

**MINUTES  
WHITTIER CITY COUNCIL  
WHITTIER REDEVELOPMENT AGENCY  
WHITTIER UTILITY AUTHORITY  
JOINT MEETING  
CITY COUNCIL CHAMBER, 13230 PENN STREET  
MAY 26, 2009**

**1. CALL TO ORDER:**

The Whittier City Council met in regular session on May 26, 2009, in conjunction with the Whittier Redevelopment Agency and the Whittier Utility Authority. Mayor Henderson called the joint meeting to order at 6:30 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  
Richard D. Jones, City Attorney/Authority  
Counsel  
Kathryn A. Marshall, City Clerk-Treasurer/  
Secretary-Treasurer

**3. PLEDGE OF ALLEGIANCE:**

Council Member Newcomer led the Pledge of Allegiance.

**4.A PRESENTATION – BLUE STAR PROGRAM**

Mayor Henderson presented Blue Star Program flags, pins, and decals to the following families, in honor of their family members serving in the armed forces, and advised Blue Star banners will be created and flown on Whittier Boulevard.

1. Gilbert Sanchez and his family, whose grandson Thomas G. Sanchez is an Airman First Class in the Air National Guard;
2. Jacqueline Manfrini-Perez and her son Jared, whose son Nicholas Anthony Perez is an Airman Boatswains Mate Handler in the Navy; and
3. Rose Limon and family, whose son Daniel Samuel Limon is in the Army.

#### **4.B PRESENTATION – POLICE DEPARTMENT COMMENDATION**

Mayor Henderson presented Certificates of Commendation to Kenneth Desowitz, Jeff Santana, and John Wong for coming to the aid of Carol Andante during a robbery on April 24, 2009.

#### **5. ORAL COMMUNICATIONS**

Jeff Nelson, First Presbyterian Church Pastor, Walnut Street, Whittier, said he is enjoying the new Greenway Trail; thanked City Manager Helvey for making a presentation to his church group about the status of projects in the City; and prayed for the City Council.

Lloyd Austin, 11317 Clare Street, Whittier, Whittier Senior Citizens Center Advisory Committee, expressed concern about the City's proposal to remove the pay phone at the Senior Center, said he offered to pay for the phone himself, and that if it is necessary for the City to save funds, they should reduce the hours of staff at the Senior Center instead of removing the telephone.

City Manager Helvey advised there will be a phone available to the public at the Senior Center, staff is looking into changing the service from a pay phone to an inside line for local calls only.

Robert Canales, Whittier, said in light of voters defeating the proposed tax increases on the state ballot last week, government agencies need to make cuts in spending and the public needs to spend money so the economy will recover; said economic hardship has resulted in some people abusing family members; advised the Governor's plans to take City funds is a violation of the Constitution; and said he is working on a new Constitution.

Mary Ann Bakotich, Whittier Area Chamber of Commerce Executive Director, announced the Chamber's E-waste collection, State of the City address, Hacienda Soirée and a trip to Jamaica.

John Seis, Whittier, and two associates, announced the upcoming Atomic Bomb Comedy Show.

Amelia Vogel, Whittier, referenced the City honoring Blue Star families; suggested Council Members not make trips to Sacramento, but rather use the funds to keep restrooms open and continue programs for children; and opposed increasing fees for children's programs, seniors, and disabled residents.

Rhett Rasmussen, Rasmussen Iron Works, 12028 Philadelphia Street, Whittier, advised his company had experienced a number of break-ins and was told by an officer that the adjacent utility pole guide-wire provided easy access over their fence, so they installed barbed wire and razor wire, and made internal changes to harden their facility and the break-ins stopped. He said in March, Code Enforcement requested they remove the barbed wire, but adjacent properties with barbed wire may not have been cited for the violation. He said the provision of the barbed wire ordinance which only permits it out of plain view defeats the purpose of deterring criminals, and he was concerned staff's recommendation that he grow vines on the fence will create a hazard, therefore, he requested the City Council place a moratorium on the barbed wire ordinance and re-evaluate the law.

George Poochigian, Whittier, read a poem written by a veteran regarding veteran roles in providing for the freedoms and rights citizens have in the United States; said he did not see Council Members at the Memorial Day event held in the County area, and asked Council Members to attend events honoring veterans.

Joe Marsico, Whittier, thanked people for their kind acts; spoke regarding going to court and to jail; and suggested the City's television station be used to invite people to contribute positive ideas to improve government.

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

Council Member Vinatieri requested Item 6.R be considered separately.

Mayor Henderson said he would like Items 6.N and 6.O acted on separately.

It was moved by Council/Agency Member/Director Newcomer, seconded by Council/Agency Member/Director Warner, and carried unanimously, by roll call vote, to approve the Consent Calendar, with the exception of Items 6.N, 6.O and 6.R, and that Resolution Nos. 8202 and 8203, and Ordinance No. 2926 be read by title only, further reading be waived, and they be declared adopted.

**6.A** The City Council denied claims filed by Jamie Sue Brabo, Michael T. Ashe, Richard M. Warner, and SafeCo Insurance for Jae Hyo Park.

**6.B** The City Council, Agency Board and Board of Directors approved the Minutes of the Adjourned Regular Meeting of May 9, 2009 and the Regular Meeting of May 12, 2009.

- 6.C** The City Council received and filed the Gateway Cities Council of Governments' updates for April and May 2009.
- 6.D** The City Council adopted Resolution No. 8202 entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2008-09 BUDGET RELATED TO SUPPLEMENTAL APPROPRIATIONS FOR OUTFITTING POLICE DEPARTMENT MOTORCYCLES," in the amount of \$10,838 to purchase motorcycle weapons and racks.
- 6.E** The City Council conducted second reading and adopted 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)."
- 6.F** The City Council approved the allocation of Whittier Cultural Arts Foundation funding of \$21,668 in support of local cultural arts programs for Fiscal Year 2009-10.
- 6.G** The City Council approved a Health Care Focus in Fiscal Year 2009-10 to include continued funding of the Annual Health Fair in the amount of \$4,000 and participation in a new "Activate Whittier" community health program in the amount of \$2,000.
- 6.H** The City Council approved a facility usage fee waiver for the Los Angeles Department of Children and Family Services in the amount of \$560 for a holiday event for foster care givers and their families to be held December 19, 2009 at Parnell Park.
- 6.I** The City Council adopted Resolution No. 8203 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, APPROVING THE SUBMITTAL OF GRANT APPLICATIONS IN RESPONSE TO AMERICAN RECOVERY AND REINVESTMENT ACT FUNDING."
- 6.J** The City Council accepted the work performed by Manhole Adjusting Contractors, Inc. for the Community Development Block Grant (CDBG) Target Area Surface Treatment Program Fiscal Year 2008-09, at various locations in the City; and authorized the City Clerk to record the Notice of Completion.

- 6.K** The City Council approved the Encroachment License for the Whittier Area Community Church parking lot located at 8175 Villaverde Drive; and authorized the Mayor to execute the Encroachment License.
- 6.L** The City Council took the following actions regarding valet parking for Setá Restaurant:
1. Approved the Right of Way Use Agreement along the 6755 block of Bright Avenue;
  2. Approved the Valet Parking Agreement for Use of the Multideck located at 6721 Bright Avenue;
  3. Authorized the City Manager to execute the Agreements;
  4. Approved the Encroachment License with Capital Investment Advisors, Inc./Capital Realty Mortgage, Inc. for parkway uplighting; and
  5. Authorized the Mayor to execute the Encroachment License.
- 6.M** The City Council accepted the work performed by Reliable Floor Covering, Inc. for the City Hall basement carpet replacement project; and authorized the City Clerk to file the Notice of Completion.
- 6.P** The City Council approved a special event permit for the Public Safety Forum July 4, 2009 Flag Raising Ceremony at Central Park.
- 6.Q** The City Council approved an addendum to extend the agreement with Whittier Community Theatre to June 30, 2010 for rental of the Community Center Theatre; and authorized the City Manager to execute the agreement.
- 6.N FIRST AMENDMENT TO AFFORDABLE HOUSING AND REGULATORY AGREEMENT FOR THE GABLES PROJECT, 16050 AND 16110 WHITTIER BOULEVARD**
- 6.0 AFFORDABLE HOME OWNERSHIP PROGRAM DESCRIPTION**

Following discussion, Agency Board Members concurred to continue consideration of Items 6.N and 6.O; and directed staff to report back on the proposal that the Gables Project developer be authorized to select four eligible households to receive Agency assistance to purchase a unit, and to revise the Participation Preference Point System Priority Determination chart to give teachers and individuals in medical professions additional points in qualifying for the Agency's housing subsidy.

Mayor Pro Tem Nordbak asked questions regarding Item 6.J, Community Development Block Grant Target Area Surface Treatment Program Notice of Completion, relating to contract award amounts versus total project costs, including inspection services, and requested a meeting with the City Manager and Public Works Director regarding the Public Works construction and inspection contract process.

## **6.R RESOLUTION OPPOSING STATE TAKING PROPERTY TAX FUNDS**

Following brief discussion, it was moved by Council Member Vinatieri, seconded by Council Member Newcomer, and carried unanimously, by roll call vote, that Resolution No. 8204 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, FINDING A SEVERE FISCAL HARDSHIP WILL EXIST IF ADDITIONAL CITY PROPERTY TAX FUNDS ARE SEIZED AND ADDITIONAL UNFUNDED MANDATES ARE ADOPTED BY THE STATE OF CALIFORNIA," be read by title only, further reading be waived, and it be declared adopted.

## **7. RECESS CITY COUNCIL AND REDEVELOPMENT AGENCY MEETINGS:**

Mayor Henderson recessed the City Council and Redevelopment Agency meetings at 7:32 p.m.

## **8.A PUBLIC HEARING – SEWER AND WATER SERVICE FEE INCREASES**

Executive Director Helvey announced it was the date and time set and duly noticed for the Utility Authority Board of Directors to conduct a public hearing to receive and consider public testimony and protests regarding the proposed increases to fees for sewer and water services.

Director of Public Works Pelsler said this is the annual review of utility fees, the hearing and proposed increases were noticed in compliance with Proposition 218 by mailing notices to every residential and business address in the City as well as the absentee property owners listed on the County's Tax Assessor database. He said the proposed 3.3 % sewer use rate increase will equate to \$.27 per month increase for a typical residential customer and be collected on the property tax bill issued by the County; water rates are proposed to increase 3.32% resulting in a \$1.29 monthly increase for a typical residential customer; and no increases are proposed for the solid waste fees for FY09-10. He responded to a question from Council Member Warner and advised the City offers low-income residents an exemption from the Utility User's Tax which is applied to these utilities and others, but the Utility Authority is prevented from reducing the service charges because it would be a subsidy paid by other ratepayers; and said the utility services do not make a profit, all the fees relate to the services provided.

Chair Henderson opened the public hearing at 7:37 p.m.

The individuals listed below spoke in opposition to the proposed rate increases and addressed the following points: under Proposition 218, the funds collected should be used for the identified service and must be related to the property they are collected from; rate increases would not be necessary if Utility funds had not been allocated to the police facility; the Authority is making money from selling water rights to other agencies and leasing land and has its own well; unsafe water is being spread over

Southern California and may be getting to customers in Whittier; oil pollution is affecting the quality of water, air, and the hills in Whittier, people have reverted to paying for water at grocery stores at a cost higher than watering lawns and flushing toilets; questioned what the enterprise component was of the sewer system, who was being served, where the money was going, what improvements are being made to facilities, asked if there is profit from the water company; expressed concern that the Joint Powers Agreement between the City and the Utility Authority was a mechanism for the City Council to hide what they were doing from the public; the amount of debt for the utilities is unknown and the public did not vote on the water bonds; funds should have been put away for a rainy day; the public just voted against the State's proposal to increase taxes; some people can't afford a 1% or 2% increase; the increases should be voted on by the public; the funding should not be requested until the utilities have problems; the public interest in providing input on the fee increases is low, so the Directors have control of the decision; and the Directors will continue to ask for money for other projects because everything they create needs to be maintained.

Amelia Vogel, 13011 Oak Street, Whittier, who presented the Board of Directors with copies of material regarding Proposition 218 and agreements relating to water services.

George Poochigian, 5440 Adele Avenue, Whittier.

The speakers listed below spoke in favor of the fee increases and addressed the following issues: there is value in keeping the water and sewer infrastructure in tact; water and sewer services are hidden infrastructures so as long as they function, most people don't think about them; in addition to being in a three to four year drought, there are hydrologic and environmental law cost pressures on maintain the system; the Metropolitan Water District will be raising its rates over 30% in the next few years, a cost which could be passed on to the Authority; the City could promote water conservation through an education campaign; questioned whether, under the Sanitary Master Plan, the rate increases are sufficient to maintain the infrastructure in good working condition; the costs of maintaining and upgrading the sewer and water system costs could increase with age; the City has cleaned up its water source which was previously contaminated so the water is safe to drink; both drought and global warming climate issues mean there is no guarantee water will be available; it would be reasonable to increase the water rate by \$2.00 to \$3.00 per month to keep up the delivery system; and the individuals opposing the rate increase did not address how the system would be maintained.

Robert Chain, 14509 Eastridge Drive, Whittier  
William Locke, 15012 Los Lotes Avenue, Whittier  
Robert Canales, 6333 Milton Avenue, Whittier

Executive Director Helvey responded to a comment made by Mr. Locke and advised that residents with large lots with permeable surfaces can have their sewer charges pro-rated because the water percolates into the ground.

There being no one else wishing to testify before the Board of Directors, it was moved by Vice Chair Nordbak, seconded by Director Warner, and carried unanimously, to close the public hearing at 7:54 p.m.

Chair Henderson said the Utility Authority is charged with making sure public services are not interrupted; it would be irresponsible to wait until the system failed, and people were without fire protection and water service, to take action.

Vice Chair Nordbak advised the Authority does maintain a rainy-day fund in addition to funding regular maintenance.

Executive Director Helvey responded to a question from Director Warner and said when the Authority sells unneeded water pumping rights, the funds are put into the water fund used to offset increases in water rates which benefits the residents on the west side of the City receiving the water service and that the Joint Powers Authority was formed so that the funds can benefit the whole community by being transferred to use on projects such as public safety services.

It was moved by Director Newcomer, seconded by Vice Chair Nordbak, and carried unanimously, to direct staff to return with resolutions implementing the fee changes.

Chair Henderson declared a recess at 7:59 p.m. At 8:07 p.m., Chair Henderson reconvened the meeting with all Directors present.

**9. RECESS UTILITY AUTHORITY MEETING AND RECONVENE CITY COUNCIL MEETING:**

Chair Henderson recessed the Utility Authority meeting and reconvened the City Council meeting at 8:07 p.m.

**10.A CONTINUED PUBLIC HEARING – REVIEW OF VARIANCE V08-004, 14856 MAR VISTA STREET**

City Manager announced it was the date and time set and duly noticed for a continued public hearing to review the decision of the Planning Commission denying Variance V08-004, to allow an over height (up to 15 feet in certain locations) and view obscuring masonry wall for a single-family residence at the property addressed as 14856 Mar Vista Street; Applicant: Hugo Gutierrez. He advised the hearing had been continued from January 27, 2009, February 24, 2009, March 24, 2009, and April 28,

2009, and at the applicant's request, staff was recommending it be continued to June 9, 2009, at 6:30 p.m.

It was moved by Council Member Vinatieri, seconded by Council Member Newcomer, and carried unanimously to continue the public hearing to June 9, 2009, at 6:30 p.m.

#### **10.B PUBLIC HEARING – 2008-09 HUD ACTION PLAN AMENDMENT NO. 2, ALLOCATION OF CDBG-R FUNDS**

City Manager announced it was the date and time set and duly noticed for a public hearing to consider approval of Amendment No. 2 to the 2008-09 Department of Housing and Urban Development (HUD) Action Plan. He recommended the City Council receive testimony on the proposed amendment regarding allocation of Community Development Block Grant Recovery (CDBG-R) funds available to be appropriated under the American Recovery and Reinvestment Act of 2009, adopt a resolution approving the amendment, and direct staff to forward it to HUD.

Mayor Henderson opened the public hearing at 8:08 p.m.

Robert Canales, 6333 Milton Avenue, Whittier, said there appears to be a lack of participation in public hearings indicating people do not understand how this funding affects them.

There being no one else wishing to testify before the City Council, it was moved by Mayor Pro Tem Nordbak, seconded by Council Member Newcomer, and carried unanimously to close the public hearing at 8:10 p.m.

It was moved by Council Member Newcomer, seconded by Council Member Vinatieri, and carried unanimously, by roll call vote, to approve Amendment No. 2 to the 2008-09 HUD Action Plan; that Resolution No. 8205 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2008-09 BUDGET FOR THE PURPOSE OF ALLOCATING COMMUNITY DEVELOPMENT BLOCK GRANT – R FUNDS," be read by title only, further reading be waived and it be declared adopted; and directed staff to forward Amendment No. 2 to HUD.

#### **11.A 2010 UNITED STATES CENSUS**

Carlos Vasquez, U. S. Census Bureau, showed a video regarding the importance of the 2010 United States Census and said he plans to form a Complete Count Committee in the City of Whittier to spread awareness of the importance of the Census.

## **11.B UPTOWN WHITTIER SPECIFIC PLAN ARCHITECTURAL GUIDELINES**

Mayor Henderson said he is not able to participate in discussions relating to the full Uptown Whittier Specific Plan, but the City Attorney determined he can participate in this type of discussion.

City Attorney Jones advised the nature of the item before the City Council does not provide an economic impact for Mayor Henderson, nor does it involve the substantive approval process; under the Specific Plan, it is a guideline that addresses aesthetic issues, therefore Mayor Henderson does not have a conflict of interest on this matter and may participate in the deliberations.

Following discussion, the City Council directed staff to bring the item back with new photographs depicting preferred and discouraged characteristics of buildings developed under the California Contemporary Architectural Style.

## **11.C BARBED WIRE ORDINANCE REVIEW**

Following discussion, there was City Council consensus, with Council Member Newcomer dissenting, to have staff bring back the barbed wire ordinance for discussion of its application.

## **12.A ORDINANCE AMENDING WHITTIER BOULEVARD SPECIFIC PLAN RELATING TO USED AUTOMOBILE DEALERSHIPS**

It was moved by Council Member Vinatieri, seconded by Mayor Pro Tem Nordbak, and carried unanimously, 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 and further reading be waived.

It was moved by Council Member Warner, seconded by Mayor Pro Tem Nordbak, and carried by roll call vote, with Council Member Newcomer dissenting, that Ordinance No. 2925 be adopted.

**13.A RESOLUTION DENYING TREE APPEAL, 15228 YOUNGWOOD DRIVE**

It was moved by Mayor Pro Tem Nordbak, seconded by Council Member Newcomer, and carried unanimously that Resolution No. 8206 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, UPHOLDING THE PARK AND RECREATION COMMISSION DENIAL OF THE TREE APPEAL AT 15228 YOUNGWOOD DRIVE," be read by title only and further reading be waived.

It was moved by Council Member Newcomer, seconded by Council Member Warner, and carried by roll call vote, with Council Member Vinatieri and Mayor Pro Tem Nordbak dissenting, that Resolution No. 8206 be adopted.

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

Mayor Henderson reconvened the Redevelopment Agency and Utility Authority meetings in joint session with the City Council at 9:08 p.m.

**15. COUNCIL/AGENCY MEMBER/DIRECTOR COMMENTS/CONFERENCE REPORTS:**

Comments were informational only.

**16. ADJOURN UTILITY AUTHORITY MEETING:**

**17. CITY COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION:**

City Manager Helvey recommended the City Council and Agency Board conduct the following Closed Sessions. He advised Mayor Pro Tem Nordbak will not participate in discussion of Item 17.D due to conflict of interest:

**17.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.

**17.B** City Council – Government Code Section 54957.6 to discuss labor negotiations between negotiator Stephen Helvey and the Whittier Police Officer's Association.

- 17.C** Redevelopment Agency – Government Code Section 54956.8 to discuss real property negotiations with Pacific Crest Holdings, LLC regarding price and terms of payment for properties located at 12900 Philadelphia Street and the adjacent Assessor's Parcel No. 8139-023-028 located on the southeast corner of Philadelphia Street and Comstock Avenue; Agency negotiator: Stephen Helvey.
- 17.D** Redevelopment Agency – Government Code Section 54956.8 to discuss real property negotiations with Skyline Holdings, LLC regarding price and terms of payment for properties located at 7055 Greenleaf Avenue, and 7042 and 7058 Comstock Avenue; Agency negotiator: Stephen Helvey.
- 17.E** City Council - Government Code Section 54956.9(b) to discuss one case of potential litigation based on a letter received from Jack Carmichael on January 20, 2009 relating to property located at 13238 E. Whittier Boulevard.

Mayor Henderson adjourned the joint meeting to Closed Session at 9:20 p.m.

**18. RECONVENE IN OPEN SESSION:**

Mayor Henderson reconvened the joint meeting in Open Session at 10:29 p.m.

**19. CLOSED SESSION REPORT:**

None.

**20. ADJOURN REDEVELOPMENT AGENCY MEETING:**

Mayor Henderson adjourned the Redevelopment Agency meeting at 10:29 p.m.

**21. ADJOURN CITY COUNCIL MEETING**

Mayor Henderson adjourned the City Council meeting at 10:29 p.m. to Tuesday, June 2, 2009, at 7:00 p.m.

Respectfully submitted,

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Kathryn A. Marshall  
City Clerk-Treasurer/  
Secretary-Treasurer