

#12
AUG 23 2007

MEMO TO: Mayor and City Council

THRU: Michael D. House, City Attorney *MDH*

FROM: Glenn A. Brockman, Assistant City Attorney *ARB*

SUBJECT: Resolution No. 4116, authorizing condemnation proceedings as needed to acquire 9 parcels of real property within the designated new city hall site at and near Arizona Avenue and Chicago Street in the City of Chandler, Arizona, and to obtain immediate possession thereof.

DATE: August 16, 2007

RECOMMENDATION: Staff recommends approval of Resolution No. 4116.

BACKGROUND/DISCUSSION: Over one year ago, the Chandler City Council approved the location of the new city hall site, determined that approximately 23 parcels of real property needed to be acquired for development of the site, determined that the acquisition of the parcels was for a necessary and public use, authorized the City to purchase the parcels at fair market value, and authorized relocation assistance as required by law. Many, but not all, of the parcels have been acquired or are in escrow to be acquired by purchase.

Of the parcels yet to be acquired, it appears that 9 parcels (one of which is the leasehold interest in property already owned by the City) cannot be acquired by purchase at a fair and reasonable price or within the time required in order to allow development of the site to proceed in a timely fashion. These parcels may need to be acquired through condemnation proceedings. Condemnation will allow the City to be able to obtain immediate possession of each parcel while negotiations proceed to determine what constitutes just compensation to be paid by the City for each parcel. Where the parcel's owner and the City cannot reach agreement on what is a fair and reasonable price, condemnation will provide a vehicle by which an independent third-party (either a judge or a jury) can decide what is the appropriate compensation.

Resolution No. 4116 authorizes condemnation, but provides that no condemnation proceeding will be filed until the City's Real Estate Manager has advised in writing that efforts to acquire a parcel through a negotiated purchase at a fair and reasonable price and in time to maintain the schedule for development have failed or does not appear likely to succeed. Also, to comply with statutory requirements, the City Attorney's office will tender one final offer based on the appraised value of the property at issue at least 20 days prior to undertaking condemnation. In short, condemnation will be used only where a negotiated purchase proves unsuccessful.

FINANCIAL IMPLICATIONS: Funds have been budgeted for acquisition needed for the city hall site.

PROPOSED MOTION: Move to adopt Resolution No. 4116 to authorize condemnation proceedings as needed to acquire 9 parcels of real property within the designated new city hall site at and near Arizona Avenue and Chicago Street in the City of Chandler, Arizona, and to obtain immediate possession thereof.

RESOLUTION NO. 4116

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, AUTHORIZING CONDEMNATION PROCEEDINGS AS NEEDED TO ACQUIRE NINE (9) PARCELS OF REAL PROPERTY WITHIN THE DESIGNATED NEW CITY HALL SITE LOCATED AT AND NEAR ARIZONA AVENUE AND CHICAGO STREET IN THE CITY OF CHANDLER, ARIZONA, AND TO OBTAIN IMMEDIATE POSSESSION THEREOF.

WHEREAS, on May 25, 2006, the Chandler City Council approved the site location for a new City Hall complex (public buildings and grounds) and related off-street parking facility at and near Arizona Avenue and Chicago Street; and

WHEREAS, on July 27, 2006, the Chandler City Council passed and adopted Resolution No. 3996, so as to: (i) determine that the acquisition and assemblage of approximately 23 parcels of real property within the site location was necessary for the development of the City Hall complex and the related off-street parking facility; (ii) determine that the acquisition was a matter of public necessity; (iii) authorize the purchase of the parcels; and (iv) authorize relocation assistance as may be required by law; and

WHEREAS, despite the City tendering purchase offers and negotiating for the parcels, it appears that some of the parcels cannot be acquired by purchase at a fair and reasonable price and/or with the time necessary to keep the development and construction of the City Hall complex and off-street parking facility on schedule, so that acquisition by condemnation may be required;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Maricopa County, Arizona, as follows:

Section 1. This Resolution No. 4116 is intended to supplement the authority granted to the City pursuant to previously approved Resolution No. 3996. The City's Real Estate Manager may continue to seek to acquire any and all of the aforementioned parcels by purchase.

Section 2. With respect to each of the following parcels, designated as Tax Parcel Nos. 303-10-066, 303-10-068, 303-10-069, 303-10-070, 303-10-071, 303-10-073, 303-10-082A, 303-10-087C (leasehold interest) and 303-10-089, upon the Real Estate Manager advising in writing that it does not appear possible to acquire a parcel at a fair and reasonable price or within the time necessary to maintain the development/construction schedule for the City Hall complex and off-street parking facility, the Chandler City Attorney shall commence condemnation (eminent domain) proceedings to acquire, in the name of the City of Chandler, the parcel, including any improvements thereon, and to secure immediate possession of the parcel, and is further directed to do and to perform all acts necessary in furtherance of the acquisition of title to and immediate possession of the parcel of real property.

PASSED AND ADOPTED by the City Council of the City of Chandler, Maricopa County, Arizona, this ___ day of _____, 2007.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4116 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ___ day of _____, 2007, and that a quorum was present thereat.

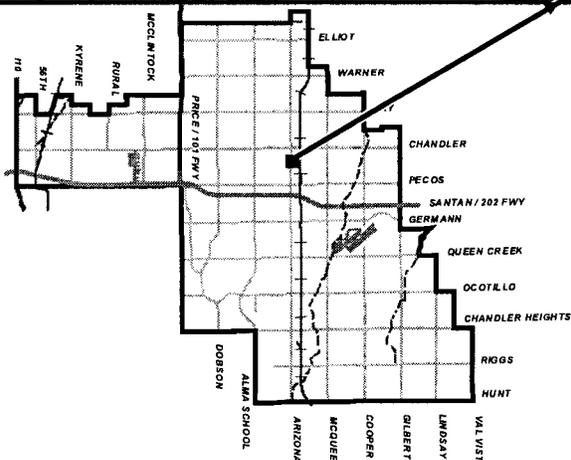
CITY CLERK

APPROVED AS TO FORM:

MDH

CITY ATTORNEY *GRB*

CITY HALL PROJECT



RESOLUTION NO. 4116

LEGEND

 PARCELS

