

Memorandum to Mayor Ken Kesselus, Bastrop City Council Members Peterson, Schiff, McAnally, Jones and DeLaRosa  
cc: Ann Franklin, Bastrop City Secretary  
From: Linda Curtis, Independent Texans PAC  
Cc: Media and citizens of Bastrop via Independent Texans' email and social networks  
Date: August 1, 2016  
Re: Petition filing for "Reasonable Petition Requirements in the City of Bastrop"

We have today submitted signatures for a charter amendment, "Petition for Reasonable Petition Requirements in the City of Bastrop" to be placed on the November 8, 2016 ballot. We are including with our submission this clarification of our July 26<sup>th</sup> memorandum based on new information. As of today's submission of petition signatures, we are withdrawing any offer to put this measure on the May 2017 ballot. The remainder of this memo explains why.

We were informed in the afternoon of July 26<sup>th</sup> by Bastrop City Secretary, Ann Franklin, that she had been informed in consultation with then City Attorney JC Brown and the Secretary of State that Independent Texans was wrong about the City Council's ability to choose on which ballot to place our charter amendment. We repeat Ms. Franklin's message to us below:

"We understand that your preference of the election date for the amendment is May 2017. Sec. 9.004(b) of the Local Government Code states "The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the date of the next municipal general election or presidential general election... The Secretary of State informed us that the deadline to call an election for the November date is August 22, 2016, receiving your petition in enough time to call the election on August 22, 2016 would require the City of Bastrop to hold this election no later than the November 2016 election date."

To be frank, you have also managed to change our minds about our preference for the timing of the vote on this charter amendment by petition. Your actions have escalated such a crisis in confidence of the many voters that we are now unwilling to hold up this petition for the May ballot.

We understand a November election will cost the city approximately \$13,000, but our supporters feel this is a small price to pay to guarantee their rights to petition – and therefore, their check and balance on a local government gone awry.

We also expressed in the July 26<sup>th</sup> memo our concern that a charter revision committee have the time to deliberate. There is no reason for this not to take place following the November election. We support the community taking the next two years for a thoroughgoing review of the charter. Your actions have made plain to our supporters that this would best take place following passage of "Reasonable Petition Requirements for City of Bastrop Voters", because they have little faith in your ability to listen to even a handpicked Charter Revision Committee. This, of course, is your right as elected officials, but it speaks to the growing distrust of this majority Council.

We laid out in the July 26<sup>th</sup> memo the requirements for review of charter amendment petitions in the state of Texas. We repeat those at the end of this memorandum to

remind and warn you not to play games with this petition. We are fully prepared to take immediate legal action to assert the rights of petitioners and voters to place “Reasonable Petition Requirements” on the November ballot, knowing that we have far more valid signatures than the 214 required for placement on the ballot. Today, we are submitting 298 valid signatures to guarantee ballot access.

We must add that we have complete confidence in the personal integrity of City Secretary Ann Franklin. She has treated your constituents --- and her civic duties --- with utmost respect, which is the hallmark of a true public servant.

Sincerely,

*Linda Curtis*

Independent Texans PAC

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**Council must and can:**

- if the City Secretary certifies this petition has the qualified number of signatures, place it on the ballot, whether you agree with the petition or not.
- handle the ballot language fairly. An example of fair ballot language is to simply adopt our language at the top of the voter petition, “For Reasonable Petition Requirements in the City of Bastrop”. If you play games with the ballot language, rest assured that Bastrop voters will not be happy about it. Most citizens regard their petition rights as sacrosanct.

**Council may not:**

- instruct the City Secretary to disqualify signatures for technicalities. The U.S. Supreme Court and the United States District Court for the Western District in 1997 have made plain that the city must “err on the side of voters” when reviewing ballot access petitions. \*See more in our fair warning below.
- instruct the City Secretary to slow-go her review of signatures. It shouldn’t take more than a few days to review the required 214 signatures. We are also submitting the petitions with the VUID number, to make this process quite simple. Once she is able to verify 214 signatures, she must certify the petition and submit it to Council for you to place on the ballot.
- require a notarization on charter amendment petitions as the city of San Marcos recently tried to impose. They lost in court, wasting taxpayer dollars on attorney’s fees. Though we have complied with the Bastrop charter requirement for circulators to provide information at the bottom of initiative, referenda and recall petitions, this is also not legally required under state law for charter amendment petitions.