

## MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

May 25, 1967

10:00 A.M.

Council Chamber, City Hall

The meeting was called to order with Mayor Akin presiding.  
Roll call:

Present: Councilmen Janes, LaRue, Long, Nichols, Mayor Akin  
Absent: None

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

Invocation was delivered by REVEREND THEODORE McELROY, Hyde Park Christian Church.

The Council approved the Minutes of April 27, 1967 and May 15th, as transmitted.

Mayor Akin announced it was 10:00 A.M. and bids would be opened for Pipe Fittings, Tanks, Structural Steel and Analyzer Equipment for Decker Creek Power Plant. Bids were opened as follows:

## CONTRACT X-112 STEAM AND FEEDWATER PIPE

BIDDER	BABCOCK & WILCOX	CAPITOL PIPE & STEEL PROD. INC.
BID BOND	\$10,000	\$10,000
BIDDING UNIT NO. I 60 LF 16" SEAMLESS	\$ 7,590	\$ 9,552.84
BIDDING UNIT NO. II 175 LF 20" SEAMLESS	\$26,530	\$28,994.00
BIDDING UNIT NO. III 60 LF 14" SEAMLESS	\$ 5,937	\$ 6,467.40
BIDDING UNIT NO. IV 57 LF 22" SEAMLESS	No Bid	No Bid
BIDDING UNIT NO. IV (ALT.) 57 LF 22" WELDED	No Bid	\$ 6,448.41
BIDDING UNIT NO. V 51 LF 24" SEAMLESS	No Bid	No Bid
BIDDING UNIT NO. V (ALT.) 51 LF 24" WELDED	No Bid	\$ 6,799.32

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## CONTRACT X-112 STEAM AND FEEDWATER PIPE (Con't)

BIDDER	BABCOCK & WILCOX	CAPITOL PIPE & STEEL PROD. INC.
BIDDING UNIT NO. VI 180 LF 27" SEAMLESS	No Bid	No Bid
BIDDING UNIT NO. VI (ALT.) 180 LF 27" WELDED	No Bid	\$22,285.80
BIDDING UNIT NO. VII SEAMLESS CARBON STEEL ITEMS VII thru XIII LOT	No Bid	\$15,954.79
ESCALATION	10%	Firm

## CONTRACT X-113 STEAM AND FEEDWATER PIPE FITTINGS

BIDDER	GULF SUPPLY CO.	VINSON SUPPLY CO.	W-K-M- VALVE DIV. ACF IND. INC.
BID BOND			\$10,000
BIDDING UNIT NO. I ITEMS I, II & III	NO	NO	\$57,946
BIDDING UNIT NO II ITEMS IV & V	BID	BID	No Bid
BIDDING UNIT NO. III ITEM VI			No Bid
ESCALATION			Firm
FIRST DRAWINGS CALENDAR DAYS			14
FINAL APPROVAL DRAWINGS CALENDAR DAYS			7
CERTIFIED PRINTS CALENDAR DAYS			7

Councilman Long inquired about this bid, if all the bids were incorporated in the one total. The Engineers stated no bids were received on Items IV, V and VI, of UNIT NO. II And UNIT III. MR. JOHN BOYD, Consulting Engineer, explained the units were not identified with the Items, and he explained the bids. The City Manager stated there was another quotation not on the bid form nor accompanied by a bid bond. The Council, for evaluation purposes, asked that the quotation be read. It was stated it was not made on the basis of the Unit number, and it would have to be rearranged to get it in some kind of order. Councilman Long stated she could not award a contract on this bid without any other bids. Councilman Janes noted it was customary if bids do not comply with bidding requirements, that they not be read; and he too could not vote to award a contract without some kind of investigation.

## CONTRACT X-114 MISCELLANEOUS TANKS

BIDDER	BID BOND	BIDDING UNIT NO. I ALL TANKS, LESS ITEM CWT-11, DWT-11, & PWT-11, FST-11 & FST-12	BIDDING UNIT NO. II TANKS CWT-11 & PWT-11	BIDDING UNIT NO. III TANKS FST-11 AND FST-12	ESCALA- TION	FIRST ISSUE DRAWINGS VAL CALENDAR DAYS	FINAL APPRO- VAL DRAW- INGS CALEN- DAR DAYS	CERTIFIED PRINTS CALENDAR DAYS
AUSTIN STEEL CO. INC.	\$10,000	\$19,976	No Bid	No Bid	Firm	14	60	90
CHICAGO BRIDGE & IRON CO.	\$10,000	No Bid	\$52,550	\$55,920	Firm	45	90	120
GORBETT BROS. STEEL CO. INC.	\$10,000	\$17,800	\$62,750	\$57,700	Firm	60	90	120
GRAVER TANK & MFG. CO.	\$10,000	No Bid	\$48,661	\$52,356	10%	60	90	120
MODERN WELDING CO. INC.	\$10,000	\$23,579	No Bid	No Bid	Firm	30	60	90
PITTSBURG DESMOINS STEEL CO.	\$10,000	No Bid	\$60,650	\$81,160	Firm	75	100	130
WYATT INDUSTRIES INC.	\$10,000	\$27,225	\$48,985	\$51,100	3%	45	90	110

## CONTRACT X-119 STRUCTURAL STEEL

BIDDER	BID BOND	BIDDING UNIT NO. I STEEL WITH PAINTED HANDRAIL	BIDDING UNIT NO. II STEEL WITH ALUMI- NUM HANDRAIL	BIDDING UNIT NO. III UNIT PRICE FOR STEEL ADDI- TIONS OR DELETIONS	BIDDING UNIT NO. IV UNIT PRICE FOR PIPE, HAND- RAIL FOR AD- DITIONS OR DELETIONS	BIDDING UNIT NO. V UNIT PRICE FOR ALUMINUM HAND- RAIL FOR AD- DITIONS OR DELETIONS	ESCALA- TION	APPROVAL DRAWINGS IN CALENDAR DAYS	CERTIFIED DRAWINGS IN CALENDAR DAYS
UNITED STATES STEEL CORP.	\$50,000	\$780,090	\$760,034	10.2016 -0.1670	9.71 / 7.50 -	6.56 / 5.00 -	Firm	-	-
AUSTIN STEEL CO. INC.	\$50,000	\$652,000	\$664,000	16.30/CWT	4.50	5.90	Firm	120	150
CAPITOL STEEL & IRON CO.	\$50,000	\$617,819	\$621,907	15.25/CWT	3.69	4.50	Firm	120	135
GENERAL STEEL COMPANY	\$50,000	\$638,563	\$648,489	0.1626	3.10	4.50	Firm	90	120
MOSHER STEEL CO.	\$50,000	\$592,852	\$593,846	0.1460 / 0.1145 -	4.50 / 3.62 -	4.65 / 3.75 -	Firm	90	120

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## CONTRACT X-135 FEEDWATER ANALYZER EQUIPMENT

BIDDER	BID BOND	BIDDING UNIT NO. I FW ANALYZER EQUIPMENT	ESCALATION	FIRST ISSUE DRAWINGS CALENDAR DAYS	FINAL APPROVAL DRAWINGS CALENDAR DAYS	CERTIFIED PRINTS CALENDAR DAYS
BECKMAN INSTRUMENT INC.	\$10,000	\$39,400	Firm	30	90	180 See cover letter
SENTRY EQUIP- MENT CORP.	\$10,000	\$57,390	20%	30	90	180 See Bid for Alt. Proposed*
WATERS ASSOCI- ATES INC.	\$10,000	\$47,754	Firm 45 days from May 25th	15	30	45

\*add \$940.00

Councilman Long moved that the Council refer these bids to the Electric Department to analyze and bring back their recommendations. The motion, seconded by Councilman Nichols, carried by the following vote:

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

Later in the meeting the Director of Electric Utilities, and the Consulting Engineers, submitted their recommendations.

The City Manager read the following recommendation:

"May 25, 1967  
File: M-669-DVB

"Mr. W. T. Williams, Jr., City Mgr.  
City of Austin  
P. O. Box 1088  
Austin, Texas, 78767

"STEAM & F. W. PIPE, CONTRACT X-112  
STEAM & F. W. PIPE FITTINGS, CONTRACT X-113  
DECKER CREEK POWER STATION, UNIT NO. ONE  
OUR JOB CA-0003

"Dear Mr. Williams:

"Brown & Root, Inc., has examined the bids opened by you at 10:00 A.M., May 25, 1967, in open Council meeting for Decker Creek Power Station, Unit No. One for

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the Steam & F. W. Pipe, Contract No. X-112, and the Steam and F. W. Pipe Fittings, Contract No. X-113.

"Due to the insufficient number of bids received for a proper evaluation of competitive bids, Brown & Root, Inc., recommends rebidding of these contracts in the near future. It is requested that the new bid opening date be set for 10:00 A.M., June 22, 1967.

"Should you have any question on the above, please let us know.

"Yours very truly,  
BROWN & ROOT, INC.  
s/ D. V. Boyd  
D. V. Boyd, P.E.

"APPROVED:  
s/ D. C. Kinney  
D. C. Kinney, Dir. Elec. Utility  
City of Austin"

The City Manager stated he and the Director of Electric Utilities concurred in this recommendation. Councilman Long moved to reject the bids and set 10:00 A.M., June 22, 1967 for receiving bids. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

The City Manager read the recommendation of Brown & Root, Inc., in which he and the Director of Electric Utilities concurred, as follows:

"May 25, 1967  
File: M-671-DVB

"Mr. W. T. Williams, Jr., City Mgr.  
City of Austin  
P. O. Box 1088  
Austin, Texas, 78767

"MISCELLANEOUS TANKS, CONTRACT X-114  
DECKER CREEK POWER STATION  
UNIT NO. ONE  
OUR JOB CA-0003

"Dear Mr. Williams:

"Brown & Root, Inc., has examined the bids opened by you at 10:00 A.M., May 25, 1967, in open Council meeting for Decker Creek Power Station, Unit No. One, Miscellaneous Tanks, Contract No. X-114.

"Bids were submitted by:

Gorbett Bros. Steel Co., Inc.  
Chicago Bridge & Iron Co.  
Wyatt Industries, Inc.

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"Modern Welding Co.  
Pittsburg-Des Moines Steel Co.  
Graver Tank & Manufacturing Co.  
Austin Steel Company, Inc.

"All bids were found to be in accordance with the Engineering Specifications. A bid tabulation is attached for your review and file.

"On the basis of our review, the lowest and best bid, no exceptions to the specifications, and satisfactory delivery, it is recommended that split contracts be awarded as follows:

"Contract for Bidding Unit No. I to Gorbett Brothers Steel Company, Inc., for Contract No. X-114, Miscellaneous Tanks, for the firm lump sum of \$17,800.00.

"Contract for Bidding Unit Nos. II & III to Wyatt Industries, Inc., for Contract No. X-114, Miscellaneous Tanks, for the maximum escalated lump sums as follows:

Bidding Unit No. II -----	\$50,454.55
Bidding Unit No. III-----	\$52,633.00

"Should you have any questions on this evaluation, please let us know.

"Yours very truly,  
BROWN & ROOT, INC.  
s/ D. V. Boyd  
D. V. Boyd, P.E.

"APPROVED:  
s/ D. C. Kinney  
D. C. Kinney, Dir. Elec. Utility  
City of Austin"

Councilman LaRue moved that the Council award Contract X-114, Miscellaneous Tanks, Unit No. 1, Decker Creek Power Station to the lowest and best bidders as follows:

GORBETT BROTHERS STEEL COMPANY, INC. for Contract No. X-114,  
Miscellaneous Tanks, for the firm lump sum of \$17,800.00

WYATT INDUSTRIES, INC. for Contract No. X-114, Miscellaneous  
Tanks, for the maximum escalated lump sums as follows:

Bidding Unit No. II	\$50,454.55
Bidding Unit No. III	\$52,633.00

The motion, seconded by Councilman Long, carried by the following vote:  
Ayes: Councilmen Janes, LaRue, Long, Nichols, Mayor Akin  
Noes: None

The City Manager read the recommendation from the Consulting Engineer, Brown & Root, Inc., in which he and the Director of Utilities concurred, as follows:

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"May 25, 1967  
File: M-672-DVB

"Mr. W. T. Williams, Jr., City Mgr.  
City of Austin  
P. O. Box 1088  
Austin, Texas, 78767

"STRUCTURAL STEEL, CONTRACT X-119  
DECKER CREEK POWER STATION  
UNIT NUMBER ONE  
OUR JOB CA-0003

"Dear Mr. Williams;

"Brown & Root, Inc., has examined the bids opened by you at 10:00 A.M., May 25, 1967, in open Council meeting for Decker Creek Power Station, Unit No. One, Structural Steel, Contract No. X-119.

"Bids were submitted by:

Austin Steel Company  
U. S. Steel Corp. (American Bridge Div.)  
Capitol Steel & Iron Co.  
Mosher Steel Company  
General Steel Company

"The following firms were also requested to submit a proposal but failed to do so for one reason or the other:

Bethlehem Steel Corp.  
Alamo Iron Works  
Tips Iron & Steel Works

"All bids were found to be in accordance with the Engineering Specifications. A bid tabulation is attached for your review and file.

"On the basis of our review, the lowest and best bid, no exceptions to the specifications, firm price and satisfactory delivery, it is recommended that a contract be awarded to Mosher Steel Company, San Antonio, Texas, for Contract No. X-119, Structural Steel, Bidding Unit No. II (Steel with aluminum handrail) for the lump sum of \$593,846.00.

"For clarification, the difference between Bidding Units No. I and II is that Bidding Unit No. I has painted pipe handrail, while Bidding Unit No. II has aluminum handrail. The estimated cost of painting the handrail is \$5,000.00 which has to be done approximately once every five years.

"On this basis Brown & Root, Inc., recommends the purchase of Bidding Unit No. II with aluminum handrail since the first cost difference is only \$994.00 and does not require painting.

"Yours very truly,  
BROWN & ROOT, INC.  
s/ D. V. Boyd  
D. V. Boyd, P.E.



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"APPROVED:

s/ D. C. Kinney  
D. C. Kinney, Dir. Elec. Utility  
City of Austin"

Councilman Nichols moved that the Council accept the recommendation of the Consulting Engineers and award the Contract No. X-119, Structural Steel, Bidding Unit No. II (Steel with aluminum handrail) for Decker Creek Power Station, Unit No. 1 to MOSHER STEEL COMPANY for the lump sum of \$593,846.00. The motion, seconded by Councilman Long, carried by the following vote:

Ayes: Councilmen LaRue, Long, Nichols, Mayor Akin, Councilman Janes  
Noes: None

The City Manager read the recommendation of Brown & Root, Inc., in which he and the Director of Electric Utilities concurred, as follows:

"May 25, 1967  
File: M-673-DVB

"Mr. W. T. Williams, Jr., City Mgr.  
City of Austin  
P. O. Box 1088  
Austin, Texas, 78767

"F. W. ANALYZER EQUIPMENT, CONTRACT X-135  
DECKER CREEK POWER STATION, UNIT NO. ONE  
OUR JOB CA-0003

"Dear Mr. Williams:

"Brown & Root, Inc., has examined the bids opened by you at 10:00 A.M., May 25, 1967, in open Council meeting for Decker Creek Power Station, Unit No. One, F. W. analyzer Equipment, Contract No. X-135.

"Bids were submitted by:

Waters Associates, Inc., c/o Mack Goble Co.  
Sentry Equipment Corp., c/o C. J. Wolfer Co.  
Beckman Instruments, Inc.

"All bids were found to be in accordance with the Engineering Specifications. A bid tabulation is attached for your review and file.

"On the basis of our review, the lowest and best bid, no exceptions to the specifications, firm price, and satisfactory delivery, it is recommended that a contract be awarded to Beckman Instruments, Inc., for Contract No. X-135 F. W. Analyzer Equipment, Bidding Unit No. I for the lump sum of \$39,400.00.

"Should you have any questions on this evaluation, please let us know.

"Yours very truly,  
BROWN & ROOT, INC.  
s/ D. V. Boyd  
D. V. Boyd, P.E.

APPROVED:  
s/ D. C. Kinney  
D. C. Kinney, Dir. Elec. Utility  
City of Austin"

Councilman Janes moved that the Council award Contract X-135, Feedwater Analyzer Equipment, Decker Creek Power Station, Unit No. 1 to BECKMAN INSTRUMENTS, INC., for the lump sum of \$39,400.00. The motion, seconded by Councilman Nichols, carried by the following vote:

Ayes: Councilman Nichols, Mayor Akin, Councilmen Janes, LaRue, Long  
Noes: None

#### ANNEXATION

At 10:30 A.M. Mayor Akin opened the hearing on ordinances annexing the following:

17.82 acres of land out of the Henry P. Hill League -  
BARTON HILLS, SECTION 6.

23.14 acres of land out of the George W. Davis Survey -  
Proposed NORTHWEST HILLS, MESA OAKS, PHASE 4.

12.35 acres of land out of the George W. Davis Survey -  
Proposed WOOTEN VILLAGE, SECTION 4.

8.49 acres of land out of the George W. Davis Survey -  
Proposed HIGHLAND HILLS NORTHWEST, SECTION 4.

9.30 acres of land out of the George W. Davis Survey -  
Portions of proposed NORTHWEST HILLS, SECTION 10,  
PHASE 2.

10.3 acres of land out of the Isaac Decker League -  
Proposed GREENWOOD HILLS, SECTION 4.

8.41 acres of land out of the James P. Wallace Survey  
No. 18 - Proposed WESTOVER HILLS, SECTION 3, PHASE 4.

No one appeared to be heard. Councilman Long explained that since 1954, it had been the practice of the Council not to annex property except where there are petitions and applications made to be annexed. These listed probably are new subdivisions. When the owners get ready to subdivide, they make application and ask to be annexed. The City Manager added that occasionally, as a result of the annexation where property owners request it, the effect is to surround a tract of land, leaving an island not in the City. In those cases they recommended that the intervening territory be annexed. Councilman Long moved that the hearing be closed. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilmen Janes, LaRue, Long, Nichols, Mayor Akin  
Noes: None

Mayor Akin brought up the following ordinance for its first reading:

AN ORDINANCE PROVIDING FOR THE EXTENSION OF CERTAIN  
BOUNDARY LIMITS OF THE CITY OF AUSTIN AND THE ANNEXA-  
TION OF CERTAIN ADDITIONAL TERRITORY CONSISTING OF  
17.82 ACRES OF LAND, SAME BEING OUT OF AND A PART OF

THE HENRY P. HILL LEAGUE IN TRAVIS COUNTY; WHICH SAID ADDITIONAL TERRITORY LIES ADJACENT TO AND ADJOINS THE PRESENT BOUNDARY LIMITS OF THE CITY OF AUSTIN, IN PARTICULARS STATED IN THE ORDINANCE. (Barton Hills, Section 6)

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

Ayes: Councilmen Janes, LaRue, Long, Nichols, Mayor Akin  
Noes: None

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

Ayes: Councilmen Janes, LaRue, Long, Nichols, Mayor Akin  
Noes: None

Mayor Akin brought up the following ordinance for its first reading:

AN ORDINANCE PROVIDING FOR THE EXTENSION OF CERTAIN BOUNDARY LIMITS OF THE CITY OF AUSTIN AND THE ANNEXATION OF CERTAIN ADDITIONAL TERRITORY CONSISTING OF 12.35 ACRES OF LAND, SAME BEING OUT OF AND A PART OF THE GEORGE W. DAVIS SURVEY IN TRAVIS COUNTY, TEXAS, 23.14 ACRES OF LAND, SAME BEING OUT OF AND A PART OF THE GEORGE W. DAVIS SURVEY IN TRAVIS COUNTY, TEXAS; 10.30 ACRES OF LAND, SAME BEING OUT OF AND A PART OF THE ISAAC DECKER LEAGUE IN TRAVIS COUNTY, TEXAS; 8.41 ACRES OF LAND, SAME BEING OUT OF AND A PART OF THE JAMES P. WALLACE SURVEY NUMBER 18 IN TRAVIS COUNTY, TEXAS; 8.49 ACRES OF LAND, SAME BEING OUT OF AND A PART OF THE GEORGE W. DAVIS SURVEY IN TRAVIS COUNTY, TEXAS; 9.27 ACRES OF LAND AND 0.03 OF ONE ACRE OF LAND, SAME BEING OUT OF AND A PART OF THE GEORGE W. DAVIS SURVEY IN TRAVIS COUNTY, TEXAS, WHICH SAID ADDITIONAL TERRITORY LIES ADJACENT TO AND ADJOINS THE PRESENT BOUNDARY LIMITS OF THE CITY OF AUSTIN, IN PARTICULARS STATED IN THE ORDINANCE. (Wooten Village, Section 4; Northwest Hills, Mesa Oaks, Phase 4; Greenwood Hills, Section 4; Westover Hills, Section 3, Phase 4; Highland Hills Northwest, Section 4; Northwest Hills, Section 10, Phase 2)

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

Ayes: Councilmen Janes, LaRue, Long, Nichols, Mayor Akin  
Noes: None

The ordinance was read the second time and Councilman Long moved that the ordinance be passed to its third reading. The motion, seconded by Councilman

LaRue, carried by the following vote:

Ayes: Councilmen Janes, LaRue, Long, Nichols, Mayor Akin  
Noes: None

Mayor Akin brought up the following ordinance for its third reading:  
ORDINANCE NO. 670525-A

AN ORDINANCE PROVIDING FOR THE EXTENSION OF CERTAIN BOUNDARY LIMITS OF THE CITY OF AUSTIN AND THE ANNEXATION OF CERTAIN ADDITIONAL TERRITORY CONSISTING OF 42.46 ACRES OF LAND OUT OF THE JAMES MITCHELL SURVEY AND THE GEORGE W. DAVIS SURVEY IN TRAVIS COUNTY, TEXAS; WHICH SAID ADDITIONAL TERRITORY LIES ADJACENT TO AND ADJOINS THE PRESENT BOUNDARY LIMITS OF THE CITY OF AUSTIN, IN PARTICULARS STATED IN THE ORDINANCE. (Anderson Lane, Shoal Creek Boulevard, Foster Lane and two unplatted tracts)

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

Ayes: Councilmen LaRue, Long, Nichols, Mayor Akin, Councilman Janes  
Noes: None

The Mayor announced that the ordinance had been finally passed.

Councilman Janes asked if unplatted tracts were annexed ordinarily. The City Manager stated in cases where the property owners request annexation the property is taken in. Perhaps in this case the subdivider may want a commercial development. Most of the developers are interested in annexation to determine to some degree what the zoning of the area will be before they start developing. The City Attorney explained another set of circumstances is beginning to exist regarding unplatted property, in areas where rapid development is occurring. Plats cannot be recorded until after they have been approved and the area annexed. Some subdividers are planning to ask for unplatted land to be annexed in order to avoid any delay in the filing of the plat.

#### ZONING ORDINANCE

Denied

Mayor Akin introduced the following ordinance:

AN ORDINANCE ORDERING A CHANGE IN USE AND CHANGING THE USE MAPS ACCOMPANYING CHAPTER 39 OF THE AUSTIN CITY CODE OF 1954 AS FOLLOWS: LOT 2 OF THE WORMLEY SUBDIVISION, LOCALLY KNOWN AS 4700 HEFLIN LANE AND 4701 FARM HIGHWAY 969, FROM "LR" LOCAL RETAIL DISTRICT TO "GR" GENERAL RETAIL DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; AND SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS.

Mayor Akin stated after the last meeting he had made an inspection of the property, the result of which was his considered opinion that to grant zoning

as requested and acted upon would not be in the best interests of this new community; and it would endanger the integrity and character of the neighborhood which is largely new and residential with a Church in which there is a considerable investment which would be damaged. For this reason he stated he felt compelled to reverse himself, and wanted to give this information before the vote.

The ordinance was read the first time and Councilman LaRue moved that the ordinance be passed through its first reading. The motion, failed to carry, by the following vote:

Ayes: Councilmen Janes, LaRue  
Noes: Councilmen Long, Nichols, Mayor Akin

#### ZONING ORDINANCES

Mayor Akin introduced the following ordinance:

ORDINANCE NO. 670525-C  
AN ORDINANCE ORDERING A CHANGE IN USE AND CHANGING  
THE USE MAPS ACCOMPANYING CHAPTER 39 OF THE AUSTIN  
CITY CODE OF 1954 AS FOLLOWS: LOT 4, BLOCK 3 OF  
SILVERTON HEIGHTS, LOCALLY KNOWN AS 6906 GUADALUPE  
STREET AND 601-605 SWANEE DRIVE, FROM "A" RESIDENCE  
DISTRICT TO "B" RESIDENCE DISTRICT; SAID PROPERTY  
BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; AND  
SUSPENDING THE RULE REQUIRING THE READING OF  
ORDINANCES ON THREE SEPARATE DAYS.

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

Ayes: Councilman Nichols, Mayor Akin, Councilmen Janes, LaRue  
Noes: Councilman Long

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

Ayes: Councilman Nichols, Mayor Akin, Councilmen Janes, LaRue  
Noes: Councilman Long

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

Ayes: Councilman Nichols, Mayor Akin, Councilmen Janes, LaRue  
Noes: Councilman Long

The Mayor announced that the ordinance had been finally passed.

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Mayor Akin introduced the following ordinance:

ORDINANCE NO. 670525-D

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: (1) LOTS 14 AND 15 LESS THE NORTH-EAST 71.75 x 427.22 FEET OF LOT 15 OF DUVAL HEIGHTS, LOCALLY KNOWN AS 1104-1126 CLAYTON LANE, FROM "A" RESIDENCE DISTRICT AND FIRST HEIGHT AND AREA DISTRICT TO "B" RESIDENCE DISTRICT AND SECOND HEIGHT AND AREA DISTRICT; (2) LOT 4, BLOCK B OF FORD PLACE #1, LOCALLY KNOWN AS 4409 MANCHACA ROAD, FROM "A" RESIDENCE DISTRICT TO "O" OFFICE DISTRICT; (3) THE NORTH 46 FEET OF THE WEST 103.5 FEET OF LOT 4 AND THE WEST 103.5 FEET OF LOT 5, BLOCK 13 OF THE WHITIS ADDITION, LOCALLY KNOWN AS 2713-2715 HEMPHILL PARK, FROM "B" RESIDENCE DISTRICT TO "C" COMMERCIAL DISTRICT; (4) LOT 3, BLOCK 1 OF THE SUBDIVISION OF OUTLOT 4, LOCALLY KNOWN AS 1407-1411 EAST 7TH STREET, FROM "C" COMMERCIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT; AND (5) LOTS 11, 12 AND 13, BLOCK 17 OF THE GLENRIDGE ADDITION, LOCALLY KNOWN AS 3710-3712 CRAWFORD AVENUE AND 1505-1507 WEST 38TH STREET, FROM "LR" LOCAL RETAIL DISTRICT AND FIRST HEIGHT AND AREA DISTRICT TO "LR" LOCAL RETAIL DISTRICT AND SECOND HEIGHT AND AREA DISTRICT; ALL OF SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; AND SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEAPRATE DAYS.

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

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

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

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

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

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

The Mayor announced that the ordinance had been finally passed.

Mayor Akin 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:

(1) LOTS 18-22, BLOCK 9 OF HYDE PARK ADDITION NO. 2, LOCALLY KNOWN AS 3900-3904 AVENUE C AND 300-302 WEST 39TH STREET, FROM "A" RESIDENCE DISTRICT AND FIRST HEIGHT AND AREA DISTRICT TO "B" RESIDENCE DISTRICT AND SECOND HEIGHT AND AREA DISTRICT; (2) THE NORTH 15 FEET OF LOT 30 AND ALL OF LOTS 31-34, BLOCK 9 OF THE HYDE PARK ADDITION NO. 2, LOCALLY KNOWN AS 3912-3914 AVENUE C AND 301-303 WEST 40TH STREET, FROM "A" RESIDENCE DISTRICT AND FIRST HEIGHT AND AREA DISTRICT TO "B" RESIDENCE DISTRICT AND SECOND HEIGHT AND AREA DISTRICT; (3) LOTS 1-4, BLOCK 13 OF HYDE PARK #2, LOCALLY KNOWN AS 309-311 WEST 39TH STREET, 3811-3817 AVENUE B AND 310 WEST 38 1/2 STREET, FROM "A" RESIDENCE DISTRICT AND FIRST HEIGHT AND AREA DISTRICT TO "B" RESIDENCE DISTRICT AND SECOND HEIGHT AND AREA DISTRICT; ALL OF SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; AND SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS.

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

Ayes: Councilmen LaRue, Long, Nichols, Mayor Akin  
Noes: Councilman Janes

#### RECOMMENDATION OF HOSPITAL ADVISORY BOARD ON INCREASED PAY FOR NURSES

MR. JOHN SIMPSON said he attended the Special Meeting, May 19th, to present a recommendation of the Hospital Advisory Board; and today he wanted to encourage the Council to take action on their proposal on room rate increases in order to have the funds for the nurses' salary adjustment. The Advisory Board did not wish to get involved in the classification system; and did not go into any detail other than to request the minimum wage be increased to \$4.50.00, Group VII, Step 5 or 6. The Board was hopeful that adjustments would be appropriate to others, and funds would be available if room rents and other service increases are inaugurated at the hospital. Mayor Akin asked about a comparison to other hospitals. The City Manager said there was no additional information from that distributed last Friday. If the other hospitals are confronted with an increase of rates of pay, for their employees, they have no source of revenue with which to meet these pay raises except to increase their rates. Councilman Long stated in view of information received from the Nurses Association and a document from the Public Health Nurses, she would like to have more time to study the matter and have some review of expenditures on personnel, how many nurses are allocated in the budget; how many nurses they are short, and how much money there is left over. According to her six months' report there seemed to be \$232,000 underspent on salaries for the personnel. The City Manager had a general report he could submit generally, and Mayor Akin asked that he read it. The City Manager read the report on Funding of Nurses' Salary Increases, together with attachments.

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"I concur in the recommendation of the hospital board that the Wage and Salary Ordinance of the City be amended to provide for employment of qualified persons in acute positions in any appropriate step within the salary range; and that effective June 1, 1967, starting pay for registered nurses be set at \$455 per month. I also concur in the recommendation for a shift differential of  $1\frac{1}{2}$  hours premium pay to professional nurses on the 3 to 11 shift, and in the recommendation of \$512 per month beginning October 1, 1967.

"I also concur in the recommendation of the board that service charges and other rates be adjusted as proposed. Such adjustments must be made in order that total charges will equal total expenses at the hospital.

"Brackenridge Hospital has been operated on the principle that those who can should pay the cost of their hospitalization, and that the taxpayers should pay only for those who cannot pay. Through the years, schedules have been developed for use in determining which patients are eligible for charity; and all others have been charged as private patients. Costs of each of the many services rendered at the hospital are determined by a cost reporting system which was established a number of years ago. These costs have served as a basis for fixing the various service charges. Charges based on the costs are recorded for the services rendered to all patients, whether private or charity. Charges to those who are eligible for charity are then written off as taxpayers' expense. All other patients are expected to pay.

"The enactment of Medicare and other Federal and State legislation is creating a trend toward payment of all patient care, whether private or charity, with Federal and State Tax Funds. If the City of Austin were to operate under the same principle at Brackenridge Hospital, a tax burden would be created far beyond the ability of the City to pay.

"If charges for services at the hospital do not equal the costs of the services, the taxpayers will be required to pay the difference in costs of private patient care. To assure that the City taxpayers are not required to pay for care of private patients, charges for services must be increased as expenses are increased.

"The general government services of the City include fire and police protection, street and bridge maintenance, recreation and parks maintenance, libraries, garbage collection, public health service, hospital and other operations. Generally, there are three sources of funds for these operations. They are the general fund tax, charges for services, and transfers from the earnings of the City utility system to help support the general government. Roughly one-third of the requirements come from each of these sources.

"Since the utility system belongs to the taxpayers, moderate transfers of earnings in lieu of taxes and dividends can be justified. On the other hand, excessive transfers would reduce the amount of earnings available for investment in our utility system and increase the need for borrowing of funds for expansion. Such a course could soon reduce our equity in the system, impair our credit rating, and increase our interest costs. Years of experience have demonstrated that our transfer should be limited to about 20% of the gross utility revenue.



"In financial planning and budget preparation we are required to make estimates of both revenue and expenditures. Upon the adoption of the budget each year, the budgeted expenditures become appropriations for the budgeted purposes. Necessarily, we budget for optimum employment levels in all City departments, even though we know we will not keep all positions filled throughout the year. Also, we must budget each year to meet a number of contingencies, some of which will not occur.

"From experience we know that some of the funds budgeted for these purposes will not be expended. This being true, when the budgeting of these contingencies results in total budgeted expenditures which exceed the estimated general fund revenue and 20% of the estimated utility revenue, we budget a greater transfer than 20% in order to balance, although we do not actually transfer any of the excess unless the contingencies which caused the excess transfer to be budgeted actually occur. Thus, we use the transfer of utility earnings as a reserve for contingencies; and any improvement in general fund position resulting from higher than estimated general fund revenues or lower than estimated general fund expenses only serves to reduce the required actual transfer from utility earnings to general government. Applying this principle to our present situation, no funds exist in the present budget which should be used for pay increases."

Attached to the report was the recommendation of the Advisory Board of Trustees, Brackenridge Hospital. The City Manager discussed the Operating Summary, prepared by Brackenridge Hospital for period October, 1966 to March, 1967, pointing out although there had been less expense at the hospital than forecast, there had been less revenue produced, and the over all position is, the Hospital is \$102,000 worse off during the seven months than forecast. In the preparation of last year's budget and in its message, it was noted that the City might receive considerable benefits from Medicare and revenue from that source was considered, hoping it would reduce the charity costs. There had been substantial receipts, but not to the effect of reducing the charity load.

Referring to the attachment, Receipts and Disbursements Compared to Monthly Allotments for Period October, 1966 to March 1967; and for October, 1966 to April, 1967, a seven months' period ending April 30, 1967, the City Manager pointed out the receipts were \$211,335 under what was budgeted for seven months; the disbursements were \$88,624 under what was estimated for seven months, and the \$122,711 shows a higher deficit than anticipated at the time the budget was prepared. The combined General Government including the hospital indicates that the City is better off by \$24,442 than at the beginning of the year; and that is pretty close, for an \$18,000,000 budget. The same information for a six months' period, shows the position to have deteriorated during April, as at the end of March the City was \$72,439 better off than at the end of April, with a figure of \$24,442.

Councilman Nichols stated there were two classes of patients--those who pay and those who cannot. The City Manager explained the part-pay category, for those with incomes slightly more than the formula established for indigents who would pay on the amount of their income in excess of the allowance figure. The total amount of charity allowances, full charity, part pay, and bad debt accounts amount to 40%, and the revenues are estimated at about 60% of the charges. Councilman Nichols inquired about the part pay patients, and the increased charges.

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The City Manager stated the "part-pay" would be increased to the extent the income exceeds the amount that would make one fully eligible. If he is entitled to part pay now, he would be entitled to more.

Councilman Long discussed the number of nurses budgeted and the number on duty now, stating her figures showed \$232,000 underspent on salaries and wages and this was the amount being asked for in the increase. The City Manager said 183 nurses were budgeted, and 140 were on the payroll.

Discussion was held on the shortage of nurses and the closing of the west wing of the hospital. The City Manager stated if this increase would help to attract enough nurses, the west wing would be opened. In answer to Councilman Nichols' inquiry about closing this section, the City Manager stated the Medical Staff at the Hospital felt there was such a shortage of nurses that the beds should be shut down in order to give proper care to those in operation and it would be dangerous to keep the wing open under the shortage. There had been one increase in nurses' pay about the time the wing was closed, and one since. Councilman Janes stated if this \$122,711 were a so called deficit for seven months, for a year there would be around \$350,000 deficit. The City Manager stated to some extent the opening of the west wing would produce some revenue, but it would not offset the expense.

MRS. CASEY, Public Health Association, explained the unique position in which the Public Health nurses fell; some being paid by the State, some by the School System, and some by the City. The Nurses Association had gone along with the American Nurses Association recommending a minimum starting wage of \$6,500 a year. Councilman Nichols explained the recommendation is the pay, beginning June 1st, will be \$455.00 per month; and on October 1st, \$512.00 per month which is about \$6,000. Councilman Long said all nurses working for the City would receive the increase and Public Health Nurses should be included in this recommendation. The City Manager had said the week before the Public Health Nurses should be included also on the June 1st increase. The remaining proposal for \$512.00 beginning in October could be subject to modification--increase or decrease between now and next fall. Mayor Akin told Mrs. Casey the action regrading the nurses' pay was considered on recognition of a critical situation. It was also thought, and was reported that this increase was not saying the other City employees would not have an opportunity to be upgraded on their pay. Preparatory to this, the Council had adopted the idea in principle, and there would be a thorough restudy and evaluation of the whole classification system for all City employees.

Councilman Long said she was not ready to pass on this today, as she thought the figures need to be studied, as her six months' study showed an underspending on salaries at the Hospital by \$232,000. At Mayor Akin's request as to the availability of funds, the City Manager stated the principle that had always been at Brackenridge Hospital was to try to keep the charges equal to the expense. If that is not done, immediately the taxpayers become burdened with part of the expense of taking care of private patients. Councilman Long stated it was estimated to take \$140,000 to meet the salary increases, and the room increase would bring \$232,000 of charges, which would be more money than needed. The City Manager pointed out the \$232,000 would be needed to bring the charges in balance with the expenses; and moneywise 60% is collected. Councilman Long referred to a study made by the National Nurses Association wherein it was set out that an increase to the nurses to the \$6500 minimum would increase the hospital bed only \$1.50 or \$1.60 per day. This was a nationwide study. Councilman Janes pointed out there was a variation from \$.83 to \$1.83 depending on

the type of hospital they were talking about, and he did not think those figures could be considered average national figures valid for Brackenridge Hospital. Mr. Simpson asked that this increase not be delayed too long and strongly urged that the revenue needed be produced through the room rate increases and the salary adjustments be made as soon as possible.

. . . . .

MR. CECIL PERKINS asked for a time to be heard (on percolation tests in Perkins Subdivision No. 2). After discussion it was decided that Mr. Perkins' request be set for 10:00 A.M., June 1st.

Councilman Janes moved that the Council recess until 3:00 P.M. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilmen LaRue, Long, Nichols, Mayor Akin, Councilman Janes  
Noes: None

RECESSED MEETING

3:00 P.M.

At 3:00 P.M. the Council resumed its business.

MAYOR AKIN expressed appreciation to MAYOR PRO TEM LONG for taking care of various matters during the first half of the week while he was in Chicago.

#### FIESTA GARDENS

MR. RICHARD BAKER, representing Austin Aquatic Gardens, Inc. (Fiesta Gardens), introduced MR. TOM PERKINS, Former Vice President, and acting Manager of Fiesta Gardens and MR. BILL GASTON, MR. JIMMIE CARTER, MR. HUB BECHTOL, stockholders in the corporation and said MR. ED ST. JOHN, President, was out of the City.

MR. BAKER gave a resume' of Austin Aquatic Gardens from its beginning in 1961 or 1962. On April 25, 1963 a lease was signed by Mr. Tom Perkins and Mr. Warren Beaman with the right to assign the lease to Austin Aquatic Gardens. It was their intent to raise money through the sale of stock through the citizens of Austin, and elsewhere to construct facilities on what was commonly referred to as "Travis Materials' Gravel Pit". He reviewed the lease in detail, noting particularly the provision where they were obligated to spend \$100,000 in improvements to be erected on the site plus additional improvements within a certain length of time. He showed slides of the tract prior to the time the construction was started. The lease provided a set rental plus a percentage fee of admissions and a percentage on food or any sales. He explained the recapture clause by the City. Some \$200,000 worth of stock was sold to 25 or 26 residents of Austin, and improvements were undertaken on the tracts. Pictures were shown of these improvements--the patio area and fountains; greenhouse, elevated view of the garden, pathway, waterfall, the Lagoon area where the water show takes place, the Mexican Market, mine shaft, and aviary. An additional \$85-\$90,000 had been obtained, and there had been a total expenditure of \$335,000 the majority of which was for permanent improvements; and a portion had

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been used for operation. He showed aerial photographs of the permanent improvements constructed since May, 1963, when the tract had been abandoned as a gravel pit. Construction of facilities were completed in August, 1966.

The operators and stockholders, for tourists purposes, wanted to expand the facilities adding \$250,000 improvements in the entertainment line for children, and to solicit capital from Austin citizens. As this was undertaken, it was concluded there was a feeling of a considerable amount of discontent, officially and unofficially, in the City surrounding the Fiesta Garden lease and its operation. Comments were made that it did not fit into the overall Town Lake program, and that commercial facilities should not be mixed with proposed public facilities. This discontent manifested itself in the City. The stockholders decided if additional funds were to be raised and the operation continued, the money must be raised outside of Austin--in California and Florida and with people more oriented toward large scale tourist attractions. The stockholders believing this could place the control of the operation in people outside the city want to discuss with the city officials to determine if the discontent expressed officially and unofficially with the lease arrangements, proposed term, method of reacquisition of the property by the City should fully be developed. If the City wanted to acquire the property, it would be better to present the matter to the City now than to bring others in to invest their money. The delegation was authorized to confer with those who might have an interest in reacquiring the property. During the informal discussion it was indicated the City would be interested, but that the matter should go to the Parks and Recreation Board to see if they were interested. A Parks and Recreation Board meeting was held Monday afternoon at which time officials of Fiesta Gardens were present. A resolution was adopted by the Board, to the effect it was interested in acquiring this facility and would recommend that the Council use every means to try to reacquire this particular tract. It was on the basis of the Resolution, that his group is present today.

He described the facilities as being well planned and well constructed. Tourist facilities are going on the market next week with a brochure, listing the activities for 1967-68. Fiesta Gardens went beyond expectation in their use by conventions and as a popular place for parties. In May 1967, there were 19 conventions and association parties held in Fiesta Gardens. These facilities, tied in with the Tourist and Convention industry, would be an asset to the City. An outdoor family type facility is one of the most unique types of tourist entertainment. The timing problem was urgent.

The Council discussed the matter. Councilman LaRue stated the figure needed for reacquiring this would depend on what interest the City would have in it. Mr. Baker stated the physical facilities were there, and the lease had a value. Discussion of leasehold was held. The City Attorney stated as far as the contract was concerned, the leasehold had no value, in case the City had to take it back.

The City Manager said this lease was negotiated between the Council Members and the people seeking the lease in a regular Council Meeting. In open Council Meeting every detail of this lease was reviewed several times; members of the Council made suggestions and inquiries of Tom Perkins and Warren Beaman and others. This contract was actually negotiated in the Council Meeting; and not by the City Manager nor the City Attorney. Councilman Nichols asked for a written review or brief of the lease.

Councilman Long inquired if the lease could be assigned. Councilman Janes was of the opinion they could assign this lease by selling stock or controlling

stock in their corporation. The City Attorney explained the transfer of the assignment of the lease from this corporation to another corporation does require Council approval. Councilman LaRue was interested in having an established figure, and noted it was stated the depreciated book value would be \$225,000. The recapture clause was discussed and Mr. Baker stated in retrospect the lease should have been written, "Depreciated book value or ten times gross earnings, whichever is greater." Mr. Baker stated on behalf of the Austin Aquatic Gardens, they never would take the position of the "ten times the depreciated book value." While it may be subject to such interpretation, Austin Aquatic Gardens would be the only ones that would raise the question. It was not the intent of either party and he would say they would not urge it, and would so certify with the City Council in writing. Councilman LaRue pointed to the \$450,000 the ten times the gross income figure. Mr. Baker said if it were actual recapture of the City under the terms and conditions of the lease the figure would be in round figures about \$470,000. Councilman LaRue asked what their figure would be under a voluntary basis approach. Mr. Baker said he would have this figure Thursday, and present it in writing. Councilman Long said the City might want to have some surveys and appraisals made on these buildings and areas as presently it is on the tax rolls at around \$80,000. The City Attorney stated the negotiated formula which he nor the City Manager had anything to do with, has no application to any situation except where the City compels that the property be returned, and where the city is terminating the lease by its own volition.

MAYOR AKIN noted the Parks and Recreation Board indicated an interest in acquiring this tract. Councilman Nichols read the recommendation that the Council consider all feasible means of having the area, now under lease to Fiesta Gardens, returned to the City so that it could be incorporated into the Master Plan of the Town Lake. Mayor Akin asked if the Board developed any idea or thinking as to the best usability? Mr. Baker in talking with some of the members, said they felt they had some use for the facilities. Councilman Long stated the idea was to change the use completely and to incorporate it in the Master Plan of the Lake. A possible use would be as the other recreational areas of the City--and not as a tourist attraction. Councilman Nichols stated the City had no business being in the tourist attraction business, per se. It would be all right to attract a few tourists, but he did not think the City should be in the tourist business. Councilman Long said it was the Board's opinion that this should be part of the Master Plan and be a part of the overall recreation area for the citizens of Austin to enjoy in the present and in the future, if some agreement could be worked out where the City could acquire it. The Board did not go into any financial part of it. The City Manager said the Master Plan was still in the process of being molded at the time the Fiesta Gardens Plan was in the making, and Mr. Zissman, Mr. King and others who developed the Master Plan went back and changed their maps to show a use of this type for this Lagoon as a part of the Master Plan. Mr. Baker stated Mr. Taniguchi was employed by the Fiesta Gardens to work with them in putting this together to make certain it did conform with the overall development of the Town Lake. Councilman Long stated the Parks and Recreation Board wanted this part reverted to the City not as an attraction for tourists, but as a part of the Master Plan for the City of Austin and its overall complete use of the lake by the general public.

The City Attorney pointed out the limitations upon the use of the property in the lease agreement were that it would be maintained as Aquatic Gardens and for the purpose of presenting water shows and related activities only. The question of whether the enlarged, increased, or intensified proposed use of the property would still be within the terms of the lease would be difficult to discuss an opinion about until it was known what the other activities would be.

In all likelihood whatever activities could be conducted within the confines of the property and with some relationship to the operation of Aquatic Gardens would be within the province of the lease. This lease would not cover the operation of a strictly amusement center operation, disassociated from the Aquatic Gardens water shows. Councilman Nichols stated this point was well taken; and that was why he wanted a written brief.

COUNCILMAN JANES asked for an opinion subject for review, regarding the 500 parking spaces which has not been provided. The City Manager explained the terms of the lease were that space would be provided on the south side of the lagoon. That space is there now. The City had the option of providing a different site. The lessees came in with a plan for developing a parking area on the south side; and everyone decided it would be better not to put a sea of asphalt between the lagoon and river, but to build a loop or driveway through there and let people park on the grass. That was accepted as a temporary means of providing a parking facility. Councilman Janes asked if the City were in conformance with the provision of the lease. The City Attorney stated the City was, as they do have the space on the south side.

MR. BAKER referred to a discussion of the road whether it goes around to the north part of the lagoon, or crosses the channel of the lagoon on the east side and west side. Whatever the Parks and Recreation Board and the Council decide about the parking site would be all right with Fiesta Gardens. In answer to Councilman Nichols' question about the road, Councilman LaRue stated the lease set out the City would provide an access. The City Attorney stated there was a provision retaining the right of the City to withdraw from the terms of the lease such property as needed for construction of roadways. At that time, the plan was to bring a thoroughfare across the northwest corner of the property. Councilman Nichols asked if it were thought the ingress and egress were never established? The City Manager answered except insofar as it might be inferred from the requirement of providing parking space between the lagoon and the lake or to the west of the lake. Councilman Nichols stated Chicon could serve as an access. MR. BAKER discussed the roadway that had been used for a number of years on the sand beach reserve that comes from the Expressway all the way out, and that this would become a Town Lake Drive. It was discussed that the road would continue that way, and come behind the lagoon on the north side. The City Manager stated the Master Plan calls for a roadway from Interstate 35 easterly, passing the property on the north side. The Master Plan has been amended. He stated a service road was needed, and it was set up that this spring a park-type of development with a light type of pavement--no curb and gutter--be developed as a driveway through the area. The question now is to the relocation.

Councilman Long inquired about the additional area added in the lease. The City Manager reported this was another matter that took place in the Council Meeting. He explained the problems met by the lessee in locating their buildings, as they found their property line was on the water's edge or underwater leaving no place for building on the south side. They inquired about placing the improvements on the north side instead. Councilman Long asked if this property was bought with bond money and property condemned to build a roadway through there. The City Attorney stated there were no eminent domain suits. The City Manager stated some lots not under this lease were bought with bond money; some were acquired by street and bridge money, and some purchased from the sale of the Berkman tract money and possibly from proceeds of the Hancock tract. There is land now which is intended to be used for the roadway when it is put through. The City Attorney explained the terms of the lease in which there was a provision

of withdrawing from the lease any property needed for the purpose of building roads. It certainly would not constitute a diversion of the use of the bond fund. Councilman Long said there was a street that never was vacated. The City Manager stated the majority of the Council authorized the lease with the understanding it would be vacated. Councilman LaRue referring to the 500 parking spaces, pointed out the lease specifically provided the parking would be south of the Stroberg tract or a tract west of and adjacent to the Stroberg tract.

Mr. Baker reported he would provide the Council with what Councilman LaRue had asked for--the price to be asked for this tract, and any other information the Council would like to have.

Mayor Akin asked if the Council would like to have the Parks and Recreation Board to give the benefit of their thinking about the use of the area. Councilman Janes said he was confident before they proceed that they would have to have some recommendation as to usage from the Parks and Recreation Board.

Councilman Nichols moved that this proposal be turned over to the Parks and Recreation Board for a definite study, and that they give the Council a definite use of this tract.

Councilman Long stated in view of the Parks and Recreation Board recommendation that they would like to see this returned to the City so that it could be incorporated into the Master Plan of Town Lake that then they work out plans. The point Councilman Nichols wanted to make was the ultimate use the Parks and Recreation Department may have for this property certainly would govern the price that he would be willing to pay these people. They have buildings ~~they~~ claim cost \$225,000; and he would want to know if these buildings were suitable at \$225,000 for the use by the Parks and Recreation Board, or could they take this same \$225,000 and build something more suitable for their use. He wanted them to tell him what these building are worth to the Recreation Department. He stated these buildings were on the tax roll at \$80,000.

Councilman Janes noted there was certain money allocated and planned for Capital Improvements for the Parks and Recreation Department for the next five years, and it would behoove them to figure if they want to spend "X" number of dollars here or from hence they will get that number of dollars. Councilman Long stated the Recreation Department had no bond money except what was allocated or spent. She said the money was allocated by the bond issue itself.

The City Manager pointed out that the land on which the Lagoon is located was purchased by the Electric Department and it belongs to the Electric Department of the City. If there are reimbursement of funds, or reallocation of funds, this has to be kept in mind. If this land is to be devoted to Park and Recreation use, Parks and Recreation funds should reimburse Utility Funds. He stated the Utility System built the dam creating Town Lake, with Electric Department money because they needed the facility to provide cooling water for the Power Plant. It is a part of the Electric Department and subject to the bonded indebtedness of the Utility System. The system is not mortgaged, but the earnings of the system are all pledged to the payment of the indebtedness.

Councilman Janes stated in light of the discussion and in light of the urgency facing the Fiesta Gardens group, he recommended to them that they proceed to improve their condition as it appears this matter would not be solved

within 10 days. Councilman Long said she was going to work toward the City's recapturing this tract.

Mayor Akin asked that the Parks and Recreation Board recommend to the Council the use they could make of the property.

Councilman Nichol's motion that this proposal be turned over to the Parks and Recreation Board for a definite study, and that they give the Council a definite use of this tract, was seconded by Councilman Janes. Roll call showed the following vote:

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

Councilman Long moved that the City Manager be asked to have some qualified appraisers to appraise this property. Councilman Nichols seconded the motion adding that the appraiser should be instructed it is for the purpose of purchase by the City.

Councilman Janes concurred that the appraisal should be based on the purpose on which the property was to be used; and until the Parks and Recreation Board tells the Council for what purpose the tract is to be used, the appraisers could not be so informed. Councilman LaRue, in speaking about the highest and best use, stated it would be used for apartment building. The property sold for a high rise apartment, brought a terrific price, so if the highest and best use is being dicussed there are two different things. The City Attorney, as he interpreted the motion, was that the appraisal would be on the value of the improvements that are on the leasehold estate, not on the value of the land, as the City already owns that.

Eouncilman Long's motion that the City Manager be asked to have some qualified appraisers to appraise the property, and that they should be instructed it is for the purpose of purchase by the City, carried by the following vote:

Ayes: Councilmen Long, Nichols, Mayor Akin  
Noes: Councilmen Janes, LaRue

Councilman LaRue stated he did not think it would be needed for him to arrive at a conclusion.

Councilman Long made the statement concerning her vote that in order to have the buildings valued and get a value on the property it is necessary to have this appraisal made; and if it is not, they would not know what they were talking about in the way of money and accepting figures given to them; and anytime the City purchased property, they had it appraised, and she voted "aye".

MAYOR AKIN stated they would notify these gentlemen when this was to be discussed again. The Parks and Recreation Board had been invited to give the Council benefits of their recommendation. The Council decided to meet with the Parks and Recreation Board, and Mr. Baker and the Fiesta Gardens group at 2:30 P.M. June 1st.



## STATEMENT OF POLICY

COUNCILMAN NICHOLS offered a statement of policy, and moved that the following be made a part of the Policy of the City of Austin:

"The business of the City of Austin is the business of its citizens. Every citizen has a right to know about every operation, transaction, negotiation and plan of the officers, administrators and employes of the city.

"It is not only his right to know, but in fact there is a need for citizens to know about their city. Only with citizens who know, understand and care about the city's business can we progress.

"Officers and administrators of the city will in no way intimidate, stop, or attempt to suppress any other officer, administrator or employe from speaking freely and publicly about the business of the city.

"It is to be realized that growth and progress are not achieved without problems. Disappointments, differences of opinion, and healthy questioning of municipal policy must be shared with the citizens of the city. The price of public service is great, but it will be paid by men of integrity and intelligence.

"Any citizen who approaches any officer, administrator or employe of the city must realize that any plan, program or matter of business is, from its very start, the public's Business.

"Finally, the burden of how wisely the right of freedom of information is used rests not with the officers, administrators and employes of the city, but with the citizens themselves."

and to this I would like to add that it further be a continuous practice to invite the press to all public meetings or to all meetings whether they be public or not with the exceptions of meetings we might have with regard to executive sessions and to those items which are permitted by state law. The motion was seconded by Councilman Long.

The City Attorney presented a copy of the law the Governor signed on May 23rd, as follows:

"TEXAS LEGISLATIVE SERVICE

S.B. 94  
AS FINALLY PASSED AND  
SENT TO THE GOVERNOR

"AN ACT

to prohibit governmental bodies from holding meetings which are closed to the public; defining the term "governmental body"; making certain exceptions; providing for relief by mandamus or injunction to prevent closed meetings; making unlawful certain acts pertaining to closed meetings and prescribing a penalty therefor; providing for severability; repealing all laws in conflict; and declaring an emergency.

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

"Section 1. (a) Except as otherwise provided in this Act, every regular special, or called meeting or session of every governmental body shall be open to the public.

(b) A "governmental body," within the meaning of this Act, is any board, commission, department, or agency within the executive department of the state, which is under the direction of three or more elected or appointed members; and every Commissioners Court and city council in the state, and every deliberative body having rule-making or quasi-judicial power and classified as a department, agency, or political subdivision of a county or city; and the board of trustees of every school district, and every county board of school trustees and county board of education; and the governing board of every special district heretofore or hereafter created by law.

"Sec. 2. (a) The provisions of this Act do not apply to:

(1) deliberations during a meeting to consider the appointment, employment or dismissal of a public officer or employee or to hear complaints or charges brought against such officers or employee, unless such officer or employee requests a public hearing;

(2) deliberations pertaining to the acquisition of additional real property;

(3) deliberations on matters affecting security; or

(4) any investigating committee of the Legislature.

(b) A governmental body may exclude any witness or witness from a hearing during examination of another witness in the matter being investigated.

(c) Nothing in this Act shall be construed to prevent a governing body from consulting with its attorney.

(d) Nothing in this Act shall be construed to affect the deliberations of grand juries.

(e) The provisions of this Act shall not apply to periodic conferences held among staff members of the governmental body. Such staff meetings will be only for the purpose of internal administration and no matters of public business or agency policies that affect public business will be acted upon.

"Sec. 3. Any interested person may commence an action either by mandamus or injunction for the purpose of stopping or preventing violations or threatened violations of this Act by members of a governing body.

"Sec. 4. Any member of a governing body who wilfully calls or aids in calling or organizing a special or called meeting or session which is closed to the public, or who wilfully closes or aids in closing a regular meeting or session to the public, or who participates in a regular, special, or called meeting or session which is closed to the public without causing or attempting to cause his dissent to be entered in the record or minutes of the governing body, shall be guilty of a misdemeanor and shall be fined not less than \$25 nor more than \$200 on the first offense, and shall be fined not less than \$100 nor more than \$500 on each subsequent offense.

"Sec. 5. If any provision of this Act or the application thereof to any

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person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 6. All laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict only.

"Sec. 7. The importance of assuring that the public has the opportunity to be informed concerning the transactions of public business creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended; and that this Act take effect and be in force from and after its passage, and it is so enacted.

"Lieutenant Governor  
President of the Senate

Speaker of the House

"I hereby certify that S. B. No. 94 passed the Senate on May 2, 1967, by the following vote: Yeas 29, Nays 0; May 8, 1967, Senate concurred in House amendments by the following vote: Yeas 28, Nays 0.

Secretary of the Senate

"I hereby certify that S. B. No. 94 passed the House on May 8, 1967, with amendments, by the following vote: Yeas 144, Nays 3.

Chief Clerk of the House

"Approved:  
May 23, 1967  
Date

\_\_\_\_\_  
Governor"

Councilman IaRue asked for clarification on various points to see if the motion were in conflict with the State Law.

Roll call on Councilman Nichols' motion showed the following vote:  
Ayes: Councilmen Long, Nichols, Mayor Akin, Councilmen Janes, IaRue  
Noes: None

A member of the Press suggested that a copy of the policy be circulated to every employee. Mayor Akin stated the dissimulation of this policy certainly could have wide circulation.

COUNCILMAN JANES stated he would like to lead the city employees to regard the citizens as customers. The City Manager reviewed the public relation instructions given to the employees.

The Council had before it the following zoning applications deferred from last week:

PLANNING COMMISSION	2206-2304 Leon Street	To Establish
AREA STUDY	1900 Block of Davis Street	Appropriate Zoning
	2200 and 2300-2312 &	RECOMMENDED to
	2301-2311 Longview Street	leave "A" Residence
	1901-1915 and 1902-1912	1st Height & Area
	Cliff Street	by the Planning
	1106-1210 Old West 19th St.	Commission
	1107-1307 and 1110-1304	
	West 22nd Street	
	1100 & 1200 Blocks of West	
	22 $\frac{1}{2}$ Street	
	2203-2209 Lamar Boulevard	
	2301-2313 Shoal Creek Boulevard	

Councilman Nichols suggested that the Planning Department should withdraw the application on the area north of Old West 19th Street, east of Lamar Boulevard and Shoal Creek Boulevard, south a distance from West 24th Street and west of Leon Street and a North-South alley between David Street and Robbins Place. After brief discussion, it was suggested that the zoning application be left pending.

- - - - -

C. C. NOLEN, ET AL	1108-1112 West 22 $\frac{1}{2}$ Street	From "A" Residence
		1st Height & Area
		To "B" Residence 2nd
		Height & Area
		NOT Recommended by the
		Planning Commission

Councilman Nichols moved that the Council accept the recommendation of the Planning Commission and deny the change. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilman Nichols, Mayor Akin, Councilmen Janes, LaRue, Long  
Noes: None

The Mayor announced that the change had been DENIED.

#### REFUND CONTRACT

The Council had before it an ordinance authorizing execution of refund contract with AUSTIN CORPORATION for installation of water and sanitary sewer mains in Northwest Hills, Section 8 in the amount of \$58,517.98. The City Manager said this was a regular contract, except this is a 12" line where an 8" is needed only for the subdivision, and the 12" is necessary to serve territory beyond, and the City participates in paying difference in the cost of an 8" and a 12" line. The refund contract is 90% of the \$58,517.98.

Mayor Akin introduced the following ordinance:

ORDINANCE NO. 670525-B  
AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER

INTO A CERTAIN CONTRACT WITH AUSTIN CORPORATION, FOR THE APPROPRIATION OF MONEY PAID TO THE CITY OF AUSTIN UNDER SUCH CONTRACT; AND DECLARING AN EMERGENCY.

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 Nichols, carried by the following vote:

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

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 Nichols, carried by the following vote:

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

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

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

The Mayor announced that the ordinance had been finally passed.

Councilman Long offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, the continuously changing influences of growth and development in the City of Austin make it desirable to assemble a viable public agency with broad representation of concerned private citizens, elected and appointed officials, and administrative and professional officials, to create a forum for the dissemination of information and plans of the various public, and semi-public agencies and institutions which determine the development of decisions, programs and actions affecting the community at large; and,

WHEREAS, the City Council particularly believes that such a representative agency could render great service to the community in reviewing and reporting to the City Council on the elements of the Workable Program for Community Improvement and the Community Development (Renewal) Program; the review of the nature and feasibility of using the "Demonstration Cities Program" established in the 1966 Federal Housing Act; reviewing and reporting upon action needed in the field of low-cost housing development in the community, and in working in other areas of interest to the community at large; Now, Therefore,

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

SECTION 1. That provisions be hereby made for a Citizens Advisory Group to be known as the "Community Development Advisory Commission (CDAC)" consisting of thirty or more private citizens appointed by the City Council to serve for terms of two years, together with one member selected by each of the following agencies: The City Council; Board of Trustees of Austin Independent School District;

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Austin Planning Commission; Austin Urban Renewal Commission; Board of Austin Housing Authority; Austin Parks and Recreation Board; Austin Building Standards Commission; Board of Directors of the Community Council of Austin and Travis County; the Human Opportunities Board (Community Action Program); and the following Ex-officio members: The Superintendent of the Austin Independent School District, the Director of the Community Council of Austin and Travis County, the Director of the Human Opportunities Corporation, the Director of the Austin Housing Authority, the Director of the Austin Urban Renewal Agency, the City Manager, the Building Official, the Director of Planning, the Director of Parks and Recreation, and the Health Officer of the City of Austin.

SECTION 2. That the Community Development Advisory Commission be provided by the City Manager with supporting professional, technical and secretarial staff for necessary assimilation and distribution of information, research, analysis, and evaluation and with appropriate office facilities within the limits of budget appropriations therefor.

SECTION 3. That the Community Development Advisory Commission be requested to review quarterly and to report annually to the City Council the Workable Program of the City of Austin; to review, in cooperation with the Planning Commission and the Urban Renewal Commission, the Community Development (Renewal) Program and to make recommendations concerning the same to the City Council; to review and report to the City Council and all other affected agencies the status of action needed in providing low-cost housing development in the community; and to perform such other appropriate advisory and informative functions as may be assigned by the City Council.

SECTION 4. That the Community Development Advisory Council elect its own officers; establish its own meeting dates once each quarter; establish its own committees for particular areas of interest; establish its own regulations and operating conditions consistent with the organic laws and rules applicable to its several members.

The motion, seconded by Councilman LaRue, carried by the following vote:  
Ayes: Councilmen Janes, LaRue, Long, Nichols, Mayor Akin  
Noes: None

REQUEST TO USE WALSH LANDING FOR A COMMERCIAL BOAT  
TEMPORARILY

The Council had before it the following request:

"Austin, Texas  
May 17, 1967

"Austin City Council  
City Hall  
Austin, Texas

"Gentlemen:

"I have a 25 foot cruiser docked on the west side of Lake Austin. I probably spend more time on Lake Austin than any other person.

"My cruiser is fully equipped with all the necessary safety gadgets

required by law. Many times couples have asked me if my boat was for hire, that they would like to take a cruise up scenic Lake Austin.

"To their disappointment the answer was negative.

"The thought struck me that there should be some way small groups could take a pleasure ride on the lake.

"I would like very much to give this a try to find out if it will prove profitable, and whether or not there is a sufficient demand.

"I should like very much to be given permission to use the Walsh Dock for this purpose for a period of 60 days, operating on Saturdays and Sundays only.

"Your consideration on this matter shall be greatly appreciated.

"Yours very truly,  
s/ Gus C. Schneider  
Gus C. Schneider  
2904 Oak Lane Dr.,  
Austin, Texas 78704"

The City Manager stated their recommendation would be that this particular location not be used for this activity, and suggested the area between the Bennett Boat Docks and the Police Department Boat House where there is a dock adequate and accessible to the public and would be an acceptable place. He stated there would be people who would like to cruise up Lake Austin. Councilman Janes asked how this would be handled should others make the identical request. It was stated this was a temporary arrangement for 60 days. Councilman Nichols asked that the motion be amended that this not be for more than 60 days. Councilman Long stated her motion was for the City Manager to work out an agreement, and that the Council could look at the matter again after 60 days if it is successful. Councilman Long moved that the City Manager be authorized to work out an agreement. The motion, seconded by Councilman Nichols, carried by the following vote:

Ayes: Councilmen LaRue, Long, Nichols, Mayor Akin, Councilman Janes  
Noes: None

AGREEMENT WITH HIGHWAY DEPARTMENT FOR LIGHTING  
INTERSTATE 35 FROM U.S. 290 TO BRAKER LANE

Councilman Janes offered the following resolution and moved its adoption:

(RESOLUTION)

A RESOLUTION APPROVING THE AGREEMENT DATED May 25, 1967, BETWEEN THE STATE OF TEXAS AND THE CITY OF AUSTIN FOR THE INSTALLATION, CONSTRUCTION, EXISTENCE, USE, OPERATION AND MAINTENANCE OF A HIGHWAY ILLUMINATION PROJECT FROM NEAR U.S. 290 TO NORTH OF BRAKER LANE IN THE CITY OF AUSTIN; AND PROVIDING FOR THE EXECUTION OF SAID AGREEMENT.

May 25, 1967

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

SECTION 1. That the certain agreement dated May 25, 1967 between the State of Texas and the City of Austin for the installation, construction, existence, use operation and maintenance of certain highway illumination located from near U. S. 290 to North of Braker Lane in the City of Austin be, and the same is, hereby approved; and that W. T. Williams, Jr., City Manager is hereby authorized to execute said agreement on behalf of the City of Austin and to transmit the same to the State of Texas for appropriate action.

The motion, seconded by Councilman Long, carried by the following vote:  
 Ayes: Councilmen Long, Nichols, Mayor Akin, Councilmen Janes, LaRue  
 Noes: None

#### RADIO COMMUNICATION EQUIPMENT

The City Manager submitted the following:

"May 19, 1967

"TO: Honorable Mayor and Members of the City Council

SUBJECT: Bids on Radio Communication Equipment for all City Departments.

"Sealed bids were opened in the office of the Purchasing Agent at 2:00 P.M. May 9, 1967 for Radio Communications Equipment. Invitations to bid were advertised in the Austin American Statesman on April 23 and April 30, 1967.

"The bids received are as follows:

		Radio Corporation of America	General Electric Company	Motorola Communications & Electronics, Inc.
Mobile Radio Transmitter- Receiver, 2 Frequency	16 Each	<u>\$12,928.00</u>	No Bid	\$13,984.00
Mobile Radio Transmitter- Receiver, 1 Frequency	20 Each	12,660.00	\$12,960.00	<u>11,180.00</u>
Mobile Radio Transmitter- Receiver, 450 M.C.	1 Each	850.00	765.00	<u>754.00</u>
Remote Control Console	1 Each	<u>192.00</u>	No Bid	275.00
Mobile Relay Station	1 Each	1,890.00	No Bid	<u>1,639.00</u>
Duplexer	1 Each	650.00	630.00	<u>549.00</u>
Antenna and Line Kit	1 Each	313.00	324.00	<u>279.00</u>

"This tabulation is submitted with the apparent low bids meeting the City of Austin specifications and conditions underscored."

The City Manager stated this equipment was for several Departments and all are purchased through Civil Defense Department and the Federal Government pays part of it.



May 25, 1967

Councilman Long offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, bids were received by the City of Austin on May 9, 1967, for radio communications equipment; and,

WHEREAS, the bids of Radio Corporation of America in the sum of \$12,928.00 for 16 mobile radio transmitters (receiver - 2 frequency), and in the sum of \$192.00 for 1 remote control console; and the bid of Motorola Communications & Electronics, Inc., in the sum of \$11,180.00 for 20 mobile radio transmitters (receiver - 1 frequency), in the sum of \$754.00 for 1 mobile radio transmitter (receiver - 450 M.C.), in the sum of \$1,639.00 for 1 mobile relay station, in the sum of \$549.00 for 1 duplexer, and in the sum of \$279.00 for 1 antenna and line kit; were the lowest and best bids therefor and the acceptance of such bids have been recommended by the Purchasing Agent of the City of Austin, and by the City Manager; Now; Therefore,

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

That the bids of Radio Corporation of America in the sums of \$12,928.00 and \$192.00; and the bids of Motorola Communications & Electronics, Inc. in the sums of \$11,180.00, \$754.00, \$1,639.00, \$549.00, and \$279.00 be and the same are hereby accepted, and that W. T. Williams, Jr., City Manager of the City of Austin, be and he is hereby authorized to execute contracts on behalf of the City with Radio Corporation of America and Motorola Communications & Electronics, Inc.

The motion, seconded by Councilman Nichols, carried by the following vote:  
Ayes: Councilman Nichols, Mayor Akin, Councilmen Janes, LaRue, Long  
Noes: None

. . . . .

The City Manager submitted the following:

"May 18, 1967

"TO: Honorable Mayor and Members of the City Council.

SUBJECT: Bids for three (3) 500 KVA Distribution Transformers for Electric Distribution.

"Sealed bids were opened in the office of the Purchasing Agent at 10:00 A.M. May 12, 1967 for three (3) 500 KVA Distribution Transformers for Electric Distribution.

"The bids received are as follows:

<u>BIDDER</u>	<u>BRAND</u>	<u>NET TOTAL</u>
Techline, Inc.	Kuhlman	\$7,011.00
Sterett Supply Co.	Line Material	6,714.00
Priester-Mell Co., Inc.	Maloney	6,714.00
Graybar Electric Co., Inc.	General Electric	6,714.00
The Walter Tips Co.	Westinghouse	7,011.00

"This tabulation is submitted with apparent three low bids meeting the City of Austin specifications and conditions underscored. This award may be made by the casting of lots in the manner directed by the City Council."

The Council had before it identical bids for three 500 KVA transformers. The City Manager explained under the State Law if identical bids were received, the method used for determining which bid is to be accepted would be to cast lots. The City Attorney reported these bids had already been reported to the Attorney General and to the U. S. Attorney General. Mayor Akin asked about the timing of the need of the equipment, and it was stated it would be needed by the time it was delivered and installed. In answer to Mayor Akin's inquiry the City Manager stated questions had been submitted in the past, and the answer is that these are shelf items, at catalog prices; and each company quotes the catalog price. By a drawing, the name of Sterett Supply Company was drawn and Councilman LaRue offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, bids were received by the City of Austin on May 12, 1967, for three (3) 500 KVA Distribution Transformers for Electric Distribution; and,

WHEREAS, the bid of Sterett Supply Co., in the sum of \$6,714.00, was the lowest and best bid therefor, and the acceptance of such bid has been recommended by the Purchasing Agent of the City of Austin, and by the City Manager; Now, Therefore,

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

That the bid of Sterett Supply Co., in the sum of \$6,714.00, be and the same is hereby accepted, and that W. T. Williams, Jr., City Manager of the City of Austin, be and he is hereby authorized to execute a contract, on behalf of the City, with Sterett Supply Co.

The motion, seconded by Councilman Janes, carried by the following vote:

Ayes: Councilmen Janes, LaRue, Nichols, Mayor Akin

Noes: Councilman Long

Councilman Long voting against the motion, stating these were identical bids and it was against her principles to deal with people in violation of the antitrust laws. Councilman Janes stated there was the legal protection through the Attorney General's Office.

BOAT DOCK AND RAMP FOR MR. JOHN  
BRADFIELD - 2210 West Lake Dr.

The Director of Public Works displayed the maps of the property, where two boat docks had been approved previously. MR. LES PROCTOR had appeared in the interest of a boat dock and shoreline improvement next to Mr. Bradfield's property. This application is for a launching ramp and there will be ample room between the retaining wall and the dock and the request is recommended.

Councilman Long offered the following resolution and moved its adoption:

(RESOLUTION)

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

May 25, 1967

THAT the City Council of the City of Austin hereby approve the relocating of boat docks and also the installation of a boat launching ramp on the property owned by JOHN BRADFIELD as described in the Travis County Deed Records and known as 2210 Westlake Drive as described on the attached plot plan and hereby authorizes the said JOHN BRADFIELD to construct, maintain and operate this boat dock and launching ramp to same being constructed in compliance with all the ordinances relating thereto and further subject to the foregoing attached recommendations; and the Building Official is hereby authorized to issue an occupancy permit for the relocation of the boat docks and erection of the launching ramp after full compliance with all the provisions of this resolution. Said permission shall be held to be granted and accepted subject to all necessary, reasonable, and proper, present and future regulations and ordinances of the City of Austin, Texas, in the enforcement of the proper police, fire and health regulations and the right of revocation is retained if, after hearing, it is found by the City Council that the said JOHN BRADFIELD has failed and refused and will continue to fail and refuse to perform any such conditions, regulations and ordinances.

(Recommendations attached)

"Austin, Texas  
May 18, 1967

"Memorandum To: Mr. W. T. Williams, Jr., City Manager  
Subject: RESOLUTION, BOAT DOCK (Private)

"I, the undersigned, have reviewed the plans and have considered the application of Mr. John Bradfield, owner of the property abutting on that part of Lake Austin lying downstream from the westerly extension of the south line of Windsor Road and known as 2210 Westlake Drive as described on the attached plans recorded in the Travis County Deed Records, for permission to relocate and maintain present boat docks and also to install a boat launching ramp as noted in red on Exhibit A. The construction details meeting all requirements, I recommend that if Mr. Bradfield is granted his request by the City Council, that it be subject to the following conditions:

"(1) That nothing but creosoted piles, cedar piles or concrete piles, substantially braced and bolted to withstand wind and water pressure, be used in the construction and that no structure shall extend more than one-third the distance from shore to shore at the point where structure is located, or be nearer than ten feet to any side property line of the owner or applicant.

"(2) That no business, such as a restaurant, dance hall, concession stand, or any other enterprise for the sale of goods, wares and merchandise, except marine supplies and tackle, and no living quarters of any character shall be erected on any pier, dock, wharf, float, island, piling, or other structure extending into or above Lake Austin.

"(3) That every structure shall be equipped with proper lights which shall show all around the horizon for night use and shall be equipped with flags or other warnings for daylight use.

"(4) That all structures extending out into the lake be constantly kept in a state of good repair and that the premises be kept reasonable clean at all times.

"Respectfully submitted,  
s/ Dick T. Jordan  
Dick T. Jordan  
Building Official"

The motion, seconded by Councilman LaRue, carried by the following vote:  
Ayes: Councilmen LaRue, Long, Nichols, Mayor Akin, Councilman Janes  
Noes: None

CONSIDERATION OF SERVICE CHARGES AT BRACKENRIDGE  
HOSPITAL AND APPROPRIATION OF FUNDS FOR NURSES'  
SALARIES

The Council set the matter of Service Charges at Brackenridge Hospital and Appropriation of Funds for Nurses' Salaries for consideration on June 1st, at 11:30 A.M.

WAGE AND SALARY ORDINANCE

Mayor Akin introduced the following ordinance:

ORDINANCE NO. 670525-E

AN ORDINANCE AMENDING THAT CERTAIN ORDINANCE ENTITLED: "AN ORDINANCE ADOPTING AND ESTABLISHING A WAGE AND SALARY PLAN AND SCHEDULE FOR OFFICES AND EMPLOYMENTS OF THE CITY OF AUSTIN; DEFINING THE SCOPE OF THE WAGE AND SALARY PLAN; CREATING THE WAGE AND SALARY COMMITTEE; PROVIDING FOR THE CONTROL OF WAGE AND SALARY ADMINISTRATION; PROVIDING A SAVING CLAUSE, AND DECLARING AN EMERGENCY," WHICH ORDINANCE WAS PASSED BY THE CITY COUNCIL JULY 12, 1951, AND IS RECORDED IN BOOK "Q", PAGES 363-370 OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, IN SECTION 5 RELATING TO EMPLOYMENT UNDER CERTAIN EMERGENCY CONDITIONS; IN SECTION 5 RELATING TO A SPECIAL MASTER WAGE-SALARY SCHEDULE FOR REGISTERED NURSE ANESTHETIST; IN SECTION 6, RELATING TO APPOINTMENTS ABOVE STEP 1; AND DECLARING AN EMERGENCY.

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

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

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

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

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

May 25, 1967

by the following vote:

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

The Mayor announced that the ordinance had been finally passed.

#### ANTITRUST CASE OFFER

MAYOR AKIN recognized former Congressman Kilgore and Mr. James Wilson, General Counsel for the City. The City Attorney stated all of the Council received copies of the memorandum and Mr. Wilson's report, which is as follows:

"MEMO TO: City Council

RE: Brass Products Antitrust Case.

"The attached letter and enclosures from our special counsel, Mr. James W. Wilson, probably covers every question you may have except the possible question about the somewhat unfamiliar term "covenant not to sue". Normally, where there are only two opposing parties in a suit the parties would expect a "release" following a settlement, but where several defendants are jointly liable, the execution of a "release" of one could effect a release of the others; hence the necessity of entering into a covenant with one which will not have the undesirable effect of releasing those who have not made a settlement acceptable to the City.

"I concur in the recommendation of Mr. Wilson that the Council approve this settlement.

s/ Doren R. Eskew  
Doren R. Eskew  
City Attorney

"DATE: May 23, 1967

"May 15, 1967

"Mr. Doren R. Eskew  
City Attorney  
Municipal Building  
124 West Eighth Street  
Austin, Texas 78701

Re: Brass Mill Products Antitrust Case

"Dear Doren:

"You will recall our discussion of April 27, 1967 in which I advised you of the settlement which has been reached with Bridgeport Brass Company, a division of National Distillers, in the brass mill products anti-trust litigation which the City of Austin has joined as plaintiff. Enclosed is a memorandum prepared by our Philadelphia counsel explaining the settlement in more detail together with a covenant not to sue which must be executed by the City in order to consummate this settlement. The enclosed memorandum explains this rather complicated settlement about as well as it can be explained, but perhaps I can clarify the overall situation to some extent.

May 25, 1967

"The brass mill products antitrust litigation is a class suit which seeks to recover triple damages for antitrust violations affecting sales to the City of copper condensor tubing and copper water pipe. It is companion litigation to the aluminum conductor cable litigation which was recently settled on an extremely favorable basis. Like the aluminum cases, suit has been brought in Philadelphia as a part of a class action with a number of other cities and other governmental and corporate bodies.

"This litigation is not as substantial as was the aluminum case because the dollar sales in copper tubing during the conspiracy period were not as great as were sales of aluminum conductor cable. Austin's copper tubing purchases have not been minutely analyzed as yet, but its 1956-1962 conspiracy period purchases appear to be about \$250,000 or approximately one-half the amount of purchases involved in the aluminum case. We anticipate that the brass mill cases will progress very much like the aluminum cases and that in due time a reasonable recovery either by way of settlement or after trial will be obtained which will be divided among all the participating plaintiffs in proportion to their purchases.

"Although the litigation is just now getting under way, Bridgeport Brass indicated an interest in settlement at the earliest stages of the case. Bridgeport Brass is a relatively small factor in the copper tubing market and has less than \$1 million in sales involved in the suit. It preferred to pay a premium settlement now rather than incur the additional legal expense which defense of the suit would require and in addition risk a larger liability later.

"During the week of April 19, 1967, Bridgeport made a final offer of \$403,500 for an immediate dismissal from the litigation. The attorneys for all plaintiffs were consulted, and it was unanimously agreed that the proposed settlement should be accepted subject to the approval of the Court. Court approval has now been obtained, and the suit has been dismissed as to Bridgeport.

"Under the terms of the settlement the money will not be distributed to the plaintiffs at the present time but will be paid into a trust fund under the supervision of the Court pending final disposition of the overall litigation. The principal reason distribution is not being made now is that because this is a class action the total claims are not yet known. Moreover, although the settlement is substantial from the standpoint of Bridgeport Brass (approximately 40% of its sales involved in the suit), the amount each plaintiff would receive would be almost insignificant if distribution were made at this time.

"The principal advantage of the settlement is the extremely favorable precedent it sets for settlement with the other defendants. Furthermore, the interest from the trust fund will be available to pay litigation expenses, and it is believed that the interest may be adequate for this purpose.

"It would be appreciated if the City Council could approve the execution of the enclosed covenant as soon as possible since the money will not be paid into the trust fund until executed covenants have been received from all plaintiffs. If you have any further questions please let me know.

"Sincerely,  
s/ Jim  
James W. Wilson"

"MEMORANDUM RE SETTLEMENT WITH  
NATIONAL DISTILLERS & CHEMICAL CORPORATION

May 25, 1967

"On May 1, 1967 plaintiffs in all of the Brass Mill cases pending in the United States District Court for the Eastern District of Pennsylvania in Philadelphia, agreed to settle the cases with one of eleven defendants, National Distillers & Chemical Corporation. (Actually there are fourteen named defendants but a number of them are affiliates, which are here counted as a single entity.) National Distillers is the successor of Bridgeport Brass, one of the defendants which pleaded nolo contendere in the government case.

"National Distillers was dismissed as a defendant in all of the Philadelphia actions on May 4, 1967, at a hearing at which the settlement was approved by Judge Fullam, the Judge to whom all of these cases have been assigned.

"Under the terms of the settlement, National Distillers will pay \$403,500 (a) upon expiration of the period of appeal from the order of dismissal (June 5, 1967, if no extension of time to appeal is granted, and July 5, 1967, if an extension is granted); and (b) provided covenants not to sue have been executed and delivered to National Distillers on behalf of all plaintiffs, intervenors and others who had requested that they be included in the suits prior to the time the settlement agreement was executed.

"When the \$403,500 is received it will be held in trust by plaintiffs' counsel until further order of the court, probably until the cases are finally disposed of against the remaining defendants. It will then be distributed to those entitled to share in the fund, subject to approval of the court.

"We may ask the court's permission from time to time for leave to disburse from the settlement fund or the interest which it will earn, enough money to pay the expenses of preparation which we would normally bill on a pro rata basis to the plaintiffs and intervenors.

"The reason for holding the fund until final termination of the cases is that a number of the cases are class actions, in which others may intervene, if so permitted by the court. The defendants have challenged the propriety of the class actions, contending that they should not be allowed to be maintained as class actions under the requirements of Rule 23 of the Federal Rules of Civil Procedure, as amended effective July 1, 1966. We expect that discovery on this issue will take place during the summer and that there will be a hearing on it in the fall.

"If the class actions are allowed to proceed new claimants who come into the cases after the agreement with National Distillers of May 1, 1967, may have a right to share in the National Distillers fund. However, the rights of the original plaintiffs and intervenors will not be prejudiced since the new claimants are permitted under the terms of the settlement to sue the remaining ten defendants not only for brass mill tube and pipe purchased from or manufactured by those defendants, but also for such products purchased from or manufactured by National Distillers (Bridgeport Brass.) This means that, to the extent that new claimants join in the case, the total purchase base upon which any future settlement or recovery will be predicated will expand correspondingly and will not be diminished by the fact that National Distillers has been dismissed as a defendant.

"Ultimately all parties who are permitted to proceed with their claims will join in creating a total recovery in which it is contemplated that each will then share in proportion to his purchases.

"If the class actions are not allowed to proceed as such, only those who

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are parties to the agreement with National Distillers will share in the National Distillers settlement fund.

"The parties to that agreement cannot base claims against the remaining defendants on National Distillers' products which they purchased, but the amount of such purchases appears to be no greater than the settlement figure itself, so that the purchases to be excluded from the claims against the remaining defendants are very small compared to the settlement received from National Distillers.

"As part of the National Distillers' settlement, we have retained discovery rights against that company.

"EXHIBIT I

COVENANT NOT TO SUE

"KNOW ALL MEN BY THESE PRESENTS:

"That (hereinafter referred to as "Customer"), for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid to it by the NATIONAL DISTILLERS AND CHEMICAL CORPORATION (hereinafter referred to as "National"), the receipt of which is hereby acknowledged, hereby covenants, for itself and its successors and assigns, that it will forever refrain from instituting, prosecuting, maintaining, pressing or proceeding against National or any of its agents, servants, officers, employees, subsidiaries, successors or assigns, upon any claims or causes of action of any nature whatsoever, whether or not now or hereinafter known, suspected or claimed, which Customer ever had, now has or hereafter can, shall or may have or allege against National or any of its agents, servants, officers, employees, subsidiaries, successors, or assigns based upon allegations of fraud, collusion, conspiracy or false claims which might be asserted under the Clayton Act or any other federal or state antitrust law with respect to or in connection with any purchase from any person made or contracted for by Customer at any time prior to this date of any brass mill tube and pipe made or sold by National, including such brass mill tube and pipe which is included in any other product.

"And Customer hereby covenants and agrees that it will forever refrain from instituting, permitting, maintaining, pressing or proceeding against any other person, firm or corporation upon any claims or causes of action of any nature whatsoever, whether or not now or hereafter known, suspected or claimed, which it ever had, now has or hereafter can, shall or may have or allege based upon allegations of fraud, collusion, conspiracy or false claims which might be asserted under the Clayton Act or any other federal or state antitrust law with respect to or in connection with any purchase from any person made or contracted for by it at any time prior to this date of any of the aforesaid products made or sold by National.

"This instrument shall not be construed as a release. The Customer reserves the right to proceed against or sue any person, firm or corporation except to the extent hereinabove expressly set forth.

"IN WITNESS WHEREOF, intending to be legally bound, the Customer has caused this covenant to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 1967.

"By \_\_\_\_\_

"Attest: \_\_\_\_\_

"



MR. JIM WILSON, Counsel, stated the company was willing to pay a premium to get out of the case. He pointed out the City although it made no purchases from BRIDGEPORT COMPANY, might participate in the amount by virtue of the purchases it had made from Anaconda. The City Attorney stated the expense of litigation is being paid out of the interest the sum is drawing, even though the City may not have purchased from this company.

Councilman Long moved that the recommendation of the City Manager and of the lawyers be accepted and that the City Manager be authorized to execute a covenant not to sue National Distillers and Chemical Corporation. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilmen Long, Nichols, Mayor Akin, Councilmen Janes, LaRue  
Noes: None

#### GYM KHANA REQUEST TO USE CHAMBER OF COMMERCE PARKING LOT

Councilman Janes moved that the Council grant the request of the SPOKES SPORTS CLUB to use Chamber of Commerce parking area for GYM KHANA Event on June 18th. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilman Nichols, Mayor Akin, Councilmen Janes, LaRue, Long  
Noes: None

#### LEGAL COUNSEL FOR AIR SERVICE INTO AUSTIN

Councilman Long suggested since there were three attorneys recommended to represent the City in its application for additional air service for Austin, that those three names be placed in a hat, and a drawing held to select the Attorney. The drawing was held, and MR. GEORGE C. PENDLETON'S name was drawn. Councilman Long moved that MR. GEORGE C. PENDLETON, of CULBERTSON, PENDLETON AND PENDLETON, be asked to be the City's Attorney in Washington, D. C. in this application for better and improved airline services. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

Councilman Nichols asked in addition to the Attorney's fee, what would the Economist's fee be. The City Attorney said he would contact the Counsel to see what arrangements are to be made on this and other matters.

. . . . .

MAYOR AKIN read a telegram from CONGRESSMAN J. J. PICKLE advising of the Housing Urban Development approval of \$4,500,000 loan for 300 low rent homes in Austin. Councilman LaRue noted this was the first 300 out of 1,000 units.

. . . . .

MAYOR AKIN read an invitation from MR. JAMES JORDAN, Austin Community Council, to the Council Members to attend the Human Opportunities Corporation meeting at 7:00 P.M. at the Senior Citizens Lakeside Apartments.

. . . . .

COUNCILMAN NICHOLS read a memorandum from MR. BEVERLY SHEFFIELD regarding a dedication program of GARRISON POOL, suggesting that the ceremony be Friday, June 2nd. Councilman Long moved to accept the suggestion of Friday, June 2nd at 7:00 P.M. for the dedication ceremonies. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilmen Janes, LaRue, Long, Nichols, Mayor Akin  
Noes: None

#### SPECIAL COUNSEL AND FEES

COUNCILMAN NICHOLS inquired how special attorneys representing the City were selected. The City Attorney stated in the Anti Trust cases, attorneys who were known to be qualified specialists in this particular field were chosen by the Council. Two were selected from four names submitted for consideration--one locally, and MR. SHER, a member of a firm in Washington, D. C., specializing in anti trust cases. As to fees, it was reported Mr. Wilson's fee was on percentage of recovery, 33.33% on the smaller cases, and 22 $\frac{1}{2}$ % on the larger cases. There was a settlement of \$900,000 and the fee for that was 22 $\frac{1}{2}$ %. This covered a series of cases involving several years' work. The fee was on a contingent basis--if the City received nothing, the Attorney received no fee. Federal law provides if a recovery is obtained, in addition to the damage to the plaintiff, the plaintiff also recovers the Attorney's fees. The court approves the settlement and the fees. Councilman Nichols asked for a breakdown as to what the recovery had been and what the City had paid to the Attorney. He asked who determines whether or not a man is an expert. The City Attorney explained the type of practice in which one has been engaged would demonstrate one's qualifications. In this particular case, the Counsel had handled quite a number of anti trust cases successfully.

In answer to Councilman Janes' question as to the Attorney's fees, the City Attorney said the agreement with the Counsel would not bind the court in fixing what it found to be a reasonable fee, and the Federal Courts would have paid little or no attention to any contingent fee arrangement. The City Manager explained the Court fixed the fee which it felt was proper for handling a piece of litigation as a part of recovery by the plaintiff. If one has a contract with an attorney one would pay him that fixed fee, but would be reimbursed by the amount the Court said was reasonable to be paid by the defendant. Councilman Janes said if the Council contracted to pay 22 $\frac{1}{2}$ % and the Court set 10%, the City would pay the 12 $\frac{1}{2}$ %. If the Court set 30%, the City would collect 30% and pay the Attorney 22 $\frac{1}{2}$ %. Councilman Nichols stated the City was involved in a suit where it had no financial interests, in not having purchased anything from this company. (Bridgeport Brass Company) The City Attorney said it had purchased from other companies with whom this Company had conspired. Mr. Wilson's fee will be paid to him on the basis of the amount paid to the City. If nothing comes to the City, the counsel gets no pay. The City Manager explained at the time the counsel was engaged, the City Council had not the slightest idea it would recover anything, and it did not want to hire an attorney at a fixed fee, when

there might not have been any recovery. It took months of investigation, study and research to determine whether it was worthwhile to file a suit, and it was about eight months before the first suit was filed. Four other lawyers in the firm had put in full time on these cases plus Mr. Sher. They did represent other plaintiffs. Councilman Janes asked for an explanation of this. The City Attorney stated the City shared the expenses with the other plaintiffs on a pro rata basis. The other largest client was the L.C.R.A. The City of Austin's purchases represented about 39% of the total dollar volume of business. Councilman Janes noted these cases were settled on a formula. The City Attorney stated each company worked up its own formula. Councilman Nichols asked how the City hired experts or consultants other than on anti trust suits. It was stated they were employed on a per diem basis.

Councilman Nichols said he did not understand the settlement of the Westinghouse case. The City Attorney explained it was a complicated case and the settlement made was one that normally would not have been made in the absence of the Federal Court. It would not have been made had the suit been in a State Court. The City Manager said the majority of the members of the Council were called over and the matter was discussed with the Council by the Judge. Councilman Long said she did not attend the meeting.

Discussion was held on the settlement of the anti-trust cases.

Councilman Nichols asked if there were any other cases where special Counsel will be engaged. The City Attorney stated there was a case he wanted to discuss with the Council.

. . . . .

Councilman Long moved the Council invite the outgoing Council Members to the Ceremonies for Garrison Park Dedication, as they were very instrumental in bringing about the park, and they should have a special invitation sent to them from the Council. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilmen LaRue, Long, Nichols, Mayor Akin, Councilman Janes  
Noes: None

#### FIESTA GARDENS

Councilman Nichols reviewed the Fiesta Gardens lease as to its value on the tax roll, and as to its access, stating the City was not going to build them a road down there as long as Chicon can be used as an access. Chicon would be furnishing ingress and egress. The City Manager said that was all the lease requires. The City Attorney stated a surfaced roadway was asked of the Council. The City Manager said the Council, in office at that time, visited Fiesta Gardens, and the operators asked about a road. Mr. Sheffield pointed out he had a plan already developed for the surfacing of the existing road for the general public. The Council did not disapprove that, rather than saying they promised a road.

Councilman Nichols asked if there were ever a report from the Chamber of Commerce on the \$25,000 expenditure for Tourism. The City Manager stated they get a report on everything that was done with the \$25,000.

## AVENUE B PAVING

The Director of Public Works displayed a map, stating they could not find any City map showing 38½ as a street from Guadalupe to Speedway. Half of the property owners on 38½ Street had signed a petition for paving from Avenue B to Speedway in 1964. Shortly after, a petition from Avenue B to Guadalupe was filed. It was found cabins of a tourist court were in that right of way. The paving width would vary from 21.9' to 18', and was set up for concrete paving, but the petitioners did not want to pay for the concrete paving. It was considered later for asphalt paving. The Public Works Director suggested using a flatter crown and going curb and gutter section, for drainage. Paving would go right behind the property, against the commercial building. One of the petitioners, Mrs. Moon, 301 West 39th, had asked that her name be removed from the West 38½ Street paving petition. Councilman Long favored paving 38½ from Speedway to Guadalupe. The Director of Public Works stated they were hoping to get Avenue B paved to a 40' width with a 50' right of way from 38th to 39th. That would leave sidewalks on either side of the street for the school children to walk. The City Manager reported a traffic count during peak hours, 7:00 to 9:00 A.M. and from 4:00 P.M. to 6:00 P.M., from Guadalupe to Avenue B showed seven vehicles moved east in those four hours and seven moved west. Councilman LaRue pointed to a similar situation on 11th Street, where the necessity to pave was declared; and the neighborhood rose up in a body to complain. If this is done without the 51% signatures, the Council may be faced again with the neighborhood coming down in opposition. Concerning the area where the cabins were in the right of way, the City Manager said he would not know the attitude of the owners about how much land they had claimed. Councilman Long suggested paving the street without widening it. Councilman Janes and Councilman LaRue favored paving by petition. The Director of Public Works estimated cost on the voluntary basis to be around \$2.14 per front foot from Speedway to Guadalupe; and \$2.65 by assessment for a 30' street; curb and gutter to remain the same. Councilman Janes asked if it were recommended that the paving follow the potential right of way or to establish a minimum width and pave the same width all the way. The Director of Public Works said there were poles that needed to be relocated. The bend in the right of way is because of two inlets on each side of Avenue B. About \$650 could be spent to move the inlets to the north and straighten the right of way, and pave the street with a crown. In the meantime, the Director of Public Works stated he would contact Mr. M. W. Kelley to see if he is working on a petition; and if not, he would ask him to work up a petition from Guadalupe to Avenue B. Councilman Janes stated in view of Councilman LaRue's experience recently, he would give considerable consideration before going the assessment route. The City Manager said the children from the Childrens Home use Avenue B and he recommended a sidewalk be left on Avenue B. After more discussion, Councilman LaRue moved that 38½ Street be paved from Guadalupe to Speedway, and Avenue B from 38th to 39th, contingent on receiving a petition of 51% of the whole area. The motion, seconded by Councilman Janes, carried by the following vote:

Ayes: Councilman Nichols, Mayor Akin, Councilmen Janes, LaRue, Long  
Noes: None

Councilman Nichols stated if the petition did not arrive, they would still pave Avenue B between 38th and 39th. Councilman LaRue said they needed a petition on all of the area. The City Attorney asked if it were the intent if 51% would have its effect in the entire project, from Speedway to Guadalupe and from 38th to 39th on Avenue B and if 51% of the property or 51% of the property owners on the whole area petitioned, the whole job would proceed. If

not, they would come back with the part not included. It was concluded Avenue B would be paved from 38th Street.

SPECIAL PERMIT FOR GLASTRON BOAT COMPANY TO LAUNCH  
BOATS ON TOWN LAKE FOR CATALOG PHOTOGRAPHY

The City Manager submitted the request from GLASTRON BOAT COMPANY to launch and run their boats on Town Lake for their 1967-68 Catalog photography, during June 19-23. They would be on Town Lake no longer than one hour on any day, and some days not at all. The purpose of the request is to allow their boats to reach Fiesta Gardens where most of the photography would take place. Councilman Long moved that the request be granted limiting the time to June 19th-23rd, and at no more than an hour a day during day light. The motion, seconded by Councilman Janes, carried by the following vote:

Ayes: Councilmen Long, Nichols, Mayor Akin, Councilmen Janes, LaRue  
Noes: None

APPOINTMENT TO COUNCIL MEMBERS TO RETIREMENT BOARD

The City Manager stated the Retirement Ordinance provides two incumbent members of the City Council to be chosen by the Council shall serve on the Retirement Board of the Retirement and Pensioning System. After discussion, Councilman Long moved that COUNCILMAN NICHOLS and COUNCILMAN JANES be appointed to serve on the Retirement Board. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Mayor Akin, Councilmen LaRue, Long  
Noes: None  
Present but not voting: Councilmen Janes, Nichols

REPORT FROM TRAFFIC ENGINEER ON STOP  
SIGN AT HETHER AND KINNEY AVENUE

The City Manager read a report from the Traffic Engineer, concerning a stop sign at Hether and Kinney Avenue, stating the traffic count is not sufficient to require a four way stop sign. The firemen at the Kinney Avenue station asked that the stop signs be placed in such a manner as to cause traffic to stop so that they would have an unrestricted and unobstructed run into the boulevard. The firemen preferred that the controls be left as they are.

OPENING DRIVE AT TWIN OAKS SHOPPING CENTER

Councilman Nichols brought up the problem of the closed driveway on Twin Oaks. Councilman Long and Councilman Nichols suggested reopening the drive, and Councilman Nichols asked that a slow speed sign be installed east of Twin Oaks at the bottom of the hill. Chief Miles opinion was a sign would be ignored, and recommended a blinking light would be preferable. Councilman Nichols suggested a blinking light and 20 mile per hour zone. Councilman Janes said one of the merchants had planned to come to the Council submitting some of their plans. Councilman Nichols pointed out some dangers of this plan. Councilman LaRue was concerned about opening up what is a hazard stating all would agree

that opening this would create a hazard that does not now exist, and he would want more study made of it. After discussion, Councilman Janes moved that COUNCILMAN NICHOLS investigate this matter and recommend what could be done. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilmen Janes, LaRue, Long, Nichols, Mayor Akin  
Noes: None

. . . . .

The City Manager reported last week the Council asked that he submit some names of consultants qualified to do the City's Job Classification. He submitted the names of ERNST & ERNST, a National concern with offices in Dallas, who are accountants as well as management consultants, and who do extensive job classification studies. WILSON, LIFSON & FERGESON, Dallas; GRIFFENHAGEN-KRAEGER CO., California; and J. R. JACOBS COMPANY of Chicago. Those are the most active in the field at the present time. Mr. Frazier conversed with representatives of each of the firms with the understanding he was not asking for a quotation or bid, but what was involved in guiding the Council in ways to proceed. There were three alternatives--(1) a desk audit of the existing job classifications and a determination whether or not they think they are adequate. The estimated cost ran from \$3, to \$15,000, and the time would be about a month. The next alternative would be a desk audit on all existing jobs, assigned salary ranges and a field audit on 25% of existing classifications and job specifications and 25% of all salary data to determine adequacy and correctness. Three months' time was estimated and the price range was from \$12 to \$30,000. The other alternate would be for the firm to develop and install a complete new classification system without regard to the existing system, and the estimated cost was \$32-\$45,000, with a time of six to nine months. The City Manager asked for more advice from the Council as to whether they wanted to invite these people to come in and give a formal bid, and to know what the Council's wishes were before he proceeded.

. . . . .

The City Manager said when it was convenient with the Council, he would like to review the budget for next year with them. Mayor Akin stated they would give this some consideration.

#### REAL ESTATE MATTERS

The City Attorney discussed city owned land which the Southwest Christian Church on Bannister and Morgan Lane would like to purchase. The Church dedicated for Ben White Boulevard without cost to the City, about 500 square feet from the corner of their lot. The City now needs 5½' for widening Banister Lane from the Church, and the Church would like to obtain the land between their property and Ben White Boulevard. The City owns the entire triangular tract. The City Attorney explained the two policies followed traditionally--where there is a piece of property large enough to be used legally as a separate tract, it would be advertised for sale and sold to the highest bidder by auction or by sealed bids. Where a tract of land is so small it could not be used as a separate tract, it normally is held and not sold to anyone except the abutting owner. The entire triangle could be considered as one tract of land, or as two tracts. His recommendation would be to consider the property in front of the Church as a separate

parcel; and in view of the fact property is needed for widening Banister Lane, that authorization be made for exchange of land on a square foot for square foot basis, taking into account the 500' already dedicated and sell the balance of the property on the same basis to the church that it would be sold to any other private owner. Councilman Nichols pointed out there was another tract east of Banister Lane which the City would need to do something about. The City Attorney explained the formula used in establishing the value of the remnant property, in that the land would be sold for Half the enhancement the City tract brings to the whole. Councilman LaRue moved that the City Manager be authorized to enter into negotiations with the Church on the basis as described by the City Attorney (trade square foot for square foot for the right of way the City needs, and to sell the Church the remainder which lies exactly in front of the Church on Ben White Boulevard on the same basis on which it normally would be sold) and report back to the Council. The motion, seconded by Councilman Nichols, carried by the following vote:

Ayes: Councilman Nichols, Mayor Akin, Councilmen Janes, LaRue, Long  
Noes: None

The City Attorney stated a short time back, the Council received an offer of \$1.21 square foot, but the Council rejected the offer.

. . . . .

Councilman Nichols asked if there were any way the Council Members could get information on what parcels of land the City owns. The City Attorney stated they had copies for the Council. The City Manager displayed one of the plat books which gave complete detail of the property. Councilman Nichols wanted to have an intended use of the property--whether the City has any use for it, or if it is just holding it. In addition to the book, Councilman Nichols wanted the address and value, if any had been established, what was paid for it, and something about the property, its intended use and what is surplus. Councilman Long moved that the City Manager be instructed to get the Council a list of all City property which shall bear this information, the address, together with the intended use if it is known, and together with the purchase price if it is known. The motion, seconded by Councilman Nichols, carried by the following vote:

Ayes: Councilmen Long, Nichols, Mayor Akin, Councilmen Janes, LaRue  
Noes: None

#### RIMROCK HEIGHTS

The City Attorney said in Rimrock Heights subdivision east of Morris Williams Golf Course, the Council established some values last year. At the first advertisement there were no answers; since then two persons have made offers, and there is now an offer of \$3,000 for two lots which is below the value that the Council set, and he did not recommend acceptance. The other offer was for \$4,000 for two lots where the Council had fixed the price of \$2,500. After discussion, Councilman Nichols moved that the City Manager be authorized to enter into negotiations to sell Lots 4a and 5a for \$3,500, \$1,750 each. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilmen Long, Nichols, Mayor Akin, Councilmen Janes, LaRue  
Noes: None

Councilman Nichols moved that the City Manager be authorized to sell Lots 6a and 7a, to this offerer for \$4,500. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

PURCHASE OF PROPERTY FOR MISSOURI PACIFIC  
BOULEVARD RIGHT OF WAY

The City Attorney had a request from Mrs. W. W. Bennett to sell property at 1303 Winsted Lane, 30,000 square feet, which will be required for Missouri Pacific Boulevard right of way. They had been trying to interest the City in purchasing the property at \$27,500 which was repeatedly rejected. The offer has been reduced below the average of appraisals which ran \$26,500, \$28,200 and \$24,500 made by FELIX WOLFF, BERT CALLAHAN, and PAUL MURCHISON. The property had been listed for less, earlier. Councilman Janes moved that the City Manager be authorized to offer the people \$24,500 in light of the fact it had been listed at that figure in the past three or four months. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Councilmen Janes, LaRue, Nichols, Mayor Akin  
Noes: Councilman Long

Councilman Nichols stated MRS. GAJO claims she had written the City Attorney in January, regarding a similar situation and in which she applied for permit to improve some unimproved property in the area of Camp Mabry Road. She could not get a permit nor reply from the City as to what it intends to do.

.....

Councilman Nichols pointed out a real valuable piece of property on Town Lake where there was no reason, if this property continues to increase in value, that it should not be sold. The City Manager stated when the Street and Bridge Division were relocated, this property would make an excellent site for a high rise apartment.

.....

MAYOR AKIN read a letter stating the Centennial Celebration of the founding of the Chisholm Trail in 1867 is underway. Governor Connally had appointed a ten member Texas Chisholm Trail Centennial Commission. A unique Railroad Car Chisholm Trail Museum will be brought into Austin by the Missouri Pacific Railroad Company on June 1, 1967. The Museum Car is being supplied for this purpose by the Santa Fe Railroad Company. Governor Connally will dedicate the Museum Car. While in Austin the Museum Car will be located at Congress and 4th Street. There will be auxiliary cars. The Assistant City Manager pointed out the request had been made to hood the meters on the north side of 4th Street from Congress Avenue and Colorado, to assist the public to get in. The space would not be used for parking by any employee while working on the display. Councilman Long moved that the Council approve the location, and the hooding of the meters on the north side of 4th Street between



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Colorado and Congress, from June 1 through June 6th. The motion, seconded by Councilman LaRue, carried by the following vote:

Ayes: Mayor Akin, Councilmen Janes, LaRue, Long, Nichols  
Noes: None

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The City Manager distributed a financial statement for the month of April and for the seven months of the fiscal year.

There being no further business, Councilman Janes moved that the Council adjourn. The motion, seconded by Councilman LaRue, carried by the following vote:

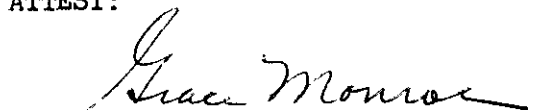
Ayes: Councilmen Janes, LaRue, Long, Nichols, Mayor Akin  
Noes: None

The Council adjourned at 8:05 P.M.

APPROVED

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Asst. City Clerk