

now, therefore,

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

THAT a thirty (30) day extension of time for completion of the project be granted to Brown & Root, Incorporated; and

THAT liquidated damages that would accrue under the terms of said contract between the date specified therein for completion of construction and the extended date for completion of construction granted by this resolution are hereby waived.

The resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

Mr. Gillespie Stacy came before the Council relative to notice of cancellation of exclusive agency given him for sale of Shoal Creek Boulevard Lots. The matter was discussed at length.

Upon motion duly seconded and carried, the meeting was recessed at 12:45 P.M., subject to call of the Mayor.

Approved:

Tom Miller
Mayor

Attest:

Hallie McMillan
City Clerk

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, May 6, 1937.

The meeting was called to order at 10:30 A. M., with Mayor Tom Miller presiding. Roll call showed the following members present: Councilmen C. M. Bartholomew, Simon Gillis, Mayor Tom Miller, and Councilman Oswald G. Wolf, 4; absent, Councilman Chas. F. Alford, 1.

The reading of the Minutes was dispensed with.

Judge J. H. Baugh appeared before the Council and requested that the City pay for the paving of Parkway from the alley to the entrance to Pease Park, owing to the fact that said street carried the greater part of the traffic to said park and the dust created thereby was a traffic hazard. The matter was referred to the City Manager to try and effect a compromise with Judge Baugh for the paving of said street on the usual basis that the City pays for the cost of paving.

Upon motion, duly seconded and carried, J. Pete Reyes was granted temporary permits to operate his two taxicabs recently cancelled by false representation of his brother, such temporary permits to be made permanent when the first two vacancies occur.

Mr. Billy Wyse appeared before the Council and asked for the opening of San Gabriel Street south from 28 $\frac{1}{2}$ Street to the intersection of Shoal Creek Boulevard. After some discussion, the matter was referred to the City Manager to work out with Mr. Wyse on the most advantageous basis.

Mr. B. J. Rupert, representing the American Legion, appeared before the Council and asked for permission to use Zilker Park for the staging of their July Fourth celebration, and the operation of a carnival in connection therewith.

It was then moved by Mayor Miller that the American Legion be granted the exclusive use of Zilker Park for their July Fourth celebration and the operation of a carnival in connection therewith from the afternoon of July 2 through the night of July 5. The motion carried by the following vote: Ayes, Councilman Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Mrs. Leslie Caldwell, President of the Austin High School Band, appeared before the Council and asked for a donation from the City to help defray the expenses of said band to Oklahoma City to enter the national contest on May 14 and 15.

It was agreed by the Council that the City would allow the band \$100 for a concert, provided the School Board would contribute a like amount to the expenses of said trip.

The following written opinion of the City Attorney was received:

" May 5, 1937.

Honorable City Council and Honorable Gulton Morgan,
City Manager:

There has been referred to me for an opinion the question of the City's right to grant a franchise to Mr. Harold Eichenbaum and A. Marks to place 52 cabinets on certain sidewalks shown by an accompanying map in the City of Austin, such cabinets to be 2 feet square by 3 feet high, and the franchise to be granted to said parties to maintain same for a period of five years. In consideration for such privilege, said parties agree to pay the City a reasonable fee which they suggest would be \$1.00 per month per cabinet to service the cans, to empty the cans of rubbish every morning, and to keep the cans in proper repair.

I first call your attention to the fact that the City of Austin has a very well considered ordinance governing the erection of signs in the City of Austin, which was passed April 30, 1931. An ordinance embodying the terms of the suggested contract would call for a repeal of parts of said ordinance.

The serious question in the case is, has the City the right to grant such use of its streets to the applicants for a consideration. Such a right could only be justified on the ground that it was an appropriate, sanitary measure. In view of the fact that we have an ordinance against depositing loose papers, etc. in the streets and the manner in which said ordinance has been enforced, makes it very doubtful whether placing the "cabinets" on the streets is necessary.

The City Council are trustees or custodians of the streets and sidewalks of the City for public uses. The phrase "City Council shall have exclusive jurisdiction", etc. over the streets and sidewalks must be taken subject to the qualification that such jurisdiction must be exercised for the use of the public to whom the streets really belong. That the placing of such metal boxes as proposed on the sidewalks would be an obstruction can not be questioned. Our courts have held that in order to constitute an obstruction on streets and sidewalks, it is not necessary that the entire space be taken up by such object. As has been said in an Austin case, the streets belong to the public from side to side and anything that interferes with the free use of the streets constitutes an obstruction. Some obstructions, such as fire hydrants, etc. are lawful obstructions which the cities have a right under certain conditions to maintain. Even in the placing of a fire hydrant, the maintenance of a fire department being recognized as a governmental function, in the case of Kling vs. City of Austin, our court of Civil Appeals, 62 S.W. (2nd) 869, where a fire hydrant was allowed to remain in or in close proximity to a driveway to a filling station, said: "An obstruction in such a driveway could only find justification where two necessities concurred; that of locating (1) the hydrant, and (2) the driveway at the particular point. In such case, the duty to maintain the reasonable safety of the streets would impose the obligation to employ the reasonably available means, guarding against or at least minimizing the unsafe condition created by the obstruction."

The fact that the City had the legal right to permit the cabinets or cans in question to be placed as contemplated on the streets, if it has such a right, would

in my opinion, not prevent the City from being liable in damages to anyone that might be injured on account of such cabinets being so placed. In this connection, I call attention to the fact that I have been informed by the Engineering Department that the sidewalks on Guadalupe Street where it is proposed to place the cabinets or cans are 7.6 feet and 8.2 feet, the cans are 2 feet square and of course must be set back some inches from the sidewalk. Placing cans on Guadalupe at the point designated would make the sidewalk rather narrow, and would perhaps add to the hazard of their being so placed. If the privilege is granted to put the "cabinets" as asked for on the streets, then I suggest that a bond to protect the City should be required of the parties to whom the franchise might be granted. If the right exists in the City to grant the permit sought for and to permit the metal cabinets to be placed on the sidewalk and a franchise be granted for such purpose, it can only be done on the ground that the service which such parties agree to render the City for the requested privilege constitutes same a public utility.

It may be rather a strained construction of the law to class such services and the placing of such cabinets as the operation of a public utility, but after an investigation of the authorities, I am inclined to the opinion that it may be so classed.

A franchise may be granted only by compliance with the Charter. Section 3 of Article 22 of the Charter on page 83 reads as follows:

"All ordinances granting, amending, renewing or extending franchises for public utilities, shall be read at three separate regular meetings of the City Council and shall not be finally passed until thirty days after the first reading; and no such ordinance shall take effect until sixty days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four consecutive weeks in a daily newspaper published in the City of Austin, and the expense of such publication shall be borne by the proponent of the franchise."

To summarize, I am of the opinion that the City Council has the power to grant the franchise applied for, but in the absence of any decision upon the question presented, I can only express my individual opinion. The granting of such a franchise is on the very border line of the City's power, and nothing short of a test case would enable an attorney to state positively that the City had the right or did not have the right to grant such franchise.

Yours very truly,

A. L. Love,
City Attorney. "

Upon motion of Councilman Bartholomew, the question was put on granting a permit to the said Harold Eichenbaum and A. Marks for the installation of street cabinets as set forth in their proposal, those in favor of granting the permit voting "aye", those opposed, "no". The vote was as follows: Ayes, None; Noes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; absent, Councilman Alford, 1.

The Mayor announced that the next order of business would be the installation of the newly-elected City Council.

Judge A. L. Love, City Attorney, then administered the oath of office to Councilmen-elect G. M. Bartholomew, Simon Gillis, Tom Miller, and Oswald G. Wolf; Councilman-elect G. F. Alford being absent.

Councilman Gillis then nominated Mayor Tom Miller as mayor, to succeed himself, for the next two years. The nomination was seconded by Councilman Bartholomew, and the same was confirmed by the following vote: Ayes, Councilmen Bartholomew, Gillis, and Wolf, 3; nays, none; Mayor Miller present but not voting; Councilman Alford absent, 1.

Councilman Bartholomew then nominated Councilman Oswald G. Wolf as Mayor pro tem, to succeed himself, for the next two years. The nomination was seconded by Councilman Gillis, and the same was confirmed by the following vote: Ayes, Councilmen Bartholomew, Gillis, and Mayor Miller, 3; nays, none; Councilman Wolf present but not voting; Councilman Alford absent,

Councilman Gillis then nominated Guiton Morgan as City Manager, to succeed himself. The nomination was seconded by Councilman Bartholomew, and the same was confirmed by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller,

and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Bartholomew nominated Hallie McKellar as City Clerk, to succeed herself. The nomination was seconded by Councilman Gillis, and the same was confirmed by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Bartholomew nominated J. W. Maxwell as Judge of the Corporation Court to succeed himself. The nomination was seconded by Councilman Gillis, and the same was confirmed by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Gillis nominated Al Ehrlich as Clerk of the Corporation Court, to succeed himself. The nomination was confirmed by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Gillis nominated O. P. Bonner as Assistant Clerk of the Corporation Court, to succeed himself. The nomination was confirmed by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Gillis nominated Dr. Banner Gregg as City Health Officer, to succeed himself. The nomination was confirmed by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

The following written proposal of Mr. C. McDonough, General Manager of the Colorado River Authority, was received:

" Austin, Texas
May 6, 1937

Honorable Tom Miller,
Mayor, City of Austin,
Austin, Texas.

Dear Mayor Miller:

Pursuant to your request, I am reducing to writing the proposals I made to you on behalf of the Lower Colorado River Authority respecting the Austin Dam. Such proposals were substantially as follows:

The Authority would agree to:

a. Take over and reconstruct the present Austin Dam and power plant, the dam to be reconstructed to approximately its original height of about sixty-three feet, and a new power plant to be built and installed. The construction would be of such nature as to be permanent and sound from an engineering standpoint, and its stability and safety would be at the risk of the Authority. I estimate the cost of this to be approximately \$1,600,000.

b. The present outstanding debt of \$389,000, evidenced by bonds issued by the City in connection with previous construction, and which are still outstanding, will be retired by the Authority through the rebating to the City of the power furnished the City each year during maturity of these bonds.

c. The Authority will deliver the City all electrical energy which the City may require at rates quoted, which rates are shown on a separate sheet hereto attached, and which are substantially the same as rates promulgated by TVA, such contract to run for a term of years to be mutually agreed upon.

d. The Authority will give the City full control of the reservoir for pleasure and recreational purposes.

e. The Authority will agree that the City shall retain the privilege of repurchasing the dam and power plant at any time that the Authority might pass from under public control, through receivership or otherwise, or at any time when the loan from the PWA has been repaid by the Authority; the purchase price to be fixed by formula to be mutually agreed upon, such formula to be worked out on the general lines of the Authority being repaid actual cost less depreciation, with appropriate definitions of the items constituting cost and depreciation.

The City will only agree to turn over the dam in its present condition, power house and land adjacent necessary for operations to the Authority, and to purchase

power from the Authority. While the Authority would desire the City to purchase all of its power from the Authority and believes it can effect a saving by so doing, nevertheless the Authority is not insisting that the City cease operations of its present steam power plant, as we believe this is a matter which will work itself out.

You understand that this proposal is contingent on the enactment of necessary legislation to enable the Authority to acquire and expend money on property acquired under a repurchase agreement, and on an amendment of the Authority's present agreement with FWA. We believe these contingencies can be eliminated very shortly, and that all other legal and detail matters can be worked out in the event the City is willing to deal on the broad general outlines of the foregoing proposal.

While the Authority has available for expenditure on this project up to November 1 only the sum of \$200,000.00, we feel assured that further funds will be available as needed; but this is a matter about which I do not think the City need be concerned, because in the event the Authority is unable to secure the necessary funds, or for any other reason is unable to carry out its undertaking, the City would nevertheless get the benefit of such funds as are expended.

I am taking the liberty of pointing out the advantages which would accrue to the citizenship of Austin by virtue of this arrangement:

The citizenship would not only be relieved of payments on the present bonded indebtedness in the sum of \$389,000.00 but of the future indebtedness necessary to complete and equip the dam. Instead of being under an indebtedness of approximately two million dollars, including the cost of reconstructing the dam and the bonds now outstanding, the City would be relieved entirely of any indebtedness in respect to the dam; the Authority would assume all risks and responsibility of its completion and continued safety. The City would obtain power for its present and future needs at a very low rate (which I believe is much lower than it would cost the City if it reconstructed the dam) and will obviate the necessity of the City spending funds for future development of its power plant to meet its needs. The City would be furnished a recreational center without cost to it, and would have the benefit of a contract to reacquire the property and thus assure its continued operation in the interest of the public, particularly the citizens of Austin. Furthermore, I desire to point out the distinct advantage the City would gain in having the Austin Dam operated as a part of the Authority's system which minimizes interruption of service and makes available to the City an abundant supply of cheap power for its future needs and enables it to offer distinct advantages for the location of industries in the vicinity.

If you desire to further consider the proposal made by the Authority, I shall be available at all times to go into the matter in further detail and we shall lose no time in working out an agreeable contract and beginning work on the project.

Very truly yours,

C. McDonough
General Manager

(RATE SCHEDULE attached)

Demand Charge

\$0.90 per KW demand per month

Energy Charge

First	100,000 KWH	consumed per month at 4 mills per KWH
Next	200,000 KWH	consumed per month at 3 mills per KWH
Excess over	300,000 KWH	consumed per month at 2½ mills per KWH

Determination of Demand, Adjustment of Demand Charge, Point of Delivery and Minimum Monthly Bill will be similar to the TVA Schedule. "

The City Manager was instructed to acknowledge receipt of the foregoing proposal of Mr. C. McDonough, General Manager of the Lower Colorado River Authority.

It was moved by Mayor Miller that a meeting of the Citizens Advisory Committee on the Lower Colorado River Authority and the City Council be called for Wednesday, May 12, at 2:30 P. M., to discuss in detail the foregoing proposal of the Lower Colorado River Authority by its General Manager, C. McDonough, and that the City Manager be instructed to send copies of said proposal to the members of said committee for study prior to the meeting. The motion carried by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Mayor Miller moved that C. A. Schutze, Ike D. White, J. F. Springfield, and A. N. McCallum be appointed as members of the Citizens Advisory Committee on the Lower Colorado River Authority, thus making the complete personnel of said committee

as follows: E. H. Ferry, Chairman; Theo. Davis; Joe Koen; E. R. L. Wroe; A. J. Eilers, Sr.; Jno. H. Ohiles, Sr.; Walter Bremond, Jr.; A. C. Bull; Herman Brown; T. R. McKeever; E. C. H. Bantel; Geo. S. Nalle; T. U. Taylor; Dr. Goodall Wooten; A. J. Zilker, Jr.; C. N. Avery; C. A. Schutze; Ike D. White; J. F. Springfield; and A. N. McCallum. The motion carried by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Wolf offered the following resolution:

WHEREAS, the City Manager and the Fire Chief have investigated several locations for the new fire station to be built in the northwestern part of the city and have recommended the purchase of a lot at the southwest corner of Windsor Road and Forest Trail; now, therefore,

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

THAT the City Manager be and he is hereby instructed to purchase the north part of Lot No. 6, Block 18, Westfield "A", containing 60x159-3/10 feet and located at the southwest corner of Windsor Road and Forest Trail, City of Austin, for the sum of Seven Hundred and Fifty (\$750.00) Dollars, and that same be paid for out of the General Fund as set up in the budget of 1937.

The resolution was adopted by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

It was moved by Councilman Wolf that upon the recommendation of Roy J. Smith, Captain of Police, Traffic Division, the following named persons be granted taxicab driver's permits: Robert H. Delancy, 1412 East 6th Street; George L. Owens, 2008 South First Street; and Thurman M. Phillips, 500 East 7th Street. The motion carried by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Gillis offered the following resolution:

WHEREAS, T. H. Fagan is the Contractor for the alteration and repair of store front at 422-24 East 6th Street and desires a portion of the sidewalk space abutting Lot 4, Block 66, of the Original City of Austin, during the alteration and repair of said store front, such space to be used in the work and for the storage of materials therefor; therefore,

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

1. THAT space for the uses hereinabove enumerated be granted T. H. Fagan, the boundary of which is described as follows:

Sidewalk Working Space

Beginning at a point in the southwest corner of the above described property; thence in a southerly direction and at a right angle to the centerline of East 6th Street for a distance of 6 feet to a point; thence in an easterly direction and parallel to the centerline of East 6th Street for a distance of 56 feet; thence in a northerly direction and at a right angle to the centerline of East 6th Street for a distance of 6 feet to a point in the north line of East 6th Street; thence in a westerly direction along the north line of East 6th Street to the place of beginning.

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

(1) That the Contractor shall construct a guard rail along the east, south, and west sides of the above described space, such guard rails to be at least 4 feet high and substantially braced and anchored.

(2) That the Contractor shall in no way obstruct any fire plugs or other

public utilities in the construction of such guard rails.

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

(4) That the Contractor shall place on the outside corners of any walkway, barricades, or obstructions, red lights during all periods of darkness.

(5) That the Contractor shall remove all fences, barricades, loose materials, and other obstructions on the sidewalk and street immediately after the necessity for their existence on said sidewalk or street has ceased, such time to be determined by the City Manager, and in any event all such sidewalk, barricades, materials, equipment and other obstructions shall be removed not later than May 15, 1937.

(6) That the Contractor shall restore all public and private property injured during the use of such space to as good condition as the same existed before the use of such space began.

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

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

The resolution was adopted by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Wolf offered the following resolution:

WHEREAS, J. N. Stafford, Construction Department of the Lerner Shops of Texas, Inc., is the Contractor for the construction of an addition to the rear of a building located at 704 Congress Avenue, and desires a portion of the alley space abutting the south 24 feet of Lot 2, Block 83, of the Original City of Austin, Texas, during the construction of the addition to the rear of the building, such space to be used in the work and for the storage of materials therefor; therefore,

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

1. THAT space for the uses hereinabove enumerated be granted to said J. N. Stafford, the boundary of which is described as follows:

Alley Working Space

Beginning at a point in the southwest corner of the above described property; thence in a westerly direction and at a right angle to the centerline of the north and south alley traversing the above described block for a distance of 6 feet to a point; thence in a northerly direction and parallel to the centerline of the above described alley for a distance of 24 feet to a point; thence in an easterly direction and at a right angle to the centerline of the above described alley for a distance of 6 feet to a point in the west line of the above described property; thence in a southerly direction along the west line of the above described property to the place of the beginning.

2. THAT the above privileges and allotment of space are granted to said J. N. Stafford, hereinafter termed "Contractor," upon the following express terms

and conditions:

(1) That the Contractor shall construct a guard rail along the south, west, and north lines of the above described space, such guard rail to be at least 4 feet high and substantially braced and anchored.

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

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

(4) That the Contractor shall place on the outside corners of any walkway, barricades or obstructions, red lights during all periods of darkness.

(5) That the Contractor shall remove all fences, barricades, loose materials and other obstructions on the sidewalk and street immediately after the necessity for their existence on said sidewalk or street has ceased, such time to be determined by the City Manager, and in any event all such sidewalk, barricades, materials, equipment and other obstructions shall be removed not later than July 31, 1937.

(6) That the Contractor shall restore all public and private property injured during the use of such space to as good condition as the same existed before the use of such space began.

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

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

The resolution was adopted by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Gillis offered 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 EAST 38TH STREET from Red River Street east one block, the centerline of which pole line shall be 8 feet south of and parallel to the north line of said East 38th Street.

THAT the work and construction of said pole line, 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 and in accordance with the ordinances and regulations of the City of Austin governing such construction.

The resolution was adopted by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Gillis offered 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 WEST 10TH STREET easterly 32 feet from a point 70 feet east of the east line of Ruiz Street, the centerline of which gas main shall be 20 feet north of and parallel to the south line of said West 10th Street.

Said gas main described above shall have a covering of not less than 2½ feet.

(2) A gas main in KERBY LANE southerly 80 feet from a point 151 feet north of the north line of West 29th Street, the centerline of which gas main shall be 7½ feet west of and parallel to the east line of said Kerby Lane.

Said gas main described above shall have a covering of not less than 2½ feet.

(3) A gas main in BRIAR STREET from West Annie Street northerly 205 feet, the centerline of which gas main shall be 7½ feet west of and parallel to the east line of said Briar Street.

Said gas main described above shall have a covering of not less than 2½ feet.

(4) A gas main in EDGECLIFF TERRACE easterly 120 feet from a point 239 feet west of the east line of Alta Vista Avenue, the centerline of which gas main shall be 7½ feet north of and parallel to the south line of said Edgecliff Terrace.

Said gas main described above shall have a covering of not less than 2½ feet.

(5) A gas main in LINCOLN STREET from Hamilton Avenue north 95 feet, the centerline of which gas main shall be 6½ feet west of and parallel to the east line of said Lincoln Street.

Said gas main described above shall have a covering of not less than 2½ feet.

(6) A gas main in WOODLAND AVENUE easterly 40 feet from a point 400 feet east of the east line of Kenwood Avenue, the centerline of which gas main shall be 22 feet south of and parallel to the north line of said Woodland Avenue.

Said gas main described above shall have a covering of not less than 2½ feet.

(7) A gas main in LEONA STREET from East 12th Street northerly 154 feet, the centerline of which gas main shall be 18 feet west of and parallel to the east line of said Leona Street.

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

damaged during the construction of lines named in this resolution.

AND THAT whenever pavement is out 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 Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Wolf offered the following resolution:

WHEREAS, at the time the City of Austin submitted applications to the Public Works Administration, an approximate classification of the costs of the various projects was submitted by the City Manager, as authorized by the City Council; and

WHEREAS, during construction, certain costs varied and certain items of expense anticipated were not necessary; therefore,

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

THAT the City Manager be and he is hereby authorized to submit to the Public Works Administration a reclassification of the various items of scheduled costs.

The resolution was adopted by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Wolf introduced the following ordinance:

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.

The ordinance was read the first time and Councilman Wolf moved that the rule be suspended and the ordinance be passed to its second reading. The motion was seconded by Councilman Gillis, and carried by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

The ordinance was read the second time and Councilman Wolf moved that the rule be further suspended and the ordinance be passed to its third reading. The motion was seconded by Councilman Gillis, and carried by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

The ordinance was read the third time and Councilman Wolf moved that the same be finally passed. The motion was seconded by Councilman Gillis, and carried by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Wolf introduced the following ordinance:

AN ORDINANCE MAKING IT UNLAWFUL TO ENTER A PUBLIC SWIMMING POOL OR PLACE OF ENTERTAINMENT, RECREATION OR AMUSEMENT OR OTHER PUBLIC PLACE OWNED OR OPERATED BY THE CITY OF AUSTIN, WHERE A CHARGE FOR ADMISSION IS MADE WITHOUT FIRST PAYING THE CHARGE FOR ENTRANCE TO SUCH PUBLIC PLACE OR PLACES; FIXING A PENALTY FOR VIOLATION AND DECLARING AN EMERGENCY.

The ordinance was read the first time and Councilman Wolf moved that the rule

be suspended and the ordinance be passed to its second reading. The motion was seconded by Councilman Gillis, and carried by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

The ordinance was read the second time and Councilman Wolf moved that the rule be further suspended and the ordinance be passed to its third reading. The motion was seconded by Councilman Gillis, and carried by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

The ordinance was read the third time and Councilman Wolf moved that the same be finally passed. The motion was seconded by Councilman Gillis, and carried by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

It was moved by Mayor Miller that the City Attorney, Judge A. L. Love, be instructed to write a letter to the City Attorney of Dallas, Texas, expressing the thanks of the City Council for the splendid cooperation and assistance given by him to the Legal Department of this City in compiling the traffic code. The motion carried by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Upon motion, duly seconded and carried, the meeting was recessed at 1:30 P. M., subject to call of the Mayor.

Approved: Tom Miller

Attest:

Stacie McEllan
City Clerk