

## MINUTES OF THE CITY COUNCIL

## CITY OF AUSTIN, TEXAS

## Regular Meeting

September 14, 1944  
10:45 A.M.

Council Chamber, City Hall

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

## Roll call

Present : Councilmen Bartholomew, Gillis, Mayor Miller - 3  
Absent : Councilmen Alford and Wolf - 2

Present also: Walter E. Seaholm, Acting City Manager; J. F. Motheral, City Engineer; J. M. Patterson, Jr., Acting City Attorney; and R. D. Thorp, Chief of Police.

The minutes of the Regular Meeting of September 7, 1944, were read, and on motion of Councilman Bartholomew were adopted as read by the following vote:

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
Noes : None  
Absent: Councilmen Alford and Wolf

The application of ROBERT WELBERT HAY, 915 Colorado Street, for a taxicab driver's permit, duly approved by the Acting City Manager, was submitted. Councilman Gillis moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
Noes : None  
Absent: Councilmen Alford and Wolf

The application of PFC. ROY LIVINGSTON WILLIAMS, Bergstrom Field, for a taxicab driver's permit, duly approved by the Acting City Manager, was submitted. Councilman Bartholomew moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
Noes : None  
Absent: Councilmen Alford and Wolf

The application of PRIVATE ALFRED SHERMAN KLIPPER, Section B, Bergstrom Field, for a taxicab driver's permit, duly approved by the Acting City Manager, was submitted. Councilman Bartholomew moved that the permit be granted. The motion prevailed by the following vote:

Ayes: Councilmen Bartholomew, Gillis, Mayor Miller  
 Noes: None  
 Absent: Councilmen Alford and Wolf

The application of RAYMOND KENNETH MARION, Bergstrom Field, for a taxicab driver's permit, duly approved by the Acting City Manager, was submitted. Councilman Bartholomew moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
 Noes : None  
 Absent: Councilmen Alford and Wolf

The application of LITTLE WONDER CAFE, 1906 East 12th Street, for a wine and beer permit, duly approved by the Acting City Manager, was submitted. Councilman Gillis moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
 Noes : None  
 Absent: Councilmen Alford and Wolf

The application of BELSCHNER'S CAFE, 1800 South Congress Avenue, for a wine and beer permit, duly approved by the Acting City Manager, was submitted. Councilman Gillis moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
 Noes : None  
 Absent: Councilmen Alford and Wolf

The application of GARDNER'S CUT RATE LIQUOR STORES, 400 East 6th Street, for a package store permit, duly approved by the Acting City Manager, was submitted. Councilman Gillis moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
 Noes : None  
 Absent: Councilmen Alford and Wolf

The application of GARDNER'S CUT RATE PACKAGE STORE, 400 Congress Avenue, for a package store permit, duly approved by the Acting City Manager, was submitted. Councilman Gillis moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
 Noes : None  
 Absent: Councilmen Alford and Wolf

The application of DIAMOND PACKAGE STORE, 324 East 6th Street, by Ferris Nassour, owner, for a beer distributor's permit, duly approved by the Acting City Manager, was submitted. Councilman Bartholomew moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
 Noes : None  
 Absent: Councilmen Alford and Wolf

The application of BIG BEAR FOOD STORE, 310 South Congress Avenue, by H. J. Arnold, owner, for a beer distributor's permit, duly approved by the Acting City Manager, was submitted. Councilman Bartholomew moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
 Noes : None  
 Absent: Councilmen Alford and Wolf

Councilman Bartholomew offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, William Scharath, owner of the west 85 feet of Lot 16, Block 14 of Hyde Park Addition, within the City of Austin, Travis County, Texas, which property abuts the north side of West 43rd Street at a location east of Avenue D within the City of Austin, and being locally known as 108 West 43rd Street, has made application to the City Council of the City of Austin for permission to set the curb back from the established curb line on the north side of West 43rd Street adjacent to the above described property; and

WHEREAS, a plan has been prepared showing the location of said curb setback, which plan is hereto attached marked 2-C-974 and made a part hereof; and

WHEREAS, said request and plan have been reviewed and considered by the City Council; therefore,

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

THAT William Scharath, owner of the west 85 feet of Lot 16, Block 14, of Hyde Park Addition within the City of Austin, Travis County, Texas, which property abuts the north side of West 43rd Street at a location east of Avenue D within the City of Austin, and being locally known as 108 West 43rd Street, is hereby granted permission to set the curb back from the established curb line on the north side of West 43rd Street adjacent to the above described property.

Permission to construct the above described curb setback is granted subject to the same's being constructed in accordance with the plan approved by the City Engineer of the City of Austin, which plan is hereto attached marked 2-C-974 and made a part hereof, and in accordance with the following conditions:

(1) That the construction of the setback area on West 43rd Street shall be carried out in accordance with the accompanying plan marked 2-C-974, and that all such widened areas, driveways or ramps and curbs shall be constructed of concrete at the expense of the applicant.

(2) That all such concrete shall be not less than 6 inches in thickness and shall be of the following proportions: 1 part cement, 2-1/2 parts of sand, and 4 parts of screened gravel or rock.

(3) That the concrete curbs adjacent to the sidewalk area shall be not less than 6 inches high and that an expansion joint not less than 3/4 inch thick shall be placed between the curb and the sidewalk as shown on the plan hereto attached marked 2-C-974.

(4) That all such expansion joints shall be of the pre-moulded type.

(5) That all concrete work within the street area shall be done by a bonded sidewalk contractor.

(6) That the applicant shall be required to clean the newly created ramp area at least twice per week and shall dispose of the debris at his

expense.

(7) That all work shall be done in accordance with lines and grades furnished by the Engineering Department of the City of Austin and under the direction of the City Engineer.

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

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
 Noes : None  
 Absent: Councilmen Alford and Wolf

Councilman Gillis offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, James McConnachie, owner of Lot 1, Block 2, of Hyde Park Addition No. 2 within the City of Austin, Travis County, Texas, which property abuts the south side of West 43rd Street at a location east of Guadalupe Street, has made application to the City Council of the City of Austin for permission to construct a commercial driveway across the south sidewalk area of West 43rd Street adjacent to the above described property; and

WHEREAS, a plan has been prepared showing the location of said driveway, which plan is hereto attached marked 2-C-975 and made a part hereof; and

WHEREAS, said request and plan have been reviewed and considered by the City Council of the City of Austin; therefore

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

THAT James McConnachie, owner of Lot 1, Block 2 of Hyde Park Addition No. 2 within the City of Austin, Travis County, Texas, which property abuts the south side of West 43rd Street at a location east of Guadalupe Street, is hereby permitted to construct a commercial driveway across the south sidewalk area of West 43rd Street adjacent to the above described property, subject to the construction of concrete ramps, curbs, driveways, sidewalks and expansion joints as shown upon the plan marked 2-C-975, which plan is hereby attached and made a part of this resolution, and further subject to the condition that all concrete curb, ramp and driveway construction done within the City streets shall be done by a bonded sidewalk contractor under the direction and supervision of the City Engineer of the City of Austin and in accordance with lines and grades furnished by the Engineering Department of the City of Austin.

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

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller  
 Noes : None  
 Absent: Councilmen Alford and Wolf

Councilman Gillis offered the following resolution and moved its adoption:

(RESOLUTION)

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

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

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

- (1) A gas main in EAST 4TH STREET from Pedernales Street east 8 feet, the centerline of which gas main shall be 11 feet north of, and parallel to, the south property line of said East 4th Street.

Said gas main described above shall have a covering of not less than 2-1/2 feet.

- (2) A gas main in SANTA MARIA STREET from a point 128 feet west of Pedernales Street easterly 45 feet, the centerline of which gas main shall be 7.5 feet south of, and parallel to, the north property line of said Santa Maria Street.

Said gas main described above shall have a covering of not less than 2-1/2 feet.

- (3) A gas main in NEWTON STREET from a point 3 feet north of West Mary Street northerly 106 feet, the centerline of which gas main shall be 10 feet west of, and parallel to, the east property line of said Newton Street.

Said gas main described above shall have a covering of not less than 2-1/2 feet.

- (4) A gas main in COLORADO COURT from a point 290 feet east of Kenwood Avenue easterly 244 feet, the centerline of which gas main shall be 7-1/2 feet south of, and parallel to, the north property line of said Colorado Court.

Said gas main described above shall have a covering of not less than 2-1/2 feet.

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

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

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

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

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilmen Alford and Wolf

Councilman Bartholomew offered the following resolution and moved its adoption:

(RESOLUTION)

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

THAT Walter E. Seaholm, the Acting City Manager, be, and he is hereby, authorized and directed to execute for and in behalf of the CITY OF AUSTIN a quitclaim deed to Kate Haskins, conveying all the right, title, and interest acquired by the City of Austin to the northwest one-fourth (1/4) of Lot 8, Block 14, Maas Addition, City of Austin, Travis County, Texas.

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

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilmen Alford and Wolf

Councilman Gillis offered the following resolution and moved its adoption:

(RESOLUTION)

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

THAT the City Manager, or in his absence the Acting City Manager, be, and he is hereby, authorized and directed to execute for and in behalf of the City of Austin a contract of sale to Addie Pyburn, agreeing to sell the following described property:

Lot 20, Block B-5, Sweetman's Addition, in the City of Austin, Travis County, Texas, being the same property conveyed to the City of Austin by Sheriff's Deed dated March 16, 1905, recorded in Book 563, pages 370-371, Deed Records of Travis County, Texas,

for a consideration of \$325.00, payable \$50.00 cash and the balance in monthly installments of \$10.00 each; and the City Manager, or in his absence the Acting City Manager, is hereby authorized and directed to execute for and in behalf of the City of Austin a special warranty deed to said Addie Pyburn,

conveying the above described property upon payment in full of said consideration, all in accordance with the terms and conditions of the contract of sale, a copy of which is attached hereto and made a part hereof for all purposes.

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

Ayes : Councilmen Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilmen Alford and Wolf

The following report of the Board of Adjustment on a change in zoning of the property at the northeast corner of the intersection of King Street and 32nd Street, from "A" Residence District to "B" Residence District, was received and ordered filed:

"September 14, 1944

Hon. Mayor and City Council  
Austin, Texas

Gentlemen:

The following is a copy of a resolution which was passed by the Board of Adjustment at a meeting on September 12, 1944:

R E S O L U T I O N .

WHEREAS, the City Council of the City of Austin, pursuant to the terms of Section 31 of the Zoning Ordinance of the City of Austin, has referred to the Zoning Board of Adjustment for its consideration a petition of Mr. Mervin Ash requesting a change in the USE designation of the following property:

Lots 1, 2, 3, and 4, Block 10, Gypsy Grove Addition, a subdivision out of parts of Outlots Nos. 75 and 76, of the City of Austin, and  $44\frac{1}{2}$  feet off of the south end of Lots 1, 3, and 3, in Block 9, Gypsy Grove Addition. This property is located at the northeast corner of the intersection of King Street and 32nd Street;

from "A" Residence District to "B" Residence District; and

WHEREAS, the Board of Adjustment held a hearing on this application on September 12, 1944, having duly notified the property owners adjacent to and within the immediate neighborhood of this property in order to determine the attitude of the neighborhood toward this change; and

WHEREAS, at this meeting a large number of property owners appeared, including the following: Mrs. J. S. Moss; Mrs. Agatha McCaleb and her attorney, R. B. Thrasher; Dr. W. J. Battle; W. A. Smith; Dr. E. T. Mitchell; C. J. Niederauer; W. W. Barkley; Mrs. Margie E. Huebetter, who entered vigorous protests against this change, some of those present speaking in behalf of those who were absent; and

WHEREAS, it was established as a fact that all of the property in this immediate neighborhood is now used exclusively for "A" Residence purposes, there being no boarding houses, rooming houses, fraternities, or sororities therein or any other uses permitted in a "B" Residence District; and

WHEREAS, it was the unanimous desire of those present that this neighborhood be maintained as a Residence "A" District, preserving its quiet residential character and for the protection of its values for residential purposes, and that changing this district to a "B" Residence District would permit a number of uses which would not be desirable and would adversely affect the residential character thereof; and

WHEREAS, the Board carefully considered this application, having inspected the property, they find this has been a residential neighborhood for many years and that the petitioner's property consists of a large old residence which is now used as a duplex, having two kitchens and four bathrooms, and that there is considerable space surrounding the building upon which other residences could be erected in harmony with the general character of the neighborhood, and that the present building could be remodelled into a duplex; and

WHEREAS, this change would be for the benefit of a single owner and not in answer to any public demand, a change in trend of property uses in this area or in conformity with any comprehensive plan, and would be the creation of a spot zone unrelated to any general zoning plan for this district; therefore

BE IT RESOLVED BY THE BOARD OF ADJUSTMENT:

THAT the change of this property from its present designation as an "A" Residence District to a "B" Residence District is not recommended to the City Council.

Respectfully submitted,

BOARD OF ADJUSTMENT

By /s/ H. F. KUEHNE  
CHAIRMAN. "

Councilman Bartholomew offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, the City of Austin taxes for the years 1922, 1926 and 1929 through 1941 were assessed in the name of Dr. E. H. Givens on personal property and on Lot 19, O.L. 1, Div. "B", Carleton Subdivision; Lot 16, O.L. 41, Div. "B"; and the E. 26' of Lot 3, Blk. 143, Orig. City, in the City of Austin, Travis County, Texas; said taxes for said years being in the amount of \$1,760.87, and for nonpayment of same at maturity, penalty



in the sum of \$88.04 has been assessed, and interest in the amount of \$878.28 has accrued, making the total amount of taxes, penalties, and interest due \$2,727.19; and

WHEREAS, the City Council of the City of Austin deems it just and equitable to remit said penalty in the sum of \$88.04, and a portion of the interest in the sum of \$639.15; therefore

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

THAT the aforesaid penalty in the sum of \$88.04 and a portion of the interest in the sum of \$639.15 are hereby remitted, and the Tax Assessor and Collector of the City of Austin is hereby authorized and directed to charge said penalty in the sum of \$88.04 and said interest in the sum of \$639.15 off his rolls and to issue to the party entitled to receive same a receipt in full upon the payment of the aforesaid taxes and a portion of the interest, as aforesaid.

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

- Ayes : Councilmen Bartholomew, Gillis, Mayor Miller
- Noes : None
- Absent: Councilmen Alford and Wolf

There being no further business, upon motion, seconded and carried, the meeting was recessed at 11:15 A. M., subject to call of the Mayor.

APPROVED Tom Miller  
MAYOR

ATTEST:

Shelley McMiller  
CITY CLERK