

Regular meeting of the City Council; Austin, Texas Sept 9th 1909.

Hon A P Wooldridge, Mayor presiding : Roll called:

Present Mayor Wooldridge, Councilmen Bartholomew, Hart & Powell 4

Absent excused Councilman Gracy 1

The minutes of the last regular and recessed meetings were read and approved.

On motion the regular order of business was suspended, and the Council took up the matter of the investigation of the acts of Assistant Superintendent Brooks of the Water & Light Dept.

The following communications were read:

Austin, Texas, August 20th 1909.

Hon A P Wooldridge, Mayor

Messrs E C Bartholomew, P W Powell, Jas P Hart and D B Gracy, Councilmen .

Gentlemen :

It is rumored on the streets that I sold a pump to the Llano Water Works in which I, <sup>am</sup> financially interested, and that I gave to the same concern water pipe which was formerly used to convey water to the State Encampment grounds near this City. These rumors are without truth and I request an immediate searching public investigation concerning them and any other rumors affecting my character

Respectfully

R C Brooks

The following communication from Mr L A Hill was read :

Austin, Texas, Sept 3rd 1909.

To the Hon Mayor and City Council of the City of Austin:

Gentlemen :

As various officials of the late City government have been courting investigation, and calling upon citizens to appoint a committee to investigate their official acts, I would suggest that it would be well for some investigation to be made along certain lines which I have not seen suggested.

A noted Frenchman once said "I would not care who writes the laws of my Country if I could only write her songs". From reports which have been in circulation during the City campaign, and even now it appears that there are some patriotic Citizens of this City who do not care to govern the City or to make its laws if they can only buy the junk of the Water and Light Department.

It has been common talk on the streets and elsewhere that large quantities of water pipe, pumps and all kinds of material have been sold by the water and Light department as junk or worthless material and out of this so-called "Junk" water and light plants have been equipped in other towns or Cities, and such plants are now being operated with the so-called "Junk" cast aside by the Water and Light department of the City .

It is also well known that there has been changes in tower lights and changes in the system which arbitrarily destroyed the usefulness of vast amounts of property of the Citizens, such as electric fans, etc. If said investigation should prove that such rumors are true, and that valuable material has been sold under false pretenses, that suit for recovery of such material or its value should be instituted. Such investigation if made should also determine the facts as to whether or not any present or past Officials, a part of whose duties were to determine what is "Junk" at said time or are now interested in any water or light plant which became the purchasers of the so-called "Junk".

*Communication to Brooks  
asking investigation*

*Communication  
to Official as to water  
Light Dept*

- . If such rumor be untrue, no one can be hurt and if true, the Council should determine what course to pursue after determining the facts .

Respectfully submitted ,

L A Hill.

The Mayor stated that in response to the foregoing communications he had asked a number of Gentlemen to appear before the Council and give evidence.

The following named gentlemen then sworn and examined ,in the order named as to the charges against Supt Brooks, as set forth in his communication, Viz :

R C Brooks, C J Armstrong, R E White, D H Caswell, Geo Fiegel Sr, A J Zilker, E J Byrne, J M Wolf, W D Shelley, Fred A Scott, C J Wilhelm, Walter Johnson, H A Wroe, Ben Morrell, Pat Cain, Dr A C Scott Jno Sheehan N A Brunson, C E Peterson and Milton Hill.

The Mayor stated that the Council would take the matter under consideration and would announce their conclusion later.

The Council then resumed the regular order of business.

The Mayor laid before the Council a petition from Jno D Miller asking that certain pound fees paid by him be refunded.

On motion the Council declined to grant the petition by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Hart & Powell 4  
Nays none.

Councilman Powell moved to reconsider the Vote by which the Council passed a resolution proposing <sup>to</sup> furnish Water, Light and Power to the State of Texas at a certain price named in a proposed contract,

which motion prevailed by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Hart & Powell  
Nays none.

The resolution was read the second time and passed by the following vote :

Yeas Mayor Wooldridge, Councilmen Bartholomew, Hart & Powell 4  
Nays none.

#### Reports of City Officers :

The Mayor laid before the Council the following reports of City Officers for the month of August 1909, which were read and referred to their appropriate committees, viz :

Matron of the Hospital, City Marshal, Plumbing Inspector, City Clerk.

The Mayor also laid before the Council a report of Councilman

Bartholomew, Supt of Parks and Public Property a report showing

Inventory of Water and Light plant, Real estate, lines, Machinery, etc Jany 1st 1909, also statement of Receipts and Disbursements, Earnings,

Expenses for operating and maintaining each branch of the Dept, etc,

for the months of Jany, Feby and March 1909, which was read and ordered filed .

#### Unfinished business:

The Mayor laid before the Council an ordinance appropriating the sum of \$ 1,000.00 for the purpose of paying weekly pay rolls St Dept.

*Investigation into  
Light Dept*

*Contract with Light  
Power on the State*

*Selection of Officers*

*Selection of Light  
Power*

*Appraiser's List*  
The ordinance was read the third time and passed by the following Vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Hart & Powell 4

Nays none.

*Appraiser's List*  
The Mayor laid before the Council an ordinance appropriating the sum of \$ 500.00 for the purpose of improving the City Cemetery. The ordinance was read the third time and passed by the following vote :

Yeas Mayor Wooldridge, Councilmen Bartholomew, Hart & Powell 4

Nays none.

*Appraiser's List*  
The Mayor laid before the Council an ordinance appropriating the Sum of \$ 150.00 for the purpose of paying claim of Dr W N Watt for damages.

The ordinance was read the third time and passed by the following vote :

Yeas Mayor Wooldridge, Councilmen Bartholomew, Hart & Powell 4

Nays none.

#### New business :

*Appraiser's List*  
By Councilman Powell an ordinance appropriating the sum of \$ 50.00 for the purpose of paying for street work on San Antonio street between 19th & 20th sts

The ordinance was read the first time and the rule suspended and the ordinance placed on its second reading by the following vote :

Yeas Mayor Wooldridge, Councilmen Bartholomew, Hart & Powell 4

Nays none.

The ordinance was read the second time and laid over until the next meeting

*Appraiser's List*  
By Councilman Bartholomew an ordinance appropriating the sum of \$ 6,705.35 for the purpose of paying balance due on Nordberg Pump. The ordinance was read the first time and the rule suspended and the ordinance placed on its second

reading by the following vote :

Yeas Mayor Wooldridge, Councilmen Bartholomew, Hart & Powell 4

Nays none.

*The ordinance was read the second time laid over until next meeting*

Councilman Bartholomew offered the following resolution:

*Resolution concerning R C Brooks of Chicago*  
On the 20th day of August, 1909, R C Brooks, Supt of the Water and Light Dept of this City, addressed the following communication to the City Council:

" Hon A P Wooldridge, Mayor,

Messrs E C Bartholomew, P W Powell, Jas P Hart and D B Gray, Councilmen.

Gentlemen :

" It is rumored on the streets that I sold a pump to the Llano water works in which I am financially interested, and that I gave to the same concern water pipe which was formerly used to convey water to the State Encampment grounds near this City. These rumors are without truth and I request an immediate searching public investigation concerning them and any other rumors affecting my character.

Respectfully,

R C Brooks "

On the 3rd of Sept, 1909, Mr L A Hill, an Attorney-at-law of this City, likewise addressed a communication to the City Council, suggesting an investigation upon the same matters as were covered by the letter of Mr Brooks, and in addition thereto, asked an inquiry into the charge that by an arbitrary change in the electrical current supplied to consumers, the use and value of a large amount of public and private property was destroyed.

In pursuance of the memorials herein above referred to, a public investigation was made on Sept 9th 1909, and seventeen witnesses were examined under oath.

Amongst these witnesses were two Ex-Mayors of the City of Austin, and Ex-President of the Water and Light Commission. From the testimony given, it was conclusively shown that Superintendent Brooks, had no knowledge of the details of the sale to Mr E J Byrne of the Gould Pump, buried in the debris at the dam, which sale was moreover shown by the witnesses who testified upon that point, to be in their judgement an advantageous one to this City. It was further shown that at no time nor to any person was water pipe, belonging to the City of Austin, sold to the Llano waterworks. It was also shown that during the incumbency of Supt Brooks the electrical equipment in the plant, which consisted of direct current machines, 133 cycle alternating current machines and 60 cycle alternating current machines, was changed so as to have a uniform electrical equipment in the plant of 60 cycle alternating current machines. These changes resulted in putting out of use electrical fans and motors to some extent, still the net result from these changes to the City and to individuals (when the changes were made) was one of great economy, and in addition the City refunded to individuals about one half of their several losses.

In view of the above facts, proved without dispute at the above examination of the charges made against Supt Brooks, it is our judgement, we so resolve that, R C Brooks be and he is hereby exonerated from all charges made against him in connection with his administration of the business and affairs of the Water and Light Department of this City.

The resolution was adopted by the following vote :  
Yeas Mayor Wooldridge Councilmen Bartholomew, Hart & Powell 4  
Nays none.

On motion the Council recessed subject to the call of the Mayor.

Tuesday Sept 14th 1909, 3 P M

The Council was called to order by the Mayor, with all members present. Councilman Hart to whom was referred the petition of the Capital City Auto Company for permission to bury an under ground Gasoline Tank under the side walk in front of Nos 213 & 215 West 6th street, presented the following report:

To the Honorable City Council of the City of Austin, Texas.

Gentlemen :

The petition of the Capital City Auto Company, asking permission to bury an under ground Gasoline Tank under the side walk in front of its place of business, 213-15 West 6th street, having been referred to and considered by me, and, also the Board of Fire Commissioners at a meeting held for the purpose of considering the same and making recommendations in regard thereto, beg leave to report:

That, in the judgement of myself and said board it is for the best interest and safety of the public that said petition be granted and I so recommend, provided, that the conditions as prescribed by Article 236, chapter V, of the Revised ordinances of the City of Austin are

*Report of Councilman  
Hart to the City Council  
of Austin, Texas, Sept 14th  
1909, regarding the  
petition of the Capital City  
Auto Company for permission  
to bury an under ground  
gasoline tank.*

complied with.

Jas P Hart, Supt Police & Public Safety.

The report was adopted by the following vote :

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart & Powell 5

Nays none.

Mayor Wooldridge offered the following resolution:

Resolved by the City Council of the City of Austin:

That a Cordial invitation be and is hereby extended to the International Tax Association to hold its annual convention for Nineteen hundred and ten ( 1910 ) in the City of Austin, Texas.

The resolution was adopted by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart & Powell 5

Nays none.

By Councilman Hart Petition of Citizens asking the Council to remit fine assessed against Celia Benzes in the records Court.

Councilman Hart offered the following resolution:

Be it resolved by the City Council of the City of Austin, that upon recommendation of the Supt of Police and Public Safety the unpaid balance of the fine and cost adjudged in the Corporation Court against Celia Benzes for simple assault on the 31st day of August be and the same is hereby remitted .

The resolution was adopted by the following vote :

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart & Powell 5

Nays none.

City Attorney Rector to whom was referred the petition of the Austin Dam and Suburban R R Co , asking for the right to lay additional track over certain streets in the City of Austin, Texas, presented the following opinion.

Austin, Texas, Sept 14th 1909.

The Honorable City Council, Austin, Texas.

Gentlemen :

The petition of the Austin Dam and Suburban R R Co to you, asking that an ordinance be enacted to confer upon said company the right, privilege and franchise of laying additional track over and across Bowie street, about fifty feet north of third street, and over and across west Avenue, at or near its intersection with Fourth street, in the City of Austin, has been referred to me by you for my opinion, as to whether or not the Council has the power to enact such an ordinance .

Your attention is respectfully called to Article X I, Section 15, of the charter of the City of Austin. I beg to quote only that portion of said section that is pertinent to your inquiry, which reads as follows :

" No franchise or right to occupy or use the streets, highways, bridges or public places in the City, shall be granted, renewed or extended except by ordinance, and every franchise to be granted, renewed or extended for interurban or street railways, gas, sewer, or waterworks, electric light or power plants, heating plants, telegraph or telephone systems or exchanges, or other public service utilities by the City, must be authorized or approved by a majority vote of the qualified electors thereon at a general election or at a special election held for that purpose, the expenses of which elections shall be borne by the applicant for such franchise, ."

*International Tax Association invited to hold Annual Session in 1910. in this City*

*Resolution remitting fine against Celia Benzes.*

*Opinion of Attorney in petition of the Austin Dam and Suburban R R Co to lay track*

.I do not find any other provision of the charter repugnant to or in any

way in conflict with the provisions just quoted, and they are the only provisions that prescribe the method by which certain franchises may be granted, renewed or extended. The word "Franchise" as employed in this section is synonymous with the word "Right", and is limited by the context to the use or occupancy of the streets and other public places in the City. It is provided that no such franchise or right shall be granted, renewed or extended except by ordinance. But it is further provided that franchises to be granted, renewed or extended for public service utilities within the City, must be authorized or approved by a majority vote of the qualified electors of the City.

It should not be questioned that the Austin Dam & Suburban Railway Company must be properly included in the broad term "public service utilities", and in its petition to the Council it asks that the right be granted it to use and occupy a portion of two public streets in the City of Austin. If such permission were given it, it would be the granting of a franchise or right to use and occupy the streets of the City.

I am therefore of the opinion that the charter in plain terms has provided that such matters as are contemplated in the Railway Company's petition shall be submitted to a popular vote, and that the City Council is without authority to grant such a privilege, unless its action is authorized or approved by such a vote,.

Very respectfully yours ,

J Bouldin Rector, City Attorney.

On motion further action on the petition was postponed until a later date.

City Attorney Rector asked for leave of absence for two weeks, from Sept 18th 1909, which was granted by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart & Powell 5  
Nays none.

On motion the Council adjourned .

*Geo. L. Tison*  
City Clerk.

*Leave absence City  
Attorney*