

**MINUTES OF THE REGULAR MEETING
OF THE
MONROVIA CITY COUNCIL
HELD TUESDAY, MAY 5, 2009, 7:30 P.M.**

CONVENE: Mayor Rob Hammond convened the Regular Meeting of the Monrovia City Council of Tuesday, May 5, 2009 at 7:41 P.M. in City Council Chambers, 415 South Ivy Avenue, Monrovia, California. In attendance were City Manager Scott Ochoa, City Attorney Craig A. Steele, and City Clerk Linda B. Proctor.

INVOCATION: Youth Pastor Ulysis Gutierrez led the Invocation

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Dan Kirby led the Pledge of Allegiance

ROLL CALL: In attendance were Councilmembers Garcia, Lutz, Mayor Pro Tem Kirby and Mayor Hammond. Councilmember Adams was excused.

A. CITY CLERK'S CERTIFICATION OF CANVASS OF VOTES: City Clerk Linda B. Proctor, MMC, presented the April 14, 2008 General Municipal Election City Clerk's Certification of Canvass as follows.

Pursuant to Resolution No. 2008-57 adopted November 4, 2008, she reported she had canvassed the returns of the General Municipal Election of April 14, 2009, and certified the results, attached to Resolution No. 2009-21 and made a part thereof as "Exhibit A."

She certified that the whole number of ballots cast in the seven precincts, except for vote by mail and provisional ballots, was 1860; that the whole number of vote by mail and provisional ballots cast in the City was 1662, making a total of 3522 ballots cast in the City.

She further certified that the persons voted for at the election for Mayor were

Stephen H. Grollnek
Mario B. Duran
Mary Ann Lutz

That the persons voted for Members of the City Council were:

Joe Garcia
Clarence R. Shaw
Becky A. Shevlin
Stephen Bray
Dan Kirby
Paul Larsen
John Wayne Carlson
Sandra J. Costello

That the person voted for at the election for City Clerk was as follows

Linda B. Proctor

That the person voted for at the election for City Treasurer was as follows:

Stephen R. Baker

She concluded by proposing that the City Council declare and determine that:

Mary Ann Lutz was elected with a total of 2527 votes as Mayor for the full term of two (2) years, that Joe Garcia was elected with a total of 1499 votes as Member of the City Council for the full term of four (4) years, that Clarence R. Shaw was elected with a total of 1259 votes as Member of the City Council for the full term of four (4) years; that Linda B. Proctor was elected with a total of 2997 votes as City Clerk for a

F. NOTICE OF VACANCY**1 Declaration of Vacancy**

City Clerk Proctor stated that she was officially informing the City Council that, with the administering of the Oath of Office to Mayor Mary Ann Lutz, a vacancy had occurred. She also reported that the City Attorney would further advise them of their options.

2. Procedural Alternatives and Processes

City Attorney Craig Steele reported that the City Council had a period of 30 days from this date to either appoint or call for a Special Election, which would occur on November 3, 2009. He further stated that the appointment could be any registered voter in Monrovia. He stated that Item G on this Agenda gave the City Council the opportunity to discuss and take action this evening, if it so desired.

In response to an inquiry by Councilmember Shaw, City Attorney Steele stated that an election in November could not be combined with the School Board election in November as the boundaries were not the same.

G FILLING OF VACANCY**1 Discussion and Possible Action Regarding Filling of City Council Vacancy by Appointment or by Special Election to be held on November 3, 2009**

Discussion ensued including calling for a Special Election at a cost of approximately \$80,000.00, consolidating with the School Board November election, or appointing.

Those speaking for a Special Election

1 Cyrus Kemp, Monrovia

Those speaking for an appointment of the third place candidate Becky Shevlin

1 Pam Fitzpatrick, Monrovia

2 Donna Baker, Monrovia

3 Sharon Mullenix, Monrovia

4 Mario Duran, Monrovia

5 Ulysis Gutierrez, Monrovia

6 Dr. John Mastrogiovanni, Monrovia

7 Charlotte Schamadan, Monrovia

8 Alfredo Mejia, Monrovia

9 Victor Castellanos, Monrovia

After further discussion, it was moved by Councilmember Shaw, seconded by Councilmember Garcia, to appoint Becky Shevlin to the unexpired term of two years of the City Council.

ROLL CALL.

Ayes: Councilmembers Garcia, Shaw and Mayor Lutz

Excused: Councilmember Adams

Motion carried: 3-0

City Clerk Proctor administered the Oath of Office to Councilmember Becky Shevlin.

Remarks were made by Councilmember Shevlin.

STUDENT GOVERNMENT REPRESENTATIVE REPORT: Interim Student Liaison Dimaya Lozano reported on events and activities at Monrovia High School.

CONSENT CALENDAR. It was moved by Councilmember Garcia, seconded by Councilmember Shevlin, to approve the Consent Calendar. Mayor Lutz abstained on CC-8 due her position on the Water Board, and Councilmembers Shaw and Shevlin abstained from CC-1 as they had not been in attendance at the Meeting. There were no objections. The Consent Calendar consisted of the following Agenda items:

CC-1 Unadopted Minutes of the April 21, 2009 Regular Meeting of the Monrovia City Council**CC-2 Payroll No. 9 in the Amount of \$561,706 76 and Voucher Nos. 157914 through 158263 in the Amount of \$1,450,269 21**

CC-3 Quitclaim and Granting of Utility Easements for Property Located at 1620 South California Avenue, Resolution No 2009-20. The Monrovia Redevelopment Agency purchased the property at 1620 South California Avenue for redevelopment purposes. There was currently a utility easement running through the property servicing the existing building. Edison and Verizon had been requested to relocate the current easement to the northerly and easterly property lines. The southerly property line of Parcel 1 was the location of the easement to be quitclaimed. The Planning Commission was required to consider any proposed acquisition or disposal of real property, including easements, by any public agency to determine if there were a conflict with the provisions of the City's General Plan. On April 15, 2009, the Planning Commission determined that the quitclaim and granting of utility easements was in conformity with the General Plan. There was no fiscal impact.

CC-4 Three-year Extension of Contract with West Coast Arborist for City Tree Trimming Services in the Amount of \$114,000.00 for Fiscal Year 2009-10, with a California Price Index (CPI) Increase for Each Subsequent Year Ending June 30, 2012. The City's Tree Trimming Maintenance Program was included within the Citywide Lighting and Landscape Maintenance Assessment District, and had been accomplished by contract services since 1985. The current contract would expire on June 30, 2009. West Coast Arborists, Inc., submitted a proposal requesting a three year contract extension that would maintain the City's average cost of tree trimming at the 2008-09 contract price of \$43.20 per tree for fiscal year 2009-10. West Coast Arborists' proposal would change the City's trimming frequency from four years to six years. The change to a 6-year trimming cycle was the result of budget adjustments for the 2009-10 Fiscal Year budget that were being proposed.

The Contractor proposed no increase during the first year extension. The total cost of the contract extension for Fiscal Year 2009-10 was \$114,000.00. During years 2 and 3 of the contract extension, there would be an increase based on the CPI. Funding for the contract was available from the Lighting and Landscaping Maintenance Assessment District, Street Trees.

CC-5 Phase II Enhanced Vapor Recovery Upgrade for Fuel Station, Acceptance of Work, Notice of Completion, and Final Payment to FR Construction, Inc in the Amount of \$3,355.00. On March 17, 2009 the City Council awarded a contract to FR Construction, Inc., in the amount of \$33,550.00 for the Monrovia Fuel Station CARB Phase II Enhanced Vapor Recovery Installation at the Monrovia Corporate Yard. The completed work was approved and in accordance with all requirements. Funds were available in the Equipment Maintenance Program Fund.

CC-6 Set for Hearing on May 19, 2009, Amendment to Title 17 (Zoning) of the Monrovia Municipal Code pertaining to regulations for the HCD (Historic Commercial Downtown) Zone, Ordinance No 2009-01. Over the past few years, Staff had been planning an update and organizational streamlining of the Zoning Ordinance. The first component of the update as presented in a proposed ordinance was related to regulations for the HCD (Historic Commercial Downtown) Zone.

At its meeting of April 15, 2009, the Planning Commission voted to approve and recommend approval of Ordinance No 2009-01 to the City Council. Staff recommended setting May 19, 2009 as the date of the Public Hearing.

CC-7 Request to Apply for Funds Under the Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Program in the Amount of \$64,503 00. The Police Department requested approval to apply for funds under the Recovery Act Edward Byrne Memorial Justice Assistance Grant (JAG) Program in the amount of \$64,503.00. The Monrovia Police Department would use the Edward Byrne Memorial Justice Assistance Grant (JAG) Recovery Act funding to prevent and reduce crime and violence by funding a police officer position.

CC-8 Denial of Liability Claim – County of Los Angeles and Los Angeles County Flood Control District vs. City of Monrovia: The Natural Resources Defense Council and Santa Monica Baykeeper had filed a lawsuit against the County of Los Angeles and Los Angeles County Flood Control District alleging violations of the federal Clean Water Act due to various alleged stormwater discharge issues. The County and District filed administrative claims against 58 cities seeking "indemnification" from the

cities in the event that the County would lose the lawsuit. Essentially, the claims stated without evidence that the cities were responsible for the stormwater discharges at issue, if any occurred.

The County's claim was legally insufficient because its indemnity claim was not yet ripe and might never become ripe. The County had not litigated its lawsuit with the plaintiffs yet, and there was no evidence Staff was aware of to suggest that the City might be responsible for any of the alleged violations. It should be noted that the plaintiffs, clean water advocates, had not filed any suit or made any claim against the City relating to this issue. Because a trial had not been held, this claim purported to hold the City liable for some potential future damage that might or might not ever materialize. Such a claim subverted the very purpose of the Tort Claims Act. Therefore, the City bore no responsibility in this matter.

PUBLIC INPUT

- 1 Lori A. Keele, Monrovia
- 2 Louise Robertson, Friends of the Library
- 3 Chuck Keen, Monrovia, American Legion Post
- 4 Dr. John Mastrogiovanni, Monrovia
- 5 Cyrus Kemp, Monrovia

PUBLIC HEARINGS / MEETINGS: None

CONVENE MONROVIA REDEVELOPMENT AGENCY MEETING WITHOUT ADJOURNING CITY COUNCIL MEETING

MRA CONVENE: Chairman Mary Ann Lutz convened the Meeting of May 5, 2009, of the Monrovia Redevelopment Agency Board of Directors at 9:56 P.M. in City Council Chambers, 415 South Ivy Avenue, without adjourning the City Council Meeting.

MRA ROLL CALL. Those in attendance were Boardmembers Joe Garcia, Clarence R. Shaw, Becky A. Shevlin, and Chairman Mary Ann Lutz. Boardmember Tom Adams was excused.

MRA CONSENT CALENDAR It was moved by Boardmember Garcia, seconded by Boardmember Shaw, to approve the Consent Calendar. Boardmembers Shaw and Shevlin abstained from the Minutes as they had not been in attendance. There were no objections. The Consent Calendar consisted of the following item:

MRA CC-1 Unadopted Minutes of the April 21, 2009 Regular Meeting of the Monrovia Redevelopment Agency.

MRA CC-2 Professional Services Contracts for Environmental Remediation Work at 200-204 West Pomona Avenue with John L. Hunter & Associates and Ocean Blue Environmental Services for Phase II Mitigation Work for the Total Amount not to exceed \$72,000.00. The Agency Board authorized the purchase of 200-204 West Pomona Avenue in 2007 for incorporation into the Station Square development. Prior to acquiring the properties, the Agency commissioned a Phase I environmental assessment report which determined the type of contaminants at the Site, and the quantity of the soil that would have to be removed. The report also disclosed that additional borings were necessary to determine the horizontal and vertical extent of the contamination at certain locations. As part of the Station Square Master developer's due diligence, additional environmental testing was performed and low levels of lead and cadmium were detected. These hazardous materials were consistent with the past uses of the site, and to convey the properties, the Agency had to remediate the site to a developable standard.

MRA PUBLIC HEARINGS/MEETINGS: None

MRA ADMINISTRATIVE REPORTS: None

MRA ADJOURNMENT: Chairman Lutz adjourned the Meeting at 9:57 P.M.

RECONVENE MONROVIA CITY COUNCIL MEETING

REPORTS OF CITY COUNCILMEMBERS & SUB-COMMITTEES

RCC1 Mayor Mary Ann Lutz reported that

- (a) The grand opening of the new Library would be at 10 00 A M , May 16, 2009
- (b) She and Councilmember Shaw had attended the VFW and Ladies Auxiliary Boards' Installation
- (c) She requested information from the City Manager to review at the next City Council Meeting what was legally available to the City Council as to putting into place a procedure for filling vacancies and moving the election month to March

RCC2 Councilmember Adams was excused

RCC3 Councilmember Garcia had no report at this time

RCC4 Councilmember Shaw reported that

- (a) He had attended the MAP event on Saturday where several hundred people were in attendance He thanked the Staff for the very successful event

RCC5 Councilmember Shevlin reported that

- (a) She expressed her appreciation and thanks to all
- (b) The Fire Department Service Day on Saturday, May 9, 2009 would offer a Pancake Breakfast, and that City Hall would be open from 7 00 A M to 11 00 A M

ADMINISTRATIVE REPORTS: There were no Administrative Reports

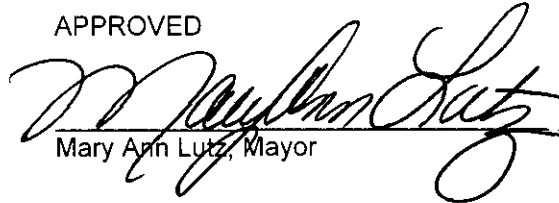
SCHEDULED MEETINGS

The next Regular Meeting of the Monrovia City Council was scheduled for Tuesday, May 19, 2009, 7 30 P M , City Council Chambers, 415 South Ivy Avenue, Monrovia, California

ADJOURNMENT


Mayor Lutz adjourned the Meeting at 10 03 P M

APPROVED



 Mary Ann Lutz, Mayor

ATTEST



 Linda B Proctor, MMC, City Clerk