

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Recessed Meeting

November 23, 1951
10:00 A.M.

Council Chamber, City Hall

The Council reconvened at 10:00 A.M., Friday, November 23, 1951, and heard the report of MR. CLINTON OWSLEY and his recommendation on the Southern Union Gas Company's request for increase in gas rates. (This report on file in the City Clerk's Office under SOUTHERN UNION GAS - Rates) It was suggested that the Southern Union Gas Company be advised of this recommendation at the November 28th meeting of the Council, and the Company and Mr. Owsley were asked to be present.

At the request of the American Legion, Councilman MacCorkle moved that an ordinance be prepared amending Section 5 of the Zoning Ordinance to provide that headquarters buildings located in "B" Residence zones, as a result of special permit issued under direction of the Council, shall be used primarily for housing such headquarters; but that excess space in such buildings may be rented as office space. The motion, seconded by Councilman White, carried by the following vote:

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

Councilman Long 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 20th day of December, 1951, 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 Article XXIV of the Charter of the City of Austin be amended by adding thereto a new section numbered Section 17, which section shall read hereafter as follows:

Section 17. As an alternate method of paving and improving streets, alleys and sidewalks, the City of Austin shall have the power and authority to adopt plans and specifications for such improvements in accordance with the procedure prescribed in Chapter 106, Acts of the Fortieth Legislature, First Called Session, and also known as Article 1105b, Vernon's Texas Civil Statutes, and shall have the power to pay to the contractor, the successful bidder, that part of the cost which may be assessed against the owners and their property abutting on such improvements in cash, and the City may reimburse itself for that amount by levying an assessment against the abutting owners and their property, after a hearing and notice, as provided in the above statutes, up to the amount of the enhancement in value represented by the benefits and permitted by said statutes, and issue assignable certificates in favor of the City of Austin for

the assessment. The certificates shall be enforceable in the same manner as provided by the above mentioned statutes. The City shall likewise have the power to do the improvement by its own forces if, in the opinion of the City Council, the work can be done more expeditiously or economically, and the City may reimburse itself in such cases in the same manner.

PROPOSITION NO. 2

Shall Section 22 of Article VII of the Charter of Austin be amended so as to read hereafter as follows:

Section 22. There shall be a Board of Equalization, consisting of three members. The members of said Board shall be elected by the City Council upon nomination of any member thereof. One member of said Board shall be so elected before the first day of May of each general election year, and two members shall be so elected before the first day of May of each intervening year. All members shall be elected for a term of two years. Each member of said Board shall be a qualified voter of the City of Austin, and shall have resided within the City at least five years next preceding his election, and shall be at least twenty-five years of age and an owner of taxable real estate within the City of Austin.

The members of said Board shall perform no duties or services for the City of Austin except as member of such Board, and they shall receive such compensation as may be fixed by the City Council. Said Board shall sit as a Board of Equalization to equalize the taxes assessed on the rolls of the Tax Assessor and Collector. In addition to the powers granted by this Charter, it shall have the powers and perform the same duties as the Court of County Commissioners in regard to the assessment of property for taxation and the equalization thereof, and shall be governed in its procedure and acts in this respect by the same rules and laws of the State of Texas that said County Commissioners Court is governed by while sitting as a Board of Equalization. Said Board shall meet for business as soon as the City Tax Assessor and Collector has compiled all or any one of the assessment rolls of the City for its action, and shall carefully examine said roll or rolls and properly and equitably adjust and equalize the taxable values thereon, and thus continue until it has adjusted and equalized the valuations of all the property on said rolls. Said Board shall also be governed by such rules and regulations as may be prescribed by the City Council by ordinance, and upon the completion of its work it shall make due report of its action to the City Council.

In case of dissatisfaction with the decision of said Board of Equalization by any taxpayer, an appeal from the decision of said Board may be had to the City Council, and such appeal must be by written petition specifically stating the things complained of, and be filed within thirty days after said Board has made its final report to the City Council. The decision of the City Council in

all cases of appeal from the decision of the Board of Equalization shall be final, and no appeal shall lie therefrom.

PROPOSITION NO. 3.

Shall Section 51 of Article XIV of the Charter of the City of Austin be amended so as to read hereafter as follows:

Section 51. To provide for the holding of elections by the people, and to regulate the manner of holding same.

PROPOSITION NO. 4

Shall Section 13 of Article XI of the Charter of the City of Austin be amended so as to read hereafter as follows:

Section 13. It shall be unlawful for any officer of the City of Austin to nominate for appointment or vote for appointment or to appoint any person related to him or to any member of the City Council by affinity or consanguinity within the fourth degree, to any clerkship, office, position, employment or duty in the City of Austin or in any of its departments; any violation of this section shall ipso facto render vacant the office of the person violating it; and no person appointed in violation of this section shall receive the compensation of the office to which he is so unlawfully appointed; provided, that nothing herein contained shall prevent the retention or promotion of any person who shall have been continuously employed by the City for a period of two (2) years prior to the election or appointment of the officer or member of the City Council so related to him.

PROPOSITION NO. 5

Shall Article XXI of the Charter of the City of Austin be repealed and a new article XXI be adopted to read hereafter as follows:

Except in those cases where authorization by the people at an election is required by the laws of the State of Texas, the City Council shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing facilities for any revenue producing municipal function, and to issue negotiable notes or bonds to evidence the money so borrowed. To secure the payment of any such notes or bonds, the City Council shall have the power to mortgage and encumber the revenues and income of said function. When such bonds or notes are issued the City Council shall make provision for an interest and sinking fund out of the revenues and income derived from the operation of such function sufficient to pay such bonds or notes at maturity, and shall charge and collect for the service of such function a sufficient rate to pay the expenses of operation and maintenance necessary to render efficient to pay at maturity any said notes or bonds and interest. No such obligations shall

ever be a debt of the City of Austin, but solely a charge upon the revenue so encumbered and shall never be reckoned in determining the power to issue bonds for any purpose authorized by law.

Before any bonds or notes shall be offered for sale the City Manager shall forward the bonds or notes to the City Attorney together with a certified copy of the ordinance authorizing the issuing of the bonds or notes and providing an interest and sinking fund for the same and a statement of the revenues and expenses for the function for which the bonds or notes are issued for the twelve months preceding the issuance. When said bonds or notes have been examined and certified by the City Attorney, they shall be registered by the Finance Director in a book kept for that purpose, and the Finance Director shall indorse his certificate of registration on each such bond or note.

The certificate of the City Attorney to the validity of such bonds or notes shall be recorded in the office of the City Clerk. After the certificate of the City Attorney has been recorded by the City Clerk and such bonds or notes have been registered by the Finance Director, all such bonds or notes shall be held, in every action, suit or proceeding in which their validity is or may be brought into question, to be prima facie valid and binding obligations. The certificate of the City Attorney shall be admissible in evidence in every action brought to enforce collection of such bonds or notes. The only defense which can be offered against the validity to such bonds or notes shall be forgery or fraud.

PROPOSITION NO. 6

Shall Article XV of the Charter of the City of Austin be amended to add a new section, numbered Section 27, such section to read as follows:

Section 27. There shall be a retirement system for the municipal employees of the City of Austin. After the first six months employment by the City, all municipal employees of the City except the Mayor and members of the City Council; the members of quasi legislative, quasi judicial, and advisory boards and commissions, the employees of the Fire Department of the City of Austin, part-time employees, seasonal and temporary employees, and employees whose compensation is only partly paid by the City of Austin, shall be members of such system. Such system shall be financed by a retirement fund created by contributions of the members and of the City. The contributions of each member shall never be less than four (4) percent of the first \$4800.00 of such member's annual salary or wages, earned after the first six months of employment by the City. The contributions by the City shall always be equal to the contributions of the members.

The benefits payable under such system to any member shall be based upon the amount of the 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 from such fund a sum not less than the amount of his contributions to the fund, but in no event shall such member be entitled to any contribution made by the City on his behalf, or to the value thereof, except on a retirement benefit basis.

The retirement ordinance now in force in the City shall be continued in force until amended, but the City Council shall have power to amend the same from time to time in any respect not inconsistent with the provisions of the preceding paragraphs of this section.

PROPOSITION NO. 7

Shall Section 11 of Article VII of the Charter of the City of Austin be amended so as to read hereafter as follows:

Section 11. The City Attorney shall be elected by the City Council and shall be a qualified voter of the City of Austin, shall be at least twenty-five years of age, and shall have resided in the said city at least five consecutive years before his appointment, and shall be a regularly licensed and practicing attorney-at-law with five years' actual practice.

He shall receive for his services such compensation as may be fixed by the Council, and shall hold his office until his successor is appointed and qualified. He shall represent the City in all litigation and controversies, and it shall be his duty to approve in writing all proposed ordinances of the City, before they are adopted, or to file with the City Council in writing his legal objections thereto. It shall be his duty to draft or pass upon all proposed ordinances granting franchises of any kind, and in the event of his disapproval of any such ordinance it shall be his duty to file with the City Council his written legal objections thereto. It shall be his duty to inspect and pass upon all papers, documents, contracts and other instruments in which the City may be interested. He shall be the legal adviser of the Mayor, of the superintendents of the different departments, and of the City Council and Board of Education, or any committee thereof, and of all the city officers and employees, with respect to any legal question involving any official duty or any other matter pertaining to the affairs of the City of Austin. He shall perform such other duties as the City Council may direct. Whenever it shall be brought to his knowledge through the affidavit of ten credible persons or otherwise, that any person firm or corporation, exercising and enjoying any franchise or privilege from the City of Austin, has been guilty of a breach of any condition of such franchise or privilege has failed to comply in any material manner with the terms and stipulations thereof, it shall be his duty to report the same to the City Council, together with all facts bearing upon the same which may be brought to his attention.

If the City Council shall determine that said complaints are well founded, it shall be its duty to take such action as may be necessary, and to cause the City Attorney to carry out its instructions thereon; and in the event the offending corporation, person or firm shall fail or refuse to conform to the orders of the Council with respect thereto, it shall be the duty of the Council to direct the City Attorney to institute suit in the court having jurisdiction thereof against such corporation, firm or person, for a judgment of forfeiture of such franchise or privilege, or any other judgment proper under the premises. It shall be his duty to see that all penal ordinances of the city are impartially enforced.

PROPOSITION NO. 8

Shall Section 13 of Article VII of the Charter of the City of Austin, as amended by election on April 2, 1945, be amended to provide two sections numbered Section 13 and Section 13a, such sections to read hereafter as follows:

Section 13. The City Clerk shall be elected by the City Council, and shall be a qualified voter of the City of Austin, and shall have resided in said City for at least five years next preceding his appointment. He shall receive for his services such compensation as may be fixed by the Council. It shall be his duty to attend all meetings of the City Council and to keep accurate minutes of the proceedings thereof, and to record the same in a book or books provided for that purpose; and to preserve and keep in order all books, papers, documents, records and files of the Council. He shall perform such other and further duties as may be required of him either by law or by the City Council by ordinance or otherwise. He shall have custody of all ordinances of the City and of all papers and records of the City Council, and of the seal of the corporation, and shall affix the same to only such documents and obligations of the City as he may be legally authorized so to do.

Section 13a. A City Finance Director, and such assistants to the Finance Director as may be deemed necessary by the City Council shall be appointed by the City Manager, and shall receive such compensation and have such powers and duties as are now prescribed or may be prescribed by the City Council and the City Manager.

PROPOSITION NO. 9

Shall Section 1 of Article XVII of the Charter of the City of Austin be amended so as to read hereafter as follows:

Section 1. On the first Saturday in April, 1953, and at each successive interval of two years thereafter on the first Saturday in April, there shall be elected at large by the qualified voters of the City of Austin, at a general election to be held for that purpose, five councilmen, who shall constitute the City Council, and all of whom shall hold their respective offices for a term of two years from the first day of May after each said election.

and until their successors are elected and qualified, unless sooner removed as provided in this Charter.

PROPOSITION NO. 10

Shall Section 2 of Article XVIII of the Charter of the City of Austin be amended so as to read hereafter as follows:

Section 2. Vacancies in the City Council shall be filled for the remainder of the unexpired term by the vote of the people at an election. Death or resignation of a newly elected councilman before taking office shall be considered as a vacancy in office.

PROPOSITION NO. 11

Shall Section 6 of Article VII of the Charter of the City of Austin be amended so as to read hereafter as follows:

Section 6. The City Council shall have the right to create such new offices or employments as may in their opinion be necessary for the welfare of the City and impose such duties upon the holders thereof as they may see proper; and the City Council may abolish at any time any office or employment so created by them.

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 MacCorkle, carried by the following vote:

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

Noes: None

There being no further business, the Council adjourned subject to the call of the Mayor.

APPROVED: W.S. Drane
Mayor

ATTEST:

Elaine Woodley
City Clerk