

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, APRIL 5, 2021 AT 7:03 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 participated via telephone and requested Mayor Pro Tem/Vice Chair Ruh preside over the meeting

Mayor Pro Tem/Vice Chair Ruh called the meeting to order at 7:03 p.m.

II. INVOCATION

The invocation was provided by **Elder Ray Ramirez, Montclair Christian Church.**

III. PLEDGE OF ALLEGIANCE

Council Member Lopez led meeting participants in the Pledge.

IV. ROLL CALL

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

City Manager/Executive Director Starr; Director of Administrative Services and Human Resources Hamilton; Senior Management Analyst Fuentes; Executive Director of Public Safety/Police Chief Avels; City Attorney Robbins; City Clerk Phillips

V. PRESENTATIONS — None

VI. PUBLIC COMMENT

A. **Mr. Bruce Culp**, resident, congratulated **Mr. Xavier Mendez** on his retirement as Public Works Superintendent, and thanked him for his many years of dedicated service to the community.

VII. PUBLIC HEARINGS

A. **First Reading — Consider Ordinance No. 21-995 Amending Section 8.36.090 of the Montclair Municipal Code to Eliminate Commercial Truck Parking on Brooks Street and Palo Verde Street**

Consider Setting a Public Hearing to Consider Adoption of Ordinance No. 21-995 on Monday, March 1, 2021, at 7:00 p.m.

Mayor Pro Tem Ruh declared it the time and place for a public hearing related to Ordinance No. 21-995 and invited members of the audience to provide comments.

Mr. Tom Squyres, resident, reported his attendance at the Public Works Committee meeting where discussion of this item took place and felt it was not open to changing its recommendation. He stated his continued opposition to the Ordinance, described the impacts it would have on his business, and requested being permitted to continue parking his truck on Palo Verde Street occasionally.

Mr. Ruben Solis, resident, asked for clarification on which streets are affected and if it applies to street sweeping parking.

City Manager Starr advised this only applies to the segments of Palo Verde Street and Brooks Street that currently allow truck parking, as truck parking is already prohibited in all other areas of the City. He advised it is not related to street sweeping parking restrictions.

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

Council Member Johnson expressed her empathy for **Mr. Squyres** suddenly losing the ability to park his work vehicle outside his home, which he has enjoyed for several years; however, she also understands first-hand how residents along the affected streets feel related to the change of appearance and character of the community, noting she has a neighbor who parks an unsightly work truck in their driveway.

Council Member Lopez stated his inability to support an exemption for one person, which would show favoritism and could open the City to liability. He stated the parking program has resulted in a proliferation of trucks illegally parking on the street and needs to end.

Moved by Mayor Dutrey, seconded by Council Member Johnson, and carried that Ordinance No. 21-995 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, April 19, 2021, at 7:00 p.m. to consider second reading and adoption of Ordinance No. 21-995.

First reading of Ordinance No. 21-995 was approved, and public hearing for second reading was set for April 19, 2021, at 7:00 p.m., by the following roll call vote:

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

B. Second Reading — Consider Adoption of Ordinance No. 21-997 Amending Section 2.12.020 of the Montclair Municipal Code Related to Campaign Contribution Limits in Accordance with Assembly Bill 571

Mayor Pro Tem Ruh declared it the time and place for a public hearing related to Ordinance No. 21-997 and invited members of the audience to provide comments.

Mr. Culp expressed his continued opposition to campaign contributions, equating them to bribes. He dismissed the argument that they are a form of free speech, noting they are paid speech and that those with money have a louder voice than those who do not. He proposed that limits be set at \$5.00 per contributor.

Mr. Thuan Nguyen, resident, supported a policy limiting campaign contributions to reduce the influence of non-residents and outside interests on local elections.

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

Council Member Lopez maintained his support for the Ordinance—noting all contributions of \$100 or more are disclosed—as well as his belief that financial aid to candidates is a form of free speech. He also reiterated his opposition to the state’s attempt to control local elections and put a cap on campaign contributions.

Council Member Martinez stated her understanding that the City maintains the authority to decide what the limit is, which could be higher than the state’s limit; and that by adopting the state’s limits, the **Fair Political Practices Commission (FPPC)** would be responsible for enforcement rather than the City.

Council Member Lopez expressed his concern that the **FPPC** could still potentially bill the City for enforcement, noting the text of

AB 571 alludes to that possibility.

Mayor Pro Tem Ruh noted his observation that before AB 571, several cities across the state adopted low campaign contribution limits, and the result has been that those with excessive personal funds are able to outspend the less well-off candidates due to there being no limit on the use of personal funds for political campaigns. He noted there is also an increase in the number of Political Action Committees, which make independent expenditures to support or oppose candidates.

Moved by Mayor Dutrey, seconded by Council Member Lopez, and carried that Ordinance No. 21-997 be read by number and title only, further reading be waived, and that the City Council adopt Ordinance No. 21-997.

Ordinance No. 21-997 was adopted 4-1 by the following roll call vote:

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

VIII. CONSENT CALENDAR

Council Member Johnson requested clarifications on Item B-1. Mayor Pro Tem Ruh stated public comments will be received on Item D-1. Council Member Lopez requested clarifications on Item D-2.

Moved by Council Member/Director Lopez, seconded by Mayor Pro Tem/Vice Chair Ruh, and carried 5-0 by roll call vote, the City Council approved the Consent Calendar as presented with comments and discussion on Items B-1, D-1, and D-2:

A. Approval of Minutes

1. Regular Joint Meeting — March 15, 2021

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 March 15, 2021 regular joint meeting.

B. Administrative Reports

1. Authorizing the City Manager to Execute a Conflict Waiver Providing that Best Best & Krieger May Represent the City of Montclair on Various Special Counsel Matters, Including a Legal Matter Involving the City of Upland Basin Dam, While Concurrently Representing the City of Upland on Various Matters as Upland City Attorney Excluding the Upland Basin Dam Matter

Council Member Johnson asked if the same attorney from **Best Best & Krieger** represents both Upland and Montclair.

City Manager Starr advised there is one dedicated attorney from **Best Best & Krieger** assigned as Upland's City Attorney, and that attorney has no involvement with Montclair's legal matters.

The City Council authorized the City Manager to execute a Conflict Waiver providing that **Best Best & Krieger** may represent the City of Montclair on various Special Counsel matters, including a legal matter involving the City of Upland Basin Dam, while concurrently representing the City of Upland on various matters as Upland City Attorney excluding the Upland Basin Dam matter.

2. Authorizing the City Manager to Execute a Conflict Waiver Providing that Best Best & Krieger May Represent the City of Montclair on Various Special Counsel Matters While

Concurrently Representing the Local Agency Formation Commission (LAFCO) for San Bernardino County as General Counsel on a Variety of Legal Matters Including Representation of LAFCO on a Matter Involving an Application by the Monte Vista Water District on Activation of Wastewater Collection and Transmission Services That, Due to Overlapping Territory, May Involve the City of Montclair

The City Council authorized the City Manager to execute a Conflict Waiver providing that **Best Best & Krieger** may represent the City of Montclair on various Special Counsel matters while concurrently representing the **Local Agency Formation Commission (LAFCO)** for San Bernardino County as General Counsel on a variety of legal matters including representation of **LAFCO** on a matter involving an application by the **Monte Vista Water District** on activation of wastewater collection and transmission services that, due to overlapping territory, may involve the City of Montclair.

3. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated April 5, 2021, totaling \$1,328,890.29; and the Payroll Documentation dated February 28, 2021, amounting to \$571,214.59 gross, with \$395,633.92 net being the total cash disbursement.

C. Agreements

1. Approval of Agreement No. 21-16 with David Turch and Associates for Federal Legislative Advocacy and Consulting Services

The City Council approved *Agreement No. 21-16* with **David Turch and Associates** for Federal Legislative Advocacy and Consulting Services.

2. Approval of Agreement No. 21-17 with the Retail Drinking Water, Wastewater Collection, and Recycled Water Collection Service Providers within the Inland Empire Utilities Agency Service Area for the Wastewater and Recycled Water Regulatory Compliance Review Project

Authorizing a \$3,345 Appropriation from the Contingency Fund for Agreement No. 21-17

The City Council took the following actions:

- (a) Approved *Agreement No. 21-17* with the retail drinking water, wastewater collection, and recycled water collection service providers within the **Inland Empire Utilities Agency** Service Area for the Wastewater and Recycled Water Regulatory Compliance Review Project.
- (b) Authorized a \$3,345 appropriation from the Contingency Fund for *Agreement No. 21-17*.

3. Approval of Agreement No. 21-18 with Fehr & Peers for the Preparation of a Local Roads Safety Plan

Authorizing a \$4,339 Appropriation from the Gas Tax Fund to Cover the 10 Percent Local Match Required in Addition to the \$40,000 Grant Award Received from the State to Fund the Agreement

The City Council took the following actions:

- (a) Approved *Agreement No. 21-18* with **Fehr & Peers** for the preparation of a Local Roads Safety Plan.
- (b) Authorized a \$4,339 appropriation from the Gas Tax Fund to cover the 10 percent local match required in addition to the \$40,000 grant award received from the State to fund the Agreement.

4. **Approval of Agreement No. 21-19-I-104 Amending Agreement No. 20-06-I-104, an Irrevocable Annexation Agreement with Mission 42 LLC for a Multi-Unit Residential Development Project at 5553 West Mission Boulevard, Ontario (APN 1011-351-02-0000)**

The City Council approved *Agreement No. 21-19-I-104* amending *Agreement No. 20-06-I-104*, an Irrevocable Annexation Agreement with **Mission 42 LLC** for a multi-unit residential development project at 5553 West Mission Boulevard, Ontario (APN 1011-351-02-0000).

D. Resolutions

1. **Adoption of Resolution No. 21-3305 Denouncing Racism, Xenophobia, Violence, and Intolerance Against Members of the Asian American and Pacific Islander Communities in the United States, and Affirming the City of Montclair's Commitment to the Well-Being and Safety of Residents Regardless of Race, Religion, National Origin, Disability, Sex, Gender Expression, Age, Sexual Orientation, or Military/Veteran Status**

Mrs. Carolyn Raft, former Council Member and resident, stated it is a shame cities have to resort to this and that discrimination has no place in this society. She emphasized elected Council Members should represent all community members equally.

Mr. Nguyen stated his appreciation for the resolution as it is written, and urged intentional action to combat racism and discrimination.

Mr. Culp echoed his support for the resolution.

All five members of the City Council provided comments in support of the resolution and against discrimination.

The City Council adopted Resolution No. 21-3305 denouncing racism, xenophobia, violence, and intolerance against members of the Asian American and Pacific Islander communities in the United States, and affirming the City of Montclair's commitment to the well-being and safety of residents regardless of race, religion, national origin, disability, sex, gender expression, age, sexual orientation, or military/veteran status.

2. **Adoption of Resolution No. 21-3306 Continuing to Declare that a Local Public Health Emergency Exists in the City of Montclair, Updating Provisions of the Declaration in Relation to COVID-19 Paid Leave and Provision of Employee Vaccination Incentives, and Continuing to Establish City Eligibility for Federal and State Funding Assistance**

Council Member Lopez requested clarification about the modified COVID-related leave provision, such as whether the leave would be provided for repeat COVID infections with the new strains, and asked if employees who choose not to be vaccinated would be penalized.

City Manager Starr advised the City had originally continued the 120 hour provision of COVID-related leave from January 1 forward, which was when federal provision had expired; however, the state has recently adopted the standard provision of 80 hours. He advised employees would be encouraged and may be offered an incentive to get vaccinated, but those who choose to not get vaccinated would not be penalized.

Director of Administrative Services and Human Resources Hamilton added that the state legislation expires in September and will likely be extended, so the City would follow the state's guidance going forward to avoid having to constantly seek Council authority for each of those changes. He advised the leave is cumulative for the year and that employees would have

80 hours total to cover qualifying COVID-related absences, in addition to other accrued paid leave that is available.

Mayor Dutrey stated he feels 80 hours provided by law for COVID-related absences is sufficient and that regular sick and vacation paid leave is also available. He noted with the reduced number of cases and availability of vaccines, he is comfortable with the reduced provision of COVID-related leave.

The City Council adopted Resolution No. 21-3306 continuing to declare that a local public health emergency exists in the City of Montclair, updating provisions of the declaration in relation to COVID-19 paid leave and provision of employee vaccination incentives, and continuing to establish City eligibility for Federal and State funding assistance.

IX. PULLED CONSENT CALENDAR ITEMS — None

X. RESPONSE

A. Consider Receiving and Filing the Response to Council Inquiry Regarding the Reopening of City Facilities

Consider Taking One of the Following Actions:

Adopt City Facilities Reopening Protocols and Practices as Provided For Herein and in Compliance with the City Facilities Reopening, Health and Safety Plan; or

As Requested by President Biden, Delay the Reopening of City Facilities to Thursday, April 29, 2021, or the Day After the Nation Achieves the Biden-Harris Administration's Objective to Fully Vaccinate 200 Million Americans

Mr. Culp cautioned against relaxing restrictions too early with the new, more transmissible and vaccine-resistant strains circulating. He requested the maintenance of current restrictions for a few more weeks, until the threat of a fourth wave has passed.

Mayor Dutrey expressed his belief that it is time to open the parks now that other recreational facilities such as **Dodger** and **Angels Stadiums** and **Disneyland** are reopening. With outdoor activities having proven safer than indoor, he feels the continuation of mask-wearing should be sufficient protection.

Council member Lopez asked why the drinking of water is prohibited in the skate park and asked if an exception could be made.

City Manager Starr advised all food and beverage containers have been prohibited in the skate park since before the pandemic due to excessive littering, and that those using the skate park can keep their drinks in their bags and briefly exit the gate of the skate park to drink.

Council Member Lopez stated his opposition to the procedure of requiring written requests to speak in-person at Council Meetings, noting he does not believe it is legal to require a written request to participate in a public meeting.

City Manager Starr advised that while optional, written requests to speak has been the practice of the City for in-person meetings, and that it should continue to reduce exposure, but that it would be up to the presiding officer of the meeting to make exceptions as always.

Should parks reopen tomorrow, Council Member Martinez implored caregivers who take children to the parks sanitize their hands before and after use of play equipment, and ensure they wear masks.

Mayor Pro Tem Ruh concurred that the wearing of masks is important even after everything opens for the safety of everyone.

Moved by Mayor Dutrey, seconded by Council Member Lopez, and carried unanimously by a 5-0 roll call vote, the City Council took the following actions:

- (a) Received and filed the response to Council inquiry regarding the reopening of City facilities.
- (b) Adopted City facilities reopening protocols and practices as provided for herein and in compliance with the City Facilities Reopening, Health and Safety Plan.

XI. COUNCIL WORKSHOP

A. Presentation on Potential Pension and Infrastructure Bonds

City Clerk Phillips advised the tentative date of April 19 is no longer a possibility, and requested the City Council consider staff’s proposal to hold the workshop on April 20 or April 22, at 6:00 p.m.

The City Council discussed and determined its availability to hold the workshop on Tuesday, April 20, 2021, at 6:00 p.m.

XII. 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 matter:

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

Montclair v. Monte Vista Water District

C. City Manager/Executive Director — None

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

- 1. Mayor Pro Tem/Vice Chair Ruh made the following comments:
 - (a) He announced there are two vacancies on the Planning Commission and three vacancies on the Community Activities Commission, and encouraged residents to apply at www.cityofmontclair.org.
 - (b) He shared an idea he intends to discuss further with staff to seek input from local businesses of their manufacturing needs and entice such manufacturing businesses to move their operations to Montclair. He would propose to name the program “Made in Montclair.”
 - (c) He commended the Public Works Department for obtaining funding to construct the roundabout at the intersection of Ramona Avenue and Howard Street, noting it will significantly slow traffic in the area. He cautioned that, while decreasing the number of serious accidents, it may increase the occurrence of minor rear-end collisions.
 - (d) He thanked the CAC, **Kiwanis**, City Council volunteers, and staff for the successful *Drive-Thru Easter Eggstravaganza and To-Go Pancake Breakfast* event, noting the live bunnies were a huge hit.
 - (e) He expressed his sadness to hear about another senseless attack on Capitol Police at the Nation’s Capital on April 3rd.
 - (f) He encouraged the public to get inoculated with the increasing availability of vaccines and appointments.
 - (g) He advised the **AMC Theater** is now open and encouraged everyone to go see a movie, noting there is limited seating and other safety features in place.
 - (h) He congratulated retired Public Works Superintendent **Xavier Mendez**, thanked him for his service, and wished him well.

- (i) He announced **Ontario–Montclair School District** has recently implemented a Mandarin immersion program.
 - (j) He noted the passing of beloved author **Beverly Cleary** at age 104, who grew up in the area, attended **Chaffey College**, and worked at the **Ontario Library**.
 - (k) He extended condolences to **City of Upland** Council Member **Carlos Garcia** for the passing of his sister.
 - (l) He reported the tragic passing of **City of Chino** Council Member **Mark Hargrove** after a heroic battle with cancer. He noted **Mr. Hargrove** was a 1982 graduate of **Chino High School**, served in the **U.S. Air Force** from 1983 to 1987, and worked a career in the **California Department of Corrections**; he served on the Chino Planning Commission before being elected to the City Council in 2018. He noted **Mr. Hargrove** cared deeply for his community and served his constituents well. He advised tonight’s meeting would be adjourned in his memory.
2. Council Member/Director Johnson made the following comments:
- (a) She noted her astonishment with how staff was able to transform a parking lot into something magical.
 - (b) She advised the **Federal Emergency Management Agency (FEMA)** is offering grants of up to \$9,000 to reimburse those who had funeral expenses in 2020 for loved ones who passed away from COVID-19. She noted the phone number is on the **FEMA** website, and applicants must call to be guided through the process as there is no online application.
3. Council Member/Director Martinez made the following comments:
- (a) She noted her enchantment with the butterfly dancers at the *Easter Eggstravaganza* event, and her appreciation of the City for putting on such great community events.
 - (b) She requested the City create events on social media rather than only posting flyers so that residents can get automatic social media reminders about upcoming events, and can share the events and invite others to attend.
4. Council Member/Director Lopez made the following comments:
- (a) He thanked Fire Department staff for their involvement with the *Easter Eggstravaganza* event, and all others who helped with the event, noting one Community Activities Commissioner showed up to help even with a broken arm.
 - (b) He thanked Public Works for covering up graffiti from the infamous “TREE” tagger, who the Police Department recently apprehended.
 - (c) He commended the Police Department for the recent arrest of a graffiti vandal and a child sexual predator.
 - (d) He noted his participation in a fundraiser at **Los Portales** for **Buena Vista Arts Integrated School**.
 - (e) He commended Public Works Director/City Engineer Castillo for writing the grant that secured funding for the roundabout at Ramona and Howard.
 - (f) He expressed his sadness upon hearing of the passing of **Council Member Hargrove**, noting he was a friend and was diagnosed with colon cancer not long after his election to the City Council in 2018, yet continued to attend all of his meetings while fighting for his life. He extended his condolences to the City of Chino and its City Council, the Chino community, and **Mr. Hargrove’s** family.

- (g) He advised Planning Commissioner Emeritus **Donald Vodvarka's** memorial services will be occurring soon and he will share the information when he knows more.
- (h) He thanked retired Public Works Superintendent **Xavier Mendez** for his many years of service to the City.
- (i) He advised there will be two lane closures on the eastbound I-10 Freeway between Monte Vista Avenue and Central Avenue from Friday, April 9th at 9:00 p.m. through Monday, April 12th at 5:00 a.m.
- (j) He advised the **City of Ontario** has requested Montclair consider joining them in declaring formal opposition to California Senate Bill 9, which limits local government's authority to regulate housing classifications. He requested the City Council consider a resolution at its next meeting.
- (k) He thanked Executive Director of Public Safety/Police Chief Avels for addressing the request about a shower drain clogging issue at the fire station, and noted the Public Works Department will be including a budget item for the appropriate repairs.

E. Mayor/Chair

- 1. Mayor/Chair Dutrey made the following comments:
 - (a) He advised he will be absent at the April 19th meeting.
 - (b) He expressed the importance of vaccinating as many people as possible, noting there are plenty of appointments available at **San Bernardino County** vaccination sites. He advised the public can visit www.SBCovid19.com to find appointments.

F. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of March 15, 2021

The City Council received and filed the minutes of the Personnel Committee meeting of March 15, 2021, for informational purposes.

XIII. CLOSED SESSION

At 9:18 p.m., the City Council went into closed session to discuss potential litigation.

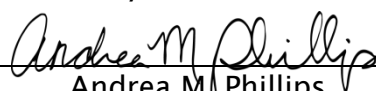
XIV. CLOSED SESSION ANNOUNCEMENTS

At 9:46 p.m., the City Council returned from closed session. Mayor Pro Tem Ruh announced that information was received related to potential litigation, direction was given to staff, and no further announcements would be made at this time.

XV. ADJOURNMENT

At 9:46 p.m., Mayor Pro Tem/Vice Chair Ruh adjourned the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board in memory of Chino City Council Member **Mark Hargrove**.

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