



CITY OF MONTEBELLO SPECIAL CITY COUNCIL MEETING AGENDA

MINUTES

THURSDAY, FEBRUARY 2, 2023 AT 6:00 PM

**CITY HALL COUNCIL CHAMBERS
1600 WEST BEVERLY BOULEVARD
MONTEBELLO, CALIFORNIA**

**TELECONFERENCE LOCATION FOR COUNCILMEMBER MELENDEZ:
HILTON SANTA BARBARA BEACHFRONT RESORT
LOBBY AREA
633 E. CABRILLO BOULEVARD
SANTA BARBARA, CA 93103**

OPENING CEREMONIES

CALL TO ORDER

Mayor Torres called the meeting to order at 6:01 p.m.

ROLL CALL

Members present were Mayor Torres, Mayor Pro Tem Peralta, and Councilmember Tamayo; Councilmember Melendez joined the meeting via teleconference and was not within the City boundaries. At this time, the two at-large seats remained vacant; Councilmember Jimenez and City Treasurer Matanga were absent. City Clerk Jimenez was also present for this meeting. Prior to the start of the meeting, the Senior Deputy City Clerk asked for clarification on whether holding the meeting would be a violation of the Brown Act as Government Code 54953 states that the majority of the Council has to participate in person within the City boundaries. City Attorney Alvarez-Glasman stated that three members constitute a quorum.

City Attorney Arnold Alvarez-Glasman, Assistant City Manager Arlene Salazar, Senior Deputy City Clerk Alicia Fernandez, Deputy City Clerk Kimberly Guillen were present.

PUBLIC COMMENTS ON AGENDA ITEMS ONLY (30 MINUTES)

At this time, the general public may ***only*** address the City Council during this Special Meeting on items which have been described in the notice of this Special meeting in accordance with Government Code Section 54954.3(a). Please be aware that the maximum time allotted for members of the public to speak on shall not exceed three (3) minutes per person. State Law prohibits the City Council from taking action or entertaining extended discussion on a topic not listed on the agenda. Please show courtesy to others and direct all of your comments to the Mayor.

The City Clerk's Office acknowledged four (4) members of the public wishing to address the City Council. Speakers were provided three minutes to address the City Council and said speaker cards are on file at the City Clerk's office.

The City Clerk's Office acknowledged two (2) written public comments submitted to the City's public comment email address; said comments are on file at the City Clerk's office.

REGULAR SESSION

REGULAR BUSINESS

- 1. INTRODUCTION AND FIRST READING AND WAIVE FULL READING OF AN ORDINANCE AMENDING SECTION 2.08.050 OF THE MONTEBELLO MUNICIPAL CODE TO REPEAL THE PROVISION ESTABLISHING A TEMPORARY SEVEN MEMBER CITY COUNCIL TO CAUSE THE CITY COUNCIL TO REMAIN A FIVE MEMBER BODY**

RECOMMENDATION: It is recommended that the City Council introduce and conduct a first reading and waive full reading of an Ordinance repealing that portion of the Montebello Municipal Code section 2.08.050(G) that established a temporary 7-member City Council to cause the City Council to remain a 5-member body.

Mayor Torres explained why he called the special meeting.

Councilmember Tamayo motioned to approve the item, seconded by Mayor Pro Tem Peralta; the motion was approved unanimously by four councilmembers present.

ADJOURNMENT

The City of Montebello will adjourn to the next **Regular Meeting on February 8, 2023, at 5:00 p.m.** which can be live-streamed at <https://www.montebellocal.gov> (Click on Live Stream).

Date and Posted: February 1, 2023, at 5:00 p.m.

I, Alicia Fernandez, Sr. Deputy City Clerk for the City of Montebello hereby certify that a copy of this agenda has been posted on or before **Sunday, February 1, 2023, at 5:00 p.m.**



Alicia Fernandez, Sr. Deputy City Clerk

Mayor Pro Tem Peralta motioned, seconded by Councilmember Tamayo to adjourn the meeting at 6:24 p.m.

THE MINUTES OF FEBRUARY 2, 2023 ARE HEREBY APPROVED AND ADOPTED ON THIS 10TH DAY OF APRIL 2023.

2/2/23 PUBLIC COMMENTS

Rodarte, Alejandro

From: Miguel Bautista <mb0435034@gmail.com>
Sent: Thursday, February 2, 2023 3:13 PM
To: Comment, ccpublic; Jimenez, Christopher
Subject: [External Email] Special meeting

Hello Council;

I do not understand what the emergency of a Special second meeting is in one week. Could this issue not wait 6 days? Or is it because of the people behind the scenes that gave money to you Mayor Torres and Pro Tem Peralta for Pot dispensaries? You are by far the worst Mayor in our city's history and people are already asking when can they do a Recall against you.

Once those employee lawsuits are filed my bet is the crooked Attorney Glassman will want to settle out of court so it doesn't go public. Your attack and mistreatment of employees are a disgrace, and those morons supporting will realize you're a phony.

Go ahead and email me to meet, I would love to tell you this to your face, unfortunately, many of us residents have jobs, unlike you to be there in person.

Sincerely,
Miguel Bautista

PLEASE DO NOT CLICK ON UNKNOWN LINKS. Contact Montebello IT Division if you are unsure.

VIA EMAIL

February 2, 2023

David Torres - Mayor
Scarlet Peralta – Mayor Pro Tem
Angie Jimenez – City Council Member
Salavador Melendez – City Council Member
Georgina Tamayo – City Council Member
Christopher Jimenez – City Clerk
Arnold Alvarez-Glassman – City Attorney
City of Montebello

Re: Quorum Necessary to Fill Perceived Council Vacancies

I was asked by some of you to address whether, assuming the Montebello City Council has seven seats, three members of the Montebello council can appoint two new members to vacancies outside the presence of the other two current members. **The simple answer is no. A quorum is required to appoint councilmembers to fill vacancies in nearly all circumstances, just as it is required to take nearly any action, and a quorum of a seven-seat council is four members.**

The decision in *Price v. Tennant Community Services District* (1987) 194 Cal.App.3d 493 is directly on point. In *Price*, the court considered whether a quorum (in that case three members of a five-seat board) was required to appoint new members to fill vacancies. The court determined that a quorum was required, and thus reversed the decision of the trial court.

As explained in *Price*, a quorum is a majority of the total size of a board. In order for there to be any vacancies at all on the Montebello City Council, there must be at least seven seats on the council (a point that is itself dubious). If there are seven seats, a quorum is at least four members. Without four members, non-ministerial acts cannot be performed by a seven-member city council. Of course, if the Montebello council is five seats, then there is no need or ability to appoint anyone because there are no vacancies.

While a creative advocate – not an evenhanded judge – looking to justify

appointments by less than a quorum of a city council, might point to *Nesbitt v. Boltz* (1939) 13 Cal.2d 677, that case does not support that position. As the court in *Price* explained, the *Nesbitt* decision addressed a very narrow unique situation – the peculiar statutory scheme of recall elections that existed at that time (but has since been replaced). Where, unlike in *Nesbitt*, the Government Code (or another statute) requires a quorum for action by a governing board, the *Nesbitt* decision is inapplicable. The Government Code requires a quorum for city council action, just like it required a quorum for a community services district to take action in *Price*. (See Gov't Code 36810).

Attempting to act without a quorum of four members present, would only serve to invite costly and inevitable litigation.

I hope this is helpful in aiding you to navigate the uncertainty created by a poorly crafted ordinance. If I can be of further assistance, or you would like to discuss this matter, please feel free to call me at 310-457-0970.

Very truly yours,

Kevin Shenkman

Kevin I. Shenkman



SPEAKER CARD

Please Note: Address and phone number are optional and not required to speak.

Public Comment/Speaker Card must be submitted to City Clerk's Office prior to 5:00 p.m. for live meetings or in accordance with Assembly Bill 361 for video/audio meetings.

Type of Comment:

Closed Session ☐

Non-Agenda Item ☐

AGENDA ITEM NO. 1

Meeting Date: _____

Time Received: _____

Date Received: _____

SPEAKER'S FULL NAME:

Will Cervera

PHONE: _____

(Optional)

ADDRESS: _____

(Optional)

ORGANIZATION REPRESENTED: _____

Opposed ☐ In Support ☐ Neutral ☐ **TOPIC:** _____

NOTES: _____

ACCOMMODATIONS: _____

Translation Needed: No ☐ Yes ☐ **Language:** _____

Received by Staff _____

Received Via: Email ☐ Phone ☐ In Person ☐



SPEAKER CARD

Please Note: Address and phone number are optional and not required to speak.

Public Comment/Speaker Card must be submitted to City Clerk's Office prior to 5:00 p.m. for live meetings or in accordance with Assembly Bill 361 for video/audio meetings.

Type of Comment:Closed Session ☐Non-Agenda Item ☐**AGENDA ITEM NO.** _____**Meeting Date:** _____**Time Received:** _____**Date Received:** _____**SPEAKER'S FULL NAME:**Anda Morales**PHONE:** _____

(Optional)

ADDRESS:MATCH 90640

(Optional)

ORGANIZATION REPRESENTED: _____Opposed ☐ In Support ☐ Neutral ☐ **TOPIC:** _____**NOTES:** _____**ACCOMMODATIONS:** _____**Translation Needed:** No ☐ Yes ☐ Language: _____**Received by Staff** _____**Received Via:** Email ☐ Phone ☐ In Person ☐



SPEAKER CARD

Please Note: Address and phone number are optional and not required to speak.

Public Comment/Speaker Card must be submitted to City Clerk's Office prior to 5:00 p.m. for live meetings or in accordance with Assembly Bill 361 for video/audio meetings.

Type of Comment:Closed Session ☐Non-Agenda Item ☐**AGENDA ITEM NO.** _____**Meeting Date:**1/2/23**Time Received:****Date Received:****SPEAKER'S FULL NAME:**Tila Gregorian**PHONE:**

(Optional)

ADDRESS:on file

(Optional)

ORGANIZATION REPRESENTED:Opposed ☐ In Support ☐ Neutral ☐ **TOPIC:** _____**NOTES:****ACCOMMODATIONS:**Translation Needed: No ☐ Yes ☐ Language: _____

Received by Staff _____

Received Via: Email ☐ Phone ☐ In Person ☐



SPEAKER CARD

Please Note: Address and phone number are optional and not required to speak.

Public Comment/Speaker Card must be submitted to City Clerk's Office prior to 5:00 p.m. for live meetings or in accordance with Assembly Bill 361 for video/audio meetings.

Type of Comment:Closed Session ☐Non-Agenda Item ☐**AGENDA ITEM NO.** _____**Meeting Date:**2/2/23**Time Received:**5:58**Date Received:**2/2/23**SPEAKER'S FULL NAME:**Scott Roberts**PHONE:** _____

(Optional)

ADDRESS: _____

(Optional)

ORGANIZATION REPRESENTED: _____Opposed ☐In Support ☐Neutral ☐**TOPIC:** _____**NOTES:** _____**ACCOMMODATIONS:** _____**Translation Needed:**No ☐Yes ☐

Language: _____

Received by Staff _____**Received Via:** Email ☐Phone ☐In Person ☐