



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

WEDNESDAY, OCTOBER 23, 2024 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, October 23, 2024, 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.

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:

Pursuant to Section 54957.95 of the Government Code, the presiding member of the legislative body conducting a meeting, or their designee, is authorized to remove, or cause the removal of, an individual for disrupting the meeting. Any such removal will be preceded by a warning to the disruptive individual by the presiding member of the legislative body or their designee that the individual's behavior is disrupting the meeting and that the individual's failure to promptly cease their disruptive behavior may result in their removal.

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 only address the City Council in person the day of the meeting.*** The public may ***only*** address the City Council during this Special Meeting on items which have been described in the notice of this meeting, in accordance with Government Code Section 54954.3(a). Speakers will be required to fill out a speaker card provided at the door and submit it to City Clerk staff prior to each Public Comment announcement period; Public Hearing items do not require a speaker card. Please be aware that the maximum time allotted for members of the public to speak shall not exceed three (3) minutes per person; staff will number and call each speaker card in the order received.

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 - 6:00 P.M.

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 - NONE

REGULAR SESSION – IMMEDIATELY FOLLOWING CLOSED SESSION

INVOCATION

PLEDGE OF ALLEGIANCE

REGULAR BUSINESS

1. REVIEW PROCESS AND MANNER IN WHICH THE INVESTIGATION AGAINST COUNCILMEMBER DAVID TORRES WAS CONDUCTED DURING 2022

RECOMMENDATION: It is recommended that the City Council:

1. Review the process and manner in which the investigation against Councilmember David Torres was conducted in 2022; and
2. Consider making findings recognizing the deficiencies and flaws related to the manner, scope, due process and conclusions of the report and presentation by outside counsel to the City Council on May 3, 2022; and
3. Take such additional, related action that may be desirable.

ADJOURNMENT

The City of Montebello will adjourn to the next **Regular Meeting on November 13, 2024, at 6:00 p.m.** which can be live streamed at <https://www.montebellocal.gov> (Click on Live Stream).

Date and Posted: October 22, 2024, at 6:00 p.m.

I, Kimberly Guillen, Senior Deputy City Clerk for the City of Montebello, hereby certify that the foregoing Notice of the Special Meeting was posted at City Hall and 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.



Kimberly Guillen, Senior Deputy City Clerk



ITEM # 1

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

TO: Honorable Mayor and City Council Members

FROM: Raul Alvarez, City Manager

BY: Arnold Glasman, City Attorney
Myrna Castanon, Special Counsel

**SUBJECT: REVIEW PROCESS AND MANNER IN WHICH THE INVESTIGATION
AGAINST COUNCILMEMBER DAVID TORRES WAS CONDUCTED
DURING 2022**

DATE: October 23, 2024

RECOMMENDATIONS:

It is recommended that the City Council:

1. Review the process and manner in which the investigation against Councilmember David Torres was conducted in 2022; and
2. Consider making findings recognizing the deficiencies and flaws related to the manner, scope, due process and conclusions of the report and presentation by outside counsel to the City Council on May 3, 2022; and
3. Take such additional, related action that may be desirable.

FISCAL IMPACT:

There is no anticipated fiscal impact to this item.

BACKGROUND/DISCUSSION:

Throughout 2022, an investigation was commenced by high-ranking City staff which was directed against Councilmember David Torres for alleged misconduct. Recently, facts have come to light which demonstrates numerous flaws and deficiencies which place in question the manner in which this investigation was conducted and the findings presented to the City Council at a Special City Council meeting on May 3, 2022. Based upon these new facts, this matter is being brought to the attention of the City Council to consider the circumstances surrounding the investigation.

CITY COUNCIL AGENDA REPORT - MEETING OF OCTOBER 23, 2024

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Recently, numerous City employees filed complaints concerning the manner in which they were being treated and retaliated against by current and former employees which resulted in a new investigation. Due to the rights afforded all employees, past and current, the names of these employees will not be disclosed publicly in order to maintain their privacy protections.

These new complaints were referred to Special Counsel Myrna Castanon who has been participating in other personnel investigations on behalf of the City. An outside investigator, Keith Kilmer of Four Star Investigations, was retained to conduct an investigation based on the new complaints lodged by current employees. Many of the facts presented to Investigator Kilmer related to the manner in which they were coerced or threatened to participate in the Torres Investigation of 2022 and the consequences and/or retaliation that occurred if they did not fully cooperate with the investigative efforts against Councilmember Torres.

Significant facts and circumstances have come to light as a result of the new investigation that place into question the scope, manner, due process, findings and conclusions that were contained in the presentation submitted to the City Council at a Special Meeting of the City Council on May 3, 2022 by outside Special Counsel Nancy Doumanian, based upon a report prepared by her investigators JL Group.

These new facts and circumstances include:

- The attorney who was chosen to investigate Councilmember Torres was selected by parties who had filed complaints against Councilmember Torres.
- It was never disclosed to the City Council that Special Counsel Doumanian had previously represented one of the complainants in defending that person in a lawsuit stemming from circumstances during that individual's employment while working for another City.
- The retainer agreement between the City and Special Counsel Doumanian related to her services surrounding the investigation has not been located in the City's files, nor offered by Special Counsel after being requested to produce such agreement. This is significant to determine who within the City hired Ms. Doumanian, who she reported to and other important elements to insure a fair and impartial investigative process.
- Numerous City employees were being coerced into filing complaints against Councilmember Torres, even though they expressed no desire to participate or were not feeling harassed by Councilmember Torres.
- Complaints were filed on behalf of several employees by a third-party attorney, Jamon Hicks, even though those employees had never retained or authorized Mr. Hicks to act on their behalf or to file complaints on their behalf.
- The findings presented publicly on May 3, 2022 by Special Counsel Doumanian were, in part, inconsistent with the investigative report prepared by JL Group. The Doumanian presentation expressed that there were 17 complaints filed against Councilmember Torres when in fact there were only 8, of those 8 three were filed without the consent or authorization of those individuals.

- The ultimate conclusion that Councilmember Torres violated numerous and significant City policies and provisions of the Municipal Code was without merit.

ENVIRONMENTAL:

N/A

ANALYSIS:

N/A

SUMMARY:

With this new information that has come to light, it appears that the investigation conducted against Councilmember Torres has significant fairness and due process issues and was potentially flawed for the reasons expressed above. While it is difficult to state if the outcome and action by the prior City Council in office on May 3, 2022, would have taken a different course of action, ultimately resulting in the adoption of Resolution 22-73 on May 3, 2022, against Councilmember Torres, it is out of an abundance of fairness and due process, these facts should have been disclosed to the City Council and to the public at the time of the previous Council review.

Recommended Action:

It is recommended that the City Council:

1. Review the process and manner in which the investigation against Councilmember David Torres was conducted in 2022; and
2. Consider making findings recognizing the deficiencies and flaws related to the manner, scope, due process, and conclusions of the report and presentation by outside counsel to the City Council on May 3, 2022; and
3. Take such additional, related, action that may be desirable.

ATTACHMENT(S)

1. Attachment A - Executive Summary Review of JL Group Investigation on D. Torres 10232024
2. Attachment B - Resolution No. 22-73 - Admonishing Councilmember Torres

**EXECUTIVE SUMMARY REVIEW OF JL GROUP INVESTIGATION AND MAY 3, 2023
PRESENTATION TO THE MONTEBELLO CITY COUNCIL RE COUNCILMEMBER DAVID
TORRES AS CONDUCTED BY NANCY DOUMANIAN**

REVIEW CONDUCTED BY FOUR STAR INVESTIGATIONS, LLC

The purpose of this Executive Summary is to provide the City Council a review of various elements and findings regarding the investigative report prepared regarding claims against Councilman David Torres. During a review of this report, in conjunction with other evidence that has been obtained in related matters, the following points are significant with respect to the overall substance, objectivity and credibility of the investigation against Torres.

- The Confidential Administrative Investigation Report of Findings in the Matter of David Torres was prepared by the JL Group, and submitted to Nancy Doumanian with a date of 3/29/22.
- **Note:** In the legal invoice submitted to the City, there are indications that the report by the JL Group was still in “draft” form on 4/17/22. This appears significant as the invoice also includes a reference for 4/1/22 that the “initial PowerPoint presentation” to Council was being prepared prior to the Torres investigation being finalized. The presentation to Council was made on 5/3/22 after a number of revisions were made to the final PowerPoint, with ongoing input from three members of the City’s Management Team who were also complainants, during the revision process. If the investigative report and findings are to be truly “independent,” the parties who were complainants should not direct the final product or presentation made by attorney Doumanian.
- No Exhibits were provided with the JL Group report, although there are numerous email communications footnoted in the document. The report provided by Doumanian appears to be incomplete and could possibly be a draft version of the report.
- Two city officials are the “sources of the complaint” against Torres. It is noted from the legal invoice that the former City Manager had numerous email and text communications with Doumanian during the course of the investigation and while the PowerPoint was being revised. From an impartiality perspective this appears to create an issue and tends to indicate ongoing efforts to develop a case against Torres, presented in public, rather than to conduct an impartial and objective assessment of the facts, and whether Torres violated a rule or policy of the city.
- The only “rule or policy” referred to in the JL Group investigation relates to Municipal Code Section 2.04.000 – Form of Government, and associated Section 2.04.050 – Duties, which are attached and highlighted with respect to the allegations against Torres. This code section appears instructive as to the duties and authority of the City Manager, and the City Council, with respect to city business activities and responsibilities. It is notable and relevant to the investigative report findings that “neither the Council or its members may give orders” to subordinates of the City Manager, but “may make inquiries directly for

information and materials, but may not unilaterally order or instruct” department heads or employees of the city under the authority of the City Manager. The JL Group investigation does not reflect a finding that Torres actually “ordered” subordinate employees.

- There are numerous references in the report that Torres sent emails directly to staff, and would copy the former City Manager as well. Such emails, even as a practice by a zealous Councilmember, do not appear to amount to an improper “order,” and provide for administrative intervention by the City Manager as needed. There are numerous references in the report that the former City Manager and various subordinate staff took issue with Torres’s communications, which appears to be a reasonable response. However, on the other hand, management and municipal governance can be difficult and fraught with significant conflict. In the final analysis, however, the former City Manager remained in charge of the administrative operations of the city, although difficult and politically charged.
- In the investigative report, as cited during the interviews, numerous references were made to the term “chain-of-command,” a term used to describe a hierarchy within a group, who carry out orders based on authority within the group. This term is commonly used in military or para-military organizations. It is notable that this term is not used in the Municipal Code, which separates the duties and responsibilities of the City Manager and City Council, and does not appear to be a basis for the violation of any rule that Torres was subjected to as an elected official.
- Municipal Code Section 2.04.050 does not appear to provide for remedies or sanctions for any alleged violations. However, further research or analysis was not conducted on this issue.
- City of Montebello Administrative Policy V-B-39: Prohibition against Harassment, Discrimination, Abusive Conduct and Retaliation is not referred to in the JL Group report, and no findings are made with respect to this particular policy (attached). However, it is notable that during her presentation to Council on 5/3/22, Doumanian appears to inaccurately reflect the findings made in the report and includes in presentation slides that Torres engaged in misconduct, “creating a hostile and abusive work environment.” Inclusion of this language in the presentation, along with the tone and tenor of the entire presentation, tends to indicate some intention to impact the reputation of Torres, beyond the presentation of actual findings made in the investigative report. See attached document relating to a review of the presentation slides and video of the presentation made to Council on 5/3/22.
- The JL Group investigation, on page 6 under Rules, indicates that the “Fact Finders were allowed discretion to conduct an administrative investigation to determine if rules and/or policies of the City of Montebello may have been violated.” No specific rule or policy is cited other than the references made elsewhere in the report to the Municipal Code referred to above. The lack of a specified alleged rule violation appears outside of normal investigative practice, and tends to indicate what can be referred to as a “fishing expedition.” However, because of the confidential communications involved in the assignment of the investigation to the JL Group, it is difficult to directly establish any

ulterior motives for conducting the investigation and/or later making the presentation to Council.

- The timing of the investigation and report to Council are noteworthy since the presentation by Doumanian, and the manner in which it was made, came within months of the November 8, 2022 General Election where Torres was on the ballot. There is some sentiment in interviews conducted in another matter that this timing was intentional, in an effort to impact Torres in the election. When the entire presentation (PowerPoint and oral presentation) is reviewed in any objective detail, there appears to be an effort to negatively impact Torres.
- In the JL Group investigation the former City Manager is referred to as always being professional and never treating Torres inappropriately or discourteously. However, during interviews in another matter there are indications that this former employee had some bias toward Torres, or his family, used profanity in meetings when referring to Torres, and suggested that he would not provide Torres with the information he requested. This potential bias or animosity was not produced during the JL Group investigation, and can be applied to others interviewed during the investigation as well, including key allies to the former City Manager who had filed claims, a closely aligned group who have all been reported as having potential animus toward Torres because of his questions and requests for information.
- It is also notable that during the investigation in another matter, witnesses articulated significant efforts on the part of the four key members of the City Management team at that time, and others, to influence and “coerce” them to file complaints against Torres, which occurred prior to the JL Group investigation. Allegations of retaliation have now been made about inappropriate conduct directed toward these witnesses after choosing to not fully participate in the claims against Torres, because they were not significantly or directly impacted by his conduct.
- Finally, it is not typical investigative practice and is unusual for witnesses in an investigation to have ongoing and undocumented communications with those involved in an investigation (Doumanian). It can be seen from the legal invoice and emails provided in another matter, that former high ranking city management officials, all complainants in the Torres matter, were heavily involved in providing information to Doumanian in texts, emails and meetings while the investigation was ongoing and the presentation to Council was being developed. This dynamic suggests that a case was being made against Torres, rather than investigation of facts by an impartial third-party.

October 8, 2024

By: Keith L. Kilmer, Four Star Investigations, LLC

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

RESOLUTION NO. 22-73

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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:

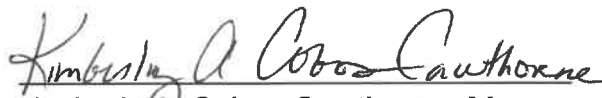
SECTION 1. The foregoing recitals are true and correct and are hereby incorporated as substantive findings in this Resolution.

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

RESOLUTION NO. 22-73

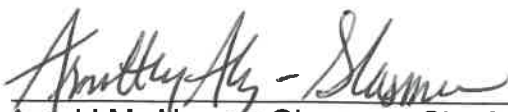
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ATTEST:



Christopher Jimenez, City Clerk

APPROVED AS TO FORM:



Arnold M. Alvarez-Glasman, City Attorney

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



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: Jimenez, Melendez, Cobos-Cawthorne
NOES: Peralta, Torres
ABSTAIN: None
ABSENT: None

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: 8/24/2022



Christopher Jimenez, City Clerk