

**RESOLUTION NO. 2015-44**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY NOVEMBER 8, 2016 AND ORDERING THE SUBMISSION OF A PROPOSED AMENDMENT TO THE CITY CHARTER TO THE ELECTORS, THE "NEWPORT BEACH TAXPAYER PROTECTION ACT" (MEASURE NO. \_\_\_ - REQUIRE 5 OF 7 VOTES OF THE CITY COUNCIL TO PROPOSE TAXES)**

**WHEREAS**, pursuant to authority provided by Section 3 of Article XI of the Constitution of the State of California, Section 1000 of the Newport Beach City Charter, and Section 1415(a)(2) of the Elections Code of the State of California, the City Council of the City of Newport Beach ("City") desires to submit to the qualified electors a proposed amendment to the Charter that increases the vote requirement necessary for the City Council to present to the voters most City Council sponsored proposals that impose, increase or extend a tax, from the current majority vote (in most cases) to a vote of 5 of the total membership of the City Council;

**WHEREAS**, the City Council of the City of Newport Beach is authorized by the California Constitution, Section 1000 of the Newport Beach City Charter, and by State statute to submit this proposed amendment to the Newport Beach City Charter to the qualified electors of the City at a general municipal election to be held the same date as the November 8, 2016 statewide general election; and

**WHEREAS**, under the provisions of Article X, Section 1000, of the Charter of the City of Newport Beach, a general municipal election shall be held on November 8, 2016 for the election of municipal officers and for such other purposes as the City Council may prescribe, to wit the placement of amendments to the City Charter.

**NOW, THEREFORE**, THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH DOES HEREBY RESOLVE AS FOLLOWS:

**SECTION 1:** Pursuant to Section 3 of Article XI of the California Constitution, Section 1000 of the Newport Beach City Charter and Section 1415(a)(2) of the Elections Code of the State of California, there is called and ordered to be held in the City of Newport Beach on Tuesday, November 8, 2016, a general municipal election for the purpose of submitting the following proposed Charter Amendment measure to the qualified voters of the City:

The full text of the proposed Charter Amendment measure (with additions to and deletions from the current Charter text indicated thereon) is set forth on Exhibit 1 attached hereto and incorporated herein by this reference as if set forth in full.

Said proposed Charter Amendment measure shall appear upon the ballots for said municipal election in substantially the following form:

<p style="text-align: center;"><b>MEASURE ____</b></p> <p><b>REQUIRE 5 OF 7 VOTES OF THE CITY COUNCIL TO PROPOSE TAXES.</b> Shall Section 1115 be added to the Newport Beach City Charter to require at least five votes of the total City Council membership in order to place City Council sponsored general or special tax proposals on a ballot for voter consideration?</p>	Yes	
	No	

**SECTION 2:** The ballots to be used at the November 8, 2016 election shall be in a form and content required by law.

**SECTION 3:** The City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

**SECTION 4:** The polls shall be open at seven o'clock a.m. (7:00 a.m.) on the day of the election and shall remain open continuously from that time until eight o'clock p.m. (8:00 p.m.) of the same day when the polls shall be closed pursuant to California Elections Code Section 10242, except as provided in California Elections Code Section 14401.

**SECTION 5:** In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**SECTION 6:** Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

**SECTION 7:** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

**PASSED, APPROVED AND ADOPTED** on this 26<sup>th</sup> day of May, 2015.

Edward D. Selich  
Mayor

ATTEST:

Leilani I. Brown  
City Clerk



Exhibit 1 to City Council Resolution Regarding  
Charter Amendment to  
Require 5 of 7 Votes of the City Council to Propose Taxes

CHARTER AMENDMENT MEASURE NO. \_\_\_\_

**SECTION 1: TEXT OF AMENDMENT TO NEWPORT BEACH CITY CHARTER**

The City Charter of the City of Newport Beach is hereby amended as follows (underlining showing additions and ~~strike-through~~ showing deletions):

Section 1115. City Council Sponsored Tax Proposals – 5 of 7 Vote Requirement.

Notwithstanding any conflicting provision of this Charter, no City Council sponsored proposal to impose, extend, or increase a tax shall be presented at an election unless the ordinance or resolution proposing to impose, extend, or increase such tax is approved by at least five (5) of seven (7) votes of the City Council. As used in this section, the term "tax" shall mean both a "general tax" and a "special tax" as defined in Article XIIC, Section 1, subdivisions (a) and (d), respectively, of the California Constitution.

**SECTION 2: BALLOT DESCRIPTION**

As provided in Government Code section 34458.5, the following ballot description is included in this proposed Charter Amendment measure:

CHARTER AMENDMENT (Section 1115): This Charter Amendment measure would amend the City Charter to add Section 1115. Proposed Section 1115 would require any tax proposal sponsored by the City Council that imposes, extends or increases a tax to be approved by at least five (5) of seven (7) votes of the City Council to be presented to the voters at an election, whereas presently only a majority vote of the City Council is required to place most tax measures on the ballot for voter consideration. The term "tax" in proposed Section 1115 means both "general" and "special" taxes as defined in Article XIIC of the California Constitution. A "general tax" is defined in the California Constitution as a tax imposed for general governmental purposes. A "special tax" is defined in the California Constitution as a tax imposed for specific purposes, including a tax imposed for a specific purpose which is placed into a general fund. This amendment does not give the City Council power to raise its compensation or that of other City officials without voter approval.

**SECTION 3: SEVERABILITY**

It is the intent of the people that the provisions of this Charter Amendment measure are severable and that if any provision of this Charter Amendment measure, or the application thereof to any person or circumstance, is held invalid such invalidity shall not affect any other provision or application of this Charter Amendment measure which can be given effect without the invalid provision or application.

#### **SECTION 4: CONFLICTING MEASURES**

In the event this Charter Amendment measure and another measure or measures relating to City Council vote approval requirements for the matters described herein shall appear on the same general municipal election ballot, the other measure or measure shall be deemed to be in conflict with this Charter Amendment measure. In the event that this Charter Amendment measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

If this Charter Amendment measure is approved by the voters but superseded in whole or in part by any other conflicting measure approved by the voters at the same election, and such other conflicting measure is later found held invalid, this measure shall be self-executing and given full force and effect.

#### **SECTION 5: EFFECTIVE DATE**

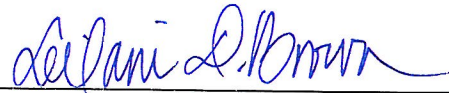
This Charter Amendment measure shall become effective in the manner allowed by law.

STATE OF CALIFORNIA                    }  
COUNTY OF ORANGE                    }  
CITY OF NEWPORT BEACH                }        ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2015-44 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 26<sup>th</sup> day of May, 2015, and that the same was so passed and adopted by the following vote, to wit:

AYES:        Council Member Peotter, Council Member Petros, Council Member Curry,  
              Council Member Duffield, Council Member Muldoon, Mayor Pro Tem Dixon,  
              Mayor Selich  
NAYS:        None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 27<sup>th</sup> day of May, 2015.



\_\_\_\_\_  
City Clerk  
Newport Beach, California

(Seal)

