

FINAL REPORT

CHARTER REVIEW AD HOC COMMITTEE

2015-16

Members

John Bell, Chair
Armando Chapa
Larry Elizondo, Sr.
Butch Escobedo
Mayor Emeritus Henry Garrett
Brent Hess
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LIST OF PROPOSITIONS

Proposition 1. Establishing a Dedicated Fund To Be Used Solely for Residential Street Reconstruction and Authorizing the City Council To Levy, Assess And Collect A Property Tax Not To Exceed Six Cents (\$0.06) Per One Hundred Dollars (\$100.00) Of Assessed Value For The Purpose Of Residential Street Reconstruction, Said Taxes To Be Maintained In This Dedicated Fund And Used Solely For The Purpose Of Residential Street Reconstruction, And Said Taxes to Be Gradually Implemented at a Rate of Not More Than Two Cents (\$0.02) Per One Hundred Dollars (\$100.00) Per Year.

Proposition 2. Providing That The Mayor Pro Tem Shall Be The Council Member Elected At Large Who Received The Highest Number Of Votes.

Proposition 3. Adjusting Total Annual Compensation For The Mayor To \$24,000 And Total Annual Compensation For Each Council Member To \$18,000, and Eliminating All Other Forms of Compensation, To Be Effective With The City Council Elected In 2022.

Proposition 4. Allowing For Procurement Of Contracts For Independent Auditor With Terms Up To Five Years.

Proposition 5. Providing For The Appointment Of Two Alternate Members To The Civil Service Board.

Proposition 6. Eliminating The Prohibition On City Employees Filing For Nomination Or Election To Municipal Public Office To Comply With Texas Local Government Code Section 150.041.

Proposition 7. Providing Authority To Issue Bonds In Accordance With The Laws Of The State Of Texas.

Proposition 8. Clarifying The Approval Process For Leases, Updating The Statutory Reference, And Eliminating the Waiting Periods for Leases and Lease Amendments Which Do Not Exceed 5 Years.

Proposition 9. Repealing An Unnecessary Provision Regarding Untreated Water Supply Contracts.

Proposition 10. Updating Legal References In The General Powers Section And Clarify The General Powers.

Proposition 11. Clarifying The Procedures Regarding Purchases And Contracts in Conformity with State Law.

INTRODUCTION

The Charter Review Ad Hoc Committee was appointed by the City Council in September 2015 to consider options for funding the reconstruction and maintenance of residential streets, options for lengthening the elected terms of the City Council, and other items necessary to update the City Charter. The Committee met monthly to review the different sections of the City Charter, solicit public input, consider terms of office and the provisions applicable to the City Council, consider street funding options, and consider various “housekeeping” items recommended by City staff to update the City Charter.

The Committee considered the length of terms of office for the Mayor and City Council and options to lengthen the terms to three years or four years. The Committee also reviewed the option of electing the Mayor for a four-year term and maintain the City Council with two-year terms similar to what the City of Dallas has recently done. The three-year term option was problematic since elections would alternate between an even-numbered election year and an odd-numbered off year, resulting in a wide variation of voter turnout. The Committee considered lengthening the terms to four years, but the idea did not receive majority support. In order to extend the terms longer than two years, a provision in the Texas Constitution would have to be amended to allow longer terms of office when not all of the City Council is elected by a majority vote. The first step of the process, however, would be to determine whether the voters would support longer terms, but the Committee is not recommending that option at this time.

Eleven propositions are recommended for approval by the voters at the November 8, 2016, election. A summary of the analysis for each proposition is included in the following report. Proposition 1 is designed to provide an additional funding option for residential street reconstruction. Proposition 2 would set new maximum limits for the annual compensation of the Mayor and City Council members but provide that they not go into effect until 2022. Propositions 3 through 11 address various “housekeeping” issues in the Charter in order to bring it up to date and in conformity with current State law.

The Committee held eight different meetings addressing various provisions of the Charter and receiving public input during the public comment period at each session. The Committee additionally received briefing materials on each issue including information on similar Charter provisions of other Texas cities. The Committee’s work concluded with a public review of the Draft Final Report on April 25, 2016, and a final meeting on June 2, 2016.

The following Final Report is the result of the above meetings, hearings and studies in which all points of view were considered and the different ways of doing things in other cities were compared and analyzed. The Committee was not unanimous in all of its votes on the different propositions, but the Committee agrees that this Final Report represents the sum of its efforts on behalf of the community in making a careful study of our existing City Charter and identifying the provisions in need of review and amendment.

PROPOSED CITY CHARTER AMENDMENTS

Proposition 1. Establishing a Dedicated Fund To Be Used Solely for Residential Street Reconstruction and Authorizing the City Council To Levy, Assess And Collect A Property Tax Not To Exceed Six Cents (\$0.06) Per One Hundred Dollars (\$100.00) Of Assessed Value For The Purpose Of Residential Street Reconstruction, Said Taxes To Be Maintained In This Dedicated Fund And Used Solely For The Purpose Of Residential Street Reconstruction, And Said Taxes to Be Gradually Implemented at a Rate of Not More Than Two Cents (\$0.02) Per One Hundred Dollars (\$100.00) Per Year.

Summary

The City currently is in the process of implementing a broad-based street repair program to address the long-term effects of deferred maintenance affecting all roadways in the City, including major arterial streets, collector streets, and local and residential streets. The recently enacted street maintenance fee was designed to fund maintenance of all classifications of streets. Additional funds are collected from the RTA and through the industrial district contracts to fund street needs. For major street reconstruction projects, the City currently uses periodic bond programs to finance these projects over time with a dedicated property tax for debt service.

The remaining component of fixing the street problems is addressing the needs of local and residential streets reconstruction. Although some funds have been allocated for these streets in the past, no specific, long-term funding source has been identified for this priority. Estimates of addressing this need range from \$700 million to \$800 million. The Ad Hoc Residential Streets Committee has confirmed that failure to keep up with a consistent maintenance program results in the costs of street maintenance to increase dramatically. In its final report, the Ad Hoc Residential Streets Committee identifies four funding options ranging from \$10 million to \$20 million of new funding per year to address residential and local streets with part of those funds to be used for reconstruction and the remainder for repairs.

The Committee looked at several different funding options in order to address this need. An increase in the motor fuels tax would require authorization by the Texas Legislature, and it has refused to allow any such authorizations even on a local option basis. Increasing motor vehicle registration fees also would require Legislative authorization. Basically, the Texas Legislature has not been willing to provide any new types of taxing authority for local governments, even on a local option basis.

Budget cuts also cannot address a problem of this magnitude without cutting other core City services. During the economic downturn of the 1980's, the City's commitment to police, fire and emergency medical services held firm while all other municipal functions, including streets, contracted. The City cannot achieve significant budget reductions in order to fund residential and local streets without negatively impacting police, fire, or emergency medical services. Other municipal functions such as libraries,

parks and museums already have been dramatically reduced, and budget reductions are continuing with the privatization of the Corpus Christi Museum and the sale of various neighborhood parks.

The Committee proposes the creation of a new, dedicated property tax that would generate funds to be placed in a restricted fund and used solely for residential street reconstruction as the best available funding source for a major part of this need. This proposed Charter amendment provides for the creation of a dedicated fund and the authorization of a property tax to be used solely for residential street reconstruction. The dedicated fund is different from the existing special fund for residential and local street reconstruction since the restriction would be in the City Charter and not subject to change by future city councils. The new property tax established would be outside the 68-cent tax cap, since it will be a special voter-approved tax and designed not to impact the City's ability to address its maintenance and operations needs and its general bond rating. Due to State law limitations, the City Council would not be able to levy the full tax immediately, but it would have to be implemented gradually over a period of years.

The proposed tax rate maximum of six cents would raise approximately \$10.2 million annually in additional funding, and the Charter amendment restricts this funding to residential street reconstruction costs only. The Committee believes that the problem of addressing the maintenance and reconstruction needs for local and residential streets cannot be solely funded by property taxes, and a larger tax increase would make the proposition more difficult to gain voter approval. A multi-part strategy needs to be developed with additional funding sources in order to address the needs for non-residential, local street reconstruction and increased residential and local street maintenance. In addition to those needs, funding will have to be developed for any needed utilities improvements and the City's administrative costs in effectively managing these projects. The Committee noted that the street maintenance fee has not been adjusted since it was enacted three years ago and other fees such as residential garbage collection charges could be increased to generate more funding.

The proposed amendment would establish a funding component that would be a significant measure in addressing the needs of residential street reconstruction. It would need to be implemented gradually in order to avoid rollback elections and limit the impact on property taxpayers. With the two-cents per year cap on annual increases, the increased burden on a property with a \$100,000 taxable value would be \$20.00 per year. Due to the limitations of State law and the fluctuation of appraised values each year, it would take several years for the City to implement this new program, but the Committee believes that the community would benefit from this new funding source for residential street reconstruction with the protection of an overall cap of \$60.00 in increased property taxes on a property with a \$100,000 taxable value.

Actual Text Amendment

Adoption of Proposition No. 1 would amend the City Charter, ARTICLE VIII, TAXATION AND BONDS, Section 1, as follows:

Sec. 1. - Taxation.

(a) The city council shall have power, and is hereby authorized annually, after the budget is adopted, to levy and collect taxes up to the maximum authorized by the Constitution of Texas based on the assessed value of all real and personal property in the city, not exempt by the Constitution and laws of Texas from taxation; provided that, except as provided in paragraph (b) and paragraph (c) below, the maximum tax rate for all purposes shall not exceed sixty-eight cents (\$0.68) per one hundred dollars (\$100.00) of assessed value. The maximum tax rate limitation shall remain in full force and effect until changed by Charter amendment or by ordinance duly adopted after a referendum election at which a majority of the registered voters voting at such election approved adoption of the ordinance.

(b) The maximum tax rate the city council may levy in support of debt service for any tax-supported obligations which are authorized by the voters of the city at an election held after April 4, 1993, shall be limited to the tax rate limitation provided in the Texas Constitution. In the event any such voter-approved obligations are refunded by the issue of refunding obligations as authorized under Texas law, the debt service on such refunding obligations shall be subject to the maximum tax rate limitation in paragraph (a) above unless: (i) the refunding results in a net present value savings to the city as determined by the Texas Attorney General, or (ii) such refunding obligations are authorized by the voters of the city at an election held for such purpose.

(c) A dedicated fund to be used solely for residential street reconstruction is established, and the city council is authorized each year to levy, assess and collect a property tax not to exceed six cents (\$0.06) per one hundred dollars (\$100.00) of assessed value for the purpose of residential street reconstruction to be deposited in such fund. Said taxes shall be used solely for the purpose of residential street reconstruction and shall be implemented gradually at a rate not to exceed two cents (\$0.02) per one hundred dollars (\$100.00) of assessed value per year. For the purposes of this provision, the term "reconstruction" is defined as removing all or a significant portion of the pavement material and replacing it with new or recycled materials.

~~—(e)~~ (d) If for any cause the city council shall fail or neglect to pass a tax ordinance for any year, levying taxes for that year, the tax ordinance last passed shall be considered in force and effect as the tax ordinance for the year for which the city council so failed to pass a tax ordinance, and the failure to pass such ordinance in any year shall not invalidate the collection of the tax for that year.

~~—(d)~~ (e) The city council may also prescribe the date when taxes shall become due and prescribe penalties for nonpayment before they become delinquent.

~~—(e)~~ (f) The city council may also levy, assess and collect any other types of taxes as provided by state law, provided that no such tax shall be greater than is authorized by such statute.

Proposition 2. Providing That The Mayor Pro Tem Shall Be The Council Member Elected At Large Who Received The Highest Number Of Votes.

Summary

Currently, the mayor pro tem is selected by the City Council on a rotating basis with each Council member serving as mayor pro tem at some point during the two-year term of office. In the event of the disability of the mayor, under Article II, Section 5, the mayor pro tem serves as mayor. A separate provision in Article II, Section 12, specifies that in the event of a vacancy in the office of mayor, the successor will not be the mayor pro tem but the Council member elected at large who received the highest number of votes.

Mayor Emeritus Henry Garrett made the point that the both the City and the mayor would benefit from stability in the position of mayor pro tem by having a Council member involved more directly on a consistent basis with the various functions and responsibilities of the mayor. While different ceremonial functions could continue to be spread around for all council members to handle from time to time, the position of mayor pro tem would become a tenured position during the entire two-year term of office filled by the Council member elected at large who received the highest number of votes. That consistency would eliminate the risk inherent in Section 5 concerning the disability of the mayor that the position of mayor could be filled on an extended basis by a Council member not elected by the entire City.

The provisions on succession would be further revised to provide that in the event of a vacancy in the office of the mayor, the mayor pro tem would succeed to the office of mayor, and the next highest vote-getter at large would then become the mayor pro tem.

Actual Text of Amendment

Adoption of Proposition No. 2 would amend the City Charter, ARTICLE II, CITY COUNCIL, Section 4, as follows:

Sec. 4. - The mayor pro tem.

(a) ~~The city council shall nominate and confirm one of the council members who shall be known and designated as mayor pro tem, and he or she shall receive no extra pay by reason of being or acting as mayor pro tem.~~ The mayor pro tem shall be the council member elected at large who received the highest number of votes at the City Council election. He or she shall receive no extra pay by reason of being or acting as mayor pro tem.

(b) Whenever a regular or special meeting is scheduled to be held and both the mayor and mayor pro tem are absent, a majority of the council members present may proceed to elect one of those present as acting mayor for such meeting who shall preside

and discharge the duties of the mayor. The absence of the mayor and mayor pro tem shall be noted in the minutes with a short statement of the reason for absence, if known.

(c) When it is anticipated that both the mayor and mayor pro tem will be absent from the city, or unable to perform the duties of the office of mayor on the day of the meeting of the city council, the council by a majority vote shall name a member to be mayor pro tem for the particular meeting, and he or she shall be entitled to perform the duties and have the powers of the mayor on such occasion.

(d) If the mayor pro tem takes office as mayor pursuant to Section 12 below due to vacancy in office of mayor, then the new mayor pro tem shall be the council member elected at large council member who received the next highest number of votes.

Proposition 3. Adjusting Total Annual Compensation For The Mayor To \$24,000 And Total Annual Compensation For Each Council Member To \$18,000, and Eliminating All Other Forms of Compensation, To Be Effective With The City Council Elected In 2022.

Summary

In 1975, the voters approved a Charter amendment increasing city council compensation from \$50 per meeting to \$100 per meeting subject to a \$6,000 annual limit, with the mayor receiving an additional \$3,000 stipend. In 1987, as part of an overall reorganization and simplification of the Charter, the voters approved an amendment setting the council members' compensation at a flat level of \$6,000 and the mayor's compensation at \$9,000. As a result, the economic benefit of serving on the city council has been held at the same basic level since 1975.

The Committee recognizes that persons serving on the Council are not serving for the money, but the low stipend serves as a limit as to who can afford to serve on the City Council. In order to be able to serve on the City Council without undue hardship, persons need to be independently wealthy, retired, or have a job that affords them the flexibility to spend a full day or more away from work each week without being penalized with a salary reduction.

In addition to the above salary, the Council members each receive a car allowance of \$350 per month, or \$4,200 per year, and the mayor receives a car allowance of \$450 per month, or \$5,400 per year. Also, some Council members participate in the City's health insurance program. The monthly premium subsidy ranges from \$6,000 to \$12,000 per year depending upon the type of coverage selected.

The Committee voted to set an overall compensation limit of \$18,000 per year for Council members and \$24,000 per year for the mayor. For Council members who currently only receive the \$6,000 annual amount and car allowance of \$4,200 annually, the change would result in a \$7,800 increase in compensation. For those participating in

the City's health insurance program, the change may not result in any significant increase or could even be a reduction in benefits. For the mayor who currently receives a \$9,000 salary and \$5,400 car allowance, the change would result in a \$9,600 increase.

The Committee also wanted to clarify the issues concerning car allowances, health insurance, and any other benefits available to the mayor and members of the Council by making these limitations on all compensation, inclusive of any of those other benefits. The new compensation limits would go into effect immediately after the election and qualification for office of the city council elected in 2022 so that none of the currently-serving Council members would be voting on an amendment that would increase their compensation.

Actual Text of Amendment

Adoption of Proposition No. 3 would amend the City Charter, ARTICLE II, CITY COUNCIL, Section 7, as follows:

Sec. 7. - Compensation.

(a) Each member of the city council, with the exception of the mayor, shall receive as total compensation the sum of ~~six thousand dollars (\$6,000.00)~~ eighteen thousand dollars (\$18,000.00) during each year of service on the council, such sum to be paid in equal installments throughout the year.

(b) The mayor shall receive as total compensation the sum of ~~nine thousand dollars (\$9,000.00)~~ twenty-four thousand dollars (\$24,000.00) during each year of service on the council, such sum to be paid in equal installments throughout the year.

(c) No car allowances, health insurance or other forms of compensation are permitted.

(d) The provisions of this section shall become effective immediately after the election and qualification for office of the first city council following its adoption with the City Council elected in 2022.

Proposition 4. Allowing For Procurement Of Contracts For Independent Auditor With Terms Up To Five Years.

Summary

Currently, the City Charter limits the procurement of outside auditing contracts to no more than three years. The language also includes the statement “without requiring competitive bids” which is not relevant according to state law that requires such contracts to be based on qualifications.

The City's internal auditor and financial services staff recommend authorizing up to five-year contracts for the outside auditor in order to match what they consider to be the optimum cycle for procurement of outside auditing services.

Actual Text Amendment

Adoption of Proposition No. 4 would amend the City Charter, ARTICLE II, CITY COUNCIL, Section 27, as follows:

Sec. 27. - Independent audit.

The council shall provide for an independent annual audit for all city accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, ~~without requiring competitive bids,~~ procure designate such accountant or firm annually or for a period not exceeding ~~three~~ five years, provided that the designation for any particular fiscal year shall be made no later than thirty days after the beginning of such fiscal year. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

Proposition 5. Providing For The Appointment Of Two Alternate Members To The Civil Service Board.

Summary

The Civil Service Board is comprised of three members appointed by the City Council to consider appeals from City employees of terminations and other major disciplinary actions. Although the Board does not meet frequently, when it needs to meet in order to consider a case, it is critical to have three members present in order to consider the appeal. Scheduling a hearing for the three volunteer citizens serving on the Board can be a difficult task due to work schedules and the need to conduct the hearings during the regular work day and within a designated time frame.

The appointment of two alternative members to the Civil Service Board would allow the alternates to substitute for any of the three members and allow better flexibility in scheduling the required hearings. Having alternates also helps in the event that any board member cannot sit on a case due to a conflict. It is important always to have a panel of three members hearing any appeal in order to assure that there will be no tie votes in resolving cases.

Actual Text Amendment

Adoption of Proposition No. 5 would amend the City Charter, ARTICLE VII, EMPLOYMENT REGULATIONS, Section 2, as follows:

Sec. 2. Civil Service Board.

There shall be a civil service board, which shall consist of three persons, citizens of Corpus Christi. No member of the board shall during his or her tenure be a candidate for or hold any city office or position, and no member of the board shall during his or her tenure hold any other public office, except notary public. The city council shall appoint the members of such board. The city council shall appoint two alternate members to serve for absent board members. The term of office of each member and alternate member of such board shall be for three years, or until a successor is appointed. The civil service board, subject to the approval of the council, shall adopt, amend and enforce a code of rules and regulations providing for appointment, employment or suspension in all positions in the classified service. The civil service board established herein shall promulgate rules and regulations that insure fair treatment of employees in hiring, promotions, grievances and disciplinary actions including suspensions, dismissals, or terminations in accordance with the policy stated herein.

Proposition 6. Eliminating The Prohibition On City Employees Filing For Nomination Or Election To Municipal Public Office To Comply With Texas Local Government Code Section 150.041.

Summary

The Charter historically has allowed City employees to file as candidates for other public offices but has prohibited any City employee from filing as a candidate for the City Council and required termination of employment in such an event. The Texas Local Government Code has been amended specifically to allow municipal employees to run for city council positions, so this provision of the City Charter is no longer enforceable.

The proposed amendment would conform the City Charter to state law.

Actual Text Amendment

Adoption of Proposition No. 6 would amend the City Charter, ARTICLE VII, EMPLOYMENT REGULATIONS, Section 5, as follows:

Sec. 5. - Officers and employees, candidacies.

(a) A member of the city council may file as a candidate for nomination or election to any public office, including a position under this Charter. Upon the election or appointment to a non-city public office, such council member shall forfeit his or her office as a member of the council.

(b) A member of a city board, commission or committee may file as a candidate for nomination or election to any non-city public office. Upon the election or appointment to a non-city public office or upon the filing as a candidate for any position under this Charter, such board, commission or committee member shall forfeit his or her position.

(c) A city employee may file as candidates for nomination or election to any ~~non-city~~ public office and may serve in such position if elected or appointed, so long as such activities do not interfere with his or her city employment contrary to ordinances and administrative regulations. ~~If any city employee shall file as a candidate for nomination or election to a position under this Charter, such employee shall forfeit his or her employment with the city.~~

Proposition 7. Providing Authority To Issue Bonds In Accordance With The Laws Of The State Of Texas.

Summary

The City Charter originally was the source of its authority to borrow funds through the issuance of bonds, but the State has standardized procedures applicable to municipalities in borrowing funds through various provisions in the Texas Local Government Code and Texas Government Code. Additionally, several other statutory provisions authorize the issuance of special revenue bonds for different purposes.

This amendment would eliminate the detailed specifications concerning the issuance of bonds by the City and simply state that the City may issue bonds in the manner provided by the laws of the State of Texas.

Actual Text of Amendment

Adoption of Proposition No. 7 would amend the City Charter, ARTICLE VIII, TAXATION AND BONDS, Section 2, as follows:

Sec. 2. Authority to Issue Bonds

~~———— (a) ——— The city council shall have the power and authority by resolution duly passed, to borrow money on the credit of the city and may issue bonds of the city therefor. It shall also have the power and is hereby authorized to issue bonds for the purpose of refunding outstanding bonds of the city.~~

~~———— (b) ——— No bonds shall be issued for a term of longer than one year or to refund outstanding bonds at the same or a higher rate of interest and for such maturities that the aggregate amount to be paid on refunding, principal and interest, will exceed the aggregate amount due, principal and interest, on the entire outstanding bonds proposed to be refunded, unless approved by a majority vote of the qualified voters of the city voting at an election called for such purpose, except as authorized by state law.~~

~~———— (c) ——— No bonds shall be issued drawing more than the maximum rate of interest per annum authorized by state law.~~

~~_____ (d) _____ The Bond and Warrant Law of 1931, as amended, shall govern the contracts of the city and revenue bonds, certificates of obligation, notes or warrants issued by it.~~

The city council shall have the power and authority to issue bonds in accordance with the general and special laws of the State of Texas, in effect from time to time and as applicable to the City.

Proposition 8. Clarifying The Approval Process For Leases, Updating The Statutory Reference, And Eliminating the Waiting Periods for Leases and Lease Amendments Which Do Not Exceed 5 Years.

Summary

Leases of the different public properties of the City are subject to the restrictions containing in Article IX of the City Charter, and they generally are divided between leases up to five years and leases longer than five years. A referendum procedure applies to certain leases longer than five years on the Bayfront.

The proposed amendment clarifies some of the confusing language that has been created with different amendments over the years, and it updates the statutory reference for the referendum provision applicable to certain long-term leases on the Bayfront. It also simplifies the process for approving a simple amendment to a long-term lease that does not involve lengthening or expanding the scope of the lease.

Actual Text of Amendment

Adoption of Proposition No. 8 would amend the City Charter, ARTICLE IX, PUBLIC UTILITIES, FRANCHISES, AND LEASES, Section 3, as follows:

Sec. 3. - Ordinance granting franchise or lease of city property with term exceeding 5 years.

~~_____ (a) _____ Every ordinance granting, renewing, extending or amending or expanding a franchise or a lease of city property of the city with a term exceeding 5 years shall be read at two regular meetings of the council, and shall not be finally acted upon until the twenty-eighth day after the first reading thereof. Within five days following each of the two readings of the ordinance, a description of the franchise or lease, including the names of the parties, the term, payments to the city and the purpose of the franchise or lease, shall be published one time in a newspaper of general circulation in the city, and the expense of such publication shall be borne by the prospective franchise holder or lessee. Copies of the full text of any such ordinance shall be made available to the public at no charge in the office of the city secretary. With the exception of any ordinance authorized by election provided herein, no ordinance granting, renewing, extending ~~or amending or expanding~~ a lease or franchise of more than five years shall become effective until the expiration of sixty days following the date of its final adoption by the council, and every such ordinance shall be subject to referendum procedure provided by state law, ~~Section~~~~

282.003, ~~Texas Government Code~~, Section 311.073, Texas Transportation Code, as amended now or in the future.

~~————(b) Notwithstanding any other provision of this Charter, any ordinance granting or authorizing the execution of a lease having a term of five years or less may be finally passed and the lease authorized without publication of any notice, and in cases of declaration of emergency may be passed without necessity of two readings.~~

Proposition 9. Repealing An Unnecessary Provision Regarding Untreated Water Supply Contracts.

Summary

The City historically has been the primary provider of municipal water supplies in this region, and a provision was added to the Charter in 1968 giving the City specific authority to make contracts for the sale of untreated water for definite periods of time without the need for an election. Under existing State law, the City has sufficient authority to enter into contracts for the sale of both treated water and untreated water without the need for this specific Charter authorization. Elimination of this provision would not change any of the City’s existing rights or obligations.

Actual Text of Amendment

Adoption of Proposition No. 9 would repeal City Charter, ARTICLE IX, PUBLIC UTILITIES, FRANCHISES, AND LEASES, Section 11, regarding water supply contracts which currently reads as follows:

~~Sec. 11. —Water supply contracts for sale of untreated water.~~

~~————Notwithstanding any other provision of this Charter, the city may by ordinance, without voter approval, contract to provide untreated water for a definite period of time or in perpetuity. Every such contract shall contain a provision that the rate to be paid for the water furnished under such contract shall be the published rate at the time of taking or a provision that the rate shall be the average cost of water to the city for each respective year of the contract as determined by the city. The city's obligations under any such contract shall be construed to entitle the purchaser to only that portion of the city supply equal to the ratio which the population of the area purchasing water bears to the total population of the area supplied through the city water system.~~

Proposition 10. Updating Legal References In The General Powers Section And Clarifying the General Powers.

Summary

The “General Powers” provisions of the Charter in Article X include a variety of general authorizations for the City applicable to municipal corporations generally. Several of the provisions require updating for the statutory references to State law to be accurate, and general provisions relating to taxes and assessments need to be updated to include fees charged by the City.

Actual Text of Amendment

Adoption of Proposition No. 10 would amend the City Charter, ARTICLE X, GENERAL POWERS AND PROVISIONS, Section 1, as follows:

Sec. 1. - General powers.

(a) The city shall have and may exercise, for any municipal purpose, all powers applicable to home rule cities in the Texas constitution, statutes and codes, and specifically including the ~~powers presently enumerated in Article 1175, Texas Civil Statutes, and formerly enumerated in Article 1175, which have been codified in other provisions of Texas statutes and codes, and which may be added thereto at any time in the future,~~ governmental functions contained in Texas Civil Practices & Remedies Code, Section 101.0215(a), as amended, including the power to establish fees for said functions, and the following powers, to the fullest extent it deems necessary, desirable, or convenient, except as clearly prohibited or limited by state law or this Charter:

- (1) To use a corporate seal.
- (2) ~~To sue and be sued~~ To sue in any court.
- (3) To contract.
- (4) To define and abate nuisances.
- (5) To levy and collect taxes and fees.
- (6) To borrow money by issue or sale of bonds, warrants, notes or other method.
- (7) To appropriate and expend monies.
- (8) To acquire and own property or any interest therein, within and without the corporate limits, by purchase, eminent domain, gift, devise, exaction, or any other means whatsoever.
- (9) To sell, lease or otherwise convey city property, real or personal.
- (10) To manage and control all city property.
- (11) To establish, improve and maintain a comprehensive system of streets and public ways and all appurtenances related thereto, and to control and regulate any use thereof; provided, no street or alley may be ~~opened or~~ closed except after notice by one publication in a newspaper of general circulation in the city and by mail to the last known address of all owners within four hundred fifty feet therefrom and hearing by the city council.
- (12) To assess the cost of street, sidewalk and related improvements against abutting property owners and fix a lien against such abutting property in any manner authorized by ~~Subchapter E of Chapter 402, Texas Local Government Code, and Chapters 312 and 313, Texas Transportation Code~~ state law, ~~as the same may be amended in the future, or other state law,~~ or any city ordinance, which procedures are hereby adopted as alternatives which may be exercised.

(13) To levy and collect assessments and fees against property benefitted by improvements, and fix liens thereto, according to procedures established by ordinance or law.

[Remainder of Section 1 left unchanged.]

Proposition 11. Clarifying The Procedures Regarding Purchases And Contracts in Conformity with State Law.

Summary

Historically, cities contracted for goods and services based on a public bidding process established in the city's charter, but State laws have standardized the procurement systems and provided various options for requests for proposals, design-build contracts and other types of competitive procurements. The proposed amendment would eliminate language covered by State law in order to avoid confusion.

Actual Text of Amendment

Adoption of Proposition Amendment No. 11 would amend the City Charter, ARTICLE X, GENERAL POWERS AND PROVISIONS, Section 2, as follows:

Sec. 2. - Contracts.

(a) All contracts shall be authorized by the city council, except that the city manager may authorize contracts which do not require expenditures exceeding the limit at which competitive bids are required under the Texas Local Government Code, as amended, and may exceed that sum in the case of emergency which shall be reported to the council.

(b) No contract shall be binding until it has been (1) signed by the city manager or the manager's authorized representative, and (2) approved or objected to in writing by the city attorney, which objection shall be filed with the city secretary; ~~P~~provided, however, that as to standard contracts for multiple transactions, the city attorney need only approve the standard form.

(c) All purchases and contracts must comply with state law. ~~be competitively bid or proposed or based upon a procurement method authorized by state law. For any contract that is based on competitive bids or proposal, after approval of specifications by the city manager, advertisement of such contracts shall be published in a newspaper of general circulation in the city at least once in each week for two consecutive weeks, inviting competitive bids or proposals. All bids or proposals submitted shall be sealed and delivered in the manner required by the specifications. At the time announced in such notice, the bids or proposals shall be opened in the presence of one or more city employees designated by the city manager and in the presence of those bidders desiring to be present, except that confidentiality may be provided in accordance with state law. The council shall determine the most advantageous bid or proposal for the city. The city~~

~~shall always have the right to reject any and all bids or proposals. In the event all bids or proposals are rejected, the city may call for new bids or proposals at its discretion, which shall be advertised in like manner as the original.~~

(d) No contract shall ever be made which binds the city to pay for personal services to be rendered for any stated period of time; but all contracts for personal service shall be restricted to the doing of some particular act or thing, and upon its completion no further liability shall exist on the part of the city.