

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, AUGUST 2, 2021 AT 7:02 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 7:02 p.m.

II. INVOCATION

The invocation was given by Mayor Pro Tem Ruh.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Johnson 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 Human Services Richter; Director of Economic Development Fuentes; Finance Manager Kulbeck; City Attorney Robbins; City Clerk Myrick

V. PRESENTATIONS — None

VI. PUBLIC COMMENT

- A. **Mr. Bill Kaufman** spoke in support of the Cannabis industry, providing several examples of ways in which legal cannabis businesses have improved communities, including generating tax revenue to cities, eliminating illegal cannabis operations, and providing a safe place for adults to purchase recreational cannabis products.
- B. **Mr. Thuan Nguyen**, resident, spoke in support of the Pride Month proclamation issued in June and actions taken by the City such as displaying rainbow lighting the Council Chambers and making relevant social media posts throughout the month. He stated it was a historic moment for the City in spite of the anti-LGBTQ+ comments made by **Mr. Rinker** and other residents at the meetings. He urged the community to pay attention to what's going on in the City and speak up on City issues at Council meetings. He disagreed with Mayor Dutrey's comment that proclamation should not be controversial or political, noting it is due to Council Member Lopez's membership on the City Council despite his past anti-LGBTQ+ advocacy. He pointed out LGBTQ+ individuals living as they are openly should not be controversial, but because of individuals like **Mr. Rinker**, it is still necessary to politicize the issue. He added Mayor Dutrey and Mayor Pro Tem Ruh have not rescinded their endorsements of Council Member Lopez despite knowing him and his politics for decades. He also dismissed rumors that he is planning to run for public office.
- C. **Mrs. Carolyn Raft**, resident, responded to comments made by Council Member Lopez at a previous Council meeting regarding her tenure on the City Council, refuting his characterization of her as someone who reads from scripts and votes however staff wants. She stated she would always thoroughly read the agenda in advance and when she had a question or issue, she would speak directly with staff prior to the meeting to get clarification, and did not try to impress anyone by having a question or comment on every agenda item during the meeting. She added she always respected staff's time and work and did not treat them as her own employees. She stated prior

to becoming a Council Member, she worked at a bank and then helped run her family business, so she is not unfamiliar with accounting and was regarded by the *Inland Valley Daily Bulletin* as a fiscal hawk.

- D. **Mr. Shamsian Shaj** stated he has enjoyed running his business in Montclair for the past 12 years, and feels this is the best city one could operate a business.

VII. PUBLIC HEARINGS — None

VIII. CONSENT CALENDAR

Mayor Dutrey stated he would like incorporate corrections, a copy of which were provided to Council Members prior to the meeting, to Item A-1, the minutes of the July 19, 2021 regular meeting, into the motion to adopt the Consent Calendar.

Council Member Lopez noted he had questions on items C-3 and D-1.

Mayor Dutrey allowed Council Member Lopez to ask his questions prior to the vote on the Consent Calendar.

Moved by Council Member/Director Lopez, seconded by Mayor Pro Tem/Vice Chair Ruh, and carried unanimously 5-0, the City Council approved the Consent Calendar with corrections to Item A-1 and discussion on Items C-3 and D-1:

A. Approval of Minutes

1. Regular Joint Meeting — July 19, 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 July 19, 2021 regular joint meeting, with the inclusion of a reference to a request Mayor Dutrey made of staff during the Police Department Report on Fireworks Enforcement Detail (X. Communications, Item A-1).

B. Administrative Reports

1. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated August 2, 2021, totaling \$6,812,235.56; and the Payroll Documentation dated July 4, 2021, amounting to \$607,229.07 gross, with \$421,308.31 net being the total cash disbursement.

2. Receiving and Filing a Status Report on Emergency Contracting Procedures for the Pacific Electric Trail Bridge Replacement Project and Determining There is a Need to Continue the Action

The City Council received and filed a status report on emergency contracting procedures for the Pacific Electric Trail Bridge Replacement Project and determined there is a need to continue the action.

3. Authorizing the Purchase of a Mobile Column Lift from Bendpak in the Amount of \$40,094.27 and the Installation of an Electrical Circuit in the City Yard Garage by Rymax Electric at a Cost of \$2,950

The City Council authorized the purchase of a mobile column lift from Bendpak in the amount of \$40,094.27 and the installation of an electrical circuit in the City Yard garage by Rymax Electric at a cost of \$2,950.

C. Agreements

1. **Approval of Agreement No. 21-38 with Econolite Systems for Traffic Signal Maintenance Services**

The City Council approved *Agreement No. 21-38* with Econolite Systems for traffic signal maintenance services.

2. **Approval of Agreement No. 21-43 with the Inland Valley Humane Society & S.P.C.A. for Animal Control Services**

The City Council approved *Agreement No. 21-43* with the Inland Valley Humane Society & S.P.C.A. for animal control services.

3. **Approval of Agreement No. 21-47 with EXTTI for Professional Workplace Services in Expert Testimony, Training, and Investigations**

Authorizing the City Manager to Execute Separate Agreements with EXTTI for Specialized Services in Compliance with Agreement No. 21-47

Council Member Lopez asked if the attorney referred to in the agenda report is the same one who provided the ethics training this year.

City Manager Starr confirmed it is the same attorney.

Council Member Lopez asked if her rate is different depending on the function she is performing.

City Manager Starr indicated rates are based on the individual and are listed on the attached fee schedule.

The City Council took the following actions:

- (a) Approved *Agreement No. 21-47* with EXTTI for professional workplace services in expert testimony, training, and investigations.
- (b) Authorized the City Manager to execute separate agreements with EXTTI for specialized services in compliance with *Agreement No. 21-47*.

4. **Approval of Reimbursement Agreement Nos. 21-52 and 21-53 with Maple Multifamily Land CA, L.P. Related to the Properties Generally Located on the Southwest Corner of Monte Vista Avenue and Arrow Highway (Alexan-Kendry Expansion Project Site); and the Northwest Corner of Monte Vista Avenue and Richton Street (Vulcan Project Site)**

The City Council approved Reimbursement *Agreement Nos. 21-52* and *21-53* with Maple Multifamily Land CA, L.P. related to the properties generally located on the southwest corner of Monte Vista Avenue and Arrow Highway (Alexan-Kendry Expansion Project Site); and the northwest corner of Monte Vista Avenue and Richton Street (Vulcan Project Site).

D. Resolutions

1. **Adoption of Resolution No. 21-3301 Approving a List of Projects to be Funded by Senate Bill 1 (SB1) from the State of California Road Repair and Accountability Act of 2017**

Council Member Lopez asked if the Ramona Avenue and Howard Street Roundabout Project would need to undergo an Environmental Impact Report (EIR) or if it would be able to break ground after this approval.

City Manager Starr advised the City Council's approval is simply a requirement for use of the funds, however the City already has the funds and intends to begin the project later this year.

Interim Director of Public Works Hudson advised the project would likely be exempt from the EIR process.

The City Council adopted Resolution No. 21-3301 approving a list of projects to be funded by Senate Bill 1 (SB1) from the State of California Road Repair and Accountability Act of 2017.

2. Adoption of Resolution No. 21-3314 Authorizing Placement of Assessments on Certain Properties for Delinquent Sewer and Trash Accounts

The City Council adopted Resolution No. 21-3314 authorizing placement of assessments on certain properties for delinquent sewer and trash accounts.

IX. PULLED CONSENT CALENDAR ITEMS — None

X. COMMUNICATIONS

A. Department Reports

1. City Clerk — Establishment of City Council Policies and Procedure for the Conduct of Meetings and Other Administrative Matters

City Clerk Myrick advised the City Council currently has a Policy and Appointment Process Manual that was last updated in 2016, but may consider directing staff to develop a more robust series of Council policies. The City Council was provided with a copy of the City of Victorville's City Council Policies and Procedures Manual as a sample of what other cities have established.

Mr. Nguyen, resident, stated he hopes policies that are included allow the respectful conduct of the public's business in an open manner that allows public participation, and also respects staff's time to provide direct services to residents.

Mrs. Raft, resident, stated Mayor Dutrey has been appropriately calling out the behaviors exhibited by Council Member Lopez during meetings, noting he has continued to speak on matters not on the agenda in violation of the Brown Act and she hopes the policies will help to correct Mr. Lopez's behavior.

Mayor Dutrey stated he feels having a clear set of policies and procedures outlined in such a manual would be beneficial to newer Council Members, noting three of the current Council Members have served for fewer than three years whereas he and Mayor Pro Tem Ruh each exceed twenty years on the Council.

Moved by Mayor Dutrey, seconded by Council Member Johnson, and carried unanimously 5-0, the City Council took the following actions:

- (a) Directed staff to draft City Council policies and procedures for future Council consideration; and
- (b) Established an Ad Hoc Committee for the purpose of drafting the policies and appointing Mayor Dutrey and Mayor Pro Tem Ruh to serve on the Committee.

2. Administrative Services — Recruitment Procedures

Mayor Dutrey advised this report would be given at the next Council Meeting so that staff has time to prepare a thorough presentation.

3. Human Services — Activities and Programs Update

Director of Human Services Richter thanked the City Council for attending last week's Summer Concert in the Park and reminded everyone that tomorrow is National Night Out beginning at 6:30 p.m.

She advised that, due to public health concerns as a result of the rise in cases of the COVID-19 delta variant, the Montclair Senior Center reopening has been postponed until further notice. She advised curbside pick-up for the lunch program will continue Monday through Friday, 11:30 a.m. to 12:30 p.m. She added vaccinated volunteers are needed to assist in the kitchen and asked those interested to contact the Senior Center.

She advised that, in addition to the COVID-19 testing available at **Montclair Place** from 10:00 a.m. to 6:00 p.m. every Monday, beginning this Wednesday the COVID-19 testing bus provided by the State and **OptumServe** will offer testing at the **Kids' Station** parking lot in the **Montclair Transcenter**. Testing will be available at this site from 11:00 a.m. to 7:00 p.m. and walk-ins are welcome at this site.

B. City Attorney

City Attorney Robbins requested the City Council meet in closed session for conference with legal counsel regarding the following matters, explaining the potential litigation matter is related to the City's recently implemented COVID-19 vaccination policy:

1. Closed Session Pursuant to Government Code Section 54956.9(d)(2) Regarding Potential Litigation

One Potential Case

2. Closed Session Pursuant to Government Code Section 54957.6 Regarding Conference with City's Designated Labor Negotiator Edward C. Starr

Agency: City of Montclair
Employee: Management, Montclair City Confidential
Organizations: Employees' Assoc., Montclair General Employees' Assoc., Montclair Fire Fighters' Assoc., and Montclair Police Officers' Assoc.

City Attorney Robbins requested the City Council also meet in closed session to discuss a matter not on the agenda that has come to the City's attention today and requires immediate attention. She advised adding a new item to the current meeting's agenda requires a four-fifths vote from the City Council. She advised the matter is in relation to a complaint that was received by the City this afternoon from **California Occupational Safety and Health Administration (Cal/OSHA)**, and requires that an investigation be conducted within five days of receipt. She noted the item could be discussed in closed session pursuant to Government Code Section 54956.9(d)(2).

Council Member Lopez asked if the details of who submitted the complaint are available.

City Attorney Robbins advised that such information is not provided in the complaint and staff is not aware of who it came from. She noted there should be no further discussion of this matter in open session.

Moved by Council Member Johnson, seconded by Mayor Pro Tem Ruh, and carried by a 4-0-1 vote (Lopez abstained), the City Council declared that there is an urgent need to address a matter that came to the City's attention after the posting of the agenda, and added the following item to the Closed Session agenda:

3. Closed Session Pursuant to Government Code Section 54956.9(d)(2) Regarding Potential Litigation

One Potential Case

C. City Manager/Executive Director

City Manager/Executive Director Starr advised he does not have a detailed COVID-19 update at this time as he has not had a chance to review the current data, but will be reviewing the data that is released tomorrow related to the rise in Delta variant cases in the region.

D. Mayor/Chair

1. Mayor/Chair Dutrey made the following comments:
 - (a) He requested tonight's meeting be adjourned in memory of the following three individuals who recently passed away:
 - **Mr. Rudolph "Rudy" S. Gomez**, who was a resident as well as a former City employee.
 - **Mr. Ronald Wells**, husband of Community Activities Commissioner Diane Wells.
 - **Mr. Steven Ernest Terra**, son-in-law of the late former Council Member **Elouise "Dolly" Lewman**, and a retired **Monte Vista Water District** employee, who lived in Montclair for most of his life.
 - (b) He advised **Mr. John Pulido**, a **Montclair High School** graduate who served in the **U.S. Army** from 1989 to 2020 and whose family was presented with his military banner that was displayed in the City during his service, was again honored by the **Los Angeles Dodgers** during the second inning at a game he coincidentally attended on July 22nd.

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

1. Council Member/Director Johnson made the following comments:
 - (a) She noted she and Mayor Dutrey attended an Inland Empire Division meeting of the **League of California Cities**, where she learned there is a major blood shortage and encouraged those who can to donate blood at tomorrow's drive hosted by the **American Red Cross** at the Senior Center during or prior to National Night Out.
 - (b) She announced **Montclair Place** is holding kids events on the first and third Thursdays of every month at 4:00 p.m. through the end of the year on the lower level of the mall between **Kids Empire** and **Barnes & Noble**.
 - (c) She stated she hopes to see everyone tomorrow night at **Alma Hofman Park!**
2. Council Member/Director Lopez made the following comments:
 - (a) He stated there was a great turnout for the mariachi concert in the park last week and he expects tomorrow night's turnout to National Night Out to be even bigger.
 - (b) He stated **Mr. Wells** was a good friend of his, and was admired for his courage and being a fighter throughout the long battle with his illness, noting he even continued to walk to the polls to vote. He commended **Mrs. Wells** for remaining strong for her husband while being his caretaker and extended his sympathies.
 - (c) He noted he just saw **Mr. Terra** several months ago and was very sad to hear of his passing. He wished his deepest condolences to the **Terra** and **Lewman** families.
 - (d) He stated the **Gomez** family has been close with his family for over 50 years, noting **Rudy's** brother and his mother briefly dated when they were much younger. He remem-

bered **Rudy** as a fellow **USC** fan with a fighting spirit and wished condolences to his family.

- (e) Although the Administrative Services Department's report on recruitment procedures is delayed, he stated he would like to receive a copy of the **National Testing Network** contract and fees.
3. Mayor Pro Tem/Vice Chair Ruh made the following comments:
- (a) He stated he has known **Ron** and **Diane Wells** for over 30 years since they live nearby, and gave **Mrs. Wells** his sincere condolences.
 - (b) He noted although he did not know him well personally, he can see that **Mr. Terra** will be truly missed by many.
 - (c) He stated **Mr. Gomez** was part of the Montclair City family as a former employee, and gave condolences to his family and friends.
 - (d) He stated he is excited for National Night Out tomorrow and expects it to be a great event.
 - (e) He noted on Sunday, the 25th of July, he attended **Iglesia Ni Cristo's** celebration of 25 years in Montclair and 117 years as a congregation and wished them congratulations.
 - (f) He urged everyone to thank those in the healthcare industry for all that they have endured in the past year and continue to endure.
 - (g) He contrasted the current vaccine hesitancy for COVID-19, a disease that can cause serious long-term health impacts, to the Polio outbreak of the 1950s, where people were desperate to receive the vaccine to prevent a disease for which the most common inflictions were flu-like symptoms, malaise, headaches, and muscle stiffness, and that had a 0.5 percent chance to enter the nervous system resulting in paralysis or even death, which is even lower than the current COVID-19 death rate.
 - (h) He warned that even vaccinated individuals, such as **U.S. Senator Lindsey Graham**, a Republican from South Carolina, tested positive recently for the Delta variant of COVID-19 because he did not take precautions, and a young man named **Stephen Harmon** of Corona, who did not believe COVID-19 was a real disease, passed away from it a couple weeks ago, not long after making a public post on **Twitter** about refusing to get vaccinated. He was only 34 years old. **Mr. Harmon** was a member of **Hillsong Church**, and was working to become a minister.
 - (i) He reported news of a surge of COVID-19 cases in Texas caused by the Lambda coronavirus variant, which was first identified in Peru and South America, and may be more resistant to vaccines. He advised the public should continue taking precautions—even those who have been vaccinated.

F. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of July 19, 2021

The City Council received and filed the minutes of the Personnel Committee meeting of July 19, 2021, for informational purposes.

XI. CLOSED SESSION

At 8:07 p.m., the City Council went into closed session to discuss labor negotiations and potential litigation.

XII. CLOSED SESSION ANNOUNCEMENTS

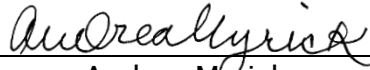
At 9:54 p.m., the City Council returned from closed session. Mayor Dutrey announced the City Council met in closed session to discuss labor negotiations and potential litigation; information was received and direction given to staff; and no further announcements would be made at this time.

XIII. ADJOURNMENT

At 9:55 p.m., Mayor/Chair Dutrey adjourned the City Council, Successor Agency Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board.

The meeting was adjourned in memory of **Mr. Rudy Gomez, Mr. Ron Wells, and Mr. Steve Terra.**

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



Andrea Myrick
City Clerk