

**MINUTES
WHITTIER CITY COUNCIL
SPECIAL MEETING
CITY HALL, 13230 PENN STREET
OCTOBER 17, 2011**

1. CALL TO ORDER:

The Whittier City Council met in Special Session on October 17, 2011. Mayor Warner called the meeting to order at 9:10 a.m. in the Council Chamber of Whittier City Hall, 13230 Penn Street, Whittier, California.

PLEDGE OF ALLEGIANCE:

City Manager Helvey led the Pledge of Allegiance.

2. ROLL CALL:

COUNCIL MEMBERS PRESENT: J. Greg Nordbak, Council Member
Joe Vinatieri, Council Member
Bob Henderson, Council Member
Owen Newcomer, Mayor Pro Tem
Cathy Warner, Mayor

OTHER OFFICIALS PRESENT: Stephen W. Helvey, City Manager
Jeffrey W. Collier, Chief Assistant City
Manager
Kim Barlow, Assistant City Attorney
Richard Adams, Deputy City Attorney
Kathryn A. Marshall, City Clerk-Treasurer

Assistant City Attorney Barlow reviewed the City Council's authority to call a special meeting, California Government Code Section 54956, said the items on the agenda were noticed more than 24 hours in advance of the meeting in compliance with state law and that Oral Communications during Special Meetings can be limited to the items on the agenda. She responded to questions from Council Members and said that written communications relating to the agenda items could be submitted to the City Clerk to become part of the meeting record; clarified the meeting was not called to amend the City Charter, the City Council would be asked to adopt an ordinance amending the Municipal Code to be consistent with the City Charter; and advised that a public hearing is not required to consider the ordinances in item 4.B.

It was moved by Mayor Pro Tem Newcomer, seconded by Council Member Henderson, and carried unanimously, to consider items 4.B and 4.C before item 4.A.

3. ORAL COMMUNICATIONS:

Mayor Warner advised that Oral Communications would be limited to the items on the agenda.

The individuals listed below opposed items 4.B and/or 4.C and addressed the following points: belief that an urgency item should involve public health or safety; Planning Commissioner appointments are important, therefore, should have been considered more than two days before the Planning Commission Matrix Oil meeting; lack of transparency in the process; the timing of meeting precluded many people from attending; and makes it appear the City Council is intentionally limiting public input; opposed reappointment of Mr. Stone, suggesting one of the other Planning Commission applicants be appointed; there is no urgency to the proposed appointment; the meeting was called to keep the City Council's friends on the Planning Commission so they will vote per the Council's direction, such as for the Matrix Oil project; the City Council should make an exception to the law and allow non-residents to be appointed to commissions; opposed the elimination of term limits, which promote democracy and diversity of experience; the City Council has abused its power; and cannot be trusted to carry-out its duties; and RD McDonnell may have served more than eight years.

Dan Duran, Whittier, requested his attorney, Ms. Skapik's, comments be entered into the record

Brad Campbell, Whittier

Roy McKee, Whittier

Berkley Stewart, Whittier

April Garbat, Whittier

Nick Donovan, 8414 La Sierra, Whittier

Anthony Martinez, Whittier, and stated the water rates were not properly evaluated originally

Matt Berklehammer

Marta Barbon

Mayor Warner advised that Ms. Skapik's letter would be entered into the record.

Norm Slobodkin, 15814 Crestwood Drive, Whittier, offered to assist the City in recalculating its water fees, said he has calculated the refunds due customers; and recommended the City raise both the meter fee and water rates by a certain percentage. He submitted a copy of his refund calculations.

Charles Lawrence, North Circle Drive, Whittier, requested the City conduct a workshop between residents concerned about the water rates and Public Works staff to clarify the issue because the memo issued on the matter is not clear. He thanked the City Council for pursuing petroleum resources.

4.A CITY WATER SERVICE RATES AND FEES

See Page 4.

4.B BOARD AND COMMISSION TERM LIMITS

Assistant City Attorney Barlow recommended the City Council adopt urgency and regular ordinances eliminating the term limit provisions in Whittier Municipal Code 2.05.030 because it conflicts with the City Charter provision requiring advisory board members to continue to serve until an appointment is made to replace them. She responded to questions from Council Members relating to process and advised the urgency of the matter is that, absent adoption of the ordinance, the City would have fewer than the number of Planning Commissioners required by the City Charter for the public hearing beginning on Wednesday.

Mayor Warner declared a recess at 9:41 a.m. She reconvened the meeting, with all Council Members present, at 9:47 a.m.

Assistant City Attorney Barlow advised the term limit conflict with the Charter was brought to her attention by Ms. Skapik of the Open Space Legal Defense Fund and the conflict was of sufficient legal significance that she requested the City Council schedule the matter for immediate action.

It was moved by Mayor Pro Tem Newcomer, seconded by Council Member Henderson, and carried by roll call vote, with Council Member Nordbak dissenting, that Urgency Ordinance No. 2980 be read by title only, further reading be waived, and it be declared adopted.

It was moved by Mayor Pro Tem Newcomer, seconded by Council Member Henderson, and carried unanimously by roll call vote, that Ordinance No. 2981 be read by title only and further reading be waived.

Council Member Henderson noted that with Council Member Nordbak dissenting on the adoption of Urgency Ordinance No. 2980, the ordinance required reading in full. The City Council concurred to bifurcate the motions on Ordinance No. 2980.

It was moved by Mayor Pro Tem Newcomer, seconded by Council Member Henderson, and carried by roll call vote, with Council Member Nordbak dissenting, that this be declared the first reading of Ordinance No. 2981.

It was moved by Mayor Pro Tem Newcomer, seconded by Council Member Henderson, and carried unanimously by roll call vote, that Urgency Ordinance No. 2980 be read by title only and further reading be waived.

It was moved by Mayor Pro Tem Newcomer, seconded by Council Member Henderson, and carried by roll call vote, with Council Member Nordbak dissenting, that Urgency Ordinance No. 2980 be adopted.

4.C REAPPOINTMENT OF PLANNING COMMISSIONER HARRY STONE

Assistant City Attorney Barlow recommended the City Council direct staff to advertise for the upcoming vacancy on the Planning Commission in compliance with state and municipal law; stated under the City Charter Mr. Stone will continue to serve until his successor is appointed, therefore there is no need to reappoint him; and noted that Mr. Stone may apply for reappointment.

Mayor Warner confirmed with Assistant City Attorney Barlow that the City Council's recent appointment to a mid-term vacancy on the Cultural Arts Commission was in done in compliance with applicable laws because the required posting and advertising was completed.

It was moved by Mayor Pro Tem Newcomer, seconded by Council Member Vinatieri, and carried unanimously, to instruct staff to advertise for applicants for the Planning Commission vacancy in accordance with applicable law.

Assistant City Attorney Barlow left the meeting and Deputy City Attorney Adams assumed the dais as legal counsel at 9:59 a.m.

4.A WATER SERVICE RATES AND FEES (CONTINUED FROM PAGE 3)

Council Member Nordbak left the Council Chamber at 9:59 a.m. and returned at 10:03 a.m.

The meeting was in recess from 10:01 a.m. to 10:03 a.m. due to a technical broadcasting issue.

The City Council conducted a study session regarding reducing water rates.

Council Member Vinatieri noted for the record that the City Council had called a special meeting only six days after receiving a report on the unanticipated impacts of the August 1, 2011 water rate increase.

Public Works Director Pelsler described a PowerPoint presentation on the background of the water service fees, the rate problem and alternative solutions, and implementation; copies were made available to Council Members and the public. He recommended the City Council direct staff to implement Alternative 3, ¾" meter fee of \$9.68 based on the 25th percentile customer plus \$1.76 billing unit for water consumption for FY11-12; and Alternative 2, ¾" meter fee of \$14.93 based on the 50th

percentile customer plus \$1.76 per billing unit for FY12-13. He said his secondary recommendation would be to return to the previous fee structure.

City Manager Helvey left the Council Chamber at 10:41 a.m. and returned at 10:45 a.m. Council Member Vinatieri left the Council Chamber at 11:02 a.m. and returned at 11:10 a.m.

The City Council concurred to conduct a second study session on the matter and requested staff provide the cash flow for the water utility and capital improvement project funding for the Alternatives, impact of the Alternatives on apartment buildings, and analysis of the Alternatives' impacts on both low end and high end water users.

4.B BOARD AND COMMISSION TERM LIMITS

See Page 3.

4.C REAPPOINTMENT OF PLANNING COMMISSIONER HARRY STONE

See Page 4.

4. ADJOURNMENT:

Mayor Warner adjourned the meeting at 11:57 a.m. to Thursday, October 20, 2011 at 6:30 p.m.

Respectfully submitted,

Kathryn A. Marshall
City Clerk-Treasurer