

## MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

April 8, 1948

10:40 A.M.

Council Chamber, City Hall

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

## Roll call

Present : Councilmen Bartholomew, Glass, Johnson, and Mayor Miller - 4  
Absent : Councilman Thornberry - 1

Present also: Guiton Morgan, City Manager; J. E. Motheral, Director of Public Works; Trueman E. O'Quinn, City Attorney; and R. D. Thorp, Chief of Police.

The reading of the Minutes was dispensed with.

The proclamation of the Mayor designating the week of April 12-18 as PAN AMERICAN WEEK in Austin, requested by the Pan American Student Forum of Allan Junior High School, was approved.

The proclamation of the Mayor designating the week of April 11-17 as WORLD TRADE WEEK, requested by the Austin League of Women Voters, was approved.

A committee from the Local Chapter of General Contractors, with Rex Kitchens, Chairman, as spokesman, came before the Council and submitted a written request asking that the City not engage in construction work but let the work by bid to private contractors. The Mayor advised the committee that the City Council would be glad to go into the matter for further discussion at a meeting of the City Council and the committee to be arranged for.

William Yelderman, Attorney for Woodrow Knappe, came before the Council and requested that the commercial garage erected by his client in the rear of 13th and San Jacinto Streets on the building line given him by a private surveyor be allowed to stand, notwithstanding the fact that same does not coincide with the building line given later by the City's engineer, which shows the building projecting from 5 to 8 inches onto city property. The matter was taken under advisement by the City Council for an inspection on the ground.

Mrs. Lena Novy Podolnick, representing the Perry Club for Girls, came before the Council and requested that they be allowed to close the dead-end street to the rear of their club house at Second and One-half Street and Canadian Street during the carnival to be given by said Club on Saturday, April 10, from 6:30 P. M. to 11:00 P. M. The matter was referred to the City Manager to arrange for with the Police and Engineering Departments.

The following tabulation of bids was submitted by the City Manager:

" April 6, 1948

Memorandum to : Guiton Morgan, City Manager

Memorandum from: J. E. Motheral, Director of Public Works

Bids were received for the construction of a concrete box storm sewer at 16th and Maple Streets. The totals were as follows:

|                                  |             |
|----------------------------------|-------------|
| W. S. Conner -----               | \$ 2,180.75 |
| Earl Rogers -----                | 2,428.82    |
| McKown & Sons -----              | 2,489.04    |
| Moore Construction Company ----- | 3,049.46    |
| J. M. Odom -----                 | 3,506.30    |

W. S. Conner's low bid of \$2,180.75 is within our estimate and we recommend that the contract be awarded to him.

(Sgd) J.E.Motheral "

Councilman Bartholomew moved that the above recommendation be approved and contract be awarded to W. S. Conner, in the amount of \$2,180.75. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller;

Noes : None

Absent: Councilman Thornberry

The City Manager submitted the following bids received for the construction of a high wire protection fence at the Municipal Golf Course:

|                                       |             |
|---------------------------------------|-------------|
| Leslie Crockett -----                 | \$ 1,500.00 |
| John Broad Construction Company ----- | 1,125.00    |

Councilman Bartholomew moved that the bid of the John Broad Construction Company, in the amount of \$1,125.00, be accepted as the lower bid, with the stipulation that the work be done immediately. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

Councilman Johnson introduced the following ordinance:

AN ORDINANCE AMENDING THAT CERTAIN ORDINANCE PASSED BY THE CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS, JULY 17, 1941, AND RECORDED IN ORDINANCE BOOK "L", PAGES 152-174, INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, WHICH ORDINANCE WAS AMENDATORY OF THAT CERTAIN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN PASSED BY THE CITY COUNCIL APRIL 23, 1931, AND RECORDED IN ORDINANCE BOOK "I", PAGES 301-318, INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, THE AMENDATORY ORDINANCE HEREBY CHANGING THE USE DESIGNATION FROM "A" RESIDENCE DISTRICT AND FIRST HEIGHT AND AREA DISTRICT TO "C" COMMERCIAL DISTRICT AND FIRST HEIGHT AND AREA DISTRICT ON LOTS 23 TO 28, INCLUSIVE, OF BLOCK B, MURRAY PLACE, AND LOTS 35, 36 AND 37, DUVAL HEIGHTS (EXCEPT CERTAIN PORTIONS OWNED BY STATE OF TEXAS), AND CHANGING THE USE DESIGNATION FROM "A" RESIDENCE DISTRICT AND FIRST HEIGHT AND AREA DISTRICT TO "C" COMMERCIAL DISTRICT AND SECOND HEIGHT AND AREA DISTRICT ON TRACT OF LAND 142'x125' AT NORTHEAST CORNER OF DUVAL AND EAST 43RD STREETS, AND 2.93 ACRES AND .44 ACRE OUT OF LOT 11, BLOCK B, BOULDIN SUBDIVISION, ISAAC DECKER LEAGUE, ALL OF SAID PROPERTY BEING IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS; ORDERING A CHANGE IN THE USE MAPS SO AS TO RECORD THE CHANGES HEREBY ORDERED; AND DECLARING AN EMERGENCY.

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

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller  
Noes : None  
Absent: Councilman Thornberry

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

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller  
Noes : None  
Absent: Councilman Thornberry

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

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller  
Noes : None  
Absent: Councilman Thornberry

The Mayor announced that the ordinance had been finally passed.

The following report of the Board of Adjustment on the application of Paul O. Simms for change in zoning, was received:

" ZONING BOARD OF ADJUSTMENT  
AUSTIN, TEXAS  
ZONING CHANGE RECOMMENDATION .

---

Applicant : Paul O. Simms

I. Referred to the Board by the City Council on : March 25, 1948

II. Property affected:

Lots 7 and 8, Block 1, Raymond Addition, being located at the southwest corner of West 6th and Bowie Streets and known as 901 West 6th Street

III. To be changed

From : "C" Commercial District

To : "C-1" Commercial District

IV. Considered by the Board on : April 6, 1948

V. Parties appearing:

For : David J. Pickle

Against: Harry Pollard for Mr. and Mrs. J. Miller Elliott;  
John Gaines; Mrs. H. B. Granberry; Maxwell; Mrs. Howard Taylor; D. R. Peevy; Mr. and Mrs. Thos. B. Stephens; Mrs. Chas. Ledbetter; Mrs. A. C. Ellis; W. A. Goodlet; Mr. and Mrs. Thos. W. Nabors; Paul Barrows, Edoff N. Paulson; Mrs. Barrick; Mrs. H. L. Marks; Mac L. Coker; Mrs. Lawrence Stevenson and Mrs. E. B. Adkins for the Council of Church Women.

VI. Action of the Board: Change not recommended

For the following reasons:

1. This change of zoning is requested for the purpose of serving beer with meals in a restaurant to be located in an existing building in a "C" Commercial zone, in which this Use is not permitted.
2. Opposition to this change was expressed by a large number of property owners on the grounds that this area is still principally developed as residential with apartment houses and dwellings constituting the majority of the construction and Use; that this would be spot zoning to permit the sale of beer and would encourage other similar Uses to come in; that the business would increase the existing traffic hazard, and that this Use is not needed in the neighborhood.

3. The Board deemed that in view of the vigorous opposition expressed and after careful consideration and study that this change should not be made on the grounds that it would create a spot zone; that the request is not in response to any public demand or necessity as shown by the opposition; and that to deny the change would not cause the applicant unnecessary hardship since it is the opinion of the Board that the success of a restaurant business does not depend on the sale of beer but on the service and quality of food, and that it is contrary to the avowed policy of legalizing and controlling the sale and dispensing of alcoholic beverages as specifically provided in the Zoning Ordinance and on zoning maps of the City of Austin.

(Sgd) H. F. Kuehne  
Chairman.

Councilman Glass moved that a public hearing on the above change in zoning be called for Thursday, April 29, 1948, at 11:00 A. M., at the request of the applicant. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The following report of the Board of Adjustment on the application of Mrs. J. W. Templer for change in zoning was received:

"ZONING BOARD OF ADJUSTMENT  
AUSTIN, TEXAS  
ZONING CHANGE RECOMMENDATION .

Applicant: Mrs. J. W. Templer

I. Referred to the Board by the City Council on : March 25, 1948

II. Property affected:

Lots 1, 2, 3, and 4, of Templer Lots Subdivision, being located at the southeast corner of Fredericksburg Road and West Gibson Street.

III. To be changed

From : "A" Residence District and First Height and Area District

To : "C" Commercial District and First Height and Area District

IV. Considered by the Board on : April 6, 1948

V. Parties appearing:

For : Mrs. J. W. Templer, Mrs. E. T. Atkins, and Mrs. T.A. Evans

Against: None

VI. Action of the Board: Change recommended

For the following reasons:

1. This request is for a change of zoning on four lots located at the southeast corner of Fredericksburg Road and West Gibson Street, the property fronting on Fredericksburg Road on the north side of West Gibson Street being now zoned as commercial as well as the property across Frederickburg Road west of the applicant's property.
2. The applicant stated that because of the existing commercial zones to the north and west, her property is now more suitable for commercial development than residential, and is asking for a change to permit this type of use, and was joined in the application by two adjacent property owners.
3. The Board deemed that since the City Council has in successive changes established an initial commercial development along the Fredericksburg Road from Barton Springs Road south, the other property owners on this Road in the same sector are now justified in asking for a similar change of their property and the Board deemed that it would be inequitable and discriminatory to withhold the same rights and privileges from these property owners who now face commercial areas or adjoin them. This illustrates the tendency of an initial change to develop into a change not in accord with any comprehensive plan of the area or the City as a whole.
4. The Board of Adjustment begs to call the attention of the members of the City Council to the fact that the recommendations of the Board have been based on zoning and the interests of the community as a whole as being the prime objective of zoning, which accounts for many recommendations against zoning applications made by individual citizens for their private benefit primarily.
5. For a clearer exposition of the legal backgrounds of zoning which have influenced the Board of Adjustment in its decisions, there is attached hereto an address by the Chief Justice of the State of Connecticut which reports the almost universal attitude and approach towards zoning throughout the United States by the higher courts. It is hoped that the members of the Council may find time to read this statement for a better understanding of the concepts which guide the Board in its recommendations and decisions on all zoning matters brought before it.

(Sgd) H. F. Kuehne  
Chairman. "

Councilman Bartholomew moved that a public hearing on the foregoing change in zoning be called for Thursday, April 29, 1948, at 11:00 A. M. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller.

Noes : None

Absent: Councilman Thornberry

The application of Simon Botello, by H. T. McBrayer, for change in zoning, from "A" Residence District to "C" Commercial District, of Lots 7, 8, 9, and 10, in Block 10, South Heights Addition, was received. Councilman Glass moved that the matter be referred to the Board of Adjustment for consideration and recommendation. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The application of Mrs. Minnie Leatherman et al for change in zoning, from "B" Residence District to "C" Commercial District, of property fronting west on Baylor Street, south on West 11th Street, was received. Councilman Glass moved that the matter be referred to the Board of Adjustment for consideration and recommendation. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The Coliseum Committee of the Junior Chamber of Commerce came before the Council and submitted their recommendations with reference to construction plans for the coliseum, with specific request that space be added for a gymnasium which would provide basket ball and dance facilities for the juveniles of the City. Following the discussion, it was the sense of the Council that the Architects take bids on the two sets of plans - the main building plan and the alternate plan suggested by the Junior Chamber of Commerce

Councilman Bartholomew offered the following resolution and moved its adoption:

(RESOLUTION)

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

That Guiton Morgan, City Manager, be and he is hereby authorized and directed to execute a release of all public utility and drainage reservations now existing on those two (2) tracts of land, each being a portion of Highland Park West, a subdivision of a portion of the Daniel J. Gilbert Survey No. 1 within the City of Austin, Travis County, Texas, according to a map or plat of said Highland Park West of record in Book 4, at page 299, of the Plat Records of Travis County, Texas, such reservations being provided upon the map or plat of said Highland Park West, above referred to, said two tracts of land being more particularly described as follows:

Tract No. 1 : The east 5 feet of Lot 4, Block 0,  
said Highland Park West.

Tract No. 2 : The west 5 feet of Lot 5, Block 0,  
said Highland Park West.

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

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The application of DONALD WAYNE SNELL, 3006 $\frac{1}{2}$  San Gabriel Street, for a taxicab driver's permit, duly approved by the City Manager, was submitted. Councilman Glass moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The application of HALL W. OUTLER, JR., 1717 East 38 $\frac{1}{2}$  Street, for a taxicab driver's permit, duly approved by the City Manager, was submitted. Councilman Glass moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The application of TROY F. MOON, 4528 Avenue D, for a taxicab driver's permit, duly approved by the City Manager, was submitted. Councilman Glass moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The application of JOHN LEDESMA SAUCEDA, 2402 Santa Maria Street, for a taxicab driver's permit, duly approved by the City Manager, was submitted. Councilman Glass moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The application of ANDREW JACKSON LEWIS, 1609 Lavaca Street, for a taxicab driver's permit, duly approved by the City Manager, was submitted. Councilman Glass moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The application of ELISHA PERKINS, Colored, 2010 Tillotson Avenue, for a taxicab driver's permit, duly approved by the City Manager, was submitted. Councilman Glass moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

An appeal by DWIGHT L. PLATT, 1117 West 7th Street, on his application for a taxicab driver's permit, recommended for denial, was heard. After considering the facts in the case, Councilman Glass moved that appellant be granted a 90-days probationary permit to drive a taxicab, and that he report to the Chief of Police in the meantime. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry



The application of CHARLIE'S PLACE, by Charles Ermis, 806 West 6th Street, for a On-Premise Retailer's Beer and Wine License, duly approved by the City Manager, was submitted. Councilman Glass moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The application of SOUTH AUSTIN BEER DISTRIBUTOR, by H. A. Wilson, 300 Barton Springs Road, for a beer license, duly approved by the City Manager, was submitted. Councilman Glass moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

Councilman Bartholomew offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, Texas Public Service Company has presented to the City Council tentative maps or plans showing the proposed construction of its gas mains in the streets in the City of Austin hereafter named, and said maps or plans have been considered by the City Council; Therefore,

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

THAT Texas Public Service Company be, and the same is hereby, permitted to lay and construct its gas mains in and upon the following streets:

- (1) A gas main in EDGEWOOD AVENUE, from a point 275 feet east of French Place easterly 235 feet, the centerline of which gas main shall be  $7\frac{1}{2}$  feet south of and parallel to the north property line of said Edgewood Avenue.

Said gas main described above shall have a cover of not less than  $2\frac{1}{2}$  feet.

- (2) A gas main in WEST 38TH STREET, from a point 230 feet west of Oakmont Boulevard westerly 198 feet, the centerline of which gas main shall be  $13\frac{1}{2}$  feet south of and parallel to the north property line of said West 38th Street.

Said gas main described above shall have a cover of not less than  $2\frac{1}{2}$  feet.

- (3) A gas main in KINNEY AVENUE, from a point 336 feet south of Dwyer Street southerly 36 feet, the centerline of which gas main shall be 21 feet east of and parallel to the west property line of said Kinney Avenue.

Said gas main described above shall have a cover of not less than  $2\frac{1}{2}$  feet.

- (4) A gas main in TONKAWA TRAIL, from a point 403 feet south of West 39 $\frac{1}{2}$  Street southerly 80 feet, the centerline of which gas main shall be 7 $\frac{1}{2}$  feet west of and parallel to the east property line of said Tonkawa Trail.

Said gas main described above shall have a cover of not less than 2 $\frac{1}{2}$  feet.

- (5) A gas main in HARMON AVENUE, from a point 80 feet north of East 54th Street northerly 310 feet, the centerline of which gas main shall be 7 $\frac{1}{2}$  feet west of and parallel to the east property line of said Harmon Avenue.

Said gas main described above shall have a cover of not less than 2 $\frac{1}{2}$  feet.

- (6) A gas main in GROVER AVENUE, from a point 138 feet south of North Loop Boulevard southerly 129 feet, the centerline of which gas main shall be 5 $\frac{1}{2}$  feet west of and parallel to the east property line of said Grover Avenue.

Said gas main described above shall have a cover of not less than 2 $\frac{1}{2}$  feet.

- (7) A gas main in ALGARITA AVENUE, from a point 256 feet east of Kenwood Avenue easterly 261 feet, the centerline of which gas main shall be 7 $\frac{1}{2}$  feet south of and parallel to the north property line of said Algarita Avenue.

Said gas main described above shall have a cover of not less than 2 $\frac{1}{2}$  feet.

The Texas Public Service Company is hereby put upon notice that the City of Austin does not guarantee that the space assigned above is clear from other underground utilities, but is based upon the best records we have at hand, and that the minimum depth stated does not have any reference to the fact that greater depths may not be required at special points. When the Texas Public Service Company requires definite information upon the ground as to elevations or working points from which to base the location of their assignments, they shall apply to the Department of Public Works not less than three (3) days before such information is required. The Texas Public Service Company is further put upon notice that they will be required to bear the expense of repairs or replacement of any underground utility damaged during the construction of lines named in this resolution.

And that whenever pavement is cut in the vicinity of a fire plug, water must be used at intervals during the course of backfilling of the ditches.

That the work and laying of said gas mains, including the excavation in the streets and the restoration and maintenance of said streets after said mains have been laid, shall be under the supervision and direction of the City Manager, and under all the pertinent terms and conditions of the certain franchise granted to said Company by the City of Austin.

Which motion, carrying with it the adoption of the resolution, carried

by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry.

Councilman Bartholomew offered the following resolution and moved its adoption:

(RESOLUTION)

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

THAT the City Manager be and he is hereby authorized and directed to enter into a contract on behalf of the City of Austin with Addie N. Damon for the laying of certain water mains, sanitary sewer mains, and other pipes in Avalon "C" Subdivision, all in accordance with the terms and provisions of a certain contract, a copy of which is attached to this Resolution and made a part hereof for all purposes.

(Copy of Contract attached)

THE STATE OF TEXAS :

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS :

This contract made and entered into by and between the City of Austin, a municipal corporation situated in Travis County, Texas, hereinafter for convenience sometimes called the City, and ADDIE N. DAMON, of Travis County, State of Texas, hereinafter for convenience sometimes called the Customer;  
W I T N E S S E T H :

I.

(a) The City of Austin for the consideration hereinafter stated agrees to furnish all labor, tools, equipment, implements, appliances, and materials necessary to lay and agrees to lay the certain water mains and other pipes in Avalon "C" Subdivision on the streets and at the locations described as follows:

Two-inch (2") cast iron water main in Edgewood Avenue, Hollywood Avenue westward approximately 310'; in Hollywood Avenue, from Edgewood Avenue south approximately 245'.

(b) The City of Austin for the consideration hereinafter stated agrees to furnish all labor, tools, equipment, implements, appliances and materials necessary to lay and agrees to lay the certain sanitary sewer mains and other sewer pipes in Avalon "C" Subdivision on the streets and easements at the locations described as follows:

Six-inch (6") sewer mains in Edgewood Avenue, from Robinson Avenue east approximately 100' ; thence in an southeasterly direction on an easement to Hollywood Avenue; on East 32nd Street, from Dancy Street west to Lot 69.

II.

It is estimated that all the work contemplated under Paragraph I

above will cost the sum of Two Thousand Six Hundred and Fifty-five Dollars (\$2,655.00) when completed, of which cost the sum of Six Hundred and Fifty-five Dollars (\$655.00) is estimated to be the cost of the water lines and the sum of Two Thousand Dollars (\$2,000.00) is estimated to be the cost of the sewer lines; and the Customer in consideration of the foregoing obligations to the City, which are assumed for the benefits of the Customer in order to furnish water service and sewer to him, agrees to deposit the sum of Two Thousand Six Hundred and Fifty-five Dollars (\$2,655.00) with the City of Austin prior to commencement of the work.

### III.

Within a reasonable time after deposit of the sum or sums of money as provided in Paragraph II, the City of Austin agrees to commence construction of the utility improvements described in Paragraph I and to prosecute said work in a good and workmanlike manner and with reasonable diligence until fully completed; but delays occasioned by matters and events over which the City has no control shall be excepted and not included in the time reasonably required to complete the work.

### IV.

The deposit provided for in Paragraph II is an estimate only of the cost of constructing the utility improvements described in Paragraph I; and it is agreed that if the actual cost of such work is less than the amount deposited by the Customer, the City of Austin after the work is completed will refund to the Customer the difference between the actual cost and the estimated cost of such work, but if the actual cost of such work shall exceed the amount of said deposit, the Customer agrees upon notice from the City immediately to deposit an additional sum to make up the difference between the estimated cost and the actual cost of the work.

### V.

Immediately after the completion of the utility improvements described in Paragraph I, the City of Austin will furnish to the Customer a statement of such costs, together with the date of completion of the work; and the City of Austin is hereby authorized, through its officers or agents, to note on this contract the correct figure stating the actual cost of such work and the date of completion.

### VI.

It is agreed that the Customer shall be reimbursed for the money deposited as provided in Paragraph II above in the following manner:

Within sixty (60) days after the first day of January following completion of the work described in Paragraph I, the City shall pay to the Customer a sum equal to twice the gross amount of income realized by the City from the service and sale of water for usual, customary, and normal domestic, commercial, and industrial uses to customers having a direct connection with the water mains and sewer lines, described above, for the period of time immediately preceding the first day of January; and within sixty (60) days after the first day of January of each succeeding year the City agrees to pay to the Customer a sum equal to twice the gross income realized by the City during

the preceding calendar year from the service and sale of water from said water lines for usual, customary, and normal domestic, commercial, and industrial uses to customers having a direct connection with said water mains and sewer lines, until the total amount of the cost of construction of the utility improvements has been repaid; but in no event shall the City make such payments for a period of time longer than ten (10) years from the date of completion of said work (as such date is noted hereon under provisions of Paragraph V), even though the full cost of such work at the end of said time has not been refunded in full to the Customer; and if at any time before the expiration of said ten (10) year period the principal sum of such cost has been repaid, further payment shall cease.

#### VII.

It is agreed that the City may make such repairs and changes in all of said utility improvements, pipes, hydrants, and connections necessary to the orderly conduct of proper utility systems. Title to all said utility improvements shall be and remain at all times in the City of Austin.

#### VIII.

It is agreed that this contract is made with reference to the existing charter and ordinances of the City of Austin and laws of the State of Texas pertaining to all matters affecting this contract, and the Customer agrees to comply with all provisions of such laws, ordinances and charter.

#### IX.

It is agreed that the City of Austin may at its option retain any part or all of the deposit made by the Customer in compliance with Paragraphs II and IV of this contract and refuse to make the payments and refunds provided for in Paragraphs IV and VI of this contract in the event the Customer shall fail or refuse to comply substantially with any obligation lawfully imposed on the City of Austin regulating the platting, planning, and development of subdivisions within the City of Austin.

IN TESTIMONY WHEREOF, the City of Austin has caused this instrument to be executed in duplicate by its City Manager, attested by its City Clerk, with its corporate seal affixed, and the said Addie N. Damon has executed this instrument in duplicate this the \_\_\_\_ day of \_\_\_\_\_, 1948.

CITY OF AUSTIN

By \_\_\_\_\_  
City Manager

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Addie N. Damon

Approved:

\_\_\_\_\_  
Director of Utilities

\_\_\_\_\_  
Director of Public Works

Approved:

City Attorney      "

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

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The following application for private boat license, duly approved by the Navigation Board, was submitted:

| <u>Owner</u>                       | <u>Description</u>                            |
|------------------------------------|---|
| Jopling, C. E. - 505 Harris Avenue | Canoe, Outboard Motor, six years, 3-passenger |

Councilman Glass moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

The City Manager submitted to the City Council his recommendations for the installation of traffic islands in San Jacinto Boulevard between Park Place and Duval Street in order to better regulate traffic. He was instructed to have an ordinance covering the matter prepared for the next regular meeting.

The following resolution was submitted:

(RESOLUTION)

WHEREAS, the following named persons owed delinquent taxes to the City of Austin; and

WHEREAS, the City Assessor and Collector has collected the amounts shown herein for the years indicated:

|                    |                              |                   |
|--------------------|------------------------------|-------------------|
| T. J. Stephens     | 1941 and 1942                | \$ .93            |
| H. E. Wise         | 1944, 1945, 1946             | 9.45              |
| Charles E. Hensley | 1946                         | 4.25              |
| Richard W. Bauer   | 1938, 1939, 1940, 1941, 1943 | 2.05              |
| Milton Webb        | 1936 thru 1943               | 12.05             |
| Vernon Taylor      | 1933 thru 1942, 1944, 1945   | 102.11            |
| E. J. Davis, Jr.   | 1933, 1934, 1935, 1936, 1939 | 19.41             |
| R. Dorrough        | 1945                         | 6.35              |
| Lee F. Allison     | 1943 thru 1946               | 5.50              |
|                    |                              | <u>\$162.10 ;</u> |

and

WHEREAS, on the above accounts, penalties and interest, in the sum of \$35.77, was collected; Therefore,

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

That the Tax Assessor and Collector be and is hereby authorized and directed to clear the above accounts as paid for all years indicated.

The resolution was adopted by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Absent: Councilman Thornberry

Upon motion, seconded and carried, the meeting was then recessed, subject to call of the Mayor.

Approved:

Tom Miller.  
MAYOR

Attest:

Helene M. Allen

CITY CLERK