

MINUTES OF THE REGULAR JOINT MEETING OF THE
MONTCLAIR CITY COUNCIL AND REDEVELOPMENT
AGENCY AND MONTCLAIR HOUSING CORPORATION
BOARDS HELD ON TUESDAY, SEPTEMBER 6, 2005,
AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS,
5111 BENITO STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

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

II. INVOCATION

Pastor Benny Nicolas, First United Methodist Church, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Raft 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; Acting City Manager/Executive Director Clark; Director of Administrative Services Starr; Acting Director of Community Development/Agency Planner Lustro; City/Agency Engineer Hudson; City Attorney/Agency Counsel Robbins; Acting Deputy City Clerk Smith

Absent: City Manager/Executive Director McDougal (excused)

V. PRESENTATIONS

A. Introduction of New Employees

Mayor Eaton introduced **Mr. Dennis McGehee**, who was appointed to his new position of Building Inspector effective August 7, 2005. He noted Building Inspector McGehee began working for the City in January 1996 as a Maintenance Worker and was appointed to the position of Environmental Control Specialist in July 2002.

Mayor Eaton congratulated Building Inspector McGehee on his new appointment.

Mayor Eaton introduced **Mr. Tony McLane**, who was appointed to the position of Maintenance Worker effective August 15, 2005. He noted Maintenance Worker McLane worked for General Dynamics, Pomona, for several years until the plant closed and more recently was employed by the **City of Rancho Cucamonga** to maintain the **Epicenter** stadium, home of the **Quakes** minor league baseball team.

Mayor Eaton welcomed Maintenance Worker McLane to the Montclair City family and presented him with a City pin.

Mayor Eaton introduced **Ms. Marie Robb**, who was appointed to the position of Police Services Specialist effective August 15, 2005. He noted Police Services Specialist Robb is a **Cal State Fullerton** graduate with a bachelor's degree in business administration.

Mayor Eaton welcomed Police Services Specialist Robb to the Montclair City family and presented her with a City pin.

Mayor Eaton introduced **Ms. Sarah Kano**, who was appointed to the position of Police Dispatcher effective August 8, 2005. He noted Police Dispatcher Kano graduated from the **San Bernardino County Sheriff's Public Safety Dispatcher Academy** in May 2005.

Mayor Eaton welcomed Police Dispatcher Kano to the Montclair City family and presented her with a City pin.

VI. PUBLIC COMMENT

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

1. He commented regarding vandalism of his and two neighbors' vehicles.
2. He reiterated his past comments regarding Code Enforcement.
3. He suggested the City should abandon its proposal to establish prezone designations in a portion of the Montclair Sphere of Influence in view of the comments made by certain San Bernardino County residents at the first public hearing on the item.

B. Fire Chief Gary Turner commented as follows:

1. Noting **Hurricane Katrina** has affected about 90,000 square miles along the Gulf Coast, he advised that the **Federal Emergency Management Agency (FEMA)** has put out a national call for 1,000 two-man teams of firefighters to volun-

teer to assist with providing first aid and relief information to Gulf Coast residents for at least 30 days, with costs to be reimbursed by FEMA. He reported that Firefighter/Paramedic Ed Cook and Firefighter Steve Hall have volunteered their services and will be trained for two days in Atlanta to serve as Community Relations Officers at a yet undesignated location.

2. He reported that Code Enforcement Officer Scott Sherwood has taken two weeks vacation to volunteer along with his wife in disaster relief/mass care operations in Baton Rouge, Louisiana, through the **American Red Cross**.

Council Member Ruh stated that these employees' volunteer service is "wonderful" because there are so many people in need right now.

Mayor Eaton asked that Chief Turner please relay to these dedicated caring employees that we are pleased at their willingness to volunteer their services, that we are very concerned for their safety, and that we will keep them in our prayers. He thanked Chief Turner for his report.

Chief Turner thanked Mayor Eaton.

Mayor Eaton commented on what the City of Montclair can do for the victims of **Hurricane Katrina**. In follow-up to a memorandum received by the Council this date, he advised that legally, monetary donations must be limited in scope to negate the appearance of a gift of public funds and should be considered only for nonprofit organizations that have the potential of serving the City of Montclair in the unfortunate event of a disaster. He suggested the City donate to either the **American Red Cross** or the **Salvation Army** and that an item be placed on the September 19, 2005 agenda for Council consideration. He noted he personally has contributed to a Florida church-based organization and asked that residents do what they can to help Gulf Coast victims.

Noting the nationwide plea for housing to shelter approximately a half million **Hurricane Katrina** refugees, Council Member Ruh advised that he has offered to take a family of four into his home to assist with enrolling the children in schools and helping the parents find jobs. He encouraged residents to do what they can to provide shelter to displaced families. He noted *The Times-Picayune*-affiliated website, www.nola.com, has a link dedicated to private residences being made available to hurricane victims.

Council Member Ruh asked if there are any Redevelopment Agency-owned apartment vacancies.

Acting City Manager Clark indicated there were no vacancies the last he checked and that he would check again tomorrow.

Council Member Ruh expressed his opinion that temporarily offering displaced hurricane victims vacant Agency-owned rental units would be the least we could do as a community, noting communities across the country are helping in such a manner. He added that Californians could certainly empathize with hurricane victims in view of our experience coping with natural disasters.

Mayor Pro Tem Dutrey suggested that, pursuant to the **Ralph M. Brown Act**, no further discussion take place on this item until it is formally agendaized. He noted the suggestions made this evening "sound pretty good."

Mayor Eaton announced the following:

- ✓ With the concurrence of Council, he would be pleased to reappoint **Mr. Maynard Lenhart** and **Mr. Don Vodvarka** to the Montclair Planning Commission, with terms to expire June 30, 2009.

Moved by Mayor Pro Tem Dutrey, seconded by Council Member Paulitz, and carried unanimously to support Mayor Eaton's reappointment of **Mr. Lenhart** and **Mr. Vodvarka** to the Planning Commission.

- ✓ With the concurrence of Council, he would be pleased to appoint **Ms. Hollis Judkins** to the Community Action Committee (CAC), with a term to expire June 30, 2009.

Moved by Mayor Pro Tem Dutrey, seconded by Council Member Raft, and carried unanimously to support Mayor Eaton's appointment of **Ms. Judkins** to the CAC.

VII. PUBLIC HEARINGS

A. Approval of Tentative Tract Map No. 17472 for a 20-Lot Residential Subdivision at 5017-5033 Howard Street

Mayor Eaton declared it the time and place set for public hearing to consider approval of Tentative Tract Map No. 17472 for a 20-lot residential subdivision at 5017-5033 Howard Street and invited comments from the public.

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

Moved by Council Member Paulitz and seconded by Mayor Pro Tem Dutrey that the City Council approve Tentative Tract Map No. 17472 for a 20-lot residential subdivision at 5017-5033 Howard Street subject to the 41 conditions of approval listed in the agenda report on this item.

Motion carried as follows:

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

B. Second 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.

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 noted he continues to oppose this item. He inquired as follows:

1. What would be the disposition of a permitted second unit on a property if the proposed zone changes are approved?

Acting City Manager Clark advised that such a use currently located in a commercial or industrial zone would have a County designation of "legal nonconforming" and would continue to be zoned as such should this item be approved.

Council Member Ruh noted the County does permit a second unit on a residentially zoned property.

2. What would be the disposition of a permitted second unit on a residentially zoned property?

Noting second units are permitted in some residential zones, Acting City Manager Clark indicated the case would need to be reviewed for conformance to City standards.

3. What would be the disposition of the use if it does not comply with City standards?

Acting City Manager Clark advised that it would be designated "legal nonconforming."

4. Could the unit be expanded?

Acting City Manager Clark advised that it could through a Conditional Use Permit.

5. If the property is sold, could the new owner continue the use?

Acting City Manager Clark answered, "Yes," because the use privilege runs with the land, not with property ownership.

6. What types of animals would be permitted should the proposed zone changes and future annexation of the subject site be approved?

Acting Director of Community Development Lustro advised that the numbers and types of animals allowed by the County are quite similar to City standards and that, in some cases, the County permits fewer animals than the City. He added that in a prior annexation item, the residents were told they could keep all animals in excess of and contrary to City standards while the animals were alive.

7. What would be the disposition of a home-based business should this item be approved?

Acting Director of Community Development Lustro indicated that pursuant to the California Government Code, all legally established County uses would be allowed in the City, noting County residents who have contacted the City with their concerns have been advised as such.

8. How long would the uses be allowed?

Acting Director of Community Development Lustro advised that, as indicated by Acting City Manager Clark, use privileges run with the land, not with property ownership, and do not expire.

9. Would a business be allowed to expand?

Acting Director of Community Development Lustro responded that legally established businesses could expand pursuant to City standards.

10. What is the total number of residents in the subject site?

Acting Director of Community Development Lustro replied that there are approximately 250 to 300 residents.

Council Member Ruh reiterated he could not support this item because many of the residents have expressed opposition to being a part of Montclair.

Council Member Paulitz pointed out that most of the residential lots presently zoned Single-Family Residential (RS-20M) are nonconforming because they are not 20,000-acre lots. He spoke in support of the item.

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 second reading.

The City Council waived the reading of the Ordinance.*

Mr. Loren Martens, 4285 Benito Street, Montclair, expressed his understanding that the City is proposing zone changes in a portion of its Sphere of Influence and that the County is supportive of the Montclair Sphere of Influence being included within City boundaries. He inquired as to which jurisdiction would enforce the proposed zone changes.

Acting City Manager Clark responded that the proposed prezone designations would not become effective until such time as the subject site is annexed to the City.

Mayor Pro Tem Dutrey commented as follows:

1. He noted there is a misconception regarding the proposed prezone designations as compared to the existing zoning, advising that, in many cases the zoning either remains the same or becomes more favorable to property owners in terms of zoning flexibility. He stated that the proposed residential zoning would decrease lot sizes from half acre to 7,000 or 8,000 square feet.
2. He noted that in past island annexation actions, staff has conducted public forums and has inventoried and documented for recordation purposes all existing nonstandard development conditions at the subject sites, which will also be done for the site proposed for prezone designations tonight. He indicated he is unaware of any resident issues from previous annexation actions in terms of nonstandard development conditions or uses. He noted illegal uses would have to be addressed should the subject site be annexed to the City.

*Second Reading of Ordinance No. 05-867 was adopted by the following ROLL CALL vote:

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

VIII. CONSENT CALENDAR

Council Member Ruh requested that Items B-3 and C-2 be removed from the Consent Calendar for comment.

Concerning Item B-2, "Consider Request for Removal of Holly Oak Street Tree at 5431 Felipe Avenue," City Attorney Robbins asked that the "Recommendation" be amended as follows:

"Staff recommends the City Council affirm the City Tree Policy, ~~and deny the request to remove the~~ Holly oak tree at 9431 Felipe Avenue."

Deleted: regarding the

Moved by Council Member Paulitz, seconded by Mayor Pro Tem Dutrey, and carried unanimously to amend the Recommendation of Item B-2 as noted above.

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 August 15, 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 15, 2005.

B. Administrative Reports

1. Authorization to Solicit Proposals for Real Estate Appraisal Services Regarding the Redevelopment Agency-Owned Property Located at 5326 San Bernardino Street

The City Council authorized staff to solicit proposals for real estate appraisal services regarding the Redevelopment Agency-owned property located at 5326 San Bernardino Street.

2. Request for Removal of Holly Oak Street Tree at 9431 Felipe Avenue

The City Council affirmed the City Tree Policy and denied the request to remove the Holly Oak street tree at 9431 Felipe Avenue.

4. 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 Traffic Signal Interconnect Project

The City Council approved the following actions related to completion of the Traffic Signal Interconnect 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.

5. Authorization to Advertise for Bid Proposals for a Maintenance Contract for the Montclair Skate Park at Alma Hofman Park

The City Council authorized staff to advertise for bid proposals for a maintenance contract for the Montclair Skate Park at Alma Hofman Park.

6. Approval of City Warrant Register and Payroll Documentation

The City Council approved the Warrant Register dated September 6, 2005, totaling \$1,131,216.62 and the Payroll Documentation dated July 24, 2005, amounting to \$564,294.72, with \$382,201.66 being the total cash disbursement.

C. Agreements

1. Approval of *Agreement No. 05-116* With L. D. King, Inc., for \$285,600 for Engineering and Design Services for Continuation of the Design for the Mission Boulevard Corridor Enhancement Project

Authorization of the City Manager to Amend the Agreement Scope of Services as May be Necessary for a Total Increase Not to Exceed \$15,000

The City Council took the following actions related to the Mission Boulevard Corridor Enhancement Project:

- (a) Approved *Agreement No. 05-116* with L. D. King, Inc., for \$285,600 for engineering and design services for continuation of the design for the Mission Boulevard Corridor Enhancement Project.
- (b) Authorized the City Manager to amend the *Agreement Scope of Services* as may be necessary for a total increase not to exceed \$15,000.

D. Resolutions

1. Adoption of Resolution No.05-2607 Approving the Established Overall Annual DBE Goal of 9 Percent for Federal Fiscal Year 2006

The City Council adopted Resolution No. 05-2607 approving the established Overall Annual DBE Goal of 9 percent for Federal Fiscal Year 2006.

IX. PULLED CONSENT CALENDAR ITEMS

B. Administrative Reports

3. Authorizing to Purchase One 2005 Ford Escape Hybrid Sedan From Citrus Ford

Noting he certainly supports the proposed purchase of a hybrid vehicle, the usage of which will somewhat curtail reliance on fossil fuels, Council Member Ruh asked if enough AB 2766 Local Government Motor Vehicle Fee Program funds would be available for maintenance of the new Ford Escape.

Acting City Manager Clark responded that the AB 2766 funds would only cover the cost of the vehicle. He advised that the electric battery is supposed to last ten years and would be amortized over that period of time.

Council Member Ruh noted the battery might need to be replaced after 90,000 miles.

Moved by Council Member Ruh, seconded by Council Member Paulitz, and carried unanimously that the City Council authorize the purchase of one 2005 Ford Escape Hybrid Sedan from Citrus Ford.

C. Agreements

2. Approval of Agreement Nos. 05-117, 05-118, 05-119, 05-120, and 05-121 With Montclair Little League, Montclair Golden Girls Softball League, Quad Cities Little League, and American Youth Soccer Organization, Respectively, for Use of Ball Field Facilities

Council Member Ruh spoke in support of conducting more youth activities in the community. He asked if staff continues to meet with residents living adjacent to Vernon Park about evening light and noise issues.

Assistant Director of Human Services Yoakum answered, "Yes."

Moved by Council Member Ruh, seconded by Mayor Eaton that the City Council approve *Agreement Nos. 05-117, 05-118, 05-119, 05-120 and 05-121* with Montclair Little League, Montclair Golden Girls Softball League, Quad Cities Little League, and American Youth Soccer Organization, respectively, for use of ball field facilities.*

Mayor Eaton asked what the Fiscal Impact is for this item.

Assistant Director of Human Services Yoakum answered, "Zero."

*Motion carried unanimously as follows:

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

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel

1. Closed Session Pursuant to Section 54956.9(a) of the Government Code Regarding Pending Litigation

Perez v. City of Montclair

City Attorney Robbins requested a Closed Session regarding pending litigation pursuant to Section 54956.9(a) of the Government Code.

B. Acting City Manager/Executive Director - No comments

C. Mayor/Chairman

1. Mayor/Chairman Eaton noted he attended his first meeting of the **Southern California Association of Governments** last Thursday as a District 9 representative, adding that he is pleased to have been appointed to serve on the Energy and Environmental Committee.

D. City Council/Agency Board

1. Council Member/Director Ruh commented on the tragic aftermath of **Hurricane Katrina** along the hard-hit Gulf Coast states of Louisiana, Mississippi, Alabama, and South Florida and the Florida panhandle, including the unimaginable suffering of displaced refugee families that may never be able to return to the communities they have lived in for, in some cases, 175 years. He noted a number of events that prohibited residents from evacuating their homes, such as jammed roadways; bus lines that stopped running last Saturday; the fact that the federal government, which owns **Amtrak**, ordered the rail line to cease operations Saturday; and the **Federal Aviation Administration** ordered a cessation of flights at 1:00 a.m. Sunday morning. He further noted the poorer residents had no means of transportation out of the area and many were preoccupied caring for elderly family members.

Council Member/Director Ruh reiterated that Californians could certainly empathize with hurricane victims in view of our experience coping with natural disasters. He noted his personal grief and empathy for hurricane victims and reiterated that he has signed up to bring a family of four into his home. He noted **Thomas Hobbes** wrote in "The Leviathan" in 1651 that in "'the state of nature,' meaning in the absence of a civil society sustained by government, mankind's natural sociability, if any, is so tenuous that life is 'solitary, poor, nasty, brutish, and short.'" He noted there are lessons to be learned from the breakdown of society in the Gulf Coast in the aftermath of **Hurricane Katrina**, and he expressed his hope that everyone will do what they can to help hurricane victims. He spoke of the need for a comprehensive review of a regional disaster preparedness

plan in an effort to prevent a similar breakdown of the system in its response to a future natural disaster in California.

Council Member/Director Ruh noted hearing that, with the exception of some of the historic and tourist districts in **New Orleans**, the city would be demolished. He expressed his hope that the city planners would remember that approximately 60 percent of the city's residents were poor and deserve to return to their community. He noted his prayers and thoughts are with the victims of **Hurricane Katrina**.

E. Committee Meeting Minutes

1. Minutes of Public Works Committee Meeting of June 28, 2005

The City Council received and filed the Public Works Committee meeting minutes of June 28, 2005, for informational purposes.

2. Minutes of Personnel Committee Meeting of August 15, 2005

The City Council received and filed the Personnel Committee meeting minutes of August 15, 2005, for informational purposes.

3. Minutes of Real Estate Committee Meeting of August 16, 2005

The City Council received and filed the Real Estate Committee meeting minutes of August 16, 2005, for informational purposes.

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

At 7:48 p.m., Chairman Eaton adjourned the Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

At 7:48 p.m., the City Council went into Closed Session regarding pending litigation pursuant to Government Code Section 54956.9(a).

XIII. CLOSED SESSION ANNOUNCEMENTS

At 8:06 p.m., the City Council returned from Closed Session. Mayor Eaton announced the City Council met in Closed Session regarding pending litigation, information was received and direction given to staff, and no further announcements would be made at this time.

XIV. ADJOURNMENT OF CITY COUNCIL

At 8:07 p.m., Mayor Eaton adjourned the City Council.

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

Yvonne L. Smith
Acting Deputy City Clerk