



# CHARTER COMMITTEE AGENDA REPORT

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MEETING DATE: DECEMBER 11, 2013

ITEM NUMBER: 8C-1

SUBJECT: CITY COUNCIL MEMBER COMPENSATION

DATE: DECEMBER 4, 2013

FROM: SPECIAL COUNSEL'S OFFICE

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## INTRODUCTION

At the November 13, 2013 meeting, the Charter Committee considered whether City Council members' compensation should be addressed in the proposed charter. From that discussion, the Charter Committee received a "thumbs up" from a majority of its members for providing City Council members with a lump sum as monthly income, as opposed to a compensation package that includes salary, health and welfare benefits and retirement benefits. The following sets forth staff's findings as to the viability of this approach.

## DISCUSSION

Currently, the City Council's compensation consists of salary, retirement benefits and health care benefits. The Charter Committee discussed these various areas of compensation and agreed to an alternative approach of providing a monthly salary *sans* retirement and health benefits. There were a number of reasons for the Committee's support of this approach. Among them, council membership should be based on public service without providing health and retirement benefits and greater transparency for members of the public as to total compensation<sup>1</sup>.

In pursuing this approach, there are a number of factors that must be considered. The first is whether the amount provided in lump sum is subject to a cap. In general law cities, Government Code Section 36516 caps city council compensation. However, this section does *not* apply to charter cities. Thus, if the Charter Committee opted for a lump sum that took into consideration the amounts provided in health and welfare benefits and retirement benefits, it would not be subject to a cap under state law.

The second factor to consider is whether retirement benefits can be eliminated. Consistent with the discussion at the meeting, staff confirmed that retirement benefits can be eliminated for *future* city council members but may not for existing or previously vested former council members that return to office. Thus, with respect to retirement benefits, the Charter Committee may propose elimination of retirement benefits for future, non-vested city councils.

And finally, as to the viability of eliminating health and welfare benefits, staff confirmed with the Human Resources Department that the City may eliminate health care benefits under its current contract with PERS. However, under the Affordable Care Act ("ACA"), eliminating health and welfare benefits is questionable. To explain, based on the definitions, the ACA arguably does

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<sup>1</sup> City Council members no longer have the option of cashing out health and welfare benefits.

not apply to Costa Mesa City Councils because an employer's obligation to provide coverage applies to full-time employees. Since city council membership is considered a part-time job, then, on its face, the ACA does not appear to apply to them. Under this simplistic interpretation, the Charter Committee could eliminate health and welfare benefits for city council members. HOWEVER, depending upon the amount of time individual city council members spend performing his or her duties on behalf of the City, those individual members would be considered full-time, thus, eligible for coverage. In fact, the ACA contains a mechanism whereby employers must calculate part-time employees' time to ensure appropriate eligibility. In light of the fact that individual city council members may end up working full-time and variation in time spent by individual city council members, it would be an accounting nightmare for staff to continuously monitor the amount of time city council members work in order to determine eligibility. Moreover, the proposed Charter could not prohibit city council members from working full-time in performing his or her duties in order to ensure city council members do not become eligible. Thus, staff recommends that the City continue to provide health and welfare benefits to *all* city council members since the amount of time individual members spend serving the City varies greatly and tracking individual members hours to ensure he or she would not be considered full-time is extremely difficult to track.

## **CONCLUSION**

In conclusion, the Charter Committee may eliminate retirement benefits for future city council members. However, the elimination of health and welfare benefits is questionable under the Affordable Care Act since the time individual council members spend in performing his or her duties on behalf of the City may trigger eligibility. Thus, staff recommends that if the Charter Committee wishes to modify city council compensation, the elimination of benefits be limited to retirement benefits.



**COUNCIL MEMBER AND MAYOR  
Compensation and Benefits**

Title	Salary	Retirement City Contribution	Health Benefits	Life Insurance	LTD	Monthly Total
Mayor: Jim Righeimer	\$904.40/mo \$10,853/yr	3.75%*	\$1,476/month**	Included in Medical	Included in Medical	\$2,470
Mayor Pro Tem: Stephen Mensinger	\$904.40/mo \$10,853/yr	3.75%*	\$1,476/month**	Included in Medical	Included in Medical	\$2,470
Council Member: Sandra Genis	\$904.40/mo \$10,853/yr	27.383%*	\$1,476/month**	Included in Medical	Included in Medical	\$2,628
Council Member: Wendy Leece	\$904.40/mo \$10,853/yr	24.914%*	\$1,476/month**	Included in Medical	Included in Medical	\$2,606
Council Member: Gary Monahan	\$904.40/mo \$10,853/yr	24.914%*	\$1,476/month**	Included in Medical	Included in Medical	\$2,606

\* Council members may elect to participate in PARS in lieu of CalPERS. PARS City contribution is 3.75%. PERS City contribution is 24.914% (2.5%@55 benefit) or 27.383% (2%@60 benefit) based on eligibility.

\*\* Cafeteria health benefits.