

**MINUTES
WHITTIER CITY COUNCIL
WHITTIER REDEVELOPMENT AGENCY
WHITTIER UTILITY AUTHORITY
JOINT MEETING
CITY COUNCIL CHAMBER, 13230 PENN STREET
JANUARY 13, 2009**

1. CALL TO ORDER:

The Whittier City Council met in regular session on January 13, 2009, in conjunction with the Whittier Redevelopment Agency and the Whittier Utility Authority. Mayor Vinatieri called the joint meeting to order at 6:29 p.m. in the Council Chamber of Whittier City Hall, 13230 Penn Street.

2. ROLL CALL:

**COUNCIL MEMBERS/AGENCY
MEMBERS/AUTHORITY
DIRECTORS PRESENT:**

J. Greg Nordbak, Council Member/Agency
Member/Authority Director
Cathy Warner, Council Member/Agency
Member/Authority Director
Owen Newcomer, Council Member/Agency
Member/Authority Director
Bob Henderson, Mayor Pro Tem /Vice
Chair
Joe Vinatieri, Mayor/Chair

OTHER OFFICIALS PRESENT:

Stephen W. Helvey, City Manager/
Executive Director
Richard D. Jones, City Attorney/Authority/
Counsel
Toni Maiques, Assistant City Clerk-Treasurer/
Assistant Secretary-Treasurer
Kathryn A. Marshall, City Clerk-Treasurer/
Secretary-Treasurer (9:11 p.m.)

3. PLEDGE OF ALLEGIANCE:

Council Member Warner led the Pledge of Allegiance.

ANNOUNCEMENT

Mayor Vinatieri announced the City is accepting applications for an opening on the Planning Commission and applications should be submitted to the City Clerk's office by Monday February 2, 2009.

4.A BLUE STAR PRESENTATIONS – MR. AND MRS. CHAVEZ; JEFF AND DEBORAH GREEN; AND DEBRA RIOS AND CHRIS YOUNG

Mayor Vinatieri presented Blue Star pins, flags and decals to Mr. and Mrs. Chavez in recognition of their daughter Felizia Jean Chavez, an Ensign in the Navy, currently serving as an Auxiliaries Engineering Officer aboard the USS Curtis Wilbur. Felizia is a graduate of Whittier Christian High School and the California Maritime Academy.

Mayor Vinatieri presented Blue Star pins, flags and decals to Jeff and Debra Green in recognition of their son, Michael B. Green, a 1st Lieutenant in the Marine Corps, currently stationed at Camp Pendleton as a helicopter pilot. Michael is a graduate of California High School and Cal Poly San Luis Obispo.

Mayor Vinatieri presented Blue Star pins, flags and decals to Deborah Rios and Christopher Young, Sr. in recognition of their son Christopher Young, Jr., a 1st Lieutenant in the Army, currently serving in Sadr City, Iraq as a Rifle Platoon Leader. Chris is a graduate of La Serna High School and West Point.

4.B CERTIFICATE OF COMMENDATION - KIWANIS CLUB OF GREATER WHITTIER AREA

Mayor Vinatieri presented a Certificate of Commendation to J. Michael Barney and Richard Arguijo, representing the Kiwanis Club of Greater Whittier Area, in recognition of their \$2,000 donation to the Whittier Public Library for "The Book of My Own Project," a project designed to improve literacy by distributing books to children in transition to permanent housing; allowing the police to distribute books to children they encounter while doing police work; and encouraging children to read.

5. ORAL COMMUNICATIONS:

Jack Carmichael, Battel's Hardware and Tool Company, Whittier Boulevard, Whittier, said it cost him \$750,000 to recover from the Whittier earthquake; he had to tear down six rental units for a required parking lot; large stores such as Home Depot and Orchard's Hardware have cost him loss of income; he has been cited by Code Enforcement because of a machinery storage unit, which generates \$30,000 in annual sales tax; power tools provide over 50% of his business and he needs the storage space; small business growth must be stimulated; and he needs the support of the City.

Jerry Morgan 7036 Bright Avenue, Whittier, said he was there to support Jack Carmichael; he is disappointed in Code Enforcement; it is unreasonable for the City to ask Jack to remove a storage container that has been on the property for 45 years; he believes the City needs to help Battel's Hardware; and he will patronize Battel's before Home Depot.

Julie Reback, Presbyterian Intercommunity Hospital, announced the Hospital's 50th anniversary celebration on Saturday, January 17 from 10:00 a.m. to 2:00 p.m.

Maryanne Bokatich, Whittier Area Chamber of Commerce, announced upcoming Chamber events including the Wake-Up-Whittier breakfast on January 14, 2009; a web design seminar on January 21, 2009; a free e-waste collection on January 30 and 31, 2009; and the Silver Shield Awards on February 20, 2009.

Pastor Bill Ankerberg, Whittier Area Community Church, Villaverde Drive, Whittier, thanked the City for support over last few years; and requested assistance from the City to get construction started on the Church property.

Nancy Limas, Steve Hernandez' mother, said because the hours for Steve's BBQ have been cutback to midnight closing from 2:00 a.m. he has had to layoff employees; and he is no longer able to assist her financially. She also said that rents in the Uptown area are too high; and landlords need to reduce rents.

Brett Garrison, Whittier, said Whittier is a small town where people help support each other; he was there to support Steve's BBQ; Steve Hernandez has done more than necessary to keep his business going; the 2-hour cutback on operating hours is hurting his business; he believes Steve's has unusual restrictions; Steve takes care of people; he deserves help to get back on track; and the City is not working together.

Rafael Gonzales, Whittier Mitsubishi, said his dealership closed in October 2008; he is looking for a franchise to bring to Whittier; and he wants to re-open his dealership to sell used cars, parts, and service until they can establish a new dealership.

James P. Seagal Gutierrez, 6709 Greenleaf Avenue, Suite 202; Whittier, said he was there to support Steve's BBQ; he submitted a petition signed by 10 of the 20 Uptown restaurant owners supporting Steve's BBQ; he believes the 65 conditions in the conditional use permit are excessive; he believes previous Council comments elude to this being intentional to shut down Steve's BBQ; he said some Council discussions exceed legislative boundaries and border on slander; Steve's BBQ represents all that is good about the City; the decrease in hours is killing the business; requested the Council reconsider the issue extend the hours for Steve's; and said he was representing himself as a resident.

Steve Monreal, Whittier, said he gets off work late and like to go to Steve's BBQ because of the food, prices, and music; he believes Steve will take measures to make the necessary corrections; and he asked the Council to reconsider extending closing hours to 2:00 a.m.

Mike Delgado 9444 Armley Avenue, Whittier, spoke regarding the citation issued to Battels Hardware for portable storage containers; he said the store has been there for more than four decades; Jack Carmichael started the Mayor's Prayer Breakfast 40

years ago; Battel's has been recognized by the City as Business of the Month for continued outstanding business; the storage container is used for high end merchandise; and the container could be relocated without losing parking spaces or negatively impacting traffic.

Steven Hernandez; Steve's BBQ; said that because of his financial situation he needs to plead for his previous hours; he hopes he will not have to close his business; he said he hopes the Council will restore his hours at the next Council meeting, and if not, he will assume the City does not want his business; he acknowledged that he has not always abided by the 65 conditional use permit conditions; and he feels he has been punished too harshly.

Robert Canales; Whittier; said all businesses are suffering; he believes allowing all businesses to stay open an additional hour will boost the economy; and he thinks Steve's BBQ should be allowed to stay open an additional hour.

Ralph Marsico, Penn Street, Whittier; said he volunteered in Louisiana after Hurricane Katrina; he said it was an experience of a lifetime and that everyone worked together; he said his family was evicted from their home of 25 years for Code Enforcement violations; and they are making the best of the situation.

Joe Duran; Whittier; said he is an employee of Steve's BBQ; and his hours have been reduced from 40+ hours a week to 8 hours a week.

Char Valenzuela, spoke on behalf of Steve's BBQ; said she has moved out of the City, however Steve's is the reason she comes back to City; and she asked the Council to reconsider extending the hours of operation for Steve's BBQ.

Richard Hopkins, said his Kentucky Fried Chicken restaurant on Whittier Boulevard was required by Young Brands to do facility upgrades; he received a \$75.00 citation from the City for having a banner up during construction; he said there is no communication between Planning and Code Enforcement; he is a frequent Battel's Hardware customer and he supports Jack Carmichael; and he believes the City needs to start supporting small businesses.

George Poochigian; Whittier; wants to know what happens on claims that are denied by City; he believes it is the City's duty to inform the community about the claims; he said the City is losing sales tax revenues; he wants to know if there are sufficient funds to finish the Police facility; and he thinks it is the wrong time to build the Police facility.

Joe Marsico, said he tries to help people; and his eviction was forced on his family by City officials.

Claudia Hernandez; spoke in support of Steve's BBQ; she said the restaurant has great food and prices with a family atmosphere; and she asked the Council to reconsider extending Steve's operating hours.

Jackie Hill; said she is a customer of Steve's BBQ, and the restaurant is like a second family and second home.

6. CITY COUNCIL/REDEVELOPMENT AGENCY/UTILITY AUTHORITY JOINT CONSENT CALENDAR:

City Manager Helvey recommended Item 6.M, Used Oil Block Grant Award, be removed from the Agenda to allow staff additional time to sufficiently prepare the report.

Mayor Pro Tem/Vice Chair Henderson declared a conflict of interest and said he would abstain from voting on Item 6.E because Shelter's Right Hand is his client.

Mayor/Chair Vinatieri requested separate consideration of Items 6.H and 6.L.

It was moved by Council/Agency Member/Director Newcomer, seconded by Council/Agency Member/Director Nordbak, and carried by roll call vote, that the Consent Calendar, except Items 6.H, 6.L and 6.M be approved as submitted, and that Resolution No. 8180 (Item 6.J) be read by title only, further reading be waived, and it be declared adopted, with Mayor Pro Tem/Vice Chair Henderson abstaining on Item 6.E.

- 6.A** The City Council denied claims filed by John Koval, Anabel Sandoval, Tom Cinquegrani, State Farm Insurance for insured Martha Montes, and Enterprise Rent-A-Car.
- 6.B** The following actions were taken regarding minutes:
 - 1. City Council, Agency Board and Board of Directors approved the Minutes of the Regular Meetings of December 9 and December 23, 2008; and
 - 2. City Council approved the Minutes of the Special Meeting of December 30, 2008.
- 6.C** The City Council approved the specifications for the Senior Center Air Conditioner Replacement Project (Final Phase); and authorized staff to advertise the project for construction bids.
- 6.D** The City Council approved the Professional Services Agreement with Comprehensive Planning Services, in an amount not to exceed \$28,317, for management of the conditional use permit and environmental processing for the proposed Whittier Main Mineral Extraction by Matrix Oil; and authorized the City Manager to execute the Agreement.

- 6.E** The City Council approved a special event permit for the 13th Annual Shelter's Right Hand "Stepping Out Against Domestic Violence" 5K Walk on Saturday, April 25, 2009, from 6:00 a.m. to noon, through Uptown business and historic residential districts, starting and ending at Central Park.
- 6.F** The City Council accepted the work performed by Miller Environmental Inc. for the environmental project on the Greenway Trail Phase II; and authorized the City Clerk-Treasurer to record the Notice of Completion.
- 6.G** The City Council accepted the work performed by L.M.T. Enterprises, Inc., dba Tyner Paving Company, for the construction of the Civic Center South Parking Lot project; and authorized the City Clerk-Treasurer to record the Notice of Completion.
- 6.I** The City Council received and filed the Fiscal Year 2008-09 Work Plan update.
- 6.J** The City Council adopted Resolution No. 8180 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, SUPPORTING THE CENTRAL BASIN MUNICIPAL WATER DISTRICT'S "SHUT YOUR TAP!" WATER CONSERVATION CAMPAIGN."
- 6.K** The City Council approved the reappointment of Chuck Hanson to the Citizens Technical Advisory Committee (CTAC) of the Puente Hills Landfill Native Habitat Preservation Authority to a term expiring February 2013.
- ~~**6.M** The City Council adopted Resolution No. 8182 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2008-2009 BUDGET TO ACCEPT A GRANT FOR THE PURPOSE OF ESTABLISHING AND MAINTAINING LOCAL USED OIL COLLECTION PROGRAMS THAT ENCOURAGE RECYCLING OR THE APPROPRIATE DISPOSAL OF USED OIL."~~

6.H TRANSIENT OCCUPANCY TAX ORDINANCE

Mayor Vinatieri said he does not agree with the proposal; and believes it will be a disincentive in the future for potential extended stay hotels wanting to move into the City.

Following discussion, it was moved by Council Member Newcomer, seconded by Mayor Pro Tem Henderson, and carried, by roll call vote, with Mayor Vinatieri dissenting, that Ordinance No. 2917 entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING SECTIONS OF CHAPTER 3.20 OF THE WHITTIER MUNICIPAL CODE RELATING TO TRANSIENT

OCCUPANCY TAX ADMINISTRATION," be read by title only, further reading be waived, and this be declared its first reading.

6.L GREENWAY TRAIL – EASTSIDE EXTENSION RIGHT OF WAY LEGAL COSTS

Mayor Vinatieri said he wants to see a scope of work set forth regarding the work to be done by the attorney.

It was moved by Council Member Nordbak, seconded by Council Member Newcomer, and carried unanimously, by roll call vote, that Resolution No. 8181 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA AMENDING THE FISCAL YEAR 2008-09 BUDGET FOR LEGAL COSTS FOR THE WHITTIER GREENWAY TRAIL EASTSIDE RIGHT OF WAY ACQUISITION PROJECT," in the amount of \$10,000 be read by title only, further reading be waived, and it be declared adopted.

Mayor/Chair Vinatieri recessed the joint meeting at 7:46 p.m. He reconvened the joint meeting at 7:59 p.m. with all Council/Agency Members/Directors present.

7. RECESS REDEVELOPMENT AGENCY AND UTILITY AUTHORITY MEETINGS:

Mayor Vinatieri recessed the Redevelopment Agency and Utility Authority Meetings at 7:59 p.m.

8.A DESIGN REVIEW BOARD VACANCIES

Following discussion, it was moved by Mayor Pro Tem Henderson, seconded by Council Member Nordbak, and carried, to receive and file the Design Review Board Vacancies report; and agenda discussion of the possible consolidation and/or elimination of non-statutory Boards and Commissions.

9.A GREENWAY TRAIL OPERATIONS, IMPROVEMENTS AND FUNDING

Assistant City Manager Mendez said the policy issues listed on Page 6 of the staff report were a result of the Council's discussion last fall; and staff is looking for direction on how to proceed. She said that the Park and Recreation Commission had taken public comments regarding the issue of dogs, and concluded to not recommend any changes.

The City Council discussed the following issues regarding Whittier Greenway Trail operations, improvements and funding:

Mayor Pro Tem Henderson said there have been no problems with dogs, however more doggie stations are needed, whether paid as a City expense or by a corporate sponsor; skateboarders are using the Trail for transportation and have not posed any problems; staff is proceeding with the trail ending at Mills Avenue; residents are pleased that there is no lighting, which reduces use of the Trail after dark, and based on costs to light the Trail and the satisfaction of residents, he recommended keeping the Trail unlit for a year; and he would eventually like to see landscaping at the Pickering slope, however that is delayed due to economics and the need to close Pickering Avenue.

Council Member Newcomer said the current plan is to repaint the Pickering slope; and said lighting on the artwork at the Pickering slope needs adjusting.

Mayor Vinatieri said he would like the City to consider making 3 to 5 parking spaces in the parking lot on the east side of Mills Avenue and directed staff to return with options; said he has concerns about lighting; he said since the Trail ends at Pioneer Boulevard, he does not believe the pavement lighting at that location is needed and would like it removed from the report; and he would like either a stop light or flashing sidewalks on Greenleaf Avenue.

Council Member Nordbak said even though he would like to see a lighted "W" on the Whittier bridge, at this time he would not support the \$30,000 expense; said he has concerns about the cost for the lighting for the artwork at the Pickering slope; and agreed with staff's recommendation to try adjusting the lighting; he would like to see the City pursue sponsorship funding for doggie stations; and he would like to see a flashing sidewalk at Greenleaf Avenue.

Council Member Warner recommended the Council discuss the funding issues at the January 20, 2009 budget study session.

9.B CITY COUNCIL LIBRARY SUBCOMMITTEE

Following discussion, there was Council consensus to direct staff to return with a report on January 27, 2009 for discussion of establishing a City Council Library Subcommittee.

9.C CITY VACANT LOT ORDINANCE

In responding to Council Member questions, Community Development Director Collier said the existing ordinance encourages the use of drought resistant plants; the Parks Department distributes a handout identifying various types of drought resistant or low water usage plants that are to be used; easement issues can easily be addressed; landscaping plans can be addressed administratively; an appeal process exists in any ordinance; and any decision can be appealed to the Planning Commission and then to the City Council.

City Attorney Jones said there is a general provision in the Municipal Code that allows any administrative decision to be appealed to the Planning Commission; and any Planning Commission decision to be appealed to the City Council.

In further responding to Council Member questions, Director Collier said that currently the size of the lot triggers the landscaping requirements; and lot sizes are designated as under one acre or over one acre for landscaping purposes.

City Manager Helvey explained that the Municipal Code specifies the acreage for landscaping requirements and cannot be appealed; however the City Council could give authority to staff to negotiate these types of issues.

City Attorney Jones said that if Council authorizes staff to have that type of flexibility, it is likely that there will be an increase in appeals to the Planning Commission and/or City Council. In response to Council Member Warner's questions, he said the Municipal Code provides certain standards; and the Council can grant a variance outside of those standards if certain conditions exist regarding size, shape and topography of the property; and there is a variance provision in the Municipal Code.

Council Member Newcomer said he believes the current vacant lot ordinance is working well; there has been improvement in the maintenance of vacant lots; and is concerned that eliminating or weakening the ordinance will have a negative impact.

In response to Council Member Warner, Director Collier said enforcement is proactive on this issue; and property owners received notice before the ordinance took affect and were given six months to comply.

Council Member Nordbak said he does not like the ordinance; he has water issue concerns; he believes the vacant lot ordinance needs to include provisions for requiring drought resistant plants and water conservation issues; the City should encourage water timing systems; and wants various ways to deal with easements addressed.

Mayor Pro Tem Henderson recommended leaving the ordinance as it is; and requested staff return with a report with recommendations to address drought tolerant plants and water conservation issues; and said he has concerns that vacant lots put a burden on neighborhoods.

Mayor Vinatieri said he has economic and water concerns; and wants staff to address the issue of exempting vacant properties that do not front onto public streets.

10. RECONVENE REDEVELOPMENT AGENCY AND UTILITY AUTHORITY IN JOINT SESSION WITH CITY COUNCIL:

Mayor Vinatieri reconvened the Redevelopment Agency and Utility Authority in joint session with the City Council at 8:44 p.m.

11. COUNCIL/AGENCY MEMBER/DIRECTOR COMMENTS/CONFERENCE REPORTS:

Council Member Nordbak said he wants the Blue Star Program extended to Whittier employees and their families; he directed staff to look into enforcement in the Uptown area regarding shopping carts; he would like to see the names of Blue Star recipients on the banner in the Council Chamber during their recognition; and he directed staff to look into the issue of temporary banners during construction.

Council Member Warner requested information regarding Pastor Ankerberg's comments regarding construction at the Whittier Area Community Church; and information regarding the ordinance that Mr. Carmichael (Battel's Hardware) is dealing with.

12. ADJOURN UTILITY AUTHORITY MEETING:

Mayor Vinatieri adjourned the Utility Authority meeting at 9:06 p.m.

13. CITY COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION:

City Manager Helvey recommended a Closed Session be held pursuant to:

13.A City Council - Government Code Section 54956.9(a) to discuss two cases of litigation:

1. Case No. 8WW00930, People of the State of California vs. Hugo Gutierrez and Carmen Gutierrez; and
2. Case No. BS113401, Hugo Gutierrez vs. City of Whittier.

13.B City Council/Redevelopment Agency – Government Code Section 54956.8 to discuss real property negotiations with Centerfire LLC regarding price and terms of payment for properties located at 15733 and 15801 Whittier Blvd; City/Agency negotiator: Stephen Helvey.

13.C City Council – Government Code Section 54956.9(c) to discuss one case of potential litigation; City of Whittier vs. Interwest Consulting Group.

Mayor Vinatieri adjourned the joint meeting to Closed Session at 9:06 p.m. with City Clerk-Treasurer/Secretary-Treasurer Marshall replacing Assistant City Clerk-Treasurer/Assistant Secretary-Treasurer Maiques.

14. RECONVENE IN OPEN SESSION:

Mayor Vinatieri reconvened the joint meeting in Open Session at 10:06 p.m.

15. CLOSED SESSION REPORT:

None

16. ADJOURN REDEVELOPMENT AGENCY MEETING:

Mayor Vinatieri adjourned the Redevelopment Agency Meeting at 10:06 p.m.

17. ADJOURN CITY COUNCIL MEETING TO TUESDAY, JANUARY 20, 2009 AT 6:30 P.M. AT PARNELL PARK

At 10:06 p.m., Mayor Vinatieri adjourned the City Council Meeting in memory of Martin Ortiz to Tuesday, January 20, 2009, at 6:30 p.m. at Parnell Park.

Respectfully submitted,

Toni Maiques
Assistant City Clerk-Treasurer/
Assistant Secretary-Treasurer