

**NOTICE IS HEREBY GIVEN THAT
THE CITY COUNCIL OF THE CITY OF LAKEWAY, TRAVIS COUNTY, TEXAS
WILL MEET IN SPECIAL SESSION
WEDNESDAY, MAY 16, 2018, 2:00 P.M.
LAKEWAY CITY HALL, 1102 LOHMANS CROSSING, LAKEWAY, TEXAS 78734**

AGENDA

1. Establish Quorum and Call to Order.
2. Pledge of allegiance.
3. **Consideration and Action** on Ordinance No. 2018-05-16-01 addressing the terms of office for Mayor and City Council members as a result of Ordinance 2018-04-23-01.
4. **Approve Resolution** No. 2018-05-16-01 canvassing the returns and declaring the results of the City of Lakeway general election held on May 5, 2018 and other matters in connection therewith.
5. **Approve Resolution** No. 2018-05-16-02 canvassing the returns and declaring the results of the City of Lakeway special election held on May 5, 2018 and other matters in connection therewith.
6. Discuss and consider claims asserted in pending litigation in Case No. D-1-GN-17-00234 City of Lakeway, Texas v. LMV-AL Ventures, LLC, in the 201st Judicial District of Travis County, Texas.
 - Council will adjourn to Executive Session to discuss this item with the City Attorney. No action will be taken in Executive Session.
7. Adjourn.

Signed this the _____ day of _____, 2018.

Joe D. Bain, Jr., Mayor

All items are subject to action by the City Council, Pursuant to Ordinance No. 2001-10-29-1, Article VI.

The City Council may adjourn into Executive Session at any time during the course of this meeting to discuss any matters listed on the agenda, as authorized by the Texas Government Code including, but not limited to, Sections: 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Deliberations about Homeland

Security Issues) and as authorized by the Texas Tax Code including, but not limited to, Section 321.3022 (Sales Tax Information).

Certification: I certify that the above notice of meeting was posted on the City of Lakeway Official Bulletin Board on the ____ day of _____ 2018 at ____ o'clock a.m./p.m. Council approved agendas and action minutes are available on line at <http://www.lakeway-tx.gov/>. The City of Lakeway Council meetings are available to all persons regardless of ability. If you require special assistance, please contact Jo Ann Touchstone, City Secretary, at 314-7516 at least 48 hours in advance of the meeting.

Jo Ann Touchstone, City Secretary

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Jo Ann Touchstone, City Secretary

Item # 3

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CITY OF LAKEWAY**ORDINANCE NO. 2018-05-16-01**

AN ORDINANCE OF THE CITY OF LAKEWAY, TEXAS, ADOPTING TERMS OF OFFICE FOR MEMBERS ELECTED DURING THE MAY 2018 GENERAL ELECTION; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN ENFORCEMENT CLAUSE; PROVIDING FOR NOTICE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lakeway City Council is committed to conducting open and honest elections in compliance with the letter and spirit of the law; and

WHEREAS, the City Council, through this ordinance, seeks to set forth a reasonable and rational process for bringing certainty and closure to the electoral process while striving to maintain fairness for both candidates and voters; and

WHEREAS, the City Council prepared this ordinance in an effort to conform to the written legal guidance provided to the City by lawyers employed by the Elections Division of the Texas Secretary of State's Office; and

WHEREAS, on January 18, 2018, at a regularly scheduled City Council Meeting, the City Council of the City of Lakeway adopted Ordinance 2018-01-16-02 calling a general election for the purpose of electing the mayor and two (2) councilmembers to be held on May 5, 2018; and

WHEREAS, on April 23, 2018, the City Council of the City of Lakeway met in special session and adopted Ordinance 2018-04-23-01 suspending application of the three (3) year term of office as reflected in the City Charter Section 3.01(d); and

WHEREAS, having suspended the three (3) year term of office in the City Charter, the term of office for mayor and city councilmembers is two (2) years in accordance with the Texas Constitution Article XI, Section 11; and

WHEREAS, on May 5, 2018, by and through the Travis County Clerk Elections Division, the City of Lakeway held a general election for the purpose of electing the mayor and two (2) councilmembers; and

WHEREAS, to apply the two (2) year term of office to all current and newly elected councilmembers and mayor, it is necessary to realign the terms for the mayoral and council seats; and

WHEREAS, the City Council enacts this ordinance as a prudent and reasonable way to implement and effectuate the results of the May 2018 General Election.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Lakeway, TX:

- SECTION 1.** The terms of office for mayor and all council seats are realigned as reflected in Attachment "A".
- SECTION 2.** The results of the May 2018 General Election shall be canvassed declaring the winners to receive terms in accordance with Attachment "A".
- SECTION 3.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.
- SECTION 4.** All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein.
- SECTION 5.** This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- SECTION 6.** If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and this Council hereby declares that this Ordinance would have been enacted without such invalid provision.
- SECTION 7.** It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.
- SECTION 8.** This Ordinance shall be in force and effect from and after the date of its adoption, and it is so ordained.

PASSED & APPROVED this, the ____ day of May 2018.

CITY OF LAKEWAY, TEXAS

Joe D. Bain, Jr., Mayor

ATTEST:

Jo Ann Touchstone, City Secretary

DRAFT

ATTACHMENT "A"

Impact of Realignment from Three-Year to Two-Year Terms of Office on Mayor and Councilmembers**Mayor:**

Mayor Bain ran unopposed in 2015 and was declared elected. Applying a realigned two (2) year term of office, Mayor Bain's term should have ended in May 2017, and thus the Mayor has been serving as a holdover since 2017.

Councilmembers:

Councilmember Powell was elected to a two (2) year term in May 2013 and a three (3) year term in May 2015. Applying a realigned two (2) year term of office, Councilmember Powell's term should have ended in May 2017, and thus the Councilmember has been serving as a holdover since 2017. Councilmember Powell's seat was on the May 2018 ballot, and therefore the holdover period has come to a close.

Councilmember Trecker was elected to a two (2) year term in May 2016. No realignment of this term is required.

Councilmember Haley was elected to a two (2) year term in 2014 and a three (3) year term in May 2016. Applying a realigned two (2) year term of office, Councilmember Haley's term ends in May 2018. Since this seat was not on the May 2018 ballot, Councilmember Haley will serve as a holdover until his seat is filled by appointment or special election in November 2018.

Councilmember Hennagin was elected to serve a three (3) year term in May 2016. Applying a realigned two (2) year term of office, Councilmember Hennagin's term ends in May 2018. Since this seat was not on the May 2018 ballot, Councilmember Hennagin will serve as a holdover until her seat is filled by appointment or special election in November 2018.

Councilmember Massa was elected to a two (2) year term of office in May 2015 and a three (3) year term of office in May 2017. Applying a realigned two (2) year term of office, Councilmember Massa's term will end in May 2019.

Councilmember Bertram was elected to a two (2) year term of office in May 2015 and a three (3) year term of office in May 2017. Applying a realigned two (2) year term of office, Councilmember Bertram's term will end in May 2019.

Method of Filling Vacancies in 2018 and 2019 Elections

May 2018 General Election:

The successful candidate for election to the office of Mayor in May 2018, receiving the highest number of votes, shall serve the remainder of the unexpired two (2) year term, ending in May 2019. Of the two (2) successful candidates for election to the office of councilmember in May 2018, the one (1) candidate receiving the highest number of votes shall have the term of office of two (2) years, and one (1) candidate having the next highest vote count shall serve the remainder of the unexpired two (2) year term, ending in May 2019.

November 2018 Special Election if vacancies are not filled by appointment:

Of the two (2) successful candidates for election to the office of councilmember in November 2018, the two (2) candidates receiving the highest number of votes shall serve the remainder of the unexpired two (2) year term, ending in May 2020.

May 2019 General Election:

The successful candidate for election to the office of Mayor in May 2019, receiving the highest number of votes, shall have the term of office of two (2) years. Of the three (3) successful candidates for election to the office of councilmember in May 2019, the three (3) candidates receiving the highest number of votes shall have the term of office of two (2) years.

Item # 4

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CITY OF LAKEWAY
RESOLUTION NO. 2018-05-16-01

A RESOLUTION CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY OF LAKEWAY GENERAL ELECTION HELD ON MAY 5, 2018 AND OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, there was held in the City of Lakeway, Texas, on the 5th day of May, 2018, a General Election, as required by law, to fill the office of two (2) Councilmembers and the Mayor by the resident qualified electors of the City of Lakeway; and

WHEREAS, the returns of said election have been duly delivered to the Mayor of the City of Lakeway and to the City Secretary by the Travis County Clerk as the County's Election Officer of said election and canvassed by the City Council of the City of Lakeway, Texas at a special meeting; and

WHEREAS, in the GENERAL ELECTION there were 12,921 total number of registered voters of the City of Lakeway. The following votes were cast for the respective offices/candidates, in ballot order:

For Mayor

Table with 2 columns: Candidate Name and Votes. Rows include Jean Hennagin (854), Tiffany McMillan (888), and Sandy Cox (1,269).

For two (2) Councilmembers At Large

Table with 2 columns: Candidate Name and Votes. Rows include Keith Trecker (999), Tammy Stanley (690), Louis Mastrangelo (964), Steve Smith (1,268), Christopher Forton (438), and Judy Holloway (687).

NOW THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF LAKEWAY, TEXAS:

SECTION 1: That the elections described in the preamble to this resolution and order were duly called and notice thereof given in accordance with law; that said elections were held in the manner required by law; that only duly qualified resident electors of the City of Lakeway voted at said elections; and that due returns of said elections have been made by the proper officers.

SECTION 2: MAYOR AND COUNCILMEMBERS FOR TWO POSITIONS

That Sandy Cox has been elected Mayor for the remainder of the unexpired 2-year term to end in May 2019 as provided in Ordinance 2018-05-16-01 adopted by the Council on May 16, 2018. The following two (2) persons, Keith Trecker and Steve Smith, have been duly elected to the office of Councilmember, as provided in Ordinance 2018-05-16-01 adopted by the Council on May 16, 2018, having received a plurality of the votes cast at said election for their positions. Steve Smith, having received the most votes, has been elected for a 2-year term. Keith Trecker, having received the second most votes, has been elected for the remainder of the unexpired 2-year term to end in May 2019. Office term will commence at the first regular Council meeting after a member of the Council has been declared elected. Said named persons are hereby declared duly elected to the office of Councilmember, subject to the filing of their “Statement of Elected Official”, and taking their “Oath of Office” as provided by the laws of the State of Texas. Swearing-in Ceremonies will take place on May 21, 2018 at the regularly scheduled Council meeting.

SECTION 3: CANDIDATES AND CODE OF ETHICS

Pursuant to the City’s Code of Ethics Ordinance the above duly elected officials have filed their required City Ethics Affidavit and Statement of Representation which will be reviewed by the Board of Ethics at their Regular Meeting scheduled to be held June 20, 2018.

SECTION 4: EXECUTION

The Mayor of the City of Lakeway is authorized to execute and the City Secretary is authorized to attest this Ordinance on behalf of the City Council. The Mayor is further authorized to do all other things legal and necessary in connection with the holding and consummation of the Election.

SECTION 5. EFFECTIVE DATE

This Ordinance is effective immediately upon its passage and approval.

SECTION 6: OPEN MEETING

A quorum of the City Council was present at the meeting at which this Ordinance was adopted. The meeting was open to the public and public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this the 16th day of May, 2018.

Joe D. Bain, Jr., Mayor

ATTEST:

Jo Ann Touchstone, City Secretary

Item # 5

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**CITY OF LAKEWAY
RESOLUTION NO. 2018-05-16-02**

A RESOLUTION CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY OF LAKEWAY SPECIAL CHARTER AMENDMENT ELECTION HELD SATURDAY, MAY 5, 2018; AND OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, there was held in the City of Lakeway, Texas, on the 5th day of May, 2018, a Special Charter Amendment Election with seven (7) propositions being submitted to the resident qualified electors of the City; and

WHEREAS, the returns of said election have been duly delivered to the Mayor of the City of Lakeway and to the City Secretary by the Presiding Judge of said election and opened and canvassed by the City Council of the City of Lakeway, Texas at a special meeting; and

WHEREAS, there were cast at such election 3,055 valid and legal votes, 12,921 total number of voters on list, 23.64% voting of which numbers there were cast the following valid and legal votes:

PROPOSITION A

Shall Article III (City Council), Section 3.01, entitled "Number, Selection and Term," be amended to delete subsection (d) which was originally designed to phase-in new terms limits in the 2015 and 2016 elections, where the phase-in has now been accomplished? If approved, the subsection would be deleted in its entirety.

YES Votes Cast: 1433 (52.94%)

NO Votes Cast: 1274 (47.06%)

PROPOSITION B

Shall Article III (City Council), Section 3.05, entitled "Compensation," be amended to allow the Mayor and the Members of the Council to receive compensation for attending regular city council meetings? If approved, section 3.05 would read as follows:

For service to the City, the Mayor is entitled to receive \$1.50 per regular city council meeting attended, and the Members of the Council are entitled to receive \$1.00 per regular city council meeting attended. The Mayor and Council shall be entitled to reimbursement for all expenses incurred in the performance of their official duties as approved by the Council.

YES Votes Cast: 1193 (41.86%)

NO Votes Cast: 1657 (58.14%)

PROPOSITION C

Shall Article III (City Council), Section 3.09, entitled “Filling of Vacancies” be amended to include language stating that any partial term of a Councilmember who filled a vacancy on the Council by having been elected or appointed shall count as a full term for that Councilmember? If approved, the sentence at the end of the 1st paragraph and would read as follows:

For purposes of applying term limits, any term filled by election or appointment shall count as a full term for the successful candidate.

YES Votes Cast: 1450 (52.65%)

NO Votes Cast: 1304 (47.35%)

PROPOSITION D

Shall Article VI (Initiative, Referendum, and Recall), Section 6.03, entitled “Form of Petitions,” be amended to require that the statement on a petition paper affidavit authenticating petition signatures confirm that said signatures were made in the affiant’s presence, not the City Secretary’s presence? If approved, the second sentence in the second paragraph would read as follows:

Before the signatures on any petition paper may be counted, the circulator of that petition paper, or set of petition papers, shall make an affidavit before the City Secretary or other office authorized to administer oaths, that the statements made in the affidavit are true, that each signature to the page or pages appended thereto is the genuine signature of the person whose name it purports to be, and that such signatures were made in the affiant’s presence.

YES Votes Cast: 1629 (59.85%)

NO Votes Cast: 1093 (40.15%)

PROPOSITION E

Shall Article VIII (Financial Administration), Section 8.09(a), entitled “Issuance of Bonds and other Obligations of City,” be amended to require at least one reading of ordinances authorizing the issuance of bonds, certificates of obligation, warrants, notes, or other evidences of indebtedness, or ordinances authorizing the levy of taxes or the pledge of revenues to secure payment of indebtedness, instead of limiting said ordinances to only one reading? If approved, the word “only” would be deleted and replaced with “at least” and the last paragraph of section 8.09(a) would read as follows:

Notwithstanding any other provision of this Charter to the contrary, ordinances authorizing the issuance of bonds, certificates of obligation,

warrants, notes or other evidences of indebtedness, or ordinances authorizing the levy of taxes or the pledge of revenues to secure payment of indebtedness, shall require at least one reading, shall become effective immediately, and shall not be subject to referendum. Provided, however, that nothing in this Section excuses compliance with Section 8.09(b) of this Charter.

YES Votes Cast: 1577 (58.52%)

NO Votes Cast: 1118 (41.48%)

PROPOSITION F

Shall Article XI (General Provisions), Section 11.06, entitled “Special Provision for Damage Suits,” be amended to modify the title of the section to “Special Provision for Damage Claims” and to add a requirement that the written notice regarding an alleged death, injury, or damage with the City be presented within six months from the date the damage or injury incurred and include specific factual information? If approved, the following would be added to the end of the 1st paragraph and would read as follows:

The written notice required by this section must be presented within six months from the date the damage occurred or the injury was received, give notice in writing to the mayor of the following facts:

- A. The date and time when the damage or injury occurred and the place where the damage occurred or where the injured person was at the time the injury was received;
- B. The nature and extent of the damage or injury together with a specific and detailed statement of how and under what circumstances the injury occurred;
- C. The names of all the persons who according to the knowledge or information of the claimant witnessed the happening of the damage or of the injury or any part thereof and the name of the doctors, if any, to whose care the injured person is committed.

YES Votes Cast: 1442 (53.93%)

NO Votes Cast: 1232 (46.07%)

PROPOSITION G

Shall the Charter be amended to correct typos and make other non-substantive changes such as delete gender-specific wording and correct an internal reference? If approved, the extra period in section 3.17 will be eliminated; the “and” in section 3.17 will be replaced with “or” and “ / or” will be deleted; the gender pronoun in section 4.04(c) will be removed; the reference to 4.03 in section 4.04(d) will be

corrected to 4.04; and the five (5) extra spaces in the phrase “permitted by” in 6.05(b) will be deleted.

YES Votes Cast: 1495 (55.53%)

NO Votes Cast: 1197 (44.47%)

WHEREAS, Propositions A, C, D, E, F and G received a majority of votes by the voters at the May 5, 2018 Special election, and thus were approved to amend the Lakeway City Charter; and

WHEREAS, Proposition B failed to receive a majority of votes by the voters at the May 5, 2018 Special election, and thus was not approved to amend the Lakeway City Charter.

WHEREAS, Texas Local Government Code Section 9.005(b) requires the governing body of the municipality to enter an order in the records of the municipality declaring that the charter amendment is adopted before it takes effect.

NOW THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF LAKEWAY, TEXAS:

SECTION 1: That the election described in the preamble to this resolution and order was duly called and notice thereof given in accordance with law; that said election was held in the manner required by law; that only duly qualified resident electors of the City of Lakeway voted at said election; and that due returns of said election have been made by the proper officers.

SECTION 2: That Propositions A, C, D, E, F and G, the aforementioned Charter Amendments, were approved by the voters voting at the May 5, 2018 Special election and that the Mayor of the City of Lakeway will certify to the Texas Secretary of State, as soon as practicable, pursuant to Local Government Code, an authenticated copy of the charter approved charter amendments.

SECTION 3: That Propositions A, C, D, E, F and G, the aforementioned Charter Amendments, are adopted by the City of Lakeway.

PASSED AND APPROVED this the 16th day of May, 2018.

Joe D. Bain, Jr., Mayor

ATTEST:

Jo Ann Touchstone, City Secretary

Historical Note:

<i>Original Charter adopted</i>	<i>May 5, 1990</i>
<i>1st. Charter Amendment Election</i>	<i>May 2, 1992 - 3 of 6 propositions adopted</i>
<i>2nd Charter Amendment Election</i>	<i>May 7, 1994 - all 8 propositions adopted</i>
<i>3rd Charter Amendment Election</i>	<i>August 10, 1996 - 12 of 14 propositions adopted</i>

<i>4th Charter Amendment Election</i>	<i>May 4, 2002 – 8 of 9 propositions adopted</i>
<i>5th Charter Amendment Election</i>	<i>May 13, 2006 all 11 propositions adopted</i>
<i>6th Charter Amendment Election</i>	<i>May 8, 2010 all 10 propositions adopted</i>
<i>7th Charter Amendment Election</i>	<i>November 4 , 2014 all 12 propositions adopted</i>
<i>8th Charter Amendment Election</i>	<i>May 5, 2018 – 6 of 7 propositions adopted</i>