

Regular Meeting of the City Council

Austin August 2nd 1885.

Mayor Cress presiding. Roll called. Present
Aldermen Boardman, Kelly, Platt, Robertson,
Kishman, Thibault, Robinson and Buchanan.
Absent Aldermen Crocker and Wells.

Records present.

The Mayor then presented the following communication, which upon motion of Alderman
Platt was accepted as rendered:

Mayor's Office Austin Aug. 2nd 1885.

To the Honorable Board of Aldermen City of Austin
Gentlemen: I beg leave to tender hereunto
my resignation of the office of Mayor of this
city to take effect upon the election and qualification of my successor.

The principal reasons that prompt this action
are:

1. My health is in such a weakened condition that I have become unable to attend to the duties of the office, as I think they should be performed. My physician has recommended rest and quiet.

2. The suit in which I have become involved known as the quo warranto suit has given me a great deal of trouble and been expensive. The Supreme Court of this state having decided that an officer on the retired list of the United States Army, cannot hold the office of Mayor of Austin, makes the tenure of this office on my part only a question of time. In connection with this suit, I desire to make a statement, so as to place myself clear before the people.

The first time I was elected Mayor, by a majority of eight votes, a protest was presented to the City Council in which it was alleged that I was ineligible to fill this office, the matter was referred to a committee, a majority of whom after investigation, reported that my eligibility was not in question. The second time I took office the people were again divided, and I was elected by a majority of eight votes.

installed without any opposition. Some months before I submitted my name to the people, for the third time, for this same office, I was confronted by a pamphlet, written by an attorney residing in this city, in which the ground was taken that I could not legally hold the office. This gentleman represented the person who protested against my first installation, and being personally hostile to me, I did not deem it proper to make any answer to it even if I had the ability so to do. This pamphlet was distributed by hundreds over the city, and a short time after the people decided the question as to my qualification by electing me by 75% majority carrying every ward in the city.

I had been taught to believe that the majority should rule in Republics, but I find that it is only a saying and not a fact.

Going back, however, to the issuance of this pamphlet which contains several cartoons, gotten up with great skill, I was furnished with a copy and read it not willing to submit my name to the people unless I conscientiously believed I could hold the office. I examined such authorities as had access to.

The first was the decision of the city council, declaring me eligible. No existing law provided for an appeal from its decision, which must be final. I am advised that when the adjudication of a question is left by law to a special body, for which no appeal is directly and intransferrably provided, its finding is held conclusive - can only and be attacked collaterally in case of fraud - but in this instance fraud is not even alleged.

I next examined a decision rendered by the Hon. Thomas H. Chas. United States Judge for the Western District of Texas, which I considered favorable to me.

I then procured a copy of general orders no. 14 issued by General Sherman February 2, 1870, generally known as his "sacred" order to officers on the captured list. It is a very long and full order, and I have been able to find it in the

had been assigned to duty under a previous
 law he closed by saying: "The best wishes of the
 government for their future comfort and
 happiness follow these veterans, and those
 who have preceded them, in retirement
 from all service, to the homes of their choice."
 This language is too positive to be misunderstood
 stood "from all service".

I also found an opinion of the Attorney Gen-
 eral of the United States, dated June 11th 1877, in
 answer to certain queries submitted to him
 by the honorable Secretary of War. The opinion
 is too lengthy to be attached hereto, but he held
 that officers on the retired list of the army, can
 hold civil office, except in the diplomatic, or
 consular service, and draw the emoluments
 of said civil office, in addition to their pay as
 retired officers.

The Court of Claims of the United States has
 recently decided, that the pay of a retired officer, is
 in the nature of a bounty or pension, etc.
 After duly considering the above authorities,
 submitted my name to the people and was
 elected.

No objection was made to my installation, and
 it was not until after several months' con-
 sideration of the office, that this quo warranto
 was instituted against me.

I have here, in my humble way, presented to
 the people, through your honorable body, some
 of the causes which led me to resign. I trust
 that they will approve my action.

All know the terrible affliction, which has befallen
 my family, and my own sickness is well
 known to them.

In conclusion, I have the honor to inform
 you, that I have ordered a special election for
 the office of mayor, in accordance with the
 ordinance, to take place on the 16th day of May
1880.

I have also, in accordance with the require-
 ments of the act, to further regulate the
 election of officers, etc.

True
 S. C. Webb

management of the public free schools, and institutions of learning in cities and towns in this state, approved April 3rd A.M. 1879, ordered an election touching said schools, to take place on the same day.

Very respectfully,

J. C. G. Gross, Mayor.

Petition of R. W. Hunter to open a bar room in ward No 2. Granted.

Petition of R. W. Robinson to open an outside creator on block 38, division E. Granted.

Petition of A. Leroy to open a ditch on the east side of Red Ground street, from Mulberry to Hickory streets. Laid on table.

Petition of Frank Heimboltz to have one half of amount paid city on last three months, for rent of coffee stand returned to him. Granted.

By request Mr. C. H. Johns was excused from attending this council meeting.

Petition of citizens to have alley in block 14, in eighth ward attended to. An motion laid on table.

Report of pound master for month of July read and ordered filed.

Report of city sexton showing number of deaths for month of July to be 15; males 9, females 6; white nine, colored 6. Read and ordered filed.

The following report from the city physician was read and ordered filed.

City Physician's Office.

Austin July 31st 1880.

To the Honorable Mayor, and Board of Aldermen city of Austin:

Gentlemen - At the date of my last report eleven patients remained under my treatment, since when twenty-one additional have been cared for, making a total of 31 treated during the month.

Of this number, nine have been returned, one has died, and eleven remain under treatment.

Of the thirty-one eight were treated at the hospital and the remaining twenty-three at their homes and in the city prison. I have given sixty-eight prescriptions during the month.

Respectfully, J. C. G. Gross.

The following report from the city engineer was read and referred to the city committee.

City Engineer's Office.
Austin August 2nd 1880.

Hon. J. C. Bell, Mayor.

Colonel — I have the honor to call your attention to the bad condition of streets, since the last heavy rains, they have been washed in many places, in fact so numerous are the washings, that I can only call attention to them generally, and hope that the honorable council will take such action as to them may seem best in the premises.

I would particularly call attention to the alley between Congress Avenue and Deodar street that portion lying between Bois d'Arc and Pine streets, as needing immediate work; also Bois d'Arc street near the state cemetery is washed so badly, that it is dangerous for vehicles to pass with safety.

I would also call attention to the condition of Lehigh street, at its intersection with each Avenue. This little branch needs a bridge as it is used daily in going to and from the cemetery.

A large number of bridges throughout the city need repairs. They were built with timber which lasts only two or three years. If these bridges were repaired with good cypress timber they would last, at least, twenty-five years, and would be cheaper in the end.

Very respectfully

J. H. Burkman
City Engineer.

Quarterly reports of the city assessor and collector, and city treasurer were read and ordered filed.

Report of cemetery committee, on proposition of James I. Riley was read and on motion further action was deferred.

The following report from the cemetery committee, relative to the proposed new cemetery, was read.

To the Honorable Mayor and Board of Aldermen
City of Austin.

Your committee on cemetery, to whom
the above petition was referred find, upon
examination, that the road leading to the
cemetery grounds, is not in proper condition.
The branch at the intersection of Cherry street
and East Avenue being badly washed and
Cherry street leading to cemetery, being one
of the main thoroughfares of the City, we rec-
ommend that the above petition be granted,
and that a suitable appropriation be made to
build a wooden bridge with stone abutments,
over the branch above referred to.

Respectfully submitted

Jas. Wahnenberger

Fritz Reichman

Alderman Platt, moved to refer to street
committee.

Alderman Reichman moved to lay motion
of Alderman Platt on the table. Carried.

An ordinance appropriating \$120. to build a
bridge on Cherry street.

Ordinance read first time.

Alderman Platt moved to lay the ordinance
on the table. Lost.

Alderman Reichman moved the rules be
suspended and the ordinance be placed on
its second reading. Lost by the following vote.

Yeas - Aldermen Boardman, Robertson,
Reichman, Tobin and Wahnenberger.

Nays - Aldermen Metz, Platt and Sheehan.

Alderman Crocker appeared and answered
to his name.

An ordinance amending article 14 § 11.

Ordinance read third time, and motion to
pass lost by the following vote:

Yeas - Alderman Boardman, Robertson, Rich-
man and Wahnenberger.

Nays - Aldermen Crocker, Metz, Platt, Sheehan
and Tobin.

Motion to suspend the rules, and pass the
ordinance, carried by the yeas.

explaining that the marshals had just returned after being absent on official business. The following report was submitted on the petition of citizens of the third ward, complaining of disturbance created by the meetings of colored churches, with a verbal report by Alderman Boardman, that the matters complained of could probably be satisfactorily settled if the committee were allowed further time. The committee appointed on petition of citizens in reference to the colored churches in ward no. 3, beg leave to report that on investigation they are satisfied there are good grounds for complaint made, and, as a means of securing recommendations a continuance of the committee whose duty it shall be to confer in special meetings with the preachers or pastors in charge of the churches, and devise the best means for the suppression of the disturbance.

G. T. Boardman

James Wahnenberger

On motion, the above report was adopted. An ordinance to amend article 25-3, of the revised ordinances of the city of Austin. Ordinance read first time, and on motion, the rules were suspended and the ordinance placed upon its second reading, by the following vote:

Ayes - Aldermen Boardman, Crocker, Metz, Robertson, Richmond, Sheehan, Boardman and Wahnenberger.

Nays - None.

The ordinance was read the second time. Alderman Platt moved to amend the ordinance, so as to provide that the same should not apply to licensed vehicles, after the hour of 2 P.M.

On motion, the rules were further suspended, and the ordinance placed upon its third reading, by the following vote:

Ayes - Aldermen Boardman, Crocker, Platt, Robertson, Richmond, Sheehan, Boardman and Wahnenberger.

Days - Home.

Ordinance read third time, and on motion, passed by the following vote:

Yea - Aldermen Boardman, Crooker, Metz, Platt, Robertson, Richman, Schuyler, Tobin and Wahrnberger.

Days - Home.

His honor, the mayor, presented and had read for the information of the council the petitions of citizens, praying for the suppression of variegated theatres, stating that he had presented the same, because they were addressed to the council, that he had determined under the law, to cancel all permits to such theatres as prayed for in the petitions, and that the proprietors of such theatres could appeal to the city council.

The finance committee asked for further time to report upon the fees of the city attorney, as the party interested was absent and excused.

Boardman Wahrnberger introduced the following resolution, which, on motion, was unanimously adopted, ordered spread upon the minutes of the council, and also to be published.

Whereas, the honorable J. C. Hildress, our most worthy and efficient mayor, has resigned the position of mayor, and
Whereas, he has during his term of office, always discharged his difficult and complicated duties with great ability, and has always presided over the deliberations of the board of aldermen, with the strictest impartiality, therefore be it

Resolved, by the city council of the city of Austin, That in the resignation of Col. J. C. Hildress, the city of Austin, loses the services of one who in an eminent degree, always provided and cared for the every interest, that in his retirement he carries with him the esteem and

of the common council of the city of Austin.
An ordinance to appropriate \$1250 to build
a bridge over Lehigh Street. Read first time.
Alderman Richman moved to suspend
the rules to place the ordinance upon its
second reading, which was lost by the
following vote, two thirds of a full council
not voting in the affirmative:

Yeas — Aldermen Crocker, Boardman,
Robertson, Richman, Tobin and Wagner.
Nays —

Aldermen Mitz, Platt and Gump.
There being no further business, on motion
the council adjourned.

Leidy Clerk