

## MINUTES

### JOINT CITY COUNCIL/REDEVELOPMENT AGENCY OF THE CITY OF DUARTE REGULAR MEETING – MARCH 23, 2010

**CALL TO ORDER** The City Council/Redevelopment Agency of the City of Duarte met in a regular meeting in the Council Chambers, 1600 Huntington Drive, Duarte, California. Mayor Finlay called the meeting to order at 6:07 p.m., with all members present.

**ADOPTION OF AGENDA** Paras-Caracci moved, Fasana seconded to adopt the Agenda, and carried unanimously.

**CLOSED SESSION**  
1) Conference – Legal Counsel Existing Litigation  
2) Conference – Legal Counsel Anticipated Litigation

Slater stated the first Closed Session is pursuant to Government Code Section 54956.9(a); Existing litigation; KUA Industry, Inc., a California corporation; U.S. Kuil, Inc., a California corporation, Petitioners and Plaintiffs v. City of Duarte, a California municipality; City Council of the City of Duarte, specifically “John Fasana, Margaret Finlay, Tzeitel Paras-Caracci, Lois Gaston, and Phil Reyes;” City of Duarte Redevelopment Agency, an agency of a California municipality; and Does 1 – 500; inclusive, Respondents and Defendants; Los Angeles County Superior Court, Case No. BS123299. The second Closed Session is pursuant to Government Code Section 54956.9(c); Anticipated litigation/Initiation of litigation; Number of potential cases: 1. The Closed Session concluded at 7:14 p.m. The meeting was reconvened at 7:23 p.m.

**RECORDATION OF ATTENDANCE**

The following were in attendance:  
PRESENT: Fasana, Gaston, Paras-Caracci, Reyes, Finlay  
ABSENT: None  
ADMINISTRATIVE STAFF PRESENT: City Manager George, City Attorney Slater

**PLEDGE TO THE FLAG** Rachel Pierce led the Pledge of Allegiance to the Flag.

**MOMENT OF REFLECTION** A moment of reflection was observed.

**FITNESS/MENTAL WARM-UP** Trevor and Finlay provided the warm-up.

**PUBLIC REPORT OF CLOSED SESSION**

Slater stated during the first Closed Session, City Council/Agency Board received an update from Legal Counsel on the status of the litigation, with no reportable action taken. During the second Closed Session, the City Council conferred with Legal Counsel concerning the potential for initiating litigation against the City of Azusa with respect to the proposed Vulcan mining expansion, and unanimously directed that the Closed Session subject be revealed as Vulcan Materials, and authorized the City Manager to present to the public a statement concerning Duarte’s position on the matter.

**Statement read by City Manager** George read the following statement: “The City of Duarte completely and unequivocally opposes the mine expansion project. The project is bad land use policy, and Duarte and other members of the San Gabriel Valley community have expended a great deal of effort attempting to convince Azusa to reject the Vulcan proposal. But there is substantial evidence to suggest that Azusa staff has already made up its mind, and will urge the Azusa City Council to exercise its land use authority to approve the project despite its significant, unavoidable, and obviously adverse impacts on the people of the San Gabriel Valley. That evidence includes:

Packing the Planning Commission: Azusa replaced multiple anti-mining Planning Commissioners in the months leading up to the consideration of the mine expansion project.

Allowing the Community to Speak, But Refusing to Listen: Azusa staff allowed its Planning Commission – which is supposed to be Azusa’s expert planning and environmental analysis

body – to make a recommendation on the mine expansion project before receiving and considering responses to the hundreds of negative comments received from the community during the public hearing process.

Threat of Litigation: Azusa’s lawyer conceded at the March 10, 2010, Planning Commission meeting that Azusa is proceeding under threat of litigation from Vulcan.

Development Agreement: Azusa staff has recommended that the Azusa City Council enter into a development agreement with Vulcan which is designed to lure Azusa into accepting environmental impacts on the people of the San Gabriel Valley in exchange for millions of dollars of mining tax advances.

Given Azusa staff’s predisposition, litigation may be one of the only options available to the City of Duarte to protect the environment and the citizens of the San Gabriel Valley. Authorization of litigation is not a step that the City of Duarte would take easily or lightly. In fact, the City of Duarte has wanted to, and will continue to want to, work with Azusa to find, if possible, a mutually acceptable resolution to this issue. To that end, the City Council authorized City staff to respond to Azusa’s request to negotiate, and Duarte staff identified what it envisioned to be the best possible outcomes for the City of Duarte and its citizens, if the mining expansion is allowed to proceed. If that yields a viable proposal – and it has not thus far – the Duarte staff will bring that proposal back to the City Council. Only then will the City Council determine if the proposal is satisfactory.

The overall approach identified by Duarte staff includes four fundamental components.

Mitigation to Duarte’s satisfaction: Environmental impacts of the mine expansion project would have to be mitigated to the maximum extent feasible to the satisfaction of the City of Duarte. This would include \$20 million in performance assurances in favor of the City of Duarte to ensure that the proposed \$40 million reclamation plan and other mitigation measures are performed in a timely and successful manner.

Land use control: The City of Duarte would take jurisdictional control over the properties surrounding the Azusa Rock Quarry to ensure that Duarte residents are, in the future, protected against the type of disregard for their environment, their quality of life, and their property values embedded in the mine expansion proposal. The specific areas envisioned by Duarte staff include Encanto Parkway and the Shin property. The control envisioned by Duarte is land use control, not ownership.

Protection of public amenities: The City of Duarte would secure long-term control of access to Fish Canyon Falls, so that one of the natural jewels of the San Gabriel Mountains remains accessible to the public in perpetuity.

Establishment of a Community Facilities Fund: The City of Duarte would obtain a Community Facilities Fund that could be used to pay for additional mitigation, build a library, establish scholarship funds, acquire and maintain additional open space, or otherwise indirectly offset the negative community-wide impacts of the mine expansion. This concept is similar to the approach used in Azusa’s development agreement with Vulcan, even though it is Duarte (not Azusa) that suffers from significant adverse and unavoidable impacts from Vulcan’s mine expansion proposal.

Even if all of the elements of the above proposal are obtained, the result will still be less than an ideal. There is no guarantee that the Duarte City Council will approve any proposal. The City staff is merely investigating how to make the best of a bad situation.

At this point, the City of Azusa, after initiating the discussion in the first place, has rejected the concepts offered by the City of Duarte and has no other proposal, thereby leaving the two cities at loggerheads. Despite this choice, the City of Duarte remains willing to engage in meaningful and thoughtful discussions about how to avoid an unfortunate outcome.”

## ANNOUNCEMENTS

Sisters Mary Patrice and Carmen Therese, Hayden Childcare Center, provided a recap of the 5K event held on March 13, and thanked the City for its sponsorship.

Kay Pearlman, Duarte Library, announced story time and Easter egg hunt, National Library Week, VIP readers, and book sale.

Rodney Jefferson announced upcoming white paper project, and introduced the new Pastor of First Baptist Church Ron Herrell.

Karen Herrera announced a number of upcoming community events in the months of March, April, and May.

Kristen Petersen, Craig Hensley, and Marcella Marlowe introduced new City of Duarte employees Roger Cathey, David Eoff, and Michelle Brown.

Mayor Finlay announced breakfast with the Easter bunny on April 3, provided an update of school events, announced DUSD community meeting on April 1, and Talent Show on March 27.

Gaston announced School Boardmember Pam Kawasaki received the Community Outreach Action Team Award on March 17.

## SPECIAL ITEMS

Presentation – Save Our Canyon  
Proposed Vulcan mining  
expansion

Richard Deem, Save Our Canyon, made a PowerPoint presentation about Vulcan Materials’ proposed mining expansion plan, including the proposal, draft EIR, west and east side mining, comparative elevations, aggregate reserves, implications, CUP boundary violations, reclamation concerns, restoration, micro-benching, Fish Canyon Falls Trail, threat of litigation, and trustworthiness.

Xilonin Cruz-Gonzalez, Save Our Canyon, presented information about health concerns, proposed increase in mining, rock dust, particulate pollution, AQMD report about air pollution and children, monitoring particulates, prevailing winds, location of monitoring station, development agreement, supporters, and Azusa City Council Meeting of April 19.

Charles Gwyn stated citizens wanted the rock quarry closed in the 1950s, the property was annexed to Azusa, provided a history of the property, and stated it is the reason Duarte incorporated.

Steve Hernandez discussed the EIR, tonnage amounts, commanding control permit, annual emission reports, particulate matter, predominant winds, and monitoring stations, and suggested a survey of residents with respiratory ailments.

Lino Paras discussed the Planning Commission appeal process, and suggested Duarte donate a token amount to the Save Our Canyon organization.

Presentation – Burrtec and Public  
Safety – Bears/trash containers

Richard Nino, Burrtec Waste Systems, displayed the new and improved wildlife-resistant trash container, and stated it will be made available to residents who opt to use it for \$6 a month.

Brian Villalobos discussed the meeting with the Department of Fish and Game, possible contract with Wildlife Services, depredation permits, and importance of reducing food sources, and stated the information will be provided to foothill residents.

Reyes moved, Paras-Caracci seconded to receive and file the report, and carried unanimously.

Presentation – Year In Review	Brian Villalobos presented the Public Safety Department’s 2009 Year in Review, including Part 1 crimes, residential burglaries, partnerships with the community, and upcoming events.
Presentation – Strategic Planning Update (Continued)	The presentation of the strategic planning update was continued to a later meeting.
ORAL COMMUNICATIONS	The following spoke on items not on the Agenda. Lino Paras – Basketball, campaign promises.
CONSENT CALENDAR	Reyes moved, Gaston seconded to approve the Consent Calendar as follows, and carried unanimously. Approve Items A, B, C, E, F. Remove Item D.
ITEM REMOVED (Item D) Exclusive Use Request	Item D – Recommendation to approve exclusive use request for Beardslee Park on May 15, 2010, by Joy Christian Center for family festival open to the public.  Paras-Caracci inquired about the notification of the neighborhood regarding the impact on parking. Georgino and Villalobos responded.
Item D approved	Fasana moved, Reyes seconded to approve Item D, and carried unanimously.
PUBLIC HEARING Investment Grade Audit Energy Efficiency Improvements	Mayor Finlay announced this was the time and place set for a Public Hearing concerning the results of an investment grade audit of City facilities, approving agreements to install energy efficiency improvements, and approving the financing for the project.  Slater asked City Clerk Akana if notice of the hearing had been given, and if any written communications had been filed in the matter. Akana stated the notice had been given, the affidavit was on file, and no written communications were filed.
Council Bill 10-R-06 Energy Solutions Agreements	Slater read by title Council Bill 10-R-06:  A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, AUTHORIZING ENERGY SOLUTIONS AGREEMENTS WITH PACIFICWEST ENERGY SOLUTIONS, INC.
Council Bill 10-R-07 Energy Conservation Assistance	Slater read by title Council Bill 10-R-07:  A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, APPROVING A LOW INTEREST LOAN FROM THE CALIFORNIA ENERGY COMMISSION FOR THE IMPLEMENTATION OF ENERGY CONSERVATION MEASURES RECOMMENDED IN AN INVESTMENT GRADE AUDIT PREPARED BY PACIFICWEST ENERGY SOLUTIONS, INC.  Irma Hernandez, Senior Planner, presented a staff report about the audit, agreements, and financing, including summary, background, proposed improvements, fiscal impact, analysis of issues, environmental impact, and staff recommendation.  Mayor Finlay asked if there was anyone in the audience who wished to be heard on the matter.  Steve Hernandez stated it was a good idea, a positive move, and this is a step ahead.  Lino Paras stated in principle it looks good, inquired about the general fund, cost of audit, and implementation costs, and stated the public should be able to review the contract.  Fasana moved, Gaston seconded to close the Public Hearing, and carried unanimously.

Hernandez answered questions from Councilmembers, stated the audit was free, contracts are part of the Agenda packet, described the number of checks and balances built into the audit, stated SCE rebates will be reviewed and verified, a measurement process is involved to assure the improvements are meeting goals, and there is a budget line item of \$41,000. Slater stated there is not an exposure to the general fund for the loan repayment, and the only exposure to the City is the amount of energy savings.

There was further discussion about energy efficiency, stimulus, LED lights, alternatives, storing energy, and solar systems.

RESOLUTION NO. 10-06  
RESOLUTION NO. 10-07

Fasana moved, Gaston seconded to approve Resolution No. 10-06 and Resolution No. 10-07, and carried unanimously.

ITEMS FROM CITY COUNCIL/  
CITY MANAGER

SLATER: Stated the California Redevelopment Association provided an update on the lawsuit against the State indicating that an additional briefing has been submitted and will be considered by the judge.

PARAS-CARACCI: Attended the NLC Conference in Washington D.C., participated in the Youth, Education, and Families Council, looks forward to the Azusa City Council meeting, and hopes all are able to attend on April 19.

GASTON: Asked that a letter from the Mayor be sent to First Baptist Church as it is 126 years old, attended the Women of Achievement breakfast hosted by Ed Hernandez, attended the Azusa Gold Line station unveiling, thanked the City, Burrtec, and Pro Printing for sponsoring the Talent Show on March 30, provided information to the City Manger from the L.A. County CEO's office regarding preparation for emergencies, and suggested the information be shared with Block Captains.

REYES: Attended the NLC Conference in Washington, D.C., discussed workshop about realistic solutions to meet the challenges of local economic development and NLC legislative priorities, provided brochures to the City Manager about economic development, stability, and job creation, and thanked staff for organizing the reception for the China delegation.

FASANA: Announced Foothill Transit will be holding a public hearing on March 25 regarding its schedule adjustments, received a letter from a resident about a fence issue and grading (Slater responded), requested an update report about the bikeway along the Santa Fe Dam south of the City of Hope, stated the last soundwall is scheduled to begin construction this summer in front of our schools, traveled to Washington, D.C. with the Alameda Corridor East and other transportation agencies, visited our local congressional representative and spoke about key issues and appropriation requests, and stated Metro will be reviewing the agreement with the Gold Line on March 25, and he hopes the documents will be approved.

FINLAY: Stated the Hayden Childcare Run was a lot of fun, attended Bridge of Hope event at City of Hope, threw out the first pitch on DYAC opening day, announced breakfast with the Easter bunny on April 3, and congratulated Lisa Magno for receiving Judy Chu's Woman of Distinction Award.

ADJOURNMENT

Gaston moved, Paras-Caracci seconded to adjourn the meeting at 10:28 p.m., in memory of Ed Wallach and Don Mariconda, and carried unanimously.

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Mayor Margaret Finlay

ATTEST:

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City Clerk