

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

THAT Austin Gas Company be and the same is hereby permitted to lay a gas main to be located on 34th Street from the east line of King Street to the west city limit line, said main to be located as follows:

From the east line of King Street to the west line of Pratt Avenue, the center of said line to be 20 feet south of and parallel to the north line of 34th Street;

Thence westerly in a straight line to a point which is 11 feet north of the northeast corner of that 7.44 acre tract of land which was conveyed to the City of Austin by John Bryant, known as the Bryant Gravel Pit;

Thence westerly 11 feet distant from and parallel to a point which is 11 feet north of the northwest corner of said 7.44 acre tract of land;

Thence westerly 11 feet distant from and parallel to the south line of 34th Street to the west city limit line.

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 main has 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 above resolution was adopted by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, Reed, and Steck, 5; nays, none.

Councilman Reed moved that the Council recess, subject to call of the Mayor. Motion prevailed by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, Reed, and Steck, 5; nays, none.

The Council then recessed.

Approved: 

Mayor.

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, March 1, 1928.

The Council was called to order by the Mayor. Roll call showed the following members present: Mayor McFadden, Councilmen Mueller, Pannell, Reed, and Steck, 5; absent, none.

The Minutes of the last meeting were read and Councilman Mueller moved the adoption of same. Motion prevailed by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, Reed, and Steck, 5; nays, none.

Mayor McFadden laid before the Council the following resolution:

WHEREAS, on September 22, 1927, Peoples Utilities Texas Corporation deposited with the City of Austin its certified check for \$50,000.00, payable to the City Treasurer, conditioned that if said Corporation should be granted the franchise to distribute natural gas in the City of Austin, that such corporation would begin the distribution of same by March 1, 1928; and

WHEREAS, the name of said Corporation was thereafter changed to Austin Gas Company, and said Austin Gas Company has been granted the franchise to distribute natural gas in Austin, and the actual distribution of said natural gas was begun by said Company before March 1, 1928; therefore,

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

That in view of the compliance of the above condition by Austin Gas Company, the City Manager be and he is hereby instructed to return to Austin Gas Company said certified check.

The foregoing resolution was adopted by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, Reed, and Steck, 5; nays, none.

Mayor McFadden laid before the Council the following communication from J. Bouldin Rector, City Attorney:

"March 1, 1928.

The City Council,

Austin, Texas.

Gentlemen:

You have directed me to investigate and advise you as to the respective rights, title and interest, and the legal responsibilities and duties, several and related, of the City of Austin and the Austin Dam, Inc., and its assigns, in and to the Austin Dam and the franchise granted in connection therewith, and to return to you my conclusions as to the procedure necessary to enforce and determine any such rights and responsibilities, and in obedience to your directions, I submit the following:

What is commonly known as the Johnson Dam Ordinance or Franchise, was passed by the City Council on July 29th, 1911, and ratified by the voters on August 30th following.

This ordinance grants to Wm. D. Johnson and his assigns, the right and franchise to build a reservoir, to build and equip a power house and plant, a transmission line, and a dam at or near the site of the old dam, and the privilege to overflow lands which may be overflowed by backwater from the dam; and obligates the said Johnson and his assigns and all persons claiming by, through or under him, to furnish the material and labor and build the structures and furnish the equipment specified in the franchise. It requires the work to be commenced within 60 days, and completed within two years after the date of the final passage of the ordinance, with such additional time as may be lost by delays and circumstances beyond the control of Johnson, and his assigns.

It is provided in said franchise ordinance and contract that in the event Johnson or his assigns fail to complete the work comprehended in said Ordinance in strict accordance with the plans and specifications within the time provided for, time being expressly understood to be of the essence of the contract, then such failure shall, at the option of the City, terminate all rights and franchises granted by the Ordinance to Johnson and his assigns, and the same shall revert to the City, and the City shall have the right to take possession of all the work accomplished and all the material on the premises, and said plans and specifications shall thereupon become the property of the City, all free and clear of all claims on the part of the said Johnson, or his assigns, or any person, firm or corporation claiming by, through or under them, as liquidated damages, and the City shall have the right to take immediate possession and control of same.

The dam, appurtenances, structures, and equipment provided by the contract, are required to be built strictly in accordance with the plans and specifications furnished by Johnson and his assigns, but it is expressly provided in the specifications that the plans and the specifications themselves may be changed at any time and in any manner deemed desirable by the Engineer of Johnson, and his assigns, provided only that such changes do not decrease the amount of the equipment in the power-house, height or stability of the dam, the size of the reservoir, or in any way diminish the capacity or completeness of the installation, or in any way lower the standard of the grade of construction. In other words, subject only to the limitations stated, Johnson and his assigns are authorized by the franchise contract to modify and change the plans and structures at will without consulting the City of Austin.

It is further provided in the franchise contract that after the completion of the dam, appurtenances, structures, equipment, etc., the City of Austin is granted the exclusive control and management of the power-house and equipment therein, of the lake, transmission line and reservoir, and Johnson, and his assigns, are obligated to maintain and keep the dam in repair and prevent any leakage around, through, or under the same, that would decrease the power furnished by the dam and equipment.

It is further provided that Johnson, and his assigns, are obligated to deliver to the City all the water power and electric energy created by the dam, appurtenances, and equipment, and to guarantee to deliver not less than 600,000 horsepower hours of electric energy during each successive thirty-day period, and in case of default therein, to pay the City of Austin \$0.0135 for each horsepower hour below the guaranteed minimum of 600,000 horsepower hours.

Upon completion and acceptance of the dam, appurtenances, reservoir, transmission line, power-house, and equipment, the City is obligated to pay to Johnson and his assigns, \$100,000.00 in cash, and fifty (50) semi-annual payments of \$32,400.00 each, the first installment to be paid six months after the completion and acceptance of the dam,

The contract provides that all the rights and franchise granted by it may be assigned, and in the event of the assignment thereof by Johnson, and his assigns, all persons claiming by, through, or under him, shall be bound by all of its terms and provisions.

The franchise was transferred by Wm. D. Johnson to City Water Power Company, and on or about the 31st day of March, 1915, the City Water Power Co., as assignee of Johnson, tendered the dam, appurtenances, power-house, transmission line, equipment, etc. to the City, claiming that all of the work had been

completed in accordance with the contract. At this time the crest-gates were leaking, and the City contended that such leaks reduced the holding power, capacity and efficiency of the dam, and for that reason, among others, the City refused to accept the work.

After the tender of the dam, appurtenances, etc., as completed, and the City's refusal to accept the same, it was contended that the dam and appurtenances could be completed at small cost. In order to aid in the matter, by resolution dated April 12, 1915, the City authorized the payment of \$21,000.00 to Wm. P. Carmichael Co., the Contractor, out of the \$100,000.00 cash payment to become due upon completion and acceptance of the dam. It was agreed in substance that such payment before the completion of the work, should not estop the City of Austin from asserting any rights it had under the contract.

Before the dam was completed, a flood came and washed out and destroyed practically all of the crest-gates, and the damage was never repaired, and the dam, appurtenances, etc., were never completed or accepted by the City.

That in order to procure the necessary funds to erect said dam and appurtenances and perform the work provided for in said contract, the City Water Power Company, assignee of Wm. D. Johnson, issued its First Mortgage Gold Bonds to the amount of \$750,000.00, dated April 2, 1912, and to secure the payment of said bonds, executed a mortgage upon the above mentioned franchise, right, powers, etc., and the payments to become due to it under the terms of said franchise. The City Water Power Co. defaulted in the payment of interest due upon said bonds and the New York Trust Company, Trustee in said mortgage, filed suit in the Federal District Court at Austin, and made the City Water Power Co. and Wm. P. Carmichael Co. parties defendant, and asked for judgment against the City Water Power Co. in the amount of bonds issued by it, and for foreclosure of its lien upon the property covered by the mortgage, and also prayed for the appointment of a receiver.

On November 27, 1915, a receiver was appointed and took charge and possession of the property described in said mortgage.

On April 18, 1918, the City Council by resolution made formal demand upon said Receiver to complete the work and begin to use the privileges and perform the other obligations stipulated in the franchise ordinance and contract, and that upon his default thereof, the proper proceedings be instituted to annul the franchise; whereupon, the Receiver impleaded the City of Austin in said suit and on or about July 12, 1918, the City filed its Answer and Cross-Bill in said cause against the New York Trust Co., Wm. P. Carmichael Co., and the Receiver, and alleged in substance that the dam and its appurtenances had never been completed or tendered to the City of Austin as completed, by either the City Water Power Co. or by the Receiver; that the duty resting upon the City Water Power Co., and its Receiver, to complete and use the dam had long since matured and was undischarged; that the City was wholly without fault and was not in any manner responsible for the long delay in the completion of the dam; that the City had been damaged by the delay, and prayed that the ordinance contract in question be annulled, and that all rights, privileges and franchises contained in the ordinance be withdrawn, set aside, and held for naught.

On February 7, 1922, judgment was entered in said cause foreclosing the lien granted in said mortgage, and ordering the sale of all of the franchise and property therein described, and the same was sold and purchased by the Austin Dam, Inc., which, so far as I am advised, is still the owner thereof.

It was further decreed by the Court in said cause that the delay of City Water Power Co. in completing the dam, was excusable by reason of defects in the plans, and that the City Water Power Co. and the purchaser or purchasers of said dam, its appurtenances and property sold under the decree, were entitled to a reasonable time after the sale in which to carry out the terms and provisions of the franchise.

Six years have elapsed since the entry of the Decree allowing the purchaser of the franchise a reasonable time in which to complete the dam. Six years would seem to be a reasonable time.

It will be noted that the only reason ever assigned for the failure to complete the dam is that the plans are insufficient. Conceding that the failure of the original plans is a good reason for granting the purchaser of the franchise a reasonable time to change them so as to make them sufficient and complete the work, it is clear that the defects in the plans do not authorize the purchaser to sit still and do nothing, or absolve it from performing the contract. By the plain terms of the contract, the owner of the franchise has the authority to change the plans at will, to design and provide, or have designed and provided, sufficient plans. The only limitation or restriction, so far as the dam is concerned, is that its height and stability shall not be reduced. No duty or obligation rests upon the City to provide or approve suitable or sufficient plans. The owner of the franchise is absolutely bound and obligated by it to complete the dam; not necessarily according to the original plans, but according to any new or modified plans designed by it, provided the height and stability of the dam is not decreased.

The consideration for the completion of the dam, appurtenances, etc., is fixed. The City would not be warranted in giving more, for it is not obligated in law or morals to pay more.

As the matters now stand, the Johnson Franchise is a live, binding contract. Its present owner, be it the Austin Dam, Inc., or some other person or corporation, is bound to complete the same and other work, according to the terms and conditions of the franchise, and the City is bound to take all power produced by the Dam and pay the consideration stipulated. The City cannot contract to take the power that can be produced by the dam from any

other source. In other words, as long as the Johnson Franchise is alive, the City is bound by its terms, and the owner of the franchise is bound to perform it or surrender it to the City.

The City is not in equity and good conscience entitled to forfeit the franchise at this time. It should make demand upon the present owner of the franchise to perform the contract and complete the work comprehended in said contract. If it fail to do so after reasonable notice and demand, the City would then have the right to forfeit the franchise and take over the property.

The holder of the franchise has no right to demand that the City abrogate any of its provisions, or take and pay for power on any other terms than those stated in the contract.

The City rested under no obligation to Wm. D. Johnson and rests under no obligation to the present owner of the franchise to modify the contract and pay more for its power needs than stipulated in the contract, and thereby place a greater burden on the people than they voted to assume.

The City is in no manner responsible for the plans designed for the work. They were not its plans; it did not design them. Johnson and his assigns protected themselves against improper and insufficient plans by reserving and securing to themselves the right to change the plans where deficient or substitute new ones. The City Water Power Company took advantage of this provision, and did change the plans and designs of the dam without consulting the City, - in fact, without its knowledge. Among other changes, the width of the base of the dam was reduced from 125 feet to 93 feet. Therefore, can the present owner of the franchise now be heard to say that it cannot complete the dam in accordance with the original plans, when under the express terms of the contract it has the power and authority to design modified or new plans under which it can complete it? Has the present owner of the franchise the right to propose the expenditure of a limited sum of money on the dam, in consideration of a long-term, advantageous power contract, without any firm agreement to complete the work provided for in the ordinance contract?

It follows that my conclusions with respect to the matters submitted to me in your Resolution, are:

1. The Wm. D. Johnson Franchise is an existing, enforceable contract binding on both the present owner and the City of Austin.
2. It vests no title to the dam and appurtenances, power-house, machinery and appurtenances, reservoir or transmission-line, in the grantee, or in the present owner. At most, it grants to Wm. D. Johnson and assigns, the franchise and right to build the dam, erect the structures and furnish the machinery therein specified, and to overflow the land above the dam that may be overflowed by the water impounded by it.
3. The dam has never been completed.
4. The present owner of the franchise is bound by the terms of the contract to complete the dam and structures and to furnish the machinery therein specified, and deliver to the City all the power produced by the dam and power plant for the period of 25 years from the date of the completion and acceptance of the dam, for the consideration stated in the instrument and hereinafter enumerated.
5. If any of the plans designed and provided for the work or the specifications under which the work is to be done, are insufficient or unsatisfactory to the Grantee Johnson, his assigns, and the present owner, they have the right to modify and change the old plans, and to furnish new plans and specifications without consulting the City of Austin; provided, that such changes do not decrease the amount of the equipment in the power-house, the height and stability of the dam, the size of the reservoir, or in any way diminish the capacity or completeness of the installation, or in any way lower the standard of the grade of construction.
6. When the dam is completed and accepted, the City is obligated to take all the power produced by it and the power-plant, which is guaranteed to be at least 600,000 horse-power hours each thirty days, and to pay the owner of the franchise \$100,000 in cash and fifty semi-annual installments of \$32,400.00 each.
7. The City has no authority to make any fixed long-time contract with any one for power so long as the Johnson Franchise is in force.
8. The City has the right to insist on the performance of the Johnson Franchise.
9. The City has the right to make demand upon the present owner of the Franchise for specific performance of the contract, as more than a reasonable time for the completion of the dam and contract has elapsed since the sale of the Franchise under foreclosure, and if it fail after demand and reasonable notice, to proceed to complete the dam and the work provided for in the contract, the City will then have the right to forfeit the Franchise and take over the dam and other property in satisfaction of its damages for breach of the contract.

Very respectfully yours,

(Sgd) J. Bouldin Rector,
City Attorney. "

Councilman Steck laid before the Council the following resolution:

WHEREAS, the City Council of the City of Austin, by authority of an election of the qualified voters of said City held for the purpose, did on the 11th day of September, 1911, by ordinance duly enacted, grant to Wm. D. Johnson, and his assigns, the franchise to erect and maintain for a term of years a dam across the Colorado River, and to erect and maintain certain appurtenances to said Dam, and which ordinance provided that the said Wm. D. Johnson and his assigns shall furnish to said City the entire water power produced by said Dam, in consideration of said City paying to said Grantee and his assigns the certain cash sum stipulated in said ordinance upon the completion of said Dam, and thereafter the certain semi-annual payments stipulated in said ordinance for a period of 25 years after the completion of said Dam; and

WHEREAS, the said Wm. D. Johnson did thereafter assign to City Water Power Company all the rights and privileges contained in said ordinance, and the said City Water Power Company did by the acceptance of said assignment undertake all of the obligations of said Grantee contained in said ordinance; and

WHEREAS, said City Water Power Company did undertake the construction of said Dam and appurtenances, but on the 11th day of September, 1915, said Company finally abandoned said work and left same in an uncompleted condition and said Dam has remained in said uncompleted condition ever since said date; and

WHEREAS, on November 16, 1915, the New York Trust Company filed in the District Court of the United States, for the Western District of Texas, its bill of complaint against said City Water Power Company, praying for the foreclosure on said Dam and its appurtenances, and the franchise appurtenant thereto, of the mortgage securing certain bonds theretofore issued by said City Water Power Company, and also praying for the appointment of a receiver of all the property, including said franchise, of said City Water Power Company; and

WHEREAS, on the 27th day of November, A. D. 1915, the said Court granted the prayer of said New York Trust Company as to the appointment of a receiver, and on said date appointed a Receiver, with the full power and obligation of said Receiver to complete said Dam and its appurtenances, as same was undertaken by said Company, by virtue of the privileges and obligations contained in its franchise and contract with said City of Austin; and

WHEREAS, said Receiver wholly failed to proceed to the completion of said dam or to use any of the rights and privileges granted or to perform any of the obligations stipulated in said franchise; whereupon on the 15th day of April, 1918, the City Council by resolution made formal demand upon said Receiver to complete said work and begin to use said privileges and perform said obligations, and upon his default thereof, that the proper proceedings be instituted to annul and set aside the rights and privileges granted in said franchise; and

WHEREAS, said receiver, thereupon impleaded the City of Austin in the said suit pending in the United States Court, and the City of Austin, as

answer and cross-action to said action of said Receiver, prayed the Court that said franchise be set aside and held for naught; and

WHEREAS, said cause was pending in said Court without action until the 7th day of February, 1922, at which time said Court entered its judgment in said cause, foreclosing the lien granted in said mortgage, and ordering the sale of said property and franchise therein described, and further decreed that the purchaser of said Dam, its appurtenances, and said franchise, should take same subject to all the obligations contained in the franchise, but should be entitled to a reasonable time after such sale in which to carry out the terms thereof; and

WHEREAS, in accordance with the orders and decree of said Court, said Dam, its appurtenances, and said franchise, were on 9th day of May, 1922, sold to Austin Dam, Inc., and said Austin Dam, Inc. has been the successor and owner of said franchise and privileges continuously since said date; and

WHEREAS, more than six years have now elapsed since said Court decreed that the purchasers of said dam and franchise should have a reasonable time to complete said dam, but notwithstanding such fact, said Austin Dam, Inc. has wholly failed to perform its obligations to the City of Austin contained in said contract and franchise, and has wholly failed to complete said dam or to proceed in any definite manner to the completion of same, and to the use of the rights and privileges contained in said contract and franchise; therefore,

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

THAT demand be immediately made in the proper and legal way, and through the proper medium, upon said Austin Dam, Inc. to complete said dam and its appurtenances, and to begin to use the rights and privileges granted by, and to perform the obligations expressed in said franchise, and that said Austin Dam, Inc. be required to show whether or not it can and will proceed to the use of such franchise and privileges; and

BE IT RESOLVED FURTHER:

THAT upon the failure or refusal of said Austin Dam, Inc., within thirty days herefrom to proceed to the specific performance of the said franchise contract, or satisfy the City that it is able and willing and will within a reasonable time proceed to carry out and complete the work provided for in said franchise, the City Attorney of the City of Austin shall institute proceedings in the proper court for the purpose of annulling and setting aside all the rights and privileges heretofore granted said Wm. D. Johnson, and his assigns, to construct, operate and maintain said Dam, and furnish the power produced by said Dam to the City of Austin, and further, to take over the Dam and its appurtenances in satisfaction of the damages sustained by the City of Austin, on account of the breach of said contract.

The above resolution was adopted by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, Reed, and Steck, 5; nays, none.

Councilman Reed moved that a page of the Minute Book carrying the Minutes of this meeting be set aside for the recording of a resolution commemorating the death of Fred Sterzing, City Tax Assessor and Collector. Motion was seconded by Councilman Pannell and same prevailed by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, Reed, and Steck, 5; nays, none.

This page set aside for the recording of
resolution on the death of Assessor & Col-
lector, Fred Sterzing.

Resolution was never drawn by City Attor-
ney.

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Mayor McFadden laid before the Council the following report of the Fire Chief and Fire Marshal:

"Austin, Texas, February 28, 1928.

Hon. Adam R. Johnson,
City Manager.

Dear Sir:

We, the undersigned, respectfully recommend that the territory immediately adjacent to the present 'Fire Limits' which extend along West 2nd Street, then North on Nueces Street to 5th Street, then West on 5th Street to West Avenue, be included in the 'Fire Limits'. The territory to be added is that district lying south of West 2nd Street, west of Colorado Street, north of the River and east of West Avenue, including Water and Light property, Incinerator and Lamar Park, and the following numbered blocks, 1, 2, 3, 4, 185, 186, 187, 188, 24, 25, 47, 48.

We believe that this district should be included in the 'Fire Limits' as it is immediately adjacent to what is termed the Manufacturing and Warehouse District, and the type of construction that is permitted outside of the fire limits is such that would create an additional fire hazard to the better type of buildings that are being built within the fire limits which are just north of this district.

It being our opinion that this extension of the 'Fire Limits' is very essential, we respectfully request that same be considered.

(Sgd) J. E. Woody,
Fire Chief.

R. F. Rockwood,
Fire Marshal. "

Councilman Mueller moved that the above report be adopted and the City Attorney be directed to draw an ordinance in accordance with same. Motion was seconded by Councilman Reed and same prevailed by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, Reed, and Steck, 5; nays, none.

City Manager Johnson submitted to the Council his annual report for the year 1927, which was received and filed.

City Manager Johnson advised the Council that he had appointed T.B. Marshall Assessor & Collector, to succeed Fred Sterzing, deceased.

Councilman Reed asked to be excused from the Council meeting and the request was granted.

Mayor McFadden laid before the Council the following resolution:

WHEREAS, H. E. Wattinger is the contractor for the construction of a building for C. M. Bartholomew to be situated on the original Block 72, Lots 6 and 5 of the City of Austin, and desires a portion of the street abutting said premises during said construction to be used in the work and for the storage of material therefor; therefore,

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

1. That space for the use hereinabove enumerated be granted to said H.E. Wattinger, the boundaries of which are defined as follows:

BEGINNING at the southeast corner of Block 72 of the Original City of Austin, said corner being the northwest corner of the intersection of West 6th and Lavaca Streets;

Thence N. 63° E. 37.71 feet to a point;

Thence parallel to and 26.67 feet distant from the west line of Lavaca Street N 19° E. 74.66 feet to a point;

Thence N. 25° W. 46.11 feet to a point in an alley;

Thence 6 feet distant from and parallel to the north line of Lots Nos. 6 and 5, Block 72, N. 71° W. 71.1 feet to a point;

Thence S. 19° W. 6 feet to the north line of Lot No. 5, Block 72;

Thence S 71° E. 79.58 feet to the northeast corner of Lot No. 6, Block 72;

Mayor McFadden laid before the Council the following resolution:

Chicon Street Space Assignment Revised.

WHEREAS, Austin Gas Company has presented to the City Council a map showing the proposed location of a gas main on Chicon Street from the south side of Fourth Street to the north side of Sixth Street; and

WHEREAS, a resolution was passed by the City Council of the City of Austin, Texas, on the 2nd day of February, 1928, which resolution was recorded in Minute Book 10, page 250, said resolution assigning space 19 feet west of and parallel to the east line of Chicon Street; and

WHEREAS, in the course of attempted construction a sanitary sewer main was found already existing 19 feet west of and parallel to the east line of Chicon Street; therefore,

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

THAT Austin Gas Company be, and the same is hereby permitted to lay and construct a gas main in and under Chicon Street from the south side of Fourth Street to the north side of Sixth Street, said main to be 17 feet west of and parallel to the east line of Chicon Street, said main to have not less than 6 feet of cover at Fourth Street and 4 feet of cover at all other points.

THAT the work and laying of said gas main, including the excavation of the streets and the restoration and maintenance of said streets after said main has 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 above resolution was adopted by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, and Steck, 4; nays, nons, Councilman Reed absent.

Mayor McFadden laid before the Council the following resolution:

WHEREAS, Austin Gas Company has presented to the City Council tentative maps or plans showing the proposed construction of its gas mains in the streets and alleys 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 Austin Gas Company be and the same is hereby permitted to lay and construct gas mains in and under the following streets and alleys:

1. A 4 inch gas main on West 8th Street alley from a point 172 feet south and 40.0 feet west of the intersection of the center lines of W. 9th and Colorado Streets to a point 172 feet south and 40.0 feet east of the center lines of West 9th and Lavaca Streets (this point being 7 feet south of the southwest corner of the Steck Building) said line to be 7 feet south and parallel with the north line of West 8th Street alley and placed under all existing storm sewer lines with not less than 18 inches of covering at any point.
2. A 4 inch gas main on West 15th Street alley from a point in Guadalupe Street, said point being 28 feet west and 5 feet north of the southeast corner of Guadalupe Street and West 15th Street alley; and running eastwardly along West 15th Street alley, 5 feet north and parallel with the south line of said alley to a point in the west line of Lavaca Street, said point being 5 feet north of the southwest corner of Lavaca Street and West 15th Street alley; said gas line to have not less than 18 inches of covering and to be so placed as to not disturb or interfere with any existing underground lines or structures.
3. A 4 inch gas main on Navasota Street from a point in the intersection of Navasota and E 2nd Streets, said point being 21 feet south and 21 feet east of the northwest corner of said Navasota and E. 2nd Streets, and running southwardly

along Navasota Street, 21 feet east and parallel with said street's west line to a point 21 feet east of the north west corner of E. 1st Street alley and Navasota Street; said gas line to have not less than 3 1/2 feet of covering and to be so placed as to not disturb or interfere with any existing underground structures or lines.

- (4) A 4 inch gas main on West 9 1/2 Street from a point in the south line of said W. 9 1/2 Street, said point being 120 feet west and 50 feet south of the northwest corner of Shelley and W. 9 1/2 Streets, and running northerly in W. 9 1/2 Street for a distance of 27 feet to a point 120 feet west and 23 feet south of the northwest corner of Shelley and W. 9 1/2 Streets;

Thence westwardly along said W. 9 1/2 Street, 23 feet south of and parallel with the north line of W. 9 1/2 Street for a distance of 125 feet to a point 23 feet south and 245 feet west of the said northwest corner of W. 9 1/2 and Shelley Streets; said gas line to have not less than 3 feet of covering and to be so placed as to not interfere or disturb any existing underground lines or structures.

- (5) A 2 inch gas main on Crockett Street from a point 18 feet south of the northwest corner of South Congress Avenue and said Crockett Street and running westwardly along Crockett Street, 18 feet south of and parallel with said street's north line to a point in the intersection of Crockett and Wilson Streets, said point being 18 feet south and 15 feet west of the northeast corner of said streets;

Thence northwardly along Wilson Street, 15 feet west of and parallel with the east line of said street to a point in Johanna Street line 15 feet west of the southeast corner of said Wilson and Johanna Streets; said gas line to have not less than 3 1/2 feet of covering and to be so placed as to not disturb or interfere with any existing underground lines or structures.

- (6) A 4 inch gas main on Baylor Street beginning at a point 18 feet north and 20 feet west of the southeast corner of W. 12th and Baylor Streets and running southwardly along Baylor Street, 20 feet west and parallel with the east line of said Baylor Street to a point 20 feet west of the northeast corner of W. 11th and Baylor Streets; said gas line to have not less than 3 1/2 feet of covering and to be so placed as to not disturb or interfere with any existing underground lines or structures.

THAT the work and laying of said gas mains, including the excavation in the streets and alleys and the restoration and maintenance of said streets and alleys 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 above resolution was adopted by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, and Steck, 4; nays, none, Councilman Reed absent.

Mayor McFadden laid before the Council the following resolution:

WHEREAS, Austin Gas 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 Austin Gas Company be and the same is hereby permitted to lay and construct gas mains in and under the following streets:

- (1) A 4 inch gas main on Comal Street between 23rd and Longfellow Streets, beginning at a point which is 40 feet north of and 27 feet east of the southwest intersection of Comal and 23rd Streets;

Thence in a general southerly direction 27 feet east of and parallel to the west line of Comal Street to a point which is 27 feet east of the southeast intersection of Longfellow and Comal Streets.

Said main shall not have less than 2 feet of cover.

- (2) A 4 inch gas main on Longfellow Street between the east line of Comal Street and the south line of 19th Street, said space to be 12 feet east of and parallel to the west line of Longfellow Street.

Said main shall have at least 18 inches of cover and shall go under the sanitary and storm sewers at the intersection of Kalmar or 22nd Streets, said depth being about 6 feet.

THAT the work and laying of said gas mains, including the excavation in the streets and alleys and the restoration and maintenance of said streets and alleys 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 above resolution was adopted by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, and Steck, 4; nays, none, Councilman Reed absent.

Mayor McFadden laid before the Council the following resolution:

GUADALUPE STREET SPACE ASSIGNMENT REVISED.

WHEREAS, the Southwestern Bell Telephone Company presented to the City Council a map showing the proposed location for a telephone conduit on Guadalupe Street from the south side of 29th Street to the north side of 30th Street; and

WHEREAS, a resolution was passed by the City Council of the City of Austin, Texas, on the 9th day of February, 1928, which resolution was recorded in Minute Book No. 10, pages 297-8, said resolution definitely assigning space for said conduit; and

WHEREAS, the Southwestern Bell Telephone Company has requested that the assignment of space for this street be changed to the east parkway on account of the anticipated effect of the electrolysis; and

WHEREAS, said request has been favorably considered by the City Council; 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 lay and construct its telephone conduit in and under the following portion of Guadalupe Street, the center of said conduit to be located as follows:

BEGINNING at a point on the west side of Guadalupe Street at or about the south line of 29th Street, said point being about five feet west of the west face of the east curb of Guadalupe Street, and being further evidenced by the existing manhole which has been constructed by the Southwestern Bell Telephone Company;

Thence running in a general northerly direction to a point which is 20 feet north of the south line of that portion of 29th Street which runs easterly, said point being about 7½ feet west of the east line of that portion of Guadalupe Street which runs northerly;

Thence parallel to and 7½ feet west of the east line of Guadalupe Street to a point which is 20 feet north of the north line of 30th Street; and

BE IT FURTHER RESOLVED:

THAT the assignment of space set forth in the resolution heretofore referred to as being recorded in Minute Book No. 10, pages 297-8 is hereby rescinded.

THAT the work and laying of said conduit, including the excavation of the streets and the restoration and maintenance of said streets after said conduit has been laid, shall be under the supervision and direction of the City Manager.

The above resolution was adopted by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, and Steck, 4; nays, none, Councilman Reed absent.

Mayor McFadden laid before the Council the following resolution:

WHEREAS, Lots Nos. 1, 2, 3, and 4, of Block 40, Travis Heights, and improvements thereon, together with personal property, were assessed on Assessment No. 11340 for taxation in the name of R. L. Struhall for the year 1927 at a valuation of \$2,500.00; and

WHEREAS, it appears from Petition No. 8, filed by said R.L.Struhall,

that said improvements were under construction on the 1st day of January, 1927, and that the value shown on said property should have been only \$1,455.00;

Therefore,

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

THAT the valuation of said property be changed from \$2,500.00 to \$1,455.00, and that the City Tax Assessor and Collector be and he is hereby instructed to change his rolls accordingly and to take credit therefor.

The above resolution was adopted by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, and Steck, 4; nays, none, Councilman Reed absent.

Mayor McFadden moved that, whereas, today is the time at which hearing is to be had of the property owners abutting on the alleys in relation to the improvement of said alleys, as follows:

The alley lying between Second Street and Third Street and Colorado Street and Lavaca Street;

The alley lying between Fourth Street and Fifth Street and Colorado Street and Lavaca Street;

The alley lying between Fifth Street and Sixth Street and Colorado Street and Lavaca Street;

The alley lying between First Street and Second Street and Congress Avenue and Brazos Street;

The alley running east and west and lying between Tenth Street and Eleventh Street and Congress Avenue and Brazos Street;

The alley running north and south and lying between Congress Avenue and Brazos Street and Tenth Street and Eleventh Street and the Alley running east and west in Block 123;

The alley running north and south and lying between Tenth Street and Eleventh Street and Congress Avenue and Colorado Street;

The alley lying between Fourth Street and Fifth Street and San Jacinto Street and Trinity Street;

The alley lying between Ninth Street and Tenth Street and Guadalupe Street and Lavaca Street;

The alley lying between Guadalupe Street and San Antonio Street and Twenty-second Street and Twenty-third Street;

and no one appearing to be heard in said behalf, said hearing be kept open until the next regular meeting of the City Council. Motion was seconded by Councilman Mueller and same prevailed by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, and Steck, 4; nays, none, Councilman Reed absent.

Councilman Steck moved that the Council recess, subject to call of the Mayor. Motion prevailed by the following vote: Ayes, Mayor McFadden, Councilmen Mueller, Pannell, and Steck, 4; nays, none, Councilman Reed absent.

The Council then recessed.

Approved: *O. H. McFadden*
Mayor.