

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, NOVEMBER 16, 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

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I. CALL TO ORDER

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

II. INVOCATION

The invocation was by **Reverend Maggie Burbank Yenoki, Monte Vista Unitarian Universalist Congregation.**

III. PLEDGE OF ALLEGIANCE

Council Member Ruh 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

City Manager/Executive Director Starr; Director of Administrative Services and Human Resources Hamilton; Finance Manager Kulbeck; Public Works Director/City Engineer Castillo; Community Development Director Diaz; Deputy Director of Community and Economic Development Caldwell; Human Services Director Richter; Senior Management Analyst Fuentes; City Attorney Robbins; City Clerk Phillips

V. PRESENTATIONS — None

VI. PUBLIC COMMENT

A. **Mr. Thuan Nguyen**, resident, reminded the City Council that last month, he asked the City to recognize October as LGBTQ+ History Month, and since then he has discovered Council Member-Elect **Ben Lopez's** past anti-LGBTQ advocacy, citing statements by **Mr. Lopez** published in over a dozen articles dating back to 2003 condemning the gay community, school curriculum that recognizes LGBTQ history, and gay marriage. He requested each member of the City Council state where they stand on LGBTQ issues and how they would make Montclair more inclusive and welcoming for LGBTQ neighbors and other underrepresented communities.

B. **Mr. Benjamin Wood**, resident, stated he feels it was appropriate for **Reverend Yenoki** to provide tonight's invocation, noting the **Monte Vista Unitarian Universalist Congregation** is a welcoming and affirming place for the LGBTQ community, and is perhaps the only congregation in the City that performs gay marriages. He stated the revelation of **Mr. Lopez's** anti-LGBT convictions only adds to his existing concerns regarding **Mr. Lopez's** election.

**Mr. Wood** stated he witnessed **Mr. Lopez** electioneering, as defined by Section 319.5 of the Elections Code, outside of a polling place earlier this year during the primary election. He advised that **Mr. Lopez** was on the ballot in that election for the Republican Central Committee, and when confronted about his illegal activities, **Mr. Lopez** was dismissive of the accusation. **Mr. Wood** stated the *San Bernardino County Sentinel* has published several articles discussing **Mr. Lopez's** involvement with other election schemes.

- C. **Mr. Bruce Culp**, resident, stated he opposes the proposal to alter the street sweeping parking ticketing schedule to every other week, which was discussed at the last Council Meeting, stating it would only cause more confusion. He asked whether parking tickets are issued for cars that park after the street sweeper has passed, and how residents could find out when that has happened.

City Manager Starr advised police cadets follow the street sweeper and ticket the cars that are parked on the street when the sweeper passes, and staff is currently exploring the possibility of a GPS tracking system so residents can check if it has passed.

## VII. PUBLIC HEARINGS

- A. **Consider Setting a Public Hearing for Monday, December 7, 2020, and Continuing the Review of *Resolution No. 20-3285 Approving Tentative Tract Map No. 20273 to Subdivide a 6.68-Acre Site into Six Numbered Parcels and One Lettered Lot for a Public Park and Approving Precise Plan of Design No. 2017-20 and a Parking Management Plan for a Mixed-Use Project Within the Station District of the North Montclair Downtown Specific Plan to Said Public Hearing***

Mayor Dutrey declared it the time and place for a public hearing related to Resolution No. 20-3285 and invited members of the audience to provide comments.

There being no one in the audience wishing to speak and no written comments submitted in relation to this item, Mayor Dutrey closed the public hearing and returned the matter to the City Council for consideration.

Mayor Pro Tem Raft stated she still would not support any deviation from the originally presented plan.

Moved by Council Member Ruh, seconded by Council Member Johnson, and carried 4-1 with Mayor Pro Tem Raft dissenting, the City Council set a public hearing for Monday, December 7, 2020, at 7:00 p.m. and continued the review of Resolution No. 20-3285 approving Tentative Tract Map No. 20273 to subdivide a 6.68-Acre Site into six numbered parcels and one lettered lot for a public park and approving Precise Plan of Design No. 2017-20 and a Parking Management Plan for a mixed-use project within the Station District of the North Montclair Downtown Specific Plan to said public hearing.

- B. **First Reading — Consider Ordinance No. 20-994 Amending Section 3.36.050 (Telephone Users Tax) of the Montclair *Municipal Code* to Provide Technical Clarification in Conformity with Existing Law**

**Consider Setting a Public Hearing for Second Reading and Adoption of Ordinance No. 20-994 for Monday, December 7, 2020, at 7:00 p.m.**

Mayor Dutrey declared it the time and place for a public hearing related to Ordinance No. 20-994 and invited members of the audience to provide comments.

**Mr. Bruce Culp**, resident, asked for clarification related to whether the tax rate would change regardless of the Council's action on this item.

City Manager Starr advised the Ordinance simply removes a reference to a now-irrelevant section of the tax code, and would not have any change to the way the tax is currently administered.

There being no one else in the audience wishing to speak and no written comments submitted in relation to this item, Mayor Dutrey closed the public hearing and returned the matter to the City Council for consideration.

Moved by Council Member Ruh, seconded by Mayor Pro Tem Raft, and carried that Ordinance No. 20-994 be read by number and title only, further reading be waived, and this be declared its first reading; and that the City Council set a public hearing for Monday, December 7, 2020, at 7:00 p.m. to consider second reading and adoption of Ordinance No. 20-994.

First reading of Ordinance No. 20-994 was unanimously adopted, and public hearing for second reading was set, by the following vote:

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

## **VIII. CONSENT CALENDAR**

City Attorney Robbins requested Item B-9 be pulled.

Moved by Council Member/Director Ruh, seconded by Mayor Pro Tem/Vice Chair Raft, and carried 5-0, the City Council approved the remainder of the Consent Calendar as presented:

### **A. Approval of Minutes**

#### **1. Regular Joint Meeting — November 2, 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 November 2, 2020 regular joint meeting.

### **B. Administrative Reports**

#### **1. Receiving and Filing of City Treasurer's Report**

The City Council received and filed the City Treasurer's Report for the month ending October 31, 2020.

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

The City Council approved the City Warrant Register dated November 16, 2020, totaling \$2,070,148.27; and the Payroll Documentation dated October 11, 2020, amounting to \$594,254.44 gross, with \$409,609.83 net being the total cash disbursement.

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

The City Council acting as successor to the Redevelopment Agency Board received and filed the Successor to the Redevelopment Agency Treasurer's Report for the month ending October 31, 2020.

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

The City Council acting as Successor to the Redevelopment Agency Board approved the Successor to the Redevelopment Agency Warrant Register dated 10.01.20-10.31.20 in the amounts of \$10,471.11 for the Combined Operating Fund and \$0.00 for the Redevelopment Obligation Retirement Funds.

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

The MHC Board received and filed the MHC Treasurer's Report for the month ending October 31, 2020.

#### **6. Approval of MHC Warrant Register**

The MHC Board approved the MHC Warrant Register dated 10.01.20-10.31.20 in the amount of \$50,234.20.

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

The MHA Commissioners received and filed the MHA Treasurer's Report for the month ending October 31, 2020.

**8. Approval of MHA Warrant Register**

The MHA Commissioners approved the MHA Warrant Register dated 10.01.20-10.31.20 in the amount of \$0.00.

**C. Agreements**

**1. Approval of Irrevocable Annexation Agreement No. 20-77-I-105 with Gerardo Zarate Chaves and Maria Miramontes for the Property Located at 11026 Roswell Avenue, Pomona (APN 1012-211-10-0000)**

The City Council approved of *Irrevocable Annexation Agreement No. 20-77-I-105* with Gerardo Zarate Chaves and Maria Miramontes for the property located at 11026 Roswell Avenue, Pomona (APN 1012-211-10-0000).

**2. Approval of Agreement No. 20-85 Amending Agreement No. 18-85 with Securitas Security Services USA, Inc. for Security Guard Services at the Montclair Transcenter**

The City Council approved of *Agreement No. 20-85* amending *Agreement No. 18-85* with Securitas Security Services USA, Inc. for security guard services at the Montclair Transcenter.

**3. Approval of Agreement No. 20-91 Amending Agreement No. 20-11 with Lexipol, LLC for Continued Management of the Police Department's Policy and Procedures Manual, Law Enforcement Daily Training Bulletins (DTB), and DTB Management Services**

**Authorizing a \$5,669.25 Appropriation from the Prop 30/AB 109 Fund for Daily Training Bulletins and DTB Management Services**

The City Council took the following actions:

- (a) Approved of *Agreement No. 20-91* amending *Agreement No. 20-11* with Lexipol, LLC for continued management of the Police Department's Policy and Procedures Manual, Law Enforcement Daily Training Bulletins (DTB), and DTB management services.
- (b) Authorized a \$5,669.25 appropriation from the Prop 30/AB 109 Fund for Daily Training Bulletins and DTB management services.

**D. Resolutions — None**

**IX. PULLED CONSENT CALENDAR ITEMS**

**B. Administrative Reports**

**9. Authorizing a \$15,825 Appropriation from the Contingency Fund for Emergency Replacement of the Heating and Air Conditioning Unit at the Kids Station Facility Located at the Montclair Transcenter**

City Attorney Robbins advised the City Council should amend the action on this item to make the determination that this matter affects public health and safety and necessitates emergency contracting procedures that waive the competitive bidding process.

Moved by Council Member Ruh, seconded by Mayor Pro Tem Raft, and carried unanimously, the City Council declared the need for emergency contracting procedures waiving the competitive bidding process as a matter of public health and safety, and authorized a \$15,825 appropriation from the Contingency Fund for emergency replacement of the heating and air conditioning unit at the Kids Station Facility Located at the Montclair Transcenter.

## **X. COMMUNICATIONS**

### **A. Department Reports — None**

### **B. City Attorney**

City Attorney Robbins requested the City Council meet in closed session for conference with legal counsel regarding the following two matters:

#### **1. Pending Litigation Pursuant to Government Code Section 54956.9(d)(2)**

*Panda Motors v. Montclair*

#### **2. Initiation of Litigation Pursuant to Government Code Section 54956.9(d)(4)**

*1 Potential Case*

### **C. City Manager/Executive Director**

#### **1. COVID-19 Update**

City Manager Starr reported an alarming spike in COVID-19 cases throughout the country and the region. The nationwide death rate from COVID-19 has reached over 250,000. In Montclair, there are currently 700 active cases with 34 deaths. He reported promising preliminary results from the two vaccines undergoing active trials, which are both showing over 90 percent efficacy rates. He noted that while a vaccine may be approved by the FDA as early as December, it will be given first to essential workers and high risk populations and will not be widely available to the general public until sometime next year.

Senior Management Analyst Fuentes advised most California counties have gone back into the purple tier, although San Bernardino County has never left that tier, and the state will be reducing the two two-week grace period to a one-week period in which each county will have to lower its seven-day positivity testing average below the required thresholds to avoid moving into a more restrictive tier. He noted the state is currently contemplating a statewide curfew. The City's COVID task force continues to reach out to and educate local businesses about guidance for operating and staff will continue to monitor the situation.

Council Member Johnson stated her understanding that now that businesses must comply with new operational guidance immediately, and asked how businesses could find out when their operations need to change.

Senior Management Analyst Fuentes advised the City continues to post information on social media. He noted the County has remained in the purple tier and not much has changed in terms of which businesses can operate and their operational requirements. He advised businesses can also subscribe to receive email notifications from the City, and staff will soon make a second attempt to contact local businesses and get them to sign up.

### **D. Mayor/Chair**

Mayor/Chair Dutrey made the following comments:

1. He noted COVID cases are now spiking, signaling the beginning of a dark winter as the number of cases and deaths are projected to double from now until March 2021. He noted Montclair has a population around 40,000 with 34 deaths, which is higher than the rate for other surrounding cities. He reported two instances within the City he is aware of where COVID orders are not being followed: a restaurant has been allowing patrons to eat inside, and a small church is holding indoor services. He urged residents to take this seriously,

warning that the upcoming holidays will likely include lots of family gatherings that will lead to more infections.

2. He stated the City, he, and his Council colleagues welcome all, and respect the LGBT community who live, work, and shop in Montclair. He stated there is no tolerance for racism or discrimination and there is an expectation for all current and future Council Members to adhere to those principles. He stated any anti-LGBT sentiments made by a sitting Council Member will be condemned. He noted the Montclair community is diverse and all are welcomed.
3. He congratulated Council Members Johnson and Martinez on their successful elections, noting they will no longer have "Appointed" in front of their Council Member titles.
4. He congratulated **Mr. Ben Lopez** on being elected after running several times. He commended all who ran and were not elected.
5. He stated with the passage of Measure L, Montclair officials now have the responsibility to utilize these new funds for the betterment of Montclair. He noted an advisory committee will soon be established to discuss and help to prioritize the appropriation of funds.
6. He stated today's tumultuous post-election environment is not healthy for democracy or national security. He stated as a strong country, we need to get along and respect one another's' views, and respect whoever is elected as president whether or not you support them or their policies. He stated the presidency is an office that should represent all Americans, not just those who voted for them.
7. He stated the current plan is to hold the next Council Meeting on December 7th in the Montclair Senior Center, and have the meeting streamed live on Facebook if possible. He noted Mayor Pro Tem Raft will also be recognized for her 28 years of service on the City Council.
8. He stated the December 21st and January 4th regular meetings are cancelled unless urgent business arises.

**E. City Council/Successor Agency Board/MHC Board/MHA Board/MCF Board**

1. Council Member/Director Martinez stated she believes diversity makes communities stronger, and the City needs to move toward not just acceptance, but gratitude for the LGBTQ+ community and its allies.
2. Council Member/Director Johnson made the following comments:
  - (a) She stated she feels this community is great because of its diversity with every ethnicity, culture, age, gender, and sexual orientation. She emphasized the need to strive toward not just acceptance, but deliberate inclusion for every group, and treat all with dignity and respect.

She asked if the City had issued a proclamation in October for LGBTQ+ History Month.

City Clerk Phillips stated the proclamation was made and staff is working with the principal to get the proclamation to the student.

Mayor Dutrey stated in 2021, the City will ensure those proclamations are made.
  - (b) She thanked all residents who voted for her. She stated she is beyond thankful and humbled.
  - (c) She stated families need assistance more than ever this year, and the City is currently accepting applications for recipients of holiday food and toy baskets.

- (d) She stated **Tommy's Car Wash** is hosting a drive-through food and toy drive from November 15 through December 15, and will give free car washes to those who donate a toy or three canned goods. She noted the donations go to the City's Holiday Food and Toy Basket Program.
3. Council Member/Director Ruh made the following comments:
    - (a) He stated as someone who grew up and lived in Montclair his entire life, he can say that Montclair is an inclusive community.
    - (b) He congratulated Council Members Martinez and Johnson and **Mr. Lopez** on their elections. He commended all who ran unsuccessfully for their courage in putting their names on the ballot.
    - (c) He reflected on times past when those who were elected to higher offices such as Congress and the Presidency tried to represent all of their constituents and not just those who voted for them.
    - (d) He stated that early in his Council career, there was an ad hoc committee created to study different fire services, and each member was appointed by a different Council Member.
    - (e) He stated this is the first year his family will not be gathering for Thanksgiving and urged others to forego their gatherings as well, using other methods to stay in touch with family and celebrate such as sending letters and calling one another.
  4. Mayor Pro Tem/Vice Chair Raft made the following comments:
    - (a) She congratulated Council Members Martinez and Johnson and stated she is happy that Measure L passed, ensuring City services will remain in place and be improved. She encouraged those who did not get elected to stay involved and continue to run for election.
    - (b) She stated the whole Council supports the entire community regardless of each individual's identity, and none should be discriminated against.

**F. Committee Meeting Minutes — None**

**XI. CLOSED SESSION**

At 8:16 p.m., the City Council went into closed session to discuss pending and potential litigation.

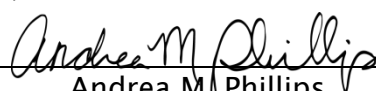
**XII. CLOSED SESSION ANNOUNCEMENTS**

At 8:32 p.m., the City Council returned from closed session. Mayor Dutrey announced that information was received regarding pending and potential litigation; direction was given to staff; and no further announcements would be made at this time.

**XIII. ADJOURNMENT**

At 8:33 p.m., Mayor/Chair Dutrey adjourned the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, 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,

  
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 Andrea M. Phillips  
 City Clerk