

MINUTES OF THE REGULAR JOINT MEETING OF
THE MONTCLAIR CITY COUNCIL AND
REDEVELOPMENT AGENCY AND MONTCLAIR
HOUSING CORPORATION BOARDS HELD ON
MONDAY, JANUARY 20, 2004, AT 7:01 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 7:01 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 Jackson

V. PRESENTATIONS – None

VI. PUBLIC COMMENT

A. Ms. Regina Howerton read a statement containing the following:

1. She thanked City Manager McDougal for his timely responses to her recent e-mail correspondence. She indicated she would be contacting Secretary to the City Manager Agajanian this week regarding the City's *Appointment Process Manual*.
2. She asked that the Council wait to respond to her questions as follows until she is through asking them:
 - (a) With regard to Mr. Armstrong's inquiry at the last meeting if the vehicles driven by City Manager McDougal and Mayor Eaton were gratuities and Mayor Eaton's response that he is responsible for paying taxes on any personal

use, she cited the **Webster's Dictionary** definition of "gratuity." She inquired as to the reason Mayor Eaton is required to pay taxes on his usage if the vehicle is not a gratuity and to whom the taxes are paid.

- (b) Noting City Manager McDougal's response that the vehicle is assigned to the Mayor/City Council, she inquired if Council Members are able to use the vehicle and, if so, are they, too, required to pay taxes on such usage.
- (c) She noted that pursuant to the City's Web page, the public is invited to attend City Council/Redevelopment Agency meetings, though it would seem by Mayor Pro Tem Dutrey's comments to **Mr. Armstrong** at the last meeting that Mayor Pro Tem Dutrey does not appreciate certain public comments. She suggested Mayor Pro Tem Dutrey review the **Ralph M. Brown Act** and cited a portion of the **Act**.
- (d) Concerning Mayor Pro Tem Dutrey's statement at the last meeting that in his 28-year residency he has never seen **Mr. Armstrong** shopping or performing community service in Montclair, she told Mayor Pro Tem Dutrey she has yet to see him anywhere other than at these meetings, though she has resided here for 20 years.
- (e) She suggested Mayor Pro Tem Dutrey provide written proof of his residency in Montclair in 1996 to finalize the matter.
- (f) She expressed her hope that Council Member Paulitz would be responding to her previous inquiry about his housing campaign promise in the 1992 election year.
- (g) She offered for the benefit of certain residents the following quotation from the **Reverend Dr. Martin Luther King, Jr.**:

*Our lives begin to end the day we become
silent about things that matter.*

In response to **Ms. Howerton's** inquiry, Mayor Eaton asserted that the vehicle he drives is not a gratuity, that he pays federal taxes on its use, and that other Council Members are welcome to use the vehicle if they so desire.

Further clarification centered on the vehicle assigned to the Mayor's Office.

In response to **Ms. Howerton's** inquiry, Council Member Paulitz clarified his earlier comments regarding his advocacy of single-family development in the City to mean that he is opposed to

future high-density apartment developments. He read a portion of his 1992 Campaign Statement indicating his opposition to building higher density in apartments as well as a statement from his 1992 reelection campaign literature related to protecting our neighborhoods by opposing new apartments and high-density development.

City Manager McDougal further clarified that elected officials and certain employees pay federal taxes on certain benefits, e.g., life insurance that exceeds the federal limit and City-provided vehicles, with the exception of law enforcement or those employees who meet one of two **Federal Tax Code** exceptions.

Further discussion centered on vehicle-commute fees and personal-use taxes.

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

1. He noted that a number of individuals benefited from the information given at the last meeting.
2. With regard to City Manager McDougal's statement at the last meeting concerning the individuals represented by **Mr. Armstrong**, he noted the irony of Mayor Eaton's similar statement in the past concerning community youth's

attendance at these meetings, after which they did begin to attend the meetings until becoming disinterested.

3. He noted that City Manager McDougal's report at the last meeting on the agreement between the Montclair Redevelopment Agency and **Metro Nissan** that provides the two vehicles to the City clarified the matter for a number of people.
4. Concerning Mayor Pro Tem Dutrey's statement at the last meeting that without factual evidence to back him up, **Mr. Armstrong's** accusations are baseless and a waste of the taxpayers' time, he responded "Tough." He added that his comments are not a waste of taxpayers' time because he is repeatedly being asked to represent certain individuals at these meetings.
5. He asserted that pursuant to the **Ralph M. Brown Act**, the Council is a server of the people.
6. He stated, "I think something's wrong here, and I'm going to voice my opinion, like it or not."

C. Ms. Teresa Billingsley commented as follows:

1. She expressed her concurrence with statements made this evening.
2. She reviewed information requested of her by Council Member Paulitz at the last meeting related to the rules surrounding the safest way to transport film while traveling by air to avoid damage by airline X-ray security systems.

VII. PUBLIC HEARINGS

A. Adoption of Resolution No. 04-2486 Authorizing Recovery of Abatement Costs Incurred by the City Related to Property Owned by Ms. Nancy K. Lamb Located at 10582 Oak Glen Avenue, Montclair, California

Mayor Eaton declared it the time and place set for public hearing to consider Resolution No. 04-2486 authorizing recovery of abatement costs incurred by the City related to property owned by Ms. Nancy K. Lamb located at 10582 Oak Glen Avenue, Montclair, California, 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 Paulitz that the following actions be taken:

1. That Resolution No. 04-2486, 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 10582 Oak Glen 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 \$1533.14 reimbursement amount be paid to the City of Montclair within ten calendar days of the adoption of Resolution No. 04-2486.

The City Council unanimously waived the reading of Resolution No. 04-2486.

Resolution No. 04-2486 was adopted and the Council determined that the \$1533.14 reimbursement amount be paid to the City of Montclair within ten calendar days of adoption of Resolution No. 04-2486 by the following vote:

AYES: Ruh, Raft, Paulitz, Dutrey, Eaton

NOES: None

ABSTAIN: None

ABSENT: None

B. Second Reading – Adoption of Ordinance No. 04-842, Pursuant to Chapter 11.84 of the Montclair Municipal Code, Establishing a Prezone Designation of R-1 to Approximately 17.45 Acres and a Prezone Designation of R-2 to Approximately Five Acres Within the City's Sphere of Influence

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 04-842 establishing a prezone designation of R-1 to approximately 17.45 acres and a prezone designation of R-2 to approximately five acres within the City's Sphere of Influence and invited comments from the public.

Mr. Art Saavedra spoke on behalf of his parents who have resided at 11134 Fremont Avenue, Montclair, for over 40 years. He requested that their property be exempt from the area proposed to be annexed.

Noting he spoke regarding this matter at the December 8, 2003 Planning Commission meeting, **Mr. Steve Traylor**, 11118 Fremont Avenue, Montclair, stated he is generally not opposed to the proposed annexation, though he and a number of people who signed a petition would like their properties to be exempt from inclusion in the area to be annexed and prezoned "R-1." He gave the Council copies of the petition signed by these County residents and himself. He advised that he and his neighbors desire to maintain the zoning *status quo* so far as regulations related to pets and animals and septic systems are concerned.

Council Member Paulitz asked Director of Community Development Clark to point out on a map the area requested to be exempt

from the proposed proceedings and to clarify the current County zoning standard.

Director of Community Development Clark responded as follows:

1. He pointed out that the subject area is located on east Fremont Avenue south of Howard Street and is comprised of older rural deep-lot developed properties. He advised that the basis of the 22+-acre area proposed to be annexed is a policy direction from the Local Agency Formation Commission that the original proposed area (2.39 acres requested to be annexed by the applicant proposing to build a nine-unit single-family subdivision on the site) be expanded beyond the subject property proposed to be developed to "square up" the boundary line.
2. He stated that should the proposed annexation and prezone designations take place, the City's R-1 zone would override the current County zone designation for that area and would restrict residents' ability to keep horses and farm animals. In response to the requests made this evening, he clarified that the City's practice is to grandfather such privilege to those families if they are currently legally established in the County to maintain certain animals so long as they maintain such use and keep it current. He added that the City's R-1 development standards would prevail so far as future development is concerned.

Mr. Traylor maintained that the County residents he represents would like to maintain their properties according to current County zoning standards, suggesting that gravel driveways and certain other amenities would not meet City property appearance standards.

Mayor Eaton asked **Mr. Traylor** if he is aware of the sewer connection requirement should septic systems fail.

Mr. Traylor expressed his understanding that failed septic systems can be replaced.

Director of Community Development Clark commented as follows:

1. He advised that if the County determines there is a sanitary sewer line available within 600 feet of a County residence, such residence is required to connect to the sewer line should a septic system fail. He indicated the City encourages such connections because of the health issue surrounding the possibility of nitrates leaching into the water supply from private septic systems.
2. He noted that the City would recognize existing nonstandard development conditions at the residences requested to be grandfathered.

Mr. Traylor requested such recognition be documented in writing for the records of participating County residents.

Director of Community Development Clark advised that the properties could be inventoried and documented for recording purposes.

Mr. Traylor stated, "OK."

Mayor Eaton suggested this item be delayed until such documentation is completed.

In the absence of the applicant this evening to determine his position concerning a delay, City Manager McDougal expressed his support in completing such documentation prior to action being taken on this item for the benefit of the residents requesting their properties to be grandfathered related to documentation of animal privileges and recognition of existing nonstandard development conditions.

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

Moved by Council Member Ruh, seconded by Council Member Raft, and carried unanimously to continue this item to February 17, 2004.

VIII. CONSENT CALENDAR

City Manager McDougal requested that Item B-1, "Consider Setting a Public Hearing to Consider Resolution No. 04-2488 Requesting the Local Agency Formation Commission Initiate Proceedings for Reorganization to Include City of Montclair Annexation No. 23 and Detachment From the Monte Vista Fire Protection District," be withdrawn from the Consent Calendar because of its relationship to the prior public hearing item to be returned February 17, 2004.

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

A. Approval of Minutes

1. Minutes of Adjourned Joint Council/Agency Meeting of January 5, 2003

The City Council and Redevelopment Agency Board approved the minutes of the Adjourned Joint City Council/Redevelopment Agency meeting of January 5, 2003.

2. Minutes of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of January 5, 2004

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 5, 2004, as amended.

B. Administrative Reports

2. Setting a Public Hearing to Consider Adoption of Ordinance No. 04-844 Amending Section 8.32.10 of Title 8 of the Montclair Municipal Code Related to Maximum Speed Limits

The City Council set a public hearing for Monday, February 2, 2004, at 7:00 p.m. in the City Council Chambers to consider adoption of Ordinance No. 04-844 amending Section 8.32.10 of Title 8 of the Montclair Municipal Code related to maximum speed limits.

3. Acceptance of Grant Deed No. 1619 for the Purpose of Maintenance and Use of Sidewalks and Appurtenances

The City Council accepted Grant Deed No. 1619 for right-of-way dedication of property located on the south side of Arrow Highway at the new Chino Valley Fuel site for maintenance and use of sidewalks and appurtenances in the provision of handicap accessibility around the drive approaches to the property.

4. Authorizing Purchase of Six Digital In-Car Video Recording Systems

Declaring Nine Obsolete Mobile Vision In-Car Video Systems Removed From Patrol Vehicles as Surplus

Designating Proceeds From the Sale of Surplus Mobile Vision In-Car Video Systems for Purchase of One Additional Digital In-Car Video Recording System

The City Council took the following actions:

- (a) Authorized purchase of six digital in-car video recording systems.
- (b) Declared nine obsolete Mobile Vision in-car video systems removed from patrol cars as surplus.
- (c) Designated proceeds from the sale of surplus Mobile Vision in-car video systems for purchase of one additional digital in-car video recording system.

5. Receiving and Filing of City Treasurer's Report

The City Council received and filed the City Treasurer's Report for the month ending December 31, 2003.

6. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated January 20, 2004, totaling \$965,230.24, and the Payroll Documentation dated December 14, 2003, amounting to \$637,954,285, with \$437,277.61 being the total cash disbursement.

7. Receiving and Filing of Agency Treasurer's Report

The Redevelopment Agency Board received and filed the Redevelopment Agency Treasurer's Report for the month ending December 31, 2003.

8. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 12/01/2003–12/31/2003 in the amounts of \$10,384.56 for Project I; \$287.50 for Project II; \$378,940.01 for Project III; \$346,287.57 for Project IV; and \$614,926.33 for Project V.

9. Receiving and Filing of Montclair Housing Corporation Treasurer's Report

The Montclair Housing Corporation (MHC) Board received and filed the MHC Treasurer's Report for the month ending December 31, 2003.

10. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 12/01/2003–12/31/2003 in the amount of \$16,264.86.

C. Agreements

1. Approval of *Agreement No. 04-05* Between Inland Empire Utilities Agency and the Cities of Chino, Chino Hills, Fontana, Montclair, Ontario, and Upland and the Cucamonga Valley Water District for Sanitary Sewer Over-flow Response Mutual Aid

The City Council approved *Agreement No. 04-05* between Inland Empire Utilities Agency and the cities of Chino, Chino Hills, Fontana, Montclair, Ontario, and Upland and the Cucamonga Valley Water District for sanitary sewer overflow response mutual aid.

D. Resolutions

1. Adoption of Resolution No. 04-2489 Supporting the Efforts of the West End Communications Authority (WECA) to Secure Federal Funding for the Radio Interoperability Improvement Project

The City Council adopted Resolution No. 04-2489 supporting the efforts of WECA to secure funding for the Radio Inter-

operability Improvement Project.

IX. PULLED CONSENT CALENDAR ITEMS – None

X. RESPONSE – None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel – No comments

B. City Manager/Executive Director – No comments

C. Mayor/Chairman

1. Mayor/Chairman Eaton noted his attendance during the month at various Board meetings countywide with no major updates to report.

D. City Council/Agency Board

1. Council Member/Director Paulitz commented as follows:
 - (a) He thanked **Ms. Teresa Billingsley** for her thorough research and report on protective air travel film transport and for providing him a copy of the information. He advised the public to hand carry unprocessed film during air travel.
 - (b) He noted his delight in attending the dedication on January 14, 2004, for the **Chino Basin Water Conservation District's** California Native Oak Grove Project. He noted he is pleased that the proposed planting of a variety of oak trees around the picnic area of Wilderness Park would result in a nice shady oak grove at the site in another 10 to 15 years.
2. Mayor Pro Tem/Vice Chairman Dutrey stated he is pleased with the **San Bernardino County Board of Supervisors'** unanimous interim appointment of **Mrs. Patti Aguiar** to replace her husband as the Fourth District representative on the Board. He stated he looks forward to working with the intelligent and pleasant **Mrs. Aguiar** on future projects.
3. Council Member/Director Ruh commented as follows:
 - (a) He noted his attendance as a member of the **Chaffey College Foundation** at its *2nd Annual Telethon* last weekend, which raised over \$160,000 in scholarships for approximately 320 students. He noted the participation at the event of **Inland Valley Daily Bulletin** Publisher **Mr. Bob Balzer**, well-known attorney and Field Representative for **Assembly Member Bob Dutton John D. Mannerino**, Esquire, and business leader and *Talk of the Inland Empire* host **Mr. Ron Stark**. He added that **Ms. Sherry Moore**, **RC Photography**, **Ms. Sandy Forney**, **Impressions Gourmet Catering**, and he were pleased to provide behind-the-scenes support for this worthwhile event.

- (b) He noted the recent passing of **Mrs. Irene Vodvarka**, mother of Planning Commissioner Don Vodvarka.
- (c) He noted the passing over the weekend of **Mr. Robert Soto**, son of **Senator Nell Soto**, adding that his services will be held tomorrow.
- (d) He noted he has personally wished newly appointed **Fourth District Supervisor Patti Aguiar** good luck and success during her interim service on the Board.

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of January 5, 2004

The City Council received and filed the Personnel Committee meeting minutes of January 5, 2004, for informational purposes.

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

At 7:41 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors in memory of **Mr. Robert Soto**, beloved son of **Senator Nell Soto**.

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

Yvonne L. Smith
Transcribing Secretary