

MINUTES OF THE REGULAR JOINT MEETING OF THE  
MONTCLAIR CITY COUNCIL, SUCCESSOR AGENCY  
AND MONTCLAIR HOUSING CORPORATION BOARDS,  
AND MONTCLAIR HOUSING AUTHORITY COMMISSION  
HELD ON MONDAY, JULY 15, 2013, 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 electronic devices as a courtesy to others while the meeting is in session.

**II. INVOCATION**

**Ma Shivamaya, Nithyananda Vedic Temple**, 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 Chairman Ruh; Council Members/Directors Paulitz, Raft, and Dutrey; City Manager/Executive Director Starr; Deputy City Manager/Economic Development Executive Director Staats; Director of Community Development Lustro; Director of Public Works Hudson; City Attorney Robbins; Deputy City Clerk Smith

**V. PRESENTATIONS**

**A. Introduction of Police Department Promotee**

Police Chief/Public Safety Executive Director deMoet introduced Lieutenant Brian Ventura, who was promoted to his new position effective July 1, 2013. He noted Lieutenant Ventura served as Watch Commander in 2006 upon his promotion to Sergeant, in 2009 was assigned to supervise the Crime Suppression Unit, and returned to patrol in 2011 as Watch Commander and Field Training Officer.

Police Chief/Public Safety Executive Director deMoet advised that Lieutenant Ventura received the Annual Achievement Award in

2009, letters of commendation for coordinating a **San Bernardino Movement Against Street Hoodlums (SMASH) Program** that resulted in seizure of several firearms, and is a two-time recipient of the Life Saving award.

Mayor Eaton congratulated Lieutenant Ventura on his promotion and presented him with a City pin.

#### **B. 2013 Home Beautification Awards**

Mayor Eaton stated that as part of the City's ongoing efforts to encourage pride in home ownership and community spirit, the Community Action Committee has once again sponsored the annual *Home Beautification Awards* program. He introduced CAC Chairperson Pat Wooton to announce the finalists and winner.

Chairperson Wooton advised that the CAC has continued to sponsor this program over the past 18 years to recognize Montclair residents who demonstrate community pride by attractively maintaining their homes. She noted the CAC selected three finalists who exemplify a true sense of pride in their homes. She thanked all residents who help to make Montclair a beautiful community in which to live.

A brief PowerPoint presentation showcased the finalists' residences.

The following three finalists were presented with framed City certificates and would later be provided with property identification signs:

*"2013 Most Picturesque Home"* - **Guzman** family, 9998 Rose Avenue

*"2013 Home of Distinction"* - **Mendivil** family, 4896 El Morado Street (*in absentia*)

*"2013 Home of the Year"* - **Castenada** family, 9109 Mills Avenue

Mayor Eaton congratulated the winners of the *2013 Home Beautification* awards and thanked all residents who have contributed to the beautification of Montclair. He also thanked the CAC for once again organizing and facilitating the program.

## **VI. PUBLIC COMMENT**

- A. Mr. Jerry J. Vincent**, 16515 Misanake Road, Apple Valley, noted he has resided in Apple Valley for 35 years and has worked for **AT&T** for 40 years.

**Mr. Mariano Tigno** noted he has resided in Chino Hills for 22 years, has worked for the **Los Angeles Unified School District** for 29 years, and he and **Mr. Vincent** are volunteer leaders of the **H. Martin Foundation**.

**Mr. Vincent** stated that the **H. Martin Foundation Far East Humanitarian Services** is a "worldwide humanitarian funding Institution" that would be a solution to the City of Montclair's economic challenges by funding 100 percent of the City's programs and projects; creating local jobs; and providing humanitarian services, family services, and disaster relief.

**Mr. Tigno** advised that the **H. Martin Foundation** is interested in building a model project in Montclair to be named the "H. Martin Global Community Center of Montclair," which would "centralize different nonprofit organizations and humanitarian agencies" to provide "more efficient services and additional jobs to benefit the families in the community. The community center would also provide family services, such as free child-care, free before- and after-school programs, and a complete scholarship program."

**Mr. Vincent** provided the City Council with information on the foundation.

Mayor Eaton thanked **Mr. Vincent** and **Mr. Tigno** for their comments.

## **VII. PUBLIC HEARINGS**

### **A. Adoption of Resolution No. 13-2994 Amending the Master User Fee Schedule**

Mayor Eaton declared it the time and place set for public hearing related to Resolution No. 13-2994 amending the Master User Fee Schedule and invited comments from the public.

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

Council Member Paulitz inquired as follows:

#### **1. What is the proposed percentage of recovery of costs?**

City Manager Starr replied that it is difficult to predict because staff does not know the future rate of development in the City. He noted staff will have a better idea of the amount of cost recovery as development progresses once the economy recovers. He advised that the City is currently recovering approximately 46 percent of service costs.

Council Member Paulitz noted he has always advocated that fees be updated annually to avoid "sticker shock," which occurred when he was first elected to the City Council and fees were updated after a number of years. He expressed his opinion that taxpayers should not bear the burden of costs attributable to a specific development or person receiving the service, particularly with regard to Building Division fees.

2. Are there any other major fee increases besides those proposed for the Building Division?

City Manager Starr answered, "No. The bulk of the increases are in the Building Division. Most of the other program areas throughout the City are reviewed for adjustments by the City Council annually, so we basically stayed in pace on those particular fee components. The Building Division is a different matter simply because we generally made adjustments at the same time we adopted amendments to the Uniform Building Code."

Council Member Paulitz stated, "Thank you very much. I think you are doing a terrific job on this item."

City Manager Starr expressed the collective opinion of staff that the user of the service pay the full cost to provide the service; though, recovering the amount of money that Wohlford Consulting had projected in his analysis simply is not practical or feasible. He stated, "We would chase off development if we did so simply because most of the cost increases would be in the Building Division area. There are a number of fee components that do have a public health, safety, and welfare element to them. Because of that, it is apparent to us at the staff level that it is appropriate that the entire community provide some level of support for paying a component of those costs. That is why we feel it is appropriate to recommend to you this evening that the cost not be entirely placed on the user of the service but that a component of it be shared throughout the community."

Council Member Dutrey stated that essentially, there is a cost of doing business and that fees must be regularly adjusted, particularly in the wake of the Great Recession and rising costs. He noted staff has done an exceptional job in its cost analysis while being cautious about user fees. Expressing his opinion that fees were adjusted in a reasonable manner, he stated that he supports the item.

City Manager Starr thanked Council Member Dutrey for his comments, stating, "I agree. Staff has done a commendable job. Every department head and certain members of management staff,

as well as Deputy City Manager/Economic Development Executive Director Marilyn Staats who oversaw this project and Administrative Analyst Mikey Fuentes, put a tremendous amount of work into preparing this item for presentation to the City Council. As you look at the agenda report and review all the details in Exhibits A and B, it is quite clear that this was not only a voluminous project but a very comprehensive and difficult project to achieve. During the process of conducting the analysis, we found that nearly every other agency did not even attempt to conduct this extensive of a research project related to their fee programs; and they have no knowledge of the subsidies they might be incurring in relation to providing these programs that are directly benefiting only a specific number of individuals in the community. The fact that it took a number of years to complete is certainly telling in what you have before you today.”

Mayor Pro Tem Ruh noted he specifically compared the proposed Building Division fees to those of neighboring cities because he wanted to make certain the fees proposed were not out of line in any way, particularly at a time when development can be very discretionary. He noted the proposed fees seem to be fairly in line with neighboring entities, which means development choices would be equitable across the region. He added that the City could always be flexible from a development standpoint.

City Manager Starr stated, "Absolutely. Again, that is contrary to the results of the Wohlford study. Mr. Wohlford would have recommended that we go much higher on the fees, which is why we felt it necessary to do a fee survey of surrounding agencies. Again, I do want to reiterate that while the fee survey analysis was conducted—you have to recognize that while we stayed within the ballpark, the agencies that we surveyed simply did not understand why they were necessarily charging the fees they were because they have never conducted this form of an analysis and, if they did, then I would suspect that their fees would probably be much higher than what they are charging, which would have perhaps given us the opportunity to go higher in what we are recommending. Until this catches on and until they look at the results of what we have done, then I suspect that this will be a building process as we go forward and that you may see these fees come back to you on an annual basis, which is what our commitment is and is what we have requested in the various components of the agenda report recommendation. We will be looking at this on an annual basis, and we will be coming back to you in relation to additional adjustments if they are appropriate and necessary. Of course, we will continue to do a comprehensive analysis every five to seven years."

Council Member Raft noted she was pleased to receive this item because it gives the City Council timely user fees to compare with

other cities along with the knowledge that other cities have not conducted their own fee analysis. She indicated that unbeknownst to her on the methodology used, other cities' fees seem to be quite high. She stated, "It is nice to see that [Montclair's fees] are not quite as high as other cities' fees.

Mayor Pro Tem Ruh interjected that some cities have very large General Fund reserves that they can draw down on initially, though that may not be the case in 15 years.

Council Member Raft stated, "It is a good study. Thank you—I appreciate the work."

Mayor Eaton stated, "Good job, everyone. This puts us right in line. Thank you all. Montclair is showing the way again."

Moved by Council Member Dutrey and seconded by Council Member Paulitz that the City Council take the following actions:

1. That Resolution No. 13-2994, entitled, "**A Resolution of the City Council of the City of Montclair Amending the Master User Fee Schedule**," be read by number and title only, further reading be waived, and it be declared adopted to continue certain department fees, rates, and charges and increase certain fees, rates, and charges for Fiscal Year 2013-14.
2. That annual review and update of fees based on factors such as the impact of inflation, other cost increases, and the adequacy of coverage costs be authorized.
3. That revision of various fees and charges be approved based on more current cost information, fee levels charged by surrounding agencies, market sensitivity, and the findings provided by Wohlford Consulting.
4. That recovery costs for fees and charges be authorized to be in direct proportion to the individual/specific gain for services received.

The City Council unanimously waived the reading of the Resolution.

Resolution No. 13-2994 was unanimously adopted and annual review and update of fees were authorized, revision of various fees and charges was approved, and recovery costs for fees and charges were authorized pursuant to the criteria established in the agenda report on this item by the following vote:

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

## VIII. CONSENT CALENDAR

Council Member Dutrey requested that Item B-13 be removed from the Consent Calendar for comment.

City Manager Starr requested that Item B-9 be removed from the Consent Calendar for comment.

Moved by Council Member/Director Dutrey, 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 Regular Joint Council/Successor Agency Board/MHC Board/MHA Commission Meeting of July 1, 2013

The City Council, City Council acting as successor to the Redevelopment Agency Board of Directors, Montclair Housing Corporation Board of Directors, and Montclair Housing Authority Commissioners approved the minutes of the July 1, 2013 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 June 30, 2013.

#### 2. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated July 15, 2013, totaling \$1,740,727.95 and the Payroll Documentation dated June 2, 2013, amounting to \$661,389.46, with \$448,234.42 being the total cash disbursement.

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

The City Council acting as successor the Redevelopment Agency Board received and filed the Successor to the Redevelopment Agency Treasurer's Report for the month ending June 30, 2013.

#### 4. Approval of Successor Agency Warrant Register

The City Council acting as successor to the Redevelopment Agency Board approved the Successor to the Redevelopment

Agency Warrant Register dated 6.01.13–6.30.13 in the amounts of \$0.00 for Project I; \$0.00 for Project II; \$0.00 for Project III; \$0.00 for Project IV; \$500.00 for Project V; \$0.00 for the Mission Boulevard Joint Redevelopment Project; \$0.00 for the Redevelopment Obligation Retirement Funds; \$0.00 from the Tax-Exempt Bond Proceeds; and \$0.00 from the Taxable Bond Proceeds.

**5. Receiving and Filing of MHC Treasurer's Report**

The MHC Board received and filed the MHC Treasurer's Report for the month ending June 30, 2013.

**6. Approval of MHC Warrant Register**

The MHC Board approved the MHC Warrant Register dated 6.01.13–6.30.13 in the amount of \$28,126.51.

**7. Receiving and Filing of MHA Treasurer's Report**

The MHA Commissioners received and filed the MHA Treasurer's Report for the month ending June 30, 2013.

**8. Approval of MHA Warrant Register**

The MHA Commissioners approved the MHA Warrant Register dated 6.01.13–6.30.13 in the amount of \$670.50.

**10. Authorization to Purchase One 2013 Chevrolet Equinox 1LT From Glendora Chevrolet**

The City Council authorized the Police Department to purchase one 2013 Chevrolet Equinox 1LT from Glendora Chevrolet to replace one 2008 Dodge Durango used by the San Bernardino County West End Narcotic Enforcement Team.

**11. Authorization to Purchase One 2014 Ford Explorer From Chino Hills Ford**

The City Council authorized the Police Department to purchase one 2014 Ford Explorer from Chino Hills Ford to replace the 2003 Chevrolet Impala currently used by administrative staff.

**12. Declaring Ropes and Webbing as Surplus and Available for Donation to Mt. San Antonio College for the Fire Technology Program**

The City Council declared outdated ropes and webbing as surplus and available for the Fire Department to donate to Mt. San Antonio College for the Fire Technology Program.

C. **Agreements** - None

D. **Resolutions** - None

**IX. PULLED CONSENT CALENDAR ITEMS**

**B. Administrative Reports**

**9. Authorization to Amend the Fiscal Years 2013–2018 Capital Improvement Program Adding Additional Funding to the Central Avenue/Union Pacific Railroad Grade Separation Reconstruction Project**

City Manager Starr noted the City Council has been provided with a revised Capital Improvement Program worksheet, which shows that the amounts previously listed in the Fiscal Year 2017–18 "Environmental" column should actually be listed under "Construction."

Moved by Mayor Pro Tem Ruh, seconded by Council Member Raft, and carried unanimously that the City Council authorize amendment of the Fiscal Years 2013–2018 Capital Improvement Program adding additional funding to the Central Avenue/ Union Pacific Railroad Grade Separation Reconstruction Project with the revision as noted to the Capital Improvement Program worksheet attached to the agenda report on this item.

**13. Authorization for Staff to Advertise for Bid Proposals for the Northeast Montclair Residential Street Resurfacing Project**

Council Member Dutrey spoke in support of street resurfacing. Noting Monte Vista Water District (MVWD) has recently been replacing water lines at Central Avenue and the I-10 Freeway, he expressed his hope that the contractor for the subject project would not be using the same staging area being used by MVWD. He expressed his opinion that the location is not appropriate for a construction staging area because of the jumble of equipment and unsightly dirt piles. He asked that the staging area for the subject project be situated elsewhere or, should that location be used, that it should be screened "to look a little more attractive."

Mayor Eaton expressed his disagreement with Council Member Dutrey, stating, "It shows that Montclair is doing things, John."

Council Member Dutrey stated that he disagrees.

Mayor Eaton noted he understands staging area equipment because he worked in the construction profession.

Mayor Pro Tem Ruh asked if there is an estimated time of completion for the project.

Director of Public Works Hudson advised that staff expects to open bids in late August or September, the City Council should be presented with an item to award the contract in September, and the project would probably be under construction in October. He noted staff is still putting the project together and that it would probably take one or two months to complete.

Mayor Pro Tem Ruh concurred with comments made by Mayor Eaton. He noted some cities in the San Gabriel Valley that he drives through to get to work install large informational signs so the public understands how their tax dollars are being spent.

Council Member Dutrey indicated the issue is that no work is being done on Central Avenue; equipment is just being stored along the thoroughfare. He noted construction actively taking place is another matter altogether.

Mayor Eaton noted he has not received any complaints about the matter.

Moved by Mayor Pro Tem Ruh, seconded by Council Member Raft, and carried unanimously that the City Council authorize staff to advertise for bid proposals for the Northeast Montclair Residential Street Resurfacing Project.

**X. RESPONSE - None**

**XI. COMMUNICATIONS**

**A. City Attorney**

**1. Closed Session Pursuant to Section 54956.9(d)(2) of the Government Code Regarding Potential Litigation**

*United States Environmental Protection Agency Settlement Offer - Casmalia Disposal Site, Santa Barbara County, California*

**2. Closed Session Pursuant to Section 54956.9(d)(2) of the Government Code Regarding Potential Litigation**

*2 Potential cases*

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

*Patton v. Montclair*

4. **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 on the above four matters.

**B. City Manager/Executive Director** – No comments

**C. Mayor/Chairman**

1. Mayor/Chairman Eaton commented as follows:

- (a) He noted his attendance at recent **Omnitrans, Metrolink, and San Bernardino Associated Governments** Board meetings.
- (b) He asked City Manager Starr to please remedy the malfunctioning Council Chambers audio system.

City Manager Starr advised that a new receiver was installed over the weekend that was supposed to have fixed the problem, noting the vendor has agreed to replace the entire system if it is still not working. He noted the matter would be sorted out tomorrow morning.

Mayor Eaton thanked City Manager Starr for the update.

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

1. Council Member/Director Paulitz commented as follows:

- (a) He noted he enjoyed attending the annual Montclair Walkers potluck last Wednesday at the Community Center. He expressed his appreciation of Human Services Division staff for their work to facilitate the event, which he noted was very well done.
- (b) He noted he met recently with **MVWD** General Manager **Mark N. Kinsey** related to the community garden project and that Director of Human Services Richter is currently working on a lease agreement for the proposed site.

2. Council Member/Director Raft congratulated Lieutenant Ventura on his promotion after serving 12 years on the Montclair Police

force. She wished all the best to Lieutenant Ventura and his family.

3. Council Member/Director Dutrey commented as follows:
  - (a) He noted Council Member Paulitz and he attended a recent Code Enforcement Committee meeting at which violations to the City's Zero-Tolerance Fireworks Enforcement Program during the **Fourth of July** holiday was discussed. He advised that illegal fireworks violations occurred in Montclair as well as in other cities prohibiting fireworks. He stated that Police Chief/Public Safety Executive Director deMoet is committed to redoubling enforcement efforts next year as well as expanding the public notification program to advise that safe and sane and other dangerous fireworks are prohibited in Montclair.
  - (b) He noted the passing over the weekend of **Dr. Stanley Domingo**, a longtime Montclair resident who was very involved in the Philippine community in the West End of the Inland Empire and as a parishioner of **Our Lady of Lourdes Catholic Church**. He noted **Dr. Domingo** was well known by Mayor Pro Tem Ruh and Council Members Raft and Paulitz and asked that this evening's meeting be adjourned in **Dr. Domingo's** memory.
  - (c) He expressed his disappointment that the owner of the former **Déjà Vu** had the building painted hot pink, which demonstrates the owner has no desire to be a good neighbor to Montclair. He noted the business closed last October as the result of a settlement agreement with the **County of San Bernardino** and that the owner has applied to the **County** for a Conditional Use Permit (CUP) to allow the business to operate as a comedy club/sports bar. He noted the City has given its comments and provided conditions of approval to the **County** regarding the CUP application to ensure the new establishment does not become a nuisance in the area and generate an increased number of calls for Montclair Police Department mutual-aid service. Whatever the reason for the owner's decision to repaint the structure bright pink, he advised that doing so hurts the surrounding businesses and hampers the City's efforts to revitalize Mission Boulevard with millions of dollars worth of public improvements. He expressed his hope that the building color will soon revert to the former neutral shade and that the new use meets City regulations.

Council Member Raft inquired as to when the sign would be removed.

City Manager Starr expressed his understanding that the sign would remain pursuant to the **County's** settlement agreement with the owner.

Director of Community Development Lustro advised that there was some discussion as part of the CUP application being reviewed by the **County** as to the legality of the sign. The **County's** argument is that when the sign was constructed, the maximum height allowed by County code at that time was 25 feet. He stated that the sign is 34 feet high and the **County** is unable to find any permits for it, nor is the property owner able to produce copies of any building permits for the sign. Be that as it may, he noted it is certainly the City's position that the sign should either be removed or modified in such a way for the new business to conform to **County** code, though the owners continue to battle that point because they desire to keep the sign.

Mayor Pro Tem Ruh commented that the color is more like "shocking" pink and is more an advertising ploy to gain more visibility once the sign is removed. He concurred with staff that the ruse denigrates that entire area and all the work the City and neighboring businesses have done in a quarter-mile radius of the site. He stated it is a detriment and the City must continue working with the **County** on the issue.

4. Mayor Pro Tem/Vice Chairman Ruh commented as follows:
  - (a) He likewise congratulated Lieutenant Ventura on his promotion, noting he has done a great job and has certainly "earned his stripes" as a result of his 12 years of service to the community.
  - (b) He noted Council Member Dutrey and he participated in the annual Ontario Independence Day Parade by riding on the **Young Homes/Supervisor Gary Ovitt** float along Euclid Avenue with the Supervisor, Upland Mayor **Ray Musser** and Council Member **Gino Filippi**, and **Fontana Mayor Acquanetta Warren**. He added that many Montclair residents attended the parade, which has become a regional community parade over the years and quite a patriotic way to celebrate **Independence Day**.

## E. Committee Meeting Minutes

### 1. Minutes of Code Enforcement Committee Meeting of June 17, 2013

The City Council received and filed the Code Enforcement Committee meeting minutes of June 17, 2013, for informational purposes.

**2. Minutes of Public Works Committee Meeting of June 20, 2013**

The City Council received and filed the Public Works Committee meeting minutes of June 20, 2013, for informational purposes.

**3. Minutes of Personnel Committee Meeting of July 1, 2013**

The City Council received and filed the Personnel Committee meeting minutes of July 1, 2013, for informational purposes.

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

At 7:57 p.m., Chairman Eaton adjourned the Successor Agency and Montclair Housing Corporation Boards of Directors and the Montclair Housing Authority Commissioners.

At 7:57 p.m., the City Council went into Closed Session regarding potential litigation pursuant to Government Code Section 54956.9(d)(2), pending litigation pursuant to Government Code Section 54957(d)(1), and labor negotiations pursuant to Government Code Section 54957.6.

**XIII. CLOSED SESSION ANNOUNCEMENTS**

At 8:25 p.m., the City Council returned from Closed Session. Mayor Eaton announced the City Council met in Closed Session regarding potential litigation, pending litigation, and labor negotiations. He advised that information was received and direction given to staff on the four matters and that no further announcements would be made at this time.

**XIV. ADJOURNMENT OF CITY COUNCIL**

At 8:26 p.m., Mayor Eaton adjourned the City Council in memory of **Dr. Stanley Domingo**, a longtime Montclair resident and parishioner of **Our Lady of Lourdes Catholic Church**.

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