

MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL AND
REDEVELOPMENT AGENCY AND MONTCLAIR
HOUSING CORPORATION BOARDS HELD ON
MONDAY, AUGUST 15, 2005, AT 6:57 P.M. IN
THE CITY COUNCIL CHAMBERS, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor/Chairman Eaton called the meeting to order at 6:57 p.m.

II. INVOCATION

Mayor/Chairman Eaton gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Mayor Pro Tem/Vice Chairman Dutrey led those assembled in the Pledge.

Mayor/Chairman Eaton announced that 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 the subjects designated on their cards. He also asked that everyone kindly silence their cell phones, pagers, and other electronic devices while the meeting is in session.

IV. ROLL CALL

Present: Mayor/Chairman Eaton; Mayor Pro Tem/Vice Chairman Dutrey; Council Members/Directors Paulitz 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 Raft (excused)

V. PRESENTATIONS - None

VI. PUBLIC COMMENT

A. **Mr. Jim Coyle**, Field Representative, **Fourth District Supervisor Ovitt's Office, Chino District Office**, 13160 Seventh Street, Chino,

announced that **Supervisor Ovitt**, in an effort to bring greater public awareness to juvenile diabetes and raise funds to research this debilitating disease, would be sponsoring a team to participate in the **Juvenile Diabetes Research Foundation's Walk to Cure Diabetes** to be held Saturday, September 10, 2005, at Guasti Regional Park, Ontario. He noted his daughter, his nephew (who has recently been diagnosed with juvenile diabetes), and he would be participating on **Supervisor Ovitt's** team. He added that **Supervisor Ovitt** is challenging all cities in his jurisdiction to sponsor a team of their own.

Mrs. Jennifer Rodriguez, Juvenile Diabetes Research Foundation, Inland Empire Chapter, 1001 East Cooley Drive, #105, Colton, noted she serves as a volunteer for the **Foundation**. As the mother of a daughter diagnosed with Type 1 diabetes six years ago, she encouraged community participation in this worthwhile event to raise research funds and awareness about this crippling disease. She noted that registration for the event is at 7:30 a.m. and the walk begins at 9:00 a.m.

Mrs. Rodriguez advised that brochures about the Walk to Cure Diabetes would be available at the entrance to the Council Chambers. Those interested may contact the **Juvenile Diabetes Research Foundation** at (909) 424-0100 or may visit its website at www.jdrf.org, she added.

Mayor Eaton thanked **Mr. Coyle** and **Mrs. Rodriguez** for their comments.

- B. **Mr. Tom Stoudt**, 18930 Red Feather, Apple Valley, noted he retired on July 15, 2005, after almost 28 years with the Montclair Fire Department. He stated that he has had a very fulfilling career with the Fire Department and thanked the Council for the opportunity to work for the City of Montclair. Noting he has also retired as President of the Montclair Fire Fighters Association (MFFA), he introduced newly appointed MFFA President Jerod Blomberg.

Noting he has only worked for the City for three years, **Mr. Blomberg** stated he looks forward to working with the Council and to working for the City for a long time, which is why he decided to take a more active role as MFFA President.

Mayor Eaton thanked **Mr. Blomberg** for his comments. He thanked **Mr. Stoudt** and wished him luck on his retirement.

Mr. Stoudt thanked Mayor Eaton.

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

1. He reiterated comments from a previous meeting related to a vehicle on his property cited as inoperative.
2. Regarding an incident involving his backyard fence and a neighbor's dog, he stated that his neighbor's "dog died from internal injuries from being kicked" in August 1999 and that his backyard fence issue took place in November 1999.

Mayor Eaton thanked **Mr. Armstrong** for his comments.

D. **Mr. Roger Baer** inquired as follows:

1. How does **Montclair Municipal Code** Section 6.04, "Abandoned, Dismantled and Inoperative Vehicles," apply to **Mr. Armstrong's** vehicle? In addition, why, if the vehicle is parked on concrete, was it cited for weed growth beneath the vehicle?
2. Was not a two-thirds majority vote of the electorate required on the March 7, 2000 Special Municipal Election paramedic service ballot measure before the City could begin collecting fees for paramedic services?

VII. PUBLIC HEARINGS

A. **Approval of Tentative Parcel Map No. 17369 for a Two-Lot Subdivision at the Southwest Corner of Mission Boulevard and Monte Vista Avenue**

Mayor Eaton declared it the time and place set for public hearing to consider approval of Tentative Parcel Map No. 17369 for a two-lot subdivision at the southwest corner of Mission Boulevard and 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.

Mayor Pro Tem Dutrey inquired as to the present zoning of the subject property.

Director of Community Development Clark responded that the smaller parcel is zoned "C-1" and the larger parcel is zoned "R-1(SL)."

Moved by Mayor Pro Tem Dutrey, seconded by Council Member Paulitz, and carried that the City Council approve Tentative Parcel

Map No. 17369 for a two-lot subdivision at the southwest corner of Mission Boulevard and Monte Vista Avenue subject to the 19 conditions of approval listed in the agenda report on this item.

Motion carried as follows:

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

B. Adoption of Resolution No. 05-2596, a Resolution of the City Council of the City of Montclair Approving, Authorizing, and Directing Execution of *Amended and Restated Joint Exercise of Powers Agreement No. 05-105* With the California Statewide Communities Development Authority

Adoption of Resolution No. 05-2576, a Resolution of the City Council of the City of Montclair Approving the Issuance of Multifamily Housing Revenue Bonds for Acquisition and Rehabilitation of the Briarwood Manor Apartments

Mayor Eaton declared it the time and place set for public hearing to consider Resolution Nos. 05-2596 and 05-2576 related to the respective approval of *Amended and Restated Joint Exercise Powers Agreement No. 05-105* with the California Statewide Communities Development Authority and approval of the issuance of multifamily housing revenue bonds for acquisition and rehabilitation of the Briarwood Manor Apartments and invited comments from the public.

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

Council Member Paulitz noted he is pleased that Amerland Communities, LLC, proposes to acquire and rehabilitate Briarwood Manor Apartments using tax-exempt revenue bonds, which would result in affordability requirement designations being placed on 85 units that would be rented to low-income seniors. He asked if Amerland Communities, LLC, is a nonprofit organization.

Mr. Jules Arthur, Partner, Amerland Communities, LLC, 2878 Camino Del Rio South, Suite 240, San Diego, advised that Amerland Communities, LLC, is a for-profit entity but that it partners with a nonprofit company to provide tenant services.

Council Member Paulitz asked if rents would be used to eventually pay off the bonds.

Mr. Arthur concurred, advising that Amerland Communities

desires to improve the property and provide better services to the tenants.

Council Member Ruh noted he is pleased at the proposed acquisition and improvement of Briarwood Manor Apartments. Noting the misinformation circulating at the complex and the ensuing tenants' apprehension, he asked that an informational meeting be held within the next few weeks for the benefit of the tenants. He volunteered to assist in arranging the meeting.

Mr. Arthur concurred that tenant communication/education is important so as not to lose any tenants; however, Amerland Communities will not be able to schedule a tenant meeting until after escrow closes on the property, which is slated for the end of September 2005.

Mayor Pro Tem Dutrey inquired as follows:

1. What improvements are proposed at the property?

Mr. Arthur responded that proposed improvements would include roof replacement, parking lot repairs, landscape upgrades, exterior painting, electrical efficiency upgrades, window replacement, heating and air conditioning upgrades, and other interior repairs.

2. Are any apartment unit improvements proposed?

Mr. Arthur advised that most of the units are in fairly good condition. He noted that energy-efficient refrigerators would be placed in all units as well as new carpeting.

3. What is the nonprofit company that Amerland Communities would be working with?

Mr. Arthur answered, "Pacific Housing."

Mayor Pro Tem Dutrey thanked **Mr. Arthur**.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Resolution No. 05-2596, entitled "**A Resolution of the City Council of the City of Montclair Approving, Authorizing, and Directing Execution of Amended and Restated Joint Exercise of Powers Agreement No. 05-105 With the California Statewide Communities Development Authority,**" be read by number and title only, further reading be waived, and it be declared adopted.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Resolution No. 05-2576, entitled "**A Resolution of the**

City Council of the City of Montclair Approving the Issuance of Multifamily Housing Revenue Bonds for the Purpose of Financing Acquisition and Rehabilitation of the Briarwood Manor Apartments," be read by number and title only, further reading be waived, and it be declared adopted.

The City Council waived the readings of the Resolutions.

Resolution Nos. 05-2596 and 05-2576 were adopted by the following vote:

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

C. First Reading – Adoption of Ordinance No. 05-867 Establishing Prezone Designations for Approximately 121 Acres Within the City's Sphere of Influence

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 05-867 establishing prezone designations for approximately 121 acres within the City's Sphere of Influence and invited comments from the public.

Mr. Buzz Lloyd, Lloyd's Equipment, 4722 West Mission Boulevard, commented as follows:

1. He spoke in support of the proposed prezone designations depicted on Exhibit "A," including the proposed "MIP" zoning for his property.
2. He thanked the City for its excellent work in improving Mission Boulevard.
3. He asked if the City would assist him in acquiring the undeveloped property north of Mission Boulevard west of Monte Vista Avenue.

Mayor Eaton indicated that staff would contact **Mr. Lloyd** regarding his request.

Mr. Jack Gingold, 10736 Fremont Avenue, objected to the possible future annexation of his property to Montclair, noting the majority of area property owners who would be affected by such action also object. He noted he can "pretty much do whatever I want as far as manufacturing" under existing San Bernardino County land-use designations, adding that he does not care to be restricted by City Code Enforcement or be required to pay the City Business License fee.

Mr. Keith Ealy, 10747 Monte Vista Avenue, concurred with comments made by **Mr. Gingold** and spoke in opposition to future annexation of his property to Montclair. He expressed an absurd fear that the City might "kick me right out of there and then I'm on the streets" should the Council approve establishment of the proposed prezone designations at the subject site.

Mr. Mike Torres, 5112 Mission Boulevard, noted he had inquired several years ago about an adjoining annexation matter, at which time staff had assured him that his property would only be annexed to Montclair at his request. He asked what had changed since then that this prezone designation item is now being proposed.

Council Member Paulitz advised that clarification had been made at the June 13 and July 11, 2005 Planning Commission public hearings that effective January 1, 2005, Senate Bill 1266 amended California Government Code Section 56375.3 to provide that the maximum land area to be processed under an "island annexation" be increased from 75 to 150 acres; in addition, until January 1, 2007, the mandatory protest proceedings for such annexations be waived in their entirety and the decision for such action be left entirely up to a municipality's legislative body at the prezone designation public hearing. He added that City staff did meet with the Local Agency Formation Commission (LAFCO) regarding the applicant's annexation request for his industrial parcel on State Street, and the City was encouraged at the meeting to even up its southern boundary to include the more than 50 totally or substantially surrounded County "island" parcels. He noted the proposed prezone designations are the same as existing County land-use designations with one exception. He indicated that the City is only attempting to abide by the new state law.

Mr. Torres spoke in opposition to the future annexation of his property to Montclair because he does not care to be subjected to and restricted by City regulations. He expressed his strong concerns related to the expense of his having to supposedly immediately connect his property to the City Sewer System and how the proposed change in zoning will affect the current use on his property should future annexation of his property occur.

Director of Community Development Clark responded that sewer connection is not mandatory, though an owner could certainly connect his property to the City Sewer System if there is an available sewer main within 200 feet of the owner's property. If not, a sewer assessment district of surrounding property owners might be formed, he added.

Discussion centered on the California Department of Health Services and the San Bernardino County Department of Public Health requirements that both new construction and properties

experiencing failed septic systems be connected to available sewer mains.

Director of Community Development Clark clarified the following for **Mr. Torres**:

1. He explained that the City's zoning designations are generally the same as the County's. He advised that the County's "General Commercial" zoning designation along Mission Boulevard is proposed to be rezoned "MIP, Manufacturing Industrial Park," which will permit commercial and light industrial business park uses.
2. He advised that the City would recognize existing non-standard commercial uses as "legal, nonconforming" and the designation would remain for the life of the business. Any major changes that might be proposed would have to comply with the designated zoning.

Mr. Vincent Tortero, 5124 and 5138 West Mission Boulevard, expressed his concern regarding having to raise the rent on the church building on his property to have enough money to pay City taxes and fees. He noted he opposes future annexation of his property for this reason.

Director of Community Development Clark responded that the 3.89 percent Montclair Utility Users Tax and .25 Percent Retail Transactions and Use Tax would be fairly insignificant and that churches are not required to pay business license fees.

Mr. Tortero asked that affected property owners be allowed to vote on the rezoning proposal.

Mayor Eaton thanked **Mr. Tortero** for his comments.

Ms. Marilyn M. Smith, 5059 State Street, Ontario, read a statement noting the following:

1. Public hearing notices should be mailed to all affected property owners and residents and to all conflicting addresses.
2. Do any areas of Montclair not fall in the Montclair postal district?
3. State Street residents and landowners addressed the issue of annexation with the City Council two years ago.
4. The City withdrew a prezone designation proposal on July 15, 2002, because the majority of affected property owners

opposed the action.

Ms. Smith asked if the City has changed its annexation policy. She suggested affected property owners be surveyed regarding the potential for future annexation of their properties to Montclair and expressed her objection to that taking place. She asked to be notified of the date of the LAFCO hearing on this matter.

Mr. Hector Correa, 4939 Mission Boulevard, Montclair, commented as follows on behalf of **Mr. Tatsuo Mori**, 4945 Mission Boulevard, 4944 Carlton Street, and 4934 Carlton Street, and himself:

1. Noting applicant **Mr. Emil Hashiman** has not formally applied to the City for annexation of his 5025 State Street property to Montclair, he expressed his doubt that the applicant, in fact, desires to do so, suggesting, instead, that the City itself has initiated the annexation proceedings. He noted the applicant's property represents only 1 percent of the total acreage proposed to be rezoned.
2. He complained that the City has not sufficiently clarified the differences, if any, between the proposed rezoning designations and existing County land-use designations.
3. He stated that the City has failed to address County residents' concerns about City taxes and fees and the supposed mandatory connection to the City Sewer System.
4. He took issue with the City's decision to adopt a Negative Declaration in lieu of preparing an Environmental Impact Report on the subject site.
5. He expressed his opinion that affected landowners and residents should be notified about the San Bernardino County Board of Supervisors and San Bernardino County Redevelopment Agency meetings on this matter.
6. He emphasized that SB 1266 would not survive judicial scrutiny.

Mr. Ealy noted no one this evening has spoken in favor of the proposed rezoning designations.

Mr. Ron Burdo, 10796 Fremont Avenue, Ontario, stated he received no notification of either Planning Commission public hearings, advising that he confirmed his mailing address with Director of Community Development Clark at the July 11, 2005 Planning Commission meeting for future meeting notifications. He noted he did not receive notification of tonight's public hearing and wondered if other affected landowners and residents have also not

been notified. For the record, he spoke in strong opposition to future annexation of the subject site.

Mayor Eaton asked Director of Community Development Clark to address the public notification issue.

Director of Community Development Clark concurred that he spoke to **Mr. Burdo** at the July 11 Planning Commission meeting and confirmed at that time that the mailing address staff used to notify **Mr. Burdo** was correct. He indicated that all affected landowners and residents were mailed information on the rezoning designations being proposed at this public hearing.

Mr. Burdo thanked Director of Community Development Clark for his clarification.

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

Council Member Ruh inquired as follows related to allowable activities upon annexation of the subject property:

1. Would the owner of a legal conforming business be allowed to expand his business?

Director of Community Development Clark responded that within certain parameters, the request for expansion would be approved, adding that a substantial expansion might require a Conditional Use Permit, which would be determined during a public hearing process.

2. Would a property owner having two homes on a lot be able to expand the second unit from a one bedroom to a two bedroom?

Director of Community Development Clark responded that such use would be considered "legal nonconforming" and the request would be decided in the public hearing process.

3. Would property owners be allowed to keep their exotic animals?

Director of Community Development Clark answered, "Yes," adding such use would be considered "legal nonconforming."

4. Would a property owner not be able to replace his llama who has died?

Director of Community Development Clark answered,

"Correct."

Council Member Ruh received confirmation that upon annexation, vehicles, notably tractor-trailers, could not be parked in front-yard setbacks in residential zones. He stated that he could not support this item because the County landowners and residents who would be affected by the rezoning proposal have a right to enjoy their present lifestyles and maintain their current livelihoods under existing County land-use designations.

Council Member Paulitz recalled that the last rezoning proposal before the Council involved a residential area north of the subject site and that the subject site was never before presented to the Council for rezoning designation consideration.

Council Member Paulitz asked if the Montclair Post Office has changed the mailing addresses of recently annexed properties to the Montclair postal district.

Director of Community Development Clark responded that the Post Office makes every effort to change addresses as necessary to make boundaries consistent provided there is space available on designated routes to include the new areas, though it does not guarantee it will be able to do so.

Council Member Paulitz commented as follows:

1. In response to **Mr. Tortero's** concern that he might have to raise the rent on his church building to cover City fees and taxes should the subject site be annexed, Council Member Paulitz expressed his opinion that the insignificant amount of Montclair Utility Users Tax and Transactions and Use Tax that would be assessed would not require a rental increase.
2. He reiterated that pursuant to state and County laws, only new construction and septic tank failures would require properties to be connected to the City Sewer System
3. In response to **Mr. Correa's** comment that affected landowners and residents should be notified about San Bernardino County Board of Supervisors meetings on this matter, he noted, pursuant to the agenda report on this item, that **Supervisor Ovitt** has already expressed his strong support for the future annexation of the subject site.
4. He noted his attendance at the second Planning Commission public hearing regarding this matter at which the applicant, **Mr. Hashiman**, gave his reasons for desiring to annex his property to Montclair. He noted it is a moot point that only one applicant is requesting annexation of his property in

this item as there are three other areas being proposed for island annexation in which no application for such action has been made.

5. He advised that the County "would like to get out of the urban business" because it is unable for financial reasons to install a sewer system.
6. Noting that years ago LAFCO established the Montclair Sphere of Influence that would ultimately become part of Montclair, he expressed his opinion that "it's about time for that to happen."

Moved by Council Member Paulitz and seconded by Mayor Pro Tem Dutrey that Ordinance No. 05-867, entitled "**An Ordinance of the City Council of the City of Montclair Approving Prezone Designations of M-1 (Limited Manufacturing), MIP (Manufacturing Industrial Park), C-2 (Restricted Commercial), 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 first reading.*

With regard to the proposed rezoning designations, Mayor Pro Tem Dutrey asked how the existing "Community Industrial" zone in the area above Mission Boulevard compares to the City's M-1 (Limited Manufacturing) zone.

Director of Community Development Clark responded that the standards of the two zones are very similar and that both zones completely overlay each other.

Mayor Pro Tem Dutrey confirmed with Director of Community Development Clark that the County's "Service Commercial" and "General Commercial" zones along Mission Boulevard are very similar to the proposed MIP (Manufacturing Industrial Park) zone, which would allow both limited industrial and limited commercial uses. He further confirmed the proposed overlay of R-1 (Single-Family Residential) over the County's "Single-Family Residential" zone, thereby increasing the density from one-half acre minimum lot sizes to 8,000 to 9,000-square-foot lots. He summarized that the proposed zoning designations are fairly consistent with the County's existing land-use designations.

Mayor Pro Tem Dutrey inquired as to when the annexation proposal would be presented to the Council.

Director of Community Development Clark responded that a Resolution would be presented to the Council at a public hearing, noting the required written public notification process on the hearing would be followed.

*The City Council waived the reading of the Ordinance.

First Reading of Ordinance No. 05-867 was adopted by the following vote:

AYES: Paulitz, Dutrey, Eaton

NOES: Ruh

ABSTAIN: None

ABSENT: Raft

Council Member Paulitz asked if staff could ensure that all affected County landowners and residents could be notified of all future public hearings on this matter.

Director of Community Development Clark responded that all legal public-notification requirements would be met regarding future public hearings on this item. He indicated he would be happy to include on the mailing list all property owners who believe they weren't notified about this item about future public hearings on this matter.

Council Member Paulitz asked that anyone who believes he or she was not notified about the public hearings on this item to please leave their mailing address with Director of Community Development Clark for future public hearing notification.

City Manager McDougal stated that future public hearing notification would be mailed to all mailing addresses listed in the County record.

Mayor Pro Tem Dutrey commented as follows:

1. He suggested a preannexation public forum be conducted for the benefit of the affected property owners and residents of the subject site.
2. He encouraged County residents to contact staff with any questions they might have.
3. He noted that in past annexation actions, staff has, at the property owner's request, inventoried, photographed, and documented for recordation purposes all existing animal and nonstandard development conditions at the owner's property.

VIII. CONSENT CALENDAR

Vice Chairman Dutrey requested that Item C-4 be removed from the Consent Calendar for comment.

Council Member Ruh requested that Item C-1 be removed from the Consent Calendar for comment.

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

A. Approval of Minutes

1. Minutes of Adjourned Joint Council/Agency/Planning Commission/Community Action Committee Meeting of August 1, 2005

The City Council and Redevelopment Agency and Montclair Housing Corporation Boards approved the minutes of the Adjourned Joint City Council/Redevelopment Agency Board/Planning Commission/Community Action Committee meeting of August 1, 2005.

2. Minutes of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of August 1, 2005

The City Council and Redevelopment Agency and Montclair Housing Corporation Boards approved the minutes of the Regular Joint City Council/Redevelopment Agency Board/Montclair Housing Corporation Board meeting of August 1, 2005.

B. Administrative Reports

1. Setting a Public Hearing to Consider Approval of Tentative Tract Map No. 17472 for a 20-Lot Residential Subdivision at 5017-5033 Howard Street

The City Council set a public hearing for Monday, September 6, 2005, at 7:00 p.m. in the City Council Chambers to consider approval of Tentative Tract Map No. 17472 for a 20-lot residential subdivision at 5017-5033 Howard Street.

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

The City Council authorized the Chief of Police or his designee to act as the City's representative to file the application for acceptance of the OTS Traffic Safety Grant.

3. Authorizing a \$10,000 Appropriation from the General Fund Contingency Account to the Building Maintenance Supplies Account for Replacement of Certain Equipment and Plumbing Fixtures at the Kingsley Park Ball Field

Facility

The City Council authorized a \$10,000 appropriation from the General Fund Contingency Account to the Building Maintenance Supplies Account for replacement of the Kingsley Park ball field snack bar ice machine and restroom partitions and plumbing fixtures.

4. Authorization to Purchase One 2006 Ford Crown Victoria Police Interceptor With After-Market Emergency Code-3 Lighting From Ramsey Street Ford

The City Council authorized the purchase of one 2006 Ford Crown Victoria Police Interceptor with after-market emergency Code-3 lighting from Ramsey Street Ford.

5. Authorization to Purchase One 2006 Ford F-250 Pickup Truck With After-Market Emergency Lighting From Ramsey Street Ford

The City Council authorized the purchase of one 2006 Ford F-250 pickup truck with after-market emergency lighting from Ramsey Street Ford.

6. Authorization to Purchase One 2006 Ford Escape Hybrid Sedan With After-Market Emergency Lighting From Ramsey Street Ford

The City Council authorized the purchase of one 2006 Ford Escape Hybrid Sedan with after-market emergency lighting from Ramsey Street Ford.

7. Designation of Voting Delegate and Alternate Voting Delegate to the League of California Cities Annual Conference, October 5-8, 2005, San Francisco, California

The City Council designated Mayor Eaton as Montclair's voting delegate and Council Member Raft as alternate voting delegate to the 2005 League of California Cities Annual Business Meeting to be held Saturday, October 8, 2005, at the San Francisco Moscone Convention Center West, San Francisco, California.

8. Receiving and Filing of City Treasurer's Report

The City Council received and filed the City Treasurer's Report for the month ending July 31, 2005.

9. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated August 15, 2005, totaling \$925,870.23 and the Payroll Documentation dated July 10, 2005, amounting to \$519,395.13, with \$347,379.01 being the total cash disbursement.

10. Receiving and Filing of Agency Treasurer's Report

The Redevelopment Agency Board received and filed the Redevelopment Agency Treasurer's Report for the month ending July 31, 2005.

11. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 7/01/05-7/31/05 in the amounts of \$259.78 for Project I; \$195.98 for Project II; \$69,705.49 for Project III; \$48,219.34 for Project IV; and \$15,158.80 for Project V.

12. Receiving and Filing of Montclair Housing Corporation Treasurer's Report

The Montclair Housing Corporation (MHC) Board received and filed the MHC Treasurer's Report for the month ending July 31, 2005.

13. Approval of MHC Warrant Register

The MHC approved the MHC Warrant Register dated 7/01/05-7/31/05 in the amount of \$20,958.48.

C. Agreements

2. Award of Contract to Econolite Traffic Engineering Maintenance, Inc., in the Amount of \$51,142 for the Montclair Lighted Crosswalk Pedestrian Safety Project

Approval of *Agreement No. 05-102* With Econolite Traffic Engineering Maintenance, Inc.

Authorization of \$5,000 Construction Contingency

Authorization of Additional \$8,000 Appropriation From the Gas Tax Fund for a Total Project Appropriation of \$58,000

The City Council took the following actions related to the Montclair Lighted Crosswalk Pedestrian Safety Project:

- (a) Awarded a contract to Econolite Traffic Engineering Maintenance, Inc., in the amount of \$51,142.

- (b) Approved *Agreement No. 05-102* with Econolite Traffic Engineering Maintenance, Inc.
 - (c) Authorized a \$5,000 construction contingency.
 - (d) Authorized an additional \$8,000 appropriation from the Gas Tax Fund for a total appropriation to the project of \$58,000.
3. **Redevelopment Agency Board of Directors' Approval of *Agreement No. 05-103* Amending *Agreement No. 91-48* by and Between the City of Montclair Redevelopment Agency and Hinderliter, de Llamas and Associates, a California Corporation, for Continuance of Property Tax Consultant Services**

The Redevelopment Agency Board approved *Agreement No. 05-103* amending *Agreement No. 91-48* by and between the City of Montclair Redevelopment Agency and Hinderliter, de Llamas and Associates, a California Corporation, (now known as HdL, Coren & Cone) for continuance of property tax consultant services.

5. **Approval of *Agreement No. 05-106* With L. D. King, Inc., for Design of Phase 2 of the Huntington Drive to Arrow Highway Sewer (Metrolink Sewer Crossing Project)**

The City Council approved *Agreement No. 05-106* with L. D. King, Inc., for design of Phase 2 of the Huntington Drive to Arrow Highway sewer (Metrolink Sewer Crossing Project).

6. **Approval of *Agreement No. 05-107* With Bilingual Family Counseling Services to Provide Case Management and Mental Health Services**

The City Council approved *Agreement No. 05-107* with Bilingual Family Counseling Services to provide case management and mental health services.

7. **Approval of *Agreement No. 05-108* With A-F Engineering Group, Inc., for Engineering and Design Services to Replace Emergency Backup Generators at Fire Station Nos. 1 and 2**

Authorization of a \$20,300 Appropriation From the General Fund Contingency Account

The City Council took the following actions related to replacing the emergency backup generators at Fire Station Nos. 1 and 2:

- (a) Approved *Agreement No. 05-108* with A-F Engineering Group, Inc., for engineering and design services.
- (b) Authorized a \$20,300 appropriation from the General Fund Contingency Account.

8. Redevelopment Agency Board of Directors' Approval of *Agreement Nos. 05-109 Through 05-113, Rehabilitation Grant Agreements* by and Between the City of Montclair Redevelopment Agency and Exterior Housing Improvement Program (EHIP) Participants

The Redevelopment Agency Board approved *Agreement Nos. 05-109 through 04-113, Rehabilitation Grant Agreements* by and between the City of Montclair Redevelopment Agency and the five EHIP participants listed on Exhibit A to the agenda report on this item.

D. Resolutions

1. Adoption of Resolution No. 05-2606 Setting Sewer Standby Assessment Fees on Vacant Properties

The City Council adopted Resolution No. 05-2606 setting sewer standby assessment fees on vacant properties.

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

1. Approval of *Agreement No. 05-100 With Nutrition Ink to Provide Nutrition Education Services for the Senior Citizen Nutrition Program*

Council Member Ruh asked if program participants are surveyed regarding their food preferences, noting their input is important.

Council Member Paulitz replied that participants are surveyed periodically regarding menu choices.

Moved by Council Member Ruh, seconded by Mayor Pro Tem Dutrey, and carried that the City Council approve *Agreement No. 05-100* with Nutrition Ink to provide nutrition education services for the Senior Citizen Nutrition Program.

4. Redevelopment Agency Board of Directors' Approval of *Agreement No. 05-104, the First Amendment to Professional Services Agreement No. 03-137* by and Between the City of Montclair Redevelopment Agency and Elizabeth

Moule and Stefanos Polyzoides, Architects and Urbanists

Vice Chairman Dutrey asked if there is a timeline for completion of the work.

Director of Redevelopment/Public Works Staats responded that the Environmental Impact Report is slated for completion by December 31, 2005, and would be presented to the Redevelopment Agency Board at the beginning of 2006. She advised that the North Montclair Downtown Plan document is 90 percent completed and only lacks the architectural typologies and style guidelines that are being requested for inclusion in the project's scope.

Moved by Vice Chairman Dutrey, seconded by Director Paulitz, and carried that the Redevelopment Agency Board approve *Agreement No. 05-104*, the *First Amendment to Professional Services Agreement No. 03-137* by and between the City of Montclair Redevelopment Agency and Elizabeth Moule and Stefanos Polyzoides, Architects and Urbanists.

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

*Assessor's
Parcel Nos.*

Address

1012-151-27

4407 State Street

1012-151-28

10798 Ramona Avenue

Negotiating Parties: City of Montclair, City of Montclair Redevelopment Agency, and Jafam Corporation (Mission Drive-In Theater)

Negotiators: Director of Redevelopment/Public Works Staats and City/Agency Engineer Hudson

Under Negotiation: Status Report and Recommendations Regarding Acquisition of Easements on Subject Properties in Conjunction With Ramona Avenue/Union Pacific Grade Separation Project

City/Agency Attorney Robbins requested a Joint Closed Session regarding real property negotiations pursuant to Government Code Section 54956.8.

2. City Attorney Robbins responded to comments made this evening as follows:
 - (a) Concerning the inquiry about how a vehicle is determined to be abandoned or inoperative, she stated the determination is based entirely upon the observation of the Code Enforcement Officer making the inspection. She indicated that any number of conditions might cause a Code Enforcement Officer to conclude that a vehicle is abandoned or inoperative, including a broken window, being covered with a plastic garbage bag, cobwebs, having an old "For Sale" sign lettered in faded spray paint and propped against the vehicle for some time, and having an inoperative status with the **California Department of Motor Vehicles**.
 - (b) In response to the inquiry about the City's paramedic fee, she advised that a two-thirds majority vote of the electorate was not obtained on the March 7, 2000 Special Municipal Election paramedic service ballot measure for a special ad valorem tax; and the measure did not pass. She stated that the City Council subsequently imposed a paramedic fee as a user fee, which is only charged to residents using the service. She noted she has reviewed **Superior Court Judge Michael Gunn's** ruling on the case involving the **City of Upland's** advanced life support (ALS) service fee, which found that the **City of Upland** did not meet its burden of proof that its ALS fee did not exceed the cost of providing the service and, as such, was a special tax that would require a two-thirds majority vote of the electorate to be levied. She added that **Judge Gunn** never determined the appropriate fee amount for ALS services. She expressed her opinion that a reasonable fee for ALS services would differ among cities. She stated that In Montclair, residents are charged \$100 for ALS services if they do not subscribe to the City's Emergency Medical Services (EMS) Subscription Program; and she emphasized that staff is confident that such fee does not exceed the cost to provide the service. In summation, she indicated that the City is confident its ALS fee for nonsubscribing residents to the EMS Subscription Program is a valid user fee and, as such, is not a special tax that is required to be approved by the voters.

Mr. Baer expressed a desire to address the Council.

Mayor Eaton told **Mr. Baer** that responses were given to his earlier inquiries. Mayor Eaton suggested **Mr. Baer** attend a future meeting to comment further.

Mr. Baer indicated it is difficult to have consistent discussions on issues when they are spread out over a number of meetings.

City Attorney Robbins reminded Mayor Eaton, the Council, and staff there is no obligation for them to dialog in any type of question-and-answer format with public speakers. She noted the public is provided an opportunity to comment at these meetings. She added that she responded to inquiries made by a public speaker this evening because she believed the Council to be interested in her responses.

B. City Manager/Executive Director – No comments

C. Mayor/Chairman – No comments

D. City Council/Agency Board

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

- (a) He noted his attendance on Saturday, August 13, 2005, at the **American Cancer Society's 2nd Annual Relay for Life Montclair** event at **Serrano Middle School**, noting the event was expected to draw 800 participants.
- (b) He noted Code Enforcement Officer Gabe Fondario enlisted the help of high school volunteers to make some much-needed improvements to the Orchard Avenue home of two senior residents on August 9, 2005. He commended the Code Enforcement Division for its ongoing humanitarian efforts in the community.
- (c) He noted Code Enforcement Division conducted two very successful **C.A.U.T.I.O.N.** cleanups in the last few months that did much to approve the appearance of the two neighborhoods.
- (d) He noted Mayor Eaton is recovering quite nicely from his recent surgery and has become quite mobile.
- (e) For those interested, he noted his wife, **Anne**, is expected home on a two-week leave from the **United States Army** around August 30, 2005; and it is hoped she will be home permanently on **Christmas** day.

2. Council Member/Director Ruh commented as follows:

- (a) He noted yesterday marked the 70th anniversary of **President Franklin D. Roosevelt's** signing of the **Social Security Act**.
- (b) He noted August 11, 2005, marked the 40th anniversary of the beginning of the **Watts** riots. He reported that the federal **McCone Commission's** investigation into the riots revealed that its causes were directly related to poverty, inequality, racial discrimination, and the passage in November 1964 of Proposition 14 on the California ballot, which overturned the **Rumford Fair Housing Act** approved in 1963 that had established equality of opportunity for homebuyers and renters regardless of race, color, national origin, sex, marital status, or ancestry. Noting Proposition 14 had been supported by virtually every city in California, he apologized, on behalf of all of California, to anyone who was discriminated against in his or her attempt to find housing in the state. He added that the California Supreme Court overturned Proposition 14 as being unconstitutional in 1967.
- (c) He noted his attendance on August 12, 2005, at an Assembly Select Committee on Alameda Corridor-East (ACE) meeting chaired by **Assembly Member McLeod** that addressed the federal funding shortfall to build approximately 130 bridges and underpasses in San Bernardino, Riverside, Los Angeles, and Orange counties that are needed to separate vehicle traffic from the increasing number and length of trains passing through the region.
- (d) He noted **Representative Napolitano** is working with a bipartisan group, including **Representative Dreier**, to seek federal funding for ACE grade separation projects.
- (e) He applauded **Senator Soto** for holding a press conference on August 11, 2005, at **San Bernardino City Hall** to discuss legislation she is drafting to promote rail safety in light of recent train derailments in her district.
- (f) He noted **Representative Dreier** held a meeting today on funding for the Metro Gold Line Foothill Extension project.
- (g) He asked that residents contact their legislators to thank them when they do something to benefit Montclair and the region.

- (h) He cited a story in today's *Inland Valley Daily Bulletin* about Montclair resident **James Richard Sanders'** valor serving as a **U.S. Navy** radar submarine tracker in the Pacific Theater during **World War II**. He congratulated **Mr. Sanders** for his valor during his years of military service.

E. Committee Meeting Minutes

1. Minutes of Public Works Committee Meeting of June 23, 2005

The City Council received and filed the Public Works Committee meeting minutes of June 23, 2005, for informational purposes.

2. Minutes of Personnel Committee Meeting of August 1, 2005

The City Council received and filed the Personnel Committee meeting minutes of August 1, 2005, for informational purposes.

XII. COUNCIL/AGENCY WORKSHOP

A. Update on San Antonio Gateway

Moved by Mayor Pro Tem/Vice Chairman Dutrey, seconded by Council Member/Director Paulitz, and carried to continue this item to an adjourned joint meeting on Tuesday, September 6, 2005, at 5:45 p.m. in the City Council Chambers.

XIII. ADJOURNMENT OF MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS

At 8:42 p.m., Chairman Eaton adjourned the Montclair Housing Corporation Board of Directors.

At 8:42 p.m., the City Council/Redevelopment Agency Board went into Joint Closed Session regarding real property negotiations pursuant to Government Code Section 54956.8.

XIII. CLOSED SESSION ANNOUNCEMENTS

At 8:54 p.m., the City Council/Redevelopment Agency Board returned from Joint Closed Session. Mayor/Chairman Eaton announced the City Council/Redevelopment Agency Board met in Joint Closed Session regarding real property negotiations, information was received and direction given to staff, and no further announcements would be made at this time.

XIV. ADJOURNMENT OF CITY COUNCIL AND REDEVELOPMENT AGENCY BOARD OF DIRECTORS

At 8:55 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency Board of Directors.

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

Yvonne L. Smith
Transcribing Secretary