

**MINUTES
WHITTIER CITY COUNCIL
WHITTIER REDEVELOPMENT AGENCY
WHITTIER UTILITY AUTHORITY
JOINT MEETING
CITY COUNCIL CHAMBER, 13230 PENN STREET
JULY 28, 2009, 6:30 P.M.**

1. CALL TO ORDER:

The Whittier City Council met in regular session on July 28, 2009, in conjunction with the Whittier Redevelopment Agency and the Whittier Utility Authority. Mayor Henderson called the joint meeting to order at 6:32 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
Toni Maiques, Assistant City Clerk-Treasurer/
Assistant Secretary-Treasurer
Kathryn A. Marshall, City Clerk-Treasurer/
Secretary-Treasurer (10:11 p.m.)

3. PLEDGE OF ALLEGIANCE:

Council Member Warner led the Pledge of Allegiance.

4.A PRESENTATION – GOLD STAR – CINDY ROWE

Mayor Henderson presented Cindy Rowe a Gold Star Banner, in memory of her husband, Sgt. Blue Rowe, who was killed in Afghanistan on May 26, 2009. He said the Gold Star signifies the ultimate sacrifice made for the country.

4.B PRESENTATION – FRIENDS OF THE WHITTIER PUBLIC LIBRARY DONATION

Nancy Krug, President of the Friends of the Whittier Public Library, introduced Francis Miner, Bookstore Manager, and said the bookstore has between 50,000 to 60,000 volumes. Nancy and Francis presented Mayor Henderson with a \$75,000 check for Whittier Public Library services.

Mayor Henderson thanked the Friends of the Whittier Public Library for their \$75,000 contribution again this year.

4.C PRESENTATION – UPTOWN YMCA LIFEGUARDS RECOGNITION

Mayor Henderson presented Certificates of Commendation to Claudia Flores, Michael Gutierrez, and Soretta Walker, lifeguards from the Uptown Whittier YMCA, for their rescue of a 12-year old girl that was swimming laps.

4.D PRESENTATION – PALM PARK LIFEGUARDS RECOGNITION

Community Services Director Shields introduced City of Whittier Palm Park lifeguards Michael Toledo, Emily Carrera, Natalie Amloian, Diego Casillas, Miguel Villalobos, and Aron Sordan for their rescue of Maria Alvarez, who showed symptoms of a heart attack during an adult swim class. Mayor Henderson presented Certificates of Commendation to the lifeguards.

Mayor Pro Tem Nordbak left the Council Chamber at 6:44 p.m. He resumed his seat at the dais at 6:46 p.m.

ANNOUNCEMENT:

Mayor Henderson announced the City is accepting applications for a vacancy on the Planning Commission and applications will be accepted until 5:00 p.m. on Monday, August 3, 2009.

5. ORAL COMMUNICATIONS:

Tom Gobrecht, Owner, Whittier Honda-Kawasaki Fun Center, 14043 Whittier Boulevard, said his business has brought in over \$1million in sales tax, plus 35 years worth of business license tax revenue since 1974; his property is 45,000 square feet

and thus cannot have temporary signs to draw traffic and stimulate business; his business obtained a permit for inflatable characters, however the permit was issued in error and this was not permissible; he requested to be able to participate as properties over 75,000 square feet that are subject to the promotional sign code; he received a violation notice for barbed wire, razor wire and crates stacked too high; he has removed razor wire from the property and reduced the height of the crates below the fence line; he said he stores vehicles, forklifts and legally contained hazardous materials behind the barbed wire; and removing the barbed wire would pose safety hazard risks and security problems for the property and equipment.

Jeff Nelson, Co-Pastor, Whittier Presbyterian Church, 13750 Walnut Street, Whittier, said he rides the Greenway Trail bike path several times a week; he urged others to use courtesy and etiquette while on the Trail by being polite, watching children and pets, and cleaning litter and pet waste; and he prayed for the community.

Steven Hernandez, Steve's BBQ, 7007 Greenleaf Avenue, Whittier; submitted a list of three items he would like the City Council to consider when his conditional use permit is reviewed in September.

Sue Dean, Whittier Area Chamber of Commerce, announced upcoming Chamber events Wake-Up-Whittier networking breakfast on August 12 and a ten chamber mixer hosted by Rose Hills on August 27; and said advertising for the 2010 Chamber directory is available and is free to members.

Les Howard, 7322 Bright Avenue, Whittier; said he lives in the Uptown area; he worked in the City for 29 years; thanked merchants and the City for providing the Wednesday Night Family Festival and Uptown Market; and said people need places to experience themselves as part of the community.

Robert Herron 14720 Dunton Drive, Whittier; said even though real estate salesmen are classified as independent contractors, they are considered employees; he said brokers pay a fee for the salesmen with the City business license; the broker pays workers compensation insurance on salesmen as employees; and it would be discriminatory to place this license only on real estate salesmen.

Paul Brenier, Whittier Uptown Association President, said security for all Uptown events is important; the Association is in talks with the city and a private company regarding security; the proposed Wednesday Night Festival security requirement would put a financial burden on the Association; and they need time to evaluate the issue.

Martin Camero, Whittier Uptown Association Treasurer, submitted written comments regarding the Wednesday Night Family Festival; said the Association is working on security; additional security for the Festival would place an undo burden on the Uptown Association; and he announced the Annual Uptown Car Show on August 15, 2009.

Dave Gayman, Family Festival Productions, 138 Colorado Boulevard, Monrovia; the contractor for the Uptown Wednesday Night Family Festival, said he is concerned about the short notice regarding security issues; he believes the issues needs more discussion; neither Family Festival Productions nor the Whittier Uptown Association have the funds to pay for the additional security; he said he is willing to work with staff regarding security; and he has brought additional staff for security to the Wednesday Night Festival.

Jim Emory, Owner Coldwell Banker Alliance Realty; said there has never been an attempt to collect a business license tax from individual real estate agents in his 40 years in the real estate business; real estate brokers are classified as employers under state law and have paid workers compensation insurance on agents; agents are treated as employees; he said most homes sold in Whittier are sold by out of city realtors and asked if they would be required to obtain a business license; the real estate industry brings in substantial tax dollars to the City; and he opposes the proposal to tax individual agents.

Jason Rosano, Whittier Uptown Association Vice President, said the additional security requirement for the Wednesday Night Family Festival would place a hardship on the Association budget; the Uptown Association had a security plan in place prior to this; the Association made the decision to hire a private security company; the increased security proposal would negatively impact their budget and the ability to provide security for other events; and he wants the Association to be allowed to complete their own security plan.

Alma Zeve, 14015 Ramona Drive, Whittier, said the Uptown Whittier Wednesday Night Family Festival is a good outlet for families and residents to enjoy the Uptown area; and she believes it is essential to the community.

Ralph Marsico, said he had requested records of the fines their landlord had paid for violations against their property; he said they are going to court regarding the fines on the property; and he needed proof for the court case.

6. CITY COUNCIL/REDEVELOPMENT AGENCY/UTILITY AUTHORITY JOINT CONSENT CALENDAR (Continued on Page 6 after Item 9.A):

City Manager Helvey announced that Item 6.Z was pulled from the Consent Calendar prior to the meeting due to incorrect posting; and would be returned at the August 11, 2009 meeting.

There was City Council consensus to move Item 9.A on the Agenda, as requested by Mayor Pro Tem Nordbak, to be considered before the Consent Calendar.

9.A REAL ESTATE SALESMEN BUSINESS LICENSING (See Page 16).

City Manager Helvey introduced the item, and said that as part of the City's budget balancing efforts and raising revenues, there had been City Council concurrence to pursue business licensing of real estate salesmen located within the City, a long-standing provision in the Municipal Code that had not been pursued; and the City Council may reconsider the item if desired.

City Attorney Jones said the law discourages flat-rate taxes; encourages apportionment of taxes based on business conducted within the City; the licensing of real estate salesmen is not pursued aggressively; some cities license only the broker; and some cities license both the brokers and agents.

In response to Council Member questions, Assistant City Clerk-Treasurer Maiques said that currently brokers are licensed based on a flat-rate tax; the Municipal Code allows licensure of real estate salesmen, however the City has not pursued this area; if the salesmen receive a 1099 from the broker, they are considered a contractor and may be individually licensed; and if they receive a W-2 they are considered an employee and covered under the brokers business license.

Mayor Pro Tem Nordbak said he has met with local real estate brokers; he has a better understanding of their state licensing requirements; realtors must work under a licensed broker; he does not believe pursuing licensing of real estate salesmen will help the real estate industry; he wants real estate brokers to know the City supports them; and he recommended the City continue past practices of not pursuing licensing of real estate salesmen.

Council Member Vinatieri said from a policy standpoint, in this economy, it is not the right time to impose the tax; doing so may drive real estate salesmen out of Whittier; our current practice is similar to surrounding cities; and he supports letting the current policy stand.

Council Member Newcomer said he believes real estate salesmen should be individually taxed, similar to the way hair stylists are taxed; real estate agents earn more than hair stylists; and the salesmen should be taxed if they are classified as an independent contractor.

Mayor Henderson said under California law, all real estate salesmen are treated as employees; it would be difficult and expensive to try and locate all the salesmen in the City; he believes the way the state treats realtors should be the deciding factor; he proposed to direct staff to suspend collection of the tax; and he said he would like to see an incremental fee schedule developed to add fees to the brokers licenses.

Following discussion, it was moved by Mayor Pro Tem Nordbak to instruct staff to keep the current process of not enforcing licensing of real estate salesmen as

allowed by the Municipal Code; and return in the future with the possibility of licensing real estate salesmen on a sliding scale. The motion died due to no second.

Council Member Warner said a hair dresser can work without state licensing oversight; real estate salesmen require broker oversight; she does not support the recommendation; and may be willing to reconsider further discussion when the economy turns around.

Following further discussion, it was moved by Council Member Warner, seconded by Council Member Vinatieri, and carried, by roll call vote, with Council Member Newcomer dissenting, to suspend collection of the business license tax on real estate agents located within the City.

Mayor/Chair Henderson recessed the joint City Council/Redevelopment Agency/Utility Authority meeting at 7:43 p.m. At 7:54 p.m., he reconvened the joint meeting with all Council/Agency Members/Directors present.

6. CITY COUNCIL/REDEVELOPMENT AGENCY/UTILITY AUTHORITY JOINT CONSENT CALENDAR (Continued from Page 4):

Mayor Pro Tem Nordbak requested separate consideration of Items 6.M and 6.X.

Council Member Warner requested separate consideration of Items 6.K, 6.Q and 6.BB.

Council Member Newcomer requested separate consideration of Items 6.O and 6.P.

Council Member Vinatieri requested separate consideration of Item 6.E.

It was moved by Council/Agency Member/Director Newcomer, seconded by Mayor Pro Tem/Vice Chair Nordbak, and carried unanimously, by roll call vote, to approve the Consent Calendar, with the exception of Items 6.E, 6.K, 6.M, 6.O, 6.P, 6.Q, 6.X, 6.Z and 6.BB, including awarding an agreement with Pickard Architects and that Resolution Nos. 8220 through 8224 and Ordinance No. 2929 be read by title only, further reading be waived, and they be declared adopted; and that Ordinance No. 2931 be read by title only, further reading be waived and this be declared its first reading.

6.A The City Council denied claims filed by Michelle Cota, Jack Gregg, Andria Hernandez, Laura R. Horn, Terence Mitchell, Angel Barragan Rivera, and Linda de Vries.

6.B The City Council, Agency Board and Board of Directors approved the Minutes of the Regular Meetings of June 23, 2009 and July 14, 2009; and

the City Council and Agency Board approved the Minutes of the Adjourned Regular Meeting of July 23, 2009.

- 6.C** The City Council received and filed the Fiscal Year 2009-10 Work Plan.
- 6.D** The City Council received and filed the Gateway Cities Council of Governments' updates for May, June and July 2009.
- 6.F** The City Council adopted Resolution No. 8220 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2009-2010 BUDGET TO ACCEPT A DONATION FROM THE FRIENDS OF THE WHITTIER PUBLIC LIBRARY," in the amount of \$75,000 for library services and programs as designated by the Friends and requested by the Library Director.
- 6.G** The City Council adopted Resolution No. 8221 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING RESOLUTION NO. 8198 ESTABLISHING FEES TO BE CHARGED FOR PUBLIC WORKS ENGINEERING SERVICES FOR THE TEMPORARY CLOSURE OF STREETS (BLOCK PARTIES)," reducing the fee amount from \$430 to \$100.
- 6.H** The City Council adopted Resolution No. 8222 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, ESTABLISHING TEMPORARY FEE REDUCTIONS FOR WALL/FENCING PERMITS ALONG THE GREENWAY TRAIL TO EXPIRE ON JULY 31, 2011," reducing the fee amount to zero dollars.
- 6.I** The City Council took actions regarding the utility user tax (UUT) program:
 - 1. Conducted second reading and adopted Ordinance No. 2929 entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING WHITTIER MUNICIPAL CODE CHAPTER 3.24 TO INCREASE THE UTILITY USERS TAX EXEMPTION FOR RESIDENTIAL SERVICE USERS," to \$26,550 per household; and
 - 2. Adopted Resolution No. 8223 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2009-2010 BUDGET TO FUND THE UTILITY USER TAX EXEMPTION OUTREACH PROGRAM," appropriating funds for program outreach, staffing, and supplies.
- 6.J** The Board of Directors approved the Sewer User Fee Engineer's Report for Fiscal Year 2009-2010.

- 6.L** The City Council conducted first reading of Ordinance No. 2931 entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, ADDING WHITTIER MUNICIPAL CODE SECTION 5.04.125 AUTHORIZING THE CITY CLERK-TREASURER TO ESTABLISH AND IMPLEMENT TAX APPORTIONMENT PROCEDURES RELATING TO LICENSING FLAT-RATE TAX BUSINESSES."
- 6.N** The City Council approved facility fee usage waivers:
1. Rotary Club of Whittier rental and equipment fees in the amount of \$702.50 for the annual Rotary All-Star Game held June 10, 2009 at York Field;
 2. Welcome Home Vietnam Veteran's Day (WHVVD) rental and equipment fees in the amount of \$4,140 for the "Vietnam Veterans Memorial Youth Baseball Tournament" to be held August 24–31, 2009 at York Field;
 3. St. Matthias Episcopal Church rental fees in the amount of \$140 for a Soup Hour Program fund raiser; and
 4. Whittier National Day of Prayer Organizing Committee rental and staff fees in the amount of \$480 for the Whittier National Day of Prayer held in May at the Whittier Historic Depot.
- 6.R** The Board of Directors approved the Professional Services Agreement with Ball Janik LLP to provide legislative advocacy support for Fiscal Year 2009-2010 for a fee not to exceed \$50,400 plus expenses; and authorized the Executive Director to execute the agreement.
- 6.S** The City Council accepted the work performed by JMJ Contractors, Inc. for the construction of access ramps at various locations; and authorized the City Clerk to record the Notice of Completion.
- 6.T** The City Council accepted the work performed by R.J. Noble Company for the Lambert Road Resurfacing from Scott Avenue to Leffingwell Road and Lambert Road Overlay from Painter Avenue to west of Mills Avenue Project; and authorized the City Clerk to record the Notice of Completion.
- 6.U** The City Council approved the plans and specifications for Byron/Rivera Road Overlay from Washington Boulevard to the west City limit; and authorized the City Clerk to advertise for construction bids.
- 6.V** The City Council accepted the work performed by Magicool Inc., for the Senior Center Air Conditioner Replacement Project (final phase); and authorized the City Clerk to record the Notice of Completion.

- 6.W** The City Council approved the Encroachment License for the Whittier Area Community Church located at 8175 Villaverde Drive; and authorized the City Manager to execute the Encroachment License.
- 6.Y** The City Council approved a lease with Carter Sanitation for a portion of Greenway Trail property for vehicle and equipment storage and parking; and authorized the City Manager to execute the agreement.
- ~~**6.Z** The Board of Directors appointed Ross Financial, Financial Advisor; Stone & Youngberg, Underwriters; and Quint & Thimmig, Bond Counsel as the financing team to analyze the potential issuance of water bonds in an amount between \$200,000 and \$250,000; and authorized the Executive Director to approve the necessary agreements.~~
- 6.AA** The City Council took actions regarding the Jail Services Agreement with Wackenhut Corporation as follows:
1. Amended Section 3.2 of the Agreement to reflect the services dates beginning July 1, 2009 and terminating June 30, 2011;
 2. Amended Exhibit A – Billing Rates of the Agreement to reflect a total increase of \$12,514 in the Agreement over the two-year term;
 3. Amended Section 10.2 to reflect a modification in overtime billing rates; and
 4. Authorized the Mayor to execute the Amendment.
- 6.CC** The City Council awarded a Professional Services Agreement to Pickard Architects in the amount of \$15,750 for architectural design of the Joe Miller Field restroom facility; and authorized the City Manager to execute the Agreement.
- 6.DD** The City Council:
1. Approved the Memorandum of Understanding with the Whittier City Employees' Association (WCEA) for the period of July 1, 2009 through June 30, 2010;
 2. Adopted Resolution No. 8224 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING SALARY RESOLUTION NO. 8217 BY ADDING FLOATING HOLIDAY PROVISION AND WATER CERTIFICATE PAY PROGRAM"; and
 3. Approved staff implementing the changes in compensatory time off maximum accrual for WCEA employees and for civilian classified management employees.

6.E RESOLUTION NO. 8219 – PIO PICO STATE PARK CLOSURE

Mayor Pro Tem Nordbak said he has spoken with Los Angeles County and hopes to develop a Joint Powers Authority with Los Angeles County, and the cities of Santa Fe Springs and Pico Rivera to maintain the property.

Council Member Warner said she would be interested in participating in a formal subcommittee with Mayor Pro Tem Nordbak.

Following discussion it was moved by Council Member Vinatieri, seconded by Council Member Warner, and carried, unanimously, by roll call vote, that Resolution No. 8219 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, TO OPPOSE THE CLOSURE OF PIO PICO STATE HISTORIC PARK," be read by title only, further reading be waived, and it be declared adopted.

6.K ORDINANCE NO. 2930 – TEMPORARY ON-PREMISES SIGNS

Following brief discussion, it was moved by Council Member Warner, seconded by Council Member Newcomer, and carried unanimously, by roll call vote that Ordinance No. 2930 entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, TEMPORARILY AMENDING ZONING CODES OF THE WHITTIER MUNICIPAL CODE CHAPTER 18.76.080 (TEMPORARY ON-PREMISES SIGNS) PERTAINING TO THE TIME LIMITATIONS FOR DISPLAYING TEMPORARY SIGNS AND CHAPTER 18.04.110 AS IT PERTAINS TO THE PERIOD OF VALIDITY-EXTENSIONS-PERMITS AND OTHER APPROVALS (APPLICANT: CITY OF WHITTIER, ZONING CODE AMENDMENTS NO. 09-009 AND NO. 09-010)," be read by title only, further reading be waived, and it be declared adopted.

6.M GREENWAY TRAIL LANDSCAPE MAINTENANCE CONTRACT – TROPICAL CREATIONS, INC.

In response to Mayor Pro Tem Nordbak's questions, City Manager Helvey said he believes this contract amount is accurate; and stated the City continues to solicit grant funds for the maintenance of the Greenway Trail.

Assistant City Manager Mendez stated the City may be in line for a \$500,000 Metropolitan grant; and when landscape screening is done, the City anticipates graffiti abatement costs will decrease and landscape maintenance costs to increase.

Following discussion, it was moved by Mayor Pro Tem Nordbak, seconded by Council Member Vinatieri, and carried, unanimously, by roll call vote, to renew the landscape, hardscape and irrigation systems maintenance contract within the area designated Greenway Trail with Tropical Creations, Inc. in the amount of \$119,798; and authorize the City Manager to execute the contract.

6.O ART IN PUBLIC PLACES – FIRST AVENUE/LEFFINGWELL ROAD AND MICHIGAN PARK

Following discussion, it was moved by Council Member Newcomer, seconded by Mayor Pro Tem Nordbak, and carried unanimously, to reject all First Avenue/Leffingwell Road public art proposals; direct the Cultural Arts Commission to re-study the issue for better proposals or reconsider a better location for the southeast Whittier area; and approve the distribution of a Request for Proposals to artists for a Michigan Park Art in Public Places project.

6.P COMPLIANCE AGREEMENT – DEDICATION OF PARK LAND, MBK RAVELLO, LLC

In response to Council Member questions, City Attorney Jones said this agreement reflects the City Council consensus of a previous Closed Session discussion.

Following discussion, it was moved by Council Member Vinatieri, seconded by Mayor Pro Tem Nordbak, and carried, by roll call vote, with Council Member Newcomer dissenting, to approve the Modification to the Compliance Agreement for the Dedication of Park Land and/or Payment of Fees – Vesting Tentative Tract 61665 and Development Review 04-0499 with MBK Ravello, LLC; and authorize the Mayor to execute the agreement.

6.Q APRIL THROUGH JUNE 2009 ECONOMIC DEVELOPMENT QUARTERLY REPORT

In response to Council Member questions, Community Development Director Collier said there will be follow up through the department Work Plan and the Economic Development strategy on the feedback and recommendations received from businesses; businesses need to contact the City to obtain information regarding assistance with the state's Use Tax direct payment permit; staff is following up on other programs such as the Glass Replacement Program and Affordable Housing Programs; various local businesses contacted regarding the Use Tax program did not show interest in the program because there is not a significant financial benefit for them; and marketing information received from Buxton is current and accurate.

Following discussion, it was moved by Council Member Warner, seconded by Council Member Newcomer, and carried unanimously, to receive and file the Economic Development Quarterly Update for April through June 2009.

6.X GLASS STOREFRONT ETCHING ABATEMENT PROGRAM

Redevelopment Manager Duran presented a staff report and said the Glass Storefront Etching Abatement Program was included in the Economic Stimulus and Business Assistance Plan; Redevelopment Agency funds would be used to fund the

Program to remove blight in the Uptown area by providing assistance up to \$4,999 to businesses to either repair or replace first story etched windows, and apply anti-etching film to the windows as a deterrent to future etching. He said the original Program area was Greenleaf Avenue between Hadley and Penn Streets, and he would like to expand the area to include Bright Avenue between Hadley and Penn Streets. He said any costs over \$4,999 would be the responsibility of the business owner, to be paid into an escrow account prior to commencing the work. He said funding would be provided to the first twenty applicants that are in good standing, have no outstanding code violations, and are current on their Uptown Association fees and business license. He said the work will be done by a pre-screened contractor; and after receiving three bids, the City will inspect the property; and authorize the work.

Following brief discussion, it was moved by Council Member Newcomer, seconded by Mayor Pro Tem Nordbak, and carried unanimously, by roll call vote, to approve the Glass Storefront Etching Abatement Program as amended to include Bright Avenue between Hadley and Penn Streets.

6. BB SPECIAL EVENT PERMIT – WEDNESDAY NIGHT FAMILY FAIR

Police Captain Piper reported that the current security guards monitoring the Wednesday Night Family Fair may not have the guard cards required to meet public safety standards; and there had been increased calls for police services, which pulls police officers from other assignments.

Following discussion, the City Council concurred to provide security services, at City expense, for the next two Wednesday Night Family Festival Fair events; allowing the Whittier Uptown Association and Family Festival Productions to work out security issues; and directed staff to return with a report on August 11, 2009 for further discussion.

7. RECESS REDEVELOPMENT AGENCY AND UTILITY AUTHORITY MEETINGS:

Mayor Henderson recessed the Redevelopment Agency and Utility Authority meetings at 8:55 p.m.

8.A PUBLIC HEARING – LOT LINE ADJUSTMENT 08-003 – 15270 AND 15280 YOUNGWOOD DRIVE

City Manager Helvey announced it was the date and time set and duly noticed for a public hearing to consider adopting a resolution approving Lot Line Adjustment LLA08-003 to adjust a portion of the common property line of Parcel 1 and Parcel 2 of Parcel Map 13713 for properties located at 15270 and 15280 Youngwood Drive.

Mayor Henderson opened the public hearing at 8:56 p.m.

Mark Verusian, spoke on behalf of Mary Bonaventura, and said both homeowners were in agreement to the lot line adjustment.

Mayor Pro Tem Nordbak declared a conflict of interest because of the location of his home and left the Council Chamber at 8:58 p.m.

It was moved by Council Member Newcomer, seconded by Council Member Vinatieri, and carried, with Mayor Pro Tem Nordbak absent, to close the public hearing at 8:59 p.m.

It was moved by Council Member Newcomer, seconded by Council Member Warner, and carried, by roll call vote, with Mayor Pro Tem Nordbak absent, that Resolution No. 8225 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, APPROVING LOT LINE ADJUSTMENT NO. LLA08-003 TO ADJUST A PORTION OF THE COMMON PROPERTY LINE OF PARCEL 1 AND PARCEL 2 OF PARCEL MAP NO. 13713, IN THE CITY OF WHITTIER (OWNERS: ELIA ZAVALA; MARY BONAVENTURA)," be read by title only, further reading be waived, and it be declared adopted.

Mayor Pro Tem Nordbak resumed his seat at the dais at 9:00 p.m.

8.B PUBLIC HEARING – CONGESTION MANAGEMENT PROGRAM AND LOCAL DEVELOPMENT REPORT

City Manager Helvey announced it was the date and time set and duly noticed for a public hearing to consider adoption of a resolution finding the City to be in conformance with the Congestion Management Program (CMP) and adopting the Congestion Management Program Local Development Report in accordance with Government Code Section 65089.

Mayor Henderson opened the public hearing at 9:00 p.m.

There being no one wishing to testify before the City Council, it was moved by Council Member Newcomer, seconded by Council Member Vinatieri, and carried to close the public hearing at 9:00 p.m.

It was moved by Council Member Warner, seconded by Council Member Newcomer, and carried unanimously, by roll call vote, that Resolution No. 8226 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, FINDING THE CITY TO BE IN CONFORMANCE WITH THE CONGESTION MANAGEMENT PROGRAM AND ADOPTING THE CMP LOCAL DEVELOPMENT REPORT, IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 65089," be read by title only, further reading be waived, and it be declared adopted.

8.C PUBLIC HEARING – ZONING CODE AMENDMENT 09-004; SPECIFIC PLAN AMENDMENTS 09-002 AND 09-003 – DISBANDING DESIGN REVIEW BOARD

City Manager Helvey 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 Zoning Code Amendment (ZCA) 09-004, Specific Plan Amendment (SPA) 09-002, and Specific Plan Amendment (SPA) 09-003 to dissolve the Design Review Board and establish alternative management processes; and adopt the necessary ordinances and resolution.

Mayor Henderson said it was a difficult decision, however, he believes there is sufficient staff to do the work; he is confident staff will maintain high standards; he is willing to support the recommendation only with those assurances; and he will follow it closely.

Council Member Newcomer said he does not believe dissolving the Board will work; it sends the wrong message that the City does not care about design standards; and he would not support the recommendation.

Council Member Warner said she believes staff has the ability to review applications and do the necessary work; and she supports the recommendation.

Mayor Pro Tem Nordbak said he believes giving this work to the staff is creating more government; he is disappointed that the Design Review Board will disband; and he was pleased with input from the staff

Mayor Henderson opened the public hearing at 9:07 p.m.

Council Member Vinatieri said he believes maintaining the Board creates another level of bureaucracy not found in other cities; he believes it will be helpful to disband the Board; and with safeguards in place, he supports the recommendation.

Mayor Pro Tem Nordbak thanked all those individuals that have served on the Board in the past.

There being no one 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 public hearing at 9:07 p.m.

It was moved by Mayor Pro Tem Nordbak, seconded by Council Member Vinatieri, and carried unanimously, that Ordinance No. 2932 entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, TO MODIFY VARIOUS SECTIONS OF THE WHITTIER MUNICIPAL CODE TO ELIMINATE ALL REFERENCES TO THE "DESIGN REVIEW BOARD" FOR THE PURPOSE OF

DISSOLVING THE BOARD AND ESTABLISHING ALTERNATIVE MANAGEMENT PROCESSES FOR ADMINISTERING DEVELOPMENT REVIEW APPLICATIONS AND OTHER EXISTING DESIGN REVIEW BOARD FUNCTIONS. (ZONING CODE AMENDMENT 09-004 – CITY OF WHITTIER)”; Ordinance No. 2933 entitled, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, TO MODIFY VARIOUS SECTIONS OF THE WHITTWOOD TOWN CENTER SPECIFIC PLAN TO ELIMINATE ALL REFERENCES TO THE “DESIGN REVIEW BOARD” FOR THE PURPOSE OF DISSOLVING THE BOARD AND ESTABLISHING ALTERNATIVE MANAGEMENT PROCESSES FOR ADMINISTERING DEVELOPMENT REVIEW APPLICATIONS AND OTHER EXISTING DESIGN REVIEW BOARD FUNCTIONS. (SPECIFIC PLAN AMENDMENT 09-002 – CITY OF WHITTIER)”; and Resolution No. 8227 entitled, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING VARIOUS SECTIONS OF THE UPTOWN WHITTIER SPECIFIC PLAN TO ELIMINATE ALL REFERENCES TO THE “DESIGN REVIEW BOARD” FOR THE PURPOSE OF DISSOLVING THE BOARD AND ESTABLISHING ALTERNATIVE MANAGEMENT PROCESSES FOR ADMINISTERING DEVELOPMENT REVIEW APPLICATIONS AND OTHER EXISTING DESIGN REVIEW BOARD FUNCTIONS. (SPECIFIC PLAN AMENDMENT 09-003 – CITY OF WHITTIER),” be read by title only and further reading be waived.

It was moved by Council Member Vinatieri, seconded by Council Member Warner, and carried, by roll call vote, with Mayor Pro Tem Nordbak and Council Member Newcomer dissenting, that this be declared the first reading of Ordinance Nos. 2932 and 2933; and that Resolution No. 8227 be declared adopted.

8.D PUBLIC HEARING – ZONING CODE AMENDMENT 08-005; SPECIFIC PLAN AMENDMENTS 09-004 AND 09-005 – ALCOHOLIC BEVERAGES AND LIVE ENTERTAINMENT

City Manager Helvey 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 Zoning Code Amendment (ZCA) 08-005, Specific Plan Amendment (SPA) 09-004, and Specific Plan Amendment (SPA) 09-005 regarding new regulations for businesses offering alcoholic beverages in conjunction with live entertainment or similar uses; and adopt the following ordinances and resolution. It was further recommended the City Council authorize summary publication of the proposed ordinances for ZCA 08-005 and SPA 09-004.

1. Ordinance No. 2934 entitled, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, ADDING CHAPTER 18.43 (BUSINESSES OFFERING OR SELLING ALCOHOLIC BEVERAGES IN CONJUNCTION WITH ANY ON-SITE DANCING, LIVE ENTERTAINMENT, MUSICAL PERFORMANCES, AMPLIFIED MUSIC, BILLIARD/POOL HALL, ARCADE, INTERNET CAFÉ, SMOKING LOUNGE, RESTAURANT, BAR, BANQUET HALL, CLUB, OR SIMILAR USES) TO THE WHITTIER ZONING CODE AND AMEND VARIOUS SECTIONS

- OF THE WHITTIER ZONING CODE. (ZONING CODE AMENDMENT 08-005 - CITY OF WHITTIER)”;
2. Ordinance No. 2935 entitled, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA TO MODIFY VARIOUS SECTIONS OF THE WHITTWOOD TOWN CENTER SPECIFIC PLAN TO ESTABLISH CONSISTENCY WITH THE REGULATIONS SET FORTH IN WHITTIER MUNICIPAL CODE CHAPTER 18.43 (BUSINESSES OFFERING OR SELLING ALCOHOLIC BEVERAGES IN CONJUNCTION WITH ANY ON-SITE DANCING, LIVE ENTERTAINMENT, MUSICAL PERFORMANCES, AMPLIFIED MUSIC, BILLIARD/POOL HALL, ARCADE, INTERNET CAFÉ, SMOKING LOUNGE, RESTAURANT, BAR, BANQUET HALL, CLUB, OR SIMILAR USES) AND APPLY THE SAME REGULATIONS IN CHAPTER 18.43 TO THE WHITTWOOD TOWN CENTER SPECIFIC PLAN AREA (SPECIFIC PLAN AMENDMENT 09-004 - CITY OF WHITTIER)”; and
 3. Resolution No. 8228 entitled, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA AMENDING VARIOUS SECTIONS OF THE UPTOWN WHITTIER SPECIFIC PLAN TO ESTABLISH CONSISTENCY WITH THE REGULATIONS SET FORTH IN WHITTIER, MUNICIPAL CODE CHAPTER 18.43 (BUSINESSES OFFERING OR SELLING ALCOHOLIC BEVERAGES IN CONJUNCTION WITH ANY ON-SITE DANCING, LIVE ENTERTAINMENT, MUSICAL PERFORMANCES, AMPLIFIED MUSIC, BILLIARD/POOL HALL, ARCADE, INTERNET CAFÉ, SMOKING LOUNGE, RESTAURANT, BAR, BANQUET HALL, CLUB, OR SIMILAR USES) AND APPLY THE SAME REGULATIONS CONTAINED IN CHAPTER 18.43 TO THE UPTOWN WHITTIER SPECIFIC PLAN AREA. (SPECIFIC PLAN AMENDMENT 09-005 - CITY OF WHITTIER).”

It was moved by Council Member Vinatieri, seconded by Council Member Newcomer, and carried, unanimously, to continue the public hearing to Tuesday, October 13, 2009 at 6:30 p.m.

Mayor Henderson recessed the Council meeting at 9:18 p.m. At 9:30 p.m. he reconvened the meeting with all Council Members present.

It was moved by Council Member Newcomer, seconded by Council Member Vinatieri, and carried, unanimously, to reconsider the motion, and that the public hearing be continued to Tuesday, October 27, 2009 at 6:30 p.m.

9.A REAL ESTATE SALESMEN BUSINESS LICENSE TAX (See Page 4).

9.B BARBED WIRE ORDINANCE

Following discussion, the City Council concurred that when previously adopted, the Barbed Wire Ordinance was to include a provision that if the applicant had tried

various security measures; and can prove there are no other security measures available, they would be exempt from the barbed wire ordinance requirements.

City Manager Helvey confirmed with Community Development Director Collier that the Zoning Code Amendment would require Planning Commission review and approval; and he said the City will not aggressively enforce the barbed wire ordinance during the Planning Commission process.

9.C SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS DELEGATE AND ALTERNATE

It was moved by Mayor Pro Tem Nordbak, seconded by Council Member Vinatieri, and carried unanimously, to appoint Council Member Warner and Council Member Newcomer as the delegate and alternate, respectively, to serve on the Southern California Association of Governments (SCAG).

9.D FOREIGN TRADE ZONE #243

Business Development Manager Frausto presented a staff report and said a Foreign Trade Zone (FTC) is an area in the United States deemed to be located outside the US Customs territory; and use of a foreign trade zone will allow import businesses to defer duties to be paid on merchandise. She said the City was approached by ITC Diligence, Inc. to support expansion of FTC #243 to be included in their service area. She said ITC had approached Supervisor Knabe about this issue for the unincorporated Whittier County area; and Supervisor Knabe said he would support the issue if it was supported by the City. She said this program would be beneficial to local import businesses.

In response to Council Member questions, David Harlow of ITC Diligence, Inc. said his company has a relationship with Shanghai and other trade areas in China; the FTC program is a job retention program; many Southern California companies are participating in FTCs, rather than relocating, due to financial savings; the grantee, located in Victorville, has extended their service area to include the unincorporated Whittier County area; and ITC will assist with getting information to businesses considering relocating to Whittier.

Following discussion, it was moved by Council Member Newcomer, seconded by Council Member Vinatieri, and carried unanimously, to write a letter of support for Foreign Trade Zone #243 to expand their service area to include the City of Whittier for future Foreign Trade Zone sites by business and property owners; and forward the letter to Supervisor Knabe.

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

Mayor Henderson reconvened the Utility Authority in joint session with the City Council at 9:49 p.m.

11.A SEWER SYSTEM MANAGEMENT PLAN

It was moved by Council Member Newcomer, seconded by Council Member Vinatieri, and carried, unanimously, to adopt the Sewer System Management Plan (SSMP), as required by the State Water Resources Control Board (SWRCB) under Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems.

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

Mayor Henderson reconvened the Redevelopment Agency in joint session with the City Council and Utility Authority at 9:52 p.m.

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

Council Member Warner requested staff follow up on her previous request regarding review of the Historic Resources ordinance, and report back with the direction provided by Council.

Mayor Pro Tem Nordbak requested staff provide a report on changing of street sign colors; a report on the allowable uses of Quimby Act fees; directed staff to look into sales tax revenues from the Friday Farmers Market and Wednesday Night Family Festival; and requested that a future Council meeting be adjourned in memory of Sgt. Blue Rowe.

14. CITY COUNCIL/REDEVELOPMENT AGENCY/UTILITY AUTHORITY CLOSED SESSION:

City Manager Helvey recommended a Closed Session be held pursuant to:

14.A City Council/Redevelopment Agency – Government Code Section 54956.8 to discuss real property negotiations with property owners listed regarding price and terms of payment; City/Agency negotiator: Stephen Helvey:

1. L and P Property Management Company – Assessor Parcel Nos. (APN) 8170-026-009; 8170-026-010; 8170-026-011; and 8170-026-012;

2. Paul Weil Whittier Properties – APN 8170-026-004
 3. Mark Fels, Trustee, Fels Family Trust and Ronald Skale, Trustee Skale Trust – APN 8170-026-006;
 4. State of California – APN 8170-013-904;
 5. Southern Pacific Transportation Co. SBE 872 19 254E PAR – APN 8170-013-815 and 8170-013-816; and
 6. NWM Corporation – APN 8170-028-013
- 14.B** City Council/Utility Authority – Government Code Section 54957.6 to discuss labor negotiations between negotiator Stephen Helvey, and the Whittier City Employees' Association, Whittier Police Officers Association, and unrepresented employees.
- 14.C** City Council – Government Code Section 54956.8 to discuss real property negotiations for acquisition of a perpetual easement along the Union Pacific Railroad (UPRR) right-of-way for the Greenway Trail from Mills to the eastern city limits at Valley Home; City negotiator: Stephen Helvey.
- 14.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.

Mayor/Chair Henderson adjourned the meeting to Closed Session at 10:05 p.m. with City Clerk-Treasurer/Secretary-Treasurer Marshall replacing Assistant City Clerk-Treasurer/Assistant Secretary-Treasurer Maiques.

Mayor Pro Tem/Vice Chair Nordbak left the Closed Session at 10:37 due to a conflict of interest on Item 14.D and a portion of Item 14.C.

15. RECONVENE IN OPEN SESSION:

Mayor/Chair Henderson reconvened the meeting in Open Session at 11:10 p.m.

16. CLOSED SESSION REPORT:

None.

17. ADJOURNMENT:

At 11:10 p.m., Mayor/Chair Henderson adjourned the joint meeting.

Respectfully submitted,

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