

**MINUTES OF THE REGULAR JOINT MEETING OF
THE MONTCLAIR CITY COUNCIL, REDEVELOPMENT
AGENCY BOARD, AND MONTCLAIR
HOUSING CORPORATION BOARD HELD ON
TUESDAY, FEBRUARY 19, 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 Javier Orozco, La Senda Antigua, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Dutrey 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; City Clerk/Agency Secretary Crawford

V. PRESENTATIONS

A. Presentation by Mr. Gary Moon, Director of Freeway Construction, San Bernardino Associated Governments, on Measure I, the San Bernardino County Half-Cent Transportation Sales Tax

Mayor Eaton introduced **Mr. Gary Moon**, Director of Freeway Construction, **San Bernardino Associated Governments**.

Mr. Moon gave a presentation on **Measure I**, San Bernardino County's 20-year half-cent transportation sales tax adopted by the voters in November 1989 to remain in effect through 2009. He stated the tax was placed on the ballot because of the lean federal and state transportation-funding times of the mid-1970s through early 1980s. He discussed the genesis of the **San Bernardino Associated Governments (SANBAG)**, a countywide organization that administers the tax and was established to coordinate regional planning issues and is also responsible for transportation planning and financing programs. He pointed out that Montclair is notable in that two members of its Council, Mayor Eaton and Mayor Pro Tem Paulitz, represent the City at **SANBAG** Board meetings. He reported that **Measure I** revenues were used to partially fund the I-10 Freeway-widening project at Central Avenue, the Montclair Transcenter, and extension of Monte Vista Avenue, among other regional projects that directly benefit the City. He reviewed how tax revenues are allocated and discussed increasing awareness of how **Measure I** funds have benefited cities and the region through public-information fact sheets, highway signs, presentations such as this one, and other outreach programs. He further discussed methods the City can use to advertise the benefits of **Measure I**.

Council Member Ruh inquired if **Measure I** funds might be allocated to grade separations necessitated by **Alameda Corridor-East (ACE)**.

Mr. Moon replied that potentially grade crossings could be funded with commuter rail funds, though this fund has pretty much been exhausted

with the establishment of the **Metrolink** commuter rail line. He indicated it would be very difficult from a legal standpoint to divert any of the funding.

Council Member Ruh noted that alternate funding sources must be located for **ACE**.

Mayor Pro Tem Paulitz commented as follows:

1. He reported that Montclair was one of the earlier recipients of **Measure I** revenues for the Monte Vista Avenue underpass and extension project, a regional project that has been very beneficial to the region. He credited former Mayor Rhinehart, who at the time had represented the City on the **SANBAG** Board, for his influence in securing funding for this project, one of the more important regional ventures.
2. He stated he is very proud of the City's completion of the Holt Boulevard beautification program, including street reconstruction, signal upgrades, and median landscaping.

Realizing that the **Measure I** transportation tax would be expiring in 2009 and noting its importance as a local transportation revenue source, Council Member Dutrey inquired as to the **SANBAG** Board's plans to once again place the tax measure on the ballot.

Mr. Moon responded that the Board has plans to further consider another ballot measure in 2004.

Mayor Pro Tem Paulitz commented as follows:

1. He pointed out that the first transportation tax measure failed, though thankfully **Measure I** passed on its second attempt. He emphasized the importance of getting an early start to place the transportation tax before the voters a second time.
2. He noted that certain conservative members of the **SANBAG** Board are against a 55 percent vote requirement and would prefer a two-thirds vote requirement on the measure. He indicated that this subject would be further addressed by the Board in 2004.

Mayor Eaton thanked **Mr. Moon** for his report on Measure I.

At this time, Mayor/Chairman Eaton asked if the Council/Agency Board would consider Section XI, "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 XI, "Response," Item A, "Update Regarding Heritage Park Senior Apartments" at this time.

XI. RESPONSE

A. Update Regarding Heritage Park Senior Apartments

Director of Community Development Clark stated there has been no change on this item since the last meeting and that residents are assured that no permits have been issued for any modifications to the building and would not be issued until such time as all questions about the proposed service program have been answered and resolved.

Mayor Pro Tem Paulitz asked that Director of Community Development Clark read the February 12, 2002 memorandum on this topic.

Director of Community Development Clark summarized the memorandum, stating that staff has been working to arrange a meeting at **Heritage Park** between the owners, representatives of the owners at **AIMCO**, the City Council, staff, and any other interested parties who

would like to attend. He noted that the dates proposed to conduct the meeting are either Tuesday, March 5, 2002, or Wednesday, March 6, 2002, at 6:30 p.m. at **Heritage Park**; however, **AIMCO** representatives have indicated they would not commit to a specific meeting date until such time as they have reviewed the opinion of Redevelopment Agency Special Counsel regarding the CC&Rs for the property and are in agreement with the opinion. In the interim, he stated that Agency Special Counsel continues to review information about the proposed service program for compliance with the CC&Rs governing rents at low- to moderate-income levels as well as proposed modifications to the building and should, it is hoped, issue an opinion within the next week. He noted that the City Attorney has also been provided with the same information, in addition to the original land-use conditions of approval under zoning, for review and consideration of any land-use changes or impacts. He stated that the opinions of Agency Special Counsel and the City Attorney would be made available to representatives of **AIMCO** and anyone who is interested. He reiterated that it is staff's objective to conduct a joint meeting of **Heritage Park** residents, the property owners and representatives at **AIMCO**, the City Council, and staff to address and resolve all questions.

Mayor Pro Tem Paulitz mentioned for clarification purposes that **AIMCO** representatives had approached the Planning Commission in February 2001 with a proposed change to the Specific Plan that includes the **Heritage Park** site. He noted that at that time, the firm had indicated its proposal was to relocate the laundry facility to attach to one of the buildings and to convert the existing laundry facility to a kitchen. He noted that reasons were not specified for the proposal, adding it was approved by the Planning Commission at that time. Since review of that document and other conditions, he stated he has learned that a Conditional Use Permit (CUP) was issued when the complex was built. He advised that **AIMCO's** present proposal to alter **Heritage Park** from an independent-living facility to assisted living would require an amendment to the existing CUP in addition to an amendment to the Specific Plan. He noted that **AIMCO** is a long way from getting what they want because an amendment to a CUP is not a right, it is a privilege that may not necessarily be granted. He indicated the firm may find itself in a position of desiring to change the basic land use from independent living to assisted living—impossible under existing physical conditions at the site unless elevators and ramps are installed, which would result in a change to the entire concept of the complex (similar to **Montclair Royale** or **Briarwood Manor**.) He noted there is not necessarily a need to change the basic concept of the complex, and any residents of **Heritage Park** can locate to one or the other of the assisted-living facilities in Montclair if that is their desire.

Council Member Ruh inquired as follows:

1. Were the proposed meeting dates suggested by staff or by **AIMCO**?

Director of Community Development Clark replied the dates were suggested by staff.

2. Were **Heritage Park** residents consulted about the proposed meeting dates?

Director of Community Development Clark stated that staff did not check the dates with residents, though staff anticipated that an evening meeting would be more amenable for Council Members.

Council Member Ruh stated that a Saturday meeting might be best for the residents. He asked that staff keep in mind that the **National League of Cities Congressional Cities Conference** begins on March 7, 2002, and that some Council and staff members who are scheduled to attend the conference might be traveling on March 6, 2002.

Ms. Gloria Milovic, 5205 San Bernardino Street, Apt. 603, Montclair, noted that Tuesday, March 5, 2002, is election day for the direct primary.

Council Member Ruh asked if anyone has addressed **Ms. Milovic's** issue about the brochure that has been circulated at the complex.

Ms. Milovic indicated there are eight boxes of the brochures in the onsite manager's office.

Council Member Ruh suggested the matter be looked into as it is frightening to some of the residents. He stated that "perception is, indeed, reality in many cases."

Director of Community Development Clark commented that **AIMCO** provided staff with a camera-ready copy of that brochure sometime ago. He indicated that **AIMCO** has not distributed any printed copies of the brochure. Regarding Mayor Pro Tem Paulitz's comments about the CUP, when this issue first came about, the City Council will recall that **AIMCO** was unaware of the restrictions on the property. He noted that **AIMCO** had distributed a brochure to the residents indicating the service option would be mandatory and become effective at residents' next lease renewal. It was at that time that staff informed **AIMCO** that such action would represent a change of land use and require a CUP amendment, noting that the property was not designed or intended for such purpose. **AIMCO** had been advised that the CUP would have to be first amended, at which time the firm did more research and has been presenting the proposed service program as an option.

Council Member Ruh commented that if, in fact, **AIMCO** is denied its use change, residents are concerned that routine maintenance at the complex would not be performed and the complex would deteriorate.

Mayor Eaton stated that there are safeguards in place to ensure adequate maintenance of the complex continues.

Council Member Dutrey stated he had a chance to visit **Heritage Park** two weeks ago. He indicated he cannot imagine its being converted to an assisted-living facility. He discussed the importance of studying the CC&Rs and land-use issues that were raised by Mayor Pro Tem Paulitz. He expressed his hope that **AIMCO** will attend the meeting that staff is scheduling.

Council Member Dutrey concurred, adding that a meeting to include the residents would be held prior to any consideration being made of the proposed project.

Council Member Ruh asked if the **Heritage Park** updates could continue until this matter is resolved.

Mayor Eaton concurred.

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

At this time, Mayor Eaton asked **Ms. Genevieve Schaeffer** if she would like to comment.

VI. PUBLIC COMMENT

- A. Ms. Genevieve Schaeffer**, 5205 San Bernardino Street, Apt. 210, Montclair, indicated she does not need to comment except to reiterate that the direct primary election would be held on Tuesday, March 5, 2002, and the Council may not be available on Wednesday, March 6, 2002. She expressed her doubt that the proposed meeting would solve any issues the residents have with the property owners.

Mayor Pro Tem Paulitz noted the proposed meeting dates are a moot point right now as **AIMCO** is not yet ready to meet.

Mayor Eaton concurred.

Ms. Milovic advised that an evening meeting would work well for residents.

Mayor Eaton thanked **Heritage Park** residents for their attendance this evening and reassured them that the City Council is looking out for their best interests.

VII. MIDYEAR BUDGET REVIEW

A. Review of the City's and Redevelopment Agency's Fiscal Operations and Approval of Proposed Changes to the Fiscal Year 2001-02 Budgets

City Manager/Executive Director McDougal stated he is always pleased to present the Midyear Budget Review when there is a positive impact to the General Fund. He introduced Assistant Finance Director Richard Beltran to give tonight's presentation.

Assistant Finance Director Beltran advised the Council that they have received this evening Tables 1 through 4, *General Fund Analysis*, *General Fund Revenue Detail*, *Statement of General Fund Expenditures for Six Months*, and *Recommended Changes to the 2001-02 Appropriations Budget*, respectively, that were inadvertently omitted from the Council's agenda packets.

City Manager/Executive Director McDougal interjected that, as former City Attorney Gene Demchuk used to say, it was "out of an abundance of caution" that a number of items proposed for the last budget-development process were held back with the promise that, if the City's revenue picture improved at midyear, he would bring them back for Council consideration. He indicated that at least three of those items are listed under "Appropriations Budget Adjustments" of the agenda report, including \$45,000 from the Equipment Replacement and Public Safety Funds for 15 Motorola ASTRO XTS handheld radios plus associated equipment (Police Department) and a total of \$80,000 from the Equipment Replacement and Public Safety Funds for three new vehicles (Fire Department).

Assistant Finance Director Beltran reported the status of the City's and Redevelopment Agency's financial operations at midyear and discussed specific changes to the current budgets. He high-lighted general revenue/expenditure trends and the fiscal impacts of potential budget changes, including the following:

\$1,000 increase to the City Manager Department budget to ensure adequate funding is available in the City Clerk Division for printing and advertising ordinances and other legal documents.

\$26,000 increase to the Administrative Services Department budget to continue additional services provided by the City's contractual computer consultants and to replace flags on Central Avenue and funding for additional flags to be located on Monte Vista Avenue.

\$106,200 increase to the Police Department budget for increased costs associated with Support Services, Records, Investigations, and Patrol. Of that amount, \$45,000 is for replacement of 30 Motorola handheld radios.

\$80,000 increase to the Fire Department budget (from the Equipment Replacement and Public Safety Funds) for the purchase of three new vehicles.

\$81,400 increase to the Public Works Department budget for increased costs for the remainder of the year. Of that

amount, \$24,000 would be used for overtime in various programs and \$32,000 would be allocated to Traffic Safety Engineering for installation of light-emitting diode (LED) lamps at all City traffic signals.

\$23,200 increase to the Community Development Department budget for part-time personnel, publication and advertising, plan-checking services, and overtime for the remainder of the fiscal year.

\$20,000 increase to the City Attorney budget to ensure adequate funding for legal services, noting the City expects to conclude several major legal issues in 2002.

Assistant Finance Director Beltran presented suggestions for the Estimated Revenue Budget (increase by \$236,957) and the Appropriations Budget (increase spending authority by \$227,400 in the General Fund, \$71,500 in the Equipment Replacement Fund, and \$38,900 in the Public Safety Fund) changes. Approval of both the Appropriations and Estimated Revenue Budgets would have a positive budgetary impact to the General Fund of \$9,557. In addition, because staff miscalculated the amount of carryover from prior years to the **Exterior Housing Improvement Program (E-HIP)**, the Redevelopment Agency Appropriations Budget is requested to be increased by \$45,540 to complete funding of **EHIP** for the balance of Fiscal Year 2001-02.

Concerning the proposed adjustments to the Estimated Revenue Budget, specifically the recommended \$150,000 decrease to the adopted budget sales tax estimate, Council Member/Director Ruh inquired if staff has an estimate of the anticipated fourth quarter 2001 sales tax revenues.

Assistant Finance Director Beltran replied that the economy has improved somewhat, adding that the remittance would also reflect the 20 days that **Costco** was open in December 2001.

City Manager/Executive Director McDougal noted that revising the Estimated Revenue Budget results in a positive impact to the General Fund of \$236,957.

Council Member/Director Ruh inquired if grant funding might be available for the Police Department's proposed \$4800 expenditure for Cellular Digital Packet Data technology associated with the Mobile Data Computers in patrol vehicles.

Police Support Analyst Nancy Dickerson replied that staff is always exploring grant use, though grants typically do not fund ongoing expenditures.

Discussion took place regarding the benefits to the City and long-term cost savings of the project to install LED lamps at all City traffic signals.

It was the consensus of the Council that the proposed increase of \$8900 to the Police Department Support Services program toward purchase of a new vehicle for the Police Chief remain in the budget.

Moved by Council Member/Director Dutrey, seconded by Mayor Pro Tem/Vice Chairman Paulitz, and carried unanimously to receive and file the City/Agency Midyear Budget Review report and to approve the proposed changes suggested therein to the City of Montclair and Montclair Redevelopment Agency Fiscal Year 2001-02 Annual Budgets.

VIII. PUBLIC HEARINGS

- A. **Adoption of Resolution No. 02-2374 Authorizing Recovery of Abatement Costs Incurred by the City Related to Property Owned by Omar Guzman and Located at 4269 Denver Street, Montclair,**

California

Mayor Eaton declared it the time and place set for public hearing to consider Resolution No. 02-2374 authorizing recovery of abatement costs incurred by the City related to property owned by Mr. Omar Guzman and located at 4269 Denver 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.

Council Member Ruh inquired if there was someone residing in the property when staff first received the complaint.

Fire Chief Turner responded that the property had been vacant at the time.

Council Member Ruh expressed his concern that a family had resided there with the property in such deteriorated condition. He asked if the property owner, Mr. Guzman, has contacted the City.

Chief Turner replied that there has been no contact from Mr. Guzman.

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

1. That Resolution No. 02-2374, 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 4269 Denver 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 \$1,682.49 be paid to the City of Montclair within ten calendar days of the adoption of Resolution No. 02-2374.

Resolution No. 02-2374 was unanimously adopted and the Council determined that the reimbursement amount of \$1,682.49 be paid to the City of Montclair within ten calendar days of adoption of Resolution No. 02-2374 by the following vote:

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

IX. CONSENT CALENDAR

Director Dutrey requested that Item C-4 be removed from the Consent Calendar for comment.

Council Member Ruh requested that Items C-2 and C-3 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 Meeting of February 4, 2002**

The City Council and Redevelopment Agency approved the minutes of the Adjourned Joint City Council/Redevelopment Agency Board

meeting of February 4, 2002.

2. Minutes of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of February 4, 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 February 4, 2002.

B. Administrative Reports

1. Setting a Public Hearing to Prioritize Funding for Fiscal Year 2002-03 Community Development Block Grant Projects

The City Council set a public hearing for Monday, March 4, 2002, at 7:00 p.m. in the City Council Chambers to prioritize funding for Fiscal Year 2002-03 Community Development Block Grant projects.

2. Acceptance of the Housing Improvement Task Force *Action Plan 2002* and Authorization of Staff to Pursue Recommendations Described Therein

The Redevelopment Agency Board accepted the Housing Improvement Task Force *Action Plan 2002* and authorized staff to continue the course of actions described therein..

3. Receiving and Filing of City Treasurer's Report

The City Council received and filed the City Treasurer's Report for the month ending January 31, 2002.

4. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated February 19, 2002, totaling \$866,407.17; and the Payroll Documentation dated January 13, 2001, amounting to \$1,166,256.07, with \$292,434.98 being the total cash disbursement.

5. 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 January 31, 2002.

6. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 1/01/2002–1/31/2002 in the amounts of \$6,325.22 for Project I; \$0.00 for Project II; \$315,317.40 for Project III; \$59,709.16 for Project IV; and \$292,797.49 for Project V.

7. 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 January 31, 2002.

8. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 1/01/2002–1/31/2002 in the amount of \$12,503.13.

C. Agreements

1. **Approval of *Agreement No. 02-25* With Architecture One for Development of Architectural Plans for Remodel of the Evidence Room, Evidence-Processing Room, and Storage Shed**

The City Council approved *Agreement No. 02-25* with Architecture One for development of architectural plans for remodel of the Police Department evidence room evidence-processing room, and storage shed.

5. **Approval of *Agreement No. 02-30*, an *Irrevocable Annexation Agreement* With Klaus and Marlene Rombach for 5121 Merle Street**

The City Council approved *Agreement No. 02-30*, an *Irrevocable Annexation Agreement* with Klaus and Marlene Rombach to allow for an emergency sewer connection of

their duplex at 5121 Merle Street in the City's Sphere of Influence.

6. Approval of Agreement No. 02-31, an Irrevocable Annexation Agreement With Klaus and Marlene Rombach for 5131 Merle Street

The City Council approved *Agreement No. 02-31, an Irrevocable Annexation Agreement* with Klaus and Marlene Rombach to allow for an emergency sewer connection of their duplex at 5131 Merle Street in the City's Sphere of Influence.

7. Approval of Agreement No. 02-32 With the California State Franchise Tax Board for Disclosure of Tax Information

Authorize an Appropriation of \$950 From the Contingency Account for Taxpayer Information

The City Council took the following actions:

- (a) Approved *Agreement No. 02-32* with the California State Franchise Tax Board for disclosure of tax information for 2001.
- (b) Authorized an appropriation of \$950 from the Contingency Account for records of 2001 taxpayer information.

8. Approval of Agreement No. 02-33, an Agreement for Planning Services by and Between the City of Montclair Redevelopment Agency and L. D. King, Inc.

The City Council approved *Agreement No. 02-33, an Agreement for Planning Services* by and between the City of Montclair Redevelopment Agency and L. D. King., Inc.

D. Resolutions

1. Redevelopment Agency Board of Directors' Adoption of Resolution No. 02-02, a Resolution of the City of Montclair Redevelopment Agency Accepting and Approving the Amended Preliminary Plan Formulated for the Proposed Mission Boulevard Joint Redevelopment Project Pursuant to California Health and Safety Code Section 33322

The Redevelopment Agency Board adopted Resolution No. 02-02, entitled "**A Resolution of the City of Montclair Redevelopment Agency Accepting and Approving the Amended Preliminary Plan Formulated for the Proposed Mission Boulevard Joint Redevelopment Project, Pursuant to California Health and Safety Code Section 33322.**"

2. Adoption of Resolution No. 02-2379 Rescinding Resolution No. 00-2319 Designating Restricted Parking on Public Streets and Alleys

The City Council adopted Resolution No. 02-2379, entitled "**A Resolution of the City Council of the City of Montclair Related to Restricted Parking on Public Streets and Alleys.**"

3. Adoption of Resolution No. 02-2381 Approving Cooperation With the County of San Bernardino Regarding Countywide Home Mortgage Finance Programs

Authorize the Mayor to Executive a Cooperative Agreement on Behalf of the City

The City Council took the following actions:

- (a) Adopted Resolution No. 02-2381, entitled "**A Resolution of the City Council of the City of Montclair Approving a Home Mortgage Finance Program and Additional Home Finance Programs in Cooperation With the County of San Bernardino and Authorizing the Mayor and City Clerk to Execute for and on Behalf of the City a Cooperative Agreement Between the County of San Bernardino and the City.**"
- (b) Authorized Mayor Eaton to execute on behalf of the City a *Cooperative Agreement* with the County of San Bernardino for home mortgage finance programs.

X. PULLED CONSENT CALENDAR ITEMS

At 7:53 p.m., Mayor Pro Tem Paulitz left the dais.

C. Agreements

2. Approval of *Agreement No. 02-27 With the County of San Bernardino Regarding Participation in Countywide Home Mortgage Programs*

Noting issues in the past related to interested parties' incomes being too high to qualify, Council Member Ruh inquired as to income caps on the countywide home mortgage programs proposed under *Agreement No. 02-27*. Noting his specific interest in the Extra Credit Teacher Home Purchase Program, he noted he has been working over the past two years with the **Ontario-Montclair School District** and the **Chaffey Joint Union High School District** to develop a similar program.

Director of Community Development Clark noted the information provided to staff on the program referenced qualified principals and schoolteachers but did not include details.

City Manager McDougal stated that staff would obtain additional information on the program.

Council Member Dutrey stated he is involved in these types of programs in his employment with the **City of Rialto** and commented as follows:

- (a) He clarified that the Extra Credit Teacher Home Purchase Program is a state program that provides tax credits to principals and schoolteachers who purchase homes and who work at a low-performing school. He stated that to his knowledge there is no income cap restricting the program; and if there is, it is much higher than 120 percent.

Director of Redevelopment/Public Works Staats advised that the cap is 140 percent.

- (b) He stated that the California Cities Home Ownership Authority Lease Purchase Program has a cap greater than 120 percent. He explained that if participants lease their homes for a total of 39 months and show good faith by paying their lease payments on time, then their leases are converted to mortgages, with their mortgage payments remaining the same as their lease payments.

Council Member Ruh stated he only wants to ensure that every advantage is offered in these programs to encourage home ownership in the City of Montclair.

Moved by Council Member Ruh and seconded by Council Member Dutrey to approve *Agreement No. 02-27* with the County of San Bernardino regarding participation in county-wide home mortgage programs.

Motion carried as follows:

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

3. Approval of Agreement No. 02-28 Superseding Agreement No. 01-187 With Union Pacific Railroad Company for a New Public Highway Crossing on Monte Vista Avenue at the Union Pacific Railroad Tracks

Authorize Payment to Union Pacific Railroad Company as Required by Agreement No. 01-187

At 7:57 p.m., Mayor Pro Tem Paulitz returned to the dais.

Council Member Ruh requested clarification on the proposed \$14,418 payment to Union Pacific Railroad Company pursuant to *Agreement No. 01-187*.

City Engineer Hudson replied that the payment would authorize the City to traverse the Union Pacific Railroad Company's property and cover costs anticipated by the Union Pacific on this project, including checking preliminary work. He noted that as construction commences, the City would be further billed by Union Pacific for any removal or relocation of facilities, though the 5 percent of total construction costs that Union Pacific will be contributing would more than compensate the City for any payments made.

Moved by Council Member Ruh, seconded by Council Member Dutrey, and carried unanimously to take the following actions:

- (a) Approve *Agreement No. 02-28* superseding *Agreement No. 01-187* with Union Pacific Railroad Company for a new public highway crossing on Monte Vista Avenue at the Union Pacific Railroad tracks.
- (b) Authorize payment of \$14,418 to Union Pacific Railroad Company as required by *Agreement No. 01-187*.

4. Redevelopment Agency Board of Director's Approval of Agreement No. 02-29, a Contract Services Agreement by and Between the City of Montclair Redevelopment Agency and The Westridge Group, L.L.C., Regarding Hacienda Mobile Home Estates

Authorize and Appropriation of \$76,875 From the Housing Fund to Finance Costs Associated With Agreement No. 02-29

Noting that **Mr. Bob Harris**, President, Hacienda Mobile Home Estates, is present at tonight's meeting Director Dutrey advised him that the City is moving forward with this item.

Director Ruh noted the City is doing the best it can with the time-consuming process involved in the proposed conversion.

Moved by Director Dutrey, seconded by Director Ruh, and carried unanimously that the Redevelopment Agency Board take the following actions:

- (a) Approve *Agreement No. 02-29*, a *Contract Services Agreement* by and between the City of Montclair Redevelopment Agency and The Westridge Group, L.L.C., regarding Hacienda Mobile Home Estates.
- (b) Authorize an appropriation of \$76,875 from the Housing Fund to finance costs associated with *Agreement No. 02-29*.

At 8:00 p.m., Council Member Dutrey left the dais.

XI. RESPONSE

B. Request for Reimbursement and Waiver of Building Permit Fees

Mayor Pro Tem Paulitz expressed his opinion that reimbursement and waiver of building permit fees on behalf of **OPARC** for a 1756-square-foot addition to its existing facility on Monte Vista Avenue and the proposed 35,000-square-foot headquarters facility on Vernon Avenue would set a dangerous precedent. He noted that as long as he has been on the Council he has always advised that those who incur the cost should pay for the cost and that the general taxpayer should not carry that burden. Noting he and the **Our Lady of Lourdes Knights of Columbus Council 7412** are strong supporters of **OPARC**, he spoke in opposition to either reimbursement or waiver of fees of the organization's building permit fees.

At 8:03 p.m., Council Member Dutrey returned to the dais.

Mayor Eaton concurred.

Noting he was for many years a member of the **OPARC** Board of Directors and has been very supportive of the organization, Council Member Ruh stated that the requested reimbursement and waiver of building permit fees could set a precedent for future nonprofit developments. He suggested a separate fee schedule be developed for or negotiated with nonprofit organizations because they provide a tremendous service to the community.

Noting that all businesses are struggling, Council Member Dutrey expressed his opinion that a separate fee schedule for nonprofits is not a good idea. He suggested that perhaps a Redevelopment Agency loan could be offered to **OPARC** to assist with building permit fees.

Director of Redevelopment/Public Works Staats advised that doing so would require the project to pay prevailing wages.

Noting that some cities in Southern California have started a program in which fees are not payable until certificates of occupancy are issued, Council Member Ruh suggested such a program be considered for nonprofits in the City.

Council Member Dutrey suggested that **OPARC** could ask the City to allow a payment plan for these fees.

It was the consensus of the Council to receive and file the Request for Reimbursement and Waiver of Building Permit Fees report.

XII. COMMUNICATIONS

A. City Attorney/Agency Counsel

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

Raft v. City of Montclair

City Attorney Robbins requested a Closed Session regarding pending litigation pursuant to Section 54956.9(a) of the Government Code on the above matter.

Mayor Eaton noted Council Member Raft's disqualification in the Closed Session because of her interest in the case.

B. City Manager/Executive Director – No Comments

C. Mayor/Chairman

1. Mayor/Chairman Eaton reported that he, Council Members Dutrey and Ruh, and City Manager McDougal traveled to Washington, D.C., for a legislative advocacy visit. He noted they were well received by representatives of **US Senators Barbara Boxer and Dianne Feinstein**. He also noted they met with the **Federal Highway Administration** and the **Department of Housing and Urban Development Office of Economic Development** and attended a very important meeting with **Congressman David Dreier**. He indicated that though no promises of funding were made, they came away with a positive feeling of support for Montclair's needs.

D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairman Paulitz commented on Consent Calendar Item A-2, "Acceptance of the Housing Improvement Task Force *Action Plan 2002* and Authorization of Staff to Pursue Recommendations Described Therein." He stated that Foundation 7, the San Antonio Gateway Development (bounded on the south by Holt Boulevard) is a single-family, small-lot, infill subdivision. He noted that he has emphatically maintained he would not support any more apartment building construction in the City.
2. Council Member/Director Dutrey commented as follows:
 - (a) He congratulated and thanked all City employees honored this evening with service awards for their many years of service to the City. He also congratulated City Manager McDougal for his 25 years of dedicated service.
 - (b) He recognized **Montclair Chamber of Commerce** Board Member **Don Vodvarka**, who is in the audience this evening, and the **Chamber** for development of the attractive new **Montclair Chamber of Commerce** hand-book.
 - (c) As a result of a discussion at the last meeting on the **Margarita School** site, he stated a meeting with residents would be held at the end of the month on the truck deck at Fire Station No. 1. Noting he would be unable to attend the meeting because of a conference conflict, he emphasized the importance of the future use of the site being a win-win situation for the residents, **OMSD**, and the City of Montclair.
 - (d) He stated that Code Enforcement Division staff have done an exceptional job with the challenges faced daily in their efforts to bring properties to code, adding they seldom receive the respect from residents that they deserve. He noted the importance of Code Enforcement Officers having the tools and resources to effectively do their jobs without being "micromanaged." He indicated that the Officers certainly understand the importance of working with residents to resolve code violations and should have the authority to use discretion in approaching each individual case with professional courtesy and public service.

Council Member Dutrey concluded his remarks by commending Code Enforcement Division staff for the "really good job they are doing out there."
3. Council Member/Director Ruh commented as follows:
 - (a) He announced the **Montclair Chamber of Commerce**-sponsored *Annual State of the City Address and Chamber Luncheon* to be held Wednesday, February 27, 2002, at 11:30 a.m. in the Montclair Community Center auditorium.

- (b) He encouraged attendance at the Fire Department's First Annual EMS Barbecue scheduled for Saturday, February 23, 2002, from 11:00 a.m. to 3:00 p.m. at Fire Station No. 1 in recognition of those involved in the new Paramedic Program and to celebrate one year of paramedic service in Montclair.
- (c) He stated that the Washington, D.C., lobbying trip was very encouraging and productive. He noted that **Alameda Corridor-East**, because it has already received 75 percent of its funding through local and state funding sources, is much more likely to receive federal funds than projects with no competitive funding source.
- (d) He spoke in support of the meeting arranged with residents to address development of the **Margarita School** site. He emphasized the importance of carefully weighing all proposals for the site on an equal basis while taking into consideration the desires of area residents.
- (e) He stated he does believe Code Enforcement Division Officers do a good job in the City. He suggested that Officers be given the flexibility of using the personal-contact interim step with residents prior to their being formally notified to correct code violations and that a conscious effort be made to assist residents to resolve issues.

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of February 4, 2002

The City Council received and filed the Personnel Committee meeting minutes of February 4, 2002, for informational purposes.

XIII. COUNCIL/AGENCY WORKSHOP

A. Update From State Legislative Advocate

Moved by Council Member/Director Dutrey, seconded by Mayor Pro Tem/Vice Chairman Paulitz, and carried unanimously that this item be continued to an adjourned joint meeting on Monday, March 4, 2002, at 5:45 p.m. in the City Council Chambers.

XIV. ADJOURNMENT OF REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS

At 8:24 p.m., Chairman Eaton adjourned the Redevelopment Agency and Montclair Housing Corporation Boards of Directors to Monday, March 4, 2002, at 5:45 p.m. in the City Council Chambers.

At 8:24 p.m., the City Council, with the exception of Council Member Raft, went into Closed Session regarding pending litigation pursuant to Section 54956.9(a) of the Government Code.

XV. CLOSED SESSION ANNOUNCEMENTS

At 8:45 p.m., the City Council returned from Closed Session. Mayor Eaton announced the City Council, with the exception of Council Member Raft, met in Closed Session regarding pending litigation, information was received from the City Attorney and City Manager, no decision was made, and no further announcements would be made at this time.

XVI. ADJOURNMENT OF CITY COUNCIL

At 8:46 p.m., Mayor Eaton adjourned the City Council to Monday, March 4, 2002, at 5:45 p.m. in the City Council Chambers.

Yvonne L. Smith
Transcribing Secretary