

MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL AND
REDEVELOPMENT AGENCY AND MONTCLAIR
HOUSING CORPORATION BOARDS HELD ON
MONDAY, JUNE 6, 2011, AT 7:00 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 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

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

IV. ROLL CALL

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

V. PRESENTATIONS - None

VI. PUBLIC COMMENT - None

At this time, City Manager Starr requested that Section VIII, "Consent Calendar," Item C-1, "Approval of *Agreement No. 11-57*, Superseding *Agreement No. 93-6* and All Amendments Thereto, Between the City of Montclair and Burrtec Waste Industries, Inc., (Vendor) and Granting Vendor an Exclusive Franchise for Solid Waste Management Services; Authorization for Conversion to Automated Residential Greenwaste Collection Program," be continued to the July 18, 2011 regular joint meeting because Burrtec Waste Industries, Inc., has made significant changes to the Agreement since publication of the agenda.

VII. PUBLIC HEARINGS

A. Second Reading - Adoption of Ordinance No. 11-922 Replacing Section 8.32.010 of the Montclair Municipal Code Pertaining to the Maximum Speed Limit in the City

Mayor Eaton declared it the time and place set for a public hearing to consider adoption of Ordinance No. 11-922 replacing Section 8.32.010 of the Montclair Municipal Code pertaining to the maximum speed limit in the City 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.

Mayor Eaton asked on behalf of a resident the reason for the proposed changes to certain speed limits.

City Manager Starr advised that the City is periodically required to conduct traffic-engineered speed surveys including an analysis of roadway conditions, accident records, and a sampling of prevailing speed of traffic using radar to determine realistic speed limits pursuant to a process set forth in the California Vehicle Code. He added that at times there are extenuating circumstances that, despite the results of the survey, would cause the City Engineer to recommend remaining at and, in some cases, reducing existing speed limits.

Council Member Dutrey stated that it is important to note that the recommended increases in certain speed limits do not necessarily mean that safety would be compromised. He noted a major part of the studies performed is to ensure that safety remains a high priority.

Moved by Council Member Dutrey and seconded by Mayor Pro Tem Raft that Ordinance No. 11-922, entitled, "**An Ordinance of the City Council of the City of Montclair Replacing Section 8.32.010 of the Montclair Municipal Code Related to Maximum Speed Limits,**" 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 Resolution.

Second Reading of Ordinance No. 11-922 was unanimously adopted by the following vote:

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

VIII. CONSENT CALENDAR

City Manager Starr requested that Items B-1, B-2, and D-1 be removed from the Consent Calendar for comment.

Council Member Ruh disclosed for the record that as a gubernatorial appointee to the California Regional Water Quality Control Board, Santa Ana Region, he need not disqualify himself from voting on Item C-3, "Approval of *Agreement No. 11-59* Authorizing the City Manager to Sign Engagement Letter With Burhenn & Gest LLP for Filing Test Claim With Commission on State Mandates Concerning the 2010 National Pollutant Discharge Elimination System MS4 Permit (Regional Board Order No. R8-2010-0036/NPDES Permit No. CAS618036)," because doing so would not materially enhance him in any way.

Moved by Council Member/Director Dutrey, seconded by Mayor Pro Tem/Vice Chairperson Raft, and carried unanimously to approve the following Consent Items as presented, noting the earlier continuance of Item C-1 to the June 20, 2011 regular joint meeting:

A. Approval of Minutes

1. Minutes of the Regular Joint Council/Agency Board/MHC Board Meeting of May 16, 2011

The City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors approved the minutes of the May 16, 2011 regular joint meeting.

B. Administrative Reports

3. Authorization to Receive \$3,018 From the Homeland Security Grant Program for Purchase of DuoDote Auto-Injectors and Training Simulators

Authorization of a \$3,018 Appropriation From the Contingency Account to Purchase 60 DuoDote Auto-Injectors and Training Simulators From Meridian Medical Technologies

The City Council authorized the following related to purchase of DuoDote auto-injectors and training simulators:

- (a) The Fire Department to receive \$3,018 from the Homeland Security Grant Program for purchase of the equipment.
- (b) A \$3,018 appropriation from the Contingency Account for purchase of the equipment from Meridian Medical Technologies.

4. Declaring 14 Motorola MTS Portable Radios as Surplus and Available for Trade-In to San Bernardino County Communications for Current Radio Accessories

The City Council declared 14 Motorola portable radios as surplus and available for trade-in to San Bernardino County Communications for current radio accessories.

5. Receiving and Filing Alcoholic Beverage Permit Transfer - Theo's Café

The City Council received and filed Mr. Johnny Paul Blane Amaro's request of the California Department of Alcoholic Beverage Control to transfer the existing Type 41 - "On-Sale Beer and Wine" Alcoholic Beverage License into his name, thereby allowing him to continue the service of beer and wine in conjunction with prepared meals at Theo's Café, 9197 Central Avenue, Suite J, Montclair, California.

6. Receiving and Filing Alcoholic Beverage Permit Transfer - The Upsidedown Bar

The City Council received and filed the request of Mr. Dewitt Vercher III, representing Living S & G Inc., to have the California Department of Alcoholic Beverage Control (ABC) transfer the existing Type 48 - "On-Sale General Public Premises (Bar, Night Club)" Alcoholic Beverage License into the company's name, thereby allowing the continued service of beer, wine, and distilled spirits at the establishment that is currently known as "El Capo," 10555 Mills Avenue, Montclair, California. The subject site has been home to a bar and/or nightclub use since 1981, most recently known as "El Encanto" from 2007 through 2010 and "El Capo" from 2010 to present. "The Upsidedown Bar" will be the new name of the establishment once ABC approves the application.

7. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated June 6, 2011, totaling \$945,205.23; and the Payroll Documentation dated April 10, 2011, amounting to \$611,204.90, with \$425,586.82 being the total cash disbursement.

C. Agreements

2. **Approval of Agreement No. 11-58 With Carl Warren & Company for Liability Claims Administration**

The City Council approved *Agreement No. 11-58* with Carl Warren & Company for liability claims administration.

3. **Approval of Agreement No. 11-59 Authorizing the City Manager to Sign Engagement Letter With Burhenn & Gest LLP for Filing Test Claim With Commission on State Mandates Concerning the 2010 National Pollutant Discharge Elimination System MS4 Permit (Regional Board Order No. R8-2010-0036/NPDES Permit No. CAS618036)**

The City Council approved *Agreement No. 11-59* authorizing the City Manager to sign an engagement letter with Burhenn & Gest LLP for filing test claim with Commission on State Mandates concerning the 2010 National Pollutant Discharge Elimination System MS4 Permit (Regional Board Order No. R8-2010-0036/NPDE Permit No. CAS618036).

IX. PULLED CONSENT CALENDAR ITEMS

B. Administrative Reports

1. **Setting a Public Hearing to Consider Adoption of Resolution No. 11-2908 Amending the Fee Schedule for the Collection and Disposal of Residential Refuse**

City Manager Starr noted there is minimal change to this item related to the changes proposed to *Agreement No. 11-57* by Burrtec Waste Industries, Inc., that the City Council will consider at the June 20, 2011 regular joint meeting.

Moved by Council Member Dutrey, seconded by Mayor Pro Tem Raft, and carried unanimously that the City Council set a public hearing for Monday, June 20, 2011, at 7:00 p.m. in the City Council Chambers to consider adoption of Resolution No. 11-2908 amending the fee schedule for the collection and disposal of refuse.

2. **Setting a Public Hearing to Consider Ordinance No. 11-923 Adding Chapter 11.75 to Title 11 of the Montclair Municipal Code Related to Undergrounding Utilities**

City Manager Starr advised that there is a correction to the "Recommendation" section of the agenda report regarding the date requested for a public hearing on this item as follows:

"Staff recommends the City Council set a public hearing for Monday, June 20, 2011, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 11-922 adding Chapter 11.75 to Title 11 of the Montclair Municipal Code related to undergrounding of utilities."

It was the consensus of the City Council to set a public hearing for Monday, June 20, 2011, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 11-922 adding Chapter 11.75 to Title 11 of the Montclair Municipal Code related to the undergrounding of utilities.

D. Resolutions

1. Adoption of Resolution No. 11-2909 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges

City Manager Starr noted he inadvertently requested this item be removed from the Consent Calendar.

Moved by Council Member Dutrey, seconded by Council Member Paulitz, and carried unanimously that the City Council adopt Resolution No. 11-2908 authorizing placement of liens on the 208 properties contained in Exhibit A to Resolution No. 11-2909 for delinquent sewer and trash charges.

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel

1. Closed Session Pursuant to Section 54957.6 of the Government Code Regarding Conference With Designated Labor Negotiator

Agency: City of Montclair

*Employee Organizations: Management
Montclair Fire Fighters Association
Montclair Police Officers Association
San Bernardino Public Employees Association*

Deputy City Attorney Holdaway requested a Closed Session pursuant to Section 54957.6 of the Government Code on the above matter.

B. City Manager/Executive Director

1. City Manager/Executive Director Starr reminded the Council that the Preliminary Budget Review has been rescheduled to Thursday, June 16, 2011, at 6:30 p.m. in the City Council Chambers.

C. Mayor/Chairman

1. Mayor/Chairman Eaton noted he very much enjoyed attending the *Family Fun Festival* on Saturday, which drew a "great crowd." He thanked staff for the hard work involved in organizing and facilitating the event.

D. City Council/Agency Board

1. Council Member/Director Ruh commented as follows:

(a) He noted the Family Fun Festival was a phenomenal success with great weather and several thousand in attendance.

Mayor Eaton noted there were an estimated 2,800 persons at the event.

Council Member Ruh noted the event featured fun games, several food vendors, and opportunities for young and old alike to spend the day together. He thanked staff for working at the event from early in the morning until late in the evening—it is most appreciated.

- (b) He noted the Community Action Committee (CAC) Memorial Day 2011 flag-lowering ceremony at the Civic Center Memorial Garden was well attended and very moving. He thanked the CAC and staff for facilitating this meaningful event and the community for attending to honor those who served our country.
- (c) He noted today commemorates the 67th anniversary of **D-Day**, when 160,000 Allied troops landed along a 50-mile stretch of heavily-fortified French coastline to fight Nazi Germany on the beaches of Normandy, France, during **World War II**.

In memory of that courageous battle, Council Member Ruh recited the following excerpt from **Senator Robert F. Kennedy's** *Day of Affirmation* speech to members of the **National Union of South African Students** at the **University of Cape Town**, South Africa, on June 6, 1966 (it is one of **Senator Kennedy's** most noted speeches):

*...Few will have the greatness to bend history; but each of us can work to change a small portion of the events, and in the total of all these acts will be written the history of this generation. Thousands of Peace Corps volunteers are making a difference in the isolated villages and the city slums of dozens of countries. Thousands of unknown men and women in Europe resisted the occupation of the Nazis and many died, but all added to the ultimate strength and freedom of their countries. It is from **numberless diverse acts of courage** and belief such as these that human history is thus shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope; and crossing each other from a million different centers of energy and daring, those ripples build a current which can sweep down the mightiest walls of oppression and resistance.*

Council Member Ruh emphasized that the British, French, and American soldiers—all different races, many different religions, all different backgrounds—knew that it would take "numberless diverse acts of courage" to rid the world of evil as they battled against Nazi oppression on that French coastline in 1944.

Council Member Ruh noted **Senator Kennedy** gave his *Day of Affirmation* speech two years before his 1968 presidential campaign, which sadly came to an end when he was assassinated on June 5, 1968, in Los Angeles.

Council Member Ruh stated that no matter one's political beliefs, "we can all learn that democracy isn't achieved by the end of a gun; democracy begins at the ballot box. That's the way to handle our differences. I think it is worthy of all of us to always take a moment to reflect on all those who led our country, in good times and in bad times, whether we have agreed or disagreed with them—because one could only hope that there's a bit of that courage from **D-Day** that will carry through for all of us."

2. Council Member/Director Dutrey commented as follows:

- (a) He noted Mayor Eaton's and his attendance at the **International Council of Shopping Centers RECon** trade show May 22 through May 25, 2011, at the **Las Vegas Convention Center**. He noted the annual event is attended by many of the major retailers, developers, and other companies involved in commercial ventures. He stated that while there, staff and he were encouraged at a meeting with representatives from **Cushman & Wakefield** (which manages the **Montclair Plaza** for new owner **CWCapital Asset Management LLC**) during which they were presented with a conceptual plan for improvements to the **Plaza** including an exterior revitalization, demolition of the **Macy's** building at the conclusion of the 2011 holiday season, and expansion of the original shopping center footprint to include a U-shaped outdoor lifestyle component and a four-to-five-story boutique hotel along Central Avenue below Moreno Street. He noted these improvements depend on the market and finding interested tenants; nonetheless, he was encouraged to meet with the **Cushman & Wakefield** representatives who foresee a positive future for our regional shopping center.
- (b) He noted Mayor Eaton's and his attendance on May 17, 2011, at the Fifth Annual *Online to College* graduation ceremony. He acknowledged **Chaffey College's** participation in the program since 1998, providing free tuition to qualifying **Montclair High School (MHS)** graduates. He stated that 50 **MHS** graduates would be entering the program this fall, adding that it was nice to observe their excitement and that of their parents in anticipation of their moving on to a new chapter in their lives. He noted the graduates are being given opportunities of a lifetime and expressed his hope for their success in all their future endeavors. He advised that **Chaffey College** has added a new component to the program this year of giving *Online to College* students first priority in registering for classes.
- Council Member Dutrey noted Montclair is a pioneer in providing this and other excellent programs for our youth.
- (c) He recognized staff for all the hard work in organizing and facilitating the *Family Fun Festival* and Memorial Day ceremonies.
- (d) He noted Mayor Eaton's and his participation last Thursday at the grand opening of **Vista Del Cielo**, 10319 Mills Avenue, the third **National Community Renaissance** affordable housing project in San Antonio Gateway. He noted he is pleased with the revitalization in that area that will include a fourth project in the near future, the 18 special needs housing units.
- (e) He spoke in support of **AB 1250 (Alejo) - Redevelopment**, which increases the accountability and effectiveness of redevelopment in California, noting the bill was introduced by 15 cosponsors in the State Legislature. He noted he requested earlier that City Manager Starr include an item supporting the measure on the June 20, 2011 regular joint meeting agenda. He advised that Mayor Eaton has already signed letters to our local legislators in support of the measure.

3. Mayor Pro Tem/Vice Chairperson Raft commented as follows:
 - (a) She noted she enjoyed attending the Family Fun Festival, stating, "It was a good day—a fun day, lots of good food, and staff did such a good job, as usual. They really put it together."
 - (b) She noted she was pleased with the large attendance at the Memorial Day 2011 ceremony, advising that it grows larger every year.
4. Council Member/Director Paulitz commented as follows:
 - (a) He noted Council Member Dutrey and he will be interviewing seven applicants next Friday for the Planning Commission vacancy.
 - (b) He noted he was still in high school on **D-Day** and was drafted six months later. He stated that "to put things in perspective, we lost more [soldiers]—twice as many—in one day [in that battle] as we have lost in ten years in Afghanistan. So when people are antiwar and deprecate the fact that we are in Iraq and Afghanistan and that recently a few troops have been deployed to Libya, they should put things in perspective overall. For example, in the **Battle of Gettysburg**, we lost thousands and thousands of **Union** and **Confederate** soldiers in that three-day battle."
 - (c) He noted he enjoyed attending the "very nice" Family Fun Festival that was the "largest I ever thought it would be." He noted the City's booth received about thirty applications from persons interested in volunteering at the community garden currently in the planning stages.

E. Committee Meeting Minutes

1. Minutes of Public Works Committee Meeting of April 21, 2011

The City Council received and filed the Public Works Committee meeting minutes of April 21, 2011, for informational purposes.

2. Minutes of Personnel Committee Meeting of May 16, 2011

The City Council received and filed the Personnel Committee meeting minutes of May 16, 2011, for informational purposes.

XII. COUNCIL/AGENCY WORKSHOP

A. Preliminary Budget Review

Moved by Mayor/Chairman Eaton, seconded by Council Member/Director Raft, and carried unanimously to continue this item to an adjourned joint meeting on Thursday, June 16, 2011, at 6:30 p.m. in the City Council Chambers.

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

At 7:25 p.m., Chairman Eaton adjourned the Redevelopment Agency Board of Directors to Thursday, June 16, 2011, at 6:30 p.m. in the City Council Chambers.

At 7:25 p.m., Chairman Eaton adjourned the Montclair Housing Corporation Board of Directors.

At 7:25 p.m., the City Council went into Closed Session regarding anticipated litigation pursuant to Government Code Section 54956.9 and conference with designated labor negotiator pursuant to Government Code Section 54957.6.

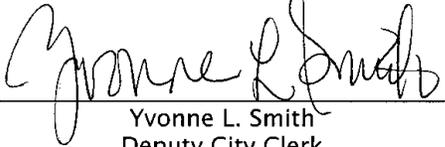
XIV. CLOSED SESSION ANNOUNCEMENTS

At 8:27 p.m., the City Council returned from Closed Session. Mayor Eaton announced that the City Council met in Closed Session regarding labor negotiations, information was received and direction given to staff, and no further announcements would be made at this time.

XV. ADJOURNMENT OF CITY COUNCIL

At 8:28 p.m., Mayor Eaton adjourned the City Council to Thursday, June 16, 2011, at 6:30 p.m. in the City Council Chambers.

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



Yvonne L. Smith
Deputy City Clerk