

MINUTES

CITY COUNCIL OF THE CITY OF DUARTE REGULAR MEETING – TUESDAY, AUGUST 27, 2002

At 6:00 p.m., a reception was held in celebration of the Forty-Fifth Anniversary of the incorporation of the City of Duarte.

The City Council of the City of Duarte met in a regular meeting in the Council Chambers, 1600 Huntington Drive, Duarte, California. Mayor Reyes called the meeting to order at 7:04 p.m.

- PLEDGE TO THE FLAG** Assistant Chief Dan Scott, Los Angeles County Fire Department, led the Pledge of Allegiance to the Flag.
- INVOCATION** Pastor Glen Gibson, New Life Assembly of God, offered the Invocation.
- CITY CLERK RECORDATION OF ATTENDANCE** The City Clerk recorded the following in attendance:
PRESENT: Fasana, Finlay, Paras, Reyes
ABSENT: Chapjian (on vacation)
ADMINISTRATIVE STAFF PRESENT: City Manager Duff, City Attorney Peale
- ADOPTION OF AGENDA** Paras moved, Fasana seconded to adopt the Agenda, and carried unanimously. Mayor Reyes introduced David Peale from the law firm of Moseley and Leech.
- ANNOUNCEMENTS** Don Anderson, Duarte Rotary Club, announced the Rotary Club's Annual Golf Tournament on September 19, 2002, at 2:00 p.m.
- FISCAL AFFAIRS**
Warrants – 8/13/02
Warrants – 8/27/02
Finlay moved, Paras seconded to approve warrants to the Southern California Edison Company for August 13, 2002, and August 27, 2002, and carried with Fasana abstaining due to a declared conflict of interest.

Finlay moved, Paras seconded to approve the remainder of Fiscal Affairs for August 13, 2002, and August 27, 2002, and carried unanimously.
- ORAL COMMUNICATIONS** Mark Montgomery, 1544 Delford, inquired about the Texaco station at Huntington and Buena Vista.

Jack Collins, 921 Mt. Olive, announced Ray Bradbury event on October 4, 7:00 p.m., at the Performing Arts Center and thanked the City for its support, stated leaves are not removed from the sidewalk at the Mobil station on Mt. Olive until it rains, the trash containers at the center are full and overflowing, there is trash and dead trees on the freeway bank in front of the schools, stated the event honoring Peter Rosenwald is sold out, and requested some funding from the City for the Ray Bradbury event be considered at the next Council meeting. Mayor Reyes stated the item about funding would be included on the next meeting's Agenda.

Marc Trummel, 3010 Conata, thanked the City for eliminating the Bradbury garbage processing on the bike path from the horses, stated Health Department restaurant ratings are not posted in Duarte, they are available on the website, and stated he thinks City Council should consider it.

Bill Hyatt, 2437 Maynard, inquired about rules pertaining to motorized scooters, stated he thinks the noise exceeds legal limits, and riders do not use helmets or pay attention to traffic.

Duff stated the Texaco station is owned by a private property owner, the lease will not be renewed, the City is not involved, the owner is in escrow with a buyer, he has applied for demolition permits, and the permits have been issued; the request for funding for the Ray Bradbury event will be agendized at the request of the Mayor; the center at Mt. Olive is privately owned, complaints about maintenance have been passed on to the shopping center owner, and the City enforces a property maintenance standard; staff is also concerned about the deterioration of freeway landscaping within the Caltrans right-of-way, some of the landscaping will be improved after the soundwall project is completed, and stated we have been assured that it will be repaired and replaced; the City of Duarte does not prevent the County from issuing restaurant rating posters, and the County has made a decision not to issue the posters in Duarte; and stated motorized scooters are becoming a problem in many cities. Don Anderson stated there are several laws that now pertain to the scooters, they can only be driven on streets that are 25 miles per hour or under, drivers must have helmets and a driver's license, stated we are writing tickets, and stated if there is a problem, please call the Temple Sheriff's station.

PUBLIC HEARING
Council Bill 02-R-26
Self-Certification – Congestion
Management Program

Silvia Hurtado, City Planner, provided a staff report about the Congestion Management Program.

Mayor Reyes announced this was the time and place set for a Public Hearing to consider adopting a local implementation report and self-certification with the Los Angeles County Congestion Management Plan.

City Attorney Peale asked City Clerk Akana if notice had been given. Akana stated the notice had been given and the affidavit was on file.

Mayor Reyes asked if any written communications had been filed in the matter. Akana stated there were none.

Mayor Reyes asked if there was anyone in the audience who wished to be heard on this matter. There were none.

Finlay moved, Fasana seconded to close the Public Hearing, and carried unanimously.

Peale read by title Council Bill 02-R-26:

A RESOLUTION OF THE CITY OF DUARTE, CALIFORNIA, FINDING THE CITY TO BE IN CONFORMANCE WITH THE CONGESTION MANAGEMENT PROGRAM (CMP) AND ADOPTING THE CMP LOCAL IMPLEMENTATION REPORT, IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 65089

RESOLUTION NO. 02-26

Fasana moved, Finlay seconded to waive further reading, and adopt Resolution No. 02-26, and carried unanimously.

CONSENT CALENDAR

Finlay moved, Fasana seconded to approve the Consent Calendar, as follows, and carried unanimously.

Approve Items A, B, E, F.

Receive and File Item D.

Deny Item C.

COUNCIL BILLS

Council Bill 02-O-05

Commercial Signs - MCA 02-2
(Second Reading)

Mayor Reyes read by title Council Bill 02-O-05:

AN ORDINANCE OF THE CITY OF DUARTE, CALIFORNIA, AMENDING CHAPTER 19.80 (SIGN ORDINANCE), SECTION 19.80.090, EXHIBIT "A", OF THE DUARTE MUNICIPAL CODE RELATED TO SIGN REVISIONS FOR COMMERCIAL BUSINESSES (MUNICIPAL CODE AMENDMENT 02-2) (Second Reading)

Jeff Woodson, 2334 Beardslee, stated his concern with the wording is that it appears that the City would pay for the signs, stated if that is so, he is opposed to using City funds as businesses should be responsible for their own sign costs. Mayor Reyes stated that is not part of the ordinance or the amendment, Mr. Woodson might have heard about the \$125,000 allocation from the Redevelopment Agency to help small businesses, and stated that program has nothing to do with this ordinance.

Fasana stated at the last meeting, there were concerns about A-frame signs.

Fasana moved, Finlay seconded to adopt Council Bill 02-O-05, with the deletion of Item 10 (A-frame sandwich board signs).

Paras stated the sign committee was made up of a broad section of owners/operators, the Chamber of Commerce, and John Mack, stated there are time frames for the A-frame signs, stated she supports the ordinance in its entirety, and stated it could be revisited in a year or two.

Finlay stated without speaking with the JPIA about the liability of A-frame signs on sidewalks, if a pedestrian walks into it, we do not know what the liability would be, and stated she would like to find out what the liability is or if there are problems faced by other cities who permit A-frame signs.

Jan Wight, sign committee member, stated this item was not discussed, the A-frame signs cannot be out in the sidewalk, it is her understanding they must be against the building, and stated she does not think there will be a proliferation of these signs. Mayor Reyes clarified that these would be on private property, not on public property.

Finlay stated she would like more information before she votes on it, withdrew her second to the motion, and stated she would like to get more information from the JPIA by the next meeting.

Finlay moved, Fasana seconded to continue this item to the next meeting, so information could be received from the JPIA about liability, and failed (for lack of a majority) by the following Roll Call vote:

AYES: Finlay, Fasana

NOES: Paras, Reyes

ABSENT: Chapjian

Fasana stated if the ordinance was approved without the sandwich signs, it would represent the culmination of work put forward by the committee, and he sees this as an impasse tonight. Mayor Reyes stated it appears there is a consensus to continue this item to the next meeting.

CITY MANAGER
Release of street repair bond
Parcel Map 25125

Rita Kwasnick, 313 Clarkview, stated the residents decided to slurry seal the street, they feel the \$5,000 should go towards that, and stated they differ with the City about damage to the street.

Fasana moved to authorize the release of the entire amount of the street repair bond for Parcel Map 25125, per staff recommendation. The motion died for lack of a second.

Fasana thanked staff for meeting with the residents and coming up with some options to allow them to move forward with a plan to achieve the repairs on the street.

State Supplemental Local Law
Enforcement funding

Don Anderson, Director of Safety Coordination, presented a staff report about the State Supplemental Local Law Enforcement funding and the grant reporting process requirements.

Fasana moved, Paras seconded to approve the continued use of the remaining State Supplemental Local Law Enforcement funds for the new motorcycle patrol position, and for special event and motorcycle patrol overtime for fiscal year 2002-2003, per staff recommendation, and carried unanimously.

ORAL COMMUNICATIONS

Mark Montgomery, 1544 Delford, inquired about the City Attorney. Mayor Reyes stated the firm Moseley & Leech is going through some transitions, and Mr. Peale is here tonight.

Harb Thind, 2593 Willowglen, stated it is not good to have a different person from the City Attorney's office at each meeting.

Bill Hyatt, 2437 Maynard, welcomed Mr. Peale, and stated he was one of his teachers in high school.

William Moreno, 2336 Rim Road, congratulated staff and the City Council on the acquisition of the 91 acres of hill-side property, and asked what would be the next steps.

Ernie Martinez, 482 Woodbluff, thanked the City for what has happened with the Pacific Communities property, stated a comment made about A-frame signs was that they would be allowed in landscaped and easement areas of shopping centers, and stated he is against putting signs in the landscaped areas of shopping centers.

Hal Firth, 622 Woodbluff, commended City Council and staff for their hard work and diligence to preserve the 91 acres.

Jeff Woodson, 2334 Beardslee, stated citizens have asked for assistance with certain things that deal with businesses, and while the response that it is private property may be true, stated the citizens want to hear that their concerns are

being listened to and investigated, stated the landscaping on the north side of Sav-On is not being maintained and there is water on the sidewalk that is a hazard, stated he has complained to Sav-On management and corporation and it did not work, and stated Sav-On is a great addition to the City, but the landscaping needs to be maintained.

Lino Paras, 2523 Elda, congratulated the City Council and staff regarding the tax credit to help preserve some areas, read an e-mail addressed to City Council about the task force meeting being cancelled, and felt Mr. Duff should apologize to the members for the delayed meeting.

Duff stated the Wildlife Conservancy Board's approval of the tax credit for the 91 acres of the Pacific Communities property is a tremendous victory for Duarte, thanked those who acknowledged it, stated the next Board meeting is in November and staff is preparing an application to acquire the remaining acres, stated staff has been in discussions with the Trust for Public Land concerning the Wright property, acknowledged staff members Ed Cox and Kristen Petersen who worked hard and served as the City's day-to-day point people, and stated with regard to private property issues, the City has certain obligations and authority, and we will follow-up on the comments about Sav-On.

ITEMS – CITY COUNCIL
Permits – Trails Restaurant
(Fasana)

Fasana stated the Trails has been demolished, stated there had been litigation filed by the L.A. Conservancy or an affiliate, stated his concern is a letter from Pat Wood that is also on her website about whether proper permits were issued, and asked if the required permits were in place.

Duff stated the City Council approved a zone change amendment, a general plan amendment, and a tract map for development of the Trails restaurant site, stated the demolition permit was not issued until after the 30-day appeal period, the City was obligated to issue the permit and had no authority to withhold it, what appeared to be demolition was actually asbestos removal for which a City permit is not required, the asbestos removal permit is required by the AQMD, and that permit was properly applied for and appropriately issued.

Pat Wood, 2447 Huntington, stated she could not verify if the permits were in order, stated when she saw boards were ripped off the front of the building, she asked the Bowden employee if he had permits, she was told they were not doing demolition, they were doing asbestos removal, stated it looked like demolition to her, stated the demolition contractor assured her they had permits, asked why it was happening on a Friday, stated when the injunction ended, the bulldozer was there, and stated she suspects Bowden will be doing the construction on the Attalla ranch property, and she wanted to let the City Council know about her conversation with the developer.

Bill Hyatt, 2437 Maynard, stated he witnessed some demolition going on that day and it was not asbestos removal, stated his concern is a reply from Mr. Chapjian, stated it was not whistle-blowing, and stated citizens are aware that things have gone by the wayside by getting it done when the City is not officially open for business.

Fasana stated he understands that people have concerns and that is good, noted the letter stated backdated permits

would be in the files, there is skepticism about actions of City staff, and if they were going by the rules, there would not be problems, and stated it is clear that permits were applied for and obtained within a timely basis.

Finlay stated she felt the reference to backdated permits being in the file was in poor taste, and stated the allegations are unfounded and not right.

Bill Hyatt, 2437 Maynard, asked if there was a City permit for removal issued on Friday. Duff stated there was no City permit required or issued, and stated asbestos removal is not subject to a City permit.

There was discussion about the asbestos removal process. Mayor Reyes stated it sounds like demolition to him.

Paras inquired about the response to the e-mail. Duff stated the item was responded to on Monday morning at the Planning Department counter.

Planning Commission appointment (Reyes)

Mayor Reyes stated information about the Planning Commission vacancy was in his newsletter that was distributed throughout the community, he received five responses and four were interviewed, provided copies of applications to City Councilmembers, and stated he hopes for a compromise tonight to appoint someone who is independent and neutral.

Hal Firth, 622 Woodbluff, stated there were ethical issues that disturb him, stated it appears the Mayor took it upon himself to fill the Commission vacancy, stated numerous residents did not receive the Mayor's newsletter, stated he previously suggested increasing the number of seats on the Commission to accommodate Mr. Torres and himself, felt the vacancy should be filled from the group of original applicants, stated he would be willing to look at withdrawing his application if the issues were resolved from the original group of applicants, and asked the Mayor to withdraw this issue from the Agenda and work with his colleagues toward a resolution that falls within the City's guidelines.

Ernie Martinez, 482 Woodbluff, stated he does not have a problem with the Mayor flying the position, rather he has a problem with the position being flagged in selective neighborhoods, stated the majority of the neighborhoods on the north side of town did not receive the newsletter, and suggested practicing what one preaches as to inclusiveness.

Mayor Reyes stated the applicants are Carlos Michelon, Clifford Ball, Marc Trummel, and Robert Cuite, noted all four applicants live on the north side, stated Mr. Cuite was from the original group of candidates, stated he understands the Mayor has the right to appoint and City Council has the right to ratify, and stated he feels he is within our legal right.

Reyes moved, Paras seconded to appoint Robert Cuite to the Planning Commission.

Finlay stated these are excellent candidates, stated she needs more time to look at the applications as she had not seen them before tonight, stated she is not prepared to make a decision tonight, and stated typically applications are provided to Councilmembers before the interviews.

Fasana stated he would like to look through the applications, and inquired if Mr. Cuite applied for the Planning Commission the first time.

Paras stated she attended both interview sessions, she did not receive copies of the applications prior to the interviews, stated she concurs with the Mayor's nomination, stated Mr. Cuite was a previous applicant for the Planning Commission, stated during the first round, not all were present for interviews but decisions were made, and stated this may need to go to the next Agenda for further discussion.

Fasana moved, Finlay seconded a substitute motion to bring this item back to the next meeting, with copies of the applications from the candidates who applied for the Planning Commission the first time, and failed (for lack of a majority) by the following Roll Call vote:

AYES: Fasana, Finlay

NOES: Paras, Reyes

ABSENT: Chapjian

The original motion to appoint Robert Cuite to the Planning Commission failed (for lack of a majority) by the following Roll Call vote:

AYES: Paras, Reyes

NOES: Finlay, Fasana

ABSENT: Chapjian

Mayor Reyes stated this item will be brought back to the next meeting.

General Plan Update (Paras)

Paras asked if we are out of compliance on the general plan, stated it is important to stabilize the completion of it because of the task force, asked if there are there monetary penalties or if it would affect future assistance for funding, and stated she can wait for a staff report.

Duff stated there is \$50,000 budgeted this year for the general plan update, staff intends to begin the process in the latter part of the fiscal year, a general plan update will probably cost between \$250-300,000, it seems prudent to budget that amount over a period of a few years, stated the City of Duarte is not out of compliance as there is not a statutory requirement that a general plan be updated at any particular time, it is appropriate to begin the update now, stated the housing element must be updated every five years and due to a number of controversies and debate at the State level, cities have been given extensions, stated in 1994, Duarte had one of a very few state-approved housing elements, stated there are no penalties involved, staff suggests the work of the task force precede the general plan update, and stated staff would suggest dealing with the housing element first.

Team building workshop (Paras)

Paras stated Councilmembers' schedules have been hectic, there has been no recent information about rescheduling the workshop, and inquired if Garcia & Associates have been advised of the delay.

Duff stated Garcia & Associates are aware of the situation and are also frustrated, discussed anticipated vacations in August, and stated if City Council would like, staff can contact Councilmembers regarding available dates over the next four to six weeks. Fasana suggested looking at dates after school starts.

RECESS

Mayor Reyes called at Recess at 8:54 p.m. for the Redevelopment Agency Meeting. City Council reconvened at 9:04 p.m. with four members present, and Chapjian absent.

Jeff Woodson, 2334 Beardslee, stated with regard to the Trails item, he will assume that Pat Wood was being a concerned citizen and she may have said something that she did not really mean, or maybe Ms. Wood was getting an early start on the campaign trail for election, felt the comments made by Ms. Finlay were inappropriate, inquired as to the length of the term should the Planning Commission appointment be made, and with regard to the Closed Session item, stated if the funding is coming from the public, he thinks it should be discussed in open session. Mayor Reyes stated the Planning Commission appointment would be for the amount of time left on the term.

CLOSED SESSION
Property Negotiations
1263 Huntington Drive

Mayor Reyes called a Closed Session at 9:08 p.m., pursuant to Government Code Section 54956.8, to consider property negotiations with C. T. and Sharon Wu and Karshe Corporation regarding property located at 1263 Huntington Drive. City Council reconvened at 9:25 p.m. with four members present, and Chapjian absent. Peale stated there was no action taken.

Duff stated there are limited areas that are appropriate for Closed Session, one of which is property acquisition and negotiation, it is in the public's and the public agency's best interest that negotiating strategies be held in Closed Session, and stated if a final decision is made or direction is given, that would be in open session with a full public disclosure.

ITEMS – CITY COUNCIL

FINLAY: 1) Congratulated staff for their hard work in acquiring the \$3.2 million funding for the 91 acres; and 2) Provided an update about the West Nile Virus, and stated residents can call Vector Control for further information.

PARAS: 1) Suggested information about the West Nile Virus be included on the City's website; and 2) Congratulated staff on the acquisition of the 91 acres, and stated she looks forward to preserving more open space area.

REYES: 1) Suggested a Joint School Board/City Council Meeting be scheduled soon; 2) Requested the travel and expense reimbursement policy be on the next Agenda; 3) Requested a traffic study update; 4) Stated the Concerts in the Park were very successful, and thanked staff for an outstanding job; 5) Requested a status report on the investigation as it relates to the Mayor; and 6) Thanked staff for looking at the alternatives for preservation of the foothills.

ADJOURNMENT

Fasana moved, Finlay seconded to adjourn the meeting at 9:42 p.m., in memory of William Van Buskirk, and carried unanimously.

Mayor Phillip R. Reyes

ATTEST:

City Clerk Marla Akana