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AN ORDINANCE PROVIDING FOR THE CLOSING OF ALLEY EXTENDING NORTH AND SOUTH FROM SOUTH FIRST TO SOUTH THIRD STREETS AND LOCATED BETWEEN SAYLES BOULEVARD AND AMARILLO STREET IN THE CITY OF ABILENE, AND AUTHORIZING THE CONVEYANCE OF SAID ALLEY BY THE MAYOR TO TOM K EPLEN, TRUSTEE, AND PROVIDING FOR THE ACCEPTANCE OF A DEED TO A STRIP OF LAND OFF THE WEST SIDE OF AMARILLO STREET BETWEEN SOUTH FIRST AND SOUTH THIRD STREETS UPON HIS AGREEMENT TO PAVE AMARILLO STREET 36 FEET WIDE BETWEEN SOUTH FIRST AND SOUTH THIRD STREETS; AND CONFIRMING FORMER ORDINANCE AND CONTRACT IN RELATION THERETO, AND CALLING FOR A PUBLIC HEARING ON THE 10th DAY OF FEBRUARY, 1956.

WHEREAS, on the 11th day of June, 1955, the Board of Commissioners of the City of Abilene passed an ordinance recorded in Vol. 5, page 487 of the Ordinance Records of said city, reading as follows:

"ORDINANCE PROVIDING FOR CLOSING OF ALLEY

WHEREAS, Tom K Eplen, Trustee, has requested the City of Abilene to make a commitment to the effect that the alley will be closed, and the land embraced therein deeded by the city to said Tom K Eplen, Trustee, on certain terms and conditions; and,

WHEREAS, said alley lies between Block 2, Boulevard Park Addition to the City of Abilene, Texas, on the west side of said alley, and W. E. Smith's Subdivision of a part of Lot 1, Block No. 16, Harris Addition to the City of Abilene, Texas, and the W. M. Vance Subdivision of a part of the J. S. Hiatt 5 acre tract, a part of Lot 1, Block 16, Harris Addition to the City of Abilene, Taylor County, Texas, both lying on the east side of said alley; all as disclosed by the maps and records pertaining to said subdivisions; and,

WHEREAS, such requested vacation and abandonment of alley has been approved by the Planning Commission of said City;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Abilene, Texas, that a definite commitment be, and same is hereby made as follows:

That said alley shall be vacated and abandoned, and the land embraced therein deeded to said Tom K Eplen, Trustee, when said Trustee shall exhibit to this Board due and proper evidence reflecting that he is vested with title to the whole of the three subdivisions hereinabove mentioned,

by proper deed of conveyance to him, and is the owner thereof; and upon the further condition that said Trustee agree to remove and reinstall at his own expense, all utility lines located upon or under said alley, according to such directions as may be given by the City of Abilene.

Be it further ordained that this Board has determined that it is to the best interest and welfare of the public at large in the City of Abilene that this action be taken, and this commitment is given in order to assure said Trustee that final ordinance will be enacted in keeping herewith, for his protection in consummating his purchase of all of the three subdivisions hereinabovenamed, and after this Board has been acquainted with the fact that such purchase would not be made except in reliance upon this ordinance to the effect that said alley will be closed and deeded as hereinabove provided.

Be it further ordained that when said deeds have been exhibited as herein provided for, by said Trustee, that final and complete ordinance, reciting all of the findings by this Board of Commissioners, and providing in detail for the execution and delivery of such deed by the City to said Trustee, shall be enacted and placed of record as provided by law.

The above and foregoing ordinance passed on first reading this 11th day of June, 1955, after passage of said ordinance on first reading, it being deemed necessary to pass this ordinance to meet an emergency in accordance with Section 32 of the City Charter of the City of Abilene; the rule requiring publication at least one week prior to a public hearing and requiring such hearing was suspended by vote of four members of the Board of Commissioners, and said ordinance was read and passed on second and final reading on the 11th day of June, 1955.

(s) C. E. Gatlin, Mayor

ATTEST:

(s) Lila Fern Martin,
City Secretary

APPROVED AS TO FORM FOR PASSAGE:

(s) N Alex Bickley
Corporation Counsel"

and

WHEREAS, on the same day said Tom K Eplen, Trustee, as owner, and the City of Abilene, did make and enter into a written contract reading as follows:

"THE STATE OF TEXAS

COUNTY OF TAYLOR

WHEREAS, Tom K Eplen, Trustee, hereinafter called Owner, requested from the Board of Commissioners of the City of Abilene, hereinafter referred to as City, a reclassification of that property situated in Taylor County, Texas, and described as follows:

Tract 1: All of Lots 4 through 11, inclusive, of Block 2, Boulevard Park Addition from Zone "C" (Apartment) to Zone "G" (Commercial);

Tract 2: All of Lots 6 through 10, inclusive, W. E. Smith Subdivision; and all of Lots 12 through 16, inclusive, W. M. Vance Subdivision, from Zone "E" (Multi-Family) to Zone "G" (Commercial); and

WHEREAS, the City, through its duly constituted authorities, did on the 11th day of June, 1955 reclassify said property from Zones "C" and "E" to Zone "G", at the request of the owner; and

WHEREAS, the reclassification was subject to certain specific provisions and the owner has agreed to the same, as follows, to-wit:

1. The owner is to donate such land as may be required from the west side of Amarillo Street, between South First and South Third Streets, for the purpose of extending the paving of Amarillo Street to a total width of thirty six feet, the paving to be done at the expense of the owner, according to the specifications and requirements of the City.
2. Any utility lines that are required to be moved within the confines of the property for the purpose of erection of permanent structures or for the convenience of the owner shall be done at the owner's sole expense and the same shall be moved to the place or places as will best serve the utility needs of this property and adjoining properties.
3. The City shall deed to the owner in accordance with law the alley which extends from South First Street to South Third Street, between Sayles Boulevard and Amarillo Street, when the owner has satisfied the City

that he has acquired all of the adjacent property contiguous to the alley.

4. The owner agrees that he will not place nor allow to be placed upon said property more than two businesses, each of which are to be self-contained in one operation, provided that each business may include within its operation sub-lessees and other operations that may be usual or customary or desirable in the particular business enterprise. No business shall have a separate building or space for warehouse area other than as contained in the main building itself.

5. The owner agrees hereby to construct a sidewalk along the east side of Sayles Boulevard from South First to South Third Streets, which sidewalk is to be five feet in width and immediately adjacent to the present curb and to also construct a bumper curb immediately adjacent to the sidewalk on the east. In return the owner shall be allowed to use the balance of the parkway as it presently exists for parking purposes but shall at all times keep the bumper curb in good repair and in the event the City desires to use the parkway or any portion thereof the owner agrees to return it to the City with no other or further cost than that of replacing the bumper curb to the new required location.

6. The owner further agrees to give to the City for street purposes at the time the same may be required by the City sufficient property along South First Street between Sayles Boulevard and Amarillo Street and adjacent to this property as the City may require to allow for an access and turning lane provided that the Board of Commissioners shall decide the amount of property actually needed. Any cost of replacing and moving the curbing driveway and other parking facilities shall be at the expense of the City. In no event shall more than fourteen feet of property be required and the owner shall not construct any building or other structure other than signs, parking and driveway facilities on said fourteen ft. strip immediately adjacent to the south right of way line of South First Street. Upon the construction of the access or turning lane the owner shall be allowed and there shall be constructed for him at the expense of the City the same openings for driveway purposes as are in existence at that time.

These agreements shall inure to the assigns of both parties and the obligations herein contained shall be binding upon the parties hereto and their assigns.

Witness our hands this 11th day of June, 1955.

(s) Tom K Eplen
Trustee

CITY OF ABILENE

By (s) C. E. Gatlin, Mayor

ATTEST:

(s) Lila Fern Martin
City Secretary"

and

WHEREAS, in keeping with such ordinance and contract said Tom K Eplen, Trustee, has:

(1) Exhibited to this Board proper evidence reflecting that he is vested with good record title to the whole of the three subdivisions described in said ordinance and contract, and being all of the land abutting on the alley therein described;

(2) Made proper and sufficient deposit of cash funds with the City of Abilene to guarantee the removal, at his own expense, of all utility lines located upon or under said alley, as provided in said ordinance and contract;

(3) Delivered to this Board properly executed deed, conveying to the City of Abilene for the use of the public, sufficient land owned by said Trustee, to widen and extend the paving of Amarillo Street to a total width of thirty-six feet between South First and South Third Streets; and

(4) Provided for the construction of a sidewalk and bumper curb along the east side of Sayles Boulevard, as provided in said contract; and

WHEREAS, it has been determined by the Board of Commissioners of the City of Abilene that said Tom K Eplen, Trustee, has done and performed all things incumbent upon him under such ordinance and contract, preparatory and as necessary to support the passage of this ordinance; and

WHEREAS, this Board of Commissioners determined before passage of said original ordinance, and now confirms that a serious and undesirable traffic problem was and is presented on account of the narrow pavement existing on Amarillo Street between South First and South Third Streets, and which situation cannot be remedied without undue expense to the City of Abilene,

on account of the width of Amarillo Street as originally laid out; and further, that the flow of traffic and the general interest and welfare of the public and the City of Abilene will be better served by the abandonment and vacating of said alley and the widening and improving of Amarillo Street as herein provided for; and

WHEREAS, this Board has further determined that all facts exist within the true meaning, intent and purposes of all state statutes and charter provisions of the City of Abilene, so as to authorize the closing and abandonment of said alley and the conveyance thereof to said Tom K Eplen, Trustee, in order to provide for the acquisition of additional land and the paving of Amarillo Street to a width of thirty-six feet, as set forth in said previous ordinance and contract, and as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ABILENE:

- (1) That said original ordinance and contract as hereinbefore set forth, be, and the same are hereby in all respects confirmed;
- (2) That the sum of One Thousand, Eight Hundred Twenty-six Dollars (\$1,826.00), deposited by Tom K Eplen, Trustee, with the City Treasurer of the City of Abilene, as ordered by this Board, be held in trust by said city official pending further order of this Board; said deposit being for the purpose of guaranteeing the removal and reinstallation by said Trustee, at his own expense, of all utility lines located upon or under said alley between South First and South Third Streets, as provided in said original ordinance and contract hereinbefore quoted;
- (3) That the sum of Five Thousand, Five Hundred Dollars (\$5,500.00), as deposited by Tom K Eplen, Trustee, with the City Treasurer of the City of Abilene, as ordered by this Board, be held in trust by said city official pending further order of this Board, for the purpose of guaranteeing the payment by said Trustee for the paving of Amarillo Street to a total width of thirty-six feet, as provided in said ordinance and contract hereinbefore quoted; and that such deposit be further declared as sufficient to guarantee the installation of the sidewalk as provided for in such ordinance and contract;

(4) That the deed executed by Tom K Eplen, Trustee, to the City of Abilene, conveying sufficient land to extend the paving of Amarillo Street to a total width of thirty-six feet, as called for in said ordinance and contract, now examined by this Board and identified by the endorsement, "Approved, N. Alex Bickley, Corporation Counsel; C. E. Gatlin, Mayor; January 27, 1956," be and the same is hereby approved and ordered accepted for filing of record with the County Clerk of Taylor County;

(5) That the City Engineer of the City of Abilene proceed to supply and furnish to said Tom K Eplen, Trustee, upon the latter's request, all such information, plans and specifications as may be necessary and requisite for the removal and relocation of all utility, water and sewer lines and the paving of Amarillo Street, as provided for herein;

(6) That the Mayor of the City of Abilene proceed forthwith to execute and deliver to said Tom K Eplen, Trustee, proper and sufficient deed of conveyance, conveying all of the right, title and interest held by the City of Abilene in and to the following described alley:

Being all of the land contained within the boundary lines of and constituting that certain alley (20 feet wide) located immediately east of and adjacent to Block 2 (containing Lots Nos. 1 to 16, inclusive), of Boulevard Park, an addition to the City of Abilene, Taylor County, Texas, as reflected on map of said addition recorded in Vol. 1, page 160 of the Plat Records of said Taylor County, and which map as so recorded is made a part hereof by reference for all material purposes;

(7) That this ordinance be in no wise construed as nullifying the provisions contained in the ordinance and contract hereinbefore set forth and relating to matters which do not require specific attention at this time; and, that the findings and orders of this ordinance be in no wise construed as limited by or dependent upon the final happening or completion of any of the matters or agreements as contained in such previous ordinance and contract; it being the purpose of this ordinance to finally provide for those matters herein specifically treated and directed to be done, so as to fully protect the interest and welfare of the City of Abilene and of said Trustee; and

(8) That jurisdiction be retained by this Board to enact all such other and further resolutions and ordinances as may be deemed necessary to fully carry out and conclude all subjects and matters herein concerned.

PASSED ON FIRST READING this 27th day of January, 1956.

After said passage a notice of the time and place where and when said ordinance will be given a public hearing and considered for final passage, was published in the Abilene Reporter News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 31st day of January, 1956, the same being more than four weeks prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on its second and final reading on the 10th day of February, 1956.

C. Z. Luther
Mayor

ATTEST:

Lila Fern Martin
City Secretary

(Seal)

APPROVED AS TO FORM FOR PASSAGE:

W. Allen Sealey
Corporation Counsel