

RESOLUTION NO. 202726

MAY 20 1971

WHEREAS, Gaines Plumbing Company filed a claim for refund of unused plumbing permit fees in the amount of \$1,024.70; and

WHEREAS, said claim was initially denied by Resolution No. 199956, adopted June 4, 1970; however, the denial was subsequently rescinded by Resolution No. 200970, adopted October 8, 1970; and thereupon the claim was approved by Resolution No. 200974, adopted October 8, 1970; and

WHEREAS, said claim has not been paid by virtue of an opinion of the City Attorney dated March 29, 1971 advising the Auditor that payment might subject him to personal liability; and

WHEREAS, the City Attorney has subsequently advised in a report to the Council dated May 13, 1971, that the Council has the prerogative and authority to "compromise" said claim if it is treated as a "late filed claim"; and

WHEREAS, claims may be filed after the periods specified in Section 935 of the Government Code if it can be shown that the failure to file on time was "through mistake, inadvertence, surprise or excusable neglect"; and

WHEREAS, such mistake, inadvertence, surprise or excusable neglect can be shown by virtue of the fact that none of the parties were aware that the 100-day limitation of the Charter of the City of San Diego applied to such claims as this; and

WHEREAS, Gaines Plumbing Company, through its attorney Albert E. Walkoe, has offered to compromise said claim at

a figure of 85% of the amount of the claim; and

WHEREAS, in light of all of the circumstances and the record, it appears to be in the best interest of the City that the claim be compromised in the amount offered; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

1. That the claim filed by Gaines Plumbing Company on the basis of the facts recited in the City Attorney's report dated May 13, 1971, be, and the same is hereby accepted as a "late filed claim."

2. That the offer to compromise the amount claimed for 85%, be, and the same is hereby accepted.

3. That the City Auditor and Comptroller be, and he is hereby authorized to pay Gaines Plumbing Company the sum of 85% of \$1,024.70 out of 100 Fund.

APPROVED: JOHN W. WITT, City Attorney

By Robert S. Teaze  
Robert S. Teaze  
Assistant City Attorney

RST:rb  
5-17-71

Passed and adopted by the Council of The City of San Diego on MAY 20 1971,  
 by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Helen Cobb	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sam T. Loftin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Landt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allen Hitch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Schaefer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Frank Curran	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

AUTHENTICATED BY:

FRANK CURRAN  
 Mayor of The City of San Diego, California.

EDWARD NIELSEN  
 City Clerk of The City of San Diego, California.

(Seal)

By Elfa N. Hamel, Deputy

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Office of the City Clerk, San Diego, California

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