

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

January 18, 1945
11:00 A.M.

Council Chamber, City Hall

The meeting was called to order, with Mayor Miller presiding.

Roll call

Present: Councilmen Alford, Bartholomew, Gillis, Mayor Miller - 4
Absent: Councilman Wolf - 1

Present also: Walter E. Seaholm, Acting City Manager; J.M. Patterson, Jr., Acting City Attorney; J. E. Motheral, City Engineer; Judge W. T. Williams; Assistant City Attorney; and R. D. Thorp, Chief of Police.

The minutes of the Recessed Meeting of December 21, 1944, and the Regular Meetings of January 4 and January 11, 1945, were read; and on motion of Councilman Alford, were adopted as read by the following vote:

Ayes: Councilmen Alford, Bartholomew, Gillis, Mayor Miller
Noes: None
Absent: Councilman Wolf

The application of WILLIAM H. CROYTS, Bergstrom Air Base, for a taxicab driver's permit, recommended for approval by the Acting City Manager, was submitted. Councilman Alford moved that the permit be granted. The motion carried by the following vote:

Ayes: Councilmen Alford, Bartholomew, Gillis, Mayor Miller
Noes: None
Absent: Councilman Wolf

The application of CHESTER LEE DANIEL, 4914 Woodrow Avenue, for a taxicab driver's permit, recommended for approval by the Acting City Manager, was submitted. Councilman Alford moved that the permit be granted. The motion carried by the following vote:

Ayes: Councilmen Alford, Bartholomew, Gillis, Mayor Miller
Noes: None
Absent: Councilman Wolf

The application of RAYMOND DELANCEY, 4723 Dupree Street, for a taxicab driver's permit, recommended for approval by the Acting City Manager, was submitted. Councilman Alford moved that the permit be granted. The motion carried by the following vote:

Ayes: Councilmen Alford, Bartholomew, Gillis, Mayor Miller
Noes: None
Absent: Councilman Wolf

Councilman Gillis offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, Mrs. Stella Moses is the Contractor for the repairs of a building located at 723-25 East 6th Street and desires a portion of the street space abutting part of Lot 5, Block 62 of the Original City of Austin, Travis County, Texas, during the repairs of the building, such space to be used in the work and for the storage of materials therefor; therefore,

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

1. THAT space for the uses hereinabove enumerated be granted to said Mrs. Stella Moses, the boundary of which is described as follows:

Street Working Space

Beginning at the northwest corner of the above described property; thence in a northerly direction and at right angles to the centerline of East 6th Street to a point 4 feet south of the south curb line; thence in an easterly direction and parallel with the centerline of East 6th Street approximately 46 feet to a point; thence in a southerly direction and at right angles to the centerline of East 6th Street to the northeast corner of the above described property.

2. THAT the above privileges and allotment of space are granted to the said Mrs. Stella Moses, hereinafter termed "Contractor," upon the following express terms and conditions:

(1) That the Contractor shall construct a guard rail within the boundary line along the west, north, and east lines of the above described space, such guard rail to be at least 4 feet high and substantially braced and anchored.

(2) That the Contractor shall in no way obstruct any fire plugs or other public utilities in the construction of such barricades.

(3) That provisions shall be made for the normal flow of all storm waters in the gutter, and the Contractor will be responsible for any damage done due to obstruction of any such storm water.

(4) That the Contractor shall place on the outside corners of any walkway, barricades or obstructions, red lights during all periods of darkness and provide lighting system for all tunnels.

(5) That the Contractor shall remove all fences, barricades, loose materials, and other obstructions on the sidewalk and street immediately after the necessity for their existence on said sidewalk or street has ceased, such time to be determined by the City Manager, and in any event all such sidewalk, barricades, materials, equipment, and other obstructions

shall be removed not later than March 1, 1945.

(6) That the City reserves the right to revoke at any time any and all the privileges herein granted, or to require the erection or installation of additional barriers or safeguards if the conditions demand it.

(7) That the use and enjoyment of the spaces herein granted shall not be exclusive as against public needs, and the City, in making such grant, reserves the right to enter and occupy any part or all of said space any time with its public utilities, or for other necessary public purposes.

(8) That any public utility, or public or private property, disturbed or injured as a result of any of the activities necessary for the completion of the construction work for said building projects, whether done by the Contractor, City forces, or public utilities, shall be replaced or repaired at the Contractor's expense.

(9) That the Contractor shall furnish the City of Austin a surety bond in the sum of One Thousand Dollars (\$1000.00), which shall protect, indemnify and hold harmless the City of Austin from any claims for damages to any person or property that may accrue to or be brought by any person by reason of the exercise or abuse of the privileges granted the Contractor by the City of Austin, and shall guarantee the replacement of all sidewalks, pavement, and all other public property and public utilities disturbed or removed during the construction work, and shall further guarantee the construction of a walkway and other safeguards during the occupancy of the space.

Which motion, carrying with it the adoption of the resolution, prevailed by the following vote:

Ayes: Councilmen Alford, Bartholomew, Gillis, Mayor Miller

Noes: None

Absent: Councilman Wolf

Councilman Alford offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, J. M. Odom is the Contractor for the erection of a building located at 215 West 2nd Street and desires a portion of the street space abutting Lots 11 and 12, Block 4 of the Original City of Austin, Travis County, Texas, during the erection of the building, such space to be used in the work and for the storage of materials therefor; therefore,

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

1. THAT space for the uses hereinabove enumerated be granted to said J. M. Odom, the boundary of which is described as follows:

Street Working Space

Beginning at the northeast corner of the above described property; thence in a northerly direction and at right angles to the centerline of West 2nd Street, 21 feet north of the south curb line; thence in a westerly direction and

parallel with the centerline of West 2nd Street approximately 92 feet to a point; thence in a southwesterly direction at an angle of approximately 45° to a point 21 feet west of the east curb line of Lavaca Street and a prolongation of the north line of the above described property; thence in a southerly direction and parallel with the centerline of Lavaca Street approximately 128 feet to a point; thence in an easterly direction to the southwest corner of the above described property.

2. THAT the above privileges and allotment of space are granted to the said J. M. Odom, hereinafter termed "Contractor", upon the following express terms and conditions:

(1) That the Contractor shall construct a 4-foot walkway within the outer boundaries of the above described working space, such walkway to be protected on each side by a guard rail at least 4 feet high and substantially braced and anchored, and without wood strips or obstructions of any kind along the pavement within the walkway, and at any time in the opinion of the City officials it becomes necessary for any reason to install a board floor within the walkway, the Contractor shall upon notice from the Building Inspector immediately place such a wood floor and substantially support same to prevent sagging under load.

(2) That the Contractor is permitted to construct in his working space a substantial gate, which shall be kept closed at all times when not in use, and at all times that such gate is open, the Contractor shall maintain a person at this gate to warn pedestrians and vehicles of approaching trucks. This gate is not to open out so as to impede vehicular or pedestrian traffic.

(3) That no vehicles in loading or unloading material at the working space shall park on any part of the street outside of the allotted working space.

(4) That "No Parking" signs shall be placed on the street side of the barricades.

(5) That the Contractor is permitted to construct a temporary work office within such allotted working space provided such work office is not within 25 feet of any corner street intersection.

(6) That the Contractor shall in no way obstruct any fire plugs or other public utilities in the construction of such barricades.

(7) That provisions shall be made for the normal flow of all storm waters in the gutter, and the Contractor will be responsible for any damage done due to obstruction of any such storm water.

(8) That the Contractor shall place on the outside corners of any walkway, barricades or obstructions, red lights during all periods of darkness and provide lighting system for all tunnels.

(9) That the Contractor shall remove all fences, barricades, loose materials, and other obstructions on the sidewalk and street immediately

after the necessity for their existence on said sidewalk or street has ceased, such time to be determined by the City Manager, and in any event, all such sidewalk barricades, materials, equipment, and other obstructions shall be removed not later than July 1, 1945.

(10) That the City reserves the right to revoke at any time any and all the privileges herein granted, or to require the erection or installation of additional barriers or safeguards if the conditions demand it.

(11) That the use and enjoyment of the spaces herein granted shall not be exclusive as against public needs, and the City, in making such grant reserves the right to enter and occupy any part or all of said space any time with its public utilities, or for other necessary public purposes.

(12) That any public utility, or public or private property, disturbed or injured as a result of any of the activities necessary for the completion of the construction work for said building projects, whether done by the Contractor, City forces, or public utilities, shall be replaced or repaired at the Contractor's expense.

(13) That the Contractor shall furnish the City of Austin a surety bond in the sum of Two Thousand Dollars (\$2,000.00), which shall protect, indemnify and hold harmless the City of Austin from any claims for damages to any person or property that may accrue to or be brought by any person by reason of the exercise or abuse of the privileges granted the Contractor by the City of Austin, and shall guarantee the replacement of all sidewalks, pavement, and all other public property and public utilities disturbed or removed during the construction work, and shall further guarantee the construction of a walkway and other safeguards during the occupancy of the space.

Which motion, carrying with it the adoption of the resolution, prevailed by the following vote:

Ayes : Councilmen Alford, Bartholomew, Gillis, Mayor Miller
Noes : None
Absent: Councilman Wolf

Councilman Alford offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, J. F. Kramer is the Contractor for the alteration of a building located at 505-07 Neches Street and desires a portion of the sidewalk space abutting part of Lot 1, Block 60, of the Original City of Austin, Travis County, Texas, during the alteration of the building, such space to be used in the work and for the storage of materials therefor; therefore,

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

1. THAT space for the uses hereinabove enumerated be granted to said J. F. Kramer, the boundary of which is described as follows:

Street Working Space

Beginning at the southwest corner of the above described property; thence in a westerly direction and at right

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angles to the centerline of Neches Street to a point 4 feet east of the east curb line; thence in a northerly direction and parallel with the centerline of Neches Street approximately 56 feet to a point; thence in an easterly direction and at right angles to the centerline of Neches Street to the northwest corner of the above described property.

2. That the above privileges and allotment of space are granted to the said J. F. Kramer, hereinafter termed "Contractor," upon the following express terms and conditions:

(1) That the Contractor shall construct a guard rail within the boundary line along the south, west, and north lines of the above described space, such guard rail to be at least 4 feet high and substantially braced and anchored.

(2) That the Contractor shall in no way obstruct any fire plugs or other public utilities in the construction of such barricades.

(3) That provisions shall be made for the normal flow of all storm waters in the gutter and the Contractor will be responsible for any damage done due to obstruction of any such storm water.

(4) That the Contractor shall place on the outside corners of any walkway, barricades or obstructions, red lights during all periods of darkness and provide lighting system for all tunnels.

(5) That the Contractor shall remove all fences, barricades, loose materials, and other obstructions on the sidewalk and street immediately after the necessity for their existence on said sidewalk or street has ceased, such time to be determined by the City Manager, and in any event all such sidewalk barricades, materials, equipment, and other obstructions shall be removed not later than May 1, 1945.

(6) That the City reserves the right to revoke at any time any and all the privileges herein granted, or to require the erection or installation of additional barriers or safeguards if the conditions demand it.

(7) That the use and enjoyment of the spaces herein granted shall not be exclusive as against public needs, and the City in making such grant reserves the right to enter and occupy any part or all of said space any time with its public utilities, or for other necessary public purposes.

(8) That any public utility, or public or private property, disturbed or injured as a result of any of the activities necessary for the completion of the construction work for said building project, whether done by the Contractor, City forces, or public utilities, shall be replaced or repaired at the Contractor's expense.

(9) That the Contractor shall furnish the City of Austin a surety bond in the sum of One Thousand Dollars (\$1,000.00), which shall protect, indemnify, and hold harmless the City of Austin from any claims for damages to any person or property that may accrue to or be brought by any person by reason of the exercise or abuse of the privileges granted the Contractor by the City of Austin and shall guarantee the replacement of all sidewalks,

pavement, and all other public property and public utilities disturbed or removed during the construction work, and shall further guarantee the construction of a walkway and other safeguards during the occupancy of the space.

Which motion, carrying with it the adoption of the resolution, prevailed by the following vote:

Ayes: Councilmen Alford, Bartholomew, Gillis, Mayor Miller

Noes: None

Absent: Councilman Wolf

Councilman Gillis offered the following resolution and moved its adoption:

(RESOLUTION)

PROVIDING THAT NOTICE BE GIVEN OF THE INTENTION OF THE CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS, TO SUBMIT TO THE QUALIFIED VOTERS OF SAID CITY OF AUSTIN, FOR ADOPTION OR REJECTION, CERTAIN AMENDMENTS TO THE EXISTING CHARTER OF SAID CITY.

WHEREAS, the City Council deems it advisable to submit to the qualified voters of the City of Austin certain amendments to the existing Charter of said City; and

WHEREAS, the Charter of the City of Austin has not been altered or amended within two years next preceding this date; therefore,

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

SECTION 1. That it is the intention of the City Council to pass an ordinance on the 15th day of February, 1945, for the purpose of submitting to the qualified voters of the City of Austin, at the next regular municipal election to be held on April 2, 1945, the following amendments to the existing Charter of said City.

AMENDMENT NO. 1

That Sections 8 and 9 of Article VII of the Charter of the City of Austin be consolidated as Section 8, and that such Section 8 and Section 10 of said Article VII be amended so as to hereafter read as follows:

Section 8. There is hereby created and established in the City of Austin a court to be known as the Corporation Court, which shall have jurisdiction within the territorial limits of the City of Austin in all criminal cases arising under the ordinances of said City, and shall also have concurrent jurisdiction with any Justice of the Peace in any Precinct in which said City of Austin is situated, or which Precinct is situated within the City of Austin, in all criminal cases arising under the criminal laws of this State, in which the punishment is by fine only, and where the maximum of such fine may not exceed \$200.00, and arising within the territorial limits of the City of Austin. There shall be a judge or judges of said Corporation Court as the City Council may decide. Such judge or judges shall be elected by the City Council and shall receive such compensation

as may be fixed by the City Council. He or they shall be qualified voters in the City of Austin and must have been a regularly licensed and practicing Attorney-at-Law in the City for at least five years next preceding their election.

Section 10. There shall be a Clerk of the Corporation Court who shall be elected by the City Council and who shall have power to administer oaths, issue certificates and do and perform generally the acts and duties usually performed by Court Clerks, together with such other duties as the City Council may direct.

AMENDMENT NO. 2

That Section 13 of Article VII of the Charter of the City of Austin be amended so as to hereafter read as follows:

Section 13. A City Clerk and a Finance Director, and such deputy clerks and assistants to the Finance Director, as may be deemed necessary by the City Council to be necessary, shall be appointed by the City Manager, and shall receive such compensation and have such powers and duties as now prescribed by or may be prescribed by the City Council and City Manager.

AMENDMENT NO. 3

That Section 16 of Article VII of the Charter of the City of Austin be amended so as to hereafter read as follows:

Section 16. The office of City Treasurer shall be let by contract to the highest and best bidder, in the discretion of the City Council; and in determining the highest and best bidder, the highest rate of interest to be paid on daily balances and the value of the bond tendered shall be the criterion that shall decide. The City Manager shall advertise for bids for the office of City Treasurer for a period of three consecutive days in some daily newspaper published in the City of Austin, stating what said bids shall specify and the terms on which said bids shall be received, including the rate of interest on daily balances. The City Manager shall also mail to each bank in the City of Austin, within three days, a copy of said notice. On the tenth day (Sundays and legal holidays excluded) after the first day of such advertisement, said bids shall be opened and examined by the City Council. The date of the opening of said bids shall be specified in the above mentioned notice. At the next regular meeting of the Council after said bids are opened, or if the day on which said bids are opened is a regular meeting day, the Council shall proceed to pass upon said bids and elect a City Treasurer, who shall hold his office for a period of two years and until his successor is elected and qualified. The City Treasurer so appointed shall be deemed for all purposes an officer of the City. Said City Treasurer shall give such bond as may be required of him by the City Council, provided such bond shall not be for a less sum than \$75,000.00, payable to the Mayor and his successors in office, and conditioned for the faithful performance and discharge of his duties as Treasurer. He shall receive and securely keep all moneys belonging to the City, and make all payments of the same upon warrants or orders signed by the City Manager and countersigned by such official of the City as may be designated by ordinance of the City of Austin, under the seal of the City, except that payments from the school fund shall be upon warrants or orders signed by the President of the School Board, countersigned and attested by

the Secretary of said Board under the seal of said Board; provided, that no order or warrant shall be paid by him unless it shows upon its face that the City Council or School Board, as the case may be, has ordered its issuance and for what purpose it was issued. He shall render a full and correct statement of his receipts and disbursements to the City Council at its first regular meeting in each month, and such additional statements concerning the conduct of his office and his accounts, as either the Council or the City Manager may from time to time require. In addition to the statements required of him to the City Council, he shall also render monthly a full and correct statement of his receipts and disbursements of all moneys on account of the school fund to the President of the School Board. He shall perform such other acts and duties pertaining to his said office as the City Council may require, and shall receive for his services the sum of \$5.00 per annum.

AMENDMENT NO. 4

That Section 23 of Article XII of the Charter of the City of Austin be amended so as to hereafter read as follows:

Section 23. The action of the City of Austin in taking charge of the public free schools within its limits by proceedings had in the month of August, 1880, is hereby validated, and the City is hereby constituted a separate and independent school district under the Constitution and Laws of the State. The action taken in placing the control of the free schools and all property pertaining thereto in a Board of Trustees is hereby confirmed. The support and maintenance of the public schools is declared to be a public and municipal purpose for which the City Council shall supplement the available city school fund of the City by transferring to said school fund the maximum sum of One Hundred Seventy-five Thousand (\$175,000.00) Dollars in the month of January of each year, out of the profits of the City Water, Light and Power System from the preceding year, or so much of said sum of \$175,000.00 as may be requested each year by the Board of Trustees of said schools in writing, specifically stating the sum requested. Such \$175,000.00 shall be a charge against the profits of the Water and Light Department for the preceding year. The City Water, Light and Power rates shall be maintained at a sufficient rate to produce said sum of \$175,000.00, and a sufficient sum to pay expenses of operation, maintenance, depreciation, replacement, and betterments, including all salaries, labor, materials, interest, repairs and extensions necessary to render efficient service, and for interest and sinking fund to pay any and all bonds or warrants issued to purchase, construct, repair, improve or make extensions of the City's Water and Light System. All property, real and personal, heretofore acquired and now being administered by said Board of Trustees in connection with the management of said free schools is hereby confirmed in said Board, and all levies of taxes heretofore made for the support and maintenance of said public free schools in said City and which remain uncollected are hereby validated and declared legal and binding upon the persons and property subject to taxation in said City, and the City Council shall continue to levy and collect the rate of special taxation adopted or which may be adopted by vote of the people for said purpose, and deliver the same to said Board of Trustees, in accordance with the general laws of the State upon the subject.

AMENDMENT NO. 5

That Section 44 of Article XIV of the Charter of the City of Austin be amended so as to hereafter read as follows:

Section 44. To erect, construct, build, purchase, operate and maintain, within or without the City limits, for public purposes, a water and electric system, to supply water and electricity within and without the city limits, same to be operated by steam, electricity, or any other motive power, or by constructing and maintaining a reservoir of water, or reservoirs of water, in and about the channel of the Colorado River within and without the City limits by means of a dam or dams across the same to serve as a reservoir, or reservoirs, and build such other reservoirs as may be necessary at elevated points within or without the City. That for the purpose of constructing, purchasing and maintaining such water and light system, the City shall have the power to take hold and acquire such property within or without the limits of the City as may be necessary for the City to obtain in order to build such system or any part thereof, but no property shall be taken, overflowed with water, or otherwise damaged by the City, within or without the limits for such purpose, without the consent of the owner thereof, except by due process of law, and upon making adequate compensation for the property so taken or damaged or overflowed. When the owner of property which shall be overflowed or damaged by the construction of such system of water and light works, or which it may be necessary for the City to acquire, cannot agree with the City as to the amount to be paid for the injury to property or for overflowing same, or the price which the City should pay to acquire such property, the City may condemn such property as it may deem necessary for it to acquire for such purposes, and have the damages assessed which the City should pay for injury to property to be overflowed by water or otherwise injured, in the manner that railroad corporations are now or may from time to time be authorized to condemn property, and may in like manner have the damages to be paid for the property, injured or overflowed, assessed and established, the City occupying the place of the railroad corporation in such proceedings.

AMENDMENT NO. 6

That Section 18 of Article XV of the Charter of the City of Austin be amended so as to hereafter read as follows:

Section 18. It shall be the duty of the City Council to cause the Finance Director of the City to make a complete and detailed statement each month, for the preceding month, of all moneys received by the City, and all expenditures made by it, classifying each receipt and expenditure under the proper head, showing from where the same was received and for what the same was expended. Said statements shall be recorded by the Finance Director in a well bound book kept for that purpose, known as the "Receipts and Expenditures Book" and said statement and its record shall be open at all times during the office hours of the Finance Director, to public inspection; and the Finance Director shall, upon application of any newspaper published in the City of Austin, furnish to such newspaper a correct copy of any monthly statement. Within a month after the end of each fiscal year the City Council shall cause to be published in a daily newspaper published in the City of Austin a full and complete summary statement of all moneys received and expended during the fiscal year, said

statement showing the moneys received and expended by each of the departments of the City and the sources from which received and the purposes for which expended.

SECTION 2. That the Mayor is authorized and instructed to publish a copy of this Resolution in the Austin American and Austin Statesman, newspapers published in the City of Austin, as notice of the intention of the City Council to submit at an election the certain amendments to the Charter of the City of Austin hereinbefore set out; and said copy of this Resolution when marked "NOTICE OF INTENTION TO SUBMIT CHARTER AMENDMENTS," signed by the Mayor, and attested by the City Clerk, and published as herein provided, shall be due notice thereof.

SECTION 3. That said notice shall be published in the newspapers aforesaid, for ten days, the first publication of which shall be twenty (20) days prior to the date on which the proposed ordinance is to be passed, as set out in Section 1, of this Resolution.

Which motion, carrying with it the adoption of the resolution, prevailed by the following vote:

Ayes : Councilmen Alford, Bartholomew, Gillis, Mayor Miller

Noes : None

Absent: Councilman Wolf

In connection with the proposed Charter Amendments, the following legal opinion of J. P. GIBSON, Bond Attorney, was received and ordered spread on the minutes:

"Austin, Texas
January 17, 1945

Honorable Mayor and City Council
of the City of Austin
Austin, Texas

Gentlemen:

You have requested me to advise you what legal effect, if any, the adoption of a proposed amendment to the Charter of the City of Austin would have on the power of the City to issue its Revenue Bonds against the Water and Light System of the City in the future.

The proposed amendment provides that the sum of \$175,000.00 each year, or so much thereof as may be requested by the Board of Trustees of the Austin Independent School District, shall be transferred out of the profits of the Water and Light System to the said School Board for the support and maintenance of the public schools. The amendment further provides that the City shall maintain sufficient rates to produce said sum and to pay all proper charges against the System, including requirements for interest and sinking fund purposes on bonds or warrants issued against the System.

In my opinion, the proposed amendment would not affect the power of the City to issue revenue bonds against the Water and Light System in the future, except, of course, that the amount of bonds which could be issued against the System would be reduced by the

amount of bonds that could be serviced as to principal and interest with the \$175,000.00.

Respectfully submitted

(Sgd) J. P. Gibson . "

There being no further business, upon motion, seconded and carried, the meeting was recessed at 12:05 P. M., subject to call of the Mayor.

APPROVED

Tom Miller
MAYOR

ATTEST:

Hallie M. Keller
CITY CLERK