

RESOLUTION NO. 15-115

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, ADOPTING AND IMPOSING CERTAIN REMEDIAL MEASURES ARISING OUT OF AND BASED UPON RESOLUTION NO. 15-114 CENSURING CITY CLERK JIM DEAR FOR CONDUCT UNBECOMING OF A CARSON ELECTED OFFICIAL AND FOR VIOLATIONS OF ETHICAL PRINCIPLES APPLICABLE TO ANY CARSON ELECTED OFFICIAL

WHEREAS, the City Council of the City of Carson, California, has simultaneous to the this Resolution adopted Resolution No. 15-114 censuring City Clerk Jim Dear as is more fully set forth therein and that Resolution is hereby fully incorporated herein; and

WHEREAS, the City Council expresses its opinion, in Resolution No. 15-114, that in conformance with the findings and conclusions of the judge in the Los Angeles Superior Court case of *City of Carson vs. James Dear, et al.* (Case No. BC 595892) the City Council should adopt companion resolution implementing certain remedial measures to correct and eliminate the statements, conducts, and attitudes censured in that resolution; and

WHEREAS, the City Council further expresses its opinion, in Resolution No. 15-114, that "the independent reports . . . are, in the opinion of the City Council, sufficient to give rise to a duty on the part of the City to take immediate remedial action in order to avoid on-going violations of the City's Code of Ethics, and prevent possible violations of federal and state law, including Title VII of the Civil Rights Act of 1964 and California's Fair Employment and Housing Act, and is inappropriate and unacceptable for a public official representing the City of Carson."

NOW, THEREFORE, be it resolved by the CITY COUNCIL of the CITY of CARSON, CALIFORNIA, as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. The City Council directs the City Clerk as follows:
  - (a) the City Clerk shall adhere to all existing City's rules, regulations, policies, and standard municipal practices ("SMPs");
  - (b) the City Clerk shall adhere to all federal and state laws in his dealings with City staff, including, but not limited to, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Federal Whistleblower Protection Act, the California Fair Employment and Housing Act, the California Labor Code, including Labor Code section 1102.5, and the California Whistleblower Protection Act; and
  - (c) the City Clerk shall attend a City provided training program on his supervisory responsibilities, over City, and an Anger Management Course such trainings

to be completed promptly from the effective date of this resolution and the same to be provided through the Human Resources Department of the City at no expense to the City Clerk. It is important to note this training is necessary in light of the unique position of an elected City Clerk wherein he directly supervises staff at times.

3. The City Council hereby prohibits the City Clerk, or anyone acting for or on his behalf, from communicating directly, or indirectly, with any member of City staff about such staff members' actual or perceived participation in, interview for, or providing information to, the City's independent investigator regarding the alleged conduct or other actions of the City Clerk noted in such reports without prior permission of such City staff member.

4. Based upon the conclusions and recommendations of the independent investigator Attorney Aarvig, the City Council confirms and ratifies the directives of the City Manager as follows:

(a) the City Clerk is barred from *direct* supervision of, or directing the performance of the duties of, any member of City staff including City employees assigned to the Office of the City Clerk until such time City Council or City Manager deem otherwise appropriate.

(b) the City Clerk may communicate any directives necessary to staff (whether City employees assigned to the Office of the City Clerk or otherwise) to carry out his statutory duties through the City Manager or e-mail communications with a copy to the City Manager.

(c) recognizing that, by law, the City Manager has the duty "[t]o control, order, give directions to, appoint, promote, discipline and demote or remove all heads of groups and divisions, except the City Clerk, the City Attorney, and the City Treasurer, and all subordinate officers and employees of the City . . . [and] [t]o exercise control over and to supervise in general all groups and divisions of the City Government and all appointive officers and employees thereof except the City Clerk, the City Attorney, and the City Treasurer," the City Manager is hereby afforded the exercise of his sound discretion in his supervision of City employees assigned to the Office of the City Clerk, including, as appropriate, directing such staff to report to him directly and to take directive from him exclusively until such time that the City Manager deems it otherwise appropriate. However, the City Council directs the City Manager to assure that sufficient staff assistance is provided through the City Manager's office to the City Clerk to permit the City Clerk to discharge his statutory duties;

6. Based upon the conclusions and recommendations of the independent investigator Attorney Aarvig and the fact that pursuant to the City's municipal code, section 2107(l), the City Manager has the full authority to exercise general supervision over all public buildings, including the City Hall, the City Council confirms and ratifies the directives of the City Manager as follows:

(a) without the prior authorization of the City Manager, the City Clerk is permanently barred from access to all non-public and/or restricted areas of City Hall,

with the exception of access only, during normal business hours for City Hall from 7:00 a.m. to 6:00 p.m., to the Office of the City Clerk and its environs;

(b) without the prior authorization of the City Manager, the City Clerk is permanently barred from the non-public City Council Offices or lunch room/closed session chamber, irrespective of whether City Council meetings are in session or in recess, including the City Council dais within the City Council Chambers, the non-public seating areas provided for City staff just below the dais of the City Council, and the walkway behind the City Council dais;

(c) the City Clerk shall be assigned a seat for City Council meetings in the "press box" located in the City Council Chambers.

(d) Notwithstanding the foregoing restrictions, the City Council directs the City Manager to assure that there is sufficient access to such non-public and/or restricted areas of City Hall to permit the City Clerk to discharge his statutory duties.

8. The foregoing restrictions placed upon the City Clerk herein shall be revisited by the City Council for modification and/or revision or possible removal within approximately three (3) months from the effective date of this resolution, with the exception of the City Council meeting seating assignment, which shall not be revisited for six (6) months from the effective date of this resolution.

9. None of the foregoing restrictions placed upon the City Clerk provided herein shall be revisited until or unless the City Clerk demonstrates, to the reasonable satisfaction of the City Council, that the City Clerk has completed the training program(s) as set forth in this Resolution, such proof to include but not be limited to submission of certificates of completion from the training program.

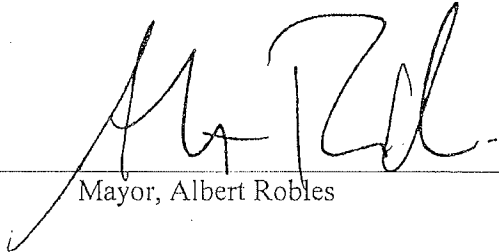
10. Pursuant to the authority of Chapter 7 of the Carson Municipal Code which provides that tenure of various members of City of Carson Boards, Commissions and Committees are terminable at will, without cause, by removal on the motion of any member of the Council, duly seconded, and with the approval a majority of the entire City Council present, including the Mayor, the City Clerk Jim Dear shall be, and hereby is, removed as of the effective date of this resolution from membership on any and all City of Carson Boards, Commissions and Committees over which this authority applies, upon which he is a member as of October 26, 2015, and those seats on all City of Carson Boards, Commissions and Committees held by City Clerk Jim Dear are all hereby declared vacant as of the effective date of this resolution.

These removal actions shall not apply to any seat which requires the approval of an authority independent of the City Council, such as seats with a Joint Power Authority; however, the City Council hereby petitions all such authorities to cooperate promptly with the City Council to provide for such removal of City Clerk Jim Dear from all such memberships and/or seats as soon as possible for the reasons set forth herein, pursuant to applicable regulations and procedures for those memberships and/or seats, and requests that the City Manager promptly

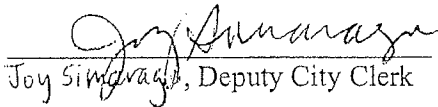
provide such written petition to all such authorities in the name of the Carson Mayor and the Carson City Council.

11. The City Council further authorizes the City Manager, consistent with the requirements of law and through the Office of the City Attorney, to seek such law enforcement assistance and/or judicial relief as may be warranted for the enforcement of this Resolution and the mandates provided herein, including but not limited to requesting the immediate assistance of law enforcement officers, as well as the issuance from a judicial officer of appropriate restraining orders, injunctive relief and any other judicial remedy, as determined necessary and proper by the City Manager in his professional judgment for the enforcement of these measures.

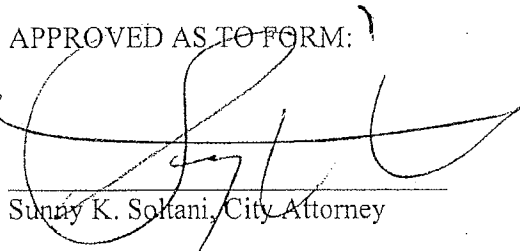
**PASSED, APPROVED and ADOPTED** at a special meeting of the City Council on this 27<sup>th</sup> day of October, 2015.

  
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Mayor, Albert Robles

ATTEST:

  
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Joy Simaranga, Deputy City Clerk

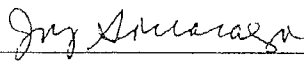
APPROVED AS TO FORM:

  
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Sunny K. Soltani, City Attorney

STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES   ) ss.  
CITY OF CARSON            )

I, Joy Simarago, Deputy City Clerk of the City of Carson, California, do hereby certify that the whole number of members of the City Council is five; that the foregoing resolution, being Resolution No. 15-115 was duly and regularly adopted by said Council at a regular meeting duly and regularly held on the 27<sup>th</sup> of October, 2015, and that the same was passed and adopted by the following vote:

AYES:	COUNCIL MEMBERS:	Mayor Robles; Santarina, Davis-Holmes, Hilton, and Gause-Aldana
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

  
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Deputy City Clerk Joy Simarago