

MINUTES OF THE REGULAR JOINT MEETING OF
THE MONTCLAIR CITY COUNCIL AND REDEVEL-
OPMENT AGENCY AND MONTCLAIR HOUSING
CORPORATION BOARDS HELD ON MONDAY,
OCTOBER 4, 2010, AT 6:59 P.M. IN THE CITY
COUNCIL CHAMBERS, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor/Chairman Eaton called the meeting to order at 6:59 p.m.

II. INVOCATION

Mayor/Chairman Eaton gave the Invocation.

III. PLEDGE OF ALLEGIANCE

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

IV. ROLL CALL

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

V. PRESENTATIONS

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

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

Ms. Woore accepted the proclamation and thanked Mayor Eaton and the City Council for supporting the **Dyslexia Association**, which provides outreach to the Inland Empire to inform and empower families, educators, businesses, and communities with the most current research based on practices to promote meaningful literacy development with the goal of preparing individuals for a

hopeful and productive future. She clarified that dyslexia is an auditory processing disorder, advising that many children go through school undiagnosed, resulting in such learning disabilities as dysgraphia (inability to write), dyscalculia (difficulty in learning or comprehending mathematics), reading, fluency, and comprehension.

Ms. Woore invited everyone to attend a **Dyslexia Association** "What is Dyslexia" and "Creative Brains" event on Tuesday, October 5, 2010, at 6:00 p.m. at the **San Bernardino Public Library**, Kellogg Room, 555 West 6th Street. She advised that the **Dyslexia Association** conducts outreach programs throughout the year that are free to the public and are listed on their website at: www.dyslexia-ca.org, adding that the organization can also be found via Facebook.

Mayor Eaton thanked **Ms. Woore** for the invitation.

VI. PUBLIC COMMENT

A. **Ms. Jennifer Nessler**, Field Representative, **Assembly Member Torres's District Office**, 822 North Euclid Avenue, Suite A, Ontario, announced the following events:

1. *Foreclosure Prevention Workshop* - Wednesday, October 13, 2010, 9:00 a.m. to 12:00 p.m. at the De Anza Community Center, 1405 South Fern Avenue, Ontario. The workshop will offer information on the **California Housing Finance Agency's** new *Keep Your Home Program* for qualified low- and moderate-income families, protection against loan modification scams, and where to find help to stay in your home.
2. *California Small Business and Regional Opportunities Seminar* - Friday, October 15, 2010, 9:00 a.m. to 1:00 p.m. at the **Ontario Police Department**, 2500 South Archibald Avenue, Ontario. The seminar will feature presentations by the **California State Board of Equalization**, **Franchise Tax Board**, and **Employment Development Department**, the **Internal Revenue Service**, and the **U.S. Small Business Administration** on federal, state, and employment tax issues for small business owners, the newest tax-related resources for entrepreneurs, access to capital and credit, the *American Recovery and Reinvestment Act of 2009*, and how to succeed as a small business in tough economic times.

Ms. Nessler noted her pride in Montclair's booth at the *Health Screening & Resource Fair* last month and thanked staff for assisting the public regarding Montclair events and services.

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

B. Mr. Christopher Agrella, 11064 Wesley Avenue, Montclair, commented as follows:

1. He noted while driving to tonight's meeting that he saw a vehicle run the stop sign at the bottom of the Ramona Avenue grade separation, possibly because the sign's flashers were not operating.
2. He advised that during the last month and a half, emptied trash, recycling, and greenwaste barrels have been placed haphazardly on the sidewalk in front of his home, blocking access. He offered to electronically mail photographs of the issue to staff.

City Manager Starr asked that **Mr. Agrella** send the photographs to him and thanked **Mr. Agrella** for bringing the issue to his attention.

3. He suggested the City patronize local businesses for public meeting refreshments.

Mayor Eaton thanked **Mr. Agrella** for the suggestion.

VII. PUBLIC HEARINGS

A. Second Reading - Ordinance No. 10-916 Amending Chapters 11.02, 11.18, and 11.38 and Adding Chapter 11.19 to the Montclair Municipal Code Related to Accessory Structures in Single-Family Residential Zones

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 10-916 amending Chapters 11.02, 11.18, and 11.38 and adding Chapter 11.19 to the Montclair Municipal Code related to accessory structures in single-family residential zones and invited comments from the public.

City Manager Starr noted a proposed addition to Section 11.19.030 of Title 11 related to recordation of a deed restriction prior to obtaining a building permit for an accessory structure has been placed before the Council this evening for its consideration.

Mr. Gary Webster, 11363 Buckskin Avenue, Montclair, identified himself as a 33-year resident and commented as follows:

1. He noted he did not receive notification about the proposed Code amendment.

2. He expressed his opposition to proposed Ordinance No. 10-916 because of concerns about the adverse effect on his property of potential accessory structure development at adjacent properties so far as meeting setback requirements is concerned. He added that the City Council would not be able to make a valid finding that the proposed Ordinance is exempt from the California Environmental Quality Control Act (CEQA).

Director of Community Development Lustro clarified the following:

1. Concerning the CEQA finding, Ordinance No. 10-916 only proposes to amend the Montclair Municipal Code (MMC) to clarify the standards that apply to accessory structures to ensure that such structures are compatible within a single-family environment. Any proposal for development would be reviewed on a case-by-case basis.
2. There is a 30-foot separation requirement between stables and habitable living space, though many of the regulations governing animals in the estate lots in the south end of the City, in place since the late 1970s, were never codified and should be. Staff would review all accessory development proposals for potential impacts to the subject and neighboring properties for adverse impacts similar to any other land use entitlement under the purview of the MMC.
3. The legal requirement for publication of a citywide Code amendment is a public notice in a newspaper of general circulation—in the City's case, the *Inland Valley Daily Bulletin*.

Mr. Webster asked if his property would be included in the 300-foot notification radius for his immediate neighbors' accessory structure proposals should this item be approved.

Director of Community Development Lustro advised that, typically, land use entitlement actions, such as Conditional Use Permits or variances from development standards, require notification to affected residents within a 300-foot radius of the subject site. He noted staff does send courtesy notices to adjoining property owners on intensification of use or property improvement proposals that might impact the neighbors.

Mr. Tom Shepherd, 11372 Buckskin Avenue, Montclair, identified himself as a neighbor of **Mr. Webster's**. He expressed his support of the proposed Ordinance so long as the zoning remains the same and his wife's horses are unaffected by future accessory structure development.

Mayor Eaton advised **Mr. Shepherd** that he would be welcome to address with staff any concerns he might have regarding future development.

Mr. Ben Bateman, 11377 Buckskin Avenue, Montclair, identified himself as one of the property owners desiring to build a larger accessory structure on his property—in his case, an oversized garage and workshop—as indicated in the agenda report. He clarified that part of the requirement for a stable use is a 30-foot setback from "habitable" structures—not the "uninhabitable" accessory structures proposed in Ordinance No. 10-916. He spoke in support of proposed Ordinance No. 10-916 and stated that the Planning Commission did a good job in addressing his needs and issues to make the best use of his land.

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

Council Member Ruh suggested this item be continued to the October 18, 2010 regular joint meeting to allow staff to address **Mr. Webster's** and **Mr. Shepherd's** concerns.

Mayor Pro Tem Dutrey asked for clarification on the proposed 5- or 12-foot interior side-yard setback requirement pursuant to the underlying zoning district.

Director of Community Development Lustro explained that a long-standing requirement in single-family residential zones is that one side-yard setback be at least 5 feet in width and the other at least 12 feet in width and that the proposed amendment mirrors those setback requirements for major accessory structures.

Mayor Pro Tem Dutrey inquired as follows:

1. What are the side-yard setbacks are for estate zone homes?

Director of Community Development Lustro replied that they are the same as for major accessory structures and no different than for a home in a traditional R-1 Zone.

2. Would development of an accessory structure in the estate zone hinder a stable use at a neighbor's property?

Director of Community Development Lustro advised that development of an uninhabitable accessory structure would not be hindered by an existing stable at a neighbor's property; only habitable structures would require the 30-foot setback from a stable.

Mayor Pro Tem Dutrey asked if building a second dwelling unit would require the larger setback.

Director of Community Development Lustru stated that a property owner would have to observe the 30-foot setback if constructing a second dwelling unit in the vicinity of a neighbor's stable.

Mayor Pro Tem Dutrey clarified that an Ordinance regulating second dwelling units was adopted by the Council last year and that proposed Ordinance No. 10-916 relates to accessory structures. In response to the concerns raised by **Mr. Webster** and **Mr. Shepherd**, additional language has been proposed to be added to the Ordinance that would restrict use of accessory structures to only be uninhabitable. He spoke in support of the language being added to proposed Ordinance No. 10-916 and for this meeting to constitute the first reading of the Ordinance.

Moved by Council Member Paulitz and seconded by Mayor Pro Tem Dutrey that Ordinance No. 10-916, entitled "**An Ordinance of the City Council of the City of Montclair Amending Chapters 11.02, 11.18, and 11.38 and Adding Chapter 11.19 to the Montclair Municipal Code (Accessory Structures in Single-Family Residential Zones)**," be read by number and title only, further reading be waived, this be declared its first reading, and that it be amended to add the following language to Section 11.19.030:*

M. Before obtaining a building permit for an accessory structure, the property owner shall file with the County Recorder a deed restriction, which has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner stating:

1. The specific use(s) for which the accessory structures may be used.
2. That the accessory structures may not be converted to another use (including a Second Dwelling Unit) without review and approval by the City.
3. The restrictions shall be binding upon any successors or assigns in ownership of the property, and lack of compliance may result in legal action against the property owner.

Council Member Ruh inquired as follows:

1. Would an estate zone property owner be able to build a stable in the vicinity of an adjoining neighbor's accessory structure?

Director of Community Development Lustro replied that the stable would be permitted provided the accessory structure criteria is met as well as R-1(20) Zone requirements governing the housing of large animals. He added that no additional separation would be required from an uninhabitable accessory structure.

2. Would a homeowner having a second dwelling unit on his estate lot have a separation issue with building a stable?

Director of Community Development Lustro answered, "Yes, he/she would be subject to those requirements."

Council Member Ruh reiterated his concern on behalf of estate zone homeowners being restricted on developing their lots and again suggested this item be continued to the October 18, 2010 regular joint meeting.

Council Member Paulitz clarified that the proposed Ordinance relates to uninhabited accessory structures and not second dwelling units, noting the possibility of revisiting the Second Dwelling Unit Ordinance if it becomes necessary. He expressed his opinion that this item not be continued.

Mayor Pro Tem Dutrey further clarified that this issue is separate from the Second Dwelling Unit Ordinance that has already been adopted, adding that the proposed Code amendment could always be revisited in the future if the need presents itself.

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

First Reading of Ordinance No. 10-916 was unanimously adopted by the following vote:

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

Council Member Ruh expressed his concern about deed restricting an accessory structure.

Mayor Pro Tem Dutrey emphasized that the deed restriction language offers protection to property owners, future property owners, and surrounding neighbors.

Council Member Ruh reiterated his concern regarding deed restricting accessory structures.

Council Member Paulitz expressed his understanding that the Council was in agreement about including the deed restriction language to preclude major accessory units from being inhabited.

Discussion took place related to the need for staff to review plans for conversion of accessory structures to other uses.

B. Second Reading – Ordinance No. 10-917 Adding Chapter 6.26 to Title 6 of the Montclair Municipal Code Related to the Splash Pad at Alma Hofman Park

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 10-917 adding Chapter 6.26 to Title 6 of the Montclair Municipal Code related to the Splash Pad at Alma Hofman Park 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 Mayor Pro Tem Dutrey and seconded by Council Member Ruh that Ordinance No. 10-917, entitled "**An Ordinance of the City Council of the City of Montclair Adding Chapter 6.26 to Title 6 of the Montclair Municipal Code Related to the Splash Pad at Alma Hofman Park,**" be read by number and title only, further reading be waived, and this be declared its second reading.

The City Council unanimously waived the reading of the Ordinance.

Second Reading of Ordinance No. 10-917 was unanimously adopted by the following ROLL CALL vote:

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

VIII. CONSENT CALENDAR

Moved by Mayor Pro Tem/Vice Chairman Dutrey, seconded by Council Member/Director Paulitz, 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 September 20, 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 September 20, 2010.

B. Administrative Reports

2. Acceptance of Grant Deed No. 1659, an Easement for Construction, Reconstruction, Maintenance, and Use of Public Street and Appurtenances for a Parcel Located at 4910 Howard Street

The City Council accepted Grant Deed No. 1659, an easement for construction, reconstruction, maintenance, and use of public street and appurtenances for a parcel located at 4910 Howard Street.

3. Adoption of Expenditure Plan for Use of Proposition 18 Funds During Fiscal Year 2010-11

The City Council adopted an Expenditure Plan for use of Proposition 18 funds during Fiscal Year 2010-11 for street rehabilitation on Mills Avenue between Kingsley and Benito Streets.

4. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated October 4, 2010, totaling \$2,946,650.97 and the Payroll Documentation dated August 1, 2010, amounting to \$629,167.27, with \$452,989.50 being the total cash disbursement.

C. Agreements - None

D. Resolutions

1. Adoption of Resolution No. 10-2863 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges

The City Council adopted Resolution No. 10-2863 authorizing placement of liens on the 198 properties listed on Exhibit A to the Resolution for delinquent sewer and trash charges.

IX. PULLED CONSENT CALENDAR ITEMS

B. Administrative Reports

1. Approval of Parcel Merger No. 2010-1 for Three Parcels Located at 10543 Mills Avenue

Acceptance of Grant Deed No. 1658, an Easement for Construction, Reconstruction, Maintenance, and Use of Public Streets and Appurtenances for One of These Three Parcels Located at 10543 Mills Avenue

Noting he did not have a chance to drive by the site over the weekend, Mayor Pro Tem Dutrey asked if it has been cleaned up.

City Manager Starr answered, "Yes, sir, it has."

Moved by Mayor Pro Tem Dutrey, seconded by Council Member Paulitz, and carried unanimously that the City Council take the following actions:

- (a) Approve Parcel Merger No. 2010-1 for three parcels located at 10543 Mills Avenue.
- (b) Accept Grant Deed No. 1658, an easement for construction, reconstruction, maintenance, and use of public streets and appurtenances for one of these three parcels located at 10543 Mills Avenue.

X. RESPONSE

A. Adding Stricter Regulations to Ordinance No. 10-916 Related to Accessory Structures to Single-Family Residential Zones

It was the consensus of the Council to receive and file the report on adding stricter regulations to Ordinance No. 10-916 related to accessory structures to single-family residential zones.

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel - No comments

B. City Manager/Executive Director

1. City Manager/Executive Director Starr gave a report in response to **Mr. Agrella's** concerns at the last meeting and earlier this evening regarding traffic safety at the intersections of Grand Avenue/Ramona Avenue and Howard Street/Ramona Avenue. He advised that in an accident survey conducted by City Engineer Hudson over the last two years, there were only three accidents at the Grand Avenue/Ramona Avenue intersection: in one, the subject left the scene; in the other two, the accidents occurred at midnight and both subjects were unfamiliar with the intersection. He noted there were only two reported accidents at the Howard Street/Ramona Avenue intersection: in both cases, the subjects were broadsided by oncoming vehicles during daylight hours after making a complete stop; though in one case, the subject had been drinking and speeding.

City Manager Starr advised that the City does not consider an intersection to have a safety issue until there are five reported accidents in a year, noting the subject intersections do fall well below that criterion.

C. Mayor/Chairman

1. Mayor/Chairman Eaton noted hearing on the news that the **City of San Diego** is in as dire straits as the **City of Bell** regarding its retirement program. He asked if staff could provide the City Council with a report on **San Diego's** retirement program dilemma.

City Manager Starr answered, "I certainly will; however, I will let you know at this point in time that the problem with the **City of San Diego's** pension program has been ongoing for at least five years. It's something they've been looking at long term. They've known that they are facing a serious problem regarding their pension costs. I think that it is just a repeat of old news that is being exacerbated by the fact that they're actually realizing an impact from costs at this point in time because of the rise in actual number of individuals who are retiring from the **City of San Diego**. The baby boomer generation is now reaching that point where they are going into retirement, and the **City of San Diego** is up front and center in realizing the cost impacts."

Mayor Eaton thanked City Manager Starr for the report.

Council Member Ruh noted Montclair was one of the first cities in the state that planned and provided for a fiscally sound pension program.

City Manager Starr advised that "the City migrated the public safety personnel new hires after June 27, 2005, to the 3 percent at 55 retirement plan and the general employees were migrated this year to the 2 percent at 60 retirement plan. To my knowledge, when we did that for both of our public and general employees, the City of Montclair was the only city in the state that successfully negotiated a reversal of our pension plans for both employee groups. It appears there are a number of cities in the state that are actually improving their pension plans at this point, and if they haven't already done so, they will in the next year or so. It is an interesting point that despite all the publicity regarding public employee pensions, few cities have actually made that effort to reduce those costs. It appears the others are waiting for state action to address the problem for them."

D. City Council/Agency Board

1. Council Member/Director Paulitz commented as follows:
 - (a) He noted he is wearing a "Yes on 22" campaign button and encouraged a "Yes" vote on **Proposition 22, the Local Taxpayer, Public Safety, and Transportation Act of 2010**. Noting the voters approved two similar initiatives in the past that unfortunately contained loopholes, he expressed his hope that **Proposition 22** passes to prohibit the state from shifting, borrowing, restricting the use of, or even taking local property, hotel, parcel, utility, and sales taxes and redevelopment funding, which will force the state to "work within the means of its own revenues and not beg, borrow, or steal from the cities."
 - (b) He noted nine of his campaign signs have already been stolen during this political season, which he attributes to children's antics.
2. Mayor Pro Tem/Vice Chairman Dutrey commented as follows:
 - (a) He noted he is pleased to see Council Member Paulitz wearing his "Yes on 22" campaign button, though he noted being told by a politician that the state "will always find another loophole" to divert local funding to state coffers.

- (b) He noted the State Assembly last Thursday passed the main bill in a legislative package aimed at ending California's record budget impasse and closing a \$19 billion deficit, though no details of the new spending plan have been released to the public. He discussed the difference in budget-adoption procedures between cities and the state, noting Montclair's budget is posted for public review 72 hours before the City Council adopts it—typically two weeks before the July 1 deadline for the new fiscal year—pursuant to the **Ralph M. Brown Act**. He advised that the state budget is rumored to contain spending cuts and is dependent upon borrowing from other state funds and receiving \$5.3 billion from the federal government. He indicated the budget represents a delay tactic in addressing the current \$19 billion dollar deficit, which promises to be even greater next year.
 - (c) Noting he was, unfortunately, unable to attend the Montclair Community Collaborative's (MCC's) 14th anniversary celebration last Monday afternoon, he commended the organization for all the great things it has done for Montclair.
 - (d) He noted staff's attendance at the **International Council of Shopping Centers** Western Division Conference in San Diego two weeks ago and that a meeting with **General Growth Properties (GGP)** went very well. He expressed his hope that **GGP** is able to effectively come back from its bankruptcy reorganization and continue the much-needed improvements to the **Montclair Plaza**.
 - (e) He commended Redevelopment Agency staff on its annual publication of the very informative **Foundations** newsletter that is given to all Foundation Area apartment house owners.
 - (f) He reported crime statistics that show a marked decrease in calls for service, arrests, and serious Part 1 crime levels in Montclair over a three-year period, which he attributed to our "great Police Department that ensures we have a safe community."
3. Council Member/Director Ruh commented as follows:
- (a) He noted he was also unable to attend the MCC anniversary because his full-time job prevents him from attending many midweek events. He noted it might be a good idea to schedule these events in the evenings or on Saturdays.

- (b) He advised that the **Community Action Partnership of San Bernardino County (CAPSBC)** conducts free energy audits and weatherization of income-qualifying senior homeowners' and renters' homes. He noted at least three residents have used the **CAPSBC** Weatherization Program; one resident told him that during the excessive heat this summer, she noticed a significant drop in energy usage as a result of new insulation and an energy-efficient air conditioner provided by the program. He advised those interested in enrolling in the Weatherization Program to call Senior Citizens Program Specialist Pipersky at 625-9462.

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of September 20, 2010

The City Council received and filed the Personnel Committee meeting minutes of September 20, 2010, for informational purposes.

XII. COUNCIL/AGENCY WORKSHOP

E. Review of Financial Audit by Lance Soll & Lungard, LLP

It was the consensus of the Council to continue this item to an adjourned joint meeting on Monday, October 18, 2010, at 5:45 p.m. in the City Council Chambers.

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

At 7:59 p.m., Mayor/Chairman Eaton adjourned the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

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

Yvonne L. Smith
Deputy City Clerk