

The Minutes of a Called Meeting of the City Council.

Austin, Tex., July 1, 1893.

Hon. John Mc Donald, mayor, presiding.
Roll call.

Roll

Present-11.

Aldermen Anderson, Jackson, Platt,
Fischer, Ketchum, Raymond,
Glass, Linn, Shelley,
Hancock, North,

Call.

Absent-11.

Aldermen Asermann, Nitschke, Taylor,
Dawson, Powell, Townsend,
Hume, Schneider, Harworth,
Miller, Schuber,

Recess.

At 6:03 p.m. Alderman Anderson moved that the council take a recess of 10 minutes. Carried.

2d. Roll

At 6:13 p.m. the council was called to order and the chair directed that the roll be again called, which was done, resulting as follows:

Present-16.

Aldermen Anderson, Linn, Schneider,
Fischer, North, Schuber,
Glass, Platt, Shelley,
Hancock, Powell, Taylor,
Jackson, Raymond, Townsend,
Ketchum,

Call.

Absent-10.

Aldermen Asermann, Hume, Nitschke,
Dawson, Miller, Harworth.

Call of

The following call of city council, together with the certificate following the same, were read:

Mayor's Office,

Austin, Tex., July 1, 1893.

Council

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 in the city hall at 6 o'clock p.m. this, the 1st day of July, 1893, for the purpose of taking action on a communication of the Austin Water, Light and Power company, through its president, Joseph Stalle, dated May 5, 1893, to the city council, and on the report and recommendations of the water and light committee on said communication.

John Mc Donald,
Mayor.

Austin, Tex., July 1, 1893, 4 p.m.

I hereby certify that the following aldermen have each been served with a copy of the foregoing call by having it read to each of them in person, viz: Aldermen Anderson, Asermann, Fischer, Glass, Hancock, Jackson, Ketchum, Linn, Miller, North, Platt, Powell, Raymond, Schneider, Schuber, Shelley, Taylor, Townsend & Harworth,

and that a copy of the same was left at the place of business of Alderman Dawson, Burn and Kitchke, they being out of the city.

James E. Lucy,
City Marshal.

Absent Ald. Excused.

Call of Council.

Recess.

3rd. Roll

Call.

Call Suspended.

Ald. Assmann

Water + Street
lights &c.

Alderman Anderson moved that the aldermen reported to be absent from the city be excused. Carried.

Alderman Anderson then moved a call of the council, which was duly seconded and adopted.

At 6.25 p.m. ~~the council was called~~ Alderman Taylor moved that the council take a recess of 10 minutes, and the motion prevailed.

At 6.35 p.m. the council was called to order and the roll again called, with the following result:

Present - 18.

Aldermen Anderson,	Linn,	Schneider,
Fischer,	Miller,	Schuber,
Glass,	North,	Shelley,
Hancock,	Matu,	Taylor,
Jackson,	Snell,	Townsend,
Ketchum,	Raymond,	Hammock.

Absent - 4.

Aldermen Assmann, Burne,
Dawson, Kitchke.

It was then moved that the call of the council be suspended and the motion prevailed.

Alderman Assmann entered the council and answered to his name.

Alderman Anderson presented the following report which was read:

Austin, Tex., July 1, 1893.

To the Hon. City Council of the City of Austin:

Your committee on water and light to whom was referred the communication of Joseph Valle, president of the Austin Water, Light and Power company, dated May 5, 1893, informing the city council of the expiration of the contract between said company and the city for the lighting of the streets on July 1, 1893, and offering to furnish rates on application for a further contract, beg leave to report as follows:

Under this contract the Austin Water, Light and Power company undertook to furnish 25 arc lamps of 2000 candle power for \$150 a year each, and 100 incandescent lamps of 25 candle power, for \$25 a year each, making a total of 125 lamps aggregating 75,000 candles in power, for \$6,250.

As early as the summer of 1890 numerous complaints of the quality of light furnished by this company were made to the city council, and the water and light committee were instructed to investigate the matter.

They did so and employed an expert and competent person to make a test of the lights throughout the city.

with the result of establishing the fact that the average power of the 25 arc lamps, was 700 candles each instead of 2000, and that of the 100 incandescent lamps was 14 candles instead of 25. In other words, while this company agreed to furnish 75,000 candles for \$6250 a year, the city only received 81500 candles or 42 per cent of what it bargained for.

The water and light committee, thereupon, recommended that the pay of the company be measured by the quantity of light furnished at the contract price per candle, and these recommendations were adopted by the city council.

The Water and Light Committee also called the attention of this company to these facts, and its then president admitted to members of the committee a knowledge of the fact that the electric plant did not furnish the light they had agreed to furnish.

Again complaints poured in as to the quality of the lights, and in May, 1892, the city council passed a resolution instructing the Water and Light Committee to confer with this company with a view to agreeing upon reasonable rates and declining to thereafter pay more than the reasonable value of services rendered.

No agreement was arrived at and since the first day of November, 1892, pending a settlement, the city has declined to pay for services not rendered.

During the month of June, 1893, your water and light committee have again caused said lights to be tested by expert and competent persons, and we find that the same amount of light has of late been furnished (and no more) as heretofore.

We recommend that this company be paid for the actual quantity of light furnished at the price per candle agreed upon, to wit: Thirty-one thousand five hundred candles during eight months at the rate of \$6250 per annum for 75,000 candles, making the sum of \$1749.42 and recommending the passage of an ordinance appropriating that sum to the Austin Water, Light and Power Company.

Your water and light committee have called on this company for rates for furnishing electric lights in the future. Under date of June 14, 1893, Joseph Stalle, its president, offers to "continue the same service as it has heretofore rendered the city" for the sum of \$650 per month.

At the old contract price per candle the rate would have been \$218.75 per month. This company now demands \$650 per month for the same service.

We recommend that the electric lights be allowed to go out.

We have conferred with the Austin Gas Light and Coal company with a view to lighting the city with gas. Under date of June 30, 1893, this company has submitted a series of propositions, substantially on the basis of \$2.50 per lamp per month, plus the cost of making necessary

connections and preparations not to exceed \$450.

We recommend that the mayor be authorized to enter into the best contract practicable with said company, within those terms, and for a period not exceeding six months.

In the communication of Joseph Stalle to the city council just above referred to, under date of May 5, 1892, complaint is made that the city has not paid the Austin Water, Light and Power company for its water supply since July 1, 1892.

After a careful and laborious examination of this matter we find we find the following facts:

On the 13th day of April, 1882, an ordinance was passed by the city council, entering into an alleged contract with the City Water company for the furnishing of water for fire protection, the city to pay \$100 a year for the first 100 hydrants and \$50 a year for all hydrants above that number, and for flushing gutters for sanitary purposes the City Water company was to be exempt from city taxation.

It has been decided by our supreme court, in a case arising in the city of Austin, that such an exemption is absolutely void and illegal.

We find that subsequently to said 13th day of April, 1882, the said City Water company, in absolute violation of law and without the consent or knowledge of the city council, and in some mysterious manner parted with the possession of its pumps, pipes and water systems, and ceased to exercise its public functions under its charter and discharge its duties to the city and its citizens.

We find that the Austin Water, Light and Power company in some manner not warranted by law, is now in possession of the plant of the City Water company, and is using the streets of the city without the consent of the city council, and exacting water rents from the citizens and demanding it from the city without any right for so doing.

We find that on May 2, 1892, the city council passed a resolution declaring that there was no contract in existence for furnishing the water to the city, and declined to pay more than the reasonable value of water service.

We find that the result of this illegal change of possession is that the old company claims to have ceased to exist, and that Joseph Stalle, president of the new company, claims the right to collect what tolls he sees fit from citizens and claims hydrant rent at the rates specified in the ordinance of 1882, as well as an exemption from taxation for flushing the gutters.

The city has received the benefit of fire protection since said first day of July, 1892, and has flushed the gutters on the avenue.

The demands of the Austin Water, Light and Power company, compared with water companies in a great majority of cities, are excessive. We find that \$50 per annum per hydrant is a liberal compensation, and for the little

flushing that is done in Austin \$1000 is generous; making \$8.075 in all.

We recommend these sums be paid and the passage of an ordinance appropriating the same.

In this connection we find that the Austin Water, Light and Power company is in default in the payment of its taxes to the city in the sum of \$3671.15.

We recommend that Messrs. Fisher & Townes be retained to assist the city attorney in filing and maintaining a suit and action on behalf of the city of Austin to judicially annul the alleged contract of 1882, and recover the control of its streets from the unauthorized trespassers of the Austin Water, Light and Power company, and that an ordinance be passed retaining them and providing for their compensation.

We recommend that this report be published in full in the proceedings of the city council for the purpose that the citizens may be fully informed of the illegality of the claims of the Austin Water, Light and Power company under the notice published in the public prints under date of June 24, 1893, above the signature of Joseph H. Hall, its president, and take concerted steps to protect themselves.

Respectfully submitted,

A. E. Anderson,

Francis Fischer,

Henry A. Linn.

Water and Light Committee.

Alderman North moved the adoption of the report and that the council proceed to consider the ordinances referred to therein, and the motion was carried.

Alderman Anderson presented an ordinance entitled "An ordinance appropriating the sum of \$1875.42 for the purpose of paying the Austin Water, Light and Power company for lighting the streets of the city of Austin from Nov. 1, 1892, to June 30, 1893." It was read the first time, after which motions were made to suspend the rules and place the ordinance on its second and third readings, and that it do now pass, each of which were adopted by the following vote:

Yeas-19.

Alderman Anderson,	Linn,	Schneider,
Asermann,	Miller,	Schuber,
Fischer,	North,	Shelley,
Glass,	Reatt,	Taylor,
Hancock,	Powell,	Townsend,
Jackson,	Raymond,	Wasmuth,
Ketchum,		

Alderman Anderson also introduced an ordinance entitled "An ordinance appropriating the sum of \$8.075 for the purpose of paying the Austin Water, Light and Power company for fire hydrants, for protection from fire, and flushing gutters, etc., from July 1, 1892, to June 30, 1893."

It was read the first time, after which motions were

\$1875.42 for St.
lights.

\$8075.00 for water
+c

made to suspend the rules and place the ordinance on its second and third readings, and that it do now pass, each of which were adopted by the following vote:

Yeas - 19.

Aldermen Anderson, Linn, Schneider,
Assmann, Miller, Schubert,
Fischer, North, Shelley,
Glass, Powell, Townsend,
Hancock, Platt, Taylor,
Jackson, Raymond, Warmoth,
Ketchum,

Atty. employed

Alderman Anderson also presented an ordinance entitled "An ordinance to retain special counsel to represent the city of Austin in certain litigation by it against the Austin Water, Light and Power Company and to provide for their compensation."

The ordinance provides that Messrs. Fisher and Towne be retained to assist the city attorney in the matter.

It was read the first time, after which motions were made to suspend the rules and place the same on its second and third readings and that it do now pass, each of which were adopted by the following vote:

Yeas - 19.

Aldermen Anderson, Linn, Schneider,
Assmann, Miller, Schubert,
Fischer, North, Shelley,
Glass, Platt, Taylor,
Hancock, Powell, Townsend,
Jackson, Raymond, Warmoth,
Ketchum,

The council then adjourned.

Milton Morris,

City Clerk.