

CITY OF WESTON , TEXAS

RESOLUTION. 2009-02-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WESTON, TEXAS, ORDERING AND CALLING AN ELECTION FOR THE PURPOSE OF ELECTING 2 (TWO) COUNCIL MEMBERS AT LARGE, A MAYOR FOR TWO (2) YEAR TERMS EACH, AUTHORIZING AND PROVIDING FOR AN ELECTION DATE; PROVIDING FOR AN ELECTION PURPOSE; PROVIDING ELIGIBILITY REQUIREMENTS FOR CANDIDACY; PROVIDING FOR APPLICATION FOR A PLACE ON THE BALLOT; PROVIDING FOR CANCELLATION OF THE ELECTION UNDER CERTAIN CONDITIONS; PROVIDING REQUIREMENTS FOR A RUNOFF ELECTION; DESIGNATING A POLLING PLACE WITHIN THE CITY; APPOINTING A PRESIDING ELECTION JUDGE AND AN ALTERNATE PRESIDING ELECTION JUDGE; PROVIDING COMPENSATION OF THE JUDGES AND CLERKS; ESTABLISHING A METHOD OF VOTING; PROVIDING FOR GOVERNING LAW AND QUALIFIED VOTERS; PROVIDING FOR A PUBLICATION AND POSTING OF NOTICE; ESTABLISHING REQUIREMENTS FOR EARLY VOTING; ESTABLISHING THE METHOD FOR DELIVERY OF RETURNS; ESTABLISHING A DATE FOR CANVASSING RETURNS; PROVIDING FOR NECESSARY ACTIONS; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 41.001(a)(1) of the Texas Election Code (hereinafter the "Code") establishes the second Saturday in May as a Uniform Election Date for the purposes of conducting a General or Special Election; and

WHEREAS, Section 3.004(a)(3) of the Code provides that the governing body of a municipality shall be the authority to order a General or Special Election; and

WHEREAS, Section 3.005(a) of the Code provides that an election ordered by an authority of a municipality shall be ordered not later than the 62nd day before election day; and

WHEREAS, Section 31.091 of the Code provides that the County Election Officer (the "Election Officer") may contract with the City to perform election services; and

WHEREAS, the City, have contracted with Collin County, Texas through its Election Officer to perform election services pursuant to Section 31.091; and

WHEREAS, Section 2.053 of the Code provides that a City Council may, in its discretion, declare a candidate elected to office if: (1) the candidate is the only person who has qualified to appear on the ballot for that office, and (2) no write-in candidates have submitted their names to be placed on the list for write-in candidates; and

WHEREAS, the City Council desires to and hereby calls a General Election to be conducted on May 09, 2009, to elect two (2) Council Members at large and Mayor for two (2) year terms each.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTON, TEXAS:

SECTION 1
INCORPORATION

All of the above premises are true and correct and are hereby incorporated in the body of this Resolution as if fully set forth herein.

SECTION 2
DATE OF ELECTION

It is hereby ordered that a general election (the "Election") shall be held in and throughout the City of Weston on Saturday, May 09, 2009 under the direction and administration of the Election Officer.

SECTION 3
PURPOSE OF ELECTION

The purpose of said General Election is to elect two (2) Council Members and a Mayor, for two (2) year terms each.

SECTION 4
ELIGIBILITY FOR CANDIDACY

As set forth by this Resolution, Qualifications for the City of Weston, Type A General Law Municipality, no person shall be eligible for a public elective office of this city, unless that person is a qualified voter of the City, at least 18 years of age on the first day of the term to be filled at the election, have resided in the City not less than six (6) months immediately preceding the deadline for filing an application for a place on the ballot; and shall meet the requirements as set forth in the Texas Election Code Section 141.001; has not been determined mentally incompetent by a final judgment of a court, has not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities, and has resided continuously in the State of Texas for 12 (twelve) months immediately preceding the deadline for filing an application for a place on the ballot (preceding the date of the election for a write-in candidate).

SECTION 5
APPLICATION FOR A PLACE ON THE BALLOT

Pursuant to Section 143.007 of the Code, any eligible and qualified person may have that person's name printed upon the official ballot as a candidate for the office(s) hereinbefore set forth by filing the person's sworn application with the City Secretary not later than 5:00 p.m. of the 62nd day before election day, and not earlier than the 30th day before the date of the filing

deadline. Each such application shall be on a form as prescribed by the Code. The order in which the names of the candidates are to be printed on the ballot shall be determined by a drawing by the City Secretary as provided by Section 52.094 of the Code. Notice of the time and place for such drawing shall be given in accordance with Section 52.094(c)(d) of the Code.

SECTION 6 **CANCELLATION OF ELECTION**

If only one person who has qualified to appear on the ballot for each office hereinbefore set forth, and no write-in candidates have submitted their names to be placed on the list for write-in candidates, the City Council may declare the candidates elected to office and cancel the election called herein.

SECTION 7 **RUNOFF ELECTION**

In the event a candidate for office fails to receive a majority of all votes cast for that office, a run-off election for that office shall be conducted on ~~June 13, 2008~~. The runoff election shall be held in accordance with the Code.

SECTION 8 **ELECTION PRECINCT, POLLING PLACE, AND HOURS**

The polling place for the Election shall be at the Weston Community Center, 117 Main Street, Weston, Texas. In accordance with Section 41.031 of the Code, said polling place shall be open between the hours of 7:00 a.m. and 7:00 p.m. on the date of the Election.

SECTION 9 **APPOINTMENT JUDGES AND CLERKS**

The Election Officer shall arrange for the appointment, notifications, training and compensation of all Election Judges and Alternate Judges in accordance with law. The presiding Judge shall appoint not less than two (2), nor, more than nine (9) qualified elections clerks to serve and assist in the conduct of the election in accordance with law.

SECTION 10 **COMPENSATION OF THE JUDGE AND CLERKS**

As provided for in Section 32.091 of the Texas Election Code, the Election Judge and the Alternate Election Judge shall be compensated in accordance with Section 32.091 of the Code. The Election Judge or Clerk who delivers the returns of the Election, keys to the ballot boxes or other election equipment, and unused election supplies shall also be paid the additional sum of \$25.00 for delivering such materials. Any payment referred to in this Section shall not exceed the maximum amounts set forth in Sections 32.091 and 32.092 of the Code.

SECTION 11 **METHOD OF VOTING**

The Election Officer is hereby authorized and instructed to provide and furnish all necessary election supplies to conduct the election. Voting at the Election shall be by use of a Direct Record Electronic Voting System. Preparation of the official ballots for the Election shall conform to the requirements of the Code, and in so doing shall permit the voter to vote for two (2) council members and a Mayor.

SECTION 12
GOVERNING LAW; QUALIFIED VOTERS

The Election shall be held in accordance with the Constitution of the State of Texas and the Code, and all resident, qualified electors of the City shall be eligible to vote at the election. Election materials shall be printed in both English and Spanish for use at the polling place and for early voting for the Election.

SECTION 13
PUBLICATION AND POSTING OF NOTICE

Notice of the Election shall be given by posting a Notice of Election in both English and Spanish at the Weston City Hall, on the bulletin board or other location used for posting notices of the meetings of the City Council not later than twenty-one (21) days prior to the date upon which the Election is to be held, and by publication of said notice at least once in a newspaper published in the City or if none, then in a newspaper of general circulation within the City, the date of said publication to be not less than ten (10) days nor more than thirty (30) days prior to the date set for the Election. Upon publication of the election notice, the City Secretary shall secure a publisher's affidavit, which complies with the requirements of the Code.

In addition thereto, a copy of the notice shall also be filed with the City Secretary at least twenty-one (21) days before the Election.

SECTION 14
EARLY VOTING

Early voting by personal appearance shall be conducted by the Election Officer, who is hereby appointed the Early Voting Clerk, at the Collin County Election Department, 2010 Redbud Blvd., #102, McKinney, Texas, and the Weston City Hall at 301 Main Street, Weston, Texas. For the period early voting for the election is permitted by law, the Early Voting Clerk shall keep said office open Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., commencing on Monday, April 27, 2009 and terminating on Tuesday, May 5, 2009 except that early voting on May 4, 2009, and May 5, 2009, shall be between the hours of 7:00 a.m. and 7:00 p.m. Weston City Hall early voting will be Monday thru Thursday between the hours of 8:00 a.m. and 2:00 p.m. except that early voting on May 4, 2009 and May 5, 2009 shall be between the hours of 7:00 a.m. and 7:00 p.m. Early voting will not be conducted on any Sunday, or official State and/or national holiday during the period of early voting, unless required by the Code.

Application for early voting by mail shall be delivered to the Early Voting Clerk at the same address not earlier than March 10, 2009, and not later than the close of regular business in

the Early Voting Clerk's office or 12:00 p.m., whichever is later, on May 1, 2009.

Early voting, both by personal appearance and by mail, shall be by use of ballots which conform to the requirements of the Texas Election Code, and in so doing shall permit the voters to vote for two (2) Council Member and Mayor for two (2) year terms each. The Early ballots shall be canvassed by the Early Ballot Board, which is hereby created under the direction of the Election Officer.

SECTION 15 **DELIVERY OF RETURNS**

Pursuant to Section 66.051 of the Code, immediately after the closing of the poll on the day of the Election, the election officers named in this Ordinance shall make four (4) copies of the returns. The returns shall be delivered as follows: The Election Judge shall deliver envelope #1 in person to the presiding officer of the local canvassing authority. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records who shall then deliver it to the local canvassing authority before the time set for convening the local canvass. The Election Judge shall deliver envelope #2 to the general custodian of election records. The Election Judge shall retain envelope #3. The Election Judge shall deliver envelope #4 in person to the voter registrar. If the voter registrar is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the voter registrar on the next regular business day. The City Secretary in accordance with the Code shall preserve all election records and supplies.

SECTION 16 **CANVASSING OF RETURNS**

In accordance with Section 67.003 of the Code, the City Council shall canvass the returns not earlier than May 12, 2009, or later than May 20, 2009.

SECTION 17 **NECESSARY ACTIONS**

The Mayor, City Council, Election Officer and City staff, in consultation with the City Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Code in carrying out and conducting the Election, whether or not expressly authorized herein.

SECTION 18 **CUMULATIVE CLAUSE**

This Resolution shall be cumulative of all provisions of Resolutions of the City of Weston, Texas, except where the provisions of this Resolution are in direct conflict with the provisions of such Resolutions, in which event the conflicting provisions of such Resolutions are hereby repealed.

SECTION 19

SEVERABILITY CLAUSE

It is hereby declared to be the intent of the City Council of the City of Weston that the phrases, clauses, sentences, paragraphs, and sections of this Resolution are severable, and if any phrase, clause, sentence, paragraph, or section of this Resolution shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Resolution, since the same would have been enacted by the City Council without incorporation of any such unconstitutional phrase, clause, sentence, paragraph, or section.

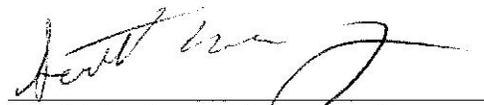
SECTION 20
ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Weston is hereby directed to engross and enroll this Resolution by copying the exact caption and Effective date clause in the minutes of the City Council and by filing this Resolution in the records of the City.

SECTION 21
EFFECTIVE DATE

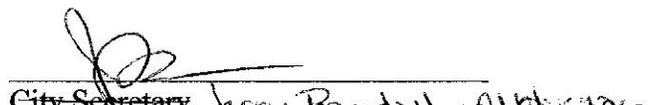
This Resolution shall become effective from and after its date of passage in accordance with law.

PASSED AND APPROVED by the City Council of the City of Weston, Texas, this the 24th day of February, 2009.



Scott Morrissey, Mayor Pro-Tem

ATTEST:



City Secretary Jerry Randall, Attestation
City of Weston, Texas