

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, September 27, 1940.

The City Council convened in regular session, at the regular meeting place in the Council Room at the Municipal Building, on September 27, 1940, at 10:45 A. M., with Mayor Tom Miller presiding; the meeting having been held on Friday following the regular meeting day on account of the death of Councilman Bartholomew. Roll call showed the following members present: Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf.

The Minutes of the regular meeting of September 19, 1940, were read, and upon motion of Councilman Alford, were adopted as read by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

Councilman Alford moved that the application of Walter Owens, 65 Cross Street, for a license to operate a taxicab be granted, in accordance with the recommendation of the City Manager. The motion prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The following resolution was introduced by Councilman Alford:

WHEREAS, Texas Public Service Company has presented to the City Council tentative maps or plans showing the proposed construction of its gas mains in the streets in the City of Austin hereafter named, and said maps or plans have been considered by the City Council; therefore

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

THAT Texas Public Service Company be, and the same is hereby, permitted to lay and construct its gas mains in and upon the following streets:

- (1) A gas main in STAMFORD LANE from a point 248 feet north of Woodmont Avenue southerly 183 feet, the centerline of which gas main shall be 17 $\frac{1}{2}$ feet west of, and parallel to, the east property line of said Stamford Lane.

The gas main described above shall have a covering of not less than 2 $\frac{1}{2}$ feet.

- (2) A gas main in MOUNTAINVIEW ROAD from Clearview Drive northerly 223 feet, the centerline of which gas main shall be 7 $\frac{1}{2}$ feet west of, and parallel to, the east line of said Mountainview Road.

Said gas main described above shall have a covering of not less than 2 $\frac{1}{2}$ feet.

The Texas Public Service Company is hereby put upon notice that the City of Austin does not guarantee that the space assigned above is clear from other underground utilities, but is based upon the best records we have at hand, and that the minimum depth stated does not have any reference to the fact that greater depths may not be required at special points. When the Texas Public Service Company requires definite information upon the ground as to elevations or working points from which to base the location of their assignments, they shall apply to the City Engineering Department not less than three (3) days before such information is required. The Texas Public Service Company is further put upon notice that they will be required to bear the expense of repairs or replacement of any underground utility damaged during the construction of lines named in this resolution.

AND THAT whenever pavement is cut in the vicinity of a fire plug, water must be used at intervals during the course of backfilling of the ditches.

THAT the work and laying of said gas mains, including the excavation in the streets, and the restoration and maintenance of said streets after said mains have been laid, shall be under the supervision and direction of the City Manager, and under all the pertinent terms and conditions of the certain franchise granted to said Company by the City of Austin.

Upon motion of Councilman Alford, the foregoing resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The following resolution was introduced by Councilman Gillis:

WHEREAS, John D. Miller is the Contractor for the alteration of a building located at 108 East Tenth Street and desires a portion of the sidewalk and street space abutting Lot A, Block 123, of

the Original City of Austin, Travis County, Texas, during the alteration of the building, such space to be used in the work and for the storage of materials therefor; therefore,

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

1. THAT this additional space be included under the same bond which covers space granted by the City Council July 25, 1940, and for the uses hereinabove enumerated be granted to said John D. Miller, the boundary of which is described as follows:

Sidewalk and Street Working Space

BEGINNING at the southeast corner of the above described property; thence in a southerly direction and with right angles to the centerline of East Tenth Street to a point 6 feet south of the north curb line; thence in a westerly direction and parallel to the centerline of East Tenth Street approximately 30 feet to a point; thence in a northerly direction and at right angles to the centerline of East Tenth Street to the southwest corner of the above described property.

2. THAT the above privileges and allotment of space are granted to the said John D. Miller, hereinafter termed "Contractor," upon the following express terms and conditions:

(1) That the Contractor shall construct a 4-foot walkway within the outer boundaries of the above described working space, such walkway to be protected on each side by a guard rail at least 4-foot high and substantially braced and anchored, and without wood strips or obstructions of any kind along the pavement within the walkway, and at any time in the opinion of the City officials it becomes necessary for any reason to install a board floor within the walkway, the Contractor shall upon notice from the Building Inspector immediately place such a wood floor and substantially support same to prevent sagging under load.

(2) That the Contractor is permitted to construct in his working space a substantial gate, which shall be kept closed at all times when not in use, and at all times that such gate is open, the Contractor shall maintain a person at this gate to warn pedestrians and vehicles of approaching trucks. This gate is not to open out so as to impede vehicular or pedestrian traffic.

(3) That no vehicles in loading or unloading material at the working space shall park on any part of the street outside of the allotted working space.

(4) That "No Parking" signs shall be placed on the street side of the barricades.

(5) That the Contractor shall in no way obstruct any fire plugs or other public utilities in the construction of such barricades.

(6) That provisions shall be made for the normal flow of all storm waters in the gutter, and the Contractor will be responsible for any damage done due to obstruction of any such storm water.

(7) That the Contractor shall place on the outside corners of any walkway, barricades or obstructions, red lights during all periods of darkness and provide lighting system for all tunnels.

(8) That the Contractor shall remove all fences, barricades, loose materials, and other obstructions on the sidewalk and street immediately after the necessity for their existence on said sidewalk or street has ceased, such time to be determined by the City Manager, and in any event, all such barricades, sidewalk, materials, equipment, and other obstructions shall be removed not later than October 1, 1940.

(9) That the City reserves the right to revoke at any time any and all the privileges herein granted, or to require the erection or installation of additional barriers or safeguards if the conditions demand it.

(10) That the use and enjoyment of the spaces herein granted shall not be exclusive as against public needs, and the City, in making such grant, reserves the right to enter and occupy any part or all of said space any time with its public utilities, or for other necessary public purposes.

(11) That any public utility, or public or private property, disturbed or injured as a result of any of the activities necessary for the completion of the construction work for said building projects, whether done by the Contractor, City forces, or public utilities, shall be replaced or

repaired at the Contractor's expense.

(12) That the Contractor shall furnish the City of Austin a surety bond in the sum of One Thousand Dollars (\$1000.00), which shall protect, indemnify, and hold harmless the City of Austin from any claims for damages to any person or property that may accrue to or be brought by any person by reason of the exercise or abuse of the privileges granted the Contractor by the City of Austin, and shall guarantee the replacement of all sidewalks, pavement, and all other public property and public utilities disturbed or removed during the construction work, and shall further guarantee the construction of a walkway and other safeguards during the occupancy of the space.

Upon motion of Councilman Gillis, the foregoing resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The following resolution was introduced by Councilman Gillis:

WHEREAS, in the General Land Office of the State of Texas, there appears a map or plat of the Original City of Austin, Travis County, Texas, showing various lots, blocks, streets and alleys; and

WHEREAS, upon said map or plat is shown Block No. 51 of said Original City, said block being traversed by an alley 20 feet in width; and

WHEREAS, said alley has been occupied and claimed by the owners of property abutting said alley for a great many years and said alley has not been used for public thoroughfare purposes for a great many years and will not be needed in the future for public thoroughfare purposes; and

WHEREAS, the pavement on San Antonio Street and on Mueces Street opposite said alley was paid for by the owners of the property abutting said alley; and

WHEREAS, the owner of a portion of the property abutting the south side of said alley has requested the City Council to vacate and abandon this alley, and said request has been carefully reviewed and considered; therefore

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

THAT the alley traversing Block No. 51 of the Original City of Austin, as described above, be and the same is hereby permanently vacated and closed, except the City of Austin hereby reserves the right to construct, maintain, and operate public utilities in, upon, and across the above described alley.

Upon motion of Councilman Gillis, the foregoing resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The following ordinance was introduced by Councilman Wolf:

AN ORDINANCE PERPETUALLY CLOSING AND VACATING CERTAIN PORTIONS OF MARY STREET IN THE CITY OF AUSTIN, TEXAS, LYING BETWEEN FIRST AND SECOND STREETS, AND RELINQUISHING ANY AND ALL INTEREST, RIGHT, TITLE OR CLAIM OF THE CITY OF AUSTIN IN AND TO SAID PORTIONS OF MARY STREET.

The ordinance was read the first time and Councilman Wolf moved that the rules be suspended and the ordinance be passed to its second reading. The motion was seconded by Councilman Alford, and the same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The ordinance was read the second time and Councilman Wolf moved that the rules be further suspended and the ordinance be passed to its third reading. The motion was seconded by Councilman Alford, and the same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The ordinance was read the third time and Councilman Wolf moved that the ordinance be finally passed. The motion was seconded by Councilman Alford, and the same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The Mayor announced that the ordinance had been finally passed.

The following ordinance was introduced by Councilman Alford:

AN ORDINANCE PRESCRIBING REGULATIONS FOR THE PROTECTION OF THE PUBLIC WATER SUPPLY OF THE CITY OF AUSTIN; MAKING IT UNLAWFUL TO BATHE, SWIM, OR OPERATE A BOAT, OR TO FISH IN THE WATERS OF THE COLORADO RIVER BETWEEN THE MOUTH OF BARTON CREEK AND THE MOUTH OF SHOAL CREEK; PRESCRIBING CERTAIN SANITARY REGULATIONS FOR BOATS AND BOAT HOUSES AND CAMPS ON THE COLORADO RIVER WITHIN THE CORPORATE LIMITS OF THE CITY AND WITHIN ITS POLICE JURISDICTION; PRESCRIBING PENALTIES AND DECLARING AN EMERGENCY

The ordinance was read the first time and Councilman Alford moved that the rules be suspended and the ordinance be passed to its second reading. The motion was seconded by Councilman Gillis, and the same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The ordinance was read the second time and Councilman Alford moved that the rules be further suspended and the ordinance be passed to its third reading. The motion was seconded by Councilman Gillis, and the same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The ordinance was read the third time and Councilman Alford moved that the ordinance be finally passed. The motion was seconded by Councilman Gillis, and the same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The Mayor announced that the ordinance had been finally passed.

The following resolution was introduced by Councilman Wolf:

WHEREAS, the City of Austin, hereinafter referred to as the Sponsor, has applied to the Government of the United States of America, through the Work Projects Administration, for a WPA project, District Serial Number 9-1142, for the purpose of erecting a monolithic concrete stage, shelter house, dressing rooms, and caretaker's quarters for Zaragosa Park in Austin, Travis County, Texas, hereinafter referred to as the Project, which, if such application is granted and said Project is operated, will require the expenditure of a large amount in Federal funds; and

WHEREAS, Federal funds may not be expended through the Work Projects Administration in the operation of such projects which, when completed, will not be used in the general public interest and retained exclusively under the ownership, management, possession, and control of a public authority or political subdivision; now, therefore,

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

THAT, in consideration of the promises and in order to induce the expenditure of Federal funds in the operation of the Project, the City of Austin obligates and binds itself to the Government of the United States of America, as follows:

1. That the land on which the project is to be operated is owned by, and is now in the exclusive possession of, the Sponsor, and that the Sponsor will retain the exclusive ownership and possession thereof during the useful life of the Project or any part thereof.
2. That the Sponsor will not at any time during the useful life of the Project, or any part thereof, convey, lease, surrender possession of, or otherwise divest itself of the exclusive ownership, possession, control and management of the Project to any person, association, organization, or corporation, and that it will devote the Project to the public use, without discrimination.
3. That in the event of any breach by the Sponsor of any obligation set forth in paragraphs numbered 1 or 2 above, it will forthwith return and refund to the Treasurer of the United States, upon demand by the Work Projects Administration, or other proper agency of the Government of the United States of America, an amount of lawful money of the United States of America equal to the total amount of the Federal funds expended on the Project.
4. That the Work Projects Administration is under no obligation to commence the Project, nor

to complete it if it is commenced, but should the Work Projects Administration commence the Project, it will do so in reliance upon the representations and obligations herein set forth, and its commencement of the Project will be ipso facto its acceptance of said representations and obligations.

BE IT FURTHER RESOLVED:

THAT the City Manager be, and he is hereby, authorized and directed to execute all necessary contracts in connection with this project.

Upon motion of Councilman Wolf, the foregoing resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The public hearing on the change in zoning of the Waterston property fronting West Lynn Street between Waterston and West 14th Streets, from "B" Residence District to "C" Commercial District, which was continued from the last regular meeting, was reopened.

The following supplemental report of the Board of Adjustment on the matter was received:

"Austin, Texas.
September 24, 1940.

The Honorable Mayor and City Council
Austin, Texas

Gentlemen:

On September 11, 1940, the Board of Adjustment submitted a resolution to you concerning the petition of Robert Waterston requesting a change in the Use designation of the property fronting on West Lynn Street between Waterston Street and West 14th Street.

The Board held a hearing on this petition at which neither the applicant nor anyone representing him, or anyone in favor of it, appeared before the Board; but one property owner opposing the change did appear.

Since this action was taken, the applicant has presented a different set of facts from those upon which the Board acted. It is now proposed that only that portion of the applicant's property directly opposite the present commercial district in the Shelley Addition be changed, the north limit being directly in line with the south line of West 13th Street, leaving the remaining property fronting on West 14th Street in a present residential zone. Since the City Council had set a hearing on this case for September 12, the Board was forced to submit its resolution without having had time to permit the applicant to appear before the Board and submit all the facts, in which case a different conclusion would have been arrived at.

In view of the change in application, the Board begs to withdraw its previous resolution and reverses its former action, and now recommends that the property fronting on West Lynn Street from Waterston Street to a line corresponding with the projection of the south line of West 14th Street to a depth of 150 feet be changed from "B" Residential District to "C" Commercial District.

Respectfully submitted,

BOARD OF ADJUSTMENT

By /s/ H. F. Kuehne
Chairman. "

It was stated to the meeting that W. E. Seaholm, protesting property owner, had withdrawn his objections to the change.

W. D. Hart, Attorney, and J. E. Riley, Agent, respectively, for the proponent, Robert Waterston, appeared for the change, stating that their client was now asking that only that portion of his property directly opposite the present commercial zone on the east side of West Lynn Street, be zoned as commercial, such change to extend for a depth of 150 feet.

No other property owners or interested persons desiring to be heard, Councilman Wolf moved that the hearing be closed, and the City Attorney be instructed to prepare the necessary ordinance, changing the zoning of the property in accordance with the recommendations contained in the foregoing report of the Board of Adjustment, to be acted upon favorably at the next regular meeting. The motion prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The Mayor laid before the Council for its second reading the following ordinance:

AN ORDINANCE ESTABLISHING A RETIREMENT AND PENSIONING SYSTEM FOR CERTAIN EMPLOYEES OF THE CITY OF AUSTIN, PURSUANT TO AUTHORITY GRANTED THE CITY COUNCIL UNDER SECTION 52, OF ARTICLE XIV, OF THE CHARTER OF THE CITY OF AUSTIN; CREATING A RETIREMENT BOARD TO ADMINISTER AND OPERATE THE RETIREMENT AND PENSIONING SYSTEM AND DEFINING ITS POWERS, DUTIES AND FUNCTION; PROVIDING A METHOD OF FINANCING THE SYSTEM; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HERewith; PROVIDING A SEVERABILITY AND SAVING CLAUSE AND DECLARING AN EMERGENCY.

The ordinance was read the second time and Councilman Wolf moved that the ordinance be passed to its third reading. The motion prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The ordinance was then laid over.

Oaths of Office were administered by the City Attorney to Jas. A. Garrison, Acting City Manager, and to J. E. Motheral, Executive Aid to the Acting City Manager.

Mayor Miller then expressed the regrets of the City Council at the departure of City Manager Morgan for his post as a Major in the Specialist Reserve Selective Service Division of the United States Army at Washington, D. C., which entails definite sacrifices, financial and otherwise, on his part; but stated that the office of City Manager would be held open for him as long as the present City Council is in office.

The public hearing on the proposed change in zoning of the Roland Freund property at the south-east corner of the intersection of 34th Street and Shoal Creek Boulevard, from "A" Residence District to "C" Commercial District, which was continued from the last regular meeting, was reopened. No one appeared to protest the proposed change, and the matter was ordered laid on the table.

Mayor Miller stated to the meeting that, by reason of the sad loss to the City Council and the City of Austin in the death of Councilman C. M. Bartholomew, it becomes necessary to name a successor to the said C. M. Bartholomew for the unexpired term; and that, after discussing the matter among themselves, it was the unanimous decision of the City Council that Eugene C. Bartholomew be named to succeed his father.

Councilman Gillis then nominated Eugene C. Bartholomew as Councilman of the City of Austin, to fill the unexpired term of the late Councilman C. M. Bartholomew. The nomination was seconded by Councilman Wolf.

There being no other nominations, the Mayor declared the nominations closed; and asked that the Council confirm the nomination of Eugene C. Bartholomew by a rising vote out of respect to the memory of Councilman C. M. Bartholomew, deceased, which the Council unanimously did.

The Mayor then declared Eugene C. Bartholomew duly elected Councilman to fill the unexpired term of Councilman C. M. Bartholomew, deceased.

The City Attorney was then instructed to prepare a resolution, to be spread upon the Minutes of the next regular meeting, commemorating the death of the late Councilman C. M. Bartholomew.

Upon motion, seconded and carried, the meeting was then recessed at 11:25 A. M., subject to call of the Mayor.

Approved: Tom Miller
Mayor

Attest:

Lucie McKeen
City Clerk