

## MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

June 22, 1944  
10:50 A.M.

Council Chamber, City Hall

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

## Roll call

Present : Councilmen Alford, Bartholomew, Gillis, Mayor Miller - 4  
Absent : Councilman Wolf - 1

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

On motion of Councilman Alford, the reading of the minutes was dispensed with.

Councilman Alford 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 14TH STREET from Chicon Street easterly 111 feet, the centerline of which gas main shall be 7.5 feet south of, and parallel to, the north property line of said East 14th Street.

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

- (2) A gas main in ELKHART STREET from a point 53 feet south of East 3rd Street northerly to East 3rd Street, the centerline of which gas main shall be 7.5 feet west of, and

parallel to the east property line of said Elkhart Street.

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

- (3) A gas main in EAST 3RD STREET from Elkhart Street easterly 10 feet, the centerline of which gas main shall be 7.5 feet south of, and parallel to, the north property line of said East 3rd Street.

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

- (4) A gas main in NORTHWESTERN AVENUE from Rosewood Avenue southerly 234 feet, the centerline of which gas main shall be 13.5 feet west of, and parallel to, the east property line of said Northwestern Avenue.

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

- (5) A gas main in ROSEWOOD AVENUE from 36 feet west of the east line of Chestnut Avenue easterly 180 feet, the centerline of which gas main shall be 17 feet south of, and parallel to, the centerline of said Rosewood Avenue.

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

- (6) A gas main in EAST 51ST STREET from a point 159 feet west of East Avenue westerly 98 feet, the centerline of which gas main shall be 7.5 feet south of, and parallel to, the north property line of said East 51st Street.

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 Alford, Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilman Wolf

The application of THE GRILL, 307 East 6th Street, for a wine and beer permit, duly approved, was submitted by the Acting City Manager. Councilman Bartholomew moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Alford, Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilman Wolf absent

The application of IDA'S WAFFLE SHOP, 114 East 5th Street, for a wine and beer permit, duly approved, was submitted by the Acting City Manager. Councilman Bartholomew moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Alford, Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilman Wolf

The application of LUTHER GORDON DAY, Route 2, Box 452, for a taxicab driver's permit, duly approved, was submitted by the Acting City Manager. Councilman Alford moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Alford, Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilman Wolf

The application of JAMES WILLIAM COOPER, 711 West 24th Street, for a taxicab driver's permit, duly approved, was submitted by the Acting City Manager. Councilman Alford moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Alford, Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilman Wolf

The application of JASPER JAMES RHYMES, Star Route B, Box 109-A, for a taxicab driver's permit, duly approved, was submitted by the Acting City Manager. Councilman Alford moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Alford, Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilman Wolf

The following report of the Board of Adjustment on the rezoning of the M. H. Crockett property lying contiguous to East Avenue and East 38 $\frac{1}{2}$  Street was received:

"Austin, Texas  
April 26, 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 April 25, 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. M. H. Crockett requesting a change in the USE designation of the following property:

The Johnson Tract extending from East Avenue back to the right-of-way of the Llano Branch of the Southern Pacific Railroad and lying between East 38 $\frac{1}{2}$  Street and the south boundary line of Wilshire Woods

from "A" Residence District and First Height and Area District to "C" Commercial District and First Height and Area District; and

WHEREAS, the Board of Adjustment made a prolonged and careful study of this application in its relation to the master plan of the City now being developed; its relation to the proposed new highway on East Avenue and Cameron Road, which is a probable route of the Inter-regional Highway entering the City of Austin; the character and present state of development and future possibility of development of the surrounding neighborhood; and otherwise in the light of sound zoning principles; and

WHEREAS, the property to be changed has a frontage of 971.13 feet on East Avenue and 1113.86 feet on East 38 $\frac{1}{2}$  Street and contains an area of approximately 17.95 acres; and

WHEREAS, an inspection of the surrounding property discloses the fact that the adjoining land to the north known as Wilshire Woods is partially developed into a nice residential subdivision similar to Pemberton Heights and the land adjoining to the south of the tract is also subdivided and partially built up except that immediately adjoining the tract and the land to the west across East Avenue is undeveloped, and that the land to the east thereof is also undeveloped and is in acreage, and further that to the northwest there is located the Austin Country Club, which is not now subject to residential development; and

WHEREAS, an examination of the zoning maps discloses the fact that all of the property surrounding this tract within the City

limits is now zoned as an "A" Residence District and is developing as such and that immediately north and adjacent to this tract fronting on East Avenue a portion of the Wilshire Woods subdivision comprising 2.50 acres has been zoned for commercial use as a Community Center to be developed by the owners of the subdivision as soon as a demand for a neighborhood shopping center is justified; and

WHEREAS, the Board considered the zoning of this tract as closely related to the development of a major highway and in the absence of completed studies with reference to the highway details, it is now not possible to determine whether a Commercial District of this extent will be proper for the future and should East Avenue be developed as an Inter-regional Highway, the specifications for such a development call for service streets adjacent to the highway and grade separations at cross streets and such a highway would confine the use of a commercial development to the east side of the highway and would not conveniently serve any development to the west thereof; and

WHEREAS, this tract has been zoned for residential purposes for many years during the previous and present ownership, and adjacent areas have been approved by the Federal Housing Administration for mortgage insurance of loans for residential construction and that the trend in surround property is for residential development, it would seem probable that such mortgage insurance would also be applicable to this property, and that it is likewise suited for residential development; and

WHEREAS, in view of the large area proposed to be zoned, the establishment of a Commercial Zone on this tract would not constitute a Community Center as defined by the Ordinance, but would create an independent commercial district subject to the same use as any other commercial district within the City of Austin as set out in Section 6 of the Zoning Ordinance in accordance with which such uses as bakeries, bottling works, laundries, used car sales areas, trailer camps and tourist camps, which the Board deems would adversely affect property values and the desirability of better class residential development around this tract; and

WHEREAS, the details for the development of the proposed highway for East Avenue have not yet been perfected and the present limited development of the surrounding territory for homes and other residential uses does not indicate imperative need at this time for commercial zoning at this location; and

WHEREAS, the Board deems that in the light of the above consideration there has not been established any urgent need or public demand for a commercial zoning of this extent, and that any change at the present time would be premature and fraught with possible serious conflicts of future developments of the highway and of the land; 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 "C" Commercial District is not recommended to the City Council.

Respectfully submitted,

BOARD OF ADJUSTMENT

By (Sgd) H. F. Kuehne, Chairman. "

This being the day and hour fixed for the public hearing on the proposal of the City Council to amend the Zoning Ordinance in the following particulars, to wit:

To amend the USE designation of the following described property so as to change same from a "C-2" Commercial District to a "C-1" Commercial District, to wit:

A portion of Lot 5, Block 38, Original City, being known as Nos. 1510-12 Lavaca Street, in the City of Austin, Texas.

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

A tract of land in the City of Austin, Travis County, Texas, described as follows: Beginning at a point which is the southwest corner of the R. H. Johnson tract in the Thomas Hawkins Survey; thence in a northerly direction with the east boundary line of East Avenue to the northwest corner of said R. H. Johnson tract; thence in an easterly direction, with the north boundary line of said R. H. Johnson tract to the west boundary line of the H&TC R.R. right-of-way; thence in a southerly direction, parallel with East Avenue to the north boundary line of East 38 $\frac{1}{2}$  Street; thence in a westerly direction, along said north boundary line of East 38 $\frac{1}{2}$  Street, to the place of beginning.

the Mayor thereupon announced the hearing open.

The following persons then appeared and were heard for and against the proposed change in the USE designation, from "A" Residence District to "C" Commercial District, of the property described as the R. H. Johnson tract fronting on East Avenue and extending along East 38 $\frac{1}{2}$  Street:

M. H. CROCKETT, proponent, plead for the change and submitted a blue print showing the use to which he proposes to put the property in question; and submitted a copy of a letter written by him to Councilman Gillis, dated May 4, 1944, in which he agreed to deed the City whatever right-of-way is needed off his property on East Avenue and East 38 $\frac{1}{2}$  Street in the event the zoning change requested is granted; also another letter dated June 1, 1944, addressed to the City Council relative to deeding the City certain-right-of-way along East Avenue and East 38 $\frac{1}{2}$  Street in the event the zoning change is granted.

JUDGE GEORGE CALHOUN and JOE CALLAN, representing the Z. P. Jourdan Estate, appeared to protest the change in the event tourist courts are to be allowed there, but withdrew their objections provided the property is used for the purposes stated by Mr. Crockett, and as shown on the blue print submitted.

W. L. BRADFIELD and HARRIS BRUSH, owners of Wilshire Woods Subdivision, appeared and protested the change on the grounds that same would be detrimental to said Subdivision, which lies just north of the property in question, declaring that they had spent considerable money in developing said Subdivision to make it one of the choice residential areas in Austin; that an adequate

community center has already been provided for; that an additional community center would create an oversupply of business property and would decrease the value of their property; and submitted a report from the Land Use Committee of the City Plan Commission recommending against the change.

A written protest, signed by Lucy M. Moore and other property owners in University Park, protesting the change, was received.

There being no other property owners or interested persons desiring to be heard, the hearing was continued, and the matter referred to the Acting City Attorney for study and report at the next regular meeting.

There being no property owner or other interested person appearing to protest the proposed change in zoning of the property at 1510-1512 Lavaca Street, said hearing was thereupon closed.

Councilman Alford then introduced the following ordinance:

AN ORDINANCE AMENDING THAT CERTAIN ORDINANCE PASSED BY THE CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS, JULY 29, 1937, AND RECORDED IN ORDINANCE BOOK "K", PAGE 239, ET SEQ., OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, WHICH ORDINANCE WAS AMENDATORY OF THAT CERTAIN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN PASSED BY THE CITY COUNCIL APRIL 23, 1931, AND RECORDED IN ORDINANCE BOOK "I", PAGES 301-318, BOTH INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN; THE AMENDMENT HEREBY ENACTED CHANGING THE USE DESIGNATION FROM "C-2" COMMERCIAL DISTRICT TO "C-1" COMMERCIAL DISTRICT OF THE PROPERTY DESCRIBED AS A PORTION OF LOT 5, BLOCK 38, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, SAID PROPERTY BEING KNOWN AS 1510-1512 LAVACA STREET; ORDERING A DELINEATION OF THE OFFICIAL USE MAP SO AS TO SHOW THE CHANGE HEREBY ORDERED; AND DECLARING AN EMERGENCY.

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

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

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

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

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

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

Thereupon the Mayor announced that the ordinance had been finally passed.

Councilman Gillis offered the following resolution; and moved its adoption:

(RESOLUTION)

WHEREAS, City of Austin taxes were assessed in the name of Lomis Slaughter for the year 1943 on Lots 10, 11, 12, Block 17, Original City, and 2.22 acres in the Spear League, and Lot 37 and the north twenty (N.20) feet of Lot 38, Outlet 39, Division "D", Sampson's Subdivision, and personal property, all in the City of Austin, Travis County, Texas; and for nonpayment of same at maturity, penalty in the sum of \$69.90 has been assessed, and interest in the sum of \$19.28 has accrued, making the total amount of taxes, penalty and interest due \$1487.23; and

WHEREAS, the City Council of the City of Austin deems it just and equitable to remit said penalty in the sum of \$69.90; therefore

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

THAT the aforesaid penalty in the sum of \$69.90 is 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 \$69.90 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 interest, as aforesaid.

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

Ayes : Councilmen Alford, Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilman Wolf

Councilman Gillis offered the following resolution, and moved its adoption:

(RESOLUTION)

WHEREAS, City of Austin has assessed in the name of the estate of W. Gillespie Stacy, deceased, and Franklin A. Stacy, for the years 1927 through 1942 on certain personal property and on the following described real property located in the City of Austin, Travis County, Texas, to-wit:

W. Gillespie Stacy - lots:

Lot seven (7) Block 2; the W. 48 ft. of Lot Eighteen (18) and all of Lots Nineteen (19), Twenty (20) and Twenty-one (21) in Block 3; Lot Eight (8) in Block 16; Lots Nine (9) and Ten (10) in Block 32, according to the re-subdivision of said Block 32; Lot Fourteen (14) in Block 39; Lots Six (6), Thirteen (13), Nineteen (19) in Block 40; Lot Sixteen (16) in Block 42; Lot Fifteen (15) in Block 45; Lot Two (2) in Block 47; Lots Three (3), Four (4), Seven (7), Eight (8) and Nine (9) in Block 48; and Lot Seven (7) in Block 53; and Lot Eighteen (18) in Block 39; and Lot Forty-two (42) in Block 40.

All of which above described lots are located in Travis Heights Addition to the City of Austin, Texas, according to the plat of



said Addition recorded in Plat Book No. 3, page 15, of the Plat Records, Travis County, to which reference is hereby made.

Lots Sixteen (16), Seventeen (17), Twenty-one (21), and Twenty-two (22, of Block "B", of Outlot Fifty-seven (57), Division "O" of Free & Williams Subdivision to the City of Austin, according to the plat of said Addition, as recorded in the Plat Records of Travis County, Texas.

Franklin A. Stacy lots:

Lots One (1), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), and Eighteen (18) in Block 41, of Travis Heights Addition to the City of Austin, Texas.

Among the lots of W. Gillespie Stacy there is included three lots, namely, Lot Six (6) in Block 40; Lot Eight (8) in Block 16, of Travis Heights Addition, and Lot Sixteen (16) in Block "B" of Outlot Fifty-seven (57), Division "O" of Free & Williams Subdivision, which lots were sold on a contract of sale and cancelled for non-performance, but the title to said lots still remain in the name of the estate of W. Gillespie Stacy, deceased.

WHEREAS, said taxes on said property amount to \$993.79 and for non-payment of same at maturity a penalty in the sum of \$49.72 has been assessed, and interest in the amount of \$382.54 has accrued, making the total taxes, penalty and interest due \$1426.05.

WHEREAS, the City Council of the City of Austin deems it just and equitable to remit said penalty in the sum of \$49.72, and one-half of the interest in the sum of \$191.27; therefore,

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

THAT the aforesaid penalty in the sum of \$49.72, and one-half of the interest in the sum of \$191.27 are hereby remitted and the Tax Assessor and Collector of the City of Austin is hereby authorized and directed to charge said penalty and said interest 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 one-half of the interest as aforesaid.

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

Ayes : Councilmen Alford, Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilman Wolf

There being no further business, upon motion, seconded and carried, the meeting was recessed at 1:00 P. M., subject to call of the Mayor.

APPROVED

*Tom Miller*

MAYOR

ATTEST:

*Hellie M. Keller* City Clerk