

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL AND REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION, BOARDS HELD ON MONDAY, MARCH 1, 2004, AT 7:02 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

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I. CALL TO ORDER

Mayor/Chairman Eaton called the meeting to order at 7:02 p.m.

II. INVOCATION

Mayor/Chairman Eaton gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Paulitz 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

- A. Presentation of *Certificate of Recognition* to Win-Dor, Inc., for Its \$1000 Donation to the 2003 Holiday Food and Toy Program
- B. Presentation of *Certificate of Recognition* to Montclair Chamber of Commerce for Outstanding Contributions to the 2003 Holiday Food and Toy Program

Mayor Eaton presented *Certificates of Recognition* to Montclair Chamber of Commerce Board Members Dana Cox and Erin Joseph for encouraging community businesses to donate food and toys to the City's Holiday Food and Toy Program and Win-Dor, Inc. Managers Eric Edwards and Krista Wirthgen for Win-Dor's \$1000 donation, the single-largest donation since the inception of the program.

VI. PUBLIC COMMENT - None

VII. PUBLIC HEARINGS

- A. Projects and Prioritization of Funding for the Fiscal Year 2004-05 Community Development Block Grant Program

Mayor Eaton declared it the time and place set for public hearing related to projects and prioritization of funding for the Fiscal Year 2004-05 Community Development Block Grant (CDBG) Program 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 Council Member Ruh and seconded by Council Member Paulitz to approve the following CDBG projects and funding levels for Fiscal Year 2004-05:

Code Enforcement Program	\$ 38,000
Curb, Gutter, and Sidewalk Infill	50,000
Foundation Area No. 11	182,500
Foundation Area No. 12	50,000
Graffiti Abatement Program	39,500*
Montclair Golden Express	7,000*
Montclair Library Literacy	5,000*
House of Ruth	<u>\$ 5,000*</u>
TOTAL	<u>\$ 377,000</u>

\*Total public service projects: \$56,500

Motion carried unanimously as follows

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

**B. Adoption of 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**

Mayor Eaton declared it the time and place set for 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 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 Council Member Paulitz and seconded by Council Member Raft that Resolution No. 04-2488, entitled "**A Resolution of the City Council of the City of Montclair Requesting that 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 read by number and title only, further reading be waived, and it be declared adopted.

The City Council unanimously waived the reading of the Resolution.

Resolution No. 04-2488 was adopted as follows:

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

For the record, Council Member Ruh clarified that he voted "No" on this item to be consistent with his vote against a related item presented at the last meeting.

**C. Adoption of Resolution No. 04-2495 Adjusting Taxicab Service Rates in the City of Montclair**

Mayor Eaton declared it the time and place set for public hearing to consider Resolution No. 04-2495 adjusting taxicab service rates in the City of Montclair and invited comments from the public.

**Mr. Brian Hunt**, President, **Yellow Cab Co.**, 1400 East Mission Avenue, Pomona, stated he is available to answer any questions on this item.

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.

Mayor Pro Tem Dutrey asked if **Bell Cab Co.** is still in operation.

Council Member Ruh answered, "Yes."

Mayor Pro Tem Dutrey noted, taking into account the last rate increase in 2000, that the proposed increase would average less than 2 percent per year. He spoke in support of the item.

Council Member Ruh noted the dramatic increase in gasoline prices since 2000. He stated the proposed increase is minimal and spoke in support of the item.

Moved by Council Member Ruh and seconded by Mayor Pro Tem Dutrey that Resolution No. 04-2495, entitled "**A Resolution of the City Council of the City of Montclair Revising the Schedule of Rates for Taxicab Services,**" be read by number and title only, further reading be waived, and it be declared adopted.

The City Council unanimously waived the reading of the Resolution.

Resolution No. 04-2495 was unanimously adopted as follows:

AYES: Ruh, Raft, Paulitz, Dutrey, Eaton

NOES: None

ABSTAIN: None

ABSENT: None

**D. First Reading – Adoption of Ordinance No. 03-834 Amending Chapter 11.38 of the Montclair Municipal Code**

Mayor Eaton 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 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.

Council Member Raft reiterated that the 42-inch front-yard maximum fence height is too low for security purposes and stated she supports staff's recommendation to increase it to 48 inches. She spoke in support of adoption of proposed Ordinance No. 03-834.

Council Member Ruh received confirmation that the recommendation to prohibit chain-link fencing in front-yard setbacks only pertains to new construction and that permits issued to install chain-link fences prior to the potential adoption of Ordinance No. 03-834 would be valid for 180 days, not including the 30-day period following adoption of the second reading of Ordinance No. 03-834.

City Manager McDougal emphasized the importance of adhering to the 180-day time limit for such permits.

Mayor Pro Tem Dutrey reported that at the Council's direction, the Code Enforcement Committee reviewed the current front-yard fence/wall height policy in great detail to address residents' issues and to make recommendations regarding any appropriate revisions to the Code, including raising the maximum fence/wall height in front-yard setbacks to 48 inches. He advised it is the Committee's recommendation that all nonconforming fences (other than chain-link) be documented as legal nonconforming uses and that further review be made of all existing chain-link fences that are higher than 48 inches. He stated the Committee desires to further address development of an incentive program to assist residents to remove their chain-link fences.

Council Member Paulitz noted he appreciates the fact that two thirds of the 49 California cities surveyed online prohibit fences taller than 42 inches. He stated that historically, the City has not been enforcing the present 42-inch fence/wall height limitation in front-yard setbacks for at least 46 years, resulting in a number of nonconforming uses. He noted he has personally reviewed all photographs taken of such uses and was both pleased to note that a majority of the block pilaster and wrought-iron fencing materials used were "very well done" and dismayed at the deteriorated condition of some chain-link fences that presumably would need to be removed. He cautioned that chain-link fences could not be replaced once removed.

Moved by Council Member Paulitz and seconded by Mayor Pro Tem Dutrey that Ordinance No. 03-834, entitled "**An Ordinance of the City Council of the City of Montclair Amending Chapter 11.38 of the Montclair Municipal Code,**" be read by number and title only, further reading be waived, and this be declared its first reading.

The City Council unanimously waived the reading of the Ordinance.\*

Council Member Ruh inquired if fences/walls higher than 48 inches would be required to be removed upon adoption of proposed Ordinance No. 03-834.

Director of Community Development Clark responded that such fences would either have to be removed or modified to comply with the Code.

Mayor Pro Tem Dutrey clarified that all nonconforming uses, with the exception of chain-link fences, would be grandfathered in, should the Council so decide, upon adoption of Ordinance No. 03-834.

City Manager McDougal related the background of this item relative to a resident who deliberately ignored the City's fence policy and built a fence that was not to Code, noting the resident believed that corresponding Code Enforcement action regarding his fence was unfair though he was advised of the City's policy when he obtained his fence permit. City Manager McDougal advised that in the year since this Ordinance has been in review by the Council, the Planning Commission, and the Code Enforcement Committee to address the resident's issue, the City's fence policy has not been enforced. He emphasized that staff would have no recourse but to enforce the Code, whether fence heights in front-yard setbacks are limited to 42 or 48 inches, unless an exception is written into the Code.

Discussion centered on fence policy enforcement, depending on how the Code might eventually be amended.

Council Member Ruh expressed his concern on behalf of residents whose properties contain front-yard chain-link fences higher than 48 inches.

Council Member Raft spoke in support of the Council's establishing a policy to grandfather in all nonconforming uses prior to adoption of proposed Ordinance No. 03-834.

Mayor Pro Tem Dutrey clarified that the focus of the Council this evening is to consider adoption of the first reading of Ordinance No. 03-834 and approval of a motion to direct staff to establish a policy to grandfather in all nonconforming uses within front-yard setbacks, not including chain-link fences higher than 48 inches. He advised that the Code Enforcement Committee would subsequently review the issue of front-yard chain-link fences higher than 48 inches. He reiterated it is his intent to introduce an incentive program for residents with chain-link fences in front-yard setbacks to replace them with better fencing materials in an effort to improve the aesthetics of the community, particularly along busy streets. He suggested the Exterior Housing Improvement Program might be of assistance to accomplish this.

City Attorney Robbins pointed out that adoption of proposed Ordinance No. 03-834 would raise the maximum height of fences/walls in front-yard setbacks from 42 inches to 48 inches. She emphasized that the current fence policy has not been enforced in its 46-year history, though that does not discount the fact that fences/walls higher than the present 42-inch maximum in front-yard setbacks have never been legal uses. She advised that a motion to direct staff to develop a policy to grandfather in all nonconforming uses would be appropriate.

Council Member Ruh reiterated his concern that proposed Ordinance No. 03-834 as written contains no provision to grandfather in nonconforming uses in front-yard setbacks. He further reiterated his concern regarding the unfairness, pursuant to the policy proposed to be developed, of requiring nonconforming chain-link fences to be removed when other nonconforming uses made of different fence materials would not be required to do so. He indicated the only exception would be if the chain-link fence were falling apart.

Discussion centered on enforcement practices of the fence policy, which, though prominent at one time, has not been actively pursued in the last ten years.

Council Member Ruh suggested this item be continued until proposed Ordinance No. 03-834 includes language to grandfather in all nonconforming uses within front-yard setbacks.

Council Member Paulitz called for the question.

City Manager McDougal reminded the Council that when this item was first being considered by the Council last year, staff was directed not to enforce the fence provisions of the Code until a revised Fence Ordinance was presented for Council consideration. He stated that staff would continue such nonenforcement if it is the desire of the Council. He emphasized that fence permits would continue to be issued at the maximum 42-inch height limitation until such time as proposed Ordinance No. 03-834 is adopted.

\*First Reading of Ordinance No. 03-834 was adopted by the following vote:

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

Council Member Raft stated she supports this item inasmuch as its main purpose is to increase the maximum allowable front-yard fence height from 42 to 48 inches. She added that the two members of the Council who serve on the Code Enforcement Committee have promised to return a policy to grandfather in those properties maintaining illegal nonconforming fence heights when the Council considers the second reading of proposed Ordinance No. 03-834.

Moved by Mayor Pro Tem Dutrey to direct the Code Enforcement Committee to return a policy exempting all existing nonconforming fences as "legal nonconforming uses."\*

Council Member Ruh inquired as to the legality of such a motion.

City Attorney Robbins advised that a motion to direct the Code Enforcement Committee to return a policy on such subject matter would be permissible.

\*Motion seconded by Council Member Paulitz and carried unanimously as follows:

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

**E. Second 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.

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

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 California Water Quality Control Board, Santa Ana Region.

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

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Raft that Ordinance No. 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 second reading, noting Council Member Ruh's abstention from voting on this item.

The City Council unanimously waived the reading of the Ordinance.

Second Reading of Ordinance No. 04-845 was adopted by the following ROLL CALL vote:

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

**VIII. CONSENT CALENDAR**

Council Member Paulitz requested that Item A-2 be removed from the Consent Calendar for correction.

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

**A. Approval of Minutes**

**1. Minutes of Adjourned Joint Council/Agency Meeting of February 17, 2004**

The City Council and Redevelopment Agency Board approved the minutes of the Adjourned Joint City Council/Redevelopment Agency Board meeting of February 17, 2004.

**B. Administrative Reports**

**1. Declaring Police Vehicles as Surplus and Authorizing Their Sale to Private Companies**

The City Council declared the following Police vehicles as surplus and authorized their sale to private companies:

<i>Year and Model</i>	<i>Identification No.</i>	<i>Vehicle Mileage</i>	<i>Estimated Sales Price</i>
1996 Chevrolet Caprice	1G1BL52P6TR153921	161,229	\$3000-\$5000
"	1G1BL52P9TR154142	172,208	"
"	1G1BL52P3TR155271	128,399	"
"	1G1BL52P4TR154517	172,629	"
"	1G1BL52P5TR155623	176,473	"
"	1G1BL52P5TR153800	180,000	"

**2. Approval of City Warrant Register and Payroll Documentation**

The City Council approved the Warrant Register dated March 1, 2004, totaling \$835,816.95, and the Payroll Documentation dated January 25, 2004, amounting to \$506,090.25, with \$349,235.52 being the total cash disbursement.

**C. Agreements**

**1. Approval of Agreement No. 04-28 With Carl Warren & Co. for Liability Claims Administration Services**

The City Council approved *Agreement No. 04-28* with Carl Warren & Co. for liability claims administration services.

**2. Approval of *Agreement No. 04-29* With the California Department of Health Services to Provide a Nutrition Education Program**

The City Council approved *Agreement No. 04-29* with the California Department of Health Services to provide a nutrition education program.

**3. Award of Contract to Mariposa Horticultural Enterprises, Inc., in the Amount of \$70,024.62**

**Approval of *Agreement No. 04-30* With Mariposa Horticultural Enterprises, Inc., for the Montclair Caboose Relocation Project**

**Authorization of a \$10,000 Construction Contingency**

The City Council took the following actions regarding the Montclair Caboose Relocation Project:

- (a) Awarded a contract to Mariposa Horticultural Enterprises, Inc., in the amount of \$70,024.62.
- (b) Approved *Agreement No. 04-30* with Mariposa Horticultural Enterprises, Inc.
- (c) Authorized a \$10,000 construction contingency.

**4. Approval of *Agreement No. 04-31* With the City of Victorville Police Department for Reimbursement of Funding for Driving Under the Influence (DUI) Checkpoints and Saturation Patrols**

**Authorization of City Manager to Execute Agreement on Behalf of the City**

The City Council took the following actions:

- (a) Approved *Agreement No. 04-31* with the City of Victorville Police Department for reimbursement of funding for DUI checkpoints and saturation patrols conducted with grant funding through the California Office of Traffic Safety.
- (b) Authorized the City Manager to execute Agreement on behalf of the City.

**5. Approval of *Agreement No. 04-32* With the Ontario-Montclair School District to Provide After-School Programs**

The City Council approved *Agreement No. 04-32* with the Ontario-Montclair School District to provide after-school programs.

**D. Resolutions**

**1. Adoption of Resolution No. 04-2496 Authorizing Destruction of Certain Finance Division Public Records Pursuant to Sections 34090 and 34090.7 of the California Government Code**

The City Council adopted Resolution No. 04-2496 authorizing the destruction of certain Finance Division public records pursuant to Sections 34090 and 34090.7 of the California Government Code.

**2. Adoption of Resolution No. 04-2497 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges**

The City Council adopted Resolution No. 04-2497 authorizing placement of liens on the properties listed on Exhibit A to the Resolution for delinquent sewer and trash charges.

**IX. PULLED CONSENT CALENDAR ITEMS**

**A. Approval of Minutes**

**2. Minutes of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of February 17, 2004**

Council Member/Director Paulitz requested the following change to Section IX, "Pulled Consent Calendar Items," Item D-2, "Adoption of Resolution No. 04-2493 Supporting Proposition 57, the Economic Recovery Bond, and Proposition 58, the Balanced Budget Act," paragraph 8, of the regular joint meeting minutes of February 17, 2004:

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

Moved by Council Member Paulitz, seconded by Mayor Eaton, and carried unanimously to approve the minutes of the Regular Joint City Council/Redevelopment Agency Board/Montclair Housing Corporation Board meeting of February 17, 2004, as amended.

**X. RESPONSE**

**A. Oral Presentation Related to Police Department Calls for Service in Foundation Areas 1, 5, 8, and 9**

Police Chief Thompson reported on the following:

1. The apparent increase in service calls in 2003 as compared to 2000 depicted in the *Montclair Police Department Calls for Service* table in the Housing Improvement Task Force *Action Plan 2004* could be attributed to residents being encouraged to report any and all crimes, including those seemingly minor in nature.
2. There are a great deal fewer violent crime calls (robberies/shootings) in these improved Foundation Areas, a significant benefit to the community.
3. The typical calls for service involve medical assistance, petty theft, vandalism, follow-ups, battery/domestic violence reports, disturbing the peace (loud music), fireworks, missing juveniles, Child-Protective Services referrals, and incomplete 911 calls. Many of these calls are beyond the control of the Police Department.
4. At times, apartment managers become comfortable and begin to relax their tenant-screening practices; they are routinely reminded of the importance of maintaining strict tenant-screening standards.
5. There has been a marked decrease in service calls in the other Foundation areas.

Police Chief Thompson suggested it might be beneficial for the Council to review specific crime statistics from year to year.

Council Member Paulitz requested that a report be prepared comparing present-day violent crime statistics with the period just prior to establishment of the Foundation Areas.

Police Chief Thompson indicated he would work with Assistant Director of Redevelopment Caldwell to develop the report.

Council Member Paulitz thanked Police Chief Thompson for the report.

Council Member Ruh asked that Police Chief Thompson report on domestic violence Citywide, noting he has recently read that the incidences of domestic violence are on the rise and more so involve guardian to child than partner to partner.

Police Chief Thompson advised that such cases are now required by law to be documented, which would account for the rise in numbers over past years.

## **XI. COMMUNICATIONS**

### **A. City Attorney/Agency Counsel**

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

*Property: Vacant Property Located on the South Side of Holt Boulevard West of Ramona Avenue*

*Negotiating Parties: City of Montclair Redevelopment Agency and Shyh-Hau Leu and Huey-Meei Leu*

*Negotiators: Director of Redevelopment/Public Works Staats and Assistant Director of Redevelopment Caldwell*

*Under Negotiation: Recommendations Regarding Purchase Price*

Agency Counsel Robbins requested a Closed Session on the above matter pursuant to Government Code Section 54956.8.

### **B. City Manager/Executive Director**

1. City Manager/Executive Director McDougal reminded everyone to vote in tomorrow's Presidential Primary Election. He advised that the new electronic touch-screen voting machines are extremely user-friendly, noting he was successful in practicing on a demonstration model this evening.

### **C. Mayor/Chairman - No comments**

### **D. City Council/Agency Board**

1. Mayor Pro Tem/Vice Chairman Dutrey announced that a field representative of **Congressman Dreier** would be available on Tuesday, March 16, 2004, from 9:00 a.m. to 12:00 p.m. in the City Council Chambers to address the federal government issues of 26th Congressional District residents.
2. Council Member/Director Ruh commented as follows:
  - (a) Concerning tomorrow's election, he suggested that residents experiencing difficulties in using the new

electronic voting machines address their concerns in writing to the Governor or Secretary of State. He stated that precinct workers would be available to assist anyone having difficulty using the machines.

- (b) He noted his attendance at a luncheon two weeks ago, during which **Congressman Dreier** reiterated his strong support of the Alameda Corridor-East (ACE) rail crossing projects and the extension of the Gold Line commuter rail from Pasadena to Claremont and, it is hoped, on through to Montclair. He stated that development of a world-class mass transit system in Southern California is something he has advocated for a long time.
- (c) He noted his attendance at a perchlorate hearing conducted by **Senator Soto** regarding the polluted groundwater in Fontana and Rialto. He commended **Senator Soto** for her leadership on this issue.
- (d) He noted meeting last Friday with **Assembly Member McLeod** on a variety of issues, adding she reiterated her strong support of ACE and expansion of the Gold Line, which will draw out-of-town shoppers to Inland Empire businesses and allow residents to take the train to work in Pasadena and San Marino.

#### **E. Committee Meeting Minutes**

##### **1. Minutes of Personnel Committee Meeting of February 17, 2004**

The City Council received and filed the Personnel Committee meeting minutes of February 17, 2004, for informational purposes.

#### **XII. ADJOURNMENT OF CITY COUNCIL AND MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS**

At 8:00 p.m., Mayor/Chairman Eaton adjourned the City Council and Montclair Housing Corporation Board of Directors.

At 8:00 p.m., the Redevelopment Agency Board went into Closed Session regarding real property negotiations pursuant to Section 54956.8 of the Government Code.

#### **XIII. CLOSED SESSION ANNOUNCEMENTS**

At 8:25 p.m., the Redevelopment Agency Board returned from Closed Session. Vice Chairman Dutrey announced the Redevelopment Agency Board met in Closed Session regarding real property negotiations, information was received and direction given to staff, and no further announcements would be made at this time.

#### **XIV. ADJOURNMENT OF REDEVELOPMENT AGENCY BOARD OF DIRECTORS**

At 8:26 p.m., Vice Chairman Dutrey adjourned the Redevelopment Agency Board of Directors.

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

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Yvonne L. Smith, Transcribing Secretary