

MINUTES OF THE REGULAR JOINT MEETING OF THE
MONTCLAIR CITY COUNCIL AND REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION, BOARDS HELD ON MONDAY, FEBRUARY 17, 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

Council Member/Director Ruh gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Mayor/Chairman Eaton 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. **Mr. Ronald Armstrong**, 5601 Deodar Street, Montclair, asked for information about the City's proposed San Antonio Gateway project, including how long the project has been in the planning stages and if the City owns the majority of property being considered in the scope of the project. He expressed his understanding that **Mr. Gary Sherman** owns property to be included in the project area and that the former **Raft** residence is also included.

City Manager McDougal surmised that the inquiry into the proposed San Antonio Gateway development either stems from a lack of a conceptual understanding of the project or suggests that the project's validity is being questioned. He reported the following regarding the San Antonio Gateway project:

1. It is a planning project similar to the North Montclair Downtown Plan in that the area presents unique challenges requiring special planning and zoning considerations to bring it into the 21st Century, which is the City's goal.
2. The Redevelopment Agency has acquired several parcels in the project's general area averaging approximately 10 to 15 percent of the project's scope and more than likely less than 10 percent.
3. The **Rafts** control property in the project's planning area. The Redevelopment Agency has not approached the **Rafts** or the

site owner regarding acquisition nor is it the Agency's immediate intent to do so.

4. The survey area of the project was established at least four or five years ago at the direction of the Council as an area in need of revitalization.
5. It is thought **Mr. Sherman** still owns property in the project area; and he has not been contacted about the property, which is presently not being considered for immediate development.

Council Member Raft clarified that she and her family have no vested interest in their former residence and business on Amherst Avenue.

VII. PUBLIC HEARINGS

- A. **Redevelopment Agency Board of Directors' Adoption of Resolution No. 04-02 Approving and Authorizing Execution of Agreement No. 04-14, a *Housing Rehabilitation Agreement and Lease* by and Between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation Concerning the Properties Located at 10330, 10380, 10390, and 10410 Amherst Avenue, 9855 Central Avenue, and 9448 Carrillo Avenue**

Montclair Housing Corporation Board of Directors' Approval of *Agreement No. 04-26* Approving Promissory Note No. 04-1, in the Amount of \$25,000, by and Between the Montclair Housing Corporation and the City of Montclair Redevelopment Agency

Chairman Eaton declared it the time and place set for public hearing for the Redevelopment Agency Board to consider Resolution No. 04-02 approving and authorizing execution of *Agreement No. 04-14, a Housing Rehabilitation Agreement and Lease* by and between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation concerning the properties at 10330, 10380, 10390, and 10410 Amherst Avenue, 9855 Central Avenue, and 9448 Carrillo Avenue and for the Montclair Housing Corporation Board to consider approval of *Agreement No. 04-26* approving Promissory Note No. 04-1, in the amount of \$25,000, by and between the Montclair Housing Corporation and the City of Montclair Redevelopment Agency and invited comments from the public.

There being no one in the audience wishing to speak, Chairman Eaton closed the public hearing and returned the matter to the Redevelopment Agency and Montclair Housing Corporation Boards for their consideration.

Chairman Eaton inquired as to the physical location of 9855 Central Avenue.

Director of Redevelopment/Public Works Staats responded that it is

situated just north of La Cita restaurant.

Moved by Vice Chairman Dutrey and seconded by Director Paulitz that the following actions be taken:

1. That Resolution No. 04-02, entitled "**A Resolution of the City of Montclair Redevelopment Agency Approving and Authorizing Execution of Agreement No. 04-14, a Housing Rehabilitation Agreement and Lease by and Between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation,**" be read by number and title only, further reading be waived, and it be declared adopted by the Redevelopment Agency Board.
2. That the Montclair Housing Corporation Board approve *Agreement No. 04-26* approving Promissory Note No. 04-1, in the amount of \$25,000, by and between the Montclair Housing Corporation and the City of Montclair Redevelopment Agency.

The Redevelopment Agency Board unanimously waived the reading of Resolution No. 04-02.

The Redevelopment Agency Board adopted Resolution No. 04-02 and the Montclair Housing Corporation Board approved *Agreement No. 04-26* jointly 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. Steve Traylor, 11118 Fremont Avenue, Montclair, reiterated that he and his neighbors who would be affected by the proposed annexation are generally not opposed to such action, though they would like to maintain any existing nonstandard conditions pursuant to present County zoning/development codes, including animals, that are nonconforming at the time of annexation of their properties to the City. He advised that he and his neighbors are requesting written authorization of the City's acceptance of these conditions. He noted receiving assurance from Director of

Community Development Clark that such conditions have been documented and filed. He further noted receiving zoning information from the County related to animals and fence regulations, though not on property appearance.

Mayor Eaton asked **Mr. Traylor** if his neighbors have an understanding of this issue.

Mr. Traylor concurred, noting that Director of Community Development Clark personally spoke to all County residents concerned about the annexation.

City Manager McDougal advised that all pertinent documentation would be disseminated to the residents.

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 Ruh inquired as follows:

1. Would annexed County properties be subject to the City's Property Appearance Ordinance landscape requirements?

Director of Community Development Clark advised that such would be a policy decision of the Council, adding that certainly if the property were deemed a nuisance with regard to landscape maintenance it would be subject to the City's nuisance codes. He indicated that any relandscaping of annexed properties would be subject to the Property Appearance Ordinance.

2. Would County properties not in compliance with the Property Appearance Ordinance be required to comply once annexation occurs?

City Manager McDougal answered, "Under most circumstances, yes...unless there is an exclusion adopted by the City Council, then any annexed property in the City of Montclair would fall under the Montclair Municipal Code."

3. Would County residents be allowed to park their cars on their front lawns once their properties are annexed?

City Manager McDougal answered, "Unless there is an exception granted by the City Council, then all annexed properties would fall under the jurisdiction of the Montclair Municipal Code," noting the exception that allows vehicles to be parked on front lawns for a reasonable period of time while being washed or waxed.

Council Member Ruh expressed his understanding that **Mr. Traylor's** desire to maintain existing nonstandard conditions pursuant to present County zoning/development codes would not

be granted upon annexation of the proposed area. He gave as an example that recreational vehicle parking is allowed on unpaved surfaces in the County and not in the City. He inquired if, in the future, an owner acquires a recreational vehicle, would he be required to park it on a paved surface.

Director of Community Development Clark answered, "Not necessarily," adding that such would be the case only if the vehicle is parked within the front-yard setback. He stated that many of the properties in question are deep lots that have ample room to park such vehicles in the rear-yard setback.

Council Member Ruh asked hypothetically if **Mr. Traylor** would be allowed to keep four horses on his property if they were acquired once annexation had already taken place.

Director of Community Development Clark advised that if the proposed rezoning is approved and the subsequent proposed annexation is approved, such use would have to have been established on the property or be subject to City codes. He indicated the exception would be if the Council decides to adopt the County's zoning codes regulating animals for that one-block area, which would be highly impractical.

Council Member Ruh received further clarification that such continuing use at a specific property would be allowed so long as four horses are not absent from the property for longer than a six-month period.

Council Member Ruh spoke on behalf of the County residents who wish to maintain their current standard of life but are being forced into having their properties annexed to the City because of the development proposed for the site. He deemed such proposed action "wrong."

Mayor Pro Tem Dutrey received clarification on developable parcels within the subject site and the fact that the residential properties in question would remain narrow deep lots unless a developer receives substantial cooperation from those property owners to make a change.

Mr. Traylor reiterated that he and his neighbors who signed the petition submitted to the City would request that the Council adopt existing nonstandard condition exclusions for their properties. He indicated the residents have no issue with taxes or property development for profit. He asserted that he enjoys living in his neighborhood and does not "want to be forced out."

Council Member Paulitz commented that the residents would only be affected by the City's utility tax, noting the County chose to charge municipalities booking fees rather than impose utility taxes. He expressed his opinion that staff has done well to allow existing infrastructure uses as "legal nonconforming" uses. He

further expressed his opinion that the property owners would reasonably maintain their properties, which are their biggest assets and investments in life. He spoke in favor of the item with the understanding that all nonconforming uses would be recorded. He received confirmation from Director of Community Development Clark that County zoning codes related to animals are being included in the records for each of the subject properties.

Council Member Raft received confirmation from Director of Community Development Clark that all existing nonstandard uses would be documented at the time of annexation and such uses would be allowed to continue.

Director of Community Development Clark advised that smaller nuisance and parking issues that would affect the appearance or value of the neighborhood would be regulated by City codes, which should not create a burden or encumbrance on any of the subject properties.

Council Member Raft received confirmation that the affected residents understand what has been discussed this evening related to the grandfathering in of all documented nonstandard uses.

Director of Community Development Clark advised that the residents understand the City is not attempting to impose its will on them.

Council Member Ruh expressed his opinion that not all the County residents' questions have been answered. He suggested the item be continued so all residents' issues can be addressed.

Moved by Council Member Paulitz and seconded by Mayor Pro Tem Dutrey that Ordinance No. 04-842, entitled "**An Ordinance of the City Council of the City of Montclair Approving Prezone Designations of R-1 (Single-Family Residential) and R-2 (Two-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 second reading.*

The City Council unanimously waived the reading of the Ordinance.

Noting he traverses the subject neighborhood on a daily basis traveling to and from work, Mayor Pro Tem Dutrey complimented the County residents in attendance at this meeting on their beautiful homes. He advised County residents to address any pertinent issues with staff prior to the proposed annexation of the subject area to the City.

*Second Reading of Ordinance No. 04-842 was adopted by the following ROLL CALL vote:

AYES: Raft, Paulitz, Dutrey, Eaton

NOES: Ruh

ABSTAIN: None

ABSENT: None

C. Second Reading – Adoption of Ordinance No. 04–844 Amending Section 8.32.10 of Title 8 of the Montclair Municipal Code Related to Maximum Speed Limits

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 04–844 amending Section 8.32.10 of Title 8 of the Montclair Municipal Code related to maximum speed limits 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 Ruh that Ordinance No. 04–844, entitled "**An Ordinance of the City Council of the City of Montclair Amending Section 8.32.10 of Title 8 of the Montclair Municipal Code Relating to Maximum Speed Limits,**" be read by number and title only, further reading be waived, and this be declared its second reading.

The City Council unanimously waived the reading of the Ordinance.

Second Reading of Ordinance No. 04–844 was unanimously adopted by the following ROLL CALL vote:

AYES: Ruh, Raft, Paulitz, Dutrey, Eaton

NOES: None

ABSTAIN: None

ABSENT: None

D. First Reading – Adoption of Ordinance No. 04–845 Repealing Sections 9.24.260 Through 9.24.430 and Adding Sections 9.24.260 Through 9.24.400 of Chapter 9.24 of the Montclair Municipal Code Related to the City Storm Drain System

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 04–845 repealing Sections 9.24.260 through 9.24.430 and adding Sections 9.24.260 through 9.24.400 of Chapter 9.24 of the Montclair Municipal Code related to the City Storm Drain System 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.

Mayor Pro Tem Dutrey asked the outcome should the Council decide not to approve the proposed revisions to the City Storm Drain System regulations pursuant to new requirements of the California Regional Water Quality Control Board.

City Manager McDougal responded that the City would be in violation of its National Pollution Discharge Elimination System permit and would be heavily fined.

Council Member Ruh recused himself from this item because of a potential conflict of interest related to his serving as a member of the Santa Ana Regional Water Quality Control Board.

For the record, Mayor Eaton advised that Council Member Ruh has recused himself from this item because of a potential conflict of interest related to his membership on the Santa Ana Regional Water Quality Control Board.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Raft that Ordinance No. 04-845, entitled "**An Ordinance of the City Council of the City of Montclair Repealing Sections 9.24.260 through 9.24.430 and Adding Sections 9.24.260 Through 9.24.400 of Chapter 9.24 of the Montclair Municipal Code Related to the City Storm Drain System,**" be read by number and title only, further reading be waived, and this be declared its first reading, noting Council Member Ruh's abstention from voting on this item.

The City Council unanimously waived the reading of the Ordinance.

First Reading of Ordinance No. 04-845 was adopted by the following vote:

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

VIII. CONSENT CALENDAR

Council Member Paulitz requested that Items A-1, B-4, C-3, and D-2 be removed from the Consent Calendar for comment.

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

B. Administrative Reports

1. **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 Detach-ment From Monte Vista Fire Protection District**

The City Council set a public hearing for Monday, March 1, 2004, at 7:00 p.m. in the City Council Chambers 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 Monte Vista Fire Protection District.

2. Setting a Public Hearing to Consider Resolution No. 04-2495 Adjusting Taxicab Service Rates in the City of Montclair

The City Council set a public hearing for Monday, March 1, 2004, at 7:00 p.m. in the City Council Chambers to consider Resolution No. 04-2495 adjusting taxicab service rates in the City of Montclair.

3. Setting a Public Hearing to Prioritize Funding for Fiscal Year 2004-05 Community Development Block Grant Projects

The City Council set a public hearing for Monday, March 1, 2004, at 7:00 p.m. in the City Council Chambers to consider prioritizing funding for Fiscal Year 2004-05 Community Development Block Grant projects.

5. Approval of Filing of *Notice of Completion*, Reduction of *Faithful Performance Bond* to 10 Percent, and Six-Month Retention of *Payment Bond* Related to Completion of the Engineering Department Remodel Project

The City Council approved the following actions related to completion of the Engineering Department Remodel Project:

- (a) The filing of a *Notice of Completion* with the Office of the San Bernardino County Recorder.
- (b) Reduction of the *Faithful Performance Bond* to 10 percent.
- (c) Retention of the *Payment Bond* for six months.

6. "No Action" on Alcoholic Beverage Permit Application - Sunshine Market

The City Council voted "No action" on the "Off-Sale Beer and Wine" license application of Ngam Chheng for Sunshine Market, 10295 Mills Avenue, Montclair, California.

7. Receiving and Filing of City Treasurer's Report

The City Council received and filed the City Treasurer's Report for the month ending January 31, 2004.

8. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated February 17, 2004, totaling \$660,968.80, and the Payroll Documentation dated January 11, 2004, amounting to

\$502,483.67, with \$341,643.61 being the total cash disbursement.

9. 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 January 31, 2004.

10. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 1/01/2004–1/31/2004 in the amounts of \$11,396.24 for Project I; \$138.79 for Project II; \$114,585.41 for Project III; \$65,698.87 for Project IV; and \$101,557.60 for Project V.

11. 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 January 31, 2004.

12. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 1/01/2004–1/31/2004 in the amount of \$36,629.83.

C. Agreements

1. Approval of *Agreement No. 04–15* With the City of Ontario for the Resurfacing of Benson Avenue Between Moreno and Orchard Streets

Authorization of a \$95,000 Appropriation from the Gas Tax Fund

The City Council took the following actions related to the resurfacing of Benson Avenue between Moreno and Orchard Streets:

- (a) Approved *Agreement No. 04–15* with the City of Ontario.
- (b) Authorized a \$95,000 appropriation from the Gas Tax Fund.

2. Approval of *Agreement No. 04–16* With Aether Systems, Inc., for Purchase of Fire Records Management Software

Authorization to Transfer \$18,396 From the Contingency Account for Purchase of Fire Records Management Software

The City Council took the following actions related to the

purchase of fire records management software:

- (a) Approved *Agreement No. 04-16* with Aether Systems, Inc.
- (b) Authorized transfer of \$18,396 from the Contingency Account.

4. Approval of *Agreement No. 04-18, an Agreement for Planning Services* by and Between the City of Montclair Redevelopment Agency and L. D. King, Inc.

The City Council approved *Agreement No. 04-18, an Agreement for Planning Services* by and between the City of Montclair Redevelopment Agency and L. D. King, Inc.

5. Redevelopment Agency Board of Directors' Approval of *Agreement Nos. 04-19 Through 04-25, Rehabilitation Grant Agreements* by and Between the City of Montclair Redevelopment Agency and Exterior Housing Improvement Program Participants

The Redevelopment Agency Board approved *Agreement Nos. 04-19 through 04-26, Rehabilitation Grant Agreements* by and between the City of Montclair Redevelopment Agency and the seven Exterior Housing Improvement Program participants listed on Exhibit A to the agenda report on this item.

D. Resolutions

1. Adoption of Resolution No. 04-2492 Rescinding Resolution No. 03-2474 Designating Restricted Parking on Public Streets and Alleyways

The City Council adopted Resolution No. 04-2492 rescinding Resolution No. 03-2474 designating restricted parking on public streets and alleyways.

IX. PULLED CONSENT CALENDAR ITEMS

A. Approval of Minutes

1. Minutes of Regular Joint Council/Agency/Montclair Housing Corporation/Montclair Financing Authority Meeting of February 2, 2004

Council Member/Director Paulitz requested the following change to Section XI, "Communications," Item D-1(c), of the regular joint meeting minutes of February 2, 2004:

He noted speaking to newly elected Highland Mayor Ross B. Jones, adding that three members

Deleted: Penny Lilburn, who serves as Executive Director of the Highland senior center,

Deleted: Mayor Pro Tem Ray Rucker and Council Member Steve Graves

of the Council were recalled as a result of the January 13, 2004 election.

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Moved by Council Member/Director Paulitz, seconded by Mayor Pro Tem/Vice Chairman Dutrey, and carried unanimously to approve the minutes of the Regular Joint City Council/Redevelopment Agency Board/Montclair Housing Corporation Board/Montclair Financing Authority Board meeting of February 2, 2004, as amended.

B. Administrative Reports

4. Acceptance of Housing Improvement Task Force *Action Plan 2004* and Authorizing Staff to Pursue Recommendations Described Therein

Council Member Paulitz inquired as follows:

- (a) Referencing Section B, "Foundation Area 9: Amherst Avenue," on page 9 of the *Action Plan*, he asked when the other four Agency-owned apartment buildings on Amherst Avenue might be improved.

Director of Redevelopment/Public Works Staats responded that improvements have already been completed on those units.

- (b) Referencing Section D, "Exterior Housing Improvement Program," on page 12 of the *Action Plan*, he asked why the program does not meet Health and Safety Code Section 33413(b) housing requirements.

Director of Redevelopment/Public Works Staats responded that recent changes to the law require deed-restricted covenants for affordability that restrict usage of Housing Fund moneys for non-Health and Safety Code improvements, such as landscaping.

Council Member Paulitz expressed his opinion that the Redevelopment Agency is accomplishing much to improve housing for which it is not receiving credit.

Director of Redevelopment/Public Works Staats concurred, noting the Agency is providing landscaping improvements to these properties using unrestricted Redevelopment Agency funds and painting improvements with Housing Fund moneys.

Moved by Council Member Paulitz and seconded by Mayor Pro Tem Dutrey to accept Housing Improvement Task Force *Action Plan 2004* and authorize staff to pursue recommendations contained therein.*

Mayor Pro Tem Dutrey asked if there is close to 100 percent property owner participation for the formation of an owner's association in one or all three subareas of Foundation Area 11.

Director of Redevelopment/Public Works Staats advised that there probably would not be full participation in all three subareas initially, though Subarea A will likely have full participation in the near future.

Mayor Pro Tem Dutrey stated he continues to be impressed with each subsequent *Action Plan* report on the progress being made in the City to improve the housing stock and provide low- to moderate-income housing for our residents. He commented that the Exterior Housing Improvement Program has done much to beautify City neighborhoods and increase property values for the benefit of our residents.

Citing the *Montclair Police Department Calls for Service* table on page 2 of Appendix 2, Council Member Paulitz noted the disturbing increase in service calls in 2003 as compared to 2000 in Foundation Areas 1, 5, 8, and 9. He asked Police Chief Thompson to comment on the subject.

Police Chief Thompson stated he would research the trend and report back to the Council. He noted the trend state- and citywide is that crime is somewhat on the rise. He reported that auto thefts have increased substantially in both San Bernardino and Los Angeles counties.

Noting the improvements made to deter crime in alleyways, including vacating and gating alleys, improving garages, and installing fencing, Council Member Paulitz asked Police Chief Thompson for further suggestions to reduce crime in the Foundation Areas.

Police Chief Thompson stated he would research the matter and report back to the Council.

Mayor Pro Tem Dutrey noted that the veteran Police Officers who conducted his ride-alongs have observed a marked decrease in crime in those areas over the past 20 years.

Police Chief Thompson concurred that the improvements have made a substantial difference to the areas, though the numbers show an increase in certain types of crimes.

Council Member Ruh noted the national studies; the local, regional, and statewide trends; and what he has read from several antipoverty organizations and advocates for low- to moderate-income families that indicate when the economy declines, low- to moderate-income families tend to be victimized more.

*Motion carried as follows:

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

C. Agreements

3. Approval of *Agreement No. 04-17, a Lease Agreement by and Between the City of Montclair Redevelopment Agency and Montclair Town Center, LLC, a Delaware Limited Liability Corporation, on Behalf of the Montclair Chamber of Commerce's Lease of the Office Suite Located at 5220 Benito Street*

Council Member Paulitz asked the present lease rate for the office space.

Director of Redevelopment/Public Works Staats responded, "Ninety-eight cents."

Moved by Council Member Paulitz and seconded by Council Member Ruh to approve *Agreement No. 04-17, a Lease Agreement* by and between the City of Montclair Redevelopment Agency and Montclair Town Center, LLC, a Delaware Limited Liability Corporation, on behalf of the Montclair Chamber of Commerce's lease of the office suite located at 5220 Benito Street.*

City Manager McDougal advised that revisions proposed by the City Attorney to pages 2, 9, and 14 of proposed *Lease Agreement No. 04-17* were given to the Council at the start of tonight's meeting. Such revisions are listed below and entered into the record as follows:

Page 2:

1.13 Minimum Annual Rental:

Months Following Commencement Date	Dollars Per Square Foot Per Month	Dollars Per Annum	Dollars Per Month
Year 1	\$1.00	\$16,332.00	\$1,361.00

Rent shall increase annually by the Consumer Price Index not to exceed three percent (3%) per annum.

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2 \$1.03 \$16,821.96 \$1,401.83

Page 9:

7. RENTAL

7.1 Minimum Annual Rental

...Commencing on the second anniversary of the Commencement Date and annually thereafter, the amount of monthly Minimum Annual Rental shall be increased (but not decreased) during the Term, to reflect any increase in the Index (defined in Section 27.21) from the Commencement Date. The Index published for the month three months immediately preceding the Commencement Date shall be considered the "Base Month." At each adjustment date, the Minimum Annual Rental shall be adjusted by the percentage increase, if any, (but not decreased) in the Index for the month three months immediately preceding each adjustment date. Said increase shall not exceed three percent (3%) per annum.

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Page 14:

9. TAXES

9.1 Real Property Taxes

...(c) Tenant shall pay to Landlord the Taxes allocable to the Premises. If the Premises and underlying realty are part of a larger parcel for assessment purposes or are within a multi-level building ("larger parcel"), Tenant's share of the Taxes shall be determined by multiplying all of the Taxes on the larger parcel, excluding Taxes on the "Common Area" (as defined in Section 13.1), by a fraction, the numerator of which shall be the Floor Area of the Premises and the denominator of which shall be the Floor Area in the larger parcel which is occupied as of the commencement of the applicable calendar or fiscal year, exclusive of the Common Facilities. To the extent that Taxes are the obligation of Tenant pursuant to Section 13 (Common Area Expenses), they shall not be includable in Tenant's proportionate share pursuant to this Section 9.1.

(d) Notwithstanding the foregoing, the parties agree that the only taxes to be paid by the tenant are those included in the Common Area Expenses set forth at paragraph 13.5.

*Motion carried as follows:

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

D. **Resolutions**

2. **Adoption of Resolution No. 04-2493 Supporting Proposi-**

**tion 57, the Economic Recovery Bond, and Proposition 58, the
Balanced Budget Act**

Realizing the state's budget dilemma, Council Member Paulitz expressed his concern, considering the economic recovery bonds proposed in Proposition 57 would be paid for by proceeds raised through the Fiscal Recovery "Triple Flip" Fund that confiscates sales tax revenues from local governments, that support of Propositions 57 and 58 would not be in the City's best interest.

Council Member Ruh concurred, stating he has an issue regarding support of a bond measure to pay for past state deficits. He emphasized that a \$10.5 billion bailout bond issue was passed and is now being held up in court. He stated that the root of the state budget deficit could be traced to energy deregulation that received bipartisan support.

Council Member Paulitz spoke in opposition to the proposed one-quarter cent local sales tax revenue diversion to service the debt. He stated he could not support this item.

Council Member Ruh concurred.

Mayor Pro Tem Dutrey expressed his understanding of his colleagues' concerns while noting the state budget crisis. He expressed his concern of the further losses to local government and redevelopment agencies should these measures not pass. He expressed his support of Proposition 58 as the "lesser of two evils" and as a means of giving the state, and therefore local government, some fiscal relief.

Mayor Eaton noted that since recovering from his surgery, he has been voting absentee and has already cast his ballot for the March Presidential Primary. Noting he has given Propositions 57 and 58 considerable thought, he concurred with comments made by Mayor Pro Tem Dutrey about the state's budget crisis and stated he supported the measures.

Council Member Raft stated it is a "no-win" situation and opposed the support of Propositions 57 and 58.

Moved by Mayor Pro Tem Dutrey, seconded by Council Member Paulitz, and carried unanimously that no further action be taken on this item.

X. RESPONSE – None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel

1. **Closed Session Pursuant to Section 54956.9(a) of the Government Code Regarding Real Property Negotiations**

House to Home v. City of Montclair

City Attorney Robbins requested a Closed Session on the above matter pursuant to Section 54956.9(a) of the Government Code

B. City Manager/Executive Director

1. City Manager/Executive Director McDougal clarified that Consent Calendar Item D-2 was missing a sentence explaining that the item was presented for Council consideration at the request of the San Bernardino County Board of Supervisors.

C. Mayor/Chairman

1. **Announcement of Appointment of West Valley Mosquito and Vector Control District Board Member**

Mayor Eaton announced the reappointment of **Ms. Isabel Briones** to a four-year term on the **West Valley Mosquito and Vector Control District** ending January 2, 2008. He thanked **Ms. Briones** for her continued service to the City.

D. City Council/Agency Board

1. Council Member/Director Raft announced that **Monte Vista Water District (MVWD)** would be distributing ultra low-flow toilets free of charge to Montclair residents on Saturday, April 24, 2004, at 8:00 a.m. at the **Montclair High School** parking lot.

Mayor Eaton reminded the public they would be required to return their old toilets to **MVWD** for recycling by a specified date if they participate in this program or else fees will be added to their water bills.

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

- (a) He congratulated Council Member Paulitz for his 12 years of exemplary service on the **South Coast Air Quality Management District** governing board. He noted that Council Member Paulitz did a "great job" not only for the City of Montclair but for the 15 other cities he represented in the County.

- (b) He noted his attendance at the **Montclair Chamber of Commerce Annual Montclair Police Recognition and Appreciation Breakfast** this morning. He thanked **Chamber** Executive Director **Kelly Johnson** for facilitating the event.

3. Council Member/Director Ruh commented as follows:

- (a) He also noted his attendance at the **Montclair Chamber of Commerce Annual Montclair Police Recognition and Appreciation Breakfast** this morning. He suggested the two award recipients be publicly recognized by the **Chamber** at a future televised meeting.
- (b) He noted speaking to **Mr. Corley** this evening about the curb work at Heritage Park that was done to the satisfaction of the residents at the complex. He thanked all who were involved in the project.

Mayor Eaton noted the Council received a nice thank-you card in the mail for a job well done.

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of February 2, 2004

The City Council received and filed the Personnel Committee meeting minutes of February 2, 2004, for informational purposes.

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

At 8:12 p.m., Chairman Eaton adjourned the Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

At 8:12 p.m., the City Council went into Closed Session regarding pending litigation pursuant to Section 54956.9(a) of the Government Code.

XIII. CLOSED SESSION ANNOUNCEMENTS

At 8:21 p.m., the City Council returned from Closed Session. Mayor Pro Tem Dutrey announced the City Council met in Closed Session regarding pending litigation, direction was given to staff, and no further announcements would be made at this time.

XIV. ADJOURNMENT OF CITY COUNCIL

At 8:22 p.m., Mayor Pro Tem Dutrey adjourned the City Council.

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

Yvonne L. Smith
Transcribing Secretary