

MINUTES

**CITY COUNCIL OF THE CITY OF DUARTE
REGULAR MEETING – TUESDAY, FEBRUARY 25, 2003**

At 5:30 p.m., a reception was held to honor the Buena Vista Pavilion volunteers.

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 7:05 p.m.

PLEDGE TO THE FLAG Andy Lambert, Duarte High School student, 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: Finlay, Fasana, Paras, Reyes, Chapjian
ABSENT: None
ADMINISTRATIVE STAFF PRESENT: City Manager Duff, City Attorney Ralph Leech

ADOPTION OF AGENDA Paras moved, Fasana seconded to adopt the Agenda, and carried unanimously.

ANNOUNCEMENTS Jan Wight, Duarte Chamber of Commerce, announced Chamber Evening Blender on February 26, 5:00 p.m., at the Heritage Park Apartments, and State of the City on March 12, 11:30 a.m., at the Duarte Community Center.

Bill Baca, Senator Gloria Romero’s office, requested City Council support the resolution sponsored by Senator Romero that is on the Agenda.

Jack Collins, Duarte, introduced Mohamed Trafteh, and stated he has been recognized by Nike and will be going to Maryland for a competition. Mohamed Trafteh thanked the City Council for its support of the cross-country team.

Lois Gaston thanked City Council, the community, and City employees for supporting the Buena Vista Pavilion event, and stated it was the most successful year ever.

FISCAL AFFAIRS Finlay moved, Reyes seconded to approve payment to the Southern California Edison Company, and carried with Fasana abstaining due to a declared conflict of interest.

Fasana moved, Paras seconded to approve the remainder of Fiscal Affairs, and carried unanimously.

SPECIAL ITEM
Ralph and Mickey Oviatt
50th Wedding Anniversary
Donna Georgino, Director of Parks and Recreation, introduced Ralph and Mickey Oviatt, and presented them with a cake in celebration of their 50th Wedding Anniversary. Mayor Chapjian presented them with a Certificate of Congratulations.

CONSENT CALENDAR Reyes moved, Finlay seconded to approve the Consent Calendar, as follows, and carried unanimously.
Approve Items A, B.

COUNCIL BILLS
Council Bill 03-R-02
Supports SB 108 (Five for Life)
Mayor Chapjian read by title Council Bill 03-R-02:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, SUPPORTING SB 108 – ALCOHOL-RELATED EMERGENCY SERVICES REIMBURSEMENT ACT OF 2003 (“FIVE FOR LIFE”)

Jeff Woodson, Duarte, stated this legislation is the same as one introduced by Senator Romero last year that failed, felt this was an attack on civil liberties of Californians, stated alcohol is legal, Measure B was passed to pay for trauma and emergency care, there is no cap on the five-cent tax, feels there would be fraud and mismanagement if this were passed, and asked that City Council not support this resolution.

Bill Baca, Senator Romero's office, stated this would generate approximately \$700 million per year to be reimbursed to emergency departments, trauma centers, and first responders, it could not be used for any other purpose, the fee would be placed at the wholesale level, and stated funds will be placed in a trust fund. In response to questions raised by Councilmembers, Mr. Baca indicated Miller Brewing is against the legislation, the fee would be paid by the wholesaler, if those who buy from the wholesaler want to pass the fee on to the consumer, that is up to them, the voter-approved assessment passed last year was at the County level, this legislation would be Statewide, and stated the fee would be charged on any alcoholic beverages sold within the State of California.

Steve Hernandez, Duarte, stated this is another tax, he does not see it doing what it is said to do, he is tired of taxes being levied on people with habits, and he hopes City Council will not support it.

Fasana moved, Paras seconded to receive and file Council Bill 03-R-02.

There was further discussion about the need for trauma centers Statewide, the overall State budget not being known, the need for additional clarity, how this would impact Miller Brewing, possibility of consideration at a later date, potential State budget cuts in schools, needs of non-profits, and appreciation of Senator Romero's efforts for the community.

The motion to receive and file Council Bill 03-R-02 carried unanimously.

Council Bill 03-R-03
Grant Funds Application
Pacific Communities Project

Mayor Chapjian read by title Council Bill 03-R-03:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOODS, AND COASTAL PROTECTION BOND ACT OF 2002 (FOR THE PACIFIC COMMUNITIES PROJECT)

Duff discussed the Wildlife Conservation Board tax credit program, and stated staff has been working on an alternative approach. Kristen Petersen, Assistant to the City Manager, provided a comprehensive update report about staff's efforts to preserve foothill properties, noted State tax credits pertaining to Pacific Communities were suspended and may be lifted in the next budget, stated City staff is working with Carol Liu's office to draft legislation for tax credits, discussed Prop 40 grant funds, stated this resolution will give the City authorization to submit the application for Pacific Communities, and noted the significance of including the Trust for Public Land as a partner on the application.

RESOLUTION NO. 03-03

Finlay moved, Reyes seconded to adopt Resolution No. 03-03, and carried unanimously.

TRAFFIC AND SAFETY COMMISSION – 2003 Speed Survey

Ed Cox, Director of Community Development, provided a staff report about the 2003 speed survey, and stated the Traffic and Safety Commission recommended adoption of the survey.

Lino Paras, Duarte, stated his concern is the 40 mile-per-hour speed limit on Huntington Drive, he feels it is a safety hazard, and stated Huntington Drive from Monrovia to Arcadia is 35 miles per hour.

There was discussion about speeding on Huntington Drive and Duarte Road, number of tickets issued, calculation of speed limits, and the survey being based on the safe speed of that particular street.

Fasana moved, Finlay seconded to approve the Traffic and Safety Commission recommendation to find the current speed limits are appropriate, safe, and facilitate the orderly movement of traffic, and that no adjustments to the maximum speed limits are warranted, and carried unanimously.

CITY MANAGER
Proposed library agreements

Karen Herrera, Assistant to the City Manager, provided a staff report about the proposed joint use library, displayed a schematic drawing and floor plan of the proposed library, and discussed the Shared Parking Agreement and the Joint Use Cooperative Agreement.

Fasana moved, Finlay seconded to approve both the Shared Parking Agreement with the Duarte Unified School District, and the Joint Use Cooperative Agreement with the County of Los Angeles and the Duarte Unified School District, and authorize the City Manager to execute both documents on behalf of the City of Duarte, and carried unanimously.

Los Angeles Area Integrated
Waste Management Authority

Kristen Petersen, Assistant to the City Manager, provided a staff report about the City's progress toward achieving AB 939 waste diversion compliance, the concept and benefits of forming a regional joint powers authority, the member jurisdiction fee for participation, results of non-participation, and the opportunity to develop by-laws, operating rules, and regulations.

Karen Coca, City of Los Angeles, answered questions from City Councilmembers concerning the possibility of partnering with the City of Bradbury, issue of liability, fines levied by the Waste Board, proportional representation, and Burrtec's role in meeting the diversion rate.

Fasana moved, Finlay seconded to approve the City of Duarte's participation in the Los Angeles Area Integrated Waste Management Authority by adopting the Joint Powers Agreement, approve the expenditure of annual fees, and designate Councilmember Finlay as representative and Councilmember Paras as alternate to serve on the Authority Board of Directors, and carried by the following Roll Call vote:

AYES: Reyes, Fasana, Finlay, Paras, Chapjian

NOES: None

ORAL COMMUNICATIONS

Councilmember Finlay announced City of Hope fundraiser on March 12, 6:00 p.m., at the Church of the Foothills.

Tom Goede, Duarte, stated he is a care provider, the management of the apartment complex wants to raise the rent, HUD was to assist with the paperwork, the Duarte Outreach Center assisted with a meeting at Supervisor Antonovich's office, the rent increase begins March 1, nothing has happened to date, and stated he wanted to speak on the public record about the situation.

Duff asked Mr. Goede to provide his phone number so staff can assist him in meeting with the proper officials.

Lino Paras, Duarte, stated the Brown Act folder does not reflect

the latest version, felt the warrant registers should be included in the back, stated a letter from Carie Osburn was highly speculative, discussed a newspaper article about the City of Palo Alto releasing emails, and suggested City Council come up with a policy about internal emails.

Pat Wood, Duarte Diversity Group, announced the First Annual Helping Hands event on March 15, at Pamela Park, from 8 to 5.

Jack Collins, Duarte, discussed a newspaper article about the Mayor of Boise who resigned over ethic charges.

Jeff Woodson, Duarte, stated he thinks the City Council did the right thing for the people of the community in not supporting Senator Romero's request for a resolution.

Carie Osburn, Duarte, stated she attended the Council Meeting where the Council decided to proceed with the investigation, stated Council promised the employees anonymity, and stated she received her information from the minutes of the meeting.

ITEMS FROM COUNCIL
City Council meeting invocation

Mayor Chapjian stated he thinks the invocation will benefit the community, he wants to be fair, and stated people could bow their head in silence.

Steve Hernandez, Duarte, stated he would like every denomination to have an opportunity to give the invocation, he thinks most people like the invocation, and stated it is an important part of who we are.

Lino Paras, Duarte, stated the first amendment says religion should not be promoted nor curtailed, it is up to the Supreme Court to decide interpretation, the School Board has a moment of silence, felt the City Attorney's confidential report should be made available to the public, the invocation should be initiated by a private party, and felt a predominant religion should not dominate the invocation.

Jack Collins, Duarte, stated when Mr. Fasana gives a moment of reflection, he feels like he has a part in it, he believes there should be no prayer said at all, and he believes all are better served when no one is offended.

Henry Baltazar, Duarte, stated he believes prayer is needed for protection, the Duarte Diversity Group includes all religions, he feels chaos in schools is due to lack of prayer and belief in God, and stated he thinks the invocation and prayer should continue.

Craig Jurin, Duarte, stated the Marine Corps nametag includes a religion, Duarte is a city of diversity and there are a lot of religions, and offered his support and services to have an invocation at the meetings.

There was discussion about the difficulty in setting guidelines, the moment of reflection being inclusive and providing flexibility, the moment of reflection being a time to pray or reflect, assuring that all religions are represented, inclusion of the religious community as well as members of the community in general, outreach efforts to bring prayer back to this venue, determination of who will make contacts, the importance of not offending anyone, and the offer made by Mr. Jurin to assist with this item.

Craig Jurin stated he would write a proposal to include the comments made at this meeting, and bring it to City Council at the second meeting in March. It was determined that until then, the Agenda item would be kept as a moment of reflection.

Request from Duarte Diversity Group (Reyes)

Reyes stated the Duarte Diversity Group event was outstanding, there are limited resources, and discussed the request for use of the Performing Arts Center.

Lynn Glover, Duarte Diversity Group, stated the mission is to find ways to bring people together and to set aside differences that cause strife, music is one way to unify people, they were not aware of options to minimize the cost of the event held at the Performing Arts Center, there might be a potential for the City to provide some relief for the costs, stated he hopes the City Council would respond to this proposal favorably, and noted the \$5,000 contribution from the City will be used for the multi-cultural festival.

Steve Hernandez, Duarte, stated the Diversity event last year was successful, diversity starts with wanting to make something better, and stated all Councilmembers need to participate and show an interest in each other.

Pat Wood, Chair, Duarte Diversity Group, read the letter of request sent to the City Council by the Duarte Diversity Group in its entirety.

Henry Baltazar, Duarte, stated the projected cost of the event was less than the exact amount, he hopes the City can give them one day, and stated this was a free event to the community.

There was discussion about whether the School District would waive fees for labor, security, and cleaning, whether there may still be some charges if the usage fee is waived, appreciation for the Duarte Diversity Group's work in bringing us together, the community-wide benefit, and acknowledgment of cooperation with the City of Duarte.

Finlay moved, Paras seconded to contact the Duarte Unified School District and include the event presented by the Duarte Diversity Group on February 1, 2003, as one of the City of Duarte's free usage dates for this year, and carried unanimously.

Retrieval of shopping carts (Chapjian)

Mayor Chapjian asked about how shopping carts are retrieved. Duff stated a program has been in place for a number of years, in the past, the City was able to charge businesses to cover the cost, the grocery industry pursued legislation that prevents cities from charging, the City's Field Services crewmembers retrieve shopping carts in commercial districts two days per week and take them to a storage area where businesses can retrieve them, this is a cost to the City, and stated shopping carts are retrieved from residential areas on a call-in basis within 24 hours.

Steve Hernandez, Duarte, stated a newspaper article said in El Monte, fines and tickets are issued for taking carts out of the shopping center, and stated charging penalties could help with the cost of picking up carts.

There was discussion about the possibility of a community type of standard shopping cart, penalties for carts being out for a certain amount of time, and the possibility of a hotline number for shopping cart retrieval to enhance our current program.

Jeff Woodson, Duarte, stated when a shopping cart was in front of his home, he called the store, they gave him the number to a company they contract with to pick up carts, and stated we could require stores to do that.

Brian Lister, Duarte, stated warnings could be given before tickets are issued, and stated carts are expensive.

Housing on Huntington Drive
(Chapjian)

There was discussion about a Redevelopment Workshop being held when all Councilmembers are able to attend, possibly the first meeting in April. Mayor Chapjian requested the item about housing on Huntington Drive be discussed at that workshop.

RECESS

Mayor Chapjian called a Recess at 10:04 p.m. for the Redevelopment Agency meeting. City Council reconvened at 10:12 p.m. with all members present.

CLOSED SESSION
Evaluation/Compensation
Adjustment – City Manager

Lino Paras, Duarte, stated at the last meeting, the City Attorney reported that no action was taken on this item and he wants to make sure, the Brown Act allows evaluation in a Closed Session, feels the City Manager has not done a good job and has been divisive, feels a dynamic and qualified person is needed, if an increase is considered, it must be discussed in public, he remembers the contract is open-ended, it is badly written, and he feels amendments are null and void.

Steve Hernandez, Duarte, stated the City Manager has done miraculous things and a magnificent job, he keeps us out of red ink, he looked to the future when the future did not matter, the City is graffiti-free and the parks are decent to walk in, he has never taken credit for what he has done and does his job regardless of pressure, there are no facts that have been binding against him, stated he appreciates the job done by staff, and stated politicians can take credit for Mr. Duff's work, but they cannot do the job.

Brian Lister, Duarte, stated he seconded what Mr. Hernandez said.

Fasana stated the City Manager is implementing the will of the majority of the Council, and stated he would prefer criticism rightfully be directed to Council rather than to staff.

Chapjian stated it is easy to criticize, Mr. Duff has good leadership skills, and staff is professional.

Finlay stated Mr. Duff is highly regarded among other City Managers, and Duarte has a lot for which to thank Mr. Duff.

Reyes asked Mr. Leech if the action taken at the last meeting to do an evaluation needs to be corrected, and if it may have been reported out incorrectly. Mr. Leech stated there was no vote.

Fasana stated it was understood that an evaluation would be performed, and it does not change the wording in terms of an action.

Mayor Chapjian called a Closed Session at 10:25 p.m. to consider the evaluation and compensation adjustment of the City Manager (pursuant to Government Code Section 54957). City Council reconvened at 11:05 p.m. with all members present. Mayor Chapjian stated the City Council performed an evaluation of the City Manager.

Fasana moved, Finlay seconded to make a 7% adjustment to the City Manager's salary upward to raise it to \$146,590.

Reyes stated he does not think this is wise in terms of the timing, there was a cost of living adjustment, in reading the investigation report, he cannot see how City Council can consciously give the City Manager a raise, felt Mr. Duff created fear in his own organization, stated organized labor may cost taxpayers more money in the future and might equate to reduction in services, and stated he would think Mr. Duff would resign.

Finlay stated she does not know where the report says Mr. Duff created fear, and it says the employees support Mr. Duff.

Fasana stated it is clear the employees had concerns over what was happening in the City, the majority of concerns addressed behavior by Mr. Reyes, there are deep differences now as to how we are operating, there are different perceptions as to what is ethical, he thinks the City Manager has maintained ethical leadership in the City, the City has continued to move forward, Council previously approved a 25% increase in pension benefits of employees, the adjustment to Mr. Duff's salary is miniscule compared to that, stated he supports the 7% increase and work of our staff, and stated when one looks at the benefits to this community, the money is well-spent and well-earned.

Paras inquired if this adjustment is referenced in the budget. Duff stated when the budget was being built for this current fiscal year, cost of living adjustments and adjusted salaries based on the salary survey were anticipated and included.

Chapjian stated he supports the 7% raise, discussed parks and after-school programs, stated the budget and reserves will carry us through the State budget problems without impacting services, Mr. Duff has done a lot right, he deserves a 7% raise, and stated the report is not about Mr. Duff.

Paras stated the percentage of the raise was from a range between two numbers, she appreciates it was a conservative percentage, the work done by the City Manager since she has been here has been acceptable and fair, there are certain policies and procedures she feels can be improved, she is in support of the increase at this time, and stated she looks forward to the City Manager working several more months with us.

The motion to make a 7% adjustment to the City Manager's salary upward to raise it to \$146,590 carried by the following Roll Call vote:

AYES: Paras, Finlay, Fasana, Chapjian

NOES: Reyes

ADJOURNMENT

Fasana moved, Chapjian seconded to adjourn the meeting at 11:14 p.m., in memory of Matthew Ferguson and Mike Bayus, and carried unanimously.

Mayor George Chapjian

ATTEST:

City Clerk Marla Akana