



---

## **CITY OF MONTEBELLO REGULAR MEETING**

### **MINUTES**

**WEDNESDAY, SEPTEMBER 11, 2024 AT 7:00 PM**

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

---

#### **OPENING CEREMONIES**

#### **CALL TO ORDER - 6:00 P.M.**

*Mayor Peralta called the meeting to order at 7:03 p.m.*

#### **ROLL CALL**

*Members present were Mayor Peralta, Mayor Pro Tem Melendez, Councilmember Jimenez, Councilmember Torres, and Councilmember Tamayo. City Clerk Jimenez and City Treasurer Matanga were also present.*

*Deputy City Attorney Noel Tapia, City Manager Raul Alvarez, Senior Deputy City Clerk Kimberly Guillen, Deputy City Clerk Nelly Ochoa, and Department Directors Cesar Roldan, David Sosnowski, Michael Solorza, Police Chief Paul Espinosa, Fire Chief Fernando Pelaeza, Acting Director John Soria, and Assistant Director Matthew Ramos were present.*

#### **ANNOUNCEMENT OF CLOSED SESSION ITEMS**

*None.*

#### **PUBLIC COMMENTS ON CLOSED SESSION ITEMS**

At this time, the public may submit a speaker card to the City Clerk staff for Closed Session items, prior to the beginning of this statement. Speakers will be called in the order received. Please be aware that the maximum time allotted for members of the public to speak on Closed Session items 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 and City Council.

*None.*

#### **CLOSED SESSION - NONE**

#### **REGULAR SESSION - IMMEDIATELY FOLLOWING CLOSED SESSION**

---

**CLOSED SESSION REPORT - NONE**

**INVOCATION**

*Led by City Clerk Jimenez.*

**PLEDGE OF ALLEGIANCE**

*Led by City Treasurer Matanga.*

**CORRECTIONS TO THE AGENDA - CITY MANAGER**

*None.*

**CEREMONIAL ITEMS/PRESENTATIONS**

**1. MONTEBELLO-ASHIYA SISTER CITY STUDENTS**

*Montebello Asihya Sister City Association Student Ambassadors Isaac Flores and Ben Richards shared a few words and a video presentation of their trip to Ashiya, Japan.*

**2. MONTEBELLO WOMEN'S CLUBHOUSE 100-YEAR ANNIVERSARY**

*Presented by Mayor Peralta.*

**3. PROCLAMATION FOR PATRIOT DAY AND NATIONAL DAY OF SERVICE AND REMEMBRANCE**

*Presented by Mayor Peralta.*

**4. PROCLAMATION FOR NATIONAL HISPANIC HERITAGE MONTH**

*Presented by Mayor Peralta.*

**5. PROCLAMATION FOR NATIONAL PREPAREDNESS MONTH**

*Presented by Mayor Peralta.*

**6. PROCLAMATION FOR RAIL SAFETY MONTH**

*Presented by Mayor Peralta.*

**PUBLIC COMMENTS ON NON-AGENDA ITEMS (30 MINUTES)**

At this time, the public may submit speaker card(s) to the City Clerk staff, for both agenda and non-agenda items, prior to the beginning of this statement; Public Hearing items do not require a speaker card.

The City Council will address non-agenda items during this section and speakers will be called in the order received. Those persons not accommodated during this 30-minute period will have an opportunity to speak under "Public Comments – Continued", after all scheduled matters have been considered. **Public Hearing, Regular Business and/or Consent Calendar items will be addressed at the time that matter of business is heard, in the order received.**

***Please be aware that the maximum time allotted for members of the public to speak shall not exceed three (3) minutes per speaker. 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 and City Council.***

*The City Clerk's Office acknowledged seven(7) 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.*

**STAFF COMMUNICATIONS ON ITEMS OF COMMUNITY INTEREST**

*None.*

**PUBLIC HEARING****7. ADOPT RESOLUTION NO. 24-65 APPROVING THE FISCAL YEAR 2023-24 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)**

**RECOMMENDATION:** It is recommended that the City Council conduct a public hearing and consider the following:

1. Adopt Resolution No. 24-65 approving the Fiscal Year 2023-24 draft Consolidated Annual Performance and Evaluation Report (CAPER); and
2. Take such additional, related action that may be desirable.

*Mayor Peralta started the Public Hearing at 8:03 p.m.*

*There were no speakers.*

*Mayor Peralta closed the Public Hearing at 8:03 p.m.*

*Councilmember Tamayo and Mayor Peralta spoke in support of the item and thanked the staff for their work.*

*Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, to approve the item; the motion passed unanimously.*

**REGULAR BUSINESS****8. FINAL ACTIONS TO BE TAKEN BY THE CITY COUNCIL UPON COUNCILMEMBER JIMENEZ TO ENSURE A SAFE WORKING ENVIRONMENT FOR EMPLOYEES IN THE CITY OF MONTEBELLO**

**RECOMMENDATION:** It is recommended that the City Council:

1. Evaluate the Investigation into the Workplace Incident on March 6, 2024, Involving Councilmember Jimenez; and
2. Consider taking Final Actions for Councilmember Jimenez to Ensure a Safe Working Environment for Employees in the City of Montebello; and
3. Take such additional, related action that may be desirable.

*The City Clerk's Office acknowledged three(3) 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.*

*Myrna Castañon, Special Counsel, provided a brief summary of the investigation findings.*

*Councilmember Jimenez and Mayor Pro Tem Melendez spoke in opposition of the item.*

*Councilmember Tamayo, Councilmember Torres, and Mayor Peralta spoke in favor of the item. Councilmember Torres recommended harassment prevention training.*

*Councilmember Torres motioned, seconded by Councilmember Tamayo, to approve the item; the motion passed by the following vote:*

**MOVED:** Torres

**SECONDED:** Tamayo

**APPROVED:** 3-1-1-0

**AYES:** Tamayo, Peralta, Torres

**NOES:** Jimenez

**ABSTAIN:** Melendez

**ABSENT:** None

**CONSENT CALENDAR**

All matters listed under the Consent Calendar are considered to be routine. Any items a member wishes to discuss, including any items the public submitted speaker cards for, should be designated at this time. All other items may be approved in a single motion. Such approval will also waive the reading of any Ordinance.

*Councilmember Jimenez pulled Item Nos. 10 and 11.*

*Councilmember Torres pulled Item Nos. 9, 10, and 11.*

*Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, that Item No's. 12-17, be approved; the motion passed unanimously.*

**9. APPROVE AMENDMENT NO. 2 TO AGREEMENT NO. 3857 WITH BLAIS & ASSOCIATES FOR GRANT WRITING SERVICES TO INCREASE THE ANNUAL NOT-TO-EXCEED AMOUNT AND EXTEND THE TERM OF THE AGREEMENT**

**RECOMMENDATION: It is recommended that the City Council:**

1. Approve Amendment No. 2 to Agreement No. 3857 with Blais & Associates to increase the annual not-to-exceed amount to \$100,000 and extend the term of the agreement to June 30, 2026; and
2. Authorize the City Manager to execute Amendment No. 2 to Agreement No. 3857 with Blais & Associates; and
3. Amend the Fiscal Year 2024-25 budget by increasing appropriations by \$35,000 in Account No. 100-85-850-6040.10 (General Fund, Fire, Fire Administration, Contract Services-Outside Contracts); and
4. Take such additional, related action that may be desirable.

*Councilmember Torres spoke in support of the item.*

*Councilmember Torres motioned, seconded by Mayor Pro Tem Melendez, to approve the item; the motion passed unanimously.*

**10. AWARD A CONSTRUCTION CONTRACT TO COPP CONSTRUCTION, INC. FOR THE BELLA VERDE DRIVE PAVEMENT REHABILITATION PROJECT CP – 918**

**RECOMMENDATION: It is recommended that the City Council:**

1. Award a construction contract to Copp Contracting, Inc. for the Bella Verde Drive Pavement Rehabilitation Project – CP 918 as the most responsive and responsible bidder for the amount of \$919,852 plus a 10% construction contingency of \$91,985 for a total contract amount of \$1,011,837; and
2. Authorize the City Clerk's Office to release all other bidders' bonds; and
3. Authorize the City Manager to execute the construction contract agreement and all change orders in good faith; and
4. Take such additional, related action that may be desirable.

*Councilmember Jimenez inquired about the funding for the project. Director of Public Works, Cesar Roldan, provided clarification.*

*Mayor Pro Tem Melendez motioned, seconded by Councilmember Jimenez, to approve the item; the motion passed unanimously.*

**11. APPROVE AMENDMENT NO. 10 TO PROFESSIONAL SERVICES AGREEMENT NO. 3066 WITH INFRASTRUCTURE ENGINEERS, A BOWMAN COMPANY FOR PROJECT MANAGEMENT SERVICES**

**RECOMMENDATION: It is recommended that the City Council:**

1. Approve Amendment No. 10 to Agreement No. 3066 with Infrastructure Engineers, a Bowman Company, for Project Management Services for a not-to-exceed amount of \$149,760; and
2. Authorize the City Manager to execute Amendment No. 10; and
3. Take such additional, related action that may be desirable.

Councilmember Jimenez spoke in opposition to the item.

Councilmember Torres motioned, seconded by Councilmember Tamayo, to approve the item; the motion passed by the following vote:

|                                                |                         |                          |
|------------------------------------------------|-------------------------|--------------------------|
| <b>MOVED:</b> Torres                           | <b>SECONDED:</b> Tamayo | <b>APPROVED:</b> 4-1-0-0 |
| <b>AYES:</b> Melendez, Tamayo, Torres, Peralta |                         |                          |
| <b>NOES:</b> Jimenez                           |                         |                          |
| <b>ABSTAIN:</b> None                           |                         |                          |
| <b>ABSENT:</b> None                            |                         |                          |

12. **APPROVE LETTER OF ENGAGEMENT TO MASTER RETAINER AGREEMENT NO. 3919 WITH AIM CONSULTING SERVICES FOR CONSTRUCTION MANAGEMENT/ INSPECTION SERVICES FOR THE BELLA VERDE DRIVE PAVEMENT REHABILITATION PROJECT (CP NO. 918)**

**RECOMMENDATION:** It is recommended that the City Council:

1. Approve Task No. 9 via an Engagement Letter under Master Retainer Agreement No. 3919 with AIM Consulting Services for Construction Management and Inspection Services for the Bella Verde Drive Pavement Rehabilitation Project; and,
2. Authorize the City Manager to execute the Letter of Engagement; and,
3. Take such additional, related action that may be desirable.

Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, to approve the item; the motion passed unanimously.

13. **APPROVE AMENDMENT NO.1 TO AGREEMENT 3910 WITH WOLVERINE FENCE COMPANY INC. TO PROVIDE FENCE REPAIR AND REPLACEMENT SERVICES**

**RECOMMENDATION:** It is recommended that the City Council:

1. Approve Amendment No. 1 to Agreement 3910 between the City of Montebello and Wolverine Fence Company, Inc. to extend the term of the agreement by one (1) year; and,
2. Authorize the City Manager to execute the Amendment; and,
3. Take such additional, related action that may be desirable.

Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, to approve the item; the motion passed unanimously.

14. **ADOPT PLANS, SPECIFICATIONS AND ENGINEER'S ESTIMATE FOR FIRE STATION NO. 56 RENOVATION PROJECT (CP 923) AND AUTHORIZATION TO PROCEED WITH BID ADVERTISEMENT**

**RECOMMENDATION:** It is recommended that the City Council:

1. Adopt the 100% completed plans, specifications and engineer's estimate for the Fire Station No. 56 Renovation Project (CP 923); and,
2. Approve Environmental Assessment pursuant to 14 California Code of Regulations § 15301 as a Class 1 categorical exemption under the California Environmental Quality Act (CEQA); and,
3. Approve Level of Environmental Review Determination via the National Environmental Policy Act (NEPA) as Categorically Excluded per 24 Code of Federal Regulations (CFR) 58.35(a), and subject to laws and authorities at §58.5: (3) and,
4. Authorize staff to proceed with bid advertisement for construction; and,
5. Take such additional, related action that may be desirable.

Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, to approve the item; the motion passed unanimously.

15. **AWARD CONSTRUCTION CONTRACT TO CALIFORNIA LANDSCAPE & DESIGN, INC. FOR THE MONTEBELLO CITY PARK BASEBALL FIELD RENOVATION PROJECT (CP 928)**

**RECOMMENDATION: It is recommended that the City Council:**

1. Award a construction contract to California Landscape & Design, Inc. for the Montebello City Park Baseball Field Renovation Project (CP 928) in the amount of \$799,882 plus a 5% construction contingency of \$39,994 for a total contract amount of \$839,876; and,
2. Amend the Fiscal Year 2024-25 Budget by increasing appropriations by \$288,725 in Account 100-70-710-6040.10 (General Fund, Parks & Recreation, Recreation, Contract Services Outside Contracts); and,
3. Authorize the City Clerk's Office to release all other bidders' bonds; and,
4. Authorize the City Manager to execute the construction contract agreement and all change orders in good faith; and,
5. Take such additional, related action that may be desirable.

*Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, to approve the item; the motion passed unanimously.*

**16. APPROVE AMENDMENT NO. 2 TO AGREEMENT NO. 4113 WITH AVAIL TECHNOLOGIES, INC. FOR COMPUTER-AIDED DISPATCH/AUTOMATIC VEHICLE LOCATION SYSTEM EQUIPMENT REPLACEMENT**

**RECOMMENDATION: It is recommended that the City Council:**

1. Approve Amendment No. 2 to Agreement No. 4113 with Avail Technologies, Inc. to replace equipment for Montebello Bus Lines' (MBL) Computer-Aided Dispatch/Automatic Vehicle Location (CAD/AVL) System, and increase the not-to-exceed amount of the agreement to \$2,485,118; and
2. Authorize the City Manager and/or his designee to execute Amendment No. 2 on behalf of the City of Montebello; and
3. Amend the Fiscal Year 2024-25 budget by increasing appropriations by \$115,984 in Account No. 202-922-2018-6040.10 (State of Good Repairs, SA, FY 2018-19, Other Contract Services); and,
4. Take such additional, related action that may be desirable.

*Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, to approve the item; the motion passed unanimously.*

**17. PAYMENT OF BILLS: ADOPT RESOLUTION NO. 24-74 APPROVING THE CITY WARRANT REGISTER OF DEMANDS DATED SEPTEMBER 11, 2024**

**RECOMMENDATION: It is recommended that the City Council:**

1. Adopt Resolution No. 24-74 approving the Warrant Register dated September 11, 2024.

*Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, to approve the item; the motion passed unanimously.*

**PUBLIC COMMENTS - CONTINUED****AB 1234 TRAVEL REPORTS**

Members will provide a brief report on meetings attended at the expense of the local agency as required by Government Code Section 53232.3(d).

*Councilmember Tamayo attended the Gateway Cities Regional Conference and Retreat. She attended workshops focused on transportation, economic development, housing, environmental, health and wellness, and funding opportunities.*

*Mayor Pro Tem Melendez attended the Contract Cities Conference. At the conference, they discussed new technology for enforcing designated truck routes and new Senate Bills.*

**COUNCIL/AGENCY ORALS**

Announcements and requests for future agenda items.

- **Angie M. Jimenez, Councilmember**

1. Seek council consensus to have the City Manager return back to the City Council with the cost of establishing a substation at Holifield.
2. Regarding the efforts for the DePaul Center historical preservation, I'd like to ask to give staff direction to return back to City Council with impacts to the housing element and general plan.
3. Requesting a staff report on how much the annual maintenance will be for the new dog park.

1. City Manager Alvarez advised no action was needed as it was being considered for the next budget. Mayor Peralta added that the Council had already agreed to allocate funds for a substation in next year's budget. City Manager Alvarez further explained that determining the cost involves many factors and will take time. Mayor Pro Tem Melendez requested an update on the cost assessment process, to which City Manager Alvarez responded that a brief status update would be provided during the mid-budget presentation.

2. City Manager Alvarez stated that the historical designation does not impact the General Plan or Housing Element. The property in question is still considered an R-1, single-family residence. The General Plan land use designation for the DePaul Center civic/public/quasi-public in operation civic building and spaces remains the same. As for the Housing Element, identified the DePaul Center as a housing opportunity site, it does not mandate housing development but merely shows potential for housing with densities ranging from 40–60 units per acre. In addition, the plan contemplated a space to be dedicated to open space. City Attorney Noel Tapia recommended that the City post the information on the City's website.

3. City Manager Alvarez stated that no additional maintenance is required.

- Georgina Tamayo, Councilmember

- David N. Torres, Councilmember

1. Requesting council consensus directing the City Manager and Chief of Police to redraw police beats so patrol units are dedicated to areas South of the Union Pacific Railway i.e. railroad tracks near Olympic Blvd.

The City Clerk's Office acknowledged one(1) member of the public wishing to address the City Council. Speaker was provided three minutes to address the City Council and said speaker card is on file at the City Clerk's office.

Councilmember Torres requested Council consensus to direct the City Manager and Chief of Police to redraw police beats so patrol units are dedicated to areas South of the Union Pacific Railway such as the railroad tracks near Olympic Boulevard. Consensus was received.

- Salvador Melendez, Mayor Pro Tem

- Scarlet Peralta, Mayor

**CLOSED SESSION - CONTINUED**

### **ADJOURNMENT**

The City of Montebello will adjourn to the next **Regular Meeting on September 25, 2024, at 6:00 p.m.**, which can be live-streamed at <https://www.montebellocity.gov> (Click on Live Stream).

I, Kimberly Guillen, Senior Deputy City Clerk for the City of Montebello, hereby certify that a copy of this agenda has been posted on or before **Sunday, September 8, 2024, no later than 6:00 p.m.**



---

Kimberly Guillen, Senior Deputy City Clerk

*Councilmember Torres adjourned in the memory of his mother, Janice Torres, and Montebello resident, Debra Goodman. Mayor Pro Tem Melendez motioned, seconded by Mayor Peralta, to adjourn the meeting at 9:12 p.m.*

***THE MINUTES OF SEPTEMBER 11, 2024, ARE HEREBY APPROVED AND ADOPTED ON THIS 9TH DAY OF OCTOBER 2024.***

### **EXHIBIT - CITY OF MONTEBELLO FORECASTED AGENDA**

Please note, the attached exhibit is a draft version that is to be used for reference purposes only; agenda items, information, and dates are subject to change. The exhibit will be placed at the end of the Agenda Packet.

- **CITY OF MONTEBELLO FORECASTED AGENDA**

Michael Peterson

PLEASE NOTE: A SEPARATE CARD MUST BE SUBMITTED FOR EACH ITEM

✓

CITY OF MONTEBELLO

Request No. 1



# SPEAKER CARD

Please Note:

Public Comment/Speaker Card must be submitted to the City Clerk's Office prior to the statement of oral communications being read and/or 6:00 p.m., whichever is later.

**TYPE OF COMMENT:**

Closed Session ☐

Non-Agenda Item ☒

AGENDA ITEM NO. \_\_\_\_\_

Opposed ☐

In Support ☐

Neutral ☐

TOPIC: \_\_\_\_\_

public comment

MEETING DATE: 09/25/24

TIME RECEIVED: 6:00pm

SPEAKER'S FULL NAME: Michael Peterson

PHONE: \_\_\_\_\_

(Optional)

ADDRESS: \_\_\_\_\_

ORGANIZATION REPRESENTED: SEIU Local 721

(Optional)

NOTES: \_\_\_\_\_

ACCOMMODATIONS: \_\_\_\_\_

TRANSLATION NEEDED: No ☐ Yes ☐ Language: \_\_\_\_\_

RECEIVED BY STAFF: \_\_\_\_\_

Lisa Lwna



PLEASE NOTE: A SEPARATE CARD MUST BE SUBMITTED FOR EACH ITEM

CITY OF MONTEBELLO

Request No.

2



# SPEAKER CARD

Please Note:

Public Comment/Speaker Card must be submitted to the City Clerk's Office prior to the statement of oral communications being read and/or 6:00 p.m., whichever is later.

**TYPE OF COMMENT:**

Closed Session ☐

Non-Agenda Item ☒

AGENDA ITEM NO. \_\_\_\_\_

Opposed ☐

In Support ☐

Neutral ☐

TOPIC: \_\_\_\_\_

open public comment  
6:00pm

**MEETING DATE:**

04-25-24

**TIME RECEIVED:**

6:00pm

**SPEAKER'S FULL NAME:**

Lisa Lwna

PHONE: \_\_\_\_\_

(Optional)

ADDRESS: \_\_\_\_\_

ORGANIZATION REPRESENTED: \_\_\_\_\_

SEIU

(Optional)

Local 721

NOTES: \_\_\_\_\_

ACCOMMODATIONS: \_\_\_\_\_

TRANSLATION NEEDED: No ☐ Yes ☐

Language: \_\_\_\_\_

RECEIVED BY STAFF: \_\_\_\_\_

Charles Leon



PLEASE NOTE: A SEPARATE CARD MUST BE SUBMITTED FOR EACH ITEM

CITY OF MONTEBELLO

Request No.

3



# SPEAKER CARD

Please Note:

Public Comment/Speaker Card must be submitted to the City Clerk's Office prior to the statement of oral communications being read and/or 6:00 p.m., whichever is later.

**TYPE OF COMMENT:**

Closed Session ☐

Non-Agenda Item ☒

AGENDA ITEM NO. \_\_\_\_\_

Opposed ☐

In Support ☐

Neutral ☐

TOPIC:

public comment

**MEETING DATE:**

09-25-24

**TIME RECEIVED:**

6:00pm

**SPEAKER'S FULL NAME:**

Charles Leon

PHONE: \_\_\_\_\_

(Optional)

ADDRESS: \_\_\_\_\_

ORGANIZATION REPRESENTED: \_\_\_\_\_

SEIU Local 721

NOTES: \_\_\_\_\_

ACCOMMODATIONS: \_\_\_\_\_

TRANSLATION NEEDED: No ☐ Yes ☐ Language: \_\_\_\_\_

RECEIVED BY STAFF: \_\_\_\_\_

PLEASE NOTE: A SEPARATE CARD MUST BE SUBMITTED FOR EACH ITEM

CITY OF MONTEBELLO

Request No. 4



# SPEAKER CARD

**Please Note:**

Public Comment/Speaker Card must be submitted to the City Clerk's Office prior to the statement of oral communications being read and/or 6:00 p.m., whichever is later.

**TYPE OF COMMENT:** Closed Session ☐ Non-Agenda Item ☒ **AGENDA ITEM NO.** \_\_\_\_\_

Opposed ☐ In Support ☒ Neutral ☐ **TOPIC:** Police officers

**MEETING DATE:** 9-25-24 **TIME RECEIVED:** \_\_\_\_\_

**SPEAKER'S FULL NAME:** Lisa Lozano **PHONE:** \_\_\_\_\_

(Optional)

**ADDRESS:** \_\_\_\_\_

(Optional)

**ORGANIZATION REPRESENTED:** \_\_\_\_\_

**NOTES:** \_\_\_\_\_

**ACCOMMODATIONS:** \_\_\_\_\_

**TRANSLATION NEEDED:** No ☐ Yes ☐ Language: \_\_\_\_\_

**RECEIVED BY STAFF:** \_\_\_\_\_

PLEASE NOTE: A SEPARATE CARD MUST BE SUBMITTED FOR EACH ITEM

CITY OF MONTEBELLO

Request No. 65 ✓



# SPEAKER CARD

Please Note:

Public Comment/Speaker Card must be submitted to the City Clerk's Office prior to the statement of oral communications being read and/or 6:00 p.m., whichever is later.

**TYPE OF COMMENT:** Closed Session ☐ Non-Agenda Item ☒ **AGENDA ITEM NO.** \_\_\_\_\_

Opposed ☐ In Support ☐ Neutral ☐ **TOPIC:** \_\_\_\_\_

**MEETING DATE:** \_\_\_\_\_ **TIME RECEIVED:** \_\_\_\_\_

**SPEAKER'S FULL NAME:** Amie Nicolas **PHONE:** \_\_\_\_\_ (Optional)

**ADDRESS:** \_\_\_\_\_

**ORGANIZATION REPRESENTED:** MATCH POLYCO (Optional)

**NOTES:** \_\_\_\_\_

**ACCOMMODATIONS:** \_\_\_\_\_

**TRANSLATION NEEDED:** No ☐ Yes ☐ Language: \_\_\_\_\_

**RECEIVED BY STAFF:** \_\_\_\_\_

PLEASE NOTE: A SEPARATE CARD MUST BE SUBMITTED FOR EACH ITEM

CITY OF MONTEBELLO

Request No. 76 ✓



# SPEAKER CARD

Please Note:

Public Comment/Speaker Card must be submitted to the City Clerk's Office prior to the statement of oral communications being read and/or 6:00 p.m., whichever is later.

**TYPE OF COMMENT:** Closed Session ☐ Non-Agenda Item ☒ **AGENDA ITEM NO.** \_\_\_\_\_

Opposed ☐ In Support ☐ Neutral ☐ **TOPIC:** \_\_\_\_\_

**MEETING DATE:** 09-25-2024 **TIME RECEIVED:** \_\_\_\_\_

**SPEAKER'S FULL NAME:** Rosa Tamayo **PHONE:** \_\_\_\_\_ (Optional)

**ADDRESS:** \_\_\_\_\_ (Optional)

**ORGANIZATION REPRESENTED:** \_\_\_\_\_

**NOTES:** \_\_\_\_\_

**ACCOMMODATIONS:** \_\_\_\_\_

**TRANSLATION NEEDED:** No ☐ Yes ☐ **Language:** \_\_\_\_\_

**RECEIVED BY STAFF:** \_\_\_\_\_

PLEASE NOTE: A SEPARATE CARD MUST BE SUBMITTED FOR EACH ITEM

CITY OF MONTEBELLO

Request No.

57



# SPEAKER CARD

Please Note:

Public Comment/Speaker Card must be submitted to the City Clerk's Office prior to the statement of oral communications being read and/or 6:00 p.m., whichever is later.

**TYPE OF COMMENT:** Closed Session ☐ Non-Agenda Item ☒ AGENDA ITEM NO. \_\_\_\_\_

Opposed ☐ In Support ☐ Neutral ☐ TOPIC: \_\_\_\_\_

**MEETING DATE:** 9/25/24 **TIME RECEIVED:** \_\_\_\_\_

**SPEAKER'S FULL NAME:** PAUL HURTADO **PHONE:** \_\_\_\_\_  
(Optional)

**ADDRESS:** \_\_\_\_\_  
(Optional)

**ORGANIZATION REPRESENTED:** \_\_\_\_\_

**NOTES:** \_\_\_\_\_

**ACCOMMODATIONS:** \_\_\_\_\_

**TRANSLATION NEEDED:** No ☐ Yes ☐ Language: \_\_\_\_\_

**RECEIVED BY STAFF:** \_\_\_\_\_

PLEASE NOTE: A SEPARATE CARD MUST BE SUBMITTED FOR EACH ITEM

CITY OF MONTEBELLO

Request No. 1



# SPEAKER CARD

Please Note:

Public Comment/Speaker Card must be submitted to the City Clerk's Office prior to the statement of oral communications being read and/or 6:00 p.m., whichever is later.

TYPE OF COMMENT: Closed Session ☐ Non-Agenda Item ☐

AGENDA ITEM NO. 76

Opposed ☐ In Support ☐ Neutral ☐ TOPIC: \_\_\_\_\_

MEETING DATE: \_\_\_\_\_ TIME RECEIVED: \_\_\_\_\_

SPEAKER'S FULL NAME:

*Gracie Tucker*

PHONE: \_\_\_\_\_  
(Optional)

ADDRESS: \_\_\_\_\_  
(Optional)

ORGANIZATION REPRESENTED: \_\_\_\_\_

NOTES: \_\_\_\_\_

ACCOMMODATIONS: \_\_\_\_\_

TRANSLATION NEEDED: No ☐ Yes ☐ Language: \_\_\_\_\_

RECEIVED BY STAFF: \_\_\_\_\_

9/25/2024

Good evening, at the last meeting you were all complaining about Councilmember Jimenez's actions towards employees.

I would like to remind each of you of these facts.

Scarlet you know where I sit at every meeting and at the last meeting you said yelling at any employee was unacceptable.

Guess you forgot when you screamed, I quote" I'll Fire you" at former City Manager Rene Bobadilla, I asked him if what I heard was correct and verified it was you.

Well between you and David that stupidity cost the city \$2 Million dollars.

You Tamayo at the last meeting said employees should be protected, on your comments about Councilmember Jimenez. Yet you voted to reinstate David's full power, guess those 17 employees did not matter to you when it comes to their protection. Did you hear not 1, not 2, not 3...but 17 employees filed complaints, and all were found credible. The only one found to be a liar was your buddy Torres, but you're doing what you were put in that seat to do. Always vote yes, FYI you were not the first choice to run, you were number 6 all the ones asked before said no.

As for you David, again you rant and run your mouth off, yet to date, that same mouth has cost the city 5 million dollars in payout settlements. More lawsuits are coming, and they will cost the city twice as much. That David will be your legacy, the worst council member in the history of Montebello.

When you mentioned Measure H you forgot to thank the former Mayor Cobos Cawthorne, she asked you to help pass Measure H and you said no it's political suicide and you refused to help. So, she did it without your help.

That is Mayor Cobos Cawthorne's proud legacy the secure financial future of the City of Montebello.

David your challenger for District 4 Joella Valdez has stated she will not be accepting the stipend paid by the city. Instead, she will form a fund for residents who are in need of assistance. Wow, an honest person and you think you can win, that's cute.

David, you've been without a job for almost 5 years. What will you do?? I heard In and Out is hiring.

Thank You.

Do any of you know what AB1439 is?

It's named the LEVINE ACT Senate Bill 1439 enacted which was signed into law by the State of California.

So you can vote on this item, just remember the State law supersedes any local laws.



# Pay to Play No More? Levine Act (SB 1439)

Friday, Sept. 22, 2023

Robert Fabela, City Attorney, Anaheim  
Amanda B. Freeman, Senior Deputy City Attorney, Fresno  
Rebecca L. Moon, Senior Assistant City Attorney, Sunnyvale

## DISCLAIMER

*This publication is provided for general information only and is not offered or intended as legal advice. Readers should seek the advice of an attorney when confronted with legal issues and attorneys should perform an independent evaluation of the issues raised in these materials. The League of California Cities does not review these materials for content and has no view one way or another on the analysis contained in the materials.*

Copyright © 2023, League of California Cities. All rights reserved.

This paper, or parts thereof, may not be reproduced in any form without express written permission from the League of California Cities. For further information, contact the League of California Cities at 1400 K Street, 4<sup>th</sup> Floor, Sacramento, CA 95814. Telephone: (916) 658-8200.

**Pay to Play No More? The Levine Act (SB 1439)**

Amanda Freeman, Senior Deputy City Attorney, City of Fresno

Rebecca Moon, Senior Assistant City Attorney, Sunnyvale

Robert Fabela, City Attorney, Anaheim

League of California Cities Annual Conference, September 2023

In 1982, the *Los Angeles Times* reported that several California Coastal Commissioners had received large campaign donations from persons with applications pending before them.<sup>1</sup> The *Times*' investigation revealed a pattern of questionable – if not shocking – conduct that included directly contacting applicants with pending projects to request donations for political campaigns, accepting donations from attorneys and consultants who regularly represented applicants, and soliciting donations from successful applicants after voting to approve their projects. This scandal led to the enactment of the Levine Act (AB 1040), which added Government Code 84308 to the Political Reform Act of 1974. The purpose of the Levine Act is to prevent officials from using their authority as government officials to demand campaign contributions from applicants, a practice known as “pay to play.”

As originally enacted, the Levine Act's restrictions only applied to members of appointed boards and commissions, excluding city councilmembers and county supervisors in their elected roles, as opposed to any appointed roles they may have had (such as on LAFCO). This changed on January 1, 2023, as a result of SB 1439, which expanded the reach of the Levine Act to local elected officials such as city councilmembers, special district board members, and school board members even when acting in their elected roles.

State Senator Steve Glazer (D-Contra Costa County) introduced SB 1439 with the support of the government watchdog organization California Common Cause and other advocates of public accountability. Supporters of the legislation cited recent “pay to play” scandals in cities such as Los Angeles<sup>2</sup> and Huntington Park.<sup>3</sup>

Under the Levine Act as amended by SB 1439:

- Officers of an agency are prohibited from accepting, soliciting, or directing campaign contributions over \$250 from any party to, or participant in, a proceeding involving a license, permit, contract, or entitlement for use (“proceeding”) before their agency.<sup>4</sup> This includes contributions from parties and their agents, and from those with a financial interest in the matter (and their agents) who merely participate in a proceeding, as by speaking at a Council meeting. The prohibition applies while the proceeding is pending and for 12 months following a final decision, when the officer knows or has reason to know the party has a financial interest in the proceeding (such as owning a home nearby). (Gov. Code, § 84308, subd. (b).) This prohibition impacts fundraising for a year after the decision.

---

<sup>1</sup> *Coastal Commission Seats Used as Fundraising Base*, Los Angeles Times (March 12, 1980), p. 1, <https://www.newspapers.com/image/385326358> [paywall].

<sup>2</sup> Zahniser, *Downtown L.A. developer donated \$50,000 before pivotal vote involving high-rise project, records show*, Los Angeles Times (Feb. 7, 2019), at <https://www.latimes.com/local/lanow/la-me-developer-donations-onni-20190207-story.html> [as of Aug. 15, 2023].

<sup>3</sup> Cabrera and Patel, *Hefty Contracts for Campaign Contributors in Huntington Park*, KCET (July 26, 2021), at <https://www.kcet.org/news-community/hefty-contracts-for-campaign-contributors-in-huntington-park> [as of Aug. 15, 2023].

<sup>4</sup> “License, permit, or other entitlement for use,” includes all business, professional, trade, and land use licenses and permits and all other entitlements for use, and all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises. (Gov. Code § 84308(a).)

- An officer who received a campaign contribution of more than \$250 from a party or participant, or their agents, in the past 12 months may be disqualified from participating in that proceeding. The disqualification depends on whether the officer “knowingly and willfully” accepted a contribution from a party, or if they accepted a contribution knowing the donor was a participant with a financial interest in the decision. (Gov. Code § 84308(c).) Additionally, an officer who received a contribution greater than \$250 in the preceding 12 months from a party or participant to the proceeding must disclose that fact on the record. (Gov. Code, § 84308, subd. (c).)
- Parties to and participants in a proceeding must disclose on the record if they made contributions over \$250 within the prior 12 months to any officer of the agency and are prohibited from making contributions to any officer of the agency while the proceeding is pending and for 12 months after the date a final decision is rendered. (Gov. Code § 84308, subd. (e).)

Who is Subject to SB 1439? State and local agency “officers,” including any elected or appointed officers, alternates, chief executive officers, and candidates for elective office. This includes members of city councils, county and special district boards, and appointed boards. The law does not apply to courts, the judicial branch, or the governor’s cabinet members. (Cal. Code Regs., tit. 2, § 18438.1.)

Curing a violation. If an officer receives a contribution that will otherwise require disqualification under Section 84308, they may participate if they return the contribution within 30 days from the time they know or should know about (1) the contribution *and* (2) the proceeding. (Gov. Code § 84308, subd. (d)(1).) Additionally, an officer who accepts, solicits, or directs a contribution of more than \$250 during the 12 months after the date a final decision may cure the violation by returning the contribution or the portion exceeding \$250 within 14 days, but only if they did not knowingly and willfully accept, solicit, or direct the prohibited contribution, and the officer’s controlled committee (or the officer if none) must maintain records of the cure. (Gov. Code § 84308, subd. (d)(2).)

FPPC Regulations. The California Fair Political Practices Commission (FPPC) revised the regulations applicable to Section 84308, effective August 12, 2023. Key clarifying provisions include:

- **Dates.** The amendments to the Levine Act do not apply to proceedings participated in or contributions made or accepted, solicited, or directed by an officer prior to January 1, 2023, if the officer was not already subject to the Levine Act. (Cal. Code Regs., tit. 2, § 18438.) This regulation codifies the FPPC’s *Kendrick* opinion (No. O-22-002, December 22, 2022). As noted below, Senator Glazer objects to this conclusion and has asked the Attorney General to opine otherwise, but that may not occur by the end of 2023, when the point should be moot.
- **“Proceedings.”** A “proceeding” includes any proceeding to grant, deny, revoke, restrict, or modify a license, permit or other entitlement for use that does not solely involve purely ministerial decisions, and is applied for by the party; formally or informally requested by the party; or involves a franchise or contract other than

competitively bid, labor, and personal employment contracts. (Cal. Code Regs., tit. 2, § 18348.2.)

- **“Pending” proceedings.** For officers, a decision is “pending” once it is before the officer for consideration, such as an item placed on the agenda of a public meeting, or when it is reasonably foreseeable the decision will come before the officer and the officer knows or has reason to know the decision is within the jurisdiction of the agency (as when an office has notice that a formal land use application has been submitted to the agency which must come before his or her board). For a party or participant, a proceeding is pending when it is before the jurisdiction of the agency for its decision, such as when an application is filed. (Cal. Code Regs., tit. 2, § 18348.2.)
- **“Officer of the agency.”** An “officer” is an individual who: 1) may make, participate in making, or attempt to influence a decision in the proceeding or who exercises authority over officers who may do so, and: 2) serves in an elected position (including those appointed to a vacancy); is an appointed member of a board or commission; is a candidate for elected office or was a candidate for office in the 12 months before the proceeding; or is the chief executive of a county, city, or district. (Cal. Code Regs., tit. 2, § 18438.1(d).) This means a candidate who lost an election remains subject to the Levine Act prohibitions for a year if they have decisionmaking authority over a proceeding (like a Planning Commissioner who continues to serve after an unsuccessful run for Council).
- **“Agent” of a party or participant.** A person is the agent of a party to, or a participant in, a pending proceeding only if the person represents the party or participant for compensation *and* appears before or otherwise communicates with the agency for the purpose of influencing the pending proceeding. (Cal. Code Regs., tit. 2, § 18348.3.)
- **When an officer “knows or has reason to know” a participant has a financial interest.** An officer knows or has reason to know of a participant’s financial interest in a decision only if the officer has actual knowledge of the financial interest, or the participant reveals facts in written or oral statements during the proceeding before the officer that make the person’s financial interest apparent. All relevant facts known by the officer at the time of the proceeding should be considered.

The regulation creates three rebuttable presumptions. An officer is deemed to know of a participant’s potential financial interest when they are aware a participant has: an interest in real property within 500’ of the project; an economic interest in a business entity that may see a significant increase or decrease in customers as a result of the proceeding; or a business relationship with the applicant that may result in additional services provided to the applicant. (Cal. Code Regs., tit. 2, § 18438.7(a)(2).) The above notwithstanding, an officer does *not* know or have reason to know of a participant’s financial interest in a decision solely as a result of the participant identifying an economic interest located in the general vicinity of

a business entity or real property at issue in the proceeding. (Cal. Code Regs., tit. 2, § 18438.7(a)(4).)

- **Accepting, receiving, soliciting, and directing contributions.** An officer “accepts” or “receives” a contribution when the contribution is made to the officer’s own campaign or any committee controlled by the officer. An officer “solicits” or “directs” a contribution by requesting contributions to any other campaign or controlled committee, not just their own. Note that a “controlled committee” can include not just campaign committees but also ballot measure committees, legal defense funds, recall committees, and officeholder controlled committees. The regulation includes exceptions for fundraising requests through mass mailings or mass media, as well as speaking at public events. Also, an officer does not solicit or direct a contribution solely because the officer’s name is printed with other names on stationery or letterhead used to request contributions. (Cal. Code Regs., tit. 2, § 18438.6.)
- **Aggregating contributions.** All contributions made by a party or participant must be aggregated with contributions made by their agents during the prior 12 months or from the date the agent was hired as a paid employee, contractor, or consultant, whichever is shorter. For example, if Party A contributes \$75 in April 2023, and Party A’s agent contributes \$176 in June 2023, the recipient of the \$251 campaign contribution would be limited by the Levine Act until June 2024. The party or participant’s contributions must also be aggregated with contributions by individuals (other than an uncompensated officer of a non-profit organization), or entities required to be aggregated with the party, participant, or agent under Government Code § 82015.5. (Cal. Code Regs., tit. 2, § 18438.5.)
- **Disclosures.** An officer must disclose receipt of a disqualifying contribution on the record at the beginning of the public meeting involving the proceeding. If an official learns of a contribution *during* a proceeding, they must disclose the contribution on the record before participating further in the proceeding. (2 CCR § 18438.8.) The official may continue to participate in the proceeding if the official has known or should have known about the contribution and proceeding for fewer than 30 days, discloses the disqualifying contribution on the record of the public meeting, confirms the contribution will be returned within 30 days of when the official knew or should have known about the contribution, and the contribution is returned within that time. (Cal. Code Regs., tit. 2, §§ 18438.7, 18438.8.)
- **Willful or knowing receipt of a contribution.** An officer who “willfully or knowingly received” a contribution from a party or participant with a financial interest may not participate in or influence the decision. Willful or knowing receipt includes when the officer has actual knowledge of the contribution, when the contribution is disclosed by the party or participant at the proceeding (as required by Government Code section 84308(e)), or when the officer is aware of other facts establishing reason to know of the contribution (such as being informed by another person a contribution has been made, a history of two or more prior donations over \$250 from the party or participant, the officer’s personal solicitation of a contribution from the party, etc.). However, an officer without actual knowledge of

the contribution from a party or participant does not have reason to know of the contribution based solely on the fact that the contribution was reported as required by law. (Cal. Code Regs., tit. 2, §18438.7.)

- **Legally required participation.** Officials who would otherwise be disqualified from engaging in a proceeding can participate if their participation is legally required, in the same manner as when a conflict exists due to a financial interest. (Cal. Code Regs., tit. 2, § 18703.) Also, see the FPPC's *Granda* informal advice letter addressing how legally required participation applies to strong mayors, discussed further below.

FPPC Letters. Since 1982, the FPPC has issued over 200 formal and informal advice letters related to the Levine Act. The database of letters on the FPPC website is an important starting point for research.<sup>5</sup> Although the law has been expanded to cover local elected officials, the fundamental requirements and prohibitions have not changed. In addition, the FPPC has fielded many questions in 2023 from elected officials. Recent letters include the following:

- **Contracts are proceedings, regardless of value.** Contracts are considered entitlement for use proceedings for purposes of Section 84308 regardless of value. Small contracts, including purchase orders, are subject to Section 84308's provisions. Charter school petitions, which are contracts, are subject to Section 84308. Labor contracts, such as collectively bargained project labor agreements, are expressly exempted from Section 84308. (FPPC *Valesquez* informal advice letter, No. I-23-065, May 9, 2023; see also Cal. Code Regs., tit. 2, § 18348.2(a)(3)(B).)
- **Strong mayors and legally required participation.** The legally required participation exception likely applies to strong mayors exercising approval or veto powers. Examining *Affordable Hous. Alliance v. Feinstein* (1986) 179 Cal.App.3d 484 and its progeny, the *Granda* letter clarified that San Diego's strong mayor may participate in a proceeding despite receiving a disqualifying contribution in the preceding 12 months because of his charter-granted veto and approval powers. However, the mayor may not solicit, receive, or direct contributions exceeding \$250 while a proceeding is pending or for a year after, and is required to disclose the contribution. (FFPC *Granda* informal advice letter, No. I-23-102, July 12, 2023.)
- **Applicability to candidates.** The FPPC applied Regulation 18438.1 to clarify that a candidate for elected office is not an "officer of the agency" subject to the restrictions of Section 84308 unless they have decisionmaking authority with respect to a proceeding in the *Titus* formal advice letter (No. A-23-103, published June 27, 2023).

Outstanding questions. While the FPPC's amended regulations provide some clarity, ambiguities remain. For example, what is an "informal request" triggering a proceeding?

---

<sup>5</sup> <https://www.fppc.ca.gov/advice/advice-opinion-search.html>

Does a right to appeal a lower level decision to City Council (e.g., from Planning Commission) make it “reasonably foreseeable” that the decision will come before the City Council? Would an individual who complains about a project’s impact on home values in a community with high rates of home ownership mean an officer “knows or has reason to know” that individual is a participant with a financial interest in a proceeding? If your agency encounters such questions, cities may benefit from a request for formal advice from the FPPC.

Senator Glazer, the author of SB 1439, also requested an opinion from the Attorney General addressing whether the disclosure and recusal provisions of SB 1439 apply to contributions made before January 1, 2023. As of the drafting of this paper the Attorney General has not issued an opinion. Since Senator Glazer’s request, the revised FPPC regulations and its formal *Kendrick* opinion both expressly addressed the question in the negative.

Legal challenge to SB 1439. The *Family Business Ass’n v. FPPC* (Sac. Superior Court Case #34-2023-00335169) challenge to SB 1439 on constitutional grounds was unsuccessful; the Sacramento Superior Court granted a motion for judgment on the pleadings rejecting all of the plaintiff’s arguments on May 25, 2023. Appeal was due by August 16, 2023, and no appeal is on the Court of Appeal’s or trial court’s docket as of late August when this paper is written.

#### Practice ideas.

- Include a field in staff report templates indicating whether Section 84308 applies (see City of Anaheim staff reports as an example).
- Include a reminder on meeting agendas about applicability of Section 84308 or add a standing agenda item for officers’ and participants’ disclosures.
- Require applicant to disclose contributions when they submit their applications – e.g., include a disclosure section on templates to list campaign contribution over \$250 to a decisionmaker in the prior twelve months.
- Include a provision in forms of contracts to alert contracting parties to this statute.

As agencies implement SB 1439, we encourage proactive training for officers to help them understand the expanded Levine Act. The Institute for Local Government recently held a webinar on the topic; the video presentation is available here: <https://www.ca-ilg.org/post/lunch-and-learn-californias-new-campaign-contribution-regulations-what-local-governments-need> .