

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL AND REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS HELD ON MONDAY, MAY 2, 2005, AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

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I. CALL TO ORDER

Mayor/Chairman Eaton called the meeting to order at 7:00 p.m.

II. INVOCATION

**Pastor Larry Brazier, Morning Star 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 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

Absent: Council Member/Director Paulitz (excused)

V. PRESENTATIONS - None

VI. PUBLIC COMMENT

A. **Mr. Don Vodvarka**, 10202 Columbine Avenue, Montclair, gave the Council a brochure entitled, "**Our Lady of Lourdes Church, Montclair, California, 1955 - 2005 50th Anniversary.**" He spoke of the church's construction overseen by founding pastor **Father Joseph C. Mackey**, a "tough" taskmaster, noting parishioners **Peter Wright, Bob Kline**, and himself tiled the roof of the church. He fondly reminisced about **Father Mackey** and his help to **Mr. Vodvarka's** son. He blessed **Father Mackey** as well as Council Member Leonard Paulitz for his speedy recovery from recent triple bypass open-heart surgery.

B. **Mr. Ronald Armstrong**, 5601 Deodar Street, Montclair, reiterated comments made at previous meetings concerning property ownership at San Antonio Gateway.

VII. PUBLIC HEARINGS

A. **Approval of Tentative Tract Map No. 17142 for a Two-Lot Residential Subdivision at 11313 Monte Vista Avenue**

Mayor Eaton declared it the time and place set for public hearing to consider approval of Tentative Tract Map No. 17142 for a two-lot residential subdivision at 11313 Monte Vista Avenue and invited comments from the public.

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

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Raft to approve Tentative Tract Map No. 17142 for a two-lot residential subdivision at 11313 Monte Vista Avenue subject to the 31 conditions of approval listed in the agenda report on this item.

Motion carried as follows:

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

**B. Approval of Tentative Tract Map No. 17196 for a Two-Lot Commercial Subdivision at 4545 Mission Boulevard**

Mayor Eaton declared it the time and place set for public hearing to consider approval of Tentative Tract Map No. 17196 for a two-lot commercial subdivision at 4545 Mission Boulevard 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.

Mayor Pro Tem Dutrey expressed his understanding a McDonald's Restaurant is being proposed for the site.

City Manager McDougal indicated that is staff's understanding as well.

Council Member Ruh asked concerning other potential uses for the site. Noting his attendance at the **Southern California Association of Governments (SCAG)** 5th Annual Regional Housing Summit last month in Monrovia, he stated that he concurs with the change in state housing guidelines requiring communities to develop a 20-year housing plan that provides housing based on population and wages earned by retail employees. He advised that he does not oppose the commercial use that is proposed for the site so long as there is adequate housing in the community for its employees.

Moved by Mayor Pro Tem Dutrey, seconded by Council Member Raft, and carried to approve Tentative Tract Map No. 17196 for a two-lot commercial subdivision at 4545 Mission Boulevard subject to the 25 conditions of approval listed in the agenda report on this item.

**C. Adoption of Resolution No. 05-03, a Resolution of the City of Montclair Redevelopment Agency Approving the Transfer of Real Property to the City for the New Police Facility and Making Certain Findings in Connection Therewith**

**Adoption of Resolution No. 05-2577, a Resolution of the City Council of the City of Montclair Approving the Transfer of Real Property to the City for the New Police Facility and Making Certain Findings in Connection Therewith**

Mayor/Chairman Eaton declared it the time and place set for joint public hearing for the Redevelopment Agency Board to consider adoption of Resolution No. 05-03 and the City Council to consider adoption of Resolution No. 05-2577 related to approving the transfer of real property to the City for the new Police facility and making certain findings in connection therewith and invited comments from the public.

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

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

1. That Resolution No. 05-03, entitled "**A Resolution of the City of Montclair Redevelopment Agency Approving the Transfer of Real Property to the City for the Police Facility and Making Certain Findings in Connection Therewith,**" be read by number and title only, further reading be waived, and it be declared adopted.
2. That Resolution No. 05-2577, entitled "**A Resolution of the City Council of the City of Montclair Approving the Transfer of Real Property to the City for the Police Facility and Making Certain Findings in Connection Therewith,**" be read by number and title only, further reading be waived, and it be declared adopted.

The Redevelopment Agency Board and City Council waived the readings of the Resolutions.

Resolution Nos. 05-03 and 05-2577 were both adopted by the following vote:

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

Mayor Pro Tem Dutrey/Vice Chairman Dutrey pointed out that the City is saving approximately \$2.5 million on use of the property acquired by the Redevelopment Agency for the new Police facility.

**D. First Reading – Adoption of Ordinance No. 05-863 Amending Section 9.20.460 of the Montclair Municipal Code Related to the Equivalent Dwelling Unit Value**

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 05-863 amending Section 9.20.460 of the Montclair Municipal Code related to the equivalent dwelling unit value 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 when the Regional Sewage Supplemental Capital Outlay Fee was last increased.

City Engineer Hudson replied that the rate has been increased annually for the last five years. He noted the increase is generally based on the Engineering News Record Construction Cost Index for the Los Angeles area, though this year there was a substantial increase in the Index reflecting the tremendous increase in concrete and steel costs. He advised that the Inland Empire Utilities Agency instead decided to use the ten-year average of the Engineering News Record Construction Cost Index of approximately 2 percent.

Mayor Eaton clarified that the fee is only assessed on new construction that is connected to the City Sewer System.

City Attorney Robbins clarified that the Regional Sewage Supplemental Capital Outlay Fee is proposed to be increased by \$95, not by \$85 as indicated in the agenda report.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Raft that Ordinance No. 05-863, entitled "**An Ordinance of the City Council of the City of Montclair Amending Section 9.20.460 of the Montclair Municipal Code Related to the Regional Sewage Supplemental Capital Outlay Fee,**" be read by number and title only, further reading be waived, and this be declared its first reading.

The City Council waived the reading of the Ordinance.

First Reading of Ordinance No. 05-863 was adopted by the following vote:

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

- E. First Reading - Adoption of Ordinance No. 05-864 Approving a Zone Change to the Montclair Municipal Code from "R-1(11)" (Single-family Residential, Minimum 11,000-Square-Foot Lot Area) to "R-1(SL) (Single-Family Residential Small-Lot Detached Housing Overlay) for .31 Acres and "R-1" (Single-Family Residential) for .22 acres at 10954 Ramona Avenue**

**Approval of Tentative Parcel Map No. 17100 for a Four-Lot Residential Subdivision at 10954 Ramona Avenue**

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 05-864 approving a zone change to the Montclair Municipal Code from "R-1(11)" (Single-Family Residential, Minimum 11,000-Square-Foot Lot Area) to "R-1(SL) (Single-Family Residential Small-Lot Detached Housing Overlay) for .31 acres and "R-1" (Single-Family Residential) for .22 acres at 10954 Ramona Avenue and invited comments from the public.

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

Council Member Ruh spoke in complete support of the item, noting his desire that the proposed housing units be much more affordable.

Mayor Pro Tem Dutrey received clarification that the property owners of the parcel to the east are in discussions concerning dedication of portions of their properties to this project for right-of-way purposes.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Raft that the following actions be taken:

1. That Ordinance No. 05-864, entitled "**An Ordinance of the City Council of the City of Montclair Approving a Zone Change to the Montclair Municipal Code From "R-1(11) (Single-Family Residential, Minimum 11,000-Square-Foot Lot Area) to "R-1(SL)" (Single-Family Residential Small-Lot Detached Housing Overlay) for .31 Acres and "R-1" (Single-Family Residential) for .22 Acres at 10954 Ramona**

**Avenue,"** be read by number and title only, further reading be waived, and this be declared its first reading.

2. That Tentative Parcel Map No. 17100 for a four-lot residential subdivision at 10954 Ramona Avenue be approved subject to the 37 conditions of approval listed in the agenda report on this item.

The City Council waived the reading of the Ordinance.

First Reading of Ordinance No. 05-864 was adopted and the Council approved Tentative Tract Map No. 17100 for a four-lot residential subdivision at 10954 Ramona Avenue subject to the 37 conditions of approval listed in the agenda report on this item by the following vote:

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

**F. First Reading – Adoption of Ordinance No. 05-865 Amending Section 6.02.010 of the Montclair Municipal Code Related to Regulation of Fireworks**

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 05-865 amending Section 6.02.010 and adding Chapter 6.14 to Title 6 of the Montclair Municipal Code related to the regulation of fireworks 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.

Mayor Eaton spoke in support of the item because of the number of calls and complaints last year about illegal fireworks use in the City.

Council Member Raft concurred, expressing her hope that the increased enforcement will curtail such activity.

Mayor Pro Tem Dutrey asked if the fine amount is currently being determined.

City Manager McDougal advised that a fine will be determined and the Resolution presented at a subsequent meeting.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Raft that Ordinance No. 05-865, entitled "**An Ordinance of the City Council of the City of Montclair Amending Section 6.02.010 and Adding Chapter 6.14 to Title 6 of the Montclair Municipal Code Related to the Regulation of Fireworks,**" be read by number and title only, further reading be waived, and this be declared its first reading.\*

Council Member Ruh spoke in support of the item. He indicated it has been over 30 years since the City has permitted fireworks and suggested residents can enjoy beautiful family fireworks displays at Chaffey College, Mt. San Antonio College, and other local venues. He emphasized the importance of fire safety during this time of year. He noted local fireworks displays could be announced as the Fourth of July holiday approaches.

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

First Reading of Ordinance No. 05-865 was adopted by the following vote:

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

## VIII. CONSENT CALENDAR

Mayor Pro Tem Dutrey/Vice Chairman Dutrey noted Item A-1, "Minutes of Regular Joint Council/Agency/MHC Meeting of April 18, 2005," was not included in the agenda.

Moved by Mayor Pro Tem/Vice Chairman Dutrey, seconded by Council Member/Director Raft, and carried to approve the following Consent Items as presented, noting the exclusion of Item A-1:

### B. Administrative Reports

**1. Setting a Public Hearing to Consider Tentative Tract Map No. 17191 for a 39-Lot Residential Subdivision at the Southwest Corner of Howard Street and Fremont Avenue**

The City Council set a public hearing for Monday, May 16, 2005, at 7:00 p.m. in the City Council Chambers to consider Tentative Tract Map No. 17191 for a 39-lot residential subdivision at the southwest corner of Howard Street and Fremont Avenue.

**2. Receiving and Filing a Final Report of Costs for Emergency Contracting Procedures for Certain Road Repairs Near the Intersection of Brooks Street and Monte Vista Avenue**

The City Council received and filed a final report of costs for emergency contracting procedures for certain road repairs near the intersection of Brooks Street and Monte Vista Avenue.

**3. Approval of Filing of *Notice of Completion*, Reduction of *Faithful Performance Bond* to 10 Percent, and Six-Month Retention of *Payment Bond* Related to Completion of the Kingsley and Orchard Streets Rehabilitation Project**

The City Council approved the following actions related to completion of the Kingsley and Orchard Streets Rehabilitation Project:

- (a) The filing of a *Notice of Completion* with the Office of the San Bernardino County Recorder.
- (b) Reduction of the *Faithful Performance Bond* to 10 percent.
- (c) Retention of the *Payment Bond* for six months.

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

The City Council approved the Warrant Register dated May 2, 2005, totaling \$854,396.71 and the Payroll Documentation dated March 20, 2005, amounting to \$512,080.33, with \$352,019.08 being the total cash disbursement.

### C. Agreements

**1. Termination of *Agreement No. 02-37* With American Payment Systems, Inc., Related to Accepting Payments for Southern California Edison and The Gas Company**

The City Council terminated *Agreement No. 02-37* with American Payment Systems, Inc., related to accepting payments for Southern California Edison and The Gas Company.

**2. Award of Contract to International Paving Solutions, Inc., in the Amount of \$51,304**

**Approval of *Agreement No. 05-49* With International Paving Solutions, Inc., for the Freedom Plaza Parking Lot Project**

**Authorization of a \$5,200 Construction Contingency**

The City Council took the following actions related to the Freedom Plaza Parking Lot Project:

- (a) Awarded a contract to International Paving Solutions, Inc., in the amount of \$51,304.
- (b) Approved *Agreement No. 05-49* with International Paving Solutions, Inc.
- (c) Authorized a \$5,200 construction contingency.

**D. Resolutions**

**1. City Council Adoption of Resolution No. 05-2582, a Resolution of the City Council of the City of Montclair Approving Preparation and Sale of Lease Revenue Bonds (Public Facilities Projects), Issue of 2005, in the Approximate Principal Amount of \$31,300,000 by the Montclair Financing Authority and Approving and Executing Certain Documents and Authorizing Certain Actions in Connection Therewith, Including *Agreement No. 05-50*, a *Property Lease Agreement*; *Agreement No. 05-51*, an *Indenture of Trust Agreement*; *Agreement No. 05-52*, a *Continuing Disclosure Agreement*; *Agreement No. 05-53*, a *Bond Purchase Contract*; and the *Preliminary Official Statement* Related to Issuance of Montclair Financing Authority Lease Revenue Bonds**

**Montclair Financing Authority Board of Directors' Adoption of Resolution No. 05-01, a Resolution of the Montclair Financing Authority Approving Preparation and Sale of Lease Revenue Bonds (Public Facilities Projects), Issue of 2005, in the Approximate Principal Amount of \$31,300,000 by the Montclair Financing Authority and Approving and Executing Certain Documents and Authorizing Certain Actions in Connection Therewith, Including *Agreement No. 05-50*, a *Property Lease Agreement*; *Agreement No. 05-51*, an *Indenture of Trust Agreement*; *Agreement No. 05-52*, a *Continuing Disclosure Agreement*; *Agreement No. 05-53*, a *Bond Purchase Contract*; and the *Preliminary Official Statement* Related to Issuance of Montclair Financing Authority Lease Revenue Bonds**

The City Council adopted Resolution No. 05-2582, a Resolution of the City Council of the City of Montclair Approving Preparation and Sale of Lease Revenue Bonds (Public Facilities Projects), Issue of 2005, in the Approximate Principal Amount of \$31,300,000 by the Montclair Financing Authority and approving and executing certain documents and authorizing certain actions in connection therewith, including *Agreement No. 05-50*, a *Property Lease Agreement*; *Agreement No. 05-51*, an *Indenture of Trust Agreement*; *Agreement No. 05-52*, a *Continuing Disclosure Agreement*;

*Agreement No. 05-53, a Bond Purchase Contract; and the Preliminary Official Statement* related to the issuance of Montclair Financing Authority Lease Revenue Bonds.

The Montclair Financing Authority Board of Directors adopted Resolution No. 05-01, a Resolution of the Montclair Financing Authority Approving Preparation and Sale of Lease Revenue Bonds (Public Facilities Projects), Issue of 2005, in the Approximate Principal Amount of \$31,300,000 by the Montclair Financing Authority and approving and executing certain documents and authorizing certain actions in connection therewith, including *Agreement No. 05-50, a Property Lease Agreement; Agreement No. 05-51, an Indenture of Trust Agreement; Agreement No. 05-52, a Continuing Disclosure Agreement; Agreement No. 05-53, a Bond Purchase Contract; and the Preliminary Official Statement* related to the issuance of Montclair Financing Authority Lease Revenue Bonds.

**IX. PULLED CONSENT CALENDAR ITEMS - 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 noted his attendance at **Senator Barbara Boxer's** press conference today held at the **Union Pacific Railroad** crossing on Monte Vista Avenue between Holt Boulevard and State Streets, noting Council Member Ruh was instrumental in organizing the event.

**D. City Council/Agency Board**

1. Council Member/Director Raft wished all mothers a Happy Mother's Day on Sunday, May 8, 2005.
2. Mayor Pro Tem/Vice Chairman Dutrey commented as follows:
  - (a) He reported on Council Member Paulitz's slow recovery from triple bypass open-heart surgery that he underwent last Thursday. He noted Council Member Paulitz is in the **Pomona Valley Hospital Medical Center** intensive-care unit and will probably be able to begin receiving visitors either tomorrow or Wednesday. He noted Council Member Paulitz will probably not attend the next regularly scheduled meeting.

Mayor Eaton stated, "We all certainly wish him well."

- (b) He noted the Council's and Redevelopment Agency Board's approval this evening of an item related to the preparation and sale of Lease Revenue Bonds to facilitate development of a new Police facility and refurbishment of the present Police station into new youth and senior centers. He stated it is nice to see the City moving forward to realize these significant visions for the community.
- (c) In follow-up to the voters' approval last year of a retail transactions and use tax, he asked when the Council would be making appointments to the oversight

committee charged to monitor the annual allocation of tax revenue proceeds.

Director of Administrative Services Starr advised that with the Council's and Redevelopment Agency Board's approval this evening of the Lease Revenue Bonds item, the Council; employee organizations; and the **Montclair Chamber of Commerce, Montclair High School**, and other agencies will receive a memorandum tomorrow requesting submittal of their nominees to the oversight committee. He indicated the names of all nominees will be presented to the Council for final appointment to the committee.

- (d) He noted Mayor Eaton, Council Member Ruh, and he attended the Human Services Division Annual Volunteer Recognition Dinner last Tuesday evening to recognize the over 300 dedicated volunteers who donated their time to the City last year.

Mayor Eaton advised that these volunteers saved the City just under \$500,000.

Mayor Pro Tem Dutrey also noted attending the **Montclair Branch Library's "We Treasure Our Volunteers"** dinner last month in conjunction with **National Volunteer Appreciation Month** to recognize the over one hundred committed library volunteers.

- (e) He noted he is pleased that a **24 Hour Fitness** center is proposed to occupy the former **Federated Group** building at the **Town Center Plaza**. Noting the building has remained vacant for a long period of time, he stated it is nice that the new use will be very beneficial to the community.

3. Council Member/Director Ruh commented as follows:

- (a) He noted the site of **Senator Boxer's** press conference today was chosen because it truly exemplifies the need for a grade separation at the Monte Vista Avenue railroad crossing, inasmuch as it is surrounded by residential, commercial, and industrial uses, with public facilities (Fire Station No. 2 and the City Corporate Yard) to the south of the railroad tracks and **Montera Elementary School** to the north. He advised that **Senator Boxer's** bill, the **Rail Crossing Safety Act**, would establish a very necessary grant program to fund grade separations to decrease the number of at-grade rail crossings. He noted how ironic it was that not a single train went by during the press conference this morning, when typically at least six trains pass through the area each Monday at that time. He stated he appreciates **Senator Boxer's** conducting her press conference in Montclair concerning grade separation funding, noting he would be meeting with her in just a few weeks in **Washington, D.C.**, on this and many other timely issues.
- (b) He noted his attendance on Saturday April 23, 2005, at the **New Home Buyer Expo** sponsored by **Senator Soto, Assembly Member McLeod, the City of Ontario, and Wells Fargo Home Mortgage of Ontario**. He added that there were upwards of 300 attendees at the event.
- (c) He noted his attendance last Tuesday evening at the Human Services Division Annual Volunteer Recognition

Dinner. He commended a City volunteer who donates her time to a different city each weekday.

- (d) He noted that at the **SCAG** 5th Annual Regional Housing Summit last month, every attending local official expressed the need for local control, though after hearing about the forthcoming change in state housing guidelines, they decided it is really a regional issue. Either way, he noted the importance of addressing the issue of affordable housing.
- (e) He spoke of the plight of the Vietnamese refugees after the fall of **Saigon** in 1975, who escaped their homeland via rickety boats seeking asylum from political, religious, or other forms of persecution—the largest exodus in modern history. He noted that in the 30 years since, these expatriates have developed a very successful community in the United States and have made significant contributions to the American fabric of life. He advised that of the approximately 1.2 million Vietnamese Americans in the country today, close to a million comprise the refugees from that era, who risked their very lives to escape a horrible and brutal regime in search of freedom. He noted reading about a former refugee who is restoring an evacuation boat as a symbol of his freedom and success in America. He recounted the sad story of a young Vietnamese family he was working with in the late 1980s who lost a child in shark-infested waters during their voyage to America.

**E. Committee Meeting Minutes**

**1. Minutes of Personnel Committee Meeting of April 18, 2005**

The City Council received and filed the Personnel Committee meeting minutes of April 18, 2005, for informational purposes.

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

At 7:43 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

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

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Yvonne L. Smith  
Transcribing Secretary