

DRAFT Minutes of the Special Meeting of the City Council City of Santa Ana, California



October 30, 2023

SPECIAL CLOSED SESSION MEETING AND SPECIAL OPEN MEETING – 5:30 P.M.

(Immediately following the Closed Session Meeting)

CITY COUNCIL CHAMBER

22 Civic Center Plaza Santa Ana, CA 92701

CLOSED SESSION

CALL TO ORDER

MINUTES: Mayor Amezcua called the Special Closed Session meeting to order at 5:40 P.M.

ATTENDANCE

Council Members

Phil Bacerra

Johnathan Ryan Hernandez

David Penaloza

Thai Viet Phan

Benjamin Vazquez

Mayor Pro Tem

Jessie Lopez

Mayor

Valerie Amezcua

Acting City Manager

Steven A. Mendoza

City Attorney

Sonia R. Carvalho

City Clerk

Jennifer L. Hall

ROLL CALL

MINUTES: City Clerk Jennifer L. Hall conducted roll call.

Councilmembers Bacerra, Hernandez, Phan and Vazquez, and Mayor Amezcua were present. Councilmember Penaloza arrived during Closed Session.

Mayor Pro Tem Lopez was absent.

PLEDGE OF ALLEGIANCE Mayor Amezcua

PUBLIC COMMENTS – Members of the public may address the City Council on ALL Special Meeting Agenda items at this time ONLY.

MINUTES: Mayor Amezcua announced speakers would have a total of one minute to address the City Council.

The following speakers addressed the City Council in-person:

1. David Ball spoke in support of the continuance of the recall.
2. Yelena Ball spoke in support of the continuance of the recall.
3. Rory Kirk spoke in support of the continuance of the recall.
4. Sandra Medina read a letter from Basil Kimbrew in support of the recall.
5. Vianey Rojos (translation: Spanish) spoke in support of the continuance of the recall and expressed concern regarding her neighborhood's security and homeless issue.
6. Dale Helvig spoke in support of the continuance of the recall.
7. Desi Reyes spoke in opposition to the recall.
8. Vanessa Davalos (translation: Spanish) spoke in support of the continuance of the recall.
9. Hairo Cortes expressed concern regarding the certification of results related to the recall and spoke in opposition for the recall.
10. Alicia Rojas expressed concern regarding the certification of results related to the recall and spoke in opposition to the recall.
11. Carl Benninger spoke in support of continuing the recall.
12. Tanya Navarro expressed concern regarding the certification of results related to the recall and spoke in opposition to the recall.

13. *Gaston Castellanos spoke in opposition to the recall.*
14. *Karla Navarro expressed concern regarding the certification of results related to the recall and spoke in opposition for the recall.*
15. *Jeffrey Cardenas spoke in opposition to the recall.*
16. *Vanessa Cerda spoke in opposition to the recall.*
17. *Sandra De Anda spoke in opposition to the recall.*
18. *Jose Marrufo spoke in opposition to the recall.*
19. *Laura Gomez (translation: Spanish) spoke in opposition to the recall.*
20. *Abel Alfaro (translation: Spanish) spoke in opposition to the recall.*
21. *Roberto Mejia (translation: Spanish) spoke in opposition for the recall.*
22. *Juanita Munoz (translation: Spanish) spoke in opposition to the recall.*
23. *Leslie Mejia spoke in opposition for the recall.*
24. *Les Hall spoke regarding the validity of the recall and in opposition to the recall.*
25. *Kristy Matias/Juan Carlos Rodriguez (translation: Spanish) spoke in opposition to the recall.*
26. *Veronica Garcia spoke in support of Mayor Pro Tem Lopez and in opposition to the recall.*
27. *Carlos Perea expressed concern regarding the validity of the recall and spoke in opposition to the recall.*
28. *Rocio Guzman (translation: Spanish) spoke in support of Mayor Pro Tem Lopez and in opposition to the recall.*
29. *Kelly Kraus-Lee spoke regarding the cost related to the recall and spoke in opposition to the recall.*
30. *Ben Salazar spoke in support of Mayor Pro Tem Lopez, spoke regarding the validity of recall, and in opposition to the recall.*
31. *Guadalupe Ocampo (translation: Spanish) spoke in opposition to the recall.*
32. *Jannah spoke in opposition to the recall.*

33. *Debra Russell stated the recall is a waste of taxpayer money and spoke in opposition to the recall.*

34. *Claudia Morales (translation: Spanish) spoke in support of Mayor Pro Tem Lopez and spoke in opposition to the recall.*

35. *Jose Luis Rodriguez (translation: Spanish) spoke in opposition to the recall.*

The following speakers addressed the City Council via teleconference:

36. *Victor Payan, Media Arts Santa Ana spoke in opposition to the recall.*

37. *Pocha Pena Sarmiento expressed concern regarding the validity of the recall and spoke in opposition to the recall.*

38. *Isuri Ramos spoke in opposition to the recall.*

39. *Mark Lopez spoke regarding Mayor Pro Tem Lopez's campaign contributions.*

40. *Patricia Boe spoke in opposition to the recall.*

41. *Yadira Torres spoke in opposition to the recall.*

42. *Mia Verdin spoke in opposition to the recall*

43. *Ray Diaz spoke in opposition to the recall.*

44. *Marybel spoke in opposition to the recall.*

RECESS – City Council will recess to Closed Session for the purpose of conducting regular City business.

MINUTES: *Mayor Amezcua recessed to consider the Special Closed Session items at 6:33 P.M.*

CLOSED SESSION ITEMS – The Brown Act permits legislative bodies to discuss certain matters without members of the public present. The City Council finds, based on advice from the City Attorney, that discussion in open session of the following matters will prejudice the position of the City in existing and anticipated litigation:

1. CONFERENCE WITH LEGAL COUNSEL – SIGNIFICANT EXPOSURE TO LITIGATION pursuant to Government Code Section 54956.9(d)(2):

- **One (1) matter**

2. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION pursuant to Paragraph (4) of subdivision (d) of Section 54956.9 of the Government Code:

- **One (1) case**

CLOSED SESSION REPORT – The City Attorney will report on any action(s) from Closed Session.

RECONVENE – City Council will reconvene to continue regular City business.

CITY COUNCIL SPECIAL OPEN SESSION

CALL TO ORDER

MINUTES: Mayor Amezcua called the Special Open Session City Council meeting to order at 8:18 P.M.

ATTENDANCE	Council Members	Phil Bacerra Johnathan Ryan Hernandez David Penaloza Thai Viet Phan Benjamin Vazquez
	Mayor Pro Tem Mayor	Jessie Lopez Valerie Amezcua
	Acting City Manager City Attorney City Clerk	Steven A. Mendoza Sonia R. Carvalho Jennifer L. Hall

ROLL CALL

MINUTES: City Clerk Jennifer L. Hall conducted roll call.

Councilmembers Bacerra, Hernandez, Penaloza, Phan and Vazquez, and Mayor Amezcua were present.

Mayor Pro Tem Lopez was absent.

ADDITIONS/DELETIONS TO THE AGENDA

MINUTES: None.

CLOSED SESSION REPORT

MINUTES: City Attorney Sonia Carvalho stated there was no reportable action.

<u>BUSINESS CALENDAR</u>

MINUTES: At 8:18 P.M. the Business Calendar was considered.

3. **Review and Discuss the Letter Received from Orange County Registrar of Voters Bob Page Dated October 26, 2023 Pertaining to the November 14, 2023 Special Recall Election for Santa Ana Ward 3; Take Potential Action Concerning the Election by Motion(s) or Resolution(s)**

Department(s): City Attorney's Office and City Clerk's Office

Recommended Action:

1. Take no action;

OR

2. Approve resolution(s);

AND/OR

3. Provide other direction to staff.

(Staff Report and Related Documents, if any, to be Provided Prior to the Meeting)

MINUTES: *Councilmember Hernandez expressed concern regarding the validity of the recall, stated the recall should not continue as it is not legal, spoke regarding the recall campaign, and stated the City Clerk is legally required to rescind the certification of the results.*

Councilmember Vazquez spoke regarding the Registrar of Voters (ROV) letter received.

Councilmember Phan spoke regarding the sufficiency of valid signatures to recall a member of the City Council and stated the resolution to recall Mayor Pro Tem Lopez should be rescinded.

Councilmember Bacerra inquired regarding the certification of sufficiency by the Registrar of Voters Office and whether the ROV's Office has rescinded the certification of sufficiency certificate related to the recall election with an updated certification.

City Clerk Jennifer L. Hall answered questions regarding the certificate of sufficiency related to the recall petitions and stated the City has not received a rescinding letter from the Registrar of Voters Office.

Councilmember Bacerra stated the City of Santa Ana should not take responsibility for the Registrar of Voters Office mistakes.

Councilmember Penalosa spoke regarding the recall election and in support of recommended action no. 1 and he requested to not take action and let the courts decide.

MOTION: **Councilmember Hernandez moved to approve recommended action no. 2 for Item No. 3, seconded by Councilmember Vazquez.**

RESOLUTION NO. 2023-XXX entitled A RESOLUTION OF THE CITY COUNCIL OF

THE CITY OF SANTA ANA DIRECTING THE CITY CLERK TO RESCIND THE CERTIFICATE OF SUFFICIENCY FOR PETITION TO RECALL COUNCIL MEMBER JESSIE LOPEZ, CANCELLING THE SPECIAL ELECTION CALLED AND NOTICED ON NOVEMBER 14, 2023, AND REPEALING RESOLUTION NOS. 2023-045, 2023-055, AND 2023-056

SUBSTITUTE MOTION: Councilmember Penaloza moved to approve recommended action no. 1 for Item No. 3, seconded by Councilmember Bacerra.

The substitute motion failed, 3-3-0-1, by the following roll call vote:

AYES: COUNCILMEMBER BACERRA, COUNCILMEMBER PENALOZA, MAYOR AMEZCUA
NOES: COUNCILMEMBER HERNANDEZ, COUNCILMEMBER PHAN, COUNCILMEMBER VAZQUEZ
ABSTAIN: NONE
ABSENT: MAYOR PRO TEM LOPEZ
Status: 3-3-0-1- **Fail**

The original motion failed, 3-3-0-1, by the following roll call vote:

AYES: COUNCILMEMBER HERNANDEZ, COUNCILMEMBER PHAN, COUNCILMEMBER VAZQUEZ
NOES: COUNCILMEMBER BACERRA, COUNCILMEMBER PENALOZA, MAYOR AMEZCUA
ABSTAIN: NONE
ABSENT: MAYOR PRO TEM LOPEZ
Status: 3-3-0-1- **Fail**

****END OF BUSINESS CALENDAR****

CITY MANAGER COMMENTS

MINUTES: None.

COUNCIL COMMENTS

MINUTES: Councilmember Vazquez expressed concern with the validity of the recall election.

Councilmember Hernandez stated he does not support illegal elections.

Councilmember Penaloza invited all to attend the Trunk or Treat Event at Memorial Park at 5:00 P.M.

Councilmember Phan expressed disappointment in the City Council.

ADJOURNMENT – Adjourn the City Council special meeting.

MINUTES: Mayor Amezcua adjourned the Special City Council meeting at 8:36 P.M.

Respectfully submitted:

Jennifer L. Hall, CMC
City Clerk