

October 1st, 1959

REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF SAN
ANTONIO HELD IN THE COUNCIL
CHAMBER, CITY HALL, ON THURS-
DAY, OCTOBER 1st, 1959, AT
8:30 A. M.

Following Councilmembers present;

MAYOR KUYKENDALL, Presiding

REUBEN O. DIETERT

MIKE PASSUR

DR. JOHN L. McMAHON

DR. MAX E. JOHNSON

WAYNE C. SIMPSON

JOE OLIVARES

THEO W. PINSON, JR.

DR. JOSE SAN MARTIN

The Invocation was given by Councilman Passur.

On motion by San Martin, seconded by Dietert, the reading of the minutes of the previous meeting was dispensed with.

The Mayor then made the following announcement.

PUBLIC HEARING

AMENDMENTS TO ZONING ORDINANCE

TIME
AT THIS ^WE WILL OPEN THE PUBLIC HEARING FOR THE CONSIDERATION OF REQUESTS FOR ZONING CHANGES.

IN THE DISCUSSION OF TODAY'S PROPOSED ZONING AMENDMENTS, IT IS THE DESIRE OF THE COUNCIL THAT ALL INTERESTED PARTIES HAVE AMPLE OPPORTUNITY TO BE HEARD.

IN ORDER TO CONSERVE TIME, HOWEVER, AND IN THAT THERE ARE SEVERAL ZONING CASES FOR CONSIDERATION ON TODAY'S AGENDA, WE RESPECTFULLY REQUEST THAT CONVERSATION BE LIMITED TO INFORMATION PERTINENT TO, AND HAVING DIRECT BEARING ON, THE CASE.

ALSO, DELAY IN THE HEARING CAN BE MINIMIZED IF THOSE WISHING TO SPEAK WILL AVOID REPETITION OF INFORMATION WHICH HAS PREVIOUSLY BEEN GIVEN.

YOUR COOPERATION IN THIS MATTER WILL BE APPRECIATED.

THOSE PERSONS WISHING TO SPEAK ON TODAY'S ZONING CASES HAVE BEEN ASKED TO REGISTER. IF YOU DO WISH TO SPEAK AND DID NOT REGISTER, PLEASE SEE MRS. BRACK AT THE COUNCIL CHAMBER ENTRANCE.

Zoning Case No. 1165 to rezone Lot 12, NCB 7027 was called up for hearing. Property being located at River Road and Terry Court and to be rezoned from "B" Residence District to "JJ" Commercial District. The Planning Director briefed the Council on the case and stated the Planning Commission Recommended the change.

Mr. Jack de Cordova, manager of Borden Company, stated the company needed additional parking space for trucks and employees' cars. He stated this would make the area look much better than it does now. He said this would accomodate 80 cars, and the land will not be used for any other purpose.

Mrs. James Graves, representing the Conservation Society stated that Brackenridge Park Property was involved and that boundry lines of the Park should be established.

Mr. James C. Oslin, chairman of Save Our Parks Committee asked the Council to defer action for 3 months so that proper boundary of the Park can be established.

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City Manager Lynn Andrews stated a survey had been made and the boundary in this area of the Park established.

The Planning Director stated the only question regarding the Park was with River Road and that the Borden Company through plat had dedicated 60 feet for River Road. He said there was no question of the Borden Company encroaching to the North.

On motion of Dr. McMahon, seconded by Mr. Dietert, the recommendation of the Planning Commission was approved by passage of the following ordinance, the vote being as follows: AYES: Kuykendall, Dietert, Passur, McMahon, Johnson, Simpson Olivares and Pinson. NAYS: San Martin. ABSENT: None.

AN ORDINANCE 27, 981

AMENDING SECTION 2 OF AN ORDINANCE ENTITLED "AN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN, ETC.," PASSED AND APPROVED ON NOVEMBER 3, 1938, BY CHANGING THE CLASSIFICATION AND RE-ZONING OF CERTAIN PROPERTY DESCRIBED HEREIN: CASE NO. 1165, TO REZONE LOT 12, NCB 7027, FROM "B" RESIDENCE DISTRICT TO "JJ" COMMERCIAL DISTRICT. (Full text in Ordinance Book I.I. Page 493)

Mr. Smith Kirby then asked to be heard on the above zoning case. He also asked that a survey be made of the Park and made public so that there would not be any misunderstanding as to boundaries in the future. He also objected to employees parking cars between River Road and the river.

The City Manager stated there was no illegal parking going on though it may not be proper. To prevent parking in this area there would have to be a no-parking ordinance adopted.

The Mayor thanked Mr. Kirby for appearing before the Council.

The next case called was Case No. 1061 to rezone Lot 17, NCB 11177 at East Side of Roosevelt Avenue approximately 580' North of March Road, 400 feet deep from "B" Residence District to "JJ" Commercial District.

After briefing by the Planning Director who concurred in the recommendation of the Planning Commission the Council approved the recommendation of the Planning Commission by adoption of the following ordinance.

AN ORDINANCE 27, 982

AMENDING SECTION 2 OF AN ORDINANCE ENTITLED "AN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN, ETC.," PASSED AND APPROVED ON NOVEMBER 3, 1938, BY CHANGING THE CLASSIFICATION AND RE-ZONING OF CERTAIN PROPERTY DESCRIBED HEREIN: CASE NO. 1061, TO REZONE LOT 17, NCB 11177, FROM "B" RESIDENCE DISTRICT TO "JJ" COMMERCIAL DISTRICT. (Full text in Ordinance Book I.I. Page 493)

The vote was as follows: AYES - Kuykendall, Dietert, Passur, McMahon, Johnson Simpson, Olivares, Pinson and San Martin NAYS: None ABSENT: None.

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The next case called No. 1180 to rezone area located on the West side of South Gevers, 450 feet South of Fair Avenue described as Lot 16, NCB 6075 from "B" Residence District to "E" Apartment District.

The Planning Director briefed the Council - no one appeared to be heard. The recommendation of the Planning Commission was approved by adoption of the following Ordinance.

AN ORDINANCE 27, 983

AMENDING SECTION 2 OF AN ORDINANCE ENTITLED "AN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN, ETC.," PASSED AND APPROVED ON NOVEMBER 3, 1938, BY CHANGING THE CLASSIFICATION AND RE-ZONING OF CERTAIN PROPERTY DESCRIBED HEREIN: CASE NO. 1180, TO REZONE LOT 16, NCB 6075, FROM "B" RESIDENCE TO "E" APARTMENT DISTRICT.
(Full text in Ordinance Book I.I. Page 494)

The vote was as follows: AYES: Kuykendall, Dietert, Passur, McMahon, Johnson, Simpson, Olivares, Pinson and San Martin NAYS: None ABSENT: none.

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The next case called was No. 1083 to rezone Lot 13, (12.41 acres) in NCB 10614 from Temporary "A" RESIDENCE DISTRICT TO "LL" MANUFACTURING DISTRICT. After briefing by the Planning Director the Council approved the recommendation of the Planning Commission by adoption of the following ordinance.

AN ORDINANCE 27, 984

AMENDING SECTION 2 OF AN ORDINANCE ENTITLED "AN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN, ETC.," PASSED AND APPROVED ON NOVEMBER 3, 1938, BY CHANGING THE CLASSIFICATION AND RE-ZONING OF CERTAIN PROPERTY DESCRIBED HEREIN: CASE NO. 1083, TO REZONE LOT 13 (12.41 acres) NCB 10614, FROM "A" RESIDENCE DISTRICT TO "LL" MANUFACTURING DISTRICT.
(Full text in Ordinance Book I.I. Page 494)

The vote was as follows: AYES: Kuykendall, Dietert, Passur, McMahon, Johnson, Simpson, Olivares, Pinson and San Martin NAYS: None ABSENT: None.

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The next case called was No. 1129 to rezone Lot 7 and 8, NCB 1055 from "G" and "F" LOCAL RETAIL to "H" COMMERCIAL. After briefing by the Planning Director the Council approved the recommendation of the Planning Commission by adoption of the following Ordinance.

AN ORDINANCE 27, 985

AMENDING SECTION 2 OF AN ORDINANCE ENTITLED "AN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN, ETC.," PASSED AND APPROVED ON NOVEMBER 3, 1938, BY CHANGING THE CLASSIFICATION AND RE-ZONING OF CERTAIN PROPERTY DESCRIBED HEREIN: CASE NO. 1129, TO REZONE LOTS 7 and 8, NCB 1055, FROM "G" AND "F" LOCAL RETAIL DISTRICT TO "H" COMMERCIAL DISTRICT.
(Full text in Ordinance Book I.I. Page 495)

The vote was as follows: AYES: Kuykendall, Dietert, Passur, McMahon, Johnson, Simpson, Olivares and San Martin NAYS: NONE ABSTAINING: Pinson.

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Dr. Johnson moved that the City Council request the City Public Service Board to appear before the City Council next Thursday, if possible, to explain the use of demand meters. Seconded by Mr. Dietert, the motion carried by the following vote: AYES: KUYKENDALL, DIETERT, PASSUR, MCMAHON, JOHNSON, SIMPSON, OLIVARES, PINSON AND SAN MARTIN; NAYS: NONE.

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Mr. Albert Pena, representing the American G. I. Forum and about 15 other organizations asked when they could appear before the Council with reference to Fair Employment Practice Legislation. He was told the Council would hear his group next Thursday, October 8th, 1959, at 9:30 A. M.

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The Mayor then announced that hearings were set at this time on the appeals of Bell Taxicab Co; Yellow Cab Company and Checker Cab Company from the finding conclusions, and approval of the Taxicab Inspector granting the application of Red Top Taxi of San Antonio Inc. and Red Ball Taxicab Company, Inc. each for 10 additional taxicab permits.

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Mr. Frank Baskin, Attorney for Red Top Taxi and Mr. Randal Taylor and Mr. Robert Strickland, representing Red Ball Taxi Cab, requested the Council, in the interest of time, that both cases be heard at the same time. This request was granted by the Council.

The City Attorney, Carlos Cadena, then read the brief explanation of the matter in question. He stated that permits can be issued if the proposal shows a public interest will be served. He spoke about competition in the taxicab field, priorities and duplications of services. He told the Council that it will hear the cases de nova.

Mr. Frank Baskin read Section 54-29 of the City Code, in order to establish procedure of the hearing. After a lengthy discussion of the procedure, Dr. San Martin moved that both cases be heard in de nova fashion and that Red Top and Red Ball Taxi Companies be heard first. Seconded by Mr. Pinson, the motion failed to carry. Mr. John Daniels and Mr. Kenneth C. Farnsworth, representing Yellow Cab Company, Checker Cab and Bell Taxi Cab Company, appellants in the case, then proceeded to present their appeal. Mr. Daniels reviewed the report of the Taxi Cab Inspector. He referred to Section 54-24 of the City Code regarding the Certificates of Convenience and what should be taken into consideration in order to determine whether additional taxi cab permits should be issued. He referred to court cases to emphasize the meaning of convenience and necessity. He called on Mr. Edwin M. Brown, Taxi Cab Inspector, and asked him whether he had made a study of the demand for any additional Certificates of Convenience and Necessity and whether any witnesses were heard at the hearing held by him on June 29th and 30th, other than the applicants, and whether he conferred with the Traffic Engineer. To these questions, Mr. Brown answered in the negative. Mr. Daniels stated that nothing had been presented at the first hearing to demand that additional permits be issued. He stated that the burden of proof is on the applicant to prove the need for additional permits. He then introduced Mr. John Gatti, Vice President of the Muir Investment Company, who told of his experience in the field of public transportation. He stated that the firm of Brown, Brown, and Daniels had employed him to plan and analyze a survey on whether or not the public convenience and necessity for taxi cab service was being met by the operating taxi cabs in the city. He then read the following report and on charts emphasized the findings of his study:

September 30, 1959

Brown, Brown & Daniels
Attorneys-at-Law
601 Transit Tower
San Antonio 5, Texas

Attention: Mr. John A. Daniels

Dear Mr. Daniels:

In answer to your request that I plan and analyze a survey of whether or not the public convenience and necessity for taxicab service is being met by the operating taxicabs of San Antonio, Texas, I am pleased to submit the following report:

To determine if demand for additional service is present a study of the adequacy of present service should be of major importance in the decision making processes. This study is the result of conferences with you, your clients and the services of personnel supplied by Professional Investigators.

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To accurately establish the service area all the calls received by the three major taxicab companies operating in San Antonio were plotted on a map of Greater San Antonio for a four-day period, August 26, 27, 28 and 29. This we determined would be a reasonable assumption of the qualitative make-up of the service area. Table One illustrates the number of calls received by these companies during the day shift of August 29th, 1959, which according to our observation was a typical period. You will note the calls are tabulated as to the zones from which the calls were made. A breakdown shows that Yellow Cab serviced 43% of these calls, Checker 33% and Bell Cab 24%. We determined that 300 test calls should be an effective sampling of the universe bearing in mind the relative volume of each company's calls as above reflected and bearing in mind the various areas and zones in the City from which these calls were made. These 300 test calls and actual rides were made on September 2nd, 3rd, and 4th and 5th as reflected by Map No. 1 which shows the location of these calls. Each dot represents a call and it is placed in the location from which the call was made and the ride originated.

Chart No. 2 shows vividly the time required to provide service in response to these calls and demonstrates the overwhelming majority of the calls for service were filled in a relatively few minutes. I might add that the cab companies involved were not aware that these calls were being made.

We also studied for a period from August 27th thru September 7th, 1959, from company records the number of Yellow, Checker and Bell cabs spotted waiting for passengers at various points in the City outside of the downtown area as well as those particular cabs parked at cab stands in the downtown area. We related these idle cabs to the total number of cabs in operation at the time checked. A representative picture of this study may be seen in Charts 3 thru 3E which charts these records for August 28th and September 3rd. This particular study shows a picture of unused capacity and an excess of available service units.

Company records for Yellow Cab Company illustrate that during the months of July and August the average number of trips per shift was 12.96 in July and 14.64 in August, or approximately 1 trip every forty minutes in July and every 37 minutes in August. Being familiar with the area generally serviced by taxicabs, which is within the first two mile zones, we can realize that a great deal of each service unit's time is spent in idleness.

In order to develop our study more completely we selected another fleet of taxicabs for utilization analysis. Every-day observation shows that the downtown stands, particularly in the vicinity of hotels, are gutted with taxicabs in the stands and by others attempting to get in. A check of four downtown stands, the St. Anthony Hotel, Menger Hotel, Hilton Hotel and Greyhound Bus Station stands, was made September 2nd and 3rd for approximately 8 1/2 hours during each day mentioned. Charts No. 4 and 4A illustrate the idleness of Red Ball Taxicabs. For example, cab No. 17 was idle 12.71% of the time checked. The average idleness percentage of all 17 Red Ball Taxicabs was 14.67 on September 2nd and 13.21% on September 3rd. This, of course, does not take into consideration the other idle time spent by the fleet at other cab stands and other locations.

Official city records determine a definite trend of decreasing revenue from cab company operations as reflected in a 2% gross revenue tax received by the City from the taxicab operations in the City. Chart No. 5 distinctly portrays this experience. This trend is typical in the urban transportation field and is particularly reflected by studies submitted to this council during the hearings involving transit operations which were held on or about January 18th, 1957. We have added one more year of figures to this chart in order to bring it up to date. Chart No. 6, therefore, as you can see, reflects a drastic drop in the usage of bus service in San Antonio which is further evidence of a lack of demand for public transportation. Statistics we have observed from other transit companies throughout the United States also indicate a very definite downward trend on an industry-wide basis. Decreasing use of public transit is generally thought to be caused by prosperous times and greater per capita ownership of motor vehicles. Chart No. 7 shows that vehicle registrations in Bexar County have increased 107% in ten years giving further conclusiveness of the greater use of private transportation, which, of course, can only result in the lessening of taxicab usage and other public transportation usage.

These various studies which we have described clearly demonstrate the complete adequacy of taxicab service being provided for the citizens of San Antonio.

Finally, it has been my experience that the philosophy concerning public convenience and necessity has been established very pointedly. As heretofore stated, there are innumerable cases in which courts and regulatory bodies have stated that where there is satisfactory evidence of the public convenience and necessity being served, it is not the responsibility of the court or the regulatory body to arbitrarily establish additional service in an attempt to further competition -- public convenience and necessity or public need is the major criterion. The carriers presently providing service in the City of San Antonio are now not operating at anywhere near their capacity nor is the competing mode of transportation. Consequently, the public convenience and necessity does not require additional units of service on the streets of San Antonio. Additional service units would not only create a drain on existing carriers but would impede the ability of those now operating to provide efficient, safe and convenient service consistent with the public interest.

Very truly yours,

/s/ JOHN GATTI

Mr. Baskin and Mr. Taylor then cross-examined Mr. Gatti as to how much of the actual survey was made by him and also questioned him as to his qualifications.

It being 11:30 A.M. the meeting recessed until 2:00 P.M.

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The meeting reconvened at 2:00 P.M. with all members present.

Mr. Taylor at this time again cross-examined Mr. Gatti in an attempt to show that the survey had been made without taking into consideration that thirty-one new taxicabs had been placed in operation by the appellants and whether this had any effect on the need for additional taxicabs on the streets.

Mr. Randal then compared revenues paid to the City of San Antonio on a permit basis showing that the Red Ball and Red Top Companies paid twice as much tax to the City per permit than the Yellow, Checker and Bell Companies. He attempted to show that revenues for the first eight months of the present calendar year were greater than for the same period in 1958.

Mr. Daniels then called upon Mr. J. P. Fisher, Jr., who stated he has had an interest in three cab companies together with his brother, King Fisher. Mr. Fisher described the dispatching operation in the taxicab business. He said that no one had questioned the adequacy of the service given by his company and stated that they could handle much more business. He stated that additional cars had been placed in operation but that at the same time, older cars had been taken out of service and that they had not increased the number of cabs operating. He stated he does not notify the Taxi Cab Inspector when these changes are made because the inspector makes a monthly check at his place of business. He stated there was no demand for additional cabs.

Mr. Daniels then read and presented a petition signed by cab drivers stating that there was no need for additional cabs. He also presented letters from railroads, air lines, hotels, chain stores, and other places of business stating that taxicab service was adequate.

Mr. Fisher then stated that he had contracts with the railroads to transfer their passengers from one depot to another. He also stated that the air lines had contracts for limousine service.

Mr. Baskin then cross-examined Mr. Fisher as to the number of cabs he has in operation.

Mr. Taylor then asked Mr. Edwin M. Brown, Taxi Cab Inspector to state his position and duties of his office and asked him to state whether his records showed that there had been additional cabs placed in operation by the Yellow, Checker and Bell Companies. Mr. Brown stated that his records showed that there was an increase in cabs in operation. To a question by Dr. McMahon, Mr. Brown answered that he had made a study of the equipment available and the condition of same in arriving at his decision.

Mr. Daniels then cross-examined Mr. Brown and asked him if he had made an inspection during the month of August to ascertain whether additional cabs had been

placed in operation. He stated he had not made an inspection because he was out of the state but assumed that his substitute had made such an inspection.

Mr. Baskin then asked Mr. Mitchell Webb, co-owner of the Red Top Taxi to testify. Mr. Webb stated that his company has progressively increased the amount of revenue paid to the City, that there is a tremendous demand for good cab service in the city. He stated that his drivers are required to wear uniforms and that there is a waiting list of drivers wanting to work for him. He stated he operated without a two-way radio for many months because his application before the Federal Communications Commission was blocked by Mr. Fisher. He stated that he now operates his two-way radio in conjunction with the channel used by Sommer's Drug Stores.

Mr. Baskin then introduced a chart showing locations of trips made by the Red Top Taxi Cab Company. Mr. Bob Strickland then asked Mr. Cimlek, an investigator for the Joe Hester Investigating Agency, to address the Council. Mr. Cimlek, then stated that at Mr. C. A. Talley's request, on August 3rd and 4th, he made a number of cab trips and told of the service given by the various cab companies.

Mr. Howard King, a taxicab driver, stated that he was told by a Yellow Cab driver on his arrival at the airport with passengers to get away from the airport and that only Yellow Cabs were allowed there.

Mr. C. A. Talley, Jr., operating Red Ball Taxi, stated his business had increased, that only recently he got a telephone lising and calls for service have increased 15 to 20 percent and could utilize twenty more cabs to serve the areas from which the calls originated. He told of complaints for lack of service.

There was lengthy discussion as to whether or not revenues had increased during the last year and figures were produced from the Finance Department and explained by the City Manager.

Dr. McMahon prefaced his vote by stating that he was going to vote as he was because he is against monopolies and then made the motion that the judgment of the Taxicab Inspector be upheld. Mr. Olivares seconded the motion. On Roll Call the vote was as follows: AYES: KUYKENDALL, PINSON, SAN MARTIN; NAYS: DIETERT, McMAHON, SIMPSON, OLIVARES; ABSENT: JOHNSON, PASSUR. The motion failed for lack of five affirmative votes.

Mr. Pinson then moved that the decision of the Taxicab Inspector be reversed and the permits recommended by the Taxicab Inspector be denied. Mr. McMahon seconded the motion. On Roll Call the vote was as follows: AYES: KUYKENDALL, PINSON, SAN MARTIN; NAYS: DIETERT, McMAHON, SIMPSON, AND OLIVARES; ABSENT: JOHNSON AND PASSUR. The motion failed for lack of five affirmative votes and the decision of the Taxicab Inspector was therefore sustained.

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The Clerk then brought up for second reading the following ordinance(#27,946) and it was read a second time. It was announced that the ordinance called for a public hearing at this time and those who wished to be heard had been compelled to leave due to the length of the meeting. On motion of Dr. McMahon, seconded by San Martin, the hearing was continued until October 15th, at 9:00 A.M. at which time the third reading could be held.

AN ORDINANCE 27, 946

GRANTING TO THE AMERICAN LEGION OF BEXAR COUNTY, TEXAS, INC., A FRANCHISE FOR A PERIOD OF TEN YEARS, TO MAINTAIN BENCHES ON PUBLIC PROPERTY AT LOCATIONS TO BE DESIGNATED AS HEREIN PROVIDED UNDER TERMS AND CONDITIONS HEREIN SPECIFIED.

(Full Text of Ordinance in Ordinance Book I.I. page 453).

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The following Ordinance was passed by the following vote: AYES: KUYKENDALL, DIETERT, McMAHON, SIMPSON, OLIVARES, PINSON AND SAN MARTIN; NAYS: NONE; ABSENT: PASSUR AND JOHNSON.

AN ORDINANCE 27, 986

AUTHORIZING THE EXECUTION OF A CERTAIN INSURANCE CONTRACT BY THE CITY OF SAN ANTONIO WITH AMERICAN CENTRAL INSURANCE COMPANY. AUTHORIZING THE PAYMENT OF AN INSURANCE PREMIUM IN THE AMOUNT OF \$2,366.03.

(Full text in Ordinance Book I.I. page 495)

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The following Resolution was passed by the following vote: AYES: KUYKENDALL, DIETERT, McMAHON, SIMPSON, OLIVARES, PINSON AND SAN MARTIN; NAYS: NONE; ABSENT: PASSUR AND JOHNSON.

A RESOLUTION

AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS FOR INSTALLATION OF HIGH INTENSITY LIGHTS ON RUNWAY 12-30, TAXIWAY LIGHTS ON TAXIWAY 15 AND APPURTENANT ELECTRICAL WORK AT SAN ANTONIO INTERNATIONAL AIRPORT - FEDERAL AID PROJECT NO. 9-41-080-5810.

(Full text in Ordinance Book I.I. page 496)

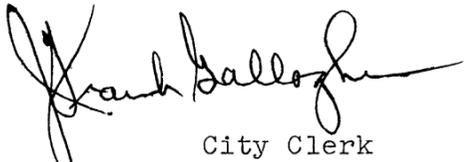
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The meeting was then adjourned.

APPROVED:


M a y o r

ATTEST:


C i t y C l e r k