Council Agenda #8B
Meeting of April 8, 2008

Staff Report

DISCUSSION AND DIRECTION REGARDING ORDINANCE REVISION PROCESS

Honorable Mayor and Council Members:

Summary

The City Council has requested that the City Attorney continue the ongoing process of revising the City's Municipal Code. Tonight, staff requests direction regarding which chapters of the Municipal Code to revise. Staff also requests direction regarding possible introduction and/or revision of additional ordinances as compiled by the City Attorney's office.

Background

A portion of the City Attorney's time is spent revising and drafting City ordinances. Per prior Council direction, the City Attorney's office has proposed revisions to one chapter of the Belmont Municipal Code approximately every three months. This task is a priority calendar item. On March 29, 2008, the City Council held a retreat at which the staff report attached as Attachment A was presented. The report outlines the ordinance revision process, as well as providing a list of possible ordinances to either revise and/or propose. At that meeting, City Councilmembers provided preliminary direction on which ordinances they felt the City Attorney's office should review, revise, and/or propose. At this meeting, staff is requesting formal direction to begin work.

Discussion

Attached as Attachment B is a reorganized table of the ordinances referred to at the March 29, 2008 meeting. The new table divides the ordinances into two categories: existing ordinances and proposed new ordinances. The ordinances are sorted by the approximate amount of time required on staff's part to review and propose revisions.

Staff requests that the Council rank the ordinances separately in each category. Thus, existing ordinances would be ranked 1 through 11 for possible revision; proposed new ordinances would be ranked 1 through 11 for presentation to the Council for consideration.

Staff believes that the limiting factor in the ordinance review, revision, and proposal process is the amount of City Council meeting time available. The smoking ordinance required meetings approximately every two to three months for over a year. Between those meetings, the Council considered other, less substantial ordinances, and the Council could certainly continue this practice in the future. Staff is therefore proposing that it would assign the highest priority to

working on the top two choices for revising existing ordinances, and the top three choices for proposed new ordinances. Staff will then schedule the hearings required for these ordinances when there is City Council time available, recognizing that revision of Municipal Code is a priority calendar item.

General Plan/Vision Statement

Revision and updating of existing ordinances is consistent with General Plan policies to protect the health, safety and welfare of Belmont citizens.

Fiscal Impact

The ordinance revision process consumes a portion of the City Attorney's retainer hours. Accordingly, there is no direct fiscal impact on the City.

Public Contact

Posting of City Council agenda.

Recommendation

Staff recommends that the City Council rank the top two ordinance revisions and the top three proposed new ordinances for staff review and presentation to the Council at a future meeting.

Alternatives

1. Direct the City Attorney to not revise or propose any ordinances at this time.
2. Direct the City Attorney to revise and/or propose a different number of ordinances.

Attachments

A. City Council Staff Report and Ordinance List Dated March 29, 2008
B. Revised Ordinance Table

Respectfully submitted,

Marc L. Zafferano
City Attorney

ATTACHMENT A

City Council Staff Report and Ordinance List
Dated March 29, 2008

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CALIFORNIA
CITY OF BELMONT

STAFF REPORT

To: Belmont City Council

From: Marc L. Zafferano, City Attorney

Date: March 29, 2008

Re: Ordinance Revisions

The City Attorney spends a portion of his retainer time revising and drafting City ordinances. Prior City Councils have requested that the City Attorney's office review and propose revisions to one chapter of the Belmont Municipal Code approximately every three months. Recently, review and revision of Belmont's Smoking Ordinance took over a year, during which time the Council did not require revision of any other Municipal Code chapters. Periodically, the City Attorney has requested that the Council establish priorities for which sections of the Municipal Code should be revised.

Over the course of the last two years, Councilmembers have on occasion suggested that the City look into revising or adopting a particular ordinance. Usually, these requests are vetted through the item 9 process on the Council agenda. The City Attorney has compiled information regarding these requests in anticipation of future Council review.

In addition, staff occasionally becomes aware of ordinances which might need revision or new ordinances which the City should consider. The City Attorney may also

become aware of proposed ordinances other cities are considering from the League of Cities City Attorney List Serve. Information on these ordinances is compiled and retained in anticipation of future Council action.

Attached to this staff report for your review is a table of ordinances which were either identified by the full Council, individual Councilmembers, staff, and/or others as being worthy of consideration. The list of ordinances is sorted only by the estimated amount of time which the City Attorney's office would likely expend in the drafting and review of these ordinances. The time does not include staff or City Council time. As you know, each ordinance requires at least one public hearing for introduction and then adoption at a subsequent meeting. In practice, all but the simplest ordinances usually require one or more additional meetings. This is especially true if the ordinance is complex and raises numerous legal issues, such as the City's Sign Ordinance, which the prior Council had identified as the possible next Municipal Code chapter for revision.

Today, staff is not requesting a detailed discussion of the merits of any particular ordinance, or prioritization of the ordinances listed. Instead, staff would primarily like to know whether any Councilmembers would like to add any proposed ordinances or ordinance revisions to the list. In this context, staff can provide a brief description of the background for each listed ordinance. The City Attorney will then come back at a regularly scheduled meeting of the City Council with a staff report that analyzes each proposal, places the proposal in the context of the Municipal Code revision process, and requests that the Council establish priorities for work on the listed ordinances.

Please let me know if you have any questions.

Ordinance	Source	Est. Time	Comments
Complete revision of sign ordinance	Council priority	50+ hrs.	Next Chapter of Muni Code revision?
Dedication of parks and open space	Councilmember	40 hrs.	Initiative measure would require vote to alter park uses
Noise	City Attorney List Serve	35 hrs.	Changes warranted in light of recent community nose issues?
Special events	Staff	35 hrs.	Issues reviewed with Adam Politzer
Code compliance upon sale of residence	City Attorney List Serve	30 hrs.	Would require disclosure of code issues upon sale; authorized by state law
Control of campaign contributions	Staff	30 hrs.	Would revise current contribution limitations in Muni Code Chapter 8.5
Signature gathering at public events	City Attorney List Serve	30 hrs.	Determine if problem exists before initiating revision
Solicitation limitations	Staff	30 hrs.	Issue arises in residential neighborhoods; enforcement is difficult
Transient Occupancy Tax	Staff	30 hrs.	Would change method of assessing and collecting TOT; currently in litigation in Southern California
Business License Tax	Staff	25 hrs.	Current ordinance review for consistency with new case law
Throw away newspapers prohibition	City Attorney List Serve	25 hrs.	Determine if problem exists before initiating revision
Parking	Councilmember	20 hrs.	Further revision of 72-hour parking ordinance and/or large vehicles/trailers
Shopping cart containment	Councilmember	20 hrs.	Glendale model: would require locking wheels, penalties
Wood burning fireplaces	Councilmember	20 hrs.	Ban for new construction only; model from Bay Area Air Quality Control District
Regulation of vacant property	City Attorney List Serve	20 hrs.	Would establish inspection and registration program for vacant property in City
Animal Control	County Counsel	15 hrs.	Completed; but is additional review of dog barking ordinance needed?
Document destruction	Staff	15 hrs.	Are revisions necessary to insure that all departments comply with policy?
Storm sewer discharges	Staff	15 hrs.	Would tighten language in existing ordinances to prohibit unauthorized discharges; Menlo Park model
Excessive police calls for service	Councilmember	10 hrs.	Would impose requirements on businesses which regularly utilize police/fire services; ordinance model drafted an under staff review
Fortune telling	Staff	10 hrs.	Previously proposed Muni Code Chapter amendment, but withdrawn
Sewer rate increase	Staff	10 hrs.	Required by legal cases
Tobacco retailer regulation	County Counsel	10 hrs.	Would insure consistency with County ordinance

ATTACHMENT B

Revised Ordinance Table

Existing Ordinances			
Ordinance	**Source**	**Est. Time**	**Comments**
Complete revision of sign ordinance	Council priority	50+ hrs.	Next Chapter of Muni Code revision?
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Proposed New Ordinances			
Ordinance	**Source**	**Est. Time**	**Comments**
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Signature gathering at public events	City Attorney List Serve	30 hrs.	Determine if problem exists before initiating revision
Throw away newspapers prohibition	City Attorney List Serve	25 hrs.	Determine if problem exists before initiating revision
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