

**MINUTES
WHITTIER CITY COUNCIL
WHITTIER REDEVELOPMENT AGENCY
WHITTIER UTILITY AUTHORITY
JOINT MEETING
CITY COUNCIL CHAMBER, 13230 PENN STREET
OCTOBER 11, 2011**

1. CALL TO ORDER:

The Whittier City Council met in regular session on October 11, 2011, in conjunction with the Whittier Redevelopment Agency and the Whittier Utility Authority. Mayor Warner called the joint meeting to order at 6:38 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:**

J. Greg Nordbak, Council Member/Agency
Member/Authority Director (7:41 p.m.)
Joe Vinatieri, Council Member/Agency
Member/Authority Director
Bob Henderson, Council Member/Agency
Member/Authority Director
Owen Newcomer, Mayor Pro Tem /Vice
Chair
Cathy Warner, Mayor/Chair

OTHER OFFICIALS PRESENT:

Stephen W. Helvey, City Manager/Executive
Director
Jeffrey W. Collier, Chief Assistant City
Manager/Deputy Director
Richard D. Jones, City Attorney/Authority
Counsel
Kathryn A. Marshall, City Clerk-
Treasurer/Secretary-Treasurer (9:19 p.m.)
Toni Maiques, Assistant City Clerk-
Treasurer/Assistant Secretary-Treasurer

3. PLEDGE OF ALLEGIANCE:

Council Member Vinatieri led the Pledge of Allegiance.

4.A BLUE STAR PRESENTATIONS

Mayor Warner presented Blue Star flags, decals, and lapel pins to Whittier families in recognition of family members serving in the military:

Yolanda and Olivia Miramontes, in recognition of their son and brother, Edward Miramontes, a Private 1st Class in the United States Air Force stationed in Sheppard, Texas.

Eleazar, Martha, Kathy and Paige Gayton, in recognition of their son, brother and grandson Nathaniel Gayton, a Lance Corporal in the United States Marine Corps, stationed at Camp Leatherneck.

Amparo and Chuck Heinemann, in recognition of their son and brother William Heinemann, a Seaman in the United States Navy, stationed in Hawaii aboard the U.S.S. Chosin.

4.B EAST WHITTIER CITY SCHOOL DISTRICT SAFE SCHOOLS/HEALTHY STUDENTS PROGRAM

Dr. Joe Gillentine, Board Member Paul Gardner, Amy Larson and Lorena Durán recognized the City for its partnership and participation in the East Whittier City School District Safe Schools/Healthy Students Program, a three-year afterschool program that works in conjunction with the City's School Resources Officer (SRO) Program to educate students on various issues including bullying, suicide and substance abuse prevention.

4.C KAISER PERMANENTE GRANT

Kaiser Permanente Chief Financial Officer Greg Dirkey and Public Affairs Officer Elizabeth Trombley presented a \$15,000 grant to the City for fitness equipment along the Greenway Trail.

4.D ACCESSIBILITY AWARENESS MONTH PROCLAMATION

Mayor Warner presented a proclamation to Accessibility Committee Chair Bob Ehlers recognizing Accessibility Awareness Month; and said the Committee studies access issues and makes recommendations to the City based on the needs of the community, as well as educating the community regarding disability issues.

4.E CHAMBER OF COMMERCE REPORT

Greg Gunther, Greg's Auto Body, announced the following upcoming Chamber of Commerce events: Social Media and Business Marketing business seminar on October 13 at the Whittier Public Library; Wake-Up-Whittier networking breakfast at the First Family Church on October 19; Tasty Tuesday at Carino's on October 25; and a Halloween mixer at Renew Salon on October 27.

5. APPROVAL OF AGENDA:

It was moved by Council Member Henderson, seconded by Council Member Vinatieri, and carried, with Council Member Nordbak absent, to approve the agenda as presented.

6. ORAL COMMUNICATIONS:

Marilyn Brinegar, 6721 Greenleaf Avenue, Whittier; announced the 1st annual community quilt project in November and December at Pour-le-Bain; said there will be an eight-session quilt class; there will be a raffle for the travelling quilt with proceeds going to the Cultural Arts Foundation; and the project kicks off November 3.

Yolanda Garcia, Casita del Pueblo, 6783 Greenleaf Avenue, Whittier; announced the Dia de los Muertos Festival on Sunday, October 16, 11:00 a.m. to 5:00 p.m., which will include tribute pieces and altars, artist vendors, a costume contest and car show.

Mike Brinegar, 6004 Painter Avenue, Whittier; said he is concerned about painting red curbs on Beverly Boulevard from Painter Avenue to Turnbull Canyon Road; the parking problem is only on Saturday and Sunday mornings; the red curbs downgrade the scenic residential area; parking spaces will be lost; and the City does not need the expense of red curbs.

Jerry Morgan, 14227 Bronte Drive, Whittier; thanked the Council for being ethical; spoke in favor of oil drilling in the Whittier Hills; he said with new environmental regulations it is safe to drill; and it would be unconscionable not to drill.

Andy Gilbert, 6247 Bright Avenue, Whittier; said he is having civil problems with his neighbor Mary Sullins; and said she has encroached on his property; damaged his fence; and increased the property elevation with no permits; and he submitted a written letter stating his claims.

Isella Sotello, Strong Avenue, Whittier; spoke about the increased water rates; stating that the majority of the increase is due to meter rates; the water bills are hard to read; and she requested reconsideration of the water rates.

Tom Spencer, Greenleaf Avenue; stated his water bill increased over 100%.

Marta Borbon, Glennon Drive, Whittier; said the oil opponents will not get to present their case to the Planning Commission; questioned why the City Council scheduled the oil drilling public hearing on November 8, which is election day; and said oil drilling revenues have not been determined.

Trisha Gutierrez, 12703 Carinthia Drive, Whittier; spoke regarding the increase in her water bill due to the meter charge increase; and said she needs compensation for the overcharging.

George Poochigian, Whittier; spoke about the increased water rates; he said the City does not care about a wall and building put up by his neighbor; and he believes the City needs a police commission and district representation.

Nick Donovan, La Sierra Avenue, Whittier; thanked the Council for their service; he asked the Council to consider catastrophic risks from oil drilling and take monetary value out of the decision; and said oil drilling will damage highways, the environment and wildlife.

Maurice, Whittier; said the increased water bills affect everyone; people are out of work; and asked the Council to do the right thing and reconsider the water rates.

Charles Lawrence, North Circle Drive, Whittier; thanked the Council for reconsidering the water issue; said he lived around oil fields his entire life with no adverse health affects; and he commended the Council for taking the initiative to consider possible oil drilling.

Tim Kellman, Whittier; said he is on a fixed income and cannot afford increased water rates; and said this is not the time to increase rates and taxes.

Anthony Martinez, Whittier; spoke in opposition to the proposed oil drilling and said the Habitat Preserve was set aside for habitat restoration; the review time between release of the final Environmental Impact Report and the Planning Commission meeting was too short; he wants the Planning Commission meetings to be recorded and televised; and he wants opponents to present a cohesive report.

Council Member Nordbak joined the meeting and took his seat at the dais at 7:41 p.m.

Dennis Ward, 13424 Beverly Boulevard, Whittier; said residents do not realize how many abandoned wells there are in the City; the oil drilling will benefit all residents; he opposed the red curbs on Beverly Boulevard; and said residents will always have parking problems.

Gene Estes, 5503 Pioneer Boulevard, Whittier; said his water bill increased over 400% even though his water usage did not increase; and he wants the water rates rolled back.

Mayor Warner announced that the Planning Commission would be conducting a public hearing on Wednesday, October 19, 2011 at 7:00 p.m. at the Radisson Hotel to consider Conditional Use Permit CUP09-004; and certification of an Environmental Impact Report (State Clearinghouse (SCH) 2010011049), for a project that consists of wells, oil processing, a natural gas plant, oil and natural gas pipelines, and oil truck loading facilities, to be located within portions of the 1,290-acre City owned Whittier Main Field, now part of the Authority Habitat Preserve.

City Attorney Jones stated that the legal standard is to ensure that all speakers are fully and fairly heard to assure them their public and constitutional due process; the meeting Chair can control the redundancy of speakers comments by reducing the time allowed to speak, as well as allow more time if a speaker is providing new and beneficial information; the public hearing will go as long as necessary; the hearing will be conducted in two steps; the Planning Commission will conduct their hearing first; and the City Council will make the final decision at their public hearing.

Council Member Henderson commented that the meetings will be recorded and played the following day on the City cable channel; and there would be no live feed from the Radisson.

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

Council Member Henderson declared a conflict of interest on Item 7.K.1 because his business is located within 500 feet of the project, and he recused himself from voting.

It was moved by Mayor Pro Tem Newcomer, seconded by Council Member Vinatieri, and carried unanimously by roll call vote, with Council Member Henderson recused on Item 7.K.1, to approve the Consent Calendar as submitted, and that Resolution Nos. 8411 through 8418 be read by title only, further reading be waived, and they be declared adopted.

- 7.A** The City Council denied claims filed by AAA for Salvatore Battaglia, Carlos Hernandez, Richard Hernandez, Manuel Perez, State Farm Insurance for Maria Varela, Donna Ward and Frank Blackstock.
- 7.B** The City Council approved the newly created class specification and corresponding salary range for the position of Senior Fleet Mechanic.

- 7.C** The City Council took the following actions regarding Kaiser Foundation Hospitals:
1. Approved an agreement for acceptance of a \$15,000 grant from Kaiser Foundation Hospitals, Downey, for purchase and installation of outdoor fitness equipment along the Greenway Trail;
 2. Authorized the City Manager to execute the agreement; and
 3. Adopted Resolution No. 8411 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2011-12 BUDGET TO ACCEPT A GRANT FROM KAISER FOUNDATION HOSPITALS, DOWNEY FOR PURCHASE AND INSTALLATION OF FITNESS EQUIPMENT ALONG THE GREENWAY TRAIL," in the amount of \$15,000.
- 7.D** The City Council took the following actions regarding the Whittier City School District:
1. Approved an agreement with the Whittier City School District to provide staffing for the 2011-12 Afterschool Program;
 2. Authorized the City Manager to execute the agreement; and
 3. Adopted Resolution No. 8412 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2011-2012 BUDGET FOR THE AGREEMENT WITH THE WHITTIER CITY SCHOOL DISTRICT FOR THE AFTERSCHOOL PROGRAM AT HOOVER ELEMENTARY SCHOOL," in the amount of \$13,594.
- 7.E** The City Council took the following actions regarding Dial-a-Ride vehicle purchases:
1. Approved the purchase of two new replacement Dial-a-Ride vans and one used Dial-A-Ride van;
 2. Adopted Resolution No. 8413 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2011-2012 BUDGET FOR THE PURCHASE OF THREE DIAL-A-RIDE REPLACEMENT VEHICLES," from the Proposition C Transit fund in the amount of \$ 15,000; and
 3. Authorized the City Manager to execute the necessary documents relating to the application, purchase and transfer of the vehicles.
- 7.F** The City Council adopted Resolution No. 8414 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2011-2012 BUDGET FOR THE AGREEMENT WITH DEL TERRA CONSTRUCTION INC. FOR GREENWAY TRAIL CONSTRUCTION COSTS," from the Proposition C Transit fund in the amount of \$850,000.

- 7.G** The City Council took the following actions regarding salaries, benefits, and CalPERS:
1. Adopted resolutions relating to salaries and Management and Confidential employee benefits:
 - a. Resolution No. 8415 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, TO RESCIND RESOLUTION NO. 8328 AND ADOPT A NEW 2011-2012 SALARY RESOLUTION"; and
 - b. Resolution No. 8416 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, TO RESCIND RESOLUTION NO. 8371 AND TO SET FORTH CERTAIN LEAVE AND COMPENSATION BENEFITS FOR MANAGEMENT AND CONFIDENTIAL EMPLOYEES."
 2. Adopted resolutions relating to Employer Paid Member Contributions to CalPERS:
 - a. Resolution No. 8417 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, FOR EMPLOYER PAID MEMBER CONTRIBUTIONS FOR CALPERS MISCELLANEOUS 70001 GROUP EMPLOYEES, EXCEPT LEVEL 1 EXECUTIVE MANAGEMENT EMPLOYEES"; and
 - b. Resolution No. 8418 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AUTHORIZING CONTINUING PAYMENT TO THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) FOR THE NORMAL MEMBER CONTRIBUTION AND REPORTING THE SAME PERCENT TO PERS AS COMPENSATION FOR ALL LEVEL 1 EXECUTIVE MANAGEMENT MISCELLANEOUS EMPLOYEE MEMBERS."
- 7.H** The City Council approved a special event permit for the Whittier Uptown Association to hold a Dia de Los Muertos, (Day of the Dead) Art and Music Festival on Greenleaf Avenue between Philadelphia and Hadley Streets on Sunday, October 16, 2011 from 11:00 a.m. to 5:00 p.m.
- 7.I** The City Council approved a special event permit for the Whittier Uptown Association's Annual Fall Antique Street Faire on Philadelphia Street between Painter and Greenleaf Avenues on Saturday, October 22, 2011 from 9:00 a.m. to 4:00 p.m.
- 7.J** The City Council approved an Encroachment License Agreement for Omega Chemical PRP Group (OPOG) in substantially the form attached; and authorized the Mayor to execute the agreement subsequent to the City Engineer's approval of the final plans and the City Attorney's approval as to form of the final agreement.

- 7.K** The City Council received and filed the following Planning Commission actions unless review was requested by a Council Member:
1. Approval of Conditional Use Permit No. CUP11-003 to allow the on-site sale of alcoholic beverages under a Type 41 license (beer and wine) for on-site consumption for a restaurant d.b.a. "Wing Master" located at 6518-22 Greenleaf Avenue, Suite 12; (Applicant: Art Rodriguez & Associates; Owner: KMS Investment Inc.).
 2. Denial of Conditional Use Permit No. CUP 10-007 for the sale of beer and wine for off-site consumption and Development Review No. DRP 11-044 for expansion of the retail floor area within an existing convenience store in conjunction with the operation of an existing gas station d.b.a. "Valero" located at 10808 Beverly Boulevard; (Applicant: R.E.V. Group; Owner: AKM Properties, LLC).

- 7.L** The City Council, Agency Board and Board of Directors took the following actions regarding Minutes:
1. City Council, Agency Board and Board of Directors approved Minutes of the Regular Meetings of August 9, September 13, and September 27, 2011; and
 2. City Council approved Minutes of the Special Meeting of September 13, 2011.

8. RECESS REDEVELOPMENT AGENCY AND UTILITY AUTHORITY MEETINGS:

Mayor Warner recessed the Redevelopment Agency and Utility Authority meetings at 7:51 p.m.

9.A PUBLIC HEARING – 2012 ANNUAL REPORT AND LEVY OF ASSESSMENTS FOR THE UPTOWN WHITTIER BUSINESS IMPROVEMENT AREA

Council Members Henderson and Vinatieri declared conflicts of interest because their businesses are located within the Uptown Whittier Business Improvement Area; and they left the Council Chamber at 7:51 p.m.

Chief Assistant City Manager Collier announced it was the date and time set and duly noticed for a public hearing to consider the Uptown Business Improvement Area levy for calendar year 2012; confirm the Annual Report as submitted by the Uptown Association; and adopt a resolution confirming the Annual Report and levy of assessments for the Uptown Whittier Business Improvement Area for Calendar Year 2012.

Mayor Warner opened the public hearing at 7:52 p.m.

There being no speakers wishing to testify before the City Council, it was moved by Council Member Nordbak, seconded by Mayor Pro Tem Newcomer, and carried, with Council Members Henderson and Vinatieri absent, to close the public hearing at 7:52 p.m.

It was moved by Mayor Pro Tem Newcomer, seconded by Council Member Nordbak, and carried by roll call vote, with Council Members Henderson and Vinatieri absent, to confirm the Uptown Association Annual Report; and that Resolution No. 8402 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, CONFIRMING THE ANNUAL REPORT AND LEVY OF ASSESSMENTS FOR THE UPTOWN WHITTIER BUSINESS IMPROVEMENT AREA FOR CALENDAR YEAR 2012," be read by title only, further reading be waived, and it be declared adopted.

Council Members Henderson and Vinatieri resumed their seats at the dais at 7:53 p.m.

10.A WATER SERVICE FEES

All Council Members acknowledged and concurred that the water rate changes previously adopted unintentionally negatively impacted water customers and they stated they are committed to fixing the problem.

City Attorney Jones cautioned there may be Proposition 218 restrictions; the discussion needs to be publicly agendized; and the mechanism to correct the problem will be determined by actions proposed.

Following discussion, there was concurrence to schedule a publicly agendized meeting for Monday, October 17, 2011 or Thursday, October 20, 2011 to discuss water service fees, depending on all Council Members' availability.

10.B SUBDIVISION MAP ACT, 16018 AND 16024 PUESTA DEL SOL DRIVE

Following brief discussion, it was moved by Council Member Henderson, seconded by Council Member Vinatieri, and carried unanimously, to postpone action relating to violations of the Subdivision Map Act and the Whittier Municipal Code against properties addressed as 16018 and 16024 Puesta Del Sol Drive to Tuesday, December 13, 2011, at 6:30 p.m.

10.C NORWALK TRANSIT SERVICES

Following discussion, it was moved by Council Member Henderson, seconded by Council Member Nordbak, and carried unanimously, by roll call vote, to receive and file an update report on the elimination of the Norwalk Transit fixed route services in Whittier; approve a temporary reduced fare transit pass program for City of Whittier residents from November 1, 2011 until June 30, 2012 as amended not to automatically expire on June 30, 2012 but to be considered during the Fiscal Year 2012-13 Budget process; and that Resolution No. 8419 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2011-2012 BUDGET FOR THE TEMPORARY REDUCED FARE TRANSIT PASS PROGRAM," from the Proposition A Transit fund in the amount of \$19,000 be read by title only, further reading be waived, and it be declared adopted.

10.D LOS ANGELES COUNTY ECONOMIC DEVELOPMENT CORPORATION AWARD

Following brief discussion, it was moved by Mayor Pro Tem Newcomer, seconded by Council Member Henderson, and carried unanimously, to receive and file a report on the City's status as a finalist for the Los Angeles County Economic Development Corporation (LAEDC) 2011 *Most Business-Friendly City in Los Angeles County* award.

10.E DUE PROCESS REQUIREMENTS FOR PUBLIC HEARINGS

City Attorney Jones presented a report on due process requirements for public hearings, and stated the following points:

- The public hearing process is quasi-judicial
- All parties are entitled to their due process
- The governing body (City Council) must maintain impartiality prior to making a decision; cannot make comments; and must rely upon the record
- If a member of the governing body has communications outside the process, he/she must disclose those communications before the hearing is closed if they are to be taken into consideration
- It is best to disclose any outside communications at the beginning of the hearing in order to be on the record, and allow the public to comment
- The governing body should provide copies of written correspondence if it is to be taken into consideration
- All evidence should be on the record prior to closing the hearing
- If any information is disclosed after the hearing is closed, the hearing must be re-opened to allow public testimony
- Any written correspondence that is part of the record is assumed to have been read and is considered public domain; a member of the governing body that has not read all of the written correspondence can so disclose

- During deliberations, members of the governing body can comment on written correspondence that has been presented as evidence and is part of the record
- Members of the governing body need to articulate their points of view and the reason(s) for making their decision(s); and cite the evidence that affected their decision(s)
- All comments are critical
- Expect the staff to lay out the process
- The role of the Chair is critical to ensure all speakers have a fair and balanced opportunity to comment
- The City's guideline is three minutes per speaker; the time can be increased if the speaker is presenting new, beneficial information; the time can be decreased if the speaker is redundant of previous speakers
- The Chair may acknowledge members of the audience that are supporting the speaker
- Organized groups may have significant information; may require more than three minutes; and audience members supporting the presentation should be acknowledged

City Manager Helvey was absent from the Council Chamber from 8:42 p.m. to 8:45 p.m.

Following discussion, the report was received and filed by order of the Chair.

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

Mayor Warner reconvened the Redevelopment Agency and Utility Authority in joint session with the City Council at 8:59 p.m.

12. COUNCIL/AGENCY MEMBER/DIRECTOR COMMENTS AND CONFERENCE REPORTS:

Council Member Vinatieri stated that he has always opposed the 19% increase in water rates previously adopted; and he still has concerns about an increase. He reported he attended the League of California Cities Revenue and Taxation Committee meeting in San Francisco on September 21 and commented the State's budget includes dates in November and December which, if triggered, will negatively impact revenues; and a bankruptcy filing will now require mediation.

Mayor Pro Tem Newcomer reported he attended the League of California Cities Annual Meeting in San Francisco on September 21 through 23; he reported the actions taken on the resolutions presented; and he requested review of the proposed red curbs on Beverly Boulevard. Chief Assistant City Manager Collier said he would provide a report on the issue on Friday, October 14.

13. ADJOURN REDEVELOPMENT AGENCY AND UTILITY AUTHORITY MEETINGS:

Mayor Warner adjourned the Redevelopment Agency and Utility Authority meetings at 9:10 p.m.

14. CITY COUNCIL CLOSED SESSION:

Chief Assistant City Manager Collier recommended the City Council conduct a Closed Session relating to:

- 14.A** City Council - Government Code Section 54956.9(a) to discuss one case of litigation; Case No. BS128995, Open Space Legal Defense Fund, a non-profit organization; Heriberto Diaz and Daniel Duran vs. City of Whittier, et al.
- 14.B** City Council - Government Code Section 54956.9(a) to discuss one case of litigation; Donald Sipple (AT & T) vs. City of Whittier.
- 14.C** City Council – Government Code Section 54956.8 to discuss real property negotiations with Brownstone Mortgage Fund 1, regarding price and terms of payment for property located at 12421 Whittier Boulevard; City negotiators: Stephen Helvey and Jeffrey Collier.
- 14.D** City Council – Government Code Section 54956.9(c) to discuss one case of potential litigation regarding receivership of property located at 14246 Christine Drive.

Mayor Warner recessed the meeting to Closed Session at 9:16 p.m. with City Clerk-Treasurer Marshall replacing Assistant City Clerk-Treasurer Maiques.

15. RECONVENE IN OPEN SESSION:

Mayor Warner reconvened the City Council meeting in Open Session with all Council Members present at 10:18 p.m.

16. CLOSED SESSION REPORT:

None.

17. ADJOURNMENT:

Mayor Warner adjourned the City Council meeting at 10:18 p.m. in memory of Gus Velasco.

Respectfully submitted,

Toni Maiques
Assistant City Clerk-Treasurer/
Assistant Secretary Treasurer