

failure to provide name in the Charter, and that "the omission shall be supplied and the election held"; and

WHEREAS, the Supreme Court further held that "it is the duty of the City Council, in compliance with the terms of the Amendment and other relevant portions of the Charter, to call an election, to be held at a date fixed by the Council consistent with the general laws of the State"; and

WHEREAS, the question as to whether or not the City Council should call an election for the purpose of electing five Councilmen, as provided by said Amendments, has been clearly and distinctly decided by the Supreme Court, in its holding that it became the duty of the Council to call such election and that the Council should fix a date for the holding thereof; therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

THAT, in conformance with the requirements of the Charter and Amendments and the views announced thereon by the Supreme Court, it is the sense of the City Council that an election be held in the City of Austin on the 6th day of April, A. D. 1926, for the purpose of electing five Councilmen to serve until May 1, 1927, and that the City Attorney be instructed to draw an ordinance to this effect, and present same to the City Council for passage at the next regular meeting hereof.

Councilman Haynes moved that the resolution be laid on the table until November 16, 1926, to be acted upon on that date. Motion prevailed by the following vote: Ayes, Mayor Yett, Councilmen Haynes and Searight, 3; naves, Councilmen Avery and Nolen, 2.

The Council then recessed.

SPECIAL MEETING OF THE CITY COUNCIL:

Austin, Texas, February 16, 1926.

The Council was called to order by the Mayor. Roll call showed the following members present: Mayor Yett, Councilmen Avery, Haynes, Nolen and Searight, 5; absent, none.

Councilman Nolen withdrew his resolution presented to the City Council on February 11th, 1926, asking that the City Council fix a date of election for city officials for the first Tuesday in April, 1926,

Mayor Yett introduced the following resolution:

WHEREAS, Chas. B. Cook has lost his mandamus suit against the Mayor and Councilmen of the City of Austin by judgment of the Supreme Court dismissing said suit and awarding all costs against him; and

WHEREAS, such final dismissal of said suit relieves the Mayor and City Council of the restraints imposed upon them by the writs of mandamus, which were suspended by the Supreme Court and have now been quashed and dismissed, and leaves us free to exercise in a proper manner of our own accord the discretion vested in us by law; and

WHEREAS, it is now our duty to call an election within a reasonable time for the election of members of the City Council of Austin, Texas; and

WHEREAS, the Supreme Court in the recent case decided against

Mr. Cook and did not hold such charter amendments legal or valid but on the contrary used the following language:

"Plaintiffs in error present many assignments attacking the validity of various amendments to the charter as adopted. We do not regard the questions raised as involved in this case, and therefore do not discuss them. We have intended to determine only the questions actually decided in this opinion."

so that the validity of said amendments has never been passed upon and the legal status of the case remains right back where it was before the Cook case was brought;

Now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That public announcement be made that an election for city councilmen will be held on the second Tuesday in May, 1926, and that in due time legal proclamation and all other steps will be taken for the calling and holding of said election, provided no litigation on this question be brought and is pending at that time.

Councilman Haynes moved the adoption of the following substitute resolution:

WHEREAS, Chas. B. Cook has lost his mandamus suit against the Mayor and Councilmen of the City of Austin by judgment of the Supreme Court dismissing said suit and awarding all costs against him; and

WHEREAS, such final dismissal of said suit relieves the Mayor and City Council of the restraints imposed upon them by the writs of mandamus, which were suspended by the Supreme Court and have now been quashed and dismissed, and leaves us free to exercise in a proper manner of our own accord the discretion vested in us by law; and

WHEREAS, it is now our duty to call an election within a reasonable time for the election of members of the City Council of Austin, Texas; and

WHEREAS, the Charter Amendments voted upon on August 5th, 1924, are in our opinion illegal and should not become the fundamental charter law of our City until and except held to be valid, either by the courts or the people themselves; and

WHEREAS, the Supreme Court in the recent case decided against Mr. Cook and did not hold such charter amendments legal or valid but on the contrary used the following language:

"Plaintiffs in error present many assignments attacking the validity of various amendments to the charter as adopted in this case, but we do not regard these questions as involved in this case, and therefore do not discuss them. We have intended to determine only the questions actually decided in this opinion."

so that the validity of said amendments have never been passed upon and the legal status of the case remains right back where it was before the Cook case was brought; and

WHEREAS, we deplore the threats of another suit, which would be expensive, long drawn out, and such suit might, and we think probably would, be as inconclusive as the Cook case; and

WHEREAS, it would be better for the people themselves to vote upon charter amendments in August, 1926, (at the end of the two years) and such action can be had much sooner than any effective court action, and we are desirous in the absence of court action for the people with full knowledge of all the facts to say whether they desire a charter having the vices of these amendments, among such vices being these:

The proposed city manager is given an unlimited term of office, contrary to the Constitution limiting the term of all officers to two years.

The city manager, though having charge of the vast finances of the city is unbonded, contrary to the statutes of and the public policy of the State of Texas; and

Whereas such beneficent results can be obtained by postponing the election for officers until September, 1926, and such date under these and other circumstances is reasonable exercise of our discretion; NOW THEREFORE

BE IT RESOLVED that public announcement be hereby made that an election for city councilmen will be held in September, 1926, and that in due time legal proclamation and all other steps will be taken for the calling and holding of said election, provided no litigation be brought and is pending at that time.

The substitute resolution lost by the following vote: Naves, Mayor Yett, Councilmen Avery and Nolen, 3; ayes, Councilmen Haynes and Searight, 2.

The original resolution of Mayor Yett carried by the following vote: Ayes, Mayor Yett, Councilmen Avery and Nolen, 3; nayses, Councilmen Haynes and Searight, 2.

Councilmen Haynes and Searight stated the following as their reasons for their vote upon the foregoing resolutions:

"After the consistent stand we have taken from the first day of this contest in what we believe to be the interest of the people against "Big Business" and "Corporate Power", should we now surrender and vote to call an election on the date demanded by the Managerial proponents, especially after the reply of the Mayor and ourselves to the Attorney General, we would lose our own self-respect and forfeit the confidence of our fellow citizens, whether for or against the manager form of government."

"Therefore, we vote NO.

(Sgd) Harry L. Haynes,
Councilman.

(Sgd) Geo. P. Searight,
Councilman."

The Council then adjourned.

James Combsby
City Clerk

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, February 18, 1926.

The Council was called to order by the Mayor. Roll call showed the following members present: Mayor Yett, Councilmen Avery, Haynes, Nolen and Searight, 5; absent, none.

Councilman Haynes moved that the reading of the Minutes of the last meetings be suspended until the next regular meeting. Motion prevailed by the following vote: Ayes, Mayor Yett, Councilmen Avery, Haynes, Nolen and Searight, 5; nayses, none.

The deed from A. L. Pardue and wife, conveying one-half block of ground on East 42nd and Duval Streets for street purposes was read and Councilman Avery moved that same be referred to the City Attorney for examination of title and report back to the Council. Motion prevailed by the following vote: Ayes, Mayor Yett, Councilmen Avery, Haynes, Nolen, and Searight, 5; nayses, none.

Councilman Haynes introduced the following resolution:

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the sum of \$1,462.35 be and the same is hereby appropriated out of the General Fund of the City of Austin in payment of amount due and owing to the School Fund as their share of interest and penalties collected on taxes from October 1, 1921, to December 31, 1922, as per attached statement of Assessor and Collector, after deducting \$143.16 refunded tax payers on appeals on account of erroneous assessments, and 20% paid special attorney under contract for collection of delinquent taxes, making net amount due the School Fund \$1,462.35.

The above resolution was adopted by the following vote: Ayes, Mayor Yett, Councilmen Avery, Haynes, Nolen, and Searight, 5; nayses, none.

Councilman Haynes introduced the following resolution:

WHEREAS, the records of the Assessor and Collector show that the west 18 feet of the East 55 feet of Lot 9, Block 1, Outlot 73/74, Division "D" Aldridge Place has been doubly assessed and the taxes paid for the years 1923, 1924, and 1925, the entire lot having been assessed at the proper time and the West 18 feet of the East 55 feet subsequently assessed on the Supplemental roll and the taxes paid on said assessment by Miss Margaret Stiles,

Therefore,