

RESOLUTION NO. 21-43

RESOLUTION OF THE CITY OF MONTEBELLO EXPRESSING ITS INTENTION TO TRANSITION FROM AT-LARGE TO BY-DISTRICT CITY COUNCIL ELECTIONS PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10010 ET SEQ., AND TO INITIATE PROCEDURES FOR ESTABLISHING AND IMPLEMENTING BY-DISTRICT ELECTIONS FOR CITY COUNCIL MEMBERS

WHEREAS, the City of Montebello, California (“City”) is a general law city, duly organized under the Constitution and laws of the State of California; and

WHEREAS, members of the Montebello City Council are currently elected in “at-large” elections, in which each City Councilmember is elected by the registered voters of the entire City; and

WHEREAS, under Elections Code Section 14028(a), the California Voting Rights Act (“CVRA”) violation is established if it is shown that racially polarized voting occurs in elections. Under Elections Code Section 14026(e), “racially polarized voting” means voting in which there is a difference in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choice that are preferred by voters in the rest of the electorate; and

WHEREAS, the City received a demand letter on March 15, 2021 from Scott J. Rafferty alleging that the City’s at-large election system violates the CVRA and threatening litigation against the City if it does not voluntarily change its at-large system of electing Councilmembers; and

WHEREAS, California Government Code Section 34886 authorized the legislative body of a city of any population to adopt an ordinance to change its method of election from an “at-large” system to a “by-district” system in which each Councilmember is elected only by the voters in the district in which the candidate resides without the need to put such change to the voters; and

WHEREAS, California Elections Code Section 10010 establishes a process to expeditiously transition to a by-district election system, and which provides a “safe-harbor” to avoid potentially costly litigation under the CVRA, and provides that a city may pass a resolution outlining its intention to transition to by-district elections, the steps it will undertake to facilitate this task, and an estimated time frame for doing so under Elections Code Section 10010(e)(3)(A); and

WHEREAS, the public interest would be better served by Council consideration of a proposal to transition to a by-district electoral system because of: 1) the extraordinary cost to defend against a CVRA lawsuit; 2) the risk of losing such a lawsuit which would require the City to pay the prevailing plaintiffs’ attorneys’ fees; and 3) the reimbursable costs and attorneys’ fees would be capped at a maximum of \$30,000 by following the procedures set forth in Elections Code Section 10010 as amended by AB 350; and

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WHEREAS, the adoption of a by-district election system will not affect the terms of any sitting Councilmember; and

WHEREAS, prior to the City Council's consideration and approval of an ordinance establishing boundaries for a by-district election system, California Elections Code Section 10010 outlines procedural rules and requires all of the following step:

- 1) Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City shall hold at least two (2) public hearings over a period of no more than thirty (30) days, at which the public will be invited to provide input regarding the composition of the districts;
- 2) After all draft maps are drawn, the City shall publish and make available for release at least one draft map and, if members of the City Council will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of elections shall also be published;
- 3) The City Council shall also hold at least two (2) additional public hearings over a period of no more than forty-five (45) days, at which the public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable;
- 4) The first version of a draft map shall be published at least seven (7) days before consideration at a public hearing. If a draft map is revised at or following a public hearing, it shall be published and made available to the public for at least seven (7) days before being adopted.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO HEREBY RESOLVES, FINDS, AND DECLARES AS FOLLOWS:

SECTION 1: The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2: The City Council hereby resolves, pursuant to California Elections Code Section 10010, to adopt a by-district election system by ordinance as authorized by California Government Code Section 34886 for City Councilmembers, and said by-district election system is planned to be in place for the City Council elections scheduled for November 2022.

SECTION 3: The City Council directs staff to work with the appropriate consultants as needed, to provide a detailed analysis of the City's current demographics and any other information or data necessary to prepare a draft map that divides the City into voting districts in a manner consistent with the intent and purpose of the state and federal Constitutions, the California Voting Rights Act, and the Federal Voting Rights Act.

SECTION 4: The City Council directs staff to post information regarding the proposed transition to a by-district election system, including maps, notices, agendas and

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other information and to establish a means of outreach to receive public input and to answer questions from the public.

SECTION 5: The City Council hereby approves the tentative timeline as set forth in Exhibit A, attached to and made a part of this resolution, for conducting a public process to solicit public input and testimony on proposed by-district maps before adopting such map.

SECTION 6: The timeline contained in Exhibit A may be adjusted by the City Manager as deemed necessary, provided that such adjustments shall not prevent the City from complying with the time frames specified by Elections Code Section 10010.

SECTION 7: That the City Clerk shall certify to the passage and adoption of this Resolution and that the same shall be in full force and effect.

APPROVED AND ADOPTED this 26th day of May 2021.


Kimberly A. Cobos-Cawthorne, Mayor

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. 21-43 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 26th day of May 2021 and that said Resolution was adopted by the following vote, to-wit:

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AYES: Jimenez, Melendez, Torres, Cobos-Cawthorne
NOES: None
ABSTAIN: Peralta
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: 5/26/2021



Christopher Jimenez, City Clerk

