



**CITY OF SAN ANTONIO  
OFFICE OF THE CITY COUNCIL  
COUNCIL CONSIDERATION REQUEST**

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2012 JAN 12 AM 8:29

TO: Mayor & City Council

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FROM: City Councilman Carlton Soules

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COPIES TO: Sheryl Sculley, City Manager; Leticia Vacek, City Clerk; Edward Benavides, Chief of Staff; Robert Hammond, Special Projects Manager, Chris Callanen, Assistant to the City Council; Michael Bernard, City Attorney; John Peterek, Senior Management Analyst

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SUBJECT: Request to place on the next available city election, a ballot initiative to amend the San Antonio City Charter regarding the filling of a vacancy on City Council.

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DATE: January 11, 2012

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Issue Proposed for Consideration

I ask for your support for the inclusion of the following item on the agenda of the earliest available meeting of the **City Council**:

I respectfully ask for your concurrence in calling for a Charter Amendment Election in May of 2012 that would modify the process by which the city fills vacancies on the City Council.

Brief Background

The City of San Antonio has recently made great strides to ensure that there is a more open and transparent process in place regarding the appointment of a representative to a vacated council seat. However, neither the Charter nor the appointment process distinguishes between vacancies that occur early or late in a council term. The will of the people and the reasonable opportunity for a district's citizens to elect a replacement representative is not addressed. Fortunately, the State does provide guidance in this matter.

The current process of appointing an individual to fill a vacant council position is covered by the City Charter under Article II, Section 8. Recently, City Council has taken steps to improve the process by passing Ordinances 2007-11-01-1178 which established a deadline for the appointment within 30 days and most recently 2010-05-06-0375 which established procedures for appointment of replacement council member in the event of a vacancy.

Because of recent changes extending term limits, in order to enhance transparency, and above all to secure the right of constituents to choose their representation; the City Charter should be revised to initiate a special election requirement to fill council vacancies if these vacancies occur with more that 270 days remaining in the term. The proposal being put forth would achieve that goal and bring the City Charter closer in line with current State Statute.

Current State Statute requires a Home Rule City, as defined by Chapter 26 of the Local Government Code, with a population of 1.5 Million or more and 270 days or more remaining in a term before the next election, to hold a special election (Section 26.045). This statute does not preclude council from filling a vacancy with an appointment within 270 days

remaining in the council term. In this instance, the current process should remain in effect.

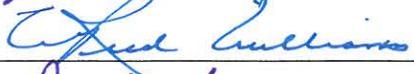
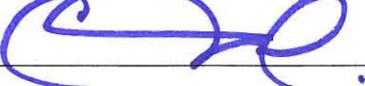
The purpose of this request is to call for a Charter Amendment Election in May of 2012 that would adopt the process as stated in Local Government Code, Section 26.045 as the city's new process for filling council vacancies for a term longer than 270 days.

Submitted for Council consideration  
by:

  
\_\_\_\_\_  
Councilman Carlton Soules, District 10

Supporting Councilmember's Signatures (4 only)

District No.

1.		
2.		
3.		
4.		

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AN ORDINANCE 2007-11-01-1178

**ESTABLISHING A DEADLINE TO FILL A COUNCIL VACANCY BY APPOINTMENT WITHIN 30 DAYS OF THE DATE THAT A VACANCY OCCURS**

\* \* \* \* \*

**WHEREAS**, Article 2, Section 8 of the City Charter provides that vacancies in the Council shall be filled by a majority vote of the remaining members; and,

**WHEREAS**, there exists no timeline for filling vacant seats of the City Council upon creation of a vacancy; and,

**WHEREAS**, to limit the period in which a Council seat is vacant, it is necessary to establish a deadline by which the appointment must take place to ensure equal representation of all the citizens of the City of San Antonio; **NOW THEREFORE:**

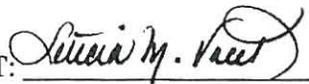
**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

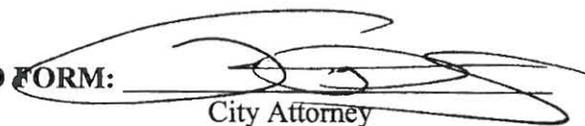
**SECTION 1.** In conjunction with the vacancy provisions of the City Charter, appointment shall hereby take place within 30 days of occurrence in a manner prescribed by the remaining members of the City Council.

**SECTION 2.** This Ordinance shall be effective on and after the tenth (10th) day of passage.

*PASSED AND APPROVED this 1<sup>st</sup> day of November 2007.*

  
M A Y O R

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
City Attorney

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HDV  
Item # 4  
May 6, 2010

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2012 JAN 12 AM 8:23 AN ORDINANCE 2010-05-06-0375

**ESTABLISHING PROCEDURES FOR APPOINTMENT OF  
REPLACEMENT COUNCIL MEMBER IN THE EVENT OF A VACANCY.**

\* \* \* \* \*

**WHEREAS**, a vacancy on City Council leaves a district without adequate representation; and

**WHEREAS**, under the City Charter, Section 8, a vacancy in the council other than in the last place (mayor) is to be filled by a majority vote of the remaining members; and

**WHEREAS**, Mayor Julián Castro requested that the Council establish a formal procedure for the appointment of the replacement council member; and

**WHEREAS**, the Governance Committee has reviewed and recommended the following procedure to fill vacancies; **NOW THEREFORE**:

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1:** The City Code of San Antonio, Texas is amended by adding a section, to be numbered 2-36, to read as follows:

2-36 Appointment of Replacement Council Member in the Event of a Vacancy

In the event of a City Council Member vacancy for any reason other than in the last place (Mayor) which occurs more than sixty (60) days prior to the next regular city election date, City Council shall follow these procedures. If the vacancy occurs sixty (60) or fewer days prior to the next regular election then the seat shall remain vacant until the next regular election.

- a. At the first scheduled City Council meeting immediately following the occurrence of a Council Member's temporary absence due to military service or for vacancy for any reason, the City Council shall accept the resignation or acknowledge the vacancy and initiate the process to fill the vacancy.
- b. The City Clerk shall post notice on the City website no later than the end of the next business day and publish notice in the local newspaper as soon as possible inviting qualified residents of the district with the vacancy to submit applications, letters of interest, resumes and disclosure statements to the City Clerk. The closing date for applicants to submit applications, letters of interest, resumes and disclosure statements will be ten (10) business days after publication.
- c. A Council Member who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated and

for a period of longer than thirty (30) days may recommend to Council the name of a person to temporarily fill the office. This person must also submit an application, a letter of interest, resume and disclosure statement to the City Clerk within the ten (10) business days after publication as set out above and will be considered among the other applicants who submitted applications, letters of interest, resumes and disclosure statements.

- d. The City Clerk shall review the applications, letters of interest, resumes and disclosure statements and confirm the eligibility of each applicant.
- e. At the next scheduled Council "B" Session, City Council will review the applications, letters of interest, resumes and disclosure statements and select up to three of the applicants to be interviewed at the next scheduled City Council meeting.
- f. At the next scheduled Council Meeting and in open public meeting, City Council will interview the selected applicants followed immediately by a vote to appoint the replacement ("the appointee"). In the event no candidate gets a majority vote, the City Council will vote again on the two (2) candidates with the most votes.
- g. The appointee will be immediately sworn in to office and will serve until the expiration of the unexpired term, or in the event of a temporary vacancy due to military service, until the elected Council Member returns or the expiration of the elected Council Member's unexpired term, whichever is shorter.

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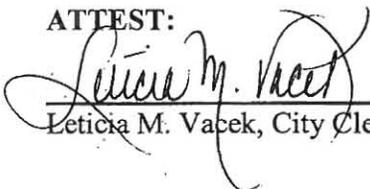
**SECTION 2:** This ordinance supersedes and replaces any previous ordinance, resolution or policy addressing procedures to fill vacant positions on the City Council.

**SECTION 3:** This ordinance shall be effective immediately upon passage by eight affirmative votes; otherwise it shall be effective on the tenth day after passage.

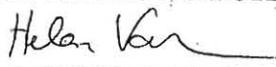
**PASSED and APPROVED** this 6<sup>th</sup> day of May, 2010.

  
**M A Y O R**  
Julián Castro

**ATTEST:**

  
\_\_\_\_\_  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Michael Bernard, City Attorney

LOCAL GOVERNMENT CODE

TITLE 2. ORGANIZATION OF MUNICIPAL GOVERNMENT

SUBTITLE B. MUNICIPAL FORM OF GOVERNMENT

CHAPTER 26. FORM OF GOVERNMENT IN HOME-RULE MUNICIPALITY

SUBCHAPTER C. MUNICIPAL OFFICERS

Sec. 26.045. FILLING VACANCY ON GOVERNING BODY OF MUNICIPALITY WITH POPULATION OF 1.5 MILLION OR MORE. If a vacancy occurs on the governing body of a municipality with a population of 1.5 million or more and more than 270 days remain before the date of the next general election of members of the governing body, the governing body shall order a special election in the district in which the vacancy occurred, or in the entire municipality if the vacancy occurred in an at-large position, to fill the vacancy. The special election shall be held on an authorized uniform election date prescribed by the Election Code that occurs before the general election and that allows enough time to hold the election in the manner required by law and shall be conducted in the same manner as the municipality's general election except as provided by provisions of the Election Code applicable to special elections to fill vacancies.

Added by Acts 1993, 73rd Leg., ch. 919, Sec. 1, eff. Aug. 30, 1993.

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