

**MINUTES OF THE REGULAR JOINT MEETING OF  
THE MONTCLAIR CITY COUNCIL AND SUCCESSOR  
AGENCY AND MONTCLAIR HOUSING CORPORATION  
BOARDS HELD ON MONDAY, DECEMBER 3, 2012,  
AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS,  
5111 BENITO STREET, MONTCLAIR, CALIFORNIA**

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**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 Larry Brazier, Morningstar Christian 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, Dutrey, and Ruh; Deputy City Manager/Executive Director of Economic Development Staats; Director of Community Development Lustro; City Engineer Hudson; Finance Director Parker; City Attorney Robbins; Deputy City Clerk Smith

**V. PRESENTATIONS - None**

**VI. PUBLIC COMMENT - None**

**VII. PUBLIC HEARINGS**

**A. Adoption of a Finding of Categorical Exemption and a DeMinimis Finding of No Effect on Fish and Wildlife Associated With the Monte Vista Avenue Improvement Project**

**Directing Staff to File a Notice of Exemption With the Appropriate Fees Within Five Days of This Action**

Mayor Eaton declared it the time and place for public hearing regarding adoption of a finding of categorical exemption and a

DeMinimis finding of no effect on fish and wildlife associated with the Monte Vista Avenue Improvement Project and directing staff to file a Notice of Exemption with the appropriate fees within five days of this action and invited comments from the public.

**Ms. Christine Whitaker**, 10971 Monte Vista Avenue, Montclair, noted she has resided at her present address since 1993 and hopes to remain there the rest of her life. She commented as follows:

1. She spoke in opposition to the widening of Monte Vista Avenue component of the proposed project for the following reasons: (a) a surveyor informed her neighbor that a portion of the frontage of **Ms. Whitaker's** property would be used for the project; (b) widening Monte Vista Avenue would result in increased traffic and "noise pollution"; and (c) she would lose a mature City tree that provides much-needed shade.
2. She complained about the excess dust in her home, her fence and sprinklers being moved and not properly replaced, removal of a City tree, and limited street access during the Carlton Street Improvement Project in May 2012.
3. She suggested Monte Vista Avenue be posted "No Parking" along the east side of the street so less of her property would be used for the project.
4. She suggested Monte Vista Avenue be widened from Phillips Boulevard to the I-10 Freeway in one project if that is the City's future intent.
5. Noting she is widowed with disabilities, she expressed her concern about her personal assistant having access to her home twice a week for the extent of the Monte Vista Avenue Improvement Project.

Mayor Eaton thanked **Ms. Whitaker** for her remarks. He asked that she give a copy of her written statement to City Engineer Hudson and asked him to respond to her concerns.

City Engineer Hudson advised that staff is aware of some of **Ms. Whitaker's** issues. He noted a request was made to save the City tree removed from **Ms. Whitaker's** property during the Carlton Street Improvement Project and that the tree was saved. He stated that two City trees would be removed from the public right-of-way in the Monte Vista Avenue Improvement Project. With regard to **Ms. Whitaker's** concern about loss of property, "the proposed design will not require any of her property along the frontage. Until I can actually get the base map prepared and submitted for review, which I expect to happen this week, I do not know for certain that

we will be able to make the turn around the corner without any right-of-way; but our intent is to complete the entire project with no right-of-way acquisition at all. We will meet with **Ms. Whitaker** regarding not only the promises made during the Carlton project but also what the intent is with this project and what we can do to address her concerns."

Mayor Eaton expressed his hope that a better job will be done with dust control.

City Engineer Hudson answered, "Yes, we will do that, too."

Council Member Dutrey asked if construction would begin in 2013.

City Engineer Hudson answered, "Yes, we are looking at 2013—probably late spring, early summer."

Council Member Dutrey noted the City Council would later be considering items related to advertising for bids and awarding the contract for the Monte Vista Avenue Improvement Project, advising that tonight's item only concerns a finding that the project is exempt from California Environmental Quality Act requirements for fish and wildlife. He asked that affected property owners be notified if there is a possibility of right-of-way acquisition for the project and that such information be included in the item to award the contract for the project.

City Engineer Hudson stated, "We will be back to the City Council at least twice: once for authorization to advertise for bids and once to request the Council to award the project. If it turns out there is minor right-of-way that is required, that will be a third time: first to get authorization to make an offer for the right-of-way and then for the Council to accept the right-of-way.

Council Member Dutrey thanked City Engineer Hudson.

Council Member Ruh inquired as follows:

1. Is there is a way to monitor dust control more closely?

City Engineer Hudson answered, "Yes, there is. We can require as part of the bid documents the application of dust palliative that will keep the dust down, something more than just water. We could make sure the area is kept wet during the excavation process, when much of the dust is generated."

2. Will Monte Vista Avenue be accessible during the project?

City Engineer Hudson stated, "Unlike the Carlton project in which the street was closed to everybody except local

residents during construction, the intent would be to keep Monte Vista Avenue open to two-way traffic at all times during construction. We make sure that trash pickup and mail delivery is available."

Council Member Ruh thanked City Engineer Hudson.

Mayor Pro Tem Raft inquired as follows:

1. Were affected residents notified as to the nature of the project?

City Engineer Hudson answered, "They received the same notification **Ms. Whitaker** received regarding the environmental requirements and the nature of the project. We did hear from one other resident who expressed her support but just wanted more information, which she received from Assistant Planner Gutierrez."

2. Could you please inform the public about the project?

City Engineer Hudson answered, "The City's master plan of streets and the circulation element of the General Plan call for Monte Vista Avenue to be widened to four lanes from Mission Boulevard to Phillips Boulevard, the southerly Sphere of Influence boundary. The work that we are doing now is being partially paid for by a state grant. The grant was sufficient to get us as far as Howard Street. In the future, either development work will do additional widening; or if we can get additional grant funds with some local matching City funds, our intent would be to extend the improvements all the way south to Phillips Boulevard."

Council Member Paulitz mentioned the South Coast Air Quality Management District requires dust control on construction projects, which staff should be monitoring.

City Engineer Hudson stated, "Yes, we do have an inspector who is onsite almost 100 percent of the time and a Project Manager who also periodically checks on it. This will be something we will focus on during construction to ensure we keep the dust down."

Mayor Eaton told **Ms. Whitaker**, "As you can hear, things are going to be somewhat more helpful to you and your neighbors, so I am sure staff will be in contact with you. I am sorry you did not get any answers when you really needed them. Thank you for coming in, we appreciate your time, and we hope this project will be much better than the previous one."

**Ms. Whitaker** thanked Mayor Eaton for his assistance.

There being no one else in the audience wishing to speak, Mayor Eaton returned the matter to the City Council for its consideration.

Moved by Council Member Paulitz and seconded by Mayor Pro Tem Raft to adopt a finding of categorical exemption and a DeMinimis finding of no effect on fish and wildlife associated with the Monte Vista Avenue Improvement Project and directed staff to file a Notice of Exemption with the appropriate fees within five days of this action.

Motion carried as follows:

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

Mayor Eaton thanked **Ms. Whitaker** for bringing her concerns to the City Council's attention. He noted the Council will further consider the item two or three times before construction begins.

## **VIII. CONSENT CALENDAR**

Moved by Mayor Pro Tem/Vice Chairperson Raft, seconded by Council Member/Director Paulitz, and carried to approve the following Consent Items as presented:

### **A. Approval of Minutes**

#### **1. Minutes of the Special Council Meeting of November 6, 2012**

The City Council approved the minutes of the November 6, 2012 special meeting.

#### **2. Minutes of the Regular Joint Council/Successor Agency Board/MHC Board of November 19, 2012**

The City Council, City Council acting as successor to the Redevelopment Agency Board of Directors, and Montclair Housing Corporation Board of Directors approved the minutes of the November 19, 2012 regular joint meeting.

### **B. Administrative Reports**

#### **1. Acceptance of Grant Deed No. 1669 for Sunset Park**

**Authorizing the Grant Deed to Be Recorded With the San Bernardino County Recorder**

The City Council took the following actions:

- (a) Accepted Grant Deed No. 1669 for Sunset Park.
- (b) Authorize the grant deed to be recorded with the Office of the San Bernardino County Recorder.

**2. Montclair Housing Authority Commissioners' Review and Acceptance of the Annual Report for Fiscal Year 2011-12**

The Montclair Housing Authority Commissioners reviewed and accepted the Annual Report for Fiscal Year 2011-12.

**3. Approval of City Warrant Register and Payroll Documentation**

The City Council approved the City Warrant Register dated December 3, 2012, totaling \$1,070,781.05 and the Payroll Documentation dated November 4, 2012, amounting to \$577,749.51, with \$406,340.69 being the total cash disbursement.

**C. Agreements**

**1. Approval of Agreement No. 12-101, a Revocable Easement Agreement With Monte Vista Water District for Moreno Vista Park**

**Authorizing Mayor and Deputy City Clerk to Sign the Revocable Easement Agreement**

**Acceptance of Grant Deed No. 1670 for Moreno Vista Park**

The City Council took the following actions:

- (a) Approved *Agreement No. 12-101, a Revocable Easement Agreement* with Monte Vista Water District for Moreno Vista Park.
- (b) Authorized the Mayor and Deputy City Clerk to sign the Revocable Easement Agreement.
- (c) Accepted Grant Deed No. 1670 for Moreno Vista Park

**2. Approval of Agreement No. 12-102 With Ontario-Montclair School District to Support Operation Costs at the Family Resource Center**

The City Council took approved *Agreement No. 12-102* with Ontario-Montclair School District to support operation costs at the Family Resource Center.

3. **Approval of Agreement No. 12-103, Amendment No. 1 to Agreement No. 12-98 With the City of Ontario Police Department for Participation in the "Avoid the 25" DUI Enforcement Program**

The City Council approved *Agreement No. 12-103*, Amendment No. 1 to Agreement No. 12-98 with the City of Ontario Police Department for participation in the "Avoid the 25" DUI Enforcement Program. The amendment clarifies that "fringe benefits" are not subject to reimbursement.

D. **Resolutions - None**

IX. **PULLED CONSENT CALENDAR ITEMS - None**

X. **RESPONSE - None**

XI. **COMMUNICATIONS**

A. **City Attorney**

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

*City of Montclair v. Richard Beltran*

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

B. **Deputy City Manager/Executive Director of Economic Development**

1. Deputy City Manager Staats commented as follows:

(a) She reminded the City Council of a special City Council meeting this Thursday, December 6, 2102, at 6:30 p.m. in the City Council Chambers.

(b) She noted the Annual Christmas Tree-Lighting Ceremony and Visit With Santa and Mrs. Claus would take place Thursday at 7:00 p.m. following the special meeting and encouraged everyone in the community to attend.

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

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

1. Council Member/Director Ruh noted he very much enjoyed participating yesterday as he has for many years in the **Assistance League of the Foothill Communities** annual Christmas

Tree Brunch fundraiser, advising that the proceeds benefit many causes including support of **Ontario-Montclair School District** students who are homeless. He gave credit to all of the volunteers throughout the year because the need is so great right now. He stated it is sad to note that over the last two or three years, some of the former donors now find themselves needing assistance. He stated, "Let us make sure that at this time of year, we remember everybody in need and try to keep them throughout the year in our thoughts and in our good deeds."

2. Council Member/Director Dutrey commented as follows:

- (a) He asked that the City Council conduct a performance evaluation of City Manager Starr at the January 7, 2013 meeting, noting one has not been conducted in two-and-one-half years.

Mayor Eaton asked if a consultant would be required.

Council Member Dutrey replied, "No consultant, just the five of us, our City Manager, and the City Attorney.

Moved by Council Member Dutrey, seconded by Mayor Pro Tem Raft, and carried unanimously to schedule a Closed Session on Monday, January 7, 2013, pursuant to Government Code Section 54957 regarding public employee performance evaluation – City Manager/Executive Director.

Mayor Eaton noted Council Member Dutrey and he spoke about scheduling the City Manager's performance evaluation earlier so they could tell him he is doing a good job.

- (b) He noted he attended his son **Chris's United States Army** basic training graduation at **Fort Benning**, Georgia, along with approximately 400 graduates. He noted he was a "very proud American" during the graduation ceremony of "these great troops who trained tirelessly to serve our country and protect us." He noted he enjoyed the parade featuring a very loud military band.

3. Mayor Pro Tem/Vice Chairperson Raft congratulated Council Member Dutrey on his son's graduation from the academy, noting her son Jonathan likewise graduated from basic training at **Fort Benning**, stating, "It is a very nice place."

4. Council Member/Director Paulitz commented as follows:
- (a) He asked Deputy City Manager/Office of Economic Development Executive Director Staats if a Public Works Committee meeting is scheduled for December 2012.

Deputy City Manager/Office of Economic Development Executive Director Staats answered, "No, the December meeting is canceled."

Council Member Paulitz noted he is planning to be out of town from December 20, 2012, to January 3, 2013.

- (b) He noted he very much enjoyed seeing the film **Lincoln** at the theater, something he rarely does. He encouraged everyone to see the picture because "it details the workings of our federal government between a very limited timeframe from January 1865 to after **President Lincoln's** assassination on April 15, 1865. He stated that the film denotes the struggle between the Republican and Democratic parties and that he was struck by the "irony that the Republican party—the abolitionist party that fought so hard for the **Thirteenth Amendment** to the **United States Constitution**—was being opposed by the Democrats, and now Democrats have 95 percent support of African-American voters. That is something I have never been able to figure out."

Mayor Eaton concurred, stating, "It is a great film. If you have a chance to see it, folks, please do."

Council Member Ruh stated, "For more detail, if you have an opportunity, read the book. The film was based on the book *Team of Rivals* by **Doris Kearns Goodwin**. It is an excellent book and goes into far more detail than can be achieved in a two-hour movie. I would highly recommend the book. I was privileged a few years ago—a friend of mine knows **Mrs. Goodwin**, and I was able to get an autographed first edition copy of the book. I have read it several times. It is a fascinating book."

## E. Committee Meeting Minutes

### 1. Minutes of Public Works Committee Meeting of October 18, 2012

The City Council received and filed the Public Works Committee meeting minutes of October 18, 2012, for informational purposes.

**2. Minutes of Personnel Committee Meeting of November 15, 2012**

The City Council received and filed the Personnel Committee meeting minutes of November 15, 2012, for informational purposes.

**3. Minutes of Safety Committee Meeting of November 19, 2012**

The City Council received and filed the Safety Committee meeting minutes of November 19, 2012, for informational purposes.

**XII. ADJOURNMENT OF SUCCESSOR AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS AND MONTCLAIR HOUSING AUTHORITY COMMISSIONERS**

At 7:26 p.m., Chairman Eaton adjourned the Successor Agency and Montclair Housing Corporation Boards of Directors and Montclair Housing Authority Commissioners

At 7:26 p.m., the City Council went into Closed Session regarding pending litigation pursuant to Government Code Section 54956.9(a).

**XIII. CLOSED SESSION ANNOUNCEMENTS**

At 7:40 p.m., the City Council returned from Closed Session. Mayor Eaton announced the City Council met in Closed Session regarding pending litigation, information was received and direction given to staff, and no further announcements would be made at this time.

**XIV. ADJOURNMENT OF CITY COUNCIL**

At 7:41 p.m., Mayor Eaton adjourned the City Council.

Submitted for City Council/Successor Agency Board/Montclair Housing Corporation Board/Montclair Housing Authority Commissioners approval,

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Yvonne L. Smith  
Deputy City Clerk