

PROCEEDINGS OF BOARD OF ALDERMEN.

REGULAR SESSION—DECEMBER 27, 1882.

The Board of Aldermen of the City of Indianapolis, met in the Aldermanic Chamber, Wednesday evening, December 27th, A. D. 1882, at seven o'clock, in regular session, pursuant to a certain motion, passed at the last regular session.

PRESENT—Hon. James T. Layman, President of the Board of Aldermen, in the Chair, and Aldermen DeRuiter, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, and Wood—9.

ABSENT, 1—viz. Alderman Drew.

The following special message was read, and the Board of Aldermen adhered to their former action:

To the President and Members of the Board of Aldermen:

*Gentlemen:*The Common Council in regular session, held in the Council Chamber Monday evening, December 18th, 1882, adhered to their former action in passing the following ordinance:

Ap. O. 76, 1882—An ordinance appropriating the sum of fifteen hundred dollars on account of the Street Department of the city of Indianapolis, for repairing streets, alleys, sidewalks, etc.;

Thereby non-concurring in your action of December 11th, 1882, in passing the ordinance with the amendments, "stone crossings on McCarty and Dillon streets," and "That no money be appropriated by this ordinance to be used to repair Indiana avenue, between Illinois and Missouri streets."

For the Common Council:

Jos. T. MAGNER, City Clerk.

The following message was read and received:

To the President and Members of the Board of Aldermen:

Gentlemen:—I herewith submit the following papers for your consideration, favorably passed upon by the Common Council, at its regular session, held December 18th, 1882.

For the Common Council:

Jos. T. MAGNER, City Clerk.

The following report from His Honor, the Mayor (see page 750, *ante*), was read and received:

Indianapolis, Ind., Dec. 18, 1882.

To the Common Council and Board of Aldermen:

Gentlemen:—I report collections for the month of November, as follows:

Policemen's witness fees.....	\$120 42
Mayor's fees	121 55
Fines	15 80
Total	\$257 77

Which amount I have this day paid to the City Treasurer, and deposited his receipt therefor with the City Clerk. Respectfully,

D. W. GRUBBS, Mayor.

The following report from the Committee on Contracts was read, and the favorable action of the Common Council thereon (see page 749, *ante*), was concurred in:

To the Mayor, Common Council and Board of Aldermen:

Gentlemen:—Your Committee on Contracts, to whom was referred sundry proposals, presented to Council, December 4th, 1882, have examined the same, and find them as follows, to-wit:

For grading and paving with brick and curbing with stone the north sidewalk of Maryland street, from the alley on the west line of out-lot No. 143, to a point 105 feet east of said alley.

J. L. Spaulding, 65 cents per lineal foot for paving, and 55 cents per lineal foot for curbing.

Richter & Twiname, 54 cents per lineal foot for paving, and 44 cents per lineal foot for curbing.

C. S. Roney, 49 cents per lineal foot for paving, and 48 cents per lineal foot for curbing.

James Mahoney, 88 cents per lineal foot for paving and curbing.

James Mahoney being the lowest and best bidder, we recommend he be awarded the contract.

Respectfully submitted,

Isaac Thalman,
E. H. Koller,
Committee on Contracts

The following report from the City Civil Engineer was read, and the favorable action of the Common Council thereon (see page 750, *ante*), was concurred in:

To the Mayor, Common Council and Board of Aldermen:

Gentlemen:—I herewith report the following estimates of work done according to contract:

A first and final estimate in behalf of Wm. J. Freaney for erecting eight lamp-posts, lamps and fixtures (complete to burn gas except service pipes) on Broadway street, between Seventh and Ninth streets.

2,400 lineal feet at 6½ cents per foot, (and \$18.50 per post).....\$148 00

A first and final estimate in behalf of Henry Clay, for grading and paving with brick the west sidewalk of College avenue from Twelfth street to Clyde street.

590.20 lineal feet at 38 cents.....\$224 28

Respectfully submitted,

S. H. SHEARER, City Civil Engineer.

The following estimate resolution (adopted by the Common Council—see pages 750 and 751, *ante*), was read:

Resolved, by the Common Council and Board of Aldermen of the City of Indianapolis, That the accompanying first and final estimate in behalf of Wm. J. Freaney, for erecting lamp posts, lamps and fixtures (complete to burn gas except service pipes), on Broadway street, between Seventh and Ninth streets, be, and the same is hereby, adopted as the estimate of the Common Council and Board of Aldermen of said city, and that the property owners are hereby required to pay the sums set opposite their respective names.

And it was concurrently adopted by the following vote:

A Y E S, 7—viz. Aldermen DeRuiter, Mussmann, Newman, Seibert, Tucker, Wood and President Layman.

N A Y S—None.

The following estimate resolution (adopted by the Common Council—see page 751, *ante*), was read:

Resolved by the Common Council and Board of Aldermen of the City of Indianapolis, That the accompanying first and final estimate in behalf of Henry Clay, for grading and paving with brick the west sidewalk of College avenue, from Twelfth street to Clyde street, be, and the same is hereby, adopted as the estimate of the Common Council and Board of Aldermen of said city; and that the property owners are hereby required to pay the sums set opposite their respective names.

And it was concurrently adopted by the following vote:

A Y E S, 7—viz. Aldermen DeRuiter, Mussmann, Newman, Seibert, Tucker, Wood and President Layman.

N A Y S—None.

The following report from the City Civil Engineer was read, and the favorable action of the Common Council thereon (see page 753, *ante*), was concurred in:

To the Mayor, Common Council and Board of Aldermen:

Gentlemen:—I herewith report the contract and bond of John Keenan for grading and graveling the first alley east of Olive street, from the first alley south of Prospect street to the first alley north of Pleasant Run. Bond, \$500.00; surety, George Wm. Seibert.

Respectfully submitted, S. H. SHEARER, City Civil Engineer.

The following report from the City Clerk was read:

To the Mayor and Common Council:

Gentlemen:—I herewith report the following entitled affidavits now on file in my office, for collection of street assessments, by precepts, to-wit:

James Mahoney vs. John V. Martin, for	\$ 9 50
James W. Hudson vs. Phillip Dohn, for	42 50
James W. Hudson vs. Phillip Dohn, for	42 50
James W. Hudson vs. Phillip Dohn, for	42 50
James W. Hudson vs. Phillip Dohn, for	42 50
James W. Hudson vs. William F. Clem, for	37 46
Fred. Gansberg vs. A. J. and J. C. Walker, for	34 00
Fred. Gansberg vs. A. J. and J. C. Walker, for	34 00
Fred. Gansberg vs. Creighton Dandy, for ..	34 00

And recommend that you order the precepts to issue.

Jos. T. MAGNER, City Clerk.

And the favorable action of the Common Council thereon (see page 751, *ante*), was concurred in, and the precepts ordered to issue by the following vote:

AYES, 7—viz. Aldermen DeRuiter, Mussmann, Newman, Seibert, Tucker, Wood and President Layman.

NAYS—None.

The following report from the City Attorney was read, and the action of the Common Council thereon (see pages 752 and 753, *ante*), was concurred in, and the Aldermanic Finance Committee added to act with the Council Committee:

Indianapolis, Dec. 18, 1882.

To the Mayor, Common Council and Board of Aldermen:

Gentlemen.—In obedience to the resolution of your honorable bodies, I prepared a deed to Francis M. Churchman and Stoughton J. Fletcher for the Tomlinson property, heretofore purchased by them from the city, which has been executed and delivered. They will file a complaint against the city to quiet title thereto, to guard against any questions that might hereafter be attempted to be raised by the city as to the legality of the sale, and, unless otherwise instructed by you, I will file a disclaimer on behalf of the city, thus saving her from costs, and allow a decree to go in any form the plaintiffs may desire.

2. A deed has also been prepared, executed and delivered to James M. Tomlinson for the seventeen feet on Ohio street, purchased by him, and the purchase money paid to the City Treasurer.

3. The Mutual Union Telegraph Company, after, as I understood, having agreed to pay the special tax on its poles, under the ordinance of May 23, 1882, in case the action on its petition to be relieved therefrom should be adverse, filed a protest with the City Treasurer against the power of the city to impose the tax, and did not pay any part of the amount due. I immediately brought suit in the Superior Court against the company for \$356.00, there being 178 poles, as shown by the sworn statement of the agent, and also filed a complaint against the agent, before the Mayor, for failing to make the showing required by said ordinance at the time therein specified. A settlement at once followed by the company paying the tax without protest as to the present year, and the costs in both cases, which were thereupon dismissed. The company declares an intention to resist payment for future years, however.

4. On the 16th day of April, 1881, the General Assembly passed an act providing that parcels of land containing five acres or more, situate in the limits of any city, which are used solely for agricultural purposes, "shall not be taxed in such city for all purposes at a higher aggregate percentage upon the appraised value thereof than the aggregate percentage of the tax levy in the civil township where-

in such property is situated." Under the previous statute, the school levies were collectible against such lands, in addition to the amount of the township levy. The levies were carried on to the duplicates by the city authorities for the year 1881, under the provisions of that former law, believing that the act of 1881 could not operate for that year, the taxes for that year having accrued before the passage of said law. Some parties paid the taxes as levied, others paid under protest, and still others, viz., Caroline Leonard, Annie Jeck, and Henry Weghorst, each tendered to the City Treasurer the amount due on their respective tracts under the provisions of the act of 1881, including nothing on account of the 22-cent school levy. The Treasurer refused to accept the tender, and suits immediately followed by each of said parties to enjoin the city from collecting any more than the tenders, and to have the levies set aside. After a full hearing on the legal question involved, Judge Howe has decided that the law of 1881 applies. It would require too much space for me to here state the reasoning by which he arrived at his conclusions, and why I believe there is a fair chance, at least, for the city to secure a reversal, if you desire an appeal prosecuted. One case can be appealed, and the others await its determination. It is apparent that, if Judge Howe is correct in his ruling, the city and School Board are at sea as to how to divide the money paid by these parties. This will also be true, now in any event, as to present and future years, unless legislation to remedy the difficulty is procured. I will attempt to get such legislation through this winter. I ask for instructions as to whether I shall appeal one of the cases or not.

5. I was instructed by your honorable bodies to make a contract with the firm of Hawkins & Norton to defend the city in the Malinda L. Murphy case, conditional upon the approval by your said bodies of the fees to be charged. Mr. Norton had gone upon the bench of the Criminal Court before your action was certified to by the Clerk. I therefore sent the same to Mr. Hawkins alone, with the request that he indicate his fees in writing. Taking sick shortly after, he did not do so until the 13th inst. His proposition is to charge \$125.00 for services in the Circuit Court, and \$50.00 additional should the case go to the Supreme Court. I have not seen Mr. Hawkins personally about this matter, and have made no definite contract with him. The case is set specifically for trial on the 26th inst., and, therefore, some definite action ought to be taken at once, so that whoever is employed may properly prepare for trial.

Respectfully submitted,

C. S. DENNY, City Attorney.

The following report from the City Marshal was read, and the action of the Common Council thereon (see page 753, *ante*), was concurred in:

To the Mayor and Common Council:

Gentlemen:—As per request of your honorable body, of December 4th, 1882, I would state that I have interviewed the contractor for bowldering south Illin ois street, and states that he has not filled the chuck-holes on said street, as it is not specified in the contract; and he further says that the said street will be improved according to the contract, said contract expiring May 1st, 1883.

Very respectfully,

R. S. COLTER, City Marshal.

By Jos. R. Forbes, Deputy.

The petitions of Carr & Buchanan and Michael Flaherty, asking for an extension of time (see page 754, *ante*), were read, and the favorable action of the Common Council thereon (see page 754, *ante*), was concurred in.

The mortality report of the Board of Health (see page 755, *ante*), was read and received.

The following motions (adopted by the Common Council—see page 758, *ante*), were read and concurrently adopted:

That William Powell be granted permission to lay down a double stone crossing from his place of business, No. 23 Louisiana street, across to the Union Depot, under the direction of the City Civil Engineer, and at his own expense.

That the City Marshal notify the proper officers of the C., I., St. L. and C. Railroad Company to put some competent person to operate the safety gates at the crossing of Indiana avenue, and that unless this is immediately done, steps will be taken to require them to do so.

The following entitled ordinances (passed by the Common Council) were severally read the first time:

G. O. 71, 1882—An ordinance prohibiting the use of toy pistols and other fire toy arms, and making it unlawful to sell said articles by retail in the city of Indianapolis.

Ap. O. 77, 1882.—An ordinance appropriating money for the payment of the salaries and compensations of the members of the Common Council and Board of Aldermen, of the city officers, and officers and members of Fire and Police departments of the city of Indianapolis. [Amount appropriated, \$36,021.25.]

S. O. 173, 1882—An ordinance to provide for the erection of lamp posts, lamps and fixtures (complete to burn gas, except the service pipes), on Helen street, between Georgia and Maryland streets.

S. O. 176, 1882—An ordinance to provide for grading and graveling the first alley west of Maxwell street, from Elizabeth street to Coe street.

On motion by Alderman Tucker the rules were suspended for the purpose of placing the foregoing ordinances on their final passage by the following vote:

AYES, 9—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

G. O. 71, 1882, was then read the second and third times, and passed by the following vote:

AYES, 9—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

Ap. O. 77, 1882, was read the second and third times, and passed by the following vote:

AYES, 9—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

S. O. 173, 1882, was read the second third time, and, on motion, by Alderman Tucker, was referred to the Committee on Public Light and Education.

S. O. 176, 1882, was read the second third times, and passed by the following vote:

AYES, 9—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

REPORTS, ETC., FROM CITY OFFICERS.

The City Civil Engineer submitted the following report; which was received:

To the President and Members of the Board of Aldermen:

Gentlemen:—Pursuant to your orders of October 23d, 1882, I have made an examination of the number of stone crossings put down in the twelfth ward during the past two years, beginning October 1st, 1880, and ending October 1st, 1882, and find as follows:

Number laid per order Common Council and Board of Aldermen.....	24
Number laid per order of Board of Public Improvements.....	3
Number laid during said two years.....	27

CROSSINGS ORDERED BY COMMON COUNCIL AND BOARD OF ALDERMEN.

<i>Location.</i>	<i>Dates.</i>	<i>Pages.</i>
First alley west of Illinois street, north side of Washington street.....	May 30 and July 11, 1881	108, 333
First alley west of Mississippi street, north side of Washington street.....	May 30 and July 11, 1881	108, 333
West of Mississippi street, at Ohio street....	September 20 and 22, 1880	520, 554
East side Mississippi street, at North street..	September 20 and 22, 1880	520, 554
First alley south of North, east side of Mississippi street.....	September 20 and 22, 1880	520, 554
Second alley south of North, east side of Mississippi street.....	September 20 and 22, 1880	520, 554
East side of Mississippi street, at Michigan street	September 20 and 22, 1880	520, 554
West side of Mississippi street, at Michigan street	September 20 and 22, 1880	520, 554
North side of Michigan, at Mississippi street.	September 20 and 22, 1880	520, 554
First alley south of Michigan street, east side of Mississippi street.....	September 20 and 22, 1880	520, 554
Second alley south of Michigan street, east side of Mississippi street.....	September 20 and 22, 1880	520, 554
South side of Indiana avenue, across Mississippi street.....	September 20 and 22, 1880	520, 554
East side Mississippi street, across Indiana avenue and Vermont street.....	September 20 and 22, 1880	520, 554
West side Mississippi street, across Indiana avenue and Vermont street.....	September 20 and 22, 1880	520, 554
Indiana avenue, near Mississippi street.....	September 20 and 22, 1880	520, 554

Location.	Dates.	Pages.
On Indiana avenue, across Mississippi street	September 20 and 22, 1880	520, 554
East side of Mississippi street, at New York street.....	September 20 and 22, 1880	520, 554
West side of Mississippi street, at New York street.....	September 20 and 22, 1880	520, 554
East side of Mississippi street, first alley south of New York street.....	September 20 and 22, 1880	520, 554
East side of Mississippi street, second alley south of New York street.....	September 20 and 22, 1880	520, 554
West side of Mississippi street, second alley south of New York street.....	September 20 and 22, 1880	520, 554
North side of Mississippi street, at Ohio street.....	September 20 and 22, 1880	520, 554
First alley west of Illinois street, north side of New York street.....	January 16 and 23, 1882...	1123
East side of Indiana avenue, across New York street.....	June 26 and July 24, 1882	115, 248

CROSSINGS ORDERED BY BOARD OF PUBLIC IMPROVEMENTS.

North side of Michigan street, first alley west of Tennessee street, ordered by Board of Public Improvements when sidewalk was passed—year, 1880.

South side of Michigan street, first alley west of Tennessee street, ordered by Board of Public Improvements, when sidewalk was passed—year, 1880.

First alley west of Mississippi street, north side of Michigan street, ordered by Board of Public Improvements when sidewalk was passed—year, 1880.

Respectfully submitted,

S. H. SHEARER, City Civil Engineer.

The Chief of Police submitted the following report; which was received:

Indianapolis, December 18, 1882.

To the Board of Aldermen of the City of Indianapolis:

Gentlemen:—In compliance with your motion in relation to the same, I have the honor to report, that from November 1, 1882, to date hereof, there has been thirty-six (36) notices served upon property-owners to repair sidewalks and to remove dangerous obstructions from streets and alleys. The Street Commissioner has been notified of several dangerous places in streets, and was promptly attended to. The Patrolmen report that at present the streets and alleys are in a fair condition.

Respectfully submitted,

R. C. WILLIAMSON, Chief of Police.

President Layman, in behalf of the City Hall Commissioners, submitted the following report, accompanied with an opinion from the City Attorney, which were read and received:

To the President and Board of Aldermen:

Gentlemen:—The undersigned, members of the Board of City Hall Commissioners, to whom was referred the motion requesting the City Attorney to report his opinion on certain matters concerning the use of the Tomlinson Fund, beg leave to report that they have procured the City Attorney's opinion in reference thereto, which they now submit herewith.

In our opinion, the money now in the treasury known as the "Tomlinson Estate Fund," is the absolute property of the city of Indianapolis; and that the unsold

real estate, known as the Tomlinson property, is the property in fee simple of said city, and may be used at any time, and for any purpose, the Common Council and Board of Aldermen may direct. At the same time we believe that the city is, in all honor and good morals, bound, sooner or later, to use the proceeds of the Tomlinson Estate in the erection of public buildings, as directed in the will of the late Stephen D. Tomlinson. The time for doing this is to be determined by the Council and Board, having at all times in mind the fact that the testator directed that there should be no "unnecessary delay" in commencing the work.

D. W. Grubbs,
D. Mussmann.

Indianapolis, December 18, 1882.

To the Honorable the Board of City Hall Commissioners:

Gentlemen:—You ask my opinion on the following proposition: Can the city borrow the "Tomlinson Fund," and use the same in building a market-house or for other purposes, until such time as the Council may deem it expedient to build a city hall therewith, without endangering her title thereto?

For the city to keep upon *absolutely* safe ground in reference to said fund, her purpose to finally use the same in the erection of "buildings for the use of citizens and city authorities," as set forth in Mr. Tomlinson's will, must at all times be clearly declared. With this done, I think the city may safely borrow this money for a reasonable time, and use the same in the erection of a market-house, or for such other purposes as the Council and Board of Aldermen may direct.

It has been my opinion that, as to an amount of said estate, at least, which equals the annuity paid to Mrs. Tomlinson, the city has a fee simple title, and can use it as she pleases. If I am mistaken about this, however, I do not believe the city would be safe in borrowing or using these funds for an indefinite time, or for a long term of years; and therefore do not state it as my opinion that the city can divert this fund from the purposes declared in the will "until it is deemed expedient to build a city hall," as absolute safety is desired.

Yours respectfully,
C. S. DENNY, City Attorney.

INTRODUCTION OF MISCELLANEOUS BUSINESS.

Alderman Mussmann moved to reconsider the action by which G. O. 83, 1882, was passed at the last regular meeting.

Which motion was adopted, and the action of the Board of Aldermen reconsidered by the following vote:

AYES, 5—viz. Aldermen Mussmann, Newman, Seibert, Tucker, and Wood.

NAYS, 4—viz. Aldermen DeRuiter, Hamilton, Rorison, and President Layman.

Alderman Rorison moved to reconsider the action by which the stone crossings were ordered laid on McCarty street.

Which motion to reconsider failed of adoption by the following vote:

AYES, 1—viz. Alderman Rorison.

NAYS, 8—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Seibert, Tucker, Wood, and President Layman.

Alderman Rorison moved that the committee appointed to confer with the Legislature be composed of three members, and President Layman be the advisory member of such committee.

Which motion was adopted, and President Layman made the following appointments, which were approved:

Committee to confer with the Legislature in connection with Council committee, Rorison, Mussmann, and Hamilton; President of the Board, advisory member.

President Layman made the following appointments, which were approved, and on motion by Alderman Seibert, President Layman was added to act as a member of such committee.

Committee to confer with the Mayor in regard to entertaining the Mayors who meet here in convention, Wednesday, January 3, 1883, Drew, DeRuiter, Tucker, and Rorison.

The following entitled ordinance was read the third time:

G. O. 83, 1882—An ordinance providing for a temporary loan of fifty thousand dollars, for the purpose of defraying the current expenses of the city of Indianapolis, during the balance of the fiscal year, ending with May 31st, 1883.

And it was passed by the following vote:

AYES, 7—viz. Aldermen DeRuiter, Hamilton, Newman, Rorison, Tucker, Wood and President Layman.

NAYS, 2—viz. Aldermen Mussmann and Seibert.

Alderman Hamilton moved to reconsider the above action, which, on motion by Alderman DeRuiter, was laid on the table.

On motion by Alderman Rorison, so much of a report of a certain special committee as is shown below was recalled from the Committee on Railroads and Public Charities, and, on further motion, the favorable action of the Common Council thereon (see page 1566, year 1881-2), was concurred in:

We also recommend that the L. P. & C., C. H. & I., and P., C. & St. L. companies be notified by the City Marshal that they are each required, without delay, to remove the obstructions from Pogue's Run, mentioned in our report, and that said L. P. & C. company be also notified to remove the remains of the old dam across Pogue's Run, south of Washington street.

Respectfully submitted,

Wm. H. Morrison,

N. Yoke,

Jas. T. Dowling,

Special Committee.

C. S. DENNY, City Attorney.

S. H. SHEARER, City Civil Engineer.

Alderman Tucker offered the following motion; which was adopted:

That the City Attorney accompany the Marshal in serving notices on railroads to remove obstructions from Pogue's Run.

On motion by Alderman Seibert, the following ordinance was referred to the Committee on Railroad and Public Charties:

G. O. 82, 1882.—An Ordinance to regulate certain sales by auction.

On motion, the Board of Aldermen then adjourned.

JAMES T. LAYMAN, President.

Attest: GEO. T. BREUNIG, Clerk.