



CONSENT CALENDAR

Agenda Item # 3

AGENDA REPORT SUMMARY

Meeting Date: March 27, 2018

Subject: Disaster Council and Emergency Preparedness Program

Prepared by: Ann Hepenstal, Emergency Preparedness Coordinator

Reviewed by: J Logan, Assistant City Manager

Approved by: Chris Jordan, City Manager

Attachment(s):

1. Ordinance No. 2018-443
2. Resolution No. 2018-07 California Disaster and Civil Defense Master Mutual Aid Agreement
3. Resolution No. 2018-08 Workers' Compensation Benefits for Registered Disaster Service Workers

Initiated by:

Staff

Previous Council Consideration:

March 15, 1955: Disaster Service Worker Resolution and establishment of Disaster Council, Ordinance No. 64

April 11, 1967: Emergency Ordinance amended Disaster Council, Ordinance No. 67-16

September 22, 1987: Los Altos Emergency Plan adopted and Disaster Council repealed, Ordinance No. 87-176

March 22, 2016: Approved the City of Los Altos Emergency Operations Plan. Prior policy was the 2009 Emergency Operations Plan (updated annually with last prior update in October 2015)

March 13, 2018 Introduction of Ordinance No. 2018-443

Fiscal Impact:

None

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the Council wish to adopt an Ordinance that will reestablish the Los Altos Disaster Council and accompanying Resolutions, and thereby, qualify volunteers for the State Disaster Service Worker (DSW) Program benefits?



Subject: Disaster Council and Emergency Preparedness Program

Summary:

- Adoption of Ordinance 2018-443 (Attachment 1) to amend Chapter 2.28 of the City of Los Altos Municipal Code will reestablish the Los Altos Disaster Council and related additions to the code and thereby, the City of Los Altos can apply for reimbursement for provisions afforded under the Labor Code §4351 and the DSW Volunteers in the City, if eligible, can qualify for benefits as specified in California Labor Code §4351 and §8657
- Adoption of Resolutions No. 2018-07 (Attachment 2) and Resolution No. 2018-08 (Attachment 3) as required by the State of California to accompany Ordinance No. 2018-443

Staff Recommendation:

Adopt Ordinance No. 2018-443 amending Chapter 2.28 of the City of Los Altos Municipal Code to reestablish the Los Altos Disaster Council and related additions to the Code; adopt Resolution No. 2018-07 agreeing to abide by the California Disaster and Civil Defense Master Mutual Aid Agreement; and adopt Resolution No. 2018-08 relative to Workers' Compensation Benefits for registered Disaster Service Worker Volunteers



Subject: Disaster Council and Emergency Preparedness Program

Purpose

Adopt Ordinance No. 2018-443 to amend Chapter 2.28 of the City of Los Altos Municipal Code and thereby, reestablish the Los Altos Disaster Council; adopt Resolution No. 2018-07 and Resolution No. 2018-08 as required by the State of California to accompany Ordinance No 2018-443.

Background

On March 13, 2018 the City Council introduced and waived further reading of Ordinance No. 2018-443 to amend Chapter 2.28 of the City of Los Altos Municipal Code thereby reestablishing the Los Altos Disaster Council. In addition to this action, Resolution No. 2018-07 and Resolution No. 2018-08 need to be adopted by Council to accompany Ordinance 2018-443 pursuant to State of California requirements.

Discussion/Analysis

This Ordinance will go into effect 31 days after adoption.

Options

- 1) Adopt Ordinance No. 2018-443 and associated Resolution No. 2018-07 and Resolution No. 2018-08

Advantages: By reestablishing a Disaster Council and the associated Resolutions, the City is able to qualify its CERT and Ham volunteers under the State of California's DSW program, which provides benefits from the State of California for liability protections and Workers' Compensation coverage to City DSW Volunteers. This enables the City to transfer the risk of Workers' Compensation claims to the State of California program, thereby reducing the City's potential liability. City DSW Volunteers gain protection from claims from personal injury or property damage sustained by a third party while carrying out their volunteer duties during an event as properly registered DSW Volunteers and will enjoy the same immunities as officers and employees of the State and its political subdivisions. Having these DSW protections is anticipated to help in recruitment efforts for emergency preparedness volunteers.

Disadvantages: Although City must adhere to the requirements for State certified local Disaster Councils and associated Resolutions, no disadvantages to the City are identified.



Subject: Disaster Council and Emergency Preparedness Program

2) Do not adopt Ordinance No. 2018-443 and associated Resolutions

Advantages: None.

Disadvantages: City of Los Altos CERT and Ham volunteers will not qualify under the State of California's DSW program. This exposes the City to potential Workers' Compensation claims. This also leaves City volunteers exposed to potential liability should they injure a third party while carrying out their volunteer duties during an event. Lacking these DSW protections may negatively impact recruitment of emergency preparedness volunteers.

Recommendation

The staff recommends Option 1.

ORDINANCE NO. 2018-443

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTER 2.28 OF THE LOS ALTOS MUNICIPAL CODE PERTAINING TO EMERGENCY ORGANIZATION AND THE DISASTER COUNCIL

WHEREAS, on March 15, 1955, the City Council adopted Resolution No. 47, which adopted a Mutual Aid Agreement, and Resolution No. 71, which declared persons in the Civil Defense program to be covered under Workman’s [sic] Compensation; and

WHEREAS, on March 15, 1955, the City Council also adopted Ordinance No. 64, which established a Plan of Civil Defense, a Disaster Council, and participation of the City in a program of Civil Defense of the City of Los Altos; and

WHEREAS, on April 25, 1967, the City Council adopted Ordinance No. 67-16, which amended the Disaster Council and appointed the Chief Administrative Officer as the Director of Civil Defense; and

WHEREAS, on September 22, 1987, the City Council adopted Ordinance No. 87-176, which adopted the City of Los Altos Emergency Plan (“1987 Emergency Plan”) and repealed the Disaster Council; and

WHEREAS, on March 22, 2016, the City Council approved the City of Los Altos Emergency Operations Plan (“Emergency Operations Plan”)

WHEREAS, the City’s adoption of the 1987 Emergency Plan, and other provisions related to emergency response, are codified in Los Altos Municipal Code Chapter 2.28; and

WHEREAS, the City now desires to amend Los Altos Municipal Code Chapter 2.28 to re-establish the Disaster Council and Mutual Aid Agreement; to adopt the Emergency Operations Plan; and to provide for (1) the preparation and carrying out of plans for the protection of persons and property within the City in the event of an emergency, (2) the direction of the emergency organization, and (3) the coordination of the emergency functions with all other public agencies, corporations, organizations, and affected private persons; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: The title of Chapter 2.28 of the Los Altos Municipal Code, “EMERGENCY PLAN” is hereby amended as follows:

CHAPTER 2.28 ~~EMERGENCY PLAN, DISASTER COUNCIL AND CITY~~
EMERGENCY ORGANIZATION

SECTION 2. AMENDMENT OF CODE: Section 2.28.20 in Chapter 2.28 of the Los Altos Municipal Code is hereby amended as follows:

2.28.020 – Emergency Plan Adopted.

The Los Altos Disaster Council shall be responsible for the development of the Emergency Plan, which plan shall provide for the effective mobilization of all the resources of this jurisdiction, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization, powers and duties, services, and staff of the emergency organization. The City of Los Altos Emergency Operations Plan, ~~dated September, 1987, as amended,~~ is hereby adopted by reference as if fully set forth in this chapter and shall have the full force and effect of law for the purposes set forth therein.

SECTION 3. AMENDMENT OF CODE: Chapter 2.28 of the Los Altos Municipal Code is hereby amended to add new Sections 2.28.040-2.28.100 to the end of the Chapter, to read as follows:

2.28.040 – Definition

As used in this ordinance, “emergency” shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this jurisdiction caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities, requiring the combined forces of other political subdivisions to combat.

2.28.050 – Disaster Council Membership

The Los Altos Disaster Council is hereby created and shall consist of the following:

- A. The Director of Emergency Services, who shall be chair.
- B. The Assistant Director of Emergency Services who shall be vice chair.
- C. The Chief of Police.
- D. The Director of Public Works.

- E. The Mayor or City Council designee.
- F. Such other persons appointed by the Director.

2.28.060 – Disaster Council Powers and Duties

It shall be the duty of the Los Altos Disaster Council, and it is hereby empowered, to develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet at least once per year, upon call of the chair or, upon call of the vice chair (in the absence of the chair). The Disaster Council shall comply with the California Emergency Services Act and abide by the California Disaster and Civil Defense Master Mutual Aid Agreement. The Disaster Council agrees to follow established rules and regulations relating to the various classes of Disaster Service Workers, scope of duties of each class, and manner of registration pursuant to the provisions of Government Code §8585.5.

2.28.070 – Director and Assistant Director of Emergency Services

- A. There is hereby created the office of Director of Emergency Services. The City Manager shall be the Director of Emergency Services.
- B. There is hereby created the office of Assistant Director of Emergency Services. The Assistant City Manager or an individual appointed by the Director of Emergency Services shall be the Assistant Director of Emergency Services. When the Director of Emergency Services is not available, the Assistant Director of Emergency Services shall become Acting Director and assume the duties of the Director.

2.28.080 – Powers and Duties of the Director and Assistant Director of Emergency Services

- A. The Director is hereby empowered to:
 - (1) Request the City Council to proclaim the existence or threatened existence of a “local emergency” if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a local emergency is proclaimed by the Director, the City Council shall take action to ratify the proclamation within seven (7) days thereafter or the proclamation shall have no further force or effect.
 - (2) Request the Governor to proclaim a “state of emergency” when, in the opinion of the Director, the circumstances are beyond the

City's capacity to adequately respond to or recover from the emergency.

(3) Control and direct the effort of the City of Los Altos emergency organization for the accomplishment of the purposes of this ordinance. This responsibility will include the registration, supervision and direction of Disaster Service Worker Volunteers within the City.

(4) Direct cooperation between and coordination of services and staff of this emergency organization; and resolve questions of authority and responsibility that may arise between them.

(5) Represent the City in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.

(6) In the event of the proclamation of a "local emergency" as herein provided, the proclamation of a "state of emergency" by the Governor, or the existence of a "state of war emergency," the Director is hereby empowered:

(a) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;

(b) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the jurisdiction for the fair value thereof and, if required immediately, to commandeer the same for public use;

(c) To require emergency services of any officer or employee and, in the event of the proclamation of a "state of emergency" in the county in which this city is located or the existence of a "state of war emergency," to command the aid of as many residents of this community as deemed necessary in the execution of duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered Disaster Service Workers;

(d) To requisition necessary personnel or material of the departments or agencies; and

(e) To execute all ordinary power as City Manager, all of the special powers conferred by this ordinance or by

resolution or emergency plan pursuant hereto adopted by the governing body, all powers conferred by any statute, by any agreement approved by the governing body, and by any other lawful authority.

B. The Assistant Director is hereby empowered to:

(1) Under the supervision of the Director and with the assistance of emergency service chiefs, to develop emergency plans and manage the emergency programs of this jurisdiction;

(2) Act on behalf of the Disaster Council to approve Los Altos Disaster Service Worker Volunteer training and exercises and to coordinate with the appropriate agencies and organizations;

(3) Have such other powers and duties as may be assigned by the Director.

2.28.090 – Emergency Organization

All officers and employees, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service under the provisions of 2.28.080 A. (6) (c) of this ordinance, be charged with duties incident to the protection of life and property during such emergency, shall constitute the emergency organization of the city of Los Altos.

2.28.100 – Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this ordinance are declared to be severable.

SECTION 4. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 5. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 6. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on _____, 2018 and was thereafter, at a regular meeting held on _____, 2018 passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK

RESOLUTION NO. 2018-07

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AGREEING TO ABIDE BY THE CALIFORNIA DISASTER AND CIVIL
DEFENSE MASTER MUTUAL AID AGREEMENT**

WHEREAS, EARL WARREN, Governor of the State of California, on the 15th day of November, 1950, executed the California Disaster and Civil Defense Master Mutual Aid Agreement on behalf of the State of California and all its Departments and Agencies; and

WHEREAS, on March 15, 1955, the City Council adopted Resolution No. 47, which adopted a Mutual Aid Agreement; and

WHEREAS, on September 22, 1987, the City Council adopted Ordinance No. 87-176, which adopted the City of Los Altos Emergency Plan (“1987 Emergency Plan”) and repealed the Disaster Council; and

WHEREAS, on _____, the City Council adopted Ordinance 2018-443 to reestablish the Los Altos Disaster Council; and

WHEREAS, it is deemed of vital importance that the City of Los Altos be a party to said California Disaster and Civil Defense Master Mutual Aid Agreement.

NOW, THEREFORE, the City Council of the City of Los Altos does, by resolution, hereby approve and agree to abide by said California Disaster and Civil Defense Master Mutual Aid Agreement; and the City Clerk is hereby authorized and directed to send a certified copy of this resolution to the California Governor’s Office of Emergency Services.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby approves and agrees to abide by said California Disaster and Civil Defense Master Mutual Aid Agreement; and the City Clerk is hereby authorized and directed to send a certified copy of this resolution to the California Governor’s Office of Emergency Services.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ____ day of _____, 2018 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK
Resolution No. 2018-07

RESOLUTION NO. 2018-08

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
RELATIVE TO WORKERS' COMPENSATION BENEFITS FOR
REGISTERED DISASTER SERVICE WORKER VOLUNTEERS**

WHEREAS, on March 15, 1955, the City Council adopted Resolution No. 71, relative to Workmen's [sic] Compensation Insurance for Registered Volunteer "Disaster Service Workers;" and

WHEREAS, on September 22, 1987, the City Council adopted Ordinance No. 87-176, which adopted the City of Los Altos Emergency Plan ("1987 Emergency Plan") and repealed the Disaster Council; and

WHEREAS, on _____, 2018, the City Council adopted Ordinance 2018-443 to reestablish the Los Altos Disaster Council; and

WHEREAS, Section 8585.5 of the Government Code provides:

The California Governor's Office of Emergency Services (Cal OES) shall establish by rule and regulation various classes of Disaster Service Worker (DSW) Volunteers and the scope of the duties of each class. Cal OES shall also adopt rules and regulations prescribing the manner in which DSW Volunteers of each class are to be registered. All of the rules and regulations shall be designed to facilitate the payment of Workers' Compensation; and

WHEREAS, Cal OES adopted rules and regulations establishing classes of DSW Volunteers, the scope of duties of each class, and the manner of registration; and

WHEREAS, Section 8612 of the Government Code provides:

Any Disaster Council which both agrees to follow the rules and regulations established by Cal OES pursuant to the provisions of Section 8585.5 and substantially complies with those rules and regulations shall be certified by the office. Upon that certification, and not before, the Disaster Council becomes an accredited Disaster Council; and

WHEREAS, the City of Los Altos has registered and will hereafter register DSW Volunteers; and

WHEREAS, the City of Los Altos desires to become an "accredited Disaster Council" organization in order that injured DSW Volunteers registered with it may benefit by the provisions of Chapter 10 of Division 4 of Part 1 of the Labor Code.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby agrees to follow the rules and regulations established by Cal OES pursuant to the provisions of Government Code Section 8585.5, and the City Clerk is hereby authorized and directed to send a certified copy of this resolution to the California Governor's Office of Emergency Services.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ____ day of ____, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK