

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL AND REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS HELD ON MONDAY, SEPTEMBER 20, 2004, AT 6:57 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 6:57 p.m.

II. INVOCATION

Mayor/Chairman Eaton gave the Invocation.

III. PLEDGE OF ALLEGIANCE

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

IV. ROLL CALL

Present: Mayor/Chairman Eaton; 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; Deputy City Attorney/Agency Counsel Holdaway; City Clerk/Agency Secretary Jackson

Absent: Mayor Pro Tem/Vice Chairman Dutrey (arrived at 6:59 p.m.)

Mayor Eaton advised that the City of Montclair is in need of four precinct workers for the November 2, 2004 Statewide General Election. He asked that those interested contact City Clerk Donna Jackson at 625-9415 at their earliest convenience for information on serving their community as an election precinct worker.

Mayor Pro Tem/Vice Chairman Dutrey arrived at 6:59 p.m.

Mayor Eaton reiterated his announcement of one vacancy on the Community Action Committee (CAC) to fill the unexpired term of CAC Member Charlene Kusick, who has moved out of Montclair. He noted **Ms. Kusick's** term ends June 30, 2006. He advised that applications are available at City Hall and would be accepted through Thursday, October 7, 2004.

V. PRESENTATIONS

A. Introduction of New Employees

Mayor Eaton introduced **Mr. Matthew Quinteros**, who was appointed to the position of Police Officer effective September 13, 2004, after graduating second in his class from the **San Bernardino County Sheriff's Academy** on September 9, 2004. He noted Police Officer Quinteros began his career with the City of Montclair as a Police Cadet on April 8, 2002, and that in February 2003, he was assigned to the **San Bernardino County West End Narcotic Enforcement Team**.

Mayor Eaton welcomed Police Officer Quinteros to the Montclair City family and presented him with a City pin.

Mayor Eaton introduced **Mrs. Debbie Camou**, who was appointed to the position of Reserve Police Officer effective September 8, 2004. He noted Reserve Officer Camou has 14 years of law enforcement experience serving as a Deputy Sheriff with the **Los Angeles County Sheriff's Department**. He noted Reserve Officer Camou currently works for **Von's Corporation** as a Loss Prevention Officer.

Mayor Eaton welcomed Reserve Officer Camou to the Montclair City family and presented her with a City pin.

Mayor Eaton introduced **Mr. Jerry Allison**, who was appointed to the position of Reserve Police Officer effective May 17, 2004. He noted Reserve Officer Allison graduated recently from the **Riverside County Sheriff's Level 2 Reserve Academy** and is presently attending the Level 1 modular from which he is expected to graduate in December 2004. He noted Reserve Officer Allison is currently self-employed as a real estate appraiser and also works as a Senior Evaluation Analyst at **Novastar Mortgage**.

Mayor Eaton welcomed Reserve Officer Allison to the Montclair City family and presented him with a City pin.

Mayor Eaton noted newly appointed Reserve Police Officer **Garry Cobb** was unable to attend tonight's meeting because he is working. He stated that he would see to it that Reserve Officer Cobb receives his City pin.

Mayor Eaton introduced **Mr. Randy Ortiz**, who was appointed to the position of Reserve Police Officer effective September 8, 2004. He noted Officer Ortiz recently graduated from the **San Bernardino County Sheriff's Level 2 Reserve Academy** and that he, too, is employed by **Von's Corporation** as a Loss Prevention Officer.

Mayor Eaton welcomed Reserve Officer Ortiz to the Montclair City family and presented him with a City pin.

Mayor Eaton introduced our newest Volunteer in Policing **Ms. Haidee Reyes**, who recently completed the **Volunteer in Policing Academy** offered by the Montclair Police Department. He noted Volunteer in Policing Reyes has already devoted many hours of volunteerism to the Department and is well liked and respected by staff.

Mayor Eaton welcomed Volunteer in Policing Reyes to the Montclair City family and presented her with a City pin.

VI. PUBLIC COMMENT

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

1. In follow-up to Council Member Paulitz's supposedly indicating at the August 16, 2004 regular joint meeting that the attendance at over 15 cities' Council meetings he attended is similar to that at Montclair Council meetings, **Mr. Armstrong** noted there were 60 attendees at a Rancho Cucamonga Council meeting.
2. He noted being approached by individuals while attending this year's **L. A. County Fair** who asked him about his past comments related to being threatened by a staff member and recounted the incident for their benefit.

3. He reiterated his inquiry as to the reason a former Montclair Police Officer resigned and asked Deputy City Attorney Holdaway why the City can legally withhold such information.

Noting "we have been over this several times," Mayor Eaton reiterated his suggestion that **Mr. Armstrong** obtain such information from the Police Officer himself.

Council Member Paulitz asked **Mr. Armstrong** how he knows an Officer has resigned from the Montclair Police Department.

Mr. Armstrong stated he would not reveal his source.

Council Member Paulitz advised that the information requested by **Mr. Armstrong** is confidential in nature and would only have been addressed during a Personnel Committee meeting. He again asked **Mr. Armstrong** how he found out about the Officer's resignation.

Mr. Armstrong stated, "I found out. I have sources." He reiterated he would not reveal his source. He expressed his opinion that pursuant to the **Ralph M. Brown Act**, he is entitled to information related to the reason for the Officer's resignation.

Deputy City Attorney Holdaway advised that the **Brown Act**, in particular, prohibits discussing items that are not on tonight's agenda. He stated that in particular, personnel items are not matters of public discussion and that both generally and specifically, this is not an item to be discussed.

Noting he has broached this issue at several Council meetings, **Mr. Armstrong** stated it is an item of interest to the public. He suggested the City is withholding information that, pursuant to the **Brown Act**, the people have a right to know.

Mayor Eaton told **Mr. Armstrong**, "No, they don't. You are wrong, sir."

Mr. Armstrong asked for further clarification.

Deputy City Attorney Holdaway advised that contained in "the **Brown Act**, as I indicated, there are various personnel protections. Personnel matters are not within the **Public Records Act**. That is a specific exception. Beyond that, Mr. Mayor, I would advise the Council not to further discuss or respond to questions of this nature."

- B. **Mr. Roger Baer** reiterated his request from a few meetings ago that Mayor Pro Tem Dutrey apologize to **Mrs. Baer** for Mayor Pro Tem Dutrey's supposed comment at a prior meeting that **Mrs. Baer** lost her lawsuit against the City.

Noting his resentment about **Mr. Baer's** comments regarding this issue, Mayor Pro Tem Dutrey recollected that his comments at the August 16, 2004 meeting related to his wife's heroism in her willingness to serve our country, potentially in war-torn Iraq, beginning this Friday when she returns to active duty in the **United States Army**. He asked **Mr. Baer** the date of the meeting that Mayor Pro Tem Dutrey supposedly made the statement.

Mr. Baer indicated the statement was referenced in the minutes of the meeting and that he would be happy to provide Mayor Pro Tem Dutrey with an audiotape of that meeting.

Mayor Pro Tem Dutrey advised he would be more than happy to publicly apologize for making the statement if **Mr. Baer** can, in fact, prove that he did.

Discussion centered on comments supposedly made by Mayor Pro Tem Dutrey related to the **Baer** settlement and on the public's right to comment at public meetings pursuant to the **Constitution** and the **Brown Act**.

Mayor Eaton told **Mr. Baer** he might discover that it was Mayor Eaton who made the comment attributed to Mayor Pro Tem Dutrey.

Mr. Baer asserted that if such turns out to be the case, he would apologize to Mayor Pro Tem Dutrey.

City Manager McDougal commented as follows:

1. He stated it is his recollection that Mayor Pro Tem Dutrey did not make the comment that **Mr. Baer** attributes to him.

Mayor Pro Tem Dutrey asked City Clerk Jackson to research the matter through meeting records over the last six months.

2. In response to **Mr. Baer's** comments this evening and in the past related to the City supposedly using public funds to settle the **Baer** lawsuit, he reiterated for clarification purposes for at least the second time that the subject settlement was paid by the City's insurance company at the request of that company to settle the matter out of court to avoid all associated litigation costs. He added that the Council up until that time had been a proponent of the litigation proceeding through the court system in defense of City staff named in the lawsuit.

VII. PUBLIC HEARINGS

A. **Second Reading – Adoption of Ordinance No. 04-853 Approving a Zone Change from "A-1" (Limited Agricultural) to "R-1(SL)" (Single-Family Residential Small-Lot Detached Housing Overlay) for 4.34 Acres at 11242 Central Avenue**

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 04-853 approving a zone change from "A-1" (Limited Agricultural) to "R-1(SL)" (Single-Family Residential Small-Lot Detached Housing Overlay) for 4.34 acres at 11242 Central Avenue and invited comments from the public.

Mr. Mike Palmer, 5276 Phillips Boulevard, Chino, commented as follows:

1. He stated it is important to those ultimately affected by the proposed action and the action proposed in the next item that information related to the public hearings on these items be provided to affected County residents. He expressed his opinion and that of a number of his neighbors that their properties are within the 300-foot notification radius and they should be privy to all related documentation.
2. He expressed his opinion the Local Agency Formation Commission's (LAFCO's) policy direction to expand the annexation boundaries proposed in the following public hearing item is just that—a policy direction only with no legal requirement for the annexation action if it is not the desire of a majority of property owners of the subject site.
3. He complained that the perimeter wall of the Deer Creek and adjacent new residential subdivisions remind him of the Berlin Wall. He spoke in opposition to such a wall being constructed around the new residential subdivision to be developed at 11242 Central Avenue. He further complained

that the Deer Creek subdivision contains inadequate playground areas.

4. He asked that this item be tabled for at least six months to allow the owners of the adjoining properties to meet with LAFCO to address these and other issues.
5. He expressed his appreciation of the Mayor's vote at the last meeting to continue this item.
6. He expressed his appreciation to City Manager McDougal that the public hearing notification information he requested at the last meeting be sent to affected County property owners was postmarked the day following the meeting.
7. He stated that he and his neighbors desire to be part of the decision-making process on this and the following item, emphasizing that they "don't want to be left out."

Mayor Eaton determined that **Mr. Jerry M. Kovacevich**, 5246 Phillips Boulevard, Chino, concurs with comments made by **Mr. Palmer**.

Mr. Albert Brutsche, 5200 Phillips Boulevard, Chino, indicated he actually would like to address the following item.

Mr. Raymond J. Cuevas, son of **Ray** and **Maria Cuevas**, 5206 East Phillips Boulevard, Chino, spoke on his and his parents' behalf in opposition to the next item on the proposed rezoning designations.

Ms. Susan Roush, 5234 Phillips Boulevard, Chino, spoke on behalf of her mother, **Mrs. Lenora Farrar**, who has resided at 5234 Phillips Boulevard for over 30 years. She indicated they would like to have more information on the next item related to the proposed rezoning designations and the consequential financial-impacts/burdens, if any. She asked that the residents be given more time to study the proposal.

Mr. Jaime Gonzalez, 5216 Phillips Boulevard, Chino, noted his relatives who reside in Montclair have advised him of overcrowding conditions at their children's schools. He stated he would like his children to remain in their present schools. He added that he is a professional truck driver and that he parks his rig in front of his home. He expressed his opposition to the proposed rezoning action in the next item and asked for additional time to study the matter.

Mr. Landon Jones, 11303 Fremont Avenue, Montclair, noted he resides in the home his father built and that he raises donkeys and llamas on the property. He stated that he is not against the residential subdivision to be developed at 11242 Central Avenue but that he would like to have his area remain rural with large one-acre lots and the existing quality of life. He advised that he is not opposed to future annexation of the property proposed for a residential subdivision in the public hearing item to follow but that he is opposed to the future annexation of "the old part that has homes on it."

Mrs. Laurie Jones, 11303 Fremont Avenue, Montclair, spoke of caring for her ailing father-in-law after moving from Montana to live with him and care for his assortment of animals. She expressed her concern about being able to keep the animals should the property be annexed to Montclair as a result of the action proposed in the next public hearing item.

Ms. Patricia Ann Ford, 5170 Phillips Boulevard, Chino, stated she is opposed to the future annexation of her property to Montclair as a result of the action proposed in the next public hearing item. She expressed her concern about parking her truck on her property and the potential loss of the half-acre distances between the residences in her neighborhood.

Mr. Thomas R. Nedeau, 11271 Fremont Avenue, Montclair, noted he moved to his one-acre property 30 years ago. He advised that he enjoys living in a rural environment and that he is opposed to the future annexation of his property to Montclair as a result of the action proposed in the next public hearing item.

Mrs. Shellie Nedeau, 11271 Fremont Avenue, Montclair, noted her family enjoys living in an area that is close to a variety of animals. She expressed her concern that such lifestyle would end should her property be annexed to Montclair as a result of the action proposed in the next public hearing item.

Noting that more County residents desire to comment on the next item, Mayor Eaton asked Deputy City Attorney Holdaway if that public hearing might be opened for public comment.

Deputy City Attorney Holdaway recommended that each public hearing be conducted separately.

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.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Ordinance No. 04-853, entitled "**An Ordinance of the City Council of the City of Montclair Approving a Zone Change to the Montclair Municipal Code from "A-1" (Limited Agricultural) to "R-1(SL)" (Single-Family Residential Small-Lot Detached Housing Overlay) for 4.34 Acres at 11242 Central Avenue,**" be read by number and title only, further reading be waived, and this be declared its second reading.*

With regard to **Mr. Gonzalez's** concern that his children remain in their present schools, Council Member Ruh told **Mr. Gonzalez** that this action would not change the school district boundaries. Noting his concern on behalf of County residents who park their trucks in front of their homes, he asked if they would be able to continue to do so should the Ordinance proposed in the next public hearing item be adopted.

Director of Community Development Clark advised that if the truck were a heavy commercial vehicle, it would not be permitted to be parked in a residential zone.

Council Member Ruh expressed his concern on behalf of **Ms. Ford** and **Mr. Gonzalez** that they would not be able to park their commercial vehicles in front of their residences, thus depriving them of a portion of their livelihood.

Director of Community Development Clark advised that parking allowances would depend upon the gross vehicular weight rating of the commercial vehicle.

Council Member Ruh further expressed his concern on behalf of County residents who own animals. He asked about the disposition of residents' animals should their properties be annexed to the City.

Noting Council Member Ruh's question relates to the following public hearing item, Director of Community Development Clark

advised that an inventory and documentation for recording purposes of existing animal privileges and recognition of existing nonstandard development conditions at the subject site would take place should such future annexation occur.

Noting the limitations the City's animal and development standards would impose on County residents, Council Member Ruh suggested the affected County residents be allowed to vote on the future annexation of their properties to the City. He noted he would oppose such annexation action on behalf of residents who would be affected by such limitations.

City Manager McDougal pointed out for clarification purposes that this public hearing item relates to a proposed zone change at 11242 Central Avenue, which he referenced on a site map exhibit, noting the zone change was requested by the property owner to facilitate development of a small-lot residential subdivision.

Council Member Paulitz concurred, adding that the zone change is proposed on property within City boundaries. He noted the absurdity of certain County residents' desires to have an effect on an owner's decision to rezone his parcel located within City boundaries.

Council Member Raft asked if the proposed zone change would have any effect on the County standards regulating the adjacent properties located within the City's Sphere of Influence.

Mayor Eaton responded, "No, not at all."

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

Second Reading of Ordinance No. 04-853 was adopted by the following ROLL CALL vote:

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

B. First Reading - Adoption of Ordinance No. 04-854 Pursuant to Chapter 11.84 of the Montclair Municipal Code 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

Mayor Eaton declared it the time and place set for public hearing to consider Ordinance No. 04-854 pursuant to Chapter 11.84 of the Montclair Municipal Code establishing prezone designations of "R-1(SL)" to approximately 4.70 acres, "R-1" to approximately 3.09 acres, "R-1(11)" to approximately 4.38 acres, and "R-1(20)" to approximately 5.21 acres within the City's Sphere of Influence and invited comments from the public.

Mr. Mike Palmer, 5276 Phillips Boulevard, Chino, commented as follows:

1. He reiterated that a policy direction from LAFCO is the reason behind the proposed inclusion of the 17.39 acres bordering the 4.70-acre parcel proposed for rezoning by the applicant in this item.

2. He read a statement outlining his and his neighbors' concerns about the proposed action, the lack of notification to him and his neighbors about the prior rezoning of 11242 Central Avenue, and the future annexation of his property to the City.
3. He suggested the owners of property located within the 17.39 acres proposed for rezoning that borders the 4.70-acre parcel proposed to be subdivided into a small-lot residential development each receive a financial payoff from the developer to offset the negative effects of the proposed rezoning action.
4. He reiterated his request for more time to allow the owners of the adjoining properties to meet with LAFCO to further address the issue.
5. He noted County property owners are considering retaining legal representation.

Mr. Albert Brutsche, 5200 Phillips Boulevard, Chino, noted he purchased his residence eight years ago and that he has more horses, dogs, and cats than allowed under current City standards. He expressed his opposition to the proposed rezoning and to the future annexation of his property.

Ms. Aleene Brutsche, 5200 Phillips Boulevard, Chino, noted she enjoys raising Tennessee Walkers and spoke in opposition to the proposed rezoning action and to the future annexation of her property. She advised that she and her neighbors have been meeting with LAFCO about resisting the future annexation of their properties.

Mayor Eaton asked Director of Community Development Clark if he has been contacted by County residents on this matter.

Director of Community Development Clark responded that he himself has not been contacted but that it is his understanding that City Planner Lustro had been contacted by certain County residents.

Mr. Landon Jones, 11303 Fremont Avenue, Montclair, commented as follows:

1. He noted he and his neighbors do not park on unpaved surfaces on their properties and that they all have nicely landscaped residences.
2. Noting that he and his neighbors paid for new curb, gutter, and sidewalk improvements for their neighborhood, he complained that the City does not sweep his street.
3. He complained that the City does not provide building services for his property.
4. He noted he keeps donkeys at his property, which would conflict with the City's restrictive animal standards.

Mrs. Linda Palmer, 5276 Phillips Boulevard, Chino, noted her father purchased her residence in 1967. She spoke in opposition to the proposed rezoning and to the future annexation of her property.

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.

Noting that much of the public comment this evening relates to the future annexation of the subject parcels, which is not the action proposed in this item this evening, City Manager McDougal clarified that it is not the City's policy to initiate annexation proceedings and that such are only performed at the request of owners desiring their properties be annexed to the City. He advised that in any annexation proceeding, the owners of the properties proposed for such action would have the opportunity to vote on the matter before final annexation can occur. He asked Director of Community Development Clark to review the annexation process.

Director of Community Development Clark reported that this item was initiated by the applicant's desire to pursue annexation of his 4.70 acre property on the west side of Central Avenue north of Phillips Boulevard to subdivide the net 4.32-acre property to facilitate development of a small-lot residential subdivision. He described LAFCO's policy direction to expand and "square off" the area proposed for rezoning by including the 17.39 acres bordering the subject site, which are substantially surrounded by the corporate boundary of the City of Montclair and the southerly Sphere of Influence boundary. He indicated that a property proposed for future annexation must first be rezoned so LAFCO can have some idea about future land usage. He advised that the City would be responsible for one more public hearing to determine if application would be made to LAFCO for annexation of the subject site, though LAFCO would be conducting the actual annexation proceedings. Noting the site is "inhabited," which is defined as containing more than 12 registered voters, he stated that a protest hearing would be conducted by LAFCO at which owners representing 25 percent or more of the assessed valuation of the combined properties can request the matter be put to a vote. He added that if owners representing more than 50 percent of the land valuation oppose the proposed annexation, the matter would be terminated. Should that not be the case, LAFCO would order the site annexed and return the matter to the City for acceptance of LAFCO's terms of annexation of the site to the City, he added. He indicated the entire process takes about six months.

Council Member Raft requested clarification on the proposed "R-1" rezoning designations and on how the rezoning will affect County residents.

Director of Community Development Clark responded as follows:

1. He advised that the proposed rezoning designations correspond to current land usage and are not speculative in nature. He added that zones can always be changed in the future.
2. He stated that the County zoning laws would be changed, noting a small number of properties on the corner of Central Avenue and Phillips Boulevard would change from "Neighborhood Commercial" to "Residential." He added that the City's zoning is slightly smaller in the balance of properties than the existing minimum lot size, which would permit subdivision of the lots, and would impose slightly different rules related to animals and parking tractor-trailers.

Council Member Raft suggested it would not be to the County property owners' advantage to change the current zoning.

Director of Community Development Clark indicated the proposed rezoning would not actually affect property valuations and that though the rules would change, the existing uses of the properties would be allowed to continue by means of being grandfathered in prior to the annexation being finalized.

Council Member Paulitz inquired as follows:

1. On which parcel is the residential subdivision proposed to be developed?

Director of Community Development Clark responded that it is the owner of the property proposed to be rezoned "R-1(SL) who desires to pursue annexation to facilitate development of his 25-small lot residential subdivision. He advised that the applicant is in the audience this evening.

2. What are the present zoning designations in the areas proposed to be rezoned?

Director of Community Development Clark responded the subdivision parcel is currently zoned "A-1," the three large properties at the corner of Central Avenue and Phillips Boulevard are zoned "Neighborhood Commercial," and the balance of properties are zoned larger lot (half-acre or acre) "Residential."

Council Member Paulitz received confirmation that the area proposed to be rezoned "R-1(20)" would allow horses.

3. What is the City's obligation to sweep streets that are not in the City?

Director of Community Development Clark replied that it is not the City's policy to provide either street sweeping or building services outside the City's boundaries.

Mayor Pro Tem Dutrey inquired as follows:

1. What has been the City's practice to grandfather in existing nonstandard uses in past annexation actions?

Director of Community Development Clark discussed the rezoning designation public hearing item approved earlier this year on east Fremont Avenue south of Howard Street, reporting that all property owners' existing animal and nonstandard development conditions were individually photographed and documented so there would be no question that these existing conditions would be allowed to continue following the site's annexation.

2. What would be LAFCO's response should the City decide not to include the 17.39 acres site bordering the 4.70-acre parcel proposed to be subdivided?

Noting the role of LAFCO is to promote logical and orderly service boundaries for cities and special districts for efficient and effective service delivery to those jurisdictions, Director of Community Development Clark advised that the organization would be informed of the testimony received at the two public hearings in this matter.

Mayor Pro Tem Dutrey suggested enough protests against the inclusion of the additional acreage in the proposed rezoning action have been heard to warrant withdrawal of the area from further rezoning consideration.

Director of Community Development Clark concurred that LAFCO might adopt such position after learning of the strong opposition to the proposal.

3. If the City moves forward with the proposed rezoning designations, would one more public hearing be conducted to receive public testimony on a proposed annexation proceeding?

Director of Community Development Clark reiterated the City would be responsible for initiating annexation proceedings at the subject site.

Council Member Ruh inquired as follows on behalf of the **Brutsche's**:

1. Would they would be able to maintain their current number of horses should one of the animals die?

Should the proposed rezoning designation be approved and the subsequent annexation take place, Director of Community Development Clark advised that the City's long-term attrition policy would apply.

2. If a foal is born to one of the mares, would it have to be given up?

Director of Community Development Clark responded that the Council could provide direction at such a time.

Mayor Eaton suggested the **Brutsche's** could seek an Administrative Adjustment to keep the foal.

Council Member Ruh asked if **Mr. Gonzalez** would be allowed to park his commercial tractor-trailer in front of his residence should the subject site be annexed.

Director of Community Development Clark replied that the Council could make a special allowance in such case.

Council Member Ruh noted the possibility of it turning into a Code Enforcement issue should a complaint be registered.

Council Member Ruh spoke on behalf of the County residents who wish to maintain their current quality of life in the Sphere of Influence, advising he hopes they are successful in fighting future annexation of their properties to the City. He spoke in opposition to inclusion of the additional acreage in the proposed rezoning action and its subsequent annexation to the City because of the potential effects such actions might have on the property owners' livelihoods.

Council Member Paulitz asked if LAFCO would honor the annexation of only the subdivision developer's parcel.

Director of Community Development Clark responded there is a good possibility that just the developer's parcel could be annexed, noting there have been cases of similar one-parcel annexations in the past.

Council Member Paulitz requested the site map illustrating the proposed rezoning designations be revised to include property owners' names and their property valuations.

Mayor Pro Tem Dutrey commented as follows:

1. He noted he has enjoyed living in the relatively rural environment of South Montclair over the past four years and the fact that the wide-open spaces have been slowly disappearing over time.

2. He advised that the demand for new housing in the region is spurring new residential development proposals, an issue the City has been confronted with along with most cities in California.
3. He expressed his understanding of LAFCO's position as well as the positions of the County property owners faced with the undesirable potential annexation of their properties. He noted it would have been nice for either LAFCO or the developer to conduct neighborhood forums to acquaint property owners with the rezoning proposal.
4. He stated it is his position that all existing animal and nonstandard development conditions at the subject site be inventoried, photographed, and documented for recordation purposes. He asked that staff contact the 16 property owners at the subject site and conduct individual interviews to determine their specific concerns and special needs related to any animal issues or nonstandard development uses.
5. He noted he has dealt with five or six similar rezoning actions since his election to the Council and that twice he voted against the proposals because of strong property owner opposition. He asserted that if the property owners are still opposed to future annexation to the City after meeting with staff, then he would vote against it. He expressed his hope that that would not be the case.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Ruh that this item be continued to the regular joint meeting of October 18, 2004, to allow staff to meet with County property owners.*

Council Member Raft concurred with the motion. She emphasized that it is not her position to force annexation on property owners who are opposed to it. She spoke in opposition to the item if that is the desire of the property owners.

Council Member Ruh concurred, though he stated that County property owners in favor of annexation should not be deprived of that right. That said, he indicated that those owners should not force opposing property owners to have their properties annexed to the City. He added that he concurs with the grandfathering in of existing animal and nonstandard development conditions, though all extenuating circumstances involved therein would need to be resolved. He expressed his opinion that LAFCO would just have to be satisfied with annexation of only those areas in which the majority of the property owners support such action.

Mr. Loren Martens, 4885 Benito Street, Montclair, inquired as follows:

1. Does this item relate to rezoning as opposed to annexation?

City Manager McDougal answered, "Correct."

2. What are the present zoning designations in the areas proposed to be rezoned?

Director of Community Development Clark reiterated that three of the lots are zoned "Neighborhood Commercial" and the balance are zoned "Residential."

Mr. Martens requested clarification on the present Residential zoning designation.

Director of Community Development Clark indicated the majority are large one-acre lots.

Mr. Martens concurred.

3. Would the County enforce the City's rezoning designations prior to future annexation of the subject site?

Director of Community Development Clark answered, "No. The rezoning would have no effect until such time as the properties are actually annexed to the City. So long as the properties remain in the unincorporated area, they would follow County zoning laws."

4. Is the City imposing any restrictions or requirements on the County properties?

Director of Community Development Clark answered, "No."

Concerning the motion on the floor, City Manager McDougal reviewed staff's assignment to revise the site map to include property owners' addresses and property valuations and to inventory, photograph, and document for recordation purposes all existing animal and nonstandard development conditions at the subject site.

Discussion took place as to the appropriate regular joint meeting to which the item should be continued.

City Manager McDougal suggested staff provide a revised site map at the October 4, 2004 public hearing on this item. He further suggested the inventory and documentation for recording purposes of existing animal privileges and recognition of existing nonstandard development conditions in the subject area could take place following a decision by the Council at the hearing.

*The motion died for lack of a second.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Ruh that this item be continued to the regular joint meeting of October 4, 2004, with the provision that the public hearing agenda report contain a revised site map.**

Council Member Paulitz pointed out the possibility that the majority of County property owners in the subject area might desire their properties be annexed to the City.

Director of Community Development/Agency Planner Clark advised that the follow-up agenda report on this item would include a revised site map containing property owners' names, addresses, and property valuations as well as a recommendation by staff on whether or not to proceed with the proposed rezoning action based upon testimony given this evening.

**Motion carried unanimously as follows:

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

At this time, Mayor/Chairman Eaton asked **Mr. Jim Perry** to come forward to address the Council/Agency Board.

On behalf of the **Ontario-Montclair YMCA**, **Mr. Jim Perry**, 10171 Geneva Avenue, Montclair, announced the following events that need volunteer support:

- ✓ **Mark Christopher Charity Classic Golf Tournament** fundraiser – Thursday-Sunday, September 30-October 3, 2004; **Empire Lakes Golf Course**, Rancho Cucamonga
- ✓ **Second Annual Fiesta de Comida** fundraiser – Tuesday, October 5, 2004; **Guasti Villa**, 2907 East Guasti Road, Ontario.

Mr. Perry asked that those interested in volunteering at these events call the **Ontario-Montclair YMCA** at (909) 986-5847.

Mayor/Chairman Eaton thanked **Mr. Perry** for his comments.

At 8:40 p.m., Mayor/Chairman Eaton recessed the City Council/Redevelopment Agency Board of Directors/Montclair Housing Corporation Board of Directors.

At 8:44 p.m., Mayor/Chairman Eaton reconvened the City Council/Redevelopment Agency Board of Directors/Montclair Housing Corporation Board of Directors.

VIII. CONSENT CALENDAR

Council Member Raft requested that Item D-7 be removed from the Consent Calendar for comment.

Mayor Pro Tem/Vice Chairman Dutrey requested that Item D-2 be removed from the Consent Calendar for comment.

Mayor/Chairman Eaton requested that Item C-2 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 Regular Joint Council/Agency/Montclair Housing Corporation Meeting of September 7, 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 September 7, 2004.

B. Administrative Reports

1. Setting a Public Hearing to Consider Ordinance No. 04-855 adding Chapter 11.85 to the Montclair Municipal Code Related to Density Bonus Regulations

The City Council set a public hearing for Monday, October 4, 2004, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 04-855 adding Chapter 11.85 to the Montclair Municipal Code related to density bonus regulations.

2. Authorizing the City Engineer or His Designee to Act as the City's Representative to File an Application for Acceptance of the Office of Traffic Safety (OTS) Traffic Safety Grant

Amending the 2003-2007 Capital Improvement Program Adding the Monte Vista Avenue In-Pavement Crosswalk Lighting System Project

Authorizing a \$30,000 Appropriation From the Gas Tax Fund for the Monte Vista Avenue In-Pavement Crosswalk Lighting System Project

The City Council took the following actions:

- (a) Authorized the City Engineer or his designee to act as the City's representative to file an application for acceptance of the OTS Traffic Safety Grant.
- (b) Amended the 2003-2007 Capital Improvement Program adding the Monte Vista Avenue In-Pavement Lighting System Project.
- (c) Authorized a \$30,000 appropriation from the Gas Tax Fund for the Monte Vista Avenue In-Pavement Lighting System Project.

3. Receiving and Filing of City Treasurer's Report

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

4. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated September 7, 2004, totaling \$704,285.06, and the Payroll Documentations dated August 22, 2004, amounting to \$517,789.42, with \$351,283.55 being the total cash disbursement.

5. 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 August 31, 2004.

6. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 8/01/2004-8/31/2004 in the amounts of \$523.19 for Project I; (\$899.60) for Project II; \$334,429.99 for Project III; \$5,820.90 for Project IV; and \$15,402.77 for Project V.

7. 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 August 31, 2004.

8. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 8/01/2004-8/31/2004 in the amount of \$11,498.02.

C. Agreements

1. Award of Contract for the Street Name Sign Replacement Project, Phase 2, to Econolite Traffic Engineering & Maintenance, Inc., in the Amount of \$21,572.74

Approval of *Agreement No. 04-134* With Econolite Traffic Engineering & Maintenance, Inc., for the Street Name Sign Replacement Project, Phase 2

Authorization of a \$4,000 Construction Contingency

The City Council took the following actions:

- (a) Awarded a contract for the Street Name Sign Replacement Project, Phase 2, to Econolite Traffic Engineering & Maintenance, Inc., in the amount of \$21,572.74.
- (b) Approved *Agreement No. 04-134* with Econolite Traffic Engineering & Maintenance, Inc., for the Street Name Sign Replacement Project, Phase 2.
- (c) Authorized a \$4,000 construction contingency.

D. Resolutions

1. Adoption of Resolution No. 04-2539 Supporting Proposition 1A – the "Protect Local Taxpayers and Vital Local Services" Initiative

The City Council adopted Resolution No. 04-2539 supporting Proposition 1A – the "Protect Local Taxpayers and Vital Local Services" initiative.

3. Adoption of Resolution No. 04-2541 Approving the Application for Per Capita Grant Program Funds Under the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2002

The City Council adopted Resolution No. 04-2541 approving the application for Per Capita Grant Program funds under the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2002.

4. Adoption of Resolution No. 04-2542 Approving the Application for Grant Funds for the Roberti-Z'Berg-Harris Urban Open Space and Recreation Program Under the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2002

The City Council adopted Resolution No. 04-2542 approving the application for grant funds for the Roberti-Z'Berg-Harris Urban Open Space and Recreation Program under the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2002.

5. Adoption of Resolution No. 04-2543 Rescinding Resolution No. 04-2492 Designating Restricted Parking on Public Streets and Alleyways

The City Council adopted Resolution No. 04-2543 rescinding Resolution No. 04-2492 designating restricted parking on streets and alleyways.

6. Adoption of Resolution No. 04-2544 Authorizing the Application for the South Coast Air Quality Management District MSRC Diesel Exhaust After-Treatment Retrofit Program

The City Council adopted Resolution No. 04-2544 authorizing the application for the South Coast Air Quality Management District MSRC Diesel Exhaust After-Treatment Retrofit Program.

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

2. **Redevelopment Agency Board of Directors' Approval of Agreement Nos. 04-135 Through 04-139, Rehabilitation Grant Agreements by and Between the City of Montclair Redevelopment Agency and Exterior Housing Improvement Program (E-HIP) Participants**

Chairman Eaton read a letter from resident **Ms. Dortha E. Schellenberger**, a participant in the Exterior Housing Improvement Program, expressing her satisfaction with the program and thanking Redevelopment Technician Cecilia Leonard for guiding **Ms. Schellenberger** through this worthwhile program. He noted the letter would be filed in Redevelopment Technician Leonard's personnel folder.

Moved by Chairman Eaton, seconded Vice Chairman Dutrey, and carried unanimously that the Redevelopment Agency Board approve *Agreement Nos. 04-135 through 04-139, Rehabilitation Grant Agreements* by and between the City of Montclair Redevelopment Agency and the five E-HIP participants listed on Exhibit A to the agenda report on this item.

D. Resolutions

2. **Redevelopment Agency Board of Directors' Adoption of Resolution No. 04-05, a Resolution of the City of Montclair Redevelopment Agency Approving Agreement No. 04-132, a Professional Services Agreement by and Between the City of Montclair and WLC Architects, Inc., and Making Certain Findings in Connection Therewith**

City Council Adoption of Resolution No. 04-2540, a Resolution of the City Council of the City of Montclair Authorizing the Expenditure of Redevelopment Agency Tax Allocation Bond Funds for Agreement No. 04-132 and Making Certain Findings in Connection Therewith

Mayor Pro Tem/Vice Chairman Dutrey expressed his concern that adoption of the proposed Resolutions would authorize the first two phases for pre-design and basic design and construction services to commence on development of the new Police facility and senior and youth centers without the assurance that Measure F will receive voter approval in the November 2, 2004 General Municipal Election. He asked what the plan of action would be for funding the construction of the new facilities should Measure F fail. He suggested the Council could revisit the item after the election.

City Manager/Executive Director McDougal advised it is staff's belief that Measure F will be successful and would, therefore, finance development of the new facilities. He noted making a recommendation to the Council during conceptualization of the project that it would be in the City's best interest to complete the design of the facilities and have the plans ready should funding become available to launch the project at some future time. He reminded the Council that the Montclair Community Center was developed in such a manner.

Council Member/Director Ruh expressed a similar concern should Measure F not receive voter approval.

Mayor Pro Tem/Vice Chairman Dutrey reiterated that the Council could revisit the item after the election, particularly should Measure F not be approved, to decide whether to proceed with the recommended action.

City Manager/Executive Director McDougal advised that the item would be returned to the Council if Measure F fails.

Mayor Pro Tem/Vice Chairman Dutrey concurred, noting it would be prudent to decide at that time whether the Council is committed to the project, adding "I don't want to waste a million dollars."

Council Member/Director Paulitz expressed his opinion that the funds for predesign and basic design and construction services would not be wasted because the City would have the plans ready should alternate funding become available. He reminded the Council of the work former Mayor Larry Rhinehart did to advance the Monte Vista Avenue underpass project, one of the first projects under Measure I, which was funded because the City had the plans completed. He suggested the Council approve staff's recommendation.

Deputy City Attorney/Agency Counsel Holdaway noted proposed *Agreement No. 04-132* contains a termination clause that provides for a 15-day notice in writing to cancel the agreement, with compensation due to WLC Architects, Inc., on a pro rata basis commensurate with the percentage of the project completed at the date of termination.

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

- (a) That the Redevelopment Agency Board of Directors adopt Resolution No. 04-05, entitled "**A Resolution of the City of Montclair Redevelopment Agency approving *Agreement No. 04-132*, a *Professional Services Agreement* by and Between the City of Montclair and WLC Architects, Inc., and Making Certain Findings in Connection Therewith,**" be read by number and title only, further reading be waived, and it be declared adopted.
- (b) That the City Council adopt Resolution No. 04-2540, "**A Resolution of the City Council of the City of Montclair Authorizing the Expenditure of Redevelopment Agency Tax Allocation Bond Funds for *Agreement No. 04-132* and Making Certain Findings in Connection Therewith,**" be read by number and title only, further reading be waived, and it be declared adopted.

The City Council unanimously waived the reading of the Resolutions.

Resolution Nos. 04-05 and 04-2540 were unanimously adopted by the following vote:

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

7. Adoption of Resolution No. 04-2545 Establishing an Oversight Committee Charged to Monitor the Expenditure of General Fund Revenues Supporting Strategic Priorities Contained in the City's Annual Business Plan

Council Member Raft stated she is pleased with the proposed establishment of an oversight committee charged with the responsibility to review annual budget allocation recommendations and expenditures related to the Measure F retail transactions and use tax proceeds in support of strategic priorities contained in the City's Business Plan. She spoke in support of adoption of Resolution No. 04-2545.

Council Member Paulitz asked for clarification on the subsection related to the committee not having the authority to recommend or advise the Council on matters falling under its oversight power and authority to review, under Section D, "Powers: The Montclair City Council empowers the committee with the following powers."

Director of Administrative Services Starr responded that pursuant to Council direction, the committee is to serve in an oversight capacity with powers limited to overseeing the expenditure of funds as designated in the City Business Plan. He advised that the committee would not be making recommendations to the City Council on how General Fund revenues are to be spent because doing so would usurp the Council's authority by making issues public that are strictly under the City Council's authority.

Moved by Council Member Raft and seconded by Council Member Ruh that Resolution No. 04-2545, entitled "**A Resolution of the City Council of the City of Montclair Establishing an Oversight Committee Charged to Monitor the Expenditure of General Fund Revenues Supporting Strategic Priorities Contained in the City's Business Plan,**" be read by number and title only, further reading be waived, and it be declared adopted.

The City Council unanimously waived the reading of the Resolution.

Resolution No. 04-2545 was unanimously adopted by the following vote:

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. Mayor/Chairman Eaton stated that in the interest of time, he would defer his items to the next meeting.

D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairman Dutrey commented as follows:
 - (a) He noted his attendance last Friday at an **Ontario-Montclair YMCA** dedication ceremony to thank **State and Consumer Services Agency Secretary Fred Aguiar** for obtaining funding to restore the **YMCA** parking lot.
 - (b) He thanked everyone for their support of his family related to his wife's being called to active duty in the **United States Army**, noting she reports for duty on Friday. Because of this, he noted he would not be able to attend the October 4, 2004 regular joint meeting.

3. Council Member/Director Ruh commented as follows:
 - (a) He noted the **Santa Ana Regional Water Quality Control Board** took action last Friday to order the **County of San Bernardino** to provide the **City of Rialto** with replacement water by April 1, 2005, or sooner if a perchlorate pollution plume moving south from County property hits a city well just north of Base Line Road before then. The County plans to dig six wells in the plume's path, pump and treat the water, and then return it to the city's water supply system, he added. He noted the **City of Rialto** has been very appreciative of the **Santa Ana Regional Water Quality Control Board's** actions in this matter.
 - (b) He noted his attendance at a recent *Celebrity Casino Night* event at **Etiwanda Gardens** to benefit the **Loma Linda University Children's Hospital**.
 - (c) He noted his attendance at a recent **Assistance League of the Foothill Communities** fundraiser to benefit low-income children.
 - (d) He asked that the Council consider supporting **Proposition 64: Limit on Private Enforcement of Unfair Business Competition Laws** and opposing **Proposition 67: Emergency Medical Services, Funding, Telephone Surcharge**, which has no cap on cell phone or business phone taxes, at the October 4, 2004 regular joint meeting. He noted the **California Chamber of Commerce's** support of and opposition to the respective initiatives.
 - (e) He discussed the following bills that have been approved and which might benefit certain residents:
 - (1) **SB 7 (Brulte, Burton) - Marriage: Solemnization: Armed Forces**, allows proxy marriages for members of the armed forces stationed overseas and was inspired by fiancées **Thomas Cogan IV**, a **Marine Second Lieutenant** deployed to Iraq, and **Theresa Arnold** of the San Diego area.
 - (2) **SB 1404 (Soto) - Multifamily Improvement Districts**, enacts the Multifamily Improvement District Law to provide until January 1, 2012, for the establishment of multifamily improvement districts at a lower property owner voting threshold within a city or county to levy assessments on residential multifamily rental properties within the district for the purpose of financing certain improvements and

promoting certain activities beneficial to those properties/neighborhoods.

- (3) **AB 1091 (McLeod) – Reportable Diseases**, requires the list of reportable diseases established by the **State Department of Health Services** to include reportable conditions and the urgency of reporting each disease and condition, requires the department to consult with the **California Conference of Local Health Officers** before making a change to the list, and exempts modifications to the list from certain existing law provisions related to the adoption of administrative rules and regulations.

(f) He quoted a portion of a very good recent *Newsweek* article written by columnist **Anna Quindlan** that indicated "in most neighborhoods in America today, 35 percent of all households are having trouble meeting the basic needs of life: food, clothing, shelter, etc." The article also indicated that 70 percent of the poorest children have a working family member, he added.

(g) He cited an article in the Sunday, September 19, 2004 *Inland Valley Daily Bulletin* entitled, "Needy Children Face Challenges," which indicates that this year, there are more than nine hundred children in the **Ontario-Montclair School District** who are considered homeless.

E. Committee Meeting Minutes

1. Minutes of Public Works Committee Meeting of August 19, 2004

The City Council received and filed the Public Works Committee meeting minutes of August 19, 2004, for informational purposes.

2. Minutes of Personnel Committee Meeting of September 7, 2004

The City Council received and filed the Personnel Committee meeting minutes of September 7, 2004, for informational purposes.

Mayor Eaton noted this month would end the Council's casual meeting attire.

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

At 9:02 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
Recording Secretary