

**MINUTES OF THE ADJOURNED MEETING
OF THE
MONROVIA CITY COUNCIL
HELD TUESDAY, JUNE 8, 2004, 6 30 P M**

CONVENE Mayor Rob Hammond convened the Adjourned Meeting of the Monrovia City Council of Tuesday, June 8, 2004 at 6 41 P M in City Council Chambers, 415 South Ivy Avenue, Monrovia, California Staff in attendance was City Manager Scott Ochoa, City Attorney Craig A Steele, and City Clerk Linda B Proctor

INVOCATION City Clerk Proctor led the Invocation

PLEDGE OF ALLEGIANCE Mayor Pro Tem Joe Garcia led the Flag Salute

ROLL CALL In attendance were Councilmembers Tom Adams, Dan Kirby, Mary Ann Lutz, Mayor Pro Tem Joe Garcia, and Mayor Rob Hammond

REPORT OF CLOSED SESSION(S) None

PRESENTATIONS None

PROCLAMATIONS None

STUDENT GOVERNMENT REPRESENTATIVE REPORT To resume in September

A CONSENT CALENDAR None

***B MINUTES** None

C ORAL COMMUNICATIONS

D PUBLIC HEARINGS/MEETINGS None

E BIDS None

F COMMUNICATIONS AND PETITIONS None

G REPORTS OF CITY COUNCILMEMBERS & SUB-COMMITTEES

- 1 Mayor Hammond had no report
- 2 Mayor Pro Tem Garcia had no report
- 3 Councilmember Adams had no report
- 4 Councilmember Kirby had no report
- 5 Councilmember Lutz had no report

H REPORTS OF COMMISSIONS, BOARDS AND COMMITTEES None

I ADMINISTRATIVE REPORTS

1 Amendment to Title 9 of the Monrovia Municipal Code Regulating Targeted Picketing in Residential Zones in the City, Introduction and First Reading of Ordinance No 2004-13

City Attorney Steele reviewed the Staff Report

At the last City Council meeting, Staff was directed to research and present for the City Council's consideration some options for additional restrictions the City might impose to deal with hostile and harassing picketing in residential neighborhoods in the City He stated that he had researched available options, discussed those options with the City Manager and Police Chief and, after full consideration, proposed two potential options for the City Council's review

1 A new ordinance adding sections to Chapter 9 of the Monrovia Municipal Code to prohibit targeted picketing at or within 300 feet of a residence in the City This ordinance would absolutely prohibit the kind of targeted picketing seen in recent weeks, obviously intended to harass and intimidate the occupants of a single residence in the City, as well as all other targeted residential picketing

2 An amendment to the City's existing noise ordinance, under which a picketer had already been arrested that would prohibit any person from making or causing to be made unreasonable noise directed at a private residence for the purpose of threatening, harassing or disturbing the inhabitants of that residence

He stated that he agreed, to a significant extent, with the attorney for the Lardner family who spoke last week and asserted that the most offensive behavior at issue here – directed at an individual resident in his private home – was not entitled to the same level of protection under the First Amendment as would be the comments of a speaker at a political or social issues rally in a City park Briefly summarized, the City could constitutionally regulate targeted residential picketing That being said, however, it was critical to recognize two important points before moving forward with this type of regulation First, although many specific statements delivered at the recent protests were not constitutionally protected, those statements were made in the context of a constitutionally protected activity, namely the act of picketing and protesting regarding a political or social issue Thus, the limits the City Council could impose must be consistent with basic constitutional law If these picketers decided to bring the same message to a City park, or to the sidewalks of Old Town, the City would have much less authority to regulate that activity

He further stated that secondly, the City could not "pick and choose" the types of picketing to be regulated It could prohibit either all targeted residential picketing, or none at all Thus, he was unable to propose any option that would prohibit some types of targeted residential picketing, while allowing other types If an ordinance was adopted, it would apply to all future targeted residential picketing and had to be evenly enforced

These two points arose out of basic First Amendment principles To pass constitutional muster, an ordinance like the ones under consideration here that potentially regulate the time, place and manner of speech had to be content neutral and "narrowly tailored" to achieve a specific governmental purpose Further, the ordinance had to leave open alternative channels of communication He stated that he believed both options presented to the City Council passed those tests although, as explained below, the conclusion regarding Option 2 was not free from doubt The proposed ordinances would apply to all residential picketers or harassing noisemakers, not just animal rights activists The proposed ordinances would be aimed only at reducing or eliminating harassment and intimidation of individuals in their own residences Finally, the proposed ordinances did not regulate any more speech than necessary to protect individuals in their homes The picketers were left with alternatives for disseminating their message to the public

Given the obviously important and complex issues involved, Staff decided not to recommend the adoption of an urgency ordinance However, if the Council decided an urgency ordinance was warranted, for immediate effect, it could be presented as an urgency ordinance at June 15, 2004 Regular City Council Meeting

Option 1, the complete ban on targeted residential picketing, had been specifically held to be constitutional by the United States Supreme Court and the California Court of appeal In 1988, the United States Supreme Court upheld an ordinance that prohibited picketing at or about the residence of any individual *Frisby v Shultz*, (1988) 487 U S 474 In 1993, the City of San Jose adopted a similar ordinance and added to it the 300-foot "buffer zone" that was contained in this proposed ordinance The California Court of Appeal upheld the targeted residential picketing ban and the "buffer zone" against various challenges in *City of San Jose v Superior Ct*, (1995) 32 Cal App 4th 330 Thus Option 1 was the legally safer option, as the exact language proposed here had been upheld in published decisions of both State and federal courts

Option 1 also carried a private enforcement right that would allow the targeted resident to bring a civil suit under the ordinance to prohibit future targeted residential protests in violation of the ordinance

The intent of Option 2 was to work within the City's existing ordinance structure by adding a residential noise provision to the noise ordinance This approach would make it illegal to make unreasonable noise directed at a residence with the intent to harass the inhabitants of that residence

He addressed the fact that there was some discussion at the City Council's last Meeting regarding the possibility of the City requiring parade permits for the type of activity at issue here. Staff was reluctant to recommend this option to address this relatively limited problem in the city. After considering this option, Staff concluded that the time and resources necessary to develop and implement a constitutionally valid parade permit system in Monrovia was not warranted at this time. Staff believed it would be more prudent to see if either of these options and/or existing enforcement tools could resolve the immediate problem. If not, the City Council may consider a parade permit system at a later time.

City Attorney Steele concluded that if the City Council determined to move forward with one of these options, the appropriate motion would be to introduce, waive further reading and read by title only Ordinance No 2004-13. Adoption would take place at the June 15, 2004 City Council Meeting.

Mayor Hammond asked for public input.

Those responding

James H Broderick, Jr , attorney at law representing Mitchell Lardner, Monrovia
 Randy Singer, Monrovia
 Cyrus Kemp, Monrovia
 Rosemary Harrahill, Monrovia
 Paul Larson, Monrovia
 Stephen Grollnek, Monrovia
 Chuck Keene, Monrovia

Mayor Hammond announced that inasmuch as the posted Agenda incorrectly noted the meeting to be held at 7 30 P M , even though it had been announced for 6 30 P M , that the City Council would take no action until after 7 30 P M , and then only after all public input had been taken.

Mayor Hammond called for a recess from 7 28 P M to 7 38 P M

Public input continued

John Mastrogiovanni, Monrovia
 Donna Baker, Monrovia
 Clint Arsenault, Monrovia

City Attorney Steele responded to questions posed during public input.

After much discussion, it was moved by Councilmember Kirby, seconded by Councilmember Lutz, to introduce, waive further reading and read by title only Ordinance No 2004-13, and bring back the Ordinance as an Urgency Ordinance at the June 15, 2004 Regular City Council Meeting, to be reviewed in six months. Councilmember Adams asked for a friendly amendment to separate the two actions, and take up only the matter at hand, i.e., the first reading of the Ordinance. There were no objections.

It was moved by Councilmember Adams, seconded by Councilmember Kirby, to introduce, waive further reading, and read by title only Ordinance No 2004-13

ROLL CALL

**Ayes Councilmembers Adams, Kirby, Lutz, Mayor Pro Tem Garcia,
 Mayor Hammond
 Motion carried 5-0**

City Attorney Steele read as follows

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA AMENDING TITLE 9 OF THE MONROVIA MUNICIPAL CODE REGULATING TARGETED PICKETING AT RESIDENCES IN THE CITY

Councilmember Kirby directed Staff to bring back to the June 15, 2004 Regular City Council Meeting an Urgency Ordinance regarding the matter.

***J PAYROLL & VOUCHERS None**

K SCHEDULED MEETINGS

The next Regular Meeting of the Monrovia City Council was scheduled for Tuesday, June 15, 2004, 7 30 P M , City Council Chambers, 415 South Ivy Avenue, Monrovia, California, preceded by a Salute to Service Program, 7 00 P M , City Council Chambers Mayor Hammond instructed the City Clerk to adjourn the June 15, 2004 City Council Meeting in memory of President Ronald Reagan

L ORAL COMMUNICATIONS, CONTINUED, IF NEEDED None

M CLOSED SESSION None


N ADJOURNMENT At 8 20 P M , Mayor Hammond adjourned the City Council Meeting

APPROVED



Rob Hammond, Mayor

ATTEST



Linda B Proctor, CMC, City Clerk