

MINUTES

**JOINT CITY COUNCIL/REDEVELOPMENT AGENCY OF THE CITY OF DUARTE
REGULAR MEETING – MAY 13, 2008**

At 5:30 p.m., four Closed Sessions were held (as stated below). Councilmember Gaston called the meeting to order at 5:07 p.m., with three members present (Fasana and Reyes were absent).

ADOPTION OF AGENDA

Paras-Caracci moved, Finlay seconded to add Item 3.E (Closed Session, Fountainhead Shrugged, LLC) as stated below), Item 9.E (Special Item: Academic Decathlon), and Consent Items 12.H and 12.I (City Council Conference Attendance: Friends of the Duarte Library Dinner--Finlay; and William Martinez' retirement dinner--All Council), and carried unanimously. Finlay moved, Paras-Caracci seconded to adopt the Agenda, as amended, and carried unanimously.

CLOSED SESSIONS

- 1) Conference with Labor Negotiators
- 2) Real Property Negotiations (Jacobsen Family Holdings)
- 3) Conference with Legal Counsel--Anticipated Litigation
- 4) Real Property Negotiations (Fountainhead Shrugged, LLC)

Lino Paras stated he has been reviewing legal expenses for 12-18 months, if the litigation item is what he thinks it is, the City has a weak position, he feels the City will lose, and stated if the City loses, there will be repercussions.

Slater stated the first Closed Session is pursuant to Government Code Section 54957.6; Conference with Labor Negotiators; Designated City Representatives: Darrell George, Steve Filarsky, Dan Slater; Employee Organization: Service Employees International Union (SEIU) Local 721. The second Closed Session is pursuant to Government Code Section 54956.8, Conference with Real Property Negotiators; Agency Negotiator: Darrell George; Negotiating parties: Redevelopment Agency of the City of Duarte and Jacobsen Family Holdings, LLC; Under negotiation: Price and terms of payment; Property: 1416 Mountain APN 8530-012-004, 1420 Mountain APN 8530-012-008, 1422 Mountain APN 8530-012-009, 1434 Mountain APN 8530-012-010, 1414¼ Mountain APN 8530-012-031, 1414½ Mountain APN 8530-012-032, 1402 Park Rose APN 8530-012-045, 1403 Park Rose APN 8530-012-026, 1408 Park Rose APN 8530-012-046, 1409 Park Rose APN 8530-012-025, 1412 Park Rose APN 8530-012-047, 1413 Park Rose APN 8530-012-067, 931 Central APN 8530-012-074, and 1450 Mountain APN 8530-012-072 and 8530-012-073. The third Closed Session is pursuant to Government Code Section 54956.9(b)(1); Conference with legal counsel; Anticipated Litigation--Significant exposure to litigation; Number of potential cases: 1. The fourth Closed Session is pursuant to Government Code Section 54956.8; Conference with Real Property Negotiators; Government Code Section 54956.8; Agency negotiators: Darrell George, Karen Herrera; Negotiating parties: Redevelopment Agency of the City of Duarte and Fountainhead Shrugged, LLC; Under negotiation: Price and terms of payment; Concerning Agency-owned property at 1263 Huntington Drive, Duarte (Vacant lot at north-west corner of Huntington Drive and Buena Vista Street). The Closed Sessions concluded at 6:55 p.m.

The City Council/Redevelopment Agency of the City of Duarte met in a regular meeting in the Council Chambers, 1600 Huntington Drive, Duarte, California. Councilmember Gaston called the meeting to order at 7:17 p.m.

RECORDATION OF ATTENDANCE

The following were in attendance:
PRESENT: Finlay, Gaston, Paras-Caracci
ABSENT: Fasana, Reyes
ADMINISTRATIVE STAFF PRESENT: City Manager George, City Attorney Slater

PLEDGE TO THE FLAG

Harb Thind led the Pledge of Allegiance to the Flag.

MOMENT OF REFLECTION

A moment of reflection was observed.

FITNESS WARM-UP

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

PUBLIC REPORT OF CLOSED SESSION

Slater stated during the first Closed Session, there was a discussion about the labor negotiations, with no reportable action taken. During the second Closed Session, the Agency Board had a discussion, and by a unanimous vote (with Reyes and Fasana absent), gave direction to the Agency negotiator to discuss with the developer possible minor restructuring of the way Agency assistance is distributed, with no other reportable action. During the third Closed Session, City Council received a report from legal counsel and unanimously (with Reyes and Fasana absent) provided direction on a potential settlement of those legal issues, with no further reportable action taken. During the fourth Closed Session, the Agency Board received a report from Mr. George regarding the project, including terms under which the developer will effect payment to the Agency, and unanimously (with Reyes and Fasana absent) directed the negotiator to continue discussions with Fountainhead Shrugged, LLC, on implementing the project, with no further reportable action.

ANNOUNCEMENTS

Pui-Ching Ho, Duarte Library, announced parrot show on May 17 at 2:00 p.m., and Asian Pacific Heritage Month event on May 24 at 2:00 p.m.

Rosa Gutierrez announced Ballet Folklorico Mestizo on May 18, 4:00 p.m., at the Performing Arts Center.

Karen Herrera announced grand opening of Huntington Courts on May 15 at 5:00 p.m., Foothill Unity Center Humanitarian Awards on June 5, Senator Romero’s budget meeting on May 21 at Maxwell School, Assemblymember Ed Herdandez’ Town Hall Meeting on May 22 at APU Campus, invited interested persons to apply for City Commissions and Youth Council, and stated the second Business Connection Breakfast was held on May 8, with 45 in attendance.

SPECIAL ITEMS

Recognition – Youth Activities League (YAL) Award recipients

Brian Villalobos introduced Deputy Art Valenzuela, who described the Youth Activities League (YAL) program. Councilmember Gaston, on behalf of the City Council, presented certificates to Deputy Arthur Valenzuela for being named “Deputy of the Year,” Oliver Solarzano for being named “Young Man of the Year,” and Jeannette Haro for being the “Salute to Youth Nominee,” and congratulations were extended.

Recognition – LARA Awardees

Councilmember Gaston presented certificates to City of Hope for receiving the Los Angeles Regional Agency’s non-profit award, Apple Graphic, Inc., for receiving the manufacturing award, and Duarte Unified School District for receiving the educational institution award, and thanked all awardees for their commitment to a greener Duarte.

Recognition–Duarte High School Academic Decathlon Team

Councilmember Gaston congratulated the Duarte High School Academic Decathlon team who was named the National Champions of medium-sized schools, introduced the team members and teaching coach, and invited them to enjoy a small reception in their honor.

RECESS

Councilmember Gaston called a Recess at 7:55 p.m. Council reconvened at 8:06 p.m., with three members present, and Reyes and Fasana absent.

ORAL COMMUNICATIONS

The following spoke on items not on the Agenda:
James Hunley – Neighbor’s fence height.
Linda Acosta – Neighbor’s dog.
John McKiernan – Neighbor’s 7-foot fence.
John Hardin – His legal 6-foot fence.

CONSENT CALENDAR
(Items Added)

It was noted that the following Consent Items were added at the beginning of the meeting: City Council Conference Attendance: Friends of the Duarte Library Dinner, May 28, 2008 (Finlay); and William Martinez Retirement Dinner, June 14, 2008 (All Council).

Paras-Caracci moved, Finlay seconded to approve the Consent Calendar as amended, as follows, and carried unanimously.

Approve Items A, B, C, D, E, F, G, H, I.

(Item F–Council Bill 08-R-08 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, TERMINATING THE TERMS OF ALL CURRENT CITY COMMISSIONERS AS OF JUNE 30, 2008)

PUBLIC HEARINGS
Council Bill 08-O-03
Appeals to Planning Commission
Decisions (First Reading)

Slater announced this was the time and place set for a Public Hearing to consider amending the Duarte Municipal Code pertaining to appeals to the City Council of Planning Commission decisions on Conditional Use Permit Applications, and read Council Bill 08-O-03 by title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE AMENDING SECTIONS 19.70.150, 19.70.160, AND 19.70.170, OF THE DUARTE MUNICIPAL CODE PERTAINING TO APPEALS TO THE CITY COUNCIL OF PLANNING COMMISSION DECISIONS ON CONDITIONAL USE PERMIT APPLICATIONS (MCA 08-1) (First Reading)

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

George provided a staff report about the proposed amendments.

Councilmember Gaston asked if anyone in the audience wished to speak on the matter. There were none.

Finlay moved, Paras-Caracci seconded to close the Public Hearing, and carried unanimously.

Finlay moved, Paras-Caracci seconded to introduce Council Bill 08-O-03 for first reading, and carried unanimously.

Council Bill 08-O-04
Architectural Review Board
(First Reading)

Slater announced this was the time and place set for a Public Hearing to consider amending the Duarte Municipal Code pertaining to the Architectural Review Board, and read Council Bill 08-O-04 by title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE AMENDING SECTIONS 19.70.230 AND 19.70.240, AND ADDING SECTION 19.70.235, OF THE DUARTE MUNICIPAL CODE PERTAINING TO THE ARCHITECTURAL REVIEW BOARD (MCA 08-2) (First Reading)

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

George provided a staff report about the proposed amendments.

Councilmember Gaston asked if anyone in the audience wished to speak on the matter. There were none.

Finlay moved, Paras-Caracci seconded to close the Public Hearing, and carried unanimously.

Finlay moved, Paras-Caracci seconded to introduce Council Bill 08-O-04 for first reading, and carried unanimously.

CITY COUNCIL/AGENCY
ENA – Lowe Enterprises

George provided a staff report about the proposed Exclusive Negotiating Agreement (ENA) with Lowe Enterprises for the

proposed transit-oriented development project located at 1700 Business Center Drive and 1801 Highland Avenue.

Slater noted the following revisions to the ENA: Page 2, Item 4, the cumulative total was changed from “90” days to “180” days; and Page 7, “Item 5.M – Challenges to ENA” was added.

James Repking, representing S.C. Investments-Duarte, LLP, and Highland Industrial Center, LLC, submitted a letter pertaining to the ENA, stated on behalf of his clients, he opposes the ENA, stated the owner outreach must occur before the approval of the ENA, it would violate CEQA, and urged the Council/Agency not to approve the ENA.

Harb Thind stated there was no previous mention of this, and inquired if other contractors bid for this.

Slater stated he reviewed the letter submitted by Mr. Repking and disagrees with the conclusions, the DDA is not before the Agency at this time, there is no predefined project at this time, there are concepts, CEQA review is required at the early stage of the process, we are not at that point yet, and staff’s recommendation is to approve the ENA.

There was discussion about timeline requirements, notification of business owners, and interest in participating.

Paras-Caracci moved, Finlay seconded to approve the 180-day Exclusive Negotiating Agreement between the Redevelopment Agency and Lowe Enterprises for the proposed transit-oriented development project located at 1700 Business Center Drive and 1801 Highland Avenue, and authorize the Executive Director to execute the Agreement on behalf of the Agency, and carried unanimously.

Award of contract
E. C. Construction Company
Duarte Community Plaza

Paras-Caracci moved, Finlay seconded to award the contract to E. C. Construction Company for the Duarte Community Plaza project, per staff recommendation, and authorize execution by the Mayor and/or Councilmember, and carried unanimously.

RESOLUTIONS
Council Bill 08-R-05
Statements of Economic Interest

Slater read by title Council Bill 08-R-05:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, AMENDING THE LIST OF DESIGNATED POSITIONS FOR FILING STATEMENTS OF ECONOMIC INTEREST AND CONFORMING THE APPLICABLE DISCLOSURE CATEGORIES TO REQUIREMENTS OF THE STATE OF CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION

RESOLUTION NO. 08-05

Finlay moved, Paras-Caracci seconded to adopt Resolution No. 08-05, and carried unanimously.

Council Bill 08-R-06
Grant Funds – Kids Plates

Slater read by title Council Bill 08-R-06:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE SAN DIEGO STATE UNIVERSITY RESEARCH FOUNDATION ON BEHALF OF THE CENTER FOR INJURY PREVENTION POLICY AND PRACTICE, KIDS’ PLATES PROGRAM FOR THE PURPOSE OF FUNDING PROFESSIONAL DEVELOPMENT OPPORTUNITIES

Finlay moved, Paras-Caracci seconded to adopt Resolution No. 08-06, and carried unanimously.

Council Bill 08-R-07
Wall Maintenance Agreement
Foothill Pacific Homes

Slater read by title Council Bill 08-R-07:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, APPROVING A GRANT OF EASEMENT AND WALL MAINTENANCE AGREEMENT

WITH FOOTHILL PACIFIC HOMES, INC., A CALIFORNIA CORPORATION, FOR THE CITY'S ACQUISITION OF AN EASEMENT UPON A BOUNDARY WALL ON THE NORTH SIDE OF PLAZA DUARTE

RESOLUTION NO. 08-07

Paras-Caracci moved, Finlay seconded to adopt Resolution No. 08-07, and carried unanimously.

ITEMS FROM CITY COUNCIL/
CITY MANAGER

PARAS-CARACCI: Asked for clarification that the Student Intern program is not limited to only students in the School District and those who live in the School District boundaries, stated a tree in the Big Lots center is dying and should be taken down, stated we need to be sure our code enforcement is fair throughout the City, and stated she attended the League City Selection Committee Meeting and Mother's Day Tea at the Senior Center.

FINLAY: Provided information to the City Manager about free classes available from the Joint Powers Insurance Authority, provided a West Nile Virus update, and asked that the City Manager present a one-minute update at each meeting about one current project in the City.

GEORGE: Discussed newspaper articles about the City's use of recycled materials for the slurry seal project, and the grant received to fund the Encanto Park project.

GASTON: Thanked residents for expressing their concerns, thanked staff for the budget workshop, attended the Chamber Installation Dinner and Business Connection event, stated when she met with the seniors, they expressed concerns about the shades in the dining hall, Third Street parking lot lines, possibility of a crosswalk on Huntington, possibility of paving the vacant lot on Pops Road for overflow parking, and finding a replacement for Meals on Wheels, noted there are gang signs on the sidewalks, attended Contract Cities Executive Board and regular meeting where she was elected Vice President, attended San Gabriel Valley COG strategic planning event, announced SGVCOG Gang Summit on June 13, and congratulated the Duarte Academic Decathlon team for being the top in the Nation.

ADJOURNMENT

Finlay moved, Paras-Caracci seconded to adjourn the meeting at 9:23 p.m., and carried unanimously.

Mayor

ATTEST:

City Clerk