

**RESOLUTION NO. 2014-45**

**A RESOLUTION ESTABLISHING A CHARTER REVIEW COMMITTEE TO EVALUATE AND MAKE RECOMMENDATIONS TO THE CITY COUNCIL OF THE CITY OF BELL FOR AMENDMENTS TO THE CITY CHARTER**

**WHEREAS**, the California Constitution since 1896 has attempted to empower cities in California to exercise home-rule powers with regards to "local affairs" and many of the leading cities in the state have successfully operated as charter cities; (see Exhibit "A") and local affairs include things such as matters related to the employment of municipal officers and employees, the conduct of city elections, regulation and government of the city police force, creation of improvement districts, land use and zoning, and the erection of municipal public buildings; and

**WHEREAS**, the citizens of the City of Bell adopted the City of Bell Charter ("City Charter") on November 29, 2005 by a vote of 336 (84%) to 50 (16%); and

**WHEREAS**, the City of Bell ("City") is a small blue collar community of approximately 35,000 residents with 90% of the population being Latino/Hispanic. The City is subject to high amounts of poverty with about 28% of the residents living below the poverty line, stifled economic growth with unemployment at approximately 16% in 2010 (significantly higher than state-wide norms of approximately 10.2%), and a median household income of approximately \$37,000 per year or 40% lower than the state average of \$61,400; and

**WHEREAS**, the City has recently come through an unprecedented municipal scandal which was brought to light in July 2010, when investigative reporters from the Los Angeles Times disclosed that the City's Chief Administrative Officer, Robert Rizzo ("Rizzo"), was the highest paid municipal officer in the State of California with a salary over \$700,000 and that individual members of the City Council received in excess of \$100,000 compensation annually; and

**WHEREAS**, the exorbitant salaries Rizzo, former Assistant Chief Administrator Angela Spaccia ("Spaccia"), former Police Chief Randy Adams ("Adams"), and former members of the City Council (collectively referred to as the "Bell 8") paid themselves contrasted sharply with the incomes of the taxpayers of the City and violated not only the public trust but State law and the City Charter; and

**WHEREAS**, when the true compensation of its public servants was revealed in the Los Angeles Times, the community of Bell was outraged, protests ensued, Rizzo, Spaccia, and Adams were terminated, and a recall process was commenced against the incumbent members of the City Council and in a combined recall/general municipal election on March 8, 2011, all members of the City Council were replaced; and

**WHEREAS**, the discovery of the illegal compensation of the Bell 8 led to investigations and lawsuits on the part of numerous California State and Federal government agencies, including audits by the State Controller of the City's redevelopment agency and various development transactions; a review of its financial audits and financial controls; a review by the IRS of the taxability of various bond issues; a review by the SEC of the City's and its advisors' compliance with regulations protecting the municipal bond market; and malpractice litigation involving the legal and financial advisors of the City; and argued that the adoption of the charter

**WHEREAS**, it has been argued that the adoption of the City Charter allowed the Bell 8 to create boards, commissions and authorities such as the Surplus Property Authority, and the Solid Waste Authority which were sham agencies established to award additional and illegal compensation to the former Council members in the monthly amount per entity ranging from \$915 in 2006 to \$1,453 in 2010 which aggregated into base salaries of approximately \$96,000 and the City Administrator's compensation was similarly allocated to such agencies to hide his actual compensation; and

**WHEREAS**, in fact, the City Charter limited City Council compensation to the amount members of the general law cities of similar population would receive under State law which for a city of the size of City of Bell was approximately \$4,800 per year; and the City Attorney's office, in *People ex rel. Harris v. Rizzo* 214 Cal.App.4th 921, and *Bell v. Superior Court* 220 Cal. 4th 236 (2013); was able to use this same language to successfully argue that the City was entitled to restitution of the excessive and illegal salaries of the Bell 8; and

**WHEREAS**, the City Charter could operate as an important limitation on the ability of municipal officials to carry out abuses and corruption such as those of the Bell 8, and if made a part of the Charter, such restrictions could only be changed if voted upon by the People; and

**WHEREAS**, from the various investigations which have been performed and though the litigation which has ensued, and the City Council has learned many things concerning the crimes of the Bell 8 and believes that the Charter should be amended to add additional provisions to prevent a reoccurrence of the scandals where City Officials put their self-interests ahead of the interests of the citizens; and

**WHEREAS**, restrictions enacted in the Charter could only be changed by a vote of the People; and

**WHEREAS**, in the aftermath of the Bell scandal, the City Council has pledged itself to a new era of transparency and the importance of participation of citizens in the development and operation of the City government, and would like to create a process for amending the Charter which will foster community participation; and

**WHEREAS**, the City Council desires to establish a Charter review committee made up of citizens and community leaders to conduct a full scale review of the Charter over the next year; and

**WHEREAS**, it is the purpose of this resolution (i) to create a broad based citizens review committee with a diverse membership of informed citizens; (ii) to educate the community as to the purposes and function of the Charter; (iii) to establish a government working by and for the citizens of the City; (iv) to outline subjects for investigation by the committee; (v) to require the committee to operate in accordance with the Brown Act and through public workshops solicit community input, and (vi) require that recommendations be presented within a year for a Charter reform measure which can be put to the voters.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BELL DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:**

**SECTION 1. Creation and Purpose.** There is hereby created an ad hoc committee to review the City of Bell Charter ("Charter Review Committee" or "Committee") and make recommendations to the Council for changes and amendments which will (i) make it more difficult for the City's officials to act in their own interests and against the interests of the People, (ii) to bring greater transparency and awareness to the public of the City's governance and decisions, (iii) enhance the effectiveness and financial soundness of the government, (iv) promote the economic development and growth of the City, and (v) enhance the services of the City to the public and make Bell a better place to live and work. The goal of the City Council is to have these Charter amendments ready for enactment by the people as soon as possible.

**SECTION 2. Composition.** The Charter Review Committee shall consist of thirteen (13) members who are residents and/or community leaders of the City. The members of the Charter Review Committee shall be appointed as follows:

- A. **Council Appointments.** Five (5) members appointed by the City Council with each member of the City Council appointing one Committee member;
- B. **Council Members.** Two (2) members of the City Council selected by the majority of the City Council;
- C. **Education.** Principal of a school within the City of Bell;
- D. **Chamber.** Any board member of the City Chamber of Commerce;
- E. **Non-Profit.** A non-profit representative selected by the majority of the City Council;
- F. **Business.** A representative of a major business located in the City selected by the City Manager; and
- G. **At Large.** Two (2) at large representatives selected by the majority of the City Council.

**SECTION 3. Ex Officio.** The Committee shall include three *ex officio* members. Ex officio members of the Charter Review Committee shall have the same rights and duties as other Committee members except ex officio members do not have a vote on governing decisions of the Committee and their presence shall not be counted towards determining whether a quorum exists. Ex officio members may participate in discussions, suggest items to be considered, and make recommendations to the Charter Review Committee. The following members shall serve as ex officio members of the Charter Review Committee:

- A. One (1) selected by Pat Brown institute;
- B. One (1) selected by Common Cause; and
- C. One (1) university professor selected by majority of the City Council.

**SECTION 4. Appointed Members, Vacancies, Removals.** The procedures for filling the initial positions on the committee or future vacancies and provision of notice thereof, shall be subject to the provisions of the Maddy Act (Government Code §§54970 *et. seq.*) for positions appointed by the City. The availability of the position shall be posted in the office of the City Clerk, the Bell Public Library, and in other places as directed by the City Council, not earlier than 20 days before or not later than 20 days after the vacancy occurs. Final appointment to the Charter Review Committee shall not be made for at least ten working days after the posting of the notice in the City Clerk's office. Notwithstanding the above, the City Council may, if it finds that an emergency exists, fill an unscheduled vacancy immediately. A person appointed to fill the vacancy on an emergency basis must serve only on an acting basis until the final appointment is made pursuant to this section. The Charter Review Committee shall be included in the City's annual Appointment List in accordance with the Maddy Act.

**SECTION 5. Removal.** Absent any other law or City policy to the contrary, appointed members of the Charter Review Committee may be removed without cause by a majority vote of the City Council. Additionally, the committee may request that any member with three unexcused absences who is accordingly not contributing to the work of the committee be removed.

**SECTION 6. Scope of Responsibilities.** The Charter Review Committee shall act in an advisory capacity to the City Council in formulating and proposing amendments to the City Charter in accordance with this Resolution. The Charter Review Committee Scope of Operations shall include the following:

- A. **Regular Meetings.** The Charter Review Committee shall hold regularly scheduled meetings or study/workshops sessions to review and discuss the purposes of the Charter, how the Charter can improve governance of Bell and how to prevent the abuses of the past. All meetings shall be open to the public and publicly noticed.

- B. Public Participation. Engage in a serious working effort with citizens of the City to solicit feedback and comments on potential amendments to the City Charter. Since the Charter affects all the citizens of the City, the Committee shall encourage as many citizens as possible to attend Committee meetings and participate through public comment or written correspondence addressed to the entire Committee.
  
- c. Technical Review. Review, compare, and analyze charters from other cities for provisions that further the goals and objectives of preventing corruption; increasing transparency and awareness of the public of the City's governance and decisions; enhancing the effectiveness and financial responsibility of the government; promoting the economic development and growth of the City; enhancing the services of the City to the public; and making Bell a better place to live and work.
  
- D. Work Plan. The Committee's first order of business shall be to develop a work plan ("Work Plan") to be approved by the City Council. The Work Plan shall include a description of the objectives and specific tasks to be performed, a schedule for accomplishing the tasks; and costs and budgets for performing the tasks; and be approved by the City Council. The Work Plan shall include a report from the City Manager concerning staffing commitments necessitated by the Work Plan and estimates of costs and schedules. All projects and assignments of the Committee shall be consistent with the Work Plan.
  
- E. Written Reports. Charter Review Committee shall periodically submit written reports to the City Council as necessary to keep the public and City Council informed of its activities or when requested by the City Council. Such reports shall describe the activities it has undertaken and its progress in performing the Work Plan. Reports may be presented by the City Manager or his or designated staff member or the Chairperson or the chair of any subcommittees.

**SECTION 7. Subjects to be Investigated.** The subjects to be considered by the Committee shall include, but not be limited to, the following subjects:

1. Direct Election of the mayor; powers of the office and term of office;
2. Financial restrictions and limits for leases, contracts, franchises;
3. Title of the chief executive officers for the organization and powers of the Chief Administrative Officer or City Manager;
4. Power of Councilmembers to act as Chief Administrative Officer/City Manager if such position is vacant;
5. Elimination of the Assistant Chief Administrative Officer in the Charter;
6. Commissions of the City established in the Charter;
7. Provisions concerning employees and retirement;

8. Executive versus legislative control of budget, purchasing, and contract limits.
9. Measures to control public corruption and promote ethics and integrity in public officers and employees
10. Review of taxes, fees and measures to strengthen the financial integrity of City.
11. Such other subjects as the Committee shall determine or shall be directed by the City Council.

**SECTION 8. Charter Review Committee Procedures.** All Charter Review Committee meetings shall be pursuant to the Manual of Procedural Guidelines for the Conduct of City Council and Constituent Body/Commission Meetings and the following:

- A. Quorum. The majority of the Committee members eligible to vote on governing decisions of the Charter Review Committee shall constitute a quorum. Where there is no quorum, the Chairperson, or Vice-Chairperson, or any member of the Committee shall announce that no meeting will be held due to the lack of a quorum and announce the date of the next regular meeting, or if no member of the Charter Review Committee is present, the City Clerk or a member of the City staff shall make such an announcement.
- B. Agenda. The City Manager or his or her designee shall prepare the agenda for the meeting. Only items within the Scope of Responsibilities of the Charter Review Committee shall be put on the agenda.
- C. Public Comments. Any individual or group may address the Charter Review Committee on any item on the agenda or within the Scope of Responsibilities of the Charter Review Committee.
- D. Minutes. The minutes of the Charter Review Committee meetings shall be kept by the Committee Secretary.
- E. Presiding Officer. The Chairperson shall preside at all meetings of the Charter Review Committee.
- F. Ex Parte Communications. Individual Committee members are encouraged to engage the citizens of the City in discussions both during and outside of public meetings to discuss ideas and potential changes to the Charter. However, under no circumstances is any Committee member to take any action or make any representation committing the entire Charter Review Committee without express authority of the majority the Committee.
- G. Robert's Rules of Order. If a matter arises which is not covered by these Procedural Rules and Guidelines, applicable provisions of

federal or state law, City Charter, or City of Bell Municipal Code, the procedures of the Charter Review Committee shall be governed by the latest edition of Robert's Rules of Order.

**SECTION 9. Staffing and Appropriations.** The City Council shall include in its annual budget such appropriations of funds as in its opinion, shall be sufficient for the efficient and proper functioning of the Charter Review Committee. The City Manager may assign a staff member to be the primary liaison with the Committee and other members of staff shall provide assistance as their expertise dictates. Additionally, the City Attorney shall provide assistance with respect to legal issues which come before the Committee. The City Manager shall advise the City Council as to appropriations necessary to carry out the Work Plan.

**SECTION 10. Subcommittees.** The Charter Review Committee shall have the power to appoint subcommittees of their own members to perform assignments within the Work Plan of the Charter Review Committee.

**SECTION 11. Charter Review Committee Recommendations.** The Charter Review committee shall present its recommendations and the Council shall consider the recommendations as follows;

- A. **Preliminary Report.** The Committee shall prepare a preliminary report with its recommendation regarding Charter revisions within eight months of when the Committee is established and shall present it to the City Council for the Council's input before finalizing the Charter Amendment and Report.
- B. **Final Report.** The Committee shall consider any council comments on the Preliminary Report and prepare a Final Report. The Final Report shall be issued prior to the date of termination of the Charter Review Committee as provided in this Resolution.
- C. **Hearings.** The City Council will conduct public hearings to obtain community input, adopt or modify the Charter Review Committee recommendations, or refer the matter back to the Charter Review Committee with questions to be considered.
- D. **Adoption.** The City Council shall receive and consider the recommendations from the Charter Review Committee and determine the final form of the Charter Reform Measure.
- E. **Election.** If the City Council adopts any of the recommendations from the Committee, the adopted amendment proposal(s) to the City of Bell Charter will be placed on the ballot for a public vote.

**SECTION 12. Term and Termination.** The City Council may terminate the Charter Review Committee upon majority vote of the members of the City Council. The Charter Review Committee shall automatically terminate on or before twelve months

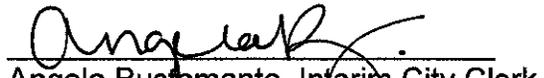
after the Committee's first regular meeting unless extended by resolution of the City Council.

**SECTION 13.** The City Clerk shall certify to the adoption of this Resolution.

**ADOPTED AND APPROVED THIS 13<sup>th</sup> DAY OF AUGUST, 2014.**

  
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Nestor Enrique Valencia, Mayor

ATTEST:

  
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Angela Bustamante, Interim City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
David J. Aleshire, City Attorney

**CERTIFICATE OF ATTESTATION AND ORIGINALITY**

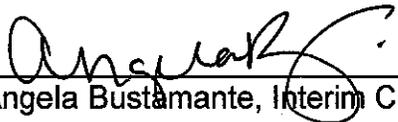
I, Angela Bustamante, Interim City Clerk of the City of Bell, hereby attest to and certify that the foregoing resolution is the original resolution adopted by the Bell City Council at its regular meeting held on the 13<sup>th</sup> day of August, 2014, by the following vote:

AYES: Councilmembers Alvarez, Saleh, Vice Mayor Romero and Mayor Valencia

NOES: Councilmember Quintana

ABSENT: None

ABSTAIN: None

  
\_\_\_\_\_  
Angela Bustamante, Interim City Clerk