

MEETING OF THE COMMISSIONERS OF THE CITY OF SAN ANTONIO, OCTOBER 25TH, 1915,
AT FOUR O'CLOCK, P.M.

PRESENT: Honorable Clinton G. Brown, Mayor, presiding, and Commissioners Garland Lambert Kearny and Steves.

Minutes of the previous meeting were ordered approved.

- - - - - MEMORIALS AND PETITIONS - - - - -

The proposal of Emil Schmitt for oil lease on Sewer Farm, was read and referred to the Commissioner of Sanitation Parks and Public Property, Lambert.

The petition for seats in Maverick Park was read and referred to the Commissioner of Sanitation Parks and Public Property, Lambert.

The petition of Nelson Lytle, to lay sanitary sewer in Delaware Street, was read and referred to the Commissioner of Sanitation Parks and Public Property, Lambert.

The petition for an electric sign for the Arthur Hotel was read and referred to the Commissioner of Police & Fire, Steves.

The petition of Luciano Vasquez, for permit to hang a sign at 109 Santa Rosa Avenue, was read and referred to the Commissioner of Police & Fire, Steves.

The petition of Frank H. Booth and Claude V. Birkhead, for reduction of assessment on Lots 18-22, N.C.B. 1775, on Doup Street, was read and referred to the Commissioner of Taxation, Garland.

The petition of Maud Campbell, for refund of taxes, was read and referred to the Commissioner of Taxation, Garland.

The following petitions to change routes of jitney cars was read and granted.
J. W. Thompson; D. Ward; B. E. Nurnberg; George H. Mueller; Henry Hirzing.

Honorable George R. Gillette, City Attorney, submitted the following opinion upon the status of the contract for paving River Avenue by the Western Paving Company, to-wit:

October 25th, 1915.

To the Honorable Mayor and Commissioners,

San Antonio, Texas.

Gentlemen:

During the day (on Monday) in considering the original papers received from

the City Hall in the matter of the paving of River Avenue from Grand Avenue to Grayson Street, I discover that the ordinance accepting bid purports to accept a proposal for "Paving and other work of the following character, 2" ASPHALTIC CONCRETE".

Now the proposal of the Western Paving Company included two distinct bids for two inch asphaltic concrete, to-wit:

Price per square yard, Asphaltic Concrete pavement, 2 inches in depth using Bermudez Asphalt and trap rock as specified, including five (5) inch concrete foundation, with five (5) years maintenance, One Dollar and Eighty Three Cents (\$1.83).

Price per square yard, Asphaltic Concrete Pavement, two (2) inches in depth, using Mexican Asphalt, and trap rock as specified, including five (5) inch concrete foundation, with five (5) years maintenance One Dollar and Seventy-Five Cents (\$1.75).

The general rule of course is that a contract is complete when both parties have agreed to one and the same set of propositions; and ordinarily a contract would be made by the City upon definite acceptance by its governing body of a definite proposal, even before the formal contract was reduced to writing and signed by the Mayor; but here the ordinance did not indicate which of these bids it was meant to accept and as both were 2" asphaltic concrete pavements, but using different kinds of asphalt and proposed to be laid at different prices, it cannot be said that one bid or the other was accepted.

Accordingly I am of opinion, based on said original papers and records that no contract exists at this time for paving said portion of River Avenue.

Respectfully submitted,

(Signed) GEORGE R. GILLETTE.
City Attorney.

Upon motion the City Attorney's opinion was sustained by unanimous vote, and the award to the Western Paving Company, made under ordinance of July 22nd, 1915, declared invalid.

The following communication from the Western Paving Company was read by Attorney for said Company, and ordered filed.

To The Honorable Mayor and Commissioners
of the City of San Antonio:
Gentlemen:

Through the press and on the streets some question seems to have arisen as to the number of omissions that the Western Paving Company expects to leave on River Avenue between Grand and Grayson Streets under its contract with the City. These reports may have come to you, and to meet any suggestion, this is to advise you that we do not expect to leave any omissions on this street, but on the contrary we intend to and will pave in front of all abutting property from Grand Street to Grayson Street.

WESTERN PAVING COMPANY.

By A. D. Farmer.
Vice-President.

Commissioner Kearny submitted the following resolution, which was read and adopted.

A RESOLUTION.

Accepting pavement constructed by Rushmore & Gowdy on North Presa Street, between Commerce Street and the Bridge.

BE IT RESOLVED BY THE CITY COMMISSIONERS OF THE CITY OF SAN ANTONIO:

That the City of San Antonio does hereby accept the pavement constructed by Rushmore & Gowdy, Contractors, on North Presa Street, between Commerce Street and the Bridge; the date of acceptance being hereby fixed on the 25th day of October, 1915, in accordance with the certificate of the City Engineer, filed with the City Council on October 25th, 1915.

The City Engineer submitted the following communication:

San Antonio, Texas, October 25, 1915.

Honorable Clinton G. Brown, Mayor,

Dear Sir:

This is to certify that the paving on North Presa Street, between Commerce Street and the bridge, has this day been completed in accordance with the contract entered into with Rushmore & Gowdy, Contractors, and same has been accepted by me for account of the City of San Antonio, this the 25th day of October, 1915.

Yours truly,

(Signed) H A N S H E L L A N D.
CITY ENGINEER.

Commissioner Kearny submitted the following ordinance, which was read and adopted by the following vote on roll-call, to-wit: Ayes, Brown, Garland, Lambert, Kearny and Steves. Nays, None.

MA-334 AN ORDINANCE.

THE STATE OF TEXAS
COUNTY OF BEXAR
CITY OF SAN ANTONIO.

Levying special assessments and taxes on account of the cost of the improvement of NORTH FLORES STREET, (from Houston Street to Commerce Street) and to provide for the issuance of assessment certificates and for other purposes. For full text of this ordinance, see Record Book #5, Page 45.

Commissioner Kearny submitted the following resolution, which was read and adopted.

THE STATE OF TEXAS
COUNTY OF BEXAR
CITY OF SAN ANTONIO.

A RESOLUTION.

Ordering a public hearing of property owners and others interested in street improvements ordered to be constructed on NORTH LAREDO STREET (between Morales Street and North Flores Street) approving plat and statement of City Engineer and order

ing that special assessments be made and levied and for other purposes. For full text of this resolution, see Record Book #5, page 41.

Commissioner Lambert recommended that the petition of Edward M. Garcia to open a meat market at 801 South Laredo Street, be granted. Adopted.

Commissioner Lambert introduced the following ordinance, which was read and adopted by the following vote on roll-call, to-wit: Ayes, Brown, Garland, Lambert Kearny and Steves. Nays, None.

MA-336

AN ORDINANCE.

Appropriating \$2,500.00 for the continuation of the Municipal Band Concerts.

BE IT ORDAINED BY THE CITY COMMISSIONERS OF THE CITY OF SAN ANTONIO:

That the sum of Two Thousand Five Hundred (\$2,500.00) Dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of the 1915 General Fund for use in the continuation of the Municipal Band Concerts.

The City attorney, in a communication to the Commissioners, recommended that the claim of Walter Hansen for land taken for the widening of Austin Street be settled for the sum of One Hundred and Seventy-Five (\$175.00) Dollars. The recommendation was adopted and the City Attorney instructed to prepare the necessary ordinance.

Commissioner Garland, in referring to the application of the Texas Transportation Company, for cancellation of their annual franchise tax, submitted the following report from the City Attorney:

October 19th, 1915.

In re Petition of Texas Transportation Company for a Release of Franchise Fee of \$1,000.00 annually.

To the Honorable Mayor and Commissioners of the City of San Antonio, Texas.

Gentlemen:

Attached we hand you the petition and letter of the Texas Transportation Company asking for a release from the payment by them to the city annually of \$1,000.00 upon their franchise to use certain streets in the City for their private railway line. The same having been referred to this department for an opinion, we have this to say:

Article 3, Section 55, of the Texas Constitution provides that "The Legislature" shall have no power to release or extinguish, or authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any incorporation or individual, to this State, or to any County or other municipal corporation therein."

The franchise referred to is a contract between the City of San Antonio and the Texas Transportation Company, and the agreement therein to pay the City \$1,000.00 annually constitutes an "obligation" within the meaning of the Constitutional provision quoted. What the Legislature cannot authorize a municipal corporation to do, the municipal corporation itself, by clear implication, cannot do. Hence, the City has no power to release the obligation of said Company to pay the City annually the sum of \$1,000.00 for the use of said franchise.

Respectfully submitted,

(Signed) GEORGE R. GILLETTE,
City Attorney.

On Commissioner Garland's motion, duly seconded and carried, the City Attorney's report was adopted and the Texas Transportation Company's request denied.

Commissioner Steves introduced the following ordinance, which was read and adopted by the following vote on roll-call, to-wit: Ayes, Brown, Garland, Lambert Kearny and Steves. Nays, None.

MA-337 AN ORDINANCE.

Authorizing the payment of wages to City laborers for the week ending October 21st, 1915, and making an appropriation therefor.

BE IT ORDAINED BY THE CITY COMMISSIONERS OF THE CITY OF SAN ANTONIO:

That the Mayor be and he is hereby authorized to issue warrants for the payment of wages to City day laborers for the week ending October 21st, 1915, and that the following sums be and are hereby appropriated out of the several special funds for that purpose, to-wit:

General Fund of 1915, -----	\$2329.70
Sanitary Sewers Fund, -----	<u>752.05</u>
T O T A L, -----	\$3081.75

Commissioner Steves introduced the following ordinance, which was read and adopted by the following vote on roll-call, to-wit: Ayes, Brown, Garland, Lambert Kearny and Steves. Nays, None.

MA-338 AN ORDINANCE.

Appropriating \$396.71 to pay Wright Brothers for extra electrical work done in the New Central Fire & Police Station.

BE IT ORDAINED BY THE CITY COMMISSIONERS OF THE CITY OF SAN ANTONIO:

That the sum of Three Hundred and Ninety Six (\$396.71) Dollars and Seventy-One cents, be and the same is hereby appropriated out of the Central Police and

Fire Station Fund to pay Wright Brothers for extra electrical work done in the new Central Fire and Police Station.

MA-339

Commissioner Kearny recommended that the papers relating to the claim of Mrs. M.A. Caldwell, that settlement be made upon terms agreed to, to-wit: the payment of Seven Hundred and Fifty (\$750.00) Dollars in cash to Mrs. M.A. Caldwell, upon proper deed of conveyance, and agreement to pay for pavement of street.

Upon motion duly seconded and carried, meeting adjourned.

APPROVED: Clayton J. Brown
M A Y O R .

A T T E S T :

Paul Smith
C I T Y C L E R K .