

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

January 26, 1967
10:00 A.M.

Council Chamber, City Hall

The meeting was called to order with Mayor Palmer presiding.

Roll call:

Present: Councilmen LaRue, Long, White, Mayor Palmer

Absent: Councilman Shanks

Present also: W. T. Williams, Jr., City Manager; Doren R. Eskew, City Attorney; Reuben Rountree, Jr., Director of Public Works; Robert A. Miles, Chief of Police

MAYOR PALMER announced Councilman Shanks was absent due to illness.

Invocation was delivered by REVEREND MURRAY O. JOHNSON, Asbury Methodist Church.

Councilman LaRue moved that the Council recess the zoning hearings to recognize and welcome DR. P. K. BANERJEE, Minister to the Embassy of India in Washington, D.C. The motion, seconded by Councilman Long, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer

Noes: None

Absent: Councilman Shanks

Mr. Byron Lockhart presented Dr. Banerjee and Dr. A. Singh, President of the India Club, University of Texas. DR. BANERJEE expressed his pleasure and honor of being present this day and hoped that for years to come his country and this would be working together.

Pursuant to published notice thereof the following zoning applications were publicly heard:

C. DARRELL HOPKINS
AND ASSOCIATES

Tract 1
2619-2629 U.S. Highway
183 (Burnet Road)
8915-8927 McCann Drive
Tract 2
2701-2709 U.S. Highway
183 (Burnet Road)
8920-8930 McCann Drive

From Interim "A"
Residence 1st Height
& Area
To "C" Commercial 1st
Height & Area
RECOMMENDED by the
Planning Commission

Councilman White moved that the change to "C" Commercial 1st Height and Area be granted. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
Noes: None
Absent: Councilman Shanks

The Mayor announced that the change had been granted to "C" Commercial 1st Height and Area and the City Attorney was instructed to draw the necessary ordinance to cover.

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HARRIS L. JOHNSON
By Clark, Thomas,
Harris, Denius &
Winters

2909 San Gabriel Street
Additional Area
2907 and 2911 San Gabriel
Street

From "BB" Residence
To "GR" General Retail
NOT Recommended by the
Planning Commission

MR. JOHN GOLDSUM represented the applicants, stating Mr. Bill Gaston wants to lease the property for a service and storage area. Mr. Gaston stated there would be a privacy fence around the property, and part of the area would be used for parking employees' cars and for parking boats and trailers before and after servicing. Mr. Goldsum pointed out that "GR" General Retail zoning had already been established in the area, and the only question was that of right of way. He said the Planning Commission had indicated it would favor the project if the street were widened 5'; however, the applicants felt this should not be a factor at this time since the right of way was not required on other properties in the block. The precedent has been set, and it would be unfair to discriminate in favor of one property owner against others. Mr. Goldsum said Mr. Johnson will cooperate in every way when and if the additional 5' is needed, although there are no immediate plans to widen San Gabriel at this time. The lease is for five years with the first right of purchase in the lessee. Councilman Long wanted some assurance on the set back so that the 5' would not be involved in any building. Mr. Gaston said if he acquired the property he would be glad to cooperate with the Council as is the case of Mr. Johnson in regard to the 5'. MRS. JOHN E. KRUEMCKE, 2907 San Gabriel, opposed the zoning, complaining of the appearance of the rear of the lot next to her homestead. Her property which is being used as a nursery school at this time was included in the additional area. She asked if one lot were to be changed, why could not the whole block be changed. It was pointed out her lot was one of those included in the "additional area" to be changed. Mr. Gaston stated the purpose of their application was to correct the conditions that exist now that Mrs. Kruemcke pointed out. Mr. Kruemcke discussed the value of his property and what he could do if the zoning were changed. After discussion, Councilman LaRue moved that the request be granted. The motion, seconded by Councilman White, carried by

the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
 Noes: None
 Absent: Councilman Shanks

The Mayor announced that the change had been granted to "GR" General Retail and the City Attorney was instructed to draw the necessary ordinance to cover.

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SAM McDONALD By Thomas T. Smith	300-608 West Powell Lane	From "A" Residence To "C" Commercial NOT Recommended by the Planning Commission
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Mr. Thomas T. Smith represented the applicants. The Mayor asked if West Powell Lane could be made adequate in width. Mr. Smith stated Red Arrow Freight Lines had already promised up to 15' right of way and he would like to match that offer. Councilman Long moved in view of that offer, that the zoning be granted, with the necessary right of way provided. The motion, seconded by Councilman White, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
 Noes: None
 Absent: Councilman Shanks

The Mayor announced that the change had been granted to "C" Commercial with the necessary right of way provided, and the City Attorney was instructed to draw the necessary ordinance to cover.

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C. H. CARPENTER By Byron Lockhart	5612 Roosevelt Avenue	From "A" Residence To "LR" Local Retail NOT Recommended by the Planning Commission
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Mr. Byron Lockhart represented the applicants, describing the commercial property around the 78' x 180' lot, and stated the Carpenters owned land immediately to the north of the apartment just to the east, and they want to extend the development of their property. There is ample parking around the apartment; and on the bowling lot there is space for more than 400 automobiles. In addition to that parking there is a 30' strip running along the bowling center tract which Mr. Carpenter reserved. Mayor Palmer discussed bringing Thekla Terrace all the way through to Grover. The Chief of Plan Administration said this street is needed for circulation for the neighborhood, but not as a planned thoroughfare. Councilman Long stated it would be advantageous to the customers to have this street opened. Mr. Lockhart pointed out in the development of the washateria, the applicants planned parking on the bowling center lot. Councilman Long urged the opening of Thekla Terrace for circulation. She wanted to go look at this property. Later in the afternoon meeting

the Council considered this application further, and the Mayor asked that the ordinance be brought in. Councilman LaRue moved that the zoning be granted "LR" Local Retail as requested. The motion, seconded by Councilman White, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
 Noes: None
 Absent: Councilman Shanks

The Mayor announced that the change had been granted to "LR" Local Retail and the City Attorney was instructed to draw the ordinance to cover.

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RONALD B. ZENT	300 Canon Street	From "A" Residence 1st Height & Area
		To "B" Residence 2nd Height & Area
		NOT Recommended by the Planning Commission

Mr. Zent represented himself, stating he was in the middle of the block. Mayor Palmer noted zoning a lot in the middle of a residential area would probably be "spot zoning". Councilman LaRue moved that the Council sustain the recommendation of the Planning Commission. The motion, seconded by Councilman White, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
 Noes: None
 Absent: Councilman Shanks

The Mayor announced that the change had been DENIED.

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Councilman LaRue moved that the Minutes of the Meeting of January 5, 1967, be approved. The motion, seconded by Councilman White, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
 Noes: None
 Absent: Councilman Shanks

The Mayor announced the Council would continue its consideration on the ambulance situation next week on February 2.

Mayor Palmer introduced the following ordinance:

AN ORDINANCE CLOSING THE HEARING GIVEN TO THE REAL
 AND TRUE OWNERS OF PROPERTY ABUTTING UPON SUNDRY
 STREETS IN THE CITY OF AUSTIN, TEXAS, WITHIN THE LIMITS
 HEREINAFTER DEFINED, AS TO SPECIAL BENEFITS TO ACCRUE

TO SAID PROPERTY AND THE REAL AND TRUE OWNERS THEREOF BY VIRTUE OF THE IMPROVEMENT OF SAID STREETS WITHIN SAID LIMITS, AND AS TO ANY ERRORS, INVALIDITIES OR IRREGULARITIES IN ANY OF THE PROCEEDINGS OR CONTRACT THEREFOR; FINDING AND DETERMINING THAT EACH AND EVERY PARCEL OF PROPERTY ABUTTING UPON SAID STREETS WITHIN THE LIMITS DEFINED WILL BE SPECIALLY BENEFITED AND ENHANCED IN VALUE IN EXCESS OF THE AMOUNT OF THE COST OF SAID IMPROVEMENTS PROPOSED TO BE, AND AS, ASSESSED AGAINST SAID ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF, AND LEVYING AN ASSESSMENT FOR THE PAYMENT OF A PORTION OF THE COST OF IMPROVING SAID STREETS WITHIN THE LIMITS DEFINED, FIXING A CHARGE AND LIEN AGAINST ALL SAID ABUTTING PROPERTIES, AND THE REAL AND TRUE OWNERS THEREOF, PROVIDING FOR THE ISSUANCE OF ASSIGNABLE CERTIFICATES UPON THE COMPLETION AND ACCEPTANCE OF SAID WORK, THE MANNER AND TIME OF PAYMENT THEREOF, AND PROVIDING FOR THE MANNER AND METHOD OF COLLECTION OF SAID ASSESSMENTS AND CERTIFICATES; DECLARING AN EMERGENCY, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE. (Breedlove Court and other streets)

The ordinance was read the first time and Councilman LaRue moved that the rule be suspended and the ordinance passed to its second reading. The motion, seconded by Councilman White, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
Noes: None
Absent: Councilman Shanks

The ordinance was read the second time and Councilman LaRue moved that the rule be suspended and the ordinance passed to its third reading. The motion, seconded by Councilman White, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
Noes: None
Absent: Councilman Shanks

The ordinance was read the third time and Councilman LaRue moved that the ordinance be finally passed. The motion, seconded by Councilman White, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
Noes: None
Absent: Councilman Shanks

The Mayor announced that the ordinance had been finally passed.

Mayor Palmer introduced the following ordinance:

AN ORDINANCE CLOSING THE HEARING GIVEN TO THE REAL AND TRUE OWNERS OF PROPERTY ABUTTING UPON SUNDRY STREETS IN THE CITY OF AUSTIN, TEXAS, WITHIN THE

LIMITS HEREINAFTER DEFINED, AS TO SPECIAL BENEFITS TO ACCRUE TO SAID PROPERTY AND THE REAL AND TRUE OWNERS THEREOF BY VIRTUE OF THE IMPROVEMENT OF SAID STREETS WITHIN SAID LIMITS, AND AS TO ANY ERRORS, INVALIDITIES OR IRREGULARITIES IN ANY OF THE PROCEEDINGS OR CONTRACT THEREFOR; FINDING AND DETERMINING THAT EACH AND EVERY PARCEL OF PROPERTY ABUTTING UPON SAID STREETS WITHIN THE LIMITS DEFINED WILL BE SPECIALLY BENEFITED AND ENHANCED IN VALUE IN EXCESS OF THE AMOUNT OF THE COST OF SAID IMPROVEMENTS PROPOSED TO BE, AND AS, ASSESSED AGAINST SAID ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF, AND LEVYING AN ASSESSMENT FOR THE PAYMENT OF A PORTION OF THE COST OF IMPROVING SAID STREETS WITHIN THE LIMITS DEFINED, FIXING A CHARGE AND LIEN AGAINST ALL SAID ABUTTING PROPERTIES, AND THE REAL AND TRUE OWNERS THEREOF, PROVIDING FOR THE ISSUANCE OF ASSIGNABLE CERTIFICATES UPON THE COMPLETION AND ACCEPTANCE OF SAID WORK, THE MANNER AND TIME OF PAYMENT THEREOF, AND PROVIDING FOR THE MANNER AND METHOD OF COLLECTION OF SAID ASSESSMENTS AND CERTIFICATES; DECLARING AN EMERGENCY, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE. (Tinnin Ford Road)

The ordinance was read the first time and Councilman LaRue moved that the rule be suspended and the ordinance passed to its second reading. The motion, seconded by Councilman White, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
Noes: None
Absent: Councilman Shanks

The ordinance was read the second time and Councilman LaRue moved that the rule be suspended and the ordinance passed to its third reading. The motion, seconded by Councilman White, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
Noes: None
Absent: Councilman Shanks

The ordinance was read the third time and Councilman LaRue moved that the ordinance be finally passed. The motion, seconded by Councilman White, carried by the following vote:

Ayes: Councilmen LaRue, Long, White, Mayor Palmer
Noes: None
Absent: Councilman Shanks

The Mayor announced that the ordinance had been finally passed.

10TH STREET ALLEY

MAYOR PALMER opened the hearing, continued from last week on improving 10th Street Alley. The City Attorney reported the Council heard the property owners, and wanted to make an on site inspection of the property. He wanted to present professional testimony by MR. JOE PERRONE, a Realtor, as to the value of the property. MR. JOE PERRONE, being duly sworn, said he had been in the Real Estate Insurance Business for about 20 years; is a member and past President of the Austin Real Estate Board and presently a Regional Vice President of the Texas Real Estate Association. Mr. Perrone had conducted an investigation of the value of the 10th Street Alley area, between Red River and Neches Streets and said he was asked to express his opinion on the enhancement of land value on the result of paving an alley. He said the paving of an alley had the same effect as paving of a street, as an alley has many uses--garbage pick-up; ingress and egress traffic for rear apartments, rear development on the lot; corner lot advantage for rear parking, versatility of construction due to rear entrances. Paving of a street definitely enhances the value of the adjoining land, and he found no reason why this application should not be applied to this alley. Councilman Long asked if he thought that an inside lot that had a fence around the back yard would be enhanced greatly by paving the alley. Mr. Perrone stated as long as the fence were there, he would not think it would particularly help it; but that would be up to the usage by the owner. The actual value would not change by the property owner's not making use of the property. He stated the value was there if the owner chose to use it. Councilman Long asked if he considered this area commercial. Mr. Perrone stated he would consider this particular piece of property as commercial. Councilman LaRue pointed out the governing fact would be whether or not the paving would bring an additional sum of money on the market. Mr. Perrone answered that was correct; he did not think there was any question but that it would enhance the value for a potential buyer. Councilman Long agreed to this on the corner lots, but said she was uncertain on the inside lots. She asked Mr. Perrone if he advocated paving alleys, to which he replied he would certainly advocate paving commercial alleys; also residential alleys if they were standard width. Paving residential alleys would enhance residential areas.

The Assistant City Attorney, MR. GLENN CORTEZ, inquired about specific locations, asking about MR. HENRY H. MOORE'S property at the corner of 10th and Neches (the back portion). MR. PERRONE said Mr. Moore was making good use of his property now, although he was not using the entire area, and there was no question but what his property is being enhanced in at least \$356.91 as a result of the alley's being paved.

With respect to the JOSEPH W. WINKLEY and R. S. MERRILL property at the corner of Neches and the alley, (northeast corner of 10th Street), MR. CORTEZ asked if that property would be enhanced in value at least to the extent of \$237.94 as a result of this paving. MR. PERRONE said there was no question but that it would. The fact a person does not use the property does not enter into the picture at all. The value is enhanced the minute the paving goes in.

The Assistant City Attorney, MR. GLENN CORTEZ, inquired if MRS. ELVA L. ROGER PEARSON'S property at 504 East 10th Street would be especially benefited at least in the amount of \$237.94 as a result of this paving program. Mr. Perrone stated there was no question but that it would be, and there would be no difference in that and all the adjoining property. It would enjoy the same benefits if it would be put to proper use.

MR. CORTEZ said they had no further questions.

MR. HENRY MOORE said he was not questioning that the paving enhanced the value of his property at this time, at a time when he was not interested in it being done. He asked what caused this to be done as four out of the five property owners did not want the paving whether it enhanced their property or not. Councilman Long asked if there were any question in his mind whether or not this was an alley. Mr. Moore stated he had no question--no opinion either way. He had assumed it was an alley and whether it was opened or not did not matter.

Mayor Palmer asked if the four-fifths of the ownership of the alley who did not want the paving, represented over 50% of the property. Mr. Moore stated it probably represented 90%. It was stated owners of more than 50% of the property had paid for their part of the paving.

Mr. Moore reported Mr. Trueman O'Quinn had written a letter on March 18, 1966, to the Public Works Department asking that the alley be opened and paved; and that Mr. Silberstein had indicated he also wanted the alley opened and would pay his share of the paving cost.

MR. JAKE SILBERSTEIN stated he did not care for the alley's being paved. He was advised if all the property owners would send their money in on a voluntary basis they would get their alley paved at a lower cost. He in turn stated unless it were compulsory, he was not in favor of it. Later he understood the cost would be higher under the assessment procedure, and he made his payment. He was under the impression if all the other property owners did not pay, his money would be refunded.

MR. BOB HERRON represented MRS. ELVA PEARSON. Her position is the alley belongs to her, that it had been closed by a recorded document in 1870, and has been closed until recently when the paving was done and her fence was moved back. She feels the portion of the land taken for the alley is worth more than any benefits to the remainder of her land. He asked Mr. Ferrone if he had taken anything like this into consideration. Mr. Ferrone stated he had not. The Mayor pointed out that Mrs. Pearson owns perhaps a half of the street in front of her house; and she owns half of the alley, but it is dedicated to public use. The City Attorney explained there was a dispute between Mr. Herron and his office as to the effect of an agreement entered into by the property owners without any governmental sanction whatever in the 1870's and it is his opinion the action of the property owners had no effect on the City. Mr. Herron said if the alley were to be opened for the benefit of the public or for property owners generally, it seems that the City should share in the cost of paving the alley. It was pointed out the City does the engineering and inspections and assessed no more than 90% of the total cost. Mr. Herron asked if 100% of the cost of construction of the alley is charged to the property owner. The Director of Public Works stated 10% of the cost was deducted from the contract price. MRS. PEARSON did not believe paving the alley would compensate for her losing 10' of her land and having all of her trees cut down; however she felt this was in the way of progress to object, so she agreed to have the alley opened but she thought that in giving it up, she deserved some compensation for losing the property. Mr. Herron said Mrs. Pearson was willing to execute a quitclaim to whatever right she might have in the alley in order that it might be paved, but she objects to being assessed \$237.00 for the cost of paving the alley.

MR. DICK MERRILL speaking of the southwest corner of 10th and Neches, brought up the question of the Urban Renewal Plan which is up for adoption and which shows Neches to be closed and acquired by the Urban Renewal Board rendering the alley entering into Neches Street useless to him and his partner Mr. Joe

Winkley. He asked about the manner in which Urban Renewal valued a piece of land doubting if the additional amount for paving an alley would be included in the value. Mr. Merrill referred to correspondence dated August 2, 1966, stating it would be necessary that all property owners submit their checks not later than September 2, 1966; otherwise it would be necessary to abandon the project and all deposits would be refunded. He felt if all did not agree, that the project would be dropped. If there were other letters, they were not aware of them. Subsequent telephone calls about this had been received from the Department of Public Works and the Legal Department.

The City Attorney asked the Director of Public Works to tell the Council how many linear feet of frontage are on the alley. The Director of Public Works reported there were 552 and 310½ linear feet were paid for by the abutting owners before the contract was let. This was more than 50% of the property.

MR. SILBERSTEIN reported Mr. Frank Montgomery had told him Mr. O'Quinn was going to have the alley paved, and he thought that was a good idea. Mr. Silberstein said he thought he was going to get free paving; but he paid \$300, with the thought it would be refunded. The Mayor stated regardless of what Mr. Silberstein may or may not have thought, the money for his paving plus money from others for 310½' was paid in before a contract was made--310½' out of a total of 552 linear feet. At Mr. Moore's request, the Director of Public Works read the letter from Mr. O'Quinn dated March 18th, regarding the opening of the alley and that he was advised that Mr. Jake Silberstein who owns property on both sides of the alley had indicated he wanted the alley opened and would pay his proportionate share. Mr. Silberstein said he was in favor of paving the alley, but he thought the City would pay for it. The Mayor explained many times one property owner owned maybe 45% of the property and would block all the paving in many streets. The Council adopted a policy if 50% of the people or owners of 50% of the property wanted their street paved, that the Council could go ahead and declare the necessity to pave and assess the remaining property owners. The Mayor stated this was one of the most successful paving programs that any city has adopted.

Miscellaneous discussion was held. Mayor Palmer announced that the records and the facts as they have been related to the Council were that owners of more than 50% of the total property wanted it paved at the time the Council levied the assessment. He stated the Council had wanted to look at the property on the site, and would make a decision on this. Mr. Moore asked if there were any recourse for the four property owners. Councilman Long stated if the Council should decide against him he could appeal to the courts, but his only recourse would be that the paving does not enhance the property to whatever the paving cost was, and he had already testified that it did. Mr. Moore said all he asked was when Urban Renewal came to acquire his property that they will include this additional amount in its value.

After hearing all the testimony of those who appeared on the matter before the City Council and after consideration of all the evidence, the Mayor announced that the hearing was closed, and the City Attorney was directed to prepare an ordinance incorporating the findings of the City Council when made.

Later in the afternoon meeting Mayor Palmer introduced the following ordinance:

AN ORDINANCE CLOSING THE HEARING GIVEN TO THE REAL AND TRUE OWNERS OF PROPERTY ABUTTING UPON SUNDRY STREETS IN THE CITY OF AUSTIN, TEXAS, WITHIN THE

LIMITS HEREINAFTER DEFINED, AS TO SPECIAL BENEFITS TO ACCRUE TO SAID PROPERTY AND THE REAL AND TRUE OWNERS THEREOF BY VIRTUE OF THE IMPROVEMENT OF SAID STREETS WITHIN SAID LIMITS, AND AS TO ANY ERRORS, INVALIDITIES OR IRREGULARITIES IN ANY OF THE PROCEEDINGS OR CONTRACT THEREFOR; FINDING AND DETERMINING THAT EACH AND EVERY PARCEL OF PROPERTY ABUTTING UPON SAID STREETS WITHIN THE LIMITS DEFINED WILL BE SPECIALLY BENEFITED AND ENHANCED IN VALUE IN EXCESS OF THE AMOUNT OF THE COST OF SAID IMPROVEMENTS PROPOSED TO BE, AND AS, ASSESSED AGAINST SAID ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF, AND LEVYING AN ASSESSMENT FOR THE PAYMENT OF A PORTION OF THE COST OF IMPROVING SAID STREETS WITHIN THE LIMITS DEFINED, FIXING A CHARGE AND LIEN AGAINST ALL SAID ABUTTING PROPERTIES, AND THE REAL AND TRUE OWNERS THEREOF, PROVIDING FOR THE ISSUANCE OF ASSIGNABLE CERTIFICATES UPON THE COMPLETION AND ACCEPTANCE OF SAID WORK, THE MANNER AND TIME OF PAYMENT THEREOF, AND PROVIDING FOR THE MANNER AND METHOD OF COLLECTION OF SAID ASSESSMENTS AND CERTIFICATES; DECLARING AN EMERGENCY, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE.

The ordinance was read the first time and Councilman White moved that the ordinance be passed to its second reading. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilmen LaRue, White, Mayor Palmer
Noes: Councilman Long
Absent: Councilman Shanks

Councilman Long made the following statement concerning her vote:

"I think four of the assessments are justified, but Mrs. Pearson's property in the middle of the block, to my way of thinking, is not enhanced to the amount charged against it; therefore I vote 'no'."

CONTINUED HEARING ON AVENUE "A" AND OTHER STREETS

MAYOR PALMER opened the hearing continued from last week on AVENUE "A" and other streets. Particular property on the intersection of Hancock and Crestmont Drive, belonging to MR. EARL PODOLNICK was under discussion. The Assistant City Attorney, MR. GLENN CORTEZ stated there was a drainage ditch between the street and the property. The property owner's testimony last week was that he did not feel his property would be enhanced in value to the extent of the assessment due to the drainage ditch between the paved parking area and the building and the improved street. MR. JOE PERRONE, presented professional evidence, as to the enhancement of this property in value to the extent of the cost of the assessment of paving Crestmont Drive, \$633.90. Mr. Perrone stated the improvements on Crestmont would enhance the property by double the amount of the assessment, as this particular property has a great amount of rear property blocked off somewhat by the front development on Hancock Drive. A small

bridge across this ditch would open up hundreds of square feet of area that could be developed. When the side street is paved, Mr. Rodolnick could put in an entry and could develop the entire property. In answer to Councilman Long's question that he could do this without paving, Mr. Ferrone said Mr. Rodolnick would have a secondary side street, unpaved, dusty and dirty, and not desirable for customers. Mr. Ferrone pointed out development that had been made of covering a ditch and using it in other locations. Mr. Cortez asked Mr. Ferrone if the subject property is being enhanced and especially benefited to the extent of at least \$633.90. Mr. Ferrone answered that it was without any question. Mayor Palmer stated the Council would go and look at this property and the hearing on AVENUE "A" and other streets was continued until the following week.

The Council recessed until 2:30 P.M.

RECESSED MEETING

2:30 P.M.

At 2:30 P.M. the Council resumed its business.

ZONING - DEAN O. SMITH - 38th AND JEFFERSON

MR. RICHARD BAKER appeared in the interest of the Dean O. Smith zoning 1520-1530 West 38th, 1600-1620 West 38th, 3801-3811 Jefferson, 3819-3821 Jefferson from "A" Residence & "O" Office 1st Height and Area to "C" Commercial 3rd Height and Area. Mayor Palmer recalled the applicants did not own all of the necessary right of way, and he asked if it were now ready to be provided. Mr. Baker displayed a map showing the tract acquired from which the majority of the right of way was needed, and the other tracts purchased. Previously he had asked that the zoning be withheld until all of the property could be obtained and all of the right of way could be conveyed. At this time they were in a position to do this. He asked the Council to grant the zoning subject to obtaining proper right of way, stating his clients are willing to dedicate street right of way (pointing it out on the map). Mr. Baker pointed out one section at an intersection, that the City under its policy would buy the right of way in excess of 70', showing the area on a plat. He discussed an exchange of property with the City, his clients donating 5,504 square feet, and the City deeding approximately 1200 square feet of excess right of way, making a net donation of approximately 4,304 square feet. The City would be purchasing about 2,000 square feet. The City Attorney explained the legal status. Discussion was held and the City Attorney stated the City could enter into a contract regarding the obtaining and dedication of the right of way. (Right of way to be dedicated from Lots 13, 15, 16 and 10, Jefferson Street Addition and City to deed 1200 square feet from Lots 15 and 10.)

Mayor Palmer introduced the following ordinance:

AN ORDINANCE ORDERING A CHANGE IN USE AND HEIGHT AND AREA AND CHANGING THE USE AND HEIGHT AND AREA MAPS ACCOMPANYING CHAPTER 39 OF THE AUSTIN CITY CODE OF 1954 AS FOLLOWS: THAT PORTION OF LOT 10 LYING NORTH OF WEST 38TH STREET AND LOTS 13, 14, 15, AND 16 OF THE JEFFERSON STREET ADDITION, LOCALLY KNOWN AS 1520-1530 WEST 38TH STREET, 1600-1620 WEST 38TH STREET AND 3801-3811 JEFFERSON STREET, ALSO