

**MINUTES
JOINT MEETING OF THE
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
CITY AS SUCCESSOR AGENCY FOR THE
COMMUNITY REDEVELOPMENT AGENCY OF THE
CITY OF MORENO VALLEY
MORENO VALLEY HOUSING AUTHORITY
MORENO VALLEY PUBLIC FINANCING AUTHORITY
BOARD OF LIBRARY TRUSTEES**

SPECIAL MEETING – 4:00 PM

November 18, 2021

CALL TO ORDER

The Joint Meeting of the City Council, Community Services District, City as Successor Agency for the Community Redevelopment Agency of the City of Moreno Valley, Moreno Valley Housing Authority, Moreno Valley Public Financing Authority and the Board of Library Trustees was called to order at 4:04 p.m. by Mayor Gutierrez in the Council Chamber located at 14177 Frederick Street.

Mayor Gutierrez announced that the City Council receives a separate stipend for CSD meetings.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Gutierrez.

ROLL CALL

Council:	Edward A. Delgado	Council Member
	Dr. Yxstian A. Gutierrez	Mayor
	David Marquez	Council Member
	Ulises Cabrera	Council Member
	D. LaDonna Jempson	Council Member

INTRODUCTIONS

Staff:	Pat Jacquez-Nares	City Clerk
	Steven Quintanilla	Interim City Attorney
	Mike Lee	City Manager
	Brian Mohan	Assistant City Manager/Chief Financial Officer/City Treasurer
	Ben Kim	Assistant City Manager Development Services

Manuel Mancha
Michael Lloyd
Jeremy Bubnick
Sam Morovich
Jesse Park

Community Development Director
Public Works Director/City Engineer
Parks & Community Services Director
Lt. Administration/Division Commander
Fire Chief

PUBLIC COMMENTS ON MATTERS ON THE AGENDA ONLY

Roy Bleckert

1. Urged the City Council to rescind the appointment of Council Member Jempson.
2. Requested the District 1 vacancy be filled with an election in April of 2022, in conjunction with the School Board election.
3. Indicated that the City Council's actions were motivated by political power.
4. Suggested that the recent issues were perpetuating a poor image of Moreno Valley.
5. Asked for the evaluation of Interim City Attorney Quintanilla to be heard openly.
6. Called on Council Members Cabrera and Marquez to name the people they refer to in their comments.

Donovan Saadig

1. Commended staff for their hard work.
2. Reported that the District Attorney determined Council Member Jempson's appointment was a Brown Act violation.
3. Criticized Council Member Jempson.
4. Thanked Mayor Gutierrez for staying out of the issue.
5. Questioned Council Member Jempson's motives for wanting the District 1 seat.

Ms. Lopez

1. Congratulated Council Member Elect Delgado.
2. Urged Council Members Cabrera and Marquez to do the right thing.

Margie Yumul

1. Congratulated Council Member Elect Delgado.
2. Opposed the appointment of Council Member Jempson.
3. Criticized Council Member Cabrera.
4. Read a portion of an article from the California City News.
5. Called for a special election for District 1.

Tom Thornsley

1. Congratulated Council Member Elect Delgado.
2. Expressed disappointment of the turnout for the District 2 election and Measure G was so low.
3. Urged the City Council to remedy the appointment of Council Member Jempson.
4. Questioned why the agenda didn't include options for filling the District 1 seat, expressed his expectation that it would be included on the next agenda.
5. Faulted City Clerk Jacquez-Nares, and Interim City Attorney Quintanilla for not ending the meeting on October 19th, due to a lack of quorum.
6. Recalled the appointment of Mayor Gutierrez in 2013.

7. Persuaded the City Council to avoid the cost of a second election by appointing someone to District 1.

Bob Palomarez

1. Accused Council Member Cabrera of lying.
2. Alleged Council Member Jempson committed a crime.

Elena Santa Cruz

1. Criticized Council Member Jempson.
2. Noted that the District Attorney sent a letter to the City regarding the illegal appointment of Council Member Jempson.
3. Condemned Council Members Cabrera and Marquez.
4. Alleged that it is illegal for a Council Member to serve without compensation.
5. Questioned whether District 1 discretionary funds had been disbursed.

JoAnn Stephan

1. Congratulated Council Member Elect Delgado.
2. Opposed the appointment of Council Member Jempson.
3. Criticized Council Member Jempson.
4. Urged the City Council to hold an election for District 1.

Tom Jerele, Sr.

1. Congratulated Council Member Elect Delgado.
2. Suggested that no City Council meetings occur until Council Member Elect Delgado is sworn in.
3. Opposed the appointment of Council Member Jempson.
4. Recounted the appointment of Mayor Gutierrez in 2013.

David Zeitz

1. Questioned why the meeting was scheduled at 4:00 p.m.
2. Congratulated Council Member Elect Delgado.
3. Suggested that the three Council Members in office on October 19th vote, to determine the appointment of Council Member Jempson.
4. Recalled the appointment of Mayor Gutierrez in 2013.
5. Urged the City Council to resolve their disagreements and focus on City business.

Lindsay Robinson

1. Welcomed Council Member Elect Delgado.
2. Recounted the appointment of Mayor Gutierrez in 2013.
3. Alleged that the City Council has committed Brown Act violations throughout the years.
4. Opposed the appointment of Council Member Jempson.
5. Claimed the City misled the public when they vouched for the health of Mayor Pro Tem Baca in September.

Mrs. McIntosh

1. Accused Council Member Cabrera of terrorizing and harassing City staff.
2. Critical of Council Members Marquez, Cabrera, and Jempson.
3. Claimed students wanted to protest in front of Council Member Marquez's home.
4. Disagreed with comments made by Council Member Cabrera.

Russell Shafer

1. Critical of Council Member Cabrera.
2. Disagreed with comments made by Council Member Cabrera.
3. Urged the City Council to rescind the appointment of Council Member Jempson.

Louise Palomarez

1. Critical of Council Members Cabrera, Marquez, and Jempson.
2. Claimed City Clerk Jacquez-Nares filed a harassment suit against Council Member Cabrera.
3. Accused Council Members Cabrera, Marquez, and Jempson of collusion.
4. Disagreed with comments made by Council Member Cabrera.

A. BUSINESS

- A.1. CERTIFICATION OF ELECTION RESULTS - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, CERTIFYING PURSUANT TO SECTION 10262 (B) OF THE CALIFORNIA ELECTIONS CODE, THE RESULTS OF THE NOVEMBER 2, 2021, SPECIAL ELECTION FOR FILLING THE VACANCY OF THE DISTRICT 2 CITY COUNCIL SEAT, AS DULY PRESENTED TO THE CITY CLERK BY THE RIVERSIDE COUNTY REGISTRAR OF VOTERS (Report of: City Clerk)

City Clerk Jacquez-Nares provided the report.

Council Member Cabrera congratulated Council Member Elect Delgado. He moved to adjourn the meeting to immediately after the Closed Session.

Mayor Gutierrez stated that he called the Special Meeting to order and would not yet call the Closed Session Meeting to order until the end of the current meeting.

Council Member Cabrera explained that there was a motion on the floor to adjourn the meeting and asked for a second and a vote.

City Attorney Quintanilla affirmed that Mayor Gutierrez has the duty and the right to call Special Meetings to order and that he can defer calling the next Special Meeting to order in order to finish the current meeting.

Mayor Gutierrez clarified that the certification was a mandamus action and that previous courts had ruled that the results must be accepted.

Council Member Cabrera remarked that the process was ministerial and expressed his hope that Council Member Elect Delgado would have the opportunity to be sworn in before his family and friends. He indicated his eagerness to work with Council Member Elect Delgado.

Mayor Gutierrez reported that the election results were certified at 12:37 p.m. by the Riverside County Registrar of Voters and that Council Member Delgado was already sworn-in.

Recommendation: That the City Council:

1. Adopt Resolution No. 2021-71 of the City Council of the City of Moreno Valley, California, reciting the fact of the General Municipal Election held on November 2, 2021, declaring the results and such other matters as provided by law.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dr. Yxstian A. Gutierrez, Mayor
SECONDER:	Ulises Cabrera, Council Member
AYES:	Ed Delgado, Dr. Yxstian A. Gutierrez, David Marquez, Ulises Cabrera

Council Member Delgado was administered the oath by City Clerk Jacquez-Nares.

Council Member Delgado took his seat on the dais.

- A.2. RESCISSION OF BROWN ACT COMMITMENT - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, CURING AND CORRECTING, PURSUANT TO SECTIONS 54960, 54960.1 AND 54960.2 OF THE CALIFORNIA GOVERNMENT CODE, THE ALLEGED BROWN ACT VIOLATIONS DESCRIBED IN THE LETTER, DATED OCTOBER 22, 2021, RECEIVED FROM CALIFORNIANS AWARE (Report of: City Attorney)

Council Member Jempson recused herself at 4:54 p.m.

Interim City Attorney Quintanilla provided the report.

Mayor Gutierrez remarked that as Council Member Delgado was having technical issues, the City Council would take a voice vote for the remaining items.

Mayor Gutierrez asked Interim City Attorney Quintanilla to read the portion of the District Attorney's letter that included a legal analysis.

Interim City Attorney Quintanilla read the District Attorney's letter.

Council Member Cabrera asked how many affirmative votes are required for resolutions.

Interim City Attorney Quintanilla stated three are required.

Council Member Cabrera explained the cure and correct is necessary. He mentioned that prior to the meeting he was emailed a copy of the District Attorney's letter. He asserted that if the appointment of Council Member Jempson is rescinded, the City Council should make an appointment to fill the District 1 seat. He asked for confirmation of the term dates of an appointment versus an election.

City Clerk Jacquez-Nares remarked that an appointee would serve until November 2022, while an elected Council Member would be in office until December 2024.

Council Member Cabrera repeated his desire to fill the District 1 vacancy by appointment. He recalled the attempt the City Council made to appoint someone to fill the vacancy left by the untimely passing of Dr. Carla Thornton. He explained that he wasn't allowed to interview the sixteen applicants, which he found to be objectionable. He reiterated his preference for an appointment with required applications and open and public interviews. In an effort to be transparent, he reasoned, a public forum would be ideal. Should there be no consensus, he declared, the vacancy would be filled by a special election. He expressed his concern regarding the absent attachments, mentioned in one of the staff reports, for items A.2 and A.3. As clarified to him by Interim City Attorney Quintanilla, he explained that the prevailing party in any potential lawsuit would be awarded their attorney fees. He stated the City needs to reposition itself in order to avoid that situation. He questioned why the meeting was scheduled for 4:00 p.m. and not 6:00 p.m. as a majority of residents commute. He queried what the consequences would be if the City went past the thirty day limit to cure and correct the alleged Brown Act violation.

Interim City Attorney Quintanilla explained if the cure and correct is adopted after the 30 day period, the petitioners of the lawsuit will be designated the prevailing party and the City would be liable for their attorney's fees.

Council Member Cabrera asked if attorney fees would include meetings, and correspondence up to the point of the correction.

Interim City Attorney Quintanilla responded in the affirmative and included court fees.

Council Member Cabrera remarked that two days prior he requested and received no support for a special meeting to not only take action on the cure and correct, but to also allow for a transparent appointment process. Although, he affirmed his support for the cure and correct, he felt the lack of instruction for filling the vacancy was problematic. He suggested the City wait to adopt the cure and correct until the guarantee of an open appointment is met.

Mayor Gutierrez asked Interim City Attorney Quintanilla what would occur if the City passed the thirty-day deadline.

Interim City Attorney Quintanilla stated there would be a lawsuit filed against the City and other potential lawsuits filed against individual Council Members. He explained that could include discovery, depositions, subpoenas, hearings, and a trial.

Council Member Marquez concurred with Council Member Cabrera. He reasoned that the person who is appointed to the District 1 vacancy would only serve until November 2022. He stated, "Who cares if it was a Brown Act Violation." He further opined that regardless of whether or not a Brown Act violation occurred the best course of action would be an appointment, as it would save the City money. He alleged that various criminal acts have occurred during the six years he served as a Council Member. He accused some of the detractors of having personal agendas.

Council Member Cabrera remarked that the audience interruptions continue and reminded Mayor Gutierrez that he has a duty to ensure decorum and does have the authority to remove people from the Council Chamber.

Mayor Gutierrez stated he was issuing them warnings.

Council Member Delgado explained the appointment left him both embarrassed and more motivated to serve. He acknowledged the difficulty it is to get elected. He expressed the necessity of the cure and correct. He confirmed that there was currently no remedy for filling the District 1 vacancy, but could be in the future should the City Council deem it necessary. He expressed his desire to see an end to the rhetoric and agreed with a previous speaker who called for the City to return to normal business. He expressed his feeling that the entire City Council agrees on the necessity of the cure and correct.

Interim City Attorney asked City Clerk Jacquez-Nares to read the name of the adopted resolution.

City Clerk Jacquez-Nares read the resolution's title, Approve and adopt a resolution of the City Council of the City of Moreno Valley, California curing and correcting pursuant to sections 54960, 54960.1, and 54960.2 of the California Government Code the alleged Brown Act violations described in the letter dated October 22, 2021 received from Californians Aware.

Recommendation: That the City Council:

1. Approve and Adopt a Resolution of the City Council of the City of Moreno Valley, California, Curing and Correcting, pursuant to Sections 54960, 54960.1 and 54960.2 of the California Government Code, the alleged Brown Act violations described in the letter, dated October 22, 2021, received from Californians Aware.

RESULT: APPROVED [UNANIMOUS]
MOVER: Ed Delgado, Council Member
SECONDER: Dr. Yxstian A. Gutierrez, Mayor
AYES: Ed Delgado, Dr. Yxstian A. Gutierrez, David Marquez, Ulises Cabrera

A.3. RESCISSION OF BROWN ACT COMMITMENT - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, CURING AND CORRECTING, PURSUANT TO SECTIONS 54960, 54960.1 AND 54960.2 OF THE CALIFORNIA GOVERNMENT CODE, THE ALLEGED BROWN ACT VIOLATIONS DESCRIBED IN THE LETTER, DATED OCTOBER 22, 2021, RECEIVED FROM ROBERT PALOMAREZ (Report of: City Attorney)

Mayor Gutierrez asked if a vote was necessary, as this is identical to item number A.2.

Interim City Attorney Quintanilla answered in the affirmative.

Council Member Marquez asked if discussion was necessary.

Mayor Gutierrez remarked it was up to the City Council.

Council Members Marquez, Cabrera, and Delgado agreed no discussion was necessary.

City Clerk Jacquez-Nares read the resolution's title, Approve and adopt resolution of the City Council of the City of Moreno Valley, California curing and correcting pursuant to sections 54960, 54960.1, and 54960.2 of the California Government Code the alleged Brown Act violations described in the letter dated October 22, 2021 received from Robert Palomarez.

Recommendation: That the City Council:

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RESULT: APPROVED [UNANIMOUS]
MOVER: Ed Delgado, Council Member
SECONDER: Dr. Yxstian A. Gutierrez, Mayor
AYES: Ed Delgado, Dr. Yxstian A. Gutierrez, David Marquez, Ulises Cabrera

(ITEMS MAY BE DEFERRED BY COUNCIL IF TIME DOES NOT PERMIT FULL REVIEW.)

Council Member Delgado

1. Expressed gratitude for those that assisted with his campaign.
2. Indicated he wasn't motivated by money or power, but simply a will to serve.
3. Discussed his understanding of the responsibility associated with representing the residents of District 2.
4. Assured residents that his decisions would be educated and thought out versus emotional.
5. Validated the concerns of District 2 residents, which he believed could be addressed, if the City Council worked together.
6. Asked that the current issues be dealt with, while maintaining respect and dignity.
7. Thanked the City Council for their work and sacrifice.
8. Expressed his desire to conduct normal City business.
9. Indicated his wish for the City Council to work collectively.
10. Expressed his excitement to serve.
11. Guaranteed he would treat City staff with respect.
12. Purported to have stayed true to himself his entire professional and personal life.
13. Committed to Lindsay Robinson that he would act with dignity, respect, and integrity.
14. Charged residents with holding him accountable.

Interim City Attorney Quintanilla announced that at the time the resolutions were adopted to cure and correct the action formally removed LaDonna Jempson from the City Council.

Council Member Marquez questioned why the City Council was being informed of this after the fact, stating the question was posed to Interim City Attorney Quintanilla prior to the vote in which he advised that the only person who could remove LaDonna Jempson was the Attorney General.

Interim City Attorney Quintanilla remarked that issues being discussed are reserved for Closed Session. Furthermore he stated that the outcome of the vote was in the staff report and spelled out in the resolution.

Council Member Cabrera asked if a member of the City Council would have the option to change their vote.

Interim City Attorney Quintanilla explained a motion for reconsideration requires somebody from the majority to make that motion and requires three affirmative votes.

Council Member Cabrera confirmed he and Council Member Marquez were told that the only way to remove a sitting elected official from their seat was through a quo warranto.

Interim City Attorney Quintanilla noted that was discussed in Closed Session and cautioned Council Member Cabrera against disclosing those items.

Council Member Cabrera remarked he researched the item himself. He noted there is precedent and expressed his hope that the threat of litigation is finally over.

ADJOURNMENT

There being no further business to come before the City Council, Mayor Gutierrez adjourned the meeting at 5:42 p.m.

Submitted by:

Pat Jacquez-Nares, CMC & CERA
City Clerk
Secretary, Moreno Valley Community Services District
Secretary, City as Successor Agency for the Community
Redevelopment Agency of the City of Moreno Valley
Secretary, Moreno Valley Housing Authority
Secretary, Board of Library Trustees
Secretary, Public Financing Authority

Approved by:

Dr. Yxstian A. Gutierrez
Mayor
City of Moreno Valley
President, Moreno Valley Community Services District
Chairperson, City as Successor Agency for the Community
Redevelopment Agency of the City of Moreno Valley
Chairperson, Moreno Valley Housing Authority
Chairperson, Board of Library Trustees
Chairperson, Public Financing Authority