



# CITY OF BIG BEAR LAKE *California*

## Regular Meeting Minutes – May 11, 2020

A Regular Meeting of the City Council of the City of Big Bear Lake was called to order by Mayor Rick Herrick at 5:30 p.m., Monday, May 11, 2020, at the Civic Center, 39707 Big Bear Boulevard, Big Bear Lake, California.

PUBLIC FORUM FOR CLOSED SESSION:       None.

At the hour of 5:30 p.m., Council adjourned to Closed Session

At the hour of 6:31 p.m., Mayor Herrick called Open Session to order.

### **OPEN SESSION**

Flag Salute:                               Flag Salute led by Mayor Herrick

Councilmembers Present:   Mayor Rick Herrick  
  Mayor Pro Tem Randall Putz  
  Councilmember David Caretto  
  Councilmember Bob Jackowski  
  Councilmember Bill Jahn

Councilmembers Excused:   None

Others Present:                       Frank A. Rush, Jr., City Manager  
  Stephen P. Deitsch, City Attorney  
  Erica Stephenson, City Clerk

### **RESULTS OF CLOSED SESSION**

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Government Code Section 54957  
Title of Position: City Manager

No reportable action.

### **ANNOUNCEMENTS AND UPCOMING EVENTS**

- The City Council Meeting scheduled for May 25, 2020, has been cancelled in observance of the Memorial Day Holiday. The next Regular City Council Meeting is scheduled for June 8, 2020 at 6 p.m.

### **PUBLIC COMMUNICATIONS**

None.

**1. CONSENT CALENDAR**

Motion made by Mayor Pro Tem Putz, seconded by Councilmember Caretto, to approve the Consent Calendar as follows:

**1.1 APPROVAL OF DEMANDS – CHECK ISSUE DATE 4/16/2020 THROUGH 4/29/2020 IN THE AMOUNT OF \$162,309.73**

Approved.

**1.2 APPROVAL OF MEETING MINUTES FROM THE APRIL 27, 2020 REGULAR MEETING OF CITY COUNCIL**

Approved.

**1.3 RESOLUTION AMENDING 2020 CITY COUNCIL REGULAR MEETING CALENDAR**

City Council will consider a resolution formally amending the 2020 City Council regular meeting schedule to establish regular monthly meetings on the second Monday of each month at 6 pm in Hofert Hall.

This item was pulled from the Consent Calendar by Councilmember Jackowski for further discussion.

**1.4 AN ORDINANCE OF THE CITY OF BIG BEAR LAKE TRANSFERRING AN EXISTING ELECTRIC UTILITY FRANCHISE TO BEAR VALLEY ELECTRIC SERVICE, INC. TO CONSTRUCT AND USE WIRES AND APPURTENANCES FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY**

City Council will consider the second reading of an ordinance formally transferring the current electric service franchise agreement from Southern California Water Company to Bear Valley Electric Service, Inc.

Approved and adopted the following ordinance entitled:

ORDINANCE NO. 2020-480

AN ORDINANCE OF THE CITY OF BIG BEAR LAKE TRANSFERRING AN EXISTING ELECTRIC UTILITY FRANCHISE TO BEAR VALLEY ELECTRIC SERVICE, INC. TO CONSTRUCT AND USE WIRES AND APPURTENANCES FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY

**1.5 RESOLUTION AUTHORIZING BID SOLICITATION – FY 2020-21 STREET REHABILITATION PROJECT**

City Council will consider a formal resolution authorizing the solicitation of bids for the rehabilitation of 13 street segments (6 in base bid, 7 in alternate bid) in FY 2020-21 and find the project exempt from the California Environmental Quality Act.

Approved and adopted the following resolution entitled:

RESOLUTION NO. 2020-15

RESOLUTION AUTHORIZING BID SOLICITATION – FY 2020-21 STREET REHABILITATION PROJECT

**1.6 RESOLUTION AUTHORIZING BID SOLICITATION – STANFIELD CUTOFF CONNECTIVITY PROJECT**

City Council will consider a formal resolution authorizing the solicitation of bids for the Stanfield Cutoff Connectivity Project that will formally delineate a dedicated, asphalt multi-use path along the west side of Stanfield Cutoff and connect the existing Alpine Pedal Path to the City limits and find the project exempt from the California Environmental Quality Act.

Approved and adopted the following resolution entitled:

RESOLUTION NO. 2020-16

RESOLUTION AUTHORIZING BID SOLICITATION- STANFIELD CUTOFF CONNECTIVITY PROJECT

**1.7 RESOLUTION SUSPENDING THE CITY’S PAVEMENT IMPACT FEE POLICY**

City Council will consider a formal resolution suspending the City’s existing Pavement Impact Fee Policy for the Department of Water & Power in exchange for the milling and resurfacing of approximately 2 miles of City streets scheduled for water line replacement in FY 2020-21.

Approved and adopted the following resolution entitled:

RESOLUTION NO. 2020-17

RESOLUTION SUSPENDING THE CITY’S PAVEMENT IMPACT FEE POLICY

**1.8 RESOLUTION ADOPTING PERSONNEL POLICIES REGARDING FAMILY AND MEDICAL LEAVE AND LACTATION ACCOMODATIONS**

City Council will consider a formal resolution to update the City's FMLA policies to be consistent with Federal and State family and medical leave provisions, and also provide accommodations for employees providing lactation for infants.

Approved and adopted the following resolution entitled:

**RESOLUTION NO. 2020-18**

**RESOLUTION ADOPTING PERSONNEL POLICIES REGARDING FAMILY  
AND MEDICAL LEAVE AND LACTATION ACCOMODATIONS**

**1.9 RESOLUTION OF INTENT TO LEVY AND COLLECT ASSESSMENTS  
WITHIN THE VILLAGE MAINTENANCE ASSESSMENT DISTRICT NO. 1-  
92**

City Council will consider a formal resolution of intent to levy and collect assessments within the Village Maintenance Assessment District No. 1-92 for FY 2020-21 at the same rates as FY 2019-20, including receipt and approval of the Engineer's Report, scheduling and publishing a notice of a public hearing for June 8, 2020.

Approved and adopted the following resolution entitled:

**RESOLUTUION NO. 2020-19**

**RESOLUTION OF INTENT TO LEVY AND COLLECT ASSESSMENTS  
WITHIN THE VILLAGE MAINTENANCE ASSESSMENT DISTRICT NO. 1-92**

**1.10 RECEIPT OF FY 2020-21 PROPOSED DEPARTMENT OF WATER &  
POWER (DWP) ANNUAL BUDGET**

City Council will formally receive the proposed FY 2020-21 budget for the Department of Water & Power, enabling DWP to proceed with formal adoption of its FY 2020-21 annual budget in June.

Report received and filed.

**1.11 RESOLUTION AUTHORIZING EXPENDITURE OF CITY FUNDS FOR  
2020 US CENSUS ADVERTISING**

City Council will formally consider a resolution authorizing the expenditure of up to \$1,000 for 2020 US Census advertising on KBHR.

This item was pulled from the Consent Calendar by Mayor Herrick for the purpose of recusing himself from this vote due to a conflict of interest and for the remainder of the Council to have further discussion.

The balance of the Consent Calendar, with Mayor Herrick recusing himself from Item 1.11 and abstaining from Item 1.4 due to a conflict of interest, was approved by the following vote:

AYES: Jahn, Caretto, Jackowski, Putz, Herrick  
NOES: None  
ABSTAIN: None  
EXCUSED: None

### **ITEMS REMOVED FROM THE CONSENT CALENDAR**

#### **1.11 RESOLUTION AUTHORIZING EXPENDITURE OF CITY FUNDS FOR 2020 US CENSUS ADVERTISING**

City Council will formally consider a resolution authorizing the expenditure of up to \$1,000 for 2020 US Census advertising on KBHR.

Mayor Herrick recused himself due to a conflict and interest; Mayor Pro Tem Putz presided over the discussion for this item.

Motion by Councilmember Jahn, seconded by Councilmember Caretto, to approve staff's recommendation including the incorporation of additional language suggested by City Attorney, Stephen Deitsch and adopt the following resolution entitled:

#### RESOLUTION NO. 2020-20

#### RESOLUTION AUTHORIZING EXPENDITURE OF CITY FUNDS FOR 2020 US CENSUS ADVERTISING

Mayor Pro Tem Putz inquired as to why many local residents did not receive 2020 Census information in their mail boxes, assuming it was done in error; questioned if the census is aware of the PO Box issue and stated he thinks it would be a simple fix to mail the notices correctly. Frank A. Rush, Jr., City Manager, informed Council that it is standard procedure for the Census Bureau to not mail to PO Boxes, said the Bureau is aware of the issue and assured Council the City is working with the community to get the word out to complete the census online by running ads in the Grizzly and hoping to run ads on the radio.

Stephen Deitsch, City Attorney, recommended Council modify the resolution to include additional verbiage, as to why there is no other adequate means to advertise this item other than on KBHR, so this action would be compliant with the Political Reform Act and Government Code 1090.

Councilmember Jahn amended his motion to incorporate the additional language recommended by the City Attorney.

Frank A. Rush, Jr. pointed out the section in the resolution involving the expenditure authorization along with his expectations of how many radio spots will be secured

with the funds; assured Council it's not the only advertising avenue the City has explored, but the City believes it [KBHR] to be the only radio advertising to be effective.

Said motion was approved by the following vote:

AYES: Caretto, Jahn, Jackowski, Putz  
NOES: None  
ABSTAIN: Herrick  
EXCUSED: None

### **1.3 RESOLUTION AMENDING 2020 CITY COUNCIL REGULAR MEETING CALENDAR**

City Council will consider a resolution formally amending the 2020 City Council regular meeting schedule to establish regular monthly meetings on the second Monday of each month at 6 pm in Hofert Hall.

Councilmember Jackowski questioned the amended 2020 meeting calendar and commented that he would like to see there be more Council meetings in response to the COVID-19 pandemic. Frank A. Rush, Jr. reviewed the City's current meeting calendar and provided thoughts on the new proposed calendar which includes a spaced-out, consistent schedule and the desire to expedite the budget approval process; believes special meetings can and will be called if deemed necessary and at Council's discretion.

Motion made by Councilmember Jahn, seconded by Mayor Pro Tem Putz, to approve staff's recommendation and adopt the following resolution entitled:

#### RESOLUTION NO. 2020-21

#### RESOLUTION AMENDING 2020 CITY COUNCIL REGULAR MEETING CALENDAR

Said motion was approved by the following vote:

AYES: Caretto, Jahn, Putz, Herrick  
NOES: Jackowski  
ABSTAIN: None  
EXCUSED: None

## **2. DISCUSSION/ACTION ITEMS**

## **2.1 FY 2020-21 PROPOSED BUDGET**

City Council will receive and review the City's proposed FY 2020-21 budget, and provide direction to City staff, in preparation for formal Council adoption in June.

Kelly Ent, Director of Government Services, briefed Council on the draft FY 2020-21 budget in response to the COVID-19 situation beginning with an overview of the City's major revenue sources; indicated that the City will not experience a decline in Property Tax revenue this upcoming fiscal year as properties valuations are assessed based on the prior year, but cautioned we may witness a decline in the next fiscal year; stated that predicting sales tax revenue is difficult due to the uncertainty of how long businesses will remain closed and the shift in consumer spending habits but expects a decline of sales tax revenue about 9.1% this year and about 12.3% next year; indicated that staff is not predicting any revenue from Transient Occupancy Tax (TOT) in the second and third quarters, but is hopeful to see a spike in the fourth quarter – believes TOT revenue will be reduced by about 21% or approximately \$1 million; concluded with the budget goals for FY 2020-21 which include preserving existing moneys for sustainability, maintaining current service levels, focusing on re-opening and necessary recovery efforts, funding street and sewer system improvements, utilizing grant revenue before expiration and implementing the newly adopted organizational structure.

Mayor Herrick indicated that he appreciated how conservative the proposed budget was considering the uncertain times.

No formal action necessary; report received and filed.

## **2.2 PROPOSED COVID-19 ACTIONS**

City Council will consider several actions associated with the COVID-19 Pandemic, including:

### **2.2.1 CITY MANAGER UPDATE REGARDING COVID-19**

The City Manager will update the City Council and the public on the latest developments regarding COVID-19 in the City of Big Bear Lake. Council may also consider and take additional COVID-19 actions deemed necessary or helpful as a result of public comment, Council discussion, and new information that emerges regarding COVID-19.

Frank A. Rush, Jr., City Manager, updated Council on the City's most recent responses to COVID-19, along with the current restrictions in place; discussed the City's disappointment in the Governor's standards and criteria for local flexibility; summarized the County's COVID-19 data including the number of cases, ventilators, available hospital beds and testing kits; stated he believes the City needs to find the right balance between the economic impacts to local business owners and protecting the health and safety of our community; he indicated he feels it is time for the City to begin the reopening

process, but it needs to be done in a safe and responsible manner; said he is confident that the community leaders will figure out how to move us forward.

**2.2.2 RESOLUTION AUTHORIZING 2020 COMMUNITY DEVELOPMENT BLOCK GRANT CORONAVIRUS (CDBG-CV) GRANT APPLICATION**

City Council will consider a formal resolution authorizing a \$100,000 CDBG-CV grant application for a) COVID-19 antibody testing and/or b) a Small Business Assistance Grant Program.

Ruth Lorentz, Principal Planner, gave a presentation regarding the City's two Community Development Block Grant Coronavirus applications that are to be considered and submitted to Department of Housing and Urban Development (HUD); touched based on the program limitations; informed Council both applications have been submitted to the County so the deadline could be met, and assured them that funding can either go to both programs or one; and concluded by briefing Council on the logistics of each grant program application.

Councilmember Caretto asked if the City's businesses assistance program will be duplicative to the County's small business relief program; asked for more details on the County's program; inquired if certain requirements will be in place to secure funding. Ruth Lorentz indicated that the details for minimum and maximum grant fund requirements for the County's small business program is not yet known. Frank A. Rush, Jr., City Manager, stated the County has \$30 million to allocate to businesses under their "COVID Compliance" program and informed Council that the City's proposed grant program will not have any required provisions related to COVID compliance.

Mayor Pro Tem Putz asked if a business would be eligible for the City's program if they were awarded the County's grant and vice versa and believes it to be important to get clarification on restrictions in regard to duplication; sought clarification on HUD's LMI (Low-moderate income) components; commented that he is struggling with the value the testing program would have for our City when the City population is only a third of the population valley-wide; asked if widespread testing is available down-the-hill; inquired about the status of the number of antibody tests done in the County. Ruth replied that it would depend on the structure of the program in regards to eligibility or ineligibility for businesses to receive funds from both programs; stated that HUD's business assistance programs typically only restrict applicants eligibility if the programs are exactly alike; explained HUD'S LMI conditions in regards to person and area benefit requirements and she explained how the antibody testing could help local residents that are considered to be in a more vulnerable category not have to travel down the mountain to seek testing. Frank A. Rush, Jr., City Manager, explained that the application for the grant opportunity was submitted prior to widespread testing throughout the County and was first in support of the notion of antibody testing, but noted that antibody testing may not be very reliable yet



so other grant options were also explored by staff; stated he would like to work with the County to open the testing site to the entire valley and have the County cover the cost for the unincorporated areas.

Councilmember Jahn said the City needs to be careful on what to do with the limited funds; concerned that there would not be enough money to help businesses substantially and is concerned with the selection process; said he feels it's the City's responsibility to assist those who are high-risk and/or low-moderate income residents; believes it would be more beneficial to pursue the wide-spread testing opposed to the businesses assistance program but also thinks it would be wise if the City were to wait and hold on to the funds to see what comes about with testing in the future; stated Council should pursue the two grants and visit this item at a later date to see if better testing has emerged.

Mayor Herrick inquired about the price per antibody test as the figure he was previously told does not match the pricing in the staff report; asked if the City is committed to these programs or if the City has the option to change the way the grant funds are spent; inquired on the possibility of expanding the antibody testing for all valley residents. Ruth Lorentz commented that the price per test cited in the report was based upon the price from the April 17 testing event, but noted that the prices are changing rapidly; assured Council that the City is not bound to these programs and modifications can be made at a later date in regard to the expenditure of funds. Frank A. Rush, Jr. indicated that the grant funds awarded will not be enough to test the whole valley, which is why the City would need to further coordinate with the County.

Councilmember Jackowski commented that he is not in favor of spending the grant funds for a swab-test due to the error factor, but believes the antibody test to be the only option to move forward; expressed that the antibody test needs to span the entire valley; doesn't think the small business grant will have great affect as it will be shared with many businesses; commented that waiting to expend the funds may be the option. Frank A. Rush, Jr. stated that the price per antibody test is declining and explained the additional costs associated with administering the tests.

Councilmember Caretto also questioned the possibility of choosing a different way to allocate the funds at a later date; Ruth Lorentz confirmed that a change in allocation can be made as long as the program in question is in compliance with CDBG-CV goals and requirements.

Councilmember Jahn stressed the importance of waiting to spend the funds and doesn't think a decision can be made because something better may be available in the future.

Motion made by Councilmember Jahn, seconded by Mayor Pro Tem Putz, to approve the submittal of both grant applications including \$50,000 for COVID-19 testing activity and \$50,000 for a Small Business Assistance Grant, with the caveat that the grant funds may be reallocated to fund another program if later decided by Council.

Council requested that staff continue to monitor grant program options and present this item for Council consideration again on a future Agenda.

Said motion was approved by the following vote:

AYES: Jahn, Caretto, Jackowski, Putz, Herrick  
NOES: None  
ABSTAIN: None  
EXCUSED: None

**2.2.3 RESOLUTION WAIVING BUSINESS LICENSE RENEWAL FEES FOR FY 2020-21 AND DELAYING PREVIOUSLY PLANNED FEE INCREASES**

City Council will consider a formal resolution waiving all business license renewal fees for FY 2020-21, and also delaying previously planned annual sanitation and refuse fee increases for FY 2020-21, thus retaining the same annual fees as FY 2019-20.

Frank A. Rush, Jr., City Manager, gave an overview of how the waiving and delay of these fees will affect the City's budget.

Councilmember Caretto commented that it is appropriate to delay the fee increases and the business license renewal fee as it will assist local business owners and property owners.

Motion by Councilmember Caretto, seconded by Councilmember Jahn, to approve staff's recommendations and adopt the following resolution:

**RESOLUTION NO. 2020-23**

**RESOLUTION WAIVING BUSINESS LICENSE RENEWAL FEES FOR FY 2020-21 AND DELAYING PREVIOUSLY PLANNED FEE INCREASES**

Mayor Pro Tem Putz commented that even though the waiving of these fees isn't financially significant, it is a nice gesture.

Mayor Herrick expressed that while waiving the business license renewal fee and delaying the other fee increases may be small but it shows empathy.

Said motion was approved by the following vote:

AYES: Jackowski, Putz, Caretto, Jahn, Herrick  
NOES: None  
ABSTAIN: None  
EXCUSED: None

#### **2.2.4 RESOLUTION MODIFYING EMERGENCY REGULATIONS REGARDING COVID-19**

City Council will consider a formal resolution regarding the COVID-19 emergency to retain emergency powers during the COVID-19 emergency and allow previously declared emergency provisions to expire.

Frank A. Rush, Jr., City Manager, briefed Council on the details of the Declaration of Local Emergency ratified at the March 23, 2020 Special City Council meeting and informed Council that the eviction moratorium will expire on May 22 and the prohibition on price gouging expired on April 23, and discussed the further recommended actions which include modifying the regulations to extend the emergency powers for an indefinite period of time and allow the City the flexibility for future actions and will grant the City Manager the authority to temporarily suspend the City's Development Code.

Mayor Herrick inquired about previous adopted emergency declarations and noted that those had to be renewed; sought clarification as to why this declaration differs. Stephen Deitsch, City Attorney, confirmed that the Governor's orders allow declarations of local emergency in relation to COVID-19 to extend until terminated and it does not have to be renewed every 60 days.

Mayor Pro Tem Putz expressed his concern for not setting a sunset date on the emergency declaration as opposed to it continuing indefinitely; asked for additional details on the functionality of granting the City Manager to suspend the Development Code. Stephen Deitsch assured Council it is within their discretion to put a deadline on the declaration and revisit it at a later date. Frank A. Rush, Jr. explained the recommendation of allowing the City Manager to suspend the Development Code and offered examples of what that would look like including possibly allowing businesses to expand their operations to outdoors spaces to accommodate for social distancing; declared that that Council will be well-informed before any action would be taken.

Councilmember Caretto inquired about the expiration of price gouging and eviction moratorium and why the City is not extending it; asked how the City should approach complaints and reports of price gouging. Stephen Deitsch confirmed that the Governor's orders cover the two and state statutes are in place to provide protection in regards to price gouging; stated that Council can reincorporate the provision prohibiting price gouging as it has already expired; informed Council that there is a penalty associated with price gouging of more than 10 percent over the price last charged prior to the declared emergency. Frank A. Rush, Jr. stated that reports of price gouging will be properly investigated, but said that he has not heard of any reports from the community as of yet.

Mayor Herrick sought clarification regarding the eviction moratorium and tenant protections and he stated that he has heard that thus far the landlords in this community have been very generous to their tenants.

Stephen Deitsch informed Council that the Governor only allowed local municipalities to implement eviction protections and that it is not covered by the Governor's current order.

Frank A. Rush, Jr. declared that the City hasn't received any reports of evictions from Big Bear Lake residents.

Motion made by Councilmember Jahn, seconded by Councilmember Caretto, to approve staff's recommendation and adopt the following resolution entitled:

RESOLUTION NO. 2020-24

RESOLUTION MODIFYING EMERGENCY REGULATIONS REGARDING  
COVID-19

Mayor Pro Tem Putz expressed again that he would like to have an expiration date on the emergency declaration as opposed to it being indefinite; asked if Councilmember Jahn would consider amending his motion.

Councilmember Jahn amended his motion to include a 90-day sunset on the emergency declaration.

Said motion was approved by the following vote:

AYES: Putz, Caretto, Jahn, Jackowski, Herrick  
NOES: None  
ABSTAIN: None  
EXCUSED: None

**2.2.5 UPDATED PLAN FOR SAFE, RESPONSIBLE REOPENING OF BIG BEAR LAKE**

City Council will review the updated plan for the Safe, Responsible Reopening of Big Bear Lake, as drafted by the City Manager and improved by the City-Council Ad Hoc Committee. City Council is asked to approve the plan for implementation upon granting of authority by Governor Newsom and/or San Bernardino County.

Frank A. Rush, Jr., City Manager, discussed the key points in regards to the Safe, Responsible Reopening of Big Bear Lake including the City's ability to implement the plan; briefed Council on the Pandemic Plan Committee Meetings and reviewed the fundamental goals and requirements of the reopening plan along with the proposed reopening phases and addressed other community concerns and suggestions.

Mayor Herrick indicated that the City can be more restrictive than the state and addressed that the Pandemic Response Plan Committee came to a consensus to open the City slowly; mentioned the idea of expanding out-door

seating and out-door displays along with his desire to deliberate that option in greater detail; discussed and reviewed conference calls he had participated in and his outreach with other dignitaries, regarding the state and county's COVID-19 related restrictions and the City's reopening plan.

Mayor Pro Tem Putz thanked the Mayor and Committee members for their time in drafting the reopening plan which he believes to be a good compromise and balances the needs of the community; questioned how the City and the Sheriff's department has handled enforcement and plans to continue enforcing the reopening guidelines. Frank A. Rush, Jr., indicated that the City has taken a friendly enforcement approach and has chosen to educate as opposed to punish but also mentioned that this approach has its challenges; believes that the City's plan will be easier to enforce than the Governor's order. Captain Mitch Dattilo, San Bernardino Sheriff's Department, confirmed that the San Bernardino County's Sheriff's Department have been taking an educational approach in regards to enforcing the Governor's orders and noted that all complaints in regards to businesses were referred to the County's Public Health Department and commented on the good collaboration between the City's Code Enforcement and the Sheriff's Department.

Councilmember Caretto thanked the Committee members for their efforts and said he believes the reopening plan to be very reasonable; asked the City Attorney what the consequences would be for the City and local businesses if the City defied the Governor's orders and allowed all businesses to open and/or if the City chose to no longer enforce the Governor's orders; inquired about the City's position on garage sales, when the environmental recycling facility would open and if there was going to be a Memorial Day service; brought up the notion of virtual check-in for private home rentals and asked for the City's Manager's thoughts; stated that he is concerned with the grocery stores being overwhelmed with an influx of visitors and is hopeful that the City Manager will remain in contact with the grocery store managers for status updates; asked for confirmation that all public restrooms will remain open and properly serviced; expressed his concerns with allowing businesses to display merchandise outside their establishment and said he does not support that idea. Stephen Deitsch stated that the City has no obligation to enforce the Governor's or County's orders and the City cannot be liable but indicated that the state can withhold funds to the agency if the agency did indeed choose to defy the state's orders; assured Council that the City will also not be liable for negligence by not enforcing the Governor's or County's orders. Frank A. Rush, Jr., stated that he hopes the Memorial Day service will continue somehow in a modified fashion but is hoping to get more direction soon; not familiar with the status of the recycling center; informed Council that the City did not include virtual check-ins for private home rentals in the plan to minimize controversy, assured Council that he is in regular communications with the grocery store managers and reported that while there are some items in low supply, their stock is okay and noted that concern for the grocery stores was one of the reasons that led to the plan's limiting occupancy provision and the recommendation that guests bring their own

supplies; confirmed that all public restrooms will remain open and serviced going forward.

Mayor Herrick identified that the committee did discuss the possibility of allowing businesses to utilize their own private parking lot, but concluded that a consensus was not reached and believes that discussion needs to be conducted in the future.

Councilmember Jahn congratulated the committee on a job well done and considers the plan to be easy to implement and govern; would like for the grocery stores to limit the number of certain items (i.e. paper goods) for purchase. Frank A. Rush, Jr. indicated that he will certainly remain in communications with the primary grocery stores.

Councilmember Jackowski echoed Councilmember Caretto's concerns regarding retail businesses displaying merchandise outside their stores; asked for clarification on the occupancy limits for restaurant seating and the allowance of extended outdoor seating; asked for more details in regards to the recommendations for sanitation stations; indicated that he would like to see standard placards in the windows of every business to maintain consistency and addressed the complications of enforcing social distancing in certain businesses; stated that he optimistically pessimistic on the Governor's approach to the COVID-19 pandemic and wishes the City can reopen all businesses as soon as possible; thanked the committee on drafting the reopening plan. Frank A. Rush, Jr. clarified that allowing extended outdoor seating was ultimately not recommended by the committee, but it can be considered in the future; explained the committee's intentions for sanitation stations and the general guidance provision; stated that he envisions the City will come up with a standard, simple placard for all businesses to put in their storefront windows and commented on the County's approach to placards.

Erica Stephenson, City Clerk, teleconferenced in the following individuals for public comment:

Bob Pool, Board President of Visit Big Bear: Thanked City Manager Frank. A. Rush, Jr. and the Pandemic Response Plan Committee for working hard to reopen businesses, asked the Council to reopen as hospitals are not overwhelmed and said marketing needs to communicate that all visitors are safe to visit; asked what would happen if the City defied the Governor and if the shut-down is constitutional.

Marci Worthington: Said the shutdown needs to end due to the negative ramifications because of the closure(s) and indicated that the town cannot be put in the same category as larger cities.

Christian Worthington: Called in support of opening the businesses and it is time to push-back on the unsustainable shutdown; said all the residents of the Valley livelihoods are at stake and time is of the essence.

Erin Ronza: Believes the antibody testing to be useful and thinks the City should offer the testing; said she does not feel supported or heard.

Bob Ybarra: He is disappointed with the suspension of face-covering requirements and is concerned with the amount of people not wearing masks and the level of complacency within the valley but believes Council is on the right path and is being cautious; agrees with Jackowski on the need for additional Council meetings and said he is proud of the leadership in Big Bear Lake.

Mayor Pro Tem Putz shared his thoughts on the next steps and what the City would like look in the future; hopes all businesses think of how to implement practical measures when reopening; discussed the County's proposed certification program and how this would allow businesses access to the County's Personal Protective Equipment (PPE) suppliers, would like the City to explore this possibility that may help support local businesses find the safety supplies they need.

Mayor Herrick said the Council needs to make a decision regarding yard sales.

Council, staff and City Attorney discussion regarding the legal and rational ramifications of choosing to not enforce the Governor's orders. Stephen Deitsch reiterated the state is responsible for enforcing the Governor's orders and they can't direct a City to enforce state orders; cautioned Council that there would be practical ramifications such as, the possible withholding of state benefits and funding, the state's broad authority to conduct investigations or bring enforcement actions against localities unrelated to COVID-19; and that the state can even use the Department of Housing and Community Development to look into local housing elements and bring challenges against cities based on their housing element.

Councilmember Jackowski said the entire City is treading unknown waters and assured everyone that the City is working hard for the residents so normalcy can continue as soon as possible.

Mayor Pro Tem Putz said he understands the appeal of not enforcing the Governor's orders, but doesn't consider it to be practical; said it would be hypocritical for the City to not obey the state but expect the residents to obey the City.

Mayor Herrick again brought up the need to discuss yard sales; believes it to be a gray-area because yard sales have not been directly addressed in the Governor's orders. Councilmember Caretto commented that yard sale advertisements will need to be submitted soon to the Grizzly, so residents need to know soon. Frank A. Rush, Jr. suggested that yard sales are probably not permitted under the Governor's orders but it has not been made specifically clear; said he would provide clarification on yard sales and vacation rentals no later than Thursday.

Mayor Herrick said he would like to see more communication in regards to the importance of wearing face coverings.

Motion made by Councilmember Caretto, seconded by Councilmember Jahn, to approve the reopening plan as presented by the Pandemic Response Plan Committee with the encouragement that the City reopens as soon as possible.

Said motion was approved by the following vote:

AYES: Caretto, Jahn, Putz, Jackowski, Herrick  
NOES: None  
ABSTAIN: None  
EXCUSED: None

Mayor Herrick requested that the plan be submitted to the County of San Bernardino and the City Manager confirmed it will be.

### **3. COMMENTS, ANNOUNCEMENTS, AND ADDITIONAL CITY BUSINESS**

#### **3.1 CITY CLERK, CITY ATTORNEY, CITY MANAGER COMMENTS**

Erica Stephenson, City Clerk, reminded Council and the public that the next regular City Council meeting is scheduled for June 8, 2020, and that it will begin at 6 p.m.

#### **3.2 COUNCILMEMBER BOARD / COMMITTEE REPORTS & COMMENTS**

Councilmember Jahn reported on a new project, Connect SoCal, approved by the Southern California Association of Government's Regional Council.


Councilmember Caretto asked for City staff to look into what construction activity is occurring at the new zoo parking lot.

Mayor Pro Tem Putz expressed his excitement to see another bridge connecting the Rathbun Creek Trail and thanked everyone for their hard work and encouraged everyone to be compassionate during these unprecedented times.

Mayor Herrick briefed Council on the new zoo construction status.

### **ADJOURNMENT**

There being no further business to come before the Council at this session, Mayor Herrick adjourned the meeting at 10:01 p.m.

  
Erica Stephenson, City Clerk