

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL AND REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS HELD ON MONDAY, JULY 19, 2004, AT 6:58 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 6:58 p.m.

II. INVOCATION

Pastor Mark Schipul, 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/Chairman Eaton; Mayor Pro Tem/Vice Chairman Dutrey; Council Member/Director Paulitz; 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

Absent: Council Member/Director Raft (excused); Council Member/Director Ruh (arrived at 7:43 p.m.)

Mayor Eaton advised that unfortunately, Council Member/Director Raft was in a serious car accident over the weekend and sustained injuries, so she is unable to attend tonight's meeting. He added that Council Member/Director Ruh is caught in traffic on the freeway and will be arriving as soon as possible.

V. PRESENTATIONS

A. Introduction of New Employees

Mayor Eaton introduced **Ms. Carri Smith**, who was appointed to the position of part-time Office Specialist in the Human Services Division on June 14, 2004. He noted **Ms. Smith** has performed professionally in vocal competitions locally and in Hollywood.

Mayor Eaton welcomed Office Specialist Smith to the Montclair City family and presented her with a City pin.

Mayor Eaton introduced **Ms. Claire Bessler**, who was appointed to the position of Custodian on May 10, 2004. He noted **Ms. Bessler** originally hails from Melrose, Massachusetts, and that she also works at the **Chino Valley Unified School District** as a Sub-Custodian.

Mayor Eaton welcomed Custodian Bessler to the Montclair City family and presented her with a City pin.

Mayor Eaton introduced **Ms. Seeta-Carr Hearin**, who was appointed to the position of Custodian on July 12, 2004, after working part-time for the City in that capacity since February 2004. He noted **Ms. Hearin** originally hails from Saginaw, Michigan, and

that she also works for the **Ontario Convention Center** as a part-time Lead Solo Custodian.

Mayor Eaton welcomed Custodian Hearin to the Montclair City family and presented her with a City pin.

Mayor Eaton introduced **Mr. Joel Barbee**, who was appointed to the position of Maintenance Worker on July 12, 2004. He noted **Mr. Barbee** served in the **United States Marine Corps** for four years after graduating from high school and then embarked on his own business venture, **JB Window Cleaning**.

Mayor Eaton welcomed Maintenance Worker Barbee to the Montclair City family and presented him with a City pin.

B. Presentation by Ms. Jeanne Ramirez, Relay Manager, American Cancer Society, Related to the 1st Annual Relay for Life of Montclair Event to be Held on August 28 and 29, 2004

Ms. Ramirez invited everyone to participate in the *1st Annual Montclair Relay for Life of Montclair* overnight campout at **Serrano Middle School** beginning at 9:00 a.m. on Saturday, August 28, through 9:00 a.m. Sunday, August 29, 2004. She indicated that teams would be formed, advisedly in groups of 24 so that one person from each team would be circuiting the newly outlined "track" each hour to continue nonstop for the entire 24 hours of the event.

Ms. Ramirez asked that the City present a proclamation to the **American Cancer Society** at a future date declaring Montclair a "Relay for Life" community. She stated that the Relay for Life program serves to honor cancer survivors, raise public awareness about the importance of early detection and prevention of cancer, and raise funds to fight the disease, which is the second leading cause of death in the United States. She advised that it is the organization's goal to reduce the estimated 58,000 new cancer diagnoses projected for San Bernardino County this year by half and the deaths from cancer by at least 25 percent, as well as improve the quality of life for cancer patients.

Ms. Ramirez introduced **Ms. Carmen Serrano**, Entertainment Chairperson, **Mr. Frank Ramirez**, Community Ambassador, and **Ms. Cynthia Lucien**, Chairperson, who is a one-year cancer survivor.

Mayor Eaton thanked **Ms. Ramirez** for her invitation and efforts to organize this worthwhile event.

C. Video Presentation of *Less Lethal Force Options* Courtesy of Inland California Television Network

Police Chief Thompson related an incident that occurred in the City last month, in which use of a **TASER®** failed to restrain a suspect, that prompted the interest of the **Inland California Television Network** to develop a story on the variety of less lethal force devices used by the Montclair Police Department. He indicated that the following short video presentation of *Less Lethal Force Options* prepared by the **Inland California Television Network** demonstrates the Montclair Police Department's arsenal of less-lethal weapons, including 12-gauge shotguns that shoot socks containing fine lead powder, 40mm guns that shoot hard spongy rubber bullets, air pistols that shoot pepper balls, and **TASER** devices.

The video was shown at this time.

Chief Thompson thanked the **Inland California Television Network** for its positive story about the Montclair Police Department and the City Council for its support of the Department's use of these devices, which have succeeded in reducing Workers' Compensation claims and potential lawsuits.

Mayor Eaton thanked Chief Thompson for the presentation.

D. Presentation of 2004 Home Beautification Awards

Mayor Eaton stated that as part of the community's efforts to encourage pride and community spirit, the Montclair Community Action Committee (CAC) sponsors the annual *Home Beautification Awards* program. He stated that of the 22 nominations received, 14 are being recognized this evening. He introduced CAC Chairperson Darleen Hartman to announce the CAC's selection of *2004 Home Beautification Award* winners.

Chairperson Hartman stated that this annual event gives the City an opportunity to recognize those residents who demonstrate community pride by attractively maintaining their homes. She thanked all residents who help to make Montclair a beautiful city in which to live. She indicated that Mayor Eaton and Assistant Director of Human Services Sue Yoakum would be assisting her in recognizing the 14 residents whose homes were selected by the CAC as exemplifying residents' true sense of pride and care in Montclair.

The following ten nominees received *Certificates of Special Recognition*:

Juan and Luz Raygoza, 4905 Denver Street
José and Martha Barrios, 4935 Denver Street
Percy and Vilma Pineda, 9321 Felipe Avenue
Jacinto and Raquel Navarro, 11096 Stagecoach
Mr. Jorge Barraza, 4896 El Morado Street
José and Eiiisa Garcia, 9970 Santa Anita Street
Hanif and Rosalinda Gulmahamad, 5462 La Deney Street
Mr. Daniel Blanco, 9378 Exeter Avenue
Mr. Ernesto Velasco, 10084 Greenwood Avenue
Ms. Rose Barrientos, 9788 Amherst Avenue

The following three finalists were presented with framed City certificates, **Costco** gift certificates, and signs for their properties:

"*2004 Picturesque*" award - **Donald and Sukhui Lott**, 9982 Lindero Avenue

"*2004 Best-Maintained Home*" award - **Juan and Teresa Galarza**, 4632 Flora Street

"*Home of the Year 2004*" award - **Donald and Sue Cauley**, 4832 Rodeo Street

On behalf of the *2004 Home Beautification Awards* program, Mayor Eaton thanked the CAC for its continuing efforts to organize the annual *Home Beautification Awards* program. He thanked all the residents who have contributed to the beautification of the community and invited everyone to view the photo display of *2004 Home Beautification Award* nominees and winners in the West Lobby.

VI. PUBLIC COMMENT

Mayor/Chairman Eaton 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. **Mr. Don Vodvarka**, 10202 Columbine Avenue, Montclair, spoke as a member of **Our Lady of Lourdes Knights of Columbus Council 7412** and invited everyone to attend a child safety fair to be held Saturday, September 11, 2004, from 9:00 a.m. to 1:00 p.m. at **Our Lady of Lourdes Catholic Church**, 10191 Central Avenue, Montclair. He stated the **Knights of Columbus** is sponsoring the safety fair in cooperation with the **Columbian Squires, Council 4623**, and the Montclair Police and Fire Departments. He advised that the fair will offer child identification kits provided by the Montclair Police Department, bicycle and scooter safety tips, free bicycle helmets while supplies last to children who are accompanied by parents and who complete a bicycle obstacle course, and a raffle of a bicycle and other donated prizes. He noted the proceeds from the raffle tickets would be donated to the church.

At this time, Mayor Eaton suggested that those in attendance for the *2004 Home Beautification Awards* could either leave or stay for the rest of the meeting.

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

1. He reiterated his past comments related to his attendance at other cities' Council meetings at the request of certain business owners/operators, the turnout at other cities' Council meetings, and the fact that the **City of Chino's** skateboard park is completed and operational though it was begun after the Montclair Skate Park project. He noted the state funding provided by **Senator Soto** for the project.
2. He noted the City's Ordinance related to rules of decorum at public meetings is based on the **City of Norwalk's** rules, adding that **City of Norwalk** public speakers are allowed five minutes each and are given time for rebuttal. He noted the **City of Van Nuys'** public speakers are given ten minutes each, though the entire time allotment is seldom used.
3. He reiterated his request for information on the recent voluntary resignation of a Montclair Police Officer on behalf of certain residents and for his own information.

Council Member Paulitz responded to **Mr. Armstrong's** comments as follows:

1. He advised that the state withdrew its grant allocation to the Montclair Skate Park project two years ago because of budget constraints.
2. He noted his attendance at Council meetings in 15 San Bernardino County cities last year and that the average attendance at most of the cities' meetings was the same as at Montclair's meetings.

City Manager McDougal commented as follows:

1. He advised that staff cannot legally comment on the reasons why the aforementioned Police Officer or any other employee terminates his/her employment with the City. He added that former City employee(s) could relinquish such information at his/her discretion.
2. He reported that construction on the Montclair Skate Park commenced one week ago pursuant to the City's agreement with the contractor, noting the Montclair Caboose was relocated to **Freedom Plaza** prior to construction commencing

on the project. He advised the park is slated for completion in approximately three months.

Mayor Eaton noted his attendance on Wednesday, July 14, 2004, at the groundbreaking for the new skate park and that the park will open on October 1, 2004.

Mr. Armstrong stated that community youth have not been informed about the park's completion date.

Mayor Eaton advised that community youth will be informed.

C. Mr. Roger Baer commented as follows:

1. He noted that **TASER** devices have been in use since the late 1970s. He suggested the life of **Mr. Jeffrey Watts** might have been saved had such a device been used rather than deadly force.
2. He inquired if City employees continue to be compensated during extended leaves of absence.

City Manager McDougal responded that it depends on the nature of the leave, whether it is paid or unpaid.

Mr. Baer asked the customary length of time for medical leave.

City Manager McDougal advised that it depends on the circumstances and the employee's bargaining unit.

Mr. Baer asked the length of medical leave for a management employee.

Director of Administrative Services Starr responded that long-term disability would pay for 70 percent of a management employee's salary for up to one year for an injury or illness unrelated to work, with provisions in the contract that allow it to extend beyond that time period. He advised that a work-related injury is a completely different matter altogether; for instance, safety personnel receive 4850 time, which is 100 percent of their salary tax-free for up to one year.

Mr. Baer asked how long Director of Administrative Services Starr got paid after he was off work.

Director of Administrative Services Starr indicated he would not respond to **Mr. Baer's** question.

City Manager McDougal advised that absent any evidence that an employee was paid more than they should have been, there is no reason for a response.

Mr. Baer noted he has been told by certain City employees that Director of Administrative Services Starr has been paid for more time than he should have been.

City Manager McDougal reiterated that he would be happy to review any evidence **Mr. Baer** might have regarding his statement.

In response to **Mr. Baer's** claim that he has received information about Director of Administrative Services Starr from certain City employees, Mayor Pro Tem Dutrey repeatedly asked **Mr. Baer** if he has any evidence to support his statement.

Mr. Baer maintained that he is entitled to an answer.

Mayor Eaton advised that **Mr. Baer** is not a Montclair resident and that his commentary at these meetings demonstrates a reprisal after losing his lawsuit against the City.

Mayor Pro Tem Dutrey advised that Director of Administrative Services Starr suffered with his back condition and that such accusations with no supporting evidence are completely unfair.

Council Member/Director Ruh arrived at 7:43 p.m.

- D. **Mr. Bruce Freeburn** discussed the repeated burglaries to his former residence at 4433 San Bernardino Street, Montclair, during the 27 years he lived there. He expressed his opinion that Police Department personnel largely made light of his reports of these frequent burglaries. He noted his several attempts over a two-week period to contact Chief Thompson to discuss the matter and that he was finally contacted last Tuesday by a Sergeant who, upon inspection, told him his home is secure with adequate locks on doors and windows. He indicated that shortly thereafter his gate locks were cut and his garage door kicked in. He noted his requests that surveillance cameras be installed at the residence to assist in apprehending the youthful culprits he believes to be burglarizing the property have only been met with promises of increased patrol of his neighborhood.

Mayor Eaton suggested **Mr. Freeburn** further address his issue with Chief Thompson at the conclusion of the meeting.

- E. **Ms. Teresa Billingsley** commented as follows:

1. She discussed with Council Member Paulitz the state's withdrawal of grant allocations for development of the Montclair Skate Park and new soccer field and senior center because of the state deficit.
2. She inquired as to the legality of operating pocket bikes on city streets and highways.

Chief Thompson told **Ms. Billingsley** he would provide her with the information at the next regular joint meeting.

VII. PUBLIC HEARINGS

- A. **Second Reading - Ordinance No. 04-849 Adding Chapter 3.30 to Title 3 of the Montclair Municipal Code Related to Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization**

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 04-849 adding Chapter 3.30 to Title 3 of the Montclair Municipal Code related to imposing a transactions and use tax to be administered by the State Board of Equalization and invited comments from the public.

Mr. Roger Baer commented as follows:

1. He told Mayor Pro Tem Dutrey that he has suffered with extreme back pain since the mid-1960s.
2. He thanked the City on behalf of his wife and himself for their luxury home in **Lake Arrowhead**.
3. He noted it was his understanding the Montclair Utility Users Tax was supposed to have sunsetted after its revenues were no longer needed to maintain City services.

4. He expressed his opinion that the revenues to be generated by the proposed transactions and use tax are not currently needed to preserve City services; and if, indeed, they are needed, he suggested that instead of imposing a tax, services and/or management salaries be reduced.
5. He suggested the **Montclair Plaza** would have even less business should the tax be imposed.
6. He noted he had an opportunity to move his business to Montclair but decided against it because he would rather not work under the jurisdiction of the City of Montclair.

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 Paulitz commented as follows:

1. He noted he is the only current Council Member who served on the Council when the Utility Users Tax was imposed, adding that he had, in fact, voted against it.
2. He clarified that the utility tax was never intended as a temporary tax and that there was no sunset clause in the adopting Ordinance. He suggested **Mr. Baer** might be confusing the City's utility tax with Fontana's and Rialto's utility tax ballot measures that included sunset clauses. He noted the advantage of an enduring corporate memory in instances such as this.
3. He noted that approximately 30 years ago, former **State Senator Ruben Ayala** was instrumental in getting legislation signed that the vehicle license fee is strictly a local government tax, though, unfortunately, no clause was included that would prevent state reductions to the fee.
4. For the record, he stated that though he initially opposed implementation of the utility tax, he has come to realize the need for it to preserve City services since the recession of the early 1990s that began the continuing and increasing transfers of local government revenues to the State Treasury as a means of reducing growing and repetitive state deficits. He noted he campaigned twice in support of the tax the two times it was placed on the ballot in 1998.
5. He advised that the proposed tax is warranted to achieve some of the objectives of the City's Business Plan as indicated in Item No. 8 of the agenda report, including development of a new Police facility and a service center for seniors and community youth.

Mayor Pro Tem Dutrey inquired as follows:

1. Would vehicles purchased in the City by nonresidents be subject to the proposed tax?

Director of Administrative Services Starr responded that the tax would not apply in such cases.

2. Would vehicles purchased by residents be subject to the tax?

Director of Administrative Services Starr advised that the tax would apply in such cases because the tax is based on the jurisdiction in which vehicles are registered.

3. What was the outcome of the resident survey conducted in October 2003?

City Manager McDougal reported that the results of the random telephone survey regarding other funding sources the City might investigate showed an overwhelming majority in favor of a transactions and use tax over an increase in utility tax or property tax.

4. Did the Montclair Chamber of Commerce or business community provide feedback about the tax proposal?

City Manager McDougal noted he sent correspondence to the Chamber Executive Director asking for review of the issue by the appropriate committee or Chamber Board and that he has received no response to date. He noted he has been invited to speak at a Chamber breakfast in early August about the issue.

For the record, Mayor Pro Tem Dutrey advised he has not received any concerns from the business community or residents about the tax proposal, though quite a few residents have asked him about it. He indicated the overall reaction has been positive that the matter would be decided by a vote of the residents in November 2004. He noted the controversy surrounding implementation of the utility tax because it did not receive voter approval.

Mayor Pro Tem Dutrey reiterated the following fiscal challenges facing the City that are the reasons behind the tax proposal:

1. Competitive challenges to the City's sales tax base from new regional malls, despite the increase in sales tax revenues over the past two to three years.
2. Diversions of the City's General Fund revenues to resolve the state's ongoing fiscal problems, particularly property tax diversions to the Educational Revenue Augmentation Fund, which, since 1992, have cumulatively totaled \$9.4 million.
3. Rising employee medical and retirement benefit costs, notably the City's requirement to provide medical insurance to part-time employees beginning in January 2005 along with the 3 percent at 50 retirement plan for public safety personnel.
4. Aging infrastructure and capital improvement needs, including major facility improvement projects that will require significant capital outlay, such as a new Police facility and service center for seniors and community youth.

Mayor Pro Tem Dutrey commented as follows:

1. He expressed his opinion that the above economic, political, legal, and labor challenges confronting the City signify a need for an alternate revenue source to help defray these costs. He spoke in support of placing the proposed transactions and use tax on the ballot in November 2004 to give the residents an opportunity to decide for themselves if these City requirements justify approval of the tax or if the alternative, reduced City services, is the answer.
2. He stated there should be some means of determining how the tax proceeds would be spent.

City Manager McDougal advised that the City Council would have the responsibility of determining how the tax proceeds will be spent.

3. He suggested an accountability committee be appointed should the proposed tax be approved by the voters to review the City's Preliminary Budget for each fiscal year to oversee the proposed spending of the tax proceeds.

At this time, Mayor Eaton presented *2004 Home Beautification Award* finalists **Ernesto** and **Maria Vega**, 9910 Lindero Avenue, Montclair, with the "2004 Home of Distinction" award consisting of a framed City certificate, a **Costco** gift certificate, and a sign to be displayed at their residence.

Mr. and Mrs. Vega accepted their award and prizes and thanked Mayor Eaton and the City Council.

Council Member Ruh commented as follows:

1. He received clarification on point-of-sale transactions as compared to automobile sales, which are taxed according to where the vehicles are registered, related to the proposed tax.
2. He questioned whether imposing a transactions and use tax would necessarily make the Montclair Plaza more competitive with other malls.
3. He expressed his opinion that the Montclair Plaza should be encouraged to incorporate a better mix of stores to cater to family value-oriented consumers. He added that it would be in the Plaza's best interest to create a niche market of stores different from those at the competing malls in order for the Plaza to survive any competition.
4. He quoted former **President Ronald Reagan** as follows:

The problem with the American people is not that they have been taxed too little, it's that government has spent too much.

5. He expressed his opinion that the state budget crisis is a direct result of AB 1890 that deregulated the energy market in California.
6. He cautioned that he sees a threat to Montclair's sales tax base from competition from the new regional malls, particularly if a transactions and use tax is imposed in the City.
7. He stated the residents have a right to vote on these types of issues and spoke in support of placing the proposed tax on the ballot in November 2004 for consideration by the voters.
8. He suggested that should the proposed tax be placed before the voters, it be presented as a special tax with the specific purpose for which it is established included in the ballot measure.

Noting his conversation with Council Member Raft since her unfortunate accident in which she stated she would like to comment on this item, Mayor Eaton suggested the item be continued to allow Council Member Raft an opportunity to comment.

Discussion centered on the timeline to place the proposed tax on the November 2004 ballot.

Moved by Mayor Pro Tem Dutrey, seconded by Council Member Paulitz, and carried to continue this item to an adjourned joint meeting on Wednesday, July 28, 2004, at 6:30 p.m. in the City Council Chambers.

B. Adoption of Resolution No. 04-2524 Approving a General Plan Amendment to the Official Land-Use Map for an 8.61-Acre Site at the Southwest Corner of Central Avenue and Howard Street, Modifying the Land-Use Designation From "General Commercial" to "Low-Density Residential"

Approval of Tentative Tract Map No. 16884 for a 46-Lot Residential Subdivision at the Southwest Corner of Central Avenue and Howard Street

First Reading - Adoption of Ordinance No. 04-850 Approving a Zone Change to the Montclair Municipal Code From "R-1(20)" (Single-Family Residential, Minimum 20,000-Square-Foot Lot Area) to "R-1(SL)" (Single-Family Residential Small-Lot Detached Housing Overlay) for 8.61 Acres at the Southwest Corner of Central Avenue and Howard Street

Mayor Eaton declared it the time and place set for public hearing to consider Resolution No. 04-2524, Tentative Tract Map No. 16884, and the first reading of Ordinance No. 04-850 related to a General Plan amendment and zone change on an 8.61-acre site at the southwest corner of Central Avenue and Howard Street 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 Paulitz asked why the present zoning for the subject site is "R-1(20)" if the land-use designation pursuant to the General Plan is "General Commercial."

Director of Community Development Clark clarified that oftentimes zoning does not directly comply with the General Plan, adding that requested zone changes for specific projects are typically recommended for approval so long as they comply with the General Plan.

Council Member Ruh asked why a low-density housing development is being recommended for the site when there is clearly a need for affordable housing here and in Southern California in general. He spoke in strong support of new housing developments in the City being high density. He cited a *Los Angeles Times* article illustrating the affordability of median-priced housing in California in 1970, with qualifying families making a fraction of the median income, as compared to the present, which requires households to bring in 167 percent of the median income to purchase a median-priced home. He noted the irony of California cities not abiding by the Southern California Association of Governments (SCAG) compassing plan that they approved. He noted the injustice of cities not being able to offer affordable housing to lower-income families. He indicated he could not support this item for these reasons nor would he support future high-cost housing developments in the City.

Mayor Pro Tem Dutrey commented as follows:

1. He received clarification that the lot sizes for the proposed development would average approximately 5,250 square feet with a limit of 46 lots in the 8.61-acre site if Ordinance No. 04-850 for a zone change from R-1(20) to R-1(SL) is adopted.
2. He spoke in support of the proposed SCAG compassing plan, noting that the City's proposed North Montclair Downtown Plan to develop a mixed-use transit village would incorporate

retail and offices uses in addition to a high-density and hopefully more affordable residential use.

3. He noted his initial concern about the proposed development's small lots for the area; though upon review of the plans for the project, he expressed his opinion that the development would be a good-quality project.
4. He noted that affordable housing is a concern in California, adding that the cost of land is driving the current real estate market as well as supply and demand.
5. He noted the housing projects currently under development at the former Margarita School site and at the corner of Ramona Avenue and Mission Boulevard are both small-lot developments. He advised that the City is committed to include small-lot developments in its housing projects.

Moved by Council Member Paulitz and seconded by Mayor Pro Tem Dutrey that the following actions be taken:

1. That Resolution No. 04-2524, entitled "**A Resolution of the City Council of the City of Montclair Approving a General Plan Amendment to the Official Land Use Map for an 8.61-Acre Site at the Southwest Corner of Central Avenue and Howard Street, Modifying the Land Use Designation From 'General Commercial' to 'Low-Density Residential,'**" be read by number and title only, further reading be waived, and it be declared adopted.
2. That the Council approve Tentative Tract Map No. 16884 for a 46-lot residential subdivision at the southwest corner of Central Avenue and Howard Street.*

Council Member Ruh suggested 14 units per acre instead of 7 units per acre, single-family attached rather than single-family detached, and two-story rather than one-story units. He spoke in support of the North Montclair Downtown Plan incorporating a higher density of residential units of 40 to 60 units per acre. He reiterated that he cannot support this item "because I cannot turn my back on working-class families."

*The City Council waived the reading of Resolution No. 04-2524.

Resolution No. 04-2524 was adopted and the Council approved Tentative Tract Map No. 16884 for a 46-lot residential subdivision at the southwest corner of Central Avenue and Howard Street by the following vote:

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

Moved by Council Member Paulitz and seconded by Mayor Pro Tem Dutrey that Ordinance No. 04-850, entitled "**An Ordinance of the City Council of the City of Montclair Approving a Zone Change to the Montclair Municipal Code From 'R-1(20)' (Single-Family Residential, Minimum 20,000-Square-Foot Lot Area) to 'R-1(SL)' (Single-Family Residential Small-Lot Detached Housing Overlay) for 8.61 Acres at the Southwest Corner of Central Avenue and Howard Street,**" be read by number and title only, further reading be waived, and this be declared its first reading.

The City Council waived the reading of the Ordinance.

First Reading of Ordinance No. 04-850 was adopted by the following vote:

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

VIII. CONSENT CALENDAR

Council Member Paulitz requested that Items C-2 and C-5 be removed from the Consent Calendar for comment.

City Manager McDougal noted the following:

- ✓ Concerning Item B-1, "Consider Redevelopment Agency Board of Directors' Approval of a Rent Reduction for Trueway Baptist Church Located at 10370 Mills Avenue," the "Recommendation" is revised as follows:

Staff recommends the Redevelopment Agency Board of Directors approve a rent reduction for Trueway Baptist Church located at 10370 Mills Avenue from \$438.46 to ~~\$255~~\$225 weekly.

- ✓ Concerning Item D-2, "Consider Adoption of Resolution No. 04-2530, a Resolution of the City Council of the City of Montclair Declaring the Need for Emergency Contracting Procedures and Authorizing Performance Related to Certain Heating, Ventilation, and Air Conditioning Equipment at the Police Department in the Administrative Portion of the Building," and "Consider an Appropriation of an Amount Not to Exceed \$25,000 From the Contingency Account for the Replacement of Certain Heating and Air Conditioning, Ventilation, and Air Conditioning Equipment at the Police Department in the Administrative Portion of the Building," the estimate of \$25,000 for replacement of certain heating, ventilation, and air conditioning equipment in the Administrative portion of the Police Department is \$5,000 low; and an amended agenda report given to the Council at this time indicates a request of \$30,000 to be appropriated from the Contingency Account for this purpose.

City Attorney Robbins advised that the item needs to be declared an urgency item for immediate action, which requires a four-fifths majority vote.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Item D-2 be considered an urgency item for immediate action.

Motion carried as follows:

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

D. Resolutions

- 2. Adoption of Resolution No. 04-2530, a Resolution of the City Council of the City of Montclair Declaring the Need for Emergency Contracting Procedures and Authorizing Performance Related to Certain Heating, Ventilation, and Air Conditioning Equipment at the Police Department in the Administrative Portion of the Building**

Authorization of an Appropriation Not to Exceed \$30,000 From the Contingency Account for Replacement of Certain Heating, Ventilation, and Air Conditioning Equipment at the Police Department in the Administrative Portion of the Building

Moved by Mayor Pro Tem Dutrey and seconded by Mayor Eaton that the following actions be taken:

- (a) That Resolution No. 04-2530, entitled "**A Resolution of the City Council of the City of Montclair Declaring the Need for Emergency Contracting Procedures and Authorizing Performance Related to Certain Heating, Ventilation, and Air Conditioning Equipment at the Police Department,**" be read by number and title only, further reading be waived, and it be declared adopted.
- (b) An appropriation be authorized not to exceed \$30,000 from the Contingency Account for replacement of certain heating, ventilation, and air conditioning equipment in the administrative portion of the Police Department building.

The City Council waived the reading of Resolution No. 04-2530.

Resolution No. 04-2530 was adopted and the Council authorized an appropriation not to exceed \$30,000 from the Contingency Account for replacement of certain heating, ventilation, and air conditioning equipment at the Police Department in the Administrative portion of the building by the following vote:

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

- ✓ Item C-4, "Consider Termination of Agreement No. 04-18, an Agreement for Planning Services by and Between the City of Montclair Redevelopment Agency and L. D. King, Inc." and "Consider Approval of Agreement No. 04-103, an Agreement for Planning Services by and Between the City of Montclair Redevelopment Agency and R. Richard Fleener," a rate schedule attachment to Exhibit B to the agenda report was inadvertently excluded from the agenda; this rate schedule was given to the Council at this time.
- ✓ Item D-1 for City Council consideration of Resolution Nos. 04-2526, 04-2528, and 04-2529 related to placing the proposed transactions and use tax on the ballot for the November 2004 General Municipal Election and Resolution No. 04-2527 related to consolidating such election with the Statewide General Election is recommended for continuation to the adjourned joint meeting of Wednesday, July 28, 2004, at 6:30 p.m. in the City Council Chambers because of its relationship to the prior public hearing item on the proposed transactions and use tax.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Item D-1, "Adoption of Resolution No. 04-2526 Ordering the Submission to the Qualified Voters of the City of Montclair a Certain Measure Related to Ordinance No. 04-849, Known as the Transactions and Use Tax Law of the City of Montclair, at the General Municipal Election to Be Held on Tuesday, November 2, 2004, as Called by Resolution No. 04-2521," "Adoption of Resolution No. 04-2527 Requesting the

Board of Supervisors of the County of San Bernardino to Consolidate a General Municipal Election to Be Held on Tuesday, November 2, 2004, With the Statewide General Election Pursuant to Section 10403 of the California Elections Code," "Adoption of Resolution No. 04-2528 Setting Priorities for Filing Written Arguments Regarding the City Measure Appearing on the November 2, 2004 Ballot and Directing the City Attorney to Prepare an Impartial Analysis on Such Measure," and "Adoption of Resolution No. 04-2529 Providing for the Filing of Rebuttal Arguments for the City Measure Submitted at the General Municipal Election to be Held on Tuesday, November 2, 2004," be continued to the adjourned joint meeting of Wednesday, July 28, 2004, at 6:30 p.m. in the City Council Chambers.

Motion carried as follows:

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

Moved by Mayor Pro Tem/Vice Chairman Dutrey, seconded by Council Member/Director Paulitz, and carried to approve the following Consent Items as presented, noting the prior actions on Items B-1, C-4, D-1, and D-2:

A. Approval of Minutes

1. Minutes of Adjourned Joint Council/Agency Meeting of July 6, 2004

The City Council and Redevelopment Agency Board approved the minutes of the Adjourned Joint City Council/Redevelopment Agency Board meeting of July 6, 2004.

2. Minutes of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of July 6, 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 July 6, 2004.

3. Minutes of Special Joint Council/Agency Meeting of July 7, 2004

The City Council and Redevelopment Agency Board approved the minutes of the Regular Joint City Council/Redevelopment Agency Board meeting of July 7, 2004.

B. Administrative Reports

1. Redevelopment Agency Board of Directors' Approval of Rent Reduction for Trueway Baptist Church, 10379 Mills Avenue

The Redevelopment Agency Board approved a rent reduction for Trueway Baptist Church, 10379 Mills Avenue, from \$438.46 to \$225 weekly.

2. Approval of Parcel Merger No. 2004-1 Located at 4650-4660 Brooks Street and 4664 Brooks Street

The City Council approved Parcel Merger No. 2004-1 merging two adjacent parcels located at 4650-4660 Brooks Street and 4664 Brooks Street as a condition for the Precise Plan of Design modifications to Pomona Valley Workshop.

3. 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>Vehicle Identification No.</i>	<i>Mileage</i>	<i>Estimated Sales Price</i>
1995 Chevrolet pickup truck	2GCEC19ROT1252330	113,419	\$2,000-\$6,000
1996 Chevrolet Monte Carlo	2G1WX12X4T9209265	103,605	\$1,000-\$3,000

4. Receiving and Filing of City Treasurer’s Report

The City Council received and filed the City Treasurer’s Report for the month ending June 30, 2004.

5. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated July 19, 2004, totaling \$365,795.68, and the Payroll Documentations dated June 27, 2004, amounting to \$567,127.02, with \$404,221.74 being the total cash disbursement.

6. 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 June 30, 2004.

7. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 6/01/2004-6/30/2004 in the amounts of \$5,003.39 for Project I; \$0 for Project II; \$327,603.28 for Project III; \$49,308.58 for Project IV; and \$154,955.58 for Project V.

8. 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 June 30, 2004.

9. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 6/01/2004-6/30/2004 in the amount of \$35,968.24.

C. Agreements

1. Approval of Agreement No. 04-90 With the Chaffey Joint Union High School District for Law Enforcement Services for Fiscal Year 2004-05

The City Council approved *Agreement No. 04-90* with the Chaffey Joint Union High School District for law enforcement services for Fiscal Year 2004-05.

3. Approval of Agreement No. 04-102-I-64, an Irrevocable Annexation Agreement With Mr. Jesus G. Torres for 4910 Howard Street

The City Council approved *Agreement No. 04-102-I-64*, an *Irrevocable Annexation Agreement* with Mr. Jesus G. Torres

for emergency connection of his residence at 4910 Howard Street to the City Sewer System.

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

Approval of Agreement No. 04-103, an Agreement for Planning Services by and Between the City of Montclair Redevelopment Agency and R. Richard Fleener

The City Council took the following actions:

- (a) Terminated *Agreement No. 04-18, an Agreement for Planning Services* by and between the City of Montclair Redevelopment Agency and L.D. King, Inc.
 - (b) Approved *Agreement No. 04-103, an Agreement for Planning Services* by and between the City of Montclair Redevelopment Agency and R. Richard Fleener.
6. **Approval of Agreement No. 04-105 With San Bernardino County Department of Aging and Adult Services to Provide a Senior Citizen Nutrition Program**

The City Council approved *Agreement No. 04-105* with the San Bernardino County Department of Aging and Adult Services to provide a Senior Citizen Nutrition Program.

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

2. **Approval of Agreement No. 04-101-I-63, an Irrevocable Annexation Agreement With Norman J. Hirsch and Jacqueline R. Hirsch for 4705 Howard Street**

Council Member Paulitz suggested a map of existing *Irrevocable Annexation Agreements* in the area of the property proposed to be annexed be included with similar agenda reports in the future.

Moved by Council Member Paulitz, seconded by Mayor Pro Tem Dutrey, and carried that the City Council approve *Agreement No. 04-101-I-63, an Irrevocable Annexation Agreement* with Norman J. Hirsch and Jacqueline B. Hirsch for emergency connection of their residence at 4705 Howard Street to the City Sewer System.

5. **Approval of Agreement No. 04-104 With San Bernardino County Department of Aging and Adult Services to Provide Funding for Senior Citizen Medical and Transportation Programs**

Council Member Paulitz inquired how the proposed agreement would affect the Montclair Golden Xpress requirements.

Assistant Director of Human Services Sue Yoakum responded that approval of proposed *Agreement No. 04-104* would result in free Citywide transportation services for Montclair residents who make prior reservations for the service.

Moved by Council Member Paulitz, seconded by Council Member Ruh, and carried that the City Council approve *Agreement No. 04-104* with the San Bernardino County Department of Aging and Adult Services to provide funding for senior citizen medical and transportation programs.

X. RESPONSE – None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel – No comments

B. City Manager/Executive Director

1. City Manager/Executive Director McDougal advised that employees can inquire of their supervisors or him regarding other City employees' work time or work. He noted he occasionally receives anonymous letters from employees or concerned residents, which are taken seriously and followed up on, particularly regarding improprieties. He expressed his appreciation of the Council's position this evening in defense of Director of Administrative Services Starr during the uncalled for personal attack against him. He added that supporting evidence in such personal attacks would be fully investigated.

C. Mayor/Chairman

1. Mayor/Chairman Eaton commented as follows:
 - (a) He reiterated his attendance at the groundbreaking for the Montclair Skate Park on Wednesday, July 14, 2004.
 - (b) He noted his and Mayor Pro Tem Dutrey's participation on July 10, 2004, at the wall-raising for the new **Pomona Valley Habitat for Humanity, Inc.** home at 10327 Fremont Avenue. He stated it was nice to see the good turnout for the project.
 - (c) He related ticket information about **Metrolink's** Rialto-to-Oceanside **9th Annual Beach Train Season** that began June 26, 2004, and continues through October 3, 2004.

D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairman Dutrey commented as follows:
 - (a) He thanked CAC Chairperson Darleen Hartman and the entire CAC Board for their work on the *2004 Home Beautification Awards* program.
 - (b) He noted his enjoyment in participating in the **Pomona Valley Habitat for Humanity, Inc.** wall-raising on July 10 for the new Fremont Avenue home.
 - (c) He noted his enjoyment in attending the productive July 7, 2004, Strategic Planning Workshop to address the five priority City goals and objectives for the next fiscal year.
 - (d) He encouraged residents to call their legislators in support of the Governor's Local Government Budget Package, which is important to ensuring the fiscal stability of cities and counties.
2. Council Member/Director Ruh commented as follows:
 - (a) He apologized for running late this evening as he was stuck in gridlock on the freeway, noting the pervasive vehicle pollution reminded him of the famous **Jerome Kern** tune, "Smoke (Smog) Gets in Your Eyes."

- (b) He thanked **Congress Members David Dreier, Grace Napolitano, Joe Baca, Jerry Lewis, and Ken Calvert** and **Senators Diane Feinstein and Barbara Boxer** for their diligence, teamwork, and bipartisan support in getting legislation passed that provided some funding toward elimination of perchlorate at a time when these types of appropriations are not easily done. He further thanked **State Senator Nell Soto** and **Assembly Member McLeod** for their efforts over the past two-and-one-half years toward eliminating this insidious and potentially harmful pollutant from our local water systems.
- (c) He noted he was unable to attend the last Council meeting because he was in Washington, D.C., on business. He noted he was able to take some time to enjoy the **Fourth of July** holiday while in Washington, despite the monsoon weather conditions that fortunately did clear up in the evening, adding that the fireworks displays were a wonderful experience for him.
- (d) He thanked Montclair resident **Ms. Janelle White** for her diligence in contacting him about timely issues, recently concerning the West Nile virus epidemic that reached California last year.
- (e) He noted he was unable to attend the July 10 **Habitat for Humanity** wall-raising on Fremont Avenue because he was out of town on business. He noted he frequently has a busy work schedule during the months of July and August.
- (f) He noted the new skateboard park will truly be a wonderful addition to Montclair.
- (g) He announced that a **Multi-Chamber Mixer** will take place Tuesday, July 27, 2004, at **Pomona Valley Harley-Davidson**, 8710 Central Avenue, and encouraged attendance.
- (h) He announced the grand opening on July 28, 2004, of **Camp Metro Nissan**, a children's play area located next to the **Sears** wing at the **Montclair Plaza**.
- (i) He expressed his hope that as the **Republican** and **Democratic National Conventions** get underway in Washington and Boston, respectively, the important issues facing the average American citizen, such as "not having health insurance, getting laid off from work, [or] falling behind on their rent or mortgage," will be the focus. He suggested we should all hold our leaders accountable for meeting the needs of the American people.

E. Committee Meeting Minutes

1. Minutes of Public Works Committee Meeting of June 17, 2004

The City Council received and filed the Public Works Committee meeting minutes of June 17, 2004, for informational purposes.

2. Minutes of Personnel Committee Meeting of July 6, 2004

The City Council received and filed the Personnel Committee meeting minutes of July 6, 2004, for informational purposes.

Council Member Ruh sent the Council's best wishes for a speedy recovery to Council Member Raft.

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

At 8:57 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency Board and Montclair Housing Corporation Boards of Directors to Wednesday, July 28, 2004, at 6:30 p.m. in the City Council Chambers.

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

Yvonne L. Smith
Transcribing Secretary