

MINUTES

CITY COUNCIL OF THE CITY OF DUARTE REGULAR MEETING – TUESDAY, JANUARY 14, 2003

The City Council of the City of Duarte met in a regular meeting in the Council Chambers, 1600 Huntington Drive, Duarte, California. Mayor Chapjian called the meeting to order at 7:08 p.m.

- PLEDGE TO THE FLAG** Kelly Castaneda led the Pledge of Allegiance to the Flag.
- MOMENT OF REFLECTION** A moment of reflection was observed.
- CITY CLERK RECORDATION OF ATTENDANCE** The City Clerk recorded the following in attendance:
PRESENT: Fasana, Paras, Reyes, Chapjian
ABSENT: Finlay
ADMINISTRATIVE STAFF PRESENT: City Manager
Duff, City Attorney Ralph Leech
- ADOPTION OF AGENDA** Reyes moved, Fasana seconded to adopt the Agenda, and carried unanimously.
- ANNOUNCEMENTS**
- Pat Wood, Duarte Diversity Group, announced An Evening of Music Celebrating Religious Diversity on February 1, 6:00 p.m., at the Performing Arts Center.
- Jan Wight, Duarte Chamber of Commerce, announced the new Duarte View is available and includes a Shop Duarte section, Good Morning Duarte on January 21, 7:15 a.m., at Duffer's, Chamber Blender, January 22, 11:30 a.m., at the Community Center, and grand openings of California Chicken King, January 30 at noon, Duarte Tile and Stone, February 6 at noon, and Personnel Solutions, February 13 at noon.
- Bill Baca, Field Representative, Senator Gloria Romero's office, provided information about SB 5X (Alcohol-related Emergency Services Reimbursement Act of 2003, also known as Five for Life), and offered the Senator's assistance with any State-agency problem.
- Beverly Firth, West San Gabriel Valley Association of Realtors, stated she was appointed to serve on the Government Affairs Committee as a liaison to the City for the upcoming year.
- Henry Baltazar, Duarte, stated his church was broken into, he was told by the Sheriff's Department it would take two weeks for the forensics and not to touch anything, felt the Board of Supervisors undermines the Sheriff's Department, felt as a contract city, we should be given protection and personnel availability, and felt we should pressure L.A. County. Mr. Duff requested Mr. Baltazar provide additional information to staff.
- Fasana stated Councilmember Finlay was not in attendance as she was with Contract Cities in Sacramento helping to lobby due to the extremely difficult budget situation.
- Chapjian stated Assemblymember Carol Liu will discuss the State budget at the Duarte Rotary Club's meeting on January 31, 7:30 a.m., at Denny's.
- FISCAL AFFAIRS**
Warrants – 12/24/02
Warrants – 1/14/03
- Reyes moved, Paras seconded to approve warrants for December 24, 2002, and January 14, 2003, and carried with Fasana abstaining from the warrants for Southern California Edison Company.

SPECIAL ITEMS
Duarte Hawks Junior
Pee Wee Champions

Kelly Castenada, Duarte Hawks Junior Pee Wee Assistant Athletic Director, introduced the student athletes who won the San Gabriel Valley Junior All American Conference Championship and the National Pigskin Tournament Championship. Mayor Chapjian presented the athletes with Certificates of Appreciation in recognition of their achievements, and congratulations were extended.

Holiday of Promise
Participants

Karen Herrera, Assistant to the City Manager, described Duarte's Promise "Holiday of Promise" and "Congregations of Promise" project. Mayor Chapjian presented the participants with Certificates of Appreciation in recognition of their efforts, and congratulations were extended.

ORAL COMMUNICATIONS

Bill Hyatt, Duarte, congratulated the Duarte Hawks, stated the report on Mr. Reyes is out, discussed retaliation, lawsuits, and breach of confidentiality, felt Mr. Duff was responsible for this, thinks the citizens should see what is in the report, the entire contents should be released, if the report shows serious wrongdoing, it should be addressed, and if not, apologies should be made.

Susie Bence, Duarte, stated she thinks the public has a right to see the report, felt Mr. Reyes has been mistreated, it seems nothing was found, Mr. Reyes is owed an apology, and thanked Mr. Reyes for helping Sister Michelle get the bus to the seniors.

Jeff Woodson, Duarte, wished the Council wisdom and courage in the upcoming year, asked about a contingency plan pertaining to the State budget crisis, discussed power outages due to high winds, stated it took Edison 40 hours to fix the problem, stated he is against Five for Life and discussed the Governor's actions, with regard to the report about Mr. Reyes, stated the client is the citizens, thanked Ms. Paras for not speaking about it, and stated he thinks the public has a right to see the report findings.

Alan Heller, Duarte, stated he hoped to see the report, the newspaper article said a copy with names was secured by one Councilmember, stated it should have been returned immediately, asked how quickly it was returned, felt the public has a right to see the report, and stated if the report may have been compromised, felt that person should be held personally responsible for the finances.

Ernie Martinez, Duarte, stated he would like to see the edited report, thinks citizens have a right to see it, and stated if Mr. Reyes was given the report by accident, he should have returned it immediately.

Susie Bence, Duarte, stated it looks as though there was nothing against Mr. Reyes, and the public should get a kickback from the money that was spent.

Antonio Ogaz, Duarte, stated it was great to participate at the Duarte Float Pavilion as a docent, he felt it was fortunate for the whole community that Measure A did not pass, the Attalla Ranch assessment fee would be paid by the people who will live there, stated it is unclear whether the investigation report clears or upholds the allegations against Mr. Reyes, the community is the client, and stated he hopes the document is published.

Fasana stated he supported Measure A, the recommendation brought before the City Council was a result of a citizen task force, Mr. Ogaz served on that task force and supported the

recommendation, and his recollection is that Mr. Vasquez entered a neutral vote.

Chapjian stated 80% of the people did want to do something to save the foothills, and Council gave the people a choice to vote on it.

Daniel Mossberger, Duarte, thanked Don Anderson for the tremendous job he has done during the past year, stated there has been a great improvement in compliance with speed limits, felt it was due to the motorcycle officer, stated staff and the Sheriff's Department are helpful, and thanked Sgt. Biagini, John Mack, and Steve Majors.

Pat Wood, Duarte, stated she was appalled that a confidential document was in a box, she has trouble believing it was taken off a desk, believes the document should be disclosed with the names blanked out, wants to see the overall report, it is time to move forward, the people deserve to know, and stated there is no retaliation, and if there is some legal action, so be it.

Chapjian requested an item be scheduled for the next Council Meeting regarding the impact of State budget cuts to the City, stated we are not sure whether there was a breach of confidentiality, as only Mr. Reyes saw the report and that would be discussed in Closed Session, stated if Mr. Reyes did know it was the wrong report, it could have been given back, asked if Mr. Reyes wanted to answer how long he had the report, and stated his understanding is the report was out there at least five days. Reyes stated at the right time, he would give answers.

PUBLIC HEARING
Council Bill 03-O-01
Cyber Cafés
(First Reading)

Mayor Chapjian announced this was the time and place set for a Public Hearing to consider the conditional use and operation of internet cafés in neighborhood and general commercial zones.

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

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

Ed Cox provided a staff report about the proposed ordinance that would amend the Duarte Municipal Code relating to the conditional use and operation of internet cafés in neighborhood and general commercial zones (C-1 and C-2), and discussed the 18 conditions.

Reyes inquired as to the locations. Cox stated one is in the Mike's Food center, and the other applicant had not yet secured a lease.

Mayor Chapjian asked if there was anyone in the audience who wished to be heard on this matter.

Jeff Woodson, Duarte, provided information he received from the internet about dangers and gang influence at cyber cafés, stated he does not think there should be vague laws, discussed incidents in Garden Grove, feels this is an opportunity to do something preemptively now, stated it seems like no one wants to make a decision on this, and stated other cities have put a moratorium and time limits on them.

Cox reviewed the conditions. Duff stated the City wants to prevent situations such as have occurred in other cities, the ordinance gives the City the maximum control allowed by law, certain types of businesses cannot be precluded, cities have been

sued for not allowing certain adult entertainment businesses, and the best protection is to condition the use. Cox stated these are the minimum requirements, and it will still be subject to a conditional use permit.

There was discussion about revocation procedures and violation of conditions.

Ernie Martinez, Duarte, stated his concern was gang and drug problems, there is no educational value, most teens visit sites they are not allowed to use at home, the library has filters to keep them from going to most of these sites, feels it is not a place for teens to be, and stated using the internet at the library provides instant access to the net.

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

Leech read by title Council Bill 03-O-01:

AN ORDINANCE OF THE CITY OF DUARTE, CALIFORNIA, AMENDING CHAPTERS 19.08, 19.56, AND 19.58 OF THE DUARTE MUNICIPAL CODE RELATING TO THE CONDITIONAL USE AND OPERATION OF INTERNET CAFÉS IN NEIGHBORHOOD AND GENERAL COMMERCIAL ZONES (C-1 AND C-2) (First Reading)

Fasana moved, Reyes seconded to waive further reading, and carried unanimously.

Reyes inquired if this use could be allowed in other zones. Cox responded yes, typically these types of uses are found in commercial zones, if this is approved, it would apply to only C-1 and C-2 zones, if an applicant wanted to go into a different zone, the same process would apply, an unclassified use permit can be submitted for any use in any zone, it may or may not be approved, this case is an unclassified use permit in the C-1 and C-2 zones, and that is what we are going through. Reyes stated if someone wanted to look at putting this in an M-1 area, we have the authority to deny that.

Fasana stated we would be strengthened in denying that by the fact that it would be permitted in C-1 and C-2 zones, stated a portion of condition #5 is duplicated in condition #9, and requested clarification of the terminology pertaining to adult access in conditions #2 and #3 before this comes back for second reading.

Chapjian inquired if access to adult sites can be legally restricted. Leech responded yes, however an area must be provided somewhere in the City, as long as it is a legal activity. Chapjian asked if it could be restricted to one computer. Leech stated some businesses may have computers accessible to the public and its patrons.

Fasana moved, Paras seconded to introduce Council Bill 03-O-01 for first reading, with the second reading to include the clarifications discussed, and carried unanimously.

CONSENT CALENDAR

Chapjian requested page 6330 of the Minutes be amended to reflect that the JPIA appointment is for a three-year term.

Fasana moved, Reyes seconded to approve the Consent Calendar, with the Minutes amended as indicated above, as follows, and carried unanimously.

Approve Items A, B.

Receive and File Items C, D, E.

COUNCIL BILL Council Bill 02-O-08

Leech read by title Council Bill 02-O-08:

Adopts County Codes
(Second Reading)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE ADOPTING, BY REFERENCE, THE CALIFORNIA BUILDING, ELECTRICAL, PLUMBING, AND MECHANICAL CODES (TITLES 26 THROUGH 29 OF THE LOS ANGELES COUNTY CODE), AND ADOPTING LOCAL AMENDMENTS THERETO (Second Reading)

ORDINANCE NO. 766

Fasana moved, Reyes seconded to adopt Ordinance No. 766, and carried unanimously.

CITY MANAGER
Report/Recommendation
Historic Preservation
(Continued from 12/10/02)

Irma Hernandez, Associate Planner, presented a staff report about the proposed historic preservation ordinance, and stated if City Council concurs with staff's recommendation, an ordinance will be drafted and taken to the Planning Commission for review.

Jeff Woodson, Duarte, stated we need to move forward on this, his concern is that some properties can be approved by staff and some by the Planning Commission, he does not think the Planning Commission should oversee this, he thinks there should be a historical commission to research and make recommendations to City Council, and urged the implementation of a historical ordinance.

Irwin Margiloff, Duarte Historical Museum, recommended the historical preservation activity be under a separate body and not the Planning Commission, stated there are financial advantages to the City, the ordinance will intensify understanding of history, and stated there are advantages of designation such as maintenance, appearance, grants, and tax relief.

Bill Hyatt, Duarte, stated he thinks a separate body should oversee this, there is a need to preserve what is left, felt there are other properties that should be included, and stated a commission would be great.

Lino Paras, Duarte, stated he supports it in concept, the old historical society and school district did not say a word about saving the old school house, progress and property rights should be balanced, the historical society did not endorse saving the Trails, and stated his family moved to Duarte because of the City of Hope and the structure of the school district.

Fasana stated he would be interested in seeing what this would look like with a separate commission, when it comes time to place properties on this list, it could be controversial, and stated we may need to send notification to property owners included in the windshield survey that an ordinance is being considered and that their properties are being assessed.

Paras stated there are some locations she would not think to have included, and inquired if owners were notified that pictures would be taken. Hernandez stated it was a windshield survey with no notification to property owners, there is no criteria used, it is a general visual survey, the structure is not aged and research is not conducted, and the research survey by Cal-Poly will confirm whether there is historical and/or architectural significance to the properties. Paras agreed that those particular sites be notified because they may or may not feel they should be part of this, this may fall under a different commission, a historical commission may work with the Architectural Review Board, and stated she would like to see the process begin.

Fasana stated he would like notification within the next few weeks, stating there is no ordinance, and there is a chance they may fall out or be included. Council agreed.

Reyes stated he agrees with all the comments, he is concerned about who would oversee the sites, and stated he would like to see an independent commission oversee this.

Chapjian suggested if it were to include the Architectural Review Board, it could be called a Design and Historic Preservation Commission.

Fasana stated he would like to see a report back to determine if there is a strong reason why they should be separate.

Chapjian thanked Councilmembers for supporting this ordinance, and stated the balance of property owners rights with the benefit to the community is important.

Fasana moved, Paras seconded to support the recommendation to proceed with the development of a historic preservation ordinance as outlined in the staff report, with the discussions noted, and carried unanimously.

Proposition A Fund Exchange
City of La Verne

Karen Herrera, Assistant to the City Manager, provided a staff report about the Proposition A Fund Exchange Agreement with the City of La Verne.

Pat Wood, Duarte, stated she is concerned that this would mostly be used for a park and ride facility across from City Hall, felt the lot behind Staples or by Sav-On could be used, stated the task force is proposing a park with a fountain on Huntington Drive for a downtown gathering place, a park and ride facility is out of character to what it is proposing, and stated she does not want people dropping off their cars and going to work in Los Angeles.

Duff stated the intent is to capture the funds now and further discuss the facility at a later date, the facility would be on a portion of the property, a gathering place would need parking, it would serve a dual purpose, the facility would address additional parking needed for this facility, it would be easier to justify the expense of a signalized crosswalk on Huntington Drive, the City Council will eventually make that decision, and the funds could be used at other locations.

Fasana stated Huntington Drive is the second busiest route for Foothill Transit, it would be a good capture point for some parking during the week, with a facility available on week-ends, and stated the funds would also help with the cost of the mural.

Fasana moved, Paras seconded to authorize the exchange of \$182,500 in general fund monies for \$250,000 in Proposition A transportation funds from the City of La Verne, and authorize the City Manager to execute the Exchange Agreement, and carried unanimously.

Chapjian thanked staff for the work, stated parking is an issue for the Senior Center, and stated this would help alleviate that if it is decided to be used there.

2003-04 Budget Calendar

Reyes moved, Fasana seconded to approve the 2003-04 budget calendar, with the Budget Workshop scheduled for the week of May 5, and carried unanimously.

Award of Contract
Opti-Gro
Beardslee Park Improvements

There was discussion about the additive bid, previous improvements at Beardslee Park, the life expectancy of the improvements, and use of the property for parking.

Fasana moved, Paras seconded to award the contract to Opti-Gro for Beardslee Park Improvements, per staff recommendation, authorize execution by the Mayor, and carried unanimously.

2001/2002 audited financial statements

Lino Paras, Duarte, stated the audit is a historical record, the website has the financial statements for the fiscal year ended 2000, stated the audit is a report and public record, and stated it has to be presented to the City Council.

Fasana moved, Reyes seconded to receive and file the 2001/2002 audited financial statements, and carried unanimously.

State Supplemental Local Law Enforcement funds

Reyes moved, Paras seconded to approve the use of the 2002/2003 State Supplemental Local Law Enforcement funds for the motorcycle position, special event overtime, and the DAMAGE task force, per staff recommendation, and carried unanimously.

ORAL COMMUNICATIONS

Jeff Woodson, Duarte, inquired about the teamwork workshop, inquired if the soundwalls were done, stated the irrigation is laid on top of the ground and he hopes the lines are buried, and requested the agenda be added to the website within 72 hours.

Duff stated the irrigation system is Caltrans' standard design, and Mr. Woodson's comments about the irrigation system would be passed on to Caltrans.

Lino Paras, Duarte, stated the internet update is a selective implementation by staff, read a portion of an article in the Pasadena Star News about the report, stated comments about a revised report need to be clarified, and stated he does not want a doctored report and it should be released.

Mark Montgomery, Duarte, stated the Evergreen portion of the soundwall is finished, stated there is a rumor about IHOP in Duarte, he read that IHOP has no money left to fund any new locations, and asked what was wrong with Krispy Kreme.

Antonio Ogaz, Duarte, stated having City Council meetings around the City is a great idea, the issue regarding the Downtown Duarte Task Force should be discussed, and stated more community members could provide input that has not been given before.

Chapjian suggested including an item about the Downtown Duarte Task Force on the agenda when Council Meetings are held in the community, and stated it could be in the newsletter as well.

Bill Hyatt, Duarte, stated there have been no soundwalls built for his neighborhood, he thinks there could a soundwall from Irwindale to the interchange, and stated the breach was not giving the document, it was letting City employees or the union know that it was given out.

Ernie Martinez, Duarte, stated traffic is as its all time worst in Duarte since the new 210 extension opened, Azusa plans to build 1500 homes, that will add to the traffic on Huntington Drive, and stated we need to think about what we could do about it in the future.

ITEMS FROM COUNCIL

Advertising/interview schedule
Community Svcs. Commission
(Chapjian)

Chapjian recommended the vacancy on the Community Services Commission be advertised and an interview schedule be set up. City Council concurred.

City newsletter (Chapjian)

Chapjian stated he would like to start the preparation of a newsletter, and to ask staff to begin the process.

Lino Paras, Duarte, stated there was a newsletter in the past, the subsidy to the Chamber was increased after it was stopped, the agreement with the Chamber is to provide services to include news and other information provided by the City, he is not opposed to a newsletter as long as the subsidy to the Chamber is reduced, the contract with Barrow Hoffman for public relations has increased, and stated these contracts need to be looked into.

Antonio Ogaz, Duarte, stated people spoke against Mr. Reyes' newsletter, felt Mr. Reyes extracted rationale for the opposition to his newsletter, and stated the majority Council should listen to the community.

Chapjian stated the newsletter would not be from one person, rather it would be from the City.

Reyes stated the Chamber has a wonderful publication, he thinks we should piggyback on it, he questions the timing as this is usually done at mid-year and especially with the State budget crisis, stated certain programs could be reduced such as the public relations officer, and stated he does not know what Mrs. Barrow does for \$50,000.

Fasana stated it is important that we have a City letterhead newsletter going out, the information about the budget cannot be ignored, and asked that this be brought back when the State budget implications are discussed.

Paras stated it is a good concept, various publications are received through the City, the added expense may or may not be justified at this time unless something was taken away from other projects, the Duarte View is one of the venues the City chooses to distribute information, and stated she agrees to wait and see what the budget looks like, and tabling it until then.

Chapjian stated he appreciates the budget issue and will wait for that, if there were an official City publication in English and Spanish, more people may have attended the task force meetings, he likes the idea of an official newsletter from the City informing people of services available, and stated he will defer to the City Council and wait until the budget update session.

REYES: 1) Congratulated all involved with the Buena Vista Pavilion, and thanked staff for working during the holiday season; 2) Stated the soundwalls look good, and it is a great project; and 3) Stated with regard to the investigation, it is a public document, he wants it out as soon as possible without revisions, amendments, or clarifications, stated he wants the findings published immediately in open or closed session, the whole document minus the employees interviewed, he is disappointed that there has been a breach, the City Manager has a responsibility, he or a colleague violated public trust when they let the employees know he had the document, he is not here to retaliate, thanked employees who had wonderful ethics and integrity, he has contacted the U. S. Civil Rights Commission, and stated he is hopeful that this can be worked out.

FASANA: 1) Congratulated the Buena Vista Pavilion and Rose Float Committee, and expressed appreciation to Fiesta Floats; 2) Stated there is a concern that the Duarte Community Services Council may lose United Way funding, he and other Councilmembers attended a recent meeting, and the United Way will be reporting back on their decision; 3) Stated freeway noise can be heard throughout the community, the State noise mitigation program has very specific requirements which deal typically with frontage parcels, and stated soundwalls will hopefully provide some level of relief; 4) Stated due to the 210 extension, it will take some time for traffic patterns to balance out, he has requested MTA to collect data to compare traffic usage, development will promote congestion, and stated other solutions include the Gold Line extension; and 5) With regard to the report, stated there are competing interests that need to be weighed, the City Council will try to make a determination that best balances those needs, and will determine what the ultimate disposition of the document will be.

PARAS: 1) Welcomed all to 2003, and hoped this year would be a new one; 2) Congratulated the Rose Parade Pavilion and the Duarte Coordinating Council, stated 8 out of 11 floats housed at our Pavilion received trophies, and stated the ROP class of Don Anderson did a fine job; 3) Stated with regard to the report, it is a priority, she feels the public has a right to know, she also has a responsibility to respect the agreement between the City Council and the employees regarding their privacy and to protect the City from litigation, this is still a closed session item, and stated she has no problem with putting this on a closed session special meeting next week in response to the public; 4) Stated she proposed a team building workshop several months ago and felt positive about it, there are items that need to be addressed on immediate factors, and one difficulty was scheduling; and 5) Stated she looks at the new year as being a positive one, her goals and objectives are to serve the public and make sure they are protected, and stated she looks forward to something coming out to the public as soon as possible.

CHAPJIAN: 1) Requested the City Manager provide four or five possible dates for the community meetings for consideration at the next Council Meeting; 2) Thanked staff for their efforts on cyber cafés and the work at Beardslee Park, as both affect our youth; 3) Congratulated Fiesta Floats, thanked the Coordinating Council for their work, and stated there will soon be a reception held to acknowledge and thank them; and 4) With regard to the report, stated he agrees with Mr. Reyes, the sooner the better, and being prudent in the decision in terms of what Council does, stated it could have been resolved quickly if the report was given back, and stated hopefully the issue will be resolved and the report will be out.

ADJOURNMENT

Paras moved, Reyes seconded to adjourn the meeting at 10:12 p.m., and carried unanimously.

Mayor George Chapjian

ATTEST:

City Clerk Marla Akana