

MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL, REDEVELOPMENT
AGENCY BOARD, AND MONTCLAIR
HOUSING CORPORATION BOARD HELD ON
MONDAY, FEBRUARY 3, 2003, 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, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

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

IV. ROLL CALL

Present: Mayor/Chairman Eaton; Mayor Pro Tem/Vice Chairman Dutrey; Council Members/Directors Paulitz, Raft, 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/Promotees

Mayor Eaton introduced **Mrs. Kathleen Gibson**, who was promoted to the position of Administrative Specialist in the Public Works Division effective December 9, 2002. He noted that Administrative Specialist Gibson began her career with the City as an Accounting Specialist/Warrants on October 2, 2000.

Mayor Eaton congratulated Administrative Specialist Gibson on her promotion and presented her with a City pin.

VI. PUBLIC COMMENT

A. **Ms. Linda Millay**, 10262 Monte Vista Avenue, Montclair, a 37-year resident, read a complaint about loud weekend parties in her

neighborhood, noting the music is so loud that her windows rattle. She indicated that the Police have been notified that the level of noise at these parties is disturbing the peace of the neighborhood.

Council Member Ruh suggested that **Ms. Millay** meet with Police Chief Thompson regarding the matter.

Mayor Eaton advised **Ms. Millay** that Police Chief Thompson would assist her in this issue.

Mayor Pro Tem Dutrey asked that staff provide the Council with a copy of the City's Noise Ordinance.

Ms. Millay thanked the Council.

- B. Ms. Pam Weatherby**, 424 East Yale Street, Ontario, identified herself as a kindergarten teacher at **Monte Vista Elementary School**. She invited the City Council to participate in the sixth annual *Read Across America* in celebration of children's literature and reading to take place between 8:30 a.m. and 2:30 p.m. Monday, March 3, 2003, at **Monte Vista Elementary School**, 4900 Orchard Street, in honor of what would have been **Dr. Seuss's** 99th birthday. She reported that **Monte Vista Elementary School** has seen a dramatic improvement in Academic Performance Index scores. She added that refreshments would be served at a reception in the school's library following the event, noting that everyone, including non-participants in the reading program, is welcome to attend the reception.

Ms. Weatherby thanked Council Member Ruh for his quick response to her invitation and Mayor Eaton for his participation in last year's event.

Mayor Eaton thanked **Ms. Weatherby** for her personal invitation to the Council. He advised that, unfortunately, he would be out of town that day and unable to participate this year.

Council Member Ruh noted he has enjoyed participating in past *Read Across America* celebrations and looks forward to doing so again this year. He stated that the students are outstanding and it is rewarding to see progress being made in their reading skills.

- C. Mr. Ronald Armstrong** commented as follows:

1. He asked on behalf of several residents who have telephoned him of their concerns if City Manager McDougal is storing golf clubs at **Vernon Middle School**.

Mayor Eaton advised **Mr. Armstrong** that that is not the case.

2. He expressed his and others' concerns about the state budget shortfall and its impact on the City, notably on certain impending City projects that might have to be abandoned. He expressed his belief that the Council had been aware of

the budget deficit and questioned the rationale behind last year's employee salary adjustments.

3. He generally expressed his concern about corruption at the local government level, noting it does not set a good example for youth.
4. He advised that a strong message was sent by residents who did not vote in the last municipal election.

City Manager McDougal received clarification from **Mr. Armstrong** on his golf club inquiry. For the record, City Manager McDougal advised he stores his golf clubs in the trunk of his car or at a golf club. Noting that he annually donates surplus golf equipment to junior golf programs throughout **Southern California**, he stated he would be happy to donate to **Vernon Middle School's** golf program. He further advised that he maintains two storage units on Holt Boulevard.

Mr. Armstrong thanked City Manager McDougal for answering his question.

- D. **Ms. Margaret Grayson**, Executive Director, **Neighborhood Partnership Housing Services (NPHS)**, 9916 Central Avenue, Montclair, gave "We Love Montclair" T-shirts to the Council that were distributed during the *Flying to the Future* kickoff event for the organization's new name held January 23, 2003. She emphasized that the heart of **NPHS** remains in Montclair.

Mayor Eaton thanked **Ms. Grayson** for the shirts.

VII. PUBLIC HEARINGS – None

VIII. CONSENT CALENDAR

Mayor Eaton requested that Item D-4 be removed from the Consent Calendar for inclusion of additional information.

Council Member Raft requested that Item D-3 be removed from the Consent Calendar for comment.

Council Member Ruh requested that Item D-2 be removed from the Consent Calendar for comment.

Moved by Mayor Pro Tem/Vice Chairman Dutrey, seconded by Council Member/Director Raft, 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 January 21, 2003**

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 January 21, 2003.

B. Administrative Reports

1. Setting a Public Hearing to Prioritize Funding for Fiscal Year 2003–04 Community Development Block Grant Projects

The City Council set a public hearing for Monday, March 3, 2003, at 7:00 p.m. in the City Council Chambers to consider prioritization of funding for Fiscal Year 2003–04 Community Development Block Grant projects.

2. Setting a Public Hearing Regarding *Agreement No. 03–14, a Housing Rehabilitation Agreement and Lease* by and Between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation Concerning the Single–Family Residence Located at 9644 Central Avenue

The City Council set a public hearing for Tuesday, February 18, 2003, at 7:00 p.m. in the City Council Chambers to consider *Agreement No. 03–14, a Housing Rehabilitation Agreement and Lease* by and between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation regarding the single–family residence located at 9644 Central Avenue.

3. Setting a Public Hearing Regarding *Agreement No. 03–15, a Housing Rehabilitation Agreement and Lease* by and Between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation Concerning the Single–Family Residence Located at 9945 Central Avenue

The City Council set a public hearing for Tuesday, February 18, 2003, at 7:00 p.m. in the City Council Chambers to consider *Agreement No. 03–15, a Housing Rehabilitation Agreement and Lease* by and between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation regarding the single–family residence located at 9945 Central Avenue.

4. Setting a Public Hearing Regarding *Agreement No. 03–16, a Housing Rehabilitation Agreement and Lease* by and Between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation Concerning the Single–Family Residence Located at 9963 Central Avenue

The City Council set a public hearing for Tuesday, February 18, 2003, at 7:00 p.m. in the City Council Chambers to consider *Agreement No. 03–16, a Housing Rehabilitation Agreement and Lease* by and between the City of Montclair

Redevelopment Agency and the Montclair Housing Corporation regarding the single-family residence located at 9963 Central Avenue.

5. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated February 3, 2002, totaling \$1,013,752.63; and the Payroll Documentation dated January 12, 2003, amounting to \$507,352.04, with \$348,686.82 being the total cash disbursement.

C. Agreements

1. Approval of *Agreement Nos. 03-17* With The Liquidation Company for Public Sale of Surplus and Unclaimed Property

The City Council approved *Agreement Nos. 03-17* with The Liquidation Company for the public sale of surplus City property and unclaimed Police Department property.

D. Resolutions

1. Adoption of Resolution No. 03-2430 Rescinding Resolution No. 02-2379 Designating Restricted Parking on Public Streets and Alleys

The City Council approved Resolution No. 03-2430 rescinding Resolution No. 02-2379 designating restricted parking on public streets and alleys.

IX. PULLED CONSENT CALENDAR ITEMS

D. Resolutions

2. Adoption of Resolution No. 03-2431 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges

In follow up to a request he received from a property manager in charge of several properties in the City to meet with staff and him on this item, Council Member Ruh asked that it be continued to the regularly scheduled meeting on March 4, 2003.

Mr. Charles O'Neal, 5030 Evert Street, Montclair, a resident and owner of several properties in Montclair for 17 years, challenged the authority of the Council to place liens on nonowner-occupied properties having refuse/sewer payment delinquencies accrued by tenants. He denied having been notified of this issue prior to receiving recent correspondence giving him the option of arranging for transfer of his tenant's refuse/sewer account into his name.

Council Member Ruh indicated the property manager who contacted him has the same concerns as **Mr. O Neal**.

City Manager McDougal deferred to City Clerk Crawford for clarification.

City Clerk Crawford explained that in January 2002, the Council adopted Ordinance No. 02-815 allowing for the collection of delinquent civil debts, including sewer and trash charges that are more than 90 days, or three billing periods, delinquent. She advised that the Ordinance authorizes staff to pursue collection of these debts by placing liens on tenant-occupied properties for any delinquent sewer and trash charges incurred after April 1, 2002. She indicated that tenant delinquencies prior to that date would be pursued from tenants through collections. She stated that in February 2002, all owners of property in Montclair were notified of this action utilizing the database of the San Bernardino County Assessor's Office. She explained the option affording property owners the opportunity to transfer their tenants' delinquent accounts into the property owners' names, thereby reducing the amounts owed by the amount of late fees incurred by delinquent tenants. She advised that quite a number of area cities have adopted similar ordinances to establish this practice.

Discussion centered on the fact that sewer and trash fees are static charges that could simply be included in rental amounts for delinquent tenants.

City Manager McDougal advised that prior to establishment of the lien process, the City would typically lose from \$50,000 to \$100,000 per year on unpaid sewer and trash fees. He indicated that the lien process enables the City to effectively be reimbursed for delinquencies on services provided by the City. He further explained the lien process, noting that this item relates to the collection of both owner-occupied and rental property delinquencies.

Mayor Pro Tem Dutrey asked the following:

- (a) Are property owners notified once their tenants are late in paying these fees?

City Clerk Crawford responded that property owners are not notified of delinquencies until one month prior to lien actions.

- (b) Why is notification of delinquencies not made sooner?

City Clerk Crawford advised that it would be administratively impossible to do so without additional

staff.

Mr. O'Neal took issue with not being notified of his tenant's delinquency prior to the proposed lien action. He maintained that the fees in question are the responsibility of the tenant and not the property owner. He questioned why other utilities do not elect to establish similar programs.

City Manager McDougal advised that other utility companies have the option of canceling services for nonpayment, whereas the City is required by the California Health and Safety Code to provide these services for the welfare of its residents regardless of whether payment is received for the services. He further commented on the erratic payment methods of some residents.

Council Member Paulitz noted that telephones and electricity are not true necessities the way sewer and trash services are. He emphasized that the City is required by law to provide these necessary services to its residents. He added that Ordinance No. 02-815 protects the residents from having to subsidize delinquencies. He reminded **Mr. O'Neal** that property owners are ultimately responsible for such civil debts incurred by their tenants.

Discussion centered on **Mr. O'Neal's** tenants who skipped out owing back rent and delinquent sewer and trash charges.

Mayor Pro Tem Dutrey spoke in support of Ordinance No. 02-815, which protects Montclair ratepayers from subsidizing delinquent sewer and trash charges. He suggested staff annually notify rental property owners of the City's lien process.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Resolution No. 03-2431, entitled "**A Resolution of the City Council of the City of Montclair Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges,**" be read by number and title only, further reading be waived, and be declared adopted.

The City Council unanimously waived the reading of the Resolution.

Resolution No. 03-2431 was unanimously adopted by the following vote:

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

Mayor Eaton advised **Mr. O'Neal** that City Clerk Crawford is

available for further assistance and clarification of this item.

Mr. Art Van Deventer, Monterey Manor Mobile Home Estates, 11250 Ramona Avenue, Space 902, Montclair, advised that as an owner of rental property in Pomona, it is his practice to pay for all utilities. As a simple solution to the issues expressed this evening on this item, he suggested property owners be responsible for payment of sewer and trash fees as a standard procedure.

City Manager McDougal advised that the initial notification of the lien process included that suggestion. He discussed the unpredictability of a tenant arbitrarily signing up for water service, which automatically opens a sewer and trash account in that tenant's name. He agreed that having rental property owners responsible for payment of these fees would solve some of these issues.

Mr. Van Deventer suggested that perhaps the property owner notification was sent to rental property addresses in some cases.

City Manager McDougal reiterated that the San Bernardino County Assessor's Office database was used in the notification.

Mayor Pro Tem Dutrey asked about the possibility of duplicate bills being sent to the rental property owners.

City Manager McDougal advised that the current billing system would have to be modified to accommodate duplicate billing at an increased cost.

3. Adoption of Resolution No. 03-2433 Establishing a Voluntary Payroll Deduction Program for all Elected Officials and City Employees for Contributions to the Save Our Services Fund Through Action for Better Cities

Council Member Raft questioned the need for a resolution establishing a voluntary automatic payroll deduction.

City Manager McDougal clarified that a resolution is necessary to establish official Council policy related to payroll deduction donations to the Save Our Cities (SOS) Fund and to safeguard against the possibility of legal challenges by an employee as to the use of Save Our Cities Fund proceeds.

Council Member Raft asked if payroll deductions to the United Way Fund were established by resolution.

Director of Administrative Services Starr answered, "No." He reported that the League of California Cities has asked cities to adopt resolutions establishing voluntary automatic SOS Payroll Deduction programs to fund its statewide local

government advocacy group, Action for Better Cities, and that doing so would prevent potential legal problems related to employees making such political contributions through voluntary automatic payroll deductions.

Council Member Raft stated she is opposed to this proposal to establish a "voluntary" program because of the pressure placed on employees to contribute that typically results.

Moved by Mayor Eaton and seconded by Mayor Pro Tem Dutrey that Resolution No. 03-2433, entitled **"A Resolution of the City Council of the City of Montclair Establishing a Voluntary Payroll Deduction Program for all Elected Officials and City Employees Whereby They Can Make Contributions to the Save Our Services (SOS) Fund Through Action for Better Cities (ABC),"** be read by number and title only, further reading be waived, and be declared adopted.*

Council Member Ruh asked why donations might not be made directly instead of through payroll deduction.

Director of Administrative Services Starr indicated that direct donations would be also accepted. He clarified that organizations must sanction and authorize political contribution payroll deductions.

Council Member Ruh received further clarification on participation in and cost to process the proposed payroll deduction program. Noting he is not opposed to this proposal by the League of California Cities, he spoke in favor of direct donations to the SOS Fund.

Council Member Paulitz stated it is "about time" the League of California Cities became actively involved in the political arena in Sacramento to secure constitutional protection of local government services and revenues, similar to the strong presence of the education advocacy group. He discussed then State Senator Ruben Ayala's sponsorship of a

constitutional amendment in 1987 protecting vehicle license fee (VLF) revenues to local government. He noted that the state has substantially reduced the amount of VLF revenues payable to cities, and the current state budget shortfall could further affect the reimbursement to local governments for losses resulting from VLF offsets. He spoke in strong support of this item, adding that he looks forward to participating in the proposed voluntary automatic payroll deduction program for such a worthwhile cause.

Mayor Pro Tem Dutrey spoke of the huge revenue losses suffered by cities during the recession of the early 90s from state property tax takeaways and the possibility that cities will have to compensate for the state budget deficit with further revenue losses from the proposed elimination of the VLF backfill, state funds for highway and road improvements/maintenance projects, and booking fee reimbursements; shift of community redevelopment agency funds to the state Education Revenue Augmentation Fund, and deferral of payments of state-mandated requirements. He discussed the difficulty faced by cities' not having an effective advocacy group in Sacramento to lobby on behalf of local government interests, which led to the establishment of the Action for Better Cities political action committee by the League of California Cities. He explained that the SOS Fund, the recipient of tonight's proposed payroll deduction proceeds, would be used to finance the cost of a statewide ballot measure campaign in 2004 to preserve and protect local government services and revenues. He pledged to contribute \$10 from his monthly Council salary to this important, worthwhile venture, expressing his hope that both Action for Better Cities and the SOS Fund campaign are successful.

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

Resolution No. 03-2433 was unanimously adopted by the following vote:

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

4. Adoption of Resolution No. 03-2434 Determining the Amount of Property Tax Revenues to be Exchanged Between the City of Montclair and the County of San Bernardino Resulting From the Jurisdictional Change Described in Local Agency Formation Commission No. 2913 (Annexation No. 21)

City Manager McDougal stated that late this afternoon staff received an attachment to this item from the Local Agency

Formation Commission with a request that it be included in the agenda report. He advised that the attachment details a breakdown of the \$2,216.165 "Total transfer to City (districts to be detached plus 50% of remainder)" line item listed in the *Staff Analysis of Exhibit "C" Related to Local Agency Formation Commission No. 2913 (City of Montclair Annexation No. 21)* attachment to proposed Resolution No. 03-2434. He indicated the attachment would be referenced and included in the Resolution.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Resolution No. 03-2434, entitled "**A Resolution of the City Council of the City of Montclair Determining the Amount of Property Tax Revenues to be Exchanged Between the County of San Bernardino and the City of Montclair Resulting From the Jurisdictional Change Described by LAFCO No. 2913 (Annexation No. 21),**" be read by number and title only, further reading be waived, and be declared adopted.

The City Council unanimously waived the reading of the Resolution.

Resolution No. 03-2434 was unanimously adopted by the following vote:

AYES: Ruh, Raft, Paulitz, Dutrey, 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 – No comments
- B. City Manager/Executive Director – No comments
- C. Mayor/Chairman – No comments
- D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairman Dutrey commented as follows:
 - (a) With regard to an Inland Empire affordable housing tour hosted by the **League of California Cities, Inland Empire Division**, for **California Department of Housing and Community Development** Director **Julie Bornstein** and **City of Fontana** Council Member **Janice Rutherford**, he noted being present at the **NPHS** office when the tour group received first-hand testimonials from prospective buyers. He indicated the buyers shared the challenges they'd experienced in finding affordable housing along with their gratitude to **NPHS** for providing them with closing cost assistance to purchase their home.
 - (b) Noting that cities stand to lose much-needed state revenues through the governor's budget cut proposals to resolve the serious state budget deficit, he advised that **ABX1 4**, the VLF bill that raises the VLF back to 1998 levels, has passed through both houses of the State Legislature. He spoke in support of **ABX1 4** and encouraged residents to contact their state legislators in its support.

2. Council Member/Director Ruh commented as follows:
 - (a) He noted he would be informing Assistant Director of Human Services Yoakum and Facility Supervisor Wofford about the *California Telephone Access Program*, a state program that provides complimentary specialized tele-phones to persons with hearing, mobility, vision, memory, and speech disabilities. He stated that those interested may telephone 1-800-806-1191 for further information.
 - (b) Pursuant to an editorial in the *Inland Valley Daily Bulletin*, entitled "River Cutback Should Stimulate Water Planning," he advised that the **Inland Empire Utilities Agency** is encouraging water conservation throughout the region. He noted the importance of conserving water and discussed the **Metropolitan Water District of Southern California's** 15 percent decrease in its Colorado River water allocation beginning this year as a result of an agreement with the **Colorado River Authority**. He reiterated his encouragement to utilize drought-tolerant landscaping in new housing developments.
 - (c) He noted he was very pleased to read in a recent article about **California Department of Housing and Community Development** Director **Julie Bornstein** telling the **League of California Cities, Inland Empire Division**, that this region needs more affordable housing. Noting

that less than 35 percent of Montclair's residents can afford to buy a home, he strongly maintained that quality housing does not necessarily equate to higher sales prices. He noted the inventory deficit of affordable housing in Southern California as reported by the **California Association of Realtors** and emphasized the need for more affordable housing in the City and the region.

- (d) He solemnly noted that we are all mourning the tragic loss of the seven astronauts who perished in the space shuttle **Columbia** disaster Sunday morning and that our thoughts are with their families. He stated that he is reminded of the following quote from the **Old Testament Book of Jeremiah**, Chapter 14, Verse 2: "Judah mourneth, and the gates thereof languish; they are black unto the ground; and the cry of Jerusalem is gone up." He indicated that the seven astronauts' work would live on through future space exploration and discovery.

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of January 21, 2003

The City Council received and filed the Personnel Committee meeting minutes of January 21, 2003, for informational purposes.

XII. COUNCIL/AGENCY WORKSHOP

A. Midyear Budget Review

Moved by Mayor Pro Tem/Vice Chairman Dutrey, seconded by Council Member/Director Paulitz, and carried unanimously to continue this item to an adjourned joint meeting on Tuesday, February 18, 2003, at 5:30 p.m. in the City Council Chambers.

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

At 8:05 p.m., Chairman Eaton adjourned the Montclair Housing Corporation Board of Directors.

At 8:05 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency Board of Directors to Tuesday, February 18, 2003, at 5:30 p.m. in the City Council Chambers.

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

Yvonne L. Smith
Transcribing Secretary