

May 20, 2009

RANCHO CUCAMONGA
REDEVELOPMENT AGENCY, FIRE DISTRICT AND CITY COUNCIL
CLOSED SESSION MINUTES

A. CALL TO ORDER

The Rancho Cucamonga Redevelopment Agency, Fire District and City Council held a closed session on Wednesday, May 20, 2009, in the Tapia Room of the Civic Center located at 10500 Civic Center Drive, Rancho Cucamonga, California. The meeting was called to order at 5:35 p.m. by Chairman/President/Mayor Donald J. Kurth.

Present were Agencymembers/Boardmembers/Councilmembers: Rex Gutierrez, Sam Spagnolo, Diane Williams, Vice Chairman/Vice President/Mayor Pro Tem L. Dennis Michael and Chairman/President/Mayor Donald J. Kurth.

Also present were: Jack Lam, City Manager; Pamela Easter, Assistant City Manager; James Markman, City Attorney; John Gillison, Deputy City Manager/Administrative Services and Linda D. Daniels, Redevelopment Agency Director.

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B. ANNOUNCEMENT OF CLOSED SESSION ITEM(S)

Chairman/President/Mayor Donald J. Kurth announced the closed session items:

- B1. LABOR NEGOTIATIONS PER GOVERNMENT CODE SECTION 54954.2 TO GIVE JOHN GILLISON, DEPUTY CITY MANAGER AND PAMELA EASTER, ASSISTANT CITY MANAGER, DIRECTION IN REGARDS TO THE MEET AND CONFER PROCESS – *RDA, City, Fire*
- B2. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION PER GOVERNMENT CODE SECTION 54956.9(A) – *JR ENTERPRISES, LP V. CITY OF RANCHO CUCAMONGA – CASE NUMBER RCV 090728 - City*
- B3. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION PER GOVERNMENT CODE SECTION 54956.9(A) – *FREEDOM FROM RELIGION FOUNDATION, INC V. CITY OF RANCHO CUCAMONGA, AND LINDA DANIELS – CASE NUMBER 2:08-CV-07833-PA-PJW, UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CA, EASTERN DIVISION – RDA*

C. PUBLIC COMMUNICATIONS ON CLOSED SESSION ITEM(S)

No one was present to comment on the closed session item.

D. CONDUCT OF CLOSED SESSION

Closed session began at 5:35 p.m.

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E. CITY MANAGER ANNOUNCEMENTS

No announcements were made.

F. RECESS

The closed session adjourned at 6:55 p.m. with no action taken.

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G. REGULAR MEETING CALL TO ORDER – 7:00 P.M. COUNCIL CHAMBERS

The meeting of the Rancho Cucamonga Redevelopment Agency, Fire Protection District, and City Council reconvened in the Council Chambers of the Civic Center located at 10500 Civic Center Drive, Rancho Cucamonga, California. Chairman/President/Mayor Donald J. Kurth called the meeting to order at 7:06 p.m.

Present were Agencymembers/Boardmembers/Councilmembers: Rex Gutierrez, Sam Spagnolo, Diane Williams, Vice Chairman/Vice President/Mayor Pro Tem L. Dennis Michael and Chairman/President/Mayor Donald J. Kurth.

Also present were: Jack Lam, City Manager; Pamela Easter, Assistant City Manager; James Markman, City Attorney; Jim Frost, City Treasurer; John Gillison, Deputy City Manager/Administrative Services; Linda Daniels, Redevelopment Agency Director; Kevin McArdle, Community Services Director; James Troyer, Planning Director; Trang Huynh, Building and Safety Official; Mark Steuer, Director of Engineering Services; Peter Bryan, Fire Chief; Chief Joe Cusimano, Rancho Cucamonga Police Department; Debra McNay, Records Manager/Assistant City Clerk and Shirr'l Griffin, Deputy City Clerk.

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H. ANNOUNCEMENTS/PRESENTATIONS

H1. Presentation of a Proclamation to the United States Bureau of Census in recognition of the formation of the City of Rancho Cucamonga Complete Count Committee (CCC) – DRC2009-00047 Census 2010.

Mayor Kurth presented a Proclamation to Amos Young, Partnership Specialist in recognition of the formation of the City Complete Count Committee.

H2. Presentation of Proclamation to Cucamonga Valley Water District in recognition of "Water Awareness Month" May, 2009.

Mayor Kurth presented a Proclamation to Cucamonga Valley Water District Board Member James Curatalo Jr. in recognition of "Water Awareness Month".

H3. Announcement of the 2009/2010 Season of Performances for the Lewis Family Playhouse at the Victoria Gardens Cultural Center.

Susan Sluka-Kelley, Community Services Supervisor, announced the 2009/2010 Season of Performance for the Lewis Family Playhouse.

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I. PUBLIC COMMUNICATIONS

- I1. Sergio Martinez expressed his support of Councilmember Gutierrez.
- I2. Jose Carcelen referenced Item L.16 (Citywide Concrete Repair, Tree Removal and Tree Planting Annual Maintenance Agreement). He noted that two addendums were issued, one of which specifically stated that two licenses were required. He expressed a concern that the apparent low bidder did not have both licenses.
- I3. Guy Eisenbrey noted that the judicial system would determine the appropriate outcome and spoke about the development of friendships and the appearance of impropriety. He supported putting the development of the 1,200 acre project on hold.
- I4. Jerie Lee stressed that no charges have been made and noted the need to wait until the facts are in before jumping to conclusions.
- I5. Al Florez stated that people are innocent until proven guilty.
- I6. Leslie Grimes expressed concerns with the large campaign contributions being received and hoped that the investigation would continue until justice is done. She did not support the development of the 1,200 acre project.
- I7. Christian Cebullos expressed his support of Councilmember Gutierrez.
- I8. Jim Moffatt indicated that Councilmember Gutierrez has not been proven guilty and asked that he be given the benefit of the doubt.
- I9. Ty Larson expressed his support of Councilmember Gutierrez.
- I10. John Lyons supported the master aid agreement with ConFire and suggested that the use of text messaging be incorporated. He referenced the Victoria Gardens master plan amendment and requested that a traffic study be done to address any future residential parking in the center.
- I11. Peggy Quinn expressed her support of Councilmember Gutierrez and was disappointed that negative comments were being made about him.
- I12. Hilda Phillips noted that if justice needs to be done, the voters would decide. She thanked Chief Bryan and the Fire Department for their services to the community and commended the Cucamonga Valley Water District for their beautiful brochure.
- I13. Jim Frost stressed the importance of an accurate census. He presented a plaque to the City in appreciation of the support shown for the Run for the Wall XXI.
- I14. Ian Wagstaff indicated that the Discover Judo Martial Arts Club has been denied use of the dojo at the Cucamonga Middle School for an interclub tournament and requested assistance in resolving this concern.
- I15. Joel Valenzwella expressed his support of Councilmember Gutierrez and requested that the remaining City Council members refrain from commenting on the matter until it is resolved through the court system.
- I16. Mark Davidson supported the decorum of the meeting. He stressed the need to balance free speech with the protection of due process.
- I17. Marcus Solomon expressed his confidence that the matter would be resolved fairly and appreciated the hard work of all of the City Council members. He urged them to protect open space and build more skate parks.

I18. JoAnn Henkel expressed her support of Councilmember Gutierrez.

I19. Thomas Baroudos noted the traffic sign change at the Von's Plaza and the placement of a three way stop at that location. As there are still faint "STOP" marks on the ground, drivers are confused.

RECESS:

The meeting was recessed at 8:33 p.m.

RECONVENE:

The meeting was reconvened at 8:56 p.m. with all Agencymembers, Boardmembers and Councilmembers being present.

Jack Lam, City Manager, recommended that Agenda Item O.3. (Cancellation of the June 1 and June 3, 2009 Special Council meetings to discuss proposed 1200 acre project) be added to the agenda by urgency in light of the County Board of Supervisor's action on Tuesday to terminate the cooperative agreement. James Markman, City Attorney, indicated that the need to consider cancelling these meetings arose after the posting of the May 20, 2009 agenda last week.

MOTION: Moved by Williams, seconded by Spagnolo, to add Item O.3. to the City Council agenda. Motion carried 5-0.

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J. CONSENT CALENDAR – REDEVELOPMENT AGENCY

The following Consent Calendar items are expected to be routine and non-controversial. They will be acted upon by the Agency at one time without discussion. Any item may be removed by an Agencymember for discussion.

- J1. Approval of Minutes: May 6, 2009 (Regular Meeting)
- J2. Approval of Check Register dated April 30 through May 12, 2009, for the total amount of \$1,872,003.46.
- J3. Approval to receive and file current Investment Schedule as of April 30, 2009.
- J4. Approval to increase Contract No. 09-176/RA09-006 in the amount of \$37,396.67 to Mega Way Enterprises, and approve Contract Change Order No. 1 for increasing the block wall height for the construction of Foothill Boulevard and Etiwanda Sidewalks and Block Walls project, to be funded from RDA Funds, Acct. No. 2640801-5650/1670640-0 and appropriate an additional amount of \$37,396.67 to Acct. No. 2640801-5650/1670640-0 from RDA Fund balance.
- J5. Approval to accept the Epicenter Stadium Seat Replacement Project, Contract No. RA 08-018 as complete, retain the Faithful Performance Bond as a Guarantee Bond, release the Labor and Material Bond and authorize the City Engineer to file a Notice of Completion and approve the final contract amount of \$707,261.10.

RESOLUTION NO. RA 09-007

A RESOLUTION OF THE RANCHO CUCAMONGA REDEVELOPMENT AGENCY, RANCHO CUCAMONGA, CALIFORNIA, ACCEPTING THE EPICENTER STADIUM SEAT REPLACEMENT PROJECT, CONTRACT NO. RA 08-018 AND AUTHORIZING THE FILING OF A NOTICE OF COMPLETION FOR THE WORK

- J6. Approval to accept the Pacific Electric Trail Phase V Improvements, Contract No. 08-093 as complete, retain the Faithful Performance Bond as a Guarantee Bond, release the Labor and Material Bond, authorize the City Engineer to file a Notice of Completion and approve the final contract amount of \$1,135,978.11.

RESOLUTION NO. RA 09-008

A RESOLUTION OF THE RANCHO CUCAMONGA REDEVELOPMENT AGENCY, RANCHO CUCAMONGA, CALIFORNIA, ACCEPTING THE PACIFIC ELECTRIC TRAIL PHASE V IMPROVEMENTS, CONTRACT NO. 08-093 AND AUTHORIZING THE FILING OF A NOTICE OF COMPLETION FOR THE WORK

- J7. Approval to accept the Epicenter Stadium Handrail Fabrication and Installation Project, Contract No. RA08-034 as complete, release the bonds, retain the Faithful Performance Bond to act as a Maintenance Guarantee Bond, and authorize the Interim Public Works Services Director to file a Notice of Completion and approval the final contract amount of \$19,308.

RESOLUTION NO. RA 09-009

A RESOLUTION OF THE RANCHO CUCAMONGA REDEVELOPMENT AGENCY, RANCHO CUCAMONGA, CALIFORNIA, ACCEPTING THE PUBLIC IMPROVEMENTS FOR EPICENTER STADIUM HANDRAIL FABRICATION AND INSTALLATION AND AUTHORIZING THE FILING OF A NOTICE OF COMPLETION FOR THE WORK

MOTION: Moved by Spagnolo, seconded by Williams, to approve the staff recommendations in the staff reports contained within the Consent Calendar. Motion carried 5-0.

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K. CONSENT CALENDAR – FIRE PROTECTION DISTRICT

The following Consent Calendar items are expected to be routine and non-controversial. They will be acted upon by the Fire Board at one time without discussion. Any item may be removed by a Boardmember for discussion.

- K1. Approval of Minutes: May 6, 2009 (Regular Meeting)
- K2. Approval of Check Register dated April 30 through May 12, 2009, for the total amount of \$29,180.99.
- K3. Approval to receive and file current Investment Schedule as of April 30, 2009.

- K4. Approval of a Resolution Adopting a Memorandum of Understanding (FD 09-002) between the Rancho Cucamonga Fire Protection District and the *Fire Management Employees Group* for Fiscal Year 2009-10.

RESOLUTION NO. FD 09-017

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE RANCHO CUCAMONGA FIRE PROTECTION DISTRICT, RANCHO CUCAMONGA, CALIFORNIA, APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE DISTRICT AND FIRE MANAGEMENT EMPLOYEES RELATIVE TO WAGES, BENEFITS AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT FOR FISCAL YEAR 2009-10

- K5. Approval of a Resolution declaring results of a Special Election in Community Facilities District No. 85-1, Annexation No. 09-2 (RC66 Plaza LLC – APNs 0207-113-23 & 24)

RESOLUTION NO. FD 09-018

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE RANCHO CUCAMONGA FIRE PROTECTION DISTRICT, RANCHO CUCAMONGA, CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 85-1, DECLARING THE RESULTS OF A SPECIAL ELECTION IN COMMUNITY FACILITIES DISTRICT NO. 85-1, ANNEXATION NO. 09-2 AND ORDERING THE ANNEXATION OF SUCH PROPERTY TO COMMUNITY FACILITIES DISTRICT NO. 85-1

- K6. Approval to renew the existing agreement with Willdan Financial Services (FD 09-002) (formerly MuniFinancial) in the amount of \$14,650 for contract engineering services to update the County Assessor's tax rolls for Tax Year 2009/10 within Community Facilities District No. 85-1.

MOTION: Moved by Michael, seconded by Williams, to approve the staff recommendations in the staff reports contained within the Consent Calendar. Motion carried 5-0.

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L. CONSENT CALENDAR – CITY COUNCIL

The following Consent Calendar items are expected to be routine and non-controversial. They will be acted upon by the Council at one time without discussion. Any item may be removed by a Councilmember for discussion.

In response to the public comment made regarding Item L.17, James Markman, City Attorney, indicated that the double license requirement in the addendum was confusing. Possession of one type of license meets both license requirements.

- L1. Approval of Minutes: May 6, 2009 (Regular Meeting)
- L2. Approval of Check Register dated April 30 through May 12, 2009, and payroll ending May 12, 2009, for the total amount of \$1,831,756.37.
- L3. Approval to receive and file current Investment Schedule as of April 30, 2009.

- L4. Approval to authorize the advertising of the "Notice Inviting Bids" for the FY 2009/2010 Local Street Pavement Rehabilitation (Slurry Seal) and Parking Lot Resurfacing (Seal Coat) at Various Locations, to be funded from Prop 42 Traffic Relief Fund, Acct. No. 1190303-5650/1022190-0 for construction of said project.

RESOLUTION NO. 09-085

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING PLANS AND SPECIFICATIONS FOR THE FY 2009/2010 LOCAL STREET PAVEMENT REHABILITATION (SLURRY SEAL) AND PARKING LOT RESURFACING (SEAL COAT) AT VARIOUS LOCATIONS, IN SAID CITY AND AUTHORIZING AND DIRECTING THE CITY CLERK TO ADVERTISE TO RECEIVE BIDS

- L5. Approval for the purchase of five (5) Ford vehicles from Redlands Ford of Redlands, California, as per request for bid (RFB) #08/09-014 and authorize the expenditure of \$129,308.72, to be funded from Acct. No. 1712001-5604 (Equipment and Vehicle Replacement Fund).
- L6. Approval for the purchase of one (1) Ford E-350 Signal Maintenance Cargo Van from Downtown Ford of Sacramento, California, as per request for bid (RFB) #08/09-010, and authorize the expenditure of \$67,909.95 to be funded from Acct. No. 1712001-5604 (Vehicle and Equipment Replacement Fund) as approved in the FY 2008-2009 budget.
- L7. Approval to purchase seven (7) Traffic Controller Cabinets from Econolite, Inc., of Anaheim and authorize the expenditure of \$239,581.51, to be funded from Acct. No. 1712001-5603 (Equipment/Vehicle Replacement Fund), and appropriate \$39,581.51 from the Equipment/Vehicle Replacement Fund balance.
- L8. Approval to purchase seven (7) sets of six (6) 41-AMP and 40 sets of six (6) 51-AMP traffic signal replacement batteries from Interstate Battery as per request for bid (RFB) #08/09-012 and authorize the expenditure of \$79,711.42, to be funded from Acct. No. 1712001-5200 (Equipment/Vehicle Replacement Fund) as approved in the FY 2008-2009 budget.
- L9. Approval to award the purchase of one (1) lot of Hewlett Packard printers, plotters, miscellaneous equipment, and maintenance from Diltex, Inc., in the amount of \$134,094 per RFB #08/09-008 and authorize the expenditure of a 10% contingency in the amount of \$13,409, for a grand total of \$147,503, to be funded as follows: \$10,216 from 1714001-5200 (Computer Equipment/Technical Replacement Fund – Operations & Maintenance); \$102,252 from 1714001-5215 (Operations & Maintenance/Computer Equipment); \$22,713 from 1714001-5300 (Contract Services); and \$12,322 from 1714001-5605 (Capital Outlay-Computer Equipment).
- L10. Approval of Community Services Update Report.
- L11. Approval to increase Contract No. 09-176/RA09-006 in the amount of \$37,396.67 to Mega Way Enterprises, and approve Contract Change Order No. 1 for increasing the block wall height for the construction of Foothill Boulevard and Etiwanda Sidewalks and Block Walls project, to be funded from RDA Funds, Acct. No. 2640801-5650/1670640-0 and appropriate an additional amount of \$37,396.67 to Acct. No. 2640801-5650/1670640-0 from RDA Fund balance.

- L12. Approval to accept the bids received, award and authorize the execution of the contract in the amount of \$475,000.00 to the apparent low Bidder, *Elite Bobcat Service, Inc.* (CO 09-199), and authorize the expenditure of a 10% contingency in the amount of \$47,500 for the Victoria Park Lane Pavement Rehabilitation from Fairmont Way to Rochester Avenue and from 300' east of Day Creek Boulevard to Base Line Road, to be funded from Proposition 1B Funds, Acct. Nos. 1194303-5650/1686194-02, 1194303-5650/1687194-02 and 1194303-5650/1688194-02.
- L13. Approval to accept the bids received, award and authorize the execution of the contract in the amount of \$646,000 to the apparent low bidder, *Hardy & Harper, Inc.* (CO 09-200), and authorize the expenditure of a 10% contingency in the amount of \$64,600 for the Fiscal Year 2009/2010 Local Street Pavement Rehabilitation Overlay of Various Streets, Part 2, to be funded from Proposition 1B Funds, Acct. No. 1194303-5650/1022194-0 and appropriate \$715,000 to Acct. No. 1194303-5650/1022194-0 from Proposition 1B Fund balance.
- L14. Approval to accept the bids received, award and authorize the execution of the contract in the amount of \$135,211 to the apparent low bidder, *Hillcrest Contracting, Inc.* (CO 09-201), and authorize the expenditure of a 10% contingency in the amount of \$13,521.10 for the FY 2008/2009 Bus Bay, Driveway and ADA Access Ramp Improvements at Various Locations, to be funded from Measure "I" Fund and Pedestrian Grant Article 3 Fund, Acct. No. 1176303-5650/1150176-0 and 1214303-5650/1521214-0, respectively and appropriate \$ \$30,040.00 to Acct. No. 1214303-5650/1521214-0 from Pedestrian Grant Article 3 Fund balance.
- L15. Approval to accept the bids received, award and authorize the execution of the contract in the amount of \$341,974 to the apparent low bidder, *International Pavement Solutions, Inc.* (CO 09-202), and authorize the expenditure of a 10% contingency in the amount of \$34,197.40 for the Hillside Road Pavement Rehabilitation from West City Limit to Beryl Street, to be funded from Proposition 1B Funds, Acct. Nos. 1194303-5650/1682194-0 and 1194303-5650/1713194-0 and appropriate \$210,000 to Acct. No. 1194303-5650/1682194-0 and \$210,000 to Acct. No. 1194303-5650/1713194-0 from Proposition 1B Fund balance.
- L16. Approval to accept the bids received, award and authorize the execution of a contract effective July 1, 2009 through June 30, 2010 with *JDC, Inc.* (CO 09-203) of Rancho Cucamonga for the Citywide Concrete Repair, Tree Removal and Tree Planting Annual Maintenance Agreement, to be funded from Measure "I" Fund 1176303-5300 and authorize the City Manager or his/her designee to adjust the spending limit of said contract on an as-needed basis in accordance with the approved Public Works Services Department Concrete Contract Budget Line 5300, and authorize the City Manager or his/her designee to renew said contract upon mutual consent for additional one (1) year periods.
- L17. Approval of Improvement Agreement Extension for DRC2005-01060, located at the southern cul-de-sac terminus of Sierra Madre Avenue (south of Ninth Street), submitted by National Community Renaissance of California.

RESOLUTION NO. 09-086

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING IMPROVEMENT AGREEMENT EXTENSION AND IMPROVEMENT SECURITY FOR DRC2005-01060

- L18. Approval to release the Maintenance Guarantee Cash Deposit for DRC2003-00184, located on the north side of Valley View Street, submitted by Amethyst Estates, LLC.

- L19. Approval to accept Improvements, retain the Faithful Performance Bond in lieu of a Maintenance Bond, and file a Notice of Completion for improvements for DRC2006-00692, located on the south side of Arrow Route between Pecan Avenue and Hickory Avenue, submitted by Rancho Arrow Highway, LLC.

RESOLUTION NO. 09-087

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, ACCEPTING THE PUBLIC IMPROVEMENTS FOR DRC2006-00692 AND AUTHORIZING THE FILING OF A NOTICE OF COMPLETION FOR THE WORK

- L20. Approval to accept the Construction of Traffic Signal Interconnection System at 23 Locations project, Contract No. 08-052 as complete, retain the Faithful Performance bond as a Guarantee Bond, release the Labor and Material Bond, and authorize the City Engineer to file a Notice of Completion and approve the final contract amount of \$217,718.19.

RESOLUTION NO. 09-088

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, ACCEPTING THE CONSTRUCTION OF TRAFFIC SIGNAL INTERCONNECTION SYSTEM AT 23 LOCATIONS PROJECT, CONTRACT NO. 08-052 AND AUTHORIZING THE FILING OF A NOTICE OF COMPLETION FOR THE WORK

- L21. Approval to accept the Pacific Electric Trail Phase V Improvements, Contract No. 08-093 as complete, retain the Faithful Performance Bond as a Guarantee Bond, release the Labor and Material Bond, authorize the City Engineer to file a Notice of Completion and approve the final contract amount of \$1,135,978.11.

RESOLUTION NO. 09-089

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, ACCEPTING THE PACIFIC ELECTRIC TRAIL PHASE V IMPROVEMENTS, CONTRACT NO. 08-093 AND AUTHORIZING THE FILING OF A NOTICE OF COMPLETION FOR THE WORK

- L22. Approval to release the Letter of Credit for Parcel Map 16951, located on the west side of Hellman Avenue, approximately 1,100 feet of north of Church Street, submitted by Reiny and Diane Schneider.

MOTION: Moved by Michael, seconded by Spagnolo, to approve the staff recommendations in the staff reports contained within the Consent Calendar. Motion carried 5-0.

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M. CONSENT ORDINANCES

The following Ordinances have had public hearings at the time of first reading. Second readings are expected to be routine and non-controversial. The Agency, Fire Board, or Council will act upon them at one time without discussion. The City Clerk will read the title. Any item can be removed for discussion by an Agencymember, Boardmember, or Councilmember.

- M1. SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT DRC2008-00381 AND VICTORIA COMMUNITY PLAN AMENDMENT DRC2008-00383 - FOREST CITY ENTERPRISES, INC. - A proposed amendment to the text of the Victoria Community Plan to accommodate changes to the Victoria Gardens Master Plan (VGMP) and to clarify that the VGMP shall control the land uses in the VGMP area for the Victoria Gardens Regional Mixed Use Lifestyle Center, located in the eastern portion of the City of Rancho Cucamonga bordered by Foothill Boulevard to the south, Church Street to the north, Day Creek Boulevard to the west and Interstate I-15 to the east. Related Files: Environmental Impact Report DRC2008-00381, General Plan Amendment DRC2008-00384, Victoria Arbors Master Plan Amendment DRC 2009-00146, Victoria Gardens Master Plan Amendment DRC2009-00145 and Development Agreement Amendment DRC2008-00385. (M1 – M4 were considered together)

ORDINANCE NO. 813 (second reading)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING VICTORIA COMMUNITY PLAN AMENDMENT DRC2008-00383 CHANGING THE RESIDENTIAL AND COMMERCIAL STANDARDS AND MODIFYING VARIOUS TEXT IN THE COMMUNITY PLAN TO ACCOMMODATE THE AMENDED VICTORIA GARDENS MASTER PLAN ON APPROXIMATELY 174 ACRES OF LAND AND IS GENERALLY BOUNDED BY CHURCH STREET TO THE NORTH, FOOTHILL BOULEVARD TO THE SOUTH, I-15 TO THE EAST, AND DAY CREEK BOULEVARD TO THE WEST, AND MAKING FINDINGS IN SUPPORT THEREOF.

MOTION: Moved by Williams, seconded by Spagnolo, to adopt Ordinance Nos. 813 for second reading. Motion carried 5-0.

- M2. SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT DRC2008-00381 AND VICTORIA GARDENS MASTER PLAN AMENDMENT DRC2009-00145 - FOREST CITY ENTERPRISES, INC.- A proposed amendment to the Victoria Gardens Master Plan (VGMP) modifying "Permissible Building Areas" to reallocate Dwelling Unit and Commercial Office square footage, increase the average building heights and change building setback requirements within the Main Street Area, and clarifying permitted and conditionally permitted uses within the VGMP, located in the eastern portion of the City of Rancho Cucamonga bordered by Foothill Boulevard to the south, Church Street to the north, Day Creek Boulevard to the west and Interstate I-15 to the east. Related Files: Environmental Impact Report DRC2008-00381, General Plan Amendment DRC2008-00384, Development Agreement Amendment DRC2008-00385, Victoria Community Plan Amendment DRC2008-00383, Victoria Arbors Master Plan Amendment DRC 2009-00146. (M1 – M4 were considered together)

ORDINANCE NO. 814 (second reading)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING VICTORIA GARDENS MASTER PLAN AMENDMENT DRC2009-00145 MODIFYING THE MASTER PLAN TO ALLOW RESIDENTIAL USES IN THE MAIN STREET AREA, INCREASE THE AVERAGE HEIGHT IN THE MAIN STREET AREA TO 120 FEET, WITH A MAXIMUM OF 160 FEET, AMEND THE BUILDING SETBACK REQUIREMENTS FOR THE MAIN STREET AREA, AND CLARIFY PERMITTED AND CONDITIONALLY PERMITTED USES, GENERALLY BOUNDED BY CHURCH STREET TO THE NORTH, FOOTHILL BOULEVARD TO THE SOUTH, I-15 TO THE EAST, AND DAY CREEK BOULEVARD TO THE WEST; AND MAKING FINDINGS IN SUPPORT THEREOF

- M3. SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT DRC2008-00381 AND VICTORIA ARBORS MASTER PLAN AMENDMENT DRC2009-00146 - FOREST CITY ENTERPRISES, INC. - A proposed amendment to the text of the Victoria Arbors Master Plan to include references to the VGMP and clarify that the VGMP shall control the land uses in the VGMP area for the Victoria Gardens Regional Mixed Use Lifestyle Center, located in the eastern portion of the City of Rancho Cucamonga bordered by Foothill Boulevard to the south, Church Street to the north, Day Creek Boulevard to the west and Interstate I-15 to the east. Related Files: Environmental Impact Report DRC2008-00381, General Plan Amendment DRC2008-00384, Victoria Community Plan Amendment DRC2008-00383, Victoria Gardens Master Plan Amendment DRC2009-00145, and Development Agreement Amendment DRC2008-00385. (M1 – M4 were considered together)

ORDINANCE NO. 815 (second reading)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING VICTORIA ARBORS MASTER PLAN AMENDMENT DRC2009-00146 MODIFYING THE TEXT OF THE MASTER PLAN TO MAKE IT CONSISTENT WITH THE AMENDMENTS TO THE VICTORIA GARDENS MASTER PLAN PROPOSED BY DRC2009-00145, GENERALLY BOUNDED BY CHURCH STREET TO THE NORTH, FOOTHILL BOULEVARD TO THE SOUTH, I-15 TO THE EAST, AND DAY CREEK BOULEVARD TO THE WEST; AND MAKING FINDINGS IN SUPPORT THEREOF

- M4. SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT DRC2008-00381 AND DEVELOPMENT AGREEMENT AMENDMENT DRC2008-00385 - FOREST CITY ENTERPRISES, INC. - A proposed amendment to Development Agreement DA01-02 to incorporate General Plan Amendment DRC2008-00384; Victoria Community Plan Amendment DRC2008-00383; Victoria Arbors Master Plan Amendment DRC2009-00146 and Victoria Gardens Master Plan Amendment DRC2009-00145 into the vested rights applicable to the Victoria Gardens Regional Mixed Use Lifestyle Center, located in the eastern portion of the City of Rancho Cucamonga bordered by Foothill Boulevard to the south, Church Street to the north, Day Creek Boulevard to the west and Interstate I-15 to the east. Related Files: Environmental Impact Report DRC2008-00381, General Plan Amendment DRC2008-00384; Victoria Community Plan Amendment DRC2008-00383, Victoria Arbors Master Plan Amendment DRC 2009-00146, and Victoria Gardens Master Plan Amendment DRC2009-00145. (M1 – M4 were considered together)

ORDINANCE NO. 816 (second reading)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING THE THIRD AMENDMENT TO DEVELOPMENT AGREEMENT 01-02 FOR THE DEVELOPMENT OF VICTORIA GARDENS, GENERALLY BOUNDED BY CHURCH STREET TO THE NORTH, FOOTHILL BOULEVARD TO THE SOUTH, I-15 TO THE EAST, AND DAY CREEK BOULEVARD TO THE WEST, INCORPORATING AMENDMENTS TO THE GENERAL PLAN, VICTORIA COMMUNITY PLAN, VICTORIA ARBORS MASTER PLAN, AND VICTORIA GARDENS MASTER PLAN; AND MAKING FINDINGS IN SUPPORT THEREOF

MOTION: Moved by Michael, seconded by Williams, to adopt Ordinance Nos. 814, 815 and 816 for second reading. Motion carried 5-0.

N. ADVERTISED PUBLIC HEARINGS FIRE PROTECTION DISTRICT

The following items have been advertised and/or posted as public hearings as required by law.

**It is recommended that the following two items (N1 & N2)
be continued to June 3, 2009.**

- N1. CONSIDERATION OF FIRST READING OF AN ORDINANCE CONTINUING THE ANNUAL SPECIAL TAX RATES FOR FISCAL YEAR 2009/10 IN MELLO ROOS COMMUNITY FACILITIES DISTRICT NO. 85-1.

ORDINANCE NO. FD 48 (first reading)

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE RANCHO CUCAMONGA FIRE PROTECTION DISTRICT, RANCHO CUCAMONGA, CALIFORNIA, AUTHORIZING THE LEVY OF THE SPECIAL TAX IN MELLO-ROOS COMMUNITY FACILITIES DISTRICT NO. 85-1 FOR FISCAL YEAR 2009/10

- N2. CONSIDERATION OF A RESOLUTION CONTINUING THE ANNUAL SPECIAL TAX RATE TO BE LEVIED IN MELLO-ROOS COMMUNITY FACILITIES DISTRICT NO. 88-1 FOR FISCAL YEAR 2009/10

RESOLUTION NO. FD-019

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE RANCHO CUCAMONGA FIRE PROTECTION DISTRICT, RANCHO CUCAMONGA, CALIFORNIA, ESTABLISHING THE ANNUAL SPECIAL TAX FOR COMMUNITY FACILITIES DISTRICT NO. 88-1 FOR FISCAL YEAR 2009/10

Jack Lam, City Manager, recommended that the public hearings for Items N1 and N2 be continued to June 3, 2009.

MOTION: Moved by Michael, seconded by Spagnolo, to continue the public hearings for N1 and N2 to June 3, 2009. Motion carried 5-0.

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O. CITY MANAGER'S STAFF REPORTS

The following items have no legal publication or posting requirements.

- O1. APPROVAL OF A MASTER AGREEMENT (FD 09-003) FOR EMERGENCY COMMUNICATIONS AND FIRE/EMS DISPATCH SERVICES WITH CONSOLIDATED FIRE AGENCIES OF THE EAST VALLEY (CONFIRE).

Mike Bell, Deputy Fire Chief, and John Gillison, Deputy City Manager/Administrative Services, presented the staff report.

In response to Councilmember Gutierrez, John Gillison, Deputy City Manager/Administrative Services spoke about the cost saving benefits of joining a Joint Powers Authority. Chief Bell addressed the longstanding goal to provide emergency medical dispatch services and believed that this would improve services to the community.

In response to Mayor Kurth, Chief Bell indicated that EMS has been in use for many years. Recently, he indicated that CONFIRE has started using it. Also discussed was the impact to the Department in terms of training and change in procedures.

Mayor Pro Tem Michael appreciated the benefits of this agreement and looked forward to providing a greater level of service using the EMS system. Councilmember Williams concurred.

Councilmember Spagnolo thanked the Council for their commitment to public safety. Councilmember Gutierrez expressed appreciation to the Fire Department and to the City of Ontario for their services. Mayor Kurth noted that the transition to EMS will save people's lives.

MOTION: Moved by Spagnolo, seconded by Williams, to approve the master agreement for emergency communications and Fire/EMS Dispatch Services with Consolidated Fire Agencies of the East Valley. Motion carried 5-0.

O2. APPROVAL OF A RESOLUTION FINDING A SEVERE FISCAL HARDSHIP WILL EXIST RELATED TO STATE BUDGET CRISIS

RESOLUTION NO. 09-090

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, FINDING A SEVERE FISCAL HARDSHIP WILL EXIST IF ADDITIONAL CITY PROPERTY TAX FUNDS ARE SEIZED AND ADDITIONAL UNFUNDED MANDATES ARE ADOPTED BY THE STATE OF CALIFORNIA

Josh Torres, City Manager's Office Intern, presented the staff report.

Mayor Pro Tem Michael expressed a concern with the State's ongoing budget crisis. He noted that the State is constantly broke and seems unable to fix the problem. There is no guarantee that additional funds will not be needed next year. Mayor Pro Tem Michael suggested that an icon be placed on the City's Internet site so that residents can see the Resolution urging the State not to seize any more City property tax funds.

Councilmember Williams urged residents to contact their legislators with this concern. Councilmember Spagnolo noted that the League of California Cities is sponsoring a trip to Sacramento on June 3, 2009 to relay this concern to State leaders.

MOTION: Moved by Michael, seconded by Gutierrez, to adopt Resolution No. 09-090 finding a severe financial hardship will exist if additional City property tax funds are seized and additional unfunded mandates are adopted. Motion carried 5-0.

O.3. Cancellation of the June 1 and June 3, 2009 Special Council meetings to discuss proposed 1200 acre project – **Added by Urgency**

Jack Lam, City Manager, reported that on May 19, 2009, the San Bernardino County Board of Supervisors terminated the Cooperative agreement with the City on the proposed 1,200 acre project. Therefore, he recommended that the City Council cancel the previously scheduled June 1st and June 3rd meetings to discuss responses to a previously issued Request for Qualifications and to make a recommendation to the Board of Supervisors.

MOTION: Moved by Williams, seconded by Gutierrez, to eliminate these two meetings. Motion carried 5-0.

P. COUNCIL BUSINESS

The following items have been requested by the City Council for discussion.

P1. DIRECTOR'S REPORT REGARDING THE LACK OF ACCESS TO A SIDE YARD FOR MAINTENANCE PURPOSES ON A PROPERTY LOCATED AT 6412 EAGLE PEAK PLACE WITHIN THE CARYN PLANNED COMMUNITY

James Troyer, Planning Director, and Trang Huynh, Building and Safety Official, presented the staff report.

In response to Mayor Pro Tem Michael, James Markman, City Attorney indicated that if the new homeowner does not provide access, they would be violating the neighbor's property rights.

In response to Councilmember Gutierrez, Trang Huynh, Building and Safety Official, stated that a letter had been sent to the realtor in order to obtain a key and put them on notice of the problem. Mr. Huynh indicated that he has been promised a key by the end of this week. He had also contacted the utility companies in the hope that they might be able to help.

Christian Nelson from Southern California Edison indicated that the provision of the California Utilities Code requires clear and unfettered access. He stated that he would look into this matter further.

Karen Pusatori and Sergio Martinez provided photographs of the home and the gate. Ms. Pusatori noted that the neighbors in the surrounding area do not need to access someone's private backyard to reach their utilities. She requested that the gate be removed.

Mr. Martinez indicated that the Planning Department approved the plans to build a dividing wall on a zero lot line property. This approval was done without researching the CC&Rs on the property. He requested that the Department acknowledge the defect in the approval and require the homeowner to remove the gate. For a long term solution, Mr. Martinez suggested among other things that staff review applicable CC&Rs, make sure that any structural improvements do not violate Penal Code Section 420.1 and that the Municipal Code be amended to address this matter.

In response, James Markman, City Attorney, indicated that the City's obligation was to ensure compliance with building codes. The City can not enforce CC&Rs nor require removal of the gate. He suggested that Ms. Pusatori and Mr. Martinez work with the future homeowner to move the gate back.

James Troyer, Planning Director, noted that safeguards are being put in place to avoid this type of situation from occurring in the future.

Mayor Pro Tem Michael noted that Ms. Pusatori will be provided a key while the home is vacant and indicated that the realtor will be encouraged to allow access or more the fencing around. Councilmember Gutierrez encouraged staff to work on an Ordinance to prevent this type of situation from happening in the future.

P2. COUNCIL ANNOUNCEMENTS (Comments to be limited to three minutes per Councilmember.)

Councilmember Spagnolo commented on his attendance at the National Police Week Blue Ribbon Breakfast. He provided photographs of the water tour offered by the Cucamonga Valley Water District.

Councilmember Gutierrez thanked the Friends of the Pacific Electric Trail for the Cucamonga Challenge. He expressed his appreciation of the residents who attended the meeting tonight and

spoke in his support. He requested everyone's patience while he resolved the civil dispute with his former employer.

In response to Mayor Pro Tem Michael, City Manager Jack Lam spoke about the importance of obtaining an accurate census count.

Councilmember Williams thanked the Friends of the Pacific Electric Trail for the very successful Cucamonga Challenge.

Mayor Kurth thanked the audience for maintaining decorum during the public communications period. He indicated that he welcomed the opportunity to meet with residents and promised to keep spending within reason.

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Q. IDENTIFICATION OF ITEMS FOR NEXT MEETING

No items were identified.

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R. ADJOURNMENT

Mayor Kurth adjourned the meeting at 10:30 p.m.

Respectfully submitted,

Debra L. McNay, MMC
Assistant City Clerk/Records Manager

Approved: June 3, 2009