

CITY OF MONTCLAIR

AGENDA FOR CITY COUNCIL, REDEVELOPMENT AGENCY, AND
MONTCLAIR HOUSING CORPORATION MEETINGS

To be held in the Council Chambers
5111 Benito Street, Montclair, California

April 19, 2010

7:00 p.m.

As a courtesy please silence your cell phones, pagers, and other electronic devices while the meeting is in session. Thank you.

The CC/RDA/MHC meetings are now available in audio format on the City's website at www.ci.montclair.ca.us and can be accessed the day following the meeting after 10:00 a.m.

Page No.

I. CALL TO ORDER - City Council, Redevelopment Agency, and Montclair Housing Corporation

II. INVOCATION

In keeping with our long-standing tradition of opening our Council meetings with an invocation, this City Council Meeting may include a nonsectarian invocation. Such invocations are not intended to proselytize or advance any faith or belief or to disparage any faith or belief. Neither the City nor the City Council endorse any particular religious belief or form of invocation.

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PRESENTATIONS

A. Presentation of *Volunteer of the Year* Award

VI. PUBLIC COMMENT

This section is intended to provide members of the public with an opportunity to comment on any subject that does not appear on this agenda. Each speaker will be afforded five minutes to address the City Council Members and Redevelopment Agency and Montclair Housing Corporation Boards of Directors. (Government Code Section 54954.3)

Under the provisions of the Brown Act, the Council/Agency/ MHC is prohibited from taking action on items not listed on the agenda.

VII. PUBLIC HEARINGS - None

VIII. CONSENT CALENDAR

A. Approval of Minutes

1. Minutes of Regular Joint Council/Agency/MHC Meeting of April 5, 2010

B. Administrative Reports

1. Consider Receiving and Filing of Treasurer's Report [CC] 5
2. Consider Approval of Warrant Register and Payroll Documentation [CC] 6
3. Consider Receiving and Filing of Treasurer's Report [RDA] 7
4. Consider Approval of Warrant Register [RDA] 8
5. Consider Receiving and Filing of Treasurer's Report [MHC] 9
6. Consider Approval of Warrant Register [MHC] 10
7. Consider Setting a Public Hearing to Consider Resolution No. 10-2837 Approving the Following:
 - Tentative Tract Map No. 18213 Resubdividing a 15.1-Acre Site Into 13 Numbered Lots and 14 Lettered Lots for Condominium Purposes
 - Precise Plan of Design for a 385-Unit Residential Development Within the North Montclair Downtown Specific Plan
 - Variances for Interior Side-Yard Setbacks and Building Height [CC] 11
8. Consider Setting a Public Hearing to Consider Ordinance No. 10-914 Authorizing an Amendment to the Contract with the Board of Administration of the California Public Employees' Retirement System (CalPERS) [CC] 16
9. Consider Declaration of Certain City Property as Surplus and Available for Auction [CC] 25
10. Consider Status Report on Emergency Contracting Procedures Related to the Damaged Floor in the Community Center Gymnasium and Determine There is a Need to Continue the Action [CC] 28

C. Agreements

1. Consider Redevelopment Agency Board of Directors' Approval of Agreement Nos. 10-40 through 10-42 Rehabilitation Grant Agreements by and between the City of Montclair Redevelopment Agency and EHIP Participants [CC] 29

D. Resolutions

- 1. Consider Adoption of Resolution No. 10-2836 Giving Notice of Intention to Approve an Amendment to the Contract with the Board of Administration of the California Public Employees' Retirement System (CalPERS) [CC] 35
- 2. Consider Adoption of Resolution No. 10-2838 Adjusting the Equivalent Dwelling Unit Monthly Fee for Sewer Service [CC] 44

IX. PULLED CONSENT CALENDAR ITEMS

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
Michael Harden v. City of Montclair

B. City Manager/Executive Director

C. Mayor/Chairman

- 1. Announcement of Two (2) Vacancies on the Planning Commission
- 2. Announcement of Three (3) Vacancies on the Community Action Committee

D. Council/Agency Board

E. Committee Meeting Minutes (*For Informational Purposes Only*)

- 1. Minutes of the Personnel Committee Meeting of April 5, 2010 48
- 2. Minutes of the Real Estate Committee Meeting of April 6, 2010 49

XII. COUNCIL/AGENCY WORKSHOP AND DEMONSTRATION TOUR

A. Merlone Geier Partners/GLJ Partners Montclair Multifamily Residential Project—The Paseos—Product Workshop and Demonstration Tour

(Council/Agency may consider continuing this item to an adjourned joint meeting on Saturday, May 1, 2010, at 8:30 a.m. in the City Council Chambers and aboard the bus).

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

(At this time, the City Council will meet in Closed Session regarding pending litigation).

XIV. CLOSED SESSION ANNOUNCEMENTS

XV. ADJOURNMENT OF CITY COUNCIL

The next regularly scheduled City Council, Redevelopment Agency, and Montclair Housing Corporation meetings will be held on Monday, May 3, 2010, at 7:00 p.m. in the Council Chambers.

Reports, backup materials, and additional materials related to any item on this Agenda distributed to the City Council, Redevelopment Agency Board, or Montclair Housing Corporation Board after distribution of the Agenda packet are available for public inspection in the Office of the City Clerk located at 5111 Benito Street, Montclair, California, between 7:00 a.m. and 6:00 p.m., Monday through Thursday.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at (909) 625-9415. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II)

I, Donna M. Jackson, City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the south door of Montclair City Hall on April 15, 2010.

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: April 19, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 1

**BUSINESS
PLAN:** N/A

FILE I.D.: FIN520

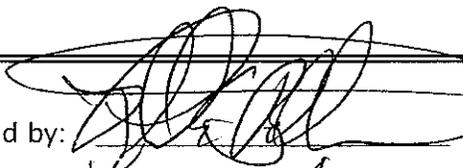
DEPT.: ADMIN. SVCS.

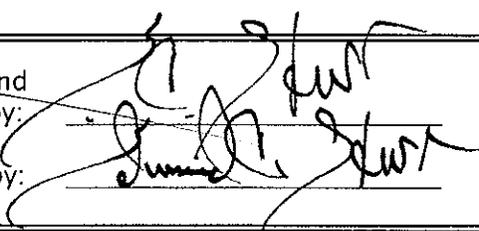
REASON FOR CONSIDERATION: State law requires the City Council to receive and file the Treasurer's Report.

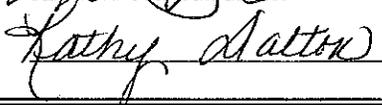
BACKGROUND: Included in your agenda is a copy of the Treasurer's Report for the period ending March 31, 2010.

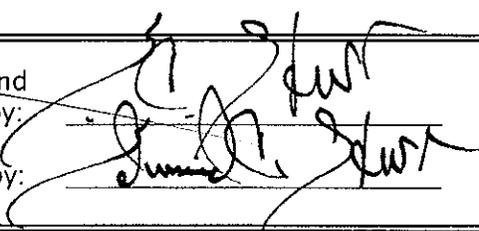
FISCAL IMPACT: Routine—report of City's cash and investments.

RECOMMENDATION: Staff recommends the City Council receive and file the Treasurer's Report for the month ending March 31, 2010.

Prepared by: 

Reviewed and
Approved by: 

Proofed by: 

Presented by: 

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	DATE: April 19, 2010
	SECTION: ADMIN. REPORTS
	ITEM NO.: 2
BUSINESS PLAN: N/A	FILE I.D.: FIN540
	DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of the Warrant Register and Payroll Documentation.

BACKGROUND: Mayor Pro Tem Dutrey has examined the Warrant Register dated April 19, 2010, and Payroll Documentation dated February 28, 2010, finds them to be in order and recommends their approval.

FISCAL IMPACT: The Warrant Register dated April 19, 2010, totals \$1,184,356.07. The Payroll Documentation dated February 28, 2010, totals \$597,680.53, with \$450,638.86 being the total cash disbursement.

RECOMMENDATION: Staff recommends the above-referenced Warrant Register and Payroll Documentation be approved as presented.

Prepared by:

Proofed by:

Reviewed and
Approved by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: April 19, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 3

FILE I.D.: FIN510

**BUSINESS
PLAN:** N/A

DEPT.: REDEVELOPMENT

REASON FOR CONSIDERATION: State law requires the Agency Board of Directors to receive and file the Treasurer's Report.

BACKGROUND: Included in your agenda is a copy of the Treasurer's Report for the period ending March 31, 2010.

FISCAL IMPACT: Routine—report of the Agency's cash and investments.

RECOMMENDATION: Staff recommends the Agency Board of Directors receive and file the Treasurer's Report for the month ending March 31, 2010.

Prepared by:

Proofed by:

Reviewed and
Approved by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER	DATE: April 19, 2010
	SECTION: ADMIN. REPORTS
	ITEM NO.: 4
BUSINESS PLAN: N/A	FILE I.D.: FIN530
	DEPT.: REDEVELOPMENT

REASON FOR CONSIDERATION: State law requires the Agency Board of Directors to receive and file the Warrant Register.

BACKGROUND: Vice Chairman Dutrey has examined the Warrant Register dated 03/01/10 - 03/31/10 in the amounts of \$2,408.72 for Project I; \$803.58 for Project II; \$29,029.17 for Project III; \$21,187.94 for Project IV; \$70,143.79 for Project V; and \$986.89 for Mission Boulevard Joint Redevelopment Project and finds it to be in order.

FISCAL IMPACT: Routine—report of Agency's obligations.

RECOMMENDATION: Vice Chairman Dutrey recommends approval of the Warrant Register for the period ending March 31, 2010.

Prepared by: Michael Piotrowski
Proofed by: Kathy Dalton

Reviewed and Approved by: 
Presented by: 

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: April 19, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 5

**BUSINESS
PLAN:** N/A

FILE I.D.: FIN525

DEPT.: MHC

REASON FOR CONSIDERATION: State law requires the Montclair Housing Corporation Board of Directors to receive and file the Treasurer's Report.

BACKGROUND: Included in your agenda is a copy of the Treasurer's Report for the period ending March 31, 2010.

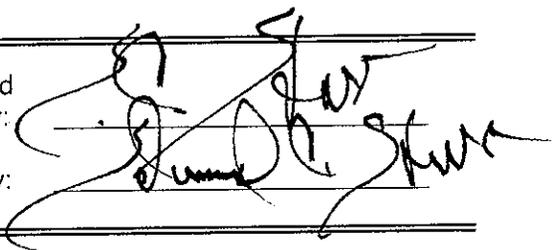
FISCAL IMPACT: Routine—report of the Montclair Housing Corporation's cash and investments.

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending March 31, 2010.

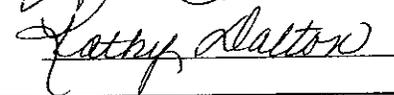
Prepared by:



Reviewed and
Approved by:



Proofed by:



Presented by:

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER	DATE: April 19, 2010
	SECTION: ADMIN. REPORTS
	ITEM NO.: 6
BUSINESS PLAN: N/A	FILE I.D.: FIN545
	DEPT.: MHC

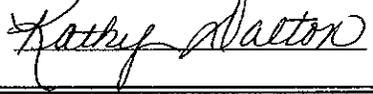
REASON FOR CONSIDERATION: State law requires the Montclair Housing Corporation Board of Directors to receive and file the Warrant Register.

BACKGROUND: Vice Chairman Dutrey has examined the Warrant Register dated 03/01/10 - 03/31/10 in the amount of \$52,498.27 for the Montclair Housing Corporation and finds it to be in order.

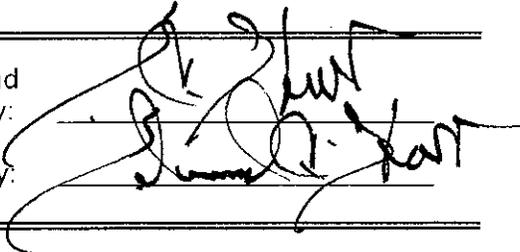
FISCAL IMPACT: Routine—report of Montclair Housing Corporation's obligations.

RECOMMENDATION: Vice Chairman Dutrey recommends approval of the Warrant Register for the period ending March 31, 2010.

Prepared by: 

Proofed by: 

Reviewed and
Approved by:

Presented by: 

AGENDA REPORT

SUBJECT: CONSIDER SETTING A PUBLIC HEARING
TO CONSIDER RESOLUTION NO. 10-2837
APPROVING THE FOLLOWING:

DATE: April 19, 2010

SECTION: ADMIN. REPORTS

TENTATIVE TRACT MAP NO. 18213
RESUBDIVIDING A 15.1-ACRE SITE INTO
13 NUMBERED LOTS AND 14 LETTERED LOTS
FOR CONDOMINIUM PURPOSES

ITEM NO.: 7

FILE I.D.: LDU6000

DEPT.: COMMUNITY DEV.

PRECISE PLAN OF DESIGN FOR A 385-UNIT
RESIDENTIAL DEVELOPMENT WITHIN THE
NORTH MONTCLAIR DOWNTOWN SPECIFIC
PLAN

VARIANCES FOR INTERIOR SIDE-YARD
SETBACKS AND BUILDING HEIGHT

BUSINESS

PLAN: N/A

REASON FOR CONSIDERATION: All land use and design review entitlements within the boundaries of the North Montclair Downtown Specific Plan are presented for the City Council's review and consideration during a public hearing.

Approving the requested entitlements would satisfy a portion of Strategic Priority No. 2 as contained in Montclair's "Business Plan."

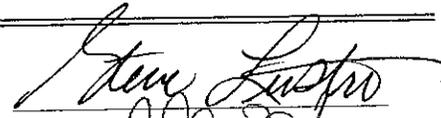
BACKGROUND: The subject Tentative Tract Map, Precise Plan of Design, and Variances, which have been recommended by the Planning Commission, were initiated by Montclair I MGP Partners LLC in connection with its desire to construct a 385-unit residential development on 15.1 acres in the "Corridor Residential" and "Neighborhood Residential" land use districts of the North Montclair Downtown Specific Plan in the 8900 and 9000 blocks of Monte Vista Avenue. The following three building configurations are proposed: 8 three-story courtyard-style buildings organized around a linear public park with "paseos" between the buildings; 12 three-story modified courtyard-style buildings organized around a community swimming pool; and 1 three-story podium building with parking on the two lower levels.

The Planning Commission conducted a public hearing on the applicant's request at its regular meetings on February 8 and March 22, 2010. Other than members of the applicant's development team, three neighboring property owners addressed the Planning Commission during the February 8 public hearing. On March 22, one neighboring property owner and the Executive Director of the Montclair Chamber of Commerce

Prepared by:



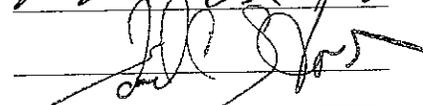
Reviewed and
Approved by:



Proofed by:



Presented by:



addressed the Commission. In addition, staff has received two pieces of written correspondence regarding the project.

FISCAL IMPACT: There would be no fiscal impact at this time associated with the Council's approval of the requested entitlements. Should the Council approve this item, the fiscal impact for acquiring the portion of the project site set aside for a public park would be brought back for consideration at a later date.

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, May 3, 2010, at 7:00 p.m. in the City Council Chambers to consider Resolution No. 10-2837 approving the following:

1. Tentative Tract Map No. 18213 resubdividing a 15.1-acre site into 13 numbered lots and 14 lettered lots for condominium purposes.
2. Precise Plan of Design for a 385-unit residential development within the North Montclair Downtown Specific Plan.
3. Variance to allow a building in excess of the maximum 45 feet allowed within the North Montclair Downtown Specific Plan.
4. Variance to allow interior side-yard setbacks less than the minimum required five feet (5'-0") within the North Montclair Downtown Specific Plan.

RESOLUTION NO. 10-2837

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR APPROVING TENTATIVE TRACT MAP NO. 18213, A PRECISE PLAN OF DESIGN, AND VARIANCES ASSOCIATED WITH A 385-UNIT RESIDENTIAL DEVELOPMENT WITHIN THE NORTH MONTCLAIR DOWNTOWN SPECIFIC PLAN

WHEREAS, Montclair I MGP Partners, LLC filed an application on October 14, 2009 for a Tentative Tract Map, Precise Plan of Design (PPD), and Variances under Case No. 2009-21 in conjunction with a proposal to construct a 385-unit residential development in the 8900 and 9000 blocks of Monte Vista Avenue; and

WHEREAS, on May 15, 2006, the Montclair City Council adopted the North Montclair Downtown Specific Plan (NMDSP), establishing guidelines for development on numerous parcels of land totaling approximately 150 acres; and

WHEREAS, the subject site is located within the "Corridor Residential" and "Neighborhood Residential" land use districts of the NMDSP; and

WHEREAS, Tentative Tract Map No. 18213 is proposed to resubdivide the 15.1-acre site into 13 numbered lots and 14 lettered lots for condominium purposes; and

WHEREAS, a Precise Plan of Design is requested for the overall site plan, floor plans, elevations, colors, materials, and conceptual public park design associated with the 385-unit residential development; and

WHEREAS, Variances are requested to allow one building in excess of the maximum 45 feet allowed, and for interior side yard setbacks of less than the minimum required five feet (5'-0") within the NMDSP; and

WHEREAS, staff has found that the subject proposal complies with the guidelines and development standards outlined in the NMDSP; and

WHEREAS, the NMDSP requires City Council review and approval of all entitlements for projects within the boundary of the NMDSP; and

WHEREAS, the Planning Commission of the City of Montclair conducted public hearings on February 8 and March 22, 2010, and considered said application in the manner prescribed by law; and

WHEREAS, the Planning Commission of the City of Montclair has reviewed and recommended approval of said Tentative Tract Map, Precise Plan of Design, and Variances; and

WHEREAS, members of the Planning Commission, City Council, and staff participated in mobile tours conducted by the applicant on August 24, 2009 and May 1, 2010, to view residential projects similar in quality, character and amenities to the proposed project; and

WHEREAS, the City Council of the City of Montclair finds the requested entitlements to be consistent with the adopted General Plan and the North Montclair Downtown Specific Plan and following good planning principles; and

WHEREAS, the City Council conducted a duly noticed public hearing on May 3, 2010, at which time all interested parties were provided an opportunity to give testimony for or against the proposal.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby approves Tentative Tract Map No. 18213, a Precise Plan of Design, and Variances for a 385-unit residential development under Case No. 2009-21.

APPROVED AND ADOPTED this XX day of XX, 2010.

Mayor

ATTEST:

City Clerk

I, Donna M. Jackson, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 10-2837 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2010, and that it was adopted by the following vote, to-wit:

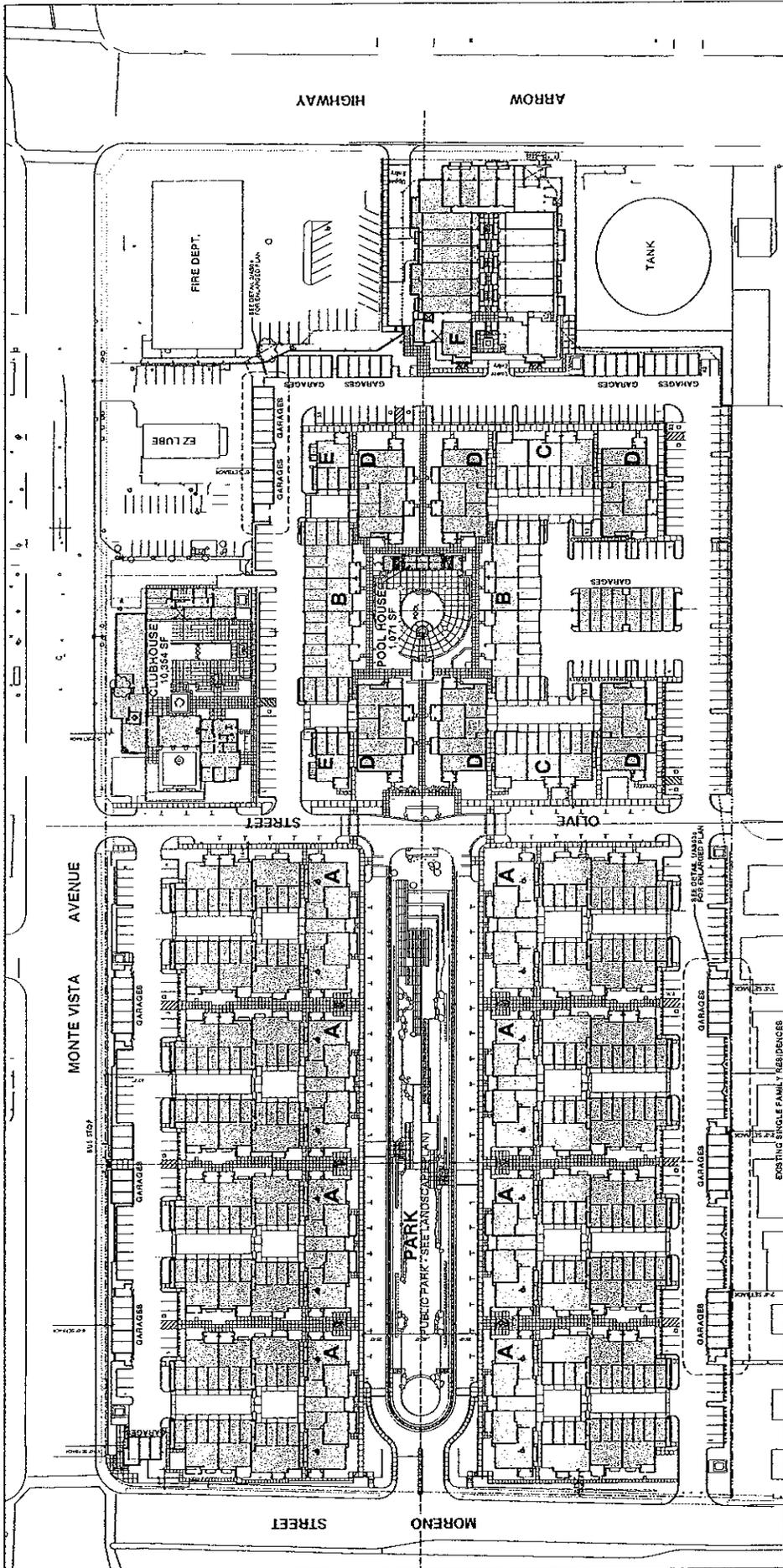
AYES:

NOES:

ABSTAIN:

ABSENT:

Donna M. Jackson
City Clerk



AS03a



REFERENCE SITE PLAN

TRE
PASE 05
 21 DECEMBER, 2009

GLP ENGINEERS ARCHITECTS
 MONTE VISTA & MORENO STREET, MONTCLAIR, CA

AGENDA REPORT

SUBJECT: CONSIDER SETTING A PUBLIC HEARING TO CONSIDER ORDINANCE NO. 10-914 AUTHORIZING AN AMENDMENT TO THE CONTRACT WITH THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

DATE: April 19, 2010
SECTION: ADMIN. REPORTS
ITEM NO.: 8
FILE I.D.: PER593
DEPT.: ADMIN. SVCS.

BUSINESS PLAN: N/A

REASON FOR CONSIDERATION: To provide Section 20475 (Different Level of Benefits) for local miscellaneous members.

BACKGROUND: Current agreements with San Bernardino Public Employees Association (SBPEA) and Montclair's management employees provide for the implementation of Section 20475 (Different Level of Benefits) for local miscellaneous members. This benefit requires an amendment to the City's contract with the California Public Employees' Retirement System (CalPERS). CalPERS requires adoption of an ordinance as part of the implementation process for contract amendments.

FISCAL IMPACT: This proposed contract amendment creates a two-tier retirement program by reducing the retirement benefit for miscellaneous employees hired on or after June 21, 2010. In the future, Montclair's retirement rate and annual costs would decrease as a result of this contract amendment. An actuarial valuation for this contract amendment is not required by CalPERS.

It is extremely difficult to estimate what savings the City would actually realize from this contract amendment and comparing rates between different years can be misleading. The following rate comparison is provided, however, as an example of past experience. In Fiscal Year 2001-02, miscellaneous employees were covered under the 2% @ 55 Full-formula retirement plan with a 0.015 percent employer rate. In Fiscal Year 2009-10, miscellaneous employees were covered under the 3% @ 60 Full-formula retirement plan with a 14.499 percent employer rate. Considering the current weak financial state in California, a rate reduction as significant as the 0.015 percent is not expected for at least ten years.

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, May 3, 2010, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 10-914 authorizing an amendment to the contract with the Board of Administration of the California Public Employees' Retirement System.

Prepared by:

Gary S. Chandler

Reviewed and Approved by:

Proofed by:

Kathy Dalton

Presented by:

[Handwritten signatures]

ORDINANCE NO. 10-914

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MONTCLAIR AUTHORIZING
AN AMENDMENT TO THE CONTRACT
WITH THE BOARD OF ADMINISTRATION
OF THE CALIFORNIA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM**

**THE CITY COUNCIL OF THE CITY OF MONTCLAIR DOES ORDAIN AS
FOLLOWS:**

SECTION I. That an amendment to the contract between the City Council of the City of Montclair and the Board of Administration, California Public Employees' Retirement System (CalPERS) is hereby authorized, a copy of said amendment being attached hereto, marked "Exhibit" and by such reference made a part hereof as though herein set out in full.

SECTION II. The Mayor of the City Council is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

SECTION III. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, provision, or phrase of this Ordinance or any part thereof is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, provision, or phrase thereof not declared invalid or unconstitutional or not preempted by state legislation, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, provisions, or phrases be declared invalid or unconstitutional or preempted by legislation.

SECTION IV. Effective Date.

This Ordinance shall be in full force and effect thirty (30) days after passage.

SECTION V. Posting.

The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

APPROVED AND ADOPTED this XX day of XX, 2010.

Mayor

ATTEST:

City Clerk

I, Donna M. Jackson, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 10-914 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2010, and finally passed not less than five (5) days thereafter on the XX day of XX, 2010, by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Donna M. Jackson
City Clerk



EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Montclair

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective November 1, 1962, and witnessed September 4, 1962, and as amended effective April 8, 1968, December 1, 1968, October 20, 1976, October 10, 1977, December 17, 1979, January 11, 1982, June 27, 1983, September 16, 1985, August 13, 1990, December 31, 1990, June 30, 1995, January 1, 1998, December 18, 2000, July 15, 2002 and June 27, 2005 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 15 are hereby stricken from said contract as executed effective June 27, 2005, and hereby replaced by the following paragraphs numbered 1 through 17 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 60 for local miscellaneous members, age 50 for local safety members entering membership in the safety classification on and prior to June 27, 2005 and age 55 for local safety members entering membership for the first time in the safety classification after June 27, 2005.

PLEASE DO NOT SIGN "EXHIBIT"

2. Public Agency shall participate in the Public Employees' Retirement System from and after November 1, 1962 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
 - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
 - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.

- (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
 - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
- a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
- a. **PERSONS COMPENSATED ON AN HOURLY BASIS HIRED ON OR AFTER DECEMBER 1, 1968.**
6. Public Agency and the Monte Vista County Fire Protection District have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Monte Vista County Fire Protection District, pursuant to Section 20567.5 of the Government Code. Such merger is effective as of January 1, 1967. Legislation repealed said Section effective January 1, 1988.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after July 15, 2002 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).

8. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after July 15, 2002 and not entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21354.3 of said Retirement Law (3% at age 60 Full).
9. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member entering membership in the safety classification on or prior to June 27, 2005 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
11. The percentage of final compensation to be provided for each year of credited current service as a local safety member entering membership for the first time in the safety classification after June 27, 2005 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
12. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 20042 (One-Year Final Compensation).
 - b. Section 20965 (Credit for Unused Sick Leave) for local miscellaneous members and local fire members only.
 - c. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local fire members only.
 - d. Section 21572 (Increased Level of 1959 Survivor Benefits) for local miscellaneous members and local fire members only.
 - e. Section 21024 (Military Service Credit as Public Service).
 - f. Section 21573 (Third Level of 1959 Survivor Benefits) for local police members only.

- g. Section 20475 (Different Level of Benefits). Section 21362.2 (3% @ 50 Full formula) is applicable to only those local safety members entering membership in the safety classification on or prior to June 27, 2005. Section 21363.1 (3% @ 55 Full formula) is applicable to local safety members entering membership for the first time in the safety classification after June 27, 2005.

Section 21353 (2% @ 60 Full formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

13. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on October 10, 1977. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
14. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
15. Public Agency shall also contribute to said Retirement System as follows:
 - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local police members.
 - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

- 16. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
- 17. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MONTCLAIR

BY _____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

AGENDA REPORT

SUBJECT: CONSIDER DECLARATION OF CERTAIN CITY PROPERTY AS SURPLUS AND AVAILABLE FOR AUCTION

DATE: April 19, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 9

FILE I.D.: EQS051/052

BUSINESS

PLAN: N/A

DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider declaring certain City property as surplus so the items may be made available for auction.

BACKGROUND: The items included on the attached list are considered surplus property. Upon the City Council's declaration of these items as surplus, they would become available for auction.

FISCAL IMPACT: There is no estimate as to the proceeds to be received through auction of these items.

RECOMMENDATION: Staff recommends the City Council declare certain City property as surplus and available for auction.

Prepared by: *Sharon Reagoni* Reviewed and Approved by: *K. E. Buss*

Proofed by: *Kudry B.* Presented by: *[Signature]*

**CITY OF MONTCLAIR
SURPLUS PROPERTY LIST
APRIL 2010**

Montclair Police Department

<u>Tag No.</u>	<u>Quantity</u>	<u>Description</u>	<u>Serial No.</u>	<u>CR#</u>	<u>Notation</u>
1	1	NINTENDO DS ELECTRONIC GAME	NV707153450	06-1962	1129-000248
2	1	ALPINE TYPE R SUBWOOFER	T60211275S	06-1962	1129-000249
3	1	LG COMPUTER TOWER (NO HARD DRIVE)		08-2902	1129-000250
4	1	BROWN LEATHER WALLET		09-2997	1129-000251
5	1	WHITE METAL RING WITH 12 CLEAR STONES		09-3367	1129-000252
6	1	SONY CAMCORDER WITH CASE	1552249	07-2591	1129-000253
7	1	YES MAN DVD		09-3393	1129-000254
8	1	HE'S JUST NOT THAT INTO YOU DVD		09-3393	1129-000255
9	1	CURIOUS CASE OF BENJAMIN BUTTON DVD		09-3393	1129-000256
10	1	8 GB IPOD NANO	YM91793E3QU	09-3393	1129-000257
11	1	32 GB IPOD TOUCH	9C9177HE208	09-3393	1129-000258
12	1	8 GB IPOD TOUCH	1A91984A201	09-3393	1129-000259
13	1	8 GB IPOD TOUCH	9C920NSL201	09-3393	1129-000260
14	1	16 GB IPOD TOUCH	1A91827G203	09-3393	1129-000261
15	1	8 GB IPOD TOUCH	1C916K6V201	09-3393	1129-000262
16	1	8 GB IPOD TOUCH	9C921778201	09-3393	1129-000263
17	1	BLACK NINTENDO DS	TW706204658	09-3393	1129-000264
18	1	BLACK NINTENDO DS	TW704123555	09-3393	1129-000265
19	1	BLUE NINTENDO DS	TW705752785	09-3393	1129-000266
20	1	BLUE NINTENDO DS	TW704972030	09-3393	1129-000267
21	1	SCOOTGEAR SCOOTER		09-4944	1129-000268
22	1	BLACK XL DICKIES COVERALL		09-5169	1129-000269
23	1	CD DIGITAL AUDIO CLOCK		09-5169	1129-000270
24	1	SCANNER	018B000765D2	08-2839	1129-000271

**CITY OF MONTCLAIR
SURPLUS PROPERTY LIST
APRIL 2010**

Montclair Police Department

<u>Tag No.</u>	<u>Quantity</u>	<u>Description</u>	<u>Serial No.</u>	<u>CR#</u>	<u>Notation</u>
25	1	BROWN MIA ALMORE SIZE 8 LADIES SHOES		08-2269	1129-000272
26	1	BLACK APOSTROPHE SIZE 18 LADIES CAPRIS		08-2269	1129-000273
27	1	GUESS MENS WATCH		08-2269	1129-000274
28	1	BLACK 6 PACK SIZE 7 1/2 MENS CREW SOCKS		08-2269	1129-000275
29	1	BLACK MIA ALMORE SIZE 8 LADIES SHOES		08-2269	1129-000276
30	1	TAN SIZE 16 LADIES SHORTS		08-2269	1129-000277
31	1	BROWN SIZE XL LADIES TANK SHIRT		08-2269	1129-000278
32	1	BLACK PSP PLAYER		07-4639	1129-000279
33	VOID	VOID		VOID	1129-000280
34	1	KENWOOD CD PLAYER		09-6176	1129-000281
35	1	KENWOOD CD PLAYER	60200985	09-6250	1129-000282
36	1	DELL COMPUTER TOWER (NO HARD DRIVE)	CNOH4313429YO479	08-2839	1129-000283
37	1	HP COMPUTER TOWER (NO HARD DRIVE)	MX12906893	07-4639	1129-000284
38	1	HP LAPTOP COMPUTER (NO HARD DRIVE)	CNF6492551	07-4639	1129-000285
39	1	DELL LAPTOP COMPUTER (NO HARD DRIVE)		09-3913	1129-000286
40	1	MEADE BINOCULARS		08-2269	1129-000287
41	1	COMPUTER TOTE		08-2269	1129-000288
42	1	PORTABLE DVD PLAYER AND CASE		08-2269	1129-000289
43	1	BLACK CLAIBORNE 17-17 1/2 34/35 XLG SHIRT		08-2269	1129-000290
44	1	PACKARD BELL KEYBOARD		08-2858	1129-000291
45	1	APPLE PRINTER	CC50PTX039M	08-2858	1129-000292
46	1	APPLE MONITOR	TY6459RU8EG	08-2858	1129-000293
47	1	PACKARD BELL MONITOR	GSMN61330423	08-2858	1129-000294
48	1	PACKARD BELL COMPUTER (NO HARD DRIVE)	N363004127	08-2858	1129-000295

AGENDA REPORT

SUBJECT: CONSIDER STATUS REPORT ON EMERGENCY CONTRACTING PROCEDURES RELATED TO THE DAMAGED FLOOR IN THE COMMUNITY CENTER GYMNASIUM AND DETERMINE THERE IS A NEED TO CONTINUE THE ACTION	DATE: April 19, 2010 SECTION: ADMIN REPORTS ITEM NO.: 10 FILE I.D.: CVC060 DEPT.: PUBLIC WORKS
BUSINESS PLAN: N/A	

REASON FOR CONSIDERATION: By City Council action on April 5, 2010, Resolution No. 10-2831 was adopted declaring a need for emergency contracting procedures for certain repairs at the Community Center gymnasium. Under Public Contract Code Section 22050, the governing body shall review the emergency action at its next regularly scheduled meeting and every regularly scheduled meeting thereafter until the action is terminated to determine, by a four-fifths majority vote, that there is a need to continue the action.

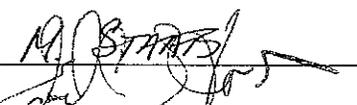
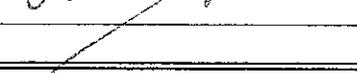
BACKGROUND: On March 10, a City staff inspection of the hardwood floor in the Community Center gymnasium revealed significant water damage. In the eastern quadrant of the gymnasium, hardwood floor panels were found to be raised, warped, and cupped to various degrees, creating a potentially hazardous condition to participants in scheduled gymnasium activities. The Acting City Manager directed a temporary prohibition of all athletic activities on the eastern quadrant of the gymnasium. Nonathletic activities will be allowed but will be subject to certain cautionary measures.

Resolution No. 10-2831 makes the necessary findings to acquire the services of any specialists that may be required to determine the cause and extent of the damage and to make the necessary repairs. It also delegates authority to the Acting City Manager to order the work done. Implicit in that delegation is the authority to sign contracts.

FISCAL IMPACT: It is anticipated the investigation as to the cause and extent of the damage could cost as much as \$5,000. Until the extent of damage is known, it will not be possible to provide an estimate of the repair cost. Under Public Contract Code Section 22050, a status report to the City Council is required at each Council meeting. Once the repair cost is known, it will be included in the status report along with any appropriation request that may be required.

RECOMMENDATION: Staff recommends the City Council take the following actions:

1. Receive and file status report on emergency contracting procedures related to the damaged floor in the Community Center Gymnasium.
2. Determine there is a need to continue the action.

Prepared by: <u></u>	Reviewed and Approved by: <u></u>
Proofed by: <u></u>	Presented by: <u></u>

AGENDA REPORT

SUBJECT: CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NOS. 10-40 THROUGH 10-42, REHABILITATION GRANT AGREEMENTS BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND EXTERIOR HOUSING IMPROVEMENT PROGRAM PARTICIPANTS	DATE: April 19, 2010 SECTION: AGREEMENTS ITEM NO.: 1 FILE I.D.: RDA720 DEPT.: REDEVELOPMENT
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BUSINESS PLAN: N/A

REASON FOR CONSIDERATION: The Redevelopment Agency Board of Directors is requested to consider approval of Rehabilitation Grant Agreement Nos. 10-40 through 10-42 by and between the City of Montclair Redevelopment Agency and three new participants in the Exterior Housing Improvement Program (EHIP). Information on the proposed EHIP participants is contained on Exhibit A to the agenda report.

Copies of Proposed Agreement Nos. 10-40 through 10-42 are included in the agenda packet for the Redevelopment Agency Board's review and consideration.

BACKGROUND: Traditional EHIP was designed to provide exterior improvement rehabilitation grants of up to \$7,000 for owner-occupied residences and \$3,000 for nonowner-occupied single-family residences. The newly developed pilot program offers exterior improvement rehabilitation grants of up to \$10,000 for owner-occupied single-family residences. The additional moneys would allow the Agency to provide enhanced landscape plantings and incorporate hardscape for installation of a 100 percent drought-tolerant design. It should be noted that both grant options include exterior painting of properties. Participants of the \$10,000 grant option would be required to complete landscape classes taught by staff from the Chino Basin Water Conservation District and approved by agency staff. The \$10,000 grant option would include extending the Covenants, Conditions, and Restrictions (CC&Rs) from five years to seven years and would also incorporate a forgivable loan provision for the \$3,000 additional funding. The amount of loan repayment would decline by one seventh, or approximately \$429, per year for each year that the property is maintained.

EHIP was reviewed by the Agency Board on September 8, 2009; and certain recommendations were approved, one of them being a choice of two different landscape options. One option involves the use of turf combined with drought-tolerant plantings; the other, strictly the use of drought-tolerant plantings.

Other significant improvements incorporated in both grant options include installation of rain sensors; use of only warm-season versus cool-season turf; and to discontinue

Prepared by: <u>Cecilia Leonard</u>	Reviewed and Approved by: <u>M. STANLEY</u>	
Proofed by: <u>Wristone P. Caldwell</u>	Presented by: <u>[Signature]</u>	

installing EHIP landscaping during July, August, and September. These improvements were recommended while addressing the urgency of water conservation efforts and the guidelines for mandatory water conservation required by Monte Vista Water District.

FISCAL IMPACT: The Agency Board approved funding for EHIP in the Fiscal Year 2009-10 Redevelopment Agency Budget.

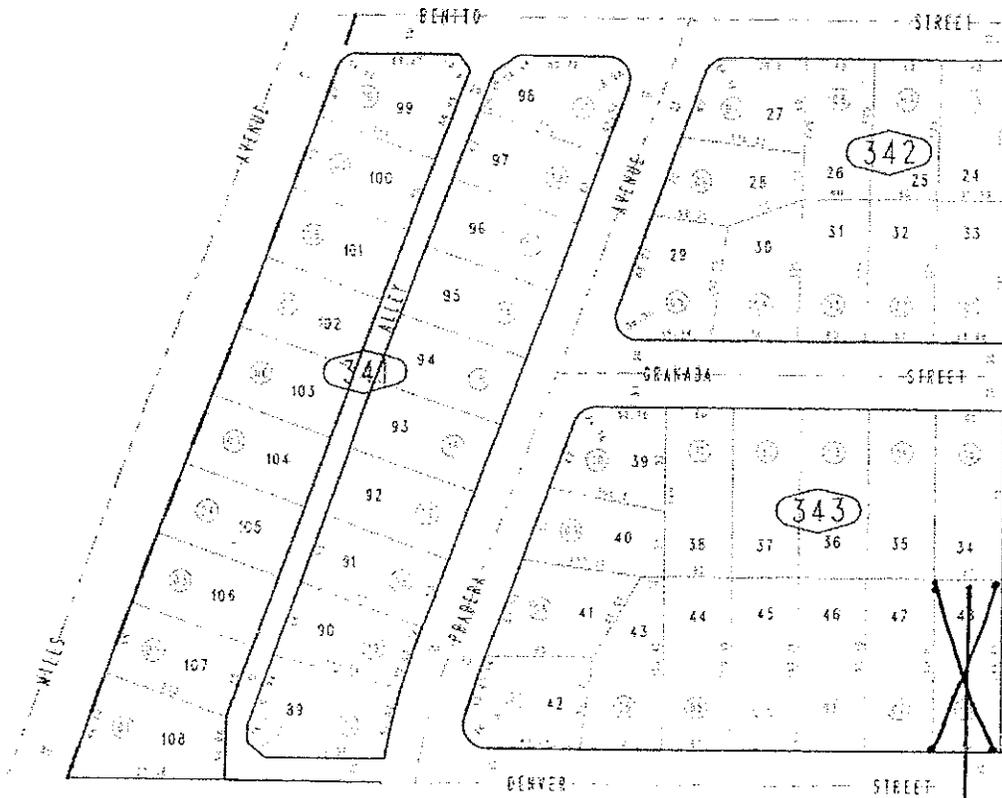
RECOMMENDATION: Agency staff recommends the Redevelopment Agency Board of Directors approve Agreement Nos. 10-40 through 10-42, Rehabilitation Grant Agreements by and between the City of Montclair Redevelopment Agency and Exterior Housing Improvement Program participants.

EXHIBIT A

Agreement Nos. 10-40 through 10-42

<i>Agreement Number</i>	<i>Applicant Name and Address</i>	<i>Option of Grant</i>
10-40	Steven P. Castillo Karen Ortiz 4294 Denver Street	\$ 7,000 Exhibit B
10-41	Soledad Lara Cesar Rocha 9835 Greenwood Avenue	\$ 7,000 Exhibit C
10-42	Randy Elmore 9672 Pradera Avenue	\$10,000 Exhibit D

Exhibit B



4294 Denver Street

Exhibit C

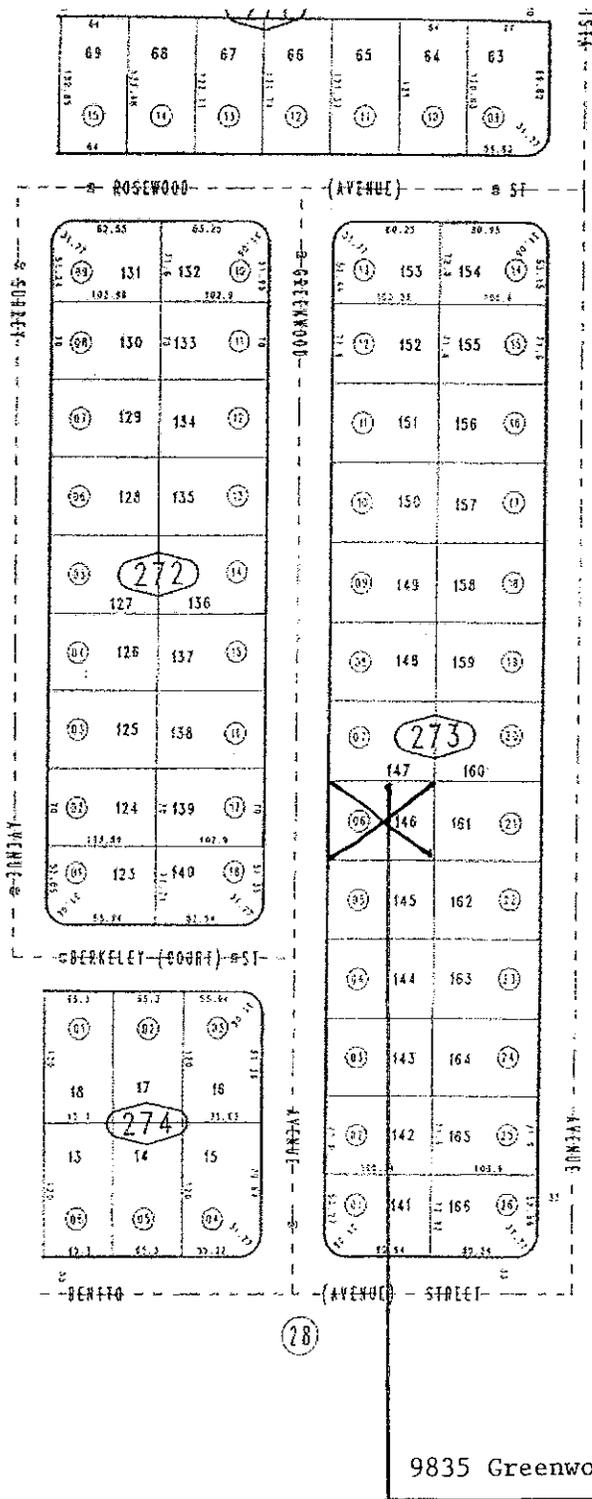
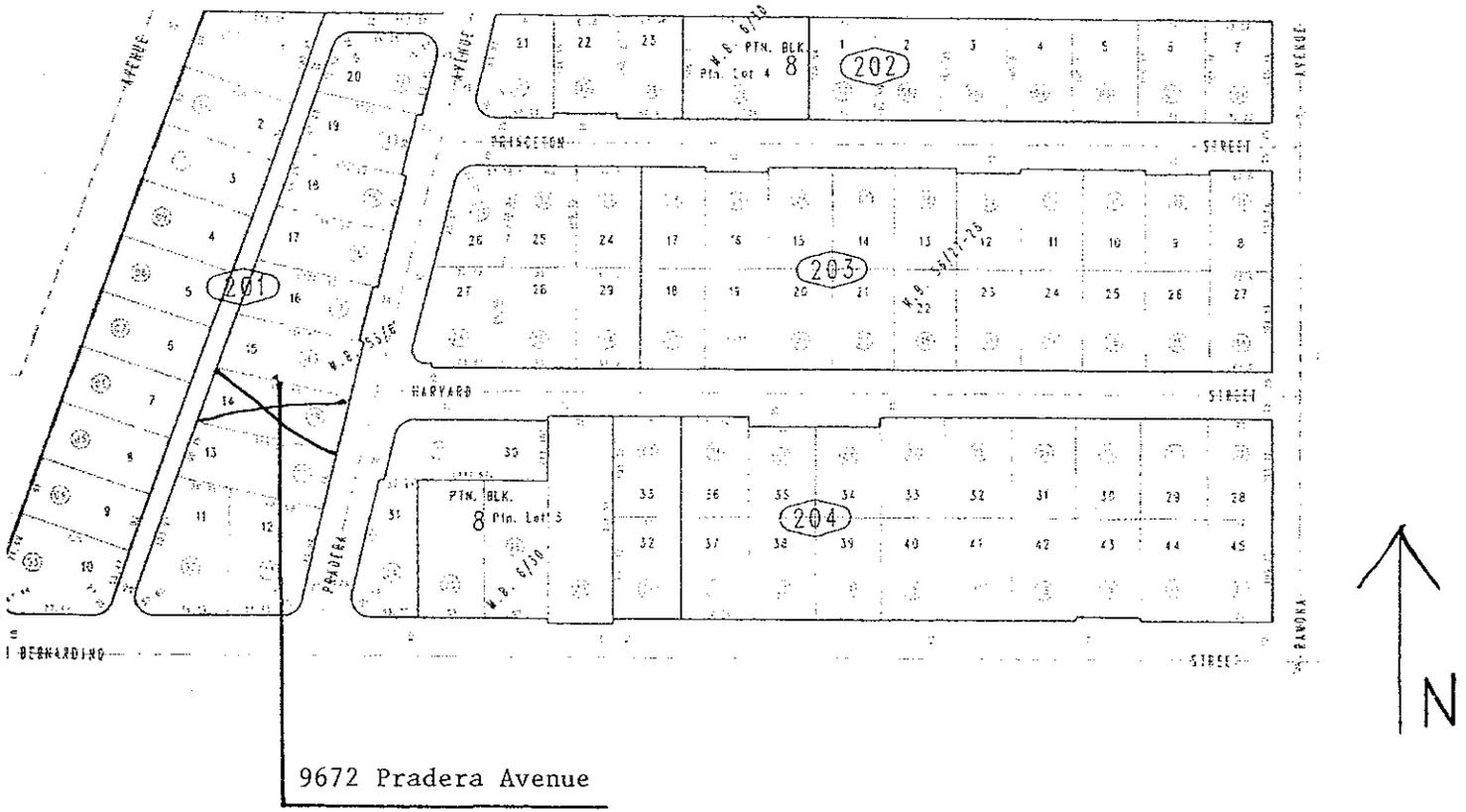


Exhibit D



AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 10-2836 GIVING NOTICE OF INTENTION TO APPROVE AN AMENDMENT TO THE CONTRACT WITH THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM	DATE: April 19, 2010
	SECTION: RESOLUTIONS
	ITEM NO.: 1
BUSINESS PLAN: N/A	FILE I.D.: PER593
	DEPT.: ADMIN. SVCS.

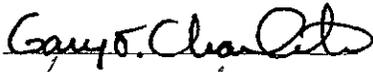
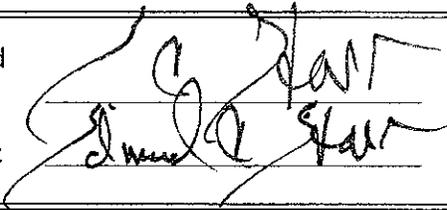
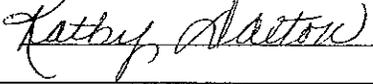
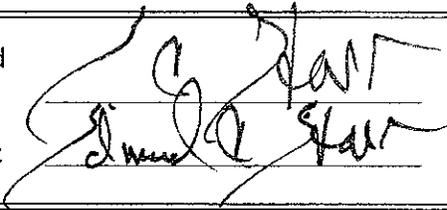
REASON FOR CONSIDERATION: To provide Section 20475 (Different Level of Benefits) for local miscellaneous members.

BACKGROUND: Current agreements with San Bernardino Public Employees Association (SBPEA) and Montclair's management employees provide for the implementation of Section 20475 (Different Level of Benefits) for local miscellaneous members. This benefit requires an amendment to the City's contract with the California Public Employees' Retirement System (CalPERS). CalPERS requires adoption of a "Resolution of Intention" as part of the implementation process for contract amendments.

FISCAL IMPACT: This proposed contract amendment creates a two-tier retirement program by reducing the retirement benefit for miscellaneous employees hired on or after June 21, 2010. In the future, Montclair's retirement rate and annual costs will decrease as a result of this contract amendment. An actuarial valuation for this contract amendment is not required by CalPERS.

It is extremely difficult to estimate what savings the City will actually realize from this contract amendment, and comparing rates between different years can be misleading. The following rate comparison is provided, however, as an example of past experience. In Fiscal Year 2001-02, miscellaneous employees were covered under the 2% @ 55 Full-Formula retirement plan with a 0.015 percent employer rate. In Fiscal Year 2009-10, miscellaneous employees were covered under the 3% @ 60 Full-Formula retirement plan with a 14.499 percent employer rate. Considering the current weak fiscal conditions in California, a rate reduction as significant as the 0.015 percent is not expected for at least ten years.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 10-2836 giving notice of the intention to approve an amendment to the contract with the Board of Administration of the California Public Employees' Retirement System.

Prepared by: 	Reviewed and Approved by: 
Proofed by: 	Presented by: 

RESOLUTION NO. 10-2836

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MONTCLAIR GIVING NOTICE OF
THE INTENTION TO APPROVE AN AMEND-
MENT TO THE CONTRACT WITH THE BOARD
OF ADMINISTRATION OF THE CALIFORNIA
PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the California Public Employees' Retirement System (CalPERS) by the execution of a contract and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20475 (Different Level of Benefits): Section 21353 (2% @ 60 Full formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of CalPERS, a copy of said amendment being attached hereto as an "Exhibit" and by this reference made a part hereof.

APPROVED AND ADOPTED this XX day of XX, 2010.

Mayor

ATTEST:

City Clerk

I, Donna M. Jackson, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 10-2836 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2010, and that it was adopted by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Donna M. Jackson
City Clerk



EXHIBIT

California
Public Employees' Retirement System



AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Montclair



The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective November 1, 1962, and witnessed September 4, 1962, and as amended effective April 8, 1968, December 1, 1968, October 20, 1976, October 10, 1977, December 17, 1979, January 11, 1982, June 27, 1983, September 16, 1985, August 13, 1990, December 31, 1990, June 30, 1995, January 1, 1998, December 18, 2000, July 15, 2002 and June 27, 2005 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 15 are hereby stricken from said contract as executed effective June 27, 2005, and hereby replaced by the following paragraphs numbered 1 through 17 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 60 for local miscellaneous members, age 50 for local safety members entering membership in the safety classification on and prior to June 27, 2005 and age 55 for local safety members entering membership for the first time in the safety classification after June 27, 2005.

2. Public Agency shall participate in the Public Employees' Retirement System from and after November 1, 1962 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
 - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
 - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.

- (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
 - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
- a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
- a. **PERSONS COMPENSATED ON AN HOURLY BASIS HIRED ON OR AFTER DECEMBER 1, 1968.**
6. Public Agency and the Monte Vista County Fire Protection District have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Monte Vista County Fire Protection District, pursuant to Section 20567.5 of the Government Code. Such merger is effective as of January 1, 1967. Legislation repealed said Section effective January 1, 1988.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after July 15, 2002 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).

8. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after July 15, 2002 and not entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21354.3 of said Retirement Law (3% at age 60 Full).
9. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member entering membership in the safety classification on or prior to June 27, 2005 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
11. The percentage of final compensation to be provided for each year of credited current service as a local safety member entering membership for the first time in the safety classification after June 27, 2005 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
12. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 20042 (One-Year Final Compensation).
 - b. Section 20965 (Credit for Unused Sick Leave) for local miscellaneous members and local fire members only.
 - c. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local fire members only.
 - d. Section 21572 (Increased Level of 1959 Survivor Benefits) for local miscellaneous members and local fire members only.
 - e. Section 21024 (Military Service Credit as Public Service).
 - f. Section 21573 (Third Level of 1959 Survivor Benefits) for local police members only.

- g. Section 20475 (Different Level of Benefits). Section 21362.2 (3% @ 50 Full formula) is applicable to only those local safety members entering membership in the safety classification on or prior to June 27, 2005. Section 21363.1 (3% @ 55 Full formula) is applicable to local safety members entering membership for the first time in the safety classification after June 27, 2005.

Section 21353 (2% @ 60 Full formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

- 13. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on October 10, 1977. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
- 14. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
- 15. Public Agency shall also contribute to said Retirement System as follows:
 - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local police members.
 - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

- 16. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
- 17. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MONTCLAIR

BY _____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION
NO. 10-2838 ADJUSTING THE EQUIVALENT
DWELLING UNIT MONTHLY FEE FOR SEWER
SERVICE

DATE: April 19, 2010

SECTION: RESOLUTIONS

ITEM NO.: 2

**BUSINESS
PLAN:** N/A

FILE I.D.: SEW125

DEPT.: PUBLIC WORKS

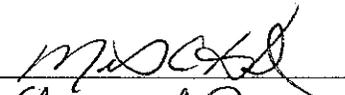
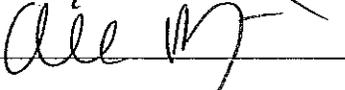
REASON FOR CONSIDERATION: The Inland Empire Utilities Agency (IEUA) provides sewage treatment services to the City of Montclair and six other regional contracting agencies. The IEUA Board of Directors is expected to approve a rate increase for the fee charged to contracting agencies for this service. This higher rate goes into effect July 1, 2010. In order to collect this higher rate, the City must change the rates charged to its residents. The rate may be changed by a Resolution adopted by the City Council.

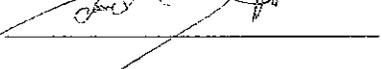
BACKGROUND: IEUA provides sewage treatment for seven regional contracting agencies including the City of Montclair. Treatment costs are passed on to City residents and businesses via a monthly fee based on an equivalent dwelling unit (EDU). Annual adjustments in these rates fall under public hearing requirements of Proposition 218.

On May 7, 2007, the City Council of the City of Montclair conducted a public hearing in accordance with Proposition 218 requirements and adopted Ordinance No. 07-890. Ordinance No. 07-890 established a three-part fee structure and set maximum rates over a ten-year period as shown in the table below. The Ordinance allows the fee to be adjusted annually by Resolution, provided the rate does not exceed the maximum allowable under the ordinance.

<i>Effective Date</i>	<i>Part 1</i>	<i>Part 2</i>	<i>Part 3</i>	<i>Maximum Rate</i>
July 1, 2007	\$ 9.19	\$3.10	\$1.00	\$13.29
July 1, 2008	\$10.00	\$3.26	\$1.50	\$14.76
July 1, 2009	\$10.75	\$3.42	\$1.50	\$15.67
July 1, 2010	\$11.50	\$3.59	\$1.50	\$16.59
July 1, 2011	\$12.25	\$3.77	\$1.50	\$17.52
July 1, 2012	\$13.00	\$3.96	\$1.50	\$18.46
July 1, 2013	\$13.75	\$4.16	\$1.50	\$19.41
July 1, 2014	\$14.50	\$4.37	\$1.50	\$20.37
July 1, 2015	\$15.25	\$4.59	\$1.50	\$21.34
July 1, 2016	\$16.00	\$4.82	\$1.50	\$22.32

- Part 1 Fee – Inland Empire Utilities Agency Treatment Fee
- Part 2 Fee – City Sewer Maintenance Fund
- Part 3 Fee – City Sewer Replacement Fund

Prepared by: 
 Proofed by: 

Reviewed and
Approved by: 
 Presented by: 

The combined maximum rate that can be charged under Ordinance No. 07-890 for Fiscal Year 2009-10 is \$16.59 per EDU.

At its April meeting, the Regional Sewer Technical Committee recommended a rate increase to the Part 1 Fee of \$11.14 per EDU. The Regional Sewer Policy Committee is expected to take the same action at its May meeting. The recommendations would then be considered by the IEUA at its June 2010 Board meeting. The rate increase to \$11.14 per month would be effective July 1, 2010. Therefore, Resolution No. 10-2838 proposes setting the EDU rate as follows:

<i>Effective Date</i>	<i>Part 1</i>	<i>Part 2</i>	<i>Part 3</i>	<i>Total Rate</i>
July 1, 2010	\$11.14	\$3.59	\$1.50	\$16.23

The proposed \$16.23 per EDU is less than the maximum rate of \$16.59 per EDU allowed by Ordinance No. 07-890.

Also somewhat related to the EDU treatment rate, the Regional Sewage Supplemental Capital Outlay Fee for residential, commercial, and industrial structures is generally adjusted in April of each year. This fee, also known as the connection fee, is established by the IEUA and is assessed by the City at the time a building permit is issued. The current rate is \$4,766 per EDU. IEUA staff has announced that it will not be seeking a rate increase for Fiscal Year 2010-11. Therefore, staff will not be bringing forth any proposed connection fee rate increase for next fiscal year.

FISCAL IMPACT: Adoption of Resolution No. 10-2838 would permit the City to collect sufficient funds to pay the higher treatment rate being assessed by IEUA, pay for increasing maintenance costs, and continue to contribute to the sewer-replacement fund. Should the City Council decide not adopt Resolution No. 10-2838, the City would still be obligated to pay the increased IEUA treatment rate.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 10-2838 adjusting the equivalent dwelling unit monthly fee for sewer service.

RESOLUTION NO. 10-2838

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR SETTING
THE EQUIVALENT DWELLING UNIT RATE
FOR SEWER SERVICE**

WHEREAS, on May 7, 2007, the City Council of the City of Montclair adopted Ordinance No. 07-890; and

WHEREAS, Ordinance No. 07-890 established maximum sewer rates for the ten--year period commencing July 1, 2007, and ending June 30, 2017; and

WHEREAS, the maximum monthly rate to be charged per equivalent dwelling unit (EDU) for the period commencing July 1, 2010, and ending June 30, 2011, was set as follows:

Part 1 Fee - Inland Empire Utilities Agency Treatment Fee	\$11.50
Part 2 Fee - City Sewer Maintenance Fund	3.59
Part 3 Fee - City Sewer Replacement Fund	<u>1.50</u>
Total Maximum Monthly EDU Rate	<u>\$16.59</u>

and

WHEREAS, the Inland Empire Utilities Agency has announced its intent to set the Part 1 Fee at \$11.14 per month, less than the maximum EDU rate approved by the City Council by Ordinance No. 07-890.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair, in accordance with Ordinance No. 07-890 and action intended to be taken by the Inland Empire Utilities Agency, does hereby set the monthly EDU rate effective July 1, 2009, as follows:

Part 1 Fee - Inland Empire Utilities Agency Treatment Fee	\$11.14
Part 2 Fee - City Sewer Maintenance Fund	3.59
Part 3 Fee - City Sewer Replacement Fund	<u>1.50</u>
Total Monthly EDU Rate	<u>\$16.23</u>

APPROVED AND ADOPTED this XX day of XX, 2010.

Mayor

ATTEST:

City Clerk

I, Donna M. Jackson, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 10-2838 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2010, and that it was adopted by the following vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Donna M. Jackson
City Clerk

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
APRIL 5, 2010, AT 7:34 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Eaton called the meeting to order at 7:34 p.m.

II. ROLL CALL

Present: Mayor Eaton; Council Member Ruh; and Acting City
Manager Starr

III. APPROVAL OF MINUTES

**A. Minutes of the Regular Personnel Committee Meeting of
March 1, 2010.**

Moved by Acting City Manager Starr, seconded by Council Member
Ruh, and carried unanimously to approve the minutes of the
Personnel Committee meeting of March 1, 2010.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

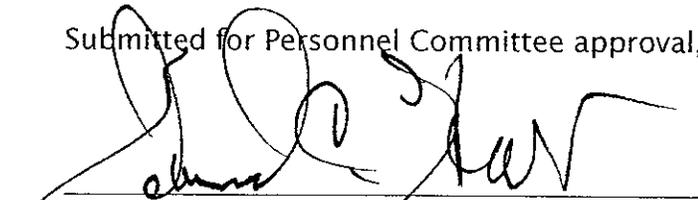
At 7:35 p.m., the Personnel Committee went into Closed Session
regarding personnel matters related to appointments, resignations/
terminations, and evaluations of employee performance.

At 8:57 p.m., the Personnel Committee returned from Closed Session.
Mayor Eaton stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 8:57 p.m., Mayor Eaton adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
Acting City Manager

MINUTES OF THE CITY OF MONTCLAIR REAL
ESTATE COMMITTEE MEETING HELD ON
TUESDAY, APRIL 6, 2010, AT 7:02 A.M. IN THE
CITY HALL CONFERENCE ROOM, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor Eaton called the meeting to order at 7:02 a.m.

II. ROLL CALL

Present: Mayor Eaton; Mayor Pro Tem Dutrey; Director of Redevelopment/Public Works Staats; Assistant Director of Redevelopment Caldwell; Redevelopment and Housing Associate Leonard

III. APPROVAL OF MINUTES

Minutes of the Real Estate Committee meeting of January 25, 2010, were approved.

IV. PUBLIC COMMENT - None

V. DISCUSSION REGARDING PROPOSED DEVELOPMENT BY THE OLSON COMPANY

Director of Redevelopment/Public Works Staats informed the Committee that the Olson Company has identified a location for a new 42-unit small lot subdivision on Mission Boulevard and is seeking Redevelopment Agency financial assistance in the amount of \$3 million to construct the new subdivision. The proposal would include a number of homes that would be deed restricted to moderate-income households. The Committee discussed the proposal and directed staff to advise the Olson Company that at this time, the Redevelopment Agency is not in a position to provide the requested financial assistance.

VI. PROPOSED COMMERCIAL LOAN AGREEMENT FOR 10325 CENTRAL AVENUE—GARY SHERMAN

Staff informed the Real Estate Committee that **Mr. Gary Sherman**, owner of Ontario Volkswagen, has submitted a request to Volkswagen of America seeking authorization to operate a new dealership in Montclair in addition to his current dealership at the Ontario Auto Center. If authorization for a new dealership is granted, **Mr. Sherman** is requesting Redevelopment Agency assistance of \$1 million for

rehabilitation of the building at 10325 Central Avenue. The proposed site is the location of the former Exclusively Volvo dealership. The proposed Agency funding would be in the form of a ten-year commercial loan agreement. The proposed commercial loan would be structured so the Redevelopment Agency would reimburse improvement costs not to exceed \$1 million over a ten-year period. The repayment formula would be based on remittance of up to 50 percent of the sales tax generated per year by the automobile dealership use. The Committee was supportive of the proposal and recommended that staff continue development of a commercial loan agreement between the Redevelopment Agency and **Mr. Sherman** for Agency Board of Directors' consideration.

VII. CONSIDERATION OF A REQUEST TO EXPAND THE ELIGIBILITY REQUIREMENTS FOR THE SAFE HOMES FOR SENIORS PROGRAM TO INCLUDE PHYSICALLY DISABLED PERSONS UNDER THE AGE OF 62 YEARS

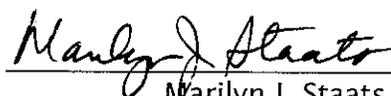
Director of Redevelopment/Public Works Staats explained to the Committee that Agency and Neighborhood Partnership Housing Services staffs have received a number of requests from persons with disabilities under the age of 62 requesting inclusion in the Safe Homes for Seniors program. The Safe Homes for Seniors program, administered through Neighborhood Partnership Housing Services, provides up to \$1,500 to make specific Health and Safety Code improvements to qualifying participant's homes. The Committee considered the request and recommended that income-qualifying persons with disabilities under the age of 62 be included in the Safe Homes for Seniors programs.

During the course of this conversation, Committee Member Dutrey suggested to Agency staff to become more active in pursuing fore-closed homes in the City through the Neighborhood Stabilization Program (NSP) and also suggested Agency staff explore the concept of attracting new restaurants to the City by providing moneys for tenant improvements.

VIII. ADJOURNMENT

At 8:40 a.m., Mayor Eaton adjourned the Real Estate Committee.

Submitted for Real Estate Committee approval,



Marilyn J. Staats
Director of Redevelopment/
Public Works Department