

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, JUNE 1, 2020, AT 7:00 P.M. CONDUCTED REMOTELY PURSUANT TO GOVERNOR NEWSOM'S EXECUTIVE ORDERS SUSPENDING CERTAIN ASPECTS OF THE BROWN ACT DURING THE COVID-19 STATE OF EMERGENCY AND MANDATING STAY-AT-HOME SAFETY PROTOCOLS

I. CALL TO ORDER

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

II. INVOCATION

Mr. Rajan Zed, Universal Society of Hinduism, gave the invocation.

III. PLEDGE OF ALLEGIANCE

Council Member Johnson led meeting participants in the Pledge.

IV. ROLL CALL

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

Staff: City Manager/Executive Director Starr; City Attorney Robbins; City Clerk Phillips

V. PRESENTATIONS

A. San Bernardino County COVID-19 Update by Fourth District Supervisor and Chair of the Board of Supervisors Curt Hagman

Supervisor Hagman stated he supports the protests taking place throughout the country, but not those using the protests as a distraction to commit criminal activities. He advised individuals who were looting and rioting in San Bernardino have been arrested and are currently still in jail. He advised several of those arrested also tested positive for COVID-19.

Supervisor Hagman reported the following information related to the County's COVID-19 response:

- The number of positive cases throughout the county continues to steadily increase, which was expected due to the relaxation of stay-at-home orders and increased activity of residents.
- The County has opened its office to the public with increased safety and security measures in place.
- The Board of Supervisors will be holding its first in-person meeting tomorrow and will be open to the public.

Council Member Ruh advised the numbers of positive COVID-19 cases began going up at an increasing rate after the county began reopening, not as a result of the protests. He stated he disagrees with the County's decision to suspend the requirement to wear face masks, especially during this reopening phase. He stated it is imperative that all workers can feel safe and are not put in danger by having to enforce a company policy to protect themselves instead of being able to rely on a County requirement. He stated he is concerned by the high number of infections and the inadequate level of testing available in the County.

Mayor Dutrey advised the City Council will be considering approving a contract with the County this evening to open a daily testing location at the Montclair Kids Station located at the **Montclair Transcenter**.

Supervisor Hagman empathized with Council Member Ruh's concerns regarding the relaxation of the County's face mask rules, stating he had voted to keep the mandate in place; however, due to the loud and consistent opposition and pressure from the public, the County has taken a libertarian perspective by urging residents to be responsible for their own health by taking precautions against contracting the virus. He expressed he is also frustrated by the slow test results, noting quick-result tests were promised several weeks ago that are still not available; however, the County is in line to receive better testing supplies and is working on opening more testing sites.

VI. PUBLIC COMMENT

A. **Mr. Leonard Paulitz**, 10166 Poulsen Avenue, Montclair, spoke in opposition of permitting the sale of cannabis in the City of Montclair. He thanked staff for providing seniors with meals during this critical time. He stated he would be mailing to the City his comments related to Item X-A.

B. **Mr. Matt Muncy**, resident and **Montclair High School** teacher, thanked the Montclair Police Department for keeping the community safe and commended the School Resource Officers for their work and professionalism.

He condemned the murder of **Mr. George Floyd** at the hands of a Minneapolis police officer and expressed his hope that the City of Montclair would never allow such an atrocity to occur. He requested the City take proactive measures to prevent such incidents, noting he posted a letter containing his ideas on the community-run **Facebook** group, *Montclair Connects*.

Mayor Dutrey requested **Mr. Muncy** provide a copy of his letter to City Clerk Phillips to distribute to the City Council and Executive Director of Public Safety/Police Chief Avels, and suggested **Mr. Muncy** meet with Police Chief Avels to discuss his ideas.

C. **Mr. Bruce Culp**, 9016 Sycamore Avenue, Montclair, spoke in support of the protests taking place across the nation and stated his opinion that the riots and looting are not the fault of the protesters, but of the police officers involved with the death of **Mr. Floyd**, and of the hundreds of years of oppression and institutionalized racism faced by African Americans.

D. **Mr. Thuan Nguyen**, resident, spoke in opposition of the City's curfew, citing concerns relating to the over-policing of a community that has shown no evidence of violent unrest, and on his belief that curfews create more tension between police officers and the communities they serve. He stated that during his participation in yesterday's peaceful protest that traveled from Montclair to Pomona, he felt intimidated by the sight of Montclair police officers in riot gear despite a lack of violent behavior from protesters. He requested the City engage the community in conversations to find the appropriate level of policing to maintain the community's trust.

VII. PUBLIC HEARINGS

A. **First Reading — Consider Ordinance No. 20-990 Amending Certain Sections of Chapter 2.12 of the Montclair Municipal Code Requiring Electronic Filing for Certain Documents Required to be Filed by Elected Officers, Candidates, Committees, and Other Persons or Entities in Relation to General Municipal Elections in the City of Montclair and Making Other Amendments and Corrections to the Code in Relation Thereto**

Consider Setting a Public Hearing for Second Reading and Adoption of Ordinance No. 20-990 for Monday, June 15, 2020, at 7:00 p.m.

Mayor Dutrey declared it the time and place set for public hearing related to Ordinance No. 20-990 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.

Council Member Ruh asked if the electronic filing could simply be an internal policy.

City Manager Starr advised the acceptance of these filings electronically must be authorized via ordinance.

Council Member Ruh expressed concerns that many do not have access to computers or internet.

City Clerk Phillips stated she is happy to assist any filer who brings in a paper filing with inputting it into the system electronically if they do not have the ability to access the system at home.

Council Member Ruh stated he appreciates City Clerk Phillips's willingness to assist; however, he was not assured that would always be the case with future City Clerks. He stated he would prefer the Ordinance be amended to allow the option for paper filing.

City Clerk Phillips stated that the Ordinance can be revised to have filers opt-in to electronic filing, where those who file electronically would be required to continue filing in that format.

Council Member Ruh stated he would prefer that, and requested this item be brought back with an amendment.

Moved by Council Member Ruh, seconded by Council Member Martinez, and carried unanimously by the following roll call vote that Ordinance No. 20-990 be amended to allow for a paper filing option of the documents, and that the public hearing for first reading of Ordinance No. 20-990 be continued to the June 15, 2020 meeting:

AYES: Martinez, Johnson, Ruh, Raft, Dutrey
NOES: None
ABSTAIN: None
ABSENT: None

VIII. CONSENT CALENDAR

Moved by Council Member/Director Ruh, seconded by Council Member/Director Johnson, and carried unanimously by the following roll call vote for approval of the Consent Calendar, as presented:

AYES: Martinez, Johnson, Ruh, Raft, Dutrey
NOES: None
ABSTAIN: None
ABSENT: None

A. Approval of Minutes

1. Regular Joint Meeting — May 18, 2020

The City Council, Successor Agency Board of Directors, Montclair Housing Corporation Board of Directors, Montclair Housing Authority Commissioners, and Montclair Community Foundation Board of Directors approved the minutes of the May 18, 2020 regular joint meeting.

B. Administrative Reports

1. Approval of Lot Line Adjustment No. 2020-1 Affecting Two Parcels Located on the Southeast Corner of Holt Boulevard and Monte Vista Avenue and Authorizing Recordation of the Lot Line Adjustment with the Office of the San Bernardino County Recorder

The City Council approved of Lot Line Adjustment No. 2020-1

affecting two parcels located on the southeast corner of Holt Boulevard and Monte Vista Avenue and authorizing recordation of the Lot Line Adjustment with the Office of the San Bernardino County Recorder.

2. Authorizing the Acceptance of a \$49,886 Award from the Bureau of Justice Assistance FY 2020 Coronavirus Emergency Supplemental Funding Program

Authorizing a \$49,886 Appropriation from the Bureau of Justice Assistance Fund to Purchase a LexisNexis Coplogic Desk Officer Reporting System, Electrostatic Sprayers, Disinfecting Solutions, and a Gas Detector

The City Council took the following actions:

- (a) Authorized the acceptance of a \$49,886 award from the Bureau of Justice Assistance FY 2020 Coronavirus Emergency Supplemental Funding Program.
- (b) Authorized a \$49,886 appropriation from the Bureau of Justice Assistance Fund to purchase a LexisNexis Coplogic Desk Officer Reporting System, electrostatic sprayers, disinfecting solutions, and a gas detector.

3. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated June 1, 2020, totaling \$867,719.07; and the Payroll Documentation dated April 26, 2020, amounting to \$611,993.47 gross, with \$425,747.82 net being the total cash disbursement.

C. Agreements

1. Approval of Agreement No. 20-43 with Consolidated Fire Agencies of San Bernardino County (CONFIRE) for Continued Dispatch and Communication Services

The City Council approved of *Agreement No. 20-43* with Consolidated Fire Agencies of San Bernardino County (CONFIRE) for continued dispatch and communication services.

2. Approval of Agreement No. 20-44 Amending Agreement No. 19-52 with ServiceMaster 360 Premier Cleaning to Provide Increased Custodial Services at the Family Resource Center (FRC)

The City Council approved of *Agreement No. 20-44* amending *Agreement No. 19-52* with ServiceMaster 360 Premier Cleaning to provide increased custodial services at the Family Resource Center (FRC).

3. Approval of Agreement No. 20-45 with Ontario-Montclair School District to Provide Navigation Services for the Homeless Emergency Aid Program

The City Council approved of *Agreement No. 20-45* with Ontario-Montclair School District to provide navigation services for the Homeless Emergency Aid Program.

4. Approval of Agreement No. 20-54 with San Bernardino County Department of Public Health Preparedness and Response Program for Use of the Montclair Kids Station

The City Council approved of *Agreement No. 20-54* with San Bernardino County Department of Public Health Preparedness and Response Program for use of the Montclair Kids Station.

D. Resolutions — None

IX. PULLED CONSENT CALENDAR ITEMS — None

X. BUSINESS ITEMS

City Attorney Robbins advised the City Council may consider Item X-B at this time, which was not listed on the posted agenda, pursuant to the provisions of Government Code Section 54954.2(b). If a determination is made by two-thirds vote of the members of the legislative body present at the meeting that there is a need to take immediate action and the need for action came to the attention of the City subsequent to the posting of the agenda, the following item can be added to the agenda.

B. Consider Voting to Bring the Following Item Before the City Council for Consideration as an Urgency Measure:

Consider Adoption of Resolution No. 20-3271 Ratifying Emergency Order No. 06-01-20-1 Proclaiming the Existence of a Local Emergency and Declaring a Citywide Curfew as Follows:

1. **Monday, June 1, 2020, from 6:00 p.m. to Tuesday, June 2, 2020, at 5:00 a.m.**
2. **Tuesday, June 2, 2020, from 7:00 p.m. to Wednesday, June 3, 2020, at 5:00 a.m.**

Moved by Council Member Ruh that there is a need to take immediate action and the need for action came to the attention of the City subsequent to the posting of the agenda, seconded by Council Member Johnson, and carried by a unanimous roll call vote of 5 to 0, the City Council brought Resolution No. 20-3271 before the City Council for consideration as an urgency measure.

Council Member Martinez asked if having a nighttime curfew alleviates pressure on the Police Department, or makes it worse by forcing the police to patrol and accost residents on the street.

City Manager Starr advised the curfew provides a greater opportunity for the Police Department to focus on nighttime criminal activities, noting it is anticipated that a majority of the community is and will continue complying with the curfew order until morning.

Council Member Martinez asked is there is a greater concern for violence when protests occur at night.

City Manager Starr indicated that, while violence can and does occur during the day as well as in the evening hours, historically there is a greater inclination for violent activity to occur at night under the cover of darkness.

Council Member Ruh stated Los Angeles County is under a countywide curfew from 6:00 p.m. to 6:00 a.m., and expressed concern that those wanting to cause trouble in neighboring Los Angeles County cities may come to Montclair instead. He noted that, while he does not like curfews, he sees a reason for one in this instance.

Mayor Pro Tem Raft stated that there are reports that those who are looting and rioting are coming from outside of the communities in which those activities are occurring, and feels that having a curfew is a good idea.

Mayor Dutrey encouraged those in Montclair who wish to participate in a peaceful protest to contact him and inform the Police Department, and they will support the protest and ensure it is done safely. He acknowledged that emotions are currently running high throughout the nation and it is in everyone's interest to prevent violent agitators from hijacking peaceful protests. He added the emergency order allows residents to travel to and from work and stores, and the **Omnitrans** bus system will remain in operation throughout local curfews.

Moved by Council Member Ruh, seconded by Mayor Pro Tem Raft, and carried by a roll call vote of 4 to 1 (Council Member Martinez dissenting), the City Council adopted Resolution No. 20-3271 Ratifying Emergency Order No. 06-01-20-1 Proclaiming the Existence of a Local Emergency and Declaring a Citywide Curfew as Follows:

1. Monday, June 1, 2020, from 6:00 p.m. to Tuesday, June 2, 2020, at 5:00 a.m.
2. Tuesday, June 2, 2020, from 7:00 p.m. to Wednesday, June 3, 2020, at 5:00 a.m.

A. Consider Receiving and Filing a Report for a Proposed November 3, 2020, Ballot Measure on District Tax No. 2 for the City of Montclair

Consider Approval of Agreement No. 20-50 with Cerrell for Community Education and Outreach Services Related to a Ballot Measure to Establish District Tax No. 2

Consider Authorizing a \$57,200 Allocation, Including a \$10,000 Contingency, from the General Fund Reserve Fund for Costs Related to Agreement No. 20-50

Consider Providing the City Manager with Direction on a Proposed District No. 2 Tax Rate

Mr. Bruce Culp, 9016 Sycamore Avenue, Montclair, spoke in opposition to a new tax, stating the results of the survey performed in January are no longer relevant in the current pandemic situation. He admonished the City Council for not considering other revenue options first, like allowing for the sale and taxation of cannabis in the City. He also questioned the City Council's legal authority to vote to place this item on the ballot having two appointed Council Members.

Council Member Martinez stated it was her understanding that more than 80 percent of sales tax revenue comes from those residing outside of the City. She emphasized the importance that sales tax revenues fund essential services within the City like police and fire, road maintenance, and senior and youth services. She stated she feels it is unnecessary to spend more money on surveys when the initial survey shows overwhelming support of, satisfaction with, and desire to maintain and improve City services.

Council Member Johnson asked that City Attorney Robbins respond to **Mr. Culp's** statement regarding appointed Council Members.

City Attorney Robbins advised that appointed Council Members Johnson and Martinez were validly appointed pursuant to the Government Code, and that their votes count just as much as an elected Council Member.

Mayor Dutrey stated that even before the pandemic came into play, the City was already facing future economic hardships due to CalPERS costs increasing dramatically each year, and this pandemic has made the City's need for new revenue a vital issue. He noted the City was preparing to repair roads and improve parks throughout the community, make police salaries competitive, and restore the medic unit back to the Fire Department. He stated that the City is now facing severe budget cuts, layoffs, and a reduction of services. He noted the federal government has not provided any assistance to local governments for lost revenue, and in addition to the reduced sales taxes that will be seen for the foreseeable future, the City may lose many of its high-profile retailers like **Nordstrom, JC Penney, and Macy's**; plans to expand **Montclair Place** are being put on hold; and small businesses throughout the community are going out of business.

Mayor Dutrey stated that the residents of Montclair will decide the future of the City. He noted, based on the survey results, the residents are most supportive of a one percent rate. Should it pass, the current local sales tax rate of 0.25 percent would increase to 1.25 percent, and would provide sufficient funds to get through the financial crisis in Fiscal Year 2021-22, maintain and enhance City services, continue to perform improvements to the City's infrastructure and streets, expand economic development throughout the business community, and improve the overall quality of life for residents of Montclair.

City Manager Starr advised the City is estimating a \$7 million dollar funding gap for the current FY 2020-21 budget proposal, which is a significant amount of money that will certainly lead to a loss of employees and a reduction of services. He advised that the City's 232-employee workforce was reduced to 173 during the great recession of 2007, and is looking at doing a similarly impactful reduction again, which will include layoffs, attrition, and hiring freezes. He noted the City sustained its massively reduced workforce for over nine years. He advised the current situation may lead to another drop below 150 employees. He advised further reductions to the workforce will impact services unless the City can find alternative ways to generate revenue. The new tax district at one percent was initially estimated to generate \$9 million, but is now expected to generate up to \$7 million with the reduced estimate, which would close the gap for the current FY 2020-21 budget proposal.

City Manager Starr stated that currently, the 0.25 percent Transactions and Use Tax (TUT) is being used to make the \$2.7 million annual payment on the 2014 bond issue that funds capital improvement projects; however, it is estimated the TUT will only produce \$1.8 million next year, and the remaining balance will need to be paid from the General Fund, which is heavily overburdened. He emphasized the importance of making the bond payments, noting the City cannot afford to default, making it a first priority.

Mayor Dutrey stated the cannabis regulations as an alternative revenue source is not off the table and it is his understanding that the regulations are still under legal review; however, the COVID-19 pandemic and ballot measure timeline has diverted much of staff's time and attention. He asked City Manager Starr if the cannabis issue would be revisited soon.

City Manager Starr stated he anticipates the item will be ready for City Council consideration by the end of summer.

Council Member Ruh stated he is willing to communicate the extent of local government's need for federal funding to congressional representatives **Congresswoman Norma Torres**, who represents the district in which Montclair resides and sits on the Appropriations Committee; and **Congresswoman Judy Chu**, who represents neighboring areas and serves on the Ways and Means Committee.

Mayor Dutrey stated he would be in favor of setting the proposed tax rate at one percent and asked the Council for their thoughts on the rate.

Council Member Johnson stated that, based on the survey, residents had the highest preference for a one percent tax rate and the lowest preference for 0.75 percent, with support for 0.50 percent in between. She stated she would support the one percent rate.

Mayor Pro Tem Raft stated she would support a one percent rate, noting she knows many residents who live in Montclair, love their city, and heavily rely on City services.

Council Member Ruh stated he is in support of one percent, and would be supportive of 1.25 percent to capture the remaining local tax rate for the City.

Council Member Martinez stated she would support the residents' choice of one percent.

Moved by Mayor Dutrey, seconded by Mayor Pro Tem Raft, and carried unanimously by a 5 to 0 roll call vote, the City Council took the following actions:

1. Received and filed a report for a proposed November 3, 2020, ballot measure on District Tax No. 2 for the City of Montclair.
2. Approved Agreement No. 20-50 with Cerrell for Community Education and Outreach Services Related to a Ballot Measure to Establish District Tax No. 2.
 - a. Authorized a \$57,200 allocation, including a \$10,000 contingency, from the General Fund Reserve Fund for costs related to Agreement No. 20-50.
3. Directed the City Manager to set the Proposed District No. 2 tax rate at one percent (1.00%).

XI. COMMUNICATIONS

A. City Attorney — None

B. City Manager/Executive Director

1. **COVID-19 Update — None**

C. Mayor/Chair — None

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

1. Council Member/Director Martinez thanked residents who attended tonight's virtual meeting and voiced their opinions on matters to be considered by the City Council.
2. Council Member/Director Ruh stated he is glad to hear the students of **Montclair High School** chose to organize a peaceful demonstration, noting the Police Department has a concern for the safety of protestors and the community. He spoke in support of protest as a form of activism and condemned racial injustice and complicit silence.
3. Council Member/Director Johnson referenced positive interactions she and her children have experienced with Montclair police officers while living in this community in contrast to her son's experiences after moving to another city and being racially profiled and pulled over by police over thirty times in a year without a single citation being issued. She voiced her frustrations with the generational history of institutionalized racism and of black people being killed. She spoke in support of protestors who want to have their voices heard, noting this does not include looters and rioters, and urged those who want their voices heard to register to vote and vote in their local, state, and federal elections, and attend local meetings to have their voices heard by decision-makers. She also encouraged those who want to see change to take action locally by offering help and support within their own communities.

E. Committee Meeting Minutes

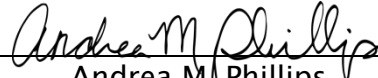
1. **Minutes of Public Works Committee Meeting of February 20, 2020**

The City Council received and filed the minutes of the Public Works Committee meeting of February 20, 2020, for informational purposes.

XII. ADJOURNMENT

At 8:51 p.m., Mayor/Chair Dutrey adjourned the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commissioners, and Montclair Community Foundation Board.

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



Andrea M. Phillips
City Clerk