

Regular Meeting of the City Council
Austin October 2 1882
Hon W. A. Saylor Mayor Presiding

Roll call present Aldermen Koltz Kinney Cook
Schubert Brueggerhoff Radkey Kuppertz Horrell
Black Wilson

Minutes of the regular meeting of September
18 1882 read and approved

A Petition was received and read from Fritz
Koltz asking that the Council allow him to remove
a wooden partition between room in his build-
ing Petition referred to the Fire Committee

Mr L. Isbell on the recommendation of Alderman
Kinney was confirmed as a special Policeman

Report of the City Marshal for the month of Sept
1882 shows fines in Mayors Court \$460.00 cash
collected from fine \$337.75 Fines worked out on streets
\$177.25 Monies collected from market stands \$19.00
report of City Marshal as pound master 74 dogs
impounded 73 dogs killed one dog redeemed expenses
of dog pound \$6.00 one horse impounded and sold
for \$18.00 expenses on the same \$7.25 turned over to
assessor and Collector \$15.25

Reports of the City Sexton for the month of Sept 1882
shows total deaths 34 white 20 Colored 14 male 22
female 12.

Hon Mayor and Board of Aldermen of the
City of Austin

Gentlemen During the month of Sept I
made forty four visits including those at the hospital
Thirty prescriptions were made to patients not in
hospital A date of my last report five cases
remained on hand under treatment the succeeding
month eleven patients were received seven were discharge
cured two died and seven remain in hospital
Respectfully submitted J Cummings M D City Physician

To the Hon Mayor and Board of Aldermen of the
City of Austin

Gentlemen I have the honor herewith to

report that for the month of Sept 1852 the following number of nuisances have been abated in 1st ward 14 7th ward 65 8th ward 84 9th ward 104 10th ward 78 total 345 of which 340 have been abated

Very Respectfully

J W Johnson

Health Inspector for the 6 7 8 9 10 wards

To the Mayor and Hon City Council

I find the City in a reasonably clean condition so far as private residences are concerned I think that the ditches running from Claude Livery stable and the one on Lavaca street and the one on Cedar street in front of Mrs Burleys should be cleared so that water could pass off. During the month 100 nuisances have been abated

Respectfully H B Hancock Health Inspector

Alderman Kinney offered and ordinance which was read appropriately \$1949.78 to pay approved accounts to that amount the Ordinance was read second and third time under suspension of the rules and passed by the following vote
yeas Aldermen Metz Kinney Cook Schuber Bruggershoff
Raabey Kuppertz Moeller Platt Wilson

The following is the report of the street committee on the Petition of English & English asking that the city Council lease to them part of the worn walk

To the Hon Mayor and Board of Aldermen

Your committee to whom was referred the within petition would most respectfully represent that we have no objections to granting the petition as prayed for but we are of the opinion that it is in direct conflict with an act entitled an act for permanent location of seat of government Sect 6. an act to incorporate the City of Austin approved December 27th 1839 denies the power or authority of the Mayor and City Council to alter occupy or change in any manner the ways squares streets roads or alleys as layed down and surveyed according to the plans of the City

The following report of the City Attorney and Ordinance committee was read and adopted

Gentlemen of the Committee

In regard to the power of the City to lease

a portion of the River front to Mr Stroeter or to any one else I have this to say 1st the Original act of Incorporation of the City of Austin approved Dec 27th 1839 has this provision Section 6. Provided however that this Act shall not be construed to give the Mayor and City Council any power or authority to alter occupy or change in any manner the ways squares street roads or alleys as laid down and surveyed according to the plans of the City made under the superintendence of Edward Waller act of 1839 and 1840 Page 413 and 414 2^d The plan of the City as laid out by Edwin Waller left the river walk as a convenience to the whole public and especially as an easement to those ~~that~~ who acquire property abutting on it

3^d The present charter contains several provisions as to the power of the City Government over the public property within the City viz

Power 8 To open widen and extend establish grade pave or otherwise improve clean and keep in repair streets lanes avenues or alleys Page 11 of Charter and Ordinances Power 14 To provide for the inclosing and regulating all public grounds belonging to the City same page Power 41st To exercise control over the Commons and all the property belonging to the City real or personal whether lying within or beyond the limits of the Corporation created by this act (1843) and the same to lease sell in part or whole transfer dispose of either absolutely or within limitations to any person whomsoever. City Charter and Ordinances Page 14

The question for the solution of the Committee as well as the Council is the proper construction to be placed on the last above recited power in view of the other powers referred to and the original Charter of the City and the General laws which govern the exercise of powers by municipal corporations Without going into an extended discussion I will simply state my opinion in brief

1st I believe that if the City Council has power to lease the River walk or any part of. such lease must be for public purposes as distinguished from a private purpose that is to say while said property may be leased for the erection of water

or gas works hospitals and such other public conveniences it cannot be leased for private residence private gardens or any other private or individual purpose. All the inhabitants of the City have the unquestioned privilege to resort to the River walk for pleasure and recreation and may not be prevented from doing so. by enclosure or occupation of any citizen who may be there for any private purpose whether he be there as trespasser or by color of authority from the City Council by ordinance or otherwise. The citizens who purchase property in the City has a vested right in all the public easements in the City from which they may not be debarred unless they are put to some lawful use for public purposes. All the owners of public property abutting the river walk or River commons have the right to use ^{it on} them for all lawful purposes. The easement thereon cannot be taken from them without an unlawful violation of rights. legally acquired and permanently vested it is a serious question in my mind whether the abutting owners can legally be deprived of his rights in a public easement even though it be taken for a public use. much less so if it be farmed out for any private use to a private individual. 11. dicton on Municipal Cor S 509. & Ohio St. Rep. 41 Mich. 319 in view of what I have said you will readily understand that in my judgment the City Council did not have authority to lease the River Walk or any part of it to Mr Stroter for any private purpose. and that the ordinance authorizing the lease should be repealed and the Contract of lease fully and wholly annulled.

Respectfully Your obedient servant
 W. S. Walton
 City Attorney

Austin Sept 21 1882.

We the undersigned ordinance Committee to whom this matter was referred by leave to report that we fully concur with the above report and opinion of the City Attorney and advise that the ordinance granting H. W. Stroten the said lease be immediately repealed.

H. W. Morley. A. B. Metz. R. Platt

Alborman Platt presented a bill for \$60⁷⁵ as acting Mayor of the City of Austin. The same was approved by the Finance Committee and said amount to be deducted from the salary of the mayor.

A resolution was introduced compelling the Houston and Texas Central and the Austin and North Western Railway companies to make good crossings over its track and to put in culverts at such points as they may be needed. The resolution was referred to the street committee.

The following is the report of the market house committee on the ordinance leasing south half of Block 59.

The Hon City Council of the City of Austin your committee to whom was referred the petition of E W Shand respectfully recommends the passage of this ordinance in place of the one referred to them.
Signed B Radkey J Schubert W Brueggerhoff

The Market house committee introduced an ordinance authorizing the Mayor to lease to E W Shand and his associates the south half of the City Block 59 for the term of ten years and at an annual rental of \$500 per year the same to be used for a general market. Work of erecting said market house shall be commenced prior to the first day of January 1883 stalls in said market shall be rented to the best and highest bidders like any other public building let by the City the plans for the building said market house shall be approved by the Market house committee and City engineer and said building shall not cost less than five thousand dollars the market house to be completed by the first day of May 1883 at the expiration of said lease the market house shall become the property of the City said market shall be subject to the same regulations as any other market. The lessee shall at all times keep the Market house in a

clean and healthy condition. The building and improvements to be insured by the lessee for at least five thousand dollars. The ordinance was read second time under suspension of the rules. Alderman Brueggerhoff then offered the following amendment to section 6 which was adopted.

After the words five thousand dollars insert the words for the benefit of the City. The Ordinance was then read third time under suspension of the rules and on motion of Alderman Schuber passed by the following vote yeas Aldermen Metz Kinney Cook Schuber Brueggerhoff Radkey Platt and Wilson Nays Aldermen Kuppertz Morrell.

Alderman Morrell introduced an Ordinance requiring the City assessor & Collector to levy assessment and collect taxes from the International and Great Northern Rail Road for the year 1882 and all former years that taxes may be due the City upon all real estate owned by said company within the Corporation of the City of Austin. The ordinance was read second and third time under suspension of the rules and passed by the following vote yeas Aldermen Metz Kinney Cook Schuber Brueggerhoff Radkey Kuppertz Morrell Platt Wilson.

The ordinance committee introduced an ordinance which was read annulling and cancelling the lease to H. W. Strocker said leased property lying south of Block 184 & 184 1/2, the ordinance was read second and third time under suspension of the rules and passed by the following vote yeas Aldermen Metz Kinney Cook Schuber Brueggerhoff Radkey Kuppertz. Nays Platt Wilson.

The market house committee called up an ordinance repealing section 1 of art 331^a of an ordinance establishing the market limits of the City of Austin passed April 6. 1882 and also repealing article 337 of the revised ordinance of the City of Austin. and also establishing the market limits of the City of Austin the ordinance

was read second time and read third time under suspension of the rules and passed by the following vote yeas Aldermen Kinney Cook Schubert Brueggerhoff Radkey Morrell Kupperly may Aldermen Metz Platt Wilson

Alderman Platt introduced an ordinance appropriating one hundred and sixty one $\$161^{25}$ dollar. to redeem the City Property of J. M. Swisher sold for City taxes said sum of $\$161^{25}$ to be used for no other purpose and said amount to be charge to the small port account. The ordinance was read and then read second and third time under suspension of the rules, and on motion of Alderman Schubert passed by the following vote yeas Aldermen Metz Kinney Cook Schubert Brueggerhoff Radkey Kupperly Morrell Platt Wilson

Alderman Kinney introduced an ordinance authorizing and directing the Mayor to issue his proclamation ordering an election on the 7 day of November 1882. to submit to the qualified voters of the City of Austin the question of authorizing the City Council to issue to one thousand dollars bonds. said bonds to be known as the Austin City Street Bonds and the proceeds of the sale of said bonds to be used to improve and light the streets of Austin. The motion to suspend the rules and place the ordinance on its second reading was lost by the following vote yeas Aldermen Kinney Schubert Kupperly and Morrell may Aldermen Metz Cook Brueggerhoff Radkey Platt Wilson

Alderman Brueggerhoff introduced the following resolution which was adopted
Resolved by the City Council of the City of Austin

That the Mayor is hereby instructed to issue his proclamation ordering a special election on November 7, 1882 for the election of three trustees of the Austin free schools to fill the vacancies of the R. I. Campbell Mr L. C. Still & R. M. Swearingen whose term of office expires

on the third of November or until their successors are selected

Alderman Kinney introduced an ordinance which was read, authorizing the Mayor to draw his warrant against the back debt fund after the available cash in the City Treasury has been exhausted and that whatever amount shall be thus used of the back debt fund to be considered as a temporary transfer to the available fund and also directing the City Treasurer to suspend the Call of 6 per cent warrants until after the first regular meeting of the City Council in November next. The ordinance was read second and third time under suspension of the rules and on motion of Alderman Kuppertz passed by the following vote yeas Alderman Kinney Cook Schubert Brueggerhoff Radkey Kuppertz Morrell Wilson Nays Alderman Witz and Platt

Alderman Schubert introduced an Ordinance which was read, appropriating \$500 to purchase a fire alarm bell to be placed on protection hook and ladder truck house. The ordinance was read second and third time under suspension of the rules and passed by the following vote yeas Alderman Witz Kinney Cook Schubert Brueggerhoff Radkey Kuppertz Morrell Wilson Nays Alderman Platt

Alderman Kinney offered the following resolution which was read

whereas the leave of absence granted on the 7th day of August ultima to Ben Thompson as City Marshal of the City of Austin will expire before the next regular meeting of this Council

Therefore be it resolved That at the expiration of said leave of absence the City Marshal shall not be in attendance upon the duties of his office. The Mayor is hereby authorized and directed to accept the resignation of said City Marshal immediately issue his proclamation ordering an election to be held on the 7th of November next for the purpose of filling the vacancy created by the acceptance

of said resignation as herein provided Be it further resolved That in case of the vacancy contemplated in the foregoing resolution the duties of the office of City Marshal be performed by the sergeant of Police during the vacancy

Action on the resignation of City Marshal Ben Thompson was postponed until leave of absence offered by the following voters gave Aldermen Metz Cook Bruggershoff Radkey Moeller Clark Wilson Mayo Aldermen Kinney Schuber and Huppertz.

Alderman Radkey made the following motion which was adopted

That a committee of three aldermen be appointed to take under consideration the location of a city Hospital and make such recommendation to the City Council as they may deem best and to report to the Council as soon as possible

The mayor appointed as the Committee Aldermen Radkey Huppertz and Schuber.

To the Hon Mayor and board of aldermen of the City of Austin

Gentlemen Having removed from the City of Austin and cast my districts elsewhere I can no longer ^{by} your City Charter serve ward no 3 in council as that alderman and I now take the liberty to present this my resignation to take effect on Tuesday November 7th 1887. In severing my connection with you allow me gentlemen to express my thanks for the kind and considerate manner in which I have always been treated by your honorable and my sincere wish is that your lives may be one of happiness and prosperity your deliberations in Council be wise and judicious and that all of your official acts may be for the best interest of this beautiful Capital City I have the honor gentlemen to subscribe myself

Yours Respectfully
Ab H. Cook Jr.

Alderman Ward No 3.

Alderman Kinney offered the following resolution which was adopted

Resolved That the resignation of Alderman Cook is received by this council with regret as it takes from us one with whom our official relations have been pleasant and one who has been conscientious in the discharge of duty our best wishes accompany him in the new duties which have induced his resignation

The Mayor nominated the following named persons as judges of Election and named the following places to hold said Election in each ward on November 7th 1882 and on motion of Alderman Brueggerhoff the nominations were confirmed by the Council

First Ward Judges R. E. Bennett Robert Barr and Geo Allison Hoop hook and Ladder house

Second Ward Judges James Hickey Wm Melkland. Jos. Walker. Place of Polk Hickey's Store

Third Ward Joseph Harrell Glen Crow Ed Bracken. City Hall.

Fourth Ward H. C. Lindeman A Warkman. R Underhill Rumples Store

Fifth Ward Max Maas Max Paul and E W Shandy Protection Hook & Ladder Truck House

Sixth Ward A Weilbacher D ^{Monro} Mercer H Barnhart Weilbacher Store.

Seventh Ward Neil Mc. Cashin Thos J. Purcell. Wm Wellman. McE Caxins Store

Eighth Ward Bachuman. C. H. Deffenbaugh. C. Smith Court house

Ninth Ward Jas. H. Robinson H Holley Wm Risher Gimbleman and Bergen's office

Tenth Ward Ed Walker J A Black Columbus Pratt Hofmeitz Store.

On motion the Council adjourned

J A Purcell
City Clerk

Read and approved Oct 16th 1882