

**MINUTES OF THE REGULAR JOINT MEETING OF  
THE MONTCLAIR CITY COUNCIL AND REDEVEL-  
OPMENT AGENCY AND MONTCLAIR HOUSING  
CORPORATION BOARDS HELD ON MONDAY,  
OCTOBER 1, 2007, 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. and asked that everyone please silence their cell phones, pagers, and other electronic devices as a courtesy to others while the meeting is in session. He asked attending **Montclair High School (MHS)** students to present their attendance forms to any Council Member or staff person for signature once the meeting is adjourned.

**II. INVOCATION**

Mayor/Chairman Eaton gave the Invocation.

**III. PLEDGE OF ALLEGIANCE**

Council Member/Director Ruh led those assembled in the Pledge.

**IV. ROLL CALL**

Present: Mayor/Chairman Eaton; Mayor Pro Tem/Vice Chairman Dutrey; Council Members/Directors Paulitz, Raft, and Ruh; City Manager/Executive Director McDougal; Director of Administrative Services Starr; Director of Redevelopment/Public Works Staats; Director of Community Development/Agency Planner Clark; City/Agency Engineer Hudson; City Attorney/Agency Counsel Robbins; City Clerk/Agency Secretary Jackson

**V. PRESENTATIONS**

**A. Proclamation Declaring the Month of October as Dyslexia Awareness Month in the City of Montclair**

Mayor Eaton presented **Ms. Andrea Woore**, Board Member, **International Dyslexia Association**, Inland Empire Branch, with a proclamation declaring the month of October as "Dyslexia Awareness Month" in the City of Montclair.

**Ms. Woore** accepted the proclamation and thanked Mayor Eaton and the Council for their support. She announced that there will be a number of community-outreach events occurring during October to call attention to this known though hidden reading disability. In describing the disorder, she advised that many children have gone undiagnosed and have, ergo, been under-served; and it is the hope of the **International Dyslexia Association (IDA)** that the events will serve to better educate the public. She suggested that those interested could access **IDA's** website at [www.dyslexia-ca.org](http://www.dyslexia-ca.org) and select "Events" to preview all the events planned for this month.

Mayor Eaton thanked **Ms. Woore** for her comments.

## VI. PUBLIC COMMENT

Mayor/Chairman Eaton advised 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 topics that do not appear on tonight's agenda. He added that pursuant to the provisions of the **Ralph M. Brown Act**, the City Council and Agency and MHC Boards are prohibited from taking action on items not listed on the agenda.

- A. **Ms. Cheryl Burns, The Minuteman Project, Inc.**, asked why a report on the September 10, 2007 Kingsley Street incident is not on the agenda for tonight's meeting.

Mayor Eaton advised that City Manager McDougal would be giving a report on the incident under Section XI, "Communications," Item B, "City Manager/Executive Director."

**Ms. Burns** expressed her hope that the Council understands how important it is that Montclair motorists be licensed, insured, and have current vehicle registrations as well as have a knowledge of the rules of the road.

- B. **Ms. Dee Barrow**, Upland, identified herself as a retired employee of the **San Bernardino County Sheriff-Coroner Department**. Noting she assisted with clerical support at the **Regional Training Center Basic Academy**, she expressed her hope that the attending Police Officer in the Kingsley Street incident was not a graduate of this **Academy**, expressing her opinion of the Officer's supposed "negligent police work."

- C. **Ms. Debra Bedoy**, 929 East Foothill Boulevard, Upland, expressed her concerns as follows:

1. That incidents occurring in Montclair could overlap into Upland.

2. That laws are consistently enforced in all jurisdictions.
3. That the Police Chief did not seem serious during a recent press release on the Kingsley Street incident.

**D. Ms. Robin Hurdston, The Minuteman Project, Inc., Upland,** commented as follows:

1. She expressed her hope that an update will be given on the condition of the two injured pedestrians and on the disposition of the unlicensed driver in the Kingsley Street incident, expressing her understanding that the case would be considered by the **San Bernardino County District Attorney's Office**.
2. She noted she was pleased to read a newspaper article about the Montclair Police Department's arrest of suspects caught in the act of defacing the 100-foot cell phone tower at Freedom Plaza.

Mayor Eaton noted the arrests were possible because of the invaluable assistance from a passing motorist.

**Ms. Hurdston** concurred, noting it was positive to read about such a community effort.

3. She stated that she has contact information for **City of Costa Mesa Mayor Allan R. Mansoor** should the Council be interested in learning more about his arrestees' immigration status program in cooperation with **U.S. Immigration and Customs Enforcement (ICE)**. She expressed her opinion that all cities should initiate a similar program.

Mayor Eaton asked **Ms. Hurdston** to give Director of Community Development Clark the information.

4. She reiterated that she and other **Minuteman Project** members are hoping to meet with **State Senator Bob Dutton** regarding drafting legislation to hold illegal immigrants responsible for the crimes they commit in this country.

**E. Mr. Raymond Herrera, P.O. Box 403275, Hesperia,** reiterated that he is the national rally spokesperson for **The Minuteman Project, Inc.**, and commented as follows:

1. He reiterated that the federal government has failed on the issue of illegal immigration.

2. He spoke of the following illegal immigrant crimes:
  - (a) **Los Angeles County Deputy Sheriff David March** was killed during a routine traffic stop on April 29, 2002, by a drug dealer from Mexico who had been deported from the United States three times.
  - (b) **United States Border Agents Ignacio Ramos and José Campion** are serving time in federal prison for shooting and wounding a drug smuggler fleeing to the Mexican border in February 2005. They are respectively serving 11 and 12 years for convictions on charges of armed assault, obstruction of justice, and civil rights violations.
  - (c) **Long Beach Officers Abram Yap and Roy Wade Jr.** were shot December 22, 2006, while sitting in their patrol car by an illegal immigrant who had been deported from the United States several times but returned each time.

**Mr. Herrera** asked if Montclair is waiting for one of its officers to suffer a similar fate.

3. Noting illegal immigrants are becoming increasingly prevalent in our country, he asked that *Matricula Consular* identification cards issued by the **Government of Mexico** not be accepted in Montclair as proper forms of identification.
4. He stated it is incumbent upon the City Council to protect Montclair residents and asked that staff ensure the workforce is legal prior to issuing business licenses and building permits.

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

- F. **Mr. Loren Martens**, 4285 Benito Street, Montclair, noted experiencing six incidents involving non-English-speaking laborers who were unable to effectively articulate the type of work they sought when asking to work at his residence.

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

## VII. PUBLIC HEARINGS – None

## VIII. CONSENT CALENDAR

Director Ruh requested Item No. C-1 be removed from the Consent Calendar for comment.

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

**A. Approval of Minutes**

**1. Approval of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of September 17, 2007**

The City Council and Redevelopment Agency/Montclair Housing Corporation Boards approved the minutes of the Regular Joint City Council/Redevelopment Agency Board/Montclair Housing Corporation Board meeting of September 17, 2007.

**B. Administrative Reports**

**1. Authorizing Retention of NetWorkOmni Multilingual Communications to Provide Translation Services in the Communications Center**

The City Council authorized retention of NetWorkOmni Multilingual Communications to provide translation services in the Communications Center.

**2. "No Action" on Alcoholic Beverage Permit Application - Café Montclair**

The City Council voted "No action" on the "On-Sale Beer and Wine" license application of Mr. Dennis Sperat, President, Devic Enterprises, Inc., for Café Montclair, 10220 Central Avenue, Montclair, California.

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

The City Council approved the City Warrant Register dated October 1, 2007, totaling \$2,215,233.58 and the Payroll Documentation dated August 5, 2007, amounting to \$623,137.32, with \$434,635.24 being the total cash disbursement.

**C. Agreements**

**2. Approval of Agreement No. 07-106, an Easement Purchase and Sale Agreement With Greystone Drive Ontario Properties, LLC, as to an Undivided One-Half (50%) Interest, RRAP, LLC, as to an Undivided One-Quarter (25%) Interest, and San Gabriel Valley Investment I, LLC, as to an Undivided One-Quarter (25%) Interest for Property Located on the West Side of Monte Vista Avenue South of State Street in the City of Montclair**

The City Council approved *Agreement No. 07-106*, an *Easement Purchase and Sale Agreement* with Greystone Drive Ontario Properties, LLC, for an undivided one-half (50%) interest, RRAP, LLC, as to an undivided one-quarter (25%) interest, and San Gabriel Valley Investment I, LLC, as to an undivided one-quarter (25%) interest for property located on the west side of Monte Vista Avenue south of State Street in the City of Montclair.

**3. Approval of Tract No. 16782 Located on the South Side of Bandera Street West of Central Avenue**

**Authorization for Tract No. 16782 to be Recorded With the Office of the San Bernardino County Recorder**

**Approval of *Agreement No. 07-107*, a *Subdivision Agreement* With Darryl L. Snyder and Jana Marie Campbell as Successors Co-Trustees of the Jan Fred Silletto and Donna Rae Silletto Revocable Trust Dated March 17, 1992, First Restatement of Trust Dated July 13, 2000, Et Al.**

**Authorization for City Engineer to Reduce and Release Payment and Performance Bonds Upon Satisfactory Completion of Improvements Within the Public Rights-of-Way**

The City Council took the following actions:

- (a) Approved Tract No. 16782 located on the south side of Bandera Street west of Central Avenue.
- (b) Authorized Tract No. 16782 to be recorded with the Office of the San Bernardino County Recorder.
- (c) Approved *Agreement No. 07-107*, a *Subdivision Agreement* with Darryl L. Snyder and Jana Marie Campbell as successors co-trustees of the Jan Fred Silletto and Donna Rae Silletto Revocable Trust dated March 17, 1992, First Restatement of Trust Dated July 13, 2000, et al.
- (d) Authorizing the City Engineer to reduce and release payment and performance bonds upon satisfactory completion of improvements within the public rights-of-way.

**D. Resolutions**

**1. Adoption of Resolution No. 07-2712 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Accounts**

The City Council adopted Resolution No. 07-2712 authorizing placement of liens for delinquent sewer and trash

charges on the 118 accounts listed on Exhibit A to Resolution No. 07-2712.

## IX. PULLED CONSENT CALENDAR ITEMS

### C. Agreements

#### 1. **Approval of Agreement No. 07-103, an Engagement Letter Regarding the Provision of Redevelopment Agency Legal Services by Best Best & Krieger, LLP**

Director Ruh asked how the Best Best & Krieger, LLP firm was selected.

Executive Director McDougal advised that the choice was his alone based on his personal knowledge of the firm and the work and expertise of **Stephen P. Deitsch**, Esquire, who would be working for the Redevelopment Agency.

Because he knows of a number of legal firms throughout the Inland Empire and San Gabriel Valley that offer a very good quality of service equal to that of Best Best & Krieger, LLP, Director Ruh stated that he will not approve this item.

Moved by Chairman Eaton and seconded by Vice Chairman Dutrey that the Redevelopment Agency Board approve *Agreement No. 07-103, an Engagement Letter* regarding the provision of Redevelopment Agency legal services by Best Best & Krieger, LLP.\*

Vice Chairman Dutrey noted the issue is that since **Jon Goetz**, Esquire, left Stradling Yocca Carlson & Rauth (SYCR), the firm has been slow to respond to staff's requests for legal services. He expressed his understanding that the proposal to add Best Best & Krieger, LLP, would relegate SYCR to serve as backup Special Counsel to the Agency.

Executive Director McDougal noted over the years, the response from SYCR on some of our items has been very slow, which can be attributed to the low number of billable hours from the Agency. Not wishing to be critical of SYCR, which is, after all, in the business to make money, he stated that he is unable to effectively run the Redevelopment Agency without a timely turnaround on documents necessary to complete projects. He spoke highly of **Mr. Deitsch**, who serves as City Attorney/Agency Counsel for a number of cities/agencies in Southern California, and of his experience in working with **Mr. Deitsch** on various boards and commissions throughout the Inland Empire. The rate being proposed by Best Best & Krieger, LLP, is excellent and quite competitive, he added.

Mayor Pro Tem Dutrey suggested consideration be given at the end of the fiscal year to the possibility of soliciting Requests for Qualifications from legal firms in the region to serve as Agency Special Counsel.

Executive Director McDougal cautioned that the low bidder on professional service contracts might not be the best choice. He reiterated that he knows **Mr. Deitsch** can do the job and at a competitive rate and suggested Best Best & Krieger, LLP, be retained to serve as backup to SYCR, which is indispensable on bond work.

Vice Chairman Dutrey concurred, though he suggested this item be revisited at the end of the fiscal year.

Director Ruh concurred "because there are many firms qualified in redevelopment agency law. I know at least a dozen attorneys who are all equally competent at redevelopment agency law." He noted **Mr. Deitsch** might be very busy with his other clientele.

Executive Director McDougal advised that if that is the case, then a recommendation would be made for retention of a third legal firm. He emphasized that staff has made its recommendation on this item for quality- and project-control purposes.

Director Ruh reiterated that there are a number of other qualified firms that can do the job equally as well and maybe at a better set of parameters and that he would appreciate reviewing their qualifications.

Director Paulitz concurred with Executive Director McDougal. Personally vouching for **Mr. Deitsch**, he suggested the Agency Board trust Executive Director McDougal's recommendation on this item and that future consideration of other firms is unnecessary.

Mayor Eaton also personally vouched for **Mr. Deitsch** stating, "I think Executive Director McDougal has made a good choice."

\*Motion carried as follows:

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

## X. RESPONSE – None

## XI. COMMUNICATIONS

### A. City Attorney/Agency Counsel

1. **Closed Session Pursuant to Section 54957.6 of the Government Code Regarding Conference With Designated Labor Negotiators**

*Agency: City of Montclair*

*Employee Organizations: City Manager  
Management  
Montclair Fire Fighters Association  
Montclair Police Officers Association  
San Bernardino Public Employees Association*

City Attorney Robbins requested a Closed Session regarding the above item.

### B. City Manager/Executive Director

1. City Manager McDougal commented on the September 10, 2007 vehicle versus pedestrian accident on Kingsley Street as follows:
  - (a) He noted the Council was given a memorandum prior to tonight's meeting in response to its request at the last meeting for a report on the incident and whether or not Montclair is a sanctuary city. Noting the sensitivity of the subject matter and that the information was not available prior to the agenda's preparation, he stated it was his intent once the report became available to present the information at this time. As such, the Council would be unable to take action on the matter; though there is no staff recommendation for Council action. Should the Council believe the incident to be inadequately addressed, he stated that the matter could be agendized for a later meeting or a workshop with other agencies could be conducted.
  - (b) He advised the Council that the information provided is confidential because it identifies employees, and employees have a right to protection under the law.
  - (c) He noted Police Chief Chester Thompson would be giving a report this evening on the information requested by Council.
  - (d) He noted the Police Officer who responded to the subject incident acted within established policy and procedure. He summarized staff's follow up to the incident

including the involvement of the **San Bernardino County District Attorney's Office** in a Police procedure and policy change.

Chief Thompson noted 514 vehicles were towed last year and that 311 vehicles have been towed this year effective September 17, 2007, because the motorists were driving without valid California drivers' licenses or on suspended drivers' licenses. He emphasized that the Montclair Police Department does not condone anyone driving without a valid driver's license, asserting it is an issue in all communities whether the driver is a natural-born United States citizen or a documented or undocumented immigrant. He asserted that the Police Department takes a very aggressive stance on this issue.

Chief Thompson reported on the following in response to the Council's request for information:

*Kingsley Street Incident*

Chief Thompson classified the subject incident as a vehicle versus pedestrian accident, noting a similar accident occurred the following week at Ramona Avenue and Kingsley Street at approximately the same time in the morning with the primary collision factor being the sun blinding the driver. He added that, fortunately, the victim in that case sustained comparatively minor injuries. He noted the hazard of driving during busy times of the morning with a grimy windshield because the sun hitting such a surface creates a glare that temporarily blinds the driver.

Chief Thompson advised that the responding Police Officer in this case acted appropriately within policy and procedure established in 2000 pursuant to case law and the opinion of the **District Attorney's Office**. He stated that the procedure in place at the time prevented our Officers from arresting individuals who do not have valid identification and are involved in traffic collisions if the Officers were not eyewitnesses to the collisions. He noted the driver in this case was issued a citation by mail; unfortunately, he had vacated his last-known address two weeks prior.

Chief Thompson reviewed the Police Department's current policy and procedure established directly following the second accident. He advised that individuals now involved in traffic accidents who do not have valid identification would be arrested, fingerprinted, photographed, issued a *Notice to Appear* citation, and released. He explained that because of a federal decree and the fact that the **West Valley Detention**

**Center** is so overcrowded, illegal immigrants who are arrested are cited and released on their own recognizance and not detained. He stated that the same policy and procedure would be followed for unlicensed illegal immigrant street vendors and individuals stopped for traffic violations. He noted though these procedures are the right and legal thing to do, they will certainly impact the Police Department's responses to other crimes being committed in the community.

Chief Thompson reiterated that the Montclair Police Department does not condone anyone, documented/undocumented immigrant or American citizen, driving without a valid driver's license.

#### *Sanctuary City*

Chief Thompson stated that the City of Montclair is obviously not a sanctuary city. He advised that **U.S. Immigrations and Customs Enforcement (ICE)** has offered to respond in an emergency situation or to a serious crime, preferring to respond directly to the **West Valley Detention Center**. He noted the response could take up to eight or twelve hours because the organization has very limited resources. He suggested **ICE** be invited to a workshop to discuss its services. He asserted we will do the best that we can under the guidelines in place, emphasizing that illegal immigration is a federal issue that has yet to be resolved.

Mayor Eaton thanked Chief Thompson for his report. He stated that he is pleased with the change in policy and procedure.

Mayor Pro Tem Dutrey concurred that immigration is a federal issue. In terms of crimes committed by either American citizens or illegal immigrants, he asserted that they need to be arrested and imprisoned. He noted he is pleased with the policy change in conformity with the District Attorney's Office to arrest and fingerprint those driving without proper and valid identification, noting having their fingerprints on file in a national database would be useful for future crime-identification purposes.

C. **Mayor/Chairman** - No comments

D. **City Council/Agency Board**

1. Council Member/Director Paulitz noted the Council has not had sufficient time to review all the materials included with City Manager McDougal's memorandum on the September 10, 2007 Kingsley Street accident and, therefore, requested a

report on the matter be agendaized for discussion at the October 15, 2007 regular joint meeting. He noted being pleased at the change in policy and procedure on this issue.

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

(a) He noted his attendance September 18 through 20, 2007, at the **International Council of Shopping Centers** convention in San Diego and that staff successfully promoted Montclair to a large number of retail and developer prospects.

(b) He recognized Human Services Division for establishing the following two new youth programs at the Montclair Community Center:

Tuesdays 2:00 to 5:00 p.m. Sixth/seventh/eighth graders

Thursdays 2:30 to 5:30 p.m. **MHS** students

He noted he looks forward to conversion of the existing Police station to a youth center upon the new Police facility's completion.

3. Council Member/Director Ruh commented as follows:

(a) He apologized for being unable to attend the last regular joint meeting, noting he had a prior professional commitment.

(b) He noted he recently came across a well-preserved **Holiday Inn Hotel** (formerly located in Montclair on Central Avenue) key to Room 14 while rummaging through an antique store in his travels. He gave the key to Mayor Eaton for historical preservation.

Mayor Eaton asked Council Member Ruh how much the key cost.

Council Member Ruh answered, "Fifteen dollars."

Mayor Eaton thanked Council Member Ruh and told him he would make sure **Mrs. Eaton** retains the key until such time as the **Reeder Ranch** museum is established.

Council Member Ruh noted a resident contacted him with some postcards featuring the historic hotel, expressing his understanding that it was quite a landmark in its day.

- (c) He noted he is pleased with his recent appointment to the **Ontario-Montclair School District's** 7-11 Committee, a district advisory committee responsible for advising the school board in the development of district-wide policies and procedures governing the use or disposition of school buildings or space in school buildings that are not needed for school purposes. He commented on the decline in student enrollment in the **District** and expressed his hope that no schools would be closed.
  
- (d) He commented concerning **Monte Vista Water District (MVWD)** General Manager **Mark Kinsey's** presentation at the last meeting on the significant water-supply issues facing Southern California, which are largely attributed to the long-term drought, the reduction in California's draw from the Colorado River, and the challenges related to environmental concerns of preserving the fragile San Joaquin-Sacramento River delta ecosystem that might cause a 30 percent reduction in water distribution in the state beginning next year. Noting an article in the September 26, 2007 edition of the **Riverside Press-Enterprise** reported that almost 80 percent of our water supply is used in outdoor watering, he suggested recycled water is only part of the solution because eventually "we are going to need that water for other uses." He spoke in support of creative uses of drought-tolerant landscaping and synthetic turf, noting studies have shown that homes with water-wise efficient landscapes are more valuable than those with water-intensive landscapes because you save water, the environment, and your time in maintenance. Noting the **County of Riverside** has a water-efficient Ordinance in place, he suggested the City work with the **County of Riverside** and **MVWD** to develop a similar Ordinance. He concluded his remarks by emphasizing the need "to look at what we can do in this City to really cut down on outdoor landscape water use."

#### **E. Committee Meeting Minutes**

##### **1. Minutes of Code Enforcement Committee Meeting of September 17, 2007**

The City Council received and filed the Code Enforcement Committee meeting minutes of September 17, 2007, for informational purposes.

## **2. Minutes of Personnel Committee Meeting of September 17, 2007**

The City Council received and filed the Personnel Committee meeting minutes of September 17, 2007, for informational purposes.

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

At 7:53 p.m., Chairman Eaton adjourned the Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

Mayor Eaton commented as follows:

- ✓ He thanked everyone for attending tonight's meeting and expressed his hope that the speakers understand the Police Department's new policy and procedure related to requiring drivers to possess valid identification as reported this evening.
- ✓ He thanked attending **MHS** students for attending the meeting and invited them to present their attendance forms to any Council Member or staff person for signature.

At 7:54 p.m., the City Council went into Closed Session regarding conference with designated labor negotiators pursuant to Section 54957.6 of the Government Code.

### **XIII. CLOSED SESSION ANNOUNCEMENTS**

At 8:05 p.m., the City Council returned from Closed Session. Mayor Eaton announced the City Council met in Closed Session regarding labor negotiations, information was received and direction given to staff, and no further announcements would be made at this time.

### **XIV. ADJOURNMENT OF CITY COUNCIL**

At 8:06 p.m., Mayor Eaton adjourned the City Council.

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

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Yvonne L. Smith  
Transcribing Secretary