



CITY COUNCIL AGENDA REPORT



DEPARTMENT: City Manager and City Attorney

MEETING DATE: April 7, 2020

PREPARED BY: Craig Steele, City Attorney

AGENDA LOCATION: AR-2

TITLE: An Urgency Ordinance Temporarily Amending Provisions of the Monrovia Municipal Code to Delegate Specified Authority to the Director of Community Development and Declaring the Urgency Thereof, Ordinance No. 2020-06U

OBJECTIVE: To consider adopting, on an urgency basis, a temporary delegation of authority to the Director of Community Development for some decisions related to the alteration or demolition of historic properties and all current decision-making authority of the Development Review Committee. This temporary delegation of authority will only be in effect during the period of local emergency related to the COVID-19 virus.

BACKGROUND: The State of California is currently in a state of emergency related to the spread of the COVID-19 virus. The City of Monrovia and Los Angeles County have issued similar emergency orders. Recognizing the high likelihood of the COVID-19 virus spreading at a rapid rate, the Los Angeles County Public Health Officer issued a countywide health order for residents to remain “safer at home” until further notice.

The Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Health Officer have all issued recommendations including, but not limited to, social distancing, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus. Pursuant to these public health recommendations, the attached Urgency Ordinance has been drafted to protect the public health and safety. This Urgency Ordinance would temporarily delegate authority to the Director of Community Development to make decisions that would otherwise be made by the Historic Preservation Commission or the Development Review Committee. This delegation of authority would help to lessen the risk of transmitting the COVID-19 virus by temporarily eliminating meetings of both the Historic Preservation Commission and the Development Review Committee. The proposed Urgency Ordinance would be in effect throughout the local emergency, although its duration could be shortened if the City Council deems it advisable. The City Manager has delegated certain other authorities to staff members as a part of his emergency actions, but the duties specified in this ordinance can only be delegated by ordinance.

ANALYSIS: Given the “safer at home” orders which will be in effect for some weeks, neither the Historic Preservation Commission (“Commission”) nor the Development Review Committee (“Committee”) will be able to meet for at least a few more weeks. These “safer at home” orders may also be extended, in which case it may be months before either the Commission or Committee can safely schedule a meeting. However, during the COVID-19 pandemic, the City still needs to move forward with decisions that fall under the authority of the Commission and/or Committee. This Urgency Ordinance would temporarily delegate authority to the Director of Community Development for certain decisions that would otherwise be made by the Historic Preservation Commission or the Development Review Committee. This temporary delegation of authority would serve to protect the public health and

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safety by helping to prevent the transmission of the COVID-19 virus by temporarily eliminating the need for Commission and Committee meetings during the duration of the local emergency.

If the City Council chooses to adopt an ordinance, it would be an urgency ordinance, and would go into effect immediately. Pursuant to State law, the Ordinance would require a 4/5 vote for adoption.

ENVIRONMENTAL IMPACT: None.

FISCAL IMPACT: No direct fiscal impact on the City.

OPTIONS: The Council's options are to:

1. Adopt a temporary delegation of authority to the Director of Community Development (Urgency Ordinance).
2. Take no immediate action, relying on existing delegations of decision-making authority in the City's Municipal Code.
3. Provide further direction to staff.

RECOMMENDATION: Pleasure of the City Council.

COUNCIL ACTION REQUIRED: If the City Council decides to adopt an urgency ordinance, the appropriate motion would be a motion to adopt Ordinance No. 2020-06U by 4/5 vote.

ORDINANCE NO. 2020-05-U

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA, TEMPORARILY AMENDING PROVISIONS OF THE MONROVIA MUNICIPAL CODE TO DELEGATE SPECIFIED AUTHORITY TO THE DIRECTOR OF COMMUNITY DEVELOPMENT AND DECLARING THE URGENCY THEREOF

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2” and the disease it causes, which has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”); and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on January 26, 2020, the first case of COVID-19 in Los Angeles County was confirmed, and as of April 2, 2020, at least seven cases have been confirmed in the City of Monrovia; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments to prevent the spread of and otherwise address the effects of COVID-19; and

WHEREAS, on March 17, 2020, the City Council ratified the City Manager’s proclamation of the existence of a local emergency in response to the COVID-19 pandemic; and

WHEREAS, on March 19, 2020, the Los Angeles County Public Health Officer issued a countywide health order for residents to remain “safer at home” until further notice; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Health Officer have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid non-essential contact with other individuals; and

WHEREAS, meetings of the Historic Preservation Commission and the Development Review Committee would constitute non-essential contact with other individuals for meeting attendees; and

WHEREAS, the Director of Community Development has the necessary background and experience to temporarily make certain decisions that would otherwise be made by the Historic Preservation Commission or the Development Review Committee; and

WHEREAS, in the interest of public peace, health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the City Council to exercise its authority to temporarily amend the City of Monrovia Municipal Code by delegating decision-making authority to the Director of Community Development in order to protect the public peace, health or safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROVIA HEREBY ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council finds that each fact set forth in the preceding recitals is true and correct and incorporated by reference.

Section 2. Municipal Code Amendments to Title 2, Chapter 2.56. Section 2.56.030 (Powers) of Chapter 2.56 (Development Review Committee) of Title 2 (Administration and Personnel) of the Monrovia Municipal Code is hereby amended to read as follows (text to be added is underlined, text to be deleted is shown in strikethrough):

“Sec. 2.56.030 Powers.

Notwithstanding other provisions of this code, the ~~Committee~~ Director of Community Development is hereby granted power to receive, hear and determine applications on the following matters only:

(A) *Minor conditional use permits.* The ~~Committee~~ Director of Community Development shall have the power to hear and approve, conditionally approve or deny minor conditional use permits in limited situations as enumerated in §§ 17.08.010 et seq. of this code.

(B) *Minor Exceptions.* The ~~Committee~~ Director of Community Development shall have the power to hear and approve, conditionally approve or deny exceptions from the provisions of the zoning regulations in Title 17 in the limited situations enumerated in § 17.52.110 of this code.

(C) *Minor lot splits.* Where basic criteria for a lot split are met as prescribed by the Subdivision Map Act and the provisions of this code the ~~Committee~~ Director of Community Development shall have the power to approve, conditionally approve, or disapprove any proposed lot split in the following limited situations and provided no exceptions or variances are required:

(1) *Realignment of lot lines.* Where the lot split application consists of the realignment of existing lot lines within the scope of Chapter 16.24 of this code;

(2) Where the application for the lot split consists of an application to sell off a portion of the lot (or to acquire a portion of another lot) not to exceed 25% of the lot of the applicant involved;

(3) Where the application for the lot split consists of divisions into not more than two parcels;

(D) *Neighborhood compatibility design review.*

(1) The ~~Committee~~ Director of Community Development shall review site plans and elevations and approve, approve with conditions or deny applications or make recommendations on applications that will be forwarded to the Planning Commission with respect to the design review criteria contained below.

(a) *Single-family residential.* Neighborhood compatibility design review shall be conducted pursuant to § 17.12.005 of this code.

(b) *Duplex, multiple-family, office, commercial and industrial.*

1. *Building design.*

a. All exterior facade and architectural features including window types, entrance areas, porches, chimneys, and the use of building modulation;

b. The height and building profile of the structures;

c. Building materials, finishes, and colors on exterior surfaces;

d. Roof designs and materials;

e. Relationship of development to the surrounding neighborhood such as appropriate architectural style, scale, and building materials and colors;

f. Screening of electric and gas meters, mechanical equipment, trash, and outside storage areas.

2. *Site design.*

a. Orientation of the building(s) on the site and in relation to surrounding property improvements, including entrances, parking areas, driveways, landscape areas, setbacks, trash enclosures, and common and private recreation areas (multiple-family development);

b. The scale and bulk of the building(s) in relationship to the neighboring properties;

c. Walls and fences;

d. Pedestrian walkways, including circulation design and paving materials;

e. Loading and unloading areas for adequate ingress and egress and visibility from the street;

f. Lighting for safety of pedestrians and vehicles while integrating design elements of the building and landscaping;

g. Landscape and hardscape review;

h. Design of mailboxes;

i. Art works, including sculpture, murals, fountains, and other ornamental or decorative features for scale, design, and compatibility with the project and surrounding properties.

(c) *Accessory dwelling units.* Limited to the criteria specified in § 17.44.160.

(2) Where the code requires the submission of a development application to the Commission for review and approval of the building design and the location of buildings and structures upon the property, the ~~Committee's~~ Director of Community Development's role shall be to advise the Commission concerning said plans. The ~~Committee~~ Director of Community Development shall recommend approval with or without conditions; or recommend denial.

(3) Where a proposed development is not subject to Commission review, the ~~Committee~~ Director of Community Development shall be responsible for reviewing the application pursuant to § 17.12.005 of this code. The ~~Committee~~ Director of Community Development shall approve with or without conditions; or deny the proposed development.

(E) *Signs.* The ~~Committee~~ Director of Community Development shall review applications for all signs within the city recognizing that the height, size, shape, number, color, lighting and movement of any sign may be proportional to the size and/or intensification of use of any given development. Window and door signs, valance signs and banners shall be excluded from review by ~~Development Review Committee~~ the Director of Community Development.

(F) *CEQA.* Where a project is subject to review only by the ~~Committee~~ Director of Community Development, the ~~Committee~~ Director of Community Development shall have the power to review and approve exemptions and negative declarations pursuant to the California Environmental Quality Act and CEQA guidelines.

(G) *Informal preapplication reviews of proposed developments.* When requested by an applicant, the ~~Committee~~ Director of Community Development may review, on an informal basis, conceptual plans for a proposed development prior to submittal of a formal application. This review shall be in the nature of a discussion between the ~~Committee~~ Director of Community Development and the applicant concerning the merits of a proposed development, and shall not constitute a final decision by the ~~Committee~~ Director of Community Development concerning the proposed development.

(H) *Grading permits.* The ~~Committee~~ Director of Community Development shall review grading permits to assure that the proposed grading permits will maintain finished grade height compatibility with adjacent lots and not be environmentally detrimental.

(I) Determination of permitted uses not specifically listed in Title 17.

(J) Review of Large Family Day Care Homes.

(K) Game courts shall be reviewed for compliance with applicable standards.

(L) Private transmitting antennae; and satellite receiving antennae.

- (M) Oak tree preservation permits for removal of healthy trees.
- (N) Cantilevered decking/in the hillsides.
- (O) Outdoor dining located on or adjacent to public sidewalks as well as privately-owned sidewalks in shopping centers.
- (P) Valet parking permits.
- (Q) Outdoor merchandise displays in the HCD and PD-5 zones, subject to the provisions of § 17.44.112.
- (R) Temporary entertainment in the HCD and PD-5 zones, subject to the provisions of §§ 17.44.055 and 17.44.057.
- (S) Determinations on nonconforming uses and nonconforming structures pursuant to Chapter 17.48 of this code.
- (T) Determination of lot orientation, lot depth, and/or lot width for irregularly shaped lots.
- ~~(U) The Director of Community Development may defer a decision to the Development Review Committee where applications are beyond the scope of the Community Development Department.~~
- ~~(V) Shopping cart containment and retrieval plans.~~ The ~~Committee~~ Director of Community Development shall have the power to hear and approve, conditionally approve or deny shopping cart containment and retrieval plans, as required pursuant to Chapter 8.13 of this code.
- ~~(W) Reasonable accommodation.~~ The ~~Committee~~ Director of Community Development shall have the power to hear and approve, conditionally approve, or deny reasonable accommodations pursuant to § 17.52.327 of this code.”

Section 3. Municipal Code Amendments to Cross-Referenced Sections in Section 2.56.030. All Sections of the Monrovia Municipal Code that are cross-referenced in the above Section 2 of this Urgency Ordinance shall substitute “Director of Community Development” for “Development Review Committee” or “Committee.”

Section 4. Municipal Code Amendments to Title 17, Chapter 17.40. Sections 17.40.090 (Certificate of Appropriateness – Historic Landmarks and Historic Districts), 17.40.100 (Economic Hardship – Historic Landmarks and Historic Districts), and 17.40.110 (Special Review – Advisory – Potential Historic Landmarks and Potential Historic Districts) of Chapter 17.40 (Historic Preservation) of Title 17 (Zoning) of the Monrovia Municipal Code is hereby amended to read as follows (text to be added is underlined, text to be deleted is shown in strikethrough):

“Sec. 17.40.090 Certificate of Appropriateness – Historic Landmarks and Historic Districts.

(A) *Certificate of appropriateness required.* No alteration or demolition may be conducted at Historic Landmarks or Historic Districts without first obtaining a certificate of appropriateness from the ~~Commission~~ Director of Community Development.

(B) *Application.* Application for a certificate of appropriateness shall be filed with the Planning Division for processing. Applications for all alterations shall be accompanied by applicable fee and plans and specifications, including drawings that show the relationship of the alterations to surrounding historic features and properties. Applications for demolitions shall also be accompanied by such plans and specifications for the proposed new construction including drawings that show the relationship of the work to surrounding historic features and properties and other necessary documents to support the request.

(C) *Procedure.*

(1) The ~~Commission~~ Director of Community Development shall conduct a public meeting to consider each application for a certificate of appropriateness. Said public meeting shall be conducted no less than ten days after notice of such meeting has been mailed to each property owner within 100 feet of the subject property, and no later than 50 days from receipt of a completed application.

(2) The ~~Commission~~ Director of Community Development shall determine whether to approve or deny issuance of the certificate based upon the request, the designation statement, and other relevant information, and its determination shall include findings supporting its decision.

(D) *Findings.* The ~~Commission~~ Director of Community Development shall issue a certificate of appropriateness if it is determined that the following findings can be made with regards to the proposed alteration:

(1) It will not adversely affect any significant historical, cultural, architectural or aesthetic feature of the concerned property or of the Historic District in which it is located;

(2) The proposed change is consistent with or not incompatible with the architectural period of the building;

(3) The proposed change is compatible in architectural style with existing adjacent contributing structures in an Historic District;

(4) The scale, massing, proportions, materials, colors, textures, fenestration, decorative features and details proposed are consistent with the period and/or compatible with adjacent structures;

(5) It will remedy any condition determined to be imminently dangerous or unsafe by the Fire Department or the Building Division;

(6) In the case of demolition, a building permit has been issued for a replacement structure or project for the property involved; and

(7) In the case of demolition, the applicant has submitted evidence to the satisfaction of the ~~Commission~~ Director of Community Development that a financial commitment has

been obtained by the applicant to assure completion of such replacement structure or project.

(E) *Exceptions.* The Department shall review the following exceptions to the certificate of appropriateness requirement for non-contributors in Historic Districts, and review by the ~~Commission~~ Director of Community Development is not required:

- (1) The remodeling of and the single-story additions to existing structures;
- (2) Garages;
- (3) Guest houses.

Sec. 17.40.100 Economic Hardship – Historic Landmarks and Historic Districts.

The ~~Commission~~ Director of Community Development shall comply with the certificate of appropriateness procedure and required findings as outlined in this section.

(A) The owner of an Historic Landmark or contributor in an Historic District applying for a certificate of appropriateness may request that an alteration be conducted even though it does not meet the findings for such certificate if that owner can substantiate the suffering of an economic hardship.

(B) The ~~Commission~~ Director of Community Development, in considering such a request may solicit expert testimony, at the owner's expense, and/or require that the owner submit any or all of the following information prior to making a determination on the application:

(1) Cost estimates of the proposed alteration and an estimate of the additional cost(s) that would be incurred to comply with the recommendations of the ~~Commission~~ Director of Community Development.

(2) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.

(3) Fair market value of the property in its current condition as determined by a qualified appraiser; estimated market value after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the ~~Commission~~ Director of Community Development; and, in the case of a proposed demolition, the estimated market value after renovation of the existing property for continued use.

(4) In the case of a proposed demolition, an estimate from an architect, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.

(5) For income-producing properties, information on annual gross income, operating and maintenance expenses, depreciation deductions and annual cash flow after debt service, and current estate taxes.

(6) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years and any appraisals of the property obtained within the previous two years by the owner or applicant.

(7) Amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship between the owner of record or applicant and the person from whom the property is purchased; any listing of the property for sale or rent, price asked, and offers received, if any, within the previous two years.

(8) Assessed value of the property according to the two most recent assessments and property taxes for the two previous years.

(9) Form of ownership or operation of the property, whether sole proprietorship, limited partnership, joint venture, or other.

(10) Any other information, including documentation establishing the income tax bracket of the owner, applicant, or principal investors in the property, considered necessary by the ~~Commission~~ Director of Community Development to make a determination as to whether the property does yield or may yield a reasonable return to the owners.

(C) Staff shall prepare a report analyzing the evidence provided in support of the request and shall include a hardship relief plan to relieve, where possible, economic hardship. This plan may include recommendation such as property tax relief, loans or grants, acquisition of property, use of the State Historic Building Code, changes in applicable zoning regulations, and redevelopment funds.

(D) The ~~Commission~~ Director of Community Development shall review all the evidence and information required of an applicant and the staff hardship relief plan and make a determination within 90 days of receipt of the application as to whether the denial of the certificate of appropriateness has deprived, or will deprive, the owner of the property of all reasonable use of, or economic return on, the property.

(E) If the applicant presents facts and clear evidence demonstrating to the ~~Commission~~ Director of Community Development that failure to approve the application for a certificate of appropriateness will cause an immediate hardship because of conditions peculiar to the particular structure or other feature involved, and that no plan implementable by the city can relieve the hardship to a sufficient extent, and the damage to the owner of the property is unreasonable in comparison to the benefit conferred to the community, the ~~Commission~~ Director of Community Development may recommend to the City Council to approve or conditionally approve such certificate. The final decision shall be made by the City Council.

(F) Issuance of such a certificate of appropriateness shall be accompanied by a written determination, based on the following findings:

(1) Denial of the application would diminish the value of the subject property so as to leave substantially no value;

(2) Sale or rental of the property is impractical, when compared to the cost of holding such property for uses permitted in this zone;

(3) An adaptive reuse study and hardship relief plan have been conducted and found that utilization of the property and any economic return therefrom is not reasonable or feasible;

(4) Rental at a reasonable rate of return is not feasible;

(5) Denial of the certificate of appropriateness would damage the owner of the property unreasonably in comparison to the benefit conferred on the community;

(6) All means involving city-sponsored incentives, have been explored to relieve possible economic disincentives;

(7) The economic hardship under review is strictly related to any such hardship created or related directly to the property itself, and that in considering the certificate of appropriateness with the request under economic hardship, personal, family, or business difficulties, loss of prospective profits, poor quality maintenance and neighboring violations were not considered justifiable hardships.

(8) In the case of a proposed demolition, the designated landmark cannot be remodeled or rehabilitated in a manner which would allow a reasonable use of or return from the property to the property owner.

(9) If the ~~Commission~~ Director of Community Development finds otherwise it shall issue a recommendation to the City Council for denial of the request. If the City Council concurs it shall deny the application for a certificate of appropriateness and economic hardship dispensation and notify the applicant by mail of the final denial.

(G) If approval of a certificate of appropriateness and economic hardship dispensation will result in the demolition of a nominated or designated cultural resource, the applicant shall be required to provide documentation of the resource proposed for demolition to the standards of the Historic American Building survey. Such documentation may include photographs, floor plans, measured drawings, archeological survey, or other documentation stipulated by the ~~Commission~~ Director of Community Development.

Sec. 17.40.110 Special Review – Advisory – Potential Historic Landmarks and Potential Historic Districts.

(A) Any alteration or demolition to be conducted at potential Historic Landmarks and potential Historic Districts shall be reviewed by the ~~Commission~~ Director of Community Development prior to commencing any such work to assist the property owner in maintaining the significance of the resource and to address issues of appropriateness and designation; excluding any alterations contained in the exceptions below.

(B) *Assistance and guidance to owners.* In the course of review, the ~~Commission~~ Director of Community Development shall assist and guide the property owner(s) of potential Historic Landmarks and potential Historic Districts with regard to proposed alterations on an advisory basis with the intention of finding solutions and directing the owner toward designation and/or appropriate changes that safeguard the resource. The ~~Commission~~ Director of Community Development shall have the authority to extend the

review to explore alternative solutions for making appropriate improvements for no longer than 30 days and to explore demolition alternatives for no longer than 60 days, unless the owner agrees to a longer period.

(C) *Exceptions.* ~~Commission~~ Director of Community Development review is not required for the following exceptions to special review. Required review and approval in these instances shall be made by the Department:

(1) Repairing or replacing deteriorated materials with applications or use of exterior materials of the same kind, type and texture already in use for the following:

- (a) Re-roof;
- (b) Windows;
- (c) Siding material;
- (d) Chimneys and fireplaces.

(2) Accessory structures;

(3) Fencing;

(4) Additions or deletions of awnings, shutters, canopies and similar incidental appurtenances;

(5) Non-contributions in potential Historic Districts.”

Section 5. Delegation. As used herein, the terms “Director” and “Director of Community Development” include the Director’s designee. The Director or designee shall consult with any other member of the City’s staff as necessary to inform the decisions made hereunder.

Section 6. Urgency. The City Council finds that the COVID-19 pandemic has increased the risks associated with human contact in the City of Monrovia and surrounding areas, as more fully described in the recitals of this Ordinance. The Governor has issued orders discouraging public meetings, and the Los Angeles County “stay at home” order makes meetings of public bodies difficult to conduct, and not consistent with best public health practices. Nevertheless, residents and businesses in Monrovia need the essential services covered herein during the state of emergency. The City Council further finds that, unless this Ordinance is effective and its amendments are immediately put in place, the public health, safety and welfare will be at risk. Therefore, the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937(b) and that it take effect immediately upon adoption pursuant to Government Code section 36934, and its urgency is hereby declared.

Section 7. Duration. This Ordinance shall remain in effect for the duration of the local emergency unless amended or repealed earlier by the City Council. This Ordinance shall be automatically repealed and the prior language of the Monrovia Municipal Code

Sections amended herein shall be reinstated immediately upon the earlier of the termination of the local emergency or the repeal of this Ordinance by the City Council,

Section 8. Uncodified. This Ordinance shall not be codified.

Section 9. Severability. If any provision of this Ordinance is held invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the other provisions of this Ordinance.

Section 10. Effective Date. Based upon the findings in Section 5, above, this Ordinance shall take effect immediately upon its adoption by a minimum 4/5 vote of the City Council.

Section 11. Certification. The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance or a summary thereof to be published as required by law.

PASSED AND ADOPTED by the City Council of the City of Monrovia on this 7th day of April, 2020.

Tom Adams, Mayor

ATTEST:

Alice D. Atkins, MMC, City Clerk

APPROVED AS TO FORM

Craig Steele, City Attorney