



ORDINANCE 2020-02-00904
[Ordering the May 2, 2020 Special Election]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 2, 2020, FOR THE PURPOSE OF SUBMITTING PROPOSITIONS TO THE QUALIFIED VOTERS OF THE CITY FOR THE CONTINUATION OF THE ONE-HALF OF ONE-PERCENT SALES AND USE TAX TO PROVIDE REVENUE FOR MAINTENANCE AND REPAIR OF MUNICIPAL STREETS; AND FOR THE PURPOSE OF SUBMITTING PROPOSED AMENDMENTS TO THE CITY HOME RULE CHARTER; PROVIDING FOR THE PUBLICATION AND POSTING OF NOTICE; DESIGNATING LOCATION OF POLLING PLACE; ORDERING NOTICE OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION; AUTHORIZING EXECUTION OF JOINT ELECTION AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUCAS COLLIN COUNTY, TEXAS, THAT:

Section 1. A Special Election is hereby ordered for May 2, 2020, for the purpose of submitting propositions to the qualified voters of the City for the reauthorization of the one-half of one-percent sales and use tax to continue providing revenue for maintenance and repair of municipal streets.

PROPOSITION A

The Proposition ballot language shall read:

"The reauthorization of the one-half of one-percent (.50%) sales and use tax within the City of Lucas Texas, to continue providing revenue for maintenance and repair of municipal streets."

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

Section 2. A Special Election is hereby ordered to be held in and throughout the City of Lucas, Texas, on May 2, 2020, at which time there shall be submitted to the qualified voters of the City the following Propositions for amendments to the Home Rule Charter of the City of Lucas:

PROPOSITION B

Shall Section 3.02(2) and (3) of the City Charter be amended to remove the transitional provisions that established the staggered terms upon adoption of the Charter and replace with language stating the Mayor and Councilmembers shall be elected and serve staggered terms of three (3) years?

SECTION 3.02 Elected Officers

- (2) Terms -- The Mayor and Councilmembers shall be elected by the qualified voters of the entire City for staggered a terms of three (3) years, or until a successor has been duly elected and

qualified, but each Councilmember shall be elected to and occupy an at-large, non-geographical seat on the Council, such seats being numbered 1, 2, 3, 4, 5 and 6, respectively. The seats of the Councilmembers shall be designated on the official ballot as Councilmember Seats 1, 2, 3, 4, 5 and 6.

(3) ~~Transition Provisions~~ To establish staggered terms for the Mayor and Councilmembers, the following transition provisions shall be applied:

- (a) ~~Beginning with the May 2009 election, the Mayor and Councilmember for Seat 3 will be elected for a three (3) year term. Councilmember for Seat 1 and Seat 2 will be elected for a two (2) year term.~~
- (b) ~~In May 2010, Councilmember for Seat 5 and Seat 6 will be elected for a three (3) year term. Councilmember for Seat 4 will be elected for a two (2) year term.~~
- (c) ~~In May 2011, Councilmember for Seat 1 and Seat 2 will be elected for a three (3) year term.~~
- (d) ~~In May 2012, the Mayor and Councilmember for Seat 3 and Seat 4 will be elected for a three (3) year term.~~
- (e) ~~In May 2013, Councilmember for Seat 5 and Seat 6 will be elected for a three year term.~~

(4) ~~Current Terms~~ The current terms of Councilmembers in office when this Section takes effect shall not be shortened by the transition provision in (3) above.

(5) ~~Pattern~~ Beginning in 2012, a pattern of electing the Mayor and a number of Councilmembers on a "3-2-2" annual rotation basis shall be in effect and continue thereafter.

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION C

Shall Section 3.03(1) of the City Charter be amended to further clarify the requirement for holding office to prohibit a councilmember from holding another position of emolument, except as authorized by state law and if a councilmember is convicted of a felony or a crime involving moral turpitude such member shall immediately forfeit such office?

SECTION 3.03 Candidacy of the Mayor and Councilmembers

- (1) Qualification -- No person shall be a candidate for the office of Mayor or Councilmember *unless such candidate is a qualified voter of the City and shall have resided in the City for not less than one (1) year preceding the day of election and should not be in arrears in the payment of any City taxes. Members of the City Council shall hold no other elected office or appointed public office or position of emolument, except as authorized by state law. If a member of the City Council shall cease to possess any of the qualifications or shall be convicted of a felony or a crime involving moral turpitude, such person shall immediately forfeit such office. The City Council shall be the judge of the election and qualifications of its own members.*

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION D

Shall Section 3.03(3) of the City Charter be amended to remove a provision that is surplus language as it relates to the filing of an application for a declaration of candidacy that states the City Hall shall not remain open to the general public after such time to accept ballot applications?

SECTION 3.03 Candidacy of the Mayor and Councilmembers

- (3) Filing -- An application stating a declaration of candidacy shall be filed with the City Secretary or a duly appointed designee, who shall affix the date and time stamp on the ballot application, during regular office hours not earlier than the 75th day before the day of the election as provided by State law. The candidate's ballot application must be filed not later than 5 p.m. on the date provided in accordance with State law. ~~The City Hall shall not remain open to the general public after such time to accept ballot applications.~~

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION E

Shall Section 3.13(7) of the City Charter be amended to provide for members appointed to the planning and zoning commission, the zoning board of adjustments and other such boards, committees, commissions and directors to corporations shall have been a resident for a minimum of twelve (12) months at the time of their appointment?

SECTION 3.13 Duties of City Council

- (7) To appoint members of the planning and zoning commission, the zoning board of adjustments and other such boards, committees, commissions and directors to corporations as may be authorized by State law. Any member appointed to such board, committee, commission or corporation shall have been a resident of the City of Lucas for a minimum of 6 twelve (six-12) months at the time of their appointment.

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION F

Shall Section 4.01 of the City Charter be amended to remove a provision that is no longer necessary which required prior to 2009 four (4) affirmative votes of the City Council to appoint a City Manager?

SECTION 4.01 Appointment

The City Council by five (5) affirmative votes shall appoint a City Manager who shall be the chief executive officer of the City and shall be responsible to the City Council for the proper administration

of the offices of the City, except as otherwise provided by this Charter. The City Manager shall be chosen by the City Council on the basis of executive and administrative training, experience and ability. ~~Prior to the 2009 election, four (4) affirmative votes of the City Council are required to appoint a City Manager.~~

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION G

Shall Section 4.03(9) of the City Charter be amended to remove the requirement that the City Manager is to provide a written report no less than quarterly of the current financial conditions and future needs of the City to be presented orally at an open meeting of the city council?

SECTION 4.03 Duties

The duties of the City Manager shall include the following:

- (9) ~~Provide written reports no less than quarterly of the current financial conditions and future needs of the City to be presented orally at an open meeting of the City Council, and make such recommendations concerning the affairs of the City, as the City Manager or the City Council deems desirable or necessary.~~

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION H

Shall Section 4.05 of the City Charter be amended to remove a provision that is no longer necessary which required prior to 2009 four (4) affirmative votes of the City Council to remove the City Manager?

SECTION 4.05 Removal

The City Manager shall be removed, with or without cause, by five (5) affirmative votes of the City Council. ~~Prior to the 2009 election, four (4) affirmative votes of the City Council are required to remove the City Manager.~~

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION I

Shall Section 5.01(1) of the City Charter be amended to remove a provision that is no longer necessary which required prior to 2009 four (4) affirmative votes of the City Council to appoint the City Secretary?

SECTION 5.01 City Secretary

- (+) Appointment -- The City Council shall appoint the City Secretary, by at least five (5) affirmative votes of the City Council. The City Council shall consider the City Manager's recommendations regarding the appointment of the City Secretary. ~~Prior to the 2009 election, four (4) affirmative votes of the City Council are required to appoint the City Secretary.~~

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION J

Shall Section 5.01(4) of the City Charter be amended to remove a provision that is no longer necessary which required prior to 2009 four (4) affirmative votes of the City Council to remove the City Secretary?

SECTION 5.01 City Secretary

- (4) Removal -- The City Secretary may be removed, with or without cause, by five (5) affirmative votes of the City Council. ~~Prior to the 2009 election, four (4) affirmative votes of the City Council are required to remove the City Secretary.~~

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION K

Shall Section 5.02(1) of the City Charter be amended to remove a provision that is no longer necessary which required prior to 2009 four (4) affirmative votes of the City Council to appoint the Municipal Judge?

SECTION 5.02 Municipal Judge

- (1) Appointment -- The City Council shall appoint by five (5) affirmative votes of the City Council such Municipal Judges of the Municipal Court as may be necessary, all of whom shall be competent, duly qualified attorneys licensed and practicing for at least two (2) years in the State. The Municipal Judge(s) shall be appointed by ordinance of the City Council and their salary may be fixed by ordinance or resolution. The Municipal Judge(s) shall be appointed for a term of two (2) years and may be appointed to additional consecutive terms. ~~Prior to the 2009 election, four (4) affirmative votes of the City Council are required to appoint the Municipal Judge.~~

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION L

Shall Section 5.02(4) of the City Charter be amended to remove a provision that is no longer necessary which required prior to 2009 four (4) affirmative votes of the City Council to remove the Municipal Judge?

SECTION 5.02 Municipal Judge

- (4) Removal -- The Municipal Judge shall be removed, with or without cause, by five (5) affirmative votes of the City Council. ~~Prior to the 2009 election, four (4) affirmative votes of the City Council are required to remove the Municipal Judge.~~

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION M

Shall Section 5.03(1) of the City be amended to remove a provision that is no longer necessary which required prior to 2009 four (4) affirmative votes of the City Council to appoint the City Attorney?

SECTION 5.03 City Attorney

- (1) Appointment -- The City Council shall appoint by five (5) affirmative votes of the City Council a competent, duly qualified licensed and practicing attorney in the State who shall serve as the City Attorney. ~~Prior to the 2009 election, four (4) affirmative votes of the City Council are required to appoint the City Attorney.~~

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION N

Shall Section 5.03(6) of the City Charter be amended to remove a provision that is no longer necessary which required prior to 2009 four (4) affirmative votes of the City Council to remove the City Attorney?

SECTION 5.03 City Attorney

- ~~(6) Prior to the 2009 election, four (4) affirmative votes of the City Council are required to remove the City Attorney.~~

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION O

Shall Section 6.03(1)(A) of the City Charter be amended to reference that the maximum ad valorem tax rate shall be as provided under the laws of the State of Texas.

SECTION 6.03 Taxes and Taxation

(1) Powers --

- (A) The City Council may levy, assess and collect taxes of any type or character not prohibited by state law. The maximum ad valorem tax rate shall be as provided in the Texas Constitution and laws of the State of Texas.

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION P

Shall Section 7.01 of the City Charter be amended to reference the authority of the City to borrow money for public purposes only as allowed by the laws of the State of Texas?

SECTION 7.01 Authority to Issue

The City shall have the right and power to borrow money for public purposes by whatever method it may deem to be in the public interest and as allowed by law. The City shall have the right and power to issue tax bonds, revenue bonds, and any other evidences of indebtedness for permanent public improvements or for any other public purpose not prohibited by law or this Charter and to issue refunding bonds to refund outstanding evidences of indebtedness previously issued. All such bonds or other evidences of indebtedness shall be issued in conformity with the laws of the State applicable at the time of issuance of such obligations.

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION Q

Shall Section 9.01 (1) of the City Charter be amended to exclude from the Initiative process salaries of City officers or employees?

SECTION 9.01 Initiative

- (1) Qualified voters of the City shall, on at least two (2) separate regular meetings of the City Council within a sixty (60) day period, request adoption of an ordinance (except one appropriating money, levying a tax, issuing bonds, ~~or zoning~~, or salaries of City officers or employees). In the event the City Council fails to enact such an ordinance, such voters may submit a petition to the City Council which, after approval as to legal form by the City Attorney, requests that the ordinance be passed by the City Council, or, if not passed, it be submitted to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal in

number to twenty percent (20%) of the number of votes cast at the last regular municipal election, or 250, whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed ordinance.

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION R

Shall Section 10.01 of the City Charter be amended to reflect current state and federal law regarding franchise utilities that occupy the public right-of-way?

SECTION 10.01 Ordinance Granting Franchise

Except for franchises issued under state or federal law, the City Council shall have the power by ordinance to grant, amend, renew and extend, all franchises, both public and private, operating within the City of Lucas.

No grant to use the public right-of-way or property under ownership of the City shall be granted for a term of more than twenty (20) years from the date of the grant, renewal or extension of such franchise unless approved by citizens in accordance with this article. The City Council may, by a majority vote, seek approval from the voters by submitting all applications exceeding twenty (20) years to an election in accordance with State law. The prospective franchisee, not the City, shall fund the cost of said election.

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

PROPOSITION S

Shall Section 12.01 of the City Charter be amended to remove language that is no longer necessary regarding the procedure for the adoption of the initial Charter and retitle Article XII "Amendment and Review of Charter" and renumber the Sections accordingly?

ARTICLE XII

Adoption of Amendment and Review of Charter

~~SECTION 12.01—Procedure~~

~~(1) This Charter shall be submitted to the qualified voters of the City for adoption or rejection on May 10, 2008, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall then immediately become the governing law of the City until amended or repealed.~~

~~(2) It being impractical to submit this Charter by sections, it is hereby prescribed that the form of ballot to be used in such election shall be as follows, to-wit:~~

~~FOR THE ADOPTION OF THE CHARTER~~

~~AGAINST THE ADOPTION OF THE CHARTER~~

- ~~(3) The present City Council of the City shall call an election in accordance with the provisions of the general laws of the State governing such elections, and the same shall be conducted and the returns made and results declared as provided by the laws of the State governing municipal elections, and in case a majority of the votes cast at such election shall be in favor of the adoption of such Charter, then an official order shall be entered upon the records of said City by the City Council of Lucas declaring the same adopted, and the City Secretary shall record at length upon the records of the City, in a separate book to be kept in the City Secretary office for such purpose, such Charter as adopted, and such City Secretary shall furnish to the Mayor a copy of the Charter which copy of the Charter shall be forwarded by the Mayor as soon as practicable, to the Secretary of State under the seal of the City together with a certificate showing the approval of the qualified voters of such Charter.~~

FOR THE PROPOSITION _____ AGAINST THE PROPOSITION _____

Section 3. Pursuant to the Joint Election Agreement, the Elections Administrator of Collin County shall serve as Elections Administrator for the election. Presiding Election Judges and Alternate Presiding Election Judges appointed to serve the authorized polling places and the early voting clerk and deputy early voting clerks shall be those election officials furnished by the Elections Administrator from the list of proposed election judges as required in the Elections Services Contract. The City Manager and City Secretary are hereby authorized to execute an Elections Services Contract with the Collin County Elections Department for the General Election on May 2, 2020. The City Secretary shall have further authority to approve any minor modifications as may be necessary in the best interest of the City. A voting system or systems meeting the standards and requirements of the Texas Election Code, as amended, is hereby adopted and approved for early voting by personal appearance and by mail and for election day voting.

Section 4. Notice of the Special Election shall be posted on the bulletin board used to post notice of the City Council meetings and be published in a newspaper of general circulation in the City. That said Notice must be published at least once, not earlier than the 30th day nor later than the 10th day, before Election Day as provided in Section 4.003(a)(1) of the Texas Election Code. A copy of the published Notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and the person posting the Notice shall make a record of the time of posting, starting date, and the place of posting.

Section 5. The entire City shall constitute one election precinct for this election and the Lucas Community Center located at 665 Country Club Road, Lucas, Texas is hereby designated the polling place. The election officers and maximum number of clerks for said polling place shall be determined and appointed in accordance with the provisions of the Contract.

On Election Day, the polls shall be open from 7:00 A.M. to 7:00 P.M.

Early voting by personal appearance shall also be conducted at the Lucas Community Center located at 665 Country Club Road, Lucas, Texas. City of Lucas voters may vote at any of the additional Early Voting locations open under full contract services with the Collin County Elections

Administration. If the election services contract with the Collin County Elections Administrator revises the polling places listed previously, the City will utilize the polling places designated in said Election Services Contract, as the same may be amended from time to time.

Applications for ballot by mail shall be received and processed by the Collin County Elections Administrator, 2010 Redbud Boulevard, Suite 102, McKinney, Texas 75069. Applications for ballots by mail must be received no later than the close of business on April 20, 2020.

Early voting for the Special Election shall begin on Monday, April 20, 2020, and ends Tuesday, April 28, 2020, and the dates and hours designated for early voting by personal appearance at the early voting locations shall be as set forth below:

| Dates | Hours |
|--|------------------------|
| Monday, April 20, 2020 Through Wednesday, April 22, 2020 | 8:00 A.M. to 5:00 P.M. |
| Thursday, April 23, 2020 | 8:00 A.M. to 7:00 P.M. |
| Friday, April 24, 2020 and Saturday, April 25, 2020 | 8:00 A.M. to 5:00 P.M. |
| Monday, April 27, 2020 and Tuesday, April 28, 2020 | 7:00 A.M. to 7:00 P.M. |

For purposes of processing ballots cast in early voting, the election officers for the early voting ballot board for this election shall be appointed and designated in accordance with the provisions of the Contract.

Section 6. The City Secretary shall present the Special Election returns to the City Council at a Council meeting for the canvassing of said election in accordance with the Texas Election Code.

Section 7. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Lucas, and it is accordingly so ordained.

**DULY PASSED AND APPROVED BY THE CITY COUNSEL OF THE CITY OF LUCAS,
COLLIN COUNTY, TEXAS, ON THIS 6TH DAY OF FEBRUARY, 2020.**

APPROVED:



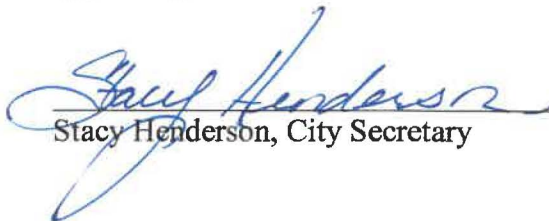
Jim Olk, Mayor

APPROVED AS TO FORM:



Joseph J. Gorfida, Jr., City Attorney
(01-17-2020:TM 113258)

ATTEST:



Stacy Henderson, City Secretary

