



MEMORANDUM

To: Mayor and City Council

From: Andy Quittner, City Attorney

Date: June 11, 2020

Subject: Detailed summary of proposed charter amendments

The Charter is amended by vote using the procedures set forth in Chapter 9 of the Texas Local Government Code (Charter Section 12.13). Chapter 9 allows the governing body, on its own motion, to submit amendments to the voters by an ordinance ordering the election at the next uniform election date. The Council can, therefore, consider amendments this summer, and recommend that certain amendments be placed on the November ballot. The Ordinance calling the election for the November election will contain the ballot language. Each Charter amendment must be submitted as a separate item on the ballot.

The following suggested amendments would streamline procedures and some of the changes are in response to the 2019 Legislative session. The first one gives more flexibility in setting council meetings by removing the “requirement” that two meetings be held each month. There have been times that two meetings were held the same day to get around the charter requirement.

Most of the rest of the changes are to remove requirements that the City publish notices in the newspaper. At one time that was required by State law, but most of those state requirements have been repealed. Generally, publication on the website (and/or social media) is sufficient. Given that the Seguin Gazette (which is the official paper) is only published twice a week (and in New Braunfels) timing of publication is an issue. Also, the Legislature changes requirements nearly every time it meets (particularly for budget and tax) – so a simple statement “in the manner required by State law” will cover all changes. Also recommending to change the requirement for “printed or mimeograph” copies of the City budget. Most are electronic, and the Comptroller won’t even accept paper.

Presently the City Budget must be presented to council no later than 60 days before the fiscal year, which is August 1. Give the recent changes in state law, particularly

requirements on the certified tax roll, keeping this date – if the budget is to be complete – would be difficult, if not impossible. More flexibility is necessary so that council can receive all of the information at one time.

Two other changes, Municipal Judge and City Attorney, are to add provisions for potential growth so the offices are not cut short. Also the Charter has said that council sets the city attorney budget, which has not been the case for the ten plus years that I have been here.

Section 3.08. – Meetings of the city council

The city council normally holds ~~shall hold at least~~ two (2) regular meetings in each month at a time to be fixed by the council for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city. All meetings of the city council shall be public except where otherwise authorized by law, and shall be held at the City Hall, except that the city council may designate another place for such meetings after publishing due notice thereof in one issue of the official newspaper of the City of Seguin. The mayor or any other two (2) members of the city council may call special meetings of the council at any time.

Section 3.10. – Procedure of passage of Ordinances

Every ordinance shall be introduced in written or printed form and shall take effect upon passage thereof or at the time indicated therein; provided, that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten (10) days from the date of its passage, subject to the provisions of Section 8.03 of this Charter. The city secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof by causing the caption or title, including the penalty, of such ordinance to be published as required by State law ~~in the official newspaper of the City of Seguin~~ at least once within ten (10) days after passage of said ordinance. The city secretary shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published, as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of ordinances of the city for publication in book or pamphlet form. Except as otherwise provided by Article VIII of this Charter, it shall be necessary to the validity of any ordinance that it shall:

- (1) Be in the hands of each city councilmember and shall be distributed to the local news media at the time of a regularly scheduled session of the city council

prior to the meeting at which the said ordinance is to be formally presented to the city council;

(2) Said proposed ordinance shall be read at least two (2) successive council sessions and may be voted on and passed at the second session after the second reading by the city council; and

(3) In case of an "emergency," which may be declared by a two-thirds vote of the city councilmembers, it shall be necessary to the validity of an ordinance that it be read only one time at one session of the city council at which session the city council may pass said ordinance.

Section 5.02. - Judge of the municipal court.

The presiding judge of said court shall be a licensed ~~resident~~ attorney appointed by the city council and shall receive such salary as may be fixed by the city council. In case of disability or absence of the presiding judge of the municipal court, the city council shall appoint a licensed ~~resident~~ attorney to serve during the absence of the regularly appointed judge or to complete the unexpired term. The city council may appoint a licensed attorneys to serve as associate judges as the need arises. ~~His~~ The term of office for all judges shall be two (2) years. ~~Any~~ The judge of the municipal court may be removed for cause, after a hearing, by the affirmative vote of five (5) of the councilmembers qualified and serving.

Section 5.04. - City attorney.

The city manager, subject to the approval of the city council, shall appoint a licensed attorney to be the city attorney. ~~The city attorney shall receive such compensation as may be fixed by the city council for the regular and special duties.~~ The city attorney or such other attorney selected by the city attorney with approval by the city manager shall represent the city in all litigation. The city attorney shall be the legal advisor of and the attorney and counsel for the city and all offices and departments thereof. The city attorney with approval of the city manager may appoint such assistant city attorneys as needed.

Section 10.02. - Preparation and submission of budget.

The city manager shall submit a proposed budget containing a complete financial plan for the fiscal year. Such a budget shall be submitted to the city council in accordance with State law. ~~not more than one hundred twenty (120) days but not less than sixty (60) days prior to the beginning of each fiscal year.~~ The budget shall contain the following:

(a) A budget message shall outline the proposed financial policies of the city for the fiscal year, shall set forth the reason for any changes in expenditures and revenue items from the previous fiscal year, and shall explain any major change in financial policies.

(b) A consolidated statement of anticipated receipts and proposed expenditures for all funds.

(c) An analysis of property valuations.

(d) An analysis of tax rates.

(e) Tax levies and tax collections by year for the last five (5) years.

(f) General fund resources in detail.

(g) Special fund resources in detail.

(h) Summary of proposed expenditures by fund, function, department and activity.

(i) Detailed estimates of expenditures shown separately for each activity to support summary as described in subsection (h) above.

(j) A revenue and expense statement for all types of bonds.

(k) A description of all bond issues outstanding, showing rates of interest, date of issue, maturity date, amount authorized, amount issued, and the amount outstanding on each.

(l) A schedule of requirements for the principal and interest of each issue of bonds.

(m) The appropriation ordinance.

(n) The tax levying ordinance.

Section 10.04. - Budget—A public record.

The budget and all supporting schedules shall be a public record. It shall be filed with the person performing the duties of city secretary, and it shall be submitted to the city council. The council shall, in accordance with State law, fix the time and place for a public hearing on the budget, and publish notice of the budget hearing in the manner required by State law. ~~in the official newspaper of the City of Seguin.~~

Section 10.09. - Effective date of budget; certification; copies made available.

Upon final adoption, the budget shall be in effect for the fiscal year. An electronic copy of the budget, as finally adopted, shall be filed with the person performing the duties of city secretary, the county clerk of Guadalupe County and the state comptroller of public accounts at Austin. The final budget shall be ~~printed, mimeographed or otherwise~~

electronically reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations. Paper copies of the budget may be obtained by those unable to access electronic versions.

Section 11.02. - Franchise power of council.

(a) The city council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities of every character operating within the City of Seguin. All ordinances granting, amending, renewing or extending franchises for public utilities shall be read at two (2) separate meetings of the city council. Upon passage, the city secretary shall have such franchise ordinance published in accordance with State law and on the City's webpage or the official newspaper of the City of Seguin at least once within ten (10) days after passage of said ordinance, and the expense of such publication shall be borne by the proponent of the franchise.

(b) Where the powers of annexation included in Article I are exercised by the city, and there exists public utility property adequately serving the inhabitants thereof, the owner of such utility property shall be granted a franchise to continue its operations in such annexed territory for a period of not less than twenty (20) but not more than twenty-five (25) years from the date of the annexation of such territory. The city retains the right to negotiate with the utility for the utility's property prior to this time if the city council deems it to be in the best interests of the city.

(c) No public utility franchise shall be granted for a term of more than twenty (20) years nor be transferable except with the approval of the city council expressed by ordinance.

Section 11.09. - Accounts of municipally owned utilities.

Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other disposition of annual income. The accounts shall show actual capital cost to the city of each public utility owned, also the costs of all extensions, additions and improvements, and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city government department. The city council shall cause an annual audit report to be made by a licensed public accountant and shall publish on the City's website, or as otherwise required by State law, in the official newspaper of the City of Seguin a summary of such report

showing the financial results of such city ownership and operation, giving the information specified in this section and such other data as the city council shall deem expedient.