

## MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Special Meeting

March 16, 1951.  
4:00 P.M.

Council Chamber, City Hall

The meeting was called to order with Mayor Pro-tem Drake presiding.

## Roll Call:

Present: Councilman Johnson, Long, MacCorkle, Mayor Pro-tem Drake  
Absent: Mayor Glass

Present also: Walter E. Seaholm, City Manager; Trueman E. O'Quinn, City Attorney; C. G. Levander, Director of Public Works; William Parker, City Planner.

Plan Commission Members present: George Sandlin, Chairman; Mrs. A. N. McCallum; H. F. Kuehne, Harry D. Pruett, and C. A. Schutze.

The purpose of this special meeting was to discuss bills pending in the Legislature which would affect cities' annexation powers. MR. SANDLIN opened the discussion bringing out points in the planning of the City with reference to expanding the City limits, and he stated if the Bills, H.B. 354 or S.B. 270) passed, it would be impossible for the City to expand or to maintain the expansion. MR. WILLIAM PARKER explained a series of maps made in this study, pertaining to main thoroughfares, and the possibility of working these thoroughfares out in the county; the master plan study; the electric system; sanitary sewer system; water distribution; land use; a map showing the vacant lots inside the city limits; the tax evaluation of the city; a map showing the subdivisions considered; maps showing cases of diarrhea and tuberculosis in the city; a map showing the expansion of the City by years; a neighborhood unit map, to be a pattern in developing communities outside the city; the independent water districts and school districts.

After these maps were explained, Mr. Sandlin stated the subdivisions were coming in at a rapid pace, and that developers were working beyond the city limits more than in the city limits. Developers within a five mile area are supposed to come before the Plan Commission and work with the over-all plan. He brought out that since the City had adopted the thoroughfare plan, the Plan Commission had obtained two and one-four miles of boulevard right-of-way without being charged for it; as the subdividers had dedicated this part. He explained how the bill pending in the Legislature would practically do away with planned areas outside the City limits or the city being able to take them in.

The City Attorney stated that the bill does away with fixed standards, as to whether or not a piece of property is suitable for City purposes. It is a political question and not a question of fact; however, these bills, H.B. 354 and S.B. 270 substitute for the Council's determination of whether it is needed for city purposes, the findings of a court or jury. The bills provide that it would be a question of fact whether the annexed area is intended to be used for town purposes; whether it is suitable for such purposes; whether it will be benefitted by the expansion; and whether or not, at the time of the annexation there is a bonafide intent that certain services will be extended within the taxable year. It will become a question of fact for a jury to determine and not for City Councils or Planning Commissions. Untrained and unqualified persons will determine those facts. The validity of the annexation can be attacked anytime within four years. The City would not know whether the territory is in or out; whether to run lines, etc., or whether or not to let them vote in bond elections; whether or not the City could collect taxes, as at the end of the four years, the taxes might have to be refunded. No planning could be done with reference to the new territory. The Bond Market would be affected. Taxes collected might have to be refunded. Cities are faced with the possibility of spending money in the area for streets, sewer lines, etc., and then some jury could decide the area should not have been annexed. It was brought out further in the discussion that this bill did not set up any jury procedure; that the only thing that could be questioned was, if a person in the annexed area goes into court, whether or not the City of Austin has certain powers or did it comply with the powers it had.

Different members of the Council expressed their views of opposition to this bill. Councilman Johnson stated he did not want anyone to tell the City what could be taken in and what could not; nor did he think the City should take in the suburbs until services could be supplied by the City. Councilman MacCorkle stated if this bill passed, it would mean the City had no control over adjoining areas; and for that reason, he was opposed to the bill as it is now written. Mr. Sandlin stated the only reason that the City had been able to maintain any control over this outside area was that the Commissioners Court had been so cooperative, and it would not approve a subdivision within a five mile area without it coming through the City Plan Commission.

The City Attorney stated again the most serious thing that will be affected by this bill would be the bond market, in that the fact that a territory taken in may be disannexed, the bond people would have to have a tremendous amount of information and the City's credit rating would be affected. Councilman Long stated the human element came into the picture as well as the economic.

Councilman Long moved that the City Attorney draft a resolution that the Council go on record opposing these two bills, H.B. 354 and S.B. 270, with copies to be sent to our Senator and Representatives.

It was suggested that there was no resolution drawn and that a transcript of the minutes of the Council, showing the presence of the Planning Commission and interested citizens, and showing the discussion and points brought out, be furnished the Senator and Representatives. COUNCILMAN LONG then amended her motion to that extent. The motion, seconded by Councilmen Johnson, carried by the following vote:

Ayes: Councilmen Johnson, Long, MacCorkle, Mayor Pro-tem Drake  
Noes: None  
Absent: Mayor Glass

After further discussion, the following Resolution was drawn, and Councilman Long offered the resolution and moved its adoption:

(RESOLUTION)

WHEREAS, pending now in the Texas State Legislature are House Bill 354 and Senate Bill 270 to establish conditions under which territory may be annexed to the corporate limits of Home Rule Cities in this State; and

WHEREAS, such proposed legislation has the effect of abolishing a rule of law long established in Texas that the question of whether annexed areas are suitable for town purposes is one for determination by the duly elected governing bodies of Home Rule Cities, and such legislation would place this determination in the hands of trial juries not qualified or skilled in judging the best governmental interest of large communities; and

WHEREAS, such legislation, if enacted into law, would deprive the inhabitants of Home Rule Cities of presently existing powers to govern their own natural growth and expansion, a power exercised through duly elected local city councils, authorized by law to judge questions relating to protection of public health, the movement of metropolitan traffic, and extension of services and utilities (including schools, parks, streets, sewers, water lines, and other improvements), and such laws, if enacted, would place such governing powers and responsibilities in the hands of trial juries, not responsible to the electorate; contrary to the best interests of every Home Rule City in this State; and

WHEREAS, the proposed state legislation, contained in House Bill 354 and Senate Bill 270, provides that suits to contest all questions of fact, relating to suitability of annexed areas for town purposes, may be brought any time within four years after annexation, thus leaving in a state of legal uncertainty every annexation accomplished under the proposed laws; and

WHEREAS, it is obvious that during such four-year period no Home Rule City having annexed new territory, however fairly and justifiably, could afford to spend tax money in the new territory for streets, street lighting, schools, parks, water lines, sewer lines, and other public improvements, without undertaking at the same time the grave risk of having a trial jury set aside the annexation proceedings, and thereby cause every such city to lose all money spent for public improvements within the area; and

WHEREAS, due to the uncertainty of the legal status of newly annexed territory for a period of four years, all Home Rule Cities with new areas annexed under such laws would be confronted with numerous serious problems in voting and marketing municipal bonds, and until the expiration of the four-year period in which contests might be brought by any taxpayer, such cities would be precluded from using bond money for public improvements of any character within the newly acquired areas; and

WHEREAS, such period of uncertainty would keep alive for four years the question of collection of taxes, and such cities having annexed territory under the proposed laws would be compelled as a matter of course to hold in escrow all tax money collected during the four-year period within the new areas and withhold all expenditures of such tax money within the annexed areas until the proposed four-year limitations statute could settle the doubts in favor of the

cities and their inhabitants; and

WHEREAS, the proposed legislation prohibits collection of taxes after two years, unless tax money collected in the new area is actually spent for public improvements within the territory during the first two years after annexation, thus creating an intolerable stalemate between sound financing of municipal affairs on the one hand and legality of annexation on the other; and

WHEREAS, the practical difficulties of such proposed legislation are so manifest, and the principles of these proposed laws are so opposed to the best interests of the citizens of every Home Rule City in this State who are attempting to plan and develop their communities to meet the demands of natural and inevitable growth and expansion, and to solve for the general welfare the increased problems of protection of public health, control of traffic, and extending services to the people by furnishing schools, parks, streets, utilities, and other public facilities; Now, Therefore,

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

That the proposals of House Bill 354 and Senate Bill 270, now pending before the Texas State Legislature, whereby intolerable conditions upon the annexation of new territory to any Home Rule City would be imposed by law, be and the same are hereby vigorously opposed as contrary to the best interests of local self government and as detrimental to the natural growth and development of Home Rule Communities in Texas; and that a copy of this Resolution be furnished each member of the House Committee before the public hearing on House Bill 354 on Monday, March 19, 1951, and to all other members of the House and of the Senate, in expression of the earnest and sincere opposition of this City Council, representing the people of Austin, to the legislation proposed by House Bill 354 and Senate Bill 270.

The motion, seconded by Councilman Johnson, carried by the following vote:  
Ayes: Councilmen Johnson, Long, MacCorkle, Mayor Pro-tem Drake  
Noes: None  
Absent: Mayor Glass

There being no further business, the Council adjourned subject to the call of the Mayor:

APPROVED

*Taylor Glass*  
Mayor

ATTEST:

*Edwin Rossley*  
City Clerk