

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, March 21, 1935.

The Council met at 10:45 A. M., with Mayor Tom Miller presiding. Roll call showed the following members present: Councilmen C. F. Alford, Simon Gillis, Mayor Tom Miller, and Councilman Oswald G. Wolf, 4; absent, Councilman C. M. Bartholomew, 1.

The Minutes of the regular meeting of February 28th, the special meeting of March 1st, and the regular meetings of March 7th and 14th were read and upon motion of Councilman Wolf, seconded by Councilman Alford, the same were adopted as read by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

Jno. T. Smith appealed to the Council from the action of the Zoning Board of Adjustment in rejecting his application for a permit to build a four-unit apartment house on Riverside Drive in Travis Heights, more particularly described as Lot 8, Block 28, of Travis Heights Subdivision. It was the sense of the Council that a public hearing be called for April 6th on the proposal to change the zoning of this property from Residence "A" to Residence "B" Districts.

Councilman Alford offered the following resolution:

WHEREAS, the Southwestern Bell Telephone Company has presented to the City Council tentative maps and plans showing the proposed construction of its pole lines in the streets in the City of Austin hereafter named, and said maps or plans have been considered by the City Engineer; therefore

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

THAT the Southwestern Bell Telephone Company be, and the same is hereby permitted to construct its pole lines in the following streets:

(1) A telephone pole line in WEST FIFTH STREET ALLEY from West Lynn Street west one block, the centerline of which pole line shall be one foot north of and parallel to the south line of West 5th Street Alley.

THAT the work and construction of said pole lines, including the excavation of the streets and the restoration and maintenance of said streets after said pole lines have been constructed, shall be under the supervision and direction of the City Manager, and in accordance with the ordinances and regulations of the City of Austin governing such construction.

The resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

The City Manager submitted to the Council bids received for repairs to the elevator at the City Hospital as follows:

American Elevator Company , for the sum of -----	\$ 2,171.00
Otis Elevator Company, " " " " -----	1,895.00

and recommended that contract be awarded to the lower bidder, Otis Elevator Company, in the amount of \$1,895.00.

Mayor Miller moved that the recommendations of the City Manager be approved and the contract be awarded to said Otis Elevator Company in the amount of \$1,895.00. The motion carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew , absent, 1.

The Mayor then offered the following resolution:

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

THAT the sum of \$1,895.00 be and the same is hereby appropriated out of the General Fund, not otherwise appropriated, for the purpose of repairing and altering the elevator

at Brackenridge Hospital.

The resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

Councilman Wolf introduced the following ordinance:

AN ORDINANCE APPOINTING ELECTION JUDGES AND CLERKS TO SERVE AT THE VARIOUS POLLING PLACES IN THE VARIOUS ELECTIONS TO BE HELD IN THE CITY OF AUSTIN DURING THE TERM OF TWO YEARS.

The ordinance was read the first time and Councilman Wolf moved that the rule be suspended and the ordinance be placed on its second reading. The motion carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

The ordinance was read the second time and Councilman Wolf moved a further suspension of the rule and the placing of the ordinance on its third reading. The motion carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

The ordinance was read the third time and Councilman Wolf moved that same be finally passed. The motion carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

Petitions asking for a fence around the baseball field in Zaragosa Park were read and referred to the City Manager for an estimate of the cost of same and the percentage of gate receipts that the City will receive.

The following report from the Board of Adjustment was read:

" Austin, Texas
March 21, 1935

Honorable Mayor and City Council
Austin, Texas

Gentlemen:

Attached hereto is a copy of a resolution which was passed by the Board of Adjustment at a meeting held on March 19, 1935, in regard to the changing of the Use designation of property located at the intersection of 45th Street and Red River Street.

Respectfully submitted,

H. F. Kuehne,
Chairman, Board of Adjustment. "

(Resolution attached)

WHEREAS, the City Council of the City of Austin, pursuant to the terms of Section 30 of the Zoning Ordinance of the City of Austin, has referred to the Board of Adjustment for its consideration and report thereon a petition of twenty-eight (28) residents owning property contiguous to the intersection of East 45th and Red River Streets in the City of Austin, requesting the change of the Use designation of property now shown on the zoning map of the City of Austin as commercial property lying on the east and west sides of Red River Street and extending from Poponce Street to Ellingson and Keasby Streets, from "C" Commercial District to "A" Residential District.

WHEREAS, the Board of Adjustment of the City of Austin at its meeting held on March 19, 1935, carefully considered the question of changing the Use designation of this property from "C" Commercial to "A" Residential; and

WHEREAS, a written petition was presented to the City Council signed by twenty-eight (28) residents contiguous to this area, which petition is attached hereto; and

WHEREAS, after viewing the property and carefully studying the conditions and development surrounding this property and considering the same from all points of view of sound zoning principles;

BE IT RESOLVED BY THE BOARD OF ADJUSTMENT:

THAT the change of the zoning designation of this property be recommended and that the present classification be changed from "C" Commercial to "A" Residential for the following reasons:

1. It appears to be the expressed will of the majority of the property owners contiguous to this area and affected thereby that this area be purely residential in character.

2. That an examination of this neighborhood indicates that there is no need for this commercial area at this point as this neighborhood is purely residential in character and such a commercial area would detract from the value and desirability of the residential property.

3. That there appears to be no public necessity or convenience for such an area as disclosed by the testimony of the surrounding property owners.

4. That the designation of this area from Commercial "C" to Residential "A" is requested by owners of the property to be changed.

5. Such change would not damage or adversely affect the property to be changed but would be a benefit not only to this property but to all surrounding property and stabilize the residential value and character of this property.

It was moved by Councilman Wolf, seconded by Councilman Alford, that the above report of the Board of Adjustment be approved and that a public hearing on the proposal to change the Use designation of the property lying on the east and west sides of Red River Street and extending from Poponoe Street to Ellingson and Kaseby Streets from "C" Commercial District to "A" Residential District be called for the 6th proximo. The motion was carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

The Council, upon motion of Councilman Wolf, seconded by Councilman Alford, recessed until 4:00 P. M. by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

AFTERNOON SESSION:

The meeting was called to order with Mayor Tom Miller presiding. Roll call showed the following members present: Councilmen C. M. Bartholomew, Simon Gillis, Mayor Tom Miller, and Councilman Oswald G. Wolf, 4; absent, Councilman C. F. Alford, 1.

The City Manager submitted to the Council the following:

"Austin, Texas
March 21, 1935

Docket No. 4869
Eng. Ref. No. 595A
Shoal Creek Sewer

Mr. Gulton Morgan
City Manager
Austin, Texas.

Dear Sir:

The tabulation of bids received March 20th for the construction of the Shoal Creek Sewer project of the above P.W.A. docket was as follows:

<u>Contractor</u>	<u>P I P E</u>		
	<u>Concrete</u>	<u>V. Clay,</u>	<u>Cast Iron</u>
F. C. Youmans		\$126,983.26	\$130,188.05
Construction Service Co.		89,674.84	
Froemming Bros	\$ 90,227.95	101,387.30	107,217.05
Brown & Root	80,619.80	86,232.80	93,464.38
Holland Page (Bid of Mr. Holland Page read and not considered)	65,340.44	73,569.42	93,559.92

At the time of the bid opening, Holland Page requested that his bid be returned, which request was made after several bids had been opened and read but before his bid had been read. This request was denied at the time, as it was considered proper that his bid be opened and tabulated with the others for information purposes, but it appears to be legally proper that his bid be rejected, inasmuch as he personally made the request at the proper time and has subsequently filed his written request, attached herewith, that his bid be not considered. This request apparently is in accordance with customary practice and the right of the contractor to make such a request, and so held in an opinion by the City Attorney.

Therefore, on the valid bids received, and capitalizing the life of the project using various types of pipe, it appears that the bid of Brown & Root, in the amount of \$80,619.80, for concrete pipe installation, is the lowest and best bid, and it is recommended that the contract be awarded to this firm in accordance with their proposal and the plans and specifications, subject to the approval of the State Engineer of the Public Works Administration.

Yours very truly,

ENGINEERING STAFF

By (Sgd) Walter E. Seaholm

J. E. Motheral

Gulton Morgan "

"Austin, Texas
March 20th, 1935.

Mr. Gulton Morgan, City Manager,
City of Austin,
Austin, Texas.

Dear Sir:

Re: Shoal Creek Sanitary Sewer Job.

This is to confirm my verbal request of even date herewith, wherein I requested the return of my bid on Shoal Creek Sanitary Sewer Job, the request for withdrawal of my bid being made prior to the opening and reading of my bid.

Yours very truly,

(Sgd) Holland Page.. "

"Austin, Texas
March 21, 1935

Honorable Gulton Morgan
City Manager
Austin, Texas.

Dear Mr. Morgan:

You have stated to me that upon the occasion of the opening of bids for the construction of the sewer line along Shoal Creek, under P.W.A. Project 4869, that Holland Page, one of the bidders, requested permission to withdraw his bid before the same had been opened for inspection; and you inquire as to the right of Mr. Page to make such withdrawal.

You are advised that Mr. Page had the right to withdraw his bid at any time before its actual acceptance by the City.

An offer may be revoked at any time before it is accepted, even though the offerer has expressly declared in the offer that he will not revoke it, or by the very terms of the offer has allowed the offeree a certain time to accept, unless the offer is supported by a consideration. In other words, unless the offer is supported by independent consideration (and in your particular matter it was not), there is until acceptance a complete want of mutuality, and no contract results between the parties.

The City is not necessarily bound to accept the lowest bid on any occasion, but in its judgment, after determination of the pertinent considerations, may accept the best bid, and the discretion lies alone in the City Council to make this determination, and such discretion will not be reviewed by the courts, unless a gross abuse of such discretion is shown.

If it be required, I will be glad to submit you my brief on the subject.

Yours very truly,

(Sgd) J. Bouldin Rector,
City Attorney. "

Holland Page being present, the question was put to him by Councilman Bartholomew as to whether or not if he were awarded the contract it would result in a loss to him and he answered in the affirmative.

Upon motion of Councilman Bartholomew, the bid and accompanying certified check of the said Holland Page were ordered returned to him.

Councilman Bartholomew then offered the following resolution:

WHEREAS, in accordance with the requirements of the Federal Emergency Administration of Public Works and the provisions of the City Charter of the City of Austin, Texas, proposal for bids for the various works under P.W.A. Docket No. 4869, Eng. Ref. No. 595a, was duly advertised to be received by the City Manager and to be opened at 10 o'clock A.M. Wednesday, March 20, 1935, at the City Hall in the City of Austin, Texas; and

WHEREAS, at said time and place said bids were publicly opened and read as specified; and

WHEREAS, thereupon it was found that Brown & Root, Inc., Austin, Texas, was the lowest and best bidder for that part of the work designated under Docket No. 4869, Eng. Ref. No. 595a, to wit, for the construction of a sanitary sewer main in Shoal Creek, with concrete and cast iron pipe, and that said bid was regular and proper in all particulars; therefore,

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

THAT said bid of Brown & Root, Inc., for the construction of the sanitary sewer main in Shoal Creek, for the aggregate sum of \$50,619.80, based upon unit prices given in said bid, be and the same is hereby accepted, subject to the approval of the Federal Emergency Administration of Public Works; and the City Manager, in behalf of the City of Austin, is authorized and instructed to enter into contract with said Brown & Root, Inc., for such purpose, subject to the approval of the Federal Administration of Public Works.

The resolution was adopted by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

A temporary permit during the term of the Legislature was granted to Lightsey Cab Company, by C. O. Lightsey, to operate as a taxicab a Plymouth Sedan, 1935 Model, Engine No. PJ67802, State Highway License No. A-94132.

Councilman Wolf offered the following resolution:

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

THAT on account of the fact that the automobile hereinafter mentioned had been used for the years hereinafter mentioned wholly in relief work, the taxes assessed against the automobile owned by the Salvation Army and assessed in the name of William Stevenson for the years 1932, 1933, and 1934, amounting to \$12.24, be and the same are hereby cancelled.

The resolution was adopted by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Wolf offered the following resolution:

WHEREAS, it has been determined that the assessment for taxes against the improvements on Lot 27, Block 2, Outlot 54/55, Elm Grove, Division "O", City of Austin, for the years 1929, 1930, and 1931, now in the name of R. E. Cofer, are excessive; and that same should now be corrected for each of said years; therefore,

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

THAT the assessments for taxes on said property for the years aforesaid be and the same are hereby reduced and corrected from the present assessed value of \$1895.00 for each year to the assessed value of \$1450.00 for each of said years; and that the City Assessor and Collector of Taxes is authorized and directed to make such changes on the tax rolls, and the taxes having been paid for said years at the former assessments, that the sum of \$30.03, same being the excess in the aggregate of the amount of taxes that

should have been paid under the revised assessments, be refunded to said R. E. Cofer, and that such amount be appropriated out of the General Fund not otherwise appropriated.

The resolution was adopted by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

Councilman Wolf offered the following resolution:

WHEREAS, it has been determined that the assessment for taxes for the year 1934, on the stock of merchandise of E. M. Scarbrough & Sons is excessive, and should be corrected; therefore,

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

THAT the assessment for taxes on the stock of merchandise in the name of E. M. Scarbrough & Sons for the year 1934, be and the same is hereby reduced and corrected from \$175,000.00 to \$166,500.00 and that the Assessor and Collector of Taxes be directed to make such change on the tax rolls.

The resolution was adopted by the following vote: Ayes, Councilmen Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Alford absent, 1.

There being no further business, the Council then recessed.

Attest:

Hallie McKeen
City Clerk

Approved:

Tom Miller
Mayor

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, March 26, 1935.

The meeting was called to order with Mayor Tom Miller presiding. Roll call showed the following members present: Councilmen C. F. Alford, Simon Gillis, Mayor Tom Miller, and Councilman Oswald G. Wolf, 4; absent, Councilman C. M. Bartholomew, 1.

The Minutes of the special meeting of March 18th and the regular meeting of March 21st were read and upon motion of Councilman Gillis were adopted as read by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

The following communication from the Park Board was read:

"Austin, Texas
March 21, 1935.

To the Honorable Mayor and City Council
Austin, Texas.

Gentlemen:

Mr. W. T. Caswell has proposed an exchange of property on Shoal Creek as follows: That he will convey Tract (B) to the City of Austin, that the City of Austin should convey Tract (A) to W. T. Caswell as shown on the attached map, and that W. T. Caswell will pay the City of Austin for the difference in area at the rate of \$600.00 per acre, based upon an actual survey of the two tracts.