

March 23, 2020

City Council of McFarland

Mayor Sally Gonzalez
Councilmember Stephen McFarland
Councilmember Rafael Melendez
Councilmember Maria T. Perez

Council Chambers
103 West Sherwood Ave.
McFarland, CA 93250

Re: Postponement of Conditional Use Permit Nos. 01-96 and 02-96
appeal hearing, and March 26 City Council vacancy hearing, in light of the international
COVID-19 pandemic

Dear Members of the McFarland City Council:

In consideration of community welfare and considering the COVID-19 pandemic, we respectfully urge you to postpone both the City Council meeting scheduled for March 26, 2020, where important decisions on the council vacancy will be decided, and the appeal hearing for Conditional Use Permit Nos. 01-96 and 02-96. We also request that the City of McFarland post public notices for all public hearing updates on its website, so that information may be safely obtained by impacted residents during the COVID-19 health crisis.

Two critical hearings urging public input are currently pending before the Council. At the McFarland Planning Commission hearing on February 18, Conditional Use Permit Nos. 01-96 and 02-96 were not approved. On February 26, 2020, GEO Group Inc. filed an appeal, prompting a scheduled public hearing, at which time the matter will be considered by the City Council. Following this hearing, former Mayor Manuel Cantu Jr. stepped down, creating a vacancy on the Council which is currently scheduled to be filled on March 26, 2020. At these hearings, various organizations, many of whom are based in McFarland and/or serve the Mesa Verde detention center, look forward to providing robust public testimony to ensure that all issues are fully considered by the City. However, we know that we join the City in putting the Community's safety and welfare above all else. In light of the COVID-19 pandemic and the various federal, state, and local recommendations, we request that these hearings (Conditional Use Permit appeal hearing; and March 26 City Council vacancy hearing) be postponed until at least 30 days, or until large public gatherings are deemed safe by the California Department of Public Health.

On March 11th, the World Health Organization labeled COVID-19 as a pandemic, citing the “alarming levels of spread and severity, and ... alarming levels of inaction,”¹ with over 118,000 cases across 110 countries. The United States Government and the State of California have both declared a state of emergency and on March 19, 2020, Governor Newsom issued an Executive Order ordering everyone in the state to “stay at home” except for delineated critical purposes (such as groceries and medical care) for the entire state of California, effective the evening of March 19, 2020 and in place until further notice.² Indeed, without an increased correction in our response, experts indicate that the situation could worsen.³ California now projects that “roughly 56 percent of our population - 25.5 million people - will be infected with the virus over an eight week period.”⁴ According to the California Department of Public Health “[a]ll gatherings should be postponed or canceled.”⁵ Because of the substantial risk to public health and safety, we urge the City to adopt protocols which align with county, state, and federal health experts. Here, this means postponing the pending Conditional Use Permit appeal hearing and the March 26 City Council vacancy hearing.

Given the COVID-19 pandemic and the Governor’s recently issued “Stay at Home” order, we request that the aforementioned public hearings be postponed in the interest of public welfare and safety. The Conditional Use Permit Nos. 01-96 and 02-96 regard the addition of two new types of incarceration facilities, triggering a variety of community impacts such as environmental and health concerns. As such, it is critically within the public interest that the community have a meaningful opportunity to attend in-person and provide public comment at the hearing. Similarly, the appointment of a new council member who will represent the community and be a regular member of the city’s decision-making body, requires community input. Because these issues impact so many aspects of McFarland City communities, we had been expecting these hearings to be attended by upwards of hundreds of community members. While we are encouraged by this level of community engagement and look forward to a rich discussion in which a diversity of perspectives are provided to the City on these issues, we are no longer able to convene under the Governor’s Executive order, and even before this shared deep concerns about convening so many people during the COVID-19 pandemic. We know that the City shares our deep commitment to

¹Rolling Updates on Coronavirus Disease (COVID-19), World Health Organization, (March 11, 2020) <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>

² CA Governor Gavin Newsom Executive Order (March 19, 2020), <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>

³ Robert P. Baird, What it Means to Contain and Mitigate the Coronavirus, The New Yorker (March 11, 2020), <https://www.newyorker.com/news/news-desk/what-it-means-to-contain-and-mitigate-the-coronavirus>

⁴ Letter from California Governor Gavin Newsom to Donald. Trump, requesting federal medical support (March 18, 2020), <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.18.20-Letter-USNS-Mercy-Hospital-Ship.pdf>

⁵ A “gathering” is any event or convening that brings together people in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, cafeteria, or any other indoor or outdoor space. Gathering Guidance, California Department of Public Health, Coronavirus Disease 2019 (COVID-19) (updated March 16, 2020) <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/cdph-guidance-gatherings-covid19-transmission-prevention-03-16-2020.pdf>

keeping public health at the forefront. As such, we request that the hearings be postponed by at least 30 days, or until large in-person public gatherings are deemed safe by the California Department of Public Health.

In addition to concern over the safety of community members attending the hearing, we wish to mention the safety of the people currently detained at the McFarland detention Center. We are particularly concerned about their health and safety, given GEO Group Inc.'s demonstrated failure to provide adequate medical care in the past.⁶ Protecting the health of people in detention is also a necessary step to protecting the public safety of the broader community, as detention center staff and ICE officers go back to their homes each night. We urge the City to ask GEO Inc. to adopt the recommendations provided by a recent stakeholder letter.⁷

Given the aforementioned concerns, we respectfully request the following:

1. That the hearings (Conditional Use Permit appeal hearing; and March 26 City Council vacancy hearing) be postponed by at least 30 days or until large in-person public gatherings are deemed safe by the California Department of Public Health;
2. Because response to the pandemic is understandably diverting resources to support the community as well as significantly disrupting the course of everyday business, we respectfully request thirty days public notice of any hearing on the city's website, and additionally to the undersigned contact; and
3. When the hearing is scheduled at a date/time when it is safe for in-person attendance, we request that the City follow appropriate safety measures like hosting in a large venue where social distancing may be practiced, and following all measures as suggested by the American Disabilities Act and the California Department of Public Health at that time.

Thank you for your time and consideration of this request. We appreciate that the City is committed to the health and safety of its residents and look forward to a date when both public input and public safety may be equally valued. Given the urgency of the situation, we look forward to your response to Tania Bernal, tbernal@ciyja.org, (661) 748-8903 by Tuesday, March 24.

Sincerely,

Tania Bernal
California Immigrant Youth Justice Alliance (CIYJA)

⁶ American Civil Liberties Union (ACLU), Detention Watch Network (DWN), National Immigrant Justice Center (NIJC), Fatal Neglect: How ICE Ignores Death in Detention (February 2016), <https://www.aclu.org/report/fatal-neglect-how-ice-ignores-death-detention>

⁷ American Civil Liberties Union (ACLU), Human Rights Watch (HRW), Letter to Mesa Verde Detention Facility re: COVID-19 (March 11, 2020), <https://www.aclusocal.org/en/press-releases/aclu-ice-must-develop-covid-19-plan-detention-centers>

Supporting Organizations:

ACLU of Southern California

Democratic Socialists of America Kern County

Immigrant Legal Resource Center

KWESI (Kern Welcoming and Extending Solidarity to Immigrants)

Rapid Response Network of Kern

UFW Foundation

Visión y Compromiso

Women's March Kern County