

**MINUTES  
SPECIAL MEETING OF THE  
AGOURA HILLS CITY COUNCIL  
Thursday, December 2, 2004 at 5:30 p.m.**

The meeting was called to order at 5:32 p.m.

The flag salute was led by Councilmember Reinhardt.

Present were: Mayor Dan Kuperberg, Mayor pro Tem Ed Corridori, Councilmember John Edelston, Councilmember Jeff Reinhardt, and Councilmember Denis Weber.

Also Present were: City Manager Greg Ramirez, City Attorney Craig Steele, Assistant City Manager James Thorsen, Eminent Domain Attorney Michael Yoshiba, and City Clerk Kimberly Rodrigues.

**APPROVAL OF AGENDA**

On a motion by Councilmember Weber, seconded by Councilmember Reinhardt, the Agenda was approved without objection.

**PUBLIC HEARING**

**Consideration and Adoption of Resolutions of Necessity for the Acquisition in Eminent Domain of Certain Real Property for Public Purposes, namely the five (5) properties listed below, in connection with the Kanan Road/State Route 101 Interchange Improvement Project**

STAFF REFERENCE: CITY ATTORNEY STEELE  
EMINENT DOMAIN ATTORNEY YOSHIBA

**Staff and the City Attorney recommend that the City Council:**

1. Open and conduct a hearing on the adoption of the proposed Resolutions of Necessity, receive from staff the evidence stated and referred to in this Report to City Council, take testimony from any person wishing to be heard on issues a, b, c, and d below, and consider all evidence to determine whether to adopt the proposed Resolutions of Necessity, each of which requires the City Council's separate consideration and determination.
  - a. The public interest and necessity require the Proposed Project;
  - b. The Proposed Project is planned and located in the manner that will be most compatible with the greatest public good and least private injury;

- c. The Subject Property Interests described in each Resolution of Necessity are necessary for the Proposed Project; and
  - d. The City has made an offer as required by Government Code section 7267.2 to each of the owners of record of the real property it seeks to acquire.
2. Separately consider each of the following five (5) Resolutions, which are Resolutions of Necessity of the City of Agoura Hills Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition thereof in connection with the Kanan Road/State Route 101 Interchange Improvement Project:
  - a. Resolution No. 04-1346 - A Resolution of Necessity of the City of Agoura Hills Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition Thereof, in Connection with the U.S. 101/Kanan Road Interchange Project - 29161 Canwood Street, Agoura Hills, California, also Identified as Assessor's Parcel Number 2048-011-029.
  - b. Resolution No. 04-1347 - A Resolution of Necessity of the City of Agoura Hills Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition thereof, in Connection with the U.S. 101/Kanan Road Interchange Project - 5003-5033 Kanan Road, Agoura Hills, California, also Identified as Assessor's Parcel Number 2061-004-032.
  - c. Resolution No. 04-1348 - A Resolution of Necessity of the City of Agoura Hills Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition thereof, in Connection with the U.S. 101/Kanan Road Interchange Project - 5051 Kanan Road, Agoura Hills, California, also Identified as Assessor's Parcel Number 2061-004-033.
  - d. Resolution No. 04-1349 - A Resolution of Necessity of the City of Agoura Hills Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition thereof, in Connection with the U.S. 101/Kanan Road Interchange Project - 5134 Kanan Road, Agoura Hills, California, also Identified as Assessor's Parcel Numbers 2048-011-013 and 2048-011-014.
  - e. Resolution No. 04-1350 - A Resolution of Necessity of the City of Agoura Hills Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition thereof, in Connection with the U.S. 101/Kanan Road Interchange Project - 29508 Roadside Drive, Agoura Hills, California, also Identified as Assessor's Parcel Number 2061-004-030.
3. If the City Council finds, based upon the evidence contained and referred to in this Report to City Council, the testimony and comments received at this hearing, and all written testimony submitted to the City Council, that the evidence warrants the necessary findings with respect to each of the proposed Resolutions of Necessity, then staff

recommends that the City Council, in the exercise of its discretion, adopt proposed Resolution Nos. 04-1346; 04-1347; 04-1348; 04-1349; and 04-1350 (each of which requires a 4/5ths vote of the entire Council) and authorize the City Attorney's office to file eminent domain proceedings to acquire each of the following real property interests:

- Portions of 29161 Canwood Street, Agoura Hills, 91301 (Assessor's Parcel Number 2048-011-029) in fee and temporary construction easement;
- Portions of 5003-5033 Kanan Road, Agoura Hills, 91301 (Assessor's Parcel Number 2061-004-032) in fee and temporary construction easement;
- Portions of 5051 Kanan Road, Agoura Hills, 91301 (Assessor's Parcel Number 2061-004-033) in fee and temporary construction easement;
- Portions of 5134 Kanan Road, Agoura Hills 91301 (Assessor's Parcel Numbers 2048-011-013 & 2048-011-014) in fee and temporary construction easement; and,
- Portions of 29508 Roadside Drive, Agoura Hills 91301 (Assessor's Parcel Number 2061-004-030) in fee and temporary construction easement.

These real property interests are referred to as Subject Property Interests are described more particularly in the Exhibits attached to each Resolution of Necessity. Each Resolution also contains a drawing depicting the location of the real property interests in relation to the Kanan Road/State Route 101 Interchange Improvement Project. Said Resolutions together with their Exhibits are attached hereto and incorporated in this Report by this reference.

4. If the Resolutions of Necessity are approved, authorize the City Attorney's office and City staff to take all necessary steps to deposit with the court, the amount of probable compensation required by law for issuance of Orders for Possession, including complaints in condemnation.
5. Authorize the City Manager to execute all necessary documents.

**ACTION:**

The hearings were opened and conducted on the proposed Resolutions of Necessity and testimony was heard. The City Council separately considered the Resolutions of Necessity and authorized the City Attorney's Office to file eminent domain proceedings to acquire each of the real property interests as follows:

- a. Resolution No. 04-1346

Mayor Kuperberg opened the Public Hearing.

*A Written Request to Appear and be Heard was received in the City Clerk's Office on November 22, 2004 from John Lueken, Regional Construction Manager, McDonald's Corporation, 21300 Victory Boulevard, Suite 900, Woodland Hills.*

John Lueken, 21300 Victory Boulevard, Suite 900, Woodland Hills, representing the McDonald's Corporation, spoke in support of securing a beneficial result for all parties involved.

Mayor Kuperberg closed the Public Hearing.

The motion by Councilmember Reinhardt to adopt Resolution No. 04-1346 - A Resolution of Necessity of the City of Agoura Hills Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition Thereof, in Connection with the U.S. 101/Kanan Road Interchange Project - 29161 Canwood Street, Agoura Hills, California, also Identified as Assessor's Parcel Number 2048-011-029, was seconded by Councilmember Weber and approved on a roll call vote of 5-0.

b. Resolution No. 04-1347

Mayor Kuperberg opened the Public Hearing.

Glenn Block, 800 South Figueroa Street, Los Angeles, representing Kanan Properties, noted that his client would be proceeding with a lawsuit, and expressed concerns related to their tenant, Ihop, and the closure of the driveway access on Roadside Drive which would cause significant impacts related to the removal of two handicapped parking spaces, parking, and the relocation of the trash enclosure.

Mayor Kuperberg closed the Public Hearing.

The motion by Councilmember Reinhardt to adopt Resolution No. 04-1347 – A Resolution of Necessity of the City of Agoura Hills Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition thereof, in Connection with the U.S. 101/Kanan Road Interchange Project – 5003-5033 Kanan Road, Agoura Hills, California, also Identified as Assessor's Parcel Number 2061-004-032, was seconded by Councilmember Edelston and approved on a roll call vote of 5-0.

c. Resolution No. 04-1348

Mayor Kuperberg opened the Public Hearing.

*A facsimile was received on November 30, 2004 from Sean P. O'Connor, Sheppard Mullin Richter & Hampton LLP, 4<sup>th</sup> Floor, 650 Town Center Drive, Costa Mesa, representing Chevron U.S.A., Inc., indicating that Chevron would be unable to attend the hearing and wished to*

*express concerns about the impact that the taking of the property may have on Chevron's business operations located at 5051 Kanan Road, Agoura Hills.*

Glenn Block, 800 South Figueroa Street, Los Angeles, representing Kanan Properties, noted that his client would be proceeding with a lawsuit, and expressed concerns related to their tenant, Chevron, and the closure of the driveway access on Roadside Drive which would cause significant impacts related to the delivery of gas, parking, and the possible removal of the monument sign.

Mayor Kuperberg closed the Public Hearing.

The motion by Councilmember Edelston to adopt Resolution No. 04-1348 - A Resolution of Necessity of the City of Agoura Hills Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition thereof, in Connection with the U.S. 101/Kanan Road Interchange Project – 5051 Kanan Road, Agoura Hills, California, also Identified as Assessor's Parcel Number 2061-004-033, was seconded by Mayor Pro Tem Corridori and approved on a roll call vote of 5-0.

d. Resolution No. 04-1349

Mayor Kuperberg opened the Public Hearing.

*A Written Request to Appear and be Heard was received in the City Clerk's Office on November 30, 2004 from Michael R. Leslie, Caldwell Leslie Newcombe & Petit, 1000 Wilshire Boulevard, Suite 600, Los Angeles, representing Equilon Enterprises.*

Michael Leslie, Attorney representing Equilon Enterprises which does business as Shell U.S., addressed several issues including the potential impacts on the Shell property related to the loss of traffic, safety and access for gas delivery from tankers, and a subsequent reduction in business. Mr. Leslie indicated that there are several procedural deficiencies in relation to the Resolution of Necessity and he respectfully requested the Council not approve the resolution and direct staff to negotiate an offer with the hopes of reaching an agreement so that both parties can work together cooperatively.

Mayor Kuperberg closed the Public Hearing.

The motion by Councilmember Weber to adopt Resolution No. 04-1349 - A Resolution of Necessity of the City of Agoura Hills Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition thereof, in Connection with the U.S. 101/Kanan Road Interchange Project - 5134 Kanan Road, Agoura Hills, California, also Identified as Assessor's Parcel Numbers 2048-011-013 and 2048-011-014, was seconded by Mayor Pro Tem Corridori and approved on a roll call vote of 5-0.

e. Resolution No. 04-1350

Mayor Kuperberg opened the Public Hearing.

There were no speakers on this item.

Mayor Kuperberg closed the Public Hearing.

The motion by Councilmember Weber to adopt Resolution No. 04-1350 - A Resolution of Necessity of the City of Agoura Hills Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition thereof, in Connection with the U.S. 101/Kanan Road Interchange Project - 29508 Roadside Drive, Agoura Hills, California, also Identified as Assessor's Parcel Number 2061-004-030, was seconded by Councilmember Reinhardt and approved on a roll call vote of 5-0.

The City Council unanimously found, based upon the evidence contained in the Report to City Council, the testimony and comment received at the hearing, and all written testimony submitted to the City Council, that the evidence warrants the necessary findings with respect to each of the proposed Resolutions of Necessity.

The motion by Mayor Pro Tem Corridori to authorize the City Attorney's Office to file eminent domain proceedings to acquire each of the above real property interests; authorize the City Attorney's Office and City staff to take all necessary steps to deposit with the court, the amount of probable compensation required by law for issuance of Orders for Possession, including complaints in condemnation; and authorize the City Manager to execute all necessary documents, was seconded by Councilmember Reinhardt and approved 5-0.

### **COUNCIL, STAFF COMMENTS**

Councilmember Reinhardt stated that he was glad to see this project moving forward.

Mayor Kuperberg stated that the City Council does not take this process lightly and it is not an easy process to go through but neither is the Kanan Interchange Project which the entire community knows will be in the best interest of the City.

### **ADJOURNMENT**

At 6:25 p.m., on a motion by Mayor Pro Tem Corridori, seconded by Councilmember Reinhardt, the Council unanimously consented to adjourn the meeting to 7:00 p.m. December 6, 2004 for an Adjourned Regular Meeting of the City Council in the Council Chambers of the Civic Center with Closed Session at 6:00 p.m. The Civic Center is located at 30001 Ladyface Court, Agoura Hills.