

**TO: General Services Committee
John Cernosek, Chair
Jan Dockery
Kathy Weishuhn
Violet Zbranek**

FROM: Janet Bayer, City Secretary

SUBJECT: Committee Meeting – September 15, 2020 - 5:15 P.M.


**NOTICE OF MEETING OF THE
GENERAL SERVICES COMMITTEE
OF
THE CITY OF LA GRANGE, TEXAS**

Notice is hereby given that the General Services Committee of the governing body of the City of La Grange Texas will be held on the 15th day of September, 2020 at 5:15 P.M. in the City Hall Council Chambers at 155 E. Colorado Street, La Grange, Texas, at which time the following subjects will be discussed, to-wit:

1. Review Home Rule Charter Articles IX-X

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Posted at 3:00 P.M. on the 11th day of September, 2020.



Janet Bayer, City Secretary

"FOR THE RESOLUTION," and
"AGAINST THE RESOLUTION."

Section 8.06. Publication of proposed and referred ordinances.

The person performing the duties of City Secretary shall publish at least once in the official newspaper of the City the proposed or referred ordinance or resolution within fifteen (15) days of the election, and shall give such other notices and do such other things relative to such elections or by the ordinance or resolution calling said election.

Section 8.07. Adoption of ordinances.

If a majority of the qualified voters voting on any proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order of the City Council.

Section 8.08. Inconsistent ordinances.

If the provisions of two or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the greatest number of votes shall prevail.

Section 8.09. Ordinances passed by popular vote, repeal or amendment.

No ordinance or resolution which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the City Council in response to a referendum petition or by submission to popular vote as provided in Section 8.04 of this Charter.

Section 8.10. Further regulations by city council.

The City Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this article consistent herewith.

Section 8.11. Franchise ordinances.

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of Article X of this Charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

ARTICLE IX. MUNICIPAL FINANCE

Section 9.01. Fiscal year.

The fiscal year of the City of La Grange shall begin the first day of October and shall end the last day of September of each calendar year.

Section 9.02. Preparation and submission of budget.

The City Manager shall submit a proposed budget containing a complete financial plan for each fiscal year. Such a budget shall be submitted to the City Council 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 reasons for any changes in expenditure 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

addressed to the City Council which requests the submission of a proposed ordinance or resolution to the vote of the voters of the City. Said petition must be signed by qualified voters of the City equal in number to at least twenty (20) percent of the number of registered voters, as of the last regular municipal election of the City, or one hundred seventy-five (175), whichever is greater, and each copy of the petition shall be signed in the same manner as recall petitions are signed, as provided in Section 7.03 of this Charter, and shall be verified by oath in the manner and form as required for recall petitions in Section 7.03 of this Charter. The petition may consist of one or more copies as permitted for recall petitions in Section 7.04 of this Charter. Such petitions shall be filed with the person performing the duties of City Secretary. Within five (5) days after the filing of such petition, the person performing the duties of City Secretary shall present said petition and proposed ordinance or resolution to the City Council. Upon presentation to the City Council of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the City Council, within ten (10) days after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election to be held within thirty (30) days thereafter, at which time the qualified voters of the City of La Grange shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election.

Section 8.03. Referendum.

Qualified voters of the City of La Grange may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes, appropriating money, authorizing the issuance of either tax or revenue bonds whether original or refunding, or setting utility rates, passed by the City Council, be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in Section 8.02 of this Charter and shall be submitted to the person performing the duties of the City Secretary. Immediately upon the filing of such petition, the person performing the duties of City Secretary shall present said petition to the City Council. Thereupon the City Council shall immediately reconsider such ordinances or resolutions and if it does not entirely repeal the same, shall submit it to popular vote as provided in Section 8.04 of this Charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters cast ballots in favor of retaining such ordinances or resolutions.

Section 8.04. Voluntary submission of legislation by the council.

The City Council, upon its own motion and by a majority vote of its members, may submit to popular vote at any election for adoption or rejection any proposed ordinance or resolution or measure or may submit for repeal any existing ordinance, resolution or measure, in the same manner and with the same force and effect as provided in the [this] Article for submission on petition, and may at its discretion call a special election for this purpose.

Section 8.05. Form of ballots.

The ballots used when voting upon such proposed and referred ordinances, or resolutions, shall set forth their nature sufficiently to identify them and shall set forth upon separate lines the words:

"FOR THE ORDINANCE," and

"AGAINST THE ORDINANCE," or

franchises for public utilities shall be read at two (2) separate regular meetings of the City Council and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and, pending such time, the full text of such ordinance shall be published once a week for three (3) consecutive weeks in a newspaper of general circulation of the City of La Grange and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be granted for a term of more than twenty (20) years (or ten (10) years in the case of cable television franchise) nor be transferred except with the approval of the City Council expressed by ordinance.

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 operation in the annexed territory for a period of not more than twenty (20) years from the date of annexation of such territory. The City retains the right to negotiate with the utility for the purchase of such property prior to this time, if the City Council deems it to be in the best interest of the City.

Section 10.03. Franchise value not to be allowed.

Franchises granted by the City under this Charter shall be considered to be of no value in fixing reasonable rates and charges for utility service within the City, and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise.

Section 10.04. Right of regulation.

All grants, renewals, extensions or amendments of public utility franchises, whether so provided in the ordinance or not, shall be subject to the right of the City Council:

- (a) To repeal the same by ordinance at any time upon the failure of the grantee to comply with the terms of the franchise, the ordinance, this Charter, any applicable statute of the State of Texas, or the rule of any applicable governmental body, such power to be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise, and setting a reasonable time for correction of such failure, and such power shall be exercised only after the grantee has been given the opportunity for hearing.
- (b) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (c) To require such expansion, extension, and improvement of plants and facilities as are necessary to provide adequate service to the public; and to require that maintenance of facilities be performed at the highest reasonable standard of efficiency.
- (d) To prescribe the accounts and accounting system to be used by a public utility so that they will accurately reflect the value of the property used in rendering its service to the public; and the expenses, receipts, and profits of all kinds of such franchises. It shall be deemed sufficient compliance with this paragraph if the franchise keeps its accounts in accordance with the uniform system established by an applicable Federal or State agency for such service. To examine and audit, at any time, the accounts and other records of any utility; and to require annual and other reports including reports on operations within the City of La Grange.
- (e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the health, safety, welfare and accommodation of the

public.

(f) To require such compensation and rental as may be permitted by the laws of the State of Texas.

(g) To require the franchise holder to restore, at his expense, all public or private property to an equal or better condition than before being damaged or destroyed by construction, maintenance, or removal by such franchise holder.

Section 10.05. Grant not to be exclusive.

No grant or franchise to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive.

Section 10.06. Consent of property owners.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but nothing in this Charter or in any franchise granted hereunder shall ever be construed to deprive any such property owner of any right of action for damage or injury to his property as is now or hereafter may be provided by law.

Section 10.07. Extensions.

All extensions of public utility service within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter. The extension of any public utility shall be considered as a part of the original grant and shall be terminable at the same time and under the same conditions as the original grant.

Section 10.08. Other conditions.

All franchises heretofore granted are recognized as contracts between the City of La Grange and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the City to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved; and except the general power of the City, heretofore existing and herein provided for to regulate the rates and services of a grantee, shall include the right to require proper and adequate extension of plant and service and the maintenance of the plant and equipment at the highest reasonable standard of efficiency. All franchises hereafter granted shall be held subject to all terms and conditions contained in the various sections of this Article whether or not such terms are specifically mentioned in the franchise.

Section 10.09. 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 each such City ownership and operation. The accounts shall show the actual capital cost to the City of each public utility owned, the cost of all extensions, additions, and improvements; and the source of the funds expended for such capital purposes. The accounts shall also show all assets and all liabilities of each utility appropriately subdivided by classes, depreciation reserve, other reserves and surplus, and revenues, operating expenses including depreciation, interest payments, rentals and other disposition of annual income including the cost of any service furnished to any other City department. The City Council shall annually cause an audit report to be made, by a Certified Public Accountant, and shall publish in a newspaper of general circulation of the City of La Grange, a summary of such report showing the financial results of such City ownership and operation, giving the information specified in this section and any other data the Council shall deem to be pertinent.

Section 10.10. Sales of electricity, water, sewer and any other services.

The City Council shall have the authority and power to sell and provide electricity, water, sewer and/or other utility services to persons or firms outside the City limits of La Grange and permit them to connect with City systems under contract with the City, under terms as are fair and reasonable and for the best interests of the City. The Council shall have the authority to prescribe the kind of materials used where it furnishes such services, to inspect same and require them to be kept in good condition, at all times, and to make such rules and regulations as shall be necessary and proper, and to prescribe penalties for non-compliance.

Section 10.11. Regulation of rates and services.

The City Council shall have full power, after due notice and hearing, to regulate by ordinance the rates, charges, and fares of every public utility franchise holder operating in the City. Every franchise holder who shall request an increase in rates, charges or fares shall have, at a hearing of the Council called to consider such request, the burden of establishing by clear, competent, and convincing evidence the value of its investment property allocable to service in the City, the amount and character of its expenses and revenues connected with the rendering of such service, and any additional evidence required by the Council. If no agreement between the Council and the franchise holder can be reached on such request for an increase in rates, charges or facts, the Council may select and employ rate consultants, auditors and attorneys to investigate and, if necessary, litigate such request. The franchise holder shall reimburse the City for its reasonable and necessary expenses so incurred.

ARTICLE XI. GENERAL PROVISIONS

Section 11.01. Publicity of records.

All records and accounts of every office, department or agency of the City shall be open to inspection at the City Hall by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations as may be established by the City Council, provided that police records, vital statistics and other records closed to the public by law shall not be considered records for the purpose of this section.

Section 11.02. Personal financial interest.

(a) Any City officer, appointee, or employee who has a substantial financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City shall make known that interest to the City Council and refrain from voting upon or otherwise participating in his capacity as a City officer, appointee or employee in the making of such sale or in the making or performance of such contract. Any City officer, appointee or employee who conceals such a substantial financial interest or violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making sale to the City shall render the contract or sale voidable by the City Manager or the City Council.

(b) Where ownership of stock in a corporation is involved, such stock ownership in an amount in excess of ten (10) percent of the stock of such corporation shall constitute substantial financial interest.

Section 11.03. Prohibitions.

(a) Activities prohibited: