

Regular Meeting of the City Council

Austin Texas June 3<sup>rd</sup> 1901

Hon. R. E. White, Mayor presiding

Roll Called

Present Aldermen: Crooker, Davis, Hume, Low Maddox Redd

Schneider Shelley Shumate Stumpf + Elliot - 11

Absent Aldermen, Gillis, Mortimer + Nitschke - 3

On motion the minutes were approved as recorded by the Clerk without reading.

Petitions, Memorials etc -

H. P. Hilliard By the Mayor - Application of H. P. Hilliard, City Treasurer for leave absence -

On motion the leave was granted

Expenses - Alderman Schneider stated that Ex Mayor McCull was in the Hall and moved that he be invited to a seat in the Council Chamber, which motion prevailed -

P. L. Piner By the Mayor, Petition from H. L. Piner Supt. State Blind Asylum asking certain street work.

The Petition was read and on motion referred to the Street Committee with power to act

Episcopal Church By Alderman Crooker - Complaint from the officers + members of the Episcopal Church as to condition of street near their Church

On motion the complaint was referred to the Street Committee -

Reports of City Officers

Reports City officers The Mayor laid before the Council the reports of City Officers for the month of May 1901 - which were on motion referred to their appropriate Committees - without reading, except the report of the Treasurer which was read.

The following is a synopsis of the reports By the Assessor and Collector

To Collections as follows -

From a dualorum Taxes	\$3300.11
" License	1512.80
" Fines in Mayor's Court	115.90
" Pound fees + sales	27.00
" Penalty interest + cost (of Taxes)	412.83
" Registration of dogs	42.00
" H. L. Tax Interest sinking fund	1193.46
" Interest on old Bonds	329.75
" School tax	<u>1562.63</u>

Total Collections

\$8446.48

(Referred to Finance Committee -

By the Clerk.

Balance amount of warrants drawn against General fund \$6,445.64

Referred to Finance Committee -

By the Treasurer		
General Fund		\$13,434.63
Balance May 1 <sup>st</sup>		
Received during the month		21,315.79
Transferred to Street fund	4066.27	
Paid warrants	7397.33	
Balance	<u>23,286.32</u>	
	\$34,749.92	\$34,749.92
Interest on Old Bonds		
Balance May 1 <sup>st</sup> 1901 - Cash-		\$3833.55
Received during the month		<u>1908.54</u>
Balance Cash		5,742.09
Bonds - balance May 1 <sup>st</sup> 1901		\$ 9000
" " " 31 <sup>st</sup> "		\$ 9000
Int. Water & Light bonds		
Balance May 1 <sup>st</sup>		20,403.43
Received during the month		721.35
Paid warrants	\$ 17,786.83	
Balance	<u>3,336.95</u>	
	\$21,123.78	\$21,123.78
Sinking fund H. & L. Bonds -		
Balance May 1 <sup>st</sup> 1901 in Cash		\$5,752.03
" " " Bonds		10,000.00
Received during the month - in Cash -		<u>288.57</u>
Balance May 31 <sup>st</sup> In Cash	\$5440.60	
" " " Bonds -	<u>10,000.00</u>	
	\$15,440.60	\$15,440.60
Street fund Balance May 1 <sup>st</sup> 1901		\$ 8.34
Received during the month -		4066.27
Paid warrants	\$3,036.39	
Balance -	<u>1038.22</u>	
	\$4074.61	\$4074.61
Referred to Finance Committee		
By the Marshal		
Total fines assessed in Mayor's Court		\$315.00
Paid in Cash		\$242.50
Horsed out		57.00
Carried over		<u>15.50</u>
	\$315.00	\$315.00
Collected on back fines		\$13.50
Bond fees collected		99.40
Annual permits for aquinas		9.00
Referred to Police Committee		

By the City Physician

Number patients in Hospital	May 1 <sup>st</sup> 1901	26
" " admitted	in " 1901	19
" " dismissed -	" " 1901	15
" " died	" " "	3
" " remaining	" " "	27
" Visits to pauper's	" " "	137
" Prescriptions	" " "	346
" Cases Small Pox	" " "	10

Referred to Hospital Committee

By the City Sexton

Total number deaths during the month		13
White	10	
Mexican	3	
Male -	10	
Female	3	
Still born	1	

Referred to Cemetery Committee.

Reports of Standing Committees

Rept Police Com. Spiller Pound fees.

Alderman Shreeley for the Police Committee to whom was referred the petition of A. S. Spiller to have Pound fees refunded, presented a report recommending that the petition be granted - The report of the Committee was adopted -

Alderman Hume excused

Alderman Hume was excused from further attendance at this session of the Council -

Rept Water Com. Hume who born

Alderman Hume for the Water & Light Committee to whom was referred the bill of the Water and Light Commission for water and light furnished for the month of April 1901 - presented a report recommending that the bill be paid - On motion the report was laid over to come up with an ordinance appropriating the money -

Sp Com Com granted time

Alderman Maddox for the special Committee for the matter of sales of lots in the City Cemetery asked for further time in which to make a report

The request was granted -

Rept Pur Com. Beech for hospital

Alderman Maddox for the Purchasing committee presented a report, stating that they had advertised for bids for furnishing meat to City & County Hospital for the quarter ending Aug 31<sup>st</sup> 1901, and recommending that the bid of A. S. Caperton be accepted - On motion the report was adopted -

New Business -

By Alderman Maddox

An Ordinance appropriating the sum of 1247.59 to pay approved accounts -

The ordinance was read the first time and on motion the rule was suspended and the ordinance placed on its second reading, by the following vote

Yeas Alderman Crooker, Davis, Low, Maddox, Redd, Schneider  
Shumate, Shelley, Stumpf & Elliot - 10  
Nays none - 0

The ordinance was read the second time -

Alderman Crooker moved to amend by inserting "to pay  
P. & S. Spicer pound fees refunded

The amendment was adopted

Alderman Shelley moved to amend by adding "to pay for  
Water & light furnished for the months of April & May 1901 - \$1644.48

The amendment was adopted and the ordinance was adopted  
and the ordinance as amended was then passed under a sus-  
pension of the rules by the following vote -

Yeas: Alderman Crooker, Davis, Low, Maddox, Redd - Schneider  
Shelley, Shumate, Stumpf & Elliot - 10  
Nays none - 0

By Alderman Maddox an ordinance appropriating the sum  
of \$200.00 to pay for extra street labor & teams

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

Yeas Alderman Crooker, Davis, Low, Maddox, Redd, Schneider  
Shelley, Shumate, Stumpf & Elliot - 10  
Nays none - 0

By Alderman Maddox an ordinance appropriating the sum  
of \$342.00 to pay the salaries of special policemen for the  
month of May 1901

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

Yeas Alderman Crooker, Davis, Low, Maddox, Redd, Schneider  
Shelley, Shumate, Stumpf & Elliot - 10  
Nays none - 0

By Alderman Stumpf an ordinance appropriating the  
sum of \$280.00 to pay the salaries of Aldermen for the months

The ordinance was read the first time and on motion  
the rules was suspended and the ordinance placed on its  
second reading by the following vote -

Yeas Aldermen Crooker, Davis, Low, Maddox, Redd, Schneider  
Shelley, Shumate, Stumpf & Elliot - 10  
Nays none

The ordinance was read the second time -

Alderman Maddox moved to amend the ordinance by  
striking out in the caption and body of the ordinance the  
words "for two months" The amendment was adopted

and the ordinance as amended was passed under  
suspension of the rules by the following vote -

Yeas Alderman Crooker, Davis, Low, Maddox, Redd  
Schneider, Shelley, Shumate, Stumpf & Elliot 10  
Nays none

Extra St Labor  
\$200.00

Spec Policemen

Comp Aldermen

Alderman Davis offered the following resolution which was read and referred to Street Committee -

Be it resolved by the City Council of the City of Austin:

Austin Rapid  
Transit R.R.  
to remove house

That the permit heretofore granted to the Austin Rapid Transit Ry Co. to erect a house in the public Street of the City at the N. W. corner of Congress Avenue + 6<sup>th</sup> Street be and the same is hereby revoked; And that the City Attorney be and is hereby instructed to take all necessary steps to have the structure erected by said company at said point removed

Alderman Redd offered the following resolution which was read and referred to the Finance Fire Committee.

Res to repaid  
res to pay \$15-  
permis for  
fireman

Be it resolved by the City Council of the City of Austin :-

That the action of the Council heretofore taken by a resolution which authorized the payment of \$15 per month for the expense of caring for engine at the hall of the Washington Fire Company - be and same is hereby rescinded and said resolution repealed :-

Alderman Maddox offered the following resolution and agreement Be it resolved by the City Council of the City of Austin :-

Section 1  
Compromise  
and water  
cases.

That the City Attorney be and he is hereby authorized to make and execute on behalf of the City an agreement for the settlement of the cases now pending in the Federal Court which grow out of the contract alleged to exist between the City of Austin and the Austin Water, Light & Power Company - or the City Water Company; which agreement shall in all respects conform to the copy or draft heretofore attached.

X

Section 2 - The act of the City in authorizing the execution of this agreement shall not be construed as a waiver of any claims that it has or may have against the Austin Water, Light and Power Company or City Water Company for municipal taxes, or any account or claims due or to become due.

In the Circuit Court of the United States for the Western District of Texas, at Austin.

No 2318.

vs.

Joseph Nalle, Receiver,

vs.

Austin Rapid Transit Railway Company, et al - Garnishees,

- 7102319 -

Joseph Nalle, Receiver

vs.

Ben. C. Jones & Co et al Garnishees,

7102282,

B. C. Bartholomew, Receiver

vs.

City of Austin.

- No 2325 -  
Joseph Malle, Receiver,  
vs.

City of Austin, et al.

Comes now the City of Austin, party to each of the above styled and numbered causes, acting by and through its attorney of record therein, and Joseph Malle, Receiver of the Austin Water, Light and Power Company and of the City Water Company, party to each of said causes, acting by and through its attorney of record therein, and mutually agree as follows: viz:-

- I -

The City of Austin shall levy a general revenue tax of 1% on each one hundred dollars worth of property subject to taxation by it for the year 1901.

- II -

No money whatever shall be paid by said City to said receiver from the proceeds of the tax levy above provided for, or from any other source, until an application for a writ of certiorari in cause No 2292 - E.C. Bartholomew Receiver vs - City of Austin shall have been finally disposed of by the Supreme Court of the United States: and if such application be granted, not until said cause is finally disposed of, said cause being numbered No 882, on the docket of the United States Circuit Court of Appeals for the 5th Circuit, and styled City of Austin, plaintiff in error vs - E.C. Bartholomew and Joseph Malle, receivers, defendants in error, and it is expressly understood and agreed that said application for certiorari shall be applied for and presented to the Supreme Court of the United States before November 1st 1901, and this section of this agreement shall be of no effect if it is not so applied for and presented within the time mentioned, unless the Supreme Court of the United States should refuse to allow said application to be presented by said date, in which event said application shall be presented at the earliest date, after November 1st 1901, that said Court will allow.

- III -

The judgement heretofore rendered in Cause No. 2325 Joseph Malle, Receiver, vs. City of Austin, et al., shall abide the result of the decision by the Supreme Court of the United States on the application for a writ of certiorari in Cause No. 2292 E.C. Bartholomew vs - City of Austin, if said application be not granted by said Court; and shall abide the final disposition of said Cause No 2292, if such application be granted.

- IV -

The writ of garnishment heretofore sued out by Joseph Malle, Receiver, in proceedings instituted in this Court and entered on the docket thereof as No. 2318 Joseph Malle Receiver vs -

**Pages 509  
and 510  
Missing in  
Original  
Minute  
Book**

Austin Rapid Transit Ry Company et al - and No 2319, Joseph Nalle Receiver of the vs - Ben C Jones & Company et al, shall be quashed and the motion of the Water Light & Power Commission of the City of Austin to dismiss said garnishment proceedings shall be granted as prayed for in motions on file in each of said cases.

- V -

The City of Austin shall pay to Joseph Nalle, Receiver, the sum of \$20,000<sup>00</sup> out of the proceeds of the tax levy for general revenue purposes for the year 1901, if the final judgment in Cause No 2292, E. C. Bartholomew, Receiver, vs The City of Austin, is in his favor, said payment if made to be applied as a partial payment on said judgment.

- VI -

The City of Austin shall for years subsequent to the year 1901 levy and collect a general revenue tax of \$1.00 on each one hundred dollars worth of property subject to taxation by it for the year in which such levy is made; and \$20,000<sup>00</sup> shall annually be appropriated out of the proceeds of such tax levies and applied to the payment of the judgments heretofore rendered in Cause No 2292 E. C. Bartholomew Receiver vs City of Austin, and Cause No 2325 - Jos Nalle Receiver vs - City of Austin et al.; until said judgments shall have been fully paid, if the final judgment is in favor of plaintiff in Cause No 2292 as above provided.

- VII -

No new suits shall be brought against the City of Austin for hydrant rentals by the Austin Water, Light & Power Company or the City Water Company, or any person representing either or both of said Companies during the year 1901-1902 + 1903.

- VIII -

If a final judgment shall be rendered in favor of defendant in Cause No 2292 no money shall ever be paid to plaintiff under the terms of this agreement, and all judgments or orders based upon this agreement shall be set aside on motion, as shall also the judgment in Cause No 2325 as above provided for.

By the term "Final Judgment" wherever used in this agreement is meant a judgment from which no appeal, writ of error, or other proceedings to revise same is perfected within six months after the rendition of the judgment.

- IX -

The judgment lien which Joseph Nalle, as Receiver aforesaid, may have heretofore acquired against the property of the City of Austin, through the recording and indexing of an abstract of the judgment



rendered in Cause No 2292, E. C. Bartholomew vs. City of Austin et al., shall be cancelled; no new abstract of said judgment or of the judgment in Cause No 2325, Joseph Nueces, Receiver vs. City of Austin, et al., shall be filed on record -

- X -

No writs of garnishments shall be sued out and no additional steps of any character shall be taken to enforce collection of judgments heretofore rendered in Cause No 2292 E. C. Bartholomew, Receiver, vs. City of Austin, or Cause No 2325 Joseph Nueces, Receiver, vs. City of Austin et al., - so long as the City in good faith carries out the provisions of this agreement

XI

Nothing in this agreement is intended as, or shall be construed as, an admission on part of the City of Austin or any of its officers, of future liability on the contract alleged to exist between said City and the Austin Water, Light & Power Company which contract forms the basis of the litigation hereinbefore specified; and nothing therein shall be construed as an admission of any obligation on part of said City to renew or extend said contract after the 13<sup>th</sup> day of April A.D.

1902 it is understood and agreed that nothing herein shall be construed as a limitation upon, or restriction of, the rights of the said City to prosecute all points saved by it in Cause No 2292, before the Supreme Court of the United States, in its contemplated application for a certiorari in said Cause No 2292 or in subsequent proceedings in said cause, if there should be any subsequent proceeding therein.

- XII -

It is further agreed that out of the general revenue arising from the levy of the one per cent herein provided for 1901 and subsequent years there shall be set aside and appropriated by the City Council as the money is received by the City not less than one third thereof until the sum of \$20,000.00 has been so appropriated and set aside for each year, and that this \$20,000.00 per year shall not be used or expended in whole or in part for any other purpose but shall be held by the City Treasurer as a special fund to be paid in cash to said plaintiff in case Cause No 2292 is finally disposed of in his favor so as to be conclusive of the rights of the parties thereto,

XIII

It is further understood that all orders and judgments necessary to make this agreement effective shall be entered by the signers of this agreement, have been duly authorized & instructed for execution same, the one by the Mayor & City Council of the City of Austin through & by virtue of a Resolution duly & regularly adopted by said City,

on the 3rd day of June, A.D. 1901 and the other by Joseph Nulle, acting as Receiver of each of said Water Companies and under and by virtue of an order of this Court duly entered in Cause No 201 in Equity of the docket of this Court, entitled Samuel B. Huey et al? vs. City Water Co & Water Right & Power Co, on the \_\_\_\_\_ day of June 1901 which order authorized and directs the execution of this agreement on the part of said Receiver of said Water Companies which he represents

Witness the hands of said parties on this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 1901 -

Judge D.H. Doorn was invited to address the Council on the resolution, which he did.

The City Attorney then addressed the Council explaining the resolution.

The resolution was adopted.

By Alderman Crocker an ordinance appropriating the sum of \$15.00 to purchase picture of Ex Mayor McBee to be placed with pictures of Mayors in Council Chamber -

\$15.00 to purchase photo of Ex Mayor McBee

The ordinance was read the first time and the matter of procuring and placing the picture was referred to the Marshal with authority to get same & have it placed in the Chamber and to bring in a bill of costs.

Marshal authorized to purchase

By Alderman Blitt an ordinance appropriating \$300.00 for certain street work to be done in the fifth ward

The ordinance was read the first time and on motion was referred to the Street Committee

On motion the Council adjourned

Geo. E. Johnson  
City Clerk