

**MINUTES OF THE REGULAR JOINT MEETING OF
THE MONTCLAIR CITY COUNCIL AND SUCCESSOR
AGENCY, MONTCLAIR HOUSING CORPORATION,
AND MONTCLAIR COMMUNITY FOUNDATION
BOARDS HELD ON MONDAY, SEPTEMBER 17, 2012,
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

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

III. PLEDGE OF ALLEGIANCE

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

IV. ROLL CALL

Present: Mayor/Chairman Eaton; Mayor Pro Tem/Vice Chairperson Raft; Council Members/Directors Paulitz and Ruh; City Manager/Executive Director Starr; Deputy City Manager/Executive Director of Economic Development Staats; Director of Community Development Lustro; City Engineer Hudson; City Attorney Robbins; Deputy City Clerk Smith

Absent: Council Member/Director Dutrey (excused)

V. PRESENTATIONS

A. Introduction of New Employees

Fire Chief Ament introduced Firefighter/Paramedic Hai Nguyen, who was appointed to his position on August 27, 2012. He noted Firefighter/Paramedic Nguyen's parents emigrated to the United States to escape Vietnam after the war. He stated that Firefighter/Paramedic Nguyen worked at **Pizza California** during high school and also volunteered as a basketball coach at **Orchard School** and assisted at the after school recreation center. He

noted Firefighter/Paramedic Nguyen attended **Mission College** in 2005 and transferred in 2006 to **California State University, Los Angeles**, from which he received a Bachelor of Science degree in Fire Protection Administration in 2009. He stated that Firefighter/Paramedic Nguyen received Emergency Medical Technician and Basic Firefighter I certifications from **Rio Hondo College** during his last year at school and was employed by **Lifeline Ambulance** for two years as an Emergency Medical Technician and by the **City of San Gabriel** for two years as an Auxiliary Firefighter. He added that Firefighter/Paramedic Nguyen last worked as a paramedic for **Liberty Ambulance** upon completion of his training at **National College of Technical Instruction**, Riverside.

Mayor Eaton welcomed Firefighter/Paramedic Nguyen to the Montclair City family and presented him with a City pin.

VI. PUBLIC COMMENT

A. **Mr. James Hudson**, 9892 Vernon Avenue, Montclair, commented as follows:

1. He stated that he rides a bicycle for exercise because he cannot walk more than one hundred yards without experiencing great pain. He advised that he has almost been hit three times by motorists who fail to yield the right-of-way while he rides on streets lacking bike lanes and that he would feel safer riding in a bike lane so he could attempt to reach the Pacific Electric Bike Trail unscathed. He noted he has discussed the issue with the Police Department, which is unable to help him unless officers are able to catch offenders during the commission of a crime.
2. He requested signs be posted containing information on the City's Noise Ordinance as well as the illegality of modified vehicle exhaust systems, which are annoyingly loud and a public nuisance.

Mayor Eaton thanked **Mr. Hudson** for voicing his concerns.

VII. PUBLIC HEARINGS - None

VIII. CONSENT CALENDAR

City Attorney Robbins requested that Items C-5 and C-6 be removed from the Consent Calendar for brief comment.

Moved by Council Member/Director Paulitz, 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/Successor Agency Board/MHC Board/MCF Board Meeting of September 4, 2012

The City Council, City Council acting as successor to the Redevelopment Agency Board of Directors, Montclair Housing Corporation Board of Directors, and Montclair Community Foundation Board of Directors approved the minutes of the September 4, 2012 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, 2012.

2. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated September 17, 2012, totaling \$996,464.79, and the Payroll Documentation dated July 29, 2012, amounting to \$720,293.60, with \$427,672.58 being the total cash disbursement.

3. Receiving and Filing of Successor Agency Treasurer's Report

The City Council acting as successor to the Redevelopment Agency Board received and filed the Agency Treasurer's Report for the month ending August 31, 2012.

4. Approval of Successor Agency Warrant Register

The City Council acting as successor to the Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 8.01.12-8.31.12 in the amounts of \$1,418.92 for Project I; \$0.00 for Project II; \$27,697.56 for Project III; \$13,002.20 for Project IV; \$20,358.68 for Project V; \$0.00 for the Mission Boulevard Joint Redevelopment Project; and \$1,255,172.25 for the Recognized Obligation Retirement Funds.

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, 2012.

6. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 8.01.12-8.31.12 in the amount of \$99,078.63.

7. Approval of Release of Lien for Sidewalk Improvements at 5512 Orchard Street and Authorization to Record the Document with the Office of the San Bernardino County Recorder

The City Council took the following actions:

- (a) Approved a Release of Lien for sidewalk improvements constructed in 1973 at 5512 Orchard Street because the \$96.52 lien amount has been paid through property taxes and there are no current taxes due.
- (b) Authorized the Release of Lien to be recorded with the Office of the San Bernardino County Recorder.

8. Adoption of Proposition 1B Funds Expenditure Plan for Fiscal Year 2012-13 for the Northwest Montclair Residential Street Resurfacing Project

Authorizing Staff to Advertise for Bid Proposals for the Northwest Montclair Residential Street Resurfacing Project

The City Council took the following actions related to the Northwest Montclair Residential Street Resurfacing Project:

- (a) Adopted the Proposition 1B Funds Expenditure Plan for Fiscal Year 2012-13 for a majority of the cost of the project.
- (b) Authorized staff to advertise for bid proposals for the project.

C. Agreements

1. Approval of Amendments to *Agreement No. 12-84* Ratifying the Terms and Conditions of Employment Between the City of Montclair and Executive Management Employees

The City Council approved amendments to *Agreement No. 12-84* ratifying the terms and conditions of employment between the City of Montclair and executive management employees.

2. Approval of *Agreement No. 12-85* Ratifying the Terms and Conditions of Employment Between the City of Montclair and Management Employees

The City Council approved *Agreement No. 12-85* ratifying the terms and conditions of employment between the City of Montclair and management employees.

3. Approval of *Agreement No. 12-91* Approving Amendment Three to the Metro Gold Line Phase II Joint Powers Authority (JPA) Accepting an Invitation of Membership to the JPA Board

Appropriation of Funds From Successor Agency for Membership Dues

Appointment of Council Member Bill Ruh as Montclair's Representative to the JPA

The City Council took the following actions:

- (a) Approved *Agreement No. 12-91* approving Amendment Three to the Metro Gold Line Phase II Joint Powers Authority (JPA) Accepting an Invitation of Membership to the JPA Board.
- (b) Appropriated Funds from the Successor Agency for membership dues.
- (c) Appointed Council Member Bill Ruh as Montclair's representative to the JPA.

4. Approval of *Agreement No. 12-93* With AECOM Technical Services, Inc., Amending *Agreement Nos. 02-01, 02-135, 09-119, and 11-133* for Additional Work Associated With the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project

The City Council approved *Agreement No. 12-93* with AECOM Technical Services, Inc., amending *Agreement Nos. 02-01, 02-135, 09-119, and 11-133* for additional work associated with the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project.

D. Resolutions

1. Montclair Community Foundation Board of Directors' Adoption of Resolution No. 12-01 Adopting the Foundation Bylaws

The Montclair Community Foundation Board of Directors adopted Resolution No. 12-01 adopting the Foundation Bylaws.

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

City Attorney Robbins stated that she will need to make some minor revisions to Agreement Nos. 12-94 and 12-95 and asked that the City Council consider approving them subject to her approval.

Moved by Director Paulitz and seconded by Vice Chairperson Raft that Consent Calendar Items C-5 and C-6 be approved as follows:*

Council Member Ruh noted his understanding that the revisions are technical in nature.

City Attorney Robbins stated, "That's correct. On one of them we just need to clarify the status of the contractor—whether it is a corporation or an individual—and on the other one we are just confirming the status of the Workers' Compensation coverage. So there are no substitute changes."

5. **Montclair Housing Corporation Board of Directors' Award of Contract to Jaramillo Construction in the Amount of \$18,350**

Montclair Housing Corporation Board of Directors' Approval of *Agreement No. 12-94* with Jaramillo Construction for the 10333 Pradera Avenue Landscape Construction Project

Authorization of a \$1,835 Construction Contingency

The Montclair Housing Corporation Board of Directors took the following actions related to the 10333 Pradera Avenue Landscape Construction Project:

- (a) Awarded a contract to Jaramillo construction in the amount of \$18,350.
- (b) Approved *Agreement No. 12-94* with Jaramillo Construction subject to wording modifications by the City Attorney.
- (c) Authorized a \$1,835 construction contingency.

6. Montclair Housing Corporation Board of Directors' Award of Contract to L & J Landscaping, Inc., in the Amount of \$22,788

Montclair Housing Corporation Board of Directors' Approval of *Agreement No. 12-95* With L & J Landscaping, Inc., for the 4811 and 4820 Canoga Street Landscape Construction Project

Authorization of a \$2,278 Construction Contingency

The Montclair Housing Corporation Board of Directors took the following actions related to the 4811 and 4820 Canoga Street Landscape Construction Project:

- (a) Awarded a contract to L & J Landscaping, Inc., in the amount of \$22,788.
- (b) Approved *Agreement No. 12-94* with L & J Landscaping, Inc., subject to wording modifications by the City Attorney.
- (c) Authorized a \$2,278 construction contingency.

*Motion carried as follows:

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

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney

1. 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*

City Attorney Robbins requested a Closed Session regarding the above matter.

B. City Manager/Executive Director

1. City Manager Starr stated that Council Member Dutrey is not in attendance at the meeting because his stepson, **Chris**, will be inducted in the **United States Army** in the morning. He stated, "We wish **Chris** well. I believe he expects to be trained as a paramedic, so he certainly has a promising future as he enters into his career in the **U.S.** military. We congratulate **Chris** and wish him well."

C. Mayor/Chairman

1. Mayor/Chairman Eaton commented as follows:
 - (a) He noted his attendance at recent **San Bernardino Associated Governments** and **Omnitrans** Board meetings.
 - (b) He stated that he was privileged to be part of the interview panel that selected transit industry veteran **Mr. Michael P. DePallo** as the new Chief Executive Officer of **Metrolink**. He noted **Mr. DePallo** comes highly qualified for his new post, having recently served as Director and General Manager for the **Port Authority Trans Hudson Corporation (PATH)**, a heavy rail subsidiary of the **Port Authority of New York and New Jersey** that transports over 250,000 passenger trips a day between Manhattan and neighboring New Jersey. He added that prior to working for **PATH**, **Mr. DePallo** held leadership positions at many of the largest passenger rail operations in the nation including Oakland's **Bay Area Rapid Transit District**; **Southeastern Pennsylvania Transportation Authority**, Philadelphia; and **Massachusetts Bay Transportation Authority**, Boston. He quoted **Mr. Bill Baroni**, **Port Authority of New York and New Jersey** Deputy Executive Director, who stated, "**Mike DePallo** is one of the best public servants I have ever worked with. Not since California took the **Dodgers** has New York and New Jersey suffered such a loss."

D. City Council/Successor Agency Board/MHC Board/MCF Board

1. Council Member/Director Ruh commented as follows:
 - (a) He wished "our Jewish friends a very good **Rosh Hashanah**, which begins today, and we wish them much happiness."

- (b) He noted his attendance on September 13, 2012, at **Assembly Member Torres's** Emergency Preparedness Workshop, which was held at the **Pomona First Baptist Church** and was very well attended by 61st District residents. Though many of us believe we are prepared for emergencies, he noted the workshop covered important steps to take during an emergency, such as shutting off utilities and following an emergency exit plan as well as being aware of exterior hazards and, equally as important, making sure water heaters are strapped down. He expressed his appreciation of **Assembly Member Torres** and the participation by representatives of **Southern California Edison, The Gas Company**, and the **California Earthquake Association** who gave their perspectives on emergency preparedness including something so mundane as maintaining a supply of extra cell phone and flashlight batteries "in case of emergency."

2. Council Member/Director Paulitz commented as follows:

- (a) Concerning a report from Office of Public Safety Executive Director Jones on the number of Police Officers in area agencies based on population, he noted he was surprised to learn that some surrounding cities lost population between 2009 and 2012. He pointed out that almost all the surveyed cities with the exception of Ontario have reduced their Police forces, in some cases because their populations have decreased though in some cases despite increases in population.
- (b) He read a **Wall Street Journal** editorial that was published last week, which is entered into the record as follows:

California's Pension Dodge

California Governor Jerry Brown and union representatives, er, Democratic legislative leaders last week agreed to pension reforms that could help save the state's municipalities from a Category 5 fiscal storm—three decades from now. Unfortunately, the reforms won't prevent the fast-growing tempest from knocking out Left Coast cities and soaking taxpayers.

The Golden State is spending \$6.6 billion this year on retirement benefits, up from

\$2.7 billion a decade ago. The tab will continue to increase as the state amortizes its \$225 billion unfunded liability (and that's a low-ball). Meanwhile, pension and retiree health benefits are consuming more than a third of many local government budgets, forcing cuts in services and public safety, and in some cases, bankruptcy.

Stockton's bankruptcy earlier this summer should have served as a red alert. But the only thing that got Democrats moving was the Governor's warning that their lethargy on pension reform could sink his tax-increase initiative this November. Lawmakers have finally leaped into action, but their emergency response is much too small.

On the plus side, the reforms raise the retirement age to 57 from 55 for public safety officers and cap the salary that's used to calculate their pensions at \$132,000. The latter will trim costs at the margins, but as a California Public Employees' Retirement System analysis notes, this "change will not impact the pension benefits of the majority of CalPERS members." Meaning it won't significantly reduce the state's pension bill either.

Lawmakers deserve some credit for taking on local government pensions, which are often more generous than the state's. The reforms reduce benefit formulas for new workers and require employees to pay half of the "normal cost" of their pensions. However, that doesn't include the cost of paying down unfunded liabilities, which is what's really sending local pension bills through the roof.

Municipalities also won't realize material savings until new employees retire in another two or three decades, so retirement costs will continue to batter cities. Case in point is Los Angeles, which last year pared benefits for new public safety officers. A budget analysis last month warns that the city's pension bill for officers will still increase by 56 percent over the next four years. Ouch.

To achieve significant savings sooner and slash unfunded liabilities, lawmakers need to freeze the pensions of current workers and reduce their benefits going forward, as San Jose voters did earlier this summer via a referendum. Democrats in Rhode Island also shifted current workers to hybrid plans that include a defined-contribution component.

Barring such reforms, the state and local pension tab will continue to balloon, which is the real reason Democrats want voters to approve a tax hike. Retirement costs will soon consume all \$8 billion that politicians hope the ballot measure will raise. Rather than saving taxpayers and schools, the tax increase will merely give political shelter to Sacramento's free-spending politicians.

Raising taxes may be Mr. Brown's idea of disaster relief, but the only ones who will be protected are politicians.

Council Member Paulitz inquired as follows:

- (1) What is one half of the normal cost of a City pension?

City Manager Starr answered, "The unfortunate part of [AB 340] is it puts a cap on what the employees would pay anyway, so the normal cost range really becomes less of a factor. If you are looking at 50 percent of the normal cost range, and if I could use our highest paid group for our employer rate and our combined member contribution—we are talking about the Montclair Fire Fighters Association—the City pays approximately 64 percent annually toward both the member contribution and the employer rate. Of that 64 percent, a good portion is the unfunded liability portion. Let us, for example, take 20 percent off of that and presume that amount is the unfunded portion, that means 44 percent would represent the normal cost range. Under the language of the bill, that would mean the City and Association would both have to split that amount and the factor would then be 22 percent for each participant, the Firefighters as well as the City would have to pay that amount. However, the law specifies that 12 percent is the cap for members of

public safety, so the organization would still have to pick up the larger share of the normal cost range plus the unfunded liability. At the most, if you look at what MFFA members are paying now, the City will see a maximum of a 3 percent savings as we go forward from this point; but we also will realize continued increases in the employer rate. We know that earlier this year, **CalPERS** lowered its actual rate of assumption from 7.75 percent to 7.5 percent. We are anticipating that next year, the employer rate will go up at least 3 percent, maybe as high as 4 percent, related to that alone; and that will effectively wipe out any gain the City will see related to the passage of pension reform.

Council Member Paulitz asked for clarification on the pension reform bill benefit cap.

City Manager Starr answered, "Yes, there is a cap—12 percent for public safety and 8 percent for miscellaneous employees.

Council Member Paulitz noted there will be no real savings to speak of.

- (2) What percentage of our budget would you say goes to employer share pension costs for one bargaining unit?

City Manager Starr answered, "The member contribution and employer rate combined represents approximately one sixth of the total General Fund Operating Budget.

Council Member Paulitz noted the only way to prevent rising costs would be for the budget to increase.

City Manager Starr stated, "Well, with the anticipated increases and the anticipated growth in the budget, it would probably remain at about one sixth. If the employer rate continues to rise at about 3 percent annually, and that is effectively what we are anticipating as far as our growth, pension costs will remain at about one sixth of the total General Fund Operating Budget.

Council Member Paulitz thanked City Manager Starr for the information, noting it is "very interesting."

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of September 4, 2012

The City Council received and filed the Personnel Committee meeting minutes of September 4, 2012, for informational purposes.

XII. COUNCIL WORKSHOP

A. Presentation by Federal Legislative Advocate David Turch and Associates

Moved by Council Member Ruh, seconded by Mayor Pro Tem Raft, and carried to continue this item to an adjourned meeting on Monday, October 1, 2012, at 5:45 p.m. in the City Council Chambers.

XIII. ADJOURNMENT OF SUCCESSOR AGENCY, MONTCLAIR HOUSING CORPORATION, AND MONTCLAIR COMMUNITY FOUNDATION BOARDS OF DIRECTORS

At 7:25 p.m., Chairman Eaton adjourned the Successor Agency, Montclair Housing Corporation, and Montclair Community Foundation Boards of Directors.

At 7:25 p.m., the City Council went into Closed Session regarding labor negotiations pursuant to Government Code Section 54957.6.

XIV. CLOSED SESSION ANNOUNCEMENTS

At 7:58 p.m., the City Council returned from Closed Session. Mayor Eaton announced 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 7:59 p.m., Mayor Eaton adjourned the City Council.

Submitted for City Council/Successor Agency Board/Montclair Housing Corporation Board/Montclair Community Foundation Board approval,

Yvonne L. Smith
Deputy City Clerk