

MINUTES OF THE REGULAR JOINT MEETING  
OF THE MONTCLAIR CITY COUNCIL, REDEVELOPMENT  
AGENCY BOARD, AND MONTCLAIR  
HOUSING CORPORATION BOARD HELD ON  
MONDAY, AUGUST 5, 2002, AT 7:03 P.M. IN  
THE CITY COUNCIL CHAMBERS, 5111 BENITO  
STREET, MONTCLAIR, CALIFORNIA

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I. CALL TO ORDER

Mayor/Chairman Eaton called the meeting to order at 7:03 p.m.

II. INVOCATION

Pastor Vicki Brobeck, Grace Fellowship Foursquare Church, 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; Acting Director of Community Development/Agency Planner Lustro; City/Agency Engineer Hudson; City Attorney/Agency Counsel Robbins; City Clerk/Agency Secretary Crawford

V. PRESENTATIONS

A. Introduction of New Employees

Mayor Eaton introduced **Mr. Cory Reinmiller**, who was appointed to the position of Police Officer effective July 23, 2002. He noted that Officer Reinmiller began his employment with the City of Montclair on February 19, 2002, as a Police Officer Trainee while attending **Golden West Basic Law Enforcement Academy**, Huntington Beach.

Mayor Eaton presented Officer Reinmiller with a City pin and welcomed him to the Montclair City family.

B. Presentation to Mr. Frank Corsaro Upon His Retirement as Little League Coach

On behalf of the Montclair City Council, Mayor Eaton presented **Mr. Frank Corsaro** with a plaque in honor of his impending retirement as Director of **District 23 Little League** following this season's all-star tournament. He stated that **Mr. Corsaro** has been a leader and role model to the children in our community since 1954, when he first began coaching **Little League**, noting that he coached Mayor Eaton's son in the 1960s.

C. Presentation to Mr. Maynard Lenhert in Recognition of His Service as a Reserve Code Enforcement Officer

On behalf of the Montclair City Council, Mayor Eaton presented long-time resident and Planning Commissioner **Mr. Maynard "Mac"**

**Lenhert** with a plaque in honor of his retirement after many years of dedicated service from October 1996 to July 8, 2002 as a Reserve Code Enforcement Officer.

**D. Presentation of Plaque Commemorating "Columbian Squires Week"**

On behalf of the Montclair City Council, Mayor Eaton presented a plaque to Chief Squire **Olisa Okafor**, Chief Councilor **John Patke**, and Grand Knight **Tim Scheffer** celebrating "Columbian Squires Week" in the City of Montclair.

Chief Squire **Okafor** stated he is privileged to accept the plaque on behalf of the **Columbian Squires, Circle 4623, Montclair**, a service organization comprised of young local Catholic boys, ages 10 to 17, whose goal is to organize programs to provide assistance to the less fortunate. He stated that the **Columbian Squires** group met last Saturday to kick off the *Care Packages* program to provide our armed forces stationed overseas with the basic essentials courtesy of the group's corporate sponsors. He thanked the Mayor and Council for the plaque and stated, "God Bless the City of Montclair and the United States of America."

**E. "California's Electricity Issues: Our Commitment to Serve" Presentation by Ms. Elva Rubalcava, Region Manager, Southern California Edison (SCE)**

**Ms. Elva Rubalcava** reviewed a report provided to the Council entitled, "California's Electricity Issues: Our Commitment to Serve." She reported on the background of the energy crisis, the impact of the crisis, **Southern California Edison's** response to the crisis and its plan for the future, and how customers can help, including studying available and informative Web sites and literature on energy-efficiency programs.

Mayor Eaton thanked **Ms. Rubalcava** for her informative presentation.

Council Member Ruh asked **Ms. Rubalcava** for some suggestions on energy conservation for the benefit of the home viewing audience.

**Ms. Rubalcava** described **SCE's Residential Air Conditioner Cycling Program (ACCP)**, a beneficial and cost-saving program requiring installation of cycling devices (activated by a remote radio signal) on central air conditioner units, which allows **SCE** to periodically and temporarily turn off, or "cycle," participants' air conditioners when needed. She explained that participants would decide on the desired credit amount and select the amount of cycling, depending on the size of the air conditioner units and the amount of electrical usage. She also advised that customers replace their old refrigerators with new, energy-saving models and replace typical incandescent light bulbs with compact fluorescent bulbs, which use 75 percent less energy. She further advised that customers access **SCE's** Web site, at [www.sce.com](http://www.sce.com), for additional money- and energy-saving ideas.

Council Member Dutrey complimented **SCE** for allowing **Ms. Rubalcava** to make her highly informative presentation this evening. He stated that **SCE** has done very well in controlling rotating power outages this year.

Mayor Eaton noted his participation in *ACCP* and stated he enjoys the small credit he receives each month. He added that he has noticed a substantial savings on electrical costs with the acquisition of some new energy-efficient appliances.

**Mr. Roger Baer** commented concerning the state's energy crisis and gave his perception of **SCE's** role in the matter.

Discussion centered on the public misconception of **SCE's** profit margin from energy generation distribution following the restructuring of California's electrical industry.

At this time, Council Member Ruh gave Police Chief Thompson a collection of spare change donated by **Ms. Barbara Migliori** and other residents of **Heritage Park** for the **D.A.R.E. Program**.

## **VI. PUBLIC COMMENT**

Mayor/Chairman Eaton reminded those audience members desiring to address the Council and Agency/Montclair Housing Corporation Boards to submit a *Speaker Information Card* and they would be afforded a total of five minutes to speak on subjects that do not appear on tonight's agenda.

**A. Ms. Pat Rees**, Chairperson of the Board, **Montclair Chamber of Commerce**, 5220 Benito Street, Montclair, announced the following upcoming **Chamber** activities:

1. August 21, 2002 - **Chamber Annual Montclair Police Department Employees' Recognition Breakfast**, 7:30 a.m., Montclair Community Center auditorium. Cost to attend the breakfast and sponsor a Police Officer or department employee: \$30.
2. August 28, 2002 - **Chamber 13th Annual Golf Tournament**; check-in, 6:30 a.m., putting and chipping contests, 7:00 a.m., shotgun start, 8:00 a.m.; **Sierra Lakes Golf Club**, 16600 Clubhouse Drive, Fontana; call the **Chamber**, (909) 624-9469, for reservations.

**Ms. Rees** apologized to Mayor Pro Tem Paulitz for not allowing him a chance to speak during the recent **Target** store grand opening ceremonies.

At 7:30 p.m., Council Member Dutrey left the dais.

**B. Gina Howerton**, Montclair, commented as follows:

1. She suggested the hard-working residents of Montclair begin to take an interest in decisions made by City officials on City business matters.
2. Noting Council Member Dutrey's temporary absence from the dais, she indicated she would address past comments of Council Member Dutrey at another time.
3. She reiterated her opinion that residents do not air their concerns at Council meetings for fear of retribution.
4. She encouraged residents to exercise their right to vote for the Council candidates of their choice.
5. She told Mayor Eaton she did not appreciate his "condescending" manner toward her when she last addressed the Council at the July 1, 2002 regular joint meeting.
6. She acknowledged Council Members Raft and Ruh as the two members of the Council who, in her opinion, work for the residents of Montclair, noting she appreciates "every-thing that you do and all of your hard work."

At 7:35 p.m., Council Member Dutrey returned to the dais.

C. **Mr. Ronald Armstrong**, 5601 Deodar Street, Montclair, commented as follows:

1. He discussed Mayor Pro Tem Paulitz's statement in a July 26, 2002 *Inland Valley Voice* article related to speakers at the City's regular joint meetings as well as Mayor Eaton's statement related to residents asking Mayor Eaton why he puts up with certain public speakers at regular joint meetings. He asserted that his comments are "true and correct" and that he is "doing the right thing."
2. He reiterated that two individuals in attendance at a recent regular joint meeting who had submitted *Speaker Information Cards* were not given the opportunity to address the Council.
3. He asked Council Member Dutrey if there is any truth to hearsay related to Council Member Dutrey's formerly residing in Diamond Bar and using his parent's motel address as his place of residence while on the Council.

Mayor Eaton advised **Mr. Armstrong** that Council Member Dutrey would not respond to his inquiry.

**Mr. Armstrong** suggested the rumor must be true, given Council Member Dutrey's nonresponse, and results in an illegality.

4. He stated that a supposed 40 percent increase in trash rates since the City began billing in-house for refuse and sewer services "doesn't sound right."
  5. He commented on the City's sale of a **1995 Chrysler LHS**.
- D. **Mr. Roger Baer** commented concerning a supposed "pattern of behavior within this City of threats and intimidation of the public and those employees that disagree with them by senior members of the Montclair staff."
- E. **Mr. Joe Govea**, 10283 Del Mar Avenue, Montclair, commented as follows:

1. He expressed his disappointment in the Council and City Manager McDougal in their "discrimination" against the **Rafts** in the boarding up of their home. He urged the Council to work with the **Rafts** so they may be able to reoccupy their residence. He stated that the City is supposedly in the process of shutting down the **Raft** business in Montclair.
2. He advised the public to consider the **Raft** issue when voting in the November 2002 General Municipal Election.
3. He further expressed his disappointment in the "threats, intimidation, and backbiting." He stated it is time the Council and residents "put bickering aside and build Montclair."

F. **Ms. Teresa Billingsley** commented as follows:

1. Advising that Montclair has a Web site, she read four postings from the site dated between May 29, 2002, and July 5, 2002, that included topics ranging from her interest in monitoring the site and her desire that residents vote their conscience in the November 2002 General Municipal Election; **Mr. Fitzgerald's** wishing "happy birthday" to America,

commenting on certain Council remarks about public speakers, and discussing the upcoming election; and **Montclair High School** alumnus "Joe's" comments pertaining to postings on the City's Web site. She suggested "selective enforcement" was involved in the City's deletion of the four postings while others remain on the site.

2. She complained about the repeated use of the term "complaint" in the record of regular joint meetings, deeming such usage "inappropriate."
  3. She took issue with Director of Administrative Services Starr's comment pertaining to a potential lawsuit involving her prior to her being given an opportunity to speak this evening, considering such statement to be "intimidating" to those desiring to publicly address the Council.
- G. **Mr. Arturo Padilla**, 4732 Kingsley Street, Montclair, stated that Montclair is a fine community to raise a family, a sentiment that is shared by the many residents he has spoken with during the 14 years he has resided here and which reflects positively on City officials' decisions for the City. Noting he works for another public agency, he expressed his opinion and that of his neighbors that the Montclair Police Department was effective in handling some incidents in his neighborhood. Noting he normally works in the evenings, he stated he made a point of being here tonight to publicly recognize and thank City staff and the community for all the work being done to make Montclair a better place.
- H. **Ms. Mary Francis**, 9617 Greenwood Avenue, Montclair, stated that as a 25-year resident, she is proud to reside in Montclair. For the record, she stated, "We have a fine City and an excellent Mayor and Council." She added that though there may be disagreement on issues, the "Mayor and Council are always willing to hear the residents."

Clarifying that her rear yard borders on the former **Margarita School** site, **Ms. Francis** stated that there have been recent rumors that a car dealership would be located at the site. During a recent neighborhood meeting conducted by the City, residents made it clear they would not support such development but would support a proposed small-lot single-family housing development. She concluded her remarks by leaving the Council with the following question to consider: "Would you want a car dealership in your backyard?"

- I. **Mr. Timothy E. Scheffer**, 5020 Rosewood Street, Montclair, commented as follows:
1. Addressing the **Columbian Squires**, he advised that the dissent heard this evening is not representative of Montclair and asserted that Montclair is a family-oriented community. He stated the purpose of these regular joint meetings is not to find fault, make accusations, or register complaints; instead, "it is to try to do what you can to help the community. We voted these people in. We'll vote 'em in again. They're doing a good job, so don't take everything negative here."
  2. Though a good point was made concerning **Margarita School**, he advised that not all new development can be housing as there is a need for commercial and industrial uses to generate revenue for the City.
  3. He stated he is glad to see enforcement actions taking place

when warranted.

4. He pointed out "everybody makes mistakes—that includes Mr. Ruh and Mrs. Raft here."
  5. He made an observation about Council Member Ruh and asked him to "speak from your heart," adding "if you look to do good, all that's going to happen is good."
  6. He spoke in support of Mayor Eaton, Mayor Pro Tem Paulitz, and Council Member Dutrey while questioning the motives of dissenters who continue to reiterate their issues at each meeting.
- J. **Mr. Maynard Lenhart**, 9858 Ramona Avenue, Montclair, stated he is a 40-year resident of Montclair. Noting the same individuals have been attending every regular joint meeting to reiterate complaints about the same City staff members, he advised that what has happened in the past cannot be changed. He suggested dissenters use the time they would spend finding fault to improve the City to make the community a better place. He quoted **President John F. Kennedy's** inspirational remark from his Inaugural Address as follows:

*Ask not what your country can do for you; ask what you can do for your country.*

**Mr. Lenhart** suggested everyone take into consideration one of his sayings as follows:

*Is the community any better for my having been here today?*

Mayor Eaton asked that an agenda item be presented at the August 19, 2002 regular joint meeting related to the court decision on the Raft property.

## VII. PUBLIC HEARINGS

### A. **Resolution No. 02-2400 Authorizing Recovery of Abatement Costs Incurred by the City Related to Property Owned by Dorris J. Tindall and Located at 5210 Kingsley Street, Montclair, California**

Mayor Eaton declared it the time and place set for public hearing to consider Resolution No. 02-2400 authorizing recovery of abatement costs incurred by the City related to property owned by Mrs. Dorris J. Tindall and located at 5210 Kingsley Street, Montclair, California, and invited comments from the audience.

**Mr. Dennis Tindall**, son of **Mrs. Dorris J. Tindall**, reiterated that his mother and he had agreed on a reimbursement amount of \$15,000 as opposed to the final cost of improvements of \$23,546.49. He noted he advised Code Enforcement and Fire Department staff during a recent meeting that a list of deficiencies had not been corrected.

There being no one else 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 Dutrey confirmed with **Mr. Tindall** that Code Enforcement interceded in the abatement of certain issues on the property with the consent and agreement of the **Tindalls** and that

**Mr. Tindall's** concern relates to the total cost of improvements.

Mayor Pro Tem Paulitz asked if the handwritten list of deficiencies attached to the agenda report was generated by the owner or Code Enforcement.

City Manager McDougal replied that it was submitted by **Mr. Tindall**.

Mayor Pro Tem Paulitz inquired if those items have been addressed satisfactorily.

Noting the list was submitted to staff when this item was first presented on July 1, 2002, City Manager McDougal advised that the contractor has agreed to have all items completed by August 16, 2002.

Mayor Pro Tem Paulitz requested clarification on the nature of **Mr. Tindall's** dissatisfaction with this item.

City Manager McDougal clarified that **Mr. Tindall** was given an estimate from Code Enforcement that the improvements would cost in the \$15,000 range; however, the total costs for the actual work exceeded the estimate given for repairs and improvements. He noted the **Tindalls** were involved in the selection of the contractors that performed the work.

Mayor Pro Tem Paulitz asked how the \$15,000 estimate was derived.

Fire Chief Turner clarified that he was not involved in any of the meetings between Code Enforcement and **Mr. Tindall**. He indicated it is likely that Code Enforcement Officer Zorb had given the estimate that the improvements would cost in the range of \$15,000 and that once the work was completed, the total came to \$23,546.49. He stated it is not the City's or Code Enforcement's practice to give written estimates in these types of matters. He noted that staff had worked with the **Tindalls** to obtain a **Neighborhood Partnership of Montclair (NPM)** low-interest rate home-improvement loan and also exhausted attempts at other funding mechanisms on this project. When these options were unsuccessful, he stated it was decided to proceed with the improvements and collect abatement costs through placement of a Nuisance Abatement Lien on the subject property.

Mayor Pro Tem Paulitz confirmed with Fire Chief Turner that the additional repairs are included in the \$23,546.49 total cost.

Council Member Ruh suggested consideration be given to liening only a portion of the total cost with the balance to be financed by some other arrangement.

City Manager McDougal advised that the proposed lien action represents the best possible financing mechanism because it does not have to be paid until the property transfers ownership. He stated that staff would be discouraged from giving property owners verbal estimates of the total cost of improvements for these types of actions. He noted there was participation on the part of the property owner in selection of each of the contractors who gave estimates on their share of the work to be performed.

Council Member Ruh inquired about the follow-up work to be done.

Fire Chief Turner stated an inspection was conducted with the

contractor on July 24, 2002; and a final inspection will be made upon completion of the work.

Council Member Dutrey stated he feels comfortable with the proposed Nuisance Abatement Lien action, adding it is nice to know that the city and property owner worked together toward improvement of the property.

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

1. That Resolution No. 02-2400, 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 5210 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 \$23,546.49 be paid to the City of Montclair within ten calendar days of the adoption of Resolution No. 02-2400.

Resolution No. 02-2400 was unanimously adopted and the Council determined that the reimbursement amount of \$23,546.49 be paid to the City of Montclair within ten calendar days of adoption of Resolution No. 02-2400 by the following vote:

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

## VIII. CONSENT CALENDAR

Council Member Raft requested that Item C-6 be removed from the Consent Calendar for comment.

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

Council Member Ruh requested that Items B-1, B-2, B-4, and C-1 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 Joint Meeting of the Monte Vista Water District Board of Directors and Montclair City Council of June 26, 2002**

The City Council approved the minutes of the Joint Meeting of the Monte Vista Water District Board of Directors and the Montclair City Council of June 26, 2002.

2. **Minutes of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of July 15, 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 July 15,  
2002.

**B. Administrative Reports**

**3. Declared Unclaimed Bicycles in Police Custody as Surplus and Available for Donation**

The City Council declared unclaimed bicycles in Police custody as surplus and available for donation.

**5. Authorization to Purchase a 2003 Model Staff Vehicle**

**Authorization to Appropriate \$335 From City Equipment Replacement Fund for Balance of Purchase Price**

The City Council authorized the following:

- (a) Purchase of one 2003 model staff vehicle.
- (b) Appropriation of \$335 from the City Equipment Replacement Fund for the balance of the purchase price.

**6. Authorize Hiring an "In-Lieu" Firefighter/Paramedic to Backfill for an Extended Injury on Duty Vacation**

**Authorize Creation of a Second "In-Lieu" Firefighter/Paramedic Position to Backfill Anticipated Vacancies**

The City Council authorized the following:

- (a) Hiring an "in-lieu" Firefighter/Paramedic to backfill for the Firefighter who has been promoted to Acting Engineer (injured Engineer not expected to return to duty).
- (b) Authorize creation of a second "in-lieu" Firefighter/Paramedic Position to backfill anticipated vacancies.

**7. Approval of Part-Time Parking Enforcement Cadet Position Using City Contingency Account Funds and Purchase of a Global Electric Motorcar Using Proposition 172 Funds**

The City Council approved a part-time Parking Enforcement Cadet position using City Contingency Account funds and the purchase of a Global Electric Motorcar using Proposition 172 funds.

**8. Declaring Certain City Property as Surplus Equipment**

**Authorize Donation of Surplus Self-Contained Breathing Apparatus to Mt. San Antonio College Regional Fire Academy**

The City Council took the following actions:

- (a) Declared certain City property as listed in the agenda report on this item as surplus.
- (b) Authorized donation of surplus self-contained breathing apparatus to Mt. San Antonio College Regional Fire Academy.

**9. "No Action" on Alcoholic Beverage Permit Application - Sunshine Market**

The City Council declared "No action" on the "Off-Sale Beer and Wine" license application of Kiry Chhor and Chhuy

Duong for Sunshine Market, 10295 Mills Avenue, Montclair, California.

**10. Approval of City Warrant Register and Payroll Documentation**

The City Council approved the Warrant Register dated August 5, 2002, totaling \$898,301.52; and the Payroll Documentation dated July 14, 2002, amounting to \$456,104.33, with \$308,617.12 being the total cash disbursement.

**C. Agreements**

**2. Approval of *Agreement No. 02-110, the First Amendment to Agreement No. 02-54, a License Agreement* by and Between the City of Montclair Redevelopment Agency and Omnitrans Regarding Temporary Use of Property Located at 4840 Arrow Highway**

The Redevelopment Agency Board approved *Agreement No. 02-110, the First Amendment to Agreement No. 02-54, a Licensing Agreement* by and between the City of Montclair Redevelopment Agency and Omnitrans regarding temporary use of property located at 4840 Arrow Highway.

**3. Approval of *Agreement No. 02-112* With PropertyBureau.com, Inc., for Internet Auction Services for the Disposal of Surplus City Property**

The City Council approved *Agreement No. 02-112* with PropertyBureau.com, Inc., for Internet auction services for the disposal of surplus City property.

**4. Approval of *Agreement No. 02-113* With High Desert Family Day Care Association to Facilitate a Child-Care Licensing Program in Montclair**

The City Council approved *Agreement No. 02-113* with High Desert Family Day Care Association to facilitate a child-care licensing program in Montclair.

**6. Approval of *Agreement No. 02-115* With KLMB Development, Inc., for Reimbursement of Traffic Engineering Service Fees Associated With Residential Development of the Former Margarita School Site**

The City Council approved *Agreement No. 02-115* with KLMB Development, Inc., for reimbursement of traffic engineering service fees associated with residential development of the former Margarita School site.

**D. Resolutions**

**1. Adoption of Resolution No. 02-2406 Fixing the Salaries for Certain Fire Department Employees Represented by the Montclair Fire Fighters' Association**

The City Council adopted Resolution No. 02-2406, entitled "A Resolution of the City Council of the City of Montclair Fixing the Salaries for Certain Fire Department Employees Represented by the Montclair Fire Fighters' Association."

**2. Adoption of Resolution No. 02-2408 Authorizing Placement of Assessments on Certain Properties for Delinquent Sewer and Trash Accounts**

The City Council adopted Resolution No. 02-2408, entitled "A Resolution of the City Council of the City of Montclair Authorizing Placement of Assessments on Certain Properties for Delinquent Sewer and Trash Accounts."

## IX. PULLED CONSENT CALENDAR ITEMS

### B. Administrative Reports

#### 1. Setting a Public Hearing to Consider Ordinance No. 02-822 Establishing Prezone Designations of R-1 and C-3 on Approximately 9.35 Acres Within the City's Sphere of Influence

Council Member Ruh inquired as follows:

(a) Is the proposed prezone area presently uninhabited?

Acting Director of Community Development/Agency Planner Lustro responded that the area is uninhabited by the **Local Agency Formation Commission (LAFCO)** definition; however, there are two single-family residences included on the property.

Council Member Ruh received confirmation that those property owners are in agreement with the City's proposed rezoning designations of this area.

(b) What is the name of the development firm proposing the single-family residential subdivision?

Acting Director of Community Development/Agency Planner Lustro replied, "Young Construction of Arcadia," adding that the company has only submitted a conceptual drawing for the development. He indicated that staff is currently more concerned with the annexation matter and is moving slowly on the development proposal.

Council Member Dutrey noted he has discussed this matter with Acting Director of Community Development/Agency Planner Lustro and also attended the Planning Commission meeting at which it was addressed. He stressed that the City is interested in building quality homes in Montclair. Noting the scarcity of available vacant land in the City, he stated it is very important that new housing developments focus on quality, attractive single-family dwellings with good lot sizes and adequate square footage. He expressed his understanding that this developer desires to move forward with a single-story project for the entire subdivision.

Moved by Council Member Ruh, seconded by Council Member Dutrey, and carried unanimously to set a public hearing for Monday, August 19, 2002, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 02-822 establishing prezone designations of R-1 and C-3 on approximately 9.35 acres within the City's Sphere of Influence.

#### 2. Setting a Public Hearing to Review and Approve Bond Financing Authority Documentation With Respect to Nonprofit Acquisition of Hacienda Mobile Home Estates

Council Member/Director Ruh inquired if additional meetings have been held with Hacienda Mobile Home Estates residents. He indicated he wanted to ensure that clarification has been

made with them concerning **Mr. Art Van Deventer's** recent question related to resale possibilities of Monterey Manor Mobile Home Estates upon retirement of the financing bonds.

Council Member/Director Dutrey noted the residents of Hacienda Mobile Home Estates are ecstatic about the proposed nonprofit acquisition of their park.

City Manager/Executive Director McDougal clarified that the tax-exempt bond financing that is being proposed on this item is the same as that used in the acquisitions of Villa Montclair Mobile Home Park and Monterey Manor Mobile Home Estates. He stated that **Mr. Van Deventer** made his inquiry after hearing of a product proposed by a competitor of The Westridge Group, which is largely illegal and the use of which is unknown in the state. He advised that meetings have been held with Hacienda Mobile Home Estates residents.

Moved by Director/Director Ruh, seconded by Council Member Dutrey, and carried unanimously to set a public hearing for Tuesday, September 3, 2002, at 7:00 p.m. in the City Council Chambers to review and approve bond financing authority documentation with respect to nonprofit acquisition of Hacienda Mobile Home Estates.

#### **4. Authorization to Purchase a 2003 KME Paramedic Rescue Squad**

Council Member Ruh stated he wants to make sure the proposed 2003 KME paramedic rescue squad would be a practical addition to the Fire Department fleet.

Fire Chief Turner advised that the squad has been extensively researched by a committee of fire suppression personnel that has determined it to be the best for paramedic use.

Moved by Council Member Ruh, seconded by Council Member Dutrey, and carried unanimously to authorize purchase of a 2003 KME paramedic squad for the Fire Department.

### **C. Agreements**

#### **1. Approval of *Agreement No. 02-72-1-47A*, Amending *Agreement No. 02-72-1-47*, an *Irrevocable Annexation Agreement* With Montclair 16215 LLC for Tract No. 16215 Located on the West Side of Vernon Avenue South of Mission Boulevard**

Council Member Ruh inquired if the proposed developer, Young Construction, needs to work with Inland Empire Utilities Agency regarding connection of its proposed 41 single-family home subdivision.

Acting Director of Community Development/Agency Planner Lustro answered, "No," clarifying that the sewer main in Vernon Avenue would be extended to reach the proposed subdivision. He noted this item had recently been approved by the Council and only requires an amendment to the agreement related to inclusion of the subdivision lot merger.

Moved by Council Member Ruh, seconded by Council Member Dutrey, and carried unanimously to approve *Agreement No. 02-72-1-47A*, amending *Agreement No. 02-72-1-47*, an *Irrevocable Annexation Agreement* with Montclair 16215 LLC for Tract No. 16215, located on the west side of Vernon

Avenue south of Mission Boulevard, for the purpose of connecting a proposed 41 single-family home subdivision (Tract No. 16215) to the City Sewer System, noting the amendment pertains to including the subdivision lot merger in the Agreement.

**5. Rejection of Low Bid From Apex Construction Company, Inc., as Nonresponsive**

**Award of Contract to 4-Con Engineering Inc., in the Amount of \$845,060**

**Approval of *Agreement No. 02-114* With 4-Con Engineering for the Montclair Metrolink Station Improvements**

**Authorization of \$85,060 Construction Contingency**

**Mr. John Istambouli**, Project Manager, Apex Construction Company, Inc., stated that in a recent meeting with City Manager McDougal and City Engineer Hudson, Apex Construction Company, Inc., the apparent low bidder on the project, was told its bid has been rejected because it is nonresponsive with respect to meeting the City's 12 percent disadvantaged business enterprises (DBE) goal for Fiscal Year 2002-03 requirements and because Apex Construction failed to demonstrate a good faith effort in meeting the City's DBE goal. He maintained that Apex Construction had met a 2.9 percent DBE participation in its bid and had demonstrated sufficient good faith toward meeting the City's DBE goal. In addition, Apex Construction has met all the California Department of Transportation (Caltrans) guidelines in its bid. He questioned the reasoning behind the City's rejection of Apex Construction's bid and wanted to ensure that the City is not being discriminatory toward Apex Construction.

Discussion centered on Apex Construction's meeting a 2.9 percent DBE participation. **Mr. Istambouli** asserted that Apex Construction demonstrated good faith efforts toward meeting the City's 12 percent DBE goal.

City Manager McDougal clarified that though Apex Construction was the apparent low bidder on this project, staff determined that the company did not meet the City's DBE goal of 12 percent and did not exercise sufficient good faith efforts toward meeting the City's DBE goal. He advised that the other two bidders on the project met or exceeded the City's 12 percent DBE goal. He stated that the City Engineer's decision was appealed to him by Apex Construction and that after meeting with Apex Construction representatives, he also determined that Apex Construction did not exercise sufficient good will efforts toward meeting the City's DBE goal of 12 percent for Fiscal Year 2002-03. He explained that all due diligence was followed in this matter.

**Mr. Istambouli** reiterated that Apex Construction did meet all requirements, noting that Caltrans agreed with Apex Construction that the project's specifications were vague. He maintained that Apex Construction exercised good faith in attempting to meet the City's 12 percent DBE goal.

After further discussion on the City's DBE goal, Council Member Dutrey clarified that because federal funds are being used to fund the project, the San Bernardino Associated Governments and the City must comply with federal funding requirements, one of which is that the contractor must

allocate a certain amount of the work to DBEs or show good faith efforts were made to obtain DBE participation.

**Mr. Istanbuli** maintained that all efforts were made to do so and that only a 2.9 percent DBE participation was reached.

Mayor Eaton advised **Mr. Istanbuli** that pursuant to his report on the matter, Apex Construction did not meet the City's requirements.

City Engineer Hudson further clarified the federal funding requirement. He stated that though inclusion of a DBE goal cannot be made mandatory, contractors must either meet the City's goal or demonstrate that sufficient good faith efforts were made in attempting to do so. He described Apex Construction's solitary effort at meeting the City's DBE goal, which consisted of subcontracting a DBE company hired as a result of running an online ad with Compliance News, a Disabled Veteran Business Enterprise firm, as being "pro forma" rather than "good faith."

**Mr. Istanbuli** described other efforts made by Apex Construction to attract DBEs that were included in Apex Construction's bid package.

**Mr. Cruz Borrero**, Corporate Secretary, 4-Con Engineering, Inc., pointed out that 4-Con Engineering, Inc., has exceeded the City's 12 percent DBE goal. He described an incident involving Apex Construction's after-bid opening solicitation of a DBE. He expressed the appreciation of 4-Con Engineering, Inc., of the City's due diligence in this matter.

Moved by Mayor Pro Tem Paulitz, seconded by Council Member Ruh, and carried unanimously that the City Council take the following actions:

- (a) Reject the low bid from Apex Construction Company, Inc., as nonresponsive.
  - (b) Award a contract to 4-Con Engineering in the amount of \$845,060
  - (c) Approve *Agreement No. 02-114* with 4-Con Engineering for the Montclair Metrolink station improvements.
  - (d) Authorize an \$85,060 construction contingency.
6. **Approval of *Agreement No. 02-115* With KLMB Development, Inc., for Reimbursement of Traffic Engineering Service Fees Associated With Residential Development of the Former Margarita School Site**

Council Member Raft asked how the traffic impacts would differ if a housing development were built at the former Margarita School site as compared to when the school was in operation.

Mayor Pro Tem Paulitz advised that the school was only open certain hours and that the housing development would create traffic at all hours; in addition, there would be more residents on the site on a permanent basis.

City Engineer Hudson described typical school traffic impacts and discussed the need to analyze the difference in traffic impacts between an undeveloped site and a 61-residence housing development.

Moved by Council Member Raft, seconded by Council Member Ruh, and carried unanimously to approve *Agreement No. 02-115* with KLMB Development, Inc., for reimbursement of traffic engineering service fees associated with residential development of the former Margarita School site.

## X. RESPONSE

### A. Update Regarding Heritage Park Senior Apartments

Mayor Eaton reported that there has been no contact from representatives of the property owners **AIMCO**, or the service provider, **New Century Care**, and there is no new activity to report. He advised that no permits have been issued for any modifications to the building nor has approval been given for any other changes to the property.

Mayor Pro Tem Paulitz noted that Mayor Eaton was contacted by a resident of Heritage Park.

Mayor Eaton advised he had been contacted, though to date no meeting has been scheduled.

Council Member Ruh noted he recently met with some of the residents who pointed out some ongoing maintenance issues to him, including deteriorated storage unit doors and unkempt landscaping.

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

### B. Report on Subsidies for Senior Citizen Nutrition Program

Mayor Pro Tem Paulitz noted this item was placed on tonight's agenda at his request for the purpose of informing the public about the actual cost of meals provided in the Senior Citizen Nutrition Program. He stated he would also present this item sometime during one of the lunches.

City Manager McDougal reported the actual cost of each meal is \$2.66 with a cost breakdown as follows: the City requests a donation of \$1.75, representing 66 percent, from each participant; the City subsidizes \$.38, representing 14 percent; and the **United States Department of Agriculture** subsidizes \$.53, representing 20 percent.

It was the consensus of the Council to receive and file the report on subsidies for the Senior Citizen Nutrition Program.

## XI. COMMUNICATIONS

### A. City Attorney/Agency Counsel

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

*City of Montclair v. Raft*

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

#### 2. Closed Session Pursuant to Section 54957 of the Government Code

*Public Employee Performance Evaluation*

*City Manager/Executive Director*

Moved by Mayor/Chairman Eaton, seconded by Council Member/Director Dutrey, and carried unanimously to continue this item to an adjourned joint meeting on Monday, August 12, 2002, at 6:00 p.m. at Montclair City Hall, 5111 Benito Street, Montclair, California, noting that Council Member Raft would be unable to attend the meeting.

**B. City Manager/Executive Director**

1. City Manager/Executive Director McDougal commented as follows:
  - (a) He stated the Council would be receiving a memorandum offering a range of dates for a tour of **Monte Vista Water District** and asked that the Mayor and Council Members advise him of their availability for such a tour.
  - (b) Responding to **Ms. Mary Francis's** comment made earlier in the meeting, he assured her and her neighbors that staff is not suggesting development of a car dealership at the former **Margarita School** site. He advised that the proposed 61-residence housing development is still under consideration for the site.

**C. Mayor/Chairman**

1. Mayor/Chairman Eaton commented as follows:
  - (a) He noted his attendance, along with City Manager McDougal and Director of Community Development Clark, at an important meeting with **Nordstrom** representatives at the company's Seattle headquarters on July 23, 2002, to discuss the continued operation of the Montclair store after the opening of the proposed Rancho Cucamonga mall. He indicated there was good dialog with **Mr. Eric Nordstrom** and the Vice President of Real Estate, who assured the City that **Nordstrom** will remain at the Montclair Plaza.
  - (b) He noted his attendance on July 25, 2002, at the **American Red Cross, Inland Valley Chapter** Annual Volunteer and Service Recognition event, at which Police Captain and former **Red Cross** Board Member Kevin Piper and Human Services Division Health Education Specialist and Program Aide Amy Anaya were recognized as significant volunteers.
  - (c) He noted his and Council Member Dutrey's attendance at the worthwhile **NPM** Board and Staff Retreat held July 27, and 28, 2002. He indicated a highlight of the retreat was the attendance of four staff members and that productive dialog took place.
  - (d) He noted his and Mayor Pro Tem Paulitz's attendance on July 31, 2002, at the grand opening of the new state-of-the-art **Omnitrans** liquefied compressed natural gas (CNG) fueling station at its facility on Arrow Highway. Noting he was pleased to attend, he stated there will now be more clean-fuel buses operating in the City.
  - (e) He noted it is unfortunate that dissenters do not stay for the entire meeting to hear all the great things taking place in Montclair.

## D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairman Paulitz commented as follows:
  - (a) He noted he has been anticipating the opening of the new **Omnitrans** liquefied CNG fueling station since the prior CNG fueling station was inoperative because it could not pass the **South Coast Air Quality Management District** emission standards. He stated that new CNG-powered buses could now be seen operating in the City.
  - (b) In follow-up to the **SCE** representative's presentation this evening, he discussed the state's decision to deregulate the electrical industry, which forced the divestiture of most utility-owned generation and prevented utilities from signing long-term contracts. He advised that it is wrong to blame **SCE** for the energy crisis. He noted that California did have the highest energy rates in an effort to lower costs, which backfired.
  - (c) He commented on the unfounded rumors circulating related to location of a car dealership at the former **Margarita School** site. He noted meeting with Mayor Eaton and **Ms. Francis** a few months ago at which the subject of locating a car dealership at the site was addressed to include development of a park. He stated that at that point, development plans for a proposed small-lot single-family housing development had been proceeding with a recent tour of similar **KLMB Development, Inc.**, planned-unit developments in Orange County. He spoke in support of a similar project being developed in Montclair.
  - (d) Concerning his comment a few months ago regarding the federal **9th Circuit Court of Appeals'** 2-1 decision ruling that reciting the **Pledge of Allegiance** in public schools is an unconstitutional "endorsement of religion" because of the addition of the phrase "under God" in 1954 by Congress and his comment that he was pleased that the **Knights of Columbus** lobbied in 1954 in support of adding "Under God" to the **Pledge**, he noted that the **Pledge of Allegiance** originated on **Columbus Day** in 1892. He stated that in 1952, the Supreme Council of the **Knights of Columbus** adopted a resolution to require all **Knights of Columbus** Councils to add the phrase when reciting the **Pledge of Allegiance**. He added that in 1953, the **Knights of Columbus** adopted another resolution that was brought before Congress, who introduced the phrase into the **Pledge of Allegiance** the following year. He also noted **California Polytechnic University** Professor Emeritus in History **Ralph E. Shaffer's** guest column in the newspaper a few months back in support of removal of "Under God" from the **Pledge**, indicating it was added in the first place as a response to fears of the Soviet Union and "Godless communism" during the McCarthy era.
  - (e) He announced that the General Municipal Election would be held on Tuesday, November 5, 2002. He stated that he has accomplished much during his many years in public service on the Council of which he is proud and that he plans to accomplish a lot more in the future should he be reelected. He expressed his confidence that Montclair residents "know what's going on." He

advised that residents carefully consider the public posturing taking place during this political season.

2. Council Member/Director Dutrey commented as follows:

- (a) He stated he is a 26-year resident of Montclair and has never lived in Diamond Bar.
- (b) He noted that on Wednesday, August 7, 2002, City Manager McDougal, Police and Fire bargaining unit representatives, and he would again be traveling to Sacramento to lobby in opposition to **AB 680**, a sales tax redistribution measure that poses potential harm to all cities in California and the defeat of which is important if local governments are to ultimately stop statewide implementation of similar legislation. While there, he stated he hopes to address the state budget with local state legislators to remind them not to balance the state budget utilizing local government revenues.
- (c) He noted he enjoyed attending the new **Target** grand opening in Montclair on July 23, 2002, adding that the store is doing very well and is much busier than when at its Ontario location. He stated this is one of many positive progressive projects in which Montclair is presently involved.
- (d) He proudly announced that the City is proceeding with Phase 4 of the Mission Boulevard Improvement Project, another example of the worthwhile projects in which the City is actively involved, as the **National Environmental Policy Act** environmental delay issues have been resolved. He confirmed with City Engineer Hudson that the project is slated to begin in October or November 2002.
- (e) He noted he would be visiting a **KLMB Development, Inc.**, small-lot residential development in Fullerton on Friday, August 9, 2002, adding he has invited **Ms. Francis** to participate in the tour. He stressed the importance of quality being a high priority in the development of new housing developments in the City.
- (f) He thanked audience members for patiently staying for the duration of tonight's meeting and told them they "are definitely residents who really care about the City of Montclair."
- (g) He told those staff members who were unfairly attacked this evening that they and many other staff members all do an excellent job and that the City prospers because of their hard work.

3. Council Member/Director Ruh commented as follows:

- (a) He noted his attendance at the new **Target** store grand opening on July 23, 2002, as well as the public grand opening on Sunday, July 28, 2002, noting that the store was packed at 7:45 a.m. and that customers had begun lining up around 6:45 a.m. that morning waiting to shop. He indicated the store is a great addition to the City and encouraged residents to patronize it, adding that his fear that employees at the Ontario location would lose their jobs was assuaged because **Target** transferred those employees to the new location in Montclair.

- (b) He noted reading an article in the newspaper this morning about another fatality attributed to the **West Nile** virus, which is spread from infected mosquitoes and on rare occasions can result in a severe and some-times fatal illness known as **West Nile** encephalitis, an inflammation of the brain, with seniors at higher risk. He reported that in checking with a parish in **Baton Rouge, Louisiana**, where the cases have escalated, he learned it is very important to take preventive measures against the illness, including limiting the number of places available for mosquitoes to lay their eggs by eliminating standing water sources from around your home. Noting the possibility that the region could experience some cases of the virus by next year, he indicated he would keep the public informed as more information becomes available on this important topic.
- (c) As **Mr. Lenhart**, a **Monte Vista Water District** Board Member, can appreciate, he stated that **Senator Nell Soto** is investigating the perchlorate plume in existence in the region. As a Board Member of the **California Regional Water Quality Board, Santa Ana Region**, he noted the importance of investigating the sources of the plume to ensure safety and purity of our drinking water.
- (d) He announced that the City's future **Congressional Representative David Dreier** would hold two open houses, one at Walnut City Hall on August 14, 2002, from 9:00 a.m. to 12:00 p.m. and the other at La Verne City Hall on August 15, 2002, from 9:00 a.m. to 12:00 p.m. He encouraged the public attend one of these open houses to meet our new Congressman.
- (e) He stated it was good to have the excellent presentation tonight by **SCE Region Manager Elva Rubalcava**. He noted he met recently with **Senator Gloria Romero** and **Senator Richard Alarcon** to address energy issues in California.
- (f) He congratulated **Mr. Corsaro** on his impending retirement as Director of **District 23 Little League** following this season's all-star tournament. He noted Mr. Corsaro has been a long-time supporter of this community and a long-time member of **Our Lady of Lourdes Catholic Church**.

#### **E. Committee Meeting Minutes**

##### **1. Minutes of Public Works Committee Meeting of July 15, 2002**

The City Council received and filed the Public Works Committee meeting minutes of July 15, 2002, for informational purposes.

##### **2. Minutes of Personnel Committee Meeting of July 15, 2002**

The City Council received and filed the Personnel Committee meeting minutes of July 15, 2002, for informational purposes.

#### **XII. ADJOURNMENT OF CITY COUNCIL AND MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS**

At 9:03 p.m., Mayor Eaton adjourned the City Council to Monday, August 12, 2002, at 6:00 p.m. at Montclair City Hall.

At 9:03 p.m., Chairman Eaton adjourned the Montclair Housing Corporation Board of Directors.

At 9:03 p.m., the Redevelopment Agency Board went into Closed Session regarding real property negotiations pursuant to Section 54956.9(a) of the Government Code.

**XIII. CLOSED SESSION ANNOUNCEMENTS**

At 9:51 p.m., the City Council returned from Closed Session. Mayor Eaton announced the City Council met in Closed Session regarding real property negotiations, information was received from legal counsel and direction given, and no further announcements would be made at this time.

**XIV. ADJOURNMENT OF REDEVELOPMENT AGENCY BOARD OF DIRECTORS**

At 9:52 p.m., Chairman Eaton adjourned the Redevelopment Agency Board of Directors to Monday, August 12, 2002, at 6:00 p.m. at Montclair City Hall.

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

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Yvonne L. Smith  
Transcribing Secretary