

ORDINANCE NO. 2009-O-3B

AN ORDINANCE OF THE CITY OF ANGLETON, TEXAS ORDERING A SPECIAL ELECTION TO BE HELD IN THE CITY OF ANGLETON, TEXAS ON MAY 9, 2009, TO FILL A VACANCY IN POSITION 5 FOR THE UNEXPIRED TERM ENDING IN MAY 2010, AND, IF A RUNOFF ELECTION IS REQUIRED, IT WILL BE HELD IN ACCORDANCE WITH THE TEXAS ELECTION CODE; FOR THE PURPOSE OF ELECTING A COUNCILMEMBER TO POSITION 5 OF THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS, PROVIDING THAT ALL PERSONS DESIRING TO HAVE THEIR NAME PLACED ON THE OFFICIAL BALLOT AS A CANDIDATE FILE AN APPLICATION NOT LATER THAN 5:00 P.M. ON APRIL 8, 2009; DESIGNATING A VOTING PLACE; APPOINTING ELECTION OFFICIALS; PROVIDING FOR EARLY VOTING; PROVIDING FOR BILINGUAL NOTICE OF THE SPECIAL ELECTION; ORDERING THAT AN ELECTRONIC VOTING SYSTEM BE USED; PROVIDING FOR A JOINT ELECTION WITH BRAZORIA COUNTY, TEXAS; PROVIDING A SEVERANCE CLAUSE; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Councilman Jeremy Warren submitted his written resignation as Position 5 Council Member to the City Secretary to be effective October 14, 2008, for the reason of his appointment to a Judgeship, and the City Council accepted Councilman Warren's resignation; and

WHEREAS, in accordance with Section 3.06(a) of the Home Rule Charter of the City of Angleton, Texas ("City Charter"), the City Council appointed Councilwoman Bonnie McDaniel to fill the vacant Position 5; and

WHEREAS, pursuant to Section 3.06(a) of the City Charter, if the resigning councilmember's unexpired term would extend beyond one year, the City Council shall call an election for the filling of the vacancy at the next regular municipal election to be held on the next regular municipal election date allowed by the Texas Election Code as amended ("Code") for regular municipal elections ("Code") to fill the remainder of the unexpired term of the resigning council member; and

WHEREAS, the Council deems it in the public interest to call a Special Election to fill the vacancy created by Councilman Warren's resignation in accordance with the City Charter and the Code;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS:

SECTION I. The findings and recitations contained in the preamble of this ordinance are true and correct and are hereby incorporated into the body of this ordinance by reference.

SECTION 2. A Special Municipal Election is ordered to be held in the City of Angleton, Texas (“City”) on Saturday, May 9, 2009, such date being a uniform election date as defined in §41.001 of the Code for the purpose of electing a Council Member to Position 5 for the unexpired term ending in May, 2010, pursuant to the City Charter, the Code and the laws of the State of Texas. In the event a runoff is required, the runoff election shall be held in accordance with the Code. The election shall be held at the Brazoria County Courthouse East Annex, 1524 E. Mulberry, Room 144, Angleton, Texas, from 7:00 a.m. until 7:00 p.m. on May 9, 2009.

SECTION 3. The filing deadline for a place on the special election ballot is 5:00 p.m. on April 8, 2009. The filing deadline for write-in candidates is 5:00 p.m. on April 13, 2009.

SECTION 4. That any person having the qualifications set out in the City Charter and the applicable provisions of Section 141.001 of the Code for City Council Member Position 5 may file an application to have his or her name placed on the official ballot as a candidate. Said application shall conform to the applicable requirements of Section 141.031 of the Code including a loyalty affidavit of the candidate. The application shall be filed with the City Secretary as prescribed by applicable provisions of the Code for a special election to fill a vacancy. The application shall be filed not earlier than Friday, March 13, 2009. The filing period is twenty seven days from March 13, 2009 through April 8, 2009, ending at 5:00 p.m.

SECTION 5. That the City of Angleton will be contracting with Brazoria County to conduct the special election and early voting and to perform other election procedures and tasks as set out in the Contract Agreement (“Contract”) to be provided by Brazoria County. This Contract, once executed by both parties, shall be attached to and incorporated into this Ordinance by reference.

SECTION 6. Absentee/early voting, election-day voting and runoff election voting, if necessary, will be conducted at the Brazoria County Courthouse East Annex, 1524 E. Mulberry, Room 144, Angleton, Texas. Early voting by personal appearance for the election shall commence on April 27, 2009, daily opening at 8:00 a.m. and closing at 5:00 p.m. and ending on May 1, 2009; and from 7 a.m. to 7 p.m. on May 2<sup>nd</sup>, May 4<sup>th</sup> and May 5<sup>th</sup>, 2009.

SECTION 7. The County Clerk of Brazoria County is appointed as the Early Voting Clerk and the County Clerk’s permanent county employees are appointed as deputy early voting clerks. The City and Brazoria County will cooperate to conduct the election in accordance with the Contract and the Code. The election officials for the election and the runoff, if any, shall be designated by the County Clerk for Brazoria County, Texas.

SECTION 8. The City Secretary is hereby directed to assist in preparing and providing notice of the election, and the runoff election, if necessary, in accordance with Section 4.002 and 4.003 of the Code and as required by other applicable provisions of the

law; the notice to be printed in the Spanish language and the English language. In the event the Contract is not approved, the Mayor and City Secretary shall conduct the election in accordance with the Code.

SECTION 9. An electronic voting system using optically scanned ballots, meeting the requirements of Chapter 124 of the Code, shall be used for said election. Preparation of the necessary equipment and official ballots for the election shall conform to the requirements of the Code. In addition, each polling location will be equipped with a voting station that complies with Section 61.012 of the Code.

SECTION 10. The Brazoria County Clerk is authorized to prepare the official ballot for the election and perform every act required by the City Charter and laws of the State of Texas for holding elections that Brazoria County is required to perform under the Contract if and when the contract is approved by the parties. The City Secretary is hereby directed to provide the Brazoria County Clerk with the information she needs to prepare the ballot in accordance with the Contract.

SECTION 11. The election officers shall make returns for the election in the manner required by law. The ballots that are properly marked in conformance with the provisions of the Code for votes cast both during the period of early voting and on the date of the election shall be counted in the manner required by law.

SECTION 12. The manner of holding such election and all questions pertaining thereto shall be governed by the election laws of the State of Texas.

SECTION 13. Substantial copies of the Notice of Election in both English and Spanish shall serve as proper notice of the election and said notice shall be given by one or more methods set forth in Section 4.003(a) of the Code. A copy of the notice, which must include the location of each polling place, shall be posted on the bulletin board used for posting notices of the meetings of the City Council of the City shall also be given and this notice must remain posted continuously through election day. All such notice postings shall be as required by Code §4.003 and other applicable law and the contents of the notice must be in compliance with Code Section 4.004.

SECTION 14. The Mayor is hereby authorized to order and give notice of such election in accordance with the Order for Election and Notice of Election attached hereto and made a part hereof by reference. Such Order and Notice will be printed in English and Spanish to comply with bilingual requirements as stipulated in the Voting Rights Act of 1965 as amended. Said Order and Notice shall be posted in accordance with law, as set forth above.

SECTION 15. The City Council has found and determined that the meeting at which this ordinance is considered is open to the public and that notice thereof was given in accordance with provisions of the Texas Open Meetings Act, Tex. Gov't Code-Chapt. 551, as amended, and that a quorum of the City Council was present.

SECTION 16. If any part or portion of this ordinance shall be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any remaining portions or provisions of this Ordinance.

SECTION 17. This Ordinance shall become effective immediately upon its passage and approval.

PRESENTED, PASSED AND APPROVED on the 12<sup>th</sup> day of March, 2009, at a regular meeting of the City Council of the City of Angleton, Texas, by a vote of \_\_\_\_ ayes and \_\_\_\_nos at the regular meeting of the City Council of the City of Angleton, Texas.

\_\_\_\_\_  
J. Patrick Henry, Mayor

Attest:

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Shelly Deisher, City Secretary

Approved as to Form:

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Herbert L. Prouty, Interim City Attorney