

RD:NS
7/15/08

DRAFT

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CALLING AND GIVING NOTICE OF, ON ITS OWN MOTION, THE SUBMISSION TO THE ELECTORS OF THE CITY OF SAN JOSE, AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 4, 2008, A BALLOT MEASURE PROPOSAL TO CHANGE THE AUTHORITY OF THE CITY COUNCIL TO SET THEIR SALARIES BASED ON THE RECOMMENDATIONS OF THE SALARY SETTING COMMISSION AND INSTEAD REQUIRE THAT THE SALARIES BE BASED ON A PERCENTAGE OF THE SALARIES OF SUPERIOR COURT JUDGES

WHEREAS, Charter Section 1600 authorizes the City Council to set the date for a Special Municipal Election; and

WHEREAS, the City Council desires to submit to the electors of the City of San Jose at a Special Municipal Election a ballot measure proposal to change the authority of the City Council to set their own salaries.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. A Special Municipal Election is hereby called and ordered to be held in the City of San Jose on November 4, 2008, for the purpose of voting on a ballot measure proposal to amend Section 407 of the City Charter and to delete Section 1001.1. The actual language of the proposed Charter amendment is attached to this Resolution as Exhibit A.

SECTION 2. The proposed ballot measure will be placed on the ballot for the November 4, 2008 election in the following form:

COUNCIL COMPENSATION

Shall the authority of the City Council to set their salaries based on recommendations of the Salary Setting Commission be changed by amending the City Charter to instead require that the annual salary of the Mayor and Councilmembers be 80% and 60%, respectively, of the salary established for a California Superior Court Judge, and other benefits be equivalent to City executive managers?

YES	
NO	

SECTION 3. The City Council hereby requests the Board of Supervisors of the County of Santa Clara, California to permit the Registrar of Voters of Santa Clara County to render to the City of San Jose such services as the City Clerk of the City of San Jose may request relating to the conduct of the above-described Special Municipal Election with respect to the following matters:

Coordination of election precincts, polling places, voting booths, voting systems and election officers; Printing and mailing of voter pamphlets; Preparation of tabulation of result of votes cast.

SECTION 4. The City Council hereby requests that the Registrar of Voters of the County of Santa Clara consolidate the Special Municipal Election called and ordered to be held on November 4, 2008 with any other election that may be held on that date.

SECTION 5. The City Council hereby authorizes the Board of Supervisors of Santa Clara County, California to canvass the returns of the Special Municipal Election.

SECTION 6. The City Council hereby directs the City Clerk to reimburse the County of Santa Clara in full for any of the above-mentioned services which may be performed by the Registrar of Voters, upon presentation of a bill to the City, with funds already appropriated to the City Clerk for election purposes.

SECTION 7. The City Council hereby directs the City Clerk to take all actions necessary in order to facilitate the Special Municipal Election in the time frame specified herein and comply with provisions of the Elections Code of the State of California, City Charter, Ordinances, Resolutions and Policies with regard to the conduct of the Special Municipal Election.

SECTION 8. Pursuant to Section 12111 of the California Elections Code and Section 6061 of the California Government Code, the City Council hereby directs the City Clerk to (a) cause a synopsis of the proposed measure and the actual text of amended Charter Sections 407 and 1001.1 to be published in the San Jose Mercury News, a newspaper of regular circulation within the City of San José; (b) consolidate the Notice

of Measure to be Voted with the Notice of Election into a single notice; (c) cause copies of the proposed measure, [along with the actual text of amended Charter Sections 407 and 1001.1,] to be printed in convenient pamphlet form and in type of not less than 10-point; (d) cause copies of that pamphlet to be mailed to each of the qualified electors of the City of San José; and (e) do all other things required by law to submit the specified measure [and the actual text of amended Charter Sections 407 and 1001.1] to the electors of the City of San José at the Special Municipal Election, [including causing the actual text of the amended Charter Sections 407 and 1001.1 to be made available in the Office of the City Clerk at no cost and posted on the City Clerk's website.]

SECTION 9. Pursuant to Sections 9282 and 9285 of the California Elections Code, the City Council hereby approves the submittal of direct arguments for and against the ballot measure, if any, but determines that rebuttal arguments will not be allowed.

SECTION 10. The City Council hereby directs the City Clerk to transmit a copy of any measure qualifying for placement on the ballot to the City Attorney for preparation of an impartial analysis.

ADOPTED this _____ day of _____, 2008, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

EXHIBIT A

PROPOSED BALLOT MEASURE: That Section 407 of the Charter of the City of San Jose be amended to read as follows:

SECTION 407. The Council; Compensation.

The Mayor shall be paid a salary equal to that of 80% of the salary prescribed by law for a Judge of the California Superior Court. Members of the City Council shall be paid a salary equal to that of 60% of the salary prescribed by law for a Judge of the California Superior Court. The salaries of the Mayor and Members of the City Council shall be effective upon the effective date of any change in the salaries of Superior Court Judges.

Benefits, such as medical and dental benefits, shall be equivalent to benefits that are provided to City of San Jose management employees. Other compensation, such as an automobile allowance, shall be equivalent to that provided to City of San Jose executive management employees.

~~Each member of the Council, including the Mayor, shall be paid as compensation for his or her services as a member of the Council, for each calendar month during which he or she is a member of the Council, a monthly salary which shall be established by ordinance adopted pursuant to and in accordance with the provisions hereinafter set forth in this Section. No salary shall be established for any member of the Council, including the Mayor, except as provided in this Section.~~

~~Between March 1st and April 30th of every odd-numbered year, the Council Salary Setting Commission shall recommend to the Council the amount of monthly salary which it deems appropriate for the members of the Council, including the Mayor, for the two year period commencing July 1 of that odd-numbered year. The amount recommended for each member of the Council shall be the same, except that the amount recommended for the Mayor may exceed that of the other members of the Council. The monthly salary shall be in an amount which takes into account the full time nature of the office and which is commensurate with salaries then being paid for other public or private positions having similar full time duties, responsibilities and obligations.~~

~~No recommendation shall be made except upon the affirmative vote of three (3) members of the Commission. Failure of the Commission to make a recommendation in any year within the time prescribed shall be deemed to mean a recommendation that no change be made.~~

~~Each biennial recommendation, together with the reasons therefor, shall be made in writing. Before it submits any such recommendation to the Council, the Commission shall conduct at least one public hearing on the matter. When such a recommendation has been submitted to the Council, it shall not thereafter be amended by the Commission.~~

~~The Council shall, by ordinance, which shall be subject to the referendum provisions of this Charter, adopt the salaries as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount.~~

~~No more than one salary setting ordinance shall be adopted on the basis of any biennial recommendation, provided that the Council may, at any time, by ordinance, reduce the salaries of the members of the Council, including the Mayor. In any salary setting ordinance adopted hereunder, the salaries for each member of the Council shall be the same, except that the salary of the Mayor may exceed that of the other members of the Council. Salaries established by ordinance adopted pursuant to the provisions of this Section shall remain in effect until amended by a subsequent ordinance adopted pursuant to the provisions of this Section.~~

~~For each member of the Council, except the Mayor, a sum, as established by the Council Salary Setting Commission, shall be deducted from the salary of such member for each regular meeting of the Council, other than regular adjourned meetings, which he or she fails to attend in each such calendar month; provided, however, that such deduction shall not be made for his or her failure to attend any meeting during which he or she is away on authorized City business, or from which he or she is absent because of his or her own illness or the illness or death of a close family member. No deduction shall be made from the Salary of the Mayor because of his or her failure to attend any Council meeting.~~

PROPOSED BALLOT MEASURE: That Section 1001.1 of the Charter of the City of San Jose be deleted.

~~SECTION 1001.1 Council Salary Setting Commission.~~

~~There shall be, and there is hereby established, a Council Salary Setting Commission. The following provisions shall be applicable thereto:~~

~~(a) MEMBERSHIP. The Council Salary Setting Commission shall consist of five (5) members appointed by the Civil Service Commission. Members must be qualified electors of the City at all times during their term of office.~~

~~(b) TERMS OF OFFICE. Except as provided hereinbelow, the regular term of office of each member of the Council Salary Setting Commission shall be four (4) years. The initial members of the Council Salary Setting Commission shall be appointed by the Civil Service Commission during the month of January, 1981. Two (2) of the members so appointed shall be appointed for a term expiring on December 31, 1982; and three (3) of the members so appointed shall be appointed for a term expiring on December 31, 1984. Commencing in December of 1982, the Civil Service Commission shall, during the month of December of each even-numbered year, make appointments to fill the offices of the members whose terms are expiring at the end of such even-numbered year. Such appointments shall be for regular terms of four (4) years commencing on the first day of January of the following odd-numbered year and expiring on the 31st day of December of the second even-numbered year thereafter.~~

~~(c) VACANCIES. The office of a member shall become vacant upon the happening before the expiration of his or her term of any of the events set forth in subsections (a), (b), (c), (d), (e), (h), (i), (j), (k), and (l) of Section 409 of this~~

~~Charter. Also, the Civil Service Commission may remove a member from office at any time for misconduct, inefficiency or willful neglect in the performance of the duties of his or her office providing it first states in writing the reasons for such removal and gives such member an opportunity to be heard before the Civil Service Commission in his or her own defense. If a vacancy occurs before the expiration of a member's term, the Civil Service Commission shall appoint a qualified person to fill such vacancy for the remainder of the unexpired term of such member.~~

~~(d) POWERS AND DUTIES. The Council Salary Setting Commission shall biennially make recommendations respecting salaries for members of the Council, including the Mayor, as provided in Section 407 of this Charter.~~