

**MINUTES OF A REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF HAWTHORNE,
CALIFORNIA HELD APRIL 14, 2009.**

Mayor/Chairman Guidi called the City Council, Community Redevelopment Agency, Parking Authority and Housing Authority meeting to order jointly and concurrently at 6:05 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.

Ernie Garcia from the House of Celebration gave the evening's invocation. Boy Scout Adam led the Pledge of Allegiance.

Mayor Pro Tem Lambert presented a Proclamation to Hawthorne Library Manager Donald Rowe in honor of National Library Week.

John Koppelman of the Del Aire Neighborhood Association and Sean Walsh of the Hollyglen Homeowners Association proposed that the Del Aire Farmer's Market be moved to the old Dana School site on 135th and Aviation. It would be held on Saturday mornings from 9am to 1 pm. Both associations are non-profit and proceeds from the market would be used for community events and school related programs. The city attorney will review and come back with a report.

Rolando Ramirez, Executive Director for the Richstone Family Center, gave an overview of the center. The center has been located in Hawthorne for over 35 years and its mission is dedicated to the prevention and treatment of child abuse, to the strengthening of families and to the prevention of violence in families, schools and communities. Some of the services offered include counseling, parenting classes, anger management classes, home visitations, case management and after school programs. Due to tough economic times, the need for services has increased. Sherry Kramer, Community Affairs Director for Continental Development, is the chair for this year's Pier to Pier Walkathon, a community fundraiser for the Richstone Family Center and asked for the community's support for this event. The walkathon begins at the Manhattan Beach pier to the Hermosa Beach pier and then back to Manhattan Beach. This year's goal is to have 1500 walkers and raise over \$200,000.

Mayor Guidi stated that there would not be a drawing for the fireworks stands this evening because in addition to the two veteran's organizations, only eight applications were received for the eight remaining stands. The stands will go to American Youth Soccer Organization Region 21, Behavioral Health Services, Inc., Hawthorne America Legion Post #314, Hawthorne Kiwanis Club, Hawthorne Rotary Club, Hawthorne Veterans of Foreign Wars Post #2075, Little League Baseball and Softball District #37, New Life Community Church of the Assemblies of God, St. Joseph Catholic Church and Southern California Gunners Youth Soccer Club.

1.

Under oral communications **Tim Haggerty**, 4543 W. 137th St., inquired on getting the red curb by his driveway repainted. **Ali Delawalla**, owner of Rally's Hamburgers, asked that same flexibility that is given to auto businesses regarding the use of sign advertising be given to his business. **Pat Donaldson**, Hawthorne Chamber of Commerce President, stated that the Chamber is stepping down and will not be involved in the Farmer's Market. Announced that the Chamber Mixer will be held this Thursday from 5:30 pm to 7:30 pm at Union Bank on the corner of Hawthorne and El Segundo Boulevards. **Alma Marquez**, representing the Office of Senator Roderick Wright, invited the City of Hawthorne to the following upcoming events: A Mother's Day Tribute Tea inviting students throughout the district to submit a creative educational piece, media display, sculpture or piece of art for this event where mothers and students will be honored. Location for the event is still to be determined. The Senator's office will also be hosting "Psychologist in the Community Day, a national effort to meet with residents in the cities to talk about the mind connection addressing emotions behind overeating. This event will be held on May 2nd, from 10 am to 11 am at the Inglewood City Hall Community Room. **Alex Monteiro**, 12314 Ramona Ave., thanked elected officials, staff and the community for participating in the Relay for Life event that was held on April 4th and 5th at Hawthorne High School. So far \$47,000 has been raised, with an expected grand total of \$52,000 by August 31st. Announced that the Presidents Council Volunteer Appreciation Day will be held on April 26th at 2pm at the Memorial Center. The K9 Community BBQ Dinner will be held on May 21st at 5pm at the Memorial Center. **Darlene Love** invited Council to attend Behavioral Health Services South Bay Division's 2009 graduation ceremony to be held April 17th at the Memorial Center from 6pm to 11pm. Announced that her grandson Steven, who graduated from

Hawthorne High School, is teaching theater and the arts at HHS and will be presenting Dracula on April 26th, 27th and 28th. **Margaret Jeppeson** announced that the Hawthorne Friends of the Library will be holding a book sale on April 18th from 9am to 3pm. **Francis Stiglich** asked how much affordable housing is being bought by the city and why is it all on Gale Avenue when we already have such a dense population.

2.

This closed session was held at the special meeting

Closed Session – Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Section 54956.9 of the California Government Code. Name of Case: El Segundo Plaza Associates, LP v. City of Hawthorne, et seq., Case No. BC 404 244 – L.A County Superior Court [Hon. Helen I. Bendix, Department 18].

3.

This closed session was held at the special meeting

Closed Session: Conference with Labor Negotiator pursuant to Government Code Section 54957.6. Agency Negotiator: Jag Pathirana - Employee Organization: All Employee Groups.

4.

Under Elected Officials Reports and Recommendations:

Councilmember Catano was excused from elected officials reports and recommendations.

Mayor **Guidi** thanked Public Works Director Arnie Shadbehr and his staff for obtaining the funds after four years to finally rebuild Imperial Highway. Thanked everyone that came out for the Teen Center Bocce Tournament on Saturday. Announced that within the next few months, Candlewood Suites, Comfort Inn and Holiday Express will be opening.

Councilmember **Juarez** announced that Hawthorne was one of the only cities that received the Gold Tier. Congratulated SBWIB Executive Director Jan Vogel for his team at the Teen Center for having 12 students that went to the leadership conference. Councilmember Juarez is currently working with Mark Hardison, Assistant Director Recreation Community Services, to bring back Youth in Government. Requested a resolution for Denim Day Sexual Assault Awareness Month and a proclamation for Municipal Clerks Week for the next agenda.

Due to the lateness of the hour, Councilmember Parsons held his comments until the next Council meeting.

Councilmember **Lambert** congratulated all those that spent the whole night over at the high school fundraiser for the walk and thanked Chief Heffner for cooking the food for everybody. Announced that there will be a blood drive at City Hall on April 28th from 9am to 3pm. Announced that the Islamic Center will hold a health fair and blood drive on May 9th from 10am to 2pm.

Discussion/Action Item:

- Allowing Farmers Market in urban open space zoning (Parsons)

- Letter of protest to Speaker of the California Assembly Karen Bass (Juarez)

Councilmember Juarez stated that the intent of this letter was to highlight abuse by those that are appointed to different positions and the way they just spend money without any accountability. Due to the fact that a lot of this stuff was taken from an LA Times article, it has already led to a resignation by an appointee. Hopefully the Governor has seen this and is listening and therefore there is no longer a reason to send the letter.

Councilmember Juarez moved seconded by Councilmember Parsons not to send letter as previously stated.

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

NOES: None. ABSTAIN: Councilmember Lambert.

- Establish strategy for use of funds set aside by Businesses of the Chamber of Commerce (Juarez)
Councilmember Juarez stated that when the Chamber of Commerce approached the city about waiving a fee, he felt it was okay to do because the Chamber in turn was going to do something for the city, which was to contact businesses about raising funds for us to get word back to Sacramento about what they were doing in terms of the budget. Since then it has come to the attention of Councilmember Juarez that the money is not there, he would like to get the money back from the Chamber. Councilmember Lambert responded that because the article did appear in the Breeze before ever being sent to the Sacramento Bee, the Chamber cancelled the request and never collected any money. Since there is no money, Councilmember Juarez suggested that we get the money back that we waived for the State of the City, but this waiver would have to be agendized for a future meeting.

- Expanding the SBCCOG membership to County (Juarez)
Councilmember Juarez explained that at the last meeting of SBCCOG, cities were asked to go back and talk to their councilmembers about expanding the COG membership to the county. The discussion at the meeting was not overwhelmingly in favor of this move. This would allow someone from either Supervisor Knabe or Supervisor Ridley Thomas' office to appoint someone to be on the e COG Board and to have a vote. According to Councilmember Lambert, this would only involve unincorporated areas. She suggested holding off on a vote until the COG gets a firm response from the County.

- AB83 (Feuer) Torts: Personal Liability Immunity (Amendment to the current "Good Samaritan" Law) (Juarez)
Councilmember Juarez explained that right now existing law provides that any person who in good faith, and not for compensation, renders emergency medical care at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission. AB83 would instead provide that any person, medical, law enforcement, and emergency personnel who in good faith, and not for compensation, render emergency medical care at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission.

Councilmember Juarez asked that a letter of support be written and sent to the SBCCOG and to Assemblymember Curren Price.

ROLL CALL-AYES: Councilmembers Juarez, Lambert, Parsons.

NOES: None. ABSTAIN: Councilmember Catano, Mayor Guidi.

- Limiting number of fireworks stands in the city (Juarez)
Councilmember Juarez suggested limiting the number of fireworks stands for next year because according to reports from last year, some groups made as little as \$400 while others almost made \$20,000. Councilmember Juarez gave direction for a draft resolution to limit the number of stands for next year from six to eight.

- Lottery drawing for firework stand locations (Juarez)
In order to be fair to all the organizations, Councilmember Juarez suggested having a drawing for the select sites that make the big dollars.

5.

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

6.

Mayor Guidi moved, seconded by Councilmember Lambert, that the reading of the City Council minutes of the regular meeting of March 10, 2009 be waived and that they be approved and adopted.

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

NOES: None.

Mayor Guidi moved, seconded by Councilmember Lambert, that the reading of the City Council minutes of the special meeting of March 18, 2009 be waived and that they be approved and adopted.

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

NOES: None. ABSTAIN: Councilmember Lambert.

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

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

NOES: None.

7.

Mayor Guidi moved, seconded by Councilmember Lambert, to waive full readings of resolutions and ordinances on April 14, 2009's agenda.

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

NOES: None.

8.

City Clerk English announced that this was the time and place for the Public Hearing on Preliminary Annual Action Plan for Program Year 2009, July 1, 2009 to June 30, 2010.

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

Mayor Guidi called for public comments.

Under oral communications, no one indicated a desire to be heard.

Mayor Guidi closed the public portion of the hearing.

No action taken at this time.

9.

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. One written communication was received. One written communication from Mr. Caswell and from Mr. Hamlin was provided to the city council before the meeting.

Mayor Guidi opened the public hearing.

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. Candace Lee of Richards Watson & Gershon will be advising the city council.

Mayor Guidi stated that Kevin Ennis, special counsel to staff, would make a brief presentation. Mr. Ennis stated that since there was an extensive public hearing on this item back on March 10th, the City would not repeat all the evidence but rather make a couple of main points. The billboard on the property of El Segundo Plaza that was removed was the property of Clear Channel. The lease between Clear Channel and El Segundo Plaza Associates clearly stated that the billboard was owned by Clear Channel and not El Segundo Plaza Associates ("ESPA"). There is no bill of sale conveying ownership of the sign to Mr. Jamgotchian. The reason there was no bill of sale is because Clear Channel removed the sign and thus there was no property to convey. If there was no property to convey because the structure had been removed, then there is no continuation of nonconforming rights to that prior structure. Any rights to rebuild were extinguished when the billboard was removed. Mr. Jamgotchian cannot build a new

nonconforming structure on the site once the prior nonconforming structure was removed. Mr. Jamgotchian does not have any nonconforming rights to the previously removed billboard for four reasons: The billboard was completely removed in that the entirety of the sign above the ground was removed. The remnants of the foundation, a portion of a perimeter fence and electrical service do not constitute the makings of a billboard. Even if a portion of the foundation was left in place just so the adjacent building was not undermined by the removal of the last portions of that foundation, does not mean that Mr. Jamgotchian has a right to rebuild the entire structure. The staff report explains why more than 50% of the billboard and its value was dismantled, using the reasonable calculation provided by Mr. Jamgotchian, by staff, and by Mr. Hamlin of Clear Channel. But the 50% issue is secondary because the entirety of the billboard structure above the ground was removed as were all features of the billboard above the ground. As stated, Mr. Jamgotchian has no nonconforming rights to the former sign because he never obtained a bill of sale evidencing a transfer of ownership from Clear Channel to Mr. Jamgotchian. This is because there was nothing left to convey when Clear Channel completely removed the sign. Mr. Jamgotchian is not rebuilding the prior sign. He is building an entirely new sign that is shifted 15 feet in the earth from the prior location. It has a different foundation, a different pole, a different backing. It is in the general proximity as the former sign, but it's not the same. In summary, he is not seeking to exercise any nonconforming rights, but rather to build an entirely new structure that's not allowed in the zone. Clear Channel unequivocally intended and did abandon its legal nonconforming rights to this sign. By completely removing it, Clear Channel clearly indicated it intended and acted to abandon its nonconforming rights to the sign. Statements in a deposition of Mr. McGrath from Clear Channel that were read by Mr. Caswell at the last hearing indicating that Clear Channel did not intend to abandon the sign were made in the context of whether Clear Channel intended to abandon its right over to Mr. Jamgotchian before the sign was removed. Those statements make it clear that Clear Channel did not abandon its right to the sign over to Mr. Jamgotchian. It's just the opposite. Clear Channel did not want to abandon or give anything over to Mr. Jamgotchian and clearly took action to remove the billboard and extinguish any nonconforming rights to the sign. Staff cannot violate Hawthorne's zoning ordinance to allow for the erection of a structure not allowed in the C3 zone. Evidence was indicated by Mr. Goodson at the last hearing that he has the authority and had the authority to issue rebuild letters, but there is no authority in the municipal code that allows for staff to allow for uses and structures not permitted in the zone. Mr. Goodson didn't have the authority; Mr. Roth doesn't have the authority. Mr. Roth was misled into initialing the February 11, 2008 letter because of the assumption that Mr. Jamgotchian owned the existing sign. Much was made at the last hearing why the letter signed by Harold Roth on February 11th constituted in the words of the applicant, a binding, enforceable agreement. Well that is not correct for several reasons. Number one. Under California law, an agreement with a municipality is not valid if not signed by the Mayor unless there is specific delegation provided to some other official of the city to execute that agreement. The letter was not signed by the Mayor. Second, city staff cannot make an agreement or enter into an agreement that violates your zoning code. They don't have the authority to do so. Third, the city council did not approve the letter and the city council has not delegated authority to the planning director to enter into agreements that violate your zoning code. Fourth, the letter was based on key facts that were withheld by Mr. Jamgotchian as to the true ownership of the sign. Five, the planning director's consent to the letter was rescinded almost immediately and many months prior to the removal of the prior billboard sign. Sixth, there was no reliance on the letter and no reasonable reliance in taking down the sign based on the letter because the sign was removed in August five months after the letter was rescinded. Seven, applicants for land use approvals cannot evade zoning and contract requirements by alleging reliance on a letter if the letter would violate cities' interests' in its zoning. Once the billboard was removed, a new billboard cannot be built on that site unless and until the city amends its zoning ordinance to permit not only Mr. Jamgotchian, but other similarly located properties to erect new billboards. If Mr. Jamgotchian wants a new billboard on his property, he needs to apply for a zoning code amendment to allow all similarly situated properties in the C3 zone to have that right. A question came up at your last hearing as to what evidence you can use to rely upon. At the March 10th hearing the applicant's council asserted that the city could not rely upon information in a letter from Clear Channel's attorney, Richard Hamlin, because that letter was not prepared and executed under oath. He also indicated that the contents of Mr. Hamlin's letters were rebutted by the deposition in Mr. McGrath of Clear Channel. Both of these statements are not correct. Number one, a city council can rely on information in letters and non-sworn documents and testimony as part of its consideration of a quasi judicial or legislative matter. All such documents and information constitute evidence in this administrative hearing. It is incorrect that only evidence that is submitted under penalty of perjury or under oath can be considered by the council. Second, the deposition comments that Mr. Caswell read at the last hearing had to do with Mr. Jamgotchian's assertion in April of last year that Clear Channel acted to abandon its rights to the sign to Mr. Jamgotchian because Clear Channel had not removed the sign before the last day of the lease. The deposition transcript makes clear that Clear Channel did not intend to abandon its sign and allow Mr. Jamgotchian to take ownership of it. Rather, Clear Channel extinguished any legal nonconforming rights to that sign and they did so by removing it themselves. The city needs to

insure that its zoning ordinances are evenly applied. If Mr. Jamgotchian is given the opportunity to build a new billboard on this site, then other property owners in the C3 zone will likely seek to have the same right. We understand that there are three other properties in the C3 zone where a billboard company may be removing their signs, their billboards and the property owners would not be permitted to erect new ones. If the city approves a permit to put up a new billboard on a Jamgotchian property, it is likely the city will see similar requests from other property owners in the city. So for all of these reasons, staff recommends that the city council uphold the planning commission's decision and deny approval of the sign permit application.

Are there any questions from the City Council to Mr. Ennis?

No one had a question

Is there anyone here representing the applicant who wishes to address the City Council?

Ron Caswell: He stated that he would like Clear Channel to speak before he did.

Candace Lee: Mr. Caswell is free to speak and then Clear Channel can speak and then Mr. Caswell could again rebut Clear Channel's comment. .

Caswell said he is comfortable doing both. He said that Mr. Ennis repeated much of what came out of Mr. Hamlin's letter to the city. Mr. Ennis said nothing new and he never cites the statutory code sections or the law because they don't work for him. Mr. Ennis is an advocate but it doesn't make it a proper advocacy. The statutes require the planning director to approve and issue a valid permit and it doesn't require a signature by the mayor or consideration by the city council. The Hawthorne Municipal Code requires the director of building and safety to issue a building permit as long as it's a valid permit. Mr. Ennis doesn't cite you to this section. The planning director does not need the mayor's authority to issue a rebuild letter. It's just an absurd contention. Mr. Jamgotchian, on behalf of El Segundo Plaza Associates, went in and spoke with planning director Roth and he said nothing about owning the property. Mr. Roth, who appears to be trying to cover his backside, said it's my recollection that Mr. Jamgotchian never said he was the owner. The letter does not mention Mr. Jamgotchian is an owner of the plaza and that's it. Jamgotchian said he wanted to rebuild this sign because it's a dangerous sign. And we showed pictures and they're in the booklet. They're in the booklet that we handed out previously. The old sign was about 50 years old and cantilevered over the building. It was dangerous and the only thing Mr. Jamgotchian said was that he wanted to remove this dangerous sign and replace it. That's it. Mr. Jamgotchian got Mr. Roth to sign an agreement and Mr. Roth knows what he's doing and he amended the agreement and he said that the sign will remain legal and nonconforming. That just shoots the heck out of Mr. Ennis' argument because the second Mr. Roth enters into that agreement, what Mr. Jamgotchian has is a written agreement by planning to permit the construction of a legal nonconforming sign.

Councilmember Gary Parsons: How can you say Clear Channel planned to abandon the sign in February when the lease clearly said they had until the end of April to use the sign.

Caswell: When you're given ten year's notice, when you have real property and when you have something that's poured into the ground which becomes part of the realty, under the law, he's got to take it out. In February it was contended that Clear Channel had abandoned it. The lease expired in April. When Mr. Jamgotchian went and applied for the right to rebuild and Mr. Roth signed the letter, he did so in his capacity as the owner of El Segundo Plaza Associates, but not as the owner of the sign. Mr. Jamgotchian was contending in correspondence with Mr. Hamlin that they had abandoned the sign. In response to Parsons' question, Caswell said that it is his client's position that since Clear Channel did not take out the footings, they abandoned the sign. Caswell said he has verified responses to discovery where Clear Channel stated that taking out the footings would not affect the foundation of the nearby building. Caswell said that a bill of sale argument is ludicrous sine Clear Channel abandoned the sign, so the ownership is transferred to El Segundo plaza. Caswell said that the law dose not require a bill of sale. Caswell spoke about the concept of detrimental reliance and reasonable reliance. He said Jamgotchian spent serious money after the February 13th letter was signed by Mr. Roth. Mr. Caswell said that he spoke with the City's counsel, who assured him that the only issue that the City Council had was the dismissal of the lawsuit.

Caswell: The billboard was not completely removed, so the City's position on the abatement issue fails. Caswell said that using Mr. Roth's number, that Jamgotchian meets the 50% rule.

Jamgotchian: He asked Clear Channel to put up a new sign because of safety issues. Clear Channel said “no.” Parsons asked how much he spent between the time Mr. Roth signed the letter and the time the letter was retracted. He said that he doesn’t know and that he has to look at his books. Negotiations between Jamgotchian and Clear Channel ended when they refused to put up a new sign.

Caswell said the statutes do not require the Mayor to sign agreements. The City Council did not need to approve the letter. The sign is legal non-conforming which means that Jamgotchian is within zoning requirements. The City should follow Ms. Browne’s advice and settle the case rather than spend money to defend the \$3.5 million lawsuit. Clear Channel is not offering to indemnify the city. If you deny the permit, depositions of council members will occur under oath.

In response to Parsons’ question, Ennis stated that they would oppose the deposition of council members because this is an administrative mandate matter, and it would be subject to the evidence of the record of these proceedings.

Caswell said he has not taken the deposition of an elected official yet. He reiterated that the City should follow Ms. Browne’s advice and settle the case. Mr. Goodson spoke and said how they issue rebuild letters all the time. More litigation is coming because of Jamgotchian’s public records request concerning communications between the City and Clear Channel. Anthony Roman of clear Channel knew that El Segundo was the person listed as the owner and of the sign and he allowed that to happen so that they could obtain the demolition permit. A portion of the sign was transferred to Jamgotchian. There was promissory estoppel and months of encouragement from Mr. Roth.

Richard Hamlin: Pages 87 and 88 of Mr. McGrath’s deposition were read. It is Clear Channel’s standard operating procedure to remove signs when the lease is over. Clear Channel intended to remove the sign by April 30th. Jamgotchian was saying that you have to take down the sign but you can't take it down unless I give my consent. Clear Channel is willing to waive the confidentiality of the settlement agreement if Jamgotchian is also willing to waive it. In response to Lambert's question, Hamlin said the financial aspect of the settlement agreement has nothing to do with the City. Clear Channel did not abandon the sign but did abandon the footings that were beneath the ground. Clear Channel gave up its non-conforming use.

Both Caswell and Hamlin agreed to sign-off on the release of the settlement agreement.

Hamlin: The settlement agreement does not transfer title – there is no bill of sale and no transfer. Mr. Caswell and Mr. Jamgotchian kept repeating that they are going to sue the city. Jamgotchian sued the city many times and has not been very successful. The city council needs to decide whether they will give into threats but should recognize that they are opening themselves up to similar actions by other people. Clear Channel hopes for an even playing field and it supports reasonable regulation. Hamlin disagreed with Caswell’s statement that Jamgotchian’s name was never mentioned when they talked about abandoning the sign. Exhibit 1 to the 1998 letter shows that Jamgotchian put up the fence next to the sign. This contradicts Jamgotchian’s statement that the fence is part of the sign. He is here tonight because there were facts presented that were not correct.

Lambert: I don’t know why Clear Channel is here tonight.

Parsons: I was the one who asked to re-open the public hearing to be fair to both sides. Caswell read from the Clear Channel transcript and he wanted a chance to read the transcript.

Lambert: We represent thousands of people and the city is up against \$3.5 million plus the cost of attorney’s fees.

Parsons: If the council grants the sign, aren’t we violating the city’s own zoning code. Doesn’t this set a precedent for the city.

Juarez: Agreed with Parsons and asked Lee if it violates the city’s zoning.

Lee: That is the question that the City Council needs to decide in looking at the facts, looking at the zoning code and applying the facts accordingly. She said that she is not the decision maker and cannot tell you which way to reach your conclusion.

Ennis: Staff’s position is that the sign was removed, the non-conforming rights were terminated. Any manner in which the valuation is done shows that less than 50% of the value remained. Hawthorne

Municipal Code 17.38.065B has not been satisfied so as to permit the rebuilding of the sign. Therefore, the city would not have the ability to grant a permit, because it would be in conflict with the C-3 zoning. The reason why the Clear Channel evidence is relevant is because it goes to the issue of who owned the sign, who removed it, who owned it at the time it was removed, what the intention of the party who owned the sign was, to then make the determination whether or not that sign and those rights were eliminated. In response to Lambert's question, Ennis said the only way for Jamgotchian to use the remaining footings to rebuild the sign, the council would have to make a determination that the footings left exceeded 50% of the cost of putting in a new foundation and erecting a new sign. Pages 4 through 6 of the staff report shows that the footings value are far less than 50%.

Hamlin: The existing footings cannot be used to build a new sign. They've been cut off.

John Carroll, Real Estate Manager for Clear Channel: The sign on Jamgotchian's property was not dangerous and it was not unsafe. Those signs are built to last hundreds of years. They are made of tempered and galvanized steel and they are regularly maintained. The building was erected after the sign was built.

Roth: He entered into the record 50 emails, minutes, transcripts and depositions of Clear Channel employees.

Caswell: He entered into the record documents that were provided to the council. Mr. Carroll was mistaken when he said the building was built after the sign. What is important is that the other tenants felt the sign was unsafe and the perception of the people in the center. Clear Channel has no standing tonight. Reiterated that there is a written agreement between the Planning Director and Jamgotchian and that great expense was incurred. Jamgotchian owned the footings and therefore part of the sign. The footings account for 50% of the value. The fence was built 20 or 30 years ago by Clear Channel's predecessor. The fence and the electrical does count in the valuation which adds up to 50%. This is a legal non-conforming use which is authorized by the Municipal Code. The council is not committing illegal action by voting to grant the appeal. Where there is a legal use, it is mandatory that the permit be issued. Don't accept Clear Channel's invitation to litigate this. Settle this case. Caswell submitted the confidential settlement agreement. You will see at the end of the release that Clear Channel was permitted to remove the top part and anything else was released to Jamgotchian, who, at that point, became the owner of the rest, which is what has been said from the beginning.

Jamgotchian: This case is about money and not about signs anymore. If you vote to not have the sign built, the lawsuit will continue. Signed the settlement agreement, although gave up \$270,000 in signing it. On March 10th, the city council made the correct decision to support the replacement of the sign, based upon agreement with Roth on behalf of the city. The next thing I know is that the acting City Attorney tried to develop a plan with Roth to get the council to reject its approval. It is interesting that Hamlin shows up and Ms. Browne doesn't show up. Wondering why Miyahira and Roth are trying to undermine the City Council and their decision that they made to support the sign replacement. Might file a lawsuit because Roth withholding documents from Hamlin. Doesn't know why Roth and Miyahira are withholding records. City has nothing to gain from litigating this lawsuit. Goodson will testify against Roth. The City will lose \$3.5 million because that is the value of the sign. The city has probably already spent in excess of \$100,000. Will waste hours of planning time and City Attorney time to defend this case. You are also going against Ms. Browne's advice. Doesn't make sense to walk away from a no damage settlement agreement. Clear Channel isn't offering to indemnify you. The sign will generate tax dollars. The 50% provision has been met. Right now, the number is 55% or 61%. In the demolition permit, Mr. Roman is listed as agent and contractor; he wasn't the owner. Anything that Hamlin and Ennis says is false. This litigation is certainly going forward because if \$500,000 is invested in legal fees with Mr. Caswell Jamgotchian will have the opportunity to get \$3.5 million from the City if he prevails. Roth and Miyahira are attempting to undermine this City Council and walk the council into a lawsuit.

Parsons: Why did you continue to submit applications to the City after Roth told you that you could not rebuild the sign.

Jamgotchian: Roth had no authority to revoke the contract. The easiest way is to go to court and have a judge determine whether a contract is revoked. Also, Roth invited the submittal of plans to Ray Shun and Shun approved the plans. When the demolition permits were pulled on August 6th, Roth inferred that the building permit would be issued momentarily. The building department approved the plans. [Jamgotchian left to retrieve plans from his car].

Roth: The plans were stamped “denied by Planning, approved for Plan Check.” They were never approved by Planning. They were allowed to go forward to Plan Check because in late March or April there was litigation between Clear Channel and ESPA and it was unknown at that point how it would be resolved. There was no invitation to go forward. Anyone in the City, any business person, any property owner, can submit an application. Cannot tell them they cannot submit applications.

Caswell: Asked that proceedings be adjourned until Jamgotchian returns from his car.

Jamgotchian: The plans were stamped by Planning on May 5, 2008. There is a “denied” stamp, City of Hawthorne Planning Department on 4-9-08. Roth induced him to bring these plans to the Building Department.

Roth: It was denied by Planning and approved for plan check because of the on-going lawsuit between Clear Channel and El Segundo Plaza Associates. The approval by Building and Safety, by the Public Works, is not the final approval. There was never a permit issued because it never got approved by Planning. Another misstatement by Jamgotchian re: his public records request. Never told Jamgotchian that he would not get him the information. Said he will get them to him when he returns to work on Tuesday. The City has ten days to respond to Jamgotchian’s request. Will get Jamgotchian his records within one day of his request. Wanted to set the record straight.

Jamgotchian: Roth is not telling the truth. Doesn’t know if Miyahira or Shishido is pulling the strings. There are two tracks. The first track is you grant the sign tonight, there’s no litigation and you don’t pay any money. The other track is you don’t grant the sign and you get to spend legal fees and you get to risk the City’s money and you have a chance to lose a lot of money, and you don’t have a chance to win anything.

Lambert: The City will also lose the revenue from the sign.

Ennis: The letter signed by Mr. Roth is not a building permit. Caswell gave no authority why the letter is legally binding. Government Code Section 40602 requires an agreement of a municipality to be signed by the Mayor unless specifically authorized by the Council to be signed by somebody else. Any argument regarding reasonable reliance ended on March 7th, three weeks after the letter was signed. The law is clear that somebody doesn’t obtain an estoppel against the City unless there has been a lot of reliance and a lot of actual physical construction. For example, somebody is granted a building permit, it doesn’t comply with the Code. They rely on that permit, they go out and build something, they spend millions of dollars. That would be a situation where there might be an estoppel. But we don’t even get near that situation because they had not even removed the sign by the time the revoking letter was sent, much less put in a new sign. The staff report is clear that under many different submissions by Jamgotchian, it never gets to the 50% mark. Clear Channel has 50 other billboards in the City of Hawthorne, so it does have an interest in seeing that the city applies its billboard ordinance to them and to others in the industry in a fair and equitable manner. Staff has tried very hard to address these issues carefully, diligently and to protect the interests of the City’s code that says that when you remove a non-conforming use structure you’re not entitled to rebuild it in this type of structure in the C-3 zone.

Caswell: Ennis said he had new points, he’s offered nothing new. We’ve beaten this horse to death so many times it’s insane.

Mayor Guidi: There are no other speakers. The public hearing is closed.

Mayor Pro Tem Lambert: Motion to uphold the Planning Commission’s decision.

Ms. Lee: Asked Mayor Pro Tem Lambert for clarification of her motion. The motion is to direct the City Attorney to prepare a resolution of the approval of the appeal which would result in allowing the building of the sign.

Mayor Pro Tem Lambert: Stated that she agreed with Ms. Lee’s phrasing of the motion.

ROLL CALL-AYES: Councilmembers Juarez, Lambert.

NOES: Councilmember Catano, Parsons, Mayor Guidi.

Ennis: Mr. Mayor, since that motion failed, then there has been no action at this point. So is there another motion that council wanted to make?

Councilmember Parsons moved, seconded by Mayor Guidi to uphold the Planning Commission's denial of the billboard.

Ms. Lee: You mean direct the City Attorney's Office to prepare a resolution to uphold the planning commission's denial of the appeal?

ROLL CALL-AYES: Councilmembers Catano, Parsons, Mayor Guidi.

NOES: Councilmember Juarez, Lambert.

10.

For Item #10, Mayor Guidi stated the following:

I would like to announce that I have decided to recuse myself from this item concerning the Century Business Center. My recusal is because there is a possibility that I may have a conflict of interest in this project. The potential conflict is very remote and arises because of my business relationship with the Crenshaw Business Complex which is a business located near the Century Business Center but could still indirectly be affected by the third amendment to the CBC project. In order to avoid even the appearance of a conflict of interest, I have been strongly advised by our city attorney that it is in the best interest for me to step aside from this matter. Therefore, I will not be participating in this agenda item.

City Clerk English announced that this was the time and place for the Public Hearing on third amendment to Century Business Center Specific Plan, Section 4.2 (Permitted Uses) to amend uses and add convention center; Section 4.4.5 to add development standards specific to convention center use; Section 4.4.8 to address parking related to convention center; and Section 5.1.6 (Joint Use Parking) to correct Hawthorne Municipal Code citations (2009SP01).

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

Planning Director Harold Roth stated that this is the third proposed amendment to the Century Business Center and that there are basically three parts to it. One is to add convention center as a permitted use and that would be restricted to the one lot that is occupied by Hangar Athletic Xchange (HAX). Secondly, there would be five uses that would be removed from the permitted uses. They are all intensive uses and would include department store, movie theater, auction house, drug store and supermarket. The last part, which is the major part, is putting in requirements for a special events permit that would be required for all functions that served alcohol, no matter what size and would also apply to all functions that were over 615 people whether alcohol was provided or not. There would only be an exemption for some name athletic events that were part of the business license for the gym use.

Mayor Pro Tem Lambert called for public comments.

Under oral communications, **Rudy Svorinich, Jr.**, representing HAX, stated that he was here in support of the staff recommendation and in support of items 10 and 11as is being presented to Council. **Jason Boze** of HAX presented a power point presentation highlighting points such as requested changes, environmental impact study and convention center uses. **Phillip Jones**, 11549 Tarron Ave., spoke in favor of approving proposed amendment.

Mayor Pr o Tem Lambert closed the public portion of the hearing.

RESOLUTION NO.7246

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA AMENDING CENTURY BUSINESS CENTER SPECIFIC PLAN, SECTION 4.2 (PERMITTED USES) TO AMEND USES AND ADD CONVENTION CENTER; SECTION 4.4.5 TO ADD DEVELOPMENT STANDARDS SPECIFIC TO CONVENTION CENTER USE; SECTION 4.4.8 TO ADDRESS PARKING RELATED TO CONVENTION CENTER; AND SECTION 5.1.6 (JOINT USE PARKING) TO CORRECT HAWTHORNE MUNICIPAL CODE CITATIONS, AS PER PLANNING COMMISSION RESOLUTION NO. PC 2009-03.

Councilmember Parsons moved, seconded by Councilmember Juarez, that Resolution No. 7246 be approved and adopted.

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

11.

City Clerk English announced that this was the time and place for the Public Hearing on Approval of a resolution of the City Council of the City of Hawthorne, California establishing fees to reimburse the City for actual costs incurred for processing applications for Special Event Permits in the Century Business Center Specific Plan and appeals of denial of Special Event Permits. Planning Department's declaration of publication filed. No written communications were received. Call for Planning Director presentation. Motion to Approve Resolution No. 7247.

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

Planning Director Harold Roth made a brief presentation on setting the fees for the special events permits under the specific plan amendment that was just approved. There are three fees that are in there for small events. Those that have less than 615 people, the fee would start at \$325. For those fees that are above 615 people, it would be set at \$900. If the special events permit was denied and the applicant chose to appeal it, the appeal would go to the city manager and that would have a fee of \$250.

Mayor Pro Tem Lambert called for public comments.

Under oral communications, **Jason Boze** of Hax inquired if there was a provision where fees for similar events that were ongoing would be subject to reduced fees.

Mayor Pro Tem Lambert closed the public portion of the hearing.

RESOLUTION NO.7247

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA ESTABLISHING A FEE SCHEDULE TO REIMBURSE THE CITY FOR ACTUAL COSTS INCURRED FOR PROCESSING SPECIAL EVENT PERMITS PURSUANT TO THE CENTURY BUSINESS CENTER SPECIFIC PLAN, SECTION 4.4.5.A.4. F. Motion to adopt.

Councilmember Parsons moved, seconded by Councilmember Juarez, that Resolution No. 7247 be approved and adopted.

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

12.

The City Treasurer submitted a financial statement regarding warrants.

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

Warrants Nos.: 397084-397457 ; 189879-189879-189882

Warrant Totals: \$ 2,062,606.76 ; \$767,440.16

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

Resolutions and Ordinances.

13.

RESOLUTION NO. 7248

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA AUTHORIZING THE CITY OF HAWTHORNE TO ACCEPT THE DONATION OF A VIDEO

SURVEILLANCE SYSTEM AT EUCALYPTUS PARK FROM IRON SKY, INC.

Mayor Guidi moved, seconded by Councilmember Lambert, that Resolution No. 7248 be approved and adopted.

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:

14.

Approve to authorize the City Manager to issue Purchase Order to install a Vapor Recovery system at the City Yard.

Mayor Guidi moved, seconded by Councilmember Lambert, that item 14 of the City Manager's consent calendar be approved.

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

15.

The Acting City Attorney, Russell Miyahira, recommended that the claim filed on behalf of Larry Mathews, who is the father of co-claimant 12 year old Andrew L. Mathews alleges that the son was tasered by a Hawthorne Police Officer and alleges damages based upon 9 causes of action, including, but not limited to, battery, false arrest, federal and state civil rights violations and intentional infliction of emotional distress. The officer was responding to a police call at the Hawthorne Middle School because school officials were unable to control claimant be denied in its entirety.

Councilmember Lambert moved, seconded by Councilmember Parsons, that the claim filed on behalf of Larry Mathews, who is the father of co-claimant 12 year old Andrew L. Mathews alleges that the son was tasered by a Hawthorne Police Officer and alleges damages based upon 9 causes of action, including, but not limited to, battery, false arrest, federal and state civil rights violations and intentional infliction of emotional distress. The officer was responding to a police call at the Hawthorne Middle School because school officials were unable to control claimant be denied in its entirety.

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

16.

Mayor Pro Tem Lambert adjourned the meeting in the memory of Gloria Montes at 11:00 p.m.

Angie Reyes English
City Clerk