

**MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL AND
REDEVELOPMENT AGENCY AND MONTCLAIR
HOUSING CORPORATION BOARDS HELD ON
MONDAY, AUGUST 15, 2011, AT 7:02 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 7:02 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 Larry Brazier, Morningstar Christian Church, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Mayor Pro Tem/Vice Chairperson Raft led those assembled in the Pledge.

IV. ROLL CALL

Deputy City Clerk/Agency Secretary Smith noted for the record that Council Member/Director Paulitz is not in attendance at the meeting.

Present: Mayor/Chairman Eaton; Mayor Pro Tem/Vice Chairperson Raft; Council Members/Directors 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; Deputy City Attorney/Agency Counsel Holdaway; Deputy City Clerk/Agency Secretary Smith

Absent: Council Member/Director Paulitz (excused)

V. PRESENTATIONS - None

VI. PUBLIC COMMENT

A. Ms. Jennifer Nessler, Field Representative, Assembly Member Torres's District Office, 13160 7th Street, Chino, reiterated that **Assembly Member Torres** will conduct a *Mortgage and Foreclosure*

Fraud Awareness Workshop on Saturday, August 27, 2011, from 8:30 a.m.-12:30 p.m. at the **Ontario Police Department** Community Room, 2500 South Archibald Avenue, Ontario. She advised that presentations will be given on impacts of foreclosure fraud, reverse mortgage fraud and other fraud against seniors, and foreclosure prevention.

Mayor Eaton thanked **Ms. Nessler** for the announcement.

- B. Ms. Markisha Key-Hagan**, Project Coordinator, **West End Gangs and Drugs Task Force**, 1126 West Foothill Boulevard, Upland, advised that her organization focuses on substance abuse prevention for youth and that she would be available at the conclusion of the meeting to assist anyone interested in learning more about the services provided by the **West End Gangs and Drugs Task Force**.

VII. PUBLIC HEARINGS

- A. First Reading – Adoption of Ordinance No. 11-925 Amending Section 8.32.010 of the Montclair Municipal Code Pertaining to Maximum Speed Limits on Mills Avenue**

Mayor Eaton declared it the time and place set for a public hearing to consider adoption of Ordinance No. 11-925 replacing Section 8.32.010 of Title 8 of the Montclair Municipal Code pertaining to maximum speed limits on Mills Avenue 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 Raft that Ordinance No. 11-925, entitled, "**An Ordinance of the City Council of the City of Montclair Amending Section 8.32.010 of Title 8 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 first reading.

The City Council waived the reading of the Ordinance.

First Reading of Ordinance No. 11-925 was adopted by the following vote:

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

B. Adoption of Resolution No. 11-2921 Declaring the City's Intention to Enact an Ordinance Whereby the City Shall Elect to Comply With and Participate in the Voluntary Alternative Redevelopment Program Contained in Part 1.9 of Division 24 of the California Health and Safety Code

First Reading - Adoption of Ordinance No. 11-926 Electing to Comply With and Participate in the Voluntary Alternative Redevelopment Program Contained in Part 1.9 of Division 24 of the California Health and Safety Code

Mayor Eaton declared it the time and place set for a public hearing to consider adoption of Resolution No. 11-2921 declaring the City's intention to enact an Ordinance whereby the City shall elect to comply with and participate in the Voluntary Alternative Redevelopment Program contained in Part 1.9 of Division 24 of the California Health and Safety Code and adoption of Ordinance No. 11-926 electing to comply with and participate in the Voluntary Alternative Redevelopment Program contained in Part 1.9 of Division 24 of the California Health and Safety Code 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.

Council Member Dutrey inquired as follows:

1. Would project funding in the current Redevelopment Agency Budget be impacted by the proposed \$3,619,042 remittance amount for Fiscal Year 2011-12 that would be required to be paid by the Agency to participate in the Voluntary Alternative Redevelopment Program?

Executive Director Starr advised that the Agency had planned for a number of projects in the North Montclair Downtown Specific Plan (NMDSP) site and that some of those projects might be delayed. He stated that it is Agency staff's opinion at this point that tax increment expected to be received this fiscal year would be sufficient to pay the required \$3.6 million remittance amount. He indicated that the financial impacts would more noticeably affect projects proposed in future years. He advised that current projects would continue should the City Council approve this item.

2. Will the funds budgeted in the current fiscal year still exist?

Director of Redevelopment/Public Works Staats stated that there will be some loss in funding, advising that the remittance amount would largely be paid with tax increment backfilled with existing taxable tax allocation bonds.

Council Member Dutrey received clarification that there would be a negative impact to some Agency projects in the NMDSP site. He asked if the Redevelopment Agency Budget would need to be revised at some future time.

Director of Redevelopment/Public Works Staats answered, "Yes, we would need to do that."

City Manager Starr stated that such an item would be presented to the Agency Board at midyear. He advised that the Agency could use Low- to Moderate-Income Housing funds to pay the remittance amount, though it is staff's understanding that the Legislature would most likely adopt "cleanup" legislation stipulating that use of Low- to Moderate-Income Housing funds would be a loan and could not be a permanent drawdown from the fund.

Council Member Dutrey reported that the California Supreme Court issued a stay last Thursday on newly enacted ABX1 26 and ABX1 27 and has agreed to hear the case filed by the California Redevelopment Association, the League of California Cities, and several redevelopment agencies challenging the legislation that dissolves redevelopment agencies effective October 1, 2011, unless local jurisdictions agree to make substantial payments to fund the state's other local government obligations. He noted the Supreme Court has set an expedited hearing schedule designed to facilitate a decision before January 15, 2012. He advised that the stay is a double-edged sword in that while the court could decide in favor of local governments concerning the constitutionality of ABX1 26 and ABX1 27, it also prevents redevelopment agencies from entering into any new agreements and obligations until a decision on the case is rendered.

Director of Redevelopment/Public Works Staats and City Manager Starr agreed that that is correct.

Director of Redevelopment/Public Works Staats noted staff discussed the matter with Agency Special Counsel today and that counsel has recommended the City Council take the actions proposed in this item even though the Agency will not be able to enter into any agreements with the City. She noted the remittance amount would not be due until January 2012.

City Manager Starr noted the following amendment to Section X, "Effective Date," of proposed Ordinance No. 11-926:

SECTION X. Effective Date.

This Ordinance shall be in full force and effect thirty (30) days after passage. This Ordinance shall be effective only upon a determination that the California

Supreme Court, or a court of competent jurisdiction, has made a final determination that ABX1 27 is valid and enforceable.

Council Member Dutrey asked if Section X, "Consent Calendar," Item D-1, "Consider Adoption of Resolution No. 11-13, a Resolution of the City of Montclair Redevelopment Agency Adopting an Enforceable Obligation Payment Schedule and Authorizing Its Transmission to the County of San Bernardino and State of California," of tonight's agenda relates to either ABX1 26 or ABX1 27.

City Manager Starr advised that the item recommending the Redevelopment Agency Board of Directors' adoption of an "Enforceable Obligation Payment Schedule" is a requirement of ABX1 26, advising that the statement includes the Montclair Redevelopment Agency's obligations required to be paid should the City Council elect to dissolve the Agency.

Council Member Dutrey advised that a proponent (who is most likely in partnership with the California Professional Firefighters and the California Teachers Association) of a proposed referendum measure to overturn ABX1 27 authorizing alternative redevelopment agencies is presently gathering signatures to qualify the measure for the next statewide ballot. He stated that "the battle's not over yet," emphasizing that "there are obviously very powerful special interest groups out there that want to see redevelopment agencies go away."

Moved by Council Member Dutrey and seconded by Council Member Ruh that Resolution No. 11-2921, entitled, "**A Resolution of the City Council of the City of Montclair Declaring Its Intention to Enact an Ordinance Whereby the City Shall Elect to Comply With and Participate in the Voluntary Alternative Redevelopment Program Contained in Part 1.9 of Division 24 of the California Health and Safety Code,**" be read by number and title only, further reading be waived, and it be declared adopted.

The City Council waived the reading of the Resolution.

Resolution No. 11-2921 was adopted by the following vote:

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

Moved by Council Member Dutrey and seconded by Mayor Pro Tem Raft that Ordinance No. 11-926, entitled, "**An Ordinance of the City Council of the City of Montclair Electing to Comply With and Participate in the Voluntary Alternative Redevelopment Program Contained in Part 1.9 of Division 24 of the California Health and Safety Code,**" be read by number and title only, further reading be waived, and this be declared its first reading.

The City Council waived the reading of the Ordinance.

First Reading of Ordinance No. 11-926 was adopted by the following vote:

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

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 Mayor Pro Tem/Vice Chairperson Raft, 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 August 1, 2011

The City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors approved the minutes of the August 1, 2011 regular joint meeting.

B. Administrative Reports

1. Receiving and Filing of City Treasurer's Report

The City Council received and filed the City Treasurer's Report for the month ending August 31, 2011.

2. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated August 15, 2011, totaling \$1,145,708.22; and the Payroll Documentation dated July 3, 2011, amounting to \$638,571.48, with \$445,708.23 being the total cash disbursement.

3. Receiving and Filing of Agency Treasurer's Report

The Redevelopment Agency Board received and filed the Redevelopment Agency Treasurer's Report for the month ending August 31, 2011.

4. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 7.01.11–7.31.11 in the amounts of \$21.12 for Project I; \$177.48 for Project II; \$37,723.35 for Project III; \$998.84 for Project IV; and \$22,115.34 for Project V.

5. Receiving and Filing of MHC Treasurer's Report

The MHC Board received and filed the MHC Treasurer's Report for the month ending August 31, 2011.

6. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 7.01.11–7.31.11 in the amount of \$56,269.55.

7. Redevelopment Agency Board of Directors' Approval of the Filing of a *Notice of Completion*, Reduction of *Faithful Performance Bond* to 10 Percent, and Retention of *Payment Bond* for the Richton Street Police Department Impound Facility Project

Authorization of an Additional \$18,071.83 Appropriation for the Project

Release of Retention 30 Days After Recordation of *Notice of Completion*

The Redevelopment Agency Board took the following actions:

- (a) Approved the filing of a *Notice of Completion* with the Office of the San Bernardino County Recorder.
- (b) Approved reduction of the *Faithful Performance Bond* to 10 percent.
- (c) Approved retention of *Payment Bond* for six months.
- (d) Authorized an additional \$18,071.83 appropriation for the project.
- (e) Authorized release of retention 30 days after recordation of *Notice of Completion*.

8. **Designation of Voting Delegate and Alternate Voting Delegates to the League of California Cities Annual Conference September 21-23, 2011, San Francisco, California**

The City Council designated Mayor Eaton as Montclair's voting delegate and Mayor Pro Tem Raft and Council Member Paulitz as alternate voting delegates to the 2011 League of California Cities Annual Business Meeting to be held Friday, September 23, 2011, at the Moscone West Convention Center, San Francisco, California.

C. **Agreements**

2. **Approval of *Agreement No. 11-107* With the City of West Covina for Mobile Data Computer Connectivity, Data Processing Equipment, Software, and Service of Computer-Aided Dispatch and Records Management System Programs**

The City Council approved *Agreement No. 11-107* with the City of West Covina for mobile data computer connectivity, data processing equipment, software, and service of computer-aided dispatch and records management system programs.

3. **Approval of *Agreement No. 11-108* With Ontario-Montclair School District to Provide a Licensed Clinical Social Worker for the Case Management Program**

The City Council approved *Agreement No. 11-108* with the Ontario-Montclair School District to provide a licensed clinical social worker for the Case Management Program.

4. **Approval of *Agreement No. 11-109* With the Inland Empire United Way to Provide the AmeriCorps Volunteer Infrastructure Program**

The City Council approved *Agreement No. 11-109* with the Inland Empire United Way to provide the AmeriCorps Volunteer Infrastructure Program.

5. **Approval of *Agreement No. 11-110* With David Taussig and Associates, Inc., for Consultant Services Related to Community Facilities District Formation**

The City Council approved *Agreement No. 11-110* with David Taussig Associates, Inc., for consultant services related to Community Facilities District formation.

D. Resolutions

1. **Adoption of Resolution No. 11-13, a Resolution of the City of Montclair Redevelopment Agency Adopting an Enforceable Obligation Payment Schedule and Authorizing Its Transmission to the County of San Bernardino and State of California**

The Redevelopment Agency Board adopted Resolution No. 11-13, a Resolution of the City of Montclair Redevelopment Agency adopting an Enforcement Obligation Payment Schedule and authorizing its transmission to the County of San Bernardino and the State of California.

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

1. **Approval of *Agreement No. 11-57 With Burrtec Waste Industries, Inc. (Vendor) Succeeding Agreement No. 93-6 and Amendments Thereto and Granting Vendor an Exclusive Franchise for Solid Waste Management Services***

Authorization of Conversion to Automated Residential Greenwaste Collection Program

Council Member Dutrey inquired as follows:

- (a) Is the agenda report on this item a duplicate of the item presented at the July 18, 2011 regular joint meeting or have changes been made?

City Manager Starr answered, "There have been slight modifications but nothing significant."

- (b) Do the responses to my questions at that meeting regarding this item remain status quo?

City Manager Starr answered, "Yes, I think they were answered and resolved."

Mayor Eaton asked if residents would be receiving a greenwaste cart and, if so, when they would be delivered.

Mr. Michael Arreguin, Vice President, Municipal Services, Burrtec Waste Industries, Inc., answered, "Probably within 60 to 90 days."

Moved by Council Member Dutrey, seconded by Mayor Pro Tem Raft, and carried that the City Council took the following actions:

- (a) Approve Agreement No. 11-57 with Burrtec Waste Industries, Inc. (vendor) succeeding *Agreement No. 93-6* and amendments thereto and granting vendor an exclusive franchise for solid waste management services.
- (b) Authorize conversion to an automated residential greenwaste collection program.

X. RESPONSE - None

XI. COMMUNICATIONS

A. Deputy City Attorney/Agency Counsel

- 1. Closed Session Pursuant to Section 54956.9(a) of the Government Code Regarding Pending Litigation

Samuel Sutton v. City of Montclair

- 2. Closed Session Pursuant to Section 54957.6 of the Government Code Regarding Conference With Designated Labor Negotiator Edward C. Starr

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 Sections 54956.9(a) and 54957.6 of the Government Code on the above two matters.

B. City Manager/Executive Director

- 1. City Manager/Executive Director Starr sadly noted retired Montclair Police Detective **James William Berg** passed away last Thursday. He stated that **Mr. Berg** served the residents of Montclair in his duties first as a Police Officer and then as a Detective with the Police Department from 1964 to 1984 and was the City's first and only retiree for many years. He noted *Celebration of Life* services for **Mr. Berg** would be held at **Our Lady of Lourdes Catholic Church**, 10191 Central Avenue, on Monday, August 22, 2011, at 11:00 a.m., with graveside services to follow at **Bellevue Memorial Park**, 1240 West G Street, Ontario.

Mayor Eaton stated, "We will be adjourning the meeting in **Mr. Berg's** memory, may he rest in peace."

C. **Mayor/Chairman** - No comments

D. **City Council/Agency Board**

1. In follow up to his comments at the last meeting regarding reapportionment, Council Member/Director Ruh reported the **California Citizens Redistricting Commission** adopted final legislative district maps today in a 13-1 vote—the lone opponent indicated the maps did not conform with strict nonpartisan criteria designed to create districts of relatively equal population that will provide fair representation for all Californians. He stated that "already there have been challenges filed, and most people expect that these maps will go to court. Groups from both sides of the aisle are all challenging them, many of them saying the same thing, which leads me to believe that the process could have been much better than what it was. There needs to be commonality of interest in communities, and, indeed, that hasn't happened. When they take cities such as Montclair and put us with downtown Bloomington, or Upland south of 15th Street and put it with Muscoy and Upland north of 15th Street and put it with East Pasadena, there's no commonality of interest in those communities; and, unfortunately, it harms communities—it doesn't help them. It is my hope that perhaps the courts will be able to do a much better job than the so-called **California Citizens Redistricting Commission**. We've had past history with the California Supreme Court drawing the lines—the 1990 reapportionment was drawn by the Supreme Court and gave us a fairly good and comprehensive map of cities, commonality of interest, and certainly adhered to the **Voting Rights Act**, which is very important. It is my hope that better heads will prevail in drawing the new maps after these are challenged."

2. Council Member/Director Dutrey commented as follows:

- (a) He noted he and his family enjoyed vacationing in France, Spain, and Germany, advising that they had a wonderful time visiting many of the Parisian sights during their four days in the city as well as a visit to his family in the south of France. He noted he also enjoyed walking the route of the **San Fermin Festival** "Running of the Bulls" in Pamplona, Spain.

Council Member Dutrey noted the following during his European tour:

- (1) Gasoline prices averaged \$8 per gallon in the three countries he visited.

(2) The profusion of graffiti in France made him feel somewhat better about the relatively lesser amount of graffiti in Montclair.

(b) He recognized the following City department activities:

(1) The Police Department's participation in the *28th Annual National Night Out* on August 2, 2011.

(2) The Fire Department, assisted by the Upland and Los Angeles County fire departments, extinguished a fire at **Premises Metals Recycling**, 4791 Arrow Highway, on August 1.

(3) His daughter, **Janine**, enjoyed participating in Human Services Division's *Summer Day Camp Montclair*.

(4) Planning Division's work to ensure the successful grand opening of **Paradise Buffet**, located in the former **Café Montclair** site at 9059 Central Avenue.

(5) The new pavement and bicycle lanes on Mills Avenue "look really nice" thanks to the work of the City Engineer and Public Works Department staff.

E. Committee Meeting Minutes

1. Minutes of Code Enforcement Committee Meeting of July 18, 2011

The City Council received and filed the Code Enforcement Committee meeting minutes of July 18, 2011, for informational purposes.

2. Minutes of Personnel Committee Meeting of August 1, 2011

The City Council received and filed the Personnel Committee meeting minutes of August 1, 2011, for informational purposes.

XII. COUNCIL/AGENCY WORKSHOP

A. Review of Financial Audit by Lance, Soll & Lunghard, LLP

Moved by Council Member/Director Dutrey, seconded by Mayor Pro Tem/Vice Chairperson Raft, and carried to continue this item to an adjourned joint meeting on Tuesday, September 6, 2011, at 5:45 p.m. in the City Council Chambers.

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

At 7:31 p.m., Chairman Eaton adjourned the Redevelopment Agency Board of Directors to Tuesday, September 6, 2011, at 5:45 p.m. in the City Council Chambers.

At 7:31 p.m., Chairman Eaton adjourned the Montclair Housing Corporation Board of Directors.

At 7:31 p.m., the City Council went into Closed Session regarding anticipated litigation pursuant to Government Code Section 54956.9(a) and conference with designated labor negotiator pursuant to Government Code Section 54957.6.

XIV. CLOSED SESSION ANNOUNCEMENTS

At 8:02 p.m., the City Council returned from Closed Session. Mayor Eaton announced that the City Council met in Closed Session regarding anticipated litigation and 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 8:03 p.m., Mayor Eaton adjourned the City Council to Monday, September 6, 2011, at 5:45 p.m. in the City Council Chambers in memory of former Montclair Detective **James William Berg**, a 20-year veteran with the force and the City's first retiree, who sadly passed away on August 11, 2011.

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

Yvonne L. Smith
Deputy City Clerk