

MINUTES OF THE REGULAR JOINT MEETING OF
THE MONTCLAIR CITY COUNCIL AND REDEVEL-
OPMENT AGENCY AND MONTCLAIR HOUSING
CORPORATION BOARDS HELD ON MONDAY,
JANUARY 5, 2009, AT 6:59 P.M. IN THE CITY
COUNCIL CHAMBERS, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor/Chairman Eaton called the meeting to order at 6:59 p.m. and asked that cell phones, pagers, and other electronic devices be silenced as a courtesy to others while the meeting is in session.

II. INVOCATION

Mayor/Chairman Eaton 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 Starr; Director of Redevelopment/Public Works Staats; Director of Community Development/Agency Planner Lustro; City/Agency Engineer Hudson; City Attorney/Agency Counsel Robbins; Deputy City Clerk Smith

Also Present: Special Counsel Mark A. Easter, **Best Best & Krieger LLP**

Absent: City Manager/Executive Director McDougal (excused)

V. PRESENTATIONS

A. Introduction of New Employees

Director of Community Development Lustro introduced **Ms. Merry Westerlin**, who was appointed to the position of Building Official effective January 5, 2009. He noted she was originally hired in October 2007 as Deputy Building Official and that prior to that time, worked as a building inspector in a number of cities and for six years as a Building Inspection Supervisor for the **City of Rancho Cucamonga**.

Director of Community Development Lustro congratulated Building Official Westerlin on her new appointment and Mayor Eaton presented her with a City pin.

Director of Community Development Lustro introduced **Ms. Laura Floyd-Cole**, who was appointed to the position of Senior Learning Coordinator in the Human Services Division effective December 15, 2008. He noted she has over 25 years' collective experience teaching elementary, middle, and high school music in school districts in Dade County, Florida, and **Los Angeles** and **Rialto Unified School Districts** and has worked in after-school programs in San Bernardino and Fontana.

Director of Community Development Lustro welcomed Senior Learning Coordinator Floyd-Cole to the Montclair City family and Mayor Eaton presented her with a City pin.

Director of Community Development Lustro introduced **Mr. Miguel Garcia**, who was appointed to the position of Resource Analyst in the Human Services Division effective December 15, 2008. He noted Resource Analyst Garcia previously worked as a staff writer for the **Hispanic Link News Service** in Washington, D.C., and more recently as the Education and Outreach Manager for **Amigos de los Rios**, a San Gabriel Valley nonprofit organization.

Director of Community Development Lustro welcomed Resource Analyst Garcia to the Montclair City family and Mayor Eaton presented him with a City pin.

VI. PUBLIC COMMENT - None

VII. PUBLIC HEARINGS

A. Adoption of Resolution No. 08-2782, a Resolution of Necessity for the Acquisition of a Fee Interest in Certain Real Property, Described as Assessor's Parcel Nos. 1011-301-04 and 1011-301-05, by Eminent Domain For Public Right-of-Way and the Construction of the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project in the City of Montclair, County of San Bernardino, California

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Resolution No. 08-2782, a Resolution of Necessity for the Acquisition of a fee interest in certain real property described as Assessor's Parcel Nos. 1011-301-04 and 1011-301-05 by eminent domain for public right-of-way and the construction of the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project in the City of Montclair, County of San Bernardino, California, and invited comments from the public.

Deputy City Clerk Smith reported that **Ms. Lisa Geiss**, acting on behalf of the City of Montclair, mailed the *Notice of Hearing* for this matter to the property owner of the subject properties by first class mail on December 16, 2008, and that a copy of the proof of mailing notice is included in the packet placed on the Council dais prior to tonight's meeting.

Deputy City Clerk Smith further reported that the City has received a letter from **Mr. Michael Kehoe**, Palmieri, Tyler, Wiener, Wilhelm & Waldron, indicating that his client, **Mr. Keith A. Ealy**, intends to object to the proposed Resolution of Necessity. She added that the City has also received two letters from **Mr. Keith A. Ealy** outlining his objections, one addressed to Director of Community Development Lustro and the other letter addressed to Mayor Eaton, and that all three letters are included in the packet placed on the Council dais prior to tonight's meeting.

Mr. Keith A. Ealy, 10747 Monte Vista Avenue, Montclair, identified himself as the owner of the subject properties. He spoke in support of the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project and the City's acquisition of his properties for that purpose, though he expressed his disagreement with the City's appraised valuation for his properties, which he stated was based on residential rather than industrial usage. He stated that his counteroffer to the City's offer for purchase represents just compensation. He noted he was denied relocation expense compensation twice this year and was told that relocation compensation would be forthcoming only after agreement between the City and him has been reached. He appealed to the Council for fair treatment on this matter.

Mr. Buster Dunton, 18588 Live Oak Street, Hesperia, noted he has worked for **Mr. Ealy** for the past ten years and would like to

continue doing so. He appealed to the Council for **Mr. Ealy** to be treated fairly.

Mr. John Carlisle, 553 North Pacific Coast Highway, #271, Redondo Beach, identified himself as an interested party in this matter and commented as follows:

1. He expressed his understanding that the original project design would have required right-of-way parcels on the west side of Monte Vista Avenue.
2. Noting the City annexed a portion of San Bernardino County territory two years ago that included **Mr. Ealy's** properties and designated an industrial zone for that area, he stated that the City has committed fraud by having an appraisal conducted on **Mr. Ealy's** properties based on residential rather than industrial usage.
3. He suggested the rail yard switching delays causing backups of train cars on the Union Pacific Railroad tracks crossing Monte Vista Avenue are a public nuisance. He suggested the City notify the Union Pacific Railroad to discontinue the train car delays at that crossing rather than build the grade separation.
4. He suggested the City not build the grade separation; however, should the City decide to go forward with the project, he asked that **Mr. Ealy** be fairly compensated for his properties.

Mr. William J. Taylor II, 18555 Live Oak Street, Hesperia, noted he has worked for **Mr. Ealy** for five years and would like to continue doing so. He asked the City to give **Mr. Ealy** a fair price for his properties to allow him to relocate his businesses and so that all his employees might keep their jobs.

Mr. Keith A. Ealy Jr., 5011 Cottontail Way, Fontana, noted his wife felt threatened last year with the City's first offer to purchase **Mr. Ealy's** properties. He appealed to the Council for his father to receive fair compensation for his properties to allow him to continue to conduct business at another location.

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 Raft asked for clarification on the Lidgard & Associates, Inc., appraisal of the subject properties for the benefit of the public.

City Engineer Hudson reported that the City contracted with Lidgard & Associates, Inc., to conduct an appraisal of **Mr. Ealy's** properties at 10745-10751 Monte Vista Avenue, noting, as is common in real estate negotiations, the City's and **Mr. Ealy's** appraisals have not been shared in the ongoing real property negotiations. He clarified that the City's appraisal was based on mixed land use and not residential usage as **Mr. Ealy** has claimed. He advised that the City's appraisal was based on a mixed land use, which was determined by the appraiser to be the highest and best use of the site, taking into consideration that the site is being used for both residential and industrial purposes and, as such, results in a higher appraised value than industrial usage alone. He emphasized that the City was required to consider the highest and best use of the site in its appraisal regardless of its zoning designation. Incidentally, he noted the City's zoning on the property is

inconsistent with the property development, which is a legal nonconforming use. He noted realistic property purchase values need to be further negotiated between the City and **Mr. Ealy**.

Council Member Raft confirmed with City Engineer Hudson that City appraisals are always conducted based on fair market value. She commented as follows:

1. She emphasized that the proposed project would be for the public benefit, specifically, for the benefit of community residents, and *not* for the benefit of the Union Pacific Railroad. She noted the proposed project has been in the planning stages for many years and, like the Ramona Avenue/Union Pacific Railroad grade separation presently under construction, would eliminate long tedious delays for motorists and safety vehicles at both at-grade railroad crossings.
2. She stated that completion of the Ramona Avenue and Monte Vista Avenue grade separations would be a dream come true for her, noting there are similar grade separations being constructed or already completed in other cities in the Inland Empire and throughout Southern California.
3. She noted she is not a proponent of eminent domain "unless it's really for a very good cause." She advised that the City's purchase offer to **Mr. Ealy** was for market value based on the City's appraisal of the subject properties and "we're trying to do everything we can to give him what his property is worth."
4. She spoke in full support of the item.

Council Member Paulitz inquired as follow:

1. Is the City required by law to consider **Mr. Ealy's** ability to find comparable land in another location?

Special Counsel Easter replied that there are several components to just compensation including the appraised value of the real property, the right to residential and business relocation assistance, and potential goodwill and improvements. He noted the City's appraiser conducted an appraisal of the subject properties based on their highest and best use. He advised that a separate element of just compensation is that **Mr. Ealy** is entitled to relocation compensation.

2. Is it the City's responsibility to provide **Mr. Ealy** with compensation enough for him to find the exact same property value elsewhere?

Special Counsel Easter replied that the City is only obligated to offer **Mr. Ealy** the value of his property and provide him with relocation assistance.

Council Member Paulitz asked for clarification of the design of the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project in response to an earlier allegation that the City changed the design.

City Engineer Hudson clarified that the loop road alternative has always been on the west side of Monte Vista Avenue, advising that it would run behind the industrial building located on the west side of the street across undeveloped property. Noting the cost of the undeveloped property was less, he stated that staff discovered very early in the design that it would not be possible to construct the loop road on the east side of the street that would not exceed the maximum grades that would be permitted for Monte Vista Avenue.

Council Member Paulitz asked if the City's appraisal took into consideration the mixed land use of the subject properties.

City Engineer Hudson answered, "Yes."

Council Member Paulitz received confirmation from City Engineer Hudson that neither the City's nor **Mr. Ealy's** appraisal is available for public record at this time. He questioned the lack of transparency regarding the difference in appraised values of each appraisal.

Special Counsel Easter advised that California eminent domain law requires that a significant amount of information that the appraisal was based on, including basic property market data, zoning, the conclusion as to the highest and best use, and, most importantly, the principal transaction's comparable sales information, be included in the City's offer.

Council Member Paulitz asked if good faith real property negotiations toward a settlement would continue if the Council moves forward with this item this evening.

Special Counsel Easter responded that the Council's adoption of the proposed Resolution of Necessity would not in any way prohibit negotiations from continuing. He added that should the City obtain a prejudgment order for possession of the fee interest in the subject properties, which is commonly done, it would not be unusual for the negotiations to continue. In fact, he stated that it is very common for possession to be obtained by the public entity prior to reaching a determination and settlement on just compensation if a settlement is not reached sooner in the negotiations.

Mayor Eaton clarified that the proposed Monte Vista Avenue/Union Pacific Railroad Grade Separation Project is a City project, not a Redevelopment Agency project.

Mayor Pro Tem Dutrey commented as follows:

1. He stated that "obviously, going through a condemnation process of this nature is not the most pleasant experience; and as public officials, we don't want to be in the business of taking other people's property. That's not the intent of this Council this evening."
2. He concurred with comments made by Council Member Raft that the proposed grade separation project would serve a public purpose to improve motorist and pedestrian safety, eliminate delays to motorists, reduce noise levels in the area, and improve air quality. He stated that it is unfortunate that growth entails the necessity for public infrastructure improvements as exemplified by the proposed grade separation project, which has been under development by the City of Montclair for the last eight years.
3. He stated that the City of Montclair has negotiated in good faith with **Mr. Ealy** regarding the need to acquire his properties for the proposed grade separation project. He noted that should this item be approved, the City's negotiations with **Mr. Ealy** would continue in good faith until a settlement is reached, which typically occurs after a local agency adopts a Resolution of Necessity, adding that these matters only rarely progress to a court hearing. He expressed his hope that the good faith negotiations would continue until the matter is resolved between the City and **Mr. Ealy**.

4. He discussed the due process of continued negotiations between the public agency and the property owner that, if a settlement cannot be reached, would culminate in a jury trial. He stated that in such cases, juries tend to be more favorable to property owners than public entities.
5. He stated that the City's goal in constructing the proposed grade separation at Monte Vista Avenue and the Union Pacific Railroad tracks is that it be completed in a manner that would be most compatible with the greatest public good and the least private injury.

Council Member Ruh inquired as follows:

1. Was San Bernardino County's zoning designation for the subject property "IC Industrial Community" prior to its annexation to Montclair?

Director of Community Development Lustro answered, "That is correct."

2. How does the City determine its prezone designations on County territory proposed to be annexed?

Director of Community Development Lustro responded that the City typically determines the long-term plan for a particular area pursuant to the General Plan. He noted an "M-1 Limited Manufacturing" designation was recommended and adopted for the subject area, which is a similar designation to the County's IC zone.

3. Why were **Mr. Ealy's** properties appraised as a residential use?

City Engineer Hudson replied that **Mr. Ealy's** properties were appraised as a mixed land use, based on his existing development/improvements, because such use has the highest value.

4. How are relocation compensation derived?

City Engineer Hudson responded that relocation assistance takes into consideration what would be involved in moving the business, including all furniture, fixtures, and equipment, and possible loss of goodwill, which has not been addressed at this time.

5. How is loss of goodwill compensation derived?

Special Counsel Easter advised that should the Council adopt proposed Resolution No. 08-2782 and eminent domain proceedings are filed, the City would make a deposit of just compensation and obtain an order for possession. He stated that **Mr. Ealy** would be provided with relocation assistance consisting of notifying him of his rights regarding relocation expense compensation and suggesting alternate sites at which to relocate. He stated that once a decision has been made and the move has occurred, assessment of whether **Mr. Ealy** has lost goodwill related to distance and the amount of lost patronage would be made. He noted such loss cannot be determined until **Mr. Ealy** has moved, which is why the law does not require the City to make him an offer for goodwill or make a deposit for goodwill at this stage of the negotiations.

Council Member Ruh noted the issues he has heard this evening seem to focus not so much on relocation compensation but on differing appraisals.

Special Counsel Easter advised that **Mr. Ealy** knows the amount of the City's appraisal because the City offered that amount in its offer to purchase the subject properties. He noted the City cannot be certain if **Mr. Ealy's** counteroffer was for the amount of his appraisal until the appraisal is available for review. He indicated that the City is required at this time to only address the real estate category of just compensation; the other categories—relocation compensation and loss of goodwill—shall be addressed when the process is further along.

Because time is of the essence, Council Member Ruh asked if the City should move forward with this item rather than continue it to allow further negotiations so a compromise might be reached.

City Engineer Hudson responded that the City could continue to its real property negotiations with **Mr. Ealy** should Resolution No. 08-2782 be adopted as proposed. He indicated he would be requesting in Closed Session additional authority from the Council to increase the amount of the City's offer "if that's what it takes in order to resolve this," stating, "**Mr. Ealy's** counteroffer is significantly higher than our present authority to negotiate."

Council Member Ruh received confirmation from City Engineer Hudson that the Council's adoption of proposed Resolution No. 08-2782 would in no way prohibit/inhibit further negotiations. He further commented as follows:

1. He advised that the decision to move forward on this item is a difficult one for him "because I generally do not like eminent domain," noting his work in the past on an initiative that would have severely limited eminent domain in California.
2. He expressed his understanding of the City's need to move forward with the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project because of its significance to the entire region.
3. He noted his work in 1995 on the Alameda Corridor-East Project when he served on the staff of the U.S. House of Representatives.
4. He reported that at peak traffic times during the day, there will be one train of approximately 1.5 miles long every six minutes. He noted Congressional leaders representing Southern California have tried negotiating with the railroads over the years concerning traffic delays, noise, and pollution caused by the longer trains traveling through the region to no avail, adding that the Supreme Court has sided with the railroad industry several times.
5. He noted his struggle with this item because of **Mr. Ealy's** business issues as opposed to the importance of moving forward with constructing the grade separation at Monte Vista Avenue.
6. He expressed his hope that negotiations continue until a compromise has been reached. He stated, "We certainly don't want any ill will on a project this big."

Mayor Pro Tem Dutrey concurred with Council Member Ruh regarding the importance of continuing negotiations to resolve this matter whether or not proposed Resolution No. 08-2782 is adopted this evening.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Resolution No. 08-2782, entitled, "**A Resolution of Necessity for the Acquisition of a Fee Interest in Certain Real**

Property, Described as Assessor's Parcel Nos. 1011-301-04 and 1011-301-05, By Eminent Domain for Public Right-of-Way and the Construction of the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project in the City of Montclair, County of San Bernardino, California," be read by number and title only, further reading be waived, and it be declared adopted.

The City Council unanimously waived the reading of the Resolution.

Resolution No. 08-2782 was unanimously adopted by the following vote:

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

Mayor Eaton asked Special Counsel Easter to comment concerning further negotiation in this matter.

Special Counsel Easter reiterated that adoption of Resolution No. 08-2782 does not preclude further negotiations. He stated that he would be happy to discuss the matter with **Mr. Ealy's** counsel.

Council Member Ruh received confirmation from Special Counsel Easter that opposing counsel has Special Counsel Easter's contact information. He asked if the Council would be updated on the outcome of the negotiations.

City Engineer Hudson answered, "Yes," reiterating that he plans to return the matter to Council in Closed Session at the January 20, 2008 regular joint meeting to request additional authority to increase the amount of the City's purchase offer.

B. Second Reading – Adoption of Ordinance No. 08-905 Amending Chapters 11.02, 11.18, and 11.22 and Adding Chapter 11.23 to Title 11 of the Montclair Municipal Code Related to Second Dwelling Units

Chairman Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 08-905 amending Chapters 11.02, 11.18, and 11.22 and adding Chapter 11.23 to Title 11 of the Montclair Municipal Code related to second dwelling units 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 Paulitz noted for the record that the term "granny flat" implies that a family member would reside in the second unit. He expressed his opinion that Assembly Bill 1866, the genesis of this item, is simply a preemption of a dysfunctional Legislature in arbitrarily and capriciously authorizing certain R-1-zoned property to become R-2 without abiding by local codes to do so. He stated that, unfortunately, he would be voting in favor of proposed Ordinance No. 08-905.

Council Member Ruh advised that pursuant to AB 1866, the second units are not legally termed "granny flats" but "second dwelling units." He expressed his opinion that this item is not a preemption of local control because it is the responsibility of government to provide affordable housing. He noted the median workforce income in Montclair is less than \$30,000 per year and asked, "Where do those families live?" He indicated that the subject

second dwelling units would only be built on lots that are large enough to accommodate them, adding that as such, the second units would be smaller in size. He expressed his opinion that in most cases, the inhabitants of the second dwelling units would be family members, seniors, or caretakers.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Ruh that Ordinance No. 08-905, entitled, "**An Ordinance of the City Council of the City of Montclair, California, Amending Chapters 11.02, 11.18, and 11.22 and Adding Chapter 11.23 to Title 11 of the Montclair Municipal Code Related to Second Dwelling Units,**" be read by number and title only, further reading be waived, and this be declared its second reading.

The City Council unanimously waived the reading of the Ordinance.

Second Reading of Ordinance No. 08-905 was unanimously adopted by the following ROLL CALL vote:

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

C. Second Reading – Adoption of Ordinance No. 08-906 Amending Chapter 10.02 and Adding Chapter 10.46 to Title 10 of the Montclair Municipal Code Related to Abandoned and Vacant Property Registration and Maintenance

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 08-906 amending Chapter 10.02 and adding Chapter 10.46 to Title 10 of the Montclair Municipal Code related to abandoned and vacant property registration and maintenance 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 inquired as follows:

1. Would Ordinance No. 08-906 apply to privately owned residential properties being placed on the market for sale?

Acting City Manager Starr replied that proposed Ordinance No. 08-906 would apply primarily to financial or lending institutions that take possession of properties in foreclosure.

2. Would the entity responsible for abatement of distressed properties be the legal owner as opposed to the listing agent?

Acting City Manager Starr answered, "There is no impact on realtors or realtors/brokers." He added that the proposed Ordinance would only affect a realtor if the realtor is acting as a lending institution as well.

Council Member Ruh noted some cities have placed the responsibility for property maintenance of homes on the market on the listing agency, advising that in those cases, the homes are rarely, if ever, sold. He stated, "I'm glad that is not part of this Ordinance."

Council Member Ruh noted it is a sad reflection on the current economy that the City must take the proposed action "although Montclair does not have a tremendous number of foreclosures."

He expressed his opinion that the only way the public could afford the high price of real estate was through specialty loans. He noted from research he conducted recently that many of the homes in foreclosure in Montclair are the newer homes built in the last few years. He expressed his opinion that "we cannot continue to push the highest priced homes if the jobs aren't here for them." He indicated that he would support the proposed Ordinance out of necessity, as unfortunate as the reason for it may be.

Mayor Pro Tem Dutrey stated that it is unfortunate that Montclair will most likely have as many foreclosures this year as in 2008 and perhaps more based on current projections. He advised that the greed and corruption of predatory mortgage lending practices using unregulated financial instruments during the real estate boom that eventually led to corrupt business practices on Wall Street are the reasons behind the current recession and emphasized the lack of responsible leadership of our elected representatives in Washington, D.C., to intercede in this issue. He stated, "This is not because of local land-use policies; it's because of bad business practices of those more interested in greed and corruption to make money." He spoke in support of proposed Ordinance No. 08-906 to effectively address commercial and residential properties that are financially distressed or already in foreclosure and to require those responsible to register the properties with the City to ensure their adequate ongoing maintenance.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Paulitz that Ordinance No. 08-906, entitled, "**An Ordinance of the City Council of the City of Montclair Amending Chapter 10.02 and Adding Chapter 10.46 to Title 10 of the Montclair Municipal Code Requiring the Registration and Maintenance of Vacant and Abandoned Real Property,**" be read by number and title only, further reading be waived, and this be declared its second reading.

Council Member Paulitz concurred with Mayor Pro Tem Dutrey's comments regarding the sequence of events that led to the current recession. He reasoned that the recession is a direct result of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation being "forced by the Democratic Congress to accept subprime loans and the Federal Reserve System keeping the federal fund rate too low too long. That's what caused the escalation of real estate prices." He emphasized that certain homeowners "should not have obtained these loans if they could not afford them," resulting in the escalation of property foreclosures. He stated that the proposed Ordinance would at least address the problem of lienholders taking the responsibility for maintenance of properties in the process of foreclosure.

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

Council Member Ruh stated that perhaps subprime loans would not have been necessary for those who purchased homes in Montclair in the last several years had the City developed a more affordable housing product.

Mayor Pro Tem Dutrey emphasized that he works on behalf of the residents of the community and that the Council makes policy decisions in the best interests of Montclair residents. He advised that the escalation of housing prices during the housing boom was not caused by Montclair policy but rather by the financial transactions of mortgage lenders, shady Wall Street business practices, and the lack of effective leadership by our elected representatives in Washington, D.C.

*Second Reading of Ordinance No. 08-906 was unanimously adopted by the following ROLL CALL vote:

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

VIII. CONSENT CALENDAR

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

A. Approval of Minutes - None

B. Administrative Reports

1. Approval of the Filing of a *Notice of Completion*, Reduction of *Faithful Performance Bond* to 10 Percent, and Retention of *Payment Bond* for Six Months Related to Completion of the Central Avenue and Monte Vista Avenue Intersection Rehabilitation Project

The City Council approved the following related to completion of the Central Avenue and Monte Vista Avenue Intersection Rehabilitation Project:

- (a) 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.

2. Rejection of All Bids Received for the New Youth Center Phase II Project and Authorization for Staff to Readvertise the Project

The City Council rejected all bids received for the New Youth Center Phase II Project and authorized staff to readvertise the project.

C. Agreements

1. Approval of *Agreement No. 09-01* With Ontario-Montclair School District Amending *Agreement No. 02-76* for Use of a Portion of Vernon Middle School Field

The City Council approved *Agreement No. 09-01* with the Ontario-Montclair School District amending *Agreement No. 02-76* to allow the installation of a recycled waterline to irrigate the Golden Girls ball field at Vernon Middle School.

D. Resolutions - None

IX. PULLED CONSENT CALENDAR ITEMS - None

At this time, Council Member/Director Paulitz left the dais.

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel - No comments

B. Acting City Manager/Executive Director

1. Acting City Manager/Executive Director Starr wished the Council and members of the community a Happy New Year.

C. Mayor/Chairman - No comments

D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairman Dutrey wished everyone a happy 2009.
2. Council Member/Director Ruh commented as follows:
 - (a) He wished everyone a very prosperous successful 2009. He stated there is a lot of work we need to do within our own communities to help make things better.
 - (b) He advised the Council that he would not attend the January 20, 2009 regular joint meeting because he will be attending **President-elect Barack Obama's** inauguration ceremony to be held that day. He expressed his appreciation of the Council's support for missing the next meeting for this purpose, noting he would relay the Council's best wishes to **U.S. Representative Dreier** at that momentous historical occasion.

E. Committee Meeting Minutes

1. **Minutes of Personnel Committee Meeting of December 15, 2008**

The City Council received and filed the Personnel Committee meeting minutes of December 15, 2008, for informational purposes.

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

At 8:31 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

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

Yvonne L. Smith
Deputy City Clerk