

CITY OF MONTCLAIR

**CITY COUNCIL
SUCCESSOR REDEVELOPMENT AGENCY,
MONTCLAIR HOUSING CORPORATION, MONTCLAIR
HOUSING AUTHORITY, AND MONTCLAIR COMMUNITY
FOUNDATION MEETINGS**

AGENDA PACKET



**Monday, March 18, 2024
7:00 p.m.**

**Montclair City Council Chambers
5111 Benito Street
Montclair, CA 91763**

Mayor

Javier "John" Dutrey

Mayor Pro Tem

Tenice Johnson

Council Members

Bill Ruh

Corysa Martinez

Benjamin "Ben" Lopez

City Manager

Edward C. Starr

City Attorney

Diane E. Robbins

City Clerk

Andrea M. Myrick



**REGULAR JOINT MEETING OF THE
CITY COUNCIL, SUCCESSOR AGENCY, MONTCLAIR HOUSING CORPORATION,
MONTCLAIR HOUSING AUTHORITY, AND MONTCLAIR COMMUNITY FOUNDATION**

to be held in the Council Chambers
5111 Benito Street, Montclair, California

Monday, March 18, 2024
7:00 p.m.

If you want to provide comments on an agenda item, including public hearing and closed session items, please complete a Speaker Card located in the Council Chambers. The Mayor/Chair (or the meeting's Presiding Officer) will call on those who submitted requests to speak at the appropriate times during the meeting. Written comments (200-word limit per agenda item, and 200-word limit for all non-agenda items combined) can also be emailed to cityclerk@cityofmontclair.org at least one hour before the meeting begins.

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Zoom Link: <https://zoom.us/j/93717150550>

Dial Number: 1 (669) 900-6833

Meeting ID: 937-1715-0550

AGENDA

- I. CALL TO ORDER** City Council [CC], Successor Agency Board [SA],
Montclair Housing Corporation Board [MHC],
Montclair Housing Authority Commission [MHA],
Montclair Community Foundation Board [MCF]

II. INVOCATION

In keeping with our long-standing tradition of opening our Council meetings with an invocation, this meeting may include a nonsectarian invocation. Such invocations are not intended to proselytize or advance any faith or belief or to disparage any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PRESENTATIONS

- A. Introduction of New Human Services Department Employee

VI. PUBLIC COMMENT

*During Public Comment, you may comment on any subject that **does not** appear on this agenda. Each speaker has up to five minutes. The meeting's presiding officer may provide more or less time to accommodate speakers with special needs or a large number of speakers waiting in line. (Government Code Section 54954.3).*

Under the provisions of the Brown Act, the meeting bodies are prohibited from participating in substantial discussion of or taking action on items not listed on the agenda.

VII. PUBLIC HEARINGS

- A. Second Reading — Consider Adoption of Ordinance No. 24-1007 Amending Chapter 11.02 of, and Adding Chapters 11.21 and 11.87 to, the Montclair Municipal Code Relating to Urban Lot Splits and Two-Unit Projects in the R-1 Single Family Zone [CC]

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11. Consider Declaring a 1979 Smith Air Compressor (Unit 411) and a 1985 Asplundh Wood Chipper (Unit 404) as Surplus Equipment Available for Parts or for Sale at Auction [CC]	58
C. Agreements — None	
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X. COUNCIL WORKSHOP	
A. Update on 2021 Lease Revenue Bond and Capital Improvement Program Projects <i>(The City Council may consider continuing this item to an adjourned meeting on Monday, April 1, 2024, at 5:45 p.m. in the City Council Chambers)</i>	

XI. COMMUNICATIONS

- A. Department Reports
 - 1. Human Services Department — Upcoming Events
- B. City Attorney
 - 1. Request to Meet in Closed Session Pursuant to Government Code §54957(b) Regarding the Appeal Hearing of John Minook [CC]
- C. City Manager/Executive Director
- D. Mayor/Chairperson
- E. Council Members/Directors
- F. Committee Meeting Minutes *(for informational purposes only)*
 - 1. Personnel Committee Meeting — March 4, 2024 [CC]

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XII. CLOSED SESSSION

XIII. CLOSED SESSION ANNOUNCEMENTS

XIV. ADJOURNMENT

The next regular joint meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board will be held on Monday, April 1, 2024 at 7:00 p.m.

Reports, backup materials, and additional materials related to any item on this Agenda distributed to the meeting bodies after publication of the Agenda packet are available for public inspection in the Office of the City Clerk between 7:00 a.m. and 6:00 p.m., Monday through Thursday. Please call the City Clerk's Office at (909) 625-9416 or send an e-mail to cityclerk@cityofmontclair.org to request documents via e-mail.

If you need special assistance to participate in this meeting, please contact the City Clerk's Office at (909) 625-9416 or e-mail cityclerk@cityofmontclair.org. Notification prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II)

I, Andrea M. Myrick, City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the City's website at <https://www.cityofmontclair.org/agendas/> and on the bulletin board adjacent to the north door of Montclair City Hall at 5111 Benito Street, Montclair, CA 91763 on Thursday, March 14, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	CDV110
SECTION:	PUBLIC HEARINGS	DEPT.:	COMMUNITY DEV.
ITEM NO.:	A	PREPARER:	M. DIAZ
SUBJECT:	SECOND READING — CONSIDER ADOPTION OF ORDINANCE NO. 24-1007 AMENDING CHAPTER 11.02 OF, AND ADDING CHAPTERS 11.21 AND 11.87 TO, THE MONTCLAIR MUNICIPAL CODE RELATING TO URBAN LOT SPLITS AND TWO-UNIT PROJECTS IN THE R-1 SINGLE FAMILY ZONE		

REASON FOR CONSIDERATION: City Council action is required to amend the Montclair Municipal Code (MMC). Proposed Ordinance No. 24-1007 would make changes to the MMC and establish local regulations in compliance with Government Code sections 66411.7 and 65852.21, also known as California Senate Bill 9 (SB 9), mandating the ministerial approval of urban lot splits and two-unit projects in the R-1 Single Family Zone.

On March 4, 2024, the City Council conducted a public hearing at which time all persons wishing to testify in connection with the proposed ordinance were given the opportunity to be heard, and the item was fully studied. No public comments were received. The City Council then moved unanimously to set March 18, 2024, as the date for the second reading of Ordinance No. 24-1007.

A copy of proposed Ordinance No. 24-1007 is attached to this report for City Council review and consideration.

BACKGROUND: Senate Bill 9 went into law on January 1, 2022, as part of the State's efforts to encourage the production of housing across California. The law requires the City to approve eligible urban lot splits and two-unit projects administratively without a public hearing. Property owners can utilize both provisions of SB 9, meaning that a two-unit project may follow an urban lot split on each of the two new lots, potentially resulting in four dwellings on what was formerly one single-family residential lot.

SB 9 mandates the City to allow ministerial approval of the following changes to existing single-family residential properties by allowing the following ministerial approvals:

1. Two-Unit Project - Allows for the development of two primary homes on a single-family residential parcel. There is no legal requirement for a lot split/creation of two legal lots with this provision.
2. Urban Lot Split - A one-time subdivision of an existing single-family residential parcel into two parcels for the development of a primary unit on the newly created second lot.

Proposed Zoning Code Amendment

Adoption of Ordinance No. 24-1007 requires changes to MMC Title 11 - *Zoning and Development*. The full text of proposed changes are found in the proposed ordinance and the exhibits thereto. Key provisions of the proposed ordinance are as follows:

New definitions added to Chapter 11.02 – Definitions

"Urban Lot Split" means the subdivision of an existing legally subdivided lot into two lots in accordance with the requirements of this section.

"Unit" means any dwelling unit, including, but not limited to, a unit or units created pursuant to Government Code Section 65852 .21, a primary dwelling, an accessory dwelling unit as defined in Government Code Section 65852.2, or a junior accessory dwelling unit as defined in Government Code Section 65852.22.

"Two-Unit Project" means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on a legally subdivided lot in accordance with the requirements of this section.

"Parcel Map" is a land division map used for developments of four (4) or fewer residential lots.

New Chapter 11.21: Two-Unit Project

A Two-Unit Project means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on an existing legally subdivided lot.

The details of the application process and the requirements for a Two-Unit Project are found in the attached proposed Ordinance No. 24-1007, Chapter 11.21.030 through 11.21.150. The more salient provisions of the ordinance related to Two-Unit Project development are as follows:

1. Only individual property owners may apply for a Two-Unit Project. "Individual property owner" means a natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. "Individual property owner" does not include any A corporation or corporate person of any kind (partnership, LP, LLC, C Corp, S Corp, etc.) except for a community land trust (as defined by Rev. & Tax Code § 402.1 (a)(11)(C)(ii)) or qualified nonprofit corporation (as defined by Rev. & Tax Code § 214.15).
2. The subject lot must be in an R-1 single-family residential zone.
3. The lot must not be a historic property or within a historic district that is included on the State Historic Resources Inventory. Nor may the lot be or be within a site that is designated by ordinance as a city or county landmark or as a historic property or district.
4. The Two-Unit Project must not require or include the demolition or alteration of any of the following types of housing:
 - a. Housing that is income-restricted for households of moderate, low, or very low income.
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

- c. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code §§ 7060–7060. 7) at any time in the 15 years before submission of the application.
 - d. Housing that has been occupied by a tenant in the last three years.
5. Generally, all setbacks must conform to those objective setbacks that are imposed through the underlying zone.
 6. The total floor area of each primary dwelling built that is developed under this section cannot be less than 500 SF or exceed 800 SF.
 7. Each new primary dwelling unit must have at least one enclosed off-street parking space within a garage unless the site meets specific criteria related to public transit as detailed in proposed Ordinance 24-1007 Chapter 11.21.080.
 8. A Parcel Map is not required for this type of development if the existing single lot remains intact and is not subdivided to create two legal lots.

New Chapter 11.87: Urban Lot Splits

Proposed new Chapter 11.87 provides the regulations and procedures necessary for considering the approval of an Urban Lot Split within an R-1 zone. The Urban Lot Split differs from a Two-Unit Project in that a single-family lot is legally subdivided to create two legal lots.

An Urban Lot Split allows the following:

1. An existing R-1 single-family zoned lot may be subdivided into a maximum of two lots. An Urban Lot Split can occur in a Single-family Residential Zone.
2. The newly created lot cannot be less than 40 percent of the original lot size.
3. The minimum size of a new lot is 1,200 square feet.
4. Each lot can have up to two units, if implementing the provisions of the Two-Unit Project upon subdivision of the lot.
5. Unit size for the new dwelling unit cannot exceed 800 square feet.
6. The lot must not be a historic property or within a historic district that is included on the State Historic Resources Inventory. Nor may the lot be or be within a site that is designated by ordinance as a city or county landmark or as a historic property or district.
7. The lot split must not require or include the demolition or alteration of any of the following types of housing:
 - a. Housing that is income-restricted for households of moderate, low, or very low income.
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

- c. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code §§ 7060–7060. 7) at any time in the 15 years before submission of the Urban Lot Split application.
- d. Housing that has been occupied by a tenant in the last three years.

Objective Design Standards

The State of California has adopted legislation requiring cities to approve certain housing proposals (including SB 9 applications) through ministerial or "over-the-counter" processes based on objective standards. State law defines objective standards as those that "involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant and public official prior to submittal." The result of these laws is to encourage cities to create quicker, more accessible pathways for housing to be built. The following objective design standards are included in the proposed ordinance:

Maximum/Minimum Unit Size – 500 SF minimum unit size and 800 SF maximum unit size.

Height – Dwelling units may not be more than one-story and shall not exceed 16 feet in height; may be exempt from one-story height limitation but may be constructed up to 25 feet in height if an 800 square-foot unit cannot be physically built on the lot without the height exemption.

Front Yard Landscaping – At least 50 percent of the front yard area is required to be maintained with landscaping (live organic plant materials), and one 24" box-sized tree is required to be planted in the front yard.

Front Yard Paving – The maximum pavement/driveway width is the width of the garage or 12 feet if there is no garage.

Front Elevation Design – The primary entrance with a roofed porch (minimum 6 feet deep by 6 feet wide) are required to be located along the front elevation.

Building Material and Color – All structures are required to utilize at least two building wall materials (e.g., stucco, brick, wood, stone) and painted at least two colors throughout all exterior elevations.

Roof Design – Roof design of new units shall be compatible with the existing primary unit on the property. If no existing primary unit exists on the site, the roof design of new units shall be compatible in design with the general character of the dwellings in the surrounding area. Unscreened roof-mounted HVAC equipment (including ductworks and conduit lines) is prohibited.

Windows and Balconies – Window treatment is required on all windows. Balconies and second-floor side windows are prohibited (this is designed to address potential privacy concerns).

Street Frontage – All lots are required to have a minimum of 12 feet of street frontage for vehicular access. Twelve feet is the minimum driveway width in the R-1 zone.

Planning Division Comments

SB 9 requires the City to approve eligible Urban Lot Splits and Two-Unit Projects administratively without a public hearing. However, SB 9 does not require R-1 property owners to make any changes to their existing properties. The intent of the proposed ordinance is to retain as much local control as possible when approving urban lot splits and/or two-unit project development within the R-1 zone through the creation of objective development and design standards.

As previously mentioned, there are limits on the discretion a City can exercise related to SB 9 applications. While the proposed ordinance is compliant with state law, it does include a number of local provisions to protect the community. Below are highlights of additional measures included in the proposed ordinance:

1. If a parcel includes an existing single-family residence, one more additional unit of not more than 800 square feet may be created with the provision that no more than 25 percent of the existing exterior structural walls shall be demolished to create the two-unit residential development unless the existing single-family residence has not been occupied by a tenant in the last three years.
2. If the parcel is vacant and undeveloped or if the existing single-family residence is proposed to be demolished in conjunction with said request, no more than two units of not more than 800 square feet each may be developed.
3. Each unit in a two-unit residential development must either be attached or separated by a distance of 10 feet from any other structure.
4. In the case of units created as the result of the urban lot split process, no more than two units in any combination, including primary dwelling units, ADUs, or JADUs, will be allowed.

Review Process

While an urban lot splits and two-unit projects would be an administrative action, approval will be subject to the applicant's ability to meet all the objective design standards enumerated in this report and in proposed Ordinance No. 24-1007. Staff is recommending the necessary amendments to the Montclair Municipal Code as summarized in this report and detailed in the proposed Ordinance.

Public Notice and Comment

On November 17, 2023, a notice of a Planning Commission public hearing on draft Ordinance No. 24-1007 was published in the *Inland Valley Daily Bulletin* per State law, for the November 27, 2023 Planning Commission meeting. On November 27, 2023, the Planning Commission held a public hearing regarding the draft ordinance to take comments, at which time there were no comments. At staff's request, the Planning Commission continued the review of the item three times until January 22, 2024, at which time the item was fully reviewed. During the January 22, 2024 meeting, there were no public comments.

On February 9, 2024, a notice of a City Council public hearing on proposed Ordinance No. 24-1007 was published in the *Inland Valley Daily Bulletin* per State law, for the February 20, 2024 City Council meeting. On February 20, 2024, the City Council held a public hearing regarding the proposed ordinance to take public comment. No comments

were made, and at the request of City staff the item was continued to the City Council's regularly scheduled meeting on March 4, 2024.

On March 4, 2024, the City Council conducted a public hearing at which time all persons wishing to testify in connection with the proposed ordinance were given the opportunity to be heard, and the item was fully studied. No public comments were received. The City Council then moved unanimously to set March 18, 2024, as the date for the second reading of Ordinance No. 24-1007.

Environmental Assessment

The proposed Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to California Government Code sections 65852.21, subdivision. (j), and 66411.7, subdivision (n): the adoption of an ordinance by a city or county implementing the provisions of Government Code sections 66411.7 and 65852.21, which is California's SB 9 Law and which regulates urban lot splits and two-unit projects, is statutorily exempt from the requirements of CEQA. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's SB 9 Law because the required changes have no potential for resulting in a physical change to the environment, directly or indirectly, and the changes are consistent with the goals and policies of the General Plan and will bring the City's code into compliance with State Law.

FISCAL IMPACT: The cost for review of future SB 9 proposals will be borne by property owners (applicants) at the fee established for review and permits as listed on the City's Master User Fee Schedule approved and amended from time to time by the City Council.

RECOMMENDATION: Staff recommends the City Council adopt Ordinance No. 24-1007 amending Chapter 11.02 of, and adding Chapters 11.21 and 11.87 to, the Montclair Municipal Code relating to urban lot splits and two-unit projects in the R-1 Single Family Zone.

ORDINANCE NO. 24-1007

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING CHAPTER 11.02 OF THE MONTCLAIR MUNICIPAL CODE AND ADDING A NEW CHAPTER 11.21 AND A NEW CHAPTER 11.87 RELATING TO URBAN LOT SPLITS AND TWO-UNIT PROJECTS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

WHEREAS, the City of Montclair, California (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, in 2021, the California Legislature approved, and the Governor signed into law Senate Bill 9 (“SB 9”), which among other things, adds Government Code Section 65852.21 and 66411.7 to impose new limits on local authority to regulate urban lot splits and two-unit projects; and

WHEREAS, SB 9 allows local agencies to adopt objective design, development, and subdivision standards for urban lot splits and two-unit projects; and

WHEREAS, SB 9 took effect on January 1, 2022, and preempts any conflicting City ordinance; and

WHEREAS, the City desires to amend its local regulatory scheme to comply with Government Code sections 66411.7 and 65852.21 and to appropriately regulate projects under SB 9; and

WHEREAS, the approval of Urban Lot Splits and Two-Unit Projects based solely on the City’s default standards, without appropriate regulations governing lot configuration, unit size, height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety.

WHEREAS, on November 17, 2023, a notice of a public hearing on proposed Ordinance No. 24-1007 published in the *Inland Valley Daily Bulletin* per State law. On November 27, 2023, the Planning Commission opened the public hearing to take comments at which time there were there was no comment; and

WHEREAS, at staff’s request, the Planning Commission continued the review of the item three times until January 22, 2024, at which time the item was fully reviewed. During the January 22, 2024 meeting, there were no public comments; and

WHEREAS, on January 22, 2024, the Planning Commission conducted a public hearing at which time there were no public comments and the item was fully reviewed. The Planning Commission then moved to adopt Resolution No. 24-1989, and by a vote of 4-0-1 (absent), and recommended approval of the Ordinance to the City Council; and

WHEREAS, on February 9, 2024, a notice of a public hearing on proposed Ordinance No. 24-1007 was published in the *Inland Valley Daily Bulletin* per State law, for the February 20, 2024, City Council meeting. As of the writing of this report, no public comment have been received regarding the proposed Ordinance; and

WHEREAS, on February 20, 2024, the City Council of the City of Montclair opened the public hearing regarding the proposed ordinance and to take public comment. No comments were made and at the request of City staff the item was continued to the City Council’s regularly scheduled meeting on March 4, 2024; and

WHEREAS, on March 4, 2024, the City Council of the City of Montclair held a public hearing regarding the proposed ordinance; and

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTCLAIR DOES ORDAIN AS FOLLOWS:

SECTION I. The recitals above are each incorporated by reference and adopted as findings by the City Council.

SECTION II Under California Government Code sections 65852.21, subdivision (j), and 66411.7, subdivision (n), the adoption of an ordinance by a city or county implementing the provisions of Government Code Sections 66411.7 and 65852.21 and regulating urban lot splits and two-unit projects is statutorily exempt from the requirements of the California Environmental Quality Act (“CEQA”). Therefore, the adoption of the proposed ordinance is statutorily exempt from CEQA in that the proposed Ordinance implements these new laws enacted by SB 9.

In addition to being statutorily exempt from CEQA, adoption of the proposed Ordinance is also categorically exempt from CEQA under the Class 15 exemption set forth in State CEQA Guidelines Section 15315. The Class 15 exemption categorically exempts from CEQA, among other things, the division of property in urbanized areas zoned for residential use into four or fewer parcels. Here, adoption of the Ordinance is categorically exempt under Class 15 exemption because the ordinance regulates a single urban lot split of one parcel into two separate lots between 60 percent and 40 percent of the original lot area in a residential zone.

Further, the adoption of the proposed Ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of a second dwelling unit in a residential zone and a duplex or similar multi-family residential structure totaling no more than four dwelling units as examples of activity that expressly falls within this exemption. Here, adoption of the Ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the construction of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit, in a residential zone. Moreover, the City Council finds that none of the “exceptions” to the use of the Class 3 exemption, set forth in State CEQA Guidelines section 15300.2, apply here. Specifically, the City Council finds that the adoption of the proposed Ordinance will:

1. Not result in a potentially significant cumulative impact in that residential zones were designed to accommodate low-density residential development. The proposed standards seek to comply with new State of California legislation to allow increased low-density housing and establish parameters to mitigate impacts that would result from a higher-density development;
2. Not result in a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances in that the implementation of the development standards will result in residential development standards within residentially zoned properties and the proposed standards are intended to preserve the characteristics and activity with residential zones;
3. Not result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway in that there are no designated scenic highways in the City of Montclair.
4. Not be located on a hazardous waste site or included on any list compiled under § 65962.5 of the Government Code. The proposed standards apply to single-family residential zones only and there are no known single-family residential zoned properties in the City of Montclair listed as a hazardous waste site.
5. Not result in a substantial adverse change in the significance of a historical resource in that the proposed standards prohibit the demolition or alteration of historically designated properties.

SECTION III. Chapter 11.02 “Definitions” of Title 11 (Zoning and Development) of the Montclair Municipal Code is hereby amended to add the following definitions:

11.02 Definitions.

“**Urban Lot Split**” means the subdivision of an existing legally subdivided lot into two lots per the requirements of this section.

"Unit" means any dwelling unit, including, but not limited to, a unit or units created under Government Code Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Government Code Section 65852.2, or a junior accessory dwelling unit as defined in Government Code Section 65852.22.

"Two-Unit Project" means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on an existing legally subdivided lot per the requirements of this section.

"Parcel Map" is a land division map used for developments of four (4) or fewer residential lots.

SECTION IV. Title 11 (Zoning and Development) of the Montclair Municipal Code shall be amended to add Chapter 11.21 (Ministerial Two-Unit Development) as shown in Exhibit "A" attached hereto and incorporated herein by reference.

SECTION V. Title 11 (Zoning and Development) of the Montclair Municipal Code shall be amended to add Chapter 11.87 (Urban Lot Splits) as shown in Exhibit "B" attached hereto and incorporated herein by reference.

SECTION VI. This Ordinance shall take effect 30 days after adoption.

SECTION VII. If any provision of this Ordinance or its application to any person or circumstance is held to be invalid, such invalidity does not affect the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

SECTION VIII. The City Council hereby directs staff to prepare, execute, and file with the San Bernardino County Clerk a notice of exemption within five (5) working days of the adoption of this Ordinance.

SECTION IX. The Custodian of Records for this Ordinance is the City Clerk and the records comprising the administrative record for this Ordinance are located at 5111 Benito Street, Montclair, CA 91763.

SECTION X. The City Clerk shall certify the passage of this Ordinance and cause the same to be posted under Government Code Section 36933 by having a summary of this Ordinance published twice in a newspaper of general circulation, once five days before its adoption and again within 15 days after its adoption.

APPROVED AND ADOPTED this XX day of XX, 2024.

ATTEST:

Mayor

City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 24-1007 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2024, and finally passed not less than five (5) days thereafter at a regular meeting of the City Council held on the XX day of XX, 2024, by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Andrea M. Myrick
City Clerk

EXHIBIT "A"

New Zoning Code Chapter 11.21

CHAPTER 11.21 – MINISTERIAL TWO-UNIT PROJECTS.

11.21.010 – Purpose. The purpose of this Chapter is to allow and appropriately regulate a Two-Unit Project under Government Code section 65852.21.

11.21.020 – Definition. A "Two-Unit Project" means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on a legally subdivided lot in accordance with the requirements of this Chapter.

11.21.030 – Application.

- A. Owners
 - 1. Only individual property owners may apply for a Two-Unit Project. "Individual property owner" means a natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. "Individual property owner" does not include any corporation or corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Revenue & Tax Code §402.1(a)(1)(C)(ii)) or a qualified nonprofit corporation (as defined by Revenue & Tax Code §214.15).
 - 2. Any person with a mortgage interest in the lot must sign the application and the parcel map indicating the person's consent to the project.
- B. An application for a Two-Unit Project must be submitted on the City's approved form.
- C. The applicant must obtain a Certificate of Compliance pursuant to the Subdivision Map Act and implementing regulations in this code for the lot and provide the certificate with the application.
- D. Only a complete application will be considered. The City will inform the applicant in writing of any incompleteness within 30 days after the application is submitted.
- E. The City may establish a fee to recover its costs for adopting, implementing, and enforcing this section of the code, in accordance with applicable law. The City Council may establish and change the fee by resolution. The fee must be paid with the application.

11.21.040 – Approval.

- A. An application for a Two-Unit Project is approved or denied ministerially, by the Director of Community Development, without discretionary review.
- B. The ministerial approval of a Two-Unit Project does not take effect until the City has confirmed that the required documents have been recorded, such as the deed restriction and easements.
- C. The approval must require the owner and applicant to hold the City harmless from all claims and damages related to the approval and its subject matter.
- D. The approval must require the owner and applicant to reimburse the City for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this code.

11.21.050 – Requirements. A Two-Unit Project must satisfy each of the following requirements:

- A. Subdivision Map Act Compliance. The lot must have been legally subdivided.
- B. Zone. The lot is in the R-1 single-family residential zone.

C. Lot Location.

1. The lot is not located on a site that is any of the following:
 - a. Prime farmland, farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.
 - b. A wetland.
 - c. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by existing building standards.
 - d. A hazardous waste site that has not been cleared for residential use.
 - e. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.
 - f. Within a 100-year flood hazard area, unless the site has either:
 - i. Been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or
 - ii. Meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
 - iii. Within a regulatory floodway, unless all development on the site has received a no-rise certification.
 - iv. Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.
 - v. Habitat for protected species.
 - vi. Land under conservation easement.
2. The purpose of subpart C(1) above is merely to summarize the requirements of Government Code Section 65913.4(a)(6)(B)-(K). (See Gov. Code §66411.7(a)(3)(C)).

The applicant must provide evidence that the requirements of Government Code Section 65913.4(a)(6)(B)-(K) are satisfied.

D. Not Historic.

The lot must not be a historic property or within a historic district that is included on the State Historic Resources Inventory. Nor may the lot be or be within a site that is designated by ordinance as a City or county landmark or as a historic property or district.

E. No Impact on Protected Housing.

1. The Two-Unit Project must not require or include the demolition or alteration of any of the following types of housing:
 - a. Housing that is income-restricted for households of moderate, low, or very low income.
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - c. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code §§ 7060-7060.7)

at any time in the 15 years before submission of the urban lot split application.

- d. Housing that has been occupied by a tenant in the last three years.
2. As part of the Two-Unit Project application, the applicant and the owner of a property must provide a sworn statement by affidavit representing and warranting that subpart 11.21.070.A above is satisfied.
 - a. The sworn statement must state that:
 - i. No housing that is income-restricted for households of moderate income, low income, or very low income will be demolished or altered.
 - ii. No housing that is subject to any form of rent or price control will be demolished or altered.
 - iii. No housing that has been withdrawn from rental or lease under the Ellis Act at any time in the last 15 years will be demolished or altered.
 - iv. No housing that has been occupied by a tenant in the last three years will be demolished or altered.
 - b. The City may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including but not limited to, surveying owners of nearby properties; and the City may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.

11.21.060 – Unit Standards.

A. Quantity.

1. No more than two dwelling units of any kind may be built on a lot that results from an urban lot split. For purposes of this paragraph, "unit" means any dwelling unit, including, but not limited to, a primary dwelling unit, a unit created under this section of this code, an ADU, or a JADU.
2. A lot that is not created by an urban lot may have a Two-Unit Project in this section plus any ADU or JADU that must be allowed under State Law and the City ADU ordinance.

B. Unit Size.

1. The total floor area of each primary dwelling built that is developed under this section must be as follows:
 - a. Less than or equal to 800 SF and
 - b. Larger than 500 SF.
2. A primary dwelling that was legally established on the lot prior to the Two-Unit Project and that is larger than 800 SF is limited to the lawful floor area at the time of the two-unit project. The unit may not be expanded.
3. A primary dwelling that was legally established prior to the Two-Unit Project and that is less than 800 SF may be expanded to 800 SF after, or as part of, the Two-Unit Project.

C. Height Restrictions.

1. On a lot that is larger than 2,000 SF, no new primary dwelling unit may exceed a single story or 16 feet in height, measured from grade to peak of the structure.

2. On a lot that is smaller than 2,000 SF, no new primary dwelling unit may exceed two stories or 22 feet in height, measured from grade to peak of the structure. Any portion of a new primary dwelling that exceeds one story must be stepped back by an additional five feet from the ground floor exterior walls; no balcony deck or other portion of the second story may project into the step back.
 3. No rooftop deck is permitted on any new or remodeled dwelling or structure on a lot with a two-unit project.
- D. Demo Cap. The Two-Unit Project may not involve the demolition of more than 25 percent of the existing exterior walls of an existing dwelling, unless the site has not been occupied by a tenant in the last three years.
- E. Lot Coverage. A maximum lot coverage of 45 percent is permitted.
- F. Open Space. Each unit shall be provided with 300 SF of useable open space; with a minimum side setback of 10 feet.
- G. Setbacks.
1. Generally. All setbacks must conform to those objective setbacks that are imposed through the underlying zone.
 2. Exceptions. Notwithstanding subpart (G)(1) above:
 - a. Existing Structures. No setback is required for an existing legally established structure or for a new structure that is constructed in the same location and to the same dimensions as an existing legally established structure.
 - b. 800 SF; four-foot side and rear. The setbacks imposed by the underlying zone must yield to the degree necessary to avoid physically precluding the construction of up to two units on the lot or either of the two units from being at least 800 SF in floor area; but in no event may any structure be less than four feet from a side or rear property line.
 3. Front Setback Area. Notwithstanding any other part of this code, dwellings that are constructed under this section must be at least 25 feet from the front property lines. The front setback area must:
 - a. Be kept free from all structures greater than three feet high; and
 - b. Be landscaped with drought-tolerant plants, with vegetation and irrigation plans approved by a licensed landscape architect; and
 - c. Allow for vehicular and fire-safety access to the front structure.
- H. Parking. Each new primary dwelling unit must have at least one enclosed off-street parking space, within a garage, per unit unless one of the following applies:
1. The lot is located within one-half mile walking distance of either:
 - a. A corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours; or
 - b. A site that contains the following features:
 - i. An existing rail or bus rapid transit station,
 - ii. A ferry terminal served by either a bus or rail transit service, or
 - iii. The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
 2. The site is located within one block of a car-share vehicle location.

11.21.070 – Architecture.

- A. If there is a legal primary dwelling on the lot that was established before the Two-Unit Project, any new primary dwelling unit must match the existing primary dwelling unit in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.
1. If there is no legal primary dwelling on the lot before the Two-Unit Project, and if two primary dwellings are developed on the lot, the dwellings must match each other in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.
 2. All new residential development is subject to compliance with objective R-1 design standards within this chapter. All new residential development is subject to the objective design standards.
 3. All exterior lighting must be limited to downlights.
 4. No window or door of a dwelling that is constructed on the lot may have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent a direct line of sight.
 5. If any portion of a dwelling is less than 30 feet from a property line that is not a public right-of-way line, then all windows and doors in that portion must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor, or (for windows and doors) utilize frosted or obscure glass.
- B. Landscaping. Evergreen landscape screening must be planted and maintained between each dwelling and adjacent lots (but not rights of way) as follows:
1. At least one 15-gallon size plant shall be provided for every five linear feet of the exterior wall. Alternatively, at least one 24" box-size plant shall be provided for every ten linear feet of the exterior wall.
 2. Plant specimens must be at least six feet tall when installed. As an alternative, a solid fence of at least 6 feet in height may be installed.
 3. All landscaping must be drought-tolerant pursuant to the City's *Water-Efficient Landscaping and Conservation Ordinance*.
 4. All landscaping must be from the City's approved plant list.
- C. Tree Preservation. In cases where an addition or new construction is being proposed to provide for urban dwelling, the property owner must not remove mature trees on site. A mature tree is defined as a tree with a diameter-at-breast-height (DBH) of 19 inches or greater. Removal includes moving a tree or removing more than one-third of a tree's vegetation. In addition to the preservation of the tree, the owner must record a covenant showing the location of the mature tree, requiring all trimming of the tree to be overseen by a licensed arborist, prohibiting the tree from being topped, and that the City must approve any tree removal.
- D. Nonconforming Conditions. A Two-Unit Project may only be approved if all nonconforming zoning conditions are corrected.
- E. Utilities.
1. Each primary dwelling unit on the lot must have its own direct utility connection to the utility service provider.
 2. All utilities must be underground.
- F. Building & Safety. All structures built on the lot must comply with all current local building standards. A project under this Chapter is a change of use and subjects the whole of the lot, and all structures, to the City's current code.

G. Fire Prevention Requirements.

1. All Two-Unit Projects must comply with the following requirements:
 - a. All newly constructed structures on the site must comply with current fire code requirements, including the installation of interior fire sprinklers.
 - b. All sides of all dwellings on the site must be within a 150-foot hose-pull distance from either the public right-of-way or of an onsite fire hydrant or standpipe. Structures exceeding a 150-foot hose-pull distance shall comply with Fire Marshal requirements, including, but not limited to, a minimum 20-foot wide paved access to provide emergency Fire Department access.
2. Two-Unit Project applications shall require Fire Prevention Bureau review of proposed plans for compliance with the above standards. The applicant must pay the City's costs for plan review.

11.21.080 – Exceptions to Objective Standards.

Any standard that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 SF in floor area must be set aside. Objective standards will be set aside in the following order until the site can contain two 800 SF units:

1. Lot Coverage
2. Floor Area Ratio
3. Open Space
4. Tree Preservation
5. Articulation
6. Second Floor Setback

11.21.090 – Separate Conveyance.

- A. Primary dwelling units on the lot may not be owned or conveyed separately from each other.
- B. Condominium airspace divisions and common interest developments are not permitted within the lot.
- C. All fee interest in the lot and all the dwellings must be held equally and undivided by all individual property owners.
- D. No timeshare, as defined by state law or this code, is permitted.

11.21.100 – Regulation of Uses.

- A. Residential-only. Non-residential uses are not permitted on the lot.
- B. No Short-Term Rentals. No dwelling unit on the lot may be rented for a period of less than 30 days.
- C. Owner Occupancy. Unless the lot was formed by an Urban Lot Split, the individual property owners of a lot with a Two-Unit Project must occupy one of the dwellings on the lot as the owners' principal residence and legal domicile and an owner occupancy covenant shall be recorded prior to issuance of building permits.

11.21.110 – Notice of Construction.

- A. At least 30 business days before starting any construction of a Two-Unit Project, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:
 1. Notice that construction has been authorized;
 2. The anticipated start and end dates for construction;

3. The hours of construction;
 4. Contact information for the project manager (for construction related complaints); and
 5. Contact information for the Building & Safety Department.
- B. This notice requirement does not confer a right on the noticed persons or on anyone else, to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular project under this Chapter. This notice requirement is purely to promote neighborhood awareness and expectations.

11.21.120 – Deed Restriction.

- A. The owner must record a deed restriction, on a form approved by the City, that does each of the following:
1. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
 2. Expressly prohibits any non-residential use of the lot.
 3. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
 4. If the lot does not undergo an urban lot split: The individual property owners must live in one of the dwelling units on the lot as the owners' primary residence and legal domicile.

11.21.130 – Specific Adverse Impacts.

- A. Notwithstanding anything else in this Chapter, the City may deny an application for a Two-Unit Project, if the Building Official makes a written finding, based on a preponderance of the evidence, that the project would have a "specific adverse impact" on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
- B. "Specific adverse impact" has the same meaning as in Gov. Code §65589.5(d)(2): "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code section 214(g).
- C. The Building Official may consult with and be assisted by planning staff and others as necessary in making a finding of specific, adverse impacts.

11.21.140 – Remedies.

If a Two-Unit Project violates any part of this code or any other legal requirement:

- A. The buyer, grantee, or lessee of any part of the property has an action for damages or to void the deed, sale, or contract.
- B. The City may:
1. Bring an action to enjoin any attempt to sell, lease, or finance the property.
 2. Bring an action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
 3. Pursue criminal prosecution, punishable by imprisonment in county jail or state prison for up to one year, by a fine of up to \$10,000, or both; or a misdemeanor.

4. Record a Notice of Violation.
5. Withhold any or all future permits and approvals.
6. Pursue all other administrative, legal, or equitable remedies that are allowed by law or the city's code.

SECOND
READING
03/18/2024

EXHIBIT "B"

New Zoning Code Chapter 11.87

CHAPTER 11.87 – Urban Lot Splits.

11.87.010 – Purpose. The purpose of this Chapter is to allow and appropriately regulate an Urban Lot Split in accordance with Government Code Section 66411.7.

11.87.020 – Application.

A. Owners

1. Only individual property owners may apply for an Urban Lot Split. "Individual property owner" means a natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. "Individual property owner" does not include any corporation or a corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Rev. & Tax Code §402.1 (a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by §214.15).
2. Any person with mortgage interest in the lot to be split under this section must sign the application and the parcel map indicating the person's consent to the project.

B. An application for an Urban Lot Split must be submitted on the City's approved form. Only a complete application will be considered. The City will inform the applicant in writing of any incompleteness within 30 days after the application is submitted.

C. The City may establish a fee to recover its costs for adopting, implementing, and enforcing this section of the code, in accordance with applicable law. The City Council may establish and change the fee by resolution. The fee must be paid with the application.

11.87.030 – Approval.

A. An application for a parcel map for an Urban Lot Split is approved or denied ministerially, by the Director of Public Works, without discretionary review.

B. A tentative parcel map for an Urban Lot Split is approved ministerially if it complies with all the requirements of this section. The tentative parcel map may not be recorded. A final parcel map is approved ministerially as well but not until the owner demonstrates that the required documents have been recorded, such as the deed restriction and easements. The tentative parcel map expires three months after approval.

C. The approval requires the property owner and/or applicant to hold the City harmless from all claims and damages related to the approval and its subject matter.

D. The approval requires the property owner and/or applicant to reimburse the City for all costs of enforcement, including attorneys' and costs associated with enforcing this code.

11.87.040 – Requirements.

An Urban Lot Split must satisfy each of the following requirements.

A. Subdivision Map Act Compliance

1. The Urban Lot Split must conform to all applicable objective requirements of the Subdivision Map Act (Gov. Code §66410 et. seq., "SMA") and implementing requirements in this Code, including, but not limited to, this Chapter and Chapter 11.86, except as otherwise expressly provided in this section.

2. If an Urban Lot Split violates any part of the SMA, the City's subdivision regulations, including, but not limited to, this Chapter and Chapter 11.86, or any other legal requirement:
 - a. The buyer or grantee of a lot that is created by the Urban Lot Split has all the remedies available under the SMA, including but not limited to an action for damages or to void the deed, sale, or contract.
 - b. The City has all the remedies available to it under the SMA, including but not limited to the following:
 - i. An action to enjoin any attempt to, sell, lease, or finance the property.
 - ii. An action for other legal, equitable, or summary remedy such as declaratory and injunctive relief.
 - iii. Criminal prosecution, punishable by imprisonment in county jail, or state prison for up to one year, by a fine of up to \$10,000, or both; or by misdemeanor.
 - iv. Record a notice of violation.
 - v. Withhold any or all future permits and approvals.
 3. Notwithstanding Section 66411.1 of the SMA, no dedication of right-of-way or construction of offsite improvements is required for an urban lot split.
- B. Zone Limit – The lot to be split is in a single-family residential zone known as R-1.
- C. Prohibited Locations. The lot split shall not be located on a site that has any of the following characteristics:
1. Prime farmland, farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.
 2. A wetland.
 3. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by existing building standards.
 4. A hazardous waste site that has not been cleared for residential use.
 5. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.
 6. Within a 100-year flood hazard area, unless the site has either:
 - a. Been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or
 - b. Meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
 7. Within a regulatory floodway unless all development on the site has received a no-rise certification.
 8. Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.
 9. Habitat for protected species.
 10. Land under conservation easement.

11. A historic property or within a historic district, that is included on the State Historic Resources Inventory. Nor may the lot be or be within a site that is designated by ordinance as a City or County landmark or as a historic property or district.
 12. The purpose of this subpart (C) is merely to summarize the requirements of Government Code Section 65913.4(a)(6)(B)-(K). (See Gov. Code §66411.7(a)(3)(C).)
 13. The applicant must provide evidence that the requirements of Government Code Section 65913.4(a)(6)(B)-(K) are satisfied.
- D. No Prior Urban Lot Split
1. The lot to be split was not established through a prior Urban Lot Split.
 2. The lot to be split is not adjacent to any lot that was established through a prior Urban Lot Split by the owner of the lot to be split or by any person acting in concert with the owner. "Any person acting in concert with the owner" here includes any third-party that coordinates or assists the owners of two adjacent lots with their respective Urban Lot Splits.
- E. - No Impact on Protected Housing
1. The Urban Lot Split must not require or include the demolition or alteration of any of the following types of housing:
 - a. Housing that is income-restricted for households of moderate, low, or very low income.
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its policy power.
 - c. Housing, or a lot formerly used for affordable housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code § 7060-7060.7) at any time in the 15 years prior to submission of the Urban Lot Split application.
 - d. Housing that has been occupied by a tenant in the last three years.
 2. As part of the Urban Lot Split application, the applicant and the owner of a property must provide a sworn statement by affidavit representing and warranting that subpart A above is satisfied. The sworn statement must state that:
 - a. No housing that is income-restricted for households of moderate, low, or very low income will be demolished or altered.
 - b. No housing that is subject to any form of rent or price control will be demolished or altered.
 - c. No housing that has been withdrawn from rental or lease under the Ellis Act at any time in the last 15 years will be demolished or altered.

11.87.050 - Lot Size

- A. The existing lot size of the property prior to subdivision under this Chapter must be at least 2,400 SF.
- B. The resulting lots must each be at least 1,200 SF.
- C. Each of the resulting lots must be between 60 percent and 40 percent of the original lots.

11.87.060 – Easements

- A. The owner must enter into an easement agreement with each public service provider to establish easements that are sufficient for the provision of public services and facilities to each of the resulting lots.
- B. Each easement must be shown on the tentative parcel map.
- C. Copies of the unrecorded easement agreements must be submitted with the application. The easement agreements must be recorded against the property before the final map may be approved, in accordance with this section.
- D. If an easement is recorded and the project is not completed, making the easement moot, the property owner may request, and the City will provide, a notice of termination of the easement, which the owner may record.

11.87.070 – Lot Access

- A. Each lot must adjoin the public right-of-way.
- B. Each resulting lot must have frontage on the public right of way of at least 12 feet.
- C. Access through or across a designated horse, pedestrian, or bike trail shall not be permitted.
- D. Access through existing subdivision boundary walls to abutting secondary roadways, major roadways, or arterials as designated in the Montclair General Plan, shall not be permitted.

11.87.080 – Non-Conforming Conditions

An Urban Lot Split is approved without requiring a legal nonconforming zoning condition to be corrected.

11.87.090 – Utilities

- A. Each primary dwelling unit on the lot must have its own direct utility connection to the utility service provider.
- B. All utilities must be underground.

11.87.100 – Building and Safety

All structures built on the lot must comply with all current local building standards. An Urban Lot Split is a change of use.

11.87.110 – Dwelling Unit Development Standards

- A. Quantity. No more than two dwelling units of any kind may be built on a lot that results from an Urban Lot Split. For purposes of this paragraph “unit” means any dwelling unit, including but not limited to, a primary dwelling unit, a unit created under Chapter 11.21 of the Montclair Municipal Code, and ADU or JADU.
- B. Unit Size. The total floor area of the primary dwelling unit on a resulting lot be shall contain not less than 500 SF or greater than 800 SF.
- C. Height Restrictions. No new primary dwelling unit may exceed a single story or 16 feet in height, measured from finished grade to peak of the dwelling unit structure.
- D. Lot Coverage. A maximum lot coverage of 45 percent is permitted.
- E. Open Space. Open space in the amount of 300 SF per unit shall be provided with a minimum dimension of 10 feet. The required open space shall be one consecutive area and shall not include setbacks.

F. Setbacks.

1. Generally. All setbacks must conform to those objective setbacks that are imposed through the underlying zone.
2. Exceptions Notwithstanding subpart (F)(1) above:
 - a. No setback is required for existing legally established structure or for a new structure that is constructed in the same location and to dimensions as an existing legally established structure
 - b. Four-foot side and rear. The setbacks imposed by the underlying zone must yield to the degree necessary to avoid physically precluding the construction of up to two units on the lot or either of the two units from being at least 800 SF in floor area; but in no event may any structure be less than four feet from a side or rear property line.
 - c. Front Setback Area. Notwithstanding any other part of this code, dwellings that are constructed after an Urban Lot Split must be at least 25 feet from the front property lines. The front setback areas must:
 - i. Be kept free from all structures greater than three feet high;
 - ii. Be fully landscaped except approved walkways and driveways, with, drought-tolerant plants, with vegetation and irrigation plans approved by a licensed landscape architect.

G. Parking. Each new primary dwelling unit that is built on a lot after an Urban Lot Split must have at least one off-street parking space, within a two-car garage, per unit unless one of the following applies:

1. The lot is located within one-half mile walking distance of either:
 - a. A corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours; or
 - b. A site that contains the following:
 - i. An existing rail or bus rapid transit station,
 - ii. A ferry terminal served by either a bus or rail transit service, or
 - iii. The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
2. The site is located within one block of a car-share vehicle location.

H. Architecture.

1. If there is a legal primary dwelling on the lot that was established before the Urban Lot Split, any new primary dwelling unit must match the existing primary dwelling unit in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.
2. If there is no legal primary dwelling on the lot before the Urban Lot Split, and if two primary dwellings are developed on the lot, the dwellings must match each other in exterior materials, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.
3. All exterior lighting must be limited to down-lights.
4. No window or door of a dwelling that is constructed on the lot after the Urban Lot Split may have a direct line of sight to an adjoining residential

property. Fencing, landscaping, or privacy glass may be used to provide screening and provide a direct line of sight.

5. If a dwelling is constructed on a lot after an Urban Lot Split and any portion of the dwelling is less than 30 feet from a property line that is not a public right-of-way line, then all windows and doors in that portion must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor or (for windows and for doors) utilize frosted or obscure glass.

I. Landscaping.

1. Tree Removal.

- a. No mature tree may be removed on a lot with any development under this section.
- b. "Mature tree" means a tree with a diameter of six inches or more or a height of eight feet or taller.
- c. A tree may only be removed if it is replaced with at least two mature trees of the same type and with a trunk diameter that is the same or larger than that of the removed tree. If a certified arborist determines that there is not space on the lot for a replacement trees, owner may pay the replacement cost of the tree.

2. Evergreen landscape screening must be planted and maintained between each dwelling and adjacent lots as follows:

- a. At least one 15-gallon size plant shall be provided for every five linear feet of exterior wall. Alternatively, at least one 24-inch box size plant shall be provided for every ten linear feet of exterior wall.
- b. Plant specimens must be at least six feet tall when installed. As an alternative, a solid fence of at least six feet high may be installed.
- c. All landscaping must be drought-tolerant pursuant Chapter 11.60 Water Efficient Landscaping and Conservation.

11.87.110 – Fire Prevention Requirements.

A. All Urban Lot Split projects must comply with each of the following requirements:

1. Have direct, straight access from a public street or an improved public alley. Access through or across a designated horse, pedestrian, or bike trail shall not be permitted.
2. Driveway access to a rear lot shall be at least 12 feet wide, and constructed of a prepared surface such as concrete, brick/pavers, or asphalt.
3. All newly constructed structures on the site must comply with current fire code requirements, including, but not limited to, the installation of interior fire sprinklers.
4. All sides of all dwellings on the site must be within a 150-foot hose-pull distance from either the public right-of-way or an onsite fire hydrant or standpipe. A new parcel with structures exceeding a 150-foot hose-pull distance shall comply with Fire Marshal requirements, including, but not limited to, the provision of a minimum 20-foot wide paved access route/driveway for emergency Fire Department access.

B. Urban Lot Split applications shall require Fire Prevention Bureau review of proposed subdivision plans for compliance with the above standards. The applicant must pay the City's costs for plan review.

11.87.120 – Exceptions to Objective Standards.

Any standard that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least

800 SF in floor area must be set aside. Objective standards will be set aside in the following order until the site can contain two 800 SF units:

1. Lot Coverage
2. Floor Area Ratio
3. Open Space
4. Tree Preservation
5. Articulation
6. Second Floor Setback

11.87.130 – Separate Conveyance.

- A. Within a resulting lot.
 1. Primary dwelling units on a lot that is created by an urban lot split may not be owned or conveyed separately from each other.
 2. Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an Urban Lot Split.
 3. All fee interest in a lot and all dwellings on the lot must be held equally and undivided by all individual property owners.
 4. No timeshare, as defined by state law or the Montclair Municipal Code, is permitted. This includes any co-ownership arrangement that gives an owner the right to exclusive use of the property for a defined period or periods of time.
- B. Between resulting lots.
 1. Separate conveyance of the resulting lots is permitted. If dwellings or other structures (such as garages) on different lots are adjacent or attached to each other, the Urban Lot Split boundary may separate them for conveyance purposes if the structures meet building code safety standards and are sufficient to allow separate conveyance.
 2. If any attached structures span or will span the new lot line, the owner must record appropriate CC&R's, easements, or other documentation that is necessary to allocate rights and responsibility between the owners of the two lots.

11.87.140 – Regulation of Uses.

- A. Residential-only. No non-residential use is permitted on any lot created by the Urban Lot Split.
- B. No Short-Term Rentals. No dwelling unit on a lot that is created by an Urban Lot Split may be rented for a period of less than 30 days.
- C. Owner Occupancy. The applicant for an Urban Lot Split must sign an affidavit stating that the applicant intends to occupy one of the dwelling units on one of the resulting lots as the applicant's principal residence for a minimum of three years after the Urban Lot Split is approved.

11.87.150 – Notice of Construction.

- A. At least 30 business days before starting any construction of a structure on a lot created by an Urban Lot Split, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:
 1. Notice that construction has been authorized;
 2. The anticipated start and end dates for construction;
 3. The hours of construction;
 4. Contact information for the project manager (for construction related complaints); and

5. Contact information for the Building & Safety Division.
- B. This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.

11.87.160 – Deed Restriction.

The owner must record a deed restriction on each lot that results from the Urban Lot Split, on a form approved by the City, that does each of the following:

- A. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
- B. Expressly prohibits any non-residential use of the lots created by the Urban Lot Split.
- C. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
- D. States that:
 - a. The lot is formed by an Urban Lot Split and is therefore subject to the City's Urban Lot Split regulations, including all applicable limits on dwelling size and development.
 - b. Development on the lot is limited to the development of residential units under this Chapter, except as required by state law.

11.87.170 – Specific Adverse Impacts.

- A. Notwithstanding anything else in this Chapter, the City may deny an application for an Urban Lot Split if the Building Official makes a written finding, based on a preponderance of the evidence, that the project would have a "specific, adverse impact" on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
- B. "Specific adverse impact" has the same meaning as in Gov. Code § 65589.5(d)(2): "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code section 214(g).
- C. The Building Official may consult with and be assisted by Planning Division staff and others as necessary in making a finding of specific adverse impact.



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	CYC200
SECTION:	PUBLIC HEARINGS	DEPT.:	CITY MGR.
ITEM NO.:	B	PREPARER:	E. STARR
SUBJECT:	SECOND READING — CONSIDER ADOPTION OF ORDINANCE NO. 24-1008 AMENDING THE MONTCLAIR MUNICIPAL CODE RELATED TO THE COMPENSATION SCHEDULE FOR THE MAYOR AND MEMBERS OF THE CITY COUNCIL		

REASON FOR CONSIDERATION: Pursuant to Government Code Section 36516, as amended by [Senate Bill 329 \(June 2023\)](#), compensation for city council members may be increased beyond the amount prescribed in state law by an ordinance or by an amendment to an ordinance. Amendments to the Montclair Municipal Code require public hearing review and approval by the City Council.

The City Council is requested to consider second reading and adoption of Ordinance No. 24-1008 amending Sections 2.12.050 and 2.12.060 of Chapter 2.12 of Title 2 of the Montclair Municipal Code related to the compensation schedule for members of the Montclair City Council.

The City Council conducted first reading of Ordinance No. 24-1008 at its March 4, 2024, regular meeting. A copy of proposed Ordinance No. 24-1008 is attached for City Council review and consideration.

BACKGROUND: Government Code Section 36516 (§36516) authorizes a city council to enact an ordinance, or amendment thereto, to provide each member of the governing board a salary based upon the population of the municipal jurisdiction, as specified.

The Montclair City Council last enacted a salary increase on February 5, 2018, with an operative date of January 1, 2019, following certification of the general municipal election held on November 6, 2018, and the seating of elected City Council members the following December.

State codified salaries subject to provisions of §36516 have not been modified by the California Legislature since 1984, despite an over 300 percent increase in the cost of living over the past forty years. State Legislators, in seeking to address this disparity, also found that lengthy time commitments and limited pay can serve to discourage many otherwise qualified residents from running for office, especially low-income residents, single parents, people of color, and young people. Council members in some communities have even [resigned before their terms expired](#) because they could not devote time to part-time government service while concurrently supporting their families.

Senate Bill 329 (SB 329), signed into law by Governor Gavin Newsom on June 29, 2023, increases the maximum base tiers for city council salaries, based upon the population of a city, that may be approved by an ordinance, or amendment thereto, passed by a city council. The California Legislature passed SB 329 as acknowledgement of the important work of local governments, as well as the time and dedication that elected public service requires.

In addition to establishing revised maximum base tiers for city council salaries based upon population of a city, §36516 continues to provide that salaries for council members may be increased by an amount not to exceed 5 percent for each calendar year from the operative date of the last adjustment of the salary in effect when the ordinance or amendment is enacted.

Alternatively, SB 329 also provides that city council salaries may be increased by an amount equal to inflation since January 1, 2024, based upon the California Consumer Price Index (CCPI), which shall not exceed 10 percent for each calendar year applied.

It is the Legislature’s intent, in passing SB 329, for a city to apply the greater of the three formulas:

1. SB 329 maximum base threshold;
2. §36516 increases by an amount not to exceed 5 percent for each calendar year from the operative date of the last adjustment; or
3. An amount equal to inflation since January 1, 2024, based upon the CCPI, which shall not exceed 10 percent for each calendar year applied.

In considering SB 329, the State Legislature, as indicated above, found the following:

- Compensation for city council members in California has not kept pace with inflation;
- By adjusting the maximum base threshold for city council members based on population, or by allowing cities to consider adjusting compensation for inflation, city councils may become more diverse—increased compensation can help individuals from across different income levels receive sufficient income from their service to help ensure that they can continue to serve the public and support their families.

As amended by SB 329, §36516 provides for the following city council salary-related provisions:

1. A city council may enact an ordinance, or amendment thereto, providing that each member of the city council shall receive a salary based on the population of the city as set forth below:

The base tier for salaries approved by ordinance shall be as follows:

[...]

- b. In cities over 35,000 up to and including 50,000 in population, up to and including one thousand two hundred seventy-five dollars (\$1,275) per month—previously four hundred dollars (\$400) per month.

[...]

2. The population of a city shall be determined by the last preceding federal census, or a subsequent census, or estimate validated by the Department of Finance.

For Montclair, the current census estimate as of July 1, 2022, is [37,714](#)—placing Montclair in population tier “1.b.”, above, for cities over 35,000 up to and including 50,000 in population.

3. The salary of council members may be increased beyond the amount provided in SB 329 by an ordinance or by an amendment to an ordinance, but the amount of the increase shall not exceed the greater of either of the following:
 - a. An amount equal to 5 percent for each calendar year from the operative date of the last adjustment of the salary in effect when the ordinance or amendment is enacted; or
 - b. An amount equal to inflation as of January 1, 2024, based upon the CCPI, which shall not exceed 10 percent for each calendar year applied.
4. No ordinance shall be enacted or amended to provide automatic future increases in city council compensation.
5. Unless specifically authorized by another statute, a city council may not enact an ordinance providing for compensation to city council members in excess of that authorized by the procedures described in SB 329.

For the purposes of §36516, compensation includes payment for service by a city council member on a commission, committee, board, authority, or similar body on which the city council member serves. If other statutes authorizing such service do not specify the amount of compensation, the maximum amount shall be one hundred fifty dollars (\$150) per month for each commission, committee, board, authority, or similar body.
6. Any amounts paid by a city for retirement, health and welfare, and federal social security benefits shall not be included for purposes of determining salary under §36516, provided that the same benefits are available and paid by the city for its employees.
7. Any amounts paid by a city to reimburse a council member for actual and necessary expenses pursuant to Government Code Section 36514.5 (§36514.5) shall not be included for purposes of determining salary.
8. A city council shall consider the adoption of an ordinance, or amendment thereto, to increase compensation in open session during at least two regular meetings of the city council as follows:
 - a. At the first meeting, the city council shall present the proposed ordinance, which shall include findings demonstrating the need for the increased compensation. The ordinance shall not be adopted at the first meeting.
 - b. At least seven days after the first meeting, the city council shall hold a second meeting to consider whether to adopt the ordinance.

In 2006, the California Attorney General opined that **only currently received compensation is allowed to be part of calculations for any adjustment to city council compensation**. This opinion may be significant in determining which of the three compensation formulas to apply. In addition, the Attorney General opined that, *“to make separate calculations for each intervening year since the date of any prior salary adjustment would base the calculations on compensation that were not received by city council members.”* Effectively, then, city council compensation adjustments are not cumulative; rather, they are increases above an existing pay rate. Furthermore, the Attorney General opined that in circumstances where city council members serve staggered four-year terms, compensation adjustments may take place no more often than every two years.

Government Code Section 36516.5 (§36516.5) further specifies that a change in city council compensation shall not apply to a council member during his/her term of office. This prohibition does not prevent the adjustment of compensation for all members of a city council serving staggered terms whenever one or more members of a city council begin a new term of office.

For the City of Montclair, the next general municipal election is scheduled to occur on November 5, 2024. If adopted by the City Council, provisions of Ordinance No. 24-1008 would not be effective until after certification of the November 2024 Municipal Election and the elected City Council Members are seated. However, because members of the Montclair City Council are compensated on a monthly basis, the effective date of the proposed compensation adjustment would not be implemented until January 1, 2025.

City Council Member Compensation

The last increase to the compensation schedule for Montclair City Council members occurred on January 1, 2019, following adoption of Ordinance No. 17-970. Pursuant to §36516, the City Council may receive an increase in compensation at a rate not to exceed five percent of current compensation for each calendar year from the operative date of the last adjustment (January 1, 2019) of the salary in effect (\$1,150) when Ordinance No. 24-1008 is enacted.

Provided that Ordinance No. 24-1008 will be enacted on March 18, 2024, five calendar years will have passed from the operative date of the last adjustment (January 1, 2019) of the salary currently in effect. Therefore, the salary in effect (\$1,150) can be adjusted by 25 percent (5 years x 5 percent for each calendar year from the operative date of the last adjustment = 25 percent), or \$288 ($\$1,150 \times 25 \text{ percent} = \288 [rounded to the nearest dollar]). Accordingly, effective January 1, 2025, members of the Montclair City Council would be eligible to see their monthly compensation adjusted by \$288 (rounded to the nearest dollar), or from \$1,150 to \$1,438 per month.

Table 1, below, includes the proposed monthly compensation schedule for City Council Members based on a twenty-five percent (25%) increase.

**Table 1
Current and Proposed Monthly Compensation
for City Council Members**

Current Monthly Council Salary	Proposed Monthly Council Salary
\$1,150	\$1,438*

**Based on 25% Adjustment of \$1,150, rounded to the nearest dollar*

It is reiterated that percentage increases in city council compensation may not be compounded when calculating increases over multiple calendar years. It is further noted that city council compensation adjustments are not cumulative; rather, they are increases above an existing pay rate—as applied here for members of the Montclair City Council.

Mayor Compensation

Government Code Section 36516.1 (§36516.1) allows that a directly elected mayor may be provided with compensation in addition to that which he/she receives as a city council member.

A mayor's additional compensation may be provided by an ordinance or amendment to an ordinance adopted by a city council, or by a majority vote of the electors voting on such a proposition at a municipal election. The Montclair City Council has historically provided the additional compensation for the Mayor by ordinance.

In addition to establishing a schedule of compensation for City Council members, Ordinance No. 17-970 included a provision for additional compensation for the position of Mayor.

Presently, the position of Mayor of Montclair, in addition to his/her City Council compensation, receives additional compensation in the sum of five hundred dollars (\$500) per month, pursuant to Ordinance No. 17-970.

City staff proposes that, in consideration of the extraordinary commitment in time and service by the incumbent Mayor, including an estimated fifteen to twenty hours per-week in his City office and canvassing the community to identify areas in need of redress, representation of the City on a number of regional governing bodies, interaction with regional and local government officials, participation in regional and local events and citizen contact regarding local issues, the supplemental compensation for the Mayor of Montclair be adjusted to seven-hundred-fifty dollars (\$750) per month, as provided for in proposed Ordinance No. 24-1008.

Table 2, below, includes the proposed monthly compensation schedule for the position of Mayor of Montclair.

Table 2
Current and Proposed Monthly Compensation for Mayor

Current Monthly Compensation for Mayor	Proposed Monthly Compensation for Council Member	Proposed Mayor Stipend	Proposed Total Monthly Compensation for Mayor
\$1,650*	\$1,438	\$750	\$2,188**

* Per existing ordinance (Ordinance No. 17-970)

** \$1,438 + \$750

Salary Implementation Date

If adopted by the City Council, provisions of Ordinance No. 24-1008 would not be effective until after certification of the November 2024 Municipal Election, and when elected City Council Members are seated in December 2024. However, because members of the City Council are compensated on a monthly basis, the effective date of the proposed compensation adjustment to City Council/Mayor salaries would not be implemented until January 1, 2025.

FISCAL IMPACT: For Fiscal Year 2023-24, the City budget reflects that Council Members receive \$1,150 per month in compensation, for an annual compensation total of \$13,800 per member. The Mayor, in addition to the Council compensation, receives an additional compensation of \$500 per month, for an additional annual compensation total of \$6,000. Therefore, the current total annual amount of compensation received by City Council Members, inclusive of the additional compensation received by the Mayor, is \$75,000.

Proposed Ordinance No. 24-1008 would increase the amount of compensation a Council Member receives to \$1,438 per month, for an annual compensation total of \$86,208 for five members (or, \$7,190 monthly). The Mayor, in addition to his/her City Council compensation, would receive, as proposed by Ordinance No. 24-1008, additional compensation of \$750 per month, for a total of \$9,000 annually.

The total proposed annual amount of compensation to be received by five City Council Members, inclusive of the additional compensation received by the Mayor at \$750 per month, as recommended in proposed Ordinance No. 24-1008, would be \$95,208.

If adopted, proposed Ordinance No. 24-1008 would result in an additional annual expenditure of \$20,208, inclusive of proposed adjustments to City Council compensation and additional annual compensation for the Mayor.

Pursuant to §36516, the proposed changes in compensation included in Ordinance No. 24-1008 would not be effective until after certification of the November 2024 Municipal Election and when elected City Council Members are seated in December 2024. However, because members of the City Council are compensated on a monthly basis, the effective date of the proposed compensation adjustment to City Council/Mayor salaries would not be implemented until January 1, 2025.

The proposed changes in compensation will be incorporated into the Fiscal Year 2024-25 Budget.

Pursuant to §36516(f), a city council member may waive any portion of, or all of the approved compensation.

RECOMMENDATION: City staff recommends the City Council adopt Ordinance No. 24-1008 amending the Montclair Municipal Code related to the compensation schedule for the Mayor and members of the City Council.

ORDINANCE NO. 24-1008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING SECTIONS 2.12.050 AND 2.12.060 OF CHAPTER 2.12 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO THE COMPENSATION SCHEDULE FOR MEMBERS OF THE CITY COUNCIL

WHEREAS, Government Code Section 36516 (§36516) establishes limits on the amount of compensation that city council members may receive for their service as elected officials; and

WHEREAS, Senate Bill 329 (SB 329), signed into law by Governor Gavin Newsom on June 29, 2023, increases the maximum base tiers for city council salaries, based upon the population of a municipality, that may be approved by a city council by an ordinance or amendment thereto; and

WHEREAS, the California Legislature passed SB 329 as acknowledgement of the important work of local governments, as well as the time and dedication that elected public service requires; and

WHEREAS, in considering SB 329, the California Legislature found that city council compensation has not kept pace with inflation; further, the Legislature determined that allowing cities to adjust their compensation for inflation may help city councils become more diverse because increased compensation can help individuals from across different income levels receive sufficient income from their service to help ensure that they can continue to serve the public and support their families; and

WHEREAS, in addition to establishing revised maximum base tiers for city council salaries, SB 329 continues to provide that salaries for council members may be increased either by an amount not to exceed 5 percent for each calendar year from the operative date of the last adjustment of the salary in effect when the ordinance or amendment is enacted, or by an amount equal to inflation since January 1, 2024, based upon the California Consumer Price Index (CCPI), which shall not exceed 10 percent for each calendar year applied, whichever applied formula is greater; and

WHEREAS, as amended by SB 329, §36516 provides for the following:

1. A city council may enact an ordinance, or amendment thereto, providing that each member of the city council shall receive a salary based on the population of the city as set forth below:

The base tier for salaries approved by ordinance shall be as follows:

- a. In cities up to and including 35,000 in population, up to and including Nine Hundred Fifty Dollars (\$950) per month—previously Three Hundred Dollars (\$300) per month.
- b. In cities over 35,000 up to and including 50,000 in population, up to and including One Thousand Two Hundred Seventy-Five dollars (\$1,275) per month—previously Four Hundred Dollars (\$400) per month.**
- c. In cities over 50,000 up to and including 75,000 in population, up to and including One Thousand Six Hundred Dollars (\$1,600) per month—previously Five Hundred Dollars (\$500) per month.
- d. In cities over 75,000 up to and including 150,000 in population, up to and including One Thousand Nine Hundred Dollars (\$1,900) per month—previously Six Hundred Dollars (\$600) per month.
- e. In cities over 150,000 up to and including 250,000 in population, up to and including Two Thousand Five Hundred Fifty Dollars (\$2,550) per month—previously Eight Hundred Dollars (\$800) per month.
- f. In cities over 250,000 population, up to and including Three Thousand Two Hundred Dollars (\$3,200) per month—previously One Thousand Dollars (\$1,000) per month.

2. The population of a city shall be determined by the last preceding federal census, or a subsequent census, or estimate validated by the Department of Finance—for Montclair, the current census estimate as of July 1, 2022, is 37,714.
3. The salary of council members may be increased beyond the amount provided in SB 329 by an ordinance or by an amendment to an ordinance, but the amount of the increase shall not exceed the greater of either of the following:
 - a. An amount equal to 5 percent for each calendar year from the operative date of the last adjustment of the salary in effect when the ordinance or amendment is enacted; or
 - b. An amount equal to inflation as of January 1, 2024, based upon the CCPI, which shall not exceed 10 percent for each calendar year applied.
4. No ordinance shall be enacted or amended to provide automatic future increases in city council compensation.
5. Unless specifically authorized by another statute, a city council may not enact an ordinance providing for compensation to city council members in excess of that authorized by the procedures described in SB 329.

For the purposes of §36516, compensation includes payment for service by a city council member on a commission, committee, board, authority, or similar body on which the city council member serves. If other statutes authorizing such service do not specify the amount of compensation, the maximum amount shall be One Hundred Fifty Dollars (\$150) per month for each commission, committee, board, authority, or similar body.

6. Any amounts paid by a city for retirement, health and welfare, and federal social security benefits shall not be included for purposes of determining salary under §36516, provided that the same benefits are available and paid by the city for its employees.
7. Any amounts paid by a city to reimburse a council member for actual and necessary expenses pursuant to Government Code Section 36514.5 (§36514.5) shall not be included for purposes of determining salary.
8. A city council shall consider the adoption of an ordinance, or amendment thereto, to increase compensation in open session during at least two regular meetings of the city council as follows:
 - a. At the first meeting, the city council shall present the proposed ordinance, which shall include findings demonstrating the need for the increased compensation. The ordinance shall not be adopted at the first meeting.
 - b. At least seven days after the first meeting, the city council shall hold a second meeting to consider whether to adopt the ordinance.

WHEREAS, Government Code Section 36516.5 (§36516.5) specifies that a change in city council compensation shall not apply to a council member during their term of office; however, this prohibition does not prevent the adjustment of compensation for all members of a city council serving staggered terms whenever one or more members of such city council begin a new term of office; and

WHEREAS, Government Code Section 36516.1 (§36516.1) allows a directly elected mayor to be provided with compensation in addition to that which they receive as a city council member, which may be provided by an ordinance or amendment to an ordinance adopted by a city council or by a majority vote of the electors voting on such proposition at a municipal election; and

WHEREAS, pursuant to the State Board of Equalization, the 2024–25 California Consumer Price Index (CCPI) shows that, rounded to the nearest one-thousandth of 1 percent, the CCPI increased by 3.181 percent; therefore, because the CCPI is less than 5 percent, and does not achieve the State Legislature’s objectives, as stated in SB 329—to

help city councils become more diverse because increased compensation can help individuals from across different income levels receive sufficient income from their service to help ensure that they can continue to serve the public and support their families—the preferred adjustment to the monthly salary for members of the Montclair City Council, as provided for herein, shall be based on 5 percent for each calendar year from the operative date of the last adjustment on January 1, 2019; and

WHEREAS, the last increase to the compensation schedule of Montclair City Council Members occurred five years ago on January 1, 2019, with the adoption of Ordinance No. 17-970; and

WHEREAS, the City Council is eligible to receive a 25 percent increase [5-years x 5% rate increase = 25%] in compensation; and

WHEREAS, the 25 percent increase in compensation would apply to the existing monthly city council salary rate of One Thousand One Hundred Fifty Dollars (\$1,150), resulting in a monthly increase of Two Hundred Eighty-Eight Dollars (\$288), rounded to the nearest dollar, for a revised monthly salary of One Thousand Four Hundred Thirty-Eight Dollars (\$1,438) per month, rounded to the nearest dollar; and

WHEREAS, the City Council has elected to continue providing for additional compensation to be received by the Mayor at a rate of Seven Hundred Fifty Dollars (\$750) per month; and

WHEREAS, any increase in City Council/Mayor compensation cannot occur until after certification of the November 2024 General Municipal Election and the elected City Council Members are seated; and

WHEREAS, because members of the City Council are compensated on a monthly basis, the effective date of any compensation adjustment to City Council/Mayor salaries would not be implemented until January 1, 2025; and

WHEREAS, the City Council does so desire to modify the salary compensation for all members of the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTCLAIR DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I. Amendment of Code

Sections 2.12.050 and 2.12.060 of Chapter 2.12 of Title 2 of the Montclair Municipal Code is hereby amended to read as follows:

Section 2.12.050. Compensation—Salary Schedule and Effective Date—Exclusion of Benefit Costs in Salary Computation.

A. Schedule. Each member of the City Council shall receive as salary the sum, rounded to the nearest dollar, of One Thousand Four Hundred Thirty-Eight Dollars (\$1,438) per month.

B. Effective Date. Any increase in compensation shall become effective for all members of the City Council no sooner than the first day of the calendar month that next succeeds the beginning of a new term of office for any member of the City Council following the adoption of such increase.

Section 2.12.060. Additional Compensation for Mayor.

Compensation provided to the Mayor, in addition to that received as a Council Member, shall be Seven Hundred Fifty Dollars (\$750) per month.

SECTION II. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

SECTION III. Posting. The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

SECTION IV. Effective Date. This ordinance shall take effect and be in full force thirty (30) days from and after its final passage.

APPROVED AND ADOPTED this XX day of XX, 2024.

Mayor

ATTEST:

City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 24-1008 of said City, which was introduced at a regular meeting of the City Council held on XX day of XX, 2024, and finally passed not less than seven (7) days thereafter at a regular meeting of the City Council held on the XX day of XX, 2024, by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Andrea M. Myrick
City Clerk



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	FIN520
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	FINANCE
ITEM NO.:	1	PREPARER:	J. KULBECK
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

REASON FOR CONSIDERATION: The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending February 29, 2024.

BACKGROUND: Included in the City Council's agenda packet is a copy of the Treasurer's Report for the period ending February 29, 2024.

FISCAL IMPACT: Routine—report of City's cash and investments.

RECOMMENDATION: Staff recommends the City Council receive and file the Treasurer's Report for the month ending February 29, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	FIN540
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	FINANCE
ITEM NO.:	2	PREPARER:	A. VONG/V. FLORES
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of the Warrant Register and Payroll Documentation.

BACKGROUND: Mayor Pro Tem Johnson has examined the Warrant Register dated March 18, 2024, and the Payroll Documentation dated February 25, 2024, and recommends their approval.

FISCAL IMPACT: The Warrant Register dated March 18, 2024, totals \$1,025,746.24.

The Payroll Documentation dated February 25, 2024, totals \$861,475.85 gross, with \$611,828.76 net being the total cash disbursement.

RECOMMENDATION: Staff recommends the City Council approve the above-referenced Warrant Registers and Payroll Documentation.



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	FIN510
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	SA
ITEM NO.:	3	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors (Successor Agency Board) is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending February 29, 2024, pursuant to state law.

BACKGROUND: Included in the Successor Agency Board's agenda packet is a copy of the Successor to the Redevelopment Agency Treasurer's Report for the period ending February 29, 2024.

FISCAL IMPACT: Routine—report of the Successor Agency's cash.

RECOMMENDATION: Staff recommends the Successor Agency Board receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending February 29, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	FIN530
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	SA
ITEM NO.:	4	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER		

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Register for the month ending February 29, 2024, pursuant to state law.

BACKGROUND: Vice Chair Johnson has examined the Successor to the Redevelopment Agency Warrant Register dated 02.01.24-02.29.24 in the amounts of \$9,620.19 for the Combined Operating Fund and \$0.00 for the Redevelopment Obligation Retirement Funds, and finds it to be in order.

FISCAL IMPACT: Routine—report of Agency's obligations.

RECOMMENDATION: Vice Chair Johnson recommends the City Council as Successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Register for the period ending February 29, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	FIN525
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	MHC
ITEM NO.:	5	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Report for the month ending February 29, 2024, pursuant to state law.

BACKGROUND: Included in the Montclair Housing Corporation Board agenda packet is a copy of the Treasurer's Report for the period ending February 29, 2024.

FISCAL IMPACT: Routine—report of the Montclair Housing Corporation's cash and investments.

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending February 29, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	FIN545
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	MHC
ITEM NO.:	6	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER		

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending February 29, 2024, pursuant to state law.

BACKGROUND: Vice Chair Johnson has examined the Warrant Register dated 02.01.24-02.29.24 in the amount of \$159,616.97 for the Montclair Housing Corporation and finds it to be in order.

FISCAL IMPACT: Routine—report of Montclair Housing Corporation's obligations.

RECOMMENDATION: Vice Chair Johnson recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending February 29, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	FIN525
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	MHA
ITEM NO.:	7	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

REASON FOR CONSIDERATION: The Montclair Housing Authority Commission is requested to receive and file the Montclair Housing Authority Treasurer's Report for the month ending February 29, 2024, pursuant to state law.

BACKGROUND: Included in the Montclair Housing Authority Commission's agenda packet is a copy of the Treasurer's Report for the period ending February 29, 2024.

FISCAL IMPACT: Routine—report of Montclair Housing Authority's obligations.

RECOMMENDATION: Staff recommends the Montclair Housing Authority Commission receive and file the Treasurer's Report for the month ending February 29, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	FIN545
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	MHA
ITEM NO.:	8	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER		

REASON FOR CONSIDERATION: The Montclair Housing Authority Commission is requested to consider receiving and filing the Warrant Register for the month ending February 29, 2024, pursuant to state law.

BACKGROUND: Vice Chair Johnson has examined the Warrant Register dated 02.01.24-02.29.24 in the amount of \$0.00 for the Montclair Housing Authority and finds it to be in order.

FISCAL IMPACT: Routine—report of Montclair Housing Authority's obligations.

RECOMMENDATION: Vice Chair Johnson recommends the Montclair Housing Authority Commission approve the Warrant Register for the period ending February 29, 2024.



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	CYC315
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	CITY MGR.
ITEM NO.:	9	PREPARER:	E. STARR
SUBJECT:	CONSIDER RATIFYING THE CITY OF MONTCLAIR POLICY STATEMENT REGARDING THE DISCONTINUATION OF ORAL PUBLIC COMMENTS FROM ONLINE PUBLIC PARTICIPANTS DURING CITY-HOSTED VIDEO/TELECONFERENCING SESSIONS		

REASON FOR CONSIDERATION: At the March 4, 2024, meeting of the City Council, during the Public Comment section of the agenda, a number of “online” public participants were placed into the “Zoom-session waiting room” of the City’s videoconferencing platform—Zoom Video Conferencing, Inc., the platform developer, is hereafter referred to as “Zoom.”

When provided the opportunity to speak by the unmuting of their respective microphones, approximately ten “online” public participants, in their turn, proceeded to make antisemitic, racist, homophobic, and other hate-filled comments. When the “online” public participants began to engage in making disruptive, hate-filled comments, their microphones were either muted and the callers were returned to the “Zoom-session waiting room” or, for the majority of these participants, their speaking time had expired.

In order to avoid a repeat of the March 4, 2024, incident of hate-filled speech at future City of Montclair public meetings that feature a virtual-session component, the City Council directed the City Manager to (i) develop an appropriate policy statement; (ii) post the policy statement to the City’s social media accounts; and (iii) submit the policy statement to the City Council for final ratification.

The Policy Statement is incorporated into this agenda report for City Council consideration and ratification. The policy statement has also been posted to the City’s social media accounts with an effective date of March 13, 2024, subject to ratification by the City Council.

BACKGROUND: The [California Open Meeting Act](#) is a composition of the following California statutes:

- The Ralph M. Brown Act (the “Brown Act”—Sections 54950–54963 of the California Government Code), which legislates local governments and political subdivisions;
- The Bagley-Keene Open Meeting Act, which legislates the executive branch of the state; and
- The Grunsky-Burton Open Meeting Act, which legislates methods by which public meetings are conducted on the state level.

Significant provisions of the Brown Act regulating the conduct of local government public meetings include the following:

- *Prevents any public agency from collecting the names or requiring information from private individuals in attendance to a public meeting.*

- *The governing board must allow recording and broadcast of meetings, so long as the process of doing so is non-disruptive. The public shall be granted access to any recording of open meetings, but the agency may destroy the recordings after 30 days.*
- *During regular or committee meetings, the public can address a board that is subject to the Brown Act on any item in the agency's jurisdiction that the agency did not address at an earlier open meeting.*
- *All votes must be public without secret ballots.*
- *The governing board must give access to the public to review documents distributed to all or a majority of members of the board before or at the meeting, unless the documents are exempt under the Public Records Act.*

In enacting the Brown Act, the Legislature found and declared that "*public commissions, boards and councils and the other public agencies in this State [California] exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.*"

While the Brown Act does not contemplate public participation through online measures, it does anticipate that emergency situations may require particular accommodations to facilitate public participation; for example, [Government Code § 54954\(e\)](#) states that: "*If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.*" This provision of the Brown Act has relevance because, as discussed below, [Executive Order N-29-20](#), issued by Governor Gavin Newsom at the onset of the COVID-19 pandemic, relied, in part, on Government Code § 54954(e).

COVID-19 Pandemic

In March 2020, in response to stay-at-home orders and emergency measures issued during the COVID-19 pandemic, Governor Newsom signed [Executive Order N-29-20](#) allowing local and state agencies to hold virtual meetings via teleconference and to make meetings accessible electronically, notwithstanding the open meeting requirements of the [California Open Meeting Act](#).

Executive Order N-29-20 also waived certain provisions of the Brown Act, including requirements that meetings be conducted in physical locations; that a majority of teleconferencing board members are physically present within the agency's jurisdictional boundaries; and that the agenda identifies the locations from which board members participate.

As a result of Executive Order N-29-20, California's government became more accessible during the pandemic.

Provisions of Executive Order N-29-20 were due to expire on [June 15, 2021](#). However, on June 2, 2021, in response to a written request by a coalition of local government

agencies, the Governor [announced](#) that teleconferencing provisions of N-29-20 would not terminate, and that state and local agencies can continue to conduct virtual public meetings as needed. Governor Newsom did not, however, set a new expiration date for N-29-20, and committed to provide advance notice before rescinding the order to provide the agencies the time needed to meet statutory and logistical requirements.

Under the Governor's June 2, 2021, announcement state and local agencies were authorized to continue holding meetings via teleconferencing, and allow members of the public to observe and address the meeting by telephone or on the internet.

Following the reopening of California in June 2021, when many of the COVID-19 safety provisions were lifted, all requirements of the Brown Act requiring the physical presence of agency officials, staff or the public at public meetings remain suspended.

On June 11, 2021, Governor Newsom's office issued a [statement](#) further clarifying the plan and timeline for opening up California from June 15, 2021, forward. As part of Governor Newsom's "Beyond the Blueprint" plan to fully reopen the state, [Executive Order N-08-21](#), established a timeline to lift the COVID-19 pandemic Executive Orders.

Under Executive Order N-08-21, the Brown Act provisions within Executive Order N-29-20 expired on September 30, 2021. Any local agency meetings taking place after that time were required to ensure physical public access to all meeting locations. Specifically, clarifying language in Executive Order N-08-21 states: *"Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth [below], a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived."*

In addition, [Senate Bill 544](#) ensures governing boards can hold public meetings remotely, as long as members of the public have the option to attend in person.

Lifting Executive Order N-29-20 did not mean that public agencies would be precluded from allowing the public to participate in meetings by telephone or through online systems like Zoom. In fact, it remains lawful to meet the Brown Act's requirements of public participation through online measures. Conversely, however, there is no *requirement* in the Brown Act to continue to facilitate public participation online if in-person participation is available.

Zoom Bombing

During the COVID-19 pandemic, many public agencies experienced both an increased comfort level with virtual meetings and an increase in public participation. Thus, many local agencies, including Montclair, continued to offer some form of virtual attendance option in addition to the in-person option.

An unfortunate byproduct of virtual attendance is a phenomenon known as "Zoom-bombing"—an unwanted, disruptive intrusion into a virtual meeting. The term is associated with, and derived from, the name of the Zoom videoconferencing software

program, but it also refers to the same phenomenon occurring on other video conferencing platforms.

While a Zoom session/meeting is in progress, unfamiliar users show up and hijack or dominate the session by saying or showing inappropriate material. The compromised Zoom session is then typically shut down by the host.

An incident of Zoom-bombing occurred at the March 4, 2024, meeting of the Montclair City Council. During the Public Comment section of the agenda, a number of “online” public participants were placed in the “Zoom-session waiting room” of the City’s videoconferencing platform. When provided the opportunity to speak by the unmuting of their respective microphones, approximately ten “online” public participants, in their turn, proceeded to make antisemitic, racist, homophobic, and other hate-filled comments. When the “online public participants began to engage in making disruptive, hate-filled comments, their microphones were either muted and the callers were returned to the “Zoom-session waiting room” or, for the majority of the public participants, their speaking time had expired.

What is striking about Zoom-bombing is the level of hatred directed at people of color, people of Jewish descent, women and members of the LGBTQIA+ community.

In order to avoid a repeat of the March 4, 2024, incident of hate-filled speech at future public meetings that feature a virtual-session component, the City Council directed the City Manager to (i) develop an appropriate policy statement; (ii) post the policy statement to the City’s social media accounts; and (iii) submit the policy statement to the City Council for final ratification.

Incidents of Zoom-bombing have resulted in the imposition of restrictions related to use of the platform by educational, corporate, and governmental institutions globally. Various government and commercial organizations have banned the use of Zoom and other teleconferencing platforms.

In response, Zoom has taken measures to increase security of its teleconferencing application, and law enforcement now investigates Zoom-bombing activity under criminal laws. Law enforcement views Zoom-bombing as an extension of cyberbullying. The Federal Bureau of Investigation (FBI) advises users of video/teleconferencing to keep meetings private, require passwords or other forms of access control such as “waiting rooms”, and to limit access only to specific people.

To address growing concerns, Zoom and other groups have published guides on how to avoid Zoom-bombing incidents. However, government open meeting requirements limit the effectiveness of these tools. In the government setting, Zoom-bombing is not a security flaw concern; rather, publishing and providing links to meetings of government bodies represent a requirement for open meetings and respond to the First Amendment Right of the people to speak and participate. Links to government-sponsored meetings are public information and are easily shared, allowing anyone with access to the link the ability to join an in-progress virtual meeting, be assigned to a “meeting room,” and unmute their microphone to speak when called on.

In practice, a government agency conducting a virtual public meeting, in compliance with the State’s open meeting requirements, can implement a limited number of security measures including the following:

- Limit screen sharing (disabling screen sharing prevents people from sharing inappropriate content during a meeting);
- Restrict file transfers (prevents the sharing of files);
- Mute participants upon entry to a meeting (grants control over who gets to talk);
- Identify guest participants in the meeting (although guests can provide false identities); and

- Establish a waiting room (forces guests into a waiting room before they are allowed to join a meeting).

Once a guest in a virtual “meeting room” is, however, unmuted and allowed to speak, the agency’s limited control is to re-mute the guest in the event he or she becomes disruptive or engages in inappropriate commentary. It is the nature of the commentary’s content, however, that can create a potential conflict with a speaker’s First Amendment Right to free speech.

First Amendment Right to Free Speech

Among other protected rights, the First Amendment to the U.S. Constitution prevents government from abridging the freedom of speech; i.e., the free and public expression of opinions without censorship, interference, or restraint. These rights are not, however, absolute. U. S. Supreme Court interpretations encompass what a person can say as well as what they should not say. It is important to note, however, that rights under the First Amendment continue to evolve under case law and Supreme Court scrutiny.

According to the U.S. Supreme Court in [Stanley v. Georgia](#) (1969), the U.S. Constitution protects the right to receive information and ideas, regardless of their social worth, and to be generally free from governmental intrusions into one's privacy and control of one's thoughts. In *Stanley*, the Court declared that, *"If the First Amendment means anything, it means that a State has no business telling a man, sitting alone in his own house, what books he may read or what films he may watch. Our whole constitutional heritage rebels at the thought of giving government the power to control men's minds."*

In [Chicago Police Dept. v. Mosley](#) (1972), the U.S. Supreme Court said, *"...above all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content. ... To permit the continued building of our politics and culture, and to assure self-fulfillment for each individual, our people are guaranteed the right to express any thought, free from government censorship. The essence of this forbidden censorship is content control. Any restriction on expressive activity because of its content would completely undercut the "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open."*

In his concurrence to *Mosley*, Chief Justice Warren E. Burger did opine, however, that the level of protections with respect to free speech provided by the First Amendment is not limitless: *"Numerous holdings of this Court attest to the fact that the First Amendment does not literally mean that we "are guaranteed the right to express any thought, free from government censorship."*

When it comes to political speech, the Supreme Court has been more accommodating. In [Cohen v. California](#) (1971), the Court reversed the conviction of a man wearing a jacket reading "[Expletive] *the Draft*" in the corridors of a Los Angeles County courthouse. Justice John Marshall Harlan II wrote in the majority opinion that plaintiff's jacket fell in the category of protected political speech despite the use of an expletive.

In [Bridges v. California](#) (1941), the Supreme Court emphasized that “political speech” is core First Amendment speech, and that *" ... It must be taken as a command of the broadest scope that explicit language, read in the context of a liberty-loving society, will allow. ... For it is a prized American privilege to speak one's mind, although not always with perfect good taste, on all public institutions."*

In [Roth v. United States](#) (1957), the U.S. Supreme Court did, however, make it clear that the First Amendment's protection of free speech does not apply to obscene speech. Therefore, both the federal government and the states have tried to prohibit or otherwise restrict obscene speech. Even in matters of obscenity, the Supreme Court has, however, demonstrated an evolving change over the last century, from total prohibition of obscene speech at the start of the 1900s to near-total tolerance in current times, reflecting changed social attitudes.

The Supreme Court's current prevailing attitude, as expressed in [Ashcroft v. Free Speech Coalition](#) (2002), is that First Amendment rights are "*most in danger when government seeks to control thought or justify laws for that impermissible end. Essentially, the right to think is interpreted as the beginning of freedom, and speech must be protected from government overreach because speech is the beginning and essence of thought.*"

Freedom of Speech and Local Government Meetings

Public agencies have an interest in ensuring that meetings are conducted in an orderly way and are not disrupted by threatening, irrelevant, or excessively long commentary. At the same time, public agencies must also avoid violating the rights of citizens wanting to comment during a public meeting or hearing.

The Brown Act requires that the public be afforded the right to speak at meetings where the Brown Act applies (Gov. Code § 54954.3). The Brown Act further allows public agencies to establish "*reasonable*" rules for public testimony including, but not limited to, limits on the amount of time allocated to each individual speaker or on an individual issue. In Constitutional terms, courts usually consider the public comment period of a Brown Act meeting to be a "*limited public forum*"—meaning the public agency can regulate the "*time, place, and manner*" of speech through the adoption of "*reasonable*" rules of procedure and conduct; i.e., rules of decorum that ensure the public meeting proceeds in an orderly fashion. ([Baca v. Moreno Valley Unified School Dist. \(CA 1996\)](#))

In adopting reasonable "*time, place, and manner*" regulations on speech in limited public forums, restrictions must be "*content neutral.*" ([Perry Educ. Ass'n v. Perry Educators' Ass'n \(1983\)](#))

Courts have repeatedly upheld these "*time, place, and manner*" regulations against constitutional challenges. In [White v. City of Norwalk](#) (9th Cir. 1990), the Ninth Circuit Court of Appeals (9th Circuit) upheld a city's ordinance allowing removal of speakers who engaged in personal or abusive language—i.e., disorderly conduct, or conduct which "*disrupts, disturbs, or otherwise impedes*" the council meeting. The 9th Circuit recognized that, "*Citizens have an enormous first amendment interest in directing speech about public issues to those who govern their city.*" However, in the context of a city council proceeding, this interest must be balanced with the public agency's ability to conduct business and deal with its agenda.

In establishing "*reasonable rules of procedure and conduct*", the public agency must be careful not to violate the First Amendment protections meeting attendees enjoy. The 9th Circuit addressed this issue in [Acosta v. City of Costa Mesa](#), (9th Cir. 2013), indicating where the line may lie between city council rules that are enforceable and those that violate constitutional rights. In *Acosta*, the court held that the First Amendment requires a person's speech in a city council meeting must actually disrupt a meeting before that person may be removed from the meeting. *Acosta* provides an example of language a council may adopt for such a proposed rule:

- *“It shall be unlawful for any person in the audience at a council meeting to do any of the following ... (1) Engage in disorderly, disruptive, disturbing, delaying or boisterous conduct, such as, but not limited to, handclapping, stomping of feet, whistling, making noise, use of profane language or obscene gestures, yelling or similar demonstrations, which conduct substantially interrupts, delays, or disturbs the peace and good order of the proceedings of the council.”*

In *Acosta*, the court also approved prohibitions on disorderly conduct when it arises from a member of the governing board. *“Members of the council shall not, by disorderly, insolent, or disturbing action, speech, or otherwise, substantially delay, interrupt or disturb the proceedings of the council.”*

Steinburg v. Chesterfield County Planning Comm’n (4th Cir. 2008), concerns an action brought by a private citizen against the Planning Commission of Chesterfield County, Virginia. In this case, Steinburg attended a meeting of the Chesterfield County Planning Commission but was escorted out of the meeting when he refused to limit his comments to the matter at hand and, instead, engaged in personal attacks in violation of adopted procedures.

Steinburg claimed that the Chesterfield County Planning Commission had violated his First Amendment right to free speech. The Fourth Circuit Court of Appeals (4th Circuit) pointed out that the Planning Commission meeting was a *“limited public forum”* that could be managed by the public agency. The court explained that argumentative or disruptive behavior cannot be shielded by a claim of First Amendment rights, stating that, *“Officials presiding over such meetings must have discretion . . . to cut off speech which they reasonably perceive to be, or imminently to threaten, a disruption of the orderly and fair progress of the discussion, whether by virtue of its irrelevance, its duration, or its very tone and manner.”*

From the above discussion, it can be surmised that any restriction must be a content-neutral *“time, place, and manner”* restriction that does little more than ensure meetings can proceed in a timely and orderly fashion. The Brown Act also specifies that any restrictions created by the city council *“shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.”* (Cal. Gov. Code § 54954.3(c))

Whether or not a city is acting inappropriately in imposing restrictions remains a difficult question. City councils may establish rules of decorum that incidentally limit the free speech of attendees; on the other hand, city councils cannot use those same rules to stifle speakers with whom they disagree or use those rules to remove speakers from the meeting.

The adoption of rules of procedure are sanctioned by statute and case law. In any event, such authority is necessarily implied from a city council's authority and requirement to hold meetings and conduct business. The Montclair City Council and its subordinate commissions and subcommittees operate under adopted and implied procedures for decorum.

What About Virtual Meetings/Zoom-Sessions (video/teleconferencing)?

When members of the public are allowed to participate in remote public meetings, the same rules of decorum that would apply to an in-person meeting apply to its virtual counterpart. In *State v. Patterson* (2016), a state of Washington appeals court ruled that,

"A person generally has a free speech right to make his or her views known, but the rubric of free speech does not include the intent to substantially interfere with a meeting.

Notably, the United States Supreme Court [in [Cox v. Louisiana \(1965\)](#)], has held[:] [T]he rights of free speech and assembly, while fundamental in our democratic society, still do not mean that everyone with opinions or beliefs to express may address a group at any public place and at any time. The constitutional guarantee of liberty implies that existence of an organized society maintaining public order, without liberty itself would be lost in the excesses of anarchy."

It is appropriate for the presiding officer to explain to the public the rules for participation in the remote meeting, and warn that anyone who disrupts the meeting will be muted—an approach supported by [Senate Bill 1100](#) (2022), discussed below. The presiding officer may also direct muting or removing those that are intentionally or inadvertently disrupting the meeting—the latter including, but not limited to sound feedback or too much background noise.

Conclusion

Public agencies can establish rules that regulate public comment, but these rules must be reasonable restrictions on “*time, place, and manner*” that are viewpoint neutral. Additionally, when enforcing the rules of decorum, an actual disruption of the business of the public agency is necessary prior to removing or disconnecting the speaker. When the conduct of attendees at public meetings is, however, disruptive, the presiding officer may generally take steps to assure that the public’s work is properly executed without an invasive fear of infringing on the First Amendment rights of citizens.

[Senate Bill 1100](#) (2022) outlines the following process in which the presiding officer at a public meeting of a public agency, or designee such as a law enforcement officer, may remove an individual for disrupting the meeting.

- **Warn the individual that their behavior is disrupting the meeting and their failure to cease their behavior may result in removal.**
- **Remove the individual if they do not "*promptly*" cease their disruptive behavior.**

While SB 1100 puts in statute what the presiding officer of a public agency covered by the Brown Act can do to reduce disruptions in meetings, existing statutory and case law already specify other avenues for addressing public meeting disruptions.

Under existing law, and as interpreted by the courts, a city council may adopt rules governing the conduct of their public meetings and allow for the removal of a person who makes slanderous, profane, or threatening remarks or engages in any other disorderly conduct that disrupts the meeting (Government Code § 36813). If there is no disruption of a public meeting, *Acosta* (discussed above) provides that there cannot be a removal of the person.

Courts have also upheld the ability of local governments to remove a member of the public from a meeting if their conduct and speech disrupt the orderly process of the meeting (Penal Code § 403 and Government Code § 54957.9).

Additionally, Government Code § 54954.3(b)(1) allows a legislative body to adopt reasonable regulations to ensure that members of the public have the opportunity to

address the legislative body on any item of interest to the public. However, the legislative body may not prohibit public criticism of its policies, procedures, programs, or services.

Further, if it is determined that a situation calls for removal of a disruptive person, it is appropriate to follow adopted rules under existing statutory and case law, or follow the new SB 1100 process.

For government agencies, despite the layer of court cases, laws, rules, and regulatory protections related to the conduct of public meetings, opportunities avail themselves for individuals to engage in disruptive behavior. During and after the COVID-19 pandemic, many California cities including, but not limited to Berkeley, Richmond, San Francisco, San Bernardino, Redwood City, Fremont, San Diego, Morgan Hill, Ventura, Watsonville, Capitola, Claremont, and now Montclair can attest that virtual meetings create the potential for the expression of obscenity and hate speech once a “meeting room” guest’s microphone is unmuted.

It is noted that the Brown Act only requires cities to offer the public a chance to address public meetings in person. During the pandemic, cities determined that the public could still participate in local government decision-making by phone and over Zoom or other video/teleconferencing platform. Even after reopening to the public, many California cities, including Montclair, maintained those virtual options for public comment.

Unfortunately, Zoom-bombing has become commonplace during public comment periods, with internet trolls spewing obscenity and hate speech. Hate speech is generally protected under the First Amendment of the U.S. Constitution, despite the fact that it can be disruptive to the conduct of public meetings to the point of delaying business matters.

The approach used to address Zoom-bombing is specific to cities that have experienced the problem. Some cities have denounced such comments in public statements. Other cities have (i) chosen to shut down remote public comment options and revert to in-person public comment only; (ii) eliminated virtual meetings entirely; (iii) defer public comments to the end of the public meeting; (iv) limit total time for the public comment period; or (v) reduce the time a person is allowed to speak.

Despite the protections provided to public agencies under California law, and in noting that the U.S. Supreme Court does not permit the banning of hate speech and, further, that the First Amendment Right to Free Speech is ever evolving, City staff is of the opinion that the most viable option available to Montclair is for the City Council to ratify the following policy statement posted by the City Manager to the City’s social media accounts with an effective date of March 13, 2024. Except as otherwise provided for in the Policy Statement, remote public comment options at public meetings held by and for the City of Montclair have effectively ceased as of March 13, 2014.

City of Montclair Policy Statement Regarding the Discontinuation of Oral Public Comments from Online Public Participants During City-Hosted Video/Teleconferencing Sessions

The City of Montclair is a diverse community, proud of its past and developing culture and heritage, and respectful of people from all walks of life. The community speaks in one voice that there is no space for intolerance, hate speech, racism, misogyny, antisemitism, homophobia, bigotry, and advocacy of violence through abhorrent words couched in the rhetoric of hatred and hostility.

The Montclair City Council is welcoming of public participation at its meetings; however, the City Council condemns participation that introduces speech designed and intended to demonstrate vileness and hatred against any person or body of

people based on race, ethnicity, religion, sexual orientation, or any protective class under California law. The use of such commentary is deemed unacceptable at all City of Montclair places of work and at meetings of the Montclair City Council, Montclair Planning Commission, Montclair Community Activities Commission, and subcommittees of the City Council.

The Montclair City Council has been charged with the tremendous task of conducting the business of the City with dignity, integrity and respect, and protecting all of its citizens from the harmful and disruptive effects of racism and bigotry. To that end, the Montclair City Council denounces the use of harmful speech that is an affront to our core values as a community, while concurrently committing to protect all residents from the disruptive effects of racism and bigotry.

The Montclair City Council now therefore endorses and ratifies the following policy:

Policy Statement. *Effective March 13, 2024, and except as otherwise authorized by the Montclair City Manager, subject to ratification by the Montclair City Council, the City of Montclair shall discontinue accepting oral public comments via any video/teleconferencing application or platform including, but not limited to, Zoom, WebEX or Skype, telephonic devices, or any other web-based media, application or platform during meetings open to the public including, but not limited to, meetings of the Montclair City Council, Montclair Planning Commission, Montclair Community Activities Commission and sub-committees of the Montclair City Council.*

The City of Montclair shall continue to accept “other forms of public comment” in compliance with the Ralph M. Brown Act and procedures of decorum as established by the Montclair Municipal Code and/or as adopted by the Montclair City Council. For purposes of this Policy, “other forms of public comment” shall include (i) the submission of written comments to the Montclair City Clerk in advance of public meetings subject to this Policy and, (ii) when called on pursuant to procedures established by the City of Montclair, oral comments made by members of the public physically in attendance at meetings of the Montclair City Council, Montclair Planning Commission, Montclair Community Activities Commission and sub-committees of the Montclair City Council.

This policy may be amended or otherwise modified by the Montclair City Manager, subject to ratification by the Montclair City Council. This Policy shall not prohibit the use of video/teleconferencing for the purpose of receiving or making presentations, or otherwise conducting the business of the City as deemed necessary and appropriate by the Montclair City Manager.

FISCAL IMPACT: There is no direct fiscal impact to the City’s General Fund related to City Council ratification of the ***City of Montclair Policy Statement Regarding the Discontinuation of Oral Public Comments From Online Public Participants During City-Hosted Video/Teleconferencing Sessions.***

RECOMMENDATION: City staff recommends the City Council ratify the ***City of Montclair Policy Statement Regarding the Discontinuation of Oral Public Comments From Online Public Participants During City-Hosted Video/Teleconferencing Sessions.***



CITY COUNCIL AGENDA REPORT

DATE:	MARCH 18, 2024	FILE I.D.:	VEH450
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	POLICE
ITEM NO.:	10	PREPARER:	B. KUMANSKI
SUBJECT:	CONSIDER AUTHORIZING THE PURCHASE OF A 2024 FORD EXPLORER XLT VEHICLE FOR THE POLICE DEPARTMENT FLEET FROM HEMBOURG FORD IN THE TOTAL AMOUNT OF \$42,228.51		

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the purchase of a 2024 Ford Explorer XLT vehicle to replace a vehicle currently used by Police Department personnel for administrative operations.

BACKGROUND: The City Council approved the purchase one unmarked (not black-and-white) 2023 Ford Explorer Interceptor Utility Vehicle to replace Unit 406 for the 2022-23 budget year. The 2023 Ford Interceptor Utility was ordered during the order window from Fritts Ford during that budget year. However, due to continued production issues, Ford was unable to deliver the vehicle and the order was cancelled by them in January 2024, and the Department sought a suitable similar replacement option.

In a memorandum from Ford, the production of Police Interceptors was completed for the current model year and was not set to resume until the 2025 model year, set for later this calendar year. The Department was unable to locate an unmarked Police Interceptor model meeting our requirements. As such, similar consumer models were considered. The closest consumer model is the Ford Explorer XLT. This vehicle is well-suited for administrative roles and was considered a viable lower-cost alternative.

Several local Ford dealers were contacted, and two locally were found to have an Explorer XLT with similar configuration to the original Interceptor model, and were within the approved budget. Fritts Ford provided a quote of \$47,854.33 and Hemborg Ford provided a quote of \$42,228.51.

Staff was given authorization to obtain a purchase order to secure the vehicle from Hemborg Ford prior to City Council approval, as the vehicle was included in the approved FY 2022-23 Budget.

FISCAL IMPACT: If authorized by the City Council, funding for the purchase of a 2024 Ford Explorer XLT vehicle would result in an expenditure of \$42,228.51 from the Police Department Fiscal Year 2023-24 Budget from COPS ELEAS Grant Fund Account No. 1149-4421-62020-400-00000, encumbered from the approved 2022-23 budget.

RECOMMENDATION: Staff recommends the City Council authorize the purchase of a 2024 Ford Explorer XLT vehicle for the Police Department fleet from Hemborg Ford in the total amount of \$42,228.51.



CITY COUNCIL AGENDA REPORT

DATE: MARCH 18, 2024 **FILE I.D.:** VEH 120
SECTION: CONSENT - ADMIN. REPORTS **DEPT.:** PUBLIC WORKS
ITEM NO.: 11 **PREPARER:** M. LAWRENCE
SUBJECT: CONSIDER DECLARING A 1979 SMITH AIR COMPRESSOR (UNIT 411) AND A 1985 ASPLUNDH WOOD CHIPPER (UNIT 404) AS SURPLUS EQUIPMENT AVAILABLE FOR PARTS OR FOR SALE AT AUCTION

REASON FOR CONSIDERATION: It is recommended that the City Council consider declaring a City-owned 1979 Smith Air Compressor (Unit 411) and a 1985 Asplundh wood chipper (Unit 404) as surplus equipment available for parts or for sale at an auction.

BACKGROUND: The 1979 Smith Air Compressor (Unit 411) and the 1985 Asplundh Wood Chipper (Unit 404) are out of commission due to the need of major repairs with costs that exceed the remaining value of the equipment. Unit 411 has an expired compressed air storage tank and a malfunctioning air compressor. Unit 404 has an engine that is no longer operational and the drive clutch needs replacement.

The equipment's remaining estimated value is as follows:

Model	Year	Unit No.	Hours in Operation	VIN	Estimated Value
Smith Air Compressor	1979	411	759	100P3361	\$1,000
Asplundh Wood Chipper	1985	404	3558	EA400562	\$1,000

FISCAL IMPACT: Staff estimates the City could receive up to \$2,000 for declaring Units 411 and 404 as surplus and auctioning the equipment.

RECOMMENDATION: Staff recommends that the City Council declare a 1979 Smith Air Compressor (Unit 411) and a 1985 Asplundh Wood Chipper (Unit 404) as surplus equipment available for parts or for sale at auction.

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
MARCH 4, 2024, AT 10:15 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Pro Tem Johnson called the meeting to order at 10:15 p.m.

II. ROLL CALL

Present: Mayor Pro Tem Johnson, Council Member Ruh, City Manager Starr; and Assistant City Manager/Director of Human Services Richter

III. APPROVAL OF MINUTES

A. Minutes of the Regular Personnel Committee Meeting of February 20, 2024.

Moved by Council Member Ruh, seconded by Mayor Pro Tem Johnson, and carried unanimously to approve the minutes of the Personnel Committee meeting on February 20, 2024.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

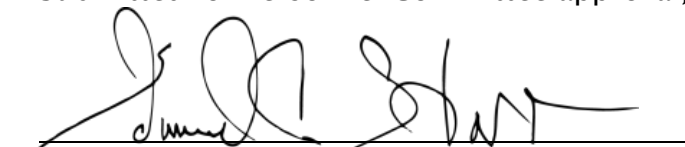
At 10:16 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 10:25 p.m., the Personnel Committee returned from Closed Session. Mayor Pro Tem Johnson stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 10:25 p.m., Mayor Pro Tem Johnson adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager

MINUTES OF THE SPECIAL MEETING OF THE MONTCLAIR CITY COUNCIL HELD ON MONDAY, MARCH 4, 2024 AT 5:45 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor/Chair Dutrey called the meeting to order at 5:45 p.m.

II. ROLL CALL

Present: Mayor Dutrey; Council Members Ruh, Martinez, and Lopez

City Manager Starr; Assistant City Manager/Director of Human Services Richter; Director of Finance Kulbeck; Director of Community Development Diaz; Director of Public Works/City Engineer Heredia; Police Chief Reed; Fire Chief Pohl; City Attorney Robbins; City Clerk Myrick

Absent: Mayor Pro Tem Johnson (Late – arrived at 5:48 p.m.)

III. COUNCIL WORKSHOP

A. Police Department Update

Police Chief Reed provided an update on Police Department activities and programs including:

- Management of Asset Forfeiture and grant projects enabling the Department to purchase new vehicles, equipment, and technology;
- Installation and success of Flock cameras for grand theft auto and identifying wanted vehicles;
- Graffiti tracking and prevention;
- Returning the Special Enforcement Team (SET) to service;
- Traffic safety and enforcement;
- Success of the Montclair Hiring Incentive Bonus Program and enhanced recruitment efforts in hiring new officers;
- Department participation in community outreach events; and
- Team building and Department-wide meetings.

Mayor Dutrey complimented the Police Department's accomplishments and credited much of its recent success to the passage of Measure L in 2020.

Mayor Pro Tem Johnson received clarification on traffic collisions involving unsafe turn movements and gave kudos to the many successes of the Department.

Council Member Ruh stated he is glad to see the Department will be moving forward with body-worn cameras thanks to a grant received from the Office of **Congresswoman Torres**.

Council Member Lopez noted he feels the public can rest assured that the Flock cameras are not being used for surveillance of the public; advised a resident has been complaining of street racing and side shows in front of her house; received confirmation that the Police Department no longer has an office at the mall; and stated he is pleased to see SET coming back.

Council Member Martinez stated she is impressed with the number of police reports filed annually.

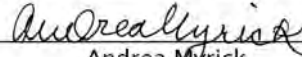
IV. PUBLIC COMMENT

- **Jose Perez**, resident, speaking on behalf of **Safe Routes to School – Community of Ontario and Montclair**, requested more patrolling and ticketing of cars parked in alleyways, and noted the sidewalk in front of his home poses a tripping hazard for children and requested it be leveled by the City.
- **Yvette Miranda**, speaking on behalf of **Safe Routes to School – Community of Ontario and Montclair**, thanked the Police Department for protecting children who travel to and from school, and requested more patrols around schools.

V. ADJOURNMENT

At 6:45 p.m., the Montclair City Council was adjourned.

Submitted for City Council approval,



Andrea Myrick,
City Clerk

PENDING APPROVAL

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL, SUCCESSOR AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS, MONTCLAIR HOUSING AUTHORITY COMMISSION, AND MONTCLAIR COMMUNITY FOUNDATION BOARD HELD ON MONDAY, MARCH 4, 2024 AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor/Chair Dutrey called the meeting to order at 7:00 p.m.

II. INVOCATION

Reverend Maggie Burbank-Yenoki, Monte Vista Unitarian Universalist Congregation, gave the invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Lopez led meeting participants in the Pledge.

IV. ROLL CALL

Present: Mayor/Chair Dutrey; Mayor Pro Tem/Vice Chair Johnson; Council Members/Directors Ruh, Martinez, and Lopez

City Manager/Executive Director Starr; Assistant City Manager/Director of Human Services Richter; Director of Finance Kulbeck; Director of Community Development Diaz; Director of Public Works/City Engineer Heredia; Police Chief Reed; Fire Chief Pohl; City Attorney Robbins; City Clerk Myrick

V. PRESENTATIONS

A. Introduction of New and Promoting Police Department Employees

Police Chief Reed introduced newly hired Police Officer Ricky Julian, and announced the promotion of Michael Zerr from Sergeant to Lieutenant.

VI. PUBLIC COMMENT

- **Ruby Long**, Field Representative for **San Bernardino County Fourth District Supervisor Curt Hagman**, announced the Supervisor's Office is hosting a free document shredding event at Montclair City Hall on Saturday, March 16, 2024, from 9:00 a.m. to noon.
- **Jose Perez**, resident, speaking on behalf of **Safety Routes to School - Community of Ontario and Montclair**, requested a redesign of the crosswalk on San Bernardino Street in front of **Vernon Middle School**.
- City Clerk Myrick announced that the City received written comments via email from Jacob Haiavy, Maryam Roham, Limor Geld, Ariela Kaspi-Kaneti, Mika Efros, and Liron Kaneti in opposition to a local ceasefire resolution in relation to the Israeli-Palestinian/Gaza conflict.
- The following spoke about the passage of a local ceasefire resolution in relation to the Israeli-Palestinian/Gaza conflict:
 1. Benjamin Wood (support)
 2. Jacob Haiavy (oppose)
 3. Rabbi Sholom Harlig (oppose)
 4. Loanie Marion (oppose)
 5. Edna Tzobery (oppose)
 6. Margaret Colwell (support)
 7. Thuan Nguyen (support)
 8. Nicole (support)
 9. Julian Gonzalez (support)
 10. Abraham (support)

11. Miryam (oppose)
 12. Rabbi Mordy Harlig (oppose)
 13. Eugenia Fukshansky (oppose)
- The following spoke their views on World War II, the Holocaust, the September 11, 2001 terrorist attacks on the United States, the October 7, 2023 terrorist attack on Israel, and the nation of Israel:
 1. Fred Leuchter
 2. Rex Yuden
 3. Jim Conley
 4. Ron Jeremy
 5. Molly Conger
 6. Bill Shaner
 7. Albert Jr.
 8. Phil Barber
 9. Chad Bastewell
 10. June Aimer

At 7:57 p.m., Mayor/Chair Dutrey suspended public comments to the end of the meeting, which resumed at 9:37 p.m.

VII. PUBLIC HEARINGS

A. First Reading — Consider Ordinance No. 24-1007 Amending Chapter 11.02 of, and Adding Chapters 11.21 and 11.87 to, the Montclair Municipal Code Relating to Urban Lot Splits and Two-Unit Projects

Consider Setting a Public Hearing for Second Reading and to Consider Adoption of Ordinance No. 24-1007 on Monday, March 18, 2024, at 7:00 p.m. in the City Council Chambers

Mayor Dutrey opened the public hearing and invited comments from the public. There being no one in the audience wishing to speak, Mayor Dutrey closed the public hearing and returned the matter to the City Council for consideration.

Mayor Dutrey noted that residents would only be notified of a neighbor’s project after this approval process has been completed.

Mayor Pro Tem Johnson received confirmation that two-story units could be built with this process to meet the minimum square footage.

Council Member Lopez received confirmation that this process differs from the accessory dwelling unit (ADU) process in that a covered parking space must be provided for the new unit, whereas ADUs do not require any additional parking.

Council Member Ruh spoke in support of the ordinance as a means to help address the affordable housing shortage.

ACTION - Public Hearings - Item A	
ACTING:	City Council
MOTION:	Conduct the first reading of Ordinance No. 24-1007 by number and title only, waive further reading, and set a public hearing for second reading and adoption of Ordinance No. 24-1007 on Monday, March 18, 2024 at 7:00 p.m. in the City Council Chambers.
MADE BY: SECOND BY:	Council Member Ruh Mayor Pro Tem Johnson
AYES: NOES: ABSTAIN: ABSENT:	Lopez, Martinez, Ruh, Johnson, Dutrey None None None
RESULT:	Motion carried 5-0.

B. First Reading — Consider Ordinance No. 24-1008 Amending the Montclair Municipal Code Related to the Compensation Schedule for the Mayor and Members of the City Council

Consider Setting a Public Hearing for Second Reading and to Consider Adoption of Ordinance No. 24-1008 on Monday, March 18, 2024, at 7:00 p.m. in the City Council Chambers

Mayor Dutrey opened the public hearing and invited comments from the public.

Xavier Mendez, resident, spoke in favor of increasing City Council compensation as proposed by the ordinance.

Mayor Dutrey closed the public hearing and returned the matter to the City Council for its consideration.

Council Member Ruh noted he did not support the last increase and will be doing the same this time, and requested to not receive any increases that are approved.

Council Member Lopez stated during his 2020 election campaign, he vowed that he would not vote for any City Council salary increases, adding he feels the increase in the Mayor’s stipend is justified.

Mayor Pro Tem Johnson asked if the increase is in line with the increases annually received by employee groups.

City Manager Starr advised employee groups generally receive three to four percent base salary increases along with enhancements to other benefits that further increase the value of their total compensation package, which he would consider near equivalent to five percent per year.

Council Member Martinez pointed out the legislature increased the minimum base salary for city council members in order to encourage more participation and diversity from residents on their local governing boards.

Mayor Pro Tem Johnson noted council members put in a lot of hours of work that residents don’t see outside of council meetings and events, including representing the city on other boards, listening to residents’ concerns, and assisting the public with city services.

ACTION - Public Hearings - Item B	
ACTING:	City Council
MOTION:	Conduct the first reading of Ordinance No. 24-1008 by number and title only, waive further reading, and set a public hearing for second reading and adoption of Ordinance No. 24-1008 on Monday, March 18, 2024 at 7:00 p.m. in the City Council Chambers.
MADE BY: SECOND BY:	Mayor Pro Tem Johnson Council Member Martinez
AYES: NOES: ABSTAIN: ABSENT:	Martinez, Johnson, Dutrey Ruh Lopez None
RESULT:	Motion carried 3-1-1.

VIII. CONSENT CALENDAR

ACTION - Consent Calendar	
ACTING:	City Council Successor Agency Board Montclair Housing Corporation Board Montclair Housing Authority Commissioners Montclair Community Foundation Board
DISCUSSION:	Item B-3
MOTION:	Approve the Consent Calendar as presented.
MADE BY: SECOND BY:	Council Member/Director Ruh Council Member/Director Lopez
AYES: NOES: ABSTAIN: ABSENT:	Lopez, Martinez, Ruh, Johnson, Dutrey None None None
RESULT:	Motion carried 5-0.

A. Approval of Minutes

1. Special Meeting — January 29, 2024

ACTION - Consent Calendar - Item A-1	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

2. Regular Joint Meeting — February 20, 2024

ACTION - Consent Calendar - Item A-2	
ACTING:	City Council Successor Agency Board Montclair Housing Corporation Board Montclair Housing Authority Commissioners Montclair Community Foundation Board
RESULT:	Approved on Consent Calendar; motion carried 5-0.

3. Special Meeting — February 21, 2024

ACTION - Consent Calendar - Item A-3	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

B. Administrative Reports

1. Consider Approval of City Warrant Register & Payroll Documentation

ACTION - Consent Calendar - Item B-1	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

2. **Consider Approval of Tract Map No. 20381 Located at the Northwest Corner of Mission Boulevard and Ramona Avenue**
Consider Authorizing Tract Map No. 20381 to be Recorded with the San Bernardino County Recorder’s Office, Subject to Final Approval by the City Engineer

ACTION - Consent Calendar - Item B-2	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

3. **Consider Amending the 2019-2024 Capital Improvement Program to Include the Montclair Safe Routes to School (SRTS) Implementation Project for Safety Improvements near Montclair High, Monte Vista Elementary, and Monterra Elementary Schools**

Consider Authorizing a \$634,000 Appropriation from 2021 Lease Revenue Bond Proceeds for Costs Related to the Montclair SRTS Implementation Project

Consider Finding the Project Categorically Exempt from CEQA and Making a De Minimis Finding of No Effect on Fish and Wildlife Associated with the Montclair SRTS Implementation Project and Authorizing Staff to File a Notice of Exemption for the Project

Xavier Mendez, resident, thanked the City for implementing these improvements near schools. He requested adding stop signs on Benito Street and Helena Avenue and more frequent police officer patrols during school drop-off and pick-up times.

ACTION - Consent Calendar - Item B-3	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

C. Agreements

1. **Consider Approval of Agreement No. 24-18 with Theresa St. Peter for Professional Human Resources Consulting Services, Subject to Any Revisions Deemed Necessary by the City Attorney**

ACTION - Consent Calendar - Item C-1	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0

D. Resolutions

1. **Consider Adoption of Resolution No. 24-3431 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges**

ACTION - Consent Calendar - Item D-1	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0

IX. PULLED CONSENT CALENDAR ITEMS — None

X. COMMUNICATIONS

- A. Department Reports — None
- B. City Attorney — None
- C. City Manager/Executive Director— None
- D. Mayor/Chair

Mayor/Chair Dutrey stated on Saturday, **Montclair High School (MHS)** students participated in the Miles for Montclair walk-a-thon fundraiser in support of homeless students, which raised \$25,000 for the cause. He noted he spoke at a Career Day event held at **MHS** last week; participated in a **Read Across America** event at **Lehigh Elementary School** on March 1st, attended **Golden Girls Softball (GGS) League's** Opening Day; attended a tree planting event at Reeder Park; and will be attending **Montclair Little League's (MLL)** opening day this Saturday at Saratoga Park. He urged everyone to vote in tomorrow's primary election, and stated he prays for peace on both sides of the Israel-Palestine conflict.

E. Council Members/Directors

- 1. Council Member/Director Ruh announced the passing of **Melvin Ernest Hodell**, Upland resident and publisher of *The Montclair Tribune* newspaper from 1958-1967, at the age of 102; stated he also attended Opening Day for **GGS**, participated in the **MHS** Miles for Montclair walk-a-thon, and planted trees at the Reeder Park event; urged everyone to take their vote-by-mail ballots to a vote center; and recited a short excerpt from the Peace Prayer of **St. Francis of Assisi**.
- 2. Council Member/Director Lopez stated he attended **GGS** Opening Day; encouraged everyone to attend **MLL's** this weekend; urged everyone to vote; and reminded everyone to turn their clocks forward one hour on March 10 for Daylight Savings Time.
- 3. Mayor Pro Tem/Vice Chair Johnson stated she attended the Reeder Park tree planting and Opening Day for **GGS**. She also attended and spoke at the **MHS** Career Day, teaching students how to give an elevator speech; and unfortunately was not able to make it to Miles for Montclair and another event at the **Nithyananda Vedic Temple** on Saturday due to an unexpected family visit. She urged everyone to vote tomorrow, and also announced that low income students can participate in the Cinderella Dreams event at **Montclair Place** on Saturday, March 16, from 9:00 a.m. to 4:00 p.m. to get everything they need to attend prom from dress, to accessories, to makeup.
- 4. Council Member/Director Martinez thanked everyone who showed up to participate in this evening's meeting.

Council Member Martinez moved to agendaize a discussion item regarding consideration of a local ceasefire resolution on the Israeli-Palestinian/Gaza conflict.

There was no second to the motion; therefore, the motion failed.

F. Committee Meeting Minutes

The following committee minutes were received and filed for informational purposes:

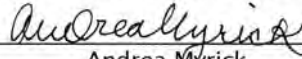
- 1. Personnel Committee - February 20, 2024

At 9:28 p.m., Mayor/Chair Dutrey called for a brief recess before continuing with the remaining public comments at 9:37 p.m.

XI. ADJOURNMENT

At 10:08 p.m., the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board were adjourned.

Submitted for City Council/Successor Agency Board/Montclair Housing Corporation Board/Montclair Housing Authority Commission/Montclair Community Foundation Board approval,



Andrea Myrick,
City Clerk

*The meeting was adjourned in memory of **Melvin Ernest Hodell**, Upland resident, journalist, and founder of The Montclair Tribune newspaper.*

PENDING APPROVAL

CITY OF MONTCLAIR

TREASURER'S REPORT

FOR THE MONTH ENDING

February 29, 2024

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SCHEDULE 1

STATEMENTS OF COMPLIANCE WITH INVESTMENT POLICY AND INVESTMENT STRATEGY FOR February 29, 2024

SCHEDULE 2

STATEMENT OF CASH AND INVESTMENTS BY FUND

SCHEDULE 3

STATEMENT OF CASH AND INVESTMENT ACCOUNTS

GRAPH

CASH AND INVESTMENTS BY TYPE

**CITY OF MONTCLAIR
STATEMENTS OF COMPLIANCE WITH THE INVESTMENT POLICY
AND INVESTMENT STRATEGY**

February 29, 2024

COMPLIANCE STATEMENT

The City has the following amount invested in various financial instruments. This conforms with the investment policy approved by the City Council.

Total Investments	<u>\$ 49,469,256</u>
-------------------	----------------------

During the current month the City was in compliance with the internal control procedures set forth in the Investment Policy.

INVESTMENT STRATEGY FOR THE UPCOMING MONTH

During the upcoming month, surplus moneys will be invested in the Local Agency Investment Fund and other investments authorized in the Investment Policy. The City has sufficient monies available to meet expenditures during the next six month period.

CITY OF MONTCLAIR
STATEMENT OF CASH AND INVESTMENTS BY FUND
AS OF February 29, 2024

Fund	Beginning Balance	Receipts	Disbursements	Interfund Transfers	Ending Balance
General Fund	\$ (3,004,100.77)	\$ 3,526,788.91	\$ 3,133,240.11	\$ -	\$ (2,610,551.97) (1)
Gas Tax Fund	100,142.05	82,021.13	71,153.67	-	111,009.51 (2)
Road Maintenance - Section 2032	2,557,472.05	93,274.84	-	-	2,650,746.89
Measure I Fund	6,242,045.40	106,465.52	-	-	6,348,510.92
Traffic Safety	140,595.50	20,657.23	-	-	161,252.73
Disability Access Fund - Bus. License	57,965.50	960.00	-	-	58,925.50
Park Maintenance	(10,004.25)	3,332.31	7,962.09	-	(14,634.03)
Park Development	1,542,607.06	-	-	-	1,542,607.06
CDBG	(64,702.15)	-	7,772.80	-	(72,474.95) (2)
SB2 Planning Grant	-	-	-	-	- (2)
Air Quality Improvement Trust	27,776.75	11,463.81	-	-	39,240.56
Senior Nutrition Program	(59,255.38)	22,329.19	22,424.27	-	(59,350.46) (2)
American Rescue Plan	-	-	-	-	-
Forfeiture Fund - State	102,654.70	-	-	-	102,654.70
Proposition 30/SB 109	71,682.86	-	3,546.77	-	68,136.09
SB 509 Public Safety	141,149.74	44,042.00	114,204.11	-	70,987.63
Forfeiture Fund-Federal/DOJ	622,074.37	-	194,772.93	-	427,301.44
Asset Seizure Fund	3.61	0.19	-	-	3.80
Section 11489 Subfund	29,277.10	-	-	-	29,277.10
Fed Asset Forfeiture-Treasury	133,408.39	-	-	-	133,408.39
School District Grant Fund	71,496.00	-	-	-	71,496.00
State Supplemental Law Enforce	469,647.32	-	325,000.00	-	144,647.32
Local Law Enforcement Block Gr	34,594.51	-	-	-	34,594.51
PC 1202.5 Crime Prevention	2,505.93	0.23	-	-	2,506.16
Recycling Grant Fund	113,336.96	-	-	-	113,336.96
Statewide Park Dev Grant	(0.32)	-	-	-	(0.32) (2)
Homeless Housing Assist Preven	(38,295.88)	-	4,687.19	-	(42,983.07) (2)
LEAP Grant	(89,243.75)	-	-	-	(89,243.75) (2)
After School Program Fund	(171,079.47)	254,645.50	315,541.22	-	(231,975.19) (2)
City of Hope	1,290.78	-	-	-	1,290.78
Safety Dept. Grants	20,865.82	28,067.50	-	-	48,933.32
OSMD Immunization Grant	1,370.50	-	-	-	1,370.50 (2)
Kaiser Permanente Grant	2,304.71	-	-	-	2,304.71
Resource Center Grant - OMSD	18,114.00	-	72.15	-	18,041.85
Title IIIB Sr Support Services	(13,268.12)	2,347.73	4,442.71	-	(15,363.10) (2)
Healthy Community Strategic Plan	7,739.46	-	-	-	7,739.46
ASES Supplemental Grant	48,439.00	-	-	-	48,439.00
E.M.S. - Paramedic Fund	(4,916.84)	3,614.05	2,096.36	-	(3,399.15) (3)
Economic Development	3,286,341.96	73.78	38,830.00	-	3,247,585.74
City Contributions/Donations Fund	1,700.00	-	500.00	-	1,200.00
Sewer Operating Fund	2,088,386.44	503,866.50	975,140.66	-	1,617,112.28
Sewer Replacement Fund	2,675,540.73	-	-	-	2,675,540.73
CFD 2011-1 (Paseos)	126,973.85	-	1,998.38	-	124,975.47
CFD 2011-2 (Arrow Station)	105,440.96	409.50	1,751.39	-	104,099.07
Inland Empire Utility Agency	5,173,669.35	74.22	-	-	5,173,743.57
Sewer Expansion Fee Fund	1,003,759.09	-	-	-	1,003,759.09
Developer Impact Fees - Local	1,572,397.99	-	-	-	1,572,397.99
Developer Impact Fees - Regional	933,198.77	-	-	-	933,198.77
Burrtec Pavement Impact Fees	320,203.07	-	-	-	320,203.07
PUC Reimbursement Fund-MVGS	219,720.15	-	-	-	219,720.15
Utility Underground In-Lieu	383,396.52	-	-	-	383,396.52
General Plan Update Fee	112,600.24	280.94	-	-	112,881.18
Housing Fund	879,108.20	-	-	-	879,108.20
Public Education/Govt. PEG Fee Fund	137,307.61	7,105.26	-	-	144,412.87
Infrastructure Fund	(2,913,926.21)	-	781,713.23	-	(3,695,639.44) (4)
COVID-19	-	-	-	-	-
Successor Agency Bonds-Taxable	5,013,221.29	-	-	-	5,013,221.29
Successor Agency Bonds-Tax Exempt	8,126,333.91	-	8,770.00	-	8,117,563.91
2021 Lease Revenue Bond Proceeds	(216,596.41)	-	769,671.51	-	(986,267.92)
2014 Lease Revenue Bond Debt Svc	(693,145.47)	269,041.32	-	-	(424,104.15) (5)
2021 Lease Revenue Bond Debt Svc	1,666,758.88	-	-	-	1,666,758.88
Pension Obligation Bond Debt Svc	3,683,299.92	-	-	-	3,683,299.92
Contingency Fund	0.96	-	-	-	0.96 (1)
Assigned General Fund Reserves	33,187,748.05	-	150.00	-	33,187,898.05 (1)
TOTALS	\$ 75,979,132.99	\$ 4,980,861.66	\$ 6,785,441.55	\$ -	\$ 74,174,553.10

Negative Cash Notes follow this presentation.

Notes on Negative Cash Balances

- (1)** The General Operating Fund may have a negative cash for the majority of the fiscal year awaiting property and sales tax collections. This is covered by the Contingency Fund and other General Fund Reserve Funds until those collections are received. As Contingency and General Reserves exceed this negative, the City is not utilizing restricted resources.
- (2)** These are reimbursable grant funds that utilize general pool monies initially to cover expenditures pending reimbursement from the granting agencies. Therefore, it is not uncommon for these to be negative until that reimbursement is received.
- (3)** This fund has operational deficits annually. At the end of the fiscal year it is restored by a General Fund Transfer.
- (4)** The Infrastructure Fund receives transfers from other funds to accomplish infrastructure projects. Those transfers are usually recorded when the projects nears completion or prior to mid-year budget preparation. Any negative in that fund will be eliminated at those times. Transfers from these funds (C.D.B.G., Gas Tax, Measure I, etc.) may go negative on cash pending collections of these revenues. In this way we can determine if obligations for projects are exceeding current resources.
- (5)** This debt service operation utilizes transaction and use taxes which are part of the sales tax and Successor Agency property taxes. These have been sufficient in prior fiscal years to cover the necessary debt service; however, they are not completely received until fiscal year-end. Once debt service is covered the excess will be transferred to the General Fund.

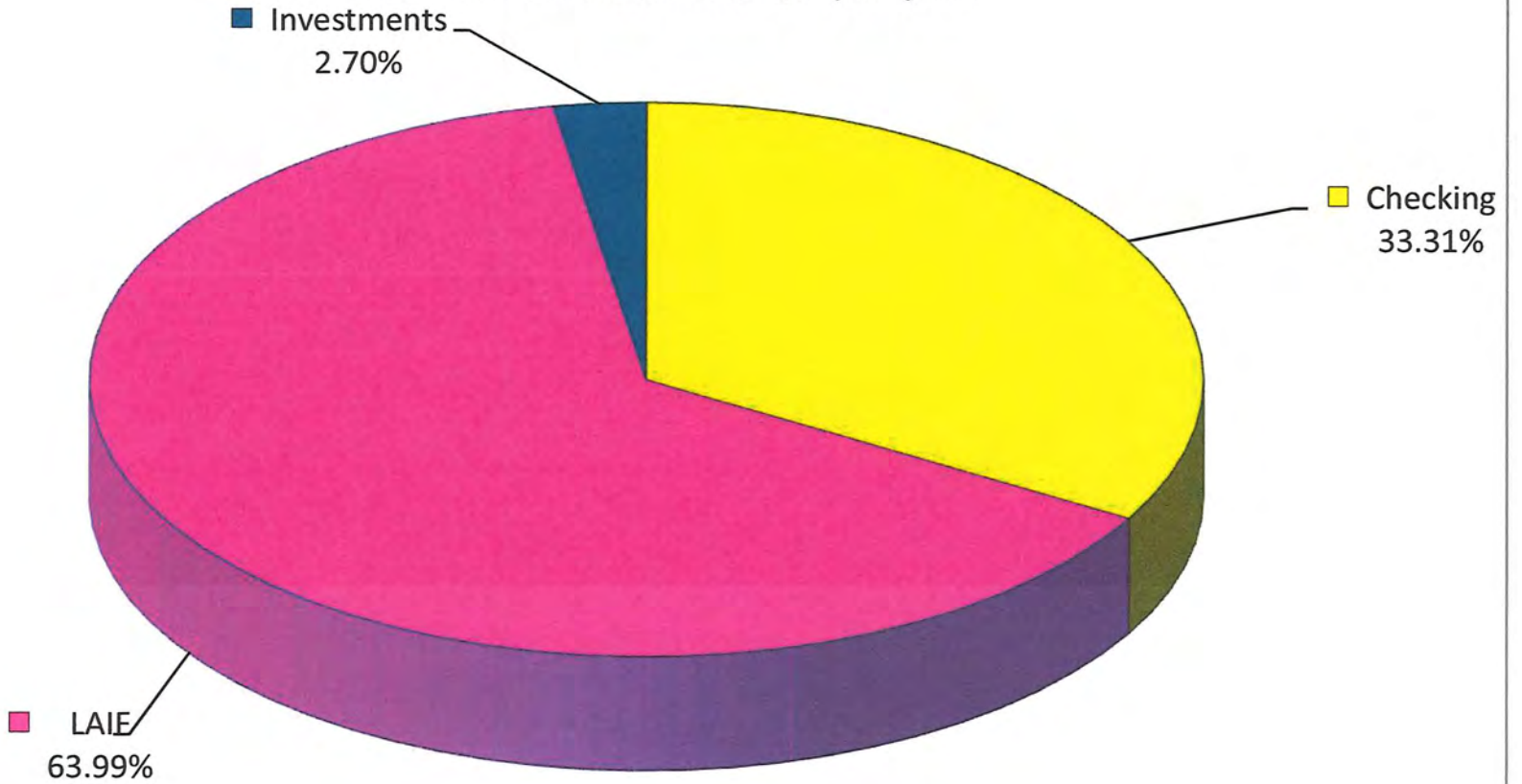
**CITY OF MONTCLAIR
STATEMENT OF CASH AND INVESTMENT ACCOUNTS
AS OF February 29, 2024**

	<u>Par Value</u>	<u>Purchase Date</u>	<u>Maturity Date</u>	<u>Coupon Interest Rate</u>	<u>Current Market Value</u>	<u>Balance at Cost</u>	<u>Totals</u>
CHECKING ACCOUNT							
Checking Account							\$ 24,702,824.22
Asset Seizure Account							\$ 2,472.45
CASH W/FISCAL AGENT, CD's, LAIF DEPOSITS, AND SHORT-TERM U.S. AGENCY SECURITIES							
Local Agency Investment Fund (LAIF)				4.220%	46,555,993.51	47,469,256.43	
First American Government					2,000,000.00	2,000,000.00	
					<u>\$ 48,555,993.51</u>		\$ 49,469,256.43
U.S. AGENCY SECURITIES							
					<u>\$ -</u>		<u>\$ -</u>
TOTAL							<u>\$ 74,174,553.10</u>

Current market values obtained from US Bank.

**CITY OF MONTCLAIR
CASH AND INVESTMENTS BY TYPE
February 29, 2024**

Total Cash & Investments \$74,174,553



**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
TREASURER'S REPORT
FOR THE MONTH ENDING**

February 29, 2024

**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
STATEMENT OF CASH BY FUND
February 29, 2024**

COMBINED OPERATING FUND

Operating	<u>(17,419.08)</u>	\$ (17,419.08)
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LRPRP Fund

Operating	<u>0.00</u>	\$ 0.00
-----------	-------------	---------

RORF

	3,499,779.34	
RORF Area I	0.00	
RORF Area II	0.00	
RORF Area III	0.00	
RORF Area IV	0.00	
RORF Area V	0.00	
RORF Area VI	0.00	
		\$ 3,499,779.34

TOTAL CASH

\$ 3,482,360.26

**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
STATEMENT OF CASH
February 29, 2024**

Checking Account

US Bank

3,482,360.26

TOTAL CASH

3,482,360.26

NOTE:

In accordance with State law, the Successor Agency receives the monies necessary to cover its obligations for the upcoming six month period. The monies are received in January and June of each year.

The Successor Agency has sufficient funds available to meet expenditures during the upcoming six-month period.

**CITY OF MONTCLAIR AS SUCCESSOR TO
THE REDEVELOPMENT AGENCY
WARRANT REGISTER**

FOR THE MONTH ENDING

February 29, 2024

City of Montclair
Final Warrant Register
Council Date 03/18/2024
Regular Warrants
Checking Account: Successor to the RDA

	<u>Warrants</u>	<u>US Bank transfers</u>	<u>Area Totals</u>
SRDA Combined Operating Fund	2,175.00	7,445.19	9,620.19
RORF (Redevelopment Obligation Retirement Funds)	0.00	0.00	0.00
	<u>2,175.00</u>	<u>7,445.19</u>	

February 2024 Total

9,620.19

Note: Reimburse City for 2/0 payrolls
Reimburse City for 2/15 payrolls
Reimburse City for 2/29 payrolls

Vice Chair Johnson

Accounts Payable

Checks by Date - Summary by Check Number

User: cramirez
Printed: 3/7/2024 11:37 AM



Check No	Vendor No	Vendor Name	Check Date	Check Amount
8185	USB001	U.S. Bank	02/08/2024	2,175.00
Report Total (1 checks):				2,175.00

Book Transfer Daily Activity Detail

CITY OF MONTCLAIR

SinglePoint

Reported Activity From 02/01/2024 To 02/29/2024

Printed on 03/07/2024 at 11:58 AM PST



Effective Date	Amount	From: Debit Account Number	To: Credit Account Number	Status
02/29/2024	\$2024.47	153499275813	153499275805	Completed

Debit Account Name CITY OF MONTCLAIR SUCCESSOR AGENCY
Debit Account Type DDA
Credit Account Name CITY OF MONTCLAIR GENERAL ACCOUNT
Credit Account Type DDA
Template Name .
Memo Reimb City for 02/29/24 Payroll
Initiate Date 02/29/2024
Initiate Time 08:06PM CDT
Initiated By JKULBECK
Completed Date 02/29/2024
Completed Time 08:06PM CDT

Effective Date	Amount	From: Debit Account Number	To: Credit Account Number	Status
02/15/2024	\$3396.26	153499275813	153499275805	Completed

Debit Account Name CITY OF MONTCLAIR SUCCESSOR AGENCY
Debit Account Type DDA
Credit Account Name CITY OF MONTCLAIR GENERAL ACCOUNT
Credit Account Type DDA
Template Name .
Memo Reimb City for 02/15/24 Payroll
Initiate Date 02/15/2024
Initiate Time 08:03PM CDT
Initiated By JKULBECK
Completed Date 02/15/2024
Completed Time 08:03PM CDT

Effective Date	Amount	From: Debit Account Number	To: Credit Account Number	Status
02/01/2024	\$2024.46	153499275813	153499275805	Completed

Debit Account Name CITY OF MONTCLAIR SUCCESSOR AGENCY
Debit Account Type DDA
Credit Account Name CITY OF MONTCLAIR GENERAL ACCOUNT
Credit Account Type DDA
Template Name .
Memo Reimb City for 02/01/24 Payroll
Initiate Date 02/01/2024
Initiate Time 05:32PM CDT
Initiated By JKULBECK
Completed Date 02/01/2024
Completed Time 05:32PM CDT

Total Number of Book Transfers: 3
Total Amount of Book Transfers: \$7,445.19

--- End of Report ---

**CITY OF MONTCLAIR
HOUSING CORPORATION
TREASURER'S REPORT
FOR THE MONTH ENDING**

February 29, 2024

TABLE OF CONTENTS

SCHEDULE 1 - STATEMENT OF CASH AND INVESTMENTS

CASH AND INVESTMENTS GRAPH

Schedule 1

CITY OF MONTCLAIR
HOUSING CORPORATION
STATEMENT OF CASH AND INVESTMENTS
February 29, 2024

	<u>Interest Rate</u>	<u>Market Value</u>	<u>Book Value</u>
Checking Account			
US Bank			105,759.35
Investments			
LAIF	4.22%	1,074,165.02	<u>1,081,145.84</u>
TOTAL CASH & INVESTMENTS			<u><u>1,186,905.19</u></u>

NOTE:

Pursuant to the Corporation's Investment Policy, all moneys are invested in banks, the Local Agency Investment Fund, and in securities with maturities of no greater than three years.

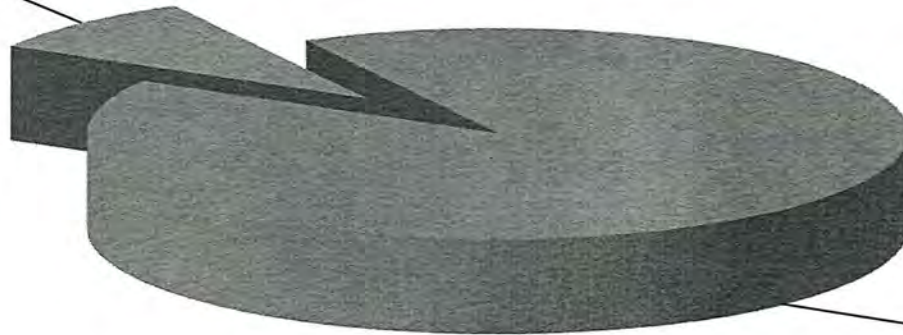
The Corporation has sufficient funds available to meet expenditures during the upcoming six-month period.

The Corporation is in compliance with the internal control procedures set forth in its Investment Policy.

**CITY OF MONTCLAIR
HOUSING CORPORATION
CASH AND INVESTMENTS GRAPH
February 29, 2024**

Total Cash & Investments - \$1,186,905

Checking Acct
8.9%



Local Agency Investment
Fund
91.1%

**CITY OF MONTCLAIR
HOUSING CORPORATION
WARRANT REGISTER**

FOR THE MONTH ENDING

February 29, 2024

City of Montclair
Final Warrant Register
Council Date 03/18/2024
Regular Warrants
Checking Account: MHC

<u>Warrants</u>	<u>ACH Transfers</u>	<u>Voided Checks</u>	<u>US Bank transfers</u>	<u>Totals</u>
108,616.97	0.00	0.00	51,000.00	159,616.97

February 2024 Total

159,616.97

US Bank transfers:

Vice Chair Johnson

Accounts Payable

Checks by Date - Summary by Check Number

User: cramirez
Printed: 3/7/2024 11:35 AM



Check No	Vendor No	Vendor Name	Check Date	Check Amount
5612	ACI0001	ACI Flooring, Inc.	02/01/2024	3,928.90
5613	Arti005	Artic Plumbing And Drain Cleaning	02/01/2024	5,830.00
5614	Dina001	Dina Contractor Services	02/01/2024	13,417.35
5615	Hugo001	Hugo Jaramillo	02/01/2024	16,601.25
5616	Mont002	City of Montclair	02/01/2024	711.10
5617	Nagc006	NAGCO GLASS	02/01/2024	225.00
5618	Dina001	Dina Contractor Services	02/13/2024	7,359.30
5619	Hugo001	Hugo Jaramillo	02/13/2024	16,601.25
5620	land012	Landscape Maintenance Unlimited	02/13/2024	4,690.00
5621	mont002	City of Montclair	02/13/2024	11,695.08
5622	mont074	Monte Vista Water District	02/13/2024	4,791.75
5623	Perf003	Performance Construction & Remodeling I	02/13/2024	3,500.00
5624	SCE-Res	Southern California Edison Co	02/13/2024	590.83
5625	sout018	Southern California Edison Co	02/13/2024	803.77
5626	Dina001	Dina Contractor Services	02/29/2024	16,822.50
5627	Sout021	Southern California Gas Co	02/29/2024	1,048.89

Report Total (16 checks):

108,616.97

Book Transfer Daily Activity Detail

CITY OF MONTCLAIR

SinglePoint

Reported Activity From 02/01/2024 To 02/29/2024

Printed on 03/07/2024 at 11:58 AM PST



Effective Date	Amount	From: Debit Account Number	To: Credit Account Number	Status
02/21/2024	\$51000.00	153499275821	153499275805	Completed

Debit Account Name MONTCLAIR HOUSING CORPORATION
Debit Account Type DDA
Credit Account Name CITY OF MONTCLAIR GENERAL ACCOUNT
Credit Account Type DDA
Template Name .
Memo Reimb City for Portion of General Insurance
Initiate Date 02/21/2024
Initiate Time 10:55AM CDT
Initiated By JKULBECK
Completed Date 02/21/2024
Completed Time 10:55AM CDT

Total Number of Book Transfers: 1
Total Amount of Book Transfers: \$51,000.00

--- End of Report ---

**CITY OF MONTCLAIR
HOUSING AUTHORITY
TREASURER'S REPORT
FOR THE MONTH ENDING**

February 29, 2024

Schedule 1

**CITY OF MONTCLAIR
HOUSING AUTHORITY
STATEMENT OF CASH
February 29, 2024**

	<u>Amount</u>
Checking Account	
US Bank	3,183,037.57
TOTAL CASH	\$ <u>3,183,037.57</u>

NOTE:

During the upcoming month, surplus moneys will be invested in the Local Agency Investment Fund. The MHA has sufficient monies available to meet expenditures during the next six month period.

**CITY OF MONTCLAIR
HOUSING AUTHORITY
WARRANT REGISTER**

FOR THE MONTH ENDING

February 29, 2024

City of Montclair
Final Warrant Register
Council Date 03/18/2024
Regular Warrants
Checking Account: MHA

<u>Warrants</u>	<u>Voided Checks</u>	<u>US Bank transfers - out.</u>	<u>Totals</u>
0.00	0.00	0.00	0.00

February 2024 Total 0.00

Vice Chair Johnson