

**CITY OF WESTON, TEXAS  
RESOLUTION NO. R-2010-02-02**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WESTON, TEXAS, ORDERING AND CALLING A SPECIAL ELECTION FOR THE PURPOSE OF ELECTING A MAYOR AND TWO (2) COUNCIL MEMBER TO FILL THE REMAINDER OF A TWO (2) YEAR TERM TO THE CITY COUNCIL; AUTHORIZING AN ELECTION TO BE HELD ON MAY 08, 2010; PROVIDING FOR INCORPORATION OF PREMISES; 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 PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, such a vacancy exists following the resignation of Mayor and Two Council members.

**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 Special Election to be conducted on May 08, 2010, to elect one (1) Mayor and (2) Council members to fill a vacancy for the remainder of a two (2) year term to the City Council.

**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 special election (the "Election") shall be held in and throughout the City of Weston on Saturday, May 08, 2010 under the direction and administration of the Election Officer.

**SECTION 3  
PURPOSE OF ELECTION**

The purpose of said Special Election is to elect a Mayor and Two (2) Council Members to fill the remainder of a two (2) year term.

**SECTION 4  
ELIGIBILITY FOR CANDIDACY**

As set forth in Section 141.001 of the Texas Election Code, no person shall be eligible for a public elective office of this state, unless that person is a United States citizen, at least 18 years of age on the first day of the term to be filled at the Election, 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 twelve (12) months and in the municipality for six months immediately preceding the date of the regular filing deadline for the candidate's application for a candidate whose name is to appear on the general election ballot, or the date of the election at which the candidate's name is written in for a write-in candidate.

**SECTION 5**  
**APPLICATION FOR A PLACE ON THE BALLOT**

Pursuant to Section 201.054 (2) 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. on March 08, 2010, and not earlier than 8:00 a.m. on March 2, 2010. 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**

If two (2) or more candidates tie for the number of votes required to be elected, there shall be a runoff election held in accordance with the Code.

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

The polling place for the Election shall be at Weston Community Center, 117 Main Street, Weston, Texas. In accordance with Section 41.031 of the Code, said polling places 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 pick up and delivery of 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 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 one (1) Mayor and (2) Council Members.

**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 Weston City Hall, 301 Main Street, Weston, Texas. For the period early voting for the election is permitted by law, the Early Voting Clerk shall keep Collin County office open Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., commencing on Monday, April 26, 2010 and terminating on Tuesday, May 4, 2010 except that early voting on May, 3, 2010 and May 4, 2010, shall be between the hours of 7:00 a.m. and 7:00 p.m. Early voting will not be held on any official State and/or national holiday during the period of early voting, unless required by the Code. The Weston City Hall will be open Monday through Thursday, April 26, 2010 through Thursday, April 29, 2010 and May 3, 2010 and May 4, 2010 between the hours of 10:00 a.m. and 3:00 p.m.

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 one (1) Mayor and (2) Council Members to fill the remainder of a two (2) year term. 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. All election records and supplies shall be preserved by the Election Administrator in accordance with the Code and the contract with the County.

#### **SECTION 16** **CANVASSING OF RETURNS**

In accordance with Section 67.003 of the Code, the City Council shall canvass the returns not earlier than the eighth (8<sup>TH</sup>) day or later than the eleventh (11<sup>TH</sup>) day after the election.

#### **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**  
**EFFECTIVE DATE**

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

**AND IT IS SO RESOLVED**

**PASSED AND APPROVED** by the City Council of the City of Weston, Texas, this 27th day of February, 2010.

  
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Scott Morrissey, Mayor  
City of Weston, Texas

ATTEST:

  
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Leann O'Connell

