

**MINUTES OF A REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF HAWTHORNE,
CALIFORNIA HELD MARCH 10, 2009.**

Mayor/Chairman Guidi called the City Council, Community Redevelopment Agency, Parking Authority and Housing Authority meeting to order jointly and concurrently at 6:00 p.m. in the City Council Chambers of City Hall, 4455 West 126th Street, Hawthorne, California.

ROLL CALL-Present: Councilmembers Catano, Juarez, Lambert, Parsons, Mayor Guidi.
Absent: None.

Civil Service Commissioner Darlene Love gave the evening's invocation. Manuel Balboa led the Pledge of Allegiance.

Mayor Guidi requested to take Item 15 at the beginning of the meeting.

Mayor Guidi called for Oral Communications.

15.

Mayor Guidi recessed the City Council meeting to conduct a **Closed Session**: Conference with Legal Counsel – Anticipated Litigation, Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (One potential case).

Mayor Guidi called the City Council meeting back to order following recess with all Councilmembers present. He announced that the closed session was to discuss a closed session Conference with Legal Counsel – Anticipated Litigation, Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (One potential case). Russell I. Miyahira, the Acting City Attorney stated that staff had been directed.

1.

Under oral communications, **Alex Monteiro** announced that the Relay for Life will be held on April 4th and 5th. In order to raise funds for the event, a dinner will be held at Il Forneio on March 23rd at 6:30 pm. Tickets are \$30. Another fund raiser will consist of recycling cell phones, ink cartridges and toner cartridges on March 28th from 10am to 2 pm at city hall parking lot. On March 14th Hawthorne High and the Leos will meet at the Hawthorne Pool parking lot at 10am for "Paint the Town Purple" to remind people to join the Relay for Life. For more information, call Alex at 310-686.5464. **Donald Rowe**, Community Library Manager, announced that Video Game Day will be held on March 11th at the Hawthorne Library from 4 pm to 6pm. It is for kids aged 11 to 18 and is free. **Walt Dixon**, representing the Leuzinger High School Alumni Association and Memorabilia Committee, presented a trophy to Jan Vogel for his service to the community and to the Leuzinger High School Alumni. **Tomas Suarez** spoke on robbery, trash and graffiti problems in the alley by his home on Oxford. **Danny Williams** asked for an update on his claim. **Francis Stiglich** spoke against putting housing units on the old mall site and suggested a nice restaurant instead. **Alex Vargas** reported that residents in his community association are uncomfortable with Ordinance 1940 that states that only residents within 300 feet of a construction project need to be notified about construction. Asked that Council refrain from approving this ordinance in order to consult with the neighborhood associations first.

2.

Under Elected Officials Reports and Recommendations:

Councilmembers Catano and Lambert were excused from elected officials reports and recommendations.

Councilmember **Parsons** announced that Assemblymember Curren Price will be at Lawndale City Hall on March 12th at 7:30 pm to discuss his agenda and what is happening in Sacramento. Attended the North Hawthorne Community Association meeting last night and was impressed by residents that showed up and expressed their concerns on what they would like to happen at the old site of the mall. Asked if we could re-examine what it would cost to bring back up to 1000 feet the requirement for a public hearing; also that the legal notice be written so that it is easier to understand while still meeting the legal

3/10/09

requirements. Asked that the community associations receive the agendas for meetings such as the planning commission by email.

Councilmember **Juarez** attended Senator Rod Wright's Women of Distinction luncheon and congratulated honorees Rosalinda Martinez, Jacki Bacharach and Christina Chiappe. Thanked Public Works Director Arnie Shadbehr for putting together projects for the stimulus plan that he submitted and inquired if other departments were putting anything together. Announced that nominations for the 27th Annual Volunteer Appreciation Day need to be received by March 13th. Encouraged everyone who is in a volunteer capacity or organization to submit names to be recognized.

Mayor Guidi thanked Cabrillo School for the ribbon cutting and the good job they did on designing the new school. Had an opportunity to talk to residents in Hollyglen who thanked the Mayor for the Council's position against Sacramento. Attended the Wiseburn Little League opening on Saturday. Thanked Mr. Richards for the good job he is doing as the president of the Ramona Neighborhood Association. Shared a letter he received Trinity Lutheran 4th graders asking that we pray for world peace.

Discussion/Action:

- State and City Budget shortfall and Impact on City Services. Prepare letter to speaker of Assembly re: wasteful spending of State Legislators (Guidi)

A letter was prepared to Karen Bass that lists the wasteful spending that is going on in Sacramento. Mayor Guidi asked that Council show its support by signing letter. Councilmember Juarez asked that cuts in education and health be emphasized. Mayor Guidi asked that copies of the letter be sent to the Sacramento Bee and the Los Angeles Times.

3.

Mayor/Chairman Guidi recessed the Community Redevelopment Agency, Parking Authority and Housing Authority meetings to conduct the meeting of the City Council.

4.

Mayor Guidi moved, seconded by Councilmember Juarez, that the reading of the City Council minutes of the regular meeting of February 24, 2009 be waived and that they be approved and adopted.

ROLL CALL-AYES: Councilmembers Catano, Juarez, Lambert, Parsons, Mayor Guidi.
NOES: None.

5.

Mayor Guidi moved, seconded by Councilmember Juarez, to waive full readings of resolutions and ordinances on March 10, 2009's agenda.

ROLL CALL-AYES: Councilmembers Catano, Juarez, Lambert, Parsons, Mayor Guidi.
NOES: None.

6.

City Clerk English announced that this was the time and place for the Public Hearing on City Council Appeal Application No. 2008AA03C. Appeal Application No. 2008AA03CC was submitted by El Segundo Plaza Associates on February 5, 2009 appealing the Planning Commission's denial of Appeal Application No. 2008AA03 appealing the Planning Department's denial of Building Permit No. 08 – 0518 (formerly 08-116) to allow the construction of an advertising sign (billboard) at 5117 West El Segundo Boulevard.

Planning Department's declaration publication filed. No written communications were received. Call for Planning Director's presentation.

Acting City Attorney Russell Miyahira stated: "I will step down from the dais on this matter. In my previous capacity as assistant city attorney, I had advised the Planning Commission on this billboard sign case. I feel that it is legally prudent that I not be involved in this appeal on the city council level. Bill

Reid of Parker Milliken will be advising the city council on this matter. Harold Roth and Kevin Ennis of Richards, Watson & Gershon will be arguing the case on behalf of the city.

Mayor Guidi opened the public hearing.

Planning Director Harold Roth presented the staff report and described the building application that was denied. He said that the February 13, 2008 letter was based on erroneous information that El Segundo Plaza Associates was the owner of the sign. He said that it was revoked on March 7, 2008, upon being informed that Clear Channel Outdoor was the owner of the sign and was voluntarily abating the nonconforming sign by removing the structure. He said that the sign had been substantially removed in compliance with HMC Section 17.38.030 and could not be rebuilt in compliance with HMC Section 17.38.065.

Mayor Guidi asked if anyone was representing the applicant who wishes to address the City Council.

Michael Goodson, former Planning Director for the City of Hawthorne, said that former Planning Directors had issued letters to property owners that were not signed by the Mayor, and acted as agreements and therefore the February 13, 2008 letter signed by Planning Director Roth was a proper agreement.

Jim Elmore, President of Media Management Service, Inc., said that the proposed sign was essentially identical to the sign that had been razed. He said that the single column was more economically feasible than using a two column structure.

Ron Caswell, representing El Segundo Plaza Associates, said that the proposed replacement sign cost less than 50% of the value of the remaining structure and can be rebuilt under HMC Section 17.38.065B. He said that Planning Director Roth entered into a legally binding agreement on February 13, 2008. Rebuild letters are under the sole purview of the Planning Director and are an executed agreement. He said that his client has sued the city for damages of \$2,500,000. He described the negotiations with Clear Channel Outdoor. He said that when Clear Channel Outdoor failed to remove all the footings, the sign became the property of El Segundo Plaza Associates. The entire sign was not removed on August 8, 2008, so there is not an abatement of a nonconforming structure. He said that Mr. McGrath, CEO of Clear Channel Outdoor, as part of his deposition stated that Clear Channel Outdoor did not voluntarily abate the sign.

Mayor Guidi asked if there were any questions from the City Council to the applicant.

In response to Gary Parsons' question, Caswell said that Section 17.35.080 confers the power on the planning director to sign the rebuild letters. Caswell interpreted 17.35.080 to mean that the permit has to be authorized. Caswell said that El Segundo Plaza gave termination notice to Clear Channel 10 years ago. Caswell said the lease itself expired and was terminated on April 30, 2008. Caswell said that Clear Channel removed part of the sign but not all of the sign. Caswell said Clear Channel refused to do a complete abatement. Caswell said that they sued to have ownership of the sign declared to be in the name of El Segundo Plaza. El Segundo Plaza contended that Clear Channel had abandoned the sign.

In response to Councilmember Parsons' question, Harold Roth stated that Clear Channel was only willing to release part of the settlement agreement. Clear Channel provided a letter that said that they voluntarily abated the sign, which Roth admitted into the record.

Councilmember Parsons stated that there was a contradiction in that Clear Channel's attorney is saying that they voluntarily abated the billboard but Caswell is saying that statements from Hamlin are not evidence. Mr. Parsons said that it doesn't make sense for Clear Channel's attorney to make a statement that is inconsistent with his client's testimony.

In response to Councilmember Lambert's question, Mr. Caswell said that the footings that were left in the ground by Clear Channel were abandoned and El Segundo Plaza became the owner.

Caswell said that Clear Channel made an offer to continue leasing the sign but the offer was turned down. Councilmember Parsons said that Clear Channel's position in removing the sign sounded like voluntary action. Caswell disagreed.

Kevin Ennis of Richards Watson Gershon, special counsel for the City of Hawthorne, said that the city has an interest in upholding and balancing its zoning ordinance. He said that upon the removal of the nonconforming sign by Clear Channel Outdoor, El Segundo Plaza Associates does not have the right to put up a new sign, since the nonconforming rights expire. The city also has an interest in implementing

its zoning ordinance standards that are duly put in place after balancing the various interests of the city and landowners. And with respect to billboards, the city established zones in the city where billboards were allowed. Here, billboards are not allowed in the C-3 general commercial zone where ESPA is located. Ennis said that the city can allow new billboards to be constructed in the C-3 if they want to change the policy to do so. He said that the Planning Director's letter was neither an agreement nor a rebuild letter. A rebuild letter is a document that has to be submitted with a particular application and fee, neither of which was submitted in this context. A letter drafted by an applicant, submitted to city staff which does not correctly state the facts cannot override the zoning ordinance and decisions of the City Council. The letter was revoked within three weeks and there is no evidence that the sign was taken down based on the initial letter. He said that Clear Channel Outdoor's removal of the sign structure and three feet of footings is evidence of the intent to extinguish any nonconforming rights in the structure.

In response to Councilmember Parsons' question, Ennis said that he had not been provided with a copy of the deposition from Caswell.

Harold Roth said that there is another billboard at the intersection of Marine Avenue and Prairie Avenue that was abandoned by Clear Channel at the same time and that the property owner also wanted to reuse the sign. Roth said there is a third sign on the south side of El Segundo Boulevard between Hawthorne Boulevard and Prairie Avenue, where the lease has expired. The property owner was also told that they cannot rebuild the sign.

In response to Mayor Guidi's call for additional comments, Goodson stated that in his experience as the former Planning Director, planning staff exercises its discretion in charging people a fee for a rebuild letter.

Caswell addressed Ennis' comments. Caswell said the city has a strong interest in protecting itself from saturation of new signs but he explained that the ESPA sign is an old preexisting sign that's been there for close to 50 years. Caswell said that ESPA is just looking to replace an unattractive dangerous sign with a safer one which is in the public interest. Caswell urged the city council not to accept Ennis' argument because then the city would be taking ESPA's property and then the city would be obligated to make compensation to ESPA. Caswell said he disagreed with Ennis; interpretation that the letter is not an agreement. Caswell believes that the letter is an executed contract and that ESPA relied on the contract and spent money after the signing of the agreement. Caswell also disagreed with Ennis by stating that abatement is a complete removal of a structure. Complete removal requires removal of the entire structure, including the abatement of the structure requires the complete removal of the entire structure. Caswell said Ennis is mistaken on the law. Caswell said the sign is being moved but that it really will be in the same location. Caswell said damages are approximately 15,000 a month which is \$120,000 of damages.

Jamgotchian said that he is happy, willing and able to take this dispute in front of a jury. When he takes this dispute in front of the jury, the jury is going to sit there and say that Mr. Roth signed an agreement. In addition, if the city loses this case, even if the city doesn't lose this case, it's going to have significant fees, hundreds of thousands of dollars on legal fees. He said that if the City of Hawthorne loses, it will lose \$3 million.

Mayor Guide asked if there is a motion to direct the city attorney to prepare the necessary resolution.

Councilmember Lambert said that documents show that Jamgotchian has the authority to go through with his plans. Councilmember Lambert said the city has failed to communicate correctly to Jamgotchian and she said that she is not interested in paying \$3.5 million to fight this. In regard to the economy that is facing the city and the shortfall, Councilmember Lambert said she would like to uphold the appeal. She said that is her motion and she would appreciate a second.

Councilmember Juarez seconded the motion.

Councilmember Juarez said he spent a number of hours reviewing the documents. Councilmember Juarez said a lot of directors sign documents because the Mayor is too busy. Councilmember Juarez said there is a separate question of ownership and another issue about the 50% rule. He said that it bothers him the Council never got a copy of this deposition. Councilmember Juarez also stated that the billboard will bring revenue through the business license department. Now that the sign is demolished, there is no more revenue. Councilmember Juarez said that it's not a new sign. It's just a replacement sign. Councilmember Juarez said that when he took this position as a city councilman, he would make

decisions that are in the best interest of the city, not for one group. He said that Jamgotchian sued the city many times. This time, Councilmember Juarez said let’s sign the permit and let’s move forward on this.

Councilmember Parsons asked whether Councilmember Lambert’s motion is basically to overrule the planning commission and allow the sign to go forward.

Councilmember Lambert said yes.

Therefore, in response to Mayor Guidi’s question whether there is a motion to direct the City Attorney to prepare a resolution, Councilmember Lambert moved, seconded by Councilmember Juarez to allow the sign to go forward.

ROLL CALL-AYES: Councilmembers Juarez, Lambert, Mayor Guidi.
NOES: Councilmember Catano, Parsons.

7.

The City Treasurer submitted a financial statement regarding warrants.

Mayor Guidi moved seconded by Councilmember Juarez, that the following warrants, properly audited and signed, be paid.

Warrants Nos.: 189-867-189869 ; 396071-396333

Warrant Totals: \$ 782,391.44 ; \$ 1,170,816.96

ROLL CALL-AYES: Councilmembers Catano, Juarez, Lambert, Parsons, Mayor Guidi
NOES: None.

Resolutions and Ordinances.

8.

RESOLUTION NO. 7244

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA TO SUPPORT TURNING OFF ALL NON-ESSENTIAL LIGHTING IN ALL CITY GOVERNMENT FACILITIES AND PUBLIC LANDMARKS FOR THE HOUR BETWEEN 8:30 PM AND 9:30 PM ON MARCH 29, 2009 AS PART OF THE CITY WIDE CLIMATE CHANGE EVENT: EARTH HOUR DAY.

Mayor Guidi moved, seconded by Councilmember Juarez, that Resolution No. 7244 be approved and adopted as amended.

ROLL CALL-AYES: Councilmembers Catano, Juarez, Lambert, Parsons, Mayor Guidi.
NOES: None.

9.

ORDINANCE NO. 1940 (2ND Reading)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE CALIFORNIA, APPROVING CHANGE OF ZONE APPLICATION NO 2008CZ03, A CITY-INITIATED APPLICATION TO CHANGE THE ZONING OF PROPERTIES FROM C-3 TO R-3:

- 11930-11982 GREVILLEA AVENUE
- 4433-4481 WEST 120TH STREET; AND
- A PORTION OF 4467 BROADWAY,

IN THE CITY OF HAWTHORNE, AND MAKING FINDINGS IN SUPPORT THEREOF.

Mayor Guidi moved, seconded by Councilmember Juarez, that Ordinance No. 1940 be approved and adopted as amended.

ROLL CALL-AYES: Councilmembers Catano, Juarez, Lambert, Parsons, Mayor Guidi.
NOES: None.

The City Manager, Jag Pathirana, presented the following agenda and requested approval of the indicated recommendations:

10.

Approve the sublease with Inglewood Unified School District for space at the South Bay One-Stop Business and Career Center, Inglewood located at 110 S. La Brea Avenue in the City of Inglewood, California and authorize the Mayor to execute it on behalf of the South Bay Workforce Investment Board.

11.

Approve Amendment No. 2 to Agreement No. 06-H150 with Axminster Medical Group. This Amendment enables Axminster Medical Group to renew a sublease agreement for space on the fifth floor of the Axminster Medical Building located at 11539 Hawthorne Blvd. in the City of Hawthorne, California and authorize the Mayor to execute it on behalf of the South Bay Workforce Investment Board.

Mayor Guidi moved, seconded by Councilmember Juarez, that items 10 and 11 of the City Manager's consent calendar be approved.

ROLL CALL-AYES: Councilmembers Catano, Juarez, Lambert, Parsons, Mayor Guidi
NOES: None.

The Acting City Attorney, Russell Miyahira, presented the following agenda and requested approval of the indicated recommendation:

12.

Claim of Ella Agee, Daysha Houston, Gavin Worship, II, and LaJuana Willis allege that they suffered property and other related damages arising from the joint search warrants executed by both the Manhattan Beach and Hawthorne Police Department's at Claimants' home.

Councilmember Juarez moved seconded by Mayor Guidi to deny this claim.

ROLL CALL-AYES: Councilmembers Catano, Juarez, Lambert, Parsons, Mayor Guidi
NOES: None.

13.

Claim of Carmen Medina for injuries allegedly sustained in a slip and fall accident near Rosecrans and Isis Avenue.

Councilmember Juarez moved seconded by Mayor Guidi to deny this claim

ROLL CALL-AYES: Councilmembers Catano, Juarez, Lambert, Parsons, Mayor Guidi
NOES: None.

14.

A settlement has been proposed in the case entitled Javier Rios v. City of Hawthorne, et. al, (YC 056 445). Under the settlement, the City would pay \$10,000.00 and the City of Inglewood would match the \$10,000.00.

Councilmember Lambert moved seconded by Councilmember Juarez to authorize the settlement of the Javier Rios lawsuit in the amount of \$10,000.00 and that the Finance Director release the settlement draft c/o City Attorney's Office to Plaintiff Javier Rios and his attorneys, Richard Scott Lysle, Esq., 11400 West Olympic Boulevard, Suite 200, L.A., CA 90064, within seven days after the settlement agreement is signed by all parties.

ROLL CALL-AYES: Councilmembers Catano, Juarez, Lambert, Parsons, Mayor Guidi
NOES: None.

15.

Mayor Guidi recessed the City Council meeting to conduct a **Closed Session:** Conference with Legal Counsel – Existing Litigation (Subdivision (a)) of Section 54956.9 of the California Government Code. Name of Case: Javier Rios v. City of Hawthorne, et al., Case No: YC 056 445

Mayor Guidi called the City Council meeting back to order following recess with all Councilmembers present. He announced that the closed session was to discuss a closed session Conference with Legal Counsel – Existing Litigation (Subdivision (a)) of Section 54956.9 of the California Government Code. Name of Case: Javier Rios v. City of Hawthorne, et al., Case No: YC 056 445. The Acting City Attorney, Miyahira stated that the vote was going to be on item 14.

12.

Mayor Guidi adjourned the meeting at 10:00 p.m.

Angie Reyes English
City Clerk