

MINUTES

CITY COUNCIL OF THE CITY OF DUARTE REGULAR MEETING – NOVEMBER 8, 2005

At 6:00 p.m., a reception was held for Bill Ornelas, retiring Field Services Manager.

The City Council of the City of Duarte met in a regular meeting in the Council Chambers, 1600 Huntington Drive, Duarte, California. Mayor Finlay called the meeting to order at 7:13 p.m.

RECORDATION OF ATTENDANCE

The following were in attendance:

PRESENT: Fasana, Gaston, Paras, Reyes, Finlay

ABSENT: None

ADMINISTRATIVE STAFF PRESENT: City Manager
George, City Attorney Slater

PLEDGE TO THE FLAG

John Baczkowski and members of Boy Scout Troop 185 led the Pledge of Allegiance to the Flag.

MOMENT OF REFLECTION

A silent moment of reflection was observed.

FITNESS WARM-UP

George led the group in a series of warm-up exercises.

ADOPTION OF AGENDA

Gaston moved, Paras seconded to adopt the agenda, as amended to consider Item 9.A (Public Hearing) after Item 7.C. (Special Items), and to remove Item 14.C, and carried unanimously.

ANNOUNCEMENTS

Jan Wight, Duarte Chamber of Commerce, announced the names of the Community Service Recognition Awardees, and upcoming Chamber events.

Pui-Ching Ho, Duarte Library, announced a special program to recognize Bookmark Contest winners on November 9, at 2:00 p.m.

Kelly Casteneda, Duarte Hawks, provided information about the cancellation of San Gabriel Valley Junior All-American Football Conference play-off games.

Ed Houlemarde, DYAC, discussed the cancellation of the play-off games.

Karen Herrera announced General Plan Community Workshop on November 17, 6:30 p.m., Foothill Unity Center's need for plastic grocery bag donations, and Duarte's Promise Holiday of Promise event kick-off on November 23.

Mayor Finlay inquired about sending cards to families of those serving in the Armed Forces. Herrera stated Duarte's Promise has an after-school program for sending holiday cards. Fasana suggested blank post cards be available at the Mayor's Prayer Breakfast.

Fasana asked that the meeting be adjourned in memory of Walker Dorsett, and inquired if the issue pertaining to the Duarte Hawks could be discussed at this meeting. Slater stated it could be discussed under Item 14.D.

Gaston asked that the meeting be adjourned in memory of Carleen Hughie.

Mayor Finlay asked that the meeting be adjourned in memory of Mike Burckhard.

FISCAL AFFAIRS

Reyes moved, Gaston seconded to approve payment to the Southern California Edison Company, and carried with Fasana abstaining due to a declared conflict of interest. Paras moved, Gaston seconded to approve the remainder of Fiscal Affairs, and carried unanimously.

SPECIAL ITEMS

Recognition – Bill Ornelas

Mayor Finlay presented a plaque and retirement basket to Bill Ornelas, retiring Field Services Manager, and thanked him for his 18 years of public service. Jan Wight presented him with a plaque from the Duarte Chamber of Commerce, and congratulations were extended.

Recognition – Red Ribbon Week

Abby Lai, Crime Prevention Specialist, and Sergeant Bly introduced Red Ribbon Week contest winners. Mayor Finlay presented essay and poster contest winners with Certificates of Appreciation, and congratulations were extended.

Recognition – John Greenwood

Mayor Finlay presented John Greenwood a Certificate in appreciation of his volunteerism and expertise in making the City's concert to benefit Katrina victims a success.

PUBLIC HEARING

Council Bill 05-O-03

Ban on spiked fences

(First Reading)

(Continued from 10/25/05)

Mayor Finlay announced the Public Hearing to consider amending the Duarte Municipal Code pertaining to a ban on spiked fences was continued from October 25, 2005.

City Attorney Slater noted as stated at the previous Council Meeting, notice of the hearing had been given, and the affidavit was on file.

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

Mayor Finlay stated since the last Council Meeting, a number of options have been identified, such as voluntary compliance, and requiring the property owner to pay for the cost of removal of an impaled deer should it occur on their property.

Slater read by title Council Bill 05-O-03:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, AMENDING CHAPTERS 9.32, 19.74, AND 19.84 OF THE DUARTE MUNICIPAL CODE TO EXTEND TO THE HILLSIDE OVERLAY DISTRICT THE BAN ON FENCES CONSTRUCTED WITH POINTS, SPIKES, OR OTHER MATERIALS HAZARDOUS TO WILDLIFE; TO DECLARE SUCH FENCES IN THE HILLSIDE OVERLAY DISTRICT A PUBLIC NUISANCE AND A NON-CONFORMING USE; AND TO MANDATE THE REPLACEMENT, RETROFITTING, OR REMOVAL OF SUCH FENCES WITHIN THE HILLSIDE OVERLAY DISTRICT WITHIN THREE YEARS (First Reading)

Jason Golding, Senior Planner, provided information in response to questions asked by Councilmembers at the previous meeting, stated three neighboring cities prohibit the installation of spiked fences, none of the ten neighboring cities require retroactive removal, a windshield survey showed that out of 1,495 parcels in the hillside area, there were 219 with spiked fences, that number could be higher if spiked fences were not visible from the street, and stated the cost to replace, retrofit, or remove spiked fences varies, however two out of eight contractors surveyed provided a generalized estimate to cut/cap at \$3 per linear foot, and \$10 per linear foot to weld a new rail above the spikes.

There was discussion about cost to remove an impaled deer, process for imposing a fee, and number of incidents.

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

Alison Armstrong suggested addressing the problem where it is happening, stated City staff has responded to one incident in the past 18 months, noted there were two incidents in the City of Bradbury and both property owners are capping their fences, stated if all fences were required to be removed or replaced, it would be an issue for fences that separate neighbors, and noted if the front fence is capped and a bear comes in the back yard, that might be a greater liability for the City.

Mary Ann Ur stated incidents have occurred in Bradbury, she has observed an impaled deer being removed from a fence, and stated deer cross in specific areas on Mt. Olive Drive, however those patterns may change.

Martin Burgner stated his property has over 300 feet of pointed fence, we have a moral duty to protect animals, the expense to remove animals should be borne by the City or County, this would have a financial impact, he agrees with the ban, asked that it not be made retroactive, he has seen two new fences go in with points, and suggested low cost loans be made available.

Nita Norgard stated it is the responsibility of residents to protect the environment, there are very few spiked fences in her neighborhood, and she would like residents to demonstrate that we do not need that type of fencing.

Steve Gunter stated his home has spiked fences, he has never seen deer on or near his property, he likes the solution of asking homeowners to comply, suggested the possibility of using motion sensor lighting, deer could have fleas and ticks, he is concerned with disease, deer predators could attack pets or residents, and suggested looking at ways to encourage deer not to enter the City by providing a water supply or edible plants in the forest area.

Alan Field stated he does not believe citizens were warned about the proposed ordinance soon enough, one deer was killed in 19 months, the City Council owes it to everybody to get a broader view of this, and suggested the City not deal with other cities, as they will take care of their own.

Jon Barker-Conteas, Bradbury City Councilmember, stated due to fires and rain, there is a great influx of animals coming down from the mountains, she has ultimate respect for nature, she represents the district most affected, stated she has found a solution with a metal works company in Burbank, it will cost her about \$500 to retrofit her fence, it can be done by the property owner, provided the company's catalog to the Mayor, and stated for the safety of animals and children, we must get along with the environment.

Lino Paras stated he called the media, the Planning Commission discussed the pros and cons of the proposed ordinance, City Council should inform the people of critical items on the website, the ordinance is well-intended but badly written, City Council should consider all input, and he does not want City Council to drop it.

Steve Hernandez stated he is concerned with the insensitivity and lack of respect for animals, the ordinance is overbearing on some people, the City could help homeowners with loans, there are areas where deer have not been seen that do not need to have this done, and stated there is a need for mutual respect.

Delmer Hinton stated since 1980, deer have been more prolific in his area, he has chain link fence in his back yard and wrought iron fencing with points in his front yard, he sees deer everyday and hopes to co-exist with them, the deer can roam up and down his driveway at will, deer will not jump over a fence if they can find food, and stated he hopes this can be resolved.

John Rigali stated he received a flier on his porch, and asked that the City address this concern with property owners included in the windshield survey so they could be more aware.

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

There was discussion about education, research done by the public, balance of incidents, public outreach, enforcement of current ordinance for new fences, notification of fencing contractors in the region, protection of wildlife in a feasible way,

information available in metal works catalog, need to protect public and wildlife safely, self-regulation, review of areas where future installation of these types of fences are prohibited, public and private partnership, options available if someone wants to change their spiked fence, joint correspondence from Mayors of foothill cities to notify contractors and stores such as Home Depot about the ban on installation of new spiked fences, correspondence to residents in the targeted area, campaign to save the deer, and the possibility of grant money.

Fasana moved, Paras seconded to receive and file Council Bill 05-O-03, to request the Mayors of the foothill cities to send communications to the contracting community about this issue, and that over the next six months, letters be sent to the entire hillside area informing residents with spiked fences of the issues at hand, and informing residents that do not have spiked fences not to install them, and carried unanimously.

CITY MANAGER
Task Force – Public Safety

Gaston stated she, Councilmember Reyes, and School Board-members Diaz and Bell met to discuss public safety issues and to focus on reasons gang problems exist, and stated organized activities keep youth engaged in productive behavior.

City Councilmembers discussed the cancellation of the league playoffs and the possibility of hosting a friendship game.

Fasana moved, Paras seconded to direct staff to work with the Duarte School District and the Duarte Hawks to set up a friendship game to finish the season on a positive note, and carried unanimously.

RECESS

Mayor Finlay called a Recess at 9:45 p.m. for the Redevelopment Agency Meeting. City Council reconvened at 9:47 p.m., with all members present.

CLOSED SESSION

Mayor Finlay called a Closed Session at 9:47 p.m. City Attorney Slater stated the Closed Session is pursuant to Government Code Section 54956.9(c); Conference with legal counsel; Anticipated litigation; Reason: City is considering whether to initiate litigation; Number of cases: One.

City Council reconvened at 10:45 p.m., with all members present. Slater stated City Council discussed potential litigation with legal counsel, and unanimously directed the City Attorney to continue to monitor the situation, with no further action taken.

PUBLIC HEARING
Council Bill 05-R-23
Conditional Use Permit 05-3
(2249 Huntington Drive)

Mayor Finlay announced this was the time and place set for a Public Hearing to consider approving Conditional Use Permit 05-3 with conditions.

Slater read by title Council Bill 05-R-23:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 05-3, WITH CONDITIONS, ALLOWING THE CONVERSION OF INTERIOR AUTOMOTIVE SERVICE BAYS INTO A CONVENIENCE MARKET, IN CONJUNCTION WITH THE OPERATION OF AN EXISTING MOBIL GASOLINE SERVICE STATION AT 2249 HUNTINGTON DRIVE (APN: 8529-010-062)

City Attorney Slater 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 Finlay asked if any written communications had been filed in the matter. Akana stated other than the letter from Gene Koon included in the Agenda packet, no additional correspondence was received.

Jason Golding, Senior Planner, provided a staff report about the proposed Conditional Use Permit, described the findings that must be made in order to grant a Conditional Use Permit, and suggested Condition 19 be amended, and Condition 25 be added, as follows:

19. The applicant shall comply with all applicable regulations of the C-1 zone and applicable sections of the Duarte Municipal Code.

25. Within 60 days of the date of this approval, the applicant shall provide the Community Development Department with a licensed survey of the subject property, building and parking and circulation dimensions. Survey shall include the abutting property to the extent that it relates to compliance with parking and circulation provisions within the Duarte Municipal Code. Furthermore, construction plans shall be revised to meet all applicable development standards of the Duarte Municipal Code. Failure to provide the survey within the following 60-day time period or failure of the survey to confirm the project meets all applicable development standards shall result in this condition not being satisfied.

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

Gene Koon, representing the owner of the adjacent property, stated some problems have been resolved with staff and the applicant, distributed copies of the site plan, stated the plan does not conform with the code requirement for back-up space, felt the turning grade is too sharp, and stated the new condition recommended by staff for a certified survey is imperative to prevent problems later on.

Michael Pauls, representing the applicant, stated he is in agreement with the conditions and proposed new conditions, he believes the survey will address the issues, the applicant wants to transition to a mini-mart since it is no longer profitable to run auto service bays, the two property owners wish to avoid walling off their properties, and provided signatures of approximately 50 residents in support of the proposed expansion.

Steve Hernandez discussed Tropicana, Target, WalMart, and Seven-Eleven, stated they complement each other, and stated Jack's Mobil has been at its current location forever.

Mr. Jian, project architect, stated the plans are as accurate as possible and not misleading, the maps from the assessor's office show the exact measurements as his plan, stated the back-up space meets the code, the shopping center is empty at various times, there is no light at night, sales from the market and gas sales will add tax revenue, and asked that this be approved.

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

There was discussion about information to be provided by the survey, traffic flow and circulation, legality of building walls to separate parcels, parking spaces, and requirements for alcohol sales. It was noted that there is no anticipated request for sale of alcohol at this time.

RESOLUTION NO. 05-33

Fasana moved, Paras seconded to make the required findings as outlined in the staff report (Page 5, Items A-D), amend Condition 19 and add Condition 25 as stated above, and adopt Resolution No. 05-33, and carried unanimously.

CONSENT CALENDAR

Reyes moved, Gaston seconded to approve the Consent Calendar, as follows, and carried unanimously.

Approve Items A, B, C.

Receive and file Items D, E.

COUNCIL BILL
Council Bill 05-R-32
Employer's Contribution

Slater read by title Council Bill 05-R-32:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ELECTING TO BE SUBJECT TO THE MEYERS-GEDDES STATE EMPLOYEES MEDICAL AND HOSPITAL CARE ACT AND FIXING THE EMPLOYER'S CONTRIBUTION

RESOLUTION NO. 05-32

Fasana moved, Gaston seconded to waive further reading and adopt Resolution No. 05-32, and carried unanimously.

CITY MANAGER
Update – Emergency Repairs

George provided an update on the status of emergency repairs pertaining to a portion of Rim Road between 2404 and 2412 Rim Road, and stated staff continues to meet with the property owners, although slow progress has been made, a productive meeting was held with one property owner, and stated he hopes to resolve this by the end of the week.

Award of Contract
Concrete Repair Program
Martinez Concrete, Inc.

Fasana moved, Reyes seconded to award the contract to Martinez Concrete, Inc., for Concrete Repair Program, per staff recommendation, authorize execution by the Mayor, and carried unanimously.

ORAL COMMUNICATIONS

The following spoke on items not on the Agenda:

Chris Russo – Dial-A-Ride.

Steve Hernandez – Lights at Lena Valenzuela Park.

ITEMS FROM COUNCIL

FASANA: With regard to lighting at Lena Valenzuela Park, suggested the possibility of lower level perimeter lighting or revising the park hours.

PARAS: 1) Thanked Mayor Finlay for bringing the spiked fence issue to the forefront; and 2) Stated she would like to see a banner advertising the City's website similar to the one on Duarte Road for the city of Arcadia.

GASTON: 1) Thanked all who participated in the General Plan meeting, and inquired about balanced representation; 2) Thanked those who attended the memorial service for Carleen Hughie; and 3) Stated the Foothill Unity Center needs plastic grocery bags.

REYES: 1) Stated Carleen Hughie was a model citizen and volunteer, and will be missed; and 2) Congratulated his colleagues on their victory this Election Day, and stated he looks forward to serving with them the next four years.

FINLAY: 1) Inquired as to why school children are not riding the buses anymore. Yelton responded; and 2) Announced 2005 Christmas Tree Recycling Program through the Sanitation District.

ADJOURNMENT

Gaston moved, Paras seconded to adjourn the meeting at 11:45 p.m., in memory of Walker Dorsett, Carleen Hughie, and Mike Burckhard, to a Special Joint Session of the Duarte City Council and Monrovia-Arcadia-Duarte Town Council, Tuesday, November 15, 2005, 6:00 p.m., at Pamela Park, 2236 Goodall Avenue, and carried unanimously.

Mayor Margaret Finlay

ATTEST:

City Clerk