



AGENDA REPORT

Meeting Date: May 24, 2011
Item Number: F-7
To: Honorable Mayor & City Council
From: Pamela Mottice Muller, Director Office of Emergency Management 
Subject: RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS
APPOINTING STANDBY OFFICERS FOR THE CITY COUNCIL
Attachments: 1. Resolution

RECOMMENDATION

Staff recommends the City Council approve the resolution adopting the individuals listed as standby officers of the City of Beverly Hills City Council.

After Council adoption, the following action items will be completed:

- The City Clerk will send a letter notifying each standby officer of their appointment
- Standby officers will be asked to make an appointment with the City Clerk so that the oath of office, if not already done, can be administered, and to provide each standby officer a copy of Article 15 (Cal. Gov't. Code Sections 8635 et seq.)
- A presentation on the City Council's role in a disaster will be scheduled for a future City Council meeting date.

By completing this process of appointing standby officers, the City will take the necessary steps to ensure the City government continues to function in the event of a disaster.

INTRODUCTION

In the event of a disaster it is important the City has a plan in place for the succession of its elected officials and officers, all department heads and all employees in critical positions. The succession list is critically important should the City Council or staff become unavailable during or after an emergency or disaster. City Council members were recently asked to name three individuals who would succeed them if they became

unavailable due to an emergency or disaster. All City Council members have submitted three names who would serve in their place if needed. The City Council is asked to approve the resolution naming these individuals.

DISCUSSION

There must be a method for reconstituting City Council positions should current officials become "unavailable" when or after the emergency or disaster occurs. The appointment of standby officers allows for continuation of government certainty be established before the disaster happens. If the City Council does not appoint standby officers and then become "unavailable", the appointment would be left up to the County of Los Angeles.

The following information provides clarification on succession planning, the definition of "unavailable" and the succession of the title of Mayor and Vice Mayor.

The City Council may appoint three qualified standby officers for each elected official. This would provide for the continuance of the legislative functions during a federal, state or local emergency. Standby officers must be designated numbers one, two, and three, as the case may be, with number one serving first in the event the regular officer is unavailable. (Cal. Gov't Code § 8638.)

The term "unavailable" means that an officer is either killed, missing, or so seriously injured as to be unable to attend meetings and otherwise perform his or her duties. Any question as to whether a particular officer is unavailable is settled by the governing body of the political subdivision or any remaining available members of said body (including standby officers who are serving on such governing body). (Cal. Gov't Code § 8636.)

Even if the City Council has a quorum, the appointed standby officer for the "unavailable" Council Member will substitute for that Council Member until the Council Member becomes available or until the election or appointment of a regular Council Member. (Cal. Gov't Code § 8641.)

Standby officers serve at the city council's pleasure and may be removed and replaced at any time with or without cause. (Cal. Gov't Code § 8640.) If called upon to fill the post for which he or she has been appointed as a standby, the standby officer serves until the regular officer becomes available or until the election or appointment of a new regular officer. (Cal. Gov't Code § 8641.)

During an emergency, Council Members may be out of the area and unable to return to the City of Beverly Hills to attend a meeting. This raises a question whether the standby officer serves under that circumstance. Courts have not yet interpreted the breadth of the term "missing." It appears that it should be interpreted narrowly and viewed as referring to a situation in which the whereabouts of the Council Member is unknown and unascertainable due to the emergency. This interpretation would be consistent with the surrounding words "killed" or "seriously injured," which imply that the Council Member's absence is caused by the emergency. While state law does not define the term "missing," the decision as to whether a council member is missing will be left to the judgment of the remaining Council Members.

Standby officers only fill the Council Member's seat; they do not automatically take on the role of Mayor or Vice Mayor if they are replacing the Council Member who is the Mayor or Vice Mayor. If the Mayor is unavailable, the Vice Mayor becomes Mayor. If both the Mayor and the Vice Mayor are unavailable, the next most senior available members of the City Council assume the title and duties of Mayor and Vice Mayor. Only

if none of the current council members are available does the standby officer replacing the Mayor and Vice Mayor assume the titles and duties of those offices.

FISCAL IMPACT

Should the City Council lack a quorum and is unable to meet, federal reimbursement for disaster losses could be foregone because of the inability to ratify an emergency. A lack of quorum could cause other problems resulting in a negative fiscal impact.

Except the administrative costs, there does not appear to be a fiscal impact on the process of appointing successors.

Pamela Mottice Muller 

Attachment 1

RESOLUTION NO. 11-R-_____

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS
APPOINTING STANDBY OFFICERS FOR THE CITY COUNCIL

WHEREAS, Government Code Section 8635 *et seq.*, entitled “Preservation of Local Government,” sets forth a procedure for local governments to provide for the continued functioning of local governments in the event of a state of war emergency, state of emergency or local emergency;

WHEREAS, Government Code Section 8638 authorizes the City Council to provide for the continuance of the City’s legislative and executive departments during a state of war emergency, state of emergency or local emergency by appointing standby officers for each member of the City Council;

WHEREAS, Government Code Section 8638 provides that standby officers shall be designated numbers 1, 2, and 3 in descending order of succession;

WHEREAS, pursuant to Government Code Section 8641, a standby officer is to fill the appointed post when the regular officer is unavailable as defined in Government Code Section 8636, and is to serve in such post until such time as the regular officer becomes available or a new regular officer is elected or appointed; and

WHEREAS, the qualification of each standby officer named in Section 2 below have been carefully reviewed and each designated person has been determined to be an appropriate designee.

NOW, THEREFORE, the City Council of the City of Beverly Hills does hereby resolve as follows:

Section 1. The following persons are appointed as standby officers for the City Council:

Councilmember:

Barry Brucker

William W. Brien

John Mirisch

Lili Bosse

Julian A. Gold

Standby Councilmembers:

1. Tom Levyn
2. Noah Furie
3. Daniel Yukelson

1. Brian Rosenstein
2. Shahram Melamed
3. Craig Corman

1. Gerald Lunn
2. Ed Brown
3. Wendy Goldberg

1. Kathy Reims
2. Noah Furie
3. Richard Rosenzweig

1. Howard Fisher
2. Lester Friedman
3. Richard Seff

Section 2. Standby officers shall receive no compensation for the performance of their duties as standby officers except as provided for by law.

Section 3. The City Clerk shall administer the oath of office to the standby officers and provide each standby officer with a copy of Article 15 of Chapter 7 of Division 1 of Title 2 of the California Government Code.

Section 4. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of the City.

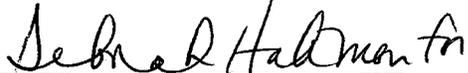
Adopted:

BARRY BRUCKER
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
Assistant City Manager