

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 TUESDAY, JANUARY 16, 2024 AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

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

II. INVOCATION

Pastor Robert Edwards, Set Free Ministry, gave the invocation.

III. PLEDGE OF ALLEGIANCE

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

IV. ROLL CALL

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

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

V. PRESENTATIONS

A. Introduction of New Police Department Employees

Police Chief Reed introduced recently hired Police Officer Kyle Ramero. Mayor Dutrey and Council Members welcomed Officer Ramero to the Montclair City family.

B. Community Activities Commission (CAC) Presentation Military Banner Presentation

Community Activities Commission (CAC) Chair Escalante stated that sixteen years ago, the CAC began sponsoring a military street banner program to recognize Montclair residents currently serving in the U.S. Armed Forces. He advised that in 2023, 32 military banners and two banners honoring "all Veterans" were proudly displayed throughout Montclair.

As CAC Chair Escalante introduced and summarized the service of each military veteran, Mayor Dutrey and Council Members congratulated and presented each honoree or their family member(s) with their military banner. The three honorees were:

- **Melanie Anne Feliciano**, Navy, 2018-2023
- **Monique Fodor**, Navy, 2003-2023
- **Matthew Murawski**, Navy, 2002-2023

Mayor Dutrey thanked CAC Chair Escalante for his presentation, and thanked the honorees for their service.

VI. PUBLIC COMMENT

- **Bill Kaufman** informed the City Council that he has a meeting with the City of Laguna Woods to discuss opening a health center in their city where seniors can seek various health remedies, including cannabis and herbs. He commented that his business is still interested in the location on Central Avenue in Montclair and would like to bring this format to the City of Montclair.

- **Xavier Mendez**, resident, congratulated recently hired Police Officer Ramero and newly appointed Police Chief Reed, and thanked the U.S. Armed Forces honorees for their service.

VII. PUBLIC HEARINGS

- A. **First Reading — Consider Ordinance No. 24-1005 Amending Title 11 of the Montclair Municipal Code, Chapters 11.02 (Definitions), 11.38 (Development Standards Generally), and 11.77 (Administrative Permit) to allow Monitored Electrified Security Fences in Specified Commercial and Industrial Zones within City Limits (Case No. 2023-35)**

Consider Setting a Public Hearing for Second Reading and to Consider Adoption of Ordinance No. 24-1005 on Monday, February 5, 2024, at 7:00 p.m. in the City Council Chambers

Community Development Director Diaz gave a brief presentation of the item.

At 7:53 p.m., the City Council recessed for a five minute break.

The City Council returned at 7:58 p.m. with all members present.

Mayor Dutrey declared it the time and place set for public hearing to consider first reading of Ordinance No. 24-1005 and invited comments from the public.

Joana Lubmann, speaking on behalf of a distribution company on Brooks Street, commented on an incident that occurred at the property over the weekend that involved two individuals arrested for vandalism and theft. She spoke on various expenses to repair/replace numerous doors and windows and the installation of rod iron fencing around the property, incurring over \$30,000 in repairs and replacements just this year. She stated that they are satisfied with the City's police response; however, it is disheartening dealing with the numerous incidents at their location. She spoke in favor of electrified fencing noting it could be an additional deterrent.

Bruce Culp, resident, spoke in opposition of electric fencing and expressed that it is a moral issue. He noted those who may have health issues or heart concerns could be gravely injured, and asserted it is a form of torture when it comes to animals or others that may come in contact. He expressed that other measures could be implemented to prevent additional crimes.

Luis Furias, representative of **Amarok Ultimate Perimeter Security**, thanked City Council for recognizing the value of longtime businesses and understanding the negative effects of crime. He spoke on the crime deterrent system his company offers and expressed that their system meets the requirements of the proposed ordinance and the needs of businesses in Montclair. He expressed his appreciation for staff's work on this Ordinance to allow businesses to protect themselves with this technology.

Joe Montleon, representative of **Stotz Equipment**, expressed that his company has been in Montclair for over 40 years, and thanked staff, Montclair Police Department, and City Council for their time and leadership on this issue. He expressed concerns regarding issues of vandalism and burglaries at his business and safety of staff, and advised that he has incurred financial losses in excess of \$150,000 over the past three years. He spoke in favor of electrified fencing to be utilized with the numerous security measures that he currently has in place.

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

Mayor Dutrey asked questions of representatives of **Amarok** about the wiring of the fencing, and criminals utilizing wire cutters to access a business.

Mr. Keith Kaneko from **Amarok** advised the system would detect if an individual were to cut the wires, and may experience a shock.

Mayor Pro Tem Johnson commented on the loss of expenses and staff safety at numerous business locations, and the loss of business in Montclair. She received clarification from **Mr. Kaneko** regarding the spacing allowed between existing perimeter walls and the electrified fencing, who noted the 4–8 inch requirement cannot be modified because it is established by the **International Electro-technical Commission**.

Mayor Pro Tem Johnson also inquired regarding the voltage of the electricity, whether the shock is continuous, and when activated how the property owner and law enforcement will receive notifications.

Mr. Kaneko explained that the current is pulsed and is not a constant shock, adding that the current is not connected to the grid. He explained that monitoring is performed by a twenty-four hour third party service and an operator verifies that an incident is in progress before notifying the business owner and local authorities.

Mayor Dutrey asked Building Official Dorsey if this is harmful to individuals that may come in contact with the fencing.

Building Official Dorsey expressed that it is non-lethal, however it is painful to the touch.

Council Member Martinez inquired if various security measures would be more effective if utilized in unison instead of electric fencing, and expressed concerns of an individual potentially getting stuck on a fence.

Mr. Kaneko commented on alternate security measures, such as higher walls, and explained that height does not necessarily deter criminals due to the ease of erecting ladders. He explained that, in the event an individual were to become stuck on the fence, the system can be turned off remotely by the monitoring operator or the owner.

Council Member Martinez inquired about the indemnity provisions and if the City is going to require the business to maintain insurance if an electric fence is allowed on their property.

City Manager Starr advised that the indemnification would cover the City. He also commented on the difficulties of continuously monitoring and patrolling specific locations in the City.

Mayor Dutrey commented on the population that is residing along the railroad tracks, and informed those present that staff is working on clearing out individuals; however, within 24 hours they return.

Police Chief Reed commented that instantaneous notification is needed in terms of breaking into businesses, expressing that a block wall surrounding a business could potentially block officers' view and create a barrier to enforce.

City Manager Starr in response to Mayor Dutrey's comment informed City Council that it is difficult to continually monitor the railroad tracks, adding that Montclair Police Officers can only enter the railroad right-of-way if there is a call for service.

Council Member Lopez asked if a petty theft committed via burglary is elevated to the level of grand theft or if the value threshold still matters.

Police Chief Reed advised that a burglary is a much more serious offense than stealing under the \$950 threshold and would likely elevate the charges to a felony regardless of the cost of items stolen or damaged.

Council Member Lopez asked if the electrified fence could stand higher than the block wall. Community Development Director Diaz advised that the electrified fence could be a maximum height of two feet over the required six-foot wall, and there is required signage.

Council Member Ruh commented on concerns expressed by the public. He stated that he understands the need for this ordinance but does not have enough information to approve this item and has long-term concerns.

Moved by Council Member Ruh, seconded by Council Member Lopez, and carried that Ordinance No. 24-1005 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, February 5, 2024 at 7:00 p.m. to consider second reading and adoption of Ordinance No. 24-1005.

First reading of Ordinance No. 24-1005 was approved, and public hearing for second reading was set, by the following 5-0 vote:

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

VIII. CONSENT CALENDAR

ACTION - Consent Calendar	
ACTING:	City Council Successor Agency Board Montclair Housing Corporation Board Montclair Housing Authority Commissioners Montclair Community Foundation Board
DISCUSSION:	Items B-9, B-11, and C-2
MOTION:	Pull Item B-9 and approve the remainder of the Consent Calendar as presented.
MADE BY: SECOND BY:	Council Member/Director Ruh Mayor Pro Tem/Vice Chair Johnson
AYES: NOES: ABSTAIN: ABSENT:	Lopez, Martinez, Ruh, Johnson, Dutrey None None None
RESULT:	Motion carried 5-0.

A. Approval of Minutes

1. Regular Joint Meeting — December 18, 2023

ACTION - Consent Calendar - Item A-1	
ACTING:	City Council Successor Agency Board Montclair Housing Corporation Board Montclair Housing Authority Commissioners Montclair Community Foundation Board
RESULT:	Approved on Consent Calendar; motion carried 5-0.

B. Administrative Reports

1. Consider Receiving and Filing City Treasurer's Report - December 2023

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

2. Consider Approval of City Warrant Register and Payroll Documentation

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

3. Consider Receiving and Filing SA Treasurer's Report - December 2023

ACTION - Consent Calendar - Item B-3	
ACTING:	Successor Agency Board
RESULT:	Approved on Consent Calendar; motion carried 5-0.

4. Consider Approval of SA Warrant Register - December 2023

ACTION - Consent Calendar - Item B-4	
ACTING:	Successor Agency Board
RESULT:	Approved on Consent Calendar; motion carried 5-0.

5. Consider Receiving and Filing MHC Treasurer's Report - December 2023

ACTION - Consent Calendar - Item B-5	
ACTING:	Montclair Housing Corporation Board
RESULT:	Approved on Consent Calendar; motion carried 5-0.

6. Consider Approval of MHC Warrant Register - December 2023

ACTION - Consent Calendar - Item B-6	
ACTING:	Montclair Housing Corporation Board
RESULT:	Approved on Consent Calendar; motion carried 5-0.

7. Consider Receiving and Filing of MHA Treasurer's Report - December 2023

ACTION - Consent Calendar - Item B-7	
ACTING:	Montclair Housing Authority Commissioners
RESULT:	Approved on Consent Calendar; motion carried 5-0.

8. Consider Approval of MHA Warrant Register - December 2023

ACTION - Consent Calendar - Item B-8	
ACTING:	Montclair Housing Authority Commissioners
RESULT:	Approved on Consent Calendar; motion carried 5-0.

10. Consider Authorizing the use of 2020 Justice Assistance Grant Funds toward the Cost of Transitioning to a Records Management System Compliant with the National Incident Based Reporting System

ACTION – Consent Calendar – Item B-10	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

11. Consider receiving and filing the Fiscal Year 2022-23 Compliance Report for State-Mandated Annual Fire Inspections in the City of Montclair as Required by California Health and Safety Code Section 13146.4

Xavier Mendez, resident, commented that it is great to see Montclair has completed the required amount of inspections.

Council Member Lopez confirmed that the inspections occurred in Fiscal Year 2022-23, and asked why the apartment condo inspections are only at 10% completion.

City Manager Starr advised that there is not enough in-house staffing; however, the City is considering contracting these services out in the future and expects to complete inspections by the end of this Fiscal Year.

ACTION – Consent Calendar – Item B-11	
ACTING:	City Council
RESULT:	Approved on Consent Calendar; motion carried 5-0.

C. Agreements

1. Consider Approval of Agreement No. 24-01 with the County of San Bernardino to Provide for the Receipt of Grand Funds from the 2023 Justice Assistance Grant Award

Consider Authorizing City Manager Edward C. Starr to Sign Said Agreement

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

2. Consider Approval of Agreement No. 24-02, Amendment No. 4 to Agreement No. 73-230, a Joint Powers Authority (JPA) Agreement with the San Bernardino Council of Governments (SBCOG), Setting Forth a Process For Determining Annual Assessments to Member Agencies of SBCOG Effective Fiscal Year 2024-25 and each Fiscal Year Thereafter; Allowing for Optional Subscription Assessments for Specified Programs; and Establishing a Revised Annual Membership Fee for Montclair and Other Member Agencies of SBCOG for Fiscal Year 2024-25

Council Member Ruh spoke on membership dues and questioned the increase, stating that successful cities are being punished with additional dues.

Mayor Dutrey advised he served on the advisory committee for SBCOG to determine the formula to calculate membership fees based on 50% population and 50% tax revenue. He noted the increase will address the lack of staffing and allow SBCOG to take on more activities that will benefit member cities and the County of San Bernardino.

City Manager Starr advised that this is a hybrid formula and does not burden any one particular agency based on any specific factor.

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

3. **Consider Approval of Agreement No. 24-03 with Red Dot Industrial Park, LLC for the Maintenance and Use of the Common Walls at Reeder Ranch Park, Subject to any Revisions Deemed Necessary by the City Attorney**

Xavier Mendez, resident, commented on the possibility of recording the agreement against the property with the San Bernardino County Assessor-Recorder-Clerk’s Office to ensure the agreement stays in place if a new owner purchases the property.

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

D. Resolutions

1. **Consider Adoption of Resolution No. 24-3425 Authorizing Salaries and Classification Titles for City Employees on a Consolidated Salary Schedule**

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

IX. PULLED CONSENT CALENDAR ITEMS

9. **Consider Receiving and Filing a Report on Extraordinary Expenditures Related to All Cost Components Regarding the Matters of *Garcia/Fuentes v. Lopez*, Including Expenditures Related to Addressing Legal Claims, Conducting Investigations, Settlements, and Litigation**

Bruce Culp, resident, stated that the money going toward these lawsuits could have been spent on various needed improvements the City. He commented that Council Member Lopez has failed to attend the required sexual harassment trainings and employees still have to endure his presence on a daily basis. He indicated Council Member Lopez should not receive any official support for his re-election in light of this information and should be removed from office.

Council Member Martinez read an excerpt from the staff report that reiterated the actions of the City Council pertaining to the allegations against Council Member Lopez relating to sexual harassment and discrimination, and stated that the City has expended \$703,052.09 on this matter to date. She noted he has shown no remorse nor taken responsibility for his actions and has made it extremely difficult for staff to perform their jobs. She concluded he has shown a complete disregard for the censure and staff resources have been wasted dealing with this matter.

Mayor Dutrey commented on the investigation and advised the public that legally a recall election would be necessary to remove a Council Member from office, or a regular election provided he does not get enough votes. He commented on the mediation hearing that occurred, in which City representatives

and employees were present, however Council Member Lopez did not participate. He advised that the legal case is still continuing and the City is involved in a cross complaint with Council Member Lopez regarding this case.

Mayor Dutrey stated that this is a matter for the residents of Montclair and made a motion to direct staff to send letters to all of the residents in the city of Montclair, informing them of what is occurring in their city in relation to this matter.

ACTION	
ACTING:	City Council
MOTION:	Direct staff mail to all Montclair residents a notice advising them of City Council actions relating to <i>Garcia/Fuentes v. Lopez</i> .
MADE BY: SECOND BY:	Mayor Dutrey Council Member Martinez
AYES: NOES: ABSTAIN: ABSENT:	Martinez, Ruh, Johnson, Dutrey Lopez None None
RESULT:	Motion carried 4-1

Council Member Lopez stated he did not refuse to attend sexual harassment training and his failure to attend was related to health issues, noting his attorney has tried to reschedule the training with the City to no avail. He contended that the allegations made against him are made for political reasons, adding that the City should be defending him. He stated that he maintains his innocence and is entitled to that right.

ACTION - Consent Calendar - Item B-9 (Pulled)	
ACTING:	City Council
MOTION:	Receive and file report on extraordinary expenditures related to all cost components regarding the matters of <i>Garcia/Fuentes v. Lopez</i> , including expenditures related to addressing legal claims, conducting investigations, settlements, and litigation.
MADE BY: SECOND BY:	Mayor Dutrey Council Member Martinez
AYES: NOES: ABSTAIN: ABSENT:	Martinez, Ruh, Johnson, Dutrey Lopez None None
RESULT:	Motion carried 4-1

X. COMMUNICATIONS

A. Department Reports — None

B. City Attorney

City Attorney Robbins announced the City Council will be holding an appeal hearing on January 29, 2024 at 6:00 p.m. in the City Council Chambers.

C. City Manager/Executive Director — None

D. Mayor/Chair

Mayor/Chair Dutrey announced the March to Miles event on Saturday, March 2nd; advised that permits have been issued to **Calaveras Restaurant**; announced that staff is working on a master plan to address street striping in the City; recognized the Public Works for its display of new equipment in the City Hall parking lot this evening; and recognized **Montclair High School's** boys' soccer team for ranking 14th in the state and the girls' soccer team for ranking 69th in the state.

E. Council Members/Directors

1. Mayor Pro Tem/Vice Chair Johnson thanked the 103 attendees for joining the **Montclair Chamber of Commerce** at its Firefighter Recognition Luncheon last week and thanked Fire Chief Pohl for his help; announced the upcoming Police Officer Recognition Luncheon in May; announced that **Chino Basin Water Conservation District** is hosting a Time Capsule event on January 18th at 11:00 a.m. and a ribbon cutting event at **Al Pastor Taqueria** on the same day at noon; announced a ribbon cutting event at **Schematch Educational Foundation** on January 24th at noon; and announced the grand opening and ribbon cutting luncheon for the relocation of the **Montclair Chamber of Commerce** at 9916 Central Ave, on February 1st.
2. Council Member/Director Lopez announced that on January 7th, the **Montclair High School** Booster Club honored seniors for their exemplary accomplishments, presented **Jonathan Navarro** with Coach of the Year award, and recognized a graduating senior that enlisted in the Army and was selected to play for the **Army West Point** football team; congratulated **Montclair Chamber of Commerce** for their turnout and congratulated Firefighter Metzo for earning the Firefighter of the Year award; and expressed his pride in his cousin **Monique Fodor**, whose mother received her military banner earlier this evening, for serving her country in the Navy.
3. Council Member/Director Ruh commented that he was unable to attend the Firefighter Recognition Luncheon as he was attending the **Gold Line Joint Powers Authority** meeting as the Treasurer; announced that the **Metropolitan Transportation Authority** will be celebrating Transit Equity Day on February 4, and will be offering free rides all day on public transportation in honor of **Rosa Parks**; recognized **Martin Luther King, Jr**; and remembered **KNXT** reporter **Ruth Ashton Taylor**, who passed away at the age of 101, speaking on her life and ties to Montclair by reporting on the historic opening of **Nordstrom** in the City.

F. Committee Meeting Minutes


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

1. Personnel Committee – December 18, 2023

XI. ADJOURNMENT

At 9:54 p.m., the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board were adjourned.

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



Andrea Myrick,
City Clerk