

## RECESSED MEETING

10:00 A. M.

December 9, 1952

At 10:00 A.M., December 9, 1952, the Council reconvened and resumed its consideration of the amendments to the Charter, 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.

PROPOSITION NO. VI. (Renumbered VII)

This proposition was amended by omitting the repealing of Section 8 of Article III, and by adding a new sentence after the first sentence in Section 3, of ARTICLE III, Regulation of Elections, the new sentence to read, "Provided that the Council shall appoint the election judges, and other election officials". This amendment was made on the suggestion of Councilman Long. The Council approved this proposition as to form as amended.

PROPOSITION NO. VII. (Renumbered VIII)

Councilman Long favored leaving the section as it is now in the present Charter; however after discussion the proposition was amended in Section 1, Article IV, by striking out the words, "or regulating the duties, compensation, or conditions of employment of officers or employees, or regulating the organization of departments of the City government." in the first sentence. Section 6, Ballot Form and Results of Elections was amended in the third paragraph by striking out the words "thereafter by unanimous vote of the Council or", and adding the words "four-fifths vote" in place of "majority". A typographical error in Section 4 was corrected by taking out the word "by" in the second sentence between the words "required" and "in". The Council approved this proposition as to form.

PROPOSITION NO. VIII. (Renumbered IX)

This proposition was amended in Section 7 in the first sentence by changing the word "twenty" to "ten" as it appears. This proposition was accepted as to form by the Council.

PROPOSITION NO. IX. (Renumbered X and XI)

Councilman Long moved that Section 6, Article V, City Attorney be taken out and submitted as a separate proposition. The motion, seconded by Councilman White, carried by the following vote:

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

The wording of the Proposition itself was changed to conform to this separation. The first five sections of Proposition No. 9 were approved as to form.

PROPOSITION NO. X. (Renumbered XII)

This proposition was approved as to form by unanimous vote.

PROPOSITION NO. XI. (Renumbered XIII and XIV)

This proposition was amended by changing the word "Charter" to "Section" in the third sentence of Section 3. The Council accepted the City Attorney's recommendation and took Section 3, ARTICLE VII. Fiscal Year and Section 4, Interim Budget out of Proposition No. XI and set them up as a separate proposition (temporarily called Proposition XIa) (Later renumbered XIV) Proposition XI was further amended to add the words "his proposed fiscal plan for" in lieu of the words "the fiscal policy of" in the second paragraph of Section 5. The Budget Document. In Section 14, Purchase Procedure, line 13, the amount was changed from \$10,000.00 to \$5,000.00; in the 14th line, this amount was also changed from \$10,000.00 to \$5,000.00; in the 15th line, after the word "Council" the section was amended to read, "All contracts or purchases involving more than \$2,000.00 shall be let to the lowest and best responsible bidder after there has been opportunity for competitive bidding; provided, however, that the Council shall have the right to reject any and all bids. Contracts for personal or professional services shall not be let on competitive bids and all such contracts involving more than \$5,000.00 shall be approved by the Council." These suggestions by Councilman Long were approved by the rest of the Council. The Council unanimously approved this proposition with these amendments except the last sentence of Section 8. Councilmen MacCorkle, Johnson, and Mayor Drake stated they could not vote to change that Section, and it remained without being changed. The proposition part was amended to conform to the amended sections.

PROPOSITION NO. XII. (Renumbered XV)

This proposition was amended to read "...not now or hereafter prohibited ..." instead of "...now or hereafter authorized..." in the first sentence in Section 10 General Obligation Bonds. The Council approved this Proposition as amended.

PROPOSITION NO. XIII. (Renumbered XVI)

This proposition was amended in the first two sentences to read: "Section 11. Revenue Bonds. The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities, or facilities for any other self liquidating municipal function not now or hereafter prohibited by any general law of the State, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, acquired and the income therefrom, and shall never be a debt of the City."...The Council unanimously approved the form of this Proposition as amended.

PROPOSITION NO. XIV. (Renumbered XVII)

This proposition was amended, on Councilman Long's suggestion and unanimous consent of the Council, to change the tax from \$1.10 to \$1.00 in Section 2 Powers of Taxation. The wording of Section 2 was rearranged and changed a bit to read, "Powers of Taxation. The City shall have power to levy, assess, and collect taxes for any municipal purpose on property of any character within the corporate limits to the maximum now or hereafter authorized by the Constitution and laws of the State of Texas and on persons privileges subjects and occupations. Provided, however, that the total tax levied annually upon property for municipal general operating expenses shall not exceed \$1.00 on each \$100 of assessed valuation of taxable property." (Underscoring in middle of sentence to show amendments.) The proposition was amended in Section 3, Assessment of Property for Tax Purposes by adding the following sentence after the first sentence: "The Council may prescribe the mode and manner of making renditions, tax lists, assessments, and tax rolls." On Councilman Long's suggestion, the words "and may not perform any other duties for the City." were added at the end of the first paragraph of Section 4, Board of Equalization.

Section 5, Article VIII, was taken out of this proposition and added to the proposition set up temporarily as XIa (later numbered XIV) which included Section 3, Article VII Fiscal Year, and Section 4 Interim Budget. Section 5 was amended to read as follows: "Tax Payments. All taxes due the City of Austin shall be payable at the office of the City Tax Assessor and Collector and may be paid any time after assessments have been made final by the Council. Taxes for the years 1952 and 1953 shall become due on January 1, of the year following the year of levy, and shall be paid by the following April 1. Taxes for each year thereafter shall become due on October 1, of the year of levy, and shall be paid by the following January 31. Taxes for 1952 and 1953 not paid by April 1 of the year following the year of levy and all taxes for each year thereafter not paid by January 31 following the year of levy shall be deemed delinquent and shall be subject to a penalty of one-half of one per cent for each month that the taxes remain unpaid until the total penalty equals five per cent and in addition shall bear interest at the rate of six per cent per annum to be calculated to the last day of the month preceding the month in which the collection is made. Neither the Council nor any other official of the City shall ever extend the time for payment of taxes, or remit, discount, or compromise any tax legally due the City or waive the penalty and interest that may be due thereon." PROPOSITION XIV as amended was approved by the Council.

PROPOSITION NO. XV. (Renumbered XVIII)

This proposition was approved as to form by unanimous vote of the Council.

PROPOSITION NO. XVI. (Renumbered XIX)

This proposition was approved as to form by unanimous vote of the Council.

PROPOSITION NO. XVII. (Renumbered XX)

This proposition was amended on Councilman MacCorkle's suggestion in Section 5, Item 8, to read "to require and collect any compensation and rental not now or hereafter prohibited by the laws of this State." On Councilman Long's suggestion, the words "provided that it shall be sufficient if a public utility

keeps its accounts and books according to a system prescribed by a federal or state authority or regulatory agency" be struck out of Item 7a, Section 5, Regulation of Franchise. On Councilman Long's suggestion, Item 9 was added to Section 5, to read, "To require such franchise holders who request an increase in rates, charges or fares, to reimburse the City for reasonable expenses incurred in employing rate consultants to conduct investigations, present evidence and advise the Council on such requested increase." Also on Councilman Long's suggestions, the sentence "Provided that no such ordinance shall be passed as an emergency measure." was added after the first sentence in Section 6, Regulation of Rates. The last sentence of Section 6 was deleted. The Council approved this proposition as amended. (Section 6, Line 7, an "s" was added to "investment").

PROPOSITION NO. XVIII. (Renumbered XXI)

This proposition was approved by unanimous vote of the Council.

PROPOSITION NO. XIX. (Renumbered XXII)

This proposition was approved unanimously by the Council as to form.

PROPOSITION NO. XX. (Renumbered XXIII)

As suggested by Councilman Long in discussing Proposition No. XVII with reference to gifts or fees, this Section, Section 11, Article XI, was left in as it appears in the Charter, and was taken out of the list of Sections to be repealed in Proposition No. 20. The Council unanimously approved this Proposition as amended.

PROPOSITION NO. XXI. (Renumbered XXIV)

This proposition was unanimously approved in its present form by the Council.

PROPOSITION NO. XXII. (Renumbered XXV)

This proposition was unanimously approved in its present form by the Council.

PROPOSITION NO. XXIII. (Renumbered XXVI)

This proposition was approved unanimously by the Council as to form.

PROPOSITION NO. XXIV. (Renumbered XXVII)

This proposition was unanimously approved as to form by the Council.

PROPOSITION NO. XXV. (Renumbered XXVIII)

This proposition was approved unanimously by the Council as to form.

PROPOSITION NO. XXVI. (Renumbered XXIX)

This proposition was amended to read as follows: "Section 10. Effect of Charter on Existing Law. All ordinances, resolutions, rules, and regulations now in force under the City government and not in conflict with the provisions of any amendment to this Charter shall remain in force under such amendment until altered, amended, or repealed by the Council after such amendment to this Charter takes effect. All rights of the City under existing franchises and contracts and all existing authority for the issuance of bonds not in conflict with the provisions of any amendment to this Charter shall be preserved in full force and effect.

"Section 15. Interim Municipal Government. From and after the date of the adoption of any amendment to this Charter and until the completion of the first City election thereunder and the qualification of the Mayor and Councilmen therein elected, the Mayor and Councilmen then in office shall continue in office and shall exercise all of the powers conferred upon the City by such amendments." PROPOSITION NO. XXVI was approved as amended.

PROPOSITION NO. XXVII. (Renumbered XXX)

This proposition was approved unanimously by the Council as to form.

PROPOSITION NO. XXVIII.

This proposition was omitted.

PROPOSITION NO. XXIX. (Renumbered XXXI)

This proposition was amended by taking Section 12, Article XV out of the list of sections to be repealed. The Proposition was then approved as to form by the Council. (Proposition XXXI) was placed under this proposition.

PROPOSITION NO. XXX. (Renumbered XXXII)

This proposition was approved unanimously by the Council as to form.

PROPOSITION NO. XXXI.

This proposition was included in Proposition No. XXIX (Renumbered XXXI) and was approved by the Council.

Councilman MacCorkle offered the following resolution and moved its adoption:

(RESOLUTION)

PROVIDING THAT NOTICE BE GIVEN OF THE INTENTION OF THE CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS, TO SUBMIT TO THE QUALIFIED VOTERS OF SAID CITY OF AUSTIN, FOR ADOPTION OR REJECTION, CERTAIN PROPOSITIONS TO AMEND THE EXISTING CHARTER OF SAID CITY.

WHEREAS, the City Council deems it advisable to submit to the qualified voters of the City of Austin certain amendments to the existing Charter of said City; and

WHEREAS, the Charter of the City of Austin has not been altered or amended within two years next preceding this date; Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

SECTION 1. That it is the intention of the City Council to pass an ordinance on the 31st day of December, 1952, for the purpose of submitting to the qualified voters of the City of Austin, at an election to be held for that purpose the following propositions to amend the existing Charter of said City.

PROPOSITION NO. 1

Shall the Charter of the City of Austin be amended by repealing the first part of Section 1 of Article I, from its beginning to the words "the City shall not have power" immediately following the first semi-colon and the words "provided that"; by repealing all of Section 2 of Article I, all of Article XIII, all of Section 16 of Article XV, all of Article XXVI, all of Article XXVII, all of Article XXVIII, All of Article XXIX and all of Article XXX, and adopting and substituting therefor five new sections numbered Section 1, Section 2, Section 3 and Section 4 of a new article to be designated "Article I - Incorporation, Form of Government and Powers", and Section 11 of a new article to be designated as "Article XII - General Provisions", such new sections to read as follows:

Section 1. Incorporation. The inhabitants of the City of Austin, Travis County, Texas, within its corporate limits, as established by Chapter 90, page 634, Special Laws of Texas, 1909, 31st Legislature, and as extended by ordinances of the City of Austin enacted subsequent thereto, shall continue to be and are hereby constituted a body politic and corporate, in perpetuity, under the name the "CITY OF AUSTIN", hereinafter referred to as the "City", with such powers, privileges, rights, duties, and immunities as are herein provided.

Section 2. Form of Government. The municipal government provided by this Charter shall be, and shall be known as, "Council-Manager government", Pursuant to the provisions of, and subject only to the limitations imposed by, the State Constitution, the State laws, and this Charter, all powers of the City shall be vested in and exercised by an elective council, hereinafter referred to as

"the Council", which shall enact legislation, adopt budgets, determine policies, and appoint the City Manager who shall execute the laws and administer the government of the City.

**Section 3. General Powers.** The City shall have all the powers granted to cities by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution such granted powers. The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the government of the State of Texas or any agency or political subdivision thereof, or with the federal government or any agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its inhabitants; may acquire property within or without its corporate limits for any municipal purposes in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and, subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, and control such property as may now or hereafter be owned by it; may pass ordinances and enact such regulations as may be expedient for the maintenance of the good government, order, and peace of the City and the welfare, health, morals, comfort, safety, and convenience of its inhabitants. In addition to the powers enumerated herein, and subject only to the limitations imposed by the State Constitution, the State laws, and this Charter, the City shall have, without the necessity of its express enumeration in this Charter, each and every power which, by virtue of Article XI, Section 5, of the Constitution of Texas, the people of the City are empowered by election to grant to or confer upon the City by expressly and specifically granting and enumerating the same herein.

**Section 4. Streets and Public Property.** The City shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, highways, public squares, and public ways within the corporate limits of the City, and in, upon, over, and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

## ARTICLE XII

**Section 11. Construction of Charter.** This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Austin in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Austin to expressly grant to the City, shall be construed to be granted to the City by this Charter.

## PROPOSITION NO. 2

Shall the Charter of the City of Austin be amended by repealing all of Article XXIV and all of Article XXV, and adopting and substituting therefor a new section numbered Section 5 of a new article to be designated "Article I - Incorporation, Form of Government and Powers", such new section to read as follows:

**Section 5. Street Development and Improvement.** The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, and establishing building lines along, the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvements. The City may make or cause to be made any one or more of the kinds or classes of development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement shall be paid by the City, or partly by the City and partly by assessments levied against the property abutting thereon and the owners thereof, and such assessments maybe levied in any amounts and under any procedure now or hereafter permitted by State law.

If improvements be ordered constructed in any part of the area between and under rails, tracks, double-tracks, turnouts and switches, and two feet on each side thereof, of any railway, using, occupying, or crossing any such highway, portion or portions thereof, ordered improved, then the City Council shall have power to assess the whole cost of improvements in such area against such railway, and shall have power, by ordinance, to levy a special tax upon such railway, and its road-bed, ties, rails, fixtures, rights and franchises, which tax shall constitute a lien thereon superior to any other lien or claim except state, county, and city ad valorem taxes, and which may be enforce either by sale of said property in the manner provided by law for the collection of ad valorem taxes by the City, or by suit in any court having jurisdiction. The ordinance levying such tax shall prescribe the time, terms and conditions of payment thereof, and the rate of interest, not to exceed eight percent (8%) per annum, and same, if not paid when due, shall be collectible, together with interest, expenses of collection and reasonable attorney's fees, if incurred. The City Council shall have power to cause to be issued assignable certificates in evidence of any such assessments.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended; to adopt plans and specifications pursuant thereto; to pay to the contractor, the successful bidder, in cash, that part of the cost which may be assessed against the abutting property and the owners thereof; to reimburse itself for the amount paid such contractor by levying assessments against the abutting property and the owners thereof, after the hearing and notice prescribed in the aforesaid statutes, in an amount permitted by said statutes and not in excess of the enhancement in value of such property occasioned by the improvements; and to issue assignable certificates in favor of the City for such assessments, said certificates to be enforceable in the manner prescribed by the aforesaid statutes. The City shall likewise have the power to make any such development, improvement or paving with its own forces if, in the opinion of the Council, the work can be done more expeditiously or economically, and in such event the City shall have the power to reimburse itself for the cost of such improvement in the same amount and in the same manner as if the work had been performed by a successful bidding contractor.



PROPOSITION NO. 3

Shall the Charter of the City of Austin be amended by repealing Section 2a of Article I and adopting and substituting therefor a new section numbered Section 6 of a New article to be designated "Article I - Incorporation, Form of Government and Powers", such new section to read as follows:

Section 6 Annexation for All Purposes. The City Council shall have the power by ordinance to fix the boundary limits of the City of Austin; and to provide for the alteration and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the City, with or without the consent of the territory and inhabitants annexed. That upon the introduction of any such ordinance in the City Council, it shall be published in the form in which it may be finally passed, in a newspaper, published in the City of Austin at least one time, and said ordinance shall not thereafter be finally acted upon until at least thirty days has elapsed after the first publication thereof; and upon the final passage of any such ordinance, the boundary limits of the City shall thereafter be fixed in such ordinance; and when any additional territory has been so annexed, same shall be a part of the City of Austin, and the property situated therein shall bear its pro rata part of the taxes levied by the City, and the inhabitants thereof shall be entitled to all the rights and privileges of all the citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the City.

PROPOSITION NO. 4

Shall the Charter of the City of Austin be amended by adding thereto a new section numbered Section 7 of a new article to be designated as "Article I - Incorporation, Form of Government and Powers", such new section to read as follows:

Section 7. Limited Purpose Annexation. In addition to the power to annex additional territory for all purposes, the City shall have the power, by ordinance, to fix, alter and extend the corporate boundary limits of the City for the limited purposes of "Planning and Zoning" and "Sanitation and Health Protection", and to annex for one or both of such limited purposes additional territory lying adjacent to the City, with or without the consent of the property owners or inhabitants of such annexed territory; provided, however, that no such territory which lies farther than 5 miles from the corporate boundary limits enclosing the territory which is a part of the City for all purposes, as those corporate boundary limits are now or may hereafter be established, shall be annexed for any limited purpose or purposes. Wherever the boundary limits of territory annexed for one or both of such limited purposes are not coterminous with the corporate boundary limits enclosing the territory which is a part of the City for all purposes, such boundary limits of the limited purpose territory shall be known as "Limited Purpose Boundary Limits". Every ordinance by which territory is to be annexed to the City for one or both of such limited purposes shall state clearly the limited purpose or purposes for which it is being annexed, and shall be published one time, in a newspaper of general circulation in the City and in the form in which it is to be finally adopted, not less than 30 days prior to its final passage.

When any additional territory has been annexed for one or both of said limited purposes, it shall be a part of the City for such limited purposes or purposes only. However, in dealing with the property and inhabitants thereof,

the City shall have each and every power which it otherwise possesses and which is reasonable and expedient for the accomplishment of the limited purpose or purposes for which such territory is annexed, and the power of the City to deal with the property and inhabitants of such limited purpose territory shall include the powers enumerated in the next two succeeding sentences but shall not be limited or restricted thereto. With regard to territory annexed for the limited purpose of "Planning and "Zoning", the City shall have the power to control and regulate the use of property and the density of structures, to require compliance with reasonable zoning regulations, to control and regulate the subdivision of property, and to control and regulate the construction of buildings. With regard to territory annexed for the limited purpose of "Sanitation and Health Protection", the City shall have the power to adopt all reasonable regulations pertaining to sanitation and public health and to require compliance with such regulations. Every inhabitant of territory annexed for one or both of said limited purposes, who is otherwise qualified, shall be entitled to vote in City elections on every issue where the question is the election or recall of a City Councilman or the amendment of this Charter, and every such inhabitant shall be deemed to be a citizen of the City in connection with any City ordinance, regulation, or action which is, or is alleged to be, applicable to him or his property because of such limited purpose annexation, but will not be eligible to run for any office in the City of Austin. The City shall have no power to levy any tax for municipal purposes on either the property or the inhabitants of territory annexed for limited purpose or purposes, and no funds of the City shall be spent in such territory except where reasonable and expedient for the accomplishment of the limited purpose or purposes for which the territory is annexed; but the City may collect reasonable charges from property owners and inhabitants of such territory for services rendered by the City in the accomplishment of the limited purpose or purposes for which the territory is annexed;

#### PROPOSITION NO. 5

Shall the Charter of the City of Austin be amended by repealing all of Article IV, all of Article XVI, all of Sections 1, 2, and 3 of Article XVII, and all of Section 2 of Article XVIII, and adopting and substituting therefor six new sections numbered Section 1, Section 2, and Section 3 of a new article to be designated as "Article II - The Council", and Section 2, Section 4, and Section 5 of a new article to be designated "Article III - Elections", such new sections to read as follows:

#### Article II

Section 1 Number, Selection and Term of Office. The Council shall be composed of five Councilmen who, unless sooner removed under the provisions of this Charter, shall hold their offices for a term of two years beginning on the fifteenth day of May of each odd numbered year, or until their successors have been elected and duly qualified. The Councilmen shall be elected from the City at large, and each Councilman shall be elected to and occupy a place on the Council, such places being numbered 1, 2, 3, 4, and 5, respectively.

Section 2. Qualifications. At the time of his election to office, each Councilman shall be at least 25 years of age, shall be a citizen and qualified voter of the State of Texas, shall have resided in the City for not less than three years next preceding his election, shall be a taxpayer in the City, and shall not be in arrears in the payment of any taxes or other liability due the City. A member of the Council ceasing to reside in the City during the term for which he is elected shall immediately forfeit his office.

Section 3. Vacancies. Where a vacancy in any place on the Council shall occur the vacant place shall be filled by a special election, and, where necessary, by a run-off election, in the same manner as provided in this Charter for the regular election of a Councilman. Such special election shall be held on a Saturday within 60 days following the creation of the vacancy, and the run-off election, where necessary, shall be held on the 4th Saturday following the preceding election; provided, however, that where a vacancy shall occur within 90 days of a regular election, no special election to fill the vacancy shall be called, unless more than one vacancy occurs.

#### ARTICLE III

Section 2. Election by Majority and Run-Off Elections. The regular election of Councilmen to the five places on the Council shall be held on the first Saturday in April 1953, and thereafter on the first Saturday in April of every odd-numbered year. At every regular election and at every special election called to fill one or more vacant places on the Council, election to each place on the Council shall be by a majority of all the votes cast for such place at such election. In every such election each qualified voter shall vote for not more than one candidate for each Council place to be filled. Where in an election to a place on the Council, no candidate receives a majority of all the votes cast for such place at such election, the Council shall immediately upon declaring the official results of the election, issue a call for a run-off election for every place to which no one was elected. Such run-off election shall be held on the fourth Saturday following the preceding election, and in such run-off election the two candidates who received in the preceding election the highest number of votes for each place to which no one was elected shall be voted on again, and the candidate who receives the majority of the votes cast for each such place in the run-off election shall be elected to such place.

Section 4. Filing of Candidates. Any qualified person who desires to become a candidate for election to a place on the Council shall file with the City Clerk at least 30 days prior to the election day an application for his name to appear on the ballot. Candidates for Councilman may also be nominated by petition of 100 qualified voters to be filed with the City Clerk at least 30 days prior to the election day provided the candidate signs the petition certifying his acceptance. Such application shall clearly designate by number the place on the Council to which the candidate seeks election and shall contain a sworn statement by the candidate that he is fully qualified under the laws of Texas and the provisions of this Charter to hold the office he seeks.

Section 5. Ballots. For every regular election and for every special election called to fill one or more vacant places on the Council, the City Clerk shall place upon the official ballot the name of every candidate who shall file an application which complies with the provisions of this Charter. The Council places to be filled shall be placed on the ballot in numerical order. The name of each candidate shall be placed on the ballot under the designated place for which he shall have filed, and in such manner that the names of the candidates for each place shall be clearly separate and distinguishable from the names of the candidates for every other Council place. The order on the ballot of the names of the candidates for each respective Council place shall be determined by lot in a drawing to be held under the supervision of the City Clerk, at which drawing each candidate or his named representative shall have a right to be present.

PROPOSITION NO. 6

Shall the Charter of the City of Austin be amended by repealing the last part of Section 1 of Article I, beginning with the words "the City shall have power" following the first semi-colon and the words "provided that", by repealing all of Section 13 and Section 21 of Article VII, all of Section 1 of Article XI, all of Section 8 of Article XI, all of Section 9 of Article XI, the first sentence of Section 15 of Article XI, all of Section 16 of Article XI, all of Section 13 of Article XII, all of Section 15 of Article XII, all of Section 16 of Article XII, all of Section 18 of Article XII, all of Sections 1 through 50, inclusive, of Article XIV, all of Section 1 of Article XV, all of Section 6 of Article XV, all of Section 14 of Article XV, all of Section 1 of Article XVIII, all of Section 3 of Article XIX, all of Sections 1, 2, 3, 5, 6 and 7 of Article XXIII, all of Article XXXI and all of Article XXXII, and adopting and substituting therefor eleven (11) new sections numbered Section 4 through Section 14, inclusive, of a new article to be designated as "Article II - The Council", said new sections to read as follows:

Section 4. Powers of the Council. All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the Council; provided, however, that the Council shall have no power to, and shall not:

(a) Sell, convey, lease, mortgage, or otherwise alienate any land which is now, or shall hereafter be, dedicated for park purposes, unless the qualified voters of the City shall authorize such act by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such sale, conveyance, lease, mortgage, or other alienation is to be made.

(b) Sell, convey, or lease all or any substantial part of the facilities of any municipally owned public utility, provided that the Council may lease all or a substantial part of such facilities to any public agency of the State of Texas if the qualified voters of the City authorize such lease by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such lease is to be made.

(c) Accept or admit liability in, or pay, any claim for damages asserted against the City without first obtaining a written opinion from the City Attorney regarding the City's liability therein.

Section 5. Investigative Body. The Council shall have the express power to inquire into the official conduct of any department, agency, office, officer or employee of the City, and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The Council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance.

Section 6. Interference in Personnel Matters. Neither the Council nor any of its members shall instruct or request the City Manager or any of his subordinates

to appoint to or remove from office or employment any person except with respect to those offices which are to be filled by appointment by the Council under the provisions of this Charter. Except for the purpose of inquiry and investigation, the Council and its members shall deal with the administrative service of the City solely through the City Manager and shall not give orders to any of the Manager's subordinates either publicly or privately.

**Section 7. Mayor and Mayor Pro Tem.** At its first meeting following each regular election of Councilmen, the Council shall by election designate one of its number as Mayor, and another of its number as Mayor Pro Tem, each of whom shall serve in such capacity during the pleasure of the Council. The Mayor shall preside at all meetings of the Council and shall be recognized as head of the City government for all ceremonial purposes, for the purpose of receiving service of civil process, and for military purposes, but he shall have no regular administrative duties. The Mayor, as a member of the Council, shall be entitled to vote upon all matters considered by the Council, but shall have no veto power. The Mayor Pro Tem shall act as Mayor during the absence or disability of the Mayor, and shall have power to perform every act the Mayor could perform if present.

**Section 8. City Clerk.** The Council shall appoint the City Clerk, and his assistants, if any, who shall serve at the pleasure of the Council. The City Clerk shall keep the records of the Council, and shall have such other duties and responsibilities as may be assigned to him by this Charter and the Council.

**Section 9. Meetings of the Council.** The Council shall meet in regular session at the City Hall at least once each week at such time as may be prescribed by ordinance, unless otherwise ordered by the Council for reasons to be spread upon the minutes. Special meetings of the Council shall be called by the City Clerk upon written request of the Mayor or two members of the Council. Except for meetings for discussion of appointments all meetings shall be open to the public.

**Section 10. Rules of Procedure.** The Council shall by ordinance determine its own rules and order of business. Three or more Councilmen shall constitute a quorum, but no action of the Council shall be of any force or effect unless it is adopted by the favorable votes of three or more of the Councilmen. Minutes of all meetings of the Council shall be taken and recorded, and such minutes shall constitute a public record.

**Section 11. Procedure to Enact Legislation.** The Council shall legislate by ordinance only, and the enacting clause of every ordinance shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN". Before any ordinance shall be adopted, the City Attorney shall approve such ordinance in writing or shall file with the City Clerk his written legal objections thereto. Every ordinance enacted by the Council shall be signed by the Mayor, Mayor Pro Tem, or by two Councilmen, and shall be filed with and recorded by the City Clerk before the same shall become effective. Unless otherwise provided by law or this Charter, no ordinance shall become effective until the expiration of 10 days following the date of its final passage, except where an ordinance relating to the immediate preservation of the public peace, health or safety, is adopted as an emergency measure by the favorable votes of four or more of the Councilmen and contains a statement of the nature of the emergency.

**Section 12. Publication of Ordinance.** Except as otherwise provided by law or this Charter, the City Clerk shall give notice of the enactment of every penal

ordinance and of every other ordinance required by law or this Charter to be published, by causing the descriptive title or caption of the same to be published at least one time within 10 days after final passage thereof in some newspaper of general circulation in the city. The City Clerk shall note on every ordinance and on the record thereof the dates and medium of its publication, and such notation shall be prima facie evidence of compliance with the requirements of this section.

Section 13. Code of Ordinances. Within six months after the effective date of this Section, the Council shall cause all general ordinances of the City to be compiled and printed in code form. For the purpose of this section general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the city at large. Every general ordinance enacted subsequent to the original codification required above shall be enacted as an amendment to the code. After the original codification, the Council shall have the power to cause all general ordinances to be recodified and reprinted whenever in its discretion such is deemed desirable, and it shall be mandatory upon the Council to cause all general ordinances to be recodified and reprinted before the expiration of any ten consecutive years following the last preceding codification or recodification. When adopted by the Council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such codes or any part thereof being published in any newspaper.

Section 14. Proof of Ordinance. An ordinance of the City of Austin may be proved prima facie by a printed code of ordinances purporting to be printed by authority of the City, or by a copy of the ordinance certified by the City Clerk to be a true copy of the same, or by the City Clerk's official record thereof.

#### PROPOSITION NO. 7

Shall the Charter of the City of Austin be amended by repealing all of Sections 3 and 4 of Article I, all of Sections 6, and 7 of Article III, all of Section 12 of Article XII, all of Section 51 of Article XIV, all of Section 23 of Article XV, and all of Section 4 of Article XVII, and adopting and substituting therefor three new sections to be numbered Section 1, Section 3 and Section 6 of a new Article to be designated as "Article III - Elections", such new sections to read as follows:

#### ARTICLE III

Section 1. Special Elections. The Council may by ordinance call such special elections as are authorized by the State law and this Charter, fix the time of holding same, and provide all means for holding such special elections, provided that every special election shall be held on a Saturday, unless otherwise provided by law or this Charter, and shall be held as nearly as practicable according to the provisions governing general elections.

Section 3. Regulation of Elections. All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the Council for the conduct of elections. Provided that the Council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

Section 6. Canvassing Election and Declaring Results. The returns of every

municipal election shall be delivered by the election judges to the City Clerk not later than 12 hours after the closing of the polls. The Council shall canvass the returns and declare the official results of the election not later than 48 hours after the closing of the polls. The returns of every municipal election shall be recorded in the Minutes of the Council, by precinct totals for each candidate.

### PROPOSITION NO. 8

Shall the Charter of the City of Austin be amended by repealing all of Article IX and all of Article X, and adopting and substituting therefor six new sections to be numbered Section 1 through Section 6, inclusive, of a new article to be designated as "Article IV - Initiative, Referendum and Recall", such new sections to read as follows:

#### ARTICLE IV

Section 1. Power of Initiative. The people of the City reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, not in conflict with this Charter, the State Constitution, or the State laws except an ordinance appropriating money or authorizing the levy of taxes. Any initiated ordinance may be submitted to the Council by a petition signed by qualified voters of the City equal in number to at least ten per cent of the qualified voters of the City.

Section 2. Power of Referendum. The people reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject to the initiative process under this Charter, except an ordinance which is enacted for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and which is adopted by the favorable votes of four or more of the Councilmen. Prior to the effective date of any ordinance which is subject to referendum, a petition signed by qualified voters of the City equal in number to at least ten per cent of the qualified voters of the City may be filed with the City Clerk requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

Section 3. Form of Petitions. Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance including a descriptive caption. The signatures to the initiative or referendum petitions need not all be appended to one paper, but each signer shall sign his name in ink or indelible pencil and shall add to his signature his place of residence by street and number. One of the signers of each separate petition shall make an affidavit that he, and he only, personally circulated such petition and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be.

Section 4. Filing, Examination and Certification of Petitions. Within twenty days after an initiative or referendum petition is filed, the City Clerk shall determine whether the same is signed by the requisite number of qualified voters. The City Clerk shall declare void any petition paper which does not have an affidavit attached thereto as required in Section 3 of this Article.



In examining the petition the Clerk shall write the letters "D.V." in red ink opposite the names of signers found not qualified to vote. After completing examination of the petition the Clerk shall certify the result thereof to the Council at its next regular meeting, stating the number of persons found on the petition who are qualified to vote and the number of persons found on the petition who are not qualified to vote. If the certificate of the City Clerk shall show an initiative or referendum petition to be insufficient, the Clerk shall notify the person filing the petition, and it may be amended within ten days from the date of such notice by filing a supplementary petition upon additional paper signed and filed as provided for an original petition. Within ten days after such amendment is filed, the Clerk shall examine the amended petition and certify as to its sufficiency. If the amended petition is found to be insufficient the Clerk shall return the petition to the person filing the same, without prejudice to the filing of a new petition for the same purpose.

Section 5. Council Consideration and Submission to Voters. When the Council receives an authorized initiative petition certified by the City Clerk to be sufficient, the Council shall either: (a) pass the initiated ordinance without amendment within sixty days after the date of the certification to the Council; or (b) submit said initiated ordinance without amendment to a vote of the qualified voters of the City at a regular or special election to be held within ninety days after the date of the certification to the Council; or (c) at such election submit to a vote of the qualified voters of the City said initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the Council.

When the Council receives an authorized referendum petition certified by the City Clerk to be sufficient, the Council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a regular or special election to be held not more than ninety days after the date of the certification to the Council. Special elections on initiated or referred ordinances shall not be held more frequently than once each 6 months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two years from the date of such election.

Section 6. Ballot Form and Results of Elections. The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words, "For the Ordinance: and "Against the Ordinance".

Where an initiated ordinance and an alternative ordinance proposed by the Council are submitted, the ballot shall state the captions of each ordinance clearly designating them "Ordinance No. 1" and "Ordinance No. 2", respectively, and shall set forth below the captions on separate lines the words "For Ordinance No. 1", "For Ordinance No. 2", and "Against Both Ordinances." Where an initiated ordinance and an alternative ordinance are submitted, each voter shall vote "For" only one ordinance or "Against Both Ordinances", and a vote for one ordinance shall be counted as a vote against the other ordinance.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this Article. If a majority of the votes cast is in favor of a submitted ordinance, it shall thereupon be effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two years by a four fifths vote of the Council. A referred ordinance which is not approved by a majority of the votes cast shall



be deemed thereupon repealed.

PROPOSITION NO. 9

Shall the Charter of the City of Austin be amended by repealing all of Article VIII, and adopting and substituting therefor five new sections to be numbered Section 7 through Section 11, inclusive of a new article to be designated as "Article IV - Initiative, Referendum and Recall", such new sections to read as follows:

Section 7. Power of Recall. The people of the City reserve the power to recall any member of the Council and may exercise such power by filing with the City Clerk a petition, signed by qualified voters of the City equal in number to at least ten per cent of the qualified voters of the City, demanding the removal of a Councilman. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds for which the removal is sought, and one of the signers of each petition paper shall make an affidavit that the statements therein made are true.

Section 8. Recall Election. Within twenty days after a recall petition is filed, the City Clerk shall examine the same. The provisions regulating examination, certification and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the City Clerk to be sufficient and the Councilman whose removal is sought does not resign within five days after the certification to the Council, the Council shall order and hold a recall election within not less than thirty nor more than sixty days from such certification.

Section 9. Recall Ballot. Ballots used at recall elections shall conform to the following requirements:

- (1) With respect to each person whose removal is sought the question shall be submitted "Shall (name of Councilman) be removed from the office of City Councilman?"
- (2) Immediately below each such question there shall be printed the two following propositions, one above the other, in the order indicated:

"For the recall of (name of Councilman)".

"Against the recall of (name of Councilman)".

Section 10. Results of Recall Election. If a majority of the votes cast at a recall election shall be against removal of the Councilman Named on the ballot, he shall continue in office. If the majority of the votes cast at such election be for the removal of the Councilman named on the ballot, the Council shall immediately declare his office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A Councilman thus removed shall not be a candidate to succeed himself in an election called to fill the vacancy thereby created.

Section 11. Limitation on Recall. No recall petition shall be filed against a Councilman within six months after he takes office, and no Councilman shall be subjected to more than one recall election during a term of office.

PROPOSITION NO. 10

Shall the Charter of the City of Austin be amended by repealing all of Sections 6, 17, 18, 19 and 23 of Article VII, all of Section 2 of Article XI, all of Section 3 of Article XVIII, and all of Sections 1 and 2 of Article XIX, and adopting and substituting therefor five new sections numbered Section 1, Section 2, Section 3, Section 4 and Section 5 of a new article to be designated as "Article V - Administrative Organization", such new sections to read as follows:

ARTICLE V

Section 1. The City Manager. The Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience, and ability, and need not, when appointed, be a resident of the City of Austin; however, during the tenure of his office, he shall reside within the City.

The City Manager shall not be appointed for a definite term, but may be removed at the will and pleasure of the Council by a majority vote of the entire membership of the Council. If removed after serving six months he may demand written charges and the right to be heard thereon at a public meeting of the Council prior to the date on which his final removal shall take place. Pending such hearing, the Council may suspend him from office. The action of the Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council. The City Manager shall receive such compensation as may be fixed by the Council.

No member of the Council, shall, during the time for which he is elected or for two years thereafter, be chosen as City Manager.

Section 2. Powers and Duties of the City Manager. The City Manager shall be responsible to the Council for the proper administration of all affairs of the City and to that end he shall have power and shall be required to:

- (1) Appoint and remove any officer or employee of the City except those officers appointed by the Council and except as otherwise provided by this Charter.
- (2) Prepare the budget annually, submit it to the Council, and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.
- (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- (5) Appoint, by letter filed with the City Clerk, a qualified administrative officer of the City to perform his duties during his temporary absence or disability.

- (6) Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with the provisions of this Charter.

**Section 3. Administrative Departments.** There shall be such administrative departments as are established by this Charter and as may be established by ordinance, all of which shall be under the control and direction of the City Manager. The Council may abolish any department or combine one or more departments created by it, but no administrative department shall be created, abolished or combined with another department until the Council has obtained and considered the recommendations of the City Manager with regard thereto.

**Section 4. Directors of Departments.** At the head of each department there shall be a director who shall be appointed, and who may be removed, by the City Manager. Such directors shall have supervision and control over their respective departments, and may serve as chiefs of divisions within their respective departments. Two or more departments may be headed by the same individual, and the City Manager may head one or more departments.

**Section 5. Departmental Organization.** The work of each department shall be distributed among such divisions as may be established by ordinance. Provided, however, that no departmental division shall be made until the City Manager shall have been heard and have made his recommendations with respect thereto. Pending passage of ordinances establishing departmental divisions, the Manager may establish temporary divisions in any department.

**PROPOSITION NO. 11**

Shall the Charter of the City of Austin be amended by repealing Section 11 and Section 12 of Article VII and adopting and substituting therefor a new section numbered Section 6 of a new article to be designated "Article V - Administrative Organization", such new section to read as follows:

**Section 6. City Attorney.** There shall be a Department of Law, the head of which shall be the City Attorney, who shall be appointed by the City Manager. The City Attorney shall be a competent attorney who shall have practiced law in the State of Texas for at least five years immediately preceding his appointment. The City Attorney shall be the legal advisor of, and attorney for, all of the officers and departments of the City, and he shall represent the City in all litigation and legal proceedings. He shall draft, approve, or file his written legal objections to, every ordinance before it is acted upon by the Council, and he shall pass upon all documents, contracts and legal instruments in which the City may have an interest.

There shall be such Assistant City Attorneys as may be authorized by the Council and appointed by the City Manager, who shall be authorized to act for and on behalf of the City Attorney.

**PROPOSITION NO. 12**

Shall the Charter of the City of Austin be amended by repealing all of Sections 8 and 10 of Article VII, and adopting and substituting therefor a new article to be designated "Article VI - Corporation Court", and composed of three sections to be numbered Section 1, Section 2, and Section 3, such new sections to read as follows:

## ARTICLE VI

Section 1. Corporation Court. There shall be a court known as The Corporation Court of The City of Austin, with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

Section 2. Judge of the Corporation Court. The Corporation Court shall be presided over by a Magistrate who shall be known as the Judge of the Corporation Court. He shall be appointed by, and shall serve at the pleasure of, the Council. He shall be a competent attorney who shall have resided within the City for at least three years immediately preceding the date of his appointment.

In the event the Judge of the Corporation Court is unable to act for any reason, the Council shall appoint a qualified attorney to act in his place. The Judge, or anyone acting in his place, shall receive such compensation as may be set by the Council.

The Council shall have the power to create and establish additional Corporation Courts, and to appoint more than one Judge of each Corporation Court, whether one or more, each of whom shall be a Magistrate.

Section 3. Clerk of the Corporation Court, There shall be a clerk of the Corporation Court who shall be appointed by, and who shall serve at the pleasure of, the Council. The Clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the Court thereto, and otherwise perform any and all acts necessary in issuing process of such Court and conducting the business thereof.

There shall be such deputy clerks of the Corporation Court as may be authorized and appointed by the Council, who shall have authority to act for and on behalf of the Clerk of the Corporation Court.

PROPOSITION NO. 13

Shall the Charter of the City of Austin be amended by repealing all of Section 16 of Article VII, all of Sections 6, and 7 of Article XI, all of Section 14 of Article XII, all of Sections 3, 4, and 18 of Article XV, and adopting and substituting therefor nine new sections, to be numbered Section 1, Section 2, Section 5, Section 6, Section 7, Section 8, Section 9, Section 14, and Section 15, of a new article to be designated as "Article VII - Finance", such new sections to read as follows:

## ARTICLE VII

Section 1. Department of Finance. There shall be a Department of Finance, the head of which shall be the Director of Finance. The Director of Finance shall be appointed by the City Manager, shall have knowledge of municipal accounting and shall have had experience in budgeting and financial control. Said director shall provide a bond with such surety and in such amount as the Council may require. The premium on such bond shall be paid by the City

Section 2. Director of Finance. - Powers and Duties. The Director of Finance shall administer all financial affairs of the City, other than the assessment and collection of taxes. He shall have authority and be required to:

- (1) Maintain a general accounting system for the City government and exercise financial control over all offices, departments, and agencies thereof;
- (2) Assist the City Manager in the preparation of the budget and its administration after adoption by the Council;
- (3) Certify as to the availability of funds for all proposed expenditures. Unless the Director of Finance shall certify that there is an unencumbered balance in the appropriation and funds available, no appropriation shall be encumbered and no expenditure shall be made.
- (4) Audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the City government; and, with the advice of the City Attorney, determine the regularity, legality, and correctness of such claims, demands, or charges;
- (5) Submit to the Council through the City Manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City;
- (6) Prepare, as of the end of the fiscal year, a complete financial statement and report;
- (7) Prescribe the forms of receipts, vouchers, bill, or claims to be used by all offices, departments, or agencies of the City government;
- (8) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department, or agency of the City government apart from or subsidiary to those kept in his office.
- (9) Supervise and be responsible for the purchase, storage, and distribution of all supplies, materials, equipment and other articles used by any office, department, or agency of the City government;
- (10) Supervise the collection of all revenues for the City and receive all money due the City, from the federal or state government, from any court, or from any office, department or agency of the City;
- (11) Have custody of and disburse all funds belonging to, or under control of, the City, subject to the provisions of this Charter and ordinances enacted thereunder; have custody of all investments and invested funds of the City government, or in possession of the City in a fiduciary capacity; and have custody jointly with the City Manager of all bonds and notes of the City and the receipt and delivery of City bonds and notes for transfer, registration or exchange.

Section 5. The Budget Document. The budget for the City government shall present a complete financial plan for the ensuing fiscal year, and shall consist

of three parts as follows:

Part I shall contain (1) a budget message, prepared by the City Manager, which shall outline his proposed fiscal plan for the City and describe significant features of the budget for the forthcoming fiscal period; (2) a general budget summary which, with supporting schedules, will show the relationship between total proposed expenditures and total anticipated revenues for the forthcoming fiscal period and which shall compare these figures with corresponding figures for the last completed fiscal year and the year in progress.

Part II shall contain (1) detailed estimates of all proposed expenditures, showing the corresponding expenditures for each item for the current fiscal year and the last preceding fiscal year with explanations of increases or decreases recommended; (2) detailed estimates of anticipated revenues and other income; (3) delinquent taxes for current and preceding years, with the estimated percentage collectible; and (4) statement of the indebtedness of the City, showing debt redemption and interest requirements, debt authorized and unissued, and conditions of the sinking funds.

Part III shall contain a proposed complete draft of the appropriation ordinance, the tax levying ordinance, and any other ordinances required to effectuate the budget.

**Section 6. Budget Preparation and Adoption.** At least thirty days prior to the beginning of each budget year, the City Manager shall submit to the Council a proposed budget in the form required by this Charter. At the meeting of the Council at which the budget is submitted, the Council shall order a public hearing on the budget and shall cause to be published, at least ten days prior to the date of such hearing, the time and place thereof. At the time and place so advertised the Council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard. The budget shall be finally adopted not later than the twenty-seventh day of the last month of the fiscal year. Upon final adoption the budget shall be in effect for the budget year, and copies thereof shall be filed with the City Clerk, the County Clerk of Travis County, and the State Comptroller of Public Accounts. The final budget shall be reproduced and sufficient copies shall be made available for use of all offices, departments, and agencies of the City, and for the use of interested persons.

**Section 7. Work Programs and Allotments.** At the beginning of each fiscal year the head of each department or agency of the City government, upon the direction of the City Manager, shall submit to the Department of Finance a work program for the year. Said work program shall include all appropriations for operation, maintenance, and capital outlays and shall indicate the requested allotments of such appropriations by months for the entire fiscal year. The City Manager shall review the requested allotments, and, after such alteration or revision as he may deem necessary, authorize such for expenditure. Thereafter the Department of Finance shall authorize all expenditures for departments and agencies to be made from the appropriations on the basis of the approved allotments and not otherwise. The approved allotments may be revised during the fiscal year by the City Manager, or upon application by the head of any department or agency and approval by the City Manager, but in no event shall the aggregate of departmental or agency allotments exceed the appropriation available to such departments or agencies for the fiscal year. If, at any time during the fiscal year, the City Manager shall ascertain that available revenues will be less than total appropriations for the year, he shall reconsider the work program and allotments of the departments and agencies and revise them so as to prevent the making of

expenditures in excess of available revenues.

**Section 8. Appropriations.** No funds of the City shall be expended nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual or interim period appropriation ordinance provided by this Charter. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the fund from which appropriated and may be reappropriated by the City Council. The Council may transfer any unencumbered appropriation balance or portion thereof from one office, department, or agency to another. The City Manager shall have authority, without Council approval, to transfer appropriation balances from one expenditure account to another within a single office, department, or agency of the City.

**Section 9. Depositories.** All monies received by any person, department, or agency of the City for or in connection with affairs of the City shall be deposited promptly in City Depositories, which shall be designated by the Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the City Depositories shall be signed by the Director of Finance or his deputy and countersigned by the City Manager.

**Section 14. Purchase Procedure.** All purchases made and contracts executed by the City shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be binding upon the City unless and until the Director of Finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment -, or contractual services for which the contract or order is to be issued. Before the City makes any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition. The City Manager shall have authority to contract for expenditures without further approval of the Council for all budgeted items not exceeding \$5,000.00. All contracts for expenditures involving more than \$5,000.00 must be expressly approved in advance by the Council. All contracts or purchases involving more than \$2,000.00 shall be let to the lowest and best responsible bidder after there has been opportunity for competitive bidding; provided, however, that the Council shall have the right to reject any and all bids. Contracts for personal or professional services shall not be let on competitive bids and all such contracts involving more than \$5,000 shall be approved by the Council.

**Section 15. Independent Audit.** At the close of each fiscal year, and at such other times as may be deemed necessary, the Council shall cause an independent audit to be made of all accounts of the City by a Certified Public Accountant. The Certified Public Accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof shall be published immediately in a newspaper in the City of Austin and copies placed on file in the City Hall as a public record.

**PROPOSITION NO. 14**

Shall the Charter of the City of Austin be amended by repealing Section 4 of Article XI and Subsection (12) of Section 2 of Article XII, and adopting and substituting therefor three new sections numbered Section 3, and Section 4,

of a new article to be designated "Article VII - Finance", and Section 5 of a new article to be designated "Article VIII-Taxation", such new sections to read as follows:

#### ARTICLE VII

Section 3. Fiscal Year. The fiscal year of the City which began on January 1, 1953, shall end on December 31, 1953. The next succeeding fiscal year shall begin on January 1, 1954, and end on September 30, 1954, and shall constitute an interim fiscal period. After September 30, 1954, the fiscal year of the City shall begin on the first day of October and end on the last day of September of each calendar year. The fiscal year established by this Section shall also constitute the budget and accounting year. As used herein the term "budget year" shall mean the fiscal year for which any budget is adopted and in which it is administered. All funds collected by the City during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year and, except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, shall be applied to the payment of expenses incurred during such fiscal year. Any revenues uncollected at the end on any fiscal year. Any revenues uncollected at the end of any fiscal year shall become resources of the next succeeding fiscal year.

Section 4. Interim Budget. The City Manager shall submit to the Council an interim budget which shall be prepared, as nearly as practicable, in accordance with the requirements for the budget document herein prescribed, for the interim fiscal period hereinabove established. Following the approval of such interim budget, the Council shall enact such appropriation and other ordinances as may be necessary for the effectuation of such interim budget.

#### ARTICLE VIII

Section 5. Tax Payments. All taxes due the City of Austin shall be payable at the office of the City Tax Assessor and Collector and may be paid any time after assessments have been made final by the Council. Taxes for the years 1952 and 1953 shall become due on January 1, of the year following the year of levy, and shall be paid by the following April 1. Taxes for each year thereafter shall become due on October 1, of the year of levy, and shall be paid by the following January 31. Taxes for 1952 and 1953 not paid by April 1 of the year following the year of levy and all taxes for each year thereafter not paid by January 31 following the year of levy shall be deemed delinquent and shall be subject to a penalty of one-half of one per cent for each month that the taxes remain unpaid until the total penalty equals five per cent, and in addition shall bear interest at the rate of six per cent per annum to be calculated to the last day of the month preceding the month in which the collection is made, Neither the Council nor any other official of the City shall ever extend the time for payment of taxes, or remit, discount, or compromise any tax legally due the City, or waive the penalty and interest that may be due thereon.

#### PROPOSITION NO. 15

Shall the Charter of the City of Austin be amended by repealing all of Subsections (4), (5), (6) and (7) of Section 2, and all of Section 4 of Article XII, and adopting and substituting therefor three new sections numbered Section 10, Section 12, and Section 13, of a new article to be designated as "Article VII - Finance", such new sections to read as follows:



ARTICLE VII

Section 10. General Obligation Bonds. The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for the acquisition of property for permanent public improvements or for any other public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas. Except for the refunding of bonds previously issued, any proposition to borrow money and to issue such bonds shall first be approved by a majority of the qualified property taxpaying voters voting at an election called for the purpose of authorizing the issuance of such indebtedness. The ordinance calling such election and the manner of conducting the election shall conform in all respects to the general laws of the State of Texas.

Section 12. Sale of Bonds. No bond issued by the City shall be sold for less than par value and accrued interest. Nor shall any bonds be sold until bids, submitted in response to public advertisement therefor, have been received and considered by the Council. The Council shall have the right to reject any or all bids.

Section 13. Sinking Fund. It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds of the City. The interest and sinking fund shall be deposited in a separate account and shall not be diverted to or used for any other purpose than to pay the interest and principal on such bonds. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing bonds of the United States government, the State of Texas, the County of Travis, or the City of Austin.

PROPOSITION NO. 16

Shall the Charter of the City of Austin be amended by repealing all of Article XXI composed of three sections, and adopting and substituting therefor a new section numbered Section 11, of a new article to be designated as "Article VII-Finance", such new section to read as follows:

ARTICLE VII

Section 11. Revenue Bonds. The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self liquidating municipal function not now or hereafter prohibited by any general law of the State, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, acquired and the income therefrom, and shall never be a debt of the City. All revenue bonds issued by the City shall first be authorized by a majority of the qualified electors voting at an election held for such purpose. The Council shall have authority to provide for the terms and form of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds and the acquisition and operation of any such property or interest.

PROPOSITION NO.17

Shall the Charter of the City of Austin be amended by repealing all of Sections 14, 15, and 22 of Article VII, all of Sections 1, 3, 5, 6, 7, 9, and 10 of Article XII, the first grammatical paragraph, and all of sub-sections (1), (2), (3), (9), (10), (11), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), and (28) of Section 2 of Article XII, and all of Sections 8, 9, 10 and 11 of Article XV, and adopting and substituting therefor seven new sections to be numbered Section 1, Section 2, Section 3, Section 4, Section 6 and Section 7 of a new article to be designated as "Article VIII - Taxation", and Section 9 of a new article to be designated as "Article XII - General Provisions", such new sections to read as follows:

ARTICLE VIII

Section 1. Department of Taxation. There shall be a Department of Taxation, the head of which shall be the City Tax Assessor and Collector. He shall be appointed by the City Manager, and shall be responsible for the assessment and collection of all taxes levied by the City of Austin.

Section 2. Powers of Taxation. The City shall have power to levy, assess, and collect taxes for any municipal purpose on property of any character within the corporate limits to the maximum now or hereafter authorized by the Constitution and laws of the State of Texas, and on persons, privileges, subjects, and occupations. Provided, however, that the total tax levied annually upon property for municipal general operating expenses shall not exceed \$1.00 on each \$100 of assessed valuation of taxable property.

Section 3. Assessment of Property for Tax Purposes. All property, real, personal, or mixed, having a situs within the corporate limits of the City of Austin on January 1 of each year, not expressly exempted by law, shall be subject to taxation for such year. The Council may prescribe the mode and manner of making renditions, tax lists, assessments, and tax rolls. Every person, partnership, association, or corporation holding, owning or controlling property within the limits of the City, shall, between January 1, and April 1 of each year, hand to the City Tax Assessor and Collector a full and complete sworn inventory of such property, held, owned, or controlled within said limits on January 1 of each year. The Council may prescribe by ordinance the mode and manner of making such inventories and penalties for failing or refusing to submit the same. The City Tax Assessor and Collector shall review all renditions made to him and determine the value of the property rendered and fix the values thereof for tax purposes. If the Assessor fixes a value other than that shown on the owner's rendition he shall give written notice thereof to such owner at his last known address by depositing the same, postage paid in the United States Mail, notifying him of such change and advising him that he may appear before the Board of Equalization to protest such change. In all cases where no rendition of real and personal property is made by the owner thereof, the City Tax Assessor and Collector shall ascertain the amount and value of such property and assess the same, and such assessment shall be as valid and binding as if the property involved had been rendered by such owner.

All assessments of real property, whether rendered by the owner or assessed by the City Tax Assessor and Collector shall list the value of land

and improvements separately and the total value; and shall describe such property sufficiently to identify it, giving the name of the last known owner thereof. If the ownership of any property should be unknown to the City Tax Assessor and Collector, he shall state that fact. The City Tax Assessor and Collector shall assess all property which has been omitted from assessment in prior years upon a current supplemental assessment roll. The taxes on such supplemental assessments shall be due at once and if not paid within sixty days thereafter shall be deemed delinquent and shall be subject to the same penalty and interest as other delinquent taxes for such year. In addition to the powers granted by this section he shall have the same power as county tax assessors and collectors in Texas to make reassessments, all at the same value and tax rates as such property should have been assessed and taxed for past years and indicating the year or years for which it is assessed.

Section 4. Board of Equalization. The Council shall each year prior to June 1 appoint a Board of Equalization composed of three members. Each member of said board shall be a qualified taxpaying voter in the City, and shall be well-informed upon property values within the City. Said board shall choose from its membership a chairman who shall preside at all meetings of the Board. Members of the Board during their period of service shall receive such compensation as may be provided by the Council, and shall perform no other duties for the City.

The Board of Equalization shall convene as soon as practicable after June 1, and shall give notice of its time and place of meeting. The Board shall adjust assessed values and in addition to the powers herein granted shall have all powers of a County Commissioners Court in regard to the assessment of property for taxation and equalization thereof. Whenever the Board shall find it necessary to change the rendered value of any property appearing on the assessment rolls it shall give immediate notice to the owner of such property, or the person rendering same, and provide said owner an opportunity to appear and show cause why the value of such property should not be changed. The notice herein required may be served by mailing the same to the last known address of the owner postage paid. The Board shall have the same powers to subpoena property owners of the City, witnesses, books, and records as are granted by the laws of the state to the county board of equalization and shall have the power to administer oaths and to punish for contempt as provided by ordinance.

Any person failing to appear before the Board, or failing to give evidence or to answer any question as to his property or any part thereof, shall be deemed guilty of contempt within the meaning of this section. The Board shall be governed by such rules and regulations and shall have such additional powers as may be prescribed by ordinance, but it may adopt such further rules and regulations of its own which are not in conflict with any such ordinance. The Board shall cause a record of its proceedings to be made, and such record shall be preserved to the same extent and in the same manner as other tax records of the City. Immediately upon completion of its work, the Board shall certify its approval of the assessment rolls and forward the same to the Council.

Upon receipt of the assessment rolls from the Board of Equalization, the Council shall approve and adopt the same as the assessment rolls of the City for the current year; provided, however, that at any time prior to final

adoption of the rolls by the Council any taxpayer may appeal in writing from the decision of the Board of Equalization. The decision of the Council in cases of appeal from the Board shall be final, and no further appeal shall lie therefrom.

Section 6. Tax Liens and Liability. All property, real, personal and mixed, situated in the City of Austin on the first day of January of each year shall stand charged with a special lien in favor of the City from said date for the taxes due thereon. All personal property of any owner situated in the City of Austin on the first day of January of each year shall stand charged with a special lien from said date in favor of the City for all taxes on personal property owing by such owner for the year. The liens provided herein shall be superior to all other liens except liens for State and County taxes, regardless of when such other liens were created. All persons purchasing any of said property after the first day of January in any year shall take the same subject to the liens herein provided. In addition to the liens herein provided, the owner on the first day of January of any year of property subject to taxation by the City shall be personally liable for the taxes due thereon for such year. The City shall have power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the City Assessment Rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property intended to be assessed, to prove the same, and to have its judgment foreclosing the tax lien or for personal judgment against the owner for such taxes.

Section 7. Joint Interest in Property. The City Tax Assessor and Collector shall not be required to make separate assessments of joint or conflicting interests in any real estate. It is provided, however, that the owner of any such interest may furnish to the City Tax Assessor and Collector at any time before April 1 of each year a written description of any parcel of land in which he has an interest less than the whole, showing the amount of his interest therein, and the Assessor and Collector may thereupon assess such interest as a separate parcel.

The City Tax Assessor and Collector may receive the taxes on part of any lot or parcels of real estate or an undivided interest therein, but no such taxes shall be received until the person rendering the same shall have furnished the Assessor and Collector a full description of the particular part or interest on which payment is tendered.

## ARTICLE XII

Section 9. Public Schools. While control of its public free schools remains in the City of Austin, the City shall levy, assess and collect all taxes, which have been authorized in the manner prescribed by law for current maintenance of the schools and for servicing bonds issued by the City for school purposes, and shall pay over all taxes collected for current maintenance of the schools to the Board of Trustees of the Austin Public Free Schools in accordance with the general laws upon the subject. The right to liens on property for taxes levied and assessed thereon by the City for school purposes granted to the City by Special Law shall continue.

PROPOSITION NO. 18

Shall the Charter of the City of Austin be amended by repealing all of Section 52 of Article XIV, and adopting and substituting therefor a new article to be designated "Article IX - Personnel", and composed of four new sections numbered Section 1, Section 2, Section 3 and Section 4, such new sections to read as follows:

ARTICLE IX - Personnel

Section 1. Classified Personnel Service. There is hereby established a classified personnel service in which all appointments and promotions shall be made on the basis of merit and fitness. The classified service shall include all offices and employments in the City except the following: Members of the City Council; the City Clerk; the City Manager and his assistants; the directors of departments and one principal assistant; members of Boards and Commissions in the City's service; the Judge and Clerk of the Corporation Court; officers and employees of classes or departments within the civil service statutes of Texas.

Section 2. Director of Personnel. There shall be a Department of Personnel, the head of which shall be the Director of Personnel. The Director of Personnel shall be appointed by the City Manager, and shall have had training and experience in personnel administration. He shall have power and be required to:

- (1) Prepare and administer such personnel rules and regulations governing the classified service as may be necessary or desirable for carrying out the provisions of this Charter;
- (2) Prepare, install, and maintain a classification and pay plan for all positions in the classified service;
- (3) Certify all payrolls for persons in the classified service at time of initial employment, upon change of status, or upon removal from the payroll; and
- (4) Perform such other duties and functions as may be prescribed by the Council or the City Manager.

Section 3. Personnel Policies. The administration of the classified service of the City shall be governed by written rules and regulations to be known as "Personnel Policies." The Director of Personnel shall prepare such policies and recommend their adoption to the City Manager. Upon approval by the City Manager, the Personnel Policies shall be presented to the Council for adoption. Such policies shall become effective when approved by the Council and the Council shall act within 30 days upon such proposed personnel policies. Thereafter the Director of Personnel shall have power to recommend additions to, modifications of, or deletions from such policies to the City Manager for presentation to the City Council in the same manner used for adoption of the original policies. All policies adopted shall have the force and effect of law.

Section 4. Employees' Retirement System. There shall be a retirement system for the employees of the City which shall be known as the Employees' Retirement System of the City of Austin. After the first six months of employment, all municipal employees except the Mayor, members of the Council, members of boards

and commissions, employees of the Fire Department, and part-time or temporary employees, shall become members of such system. Such system shall be governed by a Board of Directors composed of such members and selected in such a manner as may be provided by ordinance of the Council, provided that classified employees shall have representation on the Board. Such system shall be financed by a retirement fund created by contributions of the members and of the City, and the contributions by the City shall always be equal to the contributions of the members. The benefits payable to any member upon retirement shall be based upon the amount of contributions made on behalf of such member, and shall be determined on an actuarial basis; Upon separation of any member from the service of the City before retirement, such member shall be entitled to receive only the amount of his contributions to the fund and interest thereon.

Establishment of the Employees' Retirement System shall not preclude the Council from merging such system with, or adopting, any voluntary statewide or national retirement system where the general benefits or such merger or change are at least equal to those under the Employees' Retirement System. The Council shall likewise not be precluded from consolidating any retirement system maintained by employees of the Fire Department with the Employees' Retirement System of the City of Austin under terms agreeable to both systems.

#### PROPOSITION NO. 19

Shall the Charter of the City of Austin be amended by repealing all of Section 4 of Article XXIII, and adopting and substituting therefor a new article to be designated as "Article X - Planning", and composed of five new sections numbered Section 1, Section 2, Section 3, Section 4, and Section 5, such new sections to read as follows:

#### ARTICLE X - Planning

Section 1. The Planning Commission: - Organization. There shall be established a Planning Commission which shall consist of nine citizens of the City of Austin who own real property within said City. The City Manager, the Chairman of the Zoning Board of Adjustment, the Director of Public Works and the President of The Board of Trustees of the Austin Independent School District shall serve as ex-officio members. The members of said Commission shall be appointed by the Council for a term of two years, five members to be appointed in every odd-numbered years and four members in every even-numbered year. The Commission shall elect a chairman from amongst its membership and shall meet not less than once each month. Vacancies in an unexpired term shall be filled by the Council for the remainder of the term.

Section 2. The Planning Commission: - Powers and Duties. The Planning Commission shall:

- (1) Make and amend a Master Plan for the physical development of the City;
- (2) Recommend to the Council approval or disapproval of proposed changes in the zoning plan;
- (3) Exercise control over platting or subdividing land within the corporate limits of the City and within an area extending five miles beyond the City;
- (4) Submit annually to the City Manager, not less than ninety days prior to the beginning of the budget year, a list of recommended capital improvements which in the opinion of the Commission are necessary or desirable during the forthcoming five year period.

- (5) Require information from the other departments of the City government in relation to its work;
- (6) Within its budget appropriation, contract with City planners and other consultants for such services as it may require.

The Commission shall be responsible to and act as an advisory body to the Council and shall perform such additional duties and exercise such additional powers as may be prescribed by ordinance of the Council not inconsistent with the provisions of this Charter.

Section 3. Director of Planning. There shall be a Director of Planning who shall be appointed by the City Manager, and who shall be qualified by special training and experience in the field of City planning. The Director of Planning shall serve as the regular technical adviser of the Planning Commission, shall have the status of a director of a department, and shall have such other duties and responsibilities as the Council may establish.

Section 4. The Master Plan. The Master Plan for the physical development of the City of Austin shall contain the commissions' recommendations for growth, development and beautification of the City. A copy of the Master Plan, or any part thereof, shall be forwarded to the City Manager who shall thereupon submit such plan, or part, thereof, to the Council with his recommendations thereon. The Council may adopt this plan as a whole or in parts and may adopt any amendment thereto, after at least one public hearing on the proposed action. The Council shall act on such plan, or part thereof, within sixty days following its submission by the City Manager. If such plan, or part thereof, should be rejected by the Council the Planning Commission may modify such plan, or part thereof, and again forward it to the City Manager for submission to the Council. All amendments to the Master Plan recommended by the Planning Commission shall be submitted in the same manner as that outlined above to the Council for approval, and all recommendations to the Council from any City department affecting the Master Plan must be accompanied by a recommendation from the Planning Commission.

Section 5. Legal Effect of Master Plan. Upon adoption of the Master Plan by the Council, no subdivision, street, park nor any public way, ground or space, public building or structure and no public utility, whether publicly or privately owned which is in conflict with the Master Plan, shall be constructed or authorized by the City until and unless the location and extent thereof shall have been submitted to and approved by the Commission. In case of disapproval, the Commission shall communicate its reasons to the Council, which shall have the power to overrule such disapproval and upon such overruling the Council or the appropriate office, department or agency shall have power to proceed. The widening, narrowing, relocating, vacating or change in the use of any street, river or watercourse, or other public way or ground or the sale of any public building or real property shall be subject to similar submission and approval, and failure to approve may be similarly overruled by the Council. The failure of the Commission to act within thirty days after the date of official submission to the Commission shall be deemed approval, unless a longer period be granted by the Council or the submitting official.

#### PROPOSITION NO. 20

Shall the Charter of the City of Austin be amended by repealing the last sentence of Section 15 of Article XI, and all of Article XXII, and adopting and substituting therefor six new sections numbered Section 1, Section 2, Section 3,

Section 4, Section 5 and Section 6 of a new article to be designated "Article XI - Franchises and Public Utilities", such new sections to read as follows:

#### ARTICLE XI

Section 1. Inalienability of Public Property. The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the City is hereby declared to be inalienable by the City, except by ordinances not in conflict with the provisions of this Charter. No act or omission by the Council or any officer or agent of the City shall be construed to grant, renew, extend, or amend by estoppel or indirection any right, franchise or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property.

Section 2. Power to Grant Franchise. The Council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City, and, with consent of the franchise holder, to amend the same. Provided, however, that no franchise shall be granted for an indeterminate term, that no franchise shall be granted for a term of more than 25 years, and that no franchise shall be granted, renewed, extended, or amended, except on condition that the City shall have the right at any time within 5 years of the expiration of the term thereof to purchase the property of the franchise holder at a price to be determined according to the method agreed upon in the ordinance granting, renewing, extending, or amending the franchise.

Section 3. Ordinance Granting Franchise. Every ordinance granting, renewing, extending, or amending a public utility franchise shall be read at three regular meeting of the Council, and shall not be finally acted upon until 30 days after the first reading thereof. Within 5 days following each of the three readings of the ordinance, the full text thereof shall be published one time in some newspaper of general circulation in the City, and the expense of such publication shall be borne by the prospective franchise holder. No such ordinance shall become effective until the expiration of 60 days following the date of its final adoption by the Council, and every such ordinance shall be subject to the referendum procedure provided by State Law.

Section 4. Transfer of Franchise. No public utility franchise shall be transferred by the holder thereof except with the approval of the Council expressed by ordinance.

Section 5. Regulation of Franchise. Every grant, renewal, extension, or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the Council:

1. To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing.
2. To impose reasonable regulations to insure safe, efficient and continuous service to the public.
3. To require such expansion and extension of plants and facilities as are necessary to provide adequate service to the public.



4. To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, extent and condition of all facilities of such franchise holder in, over and under the streets, alleys, and other public property of the City; and to regulate and control the location, relocation, and removal of such facilities.
5. To collect from every public utility operating in the City its fair and just proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling such portions of the alleys, bridges, culverts, viaducts, and other public places and ways of the City as may be occupied or used in whole or in part by such utilities; or to compel such public utility to perform, at its own expense, its just share of such excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping and sprinkling.
6. To require every franchise holder to allow other public utilities to use its tracks, poles, wires, pipes or other facilities, including bridges and viaducts, wherever in the judgment of the Council such use shall be in the public interest, provided that in such event the Council shall fix a reasonable rental to be paid to the owner of the facility for such use, after notice to the interested parties and a hearing of the facts.
7. (a) To prescribe the form of accounts kept by every franchise holder.  
(b) To examine and audit at any time the accounts and other records of any franchise holder.  
(c) To require annual and other reports, including reports on the local operations of the utility, which shall be in such form and contain such information as the Council shall prescribe.
8. To require and collect any compensation and rental not now or hereafter prohibited by the laws of this State.
9. To require such franchise holders who request an increase in rates, charges or fares, to reimburse the City for reasonable expenses incurred in employing rate consultants to conduct investigations, present evidence and advise the Council on such requested increase.

Section 6. Regulation of Rates. The Council shall have full power after notice and hearing to regulate by ordinance the rates, charges and fares of every public utility franchise holder operating in the City. Provided that no such ordinance shall be passed as an emergency measure. Any franchise holder requesting an increase in its rates, charges, or fares shall have, at the hearing on such request, the burden of establishing by clear and convincing evidence the value of its investments and the amount and character of its expenses and revenues. No franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the Council until such franchise holder has filed a motion for rehearing with the Council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the Council, and until the Council shall have acted upon such motion.

PROPOSITION NO. 21

Shall the Charter of the City of Austin be amended by adding thereto a new section to be numbered Section 7 of a new article to be designated "Article XI - Franchises and Public Utilities", such new section to read as follows:

Section 7. 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 appropriately sub-divided into different classes, all liabilities sub-divided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other distribution of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the costs of all extensions, additions and improvements and the source of the 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 other City or governmental department. The City Council shall annually cause to be made and published a report showing the financial results of such City ownership and operation, giving the information specified in this section and such additional data as the City Council shall deem expedient.

PROPOSITION NO. 22

Shall the Charter of the City of Austin be amended by adding thereto a new section numbered Section 1 of a new Article to be designated as "Article XII - General Provisions", such new section to read as follows:

Section 1. Publicity of Records. All records and accounts of every office, department, or agency of the City shall be open to inspection by any citizen, any representative of a citizens' organization, or any representative of the press at all reasonable times.

PROPOSITION NO. 23

Shall the Charter of the City of Austin be amended by repealing all of Sections 12 and 14 of Article XI, and adopting and substituting therefor a new section numbered Section 2 of a new article to be designated as "Article XII - General Provisions", such new section to read as follows:

ARTICLE XII

Section 2. Personal Interest in City Contracts. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or service, except on behalf of the City as an officer or employee. Any wilful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to removal from his office or position. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with the Council shall render the contract involved voidable by the City Manager or the Council.

PROPOSITION NO. 24

Shall the Charter of the City of Austin be amended by repealing all of Section 17 of Article XII and adopting and substituting therefor a new section numbered Section 3 of a new Article to be designated "Article XII - General Provisions", such new section to read as follows:

Section 3. Oath of Office. Every person elected or appointed to any office in the City shall, before entering upon the duties of his office, take and subscribe to the oath of office prescribed in Article XVI, Section 1 of the State Constitution.

PROPOSITION NO. 25

Shall the Charter of the City of Austin be amended by repealing all of Section 13 of Article XI, and adopting and substituting therefor a new section numbered Section 4 of a new article to be designated as "Article XII - General Provisions", such new section to read as follows:

## ARTICLE XII

Section 4. Nepotism. No person related within the fourth degree by affinity or consanguinity to the Mayor, any member of the City Council, or the City Manager shall be appointed to any office, position, clerkship, or other service of the City. This prohibition shall not apply, however, to any person who shall have been continuously employed by the City for a period of two years prior to the election of the Mayor or Councilman or appointment of the City Manager so related to him.

PROPOSITION NO. 26

Shall the Charter of the City of Austin be amended by repealing all of Section 26 of Article XV, and adopting and substituting therefor a new section numbered Section 5 of a new article to be designated "Article XII - General Provisions", such new section to read as follows:

## ARTICLE XII

Section 5. Notice of Claims. Before the City of Austin shall be liable for damages for the death or personal injuries of any person or for damage to or destruction of property of any kind, which does not constitute a taking or damaging of property under Article I, Section 17, Constitution of Texas, the person injured, if living, or his representatives, if dead, or the owner of the property damaged or destroyed, shall give the City Council or City Manager notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within forty-five days after same has been sustained, stating specifically in such written notice when, where, and how the death, injury, damage or destruction, occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six months immediately preceding the occurrence of such death, injury, damage or destruction, and the names and addresses of all witnesses

upon whom it is relied to establish the claim for damages; and the failure to so notify the Council or City Manager within the time and manner specified herein shall exonerate, excuse and exempt the City from any liability whatsoever. No act of any officer or employee of the City shall waive compliance, or estop the City from requiring compliance, with the provisions of this section as to notice, but such provisions may be waived by resolution of the Council, made and passed before the expiration of the 45 day period herein provided, and evidenced by Minutes of the Council.

PROPOSITION NO. 27

Shall the Charter of the City of Austin be amended by repealing all of Section 7 of Article XV, and adopting and substituting therefor a new section numbered Section 7 of a new Article to be designated as "Article XII - General Provisions", such new section to read as follows:

ARTICLE XII

Section 7. Security of Bond Not Required. It shall not be necessary in any action, suit, or proceeding in which the City is a party for any bond, undertaking or security to be demanded or executed by or on behalf of the City. The City shall have all remedies of appeal provided by law to all courts in this state without bond or security of any kind, but shall be liable in the same manner and to the same extent as if such bond, undertaking, or security had actually been executed or given.

PROPOSITION NO. 28

Shall the Charter of the City of Austin be amended by repealing all of Section 24 of Article XV, and adopting and substituting therefor a new section numbered Section 8 of a new article to be designated as "Article XII - General Provisions", such new section to read as follows:

ARTICLE XII

Section 8. Assignment, Execution, and Garnishment. The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City, in the hands of any person, firm, or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

PROPOSITION NO. 29

Shall the Charter of the City of Austin be amended by repealing all of Sections 2 and 17 of Article XV, and all of Section 1 of Article XX, and adopting and substituting therefor two new sections numbered Section 10 and Section 15 of a new article to be designated as "Article XII - General Provisions", such new sections to read as follows:

## ARTICLE XII

Section 10. Effect of Charter on Existing Law. All ordinances, resolutions, rules, and regulations now in force under the City government and not in conflict with the provisions of any amendment to this Charter shall remain in force under such amendment until altered, amended, or repealed by the Council after such amendment to this Charter takes effect. All rights of the City under existing franchises and contracts and all existing authority for the issuance of bonds, not in conflict with the provisions of any amendment to this Charter, shall be preserved in full force and effect.

Section 15. Interim Municipal Government. From and after the date of the adoption of any amendment to this Charter and until the completion of the first City election thereunder and the qualification of the Mayor and Councilmen therein elected, the Mayor and Councilmen then in office, shall continue in office and shall exercise all of the powers conferred upon the City by such amendment.

PROPOSITION NO. 30

Shall the Charter of the City of Austin be amended by repealing all of Section 19 of Article XV, and adopting and substituting therefor a new section numbered Section 12 of a new article to be designated as "Article XII - General Provisions", such new section to read as follows:

## ARTICLE XII

Section 12. Judicial Notice. This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

PROPOSITION NO. 31

Shall the Charter of the City of Austin be amended by repealing all of Sections 5, 13, 15, 20 and 21 of Article XV, and all of Article XXXIII, and adopting and substituting therefor a new section numbered Section 14 of a new article to be designated as "Article XII - General Provisions", such new section to read as follows:

## ARTICLE XII

Section 14. Separability Clause. If any section or part of a section of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force, or effect of any other section or part of a section of this Charter.

PROPOSITION NO. 32

Shall the Charter of the City of Austin be amended by adding thereto a new section numbered Section 16 of a new article to be designated as "Article XII - General Provisions", such new section to read as follows:

## ARTICLE XII

Section 16. The Council shall have the power, by ordinance, to renumber and rearrange all articles, sections and paragraphs of this Charter of any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance a copy thereof, certified by the City Clerk, shall be forwarded to the Secretary of State for filing.

SECTION 2. That the Mayor is authorized and instructed to publish a copy of this Resolution in the Austin American and the Austin Statesman, newspapers published in the City of Austin, as notice of the intention of the City Council to submit at an election the certain propositions to amend the Charter of the City of Austin hereinbefore set out and said copy of this Resolution when marked "NOTICE OF INTENTION TO SUBMIT CHARTER AMENDMENTS", signed by the Mayor and attested by the City Clerk, and published as herein provided, shall be due notice thereof.

SECTION 3. That said notice shall be published in the newspapers, aforesaid, for ten days, the first publication of which shall be twenty (20) days prior to the date on which the proposed ordinance is to be passed, as set out in Section 1 of this Resolution.

The motion, seconded by Councilman Johnson, carried by the following vote:  
Ayes: Councilmen Johnson, MacCorkle, Mayor Drake  
Noes: Councilmen Long, White

The Mayor announced that the Resolution had been adopted.

Councilman Long made the following statement regarding her vote: "Although we have made thirty changes that I offered and hundreds of others made to this particular set of propositions, we did not have a proper public hearing and the City Attorney, according to the newspaper, denied that we were having a public hearing and that the Mayor has not called this a public hearing; and I feel that should we have had a series of public hearings, the general public would have been better informed and would have had better choice to participate in the propositions that we are to vote on; and I am sorry the majority of the Council had to rush this through before January 31, 1953."

Councilman White stated he voted against the Resolution for the reason "A number of these propositions I do not agree upon, and another reason is, a document as important as this is, I do not think we are giving the people sufficient time to study it."

Councilman MacCorkle made the following statement for the record: "Ever since I came to Austin a little over twenty years ago, there have been suggestions and talk and discussions about rewriting the Austin City Charter. This Council practically over a year ago appointed a Committee which we felt was very representative, very competent, and a Committee that spent a lot of time on preparation of the instrument-working from six to eight months on the instrument which they presented to us. I do not believe you will find in these proposals many fundamental changes in the original Charter, which officially had been first presented to Austin by the Legislature in a Special Act, and which has been amended numerous times since then. I feel that the people, and they are the final say, have practically ~~seven~~ weeks in which to discuss this Charter."

I feel that that is ample time in which to inform the public, our newspapers, our radios, our citizens groups all uniting in an attempt to do so. I think it also should be stated that this Council met yesterday morning. We have heard and listened to anyone who wanted to speak from 10:00 A.M. until 12:00; from 2:30 P.M. until 6:00 P.M.; reconvening at 8:00 last evening and remaining here until 12:00 midnight; coming back this morning at 10:00 A.M., and we are here now at 2:13. I think the record ought to show that. I feel sure the majority of the Council does not have any desire to "ram" anything down the people's of Austin throats. They are the final say, and we are perfectly willing to abide by their decision. I think it also should be stated that it is the Council's responsibility for pushing or initiating this proposed change in the Charter, and I, for one, am perfectly willing to take the result which the people have an opportunity to pass on, on January 31, 1953."

Councilman Johnson stated that regardless of what this Council has done, the people have the last say, for which he was very glad.

Councilman Johnson moved that the Council adjourn. The motion, seconded by Councilman MacCorkle, carried by the following vote:

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

The Council stood adjourned at 2:13 P.M.

APPROVED: W. S. Drake

Mayor

ATTEST: Elaine Hooley

City Clerk