

**MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL AND
REDEVELOPMENT AGENCY AND MONTCLAIR
HOUSING CORPORATION BOARDS HELD ON
MONDAY, MAY 2, 2011, AT 7:01 P.M. IN THE
CITY COUNCIL CHAMBERS, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Pro Tem/Vice Chairperson Raft called the meeting to order at 7:01 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

Pastor Vicki Brobeck, Grace Fellowship Foursquare Church, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

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

IV. ROLL CALL

Deputy City Clerk/Agency Secretary Smith stated for the record that Mayor/Chairman Eaton is not in attendance at the meeting.

Present: Mayor Pro Tem/Vice Chairperson Raft; Council Members/Directors Paulitz, Dutrey, 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/ Agency Secretary Smith

Absent: Mayor/Chairman Eaton (excused)

V. PRESENTATIONS – None

VI. PUBLIC COMMENT

- A. Ms. Markisha Key-Hagan**, Project Coordinator, **West End Gangs and Drugs Task Force**, 1126 West Foothill Boulevard, Upland, invited the Council to the *2nd Annual Substance Abuse & Violence Policy Conference* to be held on June 14 and 15, 2011, at the **Ontario Convention Center** and gave the Council fliers regarding the conference, which will review policy options on preventing marijuana and prescription drug abuse and underage drinking as well as sexting, bullying, and gang activity.

VII. PUBLIC HEARINGS

- A. Adoption of Resolution No. 11-2896 Amending the Master User Fee Schedule to Incorporate Vehicle Impound Service Fees**

Mayor Pro Tem Raft declared it the time and place set for a public hearing to consider adoption of Resolution No. 11-2896 amending the Master User Fee Schedule to incorporate vehicle impound service fees and invited comments from the public.

Ms. Terry Jordan, Dietz Towing, Inc., 4773 Brooks Street, Suite A, Montclair, asked for a 30-day continuance on the public hearing based upon information discussed and questions asked by the Council during the adjourned joint meeting held earlier this evening.

Mr. Casey Horvath, Inland Empire Chapter President, **California Tow Truck Association (CTTA)**, 2125 Railroad Street, Corona, identified himself as the writer of correspondence to the City Council dated April 27, 2011, on this matter. He noted he is available to answer any questions the Council might have regarding issues from the perspective of towing companies, which he discussed in detail. He noted these companies and the **CTTA** desire to partner with the Police Department and the City for the betterment of all parties affected by the proposal this evening and concurred with **Ms. Jordan** that this item be continued.

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

Council Member Paulitz commented as follows:

1. He noted he inquired concerning the issues in **Mr. Horvath's** correspondence during the "pretty extensive" workshop held earlier this evening. Though he expressed his understanding of **Mr. Horvath's** concern of cities privatizing services, he stated that "we're doing the opposite." He described the City's unique situation with its proposed use of a Redevelopment Agency-owned lot adjacent to the Montclair Police headquarters as the site of the 30-day vehicle impound storage lot that would, in his opinion, be more convenient for the public because those affected would pick up their releases from the Police Department prior to obtaining their vehicles.
2. He stated that the City's intent in establishing a vehicle impound lot is simply to recover costs from removing drivers with invalid or undeterminable license status from the road for public safety purposes.
3. He noted there is no comparison between the proposed vehicle impound lot and the City's former Red Light Camera Enforcement Program, which ended up costing the City "a couple hundred dollars more than we ever collected." He advised that the program was abandoned for not being cost effective, which would also happen to the vehicle impound lot should that be the case.
4. After his careful consideration and review of the proposal, he spoke in support of going forward with this item.

As a former employee of the City of Upland, Council Member Dutrey noted he remembers when Upland implemented an impound lot, which "has worked very well" and remains in operation after 15 years. He stated that as pointed out by Council Member Paulitz, the subject Redevelopment Agency site is underutilized and already has many improvements in place. He expressed his opinion that "it makes sense for us to do this."

Council Member Ruh noted he, too, asked several questions during the workshop. He asked on behalf of the tow operators if they were included in the proposed vehicle impound lot planning process.

City Manager Starr stated, "This is a process that has transpired over the course of one-and-a-half years; it began in mid-2009. It was the City Council's direction at the time the subject was first addressed for staff to meet with the tow operators to negotiate some alternative terms that would create greater revenue sharing with the City. That effort was undertaken by the City; the tow operators did agree to certain terms but did not agree to the full range of terms that the City was seeking. We came back to the City Council with the information that we were directed to obtain, and the City Council last year did direct that we proceed with the process of opening a storage lot. We did undertake efforts to discuss this issue with the operators at that time. We do understand, of course, that in the case of Pacific Towing, at least, new operators are now in control of that particular business; and those owners do not feel, obviously, that they have been included in the process. That is only because this process occurred before their acquisition of the company. We have attempted to sit down with them and discuss with them the proposal that is before the City Council and how the process would work. Certainly, they do understand that they are not necessarily in agreement with it, which is, obviously, what we are seeing tonight. Nonetheless, we have made that effort; but we also agree that they were not part of the original discussion. It is unfortunate that the previous owner of Pacific Towing did not inform them that this was about to occur in the City, but we have proceeded.

"We are in the process of construction, and it's a little late in the game to reverse that action at this point in time. Perhaps, down the road, we can reopen negotiations with the tow companies and come to some other arrangements in which we would allow them to realize some additional savings; but I do think that in the long term, particularly pursuant to the Community Caretaker Doctrine required of cities by the federal Ninth Circuit Court of Appeals, we will probably see an increase level of tows in the community, which would mean that the tow operators will see additional related revenues and perhaps see a stabilization of revenues, bringing them back to the point they would otherwise be if the City were not operating its own storage lot."

Council Member Ruh expressed his understanding that tow companies are currently conducting lien sales, of which the City receives a percentage. He asked if staff has the expertise to conduct lien sales.

City Manager Starr answered, "It is a rather mechanical process directed by the California Department of Motor Vehicles; and if anything, it is merely an educational process. I do think we have the ability in house to handle the lien process."

Council Member Ruh thanked City Manager Starr for the information.

Council Member Dutrey recalled the Council's direction at the 2009 workshop on this subject for staff to negotiate a price with the tow companies rather than establish a storage lot; and it appears either the negotiations did not go well or they did not come to terms.

Moved by Council Member Dutrey and seconded by Council Member Paulitz that Resolution No. 11-2896, entitled, "**A Resolution of the City Council of the City of Montclair Amending the Master User Fee Schedule to Incorporate Vehicle Impound Services Fees,**" be read by number and title only, further reading be waived, and it be declared adopted to incorporate the following vehicle impound service fees:

Police Department Fee Schedule Changes

<i>Description</i>	<i>Proposed Fees</i>
Impounded Vehicle Towing	\$ 193 for vehicles with a gross vehicle weight rating under 14,000 pounds
Impounded Vehicle Towing	\$ 218 for vehicles with a gross vehicle weight rating of 14,001 to 19,501 pounds
Impounded Vehicle Storage	\$ 48 per day for vehicles less than 20 feet in length
Impounded Vehicle Storage	\$ 53 per day for vehicles greater 20 feet in length
Vehicle Lien Processing	\$ 70 for vehicles valued less than \$4,000
Vehicle Lien Processing	\$ 100 for vehicles valued greater than \$4,000

The City Council waived the reading of the Resolution.

Resolution No. 11-2896 was adopted by the following vote:

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

B. Adoption of Resolution No. 11-2897 Adjusting the Equivalent Dwelling Unit Monthly Fee for Sewer Service

Mayor Pro Tem Raft declared it the time and place set for a public hearing to consider adoption of Resolution No. 11-2897 adjusting the equivalent dwelling unit (EDU) monthly fee for sewer service and invited comments from the public.

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

Council Member Paulitz pointed out a correction in the agenda report that the effective date of the total proposed EDU rate of \$16.97, which includes a 5 percent surcharge, would be July 1, 2011.

Moved by Council Member Paulitz and seconded by Council Member Dutrey to adopt Resolution No. 11-2897, entitled, "**A Resolution of the City Council of the City of Montclair Adjusting the Equivalent Dwelling Unit Monthly Fee for Sewer Service,**" be read by number and title only, further reading be waived, and it be declared adopted.*

Council Member Dutrey inquired as follows:

1. Which agency would receive the proposed \$0.18 increase in the City Sewer Maintenance fee?

City Manager Starr stated that the increase recommended this evening would be deposited into the City Sewer Maintenance Fund for maintenance-related services.

2. How much would that be?

City Manager Starr answered, "Approximately \$77,000 annually."

*The City Council waived the reading of the Resolution.

Resolution No. 11-2897 was adopted by the following vote:

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

C. Second Reading – Adoption of Ordinance No. 11-921 Amending Chapter 9.02 and Replacing Section 9.20.700 of the Montclair Municipal Code Related to the City Community Sewer System and Certain Water-Softening Devices

Mayor Pro Tem Raft declared it the time and place set for a public hearing to consider adoption of Ordinance No. 11-921 amending Chapter 9.20 and replacing Section 9.20.700 of the Montclair Municipal Code related to City Community Sewer System and certain water-softening devices and invited comments from the public.

City Manager Starr clarified that an additional second reading of Ordinance No. 11-921 is being conducted this evening in the City's effort to comply with Water Code Section 13148 to allow for an additional 30 days before the Ordinance becomes effective.

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

Moved by Council Member Paulitz and seconded by Council Member Dutrey to adopt Ordinance No. 11-921, entitled, "**An Ordinance of the City Council of the City of Montclair Amending Chapter 9.20 and Replacing Section 9.20.700 of the Montclair Municipal Code Related to the City Community Sewer System and Certain Water-Softening Devices,**" be read by number and title only, further reading be waived, and this be declared its second reading.

The City Council waived the reading of the Ordinance.

Second Reading of Ordinance No. 11-921 was adopted by the following ROLL CALL vote:

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

VIII. CONSENT CALENDAR

Council Member Dutrey requested that Item C-1 be removed from the Consent Calendar for comment.

Moved by Council Member/Director Dutrey, seconded by Council Member/Director Paulitz, and carried to approve the following Consent Items as presented:

A. Approval of Minutes

1. Minutes of the Regular Joint Council/Agency Board/MHC Board Meeting of April 18, 2011

The City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors approved the minutes of the April 18, 2011 regular joint meeting.

B. Administrative Reports

1. Setting a Public Hearing to Consider Adoption of Resolution No. 11-2901 Approving a Precise Plan of Design to Allow a Multiple-Family Residential Development With a Density Bonus Pursuant to Chapter 11.85 of the Montclair Municipal Code

The City Council set a public hearing for Monday, May 16, 2011, at 7:00 p.m. in the City Council Chambers to consider adoption of Resolution No. 11-2901 approving a Precise Plan of Design to allow a multiple-family residential development with a Density Bonus pursuant to Chapter 11.85 of the Montclair Municipal Code.

2. Setting a Public Hearing to Consider Adoption of Ordinance No. 11-922 Replacing Section 8.32.010 of the Montclair Municipal Code Pertaining to Maximum Speed Limits in the City

The City Council set a public hearing for Monday, May 16, 2011, at 7:00 p.m. in the City Council Chambers to consider adoption of Ordinance No. 11-922 replacing Section 8.32.010 of the Montclair Municipal Code pertaining to maximum speed limits in the City.

3. Declaring Unclaimed Bicycles in Police Custody as Surplus and Available for Donation to the California Institution for Women

The City Council declared the unclaimed bicycles in Police custody listed on the attachment to this agenda report as surplus and available for donation to the California Institution for Women.

4. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated May 2, 2011, totaling \$1,120,808.19; and the Payroll Documentation dated March 13, 2011, amounting to \$577,674.26, with \$407,610.92 being the total cash disbursement.

C. Agreements

2. Redevelopment Agency Board of Directors' Award of a Contract to Gentry Brothers, Inc., in the Amount of \$142,499

Approval of *Agreement No. 11-50*, With Gentry Brothers, Inc., for the Mission Boulevard Improvement Phase 10 Storm Drain Project

Authorization of a \$15,000 Construction Contingency

The Redevelopment Agency Board took the following actions related to the Mission Boulevard Improvement Phase 10 Storm Drain Project:

- (a) Awarded a contract to Gentry Brothers, Inc., in the amount of \$142,499.
 - (b) Approved *Agreement No. 11-50* with Gentry Brothers, Inc.
 - (c) Authorized a \$15,000 construction contingency.
3. **Award of a Contract to Gentry Brothers, Inc., in the Amount of \$892,340**

Approval of *Agreement No. 11-51* With Gentry Brothers, Inc., for the Mills Avenue Rehabilitation Project

Authorization of a \$90,000 Construction Contingency

The City Council took the following actions related to the Mills Avenue Rehabilitation Project:

- (a) Awarded a contract to Gentry Brothers, Inc., in the amount of \$892,340.
- (b) Approved *Agreement No. 11-51* with Gentry Brothers, Inc.
- (c) Authorized a \$90,000 construction contingency.

D. Resolutions

1. **Adoption of Resolution No. 11-2898 Adopting the City's Local Hazard Mitigation Plan Update, Authorizing Future Nonsubstantive Amendments to the Plan, Authorizing All Duties Required to Carry Out the Plan, and Adopting the Plan Into the Safety Element of the City's General Plan**

The City Council adopted Resolution No. 11-2898 adopting the City's Local Hazard Mitigation Plan update, authorizing future nonsubstantive amendments to the Plan, authorizing all duties required to carry out the Plan, and adopting the Plan into the Safety element of the City's General Plan.

2. **Adoption of Resolution No. 11-2899 Amending the Fiscal Years 2010/2015 Measure I Five-Year Capital Improvement Program**

The City Council adopted Resolution No. 11-2899 amending the Fiscal Years 2010/2015 Measure I Five-Year Capital Improvement Program.

3. **Adoption of Resolution No. 11-2900 Authorizing Implementation of Provisions of Section 414(h)(2) of the Internal Revenue Code for the Public Employees' Retirement System Employer Pickup**

The City Council adopted Resolution No. 11-2900 authorizing implementation of provisions of Section 414(h)(2) of the Internal Revenue Code for the Public Employees' Retirement System employer pickup.

4. **Adoption of Resolution No. 11-2902 Rescinding Resolution No. 10-2859 Designating Restricted Parking on Public Streets**

The City Council adopted Resolution No. 11-2902 rescinding Resolution No. 11-2859 designating restricted parking on public streets.

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

1. Approval of *Agreement No. 11-49 With Chaffey Joint Union High School District for Law Enforcement Services During Fiscal Year 2011-12*

Council Member Dutrey asked if the impending adoption of the Fiscal Year 2011-12 state budget would affect the Chaffey Joint Union High School District's ability to provide the \$64,000 funding for the Safe School Zone Officer.

City Manager Starr advised that the District's funding for the subject purpose would not be affected by next fiscal year's state budget, though the federal Community Oriented Policing Services Funding Accelerated for Smaller Towns (COPS FAST) grant is questionable.

Moved by Council Member Dutrey, seconded by Council Member Ruh, and carried that the City Council approve *Agreement No. 11-47* with the Chaffey Joint Union High School District for law enforcement services during Fiscal Year 2011-12.

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel - No comments

B. City Manager/Executive Director - No comments

C. Mayor/Chairman - Absent

D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairperson Raft noted her enjoyment in attending the fun-filled 30th Annual Volunteer Recognition Dinner last Tuesday. She stated that it is just "phenomenal" how much money our volunteers save the City each year.

2. Council Member/Director Paulitz commented as follows:

(a) He likewise noted he very much enjoyed attending the Volunteer Recognition Dinner. He noted it was "really great" to see all the volunteers at the dinner. He concurred with Mayor Pro Tem Raft about our volunteers' service to the City, stating, "I don't think you could have enough staff to do the job that they do."

(b) He commented as follows on the ongoing debate at the state level regarding redevelopment:

(1) He noted he maintains his position in support of redevelopment reform over a 10- to 20-year period in lieu of abolishment of redevelopment agencies.

(2) He stated that the **Wall Street Journal** continues to misconstrue the *Kelo v. City of New London* decision on eminent domain with redevelopment in California. He stated, "I wish someone would straighten them out as to the difference."

3. Council Member/Director Dutrey commented as follows:
- (a) He noted his attendance last Thursday and Friday at the *27th Annual City-County Conference* in Lake Arrowhead at which, among other topics, the County Vision Project was discussed. He advised that Council Members would receive a copy of the Vision Elements from the plan in their mailboxes. He added that the Council will also find an invitation to the **San Bernardino Associated Governments** 1st Annual General Assembly Reception on Thursday, June 30, 2011, to be held at the **Maloof Foundation for Arts & Crafts**, 5131 Carnelian Street, Alta Loma, at which the County Vision Project would be adopted. He advised that the purpose of the project was to create a vision for the future of the entire County—to give the County a better identify of who we are and what we have to offer.
 - (b) He noted he learned quite a bit about potential disasters in his review of the City's updated Hazard Mitigation Plan. He commended staff for its work to update the comprehensive plan.
 - (c) He noted he would, unfortunately, be unable to attend the annual *Reserve Police Officer Awards Recognition Ceremony and Reception* on May 14, 2011, because he will be attending his daughter Janine's first communion. He apologized to Police Chief Jones for being unable to attend.
 - (d) He noted it has been quiet at the state level regarding **Governor Brown's** proposal to eliminate redevelopment agencies. He discussed the following redevelopment reform legislation:
 - (1) **SB 236 – Redevelopment (Wright):** Supported by the **California Redevelopment Association (CRA)**, the legislation would, until January 1, 2013, prohibit the legislative body of a city or county from adopting an ordinance to adopt or amend a redevelopment plan, impose new requirements on the agency with respect to implementation plans and evidentiary standards, and expand existing prohibitions on agency direct assistance to certain projects. A review hearing on the proposed legislation will be held on May 3, 2011.
 - (2) **SB 450 – Redevelopment (Lowenthal):** Also supported by the **CRA**, the legislation would require redevelopment agencies to include additional information related to any major audit violations, any corrections to those violations, and planning and general administrative expenses of the Low to Moderate Income Housing Fund.

Council Member Dutrey asked that staff prepare a Resolution in support of **SB 236** and **SB 450** once the legislation receives the support of both the **CRA** and the **League of California Cities**.

Council Member Dutrey expressed his understanding that the State Legislature is waiting for the May budget revisions to determine the status of the state's revenues and expenditures, at which time cities should hear if the Governor or Legislature will

move forward with elimination of redevelopment agencies or if there will be a compromise with the CRA in addition to adoption of SB 236 and SB 450 for redevelopment reform.

- (e) He recognized Mayor Pro Tem Raft for her efforts to chair the regular joint meetings in the Mayor's absence.
4. Council Member/Director Ruh commented as follows:
- (a) He also noted his attendance at the "well done" Volunteer Recognition Dinner last week. He noted it is good for the City to honor our volunteers who spend many hours serving the residents in the community. He advised that not all of our volunteers are residents—many are residents of other communities and volunteer here because of ties to family or the community or, as one volunteer told him, because "it's just a friendly place to volunteer." He stated, "That says a lot for our community."
 - (b) He noted his attendance at the City's Easter Eggstravaganza and Pancake Breakfast on April 23, 2011, in the Community Center. He thanked Human Services Division staff for facilitating the event and the Police and Fire Department for helping out. He noted it was a fun-filled day for everyone who attended, especially the children who were very excited to see the Easter Bunny.
 - (c) He noted his attendance last Friday at a **Citizens Redistricting Commission** public hearing at the **San Gabriel Playhouse** which served to gather input from residents about the proposals on how new **California Senate, Assembly,** and federal **Congressional** lines will be redrawn. He noted the hearing ran rather long because many the speakers had no understanding of the **Commission's** purpose. He noted his concurrence with comments made by several speakers who discussed the need to look at commonality of interests based on economics, spheres of influence, and regional transportation projects. He noted many of the other speakers were more self serving as they discussed drawing "tortured" lines, the likes of which the **Commission** has no interest. He stated that the **Commission** is interested in having districts that are compact and have some sort of commonality of interests from a regional perspective.
 - (d) He noted the **San Bernardino County Department of Behavioral Health** deployed volunteer teams earlier in the year to count the number of homeless persons for the 2011 biennial **Point In Time Count** and to provide the sheltered and unsheltered homeless with personal necessities and inform them about available resources. He advised that the official **County Board of Supervisors** homeless report indicates there are presently a little over 500 homeless individuals in the County, noting the count seems questionable because according to the school districts and the **McKinney-Vento Homeless Act**, there are 32,000 homeless students in the County. He noted being told by an employee of the **San Bernardino County Government Center** "that we have to worry about our image" to which he responded, "Our image isn't important. What's important is getting the help to individuals who need it." He noted he would

urge the **Board of Supervisors** to take another look at the school district count of homeless students so something could be done on their behalf. He stated, "Some of these students are being unfairly punished because of their situations."

- (e) He noted he is pleased with the redevelopment reform bills discussed by Council Member Dutrey, which reflect what he stated earlier in the year about "offering the reform that we would like to see happen." He noted **SB 236** and **SB 450** introduced by respective **Senators Wright** and **Lowenthal** propose reforms "that cities can actually live with, and that's going to be very important."
- (f) He recognized Police Department staff for the time and effort involved in developing tonight's workshop presentation on a Police Department-operated vehicle impound storage lot.

E. Committee Meeting Minutes

1. Minutes of Public Works Committee Meeting of February 17, 2011

The City Council received and filed the Public Works Committee meeting minutes of February 17, 2011, for informational purposes.

2. Minutes of Personnel Committee Meeting of April 18, 2011

The City Council received and filed the Personnel Committee meeting minutes of April 18, 2011, for informational purposes.

Mayor Pro Tem Raft announced that there is one vacancy on the Planning Commission for a four-year term to expire June 30, 2015. She noted applications are available at all City offices and will be accepted until 5:30 p.m. on Thursday, May 26, 2011.

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

At 7:40 p.m., Mayor Pro Tem/Vice Chairperson Raft 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