



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

WEDNESDAY, FEBRUARY 8, 2023 AT 6:00 PM

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

NOTICE IS HEREBY GIVEN that a Special Meeting for the City of Montebello City Council is hereby called to be held on **Wednesday, February 8, 2023 at 6:00 p.m. at City Hall, Council Chambers, located at 1600 West Beverly Boulevard, Montebello, CA 90640.** The meeting will be live streamed and can be watched on the City's website and YouTube Channel via the following link: <https://www.montebellocal.gov>, 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COVID-19 NOTICE: The City Council rescinded the Declaration of the Local Emergency and the continuation of teleconferencing open meetings pursuant to AB 361 by adopting Resolution No. 22-21 on Wednesday,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

RULES OF DECORUM:

As Established by Ordinance 2443, adopted on October 27, 2021: Signs, placards, banners, horns, noise-making devices, or other similar items shall not be permitted in the audience during a Public Meeting if the presence of such item disturbs, disrupts or otherwise impedes the orderly conduct of the meeting. All persons attending a public meeting shall remain seated in the seats provided, unless addressing the body at the podium or entering or leaving the meeting. No member of the audience shall willfully interrupt the orderly conduct at the meeting, including clapping or otherwise speaking from their seats. The presiding officer shall direct the removal of any individual whose willful interruption renders infeasible the orderly conduct of the meeting. In the event the removal of the individual or individuals willfully interrupting the meeting does not restore order, the presiding officer may order the meeting room cleared and continue in session. Speakers shall not engage in willful conduct which interrupts the meeting or interferes with the orderly conduct of the meeting. Any person who becomes boisterous while addressing the Council or who otherwise disrupts the orderly conduct of the Council's business shall be subject to removal from the Chambers after being admonished by the presiding officer.

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. This Special Meeting will run concurrently with the Regular City Council and Public Financing Authority Joint Regular Meeting - Closed Session begins at 5:00 p.m. and Regular Session begins no later than 6:00 p.m.

Via Email: The public may also submit emailed comments via the City's email address: ccpubliccomment@montebelloca.com, up until the day of the meeting, **Wednesday, February 8, 2023 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: [Agendas, Minutes, and Videos](#).

**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.

REGULAR SESSION – WILL RUN CONCURRENTLY WITH CITY COUNCIL & PUBLIC FINANCING AUTHORITY JOINT REGULAR MEETING

REGULAR BUSINESS

- ADOPTION OF URGENCY ORDINANCE NO. 2462 AMENDING SECTION 2.08.050 OF THE MONTEBELLO MUNICIPAL CODE TO REPEAL THE PROVISION ESTABLISHING A TEMPORARY SEVEN MEMBER CITY COUNCIL TO CAUSE THE CITY COUNCIL TO REMAIN A FIVE MEMBER BODY**

RECOMMENDATION: It is recommended that the City Council:

1. Adopt Urgency Ordinance No. 2462 repealing that portion of the Montebello Municipal Code section 2.08.050(G) that established a temporary 7-member City Council to cause the City Council to remain a 5-member body.

ADJOURNMENT

The City of Montebello will adjourn to the next **Regular Meeting on Wednesday, February 22, 2023 at 5:00 p.m.** which can be live streamed at <https://www.montebelloca.gov> (Click on Live Stream).

Date and Posted: February 7, 2023 by 5:30 p.m.

I, Alicia Fernandez, Sr. Deputy City Clerk for the City of Montebello hereby certify that a copy of this agenda has been posted on or before **Tuesday, February 7, 2023, no later than 6:00 p.m.**



Alicia Fernandez, Sr. Deputy City Clerk



ITEM # 1

**CITY OF MONTEBELLO
SPECIAL CITY COUNCIL AGENDA STAFF REPORT**

TO: Honorable Mayor and City Council Members

FROM: Arnold M. Alvarez-Glasman, City Attorney

BY: Arnold Glasman, City Attorney

SUBJECT: ADOPTION OF URGENCY ORDINANCE NO. 2462 AMENDING SECTION 2.08.050 OF THE MONTEBELLO MUNICIPAL CODE TO REPEAL THE PROVISION ESTABLISHING A TEMPORARY SEVEN MEMBER CITY COUNCIL TO CAUSE THE CITY COUNCIL TO REMAIN A FIVE MEMBER BODY

DATE: February 8, 2023

RECOMMENDATION(S):

It is recommended that the City Council:

1. Adopt Urgency Ordinance No. 2462 repealing that portion of the Montebello Municipal Code section 2.08.050(G) that established a temporary 7-member City Council to cause the City Council to remain a 5-member body.

FISCAL IMPACT:

The estimated savings would include (a) the cost of the appointment of two (2) additional Councilmembers and their services for two years will be at a minimum \$100,000, which includes salary, benefits and staffing; and (b) the cost of a special election will be from \$250,000 to \$300,000 for a city-wide election, with an addition of \$100,000 for service costs. Repealing section 2.08.050(G) will save the General Fund between \$100,000 to \$400,000.

BACKGROUND/DISCUSSION:

At its meeting of June 22, 2022, the City Council adopted Ordinance No. 2451 that designated City Council seats to be placed on the ballot in the November 2022 election

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and to retain the two (2) at-large Council seats currently in place, thus expanding the City Council composition to seven members on a temporary basis. On December 14, 2022, five Councilmembers took their oath of office. Of these five (5) Councilmembers, two (2) were incumbents who were newly elected into a District seat, thereby allowing the, to carry out the remaining 2 years of their elective term. As a result, two at-large City Council seats became vacant.

Pursuant to Government Code section 36512, the City Council has 60 days from the creation of a vacancy to either appoint to fill the vacancy or call a special election to fill the vacancy. The City Council has the authority and the discretion to adopt an Urgency Ordinance to take effect immediately. The purpose of adopting this Urgency Ordinance is to avoid violation of the 60-day deadline prescribed by Government Code section 36512 for filling a City Council vacancy, to avoid litigation and to preserve the public peace. The City Council also has the authority and the discretion to repeal by ordinance that portion of the Montebello Municipal Code section 2.08.050(G) that established a temporary seven-member City Council. Currently, Montebello Municipal Code section 2.08.050(G) reads as follows:

“In addition to the five councilmembers to be newly elected in the November 2022 election, the two incumbent at-large councilmember seats will remain in office and will continue to serve as a councilmember until the expiration of their term, forming a temporary seven member legislative body. This provision will sunset on the date that the members elected from Districts 2 and 4 take their oath of office as a result of the election occurring in November 2024. At that time, the two existing at-large city council seats will be eliminated. Commencing with the November 2024 election, Districts 2 and 4 will become 4-year term seats, and only the five city council district seats will remain active, reverting the legislative body of the City of Montebello from seven members to five members.”

As a result of the November 2022 elections, the incumbent Councilmembers who were serving in the at-large seats were elected to new District seats for a 2-year term. Accordingly, the law prohibiting the shortening of an elective term of a sitting Councilmember is not violated because the Councilmembers will be carrying out the rest of their term without interruption. Therefore, the City Council can repeal the provisions of the Montebello Municipal Code requiring the short term composition of the City Council to be expanded to seven (7) members and having the membership of the City Council remain at five (5).

ENVIRONMENTAL IMPACT:

N/A

ANALYSIS:

N/A

SUMMARY:

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It is recommended that the City Council adopt an Urgency Ordinance and in the alternative introduce and conduct a first reading of an Ordinance repealing that portion of the Montebello Municipal Code section 2.08.050(G) that established a temporary 7-member City Council to cause the City Council to remain a 5-member body.

ATTACHMENT(S)

1. Urgency Ordinance No. 2462 - Repeal seven (7) Member Council

NEXT STEPS:

N/A

ORDINANCE NO. 2462

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA, AMENDING SECTION 2.08.050 OF CHAPTER 2.08 OF THE MONTEBELLO MUNICIPAL CODE TO REPEAL THE PROVISION ESTABLISHING A TEMPORARY SEVEN MEMBER CITY COUNCIL TO CAUSE THE CITY COUNCIL TO REMAIN A FIVE MEMBER BODY; DECLARING THE URGENCY THEREOF; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

WHEREAS, the City of Montebello ("City") is a general law city, which was previously governed by five (5) council members who were all elected by all voters in the City in an at-large voting system; and

WHEREAS, at its meeting on February 9, 2022, the City Council adopted Ordinance No. 2444 establishing the by-district election process of Councilmembers to be implemented in the November 2022 election; and

WHEREAS, at its meeting on May 11, 2022, the City Council adopted Resolution No. 22-34 that formally adopted the City's Council District Map consisting of five (5) districts; and

WHEREAS, on June 22, 2022, the City of Montebello adopted Ordinance No. 2451 establishing a temporary seven (7) member legislative body, set to sunset after the November 2024 election, thereby returning the size of the legislative body to five (5) members; and

WHEREAS, as a result of the November 2022 election, there are currently five (5) sitting Councilmembers for the City of Montebello and two (2) vacant at-large City Council seats; and

WHEREAS, as a result of the November 2022 election, two incumbent City Councilmembers who had a remainder of two years of their elective term were newly elected into District seats and will carry out the remainder of their elective term therein; and

WHEREAS, pursuant to Government Code section 36512, the City Council has 60 days from the creation of a vacancy to either appoint to fill the vacancy or call a special election to fill the vacancy; and

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WHEREAS, the City Council finds that this Urgency Ordinance is necessary to avoid challenges against the City and City Council for failing to take action within the 60-day deadline prescribed by Government Code section 36512 for filling a City Council vacancy, to avoid litigation and to preserve the public peace; and

WHEREAS, pursuant to Government Code section 36501, the government of a general law city is vested in a city council of at least five (5) members; and

WHEREAS, the City Council desires to remain a five (5) member legislative body; and

WHEREAS, the City and the City Council, by adopting this ordinance, are repealing that provision which established a temporary seven (7) member legislative body, to cause the City Council to remain a five (5) member body; and

WHEREAS, California Government Code sections 36934 and 36937 authorize the City Council to take action by ordinance to take effect immediately for the preservation of the public peace, health or safety when adopted by a four-fifths vote of the City Council.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO HEREBY ORDAINS AS FOLLOWS:

SECTION 1. RECITALS. The above recitals are true and correct and made part of this Urgency Ordinance.

SECTION 2. AMENDMENT; ADDITIONS. Section 2.08.050 – Municipal Elections of the Montebello Municipal Code is hereby amended and will read as follows (deletions in ~~strikethrough~~ and additions in double underline):

2.08.050 – Municipal Elections.

- A. Pursuant to Sections 1301 and 1000 of the California Elections code, commencing with the statewide election to be held on November 6, 2018, the city of Montebello's general municipal elections shall be held on the first Tuesday after the first Monday in November of even-numbered years to coincide with the statewide election.
- B. Pursuant to Sections 34886 and 34871(a) of the California Government Code, Council members will be elected on a by-district elections system. The term "by-district" as used in this Section shall mean election of members of the City Council by voters of the district alone. Candidates for council seats in each district shall be nominated and elected only by the voters of that district.

- C. Except as provided in subsection (D) of this Section, each Council Member must be a resident of and a registered voter in the council district from which the member is nominated at the time the member is nominated, elected, and throughout that member's term of office. In the event any Council Member ceases to be a resident of the district from which the member was nominated, the office shall immediately become vacant and shall be filled in the same manner as herein provided for other vacancies. If a Council Member ceases to be a resident of the district from which the Member was nominated solely because of a change in the boundaries of the districts, the Member shall not lose office during that term by reason of such change pursuant to California Government Code section 34882 and Elections Code section 10227.
- D. A Council Member in office at the time this section takes effect will continue in office until the expiration of a full term to which they were elected or appointed and until their successor is qualified. If vacancies in Council Member offices elected at-large occur before expiration of the full term thereof, such vacancies will be filled according to law from the City at-large.
- E. The number of Council Member districts of the City and the boundaries of said districts shall be adopted and established by the City Council by resolution no later than May 12, 2022. The by-district elections process and the established district boundaries shall be implemented in the City's next general election occurring on November 8, 2022.
- F. District boundaries shall be adjusted by the City Council before the first day of November of the year following the year in which each decennial federal census is taken by majority vote of the total membership of the City Council, and as provided in Elections Code section 21601, 21602 and 21607. The district boundaries, but not the number thereof, may be changed by ordinance adopted by the City Council by majority vote of all its members; provided that districts established by the City Council shall be as nearly equal in population and as geographically compact as possible. However, the City Council shall not change the boundaries of districts more than once in any two (2) year period and no such change shall be made within the period of one hundred eighty (180) days preceding a general municipal election. The preceding limitations shall not apply to changes made necessary by changes to City boundaries, as provided in Elections Code section 21603. After City Council has exercised its power to change the boundaries of districts, these changes shall immediately be reflected in the district boundaries specified by ordinance adopted by City Council.

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G. The following five (5) City Council district seats will be placed on the ballot for the November 2022 regular election, in accordance with the assigned term length for the district seat specified:

- i. District 1: 4-year term.
- ii. District 2: 2-year term.
- iii. District 3: 4-year term.
- iv. District 4: 2-year term.
- v. District 5: 4-year term.

~~In addition to the five (5) Councilmembers to be newly elected in the November 2022 election, the two (2) incumbent at-large Councilmember seats will remain in office and will continue to serve as a Councilmember until the expiration of their term, forming a temporary seven (7) member legislative body. This provision will sunset on the date that the members elected from Districts 2 and 4 take their oath of office as a result of the election occurring in November 2024. At that time, the two (2) existing at-large City Council seats will be eliminated. Commencing with the November 2024 election, Districts 2 and 4 will become 4-year term seats, and only the five (5) City Council district seats will remain active, reverting the legislative body of the City of Montebello from seven (7) members to five (5) members.~~

SECTION 3. DECLARATION OF URGENCY. This Ordinance is urgently required to avoid challenges against the City and City Council for failing to take action within the 60-day deadline prescribed by Government Code section 36512 for filling a City Council vacancy, to avoid litigation and to preserve the public peace.

SECTION 4. SEVERABILITY. If any action, subsection, line, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid or unconstitutional, either facially or as applied, by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, and each and every individual section, subsection, line, sentence, clause, phrase, or word without regard to any such decision.

SECTION 5. EFFECTIVE DATE. This Ordinance is an emergency Ordinance duly adopted by the City Council by a vote of at least four (4) of its members and shall take effect immediately pursuant to Government Code sections 36934 and 36937.

SECTION 6. PUBLICATION. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED, AND ADOPTED 8TH DAY OF FEBRUARY 2023.

David Torres, Mayor

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman, City Attorney

I HEREBY CERTIFY that the foregoing Ordinance was adopted by the City Council of the City of Montebello at its meeting held on the 8th day of February 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Christopher Jimenez, City Clerk