

**REVISED AGENDA ITEM 3
AND REVISED BACKUP MATERIAL**

Mountain/Desert Committee

**September 21, 2012
9:00 am**

Location:
Town of Apple Valley
14975 Dale Evans Parkway
Apple Valley, CA

Discussion Calendar

3. Lenwood Road Grade Separation Project – Set Date for Hearings to Consider Resolutions of Necessity

That the Committee recommend the Board, acting as the County Transportation Commission:

1. Set the date and time of November 7, 2012, at 10:00 a.m. for hearings to consider Resolutions of Necessity for four properties required for the Lenwood Road Grade Separation project in the City of Barstow and the County of San Bernardino. The property owners are: Wilbur and Elaine Gassaway; Carroll Fulmer Management Company; Clayton and Janice Carmean and Albert and Rita Vogler; **and Mona L. Young.**
2. Continue the hearings on the Resolutions of Necessity for ten parcels, previously scheduled for October 3, 2012, at 10 a.m., to November 7, 2012, at 10:00 a.m. to consider adoption of Resolutions of Necessity for properties required for the Lenwood Road Grade Separation project in the City of Barstow and the County of San Bernardino. The property owners are: Richard Bowers; Warren Wallis; Naji Razzouk; Nabil and Janet Razzouk; Chong Nam Yim and Young Ja Yim; Chong Nam Yim and Young Ja Yim (a second parcel); Metor Finance; Daniel Gallardo; Lawrence and Beverly Watson; Laurence Brown;

This item is being revised to address a necessary acquisition of a parcel owned by Mona L. Young that was in escrow through a negotiated sale. This property has fallen out of escrow, and therefore must proceed through the eminent domain process.



- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency
- Service Authority for Freeway Emergencies

Minute Action

REVISED AGENDA ITEM: 3

Date: September 21, 2012

Subject: Lenwood Road Grade Separation Project – Set Date for Hearings to Consider Resolutions of Necessity

Recommendations:* That the Committee recommend the Board, acting as the County Transportation Commission:

1. Set the date and time of November 7, 2012, at 10:00 a.m. for hearings to consider Resolutions of Necessity for four properties required for the Lenwood Road Grade Separation project in the City of Barstow and the County of San Bernardino. The property owners are: Wilbur and Elaine Gassaway; Carroll Fulmer Management Company; Clayton and Janice Carmean and Albert and Rita Vogler; and Mona L. Young.

2. Continue the hearings on the Resolutions of Necessity for ten parcels, previously scheduled for October 3, 2012, at 10 a.m., to November 7, 2012, at 10:00 a.m. to consider adoption of Resolutions of Necessity for properties required for the Lenwood Road Grade Separation project in the City of Barstow and the County of San Bernardino. The property owners are: Richard Bowers; Warren Wallis; Naji Razzouk; Nabil and Janet Razzouk; Chong Nam Yim and Young Ja Yim; Chong Nam Yim and Young Ja Yim (a second parcel); Metor Finance; Daniel Gallardo; Lawrence and Beverly Watson; Laurence Brown;

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| | <p><i>Approved</i> Mountain Desert Committee</p> <p>Date: _____</p> <p>Moved: _____ Second: _____</p> <p>In Favor: _____ Opposed: _____ Abstained: _____</p> <p>Witnessed: _____</p> |
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| COG | | CTC | X | CTA | | SAFE | | CMA | |
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Check all that apply.

MDC1209a-bmf

Attachments: <http://portal.sanbag.ca.gov/mgmt/committee/desert/mdc2012/mdc1209/AgendaItems/MDC1209a1-bmf.xlsx>
<http://portal.sanbag.ca.gov/mgmt/committee/desert/mdc2012/mdc1209/AgendaItems/MDC1209a2-bmf.xlsx>

Background: SANBAG has made steady progress towards the start of construction on the Lenwood Road Grade Separation Project. 100% Plans, Specifications, and Estimates will be submitted for final review and approval in November. One of the remaining critical path items is right-of-way acquisition. The SANBAG Board has approved appraisals and authorized offers for properties required for the grade separation project. While SANBAG's right-of-way agent, Epic Land Solutions, Inc., continues to negotiate with property owners of the subject parcels, it is unlikely that all parcels will be acquired through a negotiated sale. The alternative to a negotiated sale is acquiring the property through eminent domain which requires a prescribed process.

One step in the eminent domain process is setting a hearing date and time for the consideration of the Resolutions of Necessity for the parcels not acquired through negotiated sale. While this action is embarking on the first step of the eminent domain process, the right-of-way agents will continue to negotiate with the property owners in an effort to acquire the properties voluntarily and avoid eminent domain.

Previously, the Committee recommended and the Board set the date for three parcels for September Board hearings. However, the agenda items for these parcels were "pulled" when an issue was identified regarding clarifications of the length of time associated with the temporary construction easements. This issue regarding the easements has since been addressed. Additionally, acquisition of a parcel necessary for the Project owned by Mona L. Young was in escrow through a negotiated sale. This property has fallen out of escrow, and therefore must proceed through the eminent domain process. Staff is requesting that the Committee recommend the Board, acting as the County Transportation Commission, set the date and time of November 7, 2012, to consider Resolutions of Necessity for these four parcels,

The Committee and the Board previously set the date for ten other parcels for October Board hearings. Staff is requesting the hearings on these parcels be continued to the same November 7, 2012, date so that all of the remaining Resolutions of Necessity for this project can be considered on the same date. This will allow the Board to focus on the full project right-of-way needs at one hearing.

The four project property acquisitions are summarized in Attachment "A" and include fee takes, and permanent and temporary construction easements. The ten project property acquisitions for which staff is recommending a continuance are summarized in Attachment "B" and also include fee takes, and permanent and temporary construction easements. Staff is recommending that the Committee move these items forward to the SANBAG Board of Directors.

Financial Impact: These items imposed no financial impact.

Reviewed By: These items are not scheduled for review by any other Policy Committee or Technical Advisory Committee. SANBAG General Counsel has approved this item as to form.

Responsible Staff: Barbara Fortman, Project Manager

**LENWOOD ROAD GRADE SEPARATION PROJECT
REVISED PROPERTY ACQUISITIONS FOR RESOLUTIONS OF NECESSITY HEARINGS**

| RES # | APN | NAME | TITLE OWNER | TYPE |
|--------------|--|--------------------|---|---|
| 13-007 | 0497-142-26 | GASSAWAY | WILBUR WALTER GASSAWAY AND ELAINE FRANCES GASSAWAY, TRUSTEE(S) OF THE WILBUR WALTER AND ELAINE FRANCES GASSAWAY TRUST DATED 9-30-98 | EASEMENT, PARTIAL TAKE, TEMPORARY CONSTRUCTION EASEMENT |
| 13-008 | 0497-131-59 | FULMER | CARROLL FULMER MANAGEMENT CO., INC., A FLORIDA CORPORATION | EASEMENT, PARTIAL TAKE, TEMPORARY CONSTRUCTION EASEMENT |
| 13-009 | 0421-172-12 | CARMEAN AND VOGLER | CLAYTON A. CARMEAN & JANICE J. CARMEAN AND ALBERT H. VOGLER & RITA K. VOGLER, AS TENANCY IN COMMON | TEMPORARY CONSTRUCTION EASEMENT |
| 13-036 | 0422-043-05 0422-043-06 0422-043-07 0422-043-08 | YOUNG | MONA L. YOUNG | EASEMENT, TEMPORARY CONSTRUCTION EASEMENT |