

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL AND REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS HELD ON MONDAY, OCTOBER 18, 2004, AT 7:00 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 7:00 p.m.

II. INVOCATION

Pastor Larry Brazier, Morningstar Christian 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. Introduction of New Community Action Committee Member

Mayor Eaton introduced **Mr. Ed Cook**, who was appointed to the Community Action Committee (CAC) on October 4, 2004. He noted **Mr. Cook** has lived in Montclair for several years, works as a Firefighter/Paramedic with the Montclair Fire Department, and is a member of the **Urban Search and Rescue Team**.

Mayor Eaton welcomed **Mr. Cook** to the CAC and presented him with a City pin.

B. Presentation of Plaque by Montclair Little League to the City Council In Appreciation of Its Continued Support

Ms. Margie Contreras, Past President, **Montclair Little League**, presented Mayor Eaton with a plaque in appreciation of the City's continued support of the organization's use of City park ball fields over the years, noting that new lighting was recently installed at Kingsley Field. She thanked the City for the recent upgrades to the park, including the new metal rollup doors at the snack bar, and further expressed her gratitude to Public Works Superintendent Orioli and his staff for their work on park grounds.

Mayor Eaton accepted the plaque and thanked **Ms. Contreras**. He noted he would be sure to relay **Ms. Contreras's** appreciation to Public Works Superintendent Orioli.

Mayor Eaton announced the following upcoming events:

- ✓ *Candidates Forum* – Thursday, October 21, 2004, 7:00 p.m., City Council Chambers, sponsored by the CAC and featuring the following four candidates vying for two City Council seats: Incumbents Mayor Pro Tem Dutrey and Council Member Raft, **Mr. Manny Martinez**, and **Mr. Benjamin Lopez**.
- ✓ *Montclair Skate Park Grand Opening* – Saturday, November 6, 2004, 10:00 a.m. - 2:00 p.m.; demonstrations, free drawings, refreshments, and music; call Human Services Division at 625-9460 for further information.

VI. PUBLIC COMMENT

- A. **Ms. Pat Rees**, Board Member, **Montclair Kiwanis**, presented City Manager McDougal President, **Pomona Valley Habitat for Humanity** Advisory Committee, with a \$1000 donation from the organization to assist in the funding costs of the new **Habitat for Humanity** home in Montclair. She noted the pride of the organization in giving back to the community through its fundraising efforts, adding that other members of the organization include Mayor Eaton, Mayor Pro Tem Dutrey, and Montclair Police Captain Keith Jones.

City Manager McDougal thanked **Ms. Rees** for the donation.

City Manager McDougal noted he would make sure **Pomona Valley Habitat for Humanity** Executive Director **Cyndi Torres** receives the donation.

- B. Montclair Police Chief Chester Thompson announced a Police Department Open House to be held Saturday, October 23, 2004, from 9:00 a.m. to 1:00 p.m. that will include hands-on equipment demonstrations, station tours, and refreshments.
- C. **Ms. Suzanne Taylor**, Executive Director, **Augusta Homes**, 925 Westridge Court, Upland, invited the Council and staff to the grand opening on Sunday, October 24, 2004, 3:00-7:00 p.m. of the two new playgrounds at **Villa Montclair Mobile Home Park**: a full "tot lot" and a lighted playground with picnic tables, two basketball courts, and a "ball wall." She thanked the Council for being such "good partners" with the nonprofit organization.

Noting he had a chance to preview the new playground facilities, Council Member Ruh indicated they offer park families a wonderful new opportunity.

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

1. He apologized to City Manager McDougal for doubting he would respond to **Mr. Armstrong's** inquiry related to his being threatened by a staff member. He expressed his appreciation to City Manager McDougal for his response.
2. In follow-up to his inquiry as to the reason a former Montclair Police Officer resigned, he disclosed that the Officer resigned effective October 1, 2004.
3. Concerning Mayor Eaton's statement at the last meeting that **Mr. Armstrong** address his questions to Mayor Eaton, he read a section of the **Ralph M. Brown Act** stipulating that the public shall be given an opportunity to directly address the legislative body on any item of interest to the public.

Mayor Eaton concurred, reiterating that **Mr. Armstrong** may address his comments to any member of Council as opposed to individual staff members.

Mr. Armstrong stated he would address the matter with the State Legislature.

4. He noted he would yield the remainder of his comment time to **Mrs. Baer**.
- E. **Mr. Roger Baer** noted he has been commenting at these meetings for the past three years on behalf of his wife regarding the issue of her termination of employment with the City of Montclair. He noted he would yield the remainder of his comment time to **Mrs. Baer**.
- F. **Mrs. Jayne Baer** read a statement directed toward City Manager McDougal, Director of Administrative Services Starr, and the City Council with the exception of Council Members Raft and Ruh detailing her perceptions related to the circumstances surrounding the termination of her nearly 25 years of employment with the City of Montclair.

VII. PUBLIC HEARINGS

- A. **Second 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

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 and "R-1" to approximately 3.09 acres within the City's Sphere of Influence 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. 04-854, entitled "**An Ordinance of the City Council of the City of Montclair Approving Prezone Designations of R-1(SL) (Single-Family Residential, Small-Lot Detached Housing Overlay) and R-1 (Single-Family Residential) Within the City's Sphere of Influence,**" be read by number and title only, further reading be waived, and this be declared its second reading.*

Council Member Ruh indicated it is apparent by attendance this evening that most of the County residents who would have been affected by the initially proposed rezoning designations are now satisfied with the alternate areas proposed to be rezoned. He recognized the resolve of such residents in expressing their concerns related to their properties possibly being annexed to the City, noting the importance of their being given an opportunity to make themselves heard.

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

Second Reading of Ordinance No. 04-854 was unanimously adopted by the following ROLL CALL vote:

AYES: Ruh, Raft, Paulitz, Dutrey, Eaton

NOES: None

ABSTAIN: None

ABSENT: None

B. Second Reading - Adoption of Ordinance No. 04-855 Adding Chapter 11.85 to the Montclair Municipal Code Related to Density Bonus Regulations

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 04-855 adding Chapter 11.85 to the Montclair Municipal Code related to density bonus regulations and invited comments from the public.

There being no one in the audience wishing to speak, Mayor Eaton closed the public hearing and returned the matter to the City Council for its consideration.

Council Member Paulitz inquired as follows:

1. Would the 25 percent density bonus apply to projects developed in existing R-3 zoning designations? What are the zoning requirements for R-3 zoning designations?

Director of Community Development Clark clarified that the density bonus would apply to all existing zoning designations including R-3, which allows for different densities of 9, 11, and 14, depending upon surrounding land uses.

2. What would be the circumstances in which the density bonus could apply to projects developed in R-1 zoning designations?

Director of Community Development Clark responded that conversion of an R-1-zoned site to "R-1(SL)" would exceed the maximum residential density for that zoning designation. He reiterated that the last three R-1(SL)-zoned projects involved rezoning either R-1- or commercially-zoned property at the request of applicants proposing to develop small-lot residential subdivisions and that in doing so, the density bonus increase was achieved.

Council Member Paulitz reiterated that a nonprofit organization needs the density bonus incentives for project feasibility.

Director of Community Development Clark concurred that the proposed Ordinance would offer those incentives, not to mention the fact that its adoption would bring the City into compliance with current requirements of the California Government Code that local governments adopt ordinances governing the development of affordable housing projects to include provisions intended to permit assisted housing projects for families and seniors when a density bonus and possibly other incentives are necessary to make projects economically feasible.

3. Will all California cities be adopting a similar ordinance?

Director of Community Development Clark reiterated that all cities in California are required to do so. He advised that proposed Ordinance No. 04-855 is structured closely with the prototype code provisions regulating residential density bonuses provided by the state.

4. Would "moderate-income" always be defined as the qualifying limit for moderate-income households in San Bernardino County established by the state?

Director of Community Development Clark answered, "Correct."

Council Member Paulitz noted the term "affordable " is in itself meaningless because *every* house is affordable by some-body. He concurred with the criterion establishing "moderate-income for-sale units" as defined under the "affordable housing cost" provision of the proposed Ordinance. He thanked Director of Community Development Clark for answering his questions.

Council Member Ruh asked if the density bonus would apply only to owner-occupied units.

Director of Community Development Clark clarified that the units could be either owner occupied or rented.

Council Member Ruh reiterated his opinion there is currently a housing affordability problem in Montclair, adding that he has opposed certain larger lot residential subdivisions in the City for that reason. He suggested there would be no need for the proposed Ordinance if the City would simply promote affordable housing developments. He reiterated his inquiry regarding whether purchasers of low- to moderate-income housing subject to these regulations would be restricted in selling their properties.

Director of Community Development Clark reiterated that the owners would be restricted by the terms of their Density Bonus Housing Agreements that contain long-term deed restrictions ensuring long-term affordability.

City Manager McDougal clarified that purchasers of affordable housing built pursuant to residential density bonus regulations are able to qualify at lower income levels than buyers purchasing homes using conventional financing. He gave as an example the Habitat for Humanity homes, which are financed with 0 percent interest and no down payment to low- to moderate-income households with the proviso that the homes are deed-restricted to ensure affordability to prospective buyers if and when they are resold. He added that there would not be the same equity built in a lower cost home as one financed through conventional means.

Council Member Ruh reiterated his opinion of the need for affordable housing in the community to house lower income wage earners who work in the City. He received clarification that rental units built with affordability covenants would be rent controlled. He suggested that should proposed Ordinance No. 04-855 be adopted, the City approve a policy that building permits only be issued to dwelling units meeting Regional Housing Needs Assessment requirements for low- to moderate-income households.

City Manager McDougal commented as follows:

1. He clarified for the benefit of Council Member Paulitz that the densities proposed in the North Montclair Downtown Plan would exceed 14 to 18 units per acre.

Council Member Paulitz noted that is also his understanding of the North Montclair Downtown Plan project.

2. Noting his experience in administering housing programs in the Inland Empire for over 32 years (the last 28 for the City of Montclair), he spoke of his pride in the City's accomplishments

in improving the housing stock. He reminded the Council the Redevelopment Agency currently owns approximately 93 single-family and apartment units and has spent approximately \$3 million dollars to improve the three mobile home parks in the City owned by the nonprofit corporation Augusta Homes, adding that the three parks provide housing for 350 families. He advised that the housing units owned by the Redevelopment Agency are deed restricted and rented to low- to moderate-income households.

Council Member Paulitz commented as follows:

1. He spoke of the country's market economy and the fact that homebuilders must build what the market will bear.
2. He noted the Council's decision approximately 15 to 20 years ago that there was sufficient low- to moderate-income housing and a shortage of larger estate homes in the City, emphasizing that the City has comparatively the most low- to moderate-income housing stock in the area.
3. He concurred with City Manager McDougal that the Redevelopment Agency has done much to improve the City's multifamily and single-family housing stock, including acquisition and renovation of homes along Central Avenue, which serves to not only improve the homes but also the aesthetics of one of the City's main thoroughfares to the Montclair Plaza.
4. He reiterated his hope that Council Member Ruh bases his next reelection campaign on the higher density housing he so strongly supports.

Mayor Pro Tem Dutrey commented as follows:

1. He spoke in support of the proposed Ordinance to permit assisted housing projects for families and seniors when a density bonus and possibly other incentives are necessary to make projects economically feasible.
2. He noted the following quality high-density residential projects in the City:
 - (a) San Antonio Gateway will include high-density multifamily rental units.
 - (b) Brighton Place located on a former commercial parcel at the southeast corner of Ramona Avenue and Mission Boulevard and Margarita Village at the former Margarita School site on Monte Vista Avenue.
 - (c) Several residential tracts at Central Avenue and Howard Street on land formerly zoned commercial or half-acre R-1.
 - (d) A small-lot subdivision proposed on a former agriculturally zoned parcel on the west side of Central Avenue north of Phillips Boulevard that was rezoned "R-1(SL)" in the prior public hearing item.
3. He reiterated that the cost of housing in Montclair is much less than in the cities of Upland, Rancho Cucamonga, Chino, or Chino Hills.
4. He noted that the Inland Empire is the capital of affordable housing as compared to housing prices in the Los Angeles basin or Orange County.

5. He reiterated that the cost of land and supply and demand are driving the current real estate market, which could take a downturn at any time.
6. He reiterated his request that Council Member Ruh supply Mayor Pro Tem Dutrey with a list of affordable high-density attached housing projects in Southern California because he would very much like to tour such developments.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Ordinance No. 04-855, entitled "**An Ordinance of the City Council of the City of Montclair Adding Chapter 11.85 to Title 11 of the Montclair Municipal Code Related to Residential Density Bonus,**" be read by number and title only, further reading be waived, and this be declared its second reading.*

Council Member Ruh commented as follows:

1. He spoke on behalf of families in the community that no longer income-qualify for rental subsidies yet do not qualify to purchase homes in Montclair.
2. He noted the bleakness of the housing market when certain degreed professionals are unable to qualify to purchase homes in the City.
3. He spoke of a 51-unit-to-the-acre project in the City of Palo Alto (where the median home price is over \$800,000) that he toured recently in which units sold for \$350,000. The developer of the project informed him that units in a similar project built in this area would sell for between \$180,000 to \$200,000, he added. He indicated he would share a photograph of the project at the next regular joint meeting.
4. He noted his attendance at a recent Southern California Association of Governments (SCAG) meeting at which a "2 percent strategy," developed to change the way we accommodate growth by 2 percent to achieve a Southern California Compass Implementation plan, was addressed. He advised that though representatives from nine cities approved the plan, they admitted the strategy would not work in their respective cities.
5. He noted he would abstain from voting on this item "because I think that it's a flawed policy."

Council Member Raft spoke on behalf of homebuilders that must take building expenses into account while building a quality housing product that the market will bear. She noted homes cannot be built fast enough in the City before they are sold.

Council Member Ruh reiterated his concern that housing be priced affordably so lower income households are able to purchase homes in the community.

Council Member Paulitz commented as follows:

1. He reiterated that he would not support the "degradation of our housing stock after we spent 25 years building it up."
2. He concurred with Council Member Ruh's comments regarding the SCAG plan that could not work when cities such as Upland and Rancho Cucamonga will not implement them.

3. He reiterated his hope and strongly urged that Council Member Ruh base his next reelection campaign on higher density housing.

Council Member Ruh advised that Council Member Paulitz has proven his point so far as SCAG is concerned, noting the very policies so nobly adopted by civic leaders are seldom put into action. He reiterated his concern on behalf of lower income households that are unable to qualify to purchase homes in Montclair. He predicted that every community promoting high-cost housing will someday regret doing so and will pay the price for producing a suffering workforce.

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

Second Reading of Ordinance No. 04-855 was adopted by the following ROLL CALL vote:

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

Noting abstentions usually relate to a lack of information on the subject or to being a new member on the Council, Council Member Paulitz expressed his opinion that a "No" vote is in order.

Council Member Ruh responded, "I stand with my vote, Mr. Paulitz, thank you very much."

At 8:02 p.m., Mayor Pro Tem/Vice Chairman Dutrey left the dais.

C. Receiving Public Comment on Allocation of State Supplemental Law Enforcement Service Funds

Mayor Eaton declared it the time and place set for public hearing to receive public comment on the allocation of State Supplemental Law Enforcement Services funds 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 Ruh and seconded by Council Member Dutrey that a public hearing was duly conducted to receive public comment on the allocation of State Supplemental Law Enforcement Services funds to the following Capital Outlay programs within the Police Department Fiscal Year 2004-05 Budget:

1. Patrol Division overtime	\$ 40,000
2. TASER® devices	28,700
3. Mobile Data Computers (MDCs)	28,300
4. Utility trailer	<u>3,000</u>
TOTAL	<u>\$100,000</u>

Motion carried as follows:

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

D. Receiving Public Comment on Allocation of 2004 Local Law Enforcement Block Grant Funds

Mayor Eaton declared it the time and place set for public hearing to receive public comment on the allocation of 2004 Local Law Enforcement Block Grant Program funds 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 Council for its consideration.

Moved by Council Member Ruh and seconded by Council Member Paulitz that a public hearing was duly conducted to receive public comment related to allocation of Local Law Enforcement Block Grant Program funds; further, that the City Council authorized an appropriation of \$19,538, consisting of \$17,584 in grant funds and \$1,954 in Federal Forfeiture funds to the following Capital Outlay programs:

1. Software upgrades for Olympus digital recorders	\$ 14,200
2. Public relations literature	<u>5,338</u>
TOTAL	<u>\$ 19,538</u>

Motion carried as follows:

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

At 8:05 p.m., Mayor Pro Tem/Vice Chairman Dutrey returned to the dais.

E. Adoption of Resolution No. 04-2549 Authorizing Recovery of Abatement Costs Incurred by the City Related to Property Owned by John and Jennifer I. Rund and Located at 5579 Denver Street, Montclair, California

Mayor Eaton declared it the time and place set for public hearing to consider Resolution No. 04-2549 authorizing recovery of abatement costs incurred by the City related to property owned by John and Jennifer I. Rund located at 5579 Denver Street, Montclair, California, 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 asked if perhaps an inquiry had been made of the San Bernardino County Tax Assessor concerning the possibility of unpaid property tax bills in an effort to locate the property owner.

Fire Chief Turner responded that a search for the property owner had been made through the TRW credit bureau, which provides the most recent County information.

Moved by Council Member Paulitz and seconded by Council Member Raft that the following actions be taken:

1. That Resolution No. 04-2549, entitled "**A Resolution of the City Council of the City of Montclair Declaring the Findings of the City Council Related to the Cost of Abatement Report for Property Located at 5579 Denver**

Street, Montclair, California," be read by number and title only, further reading be waived, and it be declared adopted.

2. That the Council determine that the \$418.41 reimbursement amount be paid to the City of Montclair within ten calendar days of the adoption of Resolution No. 04-2549.

The City Council unanimously waived the reading of Resolution No. 04-2549.

Resolution No. 04-2549 was unanimously adopted and the Council determined that the \$418.41 reimbursement amount be paid to the City of Montclair within ten calendar days of adoption of Resolution No. 04-2549 by the following vote:

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

VIII. CONSENT CALENDAR

Council Member Raft requested that Item C-1 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 Regular Joint Council/Agency/Montclair Housing Corporation Meeting of October 4, 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 October 4, 2004.

B. Administrative Reports

1. **Setting a Public Hearing to Consider Approval of Tentative Tract Map No. 16465 for a Two-Lot Residential Subdivision at 5477 Palo Verde Street**

The City Council set a public hearing for Monday, November 1, 2004, at 7:00 p.m. in the City Council Chambers to consider approval of Tentative Tract Map No. 16465 for a two-lot residential subdivision at 5477 Palo Verde Street.

2. **Setting a Public Hearing to Consider Approval of Tentative Parcel Map No. 16740 for a Two-Lot Residential Subdivision at 11190 Fremont Avenue**

The City Council set a public hearing for Monday, November 1, 2004, at 7:00 p.m. in the City Council Chambers to consider approval of Tentative Parcel Map No. 16740 for a two-lot residential subdivision at 11190 Fremont Avenue.

3. **Setting a Public Hearing to Consider Approval of Tentative Parcel Map No. 16787 for a Single-Lot Airspace-Only Industrial Condominium at 4600 Arrow Highway**

The City Council set a public hearing for Monday, November 1, 2004, at 7:00 p.m. in the City Council Chambers to consider approval of Tentative Parcel

Map No. 16787 for a single-lot airspace-only industrial condominium at 4600 Arrow Highway.

4. Declaring Certain City Property and Unclaimed Property in Police Custody as Surplus and Available for Action

The City Council declared the City and other unclaimed property in Police custody as listed on an attachment to this agenda report as surplus and available for auction.

5. "No Action" on Alcoholic Beverage Permit Application - John's Incredible Pizza Company

The City Council voted "No action" on the "On-Sale Beer and Wine" license application of Mr. John Michael Parlet, President, Incredible Entertainment, Inc., for John's Incredible Pizza Company, 5280 Arrow Highway, Montclair, California.

6. Receiving and Filing of City Treasurer's Report

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

7. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated October 18, 2004, totaling \$811,266.21, and the Payroll Documentation dated September 19, 2004, amounting to \$502,970.60, with \$342,564.29 being the total cash disbursement.

8. 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 September 30, 2004.

9. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 9/01/2004-9/30/2004 in the amounts of \$30,713.32 for Project I; \$3,663.39 for Project II; \$744,620.54 for Project III; \$377,148.89 for Project IV; and \$1,119,974.20 for Project V.

10. 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 September 30, 2004.

11. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 9/01/2004-9/31/2004 in the amount of \$28,960.67.

D. Resolutions

1. Redevelopment Agency Board of Directors' Adoption of Resolution No. 04-06, a Resolution of the City of Montclair Redevelopment Agency Authorizing Expenditure of Redevelopment Agency Funds for Agreement No. 04-147 and Making Certain Findings in Connection Therewith

City Council's Adoption of Resolution No. 04-2552, a Resolution of the City Council of the City of Montclair

Approving *Agreement No. 04-147* Between the City of Montclair and the City of Upland for the Design, Construction, and Construction Administration of the Pacific Electric Bike Trail and Making Certain Findings Therewith

City Council's Approval of *Agreement No. 04-148* Approving Promissory Note 04-6 Between the City of Montclair and the City of Montclair Redevelopment Agency

Redevelopment Agency Board of Directors' Approval of *Agreement No. 04-148* Approving Promissory Note 04-6 Between the City of Montclair Redevelopment Agency and the City of Montclair

Redevelopment Agency Board of Directors' Appropriation of \$100,000 as Matching Funds for the Pacific Electric Bike Trail

The City Council and Redevelopment Agency Board of Directors took the following actions:

- (a) The Redevelopment Agency Board adopted Resolution No. 04-06, a Resolution of the City of Montclair Redevelopment Agency authorizing expenditure of Redevelopment Agency funds for *Agreement No. 04-147* and making certain findings in connection therewith.
 - (b) The City Council adopted Resolution No. 04-2552, a Resolution of the City Council of the City of Montclair approving *Agreement No. 04-147* between the City of Montclair and the City of Upland for the design, construction, and construction administration of the Pacific Electric Bike Trail and making certain findings therewith.
 - (c) The City Council approved *Agreement No. 04-148* approving Promissory Note 04-6 between the City of Montclair and the City of Montclair Redevelopment Agency.
 - (d) The Redevelopment Agency Board approved *Agreement No. 04-148* approving Promissory Note 04-6 between the City of Montclair Redevelopment Agency and the City of Montclair.
 - (e) The Redevelopment Agency Board authorized appropriation of \$100,000 as matching funds for the Pacific Electric Bike Trail.
2. **Adoption of Resolution No. 04-2546 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges**

The City Council adopted Resolution No. 04-2546 authorizing placement of liens on the properties listed on Exhibit A to Resolution No. 04-2546 for delinquent sewer and trash charges.

3. **Adoption of Resolution No. 04-2551 Determining the Amount of Property Tax Revenue to be Exchanged Between the County of San Bernardino and the City of Montclair Resulting From the Jurisdictional Change Described in Local Agency Formation Commission 2969 (Annexation No. 24)**

The City Council adopted Resolution No. 04-2551 determining the amount of property tax revenue to be exchanged between the County of San Bernardino and the City of Montclair resulting from the jurisdictional change described in Local Agency Formation Commission 2569 (Annexation No. 24).

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

1. **Approval of Agreement No. 04-146 Amending Agreement No. 04-46 With the California Department of Transportation, Division of Rail, for State Funding for the Ramona Avenue Grade Separation Project**

Adoption of Resolution No. 04-2550 Authorizing the City Engineer to Sign Agreement No. 04-146 on Behalf of the City

Council Member Raft asked for an update on this important project for the benefit of the residents.

City Engineer Hudson responded as follows:

- (a) He reminded the Council that in the spring it approved an agreement with the California Department of Transportation, Division of Rail, that the Ramona Avenue Grade Separation project would be funded by October 9, 2004, though staff realized at that time it would be impossible to complete the right-of-way acquisition, advertise for bids, begin construction, and complete the project by the deadline. He noted it was staff's position that the best course of action would be to enter into the agreement to preserve project funding and pursue a contract amendment extending the fund obligation deadline. He advised that proposed Agreement No. 04-146 amends the original agreement to extend the project for three years and that later in the agenda the Redevelopment Agency Board will be asked to meet in Closed Session related to the right-of-way acquisition associated with the project.
- (b) He reported that appraisals have been completed on all related properties and the Council will be asked to authorize acquisition of the easements on the properties; the City is currently in escrow on the AA Equipment site, and environmental work is being done tomorrow, including exploratory pourings to determine the extent of any contamination from previous use of the site, which would require cleanup by the seller prior to close of escrow. He optimistically projected it would take six to eight months to obtain all right-of-way easements, advertise for bids, and be under construction by next summer.

Council Member Ruh thanked City Engineer Hudson for his thorough report.

Moved by Council Member Ruh, seconded by Council Member Paulitz, and carried unanimously that the City Council take the following actions:

- (a) Approve *Agreement No. 04-146* amending *Agreement No. 04-46* with the California Department of Transportation, Division of Rail, for state funding for the Ramona Avenue Grade Separation project.

- (b) Adopt Resolution No. 04-2550 authorizing the City Engineer to sign *Agreement No. 04-146* on behalf of the City.

X. RESPONSE – None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel

1. Closed Session Pursuant to Section 54956.8 of the Government Code Regarding Real Property Negotiations

<i>Properties:</i>	<i>Assessor's Parcel Nos.</i>	<i>Address</i>
	1012-061-01	4433 Holt Boulevard, Montclair
<i>Negotiating Parties:</i>	City of Montclair Redevelopment Agency and Richard C. Hunsaker, Trustee for Hunsaker Family Trust 12/30/81	
	1012-062-11	10606-08 Ramona Avenue, Montclair
	1012-062-13	4461 Brooks Street, Montclair
	1012-062-14	10634-44 Ramona Avenue, Montclair
<i>Negotiating Parties:</i>	City of Montclair Redevelopment Agency and John and Henny V. Vanderzwaag Trust	
	1012-062-15	10654 Ramona Avenue, Montclair
<i>Negotiating Parties:</i>	City of Montclair Redevelopment Agency and Ramona Industrial Center – Cornelius and Wilhelmina Van Dam Family Limited Partnership	
	1012-151-27	10611 Ramona Avenue, Montclair
	1012-151-28	S/S Brooks Street, E/O Ramona Avenue
<i>Negotiating Parties:</i>	City of Montclair Redevelopment Agency and Jafam Corporation	
	1012-141-05	10807 Ramona Avenue, Montclair
<i>Negotiating Parties:</i>	City of Montclair Redevelopment Agency and Mr. Richard K. Stensgaard	
	1012-141-07	4563 State Street
	1012-141-08	"
	1012-141-09	"
<i>Negotiating Parties:</i>	City of Montclair Redevelopment Agency and Heirs of Hampton F. and Claire E. Tedder	
	1012-072-09	10635 Ramona Avenue, Montclair
<i>Negotiating Parties:</i>	City of Montclair Redevelopment Agency and per Kvalheim Trust and Gry Kvalheim Trust	
<i>Negotiators:</i>	Director of Redevelopment/Public Works Staats and City Engineer Hudson	
<i>Under Negotiation:</i>	Recommendations Regarding Acquisition of Easements on Subject Properties in Conjunction With Ramona Avenue Grade Separation Project	

Agency Counsel Robbins requested a Closed Session pursuant to Section 54956.8 of the Government Code regarding real property negotiations on the above matter.

B. City Manager/Executive Director

1. City Manager/Executive Director McDougal commented as follows:

- (a) He thanked the **Montclair Kiwanis** on behalf of **Pomona Valley Habitat for Humanity** for the generous \$1000 donation. He assured that Executive Director **Torres** would receive the donation tomorrow.
- (b) He announced that *Inland Valley Daily Bulletin* City Reporter **Lisa B. McPheron** has left the newspaper. He noted he would miss **Mrs. McPheron** for her fair and honest coverage of City stories and wished her the best of luck in her future career endeavors.

Council Member Ruh told **Mrs. McPheron** that several members of his family work for the **Ontario-Montclair School District** and that they would be pleased to provide her with employment references.

- (c) Noting he was accused earlier of filing a false police report, he asked Police Chief Thompson to research the allegation and provide the Council and him with copies of any and all police reports filed by City Manager McDougal with the Montclair Police Department. He noted it is his recollection he has never filed a police report with the Montclair Police Department.

C. Mayor/Chairman

1. Mayor/Chairman Eaton commented as follows:

- (a) He noted his attendance earlier in the month at the well-attended **Montclair Chamber of Commerce** Legislative Breakfast to address the **Chamber's** positions on November ballot propositions.
- (b) He noted his attendance on October 6 and 7, 2004, at the **International Council of Shopping Centers** trade show in Palm Springs, advising there was much interest in potential City sites.
- (c) He noted his attendance on October 8, 2004, at an **Omnitrans American Public Transportation Association** conference in Atlanta, Georgia.
- (d) Noting the City has very special employees who reach out to those who request assistance, he shared the following letter he received from a resident, which is entered into the record as follows:

Dear Mr. Eaton:

I want to tell you what a wonderful employee you have in Ann Moreno. I recently moved to Montclair to be with my son and his family due to severe respiratory problems that necessitated the move. Because of this problem, I am on oxygen. When I go anywhere, my oxygen cylinder goes with me.

My son and everyone in the house work long hours, so I call on Montclair Golden Xpress to get around town. Ann is so

patient, so helpful and pleasant. She's incredible. I hope you appreciate this lady because she is so special.

Sincerely,

/s/ Pat Fitzgerald /s/

Mayor Eaton noted the letter would be filed in Transportation Coordinator Moreno's personnel folder.

D. City Council/Agency Board

1. Council Member/Director Paulitz commented as follows:

- (a) He noted Council Member Raft and he interviewed six candidates for the vacancy on **West Valley Mosquito and Vector Control District** Board of Trustees created when Board Member **Isabel Briones** moved out of Montclair. He announced the selection committee has appointed **Mr. Maynard Lenhart** to fill the vacancy, noting he will fulfill **Ms. Briones'** term that will expire January 2, 2008.
- (b) He announced the following events that will take place Tuesday, October 19, 2004:
 - (1) Firefighters' Recognition Breakfast - 7:15 a.m., Fire Station No. 1.
 - (2) Montclair Community Health Fair - 9:00 a.m. to 12:00 p.m., no flu shots will be offered because the national shortage has limited the availability of the vaccine usually administered at the event by **San Bernardino County Public Health Department** personnel.
- (c) He encouraged residents' support of the critical **"Measure F"** initiative on the ballot for the **Presidential General Election** on Tuesday, November 2, 2004. He asked residents to contact him to have a **"Measure F"** sign posted in their yard.

Council Member Paulitz noted his disappointment that the ***Inland Valley Daily Bulletin (IVDB)*** does not support the measure, expressing his opinion that the newspaper failed to research the need for a retail transactions and use tax in the City. He added it was unfair for ***IVDB*** to tie the proposed tax in with the City's Utility Users Tax, which was necessitated by the recession of the early 1990s. He strongly encouraged residents' support of **"Measure F."**

- (d) He noted former employee **Mrs. Jayne Baer** had appealed her termination to the City Council and that twice the appeal hearings were postponed. He noted learning that the reason the appellant canceled the last appeal hearing was that Council Member Raft would not be attending because of her interest in the matter, Council Member Ruh had been unable to attend, and the remaining Council Members would be biased. He took issue with the reason behind cancellation of the hearing, questioning why an appeal hearing could not have been held prior to a lawsuit being filed. He further noted that **Mrs. Baer** won her appeal for unemployment compensation.

2. Council Member/Director Raft encouraged residents to vote in the **Presidential General Election** on Tuesday, November 2, noting the importance of doing so.
3. Mayor Pro Tem/Vice Chairman Dutrey commented as follows:
 - (a) He recognized the Fire Department for its annual Open House and Pancake Breakfast held two weeks ago, noting he enjoyed attending the event with his daughter.
 - (b) He noted he just returned from Missouri this afternoon from a visit with his wife. He noted that **Mrs. Dutrey** was promoted from the rank of Captain to Major in the **United States Army** and will receive orders this week on her one-year assignment, which will probably be to Iraq.
4. Council Member/Director Ruh commented as follows:
 - (a) He noted he was unable to attend the Fire Department's pancake breakfast because he was at a professional development meeting in Santa Clara.
 - (b) He likewise encouraged residents to vote on Tuesday. He advised that residents can vote early at the San Bernardino County Registrar of Voters Office or by absentee ballot.
 - (c) He advised that residents oppose **Proposition 67: Emergency Medical Services Funding and Telephone Surcharge**, which has no cap on cell phone or business phone taxes, which is opposed by the **Montclair Chamber of Commerce** and the **California Chamber of Commerce**.
 - (d) He discussed the following bills:
 - (1) **H.R. 10 – 9/11 Recommendations Implementation Act** would create a position of National Intelligence Director in the executive branch.
 - (2) **SB 1087 (Soto) – Highways, Safe Routes to Schools Construction Program** would extend the program another three years.
 - (3) **SB 1193 (Soto) – Military Service: Surviving Spouses and Children Relief Act** would require the state to pay a \$10,000 death benefit to the surviving spouses and children of any member of the **California National Guard, State Military Reserve, or Naval Militia** who dies or is killed in the performance of duty as determined by the Military Department.
 - (e) As a member of the **Santa Ana Regional Quality Control Board**, he noted he has been addressing the issue of perchlorate cleanup with **Assembly Member McLeod**, who is working on legislation regarding cleanup of the contaminant, a component of rocket fuel that interferes with the uptake of iodine by the thyroid. He advised that the **Santa Ana Regional Quality Control Board** is working on a presentation to update regional cities on the issue.
 - (f) He noted the following Montclair residents highlighted recently in the ***Inland Valley Daily Bulletin***:

- (1) **Mr. Angelo Vaccaro**, who in February 1945, was among 3,000 men who rescued 2,147 American prisoners of war from a heavily defended Japanese prison camp on Luzon Island in the Philippines.
- (2) **Mr. Ralph Leary**, who reminisces about his **Army** experiences during the attack on Pearl Harbor and during his several missions in the Pacific Theater.
- (3) **Mr. Rusty Hoeck**, who is featured in an article this morning on the **Great Depression** in which he shares his memories of life on his family's farm in Armstrong, Iowa.

Council Member Ruh shared his mother's memories of growing up in Long Island during the Depression and how fortunate one felt to be able to share some food with those struggling to survive. He offered the following quotation from *Pasadena Star Tribune* columnist **Gerald Plessner**:

Our ancestors gave us a moral foundation that compels us to help others, to give generously, and to treat everyone with respect and dignity.

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of October 4, 2004

The City Council received and filed the Personnel Committee meeting minutes of October 4, 2004, for informational purposes.

At 8:28 p.m., the Redevelopment Agency Board of Directors went into Closed Session regarding real property negotiations pursuant to Section 54956.8 of the Government Code.

XII. CLOSED SESSION ANNOUNCEMENTS

At 8:45 p.m., the Redevelopment Agency Board of Directors returned from Closed Session. Chairman Eaton announced the Redevelopment Agency Board met in Closed Session regarding real property negotiations, information was received and direction given to staff, and no further announcements would be made at this time.

Mayor Eaton wished former **IVDB** City Reporter **Lisa B. McPheron** the best of luck in her future career endeavors.

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

At 8:28 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,

Yvonne L. Smith, Recording Secretary