



AGENDA REPORT

Meeting Date: August 30, 2016
Item Number: D-5
To: Honorable Mayor & City Council
From: Laurence S. Wiener, City Attorney
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE
REGARDING THE PERSONNEL PROCEDURES FOR HIRING
AND RETENTION OF ASSISTANT CITY MANAGERS, DEPUTY
CITY MANAGERS AND DEPARTMENT HEADS
Attachments: 1. Ordinance

RECOMMENDATION

It is recommended that the City Council move to waive the full reading and adopt the ordinance entitled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE REGARDING THE PERSONNEL PROCEDURES FOR HIRING AND RETENTION OF ASSISTANT CITY MANAGERS, DEPUTY CITY MANAGERS AND DEPARTMENT HEADS."

INTRODUCTION

At its meeting of August 16, 2016, the City Council conducted a first reading of this ordinance and introduced it.

DISCUSSION

This ordinance will amend the Municipal Code to allow the City Council to participate in the hiring and dismissal of Assistant City Managers, Deputy City Managers and Department Heads.

FISCAL IMPACT

The ordinance will have no significant budget or fiscal impacts to the City.

Laurence S. Wiener, City Attorney

Attachment 1

ORDINANCE NO. 16-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE
REGARDING THE PERSONNEL PROCEDURES FOR HIRING
AND RETENTION OF ASSISTANT CITY MANAGERS,
DEPUTY CITY MANAGERS AND DEPARTMENT HEADS

THE COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY ORDAIN AS
FOLLOWS:

Section 1. The City Council hereby amends Article 2 (“Personnel Procedures”) of Chapter 5 (“Civil Service, Personnel Procedures, and Employee Regulations”) of Title 2 (“Administration, Personnel, and Procedures”) of the Beverly Hills Municipal Code to add Section 2-5-206.5 to read as follows:

2-5-206.5: APPOINTMENT PROCESS FOR ASSISTANT CITY MANAGERS, DEPUTY CITY MANAGERS AND DEPARTMENT HEADS,

Appointment of all assistant city managers, deputy city managers and department heads requires the advice and consent of the city council.

The city council shall provide its advice and consent by considering the city manager’s recommendation of a candidate to the city council and voting to authorize or disapprove the city manager moving forward with the hiring process.

Following city council authorization, no further approval from the city council shall be required for that candidate. However, the city manager may conduct background checks and any other reviews or verifications, as appropriate. In the event that the city manager does not end up hiring that candidate, the city manager shall seek the city council’s advice and consent before hiring a different candidate.

The City Council may provide more detail concerning this process in the City Council Policy and Operations Manual.

Section 2. The City Council hereby amends and restates Section 2-5-208 of Article 2 (Personnel Procedures) of Chapter 5 (Civil Service, Personnel Procedures, and Employee Regulations) of the Beverly Hills Municipal Code to read as follows:

2-5-208: DISCIPLINARY ACTION:

A. The appointing authority shall have the right to discipline any employee under their jurisdiction, subject to the employee's right of appeal. All employees holding positions in the classified service shall be subject to suspension without pay, demotion, reduction in compensation, reprimand, or dismissal from office or employment for misconduct, incompetency, inefficiency, insubordination, failure to perform duties, falsifying an oath, failure to comply with the personnel rules and regulations adopted by council, or failure to observe the rules and regulations of their department. A reduction in pay shall not be deemed a demotion

within the meaning of this section if the reduction is part of a general program to reduce all salaries and wages as an economy program of the city.

B. The city council shall have the right to evaluate and dismiss or release any assistant city manager, deputy city manager, or department head positions for which advice and consent is required under Section 2-2-204(B).

1. Evaluation: At the request of a council member, the city manager shall place on the agenda for a closed session the evaluation of the staff member.

2. Dismissal or Release: At the request of three or more council members, the city manager shall place on the agenda for a closed session the proposed dismissal or release of the staff member.

Nothing in this subsection in any way limits the right of the city manager to discipline, dismiss or release any employee.

Section 3. The City Council hereby amends and restates Section 2-5-204 (“Appointing Authority”) of Article 2 (“Personnel Procedures”) of Chapter 5 (“Civil Service, Personnel Procedures, and Employee Regulations”) of Title 2 (“Administration, Personnel, and Procedures”) of the Beverly Hills Municipal Code to read as follows:

2-2-204: APPOINTING AUTHORITY:

A. The city council shall be the appointing authority for the positions of city manager, city attorney, and city clerk.

B. The city manager, subject to the advice and consent of the city council, shall be the appointing authority for all department heads except those designated in subsection A of this section, and for all assistant and deputy city managers.

C. The city manager shall be the appointing authority for all positions authorized in the city manager's office, except those designated in subsection B of this section.

D. For all positions below the department head level, and which are not included in subsection B of this section, the respective department head, subject to approval by the city manager, shall be the appointing authority.

Section 4. The City Council hereby amends and restates Section 2-3-102 of Article 1 (“Office of the City Manager”) of Chapter 3 (“Departments and Offices”) of Title 2 (“Administration, Personnel, and Procedures”) of the Beverly Hills Municipal Code to read as follows:

2-3-102: COMMUNICATIONS WITH ADMINISTRATION:

A. Except for the purposes of inquiry, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the council nor its members shall give orders to any such officer or

employee, either publicly or privately. The provisions of this subsection shall apply with respect to any intended action of the council relating to the imposition of any disciplinary action concerning a department head not included within the classified service. However, the provisions of this subsection shall not apply with respect to any action of the City Council under Section 2-5-208(B) to dismiss or release a department head, deputy city manager, or assistant city manager.

B. All officers and employees subject to the direction and supervision of the city manager shall deal with the council solely through the city manager. Except for purposes of inquiry, they shall not initiate communications to the council except through the city manager.

Section 5. Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 6. Publication.

The City Clerk shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Adopted:
Effective:

JOHN A. MIRISCH
Mayor of the City of Beverly Hills,
California

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager