

If, notwithstanding our performance of valuable services at the dam itself, the Council should conclude that we are not continuing in our effort to find the means with which to rehabilitate the dam, then, in that event also, the Council could, if it saw fit to do so, give us the notice to vacate unless we do begin the work of rehabilitation within the ninety days, as above indicated.

The Council will observe that the above proposal is not a request for a two year period within which to begin the work of rehabilitating the dam, but is a request for a reasonable opportunity to show to the Council by actual performance, and not by promises, that it would be against the interest of the City to declare the forfeiture and to dispense with our services. We are willing to let the Council be the judge of whether at any and all times we are doing everything reasonably within our power to find the means for beginning the work of rehabilitation, according to the Ordinance of February 4, 1932. We are also willing to let the Council be the judge whether during that time the work that we are actually doing at and around the dam is of sufficient value to the City to warrant your allowing us to continue.

The Council will observe that under the above proposal we place ourselves in the position where, after spending substantial sums of money in clearing debris or otherwise for the city's benefit, our tenure would even then be subject to the will of the Council. In this way the Council could let us spend substantial sums of money and could take advantage of whatever work had been done and then could call upon us either to begin the actual work of reconstructing the dam or to surrender possession. We will expect the Council to act at all times in the interest of the City, and if we can not show the Council that it is an advantage to the City to have us continue on the job, we would expect to receive the notice from the Council.

We would, of course, expect to begin on November 28, 1935, the delivery of the 4,000,000 kwh of electric energy per annum specified in the Ordinance above mentioned if on that date we are still in possession under the above proposal. It would also be understood that the acceptance by the Council of this proposal would not extend or postpone the time of the final delivery to the City of the completed structure at the expiration of the franchise period specified in the Ordinance of February 4, 1932. Indeed, except as is above stated, the Ordinance Contract would remain in full force and effect without change.

Respectfully submitted,

AUSTIN DAM, INC.,

By (Signed) John W. Carpenter. "

The Council informally rejected the proposal.

Upon motion duly made and seconded, the Council recessed subject to call of the Mayor.

Attest:

Helen McKellar City Clerk

Approved: Tom Miller
MAYOR.

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, December 1, 1933.

The meeting was called to order by the Mayor. Roll call showed the following members present: Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 5; absent, none.

By unanimous consent, the reading of the Minutes of the last meetings was postponed until the next regular meeting.

The Mayor laid before the Council the following ordinance:

AN ORDINANCE REPEALING THE ORDINANCE ENTITLED:
"AN ORDINANCE ADOPTING THE CERTAIN AGREEMENT
DATED NOVEMBER 28, 1931, BETWEEN AUSTIN DAM, INC.,
AND CITY OF AUSTIN, AND ORDERING SAID AGREEMENT
TO BE RECORDED AT LENGTH IN THE MINUTES OF THE
CITY COUNCIL; GRANTING TO AUSTIN DAM, INC., ITS
SUCCESSORS AND ASSIGNS, THE FRANCHISE TO REHA-
BILITATE AND COMPLETE THE DAM OF THE CITY OF

AUSTIN ACROSS THE COLORADO RIVER AT ITS PRESENT LOCATION; ALSO THE FRANCHISE TO HAVE THE PRESENT POSSESSION AND USE OF SAID DAM, POWER HOUSE, EQUIPMENT, MACHINERY AND APPURTENANCES, AND ALL OF SAID HYDRO-ELECTRIC PLANT, INCLUDING LANDS, RIGHTS OF WAY, EASEMENTS, OVERFLOW RIGHTS, ETC., FOR THE PERIOD OF YEARS HEREIN SPECIFIED, AND ALSO THE FRANCHISE TO USE AND DISPOSE OF ALL POWER PRODUCED BY SAID HYDRO-ELECTRIC PLANT DURING SAID PERIOD; AND TO ERECT AND MAINTAIN CERTAIN TRANSMISSION LINES; ALL IN CONSIDERATION OF AND SUBJECT TO THE TERMS AND CONDITIONS EXPRESSED IN THIS ORDINANCE, AND IN THE AFORESAID AGREEMENT, AND IN THE DECREE OF COURT REFERRED TO IN THIS ORDINANCE"; DECLARING THE TERMINATION OF THE FRANCHISE GRANTED AUSTIN DAM, INC., BY ACT OF SAID ORDINANCE; AND THE FORFEITURE AND CANCELLATION OF ALL THE RIGHTS, PRIVILEGES AND FRANCHISES GRANTED TO AUSTIN DAM, INC., UNDER SAID ORDINANCE, AND/OR UNDER SAID AGREEMENT, AND/OR UNDER THE TERMS OF THE DECREE OF COURT ENTERED ON NOVEMBER 30, 1931, IN CAUSE NO. 292, IN EQUITY, IN THE DISTRICT COURT OF THE UNITED STATES, FOR THE WESTERN DISTRICT OF TEXAS, ENTITLED THE NEW YORK TRUST COMPANY VS. THE CITY WATER POWER COMPANY (CITY OF AUSTIN VS. AUSTIN DAM, INC.) AND DIRECTING THE CITY MANAGER, AFTER NOTICE IN WRITING, TO ENTER UPON, TAKE POSSESSION OF, AND HOLD IN THE NAME OF THE CITY OF AUSTIN, SAID DAM, POWER HOUSE, AND ALL THE MACHINERY AND EQUIPMENT INSTALLED THEREIN, AND ALL OTHER PROPERTY AND PREMISES PERTAINING TO SAID HYDRO-ELECTRIC PLANT.

The ordinance was read the first time and Councilman Alford moved that the rule be suspended and the ordinance placed on its second reading. The motion was seconded by Councilman Gillis and carried by the following vote: Ayes, Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 5; nays, none.

The ordinance was read the second time and Councilman Alford moved a further suspension of the rule and the placing of the ordinance on its third reading. The motion was seconded by Councilman Gillis and carried by the following vote: Ayes, Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 5; nays, none.

The ordinance was read the third time and Councilman Alford moved that same be finally passed. The motion was seconded by Councilman Gillis and carried by the following vote: Ayes, Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 5; nays, none.

The Mayor laid before the Council the following 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 ACADEMY DRIVE beginning at the end of an existing gas main, which point of beginning is twenty-one feet north of and approximately 72 feet west of the intersection of the west line of Hillside Drive and the south line of Academy Drive.

Thence in a westerly direction a distance of approximately one hundred and fifty feet to a point twelve feet south of the north line of Academy Drive.

Thence in a westerly direction twelve feet south of and parallel to the north line of said Academy Drive to a point approximately seventy-five feet west of The Circle.

Thence in a westerly direction to the end of an existing gas main, which end is eighteen feet south of and approximately three hundred and forty feet east of the intersection of the east line of Congress Avenue and the north line of Academy Drive.

(2) A regulator pit in ACADEMY DRIVE, the center of which regulator pit shall be twenty-one feet north of and approximately seventy-two feet west of the intersection of the south line of Academy Drive and the west line of Hillside Drive.

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 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.

The resolution was adopted by the following vote: Ayes, Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 5; nays, none.

The Mayor laid before the Council the following resolution:

WHEREAS, The Southwestern Bell Telephone Company has presented to the City Council tentative maps and plans showing the proposed construction of its pole lines in the streets in the City of Austin hereafter named, and said maps or plans have been considered by the City Engineer; therefore,

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

THAT the Southwestern Bell Telephone Company be and the same is hereby permitted to construct its pole lines in the following streets:

(1) A telephone pole line in HASKELL STREET ALLEY from Chalmers Street to Chicon Street, the centerline of which pole line shall be one foot south of and parallel to the north line of said Haskell Street Alley.

(2) A telephone pole line in EAST THIRTEENTH STREET from Leona Street to Coleta Street, the centerline of which pole line shall be eight feet south of and parallel to the north line of said East Thirteenth Street.

THAT the work and construction of said pole lines, including the excavation of the streets and the restoration and maintenance of said streets after said pole lines have been constructed, shall be under the supervision and direction of the City Manager.

The resolution was adopted by the following vote: Ayes, Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 5; nays, none.

There being no further business, upon motion of Councilman Alford the Council recessed subject to call of the Mayor.

Approved: Tom Miller
MAYOR.

Attest:

Helen McTeer
City Clerk