

MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL, REDEVELOPMENT AGENCY BOARD, AND MONTCLAIR HOUSING CORPORATION BOARD HELD ON MONDAY, APRIL 7, 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 Mark Schipul, Bethany Baptist Church, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Mayor Pro Tem Dutrey 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 Redevelopment/Public Works Staats; Acting Director of Community Development Lustro; City/Agency Engineer Hudson; Personnel Officer Hayes; City Attorney/Agency Counsel Robbins; City Clerk/Agency Secretary Crawford

V. PRESENTATIONS

A. Proclamation Declaring April 18, 2003, as "Arbor Day" in the City of Montclair

Mayor Eaton presented a proclamation to City Engineer Hudson, declaring April 18, 2003, as "Arbor Day" in the City of Montclair.

City Engineer Hudson thanked Mayor Eaton and accepted the proclamation on behalf of Public Works Superintendent Orioli.

Mayor Eaton announced that this is Spring Cleanup Week and advised residents they may place all bulky, unwanted household items curbside on their regular trash-collection day and **Burrtec Waste Industries, Inc.**, will pick them up *free of charge*. He reminded them that construction debris and hazardous waste will not be accepted.

VI. PUBLIC COMMENT

- A. **Mr. Ronald Armstrong**, 5601 Deodar Street, Montclair, reiterated past complaints regarding the **Jayne Baer** lawsuit, the City's Red Light Camera Enforcement Program, City Council raises, and a Code Enforcement matter.

Mayor Eaton advised **Mr. Armstrong** that residents had spoken in favor of the Red Light Camera Enforcement Program at past meetings. He further advised **Mr. Armstrong** that City Council Members were not included in the recent City salary adjustments.

- B. **Ms. Teresa Billingsley** announced what would not be accepted during the City's *Spring Cleanup Week*.

Ms. Billingsley also spoke about the sensitivity of children regarding the war in Iraq. She recited the following song lyrics:

*And I'm proud to be an American where at least I
know I'm free.
And I won't forget the men who died, who gave that
right to me.
And I'd gladly stand up next to you and defend her
still today.
'Cause there ain't no doubt I love this land.
God bless the U.S.A.*

- C. **Mr. Roger Baer** expressed his dissatisfaction related to proposed Ordinance No. 03-830, entitled "Decorum at Public Meetings," stating that freedom should be preserved in the City of Montclair.

VII. PUBLIC HEARINGS

- A. **Appeal by Somera Communications Related to the Planning Commission's Decision on Case No. 2004-49 Regarding a Wireless Telecommunications Facility at 9185 Monte Vista Avenue**

Mayor Eaton declared it the time and place set for public hearing to consider appeal by Somera Communications related to the Planning Commission's decision on Case No. 2004-49 regarding a wireless telecommunications facility at 9185 Monte Vista Avenue and invited comments from the public.

City Manager McDougal stated that after considering the applicant's letter and speaking with staff, he suggests the following modifications:

- (1) Delete – Condition No. 5.c.ii – Requirement to landscape a 15' x 120' strip along Monte Vista Avenue adjacent to the subject property, consisting only of a combination of turf,

ground cover, and shrubs.

- (2) Modify – Condition No. 5.f – "Remit to the City a deposit or post a bond in an amount to be determined by the Director for the purpose of removing the subject facility and all associated support equipment in the event the facility becomes abandoned, the CUP is revoked by the Director, and the applicant does not or is unable to remove the facility. As an alternative, the applicant may prepare a covenant, to the satisfaction of the City Attorney, to be recorded against the property that will ensure removal of said facility in the event it becomes abandoned or the CUP is revoked."
- (3) Modify – Condition No. 28.d – "Remove the two utility poles and overhead wiring on or adjacent to the applicant's property along the westerly "ring road" of Montclair Plaza south of Moreno Street."

Council Member Paulitz agreed with City Manager McDougal stating that there have been compromises on the Planning Commission and staff level and feels the revisions are fair.

Council Member Ruh asked if there were any safety concerns regarding electromagnetic field (EMF) emissions.

Acting Director of Community Development Lustro responded that the Federal Telecommunications Act of 1996 does not allow municipalities to prohibit consideration of possible EMF emissions from a wireless telecommunications site. He stated the City must follow the guidelines of the Act and cannot deny or condition an application based on possible EMF emissions.

Mr. Joseph Thompson, Project Manager, Somera Communications, responded to Council Member Ruh's concern stating that most carriers, including AT&T and Sprint, operate at less than one percent of federal guidelines. He stated he would be happy to forward any study in regards to the matter to Council Member Ruh.

Moved by Council Member Paulitz, seconded by Mayor Pro Tem Dutrey, and carried unanimously to uphold the Planning Commission's decision on Case No. 2004-49 regarding a Wireless Telecommunications Facility at 9185 Monte Vista Avenue with the following modifications:

- (1) Delete – Condition No. 5.c.ii – Requirement to landscape a 15' x 120' strip along Monte Vista Avenue adjacent to the subject property, consisting only of a combination of turf, ground cover, and shrubs.
- (2) Modify – Condition No. 5.f – "Remit to the City a deposit or post a bond in an amount to be determined by the Director for the purpose of removing the subject facility and all

associated support equipment in the event the facility becomes abandoned, the CUP is revoked by the Director, and the applicant does not or is unable to remove the facility. As an alternative, the applicant may prepare a covenant, to the satisfaction of the City Attorney, to be recorded against the property that will ensure removal of said facility in the event it becomes abandoned or the CUP is revoked."

- (3) Modify – Condition No. 28.d – "Remove the two utility poles and overhead wiring on or adjacent to the applicant's property along the westerly "ring road" of Montclair Plaza south of Moreno Street."

B. First Reading – Adoption of Ordinance No. 03–830 Related to Decorum at Public Meetings

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 03–830 related to decorum at public meetings and invited comments from the public.

Council Member Raft stated that she disagrees with the three-minute limit and doesn't see a problem with the five-minute limit that is in place at this time.

Council Member Paulitz mentioned that several agencies he is associated with have three-minute limits. He stated that **SANBAG** allows three minutes per item, plus three minutes for general comment, with a total time not to exceed 12 minutes; **Air Quality Management District** has a three-minute limit for its many technical subjects; and other City Councils in the area also allow three minutes.

Council Member Paulitz stated that he feels it is time to formally adopt a set of rules showing principles and guidelines suitable for all meetings.

Ms. Teresa Billingsley stated that she is strongly opposed to the three-minute limit.

Mr. Roger Baer noted that there were a number of cities that allowed additional time at the end of the meetings for closing

comments and feel the Council should consider adding an opportunity for public comment at the end of the meetings.

Mr. Ronald Armstrong stated he feels we are trying to eliminate the rules of the **Ralph M. Brown Act** and recited the following quote by civil rights leader the **Reverend Dr. Martin Luther King, Jr.:**

Freedom is only free if you fight to keep it that way.

Mr. Art Van Deventer spoke in support of the proposed Ordinance, stating its purpose is to keep order in the Council Chambers.

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

Council Member Raft stated that if someone is disorderly at a meeting, they could be removed under existing law. She reminded everyone that this is only the first reading of the Ordinance and that it will not become final this evening.

Mayor Pro Tem Dutrey stated that he strongly supports the proposed written guidelines and feels that the public's right to speak as granted by the First Amendment of the Constitution of the United States of America is preserved.

Moved by Council Member Paulitz and seconded by Mayor Pro Tem Dutrey that Ordinance No. 03-830, entitled "**An Ordinance of the City Council of the City of Montclair Adding Chapter 2.02, Entitled 'Definitions,' and Chapter 2.14, Entitled 'Decorum at Public Meetings,' to the Montclair Municipal Code,**" be read by number and title only, further reading be waived, and this be declared its first reading.

Council Member Ruh stated that he plans to abstain from voting this evening because he needs further input from the First Amendment Coalition.

City Attorney Robbins stated that she sent a copy of the draft Ordinance to **Mr. Richard McKee**, First Amendment Coalition, and that to date she has received no response.

The City Council unanimously waived the reading of the Ordinance.

First Reading of Ordinance No. 03-830 was adopted by the following vote:

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

C. First Reading – Adoption of Ordinance No. 03-832 Pursuant to

Chapter 11.84 of the Montclair Municipal Code Establishing a Pre-Zone Designation of "R-1" to Approximately 4.75 Acres within the City's Sphere of Influence

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 03-832 pursuant to Chapter 11.84 of the Montclair Municipal Code establishing a prezone designation of "R-1" to approximately 4.75 acres within the City's Sphere of Influence and invited comments from the public.

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

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Raft that Ordinance No. 03-832, entitled "**An Ordinance of the City Council of the City Of Montclair Approving a Prezone Designation of R-1 (Single-Family Residential) Within the City's Sphere of Influence,**" be read by number and title only, further reading be waived, and this be declared its first reading.

The City Council unanimously waived the reading of the Ordinance.

First Reading of Ordinance No. 03-832 was unanimously adopted by the following vote:

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

VIII. CONSENT CALENDAR

Council Member Raft noted her disqualification on Item B-4 because of the close proximity of her residence to the subject property.

Moved by Mayor Pro Tem/Vice Chairman Dutrey, seconded by Council Member/Director Ruh, 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 March 17, 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 March 17, 2003.

B. Administrative Reports

1. Setting a Public Hearing to Consider Ordinance No. 03-831

Amending Section 9.20.460 of the Montclair Municipal Code Related to Equivalent Dwelling Unit

The City Council set a public hearing for Monday, April 21, 2003, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 03-830 amending Section 9.20.460 of the Montclair Municipal Code related to equivalent dwelling unit.

2. Award a Procurement Contract to FKM Copier Systems for Two Kyocera Mita Digital Copier Systems

Transfer \$3800 from Maintenance Account to Lease Payments Account

The City Council took the following actions:

1. Awarded a procurement contract to FKM Copier Systems for two Kyocera Mita Digital Copier Systems.
2. Authorized a \$3800 transfer from the Maintenance Account to the Lease Payments Account.

3. Authorization of the Fire Department's Appropriation of \$30,000 From Capital Outlay Account No. 001-400-4533-6204 for Purchase of Software to Replace Its Current Records Management System

The City Council authorized the Fire Department's appropriation of \$30,000 from Capital Outlay Account No. 001-400-4533-6204 for the purchase of software to replace its current records management system.

4. Approval of a \$100,000 Increase to the Amherst Avenue Improvement Project Construction Contingency

The City Council approved a \$100,000 increase to the Amherst Avenue Improvement Project construction contingency.

5. Authorization to Advertise for Bid Proposals for the Engineering Division Remodel Project

The City Council authorized the advertisement of bid proposals for the Engineering Division remodel project.

6. Authorization to Advertise for Bid Proposals for the San Antonia Gateway, Phase 2, Foundation Area No. 9

The City Council authorized the advertisement of bid proposals for the San Antonio Gateway, Phase 2, Foundation Area No. 9.

7. Declare Unclaimed Bicycles in Police Custody as Surplus and Available for Auction

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

8. Authorization to Purchase a Utility Payment Box from Kingsley Companies

Appropriation of \$4650 from Refuse Impound and Sewer Maintenance Funds for the Purchase of a Utility Payment Box from Kingsley Companies

The City Council took the following actions:

1. Authorized the purchase of a utility payment box from Kingsley Companies.
2. Appropriation of \$4650 from the Refuse Impound and Sewer Maintenance Funds for purchase of a utility payment box from Kingsley Companies.

9. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated April 7, 2003, totaling \$1,990,654.71; and the Payroll Documentation dated March 9, 2003, amounting to \$499,436.16, with \$344,088.55 being the total cash disbursement.

C. Agreements

1. Award of Contract to E. C. Construction Co. in the Amount of \$7245

Approval of Agreement No. 03-38 with E. C. Construction Co., for the Construction of Crosswalk Improvements at the Montclair Transcenter

Authorization of a \$1000 Construction Contingency

The City Council took the following actions:

- (a) Awarded a contract to E. C. Construction Co. in the amount of \$7245.
- (b) Approved *Agreement No. 03-38* with E. C. Construction Co., for crosswalk improvements at the Montclair Transcenter.
- (c) Authorized a \$1000 construction contingency.

2. Approval of *Agreement No. 03-40* between the City, the Redevelopment Agency, and the San Bernardino Associated Governments Amending Agreement No. 91-65 for Improvements at the Montclair Transcenter

The City Council and Redevelopment Agency Board of Directors approved *Agreement No. 03-40* between the City, the Redevelopment Agency, and the San Bernardino

Associated Governments amending *Agreement No. 91-65* for improvements at the Montclair Transcenter.

3. Approval of *Agreement No. 03-41* Amending *Agreement No. 01-102* With the City of Ontario for the Provision of Fire Service Dispatching and Communications Services

The City Council approved *Agreement No. 03-41* amending *Agreement No. 01-102* with the City of Ontario for the provision of fire service dispatching and communications services.

4. Approval of *Agreement No. 03-42* with the San Bernardino Public Employees Association Related to Terms and Conditions of Employment

The City Council approved *Agreement No. 03-42* with the San Bernardino Public Employees Association related to terms and conditions of employment.

5. Approval of *Agreement No. 03-43* Amending *Agreement No. 02-157* With the Ontario-Montclair School District to Provide Family Literacy Services through the William F. Goodling Even Start Family Literacy Grant

The City Council approved *Agreement No. 03-43* amending *Agreement No. 02-157* with the Ontario-Montclair School District to provide family literacy services through the William F. Goodling Even Start Family Literacy Grant.

6. Approval of *Agreement No. 03-44* with the Chaffey Joint Union High School District for Law Enforcement Services for Fiscal Year 2002-03

The City Council approved *Agreement No. 03-44* with the Chaffey Joint Union High School District for law enforcement services for Fiscal Year 2002-03.

7. Approval of *Agreement No. 03-45* With the Chaffey Joint Union High School District for Law Enforcement Services for Fiscal Year 2003-04

The City Council approved *Agreement No. 03-45* with the Chaffey Joint Union High School District for law enforcement services for Fiscal year 2003-04.

D. Resolutions

1. Adoption of Resolution No. 03-2437 Repealing Resolution No. 02-2380 Establishing a Revised Montclair Police Department Policy for the Destruction of Records and Authorizing the Destruction of Certain Police Department Records

The City Council adopted Resolution No. 03-2437, entitled "**A Resolution of the City Council of the City of Montclair Repealing Resolution No. 02-2380 by Establishing a Revised Montclair Police Department Policy for the Destruction of Records and Authorizing the Destruction of Certain Police Department Records.**"

IX. PULLED CONSENT CALENDAR ITEMS – 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. Acting City Manager/Executive Director – No Comments

C. Mayor/Chairman

1. Mayor/Chairman Eaton commented as follows:

- (a) He, along with Mayor Pro Tem Dutrey, attended the **Chamber of Commerce Installation Banquet** on Thursday, April 3, 2003, and accepted a plaque on behalf of the City, giving special thanks to the City Council and staff for their support of the **Montclair Chamber of Commerce Board of Directors**.

D. City Council/Agency Board

1. Council Member/Director Raft commented as follows:

- (a) She suggested that yellow ribbons be tied around City trees in support of our troops.

Mayor Pro Tem Dutrey suggested **Our Lady of Lourdes Knights of Columbus Council 7412** embark on such a project.

- (b) She spoke in support of the new **Sav-on Drugs** recently completed in the City.

2. Mayor Pro Tem/Vice Chairman Dutrey commented as follows:

- (a) He announced that **Quad Cities Little League** will conduct its closing ceremonies, in conjunction with a ribbon-cutting ceremony for the new snack bar and restroom facilities at Essex Park, on June 16, 2003, at 6:00 p.m.
- (b) He noted his attendance at the **Chamber's Installation Banquet** and spoke of the marvelous job done by Chairperson of the Board Pat Rees during her two years of service, noting she faced many difficulties and challenges. He stated that he would miss **Ms. Rees** and expressed his hope she continues to be actively involved in the **Chamber**.
- (c) He stated that on Friday, April 4, 2003, he returned to his alma mater **Montclair High School (MHS)** to serve as "Principal of the Day." He stated that he visited the classrooms with **Principal Judy Post** and met with the faculty and students. He discussed the four-year "Venture Enterprise" program during which students, in their fourth year, establish and operate a business, competing with students at other schools across the country. He stated it was an eye-opening experience and that he looks forward to this year's commencement ceremonies, noting his 20-year reunion takes place this year.
- (d) He stated that he visited **Sav-on Drugs** on Friday, April 4, 2003, noting that it is a new and exciting addition to the City of Montclair.
- (e) He announced that on Saturday, March 22, 2003, the **Community Action Committee, Chamber of Commerce, and Kiwanis Club of Montclair** sponsored a Casino Night, with proceeds benefiting Montclair's Skateboard Park. He stated that he was unable to attend, but congratulated them for a successful event.

Mayor Eaton responded that he attended the event which raised approximately \$3000.

Council Member Paulitz stated that he attended the event, as well.

Council Member Ruh stated that he attended the event, donating a basket of goodies.

- (f) He noted his participation at the **C.A.U.T.I.O.N.** cleanup in the 5500 block of Orchard Street on Saturday, April 5, 2003.

4. Council Member/Director Ruh commented as follows:

- (a) He also noted his attendance at the **C.A.U.T.I.O.N.** cleanup on April 5, 2003, stating that a family was very

appreciative of the hard work of many individuals and was very pleased with the final result.

- (b) He noted his participation as a model in the **Soroptimist**-sponsored Breast Cancer Awareness Fashion Show on Saturday, April 5, 2003. He stated that proceeds from the event went to the women's breast cancer awareness and mammography program, stressing the importance of breast cancer awareness and urging all women to be tested.
- (c) He noted that he, too, served as "Principal of the Day" at **MHS** two years ago, and concurred with Mayor Pro Tem Dutrey that the school is doing wonderful things.
- (d) He stated that earlier this evening, the Human Services Division held a workshop related to its After-School Program, noting the large number of students who are participating in the program. He noted there is a waiting list of students wanting to attend the program.
- (e) He noted his attendance at the **Chaffey Community College Awards Program** Thursday evening, April 3, 2003, honoring several local recipients for their involvement in the community.
- (f) Noting the display of Montclair servicemen and women in the West Lobby of City Hall, he asked residents who have loved ones serving in the military to contact staff so their names may be included in the display.

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of April 7, 2003

The City Council received and filed the Personnel Committee meeting minutes of April 7, 2003, for informational purposes.

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

At 8:24 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors. He thanked audience members for attending tonight's meeting and those at home for watching.

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

Donna Jackson
Deputy City Clerk