

**MINUTES
WHITTIER CITY COUNCIL
WHITTIER REDEVELOPMENT AGENCY
WHITTIER UTILITY AUTHORITY
JOINT MEETING
CITY COUNCIL CHAMBER, 13230 PENN STREET
MAY 12, 2009**

1. CALL TO ORDER:

The Whittier City Council met in regular session on May 12, 2009, in conjunction with the Whittier Redevelopment Agency and the Whittier Utility Authority. Mayor Henderson called the joint meeting to order at 6:31 p.m. in the Council Chamber of Whittier City Hall, 13230 Penn Street, Whittier, California.

2. ROLL CALL:

**COUNCIL MEMBERS/AGENCY
MEMBERS/AUTHORITY
DIRECTORS PRESENT:**

Joe Vinatieri, Council Member/Agency
Member/Authority Director
Cathy Warner, Council Member/Agency
Member/Authority Director
Owen Newcomer, Council Member/Agency
Member/Authority Director
Greg Nordbak, Mayor Pro Tem /Vice
Chair
Bob Henderson, Mayor/Chair

OTHER OFFICIALS PRESENT:

Stephen W. Helvey, City Manager/
Executive Director
Nancy Mendez, Assistant City Manager/
Assistant Executive Director (7:00 p.m.)
Richard D. Jones, City Attorney/Authority
Counsel
Toni Maiques, Assistant City Clerk-Treasurer/
Assistant Secretary-Treasurer
Kathryn A. Marshall, City Clerk-Treasurer/
Secretary-Treasurer (9:49 p.m.)

3. PLEDGE OF ALLEGIANCE:

Boy Scout Troop 461 led the Pledge of Allegiance.

4.A PRESENTATION – AMERICAN CANCER SOCIETY RELAY FOR LIFE

Mayor Henderson presented a Proclamation to Carol Crosby, Whittier Area Chamber of Commerce and Bonnie Watje, ACRO Printing, in recognition of the American Cancer Society Relay for Life. He said the event financially benefits the American Cancer Society for research; educationally benefits the community; and is a networking opportunity.

Dr. Neil Shindel, on behalf of the American Cancer Society and the Relay for Life Committee, thanked the City Council for the Proclamation in recognition of the Relay for Life event to be held at California High School on June 20 and 21, 2009. He said the Cancer Prevention Study 3 would be conducted over the next twenty years to study how lifestyle, behavioral, environmental and genetic factors affect cancer. He said colon cancer is the second leading cancer related cause of death; and said he hoped the City Council would consider making a proclamation at the Relay event to declare Whittier a colon cancer free zone to kickoff the colon cancer awareness campaign.

5. ORAL COMMUNICATIONS:

Cheryl Estep, Whittier Area Chamber of Commerce President, announced the Wake-Up-Whittier breakfast at Whittier Hospital on May 13; an e-waste collection at AMF Friendly Hills Bowl on May 29 and 30; and the Chamber mixer at Hacienda Golf Club.

Robert Canales, Whittier; said he reviewed the proposed Gold Line rail options and opposes the Greenway Trail route; he opposes medical marijuana; and he urged voters to vote no on all propositions on the May 19 ballot.

George Poochigian, Whittier, commented that the City is spending \$35 million on a new Police facility and then asking the state for money; he urged citizens to vote no on all propositions on May 19 except Proposition 1F; and said he is opposed to the proposed rate increases for sewer and water services.

Mayor Pro Tem Nordbak responded that he would report on his meeting with the governor; and the City is not asking for or accepting money from the State.

Fred Hawthorne, Whittier, said his May 2 City Council launch party was successful, and he thanked those that attended; and he said the City needs locations for recreational basketball games.

Joe Marsico, Whittier, said he is in favor of the Metro Gold Line; he believes there are many people responsible for the City not having a neighborhood trolley system; neighborhood trolleys will feed a public transportation system; he said one trolley can save taxpayers \$400 a day; would eliminate the need for extra cars; and he thinks the three-minute timer should be removed from public comments.

Ralph Marsico, Whittier, said his car was being ticketed after street sweeping was completed; and his family does not deserve to be homeless.

Art Bosshard, Villa Rita Drive, Whittier, said POD temporary storage containers are an eyesore; he inquired about enforcement issues against the POD units; he inquired if storage containers are legal in his driveway; he has concerns about speeding in his neighborhood; and he said more stop signs are needed.

In response to Mr. Bosshard, City Attorney Jones said the City Council considered the issue of allowing storage containers on a temporary basis; has given the City Attorney and staff direction to develop a process for temporary use of storage containers on commercial properties; and storage containers are not allowed on residential properties.

Tony Bustamante; Whittier; said he reviewed the Metro Gold Line information; and he wants to see a coalition of cities to voice residents concerns about a new rail line.

City Manager Helvey left the Council Chamber at 7:00 p.m.

6. CITY COUNCIL/REDEVELOPMENT AGENCY/UTILITY AUTHORITY JOINT CONSENT CALENDAR:

Assistant City Manager Mendez recommended Item 6.G be removed from the Consent Calendar to allow the Buxton Company representative to do an update presentation.

Mayor Henderson requested separate consideration of Items 6.C, 6.D and 6.F.

It was moved by Council/Agency Member/Director Newcomer, seconded by Mayor Pro Tem/Vice Chair Nordbak, and carried, by roll call vote, to approve the Consent Calendar, with the exception of Items 6.C, 6.D, 6.F and 6.G, and that Resolution Nos. 8199 and 8200 be read by title only, further reading be waived, and they be declared adopted.

6.A The City Council denied claims filed by State Farm Insurance for Fred Haarman, Paul G. Hicks, Nancy Chen, and Richard Edel.

6.B The City Council, Agency Board and Board of Directors approved the Minutes of the Regular Meeting of April 28, 2009.

6.E The City Council approved the Engineer's Report for Fiscal Year 2009-10 for Street Lighting Assessment District No. 01-91; and adopted Resolution No. 8199 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, DECLARING ITS INTENTION TO

LEVY AND COLLECT FY 09-10 FOXLEY DRIVE STREET LIGHTING ASSESSMENT, AND SETTING A TIME AND PLACE FOR PUBLIC HEARING THEREON," for June 9, 2009 at 6:30 p.m.

6.H The City Council adopted Resolution No. 8200 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, REPEALING RESOLUTION NO. 7467 AND MODIFYING POLICE DEPARTMENT MONETARY PENALTIES ASSOCIATED WITH THE UNLAWFUL STANDING AND/OR PARKING OF VEHICLES."

6.I The City Council accepted the work performed by E.C. Construction for installation of new playground equipment and resilient rubber surfacing at J.G. Whittier Park; and authorized the City Clerk to record the Notice of Completion.

Mayor Henderson declared a conflict of interest on Items 6.C and 6.D because he owns property in Parking District No 1 and Parking District No. 2; and on Item 6.F because some of his clients receive Social Services funding; and he left the Council Chamber at 7:04 p.m.

It was moved by Council Member Warner, seconded by Council Member Newcomer, and carried, with Mayor Henderson absent, to approve Items 6.C, 6.D and 6.F as submitted.

6.C PARKING DISTRICT NO. 1 FISCAL YEAR 2009-10 PRELIMINARY BUDGET

The City Council approved the proposed preliminary budget for Fiscal Year 2009-10 for Parking District No. 1; and will hold a public hearing at 6:30 p.m. on June 9, 2009, to approve the budget and confirm the assessments.

6.D PARKING DISTRICT NO. 2 FISCAL YEAR 2009-10 PRELIMINARY BUDGET

The City Council approved the proposed preliminary budget for Fiscal Year 2009-10 for Parking District No. 2; and will hold a public hearing at 6:30 p.m. on June 9, 2009, to approve the budget and confirm the assessments.

6.F FISCAL YEAR 2009-10 SOCIAL SERVICES FUNDING

The City Council approved Fiscal Year 2009-10 Social Services Funding of \$64,250 from Community Development Block Grant funds; and received and filed the Matching Fund allocations of \$110,500 and \$6,000 for a Community Health Program to be incorporated and approved as part of the Fiscal Year 2009-10 budget.

Mayor Henderson resumed his seat at the dais at 7:04 p.m.

6.G MARKET ANALYSIS AND RETAIL RECRUITMENT REPORT

Following a Power Point presentation by Buxton Company representative Lisa Hill, it was moved by Agency Member Warner, seconded by Vice Chair Nordbak, and carried unanimously, to receive and file the Market Analysis and Retail Recruitment Study status report.

7. RECESS REDEVELOPMENT AGENCY AND UTILITY AUTHORITY MEETINGS:

Mayor Henderson recessed the Redevelopment Agency and Utility Authority meetings at 7:37 p.m.

8.A DE NOVO HEARING – TREE APPEAL, 15228 YOUNGWOOD DRIVE

Assistant City Manager Mendez announced this was the date and time set and duly noticed for a de novo hearing to conduct a review of the Park and Recreation Commission denial of an appeal to retain a white birch tree planted in the parkway in front of a residence located at 15228 Youngwood Drive, Whittier, without a permit as required by the Municipal Code and the Parkway Tree Manual; (Owner: Ray Tyra). It was recommended the City Council direct staff to return with an implementing resolution based on City Council consensus.

Parks Director Kurkowski presented a staff report and said that staff had identified Mr. Tyra's white birch tree while driving through his neighborhood; Mr. Tyra appealed the decision to the Park and Recreation Commission in November 2008 and January 2009; white birch trees are not identified as replacement trees in the City's adopted Tree Manual; white birch trees are messy and have a short life span of approximately thirty years; magnolia trees are the recommended trees for his neighborhood; and the resident must apply for a permit to plant a non-approved tree.

Mayor Henderson opened the hearing at 7:39 p.m.

Roy Tyra, 15228 Youngwood Drive, Whittier, spoke and said he was not aware there was a permit process for planting trees; he will pay for the tree; a white birch mess is insignificant compared to the mess left by a magnolia; there is a white birch at the house on the corner of his street; there are 8 to 10 different kinds of trees on his block including magnolia, white birch and pine trees; and his yard is the best maintained on his block.

There being no other speakers wishing to testify before the City Council, it was moved by Mayor Pro Tem Nordbak, seconded by Council Member Newcomer, and carried to close the hearing at 7:42 p.m.

In response to Council Member questions, Director Kurkowski said there are a variety of trees on the approved tree list, including ficus; the white birch is smaller and on a different scale than the ficus; the white birch does not damage sidewalks; magnolia is the required replacement tree in that neighborhood; other trees in the neighborhood were there prior to adoption of the Tree Manual; the white birch is not a parkway tree; and the resident could move the white birch onto his personal property, relieving the City of the responsibility for maintenance.

Mayor Pro Tem Nordbak said the Park and Recreation Commission does not have the authority to let the tree stay; he requested the review so Mr. Tyra would not have to pay an appeal fee; the Tree Manual allows the City Council to make an exception when it makes sense; he believes this situation warrants an exception because these are large lots and there are no other magnolia trees nearby; and he was not advocating throwing out the Tree Manual.

Mayor Henderson said the Tree Manual was adopted to provide a uniform tree program; he believes a reasonable compromise would be for Mr. Tyra to transplant the white birch onto his personal property; and magnolias are the uniform tree for parkways in this area.

Council Member Newcomer said the Tree Manual provides uniform advantages such as aesthetics; it is easier to monitor with an approved tree list; magnolias are the approved parkway tree for this area; and he supported upholding the Park and Recreation Commission decision and the Tree Manual.

Council Member Vinatieri said this is a balance issue; he supports uniformity within the City; the residents mow the parkways; he receives calls regarding sidewalk and sewer damage caused by ficus trees; and he supports allowing the white birch to stay.

Following discussion, it was moved by Mayor Pro Tem Nordbak, seconded by Council Member Vinatieri, and failed, with Council Members Warner and Newcomer, and Mayor Henderson dissenting, to overturn the Park and Recreation Commission decision, and direct staff to return with an implementing resolution.

It was moved by Council Member Newcomer, seconded by Council Member Warner, and carried by roll call vote, with Mayor Pro Tem Nordbak and Council Member Vinatieri dissenting, to uphold the Park and Recreation Commission decision, and direct staff to return with an implementing resolution.

Council Member Warner said she supports private property rights; she understands this involves an easement granted to the City, which she took into consideration as well as the City's approved Tree Manual; she sees it as a balance; and she acknowledged that the Council has the authority to make the final decision.

8.B PUBLIC HEARING – LOT LINE ADJUSTMENT NO. LLA 09-003, FRESH & EASY MARKET

Assistant City Manager Mendez announced it was the date and time set and duly noticed for a public hearing to consider adopting a resolution to allow construction of a Fresh & Easy Market near the northwest corner of Whittier Boulevard and Painter Avenue, (Owner/Applicant: NMC Tower/Pearl Whittier Painter LLC/Nelsen). She entered into the record a correction to Page 11, Exhibit “B” of the staff report to amend a portion of the Legal Description to read “thence along said westerly line south 3°18’03” west 44.13 feet.

Mayor Henderson opened the public hearing at 8:00 p.m.

There being no speakers wishing to address the City Council, it was moved by Council Member Newcomer, seconded by Council Member Vinatieri, and carried, to close the public hearing at 8:01 p.m.

It was moved by Council Member Newcomer, seconded by Council Member Vinatieri, and carried unanimously, by roll call vote, that Resolution No. 8201 entitled, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA APPROVING LOT LINE ADJUSTMENT NO. LLA 09-003 TO ADJUST A PORTION OF LOT 4 AND THE TRACT LABELED “EVERGREEN SCHOOL” TOGETHER WITH A PORTION OF LOT 1 OF CORYELL’S SUBDIVISION OF A PART OF LOT 4 IN BLOCK “N’ IN THE CITY OF WHITTIER,” be read by title only, further reading be waived, and it be declared adopted, as amended.

Mayor Henderson recessed the City Council meeting at 8:02 p.m.

At 8:15 p.m., Mayor Henderson reconvened the meeting, with all Council Members present.

8.C PUBLIC HEARING – SPECIFIC PLAN AMENDMENT 09-001, TEMPORARY CONDITIONAL USE PERMIT

Assistant City Manager Mendez announced it was the date and time set and duly noticed for a public hearing to consider the recommendation of the Planning Commission to approve Specific Plan Amendment 09-001; and adopt an ordinance amending the Whittier Boulevard Specific Plan (WBSP) to create a temporary conditional use permit approval process for used automotive dealerships, including automotive sales and any associated repair and service activities within the Commercial Expansion/Auto Sales Segment and in the Shopping Cluster Districts of the WBSP, until July 1, 2011.

In response to Council Member Warner, Community Development Director Collier said the City Council may consider regulating promotional events, sale of cars or noise conditions; a temporary conditional use permit would be required for a used car dealership; and specific conditions of approval have not yet been considered.

Mayor Henderson opened the public hearing at 8:20 p.m.

There being no speakers wishing to address the City Council, it was moved by Council Member Newcomer, seconded by Mayor Pro Tem Nordbak, and carried unanimously to close the public hearing at 8:20 p.m.

Council Member Newcomer said he believes this will not benefit the City; businesses will not spend money for improvements to a temporary site; he fears used car dealerships will become permanent despite the intent to be temporary; and he believes the City will lose opportunities for potential new businesses.

Council Member Vinatieri said he has concerns about allowing used car dealerships on Whittier Boulevard, however there are three prime locations available that are currently non-productive with no sales tax being generated; he believes the two-year deadline will provide a safeguard; and in light of current economic conditions, he believes this interim action is appropriate.

Council Member Warner said she has concerns about the auto industry in general; she believes this may provide an alternative; and she believes it is appropriate to support the recommendation.

Mayor Pro Tem Nordbak said the City is trying to take a proactive approach, despite the risks; he is concerned that the City has lost three car dealerships; he has requested a review of zoning on Whittier Boulevard because the City has an "auto cluster" area; and he believes there is potential to make it positive.

Mayor Henderson said this will offer dealerships an alternative while trying to obtain a new car dealership; he believes the conditional use permit process, which will be very strict, will be beneficial; and this will allow used car dealerships to transition to new car dealerships.

Following discussion, it was moved by Council Member Warner, seconded by Mayor Pro Tem Nordbak, and carried, with Council Member Newcomer dissenting, that Ordinance No. 2925 entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE WHITTIER BOULEVARD SPECIFIC PLAN (UNDER SPECIFIC PLAN AMENDMENT 09-001) TO CREATE A TEMPORARY CONDITIONAL USE PERMIT APPROVAL PROCESS UNDER WHICH USED AUTOMOTIVE DEALERSHIPS, INCLUDING AUTOMOTIVE SALES AND ANY ASSOCIATED REPAIR AND SERVICE ACTIVITIES MAY BE CONSIDERED WITHIN THE COMMERCIAL EXPANSION/AUTO SALES SEGMENT AND IN THE SHOPPING

CLUSTER DISTRICTS OF THE WHITTIER BOULEVARD SPECIFIC PLAN (WBSP). – CITY OF WHITTIER,” be read by title only, further reading be waived, and this be declared its first reading.

In response to Council, Director Collier said he has a draft report addressing Whittier Boulevard zoning which he hopes to bring to Council for consideration in early June.

8.D PUBLIC HEARING – ZONING CODE AMENDMENT 09-002, COLLEGE HILLS HISTORIC DISTRICT

Assistant City Manager Mendez announced this was the date and time set and duly noticed for a public hearing to consider the recommendation of the Planning Commission to approve Zoning Code Amendment 09-002; and adopt an ordinance to codify the College Hills Historic District.

Mayor Henderson opened the public hearing at 8:30 p.m.

There being no speakers wishing to address the City Council, it was moved by Council Member Vinatieri, seconded by Mayor Pro Tem Nordbak, and carried, to close the public hearing at 8:30 p.m.

It was moved by Council Member Newcomer, seconded by Council Member Vinatieri, and carried unanimously, that Ordinance No. 2926 entitled, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, TO CODIFY THE COLLEGE HILLS HISTORIC DISTRICT BY ADOPTING CHAPTER 18.89 TO THE WHITTIER MUNICIPAL CODE (CASE NO. ZONING CODE AMENDMENT 09-002; APPLICANT: CITY OF WHITTIER),” be read by title only, further reading be waived, and this be declared its first reading.

8.E PUBLIC HEARING – U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT 2009-2010 ACTION PLAN AND MINOR HOME REPAIR GRANT PROGRAM CONTRACTOR

Assistant City Manager Mendez announced it was the date and time set and duly noticed for a public hearing to consider the City’s proposed Fiscal Year 2009-10 U.S. Department of Housing and Urban Development (HUD) Action Plan (Plan). It was recommended the City Council consider any testimony provided, direct staff to finalize the Plan and submit it to HUD, and review the proposal received for the Minor Home Repair Grant program and select Veteran’s in Community Service, Inc. to coordinate and implement the program for Fiscal Year 2009-10.

In response to Council Member questions, Redevelopment Manager Pongetti stated that Requests for Proposals had been sent to fifteen firms for the Minor Home Repair Grant Program; Veteran's in Community Service, Inc. (VICS) was the only respondent; VICS is local and has the greatest capacity for implementing the program; and Southern California Rehabilitation Services did not respond.

Mayor Henderson opened the public hearing at 8:33 p.m.

There being no speakers wishing to address the City Council, it was moved by Council Member Newcomer, seconded by Council Member Vinatieri, and carried to close the public hearing at 8:34 p.m.

It was moved by Council Member Vinatieri, seconded by Council Member Newcomer, and carried unanimously, by roll call vote, to approve the City's proposed 2009-10 HUD Action Plan; direct staff to finalize the Plan; submit the Plan to HUD; and select Veteran's in Community Service, Inc. to coordinate and implement the Minor Home Repair Grant Program for Fiscal Year 2009-10.

9.A EASTSIDE GOLD LINE PHASE II EXTENSION

Following a PowerPoint presentation from Metro staff on the Eastside Gold Line Phase II extension, it was moved by Council Member Vinatieri, seconded by Mayor Pro Tem Nordbak, and carried unanimously, to receive and file the Gold Line Phase II extension update report; and appoint Council Members Newcomer and Vinatieri to attend Gold Line Phase II route alignment focus group meetings In June 2009.

9.B ARCHITECTURAL GUIDELINES FOR THE UPTOWN WHITTIER SPECIFIC PLAN

The City Council concurred to continue discussion on the Architectural Guidelines for the Uptown Whittier Specific Plan to May 26, 2009.

9.C DESIGN REVIEW BOARD DECISION

Following discussion, it was moved by Council Member Warner, seconded by Council Member Vinatieri, and carried by roll call vote, with Mayor Pro Tem Nordbak and Council Member Newcomer dissenting, to disband the Design Review Board (DRB) and direct staff to process a Zoning Code Amendment for processing Development Review applications and an ordinance eliminating reference to the DRB in Title 2 of the Municipal Code.

The City Council concurred to direct staff to utilize Option A in the staff report whereby the Development Review application approval process is amended to eliminate formal review by the DRB; and to request current DRB Member Allan Nakken to continue service on the DRB until the process formally disbanding the DRB is finalized.

10. RECONVENE REDEVELOPMENT AGENCY AND UTILITY AUTHORITY IN JOINT SESSION WITH CITY COUNCIL:

Mayor Henderson reconvened the Redevelopment Agency and Utility Authority in joint session with City Council at 9:32 p.m.

11. COUNCIL/AGENCY MEMBER/DIRECTOR COMMENTS/CONFERENCE REPORTS:

Council Member Vinatieri requested a report be brought back to Council to determine the Council's interest in reviewing the barbed wire ordinance.

Council Member Newcomer reported that he met with Governor Schwarzenegger, representing the League of California Cities, and discussed the propositions on the May 19 ballot; and requested the state not borrow funds from cities.

Mayor Pro Tem Nordbak reported that he met with Governor Schwarzenegger and discussed the propositions on the May 19 ballot; and requested the state not borrow funds from cities; he requested staff follow up on issuing a Proclamation for the American Cancer Society Relay for Life; and he wants staff to ensure that traffic tickets are not being issued after street sweeping is completed.

12. ADJOURN REDEVELOPMENT AGENCY AND UTILITY AUTHORITY MEETINGS:

13. CITY COUNCIL CLOSED SESSION:

Assistant City Manager Mendez recommended a Closed Session be held pursuant to:

13.A City Council – Government Code Section 54956.9(c) to discuss one case of potential litigation; the City is not specifically identifying real property subject to the potential litigation to be discussed or the facts supporting this Closed Session item because to do so would jeopardize the City's position.

13.B City Council – Government Code Section 54957.6 to discuss labor negotiations between negotiator Stephen Helvey, and the Whittier City Employees' Association and unrepresented employees.

Mayor Henderson adjourned the City Council meeting to Closed Session at 9:46 p.m. with City Clerk-Treasurer Marshall replacing Assistant City Clerk-Treasurer Maiques.

14. RECONVENE IN OPEN SESSION:

Mayor Henderson reconvened the City Council meeting in Open Session at 9:50 p.m.

15. CLOSED SESSION REPORT:

None

16. ADJOURNMENT:

Mayor Henderson adjourned the City Council meeting at 9:50 p.m.

Respectfully submitted,

Toni Maiques
Assistant City Clerk-Treasurer/
Assistant Secretary-Treasurer