

PROCEEDINGS
OF THE
COMMON COUNCIL.

REGULAR SESSION

CHAMBER OF THE COMMON COUNCIL OF THE
CITY OF INDIANAPOLIS,
MONDAY, MARCH 30TH, 1868, 7 O'CLOCK, P. M. }

The Common Council met in regular session.

Present—His Honor, the Mayor, Daniel Macauley, in the chair,
and the following members:

Councilmen Brown, Coburn, Colley, Cottrell, Davis, Foster, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Seidensticker and Woodburn—15.

Absent—Councilmen Burgess, Schmidt and Stanton—3.

The proceedings of the regular session held March 23d, 1868,
were read and approved.

REGULAR ORDER OF BUSINESS.

Mr. Brown presented the following petition:

INDIANAPOLIS, March 30, 1868.

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

GENTLEMEN:—We, the undersigned property holders, would respectfully petition your honorable body to cause to be graded and graveled Railroad street from Chesapeake street, through part of Squares Nos. 77 and 98, to the Union Railway track.

Christian Karle,
J. W. Davis,
Cottrell & Knight,

J. P. Evans & Co.,
George Schmitt,
And 6 others.

Which, was received.

Also, special ordinance No. 12—1868, entitled :

AN ORDINANCE to provide for grading and graveling Railroad street from Chesapeake street south to the Union Railway Company's track, including the sidewalks.

Which was read the first time.

Mr. Brown offered the following motion :

That the Committee on Public Schools be instructed to confer with the School Trustees and ascertain what steps are necessary to be taken to provide a fund for the building of such additional school building or buildings as may be necessary for the accommodation of the school children of the city.

Which was adopted.

Mr. Coburn offered the following resignation :

INDIANAPOLIS, March 30, 1868.

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

GENTLEMEN:—I hereby tender my resignation as one of the Registers of Election for the Second Ward.

J. C. ADAMS.

Which was accepted.

Mr. Coburn introduced general ordinance No. 130, entitled :

AN ORDINANCE authorizing the contractor for the erection of Fire Alarm Telegraph to attach the lines to the tops of buildings instead of poles, when the same is practicable.

Which was read the first time.

Mr. Davis presented the following petition :

INDIANAPOLIS, March 30, 1868.

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

We, the undersigned, would respectfully ask permission to connect our store, standing upon the east half of lot 7, square 55, with our store room on the opposite of the alley running by the rear of said store, by a passage way 5 feet wide running under the alley, the passage way to be constructed of brick in a strong and substantial manner.

Yours respectfully,

HUME, ADAMS & CO.

Which was granted, the work to be done under the supervision of the City Civil Engineer.

Mr. Davis presented the following petition :

INDIANAPOLIS, March 30, 1868.

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

The undersigned respectfully petitions your honorable body for permission to set a small wooden trunk, made and used for a sign, on the north-west

corner of Washington and Meridian streets. The said sign to be placed at the junction of the Meridian street curb-stone and the plank crossing the gutter east, and on a direct line with the south side of the Bee Hive store. The same to be placed so as to be no obstruction on either Washington or Meridian streets.

JAMES BOGERT,

Trunk Shop under Bee Hive Store.

Which was referred to the Committee on Revision of Ordinances.

Mr. Goddard offered the following motion :

That the Chief of Police appoint a policeman at the Cemetery on Sundays.

Which was referred to the Board of Police.

Mr. Henschen presented the following petition :

INDIANAPOLIS, March 30, 1868.

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

GENTLEMEN:—Your petitioners and property holders on Harrison street respectfully represent unto your honorable body that said Harrison street is the only thoroughfare leading immediately to our properties, and at present it being in a very rough condition, and during the wet seasons of the year almost impassable, our own convenience and comfort, as well as that of the public, we believe, demand that the same be graded and graveled. Wherefore, we pray that this matter be immediately attended to, and that you may order the grading and graveled of said Harrison street its entire length from Noble street to the Corporation line east.

Wm. B. Bogardus,

Smith, Ittenbach & Co.,

Christian Pope,

Wm. Pope,

John Keef,

And 19 others.

Which was received.

Also, introduced special ordinance No. 13—1868, entitled :

AN ORDINANCE to provide for grading and graveled Harrison street and sidewalks, between Noble street and the west line of Coe's subdivision.

Also, special ordinance No. 14—1868, entitled :

AN ORDINANCE to provide for grading and graveled Harrison street and sidewalks, between the west line of Coe's subdivision and Dillon street.

Which were read the first time.

Dr. Jameson presented the following petition :

INDIANAPOLIS, March 30, 1868.

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

The undersigned would respectfully represent that having been denied admission to the so called Union Depot, in this city, it becomes necessary to seek such other locations as we may be able, and to make our property in anywise available in meeting the wants of the public or convenience of this Company, we have located, as indicated in the accompanying ordinance submitted for your consideration; and as our Company is ready to lay down the

tracks contemplated therein, it is hoped the matter may receive your prompt attention.

THE JUNCTION R. R. CO.,
By J. M. RIDENOUR, Vice Pres t.

Which was received.

Also, introduced general ordinance No. 131, entitled :

AN ORDINANCE authorizing the Junction Railroad Company to cross certain streets and alleys, and to lay a single track in Louisiana street on the north side of the Union Depot.

Which was read the first time, and,

On motion, was referred to a special committee consisting of Councilmen Seidensticker, Goddard, Brown, Cottrell, Loomis, Woodburn and Kappes.

Dr. Jameson offered the following motion :

That the Indianapolis Gas Light and Coke Company be requested to furnish the City Gas Inspector with a full and complete statement of locations and sizes of gas mains on the streets of the city; also, the number of meters in use, with the approximate number of burners by them supplied, and the particular street mains from which the gas supply is obtained.

Which was adopted.

Dr. Jameson offered the following motion :

That the Indianapolis Insurance Company be allowed to pave the sidewalk in front of their property on Pennsylvania street and Virginia Avenue, and that the City Engineer be directed to set the proper grade stakes, said pavement to be completed within 60 days, and to be done under the direction of the Civil Engineer.

Which was adopted.

Mr. Loomis offered the following motion :

That His Honor, the Mayor, and City Marshal be directed to issue their Proclamation preventing swine from running at large for thirty days from April first next.

Which was referred to the Committee on Revision of Ordinances, with instructions to report an ordinance requiring all hogs to be confined, &c.

Dr. Jameson offered the following :

To amend by adding "and to provide under what circumstances swine may be kept in any part of the city."

Which was adopted.

Mr. Loomis offered the following motion :

That John A. Bradshaw be, and is hereby, directed to cause the carriage ways in "University Square" to be properly cleaned of weeds and rubbish, as also to look after and care for the trees planted therein.

Which was adopted.

Mr. MacArthur offered the following motion :

That James Skillen be allowed to grade that part of the first alley west of West street, running north and south between Washington and Market sts., at the back part of his property, the same to be done according to the Civil Engineer's stakes.

Which was adopted.

Dr. Woodburn presented the following petition :

INDIANAPOLIS, March 30, 1868.

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

GENTLEMEN:—The undersigned would respectfully represent that in the year 1865, under the direction of the City Engineer, they put down and paid for the stone crossing from the Post Office corner to the corner of Vinton's Block, on Pennsylvania street, and that the amount paid was one hundred and twenty-two (122) dollars. They respectfully ask that sum be refunded to them by the City Council, as it is a public crossing, and as all such are paid for by the city.

Respectfully,

A. E. VINTON & CO.

Which was referred to the Committee on Streets and Alleys.

Dr. Woodburn presented the following petition :

INDIANAPOLIS, March 30, 1868.

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

Whereas the State Board of Agriculture have resolved to put up large, permanent buildings on the State Fair Grounds, and the amount of money they have on hand being insufficient to defray their estimated cost, and as it will be of great advantage to the mechanics and manufacturers of the city to have ample facilities to display their wares and merchandise, your petitioners pray that your honorable body will appropriate the sum of five thousand dollars for the purpose of making of the Mechanic's and Manufacturer's Halls large enough for the purpose intended, and enable that branch of the exhibition to be conducted in such a manner that it may be a distinguished feature of the fair each and every year.

D. Root & Co.,

C. E. Geisendorff & Co.,

Sinker & Co.,

E. C. Atkins & Co.,

Farley & Sinker,

And 24 others.

In reference to which Mr. Loomis offered the following motion :

That there be appropriated \$1,500 annually, for three years, commencing with 1868, provided the State Fair be held here each of the three years named.

On motion, the petition and motion were referred to a special committee consisting of Councilmen Geisel, Kappes, Foster, Loomis and Woodburn.

His Honor, the Mayor, presented the following petition :

INDIANAPOLIS, March 30, 1868.

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

GENTLEMEN:—Your humble petitioner, Mr. Josephus Sonnedecker, of Cincinnati, Ohio, most respectfully petitions and asks your honorable board to grant and convey unto him or his assignee, the exclusive right and privilege to occupy and use the public lamp posts of your city, for the period of five years, with the privilege of seventeen years, for the special object of applying and adjusting his advertising frames thereon, for the purpose of conducting a general business of lamp-post advertising.

And your petitioner proposes to offer, and hereby obligates himself to pay into your City Treasury, annually, the sum of one dollar, the amount offered to and accepted by other cities, payable quarterly, for each and every lamp-post he may thus occupy or use for his advertising purposes.

The material and size of said frames are metallic, and does not exceed two inches in thickness from the post to the outside of the frame—are to be kept in good order, and is rather an ornament than otherwise.

All of which is very respectfully submitted.

JOSEPHUS SONNEDECKER,

By S. S. Cook, Agent.

Which was referred to a special committee consisting of Councilmen Davis, Henschen and MacArthur.

Sealed proposals were opened and read by the City Clerk and referred to the Board of Public Improvements.

Mr. Loomis moved that the rules be suspended in order to receive General Burnside, who had just arrived.

The question being on a suspension of the rules, those who voted in the affirmative were Councilmen Brown, Coburn, Colley, Cottrell, Davis, Foster, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Seidensticker and Woodburn—15.

No Councilman voting in the negative.

So the rules were suspended.

After a short recess the Council proceeded to business.

Mr. Brown moved that General Burnside be heard on the Vincennes Railroad matter.

The resolutions introduced by Mr. Coburn at the last meeting pertinent to that subject were read.

General Burnside then proceeded to address the Council at some length on the subject under consideration.

His Honor, ex-Mayor John Caven, being called upon, addressed the Council, showing the facts connected with the appropriation.

On motion by Dr. Jameson, a committee of three Councilmen and two merchants was appointed to confer with General Burnside on the subject.

His Honor, the Mayor, appointed as such committee Councilmen Jameson, Brown and Seidensticker, and Messrs. Merritt and Connelly.

By consent, the City Attorney made the following report:

INDIANAPOLIS, March 27, 1868.

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

GENTLEMEN:—In obedience to your instructions I have examined the questions arising upon the ordinance proposing to donate \$60,000 to the Indianapolis and Vincennes Railroad Company, and respectfully submit the following opinion:

Assuming the consideration to be that stated in the resolutions of Mr. Coburn, and that it has failed as declared, there can be no doubt of the power of the Council to annul the ordinance. Under this view the questions would be mixed ones of law and fact. It would be a question of fact whether the consideration was that stated by the resolution, and had failed as the resolutions declare.

There are, I think, other reasons why the city may defeat the claim of the Railroad Company to these bonds.

The proposal to issue these bonds is simply a proposition to donate \$60,000 to the Company. There is no rule of law better settled than that a proposition to make a gift cannot be enforced. But if I am wrong in this, and the ordinance is to be regarded as a contract, there is no consideration to support it, and it is therefore invalid. The Railroad Company were already under obligations to build their road, and the proposal to issue bonds required no additional duties and imposed no new obligations.

Under the Charter of 1865 the Council had no power to appropriate money to Railroad Companies. The Supreme Court so decided in the case of *The City of Lafayette v. Cox*, 5 Ind. 38, and this case is approved in the later cases of *City of Aurora v. West*, 9 Ind. 74. *Same v. Same*, 22 Ind. 88. The act of 1867 confers this power but does not, I think, make valid the ordinance enacted under the act of 1865. The ordinance is therefore void.

The act of 1867 confers power to make donations to railroad companies, but requires a petition of a majority of the resident freeholders. The Legislature has plenary power over municipal corporations, and can amend, alter, and repeal the incorporating acts at pleasure. The act of 1867 expressly repeals that of 1865, and requires the petition of a majority of resident freeholders instead of a petition of three-fourths of the resident tax payers. The later law of course controls and sweeps away all rights acquired under former acts. So far as the record discloses there is no such petition in this case, and the proceedings under the act of 1865 are, by the act of 1867, made of no effect. Upon this last point one of our most eminent lawyers, Hon. James Morrison, has given an able and elaborate opinion, and kindly favored me with the benefit of an examination of it, and the conclusion that he arrives at is the same as that contained in this opinion.

If the Council desire to set aside the proceedings proposing the donation of \$60,000 to the Indianapolis and Vincennes Railroad Company an ordinance should be introduced repealing so much of the ordinance of May 21, 1866, as refers to that Company.

Respectfully,

B. K. ELLIOTT, *City Attorney*

In reference to which Mr. Brown offered the following motion :

That the report be referred to the Judiciary Committee and the City Attorney, with instructions to report what steps, if any, are necessary to authorize the legal issue of the bonds heretofore authorized to be issued in favor of the Vincennes Railroad.

Which was adopted.

REPORTS FROM BOARDS.

Mr. MacArthur, from the Board of Public Improvements, made the following report :

OFFICE BOARD OF PUBLIC IMPROVEMENTS, }
Indianapolis, March 30, 1868. }

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

GENTLEMEN:—The Board of Public Improvements, to whom the motion concerning the reference back to us for planting trees in the old Fair Grounds, respectfully report that we agree to the motion, having consulted the lowest bidder and find that he will agree to the same.

Also, the motion concerning the bowldering of the sidewalk at the end of the alley running north and south, between Greer and Waters street, on McCarty street. We consider the same necessary, and would recommend that the Street Commissioner be instructed to do said work.

Also, the motion that John Schue be allowed to build a platform over the gutter in front of his property on Virginia Avenue be granted.

All of which is respectfully submitted.

JNO. B. MACARTHUR, }
SAM'L GODDARD, } *Board.*

I concur fully in the report except that part appertaining to the trees in Military Park.

W. H. LOOMIS.

On motion the two last paragraphs of the report were concurred in.

Mr. Loomis offered the following motion :

That the bid received for planting trees in the Military Park be, and the same is hereby, rejected.

Which was adopted.

On motion by Dr. Jameson, the first paragraph of the report was laid on the table.

Mr. MacArthur, from the same committee, made the following report :

OFFICE BOARD OF PUBLIC IMPROVEMENTS, }
Indianapolis, March 30, 1868. }

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

GENTLEMEN:—The Board of Public Improvements, to whom was referred the several bids for grading and graveling Tennessee street, between McCart and Ray streets, and on due examination that Hiram Seibert is the best bid

der, his bid being sixty-nine and one-half (69½) cents per lineal foot on each side of the street.

Also, the motion that the Street Commissioner construct a stone tumble and wooden apron at the gutter on the south side of South street where it enters Pogue's Run, be ordered under the supervision of the Civil Engineer.

Also, that D. Root & Co. be not allowed to place a wooden pavement in front of their place of business on Washington street, as in our opinion it is creating a bad precedent on so public a street.

Respectfully submitted,

JNO. B. MACARTHUR, }
 SAMUEL GODDARD, } *Board.*
 W. H. LOOMIS, }

Which was concurred in.

REPORTS FROM CITY OFFICERS.

The City Clerk made the following report :

INDIANAPOLIS, March 30, 1868.

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

The City Clerk respectfully reports to Council the contract and bond of Thomas Navin for building a picket fence around the Military Ground in the Fourth Ward, which is presented for your approval.

Respectfully submitted,

D. M. RANSELL, *City Clerk*

Which was concurred in and the contract approved.

The City Clerk, also, made the following report :

OFFICE OF CITY CLERK, }
 Indianapolis, March 30, 1868. }

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

GENTLEMEN:—I would respectfully report that there is on file in my office the following affidavits for the collection of street assessment by precept, as follows:

R. H. Patterson, in behalf of S. J. & R. H. Patterson, vs. Thomas Nelson, for \$26.25.

And would recommend that you order the precept to issue.

Respectfully,

D. M. RANSELL, *City Clerk.*

Which was concurred in.

The City Judge made the following report :

INDIANAPOLIS, March 28, 1868.

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

GENTLEMEN:—I have the honor to report that during the month of February, just past, I collected on account of forfeits for violations of the city ordinances, the sum of one hundred and ninety-five dollars and sixty cents, which amount I have turned over to the City Treasurer, and will appear by the accompanying voucher.

I am, gentlemen, very respectfully,

Your obedient servant,

JOHN N. SCOTT, *City Judge.*

Which was concurred in.

The City Assessor made the following report :

INDIANAPOLIS, March 30, 1868.

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

GENTLEMEN:—I herewith submit the following report for the week ending February 17, 1868:

| Weekly Report. | This Week's Report. | | | | Last Week's Report. | | | | Total Amount. | | | |
|-----------------------|---------------------|--------|---------|------|---------------------|--------|-------------|------|---------------|--------|-----------|------|
| | Lists. | Polls. | Dolls. | Cts. | Lists. | Polls. | Dolls. | Cts. | Lists. | Polls. | Dolls. | Cts. |
| March 30th, 1868. | | | | | | | | | | | | |
| Asa M. Strong..... | 226 | 172 | 110,118 | 00 | 1159 | 883 | 266,348 | 00 | 1385 | 1055 | 376,466 | 00 |
| Samuel Strong..... | | | | | 854 | 727 | 227,708 | 00 | 854 | 727 | 227,708 | 00 |
| Nelson Hoss..... | 52 | 44 | 30,094 | 00 | 781 | 546 | 362,935 | 00 | 833 | 590 | 393,029 | 00 |
| William C. Phipps.... | | | | | 1005 | 956 | 662,829 | 00 | 1005 | 956 | 662,829 | 00 |
| H. P. Randail..... | 224 | 187 | 109,485 | 00 | 1466 | 1139 | 1,509,941 | 00 | 1690 | 1326 | 1,619,426 | 00 |
| William Hadley..... | 63 | 29 | 604,874 | 00 | 777 | 637 | 1,558,805 | 00 | 840 | 666 | 2,163,679 | 00 |
| | | | | | | | Totals..... | | 6607 | 5320 | 5,443,137 | 00 |

Respectfully submitted,

WM. HADLEY, *City Assessor.*

Which was concurred in.

By consent, Mr. Kappes, from the Committee on Benevolence and Hospitals, made the following report :

RECAPITULATION OF THE WEEKLY REPORT OF CONTENTS OF REGISTER OF PATIENTS OF CITY HOSPITAL, ENDING MARCH 28, 1868.

| | |
|--|----|
| Number of patients in the Hospital at last report..... | 22 |
| Number of patients received in the Hospital since last report..... | 3 |
| Number of patients born in Hospital since last report..... | 0 |
| Number of patients discharged from Hospital since last report..... | 0 |
| Number of patients died in the Hospital since last report..... | 0 |
| Number of patients remaining in the Hospital at present..... | 25 |

Which was received.

ORDINANCES ON SECOND READING.

Mr. Brown called up special appropriation ordinance No. 19—1868, appropriating money for the repairs of wooden culverts.

Which was read the second time and ordered to be engrossed.

Mr. Brown called up special ordinance No. 9—1868.

Which was read the second time and ordered to be engrossed.

On motion by Mr. Seidensticker, the Council adjourned.

DANIEL MACAULEY, *Mayor*

ATTEST:

D. M. RANDELL, *City Clerk.*