



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: October 15, 2013

To: Honorable Mayor & City Council

From: Daniel E. Cartagena, Senior Management Analyst *D.E.C.*

Subject: Report of the Recommendations of the Public Works Liaison Committee relative to Title 2, Chapter 2 of the Beverly Hills Municipal Code involving the Administrative Procedures of Commissions

Attachments:

1. Municipal Code of Beverly Hills
Title 2, Chapter 2, Article 1 – General Provisions
2. Municipal Code of Beverly Hills
Title 2, Chapter 2, Article 11 – Public Works Commission
3. September 17 Liaison meeting agenda

INTRODUCTION

This report transmits recommendations for the Public Works Liaison committee's September 17, 2013 regarding administrative provisions of the Public Works Commission as it relates to term of the chair, the size of the commission and length of service on the commission. The committee consists of Mayor John Mirisch, Councilmember Nancy Krasne, Public Works Commission Chair, Barry Pressman, MD, and Commission Vice-Chair Ron Shalowitz.

As part of the Committee's discussions on the agenda item for the term of the chair they recommended that the Municipal Code be amended to accomplish the following:

- The Chair term can exceed the one year limitation indicated in Section 2-2-107(E) if the initial two years term of service does not permit completing the full year of service as chair.
- The overall term of service be increased from 6 to 8 years with a 2 year initial term and an additional 6 years extension.
- The size of the Commission be expanded to 7 members.

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It is important to note two of the above noted Liaison Committee's recommendations propose to amend General Provisions with potential implications to all City commissions. These will be the first two recommendations discussed. The third recommendation will focus on Public Works section of the Code.

DISCUSSION

The Liaison Committee recommended the Beverly Hills Municipal Code be revised to address instances where a commissioner's chairmanship is staggered between their appointed terms to allow for one-year chair in each term.

Title 2, Chapter 2 of the Beverly Hills Municipal Code

This section of the City of Beverly Hills Municipal Code details General Provisions affecting all Citywide commissions and details provisions involving specific commissions set by the City Council.

Extending Chair Term

Title 2, Chapter 2, Article 107(E) – Operational Procedures, states, "A chairperson and a vice chairperson shall be elected by the members from the membership. A member shall not serve as chairperson in excess of one year during any single term on the commission or committee.

Presently, the Public Works Commission is comprised of five (5) members. Three of the five members are serving in their last year of their second term. Each of the three will be "termed-out" within six months.

Dr. Barry Pressman was appointed to the commission in April 2011. In September 2012, he was elected as chair. Chair Pressman served as chair for 7 months before his first term ended in April 2013. Reappointed to a second term in April, he continued as chair for an additional 5 months until September 2013. Last month, Chair Pressman was reelected to his second term as chair.

At the September Public Works Commission meeting, as the rotation of chair came before the commission, staff advised the commission of the City Attorney's opinion relative to the Municipal Code which as currently worded restricts Chair Pressman from serving as chair beyond April 2014. Because his chairmanship spanned over his first and second terms in which 7 months as chair was performed in his first term and 5 months in his second term, he could only serve an additional 7 months (a total of 12 months) in his second term. Consequently, the Public Works Commission would be required to select a new chair 5 months prior to its annual rotation of August/September. Furthermore, Dr. Pressman would not have been allowed to serve a full one-year chairmanship in either of his two terms.

The Chair term can exceed the one year limitation indicated in Section 2-2-107(e) if the initial two year term of service does not permit competing the full year of service as chair.

Extending Commission Term

Title 2, Chapter 2, Article 105 – Term of Office, states, "Appointments to a commission shall be for an initial term of two (2) years. At the discretion of the city council, commissioners may be reappointed to a second term. Appointments to a second term may be for up to four (4) years. The city council may appoint any commission member or members to terms shorter or longer than those set forth in this subsection if the city council determines that a shorter or longer term or terms is in the best interest of the commission or is appropriate to stagger the terms of appointees so that the terms of all or a majority of members do not expire concurrently or inappropriately close in time.

The Public Works Liaison Committee expressed concern that the technical understating required of Public Works commissioners to effectively and productively participate in topics and projects involving the City's infrastructure are significant. Committee members articulated their concern that the current 6-year term adversely affects commissions because of the loss of seasoned commissioners. They may lose advise of experienced and knowledgeable commissioners who have spent years acquiring knowledge of the City's infrastructure.

To reconcile this issue, the Liaison Committee recommends the current code be amended. It is proposed that commission terms be extended from the current 6 years to 8 years. To achieve this, it is proposed that second terms be increased from 4 years to 6 years.

Expanding Public Works Commission

Title 2, Chapter 2, Article 1101 – Establishment, states, "There is established a public works commission consisting of five (5) members. (Ord. 90-O-2099, eff. 9-13-1990)

The Liaison Committee recommends the Public Works Commission be expanded from 5 members to 7 members. The Liaison is currently in the process of recruiting for two vacancies that would replace Commissioners Joe Shooshani and Peter Foldvary, MD. The Liaison also recommends that Commissioners Joe Shooshani and Peter Foldvary terms be extended for another two-years to compliment the expanded size to seven commissioners.

The Liaison further recommended that the Public Works Commission also be expanded providing similar reasoning as that expressed above.

Recent City Council Action regarding City Commissions

In 2012, the City Council adopted Ordinance No. 12-O-2016 that reduced the Traffic & Parking, Fine Art, Human Relations and Architectural Commission from seven to five members. Cost savings and efficiency goals were stated reasons for reducing the size of commissions. Further, previous City Councils considered the opportunity to decrease all current commissions for consistency purposes. The Commission remaining with seven members is the Health and Safety Commission. The Council considered reducing the size of that Commission to five but because of the scope of their responsibility and

involvement in carrying out specific community outreach tasks, decided to leave it as seven members.

In April 2013, the City Council approved a request of the Fine Art Commission to extend the term of four Fine Art Commissioners. The Community Services Department recommended the extension to allow for the staggering of commission terms avoiding a majority of termed-out commissioner leaving at one time thus providing continuity to the Commission in the performance of their duties.

Acceptance of the Liaison's recommendation runs counter to recent City Council decisions reducing commission size for efficiency, cost savings and consistency purposes. A decision to expand the Public Works Commission is likely to reintroduce this issue upon the City Council should other commissions make similar requests in the future.

Implementation of Code Amendments

Should the City Council support the Liaison Committee's recommendations, staff would work with the City Attorney's office to draft the necessary ordinance(s) and present to the City Council for adoption. The earliest possible date for the first reading of the ordinance(s) including the publication of the required notice is the City Council's scheduled formal meeting on November 5. If approved, the second reading of ordinance(s) would take place at the Council's meeting on November 19. Assuming this timeline, the code amendments would go into effect in the middle of December. Commissioners, whose terms were extended or those newly appointed, would be eligible to take their seat at the January 2014 commission meeting.

If the commission is expanded to seven members, the Council could decide extend the term of the two commissioners whose term had expired and the newly appointed commissioners would be eligible to be seated for the January 2014 commission meeting.

In the meantime, the City Clerk has completed the interview phase of the commission recruitment process. If the Council chooses not support amending the code to increase the size of the commission or extend the term of the commissioners, consideration should be given to accept the interview panel's appointment recommendation and allow for the seating of the new commissioner to take place prior to the Commission's November 14 meeting.

FISCAL IMPACT

There is minimal fiscal impact associated with costs related to staff time, public notices and materials used to prepare the amendments prescribed by City Council.

RECOMMENDATION

Staff seeks direction from City Council on this matter.



George Chavez
Approved By

Attachment 1

Article 1. General Provisions

2-2-101: GENERAL:

Council shall create such commissions and committees as required by state law or as deemed appropriate for the performance of specific city functions. Commissions shall be created by ordinance and committees shall be created by ordinance, resolution, or motion of the council. (1962 Code § 2-13; amd. Ord. 92-O-2156, eff. 12-11-1992)

2-2-102: DEFINITIONS:

COMMISSION: An agency charged with the consideration of an indefinitely recurrent sequence of transactions and whose members serve for a specified term and hold meetings on a regular publicized schedule.

COMMITTEE: An agency charged with the consideration of a single nonrecurring subject or matter, or a matter which recurs sporadically, and which holds meetings only as appropriate. (1962 Code § 2-13)

2-2-103: DURATION OF COMMISSIONS AND COMMITTEES:

- A. Every commission shall continue indefinitely until abolished by council.
- B. Every committee shall automatically terminate on the first anniversary of its creation, unless otherwise provided by council. (1962 Code § 2-13)

2-2-104: APPOINTMENT AND QUALIFICATIONS:

- A. Appointments to any commission or committee shall be made by the city council.

- B. Any person appointed to a commission or committee shall be a resident of the city, unless otherwise designated in the instrument creating such commission or committee, and shall meet such other requirements as designated by council.

- C. Any person appointed to a commission or committee shall serve without compensation for service on such commission or committee. (1962 Code § 2-13)

2-2-105: TERM OF OFFICE:

- A. Appointments to a commission shall be for an initial term of two (2) years. At the discretion of the city council, commissioners may be reappointed to a second term. Appointments to a second term may be for up to four (4) years. The city council may appoint any commission member or members to terms shorter or longer than those set forth in this subsection if the city council determines that a shorter or longer term or terms is in the best interest of the commission or is appropriate to stagger the terms of appointees so that the terms of all or a majority of members do not expire concurrently or inappropriately close in time.

- B. Appointees who have served two (2) successive terms shall not be eligible for reappointment to the same commission.

- C. A member may serve beyond expiration of that member's term until such time as a successor is appointed.

- D. Committee members shall be appointed at the time of creation of the committee. Where the committee continues in existence for three (3) years or more, original appointments shall expire on the third anniversary of the committee where the committee consists of three (3) members, and shall expire on the fourth anniversary of the committee where the committee consists of four (4) or more members. Any committee which continues in existence beyond a period of three (3) years shall be governed by the appointment provisions of subsections A, B and C of this section. (1962 Code § 2-13; amd. Ord. 98-O-2299, eff. 6-5-1998; Ord. 06-O-2502, eff. 9-1-2006; Ord. 10-O-2590, eff. 10-22-2010)

2-2-106: TERMINATION OF MEMBERSHIP:

Membership on a commission or committee shall terminate under the following conditions, unless otherwise specifically provided in this code:

- A. Membership shall terminate automatically upon resignation or death of a member.
- B. If a commission or committee regularly meets once per month, membership shall terminate automatically if a member is absent from four (4) regular meetings within a twelve (12) month period unless the city council determines, in its sole discretion, that the absences were due to health reasons or for other unusual hardship that justifies the absence. Additionally, the city council may consider removing any member who is absent from three (3) meetings within a twelve (12) month period.
- C. If a commission or committee regularly meets at least twice per month, membership shall terminate automatically if a member is absent from eight (8) regular meetings within a twelve (12) month period unless the city council determines, in its sole discretion, that the absences were due to health reasons or for other unusual hardship that justifies the absence. Additionally, the city council may consider removing any member who is absent from six (6) meetings within a twelve (12) month period.
- D. Membership shall terminate automatically if a member ceases to reside in the city, unless residence is not required for membership or unless a member has temporarily ceased to reside in the city because of unusual circumstance or hardship, has not purchased a home outside the city in which the member is residing, intends to move back into the city, and has not previously ceased to reside in the city at any time while serving on the commission. For the purposes of this subsection "temporarily" means a period not exceeding six (6) months starting from the date a member ceased residence in the city.
- E. Membership shall terminate automatically if a member's office would be vacated under the provisions for disqualification from office set forth in section 1770 of the California Government Code. Provided, however, that the provisions of this section governing absences shall supersede the provisions of section 1770 regarding absences.

In addition, the city council may remove any member from a commission or committee for any reason. Such removal may be accomplished by resolution or minute order of the city council. (Ord. 09-O-2570, eff. 11-6-2009)

2-2-107: OPERATIONAL PROCEDURES:

Unless otherwise provided in the ordinance or resolution creating a commission or committee the following provisions shall apply in the conduct of business of such commission or committee:

- A. Each commission or committee shall adopt rules of conduct and procedure which shall be consistent with the provisions of this chapter.
- B. Each commission shall have regularly scheduled meetings at least once each month, and may call special meetings as provided in section 54956 of the state Government Code.
- C. Committees are not required to have regularly scheduled meetings, and meetings may be called by the chairperson or by a majority of the membership.
- D. A majority of the designated membership shall constitute a quorum, and any action shall require a majority of the quorum for either affirmative or negative action.
- E. A chairperson and a vice chairperson shall be elected by the members from the membership. A member shall not serve as chairperson in excess of one year during any single term on the commission or committee.
- F. An official record of all considerations and decisions shall be made and filed with the city clerk; and a report shall be made to council.
- G. The city manager shall designate such staff as necessary to provide administrative support, unless otherwise designated by council. (1962 Code § 2-13)

Attachment 2

Article 11. Public Works Commission

2-2-1101: ESTABLISHMENT:

There is established a public works commission consisting of five (5) members. (Ord. 90-O-2099, eff. 9-13-1990)

2-2-1102: JURISDICTION AND FUNCTIONS:

The public works commission shall perform the following functions:

- A. Act as an advisory body to the city council on matters which relate to public works facilities, infrastructure and programs.
- B. Advise and make recommendations to the director of public services or other staff on the planning, evaluation and delivery of public works systems and programs. Such public works systems may include the city's water, wastewater, storm drain, street lighting, refuse management and other infrastructure systems. Traffic engineering associated with street and signalization systems shall be within the jurisdiction of the traffic and parking commission. The public works commission also shall act in an advisory capacity concerning public outreach programs relating to the above systems, including, but not limited to, water conservation, refuse recycling, graffiti removal, and other such programs.
- C. Provide recommendations on proposed utility rate structure changes.
- D. Advise the city council and staff regarding capital improvement program budgetary items relating to public works improvements.
- E. Assist in communicating with the community concerning public works programs.

F. Perform such other duties relating to public works matters as may be referred to it by the city council, the director of public services, or their representatives. (Ord. 90-O-2099, eff. 9-13-1990; amd. Ord. 09-O-2576, eff. 1-15-2010)

2-2-1103: ADMINISTRATIVE SUPPORT:

The public services department, or such other staff designated by the city manager, shall provide administrative support to the public works commission. (Ord. 90-O-2099, eff. 9-13-1990)

Attachment 3

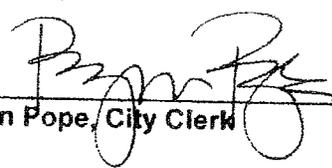


Beverly Hills City Council/Public Works Commission Liaison Committee and the Public Works Commission will conduct a Special Meeting, at the following time and place, and will address the agenda listed below:

CITY HALL
455 North Rexford Drive
4th Floor Conference Room A
Beverly Hills, CA 90210
Tuesday, September 17, 2013
6:15 p.m.

AGENDA

- 1) Public Comment
 - a. Members of the public will be given the opportunity to directly address the Committee on any item listed on the agenda.
- 2) Water Billing and Usage
 - a. New Administrative Appeal Policy, Including Appeal Panel
– Mark Brower and Daniel Cartagena
 - b. Interim Leak Detection Strategies
– Trish Rhay
 - c. Long Term Software Solution for Detecting Leaks
– Trish Rhay and David Schirmer
- 3) Discussion of the \$1.8 Million Loan from Solid Waste to Clean Water
– Don Rhoads
- 4) Commission's Role in Utility Bill Redesign upon Munis Implementation
– Don Rhoads
- 5) Revision of Municipal Code Section 2-2-107E to Allow a Commissioner to Serve More than One Year During a Term
– George Chavez
- 6) Adjournment


Byron Pope, City Clerk

Posted: September 13, 2013



In accordance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Manager's Office at (310) 285-1014. Please notify the City Manager's Office at least twenty-four hours prior to the meeting so that reasonable arrangements can be made to ensure accessibility.