public Works Division for the great award received at the League of California Cities Conference.

Mayor Pro Tem Warren congratulated the Sierra Lakes Elementary School PTA for the very successful golf tournament.

Mayor Pro Tem Warren congratulated the three Fontana Hometown heroes that were recognized during Fontana Days at the Los Angeles County Fair.

Mayor Pro Tem Warren stated Josie Gonzales will be receiving an award tomorrow night at the Latino Heritage Month Ceremony.

Mayor Pro Tem Warren reminded everyone that fire season is approaching and encouraged everyone to clear away the brush around their homes.

Council Member Scialdone encouraged everyone to be cautious and use common sense regarding cigarettes and other flammable material during the winds and fire season.

Council Member Scialdone stated he attended the League of California Cities

CITY COUNCIL MINUTES

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Conference from September 16-18, 2009 in San Jose and commented what a pleasure it is to work with a team who has prepared well for these lean times.

Council Member Scialdone informed the residents of the Southridge Community Meeting on October 1, 2009, and the Central City Community Meeting on October 5, 2009.

Council Member Scialdone commended staff on the Children's Safety Fair held last Saturday, September 19, 2009.

Council Member Roberts commented on the gloomy outlook he got from this year's League of California Cities Conference due to the current budget crunch; however, he did receive some very good information regarding redevelopment issues, and commended staff for the great award received for Fontana Park.

Council Member Roberts commended staff on the Children's Safety Fair last Saturday, September 19, 2009.

Council Member Roberts encouraged everyone to come out to the Mayor's Gala on Saturday, September 26, 2009 from 6:00 p.m. to 11:00 p.m., at the Jesse Turner Community Center.

Council Member Rutherford stated tickets are still available to the Mayor's Gala this weekend.

Council Member Rutherford reminded the residents of the Village of Heritage Community meeting on September 29, 2009, at the Heritage Middle School.

Mayor Nuaimi stated he attend the League of California Cities Conference in San Jose.

Mayor Nuaimi encouraged the residents to come out to the Healthy Air Walk at Fontana Park on Saturday, October 3, 2009.

Mayor Pro Tem Warren stated registration starts at 8:15 a.m. and the walk begins at 9:00 a.m.

Mayor Nuaimi thanked the Council Members who mentioned the Mayor's Gala, and stated there will be approximately three hundred people attending. He encouraged everyone to bring their checkbooks and reminded everyone this year's funds raised will go to the Fontana Boys and Girls Club.

Mayor Nuaimi gave an update on Fontana Pop Warner Bucks, and encouraged children to stay involved with sports.

CITY MANAGER COMMUNICATIONS:

Cancellation of the City Council Meetings of November 25, 2009, and December 23, 2009.

ACTION: Motion made by Council Member Scialdone, seconded by Council Member Rutherford, and carried unanimously, approving the cancellation of the City Council Meetings of November 25, 2009, and December 23, 2009, due to the holidays.

City Manager Ken Hunt reminded the City Council they would be adjourning this evening's meeting to the adjourned joint meeting with Cucamonga Valley Water District on September 29, 2009, then to the next regular City Council Meeting.

City Attorney Clark Alsop asked the City Council if they would be continuing the closed session item this evening.

By consensus, the City Council decided to continue the closed session item at a later date.

City Attorney Clark Alsop stated there had been no reportable action in this evening's closed session.

ADJOURNMENT

The City Council meeting adjourned by consensus, at 10:03 p.m. to the adjourned joint regular meeting with Cucamonga Valley Water District, on September 29, 2009, at 6:30 p.m. at 10440 Ashford, Rancho Cucamonga, CA 91730.

The next regular City Council meeting to be held on Wednesday, October 14, 2009, with a workshop at 5:00 p.m. in the Executive Conference Room, then to the regular meeting at 7:00 p.m. in the City of Fontana Council Chambers, 8353 Sierra Avenue, Fontana, CA.



Orvene Steenbock
City Clerk Assistant

THE FOREGOING MINUTES WERE APPROVED BY THE CITY COUNCIL
ON THE 14TH DAY OF OCTOBER 2009.



Tonia Lewis
City Clerk