

RESOLUTION NO. 2014-60

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL, CALIFORNIA, CALLING AN ELECTION AND REQUESTING PLACEMENT OF A BALLOT MEASURE ON THE GENERAL MUNICIPAL ELECTION BALLOT FOR THE CITY OF BELL ON TUESDAY MARCH 3, 2015, TO CONSIDER AN AMENDMENT TO THE BELL CITY CHARTER TO REVISE COUNCILMEMBER CANDIDATE RESIDENCY REQUIREMENTS TO 30 DAYS, LIMIT COUNCILMEMBER COMPENSATION AND INDEMNIFICATION, CREATE A CITIZEN PLANNING COMMISSION, REVISE RECALL ELECTION PROCEDURES, ELIMINATE THE ASSISTANT CHIEF ADMINISTRATIVE OFFICER POSITION, PROHIBIT FINANCIAL CONFLICTS OF INTERESTS, AND LIMIT THE TERM OF CITY FRANCHISES, ALL CONSISTENT WITH STATE LAW

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; 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" or "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 35,477 residents with 90% of the population being Latino/Hispanic. The City is subject to high amounts of poverty with about 28% of the people 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 significantly 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

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, 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 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, 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-interest ahead of the interest 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 intends to establish a Charter reform committee made up of citizens and community leaders to conduct a comprehensive review of the Charter, educate the citizens about the Charter and recommend revisions to the Charter; and

WHEREAS, the Council desires to have a full scale review of the Charter performed by the Charter reform committee, this process will take up to a year and the Council wishes to put certain immediate reforms before the voters for adoption as soon as possible; and

WHEREAS, pursuant to the requirements of the laws of the State of California, the City Council requests that a ballot measure be placed on the general election ballot for the election to be held on March 3, 2015 relating to revising Councilmember candidate residency requirements, reducing limiting Council member compensation, reforming recall elections, adopting additional conflicts of interests provisions, and other subjects that have wide community consensus; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BELL DOES RESOLVE AS FOLLOWS:

Section 1. The Council, on its own motion, hereby calls and orders to be held in the City of Bell, California on March 3, 2015, an election of the qualified electors of Bell on a ballot measure proposing to amend the Charter of the City of Bell as set forth in Exhibit "A" attached hereto, and incorporated herein by reference.

Section 2. The election called and ordered by this resolution shall be consolidated with the general election to be held on March 3, 2015.

Section 3. Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisor of the County of Los Angeles is hereby requested to consent and agree to the consolidation of the election with the general election on March 3, 2015, for the purpose of consideration and adoption of the proposed Charter amendments set forth in Exhibit "A" shall be printed on the election ballot with the title and in the form hereinafter set forth:

Measure _____

Shall the City Charter be amended to: revise Councilmember candidate residency requirements to 30 days, limit Councilmember compensation for sitting on multiple City bodies, require written expense reimbursement policies, limit indemnification of elected officials, establish a citizen planning commission, changing recall procedures, eliminate the assistant chief administrative officer position, prohibiting conflicts of interest or financial interests in City contracts, and prohibit franchises of indefinite duration, all consistent with state law.	YES
	NO

Section 4. The following constitutes the synopsis of the measure to be voted on for the purpose of meeting the publication requirements of Elections Code 12111:

A measure amending the Charter of the City of Bell relating to revising Councilmember candidate residency requirements to 30 days, limiting Councilmember compensation and indemnification rights, requiring written policies of reimbursement for Councilmember expenses, revising recall election procedures, establishing Council meetings by ordinance or resolution, eliminating of the assistant chief administrator position, prohibiting conflicts of interest or financial interests in contracts, establishing a citizen planning commission, and prohibiting franchises of indefinite duration.

Section 5. That the County Election Division is authorized to canvass the returns of the consolidated election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

Section 6. That the County Board of Supervisors is requested to issue instructions to the County Election Division to take any and all steps necessary for the holding of the consolidated election.

Section 7. That the City of Bell recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

Section 8. The City Clerk shall file a certified copy of this resolution with the Los Angeles County Elections Office on or before December 5, 2014.

Section 9. The polls for the election shall be open at 7:00 a.m. on the day of the election, and shall remain open continuously from the time until 8:00 p.m. of the same day when the polls shall be closed, except as provided in Section 14401 of the Elections Code.

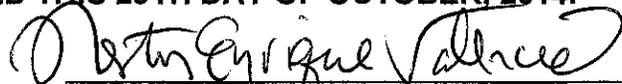
Section 10. The Los Angeles County Clerk/Registrar of Voters shall give the appropriate notices for the election and shall conduct the election pursuant to appropriate provisions of state law.

Section 11. The City shall reimburse the County of Los Angeles for the above mentioned services performed by the Los Angeles County/Registrar of Voters, upon presentation of the bill to the City.

Section 12. The City Attorney shall prepare an impartial analysis of the measure in accordance with Elections Code Section 9280.

Section 13. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding consolidated election in the City.

PASSED, APPROVED, AND ADOPTED THIS 29TH DAY OF OCTOBER, 2014.



Nestor Enrique Valencia, Mayor

November 4, 2014

ATTEST:



Angela Bustamante, Interim City Clerk

APPROVED AS TO FORM:



David Aleshire, City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

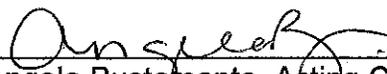
I, Angela Bustamante, acting City Clerk of the City of Bell, hereby attest to and certify that the foregoing resolution is the original resolution adopted by the City Council at a special meeting held on October 29, 2014 by the following vote:

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

NOES: Councilmember Quintana

ABSTAIN: None

ABSENT: None



Angela Bustamante, Acting City Clerk

EXHIBIT "A" TO RESOLUTION NO. 2014-60

A BALLOT MEASURE SUBMITTED TO CITY ELECTORS AT THE MARCH 3, 2015 REGULAR MUNICIPAL ELECTION AMENDING THE CHARTER OF THE CITY OF BELL TO REVISE COUNCILMEMBER CANDIDATE RESIDENCY REQUIREMENTS TO 30 DAYS, LIMIT COUNCILMEMBER COMPENSATION AND INDEMNIFICATION, CREATE A CITIZEN PLANNING COMMISSION, REVISE RECALL ELECTION PROCEDURES, ELIMINATE THE ASSISTANT CHIEF ADMINISTRATIVE OFFICER POSITION, PROHIBIT FINANCIAL CONFLICTS OF INTERESTS, AND LIMIT THE TERM OF CITY FRANCHISES, ALL CONSISTENT WITH STATE LAW

SECTION 1. AMENDMENT OF CITY CHARTER

The following provisions of the Charter of the City of Bell are hereby amended to read as follows:

Amendment 1. ARTICLE V Section 501 of the Charter of the City of Bell is hereby amended to read in its entirety as follows:

Section 501. ELIGIBILITY. QUALIFICATIONS. No person shall be eligible for election to office as a member of the City Council unless such person shall have been domiciled in and a registered voter of the City for at least ~~60~~30 days immediately preceding the first day upon which candidates for such office are permitted to file nominating papers with the City Clerk. For an appointee to fill a vacancy in an office, the aforementioned ~~60~~30-day eligibility requirement shall immediately precede the date such office became vacant according to the provisions set forth herein below.

If a member of the City Council is absent from all regular meetings of the City Council for a period of 90 days consecutively from and after the last regular City Council meeting attended by such member, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude or a felony, or ceases to be domiciled in and a voter of the City, the office shall immediately become vacant and shall be so declared by the City Council.

Vacancies shall be filled according to the provisions of Section 503. The City Council shall judge the qualifications of its members as set forth in this Section. It shall judge all municipal election returns and it shall judge the certification of the canvass of the vote which shall be made by the City Clerk.

Amendment 2. ARTICLE V Section 502 of the Charter of the City of Bell is hereby amended to read in its entirety as follows:

"Section 502. COMPENSATION; REIMBURSABLE EXPENSES; INDEMNIFICATION.

(a) The members of the City Council shall receive compensation for their services as may be prescribed by ordinance or resolution, but with respect to service as a Council member not to exceed the amount which Council members of general law cities of similar population would receive under State law. In the event of resignation such member shall not be entitled to vote on the selection of their successor. No ordinance of the City Council shall increase the compensation of any member of the City Council during that member's term of office unless it is after at least one Council member commences a new term of office. In addition, members shall receive such reasonable and adequate amounts as may be established by ordinance, which amount shall be deemed to be reimbursement to them of other out of pocket expenditures and costs imposed upon them by virtue of their serving on the City Council. Members of the City Council shall not receive any salary or additional compensation for serving on any boards, commissions, or ad hoc committees of the City, other than the City Council itself unless the additional compensation is expressly permitted by State law.

(b) Members of the City Council may be reimbursed for actual and necessary expenses incurred in the performance of official duties in accordance with the following requirements:

(1) The City Council shall adopt a written reimbursement policy in a public meeting specifying the types of occurrences that qualify a member of the City Council to receive reimbursements of expenses related to travel, lodging and other actual and necessary expenses. The written reimbursement policy shall either specify the reasonable reimbursement rates for travel, lodging, and other actual and necessary expenses required in the performance of their duties, or use the Internal Revenue Service rates for such expenses as established in Publication 463 as it may be amended. The members of the City Council shall not be reimbursed for any additional costs that are above the rates established in the written reimbursement policy.

(2) The City shall prepare written expense forms that meet the requirements of the reimbursement policy and members of the City Council must submit written expense reports no later than 30 days after incurring the expense and the reports must be accompanied by receipts documenting each expense.

(3) The City may advance the anticipated reasonable expenses but the actual supporting expense forms shall be submitted and accounts settled within 30 days after incurring the expenses. There shall be no per diems.

(c) All documents related to reimbursable City expenditures are public records and subject to disclosure under the California Public Records Act.

(d) The City through its City Council shall not indemnify any past or present elected official of the City ("Indemnitee") beyond what is required under State law.

(1) The City shall provide for the defense of any civil action or proceeding brought against the Indemnitee on account of an act or omission in the scope of his or her authorized duties as an elected official of the City in accordance with State law.

(2) The City shall not provide for the defense of a civil action or proceeding brought against the Indemnitee if the City Council determines that the defense of the action or proceeding by the City would create a specific conflict of interest between the City and the Indemnitee; or for acts or failure to act because of actual fraud, corruption, or actual malice without entering into a reimbursement agreement with the City approved by the City Council in a form approved by the City Attorney. If the City or court of competent jurisdiction determines that the Indemnitee committed actual fraud, corruption, or actual malice, then the City shall not provide for the defense of such civil action or proceeding and the Indemnitee shall reimburse City all costs plus interest of the City in providing such defense."

Amendment 3. ARTICLE V Section 503 of the Charter of the City of Bell is hereby amended to add new subsection (a) and to renumber the remainder of the current section accordingly so that the new subsection (a) reads in its entirety as follows:

"Section 503. VACANCIES.

(a) The election of an eligible candidate to fill a vacancy caused by a recall election shall occur after concurrently with the recall election. One recall election is sufficient to recall several officers. The procedures for filling a vacancy caused by a recall election are subject to the following requirements:

(1) Nominations to succeed a recalled officer shall be made in the manner prescribed for nominating a candidate to that office in a regular election. The nomination papers and the declaration of candidacy shall, in each case, be filed no less than 75 days prior to the date of the election and not before the day the order of the election is issued.

(2) No person whose recall is being sought may be a candidate to succeed himself or herself at a recall election nor to succeed any other member of the same governing board whose recall is being sought at the same election.

(3) The candidate receiving the highest number of votes for the office shall be declared elected for the unexpired term of the recalled officer. If candidate fails to qualify for the office within 10 days after receiving his or her certificate of election, the office to which he or she was elected shall be vacant, and shall be filled according to law.

Amendment 4. ARTICLE V Section 504 of the Charter of the City of Bell is hereby amended to permit reorganization of the City Council and appointment of the Mayor and Vice Mayor annually by amending the first sentence of the first paragraph and the second paragraph as follows:

~~"Section 504. PRESIDING OFFICER. At such time as the term of a member of the City Council commences The Council shall reorganize annually. At the first regular City Council meeting following a general municipal election in which newly elected members of the City Council are sworn and seated, and prior to the anniversary of such date, and at any time the first City Council meeting following when there is a vacancy in the office of Mayor, or as otherwise established by ordinance of the City Council, the City Council shall meet and shall elect one of its members as its presiding officer, who shall have the title of Mayor.~~

...

The Council shall also designate one of its members as Vice Mayor, who shall serve in such capacity at the pleasure of the City Council. The vice Mayor shall be elected concurrently with the selection of the Mayor. The Vice Mayor shall perform the duties of the Mayor during the Mayor's absence or disability."

Amendment 5. ARTICLE V Section 507 of the Charter of the City of Bell is hereby amended so that notice to be delivered to Council members in addition to other forms may be given electronically.

Amendment 6. ARTICLE V Section 508 of the Charter of the City of Bell is hereby amended to read in its entirety as follows:

"Section 508. PLACE OF MEETINGS. All meetings shall be held within the place designated by ordinance or resolution, or in such place to which any such meeting may be adjourned, and except for closed sessions permitted under the laws of the State of California shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor, or, if the Mayor should fail to act, by three members of the City Council."

Amendment 7. ARTICLE VI Section 606 of the Charter of the City of Bell entitled "ASSISTANT CHIEF ADMINISTRATIVE OFFICER" is hereby deleted in its entirety.

Amendment 8. ARTICLE VII Section 708 of the Charter of the City of Bell is hereby amended to read in its entirety as follows:

"Section 708. FINANCIAL INTERESTS; ILLEGAL CONTRACTS. ~~The prohibitions, limitations and exclusions with respect to City Council members, officers, or employees being financially interested in contracts, sales, transactions or proceedings in which the City is a party shall be as provided for under State law.~~" The City of Bell has suffered a municipal scandal of historic proportions arising from the corruption of the elected and appointed officers and employees. It is the desire of the citizens that their municipal officers and employees adhere to the highest ethical standards and it is the intent of this Charter provision to establish that officers and employees adhere to all ethical standards established in State law, and that the City Council be fully authorized to establish higher standards by ordinance or resolution

consistent with the constitutional principles but not lesser. No member of the City Council, department head or other officer or employee of the City, or member of a board or commission shall:

(b) engage in any employment, activity or enterprise for compensation which is inconsistent, incompatible, or in conflict with his or her duties to the City;

(c) participate in making a decision that will have a significant effect on his or her financial interest or that of his immediate family, source of income, source of gifts, business entity, or real property;

(d) participate in making of a contract, sale or transaction in which he or she is financially interested where the City is a party to such contract, sale or transaction;

(e) engage in any activity or action that members of the City Council, department heads, or other officers and officials are prohibited from conducting in general law cities.

(f) receive any personal loans from the City, any of its officers, employees, members, consultants, or from anyone who contracts with or is under the control of the City.

Any officer or employee of the City, or member of a board or commission who shall act contrary to this Section or any ordinance or resolution of City enacted pursuant hereto, shall be liable to City for restitution of any monies received in violation hereof.

The general laws of the State of California shall be used in determining the meaning and application of this Section, which general laws may be supplemented or modified by regulations of the City Council adopted by ordinance if made more restrictive than State law.

If any member of the City Council, the Chief Administrative Officer, department head or other officer of the City, or member of a board or commission shall be financially interested as aforesaid, upon conviction thereof he or she shall forfeit his or her office in addition to any other penalty which may be imposed for such violation of this Charter."

Amendment 9. ARTICLE VIII Section 806 of the Charter of the City of Bell is hereby amended to read in its entirety as follows:

~~"Section 806. PLANNING COMMISSION. POWERS AND DUTIES. The City Council shall function as the Planning Commission and shall have the power and be required to:~~

~~(a) After a public hearing thereon, consider the adoption, amendment or repeal of Master, General or Precise Plans, or any part thereof, for the physical development of the City.~~

~~(b) Exercise such functions with respect to land subdivisions as shall be provided by ordinance not inconsistent with the provisions of this Charter.~~

~~(c) Make determinations concerning proposed public works and for the clearance, conservation and rehabilitation of any areas within the City.~~

~~(d) Exercise such functions with respect to zoning, city planning, land use and related matters as may be prescribed by ordinance or resolution not inconsistent with the provisions of this Charter.~~

There shall be a Planning Commission consisting of five members. Each member of the Planning Commission shall be appointed by the City Council, and the Planning Commissioners shall serve at the pleasure of the City Council, unless some other process of appointment or removal is adopted by ordinance. There shall be a Director of Community Development whose duties shall be established by ordinance, resolution, or regulation, and who shall be the recording secretary for the Planning Commission. The Director of Community Development, or his or her designated representative shall be staff to the Planning Commissioners and attend all Planning Commission meetings. The Planning Commission may seek legal advice from the City Attorney when it deems it necessary. The Planning Commission shall have all of the following powers and duties, which powers and duties may be modified by ordinance of the City Council:

(a) All duties set out in the California Planning and Zoning Law for a planning agency.

(b) After public hearing, recommend to the City Council any amendment to the General Plan or any part thereof, or any zoning ordinance amendments.

(c) Exercise authority granted to it by ordinance over subdivisions, use permits, or other matters not inconsistent with this Charter.

(d) Make recommendations to the City Council concerning public works and determining consistency with the General Plan.

(e) Perform other duties specified by the City Council not inconsistent with this Charter."

Amendment 10. ARTICLE XIII Section 1302 of the Charter of the City of Bell is hereby amended to add the following :

All franchises shall be awarded by resolution adopted by the City Council at a public hearing. There shall be no "evergreen" or automatic roll over franchises and unless good cause is found therefore by a four fifths (4/5) vote of the City Council, all franchises shall terminate in no more than 10 years.

SECTION 3. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. Effective Date

This charter amendment shall be deemed ratified 10 days after certification of the election, and will take effect upon filing and acceptance by the California Secretary of State.