

City of Manhattan Beach
City Council Adjourned Regular Meeting
Friday, April 3, 2020 8:00 AM

Mayor Montgomery: Alright ready to go. Alright everyone, good morning. Welcome to City Council Adjourned Regular Meeting Open Session for Friday, April 3rd. We'll begin with the roll call please, Martha.

Sr. Deputy City Clerk Alvarez: Councilmember Stern

Councilmember Stern: Here

Sr. Deputy City Clerk Alvarez: Councilmember Hersman

Councilmember Hersman: Here

Sr. Deputy City Clerk Alvarez: Councilmember Napolitano

Councilmember Napolitano: Here

Sr. Deputy City Clerk Alvarez: Mayor Pro Tem Hadley

Mayor Pro Tem Hadley: Here

Sr. Deputy City Clerk Alvarez: Mayor Montgomery

Mayor Montgomery: And I see, Martha, we do have public comments. Do you want to make a brief synopsis of them, but I know we have them sent to us. But just do what you did last time and report our public comments.

Sr. Deputy City Clerk Alvarez: Yes, so we received public comments both via email and ERE comment feature. We did not receive any voicemail comments. But the following members of the public submitted comments for today's meeting. Jen James, Thomas Pruitt, Lori Barra, Ryan McLaughlin, Phyllis Adyier, Keith Artley and Joseph Fusco. And those are all the public comments received for today's meeting.

Mayor Montgomery: Thank you. With that I'm going to go to the open session item number 1 with the City Manager report from the EOC.

City Manager Moe: Yes, good morning. Today, LA County is partnering with Beach Cities Health District to provide drive-thru testing at the South Bay Galleria. It does start today. Their tests are by appointment only and those need to be made online. Results should take 3-4 days. I'm about to give you the website to get more information and also sign up. Even though the County is sponsoring it this is an LA City website. It is coronavirus, one word

coronavirus.lacity.org/testing. Coronavirus.lacity.org/testing. The tests are free of charge to LA County residents after answering some basic questions about symptoms and things like that. So that's nearby here in Redondo Beach at the South Bay Galleria at Hawthorne and Artesia boulevards. By way of our daily numbers as of yesterday, Manhattan Beach has 43 confirmed cases that was an increase of two. Other activities, even though we had basketball hoops closed or locked down, even though they remained up, people would try to play using those facilities, so we have taken the rims down physically in all but one location that's taken a little bit more time due to some rust, but those are being taken care of. By way of senior support line, it's trending about five calls a day for dial-a-ride and fifteen for other services and so that's been a success for us. We mentioned the other day that the water system was receiving some clogs based on people putting things other than tissue paper down the toilet and so some social media communications went out on Wednesday and we've gotten a few comments on that, so that's, that's gone well. And then finally, next Tuesday's council meeting of course was cancelled on Wednesday so we've been doing social media postings to ensure people know that Tuesday evenings meeting was cancelled but we do have the Monday, Wednesday, Friday meetings at 8am that will continue in the foreseeable future. That concludes my EOC report.

Mayor Pro Tem Hadley: City Manager, or your Honor may I ask the City Manager to confirm that website again?

Mayor Montgomery: Go ahead.

City Manager Moe: Yes, it is coronavirus, one word. C-O-R-O-N-A-V-I-R-U-S DOT LA CITY DOT ORG SLASH TESTING. Coronavirus.lacity.org/testing

Mayor Pro Tem Hadley: Thank you.

Mayor Montgomery: I had a question or more of a comment for the City Manager and Council as well. I spoke to Supervisor Hahn's office concerning those numbers and my concern was raised and I had asked the question that, of that number that show daily and sometimes they change, how many of those are people that have been released, that are self-quarantined and now released, so the actual number may be a lot lower than 43. And the County did not know the answer to that question. No one had asked but they agree that that number to their mind has not included to date, those people that have been self-quarantined or been released by the hospital that they considered non-transmittable any farther, so we're waiting for the County to get back and the health department to send us a message, all of us to explain how that number keeps increasing and it can never decrease, so let's wait and see what happens as well. Next item, anyone else have a question for the City Manager and the EOC report?

Councilmember Stern: Yeah Mayor, I do. [Yes, please] Bruce, just wondering, how are we doing with respect to responding to the senior requests? Do we need any more help with that?

City Manager Moe: No, we're doing well with the staffing that we have. We have a list that's been growing of people that want to volunteer but at this point we have been able to satisfy our needs with the existing resources that we have. But people have contacted us. They are also contacting Beach Cities Health District to sign up to volunteer so if we hit a surge of some sort, I think we're well positioned with existing as well as potential resources that have volunteered their time.

Councilmember Stern: That's great [It is] Thank you.

Mayor Montgomery: Questions for the City Manager? Then can we go to item B please discussion of the deferment of the property tax, I'm sorry, the hotel tax.

City Manager Moe: Yes, this is based on two requests that the staff has received from hotel owners that are telling us that they cannot pass along the money that they collected on our behalf for the prior month, that they are having trouble keeping in business or staying open and from a cash flow perspective they don't want to give us the TOT that they've collected because they want to try to keep their doors open and so obviously the transient occupancy tax is collected on our behalf by the hotels. It should be segregated from their revenues however, I believe in this situation perhaps a couple of the hotels may have used those funds or need those funds to stay open. So a couple of other cities, we did some surveying, there are some other cities in the state that are deferring the payment without penalty, in some cases for 30 days other cases 60 days. The vast majority of the cities that we polled at the time had made no changes in that collection process or timing. However, we did receive the request from a couple of hotels and so I wanted to bring that to the Council if there was any consideration that you would like to give to defer those payments.

Mayor Montgomery: Let me ask the first question then Bruce. So what did finance come back directly on? Are they looking for direction from Council on how long to delay?

City Manager Moe: Well, I think first of all, do you want to defer or do you want to demand payment as scheduled? Secondly, if we do defer or allow them a longer period of time to process or submit that payment, what is that time frame and would you want to waive any penalties on that?

Councilmember Stern: Mayor, I have a question.

Mayor Montgomery: Go ahead, Hildy.

Councilmember Stern: Mayor, I have a question. And I think this is more of a legal question. Quinn, there seems to me to be exposure if we are, if hotels have collected money that is collected as a tax and then using it in their, in the operations of their business. Isn't that? That's not—

City Attorney Barrow: You raise a good point. Right. So there's no, there's not exposure to the City. You raise a good point because that was not their money. That's a tax paid by visitors and transients. And so the cities that I'm familiar with that have deferred this, they're not saying, they're not relieving the tax. They're just informing the hotels and motels that they can, they won't have to pay that for say, 120 days. I'm looking at some of the numbers here. For Beverly Hills, yeah, it's 120 days. So Beverly Hills is telling them, "You still have to pay it. We'll just, we'll defer the deadline for payment 120 days."

Councilmember Napolitano: Question on that.

Mayor Montgomery: Go ahead, Steve.

Councilmember Napolitano: What's the likelihood of them ever paying it and then do we just get in line as a creditor, if something goes down? I just, it's basically they're borrowing public money, that they're not supposed to have. So, I don't understand, we're handing out a loan. But is it going to be re-paid back and what's the collateral on that loan?

City Attorney Barrow: That's a very good question. It's not really a legal question. I'm not going to predict the future, but—

Councilmember Napolitano: Yeah, no, I wasn't pointing it at you, Quinn. I was just saying it to the group.

City Attorney Barrow: Ok. Yes.

Councilmember Stern: I feel like we have two things, right? Are we gonna postpone this loan but also are we therefore going to stop the imposition of this tax today because this is highly inappropriate to be collecting a tax and then leaving it for the operation of the business. That's just inappropriate and they are the responsible parties to remit this payment as a tax back to the agency. That's, yeah, I mean, I totally agree with Steve. The possibility of re-collecting, we see this, I'll stop talking like I work for the government, but as a responsible party they're not going to have those funds to just then turn around and then remit back.

Councilmember Hersman: Can I jump in?

Mayor Montgomery: Yes please.

Councilmember Hersman: Thank you. So it sounds like there's two different things that we could do. One is we could say if you have collected tax, that is our public funds as Steve pointed out, it is public funds that needs to be paid. However, going forward we could postpone the collection of the tax and therefore, suspend it so that they don't have to collect it from now until whenever, right? And then you put into two different categories, not one.

Councilmember Napolitano: Well it's the same thing 'cause they're still obligated to pay it.

Councilmember Hersman: They'd be asking—

Councilmember Napolitano: That obligation doesn't go away.

Councilmember Hersman: Well no. The obligation that would - postponing what they are required to pay in the future. I mean, how many are open to even do it.

Councilmember Napolitano: I'd say that's a legal question though. If we can postpone that.

Councilmember Hersman: Yeah, but it sounds like some cities are already doing that. But I think that, I would agree that if it has been already paid for our benefit, it isn't their money and they can't then use it to keep going as much as we'd like to help them keep going.

Mayor Montgomery: Suzanne?

Mayor Pro Tem Hadley: I think this is the first, the first tip of the spear of just thousands of good questions that have literally have no answers. The entire global economy is reeling from stacy chains like this when one party doesn't pay another party and then that party can't pay the next party down the chain. So I think these are great questions, I'm not sure we have answers. I do want to work with all of our retailers and businesses so that as many as possible survive this. You know I don't know if we start to make accommodations for the very first one but this is not going to be the first request. This is the great depression at our door and everyone says this stuff doesn't happen in Manhattan Beach, well you know what, it does. So, I think we're all asking the right questions. I don't know that there are answers. I love that Quinn is always looking for best practices out there. But I do want to, I want to help save our hotels. I do want to share the pain. We have to share the pain. There's too much pain to keep it all on the people who pay Manhattan Beach. It's just not possible. So, I don't have an answer.

Councilmember Napolitano: Right. Well, nobody doesn't want to help our businesses. Nobody doesn't want our hotels to stay open. But, in comparison and related to other things, it's, who's not collecting sales tax? On any of these stores, some of them, some restaurants are doing to-go orders, some are, stores, obviously grocery stores and things that are still

open they are still collecting sales tax. They are still passing that along to the state. So, I'm all for helping out but I think—

Mayor Pro Tem Stern: Well, do we know? We don't know that they're passing it on to the state. It's much too early to know that there are people that are not paying—

Councilmember Napolitano: We don't know that they're not. I think we'd hear it if they're not. Because they'd be discussing that in one of the daily briefings at the state level.

Mayor Pro Tem Hadley: It's been two weeks of quarantine. I think there's a ton of fallout we don't know about yet.

Councilmember Napolitano: Well let's talk about what we do know about though which is they're not passing along the tax to us. So we can sit around and say there's no answers but we're going to have to come up with something here.

Mayor Pro Tem Hadley: Well we don't know, I don't know for sure that the state is paying the hotel's TOT. I mean, I don't know. So what if they say, "We're paying the hotel 50% of your rack rate." I don't know. I don't know what percentage of that then becomes TOT. Again, I think all the questions are valid and amazing. We just can't get too frustrated we don't have the answer now. And Quinn is such a great jumbo guy to find out what's out there.

Councilmember Stern: Mayor, can I just—

City Attorney Barrow: Let me just. I did look into some other cities but actually Steve Charelian and staff did a very comprehensive survey of other jurisdictions, so that was Steve's work.

Councilmember Stern: Mayor?

Mayor Montgomery: Yes, that was Hildy, ok.

Councilmember Stern: Do we know how many of our hotels have asked us this and how much money they're asking us to forgive at least for this period of time?

City Manager Moe: There are two hotels that have indicated this to us so far. I do not know the amount.

Mayor Montgomery: That was two as in one, two?

City Manager Moe: Yes, as in one, two.

Mayor Montgomery: Ok, hotels not motels. And Quinn, could you restate so I could hear it right because I'm writing my notes, what did Beverly Hills ask for or what did they agree to?

City Attorney Barrow: (indiscernible) for up to 120 days.

Mayor Montgomery: A simple postponement, not a waiver? Postponement.

City Attorney Barrow: Correct.

Mayor Pro Tem Hadley: Like Disneyland

Mayor Montgomery: Like Disneyland

Mayor Pro Tem Hadley: Like Disneyland on their annual pass payments.

Mayor Montgomery: That's it. So I've heard from everyone except I haven't heard from Councilmember Hersman yet.

Councilmember Hersman: I spoke up.

Mayor Montgomery: Oh sorry, I didn't write your note down.

Councilmember Hersman: Yeah, I suggested that we require the payment but look at being able to either postpone the collection or the payment of it or something going forward. You know, it's all the same thing. It's all public funds and so you know, as Steve was pointing out we can't, we're basically giving them a loan. Are we going to give a loan to every business that needs our help? I mean, because that's basically what it ends up being is a loan to them. We're saying, you owe us. You owe us a hundred dollars and we're going to give you a hundred dollar loan and we have no security for that.

Mayor Montgomery: It's a valid point. My question to Bruce would've been, a second question Bruce to Suzanne's comment earlier, are these stores calling you asking you to postpone the, sending you taxes to Steve's point also about the first quarter? Has anyone called you and said I'd like the City to consider my restaurant, my retail store, my cookie store, whatever it is? Postponing paying any taxes because of the COVID crisis.

City Manager Moe: The simple answer on that is no. However, Council did take action to delay business license tax and so there is that program that is already in place, it does provide some relief to all businesses. But in terms of direct contact, these are the only two that I've had requesting such a waiver or I'm sorry, a deferment.

Mayor Montgomery: Ok. My fear—go ahead.

Mayor Pro Tem Hadley: Your Honor. Your Honor, TOT is paid directly to the City I might add so that would increase the communication between the hotels and the City. The sales tax is paid to the County and the State. So I'm not sure we would know what the retailers are doing at the State level.

Councilmember Napolitano: Yeah, we don't have any control over their sales tax.

Mayor Montgomery: No, we don't. I'm just asking a question in general. I understand TOT is ours, thank god. So, Council, whatever you guys want to do, let's give us our, we know our options now. It's either what Nancy's talking about, a postponement or Suzanne's talking about some kind of way to help them. But if we can get a discussion or direction which way you guys want to go. A proposal.

Councilmember Stern: Mayor, I just had one more question. So we've only heard the request, only two hotels have come forward to let us know that this is their position. Have we been, have the other hotels been remitting the TOT to finance?

City Manager Moe: They have until, I believe, it's the 10th of this month to do so. So we don't know what the collection rate will be at this point. The 10th of this month for last month's receipts.

Mayor Pro Tem Hadley: And last month they had customers. This month they have no customers. So it's quite likely the ones that don't pay are not withholding payments, they just have nothing to pay, correct?

City Manager Moe: Well that would be the case for May collections that would reflect April having low occupancy. What we're talking about right now is the March TOT that was collected when occupancy rates were higher.

Councilmember Napolitano: Well, I'll point out that the State is not delaying property tax deadline.

Mayor Montgomery: That is true.

Councilmember Hersman: Yeah, somebody asked us about that.

Councilmember Napolitano: I'm reading it right now. They're not delaying it.

Mayor Montgomery: Agree.

Mayor Pro Tem Hadley: Yeah, I get that. I get that. But the question is, if somebody doesn't pay their property taxes, what is the State going to do about it? And I highly doubt the State's going to be sending Sheriffs to repossess homes. So what do we do if the, I like Nancy's idea—

Councilmember Napolitano: That's the County level. It's the County and what you do is you have a tax sale in three years if they don't pay it by then. But that's normal processes.

Mayor Pro Tem Hadley: There's nothing normal. But Steve, there's nothing normal now. You don't. There's no—

Councilmember Napolitano: If you listen though, if you listen, three years is when it ultimately is settled. So maybe three years from now for property tax. It would go to sale.

Mayor Pro Tem Hadley: Right, and three years is an eternity. So...I like Nancy's idea of not forgiving the TOT but granting them something of the 120 days and I love the example of Beverly Hills 'cause then we're partnering with somebody who's gone before us. But you can't squeeze blood out of a turnip. And I think if we just say, no, you have to pay it then maybe we get nothing.

Councilmember Napolitano: It's not a turnip. It's not a turnip when it was never their money to begin with. And they shouldn't have paid for anything for their business operations with it. So I'm fine with loaning the money but I also think if we're going to do that and say we're not going to collect for 120 days then their needs to be a repayment plan that they need to follow as well as follow-up. It can't just be whenever you feel like it two years from now you can start paying the City back.

Mayor Pro Tem Hadley: I'm good with that.

Councilmember Stern: Question though. Another consideration. Can I—

Mayor Montgomery: Go ahead Hildy.

Councilmember Stern: So, if we have some term of repayment. And let's put 120 days out there as the term. We also have to consider what are we doing about the TOT that is continuing to be collected in those 120 days. Or are we going to just lapse the TOT completely?

Councilmember Napolitano: That's what I thought we were talking about. Not a 120 day repayment plan. But a 120 day deferment.

Councilmember Hersman: Right. But another issue we do need to think about is, if this looks like we're giving a loan to two businesses does that just open us up to giving loans to so many other businesses that are scraping by?

Mayor Montgomery: That's the million dollar question. Does it just open up the door for everyone else to say ah ha! You just gave this relief to these two or this...(Several people talking at once)

Councilmember Napolitano: The difference is. The difference is we don't, except for a few minor things like the business license tax or gross receipts. There's my echo, lovely. Except for

those things, we don't have the ability to waive sales tax or to defer payment or things like that. That's out of our hands. So we have limited, TOT's unique because we've got a handful of hotels and it's paid directly to the City rather than going through the State or the County.

Mayor Montgomery: Exactly right. The only question is.

Councilmember Hersman: But you know, here is—

Mayor Montgomery: Go ahead.

Councilmember Hersman: Well, the issue though, is that if we're deferring it. If we're just saying ok, you don't have to collect it, well that defeats the whole purpose that they want it for. They want to collect it and use it to keep going. So then we have this continuing issue if they're collecting it, it still is a City tax that is owed to us. So it may not get us where we want to be. 'Cause if we say ok you don't have to collect TOT anymore, that's less money for them to use. Right?

Councilmember Napolitano: Well, that is. We're putting them deeper in the hole by not collecting it ourselves. And they're willingly doing that and that's fine if they choose to do that. I don't know if everyone will choose to do that. But for those who do, then that's why I go back to we just might end up forgiving it because I don't see 6 months down the line that we would be paid back except for over the two following years if we're not in a recession or depression.

Councilmember Hersman: So maybe to get ourselves out of this, sort of circular problem, is you leave the TOT in place. They have to pay the TOT because it is public funds that they need to pay to the City, that's why it was collected. And we then consider doing some kind of a loan program for any business up to a maximum of a certain dollar amount that is struggling to make ends meet to pay their electric bills or to pay whatever it is they need to pay. To some extent, because then we're not dealing with this tax. Because as Hildy pointed it out when she brought it up in the first place, this isn't their money. And for us to be noodling around with it, is a problem. I mean, like Steve you said, I mean, they're not saying oh well I'm not, I'm going to collect sales tax. Target's not collecting sales tax and then not sending it to the State. You know they are. They have to. So, I think we need to get out of the tax issue. Tell them the tax is due, they need to continue to collect it. And we do something else to help all businesses, not just these two. And we do some kind of a program to help our businesses and you know whether it's some. I mean, you know, you look at the twelve hundred dollars the federal government is giving and a lot of us kinda look at that and go poof, how is that going to help? Well it's going to help a lot of people and maybe there's something we can do that is broader for our local businesses.

[Many people talking at the same time.]

Councilmember Hersman: What's that?

Councilmember Napolitano: May I ask a question?

Mayor Montgomery: I'm sorry. Yes, yes please. Go ahead Steve.

Councilmember Napolitano: So are you talking about the City setting aside the TOT that it will get and using that as the loan proceeds for other businesses as well?

Councilmember Hersman: Well, wherever the pile of money comes from. I mean we'd have to obviously look at this and I mean, the last time we got a budget review, we had then, we had additional funds coming in that were not targeted for anything as I recall. So it's not necessarily TOT money, it's just whether we'd want to do something like that. I mean, I think that's a different conversation. You know that, do we want to do something to help our businesses?

Councilmember Napolitano: I agree and I think we do want to do things that help our businesses. I think we need probably to have a discussion with them before we decide what that is. I've talked to Kelly Stroman a bit about that and I say that because I think we also need to maintain context here. Yes, a lot of people will. Everything's different a lot of people will be looking to the cities and we're just in a daisy chain of people who are owed and might not get paid and who owe others and I just want to remind everyone that that is a truism when it comes down to it. Right. This isn't going to be a great year for PERS. We're probably going to as a city have to dip into reserves to pay and make up the difference for the PERS for our pensions that we owe at the end of the year because the, our pensioners are going to be looking to make sure that they're paid. And we owe them. And we've got our bills to pay and we've got a staff to pay. So we've got reserves but we also have a lot of ongoing expenses and so we're just going to have to be careful as to how we line all this up.

City Manager Moe: Yeah, and I would—

Councilmember Hersman: And you know the way to do that—

Councilmember Napolitano: We're going to be hurting very soon ourselves.

Councilmember Hersman: No, I know. I get that. I totally get that and I'm not suggesting that we, you know, just take all reserves and loan them out because, but I think that perhaps just asking staff, is there a way, is there a certain dollar amount they feel comfortable that we could loan and then that's it. You know, and so kind of, whether it's a thousand dollars apiece or whatever it is, whether that would help. I'm just, I'm just trying to get us out of the TOT,

looking at TOT because I think that's just a, that's a legal conundrum that I don't think we want to deal with right now.

City Attorney Barrow: So if I can interject at this moment. These are all great ideas, but yes, I agree with Nancy we should just focus on the TOT at this point and then perhaps schedule another meeting or at least discuss other ways of helping out the businesses. But at this time, it's really, the only issue on the agenda is really the TOT. And I'm looking at the code again and it basically just confirms what the Councilmembers have been saying. They're supposed to hold this in trust for the city with this money and they're not supposed to, they're supposed to keep these funds segregated. You know, they're not supposed to use that for other purposes.

Mayor Montgomery: Thank you, Quinn. I also, I appreciate Steve's comments that we have a much bigger hole to look at. In the fact that our sales tax city-wide, whether you're a car dealership or the mall, all are contributing to our sales tax that we get a piece back, yes 1 percent so think about that down the road, all the tax. So I'm looking for a motion from someone, Nancy was trying to make a motion, I cut her off. I apologize, Nancy.

Councilmember Hersman: I would just like to make a motion that we ask staff to just take a look at the possibility of doing something to help our small businesses in town. Small and not so small, all our businesses in town.

Mayor Montgomery: Let me rephrase that. Do you have a motion regarding the TOT question?

Councilmember Hersman: I would—

Mayor Pro Tem Hadley: I do your honor.

Councilmember Hersman: Ok.

Mayor Pro Tem Hadley: Go ahead, Nancy.

Councilmember Hersman: No, go ahead. Go ahead, Suzanne.

Mayor Pro Tem Hadley: If we're at the motion on TOT, I move that we adopt Beverly Hills' policy and put a pause of 120 days on the unpaid TOT from March and add it to their tab, their bill and revisit it in 120 days. It is not forgiven, but it's not a loan, no interest accrues but there's a pause for extraordinary circumstances in the month of March.

Mayor Montgomery: A question on the motion. Are you saying that the 120 is a fixed date? Or are you putting language to extend that past 120?

Mayor Pro Tem Hadley: I'm open to a friendly amendment I would say we just, we revisit it at 120 days and come up with a payment plan at that time. I think we'll know a lot more about everything, whether the hotel survives or not for instance, would be obvious at 120 days. If the hotel doesn't survive, we're not going to get the money anyways. If the hotel survives, they will want to work with us. They will want to dig out of it. A going concern will schedule payments with us. And this will not be forgiven. But I would like to not charge interest for 120 days that's my motion.

Mayor Montgomery: Do I have a second for Suzanne's motion?

Councilmember Hersman: Mayor, can I offer a not sure if this qualifies as a friendly amendment but that we defer this to after April 10th when we know how many hotels are going to be in this position and what we're really talking about as far as the dollar amount?

Mayor Montgomery: So alternate motion is that you want to suspend the discussion till April 10?

Councilmember Hersman: So yes, after April 10, after the filing of this first TOT -

City Manager Moe: Yes, this is Bruce, I may have misstated that. I believe it's the 20th. But the point is taken that you're talking about when we know what collections are.

Councilmember Hersman: I didn't get that.

Councilmember Napolitano: Your Honor.

Mayor Montgomery: We couldn't hear you.

City Manager Moe: So I want to clarify. I believe I said it was due on April 10th, it may be April 20th. But the spirit of what you're saying is when we know the collection amount, to revisit it then.

Mayor Montgomery: So your comment is that staff, we won't know, the City of Manhattan Beach won't know what the actual numbers are until April 20th.

City Manager Moe: That's correct.

Councilmember Napolitano: Your Honor?

Mayor Montgomery: Yes, Steve.

Councilmember Napolitano: If I could put out there as an amendment or for consideration of the make for the motion. One, I think I would just make this an option for the hotels because there are some hotels operationally who may not want to do this, who want to pay the City and not have this on their back or have the ability to pay the City. And the other thing is for

those people who, those hotel operators who do want to take advantage of this, I think they need to sign something that guarantees that the money is going to be used for the operation of the hotel and not put in anyone's pocket. I mean, it should be for the benefit of the workers and keeping them employed and keeping the doors open. It shouldn't be for the operator saying, and not trying to cast aspersions but just the reality is the operator could sit there and say well, I'm keeping it for me, I'll shut my doors but I've got this money from the TOT tax. It should be a guarantee that it's going to the operation and to keep the hotel going.

Mayor Montgomery: Good point.

Mayor Pro Tem Hadley: Yeah, I'm good with that. [Audio breaks up]

City Attorney Barrow: Mayor? Just –

Mayor Montgomery: Go ahead, Quinn.

City Attorney Barrow: Sorry to interrupt. Just procedurally, we had a motion and then I'm not sure if there was a second and then during discussion there was a substitute motion made. I don't know if there was a second on that. And then Steve had an amendment to one of those motions. And so, where are we procedurally?

Mayor Pro Tem Hadley: Nancy, pull it all together. Bring us home, Nancy.

Councilmember Hersman: No, I don't think I can. Because I, frankly, I don't think that we should waive that TOT. I have a, I have a real concern about them holding that money for our – it's not their money and so that's why I was suggesting that we look at it a different way and do something, some kind of a loan to businesses that need it, but separate and apart from the TOT. Cause I think the TOT is getting too complicated in this. I mean, you know, it's kind of like, Suzanne, it's kind of like if you were buying a house and you put money in escrow and then the escrow company says, "Ehh, you know we need that money to keep our business going right now so we're not going to give it to you." You would say no. Absolutely not.

Mayor Pro Tem Hadley: I totally get that. The biggest mistake small businesses make is thinking that they can not pay their sales tax, their workers comp, their FICA, that is literally small business mistake number one. So I totally get what they're doing and yes, it's not—

Councilmember Hersman: It's not right. I would rather say, pay the tax and we'll give you a loan. That makes it cleaner to me. You know, separate and apart from the TOT 'cause that's one or two businesses in town that are hurting and they're trying to use our money to fix that hurt.

[Mayor Pro Tem Hadley and Councilmember Hersman speaking at the same time]

Mayor Pro Tem Hadley: We are the IRS in this situation and we can choose to not shut somebody down and work, work with them.

Councilmember Hersman: And that's exactly what I—

Mayor Pro Tem Hadley: I've had family members have failing businesses with unpaid you know, Federal and State taxes and it's a bad scene and you can not just charge those obligations. But, everyone who wants to work with a creditor at the local County, State and Federal level can work something out and if these businesses are going concerns then they obviously want, will want to work with us. We will know shortly if they are not going concerns. And then, as Steve said, we are a creditor and we can press that, press that claim. But in a short term, I don't think you can squeeze blood out of a turnip. Their operations have come to a screeching halt, I am willing to work with them. I don't want to complicate this with other businesses. I think as the City Attorney said, this is a TOT discussion only. I do want to work with these guys. We will know so much in thirty or sixty days. I'm fine with the alternate motion to wait until after April 20th, but I do want to keep it on TOT. I do want to keep it with the hotels. I do want to work with them. I'm fine with freezing everything. We will know very shortly who's gonna make it and who doesn't. And if they don't make it, we're first in line. Trust me, taxes are first in line as a creditor and we will aggressively pursue payment.

Councilmember Hersman: So question.

Mayor Montgomery: So we have a motion by Mayor Pro Tem Hadley.

Councilmember Hersman: Wait, I have, I have one more question.

Mayor Montgomery: Go ahead, Nancy.

Councilmember Hersman: I have another question, Mayor, sorry.

Mayor Montgomery: Yes.

Councilmember Hersman: So, let's just assume they don't pay it. What is our procedure in the City if a hotel doesn't pay their TOT by April 20th? What happens next?

City Manager Moe: Well in normal time we would send them a late notice and in an extreme case we would send them to collection. Quinn probably has some options for us legally speaking but we typically have not run into this but people with unpaid bills they accrue penalties and interest and we go after them through collections.

Councilmember Hersman: And how quickly do we do that?

City Manager Moe: Normally it would take at least sixty days before we send somebody to a collection agency.

Councilmember Hersman: So wouldn't that be one way to deal with it, is to just say, we won't send it to a collection agency for 'X' number of days. It's due, they don't pay it. In a normal situation, I know this isn't normal and we just say we're going to give them a hundred twenty days before we send it to collection or whatever it might be. Isn't that just taking what our procedures are and making a slight change to it, as opposed to going into this whole discussion of they can hang on to their TOT money. It's just a different way of looking at it.

Mayor Montgomery: Is that a question for Bruce or just a comment?

Councilmember Hersman: Well, it is kind of a question for Bruce, I mean, or Quinn. Because then we don't have to go in to this you don't have to pay us on the twentieth or we're waiting to see if you pay us and then giving you more time. Instead we just, we just extend the date to which we send it to collections.

Councilmember Napolitano: It's a case by case basis.

Councilmember Hersman: Right.

Councilmember Napolitano: Right.

Councilmember Hersman: Doesn't, Isn't that a little cleaner than us sort of messing with this whole, whether the TOT's due or not due and a hundred and twenty days and all that?

Mayor Pro Tem Hadley: It sounds like a motion, Nancy. Go for it.

Councilmember Hersman: Alright. Alright, I'll have a substitute motion. So my motion is that TOT is due as, as it is April 20th or whatever date it is. So, TOT is due and the City will, on a case by case, look at the extending the date to which we send it to collections, you know down the line, a hundred and twenty days or more.

City Manager Moe: Quinn, this is probably a question for you.

Mayor Montgomery: Do I have a second? Go ahead, is Bruce talking?

City Attorney Barrow: There is a second. Yeah, he had a question for me Bruce.

Councilmember Hersman: I'm good with the—

Mayor Montgomery: Wait, one at a time. Who made the second?

Councilmember Hersman: You did.

Mayor Montgomery: I did. Alright. So go ahead, Quinn, Bruce.

City Manager Moe: Yeah, does staff have the authority Quinn, to negotiate penalties and interests that are due to the City with individual businesses?

City Attorney Barrow: My understanding of the motion is essentially really to do nothing at this point but to direct staff to come back after April 20th, let's say in May, and say, these are the two or three that did not pay and at that point, the Council can address, so let's waive penalties or whatever they want to do with that. That's my understanding of this motion. And just technically, it's not a substitute motion because the other motions did not have a second so this is just the, a regular motion that has a second.

Mayor Montgomery: Correct.

Mayor Pro Tem Hadley: Your honor, is there discussion?

City Attorney Barrow: Is that correct?

Mayor Montgomery: Go ahead, Mayor Pro Tem Hadley.

Mayor Pro Tem Hadley: Councilmember Hersman did I understand you, can you repeat what you said about the hundred and twenty days? There was not a [Audio breaks up] for a hundred twenty days or there was?

Councilmember Hersman: So, what I, what my motion is, is that we leave everything as is. TOT is to be paid when it's to be paid. At the time that staff looks at who has not paid on time, we could, whether we come back to it or not is another matter but we can then give them an extension on sending it to collections - no penalties, no interest, we'll just, we'll just give them an extension to pay it at that point down the line. And it can be whatever number of days you want to do. I mean, we can do two months, three months, whatever, whatever you think is appropriate.

Mayor Pro Tem Hadley: So you don't have a number of days in your motion? Should we have a number of days or would that be a second motion 'cause I'm not in favor of extending it indefinitely.

Councilmember Hersman: No, of course not.

Mayor Pro Tem Hadley: They need to get on a payment plan. As soon as they know they're going concern, than we do, then we need a payment plan.

Councilmember Hersman: Absolutely. I mean this was just to extend the date to which we send it to collections. So prior to that certainly they can get on a payment plan or they pay the whole amount. Whatever they can do.

Mayor Pro Tem Hadley: I'm good with your motion, with a date.

Councilmember Hersman: As Finance, what would be the best way to do that? If we were going to postpone sending it to collections, do you want, right now you said you wouldn't do

it for sixty days. Right, that's the normal process so if we added another sixty days on does that make sense?

Councilmember Napolitano: It goes by the warrants. So it goes by the Finance Subcommittee first, then the full Council for adoption.

Councilmember Hersman: Right. But if we make, adopt a motion today that says, TOT, any TOT that is not paid when due, instead of sixty days going to collection, it will be 120 days.

Councilmember Napolitano: Right, what I'm saying is, what I'm saying is that when we are in our Finance Subcommittee meetings, we would have that information as to who hasn't paid and then we would make a recommendation on that to the Council for adoption. Then the Council can decide at that time how many days they can have.

City Attorney Barrow: Correct.

[Many people speaking at once.]

Mayor Pro Tem Hadley: ...which has just kicked down to past April 20th. Which seems to be the cleanest since we already have a sixty day collection policy. And I actually think sixty, ninety days we'll kind of know if these are going concerns. So I actually like Hildy's motion, I don't know if it's still on the table, City Attorney or if it's been replaced.

Councilmember Hersman: Well, we've already got a motion and a second. So whatever the number of dates, you can just friendly amendment that. We can make it an additional sixty days at the end of the, in addition to the sixty days, it doesn't go to collections we'll add sixty days. And then it would go to Finance Subcommittee as Steve said to decide whether it goes to collections or not.

Mayor Pro Tem Hadley: That [no audio]. I would be good with ninety days. Except for Beverly Hills is granting one hundred twenty. I like the idea of there being a precedent with Beverly Hills but I could be comfortable with ninety days. But I do want a number in Councilmember Hersman's motion.

Councilmember Hersman: Well, I suggested an additional sixty which makes it one hundred twenty.

Mayor Pro Tem Hadley: Ok, let's do that. I'm good with that.

Councilmember Hersman: It's an additional sixty to the sixty that they already have.

Mayor Pro Tem Hadley: Gotcha.

Mayor Montgomery: So let me rephrase the motion then. So Nancy, your original motion that you want to revise it to one hundred twenty days total to extend.

Councilmember Hersman: One hundred and twenty days before sending it to collections. So it's due, when it's due.

Mayor Montgomery: Correct. Things stay exactly the same as they are today. For those that cannot or do not make a payment, then Steve said it will go to Finance Committee and we can work out a deal with them, if they need more time we can work out a time up to one hundred and twenty days.

Councilmember Hersman: Correct.

Mayor Pro Tem Hadley: Your honor, I have a question.

Mayor Montgomery: Yes, please.

Mayor Pro Tem Hadley: City Attorney Barrow, if we make this motion and pass it for an extra one hundred twenty days, does that hurt our spot in line as a creditor? Does it put us one hundred twenty days, so let's say, a hotel ABC goes under in the next thirty days have we granted that the hotel not owe us the TOT until a later date and therefore we could miss out on getting some of the assets? Or no, is it still owed the entire time throughout the one hundred twenty days?

City Attorney Barrow: It is still owed because it's a tax, which is a different pod of money. With that said, I'm not a bankruptcy attorney or a tax attorney and so I don't know. But just generally speaking it's in a different pod of money, it should take precedence.

Mayor Pro Tem Hadley: Ok, great.

Councilmember Hersman: Well, if you're concerned about, if you're concerned about that, maybe what, what it should be is that knowing that they've got sixty days past the due date, right, April 20th. They've got May, June 20th, before it would go to collections. Just in a normal world. Right, no Coronavirus world. So perhaps we just leave it and let the Finance Subcommittee make a decision. After those sixty days, we give them more time or not.

Mayor Montgomery: Absolutely.

Councilmember Hersman: If we're concerned.

Mayor Pro Tem Hadley: So we're back to case by case.

Councilmember Hersman: Yeah, but we now know that they do have two months, two additional months to pay it. Right? We didn't know that before.

Mayor Montgomery: Correct.

[Many people speaking at once]

Mayor Montgomery: Before the City sends to collections you have two extra months. You are both absolutely correct.

City Manager Moe: Ok, and...

Mayor Montgomery: Finance Committee will see it and recommend it to the full Council.

City Manager Moe: If I can get clarification, penalties and interest will accrue during that amount of time as scheduled. Is that correct?

Mayor Pro Tem Hadley: No penalties or interest will accrue.

Councilmember Hersman: We could, yeah, we could waive those penalties during that, during that first sixty days.

City Manager Moe: But from...

Councilmember Hersman: That would be one way to do it.

City Manager Moe: Ok, but...

Councilmember Hersman: And we could give them another sixty days with no penalties if we wanted. Based on what the Finance Committee is looking at, at that time.

Mayor Montgomery: Correct.

City Manager Moe: Ok, so maybe I'm having a hard time understanding but are we accruing penalties the minute it's late like we normally would and then you'll revisit those later down the road? I'm sorry, was that a yes?

Mayor Pro Tem Hadley: I'm having a really hard time hearing Bruce.

Councilmember Hersman: Yeah.

City Manager Moe: Alright, can you hear me any better now? Hello?

Councilmember Hersman: You sound like you're in a, you know, a closet.

City Manager Moe: Ok. So, I'll say this as loudly as I can. Hopefully it will come through. Normally we'd be accruing penalties and interest starting on the 21st, are those continuing to accrue to be re-visited later on or are we waiving the penalties and interest now.

Mayor Pro Tem Hadley: I would move to waive penalties and interest. I would much rather extend an olive branch and hope and pray these businesses stay afloat. That would be the least of our worries is waiving some penalties and interest. This won't, this won't bleed over into all the other businesses, they pay their sales tax to the County and the State. But the hotels are in a unique position, unique partnership with the City. I would love to share that little bit of pain because they're such a golden goose for us when times are good.

Mayor Montgomery: So the maker of the motion, Nancy, do you accept the amendment change?

Councilmember Hersman: Well I think that's what we, I had originally said, but, yeah, whatever, I think the motion is we're going to leave things as they are. The TOT is due on April 20th and then after that date, there's no fees or penalties for the first sixty days and then at sixty days, the Finance Subcommittee can revisit it. Because remember, so that's going to take us out to August 20th. We'll have a whole lot more information by then. So have Finance Subcommittee revisit it and so there's no fees or penalties at that time. But remember, they're also going to be missing, what's the next date April, after April, is it every month they pay?

City Manager Moe: Every month.

Councilmember Hersman: Yeah, so this could keep leapfrogging down the road. So I think we need to watch it, keep it from leapfrogging too far, right? So we do the normal sixty days, we just waive the fees. So really the motion is just we don't do anything. We just waive fees and penalties if it's not paid on time -any of the, any of the TOT's coming up, April, May, you know, we don't, we waive it for sixty days, Finance Subcommittee takes a look at it and at that point makes a decision on what we do.

Mayor Montgomery: As the second, I...

Councilmember Stern: Can I, can I just add one thought maybe just to keep this in perspective, which is to include the language that we have used in other situations, which is, failure to pay because of the impact that this COVID situation has caused on this hotel, just so that there, that the waiver of the penalties and interest isn't a long standing, going forward, it's only during this period where they can't pay because of the impacts of the COVID.

Councilmember Hersman: I agree with that friendly amendment.

Mayor Montgomery: As do I. Anyone else? Then we need a roll call please, Martha.

Sr. Deputy City Clerk Alvarez: Councilmember Stern

Councilmember Stern: Yes

Sr. Deputy City Clerk Alvarez: Mayor Pro Tem Hadley

Mayor Pro Tem Hadley: Yes

Sr. Deputy City Clerk Alvarez: Councilmember Napolitano

Councilmember Napolitano: Yes

Sr. Deputy City Clerk Alvarez: Mayor Montgomery

Mayor Montgomery: Yes

Sr. Deputy City Clerk Alvarez: Councilmember Hersman

Councilmember Hersman: Yes

Sr. Deputy City Clerk Alvarez: Motion passes 5-0

Mayor Montgomery: Thank you, Martha. City Manager, on your item next up, this is open discussion on any other COVID related issues.

City Manager Moe: Yes, and in particular I wanted to bring up the direction that we received on Wednesday from Council and what we've had by way of activity in that area. Ryan Heise is on the line with us as is Chief Abell and they can answer questions as well. Carrie is with us as well. So I have a statistic report from yesterday's activity. COVID related Code Enforcement activity, there were a total of twenty-two contacts made yesterday. Seventeen were related to requirements for essential businesses being open. Two...I'm sorry two were related to eviction under the City's new urgency ordinance and three were related to social distancing. There was one business, or one construction site that was closed down yesterday. And we continue to monitor construction sites not only using our two on staff Code Enforcement officers but more recently here with our CSO's and our police officers. The issue came up the other day about citation ability. There is specialized training that's required to issue citations and so we are utilizing those folks on staff. Again, CSO's, police officers and code enforcement for that activity.

*Transcription provided by Caroline Choi, Administrative Clerk, Department of Management Services, City of Manhattan Beach.