



CITY OF MONTEBELLO
CALL AND NOTICE OF A SPECIAL CITY COUNCIL MEETING AGENDA

WEDNESDAY, AUGUST 24, 2022 AT 5:00 P.M.

**CITY HALL COUNCIL CHAMBERS
1600 WEST BEVERLY BOULEVARD
MONTEBELLO, CALIFORNIA 90640**

NOTICE IS HEREBY GIVEN that a Special Meeting for the City of Montebello City Council is hereby called to be held on **Wednesday, August 24, 2022 at 5:00 p.m. at City Hall, Council Chambers, located at 1600 West Beverly Boulevard, Montebello, CA 90640.** The meeting will also be live streamed and can be watched on the City's website at: <https://www.cityofmontebello.com/government/live-streaming.html>, and may also be viewed on Spectrum Public Access Channel 3 for all Spectrum cable subscribers.

COVID-19 NOTICE: The City Council rescinded the Declaration of the Local Emergency and the continuation of teleconferencing open meetings pursuant to AB 361 by adopting Resolution No. 22-21 on Wednesday, April 13, 2022. This City Council Meeting will be held in person and will meet at **City Hall – City Council Chambers, 1600 West Beverly Boulevard, Montebello, California.**

AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act (ADA) any person with a disability who requires special accommodations in order to participate in a meeting should contact the Administration Office at (323) 887-1437 Monday-Thursday from 7:30 a.m.-5:30 p.m. Please call 48 hours prior to the meeting to ensure that reasonable arrangements can be made to provide accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II 1203). If you require translation services, please contact the City Clerk's office 48 hours before this meeting. **Si necesita servicios de traducción, comuníquese con la Oficina del Secretario Municipal 72 horas antes de esta reunión. 如果您需要翻译服务，请在会议前 72 小时联系市书记员办公室**

PUBLIC COMMENTS:

In-Person: For those interested in participating during the Public Comment period(s) or public testimony period for Public Hearings of the City Council meetings, you may address the City Council ***in person the day of the meeting***. Speakers will be required to fill out a speaker card provided at the door and turn it into the Deputy City Clerk prior to each Public Comment announcement period. Staff will number and call each speaker card in the order received. Closed Session begins at 5:00 p.m. and Regular Session begins immediately following Closed Session.

Via Email: The public may also submit emailed comments via the City's email address: ccpubliccomment@cityofmontebello.com, up until the day of the meeting, **Wednesday, August 24, 2022 by 3:00 p.m.** These comments will be submitted to all members of the City Council and may not be read aloud but will be entered into the record of the proceedings to the extent they relate to matters listed on the posted agenda. Any requests to provide public comment which is submitted after the deadlines indicated above will not be submitted to the City Council.

AGENDA MATERIALS: The agenda/agenda packet are available for public inspection at City's website at: <https://www.cityofmontebello.com/council-agendas.html>. The agenda cover sheets may also be emailed upon request.

**IN CONSIDERATION OF OTHERS, PLEASE TURN OFF, OR MUTE, ALL CELL PHONES AND PAGERS.
THANK YOU FOR YOUR COOPERATION.**

OPENING CEREMONIES

CALL TO ORDER

ROLL CALL

PUBLIC COMMENTS ON AGENDA ITEMS ONLY (30 MINUTES)

At this time, the general public may ***only*** address the City Council during this Special Meeting on items which have been described in the notice of this Special meeting in accordance with Government Code Section 54954.3(a). Please be aware that the maximum time allotted for members of the public to speak on shall not exceed three (3) minutes per person. State Law prohibits the City Council from taking action or entertaining extended discussion on a topic not listed on the agenda. Please show courtesy to others and direct all of your comments to the Mayor.

CLOSED SESSION – 5:00 P.M.

The City Attorney shall provide a briefing on the item listed for Closed Session as follows:

- 1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Government Code Section 52956.9(d)(2)
Significant exposure to litigation in two matters

REGULAR SESSION – IMMEDIATELY FOLLOWING CLOSED SESSION

CLOSED SESSION REPORT

CORRECTIONS TO THE AGENDA – CITY MANAGER

REGULAR BUSINESS

2. ADOPT RESOLUTION NO. 22-73 EXPRESSING DISSATISFACTION WITH THE BEHAVIOR OF COUNCIL MEMBER DAVID TORRES AND ADMONISHING HIM FOR HIS HARASSING AND HOSTILE CONDUCT

RECOMMENDATION: It is recommended that the City Council:

- 1) Approve and Adopt Resolution No. 22-73 Expressing Its Dissatisfaction With The Behavior Of Councilmember David Torres And Admonishing Him For His Conduct Based Upon The Investigation And Findings Conducted By Special Counsel As Set Forth In The May 3, 2022, Report Presented To The City Council And As The Result Of Further Actions By Councilmember Torres Subsequent To The Presentation Of The Investigative Findings; and
- 2) Take such additional, related, action that may be desirable.

ADJOURNMENT

The City of Montebello will adjourn to the next **Regular Meeting on Wednesday, August 24, 2022 immediately following this Special Meeting.**

Dated and Posted: August 22, 2022 at 5:00 p.m.

I, Alicia Fernandez, Senior Deputy City Clerk for the City of Montebello hereby certify that a copy of this agenda and Notice of a Special Meeting has been posted at City Hall, the City's website, and delivered to each member of the City of Montebello City Council **no less than 24-hours before the start of the Special Meeting.**



Alicia Fernandez, Senior Deputy City Clerk



CITY OF MONTEBELLO

SPECIAL CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager
Arnold M. Alvarez-Glasman, City Attorney

SUBJECT: **Adopt Resolution No. 22-73 Expressing Dissatisfaction with the Behavior of Council Member David Torres and Admonishing Him for His Harassing and Hostile Conduct**

DATE: August 24, 2022

RECOMMENDATIONS:

It is recommended that the City Council:

- 1) Approve and Adopt Resolution No. 22-73 Expressing Its Dissatisfaction With The Behavior Of Councilmember David Torres And Admonishing Him For His Conduct Based Upon The Investigation And Findings Conducted By Special Counsel As Set Forth In The May 3, 2022, Report Presented To The City Council And As The Result Of Further Actions By Councilmember Torres Subsequent To The Presentation Of The Investigative Findings; and
- 2) Take such additional, related, action that may be desirable.

BACKGROUND

Over the past two years, there have been complaints expressed to the City Manager and Human Resources Department related to the conduct of Council Member David Torres and his interaction with City Directors, employees and staff. As a result of the complaints Special Counsel, Nancy Doumanian, was retained to conduct an investigation of the circumstances raised by the City's employees. Ms. Doumanian utilized a private investigator to conduct interviews of the City's employees. Seventeen different employees lodged their complaints and were interviewed by JL Group, LLC. Council Member Torres was also interviewed.

A presentation to the City Council was made at a Special City Council meeting on May 3, 2022. Ms. Doumanian report concluded the following:

Council Member David Torres has engaged in misconduct creating a hostile and abusive work environment through his interactions and/or

Adopt Resolution No. 22-73 Expressing Dissatisfaction with the Behavior of Council Member David Torres and Admonishing Him for His Harassing and Hostile Conduct

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communications with City Leadership, City Directors and City Employees

At the May 3, 2022, Council meeting, the City Council provided direction for the City Manager and City Attorney to review and evaluate the circumstances and provide recommendations as a result of the Investigative Report. Since the date of the presentation, City Manager and City Attorney have worked with the Department of Human Resources and collectively they have evaluated options to address the actions of Council Member Torres. Recently, the City Attorney has served as the point of contact for Councilman Torres in communicating with the City Manager. This approach has been ineffective and costly. Over the past months, since adopting this approach, Council Member Torres has submitted over 160 separate requests which have been processed via this communication method.

At the request of the Mayor, the City Manager and City Attorney have been requested to bring forth a resolution expressing the City Council's dissatisfaction with the behavior of Council Member David Torres and admonishing him for his conduct as set forth in the Investigative Report and for his subsequent public actions and social media activities. The Mayor has called for a Special Meeting to address this issue.

FISCAL IMPACT

There is no anticipated fiscal impact as a result of adoption of this Resolution.

SUMMARY

It is the obligation of the City as an employer to provide protection to its employees from circumstances which create a hostile work environment. The Investigative Report submitted by Ms. Doumanian stated the following:

Council Member David Torres has, *and continues to*, create a work environment for City Directors, Department Heads and City staff, that is hostile, intimidating, offensive, oppressive, abusive and retaliatory.

While the ability of the City and the City Council to modify the actions and conduct of Council Member Torres is difficult, consideration of the Resolution and the action recommended by Special Counsel is essential to communicating to those employees that the City Council is taking affirmative steps to attempt to protect them from a hostile and harassing work environment.

The recommended action both from Special Counsel and a change in the manner in which Councilman Torres will communicate with the City Manager are addressed in the Resolution urging that Council Member Torres take the following action:

1. Take anti-bullying and sensitivity training, including training required by AB 1661,

Adopt Resolution No. 22-73 Expressing Dissatisfaction with the Behavior of Council Member David Torres and Admonishing Him for His Harassing and Hostile Conduct

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2. Stop the public criticism of the Staff via his social media platforms or during his comments while at City Council meetings and elsewhere,
3. Follow the required chain of command by directing his requests, communications or inquiries in writing directly and solely to the City Manager, and
4. Follow all City of Montebello policies, Code of Conduct and anti-harassment policies.

While it was recommended by Ms. Doumanian that the City Council censure Council Member Torres, it was requested that a Resolution be prepared which expresses dissatisfaction and admonishes Councilman Torres, in addition to other actions as set forth in the Resolution.

Recommended Action:

The City Council adopted the attached Resolution which reads:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO EXPRESSING ITS DISSATISFACTION WITH THE BEHAVIOR OF COUNCILMEMBER DAVID TORRES AND ADMONISHING HIM FOR HIS CONDUCT BASED UPON THE INVESTIGATION AND FINDINGS CONDUCTED BY SPECIAL COUNSEL AS SET FORTH IN THE MAY 3, 2022, REPORT PRESENTED TO THE CITY COUNCIL AND AS THE RESULT OF FURTHER ACTIONS BY COUNCILMEMBER TORRES SUBSEQUENT TO THE PRESENTATION OF THE INVESTIGATIVE FINDINGS

Or take such additional, related, action that may be desirable.

ATTACHMENT(S):

- A. Resolution No. 22-73

RESOLUTION NO. 22-73

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO EXPRESSING ITS DISSATISFACTION WITH THE BEHAVIOR OF COUNCILMEMBER DAVID TORRES AND ADMONISHING HIM FOR HIS CONDUCT BASED UPON THE INVESTIGATION AND FINDINGS CONDUCTED BY SPECIAL COUNSEL AS SET FORTH IN THE MAY 3, 2022, REPORT PRESENTED TO THE CITY COUNCIL AND AS THE RESULT OF FURTHER ACTIONS BY COUNCILMEMBER TORRES SUBSEQUENT TO THE PRESENTATION OF THE INVESTIGATIVE FINDINGS

WHEREAS, on May 3, 2022, the City Council received a presentation relating to an investigation and findings as conducted by Special Legal Counsel Nancy Doumanian entitled “Administrative Investigation for City of Montebello of Council Member David Torres” (referenced hereinafter as “Investigative Report”); and

WHEREAS, the Investigative Report cited seventeen (17) different City employees, including management and staff, who were interviewed with a variety of complaints, including claims of harassment, verbal attacks, creating a hostile work environment, violating chain of command protocols and other grievances expressed against the conduct and behavior of Councilmember Torres; and

WHEREAS, the Investigative Report sustained the finding that the greater weight of the credible evidence established “that Council Member David Torres has engaged in misconduct creating a hostile and abusive work environment through his interactions and/or communications with City Leadership, City Directors and City Employees;” and

WHEREAS, the Investigative Report found that Council Member Torres continues to attack, harass and undermine City employees; continues to disrespect the chain of command of the City Manager’s office; exceeds his role as a Council Member; and accuses City employees of wrongdoing and of “breaking the law when he is in the wrong;” and

WHEREAS, Council Member Torres continues to use social media platforms to attack the actions of the City Council and criticizes the elected City Clerk, the City Manager, City Attorney, City Directors and staff; and

WHEREAS, since the presentation of the Investigative Report, the City Council has demonstrated patience and restraint in taking action against Council Member Torres with the hope that he would modify his aggressive and harassing behavior, but instead he has escalated his efforts to criticize the City Council and City Leadership, including City Directors and employees; and

WHEREAS, many other cities Statewide have faced similar circumstances involving City Council Members who have engaged in improper hostile and harassing behavior and have adopted similar resolutions imposing sanctions, including censure, against the offending officials; and

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WHEREAS, the City Council can no longer tolerate the constant adverse behavior of Council Member Torres, which continues to create a hostile work environment within the City and could lead to further action by City employees, including potential lawsuits and damages; and

WHEREAS, upon the recommendation of Special Counsel and consistent with the findings of the Investigative Report, the City Council deems it necessary and appropriate to take the action as set forth in this Resolution.

NOW, THEREFORE, the City Council of the City of Montebello hereby resolves, finds, and declares as follows:

SECTION 1. The foregoing recitals are true and correct and are hereby incorporated as substantive findings in this Resolution.

SECTION 2. The City Council does hereby express its dissatisfaction with the hostile, harassing and disrespectful behavior of Council Member David Torres in the manner in which he conducts himself through his criticism of and interactions with other members of the City Council, City Leadership, City Directors, Employees and Staff.

SECTION 3. The City Council hereby admonishes Council Member David Torres for his ongoing hostile, harassing and disrespectful behavior and pursuant to the recommendations of the Investigative Report, strongly urges Council Member Torres (1) take anti-bullying and sensitivity training, including training required by AB 1661, (2) stop the public criticism of the Staff via his social media platforms or during his comments while at City Council meetings and elsewhere, (3) follow the required chain of command by directing his requests, communications or inquiries directly and solely to the City Manager, and (4) follow all City of Montebello policies, Code of Conduct and anti-harassment policies.

SECTION 4. Council Member David Torres is hereby removed from all internal City committees and all external multi-jurisdictional appointments. In addition, Council Member Torres' privilege of traveling to conferences and other events at public cost and expense is hereby revoked until further action is taken to reinstate such privileges.

PASSED AND ADOPTED this 24th day of August 2022 by the City Council.

Kimberly A. Cobos-Cawthorne, Mayor

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ATTEST:

APPROVED AS TO FORM:

Christopher Jimenez, City Clerk

Arnold M. Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF MONTEBELLO)

I, Christopher Jimenez, City Clerk of the City of Montebello, County of Los Angeles, State of California, hereby certify that the foregoing Resolution No. 22-73 was passed and adopted by the City Council of the City of Montebello, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the 24th day of August 2022 and that said Resolution was adopted by the following vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

The undersigned, City Clerk of the City of Montebello, does hereby attest and certify that the foregoing Resolution is a true, full and correct copy of a resolution duly adopted at a meeting of said City which was duly convened and held on the date stated thereon, and that said document has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

DATE: _____

Christopher Jimenez, City Clerk