

TF:amt
2/22/91

AN ORDINANCE **73215**

ORDERING AN ELECTION TO BE HELD ON MAY 4, 1991, ON A PROPOSED AMENDMENT TO THE CITY CHARTER OF THE CITY OF SAN ANTONIO PROVIDING THAT NO PERSON SHALL BE ELIGIBLE FOR ANY ELECTED POSITION WHO HAS ALREADY SERVED TWO FULL TERMS IN THAT OFFICE.

* * * * *

WHEREAS, pursuant to Section 9.004 of the Local Government Code, V.T.C.S., a petition was filed with the City Clerk on the 22nd day of January, 1991, requesting that an election be held on a proposed amendment to the City Charter; and

WHEREAS, on the 31st day of January, 1991, the City Clerk verified that the petition was signed by the required number of qualified electors as required by the Local Government Code, and, therefore, certified their petition as valid; and

WHEREAS, the petition seeks to add to the City Charter a Section 21a which will limit terms of office for elected city positions; and

WHEREAS, the City Council is required to provide for an election on the proposal at the next uniform election date that allows sufficient time to comply with the requirements of law; NOW THEREFORE:

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

SECTION 1. An election is hereby ordered to be held in the City of San Antonio on the 4th day of May, 1991, at which time there shall be submitted to the qualified voters of the City of San Antonio, the proposition to amend the Charter of the City of San Antonio by adding a Section 21a, reading as follows:

"No person shall be eligible for any elected position who has already served two full terms in that office."

SECTION 2. Said election shall be held at the same polling place locations and absentee substation voting sites as established for the previously scheduled regular City election to be held May 4, 1991.

SECTION 3. All qualified electors residing in the City of San Antonio shall be eligible to vote at said election.

SECTION 4. The foregoing amendment shall be submitted on the ballot so that each voter may vote "Yes" or "No"; and said ballots shall have written or printed thereon the following:

Shall the Charter of the City of San Antonio be amended by adding the following section:

"Article III, SECTION 21a. LIMITATION ON TERMS OF OFFICE. No person shall be eligible for any elected position who has already served two full terms in that office."

Yes

No

SECTION 5. Notice of said election shall be published in a newspaper of general circulation pursuant to law. The manner of holding said election shall be in accordance with the laws governing such elections.

PASSED AND APPROVED this 28th day of February, 1991.

Lila Cockrell
M A Y O R

ATTEST: *Norma S. Rodriguez*
City Clerk

APPROVED AS TO FORM: *Tom Finlay*
City Attorney

91-09



CITY OF SAN ANTONIO

Interdepartment Correspondence Sheet

AGENDA ITEM NO.

5 & 44RECEIVED
CITY OF SAN ANTONIO
COUNCIL OFFICETO: 1991 FEB 27 Mayor and City Council through City ManagerFROM: Lloyd Garza, City AttorneyCOPIES TO: Travis Bishop, Assistant to the City Manager; Norma Rodriguez, City Clerk; Tom Finlay, Chief Attorney/Corporate Sec.SUBJECT: Supplemental Information for Agenda Items #5 and #44DATE: February 27, 1991

You have been provided memoranda regarding Items No. 5 and No. 44 on the Council's Agenda for February 28, 1991, prepared by the City Clerk. The comments include recommendations for the addition of the two subject issues to be included on the May 4th ballot.

The purpose of this memorandum is to provide you additional background information and supplemental comments regarding the issues which will be discussed at the Council meeting from the perspective of questions which have been raised by the press in the last three days.

BACKGROUND

The scheduling calendar used for preparation of the May 4th ballot has at all times during the process been based on that calendar furnished to the City Clerk by the Secretary of State and the traditional practices of the City of San Antonio of calling any election using the actual uniform election date as the benchmark for establishing minimum time periods necessary for compliance with the other laws. This includes the sixty (60) day requirement necessary for pre-clearance under Section 5 of the Voting Rights Act.

As you are aware, the State of Texas has adopted an "extended voting period" in lieu of "absentee voting." Even though this change has been implemented by the state, neither the Secretary of State nor the City of San Antonio has amended their calendars and the traditional practice has continued.

It has come to my attention that there is a potential challenge to the calling of the election on May 4th based on non-compliance with Section 5 of the Voting Rights Act. This challenge is based, as far as I am aware, on the theory that the time period should be calculated from either (1) the date of "extended voting" or (2) the printing of the ballots.

The City staff has been of the opinion that the initial submission to the Justice Department for pre-clearance was accomplished when the general election was called, and that additional items added to the

CITY OF SAN ANTONIO

Interdepartment Correspondence Sheet

ballot were submitted as "amended" or "supplemental" submissions, if and when they were authorized by the Council during the sixty (60) day period triggered by the call of the general election.

Groups outside of the City organization are contending that the "amended" or "supplemental" submissions trigger a new sixty (60) day period or, in the alternative, that the period is incorrectly calculated.

COMMENTS

The City's method of calculating the time periods for purposes of compliance with Section 5 of the Voting Rights Act can be supported by past practice. The alternative theories which have been proposed, however, could lead to one of two possible results: (1) the Department of Justice could accept the City's supplemental submission as being timely but declare that additional time is necessary to review the implications of the ballot proposition for the Charter amendment and require postponement of consideration until it has time to make the pre-clearance determination, or (2) declare that the supplemental submission was not timely and require that the election be postponed.

The Department of Justice could, as an additional alternative, not consider the alternative theories offered and accept the City's submission as has been the practice. In the event that this were to happen, it is predictable that there would be a court challenge which would raise the Section 5 compliance. In that event, it can be anticipated that either DOJ or the court could order the postponement of the election on that issue.

While the challenge that has been publicized is focused on the charter amendment, the rationale is equally applicable to the issue of the initiative on the Applewhite Project. The date for the calling of the elections is the same. The only distinction is the question of impact on minority voting which must be addressed in pre-clearing the proposed charter amendment.

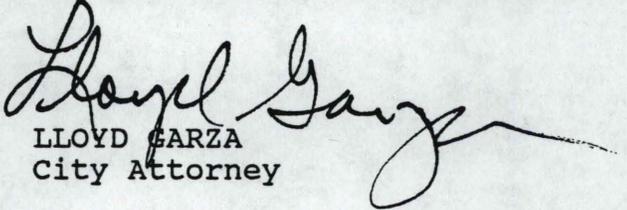
CONCLUSION

If the City Council determines that it wishes to avoid the potential challenges to the placement of the charter amendment on the ballot, it may choose to postpone its consideration until August. In order to do so, the Council would have to find that it cannot meet the time requirements for compliance with "other laws" as required unless it holds the election in August. If this rationale is used, it is applicable to the Applewhite initiative as well.

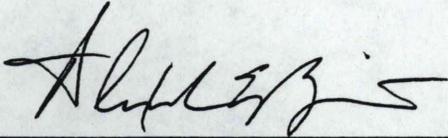
CITY OF SAN ANTONIO

Interdepartment Correspondence Sheet

Such action could cause others to seek a Writ of Mandamus, but it is unlikely that a court faced with the issue could order violation of another law.


LLOYD GARZA
City Attorney

LG:ck



Alexander E. Briseño
City Manager

CITY OF SAN ANTONIO

Office of the City Clerk

AGENDA ITEM NO. **44**

INTERDEPARTMENTAL CORRESPONDENCE SHEET

TO: Mayor and City Council

FROM: Norma S. Rodriguez, City Clerk

COPIES: Alexander E. Briseno, City Manager; Lloyd Garza, City Attorney; George Noe, Director, Management Services; file

RE: Request for ordinance - Calling a Special Election for May 4, 1991 in connection with the Regular Scheduled Election

DATE: February 20, 1991

SUMMARY:

This Ordinance will call for a Special Election to be held in conjunction with the already scheduled May 4, 1991 Regular Election.

BACKGROUND

On January 31, 1991, I reported to the City Council that the petition submitted by Mr. Van Henry Archer, et.al., requesting that an election be held to consider an amendment to the City Charter limiting terms of office to two terms was deemed sufficient as to the required number of signatures.

The election ballot will be prepared so that the voters may vote yes or no on adding the following amendment to the City Charter:

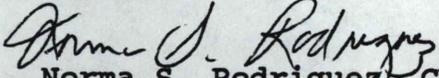
Article III, SECTION 21a. LIMITATION ON TERMS OF OFFICE.
"No person shall be eligible for any elected position who has already served two full terms in that office."

FINANCIAL DATA

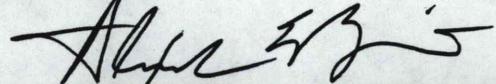
The monies to be expended for this election are appropriated in the Elections Budget.

RECOMMENDATION

I recommend that this Ordinance be approved in order to proceed with the necessary preclearance requirements of the Justice Department.


Norma S. Rodriguez, CMC
City Clerk

APPROVED:


ALEXANDER E. BRISENO, CITY MANAGER

DO NOT TYPE IN THIS SPACE	CITY OF SAN ANTONIO Request For Ordinance/Resolution	For CMO use only Date Considered _____ Consent <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Item No. <u>44</u> Ord. No. _____
Approval		
Finance	Budget	
Legal	Coordinator	

Date: February 18, 1991	Department: City Clerk	Contact Person/Phone # Norma S. Rodriguez/7253
Date Council Consideration Requested: February 28, 1991	Deadline for Action: February 28, 1991	Dept. Head Signature: <i>Norma S. Rodriguez</i>

SUMMARY OF ORDINANCE

This is to request that an ordinance be placed on the City Council agenda of February 28, 1991 to call a ~~Special Election~~ on a proposed amendment to the City Charter dealing with ~~limitation on Council terms~~. A successful petition was submitted to the City Clerk and so certified to the City Council on January 31, 1991. State law requires that the election be held on first authorized uniform election date set by the Election Code.

Council Memorandum Must Be Attached To Original

Other Depts., Boards, Committees Involved (please specify):

Contract signed by other party
 Yes No

FISCAL DATA (If Applicable)	Budgetary Implications
Fund No. <u>11</u> Amt. Expended <u>-0-</u>	Funds/Staffing Budgeted Yes <input type="checkbox"/> No <input type="checkbox"/>
Activity No. <u>80-23-01</u> SID No. _____	Positions Currently Authorized _____
Index Code <u>545020</u> Project No. _____	Impact on future O & M _____
Object Code _____	If positions added, specify class and no. _____ _____ _____

Comments:

"ITEMS FOR INDIVIDUAL CONSIDERATION"

Coordinator — White
 Legal — Green
 Budget — Canary
 Finance — Pink
 Originator — Gold

ARTS & CULTURAL AFFAIRS
AVIATION
BUILDING INSPECTIONS
BUILDING INSPECTIONS-HOUSE NUMBERING
CITY ATTORNEY
MUNICIPAL COURT
REAL ESTATE (FASSNIDGE)
REAL ESTATE (WOOD)
TRIAL SECTION
CITY MANAGER
TRAVIS BISHOP, ASST. TO THE MANAGER
CODE COMPLIANCE
CITY PUBLIC SERVICE-GENERAL MANAGER
CITY PUBLIC SERVICE-MAPS & RECORDS
CITY WATER BOARD-GENERAL MANAGER
COMMERCIAL RECORDER
COMMUNITY DEVELOPMENT (BASEMENT)
CONVENTION & VISITORS BUREAU
CONVENTION FACILITIES
DOME DEVELOPMENT OFFICE
ECONOMIC & EMPLOYMENT DEVELOPMENT (DEED)
ENVIRONMENTAL MANAGEMENT
FINANCE DIRECTOR
ASSESSOR
CONTROLLER
GRANTS
RISK MANAGEMENT
TREASURY
FIRE DEPARTMENT
HUMAN RESOURCES & SERVICES
INFORMATION RESOURCES
INTERNATIONAL RELATIONS
LIBRARY
MANAGEMENT SERVICES
MARKET SQUARE
METROPOLITAN HEALTH DISTRICT
MUNICIPAL CODE CORPORATION (PUBLICATION)
MUNICIPAL COURTS
PARKS & RECREATION
PLANNING
LAND DEVELOPMENT SERVICES
POLICE DEPARTMENT
PUBLIC INFORMATION OFFICE
PUBLIC UTILITIES
PUBLIC WORKS
CAPITAL PROJECTS MANAGEMENT
CENTRAL MAPPING
ENGINEERING
PARKING DIVISION
REAL ESTATE (BILL TOUDOUZE)
TRAFFIC ENGINEERING
PURCHASING & GENERAL SERVICES
NORMA
DICK
SUSIE V.

ITEM NO. 44
 MEETING OF THE CITY COUNCIL DATE: FEB 28 1991

MOTION BY: Hasslocher SECONDED BY: Dutmer

ORD. NO. 73215 ZONING CASE _____

RESOL. _____ PETITION _____

	ROLL CALL	AYES	NAYS
MARIA BERRIOZABAL PLACE 1		✓	
JOE WEBB PLACE 2			X
HELEN DUTMER PLACE 3		✓	
FRANK D. WING PLACE 4			X
WALTER MARTINEZ PLACE 5			X
BOB THOMPSON PLACE 6		✓	
YOLANDA VERA PLACE 7		✓	
NELSON WOLFF PLACE 8		✓	
WEIR LABATT PLACE 9		✓	
JAMES C. HASSLOCHER PLACE 10		✓	
LILA COCKRELL PLACE 11 (MAYOR)		✓	

91-09

