

PROCEEDINGS
OF THE
COMMON COUNCIL.

REGULAR SESSION.

CHAMBER OF THE COMMON COUNCIL OF THE
CITY OF INDIANAPOLIS, }
Monday, January 8th, 1877—7 o'clock P. M. }

The Common Council met in regular session.

Present—His Honor, the Mayor, John Caven, in the chair, and the following members:

Councilmen Byram, Case, Darnell, Izor, Morse, McGill, McGinty, Poudel, Ransdell, Schmidt, Steinhauer, Thalman, Thomas, Webster, Wright, Arthur L., and Wright, William G.—16.

Absent—Councilmen Adams, Buehrig, Bugbee, Craft, Duffley, Kenzel, Lughlin, Rasener, Reed, and Stratford—10.

The proceedings of the regular session, held January 1st, 1877, were read and approved.

One proposal for furnishing coal for the City Hall was received, opened, read and referred to the Committee on Contracts.

REPORTS FROM CITY OFFICERS.

The City Civil Engineer submitted the following report :

Indianapolis, January 8, 1877.

To the Mayor and Common Council of the City of Indianapolis :

Gentlemen :—I herewith report the following contract and bond for your approval :

Contract and bond of August Verhofstad, for grading and graveling the first alley east of West street, running from Merrill street to the first alley south of Merrill street. Bond \$50. Bondsman, James Mahoney.

Respectfully submitted,

BERNHARD H. DIETZ,

City Civil Engineer.

Which was concurred in, and bond approved.

Also, the following report :

Indianapolis, January 8, 1877.

To the Mayor and Common Council of the City of Indianapolis :

Gentlemen :—I would respectfully report that James Mahoney has failed to file his contract and bond for improving the first alley east of Alvord street, between Home and Wabash avenues, and I would recommend that the work be readvertised.

Respectfully submitted,

BERNHARD H. DIETZ,

City Civil Engineer.

By consent, Mr. Schmidt presented the following communication :

Indianapolis, January 3, 1877.

To the Mayor and Common Council of the City of Indianapolis :

Gentlemen :—Your petitioner would respectfully state to your honorable body that on the 11th day December, 1876, he was awarded the contract for grading and graveling the first alley east of Alvord street, between Home

and Malotte avenues, at the rate of 20 cents per lineal foot front on each side of the line to be improved. That at the time he bid for said work he thought the alley was fifteen feet wide, but since the contract was awarded him, he finds that the said alley is twenty-five feet wide. He now asks your honorable body to relieve him from said contract, as he can not do the work for that price, as the actual cost of the work would be much greater than the price at which the said work was awarded him. He therefore respectfully petitions and asks that he be relieved from said contract.

And your petitioner will ever pray, etc.

JAMES MAHONEY.

Mr. McGill moved to reconsider the vote by which the bond of A. Verhofstadt, as above given, was approved.

Which motion failed to pass by the following vote :

Affirmative—Councilmen McGill, McGinty, Thomas and Wright, William G.—4.

Negative—Councilmen Byram, Case, Darnell, Izor, Morse, Pouder, Ransdell, Schmidt, Thalman, Webster and Wright, Arthur L.—11.

On motion, by Mr. Ransdell, the communication of Mr. Mahoney was referred to the Committee on Contracts.

The City Clerk submitted the following report :

Indianapolis, January 8, 1877.

To the Mayor and Common Council of the City of Indianapolis :

Gentlemen :—The City Clerk respectfully reports the following affidavits now on file in his office for the collection of street assessments by precept, to-wit:

Henry Clay vs. Samuel King, for	\$19 20
Henry Clay vs. Ennis Coon, for.....	19 20
Henry Clay vs. Jacob B. Julian, for.....	19 20

And respectfully recommend that you order the precepts to issue.

Respectfully submitted,

BENJ. C. WRIGHT,

City Clerk.

Which was concurred in, and the precepts ordered to issue by the following vote:

Affirmative—Councilmen Byram, Case, Darnell, Izor, Morse, McGill, McGinty, Pouder, Ransdell, Schmidt, Thalman, Thomas, Webster, Wright, Arthur L., and Wright, William G.—15.

Negative—None.

The City Clerk and Treasurer submitted the following joint report:

Indianapolis, January 8, 1877.

To the Mayor and Common Council of the City of Indianapolis:

A Joint Report of the City Clerk and City Treasurer, Showing the Amount of City Orders Issued and the Amount Redeemed, from May 16th, 1876, to and including December 31st, 1876.

ISSUED.

Interest on Bonds.....	\$49,718 25
Interest on College Fund mortgage	70 00
Sinking Fund used in purchase of \$29,000 of Temporary Loan Warrants	27,355 85
City Orders reissued—one Order issued to C. Vonnegut, in lieu of a number of City Orders surrendered by him, and canceled by order of Council August 21, 1876.....	14,190 93
Interest on above Orders.....	744 40
School Fund, from May 13, 1876, to November 1, 1876.....	11,625 45
Treasurer's percentage—balance for fiscal year ending in May, 1876.	11,100 24
Home for Friendless Women—Fines collected by Mayor.....	964 90
Board of Health.....	418 00
Bridges.....	2,092 09
City Assessor assistants.....	2,404 75
City Civil Engineer's Department.....	4,471 25
City Commissioners.....	396 00
City Dispensary.....	2,100 00
City Hospital and Branch.....	10,535 90
Cisterns, public	636 44
Costs.....	1,000 65

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COMMON COUNCIL.

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Damages.....	\$660 25
Elections.....	355 25
Engine House, new.....	1,250 00
Fire Department, salary and expenses.....	63,293 88
Fountains.....	1,979 39
Fuel, City Hall.....	143 85
Gas.....	46,141 29
Gas Fixtures and Repairs.....	839 79
Ice.....	164 19
Incidental.....	1,118 30
Levee.....	10,154 75
Lighting and Extinguishing Public Lamps.....	1,836 78
Markets.....	274 76
Nuisances.....	350 00
Office Fixtures.....	283 87
Police.....	35,337 09
Police, Extra.....	1,300 92
Posting Bills.....	229 50
Printing, Stationery and Advertising.....	4,229 41
Public Buildings.....	7,252 55
Parks.....	1,449 13
Refunding Sewer assessments.....	3,433 52
Rent, City Hall.....	1,500 00
Salary City Officers.....	6,796 50
Sewers.....	18,657 64
State Ditch.....	856 35
Station Houses.....	4,680 46
Steam Fire Engine.....	3,000 00
Street Improvements.....	5,770 73
Street Repairs.....	33,277 12
Taxes refunded.....	180 28
Tomlinson annuity.....	7,000 00
Tomlinson Estate Repairs.....	500 74
Transfers.....	314 80
Tunnels.....	382 05
Water Rent.....	21,613 97
Total Orders issued from May 16 to December 31, 1876.....	426,407 51
Amount of wrders outstanding May 15, 1876.....	98 000 00
Total.....	\$524,407 51

REDEEMED.

Interest on Bonds.....	\$49 788 25
Sinking Fund.....	27,355 85
School Fund.....	11,625 45
Home for Friendless Women.....	964 90
Board of Health.....	168 06
Bridges.....	691 78
Assistant City Assessors.....	1,288 31
City Civil Engineer's Department.....	1,428 79
City Commissioners.....	200 00
City Hospital.....	1,553 26
Cisterns.....	553 21
Costs.....	330 20
Damages.....	60 00
Elections.....	161 25
Engine House.....	104 34
Fire Department.....	24,570 28
Fountains.....	453 50
Gas Fixtures.....	187 00
Incidental.....	763 79
Levee.....	3,299 77
Lighting and Extinguishing Public Lamps.....	815 74
Markets.....	178 05
Nuisances.....	175 00
Office Fixtures.....	25 55
Posting Bills.....	131 50
Printing.....	2,403 40
Parks.....	408 88
Refunding Sewer assessments.....	297 50
Rent.....	516 58
Salary.....	4,164 00
Sewers.....	2,723 13
State Ditch.....	656 35
Station Houses.....	1,524 10
Steam Fire Engine.....	3,000 00
Street Improvements.....	1,933 58
Street Repairs.....	12,813 73
Taxes Refunded.....	108 05

Tomlinson Estate	\$7,395 59
Transfers	229 30
Tunnels.....	48 00
Police	13,383 31
Amount of City Orders outstanding not paid for want of funds...	345,928 28
Total	\$524,407 51

Respectfully submitted,

BENJ. C. WRIGHT,

City Clerk.

HENRY W. TUTEWILER,

City Treasurer.

Which was referred to the Committee on Finance.

The City Attorney submitted the following report :

Indianapolis, January 8, 1877.

To the Mayor and Common Council of the City of Indianapolis:

Gentlemen :—I would report that in compliance with the motion passed at the last meeting of the Council, I have procured a renewal of the insurance upon the bridge over White River, to-wit: \$5,000 in The North British and Mercantile Company; \$2,500 in The Boston Underwriters, and \$2,500 in The Fire Association of Philadelphia, at a cost of \$180, which is \$20 less than the cost of insurance upon that bridge the last year. I would also report that the old insurance did not expire until the fourth instant. That new policies were written up and deposited with the Clerk by the agent of The Orient Fire Insurance Company for \$5,000, and in the Hartford for \$5,000, together with a bill of \$200 for the same. This was done without my knowledge, on last Monday, three days before the insurance expired, and the Committee on Accounts and Claims allowed the bill of \$200, and it was included in the last appropriation ordinance. I have examined into the responsibility of the companies, and am of the opinion that those offering to insure the bridge for \$180 are as good as those charging \$200.

I therefore would report the whole matter to the Council for their action; and I would recommend that some person be instructed to attend, in the fu-

ture, to the insurance of the city property, in order to avoid trouble of this kind hereafter.

Respectfully submitted,

R. O. HAWKINS,

City Attorney.

Which was referred to the Committee on Finance, with power to act.

The Mayor presented the following communication :

Indianapolis. January 8 1877.

To the Mayor and Common Council of the City of Indianapolis :

Gentlemen :—Considerable time having elapsed since the passage of the Union Railway Transfer and Stock Yard Ordinance, in submitting this communication we ask leave to briefly recapitulate the history of the enterprise. A petition was presented, signed by a large majority of the property holders of the City of Indianapolis, requesting the Council to aid in the construction of the railroad of the Union Railroad Transfer and Stock Yard Company, upon certain terms and conditions contained in a proposition heretofore presented to the Mayor by this company. The petition was granted and an ordinance passed, the provisions of which were duly accepted by this Company as required by said ordinance, and thereupon this Company entered into negotiations and made all arrangements to procure the necessary funds to proceed at once with the work.

Just at that time the Supreme Court, in a case of the Indiana North and South Railway Company vs. The City of Attica, decided questions which it was thought by the Council would release this Company from all liability upon this contract, made and entered into by the acceptance of the provisions of the said ordinance. The Council then passed a resolution reconsidering the vote by which the said ordinance was passed, and the whole matter was referred to the Judiciary Committee, together with the City Attorney, and such other counsel as they might employ.

Upon the — day of October, 1876, the said committee submitted their report, together with the opinions of the City Attorney and Messrs. Harrison, Hines & Miller. The City Attorney in his opinion, after stating the case of the Indiana North and South Railway Company vs. The City of Attica, says: "The conditions of the ordinance, heretofore mentioned, can not be enforced against the Company, and they could not be required to comply with them before receiving the bonds of the city." Messrs Harrison, Hines & Miller

say: "Taking the decision above referred to as the law applicable to donations by cities, we are of the opinion that any condition imposed outside of those prescribed in the petition are not binding on the Company, and that upon the completion of the road so far as to admit of the running of trains between the points named and the execution of the mortgage, the city could be compelled to issue the bonds, but as to all other conditions attempted to be imposed by the ordinance, under the authority of the said ordinance, we are of the opinion they could not be enforced." And again Messrs. Harrison, Hines & Miller say: "The decision of the highest tribunal of the State, sustained by the reasoning referred to, may well excite grave doubts as to whether the condition of the execution of the mortgage referred to in the petition need to be complied with to enable the Company to secure the possession of the bonds of the city. There is nothing in the law authorizing the city to make contracts with railroad companies in reference to donations, or to prescribe terms upon which they may be made. The city is only authorized to subscribe stock or to make donations of money or bonds. If the reasoning of the court shall eventually be sustained in all the breadth of its expression, it is not only possible, but probable, that the donation might be insisted upon without any protection or condition whatever."

These views of the law induced the Company to submit the same questions to their attorneys, from whom they received the same opinion. This contract was entered into upon our part in the most perfect good faith, and believing our Company to be legally bound by every condition therein, and not desiring to take advantage of the rights which this construction of the law gives us, but standing ready and willing to abide by the agreement we have made, and for the purpose and with the view of having the contract, legally made, precisely what all parties believed it to be, we will join the city in a memorial to the legislature asking that the said contract be legalized, validated and made binding upon this Company.

This may be done early in the month of January which will enable us to proceed with the work at once, and give employment to a large number of your citizens, as we in the first instance agreed to do.

W. R. McKEEN,
President.

Attest:
E. F. CLAYPOOL, Sec'y.

Which was referred to the Committee on Judiciary and City Attorney.

INTRODUCTION OF ORDINANCES.

Mr. Webster introduced general ordinance No. 2, 1877, entitled

An ordinance prohibiting any person from conducting any theatrical or negro minstrel exhibition, or engaging in any such exhibition as actor, doorkeeper, usher, manager, or in any other capacity.

Which was read the first time, and made the special order for next Monday night.

REPORTS FROM COMMITTEES.

Mr. Webster, from the Committee on Accounts and Claims, submitted the following report :

Indianapolis, January 8, 1877:

To the Mayor and Common Council of the City of Indianapolis :

Gentlemen :—Your Committee on Accounts and Claims, to whom was referred a petition from David King, asking the Council to remit an assessment of \$800 made against certain property owned by him in 1873, on account of the opening of Blackford street. Your committee believe that the petition should be referred to the Committee on Judiciary and City Attorney, and recommend that such reference be made.

Respectfully submitted,

GEO. C. WEBSTER,

W. G. WRIGHT,

Committee.

Which was concurred in.

Mr. A. L. Wright, from the Committee on Finance, submitted the following report :

Indianapolis, January 8, 1877.

To the Mayor and Common Council of the City of Indianapolis :

Gentlemen :—Your Committee on Finance, to whom was referred the petition of Thomas Wren and A. L. Clippinger, respectfully report as follows :

First. The petition of Thomas Wren, asking that the penalty and interest on his delinquent taxes be refunded to him, for the reason that the city had all his funds under her control during the time the penalty and interest accrued. The petition does not fairly represent the facts. Mr. Wren claimed damages from the city under a contract for street improvements. The city

denied any liability under said contract, but in a compromise settlement paid him \$500.

Your committee see no reason why the penalty and interest on his taxes should be refunded, and recommend that the prayer of the petitioner be not granted.

Second. A petition from A. L. Clippinger, asking that the penalty on taxes in certain bank stock be remitted. The taxes were not paid at the proper time, for the reason that the petitioner was under the impression that the bank paid the same.

Your committee suggest as the non-payment of the taxes at the proper time was the result of a misunderstanding between the petitioner and the bank, that the penalty is a matter to be adjusted between them, and recommend that the prayer of the petitioner be not granted.

We recommend the passage of the following resolution:

Resolved, That the City Treasurer is hereby authorized and instructed to receive at any time on presentment, City Orders in payment of all taxes not delinquent (excepting the tax for special funds), and allow interest on said order until the third Monday in April, 1877, the said third Monday being the last day on which current taxes can be received without penalty.

City Orders offered in payment of delinquent taxes to bear interest only to the day they are received.

Respectfully submitted,

A. L. WRIGHT,

N. S. BYRAM,

J. THOMAS,

Com. on Finance.

The first and second sections were concurred in, and the resolution was adopted by the following vote:

Affirmative—Councilmen Byram, Case, Darnell, Izor, Morse, McGill, McGinty, Pouder, Ransdell, Schmidt, Steinhauer, Thalman, Thomas, Webster, Wright, Arthur L., and Wright, William G.—16.

Negative—None.

ORDINANCES ON SECOND READING.

Special ordinance No. 62, 1875, entitled:

An ordinance to provide for grading and graveling Sullivan street and sidewalks between Bismarck and Buchanan streets.

Was read the second time and stricken from the files.

Mr. Schmidt moved that all street improvement ordinances be postponed until the first meeting in April, 1877.

Mr. Thalman moved to lay Mr. Schmidt's motion on the table.

Which motion to lay on the table was adopted by the following vote:

Affirmative—Councilmen Case, Darnell, Izor, Morse, McGill, McGinty, Poudler, Thalman, Thomas, and Wright, William G.—10.

Negative—Councilmen Byram, Ransdell, Schmidt, Steinhauer, Webster, and Wright, Arthur L.—6.

Mr. Ransdell moved to postpone all street improvement ordinances until the first meeting in March, 1877.

Which motion was not adopted.

Special ordinance No. 60, 1876, entitled:

An ordinance to provide for grading and graveling the alley between Kennington and Franklin streets from Morris to Dunlap streets.

Was read the second time.

Mr. Ransdell moved that all action on the street improvement ordinances be postponed.

Which motion was adopted.

By consent, Mr. Ransdell offered the following motion:

Moved, That hereafter it shall be the duty of the City Attorney and City Clerk to have and cause to be kept fully insured, at the lowest price consist-

ent with full security, all the property of the city upon which it is necessary to carry insurance, and that a record of such insurance be kept in the office of the City Clerk.

Which motion was adopted.

Mr. A. L. Wright, from the Committee on Finance, submitted the following report :

Indianapolis, January 8, 1877.

To the Mayor and Common Council of the City of Indianapolis :

Gentlemen :—Your Committee on Finance, to whom was referred the matter of insurance upon the National Road Bridge, respectfully report recommending that insurance be placed as follows :

\$5,000 in North British and Mercantile Insurance Company.

2 500 in Boston Underwriters Insurance Company.

2 500 in Fire Association of Philadelphia, at the rate of \$1.80.

Respectfully submitted,

A. L. WRIGHT,

J. THOMAS,

N. S. BYRAM

Committee.

Which was concurred in.

On motion, the Council adjourned.

S. Loren Mayor.

Attest :

Amelia Wright City Clerk.