

RESOLUTION NO. 2013- 6

A RESOLUTION OF THE CITY OF UVALDE, TEXAS, RESINDING RESOLUTION 2012-30; REMOVING THE SUPERSEDING EFFECT OF THE RESOLUTION ON THE CITY CHARTER; RESTORING THE EFFECTIVENESS OF THE ELECTION PROCEDURES SPECIFIED IN THE CITY CHARTER; NORMALIZING THE TERMS OF OFFICE PREVIOUSLY EXTENDED BY RESOLUTION 2012-30; PROVIDING FOR SEVERABILITY; AND ORDERING OTHER MATTERS RELATED TO THE FOREGOING.

WHEREAS, the federal Help America Vote Act of 2002 (HAVA), found in 42 U.S.C. § 15481 (a)(3), mandates that - for elections in which a federal office is on the ballot – each polling place must be equipped with an electronic voting machine to facilitate voting by those with disabilities; and

WHEREAS, the Texas Legislature implemented HAVA in the 2003 regular session with the passage of House Bill 1549, but expanded the scope of the electronic voting machine requirement to apply to any election held in state, with limited exceptions; and

WHEREAS, the federal Military and Overseas Voter Act of 2009 (MOVE Act), found in 42 U.S.C. § 1973ff-1. Provided for an extended timetable in which absentee ballots be transmitted to uniformed and overseas citizens at least 45 days prior to an election; and

WHEREAS, the 82nd Texas Legislature implemented the MOVE Act in 2011 with the passage of Senate Bill 100, which overlaid the period between the state’s primary and primary runoff election upon the most commonly-used uniform election date for the municipal general election, which is the second Saturday in May; and

WHEREAS, many counties in Texas have concluded that, in even-numbered years (the years in which the state’s primary and primary runoff elections are held), they will be unable to provide to their cities – through sharing, lease, or other means – the electronic voting machines that are required by the aforementioned federal and state laws; and

WHEREAS, under Senate Bill 100, county election administrators are not required to enter into a contract to furnish election services for elections held on the May uniform election date in even-numbered years; and

WHEREAS, the City of Uvalde is a home-rule municipality and its City Charter Article II, Section 1(b), states that regular municipal elections of the City to elect a Mayor and/or City Council shall be held in May in accordance with applicable state law; and

WHEREAS, the City of Uvalde in past municipal elections has relied on and contracted with Uvalde County Office of Elections Administrator for election voting machine services; and

WHEREAS, Senate Bill 100 provided that a City’s governing body may, by resolution enacted no later than December 31, 2012, change its election date, and that such changes supersede any contrary city charter provision; and

WHEREAS, pursuant to Senate Bill 100 and other statutory and state constitutional provisions, the City of Uvalde adopted City Resolution 2012-30 on December 11, 2012, making a one-time change to its municipal election dates to November 2014, and

WHEREAS, Mayor and Council of the City of Uvalde, Texas, now resolves it to be in the City’s best interest to rescind City Resolution 2012-30 and restore the election dates and procedures set forth in the City Charter; and

WHEREAS, the rescission action is an action of equal dignity to that of the original resolution being acted upon and falls within the same authority of the City of Uvalde Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF UVALDE:

1. City Resolution 2012-30 is hereby rescinded and the City Charter's provisions for municipal election dates and procedures are hereby restore to effectiveness and no longer superseded.
2. The terms of City Council for Districts 1, 3 and 5 scheduled to begin after the municipal elections held in November 2014, and any resulting runoff election, shall be normalized to the City Charter's election cycle, that is, shall run until May 2016, as per the City Charter.
3. The current terms of the Mayor and City Council for Districts 1, 3, and 5 are hereby normalized to the City Charter's election cycle, that is, shall run until May 2014 as per the City Charter.
4. Should any section or part of this resolution be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair, or invalidate the remaining portion or portions thereof; but as to such remaining portions, the same shall be and remain in full force and effect and to this end the provisions of this resolution are declared to be severable.

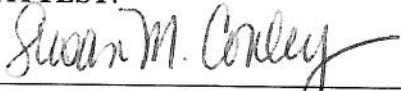
Finally enacted this 25th day of June, 2013 at a regular meeting of the City Council of the City of Uvalde, Texas at which a quorum was presented and which was held in accordance with Texas Government Code, Title 5 Subtitle A, Chapter 551 City of Uvalde.

CITY OF UVALDE

BY: 

J Allen Carnes, Mayor

ATTEST:



Susan Conley, City Secretary

APPROVED AS TO FORM:



Brian Smith, City Attorney
For the City of Uvalde, Texas