

March 5, 2015

Dear Council Member:

Enclosed are three documents that will assist you to evaluate the City Council's response to the Grand Jury Report regarding salary setting issues.

1. February 7, 2014 Salary Setting Commission's Recommendation

This was the recommendation that went to the full Council in the winter of 2014. It recommended no increase in pay until such time as the inherent conflict of interest has been removed from the salary setting process.

A majority of the Council voted to refer the matter *back to the San Diego Salary Setting Commission* to write proposed language for a Charter amendment.

2. May 29, 2014 Report From Salary Setting Commission to EDIR Committee

This was the memo that went back to EDIR from the Salary Setting Commission after the Commission drafted proposed language for a Charter amendment.

3. Proposed Language

This is the draft language for a Charter amendment that the Salary Setting Commission recommends go to the voters.

This language ties Council and Mayor pay to the pay of judges. The memo (referenced above) explains why we chose this particular benchmark.

San Diego City Council Member  
March 5, 2015  
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The Salary Setting Commission recommends you *not* reopen the issue of an appropriate benchmark. By addressing that issue at Council, you are simply acting on the conflict identified by the Grand Jury.

Sincerely,



Robert P. Otilie

RPO:mau

## INDEX OF SALARY SETTING DOCUMENTS

- | No. | <u>Document</u>                                                                                                                  |
|-----|----------------------------------------------------------------------------------------------------------------------------------|
| 1.  | February 7, 2014 – San Diego Salary Setting Commission Recommendation to put salary issues to public vote for Charter amendment. |
| 2.  | May 29, 2014 – Memo to EDIR Committee from Salary Setting Commission – Reporting back at request of full City Council.           |
| 3.  | Proposed language for Charter amendment re salary issues (with benchmark of judicial salaries).                                  |



## THE CITY OF SAN DIEGO

February 7, 2014

Subject: 2014 Salary Setting Commission's Recommendations

Honorable Mayor and City Councilmembers:

By this letter, the Salary Setting Commission hereby submits its salary recommendations for Fiscal Years 2015 and 2016. What follows is the Commission's official proposal for salaries to be incorporated into the Salary Ordinances for 2014-2015 and 2015-2016, pursuant to the requirements of Sections 12.1, 24.1, and 41.1 of the City Charter.

### THE COMMISSION'S PROCESS

The Salary Setting Commission met on five occasions between early December 2013 and early February 2014. We reviewed comprehensive data compiled by the City of San Diego's Personnel Department staff. With the assistance of staff, the Commission wrote to boards and commissions, community planning groups, members of the media, chambers of commerce, employee labor organizations and members of the public, informing them the salary evaluation process was once again underway, and inviting participation and comment. The meetings were held at the Civic Center Plaza Building in Downtown San Diego. For those who could not attend in person, written correspondence was also encouraged.

The Commission first studied the facts, figures, comparisons and trends in some depth, and then explored a very broad range of approaches and rationales. The source materials considered by the Commission relating to compensation and benefits in the private, non-profit and government sectors will be submitted and become a part of your record. The goal was to develop appropriate salary recommendations for the Mayor and Councilmember positions. This included, but was not limited to:

- Adequacy of current salary, in view of San Diego's cost of living
- The importance of establishing salaries high enough to attract qualified candidates
- The existing benefits package accompanying the positions
- Comparable data, including the Consumer Price Index and rates of inflation
- Comparable data, including Mayor and Councilmember salaries in various/comparable California, Western, and other cities
- Comparable data, including salaries for non-profit and private sector firms
- The current salaries of other City management personnel, including but not limited to the Police Chief, the Fire Chief, and the Mayor's own Chief Operating Officer, among others
- The current salaries of classified City personnel
- Historical salary data for the Mayor and Councilmembers, including the number of Salary Setting Commission recommendations which have been rejected
- The heavy responsibilities and extreme importance of the positions
- The now permanent status of the Strong Mayor form of government.



### Salary Setting Commission

1200 Third Avenue, Suite 300 • San Diego, CA 92101

Tel (619) 236-6400

## FINDINGS

1. As mandated by the San Diego City Charter, the positions of San Diego Mayor and San Diego City Councilmember are full-time positions. Any other outside profession, trade, or occupation that would interfere with the performance of those full-time jobs is specifically prohibited.
2. We find that San Diego Mayor and City Council salary levels are far below the level of compensation for equivalent positions in the private, public and non-profit sectors and far below the level that is needed to attract well-qualified and experienced candidates.
3. The Council and Mayor have not had a salary increase since July 1, 2003. Over that time, the cost of living in San Diego has increased 27%. Further, in 2003, the Council and Mayor received a car allowance, with this compensation treated, by law, as earned income. The car allowance is \$9,600 per year although the majority of Councilmembers no longer accept it.
4. Adjusting the Council and Mayor's salaries to account for this 27% increase in the cost of living and the loss of the car allowance, for those who do not accept it, would require an immediate salary increase to \$105,310 for Councilmembers and \$137,189 for the Mayor.
5. Based on the Salary Setting Commission's review of relevant data, it believes the salary recommendations made by the Commissions in 2008, 2010, and 2012, particularly given the loss of purchasing value of the current salaries, were an accurate reflection of the adjustments needed for these salaries at this time.
6. However, for over a decade, the Council has rejected well-thought-out and meaningful proposals from the Salary Setting Commission. The Council has, in fact, rejected every recommendation, on all issues, made by the Commission in 2004, 2006, 2008, 2010, and 2012. This has included recommendations in 2008, 2010, and 2012 that voters be given the opportunity to enact a new method of setting salaries which would preclude Councilmembers from voting on their own pay.
7. The current methodology of handling the Council and Mayor salaries at the City of San Diego was passed by the voters in the mid-1970s after the Council failed to change the pay for Councilmembers for 17 straight years. By Charter amendment, the voters placed the primary responsibility for setting the Council and Mayor's salaries with an independent commission. This prior history suggests we are falling back into a pattern that preceded the Charter change in the 1970s. Change is once again needed, in the view of the Salary Setting Commission.
8. On January 13, 2014, the Salary Setting Commission, by a vote of 6-0, endorsed a citizen proposal to the Economic Development and Intergovernmental Relations Committee that asked the San Diego City Council to place on the ballot a Charter amendment to eliminate Charter sections 12.1, 24.1 and 41.1. This citizens' proposal sought to change the Charter so that the Council would no longer be in the untenable position to vote on their own salaries.

### **Salary Setting Commission**

9. The Commission's endorsement of this Charter proposal was consistent with the endorsement of such a proposal by the Salary Setting Commissions that convened in 2008, 2010, and 2012. Unfortunately, no action has ever been taken on those recommendations.
10. Given the foregoing, the Salary Setting Commission believes that any recommended pay increase at this time would simply be politicized by the City Council and would take the focus away from the real dysfunction here, which is the fact that Councilmembers vote on their own pay, a gross conflict of interest.
11. Consequently, the Salary Setting Commission unanimously supports a "City of Bell" provision in the current salary ordinance which would prevent Councilmembers or the Mayor from benefiting or being penalized by any increase or decrease they vote upon while they are in office. This name is taken from the City of Bell, where the conflict of interest of Councilmembers voting on their own pay resulted in detriment to the Bell community. The Commission believes that Council's process of voting on its own pay has also been to the detriment of the citizens of San Diego.
12. Given the foregoing, the recommendation is that the salary for Councilmembers and Mayor not change and that the Council focus on the conflict that exists when it votes on its own pay. The City Council is encouraged to adopt the "City of Bell" provision and eliminate the ability of Councilmembers to benefit from a vote on their own pay. Going forward, it should also step aside and allow voters to select a new method of setting the Council and Mayor's salaries.

#### RECOMMENDATIONS

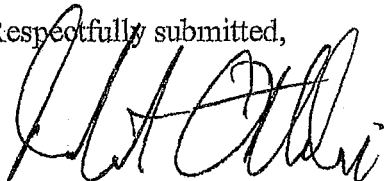
The Salary Setting Commission recommends that, so long as the City Council votes on its own salary, the Councilmembers and Mayor in office, upon the adoption of a modification of the Salary Ordinance, should not benefit or be penalized by that modification while they are in office and that the salary for Fiscal Year 2015 and Fiscal Year 2016 should remain at \$75,386 for Councilmembers and \$100,464 for the Mayor. The provision that the Councilmembers and Mayor should not benefit or be penalized by any increase or decrease they vote upon while they are in office is referred to as the "City of Bell" provision.

The Commission recommends the following pay for the Council and Mayor in the Fiscal Year 2015 and Fiscal Year 2016:

<u>EFFECTIVE DATE</u>	<u>CITY COUNCIL</u>	<u>MAYOR</u>
Current	\$ 75,386	\$100,464
7-1-2014	\$ 75,386	\$100,464
7-1-2015	\$ 75,386	\$100,464

On behalf of the Commission, I wish to be heard on these recommendations and would be happy to respond to any questions the Council may have at that time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. P. Otilie". The signature is fluid and cursive, written over the printed name below.

Robert P. Otilie, President  
Salary Setting Commission

RPO/dk

## MEMORANDUM

TO: Economic Development and Intergovernmental Relations Committee

FROM: Robert P. Otilie, President  
San Diego Salary Setting Commission

DATE: May 29, 2014

RE: Proposed Ballot Language for Charter Amendment Re Council/Mayor Salaries

### **Background**

On March 10, 2014, the San Diego Salary Setting Commission ("Commission") made its biannual report to the San Diego City Council with respect to recommendations for Council and Mayor pay. For the first time in over 40 years, the Commission recommended no pay increase for either Council members or the Mayor.

Prior to this recommendation, it had been over ten years since the City Council had adopted any recommended increases in the pay for Council members and the Mayor. During that same decade, the City Council had rejected every other recommendation from the Commission designed to correct an obviously dysfunctional system.

The last pay raise was over 10 years ago. Since then, with the increase in the cost of living and the loss of the car allowance (refused by most), Council members have lost 30% of the purchasing power of their salary.

Commencing in 2008, for four consecutive cycles, the Commission had proposed that the City Council place on the ballot proposed amendments to those sections of the Charter affecting Council and Mayor pay. The recommendations have been to create an alternative mechanism for setting pay, taking all responsibility away from the City Council. In 2008, an independent Charter Review Commission also recommended change.

This decade of inaction by the City Council on Commission recommendations is not without precedent. From 1957 through 1973, the City Council took no action at all on salaries. This prompted a citizens' revolt of sorts, with Proposition E passing in the 1973 ballot with 58% of the vote.

In 1973's Proposition E, voters approved a measure that was intended to *take away from* the City Council responsibility for salaries for Council members and the Mayor. The goal was to create a citizen's commission (the Salary Setting Commission) to make recommendations that would presumably be adopted by the Council. However, our experience in the last decade mirrors our experience in the late 50s to early 1970s.



The Council, *by its failure to act on Commission recommendations*, had eviscerated the people's Charter amendment of 1973.

This was the context of the Commission's 2014 recommendation.

### **City Council Action on March 10<sup>th</sup>**

The City Council is required, by law, to act on the recommendations of the Commission. This year, on a 5 to 3 vote, the City Council adopted a motion proposed by Councilmember Emerald, seconded by Councilmember Alvarez, to accept the Commission's pay recommendations (no increase for Council members and Mayor for two years), and refer back to the Commission a request to draft language for a ballot measure that would change those Charter sections that affect Council and Mayor pay.

The Commission met over several weeks subsequent to the Council request and has prepared a Charter Amendment that could be placed on the ballot for the November 2014 election. That language is submitted herewith.

### **The Proposed Charter Amendment**

After discussion, the Commission's view is that any proposed ballot measure should be designed to minimize an opportunity for the City Council, or other constituencies, to politicize this process.

If the City Council is eliminated from the process of setting Council and Mayor pay, there are two ways to set pay. First, another body can evaluate, and set, the appropriate pay for these positions. That could be the existing Commission or some newly created entity. Alternatively, Council and Mayor pay could be tied to a benchmark with a built-in mechanism for increases over time. The Commission has chosen the latter approach.

In the Commission's proposal, Council salaries would be tied to the salaries of California Superior Court Judges. State law links judicial salaries to pay increases for other state workers and requires judicial salaries to increase by the average salary increase for state employees, negotiated through labor contracts. Like Council members and the Mayor, applicants to become judges are leaving the private, non-profit or government sectors.

This benchmark was chosen principally because a similar benchmark is utilized by the County of San Diego in setting pay for County Supervisors and numerous other jurisdictions. By ordinance, the County has tied Supervisor pay to judicial pay for 39 years. To the Commission's knowledge, there has never been a single complaint, no requests to revert to the former system, and no biannual controversies over appropriate pay for these public servants. It is a tried and true system.

The Commission recommendation is that Council members be paid the same as California Superior Court judges, and that the Mayor be paid 25% more than Council members. Entirely coincidentally, current judicial pay is consistent with the recommendations made by the Commission for Council pay in 2012. The detailed analysis and evaluations made by successive Commissions, is consistent with what the Legislature is *already doing* for judges.

### **Implementation Date**

The Commission understood that the City Council would prefer that any Charter Amendment affecting salaries be implemented in a way that would not impact existing City Council members. However, with redistricting, it could conceivably be 2022 before all current City Council members are off the City Council.

In the attached proposal, the Charter amendment would not take effect until January 2017. By that time, all current Council members would have stood for reelection, and everyone on the Council would be serving in a new term. Thus, any change in pay, if the voters support the amendment, would not take effect during the current term of any Council members. In your evaluation of this matter, you may want to push the date back even further. In our view, it should take effect immediately. The January 2017 date is a compromise intended to meet your objectives of not benefitting during your term, and our objective of moving this initiative forward as soon as possible.

### **This is a Commission, Not City Council, Recommendation to Voters**

The Commission strongly recommends that this matter be forwarded with approval to the full City Council and that the City Council put this matter in the November 2014 ballot.

The Commission recommends that this matter go to the ballot with a clear expression to the public that this is a recommendation of the San Diego Salary Setting Commission, not the City Council. It should be clear the City Council is merely advancing *the Commission's recommendation* to the voters.

The San Diego Salary Setting Commission is uniquely a citizens' Commission. It is not appointed by the Mayor. It is not appointed by the City Council. San Diego Salary Setting Commission members are appointed by the San Diego Civil Service Commission. Members of that Commission are volunteers from the community with expertise in human resources. We strongly urge the Council not to substitute its judgment for the judgment of the Commission. This is what happened from 1957-1973 (prompting Proposition E) and during the last 10 years, with disastrous results.

Efforts to change this recommended benchmark will open up this issue for a multitude of competing proposals from Council members or the public. Tying Council and Mayor salaries to judicial salaries is a tested system that has worked well elsewhere.

DRAFT CHARTER AMENDMENTS - SALARY SETTING COMMISSION

**Section 12.1: ~~Councilmanic Salaries~~ Councilmember Salary**

~~On or before February 15 of every even year, the Salary Setting Commission shall recommend to the Council the enactment of an ordinance establishing the salary of members of the Council for the period commencing July 1 of that even year and ending two years thereafter. The Council may adopt the salaries by ordinance as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount. The ordinance shall be subject to the referendum provisions of this Charter and upon the filing of a sufficient petition, the ordinance shall not become effective and shall be repealed by the Council or shall forthwith be submitted to a vote of the people at the next general statewide election.~~

Members of the City Council shall be paid an annual salary equal to that prescribed and adjusted by state law for judges of the Superior Court of the State of California. The Chief Financial Officer shall be responsible for ascertaining the salary of Superior Court judges and for setting and adjusting the salaries of Councilmembers in accordance with this section. Such salaries shall be effective on July 1, 2017, and adjusted on July 1 of each year thereafter, and included in the annual Salary Ordinance in accordance with Charter section 290.

## **Section 24.1: Mayor Salary**

~~On or before February 15 of every even year, the Salary Setting Commission shall recommend to the Council the enactment of an ordinance establishing the Mayor's salary for the period commencing July 1 of that even year and ending two years thereafter. The Council shall adopt the salary by ordinance, as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount. The ordinance shall be subject to the referendum provisions of this Charter and upon the filing of a sufficient petition, the ordinance shall not become effective and shall be repealed by the Council or shall forthwith be submitted to a vote of the people at the next general statewide election.~~

The Mayor shall be paid a salary that is twenty-five percent (25%) more than Councilmembers. Such salary shall be effective on July 1, 2017, and adjusted on July 1 of each year thereafter, and included in the annual Salary Ordinance in accordance with Charter section 290.

## **~~Section 41.1: Salary Setting Commission~~**

~~There is hereby created a Salary Setting Commission consisting of seven members who shall be appointed by the Civil Service Commission for a term of four years. The first members shall be appointed for a term commencing January 1, 1974. Initially, the Commissioners shall be appointed in a manner so that three are appointed for two-year terms and four are appointed for four-year terms. The Salary Setting Commission shall recommend to the Council the enactment of an ordinance establishing salaries for the Mayor and Council as provided by this Charter. The Council shall provide the funds necessary to enable the Commission to perform its duties. The Civil Service Commission in its appointments shall take into consideration sex, race and~~

(3) The Salary Ordinance passed by Council shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.

(b) through (d) [No change in text.]