

MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL, REDEVELOPMENT
AGENCY BOARD, AND MONTCLAIR
HOUSING CORPORATION BOARD HELD ON
MONDAY, OCTOBER 21, 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

Mayor/Chairman Eaton gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Mayor Pro Tem/Vice Chairman Paulitz 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 Employees

Mayor Eaton introduced **Ms. Jessica Wedel**, who was appointed to the position of Office Specialist in the Public Works Division effective October 7, 2002.

Mayor Eaton welcomed Office Specialist Wedel to the Montclair City family and presented her with a City pin.

Mayor Eaton introduced **Ms. Jennifer Green**, who was appointed to the position of Office Specialist in the Human Services Division effective today. Mayor Eaton noted that Office Specialist Green recently completed an internship at **Metrolink**, Los Angeles.

Mayor Eaton welcomed Office Specialist Green to the Montclair City

family and presented her with a City pin.

Mayor Eaton introduced **Ms. Patricia Helm**, who was appointed to the position of Learning Coordinator for the After-School Program at **Serrano Middle School** effective October 7, 2002. Mayor Eaton noted that Learning Coordinator Helm has worked with children since 1981 as a camp counselor, teacher's assistant, and substitute teacher.

Mayor Eaton welcomed Learning Coordinator Helm to the Montclair City family and presented her with a City pin.

Learning Coordinator Helm stated that some **Serrano Middle School** students would like to give the Council invitations to an upcoming event. While this took place, a student named "**Danny**" invited the Council to **Serrano Middle School's Lights On After-School Program Celebration** on Saturday, October 26, 2002, from 9:00 a.m. to 1:00 p.m. in the Montclair Community Center auditorium.

B. Presentation of \$500,000 Check by South Coast Air Quality Management District for the Ramona Avenue Grade Separation

Mayor Eaton asked Mayor Pro Tem Paulitz, a member of the **South Coast Air Quality Management District** Board, to step down to the podium.

Mayor Pro Tem Paulitz introduced **Dr. William Burke**, Vice Chairman, **South Coast Air Quality Management District**.

Dr. Burke stated that his purpose this evening is twofold. He first thanked the City Council for appointing Mayor Pro Tem Paulitz to the **SCAQMD** Board as he has been a "beacon of light" to the Board in representing the Inland Empire. **Dr. Burke** stated that for the two years he has served as Chairman and five as Vice Chairman of the Board, Mayor Pro Tem Paulitz has offered sage advice on technical matters and policy and that his expertise is "unequivocal."

Secondly, noting **SCAQMD's** understanding of the severe consequences resulting from the implementation of the **Alameda Corridor** express freight rail line project, **Dr. Burke** indicated that it was through the tenacity of Mayor Pro Tem Paulitz's requests for a portion of **SCAQMD** penalty funds for grade separation projects in Montclair that **Dr. Burke** is present tonight to make this presentation. He presented Mayor Pro Tem Paulitz with a check for \$500,000 for the Ramona Avenue Grade Separation project.

Mayor Pro Tem Paulitz thanked **Dr. Burke** for the contribution while a photograph was taken of **Dr. Burke** and Mayor Pro Tem Paulitz.

Mayor Eaton thanked **Dr. Burke** for **SCAQMD's** assistance on behalf of an important transportation project in Montclair.

C. Presentation of Certificates to Montclair Little League Senior All-Star Winners

Mayor Eaton, assisted by Council Members Ruh and Dutrey, presented certificates to the following **Montclair Little League (MLL)** Senior All-Star winners: **Michael Kettle, Ryan Wilson, Matthew Bly, Fernando Gonzalez, John Garcia, José Ybarra Jr., Paul Alvillar, Alex Figueroa, Louis Rodarte, Francisco Espinoza, Christopher Landeros, Louis Sierra, and David Delgado.**

Council Member Ruh announced the following *Certificates of Recognition* recipients: Team Mother **Stacy Kettle**, scorekeeper **Jane Garcia**, Manager **Mike Corea**, Senior Team Coach **Sal Landeros**, Coach **Pepe Ybarra**, Coach **Joe Schaeffer**, and President **Margie Contreras**.

Ms. Contreras thanked the Council for assisting in tonight's presentations. She stated that without the City's assistance, the **Montclair Little League** team would not be possible. She thanked Mayor Eaton, Mayor Pro Tem Paulitz, and Council Member Dutrey for supporting **MLL** and for faithfully attending the League's opening and closing ceremonies. She invited the Council to the **MLL** opening ceremonies in spring 2003.

Mayor Eaton told **Ms. Contreras** he and the Council would be pleased to attend and asked to be notified of the date the opening ceremonies are to be held.

The Senior All-Star winners presented Mayor Eaton and the Council with a plaque denoting the Senior All-Star pitcher and **District 23 Little League All-Star** championship.

Mayor Eaton stated he would be proud to display the plaque in his office. He congratulated the **MLL** Senior All-Star winners on their championship win and the coaches and **League** officials for all their hard work.

D. Update by State Legislative Advocate Mr. Charles W. Bader, CWB Consulting

Mayor Eaton introduced state legislative advocacy consultant **Mr. Charles W. Bader, CWB Consulting.**

Mr. Bader briefly reviewed his "Cities Report" memorandum that was distributed to the Council, including information on the "adopted," not "balanced," state budget that contains a \$23.6 billion deficit, \$12.1 billion of which results from increased borrowing, interfund loans, shifts and transfers, and deferral of education disbursements. He also discussed the state's \$6.2 billion expenditure on electricity and the Treasurer's effort to sell bonds to pay off the loan, as well as the **California Court of Appeals'** decision in May determining that the State Controller could not pay state employees above minimum wage if the state

does not have a signed budget by June 30, as called for in the State Constitution. The decision has been appealed to the **California Supreme Court** and if upheld, would have a stark effect on future budget deliberations, adding to the pressure on the Legislature if the budget is late.

On a positive note, **Mr. Bader** reported that cities were able to maintain vehicle license fee and sales tax revenues and successfully defeated **AB 680 – Land Use: Sales Tax and Property Tax Revenue (Steinberg)** and **SB 910 – Housing Elements: Fines, Penalties, and Litigation (Dunn)**. He credited the Council's lobbying efforts in Sacramento for the defeat of both measures and noted **Senator Soto's** efforts on behalf of local government in the spite of her colleagues' opposition.

Council Member Ruh engaged **Mr. Bader** in a discussion regarding **SB 910**.

In conclusion, **Mr. Bader** reported that the Governor borrowed a substantial amount of money out of transportation funds. Though he understands no projects have been held up, he advised that cities need to fight to protect their funding allocations from the **1998 State Transportation Improvement Plan (STIP)** and for **Alameda Corridor-East (ACE)** grade separation projects, though funding has already been committed.

As a professional staff consultant to the Senate Select Committee on **ACE**, Council Member Ruh expressed his understanding that the **AB 2928 – Traffic Congestion Relief Act of 2000** funding of \$95 million for San Bernardino County and \$150 million for Los Angeles County has been committed for grade separation projects.

Mr. Bader concurred but cautioned that though the **ACE** funding appears to be safe at this point, the **STIP** funding might not be.

Council Member Dutrey noted he enjoyed lobbying in Sacramento this year and emphasized the importance of local agencies' being committed in their lobbying efforts during the next legislative year. He indicated that his colleagues on the Council and he are committed to this effort.

Mr. Bader advised he would only request the Council's presence when absolutely essential to assist him in his lobbying efforts.

Mayor Eaton and Mayor Pro Tem Paulitz thanked **Mr. Bader** for his report.

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

five minutes each to speak on subjects that do not appear on tonight's agenda.

- A. **Mr. Art Van Deventer, Monterey Manor Mobile Home Estates**, 11250 Ramona Avenue, Space 902, Montclair, stated that Montclair has one of the best City Councils in the entire Inland Valley area. He listed some of the accomplishments of the City Council and staff in the last four or five years, including increasing reserves to \$13 million; successfully locating both **Costco** and **Target** stores in Montclair, adding significantly to the City's sales tax revenues; improving quite a few homes along Central Avenue, which serves to beautify and maintain the appearance of the City's main thoroughfare; assisting in the nonprofit acquisition of two mobile home parks, with consideration being made this evening in a third acquisition involving **Hacienda Mobile Home Estates**, all of which serve to protect senior and low-income housing opportunities; revitalizing Holt and Mission Boulevards; and facilitating the grade separation projects at Ramona and Monte Vista Avenues.

Mr. Van Deventer concluded his comments by stating he is proud of the City Council and staff for all that they do for the residents of Montclair.

- B. **Mr. Mike Arreguin**, Vice President, **Burrtec Waste Industries, Inc.**, 9890 Cherry Avenue, Fontana, noted he spoke to Mayor Pro Tem Paulitz at the last meeting about the success of the City's *Cleanup Week* program. He stated that **Burrtec Waste Industries** had been considering discontinuing the program for cost reasons but has decided to continue it because of the support the program receives from the community. He stated that **Burrtec** appreciates the opportunity to serve Montclair's waste-management needs.

Mr. Arreguin recapped the results of *Fall Cleanup Week* as follows: 460 tons of assorted materials collected (a total of 86 or 87 loads), with a diversion rate of recyclable metals and other commodities of approximately 5 percent. He thanked residents for their patience with the increased truck traffic on City streets during that week.

Mayor Pro Tem Paulitz commented that he only heard accolades from residents about this excellent program.

Council Member Dutrey concurred, noting he heard lots of praise from residents.

Mayor Eaton asked for an average of the amount of waste collected during any one week.

Mr. Arreguin responded that, on average, about three-and-a-half to four loads (eight tons per load) are collected.

Mayor Eaton congratulated the community on the success of *Fall*

Cleanup Week.

Noting he received several inquiries from residents about renting large rolloffs, Council Member Ruh asked the cost to rent such containers.

Mr. Arreguin replied there are various rates, depending on the size of container, and suggested residents contact **Burrtec Waste Industries** for pricing information. He indicated that **Burrtec** staff would provide residents with the appropriate bin or rolloff tailored to their needs.

Mayor Eaton thanked **Mr. Arreguin** for the recap.

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

1. He noted his disagreement with comments made by **Mr. Van Deventer**.
2. He took exception to Mayor Pro Tem Paulitz's claim as indicated on his campaign literature that he was responsible for the ZIP Code consolidation in the southern portion of Montclair. **Mr. Armstrong** credited former **Congressman Jay Kim** for this achievement and asked Mayor Pro Tem Paulitz to address the matter.

Mayor Pro Tem Paulitz refrained from commenting at this time.

3. He asked Council Member Dutrey if he is a personal friend of City Council candidate **Mr. Phillip Au**.

Council Member Dutrey refrained from commenting at this time.

Mr. Armstrong cautioned Council Member Ruh to "be careful" because "they want you out of here."

4. He noted that two individuals who pay their utility bills at City Hall relayed to him a recent incident that they witnessed involving Director of Administrative Services Starr and **Mr. Roger Baer** and that the verbal confrontation that ensued has influenced them to the point that they now refrain from paying their bills at City Hall.
5. He claimed that nothing is being done about Director of Administrative Services Starr's comment at a recent meeting about a potential slander lawsuit.
6. He spoke of the expensive cost of litigation in the **Baer** lawsuit.

7. He reiterated his concern about Mayor Pro Tem Paulitz's refusal to allow two individuals who had submitted *Speaker Information Cards* to speak during a meeting earlier this year.

D. **Mr. Ray Spangler, Hacienda Mobile Home Estates**, 4361 East Mission Boulevard, Space 60, Montclair, commented as follows:

1. As a 25-year resident of **Hacienda Mobile Home Estates**, he thanked the City Council for approving the acquisition of the park by the nonprofit **Augusta Homes**. He expressed his complete support of this acquisition.
2. He thanked Director of Community Development Clark and City Engineer Hudson for their assistance with issues at **Hacienda Mobile Home Estates** over the past two years. He added that the City's efforts to revitalize Holt and Mission Boulevards have done much to improve the area and are very much appreciated by the residents of the park.

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

1. He suggested the funding the City received this evening from the **South Coast Air Quality Management District** be used to reduce City taxes rather than raise salaries.
2. With regard to the City's \$13 million in reserves, he suggested the City eliminate the utility tax.
3. He reiterated his opinion that proposed salary adjustments for City employees seem excessive and asked why Fire Chief Turner is proposed to receive a \$22,000 annual salary increase.
4. He suggested the recent report on the City's costs incurred in the *City of Montclair v. Raft, et al* matter and tonight's Closed Session on the matter are intended to influence voters against **Mr. Raft** in his candidacy for Mayor in the upcoming election. Noting the expensive cost of litigation in his wife's lawsuit, he asked for a report of the City's costs incurred in that litigation.
5. He noted that no action is being taken regarding a recent incident involving Director of Administrative Services Starr and himself. He stated that at the very least, he is owed an apology.
6. He stated that for two hundred and twenty-five years, the **US Constitution** has protected American citizens, though Montclair residents are paying for lawsuits and salary adjustments. He reiterated that City Manager McDougal is the highest-paid city manager in the Inland Empire and one of the highest-paid city managers in the state.
7. He asked if the City vehicle assigned to City Manager

McDougal is owned by the City and engaged Mayor Eaton in a discussion concerning **Metro Nissan's** ownership of the vehicle.

F. **Mr. Ray Raft**, Montclair, stated that his campaign for Mayor of Montclair is "not about getting even, just being fair." He made the following inquiries:

1. What is the number of \$60,000 vehicles driven by City employees?

City Manager McDougal answered, "The City does not own any \$60,000 passenger vehicles." He indicated there are some heavy equipment street sweepers and dump trucks in that price range.

2. What is the number of City employees earning \$150,000 per year?

Mayor Eaton answered, "One."

Mr. Raft commented as follows:

- (a) He expressed his opinion that the majority of City employees are hard workers who put in a fair workday. He spoke in opposition to some candidates who are running negative campaigns and making incorrect statements about the salaries of City employees. He

stated that City employees should not be used for political gain.

(b) He thanked staff for providing him with information about take-home City vehicles.

3. Under what circumstances is Director of Community Development Clark allowed a take-home vehicle?

Mayor Eaton responded that a take-home vehicle is included in Director of Community Development Clark's employment contract.

Mr. Raft commented as follows:

1. He expressed his understanding that five Fire Department employees and one Public Works Division employee, Mario Orioli, are assigned take-home City vehicles. He praised the steadfast assistance provided by Public Works Superintendent Orioli.
2. He expressed his understanding of the importance of certain City employees being on call with assigned take-home City vehicles and noted his support, particularly since the September 11 tragedy.
3. He noted the six Police Department take-home vehicles, not including the two **Harley-Davidson** patrol motorcycles. He noted learning while residing in **Diamond Bar** about that city's policy of allowing patrol motorcycles to be driven home.
4. He noted he recently gave a senior resident a ride to the **Omnitrans** facility in Montclair so she could pick up her ACCESS pass, only to learn that tickets are now available only at the San Bernardino office for this service.

Mayor Eaton asked that **Mr. Raft** leave the resident's name and address for staff to contact her.

Mr. Raft stated he would do so and thanked Mayor Eaton. Noting the negative election campaign being run by mayoral candidate **Mike Mariana**, he indicated that such activity is a "waste of time," noting he himself is a "unifier, not a divider." He thanked Mayor Eaton for allowing him additional time to comment

City Manager McDougal commented as follows:

1. He noted he is somewhat at a loss regarding the rumors and false statements being made by some City Council candidates over the past several weeks about City vehicles. In particular, he noted the inaccurate statements being made by a candidate about the City vehicle assigned to him.
2. He stated that **Mr. Raft** has raised some very good questions

that he would like to address at this time. He reported that for the last ten-plus years, staff has been successful in negotiating with various auto dealers approximately 20 to 25 passenger vehicles for use by City employees in the Police, Fire, Community Development, Public Works, Administrative Services, and City Manager Departments at no cost to the City other than routine maintenance. Such vehicle transactions have saved the City a considerable amount of money because those vehicles did not have to be purchased, leased, or, in some cases, maintained, he added.

3. He emphasized that the City does not own or lease the vehicle he drives and has expended no public funds on the vehicle, including vehicle registration fees, which he paid himself. He noted receiving reports from a number of sources that a candidate has been stating that the City bought City Manager McDougal a \$60,000 vehicle, which is "just not true." In fact, he noted, the vehicle he drives was used when acquired, as was the vehicle assigned to Director of Community Development Clark when acquired from **Glendora Dodge**.
4. He advised there are fewer take-home vehicles today than there were ten years ago and reported the following information about City vehicle usage:
 - (a) Director of Community Development Clark is assigned a City vehicle as a provision of his employment contract, the use of which is limited to Southern California.
 - (b) The Police and Fire Chiefs are assigned City vehicles that, when used, are required to have their mobile two-way radios operating.
 - (c) The City provides him a vehicle as a provision of his employment agreement, the use of which is limited to Southern California.
 - (d) The Fire Department has five take-home City vehicles, and employees assigned the vehicles often assist in emergency response calls from other cities.
 - (e) The take-home City vehicle privilege has been extended to Lieutenants in the Police Department, a practice that has been off and on over the past 15 years, depending on deployment. In the case of the Fire and Police Departments, there is always a senior officer on call 24 hours a day, seven days a week, as a result of rightsizing. He added that as a cost-saving measure, the City has an agreement with the **City of Upland** to provide duty coverage to that City for fire incidents.

This coverage entails that senior officers must be able to respond within 30 minutes.

(f) Concerning his assigned City vehicle, he advised that written requests for documentation on the vehicle have been honored. He stated the market value on the vehicle at the time of acquisition was \$50,000.

5. He stated that this is all public information that is available to the public, emphasizing "we have nothing to hide." Noting he appreciates **Mr. Raft's** comments, he advised that **Mr. Raft** had been provided with this information in response to his concerns, noting **Mr. Raft** "seemed to be fine with the information."

G. Ms. Regina Howerton read a statement as follows:

1. She reminded the public about the Mayoral Candidates' Forum on Thursday, October 24, 2002, and encouraged the public's attendance.
2. In response to a previous comment that certain speakers "come here to complain," she expressed her opinion that "that is what the public forum is for and the **Constitution** does allow that."
3. Concerning one of Mayor Pro Tem Paulitz's campaign fliers, she asked him why he feels it necessary to run a negative election campaign. Noting that Mayor Pro Tem Paulitz is a member of the **Our Lady of Lourdes Knights of Columbus Council 7412**, she advised him that "He that is without sin among you, let him first cast a stone..."
4. Noting Mayor Eaton's positive response to her question at the October 16 Candidate's Forum of how he rates his performance on the Council, she asked him, "Are you proud of how you became Mayor of this City?"
5. She reiterated observing a perceived boredom on the part of a certain Council Member during the "Public Comment" portion of these meetings.
6. She concluded her comments with the following quotation by Benjamin Franklin:

They that will not be counseled, cannot be helped. If you do not hear reason she will rap you on the knuckles.

H. Ms. Teresa Billingsley discussed the Mayoral Candidates' Forum scheduled for Thursday, October 24, 2002, at 6:30 p.m. in the

Montclair Community Center auditorium, 5111 Benito Street. She clarified that the purpose of the forum is for the edification of residents on all candidates running for Mayor of Montclair, to encourage residents to vote in the General Municipal Election on November 5, 2002, and for those residents who were unable to attend the Candidates Forum held last week, which was, in her opinion, conducted fairly. She indicated she would allow all questions on the issues to be answered, though she would not tolerate any "lashing out at" candidates.

Ms. Billingsley personally invited Council Member Dutrey to attend the Mayoral Candidates' Forum. She encouraged residents' attendance and advised that further information on the forum might be obtained at the Montclair Web site at www.ci.montclair.ca.us.

Ms. Billingsley thanked Human Services Division Facility Supervisor Shirley Wofford for her assistance in scheduling the forum.

I. **Ms. Mary Francis**, 9617 Greenwood Avenue, Montclair, commented as follows:

1. She stated she was offended by **Mr. Baer's** unpleasant comments this evening directed to individuals sitting behind him.
2. In response to **Mr. Baer's** comment that he is owed an apology from Director of Administrative Services Starr, she stated that likewise, **Mr. Baer** owes Director of Administrative Services Starr an apology.
3. She stated she is very upset about the "badgering" of the Council and staff that has been taking place during this public comment forum, adding that "most of it is lies." As a 26-year resident of Montclair, she expressed her opinion, after becoming acquainted with and befriending individual members of the Council and City Manager McDougal, that they have always been fair. She questioned how a nonresident could be allowed to badger the Council and staff.
4. She told Mayor Eaton, the Council, and City Manager McDougal that they are doing a "great" job and the voters will confirm that on November 5, 2002.
5. For the benefit of the public and television viewing-audience, she advised that speakers at this public forum are allowed to freely speak their minds.

VII. PUBLIC HEARINGS

A. **Acceptance of Recommendations of Advisory Review Board and Authorize Expenditure of Local Law Enforcement Block Grant**

Program Funds and Federal Forfeiture Funds

Mayor Eaton declared it the time and place set for public hearing to consider accepting the recommendations of the Advisory Review Board and authorize expenditure of Local Law Enforcement Block Grant Program funds and invited comments from the public.

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

Moved by Council Member Dutrey and seconded by Council Member Ruh to accept the recommendations of the Advisory Review Board and authorize expenditure of Local Law Enforcement Block Grant Program funds and Federal Forfeiture funds to purchase the items listed on the agenda report for this item.

Motion carried as follows:

AYES: Ruh, Dutrey, Raft, Paulitz, Eaton

NOES: None

ABSTAIN: None

ABSENT: None

B. Adoption of Resolution No. 02-2420 Related to Amendment of the Fee Structure for Collection and Disposal of Commercial Refuse

Mayor Eaton declared it the time and place set for public hearing to consider Resolution No. 02-2420 related to amendment of the fee structure for the collection and disposal of commercial refuse 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.

Based on the proposed new commercial refuse rates, Council Member Dutrey asked if there would be a retroactive adjustment involved in the proposed amendment.

City Manager McDougal answered, "No."

Moved by Council Member Dutrey and seconded by Mayor Pro Tem Paulitz that Resolution No. 02-2420 entitled "**A Resolution of the City Council of the City of Montclair Related to an Amendment of the Fee Structure for the Collection and Disposal of Commercial Refuse,**" 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. 02-2420 was unanimously adopted by the following vote:

AYES: Ruh, Dutrey, Raft, Paulitz, Eaton

NOES: None

ABSTAIN: None

ABSENT: None

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

Adoption of Resolution No. 02-2410 Making Express Findings Regarding Modifications to the California Fire Code

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 02-824 and Resolution No. 2410 related to adoption of the 2001 Fire Code and invited comments from the public.

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

Moved by Council Member Dutrey and seconded by Council Member Ruh hat Ordinance No. 02-824, entitled "**An Ordinance of the City Council of the City of Montclair Repealing and Replacing Articles I and II and Amending Sections 10.28.170, 10.28.220, 10.28.230, 10.28.240, and 10.28.250 of Article III of Chapter 10.28 of the Montclair Municipal Code Adopting the California Fire Code,**" 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. 02-824 was unanimously adopted by the following ROLL CALL vote:

AYES: Ruh, Dutrey, Raft, Paulitz, Eaton

NOES: None

ABSTAIN: None

ABSENT: None

Moved by Council Member Dutrey and seconded by Mayor Pro Tem Paulitz that Resolution No. 02-2410 entitled "**A Resolution of the City Council of the City of Montclair Making Express Findings Regarding Modifications to the California fire Code to Comply With State of California Health and Safety Code Sections 17958, 17958.5, and 17958.7 and the California Building Standards Commission,**" 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. 02-2410 was unanimously adopted by the following vote:

AYES: Ruh, Dutrey, Raft, Paulitz, Eaton

NOES: None

ABSTAIN: None

ABSENT: None

D. First Reading – Adoption of Ordinance No. 02–828 Amending Chapters 11.04 and 11.78 of the Montclair Municipal Code Related to Appeals

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 02–828 related to appeals 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.

City Attorney Robbins requested that the last sentence (noted below) of paragraph E, Section II, of Ordinance No. 02–828 be removed, noting it had inadvertently been duplicated in that section of the proposed Ordinance:

Section II. Section 11.04.070.E of the Montclair Municipal Code is hereby amended as follows:

E. Hearing – Decision. Each decision by the Planning Commission on any appeal shall be by resolution....Upon failure of the Commission to make a determination within the time limit specified, it shall lose jurisdiction, and the appellant may, within 15 days thereafter, file a request for a review of the appeal.

Council Member Dutrey thanked staff for returning this item for Council consideration, noting that consideration had first been made a year ago for amendment of appeal actions.

Concerning the proposed fee requirement for appeal by the applicant or other aggrieved private party, Council Member Ruh inquired if a community group or neighborhood organization desiring to appeal an action of the Planning Commission would be required to pay a fee.

Director of Community Development Clark responded that any private party would be required to pay the filing fee, which is generally half the original filing fee amount. The Council, on the other hand, could bring the matter forward on appeal without charges.

Council Member Ruh expressed his concern about excessive fees for a group of residents desiring to appeal an action.

Director of Community Development Clark replied that the option at that point would be for the resident group to convince a Council Member to pursue the appeal on the group's behalf.

Mayor Pro Tem Paulitz commented that historically, if an applicant

developer/builder is dissatisfied with action taken by the Planning Commission, it is in his best interest to pay half the filing fee to have an appeal heard by the City Council. He stated he is unaware of any case since he has been on the Council in which an aggrieved private party was not able to appeal because typically a Council Member will take up the party's cause. He spoke from his own experience in doing so in the past.

Moved by Council Member Dutrey and seconded by Mayor Pro Tem Paulitz that Ordinance No. 02-828, entitled "**An Ordinance of the City Council of the City of Montclair Amending Sections 11.04.070 and 11.78.110 of the Montclair Municipal Code Relating to Appeals**" and as amended by City Attorney Robbins, 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. 02-828 was unanimously adopted by the following vote:

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

VIII. CONSENT CALENDAR

Council Member Ruh requested that Items B-1 and B-2 be removed from the Consent Calendar for comment.

Chairman Eaton requested that Item D-1 be removed from the Consent Calendar for comment.

Moved by Council Member/Director Dutrey, seconded by Mayor Pro Tem/Vice Chairman Paulitz, and carried unanimously to approve the following Consent Items as presented:

A. Approval of Minutes

1. Minutes of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of October 7, 2002

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

B. Administrative Reports

3. Approval of Fiscal Year 2002-03 Recommendations for the Schedule of Community Benefits Funding

The City Council approved the following recommendations for Fiscal Year 2002–03 Community Benefits Funding:

FISCAL YEAR 2002–03 COMMUNITY BENEFITS PROGRAM FUNDING SCHEDULE

<i>Programs</i>	<i>2002–03 Recommendations</i>
Project Sister	\$ 1,760
Montclair Meals on Wheels	1,490
YWCA	1,000
Visiting Nurse Association	1,760
House of Ruth	1,960
Inland Hospice Association	1,510
John Wooten Scholarship Foundation	500
Old Baldy Council Boy Scouts of America	1,260
Pomona Valley Workshop	1,260
Subtotal	12,500
2002 Home Decoration Program	100
2003 Beautification wards Program	400
Memorial Day Program	100
2002 Christmas Tree–Lighting Ceremony	600
2003 Volunteer Appreciation Program	500
Contingency	200
Subtotal	1,900
TOTAL	\$ 14,400

4. "No Action" on Alcoholic Beverage Permit Application – Thai Racha Cuisine

The City Council voted "No action" on the "On–Sale Beer and Wine for Bona Fide Public Eating Place" license application of Khunhatai and Sirichan Bangbor for Thai Racha Cuisine,

9748 Central Avenue, Montclair, California.

5. Receiving and Filing of City Treasurer's Report

The City Council received and filed the City Treasurer's Report for the month ending September 30, 2002.

6. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated October 21, 2002, totaling \$619,566.74; and the Payroll Documentation dated September 22, 2002, amounting to \$494,869.37, with \$337,747.59 being the total cash disbursement.

7. 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 September 30, 2002.

8. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 9/01/2002-9/30/2002 in the amounts of \$42,278.76 for Project I; \$53.48 for Project II; \$301,805.93 for Project III; \$311,230.44 for Project IV; and \$472,130.48 for Project V.

9. 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 September 30, 2002.

10. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 9/01/2002-9/30/2002 in the amount of \$40,424.47.

C. Agreements

1. Approval of *Agreement No. 02-152-I-49*, an *Irrevocable Annexation Agreement* With Freddy J. Torres and Eugenia Torres for 11208 College Avenue

The City Council approved *Agreement No. 02-152-I-149*, an *Irrevocable Annexation Agreement* with Freddy J. Torres and Eugenia Torres for connection of their residence at 11208 College Avenue, San Bernardino County, to the City Sewer System with the requirement that the property be annexed to the City when feasible at a future date.

D. Resolutions

2. Adoption of Resolution No. 02-2422 Authorizing Placement of a Lien on a Certain Property for Delinquent Sewer and Trash Charges

The City Council adopted Resolution No. 02-2422 authorizing placement of a lien on 10022 Rose Avenue, Montclair, California, for delinquent sewer and trash charges.

IX. PULLED CONSENT CALENDAR ITEMS

B. Administrative Reports

1. Authorization to Purchase Five 2003 Model Ford Crown Victoria Marked Police Vehicles

Council Member Ruh asked if the City would be paying sales tax on the proposed purchase of five 2003 Ford Crown Victoria marked police vehicles.

Director of Administrative Services Starr advised that the City would be paying sales tax on the purchase.

Council Member Ruh asked if the sales tax would be higher if the vehicles were purchased through the lowest apparent bidder, Pasadena Ford, since the dealership is located in Los Angeles County.

City Manager McDougal replied that the county in which a vehicle is registered determines the sales tax rate; in this case, the San Bernardino County sales tax rate would apply.

Mayor Eaton asked if the vehicles would be purchased in a mass acquisition in conjunction with other agencies.

Police Chief Thompson indicated that normally that would be the case, though not this time. He stated that staff was able to negotiate a better price than the Los Angeles County bid price. He reminded the Council that the proposed transaction would signal the end of the rebuilding of the engines in the Chevrolet Caprice patrol vehicles, a practice which saved the City a considerable amount of money over the years.

Council Member Dutrey asked if the Police Department would be acquiring a number of new patrol vehicles in the next two years.

Police Chief Thompson responded that acquisition of five or six new vehicles would be proposed next year.

Council Member Ruh asked if the reason for acquiring the Ford product is because of the rear-wheel drive option, which offers better handling and traction.

Police Chief Thompson indicated that that is a matter of

opinion, which he does not share. He expressed his opinion that Chevrolet puts out a good product, though it is a little underpowered. He stated the Ford manufacturers have been very receptive to police managers' suggestions for police vehicles, and the Crown Victorias are currently the best police product on the market. He added that Ford will continue to manufacture Crown Victoria police vehicles.

Council Member Ruh expressed his opinion that Ford has found sales of the Crown Victoria to be quite profitable.

Mayor Eaton asked if the vehicles will be fully equipped.

Police Chief Thompson responded that staff has found a police vehicle outfitter offering a better price than Ford.

Mayor Eaton noted that when the Fire Department ordered its Crown Victoria vehicles, Fire Chief Turner had thoroughly investigated the dangerous fuel tank issue. He noted reviewing a Ford Motor Co. press release three weeks ago that reported a shield has been placed on the undercarriage of the vehicle to protect the gas tank from exploding on impact. He expressed his concern for police vehicle safety.

Moved by Council Member Ruh, seconded by Mayor Pro Tem Paulitz, and carried unanimously to authorize the purchase of five 2003 Model Ford Crown Victoria marked police vehicles with funding of \$105,000 from the Vehicle Replacement Fund and \$12,470 from the Public Safety Fund.

2. Real Estate Committee Recommendation of Implementing a Drought-Tolerant Landscape Plan Option for the Exterior Housing Improvement Program

Council Member Ruh suggested this item be continued to allow for a presentation by Chino Basin Water Conservation District.

Moved by Council Member Ruh, seconded by Council Member Dutrey, and carried unanimously to continue this item to a future date.

D. Resolutions

- 1. Adoption of Resolution No. 02-13, a Resolution of the City of Montclair Redevelopment Agency Approving the Forms of *Agreement No. 02-142, an Indenture of Trust Agreement; Agreement No. 02-143, a Loan Agreement; Agreement No. 02-144, a Regulatory Agreement; Agreement No. 02-145, an Affordable Housing Agreement; Agreement No. 02-146, a Continuing Disclosure Agreement; Agreement No. 02-147, a Bond Purchase Contract; and Official Statements* and Authorizing Execution of a *Bond Purchase Contract* Related to Issuance of the City of Montclair**

Redevelopment Agency's Mobile Home Park Revenue Bonds, and Making Certain Findings and Approving Certain Actions in Connection Therewith

Consider Redevelopment Agency Board of Directors' Appropriation of \$1 Million From the Housing Fund for the Purpose of Assisting in the Acquisition of Hacienda Mobile Home Park

Executive Director McDougal stated that staff learned late this afternoon that the law does not allow this type of agenda item to be considered as a Consent Calendar item.

Mayor Eaton asked if this item is required to be assigned a separate agenda item number.

Agency Secretary Crawford advised that the item only requires a separate motion and vote.

Moved by Director Ruh and seconded by Director Raft that the Redevelopment Agency Board take following actions:*

- (a) That Resolution No. 02-13, entitled "**A Resolution of the City of Montclair Redevelopment Agency Approving the Forms of Agreement No. 02-142, an Indenture of Trust; Agreement No. 02-143, a Loan Agreement; Agreement No. 02-144, a Regulatory Agreement; Agreement No. 02-145, an Affordable Housing Agreement; Agreement No. 02-146, a Continuing Disclosure Agreement; Agreement No. 02-147, a Bond Purchase Contract; and Official Statements and Authorizing the Execution of the Bond Purchase Contract Related to the Issuance of the City of Montclair Redevelopment Agency's Mobile Home Park Revenue Bonds, and Making Certain Findings and Approving Certain Actions in Connection Therewith,**" be read by number and title only, further reading be waived, and it be declared adopted.

The Redevelopment Agency Board unanimously waived the reading of the Resolution.

- (b) That authorization be made for a \$1 million appropriation from the Housing Fund for the purpose of assisting in the acquisition of Hacienda Mobile Home Park.

Ms. Suzanne Taylor, Executive Director, Augusta Homes, reminded the audience that the Redevelopment Agency Board has done much for the residents of mobile home parks in Montclair and noted the following:

- (a) In 1999, the Redevelopment Agency Board approved the acquisition of the 97-space Villa Montclair Mobile Home Park by the nonprofit Augusta Homes.

- (b) In 2000, the Redevelopment Agency Board approved the acquisition of the 140-space Monterey Manor Mobile Home Estates by Augusta Homes.
- (c) Tonight's consideration of the acquisition of the 204-space Hacienda Mobile Home Park by Augusta Homes.

Ms. Taylor stated that the over 1000 residents of these mobile home parks are very grateful for the Redevelopment Agency's intervention on their behalf. She reported on the following regarding these facilities:

- (a) Villa Montclair Mobile Home Park - The residents have become involved in the design of a new park at the site. The park will be built in phases as funds become available, with the first phase to be implemented next year.
- (b) Monterey Manor Mobile Home Estates - Reconstruction of the streets has just been completed.

As noted in recent newspaper articles, **Ms. Taylor** commented on the increasing popularity of mobile home park living. She indicated that seniors enjoy living in the low-maintenance atmosphere with easy parking accessibility. For families, she noted the walled community provides a welcome security measure in addition to the benefits of parks and swimming pools. She also noted that "empty-nesters" are flocking to mobile home parks as they seek different housing opportunities. She added that the 100 percent occupancy of the three parks acquired by Augusta Homes is a testament to the residents' enjoyment of residing in well-cared-for environments.

On behalf of the over 1000 residents of the three parks owned by Augusta Homes, **Ms. Taylor** thanked the Redevelopment Agency Board for its continued support. She particularly thanked Agency Planner Clark and Director of Redevelopment/Public Works Staats for their assistance in facilitating the proposed acquisition.

Director Dutrey asked if there is any news on the rating of the bonds.

Executive Director McDougal answered, "We still haven't heard from the rating agency."

*Resolution No. 02-13 was unanimously adopted and \$1 million was authorized to be appropriated from the Housing Fund for the purpose of assisting in the acquisition of Hacienda Mobile Home Estates by the following vote:

AYES: Ruh, Dutrey, Raft, Paulitz, Eaton

NOES: None
ABSTAIN: None
ABSENT: None

X. RESPONSE

A. 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.

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

1. **Closed Session Pursuant to Section 54957.6 of the Government Code Regarding Conference With Designated Labor Negotiators City Manager Lee McDougal and Director of Administrative Services Edward Starr**

Agency: City of Montclair

*Employee Organizations: City Manager
Management
Montclair Fire Fighters Association
Montclair Police Officers Association
San Bernardino Public Employees Association*

City Attorney Robbins requested a Closed Session on labor negotiations pursuant to Section 54956.8 of the Government Code.

2. **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 pending litigation pursuant to Section 54956.9(a) of the Government Code.

Mayor Eaton requested that this item be conducted in Open Session. He stated that a request has been received from the **Raft** family to have electrical power restored to the 10440 Amherst Avenue property. He spoke in support of such action.

Council Member Raft stated she appreciates having this item conducted in Open Session. She indicated that having the power restored would assist the family in the removal of their belongings from their former residence as well as in providing increased security to the property. She stated she would really appreciate the opportunity to restore electrical power to the property.

Moved by Mayor Eaton, seconded by Council Member Ruh, and carried unanimously to authorize the restoration of electrical power to 10440 Amherst Avenue, Montclair, for reasons of visibility and security.

Council Member Raft thanked the Council for its action.

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

Property: 4385 Holt Boulevard (APN 1012-051-04)

Negotiating Parties: City of Montclair Redevelopment Agency and Leu Shyh-Hau and Huey-Meei

Negotiators: Director of Redevelopment/Public Works Staats and Redevelopment and Housing Manager Caldwell

Under Negotiation: Recommendations Regarding Purchase Price

Agency Counsel Robbins requested a Closed Session on real property negotiations pursuant to Section 54956.8 of the Government Code.

B. City Manager/Executive Director

1. City Manager/Executive Director McDougal announced a groundbreaking ceremony for the Mission Boulevard Corridor improvements to be held Tuesday, October 22, 2002, at 5:30 p.m. at the southeast corner of Mission Boulevard and Ramona Avenue.

C. Board Mayor/Chairman

1. Mayor/Chairman Eaton commented as follows:

- (a) He displayed a plaque commemorating the ten years **Metrolink** has been in operation that a **Metrolink** Board Member and the Assistant Executive Director presented to the City at the last **San Bernardino Associated Governments (SANBAG)** Board meeting. He read the following inscription on the plaque:

Presented with grateful appreciation to our partner, City of Montclair, in recognition of your dedication and commitment to commuter rail.

*Southern California Regional Rail Authority
October 9, 2002*

Mayor Eaton thanked the Council for its support of **Metrolink** over the years. He noted his attendance last week at an emergency **SANBAG** Board meeting to approve acquisition of four locomotives priced at less than the typical cost of one new locomotive. He noted that one of the locomotives is in operation while the other three receive repairs.

- (b) He noted his attendance at a number of regional meetings.
- (c) He noted his attendance on Thursday, October 10, 2002, along with Mayor Pro Tem Paulitz, City Manager McDougal, Captain Piper, and captains and lieutenants of the **San Bernardino County Sheriff's Department** and the **California Highway Patrol** at the groundbreaking ceremony for the joint agency satellite substation. He noted the opening of the substation in the middle of May 2003 will add a stronger police presence in the southern portion of the City.
- (d) He noted he enjoyed participating in the well-attended Montclair Fire Department Open House & Pancake Breakfast on Saturday, October 12, 2002. He asked that Fire Chief Turner convey his thanks to Fire Department staff for doing such a great job.

D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairman Paulitz commented as follows:

- (a) He also noted his attendance at both the groundbreaking ceremony for the joint venture law enforcement satellite substation and the Fire Department Open House & Pancake Breakfast.
 - (b) He noted his attendance this morning at a **South Coast Air Quality Management District (SCAQMD)** Small Business Conference. Noting the popular beliefs that regulatory agencies are harsh and just fine businesses for violations, he stated the conference focused on the assistance **SCAQMD**, the **California Air Resources Board**, and the **California Environmental Protection Agency** offer to the public. He indicated that the agencies desire to help businesses to thrive while doing whatever is necessary to clean the air.
2. Council Member/Director Raft asked that the Council consider adopting a resolution supporting the Arnold Schwarzenegger-sponsored **Proposition 49 – Before and After School Programs – State Grants**.

It was the consensus of the Council to have staff draft a resolution supporting **Proposition 49**.

3. Council Member/Director Dutrey commented as follows:
- (a) He noted he will be unable to attend the November 4, 2002 regular joint meeting because of a prior obligation.
 - (b) He complimented the Community Action Committee for facilitating last Thursday's "very well-run" Candidate's Forum. He further complimented Mayor Eaton, Mayor Pro Tem Paulitz, and Council Member Ruh for their accurate responses to the questions posed. He noted the importance of providing accurate information to the public.
 - (c) He stated that this progressive, positive Council has worked very well together over the past two years, resulting in growth in the community. He stated he is "really proud of all of you." He spoke in support of this positive working-together atmosphere continuing after the election on November 5, 2002.
4. Council Member/Director Ruh commented as follows:
- (a) He also noted he enjoyed participating in the Fire Department Open House & Pancake Breakfast on Saturday, October 12, 2002.
 - (b) He congratulated the **Montclair Kiwanis** on its successful *Oktoberfest* event last Saturday, noting he was only able to stay for about an hour because of another obligation he had as a guest of **Senator Soto**.

- (c) He noted that the League of California Cities--sponsored **Proposition 46 – Housing and Emergency Shelter Trust Fund Act of 2002** is supported by the **California Chamber of Commerce; League of California Cities**; several environmental groups; and a coalition of liberals, conservatives, Republicans, and Democrats. He asked Mayor Eaton if he was contacted by **Ms. Nancy Cisneros**, Regional Representative, **League of California Cities**, regarding adoption of a resolution supporting **Proposition 46**.

Mayor Eaton answered, "No."

Council Member Ruh asked that staff contact **Ms. Cisneros** for the wording on the supporting resolution.

E. Committee Meeting Minutes

1. Minutes of Code Enforcement Committee Meeting of September 16, 2002

The City Council received and filed the Code Enforcement Committee meeting minutes of September 16, 2002, for informational purposes.

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

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

XII. ADJOURNMENT OF MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS

At 8:48 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

At 8:48 p.m., the City Council and Redevelopment Agency Board went into Joint Closed Session regarding conference with designated labor negotiators pursuant to Government Code Section 54957.6 and pending litigation pursuant to Government Code Section 54956.9(a) (City Council) and real property negotiations pursuant to Government Code Section 54956.8 (Redevelopment Agency).

XIII. CLOSED SESSION ANNOUNCEMENTS

At 9:50 p.m., the City Council and Redevelopment Agency Board returned from Joint Closed Session. Mayor/Chairman Eaton announced the City Council met in Closed Session regarding labor negotiations and the Redevelopment Agency Board met in Closed Session regarding real property negotiations, information was received, direction given, and no further announcements would be made at this time.

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

At 9:51 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency Board of Directors.

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

Yvonne L. Smith
Transcribing Secretary