

RESOLUTION NO. 08-21-2017

A RESOLUTION BY THE PORT ISABEL CITY COMMISSION APPROVING MAYOR'S ORDER OF A SPECIAL ELECTION OF NOVEMBER 7, 2017 FOR THE PURPOSE OF AMENDING THE CITY CHARTER:

- 1. VOTING ON PROPOSED AMENDMENT TO THE CITY CHARTER, SECTION 2.02, ESTABLISHING QUALIFICATIONS FOR MAYOR AND CITY COMMISSIONER, PROVIDING THAT SUCH QUALIFICATIONS SHALL BE MET BY THE TIME OF FILING, AND PROVIDING FOR THE DECLARATION OF A VACANCY IN THE EVENT THE OFFICEHOLDER SHALL BE ABSENT AT THREE OR MORE CONSECUTIVE REGULAR MEETINGS.**
- 2. VOTING ON PROPOSED AMENDMENT TO THE CITY CHARTER, SECTION 2.04, ESTABLISHING THAT THE MAYOR AND CITY COMMISSIONERS ARE CITY EMPLOYEES, AND PROVIDING THAT COMPENSATION MAY BE WITHHELD UPON VIOLATION OF CITY EMPLOYMENT POLICY.**
- 3. VOTING ON PROPOSED AMENDMENT TO THE CITY CHARTER, SECTION 2.08, PROVIDING PROCEDURES FOR THE RELOCATION OF REGULAR MEETINGS AND THE POSTING OF SPECIAL MEETINGS.**
- 4. VOTING ON PROPOSED AMENDMENT TO THE CITY CHARTER, SECTION 3.01, PROVIDING THAT THE CITY MANAGER MUST ESTABLISH RESIDENCY IN CAMERON COUNTY WITHIN 90 DAYS OF APPOINTMENT, AND REMOVING LIMITATIONS ON THE TERM OF APPOINTMENT.**
- 5. VOTING ON PROPOSED AMENDMENT TO CITY CHARTER, SECTION 4.01, PROVIDING THAT THE MUNICIPAL ELECTION WILL BE HELD ON THE UNIFORM ELECTION DATE PROVIDED IN THE TEXAS ELECTION CODE IN OR CLOSEST TO THE MONTH OF MAY.**
- 6. VOTING ON PROPOSED AMENDMENT TO CITY CHARTER, SECTION 4.03, REVISING THE PROCEDURES FOR FILING FOR MUNICIPAL OFFICE TO CONFORM WITH THE TEXAS ELECTION CODE.**
- 7. VOTING ON PROPOSED AMENDMENT TO CITY CHARTER, SECTION 4.06, REVISING THE PROCEDURES FOR THE CANVASS OF THE RETURNS OF THE MUNICIPAL ELECTION TO CONFORM WITH THE TEXAS ELECTION CODE.**

- 8. VOTING ON PROPOSED AMENDMENT TO CITY CHARTER, SECTION 4.07, REVISING THE OATH OF OFFICE FOR OFFICERS OF THE CITY TO CONFORM WITH THE OATH PRESCRIBED BY THE TEXAS SECRETARY OF STATE.**
- 9. VOTING ON PROPOSED AMENDMENT TO CITY CHARTER, SECTION 5.07 REVISING THE PERIOD OF A RECALL ELECTION TO CONFORM WITH THE TEXAS ELECTION CODE.**
- 10. VOTING ON PROPOSED AMENDMENT TO CITY CHARTER, SECTION 5.09, PROVIDING FOR THE CANVASS OF A RECALL ELECTION, AND REQUIRING A SPECIAL ELECTION TO FILL ANY VACANCY CREATED BY A RECALL ELECTION.**
- 11. VOTING ON PROPOSED AMENDMENT TO CITY CHARTER, REPEALING SECTION 6.08 IN ITS ENTIRETY.**

AND AUTHORIZING THE CITY SECRETARY TO ARRANGE THE COSTS FOR THE ELECTION; DESIGNATING ELECTION PRECINCTS; APPOINTING ELECTION OFFICIALS; ESTABLISHING PAY RATES FOR ELECTION WORKERS; PROVIDING FOR NOTICE OF SAID ELECTION; PROVIDING FOR EARLY VOTING; PROVIDING FOR THE USE OF THE ES & S AUTOMARK SYSTEM TO COMPLY WITH THE HELP AMERICA VOTE ACT (HAVA); PROVIDING FOR THE EARLY VOTING BALLOT BOARD; ESTABLISHING SPECIALBUSINESS HOURS OF THE CITY SECRETARY'S OFFICE ON THE FINAL TWO DAYS OF EARLY VOTING BY PERSONAL APPEARANCE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PORT ISABEL, that:

Section 1. That a special election is hereby ordered to be held on the 7th day of November, 2017 for the purpose amending certain sections of the City Charter as follows:

Section 2.02 shall be repealed in its entirety and replaced with the following language:

The Mayor and each Commissioner shall be citizens of the United States, and have resided in the State of Texas for a continuous period of two (2) years and in the City of Port Isabel, Texas, for a continuous period of one year, and have attained the age of twenty-one (21) years at the time of filing as a candidate for such position; and shall have the other qualifications as provided for candidates in the Texas Election Code. If the Mayor or any City Commissioner fails to maintain, shall be absent from three consecutive regularly scheduled meetings, the City Commission shall at its next regularly scheduled meeting declare a vacancy to exist and shall fill said vacancy as set forth in Section 2.03 of this Charter. All such qualifications and requirements shall be fully complied with

by any prospective candidate for the position of Mayor or Commissioner at the time of filing for election.

Section 2.04 shall be modified as follows:

The Mayor shall receive for his services the sum of One Hundred Dollars (\$100.00) per month and each of the four City Commissioners shall receive the sum of Fifty Dollars (\$50.00) per month for their services on the City Commission. **The mayor and commissioners shall be considered officers of the city for the purposes of employment, and any compensation payable under this charter is subject to compliance with the city's employee manual. Upon a majority vote of the city commission finding that the a violation of the employee manual has occurred, payment shall be forfeited until such time as a majority of the city commission finds that the violation has been cured.**

Section 2.08 shall be modified as follows:

The City Commission shall hold at least two regular meetings in each month at a time to be set by it as may be necessary for the transaction of the business of the City. All **regular** meetings of the City Commission shall be public and shall be held at the City Hall, except that the City Commission may designate another place for such **regular** meetings after publishing due notice thereof in one issue of a newspaper in general circulation in the City of Port Isabel, **or upon a motion during a posted regular meeting, may adjourn from the city hall to another location.** The Mayor or any two members of the City Commission may call special meetings of the City Commission at any time. **All special meetings shall be public, and shall be posted in conformity with state law.** Notwithstanding anything herein to the contrary, the City Commission may also hold executive sessions (which are closed to the public) and workshops as needed from time to time, so long as the same are held in accordance with the laws of the State of Texas.

Section 3.01 shall be modified as follows:

(A) Appointment and Qualifications:

The City Commission shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Commission for the administration of all the affairs of the City. The City Manager shall be chosen by the City Commission solely on the basis of the City Manager's executive and administrative training, experience and ability ~~and need not, when appointed, be a resident of the City of Port Isabel.~~ Provided, however, after appointment, the City Manager shall have a period of ninety (90) days in which to relocate and become a permanent resident of **Cameron County** ~~the City of Port Isabel.~~ No member of the City Commission shall, during the time for which such member is elected and for one year thereafter, be appointed City Manager; except in the absence of the City Manager, the Mayor shall perform the duties of the City Manager on a temporary basis, until such time as the City

Commission can meet and select a replacement in accordance with Paragraph 3.01 (B) herein.

(B) Term and Salary:

The City Manager ~~shall not be appointed for a definite term but~~ may be removed at the will and pleasure of the City Commission by a vote of the majority of the entire Commission. The action of the City Commission in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the City Commission. In case of the absence or disability of the City Manager, the City Commission may designate some qualified person to perform the duties of the office during such absence or disability. The City Manager shall receive compensation as may be fixed by the Commission.

Section 4.01 shall be modified as follows:

The Municipal Election will be held on the uniform election date provided in the Texas Election Code in or closest to the month of May, or on such other date as the City Commission may hereafter establish by ordinance, and if there is no contested election such annual election shall not be held. The City Commission shall fix the hours and place for holding such election. The City Commission may, by resolution, order a special election, fix the time and place for holding same and provide all means for holding such special election. Notice of the Election shall be ~~published once a week for two consecutive weeks in a newspaper published in the City of Port Isabel, the first of such publications to be not less than thirty eight (38) days before the Election~~ **as provided by the Texas Election Code.**

Section 4.03 shall be modified as follows:

Any person having the qualifications set forth for Commissioner under Section 2.02 of this Charter shall have the right to file an application to have his name placed on the official ballot as a candidate for any elective office, and such application in writing signed by such candidate ~~and accompanied by his loyalty affidavit as prescribed by Texas Election Code, § 141.031, filed with the city secretary Mayor not less than thirty days (in computing said 30 days, the date of filing and the date of the election shall not be counted)~~ **in the manner and before by the date and time provided by the Texas Election Code** ~~prior to the date of election,~~ shall entitle such applicant to a place on the official ballot.

Section 4.06 shall be modified as follows:

The election judges and other necessary election officials for conducting all such elections shall be appointed by the City Commission. The election judges shall conduct the elections, determine, record and report the results as provided by the general election laws of Texas. **As provided by the Texas Election Code,** ~~Within five days or as soon as practical after an election,~~ the City Commission shall meet, open the returns, canvass and officially declare the result of the election as to candidates and questions and

issue certificates of election to candidates elected as hereinbefore provided. The Mayor and/or Commissioners declared elected shall qualify and assume the duties of their offices at this meeting.

Section 4.07 shall be modified as follows:

Every officer of the City shall, before entering upon the duties of such office, take and subscribe to the following oath or affirmation **prescribed by the Texas Secretary of State, which shall** ~~to be~~ filed and kept in the office of the City Secretary:

~~"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____, of the City of Port Isabel, State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and laws of the United States and of this State and the Charter and Ordinances of this City; and I furthermore solemnly swear (or affirm), that I have not directly or indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected, or if the office is one of appointment, to secure my appointment. So help me God."~~

WHEREAS, Section 5.07 shall be modified as follows:

If the officer whose removal is sought does not resign within five days after the certification to the Commission that the petition is proper, then it shall be the duty of the City Commission to order an election and fix a date for holding such recall election, the date of which election shall be **set in accordance with the provisions of the Texas Election Code, but not more than 78 days** ~~not less than thirty nor more than sixty days~~ from the date such petition was certified to the City Commission by the City Secretary, or from the date of the public hearing if one was held, whichever date is later.

Section 5.09 shall be modified as follows:

The results of the recall election shall be canvassed by the city commission in accordance with the provisions of the Texas Election Code. If a majority of the votes cast at a recall election shall be against removal of the Commissioner or Mayor named on the ballot, such Commissioner or Mayor shall continue in office for the remainder of such Commissioner's or Mayor's unexpired term, subject to recall, as hereinafter provided. If a majority of the votes cast at such election be for the removal of the Commissioner or Mayor named on the ballot, the Commission shall immediately ~~declare such Commissioner's or Mayor's office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies.~~ **order an election to be held for the purpose of filling the vacancy. Such an election shall be ordered consistent with the provisions of the Texas Election Code, provided, however, that it shall not be held later than the 78th day after the results of the recall election are canvassed.**

Section 6.08 shall be repealed in its entirety.

Section 2. Cameron County shall be engaged to conduct this election, and the county elections administrator shall be authorized to obtain supplies, materials, equipment and the services of personnel necessary to the conduct this election.

Section 3. The Cameron County Election Administrator shall perform all duties normally performed by the County Clerk in general elections with respect to early voting, giving notice of the election and preparing the official ballots.

Section 4. The Election precincts and voting places of said City election shall be as follows:

<u>City Voting Precinct</u>	<u>Consisting of County Voting Precincts</u>
Port Isabel City Hall	1, 59, 83

The presiding judge shall be designated by the City Secretary.

Section 5. In addition the presiding judge and alternate judge for each precinct herein above designated, the respective presiding judge for each precinct and the Early Voting Ballot Board as herein provided shall be authorized to appoint a sufficient number of clerks as they may deem necessary to assist them in said election, provided, however, that the number of clerks appointed by said presiding judge for each polling place shall not be less than two, including the alternate judge also serving as a clerk.

Section 6. ES&S Automark Voter Assist Terminal shall be used for voting to meet the federal and state law requirements by having at least one system, equipped for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for privacy and independences as other voters, at each polling site, at the foregoing election precincts and continuing the use of paper ballots to be marked and used for counting the ballots at said election.

Section 7. Early voting shall be conducted in the Port Isabel Chambers Meeting Room in Port Isabel, Texas, and paper ballots shall be used for early voting by mail and shall be used for early voting by personal appearance. Voting hours shall be Monday Oct. 23 thru Friday, Oct 27 9:00 am to 6:00 pm; Saturday, Oct. 28 10:00 am to 2:00 pm; Monday, Oct. 30 thru Wednesday, Nov. 1, 9:00 am to 6:00 pm; Thursday Nov. 2 and Friday, Nov. 3 8:00 am to 8:00 pm.

Section 8. An Early Voting Ballot Board is hereby designated to canvass the early votes cast by mail and by personal appearance. The Cameron County Elections Administrator shall serve as the early voting clerk. The City Secretary is hereby authorized to appoint the Presiding Judge of said Board, and she shall appoint such other members as provided in the Texas Election Code, Section 87.002(b).

The last day to apply for a mail-in ballot is October 27, 2017, and all ballots must be returned to the early voting clerk on or before November 7, 2017, except for ballots post-marked by 7:00 pm at Port Isabel, Texas on November 7, 2017, which may be returned until November 8, 2017.

Section 9. All ballots cast at this election shall be counted and tabulated electronically.

Section 10. All resident, qualified voters of the City of Port Isabel shall be permitted to vote in the special election. In addition, the election materials as outlined in Section 272.005, Texas Election Code, shall be printed in both English and Spanish for use at the polling places and for early voting for said election.

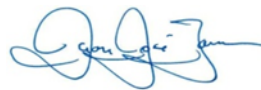
Section 11. The Mayor is authorized to sign an Order of Election and a Notice of Special Municipal Election prescribed by the State of Texas on behalf of the City Commission. The Notice of Special Municipal Election shall be published in accordance with the provisions of the Texas Election Code and the City Charter.

Section 12. Should any part, section, subsection, paragraph, sentence, clause or phrase contained in this resolution be held to be unconstitutional or of no force and effect, such holding shall not affect the validity for the remaining portion of this resolution, but in all respects said remaining portion shall be and remain in full force and effect.

Section 13. That this resolution shall be effective immediately upon adoption.

APPROVED AND ADOPTED by the Port Isabel City Commission this 21st day of August, 2017.

CITY OF PORT ISABEL, TEXAS



JUAN JOSE "JJ" ZAMORA, Mayor

ATTEST:

CITY OF PORT ISABEL, TEXAS



SUSIE ALCOCER, City Secretary