

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Special Meeting

March 7, 1973

5:00 P.M.

COUNCIL CHAMBER, CITY HALL

The meeting was called to order with Mayor Butler presiding.

Roll Call:

Present: Councilmen Dryden, Nichols, Mayor Pro Tem Love, Councilmen
Lebermann, Friedman, Handcox, Mayor Butler

Absent: None

ELECTION CALLED - PASSAGE OF ORDINANCE

Mayor Butler announced that this was a Special Meeting called for the purpose of calling Charter Amendment Election to be conducted with the Regular Municipal Election.

Mayor Butler noted that it had been the consensus of the Council at the Special Meeting of March 5, 1973, to delete proposed Amendment 15 concerning the Employees Retirement System.

Mr. Victor Ravel, member of the City Charter Study Committee, discussed this item which concerned three proposed changes in the wording of Article IV, Section 4. The following sentence now appeared: "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." He stated that various other public pension plans which had been investigated were somewhat less restrictive than Austin's. He recommended the deletion of the sentence in question, which would permit the Council and/or the administrative group handling this Fund to change the rules on separation after a certain number of years. Thus, employees separating from the City before retirement but after many years of service could be entitled to more benefits than permitted now by this present Charter restriction to only the amount of their contributions plus interest at the current rate. He was not advocating any substantive change but merely a change which would make substantive change possible in the future.

Mr. Ravel stated that a second proposed change was to permit the Council to establish different pension plans for different City Departments, which had

been requested by representatives of the Police Department.

He stated that a third proposed change was to permit the Council to authorize additional contributions to its Firemen's Relief and Retirement Fund, which had been requested by representatives of the Fire Department.

With regard to the first proposed change, Councilman Handcox questioned the appropriateness of the City moneys in the Retirement Fund being used for an employee not retiring. He disagreed with Mr. Gus Garcia who stated that other private and public pension funds provided for vesting of funds without the requirement of retirement. Mr. Garcia did not believe that the present restriction was necessary to retain the actuarial soundness of the Fund. Councilman Nichols feared that this change would induce employees to leave the service of the City in order to obtain funds.

Mr. Willard Houser, Chairman of the Retirement Board, stated that the Board unanimously opposed this change. He stated that 1/3 of the \$23.5 million pension fund was the type of money now being discussed. He stated that a \$1.5 billion teacher retirement system he had investigated did not permit receipt of more than the individual's contributions and interest before retirement. He stated that a change would ruin the City's Pension Fund. He stated that very few employees separated from the City after 20-30 years of service but before retirement. He stated that a change would require an increase in employee and City contributions to maintain the present level of benefits. In response to Councilman Friedman's question, Mr. Houser feared that a future Council might make mandatory a substantive change which this proposed amendment, if passed by the voters, merely permitted. He also feared that the Courts might make a substantive change retroactive for former City employees.

Mr. Norman Barker, Finance Administrator and member of the Retirement Board, presented the views of Mr. W. P. Watts, former Executive Director of the Texas Public Employees Association and a member of the Retirement Board, who could not attend this meeting, that the change would transform a Retirement System into an Enforced Savings Plan. On behalf of Mr. Gatewood Newberry, also a member of the Board unable to attend the meeting, he stated Mr. Newberry's opposition to any enabling change which might be detrimental to the Retirement System. Mr. Barker elaborated upon the current requirements for receipt of Retirement benefits and the five different funding plans currently existing in the Retirement System. He noted that an employee becoming totally incapacitated was entitled to an annuity at that time. He also noted that after 20 years as a City employee, an employee at the age of 55 had the immediate right to a pension, and that an employee after 30 years of service at any age was entitled to a pension at that date. He quoted from a letter from the City's Actuaries which stated that the proposed change would require increased contributions or reduced benefits.

Mr. Tom Pinckney, District Chief in the Austin Fire Department and member of the Firefighters Pension Board, stated that the third proposal, permitting the Council to authorize additional contributions to the Firemen's Relief and Retirement Fund, he no longer felt to be necessary, because it was already provided by State law. He requested that this item be deleted from consideration. He stated that any firefighter leaving after ten years of service had a vested right in their pension system upon retirement which could occur at age 55, but he knew of no firefighters' pension fund which provided for vested benefits before retirement.

Mr. Phil Morgette, City Personnel Director and Secretary to the Retirement Board, stated the Retirement Board in its Regular Meeting of December 10,

1971, went on record as being opposed to any change in the Charter. In response to Councilman Nichols' question, he stated that the turnover rate was about 30-33% but could not say what the anticipated rate would be if the change were made.

Mr. R. L. Hancock, Electric Utility Director and member of the Retirement Board, felt that the proposed change to permit withdrawal of City funds before retirement would not be in the best interest of City employees, because it would reduce benefits.

Mr. Bob Brown, Building Maintenance Division Superintendent and member of the Retirement Board, opposed the proposed change because it would reward people for quitting.

Mr. R. B. Laws, Deputy Chief of Police and member of the Retirement Board, opposed the proposed change.

Mr. Bill Harrison, Finance Director and member of the Retirement Board, reported on the results of a questionnaire sent to the 9 other largest cities in Texas, from which 7 had responded. None of them refunded any of the City's contributions prior to retirement; in fact, some did not refund even the employee's contributions if he left the service of the City before retirement.

Major Don Doyle, President of the Austin Police Association, stated that the Police Association had instigated the proposed changes because they had been advised it would be necessary to amend the City Charter in order to set up a Retirement System so that police officers could contribute more into the system, enabling an earlier retirement. He stated that full-time police work was difficult after age 55. He opposed any change which would allow the Retirement System to become a Savings Plan but favored a change which would permit earlier retirement for police officers. In response to Councilman Nichols' question, he stated that they were not requesting a separate retirement system from the regular City Retirement System.

In response to Councilman Nichols' question, City Attorney Don Butler stated that it would not be necessary to amend the City Charter to establish this as a non-mandatory option. In response to Mayor Pro Tem Love's question, Major Doyle felt that this early retirement option should be open to all City employees, not just the Police Department. City Attorney Don Butler stated that if this were to operate within the present system, it would have to be an option open to all City employees. However, a supplemental system providing for additional contributions voluntarily paid by members of the Police Department could be done without changing the Charter.

City Manager Davidson stated that study was currently being undertaken to discover ways in which such a supplemental system might be made available. Some other cities had recently adopted such supplemental plans. Major Doyle stated that he opposed the first proposed change in Amendment 15 being presented to the voters, but he favored the second proposed change being presented.

Mr. Ravel agreed to the deletion of the third proposed change as requested by the Fire Department. He quoted a letter from the Executive Secretary of the Employees Retirement System in Texas, which stated that most of the bills currently before the Congress concerning public and private pension systems encouraged earlier vesting, usually after 5-10 years of service, and the Texas legislature had adopted a resolution calling upon State and local retirement systems to make a joint study on the question of reciprocity of

service between systems and on the question of earlier vesting. He also quoted a letter from the Executive Secretary of the Texas Teachers Retirement System, who predicted that Texas would adopt legislation requiring 5-year vesting. Councilman Handcox favored earlier vesting, but not eligibility to collect prior to retirement.

Judge Jim Dear, appearing as General Counsel for the Austin Police Association, presented the following wording for the second proposed change, which was the one favored by the Police Department: "Nothing herein contained shall in any manner limit or prohibit the Council for establishing different pension plans for different City Departments under the same Retirement System." He believed the legality of a supplemental plan under the present wording of the Charter was in question.

Mr. W. P. Watts expressed his opposition to the proposed change for early withdrawal.

Motion

Mayor Pro Tem Love moved the Council delete entirely the proposed changes in Amendment 15 from the Charter Amendment Election ballot. The motion was seconded by Councilman Handcox.

Substitute Motion

Councilman Friedman offered a substitute motion that a proposed amendment to the Charter permitting the Council to establish different pension plans for different City Departments under the present retirement system be included on the ballot.

In response to Councilman Handcox's question, City Attorney Don Butler stated that a supplemental non-mandatory system allowing greater employee contributions was now within the City's power, but the City could not now pay different City benefits to employees of different Departments. He was not sure that the supplemental non-mandatory system would accomplish the Police Department objectives of earlier retirement or larger City benefits.

In response to Mayor Butler's question, Mr. Houser felt that the wording in the substitute motion would be confusing to the voters and that this item should be deleted from the ballot for this election. Councilman Handcox agreed that time was needed to work out this item pending the study being conducted by the City Manager.

Substitute Motion - No Second

The substitute motion died for lack of a second.

Vote on Original Motion

The original motion, seconded by Councilman Handcox, carried by the following vote:

Ayes: Councilmen Dryden, Nichols, Mayor Pro Tem Love, Councilmen
Lebermann, Handcox, Mayor Butler
Noes: Councilman Friedman

Councilman Dryden commended Mr. Ravel on the work done by the City Charter Study Committee. Mayor Butler noted that all of the other recommendations of the Committee had been accepted by the Council.

Councilman Nichols pointed to the suggestion that it was unnecessary to present the voters with Charter revisions which were already State law in effect for Austin; instead of voting on each separate item where the City Charter conflicted with State law, it would be wiser and easier to offer one amendment to provide for the City Charter to comply with State law. City Attorney Don Butler pointed out that State laws change and that specific items in the Charter had to be changed individually.

Mayor Butler proposed a change in Amendment 1, that the word "now" be inserted so that it would read "All councilmen are now elected by place." He also proposed for Amendment 3 the addition of the word "now" so that it read "All members of the Planning Commission must now own real property."

City Attorney Don Butler stated that only four of the 14 items, Amendments 11, 12, 13, and 14, were designed merely to place the Charter in compliance with State law.

Vote on Ordinance

Mayor Butler introduced the following ordinance:

AN ORDINANCE ORDERING AN ELECTION TO BE HELD IN THE CITY OF AUSTIN ON APRIL 7, 1973 FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS, FOR ADOPTION OR REJECTION, THE FOLLOWING AMENDMENTS TO THE EXISTING CHARTER OF THE CITY OF AUSTIN: AN AMENDMENT PROVIDING FOR THE ELECTION OF ELEVEN (11) COUNCILMEN, SIX (6) OF WHOM SHALL BE RESIDENTS OF AND ELECTED FROM DISTRICTS, AND FOUR (4) COUNCILMEN AND THE MAYOR TO BE ELECTED AT LARGE; AN AMENDMENT TO PAY EACH COUNCILMAN, THE MAYOR AND MAYOR PRO TEM ONE HUNDRED DOLLARS (\$100.00) PER WEEK DURING THEIR TERM OR SUCH AMOUNT IN EXCESS THEREOF AS MAY BE ESTABLISHED BY THE COUNCIL; AN AMENDMENT DELETING THE REQUIREMENT THAT MEMBERS OF THE PLANNING COMMISSION MUST OWN REAL PROPERTY, AND ADDING REQUIREMENTS; THAT MEMBERS MUST HAVE RESIDED IN THE CITY ONE YEAR, AND A MINIMUM OF FOUR MEMBERS MUST BE LAY MEMBERS NOT DIRECTLY OR INDIRECTLY CONNECTED WITH REAL ESTATE AND LAND DEVELOPMENT; AN AMENDMENT PROVIDING THAT JUDGES OF THE MUNICIPAL COURT SHALL SERVE A TWO-YEAR TERM RATHER THAN AT THE PLEASURE OF THE COUNCIL, PROVIDING FOR REMOVAL OF THE JUDGES ONLY FOR CAUSE OR DISABILITY, REDUCING THE REQUIRED RESIDENCE OF JUDGES WITHIN THE CITY FROM THREE YEARS TO TWO YEARS, AND REQUIRING THAT THE JUDGES SHALL HAVE BEEN ADMITTED TO THE PRACTICE OF LAW IN THE STATE OF TEXAS NOT LESS THAN TWO YEARS; AN AMENDMENT PROVIDING THE CLERK OF THE COURT, RATHER THAN THE COUNCIL, SHALL APPOINT SUCH DEPUTY CLERKS AS MAY BE AUTHORIZED BY THE COUNCIL; AN AMENDMENT PROVIDING THE DUTIES AND RESPONSIBILITIES OF THE DIRECTOR OF FINANCE; AN AMENDMENT PROVIDING THAT THERE SHALL BE AN

INTERNAL AUDITOR APPOINTED BY AND REPORTING DIRECTLY TO THE CITY MANAGER, AND ESTABLISHING DUTIES AND RESPONSIBILITIES FOR THE INTERNAL AUDITOR; AN AMENDMENT DELETING ALL REFERENCES TO THE MASCULINE IN ARTICLE II, CITY CLERK; AN AMENDMENT PROVIDING THE CITY CLERK TEN (10) ADDITIONAL DAYS TO DETERMINE WHETHER AN INITIATIVE OR REFERENDUM PETITION IS SIGNED BY THE REQUISITE NUMBER OF QUALIFIED VOTERS, PROVIDING SAID PETITIONER AN ADDITIONAL FIVE (5) DAYS TO FILE A SUPPLEMENTARY PETITION, AND PROVIDING AN ADDITIONAL FIVE (5) DAYS FOR THE CITY CLERK TO CERTIFY TO THE SUFFICIENCY OF THE SUPPLEMENTARY PETITION; AN AMENDMENT PROHIBITING THE APPOINTMENT OF ANY PERSON TO ANY OFFICE, POSITION, CLERKSHIP, OR OTHER SERVICE OF THE CITY WHEN SAID PERSON IS RELATED WITHIN THE SECOND DEGREE BY AFFINITY OR CONSANGUINITY TO THE MAYOR, OR ANY MEMBER OF THE CITY COUNCIL, OR THE CITY MANAGER; AN AMENDMENT TO LOWER THE AGE REQUIREMENTS FOR CITY COUNCILMEN FROM TWENTY-FIVE (25) TO TWENTY-ONE (21) YEARS AND TO REDUCE THE RESIDENCY REQUIREMENTS FROM THREE (3) YEARS TO TWELVE (12) MONTHS; AN AMENDMENT PROVIDING FOR NOTICE AND PUBLIC HEARING PRIOR TO THE INSTITUTION OF ANNEXATION PROCEEDINGS BY THE CITY, AND DELETING THE REQUIREMENT FOR PUBLICATION OF ANNEXATION ORDINANCES THIRTY (30) DAYS PRIOR TO FINAL ACTION THEREON; AN AMENDMENT PROVIDING ALL COUNCIL MEETINGS SHALL BE OPEN TO THE PUBLIC EXCEPT AS MAY BE AUTHORIZED BY STATE LAW; AND AN AMENDMENT REVISING THE TERM "CORPORATION COURT" AS IT APPEARS THROUGHOUT THE CHARTER TO READ "MUNICIPAL COURT"; ENACTING PROVISIONS INCIDENT AND RELATED TO THE PURPOSE OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

Mayor Pro Tem Love moved the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilman Lebermann, carried by the following vote:

Ayes: Councilman Nichols, Mayor Pro Tem Love, Councilmen Lebermann, Friedman, Handcox, Mayor Butler, Councilman Dryden
Noes: None

The Mayor announced that the ordinance had been finally passed.

STREET VENDORS DISCUSSED

Mayor Butler introduced the issue of the street vendors, noting that the vendors' proposal, now qualified by the proper number of signatures, would allow vendors to sell anywhere in Austin only on sidewalks that met certain specifications. An alternative proposal would make the issue more clear-cut by either permitting or prohibiting street vendors anywhere in the City. Councilman Friedman favored the vendors' proposal, rather than the alternative proposal, being offered to the voters. City Attorney Butler stated that the vote on either proposal would be binding on the Council. Councilman Nichols favored the alternative proposal. In response to Councilman Lebermann's question, Mayor Butler stated that the definition of vending in the alternative proposal would

be the same as in the other proposal. The Council requested the City Attorney draw up the alternative proposal for the Council to examine its wording at the Regular Meeting the following day. City Attorney Don Butler noted that technically a decision could be made the following week; but as a practical matter, it would be best to decide at the March 8 meeting.

ADJOURNMENT

The Council then adjourned.

APPROVED: Ray Butler
Mayor

ATTEST: Grace Monson
City Clerk