

**PLANNING COMMISSION OF MONTEREY PARK
AGENDA**

REGULAR TELECONFERENCE MEETING

**TUESDAY
March 8, 2022
7:00 PM**

MISSION STATEMENT

**The mission of the City of Monterey Park is to provide excellent services
to enhance the quality of life for our entire community.**

ASSEMBLY BILL NO. 361

These meetings will be conducted pursuant to Government Code § 54953(e) as implemented by City Council Resolution.

Accordingly, Commissioners will be provided with a meeting login number and conference call number; they will not be physically present at City Hall Council Chambers.

Pursuant to the City Council resolution, the public may provide public comment utilizing the methods set forth below.

Note that City Hall is currently closed to the public. You will not be admitted to City Hall.

GENERAL INFORMATION

Documents related to an Agenda item are available to the public in the Department of Community and Economic Development located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at <http://www.montereypark.ca.gov/AgendaCenter>.

PUBLIC PARTICIPATION

In accordance with Government Code § 54953(e) and City Council resolution, remote public participation is allowed in the following ways:

Via Email

Public comment will be accepted up to 24 hours before the meeting via email to planning@montereypark.ca.gov and, when feasible, read into the record during public comment.

Via Telephone

Public comment may be submitted via telephone during the meeting, before the close of public comment, by calling (888) 788-0099 or (877) 853-5247 and entering Zoom Meeting ID: **853 0459 1117** then press pound (#). When prompted to enter participation ID number press pound (#) again. If participants would like to make a public comment they will enter “*9” then the Department of Community and Economic Development will be notified, and you will be in the rotation to make a public comment. Participants are encouraged to join the meeting 15 minutes before the start of the meeting. You may speak up to 5 minutes on Agenda item. Speakers will not be allowed to combine time. The Chair and Commission/Board Members may change the amount of time allowed for speakers. As part of the virtual meeting protocols, anonymous persons will not be allowed to provide public comment.

Important Disclaimer

When a participant calls in to join the meeting, their name and/or phone number will be visible to all participants. Note that all public meetings will be recorded.

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting please call the Department of Community and Economic Development at 626-307-1315 for reasonable accommodation at least 24 hours before a meeting. Council Chambers are wheelchair accessible.

CALL TO ORDER	Chairperson
FLAG SALUTE	Chairperson
ROLL CALL	Tammy Sam, Jack Chiang, Ricky Choi, Peter Fung

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

PUBLIC COMMUNICATIONS (Related to Items NOT on the Agenda). While all comments are welcome, the Brown Act does not allow the Commission to take action on any item not on the agenda. The Commission may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the Commission's subject-matter jurisdiction, comment on Agenda Items at this time. If you provide public comment on a specific Agenda item at this time, however, you cannot later provide comments at the time the Agenda Item is considered.

ORAL AND WRITTEN COMMUNICATIONS

- [1.] PRESENTATIONS – None.**
- [2.] CITY OF MONTEREY PARK- CONSENT CALENDAR**
- 2-A. APPROVAL OF MINUTES**

It is recommended that the Planning Commission consider:

- (1) Approving the minutes from the regular meetings of October 26, 2021, November 9, 2021, and February 8, 2022; and
- (2) Taking such additional, related, action that may be desirable.

[3.] PUBLIC HEARING – None.

[4.] OLD BUSINESS

4-A. RESOLUTION AMENDING BY-LAWS/PROCEDURAL RULES FOR CONDUCTING PLANNING COMMISSION MEETINGS

It is recommended that the Planning Commission consider:

- (1) Adopting a Resolution amending procedural rules for conducting Planning Commission meetings; and
- (2) Taking such additional, related, action that may be desirable.

California Environmental Quality Act (CEQA):

The resolution is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.) because it establishes procedural rules related to the conduct of Planning Commission meetings; does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, this resolution does not constitute a “project” that requires environmental review (see specifically 14 CCR § 15378(b)(2, 5)).

[5.] NEW BUSINESS

5-A. DISCUSSION OF CODE OF CONDUCT AND SOCIAL MEDIA POLICY

It is recommended that the Planning Commission consider:

- (1) Receiving and filing the Social Media Policy, Code of Conduct, and associated City Attorney presentation; and
- (2) Take such additional, related, action that may be desirable.

5-B. DISCUSSION OF PENDING MONTEREY PARK MUNICIPAL CODE UPDATES

It is recommended that the Planning Commission consider:

- (1) Receiving and filing a report regarding pending updates to the Monterey Park Municipal Code (“MPMC”) including, without limitation, an Inclusionary Housing Ordinance;
- (2) Identifying which matters the Planning Commission desires to consider and making recommendations to the City Council regarding such matters by minute order; and
- (3) Take such additional, related, action that may be desirable.

[6.] COMMISSION COMMUNICATIONS

[7.] FUTURE AGENDA ITEMS

ADJOURN

The Planning Commission shall adjourn to April 12, 2022 at 6:30 p.m.

**UNOFFICIAL MINUTES
MONTEREY PARK PLANNING COMMISSION
REGULAR MEETING
OCTOBER 26, 2021**

The Planning Commission of the City of Monterey Park held a regular meeting of the Board in the Council Chambers, located at 320 West Newmark Avenue in the City of Monterey Park, Tuesday, October 26, 2021 at 7:00 p.m.

CALL TO ORDER:

Chairperson Sam called the Planning Commission meeting to order at 7:02pm.

FLAG SALUTE:

Commissioner Choi called for the Flag Salute

ROLL CALL:

Administrative Secretary Cristina Garcia called the roll:

Board Members Present: Ricky Choi, Dr. Kevin K. Lo, Peter Fung

Board Members Absent: Tammy Sam

ALSO PRESENT: Cristina Garcia, Administrative Secretary, Steve Sizemore, Interim Director of Community Development, Frank Lopez, Director of Public Works, Joaquin Vazquez, Deputy City Attorney, Annie Chen

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS: None

ORAL AND WRITTEN COMMUNICATIONS: None

[1.] PRESENTATIONS: None

[2.] CONSENT CALENDAR:

**2-A APPROVAL OF MINUTES FROM THE PLANNING COMMISSION MEETING
FROM OCTOBER 12, 2021**

Action Taken: The Planning Commission approved the minutes from the Planning Commission meeting from October 12, 2021.

Motion: Moved, by Commissioner Fung and seconded by Commissioner Lo, motion carried by the following vote:

Ayes: Commissioners: Choi, Lo, Fung

Noes: Commissioners:

Absent: Commissioners: Sam

Abstain: Commissioners:

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[3.] PUBLIC HEARING:

3-A CONDITIONAL USE PERMIT (CU-21-03) TO ALLOW A PRESCHOOL AND AN ADDITION OF A PLAYGROUND – 125-129 N. CHANDLER AVENUE

Director Sizemore presented the staff report and shared a PowerPoint presentation.

Commissioner Choi asked if any of the Commissioners had any questions. None.

Commissioner Choi opened the public hearing.

Director Sizemore asked the applicant, Annie Chen, if she wanted to speak on the item. Applicant Chen does not have anything to say at this moment.

Commissioner Choi asked about the security fence near the playground. Director Sizemore said that it is a block wall.

Commissioner Choi asked the applicant if she is new to Monterey Park and if this is a new establishment. Applicant Chen said stated that she is already in Monterey Park and has an establishment at Monterey Park for over 10 years and is still opened.

Commissioner Choi asked staff if there are any other speakers. Director Sizemore answered stating that there are none. Commissioner Choi closed the public hearing and opened the floor for discussion for the other commissioners.

Action Taken: The Planning Commission after considering the evidence during the public hearing, adopted the resolution approving the requested Conditional Use Permit subject to the conditions of approval that have set forth in the resolution.

Motion: Moved, by Commissioner Lo and seconded by Commissioner Fung, motion carried by the following vote:

Ayes: Commissioners: Choi, Lo, Fung

Noes: Commissioners:

Absent: Commissioners: Sam

Abstain: Commissioners:

[4.] OLD BUSINESS: None

[5.] NEW BUSINESS:

5-A PRESENTATION BY DEPUTY CITY ATTORNEY ON PLANNING COMMISSION DUTIES

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Deputy City Attorney Vazquez wanted to touch upon foundational issues regarding land use regulations due to the Planning Commission having new members. Director Sizemore shared the presentation for Deputy City Attorney Vazquez. Deputy City Attorney Vazquez proceeded to present. Went over the fundamentals of the General Plan and Zoning Code. Briefly went over the elements of the General Plan. Talked about the newest mandated element which aims to reduce health risks to disadvantaged community. Stated that Monterey Park is a disadvantaged community under this law. Noted that the application of disadvantage community looks at different socio-economic factors by City census tracts. Only one of the City tracts qualifies under this disadvantage community standard and because of that, the City must incorporate the Environmental Justice Element into the new General Plan. Went over Specific Plans in accordance with the General Plan. Stated that there is a distinction between zoning and building codes. The building code is much more geared to public health and safety. Went over variances. Stated that variances do run the lay of the land. Stated that City may impose conditions to protect public health and safety. This is important because there must be a nexus between the use and impact of the project and what the condition that the Commissioner wants to apply. The conditions that the Commissioners want to apply cannot simply just be a wish list and cannot be too much of a burden to the applicant. The conditions do run with the property and the land. Went over non-conforming use structures. People commonly refer this kind of uses or structures as grandfathered in. Went over development agreement. It is a contract agreement between the developer and City. Went over CEQA and gave an overview of the components. Went over streamlining act. Went over the criteria for the Planning Commission. Talked about the Monterey Park Business Recovery Program. Council wanted to streamline projects. Found that there was a bottleneck in approving project because many applicants would have to get approval of both the Design Review Board and Planning Commission. The Council made the Design Review Board advisory to the Planning Commission. The design review approval will be retained by the City planner.

Commissioner Lo asked what basis is used to determine the zoning map. Director Sizemore said that the General Plan Land Use Policy map is a driver of the creation of the zoning map. The history of the community could also be a driver of the creation of certain zones. Commissioner Lo asked if the City staff makes the determination as time goes by. Deputy City Attorney Vazquez said that it does evolve over time in the municipal code. Something has to be explicitly authorized and enabled in the zoning code for someone to carry out a certain activity. Deputy City Attorney Vazquez said that the Planning Commission are all in power to recommend or suggest changes to the zoning code in a form of a zoning code amendment. It can also be proposed by an applicant.

Commissioner Fung asked if the City has an ordinance on how often the General Plan needs to be reviewed and amended. Deputy City Attorney Vazquez answered every 8 years. Commissioner Fung asked when the last time the General Plan has been reviewed. Deputy City Attorney Vazquez said that it is being reviewed now. Director Sizemore said that 3 of the components is being reviewed. Recently the Land Use Element was adopted by the City. Stated that Monterey Park is unique in that a lot of the rezoning and the general plan land use map has to be approved by the voters. Any major change or addition to the General Plan and Zoning maps potentially have voter approval only which is very unique

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for a city like Monterey Park. Commissioner Choi said that the previously proposed General Plan last year went to the voters and failed.

Commissioner Fung asked if the Planning Commission is notified on proposed changes to the Housing Element as he does not think he has gotten any notice. Director Sizemore said that there were community workshops, but he can look into it. Commissioner Choi said that he believes that staff emailed the Commission a month or two ago about the series of workshops. Encouraged his fellow members to participate. Director Sizemore said that there will be a Housing Element workshop on November 4th and staff can send the information to the Commission members.

Commissioner Fung mentioned that along Garvey, east of McPherrin, there is hardly any development for the last 30 years. Wondering what was deterring development and how they can encourage development. Director Sizemore stated that cities used redevelopment to direct development into something that was more achievable to a community. With most places, it is market driven. So one can have the greatest plan, but if there is no economic incentive, things will not get implemented. Director Sizemore said that one has to be cautious in changing the code due to unintended consequences.

Commissioner Lo stated that he lives between New Ave and Garfield Ave. Wondered if the regulations are currently too strict to allow higher density. Alhambra and San Gabriel might have two stories while Monterey Park only has one story. Director Sizemore stated that there are many ways to increase density while preserving the charm of the area. Recommended keeping commercial on the bottom with residential up top.

Commissioner Fung thinks that the hindrance on development on Garvey is the lot size. Garvey has small lots which makes it hard to develop. Attorney Vazquez commented that it has been about 10 years since the dissolution of redevelopment in the State of California. This gave the City tools to address underdeveloped blighted areas and to come up ways to spur growth. Director Sizemore said that a development agreement can be done well to create development standards to make it more viable. Going back to Garvey, stated that every place has its time and place. Stated that Garvey is a unique area with a lot of potential and the City can make moves to make it successful. In response to making small lots work, stated that you have to find ways to make it work. Stated that the development community is resourceful. Saw a shift from big indoor malls to small main street types of uses that mimic small towns. People like being outside and walking down the street which is Garvey's potential.

Commissioner Fung brought up transit-oriented development and said that the Garvey area would be well qualified for that. Stated that as an architect, the zoning code in Monterey Park has a lot of limitation and restrictions. Stated that he is working on the Lake area in Pasadena, and the specific plan encourages people to use the Gold Line. Director Sizemore said that one can do visioning workshops and bring business owners and the community together to have a discussion if updating the Land Use Element is timely and costly. Commissioner Choi said that was what they did years ago with the South Garfield specific plan. The specific plan was supposed to address the Gold Line extension coming

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up Garfield and make it more walkable. Director Sizemore said that the public infrastructure is one thing that the City can do, and it can lay the foundation for private investment. If investors see that a City is investing in an area, then they are going to want to be there.

Commissioner Choi brought up the business recovery program and wanted a clarification on what the difference is in terms of the Commission's responsibilities are pre- and post-recovery program. Also asked about the disbanding of the design review board. Attorney Vazquez said that the design review board does not need to approve of certain developments to move forward to seek permits. It is strictly advisory to the Commission regarding the design standards. The Monterey Park Town Center was one that went through the BRDZ process which overlays a specific zone for a specific use. Commissioner Choi asked what kind of land use actions do the Commission review. Attorney Vazquez said that Commission will look at tract maps, conditional use permits, variances, anything assigned to the Commission from the City Council, and make recommendations to changes to the zoning code. Director Sizemore said that CUP's that require new construction also requires Commission review.

Commissioner Choi said that it would be beneficial for the new Commissioners to into what kind of information the Commission can consider when making decisions. Director Sizemore said that this would be a good idea. Attorney Vazquez said that he will get into that AB24 ethics training. A very important part of what Commissioner Choi is touching on is that, as a quasi-judicial body, the Commission is essentially acting as a judge. Part of reviewing or assessing a project is ensuring that all of the Commissioners are basing their decision on the same evidence. Stated that if a Commissioner gathered any information outside of the hearing, he or she is obligated to share that with the other Commissioners. Attorney Vazquez also stated that there is a state law that is more restrictive than if one was meeting in person. The rule of thumb is to not post about something online relating to the planning Commission.

[6.] COMMISSION COMMUNICATIONS AND MATTERS: None

[7.] STAFF COMMUNICATIONS AND MATTERS: None

ADJOURNMENT:

There being no further business for consideration, the Planning Commission meeting was adjourned at 8:26 p. m.



Steven Sizemore
Interim Director of Community Development

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**UNOFFICIAL MINUTES
MONTEREY PARK PLANNING COMMISSION
REGULAR MEETING
November 9, 2021**

The Planning Commission of the City of Monterey Park held a regular meeting of the Board in the Council Chambers, located at 320 West Newmark Avenue in the City of Monterey Park, Tuesday, November 9, 2021 at 7:00 p.m.

CALL TO ORDER:

Chairperson Sam called the Planning Commission meeting to order at 7:03 p.m.

FLAG SALUTE:

Chairperson Sam called for the Flag Salute

ROLL CALL:

Administrative Secretary Cristina Garcia called the roll:

Board Members Present: Tammy Sam, Ricky Choi, Peter Fung

Board Members Absent: Dr. Kevin K. Lo

ALSO PRESENT: Cristina Garcia, Administrative Secretary, Steve Sizemore, Interim Director of Community Development, Frank Lopez, Director of Public Works, Joaquin Vazquez, Deputy City Attorney, Jessica Serrano, Planning Manager, Applicants: Dave Bird, Adam Lentz, and Dave Rand

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS: None

ORAL AND WRITTEN COMMUNICATIONS: None

[1.] **PRESENTATIONS:** None

[2.] **CONSENT CALENDAR:** None

[3.] **PUBLIC HEARING:**

3-A CONDITIONAL USE PERMIT (CU-21-06) TO ALLOW A THREE STORY SELF-STORAGE FACILITY IN THE O-P (OFFICE PROFESSIONAL NON-MCCASLIN BUSINESS PARK – 505 MONTEREY PASS ROAD

Director Sizemore shared and presented the PowerPoint presentation relating to the CU-21-06 project. Stated that the project is categorically exempt from CEQA requirements. Went over the project and property description. Briefly described existing conditions. Also briefly described zoning and land use descriptions of surrounding properties. Went over business description and operation hours of the proposed use.

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Chairperson Sam opened the floor for public comments. Director Sizemore said that they have not received anything by email, mail, or phone. Chairperson Sam asked the applicant if they wanted anything to add.

Applicant Adam Lentz introduced himself and greeted everyone. Lentz stated that they reached out to surrounding neighbors for potential feedback or concerns. They have not received any. Stated that their latest research showed that this area has a demand for self-storage. Stated that they are making meaningful improvements in the public realm in replacing and repairing walls, sidewalks, landscape, and street trees. Initially asked Planning and Engineering to make the requirement to add a condition to replace the curb and gutter. However, he stated that the existing curb and gutter in several locations of the property is in good shape. Therefore, requested to modify the condition pertaining to that. Introduced the rest of the team and said that they are all there to answer questions.

Commissioner Choi asked what the height of the adjacent buildings were. Director Sizemore said it is probably 22 to 23 feet and it is single story. Applicant Lentz said that immediately adjacent, the building is single-story. Across the street, there are 2-story properties. Director Sizemore shared his screen showing the neighboring properties. Stated that properties are mostly industrial and are probably around 25 feet.

Commissioner Fung asked about square footage. Director Sizemore clarified that the 74,000 number is the net square footage. The 99,000 number is the entire floor area. The net area is the reduction of all areas that are non-usable space.

Commissioner Fung commented that he really supports this project. Commissioner Fung stated that he thinks that the 35 foot height limit is kind of arbitrary in a sense because there is a back hill right behind the subject property. Therefore, the proposed property won't hinder any views. Reaffirmed that the demand is there for self-storage. Asked if there is any self-storage in Monterey Park. Applicant Lentz said that there was one in the southeast portion of the City and that there was an old public storage. Overall, there are very few. Chairperson Choi clarified that there is a new public storage on Markland.

Commissioner Fung commented that the aesthetics of the elevation of the front office are beautiful and tasteful. However, stated that the side and rear elevations are bare. Wondering if the applicant could attempt to improve those elevations. Applicant Dave Bird stated that they like to use elastomeric coated paint because it is good for graffiti issues. Applicant Bird said that they could look into accent striping/colors for the side and rear elevations. Director Sizemore said that the applicant is very responsive to comments. This does not necessarily have to be a condition and they can just work with them. Chairperson Sam also agrees with Commissioner Fung's comments. Chairperson Sam commented that many houses look down on this area so it would be nice to get some sort of accent striping for these elevations.

Chairperson Sam asked if there is going to be a security system put in place. Applicant Lentz said that they have extensive security cameras and all monitored off-site 24/7. All

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customers and visitors have a unique access code. There are also manned office hours during business hours.

Chairperson Sam asked if there will be a gate. Applicant Lentz said that they not gate to restrict the parking lot due to queuing and circulation through parking. Further commented that people cannot access the building without the code.

Chairperson Sam asked if the building has sprinklers which, Applicant Lentz answered yes. Chairperson Sam asked if the applicant already checked the egress travel distance. Applicant Lentz said that this was submitted to Fire.

Chairperson Sam asked if there is a detail of the assembly of the back retaining wall with the stone façade. Chairperson Sam clarified that that area does not have the most stable soil. Applicant Lentz said that they hired a specialty contractor focused on soil nail and retaining walls. Commented that they will be removing all of the soil accumulation, taking down the existing wall, building new wall with proper waterproofing and backfilling with soil nail walls, and adding a couple feet of freeboard over the top of the slope. This would prevent mud and runoff. Applicant Lentz said they are in the preliminary stages but there will be a full set of construction documents that will go through the process. Chairperson Sam asked what the distance between the retaining wall to the building is. Applicant Lentz said that it varies from 5 to 10 feet which was reviewed and approved by Fire in terms of clearance.

Chairperson Sam asked to see a split-screen to show the elevations and the renderings because they currently do not match. Director Sizemore confirmed that they do not match and set-up the split screen. Chairperson Sam asked what the material of the red frame is. Applicant Bird said that it is stucco. Chairperson Sam asked if it is possible to frame that out to get a little more variation on the elevation. Director Sizemore showed the elevation and said that there is a little relief there. Chairperson Sam clarified that the white portion protrudes more than the red. Chairperson Sam just wanted to make sure it does not look flat but this is fine.

Commissioner Fung commented that the red-brick look is dated and said to maybe think about a more professional/modern approach. Director Sizemore responded saying that this is a good point. The General Plan talks about sleek, new, modern buildings. Director Sizemore drove down the street and saw many properties with the brick look. So, the incorporated brick look for this project was to blend the “old” and “new” style. Director Sizemore further stated if the Commission would like to remove the red-brick look, that would be appropriate. Commissioner Fung suggested that there are good-looking stone veneers with many colors and textures.

Commissioner Fung wanted to go back to the curb and gutter replacement conversation. Director Lopez proposed to modify condition number 19 to not say all but damaged curb or through an inspection. Applicant Lentz agreed to this modification of condition number 19.

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Commissioner Fung asked Director Lopez about the storm and drainage system. Deputy City Attorney Vazquez interjected in interest of the Brown Act. This question is separate from the agenda item.

Chairperson Sam asked Commissioner Fung if he wants to make that material change of the red brick as part of the condition of approval. Commissioner Fung said that it does not need to be a condition. Director Sizemore clarified that it should be some type of condition. Commissioner Fung said that he wants to keep it open-ended. Director Sizemore suggested that the condition should include language explaining that the applicant should redesign to the satisfaction of the Community Development Director. Chairperson Sam asked Director Sizemore whether the minor adjustments to the back elevation would come back to Commission. Director Sizemore said that it does not come back to Commission and can be done during the plan check process. Commissioner Fung asked about minor modification. Deputy City Attorney Vazquez said he liked Director Sizemore's wording as it gives room for flexibility. Applicant Lentz said that it would be acceptable if they can just work with Steve about replacing the red brick material.

Chairperson Sam motioned to close the public hearing. Chairperson Sam closed the public hearing.

Action Taken: The Planning Commission after considering the evidence during the public hearing, adopted the resolution approving the requested Conditional Use Permit subject to the conditions of approval that have set forth in the resolution.

Motion: Moved, by Commissioner Choi and seconded by Commissioner Fung, motion carried by the following vote:

Ayes: Commissioners: Sam, Choi, Fung

Noes: Commissioners:

Absent: Commissioners: Lo

Abstain: Commissioners:

[4.] **OLD BUSINESS:** None

[5.] **NEW BUSINESS:** None

[6.] **COMMISSION COMMUNICATIONS AND MATTERS:** None

[7.] **STAFF COMMUNICATIONS AND MATTERS:** None

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ADJOURNMENT:

There being no further business for consideration, the Planning Commission meeting was adjourned.



Steven Sizemore
Interim Director of Community Development

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**UNOFFICIAL MINUTES
MONTEREY PARK PLANNING COMMISSION
REGULAR MEETING
February 8, 2022**

The Planning Commission of the City of Monterey Park held a regular meeting of the Board in the Council Chambers, located at 320 West Newmark Avenue in the City of Monterey Park, Tuesday, February 8, 2022 at 7:00 p.m.

CALL TO ORDER:

Chairperson Sam called the Planning Commission meeting to order at 7:04 p.m.

FLAG SALUTE:

Chairperson Sam called for the Flag Salute

ROLL CALL:

Administrative Secretary Cristina Garcia called the roll:

Board Members Present: Tammy Sam, Kevin Lo, Ricky Choi, Peter Fung, Jack Chiang

Board Members Absent:

ALSO PRESENT: Vincent Chang, City Clerk, Cristina Garcia, Administrative Secretary, Steven Sizemore, Interim Director of Community Development, Jessica Serrano, Planning Manager, Joaquin Vazquez, Deputy City Attorney, Jack Chiang, incoming Planning Commissioner

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS: None

ORAL AND WRITTEN COMMUNICATIONS:

(Public) Resident brings up the idea of inclusionary housing in future agendas and potentially adopt an inclusionary housing ordinance. Cites an article by Abundant Housing LA which gives an overview on the definition of inclusionary housing. Resident further explains how inclusionary housing can benefit lower and middle-income household, diversifying the housing market.

Deputy City Attorney Vazquez asks the resident for clarification on their affiliation. Resident responds that they are not affiliated with any organizations.

Another resident comes to support the previous resident's comments regarding inclusionary housing. Further clarifies how inclusionary housing allows the City to leverage affordable housing using its approval. Resident comments that Monterey Park should also have market-rate housing because the City is under built compared to the State and neighboring cities. Both market-rate and affordable housing are severely under built in the City. Cautions the Commission that they need to be careful of the type of threshold they put on affordable housing as this may seem undesirable for developers.

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Chairperson Sam asks Planning Manager Serrano for more information on inclusionary housing to be put in a future agenda.

Commissioner Fung questions Deputy City Attorney Vazquez regarding giving a response to the residents who came to speak to the Commission rather than putting off into another meeting. Deputy City Attorney Vazquez states that Commissioner Fung's request goes against the Brown Act.

Chairperson Sam asks Planning Manager Serrano to provide and gather data regarding housing. Planning Manager Serrano clarifies Chairperson Sam's request for inclusionary housing data. She also states that the Housing Element is almost complete but is waiting on the State to give feedback before implementing any programs.

Commissioner Choi adds to Chairperson Sam's request by asking how housing programs can be administered, citing that Los Angeles County passed an inclusionary housing ordinance.

[1.] PRESENTATIONS:

1-A SWEARING IN OF NEW PLANNING COMMISSIONER – JACK CHIANG

City Clerk Chang swears in Jack Chiang as new Planning Commissioner.

[2.] CONSENT CALENDAR: None

[3.] PUBLIC HEARING: None

Chairperson Sam raises a question about the Code changes that removed power from the Planning Commission. Deputy City Attorney Vazquez responds by stating that due to COVID, certain powers have been shifted between the Planning Commission, Planning Staff, and City Council.

[4.] OLD BUSINESS: None

[5.] NEW BUSINESS:

5-A DISCUSSION OF PLANNING COMMISSION BY-LAWS/PROCEDURAL RULES

Planning Manager Serrano presents Planning Commission By-Laws.

Director Sizemore enters the meeting.

Planning Manager Serrano discusses changes in meeting times and frequency. Planning Manager Serrano suggests changing the meeting times to an earlier time.

Commissioners Lo and Choi prefer to have Planning Commission meetings start around 6:00 p.m. Director Sizemore states that 6:30 is a good time. The rest of the Commission agrees to have the Planning Commission meetings start at 6:30 p.m.

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Planning Manager Serrano suggests having only one Planning Commission per month with a second meeting on an as-needed basis.

Chairperson Sam wants to keep the meeting frequencies the same as she feels that the Planning Commission has already been stripped of their powers enough. Commissioner Choi, Fung, Lo, and Chiang agree with Chairperson Sam. Planning Commission could be canceled if there are no items in the agenda. Commissioners Chiang and Fung state that cutting the meetings into once a month will cause developers to wait on their projects.

Director Sizemore recommends a rotating system for who becomes Chair and Vice Chair of the Planning Commission. Chairperson Sam has no issues with the current system. Commissioner Choi states that the Planning Commission used to be on a rotating system but was eventually changed without any changes in policy.

Commissioner Fung asks if there are current term limitations and Director Sizemore responds with no. Planning Manager Serrano states that the Chair is elected for one year terms and when their time is up, they can be chosen again. Commissioners Choi and Lo agree with the rotating system.

Chairperson Sam asks questions in regards to Planning Commission appointments, specifically how it would work if the Councilmember who appoints them leaves. Commissioner Choi and Director Sizemore ask Deputy City Attorney Vazquez to verify the Planning Commission term limits. Commissioner Choi asks if a specific Councilmember must appoint only in their districts. Director Sizemore states that it needs to be looked into further. Commissioner Chiang states that he was appointed by a Councilmember not from his district, and is true for the rest of the Commission. No decision has been made as more information is needed.

Planning Manager opens up the discussion to the Planning Commission for potential modifications to By-Laws. Director Sizemore brings up a set end time for the Planning Commission meeting. Deputy City Attorney Vazquez indicates that the By-Laws state that the meeting must be adjourned by 9:30 unless a majority votes to go over.

Chairperson Sam brings up Rule 4.6 "Future Agenda Items". There is currently no "Future Agenda Items" in the agendas. Director Sizemore states that staff will look into adding "Future Agenda Items" onto Planning Commission agendas. Discussion ensues on different iterations on how to put this item on future agendas and meetings.

Commissioner Fung elaborates on a point he made earlier about responding to residents who raised concerns and comments in the beginning of the meeting. Commissioner Fung asks for clarification on whether they are prohibited from taking any action or discussion regarding resident comments, per Rule 4.5. Deputy City Attorney Vazquez clarifies that the specific Government Code Section that Rule 4.5 is based on explicitly states that there shall be "no action or discussion shall be undertaken not appearing on the posted agenda". Deputy City Attorney Vazquez tells Planning Manager Serrano to clarify the rules to be more specific in terms of prohibiting discussing items not listed on the agenda.

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Commissioner Lo asks if there is a limit on scope in terms of the items for the Future Agenda item discussed earlier. Deputy City Attorney Vazquez answers by stating that anything that is under the jurisdiction of the Planning Commission is fair game to propose for future Planning Commission meetings.

Planning Manager Serrano clarifies the direction given by the Planning Commission. The Planning Commission agrees to start the Planning Commission meetings at 6:30 p.m. There was also a discussion of the Chair and Vice Chair where Planning staff will give more information regarding Planning Commission questions. There will also be additional clarifying language on Rule 4.5 to be consistent with the Brown Act. Chairperson Sam adds clarification on the discussions regarding keeping two meetings per month and adding "Future Agenda Items" in future meeting agendas. Further discussion ensues on the technicalities of implementing desired changes to the By-Laws. The discussion also entails how the Commissioners should notify Planning staff in the event of a potential absence.

Action Taken: The Planning Commission provided staff with the following direction:

- Modify Rule 2.3 to change the meeting time from 7 p.m. to 6:30 p.m. to be consistent with City Council meetings and other commissions;
- Keep two (2) Planning Commission meetings per month ;
- Revise Rules 3.1 and 3.2 to provide for an automatic rotation for the election of the chairperson and vice-chairperson, unless: 1) a Planning Commissioner chooses to opt out from being the Chairperson and Vice Chairperson; or 2) the Planning Commission chooses to make a modification in the automatic rotation by majority vote;
- Under Rule 4.5, include "discussion" to be consistent with State law which precludes the Planning Commission from taking any action or partaking in discussion on any item/topic that is not on the posted agenda; and
- Per Rule 4.6, add "Future Agenda Items" as a separate line item on Planning Commission agendas.

5-B CONDUCT OF MANDATORY AB 1234 ETHICS TRAINING FOR PLANNING COMMISSION BY OFFICE OF CITY ATTORNEY

Deputy City Attorney Vazquez wanted to check with the Commission on how to proceed with the training.

Commissioner Sam stated that they would prefer to do the training online on their own.

[6.] COMMISSION COMMUNICATIONS AND MATTERS:

Chairperson Sam said that they will have comments on inclusionary housing.

Director Sizemore introduced Planning Manager Jessica Serrano.

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Commissioner Choi asked Director Sizemore about the planning staff. Director Sizemore stated that he is trying to create a culture where there will be room for growth so that there will be continuity.

Chairperson Sam brought up the California Green Building Code; asked if the rules of the City can be more stringent. Director Sizemore asked that you could do that, but it would be good to have a policy; stated that one of the priorities of the City Council is climate change. That the City has many documents on climate change and has been a very forward-thinking City. However, climate change is difficult to understand, and people lose interest. Director Sizemore stated that they plan to take all the climate documents and then go out to the community to get feedback. The plan is to develop common sense practices that are digestible for the community.

Deputy City Attorney Vazquez stated that the City can make local amendments based on health and safety findings. The City could include specific local requirements when adopting codes by reference including the Green Building Code; stated that this happens with the City Council, but the Planning Commission can make a recommendation.

Chairperson Sam stated that she would like to put this on the agenda. Director Sizemore said to hold off putting it on the agenda and to roll out the next steps on climate change. The first step is going to the Commission to try to figure out on how to roll this out. This would be carried out sometime in Spring.

Chairperson Sam believes that there is not enough funding for the Environmental Commission as they were trying to put on events, but they did not have enough money.

Commissioner Lo asked if there was any way to get a status of developments in Monterey Park for projects that are brought to the City Council. Director Sizemore said that Planning Manager Serrano put together a current development activity report that could be shared. Planning Manager Serrano said that she will be able to share that. Chairperson Sam clarified that this is just a report and nothing that they can vote on until they talk to City Council. Director Sizemore clarified that these are already approved projects that have development status.

Commissioner Fung stated that a report would help them be more in touch with what is going on in the City. Director Sizemore stated that something was broken in Monterey Park where it took a long time for plans to go to Planning Commission; stated that now there is a committed Planning staff that will work in concert with the Commission. Chairperson Sam clarified that they do not have those powers now due to the City Council.

Commissioner Lo asked what the status report includes. Director Sizemore clarified that it contains current activity, not in the planning application pipeline. Planning Manager Serrano stated that the report also includes plans that are not yet in the pipeline. Director Sizemore stated that they must discuss with the Deputy City Attorney about including projects not in the pipeline. Commissioner Lo asked if they would know about projects that are approved or disapproved by the City Council. Planning Manager Jessica said that they will include any applications in the pipeline and the statuses. Deputy City Attorney Vazquez clarified

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that the Commissioners are members of the public; therefore anything that is a public record is fair game. Director Sizemore said that Planning staff is always available for questions through phone.

Chairperson Sam asked if they want to get their powers back as a Commission, they will need to talk to the City Council to make a case. Deputy City Attorney Vazquez stated that they should package their desire to City Council differently. Stated that there could be upcoming Planning Commission items soon. Deputy City Attorney Vazquez said that anymore discussion would have to be on an agenda item.

Commissioner Chiang asked if there was an expiration in the ordinance of transfer of authority to City Council. Deputy City Attorney Vazquez stated that there was no expiration as it was codified onto the Municipal Code. Therefore, it would take a subsequent ordinance to modify it. Commissioner Chiang asked if it would be okay for Director Sizemore to communicate this to City Council and take action administratively. Deputy City Attorney Vazquez said that he will leave it up to staff. Deputy City Attorney Vazquez said that maybe the angle is that one of the things Planning Commission can do is making recommendations to changes to the zoning code. Director Sizemore stated that he thinks the best step would be to bring back to the Commission a status report on the COVID emergency acts. Chairperson Sam said that this is a great idea. Chairperson Sam wants to motion to put it on a future agenda. Director Sizemore stated that the Commissioner's role is dictated by the Municipal Code. Deputy City Attorney Vazquez said that if the Commission makes a motion about the division of powers regarding the response to the pandemic, there would be an accompanying discussion by the Commission to ask questions and strategize on what has been presented.

Chairperson Sam would like to make a motion to based on Deputy City Attorney Vazquez's comment.

Commissioner Lo asked if there are any comparisons with other cities in terms of development activity to assess how the City of Monterey Park is doing. Planning Manager Serrano asked for clarification on specificity on development projects. Commissioner Lo said projects or permits. Planning Manager Serrano said she has not heard of any type of study of that sort.

Commissioner Fung said that the Zoning Code has not had an update in a while; stated that the R-2 and R-3 zones are not very encouraging for development potential; asked the City to be more forward thinking especially with transit-oriented developments; stated that the Commission should be engaged so that they are not just reactive but proponents of these issues; asked if these issues could be put onto future agendas. Chairperson Sam mentioned about the lane expansion and the parking structures and if they could be put on the agenda item. Director Sizemore clarified that the Commission's role is to look at certain things that are directed to them. Chairperson Sam asked if they will be able to vote or have any input on the Metro project. Director Sizemore said that there is no entitlement that the Planning Commission would be granting. Therefore, this would be completely City Council

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driven. Director Sizemore further discussed what the Planning Commission will be participating in with the COVID fog lifting.

Commissioner Fung agrees with Director Sizemore that the moving pieces of the City should be working together towards one direction; asked if the Commission would be involved with Code updates. Director Sizemore said that all Code updates would come to Commission. The Council removed the review of Commission regarding projects to expedite the process. Director Sizemore asked Commissioner Choi if the Commission had joint meetings with the City Council. Commissioner Choi stated that they had one or two; stated that a couple of years ago, they had a joint meeting of the City Council and the Commission to hash out everything. Director Sizemore stated once Planning staff becomes more solid, then staff can help the Commission develop a good working relationship with the City Council. Planning Manager Serrano stated that they are on the same page with some of the Commissioner's concerns. They will be working on a program to tackle all of this.

Deputy City Attorney Vazquez recommended to stay in the confines of the Brown Act and to hold the conversation.

Action Taken: The Planning Commission proposes the future presentation of the division of powers based upon the changes that have occurred in the pandemic. There will be an accompanying discussion by the Commission to ask questions and strategize on what has been presented.

Motion: Moved, by Chairperson Sam and seconded by Commissioner Fung, motion carried by the following vote:

Ayes: Commissioners: Sam, Choi, Lo, Fung, Chiang
Noes: Commissioners: None
Absent: Commissioners: None
Abstain: Commissioners: None

[7.] STAFF COMMUNICATIONS AND MATTERS: None

ADJOURNMENT:

There being no further business for consideration, the Planning Commission meeting was adjourned.

Next regular scheduled meeting on February 22nd, 2022, at 6:30 p.m. in the Council Chambers.



Steven Sizemore
Director of Community Development

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Planning Commission Staff Report

DATE: March 8, 2022

AGENDA ITEM NO: 4-A

TO: The Planning Commission
FROM: Steve Sizemore, Interim Director of Community Development
Jessica Serrano, Planning Manager
SUBJECT: Resolution Amending Procedural Rules for Conducting Planning Commission Meetings ("By-Laws") in Accordance with Monterey Park Municipal Code ("MPMC") §§ 2.56.050 and 2.82.080, and Applicable Law.

RECOMMENDATION:

It is recommended that the Planning Commission consider:

- (1) Adopting a Resolution amending procedural rules for conducting Planning Commission meetings; and
- (2) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

This resolution is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, *et seq.*) because it establishes procedural rules related to the conduct of Planning Commission meetings; does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, this resolution does not constitute a "project" that requires environmental review (see specifically 14 CCR § 15378(b)(2, 5)).

BACKGROUND:

MPMC § 2.82.080(c) provides that the Planning Commission may adopt meeting procedures and other reasonable rules and regulations for conducting business.¹ The current By-Laws were last updated by the Planning Commission on May 12, 2020. The By-Laws clearly establish a format for agenda item discussions; set forth rules for motions, debates and votes; and ensure that courtesy and decorum are maintained during the meetings, among other things.

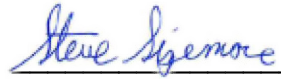
¹ See, also, MPMC § 2.56.050 "A regular meeting as provided for by law **or by rule of the planning commission** or any regularly advertised public hearing shall be deemed a regular meeting" (emphasis added).

On February 8, 2022, the Planning Commission discussed various potential amendments to the Bylaws:

1. Modify Rule 2.3 to change the meeting time from 7 p.m. to 6:30 p.m. to be consistent with City Council meetings and other commissions;
2. Keep two (2) Planning Commission meetings per month ;
3. Revise Rules 3.1 and 3.2 to provide for an automatic rotation for the election of the chairperson and vice-chairperson, unless: 1) a Planning Commissioner chooses to opt out from being the Chairperson and Vice Chairperson; or 2) the Planning Commission chooses to make a modification in the automatic rotation by majority vote;
4. Under Rule 4.5, include "discussion" to be consistent with State law which precludes the Planning Commission from taking any action or partaking in discussion on any item/topic that is not on the posted agenda; and
5. Per Rule 4.6, add "Future Agenda Items" as a separate line item on Planning Commission agendas.

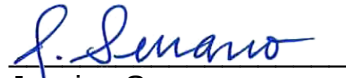
The proposed resolution amends the By-Laws as directed by the Planning Commission, and the amendments would become effective upon adoption.

Respectfully submitted,



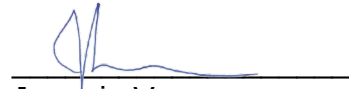
Steve Sizemore
Interim Director of
Community Development

Prepared by:



Jessica Serrano
Planning Manager

Reviewed by:



Joaquin Vazquez
Deputy City Attorney

Attachment:

Attachment 1: Draft Resolution with redlines

Attachment 2: Draft

ATTACHMENT 1

Draft Resolution with redlines

RESOLUTION NO. _____

A RESOLUTION ~~ESTABLISHING~~ AMENDING PROCEDURAL RULES FOR CONDUCTING PLANNING COMMISSION MEETINGS IN ACCORDANCE WITH MONTEREY PARK MUNICIPAL CODE §§ 2.56.050 AND 2.82.080(C), AND APPLICABLE LAW.

BE IT RESOLVED by the Monterey Park Planning Commission as follows:

SECTION 1: Pursuant to Monterey Park Municipal Code (“MPMC”) §§ 2.56.050 and 2.82.080 and applicable law, the Planning Commission adopts the following procedural rules for conducting Planning Commission meetings:

“RULES OF PROCEDURE

Rule 1: Authority

Pursuant to MPMC §§ 2.56.050 and 2.82.080, and applicable law, the Planning Commission establishes these by-laws, entitled “Rules of Procedure,” for conducting its meetings. The following Rules become effect upon the Planning Commission’s adoption and remain effective unless amended or superseded. These Rules are intended to comply with, the Ralph M. Brown Act (Government Code §§ 54950-54962). The Brown Act will supersede any conflicting provision of the Rules.

Rule 2: General Rules

Rule 2.1: Public Meetings

All meetings (except closed sessions as provided by State law) of the Commission are open to the public.

Rule 2.2: Rules of Order

- A. Planning Commission proceedings should be governed by common sense and good taste. Pursuant to applicable laws, including, without limitation, the Monterey Park Municipal Code, any issue of procedure relating to the conduct of a meeting or hearing not otherwise provided for in these Rules may be determined by the Chairperson, subject to a vote of the entire Commission. In addition, the Planning Commission may, upon majority vote, alter or modify any provision of this Policy when appropriate or desirable.
- B. These Rules are adopted to expedite the Planning Commission’s

business transactions in an orderly fashion and are procedural only. Failure to strictly observe these rules will not affect the Commission's jurisdiction or invalidate any Commission action conforming with applicable law.

- C. The Commission will abide by those Rules of Decorum that may be adopted by the City Council for use by its boards, commissions, and committees.

Rule 2.3: Meeting Dates/Times

Regular meetings will be held on the second and fourth Tuesdays of each month. Adjourned regular or special meetings may be called by the Chairperson or a majority of the Commission. All regular meetings will convene at ~~7:30~~ 6:30 p.m. unless noticed at a different time by publishing a notice and/or posting a notice in at least three conspicuous places.

Rule 2.4: Quorum

Three members of the Commission constitute a quorum. Should less than a quorum be in attendance, the Secretary will list the attendees in the minutes, and they will adjourn the meeting to a later set time. In the event no members of the Commission are present the Secretary will adjourn the meeting to a later set time pursuant to Government Code § 54955.

Rule 2.5: Vote

A majority of a quorum is required to transact business except that three affirmative votes of the Commission's members are required to approve or recommend approval of the following substantive applications: General Plan Amendments and Amendments to the MPMC, Zone Changes, Variances, Conditional Use Permits, Pre-zoning for Annexations, Subdivision Maps, and Parcel Maps. If a motion to approve a substantive matter fails because it does not receive three affirmative votes, the matter will be automatically continued to the next regular Planning Commission meeting. If the substantive matter is neither approved nor denied at the next regular meeting, the project is deemed denied unless the applicant requests an additional vote at the next regular meeting. No appeal fee will be charged for an appeal required as a result of a tie vote or due to the lack of ~~four~~ three affirmative votes to approve a matter which is not subsequently denied.

Rule 2.6: Minutes of Proceedings

The Secretary will record an account of all public proceedings of the Planning Commission into the Commission's official minutes. These minutes will become public record after Commission approval.

Rule 2.7: Right of Floor

Commissioners wishing to speak must first be recognized by the Chairperson and, with the exception of City Communications, limit any remarks to the agenda matter being considered.

Rule 2.8: City Planner

The City Planner will attend all meetings of the Commission unless excused. In his/her absence, the City Planner will designate an Acting City Planner to attend. The City Planner may make recommendations and has the right to take part in all Planning Commission discussions of the Commission, but cannot vote.

Rule 2.9: City Attorney

The City Attorney or designee should attend all meetings of the Commission. The City Attorney or designee, upon request, may give opinions, either written or oral, on questions of law and act as the Commission's parliamentarian.

Rule 2.10: Secretary

The Secretary will attend all meetings of the Commission unless excused. The Secretary will record, prepare, and maintain the Commission's official record and perform other related duties as prescribed by the Commission and/or City Planner.

**Rule 3: Chairperson and Vice Chairperson – Duties, Qualifications,
and Rotation of Positions**

Rule 3.1: ~~Chairperson~~—Election and Qualifications

A.

B. ~~The Chairperson is elected by a~~ majority vote of the Commission will elect the Chairperson and Vice Chairperson each for a one-year term in ~~May~~ February of each year, subject to the rotation procedures in Rule 3.2.

~~B.C.~~ The Chairperson and Vice Chairperson must each be a Member of the Planning Commission and will ~~retains~~ all the powers of a Commissioner upon election.

~~Rule 3.2:~~ Vice Chairperson Rotation of Positions

- A. The Chairperson will be the most senior Commissioner who has not served as Chairperson, or if all Commissioners have served as Chairperson, the Planning Commissioner who has not served as Chairperson for the longest period of time.
- B. The Vice Chairperson will be the most senior Commissioner who has not served as Vice Chairperson, or if all Commissioners have served as Vice Chairperson, the Commissioner who has not served as Vice Chairperson for the longest period of time.
- C. The Planning Commission Secretary will maintain a record of the rotation queue sequence.
- D. Commissioners newly appointed to the Planning Commission will be placed at the end of the rotation queue for service as Chairperson and Vice Chairperson. In the event two or more Commissioners are appointed at the same time, their rotation positions will be based on the order in which their last name falls in the alphabet.
- E. The Vice Chairperson will succeed as Chairperson if the Chairperson's seat is vacated and will serve the unexpired term of the vacated office; the Planning Commission will elect a new Vice Chairperson at the next regular meeting following such seat vacation.
- F. Despite the rotation procedures identified above in Rule 3.2 (A) through (E) above, a Commission majority may elect Commissioners to Chairperson and Vice Chairperson in a manner different from the prescribed rotation schedule, and no Commissioner will have the obligation to serve as either Chairperson or Vice Chairperson if they decline to do so.

~~Rule 3.2:~~ Rule 3.3: Presiding Officer

The Chairperson, if present, will preside at all meetings. In the Chairperson's absence, the Vice Chairperson will preside. In the absence of both, the Commissioners present will select a Temporary Presiding Officer by majority vote.

~~Rule 3.3:~~ Rule 3.4: Call to Order

The Chairperson or Vice Chairperson will bring the meeting to order at the time noticed in accordance with applicable law. In the absence of both, the meeting will be called to order by the Secretary.

~~Rule 3.4:~~ Rule 3.5: Point of Order

The Chairperson will determine all points of order, subject to the right of any Commissioner to appeal to a vote of a majority of the quorum.

~~Rule 3.5:~~ Rule 3.6: Motion to Be Stated

The Chairperson will state all motions submitted for a vote and announce the result. A roll call vote must be taken upon the request of any Commissioner.

Rule 4: Preparation of Agenda

Rule 4.1: Agenda Preparation

The Agenda will be prepared in accordance with the procedure directed by the City Planner. The Agenda should be delivered to the Chairperson and Commissioners by 5:00 p.m. on the Friday before the Commission's regular Tuesday meeting. In the event of a Special Meeting, agenda materials should be delivered as promptly as is practicable.

Rule 4.2: Minutes

Unless requested by a majority of the quorum, minutes may be approved without reading.

Rule 4.3: Consent Calendar

Items listed under the Consent Calendar are those items the City Planner believes will not require Commission discussion and are routine in content. Also listed under the Consent Calendar are resolutions confirming action from a previous meeting which are brought back for approval of form rather than approval of action. Items may be pulled for separate discussion or clarification at any Commissioner's request, or upon receipt of a written request for public comment on the item.

Rule 4.4: City Communications

Items of interest that are not on the Agenda, such as conference or meeting reports, may be discussed under this item. No action, other than to “receive or refer to staff” may be taken.

Rule 4.5: Actions/Discussions Limited to Posted Agenda

The Planning Commission cannot take action or discuss ~~on~~ any item not appearing on the posted Agenda except under the conditions permitted by Government Code § 54954.2.

Rule 4.6: Future Agenda Items

Each Agenda will include an Agenda item entitled “Future Agenda Items.” During this section of the Agenda any Commissioner may make a motion only to place an item on a future Agenda. The motion is non-debatable. Placement of an item on a future Agenda requires a majority vote. The City Planner has discretion as to when the item will be placed on the Agenda, unless otherwise directed by the Planning Commission.

Rule 5: Citizens’ Rights

Rule 5.1: Addressing the Commission

A. Any person may address the Commission under the following portions of the Agenda:

- (1) Under the Public Comment portion of the Agenda.
- (2) Public Hearings.
- (3) With the consent of a majority of the quorum of the Commission.

B. Persons seeking to address the Commission must comply with the following:

- (1) Members of the public may address the Commission only on items within the subject-matter jurisdiction of the Commission. A determination of whether an item is appropriate for discussion will be made by the Chairperson with the Commission’s consent and upon advice by the City Attorney or designee.
- (2) Each person addressing the Commission must submit such written information as the Secretary may require for the record, step to the podium and give their name and address for the record.

- (3) Each speaker is limited to five minutes on Public Comment and a total of five minutes on all other items on the Agenda.
Exception - See Public Hearing Procedures under Section 7 and following.
 - (4) All remarks must be directed to the Chairperson and Commission as a body and not to any particular Commissioner.
 - (5) No person, other than Commissioners and the person having the floor, are permitted to participate in the discussion except as otherwise requested by the Chairperson.
 - (6) No question may be asked of Commissioners or City staff except through the Chairperson.
- C. When any identifiable group of persons, as distinguished from the general public, seeks to address the Commission on the same agenda item, the Chairperson has the discretion to ask that the group select a spokesperson to address the Commission. If additional issues are to be presented at the hearing by any other member of such group, the Chairperson may limit the number of persons to address the Commission to avoid unnecessary repetition of information presented to the Commission.

Rule 5.2: Disrupting legal meetings

Any member of the public making disruptive remarks or who becomes disruptive while addressing the Commission or attending the Commission meeting so as to disrupt, disturb or otherwise impede the orderly conduct of the Commission meeting will be removed forthwith by the Presiding Officer and barred from further audience before the Commission at that meeting unless permission to continue is granted by a majority vote of the Commission.

Rule 6: Document Preparation

Unless otherwise directed by the Commission or City Planner, all documents must, before being placed on the Agenda, be approved as to form and legality by the City Attorney or designee. Such approval must be indicated by a signature on the last page of the document.

Rule 7: Procedures Regarding Public Hearings

Rule 7.1: Introduction

Chairperson announces subject of the Public Hearing, confirms with the Secretary that the Public Hearing was correctly noticed, and declares the Public Hearing open. Conflicts, if any, are declared and ex parte contacts, if any, are disclosed.

Rule 7.2: Staff and Written Material Presentation

- A. Staff summary report and other written material included in the Agenda packet is received and filed. Written comments (e.g. protest, etc.) are noted for the record.
- B. Written material not in the Agenda packet, if any, is received and filed.
- C. Oral staff report, if any, is presented by staff member.
- D. Staff responds to Commissioner questions.

Rule 7.3: Public Testimony

- A. Purpose is to provide opportunity to interested persons wishing to support or oppose the matter being considered.
- B. Chairperson instructs members of the audience:
 - (1) To fill out a form prepared by the Secretary;
 - (2) To speak from the podium;
 - (3) To give their name and address before speaking;
 - (4) That the time limit for each speaker is generally five minutes; and
 - (5) That repetition should be avoided.
- C. The applicant/representative will normally speak first. Applicant/representative presentation is limited to ten minutes, any portion of which can be used for rebuttal.
- D. Questions by speakers will be noted and, if possible, answered before Commission deliberation.
- E. Following public testimony, the applicant/representative will have an opportunity for rebuttal.

Rule 7.4: Commission Deliberation

- A. After the Chairperson has determined that no other member of the audience wishes to speak, the Planning Commission may deliberate.
- B. The Commission may ask questions of speakers for clarification.
- C. Staff and/or Commission answers prior speakers' questions.
- D. The Commission makes a motion and debates.

Rule 7.5: Commission Action

- A. The Commission may, at this time, continue the open Public Hearing.
 - (1) This should be done if any additional information is requested (e.g. a staff report).
 - (2) Continuing a Public Hearing to a specific date does not require additional notice.
- B. Vote on the item.
- C. Offer amendments or substitute motions allowing additional public comment.
- D. Close the Public Hearing and continue the matter to a later date for a decision (note that no additional reports or testimony may be received if the Public Hearing has been closed).

Rule 8: Miscellaneous Rules

Rule 8.1: Silence

During a collective vote (Ayes and Nays), silence of any Commissioner denotes an affirmative vote.

Rule 8.2: Continuance of an Item

- A. Continuance by a Commissioner.

Upon a Commissioner's request and by majority vote, an item (not subject to a deadline) may be continued to the next agreed upon meeting.

B. Continuances Requested by Someone Not a Commissioner.

Anyone may request a continuance of an item and the Commission, by majority vote, may grant a continuance.

Rule 8.3: Failure to Vote

Every Commissioner should vote unless disqualified by reason of a Conflict of Interest. If a member abstains because of a legal conflict of interest, he/she is not counted as part of the quorum and is not deemed to be voting.

If a member abstains for reasons other than a legal conflict of interest, he/she will be counted in establishing a quorum. Such an abstention will counted with the majority vote of the quorum unless there is no majority in which case it will not be counted as a vote.

Rule 8.4: Lost Motions

A lost motion is one that fails to receive the necessary number of votes to carry. To revive a lost motion at the same meeting, the proper action is a motion to reconsider.

Rule 8.5: Motion to Reconsider

A motion to reconsider any action taken by the Commission may be made in accordance with the following:

- A. The motion must be made by a Commissioner the majority vote, or, in the case of a lost motion, by any Commissioner and may be seconded by any Commissioner.
- B. The motion must be made before the adjournment of the meeting at which the original action was taken.
- C. The motion is debatable and has precedence over a pending motion.
- D. Except as otherwise provided, if the action to be reconsidered is a Public Hearing item, it must be re-noticed in the event the motion to reconsider passes. Where it is clearly established that all interested members of the public are still present, the item may be reconsidered without further notice.

Rule 8.6: Tie Votes

If a tie vote occurs when a Member of the Commission is absent, the item will be automatically continued once to the next regular meeting of the Commission. Except in the event of an appeal to the Commission, if a tie vote occurs as a result of the abstention of a Commissioner, the motion is lost. If a tie vote on an appeal occurs as a result of the abstention of a Commissioner, the appeal is deemed denied.

Rule 8.7: Changing the Vote

A Commissioner may change his/her vote only if the change is made immediately following the announcement of the vote by the Chairperson and before the next agenda item is announced.

Rule 8.8: Abstention

A Commissioner who publicly announces that he/she is abstaining from voting on a particular matter will not subsequently be allowed to withdraw the abstention.

Rule 8.9: Presentation of Evidence

A. Oral Evidence

Oral evidence may be taken on oath or affirmation if requested by the Commission.

B. Exhibits and Documents

Documentary evidence, exhibits, written communications, and documents used and relied upon by the Commission during Commission meetings must be made part of the record.

C. Communications and Petitions

All communications and petitions must be read aloud either in full or in summary. A reading in full must be made at the request of a majority of the Commission. All such communications and petitions may be placed into evidence at the Commission's discretion.

D. Staff Reports

A written staff report should be prepared and orally reviewed as part of the staff presentation. Such report is evidence and part of the record.

E. Large Maps and Displays

Large size maps and displays presented for use at the hearing should be displayed in full view of the Commission. When practicable, such maps or displays, or their authentic reductions, will be placed into the record.

F. Admissible Evidence

A Public Hearing need not be conducted according to legal rules of evidence. Any relevant evidence may be accepted if it relevant and the type of evidence upon which reasonable persons rely upon in conducting serious affairs. Irrelevant and unduly repetitious evidence will be excluded.

Rule 8.10: Personal Privilege

The right of a Commissioner to address the Commission on a question of personal privilege is limited to cases where the integrity, character, or motives of the Commissioner is in question or where the Commission's welfare is concerned. The Commissioner may not interrupt the speaker, however, until recognized by the Chairperson.

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Any Commissioner has the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

Rule 9: Rules of Debate

Rule 9.1: Chairperson as Presiding Officer

The Chairperson may move, second, and debate from the Chair, retains all rights and privileges of a Commissioner.

Rule 9.2: Appeals

Any ruling of the Chairperson may be appealed at the request of any Commissioner. The Chairperson must call for a roll call vote to determine if the ruling is upheld.

Rule 9.3: Motions

A motion may be debated by the Commission after it is made. During debate, any Member of the Commission may "Call for a second." If a second is not forthcoming, the motion dies for lack of a second. If the motion is seconded, the debate may continue.

Rule 9.4: Precedence of Motions

When a motion is before the Commission, no other motion may be considered except:

A. Motion to Amend - (debatable only as it relates to the amendment).

An amendment which modifies the motion is an order, however, a substitute motion is in order if the intent is changed. Amendments are voted on first, the main motion vote is last. A motion may be amended more than once with each amendment being voted on separately. There shall only be one amending motion on the floor at any one time.

B. Motion to Postpone - (A motion to postpone indefinitely is debatable).

If such a motion is adopted, the principal question is lost. Motion to postpone to a definite time is subject to debate and amendment as it relates to propriety of the postponement and time set.

C. Motion to Table - (Undebatable and not subject to amendment).

The purpose of a motion to table is to temporarily bypass the item. If a motion to table is adopted, the item may be taken from the table at any time before the adjournment of the next regular meeting. If the item is not taken from the table in the time specified, the business of the item is lost.

D. Motion for Previous Question

A motion for previous question closes debate on the main motion and is non-debatable. If motion fails, debate is reopened; if motion passes, then vote must be taken on the main motion.

Rule 10: Election of Chairperson and Vice Chairperson

Rule 10.1: Time of Election.

The election of the Chairperson and Vice Chairperson will take place at the first regular meeting of the Planning Commission in

~~May-February~~ of each year, ~~or as soon thereafter may be effectuated.~~

Rule 10.2: Procedure for Chairperson ~~election~~Election.

- A. The Secretary will state the procedures for electing the Chairperson and Vice Chairperson.
- B. The election of the Chairperson will be conducted by the Secretary or an appointed Deputy Secretary (collectively "Secretary").
- C. The Secretary will declare that the office of Chairperson is vacant and ~~that nominations are open~~will name the Commissioner that is up for election based on the automatic rotation procedures identified in Rule 3.
- D. ~~Any member of the Planning Commission may nominate any member of the Planning Commission as Chairperson, including him or herself. A second to a nomination is not required. If the named Commissioner declines election to serve as Chairperson per Rule 3.2(F), above, the Secretary will name the Commissioner that is next on the sequence of rotation.~~
- ~~E. Any member of the City Commission may move to close the nominations at any time after all Commissioners have had the opportunity to make a nomination. The motion requires a second and must receive a vote of a majority of the Planning Commission to pass.~~
- ~~F. After nominations have been closed, the Secretary will call for the vote on the election of the Chairperson.~~
- ~~G. E. The nominees Commissioner that is being considered for election will be voted on in the order the nominations were made through a role call vote.~~
- ~~H. F. The first Commissioner receiving the vote of a majority of the Planning Commission is the Chairperson and the election will be closed.~~
- ~~I. If no member of the Planning Commission receives a majority vote, the Secretary will re-open the nominations and conduct a new election until a Chairperson is elected.~~

Rule 10.3: Procedure for the Vice-Chairperson Election.

The election of the Vice Chairperson will be conducted in the same manner as the election of the Chairperson, except that the Chairperson, not the Secretary, will conduct the election.

Rule 11: Adjournment

At 9:30 p.m., if the business has not concluded, the Chairperson will poll all Commissioners and upon majority vote, the meeting will be extended for a maximum of one hour. If business has not been concluded after a subsequent hour, the meeting may be further extended by one-hour increments upon a majority vote.

Rule 12: Amendment/Suspension

The Commission may amend or suspend these rules at any time upon majority vote of the Commission.

Rule 13: Appeals to City Council

Persons who are dissatisfied with a decision of the Planning Commission may have the right to seek review of that decision by the City Council. Such an appeal must be perfected within 10 days of the Commission's decision."

SECTION 2: This Resolution supersedes all previous resolutions purporting to establish rules and procedures for conducting Planning Commission meetings. Accordingly, those resolutions are rendered moot upon adoption of this Resolution and are accordingly repealed.

SECTION 3: *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 4: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this ____ day of _____, ~~2020~~2022.

Tammy Sam,
Chairperson

Approved as to Form:

By:

~~Natalie C. Karpeles~~ Joaquin Vazquez,
Deputy City Attorney

ATTACHMENT 2

Draft Resolution

RESOLUTION NO. _____

**A RESOLUTION AMENDING PROCEDURAL RULES FOR
CONDUCTING PLANNING COMMISSION MEETINGS IN
ACCORDANCE WITH MONTEREY PARK MUNICIPAL CODE §§
2.56.050 AND 2.82.080(C), AND APPLICABLE LAW.**

BE IT RESOLVED by the Monterey Park Planning Commission as follows:

SECTION 1: Pursuant to Monterey Park Municipal Code ("MPMC") §§ 2.56.050 and 2.82.080 and applicable law, the Planning Commission adopts the following procedural rules for conducting Planning Commission meetings:

"RULES OF PROCEDURE

Rule 1: Authority

Pursuant to MPMC §§ 2.56.050 and 2.82.080, and applicable law, the Planning Commission establishes these by-laws, entitled "Rules of Procedure," for conducting its meetings. The following Rules become effect upon the Planning Commission's adoption and remain effective unless amended or superseded. These Rules are intended to comply with, the Ralph M. Brown Act (Government Code §§ 54950-54962). The Brown Act will supersede any conflicting provision of the Rules.

Rule 2: General Rules

Rule 2.1: Public Meetings

All meetings (except closed sessions as provided by State law) of the Commission are open to the public.

Rule 2.2: Rules of Order

- A. Planning Commission proceedings should be governed by common sense and good taste. Pursuant to applicable laws, including, without limitation, the Monterey Park Municipal Code, any issue of procedure relating to the conduct of a meeting or hearing not otherwise provided for in these Rules may be determined by the Chairperson, subject to a vote of the entire Commission. In addition, the Planning Commission may, upon majority vote, alter or modify any provision of this Policy when appropriate or desirable.
- B. These Rules are adopted to expedite the Planning Commission's business transactions in an orderly fashion and are procedural only. Failure to strictly observe these rules will not affect the

Commission's jurisdiction or invalidate any Commission action conforming with applicable law.

- C. The Commission will abide by those Rules of Decorum that may be adopted by the City Council for use by its boards, commissions, and committees.

Rule 2.3: Meeting Dates/Times

Regular meetings will be held on the second and fourth Tuesdays of each month. Adjourned regular or special meetings may be called by the Chairperson or a majority of the Commission. All regular meetings will convene at 6:30 p.m. unless noticed at a different time by publishing a notice and/or posting a notice in at least three conspicuous places.

Rule 2.4: Quorum

Three members of the Commission constitute a quorum. Should less than a quorum be in attendance, the Secretary will list the attendees in the minutes, and they will adjourn the meeting to a later set time. In the event no members of the Commission are present the Secretary will adjourn the meeting to a later set time pursuant to Government Code § 54955.

Rule 2.5: Vote

A majority of a quorum is required to transact business except that three affirmative votes of the Commission's members are required to approve or recommend approval of the following substantive applications: General Plan Amendments and Amendments to the MPMC, Zone Changes, Variances, Conditional Use Permits, Pre-zoning for Annexations, Subdivision Maps, and Parcel Maps. If a motion to approve a substantive matter fails because it does not receive three affirmative votes, the matter will be automatically continued to the next regular Planning Commission meeting. If the substantive matter is neither approved nor denied at the next regular meeting, the project is deemed denied unless the applicant requests an additional vote at the next regular meeting. No appeal fee will be charged for an appeal required as a result of a tie vote or due to the lack of three affirmative votes to approve a matter which is not subsequently denied.

Rule 2.6: Minutes of Proceedings

The Secretary will record an account of all public proceedings of the Planning Commission into the Commission's official minutes. These minutes will become public record after Commission approval.

Rule 2.7: Right of Floor

Commissioners wishing to speak must first be recognized by the Chairperson and, with the exception of City Communications, limit any remarks to the agenda matter being considered.

Rule 2.8: City Planner

The City Planner will attend all meetings of the Commission unless excused. In his/her absence, the City Planner will designate an Acting City Planner to attend. The City Planner may make recommendations and has the right to take part in all Planning Commission discussions of the Commission, but cannot vote.

Rule 2.9: City Attorney

The City Attorney or designee should attend all meetings of the Commission. The City Attorney or designee, upon request, may give opinions, either written or oral, on questions of law and act as the Commission's parliamentarian.

Rule 2.10: Secretary

The Secretary will attend all meetings of the Commission unless excused. The Secretary will record, prepare, and maintain the Commission's official record and perform other related duties as prescribed by the Commission and/or City Planner.

Rule 3: Chairperson and Vice Chairperson – Duties, Qualifications, and Rotation of Positions

Rule 3.1: Election and Qualifications

- A. A majority vote of the Commission will elect the Chairperson and Vice Chairperson each for a one-year term in February of each year, subject to the rotation procedures in Rule 3.2.
- B. The Chairperson and Vice Chairperson must each be a Member of the Planning Commission and will retain all the powers of a Commissioner upon election.

Rule 3.2: Rotation of Positions

- A. The Chairperson will be the most senior Commissioner who has not served as Chairperson, or if all Commissioners have served as Chairperson, the Planning Commissioner who has not served as Chairperson for the longest period of time.

- B. The Vice Chairperson will be the most senior Commissioner who has not served as Vice Chairperson, or if all Commissioners have served as Vice Chairperson, the Commissioner who has not served as Vice Chairperson for the longest period of time.
- C. The Planning Commission Secretary will maintain a record of the rotation queue sequence.
- D. Commissioners newly appointed to the Planning Commission will be placed at the end of the rotation queue for service as Chairperson and Vice Chairperson. In the event two or more Commissioners are appointed at the same time, their rotation positions will be based on the order in which their last name falls in the alphabet.
- E. The Vice Chairperson will succeed as Chairperson if the Chairperson's seat is vacated and will serve the unexpired term of the vacated office; the Planning Commission will elect a new Vice Chairperson at the next regular meeting following such seat vacation.
- F. Despite the rotation procedures identified above in Rule 3.2 (A) through (E) above, a Commission majority may elect Commissioners to Chairperson and Vice Chairperson in a manner different from the prescribed rotation schedule, and no Commissioner will have the obligation to serve as either Chairperson or Vice Chairperson if they decline to do so.

Rule 3.3: Presiding Officer

The Chairperson, if present, will preside at all meetings. In the Chairperson's absence, the Vice Chairperson will preside. In the absence of both, the Commissioners present will select a Temporary Presiding Officer by majority vote.

Rule 3.4: Call to Order

The Chairperson or Vice Chairperson will bring the meeting to order at the time noticed in accordance with applicable law. In the absence of both, the meeting will be called to order by the Secretary.

Rule 3.5: Point of Order

The Chairperson will determine all points of order, subject to the right of any Commissioner to appeal to a vote of a majority of the quorum.

Rule 3.6: Motion to Be Stated

The Chairperson will state all motions submitted for a vote and announce the result. A roll call vote must be taken upon the request of any Commissioner.

Rule 4: Preparation of Agenda

Rule 4.1: Agenda Preparation

The Agenda will be prepared in accordance with the procedure directed by the City Planner. The Agenda should be delivered to the Chairperson and Commissioners by 5:00 p.m. on the Friday before the Commission's regular Tuesday meeting. In the event of a Special Meeting, agenda materials should be delivered as promptly as is practicable.

Rule 4.2: Minutes

Unless requested by a majority of the quorum, minutes may be approved without reading.

Rule 4.3: Consent Calendar

Items listed under the Consent Calendar are those items the City Planner believes will not require Commission discussion and are routine in content. Also listed under the Consent Calendar are resolutions confirming action from a previous meeting which are brought back for approval of form rather than approval of action. Items may be pulled for separate discussion or clarification at any Commissioner's request, or upon receipt of a written request for public comment on the item.

Rule 4.4: City Communications

Items of interest that are not on the Agenda, such as conference or meeting reports, may be discussed under this item. No action, other than to "receive or refer to staff" may be taken.

Rule 4.5: Actions/Discussions Limited to Posted Agenda

The Planning Commission cannot take action or discuss any item not appearing on the posted Agenda except under the conditions permitted by Government Code § 54954.2.

Rule 4.6: Future Agenda Items

Each Agenda will include an Agenda item entitled "Future Agenda Items." During this section of the Agenda any Commissioner may make a motion only to place an item on a future Agenda. The motion is non-debatable. Placement of an item on a future Agenda requires a majority vote. The

City Planner has discretion as to when the item will be placed on the Agenda, unless otherwise directed by the Planning Commission.

Rule 5: Citizens' Rights

Rule 5.1: Addressing the Commission

A. Any person may address the Commission under the following portions of the Agenda:

- (1) Under the Public Comment portion of the Agenda.
- (2) Public Hearings.
- (3) With the consent of a majority of the quorum of the Commission.

B. Persons seeking to address the Commission must comply with the following:

- (1) Members of the public may address the Commission only on items within the subject-matter jurisdiction of the Commission. A determination of whether an item is appropriate for discussion will be made by the Chairperson with the Commission's consent and upon advice by the City Attorney or designee.
- (2) Each person addressing the Commission must submit such written information as the Secretary may require for the record, step to the podium and give their name and address for the record.
- (3) Each speaker is limited to five minutes on Public Comment and a total of five minutes on all other items on the Agenda. Exception - See Public Hearing Procedures under Section 7 and following.
- (4) All remarks must be directed to the Chairperson and Commission as a body and not to any particular Commissioner.
- (5) No person, other than Commissioners and the person having the floor, are permitted to participate in the discussion except as otherwise requested by the Chairperson.
- (6) No question may be asked of Commissioners or City staff except through the Chairperson.

C. When any identifiable group of persons, as distinguished from the

general public, seeks to address the Commission on the same agenda item, the Chairperson has the discretion to ask that the group select a spokesperson to address the Commission. If additional issues are to be presented at the hearing by any other member of such group, the Chairperson may limit the number of persons to address the Commission to avoid unnecessary repetition of information presented to the Commission.

Rule 5.2: Disrupting legal meetings

Any member of the public making disruptive remarks or who becomes disruptive while addressing the Commission or attending the Commission meeting so as to disrupt, disturb or otherwise impede the orderly conduct of the Commission meeting will be removed forthwith by the Presiding Officer and barred from further audience before the Commission at that meeting unless permission to continue is granted by a majority vote of the Commission.

Rule 6: Document Preparation

Unless otherwise directed by the Commission or City Planner, all documents must, before being placed on the Agenda, be approved as to form and legality by the City Attorney or designee. Such approval must be indicated by a signature on the last page of the document.

Rule 7: Procedures Regarding Public Hearings

Rule 7.1: Introduction

Chairperson announces subject of the Public Hearing, confirms with the Secretary that the Public Hearing was correctly noticed, and declares the Public Hearing open. Conflicts, if any, are declared and ex parte contacts, if any, are disclosed.

Rule 7.2: Staff and Written Material Presentation

- A. Staff summary report and other written material included in the Agenda packet is received and filed. Written comments (e.g. protest, etc.) are noted for the record.
- B. Written material not in the Agenda packet, if any, is received and filed.
- C. Oral staff report, if any, is presented by staff member.
- D. Staff responds to Commissioner questions.

Rule 7.3: Public Testimony

- A. Purpose is to provide opportunity to interested persons wishing to support or oppose the matter being considered.
- B. Chairperson instructs members of the audience:
 - (1) To fill out a form prepared by the Secretary;
 - (2) To speak from the podium;
 - (3) To give their name and address before speaking;
 - (4) That the time limit for each speaker is generally five minutes; and
 - (5) That repetition should be avoided.
- C. The applicant/representative will normally speak first. Applicant/representative presentation is limited to ten minutes, any portion of which can be used for rebuttal.
- D. Questions by speakers will be noted and, if possible, answered before Commission deliberation.
- E. Following public testimony, the applicant/representative will have an opportunity for rebuttal.

Rule 7.4: Commission Deliberation

- A. After the Chairperson has determined that no other member of the audience wishes to speak, the Planning Commission may deliberate.
- B. The Commission may ask questions of speakers for clarification.
- C. Staff and/or Commission answers prior speakers' questions.
- D. The Commission makes a motion and debates.

Rule 7.5: Commission Action

- A. The Commission may, at this time, continue the open Public Hearing.

- (1) This should be done if any additional information is requested (e.g. a staff report).
 - (2) Continuing a Public Hearing to a specific date does not require additional notice.
- B. Vote on the item.
 - C. Offer amendments or substitute motions allowing additional public comment.
 - D. Close the Public Hearing and continue the matter to a later date for a decision (note that no additional reports or testimony may be received if the Public Hearing has been closed).

Rule 8: Miscellaneous Rules

Rule 8.1: Silence

During a collective vote (Ayes and Nays), silence of any Commissioner denotes an affirmative vote.

Rule 8.2: Continuance of an Item

A. Continuance by a Commissioner.

Upon a Commissioner's request and by majority vote, an item (not subject to a deadline) may be continued to the next agreed upon meeting.

B. Continuances Requested by Someone Not a Commissioner.

Anyone may request a continuance of an item and the Commission, by majority vote, may grant a continuance.

Rule 8.3: Failure to Vote

Every Commissioner should vote unless disqualified by reason of a Conflict of Interest. If a member abstains because of a legal conflict of interest, he/she is not counted as part of the quorum and is not deemed to be voting.

If a member abstains for reasons other than a legal conflict of interest, he/she will be counted in establishing a quorum. Such an abstention will counted with the majority vote of the quorum unless there is no majority in which case it will not be counted as a vote.

Rule 8.4: Lost Motions

A lost motion is one that fails to receive the necessary number of votes to carry. To revive a lost motion at the same meeting, the proper action is a motion to reconsider.

Rule 8.5: Motion to Reconsider

A motion to reconsider any action taken by the Commission may be made in accordance with the following:

- A. The motion must be made by a Commissioner the majority vote, or, in the case of a lost motion, by any Commissioner and may be seconded by any Commissioner.
- B. The motion must be made before the adjournment of the meeting at which the original action was taken.
- C. The motion is debatable and has precedence over a pending motion.
- D. Except as otherwise provided, if the action to be reconsidered is a Public Hearing item, it must be re-noticed in the event the motion to reconsider passes. Where it is clearly established that all interested members of the public are still present, the item may be reconsidered without further notice.

Rule 8.6: Tie Votes

If a tie vote occurs when a Member of the Commission is absent, the item will be automatically continued once to the next regular meeting of the Commission. Except in the event of an appeal to the Commission, if a tie vote occurs as a result of the abstention of a Commissioner, the motion is lost. If a tie vote on an appeal occurs as a result of the abstention of a Commissioner, the appeal is deemed denied.

Rule 8.7: Changing the Vote

A Commissioner may change his/her vote only if the change is made immediately following the announcement of the vote by the Chairperson and before the next agenda item is announced.

Rule 8.8: Abstention

A Commissioner who publicly announces that he/she is abstaining from voting on a particular matter will not subsequently be allowed to withdraw the abstention.

Rule 8.9: Presentation of Evidence

A. Oral Evidence

Oral evidence may be taken on oath or affirmation if requested by the Commission.

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Any ruling of the Chairperson may be appealed at the request of any Commissioner. The Chairperson must call for a roll call vote to determine if the ruling is upheld.

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C. Motion to Table - (Undebatable and not subject to amendment).

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time before the adjournment of the next regular meeting. If the item is not taken from the table in the time specified, the business of the item is lost.

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Rule 10.1: Time of Election.

The election of the Chairperson and Vice Chairperson will take place at the first regular meeting of the Planning Commission in February of each year, or as soon thereafter may be effectuated.

Rule 10.2: Procedure for Chairperson Election.

- A. The Secretary will state the procedures for electing the Chairperson and Vice Chairperson.
- B. The election of the Chairperson will be conducted by the Secretary or an appointed Deputy Secretary (collectively "Secretary").
- C. The Secretary will declare that the office of Chairperson is vacant and will name the Commissioner that is up for election based on the automatic rotation procedures identified in Rule 3.
- D. If the named Commissioner declines election to serve as Chairperson per Rule 3.2(F), above, the Secretary will name the Commissioner that is next on the sequence of rotation.
- E. The Commissioner that is being considered for election will be voted on through a role call vote.
- F. The first Commissioner receiving the vote of a majority of the Planning Commission is the Chairperson and the election will be closed.

Rule 10.3: Procedure for the Vice-Chairperson Election.

The election of the Vice Chairperson will be conducted in the same manner as the election of the Chairperson, except that the Chairperson, not the Secretary, will conduct the election.

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SECTION 2: This Resolution supersedes all previous resolutions purporting to establish rules and procedures for conducting Planning Commission meetings. Accordingly, those resolutions are rendered moot upon adoption of this Resolution and are accordingly repealed.

SECTION 3: *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 4: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this 8th day of March, 2022.

Tammy Sam,
Chairperson

Approved as to Form:

By: _____

Joaquin Vazquez,
Deputy City Attorney



City Council Staff Report

DATE: March 8, 2022

AGENDA ITEM NO: 5-A

TO: City Boards and Commissions
FROM: Karl H. Berger, City Attorney
SUBJECT: City Code of Conduct and Social Media Policy

RECOMMENDATION:

This is an informational item only. No action may be taken other than receiving and filing the report.

BACKGROUND:

The City Attorney's office was recently informed regarding activities on social media platforms undertaken by individuals appointed to the City's various Boards and Commissions. As the City moves from emergency operations related to the Pandemic toward restoring "normalcy" in conducting the public's business, it seems prudent to alert (or remind) public officials regarding the City's Code of Conduct and Social Media Policy. Please note that this is a very brief overview and intended only to remind public officials regarding the various rules and regulations that affect their public service. You may wish to seek additional clarification from the City Attorney's office or your staff liaison.

Resolution No. 12184 establishes the City's Code of Conduct; Resolution No. 12167 establishes the City's Social Media Policy (both are attached for reference). As noted in both Resolutions, the Code of Conduct and Social Media Policy apply to all Monterey Park public officials, whether elected or appointed.

Mayor Hans Liang first proposed the Code of Conduct in 2019; the City Council adopted it on August 5, 2020. There are four Core Principles:

Principle 1: Public Officials should comply with both the letter and spirit of the laws and policies affecting the operations of government;

Principle 2: Public Officials are expected by the public to be independent, impartial, and fair in their judgment and actions;

Principle 3: Serving in public office is a privilege and should be exercised in trust for the public good, not for personal gain; and

Principle 4: Public deliberations and processes should be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

The Code of Conduct implements these Core Principles with mandatory policies applying to all boards and commissions. Among other things, boards and commissions may only address matters determined by the Monterey Park Municipal Code or by the City Council to be within their subject matter jurisdiction. Moreover, unless directed otherwise by the City Council, boards and commissions must refrain from consideration of policy issues that are under active consideration by the City Council. When making public utterances, public officials must make it clear whether they are presenting their own views or those of the body upon which they sit.

Please note that while the Code of Conduct is mandatory, i.e., it applies to all elected and appointed public officials, public officials also acknowledge their voluntary compliance with the Code of Conduct when assuming office by signing the “My Commitment to a Healthy Work Environment” pledge. Those pledges are on file with the City Clerk’s office and available for public review.

As to the Social Media Policy, public officials are prohibited from using their title of public office when utilizing social media platforms. Moreover, all public officials should avoid using social media to discuss, deliberate or express opinions within the subject matter jurisdiction of their respective board or commission – even if they wish to do so in a personal capacity. This includes, without limitation, posting comments on social media whether through their own account or on a third-party’s feed.

Also note that all electronic communications prepared by public officials – whether using public or private accounts – are subject to the California Public Records Act and (unless otherwise exempted) must be disclosed upon request when they relate to City business. This includes electronic mail, social media postings (whether in closed or open groups), and posted comments.

The reasons for these policies are not only for good government, but also to avoid legal complications for the City of Monterey Park. Among other things, the policies were adopted to help reduce the likelihood that a public official’s conduct violates the Brown Act or Conflict of Interest laws; that the City complies with the Public Records Act; that the City complies with its records retention schedule; that due process rights are protected; and to avoid potential City liability in civil lawsuits.

An overview of these matters is provided in the *Municipal Law Guidebook* (last update is February 20, 2020) prepared by the City Attorney’s office. You should have received a copy of that document when you assumed office; copies are available in the City Clerk’s office.

RESOLUTION NO. 12184

A RESOLUTION ESTABLISHING A CODE OF CONDUCT AND RULES FOR CONDUCTING CITY COUNCIL MEETINGS IN ACCORDANCE WITH GOVERNMENT CODE § 36813.

The City Council does resolve as follows:

SECTION 1: Code of Conduct; Core Principles. The City Council finds and declares that its members, and all members of appointed boards and commissions (collectively, “Public Officials”), will abide by the following Core Principles:

- A. **Principle 1:** Public Officials should comply with both the letter and spirit of the laws and policies affecting the operations of government;
- B. **Principle 2:** Public Officials are expected by the public to be independent, impartial, and fair in their judgment and actions;
- C. **Principle 3:** Serving in public office is a privilege and should be exercised in trust for the public good, not for personal gain; and
- D. **Principle 4:** Public deliberations and processes should be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

SECTION 2: General Policies. Implementing the Core Principles is one of the guiding objectives in adopting this Resolution. Accordingly, in addition to all requirements of applicable law, the Public Officials must adhere to the following policies:

A. Conduct of Public Officials

The professional and personal conduct of Public Officials must be above reproach and avoid even the appearance of impropriety. Public Officials will refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other Public Officials, City employees, or the public.

B. Respect for Process

Public Officials will perform their duties in accordance with the processes and rules of order established by the City Council governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions.

C. Conduct of Public Meetings

Public Officials will fully prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the

business at hand. They will refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings.

D. Communication

Members will publicly share substantive information that is relevant to a matter under consideration by the City Council or boards, commissions, and committees, which they may have received from sources outside the public decision-making process.

E. Confidential Information

Public Officials must respect the confidentiality of information concerning City property, personnel, or proceedings of the City. They will neither disclose confidential information without proper legal authorization nor use such information to advance their personal interests.

F. Advocacy

When presenting their individual opinions and positions, Public Officials will expressly state they do not represent their body or the City of Monterey Park, nor will they allow the inference that they do. All written correspondence expressing an individual opinion and position must be on personal stationery and not on City stationery.

G. Policy Role of Public Officials

Public Officials must respect and adhere to the council-manager structure of Monterey Park city government with respect to the City Manager's relationship with the City Council. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards, commissions, and committees and City staff. The City Manager implements that policy.

SECTION 3: Substance Abuse Policy.

- A. While acting in their official capacities, Public Officials will refrain from imbibing alcohol to the point that it impairs their judgment, physical coordination, speech, or mental process.
- B. At all times, Public Officials will refrain from the use of a controlled substance, narcotic, amphetamine, barbiturate, prescribed or over-the-counter medication in excess of the prescribed dosage, or other non-prescribed hallucinogenic substance.

- C. Public Officials who have substance abuse problems are encouraged to make every effort to overcome such problems and to utilize the services of the Employee Assistance Program (EAP). Using the EAP is confidential.

SECTION 4: Anti-Harassment Policy.

- A. Harassment of an applicant or employee by a Public Official on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age will not be tolerated.
- B. Harassment on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age includes, without limitation, the following examples:
 - 1. Verbal Harassment - Epithets, derogatory comments, or slurs on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age.
 - 2. Physical Harassment - Assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age.
 - 3. Visual Forms of Harassment - Derogatory posters, notices, bulletins, cartoons, or drawings on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age.
 - 4. Sexual Favors - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is conditioned upon employment benefit, unreasonably interferes with an individual's work performance or creates an offensive work environment.

SECTION 5: Expected Conduct.

- A. Public Officials will request administrative services only through the City Manager or designee.

1. Public Officials cannot direct, order, or make demands on any City employee, other than inquiries that can be answered routinely and without research.
 2. Public Officials cannot attempt to reorganize an employee's priorities or influence the manner by which City staff performs their assigned functions or duties.
 3. Public Officials cannot retaliate or threaten to retaliate against employees as a result of disagreements over policy recommendations.
 4. Public Officials cannot threaten a City employee with disciplinary action.
- B. Public Officials must act collectively in a properly noticed and constituted meeting; Public Officials do not have authority to make decisions or take actions on behalf of the body unless expressly authorized to do so.
1. Public Officials cannot make representations or promises to any third party regarding the future actions of the City or of the body of which they are a member, unless such representation or promise has been duly authorized by the appropriate body.
 2. When making public utterances, Public Officials must make it clear whether they are authorized to speak on behalf of the body of which they are a member, or whether they are presenting their own views.
 3. Public Officials cannot interfere with the manner by which the City Manager performs his or her duties.
- C. Public Officials who are members of boards and commissions must limit their activities to matters within their subject matter jurisdiction.
1. Boards and commissions can address only those matters determined by the MPMC or by the City Council to be within their subject matter jurisdiction; staff need not place on an agenda, provide resources for or implement requests, directions or actions outside that jurisdiction. Unless directed otherwise by the City Council, Commissions and Boards must refrain from consideration of policy issues that are under active consideration by the City Council.

2. The City Council as a whole will provide direction and guidance to its subsidiary bodies.
- D. City resources must be used solely for proper governmental purposes, and only with proper authorization.
1. City letterhead may only be used by Public Officials for official City business.
 2. City employees cannot be asked or directed to spend time on non-City business.
 3. Public Officials cannot use or disclose information obtained through City service for improper purposes.

SECTION 6: Commitment to Healthy Workplace Environment. While the Code of Conduct adopted by this Resolution is mandatory, elected and appointed public officials should help implement the Code of Conduct by committing to a Healthy Workplace Environment. To memorialize such commitment, the City Council believes that it is in the public interest for all Public Officials to enter into the acknowledgment attached as Exhibit "A" (the "Healthy Workplace Commitment"). The City Manager, or designee, is authorized to promulgate such administrative policies and procedures that will facilitate an alternative dispute resolution as contemplated in the Health Workplace Commitment. Such a program may be referenced as the "Monterey Park Healthy Workplace Environment Program."

SECTION 7: Ex Parte Policy. To implement Core Principles Nos. 2-4, the City Council adopts the "Ex Parte Communication Policy" attached as Exhibit "B," and incorporated by reference.

SECTION 8: Enforcement. To enforce the Core Principles, and the policies set forth in this Resolution to implement those Core Principles, the City Council adopts the following requirements for enforcement:

- A. A complaint regarding a violation of the Code of Conduct may be filed with the Mayor, the City Manager, or the City Attorney (collectively, the "Investigator").
- B. Upon receiving a complaint, the person receiving the complaint may take one of the following actions depending on the circumstances of the alleged violations of law or policy:
 1. Take no action;

2. Conduct a preliminary investigation of the allegations before recommending any action. Following such a preliminary investigation into the complaint, the Investigator may then either take no action or place the matter on a future City Council agenda with a recommendation for consideration; or
 3. Place the matter on a future City Council agenda for consideration.
- C. If a complaint is placed on the City Council agenda, the City Council may take the following action:
1. Take no action;
 2. Initiate an investigation of the allegations before considering any discipline identified in this Resolution; or
 3. Based upon substantive evidence, take one of the disciplinary actions identified in this Resolution.
 4. Nothing in this policy precludes individual City Council Members from making public statements regarding alleged conduct.
- D. In addition to any other remedy provided by applicable law, the City Council may undertake one or more of the following actions after finding a violation of this Resolution occurred:
1. Admonition. This is the least severe form of action. An admonition may typically be directed to all members of the City Council, reminding them that a particular type of behavior is in violation of law or City policy. An admonition may be issued by the City Council before any findings of fact regarding allegations, and because it is a warning or reminder, would not necessarily require an investigation or separate hearings to determine whether the allegation is true.
 2. Sanction. This is the next most severe form of action. Sanction may be directed to a particular member of the City Council based on a particular action (or set of actions) that is determined to be in violation of law or City policy. A sanction is distinguished from censure in that it is not a punishment. A sanction may be issued based upon City Council review and consideration of a written allegation of a policy violation. The member accused of a violation will have an opportunity to provide a written response to the allegation. A sanction may be issued by the City Council and because it is not punishment or discipline, would not necessarily require an investigation or separate hearings.

3. Censure. Censure is the most severe form of action. Censure is a formal statement of the City Council officially reprimanding one of its members. It is a punitive action, which serves as a penalty imposed for wrongdoing, but it carries no fine or suspension of the rights of the member as an elected official. Censure should be used for cases in which the City Council determines that the violation of law or policy is a serious offense. To protect the overriding right to freedom of speech, the City Council cannot impose censure on any of its members for the exercise of his or her First Amendment rights, no matter how distasteful the expression was to the City Council and the City. However, nothing can be construed to prohibit the City Council from collectively condemning and expressing their strong disapprobation of such remarks. A decision to censure requires the adoption of a Resolution making findings with regard to the specific charges, based on substantial evidence, and approved by a unanimous vote of the City Council.

SECTION 9: Amendment/Suspension. The City Council may amend or suspend these rules at any time upon majority vote of the City Council.

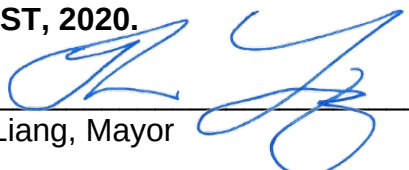
SECTION 10: **Amendments to Existing Policies.** Any existing policies – whether adopted by resolution or otherwise – governing the subject matter in this Resolution are amended to conform with this Resolution. Nothing in this Resolution is intended to, nor does it, supersede the City’s most recently adopted Conflict of Interest Code.

SECTION 11: **Authority.** The City Manager, or designee, is authorized to reproduce all City Council policies and procedures including, without limitation, this Resolution and its exhibits, in an appropriate font, form, and presentation (e.g., booklet format) for ease of use.

SECTION 12: **Electronic Signatures.** This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

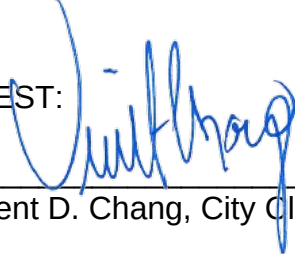
SECTION 13: **Effectiveness.** This Resolution will become effective immediately upon adoption.

**PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
MONTEREY PARK THIS 5TH OF AUGUST, 2020.**



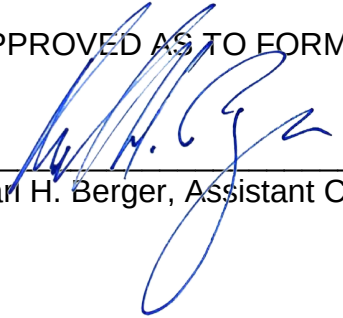
Hans Liang, Mayor

ATTEST:



Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, Assistant City Attorney

Exhibits:

Exhibit A – Healthy Workplace Environment

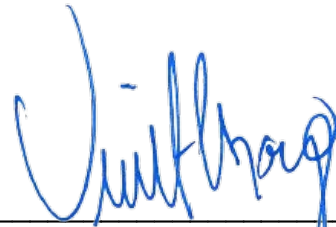
Exhibit B – Ex parte Communication Policy

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §
CITY OF MONTEREY PARK)

I, Vincent D. Chang, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Resolution No. 12184 was duly adopted by the City Council of the City of Monterey Park at a regular meeting held on the 5th day of August, 2020, by the following vote:

Ayes	Council Members:	Yiu, Lo, Sornoso, Chan, Liang
Noes:	Council Members:	None
Abstain:	Council Members:	None
Absent:	Council Members:	None

Dated this 5th day of August, 2020.



Vincent D. Chang, City Clerk
City of Monterey Park, California

EXHIBIT A

City of Monterey Park

Pride in the Past • Faith in the Future



MY COMMITMENT TO A HEALTHY WORK ENVIRONMENT

As a Public Official of the City of Monterey Park, I am committed to the creation and support of a healthy work environment for all Public Officials and City Employees.

I understand that positive, professional communications are critical to a healthy work environment and positive morale.

I commit to hold myself accountable to adhere to the Code of Conduct as adopted by Resolution No.12184 on August 5, 2020 and demonstrate professional communications with all Public Officials, employees, residents, businesses and customers of the City of Monterey Park.

If at any time it is brought to my attention that my behavior is not professional, I agree to listen to the feedback and commit to work on improving the issue brought to my attention.

I understand that on-going negative communications are unacceptable.

I commit to bring issues of un-professional communication to the attention of fellow Public Officials in a constructive manner.

Print Name

Title

Signature

Date

EXHIBIT B

EX PARTE COMMUNICATION POLICY

Ex parte communication is evidence gathering that takes place outside of a properly noticed, quasi-judicial hearing. *Ex parte* communications include the transmission, receipt or exchange of oral, written or graphic information relevant to the merits of an adjudicatory or quasi-judicial proceeding. *Ex parte* communications also include any other type of sensory communication that can convey visual or auditory information. For example, the visual inspection of the site of a proposed project can reveal a great deal of information about the site that may not otherwise be evident from the materials otherwise available to the parties and the public in the administrative record.

1. Disclosure of *ex parte* communications is critical to ensure due process in quasi-judicial proceedings.

In the context of adjudicatory or quasi-judicial proceedings, the guarantee of procedural due process is of paramount concern. A fair hearing before an impartial decisionmaker is a fundamental component of due process. Due process requires the decisionmakers to act only upon evidence that has been introduced during the course of an adjudicatory hearing and prohibits decisionmakers from acting on their own information. Stated differently, the decisionmaking body must consider only the oral and documented evidence presented at the hearing by staff, the interested parties, and other interested individuals and groups. The body must then make its decision solely on the basis of evidence in the record of proceedings. When a decisionmaker uses (*i.e.*, relies upon or is influenced by) “evidence” outside of the record, there is a denial of a fair hearing “because, as to that ‘evidence,’ there has been no hearing at all, for the disadvantaged party has not been heard.”

The right to a hearing before an administrative tribunal would be meaningless if the tribunal were permitted to base its determination upon information received without the knowledge of the parties. A fair hearing requires that the parties be apprised of all the evidence known to each of the decision makers so that the party may have the opportunity to refute, test, and explain it before deliberations begin and a decision is made. Consequently, the detailed disclosure of all *ex parte* communications is necessary to avoid a due process violation. Detailed disclosure also aids in preserving the due process requirement of an unbiased tribunal and the related public interest in avoiding the appearance of bias on the part of public decisionmakers.

2. The types of *ex parte* communications that must be disclosed.

Information that is evidentiary in nature and acquired through *ex parte* communications must be disclosed if that same information is not already set forth in the administrative record and available to the parties and the public. Information is evidentiary in nature if it is considered by the decisionmaker for its bearing on the issues and his or her ultimate

decision on matter. Casual, non-substantive communications that do not bear on the ultimate decision do not potentially violate due process and, accordingly, do not need to be disclosed. For example, a constituent approaching a councilmember and expressing support or opposition for a particular project does not raise due process concerns if the constituent's expression is not accompanied by factual information that may influence the councilmember's decision-making process.

3. Recordkeeping requirements.

Presently, there is no legal requirement that you maintain written records of *ex parte* communications. However, it is strongly recommended that, to the extent feasible, you keep contemporaneous notes of the substance of all relevant *ex parte* communications, including the content of the communication, the names of those involved, and the date, time and place of the communication. Creating and maintaining contemporaneous notes of *ex parte* communications helps guard against forgetfulness and the resulting inadvertent failure to disclose. Keeping notes also helps ensure that the disclosure is thorough, *i.e.*, that all relevant aspects of the communication are disclosed.

4. Timing, form and substance of disclosures.

Disclosure of *ex parte* communications should be detailed and complete. The substance of the information communicated, the name of the source, and the date, time and place of the communication should all be disclosed. If you wrote notes summarizing the details of *ex parte* communications and you choose to use those notes to refresh your recollection during a hearing, you will need to produce a photocopy of your notes and give them to the recording secretary for inclusion in the administrative record. Disclosure must occur before the public comment period is opened at the subject hearing. Ideally, *ex parte* disclosures are made by each decisionmaker immediately after the staff presentation on the item is complete. This way, the interested parties and the public are given all of the relevant information and evidence at the same time and, in the event of a subsequent legal challenge, it will be easily located in the administrative record of the proceedings.

5. Obligation to refrain from *ex parte* communications after close of the public hearing and before final action is taken.

There can be no *ex parte* communications during the period between the closing of a public hearing and the final decision. This situation usually arises when the decisionmaking body closes the public hearing and then directs its staff to prepare written findings to bring back for consideration at a subsequent meeting. During this interim period, each decisionmaker must take care to avoid *ex parte* communications and must reject attempts by others to make *ex parte* contact with them on the subject matter of the closed hearing. Any decisionmaker who engages in *ex parte* communications or who comes into possession of new information or evidence during this interim period should immediately inform the City Attorney so that proper steps can be taken to preserve the integrity of the process.

RESOLUTION NO. 12167

A RESOLUTION ESTABLISHING POLICIES AND PROCEDURES FOR UTILIZING SOCIAL MEDIA (THE “SOCIAL MEDIA POLICY”).

The City Council of the City of Monterey Park does resolve as follows:

SECTION 1: The City Council finds and declares as follows:

- A. The City of Monterey Park (“City”) hosts several Social Media accounts and seeks to expand its Social Media use for purposes of promoting business growth in the City and providing useful information to its residents and businesses.
- B. The City’s participation with Social Media is an effort to engage the Monterey Park community in open, interactive communications while effectively disseminating accurate information to a unique target market. With the advent and widespread use of Social Media, the City desires to capitalize on the potential value of and increasing opportunities presented by Social Media.
- C. The City has an overriding interest and expectation in protecting the information posted on its Social Media and the content that is attributed to the City and its officials.
- D. This policy is designed to guide the City’s involvement in Social Media websites and address certain challenges presented by the City’s Social Media usage. It establishes certain procedures and conduct for creating and posting on City Social Media, outlines acceptable site content, discusses privacy issues and how the City’s Social Media related to the City’s retention schedule, and provides other pertinent standards.
- E. It is in the public interest for the City to establish policies and procedures to identify which Commercial Communications and sponsorships are acceptable.

SECTION 2: **Definitions.** Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Resolution.

- A. “Designated Social Media” means personal property, including communication media, owned, managed or otherwise controlled by the City.
- B. “Commercial Communication” means any Communication other than a Government Communication that is placed on Designated Social Media

and has as its primary purpose the promotion or solicitation of a commercial transaction, such as the sale of real or personal property, services, or entertainment.

- C. "Communication" means any visual message that consists of words, numbers, or images and is placed on Social Media for the purpose of communicating with the public.
- D. "Director" means the City Manager, or designee.
- E. "Effective Date" means the date this Resolution becomes effective.
- F. "Government Communication" means a Communication that is:
 - 1. Related to City services, programs, or events;
 - 2. Related to events co-sponsored by the City; or
 - 3. Is a Public Service Announcement.
- G. "Person" means any individual, firm, association, organization, partnership, business trust, corporation or company.
- H. "Political campaign speech" means speech that
 - 1. Supports or opposes or appears to support or oppose a ballot measure, initiative, or referendum; or
 - 2. Supports or opposes or appears to support or oppose any candidate for public office.
- I. "Public Service Announcement" means a Communication directed to the general public or a significant segment of the general public and relates to:
 - 1. Prevention or treatment of illnesses;
 - 2. Promotion of safety or personal well-being;
 - 3. Providing children and family services;
 - 4. Soliciting by broad-based employee contribution campaigns which provide funds to multiple charitable organizations (e.g., United Way); or
 - 5. Providing services and programs that support low income citizens and citizens with disabilities.

- J. "Social Media" means forms of electronic communication through which users create online communities to share information, ideas, personal messages, and other content. Current examples of Social Media include, without limitation, Facebook, Twitter, Instagram, Snapchat, and YouTube. When utilizing Social Media, the City acts in its proprietary capacity.
- K. "Sponsor" means a person who provides City with cash and/or an in-kind contribution to support a City project, event, facility, or activity, and which expects recognition in return.
- L. "Sponsorship" means support for a City project, event, facility, or activity by providing money or other support that may be quantified in money. The sponsorship is typically provided in return for the City providing more than nominal recognition of the sponsor's support.
- M. "Sponsorship Agreement" means an agreement, in a form approved by the City Attorney, between the City and a Sponsor. The sponsorship agreement will provide for sponsor recognition as determined by this Resolution.

SECTION 3: Personal Social Media. Any elected or appointed public official; City employee; City contractor; or City volunteer utilizing Social Media for personal uses is prohibited from:

- A. Utilizing any indicia of public office in their Social Media including, without limitation, the City's logo; City letterhead; title of public office; or any other, similar, suggestion that the use of Social Media is in a capacity other than a private citizen;
- B. Soliciting comments regarding matters within their subject-matter jurisdiction as a public official, City employee, or other capacity with the City; or
- C. Utilizing Social Media that is "closed," "private," or otherwise restricts its membership in order to circumvent the restrictions within this Resolution.

SECTION 4: Limited Public Forum Status.

- A. The City's acceptance of Commercial Communications in accordance with this Social Media Policy does not provide or create a general public forum for expressive activities. In keeping with its proprietary functions, the City does not intend its acceptance of Commercial Communications to convert its Designated Social Media into open public forums for public discourse and debate. Rather, the City's fundamental purpose and intent is to accept Commercial Communications as an additional means of generating

revenue to supplement the City's General Fund. In furtherance of that focused and limited objective, the City retains plenary control over the nature of the Communications accepted for posting on Designated Social Media; its Social Media is intended to be, and is, a limited public forum.

- B. The City Council adopts this Resolution with reference to well-established law supporting the City's ability to restrict Commercial Communications and sponsorships when acting in its proprietary capacity. Such cases include, without limitation, *Reed v. Town of Gilbert* (2015) 576 U.S. 155 ("on public property, the [City] may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner"); *Heffron v. ISKCON* (1981) 452 U.S. 640; *Lehman v. Shaker Heights* (1977) 418 U.S. 298; *Children of the Rosary v. Phoenix* (9th Cir. 1998) 154 F.3d 972; *Page v. Lexington County School Dist. One* (4th Cir. 2008) 531 F.3d 275.

SECTION 5: Name and Purpose.

- A. *Name.* This Resolution may be referred to as the City's "Social Media Policy."
- B. *Public Purpose.* The City's primary purpose in adopting this Social Media Policy is to provide guidance to public officials and employees as to the use of Social Media and avoiding any potential City endorsement of the content or viewpoint of Communications.
- C. *Not a Public Forum.* In adopting this Resolution, the City is acting as a proprietor not as a regulator. The City does not intend to permit, and will not permit, any Communication that individually or in combination with other Communications would cause any Designated Social Media to become a traditional or designated public forum.
- D. *Revenue Enhancement.* To help promote economic development, and to ensure the City's continued success in providing public services, the City Council identified Commercial Communications and sponsorship revenue as a source of income for the City.
- E. This Social Media Policy is intended to provide clear guidance as to the types of Communications that will allow the City to generate revenue and provide public services including, without limitation, Public Service Announcements by:
1. Preventing the appearance of favoritism by the City;
 2. Preventing the risk of imposing views on a captive audience;

3. Maintaining a position of neutrality on controversial issues;
4. Preserving the marketing potential of the Social Media by avoiding content that the community could view as offensive, inappropriate or harmful to the public generally or to minors in particular; and
5. Preventing any harm or abuse that may result from running controversial or offensive Communications.

SECTION 6: Application of Policy.

- A. This Social Media Policy applies to the posting of all new Communications on Designated Social Media on or after the Effective Date.
- B. Pre-existing agreements for Communications, if any, on Designated Social Media cannot be extended or renewed unless amended to comply with this Resolution.

SECTION 7: Policies.

- A. The City may accept or reject any and all Communications in accordance with this Resolution.
- B. Decisions to accept or reject proposed Communications or Communications sponsorships will not be made on the basis of the sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation of the person proposing the Communication.
- C. By accepting a Communication, the City does not waive or restrict its ability to accept any other Communications.
- D. Advertisers and sponsors will not receive extraordinary consideration relating to the City's procurement processes, regulatory activities, or other City business by providing a Commercial Communication.
- E. City may terminate any Communication should the Communication conflict with this Resolution. The City Manager is authorized to make a final determination regarding termination.
- F. Absent specific City Council approval, as evidenced by minute order or written resolution, the City's name and logo cannot be used as part of any official endorsement of a person's product, service, or company.
- G. The names and images of elected officials are prohibited on Designated Social Media.

SECTION 8: Creation, Maintenance and Termination of Designated Social Media.

The City generally utilizes commercially available Social Media for Communications. Creation, maintenance and termination of Designated Social Media must comply with the following:

- A. The Director must approve the Designated Social Media in writing before any City official or employee can open an account on the City's behalf.
- B. All Designated Social Media must utilize authorized City contact information for account set-up, monitoring and access. Such contact information must be provided to the City's Information Technology division. The use of personal email accounts or phone numbers by any City employee is not allowed for the purpose of setting-up, monitoring or accessing Designated Social Media.
- C. Each department director, where applicable, must appoint a specific staff member to maintain and monitor Designated Social Media for purposes of that department. Department directors are responsible for ensuring their employees follow this policy. If an employee assigned to maintain and monitor Designated Social Media separates from City employment, the department director must ensure that any password(s) to the Designated Social Media are revised and that another employee is assigned.
- D. The settings for Designated Social Media must be set to "no comments," or a substantially similar setting, if such setting is available so that unsolicited feedback cannot be received from Social Media.
- E. Employees administering Designated Social Media must understand its current terms of service. Designated Social Media must comply with usage rules and regulations required by the site provider, including privacy policies.
- F. All account information, including passwords and setting information, for all Designated Social Media must be provided to the City Manager, or designee. The City's use of any Designated Social Media may be terminated by the City Manager in his or her discretion at any time without notice. The City Manager, or designee, may remove content that is inappropriate or inconsistent with this policy.

SECTION 9: Authorized Communications. Upon the effective date of this Resolution, no Communication may be placed on Designated Social Media unless all of the following are satisfied:

- A. The Communication consists of a Commercial Communication, Government Communication, or Public Service Announcement.

- B. Commercial Communications cannot be placed on Designated Social Media until the third party and the City enter into a written agreement that is consistent with this Resolution and approved as to form by the City Attorney.
- C. Government Communications, other than those related to City services, programs, or events, may not be placed on Designated Social Media until the City Manager, or designee, authorizes the placement in writing.
- D. The sponsor of a Public Service Announcement must be a government entity or a nonprofit corporation that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.¹
- E. A Public Service Announcement cannot include a message that is commercial or retail in nature or related to a festival, show, sporting event, concert, lecture or event for which an admission fee is charged.
- F. The Communication is not otherwise prohibited by this Resolution.
- G. The City's official website will be maintained as the primary source of information for the City; Designated Social Media will contain supplemental information only. Designated Social Media cannot replace the City's required notices and traditional methods of communication.
- H. All Designated Social Media will display a prominent link to the City's official website and will direct site traffic to the City's official website, www.MontereyPark.ca.gov
- I. Designated Social Media will display a prominent official logo or identifying marker for the City and will include Communications noting that the page is maintained by the City.
- J. Designated Social Media will link back to the City's official website, when such feature is available, for forms, documents, online services, and other information necessary to conduct business with the City. The following content guidelines will be posted on all Designated Social Media or made available by hyperlink: "The content you see on this site is provided for informational purposes only. To conduct business with the City of

¹ 26 USC § 501(c)(3): "Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation ... and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

Monterey Park you must visit City Hall in person, phone the City at (626) 307-1458, or use the services available on the City's website at www.MontereyPark.ca.gov.

- K. The City's Social Media Policy must be displayed to users or made available by hyperlink on both the social media sites and the official City website www.MontereyPark.ca.gov or any other domain owned by the City.
- L. Information posted to Designated Social Media becomes public information and there should be no expectation of privacy in regards to the information posted on Designated Social Media.

SECTION 10: Viewpoint Neutral Limitations. Communications are not permitted on Designated Social Media if it or information contained in it falls within one or more of the following categories:

- A. The Communication proposes a commercial transaction and is false, misleading, or deceptive.
- B. The Communication promotes or encourages, or reasonably appears to promote or encourage, the use or possession of unlawful or illegal goods or services.
- C. The Communication promotes, depicts, or encourages, or reasonably appears to promote, depict, or encourage, unlawful or illegal behavior or activities.
- D. The Communication implies or declares the City's endorsement of any service, product, or point of view without the City Manager's prior written authorization.
- E. The Communication contains obscene matter or any other matter that is prohibited under Penal Code §§ 311, *et seq.*, as amended.
- F. The Communication is profane or vulgar, or presents a clear-and-present danger of causing a riot, disorder, or other imminent threat to public safety, peace, or order.
- G. The Communication is so objectionable under contemporary community standards that it is reasonably foreseeable that it will harm, disrupt, or interfere with the City's services, programs, or events.
- H. The Communication holds up an individual or group to public ridicule, derision, or embarrassment; or is libelous; or is an infringement of a copyright, trademark, or registered mark. Advertisers and Commercial

Communications agencies assume all responsibility for any unauthorized use of names, photographs, devices, and words protected by copyright, trademark, or registered trademark.

- I. The Communication promotes or depicts the sale or use of tobacco or cannabis, or tobacco-related or marijuana-related products, except products that counteract symptoms of tobacco habituation.
- J. The Communication promotes or depicts the sale or consumption of wine, liquor, beer, or distilled spirits.
- K. The Communication directly or indirectly promotes the sale or use of a firearm.
- L. The Communication contains political campaign speech.
- M. The Communication advocates or opposes a religion or religious belief or a philosophy or philosophical belief.
- N. The Communication contains an image or description of graphic violence or the results of graphic violence including, without limitation, unless part of a law enforcement case and approval of the City Manager, to
 - 1. The depiction of human or animal bodies or body parts, or fetuses, in states of mutilation, dismemberment, decomposition, or disfigurement; and
 - 2. The depiction of weapons or other implements or devices associated in the Communication with an act or acts of violence or harm on a person or animal.
- O. The Communication promotes or encourages, or appears to promote or encourage, a transaction that is related to, or uses brand names, trademarks, slogans, or other materials that are identifiable with, any of the following: films rated "X" or "NC-17" by the Motion Picture Association of America; video games rated "A" or "M" by the Entertainment Software Rating Board; adult book stores or adult video stores; nude or topless clubs and other adult-entertainment establishments; adult telephone services or adult Internet sites; or escort services.
- P. The Communication advertises any good, service, or entertainment that competes with goods, services, or entertainment offered by the City.
- Q. The Communication directs viewers to a website or telephone number that provides access to material that violates this Social Media Policy. In addition, the website address or phone number itself may not violate this

Social Media Policy.

- R. The Communication, if communicated individually or in combination with other Communications, would cause the Social Media to become a public forum.
- S. The Communication fails to contain any disclaimer or attribution required by this Resolution.
- T. Commercial Communications that promotes or solicits the sale, rental, distribution or availability of firearms or firearms-related products.
- U. Any Commercial Communications that is intended to be (or reasonably could be interpreted as being) disparaging, disreputable, or disrespectful to persons, groups, businesses or organizations, including Commercial Communications that portrays individuals as inferior, evil or contemptible because of their race, color, creed, sex, pregnancy, age, religion, ancestry, national origin, marital status, disability, sexual orientation or any other characteristic protected under federal, state or local law.
- V. Any material directed at a person or group that is so insulting, degrading or offensive as to be reasonably foreseeable that it will incite or produce lawless action in the form of retaliation, vandalism or other breach of public safety, peace and order.

SECTION 11: ***Disclaimer.*** The City may, in all circumstances, require that a Communication on Designated Social Media include a disclaimer stating that the Communication is not sponsored by, and does not necessarily reflect the views of, the City. The disclaimer must read substantially as set forth in attached Exhibit "A," which is incorporated by reference.

SECTION 12: ***Commercial Communications; Applications.*** Applications for Commercial Communications or sponsorships must be filed on forms provided by the City. Applications made on the required forms will be considered on a first come first serve basis as indicated by date received and accepted.

SECTION 13: ***Commercial Communications; Approvals.***

- A. The Director may approve all Communications with a value of less than \$25,000. All other Communications must be approved by the City Council.
- B. All sponsorship agreements must be memorialized in a written agreement between the City and the sponsor. The City Manager is authorized to execute any written agreement for a donation or sponsorship where the value of the donation or sponsorship is less than \$25,000. No written donation or sponsorship agreements will be valid unless approved as to

form by the City Attorney.

SECTION 14: ***Commercial Communications; Attribution.*** All Communications on Designated Social Media must clearly and unambiguously identify the person or entity that has sponsored or paid for the Communication or it to be placed on the Designated Social Media. Website addresses or phone numbers by themselves are insufficient to satisfy this section.

SECTION 15: ***Commercial Communications; Procedures.***

- A. All proposed Commercial Communications must be submitted to the Director for initial compliance review. The Director will perform a preliminary evaluation of the submission to assess its compliance with this policy. If, during its preliminary review of a proposed Communication, the Director is unable to make a compliance determination, the Director will forward the submission to the City Manager, or designee, for further evaluation.
- B. The Director may at any time discuss with the entity proposing the Communication one or more revisions to a Communication, which, if undertaken, would bring the Communication into conformity with this Social Media Policy. The Director will immediately remove any Communication that violates this Policy.
- C. The Director will review the proposed Communication for compliance with the guidelines set forth in this policy and will direct as to whether the proposed Communication will be accepted.
- D. The City Manager, or designee, will conduct a final review of proposed Commercial Communications at the Director's request. The City Manager's, or designee's, decision to approve or reject any proposed Commercial Communications is final.

SECTION 16: ***Moratorium.*** At the discretion of the City Manager, and subject to any contractual obligations, the City may declare a complete ban or moratorium on all Communications on Designated Social Media and direct that no Communications of any kind, other than Government Communications, be accepted for display and posting.

SECTION 17: ***Disputes.*** Any dispute concerning complying with this Resolution may be appealed to the City Manager within 15 days of the circumstances giving rise to the dispute. The City Manager must act upon the appeal within 30 days. The City Manager may refuse to allow, or may order the removal of, any Communication that does not comply with this Resolution. The City Manager may, but is not required to, bring the appeal to the City Council for a decision. Unless considered by the City Council, the City Manager's decision is the City's final decision without the ability for a City Council appeal.

SECTION 18: *Revenue.* Monies received by the City from Communications must be deposited in a separate account identified by the City Manager. Unless otherwise provided by a sponsorship agreement, funds in the separate account may be used for general purposes as determined by the City Manager.

SECTION 19: *Ralph M. Brown Act.* As noted in Section 7, Designated Social Media can only be utilized when the “comment” option is turned off. This is intended to reduce the potential for unintentional violations of applicable law including, without limitation, the Ralph M. Brown Act. To help ensure full compliance with the Ralph M. Brown Act, elected and appointed officials must comply with the following:

- A. All elected and appointed officials must avoid using Social Media to blog, discuss, deliberate, or express opinions on any issue within the subject matter jurisdiction of the legislative body. This includes, without limitation, posting comments on Social Media.
- B. If Social Media, including Designated Social Media, will significantly influence the views or opinions of an elected or appointed official acting in an adjudicatory or quasi-judicial matter, the official must disclose the Social Media and the content thereof as an *ex parte* contact.
- C. Elected and appointed officials are prohibited from excluding or blocking persons from Social Media, including Designated Social Media, for any purpose.

SECTION 20: *Public Records Act.* The content of Designated Social Media constitutes a “public record” under the Public Records Act and must be retained in accordance with the City’s retention schedule.

SECTION 21: *Violations.* Violations of this policy may result in the termination of the City’s participation with Designated Social Media and may cause disciplinary action to be taken as determined in accordance with the City’s Personnel Rules and Regulations, Memoranda of Understanding, and other applicable policies and regulations.

SECTION 22: *Authority.* The City Manager is authorized to implement this Resolution in accordance with applicable administrative policies and procedures that may be promulgated by the City Manager.

SECTION 23: *Amendment and Interpretation.* The City may amend this Resolution unilaterally at any time. The City Council has the sole and final authority to interpret and apply this Resolution.

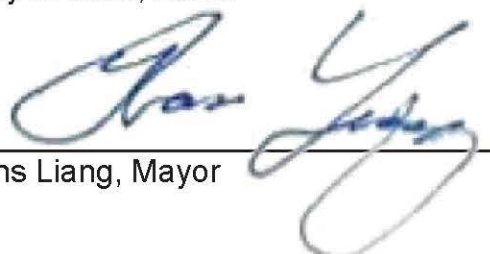
SECTION 24: *Effectiveness.* This Resolution will become effective immediately upon adoption and will remain effective unless superseded or repealed.

PASSED AND ADOPTED this 17th day of June, 2020.

ATTEST:



Vincent D. Chang, City Clerk



Hans Liang, Mayor

APPROVED AS TO FORM:



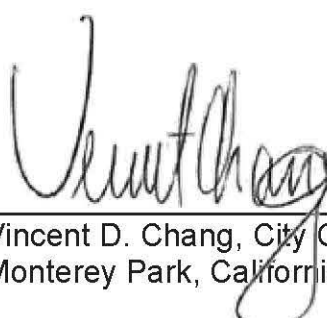
Karl H. Berger, Assistant City Attorney

State of California)
County of Los Angeles) ss.
City of Monterey Park)

I, Vincent D. Chang, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Resolution No. 12167 was duly and regularly adopted by the City Council of the City of Monterey Park at a meeting held on the 17th day of June 2020, by the following vote:

Ayes:	Council Members: Yiu, Lo, Sornoso, Chan, Liang
Noes:	Council Members: None
Absent:	Council Members: None
Abstain:	Council Members: None

Dated this 17th day of June, 2020.



Vincent D. Chang, City Clerk
Monterey Park, California

Electronic Signatures. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

EXHIBIT A

CITY OF MONTEREY PARK SOCIAL MEDIA POLICY DISCLAIMER

The City of Monterey Park participates in social media pages in an effort to engage members of the community in open, interactive communications while effectively disseminating accurate information to target markets. The following disclaimer applies to all City of Monterey Park-maintained social media pages.

This page is monitored infrequently and only during regular business hours. DO NOT post emergency information; if you are experiencing an emergency, call 911.

Privacy Statement

This is an official social media page for the City of Monterey Park. In accordance with the City's Social Media Policy, the settings for this site do not allow for comments. However, anything you post here including comments, deleted posts, messages, and chat sessions, is subject to the California Public Records Act.

Notice to City

Communications made through this website do not constitute legal or official notice to the City, its elected or appointed officials, employees, representatives, or agents.

Materials and information on this City social media site are provided as a public service and intended to afford general guidelines on matters of public interest. Except for the third party materials described below, the materials and information on this site were generated, compiled, or assembled at public expense and are freely available for non-commercial, non-profit making use, provided the user keeps intact all associated copyright, trademark, and other proprietary notices. The materials and information on this site cannot be copied, reproduced, republished, uploaded, posted, transmitted, distributed, or "mirrored" on another server without the written permission of the City.

Copyright Notice

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If a copyright is indicated on a photo, graphic, or any other material, permission to copy these materials must be obtained from the original source.

Using or modifying this site's materials and information for commercial or profit making purposes is prohibited and may violate the copyrights and/or other proprietary rights of

the City or third parties.

By participating on this site you agree to grant a non-exclusive, irrevocable, royalty-free license to any information posted, abide by intellectual property standards and limit content to that which is rightfully posted.

Prohibited Content

Comments containing any kind of inappropriate content including, without limitation, the following, are not permitted on City of Monterey Park social media pages and will be removed: (1) profane, obscene, or pornographic content and/or language; (2) content that promotes, fosters or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, physical or mental disability, sexual orientation, national origin, as well as any other category protected by federal, state or local laws; (3) threats of physical harm to any person, property or organization; (4) comments related to or in support of, or in opposition to, any political campaigns or ballot measures except to announce election dates and voter registration locations; (5) conduct violating any law.

If you feel your comments have been unfairly deleted or would like to report inappropriate content, contact the City of Monterey Park at www.montereypark.ca.gov.

Disclaimer of Endorsement

A comment posted by a member of the public on any City of Monterey Park social media page is the opinion of the commentator or poster only, and publication of a comment does not imply endorsement of, or agreement by, the City of Monterey Park, nor do such comments necessarily reflect the opinions or policies of the City of Monterey Park. Likewise, City social media sites may contain content including, without limitation, advertisements or hyperlinks over which the City has no control. The City does not endorse any hyperlink or advertisement placed on City social media sites by the social media site's owners, vendors or partners. By using the City's Web site, the user acknowledges and accepts that the City is not responsible for any materials stored on other Internet sites, nor it is liable for any inaccurate, defamatory, offensive, or illegal materials found on other Internet sites, and that the risk of injury from viewing, hearing, downloading, or storing such materials rests entirely with the user.

Contacting the City of Monterey Park

To interact with the City of Monterey Park please visit the official City of Monterey Park webpage at www.MontereyPark.ca.gov, email MPCLerk@montereypark.ca.gov or call (626) 307-1359.

Disclaimer of Liability

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CHANGES ARE MADE PERIODICALLY TO MANY CITY DOCUMENTS, INCLUDING MUNICIPAL CODES, CHARTER SECTIONS, REGULATIONS, GUIDELINES, AND SCHEDULES, AND THESE CHANGES MAY OR MAY NOT BE REFLECTED IN THE MATERIALS OR INFORMATION PRESENT ON THE CITY OF MONTEREY PARK'S WEB SITE. ADDITIONALLY, BECAUSE THE SITE IS FREQUENTLY UNDER DEVELOPMENT, MATERIALS AND INFORMATION MAY BE DELETED, MODIFIED OR MOVED TO A DIFFERENT PART OF THE SITE WITHOUT ADVANCE NOTICE.

IF YOU DO NOT AGREE TO OR UNDERSTAND ANY OR ALL OF THESE TERMS, PLEASE DO NOT USE THIS WEBSITE.



Planning Commission Staff Report

DATE: March 8, 2022

AGENDA ITEM NO: 5-B

TO: The Planning Commission
FROM: Steve Sizemore, Interim Director of Community Development
SUBJECT: Discussion of pending Monterey Park Municipal Code updates.

RECOMMENDATION:

It is recommended that the Planning Commission consider:

- (1) Receiving and filling a report regarding pending updates to the Monterey Park Municipal Code ("MPMC") including, without limitation, an Inclusionary Housing Ordinance;
- (2) Identifying which matters the Planning Commission desires to consider and making recommendations to the City Council regarding such matters by minute order; and
- (3) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

This resolution is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, *et seq.*) because it does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, this action does not constitute a "project" that requires environmental review (see specifically 14 CCR § 15378(b)(5)).

EXECUTIVE SUMMARY:

With changes in state law, City legislative responses in response to the pandemic, and approval of the Land Use and Housing Elements of the General Plan, the City needs to update the MPMC. Staff has prepared a Draft Program (defined below) to identify and process the necessary updates. The intent is to have the Planning Commission review and make a recommendation to the City Council on the document. Staff is recommending that the list be forwarded to the City Council for their review, consideration, and final determination.

BACKGROUND:

As discussed during the Planning Commission's October 26, 2021 Land Use Workshop, state law authorizes the City Council to delegate certain planning agency functions to the Planning Commission (Gov. Code, § 65100), and the City Council's delegation of such functions to the Planning Commission is specified in MPMC § 2.56.010 (Planning Commission) with exceptions identified in MPMC § 2.56.020 (Exceptions).

Generally, an amendment to the MPMC Title 21 (Zoning) ("Zoning Code Amendment") is subject to Planning Commission review and recommendation to the City Council unless it is tied to a development project or the City Council retains planning agency jurisdiction for review. Here, staff has compiled a draft Zoning Code Amendment program ("Draft Program") for Planning Commission review, discussion, and recommendation.

The Draft Program includes staff's compilation of various proposed Zoning Code Amendments that address a variety of Zoning Code amendments required due to: recent changes in state law; the adoption of urgency measures during the COVID-19 pandemic; and City approval of certain General Plan elements.

On November 3, 2020, the residents of Monterey Park approved the 2040 Land Use Element. Subsequently on February 19, 2022, the City Council approved a revised Housing Element for submission to the state for its review and comment; final adoption of the Element is, accordingly, pending. Adoption of both requires changes to the MPMC that will facilitate the implementation of the two plans. Planning staff is in the process of identifying areas of the MPMC will be updated, to reflect the programs and modifications outlined in the Elements. To make the project manageable and more efficient, the Draft Program is broken into three groups. The first group, identified as low are minor, simple modifications that can be completed in a relatively short time frame. The Moderate group includes amendments that require additional study and preparation. The items in the High category relate to the approval of the General Plan elements, discussed above, and the Inclusionary Housing Ordinance ("IHO"), discussed below, that have all been subject to previous Council discussion and action and require further due diligence.

Attached for the Commission's review is the preliminary Draft Program (this is a living document that will change over time as the need arises). Staff is proposing some of the easy modifications identified in the Low category, go straight to the Council. This will save time and money and be more efficient. We can take the balance of amendments that need discussion to the Commission sooner if we this path is followed. To assist you in your review, Staff has identified which Draft Program items will be submitted to the City Council by staff and/or the Commission.

In addition, on February 8, 2022, the Planning Commission asked that additional information be provided regarding inclusionary housing regulations. This arose during the public comment section of the agenda; it was not a scheduled item. The question

regarding the inclusionary housing ordinance ("IHO") is currently on the City Council's agenda (as identified in the attachment).

Specifically, inclusionary housing is part of the Housing Element that needs to be implemented (see Housing Element page 6-18). It is anticipated that the City Council will provide direction in the next few weeks regarding whether the Planning Commission will consider the matter. At the moment, however, the issue is being actively considered by the City Council. Consequently, in accordance with Resolution No. 12184, the matter should not (yet) be discussed by the Planning Commission. If and when the issue is ready for Planning Commission discussion, it will be placed onto a properly noticed agenda.

Staff suggests the Draft Program be forwarded to the City Council for their review and consideration, including the Planning Commission's recommendations as to which amendments in the Draft Program for which it desires to consider and develop recommendations. The City Council will make the ultimate determination on which Draft Program code amendments it will retain jurisdiction to consider.

FISCAL IMPACT:

None, staff time and resources will be absorbed into the Department Budget.

Prepared by:



Steve Sizemore,
Interim Director of Community
Development

Reviewed by:



Joaquin Vazquez
Deputy City Attorney

ATTACHMENTS:

Attachment 1: Draft Program

ATTACHMENT 1

Draft Work Program

DRAFT WORK PROGRAM

PENDING MONTEREY PARK MUNICIPAL CODE UPDATES

No.	Category	MPMC Section	Description	Recommending Body	Approving Body
1	Low	Prior Code Chapter 9.53; new Chapter 4.50	Correct references to new noise section throughout MPMC	None	City Council
2	Low	§ 21.36.030 Applicability	add "Except as otherwise provided by applicable law . ."	None	City Council
3	Low	§ 21.36.060 Standards for Approval	add "Except as otherwise provided by applicable law . ."	None	City Council
4	Low	§ 21.10.230 Alcohol Sales and Use	This section requires a CUP for on-sale and off-sale alcoholic beverage establishments; AUP is now required for alcohol uses; need to update	Planning Commission	City Council
5	Low	§ 21.36.130	Remove this section or figure out where it should fit in	None	City Council
6	Low	§ 21.08.080 Development Standards: (G) Mechanical Equipment (5)	For (5), it says that a site plan and elevation must be submitted for zoning clearance, including footprint of adjacent residential building and location of wall openings to adjacent buildings; this language needs to be updated to reflect current practice.	Planning Commission	City Council
7	Low	Chapter 21.34	Update Wireless Telecommunications Facility Ord. to reflect new federal requirements	Planning Commission	City Council
8	Low	§ 16.01.040 and §21.10.260	Certificate of Occupancy - sections are contradictory; Building Official vs. City Planner	None	City Council
9	Low		Emergency ord. clean up - clarify language for City Planner	None	City Council
10	Low		Outdoor dining	Planning Commission	City Council
11	Low	§ 21.08.080.R Walls, Fences and Hedges	Add sight vision clearance for corner properties; add Director approval of minor deviations to walls	Planning Commission	City Council

12	Moderate	§ 21.10.030; Table 21.10(A)	Medical office allowed in Mixed Use Land Use Designation; but not allowed in certain commercial zones; need to correct this inconsistency	None	City Council
13	Moderate	Chapter 21.15	Remove references to Mixed-Use I, II or III	None	City Council
14	Moderate	Chapter 2.56 Monterey Park Planning Agency vs. § 21.32.100 Planning Agency Action	PC acts as planning agency; conflicting section states: if the PC acts as the Planning Agency; are there times that someone else acts as the Planning Agency; Planning Agency needs to be defined	None	City Council
15	Moderate	Chapter 21.18 Affordable Housing Incentives - Density Bonus	Update Density Bonus Ord. to reflect current State Law	Planning Commission	City Council
16	Moderate		SB 9 related updates	Planning Commission	City Council
17	Moderate	Chapter 21.50	Update ADU Ordinance	Planning Commission	City Council
18	Moderate	Chapter 21.24, § 21.21.570	"All requests for new signage require review and approval of the Planning Commission pursuant to Chapter 21.36, Design Review." Change to City Planner	Planning Commission	City Council
19	Moderate	Chapter 21.24	Sign regulations update	Planning Commission	City Council
20	High		Inclusionary Housing Ord.	Planning Commission	City Council
21	High		Inclusionary Housing Ord. Fee Nexus Study	Planning Commission	City Council
22	High		Rezoning to be consistent with the Land Use Element and Housing Element	Planning Commission	City Council