

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL AND REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS HELD ON MONDAY, NOVEMBER 15, 2004, AT 6:59 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 6:59 p.m.

II. INVOCATION

Mayor 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; 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 Employees

Mayor Eaton introduced **Ms. Jackie Andrade**, who was appointed to the position of Code Enforcement Officer effective November 1, 2004, after serving as a Reserve Code Enforcement Officer for the City for two years.

Mayor Eaton welcomed Code Enforcement Officer Andrade to the Montclair City family and presented her with a City pin.

Mayor Eaton introduced **Mr. Gamelle Gibbs**, who was appointed to the position of Firefighter/Paramedic effective November 8, 2004. He noted Firefighter/Paramedic Gibbs worked as an emergency medical technician in Orange County and most recently worked as a Paramedic for the **City of Hemet**.

Mayor Eaton welcomed Firefighter/Paramedic Gibbs to the Montclair City family and presented him with his badge of service and a City pin.

B. Update by State Legislative Advocate **Mr. Charles Bader, CWB Consulting**

Mr. Charles Bader, CWB Consulting, congratulated Council Member Raft and Mayor Pro Tem Dutrey on their successful reelection campaigns to the Montclair City Council.

Mr. Bader reported on the effects of the recent passage of **Proposition 1A - Protection of Local Government Revenues**, noting it represents a revolutionary change in the City of

Montclair's relationship to the Legislature and the Governor's Office in terms of significantly reducing the state's authority over major local governmental revenue sources, including the following:

1. Arbitrarily reducing local sales tax rates or altering the method of allocation.
2. Shifting property taxes from local governments to schools or community colleges.
3. Decreasing vehicle license fee revenues without providing replacement funding.

Mr. Bader advised that the state is now required to suspend certain state laws creating mandates in any year that the state does not fully reimburse local governments for their costs to comply with the mandates. He reported on the following two significant exceptions to the new restrictions regarding sales and property taxes:

1. A two-thirds majority vote of both houses of the Legislature is required for any shifts to schools and community colleges of a limited amount of local governments' property tax revenues beginning in Fiscal Year 2008-09 if the Governor proclaims the shift is needed to offset a severe state financial hardship. The state must repay local governments for their property tax losses, with interest, within three years.
2. The state may approve voluntary exchanges of local sales and property tax revenues among local governments within a county.

Mr. Bader noted these exceptions can only take place twice in ten years and only after the **AB 1768** vehicle license fee backfill gap loan is reimbursed to local governments. He commended the Council for its lobbying efforts to defeat legislation introduced by **Assembly Member Darryl Steinberg** to further undermine local government revenues and which resulted in the Governor's introduction of **Proposition 1A**.

Mr. Bader discussed his past pessimism related to the state's fiscal instability, noting his belief at one point that it would spend itself into insolvency. He stated it is important to note the improvement in the economy despite the Governor's failure to successfully address the state budget deficit, instead promoting a \$15 billion deficit-reducing bond issuance to be repaid in 9 to 13 years. He further discussed the state budget for the next Fiscal Year, the Governor's proposal for a sensible reorganization of state bureaucracy through his California Performance Review strategy and its possible effects on local government, and the political structure of the Legislature.

Mr. Bader suggested the Council consider meeting with the state leadership in late January or early February regarding state issues affecting the City, at which time it can present the local leadership with a "wish list."

Mayor Eaton stated he would be willing to do so.

Council Member Ruh inquired as follows:

1. Will the Legislature ever join with representatives from local governments to analyze exactly how all facets of local government are funded in an effort to reform the state's unrestrained raiding of local government revenues?

Mr. Bader agreed as to the importance of such a meeting and advised that it would take some effort to arrange it.

2. Will there be any movement in the Legislature to eliminate Section 6248 of the **California Revenue and Taxation Code**, commonly known as the "yacht tax loophole"?

Mr. Bader expressed his opinion that such legislation will be introduced, though whether the Governor will approve the bill is unknown at this point.

Council Member Ruh spoke in support of the **League of California Cities'** spearheading a move toward elimination of the loophole in the state tax code.

Noting the lack of redevelopment revenue protection in **Proposition 1A**, Mayor Pro Tem Dutrey asked if there is a real threat that Redevelopment Agency revenues can be raided by the state.

Mr. Bader advised that the **California Department of Finance** has argued that redevelopment funds are already protected, though representatives of redevelopment agencies would tend to disagree. Expressing an inherent mistrust of the system, he suggested the Council support any efforts to further protect redevelopment funds.

Mayor Eaton thanked **Mr. Bader** for his presentation and indicated he looks forward to impending lobbying efforts.

VI. PUBLIC COMMENT

Mayor/Chairman Eaton reminded those audience members desiring to address the Council and Redevelopment Agency/Montclair Housing Corporation Boards to submit a *Speaker Information Card*, and they would be afforded five minutes each to speak on subjects that do not appear on tonight's agenda.

Council Member Ruh recognized **City of Claremont** Council Member **Jackie McHenry** in the audience and welcomed her to the meeting. He noted how great it is to have visitors from other cities.

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

1. Noting community youth have advised him of their support of the new skateboard park in Montclair, he stated that he is glad the facility has finally been completed for their use and enjoyment.
2. He complained about the brevity of the October 18, 2004 regular joint meeting record of **Mrs. Baer's** and his comments.
3. He noted the incident involving City Manager McDougal's advice to Director of Administrative Services Starr against further commentary regarding **Mr. Armstrong's** being threatened by a staff member has been confirmed. He expressed his confusion about the continued employment of said staff member after his supposed illegal and "unethical" behavior.
4. He noted he would yield the remainder of his comment time to **Mr. Baer**.

Mayor Eaton ruled that such practice would no longer be allowed.

B. Mr. Roger Baer, commented as follows:

1. Addressing his comments to City Manager McDougal, he stated he has decided to comment further at these meetings because of comments made by City Manager McDougal at a prior meeting.

Mayor Eaton advised **Mr. Baer** that he may only address his comments to the legislative body.

Mr. Baer disputed City Manager McDougal's recent assertion that he did not participate in an investigation by the Montclair Police Department of former employee **Mrs. Jayne Baer**. **Mr. Baer** again addressed City Manager McDougal, commenting on his supposed cover up of "illegal" activities of certain staff members.

Mayor Eaton reminded **Mr. Baer** that he may only address his comments to the legislative body.

2. He noted he has tried to forgive Mayor Eaton for his unfairness in his refusal to review certain evidence presented by **Mr. Baer**.
3. He noted he has tried to convince himself that Mayor Eaton knew nothing about a supposed conspiracy against **Mr. Ray Raft**, though in **Mr. Baer's** opinion, Mayor Eaton was the primary beneficiary of such "conspiracy."
4. He told Council Member Paulitz that in his opinion, the Council had "stacked the deck" against his wife in a scheduled appeal hearing of her termination of employment that was canceled at her request. He expressed his opinion that the Council is comprised of "a bunch of liars."
5. He noted how his wife, because of her kind nature, had chatted with then newly elected Council Member Dutrey at a City function because she believed he was being largely ignored.
6. He began to address his comments toward Director of Administrative Services Starr.

Mayor Eaton ruled **Mr. Baer** out of order as a result of his failure to comply with Mayor Eaton's earlier admonition that **Mr. Baer** only address his comments to the legislative body.

VII. PUBLIC HEARINGS

A. Adoption of Resolution No. 04-2554 Requesting the Local Agency Formation Commission Initiate Proceedings for Reorganization to Include City of Montclair Annexation No. 25 and Detachment From the Monte Vista Fire Protection District

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Resolution No. 04-2554 requesting the Local Agency Formation Commission (LAFCO) initiate proceedings for reorganization to include City of Montclair Annexation No. 25 and detachment from the Monte Vista Fire Protection District 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 any of the County residents or owners of property adjacent to the subject site have raised objections to the proposed annexation.

City Manager McDougal advised that no protests to the proposed annexation action have been received.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Resolution No. 04-2554, entitled "**A Resolution of the City Council of the City of Montclair Requesting that the Local Agency Formation Commission initiate Proceedings for Reorganization to Include City of Montclair Annexation No. 25 and Detachment from Monte Vista Fire Protection District,**" 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. 04-2554 was unanimously adopted by the following vote:

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

VIII. CONSENT CALENDAR

Council Member Ruh requested that Item B-5 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 November 1, 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 November 1, 2004.

B. Administrative Reports

1. Setting a Public Hearing to Consider Resolution No. 04-08, a Resolution of the City of Montclair Redevelopment Agency Adopting the Implementation Plan for Redevelopment Project Area Nos. I, II, III, IV, and V

The Redevelopment Agency Board set a public hearing for Monday, December 20, 2004, at 7:00 p.m. in the City Council Chambers to consider Resolution No. 04-08, a Resolution of the City of Montclair Redevelopment Agency adopting the Implementation Plan for Redevelopment Project Area Nos. I, II, III, IV, and V.

2. Setting a Public Hearing to Consider Adoption of Resolution No. 04-2557 Amending the Master User Fee Schedule

The City Council set a public hearing for Monday, December 20, 2004, at 7:00 p.m. in the City Council Chambers to consider adoption of Resolution No. 04-2557 amending the Master User Fee Schedule.

3. Approval of Parcel Map No. 15894 Located at the Northeast Corner of Poulsen Avenue and Kingsley Street

Authorizing Parcel Map No. 15894 to be Recorded by the Officer of the San Bernardino County Recorder

The City Council took the following actions:

- (a) Approved Parcel Map No. 15894 located at the northeast corner of Poulsen Avenue and Kingsley Street.
- (b) Authorized Parcel Map No. 15894 to be recorded with the Office of the San Bernardino County Recorder.

4. Authorizing Expenditure of State Supplemental Law Enforcement Services Funds

The City Council authorized expenditure of State Supplemental Law Enforcement Services funds.

6. Designation of Voting Delegate to the Annual Congress of Cities, November 30 Through December 4, 2004, Indianapolis, Indiana

The City Council designated Mayor Paul M. Eaton as Montclair's voting delegate to the National League of Cities Annual Business Meeting to be held Saturday, December 4, 2004 at the Annual Congress of Cities convention in Indianapolis, Indiana.

7. Receiving and Filing of City Treasurer's Report

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

8. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated November 15, 2004, totaling \$502,593.52, and the Payroll Documentation dated October 17, 2004, amounting to \$503,214.07, with \$343,824.61 being the total cash disbursement.

9. 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 October 31, 2004.

10. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 10/01/2004-10/31/2004 in the amounts of \$74.07 for Project I; \$2,485.25 for Project II; \$30,942.77 for Project III; \$2,776.80 for Project IV; and \$18,775.03 for Project V.

11. 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 October 31, 2004.

12. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 10/01/2004-10/31/2004 in the amount of \$8,782.95.

C. **Agreements - None**

D. **Resolutions**

1. **City Council's Amendment to the Fiscal Years 2003-2007 Capital Improvement Program by Adding the Palo Verde Street Storm Drain Project and Transferring \$110,000 From the North Freeway Storm Drain Project to the Palo Verde Street Storm Drain Project**

Redevelopment Agency Board of Directors' Approval of *Agreement No. 04-159* with Lim and Nascimento Engineering Corporation for Design and Preparation of Construction Drawings for the Palo Verde Street Storm Drain Project

Redevelopment Agency Board of Directors' Adoption of Resolution No. 04-07, a Resolution of the City of Montclair Redevelopment Agency Authorizing the Expenditure of Redevelopment Project Area No. III Tax Allocation Refunding Bond Funds for *Agreement No. 04-159* and Making Certain Findings in Connection Therewith

Adoption of Resolution No. 04-2558, a Resolution of the City Council of the City of Montclair Authorizing the Expenditure of Redevelopment Project Area No. III Tax Allocation Refunding Bond Funds for *Agreement No. 04-159* and Making Certain Findings in Connection Therewith

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

- (a) The City Council amended the Fiscal Years 2003-2007 Capital Improvement Program by adding the Palo Verde Street Storm Drain Project and transferred \$110,000 from the North Freeway Storm Drain Project to the Palo Verde Street Storm Drain Project.
- (b) The Redevelopment Agency Board of Directors approved *Agreement No. 04-159* with Lim and Nascimento Engineering Corporation for the design and preparation of construction drawings for the Palo Verde Street Storm Drain Project.
- (c) The Redevelopment Agency Board of Directors adopted Resolution No. 04-07, a Resolution of the City of Montclair Redevelopment Agency authorizing the expenditure of Redevelopment Project Area No. III Tax Allocation Refunding Bond funds for *Agreement No. 04-159* and making certain findings in connection therewith.
- (d) The City Council adopted Resolution No. 04-2558, a Resolution of the City of Montclair Redevelopment Agency authorizing the expenditure of Redevelopment Project Area No. III Tax Allocation Refunding Bond funds for *Agreement No. 04-159* and making certain findings in connection therewith.

IX. PULLED CONSENT CALENDAR ITEMS

B. Administrative Reports

5. **Authorization to Purchase 32 Less Lethal TASER® Electrical Discharge Weapons and 50 Replacement Field Cartridges From A.L.D. Company, Inc.**

Council Member Ruh asked if use of a "less lethal" type of TASER® weapon would further limit the City's liability.

Police Chief Thompson responded that there is risk associated with use of TASER® weapons depending upon where on the body the projectiles make contact. Noting use of the less-lethal weapons has not been attributable to any deaths thus far, he advised that fewer injuries have been sustained by Police Officers and suspects with use of the weapons. He noted that if this item is approved, every Officer on the force would be issued his/her own TASER®.

Council Member Ruh thanked Police Chief Thompson for the clarification and expressed his support of the Department's use of the less-lethal TASER® weapons.

Moved by Council Member Ruh, seconded by Council Member Paulitz, and carried unanimously that the City Council authorize the purchase of 32 less lethal TASER® electrical discharge weapons and 50 replacement field cartridges from A.L.D. Company, Inc.

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel - No comments

B. City Manager/Executive Director

1. Against his better judgment, City Manager/Executive Director McDougal commented as follows:

- (a) He noted that this evening, as in the past, he has been accused of doing something that he had no part of. Pursuant to an earlier suggestion that he participated in an investigation by the Montclair Police Department of former employee **Mrs. Jayne Baer**, he recollected that he was never a party to such an investigation. He recalled that he did speak to then Police Chief Eisenbrey about the results of the completed investigation.
- (b) In follow-up to **Mrs. Baer's** suggestion at the last meeting that he filed a false police report with the Montclair Police Department, he reported that a research of Police Department records for the 28 years he has been associated with the City of Montclair revealed that he has never filed either a police report or a false police report with the Department.
- (c) Noting he would be able to provide evidence to dispute the charges made against him, he stated he would appreciate being provided with evidence to substantiate any charges made against him or staff.
- (d) He noted five hearings were scheduled for **Mrs. Baer** to appeal her termination with the City of Montclair and that her attorney canceled several, the City Attorney canceled one, and **Mrs. Baer** canceled the last one because of the unavailability of two Council Members. He noted that **Mrs. Baer** waived her right to follow due process to appeal her termination, including a refusal to meet with him, and instead filed a lawsuit against staff. He advised that he did meet with **Mrs. Baer** and her representative after she received a written reprimand from her supervisor. He noted it is upsetting when undue comments are made on this issue by those who were not involved in the matter.

C. Mayor/Chairman

1. Mayor/Chairman Eaton commented as follows:
 - (a) He thanked the voters for approving **Measure F**, which "will mean a lot to the safety of our community."
 - (b) He congratulated Council Member Raft and Mayor Pro Tem Dutrey on their reelection to the City Council.
 - (c) He noted his participation in the C.A.U.T.I.O.N. cleanup on Saturday, November 6, 2004, in the San Bernardino Street/Helena Avenue neighborhood, adding it was great to have the assistance of local residents, the **Knights of Columbus**, and Code Enforcement and Fire personnel in the cleanup effort.
 - (d) He noted he enjoyed participating in the grand opening of the Montclair Skate Park, which also took place on November 6. He noted it was fun to see how thrilled the local skateboard enthusiasts were to have their own park. He noted there are a few "wrinkles" to work out that will take the cooperation of park participants.
 - (e) He noted his attendance today at the 5th Annual **Chaffey College** "Report to the Community" luncheon and spoke of the interesting programs the college is involved in from Fontana to Chino.

D. City Council/Agency Board

1. Council Member/Director Paulitz commented as follows:
 - (a) He also noted his attendance at the "very impressive" 5th Annual **Chaffey College** "Report to the Community" luncheon today, adding that City Manager McDougal serves as Chairman of the Governing Board of **Chaffey College**.
 - (b) He likewise congratulated Council Member Raft and Mayor Pro Tem Dutrey on their reelection to the City Council.
 - (c) He also thanked the voters for approving **Measure F**, which received 63.59 percent approval. He noted he was supportive of **Measure F**; **Measure I**, which received 79.74 percent approval; and **Proposition 1A**. He advised that the reason behind the overwhelming support of the **Measure I** extension is because of the high visibility of all the public improvement projects funded by the tax proceeds, including the Monte Vista Avenue underpass and Holt and Mission Boulevards improvements locally.
2. Council Member/Director Raft commented as follows:
 - (a) She thanked Montclair voters for their "vote of confidence" to give her the honor of serving the community for the next four years.
 - (b) She likewise noted her attendance at the Montclair Skate Park grand opening on November 6, noting it was nice to see it was well attended, particularly by exuberant skateboard enthusiasts.

3. Mayor Pro Tem/Vice Chairman Dutrey commented as follows:
 - (a) He apologized to City Manager McDougal for inadvertently overlooking the **Chaffey College** "Report to the Community" luncheon today.
 - (b) He recognized all contributors who worked hard to make the dream of a new skateboard park in the community a reality.
 - (c) He noted his daughter's and his participation in the C.A.U.T.I.O.N. cleanup on November 6.
 - (d) He noted his appreciation of the community's support on Election Day, adding he is thrilled to be given the opportunity to serve the City for another "exciting" four years. He stated he looks forward to providing the leadership for all the great projects and future proposals that are planned for the community.
 - (e) He congratulated his colleague Council Member Raft on her reelection to the Council.
 - (f) He recognized **Ontario Mayor Gary Ovitt's** election to the **San Bernardino County Board of Supervisors**. He thanked **Mayor Ovitt** for recognizing his wife and him at an Ontario **Veterans' Day** memorial service.
4. Council Member/Director Ruh commented as follows:
 - (a) He apologized to City Manager McDougal for his being unable to attend the **Chaffey College** "Report to the Community" luncheon today, explaining that he had been called away on an emergency.
 - (b) He mentioned that an educational scholarship fund has been established by the **Building Industry Association (BIA) of Southern California** in memory of long-time resident, former Montclair Planning Commissioner, and **BIA Inland Empire Division** President **Mr. Michael Aller**. He advised that donations to the scholarship fund may be sent to **BIA of Southern California**, 1330 South Valley Vista Drive, Diamond Bar, California. He noted the importance of a long-time Montclair resident becoming such a success in life.
 - (c) He noted his attendance at the **BIA of Southern California, Baldy View Chapter** Installation Dinner last Friday evening at which Outgoing President **Ali Razi** was honored for his service to the organization. He spoke of **Mr. Razi's** background, noting that through much hard work and perseverance, he rebuilt his life here in America after losing everything during a 1979 revolution in his Middle East homeland. He noted that **Mr. Razi's** life story truly exemplifies that "American success stories are... everywhere if we just look around and find them."
 - (d) He noted he was unable to attend the grand opening of the Montclair Skate Park because he was obligated to attend a professional development conference in Orlando, Florida, on November 6. He encouraged residents to visit the new park, noting "we need these outlets for the youth in the community."
 - (e) He congratulated **Representative David Dreier** on his reelection to **Congress**, **Assembly Member Gloria McLeod** on her reelection to the State Assembly, and

Ontario Mayor Gary Ovitt on his election to the San Bernardino County Board of Supervisors.

- (f) He likewise congratulated Council Member Raft and Mayor Pro Tem Dutrey on their reelection to the City Council, noting he looks forward to working with them for the next two years.
- (g) With all the political hubbub over blue and red states, he noted the country's motto remains "*E pluribus unum*: Out of many, one." He added that it is important to remember that despite the contentious election, there was no chaos in the streets afterward as there might have been in other countries. He suggested the public remember that because the nation is divided, we were able to end slavery, extend the franchise to vote to women, create an integrated society, and extend equal rights. He noted it is important to remember that although America does not have a parliamentary system, the minority voices are still necessary and still need to be heard.
- (h) He stated that despite the war in Iraq, we have a lot to be thankful for during this Thanksgiving holiday and we should all look at what we can do to give thanks to our Creator and to reach out to our families and friends.
- (i) He reminded Mayor Eaton that this evening's meeting would be adjourned in memory of **Mrs. May Tikfesi**, mother of Assistant Director of Human Services Sue Yoakum.

E. Committee Meeting Minutes

1. Minutes of Public Works Committee Meeting of September 16, 2004

The City Council received and filed the Public Works Committee meeting minutes of September 16, 2004, for informational purposes.

2. Minutes of Personnel Committee Meeting of November 1, 2004

The City Council received and filed the Personnel Committee meeting minutes of November 1, 2004, for informational purposes.

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

At 8:00 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors in memory of **Mrs. May Tikfesi**, mother of Assistant Director of Human Services Sue Yoakum, who passed away on Saturday, October 23, 2004.

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

Yvonne L. Smith
Recording Secretary