

MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL, REDEVELOPMENT
AGENCY BOARD, AND MONTCLAIR
HOUSING CORPORATION BOARD HELD ON
MONDAY, NOVEMBER 18, 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 Dale Rose, First Assembly of God Church, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

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

IV. ROLL CALL

Present: Mayor/Chairman Eaton; Mayor Pro Tem/Vice Chairman Paulitz; Council Members/Directors Raft and Dutrey; City Manager/Executive Director McDougal; Acting Director of Administrative Services Hayes; 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

Absent: Council Member/Director Ruh

V. PRESENTATIONS

A. Introduction of New Employees

Mayor Eaton introduced **Mr. Paul Grisso**, who was appointed to the position of Maintenance Worker in the Public Works Division effective October 21, 2002.

Mayor Eaton welcomed Maintenance Worker Grisso to the Montclair City family and presented him with a City pin.

Mayor Eaton introduced **Mr. Eric East**, who was appointed to the position of Maintenance Worker in the Public Works Division effective October 21, 2002.

Mayor Eaton welcomed Maintenance Worker East to the Montclair City family and presented him with a City pin.

Mayor Eaton introduced **Mr. Steven Hoff**, who was appointed to the position of Maintenance Worker in the Public Works Division effective October 21, 2002.

Mayor Eaton welcomed Maintenance Worker Hoff to the Montclair City family and presented him with a City pin.

Mayor Eaton introduced **Mr. Dan Dyer**, who was appointed to the position of effective October 21, 2002.

Mayor Eaton welcomed Maintenance Worker Dyer to the Montclair City family and presented him with a City pin.

B. Introduction of New Southern California Edison Company Representative

Mayor Eaton introduced **Ms. Cheryl Karns–Avent**, Public Affairs Region Manager, **Southern California Edison**.

Ms. Karns–Avent congratulated Mayor Eaton, Mayor Pro Tem Paulitz, and Council Member Ruh (in absentia) for their reelection to the Montclair City Council, noting it takes a personal sacrifice and a commitment to the community to serve on the City Council. She introduced the new **Edison** Region Manager for the Montclair area, **Mr. Neil Derry**.

Mr. Derry stated he appreciates the opportunity to serve Montclair and looks forward to working with the Council and staff. He left his business cards with staff.

C. Presentation of Plaque to David and Barbara Pennel, Owners, Pomona Valley Harley Davidson, in Recognition of Their Dedication and Support of the City of Montclair

On behalf of the City Council and Montclair Police Department, Police Chief Thompson presented a plaque to **David** and **Barbara Pennel**, Owners, **Pomona Valley Harley Davidson**, in recognition of their dedication and support of the City of Montclair.

Mr. Pennel stated he and **Mrs. Pennel** "enjoy being a part of this City" and are always happy to be able to do something to contribute to the community.

D. Holiday Season Traffic–Control Update by Police Lieutenant Weiske and Sergeant Grinstead

Lieutenant Chris Weiske briefed the Council on the *Montclair Police Department HOLIDAY Traffic Program – November 29, 2002, thru December 26, 2002* report provided to the Council. He noted the significant traffic–volume issues at the **Montclair Plaza** during the last holiday season that could partially be attributed to unsynchronized signalization at traffic signals surrounding the mall. Noting that the traffic–circulation study pursuant to an agreement between the City and **Montclair Plaza** owner **General**

Growth Properties, Inc., has not been completed, he reported on study sessions between staff, **Montclair Plaza** management and security, and **Montclair Entertainment Plaza** representatives that have resulted in the following strategy to address traffic-circulation issues at the site during the upcoming holiday season:

1. Police Department deployment as follows of ten employees during the 16-day period at a cost of \$40,000:
 - (a) Four Police Officers for traffic control to handle traffic flow at identified intersections.
 - (b) Two Police Assistants to handle traffic flow at identified intersections and for contingency intersections.
 - (c) Two Motor Officers for mobility and supplementing intersections.
 - (d) Two Police Cadets to assist in traffic control and relief.
 - (e) One coordinating supervisor.
2. New "pickle" switches, mechanical devices that attach to signal control boxes, are to be installed at identified intersections that will allow staff to extend cycles to moderate traffic flow.
3. An additional 15 **Montclair Plaza** security employees will be deployed during the 16-day period to manage traffic-control issues within the mall.

Sergeant Tim Grinstead reviewed maps of the site contained in the report identifying traffic-mitigation measures to be implemented.

Discussion centered on reinstatement of an exit lane from the mall southbound onto Central Avenue (possible since completion of the reconstruction of the freeway interchange); blocking of access to the mall from Fremont Avenue when parking lot is full; and only one left-turn lane into the mall from Moreno Street at Fremont Avenue to allow increased mall access at little-used Lindero Avenue.

Noting it is unfortunate that permanent **Montclair Plaza** traffic-circulation measures would not be in place in time for holiday shopping, Council Member Dutrey commended staff on development of an effective holiday traffic program to temporarily address traffic congestion in and around the mall. He expressed his appreciation of Police Department staff's working with **Montclair Plaza** management on the program.

Sergeant Grinstead advised that the three maps located at the back of the report delineating access within the mall boundaries would be distributed to shoppers by **Plaza** staff.

Mayor Pro Tem Paulitz received clarification on the 16 days of the program, which will be the busiest shopping days during the holiday season.

Mayor Eaton stated, "It looks like a good plan" and thanked Lieutenant Weiske and Sergeant Grinstead for their presentation.

At this time, Mayor Eaton announced the following:

- ✓ **Montclair Community Health Fair** - Tuesday, November 19, 2002, 9:00 a.m.–12:00 p.m.; Montclair Community Center auditorium.
- ✓ **Holiday Food and Toy Basket** applications will be accepted on Tuesday, November 19, 2002, from 3:30 p.m.–6:00 p.m. in the Montclair Community Center auditorium.
- ✓ **An Evening of Giving** - Sunday, November 24, 2002, 7:00–10:00 p.m., **Montclair Plaza**. A \$5 admission cost (no charge for children aged 5 and younger) allows participants to shop without the crowds, enjoy free gift-wrapping, holiday entertainment, and a Santa photograph. All proceeds to benefit the Holiday Food/Toy Drive.
- ✓ **Metrolink Holiday Toy Express Train** - Sunday, December 1, 2002, 7:30 p.m., Montclair **Metrolink** station. More than 30,000 twinkle lights and holiday displays will decorate the train. Residents are encouraged to bring an unwrapped toy to the event for the firefighters' **Spark of Love Toy Drive 2002**.

Mayor Eaton stated that further information about these and other community activities is available at the Human Services Division Office at 625-9460.

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

1. He referenced a comment made by a member of the public at the last meeting that remarks made by certain individuals are untruthful. He stated it his understanding that youth are watching tonight's meeting.
2. In response to his request for copies of certain e-mail messages sent to City Manager McDougal beginning in April 2001, he stated he has received correspondence from City Manager McDougal advising him the earliest e-mail message City Manager McDougal has on file is dated

January 5, 2002. He expressed his understanding that public records are required to be retained for seven years.

3. Citing Mayor Eaton's comments at the regular joint meeting of March 4, 2002, that the owners of the former **Kmart** site requested a condemnation proceeding to benefit from the related tax benefit, he reiterated he subsequently received correspondence from Mayor Eaton dated March 19, 2002, indicating that correspondence from the owners of the former **Kmart** property regarding the site-acquisition transaction did not exist. He suggested the Council's action on an eminent domain proceeding at the site was done on "hearsay" and was, therefore, unlawful.
4. Concerning Mayor Eaton's response to an inquiry at the recent Mayoral Candidates' Forum that he has no control over what staff does, **Mr. Armstrong** noted that an employee of the **City of Van Nuys** was recently fired under similar circumstances.
5. Concerning his requests to review the bids related to the City's sale of the **1995 Chrysler LHS**, he stated he has obtained documentation on the transaction from the **California Department of Motor Vehicles**.
6. He asked why the regular joint meeting of November 4, 2002, was canceled.

Mayor Eaton replied that the meeting was canceled because of the lack of a quorum.

Mayor Pro Tem Paulitz asked Council Member Raft if she had, in fact, put in an appearance for the canceled meeting.

Council Member Raft answered, "No."

Mr. Armstrong stated that Council Member Ruh and Council Member Raft were both available to attend the meeting.

7. Noting that the framers of the **U.S. Constitution** set guidelines for American citizens to follow, he stated "we ought to be ashamed of ourselves for setting a bad example."

B. Mr. Roger Baer commented as follows:

1. Noting his understanding that both Council Member Ruh and Council Member Raft were available to attend the November 4, 2002 regular joint meeting, he asked Mayor Pro Tem Paulitz why he was unable to attend the meeting.

Mayor Pro Tem Paulitz replied, "I was out of town."

Mr. Baer asked Council Member Dutrey why he was unable to attend the meeting.

Council Member Dutrey stated he had advised the Council at the October 21, 2002 regular joint meeting that he would be unable to attend the November 4, 2002 meeting because of a prior obligation.

Mr. Baer asked Mayor Eaton why he was unable to attend the meeting.

Mayor Eaton stated that he had been scheduled for surgery on that date.

Mr. Baer voiced his opinion that the meeting was not held to allow the continuance of the management employee salary-adjustment issue.

Mayor Eaton stated, "That is not true on my part."

2. He reiterated his questioning of the ownership of the vehicle assigned to City Manager McDougal.
3. He reiterated that no action is being taken regarding a recent incident involving Director of Administrative Services Starr and himself.

In response to **Mr. Baer's** statement regarding the salary issue, Mayor Eaton stated "I have been supportive of this salary issue from day one. If you think I was not here for a Council meeting because of the salary issue, you are totally wrong."

Mayor Pro Tem Paulitz asked when notice of the cancellation of the November 4, 2002 meeting was placed in Council mailboxes.

Mayor Eaton answered, "On Wednesday is my recollection."

City Manager McDougal answered, "It was Wednesday."

Mayor Eaton added, "[The] Wednesday before the Monday meeting."

Mayor Pro Tem Paulitz stated that Council Member Raft could conceivably have collected her mail on Wednesday or Thursday and then been notified of the meeting's cancellation.

Council Member Raft advised that she was notified on Thursday by staff of the meeting's cancellation.

Mayor Pro Tem Paulitz asked about public notification of the meeting's cancellation.

City Manager McDougal responded that the cancellation notice was posted on the public-notification board, on the doors to City Hall, and by mail to subscribers to the agendas of regular joint meetings, in addition to the notification placed in Council mailboxes.

VII. PUBLIC HEARINGS

A. Approval of Allocation of State Supplemental Law Enforcement Services Funds

Mayor Eaton declared it the time and place set for public hearing to consider approval of allocation of State Supplemental Law Enforcement Services 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 Mayor Pro Tem Paulitz to approve the allocation of \$100,000 from State Supplemental Law Enforcement Services funds to the Police Department Budget for certain expenditures.

Motion carried as follows:

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

B. Adoption of Resolution No. 02-2423 Authorizing Recovery of Abatement Costs Incurred by the City Related to Property Owned by John R. and Shirley Wheeler Located at 4648 Evert Street, Montclair, California

Mayor Eaton declared it the time and place set for public hearing to consider Resolution No. 02-2423 authorizing recovery of abatement costs incurred by the City related to property owned by John R. and Shirley Wheeler located at 4648 Evert Street, Montclair, California, and invited comments from the public.

Mr. Loren Martens, 4785 Benito Street, Montclair, expressed his concern about the City's proposed reimbursement for administrative costs incurred in the abatement proceedings. He questioned whether charging for these fees follows the letter of the **California Constitution** and contrasted charging for such processing fees with the fact that no processing fees are charged in police or trash and sewer delinquency matters.

City Attorney Robbins advised that pursuant to the Property Appearance Ordinance, all costs associated with abatement proceedings, including costs of the City in the preparation of notices, specifications and contracts, inspection of the work, reports of title search, and the costs of related printing, mailing, and serving papers, are authorized to be collected by the City.

Mr. Martens asked if the Ordinance has been upheld in court.

City Attorney Robbins answered, "I believe so," though not in

Montclair. She added that typically the inquiry of the court in Code Enforcement actions is whether there is an ordinance in place authorizing the action in question.

Mr. Martens asked if the City can be reimbursed for administrative costs incurred in police matters.

City Attorney Robbins stated that her response is limited to administrative costs in civil Code Enforcement proceedings.

Mr. Martens expressed his disagreement with the collection of administrative fees in these matters and stated such practice is unconstitutional.

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.

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

1. That Resolution No. 02-2423, entitled "**A Resolution of the City Council of the City of Montclair Declaring the Findings of the City Council Related to the *Cost of Abatement Report* for Property Located at 4648 Evert**

Street, Montclair, California," be read by number and title only, further reading be waived, and it be declared adopted.

The City Council waived the reading of the Resolution.

2. That the Council determine that the reimbursement amount of \$2,448.57 be paid to the City of Montclair within ten calendar days of the adoption of Resolution No. 02-2409.

Resolution No. 02-2423 was adopted and the Council determined that the reimbursement amount of \$2,448.57 be paid to the City of Montclair within ten calendar days of adoption of Resolution No. 02-2423 by the following vote:

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

C. Second 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.

Moved by Mayor Pro Tem Paulitz and seconded by Council Member Dutrey 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,"** be read by number and title only, further reading be waived, and this be declared its second reading.

The City Council waived the reading of the Ordinance.

Second Reading of Ordinance No. 02-828 was adopted by the following ROLL CALL vote:

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

VIII. CONSENT CALENDAR

Council Member Raft requested that Item D-1 be removed from the Consent Calendar for comment.

Mayor Eaton requested that Item B-4 be removed from the Consent

Calendar for comment.

Moved by Council Member/Director Dutrey, seconded by Council Member Raft, and carried 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 21, 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 21, 2002.

B. Administrative Reports

1. Setting a Public Hearing Regarding the Redevelopment Plan and Implementation Plan Review for City of Montclair Redevelopment Project Area Nos. I, II, III, IV, and V

The City Council set a public hearing for Monday, December 16, 2002, at 7:00 p.m. in the City Council Chambers to review the Redevelopment Plans and corresponding implementation plans for each of the Redevelopment Agency's five Redevelopment Projects and evaluate the progress of each Redevelopment Project.

2. Setting a Public Hearing Regarding *Agreement No. 02-158, a Housing Rehabilitation Agreement* by and Between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation Concerning the Properties Located at 10313, 10333, and 10383 Amherst Avenue and 4275 Kingsley Street

The City Council set a public hearing for Monday, December 2, 2002, at 7:00 p.m. in the City Council Chambers to consider *Agreement No. 02-158, a Housing Rehabilitation Agreement* by and between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation concerning the properties located at 10313, 10333, and 10383 Amherst Avenue and 4275 Kingsley Street.

3. Redevelopment Agency Board of Directors' Dedication of a Portion of the Former Park-and-Ride Facility for Monte Vista Avenue Right-of-Way to the City of Montclair

City Council's Acceptance of Grant Deed Nos. 1613 and 1614 From the City of Montclair Redevelopment Agency

The Redevelopment Agency Board of Directors and City Council took the following respective actions:

- (a) Dedicated a portion of the former Montclair Transcenter/

park-and-ride facility at the corner of Arrow Highway and Monte Vista Avenue for Monte Vista Avenue right-of-way to the City of Montclair.

(b) Accepted Grant Deed Nos. 1613 and 1614 from the City of Montclair' Redevelopment Agency.

5. Adoption of Standard *Specifications for Public Works Construction – 2003 Edition*

The City Council adopted the *Standard Specifications for Public Works Construction – 2003 Edition*.

6. Authorize Purchase of One Ford 3/4-Ton Flatbed Truck From Sunrise Ford, Fontana

The City Council authorized the purchase of one Ford 3/4-ton flatbed truck from Sunrise Ford, Fontana.

7. Authorize Conversion of Five Production Factory Sedan Vehicles to Police Vehicles

The City Council authorized conversion of five production factory sedans to Police vehicles.

8. Authorize Purchase of Five Mobile Vision In-Car Video Systems

The City Council authorized the purchase of five Mobile Vision in-car video systems.

9. Approval of Filing of *Notice of Completion*, Reduction of *Faithful Performance Bond* to 10 Percent, and Six-Month Retention of *Payment Bond* Related to Completion of a Community Development Block Grant Project for Select System Project No. 176 – Traffic Signal Improvements at Monte Vista Avenue and San Jose Street

The City Council approved the following actions related to completion of a Community Development Block Grant Project for Select System Project – Traffic Signal Improvements at Monte Vista Avenue and San Jose Street:

(a) The filing of a *Notice of Completion* with the Office of the San Bernardino County Recorder

(b) Reduction of the *Faithful Performance Bond* to 10 percent

(c) Retention of the *Payment Bond* for six months.

10. Declaring Certain City Property and Unclaimed Property in Police Custody as Surplus and Available for Auction

The City Council declared certain City property and unclaimed property in Police custody as surplus and available for auction.

11. Receiving and Filing of City Treasurer's Report

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

12. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated November 18, 2002, totaling \$619,566.74; and the Payroll Documentation dated October 22, 2002, amounting to \$494,869.37, with \$337,747.59 being the total cash disbursement.

13. 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 October 31, 2002.

14. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 10/01/2002-10/31/2002 in the amounts of \$4,731.74 for Project I; \$1,607.70 for Project II; \$73,020.73 for Project III; \$39,200.67 for Project IV; and \$99,501.00 for Project V.

15. 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 October 31, 2002.

16. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 10/01/2002-10/31/2002 in the amount of \$30,785.06.

C. Agreements

1. Approval of *Agreement No. 02-155* With Southern California Edison Company for Illuminated Holiday Decorations on Ornamental Street Light Poles

The City Council approved *Agreement No. 02-155* with Southern California Edison Company for illuminated holiday decorations on ornamental street light poles.

2. Approval of *Agreement No. 02-157* With Ontario-Montclair

School District to Provide Family Literacy Services Through the William F. Gooding Even Start Family Literacy Program

The City Council approved *Agreement No. 02-157* with Ontario-Montclair School District to provide Family literacy services through the William F. Gooding Even Start Family Literacy Program.

D. Resolutions

2. Adoption of Resolution No. 02-2424 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges

The City Council adopted Resolution No. 02-2424 authorizing the placement of liens on the properties listed on Exhibit A to Resolution No. 02-2424 for delinquent sewer and trash charges.

IX. PULLED CONSENT CALENDAR ITEMS

B. Administrative Reports

4. Rescinding Access Deed Restriction on Tract No. 4538 as it Affects Lot Nos. 2, 3, and 4, Subject to an Approved Development Plan for the Site

P. Basil Vasantachart, MD, Valley Physicians Medical Group, Inc., 9339-9345 Central Avenue, Montclair, commented as follows:

- (a) He stated he is the property owner of Tract No. 4538, Lot Nos. 2, 3, and 4 (9339-9345 Central Avenue, Montclair). Noting he purchased the property in 1992 in hopes of developing it into a medical complex, he stated there have been a number of developers interested in the site over the last ten years who have been deterred by the many City restrictions at that location. He thanked City Engineer Hudson and Director of Community Development Clark for their assistance over the past two years to remove some of the restrictions.
- (b) He stated there is currently a buyer who is seriously interested in the site and that, in fact, the property is currently in escrow. As a condition of escrow, he asked for the Council's support and approval in formally rescinding the access deed restriction on the property and in further allowing the recordation of the rescission to take place. He thanked the Mayor, Council, and staff,

particularly the Police Department, for their support and assistance during a difficult period for his office in 1998.

Mayor Pro Tem Paulitz inquired as follows:

- (a) How many lots are involved in the proposed action?

City Engineer Hudson responded that the request is for two addresses comprised of the three lots south of the lot closest to the freeway interchange at Central Avenue.

- (b) Would staff's recommendation preclude the Council's or Planning Commission's restricting access on the proposed development?

City Engineer Hudson replied that the tract map for the site was recorded with a deed restriction disallowing access to Central Avenue on the first eight lots.

- (c) Would the proposed action still allow the Planning Commission to control the number of drive approaches on the subject lots in the proposed development?

City Engineer Hudson indicated that such is the intent of staff's recommendation but is not the request of **Dr. Vasantachart**.

Mayor Pro Tem Paulitz indicated he wants to ensure that the Planning Commission would still maintain control over development of the site.

Director of Community Development Clark advised that any future development at the site would require at least a Precise Plan of Design process and would most likely require a Conditional Use Permit for most of the uses proposed for the site. He added that the City still retains control over drive approach placement or access based upon an approved plan. He further clarified that the buyer is requesting that rescission of the access easement be recorded and title made clear so escrow can be closed. In any event, he reiterated that the City would maintain control over access to the site.

Moved by Council Member Dutrey, seconded by Mayor Pro Tem Paulitz, and carried to authorize the rescinding of access deed restrictions on Tract No. 4538 as it affects Lot Nos.2, 3, and 4 and to allow the recordation of the rescission; further, that the Mayor be authorized to sign a quitclaim deed on the property without further Council action.

D. Resolutions

- 1. Adoption of Resolution No. 02-2412 Fixing the Salaries for Certain Management Employees Represented by the City Manager**

Council Member Raft stated that though she had originally contested this item because the proposed adjustments seem "extremely large," a careful review of the comprehensive survey of area cities was quite conclusive. She noted the adjustments would take place over a three-year period. She stated she concurs with the survey and would support the proposed salary adjustments.

Moved by Council Member Raft and seconded by Council Member Dutrey that Resolution No. 02-2412, entitled "**A Resolution of the City Council of the City of Montclair Fixing the Salaries for Certain Management Employees Represented by the City Manager,**" be read by number and title only, further reading be waived, and it be declared adopted.*

Mr. Richard P. McKee, 1038 Hormel Avenue, La Verne, spoke as a representative of the **California First Amendment Coalition**. He stated the organization has been contacted by two individuals who question the development in 2000 of the agreement in proposed Resolution No. 02-2412 and that his purpose this evening is to obtain information for the general counsel of the **California First Amendment Coalition** so he may respond to the individuals. He inquired if the subject management group is a formal bargaining group.

Mayor Eaton answered, "Yes, it is, and they are represented."

Mr. McKee requested further clarification on the management bargaining group.

City Manager McDougal commented as follows:

- (a) He stated that so far as he can recollect, the Montclair management employees have always been represented by the City Manager, with the exception of a five-year period when Police Department managers represented themselves. He stated the City Manager is the spokesperson for the management group, though no formal action has been taken to that effect.
- (b) He reported that in June 2000, direction was given by the City Council to the management bargaining unit for labor negotiation purposes for management employees and members of the Montclair Fire Fighters Association, Montclair Police Officers Association, and the San Bernardino Public Employees Association. He advised that multiyear agreements were negotiated and subsequently considered and approved by the City Council. He added that the agreement for management employees stipulated a salary survey be conducted in 2000 for that group and MFFA and for a similar survey for MPOA to occur next year.

Mr. McKee stated that the Closed Session action by the Council for, in his opinion, these "unrepresented employees" is illegal under the **Ralph M. Brown Act**. He cautioned that the City "should be wary because continuing to take an action based upon what may have been an illegal action originally may simply compound your problem." He suggested the City Attorney be consulted on this matter.

Mayor Eaton advised **Mr. McKee** that the subject Closed Session was informational only and that this item is now being conducted in Open Session.

Mr. McKee reminded Mayor Eaton that the agenda report on this item indicates the Council approved in Closed Session a three-year agreement with Montclair's managers.

City Manager McDougal clarified that the minutes of the regular joint meeting of June 19, 2000, would reflect that Council gave direction to the labor negotiator and that the subsequent action took place in Open Session. He stated that the wording is incorrect in the agenda report and more appropriately should state, "At its regular meeting on June 19, 2000, the City Council gave direction in Closed Session for a three-year agreement with Montclair's managers."

Mr. McKee replied, "Thank you very much."

Noting he is familiar with Montclair salary surveys, **Mr. Roger Baer** stated that some of the proposed salary adjustments appear to exceed 15 to 20 percent. He added that in an informal survey he conducted of Montclair residents, most were "appalled" by the proposed adjustments. He cited the proposed adjustments for Fire Chief Turner and Director of Administrative Services Starr. He asked if the proposed adjustments would be retroactive to July 1, 2002.

Mayor Eaton answered, "I believe so, yes."

Noting he believes the City should pay Police Officers and Firefighters appropriately, **Mr. Baer** took issue with the proposed salary adjustments and the survey conducted, stating that Montclair taxpayers rather than City employees should benefit from the City's reserves. He asked how much money is contained in the City's General Fund reserves, including the \$500,000 contribution from the **South Coast Air Quality Management District (SCAQMD)** earmarked for the Ramona Avenue Grade Separation project.

City Manager McDougal answered, "Probably in the \$11 million range."

Mayor Pro Tem Paulitz emphasized that the \$500,000 contribution the City received from **SCAQMD** is restricted for

use only in the Ramona Avenue Grade Separation project and cannot be placed in the City's General Fund.

The contribution from **SCAQMD** notwithstanding, **Mr. Baer** reiterated that the City should do something with its reserves to financially benefit its residents. He reiterated his opinion that the proposed adjustments seem excessive, noting the supposed \$1 million in increases for this year. He added that the costly benefits received by City employees add even more to the total cost of employees' salaries.

Noting **Mr. Baer's** time has expired, Mayor Eaton advised him that the Council does not qualify for retirement benefits. He asked **Mr. Baer** how the supposed \$1 million in adjustments was derived.

Mr. Baer indicated his calculations include the previously approved adjustments for part-time, general, Police Department, and Fire Department employees. Noting he supports City employees receiving a "reasonable" living wage, he spoke in opposition to the proposed salary adjustments.

Council Member Dutrey asked for the opinion of City Attorney Robbins concerning remarks made by **Mr. McKee**.

City Attorney Robbins answered, "I don't believe there is any issue."

Council Member Dutrey thanked City Attorney Robbins. He commented as follows

- (a) When this item was first considered by the Council in September, he noted he was surprised by the amount of proposed salary adjustments and disappointed that no backup information had been provided at that time. He clarified that this item was subsequently studied in Closed Session for the Council to gain a thorough understanding of the matter in an effort to justify the proposed adjustments. He discussed the comprehensive salary survey provided by staff and noted his independent survey of other cities' salaries for similar management positions. He emphasized the importance of paying competitive salaries to ensure the retention of employees who do quality work for the residents of Montclair.
- (b) He pointed out the department heads who manage multiple divisions in their respective departments, notably Director of Community Development Clark (Building, Planning, Human Services Divisions), Director of Redevelopment/Public Works Staats (Redevelopment, Housing, Economic Development, and Public Works Divisions), Director of Administrative Services Starr

(Personnel and Finance Divisions), and City Clerk Crawford (City Clerk and Waste Management Divisions).

- (c) He complimented both Police Chief Thompson and Fire Chief Turner for their ambition and drive in starting their careers at the lowest rung of their respective departments and working their way up the ranks to achieve their current department head status.
- (d) He stated he feels very comfortable with the proposed salary adjustments and called for the question.

In response to **Mr. Baer's** comment concerning the cities surveyed, Mayor Pro Tem Paulitz clarified the following:

- (a) The cities chosen for the survey comprise the "immediate market" cities and were not chosen at random as **Mr. Baer** suggested.
- (b) There are always highs and lows in salary surveys when you do not have market rates for a number of years. He noted in studying the salary survey for general employees, it became apparent that some lower-salary position classifications had not been receiving much over the years in the way of increases because of market demand. He stated that these employees are trained, skilled, and educated and very much deserved the higher percentage salary adjustment to bring their positions in line with comparable positions in other cities. He stated that the apparent "wide swings" in adjustments are the result of multiyear labor contracts.

Mayor Pro Tem Paulitz indicated Council Member Dutrey "stated the case very well." He thanked Council Member Raft for requesting that the Council be provided with a copy of the survey for review. He stated he is very comfortable with the proposed salary adjustments.

City Manager McDougal commented as follows:

- (a) He stated that the City has not conducted a "true" salary survey for a number of years because the Council had decided "to pay what we could afford."
- (b) He reported that several years ago, the Council authorized staff, at his request, to set aside \$300,000 for across-the-board equity adjustments to bring salaries to the levels of comparison cities. He advised that surveys were conducted at that time for each of the bargaining groups, which exemplified that clearly the market had moved while salaries for City position classifications, for the most part, had remained stagnant and behind their

counterparts in area cities. He added that, unfortunately, the \$300,000 was not enough to bring employee salaries up to the average of surveyed cities.

- (c) He noted that at that time, management employees, in a noble gesture, had decided, because of the state of the City during the poor economy, to recommend that the Council rescind their proposed pay increases. He recalled advising management that the outcome of future salary surveys would show such a disparity in pay comparisons "that you will have people who are uninformed attacking you at a City Council meeting."
- (d) He clarified that one of the reasons why the City maintains \$11 million in reserves is because market-rate salary adjustments have not been given to employees for the last six years.
- (e) He noted that the Council had publicly promised management staff that it would make up for years of small increases once the City righted itself financially. He added that this item is now being presented because the City's finances are as stable as they are going to be.
- (f) He formally apologized to Fire Chief Turner for giving him considerably less to start with and for not placing him on a salary range when appointed to his current position, causing him to be seriously underpaid in comparison to area cities. He clarified that in all actuality, as the most-tenured Fire Chief in the surveyed cities, in January 2003 Fire Chief Turner would go from being the second-to-the-lowest to the lowest paid Fire Chief, even with approval of this proposed adjustment. He noted that the City has saved \$20,000 a year for the last four years on Fire Chief Turner's salary.
- (g) He concurred with Council Member Dutrey that a number of managers have worn two hats for a number of years. He emphasized that managers "provide a service and a function for this organization that I will match with any department heads anywhere, to the point where they've worked themselves sick...because of the workload." Noting that these employees have never complained, he stated that as their labor representative, it is difficult for him to tolerate attacks from the uninformed for no apparent reason. He added that in his observations of other cities' public meetings, this situation does not occur.
- (h) He advised he would not be recommending salary surveys in the future.
- (i) He stated that his salary is a matter of public record and

that the comment related to a proposed 30 to 40 percent salary increase for him "is just asinine." He clarified that his salary is controlled by his employment agreement with the City and is adjusted upwards or downwards on an annual basis. He further clarified that typical salary adjustments for him average 2 to 3 percent a year.

- (j) He expressed his appreciation of the Council's confidence in management staff and its support of this item.

Council Member Dutrey commented as follows:

- (a) He stated that when the City was facing financial restrictions during California's economic recession in the early 1990s, the City limited its salary increases to no more than 1 percent. He noted that our loyal City employees stuck it out with a promise from the Council that they would receive comparable salary adjustments at such time as the City stabilized financially.
- (b) He clarified that the reason Director of Community Development Clark and Director of Redevelopment/Public Works Staats were assigned to manage additional programs and responsibilities is that when the department heads for the former Human Services and Public Works Departments retired during the recession, those positions were eliminated in an effort to reduce the City's budget. He emphasized that these two managers took on the additional duties without commensurate compensation.
- (c) He proudly commended staff for its hard work for the organization.

Mayor Pro Tem Paulitz concurred with City Manager McDougal's comments related to salary surveys, noting that the first of the four surveys he reviewed received much acrimony because of unfair comparisons to the private sector. He emphasized that that survey revealed that female employees were being underpaid and, therefore, received larger increases. He expressed his agreement with the need to conduct these surveys regularly to allow any necessary adjustments to be made.

Mayor Eaton stated he has been supportive of the proposed salary increase from its inception because he has a broad understanding of the status of employee salaries. He emphasized that during his reelection campaign, when asked if he was wary of his position regarding compensation of

employees, he would respond, "No." He indicated that the polls show that the City is proud of our employees. He stated he is "extremely proud of each and every one of them."

*The City Council waived the reading of the Resolution.

Resolution No. 02-2412 was adopted by the following vote:

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

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 - No comments

B. City Manager/Executive Director

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

(a) He asked the Council to consider the following dates for a workshop on the City's Ten-Year Financial Plan: January 7, 8, 14, and 28, 2003, and February 4, 2003, at 6:30 p.m.

(b) He asked the Council to consider the following dates for a workshop on the organizational goal-setting proposal: February 26, 2003, and March 4 and 31, 2003, at 6:30 p.m.

(c) He reminded the Council that a presentation will be made by the **Montclair Plaza** at a workshop on Monday, December 16, 2002, at 5:45 p.m.

C. Mayor/Chairman

1. Mayor/Chairman Eaton sincerely thanked the Montclair voters who reelected him as Mayor of the City of Montclair, noting he appreciates their confidence in him to allow him to continue his work on the Council. He stated he will not disappoint the residents who have placed their trust in him.

D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairman Paulitz commented as follows:
 - (a) He also thanked the voters who reelected him to another term on the Montclair City Council and told them how much he appreciates their faith in his service to the community.
 - (b) Noting that **Mr. Armstrong** has left the meeting, he took issue with **Mr. Armstrong's** comment at the October 21, 2002 meeting that **Congressman Kim** was responsible for accomplishing the ZIP Code consolidation in the southern portion of the City. He advised that he has in his file on the subject two letters from **Congressman Kim**, one thanking former Mayor Pro Tem Dolly Lewman for initiating the project and the other, dated June 1996, acknowledging that the project had commenced. He noted that staff corresponded with **Congressman Kim's** office in September 1996 requesting any documentation he might have on file to complete the City's file on the matter and did not receive a reply. He concluded there is nothing in the record that **Congressman Kim** had anything to do with the City's ZIP Code consolidation.

Mayor Pro Tem Paulitz suggested **Mr. Armstrong** contact him to arrange a meeting to review Mayor Pro Tem Paulitz's file on the matter that was begun in 1979.

2. Council Member/Director Dutrey commented as follows:
 - (a) He congratulated successful election winners Mayor/Chairman Eaton, Mayor Pro Tem/Vice Chairman Paulitz, and Council Member/Director Ruh, noting the voters of Montclair send a strong message that they are happy with the policies of the Council, the direction it is taking, and the projects in progress. He stated that we have much to look forward to in the City of Montclair.
 - (b) He expressed his hope that the Council not spend too much time focusing on negative speakers' comments at these meetings. He emphasized that the podium in the City Council Chambers belongs to the residents of Montclair. He expressed his hope that nonresidents spend less time criticizing the Council, staff, and the City and in giving direction to the Council on how to run the City and, instead, take an interest in their own cities.

He suggested that research of the salaries of other cities' employees would, no doubt, reveal those salaries to be a lot higher than the salaries of similar positions in Montclair.

- (c) He emphasized the importance of Montclair continuing to move forward with new plans and ideas to make Montclair the best community anywhere.

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of October 21, 2002

The City Council received and filed the Public Works Committee meeting minutes of October 21, 2002, for informational purposes.

XII. DECLARATION OF ELECTION RESULTS/SWEARING-IN CEREMONY

- A. Adoption of Resolution No. 02-2425 Reciting the Facts of the General Municipal Election Held Tuesday, November 5, 2002, Declaring the Results and Such Other Matters as Provided by Law**
- B. Swearing-In of Reelected Council Members**
- C. Announcement of Mayoral Committee/Liaison Assignments**

Mayor Eaton stated that this evening's meeting would be adjourned to Tuesday, November 26, 2002, at 7:00 p.m. in the City Council Chambers to consider the above items.

XIII. COUNCIL/AGENCY WORKSHOP

A. Public Comment Policy

Mayor Eaton stated that the adjourned joint meeting of November 26, 2002, would be adjourned to Monday, December 2, 2002, at 5:45 p.m. in the City Council Chambers to consider this item.

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

At 8:49 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

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

Yvonne L. Smith, Transcribing Secretary