

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

August 12, 1948
10:40 A.M.

Council Chamber, City Hall

The meeting was called to order, with Mayor Miller presiding.

Roll call

Present : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Absent :: None

Present also: Guiton Morgan, City Manager; J. E. Motheral, Director of Public Works; Trueman E. O'Quinn, City Attorney; and R. D. Thorp, Chief of Police.

The reading of the Minutes was dispensed with.

R. Dean Moorhead, Attorney, submitted the following written request:

Austin, Texas
August 10, 1948

To the Honorable Mayor and City Council of Austin:

One of my clients, a Miss Jitty Potter, has signed a contract for the purchase of Lots 3 and 3AB, less the south 15 feet thereof, in Outlots 6, 7, and 8, of Enfield "A", Division "2", City of Austin, Travis County, Texas. This contract is conditioned upon her ability to obtain approval to use the property for conducting a nursery school for children of pre-school age thereon.

Miss Potter will use the property as her residence, but will conduct the school during the hours of 9:00 - 12:00 o'clock A. M. as a means of livelihood. In addition, it is possible that she will have special Saturday afternoon classes on days when there are local football games so that her patrons can leave their children while they attend the games.

This property is located at the southwest corner of Enfield and Lorraine Streets. The Mayor and members of the Council doubtless are familiar with it, for it is the old dilapidated property enclosed by a low stone fence which has been an eye-sore on Enfield for quite some time. Miss Potter, of

course, contemplates a complete renovation of the premises prior to using them either as a home or as a school. The property is approximately one acre large, so that there is much more room than is normally needed for conducting a nursery school of this character.

The property is now zoned "B" Residential. It is my understanding that an educational institution such as a nursery school can be conducted thereon if the Council, by ordinary resolution, authorizes the use and empowers the City Manager to issue a permit for such use.

Consequently, by this letter and on behalf of Miss Potter, I am requesting the Council to pass the required resolution and to authorize the City Manager to issue a permit for such use.

Very truly yours,

(Sgd) R. Dean Moorhead. "

The following resolution was offered by Councilman Bartholomew, who moved its adoption:

(RESOLUTION)

WHEREAS, Miss Jitty Potter has made application in writing through her attorneys, Looney and Clark, for permission to use and maintain in her residence an institution of an educational nature (kindergarten and nursery school) on Lots 3 and 3-AB of Enfield "A" in Outlots 6, 7, and 8, Division 2, the same being on the southwest corner of the intersection of Enfield Road and Lorrain Street and locally known as 1401 Enfield Road and is located in a "B" Residence District, which, under Section #5, Item #7, of the Zoning Ordinance, requires a special permit from the City Council; and

WHEREAS, this application has been considered and approved by the City Council of the City of Austin; therefore,

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

THAT permission for the use and maintenance of this institution of an educational nature in her residence be granted to Miss Jitty Potter.

Which motion, carrying with it the adoption of the resolution, carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Mrs. L. C. McIntosh submitted a complaint against a vicious dog that was terrorizing the neighborhood at 21st and Comal Streets. The matter was referred to the Chief of Police for attention.

Councilman Glass called up the following ordinance; which was introduced at the last regular meeting and laid over:

AN ORDINANCE AMENDING THAT CERTAIN ORDINANCE ENTITLED "AN ORDINANCE REGULATING THE ERECTION, CONSTRUCTION, ENLARGEMENT, ALTERATION, REPAIR, MOVING, REMOVAL, DEMOLITION, CONVERSION, OCCUPANCY, EQUIPMENT, USE, HEIGHT, AREA, LOCATION AND MAINTENANCE OF BUILDINGS AND STRUCTURES IN THE CITY OF AUSTIN, TEXAS; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; DECLARING AND ESTABLISHING FIRE DISTRICTS; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH," WHICH ORDINANCE WAS PASSED BY THE CITY COUNCIL APRIL 30, 1931, AND IS RECORDED IN BOOK "1", PAGES 387-536, INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, BY AMENDING SECTION 201 OF SAID ORDINANCE TO REQUIRE CERTAIN PLANS AND SPECIFICATIONS TO BE PREPARED BY AND CONSTRUCTION TO BE EXECUTED UNDER DIRECT SUPERVISION OF A REGISTERED PROFESSIONAL ENGINEER OR REGISTERED PROFESSIONAL ARCHITECT; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS.

The ordinance was read the first time and Councilman Glass moved that the rule be suspended and the ordinance be passed to its second reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the second time and Councilman Glass moved that the rule be further suspended and the ordinance be passed to its third reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the third time and Councilman Glass moved that the ordinance be finally passed. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor then announced that the ordinance had been finally passed.

Pursuant to published notice thereof, the public hearing on the application of N. J. Ferris and A. G. Ferris to amend the Zoning Ordinance in the following particular:

To amend the USE designation of the following described property so as to change the same from "C" Commercial District to "C-1" Commercial District, to-wit:

1.93 acres of land out of the Isaac Decker League, lying approximately 300 feet north of Butler Road and facing on South Lamar Boulevard a distance of 357.12 feet, in the City of Austin, Travis County, Texas,

was duly opened.

No property owner or other interested person appearing to protest the change, Councilman Bartholomew moved that the hearing be closed and the action of the Board of Adjustment be sustained and the change be granted; and the City Attorney be instructed to prepare the ordinance. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Pursuant to published notice thereof, the public hearing on the application of Samuel P. Ingram, Mary Lee Ingram, Ethel Hartman, and L. P. Pierron to amend the Zoning Ordinance in the following particular:

To amend the USE designation of the following described property so as to change the same from "A" Residence District to "B" Residence District, to-wit:

Lots C, D, E, and north 200'x29' of Lot F, Outlot 6, Division "E", Unplatted, located in the 1200 block of West Avenue, in the City of Austin, Travis County, Texas,

was duly opened.

No property owner or other interested person appearing to protest the change, Councilman Glass moved that the action of the Board of Adjustment be sustained and the change be granted; and the City Attorney be instructed to prepare the ordinance. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of Henry Wendlandt for change in zoning, from "A" Residence District and First Height and Area District, to "C" Commercial District and First Height and Area District, of property located on the south side of East 12th Street opposite and east of Singleton Avenue, public hearing on which was held by the City Council on July 1, came up for final action thereon. Councilman Bartholomew moved that the action of the Board of Adjustment be overruled and the change be granted; and the City Attorney be instructed to prepare the ordinance. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of Eugene Vega, Jr., for change in zoning, from "A" Residence District to "B" Residence District, of property located at 2101-2103-2105-2107 Haskell Street, was received. Councilman Bartholomew moved that the application be referred to the Board of Adjustment for consideration and recommendation. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of W. E. Phillips for change in zoning, from "C" Commercial District to "C-2" Commercial District, of property located at 1207 Chicon Street, was received. Councilman Bartholomew moved that the application be referred to the Board of Adjustment for consideration and recommendation. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of Stripling-Blake Lumber Company, by Robt. C. Sneed, Attorney, for change in zoning, from "C" Commercial District to "D" Industrial District, of Lots 13 and 14, Block 2, Broadacres Addition, was received. Councilman Bartholomew moved that the application be referred to the Board of Adjustment for consideration and recommendation. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of Mrs. Agnes Kreuz for change in zoning, from "A" Residence District to "C" Commercial District, of part of a lot located at 3106 East Avenue, was received. Councilman Bartholomew moved that the application be referred to the Board of Adjustment for consideration and recommendation. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of V. G. Okie et al, by Bert Ford, Attorney, for change in zoning, from "C-1" Commercial District to "C-2" Commercial District, of Lots 1 to 25, inclusive, Arboles Terrace, was received. Councilman Glass moved that the application be referred to the Board of Adjustment for consideration and recommendation. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The public hearing on the application of North Millican for change in zoning, from "A" Residence District to "C" Commercial District, of property known as Fountain Courts, located at Guadalupe and 30th Streets, continued from the last regular meeting, was again continued to the next regular meeting.

Action on the application of M. H. Crockett for change in zoning, from "A" Residence District to "C" Commercial District, of property located on the west side of Lamar Boulevard, or Morningside Avenue, between West 39th Street and West 40th Street, was postponed pending a decision on setback requirements.

The public hearing on the application of Jay Brown, by Ted Wendlandt, Agent, to amend the Zoning Ordinance in the following particular:

To amend the USE designation of the following described property so as to change the same from "A" Residence District to "C" Commercial District, to-wit:

South 9 feet of Lot 81, and all of Lots 82 through 86, Oakwood Subdivision, Outlots 72 and 75, Division "D", located south of West 32nd Street and east of Lamar Boulevard, or San Gabriel Street, in the City of Austin, Travis County, Texas,

continued from July 29, was resumed.

Those appearing for the change were the following:

Jay Brown, proponent, who declared that this extension of the commercial zone was justified as the property across the street and on the north was commercial.

Mr. and Mrs. W. C. Lear, Mrs. John Ernest Ferguson, and Mrs. Ida Frances Shannon declared they were in favor of the change to commercial as the property was not desirable for residences on account of the boulevard.

Those appearing against the change were the following:

Boyce N. Campbell, who declared that he bought his property for a home and did not want to live behind a tourist court, grocery store, or filling station; and he also objected to the change on account of traffic hazard to the children using Bailey Park and Playground.

A petition, signed by ten property owners purporting to live within two hundred feet of the property, protesting the change was also submitted.

All property owners or other interested persons having been given an opportunity to be heard, action on the matter was postponed to the next regular meeting.

The Mayor called up for its second reading, the following ordinance:

AN ORDINANCE AMENDING THAT CERTAIN ORDINANCE PASSED BY THE CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS, JULY 17, 1941, AND RECORDED IN ORDINANCE BOOK "I", PAGES 152-174, INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, WHICH ORDINANCE WAS AMENDATORY OF THAT CERTAIN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN PASSED BY THE CITY COUNCIL APRIL 23, 1931, AND RECORDED IN ORDINANCE BOOK "I", PAGES 301-318, INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, THE AMENDATORY ORDINANCE HEREBY CHANGING THE USE DESIGNATION FROM "B" RESIDENCE DISTRICT AND SECOND HEIGHT AND AREA DISTRICT TO "C" COMMERCIAL DISTRICT AND SECOND HEIGHT AND AREA DISTRICT ON LOTS 1, 2, AND 3, BLOCK 1, IDEAL PLACE ADDITION; AND CHANGING THE USE DESIGNATION FROM "A" RESIDENCE DISTRICT AND FIRST HEIGHT AND AREA DISTRICT TO "D" INDUSTRIAL DISTRICT AND THIRD HEIGHT AND AREA DISTRICT ON TRACT "A" IN GILES PLACE, SECTION 2; ALL IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS; ORDERING A CHANGE IN THE USE MAPS SO AS TO RECORD THE CHANGES HEREBY ORDERED; AND DECLARING AN EMERGENCY.

The ordinance was read the second time and Councilman Bartholomew moved that the rule be suspended and the ordinance be passed to its third reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the third time and Councilman Bartholomew moved that the ordinance be finally passed. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor then announced that the ordinance had been finally passed.

Councilman Bartholomew introduced the following ordinance:

AN ORDINANCE AMENDING THAT CERTAIN ORDINANCE PASSED BY THE CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS, JULY 17, 1941, AND RECORDED IN ORDINANCE BOOK "L", PAGES 152-174, INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, WHICH ORDINANCE WAS AMENDATORY OF THAT CERTAIN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN PASSED BY THE CITY COUNCIL APRIL 23, 1931, AND RECORDED IN ORDINANCE BOOK "I", PAGES 301-318, INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, THE AMENDATORY ORDINANCE HEREBY CHANGING THE USE DESIGNATION FROM "A" RESIDENCE DISTRICT AND FIRST HEIGHT AND AREA DISTRICT TO "C" COMMERCIAL DISTRICT AND FIRST HEIGHT AND AREA DISTRICT ON BLOCK 2, H. B. SEIDERS SUBDIVISION, AND CHANGING THE USE DESIGNATION FROM "B" RESIDENCE DISTRICT AND SECOND HEIGHT AND AREA DISTRICT TO "C" COMMERCIAL DISTRICT AND SECOND HEIGHT AND AREA DISTRICT ON LOTS 7, 8, AND 9 AND EAST HALF OF 10, BLOCK 3, OUTLOT 4, PECK ADDITION, ALL IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS; ORDERING A CHANGE IN THE USE MAPS SO AS TO RECORD THE CHANGES HEREBY ORDERED; AND DECLARING AN EMERGENCY.

The ordinance was read the first time and Councilman Bartholomew moved that the rule be suspended and the ordinance be passed to its second reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the second time and Councilman Bartholomew moved that the rule be further suspended and the ordinance be passed to its third reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the third time and Councilman Bartholomew moved that the ordinance be finally passed. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor then announced that the ordinance had been finally passed.

It was moved by Councilman Johnson that, upon the recommendation of the Chief of Police, the taxicab driver's permit issued to ALFRED ARNOLD, Colored, be revoked. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

An appeal by JEROME ALANIZ for reinstatement of his taxicab driver's permit, which had been revoked, was heard. Mayor Miller moved that appellant be granted a 90-day probationary permit, conditioned upon his first having

been given a driving test by the Traffic Department to determine his ability to handle a car and his observance of all traffic rules. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor called up for its third reading, the following ordinance:

AN ORDINANCE GRANTING TO TEXAS PUBLIC SERVICE COMPANY A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A NATURAL GAS DISTRIBUTING PLANT AND SYSTEM IN THE CITY OF AUSTIN, AND PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS AND LIMITATIONS UPON AND UNDER WHICH SUCH FRANCHISE SHALL BE EXERCISED.

Councilman Glass offered the following amendment:

AMENDMENT NO. 1:

Amend Gas Franchise Ordinance in Section 8 by striking in the first grammatical paragraph the words and figures "nine hundred (900)" and substituting in lieu thereof the words and figures "one thousand (1000)".

Councilman Glass moved, seconded by Councilman Johnson, that Amendment No. 1 be adopted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Councilman Glass offered the following amendment:

AMENDMENT NO. 2:

Amend Gas Franchise Ordinance in Section 11 by adding to Section 11 the following:

" The City of Austin reserves the right, at the time any change in the terms of Grantee's contract with the United Gas Pipeline Company is being considered, which change if made may result less favorably to the City of Austin and its inhabitants than the present or existing terms of said contract, to reopen and renegotiate with Grantee the amount of gross receipts to be paid by Grantee from the sale of all natural gas and merchandise, as provided under Section 15 of this Ordinance.

" The City of Austin further reserves the right, at any time the Grantee shall request an increase in gas rates for consumers in Austin, to reopen and renegotiate with Grantee the amount of gross receipts to be paid by Grantee from the sale of all natural gas and merchandise, as provided under Section 15 of this Ordinance. "

Councilman Glass moved, seconded by Councilman Bartholomew, that said Amendment No. 2 be adopted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Councilman Glass offered the following amendment:

AMENDMENT NO. 3:

Amend Gas Franchise in Section 15 by striking the first sentence of said section and substituting in lieu thereof the following:

"As a part of the consideration for the rights and privileges herein granted the Grantee will pay to the City of Austin in lieu of all other charges by the City, except ad valorem taxes, on the first day of February of each year, throughout the full term of this franchise, the sum of One Thousand Two Hundred and Fifty Dollars (\$1250.00) in cash, plus two per centum (2%) of gross receipts from the sale of all natural gas and merchandise by Grantee within the limits of the City of Austin under this franchise; provided, that the payment of said percentage of the gross receipts and said cash sum of money each year shall be charged by Grantee as items of operating expense for rate-making purposes, and shall never be considered as a cost of the franchise herein granted in any determination of rates in the future; and provided further, that nothing contained in this section shall be construed to abridge or in anywise affect the power of the City of Austin to impose all ad valorem taxes upon any and all property of the Grantee which may be lawful subject of taxation. And it is understood and agreed that any lawful amount which may be or become due by Grantee to the City of Austin under the terms of this franchise, as well as any and all lawful ad valorem taxes which may be imposed and become due and payable to the City of Austin upon property of Grantee situated in the City of Austin, shall be and constitute a lien and charge upon the franchise, and all rights granted hereunder. "

Councilman Glass moved, seconded by Councilman Bartholomew, that said Amendment No. 3 be adopted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Ordinance as amended was then read the third time and Councilman Glass moved that the Ordinance be finally passed. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Thereupon Mayor Miller announced that the Ordinance had been finally passed.

Councilman Glass moved, seconded by Councilman Johnson, that the City Clerk and the City Attorney be instructed to place said Amendments Nos. 1, 2, and 3, as adopted, in the Ordinance and to proceed with the publication of the Ordinance in full, as amended and finally passed, in a daily newspaper of general circulation in the City of Austin once each week for four consecutive weeks, the expense of the publication to be borne by the proponent of the franchise. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Councilman Glass then moved that the City Manager be authorized to enter into a contract with the Texas Public Service Company guaranteeing to the City a maximum price of $12\frac{1}{2}$ cents for gas to be furnished the Power Plant for nine years, ending July 25, 1957, with 1000 British Thermal Units. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Two petitions, signed by a large number of citizens, asking for an extension of the Camp Mabry Bus Line or the Rosedale Bus Line to the Austin Memorial Park Cemetery were received; and the matter was referred to the Austin Transit Company for attention.

A petition, signed by residents and property owners south of West Live Oak Street, asking for the opening of South Fifth Street from West Live Oak Street to Juanita Street, and, if possible, to St. Elmo Road, was received. The City Manager reported that this matter had been disposed of.

Councilman Johnson offered the following resolution and moved its adoption:

(RESOLUTION)

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 HANCOCK DRIVE, from a point 19 feet west of Parkcrest Drive west to Crestway Drive, the centerline of which gas main shall be $5\frac{1}{2}$ feet north of and parallel to the south property line of said Hancock Drive.

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

- (2) A gas main in CRESTWAY DRIVE, from Hancock Drive to Ridge Oak Drive, the centerline of which gas main shall be $5\frac{1}{2}$ feet north of and parallel to the south property line of said Crestway Drive.

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

- (3) A gas main in EAST 7TH STREET, from a point 97 feet east of San Saba Street easterly 510 feet, the centerline of which gas main shall be $7\frac{1}{2}$ feet south of and parallel to the north property line of said East 7th Street.

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

- (4) A gas main in COLLIER STREET, from Oxford Avenue easterly 61 feet, the centerline of which gas main shall be $7\frac{1}{2}$ feet south of and parallel to the north property line of said Collier Street.

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

- (5) A gas main in GOODRICH AVENUE, from Hether Street southerly 516 feet, the centerline of which gas main shall be $7\frac{1}{2}$ feet west of and parallel to the east property line of said Goodrich Avenue.

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

- (6) A gas main in VALERIA STREET, from Goodrich Avenue easterly 444 feet, the centerline of which gas main shall be $7\frac{1}{2}$ feet north of and parallel to the south property line of said Valeria Street.

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

- (7) A gas main in GROOMS STREET, from a point 135 feet south of East 33rd Street southerly 72 feet, the centerline of which gas main shall be 19 feet east of and parallel to the west property line of said Grooms Street.

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

- (8) A gas main in CANADIAN STREET, from Riverview Street southerly 342 feet, the centerline of which gas main shall be 20 feet west of and parallel to the east property line of said Canadian Street.

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

- (9) A gas main in EAST AVENUE, from a point 310 feet south of East 46th Street southerly 39 feet, the centerline of which gas main shall be $7\frac{1}{2}$ feet west of and parallel to the east property line of said East Avenue.

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

- (10) A gas main in TILLERY STREET from East 5th Street northerly 201 feet, the centerline of which gas main shall be $7\frac{1}{2}$ feet west of and parallel to the east property line of said Tillery Street.

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

- (11) A gas main in CHERRYWOOD ROAD, from a point 174 feet north of East 32nd Street northerly 206 feet, the centerline of which gas main shall be $7\frac{1}{2}$ feet west of and parallel to the east property line of said Cherrywood Road.

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

- (12) A gas main in CHERRYWOOD ROAD from a point 22 feet south of East 38th Street southerly 321 feet, the centerline of which gas main shall be $7\frac{1}{2}$ feet west of and parallel to the east property line of said Cherrywood Road.

Said gas main described above shall have a cover 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 information upon the ground as to elevations or working points from which to base the location of their assignments, they shall apply to the Department of Public Works 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.

Which motion, carrying with it the adoption of the resolution, carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Councilman Johnson offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, the Southwestern Bell Telephone Company has presented to the City Council tentative maps or plans showing the proposed construction of its underground telephone conduit in the streets in the City of Austin hereafter named, and said maps or plans have been considered by the Director of Public Works; therefore,

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

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THAT the Southwestern Bell Telephone Company be, and the same is hereby, permitted to construct its underground telephone conduits in the following streets:

- (1) An underground telephone conduit in EAST 22ND STREET across San Jacinto Boulevard intersection, the centerline of said underground telephone conduit to be 15 feet north of and parallel to the north curb line of said East 22nd Street.

THAT the work and construction of said underground telephone conduit, including the excavation of the streets and the restoration and maintenance of said streets after said underground telephone conduit has been constructed, shall be under the supervision and direction of the City Manager and in accordance with the ordinance and regulations of the City of Austin governing such construction.

Which motion, carrying with it the adoption of the resolution, carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor called up for its second reading, the following ordinance:

AN ORDINANCE VACATING AND CLOSING AN ALLEY IN BLOCK 42 OF TRAVIS HEIGHTS, RUNNING FROM THE WEST LINE OF LOTS 5 AND 22 OF SAID BLOCK EAST-ERLY TO THE EAST BOUNDARY OF SAID TRAVIS HEIGHTS, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, BUT RETAINING EASEMENTS IN SAID ALLEY FOR ALL PUBLIC UTILITIES; AND SUSPENDING THE RULE REQUIRING THE READING OF AN ORDINANCE ON THREE SEPARATE DAYS.

The ordinance was read the second time and Councilman Bartholomew moved that the rule be suspended and the ordinance be passed to its third reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the third time and Councilman Bartholomew moved that the ordinance be finally passed. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor then announced that the ordinance had been finally passed.

The Mayor called up for its second reading, the following ordinance:

AN ORDINANCE VACATING AND CLOSING AN ALLEY TRAVERSING BLOCKS 1 AND 2, THE HIGHLANDS ADDITION, RUNNING NORTH FROM EAST 47TH STREET TO EAST 49TH STREET, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, BUT RETAINING EASEMENTS IN SAID ALLEY FOR ALL PUBLIC UTILITIES; AND SUSPENDING THE RULE REQUIRING THE READING OF AN ORDINANCE ON THREE SEPARATE DAYS.

The ordinance was read the second time and Councilman Bartholomew moved that the rule be suspended and the ordinance be passed to its third reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the third time and Councilman Bartholomew moved that the ordinance be finally passed. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor then announced that the ordinance had been finally passed.

The written request of W. Murray Graham for an extension of the city limits to include property at the northwest corner of Northland Drive and Burnet Road, Highway #29, containing approximately 159 acres, was received; and the matter was referred to the Engineering Department for verification of the field notes, and to the Legal Department for preparation of the proper ordinance for submission to the City Council.

The Mayor called up for its second reading, the following ordinance:

AN ORDINANCE AMENDING THAT CERTAIN ORDINANCE ENTITLED "AN ORDINANCE REGULATING TRAFFIC UPON THE PUBLIC STREETS OF THE CITY OF AUSTIN; PRESCRIBING PENALTIES FOR THE VIOLATION OF SAME; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY," WHICH ORDINANCE WAS PASSED BY THE CITY COUNCIL OF THE CITY OF AUSTIN MAY 6, 1937, AND IS RECORDED IN BOOK "K", PAGES 159-179, INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, BY AMENDING SECTION 12(b) OF ARTICLE III, RELATING TO STOP SIGN LOCATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.

The ordinance was read the second time and Councilman Bartholomew moved that the rule be suspended and the ordinance be passed to its third reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the third time and Councilman Bartholomew moved that the ordinance be finally passed. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor then announced that the ordinance had been finally passed.

Councilman Johnson introduced the following ordinance:

AN ORDINANCE REPEALING THAT CERTAIN ORDINANCE ENTITLED "AN ORDINANCE DECLARING THE NECESSITY FOR AND ORDERING THE IMPROVEMENT OF A PORTION OF WILLOW STREET FROM THE EAST PROPERTY LINE OF WALLER STREET TO THE WEST PROPERTY LINE OF NAVASOTA STREET, IN THE CITY OF AUSTIN, TEXAS; AND DIRECTING THE PLANS AND SPECIFICATIONS FOR SUCH IMPROVEMENTS BE PREPARED AND FILED; AND DIRECTING AN ESTIMATE OF THE COST OF SUCH IMPROVEMENTS BE DELIVERED AND FILED; AND AUTHORIZING THE CITY MANAGER TO ADVERTISE FOR BIDS FOR THE CONSTRUCTION OF SUCH IMPROVEMENTS", WHICH ORDINANCE WAS PASSED BY THE CITY COUNCIL DECEMBER 18, 1947, AND IS RECORDED IN BOOK M, PAGE 738, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN; AND SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS.

The ordinance was read the first time and Councilman Johnson moved that the rule be suspended and the ordinance be passed to its second reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the second time and Councilman Johnson moved that the rule be further suspended and the ordinance be passed to its third reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the third time and Councilman Johnson moved that the ordinance be finally passed. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor then announced that the ordinance had been finally passed.

The following communication from the Board of Trustees of the Austin Public Schools was received:

"Austin, Texas
August 11, 1948

Honorable Tom Miller, Mayor, and
The City Council of the City of Austin
Austin, Texas

Gentlemen:

The Board of Education of the Austin Public Schools respectfully requests the City Council to levy and collect a tax of \$1.15 on the one hundred dollars worth of taxable property for the maintenance of the Austin Public Schools for the school year, 1948-49. This is in accordance with Article XII, Section 2, sub-section (2) of the Charter of the City of Austin.

Respectfully yours,

(Sgd) T. N. Porter, Business Manager . "

Councilman Bartholomew introduced the following ordinance:

AN ORDINANCE FIXING AND LEVYING MUNICIPAL
AND SCHOOL TAXES FOR THE CITY OF AUSTIN,
TEXAS, FOR THE YEAR 1948; AND DECLARING
AN EMERGENCY.

The ordinance was read the first time and Councilman Bartholomew moved that the rule be suspended and the ordinance be passed to its second reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the second time and Councilman Bartholomew moved that the rule be further suspended and the ordinance be passed to its third reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the third time and Councilman Bartholomew moved that the ordinance be finally passed. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor then declared that the ordinance had been finally passed.

The City Manager submitted sketches showing proposed traffic lanes with traffic buttons at intersection of West 24th Street, Windsor Road and Poquonock Road; and at intersection of Hartford Road and Windsor Road, recommended by the Engineering Department and the Police Department; The matter was approved by the Council.

The following application for a private boat license, approved by the Navigation Board, was submitted:

<u>Owner</u>	<u>Description</u>
Stearns, Donald R. - 1610 Juliet Street -	Runabout, 1948 Model, Sea King, 4-passenger

Councilman Johnson moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of D. F. SAMUEL, 301 West Riverside Drive, for a license to operate as a taxicab, a 1947 Model Chevrolet, 4-door Sedan, Motor No. EAA-75969, State License No. AK-6190, duly approved by the City Manager, was submitted. Councilman Johnson moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of WILLIAM FRANK HANSSON, 910 East 14th Street, for a taxicab driver's permit, duly approved by the City Manager, was submitted.

Councilman Johnson moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

The application of BARTON WARREN NATT, JR., 306 Chalmers Avenue, for a taxicab driver's permit, duly approved by the City Manager, was submitted. Councilman Glass moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

The application of D. F. Samuel, 301 West Riverside Drive, for the Red Ball Taxi for a taxicab terminal operator's license, duly approved by the City Manager, was submitted. Councilman Johnson moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

The application of AZTECA BAR, 1902 East 7th Street, by Juan Moreno, for a wine and beer license, duly approved by the City Manager, was submitted. Councilman Glass moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

The application of S.B. & S INC. (D & B Cafe), 2508 Guadalupe Street, by Wright Styles, Dave Bassist and Abe Sternberger, for a wine and beer license, duly approved by the City Manager, was submitted. Councilman Glass moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

The application of S.B. & S. INC., (The Tavern) 922 West 12th Street, by Wright Styles, Dave Bassist and Abe Sternberger, for a wine and beer license, duly approved by the City Manager, was submitted. Councilman Glass moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

The application of SADALLAH MENEM, 706 East 6th Street, for an on-premise beer license, duly approved by the City Manager, was submitted. Councilman Glass moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

The application of W. E. BAR & CAFE, 1313 East 6th Street, by Earl Williams, for a wine and beer license, duly approved by the City Manager, was submitted. Councilman Glass moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Councilman Glass offered the following resolution and moved its adoption:

(RESOLUTION)

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

That Guiton Morgan, the City Manager, be and he is hereby authorized and directed in behalf of the City of Austin to enter into a contract with the Texas Public Service Company for the purchase by the City from the Texas Public Service Company of natural gas fuel to supply the steam generating plant of the City of Austin, all in accordance with the terms and provisions of a contract, a copy of which is attached hereto and made a part of this Resolution for all purposes:

(Copy of Contract attached)

THE STATE OF TEXAS :
COUNTY OF TRAVIS :

THIS CONTRACT made between TEXAS PUBLIC SERVICE COMPANY, called Seller, and CITY OF AUSTIN, a municipal corporation, called Buyer, bears evidence as follows:

In consideration that the City of Austin shall pass an ordinance granting Texas Public Service Company an extension of its present franchise to use the streets, alleys and public places in the City of Austin for the distribution and sale of natural gas, and when and if said ordinance shall become final and effective and is accepted by Texas Public Service Company; and in further consideration of the mutual covenants and obligations herein contained:

1. Seller agrees to sell and deliver to Buyer, and Buyer agrees to purchase and receive from Seller natural gas for the entire industrial fuel requirements of the electric generating station of Buyer located at the intersection of West Avenue with West First Street at the price per thousand cubic feet (MCF) as follows:

First	500,000 cu. ft. per mo.	20¢ per M cu. ft.
Next	500,000 cu. ft. per mo.	15¢ per M cu. ft.
All over 1,000,000 cu. ft. per mo.		12½¢ per M cu. ft.

Gas deliveries to be computed on a pressure basis of four ounces above fourteen and four-tenths pounds atmospheric pressure, and at a base of sixty degrees Fahrenheit (60°F.) and specific gravity of sixty-hundredths (.60).

Such Rate Schedule is based on gas having a total heat value content of one thousand (1,000) British Thermal Units (BTU) per cubic foot. Should the gas so delivered during any billing month contain more than one thousand (1,000) British Thermal Units (BTU) per cubic foot, the price of gas delivered during such billing month shall be increased at the rate of one per cent (1%) for each ten (10) British Thermal Units (BTU) above one thousand (1,000) total British Thermal Units (BTU) per cubic foot. In the event Buyer shall purchase and pay for gas under this contract and in accordance with the aforesaid Rate Schedule, and through any metering station, in an amount exceeding One Hundred Seventy-Five Thousand Dollars (\$175,000.00) for each contractual year: All gas delivered each month shall be billed in accordance with the aforesaid Price

Schedule plus British Thermal Unit (BTU) adjustment, less ten per cent (10%); or, at the option of Buyer, all gas delivered each month shall be billed in accordance with aforesaid Price Schedule without addition of British Thermal Unit (BTU) adjustment.

2. The prices set forth in the Rate Schedule set out in the above paragraph and attached hereto are based upon taxes as are in effect on November 1, 1945, insofar as they affect Seller's cost, directly or indirectly. In the event such taxes are thereafter increased or decreased, an adjustment will be made in the above prices in the manner and to the extent hereinafter provided. The term "tax" as used herein shall mean any tax (other than ad valorem, income, or excess profits taxes, or any franchise charge made by the City of Austin), license, fee or charge now or hereafter levied, assessed or made by any governmental authority on the gas or on the act, right or privilege of production, severance, gathering, transportation, distribution, handling, sale or delivery of gas which is measured by the volume, value or sales price of the gas in question; provided, however, that the term "tax" shall not be deemed to include any general franchise tax imposed on corporations on account of their corporate existence or on their right to do business within the State as a foreign corporation. To the extent that the weighted average amount of all such taxes lawfully required to be paid by Seller with respect to any 1,000 cubic feet of gas delivered hereunder during any month after November 1, 1945, shall exceed the weighted average amount of all such taxes required to be paid by Seller with respect to each 1,000 cubic feet of such gas on November 1, 1945, the price per 1,000 cubic feet of gas delivered hereunder during the month in question shall be increased by an amount equal to 100% of such excess. For the purpose of determining the above mentioned tax adjustment, any tax paid by any subsidiary or affiliate of Seller and any tax which Seller under contractual obligation refunds to the person or company paying same shall be considered to have been paid by Seller.

3. For the purpose of billing under this contract the operating months of the Buyer shall be January to December, both inclusive.

4. This contract is for a term of nine (9) years, commencing the 25th day of July, 1948, unless Buyer shall give written notice of intention to terminate to Seller at least thirty (30) days prior to the 25th day of July of any year during the term hereof.

5. Seller agrees to install, operate and maintain standard meter or meters of suitable capacity and design to measure the gas deliveries as specified herein, and may measure all gas delivered hereunder at such pressure as may exist by virtue of operating conditions. Buyer agrees to install and maintain all equipment necessary to receive such gas at point of delivery.

6. (a) Meter measurements shall be conclusive on both parties, except where meter is defective or fails to register, in either of which cases Seller shall repair or replace the meter, and the quantity of gas delivered while the meter was out of order or failed to register shall be determined by correcting the error if the percentage of error is ascertainable by calibration test or mathematical calculation, or, if not so ascertainable, then by estimating the quantity on the basis of deliveries by the new or repaired meter, proved to accuracy, during a succeeding period under similar conditions. No meter shall be considered in error unless the error shall exceed two percent (2%).

(b) Seller agrees to calibrate meters delivering gas to Buyer, when requested by Buyer, as often as is necessary to comply with good operating practice.

(c) Buyer may at its option and expense install and operate check meters to check Seller's meters, but measurement of gas for the purpose of this agreement shall be by Seller's meters only.

7. Buyer agrees that the point of delivery of all gas hereunder shall be at the outlet of Seller's meter or meters and that Seller shall not be liable for any loss, damage or injury resulting from such gas or its use after it leaves such point of delivery, all risks thereof and therefrom being assumed by Buyer.

8. Buyer represents that all appliances, equipment and piping at and beyond point of delivery will be kept and maintained throughout the term of this contract in good condition and safe and suitable for the use to which the same are put. Buyer further agrees to cause said appliances, piping and equipment to be inspected at reasonable intervals; also to give immediate notice in writing to Seller if and when it is discovered that any appliances, piping or equipment upon Buyer's premises are in unsafe condition. Seller shall not be obligated to deliver gas to Buyer after it has received notice of any kind or character that any appliances, piping or equipment upon Buyer's premises are in unsafe condition or upon Buyer's failure to pay any bill for gas delivered for more than thirty (30) days after the same has become due. In any such event Seller may discontinue furnishing gas until such time as said property has been restored to a safe condition or Buyer has paid all amounts past due and delinquent, any such period of discontinuance not to be included in computing the term of this contract.

9. Title to all meters, appliances and equipment placed on Buyer's premises and not sold to Buyer shall remain in Seller with right of removal and no charge shall be made by Buyer for the use of premises occupied by same. Seller's representatives shall have the right to enter upon said premises at any reasonable time for any purpose connected with the service of gas provided in this contract.

10. Interruption of gas deliveries in whole or in part due to inability of Seller to deliver or Buyer to receive shall not be the basis of claims for damages sustained by either party when due to act of God, the elements, labor troubles, fires, accidents, breakage or repair of pipe lines or machinery, depletion of gas supply, requirements of domestic consumers or other causes or contingencies beyond the control of and occurring without negligence on the part of the parties. The parties shall resume delivering and receiving gas when such causes or contingencies shall cease to be operative.

11. This contract is subject to the orders, rules and regulations of duly constituted regulatory bodies having jurisdiction over either or both Seller or Buyer, otherwise cannot be altered by one party without the written consent of the other party.

12. Buyer will protect Seller's property on Buyer's premises from injury or damage and will not tamper with or remove such property or permit the same to be tampered with or removed without consent of Seller.

13. Seller shall not be bound by any representation or promise not herein contained, this agreement and attached Rate Schedule embodying the entire contract between the parties; and the same shall be binding upon Seller when signed by its President or Vice President; and it shall not be assignable by Buyer without the written consent of Seller.

IN TESTIMONY WHEREOF, the City of Austin has caused these present to be executed in triplicate by Guiton Morgan, its City Manager, thereunto duly authorized, and its seal hereto affixed, attested by its City Clerk, and Texas Public Service Company has caused these presents to be executed in triplicate by _____, its _____, thereunto duly authorized, and its seal hereto affixed, attested by its Secretary, this the 31st day of August, 1948.

CITY OF AUSTIN

By _____
City Manager

Attest:

BUYER

City Clerk

TEXAS PUBLIC SERVICE COMPANY

Attest:

By _____

SELLER

Secretary

Which motion, carrying with it the adoption of the resolution, carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Upon motion, seconded and carried, the meeting was then recessed, subject to call of the Mayor.

Approved:

Tom Miller

MAYOR

Attest:

Helene M. Keenan

CITY CLERK