

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Special Meeting
December 8, 1952

10:00 A. M.

Council Chamber, City Hall

The meeting was called to order with Mayor Drake presiding.

Roll Call:

Present: Councilmen Johnson, Long, MacCorkle, White, Mayor Drake
Absent: None

Present also: W. E. Seaholm, City Manager; W. T. Williams, Jr., City Attorney; C. G. Levander, Director of Public Works.

The Mayor announced that this was a special meeting of the City Council convened for the purpose of considering amendments to the existing City Charter, and for the purpose of adopting a Resolution giving notice of the Council's intention to pass an ordinance submitting to the qualified voters of the City, for adoption or rejection, such proposed amendments to the Charter of the City or parts thereof.

MRS. CHARLES MITCHELL read the following statement regarding the recommendation of the Charter Committee:

Statement read to the City Council

December 8, 1953 by
Mrs. Charles F. Mitchell, President
Austin League of Women Voters.

I deeply regret the present atmosphere of confusion and tension which accompanies any mention of the city charter submitted by the charter committee to the City Council. Charter elections are never easy elections. It is always very difficult to explain to the voter what is being changed, what is better in the new document, what might be worse, and the thinking which lies behind any change. To add to this confusion an atmosphere of distinct partisanship and accusation seems to me very sad. Can it be possible that we have come to the stage in Austin where, if an interested citizen believes in public hearings before final action is taken or in a delay of the election, or wishes to retain our present method of election he or she must be "for Emma Long" or if he is for an immediate calling of the election with public hearings later or believes in the proposed place method of election he or she is immediately labelled as being "for Mayor Drake?" Voters often weigh issues without considering personalities, if given the chance.

Has our thinking on this basic document, which has needed revision for so long, been so obscured by a political problem that one section, one section alone out of twelve long, important articles is to dominate the consideration of the entire charter? I think there are many good things in this new charter. I disagreed with some of them, I still do. Every member of the charter committee disagreed with some. Every citizen probably will also. But how can we expect the average voter of Austin to be able to consider the major changes, the fundamental differences, if he never hears or knows about them and the whole picture is dominated by a problem which has become largely political, with much name calling and many accusations - a problem which obviously can be solved only at the polls. I grant it is of paramount importance, but believe the remainder of the charter should at least be viewed and discussed.

It is because of this atmosphere of confusion that I wish to bring up the following points and clarify them.

As a member of the charter committee I wish to say, speaking for myself, that in suggesting that an early election be called on this charter, there was no intent by this committee to try to fool the public, to push this charter through without informing the public. The intent was to try to avoid a situation such as the one which has arisen already and which might very well lead to the defeat of the complete charter.

I would also like to point out that in writing this charter this committee at all times thought of its work as a complete revision of the outmoded, much amended document which has governed our city for many years. We reminded ourselves at many, many points that this charter was not being written for the present council, for the present administration, but for the city of Austin, today, tomorrow and we hoped in the years to come.

The League of Women Voters in requesting an election by January 31st was fully aware of the fact that this was the last possible date the election could be called before the Council election. We knew the time for Council deliberation and public hearings was very short but believed so firmly that it was important to keep controversy and personalities out of the consideration of the

entire charter, that we felt with immediate action it would be possible for the Council to have public hearings, with adequate notice, and then deliberation by the Council prior to the adoption of an ordinance calling the election. The Council members received the first draft of the charter in September and the minutes of each meeting thereafter with the decisions and changes made by the whole committee, so that we felt the Council was acquainted with the charter and it would not be impossible for council members to make decisions in a relatively short time.

As was clearly stated in the letter from the League of Women Voters to the City Council, public hearings were strongly urged, prior to any definite decision by the City Council and the first suggestion was related directly to the second. I do not believe the importance of public hearings with adequate notice can be underestimated in relation to an election of this type. The charter committee discussed the subject of public hearings and in a vote of 5-4 decided that public hearings should be left to the discretion of the City Council since the committee was appointed only as an advisory body to the Council. In studying methods of preparing charters and presenting them to the public, one of the main ingredients required for successful understanding and final adoption of a charter is the ingredient of excellent and constant public relations through public hearings.

I think all the other ingredients suggested for charter writing were used faithfully by this committee, but the one of establishing contact with the public has been non-existent, except through occasional mention in the paper and on the radio. This responsibility was left to the Council.

Regarding the importance of public hearings, I should like to quote from two guides used by this committee:

Thomas H. Reed, on "Revising a City Charter": "The Charter Committee should also hold public hearings after proper notice at which the people of the City in general may be heard as well as a selected list or organization and individuals. These hearings should, as far as possible, sound the public opinion. In tailoring a charter to fit a particular city it will not do to decide what the people ought to have without considering what they want."

"When the charter commission has completed its revision of the draft charter, it should, if possible, cause it to be printed for general distribution and offer the public another opportunity to be heard, this time on a tentative charter. It may be that some, if not all the members of the commission will at this stage still have reservations as to certain provisions of the charter. They may be decided by the popular reaction at the hearings on the document itself. The opportunity to read the tentative charter is just as stimulating to the public as the first glimpse of the preliminary draft was to the charter commission for the same reason. One may agree with the cynics who deny that any suggestion of value can be expected from a public charter hearing. The positive results of the hearing may be negligible but its negative results-- the light it sheds on public reaction to the charter--may be precious indeed."

And from a pamphlet put out in 1950 by the Institute of Public Affairs regarding Texas Charters, by W. T. Blodgett, "Many charters were not adopted or defeated because of their content, but because of the people who supported or opposed the proposed charter. The personalities and groups in the forefront of the charter movement must be respectable, popular and capable, they must have good public relations. The people and the civic groups must want a new charter."

They must know what a charter means to the city, the advantages of the city adopting one, and the various forms of government a charter may call for."

It was brought out at the last Council meeting that there would be plenty of time to inform the voters should an election be called for January 31st--there is time to inform, but a public hearing to inform and a public hearing to hear the expression of the voter are two entirely different things and must not be confused.

It is my understanding, from attending the council meeting last week, that the meeting this morning is for the purpose of deciding if a public hearing should be held tonight. If a public hearing is called, the term proper notice could hardly be included. However, we believe that much could be done, even at this late date, to relieve some of the distrust and confusion, if the City Council could sit down after the public hearing and discuss, calmly and objectively, the controversial questions, other than the one on method of election, presented or brought up at the public hearing, iron out their own differences and decide what it will present to the electors. The Council has never discussed its differences or opinions on this charter and surely before it presents a document to the voters it must have heard the public opinion and made some decisions concerning what it is presenting.

We feel that if the present atmosphere continues the end result may well be complete defeat of this proposed charter or the passage of a few insignificant amendments which will do nothing to improve the situation we now have.

MR. MARIAN SHAFER did not think, although he was a lawyer, that he had had sufficient time to study the proposed amendments to decide upon their merits, and he felt that the public should be given more time and public hearings before an election. He thought there should be some rewording of the amendments. MR. JIM HOLLOWAY, MR. JOE WITHERSPOON, MR. G. L. HUCKABY, and MRS. B. M. BAXTER spoke, covering the subjects of wording and omissions in various sections, the need of expert explanations, and requests that the matter not be rushed through. MR. EDMUNDS TRAVIS expressed his ideas on a number of sections; MR. MORRIS LASKY read from Attorney General's Opinion No. O-2337. MR. FRANK ERWIN, Vice Chairman of the Charter Committee, was present to answer or explain any questions and comments.

MR. TRUEMAN E. O'QUINN stated the Citizens Committee had been appointed by the Council and the Committee had done a lot of research work; and expressed a desire to see that the issue be submitted, at the earliest date possible. MISS MILDRED WEBB made several inquiries; MRS. EVANGELINE WILLIAMS thought there should be more time for the people to go over the propositions. MRS. FREDERICK MEYERS felt that the controversial issues should be cut out of the Charter amendments. MR. W. T. HAYS asked that something be done about providing for candidates for the Council, such candidates residing in the newly annexed territories; and not yet having lived in the city for five (5) years.

MR. NOBLE PRENTICE felt that the propositions were better understood than he thought they were; and that within the next six weeks the people would be fully informed, and he urged holding the election as soon as possible.

MR. ERWIN, to correct a statement regarding an Attorney General's Opinion (O-2337) read the opinion and explained it. It was dated some years back. Articles 1164, 1165, 1166, 1167, and 1168 were read; also Articles 1171 through 1174

were read. Mr. Erwin stated in those articles, no mention was made of holding public hearings for Charter amendment elections. MR. SHAFER spoke not in favor of several propositions and did favor having public hearings. MR. ED IDAR, member of the Committee, stated some members of the Committee did not want to hold public hearings, and felt it best to leave that for the Council. He pointed out some items that had difference of opinions in the Committee that should be discussed by the public; changing the method of election of the City Council; making provision that the Council has the right to investigate the phone company, etc; increasing the number of people necessary to submit an initiative petition or referendum; the tax rate, and many others. He thought the people should have public hearings on these items and many others. He was against holding the election too soon. MRS. MITCHELL stated every angle had been considered. MR. R. W. BYRAM urged the Council to act as quickly as possible; that the Committee, the City Attorney and his Assistant had gone about this very carefully.

Each section was presented separately.

PROPOSITION NO. I.

This proposition was amended in Section 1, on the suggestion of Councilman MacCorkle that certain grammatical changes be made, by leaving out the word "the" in line 4, which would read, "and as extended by ordinances of the City of Austin enacted sub-"; changing the quotation marks in lines 6 and 7, so as to come immediately before the word "City" in both cases.

Councilman MacCorkle moved that this proposition be approved as to form as amended. The motion, seconded by Councilman Johnson, carried by the following vote:

Ayes: Councilmen Johnson, Long, MacCorkle, White, Mayor Drake
Noes: None

PROPOSITION NO. II.

This proposition was amended, in Section 5, at the end of the first paragraph, by adding the present Charter provision, (SECTION 5, ARTICLE XXIV), but omitting the words, "street railway, or interurban," wherever they may now occur.

Councilman Long moved that this proposition be approved as to form as amended. The motion, seconded by Councilman Johnson, carried by the following vote:

Ayes: Councilmen Johnson, Long, White, Mayor Drake
Noes: Councilman MacCorkle

PROPOSITION NO. III.

This proposition was amended to take out Section 6, ANNEXATION FOR ALL PURPOSES and substitute Section 2a, ARTICLE I of the present City Charter; but on Councilman Long's suggestion, the word "daily" was taken out as it appears before "newspaper" in the Section. Further amendment, on Councilman Long's suggestion, was made to make a separate proposition of Section 7, LIMITED PURPOSE ANNEXATION.

Councilman Long moved that the Council approve as to form Proposition III

as amended and Proposition IIIa (Section 7) as introduced. The motion, seconded by Councilman Johnson, carried by the following vote:

Ayes: Councilmen Johnson, Long, MacCorkle, Mayor Drake
Noes: Councilman White

PROPOSITION NO. IV. (Renumbered V)

This proposition was amended to exclude "bona fide owner of real property" and add "tax payer" instead, in Section 2, QUALIFICATIONS. This amendment was suggested by Councilman MacCorkle. In Section 3, the words, "unless more than one vacancy occurs." was added at the end of the last sentence of Sec. 3, VACANCIES. SECTION 2. QUALIFICATIONS was further amended on Councilman Long's suggestion to read "each Councilman...., shall have resided in the City for not less than three years" (substituting three for five). The Council agreed on these amendments.

PROPOSITION NO. V. (Renumbered VI)

This proposition was amended to leave Section 11, Article XII of the present Charter in, by not including it in the list of sections to be repealed. This amendment was on Councilman Long's suggestion. On Councilman Long's suggestion, the words "and his assistants, if any" were added after the phrase, "The Council shall appoint a City Clerk," in Section 8, CITY CLERK. Councilman Long moved that the last sentence of Section 9, MEETINGS OF THE COUNCIL be amended to read, "Except for meetings for discussion of appointments, all meetings shall be open to the public."

The motion, seconded by Councilman White, carried by the following vote:

Ayes: Councilmen Long, White, Mayor Drake
Noes: Councilmen Johnson, MacCorkle

In Section 7, MAYOR AND MAYOR PRO TEM, the words "as a member of the Council," was inserted between the words, "The Mayor" and "shall be entitled to vote upon all matters..." The words "and shall have power to perform every act the Mayor could perform if present." were added to the last sentence of SECTION 7. In Section 9, MEETINGS OF THE COUNCIL, the word "three" was changed to "two" in the sentence, "Special meetings of the Council shall be called...upon written request of the Mayor or two members of the Council." On Councilman MacCorkle's suggestion, in Section 11, the words "Mayor Pro-tem" were added in the third sentence of the section between the words "Mayor" and "or by two Councilmen,". In Section 13, the word "Section" was substituted for the word "Charter" in the first sentence. Proposition V was accepted as to form by all the Council with the exception of appointment of the Health Officer, Councilmen Long and White objected.

(Discussion of some other proposition was held but postponed until the next day.)

The Council recessed at 12:00 midnight until 10:00 A.M., Tuesday, December 9th, 1952.

APPROVED

W. S. Drake
Mayor

ATTEST:

Elmer H. Mosley
City Clerk