

Amt. Prot. Forward. \$ 9787.50
 License Tax 713.50
 Interest & Dividing Fund Old Bonds 391.16
 \$ 10,887.19

Paid Warrants from Jan. 31st 1898 to July 7th 1898 \$ 3807.97
 Balance of General Fund 3918.47
 " " Interest Dividing Fund Old Bonds 3160.75 10,887.19

City Clerk

Referred to Finance Committee
 By the City Clerk

Amount of Warrants drawn against the General Fund during the month
 of January 1898. \$ 3399.80

Referred to Finance Committee
 By the City Marshal

City Marshal

Total amount of Fines Assessed in Recorder's Court. 240.00
 Paid in Cash \$ 61.00
 Worked Out 144.50
 Escaped 8.00
 Carried forward 26.50 240.00
 Collected on back fines 3.00
 Bond fees 30.50

City Physician

Total number of Arrests during the month. 49.
 Referred to Police Committee
 By the City Physician.
 Total number of Patients in Hospital January 1st 20
 Number " admitted during " 13
 " " dismissed " " 12
 " " died " " 4
 " " remaining February 1 17
 Number of visits to Paupers during the month. 99
 " " prescriptions to Paupers during the month 205
 " " cases diphtheria " " 2

City Sexton

No other contagious diseases reported.
 Referred to Hospital Committee
 By the City Sexton.
 Total number of deaths. 16
 White 16
 Colored 1
 Male 11
 Female 6
 Stillborn 1

Referred to Cemetery Committee
 Alderman Witschke entered the Council Chamber.
 Committee Reports:

Fire Com. report on repairs to
 Protection Fire Hall building

Alderman Oberdau, for the Fire Committee, to whom was referred the
 matter of repairs for Protection Fire Hall building. He presented a report
 stating that the work is very necessary, and that it would take about
 \$1000 to make the repairs, and submitted an ordinance for that amount
 with the recommendation that it do pass.
 On motion, the report was ordered.

Claims Act's Comt report on part
of Ellis Monroe for pay for horses
killed by City

Alderman Blatt for the Claims and Accounts Committee, to whom was referred
the petition of Ellis Monroe for pay for two horses killed by the City, pre-
sented a report, stating that the horses were shot without warrant of law and recom-
mending that he be allowed the sum of \$20 as payment.
Alderman Taylor moved that the matter be referred to a special committee
three, for further investigation, which motion prevailed, and the Mayor appointed
Aldermen Taylor, Maddox and Blatt as the special committee.

Unfinished Business

Ord. defining duties of Budget
Comptroller

The Mayor laid before the Council an ordinance defining the duties of
Budget Comptroller.

On motion of Alderman Morris further consideration of the ordinance
was postponed until the next regular meeting of the Council.

City Atty's report on resolution
in regard to additional or suppl
mental tax levy for 1894.

The City Attorney presented the following report, which was read, and on
motion, further time asked for in the report, was granted:

Austin, Texas, February 7th 1894.

To the Mayor and City Council of the City of Austin:

Gentlemen:- In obedience to your resolution requiring an opinion from
me as to the power of your body to make an additional or supplemental
levy of taxes on account of General Revenue for the year 1894, to meet
the debt embraced within the mandamus issued out of the United
States Circuit Court in the case of Bartholomew, Receiver, v. S. The City
of Austin, I submit as the result of my investigation.

First. The Charter confers upon the City Council, the power to levy for
general revenue, purposes, the sum of \$1 on the \$100 valuation of property
subject to taxation in the City.

Second. This power is coupled with the general limitations that the
aggregate amount which the Council may levy is \$2.50 on the \$100,
and in this limitation it is declared that this shall embrace all pur-
poses, including public free schools, and in fixing the limit of \$1 it is
declared that "the money raised by said taxes to be used for the cur-
rent expenses and for the general improvement of the City or its property",
and the question suggests itself, is the special school tax of 3 1/2% per cent
levied for school purposes to be taken out of this dollar limit, or is it to be
taken from the two subsequent provisions authorizing the issuance of bonds.
It is not declared in the Charter specifying from which it is to be taken,
and to my mind it is not clear that it does not properly fall within the
dollar limit, and exclude from this Council the power to levy more than
6 1/2% per cent for other current expenses.

Third. This question is material, for if it is to be taken from the limit
for current expenses, then it is clear that the Council can not make a
further levy, since it has already exhausted the power under this head.

Fourth. It is well settled that the proper officers of a municipality can be
compelled by mandamus at the suit of any judgment creditor to exhaust
the power given them by law to levy taxes for the purpose of paying
his claim, but when the full limit has been reached, he can not compel
the proceeds to be required to meet the current expenses, that is,

Fifth. On this point that the school tax is to be taken out of the
dollar limit for current expenses, but must be taken from the

City Clerk's report on resolution in regard to additional or supplemental tax levy for 1897.

remaining \$1.50, and that the City Council in making the levy for 1897 should have levied more than they did, in order to meet the current demands and make the payment agreed to and required by the mandamus. I find the following facts to exist:

Sixth. The Charter (Sec. 20) confers upon the Council full power to provide for the prompt collection of all taxes and pass all ordinances needed for that purpose. The Charter provides (Sec. 103) that the fiscal year of the City shall be from the first Tuesday in December to the and including the first Monday in December of the succeeding year.

An examination of existing ordinances discloses that Ord. 345 of the Revised Ordinances requiring the Council to make the annual levy of taxes on the first Monday in May of each year, was unconditionally repealed May 6th 1891, and that no ordinance fixing any definite time for the levying of taxes has been passed since.

Seventh. I find that the Council has made the levy during the different years since that time as follows: viz: for 1891 on October 21st; for 1892 on April 2nd; for 1893 on October 18th; for 1894 on October 14th; for 1895 on October 29th; for 1896 on November 2nd; and for 1897 on November 6th.

Eighth. It is apparent that when the tax levy is made so late as October or November, that but little time is given to make out the rolls and begin the actual work of collecting the taxes, and that therefore by practical operation the taxes for any year under the mode of procedure which has been followed since 1891, become the receipts for the succeeding fiscal year.

Ninth. Judge Dillon, in his work on Municipal Corporations (Vol. 2 Secs 769, pages 946 and 947) announces the following rule: "Where the Charter limit as to the amount of taxes or rate of taxation for any year is not exceeded, there may be different levies of taxes in the same year, which, where the Charter is silent on the point, may be either a fiscal year or calendar year, in the discretion of the Council," citing three cases, one each from Missouri, Michigan and Louisiana.

Tenth. The difficulty lies in the application of this rule, even if it should be held applicable to this City, in the fact that both the calendar year of 1897, and the fiscal year ending the first Monday in December last, have expired, and in addition the further difficulty that the tax rolls for the year 1897 have been made out, completed and delivered to the Tax Collector, who has made collections thereon from four hundred and eight persons to whom full receipts have been given.

Eleventh. The collector's books show that he has made collections on the tax rolls so delivered to him as follows: viz: in November \$655.17; in December \$4527.00; in January \$7438.08, and in February to this date \$1454.75, and it follows that if the Council has the right to make an additional levy, it would have to be in form a supplemental roll, in no way connected with the existing rolls, and that the two should be in all respects kept separate and distinct. It is obvious that to pursue this course will result in confusion, and since we have no precedents directed in this matter, it is deemed best to advise the Council to refrain from making any further levies for the year 1897.

City Atty's report continued

The City, or to its creditor for whose benefit the levy would be made. Sixth. As the levy would have to apply to all taxpayers in the City including those who have already paid, as well as those who have not, in order to satisfy the constitutional requirement that taxes shall be laid with equality, I would suggest that the matter can be postponed for a short time, in order that full opportunity may be given for more thorough investigation of the questions involved, and to this end I request further time before being called upon for a final answer.

Very truly yours:
J. R. Collett, City Attorney

City Atty report on certain tax suits against J. C. Hamilton

The City Attorney then presented a communication in regard to certain suits for taxes against J. C. Hamilton. On motion the communication was referred to the Committee on Claims and accounts.

Postal Telegraph Co. accepted of franchise granted by Council

The acceptance by the Postal Telegraph Cable Company of Texas of the franchise granted by the Council on the 17th day of January, 1898, was read and ordered filed.

Dr. A. D. Graves granted leave of absence to attend court

On motion of Alderman Maddox leave of absence was granted City Physician Graves to attend court in Blanco County.

Resolution requesting the City Treasurer to state in his monthly reports amount received for the Water and Light Department

Alderman Maddox presented the following resolution, which was read and adopted. Be it Resolved, by the City Council, that hereafter the City Treasurer be requested in his monthly reports, to state the amounts received and disbursed by him, from and on account of the Water and Light Department of the City of Austin.

Resolution granting Austin Sewerage Co. authority to extend their system of sewerage under any of the Streets & Alleys without special permit from Council

Alderman Crocker presented a resolution, granting the Austin Sewerage Company authority to extend their system of sewerage under any of the Streets and Alleys of the City for the accommodation of its patrons, the extensions to be made under the supervision of the City Engineer, without special permit from the Council.

Resolution instructing City Engineer to examine building in 7th Ward

Alderman Hayes moved to postpone consideration of the resolution until the next meeting of the Council.

Alderman Maddox moved that the representative of the Company be permitted to designate the work that would probably be done before the next meeting of the Council.

Mr. J. A. Collett then stated to the Council that certain parties were anxious to have connections made at once, giving locations, etc., and on motion, authority was granted the Company to make the extensions mentioned, and action on the resolution offered by Alderman Crocker was then postponed until the next regular meeting.

By Alderman Horton. Resolution instructing the City Engineer to examine a Church building in the Seventh Ward, immediately in rear of residence of C. W. Banks, Esq., and report as to its condition. The resolution was, on motion, referred to the Marshal.

The Mayor laid before the Council a bill of the Austin Water, Light and Power Board, for water for the year 1900.

On motion the bill was referred to the Finance Committee. By Alderman Crocker. An Ordinance appropriating the sum of

Ord. appropriating \$21,085.08 to pay salaries of Officers and employes for eleven months ending Nov 30, 1898.

\$21,085.08 to pay salaries of Officers and employes, for the eleven months ending November 30th 1898.

The ordinance was read first time, and a motion made to suspend the rule and place the ordinance on its second reading, which was lost by the following vote: Yeas Aldermen Beatty, Crooker, Fischer, Haynes, Kuhn, Maddox, Mc Lemore, Miller, Platt, Robertreau, Stumpf, Taylor and Townsend. 13. Nays Aldermen Belmont, Horton, Morris, Nitschke, Powell, Redd, Rosengren, Shelley and Zilker.

Ord. appropriating \$1760. to pay salaries of four drivers Sanitary carts for eleven mos. ending Nov 30, 1898.

Alderman Morris moved that the Council adjourn, which motion was lost. By Alderman Crooker, An ordinance appropriating the sum of \$1760 to pay salaries of four drivers of Sanitary carts, for the eleven months ending November 30th 1898. Read first time, and on motion the rule was suspended and the ordinance placed on its second reading by the following vote:

Yeas Aldermen Beatty, Belmont, Crooker, Fischer, Haynes, Kuhn, Maddox, Mc Lemore, Miller, Robertreau, Rosengren, Shelley, Stumpf, Taylor Townsend and Zilker. 16

Nays Aldermen Horton, Morris, Nitschke, Platt, Powell and Redd. 6. The ordinance was read second time.

Ord. amended by striking out \$1760. & inserting \$160. for Jan 1898 in lieu thereof, which was adopted.

Alderman Maddox moved to amend, by striking out "\$1760 for eleven months ending November 30th 1898," and inserting "\$160 for the month of January 1898." The amendment was adopted and the ordinance, as amended, was passed, under suspension of the rule by the following vote:

Yeas Aldermen Beatty, Belmont, Crooker, Fischer, Haynes, Horton, Kuhn, Maddox, Mc Lemore, Miller, Nitschke, Platt, Powell, Robertreau, Rosengren, Shelley, Stumpf, Taylor, Townsend and Zilker. 20.

Nays Aldermen Morris and Redd 2.

Note reconsidered by which the Council refused to suspend the rule & place ord. on 2nd reading.

Alderman Powell moved to reconsider the vote by which the Council refused to suspend the rule, and place on its second reading, an ordinance appropriating the sum of \$21,085.08 to pay salaries of Officers and employes for the eleven months ending November 30th 1898, which motion prevailed by the following vote:

Yeas Aldermen Beatty, Belmont, Crooker, Fischer, Haynes, Kuhn, Maddox, Mc Lemore, Miller, Nitschke, Powell, Robertreau, Rosengren, Shelley, Stumpf, Taylor and Townsend. 17.

Nays Aldermen Horton, Morris, Platt, Redd and Zilker 5.

On motion the rule was suspended and the ordinance placed on its second reading by the following vote:

Yeas Aldermen Beatty, Belmont, Crooker, Fischer, Haynes, Kuhn, Maddox, Mc Lemore, Miller, Nitschke, Powell, Robertreau, Rosengren, Shelley, Stumpf, Taylor and Townsend. 17.

Nays Aldermen Horton, Morris, Platt, Redd and Zilker 5.

The ordinance was then a second time. Alderman Maddox moved to amend, by striking out "\$21,085.08 for the eleven months ending November 30th 1898," and inserting in lieu thereof "\$2825.00 for January 1898," which motion prevailed, and on motion the ordinance as amended, was passed under suspension of the rule by the following vote:

Yeas Aldermen Beatty, Belmont, Crooker, Fischer, Haynes, Horton, Kuhn, Maddox, Mc Lemore, Miller, Nitschke, Powell, Robertreau, Rosengren, Shelley, Stumpf, Taylor and Townsend. 17.

Ord. amended by striking out \$21,085.08 & inserting \$2825.00 in lieu thereof, which was adopted.

Kuhn, Maddox, Mc. Lemore, Miller, Staschke, Powell, Robertshaw, Rosengren,
Shelley, Stumpf, Taylor and Townsend 18.
Ays. Aldermen Morris, Platt, Pidd and Zilker 11
On motion the Council adjourned.

Geo. B. Johnson
City Clerk