

MEMORANDUM OF LAW

DATE: April 23, 1992

TO: Keith Scott, Economic Development Division
Manager's Office

FROM: City Attorney

SUBJECT: Special Meeting of the City Heights Project Area Committee
("PAC")

BACKGROUND

By oral request made April 22, 1992, you have asked for an opinion from this office as to the legality of the City Heights PAC holding a special meeting on April 23, 1992, to consider a proposed amendment to the City Heights Redevelopment Plan (the "Plan") made by the City Council at a public hearing held April 21, 1992. The ordinance adopting the Plan is scheduled to be introduced on April 28, 1992.

The facts as represented to me are as follows:

On April 21, 1990, a community election was held to elect members of the City Heights PAC. The City Council ratified the results of that election on April 30, 1990.

One of the first actions of the PAC was to adopt a set of bylaws, which called for, among other things, its annual meeting to be held in March of each year. At that meeting, officers would be elected as well as other members whose terms had expired.

Since that time, the PAC has been working with members of your staff in the development of the Plan, as well as other related documents required by the California Community Redevelopment Law (codified as California Health and Safety Code section 33000 et seq.). On February 25, 1992, the PAC voted to recommend adoption of the Plan by the City Council in April.

Of relevance to this inquiry, I have been informed that the PAC made three additional motions at that meeting. They are:

1. That the PAC's bylaws be amended to set the annual meeting of the PAC to July from March.
2. That after this particular meeting, there would be no further meetings of the PAC until July, unless special circumstances arose, or the PAC chairperson called a meeting.
3. That the chairperson of the PAC be authorized to act on behalf of the PAC in promoting the proposed Plan during this period of time.

The PAC has not met since then. However, prior to the April 21, 1992, meeting of the City Council, you and Jim LoBue of your staff advised the chairperson of the PAC that it would be prudent to call for

a special meeting of the PAC sometime between the week of April 21 and April 28, in case the Council recommended any changes to the Plan at its April 21 meeting. As indicated previously, the Council did suggest a change, specifically as to what zones and geographic areas eminent domain would be allowed.

ISSUES PRESENTED

1. Is it "legal" for the PAC to have a special meeting on April 23, 1992?
2. What actions may the PAC take regarding the proposed change?

Each issue will be dealt with separately.

ANALYSIS

1. Legality of the April 23 Special Meeting

Obviously, under routine circumstances there would be no question regarding the PAC holding special meetings. Article III, section 3 of the PAC bylaws allows the chairperson or the majority of members on the PAC to call for one. However, in light of the PAC's motions to wait until July to hold its annual meeting (through an amendment to the bylaws) and not hold any meetings until that time unless special circumstances arise or the chairperson called for one, the issue may not appear quite as clear.

Nonetheless, it seems that "special circumstances" exist. Section 33385(a) of the Health and Safety Code reads:

The legislative body of a city or county shall call upon the residents and existing community organizations in a redevelopment project area, within which a substantial number of low- and moderate-income families are to be displaced by the redevelopment project, to form a project area committee.

Section 33386 states in pertinent part:

The redevelopment agency . . . shall, upon the direction and approval of the legislative body consult with, and obtain the advice of, the project area committee concerning those policy matters which deal with the planning and provision of residential facilities or replacement housing for those to be displaced by project activities. The agency shall also consult with the committee on other policy matters which affect the residents of the project area.

The primary focus of the change to the Plan proposed by the City Council involved removing eminent domain authority of the Redevelopment

Agency over residentially zoned properties and commercially zoned properties with an exclusive residential use on them. Clearly, this is a matter that a project area committee would comment on and make recommendation on as appropriate.

In conclusion, in light of the subject matter of the Council proposal, and the fact that the ordinance adopting the Plan is docketed for first reading on April 28, 1992, it seems that special circumstances exist to require the calling of a special meeting.

2. What Actions May the PAC Take Regarding the Proposed Change to the Plan?

The PAC can essentially take one of four possible actions. They are:

1. Vote to approve the change as proposed by the City Council.
2. Vote to not make a recommendation on the proposed plan but indicate instead that they will support whatever action the City Council shall take on this particular issue.
3. Vote to disapprove the change as proposed by the City Council.
4. Vote to disapprove the change as proposed by the City Council and offer an alternative proposal.

It should be noted that pursuant to Health and Safety Code section 33366, that if the PAC chooses options 3 or 4, it will take a two-thirds vote of the City Council's entire membership "eligible and qualified to vote on such plan" to adopt the Plan.

CONCLUSION

The special meeting of the PAC appears to have been properly called given the special circumstances that have arisen from the City Council's action on April 21 to alter the use of eminent domain from the Plan as originally drafted.

The PAC may take one of four actions. However, if it chooses an action that involves disapproval of the Council's proposed change, it will take a two-thirds vote of the full Council to adopt the Plan.

Please call me if you need any further clarification on these matters.

JOHN W. WITT, City Attorney

By

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Deputy City Attorney

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