



# STAFF REPORT

**MEETING DATE:** August 13, 2024

**TITLE:**

Consider and act on Resolution No. R-2024-105 of the City of Bastrop, Texas Accepting the City Secretary's Certification Regarding a Recall Petition Calling for the Removal of Mayor Lyle Nelson and Providing Findings of Fact, Repealer, Severability, Effective Date, Proper Notice, and Meeting.

**AGENDA ITEM SUBMITTED BY:**

Submitted by: Irma Parker, Interim City Secretary

**BACKGROUND/HISTORY:**

On July 25, 2024, a ninety-six (96) page Recall Petition was submitted to the Office of the City Secretary calling for the recall of Mayor Lyle Nelson. The petition was evaluated in accordance with the Texas Election Code and Bastrop's Home Rule Charter, Article X – "Initiative, Referendum, and Recall." According to Section 10.07 "Power of Recall", the petition requesting recall must be signed by qualified voters of the City equal in number to at least twenty-five (25) percent of the number of registered voters residing in the City at the time of the last regular municipal election.

The number of registered voters residing in the City at the time of the last regular municipal election (May 2024) demanding the removal of an elected official is 6,228. As per the Charter, the required minimum number of signatures for a valid recall petition is twenty-five (25) percent of the number of registered voters residing in the City at the time of the last regular municipal election, which is 1,557. The petition contains 1,632 qualified signatures.

While the petition contains a sufficient number of valid signatures, it is **insufficient** because it does not include the required affidavits. An attestation of truth from a signer of each page of the petition is required for each page. *(Section 10.07 "Power of Recall": The people of the City reserve the power to recall the Mayor or any other member of the Council and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least twenty-five (25) percent of the number of registered voters residing in the City at the time of the last regular municipal election of the City demanding the removal of the Mayor or other member of the Council. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true.)*

The difficulty lies in that staff approved the form used.

*Supplementation:*

The petitioners have an opportunity to cure the defective petition by filing a supplementary petition within 10 (ten) days of this notice. (Bastrop Charter Section 10.08, Texas Election Code Chapter 277).

As the election official for the City of Bastrop, I will notify the petitioners of the deficiency via certified mail after presentation to the City Council and the necessary information to cure.

**Timeline:**

1. The Interim City Secretary will submit a certified letter to the Petitioner(s) advising of the Council's determination and contain the wording required for the attestation of truth as provided by the City Attorney.
2. Petitioner(s) have the option to cure within the allotted time – 10 days.
3. When or if the Petition is cured, it is returned to the Interim City Secretary and presented to the City Council at the next regular meeting (August 27 or September 10).
4. At the second presentation and certification, the City Council may declare the petition sufficient and authorize staff to proceed with the procedures as set out in the Home Rule Charter. If the Council wishes to proceed with the recall process, the Interim City Secretary will send a certified letter to the official whose removal is sought advising that he/she may request a public hearing. If a request for a public hearing is received, the Council shall order a public hearing not less than five (5) days nor more than fifteen (15) days after receiving such request. (September 10 or 24 – regular meeting)
5. After the public hearing, the official whose removal is sought does not resign, the Council shall order a recall election and fix a date for such election, the date of which shall not be less than ninety (90) days from the date the petition was submitted to the Council or from the date of the public hearing if one was held, whichever is later, or at the earliest day thereafter permitted by the state election code. (December 2024)
6. (Home Rule Charter - §10.09 Results of a Recall Election): *“If the majority of the votes cast at the recall election is against removal of the Council Member named on the ballot, the member shall continue in office. If a majority of the votes cast at such election be for the removal of the Council Member named on the ballot, the Council shall immediately declare the office vacant and such vacancy shall be filled in accordance with the provisions of this Charter. A Council Member thus removed shall not be a candidate to succeed himself/herself in an election called to fill the vacancy created.”*

**FISCAL IMPACT:**

A special election cost is approximately \$15,000-\$25,000 each. There is a possibility of two (2) elections (1) Recall and (2) if the Council Member is removed then another election must be called within ninety (90) days. That would mean the City would have two (2) elections in 2025. Bastrop County Elections Administrator Kristin Miles advised that the Elections Department Contract states that August 19<sup>th</sup> is the final date to submit ballot wording but if that is not possible under our current timeline would work with us.

**RECOMMENDATION:**

Determine the sufficiency/deficiency of the petition and notify the petitioner(s).

**ATTACHMENTS:**

1. Resolution No. R-2024-105 (will be delivered separately)
2. [Recall Petition Redacted.pdf](#)