

**RESOLUTION NO. 2020-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MERCED, CALIFORNIA,  
APPROVING PUBLIC CENSURE OF COUNCIL  
MEMBER FERNANDO ECHEVARRIA**

WHEREAS, on November 19, 2018, the City Council of the City of Merced adopted a Values Statement, the Ethics and Code of Conduct, and Rules of Order and Conduct for the City Council;

WHEREAS, the June 29, 2020, City Council agenda included the following item:

Agenda Item F.1. Discussion Regarding Potential Censure of Council Member Echevarria and Providing Direction to Staff Regarding Specific Allegation for a Written Censorship Resolution, if any;

WHEREAS, during the June 29, 2020, City Council meeting there was a discussion regarding Council Member Fernando Echevarria's conduct by both the City Council and the public. After the discussion, the City Council directed staff to draft a written resolution of Public Censure to be provided to the City Council, including Council Member Echevarria, prior to the July 20, 2020, regular City Council meeting. The City Council further directed City staff to place the Public Censure resolution agenda item on the July 20, 2020, City Council agenda for discussion, at which time Council Member Echevarria would have the opportunity to respond to the Public Censure resolution prior to its consideration and potential adoption;

WHEREAS, the City Council finds that Council Member Fernando Echevarria has:

1. Engaged in conduct unbecoming a City Council Member; and
2. Engaged in conduct which has brought embarrassment and discredit to the City Council; and
3. Engaged in conduct which is disrespectful, discourteous, belittling, and inflammatory, and inappropriate toward the public and other Council Members; and

4. Breached the trust and confidence of the other Council Members by making unsupported accusations of wrongdoing, rather than engaging in good faith debate and disagreement; and
5. Failed to recognize his duties as a Council Member to the public; and,
6. Failed to give fair and equal treatment to all persons; and,
7. The Council wishes it known that this Public Censure does not arise out of any good faith disagreement by or with Council Member Echevarria on any matter, as good faith disagreement and debate are expected, encouraged and welcome; and,
8. Specific instances of Council Member Echevarria's misconduct leading to this Public Censure has included, but is not limited to:
  - a. Engaging in discourteous, disrespectful, and unprofessional conduct at a public meeting on June 1, 2020. The discourteous, disrespectful, and unprofessional conduct in general included Council Member Echavarria pounding his fists and acting in an intimidating manner which included yelling.

The discourteous, disrespectful, and unprofessional conduct specifically directed at Monica Villa, on June 1, 2020, includes physical gestures including pointing at Ms. Villa in an intimidating manner, personally attacking Ms. Villa for comments that she made during the meeting that Council Member Echevarria disagreed with, and statement that homeless individuals are angry because they are homeless, they are angry because they don't have money in their pockets, and indicating that's not the Council Member's problem. Ms. Villa is a homeless citizen of Merced and a homeless advocate. Any reasonable person would conclude the conduct was specifically directed at Ms. Villa and was intended to be inflammatory and belittling.

- b. Asserting unsupported allegations which may create liability for the City including, threatening legal action against member(s) of the community during what appeared to be a peaceful event at Courthouse Museum.

- c. Engaging in a physical demonstrations of a carotid hold during a community event at Courthouse Museum shortly following the death of George Floyd which, on face value, was disrespectful, insensitive, and potentially inflammatory; and getting into a verbal confrontation with the participants of the event.
- d. Using unprofessional, inflammatory, belittling and discourteous language in communications (e-mails) with residents, including communications that state (i) a resident “lives in a fantasy world,” (ii) “look in the mirror and you will see EMBARRASSMENT. C-ya, LOL,” among other instances, leading to concerns and complaints about Council Member Echevarria’s conduct.
- e. Engaging in a public personal vendetta against the Mayor by attempting to defame him with unsupported allegations and falsehoods.
- f. Being absent from the Regular City Council meetings on June 15, 2020 and July 6, 2020 and the Special City Council meeting on June 29, 2020, without the permission of the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. The City Council hereby concludes that the facts concerning Council Member Echevarria’s conduct stated above constitutes violations of the Resolution 2018-78, the City of Merced’s Values Statement and Ethics and Code of Conduct, specifically:

**A. Section 2 – Values Statement**

The City Council of the City of Merced values the creation of an atmosphere at City Council meetings that encourages and fosters public input and involvement in the decision making process. The City Council believes that diversity in the community is a positive attribute that is reflected in those elected to represent the citizens of Merced.

It is the City Council's goal to be tolerant of different opinions, to show respect and concern on all issues, to demonstrate leadership by its actions, and to pledge support or disagreement without being disagreeable in our best effort to keep Merced a city where good things happen.

It is the objective of the City Council to establish the uniform procedures prescribed herein for the conduct of public hearings to ensure that all persons appearing before the City Council are treated fairly and equally.

## **B. Section 3 – Purpose**

While it is understood that the State of California has numerous sets of laws that guide the ethical behavior of public officials and employees, the City of Merced wishes to establish that this is a community whose ethical values are clearly stated and fully understood not only by its elected officials and appointed leaders, but this Ethics Code is recognized and acknowledged by its employees and its citizen representatives to represent the values this community holds in highest regard.

## **C. Section 4 – Ethics**

The citizens and businesses of Merced are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council . . . shall conduct themselves in accordance with the following ethical standards:

**3. Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of

other members of the Council, Boards, Committees and Commissions, the staff or public.

4. **Request for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.

5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.

16. **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

SECTION 2. The City Council of the City of Merced thus hereby:

A. Publicly censures Council Member Echevarria for engaging in the foregoing conduct which has caused undue disruption and loss of trust and confidence in him by the Mayor and the other City Council Members.

B. Admonishes Council Member Echevarria to cease in engaging in such conduct or similar conduct in the future, so that the City Council may regain trust and confidence in him going forward, and thus allowing the City Council to perform its duties in the best interest of the public.

C. Removes Council Member Echevarria from any committee, membership, or board he sits on in his capacity as a City Council Member.

SECTION 3. This Resolution shall be effective immediately after its passage and approval.

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PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2020, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:  
STEVE CARRIGAN, CITY CLERK

BY: \_\_\_\_\_  
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Prudencia A. Noh 7-14-2020  
City Attorney Date