

**MINUTES OF A REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF HAWTHORNE,  
CALIFORNIA HELD FEBRUARY 12, 2013.**

Mayor Juarez called the City Council, Parking Authority and Housing Authority meetings to order jointly and concurrently at 6:09 p.m. in the City Council Chambers of City Hall, 4455 W. 126<sup>th</sup> Street, Hawthorne, California.

ROLL CALL-Present: Councilmembers Reyes English, Valentine, Michelin, Vargas, Mayor Juarez  
Absent: None.

Pastor Kathy Wagner from Outreach Children's Ministries gave the evening's invocation. Alma Marquez led the Pledge of Allegiance.

Councilmember Valentine spoke on the city's passing of the Healthy Eating Active Living initiative on April 10, 2012. Requested that Human Resources Manager David Roberts review the possibility of the HEAL initiative in the form of a walking program. Mr. Roberts proposed a walk program for Hawthorne which would engage our community to becoming active in their personal lives and with their families. The program would be aimed to promote health, relieve stress and build relationships in various sections of the city. Mr. Roberts would meet with the homeowner associations and select volunteers that would be entitled as resident walking advisors to head the neighborhood team or teams. The proposed City of Hawthorne walk program would be free to citizens but would cost approximately 150 hours of staff time to meet with homeowner association groups during the week and on Saturdays for organization and implementation and also costs for signage at designated walking routes located at city parks and promotional materials to advertise the program. The City of Hawthorne is already committed to improving the community's physical activities and this program could be another example of such.

Mayor Juarez presented a video honoring city employees who received service award pins for their years of service ranging from five to thirty-five years.

1.

Under oral communications **Shawn Phillips, Terry Titus, Harold Gerald, Gilbert Rivera, Don Blomster, Roseanna Quintanilla, Jorge Flores and Patricia Hernandez** spoke in opposition of Car2Go or any other business parking on preferential parking streets. **Jacki Bacharach**, South Bay Council of Governments, clarified misconceptions about Car2Go. She stated that Car2Go is a car rental company, but it is a car rental company which is actually called, in the latest terms, car sharing, because the cars are rented by the minute, and although they rent by the day, the rental is normally by the minute, which is 38¢ a minute. People use it mostly for errand kind of trips. Car2Go will be staging a business in the South Bay. They will be located here just as they are in the nine other cities they are in the United States and the cities around the world and in Canada. They'll be paying sales tax to the City of Hawthorne as well as the other cities where they're going to be operating in, so the city will receive taxes. The way car sharing works is the cars will be around the community and people will be able to access them. They will not be in private lots. They'll be on public streets which they're legally allowed to park in. The exemption they're asking for is preferential parking for the few places a member might want to take them. When the car sharing program starts, they will probably, and in Hawthorne we can ask them not to, put any cars on any of the streets with preferential parking, but they will buy permits and they will be able to park there if a member takes them their and a member would probably be the residents in the area. The cars are two passenger smart cars which means two cars fit in one parking space so they take up a lot less room. The cars will be towed if they are on the street on street sweeping day. Car2Go move their cars within 24 hours if they see them in locations that will be a problem so there should not be cars on a street that is going to be swept and members are told they cannot park on a street that will be swept within 24 hours or they will be liable for any towing charges. They are working in nine cities. Each of those cities at this point are now taking resolutions and ordinances to the city councils. The chances of their being multiple cars in any one location, especially a residential area are really nil unless a user takes the car there. **Jose Gutierrez** stated that he found it unusual that there is a discussion/action item on tonight's agenda stating that "no item on the agenda by a member of the City Council shall be removed by any person" since he thought that was already a standing rule. In light of a previous settlement and a current lawsuit on tonight's agenda, feels that city funds are being misinterpreted as to what they are for. Is concerned that this may bring actual subsequent repercussions for maybe malicious prosecution or abuse of process and how this would affect our budget. Inquired on where the city stands in regards to its actual reserves.

02/12/13

**Mike Harriel** formally introduced himself as the new Public Affairs Manager from The Gas Company. He is available to answer any questions resident may have and wants to be a good corporate citizen to the community. **Aliyah Ortiz** from Tone Body Fitness spoke on a contest that the gym will hold to engage the community in a healthier activity lifestyle. It would start in the spring and go for 12 to 16 weeks. **Jim Matthews** expressed concern that discussion/action item #3 may be an attempt to usurp some of the powers of the city attorney and hopes it's not related to closed session item #20 and hopes item #3 does not go forward. **David Patterson** spoke in support of the Car2Go program. **Casey Cooke** thanked Michael Goodson and the City Council for a job well done and commended them for keeping SpaceX in the City of Hawthorne. **Ray Villafan** thanked Council for their help with the field use for Girls Softball League and presented them with their season hats. **Cesar Belomey** asked that Council familiarize itself with DVM40215, a section that deals with parking violations. **Darlene Love** spoke on the Senior Dance she attended and hopes Council can attend next year. **Kyle Orleman** announced the 18<sup>th</sup> Annual Vietnam Veterans of America Essay Program which is open to high school seniors. Students must report on a Vietnam era veteran. There will be four \$1,000 scholarships that will be distributed. Entries must be received by email by 11:59pm on Sunday, April 7, 2013. For questions, call 310-539-5542 or email. If there are any Vietnam veterans or Vietnam era veterans that live in the area, they are most welcome to join the organization by going to [www.vva53.org](http://www.vva53.org). If anyone knows of a meeting space that would accommodate up to 25 ladies on the second and fourth Mondays of the month from 6pm to 7:30pm at no charge, please let Ms. Orleman know. It would be used by volunteer organization Yarn Angeles which knits and crochets items for various charities. **Patricia Donaldson**, President & CEO Hawthorne Chamber of Commerce, announced that their mixer will be held on February 21<sup>st</sup> at the Chamber from 5:30pm to 7:30pm. Retracted statement made at the Planning Commission meeting implying that low cost housing attracts crime. Spoke in support of Car2Go. **Alex Monteiro** announced that on February 19<sup>th</sup> at 6pm at the Moose Lodge, the Lions Club will host the 76<sup>th</sup> Annual Student Speaker Contest whose theme will be "How Do We Create and Keep Jobs in America". At 7pm there will be a second event, the Community Recognition Dinner, honoring Mr. Bob Marcella. Dinner is \$10; to RSVP, call 310- 686-5564. Also announced Volunteer Appreciation Day would be held on April 21<sup>st</sup>, Relay for Life on April 27<sup>th</sup> and 28<sup>th</sup>, the annual Health Fair and the Hawthorne School District 5K Run on May 11<sup>th</sup> and the K9 BBQ Dinner on May 23<sup>rd</sup>. The next meeting for Relay for Life will be held on February 25<sup>th</sup> at 5:30pm at the Hawthorne Moose Lodge. Clarified that low income families and low incoming housing do not attract crime as low income people are defined as seniors, retirees, veterans and single parents. **Frances Stiglich** asked that something be done about the garbage in the vacant lot in her neighborhood and on the street. Suggested a no-gum ordinance like the one in Shang Hai for Hawthorne to clean up the streets.

2.

Mayor Juarez recessed the Parking Authority and Housing Authority meetings to conduct the meeting of the City Council.

3.

Mayor Juarez moved, seconded by Councilmember Vargas, that the reading of the City Council minutes of the regular meeting of January 22, 2013 be waived and that they be approved and adopted.

ROLL CALL-AYES: Councilmembers Michelin, Valentine, Vargas, Mayor Juarez

NOES: None. ABSTAIN: Councilmember Reyes English.

4.

Mayor Juarez moved, seconded by Councilmember Vargas, to waive full readings of resolutions and ordinances on February 12, 2013's agenda.

ROLL CALL-AYES: Councilmembers Reyes English, Valentine, Michelin, Vargas, Mayor Juarez

NOES: None.

5.

The City Treasurer submitted a financial statement regarding warrants.

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

Warrants Nos.: 194470-108063 ; 434212-434438 ; 19268-19273

Warrant Totals: \$662,677.90 ; \$588,223.54 ; \$5,238.40

ROLL CALL-AYES: Councilmembers Reyes English, Valentine, Michelin, Vargas, Mayor Juarez.  
NOES: None.

6.

**RESOLUTION NO. 7521**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA APPROVING THE JACK NORTHROP FIELD HAWTHORNE MUNICIPAL AIRPORT NOISE COMPATIBILITY STUDY UPDATE AND AUTHORIZING THE CHIEF OF GENERAL SERVICES AND PUBLIC WORKS/CITY ENGINEER TO SIGN SPONSOR CERTIFICATIONS AND SUBMIT SAID DOCUMENTS TO THE FEDERAL AVIATION ADMINISTRATION FOR THEIR REVIEW AND ACCEPTANCE.

Mayor Juarez moved, seconded by Councilmember Vargas, that Resolution 7521 be approved and adopted.

ROLL CALL-AYES: Councilmembers Reyes English, Valentine, Michelin, Vargas, Mayor Juarez  
NOES: None.

7.

**RESOLUTION NO. 7522**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA IN SUPPORT OF ENTERPRISE ZONES.

Mayor Juarez moved, seconded by Councilmember Vargas, that Resolution 7522 be approved and adopted.

ROLL CALL-AYES: Councilmembers Reyes English, Valentine, Michelin, Vargas, Mayor Juarez  
NOES: None.

8.

**RESOLUTION NO. 7523**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA AUTHORIZING, APPROVING & RATIFYING THE ACCEPTANCE OF GRANT YEAR 2012 'URBAN AREA SECURITY INITIATIVE (UASI) TOTALING \$133,273.00 AND APPROVE THE PURCHASES RELATED TO THE 'REGIONAL AIRCRAFT VIDEO DOWNLINK PROJECT.'

Mayor Juarez moved, seconded by Councilmember Vargas, that Resolution 7523 be approved and adopted.

ROLL CALL-AYES: Councilmembers Reyes English, Valentine, Michelin, Vargas, Mayor Juarez  
NOES: None.

9.

**RESOLUTION NO. 7524**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA AUTHORIZING, APPROVING & RATIFYING THE ACCEPTANCE OF GRANT YEAR 2012 'STATE HOMELAND SECURITY GRANT PROGRAM (SHSGP)' TOTALING \$464,000.00.

Mayor Juarez moved, seconded by Councilmember Vargas, that Resolution 7524 be approved and adopted.

ROLL CALL-AYES: Councilmembers Reyes English, Valentine, Michelin, Vargas, Mayor Juarez  
NOES: None.

10.

**ORDINANCE 2037 (1<sup>st</sup> Reading)**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA AMENDING SECTION 10.38.020 (PREFERENTIAL PARKING PRIVILEGES) OF CHAPTER 10.38 (PREFERENTIAL STREET PARKING) OF TITLE 10 (VEHICLES AND TRAFFIC) OF THE HAWTHORNE MUNICIPAL CODE TO EXEMPT VEHICLES OPERATING UNDER AUTHORIZED CAR SHARING PROGRAMS FROM PREFERENTIAL PARKING RESTRICTION.

Ordinance No. 2037 was introduced by title only by Mayor Juarez with the understanding that there would be a workshop for the residents to buy into a car sharing program.

11.

**ORDINANCE 2038 (1<sup>st</sup> Reading)**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA AMENDING CHAPTER 1.08 (CITY NAME AND SEAL) OF TITLE 1 (GENERAL PROVISIONS) OF THE HAWTHORNE MUNICIPAL CODE RELATED TO THE USE OF THE CITY SEAL.

Ordinance No. 2038 was introduced by title only by Councilmember Reyes English.

12.

**ORDINANCE 2039 (1<sup>st</sup> Reading)**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA, AMENDING SUBSECTION 15.05.446 OF SECTION 15.05.010 (AMENDMENTS TO THE CALIFORNIA BUILDING CODE) OF CHAPTER 15.05 (AMENDMENTS TO THE CALIFORNIA BUILDING CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE HAWTHORNE MUNICIPAL CODE, RELATED TO GUIDELINES FOR MINI STORAGE BUILDINGS.

Ordinance No. 2039 was introduced by title only by Mayor Juarez.

The City Manager, Michael Goodson, presented the following agenda and requested approval of the indicated recommendation:

13.

Approve Progress Payment No. 3 due to Martinez Landscape Company, 12337 San Fernando Road, Sylmar, Ca 91342 for General Maintenance (Project #12-01) in the amount of \$182,890.58.

Mayor Juarez moved, seconded by Councilmember Valentine, to approve item 13 of the City Manager’s consent calendar.

ROLL CALL-AYES: Councilmembers Reyes English, Michelin, Valentine, Vargas, Mayor Juarez.  
NOES: None.

14.

Under Council’s Discussion/Action Items

1 A Directive made at a City council meeting by one or more members of the City Council shall be considered a Directive from the entire Council as a whole unless it is affirmatively rejected by a majority vote. Staff shall comply with all Directives from the Council as whole. (VARGAS/VALENTINE)

Councilmember Valentine requested discussion/action comments for the record.

**Councilmember Valentine:** At the January 8, 2013 Council meeting, the City Attorney took the position that his office was correct in refusing to comply with directives made by two Councilmembers and that such information requested by duly elected City Council officials can be withheld if the City Attorney deems it is in the best interest of the city. Councilman Vargas and I differ with that position. The City Attorney works for the City council as a body. He took the position that the requests made by Councilman Vargas and me were directives by two Councilmembers. However, that interpretation is incorrect. At the December 11, 2012 meeting, at which the directives were given to the Assistant City Attorney, no member of the City Council majority voiced any opposition to those directives. Therefore, without opposition, we are taking the position that the directives were made by the City Council body as a whole and the City Attorney is therefore required to comply. The City Attorney is not in the position to determine what is in the best interest of the city, in opposition to duly elected office-holders. The question should be whether the request is made for a releasable record. If the record is not releasable to the public, it is still releasable to the City Council in a legal memorandum. If a personnel matter is involved, the City Attorney should call a closed session so that the directives can be considered by the entire Council.

**Councilmember Vargas:** I would like to make a motion to direct the City Attorney to prepare an ordinance amendment that would require that all staff shall comply with directives received from Councilmembers at a duly convened Brown Act meeting unless the directive is rejected by the majority up here on the Council dais. As you all know from the January 8, 2013 City Council meeting, we discussed at length the attorney's refusal to comply with our directives. There was no legal confidential explaining the basis for this refusal nor was there any statute, case law or attorney general opinion cited in his justification for this. I suggest that we amend section 2.06.230 with regards to the directions and instructions from the City Council. That section should be amended to state that the City Attorney, the City Manager and all other staff shall comply with Councilmember's requests, unless of course, the directive is rejected by a majority vote of the City Council. I feel that this amendment is necessary in light of events which have occurred in the past few months where it does appear that certain appointed city officials are only taking direction from the Mayor and no one else. I feel I do not have any other alternative but to require that an ordinance, that in my opinion states the obvious, that the dog wags the tail and not the other way around. So I want the City Attorney to circulate the ordinance amendment for City Council review prior to its being placed on the agenda. So therefore, I do make a motion at this moment. A directive made at a City Council meeting by one or more members of the City Council shall be considered a directive from the entire City Council as a whole unless it is affirmatively rejected by a majority vote. The staff shall comply with all directives from the Council as whole. So that's my motion.

**Councilmember Valentine:** Second.

**Mayor Juarez:** Any discussion? Please vote.

**City Clerk Huber:** The vote reflects Mayor and Councilmember English voting no and Councilmember Vargas, Michelin and Valentine voting yes.

2 No item placed on an Agenda by a member of the City Council shall be removed by any person, including the City Manager, City Attorney, or City Council members. (VARGAS/VALENTINE)

**Councilmember Vargas:** The item reads: No item that is placed on and agenda by a member of the City Council shall be removed by any person, including the City Manager, the City Attorney or the City Councilmembers, so let me proceed. On December 7, 2012, Councilwoman Valentine and I placed four items on the regular City Council meeting agenda for December 11<sup>th</sup>. Many of you remember what happened. The agenda items were reviewed by the Assistant City Attorney and the items were in fact placed on the agenda, but they remained on the released agenda for only one hour. Without notifying me or my fellow Councilmember, the City Manager ordered the City Clerk to remove the items because one of the members on the dais ordered him to do so or it is suspected. The Hawthorne Municipal Code provides that all Councilmembers, the City Clerk, the City Treasurer, the City Attorney and the City Manager may all place items on the agenda. The code does not state that the City Manager or anyone else

may remove items from the agenda. Historically, the City Manager has never done this in the past. In this case, one Councilmember ordered the City Manager to remove the item because it would possibly cause him embarrassment. By removing the item, the City Manager denied both Councilwoman Valentine and myself the opportunity to speak about four significant items of public concern dealing with the possible misuse of public funds. In order to avoid this scenario in the future, I support a motion to direct the City Attorney to draft another ordinance to prevent this from happening again.

**Councilmember Valentine:** At this time, the motion that is about to be made, we're requesting that the City Attorney present the amendment for review by the entire Council in an email before it is placed on the agenda and I will make the motion at this time. No item placed on an agenda by a member of the City Council shall be removed by any person, including the City Manager, City Attorney or City Council members.

**Councilmember Vargas:** I second that motion.

**Mayor Juarez:** Any discussion?

**Councilmember Michelin:** I have a discussion.

**Mayor Juarez:** Sure.

**Councilmember Michelin:** The way I understand it, this ordinance is going to be drafted, it's going to be circulated amongst the Council and if we want to change it, if we have concerns, we can change it? Is that correct?

**Councilmember Vargas:** Councilmember Valentine?

**Councilmember Valentine:** Well, what we're saying is that this particular ordinance, all of these. Well, the items that we're considering now and all of them we're making the same request on. That it be circulated before it is placed on the agenda, yes.

**City Attorney Aderonmu:** Through the Chair. You need to remember that there's also the Brown Act that you have to comply with on a regular basis. So when you talk about circulating ordinances or documents between all five Councilmembers for their comments and determination and what they think about it before a public meeting, you may end up in a position where you're actually making decisions about that item before exactly taking up any public meeting and that would be a violation of the Brown Act so that's something that you need to keep in mind when you talk about reviewing documents or agreements or ordinances before the public meetings themselves.

**Councilmember Michelin:** But if I contacted you directly, Mr. City Attorney, with an amendment and nobody else, would that be a violation of the Brown Act?

**City Attorney Aderonmu:** No.

**Councilmember Michelin:** Here's my concern. I too had items removed from the agenda, so I'm concerned about this. In principle, I support this. However, I do understand that there are some Hawthorne Municipal Code sections that say that the City Attorney can approve something according to form. Would this ordinance contradict that in any way?

**Councilmember Valentine:** I do not believe it would. Are you addressing the City Attorney only?

**Councilmember Michelin:** No

**Councilmember Valentine:** All right. I do not believe it would. This is a substantive item. This is not an item. The City Attorney has the authority to review it as to form. This item is not discussing form. This item is discussing a substantive item that's placed on the agenda that is then removed by a member of the staff in some way, for some reason. We're not talking about form. I understand that the City Attorney has the right and the authority to review it as to form and I believe that is the limitation on that right.

**Councilmember Michelin:** Well, I want to be able to look at the ordinance to make sure that it doesn't violate or contradict any other Hawthorne Municipal code sections like that, city attorney, approval to form or anything else. That would be able to do that?

**City Attorney Aderonmu:** Yes, but, and there's no problem in doing that, but also what you have to keep in mind is this. When you talk about just putting something on the agenda, we could be Thursday 72 hours before city council meeting, for example, and we could have somebody hypothetically just want, you know, to put without any direction from the City Council itself. I think you need to understand if what you're asking is that should you each and every one of you, be able to, 72 hours before a meeting, put as many things as you want on the agenda without any vetting by the City Manager or the City Attorney, that's essentially what you would be codifying if this was put in the ordinance form.

**Councilmember Valentine:** Well, I assume that if we put something on the agenda, the city clerk is going to review it and the city attorney is going to review it to see if it's something that is illegal or something that is not justified. When we're asking for something that is within our legal rights to request, a request for records, for example, that is not something that we believe you should have the right to remove. You're saying put anything on the record. There was not just anything that was put on. The request was made for records and they were records that were within the, we believe, were within the custody of the City Attorney's office. We certainly don't think that that kind of item is something that is not justifiable to request.

**Councilmember Vargas:** Through the Chair.

**Mayor Juarez:** Sure

**Councilmember Vargas:** Were you finished? I'm sorry, I don't mean to interrupt you right there, but I understand what Mr. Michelin is saying. Form, yeah, I mean with regards to the form, but this prohibits from anybody from taking any item just because they feel like it. I mean, it could be the Mayor Pro Tem's, the Mayor's, you know, Mr. Michelin. We're setting a precedent right here for the future. Dynamics change. You know, you might not see the same dynamic here in about one, two, three, four, five, six years, or whenever. So this is setting a good precedent and unfortunately I wish we didn't have to kind of have to say, hey you know what, if I put something on here, you're not supposed to touch it, you know? I wish we didn't have to. I wish it was assumed, but, I mean, that's why we're here. We're having a constructive conversation here with some solutions and setting a precedent. So of course, ideally, it would be awesome if the City Attorney or one of his Assistant City Attorneys could help us put a resolution or a specific item in the correct form to place it, but not restrict us from putting an item so that's what, I hope that kind of understands where I'm coming from.

**Councilmember Michelin:** That's what I'm going to observe and research the ordinance to make sure that it doesn't, you know, violate any of the Hawthorne Municipal Code sections.

**Councilmember Michelin:** That sounds good.

**Councilmember Valentine:** And I would just like to add that the City Council reduces its power if it allows itself to be put in the position where it can put a member of the City Council, whether you agree with us or not, or you agree with me or you agree with Councilmember Vargas. I don't always agree with some things that you put on, but you have never heard me say or request that your item be taken off or that I would never even sanction that your item be taken off, whether I agree with it or not. So I think you, as duly elected Councilmembers who have the authority to represent the city, the only ones that do have the authority, we are the elected ones. It is our place to make laws for the city and I don't think anyone should have the authority to take an item off the agenda that we place on there. If there's something on there that makes no sense, which I would never say that, but let's say there's something that somebody puts on that makes no sense, in our deliberations, that will come out. We'll certainly have the opportunity to vet it and we'll certainly have the opportunity to discuss the merits. But it should come to the floor and it should be discussed.

**Councilmember Reyes English:** Through the Chair.

**Mayor Juarez:** Sure.

**Councilmember Reyes English:** It's amazing because that's how come I voted no on one. The first one. Because it seems as if, you know, as an elected official for the people of Hawthorne, I'm being told I can't put a directive unless everybody agrees to it, which in my opinion, is funny.

**Councilmember Valentine:** That's not what that says, by the way.

**Councilmember Reyes English:** Well, that's how it's being interpreted and that's exactly what it says.

**Councilmember Valentine:** Maybe....

**Councilmember Reyes English:** I'm not finished speaking. And item number two, when you talk about, you know, no item placed on the agenda. When you're speaking to items that are being placed on an agenda that speaks to human resources issues and or to personnel matters that shouldn't be discussed here as a whole on the Council, yes, the Attorney, I believe, and the City Manager, work together in consensus to say that that can't be something permissible that we discuss in open session because of a liability factor. Okay, so there's certain things that I believe that our City Attorney and our City Manager in their positions, should be respected. It shouldn't be undermined and it's really sad for us to sit up here and have to dictate to them, in a sense, because of the departments they have, what it is they can and cannot do, let alone micromanage how they're being operated. And so, you know, with that, any items can, in my opinion, and this has been going on for a while now, again Danny was 12 years City Clerk, I was four years City Clerk and there was always that issue. Matter of fact, the previous Mayor didn't allow a lot of items to be put on the agenda and that was something that the prior City Council fought all the time that their items weren't placed on the agenda because of certain folks saying basically they couldn't. But, you know, this is a new Council and I understand that. There's different perspectives and there's certain passions that certain folks have that others might not have. My passion might not be your passion and like you just made mention, at the end of the day we try to work together collectively and respect each other's authority and or items that we'd like to ultimately be placed before the Council for discussion, you know, that's fine. At the end of the day, I really think it's unfortunate that again, we have City Attorneys, City Manager and department heads here that are being undermined and are being in a sense, attacked by certain folks here on the Council for whatever reasons and, you know, that's just again, you have your opinion, I have mine and that was just my two cents.

**Councilmember Valentine:** Through the Chair.

**Mayor Juarez:** Sure.

**Councilmember Valentine:** Please, there is no attack going on here. What I'm trying to do is establish that the Council makes the decision as to what goes on the agenda. Now, there's no question that if it's a personnel matter it should go into closed session. So I'm not even arguing that issue. The issue is whether or not it should be removed. If it should be in closed session, then that would be one of those items that the City Attorney would have the authority to change as to form. That's exactly what as to form means. So if it has to be in a closed session, then it should be in a closed session and I'm certainly intelligent enough to know that a personnel matter shouldn't be discussed in open session. But it should not be removed from the agenda is what I'm saying.

**Councilmember Vargas:** Through the Chair.

**Mayor Juarez:** Sure.

**Councilmember Vargas:** I understand the Mayor Pro Tem's concern and she did allude to a previous Mayor, previous administration not allowing for items to be placed on the agenda and she was on the receiving end of that thing, so maybe some of her items weren't placed on the agenda and many of the other Councilmembers up here, maybe even including myself, my items didn't get placed on the agenda. So in essence, what I find is that the Mayor Pro Tem does agree that there is a problem with there being unilateral control as to what gets placed on the agenda, so there is an agreement. That's why we're placing this directive that no item placed on an agenda by a member of the City Council shall be removed by any person, including the City Manager, the City Attorney or members of the City Council. So this goes and addresses her concern and maybe something that may have affected her previously.

**Councilmember Reyes English:** Through the Chair.

**Mayor Juarez:** Sure.

**Councilmember Reyes English:** You know, Vargas, you have a really tactful way of putting things. But no, that's not how I interpreted it and no it's not something that I agreed to, so FYI, get it straight.

**Mayor Juarez:** Okay, so is there a motion or is there any other further discussion?

**Councilmember Valentine:** The motion has been made. No item placed on an agenda by a member of the City Council shall be removed by any person, including the City Manager, City Attorney, or City Councilmembers.

**Councilmember Vargas:** Second that motion.

**Mayor Juarez:** Okay, is there any further discussion?

**Councilmember Michelin:** And the ordinance will be open to review?

Councilmember Vargas: Yes. Yes sir.

**City Clerk Huber:** As the sitting City Clerk, both of you were sitting in this chair before. It is my understanding that our Clerk's office is totally independent and we do not want to be placed into the middle of a political battle. We do not want to be placed in the role of determining what goes on the agenda and what doesn't go on the agenda. We take directive from our legal counsel and we're here to represent all five of you and we're not wishing to be any part in the decision making of what goes on the agenda and what doesn't go on the agendas, so I'm glad that this is being discussed and we do not want to be part of any political battle on who puts what on the agenda.

**Councilmember Vargas:** Thank you Mr. City Clerk and I can tell you agree you do not want to be placed in the middle of this so I really appreciate that but, I mean, I guess let's vote for it.

**Mayor Juarez:** Okay, if there's no further discussion, please vote.

**City Clerk Huber:** Vote reflects Councilmember Vargas, Michelin and Valentine voting yes and Councilmember English voting no and Mayor Juarez voting no.

3 No lawsuit in which the City is a plaintiff shall be initiated in any judicial tribunal without prior approval by a majority of the City Council. (VALENTINE)

**Mayor Juarez:** Item number three, Councilmember Valentine.

**Councilmember Valentine:** Yes.

**Councilmember Vargas:** Okay, I think I want. I'd like to address that. Is that alright if I address this Councilwoman, first?

**Councilmember Valentine:** Yes. Please.

**Councilmember Vargas:** Okay. This item reads no lawsuit in which the City is a plaintiff shall be initiated in any judicial tribunal without prior approval by a majority of the City Council. And let me talk a little bit about this. I learned that the City Attorney filed a lawsuit without my knowledge and possibly without the knowledge of some of the other Councilmembers up here. As the client, the City Attorney owes us a fiduciary obligation to us to obtain our authorization before he files these types of lawsuits that will cause the city to incur costs in prosecuting these cases. So there's money involved. We might spend some money to prosecute this stuff. It appears that the lawsuit was filed in Los Angeles Superior Court in late December 2012. The City Attorney was on vacation in the early part of December, so it appears that this case was filed after he returned. We received no legal confidential explaining why this lawsuit was filed or explaining why it needed to be filed without first agendizing a closed session to gain the authorization from the City Council. Under the California rules of professional conduct, it is required that you inform the client when you intend to file a lawsuit or cross complaint. The one exception may be the filing of a claim since a claim is only a precursor to a lawsuit and must be filed in order to preserve the statute of limitations. You don't want to lose your opportunity to go back and address that. Without further discussion, I direct the City Attorney to prepare an ordinance requiring that the City Council authorize the initiation of all lawsuits and other judicial tribunal actions before the City Attorney or outside counsel files such actions. Of course, this does not apply to the defensive lawsuits filed against the city.

**Councilmember Valentine:** This item is of concern because to me because the City Council is the elected body for the city and the City Council is legally responsible for what happens in the city. The City Attorney's actions have legal consequences for the city and the City Council should not give up its authority to make a decision as to whether it wants to enter a lawsuit. Defending a lawsuit is a different matter because then you don't have a choice and also if there is something involving a statute of limitations in which it was impossible to warn the City Council about it in time, I would certainly say the City Attorney could file a lawsuit and then advise us immediately. But I do not know and I have not been told whether that was the case here. As a matter of fact, I don't know anything about this lawsuit except

that there is a lawsuit and I should not be in that position. The City Council is the duly elected governing body of the city and the City Council should be the only body that has the right to say whether the city is entering a lawsuit. It should be able to weigh the pros and cons of filing a lawsuit and make the determination as to whether it wishes to do so. Maybe we don't want to file a lawsuit because maybe we don't have the money to spend on filing a lawsuit, we don't have the money to spend on discovery and everything else that's involved in being involved in litigation. Maybe we don't have the money to spend on it. Maybe we want to place our money in some other area, but it should be the City Council's decision to make that decision. The City Attorney should bring all the information to the Council in a closed session so it can make an intelligent determination. But it should not be his call to make the decision without the approval of the City Council in advance as a whole. It does not matter whether the City Attorney believes the lawsuit has merit. It only matters that the City Council has approved it first.

**Councilmember Vargas:** Are you finished, Councilwoman?

**Councilmember Valentine:** Yes.

**Councilmember Vargas:** It very well may be that the lawsuit at hand may be well justified and it might be very strong, but just the prior approval is what I think we're talking about here, so I don't know if you want to make a motion or?

**Councilmember Valentine:** I'll make a motion. Since the code is silent on how lawsuits are initiated, I propose the following: I move that no lawsuit in which the City is a plaintiff shall be initiated in any judicial tribunal without prior approval by a majority of the City Council.

**Councilmember Vargas:** Second that motion.

**Mayor Juarez:** Any other discussion? Let's see, I just want to say something that I think that when I saw this on the agenda the first thing I thought of is maybe we're trying to protect somebody. I've been a City Clerk as well as a City Councilman for many years and I don't remember when the former city attorney came and said hey guys, we're going to go file a lawsuit. Here's all the information. Let's vote on it. That's what we hire the professional legal staff to do and I think this just makes a mockery of why we even need a city attorney so I will not be supporting this for that reason. Okay, any other discussion? Please vote.

**Councilmember Valentine:** I would just like to answer your comment as to protecting someone because I did not even know the person that's being sued, so I it's certainly is not my interest in protecting any person other than the City of Hawthorne.

**Mayor Juarez:** But you did have a meeting with the City Manager on this subject, did you not?

**Councilmember Valentine:** The City Manager?

**Mayor Juarez:** Yes.

**Councilmember Valentine:** On this subject?

**Mayor Juarez:** On the lawsuit that

**Councilmember Valentine:** No, I did not. It was a very brief question.

**Mayor Juarez:** Oh, very brief question.

**Councilmember Valentine:** It was a question. The question was, was the lawsuit filed? That was the question.

**Mayor Juarez:** Well how did you find out about it? You just said that you didn't know anything about it. So you can see what's going on up here.

**Councilmember Vargas:** Through the Chair. And I kind of do have a concern that there's that one way communication to you on every little meeting we have with the City Manager. So I think that's worse of an issue. But if you say we're protecting somebody, as you can see, this lawsuit is going forward, so, I mean, there's no way to protect that person from a lawsuit. It's going forward. But for the future, we have a fiduciary responsibility to the residents that we don't put ourselves in a weak position. That's up to us to decide if we need to go on the offensive and sue somebody so we do not want to take that part.

We hire the City Attorney, we hire the City Manager and they report to us and that's what we're solidifying with this and let's go ahead.

**Councilmember Valentine:** And for the record, I am protecting no one.

**Mayor Juarez:** Okay, any further discussion or comments? Please vote.

**City Clerk Huber:** Vote reflects Mayor and Councilmember English voting no and Councilmembers Vargas, Michelin and Valentine voting yes.

4 The City of Hawthorne shall institute a community walking program for residents of the City under the direction of the Human Resources Department. (VALENTINE/VARGAS)

Councilmember Valentine moved, seconded by Councilmember Vargas, that the City of Hawthorne institute a community walking program for residents of the city under the direction of the Human Resources department

ROLL CALL-AYES: Councilmembers Reyes English, Valentine, Michelin, Vargas, Mayor Juarez  
NOES: None.

5 Rotating Mayor position to be placed on the ballot for voters to decide this November 2013 election. (Vargas)

**Councilmember Vargas:** So number five. The rotating Mayor position to be placed on the ballot for voters to decide this November 2013 election. It's giving power to you the residents to decide if that's the direction we want to go. That's the way it should be. You have a say. So let me discuss why I placed this on the agenda today. I placed this item on the agenda to address an issue that most of us can agree has been a very controversial one for the last 40 years here in the City of Hawthorne which is the elected office of Mayor. As some of you remember, in the early 70s, a move from a rotating Mayor's position to an elected position took place starting with Mayor Guy Hocker, ending up with Mayor Steve Andersen, Mayor Larry Guidi and now our current Mayor, Mayor Danny Juarez and maybe a couple of Mayors in between. What is interesting is that most of those administrations have been mired in controversy. Beginning with the negative effect on Moneta Gardens through over population, the overflow of high density housing through other parts of Hawthorne, accusations of pay to play, political retribution and paybacks. And the most recent situation the office of Mayor finds itself in. Unfortunately, much attention has been placed on the escapades of whichever current Mayor is in office at a particular moment in time. This has proven to be a distraction from what should be the only focus in our city. That focus should be moving forward economically and improving the quality of life in all corners of the community. The concept of having a gatekeeper has to be removed in order for all Councilmembers to pull their own in moving our city forward. Local cities which already have the rotating Mayor's position are Hermosa Beach, Manhattan Beach, Lomita, Rancho Palos Verdes, Culver City, Rolling Hills Estates, Downey, Santa Monica, Cerritos, Bellflower, Lakewood, Paramount, Cudahy, Huntington Park, South Gate, San Dimas, Diamond Bar, the majority of the cities here in the local LA County have rotating Mayors positions. Let me give you an example of the some of the cities that have a directly elected Mayor's position. Compton, Carson and Inglewood. Okay, so those are three of the cities that do have a directly elected Mayor's position to give you an example that they do exist but those are some of the cities. That is why I will be making a motion today to place the rotating Mayor's position on the ballot for the election in November 2013 for the voters to decide based on the following conditions. This will require that all five members of the City Council be elected to four year terms as City Councilmembers. So when the first year that this gets enacted, we might have three Councilmembers get elected, two years after two and then the next year three, etc. Every year the Mayor's position will rotate between Councilmembers naturally, based on seniority. Not through a selection process, but seniority. We need to avoid the political tacts that this Mayor's position has always had so we need to go all the way based on seniority. As a result, the Mayor Pro Tem position will fall to the person with the next highest seniority. Note: If there is a conflict between two Councilmembers with the same amount of seniority, the tie will be broken based on their performance in their last election which means the number of votes which means the number of votes that they received, okay. The Mayor's position will continue to rotate down the seniority ladder and once the rotation is completed, it will cycle back to the top of the ladder. If a new a Councilmember is elected or councilmembers, they will qualify for Mayor or the Mayor Pro Tem position based on where they enter the Seniority ladder. This way we'll be able to take away the controversy and the distraction that the Mayor's position has proven to be in our City for these last 40 years. And this way we will be returning to the concept of Mayor to the ceremonial position it should represent. All members of the City Council will be forced to pull their weight in making efforts to bring business to our city and

moving our City forward. So that's why I'm going to just go ahead and make a motion that we move forward in preparing and placing the Rotating Mayor's position on the ballot for voters to decide this November 2013 election, based on the conditions I have just outlined. That is my motion.

**Councilmember Valentine:** Second.

**Mayor Juarez:** Any discussion? Please vote.

**City Clerk Huber:** Vote reflects Councilmembers Vargas, Michelin and Valentine voting yes. Councilmember English voting no and Mayor Juarez abstaining.

**Councilmember Vargas:** Through the Chair, sir.

**Mayor Juarez:** Sure.

**Councilmember Vargas:** So I mean just to finish the discussion on this, so in anticipation of this item being placed on the ballot, the City Attorney and the City Clerk, I think maybe the City Clerk does have maybe more of the responsibility. I don't know. You guys can figure it out, but we need you guys to help draft this up based on what we gave you and then give us an update at meetings, you know, if we don't want to circulate anything and break any Brown Act violations. I understand your concern, Mr. Aderonmu, but if you could present this to us in the next meeting just to see how it's starting to take shape.

**City Attorney Aderonmu:** We will get all the necessary documents together. And the City Council essentially has already voted to put this on the ballot. What we will need to do is get all the documents together. Get all the notices for the election and everything else to go along with it and we'll advise you what the cost is going to be and everything else that it entails. But just so you know, if this matter is on the ballot for this November, even if the citizens accept it or vote in favor of it, it will not take effect until two years after this election so there's still going to be a vote for Mayor in this election. So even if the citizens support it, then this is only going to take effect after the term expires. The Mayor who is elected in November finishes his term in office. So just so you understand that as well.

**Councilmember Vargas:** We understand and we acknowledge that and we'll be working with both of you guys as to the form of what we want to put on the ballot please. Thank you.

**City Attorney Aderonmu:** We'll prepare all the necessary documents and circulate it and bring it to Council.

15.

Under Elected Official Reports and Recommendations. Appointments/Reappointments/ Removal to Commissions/Committees and Boards.

City Treasurer **Lubenec** encouraged everyone to join a team for Relay for Life. Announced that Opening Day for Girl's Softball will be held on February 24<sup>th</sup> at 10am.

City Clerk **Huber** thanked the Daily Breeze for the story on the volunteers who put the museum together and thanked the Council for the use of the old police station where the museum is housed. Spoke on long time resident Betty Keel who was honored at the last historical society meeting. Announced that on March 11<sup>th</sup> the historical society will be hosting "Heritage Night" at the Memorial Center at 7pm where a presentation will be made by Dr. Eric Seiss of El Camino College on how to research your ancestry.

Councilmember **Vargas** thanked all the commissioners for their service to the community. Thanked Arnie Shadbehr, Mike Goodson, Kunle Aderonmu and Council for their efforts in keeping SpaceX in Hawthorne. Attended the Holly Park meeting and is excited to see new homeowners in Holly Park attending as well. Is glad to see residents at the council meeting expressing their views and concerns. Directed that the Planning Commission meetings be televised so residents can be better informed on development issues in the city. Requested to go over some of the items on the mid year budget review. Thanked Girl's Softball for the baseball caps presented to Council.

Councilmember **Valentine** thanked Council for passing the walking program. Congratulated all the employees for their years of dedicated service whether it be five or thirty-five years. Appreciates the fact that the residents came out to discuss Car2Go. Councilmember Valentine is in favor of the program as it will be an economic boom to the South Bay as a whole if it is implemented as an entire program for the South Bay. It will be an energy saver and it will save people the need to have a second car. Attended the LA 5<sup>th</sup> Annual Transportation Conversation at Union Station on February 2<sup>nd</sup> and reported that there is keen interest across the board in accelerating construction of our transit system. This is supported by four mayoral candidates. Everyone is on board to go back to congress to secure financing tools to accelerate transit construction including America's fast forward bonds. There is also interest in lowering the voter threshold due to instances such as Measure R and Measure J not passing even though they had a 66% vote, but not the required 66.6%. Reinventing development, utilizing tax increment financing within a half mile of high frequency transit to pay for housing with affordable rents, bike pedestrian projects and improvements such as parks and plazas was discussed. There was also interest in Mayor Villaraigosa's decision to create a transit corridors' cabinet to focus resources, policy and improvements along transit corridors. Councilmember Valentine will be paying attention to what goes on in Los Angeles because what goes on in Los Angeles does not stay in Los Angeles and obviously whatever Los Angeles implements, including Move LA, will definitely affect us and we should definitely be involved in it.

Councilmember **Michelin** congratulated the city employees on their years of service. Thanked Ray for the caps and is glad that Council was able to help out with the softball girl's league. Commented on the good job that the cable TV department is doing in airing a variety of programs. Requested information from Kyle on Vietnam Vets so he can pass it on to his high school students. Feels that the residents from preferential parking districts need to be heard and Cars2Go has the burden of proof to tell us exactly what is going to happen on the resident's streets. Clarified that we hire a city attorney to defend lawsuits, to do legal matters but as far as ultimate decisions, that has always been up to Council and he voted to look at the ordinances, to review the ordinances and to see if it doesn't violate Hawthorne Municipal Code. Feels that the rotating Mayor position is a step in the right direction because it is unfair that Mayors have to run every two years which pretty much puts them in constant election mode whereas this would go more into policy mode. Commented that we need to start reducing taxes so it is a good thing that the County rejected the storm water taxes.

Mayor **Juarez** thanked the Planning Commission for rejecting the recycling center on Prairie Ave. after listening to the residents who were against it. Congratulated Lawndale High School basketball for finishing undefeated. Congratulated all the employees on receiving their pins and doing a fantastic job. Thanked Mr. Dennis Hernandez for the opportunity to attend an ICRMA University session on crises response coverage. Congratulated the Sociedad de Jose Marti for their installing of the new board and the little get together that they had; they always put on a great program. Attended the Hollypark Homeowners Association where a representative from Parkside Village announced that the first model home will be ready in April and then in June or July, 25 homes will be build and ready to be moved into. Announced that there will be a hazardous waste ewaste roundup on April 20<sup>th</sup> at the sports center.

12.

Mayor Juarez recessed the City Council meeting to conduct a **Closed Session**: Conference with Legal Counsel – Pending Litigation – pursuant to Government Code Section 54956.9(a) (City of Hawthorne V. Jag Pathirana et. al., Los Angeles County Superior Court Case No. YC068429).

Mayor Juarez 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 regarding Conference with Legal Counsel – Pending Litigation – pursuant to Government Code Section 54956.9(a) (City of Hawthorne V. Jag Pathirana et. al., Los Angeles County Superior Court Case No. YC068429). It was announced that staff has been directed.

13.

Mayor Juarez adjourned the regular meeting at 10:37 p.m.

---

Norbert Huber  
City Clerk

02/12/13