# CITY OF MONTCLAIR
# PLANNING COMMISSION MINUTES

## REGULAR ADJOURNED MEETING
## Monday, August 22, 2011

## COUNCIL CHAMBER
## 5111 Benito Street, Montclair, California 91763

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**CALL TO ORDER**

Chairman Sahagun called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Commissioner Johnson led those present in the salute to the flag.

**ROLL CALL**

Present: Chairman Sahagun, Vice Chairman Flores, Commissioners Johnson, Lenhert, and Vodvarka, Community Development Director Lustro, City Planner Diaz, Assistant Planner Gutiérrez, and Deputy City Attorney Holdaway.

**MINUTES**

The minutes of the July 11, 2011 regular meeting were presented for approval. Vice Chairman Flores commented that the minutes erroneously stated that he adjourned the meeting when Chairman Sahagun had actually adjourned the meeting. Vice Chairman Flores moved, Commissioner Vodvarka seconded, and the minutes were approved 5-0, as amended.

## ORAL AND WRITTEN COMMUNICATIONS

None.

## AGENDA ITEMS

6.a PUBLIC HEARING - CASE NUMBER 2011-8

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| Project Address: | Citywide |
| Project Applicant: | City of Montclair |
| Project Planner: | Steve Lustro, AICP, Community Development Director |
| Request: | General Plan Amendment for the 2006-2014 City of Montclair Housing Element |

Community Development Director Lustro stated it was his pleasure to introduce David Barquist from RBF Consulting, who would give a presentation on the Housing Element update. Director Lustro commented that Mr. Barquist and his team have done most of the "heavy lifting" in the preparation of the document and the Commission had an opportunity to see not only the Initial Study and Mitigated Negative Declaration but also the Housing Element itself. A lot of work went into the document. (A PowerPoint presentation was presented on each Commissioner's computer monitor.)

David Barquist, RBF Consulting, 14725 Alton Parkway, Irvine, greeted the Commission and commenced a presentation of the Housing Element (with PowerPoint). He stated now that they have reached the conclusion of the process, he would give a brief overview on the contents and elements of the Housing Element and some of the key policy areas. One of the baselines they used to show where we're at today was evaluating the existing conditions and demographic considerations. They had a joint session with the Council and Commission talking about the larger policy issues and looking a little deeper into the process. In addition, they held two community workshops. They prepared the draft Housing Element once they completed the review with the community and did the requisite environmental analysis according to CEQA and finally are up to the adoption phase. The Commission's recommendation to the Council will be the next step in getting a state certified Housing Element. Once it's adopted by resolution of the City Council, it will be a legally complying document.

Mr. Barquist continued that the Housing Element is one of the seven elements that are required to be in the General Plan. What is unique about the Housing Element is that it is the only one that actually goes to the State of California for certification for compliance with state law. Housing Elements and housing related policies are one of the largest components of the regulations of the policy by the State so there is an alphabet soup of land use policies and laws that go into the actual housing element document. It also plans for a variety of income levels for housing. They did not just look at one category of people with very-low income, but a whole spectrum of the community from moderate income to higher incomes. They looked at all the income levels, but also thought in terms of the needs of the local level. This isn't necessarily a

document from a regional government or state government stating this is what you need to do. Rather, it is looking at your needs from a local level, and that includes your construction needs and existing needs, which means the existing needs of your existing units on the ground today. Once through that process, you receive what they call a "happy letter," which means once you adopt it locally, you have a fully compliant Housing Element.

A certified Housing Element ensures that your future policy is reflective of your community. The Commission will use this document as a resource when looking at land use decisions, applications, CUPs, etc. It will be a useful tool. So, the actions within that document are going to be helpful as a decision-making body. One of the things to note is that this is a very difficult fiscal, funding and financial environment. What's good about having a certified Housing Element is many of the state programs and grant opportunities are contingent upon the City having a certified Housing Element. So, that puts the City up another notch from a competitive standpoint. Finally, it's about establishing long-term policy items. You are looking out into the future with this document. It provides you the path that you can follow. In 2014 and beyond, the policies that you set today are going to have those effective changes in the community in a positive way in the future.

SB520 is about reasonable accommodation procedures. For example, if an individual suffers from limited mobility and needed some changes to his housing unit so he can access it, you have to, by law, have procedures that would apply to the reasonable accommodation of that need. It is a lot of procedural elements and part of that is to ensure that person with those needs has a reasonable accommodation procedure they can follow.

SB18 and AB2280 are related to density bonus law. It is a very complicated law and is debated throughout the state, but the community has to be compliant with that policy program.

AB2634 deals with extremely low-income households. It is new since the last round of Housing Element updates and deals with households that earn 30% or less of the median family income, which he believed to be about $62,500 in 2011. So if you think of 30% of that, it would be around $19,000 as a yearly income. You have to accommodate for the housing needs of those persons. The City must also provide for "by right" location for emergency shelters. AB2348 deals with adequate site analysis. When we have a future construction need and an estimate of the number of units, you have to go through a fairly rigorous process to determine the adequacy of those sites. In addition to that, there is what they call a standard density factor. In the Los Angeles region, 30 dwelling units per acre is the "default density," so properties zoned at 30 units or more per acre meets the test and no further analysis is required. You do have that within Montclair, particularly in the North Montclair Downtown Specific Plan area and that is discussed in the Housing Element.

With AB1233, one of the issues many jurisdictions have is the implementation of the prior housing planning period. 1998-2005 was the previous planning period and

2006-2014 is the period this Housing Element addresses. If you didn't provide for adequate sites in the 1998-2005 period, any unaddressed requirements move over to the current planning period. The good part about that is you get construction credits for the actual housing construction that you actually did during that period.

Regarding the contents of the Housing Element, there is a profile report that includes demographic information, economic considerations and real sketches that give the foundation of your community. The Resources and Constraints Analysis and review of past performance of the policy program round out the Housing Element. The housing profile report looks at all economic segments of the community. They looked at the whole spectrum of which the citizens of Montclair are, looked at growth needs and existing needs. Growth Needs is a projection of new housing units over the planning period and the other half is existing needs. If there are existing units in disrepair and needed improvement that would be an existing needs issue that would have to be dealt with.

HCD and HUD require a look at five special needs groups that may have some challenges in terms of access and ability to offer choices in the community for those types of housing. Elderly persons who are retired, 65+ years, and/or with fixed incomes may have some self-care limitations, mobility limitations and housing is a direct result of having that challenge. "Large households" are those with 5 or more persons. The number of 5-bedroom units in the community is fairly limited. Large families are a special needs group because of the overcrowding issues that occur with poor economic times and the occasional doubling-up of families. Farm worker housing is another group. The transient nature of farm workers results in limited access to housing. Another group is female-headed households. According to HUD, female head of households have the highest incidence of poverty as well as homeless, which speaks for itself.

Mr. Barquist went on to describe some examples of existing needs. Overpayment is defined as 30% or more of one's gross monthly income spent on housing needs. Anything beyond 30% creates a lot of pressure. For example, if your car breaks down or something else happens, you may have a challenge to pay your mortgage on a monthly basis. Overcrowding is defined as more than one person per room in a household. Rehabilitation and deferred maintenance are another issue. For example, if I couldn't afford my home mortgage payment and I couldn't take care of my front yard, there are issues that come with that in terms of the deferred maintenance issues and the quality of the unit. Replacement of housing units because of redevelopment or demolition is another critical issue. In addition, there are "at-risk" units within developments that may have affordability covenants or deed restrictions that may expire during the planning period. If these units convert to market rate units, it reduces the number of affordable units so we have to look at that in the process.

Mr. Barquist continued reviewing tables on the PowerPoint presentation with regard to projected housing units and breaking them down into income categories. He commented that each of the zoning changes will be subsequent, individual actions that will come before the Commission as amendments to the existing zoning code and you

will see the new language within that to reflect what it says in the policy program. The Mitigated Negative Declaration for the Housing Element was circulated for public review between July 14 and August 12, 2011. Only two comments were received from the Public Utilities Commission and the Department of Toxic Substance Control. If you look at the end of the Mitigated Negative Declaration, there are responses to those comments. Generally speaking, the comments were not anything to be alarmed about, but, rather, procedural aspects of "as you implement" considerations. And all of those comments in the letter are broken down by their individual comments and their responses to them. The next step is that the Commission provides a recommendation to the City Council. The City Council will then make their determination and adopt a resolution supporting an amendment to the General Plan adoption of the Housing Element. Once that is completed, that will be sent to the State as a procedural item and they will send you back a letter saying now that we have that in hand, you have a fully compliant Housing Element. Mr. Barquist said he welcomed questions from the Commission.

Chairman Sahagun opened the public hearing.

Commissioner Johnson asked about R-1 zoning. She said that on Page AB-4, it reads that residential care facilities are not allowed in the R-1 zone, and wondered if it was inconsistent with what we currently have. Director Lustro stated residential care facilities are a "by right" use in R-1 zones provided they do not care for more than six individuals. Staff has to treat that like a single family use - that is statutory. But if there is a residential care facility that cares for between 7-14 individuals, then we have the ability to require them to go through a modified conditional use permit process. It is not as onerous as a regular CUP process. Again, that is statutory, it is required to not be cost prohibitive because it is a residential care facility. He did not have the City's fee schedule before him, but he believed our normal application fee for a Conditional Use Permit would be just over $2,200, but a residential care CUP application for between 7-14 individuals is $150. It was changed a number of years ago to be compliant with state law.

Commissioner Johnson wanted to thank Mr. Barquist for the presentation and all the hard work that has been done on the document.

Vice Chairman Flores asked regarding the extremely low income, was there a way to see how we rate compared to other cities like Rancho Cucamonga or Ontario. Mr. Barquist stated he didn't believe there was anything readily available on that, especially since the new Census data has come out, to see how the actual population lives. They have struggled with determining what that is and that is why the statute says you can use 50% of your very low income to accommodate that and the reason was because it was very difficult for communities to determine what that actual number is. The answer to that is that it is possible to do it, but a lot of work to really get down to the fine grain of what that is. He couldn't give a representation of how Montclair compares to the other communities. In the Los Angeles region, places like Stanton, where you see more persons per household and denser populations, you see a higher incidence of the extremely low income households, but that is a generalization and he couldn’t tell you

exactly what it would be in Montclair. He offered that they would be happy to provide some information that could be forwarded at a later date. Vice Chairman Flores asked about the homeless and how we compare to other cities. He hoped it didn't get away from us, he wanted us to think about older people and making sure they had a place to stay.

Commissioner Vodvarka wanted to know how this is going to impact us when we lose the Redevelopment Agency money. Mr. Barquist stated that Commissioner Vodvarka asked the million dollar question. The challenge is that if RDAs go away it will be a loss of a major monetary resource. If you did a quick spin through the Housing Element and looked at the responsible parties, you will see that the RDA is a responsible party for many programs. Recent legislation regarding RDAs is going to limit the amount of resources you have. We will have to wait and see how the court stay and all the other issues are going to affect redevelopment. It will continue to be a challenge. The Housing Element is a direction-setting document, it is not a regulation document; therefore, when we have the implementation, we can only do as much as the available resources allow. So we're going into very muddy waters and unknown territory right now. Within the next six to nine months, we will get a little clearer picture of the status of RDAs and what their future holds. It is going to be a challenge, something that will need to be monitored and prioritized in your policy program to ensure that you get the biggest bang for your buck for your policy.

Chairman Sahagun asked how the current economy has affected preparation of this document. Mr. Barquist replied that things have changed quite a bit since they began the process. One of the challenges has been the dynamic nature of the market. Just look at what has happened over the past two weeks. We are not necessarily in control of economic changes, but have to be aware of them because that will dictate what you do with redevelopment funds. Is it the best way to do this as the market is going down? The challenges you see today are growth needs but the actual production has essentially evaporated, so there is a disconnect in that respect. But that's a condition that is outside the policy program; the market is going to dictate that. You just need to be aware of that and as you learn more, the housing market is going to help you as you revisit your General Plan and Housing Element over the next couple of years. As a matter of fact, it is going to be a powerful tool for you to adjust course as needed. The period for new Housing Elements is going to be longer, but it is going to happen in the next couple of years, so this will come before the Commission again.

Chairman Sahagun asked about disaster shelters and if they are addressed in this document. Director Lustro replied that is not part of what the Housing Element addresses. He knows that in the past, for example, when we had hot weather, our Community Center served as a cooling center for folks who do not have air conditioning or uncomfortable situations in their residences. If our emergency operations center were to be activated in a natural disaster, such as an earthquake, what we would do at that particular point in time is identify large spaces in the community for assembly, such as the gymnasium at Montclair High School, the Community Center, and Senior Center. The document in front of the Commission does not address that particular type of shelter. One of the things that will need to be addressed as part of our policy program

in an upcoming code amendment is addressing emergency shelters for the homeless if they have nowhere to stay. One of our tasks is going to be identifying a zone or zones in the City where emergency shelters would be allowed to be opened or constructed "by right," without going through a long entitlement process. As Vice Chairman Flores mentioned about the homeless issue, we will also need to address single room occupancy units, or SROs, where the homeless or our less fortunate who cannot pay a lot for housing would be able to stay. A lot of what you find in the Housing Element is issues addressing the less fortunate, extremely low income, very low income folks who do not have the resources that much of the community has to be able to find housing. We need to make provisions and remove the barriers from being able to provide these groups housing.

Commissioner Johnson asked about the public review draft. Speaking of the homeless, there was a statement in the draft, she did not remember what page that the Montclair Police Department believes there are 40 homeless people per day within our City boundaries and she wondered where they are. Director Lustro stated it is a tough question to answer. When staff asked the Police Department to provide us with a number that we could pass on to the consultant for an accurate analysis, the Police Department used their knowledge and experience from their time out in the field to try to identify certain areas where the homeless tended to congregate. On most days we might see a handful of homeless folks around, but the Police Department is more knowledgeable about that. We have a particular problem in various areas along the San Antonio Wash and adjacent to the railroad tracks. Based on their knowledge, the Police Department came up with the number of approximately 40 homeless on any given day. Keep in mind the transient nature of that population, it fluctuates greatly. There might be some days where we have a lot less than that, there may be days when we have a little bit more, it is also dependent upon the weather too. So there are a lot of factors that go into that and what the Police Department tried to come up with is an average.

Vice Chairman Flores asked if he could ask questions about the book that was given to them to review. It seems like the only area remaining for building is in North Montclair and there are very few lots available any more. He wanted to remind everyone that whenever projects in North Montclair come in, the Commission must remain very tough so that we get good projects. On Page AA-6, the thing he highlighted about the action areas seems like Code Enforcement needs to be more aggressive. We've been through this before, even increasing fees and penalties. That seems like something we have to keep working on, revising the code and identifying properties that are not maintained.

Vice Chairman Flores asked if we have any jurisdiction at all on mobile home parks. Director Lustro confirmed we do not. Vice Chairman Flores commented that will probably not change in the near future. Director Lustro replied that, as the Commission is aware, the County of San Bernardino previously had jurisdiction over mobile home parks and approximately three years ago, the County absolved itself of that jurisdiction. They were required to first offer the cities an opportunity to take over the responsibility for overseeing mobile home parks. He does not know of any City locally that voluntarily

took on that responsibility and so the responsibility has, by default, fallen back to the state. It's an awful lot of work and cities like Montclair do not have the resources to take it on.

Commissioner Johnson commented she remembered having this conversation about the Housing Element some six to eight years ago and she remembered that we really did not meet the state requirements for low-to-moderate income housing so she is kind of tickled about the work that has been done by staff over the years to bring us into compliance because back then there was no way we could even think about being in compliance.

Hearing no other comments and no one else being present, Vice Chairman Flores closed the public hearing.

Commissioner Johnson moved that, based on the evidence submitted, a finding is made that, although the Project could have a significant effect on the environment, there will not be a significant in this case because the mitigation measures described in Section 4.0 (Environmental Analysis) of the Initial Study have been incorporated into the Project. Accordingly, a Mitigated Negative Declaration will be prepared, seconded by Vice Chairman Flores, there being no opposition to the motion, the motion passed 5-0.

Vice Chairman Flores moved to recommend City Council approval of the Initial Study/Mitigated Negative Declaration under Case No. 2011-8 and to adopt the 2006-2014 City of Montclair Housing Element, seconded by Commissioner Johnson, there being no opposition to the motion, the motion passed 5-0.

## INFORMATION ITEMS

Director Lustro stated that with the Commission's positive recommendation to the City Council, the Housing Element item will move on for consideration by the City Council at its meeting on Monday, September 19. Council will hear a similar, if not identical, presentation as the Commission did this evening.

Vice Chairman Flores commented that he and Commissioner Johnson attended a planner's workshop in Riverside. It was pretty informative and of the people who spoke, one guy really stood out – he was funny but got his point across very well. He asked him on his presentation, about one-quarter of those attending were first timers and he was explaining about the maps they would be looking at as far as his job, he mentioned a parcel map and the tract map so while he was talking to him he asked how come he didn't mention the other two maps: a record of survey and lot line adjustments. He said he may include it next time.

Commissioner Vodvarka stated he had an issue that he wanted to recall. He turned in a list of addresses a couple weeks ago at one of our City Council meetings about some properties in his neighborhood that he believed had code violations. He wanted to know if Code Enforcement is doing anything about them.

Director Lustro stated that Code Enforcement did go out in response to Commissioner Vodvarka's list that he provided at the City Council meeting and Notices to Correct were written on all but one property where no citable violations were found. So, they have started the process on all of the properties on the list, with the exception of one.

Commissioner Vodvarka said he would hold his breath.

Commissioner Johnson wanted to add to Vice Chairman Flores' comments about the Commissioner's Workshop. She felt it was outstanding and could have gone all day. Most of the time when these things come up, she thinks that she has been a Commissioner a long time and does not need to go, but she learns something new every time. There was an attorney there that did a very extensive presentation on the Brown Act. While we all know we cannot meet privately and must meet in public and be transparent, etc., the attorney talked a lot about serial phone meetings and the appropriateness of having conversations with Council. It was very thorough and she learned a lot about that.

Commissioner Johnson wanted to touch on Commissioner Vodvarka's comments about Code Enforcement. She wanted to assure him (Vodvarka) they do come and knock on our doors. She assured him that she has been there, done that. They are very accurate.

Commissioner Johnson wanted to give kudos to the graffiti abatement crew. She recently noticed a block wall near her home that had been tagged again. As she was leaving her house, she thought she should call it in and then forgot and then the next day she saw it again and reminded herself to call. As soon as she got home she was going to call, forgot again, but remembered very late in the day, about 3:00 p.m., and within a half hour, they called back and told her they had already taken care of it. Kudos to the crew, they are always on point every single time and she really values the work they do.

Chairman Sahagun commented that he was unable to attend the Commissioner's Workshop because his son-in-law was being deployed that day. They changed the deployment ceremony schedule three times so he was not able to attend. As far as Code Enforcement and some of the issues Commissioners Vodvarka and Johnson mentioned, yesterday he was asked by his 13-year old son if Montclair was getting worse. He and his son had noticed some tagging on a wall, but he assured his son that our City is getting better, not worse. He was proud to live here and raised his three boys here. He is guilty of having some weeds growing in his gutter that Commissioner Vodvarka often mentions. Maybe we have some issues, we're not perfect, but he still loves Montclair, he was proud to be on the Commission and some other organizations.

Chairman Sahagun adjourned the meeting at 7:54 p.m.

Respectfully submitted,

Laura Berke
Recording Secretary