

**MINUTES OF THE REGULAR JOINT MEETING OF
THE MONTCLAIR CITY COUNCIL, REDEVELOPMENT
AGENCY BOARD, AND MONTCLAIR
HOUSING CORPORATION BOARD HELD ON
TUESDAY, JANUARY 22, 2002, AT 7:00 P.M. IN
THE CITY COUNCIL CHAMBERS, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor/Chairman Eaton called the meeting to order at 7:00 p.m.

II. INVOCATION

Pastor Ellen Livingston, Montclair Unitarian Universalist Congregation, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Raft led those assembled in the Pledge.

IV. ROLL CALL

Present: Mayor/Chairman Eaton; Mayor Pro Tem/Vice Chairman Paulitz; Council Members/Directors Raft, Dutrey, and Ruh; City Manager/Executive Director McDougal; Director of Administrative Services Starr; Director of Redevelopment/ Public Works Staats; Director of Community Development/ Agency Planner Clark; City/Agency Engineer Hudson; City Attorney/Agency Counsel Robbins; Recording Secretary Smith

V. PRESENTATIONS

A. Introduction of New Promotee

Mayor Eaton introduced **Mr. Jeff Byers**, who was promoted to the position of Fire Captain effective January 7, 2002. He noted that Captain Byers began his career with the Montclair Fire Department as a Reserve Firefighter in 1980, was promoted to Firefighter in 1981, and in 1993 was promoted to Fire Engineer and assigned to both Medic Squad 151 and Engine 151 on a rotating basis. He stated that Captain Byers' additional responsibilities include his role with the Fire Apparatus Advisory and Specifications Team responsible for design and development of the Fire Department's two new engines. He added that Captain Byers is an ordained minister and has served as the Fire Department Chaplain since 1994.

Mayor Eaton congratulated Captain Byers on his promotion.

B. Overview by Mr. Victor Valdovinos, District Local Assistant Engineers, District 7 Construction, California Department of Transportation, Related to Construction Taking Place Along the I-10 Freeway From Monte Vista Avenue to the 57 Freeway

Mayor Eaton introduced **Mr. Victor Valdovinos, PE, Senior Resident Engineer, District Local Assistant Engineers, District 7 Construction, California Department of Transportation (Caltrans).**

Mr. Valdovinos reported the **Caltrans** I-10 Freeway-widening project is scheduled to be completed in the fall of 2003 at a cost of \$87 million and involves the addition of a high-occupancy-vehicle (HOV) lane from the California 57 Freeway through San Bernardino County. He indicated the project includes six bridge-widening projects and construction of retaining and sound-attenuation walls along **Caltrans'** right-of-way. He stated the project is 38 percent completed and is on schedule.

Mayor Pro Tem Paulitz asked if there is any possibility for the HOV lane to be converted to a regular lane through Montclair as it presently causes a traffic bottleneck beginning at the Central Avenue onramp. He also suggested signage be placed at Mountain Avenue notifying drivers to exit the HOV lane if they desire to exit the freeway at Central Avenue.

Mr. Valdovinos replied he would relay Mayor Pro Tem Paulitz's suggestions to **Caltrans** District 8 design traffic operations and construction engineers.

Mayor Pro Tem Paulitz thanked **Mr. Valdovinos**.

Noting he has received a number of complaints regarding the traffic congestion at Monte Vista Avenue, Mayor Eaton asked if it is **Mr. Valdovinos'** opinion that the condition will not improve until the project is completed.

Mr. Valdovinos answered, "That's right." He stated that once construction is completed, there will be one HOV lane and four general-purpose lanes.

Mayor Eaton inquired if **Mr. Valdovinos** has an idea about the cause of the accidents that are occurring along that stretch of the freeway.

Mr. Valdovinos indicated that construction has not reduced the capacity of the freeway and the lane configuration remains the same, and advanced warning signage has been provided to alert drivers of construction ahead. He suggested that additional signage might help, perhaps beacon signs.

Mayor Eaton agreed that additional signage might help.

Noting he requested tonight's presentation, Council Member Ruh thanked **Mr. Valdovinos** for attending tonight's meeting. He expressed his opinion that dialog between **Caltrans** Districts 7 and 8 should be encouraged and enhanced. He suggested a large message board sign be strategically placed to alert drivers of upcoming freeway congestion. He noted it recently took him 20 minutes to travel from Monte Vista Avenue to Fairplex Drive.

Mr. Valdovinos stated a portable changeable message sign could be turned on during peak traffic hours, such as in the mornings in the westbound direction.

Council Member Ruh added that a sign would be needed in the eastbound direction in the evenings. He stated that from experience, the traffic tie-ups occur between the 57 Freeway and just past Euclid Avenue. He indicated that completion of the California 57 Freeway would help to somewhat alleviate the congestion.

Mr. Valdovinos stated that as the Council is well aware, part of the problem is the loss of the HOV lane westbound at Monte Vista Avenue, creating a natural bottleneck that should be alleviated once the project is completed in 2003.

Council Member Ruh stated another concern is the economic impact on the merchants and shoppers at the **Montclair Plaza**. He stated it would be helpful to relay the project's completion timetable to the public. He noted the four key components involved in living in Southern California: water, energy, transportation, and housing.

Mr. Valdovinos stated he would suggest the lines of communication be opened between Districts 7 and 8 and talk to traffic operations regarding additional signage, including portable changeable message signs.

Mayor Eaton thanked **Mr. Valdovinos** for his presentation. He stated the Council would appreciate anything Caltrans can do for the City.

VI. PUBLIC COMMENT

Mayor/Chairman Eaton reminded those audience members desiring to address the City Council or Redevelopment Agency and Montclair Housing Corporation Boards of Directors they would be afforded a total of five minutes to speak on subjects that do not appear on tonight's agenda. Noting the number of *Speaker Information Cards* from **Heritage Park** residents, he stated the Council would be happy to hear speakers' comments and asked that they be kept brief and to the point.

A. **Mr. Robert Epstein**, 5205 San Bernardino Street, Montclair, commented as follows:

1. He stated he has lived at **Heritage Park** for one year, during which he has observed it to be a very special place. He noted he finds it to be a well-integrated and diverse community and that living there has been a great experience.
2. He complained the new owners have not improved or invested in the property at all during his residence, noting that painting, reroofing, and other repairs are needed.
3. He stated that Montclair has many assisted-living facilities and that he and many **Heritage Park** residents with whom he has spoken have no interest in its being converted to one.
4. He commented that the proposed kitchen construction would result in the loss of an exercise room, which the management has no interest in maintaining
5. He stated the manager has advised him that residents would be able to use the present office, a 10-foot-square room, and expressed his belief it is the owners' intent to displace current residents out of the clubhouse and out of **Heritage Park** itself.
6. He suggested the kitchen facility be built at the site proposed for the washroom so the clubhouse can remain as it is.
7. Noting there are rumors of corporate intent to sell investment shares in **Heritage Park**, he asked to whom the shares would be sold. He stated the idea suggests the condominium scams of the past, when apartment houses were converted to condominiums.
8. He expressed his understanding that if there is a successful change of occupancy, the manager would receive a \$1500 bonus.
9. He noted the majority of residents are over 60 years of age and are voters.
10. He stated it his understanding the Redevelopment Agency contributed \$400,000 in assistance to acquire the site for the **Heritage Park** apartments. He asked for the Agency's continued support of the **Heritage Park** independent-living community.
11. He suggested that if the new owners cannot abide by the Conditions, Covenants, and Restrictions associated with the property, they should sell it to another owner who can.
12. He suggested the owners are scheming to loot **Medicare**.
13. He stated the residents are trusting in the Redevelopment Agency for protection so they would not be forced to leave their homes.

Mayor/Chairman Eaton thanked **Mr. Epstein** for his comments.

Mayor Pro Tem/Vice Chairman Paulitz advised that the City Council/Redevelopment Agency Board would receive a report on this matter under Section X, "Response," Item A, "Update Regarding

Heritage Park Senior Apartments." He expressed his under-standing that he recently stated emphatically that the City/Agency would not allow the clubhouse to be preempted for any other purpose.

Council Member Ruh stated that many of the residents decided to move into **Heritage Park** because of the clubhouse amenity. He questioned the ability of the owners to reduce its amenities, conjecturing that to do so they would need to also reduce the amounts of lease payments.

Mayor/Chairman Eaton indicated this matter would be further addressed under Section X, "Response," Item A, "Update Regarding Heritage Park Senior Apartments."

- B. Mr. Jesse Villarruel**, 5205 San Bernardino Street, Montclair, spoke in opposition to the proposed assisted-living remodeling/ improvements at the complex. He also complained that residents were told at one time there was a 9:00 p.m. curfew at the complex and are charged a \$25 service fee to have their doors unlocked. He expressed his disapproval of the proposed conversion of a portion of the clubhouse facility into a dining room, noting that residents are concerned about the loss of the exercise room and television room in the clubhouse should the conversion take place.

Mayor/Chairman Eaton thanked **Mr. Villarruel** for his comments.

- C. Ms. Esther Cole**, 5205 San Bernardino Street, Montclair, stated she has resided at **Heritage Park** for two years. She indicated her lease agreement stipulates that rent should be paid on or before the first of each month. She discussed the hardship she experienced because the manager held her rent check from December 29, 2001, to January 9, 2002, which caused her check to bounce, costing her \$70 in fees. She indicated the manager has not given her a written explanation for the reason her check was held for that period of time.

- D.** Noting there are service workers constantly in her apartment, **Ms. Millicent Petljanski**, 5205 San Bernardino Street, Apt. 410, Montclair, complained that a jar of pennies and two gold fillings from her teeth are missing from her apartment and the manager has done nothing to resolve her loss. She stated she is somewhat disturbed about these thefts.

- E. Ms. Gloria Milovic**, 5205 San Bernardino Street, Apt. 603, Montclair, stated she has a list of questions she would like to ask as follows:

1. If the kitchen facility is built, would residents lose their Thursday television movie night? Thursday night is when residents socialize in the clubhouse.
2. Residents' leases contain no provision for assisted-living amenities. If the proposed improvements are implemented, would the owners be breaking their leases with residents?
3. Would social service activities, such as birthday events, be eliminated?
4. Why can't lines of communication be opened between the owners and residents?
5. None of the residents desire assisted-living amenities; all residents are perfectly capable of taking care of themselves.
6. If the proposed improvements are allowed, how could the work be done without disrupting the lives of residents with noise disturbances and blockage of parking areas?
7. How can the proposed improvements be considered when the apartments cannot effectively be remodeled for assisted living?

8. A van at **Heritage Park** would be unavailable to residents unless they sign up for a service package at an additional fee.

Ms. Milovic stated that rumors at the complex are upsetting to residents who do not desire to move because they appreciate the convenient location of **Heritage Park**. She stated residents would appreciate the City Council/Redevelopment Agency Board's consideration and assistance in this matter.

Mayor/Chairman Eaton asked **Ms. Milovic** to please leave her list with Director of Community Development/Agency Planner Clark.

Ms. Milovic added that **Heritage Park** residents would appreciate a timely response to their telephone inquiries.

Mayor/Chairman Eaton advised that staff would only be able to respond to inquiries during workdays.

VII. PUBLIC HEARINGS

A. First Reading - Adoption of Ordinance No. 02-815 Related to Collection of Delinquent Civil Debts

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 02-815 related to collection of delinquent civil debts.

There being no one in the audience wishing to speak, Mayor Eaton closed the public hearing and returned the matter to the City Council for its consideration.

Moved by Council Member Dutrey and seconded by Mayor Pro Tem Paulitz that Ordinance No. 02-815, entitled "**An Ordinance of the City Council of the City of Montclair Amending Sections 1.02.010 and 1.12.030 and Adding Sections 1.12.040 Through 1.12.100 of the Montclair Municipal Code Related to Collection of Delinquent Civil Debts,**" be read by number and

title only, further reading be waived, and this be declared its second reading.

The City Council unanimously waived the readings of the Ordinance.

Second Reading of Ordinance No. 02-815 was unanimously adopted by the following ROLL CALL vote:

AYES: Ruh, Dutrey, Raft, Paulitz, Eaton

NOES: None

ABSTAIN: None

ABSENT: None

B. Redevelopment Agency Board of Directors' Approval of *Agreement No. 02-05, a Purchase and Sale Agreement* by and Between the City of Montclair Redevelopment Agency and Ms. Elaina Quinzon Concerning the Single-Family Property Located at 5450 El Morado Street

Chairman Eaton declared it the time and place set for public hearing to consider approval of *Agreement No. 02-05, a Purchase and Sale Agreement* by and between the City of Montclair Redevelopment Agency and Ms. Elaina Quinzon regarding 5450 El Morado Street and invited comments from the public.

There being no one in the audience wishing to speak, Chairman Eaton closed the public hearing and returned the matter to the Redevelopment Agency Board of Directors for its consideration.

Director Ruh received confirmation that the Redevelopment Agency has expended funds to improve 5450 El Morado Street. He inquired if there is a concern the prospective buyers would not maintain the property to Agency standards.

Director of Redevelopment/Public Works Staats replied the prospective buyers would be required to sign maintenance covenants indicating the property would be maintained to Agency standards.

Director Ruh indicated he agrees with that philosophy and would like to see such sales transactions of Agency-owned property encouraged in other areas of the City pursuant to such terms. He expressed his opinion the Redevelopment Agency should not be in the property ownership business.

Moved by Director Ruh, seconded by Director Raft, and carried unanimously to approve *Agreement No. 02-05, a Purchase and Sale Agreement* by and between the City of Montclair Redevelopment Agency and Ms. Elaina Quinzon concerning the single-family residence located at 5450 El Morado Street.

C. Adoption of Resolution No. 02-2371 Authorizing Recovery of Abatement Costs Incurred by the City Related to Property Owned by Paul Muñoz and Located at 5242 Kingsley Street, Montclair, California

Mayor Eaton declared it the time and place set for public hearing to consider Resolution No. 02-2371 authorizing recovery of abatement costs incurred by the City related to property owned by Mr. Paul Muñoz and located at 5242 Kingsley Street, Montclair, California, and invited comments from the public.

There being no one in the audience wishing to speak, Mayor Eaton closed the public hearing and returned the matter to the City Council for its consideration.

Mayor Pro Tem Paulitz indicated this property has been an eyesore in the City for the last four years. He noted it presently has a broken garage window and a large pile of rocks, though a large cactus and pile of tree limbs have been removed. He stated he agrees with Code Enforcement's

actions, adding that further action would, no doubt, be required to keep the property, located on an important corner of the City, maintained.

Council Member Ruh inquired if the owner is actually the occupant at the residence.

Fire Chief Turner replied he is not sure.

Council Member Ruh asked if the property, in its present condition, is in violation of any Health and Safety codes and if the renters could possibly be endangered.

Mayor Eaton indicated that follow-up would be made on Council Member Ruh's inquiry.

Moved by Mayor Pro Tem Paulitz and seconded by Council Member Dutrey that the following actions be taken:

1. That Resolution No. 02-2371, entitled "**A Resolution of the City Council of the City of Montclair Declaring the Findings of the City Council Related to the Cost of Abatement Report for Property Located at 5242 Kingsley Street, Montclair, California,**" be read by number and title only, further reading be waived, and it be declared adopted.

The City Council unanimously waived the reading of the Resolution.

2. That the Council determine that the reimbursement amount of \$521.42 be paid to the City of Montclair with-in ten calendar days of the adoption of Resolution No. 02-2371.

Resolution No. 02-2371 was unanimously adopted and the Council determined that the reimbursement amount of \$521.42 be paid to the City of Montclair within ten calendar days of adoption of Resolution No. 02-2371 by the following vote:

AYES: Ruh, Dutrey, Raft, Paulitz, Eaton
NOES: None
ABSTAIN: None
ABSENT: None

At this time, Mayor Pro Tem Paulitz asked if the Council would consider Section X, "Response," Item A, "Update Regarding Heritage Park Senior Apartments" out of sequence for the benefit of the **Heritage Park** residents in the audience.

It was the consensus of the Council to consider Section X, "Response," Item A, "Update Regarding Heritage Park Senior Apartments" at this time.

X. RESPONSE

A. Update Regarding Heritage Park Senior Apartments

City Manager McDougal reviewed his January 11, 2002 memorandum to the Council giving an update on the **Heritage Park** matter. He stated that staff met with **Mr. Lance Graber, AIMCO**, and the onsite manager on January 9, 2002, to discuss and clarify **AIMCO's** tentative plans for the complex. He indicated that **Mr. Graber** has apologized to the Council, staff, and **Heritage Park** residents for the unfortunate announcement made to residents several months ago that **Heritage Park** would be converted to an assisted-living facility; that is not the case. He reported the aim of **AIMCO** is to provide services to only those residents who desire them. He stated that staff discussed the concerns of residents regarding the future use and planned improvements to the common facilities, specifically the clubhouse; and **Mr. Graber** had indicated that no resident would be excluded from or denied access to any common area facilities, including the clubhouse. He noted that, in fact, **AIMCO** is proposing to increase the number of operating hours from 7:00 a.m. to 11:00 p.m. and days of the week the clubhouse is open to seven days a

week.

Mayor Pro Tem Paulitz inquired if **AIMCO** is planning to use a portion of the clubhouse for a dining room.

City Manager McDougal replied that dining is proposed to be made available in the clubhouse but not to the exclusion of the residents' use. He stated that **Mr. Graber** indicated the clubhouse would always be available to residents during operating hours. He indicated that **AIMCO** is proposing that the manager's office be converted to a dining room to serve the approximately eight people who have expressed an interest in the food program.

City Manager McDougal further commented as follows:

1. Staff requested that **AIMCO** submit in writing the company's plans for the complex, which will be reviewed by Agency Special Counsel along with the **Heritage Park** agreement and Conditions, Covenants, and Restrictions (CC&Rs) for compliance.
2. The present large-screen television set would be replaced with a smaller 36-inch set. The Thursday movie night would remain the same.
3. Whatever services are provided today will continue. Only additional services would be charged a service fee.
4. **AIMCO's** goal is to offer independent-living, not assisted-living, services, such as the food-service program.

Mr. Epstein indicated that City Manager McDougal's report from **AIMCO** is in direct conflict with correspondence each resident received from **AIMCO**.

City Manager McDougal stated he can only relay what was discussed at staff's meeting with **AIMCO**.

Mayor Pro Tem Paulitz requested clarification regarding the dining room proposed to occupy the manager's office in the clubhouse.

City Manager McDougal replied that the manager's office would be converted to a dining room for residents and their visitors to dine privately.

Mayor Pro Tem Paulitz asked the following:

1. Where does **AIMCO** plan to locate the proposed kitchen facility?

City Manager McDougal replied he does not have the plan at this time to determine the proposed location of the kitchen facility.

2. Has the City received a written response yet from **AIMCO**?

City Manager McDougal responded the City has received a written response but not the report that was requested.

Mayor Pro Tem Paulitz stated that a written report, site plans, and schedules would be required for review by Agency Special Counsel.

City Manager McDougal concurred.

Mayor Pro Tem Paulitz asked if staff is continuing to withhold permits for the proposed improvements.

City Manager McDougal answered, "That's correct," adding that **Mr. Graber** was informed no construction permits would be issued until this matter is resolved.

Council Member Ruh stated that one way to quell further rumors would be to have **Mr. Graber** meet with **Heritage Park** residents, the Council, and staff. He suggested a community workshop be held at the **Heritage Park** complex. He noted he has reviewed the residents' correspondence from **AIMCO**, which does give the impression that the clubhouse is proposed to be converted to a dining room and that residents would have no access to the clubhouse during dining hours.

Mayor Pro Tem Paulitz suggested that the plans first be reviewed by Agency Special Counsel and staff prior to conducting a community forum. He further suggested the Council give final approval to the proposed improvements before permits are issued.

Council Member Ruh advised that the forum should be held at **Heritage Park** to accommodate residents who would be unable to attend a meeting at City Hall.

City Manager McDougal stated he extended an invitation to **Mr. Graber** to give a presentation of **AIMCO's** immediate and long-term plans for the complex to Council, staff, and **Heritage Park** residents, noting he has not yet received a response from **Mr. Graber**.

Director of Community Development Clark reported that staff received correspondence from **Mr. Graber** outlining **AIMCO's** proposal, including information about the rent structures and proposed maximum rent so a ruling can be made regarding the compliance of rents with restrictions in the CC&Rs. He stated it is staff's intent to provide Agency Special Counsel with **Mr. Graber's** correspondence and brochures received by staff and residents along with site plans for the proposed improvements for comparison with the CC&Rs.

Mayor Pro Tem Paulitz asked if staff is in receipt of the correspondence that was sent to the residents.

Director of Community Development Clark stated he has copies of two pieces of correspondence originally sent to the residents.

Mayor Pro Tem Paulitz stated that the latest correspondence received by the residents seems to be inconsistent with that received by the City.

Council Member Ruh agreed that the letter received by the residents is very different in content.

City Manager McDougal expressed his opinion that if notification to the residents, either by **AIMCO** or by the on-site manager, is well received, then **AIMCO** goes forward; if not, then the company retrenches and backs off. He stated that is the reason why staff first met with the owners/operators; the next step would be to have them meet with residents, Council, and staff to continue dialog about what is planned and expected.

Council Member Dutrey stated that the lack of communication has been a problem, noting the owners/operators should have first done so prior to applying for building permits. He emphasized that **Heritage Park** should remain an independent-living facility. He concurred with Mayor Pro Tem Paulitz and Council Member Ruh that first the facts need to be determined, followed by a community forum for the benefit of the residents. He questioned the reason behind the owners' lack of communication to residents of proposed improvements at the complex.

Council Member Ruh concurred.

Discussion took place among residents in the audience regarding residents receiving notification solely through the onsite manager.

Mayor Eaton reassured the residents that no permits have been issued

regarding the proposed improvements. He stated that a community forum would be held to inform residents of **AIMCO's** immediate and long-term plans for the complex.

Council Member Ruh indicated that this situation truly demonstrates the increased need for more low- to moderate-income senior housing in the City of which he has been a strong proponent.

Ms. Milovic mentioned the different rents that are being charged residents and asked that this item be looked into.

Mayor Eaton advised **Ms. Milovic** that the Council and staff would be looking into all aspects of the complaints and concerns expressed by residents. He emphasized that no construction permits would be issued until the entire issue is resolved.

Council Member Raft suggested residents supply staff with copies of all correspondence they have received from **AIMCO** as well as all future correspondence.

A **Heritage Park** resident in the audience expressed her dissatisfaction with the onsite manager's communiqués to residents.

Mayor Eaton thanked the **Heritage Park** residents for attending tonight's meeting. He stated that a thorough analysis would be made of **AIMCO's** proposal.

Mayor Pro Tem Paulitz thanked Mayor Eaton for considering this item out of sequence to accommodate the **Heritage Park** residents.

It was the consensus of the Council to receive and file the status report and update regarding the Heritage Park senior apartments.

D. Adoption of Resolution No. 02-2377 Authorizing Recovery of Abatement Costs Incurred by the City Related to Property Owned by Thomas Rees and Located at 10170 Columbine Avenue, Montclair, California

Mayor Eaton declared it the time and place set for public hearing to consider Resolution No. 02-2377 authorizing recovery of abatement costs incurred by the City related to property owned by Mr. Thomas Rees and located at 10170 Columbine Avenue, Montclair, California, and invited comments from the public.

There being no one in the audience wishing to speak, Mayor Eaton closed the public hearing and returned the matter to the City Council for its consideration.

Moved by Council Member Dutrey and seconded by Mayor Pro Tem Paulitz that the following actions be taken:

1. That Resolution No. 02-2377, entitled "**A Resolution of the City Council of the City of Montclair Declaring the Findings of the City Council Related to the Cost of Abatement Report for Property Located at 10170 Columbine Avenue, Montclair, California,**" be read by number and title only, further reading be waived, and it be declared adopted.

The City Council unanimously waived the reading of the Resolution.

2. That the Council determine that the reimbursement amount of \$2,176.70 be paid to the City of Montclair within ten calendar days of the adoption of Resolution No. 02-2377.

Resolution No. 02-2377 was unanimously adopted and the Council determined that the reimbursement amount of \$2,176.70 be paid to the City of Montclair within ten calendar days of adoption of Resolution No. 02-2377 by the following vote:

AYES: Ruh, Dutrey, Raft, Paulitz, Eaton
NOES: None
ABSTAIN: None
ABSENT: None

VIII. CONSENT CALENDAR

Council Member Dutrey requested that Item C-5 be removed from the Consent Calendar for comment.

Noting he would also like to comment on Item C-5, Council Member Ruh requested that Item C-2 be removed from the Consent Calendar for comment.

Moved by Council Member/Director Dutrey, seconded by Council Member/Director Raft, and carried to approve the following Consent Items as presented:

A. Approval of Minutes

1. Minutes of Adjourned Joint Council/Agency of January 7, 2002

The City Council and Redevelopment Agency Board approved the minutes of the Regular Joint City Council/Redevelopment Agency Board meeting of January 7, 2002.

2. Minutes of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of January 7, 2002

The City Council and Redevelopment Agency and Montclair Housing Corporation Boards approved the minutes of the Regular Joint City Council/Redevelopment Agency Board/ Montclair Housing Corporation Board meeting of January 7, 2002.

B. Administrative Reports

1. Authorizing the Filing of a Environmental Notice of Exemption for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project

The City Council authorized the filing of an environmental *Notice Of Exemption* with the California Office of Planning and Research for the Monte Vista Avenue/Union Pacific Grade Separation project.

2. Approval of Certain Recommendations From the December 20, 2001 Public Works Committee Meeting

The City Council approved certain recommendations from the December 20, 2001 Public Works Committee meeting as listed on the agenda report for this item.

3. "No Action" on Alcoholic Beverage Permit Application – Lou's Liquor

The City Council voted "No action" on the "Off-Sale General" license application for Lou's Liquor, 9666 Central Avenue, Montclair, California.

4. Receiving and Filing of City Treasurer's Report

The City Council received and filed the City Treasurer's Report for the month ending December 31, 2001.

5. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated January 22, 2002, totaling \$866,407.17; and the Payroll Documentation dated December 16, 2001, amounting to \$470,069.27, with \$311,412.29 being the total cash disbursement.

6. Receiving and Filing of Agency Treasurer's Report

The Redevelopment Agency Board received and filed the Redevelopment Agency Treasurer's Report for the month ending December 31, 2001.

7. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 12/01/2001–12/31/2001 in the amounts of \$926.13 for Project I; \$149,345.43 for Project II; \$63,824.54 for Project III; \$3,391.38 for Project IV; and \$30,271.35 for Project V.

8. Receiving and Filing of Montclair Housing Corporation Treasurer's Report

The Montclair Housing Corporation (MHC) Board received and filed the MHC Treasurer's Report for the month ending December 31, 2001.

9. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 12/01/2001–12/31/2001 in the amount of \$16,154.48.

C. Agreements

1. **Approval of Agreement No. 02-09, an Irrevocable Annexation Agreement With Aurora Farias for 10964 Roswell Avenue**

The City Council approved *Agreement No. 02-09, an Irrevocable Annexation Agreement* with Ms. Aurora Farias to allow for an emergency connection of her commercial landscape business at 10964 Roswell Avenue in the City's Sphere of Influence to the City Sewer System.

3. **Approval of Parcel Map No. 15417**

Approval of Agreement No. 02-11, a Subdivision Agreement With WF Construction, Inc., Regarding Parcel Map No. 15417

The City Council approved the following:

- (a) Parcel Map No. 15417 to create six industrial lots ranging in size from 24,975 to 38,710 square feet at the property located generally south of State Street and west of Ada Avenue.
- (b) *Agreement No. 02-11, a Subdivision Agreement* with WF Construction, Inc., regarding Parcel Map No. 15417.

4. **Redevelopment Agency Board of Directors' Approval of Agreement Nos. 02-12 Through 02-21, Rehabilitation Grant Agreements by and Between the City of Montclair Redevelopment Agency and Exterior Housing Improvement Program Participants**

The City Council approved *Agreement Nos. 02-12 through 02-21, Rehabilitation Grant Agreements* by and between the City of Montclair Redevelopment Agency and the eight Exterior Housing Improvement Program participants listed on Exhibit A to the agenda report on this item.

6. **Approval of Agreement No. 02-23 Revising Agreement No. 01-131 With Thomas G. Matlock Associates, Inc., an Architectural Firm, for Design of Improvements for Phase 2 of the City Hall Remodeling Project**

Authorize Allocation of Funds From the Sewer Maintenance Fund to Assist With the Cost of Phase 2 of the City Hall Remodeling Project

The City Council took the following actions:

- (a) Approved *Agreement No. 02-23* revising *Agreement No. 01-131* with Thomas G. Matlock Associates, Inc., an architectural firm, for design of improvements for Phase 2 of the City Hall Remodeling Project.
- (b) Authorized allocation of funds from the Sewer Maintenance Fund to assist with the cost of Phase 2 of the City Hall Remodeling Project.

D. Resolutions

1. **Adoption of Resolution No. 02-2378 Certifying the City of Montclair Has the Resources to Fund the Projects Submitted for Inclusion in the Fiscal Years 2002-03 through 2007-08 Regional Transportation Improvement Program and Affirming Its Commitment to Implement All of the Projects Submitted in the Program**

The City Council adopted Resolution No. 02-2378, entitled "A Resolution of the City Council of the City of Montclair Certifying the City of Montclair Has the Resources to Fund the

Projects Submitted for Inclusion in the Fiscal Years 2002-03 through 2007-08 Regional Transportation Improvement Program and Affirming Its Commitment to Implement All of the Projects Submitted in the Program."

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

2. Approval of *Agreement No. 02-10* With Landata Airbourne Systems, Inc., for Creation of a Citywide Digital Orthographic Landbase at 3" Pixels = 500' Photo Scale and Nine Mountable Photo Prints

Authorize Appropriation of \$20,000 From the Contingency Account to Supplement Purchase of Digital Orthographic Photo Landbase

Authorize Staff to Make Minor Amendments to Agreement with Fee Increase Not to Exceed Appropriation

Council Member Ruh inquired if orthodigital aerial photo-graphs could be enlarged to view a specific property.

City Engineer Hudson replied that the aerials would be photographed at such an altitude and at such resolution that something as small as a person could be accurately identified. In addition, he stated the aerials would be rectified in such a manner as to agree with City boundaries plotted through the City's **Geographic Information System.**

Council Member Ruh expressed his concern that such accurately detailed aerial photography, as with any advanced technology, must be used with care so as not to infringe on residents' private property rights.

Moved by Council Member Ruh to take the following actions:

- (a) Approve *Agreement No. 02-10* with Landata Airborne Systems, Inc., for creation of a Citywide digital ortho-graphic landbase at 3" pixels, 1" = 500' photo scale and nine mountable photo prints.
- (b) Authorize appropriation of \$20,000 from the Contingency Account to supplement purchase of digital orthographic photo landbase.
- (c) Authorize staff to make minor adjustments to agree-ment with fee increase not to exceed appropriation.*

Council Member Ruh asked if the aerials would be used as a Code Enforcement tool.

Mayor Pro Tem Paulitz answered, "So far they have not been used for that purpose."

City Engineer Hudson stated the project was not developed with that intent.

Council Member Ruh reiterated he would support this item so long as the aerial photographs would not be used for Code Enforcement purposes.

*Motion seconded by Council Member Raft.

Council Member Dutrey clarified that Code Enforcement practices originate from complaints from residents and inspections of properties made from public right-of-way. He indicated that one use for the aerials would be for the Building Division to detect illegal

additions to a property, which are clearly Health and Safety code as well as aesthetic violations. He noted that inspections made on areas of properties not visible from the public right-of-way would be in violation of the **Constitution**.

Mayor Pro Tem Paulitz advised that curbside inspections conducted by the Code Enforcement Committee include photographs that are taken of properties from public right-of-way. He discussed the importance of maintaining accurate aerial photographs for use in public works projects and spoke in support of this item.

*Motion carried as follows:

AYES: Ruh, Dutrey, Raft, Paulitz, Eaton
NOES: None
ABSTAIN: None
ABSENT: None

5. Approval of Agreement No. 02-22 With Monte Vista Water District for the Sale of Recycled Water

Council Member Dutrey inquired if the potential annual net gain of \$6,402.79 would be placed in the General Fund.

City Engineer Hudson answered, "It will go into the Sewer Fund because the Sewer Fund paid for the treatment cost."

Council Member Ruh asked if Monte Vista Water District (MVWD) is planning to resell the reclaimed water to another public or private agency.

Mayor Eaton noted it is his understanding that the water would not be resold.

City Engineer Hudson concurred, adding that to his knowledge, it is not MVWD's intent to market the reclaimed water at a profit.

Council Member Ruh received confirmation from City Engineer Hudson that the City is selling the reclaimed water, not water rights.

Mayor Pro Tem Paulitz concurred, though he pointed out that water, like oil, is a fungible substance and, theoretically, a comparable amount of water (or more) could be sold to another agency.

Moved by Council Member Dutrey, seconded by Mayor Pro Tem Paulitz and carried unanimously to approve *Agreement No. 02-22* with Monte Vista Water District for the sale of recycled water.

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel

1. Closed Session Pursuant to Section 54956.8 of the Government Code Regarding Real Property Negotiations

Property: 10420 Amherst Avenue

Negotiating Parties: City of Montclair Redevelopment Agency and Mr. and Mrs. Robert Ling

Negotiators: Director of Redevelopment/Public Works Staats, Director of Community Development/Agency Planner Clark, and Redevelopment and Housing Manager Caldwell

Under Negotiation: Recommendations Regarding Purchase Price

2. Closed Session Pursuant to Section 54956.8 of the Government Code Regarding Real Property Negotiations

Property: 10430 Amherst Avenue

Negotiating Parties: City of Montclair Redevelopment Agency and Mr. and Ms. Isidro Ambriz

Negotiators: Director of Redevelopment/Public Works Staats, Director of Community Development/Agency Planner Clark, and Redevelopment and Housing Manager Caldwell

Under Negotiation: Recommendations Regarding Purchase Price

3. Closed Session Pursuant to Section 54956.9(a) of the Government Code Regarding Pending Litigation

Raft v. City of Montclair

City Attorney/Agency Counsel Robbins requested a Joint Closed Session regarding real property negotiations pursuant to Section 54956.8 of the Government Code on the first two matters and pending litigation pursuant to Section 54956.9(a) of the Government Code on the third matter.

Mayor/Chairman Eaton noted Council Member/Director Raft's disqualification in Closed Session Items 1 and 2 because of the close proximity of her residence to the subject properties and Item 3 because of her interest in the case.

B. City Manager/Executive Director

1. City Manager/Executive Director McDougal commented as follows:

- (a) He requested the Council consider rescheduling the Midyear Budget Review to the regular joint Council/ Agency/Montclair Housing Corporation meeting on Tuesday, February 19, 2002, at 7:00 p.m. in the City Council Chambers so the service awards presentation may be made at 5:45 p.m. that evening.

It was the consensus of the Council to conduct the Midyear Budget Review on Tuesday, February 19, 2002, at 7:00 p.m. in the City Council Chambers.

- (b) Concerning Section IX, "Pulled Consent Calendar Items," Item C-5, "Agreements," regarding *Agreement No. 02-10* with Landata Airborne Systems, Inc., for orthodigital aerial photography of the City, he stated it is important that staff encourage all City departments/divisions to utilize the **Geographic Information System (GIS)** program and the aerial photographs. He indicated that the plan in the public safety arena is to make the aerial photography available in patrol vehicle computers so Police Officers could use the data at crime scenes. By the same token, fire safety personnel would be able to access the data during fire calls. He added that the data would be used in some instances for Code Enforcement purposes.

Mayor Eaton stated he "wholeheartedly supports" this item because of the benefits to our public safety departments.

C. Mayor/Chairman

1. Mayor/Chairman Eaton stated he would reserve his remarks for the next meeting.

D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairman Paulitz commented as follows:
 - (a) He noted his attendance at a recent **Corridor Design Authority** meeting created to administer a consolidated program of design and maintenance for the California 210 Freeway and to coordinate the design, construction, and maintenance of the *Pacific Electric Inland Empire/Citrus Trail*, a regional commuter bikeway that will pass through the cities of Claremont, La Verne, Montclair, Rancho Cucamonga, and Upland. He noted being apprised at the meeting that the cities of La Verne and Claremont received a grant for their portion of the trail and that Rancho Cucamonga was able to subsidize its portion. He stated that in the event he is not able to attend the federal legislative advocacy visit to Washington, D.C., he would request that an appeal be made to **Congressman David Dreier** for similar grants for Montclair and Upland.

Mayor Eaton stated that Mayor Pro Tem Paulitz's request would be added to the City's "wish list."
 - (b) He noted his attendance at a Code Enforcement Committee meeting prior to tonight's Council meeting and discussed a tour of the City that is planned for Saturday, February 2, 2002, at 9:00 a.m. to include the City Council, Planning Commission, Community Action Committee, **Montclair Chamber of Commerce**, and **Neighborhood Partnership of Montclair**. He stated the purpose of the tour is to educate attendees about the Code Enforcement program and to survey various sites in the City, including Mission Boulevard and the **Montclair Plaza**. He indicated the tour would take place from 9:00 a.m. to 12:00 p.m., with a continental break-fast at 8:30 a.m.

2. Council Member/Director Dutrey commented as follows:

- (a) He discussed his meeting two weeks ago with **Ontario-Montclair School District** Board Member **Bob Hardy** that addressed improving the image of the **District**. He stated a follow-up meeting was scheduled for next month to which he would like to invite City Manager McDougal and Ontario officials.
- (b) He noted he asked City Manager McDougal to invite the City's labor union representatives to attend a state legislative advocacy visit to Sacramento and that they would be able to attend. During a State Legislature caucus meeting held this month with Inland Empire municipalities, he stated that **Senator Jim Brulte** had indicated that local officials are very ineffective in their lobbying efforts at the state level unless accompanied by safety labor union representatives. He added that doing so might also encourage proactive working relations between the **League of California Cities** and the statewide police and fire associations with regard to fiscal policy.

At 8:27 p.m., Mayor/Chairman Eaton left the dais.

- (c) He noted his attendance last Tuesday at the productive Public Information Meeting that reviewed the proposed joint redevelopment project area along Mission Boulevard from Kadota Avenue eastward to Benson Avenue for implementation of public improvements. He noted that the property owners, many of whom reside in the City's Sphere of Influence, were enthusiastic about the improvements being made and those that are proposed. He stated he was pleased to witness the owners' enthusiastic responses to the Redevelopment Agency's efforts on their behalf.

3. Council Member/Director Ruh commented as follows:
 - (a) He concurred that the Public Information Meeting was very positive and productive, noting that attendees were assertive in their positions on the possibility of future annexation of their properties to the City.
 - (b) Concerning the City's legislative advocacy "wish list," he suggested that projects of an overwhelming regional need, such as **Alameda Corridor-East**, be advocated to our legislators. He further suggested the top priorities be ranked according to importance.

E. Committee Meeting Minutes

1. Minutes of Public Works Committee Meeting of December 20, 2001

The City Council received and filed the Public Works Committee meeting minutes of December 20, 2001, for informational purposes.

2. Minutes of Personnel Committee Meeting of January 7, 2002

The City Council received and filed the Personnel Committee meeting minutes of January 7, 2002, for informational purposes.

XII. COUNCIL/AGENCY WORKSHOPS

A. City Tour

Moved by Council Member Dutrey, seconded by Mayor Pro Tem Paulitz, and carried unanimously to continue this item to an adjourned joint meeting on Saturday, February 2, 2002, at 8:30 a.m. in the City Hall Conference Room.

B. Presentation on the Officer Next Door Housing Program

Moved by Council Member Dutrey, seconded by Mayor Pro Tem Paulitz, and carried unanimously to continue this item to an adjourned joint meeting on Monday, February 4, 2002, at 5:45 p.m. in the City Council Chambers.

XIII. ADJOURNMENT OF MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS

At 8:32 p.m., Vice Chairman Paulitz adjourned the Montclair Housing Corporation Board of Directors.

At 8:32 p.m., Mayor/Chairman Eaton returned to the dais.

City Manager McDougal commented as follows:

- ✓ He stated he took the liberty of inviting the news media to attend the state legislative advocacy visit to Sacramento.
- ✓ He stated that the Public Information Meeting held Tuesday, January 15, 2002, to address the proposed joint redevelopment project along Mission Boulevard was the most pleasant redevelopment-related meeting he has experienced in his history of administering the City's Redevelopment program, which he implemented in 1977. He attributed the experience to the Montclair Redevelopment Agency's "righteous redevelopment" track record. He stated the Redevelopment Agency Board of Directors deserves the kudos for their leadership in Montclair's redevelopment program.

At 8:35 p.m., the City Council and Redevelopment Agency Board, with the exception of Council Member/Director Raft, went into Joint Closed Session regarding pending litigation pursuant to Section 54956.9(a) of the Government Code (City Council) and real property negotiations pursuant to Section 54956.8 of the Government Code (Redevelopment Agency).

XIV. CLOSED SESSION ANNOUNCEMENTS

At 9:15 p.m., the City Council and Redevelopment Agency Board, with the exception of Council Member/Director Raft, returned from Closed Session. Mayor Eaton announced the City Council met in Closed Session regarding pending litigation, direction was given to staff, and no further announcements would be made at this time.

Chairman Eaton announced the Redevelopment Agency Board met in Closed Session regarding real property negotiations, direction was given to staff, and no further announcements would be made at this time.

XV. ADJOURNMENT OF CITY COUNCIL AND REDEVELOPMENT AGENCY BOARD OF DIRECTORS

At 9:16 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency Board of Directors.

Submitted for City Council/Redevelopment Agency Board/Montclair Housing Corporation Board approval,

Yvonne L. Smith
Transcribing Secretary