

**MINUTES OF THE REGULAR JOINT MEETING OF THE
MONTCLAIR CITY COUNCIL, SUCCESSOR AGENCY AND
MONTCLAIR HOUSING CORPORATION BOARDS, AND
MONTCLAIR HOUSING AUTHORITY COMMISSIONERS
HELD ON MONDAY, MARCH 4, 2013, 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 electronic devices as a courtesy to others while the meeting is in session.

II. INVOCATION

Mayor/Chairman Eaton gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Mayor Pro Tem/Vice Chairman Ruh led those assembled in the Pledge.

IV. ROLL CALL

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

V. PRESENTATIONS - None

VI. PUBLIC COMMENT - None

VII. PUBLIC HEARINGS - None

VIII. CONSENT CALENDAR

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

A. Approval of Minutes

1. Minutes of the Adjourned Council Meeting of February 16, 2013

The City Council approved the minutes of the February 16, 2013 adjourned meeting.

B. Administrative Reports

1. Authorization of a \$6,125 Appropriation From the Contingency Fund for Improvements Associated With the City Hall Handicap Accessibility and Patio Project

The City Council authorized a \$6,125 appropriation from the Contingency Fund for improvements associated with the City Hall Handicap Accessibility and Patio Project.

2. Approval of the City of Montclair Statement of Investment Policy

The City Council approved the City of Montclair Statement of Investment Policy.

3. Successor Agency Board of Directors' Approval of the City of Montclair as Successor Agency for the City of Montclair Redevelopment Agency Statement of Investment Policy

The Successor Agency Board of Directors approved the City of Montclair as Successor Agency for the City of Montclair Redevelopment Agency Statement of Investment Policy.

4. Montclair Housing Corporation Board of Directors' Approval of the City of Montclair Housing Corporation Statement of Investment Policy

The Montclair Housing Corporation Board of Directors approved the City of Montclair Housing Corporation Statement of Investment Policy.

5. Montclair Housing Authority Commissioners' Approval of the City of Montclair Housing Authority Statement of Investment Policy

The Montclair Housing Authority Commissioners approved the City of Montclair Housing Authority Statement of Investment Policy.

6. Declaring Certain City Property and Unclaimed Property in Police Custody as Surplus and Available for Auction

The City Council declared certain City property and unclaimed property in Police custody as surplus and available for auction.

7. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated March 4, 2013, totaling \$1,546,958.45 and the Payroll Documentation dated January 27, 2013, amounting to \$722,261.59, with \$395,641.13 being the total cash disbursement.

C. Agreements

1. Approval of *Agreement No. 13-17, a Tolling Agreement Between the City of Montclair and San Bernardino County Concerning Property Tax Administration Fees*

The City Council approved *Agreement No. 13-17, a Tolling Agreement* between the City of Montclair and San Bernardino County concerning property tax administration fees.

2. Approval of *Agreement No. 13-18 With Ontario-Montclair School District for Use of Kingsley Park Ball Fields*

The City Council approved *Agreement No. 13-18* with the Ontario-Montclair School District for use of Kingsley Park ball fields.

3. Approval of *Agreement No. 13-20 Amending Agreement No. 12-36 With the San Bernardino County Department of Aging and Adult Services to Increase Funding for the Senior Citizen Nutrition Program*

The City Council approved *Agreement No. 13-20 Amending Agreement No. 12-36* with the San Bernardino County Department of Aging and Adult Services to increase funding for the Senior Citizen Nutrition Program.

4. Approval of *Agreement No. 13-21 Amending Agreement No. 12-21 With the County of San Bernardino for Access to the Sheriff's Automated Systems*

The City Council approved *Agreement No. 13-21 Amending Agreement No. 12-21* with the County of San Bernardino for access to the Sheriff's Automated Systems.

D. Resolutions

1. Adoption of Resolution No. 13-2979 Supporting the Renewal, Expansion, and Renaming of the San Bernardino County Recycling Market Development Zone

The City Council adopted Resolution No. 13-2979 supporting the renewal, expansion, and renaming of the San Bernardino County Recycling Market Development Zone.

2. Adoption of Resolution No. 13-2980 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges

The City Council adopted Resolution No. 13-2980 authorizing placement of liens on the 282 properties listed on Exhibit A to the Resolution for delinquent sewer and trash charges.

IX. PULLED CONSENT CALENDAR ITEMS - None

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney - No comments

B. City Manager/Executive Director

1. City Manager Starr noted a presentation was made before the City Council last week related to the potential for outsourcing fire protection-related services and that this evening **Chief Mark A. Hartwig** with the **San Bernardino County Fire Protection District (County Fire)** gave a presentation on the **District's** proposal for fire protection and emergency medical services. He advised there has been some speculation that the **California Department of Forestry and Fire Protection (CAL FIRE)** has withdrawn its proposal to the City for fire protection and emergency medical service, which is not exactly correct. He stated that the **District's** decision is pending and we would most likely receive notification in the next few weeks. He noted meeting last week with representatives from **CAL FIRE** to discuss its potential reconsideration of the proposal submitted to the City, at which time **CAL FIRE** assured staff that while the rumor may be circulating, it is not the case. He clarified the issue stems from **CAL FIRE's** labor organization contacting the Montclair Fire Fighters Association (MFFA) to advise that the proposal had been withdrawn. He further clarified that **CAL FIRE** had initially made such decision;

however, after meeting with staff last week, has decided to reevaluate its decision to decide whether to reinstate its proposal.

City Manager Starr noted the inappropriate, loud, distractive, and unprofessional comments heard from the gallery of MFFA representatives during his presentation last week presumed that his commentary was incorrect and that such perspectives were relayed to **Chief Hartwig**. He stated that he has since spoken to **Chief Hartwig** who understands that "the presentation, as it was made by me, was based on information provided by both **CAL FIRE** and **County Fire** and that there was no effort on my part to demonstrate bias toward one agency or another. I simply presented the facts as they were provided. **Chief Hartwig** and I also had a conversation related to the negative perspective that **CAL FIRE** suffers by many in fire service. So any presentation that presents a positive perspective of **CAL FIRE** may be perceived by individuals in fire service as being biased toward **CAL FIRE**. It was certainly not my intent to present a biased presentation. I do not believe that the presentation was biased one way or the other. I think I presented the facts favorably for both agencies. The conclusions drawn on each one of them were slightly different. The conclusion related to **CAL FIRE** was that it was a positive recommendation and that **CAL FIRE** could properly and adequately provide fire protection-related services to the City of Montclair. As it related to **County Fire**, the same conclusion was drawn with the caveat that the Council should proceed with caution because of certain cost factors that are unknown in that proposal that may cause the **County Fire** proposal to be more expensive a few years after the City enters into such arrangement, which was one of the concerns the Council demonstrated tonight about the potential for the City to withdraw from **County Fire** services if it turned out to be excessively costly for the City."

City Manager Starr stated, "As the Council continues to evaluate the potential for outsourcing fire-related services, I only ask that you keep all these issues in mind. Staff does try to present a fair perspective of both proposals. We also discussed why proposals were not sought from other agencies, so I believe that is no longer an issue. It is not an end story right now. You have the **County Fire** proposal before you; and if **CAL FIRE** chooses to make a presentation before the City Council, I will certainly schedule it as another workshop. At this point in time, I would say that it would probably not be until April if **CAL FIRE** decides to proceed. We do need to give the organization a fair opportunity to give a presentation

similar to **County Fire's** presentation this evening. That is all I have in relation to this process thus far, but staff will certainly keep the Council advised of any decision that may be forthcoming from **CAL FIRE** related to going forward or ultimately withdrawing its proposal."

Mayor Eaton stated, "Mr. Starr, I think you did a very fair job in representing both agencies. It just amazes me how some people want to misconstrue what you have to say. It was not correct. Nothing like that would happen. It just disappoints me that we have those among us who were trying to sabotage what we are trying to do."

2. City Manager Starr advised that he meant to elaborate during his presentation last week that the idea for outsourcing fire protection and emergency medical services actually began in early 2012 when the cities of Montclair, Upland, and Rancho Cucamonga were asked to meet with the West End fire chiefs from the **Rancho Cucamonga Fire Protection District, City of Upland, City of Montclair, and the Chino Valley Independent Fire District**. At that time, he noted the fire chiefs presented a proposal to the city managers that would basically carve up the territories of Montclair, Upland, and Rancho Cucamonga into two different regional fire districts, with the Montclair Fire Department merging with the **Chino Valley Independent Fire District** and the **Rancho Cucamonga Fire Protection District** merging with the **Upland Fire Department**. He reported that neither of the proposals was satisfactory to the cities of Montclair and Upland, so the process basically died at that time. He advised that he discussed with Upland City Manager **Dunn** about the potential of forming a joint powers authority as well as duty command staff sharing between the two cities and that discussion has continued, though "we have not been back to the table in a number of months because of consideration by both agencies of the **County Fire** and **CAL FIRE** proposals. During that process of discussing the potential of creating a joint powers authority and perhaps duty command staff sharing, he noted the Montclair administrative staff, Executive Director of Public Safety, and he were approached by the MFFA asking that Montclair consider outsourcing fire-related services because the group had an interest and believed it could provide a greater breadth of services to the community and would have greater opportunity for advancement if it became part of a larger fire entity.

"It is not that the City of Montclair set out on its own to examine the outsourcing of fire-related services. We were

approached first by the West End fire chiefs, then we as well as Upland examined the process, and then we were approached by members of the MFFA to examine outsourcing; and at that time, we submitted requests for proposals to the various fire agencies serving this area. In the case of Montclair, we looked at **CAL FIRE** and **County Fire**. Upland went in a different direction and looked at other agencies; but in the end, Upland dropped out and Montclair stayed in the process as we continue to evaluate the proposals. That is why they were presented to you, that is why they are under consideration, and it is not because we as a city actively sought to outsource our fire protection services or our emergency medical services; though now that we are in that examination process and we have learned what we have learned from the proposals submitted by the various agencies, it does appear that if we contracted out or outsourced our fire-related services, there is a greater chance that Montclair could provide an enhanced level of services to the community and for a more cost-effective approach. In that case, why should not the City Council now consider these proposals as submitted, and that is what you are going through right now—the consideration process."

Mayor Pro Tem Ruh emphasized that this is not the first time the City has had this request made. He noted a budget committee dubbed "Committee 2000" was assembled in early 1998 to address budget shortfalls by examining many different options for City-provided service programs to be reduced, outsourced, or eliminated altogether. He stated that the committee concluded it would not necessarily be cost effective at that time to outsource fire-related services. He noted such outsourcing requests have continued over the years, and now the City Council is in its second formalized review and consideration of doing so.

C. Mayor/Chairman - No comments

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

1. Mayor Pro Tem/Vice Chairman Ruh commented as follows:

(a) He expressed his opinion that both presentations "were very thorough. I think they gave a good overview on what we have to look at. I have not yet made up my mind one way or the other. In Latin, there is a saying: 'tabula rasa,' which means 'blank slate' and pretty much sums up how I am approaching this. I am doing a lot of reading on the proposals here, sometimes late at night, because I

feel it is important that if I have questions, I can write them down and get them to **Mr. Starr** right away. In saying that, it does not mean that we do not care. I am just taking a lot of time to review the materials because it is such an important issue. For every Council Member, our obligation first and foremost is a fiduciary one to the City, which means we need to look at what financially makes the best sense. In this case, whether it financially makes sense and whether we deliver better service in a more efficient manner. We have to look at all of that. When you read this and have questions and are dealing with complicated issues as far as to whom the assets are entitled, which entity owns the asset, what happens with pensions, what happens with money, who controls the contracts: These all become very difficult issues and nobody wants to make a decision that has us in future years saying, 'Oh, gee, I wish we had not done that' because quite often, we all know that there are unintended consequences to everything that is done. I am trying to examine those and really look at what is in the best interest for this community, not just today or tomorrow, but long term. I think it is probably a better approach to really be looking at this and reading and taking our time rather than just jump off on something."

- (b) He reiterated that those who have been in the vicinity of Monte Vista Avenue and Moreno Street have noticed the work in progress at The Paseos at Montclair North project to include a 385-unit residential community with amenities and a neighborhood public park. He noted the project is the first in the North Montclair Downtown Specific Plan (NMDSP) that staff has been working on for quite a long time, one which will add a very new dimension to the City and lead us in a very positive direction. In response to those who have criticized the Council that there is no development occurring in the City or development is taking a long time, he advised that development, by nature, does take a long time; it does not happen overnight. Noting in many cases timing is everything, he expressed his opinion that now is a good time for a project that is going to add something we do not have in this City and give some dynamism to that area.
- (c) He noted the **Metro Gold Line** would someday arrive in Montclair. He advised that there is an issue regarding federal funding for the project that is a factor in its completion, though he has every belief that there is no other choice other than the project's extension through

to Montclair. He noted the **Gold Line** is an integral part of Southern California and our future mass transit needs. As the project moves forward, he noted residents have been very supportive and continue to ask him when the light rail system will reach Montclair because they want to use it and understand it will be a good way to reach points west from here and, one can only hope, that it would someday reach the **LA/Ontario International Airport**.

- (d) He noted when one considers all projects that are ongoing and realize that many of them take time—that nothing happens overnight—indeed, we are moving forward. He stated that with regard to the residential projects in the NMDSP funded by **Magic Johnson** and **Hutton Development Company**, "We did not seek them out; they sought us out. I think that is a real difference between Montclair and other communities. People want to be here, and they are calling us."

2. Council Member/Director Dutrey commented as follows:

- (a) He stated, "The City Council works for the residents and will not forget that it. It is our obligation as a City Council to make sure that we provide at least the minimum level of service in all aspects that the residents of Montclair expect including police, fire, public works, recreation, and economic development of this City. I think it is important that we have a Fire Department that provides the level of service that the residents want. I am going to say this—and I see Pat Hein in the gallery this evening. Pat, you are doing a good job—I just want to let you know. I know a lot of the senior members do a good job. What bothers me is that we have a lot of young members; probably 70 percent of the current floor staff have fewer than ten years experience with the Montclair Fire Department. Nothing against them, of course. I was young once, too. When you are young, you think you know it all; just because you can pass a written test in the classroom does not mean you know it all. I think it is important as our Division Chiefs and Captains retire that we have staff ready to move into those positions in the future. Again, nothing against the young members of the Department, but it takes time to acquire experience in fighting fires and major incidence responses to be able to tell those stories to the Firefighters and Engineers in training. You could read a book, which I have done, and also talk to individuals and ask questions of experts. We

need to ensure this Fire Department provides the level of professional service that is required. What that is I cannot be sure. We have two proposals; it is hoped one proposal will remain intact. Does that mean we could possibly join with Upland in a joint powers authority? I do not know. Can we continue 'as is' at a level where we can get the training, experience, and everything else we need for our Fire Department or hire a Fire Chief one day and so forth? This is an exercise that will continue. As far as I am concerned, I am learning as much as I can. I think we will move forward. The last thing I want to do is make a decision today that I would regret later. We are planning for the next decade, not just one or two years hence."

- (b) He asked City Manager Starr to provide the City Council with a report on the status of the following four Fire Department apparatus: two fire engines, medic squad, and command unit including the number of years of service, mileage, and life expectancy of each vehicle. He asked that the report also include cost estimates to purchase a new fire engine and command unit.

City Manager Starr stated, "Yes, we can extract much of that information out of our equipment replacement schedule and work with Deputy Fire Chief McCutcheon to fill in the rest."

- (c) He asked City Manager Starr if he could provide the City Council with copies of the mutual aid agreements.

City Manager Starr advised that he has not personally seen the mutual aid agreements, expressing his opinion he could obtain them from Deputy Fire Chief McCutcheon to provide to the Council.

Council Member Dutrey noted the Council and he would like to study them as well as the automatic aid agreements.

Deputy Fire Chief McCutcheon stated that automatic aid agreements are generally considered handshake agreements and that mutual aid agreements are more formal.

City Manager Starr added there is a third agreement, the California Mutual Aid Agreement, which all cities in California are technically signatories to if they are going to provide automatic and mutual aid services.

- (d) He asked City Manager Starr to provide a brief report on the transfer of unfunded liability of between \$6 and \$8 million for Fire Department employees' pensions from the **California Public Employees' Retirement System (CalPERS)** to **San Bernardino County Employees' Retirement Association**.

City Manager Starr advised that **CalPERS** could provide an actuarial at a cost to the City.

Council Member Dutrey asked that City Manager Starr provide the report.

City Manager Starr stated that he would do so.

Mayor Pro Tem Ruh noted he asked the same of **County Fire Chief Hartwig** this evening.

City Manager Starr noted there is no doubt that the transfer would be costly. He noted Upland had an actuarial conducted that came back at approximately \$10 to \$12 million when it was considering the **County Fire** proposal.

- (e) He asked if the City Council could provide the City Manager with direction during Closed Session concerning staff's negotiations with the chosen agency on the terms of a contract.

City Attorney Robbins answered, "Yes, you can conduct negotiations in Closed Session."

Council Member Dutrey asked if the City Council adopts a Resolution related to outsourcing of fire-related services and directs the City Manager to begin negotiations with the chosen agency, the City Council could be involved in the negotiations in Closed Session.

City Attorney Robbins answered, "Yes."

Council Member Dutrey noted approval of the agreement would be conducted in Open Session.

City Attorney Robbins answered, "Right. The actual decision must be made in Open Session. I do think we are getting just a little in depth for just our Communications."

Council Member Dutrey stated, "I understand quite well."

Mayor Eaton suggested Council Members present further questions to City Manager Starr, noting, if need be, **Chief Hartwig** could meet with the Council. He stated, "Please keep in mind that we have not made a decision. We are doing fact-finding, looking at the best service program for the City. Pray for us."

- (f) He encouraged residents to vote in tomorrow's State Senate election.

Mayor Pro Tem Ruh clarified that the Special Primary Election for State Senate District 32 is next Tuesday, March 12, 2013.

- 2. Council Member/Director Raft concurred with Mayor Pro Tem Ruh and Council Member Dutrey's comments concerning City Manager Starr's quite thorough presentation related to the **County Fire** and **CAL FIRE** proposals and told City Manager Starr he did a very good job. She noted only Fire Division Chief Bob Crouch commented at the workshop, which exemplifies the attention to detail of City Manager Starr's presentation. She added that the City Council's review and consideration of the proposals will be a long process.
- 3. Council Member/Director Paulitz commented as follows:
 - (a) He noted he has already told City Manager Starr that he gave an excellent presentation on the fire service proposals at last week's workshop.
 - (b) He emphasized that his focus as a City Council Member is that he does not want the City's budget to be overwhelmed with pension costs and public safety salaries, which constitute approximately 80 percent of the total budget and leave little else for maintenance costs of parks, streets, public services, and community services. He advised employees that the City Council is considering outsourcing of fire protection-related to services to keep the budget in good shape and to build up reserves.
 - (c) In follow-up to Council Member Dutrey's comments about limited experience employees, he expressed his opinion that "they have not hurt us in any way in terms of fire suppression calls for service." He suggested that level of service could compare with the County's Limited Term Firefighter classification that has a three-year term, noting "there is not much difference between the two levels."

- (d) He discussed the spate of negative advertising targeting **San Bernardino County Auditor–Controller/Recorder/Treasurer/Tax Collector Larry Walker**, who is one of four Democratic candidates running for the vacancy in State Senate District 32 in next Tuesday's Special Primary Election. He stated that the ads, run by the Committee for Fair Wages and a school union, belabor **Mr. Walker's** "excessive salary" and other benefits he receives as an employee of the County and "smack of desperation to a certain extent because there are six candidates running—two Republicans and four Democrats—and the registration in our District has indicated the top two Democrats, if they do not split the vote too much, will be the candidates in a runoff Special General Election on Tuesday, May 14, 2013. So take that with a grain of salt."

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of February 19, 2013

The City Council received and filed the Personnel Committee meeting minutes of February 19, 2013, for informational purposes.

XII. ADJOURNMENT OF CITY COUNCIL, SUCCESSOR AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS, AND MONTCLAIR HOUSING AUTHORITY COMMISSIONERS

At 7:30 p.m., Mayor/Chairman Eaton adjourned the City Council, Successor Agency and Montclair Housing Corporation Boards of Directors, and the Montclair Housing Authority Commissioners.

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

Yvonne L. Smith
Deputy City Clerk