

ORDINANCE NO. 2018-298

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHOREACRES, TEXAS, CANCELLING THE SPECIAL ELECTION (IDENTIFIED IN ORDINANCE NO. 2018-295) TO BE HELD ON THE 5TH DAY OF MAY, 2018, FOR THE PURPOSE OF CONSIDERING A BALLOT PROPOSITION ON WHETHER THE CITY OF SHOREACRES, TEXAS, SHALL BE CONSOLIDATED WITH THE CITY OF LA PORTE, TEXAS DUE TO SECTION 61.003 TEXAS LOCAL GOVERNMENT CODE NOT BEING SATISFIED AND FINDING THAT THE SPECIAL ELECTION IS A MOOT MEASURE UNDER SECTION 2.081 TEXAS ELECTION CODE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the City of Shoreacres, Texas (hereinafter referred to as “City 1”), and the City of La Porte, Texas (hereinafter referred to as “City 2”), are contiguous municipalities located within Harris County, Texas; and

WHEREAS, Chapter 61 of the Texas Local Government Code, as amended, contains the procedures for the consolidation of two or more contiguous municipalities; and

WHEREAS, on the 3rd day of January, 2018, City 1 received petitions signed by the requisite number of qualified voters of its municipality requesting an election be ordered to consider the consolidation of the municipalities; and

WHEREAS, the city administrator under section 277.002 of the Election Code verified the validity of the petition signatures and confirmed that the petition was signed by the number of qualified voters that equals 15 percent or more of the total vote cast at the most recent general election for municipal officials in the municipality; and

WHEREAS, the number of verified valid signatures on the petition was 106. The number of total votes cast at the most recent general election (May 6, 2017) for municipal officials in the municipality was 361. The percentage equals 29 percent, which exceeds 15%.

WHEREAS, Section 61.004(a) of the Texas Local Government Code provides that the governing body of the municipality holding an election shall order the election within 45 days after the date the petition is filed; and

WHEREAS, Section 61.004(e) of the Texas Local Government Code provides that the consolidation election shall be held on the first authorized uniform election date prescribed by the Texas Election Code that occurs on or after the 30th day after the date the election is ordered; and

WHEREAS, Section 41.001(a) of the Texas Election Code establishes the 5th day of May, 2018, as the first uniform election date for the City of Shoreacres, Texas, following the City 1;

WHEREAS, City 1 passed Ordinance 2018-295 on January 22, 2018 ordering the special consolidation election as a result of the filed petition in City1.

WHEREAS, section 61.003 of the Texas Local Government Code requires at least 100 qualified voters of both City 1 and City 2 to petition the governing bodies of their respective municipalities to order a consolidation election.

WHEREAS, it has been confirmed by City 1 that City 2 did not timely receive a signed petition from its qualified voters on February 16, 2018 (the deadline for petitioning for the consolidation proposition to appear on the May 2018 election ballot).

WHEREAS, a procedural requirement in section 61.003 of the Texas Local Government Code has not been satisfied.

WHEREAS, section 2.081(a) of the Texas Election Code states “if an authority (municipality) that orders an election on a measure determines that the action to be authorized by the voters may not be taken, regardless of the outcome of the election, the authority may declare the measure moot and remove the measure from the ballot.”

WHEREAS, section 2.081(b) of the Texas Election Code states “if a measure is declared moot under this section and is removed from the ballot, the authority holding the election shall post notice of the declaration during early voting by personal appearance and on election day, at each polling place that would have been used for the election on the measure.”

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Shoreacres, Texas, that:

Section 1.

City 1 hereby declares that all terms of section 61.003 of the Texas Local Government Code are required to be met in order for a special election for consolidation to be acted on by the voters of City 1 and City 2.

City 1 hereby declares that section 61.003 of the Texas Local Government Code was not satisfied in that City 2 failed to timely receive a signed petition from its qualified voters by February 16, 2018 (the deadline for petitioning for the consolidation proposition to appear on the May 2018 election ballot).

City 1 hereby declares that section 2.081 of the Texas Election Code applies.

City 1 hereby declares that the special election for consolidation is a moot measure under section 2.081(a) of the Texas Election Code in that the action to be authorized by the voters may not be taken (regardless of the outcome of the election) due to City 2 not timely receiving a required petition from at least 100 qualified voters under section 61.003 of the Texas Local Government



Christopher Gregg
City Attorney

Code.

As a result, City 1 declares the special election for consolidation canceled.

If City 1 approves this Ordinance and the special consolidation election is declared a moot measure under section 2.081(b) of the Texas Election Code, then City 1 shall post notice of the declaration during early voting by personal appearance and on election day, at each polling place that would have been used for the election on the measure.

Section 2. Severability Clause.

If any word, section, article, phrase, paragraph, sentence, clause, or portion of this ordinance or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this ordinance despite such invalidity which remaining portions shall remain in full force and effect.

Section 3. Effective Date.

This Ordinance shall take effect from and after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Shoreacres, Texas, on this the 26th day of February, 2018.



Mayor has returned
this document without
Signature

Kimberly Sanford, Mayor

ATTEST:

Debbie C. Nesbitt
City Secretary

M/2		Yea	Nay	N/V	Absent
	K. Sanford	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	R. Bowles	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	R. Hoskins	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>M</u>	D. Jennings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>2</u>	J. McKown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	F. Ramos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Passed / ~~Failed~~ Debbie C. Nesbitt

Debbie Nesbitt
City Secretary - Date

2-26-18

APPROVED AS TO FORM: