

MINUTES OF THE ADJOURNED JOINT MEETING OF  
THE MONTCLAIR CITY COUNCIL AND REDEVELOP-  
MENT AGENCY AND MONTCLAIR HOUSING CORPORA-  
TION BOARDS HELD ON WEDNESDAY, JULY 28, 2004,  
AT 6:32 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 6:32 p.m.

**II. INVOCATION**

Mayor/Chairman Eaton 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; Acting Director of Community Development/Agency Planner Lustro; City/Agency Engineer Hudson; City Attorney/Agency Counsel Robbins; City Clerk/Agency Secretary Jackson

**V. PRESENTATIONS - None**

**VI. PUBLIC COMMENT - None**

**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.

City Manager McDougal noted the Council has been provided with an alternate version of the transactions and use tax ballot measure language for review and asked that the Council render a decision this evening as to the preferred language to use should proposed Ordinance No. 04-849 be adopted.

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 noted watching this item being presented at the last Council meeting from home and expressed her gratitude that it was continued to give her an opportunity to comment. Noting she has always been opposed to imposing new taxes, she indicated that with the state's continuing diversions of local government revenues, it is important to do what's necessary to

recoup some of those losses. She advocated giving the residents the opportunity to decide if maintaining current City services warrants imposing the proposed one quarter of 1 percent transactions and use tax. She spoke in support of the proposed tax.

Council Member Paulitz concurred with Council Member Raft and spoke in support of the proposed transactions and use tax. He reminded residents that he voted against imposing the Utility Users Tax, though he has since realized the need for the additional revenue in view of the state's continuing transfers of local government revenues as a means of reducing repetitive state deficits. He reiterated that he campaigned twice in support of the tax the two times it was placed on the ballot in 1998. He noted his preference for the alternate ballot measure language distributed to the Council this evening because of its positive nature and the inclusion of potential uses for the proposed tax, such as a new Police facility and senior center.

Council Member Ruh commented as follows:

1. He noted that agreement has been reached on the state spending plan for Fiscal Year 2004-05, which includes \$1.3 billion in property tax revenues to local government and new protections requiring that the Governor declare a fiscal emergency to borrow from local governments, that a two-thirds majority must be reached in each legislative house for that to occur, and that such may occur only twice in ten years. He suggested the City might be in a better financial position in a few months than at present.
2. He expressed his understanding of the need for the proposed tax.
3. He noted his support of the extension of the voter-approved half-cent Measure I sales tax extension because it is vital and necessary for San Bernardino County despite the fact that the San Bernardino Associated Governments (SANBAG) did not consider the Ramona Avenue and Monte Vista Avenue Grade Separation Projects as high enough priorities for Measure I funding. He questioned the wisdom of placing two tax measures on the November 2004 ballot and the likelihood that residents would vote for two sales tax measures at the same election.
4. He suggested waiting to put the proposed tax on the ballot until the school district and water district elections next year. He emphasized the importance of the Measure I extension being approved to ensure the continuance of vital transportation improvements.
5. He noted his preference for the original ballot measure language because it is clear, well-defined, and first specifies the tax amount followed by the proposed uses.

City Manager McDougal advised that the law requires a tax measure be placed on the ballot of a general municipal election of the entity proposing the measure.

Council Member Ruh reiterated that the timing of the proposed tax is important and suggested it be presented to the voters as a special tax clearly dedicated to specific purposes. He further suggested a sunset clause be included.

Mayor Pro Tem Dutrey commented as follows:

1. He reiterated the importance of accountability related to the proposed tax and asked that staff present a plan by

October 2004 for an accountability committee to be appointed by the Council to review the City's Preliminary Budget each fiscal year to ensure the tax proceeds are being applied to the proposed uses.

2. He noted he had wanted to place a bond measure on the ballot for the November 2002 General Municipal Election.
3. He noted he received a telephone call from SANBAG Board Chairman **Paul Biane** this afternoon expressing his concern about the City placing a tax measure on the same ballot with the Measure I extension measure. Mayor Pro Tem Dutrey expressed his opinion that the Measure I extension would be approved by the voters because they understand its importance and that Montclair, being a "small fish in a very big pond," would not have that much of an impact on the passage or failure of the measure.
4. He noted advising Chairman Biane that the accountability committee he is proposing would be campaigning in support of the proposed transactions and use tax as well as the Measure I extension. He emphasized the importance of educating the voters about the significance of both measures.
5. He noted being asked by residents about the disposition of a possible surplus in transactions and use tax revenues should it be approved by the voters. He stated that should that be the case, the City should be committed to reducing the utility tax. He advised that the purpose of the proposed tax is to maintain existing City services and to develop a new Police facility and service centers for seniors and community youth.

Council Member Paulitz commented as follows:

1. In response to Council Member Ruh's comment that the City might be in a better financial position in a few months, he pointed out that approval of the Local Government Budget Package with the adoption of the state budget means the City will lose upwards of \$1 million in General Fund revenues over the next two years. He expressed his opinion that this item should not be postponed.
2. He noted that in his past service on the SANBAG Board as an official voting delegate for two years and as an Ex Officio member for almost 12 years, Measure I was addressed many times. He expressed his complete support of the measure. He reminded the Council that Measure I did not pass when first presented to the voters in 1989 and that there are a number of years remaining before the measure expires in 2010, leaving adequate time for several more attempts at passage should it fail in November. He advised that the SANBAG Board decided to go forward with the Measure I extension this year since Riverside County comfortably passed its Measure I initiative last year.
3. He stated that for these reasons, now is the time to place the proposed tax on the ballot. He suggested that if the proposed Ordinance is adopted this evening, a committee could be organized to campaign on behalf of the measure to ensure its passage at the November 2004 General Municipal Election.
4. He indicated that the residents have been apprised of the City's plans to develop a new Police facility and subsequent conversion of the Police Department building into a senior/youth center. He noted he would diligently campaign on behalf of the proposed tax for these new facilities to be developed.

5. He cautioned that being too specific about the uses for the proposed tax as opposed to its usage for general purposes would render it a special tax requiring a two-thirds majority vote of the electorate similar to Measure I.

Council Member Ruh expressed his understanding that all SANBAG member agencies agreed not to place a competing sales tax measure on the November 2004 ballot.

Mayor Eaton advised that no such action was approved by the SANBAG Board.

Council Member Paulitz concurred and also concurred with Mayor Pro Tem Dutrey's comment that Montclair, being a small city, would not have much of an impact on the passage or failure of the Measure I extension measure. He advised that the reason for its initial failure was because the desert cities did not support it, and its subsequent passage was because of the support of the desert cities once they were guaranteed funding would be provided for transportation projects in the desert region.

Council Member Ruh expressed his opinion that Montclair could sway the vote on Measure I. He reiterated the importance of the proposed transactions and use tax being presented as a special tax for a specified period with its purpose clearly defined.

Council Member Raft suggested the voters would hold the City Council accountable to its promise to develop a new Police facility and senior and youth centers with a portion of the tax proceeds if they vote to approve the proposed tax. She inquired as to the disposition of the tax once these projects are completed.

City Manager McDougal advised that should the proposed tax be approved by the voters, the City Council at any time in the future could adopt an Ordinance to repeal the tax. With regard to an accountability committee directing how the tax proceeds are to be spent, he stated that the majority of the City Council would have the ultimate decision as to how the tax revenues would be spent and would certainly be held accountable for its decisions.

Council Member Raft concurred.

Mayor Eaton stated he is equally supportive of the proposed tax and the Measure I extension measures and would work very hard toward the passage of both.

Council Member Ruh asked if any consideration had been given to imposing an ad valorem tax on large transactions.

Director of Administrative Services Starr indicated that the Council's direction at the workshop following the random survey of residents in October 2003 was for exploration of a transactions and use tax. He pointed out that, based on a precedent set in a recent court case, the Council can adopt a Resolution outlining a spending plan for specific programs and projects on which the tax proceeds would be spent should the proposed tax be approved by the voters. He concurred with City Manager McDougal that the Council should not relinquish its authority for tax revenue usage to an accountability committee.

Discussion centered on the issuance of general obligation bonds secured and guaranteed by the City of Montclair, the proceeds of which would be used along with the potential transactions and use tax proceeds to develop the new facilities.

Council Member Ruh reiterated his concern of presenting two tax measures to the voters at the same election.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Ordinance No. 04-849, entitled "**An Ordinance of the City Council of the City of Montclair 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,**" be read by number and title only, further reading be waived, and this be considered its second reading.

The City Council unanimously waived the reading of the Ordinance.

Second Reading of Ordinance No. 04-849 was adopted by the following ROLL CALL vote:

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

### VIII. CONSENT CALENDAR

Concerning Item C-1, "Approval of *Agreement No. 04-108* With O'Reilly Public Relations, Inc., to Conduct Public-Opinion Research and Public Awareness Related to the Transactions and Use Tax Measure" and "Authorization to Appropriate \$21,000 From the Contingency Account," City Manager McDougal asked that the \$15,000 for a public-opinion poll in Section B(4)(a) of proposed *Agreement No. 04-108* with O'Reilly Public Relations, Inc., be deleted and subtracted from the originally proposed \$21,000 appropriation from the Contingency Account, leaving a total request of \$6,000 for the balance of contractual obligations.

Moved by Mayor Pro Tem Dutrey, seconded by Council Member Raft, and carried unanimously to approve the following Consent Items as presented, noting the amendments to Item C-1 related to the revised appropriation of \$6,000 and Item D-1 related to usage of the alternate version of the transactions and use tax ballot measure language:

- A. **Approval of Minutes** - None
- B. **Administrative Reports** - None
- C. **Agreements**
  - 1. **Approval of *Agreement No. 04-108* With O'Reilly Public Relations, Inc., to Conduct Public Awareness Related to the Transactions and Use Tax Measure**  
  
**Authorization to Appropriate \$6,000 From the Contingency Account**  
  
The City Council took the following actions:
    - (a) Approved Agreement No. 04-108 with O'Reilly Public Relations, Inc., to conduct public awareness related to the transactions and use tax measure.
    - (b) Authorized a \$6,000 appropriation from the Contingency Account to pay for contractual obligations under *Agreement No. 04-108*.
- D. **Resolutions**
  - 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**

**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**

The City Council adopted the following Resolutions:

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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.

## **IX. COMMUNICATIONS**

- A. City Attorney/Agency Counsel - No comments**
- B. City Manager/Executive Director - No comments**
- C. Mayor/Chairman - No comments**
- D. City Council/Agency Board**

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

- (a) He welcomed Council Member Raft back after her unfortunate car accident the weekend before last.
- (b) He emphasized the importance of conducting a strong campaign in support of the passage of the transactions and use tax that will be placed on the November 2004 ballot.

2. Council Member/Director Ruh suggested O'Reilly Public Relations, Inc., the consultant hired this evening to conduct public-awareness outreach to Montclair residents on the transactions and use tax measure, organize neighborhood public-information meetings at participating residents' homes in an effort to reach a wider audience.

**X. ADJOURNMENT OF CITY COUNCIL, REDEVELOPMENT AGENCY, AND MONTCLAIR HOUSING CORPORATION**

At 7:10 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

Submitted for City Council/Redevelopment Agency Board approval,

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Yvonne L. Smith  
Transcribing Secretary