

MINUTES OF THE ADJOURNED MEETING OF THE
MONTCLAIR CITY COUNCIL HELD ON THURSDAY,
JUNE 2, 2016, AT 6:37 P.M. IN THE CITY COUNCIL
CHAMBERS, 5111 BENITO STREET, MONTCLAIR,
CALIFORNIA

I. CALL TO ORDER

Mayor Eaton called the meeting to order at 6:37 p.m.

II. ROLL CALL

Present: Mayor Eaton; Mayor Pro Tem Raft; Council Members Ruh and Martinez; City Attorney Robbins; Deputy City Clerk Phillips

Also

Present: Appellant Attorney Paul Coble; Respondent Andrew Schwab; Respondent Attorney Michael Williamson

Absent: Council Members Dutrey and Martinez

III. PUBLIC COMMENT - None

IV. APPEAL HEARING OF ANDREW SCHWAB

City Attorney Robbins reviewed the format for the appeal hearing noting opening statements would be provided by Appellant City of Montclair's attorney **Paul R. Coble**, Esquire, **Jones & Mayer**, and Respondent **Andrew Schwab's** attorney **Michael Williamson**, Esquire, **Stone Busailah, LLP**; an additional five minutes would be allowed for rebuttals from each party; a discussion would ensue in open session for questions; and then the Council would retire to closed session to deliberate, after which they would reconvene in open session to deliver their decision and direct the City Attorney to draft the written findings and decision of the Council.

Attorney Williamson stated his client, **Mr. Schwab**, would like to waive his confidentiality rights related to this appeal hearing including all deliberations of the City Council. At the request of **Attorney Coble**, **Mr. Schwab** expressly waived his confidentiality rights and requested all deliberations take place in open session.

A. ORAL ARGUMENT

1. Argument by Appellant — Employer, City of Montclair Police Department

Attorney Paul R. Coble, Esquire, **Jones & Mayer**, counsel for Appellant City of Montclair, presented his opening statement in the City of Montclair's appeal of **Arbitrator Michael Prihar's** decision to overturn the City of Montclair's termination of **Mr. Schwab's** employment with the Montclair Police Department, and requested the City Council overturn **Arbitrator Prihar's** determination. His comments were accompanied by a **PowerPoint** presentation.

2. Argument by Respondent — Employee, Andrew Schwab

Attorney Williamson presented an opening statement in support of **Arbitrator Prihar's** determination to overturn the Montclair Police Department's decision to terminate **Mr. Schwab's** employment, and requested the City Council uphold **Arbitrator Prihar's** determination.

3. Rebuttal by Appellant — Employer, City of Montclair Police Department

Attorney Coble provided rebuttal argument on behalf of Appellant City of Montclair. He urged the City Council to review the entire record in detail before making their decision.

4. Rebuttal by Respondent — Employee, Andrew Schwab

Attorney Williamson provided rebuttal argument on behalf of Respondent **Schwab**. He likewise encouraged the City Council to review the entire record in detail before rendering a decision.

B. DISCUSSION/CONSIDERATION BY CITY COUNCIL

Attorney Williamson stated he would be open to providing the City Council with additional time to review the entire record. He also stated that his client was withdrawing his request that deliberations take place in open session, and that all deliberations by the City Council could take place in closed session. City Attorney Robbins noted the Montclair Police Officers Association Memorandum of Understanding states the City Council shall render its decision no later than the second regular meeting following the appeal hearing.

Attorney Williamson noted he was waiving that deadline on behalf of **Mr. Schwab**, and that the City Council could take 60 days to deliberate and make a decision. He added that if more time was needed the City Council could ask for more time to review the record and come to a fair conclusion. **Attorney Coble** agreed.

The City Council concurred that they would like to review the entire record including transcripts and videos of the incidents before deliberating and coming to a final decision.

City Attorney Robbins asked if either attorney would be opposed to Council Members Dutrey and Martinez participating in the decision after reviewing the record of the case. **Attorney Coble** added they could also listen to the audio recording of this hearing.

Attorney Williamson objected to the participation of Council Members Dutrey and Martinez based on their absence at tonight's hearing.

City Attorney Robbins recommended that the City Council begin deliberations on this matter during the July 5, 2016 regular City Council meeting, and that the City Council again continue the matter if more time is needed to review the record.

C. DELIBERATIONS

The City Council did not deliberate the matter at this time.

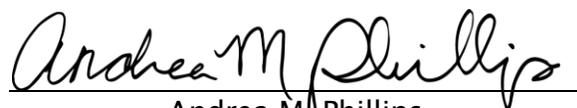
D. DECISION

Mayor Eaton stated that the three members of the City Council present at tonight's hearing would make time to review the record and tentatively set the deliberation on this matter for the July 5, 2016 regular meeting of the City Council.

V. ADJOURNMENT

At 8:01 p.m., Mayor Eaton adjourned the City Council.

Submitted for City Council approval,



Andrea M. Phillips
Deputy City Clerk