

AGENDA
REGULAR JOINT MEETING OF THE CITY COUNCIL OF THE
CITY OF DUARTE, SUCCESSOR AGENCY TO DISSOLVED REDEVELOPMENT
AGENCY OF THE CITY OF DUARTE, THE DUARTE HOUSING AUTHORITY, AND
THE DUARTE COMMUNITY FACILITIES FINANCING AUTHORITY

TUESDAY, APRIL 23, 2013

5:30 p.m. – Closed Session
7:00 p.m. – Regular Session

COUNCIL CHAMBERS, 1600 HUNTINGTON DRIVE, DUARTE, CALIFORNIA 91010

MISSION STATEMENT

With integrity and transparency, the City of Duarte provides exemplary public services in a caring and fiscally responsible manner with a commitment to our community's future

MARGARET FINLAY, MAYOR
LIZ REILLY, MAYOR PRO TEM
JOHN FASANA, CITY COUNCILMEMBER
TZEITEL PARAS-CARACCI, CITY COUNCILMEMBER
PHIL REYES, CITY COUNCILMEMBER

City/Agency/Authority Staff:

Darrell George, City Manager
Kristen Petersen, Assistant City Manager and Director of Administrative Services
Craig Hensley, Community Development Director
Cesar Monsalve, Director of Parks and Recreation
Brian Villalobos, Director of Public Safety Services
Dan Slater, City Attorney
Marla Akana, City Clerk

ADDRESSING THE CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AND FINANCING AUTHORITIES:

If you wish to address the City Council, Successor Agency, Housing Authority, or Financing Authority on any item on the Agenda, you should fill out a Speaker Card indicating which item or items on the Agenda you wish to speak about, and hand the card to the City Clerk. You will be called to the Podium when that item is heard by the City Council/Successor Agency/Housing Authority/Financing Authority. If you wish to address the City Council, Successor Agency, Housing Authority, or Financing Authority on any item that is not on the Agenda, but that is within the subject matter jurisdiction of the City/Agency/Housing Authority/Financing Authority, you may do so under the "Oral Communications" portion of the Agenda. At the podium, before starting your remarks, please state your name and city of residence for the record.

ADA ACCESSIBILITY NOTICE:

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, you should contact the City Manager's office at (626) 357-7931. Notification no later than 1:00 p.m. on the day preceding the meeting will enable the City to make reasonable arrangements to assist your accessibility to this meeting.

Note: Any documents distributed by the City/Agency/Authorities to a majority of the City Council/Successor Agency/Housing Authority/Financing Authority Board less than 72 hours prior to the City Council/Successor Agency/Housing Authority/Financing Authority meeting will be made available for public inspection at City Hall, 1600 Huntington Drive, Duarte, CA 91010, during normal business hours, except such documents that relate to closed session items or which are otherwise exempt from disclosure under applicable law.

THE FOLLOWING ITEMS WILL BE HEARD AT 5:30 P.M.

1. CALL TO ORDER OF CITY COUNCIL, SUCCESSOR AGENCY TO DISSOLVED REDEVELOPMENT AGENCY, HOUSING AUTHORITY, AND COMMUNITY FACILITIES FINANCING AUTHORITY, AND NOTATION OF ANY ABSENCES
2. ADOPTION OF THE AGENDA
3. CLOSED SESSION
 - A. Public Input – *Members of the public wishing to speak concerning the closed sessions listed below may do so at this time. Each person may speak once for no more than 3 minutes.*
 - B. Conference with Labor Negotiators – Pursuant to Government Code Section 54957.6; Negotiators: Darrell George, Kristen Petersen; Regarding SEIU Local 721 Management and Professional Employees and General Employee Units
 - C. Conference with Legal Counsel—Existing Litigation, pursuant to Government Code Section 54956.9(d)(1); *City of Duarte, et al., Petitioners/Plaintiffs, vs. Ana J. Matosantos, in her official capacity as Director of the State of California Department of Finance, et al., Sacramento County Superior Court Case No. Case No. 34-2012-80001338.*
 - D. Conference with Legal Counsel – Threatened Litigation, pursuant to Government Code Section 54956.9(d)(2) and (e)(5); Number of potential cases: 1.

THE FOLLOWING ITEMS WILL BE HEARD NOT EARLIER THAN 7:00 P.M.

4. PLEDGE TO THE FLAG
5. MOMENT OF REFLECTION
6. FITNESS/MENTAL WARM-UP
7. PUBLIC REPORT OF CLOSED SESSION ITEMS
8. SPECIAL ITEMS – Page 1
 - A. Recognition – Groundhog Job Shadow Day Success Story: Seidner’s Collision Center and Irma Escalera
 - B. Presentation of Proclamation to Santa Anita Family YMCA – Water Safety Month
 - C. Presentation by Youth and Family Committee – Funding Priorities
 - D. Presentation by AQMD – Monitoring Station
9. ANNOUNCEMENTS OF UPCOMING COMMUNITY EVENTS
Any person who wishes to make a brief announcement of a future community event that is open to the general public may do so at this time.
10. ORAL COMMUNICATIONS—ITEMS NOT ON THE AGENDA (30 MINUTES)
Any person wishing to speak on any issue that is not on the Agenda, but that is within the subject matter jurisdiction of the City/Agency or Authorities, may do so at this time. The opportunity to speak is on a first come, first serve basis. Each person may speak once for no more than 3 minutes and there is a maximum of 30 minutes for all Oral Communications at this time. Under the Brown Act, members of the City Council/Successor Agency/Housing Authority/Financing Authority, and staff can respond only with a brief reply to issues raised in Oral Communications, and no action on such matters may take place at this meeting.
11. ITEMS TO BE ADDED TO THE CONSENT CALENDAR
12. CONSENT CALENDAR – Page 3
All matters listed on the Consent Calendar are to be approved with one motion unless a member of the City Council/Successor Agency/Housing Authority/Financing Authority removes an item for separate action. Any consent calendar item for which separate action is requested shall be heard as the next Agenda item. The respective entity’s consent items are shown in parentheses at the end of each item as “CC” for City Council, “SA” for Successor Agency, “HA” for Housing Authority, and “FA” for C.F. Financing Authority.
 - A. Approval of Minutes – April 9, 2013 (CC/HA/SA/FA)
 - B. Approval of Warrants –April 23, 2013 (CC/HA/SA/FA)

- C. Motion to introduce and/or adopt all resolutions and ordinances presented for consideration by title only and waive further reading (CC/HA/SA/FA)
 - D. Approval of recommendation for use of 2013/14 State Supplemental Law Enforcement Services Funds (SLESF) and Citizens' Option for Public Safety (COPS) grant funding (CC)
 - E. Approval of recommendation from Parks and Recreation Commission to appoint Debbie Cook to complete term of Commissioner Thaller, ending on December 31, 2013 (CC)
 - F. Award of contract to lowest responsible bidder Martinez Concrete, Inc., in the amount of \$45,455.00 for Concrete Repair Program (CC)
 - G. Council Bill 13-R-05 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ESTABLISHING A TWO-HOUR PARKING RESTRICTION ON BLOOMDALE STREET (CC)
 - H. Authorization for the City Manager to execute an Agreement with the Los Angeles County Metropolitan Transportation Authority to exchange Federal Surface Transportation Program Local Funds (STP-L) for flexible LACMTA Local Transportation Funds (CC)
 - I. City Council/City Manager Conference Attendance – NALEO 30th Annual Conference, June 27-29, 2013, Chicago, Illinois; San Gabriel Valley Economic Outlook Breakfast, April 23, 2013, Industry (Ratification); Farewell Dinner for Monrovia Mayor Pro Tem Joe Garcia, April 18, 2013, Monrovia (Ratification) (CC)
13. ITEMS REMOVED FROM CONSENT CALENDAR
14. PUBLIC HEARING – Page 35
- A. 13-O-01 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ADDING CHAPTER 5.09, "TOBACCO RETAILER LICENSE," TO TITLE 5, "BUSINESS LICENSES AND REGULATIONS," OF THE DUARTE MUNICIPAL CODE (First Reading)
 - B. 13-R-06 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE APPROVING AND ADOPTING A TOBACCO RETAILER LICENSE FEE
15. BUSINESS ITEM – Page 58
- A. Recommendation from Parks and Recreation Commission to amend Community Facilities Administrative Policies and Procedures
 - B. Update on Dial-A-Ride Transit Services
16. CONTINUATION OF ORAL COMMUNICATIONS
- Any person who did **not** speak during the initial 30 minute Oral Communications period earlier in the meeting, who wishes to speak on any issue that is not on the Agenda but that is within the subject matter jurisdiction of the City Council/Successor Agency/Housing Authority/Financing Authority, may do so at this time. Each person may speak once for no more than 3 minutes. Under the Brown Act, members of the City Council/Successor Agency/Housing Authority/Financing Authority, and staff can respond only with a brief reply to issues raised in Oral Communications, and no action on such matters may take place at this meeting.*
17. ITEMS FROM CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AUTHORITY/FINANCING AUTHORITY MEMBERS AND CITY MANAGER/EXECUTIVE DIRECTOR (AB 1234 reports on trips, conference attendance, and meetings)
18. ADJOURNMENT – To Community Meeting (Special Meeting), April 30, 2013, 7:00 p.m., at Andres Duarte Elementary School, 1433 Crestfield Drive, Duarte

MEMORANDUM

TO: City Council
FROM: City Manager
DATE: April 18, 2013
SUBJECT: Comments on Agenda Items, Meeting of April 23, 2013

ITEM 8.A. The City Council will recognize Irma Escalera and Seidner's Collision Center as a Groundhog Job Shadow Day success story. Irma Escalera is a junior at Mt. Olive High School. She attended Duarte's Groundhog Job Shadow Day with 10 other students from Mt. Olive. Irma wanted to attend the nursing portion at City of Hope, but all spots were filled. Irma was told she was going to shadow Steve Andrews at Seidner's Collision Center.

Initially, Irma was disappointed she could not attend the City of Hope, but once she was given a tour of Seidner's, she fell in love with the place. She realized there was more to Seidner's than just car repair. Despite the fact that it was not her first choice, Irma rose to the occasion and demonstrated her ability to adapt to change. Steve Andrews noticed the amount of interest Irma showed, her eagerness to learn, and that she was a very good listener.

During the luncheon portion of Job Shadow Day, Mr. Andrews spoke briefly about Irma's visit to Seidner's, and was truly impressed with her. The following day, he called Mt. Olive to offer Irma a job as a part-time receptionist, and she accepted his offer. In her new position, Irma is responsible for completing repair orders, answering phones, filing, scanning, vehicle checks, and anything else that is required for the job.

ITEM 8.B. A proclamation will be presented to the Santa Anita Family YMCA recognizing May 2013 as Water Safety Month. The proclamation states that the Santa Anita YMCA and the City of Duarte are committed to saving lives by promoting water safety through education, and encouraging community members to educate themselves and abide by water safety rules.

ITEM 8.C. A presentation will be made by the Youth and Family Committee, presenting a list of funding priorities to the City Council. This list is designed to make the Council aware of some areas of support needed by the Committee in its efforts to implement the Action Step recommendations found in the Youth and Family Master Plan. The Committee has determined that one critical element is to acquire the funding needed for the establishment of a 501(c) 3 non-profit foundation. Through the foundation, the Committee would be able to solicit funds and donations to support initiator efforts to implement the Action Steps. The Youth and Family Committee is seeking Council support in acquiring the funding needed for the legal costs necessary for the establishment of a foundation, or in facilitating pro bono efforts by a law firm.

ITEM 8.D. Representatives from AQMD will provide a presentation on the various monitoring systems it utilizes to measure particulate matter being released in the atmosphere – in particular, what is being called for in the Vulcan Mining operation. Features such as quality, cost, and maintenance will be addressed, along with the different factors associated with a “real-time” measuring system.

ITEM 12.D (Consent). This item recommends that the City Council approve the use of the 2013/2014 State Supplemental Law Enforcement Services Grant Funds (SLESF) to continue to fund the

Motorcycle Deputy and Special Event overtime patrols. The 2013/2014 budget account for the SLESF is expected to receive \$100,000 this fiscal year from the State of California. In addition, after conversations with the city of Bradbury, it is their intention to allocate an additional \$50,000 of Bradbury's (COPS) Supplemental Law Enforcement Services Grant Funding to the City of Duarte, contingent on their receipt of \$100,000 in funds from the State of California.

ITEM 12.F (Consent). This item recommends that the City Council award the Concrete Repair Program contract to Martinez Concrete, Inc., in the amount of \$45,455.00. For many years, the Engineering Division, in collaboration with the Field Services staff, has assessed the sidewalks and curb and gutters Citywide to address risks associated with these areas. This year, staff has concentrated efforts on specific areas of assessment such as schools, parks, senior housing, and Huntington Drive. This annual project consists of the removal and replacement of concrete sidewalks, curb and gutters, and driveway approaches that have been damaged by tree roots or other factors. This practice has greatly reduced the number of trip and fall claims in the City of Duarte, and has become an integral part of our risk management plan.

ITEM 12.G (Consent). This is a resolution to consider establishing a two-hour parking restriction on Bloomdale Street. On March 5, 2013, the Traffic Safety Commission reviewed the results of a parking study conducted by staff to mitigate parking concerns on Bloomdale Street, Park Rose Avenue, Mountain Avenue, and Best Buy Center. The residential neighborhoods and commercial businesses are experiencing large volumes of vehicles from the adjacent auto dealerships located in Monrovia, resulting in parking for extended periods of time on local streets. The City conducted a parking study to identify the existing parking demands and peak parking hours, and to solicit input from impacted properties. After discussing the matter and voting unanimously (4-0), the Traffic Safety Commission recommended that the City Council adopt Resolution No. 13-05 to establish a two-hour parking restriction, from 8:00 a.m. to 5:00 p.m., Monday through Friday, on the north and south sides of Bloomdale Street from Mountain Avenue to Park Rose Avenue.

ITEM 12.H (Consent). This item recommends that the City Council approve the exchange of Federal Surface Transportation Local Funds (STP-L) for flexible LACMTA local transportation funds. The City of Duarte has been offered an opportunity to exchange STP-L funds for LACMTA funds. The STP-L funds consist of the Unobligated Balance and two additional fiscal years. LACMTA will deduct a 2% administrative fee to process the exchange of \$326,266 of STP-L funds to the City of Duarte local funds. The proposed exchanged funds are earmarked for Duarte Gold Line Station Improvements. The funds exchange will protect the Unobligated Balance and provide flexibility to accelerate capital improvement projects.

ITEM 14. This is a Public Hearing to consider an ordinance and resolution establishing a "tobacco retailer license," and an associated license fee. The proposed tobacco retail license ordinance will allow the City to better monitor the sales of tobacco to minors. The Cigarette and Tobacco Products Licensing Act (passed in 2003) created a Statewide licensing program, administered by the Board of Equalization, that requires retailers to obtain a State license. However, this bill was enacted to prevent smuggling, and does little to reduce underage sales. Enforcement of tobacco control laws by local agencies through adoption of a local licensing program allows for consistent compliance checks of all retailers. On the Federal level, the Food and Drug Administration has yet to award a contract to California for enforcement of illegal sales to minors. Local tobacco retailer licensing ordinances are not pre-empted by either State or Federal law, and are essential to getting compliance checks in our community.

The proposed ordinance will require tobacco retailers within the City (of which there are 26 locations) to purchase an annual license. The fee (\$100) shall be established by resolution, and is calculated so as to recover the cost of administration and enforcement of this chapter including, for example, issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators.

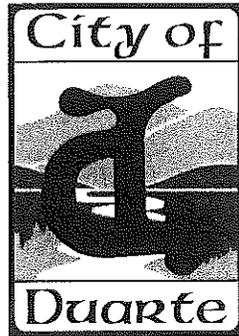
ITEM 15.A. This is a recommendation from the Parks and Recreation Commission to amend portions of the Community Facilities Administrative Policies and Procedures as they pertain to rentals. In addition to updating a number of policies, it will include the new smoking ordinance and allowing the Commission to approve or disapprove the use of a park or facility if it restricts the availability of the park or facility to the general public. It will also allow the Commission to have approval authority for fee waivers.

ITEM 15.B. This business item provides an update on a proposed Dial-A-Ride Transit service in the City. Staff reported to City Council about the possibility of implementing a Dial-A-Ride system in 2000, 2005, 2010, and March 2012, and the answer continues to be the same: we do not currently have the ongoing resources to do both a Dial-A-Ride system and a Fixed Route system. This report is meant to update the City Council on the City's existing Fixed Route transit services, give some examples of Dial-A-Ride programs in nearby communities, and in particular, add information gathered on the Temple City Dial-A-Ride program, as requested. The report also provides the primary advantages and disadvantages of Dial-A-Ride programs.

Respectfully submitted,



Darrell J. George
City Manager



Proclamation

WATER SAFETY MONTH

WHEREAS, drowning is the second leading cause of death for children ages 14 and under; and

WHEREAS, each year, over 1500 children die due to drowning, and many more suffer serious and permanent injuries; and

WHEREAS, research shows that teaching children to swim helps to greatly reduce the chance of drowning and aquatic injury; and

WHEREAS, the citizens of Duarte recognize that swimming and aquatic-related activities help maintain physical and mental health, and enhance the quality of life for all people; and

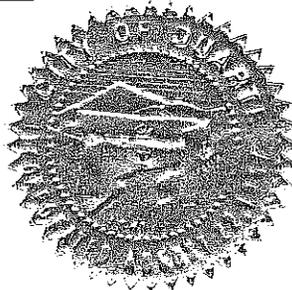
WHEREAS, the Santa Anita Family YMCA is committed to saving lives by promoting water safety through education to help prevent tragic accidents, and encourages community members to educate themselves and abide by the water-safety rules promoted by trained and certified aquatics professionals;

NOW, THEREFORE, BE IT RESOLVED that the City of Duarte hereby proclaims May 2013 as WATER SAFETY MONTH in the City of Duarte, and encourages all residents to follow safe water practices.

Mayor Margaret Finlay

ATTEST:

City Clerk Marla Akana
Duarte, California
April 23, 2013





Duarte Youth & Family Committee

MEMORANDUM

TO: Mayor and City Council

FROM: Cesar Monsalve, Parks and Recreation Director and
Youth & Family Committee Staff Liaison

SUBJECT: Youth and Family Committee Funding Priorities Presentation

DATE: April 10, 2013

The Duarte Youth and Family Committee will present a list of funding priorities to the Duarte City Council at the April 23, 2013 Council meeting. This list is designed to make the Council aware of some areas of support needed by the Youth and Family Committee in its efforts to implement the Action Step recommendations found in the Youth and Family Master Plan.

The Youth and Family Committee has determined that one critical element of this process is to acquire the funding needed for the establishment of a 501(c) 3 non-profit foundation. Through the foundation, the committee would be able to solicit funds and donations to support Initiator efforts to implement the Action Steps. The Youth and Family Committee is seeking Council support in acquiring the funding needed for the legal costs necessary for the establishment of a foundation or in facilitating pro-bono efforts by a law firm.

MINUTES

JOINT CITY COUNCIL/CITY COUNCIL AS SUCCESSOR AGENCY TO DISSOLVED REDEVELOPMENT AGENCY/HOUSING AUTHORITY/COMMUNITY FACILITIES FINANCING AUTHORITY OF THE CITY OF DUARTE REGULAR MEETING – APRIL 9, 2013

- CALL TO ORDER The City Council/City Council as Successor Agency to Dissolved Redevelopment Agency/Housing Authority/Community Facilities Financing Authority 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 6:01 p.m.
- RECORDATION OF ATTENDANCE The following were in attendance:
PRESENT: Fasana, Paras-Caracci, Reilly, Finlay
ABSENT: Reyes
ADMINISTRATIVE STAFF PRESENT: City Manager George, City Attorney Slater
- ADOPTION OF AGENDA Paras-Caracci moved, Reilly seconded to add recognition of the Duarte Boxing Club and recognition of Music Matters program participants to Special Items, and to adjourn in memory of John Krikorian, and carried unanimously.

Reilly moved, Fasana seconded to adopt the Agenda, as amended, and carried unanimously.
- CLOSED SESSIONS There was no public input. Slater stated the first closed session is pursuant to Government Code Section 54956.9(d)(4); Conference with Legal Counsel; Anticipated Litigation/Initiation of Litigation; Number of potential cases: One. The second closed session is pursuant to Government Code Section 54957.6; Conference with Labor Negotiators; Negotiators: Darrell George, Kristen Petersen; Regarding SEIU Local 721 Management and Professional Employees and General Employee Units. The third closed session is pursuant to Government Code Section 54956.9-(d)(1); Conference with Legal Counsel; Existing Litigation, *City of Duarte, Appellant and Petitioner/Plaintiff, v. City of Azusa, Respondent and Respondent/Defendant; Azusa Rock, Inc., a California corporation; Calmat Co., a Delaware corporation, D.B.A. Vulcan Materials Company, Western Division; Vulcan Materials Company, Western Division, an unknown business entity, Respondents and Real Parties in Interest*; Court of Appeal of The State of California, Second Appellate District, Division Four, Case No. B235097. The Closed Sessions concluded at 7:15 p.m. The City Council reconvened at 7:05 p.m., with four members present.
- 1) Anticipated/Initiation of Litigation – One potential case
- 2) Conference with Labor Negotiators
- 3) Existing Litigation – City of Azusa/Vulcan
- PLEDGE TO THE FLAG Sheryl Lefmann led the Pledge of Allegiance to the Flag.
- MOMENT OF REFLECTION A moment of reflection was observed.
- FITNESS/MENTAL WARM-UP Slater and Finlay provided the warm-up.

PUBLIC REPORT OF CLOSED SESSION

Slater reported that during the first Closed Session, City Council unanimously (4-0 with Reyes absent) authorized the City’s participation with 16 other cities in a lawsuit against Los Angeles County to recover overcharges for administration of property tax distribution. During the second Closed Session, City Council received an update on the status of the negotiations, and provided direction to the negotiators, with no reportable action taken. During the third Closed Session, City Council received an update on the payment of costs relating to the appeal, and as the time period to file an appeal expired and City Council determined not to file a further appeal, no reportable action was taken.

SPECIAL ITEMS

Recognition – Duarte Boxing Team

Mayor Finlay introduced Faith Franco, Luis Sedano, and Joseph Martinez, and presented them with Certificates in recognition of their accomplishments in the USA Boxing National competition.

Recognition – Music Matters

Mayor Finlay introduced William Grosso, Rosario Di Leo, Salvatore Privitera, and Salvatore Seminatore, and presented them with Certificates in appreciation of their participation and promotion of the Music Matters program.

Proclamation – DMV/Donate Life California Month

Mayor Finlay read and presented a Proclamation for DMV/Donate Life California Month to Dr. Mason Sommers, who provided information about the program.

Presentation – City of Hope Blood Donor Center

Latascha Johnson, City of Hope, presented an overview of the Blood Donor Center, and answered questions from Councilmembers about the program.

Presentation–AQMD Monitoring Station

Darrell George stated representatives from the AQMD could not attend the meeting, and provided information about the anticipated monitoring plan and development agreement between AQMD and the city of Azusa. Karen Herrera provided information about approximate costs, wind machine, and maintenance. Steve Hernandez discussed data collection.

ANNOUNCEMENTS

Joanna Gee, Duarte Library, announced upcoming events, programs, and book sale in the month of April.

Karen Herrera announced upcoming community events and programs in the months of April, May, and June.

Henry Baltazar announced LULAC Cinco de Mayo fundraising event on May 4, and Save Our Foothills Committee meetings.

ORAL COMMUNICATIONS

The following spoke on items not on the Agenda.

Henry Baltazar – Save Our Foothills Committee.

Steve Hernandez – Monitoring station sites.

ITEMS ADDED TO CONSENT

Fasana moved, Paras-Caracci seconded to add attendance at the L.A. County Sheriff’s Department Volunteer Awards Banquet on April 18, 2013, to Item 12.F, and carried unanimously.

CONSENT CALENDAR

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

Approve Items A, B, C, E, F.
Receive and File Item D.

BUSINESS ITEM
League of California Cities
Amendments to Bylaws
(Continued from 3/26/13)

George provided a staff report about additional information received from the League of California Cities pertaining to the two proposed amendments to the Bylaws.

Fasana moved, Paras-Caracci seconded to support the first proposed amendment requiring that at least five cities concur with resolutions presented to the Board, and carried unanimously.

Fasana moved, Paras-Caracci seconded to oppose the second proposed amendment requiring a two-thirds vote of Board Members present to take a position on a Statewide ballot, rather than a majority, and carried unanimously.

ITEMS FROM CITY COUNCIL/
CITY MANAGER

FASANA: Provided information to the City Manager about the new NPDES permit that will be discussed at the SGVCOG workshop, and stated John Krikorian will be missed.

REILLY: Attended Contract Cities meeting about revitalizing the Sunset Strip, and stated the Foothill Transit flyer names two Duarte restaurants on Line 187, Slaw Dogs and Thai City.

FINLAY: Congratulated Mrs. Roberson's classroom at Andres Duarte on the reading program, and read thank you letters received from students.

ADJOURNMENT

Reilly moved, Paras-Caracci seconded to adjourn the meeting at 8:59 p.m. in memory of John Krikorian, and carried unanimously.

Mayor Margaret Finlay

ATTEST:

City Clerk



City of Duarte

1600 Huntington Drive, Duarte, CA 91010 - (626) 357-7931 - FAX (626) 358-0018

To: Darrell George; City Manager

From: Brian Villalobos; Director of Public Safety Services

Subject: 2013/2014 Citizens Options for Public Safety (COPS) Grant Funding

Date: April 16, 2013

The 2013/2014 Budget Account for the State Supplemental Law Enforcement Services Grant Fund (SLESF) is expected to receive \$100,000 this fiscal year from the State of California. In addition, after conversations with the City of Bradbury, it is their intention to allocate an additional \$50,000 of the City of Bradbury's (COPS) Supplemental Law Enforcement Services Grant Funding to the City of Duarte contingent on their receipt of \$100,000 in funds from the State of California.

Therefore, the Supplemental Law Enforcement Services Grant Fund is budgeted at \$150,000 for the fiscal year 2013/2014.

The use of these funds will continue to be used in front line law enforcement services. Specifically, the grant monies will continue to fund the City of Duarte's Motorcycle Deputy and Special Event overtime patrols. The Bradbury grant monies will be used for a Special Assignment Deputy.

The expenditure of grant funds has been discussed with Captain Chris Nee the Temple Station Commander.

Based on the above information, it is staff's recommendation that the City Council approve the use of the 2013/2014 State Supplemental Law Enforcement Services Grant Funds as outlined.

006



Leroy D. Baca, Sheriff

County of Los Angeles
Sheriff's Department Headquarters

*4700 Ramona Boulevard
Monterey Park, California 91754-2169*



April 11, 2013

Mr. Darrell George, City Manager
City of Duarte
1600 Huntington Drive
Duarte, California 91010

Dear Mr. George:

The State Supplemental Law Enforcement Services Funds for the 2013-14 fiscal year Citizens Options for Public Safety (COPS) program have been provided to the city of Duarte on a per capita formula. The below listed recommendations will afford us the opportunity to further enhance our community policing efforts and overall service.

Therefore, I recommend the city of Duarte utilize these funds to pay for a motorcycle traffic enforcement deputy position.

Secondly, I recommend the city of Duarte place approximately ten percent of the funds in a special overtime account to be drawn upon to enhance the current level of service. These funds would provide bike patrol in the parks and businesses, extra holiday patrols for impaired drivers, extra patrols for occasional special problems and expanded community relations activities.

Should you have any questions, please contact me at (626) 292-3300.

Sincerely,

LEROY D. BACA, SHERIFF

Christopher P. Nee, Captain
Commander, Temple Station



MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM: CESAR MONSALVE, PARKS AND RECREATION DIRECTOR

SUBJECT: PARKS AND RECREATION COMMISSION RECOMMENDATION
TO ACCEPT DEBBIE COOK TO COMPLETE COMMISSION
TERM

DATE: APRIL 18, 2013

Recommendation: That the City Council approve the Duarte Parks and Recreation Commission's recommendation to appoint Debbie Cook to serve on the commission and complete the remainder of the term vacated by Libby Thaller's resignation. The term will end on 12/31/13.

Background: Commissioner Libby Thaller resigned from the commission and her letter of resignation was presented to the City Council at the March 26, 2013 council meeting. The Commission automatically continued with 6 members since council action was not needed to continue with six members. At the April 9, 2013 Parks and Recreation Commission meeting, the agenda included an item to discuss the need for action on the commission vacancy. The Commission can recommend someone to fill the term, or the Council may make an appointment without a recommendation. The Duarte Municipal Code specifies that a senior citizen representative needs to sit on the commission. Two seniors were approached to apply for the vacant commission seat and Debbie Cook completed an application and she has expressed a strong interest in completing the term. Her application is attached. Commissioner Bylsma-Houghton made a motion to approve the recommendation to the City Council to accept Debbie Cook to serve on the Parks and Recreation Commission for the remainder of Thaller's term. Commissioner Lopez seconded. The motion carried unanimously.

Discussion: The appointment of a senior citizen to the Parks and Recreation Commission continues an important link with the senior population and the Senior Center and allows for continued representation. Staff recommends that the Council approve the recommendation to accept Debbie Cook.



City of Duarte
1600 Huntington Drive
Duarte, California 91010
Phone (626) 357-7931

APPLICATION FOR CITY COMMISSION

There are six City Commissions. Please mark by number your preference(s), listing (1) as your first preference, etc. Three Commissions include both Duarte residents and non-residents. If one of those Commissions is your preference, please also circle the ONE membership category for which you are applying.

- | | | |
|--|--|--|
| <input type="checkbox"/> Planning Commission | <input type="checkbox"/> Public Services Commission | <input type="checkbox"/> Traffic Safety Commission |
| <input type="checkbox"/> Public Safety Commission (Circle one below) | <input checked="" type="checkbox"/> Parks and Recreation Commission (Circle one) | |
| -Resident of Duarte | -Resident of Duarte | |
| -Business owner/operator | -Non-resident of Duarte | |
| -School District representative | <input checked="" type="checkbox"/> Senior citizen representative | |
| -Resident of unincorporated area | -School District | |
| -MAD Town Council representative | | |
| -L.A. County Supervisor representative | <input type="checkbox"/> Economic Development Commission (circle one) | |
| -L.A. County Human Relations Commission | -Resident of Duarte | |
| | -Business owner/operator | |

I. PERSONAL

Cook, Deborah L. Home Phone 626 357-6542
 Name (Last, First, Middle)
2030 Citrus View Work Phone NONE
 Home Address (Number and Street)
Duarte, CA 91010 Email NONE
 (City, State, Zip Code)

II. ELIGIBILITY

Eligibility to serve on a City Commission depends on which Commission you are interested in. All Commission applicants are required to file a City application, and have no felony convictions. Please see the attached sheet for eligibility information.

Have you ever been convicted of a felony? ___ Yes No

III. QUALIFICATIONS AND STATEMENT OF INTEREST

Please submit a written statement of not more than two hundred words describing background, qualifications, and objectives in serving on the Commission. You may also attach a résumé in addition to the statement.

IV. ADDITIONAL REQUIREMENTS/INFORMATION

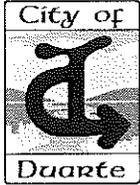
- Form 700, Statement of Economic Interests – Must be filed with the City Clerk by all Commissioners pursuant to State Law, and it becomes a matter of public record. The form requires a disclosure of real property (excluding your home), investments other than retirement, certain gifts you may have received, and other financial disclosures. Form 700 is filed by the City Council, all Commissioners, and many City staff members.
- Training Session – All City Commissioners are required to complete a two-hour Ethics Training course once every two years. The Certificate of Completion is kept on file with the City Clerk.

By signing below, I declare under penalty of perjury that the information contained in my application is true and correct, and does not contain any material misrepresentations or omissions.

4/8/13
Date

Debbie Cook
Signature

My name is Debbie Cook, and I have been asked to finish Libbie's term. I have lived in Duarte 40 years. My children and grandchildren attended Duarte schools. I have been a volunteer with girl scouts for 40+ years. I volunteer at the senior center and at church once a week.



CITY COUNCIL AGENDA REPORT

DATE: April 15, 2013

PROJECT: CONCRETE REPAIR PROGRAM
PROJECT 13-1

SUBJECT: AWARD OF CONCRETE REPAIR PROGRAM CONTRACT TO MARTINEZ
CONCRETE, INC. AT 920 WEST FOOTHILL BLVD., AZUSA CA 91702.

FROM: TERESA RENTERIA, ASSISTANT CIVIL ENGINEER

RECOMMENDED ACTION

Staff recommends that the City Council award the Concrete Repair Program contract to Martinez Concrete, Inc. at 920 West Foothill Blvd., Azusa CA 91702.

BACKGROUND

For many years the Engineering Division in collaboration with the Field Services staff have assessed the sidewalks and curb and gutters citywide to address risks associated with these areas. This year staff has concentrated efforts on specific areas of assessment such as schools, parks, senior housing and Huntington Drive. This annual project consists of the removal and replacement of concrete sidewalks, curb and gutters, and driveway approaches that have been damaged by tree roots or other factors. This practice has greatly reduced the number of trip and fall claims in the City of Duarte and has become an integral part of our risk management plan.

On April 9th, 2012, the City Clerk publicly opened bids for the above project. The results of the bid opening are as follow:

Martinez Concrete, Inc.	\$45,455.00
Gentry Brothers, Inc.	\$50,950.00
Hardy & Harper, Inc.	\$50,950.00
Aramexx Construction	\$56,000.00
E.C. Construction	\$80,975.00

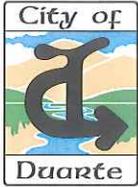
ANALYSIS

Martinez Concrete, Inc. has performed acceptable work previously for the City.

CONCLUSION

Staff recommends that the City Council award the Concrete Repair Program contract to Martinez Concrete, Inc. at 920 West Foothill Blvd., Azusa CA 91702.

DISTRIBUTION: Community Development Director
 City Clerk
 Staff



STAFF REPORT

To: City Council

From: Rafael Casillas, PE, Public Works Manager *Poc*

Date: April 23, 2013

Subject: Bloomdale Street parking restriction from Mountain Avenue to Parkrose Avenue

SUMMARY

On March 5, 2013 the Traffic Safety Commission reviewed the results of a parking study conducted by Staff to mitigate parking concerns on Bloomdale Street, Parkrose Avenue, Mountain Avenue and Best Buy Center (The Commission Staff Report is attached). The residential neighborhoods and commercial businesses are experiencing large volumes of vehicles from the adjacent auto dealerships located in Monrovia resulting in parking for extended periods of time on local streets. The City conducted a parking study to identify the existing parking demands, peak parking hours and solicit input from impacted properties.

After discussing the matter and voting unanimously (4-0) the Traffic Commission recommends the following action be taken:

That the City Council adopt Resolution No. 13-05 to establish a two (2) hour parking restriction, from 8:00 A.M. to 5:00 P.M., Monday through Friday on the north and south sides of Bloomdale Street from Mountain Avenue to Parkrose Street.

Attachment(s):
Resolution 13-05
Traffic Commission Staff Report

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
DUARTE, CALIFORNIA, ESTABLISHING A TWO-HOUR PARKING
RESTRICTION ON BLOOMDALE STREET**

THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

Section 1. That there be and there is hereby established in the City of Duarte, California, two (2) hour parking restriction(s), from 8:00 A.M. to 5:00 P.M., Monday through Friday, at the following locations:

- (a) Along the north curb of Bloomdale Street between Mountain Avenue to Parkrose Avenue; and
- (b) Along the south curb of Bloomdale Street between Mountain Avenue to Parkrose Avenue.

It shall be unlawful for any person to stop, stand, or park any vehicle longer than two (2) consecutive hours within the aforesaid parking restriction(s), from 8:00 A.M. to 5:00 P.M., Monday through Friday, whether such vehicle be attended or unattended. Any vehicle parked or left standing in violation of the provisions of this resolution may be removed pursuant to the provisions of California Vehicle Code Section 22651 (n).

Section 2. The City Manager is hereby authorized and directed to cause to be installed and maintained appropriate signs on the aforesaid street giving notice of the parking restrictions established herein and giving notice that vehicles in violation thereof are subject to being towed away.

Section 3. The City Manager shall cause notice of the provisions of this Resolution be given by appropriate signs or marking on all such restricted streets.

PASSED, APPROVED, AND ADOPTED this 23rd day of April 2013.

Mayor Margaret Finlay

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 13-05 was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the 23rd day of April, 2013, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California



STAFF REPORT

To: Traffic Safety Commission

From: Rafael Casillas, PE, Public Works Manager

Date: April 2, 2013

Subject: Parking Study at Bloomdale Street, Parkrose Avenue, Mountain Avenue and Best Buy Center

SUMMARY

At the February 5, 2013 Traffic Safety Commission, Staff presented the status of the on-going monitoring of parking availability on Bloomdale Street, Parkrose Avenue, Mountain Avenue and Best Buy Center. The residential neighborhoods and commercial businesses are experiencing large volumes of employee vehicles from adjacent auto dealerships parking for extended periods of time on local streets and parking lots creating an adverse impact to the community. The City conducted a parking study to identify the existing parking demands, peak parking hours and solicit input from impacted properties.

BACKGROUND

Bloomdale Street and Parkrose Avenue are local roadways with a curb-to-curb width of forty (40) feet that provide access to Single Family Residential (SFR) and Manufacturing Zones. Mountain Avenue is a major north-south collector roadway with a curb-to-curb width of seventy (70) feet; painted median island and an average daily traffic (ADT) count of 24,500. The Best Buy Center's primary point of access is obtained from Mountain Avenue north of Central Avenue. The jurisdictional boundary of Mountain Avenue is at the roadway centerline and shared by the Cities of Monrovia and Duarte. The easterly side of Mountain Avenue provides access to Bloomdale Street, multi-residential complexes and retail commercial centers (Best Buy Center). The westerly side of Mountain Avenue provides access to commercial auto dealerships.

The Best Buy Center is experiencing, unauthorized parking of vehicles in the lot. The owners of the vehicles park the cars for extended periods of time and do not conduct business in the Best Buy Center. The Center is now under new ownership and desires to eliminate the illegal the non-customer parking. The elimination of the illegal parking will provide sufficient customer parking for the Best Buy Center's businesses.

ANALISYS

A Parking Study was conducted on Bloomdale Street, Parkrose Avenue, Mountain Avenue and the Best Buy Center. The study identified the existing parking demands of the area, peak

parking hours and solicited input from the Best Buy Center. The results of the study are as follows:

- The north and south curbs of Bloomdale Street from Mountain Avenue to Parkrose Avenue are unrestricted with the exceptions of No Parking from 3:00 A.M. to 6:00 A.M. on Friday(s), twenty-five (25) feet of green curb and some red curbing.
- Parking on both sides of Parkrose Avenue is unrestricted from end to end.
- The east side of Mountain Avenue is posted No Stopping Any Time from Central Avenue to Bloomdale Street.
- Parking on the west side of Mountain Avenue is unrestricted from Central Avenue to Bloomdale Street.
- Parking at the Best Buy Center parking lot is unrestricted.

PEAK HOUR / PARKING COUNTS

DATE: 2/20/12

LOCATION	AVAILABLE PARKING	COUNT 7:00AM	PERCENT OCCUPIED	COUNT 1:00PM	PERCENT OCCUPIED	COUNT 6:00PM	PERCENT OCCUPIED
BLOOMDALE STREET North Side	19	9	47%	18	95%	9	47%
BLOOMDALE STREET South Side	19	9	47%	14	74%	8	42%
PARKROSE AVENUE	30	12	40%	10	33%	16	53%
MOUNTAIN AVENUE (East Side)	0	0	-	0	-	0	-
BEST BUY CENTER West Half	67	27	40%	62	93%	45	67%
COMBINED PARKING TOTALS	135	57	42%	104	77%	78	58%

Staff conducted a parking study to identify the existing parking demands and peak parking periods of the area. The study indicated limited parking availability during the hours of 7:00



A.M. to 6:00 P.M. on Bloomdale Street and the Best Buy Center. Bloomdale Street and Best Buy Center are experiencing an increase of parked vehicles during peak hours. Parkrose Avenue experienced a decrease to negligible change of parked vehicles during peak hours. The segment of Mountain Avenue did not contribute to the results; the east side is posted No Parking Any Time and the west side is in the City of Monrovia's jurisdiction.

The Best Buy Center is in the process of implementing an on-site parking restriction to eliminate the illegal parking. The parking restriction will allow the Best Buy Center the ability to tow away vehicles at the owner's expense. The on-site parking restriction is enforceable under the California Vehicle Code.

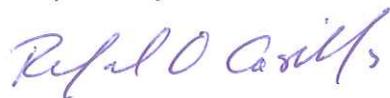
Staff is anticipating an increase of on street parking on local streets when Best Buy Center begins enforcement. The City will continue to monitor parking volumes on local streets and commercial businesses. Staff recommends maintaining the existing parking restriction on Bloomdale Street and Mountain Avenue. In addition, the implementation of a two (2) hour parking restriction Monday through Friday on Bloomdale Avenue and posting Resident Parking Only signs at the Parkrose Avenue entrance. The proposed parking restriction will provide flexibility for residents and businesses to utilize curb parking during peak periods and unrestricted parking during non-peak periods.

RECOMMENDATION

Staff recommends the following action(s) be taken:

That the Traffic Commission recommend that City Council implement a two (2) hour parking restriction, from 8:00 A.M. to 5:00 P.M., Monday through Friday on the north and south sides of Bloomdale Street from Mountain Avenue to Parkrose Street.

Respectfully Submitted,



Rafael O. Casillas, PE
Public Works Manager





MEMORANDUM

To: City Council

From: Rafael Casillas, PE, Public Works Manager *ROC*

Date: April 23, 2013

Subject: Los Angeles County Metropolitan Transportation Authority Opportunity to Exchange Federal Surface Transportation Program Local Funds

SUMMARY

Per the Los Angeles County Metropolitan Transportation Authority (LACMTA), letter dated March 20, 2013, the City of Duarte is offered an opportunity to exchange Federal Surface Transportation – Local (STP-L) funds for flexible LACMTA local transportation funds (“LACMTA Funds”). The STP-L funds consist of the Unobligated Balance and two (2) additional fiscal years. LACMTA will deduct a 2% administrative fee to process the exchange of \$326,266 of STP-L funds to the City of Duarte local funds. The proposed exchanged funds are earmarked for Duarte Gold Line Station Improvements, Traffic Signals and Street Rehabilitation Projects. In order to participate in the exchange program, the City of Duarte must do the following:

1. Certify that the balance shown on the Enclosure A table remains accurate; and
2. Complete and execute Enclosure B Exchange Agreement by May 31, 2013.

The funds exchange will protect the Unobligated Balance and provide flexibility to accelerate capital improvement projects.

RECOMMENDATION

Staff recommends the following action(s) be taken:

That the City Council authorize the exchange of Federal Surface Transportation – Local (STP-L) funds and execute the Exchange Agreement with LACMTA.

Attachment(s):
LACMTA Letter dated March 20, 2013
Enclosure A
Enclosure B



Metro

Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000 Tel
metro.net

RECEIVED

APR -2 2013

CITY OF DUARTE

March 20, 2013

Darrell George
City Manager
City of Duarte
1600 Huntington Dr.
Duarte, CA 91010

**OPPORTUNITY TO EXCHANGE FEDERAL SURFACE TRANSPORTATION PROGRAM-
LOCAL FUNDS (STP-L)
FOR FLEXIBLE LACMTA STP-L LOCAL TRANSPORTATION FUNDS**

Dear Mr. George:

The Los Angeles County Metropolitan Transportation Authority (LACMTA) is offering an opportunity to you to exchange Federal Surface Transportation Program – Local (STP-L) funds for flexible LACMTA local transportation funds (“LACMTA Funds”). Enclosed are the tables showing the amount of Federal STP-L funds your agency is eligible to exchange for LACMTA Funds. The exchange amount balance is based on your apportionment, minus obligations and transfers through December 31, 2012 and a 2% administrative fee.

To participate in this exchange program, your agency must do the following:

1. Certify that the balance shown on the Enclosure A table remains accurate;
2. Notify LACMTA of your intent to exchange funds by April 19, 2013; and
3. Complete and execute Enclosure B Exchange Agreement. We will need to receive the fully executed Exchange Agreement by May 31, 2013.

Due to the limited availability of the LACMTA Funds, we will exchange your agency’s FFY 13/14 STP-L unspent balance (less a 2% administrative fee) for LACMTA Funds on a “first-come, first-serve” basis based upon relative population of your City from the smallest to the largest. If we are not notified of your agency’s intent to exchange STP-L funds by the May 31, 2013 deadline we will move down the list and offer the exchange opportunity to other Cities on the list.

March 20, 2013

Page 2

If you have any questions about this opportunity please contact Maria I. Lopez at (213) 922-3803. Thank you,

Sincerely,

A handwritten signature in black ink, appearing to read "David Yale". The signature is fluid and cursive, with a large, sweeping flourish at the end.

DAVID YALE
Executive Officer
Regional Programming

Enclosures

**SURFACE TRANSPORTATION PROGRAM-LOCAL
EXCHANGE BALANCES**

AGENCY	Population	Unobligated Balance	MAP 21 FY 12-13	MAP 21 FY 13-14	STPL Available for Exchange as of February 2013	2% Administrative Fee	Exchange Balance Amount
VERNON	120	\$613	\$362	\$362	\$1,337	\$27	\$1,310
INDUSTRY	436	\$5,946	\$1,316	\$1,316	\$8,578	\$172	\$8,406
BRADBURY	1,065	\$7,548	\$3,214	\$3,214	\$13,976	\$280	\$13,696
IRWINDALE	1,416	\$14,177	\$4,273	\$4,273	\$22,723	\$454	\$22,269
HIDDEN HILLS	1,869	\$17,222	\$5,640	\$5,640	\$28,502	\$570	\$27,932
ROLLING HILLS	1,875	\$16,944	\$5,659	\$5,659	\$28,262	\$565	\$27,697
AVALON	3,780	\$31,739	\$11,408	\$11,408	\$54,555	\$1,091	\$53,464
LA HABRA HEIGHTS	5,352	\$51,415	\$16,152	\$16,152	\$83,719	\$1,674	\$82,045
ROLLING HILLS ESTATES	8,097	\$71,182	\$24,436	\$24,436	\$120,054	\$2,401	\$117,653
WESTLAKE VILLAGE	8,300	\$50,733	\$25,049	\$25,049	\$100,831	\$2,017	\$98,814
SIERRA MADRE	10,963	\$19,446	\$33,085	\$33,085	\$85,616	\$1,712	\$83,904
SIGNAL HILL	11,129	\$99,065	\$33,586	\$33,586	\$166,237	\$3,325	\$162,912
MALIBU	12,699	\$162,337	\$38,325	\$38,325	\$238,987	\$4,780	\$234,207
COMMERCE	12,871	\$116,001	\$38,844	\$38,844	\$193,689	\$3,874	\$189,815
SAN MARINO	13,195	\$993	\$39,821	\$39,821	\$80,635	\$1,613	\$79,022
PALOS VERDES ESTATES	13,516	\$36,467	\$40,790	\$40,790	\$118,047	\$2,361	\$115,686
HAWAIIAN GARDENS	14,303	\$193,409	\$43,165	\$43,165	\$279,739	\$5,595	\$274,144
SANTA FE SPRINGS	16,516	\$152,043	\$49,844	\$49,844	\$251,731	\$5,035	\$246,696
ARTESIA	16,594	\$71,848	\$50,079	\$50,079	\$172,006	\$3,440	\$168,566
EL SEGUNDO	16,720	\$147,507	\$50,460	\$50,460	\$248,427	\$4,969	\$243,458
HERMOSA BEACH	19,574	\$121,832	\$59,073	\$59,073	\$239,978	\$4,800	\$235,178
SOUTH EL MONTE	20,190	\$209,157	\$60,932	\$60,932	\$331,021	\$6,620	\$324,401
LA CANADA FLINTRIDGE	20,335	\$3,529	\$61,369	\$61,369	\$126,267	\$2,525	\$123,742
LOMITA	20,396	\$181,767	\$61,553	\$61,553	\$304,873	\$6,097	\$298,776
AGOURA HILLS	20,413	\$206,771	\$61,605	\$61,605	\$329,981	\$6,600	\$323,381
DUARTE	21,411	\$197,032	\$64,617	\$64,617	\$326,266	\$6,525	\$319,741
CALABASAS	23,683	\$70,088	\$71,473	\$71,473	\$213,034	\$4,261	\$208,773
SAN FERNANDO	23,752	\$144,219	\$71,682	\$71,682	\$287,583	\$5,752	\$281,831

EXCHANGE AGREEMENT AND ASSIGNMENT OF FEDERAL SURFACE
TRANSPORTATION PROGRAM – LOCAL FUNDS

This Exchange Agreement and Assignment of Federal Surface Transportation Program – Local Funds (“AGREEMENT”), is made and entered into as of _____, by and between City of Duarte (the “CITY”) and the Los Angeles County Metropolitan Transportation Authority (“LACMTA”).

RECITALS:

- A. CITY is eligible for and has available Federal Surface Transportation Program-Local funds (the “STP-L Funds”).
- B. CITY desires to exchange \$326,266 of CITY’s STP-L Funds for a like amount of LACMTA STP-L Local Transportation Funds (the “LACMTA Funds”).
- C. LACMTA is willing to exchange \$326,266 in LACMTA Funds for a like amount of CITY’s STP-L Funds subject to the terms and conditions contained herein.
- D. An exchange of CITY’s STP-L Funds with LACMTA Funds is beneficial to and in the general interest of CITY and LACMTA.

NOW THEREFORE, in consideration of the mutual benefits to be derived by CITY and LACMTA and of the promises contained herein, it is hereby agreed as follows:

AGREEMENT:

1. CITY hereby assigns to LACMTA \$326,266 of CITY’S STP-L Funds. LACMTA shall be authorized to deduct such amount from CITY’s STP-L Fund balance. This assignment shall be automatically effective upon full execution of this AGREEMENT without the necessity of the execution, delivery or recording of any further instrument whatsoever. Notwithstanding the foregoing, at LACMTA’s request, CITY shall execute and deliver such documents and instruments as may be required to evidence such assignment of STP-L Funds.
2. LACMTA hereby accepts CITY’s assignment of CITY’s STP-L Funds for use on Federal-aid-eligible project(s), to be determined by LACMTA in its sole and absolute discretion.
3. Upon receipt of (i) a fully executed AGREEMENT, (ii) CITY’s written certification of the amount of CITY’s STP-L Fund Balance, as defined herein, which CITY’s STP-L Fund Balance shows that CITY has sufficient STP-L funds to meet its obligations hereunder, and (iii) LACMTA’s deduction of the CITY’s STP-L Funds as

provided in paragraph 1 above, LACMTA shall pay CITY \$319,741 of LACMTA Funds which includes the deduction for the processing fee described in paragraph 5 below . For purposes of this AGREEMENT, the CITY's STP-L Fund Balance shall mean the amount of funds contained in CITY's STP-L Fund account as of the date this AGREEMENT is fully executed plus CITY's FY 13/14 apportionment share of STP-L Funds. If the STP-L Fund Balance is insufficient to satisfy CITY's exchange obligations hereunder, CITY hereby authorizes LACMTA to deduct from CITY's future STP-L Funds until LACMTA has in the aggregate received the amount of CITY's STP-L Funds specified in paragraph 1 above.

4. LACMTA will make all disbursements electronically unless an exception is requested in writing. CITY must complete an Automated Clearing House (ACH) form as provided in Exhibit A. Disbursements via ACH will be made at no cost to CITY.

5. CITY shall pay LACMTA a two (2) percent processing and administrative fee ("Processing Fee") in connection with the exchange contemplated by this AGREEMENT. The Processing Fee shall be assessed against the total amount of LACMTA Funds payable to CITY. The CITY hereby authorizes LACMTA to deduct the Processing Fee from the amount LACMTA is to pay CITY hereunder.

6. CITY shall expend the LACMTA Funds on STP-L Eligible Projects by the date that is three (3) years from the date this Agreement is fully executed (the "Lapsing Date") and any LACMTA Funds not expended by the Lapsing Date shall lapse and be returned to LACMTA within thirty (30) days from the Lapsing Date for further programming to third parties as LACMTA determines in its sole discretion.

- A. For purposes of this Agreement, STP-L Eligible Projects shall mean any transportation capital improvements that would normally qualify for the STP-L program, provided however, any federal regulations and standards relating to procurement and other project delivery issues that might apply may be substituted with applicable state and local regulations, standards and policies.
- B. The term "expend" as used in this Section 6 shall mean that the LACMTA Funds have been encumbered by an awarded contract.
- C. If the LACMTA Funds have lapsed and CITY has not returned all or a portion of the lapsed LACMTA Funds to LACMTA, then CITY shall be considered in default and agrees and instructs LACMTA that such outstanding payments shall be paid from CITY funds in the following priority: first, from any unobligated STP-L balance fund, the from CITY's Proposition A local return funds, then from Proposition C local return funds, and then from Measure R local return funds. IF CITY is in default hereunder, in addition to all rights and remedies available to LACMTA at law or in equity and without further notice or ability to cure by the CITY, CITY hereby authorizes LACMTA to withhold the applicable STP-L balance funds or local return funds in the amount needed to satisfy the outstanding amount of lapsed LACMTA funds due and owing to LACMTA prior to LACMTA transferring the balance of such

local return funds to the CITY in accordance with the applicable state laws or ordinances.

7. CITY's employee, officers, councilmembers, board members, agents, or consultants (a CITY's Party) are prohibited from participating in the selection, award, or administration of a third-party contract or sub-agreement supported by the exchange funds if a real or apparent conflict of interest would be involved. A conflict of interest would include, without limitation, an organizational conflict of interest or when any of the following parties has a financial or other interest in any entity selected for award: (a) a City Party (b) any member of a City Party's immediate family, (c) a partner of a City Party; or (d) any organization that employs or intends to employ any of the above. This conflict of interest provision will be verified by any LACMTA interim and final audits.

8. LACMTA, and/or its designee, shall have the right to conduct audits of CITY'S use of the LACMTA Funds to determine compliance with terms and conditions of this AGREEMENT. CITY shall establish and maintain proper accounting procedures and cash management records and documents in accordance with Generally Accepted Accounting Principles (GAAP). CITY shall reimburse LACMTA for any expenditure not in compliance with this AGREEMENT. CITY's records shall include, without limitation, any supporting evidence deemed necessary by LACMTA to substantiate CITY's use of LACMTA funds. These records must be retained by CITY for three years following CITY's last use of the LACMTA Funds.

9. The term of this AGREEMENT shall commence on the date this AGREEMENT is fully executed and, shall terminate once the CITY has expended all the LACMTA Funds and all LACMTA audit and reporting requirements have been satisfied.

10. CITY shall fully indemnify, defend and hold LACMTA and its officers, agents and employees harmless from and against any liability and expenses, including, without limitation, defend costs, any costs or liability on account of bodily injury, death or personal injury of any person or for damages of any nature whatsoever arising out of (i) a breach of CITY's obligations under this AGREEMENT; or (ii) any act or omission of CITY or its officers, agents, employees, contractors or subcontractors in the use of the LACMTA Funds.

11. LACMTA shall fully indemnify, defend and hold CITY and its officers, agents and employees harmless from and against any liability and expenses, including, without limitation, defend costs, any costs or liability on account of bodily injury, death or personal injury of any person or for damages to or loss of risk of property, any environmental obligations, any legal fees and any claims for damages of any nature whatsoever arising out of (i) a breach of LACMTA's obligations under this AGREEMENT; or (ii) any act or omission of LACMTA or its officers, agents, employees, contractors or subcontractors in the use of CITY'S STP-L Funds.

12. This AGREEMENT may be amended or modified only by mutual written consent of LACMTA and CITY.

13. Any correspondence, communication, or contact concerning this AGREEMENT shall be directed to the following:

CITY:

City of Duarte
1600 Huntington Drive
Duarte, California 91010
Attn: Darrell George

LACMTA:

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, California 90012
Attn: David Yale

14. This AGREEMENT shall be interpreted and governed by the laws of the State of California.

15. This AGREEMENT constitutes the entire understanding between the parties with respect to the subject matter herein.

/

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective officers as of the date stated below.

CITY:

CITY OF DUARTE

By: _____
Name: Darrell J. George
Its: City Manager

Date: _____

MEMORANDUM

TO: Mayor and Councilmembers
FROM: Darrell J. George, City Manager
DATE: April 18, 2013
SUBJECT: Conference Attendance – City Council Meeting of April 23, 2013

NALEO
30th Annual Conference
June 27-29, 2013
Chicago, Illinois
Registration: \$500
Hotel (Swissotel Chicago): \$199 + tax/night

San Gabriel Valley Economic Partnership
Economic Outlook Breakfast
April 23, 2013
Industry
Cost: \$85 per person
(Ratification)

Monrovia Mayor Pro Tem Joe Garcia
Farewell Dinner
April 18, 2013
Monrovia
Cost: \$50 per person
(Ratification)

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NALEO CHICAGO

30TH ANNUAL CONFERENCE ★ ★ ★ ★ JUNE 27-29, 2013



[CLICK HERE TO REGISTER](#)



Click on the register button to secure your registration for the NALEO 30th Annual Conference. Our registration process involves seven easy steps. As you move through the process, the particular step that you are on will be highlighted on the bar above. Please have your credit card information available before beginning the registration process.

ALL ACCESS PASS

Full Access package includes all conference sessions, meals, evening events and 5K Run/Walk.

NALEO Member: \$500

Non-Member: \$800

Spouse: \$400

Youth 12-17: \$300

Political Staff: \$400

Student: \$300

A LA CARTE PASS

Thursday, June 27, 2013

Leadership Luncheon \$125

LUV-ing Chicago at The Field Museum, Hosted by Southwest Airlines \$100

Friday, June 28, 2013

Leadership Luncheon \$125

NALEOfest – A Culinary Experience at Historic Navy Pier, Hosted by Toyota \$100

Saturday, June 29, 2013

Fourth Annual NALEO Mayoral 5K Run/Walk, Hosted by Chicago Mayor Rahm Emanuel
\$30

Leadership Luncheon \$125

Assembly of Receptions (complimentary)

NALEO Salute to Midwest Leaders Dinner \$125

HOTEL INFORMATION

Swissôtel Chicago

323 East Wacker Drive

Chicago, IL 60601

Hotel Room Rate: \$199 (+tax)

Conference registration is required before receiving link to secure your hotel accommodations.

To become a NALEO member and take advantage of a reduced rate, please click [here](#).

To verify the status of your NALEO membership, please contact Alma Siliezar at asiliezar@naleo.org or (213) 747-7606.

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For more information, please email conference@naleo.org

HOME

REGISTRATION

SCHEDULE

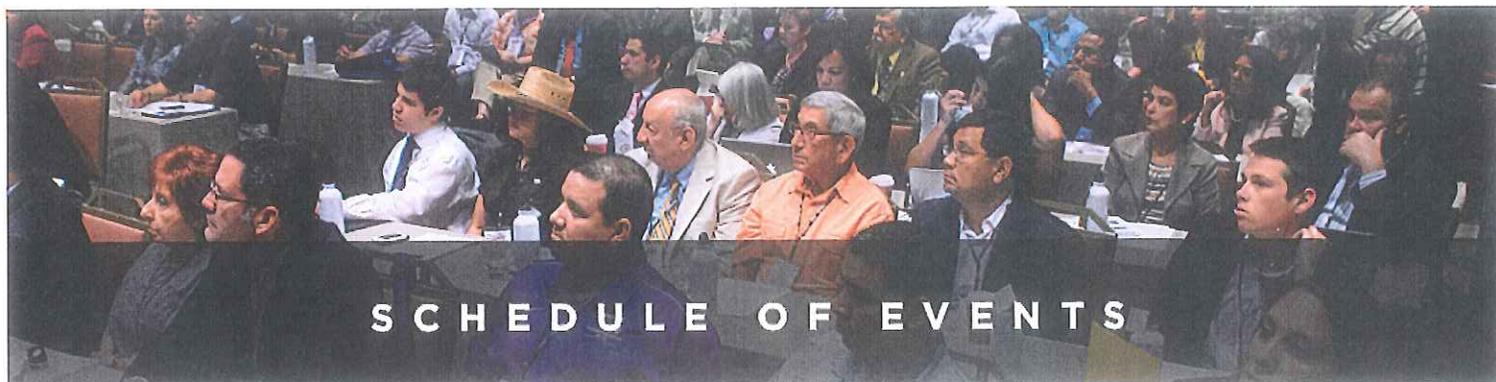
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NALEO CHICAGO

30TH ANNUAL CONFERENCE ★ ★ ★ ★ JUNE 27-29, 2013



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AGENDA PDF**

WEDNESDAY, JUNE 26

2 p.m. – 5:00 p.m. Conference Registration

THURSDAY, JUNE 27

6 a.m. – 3:30 p.m. **11th Annual NALEO Presidential Golf Classic**
Hosted by NALEO President, California State Senator
Alex Padilla
Cog Hill Golf & Country Club

8 a.m. – 9:30 a.m. **Breakfast Plenary: Latinos in the Midwest**

10 a.m. – 11:30 a.m. **Working with the LGBT Community in Your District**
*Presented by West Hollywood City Councilmember John
J. Duran; NALEO Board Member*

The Cost of Bad Credit
*Presented by Former Utah State Senator Ross Romero;
NALEO Board Member*

Combating the Rise of Food Deserts

Presented by Board of Hispanic Caucus Chairs

12 p.m. – 2:00 p.m. National Leadership Luncheon – Illinois Welcome

2:30 p.m.– 4 p.m. Investing in Early Learning

Improving Latino Health Outcomes Under the Affordable Care Act

Latino Access to the Ballot Box:
New and Ongoing Challenges

6 p.m. – 8:00 p.m. *LUV-ing Chicago at The Field Museum,
Hosted by Southwest Airlines
Field Museum of Natural History*

FRIDAY, JUNE 28

8 a.m. – 9:30 a.m. Breakfast Plenary: Infrastructure and Latinos

10 a.m. – 11:30 a.m. Teacher Effectiveness: Evaluating Quality Professional Development

Local Active Living Policies that Contribute to Economic Growth

*Gideon at 50: A Look at Public Defense in America
Presented by Public Defender Carlos Martinez,
11th Judicial Circuit of Florida*

12 p.m. – 2 p.m. National Leadership Luncheon

2:30 p.m. – 4 p.m. Models for Parent Engagement in an Era of Education Reform

Mental Health Issues in the Latino Community

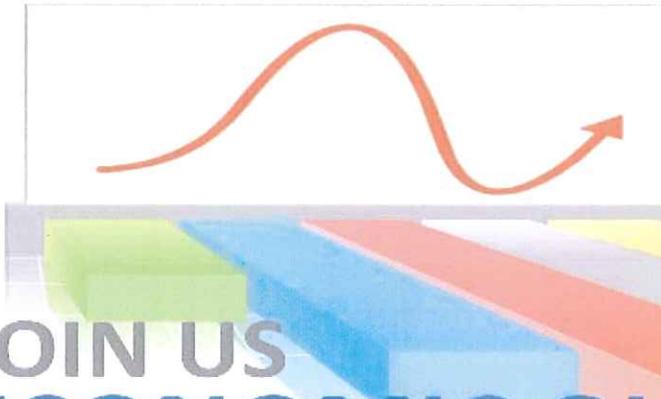
2014 and Beyond:
Strategies for Mobilizing Latino Voters

6 p.m. – 8 p.m. *NALEOfest – A Culinary Experience at Historic Navy Pier, Hosted by Toyota*

SATURDAY, JUNE 29

7 a.m. – 9 a.m.	Fourth Annual NALEO 5K Run/Walk <i>Hosted by Chicago Mayor Rahm Emanuel</i> <i>Grant Park, Chicago</i>
10 a.m. – 11:30 a.m.	Federal Issues Forum – Comprehensive Immigration Reform
	Federal Issues Forum – Federal Debt and the Tax Code
	Federal Issues Forums – Climate Change and Natural Resource Management
12 p.m. – 2 p.m.	National Congressional Leadership Luncheon
5:30 p.m. – 7:30 p.m.	NALEO Assembly of Receptions
8 p.m. – 11 p.m.	NALEO Salute to Midwest Leaders Dinner <i>Crystal Gardens at Navy Pier</i>

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for the NALEO 30th Annual Conference



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*Enrich the quality of life and economic
vitality of the San Gabriel Valley*

JOIN US ECONOMIC OUTLOOK for SAN GABRIEL VALLEY

Find out how the new demographic future affects your business and the market

Tuesday, April 23, 2013 at 8:00 a.m.
Pacific Palms Hotel & Conference Center, Industry



Robert A. Kleinhenz, Ph.D.
Chief Economist
Kyser Center for Economic
Research, LAEDC
"Economic Forecast Update –
LA County and San Gabriel
Valley"



Dowell Myers, Ph.D.
Professor of Policy, Planning, and
Demography and Director, Population
Dynamics Research Group
USC Sol Price School of Public Policy
"The Surprising New Demographic
Future for Los Angeles County"

ABOUT THE ECONOMIC OUTLOOK

The Economic Outlook Breakfast provides business and community leaders a competitive edge by offering a resource to gauge current and future economic trends on the local, regional, and state economies.

COST

- \$ 85** SGVEP Members
- \$ 95** Non-SGVEP Members &
Day of Event Registrants
- \$ 30** Students
- \$ 210** Table of 8 Students

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NOTE:

No refunds or cancellations will be accommodated after April 26, 2013.

The City of Monrovia
cordially invites you to attend a

FAREWELL DINNER

in honor of

Joe Garcia

Mayor Pro-Tem



Thursday, April 18, 2013

DoubleTree Hotel
924 W. Huntington Drive, Monrovia, CA 91016

Social: 6:30pm

Dinner & Program: 7:30pm

Cost: \$50 per person

No Host Bar

*Please RSVP by April 10, 2013 by emailing Rachael
Hughes with the following information:*

Name(s) _____

No. of Attendees _____

Chicken _____ Beef _____ Vegetarian _____

Time for presentations will be limited and must be pre-scheduled.
All plaques, certificates or other gifts will be displayed at the Dinner.
Please provide your information below if you wish to make a
presentation and you will be contacted.

Organization _____ Phone () _____

Please make all checks payable to: City of Monrovia.

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CITY OF DUARTE
1600 E. HUNTINGTON DRIVE
DUARTE CA 91010

(Space below for use of County Clerk Only)

Legal No. **0010341844**

FILE NO. notice-ph-tobacco license ordina
PROOF OF PUBLICATION
(2015.5 C.C.P.)

STATE OF CALIFORNIA
County of Los Angeles

I am a citizen of the United States, and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of PASADENA STAR-NEWS, a newspaper of general circulation which has been adjudicated as a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, on the date of June 22, 1927, Case Number 225647. The notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

4/11/2013

I declare under the penalty of perjury that the foregoing is true and correct.

Executed at West Covina, LA Co. California
On this 11th day of April, 2013.



Signature

**NOTICE OF PUBLIC HEARING
TO BE HELD BY THE
DUARTE CITY COUNCIL**

NOTICE IS HEREBY GIVEN that, pursuant to State law, the City Council of the City of Duarte will hold a Public Hearing at 7:00 p.m., on Tuesday, April 23, 2013, in the Council Chambers, 1600 Huntington Drive, Duarte, California, to consider first reading of an ordinance establishing a tobacco retailer license requirement for sellers of tobacco products in the City, prohibiting sale of tobacco products without a City-issued tobacco retailer license, specifying regulations pertaining to the sale of tobacco products, and setting enforcement procedures and penalties for the sale of tobacco products to minors, and consideration of adoption of a resolution setting an annual tobacco retailer license fee in the amount of \$100 per tobacco retailer location within the City, with such fee to be effective upon the effective date of the tobacco retailer licensing ordinance should such ordinance be adopted by the City Council.

Any interested party may appear in person, or by agent, and be heard. If this matter is challenged in Court, there will be a limit to only those issues that were raised at the Public Hearing described in this Notice, or in written correspondence delivered to the City Council at, or prior to, the Public Hearing. Written correspondence may be sent to Duarte City Hall, City Clerk's Office, 1600 Huntington Drive, Duarte, CA 91010-2592.

Further information may be obtained from Brian Villalobos, Public Safety Services Director, phone (626) 357-7938.
Marla Akana
City Clerk

POSTED: Duarte City Hall,
Duarte Public Safety
Office, Duarte Library
PUBLISH: April 11, 2013
Pasadena Star News Ad#341844



City of Duarte

1600 Huntington Drive, Duarte, CA 91010 - (626) 357-7931 - FAX (626) 358-0018

To: Darrell George; City Manager

From: Brian Villalobos; Director of Public Safety Services

Subject: Tobacco Retail License Ordinance

Date: April 16, 2013

BACKGROUND

The proposed Tobacco Retail License Ordinance will allow the City to better monitor the sales of tobacco to minors. There is state licensing law, but it does not effectively address reducing illegal sales to minors. The Cigarette and Tobacco Products Licensing Act (passed in 2003) created a statewide licensing program, administered by the Board of Equalization, that requires retailers to obtain a state license. However, this bill was enacted to prevent smuggling and does little to reduce underage sales. Enforcement of tobacco control laws by local agencies through adoption of a local licensing program allows for consistent compliance checks of all retailers. State laws (Penal Code 308 and the Stop Tobacco Access to Kids Enforcement (STAKE) Act) and federal law (Family Smoking Prevention and Tobacco Control Act) make it illegal to sell tobacco products to minors. However, the STAKE program can only do compliance checks annually in approximately eight percent of stores in California that sell tobacco. On the federal level, the Food and Drug Administration has yet to award a contract to California for enforcement of illegal sales to minors. Local tobacco retailer licensing ordinances are not preempted by either state or federal law and are essential to getting compliance checks in our community.

FISCAL IMPACT

The proposed ordinance will require tobacco retailers within the City (of which there are 26 locations) to purchase an annual license at a fee of \$100. The fee shall be established by

036

resolution and calculated so as to recover the cost of administration and enforcement of this chapter, including, for example, issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators (see attached worksheet).

OUTREACH

In an effort to reach out and inform the tobacco retailers within the City of the proposed ordinance, staff worked with the Chamber of Commerce to conduct an informational workshop on April 3, at the Community Center. The Chamber of Commerce personally handed a flyer for the workshop to each retailer. However, only one retailer was in attendance at the meeting. Due to the low turnout of retailers, the Glendale Adventist Medical Center staff delivered a copy of the presentation to each retailer in an effort to further educate each establishment.

Additionally, the Public Safety Commission reviewed the proposed ordinance at their regularly scheduled meeting held on April 16, 2013. The Public Safety Commission reviewed the proposed ordinance and recommended that City Council adopt the proposed Tobacco Retail License Ordinance.

RECOMMENDATION

Therefore, based on the need to effectively address reducing illegal tobacco sales to minors, it is staff's recommendation to Council that the proposed ordinance and fee resolution be adopted.

Tobacco Retail License Cost for Enforcement

	Number of Staff	Hours Spent	Salary Rate/Hr	Expense
Program Start Up Costs				
Develop decoy operational procedures	1	4	43.08	172.32
Compile a master list of retailers	1	2	43.08	86.16
Coordinate with Prosecuting Attorney	1	2	43.08	86.16
Retailer education	1	2	43.08	86.16
Other	1	1	43.08	43.08
Business License Dept.	1	6	26.57	159.42
Total Program Start Up Costs				\$633.30
Number of Stores in Enforcement Area	26			
Start Up Cost Per Store:				\$24.35
Operational Expenses				
Personnel Costs(CC/AC Manager & Crime Prevention Specialist)				
Preparation				
Recruit/train youth decoys and chaperones	2	4	75.26	301.04
Get equipment	1	2	43.08	86.16
Operational plan and enforcement packets	1	1	43.08	43.08
Conducting the Operation				
Deputy Sheriff	2	12	68.49	821.88
CC/AC Officers	2	12	31.62	379.44
CC/AC Manager	1	6	43.08	258.48
Follow up (CC/AC Manager)				
File Cases	1	2	43.08	86.16
Database	1	2	31.62	63.24
Media coverage	1	1	31.62	31.62
Other Expenses				
Food for Participants				100
Misc. Supplies				100
Total Expenses Per Operation				\$2,271.10
Number of Operations Per Year	1			
Total Enforcement Cost Per Year				\$2,271.10
Number of Stores Visited Per Year	26			
Enforcement Cost Per Store				87.35

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE,
CALIFORNIA, ADDING CHAPTER 5.09, "TOBACCO RETAILER
LICENSE," TO TITLE 5, "BUSINESS LICENSES AND REGULATIONS,"
OF THE DUARTE MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA ORDAINS AS
FOLLOWS:**

SECTION 1. Chapter 5.09, "Tobacco Retailer License," is added to Title 5, "Business Licenses and Regulations" of the City of Duarte Municipal Code, as follows:

Chapter 5.09 Tobacco Retailer License

5.09.010	Legislative findings
5.09.020	Definitions
5.09.030	Requirements and Prohibitions
5.09.040	Limits on Eligibility for a Tobacco Retailer License
5.09.050	Application Procedure
5.09.060	Issuance of License; Term of License
5.09.070	License Renewal and Expiration
5.09.080	Licenses Non-Transferable
5.09.090	License Conveys A Limited, Conditional Privilege
5.09.100	Fee for License
5.09.110	Compliance Monitoring
5.09.120	Revocation of License
5.09.130	Tobacco Retailing Without A License
5.09.140	Enforcement

5.09.010 Legislative findings.

- A. Based in part on the information contained in this section, the City Council finds that the failure of tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the sale of tobacco products to minors, presents an imminent threat to the public health, safety, and welfare of the residents of the City.
- B. The City Council finds that a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City, to protect the health, safety, and welfare of our residents
- C. Approximately 438,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of

preventable death. (US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Annual Smoking - Attributable Mortality, Years of Potential Life Lost, and Productivity Losses - United States 1997-2001*. 2005, 54(25): p. 625-628.)

- D. The World Health Organization (WHO) estimates that by 2030, tobacco will account for 8.3 million deaths per year, killing 50% more people in 2015 than HIV/AIDS, and will be responsible for 10% of all deaths worldwide. (World Health Organization. *World Health Statistics 2007, Part 1: Ten Statistical Highlights in Global Public Health*. 2007, p. 12.)
- E. The California Legislature has recognized the danger of tobacco use and has made reducing youth access to tobacco products a high priority, as evidenced by the fact that:
 - 1. The Legislature has declared that smoking is the single most important source of preventable disease and premature death in California (Cal. Health & Safety Code § 118950).
 - 2. State law prohibits the sale or furnishing of cigarettes, tobacco products, and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors (Cal. Pen. Code § 308).
 - 3. State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 18 years of age (Cal. Bus. & Prof. Code § 22956) and provides procedures for using minors to conduct onsite compliance checks of tobacco retailers (Cal. Bus. & Prof. Code § 22952).
 - 4. State law prohibits the sale of tobacco products and paraphernalia through self-services displays with limited exceptions for tobacco stores (Cal. Bus. & Prof. Code § 22960, 22962).
 - 5. State law prohibits the sale of “bidis” (hand-rolled filter-less cigarettes imported primarily from India and Southeast Asian countries) except in adult-only establishments (Cal. Pen. Code § 308.1).
 - 6. State law prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of “roll-your-own” tobacco in packages containing less than 0.60 ounces of tobacco (Cal. Pen. Code § 308.3).
- F. State law requires all tobacco retailers to be licensed by the Board of Equalization primarily to curb the illegal sale and distribution of cigarettes

due to tax evasion and counterfeiting (Cal. Bus. & Prof. Code §§ 22970.1, 22972).

- G. State law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3).
- H. California courts in such cases as *Cohen v. Board of Supervisors*, 40 Cal. 3d 277 (1985), and *Bravo Vending v. City of Rancho Mirage*, 16 Cal. App. 4th 383 (1993), have affirmed the power of cities to regulate business activity in order to discourage violations of law.
- I. Despite the state's efforts to limit youth access to tobacco, minors are still able to access cigarettes, as evidenced by the following facts:
 - 1. Each day, nearly 4,000 children under 18 years of age smoke their first cigarette, and almost 1,500 children under 18 years of age begin smoking daily. (Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *Results from the 2004 National Survey on Drug Use and Health: National Findings*. 2005.)
 - 2. More than 75% of all current smokers in 2001 began smoking before the age of 18. (Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *2003 National Survey on Drug Use and Health: Results*. 2003.)
 - 3. Among middle school students who were current cigarette users in 2004, 70.6% were not asked to show proof of age when they purchased or attempted to purchase cigarettes from a store, and 66.4% were not refused purchase because of their age. (US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Tobacco Use, Access & Exposure to Tobacco Among Middle & High School Students, U.S., 2004*. 2005, 54: p. 297-301.)
 - 4. In 2002, youth smoked approximately 540 million packs of cigarettes, generating nearly \$1.2 billion in tobacco industry revenue. (Healton C, Farrelly MC, Weitzenkamp D, et al. "Youth Smoking Prevention and Tobacco Industry Revenue." *Tobacco Control*, 15: 103-106, 2006.)
- J. Research demonstrates that local tobacco retail ordinances dramatically reduce youth access to cigarettes, as evidenced by the following:

1. A review of thirteen California communities with strong tobacco retailer licensing ordinances shows that the youth sales rate declined in twelve of the thirteen communities, with an average decrease of 68% in the youth sales rate. (American Lung Association of California, Center for Tobacco Policy and Organizing. *Tobacco Retail Licensing is Effective*. 2007.)
 2. A study of the effect of licensing and enforcement methods used in the Philadelphia area revealed a decrease in sales to minors from 85% in 1994 to 43% in 1998. (Ma GX, Shive S and Tracy M. "The Effects of Licensing and Inspection Enforcement to Reduce Tobacco Sales to Minors in Greater Philadelphia, 1994-1998." *Addictive Behaviors*, 26(5): 677-87, 2001.)
 3. A study of several Minnesota cities found that an increased licensing fee in conjunction with strict enforcement of youth access laws led to a decrease from 39.8% to 4.9% in the number of youth able to purchase tobacco. (Forster JL et al. "The Effects of Community Policies to Reduce Youth Access to Tobacco." *American Journal of Public Health*, 88(8): 1193-1197, 1998.)
- K. The implementation of tobacco retailer licensing requirements is supported by most Californians, as evidenced by the following:
1. Statewide, over 80% of California adults think tobacco retailers should be licensed. (Department of Health Services, Tobacco Control Section. *California Tobacco Control Update*. 2004.)
 2. Similarly, in rural areas in California, 78% of adults think tobacco retailers should be licensed, and 91% agree that a store owner who repeatedly sells cigarettes to minors should no longer have the right to sell cigarettes. (American Lung Association of California, Center for Tobacco Policy and Organizing. *Survey of California Rural and Small Town Voters About Local Tobacco Retail Licensing Ordinances*. 2008.)
 3. 65% of California's key opinion leaders surveyed support implementation of tobacco-licensing requirements. (California Department of Health Services, Tobacco Control Section. *Final Report, Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3 (1996-2000)*. 2003.)
 4. Over 90% of enforcement agencies surveyed in 2000 rated license suspension or revocation after repeated violations as an effective strategy to reduce youth access to tobacco. (California Department of Health Services, Tobacco Control Section. *Final Report*,

Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3 (1996-2000). 2003.)

- L. Approximately eighty cities and counties in California have passed tobacco retailer licensing ordinances in an effort to stop minors from smoking. (American Nonsmokers' Rights Foundation. *California Municipalities With Ordinances Restricting Youth Access To Tobacco*. 2008.)
- M. California retailers continue to sell tobacco to underage consumers, evidenced by the following;
 - 1. Nearly 11% of all tobacco retailers unlawfully sold to minors in 2007. (California Department of Health Services, Tobacco Control Section. *Youth Purchase Survey, 2007: Percent of Retailers Selling Tobacco to Youth by Store Type*. 2007.)
 - 2. Non-traditional tobacco retailers such as deli, meat, and donut shops sold to minors in 2007 at a much higher rate than the statewide average, as high as 16%. (California Department of Health Services, Tobacco Control Section. *Youth Purchase Survey, 2007: Percent of Retailers Selling Tobacco to Youth by Store Type*. 2007.)
 - 3. Teens surveyed in 2002 say they bought their cigarettes at: gas stations (58%), liquor stores (45%), and supermarkets and small grocery stores (29% combined). (California Department of Health Services, Tobacco Control Section. *Final Report, Tobacco Control Successes in California: A Focus on Young People, Results from the California Tobacco Surveys, 1990-2002*. 2003, p. 11-12.)
 - 4. Twenty-three "youth tobacco purchase surveys" in 2011 resulted in 13% of Duarte tobacco retailers willing to sell tobacco products to minors under 18 years of age.
- N. A requirement for a tobacco retailer license will not unduly burden legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to adults, but it will allow the City to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco-related laws.
- O. The City has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and finally, and most importantly, in

protecting children from being lured into illegal activity through the misconduct of adults.

- P. It is the intent of the City Council, in enacting the ordinance establishing this chapter, to ensure compliance with the business standards and practices of the City and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco and nicotine products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.

5.09.020 Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

(a) "Arm's Length Transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an Arm's Length Transaction.

(b) "Department" means the City's Public Safety Department, and any agency or Person designated by the Department to enforce or administer the provisions of this chapter.

(c) "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

(d) "Proprietor" means a Person with an ownership interest or managerial role in a business. An ownership interest shall be deemed to exist when a Person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial role shall be deemed to exist when a Person can or does have or share ultimate control over the day-to-day operations of a business.

(e) "Self-Service Display" means the display or storage of Tobacco Products or Tobacco Paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of Self-Service Display.

(f) “Smoking” means possessing a lighted Tobacco Product, lighted Tobacco Paraphernalia, or any other lighted weed or plant (including a lighted pipe, cigar, hookah pipe, or cigarette of any kind) and also means the lighting of a Tobacco Product, Tobacco Paraphernalia, or any other weed or plant (including, but not limited to, a pipe, cigar, hookah pipe, or cigarette of any kind).

(g) “Tobacco Paraphernalia” means cigarette papers or wrappers, pipes, holders of Smoking materials of all types, cigarette rolling machines, and any other item designed for the Smoking, preparation, storing, or consumption of Tobacco Products.

(h) “Tobacco Product” means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

(i) “Tobacco Retailer” means any Person, whether or not a Tobacco Proprietor, who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia. “Tobacco Retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, Tobacco Products, or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(j) “Youth Decoy” means a person under the age of 18 who, solely for the purposes of conducting compliance checks pursuant to this chapter, has received training by the Department, has received written authorization from the Department, or has received an immunity letter from the Los Angeles County District Attorney’s Office and has provided a true and correct copy of that immunity letter to the Department. The City shall not enforce any law establishing a minimum age for purchase of Tobacco Products against a Youth Decoy if the violation occurs when the Youth Decoy is participating in a compliance check supervised by the Department or other peace officer or City code enforcement, or the Youth Decoy is participating in a compliance check supervised by a Person designated in writing as an agent of the Department for purposes of monitoring compliance with this chapter.

5.09.030 Requirements and Prohibitions.

A. TOBACCO RETAILER LICENSE REQUIRED. It shall be unlawful for any Person to act as a Tobacco Retailer in the City without first obtaining and maintaining a valid Tobacco Retailer license pursuant to this chapter for each location at which that activity is to occur. Tobacco Retailing

without a valid Tobacco Retailer's license is a nuisance as a matter of law and a violation of this code.

- B. **LAWFUL BUSINESS OPERATION.** In the course of Tobacco Retailing or in the operation of the business or maintenance of the location for which a license issued, it shall be a violation of this chapter for a licensee, or any of the licensee's agents or employees, to violate any local, state, or federal law applicable to Tobacco Products, Tobacco Paraphernalia, or Tobacco Retailing.
- C. **DISPLAY OF LICENSE.** Each Tobacco Retailer license shall be prominently displayed in a publicly visible location at the licensed location
- D. **POSITIVE IDENTIFICATION REQUIRED.** No Person engaged in Tobacco Retailing shall sell, exchange, or transfer in any manner a Tobacco Product or Tobacco Paraphernalia to another Person who appears to be under the age of twenty-seven (27) years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the Tobacco Product or Tobacco Paraphernalia.
- E. **MINIMUM AGE FOR PERSONS SELLING TOBACCO.** No Person who is younger than the minimum age established by state law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing.
- F. **SELF-SERVICE DISPLAYS PROHIBITED.** Tobacco Retailing by means of a Self-Service Display is prohibited.
- G. **FALSE AND MISLEADING ADVERTISING PROHIBITED.** A Tobacco Retailer or Proprietor without a valid Tobacco Retailer license, including, but not limited to, a person whose license has been suspended or revoked:
 - (1) Shall keep all Tobacco Products and Tobacco Paraphernalia out of public view. The public display of Tobacco Products or Tobacco Paraphernalia in violation of this provision shall constitute Tobacco Retailing without a license under this chapter.
 - (2) Shall not display any advertisement relating to Tobacco Products or Tobacco Paraphernalia that promotes the sale or distribution of such products from the Tobacco Retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.

5.09.040 Limits on Eligibility for a Tobacco Retailer License

- A. LICENSE FOR FIXED LOCATION ONLY. No license may issue to authorize Tobacco Retailing at other than a fixed location. For example, Tobacco Retailing by Persons on foot or from vehicles is prohibited.
- B. APPLICABILITY OF ZONING. No license may issue to authorize Tobacco Retailing at any location that is not in a zone where Tobacco Retailing is prohibited.

5.09.050 Application Procedure.

- A. APPLICATION. Application for a Tobacco Retailer license shall be submitted in the name of each Proprietor proposing to conduct retail tobacco sales and shall be signed by each Proprietor or an authorized agent thereof.
- B. LICENSE NOT SUBSTITUTE FOR COMPLIANCE WITH ALL LAWS. It is the responsibility of each Proprietor to be informed regarding all laws applicable to Tobacco Retailing, including those laws affecting the issuance of a Tobacco Retailer license. No Proprietor may rely on the issuance of a Tobacco Retailer license as a determination by the City that the Proprietor has complied with all laws applicable to Tobacco Retailing. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a Proprietor shall be revoked pursuant to the applicable provisions of this chapter. Nothing in this chapter shall be construed to vest in any Person obtaining and maintaining a Tobacco Retailer license any status or right to act as a Tobacco Retailer in contravention of any provision of law.
- C. APPLICATION FORM. All applications shall be submitted on a form supplied by the Department and shall contain the following information and may require an applicant to provide other and additional information:
 - (1) The name, address, telephone number, and email address of each Proprietor of the business seeking a license.
 - (2) The business name, address, telephone number, and email address of the single fixed location for which a license is sought.
 - (3) A single name and mailing address authorized by each Proprietor to receive all communications and notices (the "Authorized Address") required by, authorized by, or necessary to the enforcement of this chapter. If an Authorized Address is not supplied, each Proprietor shall be understood to consent to the provision of notice at the business address specified in subparagraph (2) above.

- (4) Proof that the location for which a Tobacco Retailer's license is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization.
 - (5) Whether or not any Proprietor or any agent of the Proprietor has admitted violating, or has been found to have violated, this chapter and, if so, the dates and locations of all such violations within the previous five years.
 - (6) Such other information as the Department deems reasonably necessary for the administration or enforcement of this chapter as specified on the application form required by this section, which may include, but not necessarily limited to, social security number and driver's license number.
- D. CHANGE IN INFORMATION PROVIDED. A licensed Tobacco Retailer shall inform the Department in writing of any change in the information submitted on an application for a Tobacco Retailer license within ten (10) business days of a change.
- E. APPLICATION INFORMATION SUBJECT TO PUBLIC DISCLOSURE. All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (California Government Code section 6250 *et seq.*) or any other applicable law, subject to the laws' exemptions.

5.09.060 Issuance of License; Term of License.

- A. LICENSE ISSUANCE. Upon the receipt of a complete application for a Tobacco Retailer's license and the license fee required by this chapter, the Department shall issue a license unless substantial evidence demonstrates that one or more of the following bases for denial exists:
- 1. The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter.
 - 2. The application seeks authorization for Tobacco Retailing at a location for which this chapter prohibits issuance of Tobacco Retailer licenses.
 - 3. The application seeks authorization for Tobacco Retailing for a Proprietor to whom this chapter prohibits a license to be issued.
 - 4. The application seeks authorization for Tobacco Retailing that is prohibited pursuant to this chapter or that is unlawful pursuant to other provisions of this code, or that is unlawful pursuant to any other law.

- B. TERM OF LICENSE. The term of a Tobacco Retailer license is one (1) year commencing on the date of issuance of the license unless earlier revoked pursuant to the provisions of this chapter.
- C. PAYMENT OF LICENSE FEE. A Tobacco Retailer license is invalid if the license fee as established by resolution of the City Council has not been timely paid in full.

5.09.070 License Renewal and Expiration.

- A. RENEWAL OF LICENSE. A Tobacco Retailer license is invalid upon the date of its expiration unless renewed prior to the expiration date. Each Tobacco Retailer shall apply for the renewal of his or her Tobacco Retailer license and submit the license fee no later than thirty (30) days prior to expiration of the license term.
- B. To renew a Tobacco Retailer license, the Proprietor must:
 - 1. Submit the license fee and application renewal form.
 - 2. Submit a signed affidavit affirming that the Proprietor:
 - a. Has not sold and will not sell any Tobacco Product or Tobacco Paraphernalia after the license expiration date and before the license is renewed.
 - b. Has waited the applicable ineligibility period established for Tobacco Retailing without a license, as set forth in Section 5.090.130(a) before seeking renewal of the license.

5.09.080 Licenses Non-Transferable.

- A. NO TRANSFER OF LICENSE. A Tobacco Retailer license may not be transferred from one Person to another or from one location to another. A new Tobacco Retailer's license is required whenever a Tobacco Retailing location has a change in Proprietor(s) or a Tobacco Retailing location has a change in location.
- B. EFFECT OF PRIOR VIOLATIONS. Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:
 - 1. The location has been fully transferred to a new Proprietor or fully transferred to entirely new Proprietors.

2. The new Proprietor(s) provide the City with clear and convincing evidence that the new Proprietor(s) have acquired or is acquiring the location in an Arm's Length Transaction.

5.09.090 License Conveys A Limited, Conditional Privilege.

Nothing in this chapter shall be construed to grant any Person obtaining and maintaining a Tobacco Retailer license any status or right other than the limited conditional privilege to act as a Tobacco Retailer at the location in the City identified on the face of the permit. For example and not by way of limitation, nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law, including but not limited to, any provision of this code, or any condition or limitation on smoking in an enclosed place of employment pursuant to California Labor Code section 6404.5. For example and not by way of limitation, obtaining a Tobacco Retailer license does not make the retailer a "retail or wholesale tobacco shop" for the purposes of California Labor Code section 6404.5.

5.09.100 Fee for License.

The fee to issue or to renew a Tobacco Retailer's license shall be established from time to time by resolution of the City Council. The fee shall be calculated so as to recover the cost of administration and enforcement of this chapter, including, for example and without limitation, issuing a license, administering the license program, retailer education, retailer inspection, and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law. The license fee is nonrefundable except as may be provided by law.

5.09.110 Compliance Monitoring.

- A. DEPARTMENT; PEACE OFFICERS. Compliance with this chapter shall be monitored by the Department including but not limited to peace officers and City code enforcement officers. In addition, any peace officer may enforce the penal provisions of this chapter. The City may designate any number of additional Persons to monitor compliance with this chapter.
- B. PURPOSE OF COMPLIANCE CHECK. Compliance checks shall be conducted so as to allow the Department to determine, at a minimum, if the Tobacco Retailer is conducting business in a manner that complies with laws regulating youth access to Tobacco Products and Tobacco Paraphernalia. When the Department deems appropriate, the compliance checks shall determine compliance with other laws applicable to Tobacco Retailing.

- C. YOUTH DECOYS. From time to time, and at a time of the Department's choosing, the Department may, but is not obligated to, use one or more Youth Decoys to determine if a Proprietor or Tobacco Retailer is complying with the requirements of this chapter and other laws with respect to the prohibition on the sale, exchange, or transfer of any Tobacco Product or Tobacco Paraphernalia to a minor. Youth Decoys, at the direction and under the supervision of the Department, or other peace officers, may enter a Tobacco Retailer location as a customer and attempt to obtain through lawful means a Tobacco Product or Tobacco Paraphernalia and if so obtained then report to the Department officer or other peace officer supervising the Youth Decoy that the Proprietor or Tobacco Retailer has sold, exchanged, or transferred the Tobacco Product or Tobacco Paraphernalia to the Youth Decoy. Nothing in this chapter shall prohibit the Department officer or other peace officer supervising the Youth Decoy to enforce the provisions of this chapter or other applicable laws pursuant to the information provided by the Youth Decoy.

5.09.120 Revocation of License.

- A. REVOCATION OF LICENSE FOR VIOLATION. In addition to any other penalty authorized by law, a Tobacco Retailer license shall be revoked if any court of competent jurisdiction determines, or the Department finds based on a preponderance of the evidence after the licensee is afforded reasonable notice and an opportunity to be heard, that the licensee, or any of the licensee's agents or employees, has violated any of the provisions, requirements, conditions, or prohibitions of this chapter or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law pertaining to the display, sale, exchange, or transfer of any Tobacco Product including but not limited to the requirements of Section 5.090.030.
- B. APPEAL OF REVOCATION. A decision of the Department to revoke a Tobacco Retailer license is appealable to the City Manager and must be filed with City Clerk within ten (10) days of mailing of the Department's decision. If such an appeal is made, it shall stay enforcement of the appealed action. An appeal to the City Manager is not available for a revocation made pursuant to subdivision C below.
- C. REVOCATION OF LICENSE WRONGLY ISSUED. A Tobacco Retailer's license shall be revoked if the Department finds, after the licensee is afforded notice and an opportunity to be heard, that one or more of the bases for denial of a license under Section 5.090.060 existed at the time application was made or at any time before the license issued. The decision by the Department shall be the final decision of the City. Such a revocation shall be without prejudice to the filing of a new license application.

D. **NEW LICENSE AFTER REVOCATION.** In addition to other applicable provisions of this chapter pertaining to obtaining a Tobacco Retailer license, the following requirements shall also apply in the situation where a Proprietor or Tobacco Retailer seeks to obtain a new Tobacco Retailer license after such Person or Tobacco Retailer has had a Tobacco Retailer revoked:

1. After revocation for a first violation of this chapter at a location within any sixty-month (60) period, no new license may issue for the location until ten (10) days have passed from the date of revocation.
2. After revocation for a second violation of this chapter at a location within any sixty-month (60) period, no new license may issue for the location until thirty (30) days have passed from the date of revocation.
3. After revocation for a third violation of this chapter at a location within any sixty-month (60) period, no new license may issue for the location until ninety (90) days have passed from the date of revocation.
4. After revocation for four or more violations of this chapter at a location within any sixty-month (60) period, no new license may issue for the location until five (5) years have passed from the date of revocation.

5.09.130 Tobacco Retailing Without a License.

A. In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the Department finds based on substantial evidence, after notice and an opportunity to be heard, that any Person has engaged in Tobacco Retailing at a location without a valid Tobacco Retailer's license, either directly or through the Person's agents or employees, the Person shall be ineligible to apply for, or to be issued, a Tobacco Retailing license as follows:

1. After a first violation of this section at a location within any sixty-month (60) period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until thirty (30) days have passed from the date of the violation.
2. After a second violation of this section at a location within any sixty-month (60) period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until ninety (90) days have passed from the date of the violation.

3. After of a third or subsequent violation of this section at a location within any sixty-month (60) period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until five (5) years have passed from the date of the violation.
- B. SEIZURE OF TOBACCO PRODUCTS AND TOBACCO PARAPHERNALIA. Tobacco Products and Tobacco Paraphernalia offered for sale, exchange, or transfer in violation of this section are subject to seizure by the Department or any peace officer and shall be forfeited after the licensee and any other owner of the Tobacco Products and Tobacco Paraphernalia seized is given reasonable notice and an opportunity to demonstrate that the Tobacco Products and Tobacco Paraphernalia were not offered for sale or exchange in violation of this chapter. The decision by the Department may be appealed pursuant to the procedures set forth in Section 5.090.120 (B). Forfeited Tobacco Products and Tobacco Paraphernalia shall be destroyed after all internal appeals have been exhausted and the time in which to seek judicial review pursuant to California Code of Civil Procedure section 1094.6 or other applicable law has expired without the filing of a lawsuit or, if such a suit is filed, after dismissal of that suit or judgment in that suit becomes final and non-appealable.
- C. SEPARATE VIOLATIONS. For the purposes of the civil remedies provided in this chapter:
1. Each day on which a Tobacco Product or Tobacco Paraphernalia is offered for sale, exchange, or transfer in violation of this chapter constitutes a separate violation of this chapter.
 2. Each individual retail Tobacco Product and each individual retail item of Tobacco Paraphernalia that is distributed, sold or offered for sale, exchanged or offered for exchange, or transferred or offered for transfer, in violation of this chapter constitutes a separate violation of this chapter.

5.09.140 Enforcement.

- A. REMEDIES CUMULATIVE. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- B. EVIDENCE PROVIDED BY MINOR. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a Person under the age of eighteen (18) years old, including but not limited to a Youth Decoy, such a Person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this

chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

- C. AIDING AND ABETTING. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- D.. VIOLATIONS ARE A PUBLIC NUISANCE. Violations of this chapter are hereby declared to be public nuisances.
- E. OTHER PENALTIES AND REMEDIES. Notwithstanding any other penalty provided by this Code or otherwise by law, any person who violates any provision of this Chapter 5.09 shall be guilty of a misdemeanor for each such violation and, in addition, the City may enforce the provisions of this Chapter 5.09 for any violations hereof by means of a criminal or civil enforcement process including, without limitation, through nuisance abatement proceedings, a restraining order, a preliminary or permanent injunction, or by any other means available in law or equity. Violations of this chapter are also subject to Chapters 1.04 and 1.08 of this code.

SECTION 2. CEQA Determination. In adopting this Ordinance, the City Council finds and determines, based on all of the information in the record and on the basis of its independent judgment, that this Ordinance is exempt from the California Environmental Quality Act pursuant to the following exemptions, and each of them independently: Title 14 California Code of Regulations Section 15061(b)(3), in that it can be seen with certainty that the adoption of this Ordinance proposes no activity that may have a significant effect on the environment, and pursuant to Title 14 California Code of Regulations Section 15301, in that this Ordinance involves no expansion of use of existing facilities.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, phrases, or portions be declared unconstitutional or invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 4. Posting Of Ordinance. The City Clerk shall certify as to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner provided for in the Duarte Municipal Code.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2013.

Mayor Margaret Finlay

RESOLUTION NO.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE APPROVING AND ADOPTING A TOBACCO RETAILER LICENSE FEE**

WHEREAS, the City Council has approved for first reading an ordinance entitled “An Ordinance of the City Council of the City of Duarte, California, Adding Chapter 5.09, “Tobacco Retailer License,” To Title 5, “Business Licenses And Regulations,” of the Duarte Municipal Code” which, if adopted, established a license requirement for tobacco retailers and which requires payment of a fee for an annual Tobacco Retailer license (the “Chapter 5.09 Ordinance”); and

WHEREAS, Section 5.09.100 of the Chapter 5.09 Ordinance provides as follows:

The fee shall be calculated so as to recover the cost of administration and enforcement of this chapter, including, for example and without limitation, issuing a license, administering the license program, retailer education, retailer inspection, and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law. The license fee is nonrefundable except as may be provided by law.”; and

WHEREAS, the City Council has proposed, pursuant to Section 5.09.100, that the fee be set at Chapter 5.09 Ordinance as One Hundred Dollars; and

WHEREAS, a public hearing of the City Council on the proposed fee was duly and properly noticed in accordance with applicable law; and

WHEREAS, on April 23, 2013, the City Council held a public hearing on the proposed fee to be imposed pursuant to Section 5.09.100, and considered all information and testimony received;

NOW, THEREFORE, the City Council of the City of Duarte resolves as follows:

Section 1. The foregoing Recitals are true and correct and are incorporated herein.

Section 2. The City Council finds and determines, based on the information and evidence presented, that a fee of One Hundred Dollars per year is an amount that does not exceed the costs associated with the purposes of the Chapter 5.09 Ordinance, including the costs associated with issuing the license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators.

Section 3. The City Council hereby approves and adopts a fee of One Hundred Dollars per year as the fee amount pursuant to Section 5.09.100 of the Chapter 5.09 Ordinance, subject to Section 4 of this Resolution.

Section 4. The fee established by this Resolution shall be null and void unless the Chapter 5.09 Ordinance is adopted by the City Council on or before June 30, 2013. If the Chapter 5.09 Ordinance is adopted by the City Council on or before June 30, 2013, the fee established by this Resolution shall be effective upon the effective date of the Chapter 5.09 Ordinance.

Section 5. The fee established by this Resolution may be repealed, amended, or modified by a subsequent resolution adopted by the City Council.

Section 6. The City Council finds and determines, in the exercise of its independent judgment, that adoption of this Resolution approving and adopting the Tobacco Retailer license fee is statutorily exempt for the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15273 of the State CEQA Guidelines (14 C.C.R. Sec. 15273), which provides that CEQA does not apply to establishment of charges by a public agency for purposes of meeting operating expenses, and is additionally and independently exempt from CEQA analysis pursuant to State CEQA Guidelines Section 15061(b)(3) [14 C.C.R. Sec. 15061(b)(3)} which sets forth the rule that “CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

PASSED, APPROVED, AND ADOPTED this 23rd day of April 2013.

Mayor Margaret Finlay

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 13-06 was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the 23rd day of April, 2013, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California



MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM: CESAR MONSALVE, PARKS AND RECREATION DIRECTOR

SUBJECT: PARKS AND RECREATION COMMISSION RECOMMENDATION
TO AMEND COMMUNITY FACILITIES ADMINISTRATIVE
POLICIES AND PROCEDURES

DATE: APRIL 18, 2013

Recommendation: That the City Council approve the Duarte Parks and Recreation Commission's recommendation to amend portions of the Administrative Policies and Procedures for Community Facilities as they pertain to rentals.

Background: Some sections of the Administrative Policies and Procedures for Community Facilities need to be updated due to a new ordinance and a few amendments are recommended to improve the policies including the following: The front page cover will be re-dated to read "Revised April 2013". Page one item 4 will now include bullet points. Page one item six now includes the new smoking ordinance. Page three item 16 adds the word "facility" and replaces "Duarte City Council" and inserts "Parks and Recreation Commission" in its place which will allow the commission to approve or disapprove the use of a park or facility if it restricts the availability of the park or facility to the general public. Page three has a new item 17 that presents non-profit organizations an opportunity to solicit through the Parks and Recreation Commission for a waiver of rental fees for a special event that is a fundraiser and that is beneficial to the community. Page three item 21 will now include the word "silly string" among the items prohibited. Page five item 2 will now include the word "IRS non-profit". On the page that lists the rental fee schedule, the Duarte Teen Center Gas BBQ Grill, Television/AV Equipment fee will now have a resident rate of \$20 reduced from \$25. This reduction matches the 50% discount for residents that is incorporated into the other rates. Lastly, a page with photographs of the facilities available for rent will be included. Attached is the new recommended Administrative Policies and Procedures for Community Facilities packet.

Discussion: The current Administrative Policies and Procedures for Community Facilities only authorizes the City Council to approve requests by non-profit groups who have asked for a waiver of rental fees for the use of a field, park or facility for an event. Additionally, the policy also includes on page 5 under the heading of "Fees," item B. 1., that "Fees shall be established periodically by the City Manager as needed". This allows the City Manager some flexibility if a situation arises where a decision needs to be rendered in the periods between council meetings.

On some occasions when the Council has been approached directly during a Council Meeting with a request to waive fees, the Council has redirected the applicant to the Parks and Recreation Commission for a recommendation. Currently, if approached about the waiving of rental fees, the Parks and Recreation Department Director will direct the requesting organization or individual to complete an application form, total the charges based on the request and include the request on the agenda of the next scheduled Parks and Recreation Commission meeting. The applicant will have the option to be present to answer questions from the commission who would then either accept or decline to make a recommendation to the City Council to waive the fees. The recommendation would then be placed on a future City Council meeting agenda for action. The new policy would authorize the Parks and Recreation Commission to approve or disapprove the waiving of rental fees for the use of a park or facility by a non-profit organization for the purpose of a fundraising special event or if the park or facility causes the general public to be restricted from its use. Large scale events that involve street closures, vendors and public safety issues would still require an applicant to complete a Special Event Permit that would require Community Development, Public Safety and Finance Department approval, and finally City Council approval.

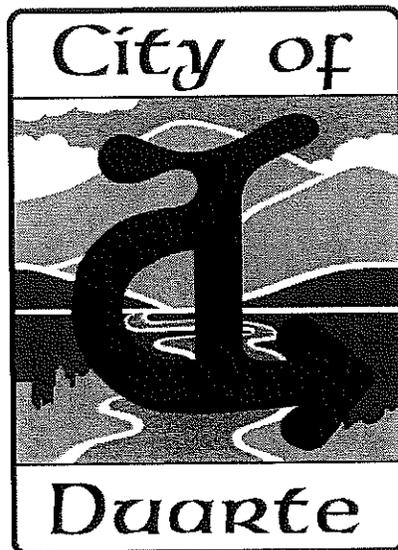
The results of surveying some local communities indicate that the policies vary greatly: Temple City and Monrovia currently authorize their commissions to approve fee waivers; San Gabriel authorizes the department director to waive fees. San Dimas, Glendora and Azusa do not authorize their commissions to waive fees and the request must go through their council. So it is a mixed bag that generally follows each city's best interests. In Duarte's case these requests are very infrequent. In the last year there have been three requests: A request from the Hayden Child Care Center for the annual Hayden 5K event for the use of the bike trail and this request required a Special Event Permit process. In May LULAC requested the use of Beardslee Park for a community event and that also required a Special Event Permit process and finally Stix Ride Shop requested the waiving of fees for the use of the Duarte Skate Park for the Autism Speaks fundraiser event. That request was forwarded to the Council as a recommendation from the Parks and Recreation Commission for the waiving of fees.

Conclusion: The recommended policy amendments will update the Administrative Policies and Procedures for Community Facilities and by allowing the commission to have the approval authority for fee waivers under the specified circumstances, the approval process for these requests will be expedited and there will still be enough checks and balances to ensure that the best interests of the community and the residents are being met. Staff recommends that the policy amendments be approved by council action and resolution.

City of Duarte

Community Facilities

Administrative Policies and Procedures



Department Of Parks and Recreation

Revised July 2012 April 2013

060

CITY OF DUARTE
PUBLIC FACILITIES POLICIES

GENERAL CONDUCT

In order for the activities and facilities to be enjoyed by everyone, the following basic rules of good conduct must be observed at all city facilities:

1. Specific permission is required to use or occupy every room and office.
2. Unless participating in a supervised activity, children under 5 years of age must be accompanied by an adult 16 years or older.
3. All persons or organizations using a facility must abide by all Municipal, State and Federal laws.
4. The following are regulated by State and Municipal Codes and will be strictly enforced:
 - Gambling is prohibited.
 - The dispensing and consumption of alcoholic beverages without a permit is prohibited.
 - The use or sale of dangerous restricted drugs is prohibited.
5. Eating and drinking are permitted only in designated areas.
6. Smoking is not allowed inside City buildings or enclosed outdoor areas, DMC, Chapter 6.20.060. Smoking is prohibited and is unlawful in all public parks located in the City. Smoking is prohibited and is unlawful in all public areas including but not limited to public sidewalks, streets, and alleys, located within 25' of the boundary of the public park. 6.20.60. (A "Public Park" includes "recreation center" "buildings, structures, facilities.")
7. Unruly behavior, such as shouting and profanity, which is disruptive of classes and other activities, is prohibited.
8. Bicycles may be ridden and parked only in designated areas.
9. The possession of a weapon or other dangerous device will subject the possessor to immediate removal from the premises and to possible arrest and prosecution.
10. Neither pets nor other animals are permitted on the premises except for Service animals.

Violation of any rule or regulation can result in the suspension of facility use privileges by an individual or group.

POLICIES AND PROCEDURES
PAGE 2

USAGE POLICIES AND PROCEDURES

1. An application for permission to use the facilities must be submitted by all organizations and individuals for all uses.
2. All users must submit some form of legal identification when submitting an application.
3. All applications for permission to use the facilities shall be issued by the City Manager or his designate, subject to the availability of the facilities and adherence to City rules and regulations. Application forms are available at the Parks and Recreation Department.
4. Applications shall be issued only to responsible adults who shall be in attendance at the function for which application is made.
5. City facilities may not be used by an individual, group or organization which has as one of its objectives, the overthrow of the United States Government or by an individual or organization deemed subversive as defined in the State of California Code.
6. City government functions, City recreation programs and School Board meetings shall have first priority on use of all facilities. Furthermore, previously scheduled uses may be canceled for City functions and programs. This does not apply to wedding receptions.
7. All applications for use of facilities must be submitted at least eight (8) working days and not more than 90 days, prior to the time of use. In the case of wedding receptions, 180 days prior to use shall be granted. This does not apply to City sponsored or co-sponsored activities.
8. The City Manager shall have the authority to cancel or postpone use of a facility if the City deems such action necessary. Whenever possible, 24 hours notice will be given to the applicant.
9. Only teen dances sponsored or co-sponsored by the Parks and Recreation Department shall be permitted.
10. A certificate of insurance for a minimum of \$1,000,000, naming the City of Duarte as additionally insured, will be required of all public events, and others whenever it is in the best interest of the City of Duarte.
11. An adult sponsor must make reservations for Youth groups. At least one adult chaperone for every 10 minors using the facility shall be required.
12. Only Duarte service groups and organizations may use the Senior Center.

POLICIES AND PROCEDURES
PAGE 3

13. The City will not be held responsible for loss, damage or theft of any equipment or personal articles owned, leased, or rented by people using the facilities.
14. Theft, damage or items missing from the facilities that are the property of the City of Duarte, shall be the responsibility of the applicant and is subject to replacement at cost, including administrative fees.
15. No equipment or furnishings shall be removed from the premises without permission of the City Manager or his designate.
16. When exclusive use of a park *or facility* restricts the availability of the general public to use the park *or facility*, approval of the City Council *Parks and Recreation Commission* will be required. Applications for preferential use must be submitted at least 60 days prior to date of use.
17. *Non-profit organizations can solicit through the Parks and Recreation Commission for the waiving of rental fees for a special event beneficial to the community. Solicitations must be submitted at least 60 days prior to the date of use and are subject to approval by the Parks and Recreation Commission.*
4718. Park restrooms are open on an as-scheduled basis.
4819. A member of the City staff shall be on duty at all times while City buildings are being used, and shall have full access to all activities at any time in order to ensure that all rules, regulations, City and State laws are being observed.
4920. Receptions and parties must use the entire Community Center auditorium. Only business conferences and meetings will be allowed to rent part of the auditorium. Duarte Teen Center rentals will not include offices, computer lab, or boxing room. Business conferences and meetings will be allowed to rent the Duarte Teen Center meeting room separately.
2021. The use of rice, birdseed, confetti, glitter, *silly string*, or candles at wedding receptions/parties is strictly prohibited.
2122. The serving of red wines and/or red-based punches is strictly prohibited in buildings.
2223. If decorations are contemplated for any program, their use must have prior approval from the Parks and Recreation Department. No group may hammer, tape, stick or staple anything to floors, walls, or ceilings. Decorations may only be placed as designated by a City representative.
2324. Users wishing to decorate for their event may do so the day before. This option is subject to availability of facility and personnel. Approval will be determined eight (8) working days prior to date of event. Duarte Teen Center decorating must take place on the rental date.

POLICIES AND PROCEDURES
PAGE 4

2425. All activities must cease by 12:00 midnight unless written permission is granted for a longer period of usage. All Duarte Teen Center rental activities must cease by 10:00pm.

2526. Amplification and video equipment consisting of two screens and a microphone with a podium or stand are available for rent to users of the Community Center auditorium for a flat fee. Television and video equipment are also available at the Duarte Teen Center for a flat fee. (See Fee Schedules)

2627. The user may not store any equipment in the facility prior to or after the approved period of use. Any equipment left in the facility will be subject to rental fees.

2728. Facility set-up capacities and kitchen use arrangements:

A. Seating capacity is as follows:

	<u>Full Auditorium</u>	<u>Half Auditorium</u>	<u>Lounge</u>	<u>ROP</u>	<u>Teen Center</u>
Assembly	200	Assembly 72	Assembly 30	80	60
Dining & Dancing	150	Meeting 60	Meeting 24		

B. The kitchen facilities are available at the Community Center and Senior Center only. Kitchens shall not be opened for any group unless specific written use is granted and the kitchen rental fees are paid.

C. Groups using the kitchen shall furnish dishes, silverware, cooking utensils, all paper products, towels, soap, etc.

D. Requests for table and chair arrangements for the Community Center must be submitted at least eight (8) working days prior to scheduled use of facility.

E. The responsibility for cleaning supplies and clean up of the facilities after the event is the duty of the applicant.

2829. Classification and Fees

A. Classifications

1. Base Rate - Fee Schedule "A"
Any and all uses by non-residents.
2. Resident Discount Rate - Fee Schedule "B"
(Up to 50% discount of Schedule "A")

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A resident group is defined as an organization whose membership is composed of at least 51% Duarte residents. A resident is defined as a person who resides within the incorporated City of Duarte or that operates a business within the City of Duarte and has been issued a current business license.

B. Fees

1. Fees shall be established periodically by the City Manager as needed.
2. Duarte and Duarte County non-profit resident groups and organizations may apply for an additional discount from the resident rate. Events must be sponsored activities or meetings of the group or organization as established in their Articles or Incorporation or Bylaws. Documents demonstrating 501-C3 *IRS non-profit* status and residency will be required.
3. For Duarte residents that qualify as low-to-moderate income families, a 10% rate reduction is available for use of the Community Center Auditorium. Complete details concerning the qualifying criteria are available at the Parks and Recreation Department.
4. A resident may not rent a facility for a non-resident. In the case of wedding receptions, only the resident parents of the bride or groom; or resident bride or groom, may rent the facility in order to qualify for the resident rate.
5. Fees include man-on-duty personnel. Double time hourly rate will be deducted from cleaning/damage deposit in the case of continued use over the approved allotted time.
6. Final approval is granted upon payment of total fees. Facilities are subject to automatic cancellation if balance of fees are not paid eight (8) working days prior to use.
7. Users not paying balance of fees in full eight (8) working days prior to scheduled use will be assessed a 10% charge of the unpaid balance for each day the balance of fees is late.
8. All late fees (those paid within eight (8) working days of the scheduled use) must be paid in cash or with a cashier's check.
9. Reservations may be canceled by applicant and all fees returned up to 60 calendar days prior to the event. The deposit will be retained if reservations are canceled 60-14 calendar days prior to event. All fees will be retained if reservations are canceled less than 14 calendar days prior to event.

POLICIES AND PROCEDURES

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10. Cleaning/damage bond is refundable by a City warrant subject to the condition of building or other reasons; and will be sent by mail approximately 3 weeks after date of use. The facility must be cleaned and returned to a reasonable condition.
11. Security police will be required in certain circumstances. The City will arrange for security from the Los Angeles County Sheriff's Department. (See Fee Schedule for security costs.)
12. Duarte service groups and organizations wishing to use park tables, park chairs, portable PA system or other City equipment, must post a bond and are subject to being charged rental fees. (Fee schedule for such items is available in the Parks and Recreation Department).
13. The City Manager's designate may establish special rate schedules for groups or individuals charging admission or soliciting donations, or when it is in the best financial interest of the City to do so.

ALCOHOLIC BEVERAGE POLICIES

Alcoholic drinks are not allowed in the Duarte Teen Center or Royal Oaks Park building during rentals or at any time. Individuals may request the use of the Community Center or Senior Center facilities including the serving of alcoholic beverages. The applicant will follow the requirements established hereafter.

1. Groups or individuals wishing to serve alcoholic beverages at the Community Center must submit an application at least eight (8) working days prior to the event.
2. The responsibility for obtaining all permits from the Alcoholic Beverage Control Agency is the duty of the applicant.
3. The City Manager or his designate has the right to approve or disapprove all applications for serving of alcoholic beverages.
4. If approved, the applicant must abide by all requirements of the California Department of Alcoholic Beverage Control.
5. Persons under 21 years of age shall not be served alcoholic beverages nor be permitted to consume alcoholic beverages in accordance with State law and the regulations of the Department of Alcoholic Beverage Control. Violators are subject to criminal prosecution, and reported violators will be denied approval of subsequent requests to use the facility.
6. City specified City of Duarte personnel are required to be in attendance at all functions. At all functions with attendance in excess of 25 persons, security police may be required by the City Manager or his designate.

POLICIES AND PROCEDURES
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7. The serving of alcoholic beverages may be authorized in accordance with the following conditions:
 - A. Alcoholic beverages may be served, sold, and consumed on the premises only in connection with a meal, which is being served at the site. Hot hors d'oeuvres can be considered as a meal when champagne or sparkling wine is being served.
 - B. Such service, sale, and consumption may be permitted at only those events for which the permit so specifies.
 - C. Bring your own bottle (B.Y.O.B.) events are prohibited.
 - D. Alcoholic beverages shall be sold only by a person possessing a current valid permit from the Alcoholic Beverage Control Board.
8. Selling of Alcoholic Beverages

The following requirements must be followed in order to sell and serve alcoholic beverages on the premises of City of Duarte facilities:

- A. The applicant shall apply in person or by letter to the State of California Department of Alcoholic Beverage Control and obtain the necessary alcoholic beverage permits.
- B. The request for the permit must be accompanied by a letter from the City of Duarte Parks and Recreation Department approving the use of the facility and the serving of alcoholic beverages.
- C. The permit must be presented no less than two weeks (8 working days) prior to the event, to the Duarte Parks and Recreation Department during normal office hours.
- D. The individual organization is responsible for displaying the permit over the bar at the event.

***** ANY VIOLATION OF THE ABOVE MAY RESULT IN IMMEDIATE CANCELLATION OF THE REQUEST FOR USE OF FACILITY AND DENIAL OF FURTHER REQUESTS FOR A PERIOD OF UP TO TWO (2) YEARS AT THE DISCRETION OF THE CITY MANAGER OR HIS DESIGNATE.**

MISCELLANEOUS CHARGES

- * Kitchen: Kitchen facilities are available for a flat fee of \$100.00.
- Amplification and Video Equipment: This equipment is available in the Community Center auditorium for a flat fee of \$60.00. TV/AV equipment available at the Teen Center for a fee. (See Fee Schedule)
- Personnel Charges: A charge of \$40.00 per hour (minimum two (2) hours) will be made for services such as opening prior to event for decorating, delivery of supplies, equipment, etc.
- Late Fees: Users not paying the balance of fees in full, eight (8) working days prior to use, will be assessed a 10% late charge of unpaid balance for each day fees are late.
- All late fees (those paid within eight (8) working days of event), must be paid with cash or a cashiers check.
- Security: Under certain circumstances, security may be required. The City contracts with the Los Angeles County Sheriff Department deputies for such security. The rate is \$65.00 per hour per deputy.
- Deposits Required: If total fees are over \$200.00, a \$100.00 deposit is necessary. If total fees are under \$200.00, a \$50.00 deposit will be necessary.
- Restrooms: A charge of \$20.00 per hour for residents and \$40.00 per hour for all others (minimum of 2 hours) will be made for those wishing to have the park restrooms open during unsupervised park hours.
- Administrative Fees: Any cleaning and damage charges deducted from the bond will be assessed administrative fees of 15%.

* **There are NO kitchen facilities at the Teen Center or parks.**

FEE SCHEDULES

"A"
NON-
RESIDENT RATE

"B"
RESIDENT RATE

COMMUNITY CENTER

Full Auditorium

First Hour	\$ 300.00	\$ 150.00
Each Additional Hour	\$ 100.00	\$ 50.00
Cleaning/Damage Bond	\$ 500.00	\$ 500.00

Half Auditorium

First Hour	\$ 200.00	\$ 100.00
Each Additional Hour	\$ 80.00	\$ 40.00
Cleaning/Damage Bond	\$ 300.00	\$ 300.00

Lounge

First Hour	\$ 100.00	\$ 50.00
Each Additional Hour	\$ 40.00	\$ 20.00
Cleaning/Damage Bond	\$ 100.00	\$ 100.00

DUARTE TEEN CENTER

Game/Meeting Room/Patio

First Hour	\$ 250.00	\$ 125.00
Each Additional Hour	\$ 90.00	\$ 45.00
Cleaning/Damage Bond	\$ 300.00	\$ 300.00

Meeting Room Only

First Hour	\$ 100.00	\$ 50.00
Each Additional Hour	\$ 40.00	\$ 20.00
Cleaning/Damage Bond	\$ 100.00	\$ 100.00

Gas BBQ Grill

\$ 40.00	\$ 25.00 20.00
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Television/AV Equipment

\$ 40.00	\$ 25.00 20.00
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ROYAL OAKS PARK BUILDING

First Hour	\$ 200.00	\$ 100.00
Each Additional Hour	\$ 80.00	\$ 40.00
Cleaning/Damage Bond	\$ 300.00	\$ 300.00

Duarte Community Center



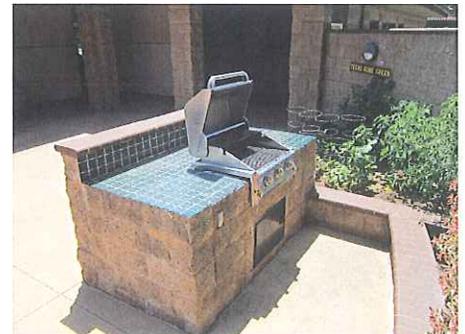
Royal Oaks Park Building



Duarte Picnic Gazebos



Duarte Teen Center



MEMORANDUM

TO: Darrell J. George, City Manager
FROM: Kristen Petersen, Assistant City Manager
DATE: April 15, 2013
SUBJECT: DIAL-A-RIDE TRANSIT SERVICES

Background

Staff reported to City Council about the possibility of implementing a Dial-A-Ride system in 2000, 2005, 2010, March 2012 and the answer continues to be the same; we do not currently have the ongoing resources to do both a Dial-A-Ride system and a Fixed Route system. Therefore this report is meant to update the City Council on the City's existing Fixed Route transit services, give some examples of dial-a-ride programs in nearby communities and in particular add information gathered on the Temple City Dial-A-Ride program as requested.

Duarte Transit System

The City initiated a fixed-route bus system more than 28 years ago. Since then, it has grown from an average ridership of 3,750 persons per month in 1984, to 21,000 persons per month in 2012. Bus service is provided from 7:00 a.m. to 7:00 p.m., Monday through Saturday. During the week, two buses operate continuously, while a single bus runs on Saturday.

The system currently serves three routes. The two primary routes (blue and green) follow a circular pattern, both of which come within a few blocks of any given point in the City. Both routes require an hour to complete, including a short layover at the Target shopping center. The Commuter Route runs weekdays between 5:30 a.m. and 7:00 a.m. Its purpose is to pick up passengers from residential areas and drop them off at locations where they can transfer to MTA and Foothill Transit lines.

For the current fiscal year, the Duarte Transit System operating budget is \$683,000. With an average of 20,000 riders per month, this represents an average cost of \$2.84 per rider. Funding for the system comes from three sources. The Proposition A Transportation Fund will spend \$345,000 on the program this fiscal year. Proposition C Transportation Fund will contribute \$301,300 to the program and the NTD Grant will contribute \$36,700 towards the program. Both Proposition A and C are statewide measures that levy a sales tax in order to provide funds for local transportation programs. Unfortunately as we all know sales tax revenue has dropped drastically over the last few years and as a result, our Prop A and C funds have also. Even as these revenues dropped over the last few years, expenses particularly related to fuel and repairs have increased over the same period.

Other Duarte Transportation Services

In addition to the City's fixed route bus system, Duarte often makes City buses for special events. Examples of this include bus service furnished for the Route 66 Parade, City Picnic, City of Hope 5/10k run, Concerts in the Park, and the upcoming Music Matters event. Without the fixed route buses, this type of service would not be possible.

The City also sponsors a program that provides free taxicab vouchers to seniors for transportation to and from the Duarte Senior Center. This program has been in effect for about 13 years, and costs the City approximately \$5,000 annually. It is currently paid for through AQMD (AB 2766) funds.

Finally, Duarte is fortunate to be well served by a number of regional bus lines including those offered by the MTA and Foothill Transit and our Duarte Transit System works to specifically connect with those systems.

Dial-A-Ride Services

To provide the City Council with some examples on how dial-a-ride programs work, staff contacted four neighboring communities (Azusa, El Monte, Monrovia & Temple City) offering this type of service. Their general features are summarized below:

- One operates their own dial-a-ride program with City staff while three contract with an outside service provider.
- All of the communities use either Proposition A and/or Proposition C money to pay for dial-a-ride. None rely on General Fund support.
- The annual cost ranges from a low of \$350,000 to over \$1,176,000.
- All of the programs charge a fee for dial-a-ride. The fee, however, is relatively nominal. The amount collected covers only four percent or less of the total cost.
- One of the programs is open to the general public. The other three restrict service to senior citizens and the disabled, including Temple City.
- The number of passengers handled monthly ranges from 1,500 to 5,500.
- Hours of operation vary from some that run 15 hours a day, seven days a week, to others that run only Monday through Friday from 8:30 a.m. to 4 p.m.
- All four provide limited service to destinations outside city limits, this is generally restricted to no more than 5 miles radius.

Based on the information gathered, and discussions with transit supervisors, the following appear to be the primary advantages and disadvantages of dial-a-ride programs.

Advantages:

- Dial-a-ride comes much closer than fixed route systems to providing passengers with door-to-door service. It does not require that persons with physical restrictions get to or from a bus stop.
- By making appointments in advance, dial-a-ride passengers can schedule service to meet their particular needs.
- Dial-a-ride programs typically allow travel to limited destinations outside the community.

Disadvantages:

- For the cost, dial-a-ride provides much less transportation service. In looking at the costs per rider, the dial-a-ride programs cost approximately \$16 to \$35 per rider, whereas the Duarte Transit Fixed Route system costs approximately \$3 per rider.
- Dial-A-Ride programs can accommodate anywhere from 2,000-5,000 riders per month, whereas our fixed route system serves over 20,000 riders per month.
- Dial-a-ride typically serves only seniors and the disabled. It leaves the rest of the community without local public transportation. This would undoubtedly be a serious problem in Duarte, where many persons depend on the City's bus system to get around the community and to access regional bus lines.

Probably the most important issue to consider is how the City would pay for a dial-a-ride program. For this fiscal year, the City is budgeted to spend \$683,000 for the operation of its fixed route bus system. Unfortunately, the City's combined Proposition A, Proposition C and NTD revenues for the year are projected to be only \$641,700. Interest earnings and Prop A and Prop C fund balances will be used to make up the difference. The bottom line, however, is that no uncommitted Proposition A or C or NTD revenues are available for a dial-a-ride program. The only way to make these revenues available would be to significantly curtail, or eliminate, the City's fixed route bus system.

Recommendation

It is recommended that the City Council receive and file the staff report.