

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, CANVASSING THE RETURNS OF THE GENERAL ELECTION HELD IN THE CITY OF MANSFIELD, TEXAS ON NOVEMBER 3, 2020, FOR THE PURPOSE OF ELECTING A COUNCIL MEMBER, PLACE 6; AND A COUNCIL MEMBER, PLACE 7; AND CANVASSING THE RETURNS OF THE SPECIAL ELECTION HELD FOR THE PURPOSE OF ELECTING A MAYOR, PLACE 1; AND A COUNCIL MEMBER, PLACE 2 AND DECLARING THAT THE AMENDMENTS TO THE CHARTER ARE ADOPTED; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on January 27, 2020, the City Council of the City of Mansfield, Texas, (the “City Council”), duly called a general and special election to be held on May 2, 2020; and,

WHEREAS, on March 18, 2020, Governor Greg Abbott issued a proclamation authorizing political subdivisions that would otherwise hold elections on May 2, 2020, to move their general elections for 2020 to November 3, 2020, due to public health and safety concerns related to the novel coronavirus (COVID-19); and,

WHEREAS, on March 23, 2020, the City Council of the City of Mansfield, adopted Resolution No. RE-3640-20 to postpone the May 2, 2020, General and Special Elections to November 3, 2020, in order to protect the health and safety of the citizens of the City of Mansfield; and,

WHEREAS, on August 10, 2020, the City Council of the City of Mansfield, Texas, (the “City Council”), duly called a special election to be held on November 3, 2020, for the purpose of amending the City Charter; and,

WHEREAS, the election returns of the ballots cast in said general and special elections are hereby canvassed for the positions of Council Member, Place 6; Council Member, Place 7; Mayor, Place 1 (unexpired term); Council Member, Place 2 (unexpired term); and the proposed City Charter propositions; and,

WHEREAS, after duly canvassing said returns from each precinct, the City Council finds that the total votes cast at said elections for the candidates for said offices and the proposed City Charter propositions are as follows:

<u>COUNCIL MEMBER, PLACE 6</u>	<u>Number of Votes Received</u>	<u>Percentage of Votes Received</u>
Philip DeGroat	11,343	49.20%
Todd Tonore	11,710	50.80%
<u>COUNCIL MEMBER, PLACE 7</u>	<u>Number of Votes Received</u>	<u>Percentage of Votes Received</u>
Larry Broseh	20,418	100.00%

<u>MAYOR, PLACE 1</u> <i>(Unexpired Term)</i>	<u>Number of Votes Received</u>	<u>Percentage of Votes Received</u>
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George Fassett	4,440	15.65%
Brent Newsom	8,532	30.07%
Terry Moore	4,211	14.84%
Michael Evans	11,187	39.43%

<u>COUNCIL MEMBER, PLACE 2</u> <i>(Unexpired Term)</i>	<u>Number of Votes Received</u>	<u>Percentage of Votes Received</u>
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Skeeter Pressley	6,308	25.24%
Tamera J. Bounds	10,801	43.21%
Scot Bowman	7,887	31.55%

PROPOSITION A

Shall the Mansfield Home Rule Charter be amended to delete matters contrary to or superseded by state law with regard to qualifications for candidates for City Council, the Department of Taxation and amending the Charter by deleting Subsection 3.02(c) and Section 9.15 and revising Section 12.12?

	<u>Number of Votes Received</u>	<u>Percentage of Votes Received</u>
For	16,177	64.37%
Against	8,956	35.63%

PROPOSITION B

Shall the Mansfield Home Rule Charter be amended to delete the procedure for appointing the Mayor Pro Tem, thereby allowing the Council to establish the procedure by revising Subsection 3.06(b)?

	<u>Number of Votes Received</u>	<u>Percentage of Votes Received</u>
For	14,115	56.51%
Against	10,861	43.49%

PROPOSITION C

Shall the Mansfield Home Rule Charter be amended to require one reading for the approval of all ordinances save and except ordinances changing a zoning classification or approving a planned

development zoning, which shall require at least two readings by revising Section 3.13(c)?

	<u>Number of Votes Received</u>	<u>Percentage of Votes Received</u>
For	16,471	64.97%
Against	8,881	35.03%

PROPOSITION D

Shall the Mansfield Home Rule Charter be amended to provide that the City Manager may be removed by an affirmative vote of four (4) members of the City Council instead of five (5) by revising Subsection 6.01(b)?

	<u>Number of Votes Received</u>	<u>Percentage of Votes Received</u>
For	14,571	56.82%
Against	11,073	43.18%

PROPOSITION E

Shall the Mansfield Home Rule Charter be amended to establish the duties of the City Secretary, provide that the City Council appoint the City Attorney and the City Secretary, and may remove each by an affirmative vote of four (4) members by adding Section 6.03 and revising Section 8.05?

	<u>Number of Votes Received</u>	<u>Percentage of Votes Received</u>
For	16,939	68.33%
Against	7,851	31.67%

PROPOSITION F

Shall the Mansfield Home Rule Charter be amended to require members of the Planning and Zoning Commission be residents, but need not own property in Mansfield and to delete the requirement that a member resign their position before running for City Council by revising Section 10.01?

	<u>Number of Votes Received</u>	<u>Percentage of Votes Received</u>
For	14,108	55.46%
Against	11,332	44.54%

PROPOSITION G

Shall the Mansfield Home Rule Charter be amended to provide that a quorum of the City Council shall be four (4) Council Members, that three (3) members shall be required to call a special meeting or to approve an emergency ordinance by revising Sections 3.09 and 3.14?

	<u>Number of Votes Received</u>	<u>Percentage of Votes Received</u>
For	17,888	71.98%
Against	6,964	28.02%

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

SECTION 1.

The City Council finds that the results of the general and special election as set forth above are true and correct and the canvass of votes is hereby approved.

SECTION 2.

A tabulation of the results for each election precinct within the City of Mansfield, Texas, for said election is attached as Exhibit "A" and made a part hereof.

SECTION 3.

It is hereby determined that in the race of Council Member, Place 6, Todd Tonore received the majority of votes and is hereby declared elected to such office.

SECTION 4.

It is hereby determined that in the race of Council Member, Place 7, Larry Broseh was an unopposed candidate and is hereby declared elected to such office.

SECTION 5.

It is hereby determined that in the race of Mayor, Place 1, no candidate received a majority of votes cast for the position, and that a runoff election is required between the two candidates receiving the highest number of votes, Brent Newsom and Michael Evans.

SECTION 6.

It is hereby determined that in the race of Council Member, Place 2, no candidate received a majority of votes cast for the position, and that a runoff election is required between the two candidates receiving the highest number of votes, Tamera J. Bounds and Scot Bowman.

SECTION 7.

DECLARATION FOR AMENDMENTS TO THE HOME RULE CHARTER

The City Council of the City of Mansfield hereby declares that the following amendments to the Home Rule Charter are adopted:

Proposition A

Section 3.02 – Qualifications, of the Home Rule Charter of the City of Mansfield is amended to read as follows:

SEC. 3.02. QUALIFICATIONS.

The Mayor and each member of the City Council shall be:

(a) A resident citizen of the City of Mansfield for a period of not less than twelve (12) months immediately preceding his election of a resident of any of the territory not formerly within the corporate limits of the City but which is annexed under the provisions of this Charter for twelve (12) months preceding his election;

(b) A qualified voter of the State of Texas.

If the Mayor or any Councilman fails to maintain the foregoing qualification, shall be absent without valid excuse from three (3) consecutive regularly scheduled meetings, or shall fail to maintain an eighty (80) percent attendance record for each elected year without valid excuse, the Council must declare a vacancy at its next regular meeting and shall fill the vacancy as set forth in this Charter.

Section 9.15 – Department of Taxation, of the Home Rule Charter of the City of Mansfield is hereby deleted.

Section 12.12 – Amending the Charter, of the Home Rule Charter of the City of Mansfield is amended to read as follows:

SEC. 12.12. AMENDING THE CHARTER.

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Texas Local Government Code, as now or hereafter amended.

Proposition B

Section 3.06 – Mayor and Mayor Pro Tem, of the Home Rule Charter of the City of Mansfield is amended to read as follows:

SEC. 3.06. MAYOR AND MAYOR PRO TEM.

(a) *Mayor*: The Mayor shall preside at meetings of the Council, shall be recognized as head of the City Government for all ceremonial purposes and by the Governor for purposes of military law, but shall have no administrative duties.

(b) *Mayor Pro Tem*: There shall be appointed a Mayor Pro Tem who shall perform all the duties of the Mayor in the absence or disability of the Mayor.

(c) *Emergency powers of the Mayor:* The emergency powers of the Mayor shall be set forth by State law and local ordinances.

Proposition C

Section 3.13 – Ordinances in General, of the Home Rule Charter of the City of Mansfield is amended to read as follows:

SEC. 3.13. ORDINANCES IN GENERAL.

(a) *Action requiring an ordinance:* In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance.

(1) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VII;

(2) Levy taxes;

(3) Regulate the rates charged for its services by a public utility;

(4) Convey, lease or authorize the conveyance or lease of any lands of the City;

(5) Authorize the borrowing of money;

(6) Adopt, with or without amendment, ordinances proposed under the initiative power;

(7) Grant, renew, extend or abolish a franchise. Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution; and,

(8) Fees and all other charges shall be passed by ordinance.

(b) *Form:* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause of every ordinance shall be, "Be it ordained by the City Council of the City of Mansfield..." The subject of any ordinance shall be clearly stated in its title. Any ordinance which repeals or amends an existing ordinance shall state sections and subsections to be amended or repealed.

(c) *Procedure for adoption:* An ordinance may be introduced at any regular or special meeting of the Council in accordance with rules established by the Council. No ordinance shall be introduced for action except as provided in Section 3.14 (Emergency Ordinances) unless such ordinance has been posted by title on the agenda for which action is to occur in accordance with State law. Ordinances shall be considered and approved on one reading by the City Council save and except ordinances changing a zoning classification or approving a planned development zoning classification. Ordinances changing a zoning classification or approving a planned development zoning classification shall be considered and approved on two separate readings. The City Attorney shall approve all ordinances adopted by the Council as to legality thereof or shall file with the City

Secretary written legal objections thereto. Every ordinance shall be authenticated by the signature of the Mayor or Mayor Pro Tem and the City Secretary.

Except as otherwise provided by law or this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine or forfeiture for any violation of any of its provisions, and of every other ordinance required by law or this Charter to be published by causing the said ordinance, or its caption and penalty, to be published at least one (1) time within ten (10) days after final passage thereof in a weekly or daily newspaper in general circulation in the City of Mansfield. The affidavit of such publication by the publisher of such newspaper taken before any officer authorized to administer oaths and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Such ordinances shall take effect ten (10) days after the date of such publication provided that any penal ordinance shall take effect immediately upon its publication except as provided in Section 3.14.

A copy of every ordinance and resolution as codified shall be maintained and available for free reference in the office of the City Secretary.

Proposition D

Section 6.01 – City Manager, of the Home Rule Charter of the City of Mansfield is amended to read as follows:

SEC. 6.01. CITY MANAGER.

(a) *Appointment and qualification:* The Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the Council for the administration of all the affairs of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience, ability and character, and need not when appointed, be a resident of the City. However, he shall become a resident of the City within six (6) months after appointment unless otherwise specifically excused by the Council.

(b) *Term and salary:* The City Manager shall serve at the will and pleasure of the Council and may be removed from office in accordance with the following procedures:

(1) The Council may by the affirmative vote of four (4) members suspend the manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the manager.

(2) Within five (5) days after a copy of the resolution is delivered to the manager, he may file with the Council a written request for a public hearing. This hearing shall be held at the Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The manager may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of four (4) at any time after five (5) days from the

date when a copy of the preliminary resolution was delivered to the manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the Council in suspending or removing the City Manager shall be final; it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the Council. In case of the absence or disability of the City Manager, the Council may designate some qualified person to perform the duties of the office during such absence or disability. The City Manager shall receive such compensation as may be fixed by the Council.

(c) *Powers and duties:* The powers herein conferred upon the City Manager shall include but shall not be limited to the following:

- (1) To appoint and remove any officer or employee of the City except those officers and employees whose appointment or election is otherwise provided for by law or this Charter.
- (2) Prepare and submit the annual budget and a five (5) year capital improvement program to the Council.
- (3) Submit to the Council monthly a report on the finances and administrative activities of the City and a complete report as of the end of each fiscal year.
- (4) Provide each Department Head with a financial report of his department monthly.
- (5) Attend all meetings of the Council except when excused by Council.
- (6) To perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with provisions of this Charter.

Proposition E

Section 6.03 – City Secretary, of the Home Rule Charter of the City of Mansfield is hereby added:

SEC. 6.03. CITY SECRETARY

(a) *Selection.* The city council shall appoint a person who is an officer of the city and who shall have the title of city secretary. The city secretary holds office at the will and pleasure of the city council and the city council has sole authority to remove the city secretary.

(b) *Responsibilities.* The city secretary shall:

- (1) give notices of city council meetings;
- (2) keep the journal of the city council's proceedings;

(3) authenticate by the city secretary's signature, record in full, and index all ordinances and resolutions; and

(4) perform such other duties as the city council assigns, as provided for elsewhere in this Charter, and as established by state law.

Section 8.05 – City Attorney, of the Home Rule Charter of the City of Mansfield is amended to read as follows:

SEC. 8.05. CITY ATTORNEY.

The City Council shall appoint a competent and duly qualified and licensed attorney in the State of Texas who shall serve as the City Attorney.

(a) The City Attorney shall be required to:

(1) Serve as the legal advisor to the Council and to the City Manager;

(2) Represent the City in litigation and legal proceedings;

(3) Review and provide opinions as requested by the Council or by the City Manager on contracts, legal instruments, and ordinances of the City.

(b) *Limitation:* This Section shall not be a constraint upon the right of the Council to retain special counsel at any time that the Council may deem necessary and appropriate.

(c) *Compensation:* Compensation shall be fixed by contract with approval of Council or by appointment subject to the approval of Council.

Proposition F

Section 10.01 – Planning and Zoning, of the Home Rule Charter of the City of Mansfield is amended to read as follows:

SEC. 10.01. THE PLANNING AND ZONING COMMISSION.

There shall be established a Planning and Zoning Commission, which shall consist of seven (7) residents from the City of Mansfield. The members of said Commission shall be appointed by the Council for a term of two (2) years. Three (3) members of the Planning and Zoning Commission shall be so appointed each odd-numbered year and for (4) members shall be appointed each even-numbered year. The Commission shall elect a chairman from among its membership and shall meet not less than once each month. Vacancies and unexpired terms shall be filled by the Council for the remainder of the term. A majority of the members shall constitute a quorum. Members of the Commission may be removed with the consent of a majority of the Council and for cause set forth in writing. A member may request a public hearing within five (5) days of notice of removal by the

Council, said hearing to be scheduled not less than ten (10) nor more than thirty (30) days after said notice.

The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation.

Proposition G

Section 3.09 – Meetings and Procedures, of the Home Rule Charter of the City of Mansfield is amended to read as follows:

SEC. 3.09. MEETINGS AND PROCEDURE.

(a) *Meetings:* Council meetings shall be held at City Hall unless justification is announced and posted as required herein and the Council shall meet regularly at least twice in every month at such time as the Council may prescribe by rule. Meetings may be held on the call of the Mayor or three (3) members and whenever practicable, upon no less than seventy-two (72) hours notice to each member except that emergency meetings may be called by the Mayor or Mayor Pro Tem in the Mayor's absence or three (3) members after notice has been posted two (2) hours, or as otherwise required by law, provided, however, that all meetings shall be open to the public and public notice thereof given as required by the statutes of Texas, as now or hereafter amended.

(b) *Minutes and rules:* The Council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings in accordance with State law. The minutes shall be a public record.

(c) *Voting:* Every Councilperson and the Mayor must vote on all issues unless there is a declared and recorded conflict of interest. The minutes shall record those voting aye, those voting nay and those abstaining. Four (4) members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. In case of a 3-2 vote with five (5) people on any issue, item would automatically be scheduled for re-consideration for the next Council meeting. No action by the Council can be passed or failed unless four (4) of the Council members present at the meeting vote for its passage or failure.

Section 3.14 – Emergency Ordinances, of the Home Rule Charter of the City of Mansfield is amended to read as follows:

SEC. 3.14. EMERGENCY ORDINANCES.

The Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property, or the public peace in accordance with State law. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money, except as provided in Article IX. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designed in the title as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists

and describing it in clear and specific terms. An emergency ordinance can be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of three (3) members of the Council shall be required for adoption. After adoption, the ordinance shall be published as required for other adopted ordinances, but may become effective immediately upon enactment.

SECTION 8.

The official returns shall be delivered to the City Secretary, who is hereby directed to enter into the election register the tabulations of the votes cast for each candidate to preserve such tabulations as required by law.

SECTION 9.

The City Secretary is hereby ordered to place a copy of this resolution in the records of the City, as soon as practicable thereafter, the Mayor or the City Manager shall certify to the Secretary of State an authenticated copy of the charter or amendments under the city's seal showing the approval of the voters.

SECTION 10.

This resolution shall be effective from and after its passage.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD THIS 13th DAY OF NOVEMBER, 2020.

David L. Cook, Mayor

ATTEST:

Susana Marin, City Secretary