

MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL, REDEVELOPMENT
AGENCY BOARD, AND MONTCLAIR
HOUSING CORPORATION BOARD HELD ON
MONDAY, SEPTEMBER 16, 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 Dave Kinney, Crossing Point Church, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Council Member Ruh 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. Introduction of New Employee

Mayor Eaton introduced **Mrs. Raquel Badawi**, who was appointed to the position of Receptionist/Office Specialist effective September 9, 2002. He noted that Receptionist/Officer Specialist Badawi is a long-time resident of Montclair and previously worked for **Sears Credit**, Rancho Cucamonga.

Mayor Eaton presented Receptionist/Officer Specialist Badawi with a City pin and welcomed her to the Montclair City family.

At this time, Mayor Eaton announced the following:

- ✓ *Fall Cleanup* - October 7-11, 2002. Residents may place all bulky disposable items at curbside on their regular refuse-collection days for complimentary collection by **Burrtec Waste Industries, Inc.** He reminded residents that tires and hazardous waste would not be accepted, and information on their disposal may be obtained by calling Deputy City Clerk Jackson at 625-9414.
- ✓ *Free Prostate Cancer Screening* - September 17, 2002, 5:30-8:30 p.m., Montclair Medical Clinic, hosted by **San Antonio Community Hospital** and recommended for men aged 50 or older, appointment-only by telephoning (909) 944-9355.
- ✓ *Montclair Day at the L.A. County Fair* - September 24, 2002, to include a special horse race; reception for visiting dignitaries, members of City staff, and other special guests; Montclair Walkers Choral group performance at

4:00 p.m.; and community parade at 5:00 p.m., culminating with a special stage presentation honoring Montclair and saluting Montclair Community Hero 2002 **Mr. Reza Nafissi**, Owner, **Rocky's Pizzeria**. Discounted fair tickets are available at the Human Services Division office.

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. **Mr. Thomas J. Fitzgerald** expressed his general dissatisfaction with some members of the Montclair Police Department.

B. **Mr. Roger Baer** commented as follows:

1. He reviewed **Mrs. Jayne Baer's** recently settled case with the City regarding termination of her employment and discussed costs incurred by his wife as a result of being deposed in the **Raft** lawsuit.
2. He expressed his dissatisfaction with certain City employees.
3. He complimented Council Members Raft and Ruh on their respective courage in challenging the Council and for being "fair and honest."

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

1. He noted he has been contacted by a number of residents about certain issues.
2. He encouraged residents to vote in the upcoming General Municipal Election in support of the candidate(s) of their choice.
3. He reiterated being threatened by a staff member and spoke in support of the majority of competent City employees.
4. He noted a number of community youth are in attendance at tonight's meeting and asked the **Adelphia Communications Corporation** camera operator to pan over the audience. He reiterated his opinion that the Council is not setting a good example for youth.
5. Noting the City's \$12 million surplus, he reiterated his past comment concerning a supposed 40 percent increase in trash rates since the City began billing in-house for refuse and sewer services.
6. He noted he has spoken out against certain "corrupt" jurists and legislators in California, emphasizing that youth deserve better.

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

1. She asked Mayor Eaton if he would be interested in participating in a mayoral candidates' forum.

Mayor Eaton asked **Ms. Billingsley** to call him regarding scheduling the forum.

2. In follow-up to the **Montclair Branch Library's Gangs**

and Graffiti class held last month, she shared information from the class related to gang graffiti vandalism that costs the City between \$150,000 and \$200,000 per year to remove. She relayed information on how parents might determine if their children are involved in such destructive behavior and suggestions for establishing control.

3. She announced the following schedule of three upcoming complimentary **Montclair Branch Library** classes:
 - ✓ September 18, 2002 - *Defensive Driving on the Internet Highway*, 6:00 p.m.
 - ✓ September 25, 2002 - *Keeping Your Child Safe From Abduction*, 6:00 p.m.
 - ✓ October 11, 2002 - *How to Escape From an Abductor*, 10:00–11:00 a.m.

Ms. Billingsley encouraged residents' participation in these worthwhile classes.

4. She encouraged residents' attendance at public meetings in an effort to become more aware of the City's business activities.
5. She asked that more agendas be provided for the public at these meetings.

Mayor Eaton stated that more agendas would be provided.

E. **Mr. Sayed Hashemeyan**, 5379 Granada Street, Montclair, identified himself as a retired Afghan–American professor and noted he presently publishes the magazine *Afghanistan Mirror*. Noting he has lived in Montclair for 20 years, he commented as follows:

1. He noted the development of the new **Costco**, **Target**, and **Miller's Outpost** stores.
2. He spoke in support of the City's assistance to the business community and public improvements being performed, including new sidewalks and street resurfacing.
3. He expressed his gratitude to the Montclair Police Department for its excellent service to the community. He noted there has been a "tremendous" decrease in crime and that residents feel very safe in Montclair.
4. He spoke in support of the City's nutritional, medical, and social services offered to seniors in the community; the benefits of the *Por la Vida* health–education and paramedic programs; and the excellent trash and street–sweeping services.
5. He noted the positive 30 to 40 percent increase in property values in the City.
6. He stated that in view of the improvements made in Montclair over the past eight to ten years, he supports the renomination of Mayor Eaton for another term.
7. He noted he is an elected representative of the approximately 40,000 Afghan–Americans scattered through–out Southern California, with over 5000 residing in San Bernardino and Riverside counties. Noting there has been much misunderstanding about the Afghans, he emphasized

they are a peaceful people who are proud of the fact that not a single Afghan was one of the 19 terrorists

involved in last year's tragedy in America nor are any Afghans being investigated as suspected terrorists.

Mr. Hashemeyan offered to provide anyone interested with further information about **Afghanistan** and the Afghan people.

Mayor Eaton thanked **Mr. Hashemeyan** for his comments and the information.

- F. **Ms. Amber Bourp**, a student at **Montclair High School**, commented concerning the appearance of her school and inquired concerning the possibility of improvements being made.

Mayor Eaton announced that Section X, "Response," Item A, "Oral Report on *City of Montclair v. Raft, et al*," would be considered out of sequence at this time.

X. RESPONSE

A. Oral Report on *City of Montclair v. Raft, et al*

Juliann Anderson, Esquire, **Law Office of Juliann Anderson**, City Special Counsel, outlined a chronology of events on the above-entitled case from February 1998 to present, resulting in a total cost to the City of Montclair of \$198,970.45.

Mr. Roger Baer commented as follows:

1. He noted the expensive cost of litigation in this and the lawsuit involving his wife.
2. On another matter, he reiterated his past comments concerning the supposed smear campaign against another mayoral candidate.
3. On yet another matter, he reiterated his opinion that the proposed general City employee salary adjustments seem excessive and that City Manager McDougal appears to be the highest-paid city manager "in the entire Inland Empire and beyond."

It was the consensus of the Council to allow **Mr. Ray Raft** unlimited time to speak on this matter.

Mr. Raft offered to anyone interested the opportunity to view documentation in his possession related to this case. He expressed his opinion that the Code Enforcement activity and this evening's presentation by the City are both politically motivated.

Council Member Raft expressed her opinion that **Mr. Solberg**, the owner of 10440 Amherst Avenue, was not treated well by Special Counsel during his depositions for this case. She stated the public is welcome to review any documentation in the **Raft's** possession regarding the matter.

Mayor Pro Tem Paulitz asked if the list of depositions provided in the written chronology is complete.

City Special Counsel Anderson advised that the list is incomplete.

Mayor Eaton stated that this item was presented this evening to clarify why the **Raft** home was boarded up as a result of a court order related to the illegal construction that took place on the property, noting the illegalities have yet to be rectified.

Mrs. Theresa Weeks, 4371 Howard Street, Montclair, expressed her opinion the Rafts should have complied with law and precluded the necessity for the expensive litigation.

Mr. Emil Hashemeyan stated he has been a Montclair resident for almost 21 years and currently operates a business bordering Montclair. He spoke in support of the City's action in this case, noting the necessity of taking such action for health and safety reasons. He commended the Council for its efforts at beautifying Central Avenue, which has significantly improved the aesthetics of the main thoroughfare through Montclair.

It was the consensus of the Council to receive and file the report on *City of Montclair v. Raft, et al.*

VII. PUBLIC HEARINGS

Mayor Eaton announced that Section VII, "Public Hearings," Item E related to consideration of Ordinance No. 02-826, Resolution No. 02-2414, and Tentative Tract Map No. 16381 would be considered out of sequence at this time.

- E. **Adoption of Ordinance No. 02-826 Approving a Zone Change to the Montclair Municipal Code From "R-1" (Single-Family Residential) to "R-1(SL)" (Single-Family Residential Small-Lot Detached Housing Overlay) for 10.16 Acres at the Southwest Corner of Monte Vista Avenue and Palo Verde Street**

Adoption of Resolution No. 02-2414 Approving a General Plan Amendment to the Official Land-Use Map for a 10.16-Acre Site at the Southwest Corner of Monte Vista Avenue and Palo Verde Street, Modifying the Land-Use Designation From "Public/ Quasi-Public" to "Planned Development"

Approval of Tentative Tract Map No. 16381 for a 61-Lot Residential Subdivision at the Southwest Corner of Monte Vista Avenue and Palo Verde Street (Former Margarita School Site)

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 02-826, Resolution No. 02-2414, and Tentative Tract Map No. 16381 related to a zone change and General Plan amendment on a 61-lot residential subdivision at the southwest corner of Monte Vista Avenue and Palo Verde Street (former Margarita School site) and invited comments from the public.

Mr. Lawrence Lazar, Vice President, KLMB Development, Inc., discussed the genesis of KLMB Development, Inc.'s proposal for a quality 61-unit, small-lot single-family residential subdivision proposed to be developed on the former Margarita School site, 9550 Monte Vista Avenue. He indicated he would be returning to present to the Planning Commission and, subsequently, to the City Council a set of design guidelines for the project that will specifically define the architectural style and amenities of the mixture of dwelling units proposed for the development. In conclusion, he assured the Council that whatever is promised by KLMB Development, Inc., in the scope of the proposed project would be delivered.

Dr. Thomas Garnella, Assistant Superintendent of Business Services, Ontario-Montclair School District (OMSD), stated that OMSD acknowledges the cooperative partnership between the City and KLMB Development, Inc. He indicated that OMSD supports this proposal as a beneficial addition to that area of Montclair. He stated that OMSD thanks the neighboring residents for cooperating

and working with KLMB Development, Inc., on this project. He added that upon touring the Fullerton KLMB Development residential project, he found it to be an attractive quality development.

Dr. Garnella introduced the following OMSD representatives in attendance at this hearing: Board President **Doreen McDaniel**, Board Vice President **Bob Hardy**, Operations Administrator **Craig Misso**, Coordinator of Facilities Planning **Pete Peterson**, and OMSD Consultant for Asset Management **Jim Robertson**.

In conclusion, **Dr. Garnella** advised that a presentation will be made to the Council in October 2002 on OMSD's proposal for construction of a brand-new elementary school in Montclair. He proudly noted that OMSD has acquired all necessary parcels at the Bandera site for the new school, the first new school in the District in over five years, with a commitment of over \$6 million to bring the new school to the community.

Mayor Eaton thanked **Dr. Garnella** and OMSD Board members for attending this hearing.

Ms. Lori Haage, 9554 Tudor Avenue, Montclair, identified herself as a 45-year resident of Montclair. She expressed her appreciation of OMSD for considering the concerns of neighboring residents regarding development proposals for the site. She spoke in support of the development proposed by KLMB Development, Inc., and commended the Council and OMSD for its consideration of this proposal. As a schoolteacher with OMSD, she emphasized that nothing is more important than children's safety, which she believed would have been threatened by a business development at the site.

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 asked for clarification on the following:

1. Size of the proposed dwelling units

Mr. Lazar responded that the homes would range in size from 2000 square feet to between 2400 and 2500 square feet.

2. Curbside parking adequacy

Mr. Lazar indicated that with a number of the lots, the garages would be located at the back of the property, allowing for additional parking on the long driveway. In addition, the reduction in curb cut from 20 feet to 12 feet presents the opportunity for additional street parking and trees and landscaping.

3. Margarita School site commemoration plaque, to be located on the block wall proposed along Monte Vista Avenue, listing original construction date of the school.

Mr. Lazar agreed with this suggestion.

Council Member Dutrey commented as follows:

1. He noted the final closure of Margarita Elementary School has been a sensitive issue in the community. He spoke of his concern for a replacement school and stated he is much reassured with the plans for a brand-new elementary school in Montclair.

2. He noted his initial skepticism of KLMB Development, Inc.'s residential development proposal for this site until he toured the company's Fullerton development and received feedback from other development firms about the company. He indicated he has been reassured by the level of quality housing the company builds. He noted the proposed dwelling units would contain superior architectural features while incorporating the old-fashioned feature of a garage located at the end of the driveway.
3. He spoke in support of the proposed attractive quality residential project that will add upscale housing to Montclair.

Mayor Pro Tem Paulitz discussed the background of the project, which replaced proposals for a higher density senior housing project and multiuse senior housing, hotel, and drug store project. He too noted his initial skepticism of KLMB Development, Inc.'s proposal for this project until he toured the company's impressive high-quality Fullerton development. He spoke in support of the proposal and thanked KLMB Development, Inc. for its quality work.

Council Member Ruh stated the unfortunate closure of Margarita School and possible development proposals for the site are subjects that have been "near and dear to my heart." Noting the importance of listening to the community, he stated he has worked closely with neighboring residents to determine their desires for a suitable development for the site that would assimilate well in their residential neighborhood. He advised that the residents had decided a residential development would be the best choice for the site and spoke in support of the quality development proposed by KLMB Development, Inc. He emphasized that quality has nothing to do with either the size or price of a home but with design features.

Council Member Raft stated she had opposed the closure of Margarita School. She noted she is pleased the Council is listening to the desires of neighboring residents and expressed her wholehearted support of the project proposed by KLMB Development, Inc. She noted her opposition to OMSD's decision to locate a new elementary school on Holt Boulevard.

Moved by Council Member Ruh and seconded by Council Member Raft that Ordinance No. 02-826, entitled "**An Ordinance of the City Council of the City of Montclair Approving a Zone Change From 'R-1' (Single-Family Residential) to 'R-1(SL)' (Single-Family Residential Small-Lot Detached Housing Overlay),**" be read by number and title only, further reading be waived, and this be declared its first reading.*

Mayor Eaton noted it was the state's decision to close Margarita School. He stated he is pleased with the residents' support of the proposal by KLMB Development, Inc.

*The City Council unanimously waived the reading of the Ordinance.

First Reading of Ordinance No. 02-826 was unanimously adopted by the following vote:

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

Moved by Council Member Dutrey and seconded by Council

Member Ruh that Resolution No. 02-2414, entitled "A Resolution of the City Council of the City of Montclair Approving a General Plan Amendment to the Official Land Use Map for a 10.16-Acre Site at the Southwest Corner of Monte Vista Avenue and Palo Verde Street, Modifying the Land Use Designation From 'Public/Quasi-Public' to 'Planned Development,'" 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.

Resolution No. 02-2414 was unanimously adopted by the following vote:

AYES: Ruh, Dutrey, Raft, Paulitz, Eaton

NOES: None

ABSTAIN: None

ABSENT: None

Moved by Council Member Ruh, seconded by Mayor Pro Tem Paulitz, and carried unanimously to approve Tentative Tract Map No. 16381 for a 61-lot residential subdivision at the southwest corner of Monte Vista Avenue and Palo Verde Street (former Margarita School site).

Mayor Eaton thanked the representatives of KLMB Development, Inc., and OMSD and the residents for participating in the development of the project proposal.

At 9:00 p.m., Mayor/Chairman Eaton recessed the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

At 9:08 p.m., Mayor/Chairman Eaton reconvened the City Council. and Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

A. Continuance of the Public Hearing Regarding Review and Approval of Bond Financing Authority Documentation With Respect to Nonprofit Acquisition of Hacienda Mobile Home Estates

Mayor/Chairman Eaton declared it the time and place set for public hearing to consider continuance of the public hearing regarding review and approval of bond financing authority documentation with respect to nonprofit acquisition of Hacienda Mobile Home Estates and invited comments from the public.

City Manager/Executive Director McDougal asked that this item be continued to the October 7, 2002 regular joint meeting, to provide the proposed bonding rating agencies additional time to examine the structure of the proposed issue.

There being no one in the audience wishing to speak, Mayor/Chairman Eaton closed the public hearing and returned the matter to the City Council/Redevelopment Agency Board for their consideration.

Moved by Council Member/Director Ruh, seconded by Council Member/Director Dutrey, and carried unanimously to continue this item to the regular joint meeting of October 7, 2002.

B. Second Reading - Adoption of Ordinance No. 02-823 Prohibiting Camping in the City of Montclair

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 02-823 prohibiting camping in the City of Montclair and invited comments from the public.

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

Moved by Council Member Ruh and seconded by Council Member Dutrey that Ordinance No. 02-823, entitled **"An Ordinance of the City Council of the City of Montclair Adding Chapter 6.25 to the Montclair Municipal Code Related to the Prohibition of Camping in the City of Montclair,"** be read by number and title only, further reading be waived, and this be declared its second reading.

The City Council unanimously waived the reading of the Ordinance.

Second Reading of Ordinance No. 02-823 was adopted by the following ROLL CALL vote:

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

- C. **Second Reading - Adoption of Ordinance No. 02-825 Repealing Ordinance No. 99-789 and Adopting by Reference the 1997 Editions of the Uniform Building Codes, the 2000 Editions of the Uniform Plumbing and Mechanical Codes, and the 1999 Edition of the National Electrical Code, the 1997 Edition of the Uniform Administrative Code, the 1997 Edition of the Uniform Housing Code, the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings, Including Applicable Amendments by the California Building Standards Commission as Set Forth in Title 24 of the 2001 California Code of Regulations, Together With Certain Amendments, Additions, Deletions, and Exceptions, Including Fees and Penalties**

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 02-825 Repealing Ordinance No. 99-789 and adopting by reference the 1997 Editions of the Uniform Building Codes, the 2000 Editions of the Uniform Plumbing and Mechanical Codes, and the 1999 Edition of the National Electrical Code, the 1997 Edition of the Uniform Administrative Code, the 1997 Edition of the Uniform Housing Code, the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings, including applicable amendments by the California Building Standards Commission as set forth in Title 24 of the 2001 California Code of Regulations, together with certain amendments, additions, deletions, and exceptions, including fees and penalties, and invited comments from the public.

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

Moved by Mayor Pro Tem Paulitz and seconded by Council Member Dutrey that Ordinance No. 02-825, entitled **"An Ordinance of the City Council of the City of Montclair Repealing Ordinance No. 99-789 and Adopting by Reference the 1997 Editions of the Uniform Building Codes, the 2000 Editions of the Uniform Plumbing and Mechanical Codes, and the 1999 Edition of the National Electrical Code, the 1997 Edition of the Uniform Administrative Code, the 1997 Edition of the Uniform Housing Code, the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings, Including Applicable Amendments by the California Building Standards Commission as Set Forth in Title 24 of the 2001 California Code of Regulations, Together With Certain Amendments, Additions, Deletions, and Excep-tions, Including**

Fees and Penalties," be read by number and title only, further reading be waived, and this be declared its second reading.

The City Council unanimously waived the reading of the Ordinance.

Second Reading of Ordinance No. 02-825 was unanimously adopted by the following ROLL CALL vote:

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

D. First Reading – Adoption of Ordinance No. 02-824 Related to Adoption of the 2001 Fire Code

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 02-824 related to adoption of the 2001 Fire Code and invited comments from the public.

City Manager McDougal stated that Fire Department staff is requesting this item be continued to the October 7, 2002 regular joint meeting.

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

Moved by Mayor Pro Tem Paulitz, seconded by Council Member Ruh, and carried unanimously to continue this item to the regular joint meeting of October 7, 2002.

F. First Reading – Adoption of Ordinance No. 02-827 Pursuant to Chapter 11.84 of the Montclair Municipal Code Establishing Prezone Designations of "R-1" and "C-3" to Approximately 4.18 Acres Within the City's Sphere of Influence

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 02-827 pursuant to Chapter 11.84 of the Montclair Municipal Code establishing prezone designations of "R-1" and "C-3" to approximately 4.18 acres within the City's Sphere of Influence 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.

Noting he received a telephone call from a concerned resident in an area of the City's Sphere of Influence that had been withdrawn for prezoning consideration several months ago, Council Member Ruh clarified that the subject site for this proposal is entirely separate from the area previously proposed and subsequently withdrawn from prezoning consideration. He emphasized that the Local Agency Formation Commission has strongly recommended this action so that ultimately the subject parcel can be included with the adjacent 9.35-acre "L"-shaped site (approved for prezoning by the Council on September 3, 2002) in the annexation application so as not to create a "peninsula" of incorporated County land. He added that no opposing testimony has been received on this item.

Moved by Council Member Dutrey and seconded by Council Member Ruh that Ordinance No. 02-827, entitled **"An Ordinance of the City Council of the City of Montclair Approving Prezone Designations of R-1 (Single-Family Residential) and C-3 (General**

Commercial) Within the City's Sphere of Influence," be read by number and title only, further reading be waived, and this be declared its first reading.

The City Council unanimously waived the reading of the Ordinance.

First Reading of Ordinance No. 02-827 was adopted 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 D-1 be removed from the Consent Calendar for comment.

Council Member Dutrey requested that Items B-1 and C-1 be removed from the Consent Calendar for comment.

Noting that since Item B-1 has already been removed, Council Member Ruh requested that Item 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 September 3, 2002

The City Council and Redevelopment Agency Board approved the minutes of the Adjourned Joint City Council/Redevelopment Agency Board meeting of September 3, 2002.

2. Minutes of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of September 3, 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 September 3, 2002.

B. Administrative Reports

2. Designation of Voting Delegate and Alternate Voting Delegate to the Annual Congress of Cities, December 3-7, 2002 - Salt Lake City, Utah

The City Council designated Mayor Paul M. Eaton as both voting delegate and alternate voting delegate to the National League of Cities Annual Business Meeting to be held Saturday, December 7, 2002, at the Annual Congress of Cities in Salt Lake City, Utah.

3. Receiving and Filing of City Treasurer's Report

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

4. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated September 16, 2002, totaling \$626,667.46; and the Payroll Documentation dated August 25, 2002, amounting to \$458,992.71, with \$332,234.11 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 August 31, 2002.

6. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 8/01/2002-8/31/2002 in the amounts of \$2,575.22 for Project I; \$0.00 for Project II; \$303,708.83 for Project III; \$1,010.49 for Project IV; and \$24,318.38 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 August 31, 2002.

8. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 8/01/2002-8/31/2002 in the amount of \$8,255.56.

C. Agreements

2. Award of Contract to Mobassaly Engineering, Inc., in the Amount of \$2,181,366.35

Approval of *Agreement No. 02-133* With Mobassaly Engineering, Inc., for Select System Project No. 177 - Mission Boulevard Improvement Project, Phase 3

Authorization of a \$210,000 Construction Contingency

The City Council took the following actions:

- (a) Awarded a contract to Inland Asphalt & Coatings in the amount of \$2,181,366.35.
- (b) Approved *Agreement No. 02-133* with Mobassaly Engineering, Inc., for Select System Project No. 177 - Mission Boulevard Improvement Project, Phase 3
- (c) Authorized a \$210,000 construction contingency.

4. Award of Contract to 2H Construction, Inc., in the Amount of \$23,467

Approval of *Agreement No. 02-137* With 2H Construction, Inc., for Remodel of Montclair Police Department Evidence Storage Areas

Authorization of a \$3533 Construction Contingency

Amending Capital Improvement Program to Include a Project

Identified as Remodel of Police Department Evidence Storage Areas and Appropriation of \$27,000 From the Local Law Enforcement Block Grant Fund

The City Council took the following actions:

- (a) Awarded a contract to 2H Construction, Inc., in the amount of \$23,467.
 - (b) Approved *Agreement No. 02-137* with 2H Construction, Inc., for remodel of Police Department evidence storage areas.
 - (c) Authorized a \$3533 construction contingency.
 - (d) Amended the Capital Improvement Program to include a project identified as remodel of Police Department Evidence storage areas and appropriated \$27,000 from the Local Law Enforcement Block Grant Fund.
5. **Approval of *Agreement No. 02-138, a Purchase and Sale Agreement* by and Between the City of Montclair Redevelopment Agency and Mr. and Mrs. Eleuterio Lira for Acquisition of the Single-Family Residence Located at 9644 Central Avenue**

Appropriation of \$168,000 From the Housing Fund for Acquisition and Closing Costs

The City Council took the following actions:

- (a) Approved *Agreement No. 02-138, a Purchase and Sale Agreement* by and between the City of Montclair Redevelopment Agency and Mr. and Mrs. Eleuterio Lira for acquisition of the single-family residence located at 9644 Central Avenue.
 - (b) Appropriation of \$168,000 from the Housing Fund for acquisition and closing costs.
6. **Approval of *Agreement No. 02-139, a Purchase and Sale Agreement* by and Between the City of Montclair Redevelopment Agency and Mr. Houston Berry for Acquisition of the Single-Family Residence Located at 9963 Central Avenue**

Appropriation of \$173,000 From the Housing Fund for Acquisition and Closing Costs

The City Council took the following actions:

- (a) Approved *Agreement No. 02-139, a Purchase and Sale Agreement* by and between the City of Montclair Redevelopment Agency and Mr. Houston Berry for acquisition of the single-family residence located at 9963 Central Avenue.
 - (b) Appropriation of \$173,000 from the Housing Fund for acquisition and closing costs.
7. **Approval of *Agreement No. 02-140 With Cost Recovery Systems, Inc., for State-Mandated Reimbursement Claim-ing Services and Approval of the Scope of Work and Fees in Attachment A-5***

Authorization of Appropriation Transfer of \$500 From the

Contingency Account

The City Council took the following actions:

- (a) Approved *Agreement No. 02-140* with Cost Recovery Systems, Inc., for state-mandated reimbursement claiming services.
- (b) Approved the scope of work and fees in Attachment A-5 of the agreement.
- (c) Authorized an appropriation transfer of \$500 from the Contingency Account to Account No. 001-400-4312-5219 to pay the increased cost of *Agreement No. 02-140*.

IX. PULLED CONSENT CALENDAR ITEMS

Council Member Dutrey requested that Section IX, "Pulled Consent Calendar Items," Item D-1, "Adoption of Resolution No. 02-2411 Fixing the Salaries for Certain City Employees Represented by the San Bernardino Public Employees Association," be considered out of sequence at this time in consideration of City employees in attendance at tonight's meeting regarding this item.

It was the consensus of the Council to consider Section IX, "Pulled Consent Calendar Items," Item D-1, "Adoption of Resolution No. 02-2411 Fixing the Salaries for Certain City Employees Represented by the San Bernardino Public Employees Association," out of sequence at this time

D. Resolutions

1. Adoption of Resolution No. 02-2411 Fixing the Salaries for Certain City Employees Represented by the San Bernardino Public Employees Association

Council Member Raft clarified that she requested this item be continued to request that both public and private sector salary surveys and job descriptions be included in the agenda for the Council's consideration. Noting that although in her opinion some of the position classifications deserve the proposed adjustments, she stated she cannot support this item because of her belief that the City should conserve revenues. In addition, she suggested that future salary adjustments be made at a flat percentage rate across the board.

City Manager McDougal clarified the San Bernardino Public Employees Association negotiated a three-year agreement with the City that this year calls for a 3 percent across-the-board salary adjustment for all members. He discussed requests he received from department heads and groups of employees for reconsideration of their pay status as it relates to the current market. He spoke of the difficulty in retaining Dispatcher Clerks because the City's pay scale is approximately 16 to 20 percent below average for that position classification. He stated he received authority from the Council earlier in the year for staff to negotiate a longer-term contract with reasonable salary adjustments plus a salary survey, adding that a survey hasn't been performed for this bargaining group for 10 to 12 years. He stated that during that period of time of the City's financial instability, employees were asked to take less than the CPI, which they did, with a promise from the Council that they would receive

comparable salary adjustments at such time as the City stabilized financially. He further clarified that the salary survey that was negotiated with SBPEA would include the "immediate market" cities of Chino, Upland, Claremont, and La Verne and that the salary adjustments presented this evening are the average of the survey or 3 percent, the amount negotiated for adjustments pursuant to the SBPEA Memorandum of Understanding. He advised that the few position classifications that are proposed to receive adjustments above the average have pay scales far below the average of the surveyed cities.

City Manager McDougal expressed his hope the Council would take the proposed action to validate the work and value of the employees in this bargaining group and keep its promise regarding comparable salary adjustments when the City became financially sound.

Noting he studied the salary survey related to this item, Mayor Pro Tem Paulitz advised the survey indicates a 7 percent salary adjustment overall. In response to the comment that the surveys are not compared to the private sector, he pointed out that some City positions do not have private sector counterparts; and you would need to compare to comparable public sector position classifications for effective survey results. He added that staff has job descriptions available for every City positions if further clarification is needed. He noted it might be a good idea to include the salary survey in the agenda unless it is too cumbersome. He stated that after studying the item, he is satisfied with staff's proposal.

Moved by Mayor Pro Tem Paulitz and seconded by Council Member Dutrey that Resolution No. 02-2411, entitled "**A Resolution of the City Council of the City of Montclair Fixing the Salaries for City Employees Represented by the San Bernardino Public Employees Association,**" be read by number and title only, further reading be waived, and it be declared adopted.*

Council Member Ruh expressed his concern about an unforeseen drop in future revenues and the ensuing difficulty in sustaining the proposed adjustments, adding he would not want employees laid off. Though he concurs with comments made by Council Member Raft related to some increases being high, he indicated he would support this item.

Council Member Raft noted her struggle with this item because she understands that employees must be paid comparable salaries. She noted the public perception of this proposal in view of the City's utility tax. She reiterated her request that salary surveys be included with similar agenda report items in the future. She stated that because of the lack of survey information being included with this item and because she does not agree with some of the proposed adjustments, she cannot support this item.

City Manager McDougal commented as follows:

- (a) He advised that in the renegotiated SBPEA three-year agreement, next year's proposed adjustment would be 1 percent, the following year, 2 percent, and the third year, 3 percent. Averaged over a four-year period, he noted the increases would probably be close to the Consumer Price Index, though employees would

probably begin to fall behind again over the next three years.

- (b) He reminded Council Member Raft that at the last meeting when this item was continued, he had offered to provide survey and position description information but she had declined. He advised that this information is available from staff for SBPEA, MPOA, MFFA, and management employees and that all survey information related to tonight's proposal can be documented.

*The City Council unanimously waived the reading of the Resolution.

Resolution No. 02-2411 was adopted by the following vote:

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

Mayor Eaton stated these salary adjustments are well deserved. He noted the Council made a commitment on June 16, 2000, and directed staff to begin to work in this direction. He stated he is extremely satisfied that the City can afford the salary adjustments.

Council Member Dutrey concurred. He thanked City employees for all the hard work they do for the residents of the Montclair.

B. Administrative Reports

1. Approval of the Montclair Employee Home Acquisition Assistance Program (ME-HAAP)

Providing Direction Regarding the Payment of Closing Costs as a Component of ME-HAAP

Providing Direction Regarding Authority to Eliminate or Restructure ME-HAAP's Requirement for a Down Payment on a First Mortgage

Pursuant to staff's request, Council Member Dutrey suggested the following:

- (a) That proposed ME-HAAP participants be required to pay 1 percent of the total down payment to promote the financial responsibility of participants.
- (b) That a cap of 3 percent of purchase price be established for closing costs to reduce the amount of junk fees.

Council Member Ruh concurred with Council Member Dutrey's suggestion that proposed ME-HAAP participants be required to pay 1 percent of the total down payment. He noted he first suggested an employee home mortgage finance program four years ago and strongly supports the wonderful opportunity provided in the proposed program. Noting the long commutes faced by many employees, he expressed his hope that the proposed program would encourage more employees to purchase homes in Montclair.

Moved by Council Member Ruh and seconded by Mayor Pro Tem Paulitz to approve the Montclair Employee Home-Acquisition Assistance Program (ME-HAAP), including

requirements that participants pay 1 percent of the total down payment and a cap of 3 percent of the purchase price be established for closing cost payment assistance.*

City Manager McDougal asked that the Council reconsider the closing cost assistance cap of 3 percent, which would typically only pay the broker's fee. He stated that staff's

recommendation is 80 percent of closing costs not to exceed \$10,000.

*Motion amended by Council Member Dutrey as follows:

Moved by Council Member Ruh and seconded by Mayor Pro Tem Paulitz to approve the Montclair Employee Home-Acquisition Assistance Program (ME-HAAP), including the requirement that participants pay 1 percent of the total down payment with an assistance cap of 80 percent of closing costs not to exceed \$10,000.*

Mayor Pro Tem Paulitz received confirmation concerning Item 4, "Application Processing," of the employee eligibility criteria, which stipulates that one loan per annum will be reserved for one employee each of the Montclair Police Officers Association, the Montclair Fire Fighters Association, the San Bernardino Public Employees Association, and management staff and that funding shall be made available on a first-come, first-served basis to any eligible employee of the City of Montclair should ME-HAAP loan assistance not be requested by a member of a qualifying labor group by the first day of the fourth quarter of each fiscal year.

Mayor Eaton stated he is pleased with the proposed program and that it has been the desire of the Council for many years to be able to provide such a program for employees.

*Motion carried as follows:

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

C. Agreements

1. **Approved *Agreement No. 02-63* With Montclair Plaza L.L.C. for a Traffic Circulation Study at and in the Vicinity of the Montclair Plaza**

Noting it is unlikely that any suggested modifications to traffic circulation from the proposed traffic study can be implemented prior to the 2002 holiday season, Council Member Dutrey asked staff for some assurance that the traffic congestion in and around the **Montclair Plaza** as well as parking and circulation issues that occurred during last year's holidays would not be repeated this year.

City Manager McDougal advised he can make such assurance on behalf of the Police Chief.

Mayor Pro Tem Paulitz clarified that the delay in execution of the proposed traffic engineering study agreement was on the part of **Montclair Plaza** owner General Growth Properties, Inc.

Moved by Council Member Dutrey, seconded by Council Member Ruh, and carried unanimously to approve *Agreement No. 02-63* with Montclair Plaza L.L.C. for a traffic-circulation study at and in the vicinity of the Montclair Plaza.

3. **Approval of *Agreement No. 02-134* With L. D. King, Inc., in the Amount of \$230,400 for Contract Administration Inspection, Construction Staking, and Materials-Testing Services for Select System Project No. 177 - Mission**

Boulevard Improvement Project, Phase 3

Authorization of a \$25,000 Contract Administration Contingency for Modifications to the Scope of Services as May Be Necessary

Council Member Ruh asked when the proposed project is slated for completion.

City Engineer Hudson advised that it is hoped the project would be under construction before the end of the month with completion slated for sometime next summer.

Council Member Ruh spoke in support of this much-needed project.

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

- (a) Approve *Agreement No. 02-134* with L. D. King, Inc., in the amount of \$230,400 for contract administration, inspection, construction staking, and materials-testing services for Select System Project No. 177 - Mission Boulevard Improvement Project, Phase 3
- (b) Authorize a \$25,000 contract administration contingency for modification to the Scope of Services as may be necessary.

Council Member Dutrey complimented staff for bringing this project forward in such a timely manner for completion next year.

X. RESPONSE

B. Update Regarding Heritage Park Senior Apartments

Mayor Eaton reported 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.

Noting the modifications to the site were proposed in February 2001, Mayor Pro Tem Paulitz asked if there is any expiration date on plans submitted for projects.

Director of Community Development Clark responded that City project approvals are valid for six months.

Discussed centered on the fact that it was the City that postponed the plan check for the proposed modifications and, therefore, the proposal is still valid.

Council Member Ruh asked that a meeting be arranged to include the **Heritage Park** manager, staff, and himself to address residents' maintenance and sidewalk-access issues.

Director of Community Development/Agency Planner Clark agreed that a meeting could be scheduled.

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

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel – No comments

B. City Manager/Executive Director

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

- (a) In follow-up to the workshop of September 3, 2002, on the Problem-Oriented Policing (POP) Team, he noted the availability of a police academy candidate who ranks No. 7 in a class of 65 and who would increase the City's diversity if hired. He requested the Council consider placing an item on the October 7, 2002 agenda related to appointment of this candidate.

It was the consensus of the Council to place an item on the October 7, 2002 agenda related to consideration of appointment of the candidate to the Police Department.

- (b) In response to an earlier comment that supposedly the City increased refuse rates 40 percent upon takeover of the billing for refuse and sewer services from Monte Vista Water District, he advised that a report would be presented to the Council at the regular joint meeting of October 7, 2002, demonstrating the City has, instead, saved about 40 percent in billing costs since such takeover.
- (c) In response to a speaker's earlier comment, he emphatically denied that he currently is or has ever been the highest-paid city manager "in the entire Inland Empire and beyond."

C. Mayor/Chairman

1. Mayor/Chairman Eaton commented as follows:

- (a) He reported that the **San Bernardino Associated Governments** has begun the bid process on a freeway service patrol similar to that employed in Los Angeles County to assist motorists in distress.
- (b) He announced a groundbreaking ceremony to celebrate construction of a second rail platform at the Montclair **Metrolink** station to be held Thursday, September 19, 2002, at 9:30 a.m. at the Montclair Transcenter and invited everyone to attend. He spoke in support of the expansion of the San Bernardino-to-Los Angeles **Metro-link** line that will increase ridership on the most popular line in the **Metrolink** system.

D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairman Paulitz stated he would be inviting the **South Coast Air Quality Management District (SCAQMD)** Board Chair to the regular joint meeting of October 21, 2002, for presentation of a \$500,000 check from **SCAQMD** for the Ramona Avenue-Union Pacific Railroad Grade Separation project.
2. Council Member/Director Dutrey stated he had an opportunity to participate in a ride-along a few Saturdays ago and found the patrol officers to be "very professional." He complimented Police Chief Thompson and Officers Rob Pipersky and Ken

Pollich, in particular, for the outstanding work performed by Police Department staff.

3. Council Member/Director Ruh commented as follows:

- (a) He reported that the **Santa Ana Regional Water Quality Control Board** voted at its meeting last Friday to rescind an order issued by Board Executive Officer **Gerald Thibeault** in June that required **Goodrich** and **Kwikset** to clean up the potentially deadly perchlorate in Inland Valley ground water. He stated that instead, the Board decided to widen the probe to include all parties that may bear responsibility for the contamination. He thanked **Senator Soto** for establishing a task force to address the issue.
- (b) In response to **Ms. Amber Bourp's** remarks regarding her concerns about the appearance of **Montclair High School** this evening, he indicated he would be willing to contact a few **Chaffey Joint Union High School District (CJUHSD)** Board members, including **Dr. Kathy Kinley**, regarding the matter and arrange a meeting with **Ms. Bourp**, the Board members, and himself.

Council Member Dutrey spoke of the **CJUHSD** bond measure approved by the voters several years ago, a portion of which was to be used to improve conditions at **Montclair High School**. He suggested **CJUHSD** be invited to a future meeting to make a presentation on this issue, adding that the taxpayers have a right to know where their tax revenues are going.

Council Member Ruh stated he would contact **Dr. Kinley** about the matter.

- (c) He related the following statistics that were compiled by **Philip Harder, MD, Stanford University**, related to what the composition of the Earth's population would be if it were shrunk to a village of just 100 people:

57 Asians, 21 Europeans, 14 from the Western Hemisphere, 8 Africans
52 females, 48 males
70 nonwhites, 30 whites
70 non-Christians, 30 Christians
6 people would possess 59 percent of the entire world's wealth; all 6 would be from the United States of America
80 people would live in substandard housing
70 would be unable to read
50 would suffer from malnutrition
1 would be near death
1 would be pregnant
1 would have a college education
Only 1 would own a computer.

Think of it this way: If you live in a good home and have plenty to eat and can read, you are a member of a very select group. And if you have a good house, food, can read, have a computer—you are among the very elite in the world. If you woke up this morning with more health than illness, you're more fortunate than the 1 million people who will not survive this week. If you've never experienced the danger of battle, the loneliness of

imprisonment, the agony of torture, the angst of starvation—you're ahead of 5 million people on the Earth. If you can attend a church meeting, whatever your religious background is, without fear of harassment, arrest, torture, or death, you're fortunate, for more than 3 billion people in the world cannot do that. If you have some food in the refrigerator, some clothes on your back, a roof overhead, no matter how humble, a place to sleep—you're richer than 75 percent of the world. If you have a little money in the bank, in your wallet, or spare change in a dish somewhere, you're among the top 8 percent of the world's wealthy. If your parents are still alive and married, you're very rare, even in the United States. If you could read this message, you are more blessed than over 2 billion people in the world who cannot read.

Council Member Ruh quietly stated "that if we can start to encourage literacy right here at home and in our community, it would go a long way to solving a lot of these problems. Thank you."

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of September 3, 2002

The City Council received and filed the Personnel Committee meeting minutes of September 3, 2002, for informational purposes.

XII. COUNCIL/AGENCY WORKSHOP

A. Presentation on Public Comment Policy

Moved by Council Member Ruh, seconded by Council Member Dutrey, and carried unanimously to continue this item to an adjourned joint meeting on Monday, October 7, 2002, at 5:45 p.m. in the City Council Chambers.

XIII. ADJOURNMENT OF CITY COUNCIL AND REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS

At 9:57 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors in honor and memory of the fallen and surviving heroes of September 11, 2001.

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

Yvonne L. Smith
Transcribing Secretary