

Minutes of a Regular Meeting of the City Council.
Austin, Tex. Aug 5, 1895.

Hon. John M^c Donald, Mayor, presiding.

Roll call.

Present- Aldermen Anderson, Asmann, Fischer, Glass,
Glascok, Goeth, Haynes, Hume, Linn, Platt, (Powell,
Redd, Roberdeau, Schneider, Shelley, Taylor, Tobin,
Townsend, Warmoth - 19

Absent- Aldermen Jackson, Lawless, Nitschke - 3

Minutes of the meeting of the city council held
on the 15th, 23rd and 31st days of July, 1895, were adopted
as printed.

Alderman Lawless entered the council chamber
and answered to his name.

Petitions, Memorials, Etc.

Ph Hatzfeld.

By Alderman Glass- A petition from Ph Hatzfeld, for permis-
sion to erect an iron stairway on the south side of the
Richardson building, corner of Congress Avenue and Fifth
Street. It was referred to the street committee with
power to act.

Fines remitted.

On the petitions of the persons named and the
recommendation of the Mayor, the council remitted
the following fines: W. C. Burns, \$5.00 R. E. Enoch \$5.00
Robt. Burdett, \$10.00, H. E. Smith, \$5.00

J. J. White

By Alderman Powell- A claim for submerged land
by John D. Dowell, attorney for J. J. White. Referred to the
Committee on claims and accounts.

Petition against
extending pound
limits.

By Alderman Platt- Three numerously signed petitions
from citizens of East Austin, protesting against the
passage of the pending ordinance to still further limit
the area in that portion of the city in which live
stock may be permitted to run at large.

The petitions were read and referred to the special
committee recently appointed to consider the pending
ordinance.

Beth Israel
Congregation.

By Alderman Anderson- A petition from the "con-
gregation Beth Israel," asking permission to erect
a fence around a one-acre tract of land purchased
by them from the cemetery association and lying just
east of a two and one half acre tract owned by the city.
Referred to the Committee on Cemetery.

Mrs Eliza Marshall.

By Alderman Taylor- A petition from N. A. Rector,
representing Mrs Eliza Marshall, requesting the council
to pay for certain submerged land owned by Mrs
Marshall.

The petition was read, whereupon Alderman
Taylor moved that Mr Rector be permitted to
address the Council concerning the same. Carried.

Mr Aector then explained the claim.

Alderman Linn then moved to refer the petition to the Committee on Claims and Accounts. Adopted.

Reports of the City Officers for the Month of July 1895.
By the City Assessor and Collector. Collections Made -

Account general revenue	\$3972.14
Account sale lumber at dam	7.00
Account Water Works, interest "drinking fund"	14620.35
Account interest on old bonds	360.57
Account school taxes	1709.57
Total	\$10669.24

Referred to committee on Finance.

By the City Clerk - Statement of Warrants issued against the general funds -

Salaries of officers	\$1231.67
Salaries of policemen	1276.00
City Cemetery	22.92
Sanitary department	499.28
Fire	632.50
Streets, bridges & alleys	428.05
Meals for City prisoners	22.75
City and County hospital	357.50
Printing, stationery & postage	172.69
Charity	122.24
Salaries of teamsters	427.20
Stock feed	93.96
Salary of pound master	73.00
Salary of porter	40.00
Pay of Aldermen	205.00
Miscellaneous	1076.10
Total	\$1180.86

Of the miscellaneous, \$581.20 were for repairing lower story of the city hall; \$218.25 were for costs in district court, and \$152.50 were for pay of judges, clerks, etc for holding election.

Referred to the Finance Committee.

By the City Clerk - Statement of warrants issued against the Water and Light funds:

Salary of secretary of B.R.W	\$125.00
Electric betterments	1339.74
Submerged land	444.40
Total	\$1909.19

Referred to the Finance Committee.

By the City Clerk - Statement of warrants issued against the Earnings fund:

Salary account	\$600.00
Office expenses	6.17
Water Service Connections	727.40
Electric Service Connections	480.60

Tower Trimming	\$ 45.50
Electric Betterments	156.99
Operating expenses	86.00
Electrical instruments	201.88
Repairs	51.00
Contingent expenses	34.50
Oil and grease	17.80
Advertising	6.50

Total \$2413.34

Referred to Finance Committee.

By the City Marshal-

Total amount of fines assessed in Recorders Court \$345.00

Collected in cash \$178.00

Worked out 105.00

Escaped 6.00

Carried forward 56.00 \$345.00

Back fines collected 31.30

Pound fees 70.25

Total number of arrests 63

Referred to the Police Committee.

By the City Physician.

Number of patients in hospital July 1. 1895 9

Number of " admitted to hospital during the month of July 1895 15

Number " " discharged from " " " 8

Number " deaths in " " " 4

Number " patients remaining in " August 1. A.D. " 12

Number " visits made paupers in the city during " " 112

Number " prescriptions written for paupers " " 169

Number " cases of diphtheria reported in city " " 2.

The general health of the City is exceptionally good for this season of the year.

Referred to the hospital committee.

By the City Sexton-

Total number of deaths 23

White 20

Colored 3

Mexican 1

Male 15

Female 9

Referred to the City Cemetery

By the City Treasurer.

Balances on hand August 5 1895.

Account W & L fund \$1654.09

Receipts from W & L system 620.56

Account of general fund 39.82

Account interest fund (old bonds) 767.74

Account interest fund (new bonds) 15206.21

Referred to Finance Committee

W & L Receipts, etc
during July

John W Madrox, superintendent, reported:

Seventy-one applications for light and 48 for water were received during July.

Receipts during the month were: For water, \$1115.50; for light \$65.40; Total \$1180.90, which added to the receipts to June 30, make a total of \$5042.45

There are but 26 delinquents among the water takers and none among the light takers. Filed.

City Atty's opinion
On Wingfield Bros'

The following opinion was rendered:

Austin, Texas, August 5. 1895.

Contract for laying
pipe.

To the Honorable City Council, Austin, Texas:

Gentlemen: A careful examination of the contract between Wingfield Bros. and the City of Austin has resulted in a thorough confirmation of the views expressed by me, in the note addressed to the mayor, which was read before your honorable body at its last meeting.

The specifications which are expressly made a part of the contract, provide for a complete system of water-works, alterations are provided for, both by the contract and the specifications, and provision is made thereby for payment for such alterations and additions as might be made.

That clause of the contract giving the Board of Public Works the option to abandon the laying of any line of pipe shown on the map does not, in my opinion, authorize the city to deprive the contractors of the right to fulfill their part of the undertaking, by the substitution of pipe of less dimensions than those originally intended.

My opinion, therefore, is that the city council has the right to substitute four inch pipe for six inch pipe, and that the contractors have the right to lay the pipe thus substituted, and are entitled under the contract to compensation therefor in the proportion that the substituted work bears to the work originally contemplated by the contract. I find that the contract has never been transferred by Wingfield Bros. and that all estimates have been made out in their name and that Howard Neely and J. B. Neely have acted as the agents and not as the assignee of said Wingfield Bros.

I may add that no final settlement has yet been made for work done under this contract. That the percentage stipulated for in the contract has been withheld by the city, pursuant to the terms of the contract until the completion of all work to be done thereunder.

Very Respectfully

Geo F Bendexter, City Attorney.

Mayor's note,
Wingfield Bros.

Whereupon it was moved that the report be received, adopted and filed and that the Mayor be requested to

notify Wingfield Bros, at the proper time, to proceed to carry out the terms of their contract.

W & L Com to advertise
for bids on pipe not
shown in contract

Alderman Glass moved to amend the motion by adding thereto that the Water and Light Commission be authorized and directed to advertise for bids for laying all pipe not named or shown on the original map, plans and specifications of the city's water system. The amendment was adopted by the following vote:

Ayes—Aldermen Asmann, Fischer, Glass, Glascock, Goeth, Haynes, Platt, Powell, Redd, Roberdeau, Schneider, Shelley, Taylor, Robin Warmoth—15.

Nays—Aldermen Anderson, Hume, Lawless, Linn, Townsend—5.

The pending question being the adoption of the original motion as amended, it was put and carried by the following vote:

Ayes—Aldermen Anderson, Glass, Goeth, Haynes, Hume, Lawless, Platt, Redd, Roberdeau, Townsend, Warmoth—11.

Nays—Aldermen Asmann, Fischer, Glascock, Linn, Powell, Schneider, Shelley, Taylor, Robin—9.

Reports of Committees.

W & L Solicitor.

Report on ordinance

The Water and Light Commission, to whom was referred an ordinance providing for a solicitor and collector for the Austin Water System, presented a report thereon which recommends that the same do not pass "as there is already authority for creating a similar position by resolution adopted by the city council, and the Water and Light Commission does not at this time consider necessary or advisable to create the position." The report was adopted.

The following was read:

Austin, Texas, July 31, 1895.

Hon. City Council—

Wingfield Bros.
Pipe Laying

Gentlemen—We, the Water and Light Commission, deem it important that action be taken at once in the matter of the contract of Wingfield Bros, for pipe laying, and determine whether or not said firm's contract covers the pipe yet to be laid, as it is necessary for the contractor to be on the ground when the pipe is received to unload same and distribute it on the streets.

Respectfully
Wm H. Robin
P. J. Lawless
Francis Fischer
J. P. Schneider.

Alderman Schneider moved to adopt the report. (Not voted on).

Alderman Haynes, as a substitute moved that the

report be received and filed. (Not voted on)

Alderman Anderson moved that the report be laid on the table subject to call. Carried.

To reconsider vote
instructing mayor
to notify Wingfield
Bros.

Alderman Anderson moved a reconsideration of the vote by which a motion was adopted instructing the mayor to request Wingfield Bros, at the proper time to complete their contract with the city for laying water pipe, and directing the water and light commission to advertise for bids for laying all water pipe not included on the original map or in the original plan of the water of the city.

The motion was adopted by the following vote:

Yeas- Aldermen Anderson, Asmann, Fischer, Glass, Glascock, Goeth, Lawless, Linn, Powell, Redd, Schneider, Shelley, Taylor, Townsend-14

Nays- Aldermen Haynes, Hume, Platt, Roberdeau, Tobin, Warmoth-6

Alderman Glascock then moved that the Water and Light Commission be authorized to advertise for bids for laying all pipe smaller than six inches.

Alderman Schneider moved to amend the motion by striking out the words 'smaller than six inches'.

The amendment was accepted and the motion as amended was lost by the following vote:

Yeas- Aldermen Asmann, Fischer, Glass, Glascock, Haynes, Platt, Powell, Redd, Schneider, Taylor-10

Nays- Aldermen Anderson, Goeth, Hume, Lawless, Linn, Roberdeau, Shelley, Tobin, Townsends, Warmoth-10

There being a tie vote, the mayor voted no.

Alderman Lawless moved the adoption of the report of the city attorney.

Alderman Schneider moved to lay the motion on the table. Lost by the following vote:

Yeas- Aldermen Asmann, Fischer, Glass, Glascock, Haynes, Powell, Redd, Schneider, Taylor-9

Nays- Aldermen Anderson, Goeth, Hume, Lawless, Linn, Platt, Roberdeau, Shelley, Tobin, Townsends, Warmoth-11

Alderman Tobin then moved that the Water and Light Commission be authorized to advertise for bids for laying all pipe not included in original plan of the water and light system

The motion was lost by the following vote:

Yeas- Aldermen Asmann, Fischer, Glass, Glascock, Schneider, Tobin-6

Nays- Aldermen Anderson, Goeth, Haynes, Hume, Lawless, Linn, Platt, Powell, Redd, Roberdeau, Shelley, Taylor, Townsend, Warmoth-14

Alderman Powell moved that the Water and Light Commission be authorized to advertise for bids for

laying all pipe smaller than six inches.

The motion was lost by the following vote:

Yeas—Aldermen Asmann, Fischer, Glass, Glascock, Haynes, Platt, Powell, Redd, Schneider, Taylor—10

Nays—Aldermen Anderson, Goeth, Hume, Lawless, Linn, Roberdeau, Shelley, Tobin, Townsend, Warmoth—10
There being a tie, the mayor voted "no".

Alderman Linn then moved that the report of the city attorney be adopted and the motion prevailed by the following vote:

Yeas: Aldermen Anderson, Goeth, Hume, Lawless, Linn, Platt, Roberdeau, Shelley, Tobin, Townsend, Warmoth—11

Nays—Aldermen Asmann, Fischer, Glass, Glascock, Haynes, Powell, Redd, Schneider, Taylor—9.

The following was then read:

Austin, Tex, July 31, 1895.

Hon. City Council—

Gentlemen — We, the water and light com-

W & L Com. Recommend 40 inch pipe on certain streets. To purchase hydrants & c.

mission, very respectfully recommend to your honorable body that all water pipe to be laid between First and Fourteenth streets and Red River and West Avenue be of four inch pipe. Also that the water and light commission be authorized to purchase 50 fire hydrants from R. D. Wood & Co of the same pattern as those furnished the city by the same firm under a former contract. Also, that the Water and Light Commission be authorized to purchase 50 six inch valves from the Rensselaer Manufacturing Company at \$10.65 each, delivered.

Respectfully

Wm H. Tobin

J. P. Schneider

P. J. Lawless

Francis Fischer.

Water and Light Commission

Alderman Lawless moved to amend the report by striking out "four" and inserting in lieu thereof "six," as the size of pipe to be laid in the territory named therein.

The amendment was adopted by the following vote:

Yeas—Aldermen Anderson, Asmann, Goeth, Haynes, Hume, Lawless, Linn, Platt, Powell, Redd, Roberdeau, Townsend, Warmoth—13

Nays—Aldermen Fischer, Glass, Glascock, Schneider, Shelley, Taylor, Tobin—7.

The pending question being the adoption of the report as amended, the same was put and adopted by the following vote:

Yeas—Aldermen Anderson, Asmann, Glass, Goeth, Haynes,

Hume, Lawless, Linn, Platt, Powell, Redd, Roberdeau, Townsend, Warmoth-11.

Nays- Aldermen Fischer, Glascock, Schneider, Shelby, Taylor, Tobin-6.

Aldermen Asmann and Tobin were excused from further attendance on the session of the council.

City Engineer granted Alderman Fischer moved that the city engineers be leave of absence. granted leave of absence for fifteen days during the month of August. Carried.

City Auditor

W. M. Milby nomi-
nated.

Alderman Linn moved that the council do now proceed to elect a city auditor. Adopted.

Alderman Linn then nominated W. M. Milby for the position.

Alderman Lawless moved to reconsider the vote to which the council adopted a motion to proceed to the election of a city auditor, and the motion prevailed by the following vote:
Yeas- Aldermen Fischer, Glass, Glascock, Goeth, Haynes, Lawless, Platt, Powell, Redd, Schneider, Warmoth-11.

Nays- Aldermen Anderson, Hume, Linn, Roberdeau, Shelby, Taylor, Townsend-7.

Alderman Lawless then moved to postpone the election of a city auditor until the next regular meeting of the city council. Adopted.

Unfinished Business.

An ordinance appropriating the sum of \$1800 for the purpose of purchasing additional hose for the use of the fire department was taken up on its third reading and read, whereupon Alderman Schneider moved to postpone action on the same until the next meeting of the city council.

Alderman Powell moved to amend the motion by striking out the words "postpone action on the same until the next meeting of the city council" and inserting in lieu thereof "that the ordinance be laid on the table subject to call." The amendment was accepted and adopted.

New Business.

The following was read:

Austin, Tex. Aug 5. 1895.

To the Members of the Board of Aldermen
of the City of Austin, Tex.

Gentlemen- I hereby respectfully call your attention to the accompanying letter from Mr Geo F. Pendexter, city attorney. I fully concur in the recommendations therein contained, and would advise the employment of Mr D. R. Fisher in accordance with his proposition herewith submitted.

Respectfully

John M. Donald,
Mayor.

Mayor presents
City Atty's letter
relating to Penn
Mutual Life Ins Co
vs City & his
inability to serve as

City Atty's Letter

Austin, Tex, July 29, 1895.

Hon. John M^cDonald, Mayor, Austin, Tex.

Dear Sir:- I beg to call your attention to the fact that the case brought by the bondholders of the City Water Company against the city of Austin, to which a demurrer was sustained by Judge M^cCormick, is now pending in the Supreme Court of the United States, to which it was appealed by the plaintiffs.

The Supreme Court meets on the first Monday in October and this case will then be called for submission. Under the rules adopted by the Supreme Court of the United States, attorneys who have not been licensed by that court cannot appear either in person or by brief, nor can they obtain from the clerk of the court a copy of the record in a pending case, and as I have not been admitted to practice before that court it is necessary that the city should employ someone to represent it who has authority to appear in its behalf.

In my estimation Mr S. R. Fisher of this city, who has practised in that court, owing to his perfect familiarity with the matters involved, could render the city more efficient service than anyone who might be employed.

I would suggest, therefore, that arrangements be made at once, either with Mr Fisher or some other lawyer licensed to practice in the Supreme Court to represent the city in said case

Very Respectfully

Geo F. Penderster

City Attorney.

Fishers Proposition

Austin, Tex, July 30, 1895.

The Penn Mutual Life Insurance Co vs City of Austin.

Hon. John M^cDonald, Mayor City of Austin.

Dear Sir- Complying with your request that I indicate what fee would be charged by me to represent the city in the Supreme Court of the United States in the above entitled case, I beg leave to say that I am willing to represent the city for a fee of \$500. to be paid upon the making of the contract of employment, should I be employed, and a further fee of \$500 contingent upon having the judgment of the Circuit Court affirmed or the appeals dismissed. I do not think that it will be necessary to incur the expense of going to Washington, but should the occasion arise for making such trip, I would desire the city to defray my actual expenses in going to, while at and returning from Washington. In naming the terms of employment I have sought to make them extremely reasonable.

Yours very respectfully, S. R. Fisher.

Alderman Goeth moved that the entire matter be laid over until the next meeting of the council. Carried.

Mayor's Message
about investing
sinking fund.

The mayor presented the following message:

Austin, Tex. August 5. 1895.

To the Board of Aldermen of the City of Austin, Texas:
Gentlemen- We have in the city treasury \$14,000 to the credit of the water works and electric light sinking fund. Section 38 of the city charter reads as follows:

"Section 38. That said sinking fund shall be invested whenever as much as \$1000 shall be accumulated in interest bearing bonds of the United States, or of the State of Texas, or of the City of Austin."

I would therefore, recommend that an ordinance be passed making it the duty of the finance committee to carry the provisions of said section into effect by investing said fund from time to time as it accumulated.

Respectfully

John McDonald, Mayor.

Adopted and referred to the ordinance committee.

Resolution to remove
porch on Brazos St.

By Alderman Warmoth- A resolution providing for the removal of the porch in front of and attached to the building known as No 803 Brazos street in this city.

Alderman Linn moved that it be referred to a special committee of five.

The motion was adopted and the mayor appointed Aldermen Linn, Goeth, Redd, Hume and Shelby as the committee.

Aldermen Lawless and Platt were excused from further attendance on the session of the city council.

W & L Com to advertise
for bids on
reservoir.

By Alderman Fischer- Be it resolved by the city council that the water and light commission is hereby authorized to advertise for bids for a reservoir according to plans and specifications furnished by J. T. Fanning, engineer, for a seventy-five and a hundred million gallon reservoir. Adopted.

W & L Com to ask
for propositions for
using spring
water.

By Alderman Fischer: Resolved that the Water and light commission is hereby authorized to ask for propositions and plans for utilizing the spring water at the power house, so as to ascertain the best mode and least cost of utilizing said spring water. Carried.

Awarding Ordinance.

By Alderman Glascock- An ordinance to amend article 199 of chapter 5, title 5 of the Revised Penal Ordinances of the city of Austin. It was read the first time and a second and third time under suspension of the rules and passed by the following vote:

Yeas- Aldermen Anderson, Fischer, Glass, Glascock, Goeth, Hugner, Hume, Linn, Powell, Redd, Roberdeau, Schneider, Shelby, Taylor, Townsends Warmoth-16

The ordinance relates to unsafe buildings and awnings.

\$600.00 for W & L
Employees.

By Alderman Schneider. An ordinance appropriating the sum of six hundred dollars for the purpose of paying the employees of the Water and Light works of the city of Austin.

It was read the first time, and a second and third time under suspension of the rules, ^{and passed} by the following vote:

Yeas- Aldermen Anderson, Fischer, Glass, Glascock, Goeth, Haynes, Hume, Linn, Powell, Redd, Roberdeau, Schneider, Shelley, Taylor, Townsend, Warmoth-16.

\$1000.00 for W & L
Employees.

By Alderman Schneider. An ordinance appropriating the sum of one thousand dollars for the purpose of paying regular employees of the water and light works of the city of Austin.

It was read the first time, and a second and third time under suspension of the rules, and passed by the following vote:

Yeas- Aldermen Anderson, Fischer, Glass, Glascock, Goeth, Haynes, Hume, Linn, Powell, Redd, Roberdeau, Schneider, Shelley, Taylor, Townsend, Warmoth-16.

\$1800.02 Approved
Accounts.

By Alderman Linn. An ordinance appropriating the sum of \$1800.02 for the purpose of paying approved accounts.

It was passed under suspension of the rules by the following vote:

Yeas- Aldermen Anderson, Fischer, Glass, Glascock, Goeth, Haynes, Hume, Linn, Powell, Redd, Roberdeau, Schneider, Shelley, Taylor, Townsend, Warmoth-16.

\$49680.54 Expenses
Connected with
construction of
the Dam.

The Mayor presented an ordinance appropriating the sum of \$49680.54 for the purpose of paying certain expenses connected with the construction of the water and light system for the city of Austin.

The items are:

Stilwell-Bierce & Smith Vaile Company, balance on contract of 1892	\$4574.76
Stilwell-Bierce & Smith Vaile Company, for shafting	4104.00
✓ Font Wayne Electric Corporation, balance on contract of 1893	20249.45
✓ Font Wayne Electric Company, balance on contract of 1894	409.96
General Electric Company, balance on contract for dynamos	5291.50
Howard Harrison Iron Company	6171.76
Riter & Conley	7879.11
For submerged land, miscellaneous work contingent expenses	1004.00

The ordinance was passed under suspension of the rules by the following vote:

Yeas- Aldermen Anderson, Fischer, Glass, Glascock, Goeth, Haynes, Hume, Linn, Powell, Redd, Roberdeau, Shelley, Taylor, Townsend, Warmoth-15

May- Alderman Schneider.

Powell's motion
to reconsider
size of pipe.

Alderman Powell entered a motion to reconsider the vote by which the report of the water and light commission, in regard to the size of pipe to be used in the territory named in said reports was amended by substituting "six" in lieu of "four" inch pipe, and gave notice that he would call up the motion at the next regular meeting of the city council.

\$100 St Labor.

By Alderman Townsend- An ordinance appropriating the sum of \$100 for the purpose of paying extra street and sanitary labors. It was read the first time, and then a second and third time under suspension of the rules and passed by the following vote:

Ayes- Aldermen Anderson, Fischer, Glas, Glascock, Goeth, Haynes, Hume, Linn, Powell, Redd, Roberdeau, Schneider, Shelley, Taylor, Townsend, Wamoth-16

Or. relating to
sewers & plumbing

Alderman Glas introduced an ordinance regulating sewer connections and plumbing, which was, on his motion, referred to the ordinance committee without being read.

The council then adjourned.

Milton Morris,
City Clerk.