



**ACE Construction Authority
Board Meeting
April 28, 2008 Minutes**

Chairman Gutierrez called the meeting to order at 2:00 PM in the Irwindale City Council Chambers, Irwindale California.

1. In attendance were:

George Hunter, Chairman
Tim Spohn, Vice Chairman
Ernest Gutierrez, El Monte
Dave Spence, La Canada Flintridge, SGVCOG
Harry Baldwin, San Gabriel
Rosemarie Vasquez, Montebello

Staff

Rick Richmond, Chief Executive Officer
Joe Silvey, Legal Counsel
Lou Cluster, staff
Regina Talamantez, staff
Cynthia Ambrose, staff
Carlos Monroy, staff
Deanna Stanley, staff
Paul Hubler, Community Outreach Mgr.

Menchu Ituralde, staff
Alcira Godoy, staff
Grace Elmaro, staff
Rey Alimoren, staff

Guests

Mike Colony, Tex Glass & Mirror
Cynthia Hayes, Texs Glass & Mirror
Laura Conejo, City of Montebello
Tim Dzmura, City of Pomona
Roger Hernandez, Hernandez Family
Stan Kay, Kay-Met Recycling
Tony Trear, Angelus Real Estate Development

Alan Ude, LA Co Public Works
Alex McDonnell, PB Americas

2. Pledge of Allegiance

Vice Chairman Spohn led the pledge of allegiance.

3. Approval of Minutes of March 24, 2008.

A motion was made to approve the meeting minutes of March 24, 2008.
M/S/C: Baldwin/Eaton/Unanimous

4. Public Comment

There were no public comments.

5. Chairman's Report

Chairman Hunter reminded the Board of the upcoming Ramona Blvd. grade separation ribbon cutting ceremony on Friday, May 2nd at 10AM.

6. Chief Executive Officer's Report

Rick Richmond announced the departure of George Nomura, Program Manager for Bechtel and thanked him for his tireless efforts over the past 8 years.

Senior Project Manager Regina Talamantez reviewed construction progress photos of the Brea Canyon Road grade separation project. Senior Project Manager Lou Cluster reviewed construction progress photos of the Ramona Blvd. and Sunset Ave grade separation projects. George Nomura, Program Manager reviewed program management support tasks completed or ongoing over the past month.

7. Hearing on Resolution of Necessity No. 08-01- 4237 Baldwin Ave., El Monte

Chairman Hunter opened the hearing for the Resolution of Necessity No. 08-01 in connection with the Baldwin Avenue Grade Separation Project in the City of El Monte. Joe Silvey, ACE General Counsel, indicated that the Authority had been unable to negotiate a purchase of the fee interest in the property at 4237 Baldwin Ave. in El Monte and as a result staff were seeking the adoption of a Resolution of Necessity, which would enable the Authority to commence an eminent domain action should negotiations continue unsuccessfully. Mark Mendoza, ACE Property Acquisition Manger, described the property and the current status of the negotiations for its purchase. There were no public comments; however, Cynthia Hayes and her son were late arriving to the hearing and were provided with a brief description of the hearing by the Board and staff. After several questions and comments from the Board, Chairman Hunter closed the hearing and asked the Board to consider Resolution of Necessity 08-01 which includes specific findings that (a) the public interest, convenience and necessity require the construction of the Baldwin Ave. Grade Separation Project; (b) the Project has been planned and located in a manner that will be most compatible with the greatest public good and the least private injury; and (c) the taking of the subject property is necessary for the Project to be constructed.

Baldwin/Vasquez/Unanimous

8. Hearing on Resolution of Necessity No. 08-02 – 4116 Baldwin Ave., El Monte

Chairman Hunter opened the hearing for the Resolution of Necessity No. 08-02 in connection with the Baldwin Avenue Grade Separation Project in the City of El Monte. Joe Silvey, ACE General Counsel, indicated that the Authority had been unable to negotiate a purchase of the fee interest in the property at 4116

Baldwin Ave. in El Monte and as a result staff were seeking the adoption of a Resolution of Necessity, which would enable the Authority to commence an eminent domain action should negotiations continue unsuccessfully. Mark Mendoza, ACE Property Acquisition Manger, described the property and the current status of the negotiations for its purchase. During the public comment period, Michael Hernandez, representing Mr. and Mrs. Rogelio Hernandez who are the owners of the property, explained that Mr. and Mrs. Hernandez, his parents, were hoping to achieve a fair settlement with the Authority without the need for any formal legal action. There were no other public comments. After several questions and comments from the Board, Chairman Hunter closed the hearing and asked the Board to consider Resolution of Necessity 08-02 which includes specific findings that (a) the public interest, convenience and necessity require the construction of the Baldwin Ave. Grade Separation Project; (b) the Project has been planned and located in a manner that will be most compatible with the greatest public good and the least private injury; and (c) the taking of the subject property is necessary for the Project to be constructed.
Baldwin/Spence/Unanimous

9. Hearing on Resolution of Necessity No. 08-03 – 9960 Bessie Ave., El Monte

Chairman Hunter opened the hearing for the Resolution of Necessity No. 08-03 in connection with the Baldwin Avenue Grade Separation Project in the City of El Monte. Joe Silvey, ACE General Counsel, indicated that the Authority had been unable to negotiate a purchase of the fee interest in the property at 9960 Bessie Ave. in El Monte and as a result staff were seeking the adoption of a Resolution of Necessity, which would enable the Authority to commence an eminent domain action should negotiations continue unsuccessfully. Mark Mendoza, ACE Property Acquisition Manger, described the property and indicated that the Authority had been unable to have any substantial communications or negotiations with the current owner. There were no public comments. After several questions and comments from the Board, Chairman Hunter closed the hearing and asked the Board to consider Resolution of Necessity 08-03 which includes specific findings that (a) the public interest, convenience and necessity require the construction of the Baldwin Ave. Grade Separation Project; (b) the Project has been planned and located in a manner that will be most compatible with the greatest public good and the least private injury; and (c) the taking of the subject property is necessary for the Project to be constructed.
Spence/Spohn/Unanimous

10. Hearing on Resolution of Necessity No. 08-04 – 10020 Bessie Ave., El Monte

Chairman Hunter opened the hearing for the Resolution of Necessity No. 08-04 in connection with the Baldwin Avenue Grade Separation Project in the City of El

Monte. Joe Silvey, ACE General Counsel, indicated that the Authority had been unable to negotiate a purchase of the fee interest in the property at 10020 Baldwin Ave. in El Monte and as a result staff were seeking the adoption of a Resolution of Necessity, which would enable the Authority to commence an eminent domain action should negotiations continue unsuccessfully. Mark Mendoza, ACE Property Acquisition Manger, described the property and the current status of the negotiations for its purchase. Mr. Gary Kovascevic, representing the Jast Family Limited Partnership which owns the property, explained the personal hardship that would be experienced by Mr. Jast if he was not able to negotiate a settlement with the Authority regarding the extent of the property to be taken. There were no other public comments. After several questions and comments from the Board, Chairman Hunter closed the hearing and asked the Board to consider Resolution of Necessity 08-04 which includes specific findings that (a) the public interest, convenience and necessity require the construction of the Baldwin Ave. Grade Separation Project; (b) the Project has been planned and located in a manner that will be most compatible with the greatest public good and the least private injury; and (c) the taking of the subject property is necessary for the Project to be constructed.
Vasquez/Baldwin/Unanimous

11. Approval to Sale of Surplus Property at Reservoir Street Grade Separation Site to the City of Pomona

Mr. Richmond reminded the Board that at the January 2007 meeting five contiguous parcels in the City of Pomona was declared surplus. As required under Caltrans guidelines, notice of availability was mailed to potential interested parties. Notice of availability was also posted on the authority's website. The San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and the City of Pomona responded but the Conservancy later withdrew its interest. The 47,763 square feet, zoned multi-residential and light industrial was made available to the City of Pomona at its fair market value of \$653,000.

A motion was made to approve the sale of excess property at the Reservoir Street grade separation site to the City of Pomona for \$653,000.

M/S/C/Spohn/Spence/Unanimous

12. Quarterly Project Status Report

Mr. Richmond reviewed the current project cost and estimated a \$6.2 million increase over last quarter. He explained the increase was due to right of way costs at East End/Reservoir (\$.1M) and Temple 4th track (\$.1M), construction management services associated with UPRR required work for the Temple Avenue 4th track (\$.2M) and construction costs associated with design changes and unforeseen site conditions at Sunset Avenue (\$5.8M). Mr. Richmond reviewed minor schedule changes at East End and Ramona and indicated the significant change was at Sunset Avenue for reasons described earlier. Mr.

Richmond reviewed the accomplishments which included completion of the UPRR bridge and First Street bridge at East End Ave. He reported completion of mass excavation, roadway paving and retaining wall in preparation for the opening of the Ramona Blvd. grade separation. At Brea Canyon Road utility relocations and retaining wall construction continued. Sunset Avenue storm drain relocations along Valley Blvd continued along with shoofly grading and removal of subgrade material.

13. Quarterly Project Financial Report

Mr. Richmond reviewed the cash expenditures by project, expenditures versus receipts by project and investment information for the project for quarter ending March, 2008.

14. Summary of Ballot Propositions 98 and 99

Mr. Richmond reminded the Board that this provided as a matter of information. He reviewed the features of Proposition 99 and indicated staff did not see passage impacting the ACE Project. He reviewed features of Proposition 98 and indicated staff felt this could potentially affect the relationship between the authority and affected owners and prolong conclusion of negotiations.

15. Closed Session

Joe Silvey, ACE General Counsel, announced that the Board would move to closed session in accordance with Government Code Section 54956.9 (c) for discussion with legal counsel concerning the possible initiation of litigation (two matters). Upon the Board returning from closed session, Joe Silvey announced that on a motion by Gutierrez, seconded by Spence with affirmative votes by Gutierrez, Spence, Baldwin, Spohn and Hunter the Board had authorized legal counsel to initiate litigation against a party whose identity would be disclosed upon request once the litigation was formally commenced unless any such disclosure would jeopardize the Authority's ability to conclude any ongoing settlement negotiations to its advantage.

16. Adjourn

The Board adjourned to the East End Avenue grade separation for a project tour. The Board adjourned at 4:10PM