

RESOLUTION NO. 10-2011

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, CALLING A SPECIAL ELECTION/LOCAL OPTION ELECTION TO BE HELD MAY 14, 2011, SAID DATE BEING A UNIFORM ELECTION DATE, FOR THE PURPOSE OF DETERMINING WHETHER TO LEGALIZE THE FOLLOWING LOCAL OPTION ELECTION ISSUE: THE LEGAL SALE OF BEER AND WINE FOR OFF-PREMISE CONSUMPTION ONLY, AND DECLARING AN EFFECTIVE DATE.

WHEREAS, applications for petitions were made in accordance with Section 501.023(a) of the Texas Election Code, and on December 3, 2010, the City Secretary's Office issued petitions as required by such section for the signatures of qualified voters desiring that a local option election be called to permit voting for or against the legal sale of beer and wine for off-premise consumption only; and

WHEREAS, on February 1, 2011, the City Secretary received the petitions and on February 28, 2011, verified that the petition contained the requisite number of signatures from qualified voters of the City of Mesquite, Texas, requesting that a local option election be called on the issue and the City Secretary has certified to the City Council of the City of Mesquite that the number of valid signatures of qualified voters contained in said petitions is equal to or greater than 7,915, that number being 35 percent of the registered voters in the City of Mesquite who voted in the most recent gubernatorial election as determined by the Dallas County Elections Department and Kaufman County Elections Department, such certification being attached to this resolution and made a part hereof for all purposes as Exhibit "A;" and

WHEREAS, in accordance with the provisions of Section 501.033 of the Texas Election Code and the opinion of the City Attorney's office attached hereto as Exhibit "B," each of which is made a part hereof for all purposes, in addition to the date and action taken on such petitions, the names of the signers of the petitions shall be made a part of the minutes of the meeting in which the action on such petitions takes place, by way of incorporation by reference as set forth in such opinions; and

WHEREAS, Section 501.032 of the Texas Election Code provides that the governing body of the municipality shall order a local option election on the issues set out in a petition at the next regular session on or after 30 days after the date a petition for a local option election is filed with the City Secretary's Office; and

WHEREAS, Section 41.001(a) of the Texas Election Code provides that such election must be held on a uniform election date; and

WHEREAS, pursuant to Section 3.005 of the Texas Election Code, an election shall be ordered not later than the 62nd day before election day except as provided in Section 1.0006(a) of the Texas Election Code if the 62nd day is a Saturday, Sunday or holiday, the election shall be ordered the next regular business day.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the foregoing recitals are incorporated into this ordinance by reference as findings of fact as if expressly set forth herein.

SECTION 2. That the following local option election issue shall be submitted to the voters of the City of Mesquite at a special election to be held by the City of Mesquite, Texas, on May 14, 2011:

The legal sale of beer and wine  
for off-premise consumption  
only.

FOR  
  
AGAINST

SECTION 3. That notice of such election shall be published at least once not earlier than the 30th day or later than the 10th day before election day as provided in Section 4.003 of the Texas Election Code.

SECTION 4. That said election shall be administered by the Dallas County Elections Department and held in accordance with the Election Code of the State of Texas, the Statutes of the State of Texas and the Charter and Ordinances of the City of Mesquite and shall be in conformity with the procedures set forth herein.

SECTION 5. That early voting by personal appearance shall be conducted by the Dallas County Elections Department. Toni Pippins-Poole, Interim Dallas County Elections Administrator, is hereby appointed clerk of early in compliance with Section 271.006 of the Texas Election Code. Early voting will be conducted at Lakeside Activity Center, 101 Holley Park Drive, Mesquite, Texas, and at all locations as designated by the Interim Dallas County Elections Administrator (See Exhibit "C").

Early voting by personal appearance will be conducted on weekdays beginning Monday, May 2, 2011, and continuing through Friday, May 6, 2011, between 8:00 a.m. and 5:00 p.m., Saturday, May 7, 2011, between 8:00 a.m. and 5:00 p.m., Sunday, May 8, 2011, between 1:00 p.m. and 6:00 p.m., and Monday, May 9, 2011, through Tuesday, May 10, 2011, between 7:00 a.m. and 7:00 p.m. Any qualified voter for the special election may vote early by personal appearance at either the main early voting location or at any of the branch locations. The main early polling place is:

Dallas County Records Building  
509 Main Street  
Dallas, Texas 75202

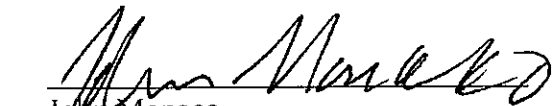
Applications for ballots by mail shall be mailed to:

Toni Pippins-Poole  
Early Voting Clerk  
Dallas County Elections Department  
2377 North Stemmons Freeway, Suite 820  
Dallas, Texas 75207

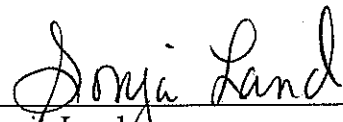
Applications for ballots by mail must be received no later than the close of business on Friday, May 6, 2011.

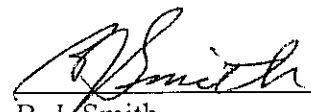
SECTION 5. That this resolution shall take effect from and after its adoption.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 7th day of March, 2011.

  
\_\_\_\_\_  
John Monaco  
Mayor

ATTEST:

  
\_\_\_\_\_  
Sonja Land  
City Secretary

  
\_\_\_\_\_  
B. J. Smith  
City Attorney

**CERTIFICATION BY CITY SECRETARY – CITY OF MESQUITE, TEXAS**

I, Sonja Land, City Secretary for the City of Mesquite, Texas, hereby certify that the City Secretary Department has verified the signatures on the **PETITION FOR LOCAL OPTION ELECTION ISSUE TO LEGALIZE**, as follows: "**The Legal Sale of Beer and Wine for Off-Premise Consumption Only.**" The petitions, requesting that a Special Election/Local Option Election be called to consider whether to legalize the sale of alcoholic beverages per the issue listed above, were received in my office on February 1, 2011.

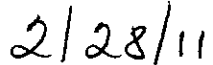
The total number of City of Mesquite voters who voted in the last Gubernatorial Election (November 2010) as reported by the Dallas County Elections Department and Kaufman County Elections Department, and the number of signatures of registered voters required to call a Local Option Election, are as follows:

Dallas County	22,590	x	35%	=	7,907
Kaufman County	23	x	35%	=	+ 8
Total					7,915

It has been determined that the number of signatures of qualified voters required for the petition to be sufficient is **7,915**. I certify that all signatures were verified and a number of signatures in an amount greater than 7,915 were determined to be qualified voters on the petition in order for the City Council to consider calling a Special Election/Local Option Election to be held May 14, 2011.

**CITY OF MESQUITE, TEXAS**

  
\_\_\_\_\_  
Sonja Land, City Secretary

  
\_\_\_\_\_  
Date

## ***LEGAL OPINION***

March 1, 2011

To: Sonja Land, City Secretary  
From: B. J. Smith, City Attorney  
Subject: Requirement of Election Code Section 501.033

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**Question Presented:** Section 501.033, relating to petitions for local option elections, requires, in part, that the names of the signers of the petitions be entered in the minutes of the governing body. One petition that has been filed with the City seeking a local option election contains approximately 2,116 legal-sized pages of signatures. Is there an option for meeting the requirement of §501.033 other than including the entirety of the petition in the minutes of the City Council meeting?

**Short Answer:** Yes.

### **Discussion and Legal Rational**

Section 501.033 of the Texas Election Code, which became effective September 1, 2005, added a requirement relating to petitions for local option elections as follows:

Section 501.033. Record in Minutes.

The date a petition is presented, the names of the signers, and the action taken with respect to the petition shall be entered in the minutes of the commissioners court<sup>1</sup>.

In response to an inquiry from Brazoria County involving petitions containing 7,000 pages, the Texas Secretary of State's office provided an opinion stating that the County had two options to choose from to comply with §501.033. The first was to incorporate the petition by reference into the minutes of the governing body<sup>2</sup> and retain the petition for the period of time record retention requires keeping minutes. The second option was to attach a copy of the petition containing all of the signatures to the minutes of the meeting. In response to your inquiry to the Secretary of State concerning compliance with §501.033, the Secretary of State's office responded by reiterating the language from their above referenced opinion to Brazoria County, cautioning that the options state in that opinion were to assist entities dealing with an extremely large petition.


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<sup>1</sup> Because we are a municipality that is located in more than one county, a reference to the commissioners court is considered to refer to the governing body of the municipality (Election Code §501.109(b)(2)).

<sup>2</sup> The degree of specificity of the reference was left up to the county.

### Conclusion

The statutory requirement of §501.033 is that the names of the signers of a petition for a local option election be entered in the minutes of the governing body. The Secretary of State has opined that where entities are dealing with an extremely large petition, compliance may be accomplished by reference to the petition in the minutes. While the size of the local option election petition submitted to the City does not equal the 7,000 per petition filed with Brazoria County, 2,116 legal-sized pages of signatures is arguably an extremely large number of pages to physically incorporate into the minutes of a meeting. Thus, the City may follow the option provided for in the opinion of the Secretary of State to incorporate the petition by reference. The reference in the minutes should describe the petition in as great a detail<sup>3</sup> as possible and state where the petition will be placed and filed, and when they may be viewed. The reference should also provide that the petition will be maintained for the period of time record retention requires keeping the minutes.

  
B. J. Smith  
City Attorney

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<sup>3</sup> For example, the ballot issue applicable to the petition, the dates circulated, the number of signatures, the number verified and any other information descriptive to the petition.

EXHIBIT "C"  
**DATES AND TIMES OF EARLY VOTING FOR THE JOINT  
ELECTION TO BE HELD ON SATURDAY, MAY 14, 2011**  
**Fechas y horarios de votación adelantada para la elección  
conjunta que se celebrará el sábado, 14 de mayo 2011**

01	ADDISON FIRE STATION #1	4798 AIRPORT PKWY	ADDISON	75001
02	AUDELIA ROAD LIBRARY	10045 AUDELIA ROAD	DALLAS	75238
03	BALCH SPRINGS CITY HALL	3117 HICKORY TREE	BALCH SPRINGS	75180
04	CARROLLTON/FR BR ISD ADM	1445 N PERRY ROAD	CARROLLTON	75006
05	CEDAR HILL GOVERNMENT CTR	285 UPTOWN BLVD	CEDAR HILL	75104
06	COCKRELL HILL CITY HALL	4125 W CLARENDON	DALLAS	75211
07	COPPELL TOWN CENTER	255 PARKWAY BLVD	COPPELL	75019
08	CROSSWINDS HIGH SCHOOL	1100 N CARRIER PKWY	GRAND PRAIRIE	75050
09	DALLAS CITY HALL	1500 MARILLA STREET	DALLAS	75201
10	DISD ADMINISTRATION BLDG	3700 ROSS AVE	DALLAS	75204
11	DESOTO TOWN CENTER LIBRARY	211 E PLEASANT RUN	DESOTO	75115
12	DUNCANVILLE LIBRARY	201 JAMES COLLINS	DUNCANVILLE	75116
13	FARMERS BRANCH CITY HALL	13000 WILLIAM DODSON	FARMERS BR	75234
14	FRANKFORD TOWNHOMES	18110 MARSH LANE	DALLAS	75287
15	FRETZ PARK LIBRARY	6990 BELT LINE RD	DALLAS	75254
16	GARLAND CITY HALL	200 N FIFTH	GARLAND	75040
17	GARLAND ISD STUDENT SVCS CTR.	720 STADIUM DRIVE	GARLAND	75040
18	GARNER ELEMENTARY	145 POLO ROAD	GRAND PRAIRIE	75052
19	GRAUWYLER PARK REC CTR	7780 HARRY HINES BLVD	DALLAS	75235
20	HARRY STONE REC CTR	2403 MILLMAER DRIVE	DALLAS	75228
21	HEBRON & JOSEY LIBRARY	4220 N JOSEY LANE	CARROLLTON	75010
22	HIGHLAND HILLS LIBRARY	3624 SIMPSON STUART	DALLAS	75241
23	HILLCREST CHURCH	12123 HILLCREST	DALLAS	75230
24	HUTCHINS CITY HALL	321 N. MAIN ST	HUTCHINS	75141
25	IRVING ARTS CENTER	3333 N MACARTHUR	IRVING	75062
26	IRVING CITY HALL	825 W IRVING BLVD	IRVING	75060
27	JOSEY RANCH LIBRARY	1700 KELLER SPRINGS	CARROLLTON	75006

EXHIBIT "C"

28	LAKESIDE ACTIVITY CENTER	101 HOLLEY PARK DR	MESQUITE	75149
29	LANCASTER VET. MEMO. LIBRARY	1600 VETERANS MEMORIAL PKWY	LANCASTER	75134
30	MARSH LANE BAPTIST CHURCH	10716 MARSH LANE	DALLAS	75229
31	MARTIN LUTHER KING CORE BLDG	2922 MLK BLVD	DALLAS	75215
32	MARTIN WEISS REC CTR	1111 MARTINDELL	DALLAS	75211
33	MOUNTAIN CREEK LIBRARY	6102 MOUNTAIN CREEK PKWY	DALLAS	75249
34	OAK CLIFF SUB COURTHOUSE	410 S BECKLEY	DALLAS	75203
35	OUR REDEEMER LUTHERAN CHURCH	7611 PARK LANE	DALLAS	75225
36	PLEASANT OAKS REC CENTER	8701 GREENMOUND	DALLAS	75227
37	RECORDS BUILDING	509 MAIN STREET	DALLAS	75202
38	RENNER-FRANKFORD LIBRARY	6400 FRANKFORD ROAD	DALLAS	75252
39	REVERCHON REC CTR	3505 MAPLE AVENUE	DALLAS	75219
40	RICHARDSON CIVIC CENTER	411 W ARAPAHO ROAD	RICHARDSON	75080
41	RICHARDSON ISD ADMIN BLDG	400 S GREENVILLE AVE	RICHARDSON	75081
42	ROWLETT CITY HALL ANNEX	4004 MAIN STREET	ROWLETT	75088
43	SACHSE CITY HALL	3815-B SACHSE ROAD	SACHSE	75048
44	SEAGOVILLE CITY HALL	702 N. HWY 175	SEAGOVILLE	75159
45	SOUTH OAK CLIFF HIGH SCHOOL	3601 S. MARSALIS	DALLAS	75216
46	ST LUKE COMMUNITY LIFE CTR	6211 EAST GRAND AVENUE	DALLAS	75223
47	SUNNYVALE TOWN HALL	127 N COLLINS ROAD	SUNNYVALE	75182
48	VALLEY RANCH LIBRARY	401 CIMARRON TRAIL	IRVING	75063
49	VETERANS ADMIN MEDICAL CTR	4500 S LANCASTER ROAD	DALLAS	75216
50	WEST DALLAS MULTIPURPOSE	2828 FISHTRAP	DALLAS	75212
51	WILMER COMMUNITY CENTER	101 DAVIDSON PLAZA	WILMER	75172

**DATES AND TIMES OF EARLY VOTING**  
**FECHAS Y HORARIOS DE VOTACIÓN ADELANTADA**

May 02 (MONDAY THROUGH FRIDAY) May 06	8 AM TO 5 PM
2 de mayo (lunes a viernes) 6 de mayo	8 a 5 p
May 07 (SATURDAY)	8 AM TO 5 PM
7 de mayo (sábado)	8 a 5 p
May 08 (SUNDAY)	1 PM TO 6 PM
8 de mayo (domingo)	1 p 6 p
May 09 (MONDAY AND TUESDAY) May 10	7 AM TO 7 PM
9 de mayo (lunes y martes) 10 de mayo	7 a 7 p



EXHIBIT "C"  
TEMPORARY BRANCH LOCATION

HIGHLAND PARK ISD ADMIN BLDG. 7015 WESTCHESTER DR. HIGHLAND PARK 75205	
May 2(Monday through Friday) May 6	8am to 4:30pm
2 de mayo (lunes a viernes) 6 de mayo	8 a 4:30 p
May 09 (Monday and Tuesday) May 10	7am to 7pm
9 de mayo (lunes y martes) 10 de mayo	7 a 7 p

SUNNYVALE ISD MOBILE VOTING DATES AND LOCATIONS

TUESDAY, MAY 3, 2011 - 6:00PM TO 9:00PM

SUNNYVALE ELEMENTARY SCHOOL 417 E. TRIPP RD SUNNYVALE 75182

FRIDAY, MAY 6, 2011 – 6:00PM TO 9:00PM

SUNNYVALE ELEMENTARY SCHOOL 417 E. TRIPP RD SUNNYVALE 75182

MONDAY, MAY 9, 2011 – 6:00PM TO 9:00PM

SUNNYVALE MIDDLE SCHOOL 216 COLLINS RD SUNNYVALE 75182

RICHARDSON ISD MOBILE VOTING DATES AND LOCATIONS

TUESDAY, MAY 3, 2011 – 4:00PM TO 9:00PM

RICHARDSON HIGH SCHOOL 1250 W BELTLINE RD RICHARDSON 75080

THURSDAY, MAY 5, 2011 – 4:00PM TO 9:00PM

JJ PEARCE HIGH SCHOOL 1600 N COIT RD RICHARDSON 75080

MONDAY, MAY 9, 2011 – 4:00PM TO 9:00PM

LV BERKNER HIGH SCHOOL 1600 E SPRING VALLEY RD RICHARDSON 75081

TUESDAY, MAY 10, 2011 – 4:00PM TO 9:00PM

LAKE HIGHLANDS HIGH SCHOOL 9449 CHURCH RD DALLAS 75238