

REGULAR MEETING

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.

Monday, December 5, 1921.

The Common Council of the City of Indianapolis met in the Council Chamber, Monday evening, December 5, 1921, at 7:30 o'clock in regular session, President Russell Willson in the chair.

Present: The Hon. Russell Willson, President of the Common Council, and seven (7) members, viz.: Messrs. Brown, Carnefix, Furniss, Kirsch, Miller, Peake and Schmidt.

Absent: Mr. Pettijohn.

Mr. Brown moved that the reading of the Journal be dispensed with. Carried.

COMMUNICATIONS FROM THE MAYOR.

November 21, 1921.

To the President and Members of the Common Council, City of Indianapolis.

Gentlemen:—I have this day signed and delivered to George O. Hutsell, City Clerk, General Ordinance No. 81.

Yours very truly,

CHARLES W. JEWETT,
Mayor.

November 22, 1921

To the President and Members of the Common Council, City of Indianapolis:

Gentlemen—I have this day signed and delivered to George O. Hutsell, City Clerk, the following ordinances:

Appropriation Ordinance No. 30—appropriating the sum of \$500 to the Special City Judges' Fund of the Department of Finance.

Appropriation Ordinance No. 1—appropriating the sum of \$14,000 to the Department of Finance to the fund known as the Primary Registration and Election Expense.

General Ordinance No. 82—transferring the sum of \$4,000 from Main-

tenance and etc., fund of the Board of Public Works to the Salaries and etc., fund. Yours very truly,

CHARLES W. JEWETT,
Mayor.

December 2, 1921.

To the President and Members of the Common Council, City of Indianapolis:

Gentlemen—I have this day signed and delivered to George O. Hutsell, City Clerk, the following:

Resolution No. 26—fixing compensation of appointive members of City Election Board.

Resolution No. 27—fixing compensation of the Board of Canvassers.

Yours very truly,

CHARLES W. JEWETT,
Mayor.

REPORTS FROM CITY OFFICERS.

From the City Controller:

December 5, 1921.

Hon. President and Members of the Common Council, Indianapolis, Indiana:

Gentlemen—I hand you herewith communication from the Board of Public Works asking for an appropriation of \$250.00 for the payment of appraisers: \$40,000 for payment of electric, gas and vapor lights, and \$59,000 for the payment of water rentals due this year.

I submit ordinance covering same and recommend its passage.

Yours very truly,

ROBT. H. BRYSON,
City Controller.

December 5, 1921.

Mr. R. H. Bryson, City Controller, City of Indianapolis:

Dear Sir—I am submitting herewith for your approval and transmission to the Common Council an Ordinance in three sections appropriating funds to the Department of Public Works for use in the year 1921.

Section 1. \$250.00 for payment of appraisers. There is left in this fund \$75.00 and it will be necessary to pay appraisers who more than three years ago appraised the Puritan Bed Springs Co. property, a Flood Prevention measue, as well as appraisers for the making of new streets at New York and Randolph streets, Delaware and 16th streets, and Michigan and Highland avenue.

Sec. 2. \$40,000.00 for payment of electric, gas and vapor lights due this year.

Sec. 3. \$59,000.00 for the payment of water rentals due this year.
Yours truly,

W. F. CLEARY,
Clerk, Board of Public Works.

December 3, 1921.

Hon. President and Members of the Common Council, Indianapolis, Indiana:

Gentlemen—I submit herewith ordinance covering an appropriation of \$35,245.56 to the Interest and Exchange Fund of the Department of Finance.

The necessity for this ordinance is occasioned by the fact that after the budget was made up last year your honorable body authorized the issuance of \$400,000 Fire Department Equipment Bonds and \$375,000 Track Elevation Bonds. This additional amount will be necessary to pay the interest due on bonds January 1st.

I therefore recommend the passage of this ordinance.

Yours very truly,

ROBT. H. BRYSON,
City Controller.

December 3, 1921.

Hon. President and Members of the Common Council, Indianapolis, Ind.:

Gentlemen—I hand you herewith communication from the Board of Public Works asking for an appropriation of \$250 to the Erroneous Assessments Fund of the Board of Public Works.

I submit herewith ordinance covering same and recommend its passage.
Yours very truly,

ROBT. H. BRYSON,
City Controller.

November 29, 1921.

Mr. Robt. H. Bryson, City Controller, City of Indianapolis:

Dear Sir—I am submitting herewith for your approval and transmission to the Common Council, an ordinance appropriating the sum of \$250.00 to the Erroneous Assessments Fund of the Department of Public Works.
Yours truly,

W. F. CLEARY,
Clerk, Board of Public Works.

REPORTS FROM STANDING COMMITTEES.

From the Committee on Public Works:

Indianapolis, Ind., Dec. 5, 1921.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—We, your committee on Public Works, to whom was referred General Ordinance No. 83, 1921, entitled an ordinance, transferring the sum of Eighteen Hundred Dollars (\$1,800.00) from the Municipal Garage Maintenance Fund of the Department of Public Works, transferring the same to the Sprinkling Department Road Oil Fund of the Department of Public Works, and declaring a time when the same shall take effect, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

S. A. FURNISS,
J. P. BROWN,
L. W. CARNEFIX,
J. E. MILLER.

Mr. Furniss moved that the report of the Committee be concurred in. Carried.

From the Committee on Public Works:

Indianapolis, Ind., Dec. 5, 1921.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—We, your committee on Public Works, to whom was referred General Ordinance No. 85, 1921, entitled an ordinance approving a certain contract granting The Active Coal Co., of Indianapolis, Indiana, the right to lay and maintain a sidetrack or switch from the New York Central Railway track to the property on the northeast corner of Fourteenth and Lafayette street, crossing Fourteenth street at the intersection of Lafayette street, according to blue print attached, in the City of Indianapolis, Indiana, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

S. A. FURNISS,
J. P. BROWN,
L. W. CARNEFIX,
J. E. MILLER.

Mr. Furniss moved that the report of the Committee be concurred in. Carried.

From the Committee on Public Works:

Indianapolis, Ind., Dec. 5, 1921.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—We, your committee on Public Works, to whom was referred General Ordinance No. 86, 1921, entitled an ordinance approving a certain contract granting Samuel Falender and Julius Falender the right to lay and maintain a sidetrack or switch according to blue print attached, in the City of Indianapolis, Indiana, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

S. A. FURNISS,
J. P. BROWN,
L. W. CARNEFIX,
J. E. MILLER.

Mr. Furniss moved that the report of the Committee be concurred in. Carried.

From the Committee on Public Works:

Indianapolis, Ind., Dec. 5, 1921.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—We, your committee on Public Works, to whom was referred General Ordinance No. 88, 1921, entitled an ordinance transferring the sum of Fifteen Hundred (\$1,500.00) Dollars from the Fire Insurance Public Buildings Fund of the Board of Public Works to and re-appropriating said Fifteen Hundred (\$1,500.00) Dollars so transferred to the Blank Books Printing and Advertising Fund of the Board of Public Works and declaring a time when the same shall take effect, beg leave to report that we have had said ordinance under consideration and recommend that the same be passed.

S. A. FURNISS,
J. P. BROWN,
L. W. CARNEFIX,
J. E. MILLER.

Mr. Furniss moved that the report of the Committee be concurred in. Carried.

From the Committee on Public Works :

Indianapolis, Ind., Dec. 5, 1921.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—We, your committee on Public Works, to whom was referred Special Ordinance No. 13, 1921, entitled an ordinance annexing certain territory to the City of Indianapolis, Indiana, and defining parts of the boundary line of said City, and fixing a time when the same shall take effect, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

S. A. FURNISS,
J. P. BROWN,
L. W. CARNEFIX,
J. E. MILLER.

Mr. Furniss moved that the report of the Committee be concurred in. Carried.

From the Committee on Public Works :

Indianapolis, Ind., Dec. 5, 1921.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—We, your committee on Public Works, to whom was referred Special Ordinance No. 12, 1921, entitled an ordinance annexing territories to the city of Indianapolis, Indiana, and define part of the boundary line of said city, and fixing a time when the same shall take effect, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

S. A. FURNISS,
J. P. BROWN,
L. W. CARNEFIX,
J. E. MILLER.

Mr. Furniss moved that the report of the Committee be concurred in. Carried.

From the Committee on Public Works :

Indianapolis, Ind., Dec. 5, 1921.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—We, your committee on Public Works, to whom was referred Special Ordinance No. 14, 1921, entitled an ordinance annexing certain territory to the City of Indianapolis, Indiana, and defining a part of the boundary line of said city, and fixing a time when the same shall take effect, beg leave to report that ye have had said ordinance under consideration, and recommend that the same be passed.

S. A. FURNISS,
J. P. BROWN,
L. W. CARNEFIX,
J. E. MILLER.

Mr. Furniss moved that the report of the Committee be concurred in. Carried.

From the Committee on Public Works:

Indianapolis, Ind., Dec. 5, 1921.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—We, your committee on Public Works, to whom was referred Special Ordinance No. 15, 1921, entitled an ordinance annexing certain territory to the City of Indianapolis, Indiana, and defining a part of the boundary line of said city and fixing a time when the same shall take effect, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

S. A. FURNISS,
J. P. BROWN,
L. W. CARNEFIX,
J. E. MILLER.

Mr. Furniss moved that the report of the Committee be concurred in. Carried.

From the Committee on Public Safety:

Indianapolis, Ind., Dec. 5, 1921.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—We, your committee on Public Safety, to whom was re-

ferred General Ordinance No. 87, 1921, entitled an ordinance transferring the sum of Eighteen Thousand Dollars (\$18,000) from the Salaries Fund of the Police Department under the Department of Public Safety to the Salaries Fund of the Fire Department under the Department of Public Safety, and declaring a time when the same shall take effect, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

J. P. BROWN,
S. A. FURNISS,
J. E. MILLER,
W. B. PEAKE.

Mr. Brown moved that the report of the Committee be concurred in. Carried.

INTRODUCTION OF APPROPRIATION ORDINANCES.

By the City Controller:

APPROPRIATION ORDINANCE NO. 32, 1921.

AN ORDINANCE, appropriating additional funds to the Department of Public Works for use in the year 1921, to its fund for the payment of appraisers, and to its fund for the payment of water rentals and to its fund for the payment of electric, gas and vapor lights and fixing a time when the same shall take effect.

Be it ordained by the Common Council of the City of Indianapolis, Indiana:

Section 1. That there be and is hereby appropriated to the Department of Public Works for use in the year 1921, an additional sum of Two Hundred and Fifty (\$250.00) Dollars to the Fund of said Department for the payment of appraisers.

Sec. 2. That there be and is hereby appropriated to the Department of Public Works for use in the year 1921, the additional sum of Forty Thousand (\$40,000.00) Dollars to the fund of said department for the payment of electric, gas and vapor lights.

Sec. 3. That there be and is hereby appropriated to the Department of Public Works for use in the year 1921, the additional sum of Fifty Nine Thousand (\$59,000.00) Dollars to the fund of said department for the payment of water rentals.

Sec. 4. This ordinance shall be in full force and effect from and after its passage.

Which was read a first time and referred to the Committee on Finance.

By the City Controller :

APPROPRIATION ORDINANCE NO. 33, 1921.

AN ORDINANCE appropriating the sum of Thirty-five Thousand Two Hundred Forty-five Dollars and Fifty-six Cents (\$35,245.56) to the interest and exchange on city bonds fund of the Department of Finance, and declaring a time when the same shall take effect.

Be it ordained by the Common Council of the City of Indianapolis, Indiana:

Section 1. That there be and is hereby appropriated the sum of Thirty-five Thousand Two Hundred Forty-five Dollars and Fifty-six Cents (\$35,245.56) to the interest and exchange on city bonds fund of the Department of Finance.

Sec. 2. This ordinance shall be in full force and effect from and after its passage.

Which was read a first time and referred to the Committee on Finance.

By the City Controller :

APPROPRIATION ORDINANCE NO. 34, 1921.

AN ORDINANCE, appropriating the sum of Two Hundred Fifty (\$250.00) Dollars to the Erroneous Assessments Fund of the Department of Public Works, and declaring a time when the same shall take effect.

Be it ordained by the Common Council of the City of Indianapolis, Indiana:

Section 1. That there be and is hereby appropriated the sum of Two Hundred Fifty (\$250.00) Dollars to the Erroneous Assessments Fund of the Department of Public Works.

Sec. 2. This ordinance shall be in full force and effect from and after its passage.

Which was read a first time and referred to the Committee on Finance.

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

By Mr. Brown:

SPECIAL ORDINANCE NO. 16, 1921.

AN ORDINANCE annexing certain territory to the City of Indianapolis, Indiana, and defining a part of the boundary line of said city, and fixing a time when the same shall take effect.

Be it ordained by the Common Council of the City of Indianapolis, Indiana:

Section 1. That the City of Indianapolis be and the same is hereby extended so as to include the following described continuous territory all of which is hereby annexed to and made a part of the territory constituting and forming the City of Indianapolis, in Marion County, Indiana.

Sec. 2. Beginning at the northwest corner of Section Sixteen (16) in Township Fifteen (15) North of Range Four (4) east, and running thence south on and along the west line of said section to the southwest corner of the northwest quarter of said section; thence east on and along the south line of said quarter section to its intersection with the west or south line of the right-of-way of Indianapolis and Cincinnati Traction Company; thence northwesterly, on and along the west or south line of said right-of-way to its intersection with the north line of said section; thence west on and along said north line of said section to the point of beginning.

Sec. 3. This ordinance shall be in full force and effect from and after its passage.

Which was read a first time and referred to the Committee on Public Works.

ORDINANCES ON SECOND READING.

Mr. Brown called for General Ordinance No. 87, 1921, for second reading. It was read a second time.

Mr. Brown moved that General Ordinance No. 87, 1921, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 87, 1921, was read a third time and passed by the following vote:

Ayes, 8, viz.: Messrs. Brown, Carnefix, Furniss, Kirsch, Miller, Peake, Schmidt and President Russell Willson.

Mr. Furniss called for General Ordinance No. 83, 1921, for second reading. It was read a second time.

Mr. Furniss moved that General Ordinance No. 83, 1921, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 83, 1921, was read a third time and passed by the following vote:

Ayes, 8, viz.: Messrs. Brown, Carnefix, Furniss, Kirsch, Miller, Peake, Schmidt and President Russell Willson.

Mr. Furniss called for General Ordinance No. 85, 1921, for second reading. It was read a second time.

Mr. Furniss moved that General Ordinance No. 85, 1921, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 85, 1921, was read a third time and passed by the following vote:

Ayes, 8, viz.: Messrs. Brown, Carnefix, Furniss, Kirsch, Miller, Peake, Schmidt and President Russell Willson.

Mr. Furniss called for General Ordinance No. 86, 1921, for second reading. It was read a second time.

Mr. Furniss moved that General Ordinance No. 86, 1921, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 86, 1921, was read a third time and passed by the following vote:

Ayes, 7, viz.: Messrs. Brown, Carnefix, Furniss, Kirsch, Miller, Peake and President Russell Willson.

Noes, 1, viz.: Mr. Schmidt.

Mr. Furniss called for General Ordinance No. 88, 1921, for second reading. It was read a second time.

Mr. Furniss moved that General Ordinance No. 88, 1921, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 88, 1921, was read a third time and passed by the following vote:

Ayes, 8, viz.: Messrs. Brown, Carnefix, Furniss, Kirsch, Miller, Peake, Schmidt and President Russell Willson.

Mr. Furniss called for Special Ordinance No. 12, 1921, for second reading. It was read a second time.

Mr. Furniss moved that Special Ordinance No. 12, 1921, be ordered engrossed, read a third time and placed upon its passage. Carried.

Special Ordinance No. 12, 1921, was read a third time and passed by the following vote:

Ayes, 7, viz.: Messrs. Brown, Carnefix, Furniss, Kirsch, Miller, Peake and President Russell Willson.

Noes, 1, viz.: Mr. Schmidt.

Mr. Furniss called for Special Ordinance No. 13, 1921, for second reading. It was read a second time.

Mr. Furniss moved that Special Ordinance No. 13, 1921, be ordered engrossed, read a third time and placed upon its passage. Carried.

Special Ordinance No. 13, 1921, was read a third time and passed by the following vote:

Ayes, 8, viz.: Messrs. Brown, Carnefix, Furniss, Kirsch, Miller, Peake, Schmidt and President Russell Willson.

Mr. Furniss called for Special Ordinance No. 14, 1921, for second reading. It was read a second time.

Mr. Furniss moved that Special Ordinance No. 14, 1921, be ordered engrossed, read a third time and placed upon its passage. Carried.

Special Ordinance No. 14, 1921, was read a third time and passed by the following vote:

Ayes, 8, viz.: Messrs. Brown, Carnefix, Furniss, Kirsch, Miller, Peake, Schmidt and President Russell Willson.

Mr. Furniss called for Special Ordinance No. 15, 1921, for second reading. It was read a second time.

Mr. Furniss moved that Special Ordinance No. 15, 1921, be ordered engrossed, read a third time and placed upon its passage. Carried.

Special Ordinance No. 15, 1921, was read a third time and passed by the following vote:

Ayes, 8, viz.: Messrs. Brown, Carnefix, Furniss, Kirsch, Miller, Peake, Schmidt and President Russell Willson.

Mr. Furniss called for General Ordinance No. 50, 1921, for second reading. It was read a second time.

Mr. Furniss moved that General Ordinance No. 50, 1921, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 50, 1921, was read a third time and failed to pass by the following vote:

Ayes, 2, viz.: Messrs. Furniss and Miller.

Noes, 6, viz.: Messrs. Brown, Carnefix, Kirsch, Peake, Schmidt and President Russell Willson.

UNFINISHED BUSINESS.

From the Department of Law:

December 5, 1921.

Mr. Russell Willson, President, Common Council of Indianapolis, City:

Dear Sir—In reply to your request for an opinion concerning the validity of the attached ordinance, relating to the prohibition of certain structures within a certain district of public parks and in residence neighborhoods.

The Common Council is authorized by statute to declare what shall constitute a nuisance, and to compel its removal or abatement. Under this power it is my opinion that it has the authority to enact the ordinance in question. It must be remembered, however, that the Common Council cannot constitute a certain thing as a nuisance if it is not a nuisance in fact. Therefore, anything prosecuted under the ordinance, the defense could always be interposed that the particular thing involved in the prosecution was not a nuisance in fact.

It is my opinion that the ordinance is also valid as an exercise of the police power. If it be a valid exercise of this power, since it oper-

ates upon businesses which are lawful, its reasonableness is a question of law for the court in determining its validity.

If I am right in my statement, that the ordinance is a valid exercise of the police power, it is immaterial in attempting to apply it to any particular case, that a building permit has been granted because the granting of a building permit does not bind or restrict the city in any way in the exercise of the police power. It has been held that ordinances passed in the valid exercise of the police power, are not void for the impairment of contracts because they may operate to prevent the performance of those contracts.

As stated above, I am of the opinion that the ordinance can be lawfully passed by the Common Council, but that its reasonableness and its application to any particular case will be open questions for the courts.

Very truly yours,

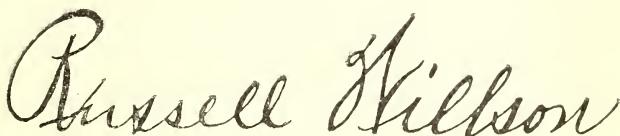
THOMAS D STEVENSON,

City Attorney.

APPROVED:

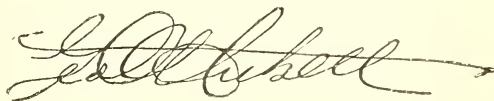
SAMUEL ASHBY, *Corporation Counsel.*

On motion of Mr. Miller the Common Council at 9:45 o'clock P. M. adjourned.



President.

Attest:



City Clerk.