

SGVCOG Special Joint Meeting of the Capital Projects and Construction Committee, Energy, Environment, and Natural Resources Committee, Executive Committee, Governing Board, and Transportation Committee Meeting

January 20, 2022
4:00 PM



SGVCOG Capital Projects and Construction Committee, Energy, Environment, and Natural Resources Committee, Executive Committee, Governing Board, and Transportation Committee Approved **Special Joint Meeting Minutes**

Date: January 20, 2022
Time: 4:00 PM
Location: Zoom Virtual Meeting

PRELIMINARY BUSINESS

1. Call to Order
SGVCOG President, Becky Shevlin, called the Joint Capital Projects and Construction Committee, Energy, Environment, and Natural Resources Committee, Executive Committee, Governing Board, and Transportation Committee Meeting to order at 4:04pm.
2. Pledge of Allegiance
SGVCOG Governing Board Member, Diana Mahmud, led the Pledge of Allegiance.
3. Roll Call
A quorum for the Capital Projects and Construction Committee, Energy, Environment, and Natural Resources Committee, Executive Committee, Governing Board, and Transportation Committee was in attendance.

Committee Members Present

Alhambra	A. Andrade-Stadler
Arcadia	A. Verlato
Azusa	R. Gonzales
Baldwin Park	E. Estrada
Bradbury	R. Barakat
Claremont	E. Reece
Covina	P. Cortez
Diamond Bar	N. Lyons
El Monte	M. Morales
Glendora	M. Allawos
Industry	C. Moss
Irwindale	A. Ambriz
La Canada Flintridge	K. Eich
La Puente	G. Quinones
La Verne	T. Hepburn
Monrovia	B. Shevlin
Montebello	S. Peralta
Monterey Park	H. Lo
Pasadena	V. Gordo
Pomona	T. Sandoval
Rosemead	S. Dang

Absent

Duarte
La Puente
San Gabriel
L.A. County District #4

SGVCOG Staff Present

M. Creter, Executive Director
D. DeBerry, General Counsel
E. Shen, Staff
P. Hubler, Staff
K. Ward, Staff
C. Sims, Staff
B. Acevedo, Staff
R. Coronel, Staff
A. Fung, Staff
S. Pedersen, Staff
B. Logasa, Staff
T. Lott, Staff
V. Urenia, Staff
S. Sousa, Staff
V. Guerra, Staff

SGVCOG Special Joint Meeting of the Capital Projects and Construction Committee, Energy, Environment, and Natural Resources Committee, Executive Committee, Governing Board, and Transportation Committee Meeting

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San Dimas	D. Bertone	S. Hernandez, Staff
San Marino	S. Jakubowski	B. Ruano, Staff
Sierra Madre	R. Arizmendi	M. Sharkey, Staff
South El Monte	G. Olmos	T. Egan, Lobbyist
South Pasadena	D. Mahmud	
Temple City	C. Sternquist	
Walnut	N. Tragarz	
West Covina	T. Wu	
L.A. County District #1	E. Gonzalez	
L.A. County District #5	S. Croxton	
SGV Water Districts	C. Goytia	

4. Public Comment

There were no public comments at this meeting.

JOINT MEETING BUSINESS/ACTION ITEM

5. Adopt Resolution 22-02 of the Capital Projects and Construction Committee, Energy, Environment, and Natural Resources Committee, Executive Committee, Governing Board, and Transportation Committee Making Findings to Enable Them to Continue to Hold Meetings Via Teleconferencing

SGVCOG President, Becky Shevlin, provided verbal remarks on this item.

There was a motion to adopt Joint Resolution 22-02 making certain findings that the existence of a local and state of emergency in California exists, that social distancing being mandated or recommended by state or local officials due to the ongoing COVID-19 pandemic and that meeting in person presents an imminent risk to the health and safety of attendees. (M/S: R. Gonzales/C. Sternquist)

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Bradbury, Claremont, Covina, Diamond Bar, El Monte, Glendora, Industry, Irwindale, La Verne, Monrovia, Montebello, Rosemead, San Dimas, San Marino, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, L.A. County District #1, L.A. County District #5, SGV Water Districts
NOES:	
ABSTAIN:	La Canada Flintridge
NO VOTE RECORDED:	Monterey Park, Pasadena, Pomona
ABSENT:	Duarte, La Puente, San Gabriel, L.A. County District #4

ADJOURN JOINT MEETING

SGVCOG President, Becky Shevlin, adjourned the Joint Capital Projects and Construction Committee, Energy, Environment, and Natural Resources Committee, Executive Committee, Governing Board, and Transportation Committee Meeting at 4:13pm.

SGVCOG Special Joint Meeting of the Capital Projects and Construction Committee, Energy, Environment,
and Natural Resources Committee, Executive Committee, Governing Board, and Transportation Committee
Meeting

January 20, 2022

4:00 PM

BOARD APPROVED

February 17, 2022

Date


Marisa Creter

Marisa Creter, Secretary



SGVCOG Governing Board Regular Meeting Approved Minutes

Date: January 20, 2022
Time: 4:00 PM
Location: Zoom Virtual Meeting

CONVENE REGULAR MEETING OF THE SGVCOG GOVERNING BOARD

SGVCOG President, Becky Shevlin, convened the Governing Board Meeting at 4:13pm. A quorum was in attendance.

Committee Members Present

Alhambra	A. Andrade-Stadler
Arcadia	A. Verlato
Azusa	R. Gonzales
Baldwin Park	E. Estrada
Bradbury	R. Barakat
Claremont	E. Reece
Covina	P. Cortez
Diamond Bar	N. Lyons
El Monte	M. Morales
Glendora	M. Allawos
Industry	C. Moss
Irwindale	A. Ambriz
La Canada Flintridge	K. Eich
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Temple City	C. Sternquist
Walnut	N. Tragarz
West Covina	T. Wu
L.A. County District #1	E. Gonzalez
L.A. County District #5	S. Croxton
SGV Water Districts	C. Goytia

Absent

Duarte
La Puente
San Gabriel
L.A. County District #4

SGVCOG Staff Present

M. Creter, Executive Director
D. DeBerry, General Counsel
E. Shen, Staff
P. Hubler, Staff
K. Ward, Staff
C. Sims, Staff
B. Acevedo, Staff
R. Coronel, Staff
A. Fung, Staff
S. Pedersen, Staff
B. Logasa, Staff
T. Lott, Staff
V. Urenia, Staff
S. Sousa, Staff
V. Guerra, Staff
S. Hernandez, Staff
B. Ruano, Staff
M. Sharkey, Staff
T. Egan, Lobbyist

6. Public Comment

A written public comment letter opposing the adoption of Resolution 22-03 was submitted by attorneys representing the property owner, AP-Diamond Bar. The letter can be found in Attachment A.

PUBLIC HEARINGS

- 7. Hearings to Consider Resolutions of Necessity for Parcels for the State Route 57/60 Confluence Chokepoint Relief Project in the City of Diamond Bar**
SGVCOG Director of Capital Projects Eric Shen, SGVCOG General Counsel David DeBerry, and SGVCOG Project Manager Rene Coronel provided a presentation on this item.

There was a motion to authorize the following actions:

- 1) Conduct public hearings to consider condemnation of real property required for the State Route 57/60 Confluence Chokepoint Relief Project (the “Project”) in the City of Diamond Bar; and**
- 2) Upon completion of a public hearing, that the Governing Board adopt the Resolution of Necessity No. 22-03 authorizing and directing General Counsel, or its designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: AP-Diamond Bar, LLC (Assessor Parcel Number [APN] 8281-024-053) (hereinafter “AP-Diamond Bar Property”); and**
- 3) Upon completion of a public hearing, that the Governing Board adopt the Resolution of Necessity No. 22-04 authorizing and directing General Counsel, or its designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Ayres-Diamond Bar, L.P. (Assessor Parcel Number [APN] 8717-001-085) (hereinafter “Ayres Property”); and**
- 4) Upon completion of a public hearing, that the Governing Board adopt the Resolution of Necessity No. 22-05 authorizing and directing General Counsel, or its designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: DBJ 2018, LLC. Michael W. Rotondi and April Greiman, Trustees of the Rotondi Greiman Family Trust (Assessor Parcel Number [APN] 8717-008-039) (hereinafter “DBJ/Rotondi Property”); and**
- 5) Upon completion of a public hearing, that the Governing Board adopt the Resolution of Necessity No. 22-06 authorizing and directing General Counsel, or its designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Grand Diamond Bar Properties, LLC (Assessor Parcel Numbers [APNs] 8717-020-001 and 8717-020-008) (hereinafter “Grand Diamond Bar Property”); and**
- 6) Upon completion of a public hearing, that the Governing Board adopt the Resolution of Necessity No. 22-07 authorizing and directing General Counsel, or its designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring an interest in real property from: Tranquil Garden, LLC (Assessor Parcel Number [APN] 8717-008-189) (hereinafter “Tranquil Garden Property”).**

[Motion Passed]

AYES:	Arcadia, Azusa, Bradbury, Claremont, Covina, Diamond Bar, El Monte, Glendora, Industry, Irwindale, La Canada Flintridge, La Verne, Monrovia, Pasadena, Rosemead, San Dimas, San Marino, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, L.A. County District #1, L.A. County District #5, SGV Water Districts
NOES:	Baldwin Park
ABSTAIN:	
NO VOTE RECORDED:	Alhambra, Montebello, Monterey Park, Pomona
ABSENT:	Duarte, La Puente, San Gabriel, L.A. County District #4

CONSENT CALENDAR

8. Governing Board Meeting Minutes
Action: Adopt Governing Board minutes.
9. Monthly Cash Disbursements/Balances/Transfers
Action: Approve Monthly Cash Disbursements/Balances/Transfers.
10. Committee/TAC/Governing Board Attendance
Action: Receive and file.
11. SGVCOG Regional Homeless, Mental Health, and Crisis Response Study
Action: Receive and file.
12. Approval of Grant Agreements with the Los Angeles County Flood Control District Under the Safe, Clean Water Program for Implementing the Rio Hondo Load Reduction Strategy Project
Action: Authorize the Executive Director to execute three Transfer Agreements with the Los Angeles County Flood Control District and receive a total of \$7,113,480 of grants under the Safe, Clean Water Program for implementing the Rio Hondo Load Reduction Strategy Project at three sites along Alhambra Wash, Eaton Wash and Rubio Wash.
13. State Homeless Funds
Action: Authorize the Executive Director to re-allocate funding between approved Homeless Program categories to ensure that all funds are expended by June 30, 2022, and direct staff to provide monthly updates to the Homelessness Committee on the progress of expenditures.
14. FY 2022-2025 Measure M Multi-Year Subregional Program (MSP) Active Transportation, Bus System Improvements, and First/Last Mile Programming Recommendations
Actions:
 - 1) Program \$15,000,000.00 from FY 2022-2025 MSP Active Transportation, Bus System Improvements, and First/Last Mile Funds for the East San Gabriel Valley Sustainable Multimodal Improvement Project; and
 - 2) Direct staff to work with cities and agencies that submitted applications for Category 2 to refine project scopes that can lead to improvements that would provide regional benefits to the San Gabriel Valley's active transportation, bus system, and first/last mile networks.
15. SGVCOG 2022 Legislative Agenda
Action: Adopt Resolution 22-09 affirming the SGVCOG's Legislative Agenda.
16. Resolutions to Approve Application Filing for California Climate Investment Fire Prevention

Grant Program

Action: Adopt Resolutions 22-10 and 22-11 to approve filing of two applications for the California Climate Investment Fire Prevention Grant Program.

17. Statewide Redistricting Final Maps Update

Action: Receive and file.

There was a motion to approve Consent Calendar Items 8-17. (M/S: R. Arizmendi/D. Bertone)

[Motion Passed]

AYES:	Arcadia, Azusa, Baldwin Park, Bradbury, Claremont, Covina, Diamond Bar, El Monte, Glendora, Industry, Irwindale, La Canada Flintridge, La Verne, Monrovia, Monterey Park, Pasadena, Rosemead, San Dimas, San Marino, Sierra Madre, South El Monte, South Pasadena, Walnut, West Covina, L.A. County District #1*, L.A. County District #5*, SGV Water Districts
NOES:	
ABSTAIN:	
NO VOTE RECORDED:	Alhambra, Montebello, Pomona, Temple City
ABSENT:	Duarte, La Puente, San Gabriel, L.A. County District #4

**L.A. County Districts #1 and #5 abstained from voting on Item 15, SGVCOG 2022 Legislative Agenda.*

PRESENTATION

- 18.** Introduction of LA Metro Chief Executive Officer Stephanie Wiggins
 Metro Chief Executive Officer, Stephanie Wiggins, provided a presentation on this item.

UPDATE ITEMS

- 19.** President’s Report
 SGVCOG President, Becky Shelvin, provided updates.
- 20.** Los Angeles County Blue Ribbon Commission on Homelessness
 SGVCOG President, Becky Shelvin, provided updates.
- 21.** Executive Director’s Report
 SGVCOG Executive Director, Marisa Creter, provided updates.
- 22.** Local, State, and Federal Legislative Agenda Update
 SGVCOG Director of Government and Community Relations, Paul Hubler, provided updates.
 SGVCOG President Becky Shevlin indicated that the Executive Committee would consider recommending position on the Community Planning Voter Initiative at their February meeting.
- 23.** General Counsel’s Report
 SGVCOG General Counsel, David DeBerry, provided updates.

COMMITTEE/BOARD REPORTS

No specific verbal updates provided unless noted.

24. Capital Projects and Construction Committee
SGVCOG Capital Projects and Construction Committee Chair, Nancy Lyons, provided updates.
25. Energy, Environment and Natural Resources Committee
SGVCOG Energy, Environment, and Natural Resources Committee Chair, Denis Bertone, provided updates.
26. Homelessness Committee
SGVCOG President/Homelessness Committee Chair, Becky Shevlin, provided updates.
27. San Gabriel Valley Regional Housing Trust Board
SGVCOG President/SGVRHT Board Vice Chair, Becky Shevlin, provided updates.
28. Transportation Committee
SGVCOG Transportation Committee Interim Chair, Ed Reece, provided updates.
29. Water Committee

LIAISON REPORTS

No specific verbal updates provided unless noted.

30. Foothill Transit
31. Gold Line Foothill Extension Construction Authority
32. League of California Cities
33. Los Angeles County Metropolitan Transportation Authority
Metro Board Member, Tim Sandoval, and Metro Community Relations Manager, Tito Corona, provided a report.
34. San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC)
RMC Board Member, Denis Bertone, provided a report.
35. San Gabriel Valley Economic Partnership
36. San Gabriel Valley Mosquito & Vector Control District
37. South Coast Air Quality Management District
AQMD Board Member, Michael Cacciotti, provided a report.
38. Southern California Association of Governments
SCAG Regional Affairs Officer, Sarah Patterson, provided a report.

ANNOUNCEMENTS

39. Next Regular Governing Board Meeting – February 17, 2022
SGVCOG President, Becky Shevlin, announced that the upcoming regular Governing Board meeting is scheduled for February 17, 2022.

GOVERNING BOARD MEMBER COMMENTS

SGVCOG First Vice President, Tim Hepburn, provided comments.

ADJOURN

SGVCOG President, Becky Shevlin, adjourned the Governing Board meeting at 6:00pm.

Board Approved:

February 17, 2022
Date



Marisa Creter, Secretary

Allen Matkins

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VIA EMAIL/FEDEx

January 18, 2022

San Gabriel Valley Council of Governments
Attention: Katie Ward
Senior Management Analyst
1000 South Fremont Avenue, Suite 10210
Alhambra, California 91803

Email: kward@sgvcog.org

Re: Objections to SGVCOG's January 20, 2022, hearing on a proposed resolution of necessity for condemnation of 23525 Palomino Drive, Diamond Bar (APN 8281-024-053) in connection with SGVCOG's State Route 57/60 Confluence Chokepoint Relief Project

Dear Ms. Ward:

As you know, this firm represents AP-Diamond Bar LLC, the owner of the property located at 23525 Palomino Drive, Diamond Bar (APN 8281-024-053). The purpose of this letter is to detail AP-Diamond Bar's objections to SGVCOG's planned January 20, 2022, hearing on a resolution of necessity authorizing condemnation of part of AP-Diamond Bar's property for SGVCOG's State Route 57/60 Confluence Chokepoint Relief Project.

You may recall that on December 6, 2021, we sent you AP-Diamond Bar's request to appear and be heard on the matters referred to in SGVCOG's purported notice of hearing. Based on discussions with SGVCOG's attorney, Craig Farrington, including related to issues surrounding COVID, we have agreed to submit AP-Diamond Bar's objections only by this letter and agreed not to appear and make further objections and comments at the hearing. In return, we understand that SGVCOG will not argue that AP-Diamond Bar has waived any pertinent objections or failed to exhaust its administrative remedies.

We request that copies of this objection letter be distributed to all SGVCOG decision makers prior to their considering the adoption of any resolution of necessity.

OBJECTIONS

- 1. SGVCOG has not satisfied state-mandated prerequisites for adopting a resolution of necessity. More specifically, SGVCOG failed to make an offer of just compensation based on an adequate appraisal of the property. Thus, SGVCOG cannot adopt a resolution of necessity.**

Under California Eminent Domain Law, a condemning agency must comply with several procedural prerequisites before adopting a resolution of necessity and instituting a condemnation action. Among other requirements, the condemning agency: (1) must appraise the fair market value of the property to be condemned; (2) must make an offer of just compensation reflective of that value; (3) must provide a written statement explaining the basis of the agency's determination of fair market value; and (4) must engage in good faith negotiations before initiating a condemnation action. (Gov. Code, §§ 7267.1, 7267.2; Code Civ. Proc., § 1245.230.)

SGVCOG has not completed the above-listed prerequisites for adopting a resolution of necessity to condemn AP-Diamond Bar's property. Specifically, SGVCOG is required to pay AP-Diamond Bar the fair market value for the property SGVCOG intends to take. (Cal. Const., art. I, § 19; Code Civ. Proc., § 1263.310.) Accordingly, SGVCOG's appraisal must accurately reflect the fair market value of AP-Diamond Bar's property and to take into account all relevant considerations.

But SGVCOG's appraisal is seriously defective, as detailed below. Because of these significant defects in the appraisal, SGVCOG has not properly made an offer pursuant to Government Code section 7267.2 and cannot make a finding that it has. Thus, SGVCOG cannot properly adopt a resolution of necessity.

SGVCOG's valuation of AP-Diamond Bar's property as vacant land only is improper, and thus the appraisal is defective.

As an initial matter, SGVCOG's appraiser claimed that SGVCOG's proposed acquisitions are on undevelopable land because the area is within a slope along the property. The appraiser then asserted that, since this portion of the property is "not developable," SGVCOG's could value the property to be taken as *vacant land only*. This violates standard valuation principles.

First, AP-Diamond Bar's property is fully entitled for development and, in fact, improved with a 9-unit retail strip center, including a restaurant and Montessori preschool campus. But SGVCOG's appraiser disregarded such developments in the valuation, which is improper. Second, in analyzing comparable sales, SGVCOG's appraisal relied only on inferior vacant land sales, driving down the value conclusion for AP-Diamond Bar's property. Lastly, by defining the property as "land only," the appraiser excluded from the analysis various severance damages (as discussed

below). No law allows SGVCOG to appraise an *improved* property using the fiction that it is vacant.

SGVCOG's appraisal relied on comparable sales that were inferior to AP-Diamond Bar's property and should not have been considered.

SGVCOG's appraisal is also improper because it is based on inferior and inappropriate comparable sales. For example – and consistent with the improper, land-only construction – the comparable sales that the appraiser used were for vacant, unimproved land only. In fact, some of the properties were unentitled. But as SGVCOG's appraiser recognized, AP-Diamond Bar's property is both entitled and improved, and is an operating retail center.

Further, the "comparable sales" that SGVCOG's appraiser considered were smaller in size and inferior in location and use. In fact, the appraisal's "superior" properties were not in close proximity to AP-Diamond Bar's property, but instead in neighboring cities. And the comparable sales that SGVCOG's appraiser considered closed escrow almost three years before SGVCOG's (now dated) date of valuation of July 22, 2021, which was a very different market from the post-pandemic date of value. Accordingly, SGVCOG's comparable sales are inappropriate and should not have been considered in valuing AP-Diamond Bar's property.

SGVCOG's appraiser failed to assess severance damages, and thus its appraisal is defective.

In tandem with valuing the property as vacant land only, SGVCOG's appraisal concluded that the proposed acquisitions will have no negative impact on AP-Diamond Bar's property's buildings and tenants' business operations. But SGVCOG has no substantive evidence to support this conclusion. And facts on the ground demonstrate that the proposed acquisitions will indeed have significant impacts on the ongoing operations of AP-Diamond Bar's tenants.

As SGVCOG's appraisal recognized, the property is a fully developed, multi-tenant commercial property. Yet SGVCOG failed to consider the impacts that a *five-year-long construction project* will have on AP-Diamond Bar's tenants (e.g., visibility of the tenants' businesses, dust, noise, construction trucks and vehicles, etc.). And SGVCOG failed to recognize that these construction impacts will likely lead to increased vacancies and reduced rental rates. As such, these damages should have been considered by SGVCOG's appraiser and must now be included in SGVCOG's offer.

SGVCOG failed to assess the impacts to the landscaping.

Finally, SGVCOG's appraisal fails because it ignores AP-Diamond Bar's need for restoration of the temporary construction easement after the five-year-long construction project is completed.

San Gabriel Valley Council of Governments

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SGVCOG is seeking a permanent fee and three temporary construction easements along AP-Diamond Bar's property, including a 13,652-square-foot-temporary construction easement for 62 months. SGVCOG's appraisal considered that these proposed acquisitions will impact portions of AP-Diamond Bar's landscaped and fenced areas, including trees and a chain link fence along the northerly boundary of the property. There is no dispute over this. In fact, SGVCOG's appraisal includes the costs for removal of a medium size tree, which it valued at \$2,058, and recognized the need for SGVCOG to replace the chain link fence after construction.

But SGVCOG's appraisal did *not* include the costs to restore the landscaping located within the five-year "temporary" construction easement. Instead, SGVCOG's appraiser asserts that because the area is vacant land, SGVCOG has no obligation to restore or replace the landscaping in that area. SGVCOG's failure to assess the impact to the temporary construction easement was improper, and thus its appraisal is incomplete.

2. Conclusion.

SGVCOG cannot validly adopt any proposed resolution of necessity to condemn AP-Diamond Bar's property because the evidence presented in these objections establishes that SGVCOG's appraisal is defective. AP-Diamond Bar therefore respectfully requests that SGVCOG (1) *not* proceed with the adoption of any resolution of necessity and that SGVCOG instead (2) obtain a new or updated appraisal that considers AP-Diamond Bars property as *improved* property and (3) make a proper offer to purchase.

Very truly yours,



K. Erik Friess

KEF:slp

cc: via email:
Craig G. Farrington, Esq.
Alison C. Suh, Esq.