

Minutes of a Called Meeting of the City Council

Austin Tex. Jan: 23. 1871

Went: John McDonald, Mayor presiding.

Roll Call - Present 12.
 Aldermen
 Anderson
 Dawson
 Fischer
 Glass
 Hume
 Lawless
 Seim
 Platts
 Powell
 Robertson
 Shelley
 Taylor.

Absent 10.
 Aldermen -
 Asmann
 Hancock
 Jackson
 Nitochke
 North
 Raymond
 Rodd
 Schneider
 Townsend
 Warrnath.

Alderman Seim moved a Call of the Council, which was duly recorded and adopted.

Alderman Seim also moved that the Council take a recess of 10 minutes - Carried.

After the expiration of recess the roll was again called, with the following result.

Present 19.
 Aldermen
 Anderson
 Asmann
 Dawson
 Fischer
 Glass
 Hancock
 Hume
 Lawless
 Seim
 North
 Platts
 Powell
 Raymond
 Robertson
 Schneider
 Shelley
 Taylor
 Townsend
 Warrnath

Absent 3.
 Aldermen - Jackson, Nitochke, Rodd.

The Call of the Council was on motion suspended.

The following Call of the Council was then read;

Office of Mayor, Austin Tex: Jan: 23. 1871

To the members of the Board of Aldermen of the City of Austin Gentlemen: I hereby call a special meeting of the City Council of the City of Austin to assemble at the City Hall, at 11:30 P.M. this day, January 23rd 1871.

1 For the purpose of returning to your Honorable body, without my approval, an Ordinance that was passed by your Honorable body, January 15. 1871, and which is entitled: "An Ordinance fixing the salaries and Compensation of the Officers and Employees of the City of Austin for the term of two years, commencing on the third Monday in December 1871." and praying your Honorable body take such action as may seem best. My Ordinance and my objections thereto are as follows: proper.

2. To report on the recommendations of the Board of Public Works in regard to entering into contract for supplying the City of Austin.

with Water pipes for the City Water works system.

3. To receive and act on the report of the special committee in regard to the Dan's Rail Road.

John McDonald. Mayor.

(January 23, 1894. 11 P.M.)

I hereby certify that the following Aldermen have been served with the above call by having it read to each of them, in person, viz. Anderson, Hoemann, Dawson, Fisher, Hlass, Hancock, Hume, Jewless, Sinn, Nilschko, North, Platt, Powell, Raymond, Robideau, Schneider, Shelley, Taylor, Townsend and Warrnath and that Aldermen Jackson and Redd, have been served by leaving at each of their places of business a true copy of the same, they being out of the City.

James E. Lucey City Marshal -

The Mayor then presented the following Veto Message and a opinion of the City Attorney:

Office of Mayor, Austin, Tex. Jan: 22. 1894.

Gentlemen of the City Council:

I have the honor to return therewith, to your honorable body, without my approval, an ordinance, entitled "An Ordinance fixing the Salaries and Compensation of the Officers and Employees of the City of Austin for the term of two years, commencing on the third Monday in December 1893," passed by the Council on Jan: 15: 1894.

My reason for disapproving said ordinance is, that it is, in my opinion, in conflict with the City Charter. The City Charter provides as follows: "Section 96. That there shall be a superintendent of the streets elected by the Council at the time other City officers are elected. He shall hold his office for the term of two years and until his successor has been elected and qualified; provided, that the present Street Commissioner shall be Superintendent of streets until the next general election:

"Section 97. That he shall receive a salary of not exceeding fifteen hundred dollars, per annum, payable monthly."

I am clearly of the opinion that the Sections of the Charter, quoted, are mandatory, and that the election of a Superintendent of streets by the Council, cannot be avoided, and that this salary shall be an amount sufficient to be a reasonable compensation for his services, which amount cannot exceed fifteen hundred dollars per annum.

The duties of the office of Superintendent of streets, are such as require the whole of the incumbent's time to perform them, and to fix his salary at one dollar per annum, would be virtually abolish the office, which in my judgment, the Council has no right to do.

No competent man would attempt to perform any of the duties of the office of Superintendent of streets for the absurd sum of one dollar per annum, and the office would in consequence continually remain vacant. I have herewith the official opinion of Hon: Geo. F. Penderter, City Attorney, giving his views concerning the matter.

Very Respectfully John McDonald. Mayor

Jan 20. 1894

Hon: John McDonald. Mayor.

Dear Sir Replying to your favor of the 11th inst requesting my opinion, touching the legality of the action of the City Council, in fixing the salary of the Street Superintendent, at \$1 per annum for the term commencing Dec. 7. 1893. I beg leave to say, that after a careful consideration of all available authorities bearing on the question, I am of the opinion that the City Council had the power to fix the salary of such officer at any sum not exceeding \$1000-

per annum, that being the maximum prescribed by the Charter, and if \$1 per annum can be regarded as a salary, then the action of the City Council was legal, and will not be reviewed, or inquired into by the Courts. Section 77 of the Charter of the City of Austin provides that the Street Superintendent shall receive a salary of not exceeding \$1500. per annum, payable monthly. It is thus made the imperative duty of the City Council to provide a salary, which shall not exceed fifteen hundred dollars per annum. While this power is broad, and vests in the City Council almost unlimited discretion, I do not believe that it confers the right to practically abolish the office or to avoid the incumbent by fixing the compensation at a sum so insignificant as to forbid the idea that any salary was really intended and justify the inference that the real object was to deter, if not prevent, the officer from discharging the duties of the office to which he has been elected.

It would be absurd to suppose that the City Council expected or intended that the Superintendent of Streets should perform the various duties of his office, as defined by the Charter and ordinances of the City, for the pittance of one dollar per annum, or believed that in the event of his refusal to do so, any competent person could be found to succeed him. Therefore, in my opinion, the action of the City Council in effect amounts to a refusal to fix a salary, as by the Charter it was required to do, and cannot be considered as a legitimate exercise of discretion as to the amount of salary to be allowed. If I am correct in this opinion, the Courts would afford appropriate relief should suit be brought.

Very Respectfully - Geo. D. Lindert, City Attorney

Alderman Linn. moved to reconsider the vote by which the ordinance was passed. The vote on the motion was as follows:

	Yeas 9.	
Aldermen -	Anderson -	Raberdson
	Assmann	Shelley
	Fischer	Taylor
	Linn	Downs
	North.	
	Nays 10.	
Aldermen	Dawson	Platt
	Glass	Powell
	Hancock	Raymond
	Hume	Schneider
	Sawles	Warmoth.

The Mayor ruled that as a vote of two thirds of the board of Aldermen was necessary to pass an ordinance, notwithstanding the veto of the Mayor, a like vote was necessary to refuse to reconsider a vote by which an ordinance was passed, and accordingly held that the motion made by Alderman Linn was defeated.

Alderman Nicholls entered the Council and moved to his name. The Mayor then put the question "Shall the ordinance pass notwithstanding the veto of the Mayor?" and it was decided in the negative by the following vote:

Yeas 7		
Aldermen	Downs	Powell

Atkins	Raymond
Hancock	Schneider
Sawles	Warmoth

North
May 11.

Aldermen -	Anderson	North
	Asmann	Robertson
	Fischer	Shelley
	Glass	Taylor
	Levin	Townsend
	Mitchell	

Alderman Glass moved that a special Committee of three be appointed for the purpose of drafting an ordinance fixing salaries of Officers and regular employees of the City of Austin for the ensuing term, and report at an adjourned meeting of the City Council tomorrow at 4.30 PM.

Alderman Anderson moved to amend the motion by requiring the Committee to report during the present session of the Council. The amendment was lost and the motion as made by Alderman Glass, adopted. The Chair appointed Aldermen Glass, Schneider and Taylor as the Committee.

A motion was made that the Council do now stand adjourned, which was lost by the following vote. Yeas 7.

Aldermen -	Anderson	Sawles
	Glass	Platt
	Hancock	Warmoth
	Atkins	

May 12.

Aldermen -	Anderson	Powell
	Asmann	Raymond
	Fischer	Robertson
	Levin	Shelley
	Mitchell	Taylor
	North	Townsend

Alderman Raymond presented the following - To the Hon: Mayor and City Council of the City of Austin.

Your special Committee, to whom was referred the proposition of the Austin Dam Street Railroad Company, asking for a release from their franchise, beg leave to themselves return the same and recommend that the proposition be not accepted, and that the City Attorney be and he is hereby instructed to proceed at once to collect the rents now due to the City by the said Austin Dam Street Railway -

Alderman Sawles moved that the proposition named in the report be again referred to the same special Committee for further investigation and that the Committee be instructed to report at the next regular meeting of the City Council.

Alderman Fischer moved to amend the motion by adding Alderman Powell to the Committee and instructing the Committee to inventory the Railroad Company's property. The amendment was accepted and the motion as amended carried.

A motion was then made that the Council stand adjourned until 11.30 AM June 24. 1874. Adopted.

Wm. M. ...

...

Report of special Committee...

Minutes of an adjourned called meeting of the City Council
 Austin Tex Jan: 21. 1891

Hon: John McDonald Mayor, presiding
 Roll Call Present 18

Aldermen	Anderson	Nitschke
	Dawson	North
	Fischer	Hall
	Glass	Redd
	Jackson	Robertson
	Lawless	Taylor
	Sinn	

Absent 9.

Aldermen	Assmann	Schneider
	Hanovak	Shelley
	Horne	Townsend
	Powell	Warrmoth
	Raymond	

A call of the Council was made and duly recorded and adopted. Alderman Fischer moves that the Council take a recess of 10 minutes and the motion prevailed. After the expiration of recess the roll was again called and resulted as follows.

Present 17.

Aldermen	Anderson	North
	Dawson	Deatto
	Fischer	Redd
	Glass	Robertson
	Horne	Shelley
	Jackson	Taylor
	Lawless	Townsend
	Sinn	Warrmoth
	Nitschke	

Absent 5.

Aldermen -	Assmann	Raymond
	Hanovak	Schneider
	Powell	

Alderman Assmann entered the Council and answered to his name. It was then moved that the Council take a recess of 10 minutes and the motion carried. After expiration of recess the roll was called for the third time with the following result.

Present 20.

Aldermen -	Anderson	North
	Assmann	Deatto
	Dawson	Raymond
	Fischer	Redd
	Glass	Robertson
	Horne	Schneider
	Jackson	Shelley
	Lawless	Taylor
	Sinn	Townsend
	Nitschke	Warrmoth

Absent 2. Aldermen St. ...

The Call of the Council was suspended. The following Communications and Contract were then read.

Honorable Mayor and City Council, Austin, Texas.

Gentlemen: I have the honor to hand you herewith a modification of the Contract made by the City of Austin, with the Howard-Harrison Iron Company on March 7th 1893, for cast iron water pipes and special castings, and to state that same was adopted by the Board of Public Works, at a meeting held on this date. Also to inform you that the Board adopted a resolution at the same meeting requesting that the City Council confirm the action of the Board, and that an appropriation be made sufficient to cover the amount of the Contract.

Very Respectfully
H. J. Cliphart, Secretary Board of Public Works

Contract-

This agreement made and concluded on the 7th day of March A.D. 1893, between the City of Austin, Texas, party of the first part, and the Howard-Harrison Iron Company of Bessemer, of the State of Alabama, party of the second part, is hereby mutually extended, on this the 2nd day of January A.D. 1894, and modified as hereinafter set forth, all other terms and provisions of this Contract to remain in full force and effect. The party of the second part hereby agrees to furnish, on board Cars at Austin, Texas, within four months from this date, 3000 tons of the pipe hereinbefore contracted for, of such size as the City may hereafter designate, for the sum of Twenty five dollars and fifty cents (\$25.50) per ton, 2000 pounds, and all the special castings necessary for the laying of said pipe, for the sum of fifty one dollar (\$51.00) per ton, payment to be made one half (1/2) Cash on delivery of the pipe at Austin, Texas, and one half (1/2) in the bonds of the City, at par and accrued interest. Said party of the second part further agrees that the party of the first part shall have the option of increasing the amount of pipe above specified to the extent of 1000 tons; provided, the order for such additional pipe is made within 90 days from the date of this Contract, upon the same terms hereinbefore specified as to the prices, payment and otherwise, and the party of the first part agrees to give to said party of the second part the option of furnishing and delivering to the City of Austin, all additional pipe that the said City may require during the year 1894, upon the same terms and conditions as to prices, payment and otherwise as hereinbefore stated.

Said party of the first part agrees to pay said party of the second part Twenty five and 50/100 dollars (\$25.50) per ton for all pipe, and fifty one dollars (\$51.00) per ton for all special castings. One half (1/2) Cash on arrival at Austin Texas, and one half (1/2) in bonds of the City at par and accrued interest.

Said party of the first part further agrees to exercise its option to purchase an additional 1000 tons of pipe within 90 days from the date of this agreement upon terms specified.

Said party of the first part further agrees, in consideration of this option to give to the said party of the second part, the option of furnishing and delivering to the City of Austin, all additional pipe and special castings that said party of the first part may purchase during the year 1894, upon the same terms and conditions above set forth.

It is further agreed that the said party of the second

part may submit a portion or the whole of this contract to the State Penitentiary Board, of the State of Texas, should they deem it to their interest to do so. In witness whereof Etc. &c.

Alderman North then introduced an Ordinance entitled "An Ordinance ratifying a certain contract, made on Jan: 24. 1892, between the City of Austin and the Howard Harrison Iron Company of Bessemer, Ala: extending and modifying a certain contract, entered into between the same parties on March 7. 1893, directing the Mayor to sign, execute and deliver the same as the act of the City of Austin and appropriating the necessary sums to become due by the City of Austin thereunder, and setting aside the necessary number of the Water and Light bonds of the City of Austin in the sum of \$1000. each, to be delivered thereunder." It was read the first time, after which a motion was made to suspend the rules and place the Ordinance on its second reading, which was adopted by the following Vote:

Yeas 20.

Aldermen -

- | | |
|----------|-----------|
| Anderson | North |
| Assmann | Platt |
| Bawson | Raymond |
| Fischer | Redd |
| Glass | Robideau |
| Hume | Schneider |
| Jackson | Shelley |
| Sawles | Taylor |
| Sirin | Townsend |
| Nitschke | Warmoth |

The Ordinance was accordingly read, after which a motion was made to suspend the rules and place the Ordinance on its third reading, which was adopted by the following Vote:

Yeas 20.

Aldermen

- | | |
|----------|-----------|
| Anderson | North |
| Assmann | Platt |
| Bawson | Raymond |
| Fischer | Redd |
| Glass | Robideau |
| Hume | Schneider |
| Jackson | Shelley |
| Sawles | Taylor |
| Sirin | Townsend |
| Nitschke | Warmoth |

The Ordinance was then read a third time, and on motion passed by the following Vote

Yeas 20.

- | | | | |
|----------|----------|-----------|----------|
| Aldermen | Anderson | Sirin | Shelley |
| | Assmann | Nitschke | Taylor |
| | Bawson | North | Townsend |
| | Fischer | Platt | Warmoth |
| | Glass | Raymond | |
| | Hume | Redd | |
| | Jackson | Robideau | |
| | Sawles | Schneider | |

Mayor McDonald retired and Alderman Sinn, President of the Board of Aldermen, took the Chair.
 Alderman Glass for himself and Alderman Schneider, as majority of the Special Committee to report on Ordinances fixing salaries, presented a report recommending the passage of an Ordinance entitled "An Ordinance fixing the salaries and compensation of the Officers and Employees of the City of Austin for the term of two years, commencing on the third Monday in December 1893." (The only change made in the Ordinance from the way it was passed at a former meeting of the Council is in the Salary of the Superintendent of Streets, one dollar per annum is stricken out and three hundred and sixty dollars inserted.)
 The Ordinance was read the first time after which a motion was made to suspend the rules and place the same on its second reading which was adopted by the following vote.

Yeas 18-

Aldermen -

- | | |
|----------|-----------|
| Anderson | North |
| Assmann | Platt |
| Dawson | Redd |
| Fischer | Robertson |
| Glass | Schneider |
| Jackson | Shelley |
| Sawles | Taylor |
| Sinn | Downs |
| Nitschke | Warmoth |

Yeas 2-

Aldermen.

Yeas 2-

Yeas 2-

The Ordinance was accordingly read after which Alderman Anderson moved that the same be considered by sections.
 Alderman Dawson moved as a substitute that the Ordinance be adopted as a whole as read. The substitute was lost by the following vote:

Yeas 10

Aldermen.

- | | |
|---------|-----------|
| Dawson | Platt |
| Glass | Raymond |
| Sinn | Redd |
| Jackson | Schneider |
| Sawles | Warmoth |

Aldermen.

Yeas 10-

- | | |
|----------|-----------|
| Anderson | North |
| Assmann | Robertson |
| Fischer | Shelley |
| Sinn | Taylor |
| Nitschke | Downs |

The motion made by Alderman Anderson was then lost by the following vote.

Yeas 10

Aldermen

- | | |
|----------|-----------|
| Anderson | North |
| Assmann | Robertson |
| Fischer | Shelley |
| Sinn | Taylor |
| Nitschke | Downs |

Yeas 10

Dawson
Glass
Hume
Jackson
Lawless.

Platt
Raymond
Redd
Schneider
Wormoth.

Alderman North moved that the Council do now adjourn
(Alderman Anderson moved to amend by adding thereto "until 11.00 P.M.
tomorrow")

Alderman Hume moved as a substitute that the Council stand
adjourned until the next regular meeting -
The substitute was lost by the following vote.

Yeas 10.
Aldermen - Dawson
Glass
Hume
Jackson
Lawless
May 3. 10.
Platt
Raymond
Redd
Schneider
Wormoth

Aldermen - Anderson
Assmann
Fischer
Linn
Nitschke
North
Robideau
Shelley
Taylor
Townsend

The Amendment offered by Alderman Anderson was then
lost by the following vote.

Aldermen - Anderson
Assmann
Fischer
Linn
Nitschke
North
Robideau
Shelley
Taylor
Townsend
Yeas 10
May 10
Platt
Raymond
Redd
Schneider
Wormoth

Alderman Taylor then offered an Amendment that the Council
adjourn until 8 O'Clock tonight - It was lost by the following vote:

Yeas 6.
Aldermen - Anderson
Linn
Nitschke
Platt
Taylor
Townsend.

Aldermen - Assmann
Dawson
Fischer
Glass
Hume
Jackson
Lawless
North
Raymond
Redd
Robideau
Schneider
Shelley
Wormoth.
May 14.

The motion to adjourn was then lost by the following vote.

Yeas 7.
Aldermen - Dawson
Glass
Hume
Jackson
Platt
Raymond
Redd
Robideau
Wormoth

May 11

Aldermen

Anderson
Assmann
Fischer
Lawless
Linn
Nitschke

North

Robertson
Shelley
Taylor
Townsend

Alderman Anderson renewed his motion to consider the ordinance by sections and pending discussion Alderman North moved that the Council adjourn, and the motion carried by the following vote.

May 11

Aldermen

Danson
Glas
Hume
Jackson
Lawless
Nitschke

North

Raymond
Redd
Schneider
Wormath

May 9

Aldermen

Anderson
Assmann
Fischer
Linn
Platt

Robertson
Shelley
Taylor
Townsend

Milton Morris, City Clerk