

AN ORDINANCE ORDERING A SPECIAL ELECTION; PROVIDING FOR THE DATE AND MANNER OF HOLDING THE ELECTION IN THE CITY OF DRAIN, OREGON, ON THE 17TH DAY OF FEBRUARY, 1981 FOR THE PURPOSE OF SUBMITTING TO THE LEGAL VOTERS OF THE CITY FOR THEIR APPROVAL OR REJECTION, A REVISION OF THE DRAIN CHARTER OF 1954; AND PROVIDING FOR ALL ACTS NECESSARY FOR THE CARRYING OUT OF THE SPECIAL ELECTION.

THE CITY OF DRAIN ORDAINS AS FOLLOWS:

Section 1. A special election shall be held in the City of Drain, Oregon, in the manner provided by law and in this ordinance and for the purpose set forth herein, on the 17th day of February, 1981, commencing at the hour of 8:00 o'clock a.m. on the 17th day of February, 1981, and ending at the hour of 8:00 o'clock p.m. on the same day.

Section 2. The election ward or precinct for the special city election shall be and constitute all the territory included within the corporate limits of the City of Drain, Oregon, and the voting place of the election shall be the Drain Community Building, "A" Street, Drain, Oregon.

Section 3. The City Council of the City of Drain shall by resolution appoint the judges and clerks of the special city election.

Section 4. The judges and clerks shall qualify by subscribing to an oath, the manner and form provided by law and in case any of such officers shall fail to attend, then those present shall elect another to act in his or her place.

Ordinance - 1

FILE COPY

ORIGINAL

Section 5. The city administrator shall insure that such poll books, ballot boxes, tally sheets and such other supplies for the polling place as are necessary for the election are supplied and delivered to the election board.

Section 6. The city administrator is hereby directed to give notice of the election in accordance with the provisions of Section 1, Part 2.260 of Ordinance No. 267 (Section 2.260 of the City of Drain's Administration Code) and shall issue, under the seal of the City of Drain, Notice of the special election to be posted on the front door of the City Hall and at least three (3) other separate public places in the city, at least fifteen (15) days prior to the date of the special election, or shall cause a Notice of the election to be published once each week for two (2) successive weeks immediately preceding the election in the Drain Enterprise, a newspaper published and of general circulation in the City of Drain.

Notices of the special election shall be in the following form:

SPECIAL ELECTION NOTICE

Notice is hereby given that on the 17th day of February, 1981, at the Drain Community Building in the City of Drain, Oregon, a special election will be held concerning a measure for the revision of the Drain Charter of 1954, as follows:

Charter Revision, Adding, Deleting and Clarifying Charter Provisions.

Shall the Drain Charter of 1954 be Revised to Add, Delete, and Clarify Certian Provisions?

This measure will revise the Drain Charter of 1954 to delete outmoded provisions, clarify ambiguous provisions and add provisions to improve the legal basis for the City's operations. The election shall begin at 8:00 a.m. and continue until 8:00 p.m. on February 17, 1981.

Dated this ____ day of _____, 1981.

Robert A. Gray
City Administrator

Section 7. The proposed revision of the Drain Charter of 1954 shall be placed on official ballot by the city administrator to be voted on by the electors of the City of Drain at the special election.

Section 8. Ballots cast at the special election shall be counted, tabulated and returned to the city administrator as provided by law.

Section 9. At the special election a proposed amendment to the Drain Charter of 1954 shall be submitted to the legal voters for their adoption or rejection as hereinafter set forth.

Section 10. The ballot title of the proposed Charter Amendment submitted to the voters shall be as follows:

CHARTER AMENDMENT SUBMITTED TO THE PEOPLE BY THE
CITY COUNCIL OF THE CITY OF DRAIN.

Charter Revision, Adding, Deleting and Clarifying Charter Provisions

Shall the Drain Charter of 1954 be Revised to Add, Delete or Clarify Certain Provisions?

This measure will revise the Drain Charter of 1954 to delete outmoded provisions, clarify ambiguous provisions and add provisions to improve the legal basis for the City's operations.

Mark an (X) in the square [] before the answer of your choice.

[] Yes, I vote in favor of the revision.

[] No, I vote against the revision.

Section 11. The proposed Charter Revision submitted to the voters shall be as follows:

"An Act to revise the Charter of the City of Drain, Oregon to read as follows:

DRAIN CHARTER

CHAPTER I

Section 1. Title. This revision of the Drain Charter of 1954 may be referred to as the Drain Charter of 1981.

Section 2. Name of City. The City of Drain, Douglas County, Oregon, continues under this Charter to be a municipal corporation, with the name "CITY OF DRAIN".

Section 3. Boundaries. The City includes all territory encompassed by its boundaries as they exist when this revision of the Charter is adopted or as they are subsequently modified in accordance with state law. The repository of city records shall include at least two copies of this charter, each containing an accurate, up-to-date description of the boundaries. The copies and description shall be available for public inspection during

regular office hours.

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CHAPTER II

POWERS

Section 4. Powers of the City. The city has all powers which the constitution, statutes, or common law of the United States or of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

Section 5. Construction of Powers. In this charter no mention of a particular power is exclusive or restricts the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that a city may assume pursuant to state laws or the municipal home rule provisions of the state constitution.

Section 6. Where Powers Vested. Except as this charter provides otherwise, all powers of the city are vested in the council.

CHAPTER III

FORM OF GOVERNMENT

Section 7. Council. The council is composed of a mayor and four councilors elected from the city at large.

Section 8. Councilors. The councilors shall be elected for four years. Two councilors shall be elected at each biennial general election. Each councilor shall hold office until his or

her successor is elected and qualified.

Section 9. Mayor. At each biennial general election a mayor shall be elected for a term of two years and shall hold office until his or her successor is elected and qualified.

Section 10. Other Officers. Additional officers of the City may be appointed and removed by the council as it deems necessary.

Section 11. Salaries. The mayor and councilors may receive no pay for their services and the compensation of other officers and employees shall be fixed by the council.

Section 12. Qualifications of Officers. No person is eligible for an elective office of this city unless at the time of the officer's election, the officer is a qualified elector within the meaning of the state constitution, is a resident of the City, and has been a resident of the City during the 12 months immediately preceding the election. The council is the final judge of the qualifications and election of its own members.

CHAPTER IV

COUNCIL

Section 13. Meetings. The council shall prescribe the time and place of its regular meetings, at least one of which shall be held each month. The mayor or three councilors may call special meetings of the council in a manner prescribed by ordinance.

Section 14. Quorum. A majority of the members of the coun-

cil constitutes a quorum for the transaction of council business, except that a lesser number may meet and compel attendance of absent members in a manner prescribed by ordinance. A quorum may also compel the attendance of absent members.

Section 15. Journal. The council shall keep a journal of its proceedings. Upon request of any of its members, the ayes and nays upon any question before it shall be taken, and a record of the vote entered in the journal.

Section 16. Mayors Function at Council Meetings. The mayor shall preside at council meetings and may vote on all questions before the council.

Section 17. President of the Council. At the first meeting of each odd-numbered year, the council by ballot shall elect a president from its membership. In the mayor's absence from a council meeting, the president shall preside over it. Whenever the mayor is unable to perform the functions of his or her office, the president shall act as mayor.

Section 18. Vote Required. The concurrence of a majority of the members of the council present at a meeting, provided that a quorum is present, may decide any question before the council, except as this Charter otherwise provides.

CHAPTER V

MUNICIPAL COURT

Section 19. Judges, Powers, Procedure.

(1) The city council may appoint a municipal judge, for a term and at a salary it specifies. The municipal judge

shall hold within the city a court known as municipal court for the City of Drain. The court shall be open for the transaction of judicial business at times specified by the council. All areas within the city are to be within the territorial jurisdiction of the court.

(2) The municipal judge shall exercise jurisdiction of all offenses defined and made punishable by ordinances of the city and of all actions brought to enforce forfeitures or penalties defined or authorized by ordinances of the city. The municipal judge shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the city, to commit any such person to imprisonment or admit the person to bail pending trial, to issue subpoenas to compel witnesses to appear and testify on the trial of any cause before the court, to enforce obedience to the subpoenas, to issue process necessary to carry into effect the judgment of the court, and to punish witnesses and others for contempt of court.

(3) When not governed by ordinances or this charter, all proceedings in the municipal court for the violation of a city ordinance shall be governed by the applicable general laws of the state governing justices of the peace and justice courts.

CHAPTER VI

CITY ADMINISTRATOR

Section 20. City Administrator.

(1) (a) The city council may appoint a city administrator and fix his or her compensation and conditions of employment.

(b) If the office of city administrator becomes vacant, the mayor may appoint a city administrator pro tem. The pro tem administrator shall have all functions of the city administrator. The term of office of a pro tem administrator ends when a city administrator takes office.

(c) The city administrator shall be the administrative head of the city and shall be chosen without political consideration and solely on the basis of executive and administrative qualifications.

(d) The city administrator and such other officers as the council designates may sit with the council but have no vote therein. The city administrator may take part in the discussion of all matters coming before the council.

Section 21. Duties of City Administrator.

(1) The City Administrator shall:

- (a) Prepare the annual budget;
- (b) Make all purchases;
- (c) Oversee enforcement of all ordinances;
- (d) Act as business agent for the council for the sale of real estate and other matters relating to franchises, leases, and other business and property transactions;
- (e) Prepare and furnish all reports requested

by the council;

(f) Perform such other duties as the council directs.

(2) The duties of all administrative employees shall be assigned to them by the city administrator, and they shall be responsible and accountable to the administrator.

(3) The powers herein granted to the city administrator are exclusive.

(4) The city administrator may be removed by the council with or without cause at any time.

CHAPTER VII

ELECTIONS

Section 22. Notice. The officer in charge of city elections shall give ten days' public notice of each city election. The notice shall state the officers to be elected, the measures to be submitted at the election, and the time and place for the election.

Section 23. Regulation of Elections. Except as this charter provides otherwise and as the council provides otherwise by ordinance relating to elections, the general laws of the state shall apply to all nominations for an elective city office, the conduct of city elections, recounts of the returns therefrom and contests therefore.

Section 24. Votes. The person receiving the greatest number of the votes cast for any of the candidates for the office

at the election at which the office is filled is elected to that office. In the event of a tie vote, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the council.

Section 25. Certificate of Election. After the votes at any municipal election have been canvassed, the city officer in charge of administering elections shall issue a certificate of election to each person declared by the canvassers to have been elected at the election. The certificate shall be prima facie evidence of the facts therein stated.

Section 26. Oath or Affirmation of Office. Before entering upon the duties of their offices, all elected officers, the city administrator, municipal judge and all department heads shall take an oath or shall affirm as follows: "I, _____, do solemnly swear that I will support the constitution and laws of the United States and of Oregon, that I will, to the best of my ability, faithfully perform the duties of _____ during my continuance therein, so help me God." If the person affirms, instead of the last clause of the oath, there shall be stated: "And this I do affirm under the pains and penalties of perjury."

Section 27. Terms. The term of office of a person elected at a regular city election commences on the first Monday in January following the election.

CHAPTER VIII

VACANCIES IN OFFICE

Section 28. An office becomes vacant upon the incumbent's

death, removal from office, resignation or ceasing to possess the qualifications necessary for office. An elective office becomes vacant whenever its incumbent is absent from the city for a period of thirty days or fails to attend two consecutive regular meetings of the council without the prior consent of the council and upon a declaration by the council of the vacancy.

Section 29. Filling of Vacancies. The council shall fill a vacancy in any elective city office by appointment within ninety days after the vacancy occurs. A majority vote of the council is required to validate the appointment. The appointee's term of office begins immediately upon the appointment and expires when the term of the person whose office has become vacant would have expired had that person continued in office. During the temporary disability of any officer or an officer's temporary absence from the city for any cause, the office may be filled pro tem in the manner provided for filling vacancies in office permanently.

CHAPTER IX

ORDINANCES

Section 30. Enacting Clause. The enacting clause of all ordinances hereafter enacted shall be, "The City of Drain ordains as follows:"

Section 31. Adoption.

(1) Except as subsection (3) of this section provides for reading by title or bill number only, and except as subsection (2) of this section provides for immediate adoption of emergency

measures, an ordinance, before being finally adopted, shall be fully and distinctly read in open council meeting on two days.

(2) Except as subsection (3) of this section provides for reading by title or bill number only, an ordinance necessary to meet an emergency may, upon being read in full and then by title, be adopted at a single meeting of the council by unanimous vote of all councilors present.

(3) Any reading of an ordinance for purposes of adoption may be by title or bill number only:

a. If no councilor present at the meeting requests that the ordinance be read in full, or

b. If for one week prior to the reading a copy of the ordinance is provided each councilor and copies are available for public inspection at the office of the mayor or city administrator during regular office hours and notice of their availability is posted at city hall or published once in a newspaper of general circulation in the city.

(4) An ordinance adopted after being read by title or bill number only has no legal effect if it differs substantially from its terms as they stand when so read, unless each section incorporating such a difference, as finally amended prior to being adopted by the council, is fully and distinctly read in open council meeting.

Section 32. Mayor's Signature. Upon the adoption of an ordinance by the council, the mayor shall sign the ordinance and indicate the date of his or her signature.

Section 33. When Ordinance Takes Effect. An ordinance adopted by the council takes effect on the 30th day after its adoption by the council and signing by the mayor, unless it is necessary to have immediate effect for the preservation of the peace, health, safety and welfare of the city, in which event it takes effect immediately upon its adoption by the council and signing by the mayor. An ordinance may provide a later time for it to take effect.

CHAPTER X

PUBLIC IMPROVEMENTS

Section 34. Procedure. The procedure for making, altering, vacating or abandoning a public improvement is governed by general ordinance or to the extent not so governed by the applicable general laws of the state. The procedure for levying, collecting and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

CHAPTER XI

INDEBTEDNESS

Section 35. Debt Limit.

(1) Indebtedness of the City may not exceed the limits on city indebtedness under state law.

(2) Approval by the voters of city indebtedness need not be in the form of a charter amendment.

MISCELLANEOUS PROVISIONS

Section 36. Presumption of Validity of City Action. In every proceeding in any court concerning the exercise or enforcement by the city or any of its officers or agencies of any power by this act given to the city or any of its officers or agencies, all acts by the city or any of its officers or agencies shall be presumed to be valid, and no error or omission in any such act invalidates it, unless the person attacking it alleges and proves that he or she has been misled by the error or omission to his or her damage; and the court shall disregard every error or admission which does not affect a substantial right of the person. Any action committed by this charter to the discretion of the council is final, when taken and may not be reviewed or called into question elsewhere.

Section 37. Existing Ordinances Continued. All ordinances of the city consistent with this charter and in force when it takes effect remain in effect until amended or repealed.

Section 38. Repeal Previously Enacted Provision. All charter provisions of the city enacted prior to the time that this charter takes effect are hereby repealed except that no unexhausted grant of power to issue bonds is repealed and no repeal of these previous charter provisions affects the validity of an outstanding bond issue by the city or impairs the obligations of the city under the bond or the rights of the holders of that bond.

Section 39. Effective Date of Revision. This revised Charter has legal effect on and after February 17, 1981.

Passed by the Council
this 9 day of
DECEMBER, 1980.

Approved by the Mayor
this 9 day of
December, 1980

Attest:

Robert A. Gray
Clerk of the Council Pro Tem

Leroy J. Farley
Leroy J. Farley, Mayor

STATE OF OREGON)
COUNTY OF DOUGLAS) ss.

I, DORIS L. WADSWORTH, COUNTY CLERK AND RECORDER OF CONVEYANCES, IN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS RECORDED THIS DAY:

1981 MAR 9 PM 1 39

81-02878

BY Marilyn Deal
DEPUTY
NO. _____ FEE 56⁰⁰ ad

DOUGLAS COUNTY OFFICIAL RECORDS

Intentional

JOHNSON, HARRANG, SWANSON & LONG

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HAROLD V. JOHNSON (1920-1975)

ORVAL ETTER
OF COUNSEL

February 24, 1981

26

Mr. Robert A. Gray
City Administrator
P.O. Box 158
Drain, OR 97435

Re: Charter Amendment


Dear Bob:

To finalize the Charter Amendment, the following actions must be taken:

1. The Mayor should read the enclosed proclamation at the next council meeting.
2. A duly certified copy of the Charter as amended should be filed with the librarian of the Supreme Court Library.

If you have any questions, please do not hesitate to give me a call.

Sincerely,


Martha L. Walters

MLW:og

V-A₂

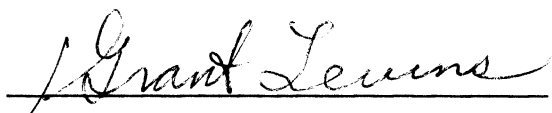
PROCLAMATION OF MAYOR

A special election was held at the Drain Community Building in the City of Drain, Oregon, on February 17, 1981.

The following measure was submitted to the voters at that election as Ballot Measure 101: CHARTER REVISION. The vote was 51 persons voting in favor of the proposition. 22 persons voting against the proposition.

I therefore proclaim that Ballot Measure 101 was passed by a majority of those persons voting in the election and that this measure shall be effective from the date of the election, February 17, 1981.

This proclamation shall be filed with the measure and notice of the proclamation shall be given according to law. This proclamation made the 9 day of MARCH, 1981.


MAYOR, City of Drain, Oregon

City of Drain
P.O. Box 158
Drain, OR 97435

ORD. #284