

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL AND REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS HELD ON MONDAY, AUGUST 2, 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 Neal Froese, Rock of Life Community Church**, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Raft led those assembled in the Pledge.

IV. ROLL CALL

Present: Mayor/Chairman Eaton; Mayor Pro Tem/Vice Chairman Dutrey; Council Member/Director 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 by Mr. Dennis Green, Construction Liaison, California Department of Transportation, District 8**

**Mr. Green** gave a comprehensive presentation on two upcoming projects that will affect Montclair residents, the **Interstate 10 Pavement Rehabilitation Project** to grind existing concrete pavement and replace deteriorated pavement slabs in the Nos. 1 and 2 lanes in both directions of the freeway from the Los Angeles County line to the I-15 Freeway, including improvements to the Monte Vista Avenue off-ramp and Euclid Avenue interchange ramps, and the **I-15 Devore Pavement Rehabilitation Project** for concrete pavement reconstruction in both directions on the two outside lanes through a 3.4-mile stretch in Devore from Sierra Avenue to the I-215 Freeway junction. He reported that the I-10 Freeway project would be constructed in the evening hours so as not to disrupt daytime traffic and that construction would be suspended during the holidays between November 2004 and the first of the year. He noted the six week I-15 Freeway "Demonstration Project" would commence September 13, 2004, and would dedicate one directional roadbed to construction activities while switching all traffic to the adjacent directional roadbed separated by a concrete barrier but with reduced capacity. He advised that traffic would be diverted to San Bernardino during construction of the project. He indicated that literature will be made available to the public and that information is also available on the agency's Web site at [www.dot.ca.gov/dist8/tmc/webmap.htm](http://www.dot.ca.gov/dist8/tmc/webmap.htm).

Mayor Eaton noted he is pleased that improvements will soon be made to roadways he frequently travels and thanked **Mr. Green** for his presentation and the brochures.

**Mr. Green** advised that he can be reached through the Web site for any complaints and thanked the Council for allowing him an opportunity to publicize these important upcoming projects.

## VI. PUBLIC COMMENT

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

1. Concerning his request at the last meeting for information on the recent voluntary resignation of a Montclair Police Officer, he noted he has a right to such information pursuant to the **Ralph M. Brown Act**. He asked that City Attorney Robbins provide him with the appropriate **Brown Act** section that was the reason behind City Manager McDougal's refusal to relate the reasons why the Police Officer in question terminated his employment with the City.
2. Citing several sections of the **Brown Act**, he suggested Mayor Pro Tem Dutrey's supposed comment at the last meeting related to **Mr. Baer's** not residing in Montclair is in violation of the **Brown Act**. He asserted that the **Brown Act** defends the public's right to comment at public meetings. He noted **Mr. Baer** would be attending the next regularly scheduled meeting.
3. He complained about the Council's demeanor during **Mr. Baer's** public comment period during the last meeting. He reiterated a quote from **U.S. Supreme Court Associate Justice Sandra Day O'Connor** on public officials' demeanors being as important as the rules they make.

## VII. PUBLIC HEARINGS

A. **Second Reading - 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 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 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 Ruh inquired as follows:

1. What is the approximate price range of the homes proposed to be built in this project?

**Mr. Tim Sun**, Principal, **Central 2004 Investment LLC**, responded that the homes are projected to start in the mid-\$400,000 range.

2. What is the annual income level needed to qualify for purchase of these homes?

**Mr. Sun** stated an annual income level of \$60,000 would be required.

Council Member Ruh noted his calculations, based on today's interest rates for a 30-year fixed mortgage, suggest an annual income of \$130,000 would be required.

**Mr. Sun** reiterated that a combined annual income of \$60,000 would be required to qualify for a home in that price range.

Council Member Ruh stated that the proposed homes would not be affordable to the working class, including nurses and school-teachers, which, in his opinion, is the type of housing needed in this community. He reiterated his strong support of new housing developments in the City being high density and that he is not in favor of the inclusionary housing requirement. He thanked **Mr. Sun** for his candid responses and noted he is not opposing **Mr. Sun's** project per se except for the fact that there are not enough higher density developments in the community to house the working class, particularly the clerk earning \$7 an hour. For that reason, he reiterated that he cannot support this item "because I cannot turn my back on working-class families."

Council Member Paulitz advised that he is somewhat disturbed that every item presented to the Council for a zone change, lot development, or specific plan of design for a housing development receives his colleague's standard position on the supposed lack of affordable high-density home developments in the City while offering no accompanying viable mitigation plan. He suggested his colleague visit new housing developments being built in the City of Rancho Cucamonga that are so-called "affordable"; and, even though they may not technically be affordable, "it is not Montclair's problem. And I wish you would take your professional life, keep it to yourself, and not bring it to [the] Council agenda every meeting."

Mayor Pro Tem Dutrey inquired as follows:

1. What is the current zoning of the subject property?

City Manager McDougal answered, "R-1(20), single-family residential, minimum 20,000-square-foot lot area."

2. Would that mean about 14 or 15 lots?

City Manager McDougal answered, "Yes."

3. If the proposed project is denied, wouldn't future development need to conform to the current zoning?

City Attorney Robbins agreed that lot sizes would need to be 20,000 square feet in size to conform with the current zoning.

Mayor Pro Tem Dutrey emphasized that the developer is proposing to build 46 homes on the subject 8.61-acre parcel currently zoned for about 14 or 15 homes, which would give 31 more families the opportunity to buy homes.

Mayor Pro Tem Dutrey asked Council Member Ruh how a clerk earning \$7 an hour could possibly afford to buy a home anywhere, even at an "affordable" price of \$150,000.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz 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 second reading.\*

Council Member Raft stated that nothing would please her more than to see new homes built at a cost of between \$150,000 and \$250,000, though, unfortunately, such prices are unrealistic in today's market. She advised that older homes are selling in Montclair for between \$300,000 and \$400,000 and that the price range for new homes is from \$300,000 to \$600,000. She expressed her support of the item.

In response to Mayor Pro Tem Dutrey's comment, Council Member Ruh advised that those earning \$7 an hour need safe decent rental housing, something lacking in this community in his opinion. He cited the **Kennedy Commission** report issued last year indicating that a family of four in this region needs to net \$14.76 an hour in wages to live at subsistence level. He expressed his opinion that homebuilders should be encouraged to develop housing projects at higher density so affordable housing will be available to the working class. He reiterated his reference to a *Los Angeles Times* article illustrating the affordability of median-priced housing in California in 1970, with qualifying families making 22 percent of the median income, as compared to 2003, which required households to bring in 174 percent of the median income to purchase a median-priced home. He emphasized that real estate prices in California have reached crisis proportions.

Mayor Pro Tem Dutrey reminded Council Member Ruh that he had asked Council Member Ruh to provide him with information related to the 30- to 40-unit per acre attached housing projects in Southern California that Council Member Ruh has referenced at these meetings, emphasizing that he would very much like to tour such developments.

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

Second Reading of Ordinance No. 04-850 was adopted by the following ROLL CALL vote:

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

## VIII. CONSENT CALENDAR

Council Member Paulitz requested that Item D-1 be removed from the Consent Calendar for comment.

Council Member Raft requested that Item C-2 be removed from the Consent Calendar for comment.

Council Member Ruh requested that Item B-1 be removed from the Consent Calendar for comment.

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

**A. Approval of Minutes**

**1. Minutes of Adjourned Joint Council/Agency Meeting of June 15, 2004**

The City Council and Redevelopment Agency Board approved the minutes of the Adjourned Joint City Council/Redevelopment Agency Board meeting of June 15, 2004.

**2. Minutes of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of July 19, 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 19, 2004.

**B. Administrative Reports**

**2. Setting a Public Hearing to Consider Adoption of Ordinance No. 04-852 Approving a Zone Change to the Montclair Municipal Code From "C-2" (Restricted Commercial) to "R-1" (Single-Family Residential) for .26 Acres at the Southwest Corner of San Bernardino Street and Rose Avenue**

The City Council set a public hearing for Monday, August 16, 2004, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 04-852 approving a zone change from "C-2" (Restricted Commercial) to "R-1" (Single-Family Residential) for .26 acres at the southwest corner of San Bernardino Street and Rose Avenue.

**3. Acceptance of Status Report on Emergency Contracting Procedures for Heating, Ventilation, and Air Conditioning Equipment at the Police Department and Determination of a Need to Continue the Action**

The City Council accepted a status report on emergency contracting procedures for heating, ventilation, and air conditioning equipment at the Police Department and determined the need to continue replacement of the equipment in the administrative portion of the Police Department.

**4. Declaring Unclaimed Bicycles and Small Motorized Vehicles in Police Custody as Surplus and Available for Auction**

The City Council declared the unclaimed bicycles and small motorized vehicles in Police custody listed on an attachment to the agenda report on this item as surplus and available for auction.

**5. "No Action" on Alcoholic Beverage Permit Application - Target Corporation**

The City Council voted "No action" on the "Off-Sale Beer and Wine" license application of Target Corporation for Target, 9052 Central Avenue, Montclair, California.

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

The City Council approved the Warrant Register dated August 2, 2004, totaling \$1,199,235.57, and the Payroll Documentations dated July 11, 2004, amounting to

\$505,275.45, with \$338,813.60 being the total cash disbursement.

### C. Agreements

#### 1. **Approval of Agreement No. 04-107 With The Liquidation Company for the Public Sale of Surplus and Unclaimed Property**

The City Council approved *Agreement No. 04-107* with The Liquidation Company for public sale of surplus and unclaimed property.

#### 3. **Approval of Agreement No. 04-110 With Nutrition Ink to Provide Nutrition Education Services for the City's Senior Citizen Nutrition Program**

The City Council approved *Agreement No. 04-110* with Nutrition Ink to provide nutrition education services for the City's Senior Citizen Nutrition Program.

### D. Resolutions

#### 1. **Adoption of Resolution No. 04-2533 Related to Setting Sewer Standby Fees on Vacant Properties**

The City Council adopted Resolution No. 04-2533 related to setting sewer standby fees on vacant properties.

## IX. PULLED CONSENT CALENDAR ITEMS

### B. Administrative Reports

#### 1. **Setting a Public Hearing to Consider Adoption of Ordinance No. 04-851 Adding Chapter 6.22 to Title 6 of the Montclair Municipal Code Related to Regulation of Skateboarding/Skating in the City of Montclair**

Council Member Ruh asked if signage would be posted at the Montclair Skate Park defining the terms contained in proposed Ordinance No. 04-851.

Assistant Director of Human Services Sue Yoakum answered, "Yes."

Moved by Council Member Ruh, seconded by Mayor Eaton, and carried unanimously that the City Council set a public hearing for Monday, August 16, 2004, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 04-851 adding Chapter 6.22 to Title 6 of the Montclair Municipal Code related to the regulation of skateboarding/skating in the City of Montclair.

### C. Agreements

#### 2. **Approval of Agreement No. 04-109 With Catering Systems, Inc., to Provide Meals for the City's Senior Citizen Nutrition Program**

Member Raft asked why the Oldtimers Foundation is not being recommended to cater the Senior Citizen Nutrition Program meals, considering the company's cost per meal is \$2.50 compared to the \$2.90 per meal charged by the existing subcontractor, Catering Systems, Inc.

Assistant Director of Human Services Yoakum clarified that the \$2.50 amount cited by Council Member Raft is the

suggested donation for senior meal program participants in the cities of Rancho Cucamonga, Ontario, and Upland for meals provided by the Oldtimers Foundation and is not the actual cost per meal. She expressed her understanding that the catering company charges more than the \$2.90 per meal charged by Catering Systems, Inc.

Having been a participant in the City's senior lunch program for many years, Council Member Paulitz advised that the City did contract with the Oldtimers Foundation in the past and did not receive the quality of service provided by the present caterer. He noted his and the other seniors' satisfaction with the meal quality and service provided by Catering Systems, Inc. He added that the City is able to keep the suggested donation at a reasonable \$1.75 with the proposed per meal subsidy of \$.62 from the City and the \$.53 per meal contribution from the United States Department of Agriculture. He stated that this program is a nice service that the City provides for its senior residents.

Council Member Raft concurred.

Moved by Council Member Raft, seconded by Council Member Ruh, and carried unanimously that the City Council approve *Agreement No. 04-109* with Catering Systems, Inc., to provide meals for the City's Senior Citizen Nutrition Program.

#### **D. Resolutions**

##### **1. Adoption of Resolution No. 04-2531 Authorizing Placement of Assessments on Certain Properties for Delinquent Sewer and Trash Charges**

Council Member Paulitz received clarification that over time a number of liens may accumulate on any one property for sewer and trash fee delinquencies and that the proposed collection of the 250 outstanding lien amounts through property tax bill assessments would result in a more timely collection of the delinquent amounts as compared to waiting for payment through sales or refinances of the properties in question.

Moved by Council Member Paulitz and seconded by Mayor Pro Tem Dutrey that the City Council adopt Resolution No. 04-2531 authorizing placement of property tax assessments for delinquent sewer and trash charges on the properties listed on Exhibit A to Resolution No. 04-2531.\*

Mayor Eaton received clarification that the larger lien amounts for 9685 Monte Vista Avenue and 4380 Holt Boulevard relate to an accumulation of higher sewer fees for commercial properties.

\*Motion carried as follows:

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

**X. RESPONSE - None**

#### **XI. COMMUNICATIONS**

**A. City Attorney/Agency Counsel - No comments**

**B. City Manager/Executive Director - No comments**

C. Mayor/Chairman

1. **Announcement of One (1) Vacancy Each on the Community Action Committee and the West Valley Mosquito and Vector Control District Board**

Mayor Eaton announced there is one vacancy each on the Community Action Committee (CAC) and the **West Valley Mosquito and Vector Control District Board** to fill the unexpired terms of CAC Member Gerald Johnson, whose term ends June 30, 2006, and **West Valley Mosquito and Vector Control District Board** Member **Isabel Briones**, whose term ends January 2, 2008, noting these volunteers have moved out of Montclair. He advised that applications for these seats are available at City Hall and will be accepted through September 2, 2004.

D. City Council/Agency Board

1. Council Member/Director Paulitz noted receiving a copy of a memorandum from Fire Chief Turner and Police Chief Thompson on enforcement activities related to the **Fourth of July** holiday. He spoke in complete support of expanding the City's enforcement program to reinforce the City's "zero tolerance" policy on fireworks usage.

Mayor Eaton concurred.

2. Mayor Pro Tem/Vice Chairman Dutrey noted the Legislature approved the state budget over the weekend along with Senate Constitutional Amendment No. 4, the *Local Government Protection Act*, which will be placed on the ballot in November 2004 as Proposition 1A. He further noted that Proposition 65, the *LOCAL Initiative (Local Taxpayers and Public Safety Protection Act)* will also be on the November ballot and will serve to protect local revenue sources from future diversion by the state. He advised that **Assembly Member Darryl Steinberg** was one of five Assembly Members who opposed Senate Constitutional Amendment No. 4.

3. Council Member/Director Ruh commented as follows:

- (a) He noted his attendance last week at the very well attended **Multi-Chamber Mixer** held at **Pomona Valley Harley-Davidson**, which gave the other Chamber offices an opportunity to see how successful the business is. He thanked owners **Dave** and **Barbara Pennell** for their involvement in fund-raising activities for the Montclair Police Officers Association and Montclair Fire Fighters Association over the years.
- (b) He noted the inequity of a tax loophole that benefits purchasers of yachts and certain valuations of recreational and sport utility vehicles, whereby such water craft and vehicles can be offshored in Mexico for 90 days to avoid paying sales the tax. He noted the absurdity of a two-year moratorium the Legislature has placed on the loophole and suggested perhaps the **League of California Cities** and other organizations could take a stand to end the loophole once and for all.

**E. Committee Meeting Minutes**

**1. Minutes of Personnel Committee Meeting of July 19, 2004**

The City Council received and filed the Personnel Committee meeting minutes of July 19, 2004, for informational purposes.

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

At 7:47 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency Montclair Housing Corporation Boards of Directors.

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

---

Yvonne L. Smith  
Transcribing Secretary