

MINUTES OF THE REGULAR JOINT MEETING  
OF THE MONTCLAIR CITY COUNCIL AND  
REDEVELOPMENT AGENCY AND MONTCLAIR  
HOUSING CORPORATION BOARDS HELD ON  
MONDAY, MAY 3, 2010, AT 7:00 P.M. IN  
THE CITY COUNCIL CHAMBERS, 5111 BENITO  
STREET, MONTCLAIR, CALIFORNIA

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I. CALL TO ORDER

Mayor/Chairman Eaton called the meeting to order at 7:00 p.m. and asked that everyone please silence their cell phones, pagers, and other electronic devices as a courtesy to others while the meeting is in session.

II. INVOCATION

Mayor/Chairman Eaton gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Mayor Pro Tem/Vice Chairman Dutrey 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, City Clerk/Agency Secretary Jackson

V. PRESENTATIONS

A. Introduction of New Employees/Promotee

Police Chief Jones introduced Sergeant Brandon Kumanski, who was promoted to his new position effective May 3, 2010. He noted Sergeant Kumanski graduated from the **San Bernardino County Sheriff's Basic Academy** in June 2002 and was hired as a Police Officer with the Montclair Police Department, working various assignments including Patrol, as a Field Training Officer, a member of the Major Accident Investigation Team, and since 2008 as a Financial Crimes Investigator with the Detective Bureau. He noted Sergeant Kumanski was previously employed as a Community Service Officer while attending **San Diego State University**, graduating in 2000 with a Bachelor of Science degree in Criminal Justice Administration.

Mayor Eaton congratulated Sergeant Kumanski on his promotion and presented him with a City pin.

Police Chief Jones introduced **Mr. Shane Buschini**, who was appointed to the position of Police Officer effective March 22, 2010. He noted Officer Buschini graduated in 2007 from the **University of San Diego** with a Bachelor of Arts degree in Business Administration and is a recent graduate of **Golden West Police Academy**, Huntington Beach. He pointed out that notably, Officer Buschini played professional baseball with the **San Diego Padres** for three years.

Mayor Eaton welcomed Officer Buschini to the Montclair City family and presented him with a City pin.

Police Chief Jones introduced **Mr. Chris E. Fisher**, who was appointed to the position of Police Officer effective March 22, 2010. He noted Officer Fisher graduated in 2003 from **California State University, Long Beach**, with a Bachelor of Arts degree in Communications and is a recent graduate of **Golden West Police Academy**. He stated that Officer Fisher joined the **California Army National Guard** after college, proudly serving with the **40th Military Police Company** in support of Operation Iraqi Freedom from 2007 through 2009.

Mayor Eaton welcomed Officer Fisher to the Montclair City family, thanked him for his dedicated service to our country, and presented him with a City pin.

Police Chief Jones introduced **Ms. Christy L. Goodman**, who was appointed to the position of Police Officer effective March 22, 2010. He noted Officer Goodman most recently worked as a **Los Angeles County Deputy Sheriff** in the Jail Facility; prior to that, she worked with children with developmental disabilities for 3 years and for 14 years at her family's **World Gym** in Covina.

Mayor Eaton welcomed Officer Goodman to the Montclair City family and presented her with a City pin.

## VI. PUBLIC COMMENT

A. **Ms. Debby Figoni**, Conservation Specialist, **Chino Basin Water Conservation District (CBWCD)**, 4594 San Bernardino Street, Montclair, announced the following **CBWCD** water-conservation events.

1. **Dog Day in the Park** – Saturday, May 15, 2010, 10:00 a.m. to 2:00 p.m. – pet-friendly and water-wise landscaping presentations, dog training, demonstrations, giveaways
2. **Water Wise Gardening Workshops for the Home**
  - a. *The Basics* – August 28, 2010, 9:00 a.m. to 12:30 p.m.
  - b. *Backyard Composting Workshop* – July 17 or September 25, 2010, 9:00 to 11:00 a.m.
  - c. *Maintenance, Pruning, & Integrated Pest Management* – June 26, September 11 or December 4, 2010 – August 28, 2010, 9:00 a.m. to 12:30 p.m.
  - d. *Irrigation, Soil, & Fertilizers* – July 24 or November 13, 2010, 9:00 a.m. to 12:30 p.m.
  - e. *Plants and Planting* – May 22 or October 2, 2010, 9:00 a.m. to 12:30 p.m.
  - f. *Preparation & Design* – June 12 or August 14, 2010, 9:00 a.m. to 12:30 p.m.
3. **Landscape Water Management Classes for Professionals** – Tuesdays, May 18 and 25 and June 1 and 8, 2010

**Ms. Figoni** noted the classes are conducted in English and Spanish.

Council Member Ruh asked that **Ms. Figoni** provide him with literature on the activities.

- B. **Mr. José F. Maldonado**, 10157 Galena Avenue, Montclair, urged the City Council to adopt a resolution opposing **Arizona Senate Bill 1070**, the **Support Our Law Enforcement and Safe Neighborhoods Act**, scheduled to become law on July 28, 2010, and direct the Acting City Manager to suspend all travel to Arizona and explore boycotting possibilities. Acknowledging his mixed Spanish/English accent, **Mr. Maldonado** noted his grandparents, parents, and he were all born in Texas, adding that he has been a Montclair resident since 1984. He emotionally asserted that Arizona's stringent new immigration law "is tearing me apart in my heart" because it "is unconstitutional and opens the door for racial profiling, discrimination, and civil rights violations" against his family and him. He strongly reiterated his request that the City Council take action to oppose Arizona's new immigration law "because I know you will do the right thing. God bless you, Montclair, and the United States of America."

Mayor Eaton asked Acting City Manager Starr if he has any comments.

Acting City Manager Starr stated that staff would place the requested item on the next agenda at the Council's direction.

Mayor Eaton stated, "I certainly don't have any objection to it."

Mayor Pro Tem Dutrey asked if any City conferences are scheduled to be held in Arizona during the present or next fiscal year.

Acting City Manager Starr answered, "No."

Mayor Pro Tem Dutrey asserted that though immigration is an important national issue, he is not certain the City Council's adoption of a resolution is called for. Advising that while the immigration law passed by the **State of Arizona** only concerns that state, he noted the action is forcing this country to address the issue of illegal immigration. He expressed his opinion that a decision to boycott Arizona should be made individually by those strongly opposed to the state's new immigration law.

Council Member Paulitz commented that there has been much misunderstanding about the new Arizona immigration law, which is, basically, a restatement of the federal immigration law. He concurred with Mayor Pro Tem Dutrey that the issue either concerns the **State of Arizona** or the federal government and not the City of Montclair. Noting the **National League of Cities' 2011 Congress of Cities and Exposition** would take place in Phoenix, Arizona, he suggested the Council could reconsider the matter at that time rather than adopt a resolution now.

Acting City Manager Starr advised that the applicant has requested that Section VII, "Public Hearings" Item A, "Approval of Resolution No. 10-2837 Approving Tentative Tract Map No. 18213 Resubdividing a 15.1-Acre Site Into 13 Numbered Lots and 14 Lettered Lots for Condominium Purposes, a Precise Plan of Design (PPD) for a 385-Unit Residential Development Within the North Montclair Downtown Specific Plan, Resolution No. 10-2841 Approving a Variance for Interior Side-Yard Setbacks, and Resolution No. 10-2842 Approving a Variance for Building Height," be removed from the agenda to address certain issues related to the proposed PPD. He suggested the item be continued to the May 17, 2010 regular joint meeting.

Council Member Ruh verified that the public could contact staff with any questions on the item.

Moved by Mayor Pro Tem Dutrey, seconded by Council Member Ruh, and carried unanimously to continue the item to the May 17, 2010 regular joint meeting.

## VII. PUBLIC HEARINGS

### B. **First Reading - Ordinance No. 10-914 Authorizing an Amendment to the Contract With the Board of Administration of the California Public Employees' Retirement System**

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 10-914 authorizing an amendment to the contract with the Board of Administration of the California Public Employees' Retirement System and invited comments from the public.

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

Moved by Council Member Ruh and seconded by Mayor Pro Tem Dutrey that Ordinance No 10-914, entitled "**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,**" be read by number and title only, further reading be waived, and this be declared its first reading.

Mayor Pro Tem Dutrey asked when the City Council adopted the 2% at 60 retirement plan.

Acting City Manager Starr responded that in 2003, the City implemented the 2% at 60 retirement plan after discontinuing the 3% at 60 plan.

Mayor Pro Tem Dutrey commented on the escalating public miscellaneous and safety employee pension costs since 2000 among all levels of California governmental agencies, which have contributed significantly to the state's fiscal insolvency. He expressed his pride in Montclair's leadership in taking this important step to control retirement costs. Noting existing public miscellaneous and safety employee pensions are no longer sustainable, he expressed his appreciation to these City bargaining groups for agreeing to the proposed pension modification and stated, "Thank you to the employees for doing this."

Council Member Paulitz noted his response yesterday to a public employee from another community's inquiry about how Montclair is doing was that Montclair has only reduced work hours and not had any layoffs, though our main concern is exorbitant retirement costs. He noted the City was assured by the California Public Employees' Retirement System (CalPERS) in 2005 when the City adopted the 3% @ 50 plan for existing safety employees that employer rates would not increase because CalPERS' investments were sound. Noting it became apparent after a few years that rates were steadily rising, he spoke in support of Acting City Manager Starr's taking a proactive approach to reducing unsustainable pension costs. He added that he is pleased the bargaining groups have agreed to the proposed pension plan modifications.

Council Member Ruh expressed his belief that staff's proposal "is a positive direction for the City that would not affect existing employees, just new hires" and "that we will still be very competitive as far as attaining and retaining the best employees as we can." He concurred that existing pension costs are unsustainable and spoke in support of staff's recommendation.

Acting City Manager Starr clarified that CalPERS did assure cities in 2005 that if they adopted the 3% @ 50 plan for safety employees, CalPERS would superfund its status based on the presumption that

the organization's stock market investments would continue to perform effectively, which did not occur

The City Council unanimously waived the reading of the Ordinance.

First Reading of Ordinance No 10-914 was unanimously adopted by the following vote.

|          |                                   |
|----------|-----------------------------------|
| AYES     | Ruh, Raft, Paulitz, Dutrey, Eaton |
| NOES     | None                              |
| ABSTAIN. | None                              |
| ABSENT   | None                              |

## VIII. CONSENT CALENDAR

Mayor Eaton requested that Item C-1 be removed from the Consent Calendar for comment.

Moved by Council Member/Director Paulitz, seconded by Council Member/Director Ruh, and carried unanimously to approve the following Consent Items as presented.

### A. Approval of Minutes

#### 1. Minutes of Regular Joint Council/Agency/Montclair Housing Corporation Meeting of April 19, 2010

The City Council and Redevelopment Agency/Montclair Housing Corporation Boards approved the minutes of the Regular Joint City Council/Redevelopment Agency Board/Montclair Housing Corporation Board meeting of April 19, 2010

### 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 City of Montclair Police Department Facility Bid Package No. 10-Roofing, Waterproofing, Sheet Metal, and Metal Roofing

The City Council approved the following related to completion of City of Montclair Police Department Facility Bid Package No 10-Roofing, Waterproofing, Sheet Metal, and Metal Roofing

- (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
  - (d) Release retention 30 days after recordation of *Notice of Completion*.
- #### 2. Authorization to Transfer After-School Program Personnel Grant Funds to After-School Program Supplies and Contract Accounts

The City Council authorized a \$130,500 transfer from the After-School Program Personnel Account to the After-School Program Supplies and Contract Account for purchase of services and/or supplies.

3. **Status Report on Emergency Contracting Procedures Related to Damaged Floor in Community Center Gymnasium to Determine and Determine the Need to Continue the Action**

The City Council received and filed a status report on emergency contracting procedures related to the damaged floor in the Community Center gymnasium and determined the need to continue the action.

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

The City Council approved the City Warrant Register dated May 3, 2010, totaling \$954,153.94 and the Payroll Documentation dated March 14, 2010, amounting to \$602,172.69, with \$450,050.68 being the total cash disbursement.

D. **Resolutions**

1. **Adoption of Resolution No. 10-2839 Declaring the Need for Emergency Contracting Procedures and Authorizing Performance Related to Block Wall Construction at Alma Hofman Park**

The City Council adopted Resolution No. 10-2839 declaring the need for emergency contracting procedures and authorizing performance related to block wall construction at Alma Hofman Park.

IX. **PULLED CONSENT CALENDAR ITEMS**

C. **Agreements**

1. **Approval of Agreement No. 10-30 With Dietz Towing and Agreement No. 10-45 With Pacific Truck and Auto Towing, Inc., for Cost Recovery for Vehicles Stored Pursuant to California Vehicle Code Section 14602.6, the 30-Day Impound Law**

Mayor Eaton advised speakers that they would be afforded five minutes each to address this item.

**Ms. Terry Jordan**, Chief Executive Officer, **Dietz Towing**, 4773 Brooks Street, Montclair, stated that **Mr. Reyes** would speak on her behalf

**Mr. Lamberto R. "Rey" Reyes**, Owner, **Pacific Truck and Auto Towing, Inc.**, 5391 Brooks Street, Montclair, requested the City Council consider approving five-year terms for both *Agreement Nos. 10-30* and *10-45*. He further requested that the provision related to Code Enforcement towing include a requirement for more documentation at the time vehicles are towed along with the ability to tow vehicles to the scrap yard.

Mayor Pro Tem Dutrey advised **Mr. Reyes** that his requests should have been negotiated with staff prior to the Council's consideration of *Agreement Nos. 10-30* and *10-45*. He suggested the item be continued to the May 17, 2010 regular joint meeting to allow for this process.

Acting City Manager Starr advised that both *Agreements* contain month-to-month terms and Code Enforcement-related provisions, therefore, staff recommends the Council consider the *Agreements* as presented

Council Member Raft received clarification that **Mr. Reyes** received a revised copy of *Agreement No. 10-45* reflecting the changes he mentioned earlier and showing his company's name as the vendor.

**Ms. Jordan** noted she has not received an amended version of *Agreement No 10-30*

Council Member Paulitz deferred the matter to City Attorney Robbins.

City Attorney Robbins advised that the speakers might have different versions of the subject *Agreements* that she has not reviewed and suggested the item be continued

Council Member Ruh concurred, noting the appropriately revised *Agreements* could be considered at the next meeting

Moved by Mayor Pro Tem Dutrey, seconded by Council Member Ruh, and carried unanimously to continue this item to the May 17, 2010 regular joint meeting

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel - No comments

B. Acting City Manager/Executive Director - No comments

C. Mayor/Chairman - No comments

D. City Council/Agency Board

- 1 Council Member/Director Raft noted Mayor Eaton, Mayor Pro Tem Dutrey, Council Member Paulitz, and she attended the *29th Annual Volunteer Recognition Dinner* last Tuesday She noted she was amazed to learn that the City's 265 volunteers, "who are just phenomenal to work with," donated over 65,000 hours to Human Services Division programs, saving the City an unprecedented over half a million dollars in wages.

Mayor Eaton concurred, stating, "The amount of money that we save through our volunteers is just phenomenal "

- 2 Mayor Pro Tem/Vice Chairman Dutrey commented as follows

- (a) He expressed his appreciation of Human Services Division staff for all the hard work involved in facilitating the volunteer dinner event.

- (b) He expressed his appreciation of the staff members who attended the workshop and tour of **Merlone Geier Partners** projects in Orange County last Saturday

- 3 Council Member/Director Ruh commented as follows.

- (a) He apologized for being unable to attend the volunteer dinner, probably the first one he has missed since his election to the Council. He noted the great work our volunteers do each day

- (b) He noted his attendance last Thursday evening at the **Milestones Center for Childhood Development** grand opening at the **Claremont Club** sponsored by **Pomona Valley Hospital Medical Center** Physical Therapy and Rehabilitation. He noted the regional center offers

pediatric physical and occupational therapy and speech-language pathology services for a variety of developmental conditions. He noted it was very positive to see representation from all cities in the region including Diamond Bar

- (c) He noted his attendance at the *Third Annual Southern California Tasting & Auction* yesterday at **California Polytechnic University, Pomona**, adding that all proceeds from the event would benefit the **Cal Poly Pomona Foundation** to provide scholarships for students struggling to attend school.
- (d) He noted Assistant Director of Human Services Richter and he met with **University of La Verne** representatives a few weeks ago to discuss the college's future participation in the *Online to College* Program. He noted it is very telling of how successful the program has been in aiding youth in our community to achieve a higher education when a well-recognized university inquires about participating in the program.
- (e) He noted Mayor Eaton, Council Members Raft and Paulitz, Acting City Manager Starr, and he attended the *Inland Valley News, Inc.'s 13th Annual Celebration of Excellence Awards* dinner Saturday evening to honor City Manager McDougal as recipient of the Corporate Leadership Award.
- (f) He noted the well-qualified Police Officers introduced this evening could have chosen to work for any other local Police Department and, instead, chose Montclair, which is a positive note on our Police Department and residents.

#### E. Committee Meeting Minutes

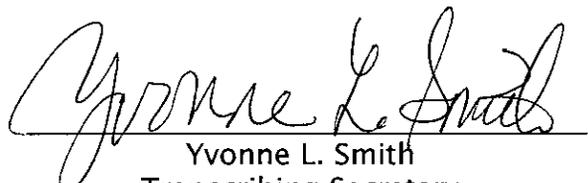
##### 1. Minutes of Personnel Committee Meeting of April 19, 2010

The City Council received and filed the Personnel Committee meeting minutes of April 19, 2010, for informational purposes.

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

At 7:47 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  
Transcribing Secretary