



## COUNTY OF FRESNO

Lisa A. Smittcamp  
District Attorney

### VIA EMAIL & Delivery to Selma City Hall

December 17, 2024

To Mayor Scott Robertson, and the current, outgoing, and incoming members of the Selma City Council,

Pursuant to a submission to the Public Integrity Unit of the Fresno County District Attorney's Office, it has come to the attention of this Office that on December 12th, 2025, at a special meeting of the Selma City Council, the Mayor acknowledged on the record that a quorum was not present. He then proceeded to adjourn the meeting to "swear new members in," with the stated intent of thereby obtaining a quorum. The newly sworn in members, along with the mayor and other city council member present, then purportedly proceeded to conduct city business. (The use of the word "purportedly" here because, after the then City Attorney and others absented themselves from what was, in their perspective, an illegal meeting, it appears the recording/streaming equipment may have been turned off and no longer recorded what transpired afterwards.)

It must be plainly put, the District Attorney's Office is not taking sides in the local politics of your municipality, nor does it have any desire to do so. The decisions that the Selma City Council makes in civic matters are its own. What is of utmost importance to this Office, however, is the rule of law. Here, it appears to this Office that the proceedings of December 12th, 2024 violated California Elections Code Section 10263, and Government Code Section 36810.

Elections Code Section 10263 requires, in plain language, that before the installation of new officers, a governing body must adopt a resolution reciting the fact of the election and other matters required pursuant to the elections code- such information to include, among other things, the whole number of votes cast and the names of persons voted for. Therefore, before new members may be installed, the resolution must be passed (and neither can the outgoing council members decline to pass the required resolution – it shall be passed by legislative body, pursuant to same code section). A resolution is a piece of city business which requires a quorum to pass. Lacking a quorum, the city could not pass the required resolution prior to installing new members.

Pursuant to California Government Code Section 36810, a majority of the council constitutes a quorum for transaction of business. Additionally, pursuant to the same code section, less than a majority may adjourn and compel attendance of absent members in the manner and under the penalties prescribed by ordinance. This law is also mirrored by Selma's Code of Ordinances 1-5-1, subsection (F).

It follows, then, that if the installation of new members was defective because the formalities of Elections Code Section 10263 were not followed, then the Selma City Council lacked a quorum to transact business. If the city council lacked a quorum to do business, then any business conducted without a quorum opens the City to potential liability for the decisions undertaken without a quorum.

Again, this Office makes no comment on the substance or nature of any business that was potentially conducted absent a quorum – this Office sees the problem as a procedural issue that can be remedied. To that end, if at the next regularly scheduled meeting, or at a special meeting called pursuant to your municipality's notice requirements, a quorum of the Selma City Council (without the incoming members, since they cannot be sworn in prior to passing of the resolution pursuant to Elections Code Section 10263) passed the resolution required by the Elections Code, and following that, the newly elected members were sworn in, this Office would consider the matter moot. Moreover, the City would limit potential litigation concerning the legality of any actions taken by the newly sworn in members, since the letter of the law will have been followed.

While this Office is aware of the argument that absent city council members could hold up city business, it is incumbent upon the City to follow state law and its own ordinances in dealing with the issue and compelling attendance of the legislative body members, should the need arise. However, if a special meeting is scheduled when the members are available, or the resolution is taken up at the next regularly scheduled meeting, perhaps it will not be such an issue after all. Civil government is a public good, with the safe and orderly transfer of power a bedrock principle upon which our nation was founded. When the procedures laid out by the State of California for the operation of local government are followed, it inures to the public benefit.

Respectfully,



Victor Lai  
Senior Deputy District Attorney  
Public Integrity Unit  
Fresno County Office of the District Attorney