



## Staff Report

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### Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of September 22, 2020

#### ESTABLISHMENT OF A POLICY FOR THE SELECTION OF THE CITY'S MAYOR AND MAYOR PRO TEMPORE (City Attorney Michael Jenkins)

##### **Recommended Action:**

Staff recommends that the City Council consider adoption of a formal policy governing selection of the Mayor and Mayor Pro Tempore.

##### **Background:**

California Government Code Section 36801 provides as follows:

"The city council shall meet at the meeting at which the declaration of the election results for a general municipal elections is made. . . and, following the declaration of the election results and the installation of elected officials, choose one of its number as mayor and one of its number as mayor pro tempore."

A city council may select any of its members to serve as mayor and mayor pro tempore. The mayor and mayor pro tempore of a general law city serve at the pleasure of the city council and may be replaced at any time. Otherwise, State law does not prescribe a particular method or criteria for selection of a mayor and mayor pro tempore; these are entirely within the discretion of the City Council.

The City has typically followed a nonbinding practice regarding rotation of the Mayor and Mayor Pro Tempore positions. It has been asserted that a written policy exists, but none has been located by the City Clerk. The City Council has from time-to-time deviated from that practice. The deviation from that practice in November 2019 has been raised in the lawsuit entitled *Fangary v. City of Hermosa Beach, et al.*

At the Council regular meeting of September 8, 2020, under "Future Agenda Items" Council directed the City Attorney to return to Council with a proposed policy governing selection of the mayor and mayor pro tempore.

The City Council is scheduled to conduct its annual reorganization in November 2020. If a policy is adopted, it will govern selection of the mayor and mayor pro tem at the November reorganization.

**Analysis:**

Attached to this staff report is a resolution setting forth a proposed policy governing the selection of the mayor and mayor pro tempore. The proposed policy includes the following elements:

1. Pursuant to Section 36801, the City Council may in its sole discretion and by majority vote of those Councilmembers present and voting appoint from among its membership a mayor and mayor pro tempore. The mayor and the mayor pro tempore shall serve at the pleasure of the City Council and may be replaced at any time during their respective terms.
2. Until the year 2022, the term of the mayor and mayor pro tempore is one year. Thereafter, the mayor and mayor pro tempore will serve a term of 9.6 months, as in the past, to allow each member of the Council an opportunity to serve during their term of office.
3. Selection of the mayor and mayor pro tempore is a legislative action that is entirely within the Council's discretion. The Council may by majority vote of those members present and voting select any of its members for both positions.
4. The proposed policy lists a number of optional factors that Council may, in its discretion, consider when selecting a mayor and mayor pro tempore. The Council may choose to consider any, all or none of the criteria and need not make findings when making its selection. The criteria are as follows:
  - (i). The mayor pro tempore may next succeed the incumbent Mayor.
  - (ii). Each Councilmember may be afforded the opportunity to serve as mayor pro tempore and mayor during his or her term of office.
  - (iii). A Councilmember should generally serve one full year on Council before selection as mayor or mayor pro tempore.
  - (iv). Priority for selection of mayor pro tempore may be given to a member who has not previously served as mayor and thereafter to the member with the longest continuous service since last serving as mayor pro tempore and mayor.
  - (v). A member serving as mayor or mayor pro tem should generally not serve multiple consecutive terms.
  - (vi). The member selected to serve as Mayor should be able to preside over City Council meetings, facilitate fair debate, work effectively with City staff and respect and adhere to City policies, the 2016 Hermosa Beach Leadership Guide and the City Manager form of government.

The proposed policy would be adopted by resolution of the City Council and would rescind, replace and supersede any and all previous practices and policies, written or unwritten, pertaining to selection of the mayor and mayor pro tempore. The policy may be amended by resolution from time

to time in the Council's discretion.

**Attachments:**

Resolution No. 20-7257, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH REGARDING APPOINTMENT OF THE MAYOR AND MAYOR PRO TEMPORE

**Respectfully Submitted by:** Michael Jenkins, City Attorney

**Concur:**

**Legal Review:** Michael Jenkins, City Attorney

**Approved:** Suja Lowenthal, City Manager