

**MINUTES
WHITTIER CITY COUNCIL
WHITTIER REDEVELOPMENT AGENCY
WHITTIER UTILITY AUTHORITY
JOINT MEETING
CITY COUNCIL CHAMBER, 13230 PENN STREET
AUGUST 10, 2010**

1. CALL TO ORDER:

The Whittier City Council met in regular session on August 10, 2010, in conjunction with the Whittier Redevelopment Agency and the Whittier Utility Authority. Mayor Nordbak called the joint meeting to order at 6:30 p.m. in the Council Chamber of Whittier City Hall, 13230 Penn Street, Whittier, California.

2. ROLL CALL:

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

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

OTHER OFFICIALS PRESENT:

Nancy Mendez, Assistant City Manager/
Deputy Executive Director
Richard D. Jones, City Attorney/Authority
Counsel
Kathryn A. Marshall, City Clerk-Treasurer/
Secretary-Treasurer

3. PLEDGE OF ALLEGIANCE:

Tom Boles led the Pledge of Allegiance.

4.A PRESENTATION – FRIENDS OF THE WHITTIER PUBLIC LIBRARY

Margaret Martyn, President of the Friends of the Whittier Public Library, presented Mayor Nordbak with a check for \$72,000, a donation for Whittier Public Library services and programs. Mayor Nordbak presented Mrs. Martyn with a Certificate of Commendation for the Friends of the Whittier Public Library recognizing

their community service and the programs their contributions fund at the Libraries. All the Friends of the Whittier Public Library present stood and were recognized.

4.B PRESENTATIONS – BUSINESSES OF THE MONTH – ASSOCIATED REPRODUCTION SERVICE AND VINATERO WINE SHOP

Mayor Nordbak and Mayor Pro Tem Warner presented John and Marsha Antonelli, owners of Associated Reproduction Services, Inc., with a framed Business of the Month plaque and commended them for the variety of services they provide to other businesses and for their investment in the Whittier community.

Mayor Nordbak and Mayor Pro Tem Warner presented Ernie and Lisa Ceja, owners of the Vinatero Wine Shop, with a framed Business of the Month certificate and reviewed a variety of regional organizations which have cited the excellence of their business.

4.C PRESENTATION – WELCOME HOME VIETNAM VETERANS

Jose Ramos, Chair of the Welcome Home Vietnam Veterans Organization, presented the City Council with a plaque recognizing the City for its leadership in being the first city to support the designation of March 30th as “Welcome Home Vietnam Veterans Day.” He also presented individual certificates and keepsakes for each Council Member, City Manager Helvey, Assistant City Manager Mendez, and Police Chief Singer.

5. ORAL COMMUNICATIONS:

Tom Boles said he was representing the Whittier Council of Churches and prayed for the City Council and community.

The individuals listed below spoke in opposition to the proposed Whittier Main Mineral Extraction Project sighting the following issues: more than 3,200 people have signed petitions opposing the project; there will be negative impacts from wells, pipelines, storage and distribution system facilities in the wilderness; the anticipated economic gain is uncertain; health related concerns; major increases in traffic congestion, noise, and toxicity; negative impacts on adjacent property values; it violates Proposition 218 and the Brown Act; the project area evidenced as 17.2 acres has been disputed; the people who voted for funds to protect the hills and use the area have an interest in the decision and expected it to remain open space in perpetuity; it a conflict of interest for Council Members to vote in favor of oil production in the hills when they have a relationship with the developer or get paid money from the developer; people do not want to live near pipelines and oil wells in light of what happened in the Gulf of Mexico; the people should vote on whether to have oil drilling in the hills; the project could result in an explosion like the Matrix Honolulu Terrace event which resulted in the death of one worker and injury of two others; and statements that oil will not be trucked

off the site is not accurate for the years of construction. Speakers inquired who commissioned a telephone survey regarding residents' opinions and attitudes about the project; how much money the City had earned drilling oil the past 15 years; and whether Mayor Nordbak and Council Member Henderson and City Attorney Jones should represent the City Council on the project since Council Member Henderson has received money from the oil company, Mayor Nordbak is friends with someone involved in the project, and City Attorney Jones has been paid to advise the City regarding Proposition A funds.

Dan Duran, Whittier
Amelia Vogel, Whittier
Fred Hawthorne, Franklin Avenue, Whittier
Lupe Sahagun, Bronte, Whittier, submitted documents regarding project acreage, and provided a lease document to Council Member Henderson per their conversation.
Andrea Gordon, Turnbull Canyon
George Poochigian, Whittier
Matt Berkelhammer, Whittier Area

Mayor Nordbak clarified with Mr. Duran that the 3,200 petition signatures he referenced differed from the 956 signatures on file because the petitions had not all been submitted to the City. Mr. Duran offered to provide the information electronically.

Robert Canales, Whittier, noted the people opposed to oil drilling in the hills had become more organized, congratulated the Police Chief on his promotion, and urged the City Council to select a new Chief from within the department.

Jeanette Fasone, 9829 Emerado Drive, Whittier, spoke about the importance of the Patricia L. Shrively Mammogram Fund administered by Presbyterian Intercommunity Hospital and asked the public to join Fasone Construction in contributing to the fund to provide scholarships for mammograms. She presented a \$10,000 check to Susan McGarry, as a matching pledge. Ms. McGarry joined her in promoting the importance of early detection in cancer treatment.

Marta Barbon, 5228 Glennon Drive, Whittier, read John Greenleaf Whittier's poem, "The Worship of Nature."

Ray Schmidt presented the City Council with a page depicting photographs of hidden oil drilling sites in the Los Angeles area and said Long Beach also has wells disguised by vegetation or mechanical means. He read a letter from Jim and Betty Burr who live in the Whittier Hills and believe the proposed oil drilling will pose a temporary discomfort to adjacent residents offset by the need for domestic oil drilling and benefits to the tax base.

John Traw, 14435 Eastridge Drive, said he has lived close to Mar Vista School for 33 years and never smelled or heard anything relating to the oil operation; he is currently undecided about the project until he can review the Environmental Impact Report.

Michael Holland introduced himself as the new Field Representative for Senator Charles Calderon.

Ginny Ball, representing the Greater Whittier Chamber of Commerce, announced "Wake-Up Whittier" would be held August 11, 2010, and the Hathaway Golf Tournament was scheduled for September 13, 2010.

Ralph Marsico, Whittier, said what the City did to his family was wrong, spoke regarding taking classes at Rio Hondo College and getting a new bicycle for his father.

Joe Marsico, Whittier, said former Council candidate Alex Morales was the best candidate, spoke regarding previous City Councils' composition with regard to race and religion, and spoke about his trolley plan.

Council Member Henderson explained why there were both 7 and 17 acre figures being used in relation to the proposed Mineral Extraction Project.

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

Mayor Pro Tem Warner requested separate consideration of Item 6.E.

It was moved by Council/Agency Member/Director Newcomer and seconded by Council/Agency Member/Director Henderson and carried unanimously, by roll call vote, to approve the Consent Calendar with the exception of Item 6.E and that Ordinance No. 2956 and Resolution Nos. 8309 and 8310 be read by title only, further reading be waived, and they be declared adopted.

6.A The City Council denied claims filed by Kevin Santizo Paredes and California Joint Powers Insurance Authority for David Valadez.

6.B The City Council, Agency Board and Board of Directors approved the Minutes of the Regular Meeting of July 27, 2010.

6.C The City Council conducted second reading and adopted Ordinance No. 2956 entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, EXTENDING THE TERM OF A TEMPORARY OVERLAY ZONE FOR THE WHITTIER BOULEVARD SPECIFIC PLAN AREA," expiring February 5, 2011, unless extended for additional 180-day periods.

- 6.D** The City Council adopted Resolution No. 8309 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2010-2011 BUDGET TO ACCEPT A DONATION FROM THE FRIENDS OF THE WHITTIER PUBLIC LIBRARY," in the amount of \$72,000 for library services and programs as designated by the Friends and requested by the Library Director.
- 6.F** The City Council adopted Resolution No. 8310 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE FISCAL YEAR 2010-11 BUDGET RELATED TO SUPPLEMENTAL APPROPRIATIONS FOR THE EMERGENCY OPERATIONS CENTER GRANT AWARDED BY THE DEPARTMENT OF HOMELAND SECURITY," in the amount of \$666,666 for renovation and internal improvements to the City's primary EOC.
- 6.G** The Board of Directors approved the contract specifications for Alley Pavement Rehabilitation within an area bordered by Whittier Boulevard to the west, Beverly Drive to the north, La Cuarta Street to the south, and Painter Avenue to the east; and authorized the Secretary-Treasurer to advertise for bids.
- 6.H** The City Council received the cost associated with implementing the CalPERS two additional years of service credit to eligible designated positions in the Police Department to encourage reduction in the Police force pursuant to the Fiscal Year 2010-11 Budget; approved such program; and directed staff to prepare a Resolution and required certifications for adoption on September 14, 2010 to implement this program.
- 6.I** The City Council approved a request from the Whittier Host Lions Club to waive the gambling restriction in the Facility Policy to allow them to hold a Texas Hold'em Poker Tournament Fund Raiser at the Whittier Community Center on Saturday, October 2, 2010.
- 6.J** The City Council approved the Amendments to the Comprehensive Memorandum of Understanding with the Whittier Police Officers' Association; and authorized staff to present implementing resolutions to the City Council at a future meeting.
- 6.E LEAGUE OF CALIFORNIA CITIES ANNUAL BUSINESS MEETING DELEGATE**

Mayor Pro Tem Warner confirmed with Assistant City Manager Mendez that the City Council would consider its position on proposed League of California City policy resolutions at a future meeting.

It was moved by Mayor Pro Tem Warner, seconded by Council Member Henderson, and carried unanimously to appoint Council Member Newcomer as the City's voting delegate at the Annual League of California Cities Conference Business Meeting scheduled for Friday, September 17, 2010.

7. RECESS CITY COUNCIL AND REDEVELOPMENT AGENCY:

Mayor Nordbak recessed the City Council and Redevelopment Agency meetings at 7:28 p.m.

8.A CONTINUED PUBLIC HEARING – FEES FOR SOLID WASTE, SEWER, AND WATER SERVICES

Deputy Executive Director Mendez announced it was the date and time set and duly noticed for the Whittier Utility Authority to conduct a public hearing, continued from July 13, 2010, to consider all public testimony and protests regarding the proposed increases to fees for solid waste, sewer and water services. She recommended the Board of Directors adopt resolutions approving the fees and approve the Sewer User Fee Report for Fiscal Year 2010-2011.

Director of Public Works Pelsler advised that notice of the hearing was mailed to property owners city-wide and was published in the *Whittier Daily News* in addition to which two news articles appeared in the *Whittier Daily News* regarding the proposed fee increases; reported as of June 29, 2010, four written protests against the fees had been received, since that time a petition containing 32 additional protests was filed and staff will continue to accept and count written comments until the close of the public hearing; reviewed the proposed rate increases of .78% for solid waste service fees, 19% for sewer service fees, and 13.64% for the variable portion of the water service fees on the west side of the City; noted that the City's current and proposed water fees are among the lower third of those in the region and that the total of the three fee increases for a typical resident is estimated to be \$91.49 per year; and reviewed some of the reasons for the rate increases which included environmental regulations, replacement and repair of 80-100 year-old sewer and water pipes, replacement of the 80-year old water pumping plant and offset for lower sewer and water revenues due to reduced water consumption.

During the presentation, Secretary-Treasurer Marshall responded to a question from Vice Chair Warner and advised the total number of properties to which the notice was mailed was 22,195.

Chair Nordbak confirmed with Public Works Director Pelsler that Consolidated Disposal Service (CDS) provides green waste and recycling collection services under contract on the west side of the City; therefore, they have the potential to receive income from the proposed action. He said he has a business relationship with CDS and confirmed with Authority Counsel Jones that he could either ask the Board to bifurcate

consideration of the solid waste fee increase or not participate in the deliberations at all. Based on the diminutive conflict of interest, Chair Nordbak recused himself and left the Council Chamber at 7:47 p.m.

Public Works Director Pelser responded to questions from Director Vinatieri and Vice Chair Warner relating to how the 4% increase in the franchise fee for Suburban Water Systems approved through the Fiscal Year 2010-11 Budget would be implemented; explained of some of the environmental regulations and replacement needs which are the basis of the fee increase; confirmed the method of noticing and the number of written protests received to date; confirmed that customers reduced consumption of water in the area served by the City does reduce their total bill which may result in a rate structure adjustment next year; reviewed senior citizen and low income residents' assistance and the cap on sewer fees; said SB375 was not addressed in this proposal; and advised there is no income from green waste and recycling collection on the east side of the City because the collection costs exceed the value of the waste collected.

Vice Chair Warner opened the public hearing at 8:01 p.m.

The speakers listed below opposed the proposed fee increases and raised questions on the following points: do not like tax increases; the \$2.00 solid waste fee does not recover the cost; the hearing notice was confusing; fees should not include repair of pipes, only service to an individual's property; the sewer rate increase equates to \$.40 to flush a toilet which is too high; the trash fee is too high because funds are transferred to the general fund under a lease agreement; other expenses such as food are increasing; was the noticing and the purpose of the fee increases in compliance with the law, how much money is in the reserve fund, the public should not have to pay for ongoing expenses if there are funds in a reserve account and the water rights are owned; how is the solid waste fee measured, what is the water rate charged to oil companies in comparison to residents, the increases are unfair; it is difficult to get service for pipe problems; the presentation images could not be read; the \$35 million allocated for the new police facility could have been used to offset these fee increases and the current police facility rehabilitated; and the Utility Users' Tax Exemption process is difficult, the income level is too low, and the City should provide the exemption to disable veterans.

Robert Canales, 6333 Milton, Whittier
Amelia Vogel
Fred Hawthorne
Marina Mejia
George Poochigian
Joe Marsico

There being no one else wishing to testify, it was moved by Director Henderson, seconded by Director Newcomer and carried, with Chair Nordbak absent, to close the public hearing at 8:20 p.m.

At the request of Vice Chair Warner, Authority Counsel Jones explained his role in the meeting, and advised comments and questions are directed to the Chair. He spoke regarding the legality of the fees and stated there has to be a reasonable nexus between the charge and the service provided; the rates can include the cost of the entire system, not just a gallon delivered; and in addition to there being a relationship between the property and the quantity of water or other service used and the charges, the Authority cannot make a profit.

Public Works Director Pelser stated with regard to the slides projected on the monitors there was no new information, it was the same data that was contained in the staff report and public hearing and copies were available in the back of the Council Chamber; advised that the 14.3% increase in water rates was a reduction from the 22.3% included in the public hearing notice, due to the subsequent direction received from the City Council at the budget meeting, which will result in Suburban Waters franchise fee increasing 12% at a rate of 4% for each of the next three years; clarified figures relating to the sewer rate increase versus the total fee and noted that the typical resident's increase was \$7.62 per month for all three rate increases; said the sewer service charge is based on water consumption and explained the rate, confirmed the commercial sewer rate is higher than the residential, said there is a senior discount for the sewer fee, and the sewer fee includes cleaning pipes, responding to emergencies, maintenance and repair of pipes and currently video taping the sewer pipes as an aid in future maintenance; advised there are reserve accounts, some of which have restricted use by law, others which are assigned through the budget process or are operating reserves; and said while he does not know the fund balances at this time, they are available as public information and were provided through the budget process. He responded to questions from Directors and confirmed there is a landfill closure fund which is one of the restricted funds; said the maximum annual sewer service fee for a resident is \$119; and explained that there are both fixed and consumption-based aspects of the water system fees but the Authority's operational costs are fixed so revenues decline when residents decrease use.

Authority Counsel Jones stated if an agency does not address the fixed cost of an aging system, then a catastrophic failure will occur which will result in a huge financial burden to catch up.

Directors spoke in support of the increases due to the importance of maintaining the system to prevent failure; the effort to balance peoples' ability to pay with the cost of the service; the fact that there is no profit in the fee structure; and noted that while a number of residents expressed concerns, a preponderance of the residents did not express concerns.

It was moved by Director Newcomer, seconded by Director Henderson, and carried by roll call vote, with Chair Nordbak absent, that Resolution No. WUA-10-07 entitled, "A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WHITTIER UTILITY AUTHORITY ESTABLISHING FEES FOR SOLID WASTE COLLECTION SERVICES PROVIDED BY THE CITY FOR FISCAL YEAR 2010-2011," Resolution No. WUA-10-08 entitled, "A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WHITTIER UTILITY AUTHORITY ESTABLISHING A FEE SCHEDULE OF THE SEWER USER FEE PROGRAM FOR THE FISCAL YEAR 2010-2011," and Resolution No. WUA-10-09 entitled, "A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WHITTIER UTILITY AUTHORITY FIXING RATES AND CHARGES FOR WATER SERVICE FURNISHED BY THE WHITTIER UTILITY AUTHORITY FOR FISCAL YEAR 2010-2011," be read by title only, further reading be waived, and they be declared adopted as amended to insert "32" relating to the number of additional written protests received, and to approve the Sewer User Fee Report for Fiscal Year 2010-2011.

Vice Chair Warner recessed the meeting at 8:47 p.m. Chair Nordbak reconvened the meeting at 9:02 p.m. with all Directors present

9. RECESS UTILITY AUTHORITY AND RECONVENE REDEVELOPMENT AGENCY:

Chair Nordbak recessed the Utility Authority meeting and reconvened the Redevelopment Agency meeting at 9:02 p.m.

10.A UPTOWN WHITTIER PARKING MANAGEMENT PLAN UPDATE

Agency Member Henderson said he owns property and a business within the parking districts, therefore would recuse himself from the item. He left the Council Chamber at 9:02 p.m.

Agency Member Vinatieri said he has been informed one of the parking districts goes through the building his office is located in and although his specific office is not in the district, out of an abundance of caution, he would recuse himself. He left the Council Chamber at 9:03 p.m.

City Attorney Jones left the meeting at 9:05 p.m. and returned at 9:48 p.m.

Lisa Young, Rick Wilson, and Mike Kodama of PBS&J provided a status report on the Uptown Whittier Parking Management Plan Study. A draft Uptown Whittier Parking Management Strategies document was disseminated at the meeting for the purpose of obtaining Agency Board feedback on the progress and development of the Parking Management Plan.

Agency Members asked for an assessment of which of the parking strategies the consultant believed would work in Whittier, what is supported by the business community, the process for implementing and achieving those strategies, expressed the intent to have the Plan go through the Parking and Transportation and/or Planning Commissions as appropriate, and requested a report with details on anticipated revenues and uses of the funds and an analysis of the way to do something quickly for Philadelphia Street and Greenleaf Avenue.

It was moved by Vice Chair Warner, seconded by Agency Member Newcomer and carried, with Agency Members Henderson and Vinatieri absent, to receive and file the report.

11. RECESS REDEVELOPMENT AGENCY AND RECONVENE CITY COUNCIL:

Chair Nordbak recessed the Redevelopment Agency meeting and reconvened the City Council meeting at 10:10 p.m.

12.A COMMUNITY SERVICES/PARKS DEPARTMENT CONSOLIDATION

Council Members Henderson and Vinatieri resumed their seats at the dais at 10:12 p.m.

Following discussion, it was moved by Council Member Henderson, seconded by Mayor Pro Tem Warner, and carried unanimously to receive and file the Park and Recreation Commission's recommendation to establish a new department name as, "Parks, Recreation and Community Services," approve the new department name, modify the Park and Recreation Commission name to reflect the new department name, and approve use of the branding logo and slogan "Parks Make Life Better."

13.A ECONOMIC DEVELOPMENT SUBCOMMITTEE

Following discussion, it was moved by Council Member Henderson, seconded by Council Member Newcomer, and carried with Mayor Nordbak dissenting and Council Member Vinatieri abstaining, to not form a City Council Economic Development Subcommittee and to instruct staff to bring back the work plan, as it respects economic development, for a Study Session.

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

Mayor Nordbak reconvened the Redevelopment Agency and Utility Authority meetings in joint session with the City Council at 10:28 p.m.

15. COUNCIL/AGENCY MEMBER/DIRECTOR COMMENTS AND CONFERENCE REPORTS:

Council Members made announcements and addressed topics from the meeting.

16. ADJOURN UTILITY AUTHORITY MEETING:

Mayor Nordbak adjourned the Utility Authority meeting at 10:32 p.m.

17. CITY COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION:

Assistant City Manager Mendez recommended the City Council and Redevelopment Agency conduct the following Closed Sessions:

17.A City Council - Government Code Section 54956.8 to discuss real property negotiations relating to price and terms of payment for acquisition of a perpetual easement along the Union Pacific Railroad (UPRR) right-of-way for the Greenway Trail from Mills Avenue to the eastern city limits at Valley Home Avenue; City negotiator: Nancy Mendez.

17.B City Council - Government Code Section 54957.6 to discuss labor negotiations between negotiator Nancy Mendez, and the Whittier City Employees' Association and unrepresented employees.

17.C Redevelopment Agency - Government Code Section 54956.8 to discuss real property negotiations with Washington Oncology, LLC relating to price and terms of payment for property located at 12535 Whittier Boulevard; Agency negotiator: Jeffrey Collier.

17.D City Council/Redevelopment Agency - Government Code Section 54956.8 to discuss real property negotiations with LINC Community Development Corporation relating to price and terms of payment for property located at 11757 Hadley Street; City/Agency negotiator: Jeffrey Collier.

Mayor Nordbak adjourned the meeting to Closed Session at 10:33 p.m.

18. RECONVENE IN OPEN SESSION:

Mayor Nordbak reconvened the meeting in Open Session at 11:21 p.m.

19. CLOSED SESSION REPORT:

None.

20. ADJOURNMENT:

Mayor Nordbak adjourned the joint meeting at 11:21 p.m.

Respectfully submitted,

Kathryn A. Marshall
City Clerk-Treasurer/
Secretary-Treasurer