

REGULAR MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.

MONDAY, November 21, 1904.

The Common Council of the City of Indianapolis, met in the Council Chamber, Monday evening, November 21, 1904, at 7:45 o'clock, in regular session, President James H. Billingsley in the chair.

Present: The Hon. James H. Billingsley, President of the Common Council, and 19 members, viz: Messrs. Cottey, Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright.

Absent, 1, viz.: Mr. Cooper.

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

COMMUNICATIONS FROM THE MAYOR.

INDIANAPOLIS, IND., October 18, 1904.

To the Honorable, the President and Members of the Common Council:

I herewith return with my signature and approval General Ordinance No. 36, 1904; General Ordinance No. 73, 1904.

Respectfully,

JOHN W. HOLTZMAN,

Mayor.

Which was read.

INDIANAPOLIS, IND., November 15, 1904.

To the Honorable, the President and Members of the Common Council:

Gentlemen: I herewith return to you with my signature and approval Appropriation Ordinance No. 26, 1904, and Appropriation Ordinance No. 29, 1904.

Respectfully,

JOHN W. HOLTZMAN,

Mayor.

Which was read.

## REPORTS FROM CITY OFFICERS.

## From the City Comptroller:

INDIANAPOLIS, IND., November 7, 1904.

To the President and Members of the Common Council:

Gentlemen: I submit herewith letter of the Department of Public Health and Charities relative to the disposal of certain useless property. The only provision for selling it is under the ordinance of 1894 (Charter and Ordinances, Secs. 1776, etc.,) which requires appraisal proceedings, and would cost more than the property would bring. I beg to suggest the propriety of passing an ordinance providing for some rational form of disposing of worthless or unserviceable property of small value.

Respectfully,

J. P. DUNN,  
City Comptroller.

INDIANAPOLIS, IND., October 25, 1904.

Mr. Jacob Dunn, Comptroller, City:

Dear Sir: This department owns a number of old stoves which have been used in past years to heat tents to shelter quarantine officers in front of smallpox houses. These stoves are old and absolutely worthless. Last winter the stoves set fire to two tents, rented by the city, and burned them up completely. The stoves are at the present time in storage in the basement in the laboratory of Mr. Beuhler, taking up considerable space which could be used to much better advantage. The stoves are all of no value to this department and we recommend that they be condemned and sold.

Very respectfully,

T. VICTOR KEENE,  
City Sanitarian and Secretary Board of Health.

Which was read.

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

Gentlemen: I submit herewith letter from the Department of Public Safety requesting the transfer of \$400 from "Salaries of Building Inspector's Assistants" to "Equipment of Office of Smoke Inspector."

I recommend the transfer, and inclose ordinance for that purpose.

Respectfully,

J. P. DUNN,  
City Comptroller.

INDIANAPOLIS, IND., November 21, 1904.

Mr. J. P. Dunn, City Comptroller:

At a meeting of the Board of Public Safety, held Wednesday, November 16, '04, I was directed to request you to recommend to the Common Council the transfer of \$400.00 from Salary Fund of Smoke Inspector and Building Inspector's Clerk, to equip the office of the Smoke Inspector. Respectfully,

E. C. McLAUGHLIN,  
Secretary.

Which was read.

## REPORTS FROM OFFICIAL BOARDS.

INDIANAPOLIS, IND., November 3, 1904.

To the President and Members of the Common Council:

Gentlemen: The Board transmits to you for consideration and action the following described contracts for switches. These switches are already installed, they having been put in without permission and the Board, desiring to have all switches uniform, had the companies enter into the regular contracts:

Contract granting the Chicago, Indianapolis & Louisville Ry. Co. the right to lay and maintain a side-track or switch from its main track across Fifteenth street according to blue print attached, in the City of Indianapolis, Indiana.

Contract granting the Chicago, Indianapolis & Louisville Ry. Co. the right to lay and maintain a side-track or switch from its main track across Seventeenth street according to blue print attached, in the City of Indianapolis, Indiana, approved by the Board of Public Works, this 3d day of November, 1904.

Respectfully,

M. A. DOWNING,  
JACOB WOESSNER,  
DAVID WALLACE,  
Board of Public Works.

Which was read.

## REPORTS FROM STANDING COMMITTEES.

From the Committee on Contracts and Franchises:

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

We, your Committee on Contracts and Franchises, to which was referred General Ordinance No. 68, 1904, entitled, "An ordinance regulating the supply and fixing the price of artificial gas for heating and cooking purposes, prescribing a penalty and fixing a time when same shall take effect," beg leave to recommend the following amendment:

That there be added to Section 2, of said ordinance, the following:

*Provided further, however,* That before any person, firm or corporation shall use the streets of said city for the distribution and supply of artificial gas for fuel purposes, it shall have a franchise contract with said city therefor as provided by law," and as amended, we recommend said ordinance do pass.

J. H. CRALL,  
J. L. GASPER,  
FRED W. EPPERT,  
CHAS. G. DAVIS,  
DANIEL LINUS,  
JAMES D. MORIARITY,  
ANDREW H. WAHL,

On motion of Mr. Crall the report of the committee was concurred in.

From the Finance Committee (majority report):

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

Gentlemen: Your Finance Committee, to whom was referred Appropriation Ordinance No. 28, 1904, have had same under consideration and would respectfully recommend that the same be amended by striking out the sum of \$2,000 for equipping laboratory, and when so amended that the same do pass.

Respectfully submitted,

J. L. GASPER,  
J. H. CRALL,  
W. A. RHODES,  
M. J. SHEA,  
J. ED. KRAUSE,

Which was read.

From the Finance Committee (minority report):

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

The undersigned member Finance Committee, to whom was referred Ordinance No. 28, has had same under consideration and recommends same do pass.

FRANK S. FISHBACK,

Which was read.

Mr. Gasper moved that the minority report be laid on the table. Carried.

Mr. Gasper moved that the majority report be concurred in. Carried.

From the Finance Committee:

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

Gentlemen: Your Finance Committee, to whom was referred General Ordinance No. 78, 1904, would respectfully report that they have had same under consideration and would recommend that the same do pass.

Respectfully submitted,

J. L. GASPER,  
W. A. RHODES,  
FRANK S. FISHBACK,  
M. J. SHEA,  
J. ED. KRAUSE,

Which was read.

Mr. Gasper moved that the report of the committee be concurred in. Carried.

From the Finance Committee:

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

Gentlemen: Your Committee, to whom was referred General Ordinance No. 81, 1904, have had same under consideration and would respectfully recommend that the same do pass.

Respectfully submitted,

J. L. GASPER,  
J. H. CRALL,  
W. A. RHODES,  
FRANK S. FISHBACK,

Which was read.

Mr. Krause moved that the report of the committee be concurred in. Carried.

From the Finance Committee:

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

Gentlemen: Your Finance Committee, to whom was referred General Ordinance No. 80, 1904, would respectfully report that they have had same under consideration and recommend that the same do pass.

Respectfully submitted,

J. L. GASPER,  
J. H. CRALL,  
W. A. RHODES,  
FRANK S. FISHBACK,  
M. J. SHEA,  
J. ED. KRAUSE,

Which was read.

Mr. Cottey moved that the report of the committee be concurred in. Carried.

From the Finance Committee:

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

Gentlemen: Your Finance Committee, to whom was referred Appropriation Ordinance No. 27, 1904, have had same under consideration and respectfully recommend that the same do pass.

Respectfully submitted,

J. L. GASPER,  
J. H. CRALL,  
W. A. RHODES,  
FRANK S. FISHBACK,  
M. J. SHEA,  
J. ED. KRAUSE.

Which was read.

Mr. Gasper moved that the report of the committee be concurred in. Carried.

From the Committee on Public Morals (majority report):

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

Gentlemen: Your Committee on Public Morals, to whom was referred general Ordinance No. 75, have had same under consideration and would respectfully recommend that the same do not pass.

Respectfully submitted,

J. L. GASPER,

J. H. CRALL,

Which was read.

From the Committee on Public Morals (minority report):

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

The undersigned minority member of the Committee on Public Morals, to whom was referred General Ordinance No. 75, has had same under consideration and recommends that same do pass.

This ordinance is intended to change conditions now existing at the gallery entrance at English's Opera House, where patrons are compelled to stand in a dirty, dark alley, and where ladies of refinement have been subjected to insults.

The management had an opportunity to give the gallery patrons decent treatment under the terms of the building ordinance, but have found a way to evade it, but this ordinance will compel decent treatment by requiring all entrances to front on the main street.

I do not believe, nor will I endorse the belief of the management of any opera house, that people of limited means are only entitled to back alley privileges, nor do I believe that any member of this Council wants to go on record as advocating any such a principle.

FRANK S. FISHBACK.

I submit opinion City Attorney as part above report.

FRANK S. FISHBACK.

INDIANAPOLIS, November 14, 1904.

Mr. Frank S. Fishback, Member of Council, Indianapolis:

Dear Sir: In response to your inquiry concerning the validity of General Ordinance No. 75, now pending in the Council, I desire to say that in my opinion the Council has the right to prohibit any theater maintaining a public entrance to any part of its auditorium or gallery other than from a public street, because this measure relates to the public safety; but I do not believe the Council possesses the power to regulate the place where the theater management shall desire to sell its tickets, or any part of its tickets, as in my opinion this would not relate to the public safety.

Yours very truly,

HENRY WARRUM,  
City Attorney.

Which was read.

Mr. Gasper moved that the minority report be laid on the table.

Mr. Shea called for the ayes and noes.

The Clerk called the roll:

Ayes, 10, viz.: Messrs. Cottey, Crall, Davis, Eppert, Gasper, Hofmann, Linus, Moriarity, Murray and President James H. Billingsley.

Noes, 10, viz.: Messrs. Fishback, Krause, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright.

Mr. Crall moved that the majority report be adopted. Carried

From the Committee on Railroads:

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

Your Committee on Railroads, to whom was referred General Ordinance No. 79, have had same under consideration and believe it a bad precedent to establish by allowing any person, railroad corporation or any other corporation, to be permitted, or encouraged, to knowingly, wilfully and maliciously violate the city charter. In this instance we know that this railroad corporation, locally, is working under the directorship of the best legal talent attainable; and it cannot be attributed to ignorance or oversight on their part; and this committee does not feel that it is right or fair to have this Council petitioned for a ratification of a switch already down, without first, or in advance of its laying, to have this corporation to have made a contract with the Board of Public Works and later ratified by this body. Knowing these statements to be facts, this committee does not feel disposed to make a favorable report, thereby countenancing a direct violation of the city charter and it therefore recommends that same do not pass.

FRED W. EPPERT,  
OTTO HOFMANN,  
ALBERT E. COTTEY,  
JAMES B. MURRAY,  
JOHN WOLSIFFER,

Which was read.

Mr. Eppert moved that the report of the committee be concurred in. Carried.

From Committee on Sewers, Streets and Alleys:

INDIANAPOLIS, IND., August 15, 1904.

To the President and Members of the Common Council:

Your Committee, to whom was referred General Ordinance No. 54, 1904, have had same under consideration and would recommend that the ordinance do pass.

W. A. RHODES,  
ALBERT E. UHL,  
J. ED. KRAUSE,

Mr. Rhodes moved that the report of the committee be received. Motion lost.

## REPORTS FROM SELECT COMMITTEES.

From the Committee on World's Fair celebration of Indianapolis Day:

INDIANAPOLIS, IND., November 21, 1904.

To the President and Members of the Common Council:

Your Committee appointed on Indianapolis Day at the St. Louis World's Fair begs leave to submit the following report:

The Council appropriated for the use of this committee the sum of \$600.00 of which the sum of \$537.93 was expended, leaving a balance of \$62.07 unexpended. The items of expenditure were as follows:

Band .....	\$210.00
Badges .....	218.03
Corman & Harrington printing.....	3.00
Postage .....	8.00
Band Transportation .....	33.50
W. R. Williams, expense St. Louis, September 26.....	6.40
W. R. Williams, expense of Fertig & Kevers for banner, postage (additional), messenger, telephone, type- writing and other incidentals.....	35.00
W. B. Burford, printing and engraving.....	24.00

Total .....

\$537.93

Balance unexpended .....

62.07

The Committee desires to express its thanks to the Indiana State World's Fair Commission as a body and to Mr. Henry W. Marshall and Mr. Acll G. Alexander, individually, for their interest in assisting the committee in its arrangements and for abundant courtesies extended to all Indianapolis visitors at the Indiana building.

Respectfully submitted,

ALBERT E. UHL,  
DANIEL LINUS,  
JAMES B. MURRAY,  
JAMES D. MORIARITY.  
M. J. SHEA,

Which was read.

Mr. Eppert moved that the report be received and the committee discharged with a vote of thanks. Carried.

## INTRODUCTION OF APPROPRIATION ORDINANCES.

By Mr Billingsley:

Appropriation Ordinance No. 30—1904: An ordinance appropriating the sum of twenty-five thousand (\$25,000.00) dollars to the use of the Department of Public Works of the City of Indianapolis, Indiana, to be used by them for the purpose of enabling said Board of Public Works to enter into a contract and to carry out the same with the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, the Lake Erie & Western Railway Company and the Chicago, Indianapolis & Louisville Railway Company for the separation of the grades of the streets and railroad tracks at the crossing known as Massachusetts avenue in said city, and providing when the same shall take effect.



Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That there be, and hereby is, appropriated from the funds of the city not heretofore otherwise appropriated the sum of twenty-five thousand (\$25,000.00) dollars for the use of the Board of Public Works of said city and to enable them to enter into and carry out a contract between the city and the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, the Lake Erie & Western Railway Company and the Chicago, Indianapolis & Louisville Railway Company for the separation of the grades of the streets and of the tracks of said railroad companies at the crossing known as Massachusetts avenue crossing in said city, provided that the contract to be entered into shall not obligate the city to pay more than twenty-five per cent. of the cost of said work nor in any event more than the amount of twenty-five thousand (\$25,000.00) dollars hereby appropriated.

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 the City Comptroller:

General Ordinance No. 82—1904: An ordinance transferring certain funds heretofore appropriated to the Department of Public Safety.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That from and out of the appropriation heretofore made by Appropriation Ordinance No. 21, 1904, to the use of the Department of Public Safety, under the subdivision "Building Inspection Funds, for Salaries of Assistants," there be, and hereby is, transferred the sum of four hundred (\$400.00) dollars to the use of said Department of Public Safety for the equipment of the office of Smoke Inspector.

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.

From the Board of Public Works:

General Ordinance No. 83—1904: An ordinance approving a certain contract granting Chicago, Indianapolis & Louisville Ry. Co. the right to lay and maintain a side-track or switch from its main track across Seventeenth street, according to blue print attached, in the City of Indianapolis, Indiana.

Whereas, heretofore, to wit: on the .... day of ....., 190..., The Chicago, Indianapolis & Louisville Railway Company filed his petition before the Board of Public Works of the City of Indianapolis, as follows:

#### PETITION.

To the Board of Public Works, City of Indianapolis:

Gentlemen: We, the undersigned, respectfully petition for permission to maintain a switch across Seventeenth street in the City of In-

dianapolis in accordance with the lines as shown in accompanying blue print.

CHICAGO, INDIANAPOLIS & LOUISVILLE RY. CO.,

By A. S. Kent, Division Engineer.

*Now, therefore,* This agreement, made and entered into this . . . . . day of . . . . ., 1904, by and between The Chicago, Indianapolis & Louisville Ry. Co. of the City of Indianapolis, County of Marion, State of Indiana, party of the first part, and the City of Indianapolis, by and through its Board of Public Works, party of the second part.

*Witnesseth:* That the party of the first part, being desirous of securing a right-of-way for a side-track or switch from its main track across Seventeenth street in the City of Indianapolis, which is more specifically described as follows:

Beginning at a point in the north line of Seventeenth street, said point being thirteen (13) feet west of the center of said party's main track, thence running southerly parallel with said main track to the south line of said Seventeenth street, hereby covenants and fully binds himself, his successors, legal representatives and assigns, that, in consideration of the grant of the privileges and authority herein given, he will lay, construct and maintain said track upon the terms and conditions hereinafter set forth, to-wit:

(1) They shall be so laid, improved and kept in repair as to be safe for persons on foot, in vehicles or otherwise, and shall, at all times, be subject to the orders of the Board of Public Works of the City of Indianapolis.

(2) Said track and switch shall be laid upon such grade as shall be established by said Board, and shall be put down under its supervision and to its satisfaction and approval. Said track shall be raised or lowered to conform to any grade which may, from time to time, be hereafter established, whenever so ordered, in writing, by said Board, and shall be made to conform in all respects with any ordinance passed by the Common Council or with any resolution or resolutions made by said Board, for the elevation or depression of said tracks.

(3) The crossing where said track intersects Seventeenth street shall, at all times, be kept improved and in repair and free from obstructions or defects of any kind. No car or cars shall be permitted to obstruct such crossing or to be thereon except for such time as may be absolutely necessary in moving them back and forth, and they shall be at no time stopped or detained thereon in such manner as to obstruct public travel.

(4) Said party of the first part agrees, at the pleasure and written order of said Board, to take up and remove said track, and upon said party's failure so to do, upon such notification in writing, of ten (10) days, to promptly pay the cost of having the same done, and the party of the first part hereby releases all claims for damages whatsoever that may arise by reason of such removal; and in removing said track or causing the same to be done, said Board shall in no wise become a trespasser.

(5) The party of the first part agrees to pave between said track to the entire satisfaction of the second party, and in case said tracks shall be or become out of repair or in need of being reconstructed, or become in any way defective (of which fact the said Board shall be the exclusive judge), it shall be the duty of the said party of the first part to promptly repair or remove same, failing in which, after notification in writing of ten (10) days, said Board shall do or cause the same to be done at the expense of the said party of the first part, and for which expense and cost the said party of the first part shall be liable.

(6) The said party of the first part herein binds himself to hold

said party of the second part and said city harmless from any and all claims for damages growing out of the existence, maintenance or use of said track, and to pay any judgment, with costs, that may on that account be rendered against the said party or said city.

(7) Any violations of any of the provisions of this instrument by said party of the first part, or by any one for it or at its instance or with its permission, shall operate as an immediate and absolute forfeiture of the privileges and authority given or granted by this contract: *Provided, however,* That the same may be terminated without cause at the pleasure of said Board, as hereinbefore set forth in Clause 4.

Said party of the second part by virtue of the provisions of an act of the General Assembly of the State of Indiana, entitled, "An act concerning the incorporation and government of cities having more than one hundred thousand population, according to the United States census last preceding, and matters therewith connected, and declaring an emergency," approved March 6, 1891, and in consideration of the things hereinbefore set forth and upon the terms and provisions stipulated, hereby gives, grants and duly vests said party of the first part the right, privilege and authority to lay and maintain an additional side-track or switch across Seventeenth street in the City of Indianapolis, all as shown by the drawing attached hereto, filed herewith and for greater certainty marked "Exhibit A."

*In Witness Whereof,* We have hereunto set our hands this . . . . day of . . . . ., 1904.

CHICAGO, INDIANAPOLIS & LOUISVILLE RY. CO.,

By A. S. Kent, Division Engineer.  
Party of the first part.

Witness:

E. C. FIELD.

CITY OF INDIANAPOLIS,

By M. A. DOWNING,  
JACOB WOESSNER,  
DAVID WALLACE,  
Board of Public Works.  
Party of the second part.

*And, Whereas,* Said contract has been submitted by the Board of Public Works to the Common Council of the City of Indianapolis, for its consideration and action; now, therefore,

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That such contract above set forth be, and the same is hereby, in all things confirmed and approved.

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

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

From the Board of Public Works:

General Ordinance No. 84—1904: An ordinance approving a certain contract granting Chicago, Indianapolis & Louisville Ry. Co. the right to lay and maintain a side-track or switch from its main track across Fifteenth street according to blue print attached in the City of Indianapolis, Indiana.

*Whereas,* heretofore, towit: on the . . . . day of . . . . ., 190., The Chicago, Indianapolis & Louisville Railway Company filed his peti-

tion before the Board of Public Works of the City of Indianapolis, as follows:

PETITION.

To the Board of Public Works, City of Indianapolis:

Gentlemen: We, the undersigned, respectfully petition for permission to maintain a switch across Fifteenth street to serve Lot 85 in Butler's Grove Addition to the City of Indianapolis in accordance with the lines as shown in the accompanying blue print.

CHICAGO, INDIANAPOLIS & LOUISVILLE RY. CO.,

By A. S. Kent, Division Engineer.

*Now, therefore,* This agreement, made and entered into this ..... day of ....., 1904, by and between The Chicago, Indianapolis & Louisville Ry. Co. of the City of Indianapolis, County of Marion, State of Indiana, party of the first part, and the City of Indianapolis, by and through its Board of Public Works, party of the second part.

*Witnesseth:* That the party of the first part, being desirous of securing a right-of-way for a side-track or switch from its main track across Fifteenth street to said Lot 85, in the City of Indianapolis, which is more specifically described as follows:

Beginning at a point in the north line of Fifteenth street, the said point being ten (10) feet west of the center of said first party's main track, thence running in a southwesterly direction to a point in the south line of Fifteenth street, said point being thirteen (13) feet west of the center of said main track, hereby covenants and fully binds himself, his successors, legal representatives and assigns, that, in consideration of the grant of the privilege and authority herein given, he will lay, construct and maintain said track upon the terms and conditions hereinafter set forth, to-wit:

(1) They shall be so laid, improved and kept in repair as to be safe for persons on foot, in vehicles or otherwise, and shall, at all times, be subject to the orders of the Board of Public Works of the City of Indianapolis.

(2) Said track and switch shall be laid upon such grade as shall be established by said Board, and shall be put down under its supervision and to its satisfaction and approval. Said track shall be raised or lowered to conform to any grade which may, from time to time, be hereafter established, whenever so ordered, in writing, by said Board and shall be made to conform in all respects with any ordinance passed by the Common Council or with any resolution or resolutions made by said Board, for the elevation or depression of said tracks.

(3) The crossing where said track intersects Fifteenth street shall, at all times, be kept improved and in repair and free from obstructions or defects of any kind. No car or cars shall be permitted to obstruct such crossing or to be thereon except for such time as may be absolutely necessary in moving them back and forth, and they shall be at no time stopped or detained thereon in such manner as to obstruct public travel.

(4) Said party of the first part agrees, at the pleasure and written order of said Board, to take up and remove said track, and upon said party's failure so to do, upon such notification in writing, of ten (10) days, to promptly pay the cost of having the same done, and the party of the first part hereby releases all claims for damages whatsoever that may arise by reason of such removal; and in removing said track or causing the same to be done, said Board shall in no wise become a trespasser.

(5) The party of the first part agrees to pave between said track to the entire satisfaction of the second party, and in case said tracks shall be or become out of repair or in need of being reconstructed, or

become in any way defective (of which fact the said Board shall be the exclusive judge), it shall be the duty of the said party of the first part to promptly repair or remove same, failing in which, after notification in writing of ten (10) days, said Board shall do or cause the same to be done at the expense of the said party of the first part, and for which expense and cost the said party of the first part shall be liable.

(6) The said party of the first part herein binds himself to hold said party of the second part and said city harmless from any and all claims for damages growing out of the existence, maintenance or use of said track, and to pay any judgment, with costs, that may on that account be rendered against the said party or said city.

(7) Any violations of any of the provisions of this instrument by said party of the first part, or by any one for it or at its instance or with its permission, shall operate as an immediate and absolute forfeiture of the privileges and authority given or granted by this contract: *Provided, however,* That the same may be terminated without cause at the pleasure of said Board, as hereinbefore set forth in Clause 4.

Said party of the second part by virtue of the provisions of an act of the General Assembly of the State of Indiana, entitled, "An act concerning the incorporation and government of cities having more than one hundred thousand population, according to the United States census last preceding, and matters therewith connected, and declaring an emergency," approved March 6, 1891, and in consideration of the things hereinbefore set forth and upon the terms and provisions stipulated, hereby gives, grants and duly vests said party of the first part the right, privilege and authority to lay and maintain an additional side-track or switch across Fifteenth street in the City of Indianapolis, all as shown by the drawing attached hereto, filed herewith and for greater certainty marked "Exhibit A."

*In Witness Whereof,* We have hereunto set our hands this . . . . day of . . . . ., 1904.

CHICAGO, INDIANAPOLIS & LOUISVILLE RY. CO.,

By A. S. Kent, Division Engineer.  
Party of the first part.

Witness:

E. C. FIELD.

CITY OF INDIANAPOLIS,

By M. A. DOWNING,  
JACOB WOESSNER,  
DAVID WALLACE,  
Board of Public Works,  
Party of the second part.

*And, Whereas,* Said contract has been submitted by the Board of Public Works to the Common Council of the City of Indianapolis, for its consideration and action; now, therefore,

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That such contract above set forth be, and the same is hereby in all things confirmed and approved.

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

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

## MISCELLANEOUS BUSINESS.

Mr. Gasper moved that the communication from the City Comptroller regarding the disposal of useless materials be returned to him with request that the latter have the City Attorney prepare an ordinance to that effect. Carried.

## ORDINANCES ON SECOND READING.

Mr. Crall called for General Ordinance No. 68, 1904, for second reading. It was read a second time.

Mr. Crall moved that General Ordinance No. 68, 1904, be amended as recommended by the committee. Carried.

Mr. Crall moved that General Ordinance No. 68, 1904, be ordered engrossed as amended, read a third time and placed upon its passage. Carried.

General Ordinance No. 68, 1904, was read a third time as amended, and passed by the following vote:

Ayes, 20, viz.: Messrs. Cottey, Crall, Davis, Eppert, Fisback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

Mr. Eppert called for General Ordinance No. 79, 1904, for second reading. It was read a second time.

Mr. Eppert moved that General Ordinance No. 79, 1904, be stricken from the files. Carried.

Mr. Gasper called for Appropriation Ordinance No. 28, 1904. It was read a second time.

Mr. Gasper moved that Appropriation Ordinance No. 28, 1904, be amended as recommended by the committee. Carried.

Mr. Gasper moved that Appropriation Ordinance No. 28, 1904, be ordered engrossed as amended, read a third time and placed upon its passage. Carried.

Appropriation Ordinance No. 28, 1904, was read a third time and passed by the following vote:

Ayes, 20, viz.: Messrs. Cottey, Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

Mr. Gasper called for General Ordinance No. 75, 1904, for second reading. It was read a second time.

Mr. Gasper moved that General Ordinance No. 75, 1904, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 75, 1904, was read a third time. The Clerk called the roll:

Ayes, 10, viz.: Messrs. Fishback, Krause, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright.

Noes, 10, viz.: Messrs. Cottey, Crall, Davis, Eppert, Gasper, Hofmann, Linus, Moriarity, Murray and President James H. Billingsley.

The Chair declared the ordinance lost.

Mr. Gasper called for Appropriation Ordinance No. 27, 1904, for second reading. It was read a second time.

Mr. Gasper moved that Appropriation Ordinance No. 27, 1904, be ordered engrossed, read a third time and placed upon its passage. Carried.

Appropriation Ordinance No. 27, 1904, was read a third time and passed by the following vote:

Ayes, 19, viz.: Messrs. Cottey, Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, 1, viz.: Mr. Moriarity.

Mr. Gasper called for General Ordinance No. 80, 1904, for second reading. It was read a second time.

Mr. Gasper moved that General Ordinance No. 80, 1904, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 80, 1904, was read a third time and passed by the following vote:

Ayes, 20, viz.: Messrs. Cottey, Crall, Davis, Eppert, Fisbback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

Mr. Gasper called for General Ordinance No. 81, 1904, for second reading. It was read a second time.

Mr. Gasper moved that General Ordinance No. 81, 1904, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 81, 1904, was read a third time and passed by the following vote:

Ayes, 20, viz.: Messrs. Cottey, Crall, Davis, Eppert, Fisbback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

Mr. Krause called for General Ordinance No. 78, 1904, for second reading. It was read a second time.

Mr. Krause moved that General Ordinance No. 78, 1904, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 78, 1904, was read a third time and passed by the following vote:

Ayes, 20, viz.: Messrs. Cottey, Crall, Davis, Eppert, Fisbback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

Mr. Uhl called for General Ordinance No. 77, 1904, for second reading. It was read a second time.

Mr. Uhl moved that General Ordinance No. 77, 1904, be ordered engrossed, read a third time, and placed upon its passage. Carried.



General Ordinance No. 77, 1904, was read a third time and passed by the following vote:

Ayes, 20, viz.: Messrs. Cottey, Crall, Davis, Eppert, Fisback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

On motion of Mr. Gasper the Common Council, at 8:55 o'clock, P. M., adjourned.

*James H. Billingsley*  
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President.

ATTEST:

*W. M. Farnham*  
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City Clerk

