

ORDINANCE NO. O:2010-__

AN ORDINANCE IN ACCORDANCE WITH THE DEL RIO CITY CHARTER AND STATE LAW ORDERING AND FIXING A DATE FOR HOLDING AND CONDUCTING A GENERAL ELECTION TO FILL THE POSITIONS OF MAYOR, COUNCILPERSON-AT-LARGE, PLACE C, COUNCILPERSON, DISTRICT I, AND COUNCILPERSON, DISTRICT II; AN ORDINANCE ORDERING AND FIXING A DATE FOR HOLDING AND CONDUCTING A SPECIAL ELECTION IN AND THROUGHOUT THE CITY OF DEL RIO FOR THE PURPOSE OF SUBMITTING PROPOSED PROPOSITIONS TO THE VOTERS FOR AMENDMENT OF SECTIONS 109 AND 110 OF THE CITY CHARTER REGARDING THE RECALL PROCEDURE AND RECALL PETITIONS FOR REMOVAL OF MAYOR AND CITY COUNCIL MEMBERS; ORDERING AND FIXING A DATE FOR SAID ELECTIONS; PROVIDING FOR THE APPOINTMENT OF ELECTION JUDGES; FIXING THE MAXIMUM NUMBER OF ELECTION CLERKS AND ESTABLISHING THE RATE OF PAY FOR ALL ELECTION OFFICERS; PROVIDING FOR THE DESIGNATION AND LOCATION OF MUNICIPAL ELECTION PRECINCTS AND POLLING PLACES; PROVIDING FOR THE PUBLIC NOTICES OF SAID ELECTIONS; AND CONTAINING AN EFFECTIVE DATE

WHEREAS, the Border Organization is a grass-roots organization that represents a broad spectrum of the overall citizenry of Del Rio; and

WHEREAS, the Border Organization has observed that recent efforts to recall Councilwoman Lisa Cadena Craig and Mayor Efrain V. Valdez have consumed the city's financial resources and the time and energy of city staff and the City Council; and

WHEREAS, the Border Organization made a presentation at the May 12, 2009 City Council meeting and argued that these recent recall efforts were frivolous and that the recall of Councilwoman Craig, in particular, severely lacked substance and merit; and

WHEREAS, the Border Organization's opinion on Councilwoman Craig's recall is valid in that the recall garnered a dismal 38% of the total votes cast and therefore failed; and

WHEREAS, the Border Organization, at the above meeting, requested that the Del Rio City Council take the necessary steps to amend the City Charter so as to eliminate frivolous recall petitions; and

WHEREAS, both state law and the Del Rio City Charter authorize the Del Rio City Council on its own motion to submit proposed Charter amendments to the city's qualified voters for their approval at an election; and

WHEREAS, the Del Rio City Council finds the arguments set out by the Border Organization to be well-founded; and

WHEREAS, the Del Rio City Council has held Public Hearings on the proposed Charter amendments contained within this ordinance and has allowed for full public input on these matters; and

WHEREAS, the Del Rio City Council now decides to invoke its power under state law and the Charter and to call a Special Election so that the city's qualified voters can decide whether certain amendments should be made to the City Charter; and

WHEREAS, the Del Rio City Council finds that these Charter amendments, if passed, will eliminate frivolous recall efforts, save city resources, and allow city personnel to focus on other city matters that truly need attention; and

WHEREAS, for the convenience of the voters of the City, the Special Election will be held at the same time that the positions of Mayor, Councilperson-at-Large, Place C, Councilperson, District I, and Councilperson, District II are filled at the General Election on May 8, 2010; and

WHEREAS, both the General Election and the Special Election are being ordered by this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEL RIO, TEXAS, THAT:

Section 1. Findings

The Del Rio City Council finds the above recitations to be true and correct and adopts said findings as if set forth in full herein.

Section 2. Proposed Charter Amendments

Pursuant to the terms and provisions of Chapter 9 of the Texas Local Government Code and the City Charter, the City Council hereby proposes that the following entitled and numbered sections of the City Charter be amended, so that, as amended, said sections shall read and provide as follows:

Section 2.1. Section 109. Recall procedure.

Any qualified voter of the city may make and file with the City Secretary an affidavit containing the name or names of the officer or officers whose removal is sought. The City Secretary shall thereupon deliver to the qualified voter making such affidavit copies of recall petition blanks on hand for distribution. Such recall petition blanks when issued by the City Secretary shall bear the signature of that officer and shall be addressed to the city council, and

shall be sequentially numbered, dated and indicate the name of the person to whom issued and the number of such recall petition blanks provided by the City Secretary to that person. Said recall petition blanks when issued shall also state that the recall petition blanks are for the removal of a city official and shall name said city official and identify his official position. The foregoing statement must be bolded, underlined, in upper case letters, and in a font size of 16 or larger so as to stand out from the remainder of the text. Each recall petition blank shall be printed in English and in Spanish. The City Secretary shall maintain a record of the sequentially numbered recall petition blanks provided to each qualified voter to whom the petition blanks were issued as well as the date and time that the petition blanks were provided to that individual.

Section 2.2. Section 110. Recall petitions.

The recall petition to be effective must be executed by qualified voters of the city or district, if applicable, must contain the required information specified by law, and must be returned and filed with the City Secretary within thirty (30) days after filing of the affidavit required in Section 109. If the petition relates to the recall of the mayor or one or more of the three (3) councilmen at large, it must be signed by qualified voters of the city equal in number to at least ten percent (10%) of all qualified voters in the city as of the last general election in the city, or one thousand (1000) qualified voters, whichever is greater. If the petition relates to the recall of one of the three (3) district councilmen, it must be signed by qualified voters of the district from which the councilman was elected equal in number to at least twenty percent (20%) of all qualified voters registered in said district as of the last general election in the city, or five hundred (500) qualified voters, whichever is greater. All recall petitions shall conform to the applicable provisions of section 99, and no petition paper shall be accepted as part of a recall petition unless it bears the signature of the City Secretary and is one of the sequentially numbered petition blanks issued by the City Secretary as required in section 109.

Section 3. The specific propositions to be submitted on the official ballot of the election to be held May 8, 2010 together with the proposition headings and instructions thereof shall be as follows:

PROPOSITIONS

Instruction. Place an X in the square beside the statements indicating the way you wish to vote.

Proposition 1 – City Charter: Section 109.

Shall Section 109 of the City Charter be amended to require a recall petition be printed in English and in Spanish and to state in visually conspicuous letters and font size that the petition is for the recall of a certain named city official so that said section, when amended, reads as follows:

“Section 109. Recall procedure.

Any qualified voter of the city may make and file with the City Secretary an affidavit containing the name or names of the officer or officers whose removal is sought. The City Secretary shall thereupon deliver to the qualified voter making such affidavit copies of recall petition blanks on hand for distribution. Such recall petition blanks when issued by the City Secretary shall bear the signature of that officer and shall be addressed to the city council, and shall be sequentially numbered, dated and indicate the name of the person to whom issued and the number of such recall petition blanks provided by the City Secretary to that person. Said recall petition blanks when issued shall also state that the recall petition blanks are for the removal of a city official and shall name said city official and identify his official position. The foregoing statement must be bolded, underlined, in upper case letters, and in a font size of 16 or larger so as to stand out from the remainder of the text. Each recall petition blank shall be printed in English and in Spanish. The City Secretary shall maintain a record of the sequentially numbered recall petition blanks provided to each qualified voter to whom the petition blanks were issued as well as the date and time that the petition blanks were provided to that individual.”

_____ FOR _____ AGAINST

Proposition 2 – City Charter: Section 110.

Shall Section 110 of the City Charter be amended to increase the number of signatures that are needed in order to require a recall election so that said section, when amended, reads as follows:

“Section 110. Recall petitions.

The recall petition to be effective must be executed by qualified voters of the city or district, if applicable, must contain the required information specified by law, and must be returned and filed with the City Secretary within thirty (30) days after filing of the affidavit required in Section 109. If the petition relates to the recall of the mayor or one or more of the three (3) councilmen at large, it must be signed by qualified voters of the city equal in number to at least ten percent (10%) of all qualified voters in the city as of the last general election in the city, or one thousand (1000) qualified voters, whichever is greater. If the petition relates to the recall of one of the three (3) district councilmen, it must be signed by qualified voters of the district from which the councilman was elected equal in number to at least twenty percent (20%) of all qualified voters registered in said district as of the last general election in the city, or five hundred (500) qualified voters, whichever is greater. All recall petitions shall conform to the applicable provisions of Section 99, and no petition paper shall be accepted as part of a recall petition unless it bears the signature of the City Secretary and is one of the sequentially numbered petition blanks issued by the City Secretary as required in Section 109.”

_____ FOR _____ AGAINST

Section 4. Order

It is hereby ordered that a general election and a special election shall be held in and throughout the corporate limits of the City of Del Rio, Texas on May 8, 2010 for the respective purposes of filling the positions of Mayor, Councilperson-at-Large, Place C, Councilperson, District I, and Councilperson, District II and for submitting proposed propositions to the voters for the amendment of the City Charter as described in Sections 2 and 3 above.

Section 5. Election Precincts

The following Municipal Election Precincts for the aforesaid elections are hereby designated as follows:

- a. Election Precinct No. 1 shall consist of all that certain territory situated within City Council District No. I.
- b. Election Precinct No. 2 shall consist of all that certain territory situated within City Council District No. II.
- c. Election Precinct No. 3 shall consist of all that certain territory situated within City Council District No. III.

The City Council Districts shall be the same as those previously established and fully described in Ordinance No. O:92-04, as amended by Ordinance No. O: 2000-07 and Ordinance No. O:2002-7B, such Ordinance being codified in Section 2-29 of the Del Rio Code of Ordinances, said Ordinance being further hereby incorporated herein by reference for all purposes.

Section 6. Election Day Times and Polling Places

The polls in the aforesaid elections herein called shall be opened from 7:00 A.M. to 7:00 P.M. on Election Day. The location of the polling place of the above described Municipal Election Precincts shall be the same as that previously established and fully described in Ordinance No. O:83-57, as amended by Ordinance No. O:2000-07 and Ordinance No. O:2005-40, the same being codified in Section 2-28 of the Del Rio Code of Ordinances, and said Ordinances being further hereby incorporated herein by reference for all purposes.

The polling places are Precinct 1, City Hall Municipal Building, 109 West Broadway, Precinct 2, Del Rio Civic Center, 1915 Avenue F (now Veterans Blvd.) and Precinct 3, Philip A. Ricks Gymnasium (formerly known as the San Felipe Middle School Gymnasium) located at 800 Waters Avenue.

Section 7. Appointment of Election Judges

The following individuals are hereby appointed as Election Judges for the aforesaid elections ordered herein. These appointments shall be for the elections specified herein and such individuals shall serve in the following respectively identified positions:

Municipal Election Precinct No. 1:

Presiding Judge.....
Alternate Presiding Judge.....

Municipal Election Precinct No. 2:

Presiding Judge.....
Alternate Presiding Judge.....

Municipal Election Precinct No. 3:

Presiding Judge.....
Alternate Presiding Judge.....

Early Voting Board:

Presiding Judge.....
Alternate Presiding Judge.....

Section 8. Election Officers

The maximum number of election clerks for Precinct 1 is hereby established as eight (8), the maximum number of election clerks for Precinct 2 is hereby established as eight (8), the maximum number of election clerks for Precinct 3 is hereby established as eight (8), and the maximum number of election clerks for the Early Voting Ballot Board is hereby established as (8). Each judge and clerk shall be compensated at the rate of \$10.00 per hour. A judge who delivers the returns of the elections and performs such other services as provided in Section 32.092 of the Texas Election Code shall also receive the sum of \$25.00. Each officer shall receive a meal cost allocation in the amount of \$6.00.

Section 9. Early Voting

- a. Voting Period – Polling Places. The early voting period shall be commenced at 8:00 A.M. on April 26, 2010 and shall end May 4, 2010. Early voting by personal appearance at the main early polling place shall be conducted on weekdays of the early voting period and during the hours that the City Secretary’s main office is regularly open for business. On the final (2) days of early voting by personal appearance, the City Secretary’s regular business hours are hereby designated as

7:00 A.M. to 7:00 P.M. in order to comply with the Election Code. The location of the main polling place shall be the City Secretary's Office, Municipal Building, located at 109 West Broadway, Del Rio, Texas.

Section 10. Notice of City Election and Order of Election

The City Secretary of Del Rio, Texas is hereby authorized and directed to cause notice of the aforesaid elections ordered herein to be given in accordance with the requirements of the Texas Local Government Code, Article III, Section 40 of the Del Rio City Charter and the Texas Election Code. The notice of special election shall be published in accordance with the provisions of the Texas Election Code and Texas Local Government Code.

Section 11. Proposed Charter Amendments – Approval of Voters

Any of the proposed Charter amendments set out in Section 2 of this ordinance, if approved by the majority of the qualified voters voting at the Special Election ordered to be held on May 8, 2010, shall be effective and become a part of the City Charter of the City of Del Rio, Texas; provided, however, no amendment shall be considered adopted until an official order has been entered upon the records of the City by the City Council of the City of Del Rio, Texas, declaring the same adopted.

Section 12. Direct Recording Electronic Voting Machines

A direct recording electronic voting machine shall be used for voting at each of the foregoing election precincts as mandated by the Texas Election Code and the Help America Vote Act which requires that at least one voting system be equipped for individuals with disabilities at each polling place so that individuals can vote independently and privately.

Section 13. Election Supplies and Laws

The City Secretary is hereby authorized and instructed to provide and furnish all necessary election supplies to conduct the aforesaid elections. The elections herein called shall be conducted in accordance with the Texas Election Code.

Section 14. Effective Date

This Ordinance shall become effective immediately after its final passage.

PASSED AND APPROVED on this 26th day of January, 2010.

EFRAIN V. VALDEZ
Mayor

ATTEST:

SUSAN CORP
City Secretary

REVIEWED FOR ADMINISTRATION:

REVIEWED AS TO FORM AND LEGALITY:

FRANCES F. RODRIGUEZ
City Manager

DAVID V. SOROLA
City Attorney