

**City of Culver City, California
Agenda Item Report**

Meeting Date: 10/11/2010		Item Number: <u> A-1 </u>	
CITY COUNCIL AGENDA ITEM: Introduction of an Ordinance Adding Section 3.01.010 to Chapter 3.01 and Amending Chapter 3.09 of the Culver City Municipal Code Regarding Disaster Council and Emergency Organization; Introduction of an Ordinance Adding Sections 3.09.200 Through 3.09.215 to Chapter 3.09 of the Culver City Municipal Code Establishing Restrictions on Excessive and Unjustified Increases in Consumer Prices During a Declared Emergency; and Adoption of a Resolution Regarding Workers' Compensation Benefits for Registered Disaster Service Workers.			
Contact Person/Dept.: Christine Parra, Fire Dept. Lisa Vidra, City Attorney's Office		Phone Number: 310-253-5900 310-253-5660	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☐	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: Meetings and Agendas – City Council (10/06/10)			
Department Approval: Christopher Sellers (by D. White) (09/16/10)		City Attorney Approval: Carol Schwab (by L. Vidra) (10/06/10)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (10/06/10)		City Manager Approval: John M. Nachbar (10/06/10)	
<u>RECOMMENDATION</u> Staff recommends City Council: 1. Introduce an Ordinance adding Section 3.01.010 to Chapter 3.01 and amending Chapter 3.09 of the Culver City Municipal Code (CCMC) regarding Disaster Council and emergency organization; 2. Introduce an Ordinance adding Sections 3.09.200 through 3.09.215 to Chapter 3.09 of the CCMC establishing restrictions on excessive and unjustified increases in consumer prices during a declared emergency; and 3. Adopt a Resolution regarding Workers' Compensation Benefits for Registered Disaster Service Workers. <u>BACKGROUND</u> There are numerous authorities and references for conducting and supporting disaster operations on the federal, state, county and local level. The Robert T. Stafford Disaster Relief and Emergency Assistance Act provides authorities and			

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references on the federal level. The State of California Emergency Services Act provides authorities and references on the State level. The provisions of these two Acts are supplemented by emergency regulations at the local level through a city's Emergency Services Ordinance. In addition, the National Response Framework, the California Response Plan, the County's Multi-Hazard Functional Plan and the City's Emergency Operations Plan all provide staff with guidance on preparing, mitigating, responding, and recovering from a disaster.

While updating the City's Emergency Operations Plan, staff found it necessary to update the City's Emergency Services Ordinance, to propose an anti-price gouging ordinance, and to propose a resolution regarding worker's compensation benefits for registered disaster service workers. These updates provide the groundwork to ensure the City meets the requirements of federal and state law and ensures the City's Emergency Management goals are met. The City's Emergency Management goals are as follows:

- Provide effective life safety measures, reduce property loss, and protect the environment;
- Provide the basis for the direction and control of emergency operations;
- Plan the continuation of government in the aftermath of a disaster;
- Provide for the rapid resumption of impacted business and community services;
- Provide accurate documentation and records required for cost recovery; and,
- Provide for the protection, use and distribution of resources, and coordinate operations with the emergency service organizations of other jurisdictions.

DISCUSSION

The following provides detailed information on the substance of the two proposed ordinances and the proposed resolution.

Emergency Services Ordinance

The City's Emergency Services Ordinance was originally adopted in 1949. Upon review of the existing ordinance in its entirety, staff found the need to propose revisions to ensure the City's ordinance is aligned with state and federal law. Additionally, changes in the current disaster organization are incorporated. The proposed ordinance updates the roles and responsibilities of the Disaster Council and the Director of Emergency Services, designates the Assistant City Manager as the Assistant Director of Emergency Services, provides authority for City Council to adopt a succession plan for specified emergencies, and adds detail to the current succession plan for the Director of Emergency Services. (Attachment 1) The

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proposed ordinance also defines Local Emergency, State of Emergency, and State of War Emergency in conformance with state law. (Attachment 2)

In the previous version of the ordinance, the Disaster Council included the Mayor, City Manager, Assistant City Manager, various department heads (Fire Chief and Police Chief), and others. In the proposed ordinance, the members of the City Council comprise the Disaster Council. The Disaster Council is subject to the Brown Act; it could become difficult for the City Manager, Assistant City Manager, and the Fire and Police Chiefs to communicate with each other during an emergency if they were also on the Disaster Council, in that three of them would constitute a quorum. The change in the proposed ordinance allows the City Council, in its role as the Disaster Council, to be the policy-making body regarding disasters and emergencies, and also provides consistency and efficiency.

The Disaster Council has enumerated powers and duties under the Government Code. Under the proposed ordinance, the Disaster Council will be empowered to:

- Develop and adopt mutual aid plans, agreements, resolutions, ordinances and rules and regulations;
- Forward a copy of the City's emergency plan to the State;
- Register volunteers.

Under the present ordinance, the City Manager, in his/her role as Director of Emergency Services ("Director") is granted certain powers in the event of an emergency. The proposed ordinance updates some of the language, as well as adds additional powers. In effect, the City Manager, in his/her role as Director of Emergency Services, implements the emergency policies previously put in place by the Disaster Council and City Council. For example, the Director is authorized to:

- Impose certain rules and regulations, including a curfew if needed;
- Declare a shelter crisis;
- Use any gifts of services, equipment, supplies, and the like;
- Request state aid;
- Execute all ordinary powers of the City Manager;
- Obtain vital supplies, equipment, and other properties when needed.

The proposed revisions in the roles and duties of the Disaster Council and Director will ensure consistency with State and Federal laws, as well as with the City Charter.

Succession planning is also addressed in the proposed ordinance. The City's Charter addresses filling City Council vacancies in Section 604, but there is no provision for emergencies. The new ordinance incorporates into the Municipal Code the available provisions under the Government Code to replace City Council members who are unavailable during or after a disaster or emergency. An item will

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be brought to the Council in the future giving options regarding possible adoption of a succession plan resolution. The proposed ordinance also provides more detail to the succession plan for the Director of Emergency Services. The line of succession is designated by the City Manager, in a letter to the City Clerk (proposed Section 3.09.025).

Finally, a new section is proposed, giving the City Manager, in his/her role as Director, the ability to allow temporary installation of antenna facilities during an emergency. This ability is vital if communication towers, cell phone towers and the like are destroyed or damaged in an emergency situation.

Anti-Price Gouging Ordinance

The proposed anti-price gouging ordinance is new (Attachment 3). It does not replace an existing similar provision in the CCMC, but instead codifies and expands certain provisions of state law (Penal Code Section 396(i)). Existing state law prohibits excessive and unjustified increases in the prices of essential consumer goods and services when a declared state of emergency results in abnormal disruptions of the market. Existing state law also makes it a misdemeanor to price gouge during a state of emergency or a local emergency. State law also authorizes cities to enact their own local legislation that prohibits the same or similar conduct, or imposes a more severe penalty for same or similar conduct to that which is prohibited under the state's anti-price gouging statute. In many respects, the proposed ordinance is nearly identical to the state law. By adopting this ordinance, the City may prosecute violations rather than relying upon the District Attorney's office to do so.

One key difference from state law is that the proposed anti-price gouging ordinance prohibits price gouging under all three types of emergencies: State of War Emergency, State of Emergency, and Local Emergency. State law covers price-gouging during two of these three types: a declared State of Emergency and a Local Emergency. It leaves out State of War Emergencies. Additionally, under the state anti-price gouging statute, what constitutes a covered emergency is more narrowly defined. Under the proposed ordinance, price-gouging is prohibited during all three types of emergencies using the broad definitions in the state Emergency Services Act.

Updating Resolution Regarding Worker's Compensation Benefits for Registered Disaster Service Workers

In 1949, the City Council adopted a resolution establishing a Disaster Council for the City. The resolution authorized the Disaster Council to register volunteers so they would have the benefit of workers' compensation coverage under a state program developed specifically for disaster workers.

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The original Disaster Council was formed pursuant to the Military and Veterans Code. When all of the emergency services provisions were re-codified in the Government Code as the California Emergency Services Act, each pre-existing Disaster Council was grandfathered until modified by the city or county that formed it. The City's Disaster Council was accredited by the state on June 16, 1949.

To avoid any appearance that the City's Disaster Council is no longer grandfathered because of the proposed changes, the proposed resolution states the resolution is a revision and continuation of the prior resolution. This provides continuity between the old and the new. The new resolution reaffirms the City's agreement to abide by the rules and regulations established by the State for the implementation of Disaster Councils that register disaster service workers. This is important as one of the Disaster Council's responsibilities is to register all disaster volunteers, ensuring the volunteers are covered under the State workers' compensation disaster workers program. (Attachment 3).

It should be noted that future items will be brought before City Council proposing the adoption of various resolutions pertaining to implementation of these disaster preparedness ordinances and resolution, and related matters.

FISCAL IMPACT

Adoption of the proposed Ordinances and resolution do not create a fiscal impact. However, the clarified powers granted to the Disaster Council and the Director of Emergency Services would be consistent with Federal and State law and would enable Culver City to more effectively respond to a disaster (including qualifying for federal and state reimbursement, if available)

ATTACHMENTS

1. Proposed Emergency Services Ordinance
2. Government Code section 8558—Definitions
3. Proposed Anti-Price Gouging Ordinance
4. Proposed Resolution Relating to Workers Compensation Benefits for Registered Disaster Service Workers

MOTION:

That the City Council:

1. Introduce an Ordinance adding Section 3.01.010 to Chapter 3.01 and amending Chapter 3.09 of the CCMC regarding Disaster Council and emergency organization;

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2. Introduce an Ordinance adding Sections 3.09.200 through 3.09.215 to Chapter 3.09 of the CCMC establishing restrictions on excessive and unjustified increases in consumer prices during a declared emergency; and
3. Adopt a Resolution Regarding Workers' Compensation Benefits for Registered Disaster Service Workers.