

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL AND REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS HELD ON MONDAY, AUGUST 16, 2004, AT 6:59 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 6:59 p.m.

II. INVOCATION

**Pastor Vicki Brobeck, Grace Fellowship Church**, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Ruh 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. **Proclamation Declaring Montclair a *Relay for Life* Community and Announcing the *1st Annual Relay for Life of Montclair* Event on August 28 and 29, 2004**

Mayor Eaton presented **Ms. Jeanne Ramirez**, Relay Manager, **American Cancer Society**, with a proclamation declaring Montclair a *Relay for Life* community and announcing the *1st Annual Relay for Life of Montclair* event on August 28 and 29, 2004.

**Ms. Ramirez** accepted the proclamation and thanked Mayor Eaton. She recognized the following community cancer survivors: **Mrs. Lane Snyder** (six years), **Ms. Garbetta Hager** (ten years), **Mr. Don Vodvarka** (15 years), and Senior Recreation Supervisor and Team Leader for this event Joyce Tanner (ten years). She introduced Entertainment Chair and event co-Chair **Carmen Serrano** and Community Ambassador **Frank Ramirez**, who will represent the **American Cancer Society** in Sacramento, and thanked them for their service to the organization.

Mayor Eaton thanked **Ms. Ramirez** for her comments.

VI. PUBLIC COMMENT

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

1. He noted his gratitude was never relayed to Captain Kevin Piper, as **Mr. Armstrong** had requested at the March 15, 2004

regular joint meeting, for Captain Piper's assistance in the quick recovery of a monitor stolen from **Mr. Armstrong's** daughter's vehicle.

2. He reiterated his inquiry as to the reason a former Montclair Police Officer resigned, expressing his opinion that "the public has a right to know what's going on."
3. He spoke in support of Council Member Ruh's comments at the last regular joint meeting during a public hearing related to a zone change on property in South Montclair for a small-lot housing subdivision and noted his disapproval of Council Member Paulitz's and Mayor Pro Tem Dutrey's remarks to Council Member Ruh during the hearing.
4. He noted his praise to former **Congressman Jay Kim** about Council Member Ruh's excellent work for the Congressman.
5. With regard to Mayor Pro Tem Dutrey's supposed remarks to **Mr. Baer** about commenting at these meetings though he is not a resident, he suggested Mayor Pro Tem Dutrey review the First Amendment to the **U.S. Constitution** and the **Ralph M. Brown Act**, the latter of which he offered to provide to Mayor Pro Tem Dutrey.
6. He reiterated a quote from the **Revered Dr. Martin Luther King** on the public's obligation to speak out if something appears to be wrong in our government. He asserted that the public has the right to speak at public meetings pursuant to the **Ralph M. Brown Act**.

Mayor Eaton advised that pursuant to the City's personnel policy, no information would be provided on the reason the aforementioned Police Officer terminated his employment with the City. He suggested **Mr. Armstrong** obtain such information from the Police Officer himself.

- B. Mr. Ahjamu Makalani** spoke as a field representative for **Ms. Cynthia Matthews**, the **26th Congressional District** Democratic nominee for the **House of Representatives**. He advised that **Ms. Matthews** cares about the issues facing local government and the City of Montclair and is available to assist the City with any federal concerns.

Mayor Eaton and Council Member Ruh thanked **Mr. Makalani** for his comments.

- C. Mr. Roger Baer** commented as follows:

1. He told **Mr. Makalani** that the state needs more federal tax revenues to partially reconcile the state deficit.
2. He told Mayor Eaton that policies are not law.
3. He concurred with Council Member Ruh's comments at the last regular joint meeting related to the need for higher density housing in the City.
4. He told Mayor Pro Tem Dutrey that he could handle any "cheap shots" directed his way.
5. Concerning Mayor Pro Tem Dutrey's supposed comment at the last meeting that **Mrs. Baer** lost her lawsuit against the City, he expressed his opinion that that is not the case. He clarified

the background of the case and the reason behind the subsequent settlement of the matter out of court. He expressed his opinion that Mayor Pro Tem Dutrey owes his wife an apology at this time for the alleged comment.

6. He discussed supposed e-mail correspondence sent to him by certain City employees and comments from certain City employees concerning Director of Administrative Services Starr's remaining "on the City payroll long after his medical leave and his vacation had run out." He reiterated his inquiry related to whether Director of Administrative Services Starr was "illegally paid on the City payroll long after his benefits from the City ran out."

City Manager McDougal advised that Director of Administrative Services Starr was not illegally paid for any time for which he should not have been paid. He further advised that the supposed informants appear to be making statements without any facts.

**Mr. Baer** asked if City Manager McDougal could provide proof to substantiate his statement.

City Manager McDougal reiterated that staff would review any evidence brought forward by **Mr. Baer** or anyone else concerning illegal payments made to Director of Administrative Services Starr. He further reiterated that absent any evidence that Director of Administrative Services Starr was paid more than he should have been, there is no reason for further response to such unsubstantiated claims.

## VII. PUBLIC HEARINGS

### A. **First Reading - 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**

Mayor Eaton declared it the time and place set for public hearing 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 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 concurred with the provisions of proposed Ordinance No. 04-851 related to providing a sense of decorum at the new skate park for the enjoyment of all participants. He noted he was pleased to see the inclusion of certain regulations, including the banning of glass containers or other glass products and the prohibition against graffiti vandalism for safety reasons. He noted that skateboard enthusiasts assisted in the drafting of the proposed Ordinance.

Moved by Council Member Ruh and seconded by Mayor Pro Tem Dutrey that Ordinance No. 04-851, entitled "**An Ordinance of the City Council of the City of Montclair Adding Chapter 6.22 to Title 6 of the Montclair Municipal Code Related to the Regulation of Skateboarding/Skating in the City of Montclair,**" 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.

First Reading of Ordinance No. 04-851 was unanimously adopted by the following vote:

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

Council Member Ruh thanked Assistant Director of Human Services Sue Yoakum and Community Action Committee Chairperson Darleen Hartman and Member Charlene Kusick for their hard work over the past five years to make the new park a reality.

**B. First Reading - 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**

Mayor Eaton declared it the time and place set for public hearing 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 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 Mayor Pro Tem Dutrey that Ordinance No. 04-852, entitled "**An Ordinance of the City Council of the City of Montclair 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,**" 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.

First Reading of Ordinance No. 04-852 was unanimously adopted by the following vote:

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

**VIII. CONSENT CALENDAR**

Council Member Paulitz requested that Item B-6 be removed from the Consent Calendar for comment.

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

**A. Approval of Minutes**

**1. Minutes of Adjourned Joint Council/Agency/Montclair Housing Corporation Meeting of July 28, 2004**

The City Council and Redevelopment Agency Board approved the minutes of the Adjourned Joint City Council/Redevelopment Agency Board/Montclair Housing Corporation Board meeting of July 28, 2004.

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

**B. Administrative Reports**

**1. Setting a Public Hearing to Consider the Following:**

**Adoption of Ordinance No. 04-853 Approving a Zone Change to the Montclair Municipal Code From "A-1" (Limited Agricultural) to "R-1(SL)" (Single-Family Small-Lot Detached Housing Overlay) for 4.34 Acres at 11124 Central Avenue**

**Approval of Tentative Tract Map No. 16913 for a 24-Lot Residential Subdivision at 11242 Central Avenue**

The City Council set a public hearing for Tuesday, September 7, 2004, at 7:00 p.m. in the City Council Chambers to consider the following:

(a) Ordinance No. 04-852 approving a zone change to the Montclair Municipal Code from "A-1" (Limited Agricultural) to "R-1(SL)" (Single-Family Small-Lot Detached Housing Overlay) for 4.34 acres at 11124 Central Avenue.

(b) Approval of Tentative Tract Map No. 16913 for a 24-lot residential subdivision at 11242 Central Avenue.

**2. Setting a Public Hearing to Consider Adoption of Ordinance No. 04-854 Establishing the Following Prezone Designations Within the City's Sphere of Influence:**

**"R-1(SL)" to Approximately 4.70 Acres**

**"R-1" to Approximately 3.09 Acres**

**"R-1(11)" to Approximately 4.38 Acres**

**"R-1(20)" to Approximately 5.21 Acres**

The City Council set a public hearing for Tuesday, September 7, 2004, 7:00 p.m. in the City Council Chambers to consider Ordinance No. 04-854 establishing the following prezone designations within the City's Sphere of Influence:

"R-1(SL)" to approximately 4.70 acres

"R-1" to approximately 3.09 acres

"R-1(11)" to approximately 4.38 acres

"R-1(20)" to approximately 5.21 acres

**3. Setting a Public Hearing to Consider Approval of Tentative Tract Map No. 16697 for a Nine-Lot Residential Subdivision at 11204 Fremont Avenue**

The City Council set a public hearing for Tuesday, September 7, 2004, at 7:00 p.m. in the City Council Chambers to consider approval of Tentative Tract Map No. 16697 for a nine-lot residential subdivision at 11204 Fremont Avenue.

**4. Acceptance of Final Status Report on Emergency Contracting Procedures for Heating, Ventilation, and Air Conditioning Equipment at the Police Department**

The City Council accepted a final status report on emergency contracting procedures for heating, ventilation, and air conditioning equipment at the Police Department.

**5. Authorize Purchase of One Demonstration Vac-Con Combination Sewer and Storm Drain Vacuum Truck From Municipal Maintenance Equipment**

The City Council authorized the purchase of one demonstration vac-con combination sewer and storm drain vacuum truck from Municipal Maintenance Equipment.

**7. Acceptance of Grant Deed No. 1620 for a Sewer Easement on Lot No. 26 of Tract No. 3904 to Allow for Sanitary Sewer Construction and Maintenance**

The City Council accepted Grant Deed No. 1620 for a sewer easement through Lot No. 26, Tract No. 3904 (9557 Camulos Avenue), to allow for sanitary sewer construction and maintenance related to development of Tract No. 15897.

**8. Designation of Voting Delegate and Alternate Voting Delegate to the League of California Cities Annual Conference, September 17-19, 2004 - Long Beach, California**

The City Council designated Mayor Eaton as voting delegate and Mayor Pro Tem Dutrey as alternate voting delegate to the League of California Cities Annual Conference Business Meeting to be held Saturday, September 19, 2004, at the Long Beach Convention Center, Long Beach, California.

**9. "No Action" on Alcoholic Beverage Permit Application - El Huracan Night Club**

The City Council voted "No action" on the "On-Sale General" license application of Mr. Deromero Julia Vazquez for El Huracan Night Club, 10380 Central Avenue, Montclair, California.

**10. Receiving and Filing of City Treasurer's Report**

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

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

The City Council approved the Warrant Register dated August 16, 2004, totaling \$1,258,376.77, and the Payroll Documentations dated July 25, 2004, amounting to \$535,209.77, with \$369,496.78 being the total cash disbursement.

**12. 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 July 31, 2004.

**13. Approval of Agency Warrant Register**

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 7/01/2004-7/31/2004 in the amounts of \$1,303.30 for Project I; \$178.86 for Project II; \$86,568.12 for Project III; \$12,837.38 for Project IV; and \$24,632.42 for Project V.

**14. 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 July 31, 2004.

**15. Approval of MHC Warrant Register**

The MHC Board approved the MHC Warrant Register dated 7/01/2004-7/31/2004 in the amount of \$19,851.69.

**C. Agreements**

**1. Award of Contract to Signal Maintenance Inc. in the Amount of \$33,886**

**Approval of Agreement No. 04-111 With Signal Maintenance Inc. for Traffic Signal Modifications at Holt Boulevard and Vernon Avenue**

**Authorization of a \$5,000 Construction Contingency**

The City Council took the following actions related to traffic signal modifications at Holt Boulevard and Vernon Avenue:

- (a) Awarded a contract to Signal Maintenance Inc. in the amount of \$33,886
- (b) Approved *Agreement No. 04-111* with Signal Maintenance Inc.
- (c) Authorized a \$5,000 construction contingency.

**2. Approval of Agreement No. 04-112, a Purchase and Sale Agreement by and Between the City of Montclair Redevelopment Agency and Shyh-Hau Leu and Huey-Meei Leu for Property Located on the South Side of Holt Boulevard, West of Ramona Avenue (APN: 1012-051-04)**

**Authorize a \$765,000 Appropriation From Redevelopment Project Area No. V 2001 Tax Allocation Bond Funds for Acquisition of the Subject Property**

The Redevelopment Agency Board took the following actions:

- (a) Approved *Agreement No. 04-112, a Purchase and Sale Agreement* by and between the City of Montclair Redevelopment Agency and Shyh-Hau Leu and Huey-Meei Leu for property located on the south side of Holt Boulevard, west of Ramona Avenue (APN: 1012-051-04).
- (b) Authorized a \$765,000 appropriation from Redevelopment Project Area No. V 2001 Tax Allocation Bond funds for acquisition of the subject property.

3. **Approval of Agreement No. 04-113, a Purchase and Sale Agreement by and Between the City of Montclair Redevelopment Agency and Bentley 7/23/99 L.T./Cecil J. Johnson Tr. For Property Located at 10611 Ramona Avenue at the Southeast Corner of Ramona Avenue and Brooks Street**

The Redevelopment Agency Board approved *Agreement No. 04-113, a Purchase and Sale Agreement* by and between the City of Montclair Redevelopment Agency and Bentley 7/23/99 L.T./Cecil J. Johnson Tr. for property located at 10611 Ramona Avenue at the southeast corner of Ramona Avenue and Brooks Street.

4. **Redevelopment Agency Board of Directors' Approval of Agreement Nos. 04-115 Through 04-123, Rehabilitation Grant Agreements by and Between the City of Montclair Redevelopment Agency and Exterior Housing Improvement Program (E-HIP) Participants**

The Redevelopment Agency Board approved *Agreement Nos. 04-115 through 04-123, Rehabilitation Grant Agreements* by and between the City of Montclair Redevelopment Agency and the nine E-HIP participants listed on Exhibit A to the agenda report on this item.

D. Resolutions - None

IX. PULLED CONSENT CALENDAR ITEMS

B. Administrative Reports

6. **Declaring Certain Police and Fire Department Electric Vehicles as Surplus and Authorizing Their Donation to Montclair High School**

Council Member Paulitz asked how Montclair High School (MHS) staff could possibly hope to circumvent the recurrent battery-maintenance problems the City has experienced with the vehicles.

Noting the warranties have expired on all the vehicles, Police Chief Thompson clarified that the Police vehicles have been subjected to constant use in the application of parking enforcement, which is not the recommended usage for this model of electric vehicle. He indicated that the vehicles would only be subjected to limited use by Montclair High School and would also have the advantage of being serviced in the school's auto shop.

Council Member Paulitz received further clarification that the vehicles each contained eight batteries totaling 84 volts and that the batteries were not receiving a full charge.

Noting he received information from planned communities that utilize electric vehicles for mail delivery and shuttle service, Council Member Ruh indicated that such vehicles are only geared for limited use because constant use completely drains the batteries.

Moved by Council Member Paulitz, seconded by Council Member Ruh, and carried unanimously that the City Council declare the following Police and Fire Department electric vehicles as surplus and authorized their donation to MHS:

<i>Department</i>	<i>Year and Model</i>	<i>Vehicle Identification No.</i>	<i>Mileage</i>	<i>Estimated Sales Price</i>
Police	2001 GEM electric car	5ASAG27491F013246	Unknown (electronic malfunction)	\$700
Police	2002 GEM electric car	5ASAG27412F031192	"	\$700
Police	2002 GEM electric car	5ASAG27452F027033	"	\$700

**X. RESPONSE – None**

**XI. COMMUNICATIONS**

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

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

**C. Mayor/Chairman**

1. Mayor/Chairman Eaton commented as follows:

(a) He noted his attendance at the recent **San Bernardino Associated Governments** Board meeting, advising there is nothing new to report besides the measure to extend the **Measure I** half-cent transportation transactions and use tax that will appear on the November 2, 2004 ballot.

(b) He reiterated his announcement of 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 questioned a **Fair Political Practices Commission** Form 460 filed by a candidate running for election to the Montclair City Council on the November 2, 2004 ballot. He advised that the form lists campaign expenditures totaling \$650, with none over \$100 so itemization was not required, for the time period between January 1 through June 30, 2004, which was before the candidate had filed his nomination papers to be considered as a candidate for the forthcoming election. He indicated he would issue a personal apology to the candidate for broaching the subject should the candidate offer proof that the subject campaign expenditures are all legitimate.

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

(a) He noted learning recently from **Fourth District County Supervisor Patti Aguiar** that the **San Bernardino County Board of Supervisors** would soon be approving funding assistance for the **Southern California Housing Development Corporation** multifamily housing development project at San Antonio Gateway.

(b) He noted his attendance last Friday at an **Alameda Corridor-East (ACE)** Assembly Select Committee hearing

hosted by **Assembly Member** and Committee Chair **Gloria McLeod**, at which the substantial increase in freight rail traffic along the **Union Pacific Railroad** line related to the **Alameda Corridor** was addressed. He noted being pleased that the City is continuing to move forward on its grade separation projects at Ramona and Monte Vista Avenues. He expressed his hope that **Congress** would soon approve a six-year federal transportation bill that authorizes Montclair to receive \$4 million for both projects.

- (c) He somberly advised that his wife, who had retired from the **United States Army** after serving nine years, has been called to report to active duty on an 18-month assignment beginning September 24, 2004, with possible deployment to Iraq. Noting he will be the sole caregiver to his two children, he advised that over the next four months his family will remain his first priority and that he might at times need to forgo City business for more important family obligations. He asserted he would continue his campaign for reelection to the City Council and expressed his appreciation of his colleagues' and constituents' support. In response to earlier comments attacking his character, he stated that the real hero in his life is his wife, who will be courageously serving her country quite possibly in the Middle East.

Mayor Eaton told Mayor Pro Tem Dutrey "God bless you" and that Mayor Pro Tem Dutrey and his family will be in the Mayor's prayers. He indicated that he and the other Council Members would be available to help in any way they can.

3. Council Member/Director Ruh commented as follows:

- (a) He concurred that **Mrs. Dutrey** and the **Dutrey** family will be in his prayers and that the Council is available for assistance. He noted that **Mrs. Dutrey's** call to active duty certainly highlights the significance of all military personnel serving in Iraq and Afghanistan and that the City's display of Montclair residents who enlisted in the U.S. Armed Forces following the September 11, 2004 terror tragedy truly honors the Montclair servicemen and women currently serving their country.
- (b) He apologized for not attending the **ACE** Assembly Select Committee hearing last Friday, noting he was obligated to attend a **Santa Ana Regional Water Quality Control Board** meeting. He noted he has spoken at length to **Assembly Member McLeod** about **ACE** issues, adding that she is continuing to work toward obtaining additional funding for the needed at-grade crossings along the **ACE** route.
- (c) He announced the City's first Family Fun Festival to be held Saturday, August 21, 2004, from 10:00 a.m. to 2:00 p.m. at the Montclair Civic Center and Alma Hofman Park. He noted the festival will be fun for the whole family and will promote healthy lifestyles through educational and fun activities and encouraged families to participate in the enjoyable celebrations.

**E. Committee Meeting Minutes**

**1. Minutes of Public Works Committee Meeting of July 15, 2004**

The City Council received and filed the Public Works Committee meeting minutes of July 15, 2004, for informational purposes.

**2. Minutes of Real Estate Committee Meeting of July 19, 2004**

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

**3. Minutes of Personnel Committee Meeting of August 2, 2004**

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

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

At 7:38 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/Montclair Housing Corporation Board approval,

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Yvonne L. Smith  
Transcribing Secretary