

MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL AND
REDEVELOPMENT AGENCY AND MONTCLAIR
HOUSING CORPORATION BOARDS HELD ON
MONDAY, OCTOBER 6, 2003, AT 7:00 P.M. IN
THE CITY COUNCIL CHAMBERS, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor Pro Tem/Vice Chairman Dutrey called the meeting to order at 7:00 p.m.

II. INVOCATION

Pastor Chris Reinhard, Youth Minister, **Bethany Baptist Church**, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

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

IV. ROLL CALL

Present: 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 Community Development/Agency Planner Clark; City/Agency Engineer Hudson; City Attorney/Agency Counsel Robbins; City Clerk/Agency Secretary Jackson

Absent: Mayor/Chairman Eaton (excused)

Mayor Pro Tem Dutrey reported that Mayor Eaton is doing well in his recovery from surgery and is on vacation celebrating his wedding anniversary.

V. PRESENTATIONS

A. **Proclamation Declaring October as "Domestic Violence Awareness Month" in the City of Montclair**

Mayor Pro Tem Dutrey presented a proclamation to **Ms. Cathy Hudspeth**, Domestic Violence Prevention Coordinator, **House of Ruth**, declaring October as "Domestic Violence Awareness Month" in the City of Montclair. He expressed his appreciation for the **House of Ruth's** work in Montclair and asked that **Ms. Hudspeth** "keep up the good work" and for her to free to come to the Council for additional assistance.

Ms. Hudspeth accepted the proclamation on behalf of **House of Ruth** and the **Montclair Domestic Violence Prevention Community Action** team and thanked Mayor Pro Tem Dutrey. She noted the organization has worked very hard at domestic violence prevention in Montclair during the last three-and-a-half years. She expressed her appreciation of the support received from the Council, **Montclair Community Collaborative (MCC)**, Montclair Police and Fire Departments, and City staff that has enabled the organization to reach close to two thousand children in community schools during this time period. She thanked the Council, **MCC**, and staff for their support, adding that "together we can help make every home safe."

Mayor Pro Tem Dutrey thanked **Ms. Hudspeth** for her comments.

Council Member Ruh stated that the work done by **House of Ruth** is so needed in this community and reminds him of the following words of **St. Paul** in **1 Corinthians 13:3,13**: "If I give all I possess to the poor and surrender my body to the flames, but have not love, I gain nothing...these three remain: faith, hope and love. But the greatest of these is love." He further noted the importance of teaching our children that physical and psychological abuse is not the answer.

B. Presentation of \$4000 Check From Kiwanis Club of Montclair for Use at Montclair Skate Park

Fire Division Chief and **Kiwanis Club of Montclair** Charter President Steve Shull stated that upon chartering the club in 2001, a goal was set to raise \$5000 to support the City's new skate park. Noting the partial presentation of \$1000 of this commitment earlier this year from the proceeds of a Casino Night fundraiser, Mr. Shull presented Mayor Pro Tem Dutrey with a \$4000 check representing the balance of the **Kiwanis Club of Montclair's** support of the skate park. He indicated that the club will always strive to benefit the community, especially its children, and expressed the pride of the **Kiwanis Club of Montclair** in being able to meet its goal of supporting the **Montclair Skate Park**.

Mayor Pro Tem Dutrey thanked **Mr. Shull** for the generous contribution to the City's new skate park.

In recognition of fire-prevention week, Fire Division Chief Shull invited the Council, staff, and audience members to the Montclair Fire Department Open House & Pancake Breakfast on Saturday, October 11, 2003, from 8:30 a.m. to 1:00 p.m. at Fire Station No. 1, noting that breakfast will be served from 8:30 to 11:00 a.m.

Mayor Pro Tem Dutrey encouraged participation in the event and again thanked **Kiwanis Club of Montclair** for its hard work to raise the generous donation to the **Montclair Skate Park**. He recognized outgoing **Kiwanis Club of Montclair** President **Mary Francis** and congratulated her on her term of service in the club.

Council Member Ruh stated he is extremely pleased to see the community supporting an idea that **Mrs. Francis**, he, and many others have been championing for several years. He acknowledged the great job that **Kiwanis Club of Montclair** is doing, noting he looks forward to the next Casino Night, and thanked the organization for all the great work it is doing in the community.

At this time, Mayor Pro Tem Dutrey announced that this is *Fall Cleanup Week* and advised residents they may place all bulky disposable items at curbside on their regular refuse-collection days for complimentary collection by **Burrtec Waste Industries, Inc.** He reminded residents that tires and hazardous waste would not be accepted and that information on their disposal may be obtained by calling City Clerk Jackson at 625-9415.

VI. PUBLIC COMMENT

Mayor Pro Tem/Vice Chairman Dutrey reminded those audience members desiring to address the Council and Agency/Montclair Housing Corporation Boards to submit *Speaker Information Cards* and they would be afforded five minutes each to speak on subjects that do not appear on tonight's agenda.

A. Ms. Lynda VanHoof, San Bernardino County Fourth District Supervisor Fred Aguiar's Office, 430 North Vineyard Avenue, Suite 315, Ontario, commented as follows:

1. She announced that residents of South Montclair and West San Bernardino County would soon benefit from the opening at the end of this month of a new joint **County of San Bernardino Sheriff's Department, California Highway Patrol**, and Montclair Police Department satellite police facility that addresses the jurisdictional overlap of all three agencies in that area. She advised that the new facility, located at the northwest corner of Silicon Avenue and Mission Boulevard at 4138 Mission Boulevard, would provide increased law enforcement presence and reduced response times in that portion of the City as well as provide officers a convenient location in which to conduct interviews and complete reports. She invited all residents to a special community safety fair to be held at the new substation on Saturday, October 25, 2003, from 10:00 a.m. to 3:00 p.m. to include refreshments, a raffle of 25 bicycle helmets courtesy of **Inland Empire Health Plan**, and recruitment for volunteers to staff the facility. She added that a list of qualifications to fill the volunteer positions are available at the City Clerk's Office and will also be distributed through-out the community.
2. She noted the relocation of **Supervisor Aguiar's** Ontario office at the end of this week to the **Chaffey College Chino Information Technology Center**, 13160 Seventh Street, Chino, telephone number (909) 465-1895.

Mayor Pro Tem Dutrey thanked **Ms. VanHoof** for her presentation.

B. Ms. Theresa Billingsley commented as follows:

1. She reported that on September 24, 2003, **U.S. District Court Judge Edward Nottingham** declared the **National Do Not Call Registry** "unconstitutional" because it violates the free-speech rights of the telemarketing industry, thus barring the Federal Trade Commission from putting the registry into effect. She advised that most of the telemarketing companies had indicated they would honor the **National Do Not Call Registry**; interestingly, at least eleven telemarketing executives had registered with the program.

Ms. Billingsley noted the following three options to discourage telemarketers:

- (a) Tell them you are registered with the **National Do Not Call Registry** and ask them if they have a copy of the registry. Note the dates and times calls are received and tell representatives you would like to be registered on their respective do not call registries.
- (b) Explore whether or not one's state has it's own do not call registry. Contact the state attorney general's office or the administering state office for further information.
- (c) Access the following Web site for further information: "<http://www.fcc.gov/cgb/complaints.html>."

Ms. Billingsley noted the new **Rock of Life Church**, which occupies the former **United Artists Theater** site at the **Town Center Plaza**, held its first service last Sunday and will conduct a grand opening on Sunday, October 12, 2003, at 9:00 a.m.

Mayor Pro Tem Dutrey thanked **Ms. Billingsley** for her comments.

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

1. He noted telling Police Chief Thompson after the last meeting it is his opinion the Montclair Police Department retains some of the best law enforcement officers in the region.
2. He noted being approached by numerous individuals while attending this year's **Los Angeles County Fair** who told him they regularly watch the Montclair City Council meetings.
3. Noting he has been unsuccessful at persuading residents to participate in these meetings to voice their individual concerns, he advised he would continue to do so on their behalf.
4. He noted his attendance at other cities' council meetings during the past two years.
5. He noted the research being conducted by **Mr. Baer** and **Ms. Billingsley** about their respective concerns.
6. He expressed his opinion that a problem exists at the local level and expressed his concern on behalf of community youth.

D. Ms. Regina Howerton commented as follows:

1. She reiterated her past comments related to a Code Enforcement Officer inspecting her property on October 22, 2002, though she corrected the time of that inspection as being at 6:00 a.m. rather than 5:30 a.m. as previously stated. She tearfully recounted being notified by her landlord in early July 2003 to vacate the residence she has rented for well over 11 years because of numerous problems, including Code Enforcement matters, the main issue involving landscape maintenance. She noted her amazement at that time that her landscape had been virtually unmaintained for well over three years with no lawnscape for over two years and the fact that no enforcement action occurred about this and other issues until she began addressing the Council.
2. She noted tomorrow's recall election of **Governor Davis** and expressed her hope that Montclair residents would vote for the candidate(s) of their choice at the next General Municipal Election.

Mayor Pro Tem Dutrey thanked **Ms. Howerton** for her comments.

VII. PUBLIC HEARINGS

A. **Appeal by the City of Pomona Related to the Planning Commission's Approval of Case No. 2003-15**

Mayor Pro Tem Dutrey declared it the time and place set for public hearing to consider an appeal by the City of Pomona regarding the Planning Commission's approval of Case No. 2003-15 and invited comments from the public.

Mr. Richard Belmudez, Senior Planner, City of Pomona, 505 South Garey Avenue, Pomona, noted he appeared before the Montclair Planning Commission at its September 22, 2003 public hearing to appeal its approval of Case No. 2003-15 for a Conditional Use Permit (CUP) to allow the establishment of a tattoo and body-piercing business in Spaces N9-10 and O9-10 of the Valley Indoor Swap Meet. He noted the Planning Commission upheld its earlier decision despite several Commissioners' disclosures that in their inspections of the business, several of the CUP conditions had not been adhered to. He cited such reasons as well as the following

for the City Council to find that the CUP under Case No. 2003-15 was granted by the Montclair Planning Commission in error and that it now be withdrawn:

1. The dilemma regarding enforcement of the conditions of approval considering the conflicting jurisdictions involved.
2. Concerns regarding the environmental analysis, specifically as they pertain to applicable land uses and providing public services.

Mayor Pro Tem Dutrey thanked **Mr. Belmudez** for his comments.

Mr. Raja Swidan, 1600 East Holt Boulevard, Pomona, identified himself as the applicant regarding the proposed tattoo/body-piercing business and commented as follows:

1. He noted that several meetings have been held with the City Council, Planning Commission, and himself to address the following concerns:
 - (a) Supposed gang activity at the mall, which has been nonexistent for the past ten years according to management.
 - (b) Access to the swap meet by students of Pueblo Elementary School and Village Academy High School, which are both located on the west end of the former shopping mall at least a thousand feet from the main entrance into the swap meet. Los Angeles County Deputy Sheriffs who regularly patrol the main entrance have indicated that children have no access to the swap meet unless accompanied by their parents.
 - (c) All CUP conditions have been met, including construction of a 5-foot privacy wall at his business, and no complaints have been registered against his business, including the supposed tattooing of a minor.
2. He noted that several Council Members have inspected the safety measures he has implemented at his business to protect Montclair and Pomona residents, including the "These are for adults only—not for minors" notices on his tattoo books, body-piercing release forms for minors, and after-care programs undertaken at his business to protect Montclair and Pomona residents.
3. He asserted that he runs a respectable legitimate business and that he does not appreciate the City of Pomona's harassment. Should such harassment continue, he indicated he would file a lawsuit against the City of Pomona.

Mayor Pro Tem Dutrey thanked **Mr. Swidan** for his comments.

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

Council Member Raft reiterated her past comments regarding the restrictions and guidelines under which the business operates and the fact that the City of Pomona failed to address its concerns to the Planning Commission when the matter was first considered. She stated she "has no problem with it" and spoke in support of the business being allowed to continue to operate.

Council Member Ruh commented as follows:

1. He indicated that "on the whole he has no problem with this type of business" and that he does not doubt the sincerity of the owner, his manager, or his employees in "doing the right thing."
2. He advised that the Planning Commission operated in good faith with the information available at the time.
3. He advised that he cannot support this item because the business would not have been permitted to locate so close to the two schools within City of Montclair boundaries.

Council Member Paulitz commented as follows:

1. He stated that the main conflict between the two jurisdictions is that the City granted the CUP because it is a permitted use in the City's C-3 Zoning district and that Pomona would not allow such use in its C-2-designated Zoning district.
2. He noted he was one of the Council Members who made an inspection of the business, adding that a body-piercing business exists directly across from the theater in the City of Pomona.
3. He expressed his understanding that the children are bussed to and from the schools at the site and that the distance between the schools and the business is one third of a mile.
4. He expressed his understanding is that the underlying issue is that the Pomona Unified School District had desired to acquire the entire mall site but had declined to pay market value for it, and that side of the mall was acquired by the Valley Indoor Swap Meet.
5. In his inspection of both sides of the mall, no children were evident at either the school side or swap meet side of the mall.
6. He noted that though security cannot prohibit access by minors, they do a good job of keeping an eye on the place.
7. He spoke in support of upholding the Planning Commission's decision on Case No. 2003-15.

Moved by Council Member Paulitz to affirm the findings of the Planning Commission for granting a CUP for the establishment of a tattoo and body-piercing business at the Valley Indoor Swap Meet to Mr. Raja Swidan under Case No. 2003-15, subject to the conditions of approval imposed by the Planning Commission.

The motion died for lack of a second.

Mayor Pro Tem Dutrey commented as follows:

1. He advised that his biggest issue on this item is that the common corporate boundary of the cities of Montclair and Pomona slices diagonally through the subject building, resulting in one third of the building being located in Montclair and two thirds being located in Pomona. He advised that he cannot support upholding the Planning Commission's decision on this item because the majority of the center lies within City of Pomona boundaries, and that city's zoning laws should be enforced and upheld.

2. Because of the apparent 2-2 vote, he suggested this item be continued to the next regularly scheduled meeting to allow for a full vote of the Council.

Council Member Paulitz asked for the opinion of the City Attorney concerning the outcome of a 2-2 vote on this item.

City Attorney Robbins advised that on a 2-2 vote on a motion to affirm the findings of the Planning Commission, the appeal fails and the Planning Commission's ruling would stand.

Council Member Paulitz concurred with Mayor Pro Tem Dutrey to continue this item for a vote by a full complement of the Council.

Moved by Council Member Paulitz and seconded by Council Member Ruh to continue this item to the regular joint meeting of October 20, 2003.*

Council Member Ruh suggested that dialog be opened with the City of Pomona in an effort to resolve the boundary dispute. He spoke in support of ceding the City's portion of the mall to the City of Pomona.

*Motion carried as follows:

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

B. Approval of Tentative Tract Map No. 16345 for a 35-Lot Subdivision on the West Side of Fremont Avenue South of Mission Boulevard

Mayor Pro Tem Dutrey declared it the time and place set for public hearing to consider Tentative Tract Map No. 16345 for a 35-lot subdivision on the west side of Fremont Avenue south of Mission Boulevard and invited comments from the public.

Mr. Chris Bade, Bade Construction Co., Inc., 77 West Las Tunas Drive, Suite 202, Arcadia, identified himself as the builder of the proposed subdivision as well as the project proposed in the next public hearing item. He advised that he worked closely with City staff and area residents in developing Tentative Tract Map No. 16345, including complying with a resident's request that the proposed 33 single-family homes all be one-story. He spoke favorably about all design aspects of the proposed subdivision.

Mayor Pro Tem Dutrey thanked **Mr. Bade** for his comments.

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

Mayor Pro Tem Dutrey reminded those audience members desiring to address the Council on public hearing items to submit *Speaker Information Cards* and they would be afforded five minutes each to speak on items specified.

Moved by Council Member Paulitz and seconded by Council Member Raft to approve Tentative Tract Map No. 16345 for a 35-lot subdivision on the west side of Fremont Avenue south of Mission Boulevard, subject to the conditions of approval as listed in the agenda report for this item.

Motion carried as follows:

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

C. Approval of Tentative Tract Map No. 16484 for an 18-Lot Residential Subdivision at 4961-4985 Howard Street

Concerning Item No. 10, "Street tree designations for Tract No. 16484 shall be as follows," Subitem (a), "Greycliff Avenue/Coalinga Avenue," City Manager McDougal advised that the *Fraxinus Velutina* 'Modesto' (Modesto Ash) tree would be replaced with *Cupaniopsis Anacardioides* (Cupania/Carrotwood) tree pursuant to a suggestion by Council Member Paulitz.

Mayor Pro Tem Dutrey declared it the time and place set for public hearing to consider Tentative Tract Map No. 16484 for an 18-lot residential subdivision at 4961-4985 Howard Street and invited comments from the public.

Mr. Ron Anthony, 2523 North Mountain Avenue, Claremont, commented as follows:

1. He expressed his opposition to Tentative Tract Map No. 16484 because the masonry wall proposed to be constructed along the Howard Street frontage of the project site might result in a number of negative situations that would affect the quiet enjoyment of existing Howard Street residents in their homes, including, but not limited to, graffiti and poorly and/or unmaintained landscaping, being an eyesore to the entire community, and the sense of being excluded from the community. He expressed his opinion that walls generally serve to either keep negative elements out or in.
2. He took issue with the design elements of the proposed project, with the exception of the Planning Commission's recommended "double cul-de-sac" design of Greycliff Avenue, and the failure of the Planning Commission to address all concerns expressed about the project.
3. He suggested that if the City Council votes to approve this item, that a condition be imposed requiring the builder to post a five-year bond for maintenance of the wall and landscaping; and upon expiration of the five-year term, either the City or neighborhood association would assume maintenance responsibilities.

Mayor Pro Tem Dutrey thanked **Mr. Anthony** for his comments.

Mr. Richard Griffiths, 11212 Greycliff Avenue, Montclair, spoke as a representative of the Citrus tract homeowners. He stated that City Manager McDougal addressed most of the concerns listed on petitions submitted by Citrus tract homeowners, with the exception of drainage. He advised that the City has a serious drainage issue in this area caused by the poor grading design of the Citrus tract in that it forms a damn to the properties to the north and east. He noted if the proposed homes and any future homes are designed to drain onto Greycliff Avenue and south to Grand Avenue, there will be a marked increase in the already existing flooding conditions. He indicated that 60 of the 64 homes in the tract presently drain onto Monte Vista Avenue via Grand Avenue.

Mr. Griffiths stated the drainage issue must first be addressed before further development occurs and that Citrus tract homeowners would be supportive of this and future developments in the area provided they are done wisely.

Mr. Robert Mooneyhan, 11238 Whitewater Avenue, Montclair, commented as follows:

1. He expressed his dissatisfaction with a Planning Commissioner.
2. He took issue with the notification on this item that only served to confuse residents.
3. He spoke in support of the proposed project provided it is planned and designed wisely.
4. He expressed his concern about views from certain Citrus tract homes, including his own, being obscured by the two-story dwellings proposed in this project as well as in the Tentative Tract Map No. 16345 35-lot subdivision approved by the Council this evening. He suggested the Planning Commission consider such issues when reviewing new housing projects.
5. He complained about certain unprofessional comments made by the Planning Commission at recent meetings.

Mayor Pro Tem Dutrey apologized to **Mr. Mooneyhan** for any improper comments made by members of the Planning Commission. He asked that staff address the drainage and two-story dwelling issues raised this evening.

Mr. Chris Bade, Bade Construction Co., Inc., 77 West Las Tunas Drive, Suite 202, Arcadia, identified himself as the builder of the proposed project. He clarified issues related to the revised "double cul-de-sac" design of Greycliff Avenue; the fact that vine screens would be planted to cover the decorative masonry wall proposed to be constructed along the Howard Street frontage of the project site; all individual dwelling landscaping would be subject to the City's Property Appearance Ordinance regulating that landscaping be satisfactorily maintained; and the two-story dwelling design would allow for increased yard areas, affording more room for children's activities. He spoke in support of his proposed project.

Mr. Bade advised Mayor Pro Tem Dutrey that the engineer for the project is present at this meeting and could clarify the drainage issue.

Mayor Pro Tem Dutrey thanked **Mr. Bade** for his comments.

Mr. Ed Eckert, 2028 East Route 66, Suite 203, Glendora, identified himself as the engineer on the proposed project. He expressed his understanding there exists a drainage problem at the site, adding he is willing to work the City staff and neighborhood residents to resolve the issue.

Mayor Pro Tem Dutrey thanked **Mr. Eckert** for his comments.

Mr. Rick Chris, 4913 Manzanita Street, Montclair, stated he has known Mr. Bade for a number of years and spoke in support of the "beautification project" that is proposed. He noted he moved to Montclair in 1983 and spoke in support of the City's improvements over the years. He spoke in support of the work of Bade Construction Co., Inc., indicating that Mr. Bade would be happy to work with residents to their satisfaction.

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

City Engineer Hudson clarified that when the Citrus tract was developed six or seven years ago, it was designed to intercept drainage from the developed and undeveloped land to the north. He indicated that with the development of the new tract, drainage will be modified somewhat and will still drain onto Greycliff Avenue, which, in his opinion, could handle the amount of drainage from a fully developed property to the north as well as any subsequent development to the east. He advised that of greater concern is the overflow of drainage from Howard Street onto the Monte Vista Avenue drainage area extending up to Mission Boulevard. He indicated that staff is currently revising a Citywide drainage master plan based on current hydrology methods used by the San Bernardino County Flood Control District, noting that a storm drain would eventually be installed in Monte Vista Avenue that would probably extend north to Howard Street, with inlets on Howard Street to eliminate the current flooding problem in that area. He discussed the work between staff and the County approximately two to three years ago to get some asphalt work done to mitigate the nuisance flows that developed in the Citrus tract when originally developed that created a significant nuisance problem for the two homes that remained in the County area south of the tract fronting on Monte Vista Avenue. He expressed his confidence that Greycliff Avenue can effectively handle the water flow from the proposed subdivision development as well as any future development.

Mayor Pro Tem Dutrey thanked City Engineer Hudson for his comments.

Mayor Pro Tem Dutrey asked Director of Community Development Clark for clarification on the two-story dwelling issue.

Director of Community Development Clark indicated that to his knowledge, such issue has not been raised. He indicated the proposed subdivision is designed to meet all zoning standards, noting the builder is entitled to build two-story dwellings at the tract.

Mayor Pro Tem Dutrey inquired as follows:

1. Are there any developers interested in submitting proposals for the adjoining tracts?

Director of Community Development Clark responded that there are some developers, including Bade Construction Co., Inc., who have expressed an interest in submitting development proposals for the adjoining tracts. He advised that the subject subdivision contains two stub streets and that Greycliff Avenue will be renamed "Coalinga Avenue" and will become a connector street to serve properties to the east and west. He added there is potential for one of the existing developed properties on Fremont Avenue to be subdivided into six or eight homes that will connect to a new through street. He stated that the neighborhood has been completely planned to allow for an adequate street pattern and infrastructure.

2. What measures are being considered for inclusion in the conditions of approval that would serve to notify homebuyers that Greycliff Avenue would remain as a cul-de-sac but that Saddleback and Clair Streets would become through streets?

Director of Community Development Clark advised that discussions have been held with regard to including a provision in

purchase agreements that stub streets are intended to be continued to eventually connect future developments. He indicated that such provision could be included in the subdivision purchase agreements if the Council so desires.

Mayor Pro Tem Dutrey agreed that including such provision in purchase agreements would serve as adequate future homebuyer notification.

Council Member Ruh stated he has a number of concerns about and expressed his opposition to the proposed project. He suggested this item be continued so a workshop could be conducted to address residents' concerns.

Council Member Raft concurred, noting there are a number of resident concerns that should be addressed and clarified.

Mayor Pro Tem Dutrey asked for a show of affected residents' hands in favor of conducting a workshop with the builder and staff to address residents' concerns.

Discussion centered on an appropriate date to continue this item.

Moved by Council Member Ruh and seconded by Council Member Raft to continue this item to the regular joint meeting of November 3, 2003.

Motion carried as follows:

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

Mayor Pro Tem Dutrey asked that staff arrange a workshop of residents, staff, and the builder.

Council Member Ruh asked to be notified of the date of the workshop. He noted he concurs with comments made by Mr. Anthony regarding walls separating people and expressed his general opposition to walled-in communities.

D. Adoption of Resolution No. 03-2473 Authorizing Recovery of Abatement Costs Incurred by the City Related to Property Owned by Mr. Thomas Rees Located at 10170 Columbine Avenue, Montclair, California

Mayor Pro Tem Dutrey declared it the time and place set for public hearing to consider Resolution No. 03-2473 authorizing recovery of abatement costs incurred by the City related to property owned by Mr. Thomas Rees located at 10170 Columbine Avenue, Montclair, California, and invited comments from the public.

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

Council Member Ruh inquired as follows:

1. Is the subject property owner occupied or rented?

Fire Chief Turner reported that the property is vacant.

2. Did the property owner respond to notifications from the City regarding this matter?

Fire Chief Turner advised there has been no communication from the property owner.

Moved by Council Member Paulitz and seconded by Council Member Raft that the following actions be taken:

1. That Resolution No. 03-2473, 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 10170 Columbine Avenue, Montclair, California,**" be read by number and title only, further reading be waived, and it be declared adopted.
2. That the Council determine that the \$583.72 reimbursement amount be paid to the City of Montclair within ten calendar days of the adoption of Resolution No. 03-2473.

The City Council waived the reading of Resolution No. 03-2473.

Resolution No. 03-2473 was adopted and the Council determined that the \$583.72 reimbursement amount be paid to the City of Montclair within ten calendar days of adoption of Resolution No. 03-2473 by the following vote:

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

E. Second Reading – Adoption of Ordinance No. 03-834 Amending Chapter 11.38 of the Montclair Municipal Code Related to Fences

Mayor Pro Tem Dutrey declared it the time and place set for public hearing to consider Ordinance No. 03-834 amending Chapter 11.38 of the Montclair Municipal Code related to fences and invited comments from the public.

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

Council Member Paulitz reported on the discussion at the September 15, 2003 Code Enforcement Committee meeting concerning pertinent information that should be included in proposed Ordinance No. 03-834. He advised it was the decision of the Committee to recommend the Council consider continuing the public hearing on this item to a first reading.

Moved by Council Member Paulitz and seconded by Council Member Ruh to continue the public hearing on this item to a first reading at the regular joint meeting of November 3, 2003.

Motion carried as follows:

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

VIII. CONSENT CALENDAR

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

Council Member Ruh requested that Items C-3 and C-5 be removed from the Consent Calendar for comment.

Moved by Council Member/Director Paulitz, seconded by Council Member/ Director 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 September 15, 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 September 15, 2003.

B. Administrative Reports

1. Rejection of All Bids Received for Traffic Signal Interconnect Project

Authorization for Staff to Readvertise for Bid Proposals for Traffic Signal Interconnect Project

The City Council took the following actions:

- (a) Rejection of all bids received for the Traffic Signal Interconnect Project.
- (b) Authorization for staff to readvertise for bid proposals for the Traffic Signal Interconnect Project.

2. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated October 6, 2003, totaling \$2,674,319.01, and the Payroll Documentation dated August 24, 2003, amounting to \$506,919.13, with \$350,942.04 being the total cash disbursement.

C. Agreements

1. Approval of Agreement No. 03-132 With Wells Fargo Merchant Services

Authorization to Transfer \$35,000 From the Contingency Account for Banking Services

The City Council took the following actions:

- (a) Approved *Agreement No. 03-132* with Wells Fargo Merchant Services to provide credit and debit card and electronic check payment banking services.
- (b) Authorized transfer of \$35,000 from the Contingency Account for banking services, including setup costs, for the remainder of Fiscal Year 2003-04.

2. Approval of Agreement No. 03-133 Approving State Program Supplemental Agreement No. 947 Related to the Use of Federal Funds for the Safe Routes to Schools Program

Adoption of Resolution No. 03-2471 Authorizing City Engineer Hudson's Execution of Agreement No. 03-133 Approving State Program Supplemental Agreement No. 947 Related to the Use of Federal Funds for the Safe Routes to Schools Program

The City Council took the following actions:

- (a) Approved *Agreement No. 03-133* approving *State Program Supplemental Agreement No. 947* related to the use of federal funds for the Safe Routes to Schools Program.
 - (b) Adopted Resolution No. 03-2471 authorizing City Engineer Hudson's execution of *Agreement No. 03-133* approving *State Program Supplemental Agreement No. 947* related to the use of federal funds for the Safe Routes to Schools Program.
4. **Approval of *Agreement No. 03-136* Approving *State Program Supplemental Agreement No. 002-M1* Related to the Use of Federal Funds for the Traffic Signal Interconnect Project**

Adoption of Resolution No. 03-2475 Authorizing City Engineer Hudson's Execution of *Agreement No. 03-136* Approving *State Program Supplemental Agreement No. 002-M1* Related to the Use of Federal Funds for the Traffic Signal Interconnect Project

The City Council took the following actions:

- (a) Approved *Agreement No. 03-136* approving *State Program Supplemental Agreement No. 002-M1* related to the use of federal funds for the Traffic Signal Interconnect Project.
 - (b) Adopted Resolution No. 03-2475 authorizing City Engineer Hudson's execution of *Agreement No. 03-136* approving *State Program Supplemental Agreement No. 001-M1* related to the use of federal funds for the Traffic Signal Interconnect Project.
6. **Approval of *Agreement No. 03-138* With Southern California Edison for Illuminated Holiday Decorations on Ornamental Street Light Poles**

The City Council approved *Agreement No. 03-138* with Southern California Edison (SCE) for illuminated holiday decorations on SCE-owned ornamental street light poles during the forthcoming holiday season.

D. Resolutions

1. **Adoption of Resolution No. 03-2472 Determining the Status of Local Safety Employee Robert Ellis Steele**

The City Council adopted Resolution No. 03-2472 determining the status of local safety employee Robert Ellis Steele.

3. **Adoption of Resolution No. 03-2476 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges**

The City Council adopted Resolution No. 03-2476 authorizing placement of liens on the properties listed on Exhibit A to the Resolution.

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

3. **Approval of Tract Map No. 16345 Generally Located on the West Side of Fremont Avenue South of Mission Boulevard**

Approval of *Agreement No. 03-135*, a *Subdivision Agree-*

ment With Bade Construction Co., Inc., for Tract Map No. 16345

Authorization of City Engineer Hudson's Reduction and Release of Payment and Performance Bonds Upon Satisfactory Completion of Public Improvements Within Tract Map No. 16345 Public Right-of-Way Areas

Council Member Ruh indicated that for a number of reasons, including the lack of affordable housing being developed in Montclair, he could not support this item. He asked to be provided with **Mr. Chris Bade's** business card so he could further discuss this item with him.

Moved by Council Member Paulitz and seconded by Council Member Raft that the City Council take the following actions:

- (a) Approve Tract Map No. 16345 generally located on the west side of Fremont Avenue south of Mission Boulevard.
- (b) Approve *Agreement No. 03-135, a Subdivision Agreement* with Bade Construction Co., Inc., for Tract Map No. 16345.
- (c) Authorize City Engineer Hudson to reduce and release payment and performance bonds upon satisfactory completion of public improvements within Tract Map No. 16345 public right-of-way areas.

Motion carried as follows:

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

5. Approval of Agreement No. 03-137, a Professional Services Agreement by and Between the City of Montclair Redevelopment Agency and Elizabeth Moule & Stefanos Polyzoides, Architects and Urbanists, Regarding the Fremont Corridor Focus Area

Noting his tour of the excellent high-density work of Elizabeth Moule & Stefanos Polyzoides in Pasadena as well as his recent visits to several high-density developments in different areas of San Diego, Council Member Ruh stated he would be contacting the firm to address his vision for a high-density multifamily housing development over shops below in the Fremont Corridor Focus Area.

Moved by Council Member Ruh, seconded by Council Member Raft, and carried to approve *Agreement No. 03-137, a Professional Services Agreement* by and between the City of Montclair Redevelopment Agency and Elizabeth Moule & Stefanos Polyzoides, Architects and Urbanists, for planning services related to an update of the North Montclair Specific Plan for the Fremont Corridor Focus Area.

D. Resolutions

2. Adoption of Resolution No. 03-2474 Rescinding Resolution No. 03-2430 Designating Restricted Parking on Public Streets and Alleys

Noting she has noticed parking violations occurring in restricted streets and alleyways, Council Member Raft asked if enforcement actions are taking place in these areas.

Council Member Paulitz advised that enforcement is occurring on his street.

City Manager McDougal responded that backup enforcement action documentation could be provided if the Council so desires.

Council Member Raft stated she would be interested in reviewing such data.

Council Member Ruh noted it would be a good idea to inform residents that parking is permitted in these restricted areas on non-street sweeping days.

Moved by Council Member Raft, seconded by Council Member Ruh, and carried to adopt Resolution No. 03-2474 rescinding Resolution No. 03-2430 designating restricted parking on public streets and alleys.

X. RESPONSE

A. Update Regarding Heritage Park Senior Apartments

Mayor Pro Tem/Vice Chairman Dutrey reported there has been no contact from anyone representing the property owners, **AIMCO**, nor the service provider, **New Century Care**, and, to staff's knowledge, there is no new activity to report.

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel

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

Properties: Assessor's Parcel Numbers indicated below:

| <i>APN</i> | <i>Location</i> | <i>Owner</i> | <i>R/W</i> |
|-------------|--|--------------|------------|
| 1012-111-05 | NWC Mission Blvd. and Monte Vista Ave. | Gabae | Easement |
| 1012-111-04 | 10788 Monte Vista Ave. | Willoughby | Easement |
| 1012-111-03 | 4871 State St. | Barco | Easement |
| 1012-111-02 | 4790 Mission Blvd. | Kessler | Easement |
| 1011-301-01 | 10807 Monte Vista Ave. | McDaniel | Easement |
| 1011-301-02 | 10777 Monte Vista Ave. | Dempsey | Fee/Full |
| 1011-301-25 | 10787 Monte Vista Ave. | Dempsey | Fee/Full |
| 1011-301-24 | 10763 Monte Vista Ave. | McCoy | Fee/Full |
| 1011-301-04 | 10751 Monte Vista Ave. | Ealy | Fee/Full |
| 1011-301-05 | 10745 Monte Vista Ave. | Ealy | Fee/Full |
| 1011-301-06 | SEC Monte Vista Ave. and State St. | Medina | Fee/Full |
| 1011-301-07 | SEC Monte Vista Ave. and State St. | Medina | Fee/Full |
| 1012-101-11 | 10632 Monte Vista Ave. | Avalon | Easement |
| 1011-012-03 | 10635 Monte Vista Ave. | Moore | Easement |
| 1011-012-04 | 10625 Monte Vista Ave. | Foreman | Easement |
| 1012-101-15 | N/S Brooks St., W/O Monte Vista Ave. | Kelly | Easement |
| 1012-101-16 | NWC Brooks St. and Monte Vista Ave. | Kelly | Easement |
| 1011-101-03 | 10541 Monte Vista Ave. | TLC | Easement |
| 1011-311-14 | Fire Station No. 2 | Montclair | Easement |
| 1011-311-13 | 4918 W. Mission Blvd. | Chin | Easement |
| 1012-101-07 | 4889 Holt Blvd. | Haserjian | Easement |

Negotiating Parties: City of Montclair and Property Owners as Indicated

Negotiators: City Engineer Hudson and Overland, Pacific & Cutler, Inc., as Real Estate Acquisition Agent for the City

Under Negotiation: Easements and Fee Acquisitions for Right-of-Way Required for the Monte Vista Avenue Grade Separation Project

City Attorney Robbins requested a Closed Session on real property negotiations pursuant to Section 54956.8 of the Government Code on the above 21 matters.

B. City Manager/Executive Director - No Comments

C. Mayor/Chairman - Absent

D. City Council/Agency Board

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

(a) He noted his attendance at the **Montclair Day at the L.A. County Fair** activities, notably the community parade that culminated with the recognition of Human Services Division volunteer **Ms. Ramona Lauderdale** as Montclair's Community Hero 2003. He asked that **Ms. Lauderdale** be presented with a plaque at a future meeting honoring her as Montclair's Community Hero 2003.

(b) Noting he was unable to attend the **Montclair Community Collaborative (MCC)** 7th Anniversary celebration on September 29, 2003, he recognized the organization for all its hard work in the community.

(c) He announced that **Congressman David Dreier** would be facilitating a Guide to Citizenship community forum on October 14, 2003, at 7:00 p.m. in the City Council Chambers in cooperation with the **Bureau of Citizenship and Naturalization Services**.

(d) He announced that this evening's meeting would be adjourned in memory of former City Administrator G. Michael Milhiser's mother, **Mrs. Kyra Norma Milhiser**, and Senior Building Inspector Rudy Gomez's mother, **Mrs. Delores I. Gomez**.

2. Council Member/Director Paulitz commented as follows:

(a) He noted he enjoyed attending on Saturday, October 11, 2003, the well-attended Montclair Police Officers Association (MPOA) *First Annual Pig Day Luau Party* fundraiser held at **Pomona Valley Harley-Davidson/Buell**.

(b) He advised he would be unable to attend the regular joint meeting of October 20, 2003, because he would be attending a **California Fuel Cell Partnership** meeting in Sacramento on behalf of the **South Coast Air Quality Management District**. He noted the meeting would address fuel cell deployment in the state, which is up to 30 to 40 vehicles.

3. Council Member/Director Raft encouraged residents to be sure to vote in tomorrow's important recall election.

4. Council Member/Director Ruh commented as follows:

(a) He noted he was unable to attend the MPOA fundraiser because he was in San Diego giving a presentation at a professional development seminar. He stated he is pleased at the success of the fundraiser.

(b) He noted his attendance on September 20, 2003, at the **Soroptimist International of Montclair/Inland**

Valley fall fundraiser held at the **Pierre Biane Winery**, Rancho Cucamonga. He recognized President **Margaret Grayson** and club members **Laurie Milhiser**, **Virginia Riley**, and **Sue Ovitt** for their hard work throughout the year for this charitable organization.

- (c) He cited a September 9, 2003 *Los Angeles Times* article, which indicated that a minimum wage earner would need to work 103 hours per week to afford rent in San Bernardino County. He added that the federal government stipulates that housing is not affordable if more than 30 percent of gross income is spent on housing. He gave Council Members copies of the article for their information and emphasized the need for affordable housing for lower income families in the community.
- (d) He concurred with adjourning tonight's meeting in memory of **Mrs. Kyra Norma Milhiser**, noting he had requested such memorial upon attending **Mrs. Milhiser's** services. He stated that **Mrs. Milhiser** was dedicated to the community for over 50 years and should be recognized for her many wonderful contributions and involvement. He likewise spoke in support of adjourning tonight's meeting in memory of **Mrs. Delores I. Gomez**.

E. Committee Meeting Minutes

1. Minutes of Public Works Committee Meeting of August 20, 2003

The City Council received and filed the Public Works Committee meeting minutes of August 20, 2003, for informational purposes.

2. Minutes of Personnel Committee Meeting of September 15, 2003

The City Council received and filed the Personnel Committee meeting minutes of September 15, 2003, for informational purposes.

XII. COUNCIL/AGENCY WORKSHOP

A. Update on San Antonio Gateway Project

Moved by Council Member/Director Ruh, seconded by Council Member/Director Raft, and carried to continue this item to an adjourned joint meeting on Monday, November 17, 2003, at 5:45 p.m. in the City Council Chambers.

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

At 8:39 p.m., Vice Chairman Dutrey adjourned the Redevelopment Agency and Montclair Housing Corporation Boards of Directors in memory of **Mrs. Kyra Norma Milhiser**, mother of former City Administrator G. Michael Milhiser, and **Mrs. Delores I. Gomez**, mother of Senior Building Inspector Rudy Gomez.

At 8:39 p.m., the City Council went into Closed Session regarding real property negotiations pursuant to Section 54956.8 of the Government Code.

XIV. CLOSED SESSION ANNOUNCEMENTS

At 9:00 p.m., the City Council returned from Closed Session. Mayor Pro Tem Dutrey announced the City Council met in Closed Session regard-

ing real property negotiations, information was received and direction given to staff, and no further announcements would be made at this time.

XV. ADJOURNMENT OF CITY COUNCIL

At 9:01 p.m., Mayor Pro Tem Dutrey adjourned the City Council in memory of **Mrs. Kyra Norma Milhiser**, mother of former City Administrator G. Michael Milhiser, and **Mrs. Delores I. Gomez**, mother of Senior Building Inspector Rudy Gomez.

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

Yvonne L. Smith
Transcribing Secretary