



CITY OF MONTEBELLO REGULAR MEETING

MINUTES

WEDNESDAY, SEPTEMBER 25, 2024 AT 6:00 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 6:00 p.m.

ROLL CALL

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

City Attorney Arnold Alvarez-Glasman, City Manager Raul Alvarez, Senior Deputy City Clerk Kimberly Guillen, Deputy City Clerk Nelly Ochoa, and Department Directors Cesar Roldan, Joseph Palombi, David Sosnowski, Michael Solorza, John Soria, Ramon Figueroa, and Fire Chief Pelaez.

ANNOUNCEMENT OF CLOSED SESSION ITEMS

City Attorney Alvarez-Glasman announced the Closed Session Item.

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

The City Attorney shall provide a briefing on the item listed for Closed Session as follows:

Mayor Peralta recessed the meeting into Closed Session at 6:01 p.m. to consider the following Closed Session items:

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code section 54956.9(d)(1)

RZ Capital and Development LLC v. City of Montebello

Los Angeles County Superior Court Case No. 24STCP02676

REGULAR SESSION - IMMEDIATELY FOLLOWING CLOSED SESSION

CLOSED SESSION REPORT

Mayor Peralta reconvened the meeting at 7:00 p.m.

All five members were present to discuss all Closed Session items. City Attorney Alvarez-Glasman provided the following report to City Council: Item No. 1, a briefing was provided to City Council, request for a temporary restraining order was denied, no action was taken, and nothing to further to report.

INVOCATION

Led by City Clerk Jimenez.

PLEDGE OF ALLEGIANCE

Led by City Treasurer Matanga.

CORRECTIONS TO THE AGENDA - CITY MANAGER

City Manager Alvarez announced the following corrections:

- *Item No 12 — The attached agreement stated the incorrect contract amount in the numerical figure. The term end date is also incorrect; it should be listed as June 30, 2028, not June 30, 2030.*
- *Staff recommends tabling Item No. 8.*

CEREMONIAL ITEMS/PRESENTATIONS

2. CITIZEN OF THE MONTH - FRANK SALOMONE

Led by Mayor Peralta.

3. PROCLAMATION FOR NATIONAL LATINO/A/E/X PHYSICIAN DAY

Led 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

City Manager Alvarez announced John Soria's promotion to Director of Transit.

Director of Recreation and Community Services, David Sosnowski, announced the upcoming Heritage Festival at Montebello City Park on October 11th -13th. The Festival will include the 5k/10k run and a parade. Chief Pelaez announced the Rescue Paramedic Squad 56 Open House scheduled for Thursday, October 3, 2024.

PUBLIC HEARING

4. INTRODUCE AND WAIVE FIRST READING OF ORDINANCE NO. 2479 AMENDING CHAPTER 8.40 OF THE CITY OF MONTEBELLO MUNICIPAL CODE REGARDING REGISTRATION AND MAINTENANCE OF VACANT AND ABANDONED COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL PROPERTIES

RECOMMENDATION: It is recommended that the City Council:

1. Introduce and waive first reading of Ordinance No. 2479 amending Montebello Municipal Code ("MMC") Chapter 8.40, establishing new regulations regarding the registration and maintenance of vacant and abandoned commercial, industrial, and residential properties; and
2. Determine and find that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), the "Common Sense" exemption, and is not considered a "project" under CEQA Guidelines Section 15378 as there is no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment; and
3. Take such additional, related, action that may be desirable.

Director of Planning and Community Development Joseph Palombi and Assistant Director Matthew Ramos provided a brief presentation of the item. The presentation briefly explained what the new regulations,

Mayor Peralta opened the Public Hearing at 7:50 p.m.

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

Mayor Peralta closed the Public Hearing at 7:52 p.m.

Councilmember Tamayo thanked all the departments for collaborating on the Ordinance and establishing the Clean Task Force.

Councilmember Torres expressed support for the item, sharing the Ordinance's history and his efforts to address vacant properties. He researched other cities and consulted with staff, ensuring the updated Ordinance now addresses all concerns.

Mayor Pro Tem Melendez inquired about the fees and the outreach for the vacant properties.

Director Palombi explained the various fees enforced by the Ordinance and how the fees were established. With regard to public outreach, there will be dedicated staff to provide direct outreach to the various property owners.

Mayor Pro Tem Melendez requested a report of violations after the Ordinance had taken effect.

Mayor Peralta thanked all the departments for collaborating on the Ordinance and establishing the Clean Task Force. She further stated that she is very pleased with the Ordinance's impact, as it places responsibility on property owners. The Ordinance also enables the City to host scheduled pop-up events on vacant lots, which the Mayor supports, as it encourages small businesses to engage with the community.

Councilmember Torres motioned, seconded by Mayor Pro Tem Melendez, to approve the item; the motion passed by the following vote:

MOVED: Torres	SECONDED: Melendez	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

5. CONSIDER APPEAL OF DECISION TO REVOKE BUSINESS LICENSE NO. 10707651 ISSUED TO A & T PALLETS, INC.

RECOMMENDATION: It is recommended that the City Council:

1. Consider the Appeal by A & T Pallets regarding the revocation of their business license based on the facts and evidence presented by both City staff and the appellant; and
2. Review the history of complaints and compliance efforts related to A & T Pallets' operations; and
3. Determine whether to uphold, modify, or overturn the decision to revoke the business license; and
4. Take such additional, related, action that may be desirable.

Code Enforcement Manager Joseph Cota provided a brief presentation of the item.

Levon Kirakosian, the legal representative of A&T Pallets, provided a brief history of the business. He further stated that he had been hired to represent the business and address incidents that may arise. Rogelio Torres, a business owner, spoke on the history and stated that the violations have been corrected to be in compliance. He further requested that the City Council reconsider their decision to revoke the business license.

Viken Pakradouni, the legal representative of A&T Pallets, discussed the nature of the business and its operations. He mentioned that several of the violations cited by the Code Enforcement Manager were not included in the original notice and should, therefore, be dismissed. He addressed each of the alleged violations, presenting photographs that demonstrated they had been corrected. One of the violations involved blocking the sidewalk, and he suggested converting the street parking into a loading zone to resolve the parking issue. Additionally, he pointed out that some of the photographs provided by the staff were outdated. Mr. Pakradouni also informed the Council that the business was in the process of opening a new location that could potentially be used as a storage facility for surplus pallets.

Mayor Peralta opened the Public Hearing at 8:34 p.m.

The City Clerk's Office acknowledged five(5) members of the public wishing to address the City Council in support of the business. Speakers were provided three minutes to address the City Council, and said speaker cards are on file at the City Clerk's office.

Mayor Peralta closed the Public Hearing at 8:41 p.m.

Councilmember Tamayo inquired whether it would be possible to grant provisional approval for the specified months, with strict conditions to ensure compliance.

Director Palombi informed the City Council that there is no provision that restricts the conditions that can be set.

City Attorney Alvarez-Glasman informed the City Council that they have the authority to uphold the request to revoke the business license, or overturn and support the appeal of the revocation of the business license.

City Manager Alvarez informed the City Council that a decision would need to be made due to the license being revoked.

City Attorney Alvarez-Glasman informed the Council that they could defer a decision on the appeal and allow the business to continue operating while extending the revocation date to a later time. If the business maintains continuous compliance, the City Council could revisit the matter in the future and decide whether to proceed with the appeal of the business license. This approach would help staff avoid going through the revocation process again.

Councilmember Torres asked if the appeal was presented to the Planning Commission. Director Palombi stated that the

Municipal Code stipulates that the appeal must be brought before the City Council.

Councilmember Torres further stated that the Council would begin paying attention to industrial areas within the City. He inquired whether any fines had been assessed and paid.

Code Enforcement Manager Cota informed the Council that fines totaling \$6,084.00 had been assessed, of which the business had paid \$800.00.

Councilmember Torres suggested that, in order to ensure the business remains compliant with city codes, they should be required to submit a plan outlining how they intend to address specific situations and pay the remaining fines.

Mayor Pro Tem Melendez supported Councilmember Tamayo's suggestion for provisional approval and also agreed that the business should pay the remaining fines. He emphasized to the business that they must be accountable for adhering to codes and policies.

Mayor Peralta stated that businesses must also be accountable for their actions and take responsibility for maintaining compliance.

City Attorney Alvarez-Glasman suggested that if the Council decides not to uphold or overturn the decision, they should establish a timeframe to postpone the revocation and obtain confirmation from the business.

Councilmember Torres inquired about the seasons in which they see an influx of pallets. Rogelio Torres informed him that it varies.

City Attorney Alvarez-Glasman asked Mr. Kirakosian, if their client would agree to the Council's decision to defer action and move the item to a future meeting. He explained that this would allow the business to continue operating, keep the public hearing open, and stay the revocation for the time being.

City Attorney Alvarez-Glasman stated that business license fees must be paid to reinstate the business license.

Mr. Kirakosian's client agreed with the conditions. He further inquired about the loading zone recommendation.

Director of Public Works Cesar Roldan asked the business to submit their request for consideration to the Public Works Department.

Mayor reopened the Public at 9:10 p.m.

City Attorney Alvarez-Glasman reiterated the motion on the table, which pauses the current proceedings and continues the matter for up to six months. During this time, the business owner will be permitted to operate under a conditional business license, provided all outstanding business license fees are paid and compliance is maintained. If the business continues to operate lawfully, staff will present a status report or provide an update sooner if compliance is confirmed. Councilmember Torres also requested that the business submit policies and procedures to ensure ongoing compliance.

Councilmember Torres motioned the conditions listed above, seconded by Councilmember Tamayo; the motion passed by the following vote:

MOVED: Torres	SECONDED: Tamayo	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

REGULAR BUSINESS - 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.

Members of the public pulled Item No. 6 for public comment.

Staff pulled Item No. 8, which will be moved to a future meeting.

Mayor Pro Tem Melendez will not be voting on item no. 15.

Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, that Item No's. 7 and 9-19, be approved; the motion passed by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

6. **ADOPT RESOLUTION NO. 24-71 AMENDING THE CONFLICT OF INTEREST CODE BY RESCINDING AND REPLACING RESOLUTION 22-04 REVISING THE LIST OF DESIGNATED POSITIONS REQUIRED TO FILE PERIODIC STATEMENTS OF ECONOMIC INTERESTS (FORM 700) AND THEIR DISCLOSURE CATEGORIES**

RECOMMENDATION: It is recommended that the City Council:

1. Adopt Resolution No.24-71 rescinding and replacing Resolution No. 22-04, thereby updating the appendix to the local Conflict of Interest Code to revise the list of designated positions required to file Statements of Economic Interests (Form 700) and their disclosure categories; and
2. Direct the City Clerk's Office to file the 2024 Local Biennial Notice with the Fair Political Practices Commission (FPPC); and
3. Take such additional, related action that may be desirable.

The City Clerk's Office acknowledged one(1) member of the public wishing to address the City Council. The 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 motioned, seconded by Councilmember Tamayo, to approve the item; the motion passed by the following vote:

MOVED: Torres	SECONDED: Tamayo	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

7. **APPROVE ISSUING REQUEST FOR PROPOSAL (RFP) NO. 25-01 FOR PROPOSITION 64 GRANT PROJECT EVALUATOR SERVICES**

RECOMMENDATION: It is recommended that the City Council:

1. Authorize issuing Request-for-Proposal (RFP) No. 25-01 for a Proposition 64 Grant Project Evaluator; and
2. 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 by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

8. **AWARD A CONSTRUCTION CONTRACT TO ESTATE DESIGN AND CONSTRUCTION, INC. FOR THE DOG PARK AT ACUÑA PARK – CP 922**

RECOMMENDATION: It is recommended that the City Council:

1. Award a construction contract to Estate Design and Construction, Inc. for the dog park at Acuña Park (CP 922) in the amount of \$632,071 plus a 10% construction contingency of \$63,207 for a total contract amount of \$695,278; and
2. Amend the Fiscal Year 2024-25 budget by increasing appropriations by \$695,278 in Account No. 100-70-710-6040.10 (General Fund, Parks and Recreation, Recreation, Contract Services Outside Contracts) for the construction of the dog park; 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.

This item was pulled by staff.

9. **APPROVE ISSUING REQUEST FOR PROPOSALS (RFP) NO. 25-06 FOR ON-CALL ENGINEERING AND ARCHITECTURAL SERVICES**

RECOMMENDATION: It is recommended that the City Council:

1. Authorize staff to publish a Request for Proposal (RFP No. 25-06) to solicit proposals from qualified engineering and architectural firms for on-call engineering and architectural services; and
2. 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 by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

10. **APPROVE ISSUING REQUEST FOR PROPOSALS (RFP) NO. 25-04 FOR CITYWIDE CUSTODIAL SERVICES**

RECOMMENDATION: It is recommended that the City Council:

1. Authorize issuing a Request for Proposals (RFP No. 25-04) for citywide custodial services; and
2. 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 by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

11. **REJECT BIDS RECEIVED FOR CONSTRUCTION OF THE RIO HONDO RIVER ACCESS IMPROVEMENT PROJECT (CP 924) IN ACCORDANCE WITH PUBLIC CONTRACT CODE SECTION 22038(A)(1) AND AUTHORIZE STAFF TO PROCEED WITH READVERTISING AND REBIDDING THE PROJECT**

RECOMMENDATION: It is recommended that the City Council:

1. Reject all bids received for construction of the Rio Hondo River Access Improvement Project (CP 924) in accordance with Public Contract Code Section 22038(a)(1); and
2. Authorize staff to modify the project scope of work in conformance with all applicable engineering standards; and
3. Authorize staff to re-advertise the Notice Inviting Bid in accordance with Public Contract Code Section 22038(a)(1); 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 by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

12. **APPROVE PROFESSIONAL SERVICES AGREEMENT NO. 4218 WITH NEOGOV FOR HUMAN RESOURCES INFORMATION SOFTWARE SERVICES**

RECOMMENDATION: It is recommended that the City Council:

1. Authorize the City Manager to execute a four (4) year Professional Services Agreement (No. 4218) with NEOGOV for Human Resources Information Software Services for a total not-to-exceed amount of \$224,682 over the four (4) year term; and
2. Authorize the City Manager to execute Professional Services Agreement No. 4218; and
3. Approve an exception to procurement of the professional services through Montebello Municipal Code Section 3.21.025(B) - Conformance with Bidding Procedures; 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 by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

13. **APPROVE ISSUING REQUEST FOR PROPOSALS (RFP) NO. 25-02 FOR CITYWIDE GRANT WRITING SERVICES**

RECOMMENDATION: It is recommended that the City Council:

1. Approve issuing a Request for Proposal (RFP No. 25-02) to solicit proposals from qualified firms for citywide grant writing and management services; and,
2. 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 by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

14. APPROVE ISSUING REQUEST FOR PROPOSALS (RFP) NO. 25-05 FOR ON-CALL BUILDING PLAN CHECK, BUILDING INSPECTION AND PLANNING CONSULTING SERVICES

RECOMMENDATION: It is recommended that the City Council:

1. Authorize issuing Request for Proposals (RFP) No. 25-05 for on-call building plan check, building inspections and planning consulting services; and
2. Take such additional, related action(s) that may be desirable.

Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, to approve the item; the motion passed by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

15. APPROVE AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT NO. 3826 WITH IBE DIGITAL FOR 24/7 IT HELP DESK SERVICES AND AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT NO. 3882 WITH IBE DIGITAL FOR PUBLIC SAFETY INFORMATION TECHNOLOGY STAFF AUGMENTATION SERVICES

RECOMMENDATION: It is recommended that the City Council:

1. Approve Amendment No. 1 to Professional Services Agreement No. 3826 with IBE Digital for 24/7 IT Help Desk Services extending the term of services and amending the compensation related to the extension in the amount of \$201,536; and
2. Approve Amendment No. 1 to Professional Services Agreement No. 3882 with IBE Digital for Public Safety Information Technology Staff Augmentation Services extending the term of services and amending the compensation related to the extension in the amount of \$205,899; and
3. Take such additional, related action that may be desirable.

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

MOVED: Peralta	SECONDED: Torres	APPROVED: 4-0-0-1
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AYES: Tamayo, Torres, Peralta
NOES: None
ABSTAIN: None
ABSENT: Jimenez, Melendez

16. REJECT PROPOSALS RECEIVED FOR REQUEST FOR PROPOSALS (RFP) NO. 24-19 FOR INSTALLATION OF TWO LED SIGNS AND AUTHORIZE STAFF TO PROCEED WITH ISSUING A NEW RFP

RECOMMENDATION: It is recommended that the City Council:

1. Reject proposals received for Request for Proposals (RFP) No. 24-19 for Installation of Two (2) New LED Signs in accordance with City Municipal Code Section 3.20.080; and
2. Authorize staff to modify the project scope of work and RFP; and
3. Authorize staff to issue an updated RFP; 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 by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

17. APPROVE ISSUING REQUEST FOR PROPOSALS (RFP) NO. 25-07 FOR MONTEBELLO POLICE TOWING SERVICES

RECOMMENDATION: It is recommended that the City Council:

1. Authorize staff to issue Request for Proposal (RFP No. 25-07) to solicit proposals from qualified firms for Montebello Police towing services; and
2. 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 by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

18. APPROVAL OF MINUTES: AUGUST 14, 2024, CITY COUNCIL MEETING; AUGUST 28, 2024, CITY COUNCIL MEETING

RECOMMENDATION: It is recommended that the City Council:

1. Approve said Minutes as is.

Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, to approve the item; the motion passed by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

19. **PAYMENT OF BILLS: ADOPT RESOLUTION NO. 24-75 APPROVING THE CITY WARRANT REGISTER OF DEMANDS DATED SEPTEMBER 25, 2024**

RECOMMENDATION: It is recommended that the City Council:

1. Adopt Resolution No. 24-75 approving the Warrant Register dated September 25, 2024.

Mayor Pro Tem Melendez motioned, seconded by Councilmember Torres, to approve the item; the motion passed by the following vote:

MOVED: Melendez	SECONDED: Torres	APPROVED: 4-0-0-1
AYES: Melendez, Tamayo, Torres, Peralta		
NOES: None		
ABSTAIN: None		
ABSENT: Jimenez		

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).

None.

COUNCIL/AGENCY ORALS

Announcements and requests for future agenda items.

- **Georgina Tamayo, Councilmember**

1. **Seek council consensus to give direction for the creation of a strike team to address the trash clean up along the 60 Freeway.**

Councilmember Tamayo requested consensus to give direction for creating a strike team to address the trash cleanup along the 60 Freeway. Consensus was received.

- **David N. Torres, Councilmember**

- **Salvador Melendez, Mayor Pro Tem**

- Angie M. Jimenez, Councilmember
- Scarlet Peralta, Mayor

CLOSED SESSION - CONTINUED

ADJOURNMENT

The City of Montebello will adjourn to the next **Regular Meeting on October 9, 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 22, 2024, no later than 6:00 p.m.**



Kimberly Guillen, Senior Deputy City Clerk

Mayor Pro Tem Melendez motioned, seconded by Mayor Peralta to adjourn the meeting at 9:20 p.m.

THE MINUTES OF SEPTEMBER 25, 2024, ARE HEREBY APPROVED AND ADOPTED ON THIS 8TH DAY OF JANUARY 2025.

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
6:00 pm

MEETING DATE:

04-25-24

TIME RECEIVED:

6:00 pm

SPEAKER'S FULL NAME:

Lisa Lwna

PHONE: _____

(Optional)

ADDRESS: _____

ORGANIZATION REPRESENTED: _____

SEIU 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: Amelia Williams

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:** [REDACTED]

(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

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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.¹ 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 Angeles² and Huntington Park.³

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.⁴ 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.

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

² 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].

³ 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].

⁴ “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.⁵ 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?

⁵ <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> .