

**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 TUESDAY, JANUARY 21, 2014, 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

Deacon Don Norris, Our Lady of Lourdes Catholic Church, 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/Economic Development Executive Director Staats; Director of Community Development Lustro; Director of Public Works Hudson; Director of Finance Parker; City Attorney Robbins; Deputy City Clerk Smith

V. PRESENTATIONS

A. Introduction of Promotee

Fire Chief Mayhew introduced Battalion Chief David Pohl, who was promoted to the position of Fire Division Chief effective December 16, 2013, and reclassified to Battalion Chief effective January 13, 2014 as a result of the City's new regionalization plan with the City of Upland. He noted Battalion Chief Pohl began his career with the Fire Department as a Reserve Firefighter in December 1989, was hired full time in April 1992, and was promoted to Fire Engineer in December 2002 and to Captain on December 21, 2009. He noted Battalion Chief Pohl is one of the

original members of the Urban Search and Rescue Team and is the Fire Department's Training Committee Chairman who instructs and assists Department training on swift-water rescue and rapid intervention crew tactics. He noted Battalion Chief Pohl presently oversees the Wellness and Fitness Program, is a hazardous materials specialist who represents the Fire Department on the West End Hazardous Materials Team, and was named Firefighter of the Year in 2003 and Employee of the Year in 2012.

Mayor Eaton congratulated Battalion Chief Pohl on his promotion and presented him with a City pin.

B. Presentation of Military Banners to Montclair Servicemen Who Have Completed Their Military Service

Community Action Committee Board Member Arturo Padilla stated that **Mr. Jeffrey Swinford** served in the **United States Army** from June 2004 to July 2013 and held the rank of an E6 Staff Sergeant. He noted **Mr. Swinford** was stationed at **Nellis Air Force Base**, Nevada; **Camp Yongsan**, South Korea; and **Fort Hood**, Texas, in addition to being deployed to Afghanistan. He noted **Mr. Swinford** has worked as a Firefighter/Emergency Medical Technician since his discharge and is currently a Police Officer in New Mexico while working towards a Bachelor's degree to be able to rise through the ranks of his department.

Mayor Eaton noted **Mr. Swinford's** was unable to be here this evening. He thanked **Mr. Swinford's** parents for their son's service to our country while presenting them with his banner, which was displayed on Monte Vista Avenue.

CAC Board Member Padilla introduced **Mr. Emmanuel Cortez**, who served as a Corporal in the **Marine Corps** from July 2008 to July 2013 at **Camp Pendleton**. He noted Mr. Cortez has attended college since his discharge in hopes of receiving a law enforcement degree so he may join the **Arizona Highway Patrol**.

Mayor Eaton presented **Mr. Cortez** with his banner that was displayed on Monte Vista Avenue and thanked him for his service to our country.

CAC Board Member Padilla introduced **Mr. Noah Samuel Koehl**, who served as a Corporal in the **Marine Corps** from December 2008 to May 2013 while stationed at **Camp Lejuene**, North Carolina, and **Camp Pendleton**. He noted **Mr. Koehl** received a number of awards including Marine of the Quarter, Navy and Marine Corps Achievement Medal for Support on Deployment, and the Humanitarian Services Medal for Operation Unified Response to the 2010 Haiti earthquake. He noted **Mr. Koehl** currently attends **Citrus College**

with the goal of earning a degree in Civil Engineering from the **University of Southern California.**

Mayor Eaton noted **Mr. Koehl** was unable to be here this evening. He thanked **Mr. Koehl's** mother and son for **Mr. Koehl's** service to our country while presenting them with his banner that was displayed on Holt Boulevard.

At 7:12 p.m., Mayor Eaton thanked audience members for their attendance this evening, particularly former members of the military who received (or whose parents received) their banners this evening, and excused those who would like to depart at this time, though they are more than welcome to stay for the entire meeting.

VI. PUBLIC COMMENT - None

VII. PUBLIC HEARINGS

- A. Consider Adoption of Resolution No. 14-3016 Related to a Proposed Five-Year Schedule of Maximum Monthly Rate Caps for Residential Refuse Services and Setting Refuse Rates Initially at Those Proposed to Be Effective February 1, 2014**
- B. Consider Adoption of Resolution No. 14-3017 Related to a Proposed Five-Year Schedule of Maximum Monthly Rate Caps for Commercial Refuse Services and Setting Refuse Rates Initially at Those Proposed to Be Effective February 1, 2014**

Mayor Eaton declared it the time and place for a Proposition 218 public hearing related to adoption of Resolutions No. 14-3016 and 14-3017 regarding a proposed five-year schedule of maximum monthly rate caps for residential and commercial refuse services and setting refuse rates initially at those proposed to be effective February 1, 2014, and invited comments from the public.

Council Member Paulitz spoke in support of the City's continuing the Senior Household Refuse Rate Subsidy Program at the current 20 percent discount of the total monthly household refuse rate, expressing his opinion that the \$63,000 General Fund subsidy each year is "not very much money." He suggested the program continue indefinitely or until such time as the General Fund can no longer support it.

Council Member Dutrey inquired as follows:

- 1. Would a senior household moving to Montclair this year be able to apply for the subsidy?

City Manager Starr answered, "Absolutely."

2. Would there be a legal issue if Montclair stops the subsidy for new senior households?

City Manager Starr answered, "I think there would be a potential for discriminatory treatment, and I would not suggest that we go in that direction."

Council Member Dutrey expressed his opinion that the City Council consider implementing alternative 3—gradually migrating senior households to the standard household refuse rate at 2.5 percent reduction of the subsidy per year over the course of eight years. He noted the subsidy came about because of a surplus in the Refuse Impound Reserve Fund, which will soon be gone. He stated, "I do not think we should be using the General Fund to subsidize seniors because we are trying to be cautious and conservative by not overtaxing the General Fund."

City Manager Starr clarified that the Refuse Impound Reserve Fund actually dried up several years ago, so the General Fund has been subsidizing the Senior Household Refuse Rate Subsidy Program at the rate of \$63,000 per year for several years. He noted the difficulty in addressing funding of the subsidy program is that the prior Assistant Finance Director did not advise the City Manager that the Refuse Impound Reserve Fund had dried up and that he was continuing program funding using the General Fund. He noted in that regard, the General Fund has been paying the subsidy for the last several years.

Council Member Dutrey noted he would still support alternative 3 to reduce the Senior Household Refuse Rate Subsidy Program at the rate of 2.5 percent over eight years.

Mayor Pro Tem Ruh noted he is opposed to subsidies while the City is getting back on its feet. He stated, "As much as alternative 3 makes sense, I am struggling with it because I also fully understand what many older residents are going through right now. Many families are making less than I was in 2000; for many seniors, they are in a situation that is even worse than that. Perhaps a solution would be if we continue the subsidy through the fiscal year and bring it back for review during the budget development period each year." He suggested that if the City is in financial straits at some future point, alternative 3 could then be revisited and a decision made. He indicated he is unsure that more seniors would be moving to Montclair. He noted The Paseos at Montclair North would be attracting one specific demographic and that he is unable to speak to future patterns for homes in the community, although the trend in Montclair has been that homes are purchased by those in their mid-30s. He stated that he prefers the Senior Household

Refuse Rate Subsidy Program remain at the status quo and that it be reviewed every year.

Council Member Raft concurred with Council Members Paulitz and Mayor Pro Tem Ruh that the Senior Household Refuse Rate Subsidy Program be reviewed each year. She inquired as to the number of senior households receiving the subsidy.

City Manager Starr advised Council Member Raft that he would provide her with the number.

Mayor Eaton spoke in support of continuing the Senior Household Refuse Rate Subsidy Program and reviewing it each year.

It was the consensus of the City Council that the Senior Household Refuse Rate Subsidy Program be continued and reviewed each year.

City Manager Starr asked if the City Council concurs with reviewing the Senior Household Refuse Rate Subsidy Program when the budget is considered each year.

Mayor Eaton stated, "That would be just fine."

A written protest from **Mr. Todd E. Gautier**, 11048 Shetland Avenue, Montclair, regarding "Proposed Rate Increase Solid Waste/Recycling" related to residential refuse was submitted to the Deputy City Clerk, making a total of four written protests received by staff regarding this item.

Ms. Cynthia Wentz, 4749 Berkeley Street, Montclair, commented as follows:

1. She discussed her decision to attend this public hearing because of her interest in Burrtec Waste Industries' proposal to raise residential refuse rates, adding that she did not realize rates had not increased since 2009 because she has noticed steady increases in fees with each bimonthly trash and sewer bill.
2. She identified herself as a 26-year resident and low-income widow and advised that though she does not fault the City for ever-higher energy, fuel, property tax, and grocery costs, she receives no income raises to keep pace with the cost of living.
3. She expressed her regret at not attending the sewer rate cap public hearing last year and suggested the City is "trying to get the seniors out of Montclair, not that there are many of us left."

4. She noted she is fortunate enough to receive the senior subsidy but stated, "Don't make it any harder on us than we already have it. I am just asking you to think about this and especially those sewer charges that come up all the time."

Mayor Eaton thanked **Ms. Wentz** for her comments.

Mayor Pro Tem Ruh asked City Manager Starr to respond to **Ms. Wentz's** comments.

City Manager Starr clarified that the sewer and trash bill increases residents might notice relate to periodic increases in sewage treatment and sewer maintenance costs set by the Inland Empire Utilities Agency (IEUA). He advised that the City is presently obliged to pass the increases on to residents rather than absorb IEUA's fee increases; though from 1990 through late 2010, it was the policy and practice of the City Council that the City would absorb the IEUA fee increases rather than pass them on to residents. He stated, "The Sewer Fund was significantly diminished over that time period to the point that it was jeopardized, and it was only at that point that the City Council made the decision that it would have to pass IEUA rates on to residents. That action did occur, and IEUA rates do typically go up more on an annual basis as opposed to Burrtec, and that is what the residents are realizing in relation to the rate increases on their bimonthly bill—it is the increases from the Inland Empire Utilities Agency, not from Burrtec." He emphasized that the increases do not come to the City in relation to those increases—they are passed through to IEUA.

Ms. Janice Fletcher, 5655 Cambridge Street, Montclair, commented as follows:

1. She identified herself as the Integrated Waste Manager for the City of Upland for the past nine years and, as such, manages Upland's contract with Burrtec Waste Industries and works very closely with Burrtec Vice President **Michael Arreguin**.
2. Noting she has an understanding about what drives trash rates, she advised that Upland successfully implemented a pay rate by refuse volume structure as part of its solid waste collection program, described as residents paying for a selected level of service based on their barrel size. She indicated it is the fairest way to charge for refuse services "because you are not forcing smaller families to subsidize larger ones." She noted the goal is to create a financial incentive for residents to recycle, thus lessening the volume of material sent to landfills.

3. She suggested Montclair consider adopting a three-tier solid waste collection program that would "solve your senior subsidy issue" because those with the smallest barrel size would pay the lowest rate.

Mayor Eaton thanked **Ms. Fletcher** for her comments and suggestion.

Mr. Gautier noted he has been a resident since 1995 and that his wife, who pays the bills, advises him of the steady increases in utilities and property taxes. He spoke in support of **Ms. Fletcher's** suggestion for a three-tier solid waste collection program.

Mayor Eaton thanked **Mr. Gautier** for his comments.

There being no one else 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 stated that though he has heard the argument from seniors that they have very little trash, which is his case as well, it is his opinion that transitioning to a three-tier refuse collection program would cause additional administrative problems. He indicated that the City's senior subsidy program "is closer to that idea because seniors tend to have much less refuse than families. I think that while it sounds good on paper and maybe it works in Upland—I'm not sure that it does—it would be administratively very difficult."

Council Member Raft noted **Ms. Fletcher's** suggestion for a three-tier refuse collection program "might be something for us to check into to see if it is something that might work here" because residents have told her they have very little trash compared to their neighbors.

Council Member Dutrey spoke in support of staff's looking into the idea of a three-tier refuse collection program for future consideration. He noted it is important to remember the following: (1) the City has not given Burrtec a rate increase since 2009; (2) the proposed fee increases for Burrtec, recycling, landfill transfer rate, materials recycling, and greenwaste disposal are all pass-throughs; and (3) the City fee is not being increased—it remains constant. He noted the 5.9 percent Burrtec service fee is, comparatively speaking, very minimal and modest, expressing his opinion that Burrtec does a "really good job" for the City, is a top-notch organization, and works hard to keep costs reasonable. He commiserated with residents whose paychecks do not keep up with the cost of living while noting the challenges faced by refuse companies including the closure of

landfills and finding the appropriate markets for a variety of recyclable commodities. He stated, "I appreciate everything that Burrtec has done."

Council Member Paulitz inquired as follows:

1. Would the maximum proposed monthly residential refuse rate caps in Table 1 be applied automatically or would Burrtec need to request future rate increases?

City Manager Starr replied that Burrtec would be required to request future rate increase.

2. So future increases would not necessarily be the rates listed?

City Manager Starr answered, "No; in fact, I would venture to say that the rates that are approved will ultimately be lower than what is reflected in the five-year schedule for that particular year."

Council Member Paulitz commented that the City has contracted with several refuse haulers since he began serving on the City Council in 1978 and that "Burrtec is, by far, the best." He noted he recently requested pickup of an oversized item, which Burrtec promptly collected, and that residents have the prerogative of having oversized items collected twice a year. He stated, "The streets are very much cleaner than they used to be, and I just think we have good service with Burrtec. I remember years ago, the City Council would argue interminably about refuse rates; and I served on a committee to address refuse rates, which were finally resolved. I have had residents approach me about increases in City service rates, and I did not realize at the time that it was the sewage treatment and sewer maintenance fees that were causing the increases and not our trash rates. I think our trash rates are very reasonable."

City Manager Starr stated, "I think we need to be careful in not making Burrtec get a big head over this, particularly **Mr. Arreguin**. Far be it for me to say that their rates are exceptional, although they are; but I understand."

Mayor Pro Tem Ruh stated, "First, I would tie in to what our City Manager has said: I would urge residents to look at their bills and segregate out the trash from the sewer fees because that will help, and it does help in monthly budgeting when I do that. I am also very very empathetic to the fact that rates for electricity and gas are going up. Part of this is the new electronic metering that is going in, which reads usage every second of the day and certain times of use are higher than other times of use. I prefer the earlier analog

system—it works better for me—but unfortunately, this is the way they are doing this. I think that is why many residents have seen an increase in their gas and electric bills because they are going to this new electronic metering. It is read from a satellite, and it is downloaded to the utility company; and because they do time of day rates, if you use your utilities at a certain time of the morning, afternoon, or evening, or whatever time it happens to be—I think the only time rates are low are between 1:00 a.m. and 5:30 a.m. Unfortunately, rates are higher at other times. That has to be taken into account. I would certainly think that residents need to let the Edison Company and The Gas Company know their thoughts on the new system.

"I do like the concept of a tiered-rate system as far as the different sizes of trash barrels. Perhaps we could look at that in the future to see if it does make sense and will not add cost to residents. One cautionary note on that, though, is I know one resident in particular who will tell you that he and his family do not generate much trash; but on Saturdays, I see the back of his pickup truck filled with things, and he says, 'Well, I take a lot of my garbage to where I work, and they let me put it in the bin where I work. That defeats the whole purpose if that is what you have residents doing. They want the small bin, but they are filling up their pickup trucks on a weekend and taking it to their work. That is just putting the burden on the commercial side. There probably are safeguards in place with that type of a system to make sure that does not happen, so I would really think the three-tiered rate system might make sense, especially for many of our families that are no longer having huge numbers in their homes—they are down to one or two family members.

"The resident who stated, 'Are we trying to drive out seniors?' I would argue no, that is not the case because certainly we have several projects here in the City that have won awards that are senior housing, specifically, the San Marino Apartments, 10355 Mills Avenue. It is award-winning housing specifically designed for seniors, so we are certainly not trying to drive seniors out of this City.

"I understand the need for the rate increase. As with almost every household in this City, I do not want to have to pay it; but I am going to have to pay it. Everything is going up, and it is a sad commentary on the times we are living in that what used to be our solid middle class can no longer afford to live that middle class lifestyle anymore. We also cannot be in a position where we do not raise the rate, and Burrtec cannot provide the service, and then we are stuck with another problem down the line of trying to get another contactor or trying to then renegotiate rates again with either Burrtec or another contractor.

"As far as the issue of the sewage treatment and sewer maintenance rates as well as water rates, for that matter, I know our City Manager has communicated to both the IEUA and Monte Vista Water District (MVWD) some of the concerns we have received from the residents of this community on those issues. I would urge residents who are concerned about those rates to attend IEUA and MVWD board meetings to make their voices heard. Thank you."

Council Member Raft noted the increase in pass-through rates "actually only comes to about \$1.52." She told Mr. Arreguin, "I think that is very gracious of you not to raise it as much as you could. I know being in business, your costs rise every year; and you have to counteract those costs somehow." She expressed her understanding that Burrtec must recoup potential losses by passing on increased costs from doing business. She stated, "I am very happy to see it is only \$1.52."

Moved by Council Member Dutrey and seconded by Council Member Paulitz that a Proposition 218 public hearing was held to receive public testimony related to Resolution No. 14-3016, that a total of four written protests were received by staff regarding this item, and that Resolution No. 14-3016, entitled, "**A Resolution of the City Council of the City of Montclair Setting a Proposed Five-Year Schedule of Residential Maximum Monthly Rate Caps for Refuse Services and Setting Refuse Rates Initially at Those Proposed to Be Effective February 1, 2014,**" be read by number and title only, further reading be waived, and it be declared adopted.*

Mayor Eaton stated that though he has much empathy for residents who do not generate much trash, they must remember that, regardless, the garbage trucks drive through all neighborhoods in the community to collect waste materials, and "Burrtec's costs remain the same no matter what size trash barrel you have." He noted the City Council could consider ways to reduce costs to seniors in the future and asked the City Manager to look into the possibility. He stated, "I do not know that smaller barrels would work, because, as I said, the trucks still have to run. Burrtec's costs still remain the same no matter what size barrel you have."

*The City Council unanimously waived the reading of the Resolutions.

Resolution No. 14-3016 was unanimously adopted by the following vote:

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

Council Member Paulitz recalled that at one time, multiple commercial trash haulers were allowed to operate in Montclair, and the City contracted with two or three carriers simultaneously. He noted he suggested to the refuse rate committee that the City should enter into a franchise with one trash carrier, and the committee made that recommendation to the City Council, which the Council adopted, resulting in the commercial franchise agreement with Burrtec's predecessor, Monte Vista Disposal Company, which became Burrtec Waste Industries.

Council Member Dutrey asked for clarification on the proposed \$48.12 commercial refuse rate, which is high compared to other cities in the region.

City Manager Starr clarified that generally, the \$48.12 is proposed to be adopted today as opposed to a year ago; and consideration must be given to the cost of operating the landfills, diesel fuel, and all other factors that have increased over the course of the last year. He stated that Burrtec has absorbed those pass-through costs that were above what the City has reimbursed to Burrtec. He indicated that Burrtec has indentified and listed these current pass-through costs and their impact on Burrtec; and if the other jurisdictions were being asked to adjust their rates today, they would also be asked to consider these same rate adjustments.

Mr. Arreguin stated, "What **Mr. Starr** alluded to is absolutely correct with regard to disposal costs and the costs that other cities will soon be facing. One other element that is included in that rate which differentiates you right now from the other cities is that we have worked with staff probably over a year in developing our commercial recycling program. That commercial recycling program is in response to **AB 341**. Those costs are also built into that fee. What that means for commercial customers is that if these rates are adopted, commercial customers could call Burrtec and request a commercial recycling container; and they would receive a commercial recycling container at absolutely no additional cost. What they would also have the ability to do is, for example, if they have a three-yard bin that is collected twice a week, they could reduce their level of service to a three-yard bin collected once a week, thereby generating a cost savings. If they take the time—because they still generate that same volume of material—and take the material that is recyclable and put it into their recycling container—they receive the recycling container at no cost—they would receive the reduced rate for a three-yard bin collected once a week. Collectively, they still have the same volume; they just have to take the time to separate their trash from their recyclable commodities. If that is the case, not only will they offset any increase that these rates present; but more than likely, they can reduce their rates even from the rate that are currently paying. That is an important

component in that amount that you see.

"Additionally, two cities that are coming up within the next year, that same component that you see, I believe in Montclair is \$48.12, Rancho Cucamonga's component will be \$50.52, and Fontana's component will be approximately \$49. It all ends up being in that same range."

Council Member Dutrey noted he realizes that Burrtec is still negotiating contracts with some of the area cities.

Mr. Arreguin stated, "I just wanted to make that clear because it is a substantial increase, but it is really the addition of a whole new program."

Council Member Dutrey noted he wanted to make sure that Montclair's component was fair and comparable to surrounding cities.

Mr. Arreguin stated, "Absolutely."

Council Member Dutrey stated that staff and, in particular, City Manager Starr, have really challenged Burrtec regarding equitable rates. He noted a key component is the professionalism of Burrtec and the company's willingness to negotiate fair and equitable rates with the City "so that not only our residents but also commercial users are receiving the most effective price point. And that is good."

Mr. Arreguin thanked Council Member Dutrey, stating, "This has been at least a year in the making, and staff has been extremely professional and very tough negotiators, especially your City Manager. I have had the pleasure of working with Finance Director Parker, and we have come up with some great programs and we feel a very fair and reasonable adjustment, considering the timeframe that it has been since we have adjusted the rate. I really do look at this as a win-win. Again, I would like to thank the City Council for their kind works. We really enjoy serving the City of Montclair. We hope you can always depend on us, and we will work to keep your faith."

Council Member Dutrey thanked **Mr. Arreguin**.

Mayor Pro Tem Ruh noted he had a concern about the proposed commercial rates, advising that he did some research on his own by talking to several commercial property owners in other cities. He stated, "Their response was very similar. I did not have the opportunity to call the cities directly, but I called the commercial property owners I know in many of those cities, and they said that some

of the rates had not yet changed and they knew they would be changing, so that gave me enough of an information level to understand that we are just at the front of the queue right now with several other cities coming down the line." He noted the importance of notifying commercial users of the recycling component pursuant to state law.

Moved by Council Member Dutrey and seconded by Council Member Paulitz that a Proposition 218 public hearing was held to receive public testimony related to Resolution No. 14-3017, that there has been no majority protest regarding this item, and that Resolution No. 14-3017, entitled, "**A Resolution of the City Council of the City of Montclair Setting a Proposed Five-Year Schedule of Commercial Maximum Monthly Rate Caps for Refuse Services and Setting Refuse Rates Initially at Those Proposed to Be Effective February 1, 2014,**" be read by number and title only, further reading be waived, and it be declared adopted.

Finding might be that the City Council has conducted a public hearing pursuant to Proposition 218 requirements and there has been no majority protest

The City Council unanimously waived the reading of the Resolution.

Resolution No. 14-3017 was unanimously adopted by the following vote:

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

VIII. CONSENT CALENDAR

Council Member Paulitz requested that Item B-10 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 January 6, 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 January 6, 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 December 31, 2013.

2. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated January 21, 2014, totaling \$1,208,466.95 and the Payroll Documentation dated December 15, 2013, amounting to \$548,605.81, with \$382,570.45 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 Successor to the Redevelopment Agency Treasurer's Report for the month ending December 31, 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 12.01.13-12.31.13 in the amounts of \$3,645.39 for Project I; \$0.00 for Project II; \$18,566.91 for Project III; \$8,384.22 for Project IV; \$14,692.88 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 December 31, 2013.

6. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 12.01.13-12.31.13 in the amount of \$48,426.79.

7. Receiving and Filing of MHA Treasurer's Report

The MHA Commissioners received and filed the MHA Treasurer's Report for the month ending December 31, 2013.

8. Approval of MHA Warrant Registers

The MHA Commissioners approved the MHA Warrant Register dated 12.01.13–12.31.13 in the amount of \$143.14.

9. Setting a Public Hearing to Consider Ordinance No. 14-941 Replacing Chapter 5.04 of Title 5 of the Montclair Municipal Code Related to Domestic Animals

The City Council set a public hearing for Monday, February 3, 2014, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 14-941 replacing Chapter 5.04 of Title 5 of the Montclair Municipal Code related to domestic animals.

11. Amending the Fiscal Year 2013–2018 Capital Improvement Program Adding the Central Avenue and San Bernardino Street Traffic Signal Modification Project

Authorization of a \$150,000 Appropriation From the Gas Tax Fund for the Central Avenue and San Bernardino Street Traffic Signal Modification Project

The City Council took the following actions related to the Central Avenue and San Bernardino Street Traffic Signal Modification Project:

- (a) Amended the Fiscal Year 2013–2018 Capital Improvement Program to add the project.
- (b) Authorized a \$150,000 appropriation from the Gas Tax Fund to finance the project, \$112,500 of which is expected to be reimbursed by the California Highway Safety Improvement Program.

12. Authorizing Staff to Advertise for Bid Proposals for the Maintenance of Paseos Park

The City Council authorized staff to advertise for bid proposals for the maintenance of Paseos Park.

13. Authorization of a \$25,000 Appropriation From Gas Tax Fund 1102 for a Study Related to Interim Solutions Addressing Traffic Congestion at the Monte Vista Avenue and I-10 Freeway Interchange

The City Council authorized a \$25,000 appropriation from Gas Tax Fund 1102 for a study related to interim solutions addressing traffic congestion at the Monte Vista Avenue and I-10 Freeway interchange.

14. Acceptance of Grant Deed No. 1873, an Easement for Construction, Maintenance, and Use of a Sidewalk Located at 9140 Monte Vista Avenue

The City Council accepted Grant Deed No. 1873, an easement for construction, maintenance, and use of a sidewalk located at 9140 Monte Vista Avenue.

C. Agreements

1. Approval of Agreement No. 14-06 With Montclair Golden Girls Softball League, Agreement Nos. 14-07 and 14-08 with Montclair Little League, and Agreement Nos. 14-09, 14-10, and 14-11 With All Cities Youth Baseball for Use of Ball Field Facilities

The City Council approved *Agreement No. 14-06* with Montclair Golden Girls Softball League, *Agreement Nos. 14-07* and *14-08* with Montclair Little League, and *Agreement Nos. 14-09, 14-10, and 14-11* with All Cities Youth Baseball for use of ball field facilities.

2. Approval of Agreement No. 14-12, Amendment One to Agreement No. 14-05, a Mutual Aid Agreement Between Inland Empire Utilities Agency and Regional Contracting Agencies for Regional Sewer Service Support

The City Council approved *Agreement No. 14-12*, Amendment One to *Agreement No. 14-05*, a *Mutual Aid Agreement* between the Inland Empire Utilities Agency and regional contracting agencies for regional sewer service support.

3. Approval of Agreement No. 14-13, a Memorandum of Understanding Between the City of Montclair and the Montclair Fire Fighters Association

The City Council approved *Agreement No. 14-13*, a *Memorandum of Understanding* between the City of Montclair and the Montclair Fire Fighters Association.

D. Resolutions

1. Adoption of Resolution No. 14-3019 Supporting the Monte Vista Avenue State Street Metering Station Hydroelectric Project

The City Council adopted Resolution No. 14-3019 supporting the Monte Vista Avenue State Street Metering Station Hydro-electric Project.

IX. PULLED CONSENT CALENDAR ITEMS

B. Administrative Reports

10. Setting a Public Hearing to Consider the Following:

Adoption of Resolution No. 14-3018 Approving an Addendum to the Initial Study and Mitigated Negative Declaration Associated With the 2006-2014 City of Montclair Housing Element

Approval of a General Plan Amendment for the 2014-2021 City of Montclair Housing Element

Council Member Paulitz commented as follows:

- (a) He noted Council Member Dutrey has requested that the subject public hearing be set for Tuesday, February 18, 2014.
- (b) He noted he will likely have a lot of comments on the item.

Council Member Dutrey stated that, as indicated by Council Member Paulitz, he would like this item continued to February 18, 2014, because he will not be able to attend the February 3, 2014 regular joint meeting. He noted from an earlier conversation with Director of Community Development Lustro that there is a time constraint regarding this item; nonetheless, he would appreciate it if the item could be continued if at all possible so he could have a chance to complete his review of the Housing Element.

Mayor Eaton asked if it would be possible to continue this item to the February 18, 2014 regular joint meeting.

Director of Community Development Lustro noted he explained to Council Members Paulitz and Dutrey at the Code Enforcement Committee meeting this evening that he would need to confirm with RBF Consulting tomorrow the California Department of Housing and Community Development's deadline for review of the Housing Element, which revolves around the City's ability to achieve either an eight-year review of its Housing Element versus a four-year review of the Housing Element. He noted there is some question as to whether the deadline is mid-February or the end of February. He noted he

would confirm the deadline tomorrow and report back to the City Council.

Moved by Council Member Dutrey, seconded by Council Member Paulitz, and carried unanimously that the City Council set a public hearing for Tuesday, February 18, 2014, at 7:00 p.m. in the City Council Chambers (unless there is a time constraint, in which case the public hearing would be set for Monday, February 3, 2014) to consider the following:

- (a) Adoption of Resolution No. 14-3018 Approving an Addendum to the Initial Study and Mitigated Negative Declaration Associated With the 2006-2014 City of Montclair Housing Element.
- (b) Approval of a General Plan amendment for the 2014-2021 City of Montclair Housing Element.

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney

1. Closed Session Pursuant to Section 54956.9(d)(4) of the Government Code Regarding Potential Litigation

1 Potential Successor Agency Case

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

Megan Stafford v. Montclair

City Attorney Robbins requested a Closed Session on the above two matters.

3. City Attorney Robbins advised that there has been a change in a portion of the **Ralph M. Brown Act** effective January 1, 2014, that she would like to bring to the City Council's attention. She stated that Government Code Section 54953(c)(2) requires that "the legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action." She noted in the event that a vote of the City Council is other than unanimous, the Mayor needs to publicly state which Council Members voted against the action to fulfill the requirements of the portion of the **Brown Act** that has been changed. She noted the Mayor does not typically do so and that she wanted to make him aware of the new law.

Mayor Eaton noted the **Omnitrans, San Bernardino Associated Governments, and Metrolink** Boards on which he serves are complying with the new law.

B. City Manager/Executive Director

1. City Manager/Executive Director Starr commented as follows:
 - (a) He apologized to the City Council for the lengthy reports on the two public hearing items this evening, which were necessary because of the complicated subject matter. He told Council Member Dutrey that he appreciates Council Member Dutrey's comment about staff's due diligence in pursuing the residential and commercial trash rate adjustments and pointed out that "Finance Director Don Parker, Accountant Janet Kulbeck, and Administrative Analyst Mikey Fuentes all worked very hard over the last year to bring the two items before the Council this evening.
 - (b) He suggested members of the City Council revisit **The Paseos at Montclair North** if they have not seen it lately because "it is spectacular. I visited the project today along with other staff members. You have seen **Montclair I MGP Partners LLC's** digital video flythrough of the project; and let me tell you, it is exactly like that video from the bougainvillea climbing up the sides of the buildings to the lamps going over across the parking areas to the center park that is beyond description. You really have to see that. It is just a spectacular project. It is a project that is capturing the attention of communities throughout the region. In fact, that project is, in part, what has been inspiring other realtors including **Mr. Randall Lewis**, who I am sure Mayor Pro Tem Ruh will comment on, that Montclair is the city to watch as far as what it is doing within the community. Please take an opportunity; and if you would like staff to schedule some tours, I am sure Director of Community Development Lustro would be happy to schedule them for members of the City Council.
 - (c) He noted staff is running into a bit of a roadblock with **SANBAG** in relation to its support of extension of the **Gold Line** from Claremont to Montclair. He stated, "It is our understanding that **SANBAG** may want to bring some other projects to a priority status. We will be working with **SANBAG**. Director of Public Works Hudson and I are

preparing a response to **SANBAG** that will reemphasize the City's position that the **Gold Line** is not only important to Montclair; it is important to the economic recovery of the Inland Empire and, particularly, **LA/Ontario International Airport**. We will see what we can do to try to move **SANBAG** along in relation to its support of Montclair's project. If we are unsuccessful in that area, we will make additional effort to work through our federal legislative advocate to generate the necessary funding that would allow Montclair to proceed as much as we can on our own. We will just have to see how this process goes as we go forward.

- (d) He stated, "I would like to thank all members of the City Council and the Montclair family for their support during these last difficult weeks in relation to the significant loss of a member of my family. I sincerely appreciate everything from the cards, flowers, and well wishes. My family recognizes the support that has come from the City of Montclair, and they extend their sincere gratitude and appreciation as well.

Mayor Eaton stated, "**Mr. Starr**, I think it shows to you and others that we fully believe 'family first' in the things that we do. Again, we are sorry for your loss."

City Manager Starr thanked Mayor Eaton.

C. Mayor/Chairman

- 1. Mayor/Chairman Eaton commented as follows:

- (a) He noted his attendance at **SANBAG**, **Omnitrans**, and **Metrolink** Board meetings. He noted he was unsuccessful at the **SANBAG** Commuter Rail and Transit Committee in convincing members to vote with him to give higher priority to Montclair's **Gold Line** extension project, stating "We need to remind the **SANBAG** Executive Director that he made a commitment to the City that **SANBAG** would be supportive of our **Gold Line** project."

City Manager Starr noted "Mayor Eaton was elected Chairperson of the **SANBAG** Commuter Rail and Transit Committee last Thursday, so congratulations, sir."

Mayor Eaton thanked City Manager Starr.

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

1. Council Member/Director Paulitz asked for clarification on the auditor's comment in the recent audit report about deficiencies in the Sewer Fund collection process.

Director of Finance Parker stated, "The auditors did bring up a recurring comment from prior years that the receivables in the Sewer Fund are not completely reconciled with the detail. The primary reason for that is a software problem that the detail in the **Springbrook** software system that we currently use is producing inaccurate and random results so far as we are able to determine. The difference is not substantial; it is roughly about \$40,000 in total. We are presently undergoing a **Springbrook** upgrade to a new version of the software; and once that is completed, we will be going through and scrubbing that as hard as we can to find everything that is there and to make sure it does continue into the future to be reconciled.

Council Member Paulitz thanked Director of Finance Parker for the clarification.

2. Council Member/Director Dutrey commented as follows:
 - (a) He thanked Council Member Paulitz for bringing the auditor's comment that the receivables in the Sewer Fund not being reconciled with the detail to the City Council's attention and Director of Finance Parker for addressing the reason for the discrepancy, noting he was going to comment on the issue. He noted the Sewer Fund balance issue two or three years ago that was also reflected in the recent audit that has been fixed.
 - (b) He reiterated he will not be able to attend the February 3, 2014 regular joint meeting.
3. Mayor Pro Tem/Vice Chairman Ruh commented as follows:
 - (a) He noted **Montclair High School (MHS)** students held the sixth annual *Miles for Montclair* five-kilometer walkathon yesterday on **Martin Luther King Day** in his remembrance, noting he was unable to attend the event because of a work-related commitment and that he attended the inaugural last year, though he has attended all other *Miles for Montclair* events since the event's inception in 2009. He stated, "I am inspired by the students who have taken the time on a day that is a holiday and many students are off from school to take the time to make

that commitment to stand for what they believe in just as **Dr. King** stood for what he believed in. Earlier this evening, **Deacon Norris** discussed how diversity is a positive thing in our communities. Indeed, it is—it always has been—but the sad thing is it took so many lives being lost and so many lives being jailed for the rest of America to recognize what we intrinsically recognize in our spirits: That diversity is good, that all of us are equal, and we thank the students of **MHS** for reminding us of that. We also thank the legacy that **Dr. King** left, which tells us every day that you have to stand up for what you believe in.

- (b) He stated, "Earlier in the week, the governor did declare a drought in the State of California. It is not something anyone should take lightly. I know there were a few comments in some of the newspapers across the state by people saying, 'Oh, well, this is just political gamesmanship.' I do not think it is. There truly is a drought. We need to deal with this. We go through cycles of drought and flood, drought and flood; and we need to as a state start to look at this. It is my hope the **Metropolitan Water District of Southern California (MWD)** along with the many agencies involved with **MWD** will do something very substantial to help alleviate future droughts. It is wonderful to give a credit of \$2,000 to a homeowner who reduces water consumption by removing mowed green turf. I think a better solution would be to find a way to have more residents install the synthetic turf or something similar and to give meaningful incentives even if it takes the form of some type of a long-term loan that is attached to the property in some way. I think this will help us down the line. I intend to speak to the two or three **MWD** directors I know within the next few weeks about some ideas I have.
- (c) He noted City Manager Starr "earlier mentioned **Mr. Randall Lewis** in connection with **The Paseos** project. Friday last I was at the **West End Real Estate Professionals**, a weekly gathering of those in the real estate industry at which we listen to speakers who discuss industry-related topics. I am not a real estate licensee but, rather, a professional in the government affairs industry for the real estate industry. About 300 individuals primarily in the real estate world attended—realtors, escrow and title officers, and lenders. We did have some local elected officials attend, among them **Upland Council Member Gino Filippi**, Upland Planning Commissioner **Bill Velto**, and all of the

Rancho Cucamonga Council and Planning Commission
Chair **Frances Howdysshell**.

"**Mr. Lewis** spoke about some things going on in the region in Upland, Rancho Cucamonga, as well as other cities. He focused for quite a long time on Montclair. It was odd when you consider that his family has not done a tremendous amount of development here in the City of Montclair. Over the years, much of the **Lewis Group of Companies'** development has been in Claremont, Upland, certainly currently in the Chino preserve area, and Rancho Cucamonga.

"I found it interesting that **Mr. Lewis** said we are a model for how to take older built-out communities, renovate them, and reinspire them. I think that is much to the credit of this City Council; staff; and, of course, our residents who, quite often, have to see the change and maybe they do not fully understand it but they are understanding enough. They are saying, 'This is a positive.' **The Paseos** is just the beginning of that type of change as communities reinvent themselves."

- d. He noted his attendance at a presentation featuring **Mr. Rick Caruso, Caruso Affiliated**, that "ties into the presentation given by **Mr. Lewis**. **Mr. Caruso** owns several large shopping and retail venues in California and elsewhere—among them, the **Grove** and **Americana** brand in Glendale. He talked about how retail is changing, that the shopping malls we know today are now anachronisms, that they will continue to change and evolve as society changes and evolves. He talked about a new generation of shoppers who no longer want the traditional malls that we all grew up with or, in a generation before that, the traditional downtowns for whom the mall is now something new and innovative. **Mr. Caruso** discussed the need to have entertainment uses and living uses with that mall. And certainly that is what we are doing here in Montclair. Certainly that is what **Mr. Lewis** talked about. You can see it in much of what the **Lewis** family is doing throughout the areas they have projects, where they are tying those entertainment uses, those residential uses, to the mall. It does not mean exclusively that is what a community will be but just another component of it. I was certainly pleased, not just as a resident of Montclair but also as an elected official here, that **Mr. Lewis** spoke so highly of the City of Montclair. It is much to the credit of the Council, staff, and the residents."

E. Committee Meeting Minutes

1. Minutes of Code Enforcement Committee Meeting of December 16, 2013

The City Council received and filed the Code Enforcement Committee meeting minutes of December 16, 2013, for informational purposes.

2. Minutes of Personnel Committee Meeting of January 6, 2014

The City Council received and filed the Personnel Committee meeting minutes of January 6, 2013, for informational purposes.

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

At 8:54 p.m., Chairman Eaton adjourned the Successor Agency and Montclair Housing Corporation Boards of Directors and the Montclair Housing Authority Commissioners.

At 8:34 p.m., the City Council went into Closed Session regarding potential litigation pursuant to Government Code Section 54956.9(d)(4) and pending litigation pursuant to Government Code Section 5495.9(d)(1).

XIII. CLOSED SESSION ANNOUNCEMENTS

At 9:06 p.m., the City Council returned from Closed Session. Mayor Eaton announced the City Council met in Closed Session regarding potential and pending litigation, information was received and direction given to staff, and no further announcements would be made at this time.

XIV. ADJOURNMENT

At 9:07 p.m., Mayor Eaton adjourned the City Council.

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

Yvonne L. Smith
Deputy City Clerk