

○  
REPORT OF  
FINDINGS AND  
RECOMMENDATION

○  
BETHLEHEM  
CHARTER  
COMMISSION

○  
July 27, 1959

## *Table of Contents*

---

	<u>PAGE</u>
Bethlehem Charter Commission Members . . . . .	2
Recommendations . . . . .	4
Mayor-Council Chart . . . . .	5
What Is "Strong Mayor" Government? . . . . .	6
Why a "Strong Mayor" Type? . . . . .	7
The Role of Council Under "Strong Mayor" . . . . .	10
Reasons for Recommending Abandonment of The Commission Form	10
Commission Chart . . . . .	11
Council-Manager Chart . . . . .	14
The Other Alternative . . . . .	15
When Would The Change In Form Of Government Become Effective?	16
Why The Charter Study? . . . . .	16
Formation Of The Charter Commission . . . . .	17
What Was The Charter Commission's Job? . . . . .	17
What Has The Charter Commission Done? . . . . .	17
Let Bethlehem Show The Way . . . . .	18
Appendix — Pertinent Sections of the Optional Third Class City Charter Law Required to be Included in This Report in Accordance with the Provisions of Section 210 . . . . .	19

## ***Bethlehem Charter Commission***

---

**Harry Margolis,**

**Chairman . . . . . Certified Public Accountant**

**Thomas E. Butterfield Jr.**

**Vice Chairman . . . Attorney at Law**

**Robert H. Holland,**

**Vice Chairman . . . Attorney at Law**

**William B. Joachim Jr.**

**Vice Chairman . . . Attorney at Law**

**Elaine H. Mellicke,**

**Secretary . . . . . Registered Nurse and Housewife**

**Laurence A. Ransel,**

**Treasurer . . . . . Controller**

**John J. Bartos**

**Insurance Agent**

**Charles J. Donches**

**Labor Union Official**

**Anthony S. Kish**

**Insurance Agent**

Shall Mayor-Council Plan A of the Optional Third Class City Charter Law, providing for seven councilmen to be elected at large, be adopted by the City of Bethlehem?

YES

NO

REPORT OF THE CHARTER COMMISSION

Bethlehem, Pa.

July 27, 1959

## *Recommendations*

---

Your Charter Commission has unanimously come to the conclusion that:

THE PRESENT COMMISSION FORM OF GOVERNMENT IN THE CITY OF BETHLEHEM SHOULD BE ABANDONED, and BETHLEHEM SHOULD ADOPT THE MAYOR - COUNCIL "STRONG MAYOR" FORM OF GOVERNMENT.

A referendum will be placed before the voters of Bethlehem at the general election to be held November 3, 1959. The question will be:

"Shall the Mayor-Council Plan A of the Optional Third-Class City Charter Law, providing for seven (7) councilmen to be elected at large, be adopted by the City of Bethlehem?"

The following explanation will accompany the question on the ballot:

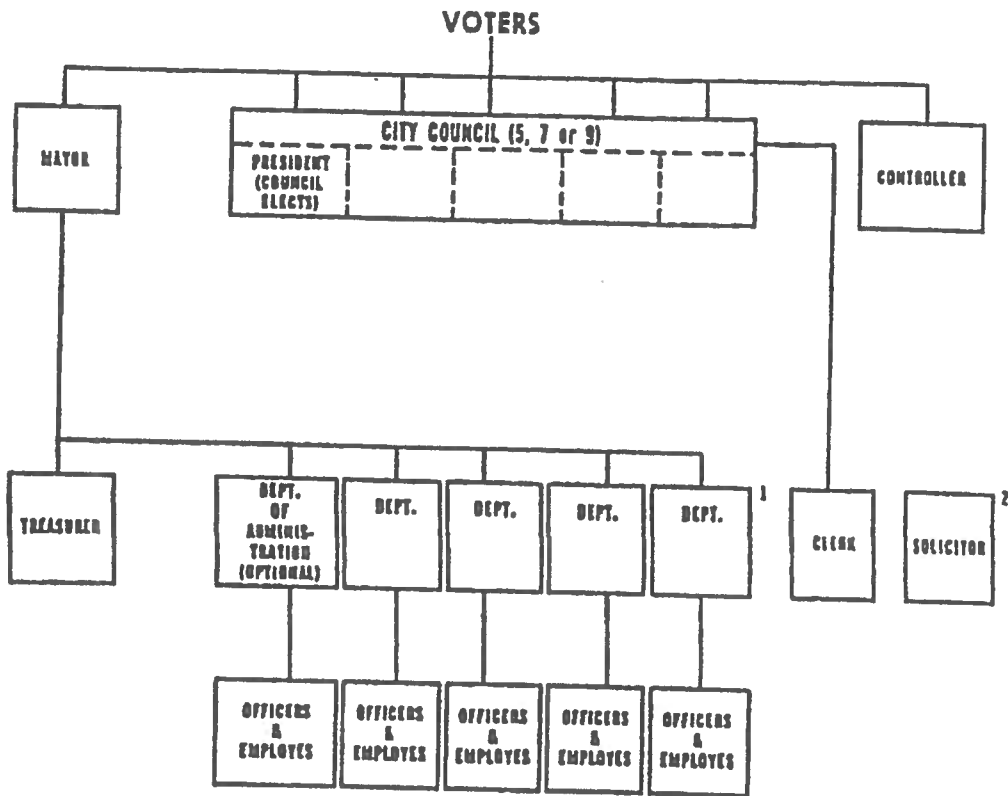
"A vote of 'YES' is a vote to change the form of city government, beginning the first Monday of January, 1962, to the Mayor-Council 'Strong Mayor' form of government. A vote of 'NO' is a vote to retain the present Commission form of government."

We have recommended the Mayor-Council "Strong Mayor" form of government because we think that it is the best for Bethlehem.

To give the detailed reasons for this conclusion, we must obviously refer not only to the advantages of the "Strong Mayor" form as we see them, but also to the disadvantages of the present Commission form and to the disadvantages of the other possibility, the Council-Manager (City Manager) form of government.

It should be made clear that we are interested in choosing the best form of government for the City of Bethlehem. Criticism of the other forms is not intended to be a criticism of any individual or group of individuals. We hope that no one will take such criticism out of any of the comparisons we are about to make.

# MAYOR-COUNCIL



1 departments are created by council and may total nine.  
 2 the solicitor's manner of appointment is determined by council.

By way of contrast, under a mayor-council plan as set forth in Act 399, primary legislative authority rests with city council while primary executive and administrative authority rests with an independently elected mayor. Policy is established through the enactment of ordinances by a council of five, seven or nine members, subject to the mayor's power of veto over individual bills. The mayor appoints department heads and the city treasurer, subject to the consent of council, and supervises the work of all city departments. The controller will continue to be independently elected.

## *What Is "Strong Mayor" Government?*

---

A City Council of five, seven or nine members elected by the voters is entrusted with legislative authority. We suggest seven.

The Mayor is elected by the voters as the executive and administrative leader of the city. The mayor appoints a City Treasurer and department heads, who in turn appoint their subordinates. The Mayor prepares the budget. He enforces the laws. He recommends policy matters. The relation of the "Strong Mayor" to City Council closely parallels that of the President of the United States to Congress or of Pennsylvania's Governor to the Legislature.

Even an ideal form of city government, if one could be devised, is not a guarantee of good government. Feet of clay do not become bronze just because the man above them serves under a better form of government. But good men entrusted with a city's operation can, with a form of government more suited to the city's needs, do a better, more effective job and improve the quality of government.

The elected Council possesses the power of final decision on questions of policy. It also controls the purse strings, inasmuch as the amount of money which may be spent by the city government and the raising of revenue require Council authorization. Items in the Mayor's budget may be reduced by majority vote in the Council, but items may be increased only by a two-thirds vote. The Council fixes the salaries to be paid the Mayor, Councilmen, and other officials and is required to provide for an annual post-audit of all accounts by a certified public accountant.

The Council determines the number of administrative departments, not to exceed nine in number. It also may create a department of administration to assist the Mayor in the discharge of his administrative responsibilities. The heads of departments are appointed by the Mayor with the advice and consent of the Council.

Councilmen do not act as department heads, as they do under the Commission plan. Nor is the Council as a whole permitted to direct and supervise administration. That is the Mayor's responsibility. But the Council may investigate the operations of the administrative departments.

We must judge the merits of the three available forms of government for Bethlehem by the criteria of effectiveness, responsiveness, responsibility and efficiency (Section 207 of the Optional Charter Act).

After searching thought and intensive deliberation this Charter Commission unanimously feels and recommends to the voters of Bethlehem that the "Strong Mayor" form of government offers to Bethlehem clear-cut advantages over both of the other forms.

We are impressed with the fact that a city today will fall in either of two general classifications. In many cities which are either young in terms of existence or small in terms of population or strictly suburban, the problem confronting the city administration is largely one of housekeeping. Efficient operation of such a city requires principally police and fire protection, maintenance of the necessary public utilities such as streets, water, and sewer, and an honest and efficient system of tax assessment and collection.

On the other hand, there are many of our older cities which are today confronted with real and perplexing problems: a central business district being seriously affected by outlying shopping areas, extensive sections of sub-standard housing, the need to make provision for off-street parking, the need for traffic arteries, the problem of reconciling residential, commercial and industrial zoning, the need to revise building codes, the need for redevelopment of antiquated and unattractive business or commercial areas and other similar problems.

We feel that Bethlehem today is a city faced with such problems and demands much more than housekeeping from its administration.

### *Why A "Strong Mayor" Type?*

---

The "Strong Mayor" form of government provides a means for a more effective and efficient administration of the city under the direction of a single executive. Split responsibility and split leadership have been rejected almost universally in both government and business. A single chief administrator, the Mayor, supervises, directs, controls and coordinates the operations of the administrative departments which are headed by directors whom he appoints with the advice and consent of Council and may remove. Experience in the governmental field, as well as in business and other private organizations, has demonstrated that greater



efficiency and economy are attainable in the administration of policies if the responsibility of general management is vested in a single individual rather than in a group of persons.

The authority of the "Strong Mayor" for planning, execution and administration is clearly set forth in this plan. The "Strong Mayor" can be relieved of the detailed duties of supervision by Council's creation of a Department of Administration. We recommend that a Department of Administration be provided by Council. This provision would be extremely useful in permitting Council to lend aid to an overworked Mayor.

The single executive, such as a "Strong Mayor", is common to our national and state governments, as well as being an accepted business procedure not only in large corporations, but in small business and in labor organizations. Under the Commission system which we now have, a five-way split exists, which tends to stifle leadership and to dilute responsibility.

Responsible political leadership is greatly strengthened by the authority given to the Mayor. The "Strong Mayor" must sell the voters on the wisdom of his proposals for meeting the city's problems. If he fails in the promised performance of his program, his is the head which falls.

Politics is a part of the life blood of Bethlehem. The pulse of this community is keyed to politics. Our citizens will look to a "Strong Mayor" for energetic, flexible, enlightened political leadership. Only progressive, well-directed actions by the "Strong Mayor" can capture the interest of our politically-minded citizens and weld their support of his government.

Political leadership is thus both vigorous and responsible. The authority and responsibility of the "Strong Mayor" should serve as a dual challenge to produce good candidates for the office and effective programs for meeting the city's needs.

Under the Commission form, there is no separation of powers. Each of the five Councilmen has equal weight in legislation and administration—and in raising money and spending it. Under a "Strong Mayor" these duties would be sharply divided and a system of checks and balances would apply.

Under the Commission form, the elected Mayor has only a one-fifth interest in the policy determining and legislating phase of government (he is one of five votes).

Under the "Strong Mayor" plan, the Mayor has the power and not only the title of Chief Administrator and thus the responsibility for administrative results rests directly with him. Presently our Mayor has the title but not the authority of Chief Administrator. The responsibility of our present government is shared collectively by the Council and individually for their departments, subject to the control of the Council as a whole. This must of necessity lead to complication and confusion.

The "Strong Mayor" form of government will conform to present public opinion in Bethlehem regarding the authority of the Mayor. In most of Bethlehem's 42-year history the Mayor has been the real leader in the eyes of the public. It is traditional in our municipal elections for the Mayor to outline a program for city improvements. But once elected, the Mayor has no greater authority to carry out that program than any other Councilman in our present Commission form of government. Should Council for political or other reasons, or for no reason, abandon the Mayor's program, his hands are tied. Under the "Strong Mayor" form the Mayor with public support of his program could effectively carry it out.

In the "Strong Mayor" form, authority and responsibility are definitely and decidedly located.

The Mayor will have the power and must assume the general managership of the administration.

The Mayor is presented with adequate tools for administrative control by having the authority to appoint department heads, (with the consent of Council), and the authority to remove them if in his opinion it serves the best interest of the community. He has not only the authority but also the duty to prepare the budget for the city.

The "Strong Mayor" form incorporates the same system of checks and balances characteristic of the democratic form of government secured to us by the Constitutions of the United States and of the Commonwealth of Pennsylvania.

The "Strong Mayor" can veto any ordinance passed by City Council. Council in turn can override the veto by a two-thirds vote. Council's consent is required to the Mayor's appointments.

The "Strong Mayor" prepares the budget. Council controls the purse strings. The democratic tradition of clear division of authority

between executive and legislative branches of government is preserved, and each serves as a check-rein on any ill-considered actions by the other.

### *The Role Of Council Under "Strong Mayor"*

---

Council, elected at large by the voters of the city, establishes the policies by which the city is governed.

The Mayor has the authority to carry out these policies without interference from the Council.

Council has the power to prevent the Mayor from abusing his authority by: overriding his veto; withholding approval of appointments; adjusting his budget by reducing items by a majority vote or raising them by a two-thirds vote.

Under the form of government recommended by this Charter Commission for Bethlehem, the Mayor, elected by the people, is charged with the responsibility for the expenditure of funds and the Council, elected by the people, is charged with the responsibility of appropriating and raising the revenue.

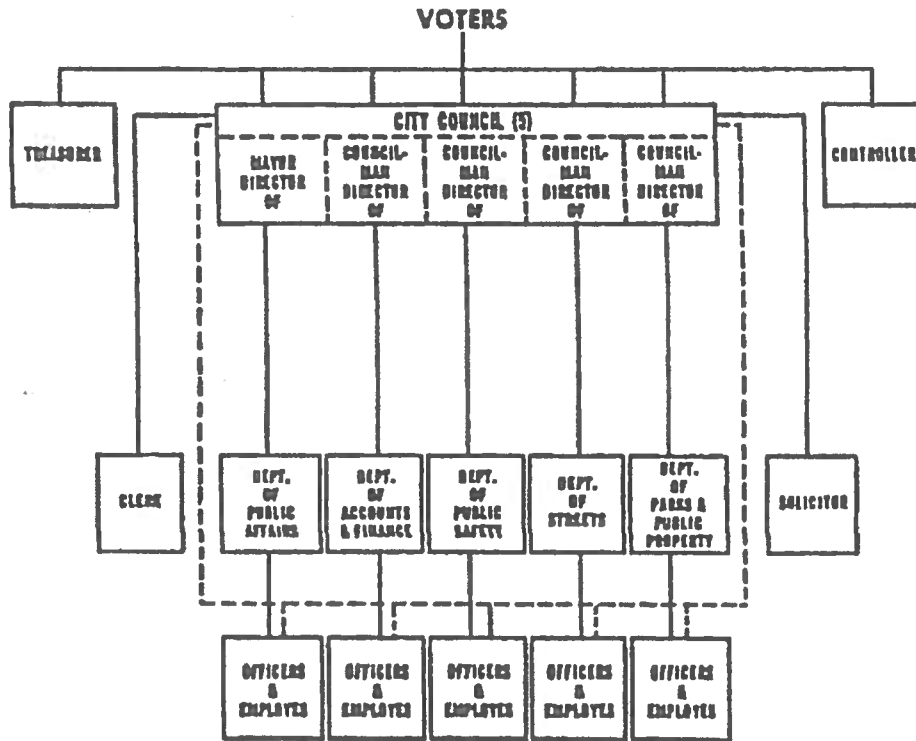
Assumption of executive and administrative leadership by the Mayor typically reduces the demands on Council to a part-time basis. There is much greater likelihood of attracting community leaders from all walks of life to serve on Council when such service does not require giving up their occupations. The additional members of Council would add little to the cost of government. They would add much to the effectiveness of government by making available their diverse talents in planning policies for our city.

### *Reasons For Recommending Abandonment Of The Commission Form*

---

The voters of this city now elect five members of City Council, one of them as Mayor; also a Treasurer and Controller. Each Council member is the head of a city department. All executive, administrative and legislative authority is vested in these five. The Mayor has no more authority than the other four Councilmen.

# COMMISSION



NOTE: Broken line indicates appointment but not direct supervision.

Under the commission form of government as it operates in this state, five councilmen are elected, one of them as mayor. The treasurer and controller are also elected. The councilmen, acting together, enact the ordinances governing the city. Acting individually, each councilman administers a city department. Subordinate employes are selected, not by the department heads, but by council as a body. Legislative, executive and administrative authority are thus combined under this plan in a five-member governing body. The authority of the mayor, here, does not exceed markedly that of the other councilmen except that which may result from his personal and political prestige and his title as head of the city government.

No chief administrator of the single type is responsible for the general or over-all management of the entire administrative branch. Each Commissioner (Councilman) acts as the head of one department and is immediately responsible only to the Commission as a whole of which he is a member. Commissioners may be unwilling to interfere in the affairs of the other Commissioners because such action invites interference in their own affairs. As a result five "little executives" function more or less independently of one another. No single official has the responsibility for the proper functioning of all departments.

The above feature of the Commission plan constitutes a serious obstacle to the attainment of effective, efficient, economical, and coordinated administration even on the part of competent Commissioners sincerely desirous of rendering a high quality of service to the public.

Division of responsibility for administrative results makes it difficult for the voters to place the blame for misgovernment and to decide which Commissioners are deserving of re-election.

If friction develops within the Commission, as it sometimes does, no effective remedy is available during the intervals between elections. The Mayor under the Commission plan is head of the Department of Public Affairs but has no authority to direct and control the activities and behavior of the other Commissioners. Their powers are equal to his.

Experience with Commission government throughout the country has shown that comparatively few elected Commissioners are properly qualified to act as department heads. Competent department heads are more likely to be secured through appointment to office by a chief administrator, such as the Mayor under the "Strong Mayor" plan.

Moreover, under the Commission plan, the Councilmen, even those who happen to be good administrators, find it difficult to concentrate on the task of administration. The reason is that each Councilman is expected to be not only an administrator but also a representative of the voters and a participant in policy-determination. The Councilmen are burdened with too many different responsibilities because of the assignment of legislative, executive, and administrative functions to the Commission—a distinctive feature of the Commission plan.

Appropriating, taxing, and spending powers are in the same hands under the Commission plan. The officials who prepare the budget of proposed expenditures and needed revenues pass final judgment upon

It and, as department heads, do the spending. The budget is not prepared by a chief administrator who is equally concerned about the work programs and needs of all departments. Nor is execution of the budget the responsibility of such an official. Consequently, departmental spending is not subjected to control by a general manager of the administrative services.

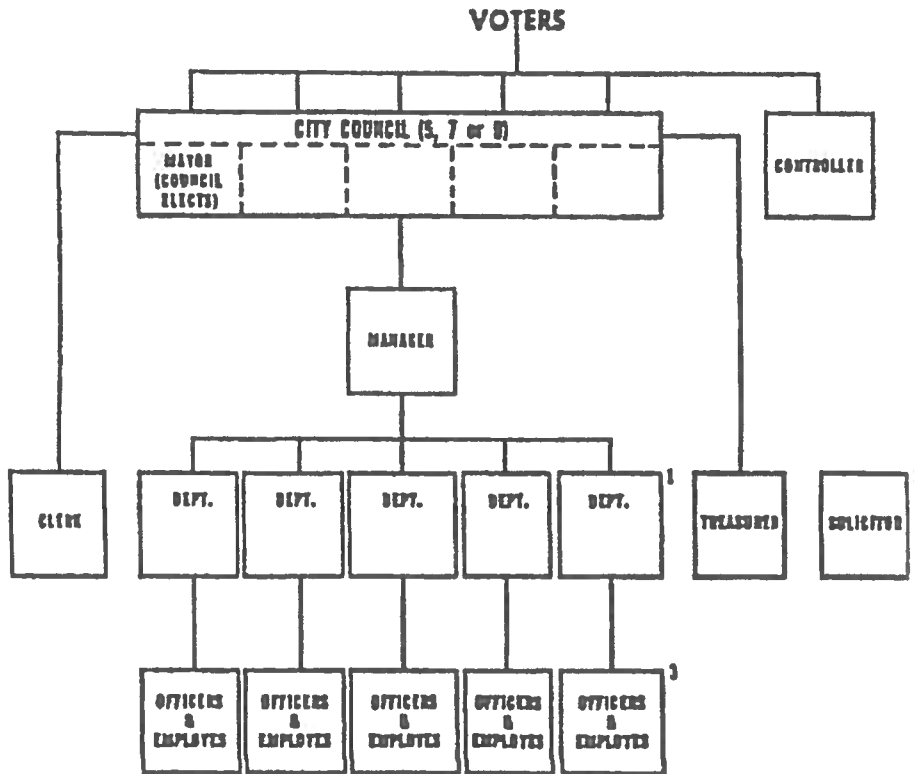
Departmental organization is rigid and arbitrary under the Commission plan because the number of administrative departments is fixed by the size of the Commission regardless of the nature and scope of the city government's activities. Since the Commission under the Third-Class City Code consists of a Mayor and four Councilmen, the number of departments is limited to five. The unavoidable result is a grouping of unrelated activities in particular departments. Experience has demonstrated that better results are usually attained with unifunctional, rather than with multifunctional, departments.

The Commission plan makes no provision for effective political leadership, i.e., leadership in the formulation and adoption of policy and in the selling of this policy to the public. The powers of the Mayor-Commissioner are essentially the same as those of his colleagues on the Council. Such leadership as a particular Mayor may furnish is attributable to his personality and to the willingness of the other Commissioners, over whom the Mayor has no effective control, to follow his leadership. The development of needed leadership is a matter of chance. There is the likelihood of untrained men serving as department heads. These and other inherent weaknesses of the Commission form of government have led in recent years to its abandonment by many cities.

THE LISTED WEAKNESSES OF THE COMMISSION FORM OF GOVERNMENT ARE IN NO SENSE A REFLECTION ON THE ABILITIES OR SINCERITY OF BETHLEHEM'S PRESENT MAYOR AND COUNCILMEN. THE CHARTER COMMISSION IS GRATEFUL FOR THE COOPERATIVE SPIRIT IN WHICH BETHLEHEM'S MAYOR AND MEMBERS OF COUNCIL CONFERRED WITH MEMBERS OF THIS COMMISSION IN STUDYING ALL FORMS OF GOVERNMENT.

The undeniable accomplishments of past and present Bethlehem administrations are a tribute to the ability of individuals to achieve results. But if another form of government will make possible better results, or easier or more economical attainment of the results—the citizens of Bethlehem should have it.

## COUNCIL-MANAGER



1 departments are created by council.

2 the solicitor's manner of appointment is determined by council.

3 the authority to appoint subordinates and employes rests with the manager, but he may delegate this power to the respective department heads.

Under the council-manager plan as provided in the new law all authority rests with a city council of five, seven or nine members, subject to the requirement that administrative authority be delegated to an appointed city manager. The manager is appointed by and is responsible to city council. With the exception of the controller who will still be elected by the voters, the city manager will appoint department heads and subordinate employes and supervise the work of city departments. The treasurer will be appointed by and will be responsible to council. The mayor will be elected by council from his own membership and will be primarily the presiding officer and the titular head of the city. He will not have any administrative authority.

## *The Other Alternative*

---

It would be possible, having made a decision in favor of the "Strong Mayor" form, to ignore completely, in this report to the voters the third possibility — the Council-Manager "City Manager" form of government. However, in view of the popularity of this form, the Charter Commission believes that it should dwell, at least briefly, on the reasons why it has chosen the "Strong Mayor" form over the City Manager form.

The Charter Commission believes that the people of Bethlehem desire and need effective leadership and that a City Manager would be forced against his will and his professional code of ethics to play the role of a "Strong Mayor". As a consequence particular managers would become the subjects of bitter political controversy and be unable to function satisfactorily as politically neutral administrators in conformity with the theory of the Council Manager plan.

Secondly, the Charter Commission feels that a typically proper spot for the City Manager form is one where the municipal problems add up to problems of "good housekeeping." While "good housekeeping" is certainly of great importance to Bethlehem, it is felt that Bethlehem's problems, to mention only a few, include redevelopment, off-street parking, blighted business districts, zoning, location of through highways, and attraction of new industries. Here, as indicated before, it is felt that Bethlehem needs leadership, a program, a man of vision ready to stand and be counted and to rise or fall upon the success of and the appeal of his program. Without reflecting upon the ability and courage of City Managers, the Charter Commission believes that this type of leader is best provided by the "Strong Mayor" and not by the City Manager.

This Charter Commission concludes that it is vital in order to insure the continued interest of Bethlehem citizens in good government at the city level to preserve the two-party system and if possible to stimulate further the interests of its citizens in such elections.

The Council-Manager plan provides no firm assurance of responsible political leadership. The manager is responsible to the electorate but to Council. He is strictly an administrator, not a policy maker. But the election of the "Strong Mayor" assures the stimulation of voter



interest not only in the voting for Mayor but also in the voting for Councilmen who are candidates at the same election.

Like the Commission plan, the Council-Manager form leaves the development of adequate political leadership largely to chance. The City Manager is not expected to engage in political activity or to function as a political leader. The responsibility for furnishing political leadership rests with the Council and its presiding officer, a Mayor, who is selected by the Council from its own membership.

Leadership by a group of persons, e.g., a Council, if forthcoming at all, is less likely to be effective than leadership by a powerful elective official such as the "Strong Mayor" under the Mayor-Council plan.

### *When Would The Change In Form Of Government Become Effective?*

---

Should the people of Bethlehem, by a majority of those voting in the election, vote in favor of adopting the recommended change in the city's form of government, the new form of government will become effective on the First Monday of January, 1962.

At the municipal election in November, 1961, there would be elected a Mayor and five Councilmen. The four candidates receiving the highest number of votes will be elected for terms of four years and the candidate receiving the next highest number of votes will be elected for a term of two years. The two Councilmen elected in the municipal election on November 3, 1959, will serve full four-year terms.

### *Why The Charter Study?*

---

Until July 15, 1957, it was impossible for the citizens of any Pennsylvania Third Class City to change in any way the Commission form of government required by that Code. On that significant date the Home-Rule Act of the Pennsylvania Legislature, officially designated as "Optional Third Class City Charter Law" became effective. This Act gave to the voters of Bethlehem for the first time a means of studying their city's form of government, and of changing it.

## *Formation Of The Charter Commission*

---

Many interested citizens enlisted the required support of fifteen per cent of the registered voters of this community and the charter study was placed on the ballot. At the general election on November 4, 1958, the voters of Bethlehem authorized the charter study by a vote of better than two to one and elected this Charter Commission of nine members to do the job.

## *What Was The Charter Commission's Job?*

---

The Home-Rule Act required this Charter Commission:

To study the form of government of this City;

To compare it with other available forms under the laws of this Commonwealth;

To determine whether or not in its judgment the government of the city could be strengthened; made more clearly responsive or accountable to the people;

or whether its operation could become more economical or efficient under a changed form of government.

## *What Has The Charter Commission Done?*

---

The Charter Commission organized shortly after its election and from that time to the present has held numerous meetings. The Commission appointed as consultant, Dr. Ernst B. Schulz of Lehigh University, a nationally-known authority in the field of city government. With the assistance of its consultant the Commission secured and read most of the available textbooks, treatises, pamphlets, reports, etc., dealing with the forms of city government. The Charter Commission studied the Third Class City Code and particularly its provisions creating the present "Commission" form of government. The members studied at length the Home Rule Act. They reviewed in Pennsylvania and in other states, cities operating under the three available forms of government.

The Charter Commission held two public forums to learn the views

of the citizens of Bethlehem concerning the three available forms of government.

Conferences were scheduled with the Bureau of Municipal Affairs, Commonwealth of Pennsylvania; the Pennsylvania Economy League; National Municipal League; the League of Women Voters; the Junior Chamber of Commerce; representatives of service clubs; representatives of the local press and many others to learn viewpoints, opinions, and other data relevant to the study.

A thorough review of the reports of other Charter Commissions of Third Class Cities of Pennsylvania as well as the reports of other Home Rule Charter Commissions in other States was made. In addition, conferences were held with several people who had served on Home Rule Charter Commissions in other municipalities.

### *Let Bethlehem Show The Way*

---

Bethlehem today is confronted by many problems. A change to the "Strong Mayor" form of government is not an automatic solution to them, but such a change does provide a new and better approach to the answers to these problems.

From the citizen's standpoint—accountability (the Mayor's) is more clearly defined. Responsible single leadership (the Mayor's) will provide more effective and efficient administration and keep alive the present keen interest in politics. Able Councilmen committed to policy decision and a Mayor with authority to coordinate all phases of city operations will strengthen Bethlehem's government.

The Commonwealth has provided the means. The Charter Commission has made the study. We, the members of the Charter Commission, hope the citizens of Bethlehem will vote for the change and seize this opportunity to let Bethlehem show the way to the other Third Class Cities of our Commonwealth.

Shall Mayor-Council Plan A of the Optional Third Class City Charter Law, providing for seven councilmen to be elected at large, be adopted by the City of Bethlehem?

YES

NO

No. 399

AN ACT

Giving cities of the third class the right and power to adopt one of several plans of optional charters and to exercise the powers and authority of local self-government subject to certain restrictions and limitations; providing procedures for such adoption and defining the effect thereof.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

ARTICLE I.

PRELIMINARY PROVISION.

Section 101. This act shall be known and may be cited as the "Optional Third Class City Charter Law."

Section 102. The following words and terms as used in the act, unless the context clearly indicates otherwise, shall mean:

"City," a city of the third class.

Section 103. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have rendered.

ARTICLE II.

PROCEDURE FOR ADOPTION OF OPTIONAL CHARTER PLANS.

Section 210. The charter commission shall report its findings and recommendations to the citizens of the city within nine calendar months from the date of its election. It shall publish or cause to be published sufficient copies of its final report for public study and information, and

shall deliver to the city clerk sufficient copies of the report to supply it to any interested citizen upon request. If the charter commission shall recommend the adoption of any of the optional plans of government as authorized in this act, the report shall contain the complete plans as recommended.

Section 211. (a) The charter commission shall be discharged upon the filing of its report: Provided, That if the commission's recommendations require further procedure on the part of city council or the people of the city, the commission shall not be discharged until a copy of the report has been certified to the county board of elections. Any time before such procedure has been finally concluded but not later than one year from the date of the publication of its final report, the commission may modify or change any recommendation set forth in said final report by publishing an amended report.

(b) Whenever a charter commission issues an amended report pursuant to subsection (a) above, such amended report shall supersede the final report and such final report shall cease to have any legal effect under this act.

(c) The procedure to be taken under the amended report shall be governed by all provisions of Article II. of this act applicable to the final report of a charter commission submitted pursuant to section 210 of this act.

Section 212. The charter commission may report and recommend:

(1) that a referendum shall be held to submit to the qualified voters of the city the question of adopting one of the optional forms of government authorized by this act to be specified by the commission; or

(2) that the form of government of the city shall remain unchanged; or

(3) such other action as it may deem advisable consistent with its functions as set forth in this article.

Section 213. If the charter commission shall recommend the adoption of any of the optional forms of government set forth in this act, it may also specify that the city council shall consist of seven or nine members instead of five members as provided in said optional forms.

Section 214. The question to be submitted to the voters for the adoption of any of the optional plans of government authorized by this

act shall be submitted in the following form or such part thereof as shall be applicable:

"Shall ..... of the  
(insert name of plan)

Optional Third Class City Charter Law providing for.....  
(insert number)

councilmen to be elected at large be adopted by the city of .....?"  
(insert name of city)

Section 215. If the charter commission shall recommend that the question of adopting one of the optional forms of government authorized by this act shall be submitted to the voters of the city, it shall be the duty of the city clerk, within five days thereafter, to certify a copy of the commission's report to the county election board, which shall cause the question of adoption or rejection to be placed upon the ballot or voting machines at such time as the commission shall in its report specify. The commission may cause the question to be submitted to the people at the next general or municipal election, occurring not less than sixty days following the filing of a copy of the commission's report with the county board of elections, or at a special election occurring not less than sixty days or more than one hundred twenty days after the filing of the report, at such time as the commission's report shall direct. At such election, the question of adopting that form of government recommended by the charter commission shall be submitted to the voters of the city by the county board of elections in the same manner as other questions are submitted to the voters of a city under the provisions of the Pennsylvania Election Code. The charter commission shall frame the question to be placed upon the ballot as herein provided, and if it deems appropriate an interpretative statement to accompany such question.

Section 216. (a) No ordinance may be passed and no petition may be filed for the election of a charter commission pursuant to section 201 of this act while proceedings are pending under any other petition or ordinance filed or passed under the authority of section 201, nor within four years after an election shall have been held pursuant to any such ordinance or petition passed or filed under section 201 hereof.

(b) For the purpose of this section, proceedings shall be considered as having started (1) in the case of an ordinance upon the final vote of

council in favor of the ordinance, notwithstanding the fact that the ordinance cannot take effect until a certain number of days thereafter; or (ii) in the case of a petition, as soon as it is properly signed by one-third of the number of registered voters required for such petition and written notice thereof filed in the office of the county board of elections and in the office of the city clerk, who shall cause the same to be immediately posted in a conspicuous place in said office, open to public inspection.

Section 217. Whenever the legally qualified voters of any city by a majority of those voting on the question vote in favor of adopting a change in their form of government pursuant to this act, the proposed charter shall take effect according to its terms and the provisions of this act.

Section 218. The voters of any city which has adopted an optional charter plan of government pursuant to this act may not vote on the question of adopting another form of government until four years after the optional charter plan became effective.

Section 219. For the purposes of this act, each of the optional forms of government provided by this act and each of said optional forms as modified by any available provisions concerning size of council is hereby declared to be a complete and separate form of government provided by the Legislature for submission to the voters of the city.

### ARTICLE III.

#### GENERAL POWERS AND LIMITATIONS.

##### A. Powers

Section 301. Upon the adoption by the qualified voters of any city of any of the optional plans of government set forth in this act, the city shall thereafter be governed by the plan adopted and by the provisions of this act common to optional plans and by all applicable provisions of general law, subject to the transitional provisions of Article VI. of this act, unless and until the city should adopt another form of government as provided by law. The plan adopted and the provisions of this act common to optional plans shall become the organic law of the city at the time fixed by this act. So far as they are consistent with the grant of powers and the limitations, restrictions and regulations hereinafter prescribed, they shall supersede any existing charter, and all acts

and parts of acts, local, special or general, affecting the organization, government and powers of such city to the extent that they are inconsistent or in conflict therein. All existing acts or parts of acts and ordinances affecting the organization, government and powers of the city not inconsistent or in conflict with the organic law so adopted shall remain in full force until modified or repealed as provided by law.

Section 302. The city clerk of the city shall forthwith cause the new charter as approved by the qualified electors to be recorded in the ordinance book of the city. He shall also file a certified copy thereof in the office of the Secretary of the Commonwealth.

Section 303. Each city governed by an optional form of government pursuant to this act shall, subject to the provisions of and limitations prescribed by this act, have full power to:

(1) Organize and regulate its internal affairs, and to establish, alter, and abolish offices, positions and employments and to define the functions, powers and duties thereof and fix their term, tenure and compensation;

(2) Adopt and enforce local police ordinances of all kinds and impose penalties of fine not exceeding three hundred dollars (\$300), or imprisonment for any term not exceeding ninety days, or both, for the violation thereof; to construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law, and to exercise all powers of local government in such manner as its governing body may determine;

(3) Sue and be sued, to have a corporate seal, to contract and be contracted with, to buy, sell, lease, hold and dispose of real and personal property, to appropriate and expend moneys, and to adopt, amend and repeal such ordinances and resolutions as may be required for the good government thereof;

(4) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law applicable to cities of the third class.

Section 304. The general grant of municipal power contained in this article is intended to confer the greatest power of local self-government consistent with the Constitution of this State. Any specific enumeration of municipal powers contained in this act or in any other law shall not be construed in any way to limit the general description of



power contained in this article, and any such specifically enumerated municipal powers shall be construed as in addition and supplementary to the powers conferred in general terms by this article. All grants of municipal power to cities governed by an optional plan under this act, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the city.

#### **B. Limitations.**

Section 305. The charter of any city adopted in accordance with this act shall not give any power or authority to diminish any rights or privileges of any present city employe in his pension or retirement system. Terms of office of a mayor, treasurer, controller or members of council elected to or holding office prior to adoption of a charter shall not be terminated prior to the time for which elected. No city shall exercise any powers or authority beyond the city limits except such as are conferred by an act of the General Assembly, and no city shall engage in any proprietary or private business except as authorized by the General Assembly. Notwithstanding the grant of powers contained in this act, no city shall exercise powers contrary to or in limitation or enlargement of powers granted to the city by acts of the General Assembly which are:

(1) Applicable to a class or classes of cities on the following subjects:

(i) Providing for the filing and collection of municipal and tax claims or liens and for the sale of real or personal property in satisfaction thereof.

(ii) Providing for the exercise of the power of eminent domain and the procedure for the condemnation of property for public purposes.

(iii) Providing for the assessment of damages and benefits for property taken, injured or destroyed.

(iv) Providing methods for the incurring or increasing of indebtedness.

(v) Providing for the annexation or exclusion or detachment of territory.

(vi) Regulating public schools.

(vii) Providing for the personal registration of electors.

- (viii) Limiting rates and fixing subjects of taxation.
- (ix) Providing for the assessment of real or personal property and persons for taxation purposes.
- (x) Relating to civil service.
- (xi) Relating to public health.
- (2) Applicable in every part of the Commonwealth.
- (3) Applicable to all the cities of the Commonwealth.

## ARTICLE IV.

### MAYOR-COUNCIL PLAN A.

#### A. Form of Government

Section 401. The form of government provided in this article shall be known as the "mayor-council plan A" and shall, together with Articles III. and VI., govern any city, the voters of which have adopted it pursuant to this act.

Section 402. Each city hereunder shall be governed by an elected council, an elected mayor and an elected controller and by such other officers and employes as may be duly appointed pursuant to this article, general law or ordinance.

#### B. Elected Officials.

Section 403. The mayor and the controller shall be elected by the voters of the city at a regular municipal election, and shall serve for a term of four years beginning on the first Monday of January next following his election.

Section 404. The council shall consist of five members, unless pursuant to the authority granted under section 213 of this act, the city shall be governed by a council of seven or nine members. Members of the council shall be elected at large by the voters of the city at a regular municipal election and shall serve for a term of four years, except as hereinafter provided for those first elected beginning on the first Monday of January next following their election.

Section 405. At the first municipal election following the adoption by a city of this plan, councilmen shall be elected and shall serve for

the terms as provided in section 622 of this act.

Section 406. (a) If a vacancy exists in the city council, the city council shall, by a majority of its remaining members, fill such vacancy, within thirty days thereafter, by electing a qualified person to serve until that first Monday of January when his successor who shall have been elected by the qualified electors at the next municipal election, occurring at least thirty days after such vacancy exists, is duly sworn into office for the remainder of the term of the person originally elected to said office.

In case vacancies should exist whereby the offices of a majority or more members of the city council become vacant, the remaining members shall fill such vacancies, one at a time, giving each new appointee such reasonable notice of his appointment as will enable him to meet and act with the then qualified member or members of the city council in making further appointments until a bare majority of members of city council have been qualified, whereupon the said members shall fill the remaining vacancies at a meeting attended by the said majority members of city council, such appointees to receive a majority of the votes of the members present at any such meeting. The person or persons selected to fill such vacancy or vacancies shall hold their offices as herein provided.

If, by reason of a tie vote, or otherwise, such vacancy shall not have been filled by the remaining members of city council within the time as limited herein, the court of common pleas, upon the petition of ten or more qualified electors, shall fill such vacancy by the appointment of a qualified person, for the portion of the unexpired term as above provided.

If, at any time, vacancies should occur or exist in the membership of all members of city council, the court of common pleas shall appoint a city council, of persons properly qualified, who shall serve as herein provided.

(b) If a vacancy occurs in the office of mayor or city controller, the city council shall fill such vacancy, within thirty days thereafter, by choosing a mayor or a city controller, as the case may be, to serve until his successor is elected by the qualified electors at the next municipal election, occurring at least two hundred days after such vacancy

occurs, and is duly sworn into office. The person so elected shall serve from the first Monday of January next succeeding his election for the remainder of the term of the person originally elected to such office.

If, by reason of a tie vote or otherwise, a vacancy in the office of mayor or controller shall not have been filled by council within the time as limited herein, the court of common pleas, upon petition of ten or more qualified electors, shall fill such vacancy by the appointment of a qualified person for the portion of the unexpired term as herein provided.

### C. Council.

Section 407. The legislative power of the city shall be exercised by the city council, except as may be otherwise provided by general law.

Section 408. On the first Monday of January following the regular municipal election, the members of council shall assemble at the usual place of meeting and organize and elect a president of the council from among its members, who shall preside at its meetings and perform such other duties as council may prescribe. In the absence of the president, the council shall elect a temporary presiding officer.

Section 409. The council, in addition to such other powers and duties as may be conferred upon it by this charter or otherwise by general law, may require any city officer, in its discretion, to prepare and submit sworn statements regarding his official duties in the performance thereof, and may otherwise investigate the conduct of any department, office or agency of the city government.

Section 410. (a) The council shall appoint a city clerk, who shall serve as clerk of the council, keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this act requires, and perform such functions as may be required by law. The city clerk shall, prior to his appointment, have been qualified by training or experience to perform the duties of the office.

(b) The council may provide for the manner of appointment of a city solicitor, any planning board, zoning board of adjustment or personnel board in the city, and may create commissions and other bodies with advisory powers.

#### D. Mayor and Administration.

Section 411. The executive power of the city shall be exercised by the mayor.

Section 412. The mayor shall enforce the charter and ordinances of the city and all general laws applicable thereto. He shall, annually, report to the council and the public on the work of the previous year and on the condition and requirements of the city government and shall, from time to time, make such recommendations for action by the council as he may deem in the public interest. He shall supervise all of the departments of the city government, and shall require each department to make an annual and such other reports of its work as he may deem desirable.

Section 413. (a) Ordinances adopted by the council shall be submitted to the mayor and he shall, within ten days after receiving any ordinance, either approve the ordinance by affixing his signature thereto, or return it to the council by delivering it to the city clerk together with a statement setting forth his objections thereto or to any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return an ordinance to the council within ten days after it has been presented to him, or unless council upon reconsideration thereof, on or after the third day following its return by the mayor, shall by a vote of two-thirds of the members resolve to override the mayor's veto.

(b) The mayor may attend meetings of council and may take part in discussions of council but shall have no vote except in the case of a tie on the question of filling a vacancy in the council, in which case he may cast the deciding vote.

(c) All bonds, notes, contracts and written obligations of the city shall be executed on its behalf by the mayor and the controller.

Section 414. The mayor shall designate any department head, or the city clerk, to act as mayor whenever the mayor shall be prevented, by absence from the city, disability or other cause, from attending to the duties of his office. During such time the person so designated by the mayor shall possess all the rights, powers, and duties of mayor. Whenever the mayor shall have been unable to attend to the duties of his office for a period of sixty consecutive days for any of the above stated reasons, a member of council shall be appointed by the council

as acting mayor, who shall succeed to all the rights, powers and duties of the mayor or the then acting mayor.

Section 415. (a) The city shall have a city treasurer who shall be appointed by the mayor with the advice and consent of the council. He shall perform such functions and duties and have such powers relating to the collection, receiving, safe keeping and payment over of public moneys including city, county, institution district and school district taxes as provided by general law and shall have such other functions, powers and duties as may be assigned to him by council.

(b) The city may have a department of administration and shall have such other departments, not exceeding a total of nine, as council may establish by ordinance. All of the administrative functions, powers and duties of the city, other than those vested in the office of the city clerk, city treasurer and city controller, shall be allocated and assigned among and within such departments.

(c) Each department shall be headed by a director who shall be appointed by the mayor with the advice and consent of the council. Each department head and the city treasurer shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor.

(d) The mayor may, in his discretion, remove the city treasurer and any department head after notice and an opportunity to be heard. Prior to removing a treasurer or department head, the mayor shall first file written notice of his intention with the council, and such removal shall become effective on the twentieth day after the filing of such notice.

(e) Subject to the provisions of Article XLIV. of the act of June 23, 1931 (P. L. 932), known as the "Third Class City Code" and the provisions of the act of May 31, 1933 (P. L. 1108), entitled "An act providing for the appointment, promotion, reduction, removal and reinstatement of paid officers, firemen and employes of fire departments and of fire alarm operators and fire box inspectors in the bureaus of electricity in cities of the second and third class; defining the powers and duties of civil service commissions for such purposes; and fixing penalties," department heads shall appoint subordinate officers and employes within their respective departments and may, with approval of the mayor, remove such officers and employes.

Section 416. Where a department of administration is established, it shall be headed by a director who shall be known and designated as business administrator. He shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the city or State, but during his tenure of office he may reside outside the city only with the approval of council. He shall have, exercise and discharge the functions, powers and duties of the department. The department, under the direction and supervision of the mayor, shall:

- (1) Assist in the preparation of the budget;
- (2) Administer a centralized purchasing system; and
- (3) Perform such other duties as council may prescribe.

#### E. Budget and Control.

Section 417. The city budget shall be prepared by the mayor with the assistance of the business administrator or other officer designated by the mayor. Not later than the month of November, the mayor shall require all department heads to submit requests for appropriations for the ensuing budget year, and to appear before the mayor or the business administrator or other officer at public hearings, which shall be held during that month, on the various requests.

Section 418. At the last stated meeting in November, the mayor shall submit to council his recommended budget in the form of an ordinance, together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for city budgets, and shall in addition have appended thereto a detailed analysis of the various items of expenditure and revenue. Council may reduce any item or items in the mayor's budget by a vote of a majority of the council, but an increase in any item or items therein shall become effective only upon an affirmative vote of two-thirds of the members of council.

Council shall, upon passing the proposed budget ordinance on first reading, fix a date for adoption thereof, which shall be not later than the 31st day of December immediately following.

**Section 419.** The council shall, where practicable, provide for the maintenance of a system of work programs and quarterly allotments, for operation of the budget. It shall be the duty of the officer or department administering any such program to develop and report appropriate unit costs of budgeted expenditures.

**Section 420.** The council shall provide by ordinance for the exercise of a control function, in the management of the finances of the city, by the city controller. The control function shall include provision for an encumbrance system of budget operation, for expenditures only upon written requisition, for the pre-audit by the city controller of all claims and demands against the city prior to payment, and for the control of all payments out of any public funds by individual warrants for each payment to the official having custody thereof.

**Section 421.** The council shall provide for annual post audits of all accounts by an outside certified public accountant to be appointed by council.

## **ARTICLE VI.**

### **GENERAL PROVISIONS COMMON TO OPTIONAL PLANS.**

#### **A. Officers and Employees.**

**Section 601.** No officer or employe elected or appointed in any city shall be interested, directly or indirectly, in any contract or job for work or materials or the profits thereof, to be furnished or performed for the city, and no such officer or employe shall be interested, directly or indirectly, in any contract or job for work or materials or the profits thereof, to be furnished or performed for any person operating any interurban railway, street railway, bus line, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of such city.

**Section 602.** No officer or employe shall accept or receive, directly or indirectly, from any person operating within the territorial limits of a city any interurban railway, bus line, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange or other business using or operating under a public franchise, any frank, free pass, free ticket or free service, or accept or



receive, directly or indirectly, from any person, any other service upon terms more favorable than is granted to the public generally, except that such prohibition of free transportation shall not apply to policemen or firemen in uniform. Nor shall any free service to the city officials heretofore provided by any franchise or ordinance be affected by this section.

**Section 603.** No candidate for office, appointment or employment and no officer, appointee or employe in any city shall, directly or indirectly, give or promise any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person, under the penalty of being disqualified to hold the office or employment to which he may be or may have been elected or appointed.

**Section 604.** Any person convicted of a crime or offense involving moral turpitude shall be ineligible to assume any city office, position or employment in a city governed pursuant to this act, and upon conviction thereof, while in office, shall forfeit his office. Any person who shall violate any of the provisions of sections 601, 602 or 603 of this act shall be guilty of a misdemeanor in office, and upon conviction thereof in a court of competent jurisdiction, shall forfeit his office.

**Section 605.** If any person hereafter elected or appointed to any office or position in a city governed under this act shall, after lawful notice or process, wilfully refuse or fail to appear before any court, any legislative committee, or the Governor, or having appeared shall refuse to testify or to answer any question regarding the property, government or affairs of the city, or regarding his nomination, election, appointment or official conduct on the ground that his answer would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any such matter in relation to which he may be asked to testify, may be removed from office by the council of the city in its discretion. Any person removed from office pursuant to this section shall not thereafter be eligible for election or appointment to any office or employment in such city.

#### **B. Legislation by Council.**

**Section 606.** The council shall, by ordinance or resolution, designate the time of holding regular meetings which shall be at least

monthly. The mayor or the president of council, as the case may be, may and, upon written request of a majority of the members of the council, shall call a special meeting of the council. In the call, he shall designate the purpose of the special meeting and no other business shall be considered. All meetings of the council shall be open to the public. The city clerk shall keep a journal of its proceedings and record the minutes of every meeting.

Section 607. (a) Council shall determine its own rules of procedure, not inconsistent with ordinance or statute. A majority of the whole number of members of the council shall constitute a quorum, but no ordinance shall be adopted by the council without the affirmative vote of a majority of all the members of the council.

(b) Each ordinance or resolution shall be introduced in written or typewritten form, and shall be read and considered as provided by general law. The vote upon every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered on the minutes. The minutes of each meeting shall be signed by the officer presiding at such meeting and by the city clerk.

(c) The compensation of the mayor, councilmen and department heads shall be fixed by the council immediately after its organization.

Section 608 (a) Except as may otherwise be provided in this act all ordinances shall be adopted and published in the manner required by general law: Provided, however, That any ordinance may incorporate by reference any standard technical regulations or code, official or unofficial, which need not be so published whenever ten copies of said regulations or code have been placed on file in the office of the city clerk and in the office of the body or department charged with the enforcement of said ordinance for the examination of the public so long as said ordinance is in effect.

(b) No ordinance other than the local budget ordinance shall take effect less than twenty days after its final passage by council and approval by the mayor where such approval is required, unless the council shall adopt a resolution declaring an emergency and at least two-thirds of all the members of the council vote in favor of such resolution.

Section 609. The city clerk shall record all ordinances and resolu-

tions adopted by council and at the close of each year, with the advice and assistance of the city attorney, shall bind, compile or codify all the ordinances and resolutions, or true copies thereof, of the city which then remain in force and effect. He shall also properly index the record books, compilation or codification of ordinances and resolutions.

Section 610. No rule or regulation made by any department, officer, agency or authority of the city, except such as relates to the organization or internal management of the city government or a part thereof, shall take effect until it is filed either with the city clerk or in such other manner as may be provided by ordinance. The council shall provide for the prompt publication of such rules and regulations.

#### C. Transition to Optional Charter Plan.

Section 620. (a) Whenever the electors of a city adopt any of the optional charter plans provided by this act at any election for that purpose, such city shall be governed under the provisions of such charter plan and this act from the first Monday in January following the next succeeding municipal election.

(b) Whenever the electors of a city vote to discontinue such optional plan at any election for that purpose, the city shall cease to be governed by the provisions of such charter plan and this act on the first Monday of January following the next succeeding municipal election.

Section 621. (a) The mayor, the members of council, the treasurer and the controller in office at the time of the adoption of any charter plan provided by this act shall continue in office until the expiration of their terms and shall receive the compensation provided by law at that time. Any such officer may, by writing filed with the city treasurer, direct that any portion of his compensation be returned to the city treasury.

(b) If an elected city treasurer or city controller is in office at the time of the adoption of an optional charter plan under the provisions of this act, a treasurer or controller, as the case may be, shall not be appointed or elected to take office until after the resignation, death, removal or expiration of the term of said treasurer or controller.

Section 622. (a) At the municipal election next succeeding the adoption of one of the optional charter plans provided for in this act, the number of councilmen prescribed by the terms of the charter less the

number of councilmen then in office whose terms do not expire on the first Monday of January next following, shall be elected. For the purpose of this section, an existing mayor shall be considered as a member of council, and after the new charter plan goes into effect, his duties shall be only those of a member of council as prescribed by the new charter plan and a new mayor shall be elected at this election or appointed as provided by the plan adopted.

(b) At such election, if two, three or four councilmen are elected, they shall each serve for terms of four years. If five are elected, the four candidates receiving the highest number of votes shall serve for terms of four years, and the candidate receiving the next highest number of votes shall serve for a term of two years. If six or seven are elected, the five candidates receiving the highest number of votes shall serve for terms of four years, and the one or two candidates, as the case may be, receiving the next highest number of votes shall serve for a term of two years. Thereafter, all councilmen shall be elected for terms of four years.

(c) If any vacancies in council occurring by reason of resignation, death or removal shall exist ninety days or more before such election, they shall be filled for the remainder of the term of the person originally elected to that office.

Section 623. Upon the effective date of an optional charter adopted pursuant to this act, all ordinances and resolutions of the city to the extent that they are not inconsistent with the provisions of this act shall remain in full force until modified or repealed as provided by law.

Section 624. (a) On the effective date of an optional plan adopted pursuant to this act, all appointive offices then existing in such city shall be abolished and the terms of all appointed officers shall immediately cease and determine: Provided, That nothing in this section shall be construed to abolish the office or terminate the terms of office of any alderman or constable or of any official or employe now protected by any tenure of office or civil service law, or of any policeman or fireman, whether or not protected by a tenure of office law.

(b) Provision for officers and for the organization and administration of the city government under the optional plan may be made by resolution pending the adoption of ordinances, but any such resolution shall expire not later than sixty days after the effective date of the optional plan.

**Section 625.** All actions and proceedings of a legislative, executive or judicial character, which are pending upon the effective date of an optional plan adopted pursuant to this act, may continue and the appropriate officer or employe under such optional plan shall be substituted for the officer or employe theretofore exercising or discharging the function, power or duty involved in such action or proceeding.

