

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 20, 2015, AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

---

I. CALL TO ORDER

Mayor/Chairman Eaton called the meeting to order at 7:00 p.m. and asked that everyone please silence their electronic devices as a courtesy to others while the meeting is in session.

II. INVOCATION

Carolyn Preschern, *Uniting Leaders through Prayer*, gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Dutrey led those assembled in the Pledge.

IV. ROLL CALL

Present: Mayor/Chairman Eaton; Mayor Pro Tem/Vice Chairperson Raft; Council Members/Directors Dutrey and Martinez; City Manager/Executive Director Starr; Deputy City Manager/Economic Development Executive Director Staats; Director of Community Development Lustro; Director of Public Works Hudson; Director of Finance Parker; City Attorney Robbins; Deputy City Clerk Phillips

Absent: Council Member/Director Ruh

V. PRESENTATIONS

A. **Foothill Gold Line Update by Habib Balian, Executive Director, Metro Gold Line Foothill Extension Construction Authority**

**Executive Director Habib Balian, Metro Gold Line Foothill Extension Construction Authority (Foothill Gold Line)**, noted the Gold Line Project is well underway. He advised that **Foothill Gold Line** is a separate construction authority created by **SB 1847 (Schiff)** in 1998, that is responsible for the construction of the **Gold Line** from **Los Angeles Union Station** to the county line. He noted the organization consists of its own appointed Board of Directors, staff, and coordination system for communicating with cities along the Phase 2 right-of-way.

**Executive Director Balian** noted Foothill Gold Line is taking a grassroots approach by working closely with corridor cities throughout the planning, design, and construction phases of the project. He noted elected officials serve on a Joint Powers Authority and City Engineers, Planners, and Public Works directors serve on a Technical Advisory Committee.

**Executive Director Balian** explained that the **Gold Line** is being built in three phases: the first is the segment from Los Angeles to Pasadena, which began in 2003; the second is Pasadena to Azusa, which is currently underway; and the third is Azusa to Montclair, which is currently in the advanced engineering and design phase.

**Executive Director Balian** stated the Pasadena to Azusa phase is currently on-time and on-budget to complete the project, which is fully funded through **Measure R**. He noted the project consists of three design-build contracts totaling more than \$550 million. He advised the **Construction Authority** oversees the project, which is anticipated to be completed and turned over to **Metro** in late September of this year. He added that there are six new stations built in five cities along the project, which include parking.

**Executive Director Balian** reported that twenty-four bridge structures have been completed, including the bridge that traverses the I-210 freeway. He added a maintenance and operations facility has also been constructed in Monrovia, which will service up to 84 Metro fleet vehicles. He noted **Metro** will be taking control of the facility in May, and will be holding an open house on May 23.

**Executive Director Balian** advised that some corridors will be shared with freight and **Metrolink** trains, but noted light rail trains will have their own separate tracks.

**Executive Director Balian** stated he would now discuss the Azusa to Montclair extension of the **Gold Line** construction project. He advised that the project was approved by the Foothill **Gold Line Construction Authority Board of Directors** in March of 2013, and that the station locations have been selected in each of the six cities: Glendora, San Dimas, La Verne, Pomona, Claremont, and Montclair.

**Executive Director Balian** reviewed the steps that have been taken in preparation for the extension from Azusa to Montclair including: completion of an alternatives analysis, selection of a locally preferred alternative (LPA), cleared for compliance with **California Environmental Quality Act** standards, right-of-way has been purchased, station artists and concepts have been selected, political and community support for LPA, and approval for the advanced conceptual engineering and design funding. He advised the construction estimate is approximately \$1.18 billion, which is anticipated to be secured as early as 2017. He noted much of the funding will come from a proposed 2016 Los Angeles County sales tax measure if it passes.

**Executive Director Balian** noted Montclair's station design is underway and includes a raised platform, shade, lighting, CCTV surveillance, bicycle lockers, and other amenities. He noted the City has selected local artist **Ruth Ann Anderson** to contribute artwork to the station, who has provided an early design concept of a kiosk adorned with orange crate-inspired artwork and historical information about the City.

**Executive Director Balian** advised that **San Bernardino Associated Governments (SANBAG)** will be responsible for approximately \$55 million for construction from Claremont to Montclair. He noted if the funding is not secured, then the **Gold Line** will terminate in Claremont and the Montclair extension will be delayed to a future time.

**Executive Director Balian** stated that each corridor city will be hosting a **Gold Line** open house to showcase the design concepts for each proposed station along the corridor, and that Montclair's event would be held in the Montclair Senior Center tomorrow evening, April 21, 2015, from 6:00 to 8:00 p.m. He noted station artist **Ruth Ann Anderson** and other station artists would be available to receive input from to members of the public.

Mayor Eaton advised that the City Council and staff are very supportive of the **Gold Line's** extension to Montclair and are working toward securing funding for the final phase of the project.

Council Member Dutrey concurred, stating the City is committed to bringing the **Gold Line** to Montclair. He noted the future of the Montclair Plaza relies on transforming North Montclair into a transit-oriented district, which the **Gold Line** will help to create. He advised **Fourth District County Supervisor Curt Hagman** is also supportive in securing funding through **SANBAG**.

Council Member Martinez stated that she and the rest of the City Council are fully behind this effort, and noted that Council Member Ruh gifted members of the City Council with gold-plated hard hats and shovels for Christmas to emphasize his support.

Mayor Eaton thanked **Executive Director Balian** for **Gold Line** update.

## **B. 2015 Volunteer of the Year Awards**

Mayor Eaton stated that tonight, in honor of Volunteer Appreciation Week, the City has a special presentation to recognize several individuals who have devoted their time to volunteer efforts in the community. He introduced Community Action Committee (CAC) Chair Peggy Banas.

Noting the City is very fortunate for the many caring volunteers who quietly give of their time and resources to make Montclair a closer, more caring, compassionate community, CAC Chair Banas stated that the CAC wants our volunteers to know how proud and grateful we are of their dedication to Montclair. She invited the following five **Volunteers of Distinction** to come forward to receive a plaque from Mayor Eaton and *Certificates of Recognition* from **Ms. Marisol Guerra** representing **U.S. Representative Norma Torres**, **Mr. Benny Ayala** representing **Senator Connie Leyva**, **Ms. Joanna Valenzuela** representing **Assembly Member Freddie Rodriguez**, and **San Bernardino County Fourth District Supervisor Curt Hagman**:

**Montclair-Ontario Junior Women's Club** nominee **Ms. Sue Yoakum** has been a member and valuable asset for the past forty-seven years, bridging the gap in the areas of health, public service, youth, and education. **Ms. Yoakum** has been a member of the organization since the club's inception, and has proved to be a valuable asset. She has been involved in many club projects, including the annual Easter Eggstravaganza, **United Way Kids Pack** program, annual City tree lighting ceremony, senior center Bunco Bash fundraiser, Human Services holiday food basket program, and the Darlene Edwards memorial scholarship for middle and high school students. **Ms. Yoakum's** gift wrapping talents are used for baskets at the club's annual Easter Eggstravaganza and Bunco bash events. Funds raised from the Bunco Bash fundraiser have been used to support the Montclair Medical Clinic, the **American Cancer Society**, the Montclair Fire Department, and most recently for the Pacific Electric Trail in Montclair. Professionally, this volunteer is a retired Assistant Director of Human Services for the City of Montclair, and continues to serve this community as a Senior Case Manager in the Senior Center. She is a professor of gerontology at **Chaffey College** and volunteers with other organizations such as Community Senior Services and Meals on Wheels. Her passion for the community and for being a person not afraid to put in hard work to make a difference is admirable.

**Ms. Yoakum** was unable to attend. Her award was accepted by **Ms. Silvia Gutierrez**, President, **Montclair-Ontario Junior Women's Club**.

**Monte Vista Elementary School** nominee **Ms. Nicole Pennington** has been president of the school's parent-teacher organization (PTO) for the past two years. A fixture at the school, **Ms. Pennington** can often be found helping out, whether it be in classrooms, the school library, the front office, or in fulfilling her duties as president of the PTO. Recently, **Ms. Pennington** spent countless hours converting books in the school's library to the accelerated reader system, which allowed students to easily access books in the school library at their reading level. **Ms. Pennington** personally contacted and secured multiple food and retail vendors for the school's annual *Picnic on the Playground*, and also introduced a new fundraising method at the event. In addition, she brought book fairs back to the school three times a year.

**House of Ruth** nominee **Ms. Brenda Davila** has given 317 hours of service to the organization over the past three years. She volunteers weekly in **House of Ruth's** outreach office, providing case management services and clerical support to clients. **Ms. Davila** does an outstanding job of providing services and support to clients victimized by domestic violence in a respectable, nonjudgmental, and compassionate manner. She provides emotional support while advocating and assisting clients as they navigate through multiple legal and social service agencies. Always ready to serve with dedication and enthusiasm, **Ms. Davila** is an important part of the **House of Ruth** family.

**Ms. Davila** was unable to attend. Mayor Eaton stated, "We will be sure this award gets to her."

Mayor Eaton extended the City Council's sincerest gratitude to each **Volunteer of Distinction** for their service to the community. He presented the following **2015 Volunteer of the Year** awards:

First

Runner-Up: **VNA Hospice & Palliative Care of Southern California** nominee **Ms. Patricia Rees** serves as an office volunteer, preparing folders for different levels of care and treating locations. This task requires an extreme level of organization and attention to detail, which **Ms. Rees** demonstrates with ease. **Ms. Rees** also volunteers at a local thrift store, is a Board Member of the **Montclair Chamber of Commerce** and is the president of **Montclair Kiwanis**. She wisely manages her time and is able to devote quality service and commitment to all four organizations.

First

Recipient: **Montclair *Por La Vida*** nominee **Ms. Emma Casillas** became a ***Por La Vida* Consejera** in 2007, and has since taught groups on the topics of diabetes, health, and nutrition at **El Camino Elementary School**, **San Marino senior apartment complex**, **Montclair Civic Center**, and **Monte Vista Elementary School**, each with high attendance. She has also volunteered for other City of Montclair and ***Por La Vida*** programs, including the annual health fair, holiday toy and food basket program, and in the ***Por La Vida*** office assisting with phone calls and preparing class materials. In fall 2013, she also volunteered to help with the promotion of the **Montclair Community Fruit Park** by canvassing the Montclair community, attending planning meetings, and helping prepare the soil for planting. Recently she also assisted with community outreach for the **Montclair Community Garden**. A dedicated mother of four, she is an outstanding role model for the community.

Second

Recipient: **Ms. Irene Norquist** was nominated by the Montclair Senior Center. **Ms. Norquist** serves in many programs at the Senior Center. When the Senior Nutrition Program, which serves 65–80 seniors daily with a hot, nutritious meal, is short-staffed, this volunteer is willing to assist in any role necessary. Every month she can be found serving at the program's monthly birthday party, which serves over 260 seniors. This individual also saw a need for a weekly needlecraft class, and founded a group that now meets every Friday. She also embraces the difficult job of crowd control at the City's monthly food distribution program. Others rely on her to make sure the program runs smoothly. If necessary, she also recruits other volunteers to assist with the program. In addition, this special lady helps with the monthly mailing of the senior newsletter and recently volunteered to assist in the weekly bingo program when another volunteer was absent. Her positive attitude, ability to make the best of any situation, and dedication are priceless.

On behalf of the City Council, Mayor Eaton expressed his heartfelt gratitude to these and all the City's dedicated volunteers who make Montclair a better place to live, work, and play. He also thanked the CAC for facilitating the volunteer program and coordinating tonight's ceremony.

At 7:35 p.m., Mayor Eaton paused the meeting for a few moments to allow award recipients to gather in the West Lobby for a reception.

**C. Proclamation Declaring May 7, 2015, as the "National Day of Prayer" in the City of Montclair**

**Ms. Carolyn Preschern**, Moderator, **Inland Empire Prayer Breakfast Committee**, stated that she has been proud to participate in the National Day of Prayer for 22 years and that in excess of four hundred individuals attend the breakfast each year. She invited the City Council to join them in "lifting up our leaders in our community" on May 7, 2015, from 7:00 to 9:00 a.m. at the **Ontario Doubletree Hotel**, 222 North Vineyard Avenue, advising that participants represent over thirty regional churches. She noted there are still seats available and that she would leave applications for tickets in the Council Chambers.

Mayor Eaton presented **Ms. Preschern** with a proclamation declaring May 7, 2015, as "National Day of Prayer" in the City of Montclair.

**Ms. Preschern** accepted the proclamation and thanked Mayor Eaton.

Mayor Eaton thanked **Ms. Preschern** for attending the meeting this evening. He announced that a Mayor's Prayer Luncheon will be held on May 7, 2015, at 11:30 a.m. at the Community Center and that reservations must be made with **Montclair Chamber of Commerce** Administrative Assistant **Melina Guevara** by April 30.

Mayor Eaton thanked audience members for their attendance and noted that those who would like to leave the meeting at this time could do so.

**VI. PUBLIC COMMENT**

Pursuant to Government Code Section 54954.3, Mayor Eaton announced that this section is intended to provide members of the public with an opportunity to address the Council on any subject that does not appear

on tonight's agenda. He stated that each speaker will be afforded five minutes to address the City Council, the Successor Agency and Montclair Housing Corporation Boards of Directors, the Montclair Housing Authority Commissioners, and the Montclair Community Foundation Board of Directors.

- A. **Ms. Suzette Dang**, Field Representative, **San Bernardino County 4th District Supervisor Curt Hagman's Office**, invited the City Council and members of the Montclair community to an upcoming event sponsored by **Supervisor Hagman's** office:

**Open House** - April 30, 2015, 5:00 to 7:30 p.m.  
Supervisor Hagman's District Office  
14010 City Center Drive, Chino Hills, CA  
(food provided by **The Taco Man**)

She stated she hopes to see everyone there and thanked Mayor Eaton and the City Council.

## VII. PUBLIC HEARINGS

- A. **First Reading - Consider Adoption of Ordinance No. 15-948 Adding Chapter 11.65 to the Montclair Municipal Code Related to Reasonable Accommodations for Disabled Individuals**

Mayor Eaton declared it the time and place set for public hearing related to Ordinance No. 15-948 adding Chapter 11.65 to the Montclair Municipal Code related to reasonable accommodations for disabled individuals, and invited comments from the public.

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

Mayor Pro Tem Raft asked staff if "reasonable accommodations" would address issues like wider hallways, doors, and ramps.

Community Development Director Lustro concurred, noting it would also require such improvements to be designed and built in compliance with the Development Code. He added that there is no fee associated with a request for reasonable accommodation; however, regular building permit costs would still apply.

Council Member Martinez asked if this would be retroactive.

Community Development Director Lustro stated, "No, it is not."

Moved by Council Member Dutrey and seconded by Mayor Pro Tem Raft that the City Council read Ordinance No. 15-948, entitled, "**An Ordinance of the City Council of the City of Montclair Adding Chapter 11.65 to the Montclair Municipal Code Related to Reasonable Accommodations for Disabled Individuals,**" be read by number and title only, further reading be waived, and this be declared its first reading.

The City Council waived the reading of the Ordinance.

First Reading of Ordinance No. 15-948 was unanimously adopted by the following vote:

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

**B. Consider Tabling the Public Hearing for Adoption of Ordinance No. 15-950 Amending Sections 9.20.460 and 9.20.465 of the Montclair Municipal Code Related to the Equivalent Dwelling Unit Value**

Mayor Eaton declared that staff has requested that the City Council table the public hearing related to Ordinance No. 15-950 amending sections 9.20.460 and 9.20.465 of the Montclair Municipal Code Related to the Equivalent Dwelling Unit Value.

Public Works Director Hudson stated that **Inland Empire Utilities Agency (IEUA)** has delayed planned fee increases until January 1, 2016, and stated it would be better to hold a public hearing on this item in the fall.

Moved by Mayor Eaton and seconded by Mayor Pro Tem Raft that the City Council table the public hearing related to Ordinance No. 15-950 amending sections 9.20.460 and 9.20.465 of the Montclair Municipal Code Related to the Equivalent Dwelling Unit Value.

The City Council tabled the Public Hearing by the following vote:

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

**VIII. CONSENT CALENDAR**

Mayor/Chairman Eaton noted he would like to pull Item B-14.

Council Member Dutrey noted he would like to pull Item D-1 for comment.

Moved by Council Member/Director Dutrey, seconded by Mayor Pro Tem/Vice Chairperson Raft, and carried to approve the following Consent Items as presented:

**A. Approval of Minutes**

**1. Minutes of the Regular Joint Council/Successor Agency Board/MHC Board/MHA Commission/MCF Board Meeting of April 6, 2015**

The City Council, City Council acting as successor to the Redevelopment 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 April 6, 2015 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 March 31, 2015.

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

The City Council approved the City Warrant Register dated April 20, 2015, totaling \$627,055.85, and the Payroll Documentation dated April 5, 2015, amounting to \$574,846.14 gross, with \$403,283.79 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 March 31, 2015.

**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 3.01.15–3.31.15 in the amounts of \$111,022.79 for the Combined Operating Fund; \$0.00 for the Redevelopment Obligation Retirement Funds; \$0.00 from the Tax Exempt Bond Proceeds; and \$0.00 from the Taxable Bond Proceeds.

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

The MHC Board received and filed the MHC Treasurer's Report for the month ending March 31, 2015.

**6. Approval of MHC Warrant Register**

The MHC Board approved the MHC Warrant Register dated 3.01.15–3.31.15 in the amount of \$63,207.46.

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

The MHA Commissioners received and filed the MHA Treasurer's Report for the month ending March 31, 2015.

**8. Approval of MHA Warrant Register**

The MHA Commissioners approved the MHA Warrant Register dated 3.01.15–3.31.15 in the amount of \$0.00.

**9. Setting a Public Hearing to Consider Ordinance No. 15-949 Amending the Land Use Matrix (Table 3-1) of the North Montclair Specific Plan and Chapter 11.78 of the Montclair Municipal Code to Conditionally Permit Microbreweries in the MIP (Manufacturing Industrial Park) Land Use District of the North Montclair Specific Plan**

The City Council set a public hearing for Monday, May 4, 2015, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 15-949 amending the Land Use Matrix (Table 3-1) of the North Montclair Specific Plan and Chapter 11.78 of the Montclair Municipal Code to conditionally permit microbreweries in the MIP (Manufacturing Industrial Park) Land Use District of the North Montclair Specific Plan.

**10. Authorizing Staff to Advertise for Bid Proposals for the Traffic Signal Improvement Project at Central Avenue and San Bernardino Street**

The City Council authorized staff to advertise for bid proposals for the Traffic Signal Improvement Project at Central Avenue and San Bernardino Street.

**11. Authorizing a \$1,796.89 Appropriation from the Contingency Fund to Purchase a Stackable Washer and Dryer for Fire Station No. 152 from Best Buy**

The City Council authorized a \$1,796.89 appropriation from the Contingency Fund to purchase a stackable washer and dryer for Fire Station No. 152 from Best Buy.

**12. Consider Issuing a Permit for Express Transportation Systems, Inc., to Operate and Provide Taxicab Services Within the City of Montclair**

The City Council approved the application for Express Transportation Systems, Inc., to operate and provide taxicab services in the City of Montclair, and authorized staff to issue a permit for such service when Express Transportation Systems, Inc., posts a surety bond in the form and amounts required by the Montclair Municipal Code.

**13. Consider Declaring City Unit 437 as Surplus and Authorizing its Sale at Auction or Scrap**

The City Council declared City Unit 437, Scissor Lift (Serial No. 2407), as surplus and authorized its sale at auction or scrap.

**C. Agreements**

**1. Approval of Agreement No. 15-26 with Geo-Advantec, Inc., for \$30,000 for On-Call Testing and Inspection Services for Miscellaneous City Projects**

The City Council approved *Agreement No. 15-26* with Geo-Advantec, Inc., for \$30,000 for on-call testing and inspection services for miscellaneous City projects.

**2. Appropriation of \$90,000 from the Gas Tax Fund for the Benson Avenue Block Wall Replacement Project**

**Award of Contract to Aguilera Brothers Construction, Inc., in the Amount of \$79,180 for the Benson Avenue Block Wall Replacement Project**

**Approval of Agreement No. 15-28 with Aguilera Brothers Construction, Inc., for Construction of the Benson Avenue Block Wall Replacement Project**

**Authorization of an \$11,000 Construction Contingency**

The City Council took the following actions:

- (a) Appropriated \$90,000 from the Gas Tax Fund for the Benson Avenue Block Wall Replacement Project.
- (b) Awarded a contract to Aguilera Brothers Construction, Inc., in the amount of \$79,180 for the Benson Avenue Block Wall Replacement Project.
- (c) Approved *Agreement No. 15-28* with Aguilera Brothers Construction, Inc., for construction of the Benson Avenue Block Wall Replacement Project.
- (d) Authorized an \$11,000 construction contingency for the Benson Avenue Block Wall Replacement Project.

**D. Resolutions**

**2. Adoption of Resolution No. 15-02, a Resolution of the Successor Agency to the City of Montclair Redevelopment Agency Approving and Authorizing Execution of Agreement No. 15-17, a Purchase and Sale Agreement Between the Successor Agency to the City of Montclair Redevelopment Agency (City of Montclair) and Press On Properties, LLC, Regarding Property Located at 4960 Palo Verde Street, Montclair, California (1008-332-04)**

The Successor Agency Board of Directors adopted Resolution No. 15-02, a Resolution of the Successor Agency to the City of Montclair Redevelopment Agency Approving and Authorizing Execution of Agreement No. 15-17, a Purchase and Sale Agreement Between the Successor Agency to the City of Montclair Redevelopment Agency (City of Montclair) and Press On Properties, LLC, Regarding Property Located at 4960 Palo Verde Street, Montclair, California (1008-332-04).

## IX. PULLED CONSENT CALENDAR ITEMS

### B. Administrative Reports

#### 14. Formation of a Special Joint Ad Hoc Committee with the Monte Vista Water District to Consider Water Conservation and Drought-Related Issues Affecting the Local Community

**Consider Appointing Two Members of the City Council to Serve on the Water Committee**

**Consider Appointing the City Manager and the Public Works Director to Serve on the Water Committee**

Mayor Eaton stated he believes it is not necessary for two Council Members to be appointed to such a committee. He advised that City and Water District staff could meet and report to their respective Boards to provide reports and present items for approval. He noted it is his belief that City Council participation on such a committee adds an unnecessary level of meetings that staff can handle.

Mayor Eaton moved to take no action on this item.\*

Council Member Dutrey stated his opinion that the creation of this committee is crucial due to the water-related state of emergency that exists in the state. He noted that joint efforts related to media campaigns, programs, and organizational actions could be beneficial to the community in addressing this issue. He advised that he believes at least one member of the City Council should be represented on a joint ad hoc Water Committee with the **Monte Vista Water District (MVWD)**.

Council Member Martinez stated she would like to abstain from voting on this issue because her husband serves on the **MVWD Board**.

Mayor Pro Tem Raft concurred with Mayor Eaton, noting that if two staff members will be attending meetings with **MVWD**, information can be reported to the City Council.

\*Moved by Mayor Eaton, seconded by Mayor Pro Tem Raft, and carried that the City Council take no action on the formation of a special joint ad hoc committee with **MVWD**.

The City Council took no action on the formation of a special joint ad hoc committee with **MVWD** by the following vote:

AYES:	Raft, Eaton
NOES:	Dutrey
ABSTAIN:	Martinez
ABSENT:	Ruh

### D. Resolutions

#### 1. Adoption of Resolution No. 15-3071 Authorizing the City of Ontario to Submit an Application for Cycle 2 Active Transportation Program Funding on Montclair's Behalf

**Through California Department of Transportation and Southern California Association of Governments for Design and Construction of G/Orchard Street Crosstown Bike Route and San Antonio Avenue Bike Corridor**

Council Member Dutrey asked if pavement improvement work would be done in addition to the construction of bike lanes.

Public Works Director Hudson stated that if funding for repavement is acquired, it would be completed in conjunction with this project and the Capital Improvement Program would be amended to include the additional work.

Moved by Council Member Dutrey and seconded by Mayor Pro Tem Raft that Resolution No. 15-3071, entitled, "**A Resolution of the City Council of the City of Montclair Authorizing the City of Ontario to Submit an Application for Cycle 2 Active Transportation Program (ATP) Funding Through California Department of Transportation and Southern California Association of Governments for Design and Construction of G/Orchard Street Crosstown Bike Route and San Antonio Avenue Bike Corridor,**" be declared adopted.

Resolution No. 15-3071 was adopted by the following vote:

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

X. **RESPONSE** - None

XI. **COMMUNICATIONS**

A. **City Attorney** - None

B. **City Manager/Executive Director**

City Manager/Executive Director Starr thanked **Executive Director Balian** for his presentation on the Gold Line earlier this evening. He emphasized the City's active partnership with **Foothill Gold Line**, noting the City is working to secure funding for the **Gold Line's** extension from the Los Angeles-San Bernardino County line to the **Montclair Transcenter** (Phase 2B). He advised that City Council Members will be going to Washington, D.C., to meet with members of the **Federal Transit Administration (FTA)** in an attempt to secure federal funding on behalf of **San Bernardino Associated Governments (SANBAG)**. He further advised that **Supervisor Hagman, Senator Leyva, and Assemblymember Rodriguez** have indicated to staff their intent to work with the state legislature to develop Cap and Trade Funding for Phase 2B. He indicated the cost of Phase 2B is expected to be between \$55 and \$72 million. He advised if a local match is required, Phase 2B would require \$36 million in matching local funds. He added **Senator Leyva and Assembly Member Rodriguez** are drafting a bill to secure local Cap and Trade funding for this project. He advised funding for the project needs to be secured by 2017, when the project is scheduled to begin construction. He indicated he is optimistic because **FTA** had shown support for the project and indicated **FTA** will provide federal funds if the City is able to generate the local match funding.

C. **Mayor/Chairman**

Mayor/Chairman Eaton commented as follows:

1. He noted that he attended **Metrolink, Omnitrans, SANBAG,** and Public Works Committee meetings.

2. He reported his attendance at the **Chaffey College** Alumni of the Year dinner on April 7, 2015 to support Council Member Martinez, noting he would let her talk more about the event.
3. He announced there is one vacancy each on the Planning Commission (PC) and the Community Action Committee (CAC). The PC vacancy is for a four-year term that will expire on June 30, 2019. The CAC vacancy is for a three-year term that will expire on June 30, 2018. He advised that applications are available at City Hall and would be accepted through Monday, May 18, 2015, at 5:30 p.m. He invited those interested to apply.

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

1. Council Member/Director Martinez commented as follows:
  - (a) She advised that she attended the **State of the County 2015** event last week.
  - (b) She stated the Police Department has been hosting a morning coffee klatch at the Senior Center every other Tuesday. She noted the seniors are very excited for these meetings, adding she appreciates the Police Department's dedication to its senior citizens.
  - (c) She announced the **Chamber of Commerce** hosts its meetings every second Thursday of the month at 7:30 a.m. at **Magdalena's Restaurant** in Upland. She encouraged the community to attend the event, noting it's not much more expensive to attend than for members of the Chamber.
  - (d) She noted she was honored at the **Chaffey College** Alumni of the Year and Athletic Hall of Fame Dinner. She reported that she was inducted into the Alumni of the Year Hall of Fame, along with former City Manager **Michael Milhiser**. She noted it was such a blessing to see everyone from her Montclair City family who attended to support her, including members of the City Council and staff.

She thanked the City of Montclair for sponsoring an advertisement in the event's program to honor her, which supports **Chaffey College Foundation** scholarship programs. She advised a new scholarship will be awarded to a prospective **Chaffey College** student who plans to dedicate his or her future career in law enforcement to making a positive difference in a child's life. She noted she hopes the recipient will be a Montclair High School student. She stated this scholarship is dedicated to former Anaheim Police Captain **Joe Vargas**, who inspired Council Member Martinez as a youth.

She added that when she attended **Chaffey College** twenty years ago, she was on the Governmental Affairs Committee that started the first Alumni Foundation Recognition Banquet, and she selected **Mr. Milhiser** as the Alumni of the Year because she recognized his name as her hometown's City Manager at the time.

- (d) She noted Mary Cotter, a Senior Center volunteer, is 102 years old and lives in Ontario, but she is still a member of Montclair's City family.

- (e) She reported Our Lady of Lourdes Catholic Church is holding its annual festival this weekend, April 25 & 26.
- (f) She stated she hopes to see everyone at the Mayor's Prayer Breakfast on May 7, 2015.
- (g) She showed her new vanity license plate, "♥MNTCLR," which she stated will be proudly displayed on her car.

Mayor Eaton advised, "You know, that means you'll *really* have to behave, Trish!" He thanked Council Member Martinez for sharing.

2. Mayor Pro Tem/Vice Chairperson Raft commented as follows:

- (a) She stated this week is National Mosquito Awareness Week and advised the Vector Control District performed surveillance flights across Rancho Cucamonga, north Ontario, and Montclair to identify areas with standing water that are not maintained in a way that prevents vector infestation. She stated the current warm weather conditions have exacerbated the higher rate of vector infestations.
- (b) She stated that Code Enforcement has recently issued double citations in her neighborhood, indicating that the City is actively enforcing its building and landscaping standards.
- (c) She advised that public transportation across the country could be in trouble if **MAP-21**, which expires on May 31, 2015, is not extended. She stated the west coast alone will lose over \$63.9 billion in funding and 10,000 buses will not be replaced through the federal State of Good Repair and Bus & Bus Facilities Programs.

She requested the City write a letter to **Congresswoman Torres** supporting the extension of **MAP-21**, which would allow **FTA** to apportion the remaining four months of Fiscal Year 2015 funding for these important public transportation programs.

- (d) She congratulated Council Member Martinez for her induction into the Alumni of the Year Hall of Fame and commended her on the beautiful speech she gave at the event.

3. Council Member/Director Dutrey commented as follows:

- (a) He thanked the Montclair Police Department Dispatchers in recognition of National Public Safety Dispatcher Week.
- (b) He noted he attended the pre-grand opening event for **Arrow Station**, which are townhomes and single-family homes being built on Arrow Highway next to the **Montclair Transcenter**. He advised this project is part of the north Montclair transit district that the City is working toward.
- (c) He noted he and his daughter attended **Chino Basin Water Conservation District's Earth Day** event over the weekend.
- (d) He advised that tomorrow night, **Foothill Gold Line** will be holding an open house presentation at the Senior Center. He noted that unfortunately he will be unable to attend.

## **E. Committee Meeting Minutes**

### **1. Minutes of Personnel Committee Meeting of April 6, 2015**

The City Council received and filed the Personnel Committee meeting minutes of April 6, 2015, for informational purposes.

## **XII. ADJOURNMENT OF SUCCESSOR AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS, MONTCLAIR HOUSING AUTHORITY COMMISSIONERS, AND MONTCLAIR COMMUNITY FOUNDATION**

At 8:09 p.m., Chairman Eaton adjourned the Successor Agency and Montclair Housing Corporation Boards of Directors, Montclair Housing Authority Commissioners, and Montclair Community Foundation Board of Directors.

## **XIII. QUACH APPEAL HEARING**

Deputy City Clerk Phillips distributed the hearing format and case materials to the City Council, staff, and the representative for **Quach Investments, LLC**.

### **A. Presentation by Public Works Director Michael Hudson on Behalf of City Staff**

Public Works Director Hudson stated the issue presented before the Council this evening relates to an appeal that was made to the City Council by **Quach Investments, LLC (Quach)**, regarding the City Manager's denial of an exemption to undergrounding requirements. He noted the City Council heard an appeal on February 11, 2015, at which no determination was made by the Council and the hearing was continued to an undetermined date to allow more time for staff and **Quach** to attempt to reach a settlement or resolution to the issue. He stated that staff will briefly review the transpiration of events. He presented the below facts:

#### **Issue Presented:**

Whether the City Council should exempt **Quach** from the requirement to underground utilities imposed as a condition of its commercial development.

#### **The Subject Development:**

**Quach** is the current owner of a 17,480 square foot, single-story commercial building with multiple tenant units, located at 4855 Mission Blvd, Montclair (the Center).

#### **Conditions of Approval:**

On February 12, 2007, the Planning Commission approved **Quach's** request for a Precise Plan of Design and Variance for the Center. The granting of the Precise Plan of Design and Variance were subject to conditions, and included the following:

1. The payment of a Transportation Development Impact Fee of \$118,217.00.

Ordinance No. 06-887 allows this fee to be collected at the time the building permit is issued or at any time prior to occupancy request.

2. The undergrounding of all overhead utility lines along the south side of Mission Boulevard and on the west side of Monte Vista Avenue for the length of the project, and the removal of all utility poles.

This condition was to be met prior to the issuance of any Certificates of Occupancy.

#### **Transportation Development Impact Fee:**

Based upon promises of payment, the City authorized and issued tenant improvement building permits and granted occupancies in February, 2010; July, 2010; and September, 2010; giving **Quach** 62 percent occupancy at the Center.

Payment was not received until June, 2013. (Initial payment made by check in January, 2010, but was returned by the bank due to non sufficient funds).

#### **Undergrounding of Utilities:**

October, 2009: **Quach** represents that undergrounding has been completed and that **Time Warner** and **Verizon** have been paid required funds - **Quach** produces copies of checks as proof of payments.

January, 2010: Staff learns that **Time Warner** and **Verizon** were not paid.

January, 2010: **Quach** requests occupancy of up to 65% so that he can obtain funds to do undergrounding; City accedes to this request and issues occupancy up to 62% in 2010.

Undergrounding is still not completed.

#### **Illegal construction:**

Throughout 2010 and 2011, **Quach** regularly performed and attempted to perform construction work at the Center in various units without permits. Correction notices and administrative citations were issued for most of the units.

Outstanding permit fees owed to the City at this point total: \$7,120 as of 2013.

#### **Request for Exemption from Undergrounding Requirements:**

Chapter 11.75 of the Montclair Municipal Code provides an exception to undergrounding requirements if these requirements are substantially disproportionate to the improvement being constructed, resulting in severe economic hardship.

**Quach** submitted to City Manager Starr a request for exemption from the undergrounding requirements on August 25, 2014. The City Council has received a copy of that request.

City Manager Starr denied the request determining that the cost of the undergrounding requirement was not substantially disproportionate to the constructed improvements resulting in severe economic hardship. The City Council should also have a copy of that denial.

#### **Appeal to City Council:**

Chapter 11.75 of the Montclair Municipal Code provides that the City Manager's decision may be appealed to the City Council, and **Quach** has done so. The hearing before you is a continued proceeding from the appeal hearing of February 2, 2015.

**Staff's Position:**

1. The cost of the undergrounding is not substantially disproportionate to the constructed improvements at this time, nor when the condition was imposed in 2007.
2. The undergrounding requirement has been imposed on surrounding developments to the west and south of the Center.
3. **Quach** never objected or raised concerns about this condition at the time the conditions of approval were imposed in 2007.

**Recommendation:**

Staff does not believe **Quach** should be exempted from the undergrounding requirement, and recommends that the City Manager's denial be upheld.

**B. Presentation by Quach Investments, LLC**

**Mr. Loren Miles**, Advisor, representing **Mr. Quach** and **Quach Investments, LLC**, introduced himself as a trustee of **HEG Trust**, a real estate trust that is currently working on a \$25 million residential project in Upland with **Meritage Homes of California, Inc.** He explained that he is here in an attempt to facilitate a resolution between the two parties: **Quach** and the City of Montclair. He noted that he has worked with other parties in a similar manner in the past.

**Advisor Miles** noted the City Council received a binder with "Calvin's Plan," to which his presentation will refer. He noted that he would like the City Council to vote for "Plan A" or "Plan B":

1. Plan A: Allow Quach to seek a five-year deferment to complete the underground cabling and grant 100 percent tenancy with certain contractual guarantees including a judgment lien on the property.
2. Plan B: Allow the City Manager or City Council to waive the requirement in its entirety.

**Advisor Miles** noted **Quach** is requesting the City Council approve "Plan A." He noted **Quach** initially agreed to the conditions in 2007. He noted **Quach** paid the City \$118,000 for a traffic impact study; however, after the recession, **Quach** was unable to pay the additional \$200,000 for the undergrounding of the utility poles. He noted the City's blockade of **Quach's** ability to lease 40 percent of his units has been financially devastating.

**Advisor Miles** stated the City should waive the requirement under Montclair Municipal Code Section 11.75.052, which provides for an exception based on "economic hardship." He noted **Quach** should qualify for this exemption based on **Quach's** Chapter 11 bankruptcy filing, which, he claimed, is due in part to the City's blockade on leasing units. He noted the City Council received financial statements that show **Quach's** loss of \$700,000 during the recession. He advised that he sincerely disagrees with City Manager Starr's determination that **Quach** "fails to demonstrate the cost of undergrounding utilities represents a burden of severe economic hardship."

**Advisor Miles** further stated that "Plan A" would allow **Mr. Quach** to honor the original agreement with the City by the installation of underground cabling; however, **Mr. Quach** requests a deferral of the work be granted for up to five years.

**Advisor Miles** noted the cost to build the Center was \$2.4 million and the cost of undergrounding the cabling is over \$200,000, which represents almost 10 percent of the cost to build the center.

**Advisor Miles** advised that **Mr. Quach** is willing to put certain securities in place for the City to ensure that the work will be done. He noted **Mr. Quach** will provide a judgment lien in the amount of \$200,000 against the Center in the event that the work is not performed within the five-year period. He further stated that **Mr. Quach** would cover legal fees to file the lien immediately, and sign a covenant agreement to ensure **Quach** cannot sell the property without setting aside \$200,000 in funds to provide for the underground cabling. He noted **Quach** would also agree to the City's granting tenant occupancy permits for the remaining 40 percent of the units, to expire after the five-year period if the work is not completed at the end of five years.

**Advisor Miles** stated providing 100 percent occupancy to the Center would benefit the city by allowing businesses to move in and provide services to the Montclair community, which would generate sales tax and business license income for the City.

**Advisor Miles** noted if the City Council does not approve "Plan A," it is requested that the City Council approve "Plan B" by waiving the underground requirements altogether with no further obligation owed to the City by **Quach**, as provided for "by right" in Section 11.75.050 of the Montclair Municipal Code.

**Advisor Miles** stated the City should be fair and equitable and cannot be prejudicial. He referred to the exception based on "economic hardship," and stated it should be applied equitably. He clarified that the undergrounding work would consist of the removal of four power poles, and would be only "for aesthetic purposes," having no health and safety benefit. He further advised that the utility poles pose no development impediments to the surrounding area. He noted the City has hundreds, if not thousands, of power poles.

**Advisor Miles** noted **Mr. Quach** and those who support him believe that the City's refusal to release the tenant occupancy permits for the remaining units is a punitive action that has punished **Mr. Quach** over the past three years for his lack of compliance. He advised that if no resolution is reached tonight, **Quach** will seek relief by challenging the issue in Bankruptcy or Superior Court.

**Advisor Miles** outlined the benefits to the City in granting **Quach** full occupancy of the Center, including sales tax revenue and services to the community.

**Advisor Miles** noted **Mr. Quach** had paid the \$200,000 for the underground cabling work to the bankruptcy law firm, which was required to provide the funding for underground work. He advised that instead, the law firm used those funds to pay for its own fees. He lamented the fact that **Mr. Quach** will have to pay a second time for something that was already paid for due to a series of unfortunate circumstances.

**Advisor Miles** stated **Quach** is a family-owned business and the City Council's decision will affect more than just one man and his immediate family; many of **Mr. Quach's** relatives are invested in this business. He added this is a common business model for minority-owned businesses in America. He noted many of **Quach's** tenants, family, and community members have shown up in support of **Quach** this evening.

**Advisor Miles** reviewed exhibits contained in the binders received by the City Council for "Calvin's Plan."

**Advisor Miles** thanked the City Council for taking the time to hear **Quach's** appeal.

### C. Deliberation and Decision of City Council

Mayor Eaton asked Public Works Director Hudson to respond with staff's analysis of **Quach's** proposal.

Public Works Director Hudson clarified that the "financial hardship" referred to in Section 11.75.052 of the Montclair Municipal Code applies to what existed at the time the conditions were accepted and approved—not the current financial hardship. He noted that the poor financial decisions on behalf of **Quach** since the conditions were accepted are unfortunate, but irrelevant to the financial hardship condition.

Public Works Director Hudson reminded the City Council that **Quach** had provided copies of checks that were supposedly paid to **Edison, Verizon, and Time Warner** for the undergrounding costs; however, it was later learned that those checks were never sent. He noted that in addition, the **Verizon** check was not for the required cost of the work, but only for one part of the two-part project. **Quach** had never made the City aware of the additional required work.

Public Works Director Hudson stated that, based on these facts, staff upholds the recommendation to deny **Mr. Quach's** appeal and to uphold the City Manager's denial of waiving the undergrounding requirements.

Public Works Director Hudson noted that if the property is ordered to be sold by the Bankruptcy Court, the purchaser will need to comply with the same procedure in order to complete tenant improvements and be granted tenant occupancy permits.

Public Works Director Hudson advised that he does not believe the City will be able to resolve this issue in a way that gets the work completed, whether the five-year deferment is granted or not. He stated there is a possibility that in five years, the work will still not be done and the City will be in the same position.

Public Works Director Hudson noted that in two instances, other businesses have entered into agreements with the City to be granted a deferment in which a performance bond is secured and if the work was not completed at the end of the deferment period, the City could convert the performance bond into a cash deposit to complete the work. He advised that this option was presented to **Quach**; however, **Quach** is unable to enter into such an agreement because he cannot secure a performance bond due to his poor credit history.

Public Works Director Hudson stated he would defer to City Attorney Robbins to expand on the City's position regarding the legal aspects of **Quach's** proposal.

City Attorney Robbins stated she would like to clarify and address a few things that **Advisor Miles** had discussed.

1. Financial Statements were not initially provided to City Manager Starr at the time the determination was made. The City has received those statements since that time, and the matter has been given a great deal of consideration in an attempt to find a solution that would provide **Quach** time to complete the work and provide security to the City.

2. Conditionally permitting the leasing of the remaining units for five years and revoking the tenant occupancy permits if the work is not completed could create legal issues with tenancy laws, even if those conditions are stipulated in the lease.
3. The judgment lien was pulled off the table because the City would be required to file a lawsuit, get a judgment, and record it against the property as a lien. In addition, this procedure would make it impossible for the lender to refinance the property.
4. Temporary occupancy permits were recommended as the format for the conditional five-year permits; however, the examples provided by **Advisor Miles** are not the same thing because the longest term these temporary permits cover is 90 days. This process would also require a bond, which **Quach** is unable to secure.

City Attorney Robbins noted the City has exhaustively explored its options to find something that would work for both parties. She stated that, while **Advisor Miles** has used the remaining 40 percent of the unoccupied units as the main argument, the fact is that the City was not obligated to issue any occupancy permits until the undergrounding work was complete; however, the City tried to accommodate **Quach** and, despite the illegal construction issues, agreed to allow 60 percent occupancy at the Center because staff was promised this would generate the necessary money to complete the undergrounding work.

City Attorney Robbins conceded that **Quach** has had an unfortunate experience with its previous bankruptcy counsel; however, she noted it is up to the Council to determine its position on this.

City Attorney Robbins stated this issue comes back to the City Council tonight for a determination because staff could not resolve the issue with **Quach** in a way that was mutually agreeable.

City Attorney Robbins noted the City Council has three options:

1. Grant the appeal:
  - (a) Plan A: Defer undergrounding requirement for five years; allow remaining 40 percent of units to be leased for five years; revoke occupancy permits if work is not completed after five years.
  - (b) Plan B: Waive all requirements for **Quach** to perform work to remove power poles and relocate utilities underground.
2. Deny the appeal: Uphold the City Manager's denial of an exemption to undergrounding requirements.
3. Provide staff with alternative direction.

Council Member Martinez referred to **Advisor Miles'** earlier statement that the City should not be prejudicial. She advised that it would be prejudicial to grant this exception to **Quach** that is not granted to other businesses. She stated her understanding that **Quach** knew of the fees when he agreed to them. She advised that the City was struggling during the recession and with the loss of redevelopment, just as **Quach's** business was, and the City took many risks with **Quach**, who did not behave in a trustworthy nor credible manner.

Council Member Martinez asked if the bank owns **Quach's** property.

**Advisor Miles** stated **Quach** is still in control of the property. He clarified that the court must approve decisions related to Quach's assets, and a plan has already been submitted. He noted the court will make its decision after the result of tonight's hearing is reported.

Council Member Martinez stated that, without any definitive answers, relying on **Quach's** word poses a great risk to the City, citing **Quach's** established pattern of behavior.

Moved by Council Member Martinez and seconded by Mayor Pro Tem Raft to deny the appeal of **Quach Investments, LLC**, and uphold the City Manager's denial of an exemption to the undergrounding requirements.\*

Mayor Pro Tem Raft noted that, in reviewing the information provided to the City Council, she wondered why he would want the City to make such an agreement after so many broken promises and illegal construction. She commented that businesses should not portray that type of behavior and expect the City to grant them exceptions to the rules. She noted she is a business owner herself and hates to see other businesspeople go through the situation that **Quach** is in; however, she stated that **Mr. Quach** is in this position because of deliberate actions taken to undermine the City's laws. She stated that at this point, she must go along with the City Manager's decision. She added it would be unfair to give **Quach** this type of exception while requiring other businesses to comply.

**Advisor Miles** stated he is not quite clear on the precedent Mayor Pro Tem Raft is concerned about. He noted he understands Mayor Pro Tem Raft to believe that **Mr. Quach** has "gotten away with something that he was obligated to do," but **Mr. Quach** is attempting to make a commitment to fulfill his obligations in light of everything that has happened. He stated that a government's role and responsibility should be to bridge partnerships with struggling businesses to help them strive in the community.

Mayor Pro Tem Raft advised that the City cannot make such partnerships with someone on whom it cannot depend.

**Advisor Miles** noted he believes **Quach** deserves another chance, and that city government should always help its struggling businesses and community members in this way. He noted he is speaking on behalf of not only **Mr. Quach** and his family, but the Asian, minority, and other communities.

Mayor Pro Tem Raft stated that, if she were a new business going into a large project as **Quach** did, she would first make sure she consulted with a professional to make sure she did not end up in this type of situation.

Council Member Dutrey stated this is an unfortunate event, as he would prefer to see all businesses in Montclair be successful; however, this situation includes a condition of approval that the City issued as a condition to develop a project, and **Quach** had agreed to underground the utility lines as one of those conditions. He stated that he feels the City Council is in a position where the only choice seems to be to uphold the City Manager's decision.

Mayor Eaton announced that a motion to uphold the City Manager's denial has been made.

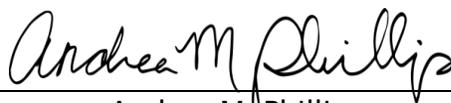
\*The City Council upheld the City Manager's denial of the **Quach Investments, LLC**, request for exemption of the requirement to underground utilities by the following vote:

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

**XIV. ADJOURNMENT OF CITY COUNCIL**

At 9:02 p.m., Mayor Eaton adjourned the City Council.

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



---

Andrea M. Phillips  
Deputy City Clerk