



City of Killeen

Agenda City Council

Tuesday, May 18, 2021

5:00 PM

City Hall
Council Chambers
101 N. College Street
Killeen, Texas 76541

SPECIAL CITY COUNCIL MEETING

Call to Order and Roll Call

___ Jose Segarra, Mayor	___ Jessica Gonzales
___ Debbie Nash-King	___ Steve Harris
___ Mellisa Brown	___ Ken Wilkerson
___ Nina Cobb	___ Rick Williams

Approval of Agenda

Citizen Comments

This section allows members of the public to address the Council regarding any item(s), other than a public hearing item, on the agenda for Council's consideration. Each person shall sign up in advance, may speak only one time, and such address shall be limited to three (3) minutes. The Presiding Officer may allow a one (1) minute extension, if requested at the end of the original three (3) minute period. No other extensions will be allowed.

Ordinances

1. [OR-21-008](#) Consider an ordinance ordering a second election to resolve the tie between two candidates in the Councilmember District 4 race from the May 1, 2021 election.

Attachments: [Staff Report](#)
[Ordinance](#)
[Presentation](#)

Adjournment

I certify that the above notice of meeting was posted on the Internet and on the bulletin boards at Killeen City Hall and at the Killeen Police Department on or before 5:00 p.m. on May 14, 2021.

Lucy C. Aldrich, City Secretary

The public is hereby informed that notices for City of Killeen meetings will no longer distinguish between matters to be discussed in open or closed session of a meeting. This practice is in accordance with rulings by the Texas Attorney General that, under the Texas Open Meetings Act, the City Council may convene a closed session to discuss any matter listed on the agenda, without prior or further notice, if the matter is one that the Open Meetings Act allows to be discussed in a closed session.

This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7700, City Manager's Office, or TDD 1-800-734-2989.

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City of Killeen

Legislation Details

File #: OR-21-008 **Version:** 1 **Name:** Ordinance Calling Second Election
Type: Ordinance **Status:** Ordinances
File created: 5/13/2021 **In control:** City Council Workshop
On agenda: 5/18/2021 **Final action:**
Title: Consider an ordinance ordering a second election to resolve the tie between two candidates in the Councilmember District 4 race from the May 1, 2021 election.
Sponsors: City Secretary
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Ordinance](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
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STAFF REPORT

DATE: May 18, 2021
TO: Kent Cagle, City Manager
FROM: Traci Briggs, City Attorney
SUBJECT: Order Second Election

BACKGROUND AND FINDINGS:

The Texas Election Code, Chapter 2, provides that if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held and that the ordering of the second election not be later than the 5th day after the date the automatic recount is completed. In compliance with the law, the Mayor appointed a recount committee who conducted an automatic recount on May 13, 2021, of the ballots cast in the District 4 election of May 1, 2021. In addition to any other elements required, the order must state the date of the election and the offices or measures to be voted on at the election. The election must be held not earlier than the 20th day or later than the 30th day after the date of the automatic recount. The election must be held between June 2 and June 12.

The attached ordinance has been prepared calling the election and giving notice of an election for the purpose of electing a District 4 councilmember and designating the polling places and times the polls will be open.

THE ALTERNATIVES CONSIDERED:

There are no legal alternatives.

Which alternative is recommended? Why?

Staff recommends holding a second election on _____ for the purpose of electing a District 4 councilmember.

CONFORMITY TO CITY POLICY:

This ordinance conforms to Article IX of the City Charter authorizing the calling of an election as provided for in the Texas Election Code.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

Costs to conduct this election include: judge and clerk salaries estimated at \$6,763; polling location supplies (i.e. election kits) at \$200.00; and ordering 650 ballots at \$190.00. Estimates from Bell County to produce the data sticks for each of the machines and use of their voter check-

in equipment has not been received at this time. Funds are budgeted in 010-1010-416.50-45 Election Expense to cover costs associated with the election. There was an overage of budgeted funds due to staying under the estimated budgeted amount of FY 2021 judge and clerk salaries and the Killeen Independent School District ordering its own ballots.

Is this a one-time or recurring expenditure?

One-time expenditure

Is this expenditure budgeted?

Yes

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

Yes

RECOMMENDATION:

Staff recommends City Council approve the ordinance calling for a second election to be held on _____, 2021 to elect a District 4 councilmember.

DEPARTMENTAL CLEARANCES:

City Attorney

ATTACHED SUPPORTING DOCUMENTS:

Ordinance

ORDINANCE _____

AN ORDINANCE ORDERING THE HOLDING OF A SECOND ELECTION IN THE CITY OF KILLEEN, TEXAS, FOR THE PURPOSE OF ELECTING A COUNCILMEMBER FOR DISTRICT 4; SPECIFYING THAT THE PROVISIONS OF THE SECOND ELECTION LAWS SHALL CONTROL ALL QUESTIONS PERTAINING TO SUCH ELECTION; PRESCRIBING THE CONTENTS OF THE OFFICIAL BALLOT; PROVIDING FOR COMPENSATION; DESIGNATING THE POLLING PLACES, AND PROVIDING FOR POSTING AND PUBLICATION OF NOTICE OF ELECTION AND CONTAINING MISCELLANEOUS PROVISIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

SECTION 1. That, pursuant to the laws of the State of Texas and the Charter of the City of Killeen, it is ordered by the City Council that a second election be held in the City of Killeen, Texas, on _____, 2021, for the purpose of electing from the City of Killeen a Council Member for District 4. Any reference in this ordinance hereinafter to “election day” shall mean _____, 2021.

SECTION 2. The manner of holding the election and all questions pertaining to such election shall be governed by the V.T.C.A. Election Code, and the returns shall be made and canvassed and the results declared as in other legal elections of the City of Killeen.

SECTION 3. The general election held on May 1, 2021 resulted in tie votes between two candidates in District 4 and the order of the candidates’ names on the ballot to resolve the tie vote shall be the relative order of the names on the original election ballot.

SECTION 4. The City Secretary will be the early voting clerk, who may appoint by written order one or more temporary deputies to serve as deputy early voting clerks in accordance with the applicable law. Early voting will be held _____, 2021 in the first floor lobby of the Killeen City Hall, 101 North College (mailing address: PO Box 1329, Killeen, TX 76540, Attention: Early Voting Clerk), and at the Killeen Lions Park Senior Center, 1700-B E. Stan Schlueter Loop between the hours of 8:00 a.m. and 5:00 p.m. on each day of early voting except Saturdays, Sundays, and official State or City holidays. Provided, however, that on the first and last day of early voting, the hours shall be 7:00 a.m. to 7:00 p.m. For the 2021 second election those dates shall be _____ and

_____. The City Hall location for early voting is also where ballots voted by mail should be sent.

SECTION 5. The election shall be held in the hereafter-designated polling places between the hours of 7:00 a.m. to 7:00 p.m. on the date of the election.

PRECINCT #401/402/412/413

Fire Station #9
5400 Bunny Trail

PRECINCT #404

Fire Station #7
3701 Watercrest Road

PRECINCT #405

Robert M. Shoemaker High School
3302 Clear Creek Road

SECTION 6. The City Council shall appoint presiding election judges and alternate presiding judges for the election at the precinct polling places and as the Early Voting Ballot Board to process the early voting results, provided that if neither the presiding judge nor the alternate presiding judge can serve and their inability to serve is discovered so late that it is impracticable to fill the vacancy in the normal manner, the Mayor shall have the authority and is hereby directed to appoint a replacement judge to preside at the election. The presiding election judge for each precinct shall appoint no more than two (2) election clerks in addition to the alternate presiding judge named herein to assist the judge in the conduct of the election. The presiding election judges, alternate presiding judges, and clerks shall be paid \$10.00 per hour for serving in such capacities, and the election judges and/or alternate judges shall be paid an additional \$25.00 for delivering the returns of such election to the City Secretary for proper tabulation. No presiding election judge, alternate presiding judge, or clerk shall be compensated for a period in excess of the time extending from one hour before the polls open until two hours after the polls close. The Early Voting Ballot Board shall be paid a set rate of \$50.00 for serving in such capacity that will include proper tabulation. Provided, however, that should the Early Voting Ballot Board need to reconvene to tabulate provisional ballots, they shall be paid an additional \$10.00 per hour for such services.

SECTION 7. The following positions shall be set forth on electronic ballots hereinafter provided, in substantially the following form:

CITY OF KILLEEN SECOND ELECTION
_____, 2021
OFFICIAL BALLOT

FOR COUNCILMEMBER, DISTRICT 4

Vote for One

☐ Steve Harris

☐ Michael Boyd

SECTION 8. Digital scan ballots, the Model DS200 Digital Image Scanner and ExpressVote BMD (ballot marking device) Terminals shall be used during early voting and election day.

SECTION 9. All resident qualified electors of the City District 4 shall be permitted to vote at the election.

SECTION 10. The election materials enumerated in Sec. 272.001, et seq., V.T.C.A. Election Code, shall be printed and furnished in both English and Spanish for use at each polling place on election day and for early voting.

SECTION 11. A traditional polling place set up will be used at the close of the polls on election day.

SECTION 12. Notice of election shall be given by posting substantial copies of the Notice of Election as prescribed by the Secretary of State's office in both English and Spanish at the Killeen City Hall, the official city website and at three (3) other public places in the City at least fifteen (15) days prior to the date set for the election; and substantial copies of the Notice of Election in both English and Spanish shall be one time in a newspaper of general circulation in the City, the date of publication to be not less than ten (10) days prior to the date set for the election.

SECTION 13. Returns of election shall be made by the election officers to the City Council at a meeting following the election; the returns will be canvassed and the results of the election declared as prescribed by the Election Code, V.T.C.A., of the State of Texas and the City Charter.

SECTION 16. It is officially found, determined, and declared that the meeting at which this Ordinance has been adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered and acted upon at the meeting, including this Ordinance, was given, all as required by the applicable provisions of the Texas Government Code, Sec. 551.001, *et seq.*

PASSED AND APPROVED at a special meeting of the City Council of the City of Killeen, Texas, this 18th day of May 2021, at which meeting a quorum was present, held in accordance with the provisions of the Texas Government Code, Sec. 551.001, *et seq.*

APPROVED

Jose L. Segarra, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM

Traci S. Briggs, CITY ATTORNEY



CALLING FOR A SECOND ELECTION

OR-21-008

May 18, 2021

Purpose of Election

2

- Texas Election Code, Chapter 2, provides that if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held.
- District 4 candidates Steve Harris and Michael Boyd both received 181 votes in the May 1, 2021 general election reflecting a tie.

Voting Dates Need to be Determined

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- ❑ Election must be held June 2 – June 12
- ❑ Early voting:
 - ▣ 8:00 a.m. to 5:00 p.m., Monday through Friday (no Saturday, Sunday or State holidays)
- ❑ Extended hours:
 - ▣ First and Last Days of Early Voting, 7:00 a.m. to 7:00 p.m.
- ❑ Election Day _____
 - ▣ 7:00 a.m. to 7:00 p.m.

Polling Locations

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□ Early Voting:

- ▣ City Hall
- ▣ Lions Club Park Senior Center

□ Election Day:

- ▣ Precinct 404 – Fire Station #7
- ▣ Precinct 401 / 402 / 412 / 413 – Fire Station #9
- ▣ Precinct 405 – Shoemaker High School

Ballot Form

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CITY OF KILLEEN, SECOND ELECTION, _____, 2021, OFFICIAL BALLOT

FOR COUNCILMEMBER , DISTRICT 4

Vote for One

☐ Steve Harris

☐ Michael Boyd



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Voting Equipment

DS200 Precinct Scanner and Tabulator
ExpressVote Ballot-Marking Device (ADA)

Recommendation

7

Approve an ordinance calling for a _____,
2021 second election to elect a councilmember
for District 4.