

SPECIAL MEETING

AUGUST 23, 2023



Imperial City Council

Katherine Burnworth- Mayor
Robert Amparano-Mayor Pro Tem
Ida Obeso-Martinez-Council Member
Stacy Mendoza- Council Member
James Tucker-Council Member

AGENDA

Special Meeting of the Imperial City Council

City Council Chambers
220 West 9th Street
Imperial, CA 92251-1637

August 25, 2023
Open Session at 5:30 p.m.

The Imperial City Council meetings, including public comments, are being livestreamed on the city's social media pages. By remaining in the room, you are giving your permission to be recorded.

1. You are encouraged to observe the City Council meetings via Livestream at the City of Imperial Facebook page.
2. All documents containing an executive summary and staff recommendation associated with open session action items are made available for public inspection on the City's website, www.cityofimperial.org seventy-two (72) hours prior to the posted meeting time.
Government Code section 54957.5(b)(2)(B)

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in the meeting, please contact (760) 355-4373. A notification of 48 hours prior to the meeting will enable the city to make reasonable arrangements to ensure accessibility to this meeting [28CFR 35.102-35.104 ADA title II].

5:30 P.M. SPECIAL MEETING

CALL TO ORDER:

ROLL CALL:

PLEDGE OF ALLEGIANCE:

ADJUSTMENTS TO THE AGENDA: The City Council will discuss the order of the agenda, may amend the order, add urgency items, note abstentions or "no" votes on consent calendar items and request consent calendar items be removed from the consent calendar for discussion. The City Council may also remove items from the consent calendar prior to that portion of the agenda. For purposes of the official city record, the City Council may take care of these issues by entertaining a formal motion.

PUBLIC COMMENT: There is a time limit of three (3) minutes for anyone wishing to address the City Council on these matters.

Matters not appearing on the agenda: If you wish to address the City Council concerning any item within the City Council's jurisdiction, please raise your hand and be acknowledged by the Mayor. At that time, state your name and address for the record. The Mayor reserves the right to place a time limit of three (3) minutes on each person's presentation. It is requested that longer presentations be submitted to the City Clerk's Office in writing 48 hours before the meeting.

A. ACTION ITEMS (DISCUSSION/ACTION- APPROVE-DISAPPROVE):

- A-1.** Proclamation of Local Emergency by the City Council of the City of Imperial Related to Hurricane Hilary.

Staff Report: Michael Crankshaw, Interim Chief of Police

Recommended Action: Staff Recommends Approval of Resolution No. 2023-52, A Resolution of the City Council of the City of Imperial, California Proclaiming a Local Emergency in the City of Imperial Related to Hurricane Hilary.

- A-2.** Authorize Mayor to Issue Letters Opposing Adoption of AB 1484 and AB 504.

Staff Report: Dennis H. Morita City Manager

Recommended Action: Authorize Mayor to Issue Letters Opposing AB 1484 and AB 504.

- A-3.** Approval of Resolution No. 2023-53, Declaring an Emergency Action at Aten & Cross Lift Station.

Staff Report: Jackie Loper, Public Services Director

Recommended Action: Staff Recommends that the Council Declares Emergency and Ratifies Action Already Taken and Approve Resolution.

ADJOURNMENT:

Adjournment of this Regular Meeting of the City Council Until the Next Regularly Scheduled Meeting to be held on Wednesday, September 6, 2023, at 7:00 p.m.

AFFIDAVIT OF POSTING

I, KRISTINA M. SHIELDS, City Clerk for the City of Imperial, California, DO HEREBY CERTIFY under penalty of perjury under the laws of the State of California, that the foregoing revised notice was posted at the City of Imperial City Hall bulletin board at 420 S. Imperial Avenue, Imperial, CA and on the City of Imperial's website not less than 24 hours prior to the meeting, per Government Code 54954.2.

Dated: August 24, 2023


KRISTINA M. SHIELDS
City Clerk

DATE SUBMITTED 08/21/2023
 SUBMITTED BY Imperial Police Dept.
 DATE ACTION REQUIRED Prior to 08/28/2023

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS ()

IMPERIAL CITY COUNCIL AGENDA ITEM

SUBJECT: DISCUSSION/ ACTION;

- APPROVAL OF PROCLAMATION OF LOCAL EMERGENCY BY THE CITY COUNCIL OF THE CITY OF IMPERIAL, RELATED TO HURRICANE HILARY.
- APPROVAL OF RESOLUTION 2023-052

DEPARTMENT INVOLVED: OFFICE OF THE CITY MANAGER

BACKGROUND/SUMMARY:

Pursuant to Chapter 7 of the city ordinance outlining the process to address local emergencies and: the city established Emergency Operation Plan (EOP), the City Manager in his capacity of Emergency Operation Director determined emergency conditions exist and declared a state of emergency directly related to Hurricane Hilary.

Similar Proclamations have been drafted by the County of Imperial and other municipalities within the region for preparation / operational efforts required.

(See attached timeline sheet)

FISCAL IMPACT: Unknown – To be determine

FINANCE
INITIALS

DP

Projected Cost:

Funding:

STAFF RECOMMENDATION:

Approve

DEPT.
INITIALS

DP

CITY MANAGER'S RECOMMENDATION:

approve proclamation

CM
INITIALS

DP

MOTION:

SECONDED:

AYES:

NAYES:

ABSENT:

APPROVED ()

DISAPPROVED ()

REJECTED ()

DEFERRED ()

REFERRED TO:

RESOLUTION 2023-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL, CALIFORNIA, PROCLAIMING A STATE OF EMERGENCY RELATED TO HURRICANE HILARY

WHEREAS, the codified ordinance of the City of Imperial includes a Chapter 7 which sets forth a process to address a local emergency; and;

WHEREAS, the City of Imperial has also approved an Emergency Operations Plan which provides for proclamation of local emergency by the city council as governing body for the City of Imperial; and

WHEREAS, the City Manager of the City of Imperial in his capacity as Emergency Operations Director has determined the existence of emergency conditions of disaster or extreme peril to the safety of persons and property within the City of Imperial by virtue of Hurricane Hilary; and

WHEREAS, the City of Imperial is requesting aid through the California Disaster Assistance Act ("CDAA") to assist it in addressing damages and other conditions caused by Hurricane Hilary during the time period on or about August 2023; and

WHEREAS, on August 19, 2023, Governor Newsom proclaimed a state of emergency in Fresno, Imperial, Inyo, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Tulare, and Ventura Counties by virtue of the authority granted his officer under the California Constitution and Government Code Section 8625.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IMPERIAL DOES RESOLVE, DETERMINE, ORDER AND PROCLAIM AS FOLLOWS:

SECTION 1. That the above-referenced recitals are true and correct and are incorporated herein.

SECTION 2. That this Resolution is adopted and approved and is effective in order to address the impacts of Hurricane Hilary and shall remain in full force and effect until such time as it is revoked by the City Manager or City Council.

SECTION 3. The City of Imperial Director of Emergency Services and the Emergency Operations Coordinator shall have the authority set forth in Chapter 7 of the Imperial Municipal Code and as otherwise provided by State law, the City of Imperial Emergency Operations Plan and City policies and Procedures.

SECTION 4. The aforementioned persons shall take such steps as may be necessary to participate in resources made available by virtue of Governor Newsom's proclamation of a state of emergency.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Imperial
on the 25th day of August, 2023.

KATHERINE BURNWORTH,
Mayor

ATTEST:

KRISTINA M. SHIELDS,
City Clerk

CERTIFICATION

I, Kristina M. Shields, City Clerk of the City of Imperial, California, hereby certify that the foregoing resolution was duly adopted at a meeting of the City Council of said City at its meeting held on the 25th day of August, 2023, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Imperial, California, this _____ day of August, 2023.

KRISTINA M. SHIELDS,
City Clerk

DATE SUBMITTED August 24, 2023

SUBMITTED BY City Manager

DATE ACTION REQUIRED August 25, 2023

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS ()

IMPERIAL CITY COUNCIL AGENDA ITEM

SUBJECT: DISCUSSION/ACTION:
 Authorize Mayor to issue letters opposing adoption of AB 1484 and AB 504.

DEPARTMENT INVOLVED:
 City Manager

BACKGROUND/SUMMARY: AB 1484: Would require local public agencies to include temporary employees in the same bargaining unit as permanent employees. If passed, our ability to provide public services would be negatively impacted. Imperial regularly hires temporary employees for our seasonal recreation programs. Imperial also utilizes temporary employees for project specific purposes. This bill discourages such hiring thereby compromising service to our community.

AB 504: If passed, this bill would elevate the act of sympathy striking and honoring a strike at the expense of current law on the subject of collective bargaining and local MOU's which address the subject.

Please see attached draft letters of opposition.

FISCAL IMPACT: None if bills are not passed. Unknown if bills become law.

FINANCE
INITIALS

DP

STAFF RECOMMENDATION: Authorize Mayor to issue letters opposing AB 1484 and AB 504.

DEPT. INITIALS

MANAGER'S RECOMMENDATION: Approve staff recommendation

CITY
MANAGER'S
INITIALS

APM

MOTION:

SECONDED:
 AYES:
 NAYES:
 ABSENT:

APPROVED ()
 DISAPPROVED ()
 REFERRED TO:

REJECTED ()
 DEFERRED ()



August 24, 2023

The Honorable Anthony Portantino
Chair, Senate Appropriations Committee
State Capitol, Room 412
Sacramento, CA 95814

**RE: AB 1484 (Zbur): Temporary public employees – OPPOSE
As Amended May 18, 2023**

Dear Senator Portantino:

The City of Imperial must respectfully **oppose AB 1484**, which would require local public employers to include temporary employees in the same bargaining unit as permanent employees upon request of the recognized employee organization. AB 1484 would be difficult, if not impossible, for public employers to fulfill and includes provisions that conflict with existing law for permanent employees.

The bill's provisions, including restrictions on discharging temporary employees and the inevitable increases in cost to employers, would also seriously discourage public agencies from hiring temporary employees. This reduction in employment opportunities would be detrimental to Californians throughout the state who are seeking temporary work.

AB 1484 would also negatively impact public services. "Extra help" employees are often hired for seasonal or "surge" needs, such as Recreation Leaders and Lifeguards. This bill would significantly increase the costs of hiring such employees, thereby reducing levels of service to residents. Similarly, temporary employees are frequently hired to backfill permanent employees who are on leave or temporarily reassigned. This bill would discourage such hiring, leaving positions unfilled and the public unserved.

Furthermore, AB 1484 would have unintended and unpredictable consequences when applied to the myriad existing local programs and the laws governing employees. This includes retired annuitants — whose terms and conditions of employment are strictly controlled by state law in ways that would severely impair any meaningful bargaining — and workers hired through staffing agencies.

Public agencies also often offer paid student internship programs, which provide valuable work experience for the next generation of public employees. Requiring

CITY COUNCIL
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Robert Amparano – Mayor Pro-Tem
James Tucker – Councilmember
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Stacy Mendoza – Councilmember

CITY CLERK
Kristina Shields

CITY MANAGER
Dennis H. Morita

CITY ATTORNEY
Katherine Turner

agencies to include those positions with the bargaining unit (and give them discharge protections) would strongly discourage local governments from offering such programs.

AB 1484 would also require public agencies to inform temporary employees and the employee organization of the anticipated length of employment. However, temporary employees are often hired to fulfill an immediate need of uncertain duration, as was the case during the COVID-19 pandemic. In these cases, the agency would not be able to identify an end date that is anything more than speculation, which would serve no useful purpose and may lead to unnecessary disputes.

Most critically, AB 1484 provides temporary employees with more rights than permanent employees. Proposed Section 3507.7(b)(5) provides that "temporary employees...who have been employed for more than 30 calendar days shall be entitled to use any grievance procedure in the memorandum of understanding to challenge any discipline without cause." By contrast, the City of Imperial offers a probationary period of six (6) months for permanent employees, during which the employee may be released without cause and without triggering a grievance. This probationary period is a critical part of the hiring process. If public employers cannot use this process for temporary employees, they would be vastly less likely to hire temporary employees.

Temporary employees are hired for a temporary and urgent need. The provisions of this bill severely limit local agencies' ability to utilize this workforce, which ultimately impacts our ability to provide services. For these reasons, the City of Imperial respectfully **opposes AB 1484.**

Sincerely,

Katherine Burnworth
Mayor
City of Imperial

cc: The Honorable Rick Zbur, Member, California State Assembly
The Honorable Members, Senate Appropriations Committee
Robert Ingenito, Consultant, Senate Appropriations Committee
Scott Seekatz, Consultant, Senate Republican Caucus
Mary Hernandez, Chief Deputy Legislative Secretary, Office of the Governor
Your Cal Cities Regional Public Affairs Manager (via email)
League of California Cities, (via email: cityletters@calcities.org)



CITY COUNCIL
Katie Burnworth – Mayor
Robert Amparano – Mayor Pro-Tem
James Tucker – Councilmember
Ida Obeso-Martinez – Councilmember
Stacy Mendoza – Councilmember

CITY CLERK
Kristina Shields

CITY MANAGER
Dennis H. Morita

CITY ATTORNEY
Katherine Turner

August 24, 2023

The Honorable Anthony J. Portantino
Chair, Senate Committee on Appropriations
State Capitol, Room 412
Sacramento, CA 95814

RE: AB 504 (Reyes) State and Local Public Employees: Labor Relations: Disputes.
OPPOSE (As Amended 7/13/23)

Dear Senator Portantino:

The City of Imperial regrettably wishes to join the League of California Cities (Cal Cities), Rural County Representatives of California (RCRC), California Association of Joint Powers Authorities (CAJPA), Association of California Healthcare Districts (ACHD), California State Association of Counties (CSAC), Public Risk Innovation Solutions, and Management (PRISM), Urban Counties of California (UCC), and California Special Districts Association (CSDA) in their opposition to AB 504. This measure would declare the acts of sympathy striking and honoring a strike line a human right and thereby disallow provisions in public employer policies or collective bargaining agreements going forward that would limit or prevent an employee's right to sympathy strike.

State laws governing collective bargaining are in place to ensure a fair process for both unions and public entities. AB 504 upends the current bargaining processes which allows striking only in specified limited circumstances. Specifically, this bill states it shall not be unlawful or a cause for discipline or other adverse action against a public employee for that public employee to refuse to do any of the following:

- Enter property that is the site of a primary strike.
- Perform work for an employer involved in a primary strike.
- Go through or work behind any primary strike line.

This poses a serious problem for public agencies that are providing public services on a limited budget and in a time of a workforce shortage. Allowing any public employee, with limited exception, to join a striking bargaining unit in which that employee is not a member could lead to a severe workforce stoppage. When a labor group is preparing

to engage in protected union activities, local agencies have the ability to plan for coverage and can take steps to limit the impact on the community. This bill would remove an agency's ability to plan and provide services to the community in the event any bargaining unit decides to strike. A local agency cannot make contingency plans for an unknown number of public employees refusing to work.

In addition, when government services are co-located, employees from a non-struck agency could refuse to work at the shared campus if employees from a different agency are on strike, as it would be considered crossing the picket line. Additional provisions are needed, similar to the private sector, that allows a separate entrance to ensure the picket line would not be crossed while allowing vital services from a non- struck agency to continue. For example, there are co-located county and court services at almost every court. A county strike could potentially shut down court activities because court employees could refuse to enter the premises as it would be considered crossing the picket line. In rural communities, it is common to see co- location of government services to ensure remote areas are served. Disrupting the services of an innocent employer as part of a strike against another employer – known in labor law as – "secondary pressure" – has long been held to be an unfair labor practice that this bill should not facilitate or legalize. Public employers that bargained in good faith and have approved MOU agreements should not be penalized for sharing a business space with another government employer.

Our organizations are not disputing the right of the employee organization to engage in the protected activity of striking. State law has created a framework for when unions can engage in protected strike activity that has been honored by local government and unions alike. Unfortunately, this bill would allow those who have not gone through the negotiation process to now refuse to work simply because another bargaining unit is engaging in striking.

Local agencies provide critical health and safety functions, including disaster response, emergency services, dispatch, utilities, mobile crisis response, health care, law enforcement, corrections, elections, and road maintenance. Local memorandums of understanding (MOUs) provisions around striking and sympathy striking ensure local governments can continue to provide critical services. In many circumstances, counties must meet minimum staff requirements, e.g., in jails and juvenile facilities, to ensure adequate safety requirements. No-strike provisions in local contracts have been agreed to by both parties in good faith often due to the critical nature of the employees' job duties. Under current law, both primary and sympathy strikes may be precluded by an appropriate no-strike clause in the MOU, which this bill proposes to disallow following the expiration of a collective bargaining agreement that was entered into before January 1, 2024.

While we appreciate the recent amendments that seek to address issues regarding, existing MOUs, peace officers, and certain essential employees of a local public agency, we look forward to continuing to work with the author and sponsors to amend the language in order to ensure our communities are not left without essential services. Unfortunately, the recent amendments do not address the issue of public employees

with job duties that require work in a multi-jurisdiction function, like a law enforcement task force, where one entity is on strike. Shutting down government operations for sympathy strikes is an extreme approach that goes well beyond what is allowed for primary strikes and risks the public's health and safety.

As local agencies, we have a statutory responsibility to provide services to our communities throughout the state. This bill jeopardizes the delivery of those services and undermines the collective bargaining process. For those reasons, Cal Cities, RCRC, CAJPA, ACHD, CSAC, PRISM, UCC, and CSDA must oppose AB 504. Please do not hesitate to reach out to us with your questions.

Sincerely,

Katherine Burnworth
Mayor
City of Imperial

CC: Assemblymember Eloise Gómez Reyes, Assembly District 5
Members and Staff, Senate Committee on Appropriations
Robert Ingenito, Consultant, Senate Committee on Appropriations
Scott Seekatz, Policy Consultant, Republican Caucus
Mary Hernandez, Chief Deputy Legislative Secretary, Office of the Governor

DATE SUBMITTED 08/24/2023
 SUBMITTED BY Public Services
 DATE ACTION REQUIRED 08/25/2023

COUNCIL ACTION ()
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS ()

IMPERIAL CITY COUNCIL AGENDA ITEM

SUBJECT: Declare Emergency at Aten & Cross Lift Station	DISCUSSION/ACTION: 1. Declare Emergency Action at Aten & Cross Lift Station of Resolution NO. 2023-53.
DEPARTMENT INVOLVED: Public Services -Wastewater	
BACKGROUND/SUMMARY: The morning of August 24th, Public Services discovered there was a blow out on the discharge pipe at the Aten & Cross Lift Station. If unrepaired, this would cause a severe health and safety issue and cause a sewer back up. City Manager was notified of emergency. Public Services is working with Rove engineering to address emergency and repairs.	
FISCAL IMPACT: Unknown	FINANCE INITIALS 
STAFF RECOMMENDATION: Approve Emergency Action	DEPT. INITIALS 
MANAGER'S RECOMMENDATION: 	CITY MANAGER'S INITIALS 
MOTION:	
SECONDED: AYES: NAYES: ABSENT:	APPROVED () DISAPPROVED () REJECTED () DEFERRED () REFERRED TO:

RESOLUTION NO. 2023-53

**RESOLUTION DECLARING AN EMERGENCY,
RATIFYING ACTION TAKEN TO ADDRESS THE
EMERGENCY AND AUTHORIZING PAYMENT**

WHEREAS, the City operates and maintains a wastewater collection system (“System”);
and

WHEREAS, the System includes lift stations at various locations, including Cross &
Aten; and

WHEREAS, it has been discovered that a discharge pipe in the above referenced lift
station has failed and blown out; and

WHEREAS, if the pipe is not repaired, a sewer spill could occur and such sewer spill
could pose a threat to the public health and safety; and

WHEREAS, the above described condition constitutes an emergency under applicable
law and such emergency would not reasonably permit delays associated with a competitive
solicitation for bids and the actions taken herein were necessary to respond to the emergency;
and

WHEREAS, in order to safeguard the public health and safety, it was necessary to take
immediate action to repair/replace the pipe in the above described lift station; and

WHEREAS, the City Council wishes to ratify action taken by staff and the City Manager
to cause the above described lift station to be repaired.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IMPERIAL
DOES RESOLVE, DETERMINE, AND ORDERS AS FOLLOWS:**

SECTION 1. The above-referenced recitals are true and correct and are incorporated
herein.

SECTION 2. The City Council declares that the public interest and necessity demands
the immediate expenditure of public money to safeguard life, health or property, and hereby
ratifies action taken by staff and the City Manager to repair/replace the pipe in the above
described lift station on an emergency basis to safeguard life, health or property in accordance
with Public Contracts Code Sections 20168 and 22050 and without otherwise complying with
bid requirements required by law.

SECTION 3. The City Council authorizes payment for repair/replacement of the pipe in
the above described lift station. The City Council authorizes payment for all of such expenses on
an emergency basis.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Imperial on the 25th day of August, 2023.

KATHERINE BURNWORTH,
Mayor

ATTEST:

KRISTINA M. SHIELDS,
City Clerk

CERTIFICATION

I, Kristina M. Shields, City Clerk of the City of Imperial, California, hereby certify that the foregoing resolution was duly adopted at a meeting of the City Council of said City at its meeting held on the ____ of August, 2023, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Imperial, California, this _____ day of August, 2023.

KRISTINA M. SHIELDS,
City Clerk