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108 S. Broadway Street
San Augustine, Texas 75972
Phone (936) 275-0971
Fax (936) 275-0055

WESLEY EDWARD HOYT

COUNTY ATTORNEY
SAN AUGUSTINE

RQ-0399-KP

FILE# ML-48940-21

I.D.# 48940

March 4, 2021

Office of Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548
Via Email: opinion.committee@oag.texas.gov

Re: City of San Augustine Staggering of Elections

To Whom it May Concern,

I am the County attorney for San Augustine County, Texas writing upon the request of the City of San Augustine for an attorney general opinion. My understanding of the issues presented are outlined herein below.

The San Augustine City attorney, W. Wade Flasowski, has been advised by the Texas Secretary of State's office to seek an opinion from your office regarding the staggering of elections for city officials.

Several years ago (June 19, 2012) the City of San Augustine, a type "B" general law municipality, unanimously passed a resolution which unstaggered the terms of its elected officials so that it could save election costs having the election at the same time as the County. The decision was pre-cleared through the U.S. Department of Justice and was adopted without complication.

Recently, the issue of returning to staggered terms was placed before Council who approved a resolution to revert back to staggered terms after this November 2020 election. The resolution provided that after the election the Council (and Mayor) would draw lots to determine which officials would serve a 1-year term to effectively re-stagger the terms. There are six elected officials (5 Aldermen and the Mayor). Three would be elected in odd years and three would be elected in even years.

Unfortunately, when the time arose to draw lots several of the Council members refused to do so and wanted to undo what had already been done or in the alternative wait until the next election cycle to draw lots. They argued that the public voted them in to office for a two-year term rather than a potential 1-year term. The council members who refused to draw lots inferred that the public may not have been aware of the recently passed ordinance by the previous council. However, the decision to draw lots and return to staggered terms was passed by resolution at an open meeting and was also published in the local newspaper.

Issue Presented

- (1) Whether the new Council members may opt out of drawing straws/lots as per the previously passed resolution to revert back to staggered terms?
- (2) Whether the City Secretary may draw lots for them if they refuse to do so?
- (3) Whether the new Council may overturn the resolution in question and preserve the currently unstaggered election terms?
- (4) Whether additional public notice is required separate and apart from the passing of a resolution at a regularly scheduled open meeting? If so, what if any additional public notice was required.
- (5) Whether the ordinance passed by the City Council to re-stagger elections was lawful?

Please advise my office if you have any additional questions or concerns regarding this matter.

Very truly yours,



Wesley Hoyt
San Augustine County Attorney

Approved as to

Form and Substance:



W. Wade Flasowski
City Attorney
San Augustine, Texas